



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 June 9, 2017.

Colorado

HB17-1119 was:

- Passed by the first chamber on May 1, 2017
- Included in NCCI's May 12, 2017 **Legislative Activity Report** (RLA-2017-18)
- Amended and passed by the second chamber on May 10, 2017
- Included in NCCI's May 19, 2017 **Legislative Activity Report** (RLA-2017-19)
- Enacted on June 5, 2017, with an effective date of July 1, 2017

HB17-1119 adds **Article 67** to **Title 8** of the Colorado Revised Statutes, which creates the:

- Colorado Uninsured Employer Act to create a new mechanism for the payment of covered claims to workers who are injured while employed by employers who do not carry workers compensation insurance
- Colorado uninsured employer fund, which consists of penalties for employers who do not carry workers compensation insurance
- Uninsured employer board:
 - To establish the criteria for the payment of benefits
 - To set rates
 - To adjust claims
 - To adopt rules

The board is required to adopt, by rule, a plan of operation to administer the fund and to institute procedures to collect money due to the fund.

HB17-1119 also amends **section 8-40-301. Scope of term "employee"** of the Colorado Revised Statutes as follows:

8-40-301. Scope of term "employee"—definition.

(1) (a) "Employee" excludes any person employed by a passenger tramway area operator, as defined in section 25-5-702 (1), C.R.S., or other employer, while participating in recreational activity, who at such time is relieved of and is not performing any duties of employment, regardless of whether such person is utilizing, by discount or otherwise, a pass, ticket, license, permit, or other device as an emolument of employment.

(b) (I) "Employee" excludes any person employed by an out-of-state employer performing incidental work in Colorado where the employee is covered at the time of injury under the workers' compensation act of another state regardless of where the contract for employment was created.

(II) For purposes of this section, "incidental work" means work that is randomly or fortuitously in Colorado.

(III) This section only applies to a workers' compensation act of another state that includes a reciprocal provision exempting Colorado employers from liability under the other state's act for incidental work.

...

HB 17-1229 was:

- Passed by the first chamber on March 27, 2017
- Included in NCCI's April 7, 2017 **Legislative Activity Report** (RLA-2017-13)
- Passed by the second chamber on April 19, 2017
- Included in NCCI's April 28, 2017 **Legislative Activity Report** (RLA-2017-16)
- Enacted on June 5, 2017, with an effective date of July 1, 2018 (subject to exception)*

HB 17-1229 amends **section 8-41-301. Conditions of recovery—definitions** of the Colorado Revised Statutes as follows:
8-41-301. Conditions of recovery—definitions.

...

(2) (a) A claim of mental impairment must be proven by evidence supported by the testimony of a licensed ~~physician~~ psychiatrist or psychologist. ~~For purposes of this subsection (2), "mental impairment" means a recognized, permanent disability arising from an accidental injury arising out of and in the course of employment when the accidental injury involves no physical injury and consists of a psychologically traumatic event that is generally outside of a worker's usual experience and would evoke significant symptoms of distress in a worker in similar circumstances.~~ A mental impairment shall not be considered to arise out of and in the course of employment if it results from a disciplinary action, work evaluation, job transfer, lay-off, demotion, promotion, termination, retirement, or similar action taken in good faith by the employer. The mental impairment that is the basis of the claim ~~shall~~ must have arisen primarily from the claimant's then occupation and place of employment in order to be compensable.

(a.5) ~~For purposes of this subsection (2), "mental impairment" also includes a disability arising from an accidental physical injury that leads to a recognized permanent psychological disability.~~

...

(3) For the purposes of this section:

(a) "Mental impairment" means a recognized, permanent disability arising from an accidental injury arising out of and in the course of employment when the accidental injury involves no physical injury and consists of a psychologically traumatic event. "Mental impairment" also includes a disability arising from an accidental physical injury that leads to a recognized permanent psychological disability.

(b) (i) "Psychologically traumatic event" means an event that is generally outside of a worker's usual experience and would evoke significant symptoms of distress in a worker in similar circumstances.

(ii) "Psychologically traumatic event" also includes an event that is within a worker's usual experience only when the worker is diagnosed with post-traumatic stress disorder by a licensed psychiatrist or psychologist after the worker experienced exposure to one or more of the following events:

(a) the worker is the subject of an attempt by another person to cause the worker serious bodily injury or death through the use of deadly force, and the worker reasonably believes the worker is the subject of the attempt;

(b) the worker visually witnesses a death, or the immediate aftermath of the death, of one or more people as the result of a violent event; or

(c) the worker repeatedly visually witnesses the serious bodily injury, or the immediate aftermath of the serious bodily injury, of one or more people as the result of intentional act of another person or an accident.

(c) "Serious bodily injury" means bodily injury that, either at the time of the actual injury or a later time, involves a substantial risk of death, a substantial risk of serious permanent disfigurement, or a substantial risk of protracted loss or impairment of the function of any part or organ of the body.

*** Act subject to petition—effective date—applicability.**

(1) This act takes effect July 1, 2018; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to injuries sustained on or after the applicable effective date of this act.

Nevada

AB 83 was:

- Passed by the first chamber on April 25, 2017
- Included in NCCI's May 5, 2017 **Legislative Activity Report** (RLA-2017-17)
- Amended and passed by the second chamber on May 24, 2017
- Included in NCCI's June 2, 2017 **Legislative Activity Report** (RLA-2017-21)
- Enacted on June 5, 2017, with various effective dates*

AB 83 adds to, revises, and repeals various provisions of the Nevada Revised Statutes including, but not limited to, the following:

- **Section 35** of this bill defines the term “large-deductible agreement” as certain agreements in which the policyholder must bear the risk of loss of a specified amount of \$25,000 or more per claim or occurrence covered under the policy of industrial insurance
- **Section 37** of this bill limits the applicability of **Sections 38** and **39** to policies of industrial insurance with large-deductible agreements that are issued by insurers with both ratings below specified levels and surpluses below specified amounts
- **Section 37** further specifies that **Sections 38** and **39** only apply to policies of industrial insurance issued or renewed on or after January 1, 2018, and which are not issued to a governmental entity
- **Section 38** of this bill requires full collateralization of the outstanding obligations owed under a large-deductible agreement and limits the size of the policyholder’s obligations under the large-deductible agreement
- **Section 39** of this bill generally prohibits an insurer from issuing or renewing a policy of industrial insurance that includes a large-deductible agreement if the insurer is in a hazardous financial condition
- **Section 166** of this bill revises the definition of the term “tangible net worth” in relation to industrial insurance, specifically self-insured employers and associations of self-insured employers

*The effective dates for the above sections (in addition to some of the other sections of the enacted bill) are upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and on July 1, 2017, for all other purposes

New Hampshire

HB 150 was:

- Passed by the first chamber on February 2, 2017
- Included in NCCI’s February 10, 2017 **Legislative Activity Report** (RLA-2017-05)
- Passed by the second chamber on April 20, 2017
- Included in NCCI’s April 28, 2017 **Legislative Activity Report** (RLA-2017-16)
- Enacted on June 2, 2017, with an effective date of August 1, 2017

HB 150, in part, amends **sections 412:5 Approval of Form** and **412:15 Rate Standards** of the New Hampshire Statutes as follows:
Section 412:5 Approval of Form.

I. Every insurer and advisory organization shall file policy forms, endorsements, and other contract language covered by this chapter and RSA 264, for a waiting period of 30 days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed 30 days if written notice or electronic notice is given within the initial 30-day waiting period to the insurer or advisory organization which made the filing that additional time is needed for the consideration of the filing. Upon written application by the insurer or advisory organization, the commissioner may authorize a filing which has been reviewed to become effective before the expiration of the waiting period or extension thereof. The commissioner may disapprove such form if it contains a provision that does not comply with the requirements of law, is not in the public interest, is contrary to public policy, is inequitable, misleading, deceptive, or encourages misrepresentation of such policy. An approved filing and any supporting information that is not exempt from disclosure by law or rule shall be open to public inspection on or after the effective date of the filing that the filing is approved or the effective date, whichever is later. A filing shall be deemed to meet the requirements of this chapter unless disapproved by the commissioner within the waiting period or extension thereof. Every policy issued by an insurer on an unapproved form shall constitute a separate violation under RSA 412:40.

...

Section 412:15 Rate Standards.

Rates shall be made in accordance with the following provisions:

I. Rates shall not be excessive, inadequate, or unfairly discriminatory.

(a) A rate in a competitive market ~~is not excessive~~ shall not be disapproved for being excessive.

...

Oregon

HB 2186 was:

- Passed by the first chamber on March 1, 2017
- Included in NCCI’s March 10, 2017 **Legislative Activity Report** (RLA-2017-09)
- Passed by the second chamber on May 11, 2017
- Included in NCCI’s May 19, 2017 **Legislative Activity Report** (RLA-2017-19)
- Enacted on May 22, 2017, with an effective date of January 1, 2018

HB 2186 amends **section 656.430 Certification of self-insured employer; employer groups; insurance policy requirements; revocation of certification; rules** of the Oregon Revised Statutes as follows:

656.430 Certification of self-insured employer; employer groups; insurance policy requirements; revocation of certification; rules.

...

(3) Two or more entities ~~shall may~~ not be included in the certification of one employer unless in each entity the same person, or group of persons, or corporation owns a majority interest. If an entity owns a majority interest in another entity which in turn owns the majority interest in another entity, all entities so related may be combined regardless of the number of entities in succession. If more than one entity is included in the certification of one employer, each entity included is jointly and severally liable for any compensation and other amounts due the Department of Consumer and Business Services under this chapter by any entity included in the certification.

...

(6) If the entity is a partnership, majority interest ~~shall must~~ be determined in accordance with the participation of each general partner in the profits of the partnership.

(7)(a) Notwithstanding any other provision of this section, the director may certify five or more subject employers as a self-insured employer group, which ~~shall be considered~~ is an employer for purposes of this chapter, if:

(A) The director finds that the employers as a group meet the requirements of ORS 656.407 (1)(b) and (2);

(B) The director determines that the employers as a group meet the insurance coverage retention and combined net worth requirements adopted by the director by rule;

(C) The director finds that the grouping is likely to improve accident prevention and claims handling for the employer;

(D) Each employer executes and files with the designated entity a written agreement, in such form as the director may prescribe, in which:

(i) The employer agrees to be jointly and severally liable for the payment of any compensation and other amounts due to the Department of Consumer and Business Services under this chapter incurred by a member of the group; or

(ii) The employer, if a city, county, special district described and listed in ORS 198.010 or 198.180, translator district formed under ORS 354.605 to 354.715, weed control district organized under ORS 569.350 to 569.445, intergovernmental agency created under ORS 225.050, school district as defined in ORS 255.005 (9), public housing authority created under ORS chapter 456 or regional council of governments created under ORS chapter 190, agrees to be individually liable for the payment of any compensation and other amounts due to the department under this chapter incurred by the employer during the period of group self-insurance;

(E) The director finds that the employer group is organized as a corporation or cooperative pursuant to ORS chapter 60, 62 or 65, is an intergovernmental entity created under ORS 190.003 to 190.130 or is a self-insurance program under ORS 30.282 (3), and the bylaws of the employer group require the governing employer group to obtain fidelity bonds;

...

Texas

HB 2053 was:

- Passed by the first chamber on April 20, 2017
- Included in NCCI's April 28, 2017 **Legislative Activity Report** (RLA-2017-16)
- Passed by the second chamber on May 24, 2017
- Included in NCCI's June 2, 2017 **Legislative Activity Report** (RLA-2017-21)
- Enacted and effective on June 9, 2017

HB 2053 amends **sections 414.005. Investigation Unit, 414.006. Referral to Other Authorities, 418.001. Penalty for Fraudulently Obtaining or Denying Benefits, and 418.002. Penalty for Fraudulently Obtaining Workers' Compensation Insurance Coverage** of the Texas Labor Code as follows:

Sec. 414.005. Investigation Unit.

(a) The division shall maintain an investigation unit to conduct investigations relating to:

(1) alleged violations of this subtitle, commissioner rules, or a commissioner order or decision, with particular emphasis on violations of Chapters 415 and 416; and

(2) alleged offenses under this subtitle, with particular emphasis on offenses under Chapter 418.

Sec. 414.006. Referral to Other Authorities.

(a) For further investigation or the institution of appropriate proceedings, the division may refer the persons involved in a case subject to an investigation to other appropriate authorities, including licensing agencies, district and county attorneys, or the attorney general.

(b) The division may provide technical or litigation assistance regarding the investigation referred under Subsection (a) to the appropriate authority.

Sec. 418.001. Penalty for Fraudulently Obtaining or Denying Benefits.

...

(b) An offense under Subsection (a) is:

- (1) a Class A misdemeanor if the value of the benefits is less than ~~\$2,500~~ \$1,500; and
- (2) a state jail felony if the value of the benefits is ~~\$2,500~~ \$1,500 or more.

Sec. 418.002. Penalty for Fraudulently Obtaining Workers' Compensation Insurance Coverage.

...

(b) An offense under Subsection (a) is:

- (1) a Class A misdemeanor if the amount of premium avoided is less than ~~\$2,500~~ \$1,500; and
- (2) a state jail felony if the amount of the premium avoided is ~~\$2,500~~ \$1,500 or more.

HB 2053 also amends the heading to Chapter 418 to read:

Chapter 418. Criminal Investigations and Penalties

In addition, **HB 2053** adds *section 418.004. Subpoena Authority* to the Texas Labor Code as follows:

Sec. 418.004. Subpoena Authority.

(a) The commissioner may issue a subpoena to compel the attendance and testimony of a witness or the production of materials relevant to an investigation of an offense under this chapter.

(b) The commissioner may issue a subpoena under Subsection (a) regarding a witness or materials located in this state or in another state.

HB 2053 also states the following:

Sections 418.001(b) and 418.002(b), Labor Code, as amended by this Act, apply only to an offense committed on or after September 1, 2017. An offense committed before September 1, 2017, is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before September 1, 2017, if any element of the offense occurred before that date.

Section 418.004, Labor Code, as added by this Act, applies to a subpoena issued on or after the effective date of this Act, regardless of whether the offense investigated was committed before, on, or after that date.

HB 2082 was:

- Passed by the first chamber on May 9, 2017
- Included in NCCI's May 19, 2017 *Legislative Activity Report* (RLA-2017-19)
- Passed by the second chamber on May 24, 2017
- Included in NCCI's June 2, 2017 *Legislative Activity Report* (RLA-2017-21)
- Enacted on June 9, 2017, with an effective of September 1, 2017

HB 2082 adds new *section 404.1525. First Responder Liaison* to the Texas Labor Code to read:

Sec. 404.1525. First Responder Liaison.

(a) In this section, "first responder" has the meaning assigned by Section 504.055.

(b) The public counsel shall designate an employee of the office to act as first responder liaison.

(c) The first responder liaison shall assist an injured first responder and, if applicable, the ombudsman assigned to the first responder's case, during a workers' compensation administrative dispute resolution process.

(d) The first responder liaison:

(1) must meet the qualifications for designation as an ombudsman under this subchapter; and

(2) is subject to the training and education requirements for an ombudsman under this subchapter.

In addition, **HB 2082** amends *section 404.153. Employer Notification; Administrative Violation.* of the Texas Labor Code as follows:

Sec. 404.153. Employer Notification; Administrative Violation.

(a) Each employer shall notify its employees of the ombudsman program in the manner prescribed by the office.

(a-1) An employer that employs first responders or supervises volunteer first responders shall notify the first responders of the first responder liaison in the manner prescribed by the office. In this subsection, "first responder" has the meaning assigned by Section 504.055.

(b) An employer commits an administrative violation if the employer fails to comply with this section.

HB 2112 was:

- Passed by the first chamber on April 13, 2017
- Included in NCCI's April 21, 2017 *Legislative Activity Report* (RLA-2017-15)

- Passed by the second chamber on May 24, 2017
- Included in NCCI's June 2, 2017 **Legislative Activity Report** (RLA-2017-21)
- Enacted and effective on June 9, 2017

HB 2112 amends various provisions of the Texas Labor Code as follows:

Section 402.066. Recommendations to Legislature.

(a) The commissioner shall consider and recommend to the legislature changes to this subtitle, ~~including any statutory changes required by an evaluation conducted under Section 402.074.~~

...

Section 406.007. Termination of Coverage by Employer; Notice.

(a) An employer who terminates workers' compensation insurance coverage obtained under this subtitle shall file a written notice with the division ~~by certified mail~~ not later than the 10th day after the date on which the employer notified the insurance carrier to terminate the coverage. The notice must include a statement certifying the date that notice was provided or will be provided to affected employees under Section 406.005.

...

Section 406.008. Cancellation or Nonrenewal of Coverage by Insurance Company; Notice.

(a) An insurance company that cancels a policy of workers' compensation insurance or that does not renew the policy by the anniversary date of the policy shall deliver notice of the cancellation or nonrenewal to the division, and by certified mail or in person to the employer, ~~and the division~~ not later than:

- (1) the 30th day before the date on which the cancellation or nonrenewal takes effect; or
- (2) the 10th day before the date on which the cancellation or nonrenewal takes effect if the insurance company cancels or does not renew because of:
 - (A) fraud in obtaining coverage;
 - (B) misrepresentation of the amount of payroll for purposes of premium calculation;
 - (C) failure to pay a premium when due;
 - (D) an increase in the hazard for which the employer seeks coverage that results from an act or omission of the employer and that would produce an increase in the rate, including an increase because of a failure to comply with:
 - (i) reasonable recommendations for loss control; or
 - (ii) recommendations designed to reduce a hazard under the employer's control within a reasonable period; or
 - (E) a determination made by the commissioner of insurance that the continuation of the policy would place the insurer in violation of the law or would be hazardous to the interest of subscribers, creditors, or the general public.

...

Section 406.144. Election to Provide Coverage; Agreement.

...

(d) The hiring contractor shall send a copy of an agreement under this section to: (1) the hiring contractor's workers' compensation insurance carrier; and (2) the division, on the division's request on filing of the agreement with the division.

...

Section 406.145. Joint Agreement.

...

(c) The hiring contractor shall send a copy of a joint agreement signed under this section to: (1) the hiring contractor's workers' compensation insurance carrier; and (2) the division, on the division's request on filing of the joint agreement with the division.

...

Section 408.150. Vocational Rehabilitation.

(a) The division shall refer an employee to the Texas Workforce Commission ~~Department of Assistive and Rehabilitative Services~~ with a recommendation for appropriate services if the division determines that an employee could be materially assisted by vocational rehabilitation or training in returning to employment or returning to employment more nearly approximating the employee's preinjury employment. ~~The division shall also notify insurance carriers of the need for vocational rehabilitation or training services.~~ The insurance carrier may provide vocational rehabilitation or training services through a private provider of vocational rehabilitation services ~~under Section 409.012.~~

(b) An employee who refuses services or refuses to cooperate with services provided under this section by the Texas Workforce Commission ~~Department of Assistive and Rehabilitative Services~~ or a private provider loses entitlement to supplemental income benefits.

Section 409.010. Information Provided to Employee or Legal Beneficiary.

Immediately on receiving notice of an injury or death from any person, the division shall send mail to the employee or legal beneficiary a clear and concise description of:

(1) the services provided by:

(A) the division; and

(B) the office of injured employee counsel, including the services of the ombudsman program;

(2) the division's procedures; and

(3) the person's rights and responsibilities under this subtitle.

Section 409.011. Information Provided to Employer; Employer's Rights.

(a) Immediately on receiving notice of an injury or death from any person, the division shall send mail to the employer a description of:

(1) the services provided by the division and the office of injured employee counsel;

(2) the division's procedures; and

(3) the employer's rights and responsibilities under this subtitle.

...

Section 409.012. Vocational Rehabilitation Information.

...

(b) If the division determines that an injured employee would be assisted by vocational rehabilitation, the division shall notify:

(1) the injured employee in writing of the services and facilities available through the Texas Workforce Commission ~~Department of Assistive and Rehabilitative Services~~ and private providers of vocational rehabilitation; and

(2) the Texas Workforce Commission ~~Department of Assistive and Rehabilitative Services~~ and the affected insurance carrier that the injured employee has been identified as one who could be assisted by vocational rehabilitation.

(c) The division shall cooperate with the office of injured employee counsel, the Texas Workforce Commission ~~Department of Assistive and Rehabilitative Services~~, and private providers of vocational rehabilitation in the provision of services and facilities to employees by the Texas Workforce Commission ~~Department of Assistive and Rehabilitative Services~~.

...

Section 409.013. Plain Language Information; Notification of Injured Employee

...

(b) On receipt of a report under Section 409.005, the division shall:

(1) contact the affected employee; by mail or by telephone and

(2) shall provide the information required under Subsection (a) to that employee, together with any other information that may be prepared by the office of injured employee counsel or the division for public dissemination that relates to the employee's situation, such as information relating to back injuries or occupational diseases.

HB 2112 also repeals the following provisions of the Labor Code as follows:

~~Section 402.074. Strategic Management; Evaluation.~~

~~The commissioner shall implement a strategic management plan that:~~

~~(1) requires the division to evaluate and analyze the effectiveness of the division in implementing:~~

~~(A) the statutory goals adopted under Section 402.021, particularly goals established to encourage the safe and timely return of injured employees to productive work roles; and~~

~~(B) the other standards and requirements adopted under this code, the Insurance Code, and other applicable laws of this state; and~~

~~(2) modifies the organizational structure and programs of the division as necessary to address shortfalls in the performance of the workers' compensation system of this state.~~

Section 406.144. Election to Provide Coverage; Agreement.

...

~~(c) An agreement under this section shall be filed with the division either by personal delivery or by registered or certified mail and is considered filed on receipt by the division.~~

...

Sections 406.145. Joint Agreement

...
(b) A joint agreement shall be delivered to the division by personal delivery or registered or certified mail and is considered filed on receipt by the division.

...
(d) The division shall maintain a system for accepting and maintaining the joint agreements.

...
~~Section 408.032. Study on Interdisciplinary Pain Rehabilitation Program and Facility Accreditation Requirement.~~

~~The division shall study the issue of required accreditation of interdisciplinary pain rehabilitation programs or interdisciplinary pain rehabilitation treatment facilities that provide services to injured employees and shall report to the legislature regarding any statutory changes that the division considers necessary to require that accreditation.~~

~~Section 408.086. Division Determination of Extended Unemployment or Underemployment.~~

~~(a) During the period that impairment income benefits or supplemental income benefits are being paid to an employee, the commissioner shall determine at least annually whether any extended unemployment or underemployment is a direct result of the employee's impairment.~~

~~(b) To make this determination, the commissioner may require periodic reports from the employee and the insurance carrier and, at the insurance carrier's expense, may require physical or other examinations, vocational assessments, or other tests or diagnoses necessary to perform the commissioner's duty under this section and Subchapter H.~~

Section 409.012. Vocational Rehabilitation Information.

...
(d) A private provider of vocational rehabilitation services may register with the division.

In addition, **HB 2112** includes the following clauses:

The change in law made by this Act applies only to a notice, agreement, description, or information required to be sent or provided on or after the effective date of this Act.

HB 2119 was:

- Passed by the first chamber on May 6, 2017
- Included in NCCI's May 19, 2017 **Legislative Activity Report** (RLA-2017-19)
- Passed by the second chamber on May 23, 2017
- Included in NCCI's June 2, 2017 **Legislative Activity Report** (RLA-2017-21)
- Enacted on June 9, 2017, with an effective of September 1, 2017

HB 2119 amends **section 408.183 Duration of Death Benefits** of the Texas Labor Code as follows:

Sec. 408.183 Duration of Death Benefits.

...
(b) An eligible spouse is entitled to receive death benefits for life or until remarriage. On remarriage, the eligible spouse is entitled to receive 104 weeks of death benefits, commuted as provided by commissioner rule.

(b-1) Notwithstanding Subsection (b), an eligible spouse who remarried is eligible for death benefits for life if the employee was a first responder, as defined by Section 504.055, who suffered death in the course and scope of employment or while providing services as a volunteer. This subsection applies regardless of the date on which the death of the first responder occurred.

...
HB 2119 also repeals Chapter 1018 (H.B. 1094), Acts of the 84th Legislature, Regular Session, 2015.

In addition, **HB 2119** states the following:

The change in law made by this Act to Section 408.183, Labor Code, applies only to an eligible spouse who remarries on or after the effective date of this Act. An eligible spouse who remarried before that date is governed by the law as it existed immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

HB 2546 was:

- Passed by the first chamber on April 27, 2017
- Included in NCCI's May 5, 2017 **Legislative Activity Report** (RLA-2017-17)
- Passed by the second chamber on May 24, 2017
- Included in NCCI's June 2, 2017 **Legislative Activity Report** (RLA-2017-21)
- Enacted and effective on June 9, 2017

HB 2546 amends *section 408.025 Reports and Records Required from Health Care Providers* of the Texas Labor Code as follows:
408.025 Reports and Records Required from Health Care Providers

...

(a-1) A treating doctor may delegate to a physician assistant who is licensed to practice in this state under Chapter 204, Occupations Code, the authority to complete and sign a work status report regarding an injured employee's ability to return to work. The delegating treating doctor is responsible for the acts of the physician assistant under this subsection.

...

Vermont

SB 135 was:

- Passed by the first chamber on March 31, 2017
- Amended and passed by the second chamber on May 4, 2017
- Included in NCCI's June 9, 2017 *Legislative Activity Report* (RLA-2017-22)
- Enacted and effective on June 8, 2017

SB 135, in part, amends *Title 21, Chapter 9, Section 711, Workers' Compensation Administration Fund* of the Vermont Statutes Annotated as follows:

§711 Workers' Compensation Administration Fund

(a) A Workers' Compensation Administration Fund is created pursuant to 32 V.S.A. chapter 7, subchapter 5 to be expended by the Commissioner for the administration of the workers' compensation and occupational disease programs. The Fund shall consist of contributions from employers made at a rate of ~~1.75~~ **1.4** percent of the direct calendar year premium for workers' compensation insurance, one percent of self-insured workers' compensation losses, and one percent of workers' compensation losses of corporations approved under this chapter. Disbursements from the Fund shall be on warrants drawn by the Commissioner of Finance and Management in anticipation of receipts authorized by this section.

West Virginia

SB 1010 was:

- Passed by the first chamber and second chamber on May 24, 2017
- Included in NCCI's June 2, 2017 *Legislative Activity Report* (RLA-2017-21)
- Enacted on June 9, 2017, with an effective date of May 24, 2017

SB 1010 amends and reenacts *section 33-3-33a Excess moneys of Fire Protection Fund deposited into Volunteer Fire Department Workers' Compensation Premium Subsidy Fund; other funding; special report from State Fire Marshal by December 15, 2015; termination of program June 30, 2016* of the Code of West Virginia to provide for the:

- Deposit of moneys into the Volunteer Fire Department Workers' Compensation Premium Subsidy Fund until June 30, 2020
- Expiration of Volunteer Fire Department Workers' Compensation Subsidy Program and closure of the Volunteer Fire Department Workers' Compensation Premium Subsidy Fund on June 30, 2020
- Transfer of any remaining moneys in the Volunteer Fire Department Workers' Compensation Premium Subsidy Fund upon closure of such fund

BILLS PASSING SECOND CHAMBER

The following workers compensation-related bills passed the second chamber within the one-week period ending June 9, 2017.

Connecticut

HB 7132 was:

- Passed by the first chamber on May 18, 2017
- Included in NCCI's May 26, 2017 *Legislative Activity Report* (RLA-2017-20)
- Passed by the second chamber on June 6, 2017

HB 7132 amends *section 31-294c Notice of claim for compensation. Notice contesting liability. Exception for dependents of certain deceased employees* of the Connecticut General Statutes Annotated as follows:
Section 31-294c Notice of claim for compensation. Notice contesting liability. Exception for dependents of certain deceased employees.

(a) No proceedings for compensation under the provisions of this chapter shall be maintained unless a written notice of claim for compensation is given within one year from the date of the accident or within three years from the first manifestation of a symptom of the occupational disease, as the case may be, which caused the personal injury, provided, if death has resulted within

two years from the date of the accident or first manifestation of a symptom of the occupational disease, a dependent or dependents, or the legal representative of the deceased employee, may make claim for compensation within the two-year period or within one year from the date of death, whichever is later. Notice of claim for compensation may be given to the employer or any commissioner and shall state, in simple language, the date and place of the accident and the nature of the injury resulting from the accident, or the date of the first manifestation of a symptom of the occupational disease and the nature of the disease, as the case may be, and the name and address of the employee and of the person in whose interest compensation is claimed. An employee of the state shall send a copy of the notice to the Commissioner of Administrative Services. An employee of a municipality shall send a copy of the notice to the town clerk of the municipality in which he or she is employed. An employer, other than the state or a municipality, may opt to post a copy of where notice of a claim for compensation shall be sent by an employee in the workplace location where other labor law posters required by the Labor Department are prominently displayed. In addition, an employer opting to post where notice of a claim for compensation by an employee shall be sent, shall forward the address of where notice of a claim for compensation shall be sent to the Workers' Compensation Commission and the commission shall post such address on its Internet web site. An employer shall be responsible for verifying that information posted at a workplace location is consistent with the information posted on the commission's Internet web site. If an employee, other than an employee of the state or a municipality, opts to mail to his or her employer the written notice of a claim for compensation required under the provisions of this section, such written notice shall be sent by the employee to the employer by certified mail.

As used in this section, "manifestation of a symptom" means manifestation to an employee claiming compensation, or to some other person standing in such relation to him that the knowledge of the person would be imputed to him, in a manner that is or should be recognized by him as symptomatic of the occupational disease for which compensation is claimed.

(b) Whenever liability to pay compensation is contested by the employer, he shall file with the commissioner, on or before the twenty-eighth day after he has received a written notice of claim, a notice in accord with a form prescribed by the chairman of the Workers' Compensation Commission stating that the right to compensation is contested, the name of the claimant, the name of the employer, the date of the alleged injury or death and the specific grounds on which the right to compensation is contested. The employer shall send a copy of the notice to the employee in accordance with section 31-321. If the employer or his legal representative fails to file the notice contesting liability on or before the twenty-eighth day after he has received the written notice of claim, the employer shall commence payment of compensation for such injury or death on or before the twenty-eighth day after he has received the written notice of claim, but the employer may contest the employee's right to receive compensation on any grounds or the extent of his disability within one year from the receipt of the written notice of claim, provided the employer shall not be required to commence payment of compensation when the written notice of claim has not been properly served in accordance with section 31-321 or when the written notice of claim fails to include a warning that (1) the employer, if he has commenced payment for the alleged injury or death on or before the twenty-eighth day after receiving a written notice of claim, shall be precluded from contesting liability unless a notice contesting liability is filed within one year from the receipt of the written notice of claim, and (2) the employer shall be conclusively presumed to have accepted the compensability of the alleged injury or death unless the employer either files a notice contesting liability on or before the twenty-eighth day after receiving a written notice of claim or commences payment for the alleged injury or death on or before such twenty-eighth day. An employer shall be entitled, if he prevails, to reimbursement from the claimant of any compensation paid by the employer on and after the date the commissioner receives written notice from the employer or his legal representative, in accordance with the form prescribed by the chairman of the Workers' Compensation Commission, stating that the right to compensation is contested. Notwithstanding the provisions of this subsection, an employer who fails to contest liability for an alleged injury or death on or before the twenty-eighth day after receiving a written notice of claim and who fails to commence payment for the alleged injury or death on or before such twenty-eighth day, shall be conclusively presumed to have accepted the compensability of the alleged injury or death. If an employer has opted to post an address of where notice of a claim for compensation by an employee shall be sent, as described in subsection (a) of this section, the twenty-eight-day period set forth in this subsection shall begin on the date when such employer receives written notice of a claim for compensation at such posted address.

...

Louisiana

SB 121 was:

- Passed by the first chamber on May 15, 2017
- Included in NCCI's May 26, 2017 **Legislative Activity Report** (RLA-2017-20)
- Amended and passed by the second chamber on June 5, 2017

SB 121, in part, amends numerous sections of Title 23, Chapter 10 Labor and Worker's Compensation of the Louisiana Revised Statutes as follows:

§ 1123. Disputes as to condition or capacity to work; additional medical opinion regarding an examination under supervision of the director

If any dispute arises as to the condition of the employee, or the employee's capacity to work, the director, upon application of any party, shall order an additional medical opinion regarding an examination of the employee to be made by a medical practitioner

selected and appointed by the director. The medical examiner shall report his conclusions from the examination to the director and to the parties and such report shall be prima facie evidence of the facts therein stated in any subsequent proceedings under this Chapter.

§ 1124. Refusal to submit to an additional medical opinion regarding an examination; effect on right to compensation

If the employee refuses to submit himself to an additional medical opinion regarding a medical examination at the behest of the employer or an examination conducted pursuant to R.S. 23:1123, or in anywise obstructs the same, his right to compensation and to take or prosecute any further proceedings under this Chapter may be suspended by the employer or payor until the examination takes place. Such suspension of benefits by the employer or payor shall be made in accordance with the provisions of R.S. 23:1201.1(A)(4) and (5). When the employee has filed a disputed claim, the employer or payor may move for an order to compel the employee to appear for an additional medical opinion regarding an examination. The employee shall receive at least fourteen days written notice prior to the additional medical opinion regarding an examination. When a right to compensation is suspended no compensation shall be payable in respect to the period of suspension.

§ 1203. Duty to furnish medical and vocational rehabilitation expenses; prosthetic devices; other expenses

...
E. Upon the first request for authorization pursuant to R.S. 23:1142(B)(1), for a claimant's medical care, service, or treatment, the payor, as defined in R.S. 23:1142(A)(1), shall communicate to the claimant information, in plain language, regarding the procedure for requesting an ~~independent~~ additional medical opinion regarding a medical examination in the event a dispute arises as to the condition of the employee or the employee's capacity to work, and the procedure for appealing the denial of medical treatment to the medical director as provided in R.S. 23:1203.1. A payor shall not deny medical care, service, or treatment to a claimant unless the payor can document a reasonable and diligent effort in communicating such information. A payor who denies medical care, service, or treatment without making such an effort may be fined an amount not to exceed five hundred dollars or the cost of the medical care, service, or treatment, whichever is more.

...

§ 1221. Temporary total disability; permanent total disability; supplemental earnings benefits; permanent partial disability; schedule of payments

Compensation shall be paid under this Chapter in accordance with the following schedule of payments:

...
(4) Permanent partial disability. In the following cases, compensation shall be solely for anatomical loss of use or amputation and shall be as follows:

...

(s)

...

(ii) In any claim for an injury, it must be established by clear and convincing evidence that the employee suffers an injury and that such resulted from an accident arising out of and in the course and scope of his employment. Nothing herein shall limit the right of any party to obtain a second medical opinion or, in appropriate cases, the opinion of an ~~independent~~ additional medical opinion medical examiner pursuant to R.S. 23:1123.

...

§ 1307. Information to injured employee

Upon receipt of notice of injury from the employer or other indication of an injury reportable under R.S. 23:1306, the office shall mail immediately to the injured employee and employer a brochure which sets forth in clear understandable language a summary statement of the rights, benefits, and obligations of employers and employees under this Chapter, together with an explanation of the operations of the office, and shall invite the employer and employee to seek the advice of the office with reference to any question or dispute which the employee has concerning the injury. Such brochure shall specifically state the procedure for requesting an ~~independent~~ additional medical opinion regarding a medical examination in the event a dispute arises as to the condition of the employee or the employee's capacity to work and the procedure for appealing the denial of medical treatment to the medical director as provided in R.S. 23:1203.1. If such brochure has previously been mailed to an employer within the calendar year, the office shall not mail ~~such~~ the employer an additional brochure unless the employer specifically requests it ~~such~~.

...

§ 1317.1. ~~Independent~~ Additional medical opinion regarding medical examinations

A. Any party wishing to request an ~~independent~~ additional medical opinion regarding a medical examination of the claimant pursuant to R.S. 23:1123 and 1124.1 shall be required to make its request at or prior to the pretrial conference. Requests for ~~independent~~ additional medical opinions regarding medical examinations made after that time shall be denied except for good cause or if it is found to be in the best interest of justice to order such examination.

- B. An examiner performing ~~independent~~ additional medical opinion exams pursuant to R.S. 23:1123 shall be required to prepare and send to the office a certified report of the examination within thirty days after its occurrence.
- C. The report of the examination shall contain the following, when applicable:
- (1) A statement of the medical and legal issues the examiner was asked to address.
 - (2) A detailed summary of the basis of the examiner's opinion, including but not limited to a listing of reports or documents reviewed in formulating that opinion.
 - (3) The medical treatment and physical rehabilitative procedures which have already been rendered and the treatment, if any, which the examiner recommends for the future, together with reasons for the recommendation.
 - (4) Any other conclusions required by the scope of the ~~independent~~ additional medical opinion regarding a medical examination, together with reasons for the conclusion reached.
 - (5) A curriculum vitae of the examiner.
 - (6) A written certification personally signed by the examiner that the report is true. The substance of the certification shall be: "I certify that I have caused this report to be prepared, I have examined it, and to the best of my knowledge and belief, all statements contained herein are true, accurate, and complete."
- D. If a physical examination of the claimant was conducted, the certified report shall contain all of the following additional information:
- (1) A complete history of the claimant, including all previous relevant or contributory injuries with a detailed description of the present injury.
 - (2) The complaints of the claimant.
 - (3) A complete listing of tests and diagnostic procedures conducted during the course of the examination.
 - (4) The examiner's findings on examination, including but not limited to a description of the examination and any diagnostic tests and X-rays.
- E. When the ~~independent~~ additional medical opinion medical examiner's report is presented within thirty days as provided in this Section:
- (1) The examiner shall be protected from subpoena except for a single trial deposition. However, upon a proper motion for cause, the workers' compensation judge may order further discovery of the ~~independent~~ additional medical opinion by a medical examiner as deemed appropriate.
 - (2) Except to schedule the deposition or further discovery as described above, the office of the ~~independent~~ additional medical opinion medical examiner shall not be contacted regarding the claimant by any party, attorney, or agent.
- F. Objections to the ~~independent~~ additional medical opinion regarding a medical examination shall be made on form LDOL-WC-1008, and shall be set for hearing before a workers' compensation judge within thirty days of receipt. No mediation shall be scheduled on disputes arising under this Section.

Maine

LD 848 was:

- Passed by the first chamber on June 8, 2017
- Passed by the second chamber on June 9, 2017

LD 848 deletes *subsection 3 of Title 39-A, section 201 Mental injury caused by mental stress* of the Maine Revised Statutes and adds *subsection 3-A of Title 39-A, section 201 Mental injury caused by mental stress* of the Maine Revised Statutes as follows:

~~Section 201, Subsection 3 Mental injury caused by mental stress.~~

~~Mental injury resulting from work-related stress does not arise out of and in the course of employment unless it is demonstrated by clear and convincing evidence that:~~

~~A. The work stress was extraordinary and unusual in comparison to pressures and tensions experienced by the average employee; and [1991, c. 885, Pt. A, §8 (NEW); 1991, c. 885, Pt. A, §§9-11 (AFF).]~~

~~B. The work stress, and not some other source of stress, was the predominant cause of the mental injury. [1991, c. 885, Pt. A, §8 (NEW); 1991, c. 885, Pt. A, §§9-11 (AFF).]~~

~~The amount of work stress must be measured by objective standards and actual events rather than any misperceptions by the employee.~~

~~A mental injury is not considered to arise out of and in the course of employment if it results from any disciplinary action, work evaluation, job transfer, layoff, demotion, termination or any similar action, taken in good faith by the employer.~~

3-A. Mental injury caused by mental stress.

Mental injury resulting from work-related stress does not arise out of and in the course of employment unless:

A. It is demonstrated by clear and convincing evidence that:

- (1) The work stress was extraordinary and unusual in comparison to pressures and tensions experienced by the average employee; and
- (2) The work stress, and not some other source of stress, was the predominant cause of the mental injury.

The amount of work stress must be measured by objective standards and actual events rather than any misperceptions by the employee; or

B. The employee is a law enforcement officer, firefighter or emergency medical services person and is diagnosed by an allopathic physician or an osteopathic physician licensed under Title 32, chapter 48 or chapter 36, respectively, with a specialization in psychiatry or a psychologist licensed under Title 32, chapter 56 as having post-traumatic stress disorder that resulted from work stress, that the work stress was extraordinary and unusual compared with that experienced by the average employee and the work stress and not some other source of stress was the predominant cause of the post-traumatic stress disorder, in which case the post-traumatic stress disorder is presumed to have arisen out of and in the course of the worker's employment. This presumption may be rebutted by clear and convincing evidence to the contrary. For purposes of this paragraph, "law enforcement officer," "firefighter" and "emergency medical services person" have the same meaning as in section 328-A, subsection 1.

By January 1, 2022, the board shall submit a report to the joint standing committee of the Legislature having jurisdiction over labor matters that includes an analysis of the number of claims brought under this paragraph, the portion of those claims that resulted in a settlement or award of benefits and the effect of the provisions of this paragraph on costs to the State and its subdivisions. The Department of Administrative and Financial Services, Bureau of Human Resources and the Department of Public Safety shall assist the board in developing the report, and the board shall seek the input of an association, the membership of which consists exclusively of counties, municipalities and other political or administrative subdivisions, in the development of the report.

This paragraph is repealed October 1, 2022.

A mental injury is not considered to arise out of and in the course of employment if it results from any disciplinary action, work evaluation, job transfer, layoff, demotion, termination or any similar action, taken in good faith by the employer.

North Carolina

HB 205 was:

- Passed by the first chamber on March 9, 2017
- Included in NCCI's March 17, 2017 *Legislative Activity Report* (RLA-2017-10)
- Amended and passed by the second chamber on June 5, 2017

HB 205, in part, amends *sections 97-13 Exceptions from provisions of Article* and *97-2 Definitions* of the North Carolina General Statutes as follows:

Section 97-13 Exceptions from provisions of Article

...

(c1) Certain Inmates.—Notwithstanding the thirty dollars (\$30.00) per week limit in subsection (c) of this section, the average weekly wage of inmates employed pursuant to the Prison Industry Enhancement Program shall be calculated pursuant to G.S. 97-2(5).

...

Section 97-2 Definitions

...

(2) Employee.—

...

It shall be a rebuttable presumption that the term "employee" shall not include any person performing services in the sale of newspapers or magazines to ultimate consumers under an arrangement whereby the newspapers or magazines are to be sold by that person at a fixed price and the person's compensation is based on the retention of the excess of the fixed price over the amount at which the newspapers or magazines are charged to the person.

...

HB 205 also adds a new *section, 95-28.5 Certain benefits for newspaper workers*, to the North Carolina General Statutes as follows:

Section 95-28.5. Certain benefits for newspaper workers.

Any worker meeting all of the following conditions shall be treated as an employee for the purposes of Chapters 95, 96, 97, 105, and 143 of the General Statutes:

- (1) The worker is paid by a person engaged in the business of publishing and distributing newspapers or magazines.
- (2) The contractual relationship between the person and worker is not subject to negotiation or heavily favors either party.
- (3) The rates paid to the worker under the contractual relationship are not subject to negotiation.

- (4) The worker is required to deliver the newspapers or magazines according to specifications given by the person publishing or distributing the newspaper or magazine.
- (5) Complaints regarding delivery of the newspapers or magazines are directed to the person publishing or distributing the newspaper or magazine, without the worker being allowed to correct the matter.
- (6) The person publishing or distributing the newspapers or magazines may unilaterally alter the route or method of delivery.
- (7) The work delivering the newspapers or magazines does not require highly skilled labor.
- (8) The worker does not supply any special equipment other than transportation to perform the delivery.

BILLS PASSING FIRST CHAMBER

There were no relevant workers compensation-related bills that passed the first chamber within the one-week period ending June 9, 2017.

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, ID, MT, NV, OR	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
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.