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north carolina
RATE BUREAU
REINSURANCE FACILITY
INSURANCE GUARANTY ASSOCIATION

North Carolina Rate Bureau

July 16, 2018

CIRCULAR LETTER TO ALL MEMBER COMPANIES

Re: Workers Compensation Insurance

2018 Report - Workers Compensation Insurance in North Carolina

The North Carolina Rate Bureau is pleased to make available the *2018 Report - Workers Compensation Insurance in North Carolina*. This report provides an overview of matters related to workers compensation in which the North Carolina Rate Bureau has oversight of or is impacted by. Along with legislative updates and industry changes, this report includes an overview of items such as premium volumes, and changes in loss cost and assigned risk rates for the past five years.

If you have questions concerning this report, contact the NCRB Information Center at 919-582-1056 or via email at wcinfo@ncrb.org.

Sincerely,

Joanna Biliouris

Chief Operating Officer

JB:ko

Attachment

C-18-13

2018 Report

Workers Compensation Insurance in North Carolina

North Carolina Rate Bureau
2910 Sumner Blvd
Raleigh, NC 27610
June 15, 2018

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I. Report Scope

This 2018 Report of Workers Compensation Insurance in North Carolina is intended to provide an overview of matters related to Workers Compensation in which the North Carolina Rate Bureau has oversight of or is impacted by.

The North Carolina Rate Bureau (Bureau) files rates, loss cost, rules, and forms on behalf of all member companies writing workers compensation insurance in North Carolina. The Bureau does not have regulatory authority over the approval of the filed rates, loss cost, rules, and forms or the administrative components of the workers compensation insurance system in North Carolina. However, there are many industry related activities and considerable data that the Bureau and its member companies must consider when making decisions related to their roles and responsibilities.

The report that follows provides an overview of workers compensation insurance matters that are under the jurisdiction of the Bureau or that have an impact on its operations.

II. Report Limitations

This report does not encompass a complete study of all issues affecting Workers Compensation in North Carolina. It has been prepared using the best available information on workers compensation insurance from sources that may be considered experts in the field of insurance regulation and workers compensation insurance. The data used in this report has been provided to the Bureau by carriers writing workers compensation insurance in North Carolina or data that has been reported to or collected by various industry groups. There has been no independent verification of Bureau data by outside sources and no verification by the Bureau of information used from outside sources.

III. Executive Summary

Workers compensation insurance provides benefits to employees for injury or death that occurs in the course of their employment. Benefits may include replacement of wages, cost of medical treatment, compensation for disability and/or death benefits. The workers compensation system is a no-fault system, providing protection for both the employer and the employee. In North Carolina, the employer is held liable for certain benefits by way of the Workers Compensation Act. In return for the protection provided by the Act, the injured employee waives most of their rights to seek compensation for work related losses through the court system.

North Carolina has several options for employers to meet their statutory obligations for workers compensation insurance. Those options include, but may not be limited to, voluntary coverage, residual market coverage (assigned risk), self-insurance, or participation in a self-insured fund.

Overall the North Carolina workers compensation market appears to be stable. The number of carriers in the marketplace totaled 535 as of June 1, 2017. There has been very little fluctuation in carriers licensed to write workers compensation over the past five years. The consistency in the number of carriers available to write workers compensation insurance in North Carolina enables most employers to find coverage in either the voluntary or the assigned risk market.

In North Carolina, as in most other states, there is ongoing concern about the cost of workers compensation for employers and carriers, and the fees associated with administering adequate benefits for injured workers. Rate filings over the past five years have yielded more rate decreases than increases. The past three rate filings for voluntary market coverage have resulted in rate reductions. Assigned Risk rates have fluctuated more so, reflecting both rate increases and decreases during the same three year period. It is the Bureau's responsibility to provide information and expertise to the General Assembly and various state agencies on how changes in rules and rates may impact the workers compensation system in North Carolina.

IV. North Carolina Workers Compensation Insurance Market

A. Overview of the Workers Compensation System

In 1929, North Carolina enacted the state's first Workers Compensation Act. Since then, the Act has evolved and continues to change. The Act requires employers who regularly employee three or more employees to purchase workers' compensation insurance. The Act is designed to ensure that employees, who are injured in the course of their employment, are provided timely and predictable compensation and medical care without regard to fault. In exchange, employees relinquish their rights to sue and are required to file their claims with the North Carolina Industrial Commission, not the courts.

The requirement of having three or more employees includes all entities operating as corporations, sole proprietorships, limited liability companies and partnerships. There are limited exceptions to this rule. Those exceptions include operations that present radiation exposure, sawmill and logging operators – all of which must have workers compensation insurance for one or more employees. Additionally, domestic servants, and seasonal agricultural workers do not require workers compensation insurance. With the exception of certain executives (executive officers, sole proprietors, and partners), employees are not permitted to waive their right to workers compensation coverage.

According to North Carolina Workers Compensation statutes, employers have several options for providing coverage. Along with the voluntary and residual markets, employers may also seek coverage by way of a group self-insured fund or elect to become an individual self-insured employer. When seeking coverage through a group fund, businesses pay into a larger fund comprised of similar companies based on number of employees, the rate assigned by the NCRB, and the total payroll. All members of the fund share the risk while receiving necessary coverages in return. When an employer elects to be self-insured, the employer agrees to pay for their workers compensation claims directly. In order to gain Self-Insured Employer status in NC, the business must seek approval from the NC Department of Insurance and post bond to show that they are financially able to provide coverage for their employees.

B. State of the North Carolina Workers Compensation Insurance Market

In total, North Carolina Workers Compensation premium from insurers in 2017 was approximately $1.5 Billion. The North Carolina Department of Insurance *Summary of Property and Casualty Business* indicates this to be 9.19% of premiums written for workers compensation for the year ending December 31, 2017. These premiums do not include any self-insured employers or funds.

The following table shows the total Workers Compensation Premium for the last 5 years.

Year	Written Premium Volume	Change from Prior Year
2013	$1,355,515,678	9.00%
2014	$1,430,888,634	5.60%
2015	$1,487,631,736	4.00%
2016	$1,493,077,196	0.40%
2017	$1,448,416,031	-3.00%

In North Carolina, workers compensation coverage provided by insurance companies may be purchased in the voluntary market (private carriers) or through the residual market (assigned risk). The majority of workers compensation insurance written in North Carolina is through the voluntary market. In 2017, 96% of workers compensation premium reported to the Bureau were written in the voluntary market and 4% was written through the Assigned Risk Plan.

A number of things, such as market share and trend, should be considered when evaluating the sustainability of the workers compensation market in North Carolina. However, the number of policies written in assigned risk is often viewed as an indication of the overall health of the voluntary market. The table below shows the number of policies assigned and the total premium volume for coverage written through the assigned risk market for the past five years.

Year End	Policy Count		Premium Volume		Average Premium	
	Assigned Risk % of Mkt	Voluntary % of Mkt	Assigned Risk % of Mkt	Voluntary % of Mkt	Assigned Risk	Voluntary
2013	12.10%	87.90%	3.50%	96.50%	$3,204	$12,232
2014	12.70%	87.30%	3.70%	96.30%	$3,257	$12,359
2015	13.00%	87.00%	5.10%	94.90%	$4,476	$12,432
2016	12.60%	87.40%	3.70%	96.30%	$3,101	$12,082
2017	12.40%	87.60%	3.90%	96.10%	$3,089	$10,837

Another factor to consider for workers compensation in North Carolina is the breakdown of premium by industry as shown in the table below.

Industry	% of Market
Office & Clerical	11.9%
Contracting	19.1%
Goods & Services	33.4%
Manufacturing	19.4%
Miscellaneous	16.2%

i. Voluntary Market

The availability of insurance is usually described in terms of insurer capacity and the supply of insurance products in the market. As in other lines of insurance, the availability of workers compensation coverage is impacted by the number of carriers writing and their capacity to write in the market. There were 535 member companies available to write workers compensation coverage in North Carolina in 2017. As shown in the table below, the number of member companies has only slightly increased over the past five years.

Year	# of Carriers
2013	527
2014	532
2015	531
2016	531
2017	535

Many of the workers compensation carriers writing coverage in North Carolina are members of insurance groups that write a large segment of the overall premium in the marketplace. Over the past five years, the top ten carrier groups writing workers compensation insurance in North Carolina has remained fairly stable. The chart below shows the top ten groups and their written premium for workers compensation in 2017.

2017 RANK	GROUP NAME	2017 WRITTEN PREMIUM	WRITTEN PREMIUM MARKET SHARE	% CHANGE FROM 2016
1	Travelers Group	$116,602,364	8.05%	-0.3%
2	Builders Group	$105,803,953	7.30%	-1.6%
3	Hartford Fire & Cas Group	$99,076,578	6.84%	+0.1%
4	BCBS of MI Group	$89,132,564	6.15%	+23.4%
5	Liberty Mutual Group	$81,298,626	5.61%	-33.9%
6	Zurich Insurance Group	$68,607,896	4.74%	-0.6%
7	WR Berkley Corp Group	$62,888,273	4.34%	-34.7%
8	American Financial Group	$56,272,625	3.89%	-9.6%
9	Ace Ltd Group	$50,984,747	3.52%	-8.2%
10	Erie Insurance Group	$40,516,927	2.80%	+4.8%

ii. Residual Market

Residual markets exist to ensure the availability of insurance coverage. The North Carolina Workers Compensation Insurance Plan (NCWCIP) is the mechanism for residual market coverage in North Carolina. Most often, the NCWCIP is referred to as the assigned risk plan. The assigned risk plan for North Carolina is administered by the North Carolina Rate Bureau and is available for most employers unable to secure workers compensation insurance coverage in the voluntary market. Employers must be in good standing with the NCWCIP rules to qualify for coverage through the assigned risk plan. Employers seek coverage in the assigned risk plan for a variety of reasons. The most prevalent reasons are (1) they are a new company; (2) they have a small number of employees; or (3) they have poor claim history.

The residual market is the market of last resort. It is not intended to compete with the voluntary market. Rates charged for policies in the residual market generally have higher rates than those available in the voluntary market. In the NCWCIP, 89% of employers have premiums less than $5,000, with the average premium being $3,000. These statistics are shown in the table below.

Policy Year 2017			
Premium Size	**Number of Policies**	**Written Premium**	**Average Premium**
0-$5,000	22,119	$37,136,734	$1,679
$5,000-$25,000	2,469	$23,703,631	$9,600
$25,000-$100,000	213	$8,965,084	$42,090
$100,000+	17	$2,501,932	$147,172
Total	24,818	$72,307,381	$2,914

The top 10 types of business written in the Residual Market include:

Top 10 Assigned Risk Class Codes		*7/1/17 - 6/15/18*
Rank	***Class Code***	***Phraseology***
1	5645	Carpentry-Construction of Residential Dwellings Not Exceeding Three Stories in Height
2	7219	Trucking: NOC-All Employees & Drivers
3	5474	Painting NOC & Shop Operations, Drivers
4	5551	Roofing-All Kinds & Drivers
5	5445	Wallboard, Sheetrock, Drywall, Plasterboard or Cement Board Installation Within Buildings & Drivers
6	5437	Carpentry-Installation or Cabinet Work or Interior Trim
7	9014	Janitorial Services by Contractors - No Window Cleaning Above Ground Level & Drivers
8	5022	Masonry NOC
9	7600	Telecommunications Co – Cable TV or Satellite – All Other Employees & Drivers
10	8835	Home, Public, and Traveling Healthcare – All Employees

Both servicing and direct assignment carriers provide assigned risk coverage written through the North Carolina assigned risk plan. Servicing carriers issue policies and provide services to assigned employers in return for a servicing carrier fee paid by the National Reinsurance Pool. The servicing carriers are selected through a competitive bid process to write plan coverage for a three (3) year period. The share or quota of assigned risk business for servicing carriers is determined based on their bid. Carriers not selected as servicing carriers may request permission to write assigned risk coverage as a direct assignment carrier. Direct assignment carriers are not reinsured through the National Reinsurance Pool and are solely responsible for the financial results of their written policies. Their share or quota is based on their percentage of premium writings in the voluntary market. Effective 1/1/2018, carriers writing assigned risk business include:

Direct Assignment Carriers:	**Servicing Carriers:**
ACE American Insurance Company	Amguard Insurance Company
American Interstate Insurance Company	Liberty Mutual Insurance Company
American Zurich Insurance Company	Travelers Property & Casualty Company
Auto Owners Insurance Company	
Builders Mutual Insurance Company	
Cincinnati Insurance Company	
Continental Casualty Company	
Hartford Underwriters Insurance Company	

V. The North Carolina Workers Compensation Ratemaking Process

In North Carolina, workers compensation carriers are required by statute to be members of the North Carolina Rate Bureau (Bureau). The Bureau is a non-profit organization established by NCGS 58-36-1. One role of the Bureau is to establish and administer class codes, rates, loss cost, rating plans, policy forms, and policy provisions for workers compensation insurance in North Carolina. The Bureau is responsible for preparing and filing workers compensation loss cost and assigned risk rates with the North Carolina Department of Insurance on an annual basis by September 1st, as required by statute.

Only the loss costs, loss cost multipliers, and assigned risk rates approved by the Commissioner of Insurance can be used by carriers issuing workers compensation policies in North Carolina.

Loss costs are the amounts needed for the carrier to pay medical, indemnity, disability claims and loss adjustment expenses. Loss adjustment expenses are expenses directly related to the handling of claims and include attorney fees for both the claimant and the employer.

It is the responsibility of the individual carriers to file for the approval of their loss cost multiplier. Loss cost multipliers are based on other costs a carrier may incur in the course of doing business. Other costs includes salaries, commissions, rent, utilities and assessments levied by the guaranty fund and the assigned risk plan.

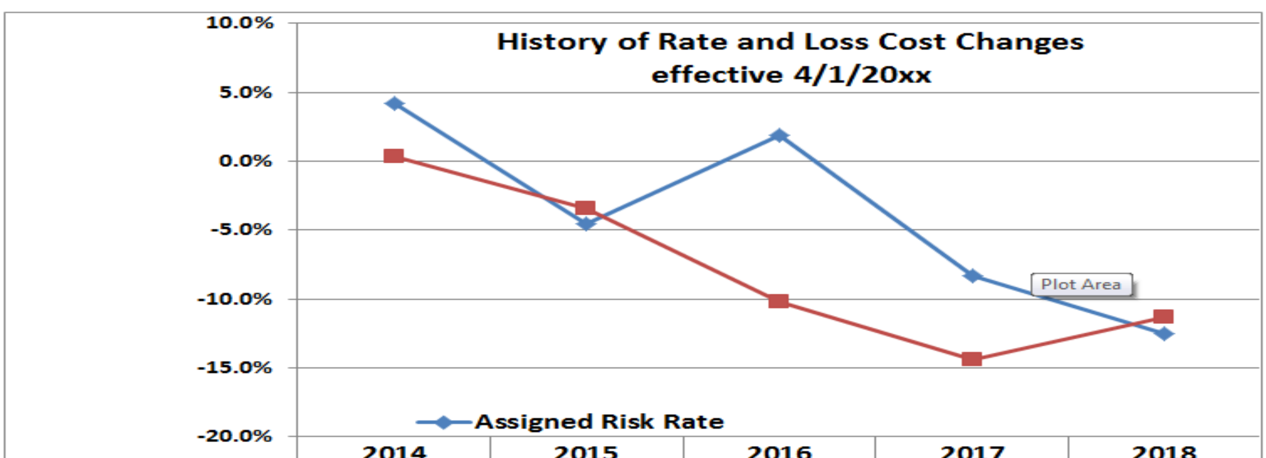
Assigned risk rates are developed using a combination of voluntary loss cost and a loss cost multiplier specific to the assigned risk market. The loss cost multiplier for assigned risk is based on an analysis of expenses relative to the insureds in the assigned risk market, with the largest component being the assigned risk differential. The differential reflects that policies in assigned risk are generally of higher risk than those insured in the voluntary market.

For workers compensation insurance, premium is developed using the insured employer's payroll, the appropriate loss cost and loss cost multiplier, or the assigned risk rate. The loss cost or assigned risk rate will vary based on class. The appropriate class is determined based on the type of business or industry of the employer. For voluntary coverage, the loss cost is multiplied by the loss cost multiplier and then by the employers' payroll divided by 100 to determine the manual premium. The manual premium is then multiplied by the employers' experience modification factor to develop the standard premium. The experience modification factor is developed by comparing an employers' actual loss experience by class code to the average experience of all employers in that class code. The development of premium for assigned risk policies uses an assigned risk rate instead of a loss cost and loss cost multiplier.

A. Loss Cost and Assigned Risk Rates

The filings for loss cost and assigned risk rates are submitted by the Bureau to the North Carolina Department of Insurance on behalf of all member companies. The selections and assumptions used in the filings are prepared by actuarial and advisory service contractors hired by the Bureau. Once compiled, the assumptions and selections are presented to Bureau staff. The results are then summarized and offered to the Bureau's Workers Compensation Committee for consideration. The Workers Compensation Committee provides Staff with feedback and makes selections that are further summarized and presented to the Bureau's Governing Committee. The Governing Committee makes the final selections and assumptions that are used in the filing submitted to the Department. In both the residual and voluntary markets, rates charged for policies must comply with the statutory requirement that rates not be inadequate, excessive, or unfairly discriminatory (G.S. 58-36-10).

While workers compensation coverage may be readily available in the voluntary market, for most employers, affordability is an ongoing concern. The need for an annual review to determine if loss costs should be increased or decreased is an effort to ensure that rates are not excessive or inadequate. As shown in the graph that below, the past five years have brough brougth a series of decreases and increases in the voluntary loss cost and assigned risk rates.



	2014	2015	2016	2017	2018
Assigned Risk Rate	4.2%	-4.5%	1.9%	-8.3%	-12.5%
Loss Cost	0.3%	-3.4%	-10.2%	-14.4%	-11.3%

The Bureau files an update or review annually for loss cost. However, there may be instances in which the approval process becomes lengthy as the Department may request additional information or disagree with the data or assumptions that have been offered in support of the filing. This type of activity impacts the ratemaking process.

B. Loss Cost Multipliers

It is up to each carrier to develop and file for approval with the Department its own loss cost multiplier (LCM). The LCM is the second component of their rate (Rate = Advisory Loss Cost * Loss Cost Multiplier). This component is based on the company's own operating expenses, taxes, and profit provision.

Although workers compensation carriers are required to use a loss cost approved by the Department, certain provisions of NCGS 58-36-100(j) allow a carrier to elect to use the current prospective loss cost or one that was previously filed and approved with a different effective date. The Bureau maintains a reference tool, available on the Bureau's website, of the loss cost multipliers that have been approved by the Department of Insurance for the industry.

VI. Administration Changes in North Carolina

The North Carolina Department of Insurance (NCDOI) continues to evolve under the leadership of Commissioner Mike Causey. In 2018, Commissioner Causey expanded the department's criminal investigations division by adding fifteen new special agents to the NCDOI's Fraud Control Group. According to the *NC Department of Insurance News*, North Carolina was the first state in the nation to set up a criminal investigations division within the Department of Insurance. Adding 15 special agents doubles the size of the department's criminal investigation division. The NCDOI estimates that insurance fraud costs consumers 15-20% of every dollar they spend on insurance premiums. In 2017, the department recovered more than $14 million from fraud investigations. It is believed that the addition of staff in this area will increase the amount recovered in 2018.

The North Carolina Industrial Commission (NCIC) is responsible for the adjudication of workers compensation claims and the administration of the Workers Compensation Act in North Carolina. In 2017, legislation moved oversight of the NCIC from the NC Department of Commerce to the NCDOI. The NCIC has six Commissioners appointed by the Governor to serve a term of six years. Although there have been changes in the makeup of the Commission, the NCIC continues to move forward under the leadership of Chairman Charlton L. Allen. Chairman Allen is assisted in adjudicating claims and administering the North Carolina Workers Compensation Act by:

Commissioner, Myra L. Griffin – Appointed in 2018
Commissioner, Phillip A. Baddour – Appointed in 2017
Commissioner, Christopher C. Loutit – Appointed in 2016
Commissioner, Tammy R. Nance – Appointed in 2011
Commissioner, Yolanda K. Stith – Appointed in 2016

Misclassification of employees continues to be a problem throughout the country. In an effort to curtail this activity in North Carolina, the Employee Classification Section was established in December 2017 and became a permanent function of the NCIC. The Employee Classification Section was created to investigate the intentional misclassification of employees as independent contractors in an effort to avoid tax liabilities and evade the requirement for workers compensation coverage. N.C.G.S. 143-764(a) (5), which established the Employee Classification Section, requires that a report be made to the governor and the Joint Legislative Commission on Governmental Operations by October 1st each year. This report is to include the number of identified misclassifications and the amount of back taxes, wages, benefits and penalties assessed and collected.

Additional efforts by the NCIC to decrease fraud and noncompliance within North Carolina's workers compensation industry have been evidenced by the $5.1 million in penalties collected from companies that failed to carry adequate workers compensation insurance. In a bulletin issued by the NCIC in May 2018, the commission attributed the increase in penalties to earlier assignment of cases to investigators. There was also legislation approved in 2018 that revised NCIC's process for assessing penalties to employers that fail to secure workers compensation coverage in which they are required by statute to do so.

VII. Regulatory Changes Impacting Workers Compensation in North Carolina

The Bureau routinely monitors industry trends and regulatory activity that may impact workers compensation in North Carolina. There was minimal legislative activity related to workers compensation in 2018. In North Carolina, the legislature alternates between a long session in odd number years, and a short session in even number years. During the short session, only certain types of legislation are eligible to be filed and only bills introduced in the long session that make the cross-over and veto overrides are considered. Any legislation proposed in 2017 that did not meet the aforementioned criteria was not considered in the 2018 legislative session. Although there was no legislative activity in 2018, what follows are several historical matters that continue to drive change in the industry.

House Bill 243, signed into law on June 29, 2017, is known and cited as the Strengthen Opioid Misuse Prevention Act of 2017 or the STOP Act. It is intended to reduce the supply of unused and misused opioids being circulated in North Carolina. The highlights of this is bill include; (1) a limit on the number of days opioids can be prescribed for acute injuries (no more than a five day supply) and following surgeries (no more than a seven day supply); (2) a requirement that prescribers report prescriptions through the NC Controlled Substances Reporting System.

This legislation and the efforts of the Opioid Task Force demonstrate North Carolina's willingness to take steps toward minimizing the opportunities for the abuse and addiction of opioids in our state.

North Carolina Workers Compensation Opioid Task Force – This task force was established in February 2017, by the North Carolina Industrial Commission (NCIC) at the direction of the North Carolina General Assembly. It included a variety of workers compensation stakeholders and was charged with studying and recommending solutions for problems arising from opioid abuse. Led by Chairman Charlton Allen, the task force spent several months researching and developing rules for the utilization of opioids, related prescriptions, and pain management treatment. The proposed rules were approved by the Rules Review Commission on April 19, 2018 and became effective May 1, 2018. The new rules are a proactive measure aimed at reducing opioid misuse and addiction in workers compensation claims, while facilitating the timely and effective delivery of appropriate medical treatment for pain management.

To assist employees, employers, carriers, health care providers, pharmacists, attorneys, and other stakeholders in the North Carolina workers' compensation system with understanding and implementing these Rules, the Industrial Commission has adopted a *Companion Guide*, effective May 1, 2018. The *Companion Guide* does not cover every aspect of the Rules; however, it is intended to provide guidance on rule provisions or topics as deemed necessary by the Industrial Commission.

Ambulatory Surgical Center Fee Schedule – The North Carolina Industrial Commission (NCIC) sets the Workers Compensation fee schedule for Ambulatory Surgical Centers (ASC) through the rulemaking process. Prior to April 1, 2015, the rate of reimbursement for ASCs was 67.15% of billed charges. A new fee schedule was established to set the maximum reimbursement rate for ASCs at 220% of the Medicare rate effective April 1, 2015 and further reduced the maximum reimbursement for ASCs to 210% on January 1, 2016 and 200% on January 1, 2017.

In October 2015, Surgical Care Affiliates (SCA) challenged the NCIC April 1, 2015 fee schedule. The SCA filed a Request for Declaratory Ruling asking the NCIC to rule that the fee schedule change for ASCs be made invalid. This request was denied by the NCIC. SCA further pursued the matter by filing a Petition for Judicial Review in Wake County Superior Court, seeking a reversal of NCIC's denial. A Court decision issued August 9, 2016 reversed NCIC's Declaratory Ruling and granted the relief requested by SCA.

On November 21, 2017 the Court of Appeals issued an Opinion reversing the August 9, 2016 Decision of Superior Court affirming the NCIC's December 14, 2015 Declaratory Ruling. The

Court of Appeals held that the ambulatory surgery center provisions of the workers' compensation medical fee schedule, effective April 1, 2015, were promulgated in accordance with the Administrative Procedure Act and is valid retroactively and prospectively.

On April 6, 2018, the North Carolina Supreme Court denied Surgical Care Affiliates' request for a Petition for Discretionary Review. This leaves in place the November 2017 Court of Appeals decision in favor of the Industrial Commission. Rule 04 NCAC 10J .0103, effective April 1, 2015, continues to be the effective fee schedule for ambulatory surgery centers.

Impact of Medical Fee Schedule Changes - The results of an analysis perform by the National Council on Compensation Insurance (NCCI), issued May 2018, estimates that changes to the Hospital Impatient fee schedule in North Carolina, effective October 2017, will have a negligible impact on overall workers compensation system cost in North Carolina. The report also estimates that changes to other sections of the fee schedule in North Carolina, effective January 1, 2018, will result in an impact of +0.4% on overall workers compensation costs in North Carolina. Fee schedule changes effective January 1, 2018, includes Physician Services, Hospital Outpatient Services, Ambulatory Surgical Center Services and Durable Medical Equipment.

The NCCI also performed a post-reform analysis on North Carolina Facility Fees implemented April 1, 2015. It compared the differences between the "estimated" changes and the "actual" changes for the fee schedule implemented April 1, 2015. The analysis shows that the "estimated" total impact was a decrease to system costs of 2.9% and the "actual" impact was a decrease of 3.7%. This analysis also shows that the observed impact for Ambulatory Surgical Centers was -39.3%, which was considerably greater that the original estimate of -14.7%.

Additional information on the impact of Medical Fee Schedules Changes for North Carolina can be found on NCCI's website at www.ncci.com under Legislative Activity – North Carolina Cost Impact Analysis.

Clarify Workers Compensation Policy Cancellation (Senate Bill 489) – Session Law 2017-150; Senate Bill 489 was signed by the Governor on July 20, 2017. This bill clarifies when notices of cancellation of workers compensation policies are presumed effective and complete. It was created to reverse a 2012 Court of Appeals' opinion which held that an insurer cannot effectively cancel workers compensation policy by mail unless the insurer could produce the green card associated with the required registered or certified mail notification. This bill states that notice of intent to cancel shall be conclusively presumed completed three days after the notice is sent by the insurer if the insurer also provides notice by electronic means as defined in G.S. 58-2-225(a) or by first-class mail.

<u>Clarify that an injury not identified in an award arising out of G.S. 97-18(b) or G.S. 97-18(d) is not presumed casually related (House Bill 26)</u> - Session Law 2017-124; House Bill 26 is the result of Wilkes v. City of Greenville, No. 368PA15, and Supreme Court of North Carolina. It is intended to clarify that an award of the Commission arising out of a G.S. 97-18(b) or G.S.97-18(d) shall not create a presumption that medical treatment for an injury or condition not identified in the form prescribed by the Commission is casually related to the compensable injury.

As stated in the *2017 Report on Workers Compensation in North Carolina*, Wilkes was injured while working for the City of Greenville. The North Carolina Industrial Commission accepted Wilkes' claim as compensable under the Workers Compensation Act, and the City of Greenville began paying Wilkes compensation for temporary total disability. Wilkes later filed a Form 33 requesting a medical motion hearing regarding his symptoms. The Commission concluded that Wilkes failed to meet his burden of establishing that his anxiety and depression were a result of his work-related accident and that he was not entitled to disability payments made after January 2011. The court of appeals (1) vacated and remanded in part, ruling that, on remand, the Commission should give Plaintiff the benefit of a presumption that his anxiety and depression were related to his injuries; and (2) reversed in part, ruling that Plaintiff had met his burden of establishing disability. The Supreme Court affirmed as modified and remanded for further proceedings, holding (1) Plaintiff was entitled a presumption of compensability in regard to his continued medical treatment; and (2) the Commission failed to address the effects of Plaintiff's tinnitus in determining whether Plaintiff lost wage-earning capacity.

VIII. Other Items of Interest

<u>Medical Marijuana</u>

In their online report *"The Marijuana Conversation"*, the National Council on Compensation Insurance reports that medical marijuana is legal in 29 states and Washington DC. They also reported that, as many as 15 states are considering marijuana proposals in the coming year. North Carolina legislators have made multiple attempts at legalizing medical marijuana over the past several years offering bills such as House Bill 185 and Senate Bill 579, both filed in 2017, that seek legalization of medical marijuana. Thus far their efforts have not been successful. Although the number of states that have laws allowing the use of medical marijuana continues to grow, not many of these states allow medical marijuana to be permissible for workers compensation treatment. Despite the growing number of states passing legislation to legalize marijuana for medical or recreational use, studies have not yielded enough evidence to prove that medical marijuana is a safer alternative to opioids for pain management. Until more studies are completed, the question of whether medical marijuana treatment will have a positive impact on medical cost, claims outcomes, and return to work for workers compensation remains unanswered. In the meantime, the Bureau will continue to monitor all North Carolina legislation proposing the legalization of marijuana.

Trucking Class Codes

Effective April 1, 2018, North Carolina implemented changes to the classification treatment for the trucking industry, following suit with national changes. These changes included the elimination of Codes 7228 Trucking - Short Haul Only and 7229 Trucking - Long-Haul Only, the reestablishment of Code 7219 – Trucking, and the establishment of Code 7225 for Towing operations.

In a review of trucking operations, it was determined that time spent behind the wheel and common causes of injury are similar for both short-haul and long-haul trucking operations. It was also determined that to ensure fair and equitable treatment of the towing industry, a towing classification should be developed.

IX. *Glossary*

As used in this report, the following terms have the meaning set forth below:

Class Code	An individual job classification (e.g., roofer, office worker, truck driver).
Experience Modification Factor	A factor used in deterring rates and developed by NCCI or the Rating Bureau, which compares an individual employer's loss experience by class code to the average experience of all insurers. Also called '*experience rating factor*'.
Loss Cost	The losses, per $100 of payroll, an insurer expects to incur for medical, lost wage and disability payments.
Loss Cost Multiplier	A factor developed by workers' compensation insurers that accounts for underwriting expenses, such as commissions and brokerage expenses, other acquisition expenses, general expenses, second injury and guaranty fund assessments, taxes, licenses, and fees, and profit and contingencies. The loss cost multiplier includes any loss cost modification factor developed by the insurer.
NCCI	National Council on Compensation Insurance - The nation's most experienced provider of workers' compensation information, tools, and services. It gathers data, analyzes industry trends, and prepares objective insurance rate and loss cost recommendations.
Premium	The amount paid by an employer to an insurer for workers' compensation insurance. Premium = Loss Costs x Loss Cost Multiplier X (Payroll/100).
Rate	The cost per unit of insurance. Rate = Loss Costs x Loss Cost Multiplier
Ratemaking	The process of calculating a premium so that it is not excessive, inadequate, or unfairly discriminatory.
Standard Premium	The type of premium that accounts for differences by class code. Standard Premium = [Manual Premium x Experience Modification Factor]