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Workers' Compensation Management-Labor Advisory Committee  
Department of Consumer and Business Services  
PO Box 14480  
Salem, OR 97309

Dear Co-Chairs Winther and Wood, and Members of MLAC:

On behalf of the thousands of Oregon small business members of NFIB, many being the smallest of small businesses, I am contacting MLAC today in response to the Governor's request for MLAC to identify potential problems or gaps in the state's workers' compensation system related to the COVID-19 pandemic. As she notes, "Current data in Oregon shows our system is working, providing stronger benefits for Oregon workers than in many other states." And, "that coverage is often already available for them if they contract COVID-19 at work."

Since the very beginning of the coronavirus crisis, Oregon's small businesses have done their absolute best to comply with ever-evolving executive orders and guidance documents issued by the governor's office and state agencies. Many were required to shutter their doors completely. Others were allowed to stay open but were required to adapt and innovate in order to continue serving their customers, while at the same time keeping their employees safe.

Evidence presented to MLAC shows that Oregon's workers' compensation system is working as intended. Claims are being filed, and in the majority of cases, accepted. When denied, there was little evidence to link the individual's exposure to the workplace – and in some cases, the worker did not end up testing positive for the virus. As is always the case, a worker who receives a denial of a COVID-19 claim maintains the right to appeal.

As Oregon Health Authority Director Pat Allen stated in a press conference with Gov. Kate Brown and Dr. Dean Sidelinger on July 13, 2020, "we identify workplace outbreaks because they're easy to see and because an outbreak can spread in a workplace, but it's also important to remember that the outbreak didn't just spring up magically in that workplace. It came from outside the workplace into the community."

Workers exposed to the virus at work are protected under our current system. A presumption that working Oregonians who have COVID-19 could only have been exposed at work risks the stability and balance of the workers' compensation system – and runs contrary to the acknowledgement from our state's top public health officials that working Oregonians are being exposed to the virus in a variety of social settings, like house parties, dinner parties, fraternity parties, and bachelorette parties, leading to Gov. Brown's recent announcement restricting social gatherings to ten people or fewer, and requiring face-coverings outdoors when six feet of distance cannot be maintained.

Oregon's workers' compensation system is a success, in large part, because MLAC makes decisions based on evidence. The data presented thus far supports that the system is working as intended. A presumption of compensability for COVID-19 is not needed.

Thank you for your time and consideration,



Anthony K. Smith  
NFIB Oregon State Director