



# Legislative Activity Report

National Council on Compensation Insurance

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Regulatory Services

June 17, 2016

RLA-2016-23

Report Contact: Legislative\_Activity@ncci.com

State Issues Contacts: Please refer to the list of State Relations Executives at the end of this report.

## LEGISLATIVE ACTIVITY—LEGISLATIVE SESSION UPDATES

*This report contains descriptions and/or excerpts of relevant bills that passed the first chamber, passed the second chamber, or were enacted during the specific periods. In addition, a recap of significant legislative and judicial activity impacting the workers compensation system will be included in the first report published each month. This report is issued on a weekly basis throughout the legislative season, and it provides updates on the content of these bills if and when they progress through the legislative process. This report includes bills from states where NCCI provides ratemaking services (see state list under Contact Information) and the US Congress.*

### BILLS ENACTED

The following workers compensation-related bills were enacted within the one-week period ending June 10, 2016.

### Colorado

**SB 16-198** was:

- Passed by the first chamber on May 2, 2016
- Passed by the second chamber on May 4, 2016
- Included in NCCI's May 13, 2016 *Legislative Activity Report* (RLA-2016-18)
- Enacted and effective on June 8, 2016

**SB 16-198** amends *section 8-44-102. Contract for insurance subject to workers' compensation act* of the Colorado Revised Statutes as follows:

#### **8-44-102. Contract for insurance subject to workers' compensation act**

...

(2) (a) (I) Except as specified in subparagraph (III) of this paragraph (a), Every carrier providing workers' compensation insurance that is authorized to conduct business in Colorado shall submit an annual report to the commissioner of insurance listing any policy forms endorsements, riders, letters, notices, or other documents affecting an insurance policy or contract issued or delivered to any policyholder in Colorado as may be requested by the commissioner. The listing must be submitted no later than July 1 of each year and must contain a certification by an officer of the carrier that, to the best of the officer's knowledge, each policy form endorsement, rider, letter, notice, or other document affecting an insurance policy or contract in use complies with Colorado law. The commissioner shall determine the necessary elements of the certification.

(II) (A) An advisory organization as defined in section 10-4-402 (1), C.R.S., or a rating organization as defined in section 10-4-402 (3), C.R.S., shall submit an annual report to the commissioner of insurance listing any policy forms as may be requested by the commissioner. The listing must be submitted no later than July 1 of each year and must contain a certification by an officer of the organization that, to the best of the officer's knowledge, each policy form listed complies with Colorado law. The commissioner shall determine the necessary elements of the certification.

(B) As used in this section, "form" may include any endorsement, rider, letter, notice, or other document affecting an insurance policy or contract issued or delivered to any policyholder in Colorado.

(III) If a carrier uses, in their entirety and without modification, forms prepared by an advisory organization as defined in section 10-4-402 (1), C.R.S., or a rating organization as defined in section 10-4-402 (3), CR.S., the carrier shall notify the commissioner of insurance that it adopts the annual report filed by the advisory organization or rating organization under subparagraph (ii) of this paragraph (a) and, if it so notifies the commissioner, it need not submit the certification required by subparagraph (i) of this paragraph (a). If a carrier uses forms that deviate from the forms listed by the advisory organization or rating organization, or if it uses forms other than those listed by the advisory organization or rating organization, the carrier shall submit the annual listing of forms and certification as required by subparagraph (i) of this paragraph (a).

(b) In addition to submitting the documentation required under paragraph (a) of this subsection (2) and except as specified in subparagraph (iii) of this paragraph (b):

(I) Every carrier providing workers' compensation insurance that is authorized to conduct business in Colorado, every advisory organization as defined in section 10-4-402 (1), C.R.S., and every rating organization as defined in section 10-4-402 (3), C.R.S., shall also submit to the commissioner a list of any new or revised policy forms ~~endorsements, riders, letters, notices, or other documents~~ as may be requested by the commissioner at least thirty-one days before ~~using a carrier uses the policy forms, endorsements, riders, letters, notices, or other documents.~~ Unless a carrier notifies the division of insurance otherwise, policy forms submitted on behalf of a member of an advisory organization or rating organization are deemed to be automatically adopted by the carrier without modification.

(II) The listing must also contain a certification by an officer of the carrier or an officer of the advisory or rating organization that, to the best of the officer's knowledge, each new or revised policy form, endorsement, rider, letter, notice, or other document proposed to be used complies with Colorado law. The commissioner shall determine the necessary elements of the certification.

(III) If an advisory organization or rating organization certifies a form as required by subparagraph (II) of this paragraph (b) and a carrier is a member of that organization and uses the form in its entirety, the carrier need not list that form as required by subparagraph (I) of this paragraph (b) or submit a certification for that form as required by subparagraph (II) of this paragraph (b).

(c) The commissioner may examine and investigate workers' compensation carriers authorized to conduct business in Colorado to determine whether workers' compensation policy forms ~~endorsements, riders, letters, notices, or other forms~~ as may be requested by the commissioner comply with the certification of the carrier and statutory mandates.

**SB 16-217** was:

- Passed by the first chamber on May 9, 2016
- Passed by the second chamber on May 11, 2016
- Included in NCCI's May 20, 2016 *Legislative Activity Report* (RLA-2016-19)
- Enacted on June 10, 2016, with an effective date of July 1, 2016

**SB 16-217** amends *sections 8-42-112. Acts of employees reducing compensation, 8-43-203. Notice concerning liability—notice to claimants—notice of rights and claims process—rules, and 8-43-404. Examination—refusal—personal responsibility—physicians to testify and furnish results—injured worker right to select treating physicians—injured worker right to third-party communications—definitions—rules* of the Colorado Revised Statutes as follows:

**8-42-112. Acts of employees reducing compensation.**

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(3) An admission of liability reducing compensation under this section must include a statement by a representative of the employer listing the specific facts on which the reduction is based.

(4) If the insurer or self-insured employer admits liability for the claim, any party may request an expedited hearing on the issue of whether the employer or insurer may reduce compensation under this section if the application for hearing is filed within forty-five days after the date of the admission reducing compensation under this section. The director shall set any expedited matter for hearing within sixty days after the date of the application. The time schedule for an expedited hearing is subject to the extensions set forth in section 8-43-209. If the party elects not to request an expedited hearing under this subsection (4), the time schedule for hearing the matter is as set forth in section 8-43-209.

(5) Nothing in this section limits the right of a party to submit evidence at a hearing scheduled under this section or section 8-43-209.

(6) Nothing in this section precludes a party from requesting a hearing pursuant to the time schedule set forth in section 8-43-209.

**8-43-203. Notice concerning liability—notice to claimants—notice of rights and claims process—rules.**

(1) (a) The employer or, if insured, the employer's insurance carrier shall notify in writing the division and the injured employee or, if deceased, the decedent's dependents within twenty days after a report is, or should have been, filed with the division pursuant to section 8-43-101, whether liability is admitted or contested; except that, for the purpose of this section, any knowledge on the part of the employer, if insured, is not knowledge on the part of the insurance carrier. The employer or the employer's insurance carrier may notify the division electronically. Unless exempted by the director pursuant to rule because of a small number of filings or a showing of financial hardship, beginning July 1, 2006, all notices of contest shall be filed electronically. The rejection of an electronically filed notice by the division for a technical error shall not affect the validity of the notice to the claimant. If the insurance carrier or self-insured employer denies liability for the claim, the claimant may request an expedited hearing on the issue of compensability if the application therefor is filed within forty-five days after the date of mailing of the notice of contest. The director shall set any such expedited matter for hearing within ~~forty~~ sixty days after the date of the application, when the issue is liability for the disease or injury. The time schedule for such an expedited hearing is subject to the extensions set forth in section 8-43-209. If a claimant elects not to request an expedited hearing pursuant to this subsection (1), the time schedule for hearing the matter shall be as set forth in section 8-43-209.

...

**8-43-404. Examination—refusal—personal responsibility—physicians to testify and furnish results—injured worker right to select treating physicians—injured worker right to third-party communications—definitions—rules.**

...  
(5) (a) (I) (D) Except as otherwise provided by sub-subparagraph (E) of this subparagraph (I), any party may request an expedited hearing on the issue of whether the employer or insurer provided a list in compliance with this subsection (5) if the application for expedited hearing is filed within forty-five days after the claimant provides notice of the injury to the employer.

(E) If the insurer or self-insured employer admits liability for the claim, any party may request an expedited hearing on the issue of whether the employer or insurer provided a list in compliance with this subsection (5) if the application for expedited hearing is filed within forty-five days after the initial admission of liability for the claim. The director shall set any expedited matter for hearing within sixty days after the date of the application. The time schedule for an expedited hearing is subject to the extensions set forth in section 8-43-209. If the party elects not to request an expedited hearing under this subsection (5), the time schedule for hearing the matter is as set forth in section 8-43-209.

...  
(VI) (A) In addition to the one-time change of physician allowed in subparagraph (III) of this paragraph (a), upon written request to the insurance carrier or to the employer's authorized representative if self-insured, an injured employee may procure written permission to have a personal physician or chiropractor treat the employee. The written request must be completed on a form that is prescribed by the director. If permission is neither granted nor refused within twenty days after the date of the certificate of service of the request form, the employer or insurance carrier shall be deemed to have waived any objection to the employee's request. Objection shall be in writing on a form prescribed by the director and shall be deposited in the United States mail or hand-delivered to served on the employee or, if represented, the employee's authorized representative within twenty days after the date of the certificate of service of the request form. An insurance carrier, or an employer's authorized representative if self-insured, shall track how often an injured employee requests to change his or her physician and how often such change is granted or denied and shall report such information to the division upon request. Upon the proper showing to the division, the employee may procure the division's permission at any time to have a physician of the employee's selection treat the employee, and in any nonsurgical case the employee, with such permission, in lieu of medical aid, may procure any nonmedical treatment recognized by the laws of this state as legal. The practitioner administering the treatment shall receive fees under the medical provisions of articles 40 to 47 of this title as specified by the division.

(B) If an injured employee is permitted to change physicians under sub-subparagraph (A) of this subparagraph (VI) resulting in a new authorized treating physician who will provide primary care for the injury, then the previously authorized treating physician providing primary care shall continue as the authorized treating physician providing primary care for the injured employee until the injured employee's initial visit with the newly authorized treating physician, at which time the treatment relationship with the previously authorized treating physician providing primary care is terminated.

(C) Nothing in this subparagraph (VI) precludes any former authorized treating physician from performing an examination under subsection (1) of this section.

(D) If an injured employee is permitted to change physicians pursuant to sub-subparagraph (A) of this subparagraph (VI) resulting in a new authorized treating physician who will provide primary care for the injury, then the opinion of the previously authorized treating physician providing primary care regarding work restrictions and return to work controls unless that opinion is expressly modified by the newly authorized treating physician.

**BILLS PASSING SECOND CHAMBER**

There were no relevant workers compensation-related bills that passed the second chamber within the one-week period ending June 10, 2016.

**BILLS PASSING FIRST CHAMBER**

There were no relevant workers compensation-related bills that passed the first chamber within the one-week period ending June 10, 2016.

## Contact Information

If you have any questions about the legislation or proposals mentioned, please contact the appropriate NCCI state relations executive (listed below) or a representative of your local insurance trade association.

<b>State</b>	<b>State Relations Executive</b>	<b>Phone Number</b>
CT, ME, NH, RI, VT	Laura Backus Hall	802-454-1800
FL, IA	Chris Bailey	850-322-4047
AL, GA, KY, LA, MS	Cathy Booth	205-655-2699
AZ, CO, NM, NV, UT	Maggie Karpuk	818-707-8374
DC, MD, VA, WV	David Benedict	804-380-3005
HI	Carolyn Pearl	808-524-6239
IN, NC, SC, TN	Amy Quinn	803-356-0851
AR, IL, KS, TX	Terri Robinson	501-333-2835
AK, ID, MT, OR	Jessica Epley	503-892-8919
MO, NE, OK, SD	Carla Townsend	314-843-4001
Federal Issues	Tim Tucker	202-403-8526

This report is informational and is not intended to provide an interpretation of state and federal legislation.