



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 includes 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 is included in the first report published each month. This report is issued on a weekly basis throughout the legislative season and provides updates on the content of these bills if and when they progress through the legislative process. This report covers 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 July 13, 2018.

Hawaii

HB 2377 HD1 SD1 was:

- Passed by the first chamber on March 2, 2018
- Included in NCCI's March 9, 2018 **Legislative Activity Report** (RLA-2018-10)
- Amended and passed by the second chamber on April 10, 2018
- Included in NCCI's April 20, 2018 **Legislative Activity Report** (RLA-2018-16)
- Enacted and effective on July 10, 2018

HB 2377 HD1 SD1 amends **sections 386-25** and **386-71.5** of the Hawaii Workers' Compensation Law as follows:

§386-25 Vocational rehabilitation.

...

(e) A provider shall file the employee's plan with the approval of the employee. Upon receipt of the plan from the provider, an employee shall have ten days to review and sign the plan. The plan shall be submitted to the employer and the employee and be filed with the director within two days from the date of the employee's signature. A plan shall include a statement of the feasibility of the vocational goal, using the process of:

...

(4) Then providing training to obtain employment in another occupational field. When training to obtain employment in another occupational field is required, the first appropriate option among the following options shall be selected for the employee:

(A) On-the-job training;

(B) Short-term retraining program (less than fifty-two weeks); or

(C) Long-term retraining program (more than fifty-two weeks); and

(5) Lastly, if training under paragraph (4) is not feasible, then self-employment may be considered.

...

{§386-71.5} Rehabilitation unit.

There is established within the department of labor and industrial relations a rehabilitation unit. All professional and clerical employees of this unit shall be appointed and administered by the director. The rehabilitation unit shall have the duties and responsibilities provided in section 386-25. Employees of the unit shall be subject to chapter 76.

SB 2244 SD1 HD2 CD1 was:

- Passed by the first chamber on March 2, 2018
- Included in NCCI's March 9, 2018 **Legislative Activity Report** (RLA-2018-10)
- Amended and passed by the second chamber on April 5, 2018

- Included in NCCI's April 13, 2018 **Legislative Activity Report** (RLA-2018-15)
- Amended and passed by the conference committee on April 24, 2018
- Enacted and effective on July 9, 2018

SB 2244 SD1 HD2 CD1 creates new **sections 386-A** and **386-B**, and amends **section 386-21.7** of the Hawaii Workers' Compensation Law as follows:

§386-A Opioid therapy; qualifying injured employees; informed consent process. (a) Beginning on July 1, 2019, any health care provider authorized to prescribe opioids shall adopt and maintain a written policy or policies that include execution of a written agreement to engage in an informed consent process between the health care provider authorized to prescribe opioids and a qualifying injured employee.

(b) If the qualifying injured employee is unable to physically or mentally execute the written agreement pursuant to subsection (a), due to the injury, then the physician shall execute the agreement as soon as the employee's condition improves. At no time shall the employee be responsible for the payment of the medication prescribed.

(c) The department shall make available on its website a copy of the template for an opioid therapy informed consent process agreement developed by the department of health pursuant to section 329-38.5(b). The template shall be posted to the department's website no later than December 31, 2018.

(d) For the purposes of this section, "qualifying injured employee" means:

- (1) An injured employee requiring opioid treatment for more than three months;
 - (2) An injured employee who is prescribed benzodiazepines and opioids together; or
 - (3) An injured employee who is prescribed a dose of opioids that exceeds ninety morphine equivalent doses.
- (e) A violation of this section shall not be subject to the penalty provisions of part IV of chapter 329.

§386-B Qualifying injured employees; initial concurrent prescriptions; opioids and benzodiazepines. (a) Initial concurrent prescriptions for opioids and benzodiazepines shall not be for longer than seven consecutive days unless a supply of longer than seven days is determined to be reasonably needed for the treatment of:

- (1) Pain experienced while the qualifying injured employee is in post-operative care;
- (2) Chronic pain and pain management;
- (3) Substance abuse or opioid or opiate dependence;
- (4) Cancer;

(5) Pain experienced while the qualifying injured employee is in palliative care; or

(6) Pain experienced while the qualifying injured employee is in hospice care;

provided that if a health care provider authorized to prescribe opioids issues a concurrent prescription for more than a seven-day supply of an opioid and benzodiazepine, the health care provider shall document in the qualifying injured employee's medical record the condition for which the health care provider issued the prescription and that an alternative to the opioid and benzodiazepine was not appropriate treatment for the condition.

(b) After an initial concurrent prescription for opioids and benzodiazepines has been made, a health care provider authorized to prescribe opioids may authorize subsequent prescriptions through a telephone consultation with the qualifying injured employee when the health care provider deems such action to be reasonably needed for post-operative care and pain management; provided that the health care provider shall consult with a qualifying injured employee in person at least once every ninety days for the duration during which the health care provider concurrently prescribes opioids and benzodiazepines to the qualifying injured employee.

(c) For the purposes of this section, "qualifying injured employee" has the same meaning as in section 386-A.

§386-21.7 Prescription drugs; pharmaceuticals.

(a) Notwithstanding any other provision to the contrary, immediately after a work injury is sustained by an employee and so long as reasonably needed, the employer shall furnish to the employee all prescription drugs as the nature of the injury requires; provided that initial concurrent prescriptions for opioids and benzodiazepines shall meet the requirements of section 386-B. The liability for the prescription drugs shall be subject to the deductible under section 386-100.

New Hampshire

SB 541-FN-A was:

- Passed by the first chamber on March 22, 2018
- Included in NCCI's March 30, 2018 **Legislative Activity Report** (RLA-2018-13)
- Amended and passed by the second chamber on May 2, 2018
- Included in NCCI's May 11, 2018 **Legislative Activity Report** (RLA-2018-19)
- Amended and passed by the conference committee on May 23, 2018
- Enacted and effective on July 10, 2018

SB 541-FN-A amends **sections 281-A:17** of the New Hampshire Statutes to read:

281-A:17 Firefighter and Heart, Lung, or Cancer Disease.—

...

II. Notwithstanding the provisions of RSA 281-A:2, XI and XIII, 16 and 27, there shall exist a prima facie presumption that cancer disease in a firefighter, whether a regular, call, volunteer, or retired member of a fire department, is occupationally related. In order to receive this occupational cancer disability benefit, the type of cancer involved must be a type which may be caused by exposure to heat, radiation, or a known or suspected carcinogen, as defined by the International Agency for Research on Cancer. However:

(a) ~~A call or volunteer firefighter who has been a firefighter for 10 years shall have the benefit of this prima facie presumption only if there is on record reasonable medical evidence that as follows:~~

(1) If a fire department follows the medical examination as outlined by the National Fire Protection Association standard 1582, the firefighter shall provide this report as evidence that such the firefighter was free of such disease at the beginning of his or her employment. It shall be the duty of the and shall guarantee that he or she has lived a tobacco free life. The employer of a call or volunteer firefighters to firefighter shall provide the required reasonable medical evidence. If the employer fails to do so, the call or volunteer firefighter shall to the firefighter to present as part of his or her claim.

(2) If the fire department does not follow the medical examination standard, the firefighter shall guarantee that he or she has lived a tobacco free life, and has been a firefighter for 10 years and shall be required to present after action reports filed after fire incidents which demonstrate exposure to the known carcinogens as part of the claim, but shall not have the benefit of the prima facie presumption regardless of the absence of said reasonable medical evidence.

(b) A retired firefighter who has been retired between 6 and 20 years who guarantees that he or she has lived a tobacco free life and who is receiving a pension, shall be eligible for medical payments only under this section. If a new claim is being filed, the firefighter shall be responsible for filing applicable data and after action reports if no physical report can be provided. A retired firefighter who agrees to submit to any physical examination requested by his the employing city, town, or precinct shall have the benefit of the prima facie presumption for a period of 20 years from the effective date of such the firefighter's retirement, during which time the firefighter shall be eligible to have his or her medical expenses paid for this period.

(c) No active or retired firefighter shall receive the presumption benefit unless the employer voluntarily has in effect a policy that follows the fire standards and training commission curriculum requirement for best practices for use and cleaning of equipment.

BILLS PASSING SECOND CHAMBER

There were no relevant workers compensation-related bills that passed the second chamber within the one-week period ending July 13, 2018.

BILLS PASSING FIRST CHAMBER

There were no relevant workers compensation-related bills that passed the first chamber within the one-week period ending July 13, 2018.

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.

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