



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 June 7, 2019.

Alabama

HB 187 was:

- Passed by the first chamber on April 25, 2019
- Included in NCCI's May 3, 2019 **Legislative Activity Report** (RLA-2019-16)
- Passed by the second chamber on May 29, 2019
- Included in NCCI's June 7, 2019 **Legislative Activity Report** (RLA-2019-21)
- Enacted on June 7, 2019, with an effective date of September 1, 2019

HB 187, in part, amends **sections 25-5-60, 25-5-66, 25-5-68, and 25-5-69** of the Code of Alabama as follows:

Section 25-5-60

Compensation for death.

In death cases, where the death results proximately from the accident within three years, compensation payable to dependents shall be computed on the following basis and shall be paid to the persons entitled thereto without administration, or to a guardian or other person as the court may direct, for the use and benefit of the person entitled thereto.

(1) Persons Entitled to Benefits; Amount of Benefits.

...

h. If a dependent is the surviving spouse of a law enforcement officer or firefighter ~~killed~~ who dies on or after January 1, 2018, as a result of injuries received while engaged in the performance of his or her duties, the compensation does not cease upon remarriage.

...

Section 25-5-66

Disposition of compensation upon remarriage of widow of employee who has another dependent.

...

(b) Subsection (a) does not apply to the surviving spouse of a law enforcement officer or firefighter who ~~was killed~~ dies on or after January 1, 2018, as a result of injuries received while engaged in the performance of his or her duties.

Section 25-5-68

Maximum and minimum weekly compensation.

...

(f) Notwithstanding any other provision of this article, the compensation benefits payable to a surviving dependent child of a law enforcement officer or firefighter who ~~was killed~~ dies on or after January 1, 2018, as a result of injuries received while engaged in the performance of his or her duties shall not discontinue at least until the dependent child reaches the age of 18 years.

Section 25-5-69

Compensation to cease upon death or marriage of dependent; proportional benefits for dependents.

Except when the dependent is the surviving spouse of a law enforcement officer or firefighter who was killed as a result of injuries received while engaged in the performance of his or her duties, if (a) If compensation is being paid under this article to any dependent, such compensation shall cease upon the death or marriage of such dependent. Where compensation is being paid under this chapter to any dependent, in no event shall such dependent receive more than the proportion which the amount received of the deceased employee's income during his or her life bears to the compensation provided under this article.

(b) Subsection (a) does not apply if the dependent is the surviving spouse of a law enforcement officer or firefighter who dies on or after January 1, 2018, as a result of injuries received in the performance of his or her duties.

Louisiana

HB 288 was:

- Passed by the first chamber on May 1, 2019
- Included in NCCI's May 10, 2019 **Legislative Activity Report** (RLA-2019-17)
- Passed by the second chamber on May 28, 2019
- Included in NCCI's June 7, 2019 **Legislative Activity Report** (RLA-2019-21)
- Enacted on June 4, 2019, with an effective date of January 1, 2020

HB 288 adds new **section 22:2013.1** to the Louisiana Insurance Code to read:

§2013.1. Administration of large deductible policies and insured collateral

A. This Section shall apply to workers' compensation large deductible policies issued by an insurer subject to delinquency proceedings pursuant to this Chapter; however, this Section shall not apply to first-party claims or to claims funded by a guaranty association net of the deductible unless Subsection C of this Section applies. Large deductible policies shall be administered in accordance with their terms, except to the extent the terms conflict with this Section.

B. For purposes of this Section, the following terms have the following meanings:

(1) "Collateral" means any cash, letters of credit, surety bond, or any other form of security posted by the insured, or by a captive insurer or reinsurer, to secure the insured's obligation under a large deductible policy to pay deductible claims or to reimburse the insurer for deductible claim payments. Collateral may also secure an insured's obligation to reimburse or pay to the insurer as may be required for other secured obligations.

(2) "Commercially reasonable" means to act in good faith using prevailing industry practices and making all reasonable efforts considering the facts and circumstances of the matter.

(3) "Deductible claim" means any claim, including a claim for loss and defense and cost containment expense, unless the expenses are excluded, under a large deductible policy that is within the deductible.

(4)(a) "Large deductible policy" means any of the following:

(i) Any combination of one or more workers' compensation policies and endorsements issued to an insured, and contracts or security agreements entered into between an insured and the insurer in which the insured has agreed with the insurer to do either of the following:

(aa) Pay directly the initial portion of any claim under the policy up to a specified dollar amount, or the expenses related to any claim.

(bb) Reimburse the insurer for its payment of any claim or related expenses under the policy up to the specified dollar amount of the deductible.

(ii) Any policy that contains an aggregate limit on the insured's liability for all deductible claims in addition to a per claim deductible limit.

(iii) Any policy that shifts a portion of the ultimate financial responsibility to pay claims from the insurer to the insured, even though the obligation to initially pay claims may remain with the insurer.

(iv) Any policy with a deductible of one hundred thousand dollars or greater.

(b) "Large deductible policy" shall not include any of the following:

(i) Policies, endorsements, or agreements that provide for the initial portion of any covered claim to be self-insured and further that the insurer shall have no payment obligation within the self-insured retention.

(ii) Policies that provide for retrospectively rated premium payments by the insured or reinsurance arrangements or agreements, except to the extent the arrangements or agreements assume, secure, or pay the policyholder's large deductible obligations.

(5) "Other secured obligations" means obligations of an insured to an insurer other than those under a large deductible policy, including but not limited to those under a reinsurance agreement or other agreement involving retrospective premium obligations, the performance of which is secured by collateral that also secures an insured's obligations under a large deductible policy.

C. Unless otherwise agreed by the responsible guaranty association, all large deductible claims, which are also covered claims as defined by the applicable guaranty association law, including those that may have been funded by an insured before liquidation, shall be turned over to the guaranty association for handling. To the extent the insured funds or pays the deductible claim, pursuant to an agreement by the guaranty fund or otherwise, the insured's funding or payment of a deductible claim will

extinguish the obligations, if any, of the receiver or any guaranty association to pay the claim. No charge of any kind shall be made against the receiver or a guaranty association on the basis of an insured's funding or payment of a deductible claim.

D. (1) To the extent a guaranty association pays any deductible claim for which the insurer would have been entitled to reimbursement from the insured, a guaranty association shall be entitled to the full amount of the reimbursement, and available collateral as provided for in this Section to the extent necessary to reimburse the guaranty association. Reimbursements paid to the guaranty association pursuant to this Subsection shall not be treated as distributions pursuant to R.S. 22:2025 or as early access payments pursuant to R.S. 22:2008(C), 2034, and 2037.

(2) To the extent that a guaranty association pays a deductible claim that is not reimbursed either from collateral or by insured payments, or incurs expenses in connection with large deductible policies that are not reimbursed pursuant to this Section, the guaranty association shall be entitled to assert a claim for those amounts in the delinquency proceeding.

(3) Nothing in this Subsection shall limit any rights of the receiver or a guaranty association that may otherwise exist pursuant to applicable law to obtain reimbursement from insureds for claims payments made by the guaranty association under policies of the insurer or for the guaranty association's related expenses, including but not limited to those provided for in R.S. 22:2061.1, or existing under similar laws of other states.

E. (1) The receiver shall collect reimbursements owed for deductible claims as provided for in this Section, and shall take all commercially reasonable actions to collect the reimbursements. The receiver shall promptly bill insureds for reimbursement of deductible claims that are any of the following:

(a) Paid by the insurer prior to the commencement of delinquency proceedings.

(b) Paid by a guaranty association upon receipt by the receiver of notice from a guaranty association of reimbursable payments.

(c) Paid or allowed by the receiver.

(2) If the insured does not make payment within the time specified in the large deductible policy, or within sixty days after the date of billing if no time is specified, the receiver shall take all commercially reasonable actions to collect any reimbursements owed.

(3) Neither the insolvency of the insurer, nor its inability to perform any of its obligations under the large deductible policy, shall be a defense to the insured's reimbursement obligation under the large deductible policy.

(4) Any contract, counter letter, or other agreement between the insurer and the insured that in any manner seeks to reduce or eliminate the insured's obligation to reimburse the insurer for the deductible shall be null and void as against public policy and shall not be eligible to be used by the insured as a defense to the efforts by the receiver or guaranty association to collect any unpaid deductible.

(5) Except for gross negligence, an allegation of improper handling or payment of a deductible claim by the insurer, the receiver, or any guaranty association shall not be a defense to the insured's reimbursement obligations under the large deductible policy.

F. (1) Subject to the provisions of this Subsection, the receiver shall use collateral, when available, to secure the insured's obligation to fund or reimburse deductible claims or other secured obligations or other payment obligations. A guaranty association shall be entitled to collateral as provided for in this Subsection to the extent needed to reimburse a guaranty association for the payment of a deductible claim. Any distributions made to a guaranty association pursuant to this Subsection shall not be treated as distributions pursuant to R.S. 22:2025 or as early access payments pursuant to R.S. 22:2008(C), 2034, and 2037.

(2) All claims against the collateral shall be paid in the order received and no claim of the receiver, including those described in this Subsection, shall supersede any other claim against the collateral as provided for in Paragraph (4) of this Subsection.

(3) The receiver shall draw down collateral to the extent necessary in the event that the insured fails to do any of the following:

(a) Perform its funding or payment obligations under any large deductible policy.

(b) Pay deductible claim reimbursements within the time specified in the large deductible policy or within sixty days after the date of the billing if no time is specified.

(c) Pay amounts due to the estate for preliquidation obligations.

(d) Timely fund any other secured obligation.

(e) Timely pay expenses.

(4) Claims that are validly asserted against the collateral shall be satisfied in the order in which the claims are received by the receiver. However, if more than one creditor has a valid claim against the same collateral and the available collateral, along with billing collection efforts and to the extent that the collateral is subject to other known secured obligations, are together insufficient to pay each creditor in full, the receiver may prorate payments based on the ratio of the amount of claims each creditor has to the total claims paid by all the creditors.

(5) Excess collateral may be returned to the insured as determined by the receiver after a periodic review of claims paid, outstanding case reserves, and a factor for incurred but not reported claims.

G. The receiver may deduct from the collateral or from the deductible reimbursements reasonable and actual expenses incurred in connection with the collection of the collateral and deductible reimbursements.

H. This Section shall not limit or adversely affect any rights or powers a guaranty association may have pursuant to applicable state law to obtain reimbursement from certain classes of policyholders for claims payments made by the guaranty association under policies of the insolvent insurer, or for related expenses the guaranty association incurs.

SB 107 was:

- Passed by the first chamber on May 8, 2019
- Included in NCCI's May 17, 2019 **Legislative Activity Report** (RLA-2019-18)
- Amended and passed by the second chamber on May 29, 2019
- Included in NCCI's June 7, 2019 **Legislative Activity Report** (RLA-2019-21)
- Enacted on June 5, 2019, with an effective date of August 1, 2019

SB 107 adds new **sections 23:1036.1** and **33:2581.2** and amends **section 40:1374** of the Louisiana Revised Statutes to read:

§1036.1. Volunteer firefighters; coverage for posttraumatic stress injury; presumption of compensability

A. Any workers' compensation policy which provides coverage for a volunteer member of a fire company, pursuant to R.S. 23:1036, shall include coverage for posttraumatic stress injury.

B. For purposes of this Section, the following definitions shall apply:

(1) "Posttraumatic stress injury" means those injuries which are defined as "posttraumatic stress disorder" by the most recently published edition of the Diagnostic and Statistical Manual of Mental Disorders by the American Psychiatric Association caused by an event occurring in the course and scope of employment.

(2) "Psychiatrist" shall have the same meaning as it is defined pursuant to R.S. 23:1371.1.

(3) "Psychologist" shall have the same meaning as it is defined pursuant to R.S. 23:1371.1.

(4) "Volunteer member" shall have the same meaning as it is defined pursuant to R.S. 23:1036.

(5) "Volunteer service" means that service performed by a volunteer member, for one or more fire companies, who is entitled to workers' compensation benefits pursuant to R.S. 23:1036.

C. (1) Any volunteer member who is diagnosed by a psychiatrist or psychologist with posttraumatic stress injury, either during his period of voluntary service or thereafter, shall be presumed, prima facie, to have a disease or infirmity connected with his volunteer service.

(2) Once diagnosed with posttraumatic stress injury as provided for in Paragraph (1) of this Subsection, the volunteer member affected or his survivors shall be entitled to all rights and benefits as granted by state laws to one suffering an occupational disease and is entitled as service connected in the line of duty, regardless of whether he is engaged in volunteer service at the time of diagnosis.

D. A posttraumatic stress injury that arises solely from a legitimate personnel action such as a transfer, promotion, demotion, or termination, is not a compensable injury pursuant to this Chapter.

§2581.2. Posttraumatic Stress Injury; presumption of compensability

A. Except as provided in Subsection E of this Section, any benefit payable to any emergency medical services personnel, any employee of a police department, or any fire employee for temporary and permanent disability when the employee suffers an injury or disease arising out of and in the course and scope of his employment, shall include coverage for posttraumatic stress injury.

B. For purposes of this Section, the following definitions shall apply:

(1) "Emergency medical services personnel" shall have the same meaning as it is defined pursuant to R.S. 40:1075.3 so long as the emergency medical services personnel is employed pursuant to this Chapter.

(2) "Employee of a police department" shall have the same meaning as it is defined pursuant to R.S. 33:2211.

(3) "Fire employee" means any person employed in the fire department of any municipality, parish, or fire protection district that maintains full-time regularly paid fire department employment, regardless of the specific duties of such person within the fire department. "Fire employee" also includes employees of nonprofit corporations under contract with a fire protection district or other political subdivision to provide fire protection services, including operators of the fire-alarm system when such operators are members of the regularly constituted fire department.

(4) "Posttraumatic stress injury" means those injuries which are defined as "posttraumatic stress disorder" by the most recently published edition of the Diagnostic and Statistical Manual of Mental Disorders by the American Psychiatric Association caused by an event occurring in the course and scope of employment.

(5) "Psychiatrist" shall have the same meaning as it is defined pursuant to R.S. 23:1371.1.

(6) "Psychologist" shall have the same meaning as it is defined pursuant to R.S. 23:1371.1.

C. Except as provided in Subsection E of this Section:

(1) Any emergency medical services personnel, any employee of a police department, any fire employee, or any volunteer fireman who is diagnosed by a psychiatrist or psychologist with posttraumatic stress injury, either during employment in the classified service in the state of Louisiana pursuant to this Chapter or thereafter, shall be presumed, prima facie, to have a disease or infirmity connected with his employment.

(2) Once diagnosed with posttraumatic stress injury as provided for in Paragraph (1) of this Subsection, the employee affected or his survivors shall be entitled to all rights and benefits as granted by state law to one suffering an occupational disease and who is entitled as service connected in the line of duty, regardless of whether the employee is employed at the time of diagnosis.

D. A posttraumatic stress injury that arises solely from a legitimate personnel action such as a transfer, promotion, demotion, or termination, is not a compensable injury pursuant to this Chapter.

E. (1) Nothing in this Section shall modify the qualifications necessary to establish eligibility to receive benefits or the calculation of benefits to be paid under any Louisiana public pension or retirement system, plan, or fund.

(2) In case of a conflict between any provision of Title 11 of the Louisiana Revised Statutes of 1950, including any provision in Subpart E of Part II of Chapter 4 of Title 11 of the Louisiana Revised Statutes of 1950, and any provision of this Section, the provision of Title 11 of the Louisiana Revised Statutes of 1950 shall control.

§1374. ~~Worker's~~ Workers' compensation law; employees deemed within; coverage for posttraumatic stress injury; presumption of compensability

A. Every employee of the division of state police, except the head thereof, shall be considered an employee of the state within the meaning of the ~~worker's~~ workers' compensation law of this state and entitled to the benefits of all the provisions of that law applicable to state employees.

B. Any workers' compensation policy which provides coverage for an employee of the division of state police, pursuant to this section, shall include coverage for posttraumatic stress injury.

C. For purposes of this Section, the following definitions shall apply:

(1) "Posttraumatic stress injury" means those injuries which are defined as "posttraumatic stress disorder" by the most recently published edition of the Diagnostic and Statistical Manual of Mental Disorders by the American Psychiatric Association caused by an event occurring in the course and scope of employment.

(2) "Psychiatrist" shall have the same meaning as it is defined pursuant to R.S. 23:1371.1.

(3) "Psychologist" shall have the same meaning as it is defined pursuant to R.S. 23:1371.1.

D. (1) Any employee of the division of state police who is diagnosed by a psychiatrist or psychologist with posttraumatic stress injury, either during employment in the classified service in the state of Louisiana pursuant to this Chapter or thereafter, shall be presumed, prima facie, to have a disease or infirmity connected with his employment for purposes of workers' compensation benefits.

(2) Once diagnosed with posttraumatic stress injury as provided for in Paragraph (1) of this Subsection, the employee affected or his survivors shall be entitled to all rights and benefits as granted by state workers' compensation law to one suffering an occupational disease and is entitled as service connected in the line of duty, regardless of whether the employee is employed at the time of diagnosis.

E. (1) Nothing in this Section shall modify the qualifications necessary to establish eligibility to receive benefits or the calculation of benefits to be paid under any Louisiana public pension or retirement system, plan, or fund.

(2) In case of a conflict between any provision of Title 11 of the Louisiana Revised Statutes of 1950, including any provision in Subpart E of Part II of Chapter 4 of Title 11 of the Louisiana Revised Statutes of 1950, and any provision of this Section, the provision of Title 11 of the Louisiana Revised Statutes of 1950 shall control.

F. A posttraumatic stress injury that arises solely from a legitimate personnel action such as a transfer, promotion, demotion, or termination, is not a compensable injury pursuant to this Chapter.

Nevada

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
- Included in NCCI's May 31, 2019 **Legislative Activity Report** (RLA-2019-20)
- Enacted on June 3, 2019, with effective dates of June 3, 2019, for **sections 2, 3, 5, 6, and 7**; and July 1, 2019, for **sections 3.5 and 5.5**

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.

New Hampshire

HB 285 was:

- Passed by the first chamber on February 14, 2019
- Included in NCCI's February 22, 2019 **Legislative Activity Report** (RLA-2019-06)
- Passed by the second chamber on April 18, 2019
- Included in NCCI's April 26, 2019 **Legislative Activity Report** (RLA-2019-15)
- Enacted on June 5, 2019, with an effective date of August 4, 2019

HB 285 amends **section 412:28. Filing and Approval of Rates and Rating Plans of Title XXXVII: Insurance** of the New Hampshire Statutes to read:

412:28 Filing and Approval of Rates and Rating Plans.—

...

V. A filing and any supporting information not considered proprietary pursuant to RSA 412:16, II shall be open to public inspection upon approval.

Texas

SB 935 was:

- Passed by the first chamber on March 27, 2019
- Included in NCCI's April 5, 2019 **Legislative Activity Report** (RLA-2019-12)
- Passed by the second chamber on May 17, 2019
- Included in NCCI's May 24, 2019 **Legislative Activity Report** (RLA-2019-19)
- Enacted on June 4, 2019, with an effective date of September 1, 2019

SB 935 adds new **section 413.0112** to the Texas Workers' Compensation Act to read:

Subchapter B. Medical Services and Fees

...

Sec. 413.0112. Reimbursement of Federal Military Treatment Facility.

(a) In this section, "federal military treatment facility" means a medical facility that operates as part of the Military Health System of the United States Department of Defense.

(b) The reimbursement rates for medical services provided to an injured employee by a federal military treatment facility must be the amount charged by the facility as determined under 32 C.F.R. Part 220.

(c) Chapter 1305, Insurance Code, and the following sections of this code do not apply to the reimbursement of a federal military treatment facility's charges for medical services provided to an injured employee:

(1) Sections 408.027(a) and (f);

(2) Section 408.0271;

(3) Section 408.0272;

(4) Section 408.028;

(5) Section 408.0281;

(6) Section 413.011;

(7) Section 413.014;

(8) Section 413.031, as that section relates to medical fee disputes;

(9) Section 413.041; and

(10) Section 504.053.

(d) The commissioner shall adopt rules necessary to implement this section, including rules establishing:

(1) requirements for processing medical bills for services provided to an injured employee by a federal military treatment facility;
and

(2) a separate medical dispute resolution process to resolve disputes over charges billed directly to an injured employee by a federal military treatment facility.

SB 935 also includes the following language:

The commissioner of workers' compensation shall adopt rules as required by Section 413.0112, Labor Code, as added by this Act, not later than December 1, 2019.

The change in law made by this Act applies only to health care services provided on or after January 1, 2020, in conjunction with a claim for workers' compensation benefits, regardless of the date on which the compensable injury that is the basis of the claim occurred.

BILLS PASSING SECOND CHAMBER

The following workers compensation-related bills passed the second chamber within the one-week period ending June 7, 2019.

Connecticut

SB 921 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 June 5, 2019

SB 921 amends numerous sections of the Connecticut General Statutes related to advanced practice registered nurses (APRNs), in part, to allow:

- Certain APRNs to diagnose a firefighter with post-traumatic stress disorder after the firefighter witnesses the death of another firefighter in the line of duty, for purposes of workers compensation (current law already applies to licensed and board-certified mental health professionals). This provision applies only to an APRN certified as a psychiatric mental health provider by the American Nurses Credentialing Center.
- APRNs to treat injured employees involved in workers compensation cases by:
 - Specifically allowing the Workers' Compensation Commission chairman to add APRNs to the list of approved providers
 - Making related changes
- APRNs to conduct physical exams for municipal firefighters and police officers upon their entry to service, which may be used in future workers compensation claims involving cardiac emergencies.

Louisiana

HB 285 was:

- Passed by the first chamber on May 7, 2019
- Included in NCCI's May 17, 2019 *Legislative Activity Report* (RLA-2019-18)
- Passed by the second chamber on June 2, 2019

HB 285 adds new **section 23:1036.1** to the Louisiana Revised Statutes to read:

§ 1036.1. Reserve police officers and deputies; coverage

A. Any reserve police officer or reserve deputy who volunteers for a law enforcement agency, municipal or parish, and performs law enforcement activities and protective services and is injured in the line of duty may be entitled to medical benefits pursuant to R.S. 23:1203 if the municipality, parish, or public entity, in its own discretion and by using its own funds, elects to provide such coverage. Such benefits shall not be subject to a copayment, deductible, or any other method to shift the cost of compensable medical care to the injured volunteer reserve officer or deputy.

B. No law enforcement agency shall provide indemnity benefits for the volunteer reserve police officer or deputy.

C. No law enforcement agency shall be liable for benefits under this Section for injuries occurring within the course of, or arising out of, the volunteer reserve officer's or deputy's other employment.

D. For the purposes of this Section, the following terms have the meaning ascribed to them:

(1) "Volunteer reserve police officer" means an individual who is carried on the membership list of the municipal organization as an active participant in the normal functions of the law enforcement organization and who receives nominal or no remuneration for his services.

(2) "Volunteer reserve deputy" means an individual who is a part-time, non-salaried, fully-commissioned law enforcement officer who is a volunteer of the parish organization.

Nevada

SB 377 was:

- Passed by the first chamber on May 30, 2019
- Included in NCCI's June 7, 2019 *Legislative Activity Report* (RLA-2019-21)
- Amended and passed by the second chamber on June 3, 2019

SB 377 adds a new section to *Chapter 616C*, amends *sections 616A.425, 616A.430, 616C.420, 616C.473, and 232.680*, and repeals *section 616C.453* of the Nevada Revised Statutes as follows:

Section 1 provides that money in the fund may also be used to:

- (1) Reimburse insurers and employers for payments of an annual increase in compensation for permanent total disability to claimants and dependents of claimants who are entitled to such compensation due to an industrial injury or disablement which occurred before January 1, 2004, to the extent income realized on the investment of the assets in the Uninsured Employers' Claim Account in the Fund is sufficient to pay that compensation; and
- (2) Pay the salary and other expenses of administering the payment of increased compensation to claimants and dependents of claimants who are entitled to compensation for permanent total disability caused by industrial injuries and disablements from occupational diseases that occurred before January 1, 2004.

Section 2 eliminates the authority of the administrator of the Division of Industrial Relations of the Department of Business and Industry to make the annual payments from the Uninsured Employers' Claim Account in the Fund for Workers' Compensation and Safety and, instead authorizes the reimbursements authorized by section 2.5 to be paid from the account.

Section 2.5 is a new section and:

- Authorizes an insurer or employer who pays an annual increase in compensation for permanent total disability to a claimant or dependent who is entitled to such compensation due to an industrial injury or disablement which occurred before January 1, 2004, to obtain reimbursement from the administrator of the Division of Industrial Relations of the Department of Business and Industry
- Establishes the procedure for obtaining such a reimbursement
- Requires reimbursements approved by the administrator to be paid from the income realized on the investment of the assets in the Uninsured Employers' Claim Account in the Fund for Workers' Compensation and Safety in the state treasury
- Provides that if the income realized on the investment of the assets in that account is insufficient to fund the annual increase in compensation, the remainder of the reimbursements are required to be paid from certain assessments levied on insurers and employers by the administrator

Section 2.8 incorporates in statute certain provisions from current regulations which contains methods for determining the period of wages earned by an employee that must be used to calculate the average monthly wage.

Section 3 provides for a 2.3% annual increase in compensation for permanent total disability to claimants and dependents of claimants who are entitled to such compensation due to an industrial injury or disablement which occurred before January 1, 2004, with compensation to be increased on January 1, 2020, and on January 1 each year thereafter.

Section 4 provides that assessments against employers who provide accident benefits for injured employees may be used to pay reimbursement to insurers for the cost of the annual increase in compensation payable to claimants and dependents of claimants who are entitled to such compensation due to an industrial injury or disablement which occurred before January 1, 2004, to the extent that the income realized on the investment of the assets in the Uninsured Employers' Claim Account is insufficient to pay that reimbursement.

Section 5 repeals provisions which authorize a single annual payment to claimants and their dependents who are entitled to receive compensation for permanent total disability but are not entitled to the 2.3% annual increase in that compensation.

SB 377 also includes the following language:

Section 5.5

The amendatory provisions of section 2.8 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.

SB 381 was:

- Passed by the first chamber on June 1, 2019
- Passed by the second chamber on June 3, 2019

SB 381 adds a new section in *chapter 616C* and amends *sections 616B.527, 616C.050, 616C.055, 616C.090, 616C.260, 616C.475, 616C.490, and 616C.495* of the Nevada Industrial Insurance Act to read, in part, as follows:

Section 1.

NRS 616B.527 Authority of self-insured employers, associations of self-insured employers and private carriers; compliance with certain provisions.

1. A self-insured employer, an association of self-insured public or private employers or a private carrier may:

...

(d) Except as otherwise provided in subsection ~~3~~ 4 of NRS 23 616C.090, require employees to obtain the approval of the self-insured employer, association or private carrier.

...

Section 2.

1. The Legislature hereby declares that:

(a) The choice of a treating physician or chiropractor is a substantive right and substantive benefit of an injured employee who has a claim under the Nevada Industrial Insurance Act or the Nevada Occupational Diseases Act.

(b) The injured employees of this State have a substantive right to an adequate choice of physicians and chiropractors to treat their industrial injuries and occupational diseases.

2. Except as otherwise provided in this subsection and subsections 3 and 4, an insurer's list of physicians and chiropractors from which an injured employee may choose pursuant to NRS 616C.090 must include not less than 12 physicians or chiropractors, as applicable, in each of the following disciplines and specializations, without limitation, from the panel of physicians and chiropractors maintained by the Administrator pursuant to NRS 616C.090:

(a) Orthopedic surgery on spines;

(b) Orthopedic surgery on shoulders;

(c) Orthopedic surgery on elbows;

(d) Orthopedic surgery on wrists;

(e) Orthopedic surgery on hands;

(f) Orthopedic surgery on hips;

(g) Orthopedic surgery on knees;

(h) Orthopedic surgery on ankles;

(i) Orthopedic surgery on feet;

(j) Neurosurgery;

(k) Neurology;

(l) Cardiology;

(m) Pulmonology;

(n) Psychiatry;

(o) Pain management;

(p) Occupational medicine;

(q) Physiatry or physical medicine;

(r) General practice or family medicine; and

(s) Chiropractic medicine.

If the panel of physicians and chiropractors maintained by the Administrator pursuant to NRS 616C.090 contains fewer than 12 physicians or chiropractors, as applicable, for a discipline or specialization specifically identified in this subsection, all of the physicians or chiropractors, as applicable, on the panel for that discipline or specialization must be included on the insurer's list.

3. For any other discipline or specialization not specifically identified in subsection 2, the insurer's list must include not fewer than 8 physicians or chiropractors, as applicable, unless the panel of physicians and chiropractors maintained by the Administrator pursuant to NRS 616C.090 contains fewer than 8 physicians or chiropractors, as applicable, for that discipline or specialization, in which case all of the physicians or chiropractors, as applicable, on the panel for that discipline or specialization must be included on the insurer's list.

4. For each county whose population is 100,000 or more, an insurer's list of physicians and chiropractors must include for that county a number of physicians and chiropractors, as applicable, that is not less than the number required pursuant to subsections 2 and 3 and that also maintain in that county:

(a) An active practice; and

(b) A physical office.

5. If an insurer fails to maintain a list of physicians and chiropractors that complies with the requirements of subsections 2, 3 and 4, an injured employee may choose a physician or chiropractor from the panel of physicians and chiropractors maintained by the Administrator pursuant to NRS 616C.090.
6. Each insurer shall, not later than October 1 of each year, update the list of physicians and chiropractors and file the list with the Administrator. The list must be certified by an adjuster who is licensed pursuant to chapter 684A of NRS.
7. Upon receipt of a list of physicians and chiropractors that is filed pursuant to subsection 6, the Administrator shall:
- (a) Stamp the list as having been filed; and
 - (b) Indicate on the list the date on which it was filed.
8. The Administrator shall:
- (a) Provide a copy of an insurer's list of physicians and chiropractors to any member of the public who requests a copy; or
 - (b) Post a copy of each insurer's list of physicians and chiropractors on an Internet website maintained by the Administrator and accessible to the public for viewing, printing or downloading.
9. At any time, a physician or chiropractor may request in writing that he or she be removed from an insurer's list of physicians and chiropractors. The insurer must comply with the request and omit the physician or chiropractor from the next list which the insurer files with the Administrator.
10. A physician or chiropractor may not be involuntarily removed from an insurer's list of physicians and chiropractors except for good cause. As used in this subsection, "good cause" means that one or more of the following circumstances apply:
- (a) The physician or chiropractor has died or is disabled.
 - (b) The license of the physician or chiropractor has been revoked or suspended.
 - (c) The physician or chiropractor has been convicted of:
 - (1) A felony; or
 - (2) A crime for a violation of a provision of chapter 616D of NRS.
 - (d) The physician or chiropractor has been removed from the panel of physicians and chiropractors maintained by the Administrator pursuant to NRS 616C.090 by the Administrator upon a finding that the physician or chiropractor has failed to comply with the standards for treatment of industrial injuries or occupational diseases as established by the Administrator.
11. Unless a physician or chiropractor, as applicable, is removed from an insurer's list of physicians and chiropractors pursuant to subsection 10, an injured employee may continue to receive treatment from that physician or chiropractor even if:
- (a) The employer of the injured employee changes insurers or administrators.
 - (b) The physician or chiropractor is no longer included in the applicable insurer's list of physicians and chiropractors, provided that the physician or chiropractor agrees to continue to accept compensation for that treatment at the rates which:
 - (1) Were previously agreed upon when the physician or chiropractor was most recently included in the list; or
 - (2) Are newly negotiated but do not exceed the amounts provided under the fee schedule adopted by the Administrator.

Section 5.

NRS 616C.050 Information required to be provided by insurer to claimant.

...

2. The insurer's statement must include a copy of the form designed by the Administrator pursuant to subsection 8 9 of NRS 25 616C.090 that notifies injured employees of their right to select an alternative treating physician or chiropractor. The Administrator shall adopt regulations for the manner of compliance by an insurer with the other provisions of subsection 1.

Section 6.

NRS 616C.055 Use of fee schedules which unfairly discriminate among physicians and chiropractors prohibited; payment for services rendered by physician or chiropractor after removal from panel prohibited.

...

2. ~~4~~ Except as otherwise provided in section 2 of this act, if a physician or chiropractor is removed from the panel established pursuant to NRS 616C.090 or from participation in a plan for managed care established pursuant to NRS 616B.527, the physician or chiropractor, as applicable, must not be paid for any services rendered to the injured employee after the date of the removal.

Section 8.

NRS 616C.090 Selection of physician or chiropractor: Powers and duties of Administrator; selection and alternate selection from established panel or pursuant to contract; responsibility for charges.

1. The Administrator shall establish, maintain and update not less frequently than annually on or before July 1 of each year, a panel of physicians and chiropractors who have demonstrated special competence and interest in industrial health to treat injured employees under chapters 616A to 616D, inclusive, or chapter 617 of NRS. The Administrator shall maintain the following information relating to each physician and chiropractor on the panel:

- (a) The name of the physician or chiropractor.
- (b) The title or degree of the physician or chiropractor.
- (c) The legal name of the practice of the physician or chiropractor and the name under which the practice does business.

(d) The street address of the location of every office of the physician or chiropractor.

(e) The telephone number of every office of the physician or chiropractor.

(f) Every discipline and specialization practiced by the physician or chiropractor.

(g) Every condition and part of the body which the physician or chiropractor will treat.

2. Every employer whose insurer has not entered into a contract with an organization for managed care or with providers of health care services pursuant to NRS 616B.527 shall maintain a list of those physicians and chiropractors on the panel who are reasonably accessible to his or her employees.

~~2-3.~~ An injured employee whose employer's insurer has not entered into a contract with an organization for managed care or with providers of health care services pursuant to NRS 616B.527 may choose a treating physician or chiropractor from the panel of physicians and chiropractors. If the injured employee is not satisfied with the first physician or chiropractor he or she so chooses, the injured employee may make an alternative choice of physician or chiropractor from the panel if the choice is made within 90 days after his or her injury. The insurer shall notify the first physician or chiropractor in writing. The notice must be postmarked within 3 working days after the insurer receives knowledge of the change. The first physician or chiropractor must be reimbursed only for the services the physician or chiropractor, as applicable, rendered to the injured employee up to and including the date of notification. Except as otherwise provided in this subsection, any further change is subject to the approval of the insurer, ~~which or by order of a hearing officer or appeals officer.~~ A request for a change of physician or chiropractor must be granted or denied within 10 days after a written request for such a change is received from the injured employee. If the insurer takes no action is taken on the request within 10 days, the request shall be deemed granted. Any request for a change of physician or chiropractor must include the name of the new physician or chiropractor chosen by the injured employee. If the treating physician or chiropractor refers the injured employee to a specialist for treatment, the ~~treating physician or chiropractor insurer~~ shall provide to the injured employee a list that includes the name of each physician or chiropractor with that specialization who is on the panel. ~~After~~ Not later than 14 days after receiving the list, the injured employee shall, ~~at the time the referral is made,~~ select a physician or chiropractor from the list.

~~3-4.~~ An injured employee whose employer's insurer has entered into a contract with an organization for managed care or with providers of health care services pursuant to NRS 616B.527 must choose a treating physician or chiropractor pursuant to the terms of that contract. If the injured employee is not satisfied with the first physician or chiropractor he or she so chooses, the injured employee may make an alternative choice of physician or chiropractor pursuant to the terms of the contract without the approval of the insurer if the choice is made within 90 days after his or her injury. Except as otherwise provided in this subsection, any further change is subject to the approval of the insurer or by order of a hearing officer or appeals officer. A request for a change of physician or chiropractor must be granted or denied within 10 days after a written request for such a change is received from the injured employee. If the insurer takes no action on the request within 10 days, the request shall be deemed granted. If the injured employee, after choosing a treating physician or chiropractor, moves to a county which is not served by the organization for managed care or providers of health care services named in the contract and the insurer determines that it is impractical for the injured employee to continue treatment with the physician or chiropractor, the injured employee must choose a treating physician or chiropractor who has agreed to the terms of that contract unless the insurer authorizes the injured employee to choose another physician or chiropractor. If the treating physician or chiropractor refers the injured employee to a specialist for treatment, the ~~treating physician or chiropractor insurer~~ shall provide to the injured employee a list that includes the name of each physician or chiropractor with that specialization who is available pursuant to the terms of the contract with the organization for managed care or with providers of health care services pursuant to NRS 616B.527, as appropriate. ~~After~~ Not later than 14 days after receiving the list, the injured employee shall, ~~at the time the referral is made,~~ select a physician or chiropractor from the list. If the employee fails to select a physician or chiropractor, the insurer may select a physician or chiropractor with that specialization. If a physician or chiropractor with that specialization is not available pursuant to the terms of the contract, the organization for managed care or the provider of health care services may select a physician or chiropractor with that specialization.

4-5. If the injured employee is not satisfied with the physician or chiropractor selected by himself or herself or by the insurer, the organization for managed care or the provider of health care services pursuant to subsection ~~3, 4,~~ the injured employee may make an alternative choice of physician or chiropractor pursuant to the terms of the contract. A change in the treating physician or chiropractor may be made at any time but is subject to the approval of the insurer, ~~which or by order of a hearing officer or appeals officer.~~ A request for a change of physician or chiropractor must be granted or denied within 10 days after a written request for such a change is received from the injured employee. If no action is taken on the request within 10 days, the request shall be deemed granted. Any request for a change of physician or chiropractor must include the name of the new physician or chiropractor chosen by the injured employee. If the insurer denies a request for a change in the treating physician or chiropractor under this subsection, the insurer must include in a written notice of denial to the injured employee the specific reason for the denial of the request.

5-6. Except when emergency medical care is required and except as otherwise provided in NRS 616C.055, the insurer is not responsible for any charges for medical treatment or other accident benefits furnished or ordered by any physician, chiropractor or other person selected by the injured employee in disregard of the provisions of this section or for any compensation for any aggravation of the injured employee's injury attributable to improper treatments by such physician, chiropractor or other person.

~~6-7.~~ The Administrator may order necessary changes in a panel of physicians and chiropractors and shall suspend or remove any physician or chiropractor from a panel for good cause shown ~~-7-~~ in accordance with section 2 of this act.

8. An injured employee may receive treatment by more than one physician or chiropractor if:

(a) If the insurer provides written authorization for such treatment ~~-8-~~ ; or

(b) By order of a hearing officer or appeals officer.

9. The Administrator shall design a form that notifies injured employees of their right pursuant to subsections ~~2, 3, and 4~~ and 5 to select an alternative treating physician or chiropractor and make the form available to insurers for distribution pursuant to subsection 2 of NRS 616C.050.

Section 16.

NRS 616C.260 Fees and charges for accident benefits: Restrictions; establishment and revision of schedule; powers and duties of Administrator; penalty for refusal to provide information; regulations.

...

2. The Administrator shall, giving consideration to the fees and charges being billed and paid in the State, establish a schedule of reasonable fees and charges allowable for accident benefits provided to injured employees whose insurers have not contracted with an organization for managed care or with providers of health care ~~services~~ pursuant to NRS 616B.527. The Administrator shall review and revise the schedule on or before February 1 of each year. In the revision, the Administrator shall adjust the schedule by the corresponding annual change in the Consumer Price Index, Medical Care Component.

...

Section 25.

NRS 616C.475 Amount and duration of compensation; limitations; requirements for certification of disability; offer of light-duty employment.

...

7. A certification of disability issued by a physician or chiropractor must:

...

(c) Be signed by the treating physician or chiropractor authorized pursuant to NRS 616B.527 or appropriately chosen pursuant to subsection ~~3 or 4~~ or 5 of NRS 616C.090.

...

Section 26.

NRS 616C.490 Permanent partial disability: Compensation.

...

2. Except as otherwise provided in subsection 3:

(a) Within 30 days after receiving from a physician or chiropractor a report indicating that the injured employee may have suffered a permanent disability and is stable and ratable, the insurer shall schedule an appointment with the rating physician or chiropractor selected pursuant to this subsection to determine the extent of the employee's disability.

(b) Unless the insurer and the injured employee otherwise agree to a rating physician or chiropractor:

~~(a)~~ (1) The insurer shall select the rating physician or chiropractor from the list of qualified rating physicians and chiropractors designated by the Administrator, to determine the percentage of disability in accordance with the American Medical Association's *Guides to the Evaluation of Permanent Impairment* as adopted and supplemented by the Division pursuant to NRS 616C.110.

~~(b)~~ (2) Rating physicians and chiropractors must be selected in rotation from the list of qualified physicians and chiropractors designated by the Administrator, according to their area of specialization and the order in which their names appear on the list unless the next physician or chiropractor is currently an employee of the insurer making the selection, in which case the insurer must select the physician or chiropractor who is next on the list and who is not currently an employee of the insurer.

3. Notwithstanding any other provision of law, an injured employee or the legal representative of an injured employee may, at any time, without limitation, request that the Administrator select a rating physician or chiropractor from the list of qualified physicians and chiropractors designated by the Administrator. The Administrator, upon receipt of the request, shall immediately select for the injured employee the rating physician or chiropractor who is next in rotation on the list, according to the area of specialization.

4. If an insurer contacts ~~the~~ a treating physician or chiropractor to determine whether an injured employee has suffered a permanent disability, the insurer shall deliver to the treating physician or chiropractor that portion or a summary of that portion of the American Medical Association's *Guides to the Evaluation of Permanent Impairment* as adopted by the Division pursuant to NRS 616C.110 that is relevant to the type of injury incurred by the employee.

...

Section 27.

NRS 616C.495 Permanent partial disability: Payments in lump sum.

...

5. The lump sum payable must be equal to the present value of the compensation awarded, less any advance payment or lump sum previously paid. The present value must be calculated using monthly payments in the amounts prescribed in subsection 7.8 of NRS 616C.490 and actuarial annuity tables adopted by the Division. The tables must be reviewed annually by a consulting actuary and must be adjusted accordingly on July 1 of each year by the Division using:

...

SB 381 also includes the following language:

Section 36.

The amendatory provisions 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 the effective date of this act.

Oregon

SB 507 was:

- Passed by the first chamber on May 15, 2019
- Included in NCCI's May 24, 2019 **Legislative Activity Report** (RLA-2019-19)
- Passed by the second chamber on June 4, 2019

SB 507 amends **section 656.802** of the Oregon Workers' Compensation Law to read:

Section 1.

656.802 Occupational disease; mental disorder; proof.

...

(7)(a) As used in this subsection:

(A) "Acute stress disorder" has the meaning given that term in the DSM-5.

(B) "Covered employee" means an individual who, on the date a claim is filed under this chapter:

(i) Was employed for at least five years by, or experienced a single traumatic event that satisfies the criteria set forth in the DSM-5 as Criterion A for diagnosing post-traumatic stress disorder while employed by, the state, a political subdivision of the state, a special government body, as defined in ORS 174.117, or a public agency in any of these occupations:

(I) A full-time paid firefighter;

(II) A full-time paid emergency medical services provider;

(III) A full-time paid police officer;

(IV) A full-time paid corrections officer or youth correction officer;

(V) A full-time paid parole and probation officer; or

(VI) A full-time paid emergency dispatcher or 9-1-1 emergency operator; and

(ii) Remains employed in an occupation listed in sub-subparagraph (i) of this subparagraph or separated from employment in the occupation not more than seven years previously.

(C) "DSM-5" means the fifth edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

(D) "Post-traumatic stress disorder" has the meaning given that term in the DSM-5.

(E) "Psychiatrist" means a psychiatrist whom the Oregon Medical Board has licensed and certified as eligible to diagnose the conditions described in this subsection.

(F) "Psychologist" means a licensed psychologist, as defined in ORS 675.010, whom the Oregon Board of Psychology has certified as eligible to diagnose the conditions described in this subsection.

(b) Notwithstanding subsections (2) and (3) of this section, if a covered employee establishes through a preponderance of persuasive medical evidence from a psychiatrist or psychologist that the covered employee has more likely than not satisfied the diagnostic criteria in the DSM-5 for post-traumatic stress disorder or acute stress disorder, any resulting death, disability or impairment of health of the covered employee shall be presumed to be compensable as an occupational disease. An insurer or self-insured employer may rebut the presumption only by establishing through clear and convincing medical evidence that duties as a covered employee were not of real importance or great consequence in causing the diagnosed condition.

(c) An insurer's or self-insured employer's acceptance of a claim of post-traumatic stress disorder or acute stress disorder under this subsection, whether the acceptance was voluntary or was a result of a judgment or order, does not preclude the insurer or the self-insured employer from later denying the current compensability of the claim if exposure as a covered employee to trauma that meets the diagnostic criteria set forth as Criterion A in the DSM-5 for post-traumatic stress disorder or acute stress disorder ceases being of real importance or great consequence in causing the disability, impairment of health or a need for treatment.

(d) An insurer or self-insured employer may deny a claim under paragraph (c) of this subsection only on the basis of clear and convincing medical evidence.

(e) Notwithstanding ORS 656.027 (6), a city that provides a disability or retirement system for firefighters and police officers by ordinance or charter that is not subject to this chapter, when accepting and processing claims for death, disability or impairment of health from firefighters and police officers covered by the disability or retirement system, shall apply:

(A) The provisions of this subsection; and

(B) For claims filed under this subsection, the time limitations for filing claims that are set forth in ORS 656.807 (1) and (2).

Section 2.

The amendments to ORS 656.802 by section 1 of this 2019 Act apply only to claims for benefits that are filed on or after the effective date of this 2019 Act.

BILLS PASSING FIRST CHAMBER

There were no relevant workers compensation-related bills that passed the first chamber within the one-week period ending June 7, 2019.

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.