



State or Federal 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 March 24, 2017.

Arkansas

HB 1249 was:

- Passed by the first chamber on February 2, 2017
- Amended and passed by the second chamber on March 9, 2017
- Included in NCCI's March 17, 2017 **Legislative Activity Report** (RLA-2017-10)
- Enacted on March 22, 2017, with an effective date of September 1, 2017

HB 1249 amends numerous sections of the Arkansas Code including, but not limited to, **section 5-73-322. Concealed handguns in a university, college, or community college building**, in part, as follows:

5-73-322. Concealed handguns in a university, college, or community college building.

...

(i)

...

(2) A licensee who possesses a concealed handgun in the buildings and on the grounds of a public university, public college, or community college at which the licensee is employed is not:

(A) Acting in the course of or scope of his or her employment when possessing or using a concealed handgun;

(B) Entitled to worker's compensation benefits for injuries arising from his or her own negligent acts in possessing or using a concealed handgun;

...

Kentucky

HB 306 was:

- Passed by the first chamber on February 27, 2017
- Included in NCCI's March 10, 2017 **Legislative Activity Report** (RLA-2017-09)
- Passed by the second chamber on March 8, 2017
- Included in NCCI's March 17, 2017 **Legislative Activity Report** (RLA-2017-10)
- Enacted on March 21, 2017, with a projected effective date of June 29, 2017

HB 306 amends **section 342.650 Exemptions of particular classes of employees from coverage** of the Kentucky Revised Statutes as follows:

342.650 Exemptions of particular classes of employees from coverage.

The following employees are exempt from the coverage of this chapter:

...

(9) Any licensed or unlicensed, commissioned, ordained or unordained, or lay minister of religion who has no set oral or written agreement with a church or religious organization to receive a fixed regular payment for services provided to the church or who works no more than ten (10) hours per week; and
(10) Any caretaker of a cemetery or property owned or operated by a church or religious organization who provides general cleanup services, including but not limited to mowing, raking, dusting, sweeping, and mopping which could be performed for other individuals or organizations, who works no more than ten (10) hours per week.

Montana

HB 346 was:

- Passed by the first chamber on February 22, 2017
- Included in NCCI's March 3, 2017 **Legislative Activity Report** (RLA-2017-08)
- Passed by the second chamber on March 10, 2017
- Included in NCCI's March 17, 2017 **Legislative Activity Report** (RLA-2017-10)
- Enacted on March 23, 2017, with an effective date of October 1, 2017

HB 346 amends **section 39-71-117. Employer defined** of the Montana Code Annotated 2015, in part, as follows:

Section 39-71-117. Employer defined

(1) "Employer" means:

...

(e) an approved and authorized fiduciary, agent, or other person acting as fiscal agent under section 3504 of the Internal Revenue Code, 26 U.S.C. 3504, and 26 CFR 31.3504-1.

...

(6) (A) A fiscal agent that qualifies under subsection (1)(e) and that is designated as a payor, using federal, state, or local government funds, under 26 CFR 31.3504-1 is considered to be the employer for the purposes of the workers' compensation act of those workers for whom the fiscal agent is making payments.

(B) The client of the fiscal agent, despite exercising control over the hiring, scheduling, and direction of the work tasks performed by the worker, is not the employer of that worker for the purposes of the workers' compensation act.

SB 142 was:

- Passed by the first chamber on February 3, 2017
- Included in NCCI's February 10, 2017 **Legislative Activity Report** (RLA-2017-05)
- Passed by the second chamber on March 10, 2017
- Included in NCCI's March 17, 2017 **Legislative Activity Report** (RLA-2017-10)
- Enacted on March 23, 2017, with an effective date of October 1, 2017

SB 142 amends **sections 7-33-4510. Workers' compensation for volunteer firefighters—definitions, 7-34-103. Manner of providing ambulance service, and 39-71-118. Employee, worker, volunteer, volunteer firefighter, and volunteer emergency medical technician defined** of the Montana Code Annotated Statutes as follows:

7-33-4510. Workers' compensation for volunteer firefighters—notification if coverage not provided—definitions.

...

(4) If an employer does not provide workers' compensation coverage, the employer shall annually notify the employer's volunteer firefighters that coverage is not provided.

~~(4)~~ (5) For the purposes of this section, the following definitions apply:

(a) (i) "Employer" means the governing body of a fire agency organized under Title 7, chapter 33, including a rural fire district, a fire service area, a volunteer fire department, a volunteer fire company, or a volunteer rural fire control crew.

...

7-34-103. Manner of providing ambulance service.

(1) If a county, city, or town establishes or maintains ambulance service, ~~it may,~~ acting through its governing board, it:

- (a) may operate the ambulance service itself or contract for ambulance service;
- (b) may buy, rent, lease, or otherwise contract for vehicles, equipment, facilities, operators, or attendants;
- (c) may sell ambulance service insurance or contract with a third-party entity to sell ambulance service insurance to persons who use the ambulance service that covers the cost of the ambulance service that is not otherwise covered;
- (d) may adopt rules and establish fees or charges for the furnishing of an ambulance service; and
- (e) shall, if the service does not provide workers' compensation coverage, annually notify the service's volunteer emergency medical technicians that coverage is not provided.

...

39-71-118. Employee, worker, volunteer, volunteer firefighter, and volunteer emergency medical technician defined—election of coverage.

...

(10) (a) An ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer nontransporting medical unit, as defined in 50-6-302, in service to a town, city, or county may elect to include as an employee within the provisions of this chapter a volunteer emergency medical technician who serves public safety through the ambulance service not otherwise covered by subsection (1)(g) or the paid or volunteer nontransporting medical unit. The ambulance service or nontransporting medical unit may purchase workers' compensation coverage from any entity authorized to provide workers' compensation coverage under plan No. 1, 2, or 3 as provided in this chapter.

...

(e) An ambulance service not otherwise covered by subsection (1)(g) or a nontransporting medical unit, as defined in 50-6-302, that does not elect to purchase workers' compensation coverage for its volunteer emergency medical technicians under the provisions of this section shall annually notify its volunteer emergency medical technicians that coverage is not provided.

~~(f)~~ (i) The term "volunteer emergency medical technician" means a person who has received a certificate issued by the board of medical examiners as provided in Title 50, chapter 6, part 2, and who serves the public through an ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer nontransporting medical unit, as defined in 50-6-302, in service to a town, city, or county.

(ii) The term does not include a volunteer emergency medical technician who serves an employer as defined in 7-33-4510.

~~(f)~~ (g) The term "volunteer hours" means the time spent by a volunteer emergency medical technician in the service of an employer or as a volunteer for a town, city, or county, including but not limited to training time, response time, and time spent at the employer's premises.

...

Utah

HB 90 Substitute was:

- Passed by the first chamber on February 7, 2017
- Included in NCCI's February 17, 2017 *Legislative Activity Report* (RLA-2017-06)
- Passed by the second chamber on February 23, 2017
- Included in NCCI's March 3, 2017 *Legislative Activity Report* (RLA-2017-08)
- Enacted on March 17, 2017, with a projected effective date of May 9, 2017

HB 90 Substitute, in part, creates **sections 31A-22-615. Insurance coverage for opioids—Policies—Reports, 34A-2-424. and 49-20-414. Prescribing policies for certain opioid prescriptions** of the Utah Code Annotated as follows:

31A-22-615. Insurance coverage for opioids—Policies—Reports.

(1) For purposes of this section:

(a) "Health care provider" means an individual, other than a veterinarian, who:

(i) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act; and

(ii) possesses the authority, in accordance with the individual's scope of practice, to prescribe Schedule II controlled substances and Schedule III controlled substances that are applicable to opioids and benzodiazapines.

(b) "Health insurer" means:

(i) an insurer who offers health care insurance as that term is defined in Section 31A-1-301;

(ii) health benefits offered to state employees under Section 49-20-202; and

(iii) a workers' compensation insurer:

(A) authorized to provide workers' compensation insurance in the state; or

(B) that is a self-insured employer as defined in Section 34A-2-201.

(c) "Opioid" has the same meaning as "opiate," as that term is defined in Section 58-37-2.

(d) "Prescribing policy" means a policy developed by a health insurer that includes evidence based guidelines for prescribing opioids, and may include the 2016 Center for Disease Control Guidelines for Prescribing Opioids for Chronic Pain, or the Utah Clinical Guidelines on Prescribing Opioids for the treatment of pain.

(2) A health insurer that provides prescription drug coverage may enact a policy to minimize the risk of opioid addiction and overdose from:

(a) chronic co-prescription of opioids with benzodiazapines and other sedating substances;

(b) prescription of very high dose opioids in the primary care setting; and

(c) the inadvertent transition of short-term opioids for an acute injury into long-term opioid dependence.

(3) A health insurer that provides prescription drug coverage may enact policies to facilitate:

(a) non-narcotic treatment alternatives for patients who have chronic pain; and

(b) medication-assisted treatment for patients who have opioid dependence disorder.

(4) The requirements of this section apply to insurance plans entered into or renewed on or after July 1, 2017.

(5) (a) A health insurer subject to this section shall on or before September 1, 2017, and before each September 1 thereafter, submit a written report to the Utah Insurance Department regarding whether the insurer has adopted a policy and a general description of the policy.

(b) The Utah Insurance Department shall, on or before October 1, 2017, and before each October 1 thereafter, submit a written summary of the information under Subsection (5)(a) to the Health and Human Services Interim Committee.

(6) A health insurer subject to this section may share the policies developed under this section with other health insurers and the public.

(7) This section sunsets in accordance with Section 63I-1-231.

34A-2-424. Prescribing policies for certain opioid prescriptions.

(1) This section applies to a person regulated by this chapter or Chapter 3, Utah Occupational Disease Act.

(2) A self-insured employer, as that term is defined in Section 34A-2-201.5, an insurance carrier, and a managed health care program under Section 34A-2-111 may implement a prescribing policy for certain opioid prescriptions in accordance with Section 31A-22-615.

49-20-414. Prescribing policies for certain opioid prescriptions.

A plan offered to state employees under this chapter may implement a prescribing policy for certain opioid prescriptions in accordance with Section 31A-22-615.

SB 62 Substitute was:

- Passed by the first chamber on January 31, 2017
- Included in NCCI's February 10, 2017 **Legislative Activity Report** (RLA-2017-05)
- Passed by the second chamber on February 8, 2017
- Included in NCCI's February 17, 2017 **Legislative Activity Report** (RLA-2017-06)
- Enacted on March 20, 2017, with a projected effective date of May 9, 2017

SB 62 Substitute amends **sections 34A-2-104. "Employee," "worker," and "operative" defined—Specific circumstances—Exemptions, 34A-2-1003. Issuance of a waiver, and 34A-2-1004. Information required to obtain a waiver** of the Utah Code Annotated as follows:

34A-2-104. "Employee," "worker," and "operative" defined—Specific circumstances—Exemptions.

...

(3) (a) (i) A Except as provided in Subsection (3)(b), a partnership or sole proprietorship may elect to include any partner of the partnership or owner of the sole proprietorship as an employee of the partnership or sole proprietorship under this chapter and Chapter 3, Utah Occupational Disease Act.

~~(b)~~ (ii) If a partnership or sole proprietorship makes an election under Subsection (3)(a), the partnership or sole proprietorship shall serve written notice upon its insurance carrier naming the persons to be covered.

~~(c)~~ (iii) A partner of a partnership or owner of a sole proprietorship may not be considered an employee of the partner's partnership or the owner's sole proprietorship under this chapter or Chapter 3, Utah Occupational Disease Act, until the notice described in Subsection (3)(b) is given.

~~(d)~~ (iv) For premium rate making, the insurance carrier shall assume the salary or wage of the partner or sole proprietor electing coverage under Subsection (3)(a) to be 100% of the state's average weekly wage.

(b) A partner of a partnership or an owner of a sole proprietorship is an employee of the partnership or sole proprietorship under this chapter and Chapter 3, Utah Occupational Disease Act, if:

(i) the partnership or sole proprietorship:

(A) is a motor carrier; and

(B) employs at least one individual who is not a partner or an owner; and

(ii) the partner or owner personally operates a motor vehicle for the motor carrier.

(4) (a) A Except as provided in Subsection (4)(g), a corporation may elect not to include any director or officer of the corporation as an employee under this chapter and Chapter 3, Utah Occupational Disease Act.

...

(g) Subsection (4)(a) does not apply to a director or an officer of a motor carrier if the director or officer personally operates a motor vehicle for the motor carrier.

...

~~(7) For purposes of Subsection (5)(d)~~ As used in this section:

(a) "Motor carrier" means a person engaged in the business of transporting freight, merchandise, or other property by a commercial vehicle on a highway within this state.

(b) "Motor vehicle" means a self-propelled vehicle intended primarily for use and operation on the highways, including a trailer or semitrailer designed for use with another motorized vehicle.

(c) "Occupational accident related insurance" means insurance that provides the following coverage at a minimum aggregate policy limit of \$1,000,000 for all benefits paid, including medical expense benefits, for an injury sustained in the course of working under a written agreement described in Subsection (5)(d)(iii):

- (i) disability benefits;
- (ii) death benefits; and
- (iii) medical expense benefits, which include:
 - (A) hospital coverage;
 - (B) surgical coverage;
 - (C) prescription drug coverage; and
 - (D) dental coverage.

(8) For an individual described in Subsection (5)(d):

(a) if the individual is not covered by a workers' compensation policy, the individual shall obtain:

(i) occupational accident related insurance; and

(ii) a waiver in accordance with Part 10, Workers' Compensation Coverage Waivers Act; and

(b) the commission shall verify the existence of occupational accident insurance coverage with the coverage and benefit limits listed in Subsection (7)(c) before the commission may issue a workers' compensation coverage waiver to the individual pursuant to Part 10, Workers' Compensation Coverage Waivers Act.

34A-2-1003. Issuance of a waiver.

(1) The commission shall issue a workers' compensation coverage waiver to a business entity that:

(a) elects not to include an owner, partner, or corporate officer or director as an employee under a workers' compensation policy in accordance with Section 34A-2-103 and Subsection 34A-2-104(3) or (4);

...

34A-2-1004. Information required to obtain a waiver.

To obtain or renew a waiver, a business entity shall submit to the commission:

...

(2) a copy of one item listed in Subsection (1) and a copy of two or more of the following:

...

(c) an advertisement of services showing the business entity's name and contact information:

(i) in a newspaper of general circulation or;

(ii) in a telephone directory showing the business entity's: (i) name; and (ii) contact information; ;

(iii) on a website or social media; or

(iv) in a trade magazine.

SB 92 was:

- Passed by the first chamber on February 14, 2017
- Included in NCCI's February 24, 2017 **Legislative Activity Report** (RLA-2017-07)
- Passed by the second chamber on February 24, 2017
- Included in NCCI's March 3, 2017 **Legislative Activity Report** (RLA-2017-08)
- Enacted on March 24, 2017, with an effective date of May 9, 2017, for section 31A-22-2014. All other sections included in the bill are effective December 31, 2017.

SB 92 creates, repeals, and amends numerous sections of the Utah Code to, in part:

- Repeal the statute creating the Workers' Compensation Fund
- Remove statutory references to the Workers' Compensation Fund
- Address the obligation to write workers' compensation insurance and residual market mechanisms
- Provide for the Workers' Compensation Fund's transition to a mutual corporation
- Modify membership on the workers' compensation advisory council
- Address methods to obtain workers' compensation insurance
- Amend the provision addressing penalty for failure to obtain workers' compensation
- Modify the provision addressing exemptions for employees temporarily in state

BILLS PASSING SECOND CHAMBER

The following workers compensation-related bills passed the second chamber within the one-week period ending March 24, 2017.

Arkansas

HB 1813 was:

- Passed by the first chamber on March 8, 2017
- Included in NCCI's March 17, 2017 *Legislative Activity Report* (RLA-2017-10)
- Passed by the second chamber on March 21, 2017

HB 1813 amends *section 11-9-508 Medical services and supplies—Liability of employer* of the Arkansas Code as follows:
11-9-508 Medical services and supplies—Liability of employer.

(a)(1) The employer shall promptly provide for an injured employee such medical, surgical, hospital, chiropractic, optometric, podiatric, and nursing services and medicine, crutches, ambulatory devices, artificial limbs, eyeglasses, contact lenses, hearing aids, and other apparatus as may be reasonably necessary in connection with the injury received by the employee.

(2)(A) Rabies is a highly contagious and potentially deadly infectious disease and exposure to rabies and the risk of infection is the direct result of an injury caused by the bite of a rabies-infected animal under this section.

(B)(i) An employer shall promptly provide reasonably necessary medical treatment to an injured employee who is exposed to rabies as described in subdivision (a)(2)(A) of this section.

(ii) As used in subdivision (a)(2)(B)(i) of this section, “reasonably necessary medical treatment” means without limitation any diagnostic and preventive measures prescribed for detection, diagnosis, and prevention of rabies.

...

NCCI analyzed HB 1813 and determined that if enacted, the proposed change to include rabies would have a negligible impact on overall workers compensation system costs in Arkansas.

Montana

HB 358 was:

- Passed by the first chamber on February 27, 2017
- Included in NCCI's March 10, 2017 *Legislative Activity Report* (RLA-2017-09)
- Passed by the second chamber on March 23, 2017

HB 358 amends sections **39-71-604. Application for compensation—disclosure and communication without prior notice of health care information** and **39-71-609. Denial of claim after payments made or termination of all benefits or reduction to partial benefits by insurer—14-day notice required—failure to sign medical release or authorization—criteria for conversion of benefits** of the Montana Code Annotated 2015, in part, as follows:

39-71-604. Application for compensation—disclosure and communication without prior notice of health care information.

...

(3) A signed claim for workers' compensation or occupational disease benefits or a signed release authorizes a workers' compensation insurer, as defined in 39-71-116, or the agent of the workers' compensation insurer to communicate with a physician or other health care provider about relevant health care information, as authorized in subsection (2), by telephone, letter, electronic communication, in person, or by other means, about a claim and to receive from the physician or health care provider the information authorized in subsection (2) without prior notice to the injured employee, to the employee's authorized representative or agent, or in the case of death, to the employee's personal representative or any person with a right or claim to compensation for the injury or death. Refusal or failure of the claimant to sign a medical release or authorization that complies with Montana law is subject to 39-71-609(2).

(4) If death results from an injury, the parties entitled to compensation or someone in their behalf shall file a claim with the insurer. The claim must be accompanied with proof of death and proof of relationship, showing the parties entitled to compensation, certificate of the attending physician, if any, and such other proof as may be required by the department.

39-71-609. Denial of claim after payments made or termination of all benefits or reduction to partial benefits by insurer—14-day notice required—failure to sign medical release or authorization—criteria for conversion of benefits.

(1) Except as provided in subsection ~~(2)~~ (3), if an insurer determines to deny a claim on which payments have been made under 39-71-608 during a time of further investigation or, after a claim has been accepted, terminates all biweekly compensation benefits, it may do so only after 14 days' written notice to the claimant, the claimant's authorized representative, if any, and the department. For injuries occurring prior to July 1, 1987, an insurer shall give 14 days' written notice to the claimant before reducing benefits from total to partial. However, if an insurer has knowledge that a claimant has returned to work, compensation benefits may be terminated as of the time the claimant returned to work.

(2) (a) If a claimant refuses or fails to sign a medical release or authorization that complies with Montana law, an insurer may:
(i) deny liability if liability has not been accepted; or
(ii) terminate payment of all compensation benefits if liability has been accepted.
(b) The insurer is not under a duty to investigate the claimant's claim for compensation benefits after the denial or termination in subsection (2)(a).
(c) If a claimant signs a medical release or authorization that complies with Montana law after refusing or failing as specified in subsection (2)(a), the insurer shall:
(i) adjust the claimant's claim pursuant to Montana law; and
(ii) pay compensation benefits that are appropriate but were denied or terminated because the claimant refused or failed to sign a medical release or authorization.
~~(2)~~ (3) Temporary total disability benefits may be terminated on the date that the worker has been released to return to work in some capacity. Unless the claimant is found, at maximum healing, to be without a permanent physical impairment from the injury, the insurer, prior to converting temporary total disability benefits or temporary partial disability benefits to permanent partial disability benefits:
(a) must have a physician's determination that the claimant has reached medical stability;
(b) must have a physician's determination of the claimant's physical restrictions resulting from the industrial injury;
(c) must have a physician's determination, based on the physician's knowledge of the claimant's job analysis prepared by a rehabilitation provider, that the claimant can return to work, with or without restrictions, on the job on which the claimant was injured or on another job for which the claimant is suited by age, education, work experience, and physical condition;
(d) shall give notice to the claimant of the insurer's receipt of the report of the physician's determinations required pursuant to subsections ~~(2)(a)~~ (3)(a) through ~~(2)(c)~~ (3)(c). The notice must be attached to a copy of the report.

*NCCI estimates that **HB 358**, if enacted, would have an uncertain impact on overall workers compensation system costs in Montana. Any cost impact would depend on the behavior of system participants (e.g., workers, insurers, physicians, and adjudicators) regarding how the provisions of **HB 358** would be interpreted, applied, and adjudicated.*

BILLS PASSING FIRST CHAMBER

The following workers compensation-related bills passed the first chamber within the one-week period ending March 24, 2017.

Maryland

HB 1294/SB 426 amends *section 9-640 Survival of compensation* of the Annotated Labor and Employment Code of Maryland, related to permanent total disability benefits, as follows:

§ 9-640 Survival of compensation

(a) Scope of section.—This section does not apply to compensation paid under Title 10, Subtitle 2 of this article.
 (b) In general.—If a covered employee dies from a cause that is not compensable under this title, the right to compensation that is payable under this Part V of this subtitle and unpaid on the date of death survives in accordance with this section to the extent of ~~\$45,000~~ \$65,000, as increased by the cost of living adjustments under § 9-638 of this Part V of this subtitle.

...

HB 1294/SB 426 also include the following clause:

That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any claim arising from events occurring before the effective date of this Act.

***SB 426**, if enacted in its current form, may result in a negligible increase in overall workers compensation system costs in Maryland.*

HB 1476/SB 867 amends *section 9-1102 Failure to report accident* of the Annotated Labor and Employment Code of Maryland as follows:

§ 9-1102 Failure to report accident

An employer who knowingly fails to report an accidental personal injury within the time required under § 9-707(a) of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$500 ~~\$50~~.

Oklahoma

HB 1462 deletes, amends, and adds numerous provisions to the Oklahoma Statutes to:

- Delete, amend, and add numerous definitions of the Administrative Workers' Compensation Act (AWCA). Notably, the definition of *cumulative trauma* is modified to allow claims for cumulative trauma to be valid regardless of an employee's tenure.
- Bar any claim for compensation under the AWCA when a claim has been brought in another jurisdiction or benefits were awarded in another jurisdiction for the same injury.

- Provide that an employer may be subject to an intentional tort claim if the employer does not secure workers compensation insurance or self-insured status.
- Transfer authority to hear retaliation claims from the Workers' Compensation Commission (WCC) to any district court in the state and establish a \$100,000 limit on the amount of punitive damages that may be awarded.
- Establish new guidelines for determining when heart-related accidents, lung-related accidents, and strokes are considered a compensable injury.
- Recognize the Office of Disability Guidelines as the mandatory standard of reference for determining medically necessary services.
- Allow the notice telling a health care provider that an injury is work-related and payment for the services should not be billed to the injured employee to be delivered by fax, email, or any other electronic means with confirmation of receipt.
- Strike language that provided for the replacement and substitution of disqualified commissioners.
- Provide that the WCC does not have the power to determine the constitutionality of workers compensation laws.
- Modify the qualifications for an administrative law judge (ALJ) by removing the requirement that an appointee have at least three years of workers compensation experience.
- Remove the requirement that commissioners take an oath of office.
- Strike existing language that outlines the notice procedure for changes to rules, regulations, and forms established by the WCC. Instead, the WCC is directed to comply with the Administrative Procedures Act for rulemaking.
- Establish a \$1,000 annual fee payable to the WCC for each insurer writing workers compensation policies.
- Delete notice requirements relating to the Multiple Injury Trust Fund and Compsource.
- Allow persons exempt from being covered under the AWCA to execute an Affidavit of Exempt Status. Execution of the affidavit establishes a rebuttable presumption that the executor is not an employee and therefore is not eligible to seek workers compensation benefits against any contractor.
- Direct the WCC to charge no more than \$50 to apply for an affidavit and establish penalties for knowingly providing false information on a notarized affidavit.
- Clarify the ability to sue a third party for injuries or deaths and modify guidelines for the distribution of any amount recovered as a result of a third-party suit.
- Increase the monetary threshold for temporary total disability (TTD) benefits from 70% of the state average weekly wage (SAWW) to the SAWW.
- Clarify that TTD benefits may be extended because of a subsequent injury if the subsequent injury is a direct result of the injury or medical treatment to the part of the body that was originally injured.
- Strike language allowing termination of TTD benefits if three or more consecutive medical treatments are missed.
- Modify how compensation for temporary partial disability (TPD) is determined and limit total compensation for TPD to no more than the TTD rate.
- Modify how permanent partial disability (PPD) benefits are determined if an injured employee reaches maximum medical improvement (MMI). The formula is 70% of the employee's average weekly wage up to \$350 per week for 3.5 weeks for each percentage point of impairment up to the earlier of 350 weeks or the date of the injured employee's death.
- Strike language that allows for deferral of PPD awards when an injured employee returns to work.
- Prohibit PTD benefits and PPD benefits for the same injury and allow an employee to commute the remainder of a PPD award.
- Strike language relating to the revival of a claim for PTD after the employee dies.
- Establish new guidelines to allow for vocational rehabilitation, job retraining, and job placement services provided by a vocational-technical center, public secondary school, or member institution of higher education. Injured employees may also be eligible for reimbursement of reasonable costs for board, lodging, travel, tuition, books, and other necessary equipment to attend the training.
- Modify the compensation for amputations or permanent total loss of use of a scheduled member. The compensation is 70% of the employee's average weekly week, up to \$350 for a specified number of weeks depending on the affected area.
- Strike an exemption for hernia injuries when an employee refuses to have a recommended surgical operation and that refusal is taken into consideration when determining benefits.
- Give employers additional flexibility when selecting the treating and replacement physician. When an employee makes a request to change the treating physician, the only requirement for the list of three replacement physicians is that they be licensed and accredited to perform the necessary treatment.
- Extend, from 8 to 12, the number of weeks that benefits may be received for soft tissue injuries and clarify that there is no limit on the number of epidural steroid injections that may be administered for soft tissue injuries.
- Clarify that compensation for an occupational disease is limited to the proportion of the occupational disease that is compensable.

- Reduce, from 30 to 15, the number of days that an employee must report an injury for it to be automatically considered work-related. After 15 days with no notice, there is a rebuttable presumption that the injury is not a compensable injury.
- Set the statutes of limitation for occupational disease, cumulative trauma, and death at two years from the date of injury or death and the deadline for filing for additional compensation at three months after the date that the last benefits were received.
- Establish a timeline for hearing claims by requiring a prehearing conference to be scheduled within 7 days from the notice of a claim for compensation and a trial date to be set no later than 60 days from the prehearing conference.
- Allow notice of a judgment to be delivered by fax, email, or other electronic means with confirmation of receipt.
- Establish procedures on the conduct of hearings and the introduction of evidence.
- Authorize the chair of the WCC to appoint an ALJ to the en blanc panel when a commissioner is not able to preside on the panel. The panel is responsible for hearing appeals of a judgment, decision, or award made by an ALJ.
- Reduce, from 20 to 15, the percentage of attorney fees allowed for PPD, PTD, or death compensation.
- Restrict the ability of the WCC to approve a joint petition or settlement that provides for the payment of benefits in a lump sum.
- Increase, from 1% to 2%, the assessment levied against a self-insurer when the balance of the Self-insurance Guaranty Fund is less than \$800,000.
- Establish procedures for the maintenance of securities transferred to the Self-insurance Guaranty Fund Board.
- Direct the WCC to mail information about the workers compensation ombudsman program upon request.
- Allow employees to challenge a denial of benefits by filing an Employee's First Notice of Claim for Compensation.
- Repeal various sections of law relating to workers compensation.

HB 1572 amends *sections 85A-22. Administration of act—Additional powers and duties, 85A-38. Securing compensation, 85A-98. Funds to be transferred to Self-insurance Guaranty Fund, and 85A-99. Impaired self-insurer* of the Oklahoma Statutes, in part, as follows:

§ 85A-22. Administration of act—Additional powers and duties.

...

C. Additionally, the Commission shall have the following powers and duties:

...

~~4. To contract with an appropriate state governmental entity, insurance carrier or approved service organization to process, investigate and pay valid claims against an impaired self-insurer which fails, due to insolvency or otherwise, to pay its workers' compensation obligations, charges for which shall be paid from the proceeds of security posted with the Commission as provided in Section 38 of this act;~~

...

§ 85A-38. Securing compensation.

A. An employer shall secure compensation to employees under ~~this act~~ the Administrative Workers' Compensation Act in one of the following ways:

1. By insuring and keeping insured the payment of compensation with any stock corporation, mutual association, or other concerns authorized to transact the business of workers' compensation insurance in this state. When an insurer issues a policy to provide workers' compensation benefits under the provisions of ~~this act~~ the Administrative Workers' Compensation Act, it shall file a notice with the Workers' Compensation Commission containing the name, address, and principal occupation of the employer, the number, effective date, and expiration date of the policy, and such other information as may be required by the Commission. The notice shall be filed by the insurer within thirty (30) days after the effective date of the policy. Any insurer who does not file the notice required by this paragraph shall be subject to a fine by the Commission of not more than One Thousand Dollars (\$1,000.00);

...

3. By furnishing satisfactory proof to the Commission of the employer's financial ability to pay the compensation. The Commission, ~~under rules adopted by the Insurance Department,~~ shall require any employer that has:

a. less than one hundred employees or less than One Million Dollars (\$1,000,000.00) in net assets to:

- (1) deposit with the Commission securities, an irrevocable letter of credit or a surety bond payable to the state, in an amount determined by the Commission which shall be at least an average of the yearly claims for the last three (3) years, or
- (2) provide proof of excess coverage with such terms and conditions as is commensurate with their ability to pay the benefits required by the provisions of this act, and

b. one hundred or more employees and One Million Dollars (\$1,000,000.00) or more in net assets to:

- (1) secure a surety bond payable to the state, or an irrevocable letter of credit, in an amount determined by the Commission which shall be at least an average of the yearly claims for the last three (3) years, or
- (2) provide proof of excess coverage with terms and conditions that are commensurate with their ability to pay the benefits required by the provisions of this act;

...

C. An employer who does not fulfill the requirements of this section is not relieved of the obligation to pay compensation under ~~this act~~ the Administrative Workers' Compensation Act. The security required under this section, including any interest, shall be maintained by the ~~Commission~~ Self-insurance Guaranty Fund Board as provided in ~~this act~~ Section 99 of this title until each claim for benefits is paid, settled, or lapses under ~~this act~~ the Administrative Workers' Compensation Act, and costs of administration of such claims are paid.

D. Failure on the part of any employer to secure the payment of compensation provided in ~~this act~~ the Administrative Workers' Compensation Act shall have the effect of enabling the ~~Commission~~ Self-insurance Guaranty Fund Board to assert the rights of an injured employee against the employer.

...

§ 85A-98. Funds to be transferred to Self-insurance Guaranty Fund.

The Self-insurance Guaranty Fund shall be derived from the following sources:

...

2. ~~Until the Self-insurance Guaranty Fund contains Two Million Dollars (\$2,000,000.00) or in~~ In the event the amount in the net fund balance falls below One Million Dollars (\$1,000,000.00) Seven Hundred Fifty Thousand Dollars (\$750,000.00), the Workers' Compensation Commission shall make an assessment against each private self-insurer and group self-insurance association based on an assessment rate to be determined by the commissioners, not exceeding ~~one percent (1%)~~ two percent (2%) per annum of actual paid losses of the self-insurer during the preceding calendar year, payable to the Tax Commission for deposit to the fund. The assessment against private self-insurers shall be determined using a rate equal to the proportion that the deficiency in the fund attributable to private self-insurers bears to the actual paid losses of all private self-insurers for the year period of January 1 through December 31 preceding the assessment. The assessment against group self-insurance associations shall be determined using a rate equal to the proportion that the deficiency in excess of the surplus of the Group Self-Insurance Association Guaranty Fund at the date of the transfer attributable to group self-insurance associations bears to the actual paid losses of all group self-insurance associations cumulatively for any calendar year preceding the assessment. Each self-insurer shall provide the Workers' Compensation Commission with such information as the Commission may determine is necessary to effectuate the purposes of this paragraph. For purposes of this paragraph, "actual paid losses" means all medical and indemnity payments, including temporary disability, permanent disability, and death benefits, and excluding loss adjustment expenses and reserves.

...

3. Any excess funds, including interest thereon, transferred to the Self-insurance Guaranty Fund as provided in Section 99 of this title; and

...

§ 85A-99. Impaired self-insurer.

A. On determination by the Workers' Compensation Commission that a self-insurer has become an impaired self-insurer, the Commission shall promptly secure release of the security required by Section 38 of this title and, advise the Self-insurance Guaranty Fund Board of the impairment. ~~Claims administration, including processing, investigating and paying valid claims against an impaired self-insurer under the Administrative Workers' Compensation Act, may include payment by the surety that issued the surety bond or be under a contract between the Commission and an insurance carrier, appropriate state governmental entity or an approved service organization, as approved by the Commission, and transfer the proceeds of the security to the Self-insurance Guaranty Fund Board to be maintained in a segregated account for administering workers' compensation obligations of the impaired self-insurer. The Self-insurance Guaranty Fund Board shall be the fiduciary of the account.~~

B. Proceeds from the released security shall be used for administering the workers' compensation obligations of the impaired self-insurer. Claims administration includes, but is not limited to, processing, investigating, and paying claims; actuarial studies; attorney fees incurred for filing a proof of claim in the bankruptcy of the impaired self-insurer; and a pro rata portion of the staff expenses of the Self-insurance Guaranty Fund Board.

C. Except as otherwise provided by law or agreement of the parties, excess proceeds from the security remaining after each claim for benefits of an impaired self-insurer has been paid, settled, or lapsed under the Administrative Workers' Compensation Act, and costs of administration of such claims have been paid, as determined by the Self-insurance Guaranty Fund Board, shall be transferred to the Self-insurance Guaranty Fund by the Commission or Board, as appropriate.

HB 1921 modifies various provisions of the Oklahoma Statutes to:

- Amend numerous definitions of the Administrative Workers' Compensation Act (AWCA). Notably, the definition of *cumulative trauma* is modified to allow claims for cumulative trauma to be valid regardless of an employee's tenure. The current definition requires an employee to have completed at least 180 days of continuous active employment with the employer to be eligible for benefits relating to cumulative trauma.
- Clarify the applicability of the AWCA by stating that every employer subject to the act must pay or provide benefits for injuries without regard to fault if an injury arose out of and in the course of employment.

- Bar any claim for compensation under the AWCA if a final decision has been entered for the same claim in another jurisdiction.
- Bar duplication of benefits or compensation to an injured employee when a claim has been brought in two or more jurisdictions.
- Clarify the applicability of the AWCA to injuries occurring on lands and premises outside the state that belong to the US government.
- Transfer authority to hear retaliation claims from the Workers' Compensation Commission (WCC) to any district court in the state and strike language allowing recovery of court costs and attorney fees to the prevailing party.
- Provide that compensation provided to an alien nonresident dependent be paid only if the individual had been supported by the injured employee for at least one year before the date of the injury.
- Reduce the emphasis of the Office of Disability Guidelines—Treatment in Workers' Compensation as a reference for determining medically necessary services.
- Strike language that provides for the replacement and substitution of disqualified commissioners.
- Provide that the WCC does not have the power to determine the constitutionality of workers compensation laws.
- Strike existing language that outlines the notice procedure for changes to rules, regulations, and forms established by the WCC. Instead, the WCC is directed to vote on substantive changes to forms and comply with the Administrative Procedures Act for rulemaking.
- Establish a \$1,000 annual fee payable to the WCC for each insurer writing workers compensation policies and also allow the WCC to subject pharmacy benefit managers and marketing firms to the fee.
- Exclude persons with the loss of use or partial loss of use of a scheduled member from being considered a *physically impaired person*.
- Allow a temporary surcharge, up to 10%, to be assessed by the WCC to cover foreseeable obligations of the Multiple Injury Trust Fund (MITF).
- Allow a physically impaired person with combinable injuries to proceed against the MITF under certain circumstances.
- Reduce, from 15 to 10, the number of years that installment payments from the MITF may be paid out.
- Limit attorney fees for claims against the MITF by only allowing fees to be calculated based on a maximum of 400 weeks of compensation.
- Change the statutes of limitation for a claim against the MITF from two years to one year.
- Authorize the director of the MITF to conduct all business affairs relating to the administration of the fund and to appoint any necessary employees.
- Allow persons exempt from being covered under the AWCA to execute an Affidavit of Exempt Status. Execution of the affidavit establishes a rebuttable presumption that the executor is not an employee and therefore is not eligible to seek workers compensation benefits against any contractor.
- Authorize the WCC to decide disputes in the determining net proceeds from a third-party suit.
- Increase the monetary threshold for temporary total disability (TTD) benefits from 70% of the state average weekly wage (SAWW) to the SAWW.
- Allow an employer to recover any overpayment of TTD benefits from a subsequent permanent partial disability (PPD) award.
- Modify how compensation for temporary partial disability (TPD) is determined and limit total compensation for TPD to no more than the TTD rate.
- Change the monetary threshold for PPD benefits from \$323 to 50% of the SAWW.
- Strike language that allows for deferral of PPD awards when an injured employee returns to work.
- Strike language that allows an employer to deduct the amount paid for tuition to a vocational rehab program from compensation awarded to the employee.
- Modify reimbursement rates for certain medical products and services.
- Modify reimbursement rates for prescription drugs and require employers to choose a prescribing pharmacy with a physician location in Oklahoma.
- Prohibit a prescribing doctor from receiving any fees, rebates, or other financial gain from prescribing any drug.
- Direct the WCC to work with the Oklahoma Insurance Department (OID) to develop rules to license pharmacy benefit managers (PBM).
- Exclude facet injection or intravenous injections from those allowed to treat soft tissue injuries.
- Strike guidelines used to determine whether an occupational disease is compensable.
- Strike language that allows the WCC to order the discharge of employees affected by silicosis or asbestosis.
- Allow administrative law judges (ALJ) to provide notice of a hearing or judgment by fax, email, or other electronic means with confirmation of receipt.
- Require continued payment for any drugs prescribed by the treating physician during an appeal.

- Modify the procedure and requirements for a case review by the WCC. A request for review based on a change in physical condition must be done within six months from the date of the last order in which benefits or treatment was provided.
- Strike language that requires a person bringing a claim against the MITF to notify the WCC.
- Prohibit the Supreme Court from taking up an appeal unless the Executive Director of the WCC has obtained a guaranty from the claimant that any prior compensation awarded with interest can be repaid.
- Modify the date in which an electronic data interchange system on workers compensation benefits is to be implemented.
- Allow certain employees of the WCC to testify on issues related to their job duties.
- Establish timelines for the appointment of an independent medical examiner and evaluation of an injured employee when surgery has been recommended by the treating physician.
- Require a memorandum of understanding to be signed by the employer, employee, and an ALJ when an employee has not filed a claim and the employer and employee reaches a final agreement as to the facts of the injury.
- Establish a \$140 fee for medical fee dispute or claim for benefits under the MITF.
- Increase, from \$3 million to \$5 million, annual appropriations to the Workers' Compensation Commission Revolving Fund.
- Require the Workers' Compensation Court of Existing Claims (CEC) to pay its own court record expenses as long as the court receives appropriations from the Legislature.
- Change the procedure for vacancies on the CEC by directing the governor to appoint a replacement from a list of three names provided by the Judicial Nominating Commission.
- Provide that appeals of rulings by the CEC are to be heard by the Court en banc or the Supreme Court.
- Modify the powers and duties of ALJs.
- Provide that no cause of action may be commenced unless the employer denies a benefit provided by the AWCA in writing.
- Repeal several sections of law relating to workers compensation.

HB 2242 amends **section 85A-36. Liability other than immediate employer** of the Oklahoma Statutes as follows:

§ 85A-36. Liability other than immediate employer.

A. ~~If a subcontractor~~ an individual or business entity fails to secure compensation required by this act ~~title~~, the ~~prime contractor party for whom work is being performed~~ shall be liable for compensation to the employees of the ~~subcontractor~~ individual or business entity unless there is an intermediate ~~subcontractor~~ individual or business entity who has workers' compensation coverage.

B. 1. ~~Any contractor or the contractor's party for whom work is being performed or the party's~~ insurance carrier who shall become liable for the payment of compensation on account of injury to or death of an employee of ~~his or her subcontractor~~ an individual or business entity may recover from the ~~subcontractor~~ individual or business entity the amount of the compensation paid or for which liability is incurred.

2. The claim for the recovery shall constitute a lien against any monies due or to become due to the ~~subcontractor~~ individual or business entity from the ~~prime contractor party for whom work is being performed~~.

3. A claim for recovery shall not affect the right of the injured employee or the dependents of the deceased employee to recover compensation due from the ~~prime contractor party for whom work is being performed~~ or his or her insurance carrier.

C. ~~1. a. When a sole proprietorship or partnership fails to elect to cover the sole proprietor or partners under this act, the prime contractor is not liable under this act for injuries sustained by the sole proprietor or partners if the sole proprietor or partners are not employees of the prime contractor.~~

~~b. (1) A sole proprietor or the partners of a partnership who do not elect to be covered by this act and be deemed employees thereunder and who deliver to the prime contractor a current certification of noncoverage issued by the Commission shall be conclusively presumed not to be covered by the law or to be employees of the prime contractor during the term of his or her certification or any renewals thereof.~~

~~(2) A certificate of noncoverage may not be presented to a subcontractor who does not have workers' compensation coverage.~~

~~(3) This provision shall not affect the rights or coverage of any employees of the sole proprietor or of the partnership.~~

2. ~~The prime contractor's insurance carrier shall not be liable for injuries to the sole proprietor or partners described in this section who have provided a current certification of noncoverage, and the carrier shall not include compensation paid by the prime contractor to the sole proprietor or partners described above in computing the insurance premium for the prime contractor.~~

3. ~~a. Any prime contractor who after being presented with a current certification of noncoverage by a sole proprietor or partnership compels the sole proprietor or partnership to pay or contribute to workers' compensation coverage of that sole proprietor or partnership shall be guilty of a misdemeanor.~~

~~b. Any prime contractor who compels a sole proprietor or partnership to obtain a certification of noncoverage when the sole proprietor or partnership does not desire to do so shall be guilty of a misdemeanor.~~

~~c. Any applicant who makes a false statement when applying for a certification of noncoverage or any renewals thereof shall be guilty of a felony.~~

D. ~~1. A certification of noncoverage issued by the Commission shall be valid for two (2) years after the effective date stated thereon. Both the effective date and the expiration date shall be listed on the face of the certificate by the Commission. The certificate shall expire at midnight two (2) years from its issue date, as noted on the face of the certificate.~~

2. The Commission may assess a fee not to exceed Fifty Dollars (\$50.00) with each application for a certification of noncoverage or any renewals thereof.

3. Any certification of noncoverage issued by the Commission shall contain the social security number and notarized signature of the applicant. The notarization shall be in a form and manner prescribed by the Commission.

4. The Commission may prescribe by rule forms and procedures for issuing or renewing a certification of noncoverage.

E. If work is performed by an independent contractor on a single family residential dwelling occupied by the owner, or the premises of such dwelling, or for a farmer whose cash payroll for wages, excluding supplies, materials and equipment, for the preceding calendar year did not exceed One Hundred Thousand Dollars (\$100,000.00), such owner or farmer shall not be liable for compensation under this act for injuries to the independent contractor or his or her employees. Any individual or business entity that is not required to be covered under a workers' compensation insurance policy or other plan for the payment of workers' compensation may execute an Affidavit of Exempt Status under the Administrative Workers' Compensation Act. The affidavit shall be a form prescribed by the Workers' Compensation Commission and shall be available on the Commission's website. The Commission may assess a fee not to exceed Fifty Dollars (\$50.00) for each Affidavit executed.

D. Execution of the affidavit shall establish a rebuttable presumption that the executor or executor's agent is not an employee for purposes of the Administrative Workers' Compensation Act and that an individual or company possessing the affidavit is in compliance and shall not be responsible for workers' compensation claims made by the executor.

E. The execution of an affidavit shall not affect the rights or coverage of any employee of the individual executing the affidavit.

F. 1. Knowingly providing false information on a notarized Affidavit of Exempt Status under the Administrative Workers' Compensation Act shall constitute a misdemeanor punishable by a fine not to exceed One Thousand Dollars (\$1,000.00).
 2. Affidavits shall conspicuously state on the front thereof in at least ten-point, bold-faced print that it is a crime to falsify information on the form.
 3. The Commission shall immediately notify the Workers' Compensation Fraud Unit in the Office of the Attorney General of any violations or suspected violations of this section. The Commission shall cooperate with the Fraud Unit in any investigation involving affidavits executed pursuant to this section.

G. Fees collected pursuant to subsection C of this section shall be deposited in the State Treasury to the credit of the Workers' Compensation Commission Revolving Fund.

H. If any employer relies in good faith on proof of a valid workers' compensation insurance policy issued to a contractor of any tier or on proof of an Affidavit of Exempt Status under this section, the employer shall not be liable for injuries of any employees of the contractor.

SB 737 Committee Substitute makes numerous amendments and deletions to *Title 85A Administrative Workers' Compensation System* of the Oklahoma Statutes to, in part:

- Modify definitions
- Prohibit eligibility for benefits under certain circumstances
- Modify jurisdiction to hear and decide certain claims
- Establish burden of proof for certain employer violations
- Limit certain damage awards
- Modify requirements for certain compensable injury
- Modify requirements for usage of certain guidelines
- Clarify usage of Sixth Edition of the American Medical Association's "Guides to the Evaluation of Permanent Impairment"
- Authorize certain notices by electronic means
- Modify required qualifications for certain commissioners
- Remove authority for appointment of special commissioner
- Prohibit Commission from making determinations on constitutionality
- Modify required qualifications for certain administrative law judges
- Modify authority to hear certain appeals
- Modify certain rulemaking procedures
- Require compliance with the Administrative Procedures Act
- Remove certain contract authority
- Modify certain advisory responsibilities of State Treasurer
- Establish procedures for Affidavit of Exempt Status
- Create misdemeanor offense
- Impose fine for certain offenses
- Authorize assessment of certain fees
- Limit liability for injury to certain employees upon certain good faith reliance
- Modify procedures for certain third-party claims
- Establish lien rights for certain recovery

- Modify requirements for recovery of benefits for temporary total disability
- Place cap on recovery for temporary partial disability
- Modify requirements for recovery of benefits for permanent partial disability
- Prohibit dual award of certain benefits
- Authorize commutation of certain benefit awards
- Modify requirements for recovery of benefits for permanent total disability
- Establish guidelines for certain vocational rehabilitation
- Modify requirements for recovery of benefits for amputation or permanent loss of use
- Modify requirements for change of physician
- Increase number of missed appointments required for loss of certain eligibility
- Modify requirements for recovery of benefits for nonsurgical soft tissue injury
- Modify requirements for recovery of benefits for occupational disease
- Delete certain definitions
- Modify certain notice requirements
- Modify statutes of limitation for certain claims
- Modify requirements for claims for additional compensation
- Delete certain exceptions
- Modify procedures for certain claims for compensation
- Authorize appointment of administrative law judge to en banc panel under certain circumstances
- Decrease percentage of allowable recovery for certain attorney fees
- Prohibit approval of certain settlements
- Modify sources for the Self-insurance Guaranty Fund
- Modify threshold for certain assessments
- Modify certain assessment rates
- Provide for transfer of excess funds
- Modify procedures for transfer of certain proceeds and unexpended funds
- Require certain information for filing of certain claims
- Modify procedures for certain appeals
- Repeal Sections 36, 60, 61, 63, 67, 80, 159, and 160, Chapter 208, O.S.L. 2013 (85A O.S. Supp. 2016, Sections 36, 60, 61, 63, 67, 80, 116, and 117)
- Provide for codification

South Carolina

HB 3879 amends **section 42-9-290. Amount of compensation for death of employee due to accident** of the South Carolina Code of Laws, in part, as follows:

Section 42-9-290. Amount of compensation for death of employee due to accident

(A) If death results proximately from an accident and within two years of the accident or while total disability still continues and within six years after the accident, the employer shall pay or cause to be paid, subject, however, to the provisions of the other sections of this title, in one of the methods provided in this chapter, to the dependents of the employee wholly dependent upon his earnings for support at the time of the accident, a weekly payment equal to sixty-six and two-thirds percent of his average weekly wages, but not less than seventy-five dollars a week so long as this amount does not exceed his average weekly wages; if this amount does exceed his average weekly wages, the amount payable may not be less than his average weekly wages nor more than the average weekly wage in this State for the preceding fiscal year, for a period of five hundred weeks from the date of the injury, and burial expenses up to but not exceeding ~~twenty-five hundred~~ ten thousand dollars. If the employee leaves dependents, only partly dependent upon his earnings for support at the time of the injury, the weekly compensation to be paid must equal the same proportion of the weekly payments for the benefit of persons wholly dependent as the amount contributed by the employee to such partial dependence bears to the annual earnings of the deceased at the time of his injury. When weekly payments have been made to an injured employee before his death, the compensation to dependents begins from the date of the last of such payments but does not continue more than five hundred weeks from the date of the injury. Compensation under this title to aliens not residents (or about to become nonresidents) of the United States or Canada is the same in amount as provided for residents, except that dependents in any foreign country are limited to a surviving spouse and child or children or, if there be no surviving spouse or child, to a surviving father or mother whom the employee has supported, either wholly or in part, for a period of three years before the date of the injury, and except that the commission may, at its option, or upon the application of the insurance carrier, commute all future installments of compensation to be paid to such aliens by paying or causing to be paid to them one-half of the commuted amount of future installments of compensation as determined by the commission.

...

West Virginia

SB 398 creates several new sections in the Code of West Virginia, including, but not limited to, the following:

§ 29-30-11. Rulemaking

The Secretary of the Department of Health and Human Resources may promulgate rules pursuant to article three, chapter twenty-nine-a of this code to implement the provisions of this article. These rules shall include measures to facilitate the receipt of benefits for injury or death pursuant to the workers' compensation laws of this state by volunteer health practitioners who reside in other states.

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.

State	State Relations Executive	Phone Number
CT, ME, NH, RI, VT	Laura Backus Hall	802-454-1800
FL	Peter Burton	610-964-8852
AL, GA, KY, LA, MS	Laura Hart Bryan	225-618-8168
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
IA, 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.