

Workers' Comp Legislative Activity

July 15, 2018 – September 1, 2018

California

CALIFORNIA A.B. 479

WORKERS' COMPENSATION (MEDICAL COVERAGE AND REIMBURSEMENT)

Summary: Current version (5/21/2018): This measure requires, when an employee sustains an injury arising out of and in the course of employment resulting in breast cancer, the impairments shall include all of the following:

- i. the presence or absence of the organ,
- ii. any loss of function of the upper extremity or extremities, including loss of the range of motion, neurological deficits, and lymphedema,
- iii. skin disfigurement,
- iv. pain, and
- v. other impairments caused by the breast cancer, lack of the organ, or treatment related to the injury.

This measure prohibits using whether the person is of childbearing age as a determining factor when determining impairment due to breast cancer.

Current version

(5/21/2018): http://leginfo.legislature.ca.gov/faces/billPdf.xhtml?bill_id=201720180AB479&version=20170AB47995AMD

Amended version

(1/12/2018): http://leginfo.legislature.ca.gov/faces/billPdf.xhtml?bill_id=201720180AB479&version=20170AB47996AMD

Amended version

(1/3/2018): http://leginfo.legislature.ca.gov/faces/billPdf.xhtml?bill_id=201720180AB479&version=20170AB47997AMD

Amended version

(3/27/2018): http://leginfo.legislature.ca.gov/faces/billPdf.xhtml?bill_id=201720180AB479&version=20170AB47998AMD

Introduced

version: http://leginfo.legislature.ca.gov/faces/billPdf.xhtml?bill_id=201720180AB479&version=20170AB47999INT

Status: Introduced 2/13/2017. Referred to Assembly Committee on Revenue and Taxation; Assembly Committee on Governmental Organization 3/23/2017. Amended 3/27/2017. Hearing held; failed to pass

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Committee 5/8/2017. Carried over to 2018 Legislative Session 9/15/2017. Amended 1/3/2018. Referred to Assembly Committee on Insurance 1/4/2018. Hearing held; passed Committee 1/10/2018. Amended 1/12/2018. Hearing held; passed Committee 1/18/2018. Passed Assembly 1/29/2018. Referred to Senate Committee on Labor and Industrial Relations 4/19/2018. Amended 5/21/2018. Hearing cancelled 6/12/2018. Hearing held; passed Committee; referred to Senate Committee on Appropriations 6/19/2018. Hearing held; ordered from Committee 7/2/2018.

Outlook: During the July 2 hearing, the Senate Committee on Appropriations reported this measure out per Senate Rule 28.8 without a vote, as this measure does not contain an appropriation. This measure is now eligible for consideration by the full Senate.

During the June 19 hearing, the Senate Committee on Labor and Industrial Relations passed this measure by a vote count of 5-0.

The June 12 hearing on this measure was cancelled by the Committee.

This measure was amended on May 21. The amendment makes a technical change.

The Assembly passed this measure 75-0 on January 29.

This measure was amended on January 12. The amendment makes a technical change.

This measure was amended into your issue scope on January 3. The measure previously related to alcoholic beverage taxes.

The sponsor is a member of the majority party. The measure has not garnered the support of cosponsors.

Effective Date: January 1, 2019

Hawaii

HAWAII S.B. 2244

WORKERS' COMPENSATION (OPIOID LIMITS)

Summary: Final version (7/11/2018): This measure requires any health care provider authorized to prescribe opioids to adopt and maintain a written policy that includes execution of a written agreement to engage in an informed consent process between the health care provider authorized to prescribe opioids and a qualifying injured employee. If the qualifying injured employee is unable to physically or mentally execute the written agreement due to the injury, then the physician must execute the agreement as soon as the employee's condition improves. The measure also specifies that at no time will the employee be responsible for the payment of the medication prescribed.

The measure prohibits initial concurrent prescriptions for opioids and benzodiazepines from being longer than 7 consecutive days unless a supply of longer than 7 days is determined to be reasonably

needed for the treatment of:

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

The measure allows the provider to authorize subsequent prescriptions, provided that the provider consult with a qualifying injured employee in person at least once every 90 days.

This measure defines "qualifying injured employee" as (i) an injured employee requiring opioid treatment for more than three months, (ii) an injured employee who is prescribed benzodiazepines and opioids together, or (iii) an injured employee who is prescribed a dose of opioids that exceeds ninety morphine equivalent doses.

Final version (7/11/2018): https://www.capitol.hawaii.gov/session2018/bills/SB2244_CD1_.HTM

Amended version (3/28/2018): https://www.capitol.hawaii.gov/session2018/bills/SB2244_HD2_.HTM

Amended version (3/22/2018): https://www.capitol.hawaii.gov/session2018/bills/SB2244_HD1_.HTM

Amended version (2/6/2018): https://www.capitol.hawaii.gov/session2018/bills/SB2244_SD1_.HTM

Introduced version: https://www.capitol.hawaii.gov/session2018/bills/SB2244_.PDF

Status: Introduced 1/19/2018. Referred to Senate Committee on Labor; Senate Committee on Commerce, Consumer Protection, and Health 1/22/2018. Hearing held; amended; passed Committee 2/6/2018. Hearing deferred 2/20/2018. Hearing held; passed Committee 2/23/2018. Passed Senate 3/2/2018. Referred to House Committee on Labor and Public Employment; House Committee on Health and Human Services; House Committee on Consumer Protection and Commerce 3/8/2018. Hearing held; amended; passed Committee; passed Committee 3/22/2018. Hearing held; amended; passed Committee 3/28/2018. Passed Senate 4/4/2018. Senate failed to concur 4/6/2018. Hearing held 4/23/2018. Hearing held; amended; passed Committee 4/24/2018. Senate adopted Conference Committee report; House adopted Conference Committee report 5/1/2018. Sent to Governor David Ige (D) 5/3/2018. Signed by Governor David Ige (D) 7/11/2018.

Effective Date: July 11, 2018

Massachusetts

MASSACHUSETTS H.B. 4470

WORKERS' COMPENSATION (PRESCRIPTION DRUG FORMULARY)

Summary: This measure is an omnibus substance use disorder bill.

This measure requires the Drug Formulary Commission within the Department of Health to prepare a drug formulary of clinically appropriate opioids for use in the treatment of patients with workers' compensation claims. In establishing the formulary, the commission shall consult with the department of industrial accidents established. The formulary shall be based on well-documented, evidence-based methodology. The commission shall include as part of the formulary a complete list of opioids that are approved for payment and any specific payment, prescribing or dispensing controls associated with drugs on the list. The formulary shall include all drugs approved by the United States Food and Drug Administration for the treatment of opioid use disorder.

<https://malegislature.gov/Bills/190/H4470.pdf>

Status: Reported from Joint Committee on Mental Health, Substance Use and Recovery; referred to Joint Committee on Health Care Financing 5/7/2018. Passed Joint Committee; referred to Joint Committee on Rules 6/7/2018. Passed Joint Committee; referred to House Committee on Ways and Means 6/18/2018. Passed House Committee as H.B. 4725 7/10/2018.

Outlook: This measure was reported out of the House Committee on Ways and Means July 10 as a new bill, H.B. 4725, which will be the vehicle for these provisions moving forward. This measure is unlikely to receive further consideration.

The Joint Committee on Rules reported this bill favorably on June 18.

The Joint Committee on Health Care Financing reported this bill favorably June 7. This measure now awaits further consideration in the Joint Committee on Rules.

This measure is a new draft of S.B. 1007, S.B. 1092, S.B. 1099, S.B. 1100, S.B. 1101, S.B. 1114, H.B. 1066, H.B. 2391, H.B. 2396, HB. 2404, H.B. 3206, H.B. 3511, H.B. 3594, H.B. 4033, H.B. 4337, H.B. 4363, and H.B. 4380.

Effective Date: Varies by Section

MASSACHUSETTS H.B. 4725 WORKERS' COMPENSATION (PRESCRIPTION DRUG FORMULARY)

Summary: Current version (7/11/2018): This measure is an omnibus substance use disorder bill.

This measure requires the Drug Formulary Commission within the Department of Health to prepare a drug formulary of clinically appropriate opioids for use in the treatment of patients with workers' compensation claims. In establishing the formulary, the commission shall consult with the department of industrial accidents established. The formulary shall be based on well-documented, evidence-based methodology. The commission shall include as part of the formulary a complete list of opioids that are approved for payment and any specific payment, prescribing or dispensing controls associated with drugs on the list. The formulary shall include all drugs approved by the United States Food and Drug Administration for the treatment of opioid use disorder.

<https://malegislature.gov/Bills/190/H4725.pdf>

Adopted amendment #34: This amendment allows the Department of Health to enter into data use agreements to allow summary PMP data to be securely retained in the patient's medical record as a clinical note associated with a clinical encounter.

Adopted amendment #5: This amendment creates a special commission to study the alternatives and develop recommendations to broaden the availability of naloxone without a prescription.

Adopted amendment #38: This amendment prohibits pharmaceutical manufacturing companies from offering any discount, rebate, product voucher or other reduction in an individual's out-of-pocket expenses, including co-payments and deductibles, for any prescription drug that is a schedule II opiate.

Status: Reported from House Committee on Ways and Means as new draft of H.B. 4470 7/10/2018. Amended; passed House; reprinted as H.B. 4742 7/11/2018.

Outlook: This measure was amended on the House floor July 11 to include new provisions regarding opioid marketing, the prescription monitoring program and a naloxone study commission. The bill then passed by a vote of 147-0 and was reprinted as H.B. 4742. The text for H.B. 4742 is not yet available.

This measure was reported out of the House Committee on Ways and Means June 10 as a new draft of H.B. 4470. This measure now awaits further consideration in the House.

Effective Date: Varies by Section

New York

NEW YORK A.B. 11028

WORKERS' COMPENSATION (OPIOID LIMITS)

Summary: This measure specifies that opioid overdose deaths are compensable for the purposes of workers' compensation if the injured worker was prescribed opioids due to a compensable injury.

<http://legislation.nysenate.gov/pdf/bills/2017/A11028>

Status: Introduced; referred to Assembly Labor Committee 5/31/2018. Off the floor meeting held; passed Committee; referred to Assembly Codes Committee 6/5/2018. Off the floor meeting held; passed Committee; referred to Assembly Rules Committee 6/14/2018. Off the floor meeting held; ordered to third reading 6/18/2018. Passed Assembly; referred to Senate Rules Committee 6/20/2018.

Outlook: The Assembly passed this measure 78-50 on June 20. The measure has been referred to the Senate Rules Committee, chaired by Senate President John Flanagan (R). A timeline for further consideration has not yet been established.

In their justification for this measure, the sponsor stated "Many workers injured on the job are prescribed opioids to treat their workplace injuries. Tragically, some of these workers overdose. While their deaths are ultimately the result of workplace injuries, their survivors do not receive death benefits. This bill would correct that injustice."

The sponsor is a member of the majority party. The measure has not garnered the support of cosponsors.

The New York Legislature has recessed indefinitely but remains eligible to reconvene at the call of Speaker Carl Heastie (D) and Senate President John Flanagan (R).

Companion Bill: 2018 S.B. 8034

Effective Date: Immediately