

# Workers' Comp Legislative Activity

April 15, 2019 – June 1, 2019

## Hawaii

### HB 1534 - Relating to Workers' Compensation

**Issues:** Special Request, Workers' Compensation (Medical Marijuana)

**Summary for 1/24/19 Version:** This measure allows for medical cannabis reimbursement by workers' compensation. This measure allows for medical cannabis reimbursement by workers' compensation. This measure lays out reimbursement terms.

**Outlook:** This measure is eligible to be carried over to the 2020 Legislative Session. In Hawaii, the Legislature's rules allow for measures to be carried over from the first to the second regular session and to any extraordinary session of the same general assembly. The status of each bill and resolution will be the same at the beginning of each second session as it was immediately before adjournment of the previous regular or extraordinary session. The Hawaii Legislature is expected to convene for the 2020 Legislative Session January 15, 2020.

#### Links:

- [1/24/2019 Version](#)

#### Status History:

- **01/24/2019** - Introduced
- **01/28/2019** - Referred to House Labor, Public Employment & House Finance Committee
- **02/07/2019** - Hearing held; Deferred
- **03/07/2019** - Failed to meet crossover deadline
- **05/02/2019** - Carried over to 2020 session

## Illinois

### HB 2792 – Workers Comp-Fee Schedule

**Issues:** Workers' Compensation (General), Workers' Compensation (Pharmacy Fee Schedule)

**Summary for 2/14/19 Version:** This measure makes existing medical fee schedules inoperative after August 31, 2020 and stipulates that the Illinois Workers' Compensation Commission must establish new medical fee schedules applicable on and after September 1, 2020 in accordance with specified criteria. This measure provides for non-hospital fee schedules and hospital fee schedules applicable to different geographic areas of the State. The measure sets forth a procedure for petitioning the Commission if a

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maximum fee causes a significant limitation on access to quality health care in either a specific field of health care services or a specific geographic limitation on access to health care.

**Outlook:** This measure failed to meet the applicable deadline and was re-referred to the House Rules Committee pursuant to Rule 19(a). This measure is unlikely to receive further consideration this session, unless the Chair of the House Rules Committee re-refers the measure to a policy committee. This measure may be brought up again in next year's session.

**Links:**

- [2/14/2019 Version](#)

**Status History:**

- **02/14/2019** - Introduced
- **02/26/2019** - Referred to House Labor & Commerce Committee
- **03/06/2019** - Hearing held
- **03/13/2019** - Hearing held
- **03/20/2019** - Hearing held
- **03/27/2019** - Hearing held
- **03/29/2019** - Rule 19(a)/ Re-referred to House Rules Committee

## Louisiana

### SB 41 - Relating to regulation of pharmacy benefit managers

**Issues:** Special Request, Workers' Compensation (Pharmacy Fee Schedule)

**Summary for 5/8/19 Version:** This measure establishes provisions relating to the regulation of pharmacy benefit managers.

**Pharmacy Benefit Manager Licensure:** This measure no longer requires pharmacy benefit managers to be licensed by the Louisiana Board of Medical examiners and licensed by the Louisianan Board of Pharmacy. The measure provides that pharmacy benefit managers shall be licensed by the Department of Insurance, as required in present law, in addition to the general requirement that pharmacy benefit managers operating in this state be registered with the Louisiana secretary of state to do business in Louisiana, and may require permitting by the Louisiana Board of Pharmacy if the pharmacy benefit manager performs services that include: (1) Adjudication of appeals or grievances related to prescription drug coverage; (2) Disease management programs; (3) Drug formularies; (4) Drug regimen reviews; (5) Prescription drug management programs; (6) Processing of prior authorization requests; (7) Quality care dosing services; (8) Step therapy procedures; (9) Utilization management and utilization reviews; or (10) any other act or service relating to the compounding, filing, dispensing, exchanging, giving, offering for sale, or selling of drugs, medicines, poisons, or devices in this state by a pharmacist or pharmacy. Additionally, this measure establishes that a pharmacy benefit manager monitoring advisory council, and provides guidelines concerning membership and function of such council. Furthermore, the measure removes provisions authorizing the Board of Pharmacy to assess fees of up to \$5,000 per

violation for pharmacy benefit managers who operate in this state after filing an attestation without first obtaining a permit.

**Maximum Allowable Cost (MAC):** This measure provides that a pharmacy shall not fail to honor maximum allowable cost prices as set forth in the National Drug Code. The measure clarifies that "maximum allowable cost" shall include any term that a pharmacy benefit manager or a healthcare insurer may use to establish reimbursement rates for generic and multi-source brand drugs to a pharmacist or pharmacy for pharmacist services. The bill also provides that the term "maximum allowable cost list" shall not include any rate mutually agreed to and set forth in writing in the contract between the pharmacy benefit manager and the pharmacy.

**Spread Pricing:** This measure removes reference to the prohibition of mass marketing directed at a beneficiary of a health plan being administered by the pharmacy benefit manager. Instead, the measure prohibits a pharmacy benefit manager from conducting or participating in spread pricing without providing written disclosure and receiving acknowledgement from the patient. Furthermore, the bill provides that such disclosure shall explain that the pharmacy benefit manager has an ownership interest in the pharmacy, and that the patient has the right to use any alternate pharmacy that they choose. The pharmacy benefit manager is prohibited from retaliation or further attempts to influence the patient or treat the patient or patient's claim any differently if he or she chooses to use an alternate pharmacy. Moreover, the bill changes the definition of "spread pricing" to mean any amount a pharmacy benefit manager charges or claims from a health plan provider or managed care organization for payment of a prescription or for pharmacy services that is different than, rather than in excess of, the amount the pharmacy benefit manager paid to the pharmacist or pharmacy who filled the prescription or provided the pharmacy services.

**Pharmacy Reimbursement:** This measure prohibits a pharmacy benefit manager from retroactively denying or reducing a claim of a pharmacist or pharmacy for payment, or demanding repayment of all or part of a claim, after the claim has been approved by the pharmacy benefit manager. Additionally, the measure prohibits discrimination against any pharmacist or pharmacy in reimbursing the pharmacy for dispensing a drug, device, or service for less than the amount paid to any other pharmacist or pharmacy for the same drug, device, or service. The measure makes reimbursement parity applicable to local pharmacies. Further, the measure adds a provision which dictates that no pharmacy benefit manager shall charge or pay anyone a fee or surcharge for paying any sales tax or remitting any sales tax proceeds to a pharmacist or pharmacy if that fee or surcharge would be imposed directly or indirectly on the pharmacist or pharmacy. Accordingly, the bill provides that state and local sales taxes and other applicable state-imposed taxes or fees shall be considered as part of the allowable cost and shall be included in the claim submitted by a pharmacist or pharmacy.

**Step Therapy:** This measure prohibits a PBM from requiring a beneficiary to follow a plan's step therapy protocol if the prescribed drug is on the health plan's prescription drug formulary, the beneficiary has tried the step therapy required prescription drug while under his or her current or previous health plan, the provider has submitted a justification and supporting clinical documentation that such prescription drug was discontinued due to lack of efficacy or effectiveness, diminished effect, or an adverse effect or event.

**Prior Authorization:** Additionally, the this measure adds a provision detailing that a pharmacy benefit manager shall not delay the decision on a request for authorization to dispense a prescription drug for more than seventy-two hours, or twenty-four hours in exigent circumstances in which the patient, in the opinion of the prescribing provider, pharmacy, or pharmacist submitting the authorization request, is suffering from a health condition that may seriously jeopardize the patient's life, health, or ability to regain maximum function. The measure provides that a request for authorization shall include relevant data or appropriate documentation to render a decision on a request for authorization.

**Mail Order Pharmacy:** Further, the measure prohibits a pharmacy benefit manager that owns or controls a mail-order pharmacy from allowing a mail-order pharmacy to repackage drugs and sell the repackaged items at higher prices than the original average wholesale price unless beneficiaries who may buy the repackaged drugs are informed in writing that the drugs have been repackaged and are being sold at the higher price. Additionally, this measure removes the imposition of a fine, to stipulate that the Commissioner of Insurance and the Louisiana Board of Pharmacy shall be able to recommend to the Attorney General that either no action be taken against a PBM, or recommend the probation, suspension, or revocation of a license or permit if a PBM is found to be in violation of this Act upon completion of a compliance audit or complaint investigation.

**Outlook:** This measure passed the Senate, as amended, by a vote of 34-2, and was subsequently referred to the House Committee on Health and Welfare. This measure awaits consideration from the Chair, Representative Frank Hoffman (R).

#### Links:

- [5/8/2019 Adopted Senate Floor amendments](#)
- [5/8/2019 Adopted Senate Floor Legislative Bureau amendments](#)
- [4/24/2019 Adopted Committee amendments](#)
- [3/22/2019 Version](#)

#### Status History:

- **03/22/2019** - Pre-filed
- **04/08/2019** - Referred to Senate Committee on Health and Welfare
- **04/24/2019** - Hearing held; Amended; Passed Senate Committee
- **05/08/2019** - Amended; Passed Senate
- **05/13/2019** - Referred to House Committee on Health and Welfare

## Montana

### SB 265 - Revises laws regarding Medical Marijuana.

**Issues:** Workers' Compensation (Medical Marijuana)

**Summary for 5/3/2019 Version:** This measure generally revises laws regarding Medical Marijuana. This measure temporarily increases the gross sales tax to 4%. This measure establishes requirements for issuance of registry ID cards and licenses. This measure establishes requirements for testing labs and

establishes canopy tiers and licensing fees. This measure allows for the use of telemedicine for written certifications.

**Outlook:** This measure has been signed by Governor Steve Bullock (D). Except as provided, this measure is effective October 1, 2019. [Sections 30 and 31] are effective July 1, 2019. Sections 16 and 32 are effective January 1, 2020. Sections 4, 6, 7(1)(b), 9, 11, 13, 19, 25, and 29 are effective on the earlier of July 1, 2020, or the date that the department of public health and human services certifies to the Code Commissioner that the seed-to-sale tracking system is able to: (a) track a registered cardholder's purchases of marijuana and marijuana-infused products from any provider or marijuana-infused products provider, not just the provider that the cardholder has named in the cardholder's applications for a registry identification card; (b) alert all providers and marijuana-infused products providers that a registered cardholder has reached the maximum daily or monthly purchase limit; and (c) prevent additional sales to a cardholder who has reached the daily or monthly maximum purchase limit. Sections 2; 3; 5(4)(c), (5)(d), (6), (9)(c), and (9)(d); 8(1)(i) and (7)(b); 10(1)(a)(vi), (6)(d), (7), (9)(c), and (9)(d); 12; 20; 22; 23(8) through (10); 24(8); 28(1)(f); and 33 through 39] are effective immediately.

**Links:**

- [5/3/2019 Final Version](#)
- [2/14/2019 Version](#)

**Status History:**

- **11/14/2018** - Pre-filed
- **02/14/2019** - Introduced; Referred to Senate Taxation Committee
- **02/22/2019** - Hearing held
- **03/27/2019** - Amended; Passed Senate Taxation Committee
- **04/01/2019** - Passed Senate
- **04/02/2019** - Referred to House Taxation Committee
- **04/09/2019** - Hearing held
- **04/12/2019** - Amended; Passed House Taxation Committee
- **04/15/2019** - Referred to HPC; Hearing held; Passed House Appropriations Committee
- **04/16/2019** - Passed House
- **04/18/2019** - Senate concurred with House amendments
- **04/29/2019** - Sent to Governor
- **05/03/2019** - Signed by Governor Steve Bullock (D)

**Nebraska**

**LB 316 - Adopt the Pharmacy Benefit Fairness and Transparency Act**

**Issues:** Workers' Compensation (Pharmacy Fee Schedule)

**Summary for 04/24/2019 Version:** This measure relates to pharmacy benefit managers. This measure prohibits a pharmacy benefit manager from subjecting a pharmacist or contracted pharmacy to penalties or removal from a network or plan for sharing information regarding the cost, price, or

copayment of a prescription drug with a covered individual or a covered individual's caregiver. The measure also prohibits a pharmacy benefit manager from prohibiting or inhibiting a pharmacist or contracted pharmacy from discussing any such information or selling a more affordable alternative to a covered individual or a covered individual's caregiver. The measure prohibits an insurer that covers prescription drugs from requiring a covered individual to make a payment for a prescription drug at the point of sale in an amount that exceeds the lesser of: (i) the covered individual's copayment, deductible, or coinsurance for such prescription drug; or (ii) the amount any individual would pay for such prescription drug if that individual paid in cash.

**Outlook:** This measure was signed by Governor Pete Ricketts (R) on April 24. This measure will become effective immediately.

**Links:**

- [4/24/2019 Final Version](#)
- [4/15/2019 Version](#)
- [4/10/2019 Kolterman AM1187 Amendment](#)
- [4/10/2019 Enrollment and Review ER59 Amendment](#)
- [3/25/2019 Adopted Amendment](#)
- [1/16/2019 Version](#)

**Status History:**

- **01/16/2019** - Introduced
- **01/18/2019** - Referred to the Senate Banking, Commerce and Insurance Committee
- **03/04/2019** - Hearing held
- **03/19/2019** - Placed on General File
- **03/25/2019** - Amended; advanced to Enrollment and Review Initial
- **03/27/2019** - Placed on Select File
- **04/10/2019** - Amended; advanced to Enrollment and Review for Engrossment
- **04/15/2019** - Placed on Final Reading
- **04/18/2019** - Passed Final Reading; sent to Governor Pete Ricketts (R)
- **04/24/2019** - Signed by Governor Pete Ricketts (R)

## Nebraska

**LB 487 - Require the Nebraska Workers' Compensation Court to adopt an evidence-based drug formulary**

**Issues:** Workers' Compensation (General), Workers' Compensation (Prescription Drug Formulary)

**Summary for 1/22/2019 Version:** This measure establishes a formulary for workers' compensation drugs. This measure permits the Nebraska Workers' Compensation Court to adopt an evidence-based drug formulary consisting of prescription drugs listed in Schedules II, III, IV and V. The formulary will apply to prescription drugs that are prescribed and dispensed for outpatient use in connection with workers' compensation claims with a date of injury on or after January 1, 2018.

A prescription drug included in the formulary adopted by the compensation court and recommended may be prescribed and dispensed without obtaining prior authorization from the workers' compensation insurer, risk management pool or self-insured employer.

A prescription drug not included in the formulary adopted by the compensation court or that is included but not recommended is presumed to be reasonable if prior authorization for such drugs is obtained from the workers' compensation insurer, risk management pool or self-insured employer.

The measure requires the compensation court to consult with stakeholders regarding the adoption of a drug formulary. The stakeholders should include employers, insurers, private sector employee representatives, public sector employee representatives, treating physicians actively practicing medicine, pharmacists, and attorneys representing injured workers or employers. Any party may request a finding by an independent medical examiner if the workers' compensation insurer, risk management pool or self-insured employer denies payment for a prescription drug that is not included in the formulary adopted by the compensation court or that is included but not recommended in such formulary or if prior authorization is denied.

The compensation court may adopt and promulgate rules and regulations necessary to implement this provision.

**Outlook:** This measure was heard on March 4 in the Business and Labor Committee. The Committee Chair, Senator Matt Hansen (I) may now request the Executive Board vote to move this measure to the General File at any time, and this request will not be made public until the measure is moved to the General File. Once placed on the General File, any committee or floor amendments will be considered for adoption by the full Senate.

**Links:**

- [1/22/2019 Version](#)

**Status History:**

- **01/22/2019** - Introduced
- **01/24/2019** - Referred to Business and Labor Committee
- **03/04/2019** - Hearing held

## Oklahoma

### HB 2631 - Workers' compensation; providing for modification of fee schedule

**Issues:** Workers' Compensation (General), Workers' Compensation (Pharmacy Fee Schedule)

**Summary for 2/4/2019 Version:** This measure relates to workers' compensation fee schedules. This measure requires the fee schedule to be revised in 2019 to provide a 3% increase in the maximum rate of reimbursement to physicians and hospitals for a period of three years.

**Outlook:** This measure has been referred to the Senate Judiciary Committee, which is chaired by Senator Julie Daniels (D). This measure is eligible for a hearing in the Committee. A timeline for further consideration has not yet been established.

**Links:**

- [2/4/2019 Version](#)

**Status History:**

- **02/04/2019** - Introduced
- **02/05/2019** - Referred to House Judiciary Committee
- **02/12/2019** - Hearing held
- **02/19/2019** - Hearing held; passed Committee
- **03/12/2019** - Passed House
- **03/26/2019** - Referred to Senate Judiciary Committee

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