



# Research BULLETIN



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910 17<sup>th</sup> Street, NW, Suite 1070, Washington, DC 20006 (202) 223-8904 www.UWCstrategy.org

## STATE WORKERS’ COMPENSATION LEGISLATION AND RELATED CHANGES ADOPTED IN 2016

Contributing Author: Tony Fiore

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### Executive Summary

This report details significant state workers' compensation law and rule changes in 2016. There were 31 state legislatures (including the District of Columbia) that enacted workers compensation laws and 28 state agencies that adopted administrative rule changes in 2016. Medical exams, costs and fee schedules, electronic documentation, employer rates, claim appeal and adjudication as well as drug testing are the primary areas of law and rule activity. The extended list of changes categorized by issue and state is provided below as a handy reference. A detailed summary of the legislative and administrative changes in the 50 states, District of Columbia, Guam, Puerto Rico and the U.S. Virgin Islands follows.

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**Claim Procedures, Adjudication, Appeals, Arbitration, Mediation, Settlements, Attorney Fees**

AZ, CA, CO, DC, FL, GA, MN, NE, NV, NH, NM, NY, NC, ND, OK, OR, TN, TX, VT, WV and WY.

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**Workers Classification, Claim Filings and Benefit Payments, Exemptions, Exclusions**

CA, CT, ME, NY, OR, TN, TX, WV and WI.

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**Employer Rates, Assessments, Policies, Notices, Costs, Filings and Rating Programs**

AR, CO, FL, LA, MO, NY, ND, OH, SC, TN, WA, WV and WI.

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**Administration, Electronic Info, Proof of Coverage, Annual Reports, Studies, Renewals**

AZ, DC, FL, HI, KS, KY, ME, MI, MN, NM, NY, NC, ND, OH, OK, RI, SC, SD, TN, TX, UT, WV, WI and WY.

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**Third-Party Administrators, Employer Leasing Companies, Professional Employer Organizations**

GA, NV and OH.

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**Medical Exams, Authorization, Information, Fee Schedules, Notices, Examiners, Providers, MCOs**

AZ, CA, CO, CT, FL, HI, KY, MI, MN, MS, MT, NE, NV, NH, ND, OH, OK, OR, RI, SC, SD, TN, TX, UT, VT, VA, WA and WI.

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**Fraud, Audits, Penalties, Overpayments and Compensation Offsets**

AZ, CA, FL, HI, ME, RI, TN, VA and WI.

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**Self-Insurance, Excess Coverage, Insolvent Insurers, Captive Companies, Reinsurance**

AZ, FL, GA, LA, MA, NE, NM, ND, OH, OK, OR and TN.

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**Confidentiality of Information**

GA.

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**Temporary and Permanent Total, Permanent Partial Disability, Compensation Offsets**

AZ, AR, GA, KY, NV, OR, TN, UT and WI.

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**Death, Disfigurement Benefits, Pneumoconiosis, Asbestosis**

AR, GA and VA.

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**Vocational Rehabilitation, Remain/Stay-at-Work and Return-to-Work**

MA, ND, OH, OR, RI, VT and WA.

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**Volunteer, First Responder and Public Employee Benefits, Public Employers**

CT, MI, MO, NY, OH, UT and WA.

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**Extraterritorial Issues, Subrogation, Successor Liability**

LA and OH.

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**Claim Eligibility, Medical Marijuana, Drug and Alcohol, Prescription Drug, Opioid Abuse**

CT, MI, NM and OK.

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**Intentional Torts, Negligence Actions, Exclusive Remedy, Statute of Limitations**

NM.





**ALABAMA**

- *No Changes Made in 2016*



**Legislation:** None.

**Administrative Changes:** None.

**ALASKA**

- *No Changes Made in 2016*



**Legislation:** None.

**Administrative Changes:** None.

**ARIZONA**

- *Amended Statute and Made Administrative Changes*



**Legislation:**

- **SB 1323** was signed by Arizona Governor Douglas A. Ducey on March 14, 2016. The bill states that in a workers' compensation case before the Industrial Commission, on the motion of a party, the chief administrative law judge may designate a pro se litigant a vexatious litigant. Click [here](#) for a copy of **SB 1323**.
- **HB 2240** was signed by Arizona Governor Douglas A. Ducey on May 11, 2016. The bill: (1) provides that any interested party is entitled to one change of administrative law judge as a matter of right; (2) states that the employer and the employer's insurance carrier are considered a single party unless the employer's and the employer's insurance company's interests are in conflict; (3)

provides that interest on the payment of benefits shall be paid at a rate of interest at the lesser of 10 percent per annum or a rate per annum that is equal to 1 percent plus the prime rate as published by the Board of Governors of the Federal Reserve System; (4) states that interest shall be paid only: (a) on an award of permanent partial disability or permanent total disability benefits; or (b) on a claim for dependents benefits; (5) provides that medical, surgical and hospital benefits include translation services, if needed; (6) requires the Commission to research and make recommendations on ways to allow for investigations into the act or practice of workers' compensation fraud impacting self-insured employers; and (7) requires the Commission to make recommendations on or before December 31, 2016, to the Governor, the Speaker of the House of Representatives, the President of the Senate and chairpersons of the Senate Commerce and Workforce Development Committee and the House of Representatives Insurance Committee. Click [here](#) for a copy of **HB 2240**.

**Administrative Changes:**

- ◆ Commission publishes revised Notice of Claim Status (Form 104 - Rev 01/2016) - use of [new form](#) is mandatory effective March 1, 2016.
- ◆ [Treatment Guidelines](#) – effective October 1, 2016.

**ARKANSAS**

- *Amended Statute and Made Administrative Changes*



**Legislation:**

- **SB 13** (Act 5) of the Third Extraordinary Session, was signed by Governor Asa Hutchinson on May 23, 2016, and became law on August 22, 2016. The bill provides for the

end of payments from the Death and Permanent Total Disability Trust Fund for claims for death or permanent total disability benefits filed on or after June 30, 2019. The act lowers the employers' tax under Workers' Compensation Law to no more than 1.5% after the final payment is made through the Death and Permanent Disability Trust Fund. Click [here](#) for a copy of Act 5, SB 13.

### **Administrative Changes:**

- ◆ **Advisory 2000-1 Update:** Weekly Workers' Compensation Rates for 2017 in Arkansas. This advisory, issued September 14, 2016, sets the weekly maximum workers' compensation rates for 2017. The maximums in 2017 for Total Disability (TD) are \$661.00 and for Permanent Partial Disability (PPD) is \$496.00. The maximum for workers' compensation weekly benefits is based on 85% of the state Average Weekly Wage (AWW). The state AWW was \$777.84 as determined by the Department of Workforce Services. Workers in 2017 receive 66 2/3 of their individual AWW, rounded to the nearest whole dollar, up to a maximum of \$661.00 (85% of \$777.84 = \$661.17, which rounds off to \$661.00). For PPD if TD is \$205.35 or greater, the PPD maximum is 75% of TD, rounded to the nearest whole dollar, up to \$496.00 (75% x \$661.17 = \$495.88, which rounds off to \$496.00). If TD is less than \$205.35, PPD is 66 2/3% of the worker's AWW, up to a \$154.00 maximum. Click [here](#) for a copy of Advisory 2000-1 Update.
- ◆ **Advisory 2007-1 Update:** D&PTD Threshold. This advisory, issued September 14, 2016, updates the threshold when the Death and Permanent Disability Trust Fund will assume payments for injuries resulting in permanent disability or death in 2017. This amount in 2017 will be \$214,825 (\$661 x 325 = \$214,825). Click [here](#) for a copy of Advisory 2007-1 Update.

## CALIFORNIA

- *Amended Statute and Made Administrative Changes*



### **Legislation:**

- **AB 1244** was signed by California Governor Jerry Brown on September 30, 2016. This bill requires the Administrative Director of the Division of Workers' Compensation to suspend any medical provider, physician, or practitioner from participating in the workers' compensation system in any capacity when the individual or entity meets specific criteria as related to fraud. Those criteria include conviction of a felony or misdemeanor: (1) involving fraud or abuse of the Medi-Cal, Medicare, or workers' compensation systems; (2) relating to patient care; (3) involving fraud or abuse of any patient; or (4) otherwise substantially related to the qualifications and duties of the provider. The medical provider would also be suspended when his or her license, certificate, or approval to provide health care has been surrendered or revoked, or when that individual or entity has been suspended from participation in the Medicare or Medicaid programs due to fraud or abuse. This bill further requires the Administrative Director to establish the procedure for suspending the medical provider's participation in the workers' compensation system, including a hearing if the suspension is challenged. Additionally, the bill establishes a special lien proceeding for the adjudication of any liens of a physician, practitioner, or provider who has been suspended. As part of this proceeding, the bill creates a rebuttable presumption that any lien filed by the suspended provider is related to the activity that resulted in the suspension and therefore not payable. The provider shall not have the right to payment unless he or she rebuts that presumption by a preponderance of the

evidence. Finally, the bill limits, for claims where an injured worker is represented by an attorney, reimbursement for legal fees unless the attorney has filed with the Workers' Compensation Appeals Board the appropriate disclosures prior to representing an injured worker. Click [here](#) for a copy of [AB 1244](#).

- **AB 2503** was signed by California Governor Jerry Brown on September 30, 2016. This bill would require a treating physician under the utilization review process to send any request for authorization for medical treatment, with supporting documentation, to the claims administrator for the employer, insurer, or other entity according to rules adopted by the Division of Workers' Compensation. Click [here](#) for a copy of [AB 2503](#).
- **AB 2883** was signed by California Governor Jerry Brown on August 26, 2016. This bill clarifies certain existing statutory exceptions to the definition of an "employee" for purposes of workers' compensation coverage. Specifically, it amends the Labor Code to provide that officers and members of boards of directors of private or quasi-public corporations, while rendering actual service for the corporation for pay, and who own at least 15% of the issued and outstanding stock of the corporation can elect to be excluded from coverage. In addition, a general partner of a partnership or a managing member of a Limited Liability Company (LLC) receiving wages irrespective of profits from the partnership or LLC can also elect to be excluded from coverage. In order to be excluded, the individual must execute a written waiver of his or her rights under the Labor Code stating under penalty of perjury that the individual is a qualifying officer or director, general partner or managing member of an LLC. This bill also deletes statutes that have been repealed and are now obsolete. Click [here](#) for a copy of [AB 2883](#).
- **SB 914** was signed by California Governor Jerry Brown on July 22, 2016. This bill deletes all references to the American College of

Occupational and Environmental Medicine's (ACOEM) Occupational Medicine Practice Guidelines from Labor Code section 4616.4 covering Medical Provider Networks (MPN) and, more specifically, the MPN Independent Medical Review process. The changes are technical and delete outdated references that are no longer substantively correct. Currently, medical treatment that is reasonably required to cure or relieve an injured worker from the effects of his or her injury means treatment that is based upon the Division of Workers' Compensation's Medical Treatment Utilization Schedule (MTUS), not the ACOEM's Occupational Medicine Practice Guidelines. Click [here](#) for a copy of [SB 914](#).

- **SB 1160** was signed by California Governor Jerry Brown on September 30, 2016. This bill makes significant improvements to the workers' compensation system in several key areas by: (1) expediting medical treatment to injured workers within 30 days of the date of injury by limiting utilization review (Treatment must be within the approved treatment guidelines; utilization review would still be required on specified treatments); (2) requiring certification of utilization review organizations under national standards; (3) mandating the electronic reporting of utilization review data by claims administrators to the Division of Workers' Compensation; (4) mandating the electronic submission of the Doctor's First Report of Injury; and (5) requiring a new provider declaration for every lien, limits the assignment of liens as accounts receivable, requires that all lien claimants file an original bill with their lien, and stays liens filed by providers who have been charged with workers' compensation, medical, or insurance fraud. Click [here](#) for a copy of [SB 1160](#).

#### **Administrative Changes:**

The following regulations were adopted or revised. The regulations can be found by clicking [here](#).

- ◆ **Official Medical Fee Schedule:** Hospital Outpatient Departments and Ambulatory



Surgical Centers Fee Schedule: Title 8, California Code of Regulations Section 9789.32 Effective: December 15, 2016

- ◆ **Medical Treatment Utilization Schedule (MTUS):** Chronic Pain Medical Treatment Guidelines and Opioids Treatment Guidelines: Title 8, California Code of Regulations Sections 9792.24.2 and 9792.24.4 Effective: July 28, 2016.

## COLORADO

- *Amended Statute and Made Administrative Changes*



### Legislation:

- **SB 16-217** was signed by Colorado Governor John Hickenlooper on June 10, 2016 and became effective on July 1, 2016. The bill: (1) requires an admission of liability include an employer statement listing specific facts on which a fifty percent reduction in compensation is based, for alleged willful failure to: (a) use a safety device, (b) obey any reasonable safety rule; or (c) where it is alleged the employee willfully misled the employer concerning the employee's physical ability to perform the job and was subsequently injured as the result. [C.R.S. § 8-42-112]; (2) affords any party the right to request an *expedited hearing* on whether compensation may be reduced by fifty percent, if an application is filed within 45 days after the date of the admission. The director is required to set the matter for hearing within 60 days after the date of the application though the schedule is subject to extensions set forth in section 8-43-209. Nothing precludes a party from submitting evidence at hearing or is required to set the matter for hearing within 60 days after the date of the application though the schedule is subject to extensions set forth in section 8-43-

209. Nothing precludes a party from requesting a non-expedited hearing in accordance with the time schedule set forth in section 8-43-209. [C.R.S. § 8-43-404(5) (a) (I) (D) & (E)]; (3) extends the time for the director to set an expedited hearing from 40 to 60 days after the application, where *liability for a claim is denied*. C.R.S. § 8-43-203(1)(a); (4) treats the alleged failure of an employer to provide a list of medical providers from which the injured worker may select a treating physician in the first instance, as a basis for requesting an expedited hearing: (a) if the application is filed within 45 days *after the injured worker provides notice of the injury to the employer*, or (b) in the case where liability for the claim has been admitted, the application must be filed within 45 days *after the initial admission*; (4) amends the section in which an injured worker may request a change of physician in writing, to require: (a) that *the request be completed on a form prescribed by the director* (and if permission is neither granted or refused within 20 days, the insurer shall be deemed to have waived any objection to the request), and (b) that *an objection by the insurer shall be in writing on a form prescribed by the director* and shall be served on the injured worker or, if represented, on the injured worker's authorized representative, within 20 days after the certificate of service of the request form. [C.R.S. § 8-43-404(5)(a)(VI)(A)]; (c) states that if the injured worker is permitted to change to a new authorized treating physician, primary care with the previously authorized physician will continue until the initial visit with the new authorized physician. At that time, primary care with the previously authorized physician will terminate. [C.R.S. § 8-43-404(5) (a) (VI) (B)]; (d) The previously authorized treating physician is not precluded from performing an exam from requesting a non-expedited hearing in accordance with section 8-43-209. [C.R.S. § 8-42-112 (4),(5) & (6)]; (e) the opinion of the previously authorized treating physician regarding work restrictions and return to work

controls unless that opinion is expressly modified by the newly authorized treating physician. [C.R.S. § 8-43-404(5) (a) (VI) (D)]. Click [here](#) for a copy of SB 16-217.

- **SB 16-158** was signed by Colorado Governor John Hickenlooper on June 1, 2016 and became effective August 10, 2016, unless a referendum petition is filed by that date. The bill defines “physician” for purposes of Level 1 Accreditation, to include a *Physician Assistant* licensed under the Colorado Medical Practice Act. In order for a Level 1 Accredited Physician Assistant to perform medical services requiring Level 1 accreditation, a Level 1 Accredited *Physician* must delegate the performance of those services. [C.R.S. § 8-42-101(3.5) (a) (I) (B)]. Click [here](#) for a copy of SB 16-217.
- **SB 16-198** was signed by Colorado Governor John Hickenlooper on June 8, 2016 and became effective upon signature. The bill: (1) relieves workers’ compensation insurance carriers of the requirement to provide a sample of forms of policies, riders, letters, and notices to the commissioner of insurance, (and certify that these documents comply with Colorado law), if the carrier uses unmodified forms prepared by a statutory advisory or rating organization. [C.R.S. § 8-44-1 02(2)(a)(I),(I I)&(I II)]; and (2) deems new or revised policy forms submitted by an advisory or rating organization on behalf of its members to be automatically adopted by the member carrier without modification. [C.R.S. § 8-44-1 02(2) (b) (I), (II) & (III)]. Click [here](#) for a copy of SB 16-198.

#### **Administrative Changes:**

- ◆ [Rule 17 - Exhibit 5 - Cumulative Trauma Conditions](#) (Adopted Rules Effective July 1, 2016 - June 30, 2017)
- ◆ [Rule 16: Utilization Standards](#) (Effective January 1, 2017)
- ◆ [Rule 18: Medical Fee Schedule](#) (Effective January 1, 2017)
- ◆ [2017 Exhibits to Medical Fee Schedule](#)
- ◆ [2017 Colorado Workers’ Compensation Resource Based Relative Value Scale Professional Fee Schedule](#)
- ◆ [Rules 1, 5, 6, 7, 8, 9](#) (Effective September 14, 2016)
- ◆ [Rule 2-5: Surcharge Rate](#) (Effective July 1, 2016)

### **CONNECTICUT**

- *Amended Statute*



#### **Legislation:**

- **SB 67** was signed by Connecticut Governor Dannel Malloy and became effective on October 1, 2016. The bill allows advance practice registered nurses (APRNs) to certify, sign, or otherwise document medical information that currently require a physician’s signature, certification or documentation. Click [here](#) for a copy of SB 67.
- **SB 101** was signed by Connecticut Governor Dannel Malloy and became effective on October 1, 2016. The bill allows sole proprietors to work on public works projects without carrying workers’ compensation coverage; liability insurance required. Click [here](#) for a copy of SB 101.
- **HB 5053** was signed by Connecticut Governor Dannel Malloy and became effective on July 1, 2016 and various dates. The bill prohibits prescribing practitioners from prescribing an opiate drug for more than a 7-day supply for outpatient use to an adult for the first time among other restrictions. Click [here](#) for a copy of HB 5053.
- **HB 5262** was signed by Connecticut Governor Dannel Malloy in 2016 and bill became effective on February 1, 2017. The bill: (1) establishes the “FIREFIGHTERS CANCER RELIEF ACCOUNT” to provide

wage replacement benefits to fire personnel affected by certain cancer conditions; (2) provides funding by E911 receipts through PURA; and (3) states that firefighters are not eligible until July 1, 2019. Click [here](#) for a copy of [HB 5262](#).

- **HB 5364** was signed by Connecticut Governor Dannel Malloy and became effective on July 1, 2016. The bill requires municipal employees to send a copy of the notice of claim to the town clerk of the municipality in which he/she is employed. Eff. July 1, 2016. Click [here](#) for a copy of [HB 5364](#).

**Administrative Changes:** None.

### DELAWARE

- *No Changes Were Made in 2016.*



**Legislation:** None.

**Administrative Changes:** None.

### DISTRICT OF COLUMBIA

- *Amended Statute*



**Legislation:**

- **Law 21-111** was signed by DC Mayor Muriel Bowser on March 16, 2016 and became effective May 12, 2016. This bill, called the Workers' Compensation Benefits Lien Reduction Amendment Act of 2016, requires those entitled to compensation and their employer to share court costs and attorneys' fees proportionally, relative to the amount each receives in the settlement against a third person, when the person entitled to compensation institutes proceedings within

the statutory time frame and recovers against a third person. Click [here](#) for a copy of [Law 21-111](#).

- **A21-0355** was signed by DC Mayor Muriel Bowser March 25, 2016 and became effective on May 18, 2016. This amendment, called the Construction Codes Harmonization Amendment Act of 2016, changed Washington D.C.'s construction laws in many ways, such as authorizing the Mayor to condemn and remove structures without notice when buildings are in danger. However, it also specifically amended D.C. Code § 6-1405.01(a)(2) to require employers to show proof of Workers' Compensation insurance coverage before the Building Code Official can issue a construction permit. Click [here](#) for a copy of [A21-0355](#).

**Administrative Changes:** None.

### FLORIDA

- *Amended Statute*



**Legislation:**

- **HB 613** (Chapter 2016-56) was signed by Florida Governor Rick Scott and became effective on October 1, 2016. The bill: (1) eliminates the new insurer registration fee (\$100) and the Special Disability Trust Fund notice of claim fee (\$250) and the proof of claim fee (\$500); (2) eliminates the Preferred Worker Program, which has been inactive for over 10 years; (3) creates a 25 percent penalty credit for employers who have not been issued a stop-work order or order of penalty assessment previously for non-compliance with coverage requirements if they maintain required business records and timely respond to the written DFS business records requests; (4) establishes a deadline for employers to file certain documentation to receive a penalty

reduction; (5) reduces the imputed payroll multiplier related to penalty calculations from 2 times to 1.5 times the statewide average weekly wage; (6) eliminates a 3-day response requirement applicable to employer held exemption documentation; (7) allows employers to notify their insurers of their employee's coverage exemption, rather than requiring that a copy of the exemption be provided; (8) removes insurers and employers from the medical reimbursement dispute provision; and (9) allows a Judge of Compensation Claims the discretion to designate an expert medical advisor, rather than only those that are certified by the DFS. Click [here](#) for a copy of HB 613.

- **SB 1402** (Chapter 2016-203) was signed by Florida Governor Rick Scott and became effective on July 1, 2016. The bill will have a significant negative fiscal impact to state expenditures from the State Risk Management Trust Fund (SRMTF) within the DFS. The DFS Division of Risk Management estimates an increase in workers' compensation expenses for the division by \$2.1 million in FY 2016-17, \$2.1 million in FY 2017-18, and \$2.2 million in FY 2018-19. The impact to local government and the private sector is indeterminate. However, local governments and private employers responsible for paying workers' compensation claims or obtaining workers' compensation insurance will incur increased costs due to the increase in the maximum reimbursements for providers. Florida's workers' compensation law requires that the provider reimbursement manuals setting maximum reimbursement rates for medical services must be updated every 3 years. Since the 2015 Legislature adjourned, the Department of Financial Services (DFS) has adopted amendments to the rule incorporating by reference the Florida Workers' Compensation Health Care Provider Reimbursement Manual, 2015 Edition (2015 Edition). The 2015 Edition sets out the policies, guidelines, codes, and maximum reimbursement allowances for

services and supplies furnished by health care providers under the workers' compensation statutes. The 2015 Edition adopted as part of Rule 69L-7.020, F.A.C., *Florida Workers' Compensation Health Care Provider Reimbursement Manual, 2015 Edition* (rule), on July 16, 2015, and submitted for ratification on November 3, 2015. The Statement of Estimated Regulatory Costs developed in conjunction with the rule shows that it has a specific, adverse economic effect, or increases regulatory costs, exceeding \$1 million over the first 5 years the rule is in effect. Accordingly, the rule must be ratified by the Legislature before it may go into effect. The bill ratifies the rule. The scope of the bill is limited to this rulemaking condition and does not adopt the substance of any rule into the statutes. Click [here](#) for a copy of SB 1402. **Administrative Changes:** None.

## GEORGIA

- *Amended Statute and Made Administrative Changes*



### Legislation:

- **HB 818** was signed into law by Georgia Governor Nathan Deal on April 26, 2016. The bill: (1) provides that State Board of Workers' Compensation administrative law judges are still required to comply with the Georgia Code of Judicial Conduct due to recent amendments to the Code of Judicial Conduct deleted Executive Branch judges, including workers' compensation administrative law judges, from the provisions of the Code. (O.C.G.A. § 34-9-47); (2) increases the maximum amount of temporary total disability benefits from \$550.00 to \$575.00 per week (O.C.G.A. § 34-9-261); (3) increases the maximum amount of temporary partial disability benefits from

\$367.00 to \$383.00 per week (O.C.G.A. § 34-9-262); (4) increases the maximum compensation payable to a surviving spouse as a sole dependent in a death case from \$220,000 to \$230,000 (O.C.G.A. § 34-9-265); (5) changes certain provisions relating to the purpose, definitions, participants and liabilities of self-insurance and further define insolvency of a self-insured employer (O.C.G.A. § 34-9-121; 34-9-381 et seq.) Click [here](#) for a copy of **HB 818**.

- **HB 402** was signed into law by Georgia Governor Nathan Deal on April 26, 2016. The bill: (1) revised portions of Title 33 and added new Code sections to Title 34. The purpose of new code provisions O.C.G.A. § 34-9-2.4 and O.C.G.A. § 34-9-430-431 was to encourage employers to provide work based learning opportunities for students age 16 and older, and to provide for an optional reduction in workers’ compensation premiums for employers that provide work based learning, and to provide that work based learning students are covered by workers’ compensation insurance. Click [here](#) for a copy of **HB 402**.

**Administrative Changes:**

- ◆ The 2016 Rules, effective January 1, 2016, February 16, 2016 and July 1, 2016, contain organizational, editorial, and substantive changes. This summary of the 2016 amendments to the Rules is intended as a convenient reference and should not be considered an exhaustive description of all rules changes. For detailed information regarding changes to a particular rule, please refer to the published version of the rule.
  - **Rule 61(b) (2)**—Service of WC-2 required. (Substitution of the word “serve” for the word “mail”. Upon filing of the WC-2 with the Board, a copy of the WC-2 must be served on the employee and the employee’s attorney.
  - **Rule 61(b) (10)**—Listing of specific body parts required on WC-14. A list of the

specific body parts injured must be included on a WC-14 notice of claim or request for hearing or mediation.

- **Rule 61 (b) (42)**—Addition of new Change of Information form. Addition of new Form WC-Request to Change Information form. This form is to be used to correct an employee’s name, Social Security Number or Board Tracking Number, county of injury or claims office that has been listed incorrectly in a claim.
- **Rule 102(a) (1)**—Professional conduct of the members of the Board and Administrative law judges. The Board and the Administrative law judges continue to be required to comply with the Code of Judicial Conduct.
- **Rule 102(B)**—Third party administrator is not required to be listed on a WC-14. Removal of the requirement that a party filing a notice of claim or requesting a hearing or mediation furnish the name and current address of the claims office/third party administrator.

The rules are on the website of the State Board of Workers’ Compensation at <https://sbwc.georgia.gov/rules>.

**GUAM**

– *No Changes Were Made in 2016*



**Legislation:** None.

**Administrative Changes:** None.



**HAWAII**

– Amended Statute



**Legislation:**

- **HB 2017 CD1** (ACT 101) was signed by Hawaii Governor David Ige and became effective on June 21, 2016. This Act permits an option for the transmittal of treatment plans via facsimile. Click [here](#) for a copy of **HB 2017 CD1**.
- **SB 2672 CD1** (ACT 183) was signed by Hawaii Governor David Ige and became effective on July 1, 2016. This Act includes Advanced Practice Registered Nurses in the definition of health care provider and clarifies their authority and participation in the health care system. Click [here](#) for a copy of **SB 2672 CD1**.
- **HB 2363 CD1** (ACT187) was signed by Hawaii Governor David Ige and became effective on July 1, 2016. This Act increases certain penalties and allows the director to receive electronic reports of injuries and other workers’ compensation required reports. Click [here](#) for a copy of **HB 2363 CD1**.

**Administrative Changes:** None.

**IDAHO**

– No Changes Were Made in 2016.



**Legislation:** None.

**Administrative Changes:** None.

**ILLINOIS**

– No Changes Were Made in 2016



**Legislation:** None.

**Administrative Changes:** None.

**INDIANA**

– No Changes Were Made in 2016



**Legislation:** None.

**Administrative Changes:** None.

**IOWA**

– No Changes Were Made in 2016



**Legislation:** None.

**Administrative Changes:** None.

**KANSAS**

– Amended Statute



**Legislation:**

- **HB 2617** was signed by Kansas Governor Sam Brownback and became effective on May 17, 2016. The bill: (1) requires an employer, worker, Kansas worker’s compensation fund or insurance carrier to apply electronically in writing to the director for a determination of benefits or compensation due or claimed to be due; (2) states the signature by electronic

means, when utilizing the workers compensation electronic filing system, satisfies the requirements for signing; (3) requires the electronic submission to include name, address, telephone number and e-mail address; and (4) requires submitting child support enforcement information (if applicable), but makes such disclosure closed to public inspection. Click [here](#) for a copy of HB 2617.

**Administrative Changes:** None.

### KENTUCKY

- *Amended Statue and Made Administrative Changes*



#### **Legislation:**

- The Kentucky General Assembly passed **HCR 185** directing a Kentucky Workers' Compensation Task Force be established to study and recommend changes to worker's compensation laws. Click [here](#) for a copy of HCR 185.
- **SR 89** and **HCR 185** were resolutions recognizing and commemorating the centennial of workers' compensation in Kentucky in 2016. Click [here](#) for a copy of SR89.

#### **Administrative Changes:**

- ◆ **803 KAR 25:010** main practice regulation was adopted on October 7, 2016 providing major changes to practice and procedure; electronic signatures authorized for use in the new Litigation Management (LMS) System being introduced allowing for electronic filing of claims (mandatory electronic filing as of 7/1/17). Click [here](#) for a copy of 803 KAR 25:010.
- ◆ **803 KAR 25:009** governing Coal Workers' Pneumoconiosis claims repealed, replacement provisions incorporated in 803 KAR 25:010.

- ◆ **803 KAR 25:089** updating the Physician's Medical Fee Schedule was adopted effective October 7, 2016. Click [here](#) for a copy of 803 KAR 25:089.

### LOUISIANA

- *Amended Statue and Made Administrative Changes*



#### **Legislation:**

- **HB 1142** (ACT 463) was signed by Governor John Bel Edwards on June 9, 2016 and became effective on August 1, 2016. The bill provides that there will not be a charge against an employer's experience rating for its respective unemployment insurance when unemployment benefits are paid to an employee who relocates due to a permanent change of station for his or her spouse who is in the military. The recoupment of any charges will be assessed as a social charge to all employers. Click [here](#) for a copy of Act 463.
- **SB 44** (ACT 470) was signed by Governor John Bel Edwards on June 13, 2016 and became effective on August 1, 2016. The bill requires a workers' compensation insurer to provide a dollar-for-dollar credit to an employer who is able to recoup a claims payment made on behalf of the employer by its workers' compensation insurer within the same calendar year. The credit will be used to calculate the employer's loss experience modifier as promulgated by the National Council of Compensation Insurance (NCCI). Group self-insurance funds shall apply a loss cost modifier pursuant to La. R.S. 23:1196. Click [here](#) for a copy of Act 470.

#### **Administrative Changes:**

- ◆ **Title 40, Part XXI. High Unemployment Areas - Chapter 1. Certification of High Unemployment Areas - The Executive**

Director of the Louisiana Workforce Commission (LWC) issued an Administrative Rule relative to the certification of high unemployment areas in March of 2016. A fee of \$250.00 shall be collected by the LWC in conjunction with each request for certification of a high unemployment area under the federal Employment Based Fifth Category Visa Program (EB-5 Visa). Click [here](#) for a copy of Title 40, Part XXI.

**MAINE**

- Amended Statute



**Legislation:**

- **LD 1553** was signed by Maine Governor Paul LePage and became effective April 12, 2016. The bill: (1) clarifies that a criminal penalty or administrative dissolution may be imposed only if the employer has committed a knowing violation of the workers’ compensation law; (2) provides that in assessing civil penalties the board shall take into account the employer’s efforts to comply with the law; (3) establishes penalties if an employer misclassifies an independent contractor; and (4) requires the Workers’ Compensation Board, by January 15, 2017, with performing a study of the independent contractor predetermination provisions and reporting back to the Legislature on any recommended legislation. Click [here](#) for a copy of LD 1553.

**Administrative Changes:** None.

**MARYLAND**

- No Changes Were Made in 2016



**Legislation:** None.

**Administrative Changes:** None.

**MASSACHUSETTS**

- Made Administrative Changes



**Legislation:** None.

**Administrative Changes:**

- ◆ Several regulations were amended in 2016 that took effect on January 27, 2017. Changes were made to adjudicatory rules, the Workers’ Compensation Trust Fund (WCTF), vocational rehabilitation and self-insurers. Click [here](#) to review all amendments.

**MICHIGAN**

- Made Administrative Changes



**Legislation:** None.

**Administrative Changes:**

- ◆ The 2016 Health Care Services Rules and Fee Schedule is effective as of January 13, 2017, and will replace the current 2015 fee schedule. The updated rules, manual, and fee schedule worksheets are posted, and are based on 2016 source documents such as the 2016 October release CMS Physicians Fee Schedule, as well as 2016 CPT® and HCPCS Level II procedure codes. Some highlights of the updated rule language include: Updated source documents (R 418.10106, R 418.10107, R 418.10202, R 418.10209, R 418.10901, R 418.10904, R 418.10909, R 418.10922, R 418.10925, R 418.101004, R 418.101005)
- ◆ Revised rules regarding billing and reimbursement of drug testing, drug screening, and drug confirmation testing. (R 418.101008a, R 418.101503)
- ◆ Revised rules regarding reimbursement for commercially manufactured topical



medications, which are over-the-counter or contain over-the-counter ingredients. (R 418.101003a)

- ◆ Revised rules for anesthesia billing and reimbursement with the addition of modifier–AD. (R 418.10904, R 418.10915, R 418.101007)
- ◆ Revised rules clarifying reimbursement for ASC facility charges pertaining to multiple procedures. (R 418.101023)
- ◆ New definition of utilization review and updates to location of fee schedule information. (R 418.10108, R 418.10109, R 418.101002, R 418.101101)
- ◆ Revised rule clarifying Advisory Committee functions. (R 418.10111)
- ◆ Revised rule regarding nuclear medicine multiple procedure reduction. (R 418.10505)
- ◆ Rules rescinded (R 418.10119, R 418. 10907)
- ◆ In addition the First Responder Presumed Coverage Fund (PA 515 of 2014) was activated September 22, 2016 based on the receipt of funding (PA 248 of 2016).

## MINNESOTA

- Amended Statute and Made Administrative Changes



### Legislation:

- **HF 2478** was signed by Governor Mark Dayton on May 12, 2016. There are two effective dates: Articles 1 and 2 became effective May 13, 2016, Article 3 became effective August 1, 2016. The bill includes Article 1 amendments that clarify the award of attorney fees by the MN Workers' Compensation Court of Appeals, bond requirements for cases appealed to the MN Supreme Court; Actual and necessary

disbursements on cases before the court and increased time for notice of taxation costs to adverse parties. Article 2 amendments provide more specificity about the electronic attachment standard that must be used, restores payment in effect before the 2015 amendments, reflect that the Minnesota Department of Administration is the current state agency that administers WC claims of injured state workers. Article 3 contains various litigation-related amendments. Click [here](#) for a copy of HF 2478.

### Administrative Changes:

- ◆ 2016 Adjustment to Independent Medical Examination Fees in Minnesota Rules, Chapter 5219; Adjustments to Relative Value Fee Schedule Conversion Factors and Amendments to Rules Implementing the Workers' Compensation Relative Value Fee Schedule Tables in Minnesota Rules 5221. Click [here](#) for a copy of the rule amendments.

## MISSISSIPPI

- Made Administrative Changes



Legislation: None.

### Administrative Changes:

- ◆ The Mississippi Workers' Compensation Fee Schedule was amended and effective on November 12, 2016. The Fee Schedule may be found following this link <https://mwccfeeschedule.optum.com/>. The Fee Schedule is available for purchase following that link as well.

## MISSOURI

– Amended Statute



### Legislation:

- **SB 613** became law on August 28, 2016 without Missouri Governor Jay Nixon's signature. The bill: (1) permits volunteer fire protection associations to apply to the State Fire Marshal for grants for the purpose of funding the workers' compensation insurance premiums for the association's volunteer firefighters. Grants shall be disbursed by the Marshal, subject to appropriations, based upon the number of volunteer firefighters who received workers' compensation benefits from claims arising out of and in the course of the prevention or control of fire or the underwater recovery of drowning victims in the preceding calendar year; (3) deletes reference to the medical cost not exceeding \$1,000 and states that the uniform experience rating plan shall not adjust the experience modification of an employer if the total medical cost does not exceed twenty percent of the current split point of primary and excess losses under the uniform experience rating plan, and the employer pays all of the total medical costs, there is no lost time from the employment other than the 3-day waiting period, and no claim is filed; (4) states that for purposes of calculating the premium credit under the Missouri contracting classification premium adjustment program, an employer within the construction group of code classifications may submit to NCCI the required payroll record information for the first, second, third, or fourth calendar quarter of the year prior to the workers' compensation policy beginning or renewal date provided the employer clearly indicates for which quarter the payroll information is being submitted. Click [here](#) for a copy of **SB 613**.

- **SB 700** became law on August 28, 2016 without Missouri Governor Jay Nixon's signature. The bill exempts volunteers of a tax-exempt organization, which is a 501 (c) (19) organization from the workers' compensation law, where such volunteers are not paid wages and provide services purely on a charitable and voluntary basis. Click [here](#) for a copy of **SB 700**.

**Administrative Changes:** None.

## MONTANA

– Made  
Administrative  
Changes



**Legislation:** No legislative session in 2016.

**Administrative Changes:**

- ◆ **ARM 24.29.1433 Facility Rules and Rates for Services Provided on or After July 1, 2013.** New base rates were added for hospital inpatient services and maintained for outpatient and ambulatory surgery center services for on or after July 1, 2016, along with an update to the Facility Fee Schedule Instruction set effective July 1, 2016.
- ◆ **ARM 24.29.1534 Professional Fee Schedule for Services Provided on or After July 1, 2013.** Updated the Professional Fee Schedule Instruction Set Effective July 1, 2016 that applies to services provided on or after July 1, 2016.
- ◆ **ARM 24.29.1538 Conversion Factors for Services Provided on or After January 1, 2008.** New conversion factors were added for goods and services (other than anesthesia) and anesthesia for services on or after July 1, 2016.
- ◆ **ARM 24.29.1591 Utilization and Treatment Guidelines.** For medical services provided on or after January 1, 2017, The Montana

Utilization and Treatment Guidelines, 4<sup>th</sup> edition, 2016 applies.

- ◆ **24.29.3101 Introduction-Applicability-Voluntary Payments; 24.29.31.03 Definitions; 24.29.3107 Timelines and Explanation of Status Classification of a Petition; 24.29.3111 Petition for Reopening; 24.29.3114 Submission of Medical Records and Additional Information-Effect of Failure to Submit Medical Records or Additional Information; 24.29.3117 Joint Petition for Reopening; 24.29.3121 Review by Medical Director-Consent of Both Parties; 24.29.3124 Review by Medical Review Panel-Report and Recommendations; 24.29.3127 Periodic Review of Certain Reopened Medical Benefits.** These new rules address the requirements, processes and procedures related to the reopening of medical benefits terminated by operation of law per 39-71-704 (1) (f) MCA and 39-71-717 MCA, for certain claims that occurred on or after July 1, 2011.

the affidavit state the name of the interpreter and the date of the legal proceeding.

- ◆ **New Rule 12, *Withdrawal of Counsel***, was adopted to set forth the procedure for withdrawing as the attorney of record in a case.
- ◆ **Rule 26, *Schedules of Fees for Medical, Surgical, and Hospital Services***, was amended to adopt a new Schedule of Fees for Medical Services and update the effective date to January 1, 2017. The new schedule will include 2017 CPT codes and relative value units established by CMS for calendar year 2017; conversion factors for the schedule will be updated in accordance with Rule 26, B, 2, e, ii. Rule 26 would also be amended to establish Medicare Diagnostic Related Groups to be included in the Diagnostic Related Group inpatient hospital fee schedule effective January 1, 2017.
- ◆ **Rule 63, *Independent Medical Examiner Selection***, was amended to provide that once an independent medical examiner has been assigned, submission of additional questions by either party shall not be allowed without prior approval of the court.
- ◆ **Rule 73, *Self-Insurance Security***, was amended to provide that no security will be released for at least two years after the last payment to or on behalf of the claimant on any and all claims arising during the period the employer was approved for self-insurance.

**NEBRASKA**

– Made Administrative Changes



**Legislation:** None.

**Administrative Changes:**

The following amendments to the Nebraska Workers’ Compensation Court’s Rules of Procedure were adopted at a public meeting on December 14, 2016.

**NOTE:** Rules 5 and 12 will become effective only upon approval by the Nebraska Supreme Court. As of January 17, 2017 the Supreme Court had not yet considered/approved them.

- ◆ **Rule 5, *Interpreters***, was amended to provide deadlines for submission of the Request for Interpreter and for the affidavit affirming selection of an interpreter, and to require that

Workers’ Compensation Court Rules of Procedure can be found by clicking [here](#).



## NEVADA

- *Made  
Administrative  
Changes*



**Legislation:** No legislative session in 2016.

### **Administrative Changes:**

- ◆ **Nevada Medical Fee Schedule.** Effective January 27, 2016, provides amendments and additions to the Nevada Medical Fee Schedule, following the Milliman actuarial report; establishes a medical fee schedule for selected dental procedures and independent medical examinations. Click [here](#) for a copy of these rule changes.
- ◆ **R132-14 Subsequent Injury.** Effective June 28, 2016, revises the application process for reimbursement for the subsequent injury account for private employers to clarify the definition of permanent physical impairment and when lump sum payments will be accepted for reimbursement. Click [here](#) for a copy of this adopted regulation.
- ◆ **R136-14 PACT v. Blake.** Effective on June 28, 2016, revises NAC 616C.490 to comply with the Nevada Supreme Court holding in PACT v. Blake, 127 Nev. 863, 265 P.3d 694 (2011), and repeals NAC 616A.500 and 616A.510, which are no longer necessary. Click [here](#) for a copy of this adopted regulation.
- ◆ **R130-14 Omnibus Regulation.** Effective September 9, 2016, provides for more seamless procedures when a claim is transferred between third-party administrators to prevent interruptions in benefits payable to the Claimant; requires more detailed claim acceptance and denial determinations be provided to the Claimant including information regarding entitlement to certain benefits; makes permanent disability ratings clearer by requiring rating physicians to cite to the relevant AMA Guides ratings tables and

enacting a records retention policy for raters; permit the Section to levy administrative fines against vocational rehabilitation counselors who supervise the work of uncertified counselors; and revises regulations regarding physical examinations for firefighters and police officers. Click [here](#) for a copy of this adopted regulation.

- ◆ **R059-15 Lump Sum PPDs Increased from 25% to 30%.** Effective December 21, 2016, amends NAC 616C.498, to comply with NRS 616C.495, as amended by Section 3 of Senate Bill 232, Chapter 240, Statutes of Nevada 2015, at page 1141, increasing the maximum lump sum permanent partial disability payment from 25% to 30% for claims incurred before July 1, 1995 but before January 1, 2016, if the insurer chooses. Click [here](#) for a copy of this adopted regulation.

## NEW HAMPSHIRE

- *Amended Statute*



### **Legislation:**

- **B 203** was signed by Governor Maggie Hassan on June 21, 2016, and became effective on September 19, 2016. The bill allows, via amendment of RSA 281-A:48, an injured worker whose treatment is purposely postponed for medical treatment beyond the fourth anniversary of the date of denial or last payment of compensation to petition the commissioner of labor, within a certain time frame, to review such denial or award of compensation. Click [here](#) for a copy of SB 203.

**Administrative Changes:** None.

**NEW JERSEY**

– Amended Statute

**Legislation:**

- **A3401** was signed by New Jersey Governor Chris Christie on November 14, 2016. The bill: requires the Commissioner of Labor and Workforce Development to adopt rules and regulations which: (1) ensure that all health care providers submit medical bills for payment on standardized forms; (2) require employers, workers' compensation insurance carriers of employers, and third-party administrators to accept electronic claims for the payment of medical services; (3) ensure confidentiality of medical information submitted on electronic claims for payment of medical services pursuant to the "Workers' Compensation Medical Information Confidentiality Act; (4) provide that payment for medical services provided or prescribed by the health care provider shall be made by the employer, workers' compensation insurance carrier, or third-party administrator to the health care provider within 15 working days after electronic receipt of an itemized electronic billing; (5) state that if the billing is contested, denied, or incomplete, the bill requires that payment be made of any uncontested amounts within 15 working days after electronic receipt of the billing; and (6) vest exclusive jurisdiction for any contested medical charge arising from any claim for compensation for a work-related injury or illness in the Division of Workers' Compensation, Department of Labor and Workforce Development. Click [here](#) for a copy of **A3401**.

**Administrative Changes:** None.

**NEW MEXICO**

– Amended Statute and Made Administrative Changes

**Legislation:**

- **SB 214** was signed by New Mexico Governor Susana Martinez on March 2, 2016. The bill: (1) provides that workers who willfully or intentionally cause injury are not entitled to workers' compensation benefits; (2) provides that indemnity benefits of an intoxicated worker will be reduced between 10 percent and 90 percent based on the degree the worker's intoxication or influence of drugs contributes to the accident; (3) states that a reduction in benefits is not allowed if an employer does not have a written drug and alcohol workplace policy; (4) prohibits employers from claiming a reduction in an intoxicated worker's indemnity benefits if the employer had actual or constructive knowledge of the workers' intoxication and had a reasonable opportunity to take corrective action prior to the accident but failed to do so; (5) states a worker will not be entitled to benefits should the worker refuse testing requested by the employer; and (6) provides that the Workers' Compensation Administration promulgate rules to govern testing and cutoff levels. Click [here](#) for a copy of **SB 214**.

**Administrative Changes:**

The following changes were made to the New Mexico Workers' Compensation Administration Rules:

- ◆ **Rule 2** – Data Reporting and Safety Requirements (effective 9/30/16)
- ◆ **Rule 3** – Payment of Claims, Post-Accident Drug and Alcohol Testing, and Conduct of Parties (effective 6/30/16)
- ◆ **Rule 4** – Claims Resolution (effective 9/30/16)

- ◆ Rule 7 – Payments for Health Care Services (effective 9/30/16)
- ◆ Rule 8 – Individual Self-Insurance (effective 9/30/16)
- ◆ Rule 11 – Proof of Coverage (effective 9/30/16)

Click [here](#) for the complete listing of New Mexico's Compensation Administrative Rules and Statutes.

## NEW YORK

– Amended Statute



### Legislation:

- **SB 6406C** was signed by New York Governor Andrew Cuomo on April 4, 2016. The state's budget bill contained provisions establishing paid family leave. When fully phased-in, employees will be eligible for 12 weeks of paid family leave when caring for an infant, a family member with a serious health condition or to relieve family pressures when someone is called to active military service. Benefits will be phased-in beginning in 2018 at 50 percent of an employee's average weekly wage, capped to 50 percent of the statewide average weekly wage, and fully implemented in 2021 at 67 percent of their average weekly wage, capped to 67 percent of the statewide average weekly wage. This program will be funded entirely through a nominal payroll deduction on employees. Click [here](#) for a copy of S6406C.
- **SB 6469A** was signed by New York Governor Andrew Cuomo on November 28, 2016. The bill excludes newspaper delivery persons from the definition of "employment" in Section 1, Section 511 of New York's Labor laws. This means that newspaper delivery persons will be excluded from unemployment insurance, the minimum wage, and workers' compensation coverage. Click [here](#) for a copy of SB 6469A.
- **SB 5745B** was signed by New York Governor Andrew Cuomo on September 11, 2016. The bill amended both New York's workers' compensation laws and retirement and social security laws to extend the period those injured due to their rescue, recovery, and clean-up work at the World Trade Center can file a claim. Now, claims can be made through September 11, 2017 and are not barred if the disablement occurred sometime between September 11, 2012 and September 11, 2015. Click [here](#) for a copy of SB 5745B.

### Administrative Changes:

The following are all changes made to "New York Codes, Rules and Regulations (NYCRR), available in full [here](#).

- ◆ On June 28, 2016 the Chair of New York's Workers' Compensation Board increased the maximum weekly benefit rate for workers' compensation claimants to \$864.32 for claims arising from accidents or disablement that occurred between July 1, 2016 and June 30, 2017. A copy of this Bulletin can be found [here](#).
- ◆ On February 5, 2016, the Chair of the New York Workers' Compensation Board amended 12 NYCRR 300.36, which now permits parties in a workers' compensation case to enter a voluntary binding review after a workers' compensation law judge has determined compensation benefits. The text of this amendment, as it is incorporated into 12 NYCRR 300.36 can be found [here](#).
- ◆ On March 21, 2016, the Chair of the New York Workers' Compensation Board adopted the repeal and addition of 12 NYCRR Subparts 325-5 and 325-6, which set forth the process used to determine whether health insurers can be reimbursed from the workers' compensation carrier or employer, as well as the procedure for adjudicating disputes. These

provisions are available [here](#) and became effective June 1, 2016.

- ◆ On October 14, 2016 the Chair of the New York Workers' Compensation Board adopted an amendment to Title 12 NYCRR Section 300.5, which describes the procedure and process for entering Stipulations in workers' compensation proceedings. Now, stipulations can be made in "an oral statement on the record at a hearing or in writing outside of a hearing when a claimant is represented." However, written stipulations must be submitted using the Chair's prescribed form and format, and has other specific requirements about content. These provisions are available [here](#) and became effective November 2, 2016. On December 27, 2016 the Chair adopted a small amendment to 12 NYCRR 300.13 to correct two typographical errors. The updated version of this provision can be found [here](#).
- ◆ On July 14, 2016 the Chair of the New York Workers' Compensation Board agreed to the repeal of sections 300.13, 300.15, and 300.16 of Title 12 NYCRR, as well as the addition of a new 300.13 and amended 300.05. The regulation became effective on October 3, 2016. Its purpose was to modify and clarify what rules govern administrative review. These provisions are available [here](#).
- ◆ On May 2, 2016, the Chair of the New York Workers' Compensation Board adopted an amendment to 12 NYCRR 300.27, which allows the Board to convene via electronic means. The regulation became effective upon publication in the May 18, 2016 State Register edition. The provision can be found [here](#).

## NORTH CAROLINA

- *Amended Statute and Made Administrative Changes*




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### Legislation:

- **SB 124** (Session Law 2016-100) was signed into law by Governor Pat McCrory on July 18, 2016. The bill amends N.C. Gen. Stat. § 97-80(h) to assist the Industrial Commission in enforcing its orders by clarifying how the Industrial Commission is to refer matters of indirect criminal contempt to the District Court. This amendment outlines the procedure for the Industrial Commission to follow when initiating plenary proceedings for indirect criminal contempt in District Court. Click [here](#) for a copy of **SB 124**.

### Administrative Changes:

- ◆ **04 NCAC 10A .0108 Electronic Filings With the Commission; How to File.** On September 15, 2015, the Rules Review Commission published the Industrial Commission's proposed electronic filing rules in the North Carolina Register. Following a public hearing on October 20, 2015, the Industrial Commission adopted the rules without changes and filed them with the Rules Review Commission on November 20, 2015. The Rules Review Commission approved the ten rules adopted by the Industrial Commission at its December 17, 2015 meeting. One rule went into effect on January 1, 2016, and nine went into effect on February 1, 2016. Click [here](#) to view the ten new and amended Industrial Commission rules.

## NORTH DAKOTA

– *Made  
Administrative  
Changes*



**Legislation:** No legislative session in 2016.

### **Administrative Changes:**

- ◆ The amendment to Administrative Code Section 92-01-02.11.1, relating to attorney's fees, is to increase the hourly payment to claimants' attorneys and to increase the maximum fees allowed to claimants' attorneys.
- ◆ The amendment to Administrative Code Section 92-01-02-14 relating to the procedure for penalizing employer accounts, is to provide for a past due status on billing statements of certain delinquent accounts.
- ◆ The amendment to Administrative Code Section 92-01-02-18 is to provide an increase in the primary loss limits for the purpose of experience rating. This amendment becomes effective July 1, 2016.
- ◆ The amendment to Administrative Code Section 92-01-02-24, relating to rehabilitation services, is to allow for the injured employee's purchase of required training equipment.
- ◆ The amendment to Administrative Code Section 92-01-02-29, relating to medical services, is to provide definitions for "debilitating side effects;" "increase in function;" and, "improved pain control."
- ◆ The amendment to Administrative Code Section 92-01-02-29.1, relating to medical necessity, is to follow standard pharmacy transactions for processing and dispensing over the counter medications prescribed by a physician, to exclude hot packs as a compensable item, and eliminate the opioid testing rule and is, in part, a result of legislation passed by the 64th Legislative Assembly, SB 2060.
- ◆ The amendment to Administrative Code Section 92-01-02-29.4, relating to home modifications, is to require documentation of home ownership and floor plans for new construction.
- ◆ The amendment to Administrative Code Section 92-01-02-34, relating to treatments requiring authorization, is to include massage therapy, acupuncture therapy and speech therapy visits to preservice review requirements.
- ◆ The amendment to Administrative Code Section 92-01-02-45.1, relating to provider responsibilities and billings, is to require the provider's National Provider Identifier number be included in billings and reports.
- ◆ The amendment to Administrative Code Section 92-01-02-48, relating to elements of filing, is to clarify signature requirements on the first report of injury form.
- ◆ The amendment to Administrative Code Section 92-01-02-50 is to parallel the attorney fees paid to employer's attorneys who qualify for reimbursement under this section, with the fees provided for in N.D.A.C. 92-01-02-11.1.
- ◆ The amendment to Administrative Code Section 92-01-02-53, relating to WSI's scholarship fund, is to clarify application criteria.
- ◆ The amendment to Administrative Code Section 92-01-04-02, relating to risk management program requirements is to remove the need for the department to provide annual documentation to WSI of excess coverage or reinsurance and is also the result of legislation passed by the 64th Legislative Assembly, House Bill 1120.
- ◆ The amendment to Administrative Code Section 92-01-04-03 clarifies the excess coverage or reinsurance requirements for the prison industry work program and is also the result of legislation passed by the 64th Legislative Assembly, House Bill 1120.

Click [here](#) for a copy of Administrative Rule, Chapter 92-01-02 and 92-01-04: Click [here](#) for a copy of Administrative Rule, Chapter 92-01-04.

## OHIO

– *Amended Statute and Made Administrative Changes*



### Legislation:

- **HB 207** was signed by Governor John R. Kasich on May 31, 2016 and became law on August 31, 2016. The bill makes changes to workers' compensation claims involving motor vehicle accidents such as: (1) requires claims be charged to the Surplus Fund Account in lieu of to a state fund employer's experience in certain circumstances when a claim is based on a motor vehicle accident involving a third party; (2) Allows a state fund employer who believes that a claim may qualify to be charged to the Surplus Fund Account under the act to file a request with the Administrator of Workers' Compensation for a determination; (3) Requires any amount collected by the Administrator through the subrogation process for compensation or benefits that were charged to the Surplus Fund Account to be credited to the Surplus Fund Account and not applied to an individual employer's account. The bill makes changes to workers' compensation laws involving self-insured employers such as: (1) Eliminates the minimum number of employees required for a private sector employer or board of county commissioners to obtain self-insuring status under the Workers' Compensation Law; (2) Requires a self-insuring employer who resumes paying premiums to the state insurance fund to provide the Administrator with any information that the Administrator may require to develop a state fund experience modification factor; (3) requires, if a professional employer

organization agreement is terminated, a self-insuring professional employer to provide the Administrator with information that the Administrator must use to develop a state fund experience modification factor for each client employer formerly subject to the agreement. Click [here](#) for a copy of **HB 207**.

- **HB 471** was signed by Governor John R. Kasich on December 19, 2016 on March 19, 2016. The bill renews the Bureau of Workers' Compensations Board of Directors and sunsets the Labor Management Advisory Council. Click [here](#) for a copy of **HB 471**.
- **SB 27** was signed by Governor John R. Kasich on January 4, 2017 and will become law on April 4, 2017. The bill creates a presumption that if a firefighter is disabled as a result of cancer under certain circumstances, it was incurred as a result of the job. The bill does allow for the presumption to be rebutted in specified situations. For more information on the certain circumstances required for the presumption or a list of when the presumption can be rebutted, click [here](#) for a copy of **SB 27**.

### Administrative Changes:

The following summarizes Ohio Bureau of Workers' Compensation rules that were amended, enacted or rescinded in 2016. All rules can be found on the Register of Ohio, Lawriter or, on the BWC Rules website at the following links: Register or Ohio: <http://www.registerofohio.state.oh.us/>; Ohio Administrative Code: <http://codes.ohio.gov/oac>; Ohio BWC: <https://www.bwc.ohio.gov/basics/guidedtour/generalinfo/ORCandOAC.asp>

- ◆ **Medical Rules:** Health Partnership Program (HPP – 5 rules) in general, Qualified Health Plan (QHP – 0 rules), and Health Partnership Program medical rules (HPP – 7).
- ◆ **General Rating for the State Insurance Fund:** Retro rating program, PEO programs,

Prospective Billing programs and Employer program (30 rules).

- ◆ **Rehabilitation of Injured and Disabled Program Rules** (1 rule).
- ◆ **Miscellaneous Provision Rules:** Out of state jurisdiction, confidential personal information, Filing of fee bills, Medical proof, and Long-term care loan program (9 rules).
- ◆ **Specific Safety Requirements:** All workshops and factories (27 rules).

## OKLAHOMA

– *Made  
Administrative  
Changes*



**Legislation:** None.

### **Administrative Changes:**

- ◆ Changed language in 810:1-1-3 to indicate the Commission, rather than the Chair, appoints the Commission’s Executive Director.
- ◆ Cleanup language in 810:10-1-5 related to the filing of the CC-Form-2A (changing language to refer to the CC-Form-2A, rather than “Employer’s Intent to Controvert”, and CC-Form-2A Extension (changing language to refer to the form’s name, rather than a “filing extension.”)
- ◆ Adding language in 810:10-5-7 indicating the proper response to the CC-Form-3C retaliation or discrimination claim (filing a CC-Form-10C).
- ◆ Additional language in 810:10-5-15 indicating an employer or carrier may respond to a discrimination or retaliation claim by filing a CC-Form-10C. Additional pertinent references added regarding the CC-Form-10C.
- ◆ Adding language in 810:10-5-45 providing that if the claimant fails to appear for a scheduled medical examination without good cause, the Commission shall order the claimant to reimburse the respondent for payment of the physician’s charge for the missed examination, but not in excess of two hundred dollars (\$200.00).
- ◆ Language in 810:10-5-66(a) clarifying that a request for review should be accompanied by a designation of record in all actions which are appealed to the Commission en banc. Specifying that the cost of preparing the transcript shall be advanced immediately by the designating party, and that the transcript shall be prepared and sent to all parties to the appeal within thirty (30) days from the date the designation of record is filed.
- ◆ Revision in 810:10-5-66(d) specifies that appellant in a proceeding before the Commission en banc has forty-five (45) days (changed from twenty (20) days) to file an original and four (4) copies of its written argument with the Commission.
- ◆ Additional language in 810:10-5-66 provides for a show-cause hearing upon an application for an order directing certification to district court of any workers’ compensation award. Notice to respondent and insurance carrier must be given at least ten (10) days before the scheduled trial thereon.
- ◆ Added to 810:15-1-2 an appeals process for a denial of preauthorization for a drug excluded from the Commission’s closed formulary.
- ◆ 810:15-7-2, added language specifying that one presumptive drug test is allowable at each individual office visit for chronic pain management. Definitive drug testing following a suspected abnormality on the presumptive drug test is permissible for not more than forty (40) individual definitive drug tests every twelve (12) months.
- ◆ Language added in 810:15-9-5 specifying that no physician may charge more than four hundred (\$400.00) in advance in order to schedule a deposition.

- ◆ Amended language in 810:25-9-1 so that own risk applicants must submit **audited** financial statements for the two (2) previous years (rather than current financial statements signed by two (2) executives), and adds statement of cash flows to the required financial statements to be submitted. Provides that if **audited** financial statements are unavailable, company must submit its financial statements for the two (2) previous years signed by two (2) company executives. Adds balance sheet and statement of income to requirement that the employer must submit most recent available interim financial statements.
- ◆ Adds a provision to 810:25-9-7 stipulating that an out-of-state employer may request waiver of the license requirement for an in-house benefit administrator.

Click [here](#) for a link to the Commission's permanent rules, effective 9/12/16.

## OREGON

- *Made  
Administrative  
Changes*



**Legislation:** None.

### **Administrative Changes:**

The following rules were adopted by the Oregon Workers' Compensation Division in 2016.

- ◆ OAR 436-009. **Oregon Medical Fee and Payment Rules.** Effective April 1, 2016, adopts updated medical fee schedules; increases maximum allowable payment rates by three percent for physician services except for physical therapy services; excludes platelet rich plasma injections from compensability; increases the maximum payable for hearing aids, without approval by the insurer or director, from \$5000 to \$7000 for a pair and from \$2500 to \$3500 for a single hearing aid; requires that compounded drugs be billed at the

component ingredient level and sets the maximum allowable fee at 83.5% of the average wholesale price for each ingredient, plus a single compounding fee of \$10.00; and indexes the mileage reimbursement rate payable to interpreters to the private vehicle mileage rate published in Bulletin 112. Some minor and related amendments were made at the same time to OAR 436-010. Medical Services. Click [here](#) for a copy of 436-009 and [here](#) for a copy of 436-010.

- ◆ Effective Jan. 1, 2017, temporary OAR 436-009 adopts **new medical billing codes** for 2017 and related references: the American Medical Association (AMA) Current Procedural Terminology (CPT® 2017); the American Society of Anesthesiologists, Relative Value Guide 2016; the AMA CPT® Assistant through Volume 26, Issue 12, 2016; the Healthcare Common Procedure Coding System (HCPCS 2017); and the American Dental Association's CDT 2017 Dental Procedure Codes. Click [here](#) for a copy of Temporary 436-009.
- ◆ OAR 436-050. **Employer/Insurer Coverage Responsibility.** Effective Jan. 1, 2017, completes implementation of Senate Bill 1558 (2014) by establishing standards for acceptable financial viability of self-insured employers, including related reporting requirements and adoption of financial ratios to be used for measuring financial strength; clarifies procedures for show-cause hearings regarding suspension or revocation of an insurer's authorization to renew or issue workers' compensation policies; requires the insurer or self-insured employer to give the director notice of an email address for each claims processing location; requires the insurer or self-insured employer to notify the estates of deceased workers and any beneficiaries receiving benefits under a claim when the insurer changes claims processing location or service company; requires that a self-insured employer must submit proposed changes in the retention level and policy limits of an excess

insurance policy at least 30 days before the effective date of the change; requires a self-insured employer to include in its report of losses separate lists that include all claims with total incurred losses above and below the National Council on Compensation Insurance split point published in Bulletin 209; describes additional criteria the director will use to determine a self-insured employer's required deposit; allows a self-insured employer to submit a certified actuarial study (subject to some limitations) for determination of the security deposit amount; specifies that a self-insured employer may not transfer claims to any excess insurer or service company acting on its behalf for the processing of the employer's claims; provides that, if given probable cause, the director may order a self-insured employer who is exempt from providing a security deposit to increase the amount of its loss reserve account, and that the self-insured employer must comply within 30 days of the director's order; lists required elements of the service agreement between a self-insured employer and a service company; provides that a self-insured employer may add an amount to its security deposit equal to what is required for a common claims fund instead of maintaining a common claims fund; and provides that a self-insured employer group is not required to create a common claims fund in any year in which the director applies an incurred-but-not-reported factor of greater than zero percent in the determination of the self-insured employer group's security deposit. Click [here](#) for a copy of 436-050.

- ◆ OAR 436-055. **Certification of Claims Examiners.** Effective Jan. 1, 2017, revises the definition of "process claims"; reduces the required number of training hours related to interactions with independent medical examination providers for renewal of claims examiner certification from three hours to one hour; increases the required number of training hours related to rules, statutes, and case law for renewal from four hours to six hours; clarifies

an insurer's responsibility to issue certificates, acknowledge certifications from other insurers, and verify documentation that requirements have been met; allows a person who has not been certified for more than one year to be hired as a trainee; and allows a person whose certification has lapsed for one year or less to renew certification if training requirements have been met. Click [here](#) for a copy of 436-055.

- ◆ OAR 436-060. **Claims Administration.** Effective Jan. 1, 2017, states that if an employer improperly restricts a worker's choice of medical provider, the director may impose a civil penalty of up to \$2000; requires the insurer to provide an email address with certain information it sends to the worker; provides that an electronically produced date is acceptable evidence of initial date of receipt; provides that an insurer must respond to a worker's request for reclassification of a nondisabling claim within 14 days of receipt of the request, and that if an insurer fails to respond timely, the worker may request review by the director as if the insurer issued a Notice of Refusal to Reclassify; explains that the insurer must reimburse the employer for any employer-paid temporary disability benefits; streamlines process for determining the worker's weekly wage as the basis for calculating temporary disability benefits; clarifies eligibility criteria and procedures for processing and payment of supplemental disability compensation (involving at-injury, concurrent employment); implements a change from quarterly to annual performance audits; and provides that an employer may assume that a worker consents to having temporary disability benefits paid through a direct deposit system if that is the method the employer usually uses to pay the worker's wages. Click [here](#) for a copy of 436-060.
- ◆ OAR 436-070. **Workers' Benefit Fund Assessment.** Effective Jan. 1, 2017, decreases the hourly assessment rate that subject

employers and their employees must pay to the Department of Consumer and Business Services for the Workers' Benefit Fund, from 3.3 cents to 2.8 cents per hour worked. Click [here](#) for a copy of 436-070.

- ◆ **OAR 436-105. Employer-at-Injury Program (EAIP).** Effective Jan. 1, 2017, requires that a medical release specify the worker's hourly restrictions; limits the effective period for a medical release to 30 days in specific circumstances; clarifies that the EAIP may be used only once per worker per claim opening or request for reopening; states that worksite modifications and employment purchases must be ordered before the end of the EAIP; expressly excludes reimbursement for extended warranties for worksite modifications and purchases that are in addition to the standard or manufacturer's warranty; and accommodates non-physical date stamps on documentation. Click [here](#) for a copy of 436-105.
- ◆ **OAR 436-110. Preferred Worker Program (PWP).** Effective Jan. 1, 2017, specifies that if a claim disposition agreement is approved before the worker is medically stationary, the insurer must continue to process the claim for purposes of the PWP; explains that certain work experience program participants, apprentices, and trainees are eligible for the PWP if they otherwise meet the eligibility requirements in the rules, and that the job for which the individual was being trained is considered regular work; requires the employer to request premium exemption from the Workers' Compensation Division instead of the insurer; places a dollar maximum on wage subsidy for a worker and removes the limit on the number of times wage subsidy may be used, unless the worker has an exceptional disability (then worker may use wage subsidy twice with no maximum total reimbursement); provides that a worker may use a second wage subsidy with the same employer for a new job if the majority of job duties have changed and at least

one year has passed from the end of the first wage subsidy period; increases maximum allowed payments for several categories of employment purchases; removes the limits on the number of uses for several categories of employment purchases; adds a new type of employment purchase – transportation-related purchases that enable a worker to commute to a job (does not include vehicles or vehicle maintenance); describes placement services and provides for payment up to a dollar maximum, regardless of whether the worker finds employment, but provides for additional payments if the worker is employed as a result of the services and again if the worker remains in that position for at least 30 days; increases the dollar maximums allowed for worksite modification services and sets a per-use cap; increases the dollar maximums allowed for modifications to prevent further injury, rental of worksite modification items, and consultative services; for worker-activated worksite modification assistance, removes the limit on the number of times a worker may use the assistance, but limits use to once per employer unless the job is a new job; and provides that a worker can use a second worksite modification with the same employer for a new job if the majority of the job duties have changed. Click [here](#) for a copy of [436-110](#).

- ◆ **OAR 436-120. Vocational Assistance to Injured Workers.** Effective Jan. 1, 2017, provides that if the worker returns to work with the employer at injury, the division may verify whether the employment is suitable; states that all notices and warnings sent to workers must be copied to the Workers' Compensation Division; repeals rules allowing postponement of a worker's vocational eligibility evaluation, and allows deferral in specified circumstances; removes the definition of "likely eligible" and clarifies when an eligibility evaluation is required; clarifies the timeframe for completing an eligibility evaluation, including notifying the worker of the results; includes



circumstances in which the worker does not need to be available in Oregon; explains that certain work experience program participants, apprentices, and trainees are eligible for vocational assistance if they otherwise meet the eligibility criteria, and defines employer at injury, regular employment, and suitable wage for those individuals; lists the responsibilities of the worker and counselor in training and direct employment plans; requires that the insurer provide further training to a worker when the initial training plan will not be or was not successful to prepare the worker for suitable employment; increases the time allowed for basic education, occupational skills training, and formal training; requires the training plan to include notice to the worker if temporary disability benefits may end before training ends; requires the insurer to approve or disapprove a training plan within 14 days; reduces the time within which an insurer must pay vocational assistance providers' bills for services from 60 to 30 days from receipt; and allows continuing education credits for counselors who teach a class or provide a formal presentation to a group on a topic relating to vocational rehabilitation. Click [here](#) for a copy of 436-120.

**PENNSYLVANIA**

- *No Changes Were Made in 2016*



**Legislation:** None.

**Administrative Changes:** None.

**PUERTO RICO**

- *No Changes Were Made in 2016*



**Legislation:** None.

**Administrative Changes:** None.

**RHODE ISLAND**

- *Amended Statute and Made Administrative Changes*



**Legislation:**

- **S2945** was signed by Governor Gina Raimondo on July 13, 2016 and took effect upon signing. The bill: (1) increases the daily reimbursement for members of the medical advisory board from \$300 to \$500 with an annual maximum of \$6,000; (2) it postpones the definition of “material hindrance” from taking effect from 2021 to 2023 for continuation of partial incapacity benefits; (3) extend the effective date of the commencement of payments from the uninsured employer fund from January 1, 2017 to July 1, 2017; (4) changes the mileage rate paid to employees for attending medical examinations or rehabilitation to the Internal revenue Service allowable rate and how that distance for the visit is calculated; (5) authorizes the Director of the Department of Labor and Training to recover the cost of legal services and fees incurred in fraud investigations and examinations. Click [here](#) for a copy of S2945.

**Administrative Changes:**

- ◆ **Medical Fee Schedule Pharmacy Guidelines.** Effective November 22, 2016 reimbursement for compound medications were limited to \$500 or 90% of AWP for a 30 day supply and billing requires being billed at the ingredient

level with a separate line item for each ingredient and the corresponding quantity and charge amount per ingredient. Click [here](#) for a copy of the guidelines.

- ◆ **Massage Therapy Guidelines.** Effective November 22, 2016 codes and fees established. Click [here](#) for a copy of the massage therapy guidelines.

**SOUTH CAROLINA**

– Amended Statute



**Legislation:**

- **SB S975** was signed by former South Carolina Governor Nikki Haley on March 16, 2016. The bill deleted a prohibition on Chairmen of the Workers’ Compensation Commission serving consecutive terms and allows the governor to reappoint a chairman. It also allows members appointed by the Workers’ Compensation Commission to be removed by the Governor in certain circumstances. This became effective upon approval of the Governor, which occurred on March 14, 2016. Click [here](#) for a copy of [SB 975](#).
- **R. 237, S. 1064 (Act No. 213)** was signed by former South Carolina Governor Nikki Haley on June 3, 2016. The bill requires that: (1) all insurers writing workers’ compensation insurance adopt the most recent NCCI loss costs; (2) companies file to adopt NCCI’s loss costs within 60 days of NCCI’s loss costs approval date; (3) all filed adoptions be implemented within 120 days of NCCI’s effective date; (4) all adoption and loss cost multiplier (LCM) filings be made by the insurer (unless a third party authorization is filed); and (5) all insurers take into account that the Department of Insurance’s review time for LCM files has been extended from 30 to 60 days. The Department released [Bulletin 2016-02](#) –

Workers Compensation Loss Cost and Loss Cost Multiplier Adoption/Filing Procedures in response to these changes. This bill amends Sections 38-73-525 and 38-73-1210 of the South Carolina Code of Laws. Click [here](#) for a copy [Act No. 213](#).

**Administrative Changes:** None.

**SOUTH DAKOTA**

– Amended Statute and Made Administrative Changes



**Legislation:**

- **HB 1084** was signed by South Dakota Governor Dennis M. Daugaard on February 19, 2016 and became law on July 1, 2016. This bill defines when concurrent employment may be used to calculate earnings in workers’ compensation cases. Click [here](#) for a copy of [HB 1084](#).

**Administrative Changes:**

- ◆ ARSD 47:03:05:01, 47:03:05:02, 47:03:05:05, 47:03:05:10.01, and 47:03:05:13 were revised to update the workers’ compensation fee schedule to the most current version of the relative values manual used by the department and to revise the conversion factors for some medical services. These revisions took effect on June 28, 2016. Click [here](#) for a copy of these rules.

**TENNESSEE**

Amended Statute and Made Administrative Changes



**Legislation:**

- **SB2582/HB2416 (Public Chapter 1056)** was signed by Tennessee Governor Bill Haslam on April 28, 2016, and it became effective on July 1, 2016 as to DFWP provisions and for injuries



on/after July 1, 2016 otherwise. The bill: (1) provides for reasonable attorney fees and costs to be awarded by the court of workers' compensation claims (subject to a two-year sunset provision) when the employer: (a) fails to furnish appropriate medical, surgical, and dental treatment or care, medicine, medical and surgical supplies, crutches, artificial members, and other apparatus to an employee provided for in a settlement, expedited hearing order, compensation hearing order, or judgment; or (b) wrongfully denies a claim by failure to timely initiate any of the benefits to which the employee is entitled, including medical benefits under § 50-6-204 or temporary or permanent disability benefits under § 50-6-207, if the workers' compensation judge makes a finding that such benefits were owed at an expedited hearing or compensation hearing; and (2) allows for ombudsmen who are licensed attorneys to provide limited legal advice, lowers the notice of injury period from 30 days to 15 days, and deletes the annual education requirement for employees in DFWP programs. Click [here](#) for a copy of Public Chapter 1056.

- **SB1880/HB2038** (Public Chapter 803) was signed by Tennessee Governor Bill Haslam on April 14, 2016, and it became effective on immediately as to rulemaking but for all other purposes on January 1, 2017. The bill: (1) authorizes the Administrator of the Bureau of Workers' Compensation (BWC) to establish a system of case management for coordinating medical care services provided to employees claiming benefits that includes a minimum set of standards. It requires all case managers and case manager assistants be certified by the BWC prior to offering case manager services, and establishes a penalty for any violation of these requirements and standards. The bill also authorizes a civil penalty against any entity employing individuals who adjust workers' compensation claims that are out of compliance with the standards set forth by the BWC. Click [here](#) for a copy of Public Chapter 803.

- **SB1758/HB1720** (Public Chapter 826) was signed by Tennessee Governor Bill Haslam on April 21, 2016, and the bill is effective for claims filed on or after July 1, 2016. The bill authorizes the Bureau of Workers' Compensation (BWC) to investigate preferred provider organization (PPO) complaints against companies licensed by the Department of Commerce and Insurance (DCI) and authorizes DCI to take appropriate action in accordance with Tenn. Code Ann. § 56-2-305. It requires PPO complaints against companies not licensed by DCI to be heard by the BWC and authorizes BWC to take appropriate action in accordance with Tenn. Code Ann. § 50-6-118. Click [here](#) for a copy of Public Chapter 826.
- **SB1496/HB1622** (Public Chapter 608) was signed by Tennessee Governor Bill Haslam signed the measure into law on March 22, 2016. The bill extends the sunset on the advisory council on workers' compensation for four years to June 30, 2020. Click [here](#) for a copy of Public Chapter 608.
- **SB 2563/HB1559** (Public Chapter 816) was signed by Tennessee Governor Bill Haslam on Governor Haslam on April 14, 2016, and it became effective upon signing. The bill: (1) adds members of limited liability companies to "sole proprietors and partners," for the purposes of electing for inclusion in, or withdrawal from, workers' compensation coverage; (2) requires written workers' compensation settlement agreements, to be approved by the court of workers' compensation claims; (3) provides clarification to the calculation of permanent partial disability awards. Some parties read a meaning into the statute that reduces the value of the multiplier for injured workers who do not return to work; (4) clarifies that an appeal is available when the court of workers' compensation claims grants or denies benefits; (5) clarifies the processes for Tennessee Supreme Court appeal; (6) provides that, when enforcing open medical provisions, the court of

workers' compensation claims judges may award attorney fees and reasonable costs incurred in the enforcement of medical benefits provisions in all orders; (7) allows any current or retired Tennessee judge, chancellor, or governor to swear in workers' compensation judges; (8) clarifies that the court of workers' compensation claims must approve lump-sum settlements, rather than chancery, circuit or criminal courts; (9) allows the Uninsured Employers' Fund (UEF) to pay the costs of administering claims for benefits in uninsured employer cases; and (10) removes the sunset/expiration date from T.C.A. § 50-6-242(a). This section allows a workers' compensation judge to award additional benefits in extraordinary cases. Click [here](#) for a copy of Public Chapter 816.

### Administrative Changes:

- ◆ **Temporary Benefits** – The maximum weekly benefit rate for injuries occurring July 1, 2016 through June 30, 2017 is \$976.80, or 110% of the state's average weekly wage.
- ◆ **Permanent Benefits** – The maximum weekly benefit rate for injuries occurring July 1, 2016 through June 30, 2017 is \$888.00, or 100% of the state's average weekly wage.
- ◆ **Minimum Weekly Benefit** – The minimum weekly benefit rate for injuries occurring July 1, 2016 through June 30, 2017 for both temporary and permanent benefits is \$133.20.

## TEXAS

– Made  
Administrative  
Changes



**Legislation:** No legislative session in 2016.

### Administrative Changes:

- ◆ Non-Substantive Reorganization of Rule 134 - The division adopted a non-substantive reorganization of its medical fee guidelines for

workers' compensation-specific services. The goal with the non-substantive changes to rule § 134.204 was to improve organization of the rule. The adoption was published in the Texas Register on July 1, 2016, and is applicable to workers' compensation specific codes, services, and programs provided on or after September 1, 2016.

- ◆ Phone Number Rule - The Division has also adopted amendments to 28 TAC §110.108 and §110.110, providing employees with updated TDI-DWC phone numbers in order to report possible exposure to communicable disease or HIV, and inquire about workers' compensation coverage requirements for construction sites. The adopted amendments were published in the December 11<sup>th</sup>, 2015 issue of the Texas Register.
- ◆ Attorney Fees Rules - The Division is working on updating the attorney fees rules for the first time since 1991. The amendments increase the hourly rate for attorney services from \$150 to \$200 and for legal assistants from \$50 to \$65; increase the amount of time attorneys can bill for prior to a BRC to encourage early resolution of disputes; and require attorneys to comply with the Texas Disciplinary Rules of Professional Conduct when withdrawing from a case. The adoption was posted in the December 30, 2016 issue of the *Texas Register*, and the rules became effective on January 30, 2017.
- ◆ Rule Review - The Division reviewed 28 Texas Administrative Code Chapters 49, 53, 55, 56, 57, 59, 114, 116, 144, and 180 in compliance with Texas Government Code §2001.039. Rule review was adopted and published in Nov. 11, 2016 issue of the Texas Register.
- ◆ New Complaint Form / DWC Form-154 - The Division developed a new complaint form, DWC Form-154, to provide a simple, standardized form for filing complaints that can be used in addition to submitting complaints through the website, fax, email, etc. The form

was posted to the TDI-DWC website on March 1<sup>st</sup>, 2016. A Spanish version of the form is also available on the website.

- ◆ *DWC Form-048* - Updates to DWC Form-048, Request for Travel Reimbursement, permit injured employees to request reimbursement from an insurance carrier for travel expenses to attend a designated doctor examination, required medical examination, or post-designated doctor examination. We also created a separate Spanish version and edited the form for plain language. The updated form was posted to the TDI-DWC website on February 10<sup>th</sup>, 2016 to track 28 TAC §134.110(a).
- ◆ *Electronic Data Interchange (EDI) Forms* - EDI forms are used to establish profiles for insurance carriers or trading partners that submit claim or medical EDI records to the Division. EDI Form-01 includes format changes to make it consistent with other Division forms. EDI Form-02 and 03 were last updated in 2011 with the medical state reporting rules and only update contact information. The revised EDI forms became effective November 1, 2016.

## UTAH

– Amended Statute



### Legislation:

- **SB 76** was signed by Utah Governor Gary Herbert on March 29, 2016. The bill: (1) provides that volunteers are not employees for purposes of workers' compensation unless the nongovernment entity for which the volunteer provides services elects to cover the volunteer with workers' compensation coverage; (2) clarifies the application of the exclusive remedy; (3) provides how disability

compensation is to be determined; (4) addresses how premiums are calculated; (5) addresses effect of the failure or refusal of a nongovernment entity to elect workers' compensation coverage for volunteers; (6) addresses insurance obtained by a volunteer; and (7) addresses notice to volunteers. Click [here](#) for a copy of **SB 76**.

- **SB 216** was signed by Utah Governor Gary Herbert on March 23, 2016. The bill: (1) requires the Workers' Compensation Advisory Council to study how hospital costs may be reduced for the purposes of medical benefits for workers' compensation and report to the Business and Labor Interim Committee by November 30, 2017; (2) addresses reasonable standards for hospital costs; (3) addresses contracting with hospitals; (4) provides for the reimbursement amount in the absence of a contract; (5) prohibits balanced billing by hospitals; and (6) addresses coordination of benefits. Click [here](#) for a copy of **SB 216**.
- **HB 230** was signed by Utah Governor Gary Herbert on March 21, 2016. The bill: (1) modifies the limits on compensation for the Workers' Compensation Fund Board of Directors; (2) modifies requirements for and restrictions on who can be a director; (3) allows for the number of directors to increase by two under certain circumstances; and (4) addresses terms, quorum, and voting requirements if the board is increased to nine directors. Click [here](#) for a copy of **HB 230**.
- **SB 146** was signed by Utah Governor Gary Herbert on March 17, 2016. The bill modifies the language regarding an employee's burden in establishing that an employee has a permanent, total disability. Click [here](#) for a copy of **SB 146**.

**Administrative Changes:** None.

## VERMONT

– *Made  
Administrative  
Changes*



**Legislation:** None.

**Administrative Changes:**

- ◆ **Workers' Compensation and Occupational Disease Rules 11.1400 and 12.1730** - On October 12, 2016, the Vermont Department of Labor's Rule 16-040, entitled "Vermont Workers' Compensation and Occupational Disease Rules 11.1400 and 12.1730," was adopted and filed with the Secretary of State. It became effective on November 1, 2016. Rule 11.1400 lays out rules for doctors prescribing opioids for injured workers with chronic pain caused by a compensable work-related injury. The rule requires that such medical providers comply with the "Rule Governing the Prescribing of Opioids for Chronic Pain," located in the Code of Vermont Rules. Under this rule, when the medical provider fails to comply, then a rebuttable presumption arises that the medications are not reasonable medical treatment and employers/insurance carriers can deny payments on those grounds. The burden then shifts to the injured worker to show that the treatment was reasonable. Under Rule 12.1730, employers and insurers can discontinue payments for the same reasons. The text of these rules can be found [here](#).
  
- ◆ **Workers' Compensation and Occupational Disease Rule 20.1300** - On October 12, 2016, the Vermont Department of Labor's Rule 16-042, entitled "Vermont Workers' Compensation and Occupational Disease Rule 20.1300," was adopted and filed with the Secretary of State. It became effective on November 1, 2016. This amended Rule 20.1300, which addresses attorneys' fees for

injured workers who substantially prevail in their claims after either a formal or informal dispute resolution process. Under this Rule, the Commissioner may award attorneys' fees based on either a contingency or hourly basis. The text of this rule can be found [here](#).

- ◆ **Workers' Compensation Vocational Rehabilitation Rules 58.3000, 58.4000, 58.5000, and 58.5500** - On October 12, 2016, the Vermont Department of Labor's Rule 16-041, entitled "Vermont Workers' Compensation Vocational Rehabilitation Rules 58.3000, 58.4000, 58.5000, and 58.5500," was adopted and filed with the Secretary of State. It became effective on November 1, 2016. First, it amends Rule 58.3000 of Vermont's Vocational Rehabilitation Rules by raising the fee for an Entitlement Assessment from \$80 to \$95 per hour, and raises the maximum from \$1000 to \$1,200 per assessment. Second, it amends Rule 58.5000 to require employer/insurer authorization for plan development fees above \$2,500 instead of \$2,000. Third, it increases the maximum hourly fee for vocational rehabilitation services in Rule 58.5000 from \$80 to \$95. Lastly, it added Rule 58.5500 which will allow the hourly rates from Rules 58.3000 and 58.5000 to increase with the Consumer Price Index or by five percent (whichever is smaller) starting July 1, 2017, and starting July 1, 2022 it allows for reviews and increases in the hourly rates Rules 58.3000 and 58.4000 are based on. The text of these rules can be found [here](#).

## VIRGINIA

- *Amended Statute and Made Administrative Changes*



### Legislation:

- **HB 44** was signed by Governor Terry R. McAuliffe on March 11, 2016 (effective July 1, 2016). The bill: (1) Establishes presumptions in claims under the Virginia Workers' Compensation Act that the accident arose out of and in the course of employment if the employee (i) dies with there being no evidence that he ever regained consciousness after the accident, (ii) dies at the accident location or nearby, or (iii) is found dead where he is reasonably expected to be as an employee; and (2) states that these presumptions will exist in the absence of a preponderance of evidence to the contrary and where the factual circumstances are of sufficient strength from which the only rational inference to be drawn is that the accident arose out of and in the course of employment. Click [here](#) for a copy of **HB 44**.
- **HB 378** was signed by Governor Terry R. McAuliffe on March 7, 2016. The bill: (1) directs the Workers' Compensation Commission (the Commission) to adopt regulations establishing fee schedules setting the maximum pecuniary liability of the employer for medical services provided to an injured person pursuant to the Virginia Workers' Compensation Act, in the absence of a contract under which the provider has agreed to accept a specified amount for the medical service; and (2) states that the regulations implementing the fee schedules shall become effective on January 1, 2018. Click [here](#) for a copy of **HB 378**.
- **HB 667** was signed by Governor Terry R. McAuliffe on March 11, 2016 (effective July 1, 2016). The bill: (1) provides that for crimes committed on or after July 1, 1977, and before July 1, 2000, where the period of time to file a

claim with the Criminal Injury Compensation Fund (the Fund) has been extended because of newly discovered evidence, the Virginia Workers' Compensation Commission, which administers the Fund, may consider expenses and loss of earnings that the claimant accrued after the date of the newly discovered evidence as stipulated in written notification from the attorney for the Commonwealth; (2) states that currently, consideration could be given only to expenses that accrued after the date the Commission received notification from the attorney for the Commonwealth that the crime was being investigated for newly discovered evidence; and (3) applies to claims filed with the Fund on or after July 1, 2014. Click [here](#) for a copy of **HB 667**.

### Administrative Changes:

- ◆ Rule 14: In accordance with HB 1820, which was signed into law March 23, 2015, the rule divides the Commonwealth into five geographically-contiguous communities based on three-digit zip codes. The rule became effective January 11, 2016.
- ◆ 2016 Minimum Compensation Rate: \$249, effective July 1, 2016
- ◆ 2016 Maximum Compensation Rate: \$996, effective July 1, 2016
- ◆ 2016 COLA Rate: .55%, effective October 1, 2016.

## VIRGIN ISLANDS

- *No Changes Were Made in 2016*



Legislation: None.

Administrative Changes: None.

## WASHINGTON

– Amended Statute and Made Administrative Changes



### Legislation:

- **SSB 6519 (Chapter 68)** was signed by Governor Jay Inslee on March 8, 2016 and became effective June 9, 2016. This bill expands patient access to health services through telemedicine and establishes a collaborative at the University of Washington for the advancement of telemedicine. Click [here](#) for a copy of [SSB 6519](#).
- **SHB 2425 (Chapter 41)** was signed by Governor Jay Inslee on March 29, 2016 and becomes effective July 1, 2017. This bill changes the terms “massage practitioner” and “animal massage practitioner” to “massage therapist” and “animal massage therapist,” respectively. Click [here](#) for a copy of [SHB 2425](#).

### Administrative Changes:

- ◆ **Chapter 296-14 WAC. Pension Discount Rate.** Effective April 1, 2016, this rulemaking reduced the current pension discount rate from 6.4 percent to 6.3 percent in 2016. Refer to [WSR 16-05-087](#) for additional information.
- ◆ **Chapter 296-15 WAC. Self-Insurance Option 2 Benefits.** Effective November 18, 2016, this rulemaking amended language to conform to the provisions of [RCW 51.32.096](#), a new statute enacted through Substitute House Bill 1496 (Chapter 137, Laws of 2015). Previously, WAC 296-15-4316 stated that workers who are eligible for vocational retraining had fifteen calendar days from the date the rehabilitation plan is approved to decline further services and elect Option 2 benefits instead. Labor and Industries amended the language to remove conflicts with the time frame established by the new statute. Refer to [WSR 16-21-074](#) for additional information.

- ◆ **Chapter 296-16 WAC. Preferred Worker Program.** Effective July 22, 2016, this rulemaking implemented Substitute House Bill (SHB) 1496 (Chapter 137, Laws of 2015). The rule explains how eligible employers participate in the Preferred Worker Program in order to receive financial incentives similar to the existing Stay at Work Program, plus a continuous employment bonus only available under the Preferred Worker Program. The enabling legislation and amended rules also extend the incentives to include the employer of injury if insured through the State Fund. Refer to [WSR 16-13-116](#) for additional information.
- ◆ **Chapter 296-17 WAC, Chapter 296-17A WAC. 2016 Classification Rulemaking.** Effective January 1, 2017, this rulemaking made changes to improve clarity, ensure consistent and fair application of the rules, promotes broad understanding of the rules, and incorporate and formalize existing agency practices. This rulemaking does not change anyone's rating or reporting requirements. Refer to [WSR 16-14-085](#) for additional information.
- ◆ **Chapter 296-17 WAC, Chapter 296-17A WAC. Student Volunteers, Unpaid Students, 100 Hour Reporting Method.** Effective October 7, 2016, this rulemaking implemented the requirements of Engrossed Substitute Senate Bill (ESSB) 6293, which allows public and private colleges to create unpaid student volunteer programs in for-profit or non-profit businesses, and allows those businesses to elect medical aid coverage for student volunteers and unpaid students participating in the program. This legislation also created a means for all entities with coverage for volunteers, student volunteers, or unpaid students to cap reporting at 100 hours per volunteer per calendar year. Refer to [WSR 16-18-085](#) for additional information. (This permanent rulemaking was preceded by emergency rulemaking under [WSR 16-13-050](#),

which became effective June 9, 2016, the same effective date as ESSB 6293.)

- ◆ **Chapter 296-17A WAC. 2016 Miscellaneous Rulemaking.** Effective July 1, 2016, this rulemaking made amendments to: correct typographical and other errors, clarify requirements, incorporate and formalize existing agency practices, and align with other changes to the Preferred Worker Program made as a result of SHB 1496 enacted July 24, 2015. Refer to [WSR 16-11-082](#) for additional information.
- ◆ **Chapter 296-17 WAC, Chapter 296-17B WAC. 2017 Industrial Insurance Premium Rates.** Effective January 1, 2017, this rulemaking amended the tables of classification base premium rates, experience rating plan parameters, experience modification factor calculation limitations and retrospective rating plan size groupings for the workers' compensation insurance program for calendar year 2017. Classification base rates were amended for updated loss and payroll experience. Labor and Industries adopted a 0.7 percent overall average premium rate increase. Adopted on November 29, 2016. Refer to [WSR 16-24-014](#) for additional information.
- ◆ **Chapter 296-19A WAC. Vocational Rehabilitation Option 2 Benefits.** Effective February 19, 2016, this rulemaking implemented SHB 1496 (Chapter 137, Laws of 2015). The rules explain the vocational Option 2 benefits available to injured workers and outline the responsibilities of Labor and Industries, self-insured employers, and vocational rehabilitation counselors in connection with Option 2. Refer to [WSR 16-03-060](#) for additional information.
- ◆ **Chapter 296-20 WAC. Lumbar Fusion and Structured Intensive Multidisciplinary Program (SIMP).** Effective December 2, 2016, this rulemaking repealed the Structured Intensive Multidisciplinary Program (SIMP) rules bringing these rules into compliance with

a recent coverage determination by the Washington State Health Technology Clinical Committee (HTCC). The HTCC made a determination that lumbar fusion for uncomplicated degenerative disc disease (UDDD) is no longer a covered procedure. Refer to [WSR 16-22-065](#) for additional information.

- ◆ **Chapter 296-20 WAC. Medical Aid Rules.** Effective July 1, 2016, this rulemaking updated the conversion factors provided in WAC 296-20-135 and maximum daily fees certain professional health care services for injured workers. Refer to [WSR 16-10-084](#) for additional information.
- ◆ **Chapter 296-23 WAC. Advanced Registered Nurse Practitioner (ARNP) Reimbursement Rate.** Effective November 15, 2016, this rulemaking eliminated the existing differential payment for Advanced Registered Nurse Practitioners (ARNPs). Refer to [WSR 16-20-078](#) for additional information.

## WEST VIRGINIA

– Amended Statute and  
Made Administrative  
Changes



### Legislation:

- **SB 419** was signed by West Virginia Governor Earl Ray Tomblin and became effective February 26, 2016. This bill terminated taxes imposed under the Workers' Compensation Debt Reduction Act of 2005, and reallocates deposits of revenue in relation to the Workers' Compensation Old Fund. This legislation amended W. Va. Code § 23-2C-3. It can be found by going to the WV Offices of the Insurance Commissioner's website which is [www.wvinsurance.gov](http://www.wvinsurance.gov). Click [here](#) for a copy of **SB 419**.
- **SB 621** was signed by West Virginia Governor Earl Ray Tomblin and became effective on

June 10, 2016. This legislation exempts taxicab companies, whose drivers are independent contractors, from providing workers' compensation coverage for the drivers. This legislation amended W. Va. Code § 23-2-1. It can be found by going to the WV Offices of the Insurance Commissioner's website which is [www.wvinsurance.gov](http://www.wvinsurance.gov). Click [here](#) for a copy of [SB 621](#).

**Administrative Changes:** None.

## WISCONSIN

– Amended Statute



### **Legislation:**

- **SB 21 (Act 55)** was signed by Governor Scott Walker and became on January 11, 2016. The bill transferred litigated adjudicatory functions of the Worker's Compensation Division to the Department of Administration's Division of Hearings and Appeals Office of Worker's Compensation Hearings. Additionally, as of January 1, 2016, the manner in which supplemental benefits are reimbursed changed. Click [here](#) for a copy of Act 55.
- **AB 724 (Act 180)** was signed by Governor Scott Walker and became effective March 2, 2016. The bill increased the maximum weekly indemnity rate for permanent partial disability, set a fixed rate for electronic medical records, established a maximum charge for a final medical report, reduced the statute of limitations for traumatic injuries, made permanent a provision allowing no offset of temporary disability based on wages for the first 24 hours an employee works while receiving vocational retraining benefits, and made other changes. Click here for a copy of Act 180. A plain language summary may be found [here](#).

- **SB 422 (Act 203)** was signed by Governor Scott Walker and effective on March 3, 2016. The bill related to franchisor liability as an employer for worker's compensation purposes. Click [here](#) for a copy of [Act 203](#).
- **AB 456 (Act 258)** was signed by Governor Scott Walker and effective on July 1, 2016. The bill created a separate specific employment definition for real estate brokers, agents or salespersons. Click [here](#) for a copy of [Act 258](#).
- **AB 819 (Act 334)** was signed by Governor Scott Walker. The bill contained a provision, effective October 2, 2016, repealing sec.102.07 (8) (d), Wis. Stats., regarding fines for certain employers if they were found to have misclassified employee status. Click [here](#) for a copy of [Act 334](#).

**Administrative Changes:** None.

## WYOMING

– Amended Statute



### **Legislation:**

- **HB 46** was signed by Wyoming Governor Matt Mead. The bill authorizes the state treasurer to determine the percentage of the worker's compensation account to be invested in common stock; provides for the state loan and investment board to develop an investment policy for the worker's compensation account. Click [here](#) for [HB 46](#).
- **SF 89** was signed by Wyoming Governor Matt Mead. The bill clarifies the deadline for requesting a hearing on a final determination of worker's compensation benefits. Essentially we go by the "postmark" date instead of the "received" date to determine a timely request for hearing. Click [here](#) for [SF 89](#).

**Administrative Changes:** None.

**Legislative Session Information**

There are twenty-six states that began new sessions and did not carry over legislation from 2016 to 2017 (even to odd years), including AK, CA, DE, GA, HI, IL, IA, KS, ME, MA, MI, MN, NE, NH, NY, NC, OH, OK, PA, RI, SC, TN, VT, WA, WV and WI (RI technically does carry over bills, but typically will reintroduce legislation). Two states (NJ and VA) began new legislative sessions in 2016 and will carry over legislation from 2016 to 2017 (even years to odd years). The remaining eighteen states do not carry over legislation, including AL, AZ, AR, CO, CT, FL, ID, IN, KY, LA, MD, MS, MO, NM, OR, SD, UT and WY. Four states hold biennial legislative sessions in odd years, including MT, NV, ND and TX, so there will be active legislative session in 2017. To see more detail on the status of state legislative sessions in 2017, click [here](#).

**Contributing Author**



*Antonio C. Fiore,  
Of Counsel – Kegler, Brown, Hill + Ritter*

Tony Fiore is an attorney with the law firm Kegler, Brown, Hill + Ritter. Mr. Fiore focuses his practice on government affairs, labor and employment and international business.

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- 910 17th Street, N.W., Suite 1070, Washington, D.C. 20006
- Phone (202) 223-8904 • Fax (202) 783-1616 • [www.UWCstrategy.org](http://www.UWCstrategy.org)

