



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 May 24, 2019.

Oklahoma

HB 2632 was:

- Passed by the first chamber on March 11, 2019
- Included in NCCI's March 22, 2019 **Legislative Activity Report** (RLA-2019-10)
- Amended and passed by the second chamber on April 23, 2019
- Included in NCCI's May 3, 2019 **Legislative Activity Report** (RLA-2019-16)
- Amended and passed by the conference committee on May 16, 2019
- Enacted on May 21, 2019, with an effective date of November 1, 2019

HB 2632 creates new **sections 6958** through **6968** in the Oklahoma Insurance Code to be cited as the "Patient's Right to Pharmacy Choice Act," in part, to:

- Impose access standards on retail pharmacy networks
- Direct the Oklahoma Insurance Department to review retail pharmacy network access
- Prohibit pharmacy benefit managers (PBMs) from taking certain actions
- Require PBMs to allow a pharmacy to participate in any pharmacy network, provided the pharmacy accepts the terms and conditions
- Prohibit contracts between pharmacies and PBMs from containing gag clauses
- Require health insurers to monitor covered individuals' access to prescription drug benefits
- Prohibit health insurers or PBMs from restricting individuals' choice of in-network prescription drug provider
- Require health insurers to adopt a formulary and set minimum standards
- Authorize the insurance commissioner to monitor PBMs to ensure compliance

Texas

HB 1665 was:

- Passed by the first chamber on April 17, 2019
- Included in NCCI's April 26, 2019 **Legislative Activity Report** (RLA-2019-15)
- Passed by the second chamber on May 10, 2019
- Included in NCCI's May 17, 2019 **Legislative Activity Report** (RLA-2019-18)
- Enacted and effective on May 23, 2019

HB 1665 amends **section 406.145** of the Texas Workers' Compensation Act to read:
Sec. 406.145. Joint Agreement.

...
(f) If a subsequent hiring agreement is made to which the joint agreement does not apply, the hiring contractor and independent contractor shall notify in writing:
(1) the division and the hiring contractor's workers' compensation insurance carrier; and
(2) the division, on the division's request in writing.
...

HB 1665 also includes the following language:

The change in law made by this Act applies only to a notification required to be provided on or after the effective date of this Act.

BILLS PASSING SECOND CHAMBER

The following workers compensation-related bills passed the second chamber within the one-week period ending May 24, 2019.

Nevada

AB 370 was:

- Passed by the first chamber on April 23, 2019
- Included in NCCI's May 3, 2019 *Legislative Activity Report* (RLA-2019-16)
- Passed by the second chamber on May 22, 2019

AB 370 amends *sections 616A.425* and *232.680* of the Nevada Revised Statutes as follows:

Section 1.

NRS 616A.425 Fund for Workers' Compensation and Safety.

...
3. All money and securities in the Fund must be used to defray all costs and expenses of administering the program of workers' compensation, including the payment of:

...
(g) For widows, widowers, surviving children and surviving dependent parents who are entitled to death benefits on account of an industrial injury or a disablement from an occupational disease that occurred before July 1, 2019:

(1) Reimbursement to insurers for the cost of the increase in the death benefits pursuant to subsection 1 of section 3.5 of this act;
and

(2) The salary and other expenses of administering the payment of the increase in death benefits pursuant to subsection 1 of section 3.5 of this act.

The provisions of this paragraph shall cease to be of any force or effect when no widow, widower, surviving child or surviving dependent parent is entitled to receive death benefits on account of an industrial injury or a disablement from an occupational disease that occurred before July 1, 2019.

Section 4.

NRS 232.680 Payment of costs: Assessments; regulations; federal grants; refunds.

...
4. Assessments made against insurers by the Division after the adoption of regulations must be used to defray all costs and expenses of administering the program of workers' compensation, including the payment of:

...
5. ~~If the Division refunds any part of an assessment, the Division shall include in that refund any interest earned by the Division from the refunded part of the assessment.~~

(g) For widows, widowers, surviving children and surviving dependent parents who are entitled to death benefits on account of an industrial injury or a disablement from an occupational disease pursuant to section 3.5 of this act that occurred before July 1, 2019:

(1) Reimbursement to insurers for the cost of the increase in the death benefits pursuant to subsection 1 of section 3.5 of this act;
and

(2) The salary and other expenses of administering the payment of the increase in death benefits pursuant to subsection 1 of section 3.5 of this act.

The provisions of this paragraph shall cease to be of any force or effect when no widow, widower, surviving child or surviving dependent parent is entitled to receive death benefits on account of an industrial injury or a disablement from an occupational disease that occurred before July 1, 2019.

AB 370 also adds new provisions in *sections 3.5 and 3.8* of the bill to be codified in the Nevada Industrial Insurance Act, to read:
Section 3.5.

1. Any widow, widower, surviving child or surviving dependent parent who is receiving death benefits pursuant to chapters 616A to 617, inclusive, of NRS on account of an industrial injury or a disablement from an occupational disease is entitled to an annual increase in those death benefits in the amount of 2.3 percent. The benefits must be increased pursuant to this section:

(a) On January 1, 2020; and

(b) On January 1 of each year thereafter.

2. Any increase in death benefits provided pursuant to this section is in addition to any increase in death benefits to which a widow, widower, surviving child or surviving dependent parent is otherwise entitled by law.

3. Any increase in death benefits pursuant to this section on account of an industrial injury or a disablement from an occupational disease that occurred on or after July 1, 2019, must be paid by insurers, including, without limitation, employers who provide accident benefits for injured employees pursuant to NRS 616C.265, without reimbursement from the Fund for Workers' Compensation and Safety pursuant to section 3.8 of this act.

Section 3.8.

1. An insurer, including, without limitation, an employer who provides accident benefits for injured employees pursuant to NRS 616C.265, who pays an increase in death benefits to a widow, widower, surviving child or surviving dependent parent pursuant to section 3.5 of this act is entitled to be reimbursed for the amount of that increase from the Fund for Workers' Compensation and Safety if the insurer provides to the Administrator all of the following:

(a) The name of the widow, widower, surviving child or surviving dependent parent to whom the insurer paid the increase in death benefits.

(b) The claim number under which death benefits were paid to the widow, widower, surviving child or surviving dependent parent.

(c) The date of the industrial injury or disablement from an occupational disease which resulted in the eligibility of the widow, widower, surviving child or surviving dependent parent for death benefits.

(d) The date of the death of the injured employee who is the:

(1) Spouse of the widow or widower;

(2) Parent of the surviving child; or

(3) Child of the surviving dependent parent.

(e) The amount of the death benefit to which the widow, widower, surviving child or surviving dependent parent was entitled as of December 31, 2019.

(f) Proof of the insurer's payment of the increase in death benefits.

(g) The amount of reimbursement requested by the insurer.

2. An insurer must provide the Administrator with the information required pursuant to subsection 1 not later than March 31 of each year to be eligible for reimbursement pursuant to this section for payments of increases in death benefits which were made in the immediately preceding calendar year.

3. An insurer may not be reimbursed pursuant to this section unless the insurer's request for reimbursement is approved by the Administrator.

4. An insurer may elect to apply any approved reimbursement made pursuant to this section towards any current or future assessment levied by the Administrator pursuant to NRS 232.680.

In addition, **AB 370** also includes the following language:

Section 5.

For the purposes of subsection 1 of section 3.5 of this act, the amount of death benefits which is to be increased by 2.3 percent on January 1, 2020, for a widow, widower, surviving child or surviving dependent parent who is entitled to receive death benefits on account of an industrial injury or a disablement from an occupational disease that occurred before January 1, 1989, shall be deemed to be the amount of annual death benefits the widow, widower, surviving child or surviving dependent parent was entitled to receive before the effective date of this act, compounded 3 times at 2.3 percent. The intent of this section is to put the widow, widower, surviving child or surviving dependent parent in the same position on January 1, 2020, with regard to the amount of death benefits to be increased by 2.3 percent pursuant to paragraph (a) of subsection 1 of section 3.5 of this act, as if the widow, widower, surviving child or surviving dependent parent had been receiving an annual increase of 2.3 percent of his or her annual death benefits on January 1 of each year beginning on January 1, 2017.

Section 6.

For the purposes of subsection 1 of section 3.5 of this act, the amount of death benefits which is to be increased by 2.3 percent on January 1, 2020, for a widow, widower, surviving child or surviving dependent parent who is entitled to receive death benefits on account of an industrial injury or a disablement from an occupational disease that occurred on or after January 1, 1989, and before January 1, 1994, shall be deemed to be the amount of annual death benefits the widow, widower, surviving child or surviving dependent parent was entitled to receive before the effective date of this act, compounded 2 times at 2.3 percent. The intent of this section is to put the widow, widower, surviving child or surviving dependent parent in the same position on January 1, 2020, with regard to the amount of death benefits to be increased by 2.3 percent pursuant to paragraph (a) of subsection 1 of section 3.5

of this act, as if the widow, widower, surviving child or surviving dependent parent had been receiving an annual increase of 2.3 percent of his or her annual death benefits on January 1 of each year beginning on January 1, 2018.

AB 492 was:

- Passed by the first chamber on April 23, 2019
- Included in NCCI's May 3, 2019 *Legislative Activity Report* (RLA-2019-16)
- Amended and passed by the second chamber on May 24, 2019

AB 492 amends *sections 616C.180, 616C.400, 616C.420, and 617.420* of the Nevada Revised Statutes to read:

Section 2.

NRS 616C.180 Injury or disease caused by stress.

...

3. ~~An~~ Except as otherwise provided by subsections 4 and 5, an injury or disease caused by stress shall be deemed to arise out of and in the course of employment only if the employee proves by clear and convincing medical or psychiatric evidence that:

...

4. An injury or disease caused by stress shall be deemed to arise out of and in the course of employment, and shall not be deemed the result of gradual mental stimulus, if the employee is a first responder and proves by clear and convincing medical or psychiatric evidence that:

(a) The employee has a mental injury caused by extreme stress due to the employee directly witnessing:

(1) The death, or the aftermath of the death, of a person as a result of a violent event, including, without limitation, a homicide, suicide or mass casualty incident; or

(2) An injury, or the aftermath of an injury, that involves grievous bodily harm of a nature that shocks the conscience; and

(b) The primary cause of the mental injury was the employee witnessing an event described in paragraph (a) during the course of his or her employment.

5. An injury or disease caused by stress shall be deemed to arise out of and in the course of employment, and shall not be deemed the result of gradual mental stimulus, if the employee is employed by the State or any of its agencies or political subdivisions and proves by clear and convincing medical or psychiatric evidence that:

(a) The employee has a mental injury caused by extreme stress due to the employee responding to a mass casualty incident; and

(b) The primary cause of the injury was the employee responding to the mass casualty incident during the course of his or her employment.

6. An agency which employs a first responder, including, without limitation, a first responder who serves as a volunteer, shall provide educational training to the first responder related to the awareness, prevention, mitigation and treatment of mental health issues.

7. The provisions of this section do not apply to a person who is claiming compensation pursuant to NRS 617.457.

8. As used in this section:

(a) "Directly witness" means to see or hear for oneself.

(b) "First responder" means:

(1) A salaried or volunteer firefighter;

(2) A police officer;

(3) An emergency dispatcher or call taker who is employed by a law enforcement or public safety agency in this State; or

(4) An emergency medical technician or paramedic who is employed by a public safety agency in this State.

(c) "Mass casualty incident" means an event that, for the purposes of emergency response or operations, is designated as a mass casualty incident by one or more governmental agencies that are responsible for public safety or for emergency response.

Section 3.

NRS 616C.400 Minimum duration of incapacity; exceptions.

...

2. The period prescribed in this section does not apply to:

...

(d) A claim to which subsection 4 or 5 of NRS 616C.180 applies.

Section 3.5.

NRS 616C.420 Method of determining average monthly wage.

1. The Administrator shall provide by regulation for a method of determining average monthly wage.

2. In determining average monthly wage pursuant to subsection 1, the method must include concurrent wages of the injured employee only if the concurrent wages are earned from one or more employers who are insured for workers' compensation or government disability benefits by:

(a) A private carrier;

(b) A plan of self-insurance;

(c) A workers' compensation insurance system operating under the laws of any other state or territory of the United States; or

(d) A workers' compensation or disability benefit plan provided for and administered by the Federal Government or any agency thereof.

3. Except as otherwise provided by subsection 2, concurrent wages include, without limitation, wages earned from:

(a) Active or reserve duty with or in:

(1) The Army, Navy, Air Force, Marine Corps or Coast Guard of the United States;

(2) The Merchant Marine; or

(3) The National Guard; or

(b) Employment by:

(1) The Federal Government or any branch or agency thereof;

(2) A state, territorial, county, municipal or local government of any state or territory of the United States; or

(3) A private employer, whether that employment is full- time, part-time, temporary, periodic, seasonal or otherwise limited in term, or pursuant to contract.

4. As used in this section, "concurrent wages" means the sum of wages earned or deemed to have been earned at each place of employment, including, without limitation, the sum of any and all money earned for work of any kind or nature performed by an employee for two or more employers during the one-year period immediately preceding the date of injury or the onset of occupational disease, whether measured by an hourly rate, salary, piecework, commissions, gratuities, bonuses, per diem, value of meals, value of housing or any other employment benefit that can be fairly calculated to a monetary value expressed in an average monthly amount.

Section 5.

NRS 617.420 Minimum duration of incapacity for temporary total disability; payment of medical benefits.

...

2. The limitations in this section do not apply to medical benefits, including, without limitation, medical benefits pursuant to NRS 617.453, 617.455 or 617.457, or a claim to which subsection 4 or 5 of NRS 616C.180 applies, which must be paid from the date of application for payment of medical benefits.

AB 492 also includes the following language:

Section 5.5.

The amendatory provisions of section 3.5 of this act apply prospectively with regard to any claim pursuant to chapters 616A to 616D, inclusive, or 617 of NRS which is open on or filed on or after July 1, 2019.

Section 6.

The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Texas

HB 387 was:

- Passed by the first chamber on April 16, 2019
- Included in NCCI's April 26, 2019 **Legislative Activity Report** (RLA-2019-15)
- Passed by the second chamber on May 20, 2019

HB 387 amends **section 408.025** of the Texas Workers' Compensation Act as follows:

Sec. 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, or an advanced practice registered nurse who is licensed to practice in this state under Chapter 301, 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 or advanced practice registered nurse under this subsection.

...

HB 2143 was:

- Passed by the first chamber on May 10, 2019
- Included in NCCI's May 17, 2019 **Legislative Activity Report** (RLA-2019-18)
- Amended and passed by the second chamber on May 22, 2019

HB 2143 amends **section 504.019** of the Texas Labor Code to read:

Sec. 504.019. Coverage for Post-Traumatic Stress Disorder for Certain First Responders.

...

(b) Post-traumatic stress disorder suffered by a first responder is a compensable injury under this subtitle only if it is based on a diagnosis that:

(1) the disorder is caused by one or more events ~~an event~~ occurring in the course and scope of the first responder's employment; and

(2) the preponderance of the evidence indicates that:

(A) the event or events described by Subdivision (1) were ~~was~~ a substantial contributing factor of the disorder; and

(B) if not for the event or events described by Subdivision (1), the disorder would not have occurred.

(c) For purposes of this subtitle, the date of injury for post-traumatic stress disorder suffered by a first responder is the date on which the first responder first knew or should have known that the disorder may be related to the first responder's employment.

HB 2143 also includes the following language:

The change in law made by this Act applies only to a claim for workers' compensation benefits based on a compensable injury that occurs on or after the effective date of this Act. A claim based on a compensable injury that occurs before that date is governed by the law as it existed on the date the compensable injury occurred, and the former law is continued in effect for that purpose.

HB 2503 was:

- Passed by the first chamber on May 8, 2019
- Included in NCCI's May 17, 2019 **Legislative Activity Report** (RLA-2019-18)
- Passed by the second chamber on May 22, 2019

HB 2503 amends **section 408.183** of the Texas Labor Code to read:

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, or an individual described by Section 615.003(1), Government Code, or Section 501.001(5)(F), 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 or other individual occurred.

...

HB 2503 also includes the following language:

The change in law made by this Act to Section 408.183(b-1), 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.

SB 1336 was:

- Passed by the first chamber on April 26, 2019
- Included in NCCI's May 3, 2019 **Legislative Activity Report** (RLA-2019-16)
- Passed by the second chamber on May 22, 2019

SB 1336 amends **sections 2051.157, 2053.001, 2053.051, and 2053.056** of the Texas Insurance Code and **section 407A.351** of the Texas Labor Code as follows:

Sec. 2051.157. Penalty for Certain Violations.

An officer or other representative of an insurance company is subject to a fine of not less than \$100 or more than \$500 if the officer or other representative violates any provision of the following relating to the company's business:

...

(5) Section 2053.051, 2053.052, ~~2053.053~~, or 2053.055.

Sec. 2053.001. Definitions.

In this subchapter:

...

(5) "Supplementary rating information" means any manual, rating plan or schedule, plan of rules, rating rule, classification system, territory code or description, or other similar information required to determine the applicable premium for an insured. The term includes increased limits factors, ~~classification relativities~~, deductible relativities, and other similar factors and relativities.

...

Sec. 2053.051. Hazard Classification System.

(a) For workers' compensation insurance, the department shall:

...

~~(2) establish classification relativities applicable to an employer's payroll in each of the classes at levels adequate to the risks to which the relativities apply.~~

~~(b) The classification relativities established under Subsection (a)(2):~~

~~(1) must be designed to encourage safety;~~

~~(2) may be territorially based; and~~

~~(3) may reflect a difference in losses between employers of high wage earners and employers of low wage earners within the same class.~~

~~(c) The department shall revise the classification system as necessary to carry out the purposes of this chapter at least once every five years.~~

(b) A stock company, mutual insurance company, reciprocal or interinsurance exchange, or Lloyd's plan authorized to engage in the business of workers' compensation insurance in this state may not use hazard classifications other than the classifications established by the department.

Sec. 2053.056. Rate Hearings.

...

(c) The commissioner shall review the information submitted under Subsection (b) to determine the positive or negative impact of the enactment of workers' compensation reform legislation enacted by the 79th Legislature, Regular Session, 2005, on workers' compensation rates and premiums. The commissioner may consider other factors, ~~including relativities under Section 2053.051,~~ in determining whether a change in rates has impacted the premium charged to policyholders.

...

Sec. 407A.351. Rates.

(a) Except as provided by Subsection (b), each group shall use the uniform classification system and , experience rating plan, ~~and rate relativities~~ of the department.

(b) A group may :

~~(1) use the relativities promulgated by the department modified to produce rates in accordance with the group's historical experience; or~~

~~(2) file its own rates with the department, including any reasonable and supporting information required by the commissioner.~~

...

SB 1336 also includes the following language:

Effective July 1, 2020, Sections 2053.053 and 2054.354(b), Insurance Code, are repealed.

Sections 2051.157, 2053.001(5), 2053.051, and 2053.056(c), Insurance Code, as amended by this Act, and Sections 407A.351(a) and (b), Labor Code, as amended by this Act, apply only to an insurance policy that is delivered, issued for delivery, or renewed on or after July 1, 2020. A policy delivered, issued for delivery, or renewed before July 1, 2020, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SB 2551 was:

- Passed by the first chamber on May 7, 2019
- Included in NCCI's May 17, 2019 **Legislative Activity Report** (RLA-2019-18)
- Amended and passed by the second chamber on May 21, 2019

SB 2551 amends various sections and adds **section 504.074** to the Texas Statutes to read:

Section 1.

Sec. 607.055. Cancer.

(a) A firefighter or emergency medical technician who suffers from cancer resulting in death or total or partial disability is presumed to have developed the cancer during the course and scope of employment as a firefighter or emergency medical technician if:

(1) the firefighter or emergency medical technician:

(A) regularly responded on the scene to calls involving fires or fire fighting; or

(B) regularly responded to an event involving the documented release of radiation or a known or suspected carcinogen while the person was employed as a firefighter or emergency medical technician; and

(2) the cancer is known to be associated with fire fighting or exposure to heat, smoke, radiation, or a known or suspected carcinogen, as described by Subsection (b).

(b) This section applies only to:

- (1) cancer that originates at the stomach, colon, rectum, skin, prostate, testis, or brain;
- (2) non-Hodgkin's lymphoma;
- (3) multiple myeloma;
- (4) malignant melanoma; and
- (5) renal cell carcinoma a type of cancer that may be caused by exposure to heat, smoke, radiation, or a known or suspected carcinogen as determined by the International Agency for Research on Cancer.

Section 2.

Sec. 607.058. Presumption Rebuttable.

(a) A presumption under Section 607.053, 607.054, 607.055, or 607.056 may be rebutted through a showing by a preponderance of the evidence that a risk factor, accident, hazard, or other cause not associated with the individual's service as a firefighter or emergency medical technician was a substantial factor in bringing about ~~caused~~ the individual's disease or illness, without which the disease or illness would not have occurred.

(b) A rebuttal offered under this section must include a statement by the person offering the rebuttal that describes, in detail, the evidence that the person reviewed before making the determination that a cause not associated with the individual's service as a firefighter or emergency medical technician was a substantial factor in bringing about ~~caused~~ the individual's disease or illness, without which the disease or illness would not have occurred.

(c) In addressing an argument based on a rebuttal offered under this section, an administrative law judge shall make findings of fact and conclusions of law that consider whether a qualified expert, relying on evidence-based medicine, stated the opinion that, based on reasonable medical probability, an identified risk factor, accident, hazard, or other cause not associated with the individual's service as a firefighter or emergency medical technician was a substantial factor in bringing about the individual's disease or illness, without which the disease or illness would not have occurred.

Section 3.

Sec. 409.021. Initiation of Benefits; Insurance Carrier's Refusal; Administrative Violation.

...

(a-3) An insurance carrier is not required to comply with Subsection (a) if the claim results from an employee's disability or death for which a presumption is claimed to be applicable under Subchapter B, Chapter 607, Government Code, and, not later than the 15th day after the date on which the insurance carrier received written notice of the injury, the insurance carrier has provided the employee and the division with a notice that describes all steps taken by the insurance carrier to investigate the injury before the notice was given and the evidence the carrier reasonably believes is necessary to complete its investigation of the compensability of the injury. The commissioner shall adopt rules as necessary to implement this subsection.

...

Section 4.

Sec. 409.022. Refusal to Pay Benefits; Notice; Administrative Violation.

...

(d-1) An insurance carrier has not committed an administrative violation under Section 409.021 if the carrier has sent notice to the employee as required by Subsection (d) of this section or Section 409.021(a-3).

Section 5.

Sec. 415.021. Assessment of Administrative Penalties.

...

(c-2) In determining whether to assess an administrative penalty involving a claim in which the insurance carrier provided notice under Section 409.021(a-3), the commissioner shall consider whether:

- (1) the employee cooperated with the insurance carrier's investigation of the claim;
- (2) the employee timely authorized access to the applicable medical records before the insurance carrier's deadline to:
 - (A) begin payment of benefits; or
 - (B) notify the division and the employee of the insurance carrier's refusal to pay benefits; and
- (3) the insurance carrier conducted an investigation of the claim, applied the statutory presumptions under Subchapter B, Chapter 607, Government Code, and expedited medical benefits under Section 504.055.

...

Section 6.

Sec. 504.053. Election.

...

(e) Nothing in this chapter waives sovereign immunity or creates a new cause of action, except that a political subdivision that self-insures either individually or collectively is liable for:

- (1) sanctions, administrative penalties, and other remedies authorized under Chapter 415;
- (2) attorney's fees as provided by Section 408.221(c); and
- (3) attorney's fees as provided by Section 417.003.

Section 7.

Sec. 504.074. Self-Insurance Account for Death Benefits and Lifetime Income Benefits~~Certain Death Benefits.~~

(a) A pool or a political subdivision that self-insures may establish an account for the payment of death benefits and lifetime income benefits under Chapter 408.

(b) An account established under this section may accumulate assets in an amount that the pool or political subdivision, in its sole discretion, determines is necessary in order to pay death benefits and lifetime income benefits. The establishment of an account under this section or the amount of assets accumulated in the account does not affect the liability of a pool or political subdivision for the payment of death benefits and lifetime income benefits.

(c) Chapter 2256, Government Code, does not apply to the investment of assets in an account established under this section. A pool or political subdivision investing or reinvesting the assets of an account shall discharge its duties solely in the interest of current and future beneficiaries:

(1) for the exclusive purposes of:

(A) providing death benefits and lifetime income benefits to current and future beneficiaries; and

(B) defraying reasonable expenses of administering the account;

(2) with the care, skill, prudence, and diligence under the prevailing circumstances that a prudent person acting in a like capacity and familiar with matters of the type would use in the conduct of an enterprise with a like character and like aims;

(3) by diversifying the investments of the account to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(4) in accordance with the documents and instruments governing the account to the extent that the documents and instruments are consistent with this section.

(d) In choosing and contracting for professional investment management services for an account established under this section and in continuing the use of an investment manager, the pool or political subdivision must act prudently and in the interest of the current and future beneficiaries of the account.

SB 2551 also includes the following language:

Section 8.

Sections 607.055 and 607.058, Government Code, as amended by this Act, apply only to a claim for workers' compensation benefits filed on or after the effective date of this Act. A claim filed before that date is governed by the law as it existed on the date the claim was filed, and the former law is continued in effect for that purpose.

Section 9.

The commissioner of workers' compensation shall adopt rules as required by or necessary to implement this Act not later than January 1, 2020.

Section 10.

(a) Section 504.053(e)(1), Labor Code, as added by this Act, applies to an administrative violation proceeding that is pending on or initiated on or after the effective date of this Act.

(b) Section 504.053(e)(2), Labor Code, as added by this Act, applies to a cause of action that is pending on or filed on or after the effective date of this Act.

Vermont

HB 351 was:

- Passed by the first chamber on March 21, 2019
- Included in NCCI's March 29, 2019 **Legislative Activity Report** (RLA-2019-11)
- Amended and passed by the second chamber on May 21, 2019

HB 351, in part, amends **section 711** of **Chapter 9: Employer's Liability And Workers' Compensation** of **Title 21: Labor** of the Vermont Statutes Annotated to read:

§ 711. Workers' Compensation Administration Fund

(a) The 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 for costs of the occupational diseases safety and health programs that are not funded by federal OSHA grants and matching State General Fund appropriations. The Fund shall consist of contributions from employers made at a rate of 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.

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BILLS PASSING FIRST CHAMBER

The following workers compensation-related bills passed the first chamber within the one-week period ending May 24, 2019.

Connecticut

HB 5883 amends *sections 31-294d, 31-294c, and 31-312* of the Connecticut Workers' Compensation Act to read:

Sec. 31-294d. Medical and surgical aid. Hospital, ambulatory surgical center and nursing service.

(a) (1) The employer, as soon as the employer has knowledge of an injury, shall provide a competent physician or surgeon to attend the injured employee and, in addition, shall furnish any medical and surgical aid or hospital and nursing service, including medical rehabilitation services and prescription drugs, and detoxification treatment for prescription drugs prescribed to treat the injury, as the physician or surgeon deems reasonable or necessary. The employer, any insurer acting on behalf of the employer, or any other entity acting on behalf of the employer or insurer shall be responsible for paying the cost of such prescription drugs directly to the provider. If the employer utilizes an approved providers list, when an employee reports a work-related injury or condition to the employer the employer shall provide the employee with such approved providers list within two business days of such reporting.

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Sec. 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, and in the case of an employee of a local or regional board of education, shall send a copy of the notice to the local or regional board of education that employs the employee. 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.

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Sec. 31-312. Compensation for time lost during and expense of medical treatment. Reimbursement of wages lost due to appearance at informal hearing. Payments to prevailing claimants in contested cases. Medical attention outside regular work hours.

...

(b) When a claimant is given notice to appear (a) at a conference, deposition or an informal hearing before a commissioner and does appear, he shall be entitled to reimbursement of wages lost by reason of the appearance if he is not then receiving compensation for the appearance as provided in this subsection. When liability or extent of disability is contested by formal hearing before the commissioner, the claimant shall be entitled, if he prevails on final judgment, to payment for services rendered him by a competent physician or surgeon for examination, x-ray, medical tests and testimony in connection with the claim, the commissioner to determine the reasonableness of the charges, and he shall be entitled to receive payment of one-fifth of the weekly compensation, as computed in accordance with section 31-310, for each day, or part thereof, that he is in attendance at the formal hearing if he is

not then receiving compensation.

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Nevada

AB 128 amends *sections 616C.555, 616C.560, and 616C.595* of the Nevada Revised Statutes to:

- Revise the maximum allowable duration for a program of vocational rehabilitation for an injured employee, upon whose ability to work the treating physician or chiropractor has imposed permanent restrictions
- Eliminate the prohibition, on the appeal of the determination of an insurer, to authorize or deny a third program of vocational rehabilitation
- Provide that a program for vocational rehabilitation may be extended by the insurer or by order of a hearing officer or appeals officer
- Eliminate the limits on the total length of a program
- Eliminate the prohibition, on the appeal of the determination of an insurer, to grant or deny an extension of a program
- Require any payment of compensation in a lump sum, in lieu of the provision of vocational rehabilitation services, to be not less than 55% (current law is 40%) of the maximum rehabilitation maintenance due to the injured employee

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
SC, TN	Amy Quinn	561-893-3812
HI, NM, NV, UT	Brett Barratt	801-401-6464
IL, MO, OK	Carla Townsend	561-893-3819
AZ, KS, KY	Clarissa Preston	561-945-4517
DC, MD, VA, WV	David Benedict	804-380-3005
FL	Dawn Ingham	561-893-3165
IN, NC	Michelle Smith	561-893-3016
CT, ME, NH, RI	Justin Moulton	860-969-7903
VT	Laura Backus Hall	802-454-1800
AL, GA, LA, MS	Laura Hart Bryan	225-635-4481
CO, IA, NE, SD	Stephanie Paswaters	303-200-6728
AR, TX	Terri Robinson	501-333-2835
Federal Issues	Tim Tucker	202-403-8526
AK, ID, MT, OR	Todd Johnson	561-893-3814

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