



# Legislative Activity Report

National Council on Compensation Insurance

The nation's most experienced provider of workers compensation information, tools, and services

Regulatory Services

October 14, 2016

RLA-2016-34

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

There were no relevant workers compensation-related bills enacted within the one-week period ending October 7, 2016.

### BILLS PASSING SECOND CHAMBER

There were no relevant workers compensation-related bills that passed the second chamber within the one-week period ending October 7, 2016.

### BILLS PASSING FIRST CHAMBER

There were no relevant workers compensation-related bills that passed the first chamber within the one-week period ending October 7, 2016.

*The following section contains monthly updates on significant legislative activity, judicial decisions, and regulatory committee activity that may impact the workers compensation system and will be included in the report the first week of every month throughout the year.*

## FEDERAL ISSUES

Issue	Update
<b>Congress</b>	Congress was in session through the end of September working on a mechanism to fund the federal government beyond the end of the September 30 fiscal year. Congress is in recess for the month of October through the general election in November.
<b>TRIPRA of 2015 Implementation</b>	NCCI has implemented Phase Two of the National Association of Insurance Commissioners' Data Call on terrorism insurance data for workers compensation. This includes data from NCCI and independent bureau states that had not been included in the Phase One portion that was completed in the spring.

## STATE LEGISLATIVE ACTIVITY

State	Update
<b>Missouri</b>	On September 14, Gov. Jay Nixon's veto of <b>HB 1763</b> was overridden by the legislature. The measure, which provides large deductible definitions and outlines responsibilities including collateralization and Guaranty Fund involvement, was enacted with an emergency clause to become effective immediately.

## STATE COMMITTEE ACTIVITY

State	Update
<b>New Hampshire</b>	The committee initiated by enacted bill <b>SB 409</b> to study soft tissue injuries for purposes of workers compensation permanent impairment awards met on September 20. A report is due to the legislature November 1.
<b>Oregon</b>	<p>The Workers' Compensation Management-Labor Advisory Committee met on September 28. The agenda included consideration of the Workers' Compensation Division's proposed legislation to increase permanent total disability minimum benefits from the lesser of \$50 or 90% of the worker's wage to 33% of the state average weekly wage (SAWW) and the maximum from 100% to 133% of SAWW.</p> <p><i>NCCI is analyzing this proposal to determine its impact on the Oregon workers compensation system costs.</i></p> <p>The Workers' Compensation Board held a formal public hearing on September 30 to consider changes to attorney fees, including the following:</p> <ul style="list-style-type: none"> <li>• Increase the cap on attorney fees from settlement proceeds from \$17,500 to \$50,000</li> <li>• Eliminate the fee cap on Permanent Partial Disability awards</li> <li>• Increase caps for Permanent Total Disability from \$12,500 to \$20,000 on cases decided by an administrative judge and from \$16,300 to \$30,000 for cases decided by the Workers' Compensation Board</li> <li>• Allow consideration for services performed by legal staff when determining a "reasonable" attorney fee</li> <li>• Accelerate required payment of fees from 30 days to 14 days from the final order</li> </ul> <p><i>NCCI completed an analysis of these proposals and determined that they may increase the workers compensation system costs, but the magnitude of such an increase cannot be determined at this time.</i></p>

## OTHER ITEMS OF INTEREST

State	Update
<b>Maine</b>	The Appellate Division of the Workers' Compensation Board issued recent rulings in <i>Bourgoin v. Twin Rivers Paper Co.</i> and <i>Noll v. Lepage Bakeries, Inc.</i> affirming that medical marijuana could be a compensable form of medical treatment for injured workers and should be reimbursed.
<b>Oklahoma</b>	<p>On September 13, in the case <i>Vasquez v. Dillard's Inc.</i>, the state Supreme Court ruled the Oklahoma Employee Injury Benefit Plan Act (i.e., opt-out) unconstitutional on the basis that it is a special law and "creates impermissible, unequal, disparate treatment of a select group of injured workers." The decision was to be in effect immediately and apply to all pending and future related cases. Opt-out employers have 90 days to obtain a workers compensation policy.</p> <p>The governor has approved rules proposed by the insurance department amending definitions and rules of small, large, and mega deductibles in workers compensation. The small deductible provisions would amend employers experience rating calculations, generating a full net reporting mechanism, which will create subsidization of premiums by other employers.</p> <p>The Workers' Compensation Commission's Committee on Physician's Fee Schedules met on September 9 for its final biennial requirement to review the schedule for potential changes. The Commission's board will review the Committee's feedback and ultimately determine if a proposal for amendment is in order.</p>
<b>Virginia</b>	<p>In 2016, the Virginia legislature passed <b>HB 378</b>, which directs the Virginia Workers' Compensation Commission to establish medical fee schedules for workers compensation. On August 19, the Commission selected Oliver Wyman Actuarial Consulting to develop medical fee schedules mandated by <b>HB 378</b>. The project is scheduled to be complete in 15 months, which coincides with the January 1, 2018 implementation date. Representatives of the Melville, NY-based firm will meet several times with the Commission's Medical Fee Schedule Regulatory Advisory Panel to discuss research findings and design considerations. Meetings are currently scheduled for October 11 and 27, November 10, and December 1. The Commission is scheduled to review final proposed fee schedules on January 4, and discuss implementation and maintenance requirements. Wyman must craft seven different fee schedules for six different geographic communities. The fee schedules are for:</p> <ul style="list-style-type: none"> <li>• Surgeons</li> <li>• Nonsurgeons</li> <li>• Type One teaching hospitals</li> <li>• Other hospitals</li> <li>• Ambulatory surgical centers</li> <li>• Outpatient centers</li> <li>• Providers of miscellaneous services</li> </ul> <p>The 42 fee schedules will be based on what doctors and hospitals received on average for each procedure or treatment in 2015.</p>

**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
AK, AZ, CO, NM, 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
ID, MT, NV, 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.