



## Annual Legislative Summary 2022

### Alaska

#### Senate Bill 131

Relating to the presumption of compensability for a disability resulting from certain cancers in firefighters; relating to the payment of workers' compensation benefits in the case of permanent partial impairment; relating to the payment of workers' compensation death benefits; and providing for an effective date. **Effective Date January 1, 2023**

### Arizona

#### House Bill 2120

Narrows the injuries that are reported by employers and physicians to those requiring medical treatment. Requires any experience rating adjustment, for claims involving medical-only loss, to be applied to reduce the impact of the loss in the employer's experience modification calculation. Narrows the types of injuries that must be reported by an employer and a physician to injuries that require medical treatment. (Sec. 1). Specifies medical treatment does not include any onetime, short-term treatment by nonmedical staff that requires little technology or training to administer, including treatment of minor scratches, cuts, burns and splinters and other issues that ordinarily do not require medical care. (Sec. 1). Requires any experience rating adjustment, for workers' compensation claims involving medical-only loss, to be applied to reduce the impact of the loss in the employer's experience modification calculation. (Sec. 2). Defines medical-only loss as loss that has no indemnity value reflecting lost wages. (Sec. 2). Permits the U.S. Occupational Safety and Health Administration (OSHA) to determine if employees have been exposed to grave danger from exposure to toxic or harmful substances and that emergency temporary standards or regulations are necessary to protect the employees from danger. Conforms the civil penalties for employer violations of occupational health and safety standards to match OSHA's penalties. **September 25, 2022**

#### House Bill 2202

The enacted legislation requires the ICA, before taking action on the schedule of fees for physicians and prescription medicines, to: a) prominently post on its publicly accessible website the proposed schedule of fees at least 30 days before conducting a public hearing on that proposed schedule of fees; b) hold at least one meeting that all interested parties may jointly attend and interactively participate in after posting the proposed schedule of fees but before conducting the hearing on the proposed schedule of fees; and c) at least seven business days in advance, prominently post on its publicly accessible website the final proposed schedule of fees to be acted on for adoption. The legislation also exempts the ICA from the outlined posting and meeting requirements during a public health emergency. **Effective Date March 24, 2022.**

**House Bill 2328**

The enacted legislation states that a prisoner working in Arizona Correctional Industries (ACI) may not introduce into evidence the cost of medical services which the state paid for as a result of the prisoner's injury. ACI is managed by the Director of the Arizona Department of Corrections (ADC) for the employment of prisoners and for the purposes of providing products and services for use and sale. Except for trainers and managers, all ACI workers must be ADC prisoners. The Director of ADC may also contract with private entities to provide services or labor rendered by prisoners. Additionally, the Director of ADC is required to provide medical services for the prisoners (Title 41, Chapter 11, Article 3, A.R.S. § 31-201.01). The enacted legislation asserts that, in an action for damages, for injury or death arising from a prisoner's work in ACI, a prisoner may not introduce into evidence the cost of medical services which the state provided to the prisoner, or paid for on the prisoner's behalf, as a result of the prisoner's injury or death. Stipulates that a prisoner may still introduce into evidence any amount paid to secure the right to medical and health services. **Effective Date March 30, 2022**

**Senate Bill 1403**

The Industrial Commission of Arizona (ICA) is a five-member Governor-appointed commission responsible for overseeing various labor-related issues in Arizona including processing and adjudicating workers' compensation claims. In the event an accident occurs to an employee, the employee must report the accident and the resulting injury to the employer. The employer, within 10 days after receiving notice of an accident, must inform the insurance carrier and the ICA. Additionally, any physician employed by the injured employee must report the accident and the resulting injury to the employer, the insurance carrier, and the ICA (A.R.S. § 23-908). Pursuant to A.R.S. § 23-1061, the ICA, upon receiving a notification of the injury, must send a workers' compensation claim form to the employee. No claim for compensation is valid unless the claim is filed with the ICA by the employee, in writing, within one year after the injury occurred. The ICA, on receiving a claim, must give notice to the insurance carrier. If the insurance carrier does not issue a notice of claim status denying the claim within 21 days after the date the insurance carrier is notified by the ICA of a claim or a petition to reopen, the insurance carrier must immediately pay compensation as if the claim was accepted, from the date the insurance carrier is notified by the ICA of a claim or petition to reopen until the date the insurance carrier issues a notice of claim status denying such claim. The enacted legislation stipulates an insurance carrier or self-insured employer who receives a written notification that an injured employee intends to file a claim for compensation must: a) forward the notification of the injury and intended claim to the ICA within seven business days and b) inform the employee of the requirement for the employee to file a claim with the ICA. The legislation provides that the requirement to file a claim within one year of the injury is suspended, from the date that the insurance carrier or self-insured employer received written notification of the injury and intended claim until the date that the insurance carrier or self-insured employer forwards the written notification to the ICA. It requires the ICA, upon receiving the forwarded notification, to notify to the employee of the employee's responsibility to file a claim with the ICA. Further it Clarifies the additional expenses relating to a petition to reopen a claim must be incurred within 15 days before, rather than 15 days after, the date that the petition is filed. **September 25, 2022.**

**California****Assembly Bill 2148**

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of the employee's employment. Existing law governs temporary and permanent disability indemnity payments. Existing law, until January 1, 2023, allows an employer to commence a program under which disability indemnity payments are deposited in a prepaid card account for employees. This bill extends the authorization to deposit indemnity payments in a prepaid card account until January 1, 2024. **Effective Date July 19, 2022**

**Assembly Bill 2154**

Existing law creates the California Insurance Guarantee Association (CIGA) and requires all insurers admitted to transact specified insurance lines in this state to become members. Under existing law, CIGA pays, and discharges covered claims, which are the obligations of an insolvent insurer that meet specified requirements. Existing law requires CIGA to collect premium payments from its member insurers sufficient to discharge its obligations. Existing law requires CIGA to allocate its claim payments and costs to the categories of workers' compensation claims, homeowners' and automobile claims, and other claims. Under existing law, if CIGA determines that the insolvency of one or more member insurers providing workers' compensation insurance will result in covered claim obligations for workers' compensation claims in excess of CIGA's capacity to pay from current funds, the board of CIGA may ask the California Infrastructure and Economic Development Bank to issue bonds. Under existing law, if a natural disaster results in covered claim obligations currently payable and owed to CIGA in excess of its capacity to pay from current funds and current premium assessment, the board of CIGA may ask the Department of Insurance to issue bonds. Existing law authorizes CIGA or the department, as appropriate, to levy assessments on CIGA member insurers to pay the principal and interest on the bonds, which member insurers recoup from insureds through a surcharge on applicable policies. Existing law creates the Workers' Comp Bond Fund and the Insurance Assessment Bond Fund, into which proceeds from the sale of bonds are deposited. This bill would repeal the provisions relative to bonds issued to discharge claims after a natural disaster, and would revise the provisions relative to bonds issued to discharge workers' compensation to additionally authorize CIGA to ask the California Infrastructure and Economic Development Bank to issue bonds if CIGA determines the insolvency of member insurers writing homeowners' and automobile insurance and other insurance will result in covered claim obligations in excess of CIGA's capacity to pay from current funds. If the board of CIGA asks the California Infrastructure and Economic Development Bank to issue bonds, the bill would require the board to report specified information to the Assembly Committee on Insurance and the Senate Committee on Insurance within 60 days of the request, and annually thereafter while the bonds remain outstanding. The bill would authorize CIGA to levy an assessment on member insurers writing homeowners' and automobile insurance and other insurance to pay the principal of, and interest on, the bonds issued for that claims category, which would be recouped through a surcharge on applicable policies, thereby imposing a tax. The bill would create the Homeowners' and Automobile Bond Fund and the Other Bond Fund into which proceeds from the sale of bonds to cover claims in those categories of insurance would be deposited. The bill would also make conforming changes. This bill would specify that obligations under a policy issued to cover cybersecurity are covered claims, as long as CIGA's total liability does not exceed \$1,000,000 or the policy limits, whichever is less. (2) Existing law requires CIGA to adopt a plan of operation that requires a member insurer to recoup the premium charge paid by the member insurer through a surcharge on premiums charged for insurance policies in the year following the premium charge. This bill would require the plan of operation to require a member insurer to recoup the premium charge amount, as determined by CIGA, through a surcharge on premiums, even if a premium charge has not yet been paid to CIGA because the member insurer had no direct written premium for that category of insurance for the prior year. (3) This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature. **Effective Date January 1, 2023.**

**Assembly Bill 2848**

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of employment. Existing law requires the administrative director to adopt a medical treatment utilization schedule. Existing law requires the administrative director to contract with an outside independent research organization to evaluate and report on the impact of the provision of medical treatment within the first 30 days after a claim is filed, for claims filed on or after

January 1, 2017, until January 1, 2019. Existing law requires the report to be completed before January 1, 2020, and to be distributed to the administrative director, the Senate Committee on Labor and Industrial Relations, and the Assembly Committee on Insurance. This bill would require the administrative director to contract with an outside independent research organization to evaluate and report on the impact of the provision of medical treatment within the first 30 days after a claim is filed for those claims filed between January 1, 2017, and January 1, 2021. The bill would require the report to be completed before July 1, 2023. **Effective Date September 13, 2022**

### **Senate Bill 216**

Existing law, the Contractors State License Law, provides for the licensure and regulation of contractors by the Contractors State License Board within the Department of Consumer Affairs. Existing law requires every licensed contractor, or applicant for licensure, to have on file at all times with the board a current and valid Certificate of Workers' Compensation Insurance or Certification of Self-Insurance, or to file a certificate of exemption certifying that they have no employees and are not required to obtain or maintain workers' compensation insurance. Under existing law, the failure to file a proper certification constitutes cause for disciplinary action, and the failure of a qualifier for a license, as defined, to ensure compliance with these provisions, as specified, is a crime. Existing law requires a roofing contractor holding a C-39 license to obtain and maintain workers' compensation insurance even if that contractor has no employees, and requires the suspension of any license that is active and has had the C-39 roofing classification removed, if the licensee is found by the registrar of contractors to have employees and to lack a valid Certificate of Workers' Compensation Insurance or Certification of Self-Insurance. This bill, until January 1, 2026, would require concrete contractors holding a C-8 license, warm-air heating, ventilation, and air-conditioning (HVAC) contractors holding a C-20 license, asbestos abatement contractors holding a C-22 license, or tree service contractors holding a D-49 license to also obtain and maintain workers' compensation insurance even if that contractor has no employees. After July 1, 2023, and if the registrar finds the licensee has employees and lacks the proper valid certification, the bill will require the suspension of any license that is active and has a C-8, C-20, C-22, or D-49 classification removed. The bill would provide that a joint venture, as specified, that files a certificate of exemption is not required to obtain workers' compensation insurance. As of January 1, 2026, the bill would require all licensed contractors or applicants for licensure, regardless of classification, to obtain and maintain workers' compensation insurance unless they are organized as a joint venture and file a certificate of exemption. Because this bill would expand the provisions for which qualifiers for a license have to ensure compliance, thus expanding the scope of an existing crime, the bill would impose a state-mandated local program. **Effective Date January 1, 2023**

## **Colorado**

### **House Bill 22-1112**

Current law requires an injured employee or someone else with knowledge of the injury to notify the employer within 4 days after the occurrence of an on-the-job injury, authorizes a reduction in compensation to the injured employee for failure to timely notify the employer, and tolls the 4-day period if the employer has failed to post a notice specifying the injured employee's notification deadline. The bill changes the 4-day notice period to a 14-day 10-day notice period and repeals the tolling and compensation reduction provisions. If an employer fails to provide a copy of the notice of the injury to the employee or fails to post the required notice to employees, the bill specifies that the time period allotted to the employee is tolled for the duration of the failure. If the employer already has notice of the injury or the employee shows good cause for the failure to report the injury, the employee does not lose compensation for the failure to report. The bill also changes the notice that an employer is required to post in the workplace to require that the notice state the name and contact information of the insurer and that the:

- Employer is responsible for payment of workers' compensation insurance.
- Injured employee has rights under the law if the employer fails to carry workers' compensation insurance.

- Employee should seek medical attention; and
- Injury must be reported in writing to the employer.

With regard to occupational diseases, the bill also:

- Repeals the requirement that an employee notify the employer of an occupational disease within 30 days of contraction of the disease and instead requires an employee to notify the employer upon manifestation of the disease: and
- Repeals the provision that states that an employer is deemed to waive a failure to give notice of an occupational disease or death resulting from the disease unless the employer objects at a hearing on the claim prior to any award or decision.

**Effective Date August 12, 2022**

### **House Bill 22-1122**

The act enacts the "Colorado 340B Prescription Drug Program Anti-discrimination Act" (act), which prohibits health insurers, PBMs, and other third-party payers (third-party payers) from discriminating against entities participating in the federal 340B drug pricing program (340B covered entity), including a pharmacy that contracts with a 340B covered entity to provide dispensing services to the 340B entity (contract pharmacy).

Specifically, the act prohibits a third-party payer from:

- Refusing to reimburse a 340B covered entity or contract pharmacy for dispensing 340B drugs, imposing additional requirements or restrictions on 340B covered entities or contract pharmacies, or reimbursing a 340B covered entity or contract pharmacy for a 340B drug at a rate lower than the amount paid for the same drug to pharmacies that are not 340B covered entities or contract pharmacies;
- Assessing a fee, charge back, or other adjustment against a 340B covered entity or contract pharmacy, or restricting a 340B covered entity's or contract pharmacy's access to the third-party payer's pharmacy network, because the 340B covered entity or contract pharmacy participates in the 340B drug pricing program;
- Requiring a 340B covered entity or contract pharmacy to contract with a specific pharmacy or health coverage plan in order to access the third-party payer's pharmacy network;
- Imposing a restriction or an additional charge on a patient who obtains a prescription drug from a 340B covered entity or contract pharmacy;
- Restricting the methods by which a 340B covered entity or contract pharmacy may dispense or deliver 340B drugs; or
- Requiring a claim for a 340B drug to include a modifier or other method of identifying the claim for a 340B drug.

A violation of the act is an unfair or deceptive act or practice in the business of insurance. The act authorizes the commissioner of insurance to adopt rules to implement the act.

The act appropriates \$17,109 from the division of insurance cash fund to the department of regulatory agencies for use by the division of insurance to implement the act. **Effective Date August 11, 2022.**

### **House Bill 22-1262**

The enacted legislation implements the recommendation of the department of regulatory agencies, as specified in the department's sunset review of the authority of the director of the division of workers' compensation to impose fines on an employer for a subsequent failure to carry workers' compensation insurance within 7 years after an initial failure to carry the required insurance, by continuing the director's authority for 11 years, until September 1, 2033. **Effective Date April 12, 2022**

**House Bill 22-1347**

The enacted legislation amends the Workers' Compensation Act to: • allow for advance payments for mileage reimbursements in certain situations; • clarify how benefit amounts are determined for permanent medical impairments when the schedule of injuries amount payable exceeds the amount payable for nonscheduled injuries; • increase benefits for funeral and burial expenses; and • require reporting of active medical treatments lasting more than 180 days after the date of injury. This enacted legislation applies to injuries occurring, and mileage reimbursement claims in existence, on or after the applicable effective date of this act.

**Effective Date August 12, 2022**

**House Bill 22-1354**

The enacted legislation amends the Workers' Compensation Act of Colorado to limit the disclosure of records related to a claimant's mental health. The director of the Division of Workers' Compensation in the Department of Labor and Employment may promulgate rules to implement the bill. The legislation also requires a person providing mental health services to a Workers' Compensation claimant to be a licensed mental health provider. The enacted legislation applies to claims filed on or after the effective date. **Effective Date June 8, 2022**

**Senate Bill 22-035**

Under current law, common carriers and contract carriers may use independent contractors for transportation services. The contract must provide for coverage under either workers' compensation or an occupational accident insurance policy that provides "similar coverage" to that available under workers' compensation. "Similar coverage" must meet or exceed standards set by the division of insurance and is defined to require benefits that are at least comparable to the benefits offered under the workers' compensation system. The bill amends the definition of "similar coverage" by repealing this "comparable benefits" requirement. **Effective Date August 12, 2022**

**Connecticut****House Bill 5250**

The enacted legislation makes many minor and technical changes. It replaces the term "administrative law judge" with "chairperson" in several places in the workers' compensation act to clarify that certain actions go to the chairperson of the workers' compensation commission, rather than one of the regional judges under the chair. It also makes consistent in many sections of the act the method for delivering notices required in various steps of the workers compensation process by allowing service in person or by registered or certified mail, which are already allowed in another workers' compensation law on notice process. **Effective Date May 24, 2022**

**Senate Bill 313**

The enacted legislation establishes a rebuttable presumption that a paid or volunteer firefighter diagnosed with cancer got the disease in the course of employment due to exposures specific to duties performed as a firefighter and makes the illness covered under workers' compensation law. To qualify for workers' compensation, the cancer must result in death or temporary or permanent total or partial disability and be a condition of cancer affecting the brain or skin, or any of the following systems: skeletal, digestive, endocrine, respiratory, lymphatic, reproductive, hematological, or urinary. The bill sets six conditions that a firefighter must meet to qualify for the presumption including, for example, time served as a firefighter, annual checkups, and whether the firefighter used proper protective equipment. It specifically states that the presumption can only

be rebutted by clear and convincing evidence that the firefighter did not meet one of the qualifying conditions. The legislation also: 1. requires the Labor Department's (DOL) Division of Occupational Safety and Health (CONN-OSHA) to adopt the International Association of Fire Chiefs' Best Practices for Preventing Firefighter Cancer 2. requires the Workers' Compensation Commission (WCC) to (a) maintain a record of all firefighters' workers' compensation claims made due to a cancer diagnosis and (b) report a summary of the records to the Labor Committee each year by January 3. repeals language that bars a firefighter from receiving benefits from the existing firefighters cancer relief program or any other wage replacement program while also receiving workers' compensation benefits for work-related cancer ; 4. appropriates \$1.2 million to the firefighters cancer relief account established in law to provide funds for the firefighters cancer relief program; 5. replaces the term "employee" with "claimant" in the law that requires employers to continue employee insurance coverage while he or she is eligible for, or receiving workers' compensation benefits, and in doing so expands the law to also apply to the employee's surviving spouse or other dependents; 6. requires the comptroller to conduct a feasibility study on providing pension benefits to firefighters in circumstances when the required pension service years are not met due to early retirement resulting from a qualifying cancer diagnosis ;and 7. requires a volunteer fire department or volunteer ambulance company to comply with the state's Occupational Safety and Health Act (CONN-OSHA) as an employer, unless it can show that it is under federal OSHA jurisdiction. **EFFECTIVE DATE: May 16, 2022, except July 1, 2022, for the provisions (1) creating the rebuttable presumption and (2) requiring CONN-OSHA to adopt the international best practice**

## Florida

### House Bill 689

Workers' compensation laws require employers to pay medical and indemnity benefits if an employee suffers an accidental injury or death arising out of work performed in the course and scope of their employment. While mental or nervous injuries without an accompanying physical injury requiring medical treatment are typically not compensable, Florida law provides such benefits to law enforcement officers, firefighters, emergency medical technicians, and paramedics (first responders) experiencing posttraumatic stress disorder (PTSD). First responders qualify for PTSD disability benefits if they, while acting within the course and scope of employment, experience a qualifying event and are subsequently diagnosed with PTSD as a result. Currently, notice of a PTSD-related injury is due to the employer within 90 days of a qualifying event or the manifestation of the disorder, whichever is later. If the compensability of an injury is disputed, a claim must be filed within 52 weeks of the qualifying event. The enacted legislation makes the notice of injury due within 90 days of a qualifying event or diagnosis of PTSD, rather than the manifestation of the disorder, whichever is later. Similarly, the bill extends the claim filing deadline to either one year after the qualifying event or diagnosis of the disorder, whichever is later. Extending the claim deadline to one year after a PTSD diagnosis allows claims more than one year after a qualifying event. Symptoms of PTSD may begin shortly after a traumatic event or may not appear until years after the event. The bill also extends workers' compensation benefits to a correctional officer with PTSD without requiring a link to a compensable physical injury. The provisions that apply to PTSD benefits for first responders apply to correctional officers except that the qualifying events are different as the nature of the employment is different. **Effective Date July 1, 2022**

## Georgia

### House Bill 1409

The enacted legislation amends Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to 2 workers' compensation, so as to change certain provisions related to workers' compensation 3 benefits; to increase the compensation benefits for total disability and temporary partial 4 disability; to increase the total compensation payable to a surviving spouse as a sole 5 dependent at the time of death; to provide for related matters; to repeal conflicting laws; and 6 for other purposes. **Effective Date July 1, 2022**

**Hawaii:****Senate Bill 3142**

The purpose of this enacted legislation is to add reserve public safety law enforcement officers to the list of volunteer occupations covered by the workers' compensation law under certain conditions. The Department of Public Safety is prepared to begin a volunteer enforcement program that will recruit the Department's recent retirees and members of the public as volunteer reserve public safety law enforcement officers to assist with its law enforcement responsibilities. Your Committee on Conference further finds that the volunteer reserve public safety law enforcement officers will be trained to the same standard as and will be exposed to the same extent of risk, danger, and injuries as the Department's full-time law enforcement officers. This measure will allow injuries incurred by volunteer reserve public safety law enforcement officers under specified conditions to be compensated under the State's workers' compensation law. **Effective Date May 6, 2022**

**Idaho****House Bill 590**

The enacted legislation streamlines the worker's compensation settlement process for the involved parties, employers, and injured workers, who choose to settle their respective claims, rather than go to hearing (trial). Currently, the settlement process is cumbersome, slow, and private party agreements require approval of the Industrial Commissioners. This act eliminates the requirement of approval of the Industrial Commissioners, except for settlements involving minors, legally incompetent persons, or when either party is not represented by an attorney. The Industrial Commission would still require the parties to submit information regarding settlements. **Effective Date July 1, 2022**

**Illinois****House Bill 4333**

The enacted legislation amends the Department of Central Management Services Law of the Civil Administrative Code of Illinois. Makes changes in provisions concerning fidelity, surety, property, and casualty insurance. Modifies requirements concerning workers' compensation to include State officers, boards, commissions, and universities (currently, only State agencies). Specifies that indemnification expenses on final settlements or final judgments for employees of the Department of Transportation, the Illinois State Police, and the Secretary of State, which result from the Road Fund portion of their normal operations, shall be paid from the Road Fund. Amends the State Finance Act to make conforming changes concerning the Workers' Compensation Revolving Fund. **Effective Date May 13, 2022**

**Indiana****House Bill 1094**

Education matters. Requires, not later than December 31, 2022, the department of education (department) to: (1) issue a request for proposals for the purpose of contracting with a company to provide; or (2) enter into a memorandum of understanding with a statewide entity to facilitate the procurement of; adequate employer liability and worker's compensation insurance coverage for employers that employ students in work-based learning courses. Specifies an exception. Provides that the total amount of funds that the department may expend to carry out the request for proposals or the memorandum of understanding must be less than \$100,000. Provides that an employer: (1) may purchase the employer liability and worker's compensation coverage; and (2) is responsible for paying any costs associated with purchasing the coverage. Requires that, if the state board of education grants the designation of a transformation zone within a school corporation after June 30, 2022, the governing body of the school corporation may enter into an agreement with a nonprofit organization to manage and operate all of the schools included in the transformation zone. Provides that the governing body of a school corporation or entity that is a party to any agreement for the management and

operation of a transformation zone may submit a complaint first to the governing body, and second to the department for an alleged violation of the agreement. Provides that, not later than 15 days after the date an entity submits a complaint to the department, the department shall issue a decision concerning the complaint. Provides that employees of a transformation zone may organize and create a separate bargaining unit to collectively bargain with the entity operating the transformation zone. **Effective Date July 1, 2022**

### **House Bill 1153**

Worker's compensation. Provides that if, after the occurrence of an accident, compensation is paid for temporary total disability or temporary partial disability, then the two-year limitation period to file an application for adjustment of claim begins to run on the last date for which the compensation was paid. Increases benefits for injuries and disablements by 3% each year for four years, beginning on July 1, 2023. Adds an ambulatory outpatient surgical center to the definition of "medical service facility" under the worker's compensation law. Makes certain changes to the definition of "pecuniary liability". Establishes clean claim payment requirements related to worker's compensation claims. Removes outdated language. Makes conforming amendments. **Effective Date July 1, 2022**

## **Iowa**

### **House File 2411**

This enacted legislation requires an employer to furnish to an employee a replacement permanent prosthetic device that is medically necessary as a result of a compensable injury that occurred while the employee was employed by the employer and the replacement of the prosthetic device would be considered reasonable medical care for the purposes of workers' compensation. **Effective Date July 11, 2022**

## **Kansas**

### **Senate Bill 440**

The enacted legislation authorizes occupational therapists to provide limited services to patients without referral from a health care provider and amends the Occupational Therapy Practice Act (Act). Occupational Therapists and Referrals. It allows occupational therapists to evaluate and initiate occupational therapy treatment on a patient without referral from a health care practitioner. The bill creates conditions under which an occupational therapist is required to obtain a referral from an appropriate health care practitioner. An occupational therapist who is treating a patient without a referral from a health care practitioner is required to obtain a referral from an appropriate health care practitioner prior to continuing treatment if the patient:

- Is not progressing toward documented treatment goals as demonstrated by objective, measurable, or functional improvement after 10 patient visits or in a period of 30 calendar days from the initial treatment visits following the initial evaluation visit; or
- Within one year from the initial treatment visit following the initial evaluation visit, returns to the occupational therapist seeking treatment for the same conditions or injury.

The bill allows occupational therapists to provide services without a referral to:

- Employees solely for the purpose of education and instruction related to workplace injury prevention;

- The public for the purpose of health promotion, education, and functional independence in activities of daily living; or
- Special education students who need occupational therapy services to fulfill the provisions of their individualized education plan (IEP) or individualized family service plan (IFSP).

The legislation does not prevent a hospital or ambulatory surgical center from requiring a physician to order or make a referral for occupational therapy services for a patient currently being treated in such a facility. It requires an occupational therapist to provide written notice to a self-referring patient, prior to commencing treatment, which states that an occupational therapy diagnosis is not a medical diagnosis by a physician. The bill clarifies that occupational therapists may perform wound care management services only after approval by a person licensed to practice medicine and surgery. The enacted legislation defines "healthcare practitioner" to mean:

- A person licensed by the State Board of Healing Arts (BOHA) to practice medicine and surgery, osteopathic medicine and surgery, or chiropractic;
- A "mid-level practitioner" as already defined in statute; or
- A licensed dentist or licensed optometrist in appropriately related cases.

It requires licensed occupational therapists actively practicing in the state to maintain professional liability insurance coverage as a condition of rendering professional occupational therapy services. The bill requires BOHA to determine the minimum level of coverage for such insurance through rules and regulations. It removes sections of the Act that pertain to referral or supervision from a licensed health care practitioner and adds language specifying that the "practice of occupational therapy" does not include the practice of any branch of the healing arts or making a medical diagnosis. **Effective Date July 1, 2022.**

## **Kentucky**

### **House Bill 307**

The enacted legislation amends KRS 304.48-090 and 304.50-055 to define "nationally recognized statistical rating organization" and establish permissible investments for liability self-insurance groups and workers' compensation self-insurance groups. **Effective Date July 15, 2022**

### **House bill 506**

The enacted legislation creates new sections of KRS Chapter 336 to declare that professional employer organizations provide a valuable service to commerce and should be properly recognized and regulated. The legislation defines "client," "co-employer," "co-employment relationship," "covered employee," "insurer," "person," "professional employer agreement," "professional employer organization," "professional employer organization group," "professional employer services," "registrant," and "temporary help service". The enacted legislation indicates that covered employees shall be deemed employees of the client for purposes of determining tax credits or economic incentives. It requires a person providing professional employer services to be registered and to set forth the registration requirements. The enacted legislation requires professional employer organizations to pay a registration fee. It requires a professional employer organization to either maintain positive working capital or provide a bond, letter of credit, or security. The enacted legislation sets forth the rights and responsibilities of parties to a co-employment agreement. It sets forth the health insurance obligations of professional employer organizations. It establishes the workers' compensation requirements of professional employer organizations and the client. It sets forth the unemployment insurance obligations of the professional employer organization and the client. The enacted legislation prohibits a person from knowingly providing professional employer services without becoming registered and set forth actions that may be taken by the Department of Workers' Claims against any person in violation. amend the

definition of "premiums received" in KRS 342.0011 to include co-employment relationships with a professional employer organization; amend KRS 342.990 to delete references to KRS 342.615; repeal KRS 342.615; state that the provisions of this Act are severable. **Effective Date July 15, 2022.**

#### **Senate Bill 65**

The enacted legislation creates a new section of KRS Chapter 13A to nullify proposed amendments to an administrative regulation after those amendments were found deficient during the 2021 legislative interim. The enacted legislation repeals the utilization review regulation proposed by the administrations. **Effective Date April 14, 2022**

#### **Senate Bill 180**

The enacted legislation creates new sections of KRS Chapter 151B to establish the Education and Labor Cabinet and move all divisions and offices of the existing Education and Workforce Development Cabinet and the Labor Cabinet to the Education and Labor Cabinet; establish the duties, responsibilities, powers, and authority of the secretary of the Education and Labor Cabinet; provide that the Education and Labor Cabinet shall exercise all administrative functions of the state concerning employer-employee relationships, including the safety of workers and workers' compensation; require a national and state background check for prospective and current employees of the Education and Labor Cabinet with access to or use of federal tax information; amend various Kentucky Revised Statutes to conform with the creation of the Education and Labor Cabinet; repeal KRS 151B.020, 151B.022, 151B.225, 151B.280, 336.015, 336.020, 336.030, 336.040, 336.050, 336.060, and 336.125. **Effective Date July 1, 2022**

### **Louisiana**

#### **House Bill 93**

The enacted legislation provides that if the parties, whether represented or unrepresented, agree to a continuance of a mediation, hearing, or trial by filing a joint motion to continue or an uncontested motion to continue, the workers' compensation judge shall grant the continuance. **Effective Date 8/1/2022**

#### **House Bill 119**

Present law provides that the Incumbent Worker Training Program (IWTP) re-authorization shall be expressly renewed by the legislature prior to July 1, 2022, in order for amounts to be charged and credited to the Incumbent Worker Training Account in the following calendar year for use in funding the program. The enacted law changes the renewal date for the IWTP re-authorization from July 1, 2022, to July 1, 2026. Present law (Sunset) provides that the La. Workforce Commission (LWC) and all the statutory entities made a part of that department by law shall begin to terminate its operations on July 1, 2022, and that all legislative authority for such entities shall cease as of July 1, 2023, unless the legislature enacts a bill authorizing the re-creation of the department and its statutory entities prior thereto. The enacted legislation provides for the general re-creation of the LWC and its statutory entities, effective June 30, 2022, in accordance with the sunset law. The enacted legislation supersedes the provisions of the sunset law which set out the procedure for review and re-creation and which require a separate bill to re-create each statutory entity within the department along with additional provisions. The enacted legislation makes July 1, 2027, the new termination date and termination would begin July 1, 2026, unless the department is again re-created. **Effective Date June30, 2022**

**House Bill 239**

The enacted legislation provides that upon an uncontested motion to stay or a joint motion to stay of the parties, the workers' compensation judge shall order a stay of the proceeding on a claim and the stay shall remain in effect as long as both parties agree. It provides that when a motion to stay is granted, a telephone status conference shall be set at intervals at the direction of the workers' compensation judge. The enacted legislation further provides that the telephone status conference must occur at least every six months. It provides that the abandonment provision pursuant to LAC 40:1.5705(A), shall not apply to a matter that is subject to a stay order pursuant to proposed law during the pendency of the stay. **Effective Date August 1, 2022**

**Maryland****Senate Bill 207**

The enacted legislation establishes certain cybersecurity standards applicable to insurance carriers, including health maintenance organizations and third-party administrators; requiring a carrier to take certain actions related to cybersecurity, including developing, implementing, and maintaining a certain information security program, identifying certain threats, and establishing a certain incident response plan; requiring a carrier, under certain circumstances. It requires notification of the Maryland Insurance Commissioner that a cybersecurity event has occurred; establishing that certain documents, materials, and information are confidential and privileged, not subject to the Maryland Public Information Act, subpoena, and discovery, and not admissible as evidence in certain actions; prohibiting certain persons from being allowed or required to testify in certain proceedings; requiring the Commissioner to maintain as confidential or privileged certain documents, materials, and information; applying certain requirements relating to cybersecurity to managed care organizations; and generally relating to insurance carriers and managed care organizations and the security of information. **Effective Date October 1, 2022**

**Michigan****House Bill 4172**

The enacted legislation would amend Chapter 4 (Occupational Diseases and Disablements) of the Worker's Disability Compensation Act to require, beginning January 1, 2022, a part-time, paid on-call, or volunteer, or former part-time, paid on-call, or volunteer, member of a fire department or public fire authority to suspend a workers' compensation claim and instead claim like benefits from the First Responder Presumed Coverage Fund for respiratory tract, bladder, skin, brain, kidney, blood, thyroid, testicular, prostate, lymphatic, ovarian, breast, or non-HPV cervical cancer. The Act establishes benefits for personal injury sustained by an employee in the course of his or her employment, or for death resulting from such personal injury. The definition of "personal injury" in Chapter 4 refers to a disease or disability that is due to causes and conditions that are characteristic of and peculiar to the business of the employer and that arises out of and in the course of the employment. The term includes respiratory and heart diseases, or illnesses resulting therefrom, that develop or manifest themselves while the person is in active service and result from the performance of his or her duties, for a member of a fully paid fire department of an airport operated by a county, public airport authority, or State university or college; a member of a fully paid fire or police department of a city, township, or incorporated village employed and compensated on a full-time basis; a member of a fully paid public fire authority employed and compensated on a full-time basis; a county sheriff and the deputies of the county sheriff; a member of the Michigan State Police; a conservation officer; or an officer of the Motor Carrier Enforcement Division of the Department of State Police. Claim of Benefits; Presumption & Rebuttal: Chapter 4 requires a member of a fully paid fire department or public fire authority who is in active service, has 60 months or more in active service when the cancer manifests itself, and is exposed to the hazards incidental to fire suppression, rescue, or emergency medical services in the performance of his or her work-related duties with the department or authority to suspend a claim he or she may have against his or her employer under the Act and allows them to claim like

benefits from the First Responder Presumed Coverage Fund for any respiratory tract, bladder, skin, brain, kidney, blood, thyroid, testicular, prostate, or lymphatic cancer. The types of cancers listed above are presumed to arise out of and in the course of employment only with respect to a claim against the Fund and in the absence of nonwork-related causation or specific incidents that establish a cause independent of the employment. Mere evidence that the condition was preexisting, or an abstract medical opinion that the employment was not the cause of the disease or condition, is sufficient to overcome the presumption for purposes of a claim against the Fund. The presumption may be rebutted by scientific evidence that individual was a substantial and consistent user of cigarettes or other tobacco products within the 10 years immediately preceding the date of injury, and that this use was a significant factor in the cause, aggravation, or progression of the cancer. Instead, under the bill, a full-time member, and, beginning January 1, 2022, for a cancer listed below diagnosed on or after January 1, 2022, a part-time, paid on-call, or volunteer member, of a fire department or public fire authority, and, beginning January 1, 2022, for a cancer described below diagnosed on or after January 1, 2022, a former member who was a full-time, part-time, paid on-call, or volunteer member of a fire department or public fire authority, who has or had 60 months or more active service in the department or public fire authority at the time the cancer manifests itself, and who is or was exposed to the hazards incidental to fire suppression, rescue, or emergency medical services in the performance of his or her work-related duties with the department or authority must suspend a claim he or she may have against his or her employer made under the Act and may claim like benefits from the First Responder Presumed Coverage Fund for any respiratory tract, bladder, skin, brain, kidney, blood, thyroid, testicular, prostate, lymphatic, ovarian, breast, or non-HPV cervical cancer. The bill would retain the provisions described above pertaining to the rebuttable presumption. Additionally, under the bill, for purposes of a claim against the Fund, a fire department or public fire authority would be considered the employer of a volunteer member. Chapter 4 specifies that if an employee is eligible for any pension benefits, that eligibility does not prohibit the employee or dependents of that employee from receiving benefits under Section 315 for the medical expenses or portion of medical expenses that are not provided for by the pension program. (Section 315 requires an employer to provide to an employee who receives a personal injury arising out of and in the course of employment, reasonable medical, surgical, and hospital services and medicines, or other attendance or treatment recognized by the laws of this state as legal, when they are needed, subject to exceptions.) Under the bill, this provision also would apply to a former member. **Effective Date June 16, 2022**

## **Minnesota**

### **House File 1203**

This enacted legislation extends the workers' compensation presumption for a qualified first responder who contracts COVID-19 until December 31, 2021. The rebuttable presumption established in Laws 2020; chapter 72 is set to expire May 1, 2021. It provides that an eligible first responder who contracts COVID-19 is presumed to have an occupational disease arising from their employment activities for the purpose of claiming workers' compensation benefits. An employer may disprove the presumption. **Effective Date February 3, 2022**

## **Nebraska**

### **Legislative Bill 780**

The enacted legislation makes changes in two programs administered by the Nebraska Department of Labor: child labor and Nebraska's short-time compensation program. The enacted legislation would eliminate a requirement that employers publicly display the names of all minors under the age of sixteen working at their place of business. Instead, employers will only maintain this information on file where the minor is employed. It would expand the ability for schools to approve labor certificates for children under the age of sixteen. Under current law, only the superintendent of the public School the child resides in can approve employment of the minor. LB 780 would

allow the principal of the school the child attends to approve the certificate. The enacted legislation amends Nebraska's short-time compensation (STC) program. Under current law, to be eligible for STC, contributory employers must be eligible for experience rating under Neb. Rev. Stat. § 48-649.03, have a positive experience account, and be current on all reports and obligations to NDOL. The pandemic highlighted the need for flexibility within these requirements. Through Executive Order 20-19, several new employers not eligible for experience rating participated in the STC program. LB780 would provide a good cause exception that gives the Commissioner authority to approve a STC plan for employers that do not meet the requirements of Neb. Rev. Stat. § 48-675. LB780 additionally provides a good cause exception allowing employers to resubmit a denied plan within 45 days of its original denial. Employers who were initially denied STC would get a second chance to apply for the program, if they can establish good cause for resubmitting. **Effective Date July 20, 2022**

### **New Hampshire** **House Bill 91**

This legislation intends to provide a line of duty death benefits to police officers, firefighters, emergency medical technicians and rescue squad members who die by suicide after being exposed to traumatic events in the course of their duties. **Effective Date July 16, 2022**

### **New Jersey** **Senate Bill 771**

This enacted legislation provides that, for purposes of coverage under workers' compensation law, R.S.34:15-1 et seq., if an employer provides or designates a parking area for use by an employee, then employment is deemed to commence when an employee arrives at the parking area prior to reporting for work and ends when an employee leaves the parking area at the end of a work period. The bill further provides that, if the site of the parking area is separate from the place of employment, an employee is deemed to be in the course of employment while traveling directly from the parking area to the place of employment prior to reporting for work and while traveling directly from the place of employment to the parking area at the end of a work period. Therefore, the bill provides that an injury is compensable under the workers' compensation law if it occurs in a parking area provided or designated by the employer, or it occurs when an employee is traveling directly between the parking area and the place of employment. **Effective Date January 10, 2022.**

### **Assembly Bill 1797**

This bill provides that a member of the State Police Retirement System (SPRS) may be eligible for an accidental disability retirement allowance if the member becomes permanently and totally disabled because a preexisting and asymptomatic condition that the member had previously that is later rendered symptomatic as a direct result of a traumatic event occurring during and as a result of the performance of regular or assigned duties. **Effective Date July 29, 2022**

### **New York** **Assembly Bill 359**

The enacted legislation amends the workers' compensation law, in relation to requiring the workers' compensation board to appoint the uninsured employers' fund as the insurance carrier in cases when the identity of the responsible insurance carrier for the employer cannot be determined within ten days of the filing of a claim and to proceed with hearings and provide notices necessary to process such claim; and to make conforming technical changes. Section 26-a of the Workers' Compensation Law is amended by adding a new subdivision 6-a which provides that if the Workers' Compensation Board is unable to determine the identity of the responsible insurance carrier for the employer within ten days of the filing

of a new claimant, the Board, shall: a) appoint the Uninsured Employers' Fund as the insurance carrier until such time as the identity of the responsible insurance carrier for the employer is determined. Upon appointment, the Uninsured Employers' Fund shall immediately commence payments and provide medical care in accordance with the Workers' Compensation Law; and b) schedule a hearing to determine the identity of the responsible insurance carrier for the employer and to determine the validity of such claim for compensation; and c) provide notice of such claim and hearing to the employer by certified mail, return receipt requested; with a direction that the employer provide proof of having insurance in effect on the date of accident or date of disablement. **Effective Date January 7, 2022**

#### **Assembly Bill 386**

The enacted legislation amends the workers' compensation law, in relation to irregularities in a cover sheet accompanying an application for administrative review or for full board review or a rebuttal to such applications. The purpose of this legislation is to amend workers compensation law so that irregularities in a cover sheet accompanying an application for administrative or full board review or a rebuttal to said application shall not be grounds for denial of said application or rebuttal. Section 1. Amends the Workers Compensation Law by adding a new section 23-a to read as follows: § 23-a. Mistakes, defects, and irregularities. 1. Notwithstanding anything contained in 12 NYCRR 300.13 (b) as or further defined in Subject Number 046-878 and Subject Number 046-940 issued by the board, a mistake, omission, defect, and/or other irregularity in a cover sheet (currently known as form RB-89) accompanying an application for administrative review in a cover sheet (currently known as RB-89.2) accompanying an application for full board review shall not be grounds for denial of said application for administrative review or full board review. 2. Notwithstanding anything contained in 12 NYCRR 300.13(b) or (c) as or as further defined in subject number 046-87 and Subject Number 046-940 issued by the board, a mistake, omission, defect and/or other irregularity in a cover sheet (currently known as form RB-89.1) accompanying a rebuttal to an application for administrative review or a cover sheet (currently known as RB-89.3) accompanying a rebuttal to an application for full board review shall not be grounds for denial of said rebuttal to an application for administrative review or an application for full board review. 3. The board shall permit any such mistake, omission, defect and/or other irregularity to be corrected within twenty days of written notice by the board of such mistake, omission, defect and/or irregularity or if a substantial right of either the party filing the application or the party filling the rebuttal is not prejudiced, such mistake, omission, defect and/or irregularity shall be disregarded. 4. This section shall apply to any and all forms prescribed by the board with respect to said applications for board review or full board review or rebuttals to said applications subsequent to the effective date of this section. **Effective Date December 22, 2021.**

#### **Assembly Bill 6077**

The enacted legislation amends the workers' compensation law, in relation to covered employment as a domestic worker for temporary disability benefits. The purpose of this bill is to make technical changes to Chapter 481 of the Laws of 2010 in order to effectuate the intent of the law. Section one of the bill makes a technical amendment to Chapter 481 of the Laws of 2010, which enacted the Domestic Workers Bill of Rights. It would amend section 202(2)' of the Workers' Compensation Law to clarify that personal and domestic employees who work at least 20 hours per week and are employed on each of at least 30 days in any calendar year are covered under the Paid Family Leave and Temporary Disability Insurance programs. **Effective Date January 3, 2022**

#### **Assembly Bill 8708**

The purpose of this bill is to amend Chapter 824 of the Laws of 2021 to effectuate the intent of the law. Section one of the bill clarifies the requirements for attorneys to submit written and oral fee applications to the New York State Workers' Compensation Board for legal services in connection with any workers' compensation claim. It also clarifies that any benefits allocated for future medical expenses shall not be included in

the calculation of the fee for waiver agreements negotiated between the injured worker and the insurance carrier to settle indemnity and/or medical benefits and requires the Workers' Compensation Board to determine the amount of any fees allocated to a prior attorney out of the total fees awarded. Section two of the bill extends the effective date of Chapter 824 of the Laws of 2021 from immediate to January 1, 2023. **Effective Date January 1, 2023.**

#### **Assembly Bill 8726**

An act to amend the workers' compensation law, in relation to requiring the workers' compensation board to appoint the uninsured employers' fund as the responsible party when the identity of the responsible insurance carrier for the employer cannot be determined within thirty days of the filing of a new claim. **Effective Date January 1, 2023**

#### **Senate Bill 946**

The enacted legislation adjust the determination of attorney fees. The board shall approve such application in an amount commensurate with the services rendered and the amount of compensation awarded, having due regard for the financial state of the claimant in accordance with each applicable provision of the following schedule: (a) When an award is made directing the continuation of weekly compensation benefits for temporary total or partial disability, the attorney's fee shall be one-third of one week's compensation. (b) When an award is made that increases the amount of compensation awarded or paid for a previous period or periods of temporary total or partial disability, the attorney's fee shall be fifteen percent of the increased compensation. (c) When an award is made for schedule loss of use or permanent facial disfigurement pursuant to paragraphs a through t of subdivision three of section fifteen of this article, the attorney's fee shall be fifteen percent of the compensation due in excess of the employer or carrier's previous payments. (d) When an award is made for permanent total disability pursuant to subdivision one of section fifteen of this article or permanent partial disability pursuant to paragraph w of subdivision three of section fifteen of this article, the attorney's fee shall be equivalent to fifteen percent of the compensation due in excess of the employer or carrier's previous payments, plus a sum equivalent to fifteen weeks of compensation at the rate fixed by the board. (e) When an award is made for death benefits pursuant to section sixteen of this article, the attorney's fee shall be equivalent to fifteen percent of the compensation due in excess of the employer or carrier's previous payments, plus a sum equivalent to fifteen weeks of compensation at the rate fixed by the board. (f) When an award is made pursuant to section thirty-two of this article, the attorney's fee shall be fifteen percent of any benefits to be paid by the employer or carrier under the agreement. However, if the attorney has previously been awarded a fee pursuant to this subdivision, any un-accrued balance of any attorney fees under the foregoing paragraphs shall be waived. **Effective Date December 31, 2021.**

#### **Senate Bill 7843**

Requires the workers' compensation board to provide translations of certain documents and forms used by injured employees to apply for workers' compensation benefits. **February 24, 2022.**

#### **Senate Bill 9294**

The enacted legislation amends the retirement and social security law and the workers' compensation law, in relation to extending the deadline for submission of a notice that a member of a retirement system participated in World Trade Center rescue, recovery or cleanup operations

**Effective Date January 1, 2023**

**Senate Bill 9370**

Relates to presumptive evidence for individuals who participated in the World Trade Center rescue, recovery, and clean-up operations; provides that the Centers for Disease Control and Prevention World Trade Center Health Program Certification shall be deemed to be presumptive medical evidence of a causation of a qualifying condition. **Effective Date January 1, 2023**

**Ohio****House Bill 447**

The act makes an employee who performs the employee's duties in a work area that is located within the employee's home and that is separate and distinct from the location of the employer (a work from home employee) ineligible to receive compensation or benefits under the Workers' Compensation Law<sup>1</sup> unless all of the following apply: The employee's injury or disability arises out of the employee's employment. The employee's injury or disability was caused by a special hazard of the employee's employment activity. The employee's injury or disability is sustained in the course of an activity undertaken by the employee for the exclusive benefit of the employer. Previously, eligibility criteria for receiving the compensation or benefits was the same for employees who work from home and those who do not. In short, an employee, or the employee's dependents, could receive compensation or benefits for injury or death sustained or occupational disease contracted, in the course of and arising out of employment wherever the injury or death was sustained, or occupational disease contracted. The act continues to apply this criterion to nonwork from home employees. Continuing law requires, for an injury to be compensable under the Workers' Compensation Law, the injury to be sustained in the course of, and arise out of, the employee's employment (regardless of whether the employee works from home). Generally speaking, the test for whether an injury was sustained in the course of and arose out of employment is whether a "causal connection" exists between the injury and the employment. The causal connection can arise from the employee's activities, the employment conditions, or the employment environment. Whether sufficient causal connection exists depends on the totality of the facts and circumstances of each case, including, but not limited to, the following: The proximity of the scene of the accident to the place of employment; The degree of control the employer had over the scene of the accident; The benefit the employer received from the injured employee's presence at the scene of the accident. 200-week medical exams The act allows, rather than requires as under former law, the Bureau of Workers' Compensation (BWC) to schedule a recipient of temporary total disability (TTD) compensation for a medical examination after 200 weeks to evaluate whether the disability has become permanent. Similarly, the act allows, rather than requires as under former law, a self-insuring employer that has paid an employee 200 weeks of TTD compensation to request that the BWC schedule the examination described above. A self-insuring employer is an employer that has been approved by the Administrator of Workers' Compensation to pay compensation and benefits directly to an employee. **Effective Date September 23, 2022**

**Oregon****House Bill 4086**

The enacted legislation amends provisions of workers' compensation law related to retaliation and beneficiaries. Adds that a person acting on behalf of the employer engages in an unlawful employment practice by discriminating against a worker for engaging in certain workers' compensation activities. Establishes that a worker inquiring about workers' compensation benefits is a protected activity. Removes exemption from the retaliation statute for employers with five or fewer employees. Provides that Oregon family law is used to determine who may qualify as surviving spouse or cohabitant. Amends the definition of "dependent" to include any individual related by blood or affinity and to remove an exemption for an alien who does not reside in the state at the time of the injured worker's accident. Removes provision allowing the director of the

Department of Consumer and Business Services to reduce compensation if the beneficiary is an alien residing outside of the United States. Replaces “invalid” with “incapacitated” in definitions and updates references. The enacted legislation extends retaliation protections to all employees, clarifies that a person acting on behalf of the employer is also liable for retaliation, and protects workers who inquire about workers’ compensation benefits. The measure also refers to Oregon family law to determine who qualifies as a surviving spouse or cohabitant, removes provisions related to beneficiaries who live outside the United States, and replaces references to “invalid” with “incapacitated.” **Effective Date January 1, 2023**

#### **House Bill 4113**

The enacted legislation adds bladder and female reproductive cancers as occupational diseases which are presumed to result from employment for non-volunteer firefighters with five or more years of employment. Requires Workers’ Compensation Management-Labor Advisory Committee to review and consider reports, findings, and analysis made public by the National Institute for Occupational Safety and Health that are related to cancers which are presumed to be an occupational disease for non-volunteer firefighters with five or more years of employment. **Effective Date January 1, 2023**

#### **House Bill 4138**

The enacted legislation amends provisions of workers’ compensation laws related to payment of temporary disability benefits (benefits). Requires insurer or self-insured employer to mail or deliver written notice to worker or worker’s attorney prior to ending benefits and requires notice to state the reason benefits are no longer due and payable. Allows attending provider to retroactively authorize benefits for up to 45 days from date of notice that benefits will end or back to the date benefits were no longer due and payable if authorized within 30 days after either the mailing or delivery of notice, whichever is earlier. Allows attending provider to retroactively approve benefits up to 45 days and provides that provision does not apply during periods where there is a denial or dispute that affects the worker’s ability to obtain benefits or when written notice that benefits will end has not been provided as required. Establishes that no statement from an attending medical provider may establish medically stationary status more than 60 days prior to its issuance except in the case of overpayment due to fraud. Requires insurer to mail or deliver written notice within seven days of receipt of information that the worker is medically stationary. Provides that insurer may not declare an overpayment of any compensation paid more than two years before declaration. Limits recovery from worker’s permanent partial disability compensation of overpayments, offsets, or credits for wage loss to no more than 50 percent of the worker’s total award. Applies to claims that exist or arise on or after January 1, 2024. Clarifies that provisions do not apply to disputes with a final determination made prior to January 1, 2024. **Effective Date January 1, 2023**

#### **Senate Bill 1585**

Directs the Department of Consumer and Business Services (DCBS), the Oregon Employment Department (OED), and the Oregon Health Authority (OHA) to enter into an intergovernmental agreement to share information necessary to enable DCBS to inform beneficiaries of their rights to workers’ compensation death benefits. Requires the shared information to be the minimum necessary to inform beneficiaries of their rights. Limits the shared information to deaths from COVID-19 workplace outbreaks. Limits the data to rights of beneficiaries that arise before the state of emergency as declared by the Governor and subsequently extended is no longer in effect. Requires DCBS, in consultation with OED and OHA, to submit a report to the Legislative Assembly by December 15, 2022 describing the implementation of the intergovernmental agreement. **Effective Date March 24, 2022.**

**Pennsylvania****House Bill 1837**

The enacted legislation enacts an act defining the liability of an employer to pay damages for injuries received by an employer in the course of employment. It establishes an elective schedule of compensation. It provides procedures for the determination of liability and compensation thereunder; and prescribing penalties," in procedure. It further provides for modifications, reinstatements, suspensions, and terminations and for compromise and release. **Effective Date February 23, 2022**

**Rhode Island****House Bill 6652**

Requires children who seek a special limited work permit to successfully complete a training program which shall address workers' rights, workplace health and safety, and workers' compensation, to be established and funded by the DLT. **Effective Date June 16, 2022**

**House Bill 8259; Senate Bill 2977**

This act amends deduction of amounts received from workers' compensation or as damages; amends 28-35-12 Petition for determination of controversy(contents and filing); amends 28-35-28 appeal to appellate division; and amends 28-53-7 payments to employees of uninsured employers. The enacted legislation will subtract Medicare set aside allocations, specific compensation benefits and collective bargaining agreement benefits from the list of deductions/offsets from teacher death or disability benefits, would establish an additional option to resolve a dispute over the apportionment of legal fees, between multiple attorneys that have represented the same injured employee, would grant a workers' compensation trial judge, upon the showing of excusable neglect the power to extend the appeal period for their decision, up to an additional thirty (30) days, and would expressly preserve the rights of insured employees, of an uninsured employer, the right to pursue a third-party claim. **Effective Date For Sections 1,2 and 4 June 28, 2022. Section 3 applies to injuries that occur on or after September 1, 2019.**

**South Dakota****Senate Bill 17**

The enacted legislation revises provisions regarding cost reimbursement associated with medical cannabis. **Effective Date July 1, 2022.**

**Tennessee****House Bill 2187**

Under present law, each judge of the workers' compensation appeals board serves a term of six years and may be reappointed for an additional term by the governor upon expiration of the initial term. Present law provides that a judge may not serve more than two full terms, and service of more than half of a six-year term constitutes service of one full term. A judge appointed to the workers' compensation appeals board to serve less than a full term to fill a vacancy created by the removal or resignation of a judge sitting on the workers' compensation appeals board is eligible to serve an additional two full terms. The enacted legislation rewrites this provision to provide that a judge may be reappointed for up to two additional terms by the governor upon expiration of the initial term. This bill retains the provision whereby service of more than half of a six-year term constitutes service of one full term and provides that a judge appointed to the workers' compensation appeals board to serve less than a full term to fill a vacancy is eligible to serve up to an additional three full terms. The enacted legislation requires the governor to designate one of the judges as the presiding judge, who, in addition to performing the duties of a judge on the workers' compensation appeals board, will administer the day-to-day operations of the workers' compensation appeals board and supervise the activities of the workers' compensation appeals board

judges. Under present law, if a party is dissatisfied or aggrieved by the judgement of the court of workers' compensation claims then the party may appeal to the state supreme court. This bill revises this provision to specify that if a party is dissatisfied or aggrieved by a workers' compensation appeals board decision to certify a compensation order of the court of workers' compensation as final, then the party may appeal to the supreme court. Under present law, the administrator appoints a person to serve as chief judge of the court of workers' compensation claims. Upon appointment, the chief judge serves a term of six years and may be reappointed by the administrator upon expiration of the term. A chief judge of the court of workers' compensation claims may not serve more than two full terms, and service of more than half of a six-year term constitutes service of one full term. A chief judge of the court of workers' compensation claims appointed to serve less than a full term to fill a vacancy created by the removal or resignation of the previous chief judge is eligible to serve an additional two full terms. The enacted legislation rewrites these provisions to instead provide that the chief judge may be reappointed by the administrator upon expiration of a term if the chief judge has served competently, responsibly, and impartially. This bill retains the provision whereby service of more than half of a six-year term constitutes service of one full term and provides that a chief judge of the court of workers' compensation claims appointed to serve less than a full term to fill a vacancy is eligible to serve up to an additional three full terms. Under present law, the decision of the workers' compensation judge becomes final 30 days after the workers' compensation judge enters a compensation order. If a party does not file a timely request for appeal to the workers' compensation appeals board, the order of the workers' compensation judge becomes final and may be appealed to the state supreme court. The enacted legislation removes the provisions for a party appealing to the state supreme court if the party did not file a timely request for appeal to the workers' compensation appeals board. **Effective Date July 1, 2022.**

#### **House Bill 2463**

As enacted, extends the deadline, from the last day of the sixth month following the end of the fiscal year to the last day of the ninth month, for an employer to file an annual certified financial statement with the department of commerce and insurance for purposes of showing the employer's ability to pay all workers compensation claims that may arise against the employer. **March 24, 2022.**

#### **Senate Bill 2284**

Under present law, the jurisdiction of the board of judicial conduct includes all Tennessee judges, including, but not limited to, appellate, trial, general sessions, probate, juvenile, and municipal judges, senior judges, claims commissioners, and all other judges sitting on or presiding over any court created by the general assembly. The enacted legislation specifies that the following also fall under the board's jurisdiction: administrative law judges, judicial commissioners, magistrates, referees, special masters, hearing officers, workers,' and compensation judges. Present law provides that the provisions regarding the board regulate judicial behavior, not judicial decision-making; the enacted legislation removes this provision. It removes the present law requirements that complaints regarding the conduct of a worker's compensation judge under the Tennessee Code of Judicial Conduct be made to the chief worker's compensation judge, and that complaints about the chief judge be made to the chief administrative officer of the bureau of workers' compensation of the department of labor and workforce development. Under present law, the board has the power to impose certain disciplinary actions, such as suspensions, limitations, and conditions on the performance of judicial duties, and entry into a deferred discipline agreement, among other powers, on judges within the board's jurisdiction. The enacted legislation prohibits the board from imposing disciplinary action against an administrative law judge who is employed by the secretary of state, but the board may recommend such disciplinary action to the secretary of state. Present law authorizes the board to investigate and take appropriate action in any case wherein an active judge is suffering from any disability, physical or mental, that is or is likely to become permanent and that would interfere with the prompt, orderly, and efficient performance of the judge's duties. The act specifies that this provision applies to a temporary or permanent disability and provides that temporary or permanent disability includes, but is not limited to, substance abuse or

dependency, the repeated and consistent inability to stay alert during court proceedings, impairment of cognitive abilities that render the judge unable to function effectively, and any other documented or diagnosed physical or mental behavioral condition adversely affecting the administration of justice. The enacted legislation adds that as part of an investigation or at another point in the disciplinary process, the board or an investigative panel of the board may refer the matter to the Tennessee lawyer's assistance program. If the referral is made and the Tennessee lawyers assistance program notifies the board in writing that the judge in the matter is uncooperative or has failed to comply with the recommendations issued under the program, the board may order the judge to submit to a physical or mental evaluation by an appropriately licensed healthcare provider chosen by the board. An investigative panel of the board may also order such a physical or mental evaluation if the action is taken by unanimous vote of the investigative panel and approved by the board chair. The enacted legislation requires that a complaint filed with the disciplinary counsel, who receives and screens complaints concerning judges, must be filed within one year of the time that the party filing the complaint knew or should have known of the alleged misconduct. Under present law, if the disciplinary counsel believes there is evidence supporting allegations of misconduct against a judge, the disciplinary counsel must recommend to the investigative panel that the panel authorize a full investigation. The panel must review the disciplinary counsel's recommendations and either dismiss the complaint or authorize a full investigation within 14 days of receipt of the disciplinary counsel's recommendation. The disciplinary counsel has no authority to dismiss a complaint without the review of and approval by the investigative panel. This bill authorizes the disciplinary counsel to dismiss a complaint when the complaint alleges conduct that has been the subject of a prior complaint, is untimely, or alleges matters beyond the scope of the board's inquiry. The enacted legislation clarifies that subject to resignation, each member of the board of judicial conduct serves until the member's successor is duly appointed. **Effective Date July 1, 2022**

### **Senate Bill 2353**

As enacted, extends the deadline, from the last day of the sixth month following the end of the fiscal year to the last day of the ninth month, for an employer to file an annual certified financial statement with the department of commerce and insurance for purposes of showing the employer's ability to pay all workers compensation claims that may arise against the employer. **Effective Date March 24, 2022**

### **Senate Bill 2437**

Under present law, each judge of the workers' compensation appeals board serves a term of six years and may be reappointed for an additional term by the governor upon expiration of the initial term. Present law provides that a judge may not serve more than two full terms, and service of more than half of a six-year term constitutes service of one full term. A judge appointed to the workers' compensation appeals board to serve less than a full term to fill a vacancy created by the removal or resignation of a judge sitting on the workers' compensation appeals board is eligible to serve an additional two full terms. The enacted legislation rewrites this provision to provide that a judge may be reappointed for up to two additional terms by the governor upon expiration of the initial term. It retains the provision whereby service of more than half of a six-year term constitutes service of one full term and provides that a judge appointed to the workers' compensation appeals board to serve less than a full term to fill a vacancy is eligible to serve up to an additional three full terms. The enacted legislation requires the governor to designate one of the judges as the presiding judge, who, in addition to performing the duties of a judge on the workers' compensation appeals board, will administer the day-to-day operations of the workers' compensation appeals board and supervise the activities of the workers' compensation appeals board judges. Under present law, if a party is dissatisfied or aggrieved by the judgement of the court of workers' compensation claims then the party may appeal to the state supreme court. The enacted legislation revises this provision to specify that if a party is dissatisfied or aggrieved by a workers' compensation appeals board decision to certify a compensation order of the court of workers' compensation as final, then the party may appeal to the supreme court. Under present law, the administrator appoints a person to serve as chief judge of the court of workers' compensation claims.

Upon appointment, the chief judge serves a term of six years and may be reappointed by the administrator upon expiration of the term. A chief judge of the court of workers' compensation claims may not serve more than two full terms, and service of more than half of a six-year term constitutes service of one full term. A chief judge of the court of workers' compensation claims appointed to serve less than a full term to fill a vacancy created by the removal or resignation of the previous chief judge is eligible to serve an additional two full terms. The enacted legislation rewrites these provisions to instead provide that the chief judge may be reappointed by the administrator upon expiration of a term if the chief judge has served competently, responsibly, and impartially. It retains the provision whereby service of more than half of a six-year term constitutes service of one full term and provides that a chief judge of the court of workers' compensation claims appointed to serve less than a full term to fill a vacancy is eligible to serve up to an additional three full terms. Under present law, the decision of the workers' compensation judge becomes final 30 days after the workers' compensation judge enters a compensation order. If a party does not file a timely request for appeal to the workers' compensation appeals board, the order of the workers' compensation judge becomes final and may be appealed to the state supreme court. The enacted legislation removes the provisions for a party appealing to the state supreme court if the party did not file a timely request for appeal to the workers' compensation appeals board. **Effective Date July 1, 2022**

## Utah

### House Bill 23

The enacted legislation creates a grant program for mental health resources for first responders. It defines terms and requires all first responder agencies to provide mental resources for employees, spouses, children, and retirees. The enacted legislation provides for the Department of Public Safety to administer a grant program to provide mental health resources; and makes technical changes. **Effective Date May 4, 2022**

### House Bill 400

The enacted legislation amends provisions relating to an associate physician license. It repeals a restriction that an associate physician may only practice primary care services; and amends provisions relating to the collaborative practice arrangement for an associate physician. **Effective Date May 4 2022**

### Senate Bill 84

This bill amends the Chiropractic Physician Practice Act. This bill allows a chiropractic physician to use advanced imaging, including x-ray, for diagnostic purposes. Including ultrasound; magnetic resonance imaging; and computerized tomography. **Effective Date April 4, 2022 .**

### Senate Bill 154

The enacted legislation describes what categories of prescription drugs a naturopathic physician may prescribe; allows the Division of Occupational and Professional Licensing to determine whether a naturopathic physician may prescribe newly created prescription drug categories; repeals the naturopathic formulary peer committee; and makes technical changes. **Effective Date April 4, 2022.**

## Vermont

### House Bill 559

The enacted legislation establishes the Worker' Compensation Administrative Fund Rate at 1.5% as of July 1, 2022. **Effective Date July 1, 2022**

**House Bill 655**

The enacted legislation creates a telehealth licensure and registration system that allows a health care professional who is not otherwise licensed, certified, or registered to practice in Vermont but is licensed, certified, or registered in good standing in any other U.S. jurisdiction to obtain a telehealth license or registration from the Office of Professional Regulation (OPR) or Board of Medical Practice to provide health care services to a patient in Vermont using telehealth. A telehealth license allows the health care professional to deliver services by telehealth to not more than 20 unique patients located in Vermont during the two-year term of the license, which is renewable, and the telehealth license fee is 75 percent of the renewal fee for a full license to practice the profession. A telehealth registration allows the health care professional to deliver services by telehealth to not more than 10 unique patients located in Vermont during the 120-day term of the registration, which is not renewable; a health care professional may only obtain a telehealth registration once during a three-year period. The telehealth registration fee is the lesser of the application fee for a full license to practice the profession or 50 percent of the renewal fee for a full license to practice the profession. It specifies that a health care professional who wants to provide services to patients in Vermont using telehealth also continues to have the option to pursue a full license to practice the profession. If a health care professional holding a telehealth registration applies for a telehealth license or full license within three years following the effective date of the professional's telehealth registration, the amount paid for the telehealth registration will be credited and applied toward the amount of the fee for a telehealth license or a full license, as applicable. Similarly, if a health care professional holding a telehealth license applies for a full license while the professional's telehealth license is in effect, the amount paid for the telehealth license will be credited and applied toward the amount of the fee for a full license. The enacted legislation appropriates \$360,000 to OPR to develop and implement the telehealth licensure and registration system. The enacted legislation also allows the Director of OPR to issue a 90-day provisional license in any field to individual who has completed an application for full licensure and whose eligibility for licensure is contingent upon acceptable verification of Act No. 107 Page 2 of 2 2022 VT LEG #363536 v.2 licensure from another jurisdiction, whose eligibility for licensure is contingent upon completion of a background check, or who is an active-duty member of the U.S. Armed Forces assigned to duty in Vermont or the member's spouse. The provisional license is based on a voluntary agreement between the applicant and OPR to expedite the applicant's entry into the workforce in exchange for the applicant forgoing the regular procedural rights; the applicant's only remedy if aggrieved by a denial or withdrawal of a provisional license is to apply for a regular license through the usual process. It allows the OPR Director to extend a provisional license beyond 90 days if the reason for issuing it has not been resolved. **Multiple effective dates, beginning on May 9, 2022**

**Virginia****House Bill 689**

The enacted legislation adds scooters to the list of medical equipment an employer is required to furnish to an employee under certain circumstances under the Virginia Workers' Compensation Act. The legislation raises the limit on the aggregate cost of items and modifications required to be furnished by an employer to an injured employee from \$42,000 to \$55,000, to be increased on an annual basis. **Effective Date July 1, 2022.**

**House Bill 932**

The enacted legislation extends from December 31, 2021, to December 31, 2022, the date by which COVID-19 causing the death or disability of a health care provider is presumed to be an occupational disease compensable under the Virginia Workers' Compensation Act. **Effective Date July 1, 2022.**

**House Bill 1042**

The enacted legislation provides that the time period for filing a workers' compensation claim for certain cancers is two years after a diagnosis of the disease is first communicated to the employee or within 10 years from the date of the last injurious exposure in employment, whichever first occurs. The bill provides, however, that such claim for benefits shall be barred if an employee is 65 years of age or older, regardless of the date of diagnosis, communication, or last injurious exposure in employment. **Effective Date July 1, 2022**

**Senate Bill 351**

The enacted legislation requires compensation for permanent and total incapacity to be awarded for the loss of both hands, both arms, both feet, both legs, both eyes, or any two thereof either from the same accident or a compensable consequence of an injury sustained in the original accident. Under current law, compensation for permanent and total incapacity is required only when such loss occurs in the same accident. **Effective Date July 1, 2022.**

**Senate Bill 562**

The legislation provides that the time period for filing a workers' compensation claim for certain cancers is two years after a diagnosis of the disease is first communicated to the employee or within 10 years from the date of the last injurious exposure in employment, whichever first occurs. The bill provides, however, that such claim for benefits shall be barred if an employee is 65 years of age or older, regardless of the date of diagnosis, communication, or last injurious exposure in employment. **Effective Date July 1, 2022.**

**Senate Bill 677**

The enacted legislation provides that cost-of-living supplements shall be payable to claimants who are receiving disability benefits under the Virginia Workers' Compensation Act but are not receiving federal disability benefits. **Effective Date July 1, 2022.**

**Washington****House Bill 1902**

Workers who, in the course of employment, are injured or disabled are entitled to workers' compensation benefits. Depending on the injury or disability, workers are entitled to medical, temporary time-loss, and vocational rehabilitation benefits, as well as benefits for permanent disabilities. Once closed, a workers' compensation claim may be reopened due to a change in circumstances warranting an adjustment of compensation. When granted, a reopened claim allows for compensation and other benefits up to 60 days before receipt of the reopening application. The Department of Labor and Industries (L&I) provides a form for workers to use as a reopening application, with the first page to be filled out by the worker and the second page to be filled out by the medical provider. In addition to other parameters, the medical provider information page includes notices that benefits will not be paid for services more than 60 days before the application is received, and that benefits may be delayed for incomplete forms. The worker information page does not include similar notices. The enacted legislation provides that a claimant may receive compensation and other benefits more than 60, but not to exceed 120, days before submission of the reopening application when the following applies: the application was not received by the L&I or the self-insurer within 60 days due to a failure of the provider; and • the worker demonstrates that the worker information page was completed and submitted to the L&I, the self-insurer, or the provider within 30 days of provision of the relevant medical services. • The L&I or self-insurer must provide notice of the submission deadlines on any forms provided for use as claim reopening applications. **Effective Date June 9, 2022**

**House Bill 2076**

The enacted legislation relates to rights and obligations of transportation 2 network company drivers and transportation network companies; 3 amending RCW 49.46.210, 51.12.020, 51.08.070, 51.08.180, 51.16.060, 4 and 48.177.010; adding new sections to chapter 49.46 RCW; adding a 5 new section to chapter 51.16 RCW; adding a new section to chapter 6 51.04 RCW; adding a new chapter to Title 46 RCW; creating a new 7 section; and recodifying RCW 48.177.010. **Effective Date June 9, 2022**

**Senate Bill 5701**

The monthly wage for workers' compensation purposes for any resident, inmate, or patient of a state, county, or municipal correctional, detention, treatment, or rehabilitative institution must be computed on the basis of the usual wage paid other employees engaged in like or similar occupations where the wages are fixed. For this determination, "other employees" do not include other residents, inmates, or patients of those institutions. By December 1, 2024, the L&I must submit a report to the Legislature that details the number of claims which were impacted by this act from July 1, 2022, to June 30, 2024. **Effective Date June 9, 2022.**

**Senate Bill 5890**

The enacted legislation sets forth definitions for Hanford nuclear site and United States Department of Energy Hanford site workers are replaced with definitions for radiological hazardous waste facility and exposed worker(s). The presumption that certain diseases are occupational diseases for workers' compensation for these workers is removed for communicable respiratory and neurological diseases. "Exposed worker(s)" means a worker working at a radiological hazardous waste facility for at least an eight-hour shift covered under this title, including conducting an inspection of the facility. "Radiological hazardous waste facility" means any structure and its lands where high-level radioactive waste or mixed waste as defined above is stored or disposed of, except certain military installations. **Effective Date March 11, 2022.**

**West Virginia****House Bill 4296**

The enacted legislation repeals §23-1-1c, §23-1-1d, §23-1-1e, §23-1-1g, §23-1-3, §23-1-4a, §23-1-6, §23-1-7, and §23-1-20 of the Code of West Virginia, 1931, as amended; to repeal §23-2-1b, §23-2-4, §23-2-5c, §23-2-5d, §23-2-14, §23-2-15, and §23-2-16 of said code; to repeal §23-2B-1, §23-2B-2, and §23-2B-3 of said code; to repeal §23-2C-3a, §23-2C-4, §23-2C-11, §23-2C-13, §23-2C-14, §23-2C-23, and §23-2C-24 of said code; to repeal §23-2D-1, §23-2D-2, §23-2D-3, §23-2D-4, §23-2D-5, §23-2D-5a, §23-2D-6, §23-2D-7, §23-2D-8, §23-2D-9, and §23-2D-10 of said code; to repeal §23-3-1, §23-3-1a, §23-3-2, §23-3-3, §23-3-4, §23-3-5, and §23-3-6 of said code; to repeal §23-4A-2, §23-4A-3, §23-4A-4, §23-4A-5, §23-4A-6, §23-4A-8, and §23-4A-9 of said code; to repeal §23-4B-6, §23-4B-8, §23-4B-8a, and §23-4B-8b of said code; to repeal §23-4C-1, §23-4C-2, §23-4C-3, §23-4C-4, §23-4C-5, and §23-4C-6 of said code; to amend and reenact §23-1-1, §23-1-1b, §23-1-1f, §23-1-2, §23-1-4, §23-1-5, §23-1-8, §23-1-9, §23-1-10, §23-1-11, §23-1-12, §23-1-13, §23-1-14, §23-1-15, §23-1-18, and §23-1-19 of said code; to amend said code by adding thereto a new section, designated §23-1-21; to amend and reenact §23-2-1, §23-2-1c, §23-2-1d, §23-2-2, §23-2-3, §23-2-5, §23-2-5a, §23-2-6, §23-2-7, §23-2-8, §23-2-9, §23-2-11, §23-2-13, and §23-2-17 of said code; to amend and reenact §23-2A-1 of said code; to amend and reenact §23-2C-1, §23-2C-2, §23-2C-3, §23-2C-6, §23-2C-7, §23-2C-8, §23-2C-12, §23-2C-15, §23-2C-16, §23-2C-18, §23-2C-19, §23-2C-20, and §23-2C-21 of said code; to amend and reenact §23-4A-1 of said code. It amends and reenact §23-4B-2, §23-4B-4, §23-4B-5, §23-4B-7, and §23-4B-9 of said code, all relating to modernizing and updating workers' compensation statutes; removing or revising provisions made obsolete by

legislation and regulatory revisions in 2005 and 2006; standardizing references to public offices or agencies; updating statutory citations; and making spelling and grammatical changes throughout. **Effective Date June 8, 2022**

## Wisconsin

### Assembly Bill 911

The 2021 Wisconsin Act 232 makes changes to the state worker's compensation law. The changes were recommended by the Worker's Compensation Advisory Council, which is statutorily directed to advise the Department of Workforce Development (DWD) on the worker's compensation law and to recommend legislative changes. Act 232 Increases the maximum weekly compensation rate for permanent partial disability to \$415 for injuries occurring before January 1, 2023, and to \$430 for injuries occurring on or after that date. It removes the provision in state law regarding employees who are members of a regularly scheduled class of part-time employees and replaces it with a provision that applies to employees who work less than full time. Under Act 232, an injured employee's average weekly wage is calculated under one of two formulas provided in the act and weeks not worked are not counted under either calculation. However, earnings are expanded to be based on full-time work if the employee provides evidence as specified in the act. An employer may rebut the employee's evidence by providing evidence that the employee chose to work less than full time. The enacted legislation allows an employee to have an observer, chosen and provided by the employee, present during a medical examination that is requested by an employer or insurer following a claim for worker's compensation. It provides that if an injured employee or dependent receives compensation from the employee's employer or a third party, and the employee received payments from DWD due to the employer being uninsured, the employee or dependent must reimburse DWD in accordance with the formula prescribed in the statutes. The enacted legislation clarifies that any person who "at any time," rather than "usually," employs three or more employees for services performed in this state, is subject to the worker's compensation law. The person becomes subject to the worker's compensation law at the time the person employs three or more employees. It allows a person engaged in farming who has had no employee at any time within a continuous two-year period to be deemed to have effected withdrawal from the worker's compensation law. The act clarifies that the provision in state law that provides coverage for an individual who performs services for a person receiving long-term care benefits under certain long-term care programs and who does not otherwise have worker's compensation coverage for those services is considered to be an employee, only for worker's compensation purposes, of the entity providing financial management services for the person receiving the benefits. The act Creates an exception from the general non-disclosure requirement regarding certain records of DWD, the Division of Hearings and Appeals, and the Labor and Industry Review Commission that reveal information about injured employees for records requested by the Department of Health Services, or a county department of health services or social services, if the request is limited to the name and address of the employee, the name and address of the employee's employer, and any financial information about that employee contained in the record. The act also makes various changes to statutes regarding administration of the worker's compensation law. **Effective Date April 10, 2022.**

## Wyoming

### House Bill 59

In 2020, the Legislature passed Senate File 1002 (2020 Wyo. Spec. Sess. Laws, Ch. 2), which established that a COVID-19 illness would be presumed to be an injury covered under the worker's compensation program from January 1, 2020, to December 30, 2020, and provided that COVID-19 related claims made on or before December 30, 2020, would not be included in an employer's experience rating. In 2021, the Legislature passed Senate File 0019 (2021 Wyo. Sess. Laws, Ch. 118), which extended the time period for which a COVID-19 illness would be presumed to be an injury covered under the worker's compensation program to March 31, 2022, but it did not extend the time period for which such claims would not be included in an employer's experience rating. This act extends and amends the time period for which compensable

injures rated to COVID19 will not be included in employer's experience rating. It applies to injuries that occur before March 31, 2022, and that are filed before March 31, 2023. The act also repeals language requiring that available federal relief funds be deposited in the worker's compensation fund to cover the estimated cost of the coverage provided for COVID19 illnesses. **Effective Date March 8, 2022.**

#### **House Bill 125**

This act requires the Director of the Department of Workforce services to provide information and guidance to employers and employees regarding workplace injuries and to widely disseminate information about the resources available to employers and employees under the bill. The act requires the Director to provide information and guidance on specified topics, including the rights and responsibilities of employers and employees under the law, the administrative processes available for resolving workers' compensation claims when an employer and employee are subject to the Worker's Compensation Act, and available local, state and federal financial assistance, rehabilitation and work placement programs, as well as other social services that the director considers appropriate. The act requires the Department of Workforces Services to submit, as part of its annual report under W.S. 27-14-201(c), information regarding employers and their classifications who have opted into coverage under the Worker's Compensation Act. **Effective Date July 1, 2022.**