



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

There were no relevant workers compensation-related bills enacted within the one-week period ending September 29, 2017.

BILLS PASSING SECOND CHAMBER

There were no relevant workers compensation-related bills that passed the second chamber within the one-week period ending September 29, 2017.

BILLS PASSING FIRST CHAMBER

There were no relevant workers compensation-related bills that passed the first chamber within the one-week period ending September 29, 2017.

FEDERAL ISSUES

Issue	Update
TRIPRA of 2015 Data Collection	NCCI has provided data to the Federal Insurance Office (FIO) on behalf of carriers in response to the second phase of FIO's terrorism data call for 2017, as required under Section 111 of the Terrorism Risk Insurance Program Reauthorization Act (TRIPRA) of 2015. The data was provided to FIO in September 2017. NCCI provided FIO with the workers compensation data for all states other than the state of California, working with the independent state rating bureaus to coordinate the data production and submission. In May, NCCI provided FIO with a data set for the first phase of the 2017 data call. Because FIO has designated NCCI as the reporter for workers compensation data, this eliminated the need for carriers to provide the data to FIO directly.

The bill included in the following section has been filed, but has not yet passed the first chamber.

STATE LEGISLATIVE ACTIVITY

State	Update
New Hampshire	HB 407-FN requires workers compensation to cover prophylactic treatment for exposure. This bill was retained in committee during the 2017 session and was scheduled for discussion by a subcommittee on October 5, 2017.

STATE COMMITTEE ACTIVITY

State	Update
Montana	The Interim Economic Affairs Committee met September 14 to begin its review of the Montana State Fund's role in the state's workers compensation system.

	The Labor-Management Advisory Council (LMAC) was expected to continue to discuss the possible adoption of a prescription drug formulary at a meeting on October 3. LMAC has been considering a workers compensation drug formulary since the legislature failed to pass a measure in 2015 requiring the Department of Labor and Industry to develop an approved list of drugs.
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OTHER ITEMS OF INTEREST

State	Update
Alabama	<p>Bulletin 2017-04 sets forth that a 30-day advance notice of a premium increase or nonrenewal should be provided to insureds under certain circumstances. Specifically, in order to provide insureds with an adequate opportunity to shop for alternative coverage, the Department of Insurance (Department) has deemed that a minimum of 30 days' advance notice should be given to the insured for the following actions:</p> <ul style="list-style-type: none"> • Any company initiated premium increase on personal lines policies, and a premium increase greater than 15% for commercial lines policies • Non-renewal of coverage on any personal or commercial lines policies <p>Failure by companies to provide such notice will be considered by the Department to be an unfair trade practice.</p> <p>Note: Bulletin 2017-04 includes provisions that are in addition to, but which do not supersede, Regulation 136 [482-1-136] which addresses homeowner's insurance, specifically hurricane coverage.</p>
Georgia	<p>Georgia Attorney General Chris Carr announced on September 28 that a Statewide Opioid Task Force had been created. The task force will provide an infrastructure of communication between organizations in the public, private, and nonprofit sectors that are combating and are impacted by opioid abuse. The following link provides information on the Statewide Opioid Task Force, including participants, meeting dates, and news releases: www.law.georgia.gov/statewide-opioid-task-force.</p>
Hawaii	<p>The Department of Labor and Industrial Relations has proposed several changes to the workers compensation physicians fee schedule. The proposal is scheduled for public hearing on October 26.</p> <p><i>NCCI estimates that the changes, proposed to become effective January 1, 2018, would result in a +0.9% (\$2M) impact on overall workers compensation system costs in the state.</i></p>
Maine	<p>The Maine Supreme Court heard oral arguments in <i>Bourgoin v. Twin Rivers Paper Co., LLC</i> on September 13, the first time the state's high court has considered insurance reimbursement for medical marijuana. At issue is the ruling from an administrative law judge ordering the employer to reimburse the employee for his purchases of medical marijuana for pain-related purposes. This ruling was affirmed by the Workers' Compensation Board Appellate Division.</p>
Nevada	<p>As a result of the enactment of AB 458, the Division of Industrial Relations held a public workshop on September 25 to clarify how the proposed lump-sum tables would be applied in practice. AB 458 requires that actuarial annuity tables—needed to determine permanent partial disability lump-sum payments—use the most recent unisex “Static Mortality Tables for Defined Benefit Pension Plans” and the average 30-year Treasury Constant Maturity Rate for March of the current year.</p> <p><i>NCCI is currently examining the proposed actuarial annuity tables to determine its impact on workers compensation system costs in the state.</i></p>
Oklahoma	<p>On September 20, the Oklahoma Supreme Court declined to hear the case of <i>Talbot v. Cudd Pressure Control</i>, leaving the case to the Court of Civil Appeals. In this case, the claimant argued that the state's temporary total disability (TTD) cap is unconstitutional. Talbot earned a weekly wage of \$2,136 and under the state's law received a weekly benefit of \$561 for a 104-week period (the lessor of 70% of the state's average weekly wage or actual earnings).</p> <p>The case also raised the question of double recovery where a subrogation action against a third-party tortfeasor has been denied. Talbot was involved in an accident in Montana, where the respondent's request for subrogation was rejected under Montana's “made whole” doctrine. In his tort action against the third-party tortfeasor, Talbot was awarded \$2,184,450 (after attorney fees and costs). In Oklahoma, the respondent requested to suspend further workers compensation benefits on the grounds that Talbot's recovery from the third-party settlement in addition to the employer paid benefit would constitute double recovery. The Workers Compensation Commission upheld both the TTD cap and the employer's suspension to pay additional benefits.</p>
Oregon	<p>The Department of Consumer and Business Services held a rulemaking hearing on September 18 to discuss a temporary rule to restore the union hall call determination of calculating average wages for worker benefits.</p>

Contact Information

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

State	State Relations Executive	Phone Number
IN, NC, SC, TN	Amy Quinn	803-356-0851
MO, NE, OK, SD	Carla Townsend	314-843-4001
HI	Carolyn Pearl	808-524-6239
AZ, IA, KS, KY	Clarissa Preston	561-945-4517
DC, MD, VA, WV	David Benedict	804-380-3005
FL	Dawn Ingham	561-893-3165
CT, ME, NH, RI, VT	Laura Backus Hall	802-454-1800
AL, GA, LA, MS	Laura Hart Bryan	225-618-8168
AK, CO, NM, UT	Maggie Karpuk	818-707-8374
ID, MT, NV, OR	Peter Burton	610-964-8852
AR, IL, KS, TX	Terri Robinson	501-333-2835

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