

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

SENATE BILL 673

5 By: Senator Rapert
6

For An Act To Be Entitled

8 AN ACT TO AUTHORIZE A LIMITED PROGRAM OF AN OPTIONAL
9 SYSTEM TO ALLOW AN EMPLOYER TO SECURE COVERAGE FOR
10 INJURY OR DEATH OF AN EMPLOYEE WITHOUT REGARD TO
11 WORK-RELATEDNESS; TO DECLARE AN EMERGENCY; AND FOR
12 OTHER PURPOSES.
13

Subtitle

14
15
16 TO AUTHORIZE A LIMITED PROGRAM OF AN
17 OPTIONAL SYSTEM TO ALLOW AN EMPLOYER TO
18 SECURE COVERAGE FOR INJURY OR DEATH OF AN
19 EMPLOYEE WITHOUT REGARD TO WORK-
20 RELATEDNESS; AND TO DECLARE AN EMERGENCY.
21
22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. Arkansas Code Title 11 is amended to add an additional
26 chapter to read as follows:
27

CHAPTER 16

UNIVERSAL WORKERS' COMPENSATION ACT

Subchapter 1 – General Provisions

11-16-101. Title.

31
32
33
34 This chapter shall be known and may be cited as the "Universal Workers'
35 Compensation Act".
36



1 11-16-102. Purpose and intent.

2 (a) The purpose of this chapter is to establish a statutory
3 alternative authorizing and encouraging employers to secure coverage for
4 compensation for injury or death of employees without regard to work-
5 relatedness under the authority granted to the General Assembly by Arkansas
6 Constitution, Article 5, § 32.

7 (b) To accomplish the purpose described in subsection (a) of this
8 section, it is the intent of the General Assembly that this chapter provide a
9 comprehensive plan design for employees within a plan under the Employee
10 Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et seq., as it
11 existed on January 1, 2019, to be unencumbered by state laws that impact the
12 plan design and financing of this chapter.

13
14 11-16-103. Applicability.

15 (a) This chapter is not mandatory but is an alternative for an
16 employer.

17 (b) An authorized employer shall have the right to choose to secure:

18 (1) Universal workers' compensation coverage for employees under
19 this chapter in lieu of workers' compensation, health, disability, accident,
20 and life coverage under any other state law or rule of this state; and

21 (2) Universal workers' compensation coverage for employees under
22 this chapter in lieu of workers' compensation, health, disability, accident,
23 and life coverage under any state law, rule, or regulation of any other
24 state.

25
26 11-16-104. Full faith and credit.

27 If an employer secures universal workers' compensation coverage for
28 employees under this chapter, this chapter supersedes any law of any state,
29 unless this chapter is amended by specific reference by the General Assembly,
30 and shall be entitled to and granted full faith and credit by all states,
31 subject to an act of the United States Congress in specific conflict with
32 this chapter.

33
34 11-16-105. Employee Retirement Income Security Act of 1974 – Plan.

35 (a) An employer seeking universal workers' compensation coverage for
36 employees under this chapter shall establish an employee welfare benefit plan

1 compliant with the Employee Retirement Income Security Act of 1974, 29 U.S.C.
2 § 1001 et seq., as it existed on January 1, 2019, and shall offer the
3 universal workers' compensation insurance policy as the primary plan under
4 the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et
5 seq., as it existed on January 1, 2019.

6 (b) The universal workers' compensation plan under the Employee
7 Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et seq., as it
8 existed on January 1, 2019, provides coverage for injury to a covered
9 employee as a consolidated benefit without regard to work-relatedness and
10 with unitary administration of the remedial compensation.

11 (c) The financial structure of the universal workers' compensation
12 plan under the Employee Retirement Income Security Act of 1974, 29 U.S.C. §
13 1001 et seq., as it existed on January 1, 2019, that is mandated under this
14 chapter imposes a unique fiduciary relationship, including without
15 limitation:

16 (1) The progressive character of the premium;

17 (2) The limitation on universal workers' compensation carrier
18 fees and return;

19 (3) The retention of investment profits by the universal
20 workers' compensation coverage fund and the universal workers' compensation
21 administrative fund for the benefit of covered employees;

22 (4) The coverage and remittance process unrestrained by work-
23 relatedness adjudication; and

24 (5) The per capita return of fund balances to covered employees.

25 (d) The fiduciary relationship described in subsection (c) of this
26 section protects and serves the covered employees, both individually and
27 collectively, and the covered employer.

28 (e) Because of the unique financial structure of the universal
29 workers' compensation plan under the Employee Retirement Income Security Act
30 of 1974, 29 U.S.C. § 1001 et seq., as it existed on January 1, 2019, a state
31 law imposing workers' compensation, health, disability, accident, and life
32 coverage requirements upon the universal workers' compensation plan under the
33 Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et seq., as
34 it existed on January 1, 2019, that force the universal workers' compensation
35 plan under the Employee Retirement Income Security Act of 1974, 29 U.S.C. §
36 1001 et seq., as it existed on January 1, 2019, to determine work-relatedness

1 or adopt a certain scheme of substantive coverage relate to the universal
 2 workers' compensation plan under the Employee Retirement Income Security Act
 3 of 1974, 29 U.S.C. § 1001 et seq., as it existed on January 1, 2019, and
 4 shall be detrimental to the fiduciary relationship of the universal workers'
 5 compensation plan under the Employee Retirement Income Security Act of 1974,
 6 29 U.S.C. § 1001 et seq., as it existed on January 1, 2019.

7 (f) A universal workers' compensation plan under the Employee
 8 Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et seq., as it
 9 existed on January 1, 2019, that is established to provide universal workers'
 10 compensation under this chapter shall designate the United States District
 11 Court for the Western District of Arkansas as the designated forum in a forum
 12 selection clause.

13 (g) A universal workers' compensation plan under the Employee
 14 Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et seq., as it
 15 existed on January 1, 2019, that is established to provide universal workers'
 16 compensation under this chapter may designate a specific office of the United
 17 States District Court for the Western District of Arkansas as the designated
 18 forum in a forum selection clause.

19
 20 11-16-106. Definitions.

21 As used in this chapter:

22 (1) "Accidental cause" means an unusual circumstance that is:

23 (A) Unintended, unexpected, and unforeseeable;

24 (B) Outside of the control of the person affected; and

25 (C) Not associated with disease, illness, or a process of
 26 the body;

27 (2) "Acute injury" means an injury for which an urgent and
 28 immediate response is necessary to avoid serious harm;

29 (3) "Administrative fee" means a fee payable to the universal
 30 workers' compensation carrier;

31 (4) "Administrative return" means the amount payable to the
 32 universal workers' compensation carrier;

33 (5) "Authorized employer" means an employer that is certified by
 34 the State Insurance Department as authorized to purchase a universal workers'
 35 compensation insurance policy, after approval by the State Insurance
 36 Department of the employer's plan;

1 (6) "Authorized medical care practitioner" means a medical care
2 practitioner licensed by the Arkansas State Medical Board;

3 (7) "Base premium" means the amount equal to the product of the
4 covered employee's wages from the covered employer multiplied by the base
5 premium percentage for the covered employer;

6 (8) "Base premium percentage" means a percentage of not less
7 than two percent (2%) applied uniformly to the wages of any and all covered
8 employees of a covered employer to determine a base premium;

9 (9) "Beneficiary" means a covered employee's spouse or child or
10 another person or entity designated, on a form and in the manner authorized
11 by the State Insurance Department, to receive compensation for covered death
12 payable under this chapter;

13 (10) "Body" means the human anatomy and physiology;

14 (11) "Care" means services associated with the body;

15 (12) "Clinical Effectiveness Panel determination" means a
16 decision by the Clinical Effectiveness Panel determining the status of
17 medical care as either effective or ineffective;

18 (13) "Co-employee" means an individual who has a status under
19 this chapter that grants a conclusive presumption between each employee of an
20 employer and all other employees of the employer during any distinct period
21 the employees are employed by the employer;

22 (14) "Compensation" means the amount payable to or for the
23 benefit of a covered employee under this chapter;

24 (15) "Coverage" means the financial responsibility to respond to
25 an occurrence;

26 (16) "Covered death" means death that is the direct consequence
27 of a covered injury;

28 (17)(A) "Covered disability" means disability that is the direct
29 consequence of a covered injury.

30 (B) "Covered disability" does not mean disability
31 resulting from any mental or emotional condition unless the mental or
32 emotional condition is directly related to a covered injury of the physical
33 structure of the body;

34 (18) "Covered employee" means an employee of the covered
35 employer;

36 (19) "Covered employer" means an authorized employer that

1 maintains in full force and effect a universal workers' compensation
2 insurance policy issued under the terms and conditions of the universal
3 workers' compensation insurance policy;

4 (20) "Covered injury" means an injury of a covered employee;

5 (21)(A) "Covered medical care" means medical care that is
6 undertaken as a direct consequence of a covered injury.

7 (B) "Covered medical care" does not include medical care
8 that:

9 (i) Is ineffective medical care under a Clinical
10 Effectiveness Panel determination;

11 (ii) Is considered unsafe;

12 (iii) Is unethical to administer;

13 (iv) Is contrary to law or regulation;

14 (v) Extends term of life without a reasonable
15 probability of providing quality of life;

16 (vi) Is illegal to administer; or

17 (vii) Poses a risk of harm greater than the
18 probability of benefit to the body;

19 (22) "Death" means the irreversible cessation of:

20 (A) Circulatory and respiratory functions; or

21 (B) All functions of the entire brain, including the brain
22 stem;

23 (23) "Direct consequence" means a result that is uninterrupted
24 by other factors, conditions, or circumstances;

25 (24) "Disability" means a limitation of the function of the body
26 that is:

27 (A) Sufficient to render the covered employee physically
28 unable to perform any type of work; and

29 (B) Established by objective evidence after an objective
30 medical examination;

31 (25) "Distinct period" means a period that is distinguishable
32 from other periods by definition or by facts and circumstances distinguishing
33 the period from other periods;

34 (26) "Distinct universal workers' compensation insurance policy"
35 means a universal workers' compensation insurance policy issued to a specific
36 authorized employer for a specific policy period;

1 (B) Is harmful to the body;

2 (38) "Interim distribution" means distribution of a portion of a
3 universal workers' compensation coverage fund balance and not the entire
4 universal workers' compensation coverage fund balance;

5 (39) "Interim distribution amount" means the amount the
6 universal workers' compensation carrier endorses for interim distribution;

7 (40) "Intoxicant" means a substance, whether legal or illegal,
8 that hinders a person's normal ability to act, respond, or reason;

9 (41) "Medical care" means curative, therapeutic, or ancillary
10 care necessary to safely and effectively diagnose or treat injury;

11 (42)(A) "Medical care practitioner" means a professional
12 licensed in any state to administer medical care.

13 (B) "Medical care practitioner" includes a licensed
14 medical doctor, an osteopath, an optometrist, an optician, a chiropractor, a
15 dentist, a podiatrist, a cosmetologist, a psychologist, a social worker, a
16 physical therapist, an occupational therapist, and others licensed to
17 administer medical care that are not directly regulated by the board;

18 (43)(A) "Medical opinion" means a formal expression of judgment
19 or advice by a medical care practitioner stated with a reasonable degree of
20 medical certainty.

21 (B) Greater evidentiary weight is given to medical
22 opinions that are:

23 (i) Supported by an objective medical examination;
24 and

25 (ii) Rendered by an authorized medical care
26 practitioner;

27 (44) "National average weekly wage" means the national average
28 weekly wage published by the United States Department of Labor, Division of
29 Longshore and Harbor Workers' Compensation;

30 (45) "Necessary" means something so important that it shall be
31 done or supplied to avoid serious negative consequences;

32 (46) "Noncovered medical care" means medical care that is not
33 covered medical care;

34 (47) "Objective evidence" means quantifiable information that is
35 verifiable by analytical process, procedure, observation, or evaluation;

36 (48) "Objective medical examination" means a close and careful

1 study of the body utilizing objective evidence;

2 (49) "Occurrence" means an event that caused injury or death;

3 (50) "Period" means a length of time;

4 (51) "Policy period" means the distinct period between the exact
 5 hour and date of the universal workers' compensation insurance policy's
 6 inception and the exact hour and date of the universal workers' compensation
 7 insurance policy's expiration;

8 (52) "Prorated administrative fee" means the administrative fee
 9 payable to the universal workers' compensation carrier from the final
 10 distribution of the distinct universal workers' compensation insurance policy
 11 universal workers' compensation administrative fund;

12 (53) "Quality of life" means the ability to sustain normal
 13 functions of the body, considering age and the general condition of the body;

14 (54) "Serious harm" means an injury resulting in disability or
 15 death;

16 (55) "Specific health risk" means a specific factor, as
 17 designated by the State Insurance Department, that increases the risk of
 18 injury, including without limitation:

19 (A) Tobacco;

20 (B) An intoxicant; and

21 (C) Age;

22 (56) "Specific health risk percentage" means the percentage of a
 23 covered employee's wages assigned to each specific health risk, under rules
 24 promulgated by the State Insurance Department;

25 (57) "Term of life" means the period from birth to death;

26 (58) "Total base premium" means the sum of all base premiums;

27 (59) "Total employer premium" means the sum of all employer
 28 premiums;

29 (60) "Total health risk premium" means the sum of all health
 30 risk premiums;

31 (61) "Total premium" means the sum of the:

32 (A) Total base premium;

33 (B) Total employer premium; and

34 (C) Total health risk premium;

35 (62) "Universal Workers' Compensation Act applicable rate" means
 36 the rate to use for universal workers' compensation benefits;

1 (63) "Universal workers' compensation carrier" means any company
2 authorized by the State Insurance Department to issue a universal workers'
3 compensation insurance policy;

4 (64) "Universal workers' compensation claim" means a request for
5 compensation under a universal workers' compensation insurance policy;

6 (65) "Universal workers' compensation coverage" means coverage
7 under a universal workers' compensation insurance policy;

8 (66) "Universal workers' compensation insurance policy" means an
9 insurance policy certified by the State Insurance Department as compliant
10 with this chapter;

11 (67) "Universal workers' compensation rate" means the fixed
12 weekly rate paid to a covered employee who is unable to work as a result of a
13 covered injury or covered disability;

14 (68) "Unsafe conduct" means a personal act or series of personal
15 acts generally recognized to substantially increase the likelihood of injury
16 resulting in serious harm;

17 (69) "Wages" means the amount earned for work by an employee,
18 including any amount earned but deferred for payment at a later date;

19 (70) "Weekly wage period" means a single period of seven (7)
20 consecutive days for which wages are payable for work performed by a covered
21 employee for the covered employer; and

22 (71) "Work" means performance, usually labor or service,
23 involving physical or mental effort.

24
25 11-16-107. Administrative fee – Administrative return.

26 (a) An administrative fee is payable to the universal workers'
27 compensation carrier in the amount equal to the product of ten percent (10%)
28 of the total premium for the distinct universal workers' compensation
29 insurance policy multiplied by the Universal Workers' Compensation Act
30 applicable rate.

31 (b) An administrative return is the amount payable to the universal
32 workers' compensation carrier from the final distribution of the distinct
33 universal workers' compensation insurance policy's universal workers'
34 compensation administrative fund that shall equal the final fund balance of
35 the distinct universal workers' compensation insurance policy universal
36 workers' compensation administrative fund.

1 (c) The Universal Workers' Compensation Act applicable rate is the
2 greater of:

3 (1) Five percent (5%); or

4 (2) The applicable federal rate used by the Internal Revenue
5 Service using the annual long-term one-hundred-thirty-percent (130%)
6 applicable federal rate that is valid for the designated date of payment.

7
8 11-16-108. Authorized employer.

9 (a) An authorized employer is authorized to purchase a universal
10 workers' compensation insurance policy, after approval by the State Insurance
11 Department, to:

12 (1) Contract for universal workers' compensation coverage and
13 require participation of all employees as a condition of employment,
14 including without limitation employees of a parent, subsidiary, or affiliated
15 company;

16 (2) Provide all payroll services, including without limitation
17 accounting, check or card issuance, check or card mailing, electronic payment
18 transfer, payment clearing, and payment reconciliation within this state;

19 (3)(A) Prefund payroll liabilities for covered employees,
20 twenty-four (24) hours before issuance of payroll remittances by check, card,
21 electronic funds transfer, or other means, into an account or accounts
22 holding the funds in this state in a bank or banks authorized by this state
23 to transact banking business in this state.

24 (B) The funds shall be held in the account until the final
25 remittance has cleared;

26 (4) Manage employment and personnel functions for all covered
27 employees through an office in this state; and

28 (5) Finalize the hiring process for covered employees within
29 this state.

30 (b) An authorized employer may contract for services required by this
31 section with a service provider authorized by the department to provide the
32 services.

33 (c) An authorized employer shall provide universal workers'
34 compensation coverage for covered employees by incorporating a universal
35 workers' compensation insurance policy in a plan under the Employee
36 Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et seq., as it

1 existed on January 1, 2019.

2
3 11-16-109. Universal workers' compensation carrier.

4 A universal workers' compensation carrier shall agree to:

5 (1) Administer the universal workers' compensation insurance
6 policy within this state;

7 (2) Process and adjudicate universal workers' compensation
8 insurance policy compensation within this state; and

9 (3) Maintain cash balances for compensation in an account or
10 accounts within this state in a bank or banks authorized by the State of
11 Arkansas to transact banking business within this state.

12
13 Subchapter 2 – Compensation Provisions

14
15 11-16-201. Universal workers' compensation – Compensation rate.

16 (a) The universal workers' compensation rate is the fixed weekly rate
17 that shall remain unchanged for the covered injury and shall be applied to
18 determine compensation for a covered injury, except compensation for medical
19 care.

20 (b)(1) A universal workers' compensation rate is seventy-five percent
21 (75%) of the covered employee's average weekly wage, subject to the
22 restrictions and limitations of subsections (c) and (d) of this section.

23 (2) A covered employee's average weekly wage is the quotient of
24 total wages paid to the covered employee by the covered employer during the
25 fifty-two (52) weekly wage periods immediately preceding the date of a
26 covered injury divided by the total number of weekly wage periods the covered
27 employee was employed by the covered employer during the fifty-two (52)
28 weekly wage periods immediately preceding the date of a covered injury.

29 (3) After calculating the universal workers' compensation rate,
30 the result shall be rounded to the nearest cent.

31 (c) The universal workers' compensation rate shall be restricted to
32 and shall not exceed two (2) times the national average weekly wage
33 applicable to the date of the covered injury.

34 (d) The universal workers' compensation rate shall not be less than
35 seventy-five dollars (\$75.00) per week.

1 11-16-202. Universal workers' compensation – Claim for payment of
2 compensation.

3 (a) An authorized medical care practitioner shall submit any universal
4 workers' compensation claim to the universal workers' compensation carrier
5 under the terms and conditions of the distinct universal workers'
6 compensation insurance policy providing universal workers' compensation
7 coverage for the covered injury.

8 (b) A covered employee shall submit a universal workers' compensation
9 claim under the terms and conditions of the distinct universal workers'
10 compensation insurance policy providing universal workers' compensation
11 coverage for the covered injury.

12 (c)(1) A beneficiary or beneficiaries of a deceased covered employee
13 shall submit a universal workers' compensation claim for covered death under
14 the terms and conditions of the distinct universal workers' compensation
15 insurance policy providing universal workers' compensation coverage for the
16 covered injury.

17 (2) If the covered employee failed to declare a beneficiary or
18 beneficiaries, the personal representative of the estate of the covered
19 employee shall submit the universal workers' compensation claim for covered
20 death under the terms and conditions of the distinct universal workers'
21 compensation insurance policy providing universal workers' compensation
22 coverage for the covered injury.

23 (d) A universal workers' compensation carrier is entitled to all
24 documents, reports, and information of any kind or character deemed necessary
25 to appropriately evaluate, process, and adjudicate a universal workers'
26 compensation claim under the terms and conditions of the distinct universal
27 workers' compensation insurance policy providing universal workers'
28 compensation coverage for the covered injury.

29 (e) A universal workers' compensation claim is deemed a submitted
30 universal workers' compensation claim on the date all documents, reports, and
31 information of any kind or character necessary to appropriately evaluate,
32 process, and adjudicate the universal workers' compensation claim under the
33 terms and conditions of the distinct universal workers' compensation
34 insurance policy providing universal workers' compensation coverage for the
35 covered injury are received by the universal workers' compensation carrier.

36

1 11-16-203. Compensation for covered medical care – Definitions.

2 As used in this subchapter:

3 (1) "Balance billing" means billing a covered employee for any
4 amount for covered medical care that exceeds compensation for covered medical
5 care paid by the universal workers' compensation carrier under a universal
6 workers' compensation insurance policy;

7 (2) "Centers for Medicare and Medicaid Services fee schedule
8 amount" means the payment amount for specific medical care under an
9 applicable fee schedule published by the Centers for Medicare and Medicaid
10 Services; and

11 (3) "Negotiated fee schedule amount" means the payment amount
12 agreed to by the authorized medical care practitioner for specific medical
13 care under a fee schedule available to the universal workers' compensation
14 carrier:

15 (A) Under a contract between the universal workers'
16 compensation carrier and the authorized medical care practitioner; or

17 (B) Under a contract between the universal workers'
18 compensation carrier and a third party.

19
20 11-16-204. Compensation for covered medical care.

21 (a) An authorized medical care practitioner shall not require any
22 payment from a covered employee for covered medical care and is prohibited
23 from balance billing a covered employee for any covered medical care
24 provided.

25 (b) If an authorized medical care practitioner is paid a covered
26 medical care amount under § 11-16-205(a) of this section, the authorized
27 medical care practitioner does have the authority to balance bill a covered
28 employee for noncovered medical care in an amount equal to the difference
29 between the noncovered medical care amount and the covered medical care
30 amount.

31 (c) Compensation for covered medical care shall be paid:

32 (1) Only for covered medical care;

33 (2) From the universal workers' compensation coverage fund of
34 the distinct universal workers' compensation insurance policy providing the
35 universal workers' compensation coverage for the covered injury;

36 (3) Under the terms and conditions of the distinct universal

1 workers' compensation insurance policy providing the universal workers'
2 compensation coverage for the covered injury;

3 (4) Under procedures compliant with the Employee Retirement
4 Income Security Act of 1974, 29 U.S.C. § 1001 et seq., as it existed on
5 January 1, 2019;

6 (5) Only to an authorized medical care practitioner;

7 (6) By electronic transfer if secure electronic transfer is
8 possible and appropriate; and

9 (7) At the lesser of the lowest of the Centers for Medicare and
10 Medicaid Services fee schedule amount or the lowest negotiated fee schedule
11 amount.

12 (d) Compensation for medical care shall not be paid:

13 (1) To any medical care practitioner other than an authorized
14 medical care practitioner;

15 (2) For medical care provided after termination of the covered
16 employee's employment with the covered employer, except as provided in § 11-
17 16-301(b)(1);

18 (3) For care provided after death of the covered employee;

19 (4) For noncovered medical care, except payment of the covered
20 medical care amount under § 11-16-205(a); or

21 (5) Unless a universal workers' compensation claim for covered
22 medical care is submitted within one hundred twenty (120) days after the date
23 of service.

24
25 11-16-205. Noncovered medical care – Notice.

26 (a) If the covered employee and an authorized medical care
27 practitioner determine that noncovered medical care is preferred and the
28 authorized medical care practitioner desires compensation under this chapter,
29 then the following apply:

30 (1) The authorized medical care practitioner shall, before
31 administering the noncovered medical care, submit a request to the universal
32 workers' compensation carrier, on a form and in the manner authorized by the
33 State Insurance Department, including the following:

34 (A) A detailed description of the preferred course of
35 noncovered medical care for the covered injury;

36 (B) A detailed statement reporting the lesser of the

1 lowest Centers for Medicare and Medicaid Services fee schedule amount or the
2 lowest negotiated fee schedule amount accepted as satisfaction by the
3 authorized medical care practitioner from any remitter for the noncovered
4 medical care; and

5 (C) A confirmation by the authorized medical practitioner
6 that the covered employee has been advised that the medical care requested is
7 noncovered medical care;

8 (2) The universal workers' compensation carrier shall determine
9 the most cost-effective course of covered medical care appropriate for the
10 covered injury and the total amount of the covered medical care at the lesser
11 of the lowest Centers for Medicare and Medicaid Services fee schedule amount
12 or the lowest negotiated fee schedule amount;

13 (3) The universal workers' compensation carrier shall notify the
14 covered employee of the request, on a form and in the manner authorized by
15 the department, including:

16 (A) A copy of the request;

17 (B) A detailed description of the course of medical care
18 for both the noncovered medical care requested and the appropriate covered
19 medical care;

20 (C) The noncovered medical care amount and the covered
21 medical care amount;

22 (D) A statement that contains the following language:

23 "If the covered employee allows the authorized medical care practitioner to
24 administer the noncovered medical care: (1) The universal workers'
25 compensation carrier shall not be liable for compensation over and above the
26 covered medical care amount for charges associated with noncovered medical
27 care; (2) The authorized medical care practitioner shall have the right to
28 balance bill the covered employee for noncovered medical care in an amount
29 equal to the difference between the noncovered medical care amount and the
30 covered medical care amount; and (3) The universal workers' compensation
31 carrier shall not be liable for compensation, except compensation for covered
32 medical care, where a covered injury is associated with noncovered medical
33 care"; and

34 (E) The name and contact information for a person
35 available to respond to any questions regarding the request;

36 (4)(A) If the noncovered medical care is administered after

1 notice to the covered employee under subdivision (a)(3) of this section, the
2 universal workers' compensation carrier shall pay the authorized medical care
3 practitioner the covered medical care amount:

4 (i) Under procedures compliant with Employee
5 Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et seq., as existed
6 on January 1, 2019; and

7 (ii) Only if the authorized medical care
8 practitioner submitted the universal workers' compensation claim to the
9 universal workers' compensation carrier within sixty (60) days of the date of
10 service.

11 (B) The authorized medical care practitioner shall have
12 the right to balance bill the covered employee under § 11-16-204.

13 (C) The universal workers' compensation carrier shall
14 notify the covered employee that:

15 "(1) The universal workers' compensation carrier shall not be liable for
16 compensation over and above the covered medical care amount for charges
17 associated with noncovered medical care; (2) The authorized medical care
18 practitioner shall have the right to balance bill the covered employee for
19 noncovered medical care in an amount equal to the difference between the
20 noncovered medical care amount and the covered medical care amount; and (3)
21 The universal workers' compensation carrier shall not be liable for
22 compensation, except compensation for covered medical care, where a covered
23 injury is associated with noncovered medical care.";

24 (5) If noncovered medical care is not emergent medical care and
25 is administered prior to notice to the covered employee under subdivision
26 (a)(3) of this section, the universal workers' compensation carrier shall
27 notify the covered employee that:

28 "(1) The universal workers' compensation carrier shall not be liable for
29 compensation to the authorized medical care practitioner for charges
30 associated with the noncovered medical care; (2) The authorized medical care
31 practitioner shall not bill the covered employee for the noncovered medical
32 care, if the authorized medical care practitioner knew or should have known
33 that the medical care administered was noncovered medical care and failed to
34 secure the covered employee's informed consent accepting financial
35 responsibility for the noncovered medical care; and (3) The universal
36 workers' compensation carrier shall not be liable for compensation, except

1 compensation for covered medical care, where a covered injury is associated
2 with noncovered medical care.”;

3 (6) If the noncovered medical care is emergent medical care, the
4 universal workers’ compensation carrier shall pay the covered medical care
5 amount to the authorized medical care practitioner within twenty-one (21)
6 days after receipt of a valid universal workers’ compensation claim; and

7 (7) Payments to an authorized medical care practitioner for
8 noncovered medical care under this subsection shall not exceed the covered
9 medical care amount.

10 (b)(1) Before issuing a universal workers’ compensation insurance
11 policy, a universal workers’ compensation carrier shall secure approval from
12 the department of a specific plan for payment of additional compensation to
13 authorized medical care practitioners for covered medical care as an addition
14 to the Centers for Medicare and Medicaid Services fee schedule amount or
15 negotiated fee schedule amount payable.

16 (2) The specific medical compensation plan shall include:

17 (A) A detailed description of the methodology;

18 (B) A cost-effectiveness analysis; and

19 (C) The projected improvement in medical care
20 effectiveness resulting from implementation.

21 (3) The specific medical compensation plan is proprietary to the
22 universal workers’ compensation carrier.

23
24 11-16-206. Compensation for covered disability.

25 (a) Compensation for covered disability shall be paid:

26 (1) Only for covered disability;

27 (2) At the universal workers’ compensation rate;

28 (3) Only to the covered employee, the legal guardian of the
29 covered employee, or the attorney-in-fact of the covered employee;

30 (4) From the universal workers’ compensation coverage fund of
31 the distinct universal workers’ compensation insurance policy providing
32 universal workers’ compensation coverage for the covered injury;

33 (5) Under the terms and conditions of the distinct universal
34 workers’ compensation insurance policy providing the universal workers’
35 compensation coverage for the covered injury;

36 (6) Under procedures compliant with the Employee Retirement

1 Income Security Act of 1974, 29 U.S.C. § 1001 et seq., as it existed on
2 January 1, 2019; and

3 (7) Either:

4 (A) In a lump sum for the portion of the compensation for
5 covered disability payable before the date the universal workers'
6 compensation claim is approved by the universal workers' compensation carrier
7 under the terms and conditions of the distinct universal workers'
8 compensation insurance policy providing universal workers' compensation
9 coverage for the covered injury; or

10 (B) In biweekly installments for the portion of the
11 compensation for covered disability payable on or after the date the
12 universal workers' compensation claim is accepted by the universal workers'
13 compensation carrier under the terms and conditions of the distinct universal
14 workers' compensation insurance policy providing universal workers'
15 compensation coverage for the covered injury.

16 (b) Compensation for covered disability shall not be payable:

17 (1) At any time or under any circumstances for the first
18 fourteen (14) days of covered disability for each distinct period of covered
19 disability measured from the date the covered disability is deemed
20 established to the date the covered employee is deemed physically able to
21 perform some type of work;

22 (2) After termination of the covered employee's employment with
23 the covered employer, except as provided in § 11-16-301(b)(2);

24 (3) During any period the covered employee is engaged in work;

25 (4) During any distinct period the covered employee is deemed
26 physically able to perform some type of work by an authorized medical care
27 practitioner; or

28 (5) After death of the covered employee.

29 (c) Compensation for covered disability is subject to the following
30 aggregate limits, as applicable:

31 (1) If covered disability is not the direct consequence of a
32 covered injury by accidental cause:

33 (A) The total number of all weeks of compensation for
34 covered disability is limited to and shall not exceed one hundred fifty-six
35 (156) weeks and shall be further limited by subdivision (c)(1)(B) of this
36 section; and

1 (B) The amount of all compensation for covered disability
2 for the covered injury is limited to and shall not exceed two hundred thirty-
3 four (234) times the national average weekly wage applicable to the date of
4 the covered injury;

5 (2) If covered disability is the direct consequence of a covered
6 injury by accidental cause:

7 (A) The total number of all weeks of compensation for
8 covered disability is limited to and shall not exceed five hundred twenty
9 (520) weeks and shall be further limited by subdivision (c)(2)(B) of this
10 section; and

11 (B) The amount of all compensation for covered disability
12 is limited to and shall not exceed seven hundred eighty (780) times the
13 national average weekly wage applicable to the date of the covered injury; or

14 (3) If covered disability is the direct consequence of a covered
15 injury by accidental cause that would not have occurred but for the unsafe
16 conduct of a co-employee of the covered employee:

17 (A) The total number of all weeks of compensation for
18 covered disability is limited to and shall not exceed two thousand six
19 hundred (2,600) weeks and shall be further limited by subdivision (c)(3)(B)
20 of this section; and

21 (B) The amount of all compensation for covered disability
22 is limited to and shall not exceed three thousand nine hundred (3900) times
23 the national average weekly wage applicable to the date of the covered
24 injury.

25
26 11-16-207. Accommodation.

27 (a) As used in this section:

28 (1) "Accommodation compensation factor" means one (1);

29 (2) "Accommodation hours" means the number of weekly hours
30 prescribed under the temporary accommodation or modified temporary
31 accommodation;

32 (3) "Accommodation hours' quotient" means the amount resulting
33 from dividing the accommodation hours by the average weekly hours;

34 (4) "Accommodation period" means a distinct period, subject to
35 subsection (b) of this section, if:

36 (A) The covered employee is deemed physically able to

1 perform some type of work by an authorized medical care practitioner;

2 (B) The authorized medical practitioner has prescribed
3 temporary physical restrictions for the covered employee that require a
4 modification of the covered employee's work duties or work hours, or both, as
5 temporary accommodation;

6 (C) The temporary accommodation is necessary for the
7 covered employee to return to work for the covered employer;

8 (D) The release to return to work immediately follows a
9 distinct period of covered disability; and

10 (E) The covered employee was paid compensation for covered
11 disability during the distinct period of covered disability;

12 (5) "Accommodation wages" means wages paid to a covered employee
13 for all accommodation hours, except accommodation hours the covered employee
14 fails to work as scheduled;

15 (6) "Average weekly hours" means the average number of hours the
16 covered employee worked for the covered employer during the fifty-two (52)
17 weekly wage periods immediately preceding the date of the covered injury;

18 (7) "Modified temporary accommodation" means the modification of
19 temporary physical restrictions by the authorized medical care practitioner
20 that may affect the covered employee's duties or work hours; and

21 (8) "Work release date" means the date the covered employee is
22 deemed physically able to perform some type of work by an authorized medical
23 care practitioner.

24 (b) The accommodation period runs from the work release date and shall
25 not exceed ninety (90) days for any covered injury.

26 (c) During the accommodation period, the temporary accommodation is
27 subject to modified temporary accommodation.

28 (d) All rights and duties established under this section are expressly
29 conditioned upon the covered employee's presenting a timely request for
30 temporary accommodation or modified temporary accommodation to the covered
31 employer and a timely notice of the request for temporary accommodation or
32 modified temporary accommodation to the universal workers' compensation
33 carrier, under the rules promulgated by the State Insurance Department.

34 (e) For a distinct period within the accommodation period that the
35 covered employer provides accommodation hours, the covered employer shall:

36 (1) Schedule the covered employee for the accommodation hours;

1 (2) Notify the covered employee of the schedule for the
2 accommodation hours; and

3 (3) Pay accommodation wages.

4 (f) Upon receipt of notice of a request for temporary accommodation or
5 modified temporary accommodation under subsection (d) of this section, the
6 universal workers' compensation carrier shall:

7 (1) Determine the average weekly hours;

8 (2) Determine the accommodation hours; and

9 (3) Determine the accommodation hours' quotient.

10 (g) If the covered employer pays accommodation wages and the
11 accommodation hours' quotient is less than one (1), the universal workers'
12 compensation carrier shall:

13 (1) Subtract the accommodation hours' quotient from the
14 accommodation compensation factor;

15 (2) Multiply the accommodation compensation factor by the
16 universal workers' compensation rate, accommodation compensation; and

17 (3) Pay the accommodation compensation to the covered employee
18 biweekly, adjusted for partial weeks.

19 (h) For any distinct period within the accommodation period that the
20 covered employer does not provide accommodation hours, the covered employer
21 shall pay the covered employee the amount equal to one hundred twenty-five
22 percent (125%) of the covered employee's universal workers' compensation rate
23 for each week the covered employer does not provide accommodation hours,
24 adjusted for partial weeks.

25
26 11-16-208. Compensation for covered death.

27 (a) Compensation for covered death shall be paid:

28 (1) Only for covered death;

29 (2) At the universal workers' compensation rate;

30 (3) To the covered employee's designated beneficiary or
31 beneficiaries or, alternatively, to the probate estate of the covered
32 employee;

33 (4) From the universal workers' compensation coverage fund of
34 the distinct universal workers' compensation insurance policy providing
35 universal workers' compensation coverage for the covered death;

36 (5) Under the terms and conditions of the distinct universal

1 workers' compensation insurance policy providing the universal workers'
2 compensation coverage for the covered death;

3 (6) Under procedures compliant with the Employee Retirement
4 Income Security Act of 1974, 29 U.S.C. § 1001 et seq., as it existed on
5 January 1, 2019; and

6 (7) Either:

7 (A) In a lump sum for the portion of the compensation
8 payable before the date the universal workers' compensation claim is accepted
9 by the universal workers' compensation carrier under the terms and conditions
10 of the distinct universal workers' compensation insurance policy providing
11 universal workers' compensation coverage for the covered death; or

12 (B) In biweekly installments for the portion of the
13 compensation payable on or after the date the universal workers' compensation
14 claim is accepted by the universal workers' compensation carrier under the
15 terms and conditions of the distinct universal workers' compensation
16 insurance policy providing universal workers' compensation coverage for the
17 covered death.

18 (b) If the covered employee failed to designate a beneficiary or the
19 designation is invalid for any reason, compensation for covered death shall
20 be paid to the probate estate of the covered employee.

21 (c) Compensation for covered death shall not be payable after
22 termination of the covered employee's employment with the covered employer,
23 except as provided in § 11-16-301(b)(3).

24 (d) Compensation for covered death is subject to restrictions and
25 limitations as follows:

26 (1) If the covered death is not the direct consequence of a
27 covered injury by accidental cause, the amount of all compensation paid and
28 payable for the covered death is restricted to and shall not exceed fifty-two
29 (52) times the national average weekly wage applicable to the date of the
30 covered injury;

31 (2) If the covered death is the direct consequence of a covered
32 injury by accidental cause, the amount of all compensation paid and payable
33 for the covered death is restricted to and shall not exceed one hundred
34 fifty-six (156) times the national average weekly wage applicable to the date
35 of the covered injury; or

36 (3) If a covered death is the direct consequence of a covered

1 injury by accidental cause that would not have occurred but for the unsafe
2 conduct of a co-employee of the covered employee, the amount of all
3 compensation paid and payable for the covered death is restricted to and
4 shall not exceed one thousand three hundred (1,300) times the national
5 average weekly wage applicable to the date of the covered injury.

6 (e) The universal workers' compensation carrier shall not approve
7 payment of compensation for covered death without confirmation of date of
8 death and cause of death under the terms and conditions of the distinct
9 universal workers' compensation insurance policy providing universal workers'
10 compensation coverage for the covered injury.

11
12 11-16-209. Compensation for covered scheduled loss.

13 (a) As used in this section:

14 (1) "Covered scheduled loss" means a scheduled loss that is the
15 direct consequence of a covered injury by accidental cause;

16 (2) "Scheduled loss" means the permanent total loss of a
17 scheduled member or scheduled members by amputation or permanent total loss
18 of use; and

19 (3) "Scheduled member" means a part of the body explicitly
20 designated in subsection (e) of this section.

21 (b) Compensation for covered scheduled loss shall be paid:

22 (1) Only for covered scheduled loss;

23 (2) At the universal workers' compensation rate;

24 (3) Only to the covered employee, the legal guardian of the
25 covered employee, or the attorney-in-fact of the covered employee;

26 (4) From the universal workers' compensation coverage fund of
27 the distinct universal workers' compensation insurance policy providing
28 universal workers' compensation coverage for the covered scheduled loss;

29 (5) Under the terms and conditions of the distinct universal
30 workers' compensation insurance policy providing the universal workers'
31 compensation coverage for the covered scheduled loss;

32 (6) Under procedures compliant with the Employee Retirement
33 Income Security Act of 1974, 29 U.S.C. § 1001 et seq., as it existed on
34 January 1, 2019; and

35 (7) Either:

36 (A) In a lump sum for the portion of the compensation

1 payable before the date the universal workers' compensation claim is accepted
2 by the universal workers' compensation carrier under the terms and conditions
3 of the distinct universal workers' compensation insurance policy providing
4 universal workers' compensation coverage for the covered scheduled loss; or

5 (B) In biweekly installments for the portion of the
6 compensation payable on or after the date the universal workers' compensation
7 claim is accepted by the universal workers' compensation carrier under the
8 terms and conditions of the distinct universal workers' compensation
9 insurance policy providing universal workers' compensation coverage for the
10 covered scheduled loss.

11 (c) Compensation for covered scheduled loss shall not be payable after
12 death of the covered employee.

13 (d) Compensation for covered scheduled loss shall not be payable after
14 termination of the covered employee's employment with the covered employer,
15 except as provided in § 11-16-301(b)(4).

16 (e) Specific scheduled members and the maximum number of weeks of
17 compensation for covered scheduled loss of the scheduled member shall be as
18 follows:

19 (1) Arm at the elbow, or between the elbow and shoulder, three
20 hundred sixty-four (364) weeks;

21 (2) Arm between the elbow and wrist, two hundred sixty (260)
22 weeks;

23 (3) Leg at the knee, or between the knee and the hip, two hundred
24 sixty (260) weeks;

25 (4) Leg between the knee and the ankle, one hundred fifty-six
26 (156) weeks;

27 (5) Hand, two hundred sixty (260) weeks;

28 (6) Thumb, one hundred four (104) weeks;

29 (7) First finger, eighty-three (83) weeks;

30 (8) Second finger, sixty-two (62) weeks;

31 (9) Third finger, forty-two (42) weeks;

32 (10) Fourth finger, twenty-one (21) weeks;

33 (11) Foot, one hundred fifty-six (156) weeks;

34 (12) Great toe, sixty-two (62) weeks;

35 (13) Toe other than great toe, twenty-one (21) weeks;

36 (14) Sight in one eye, one hundred thirty (130) weeks;

1 (15) Sight in both eyes, three hundred sixty-four weeks (364);

2 (16) Hearing in one (1) ear, seventy-eight (78) weeks; and

3 (17) Hearing in both ears, two hundred thirty-four (234) weeks.

4 (f)(1) Compensation for covered scheduled loss of the first phalange
5 will be one-half (1/2) of the compensation for the amputation of the entire
6 digit.

7 (2) Compensation for covered scheduled loss of more than one (1)
8 phalange of a digit is the same as for amputation of the entire digit.

9 (3) Compensation for covered scheduled loss of two (2) or more
10 digits or one (1) or more phalanges of two (2) or more digits of a hand or a
11 foot shall not exceed the compensation for scheduled loss of a hand or a
12 foot.

13 (g)(1) Permanent total loss of the vision of an eye is the same as
14 enucleation of an eye.

15 (2) In all cases of permanent total loss of vision, the
16 availability of corrective lenses shall be considered in evaluating the
17 extent of loss of vision.

18 (h) Compensation for covered scheduled loss is subject to restrictions
19 and limitations, as the amount of all compensation paid and payable to a
20 covered employee for all covered scheduled loss is restricted to and shall
21 not exceed five hundred twenty (520) times the national average weekly wage
22 applicable to the date of the covered injury.

23
24 Subchapter 3 – Additional Compensation Provisions

25
26 11-16-301. Terminated covered employee.

27 (a) As used in this section:

28 (1) "Terminated covered employee" means an individual whose
29 employment with a covered employer has ended by virtue of resignation,
30 retirement, discharge, layoff, dismissal, operation of law, or other
31 separation and who is therefore no longer a covered employee; and

32 (2) "Terminated covered employer" means a covered employer of a
33 terminated covered employee.

34 (b) A terminated covered employee shall not have universal workers'
35 compensation coverage under any distinct universal workers' compensation
36 insurance policy issued to the terminated covered employer, except

1 compensation coverage for:

2 (1) Covered medical care:

3 (A) Related to covered disability under subdivision (b)(2)
4 of this section;

5 (B) Only during the distinct period that compensation for
6 covered disability is payable under § 11-16-204; and

7 (C) Payable under § 11-16-204 and not in direct conflict
8 with this section;

9 (2) Covered disability payable under § 11-16-206, if the covered
10 injury occurred during the period that the terminated covered employee was a
11 covered employee of the terminated covered employer;

12 (3) Covered death if:

13 (A) Either:

14 (i) The covered death occurred during the period
15 that the terminated covered employee was a covered employee of the terminated
16 covered employer; or

17 (ii)(a) The covered injury occurred after the period
18 that the terminated covered employee was a covered employee of the terminated
19 covered employer;

20 (b) The covered death is related to covered
21 disability under subdivision (b)(2) of this section; and

22 (c) The covered death occurred during the
23 distinct period that compensation for covered disability is payable pursuant
24 to section § 11-16-206; and

25 (B) Payable under § 11-16-206 and not in direct conflict
26 with subdivision (b)(3)(A)(ii)(b) of this section;

27 (4) Covered scheduled loss payable under § 11-16-209, if the
28 covered injury occurred during the period that the terminated covered
29 employee was a covered employee of the terminated covered employer; and

30 (5) Provisions of this chapter that are not in direct conflict
31 with subdivisions (b)(1)(C) and (b)(3)(B) of this section are applicable to
32 this section.

33
34 11-16-302. Other limitations on compensation.

35 (a) A universal workers' compensation carrier is not liable for
36 compensation, except compensation for covered medical care, if:

1 (1) The covered employee's use of an intoxicant contributes to
2 or exacerbates the effect of a covered injury;

3 (2) The presence of an intoxicant will create a rebuttable
4 presumption that the covered injury is an intoxication impact injury;

5 (3) A covered employee is deemed by his or her employment to
6 have impliedly consented to reasonable and responsible testing by properly
7 trained medical or law enforcement personnel for the presence of any
8 intoxicant in the covered employee's body; and

9 (4) The presumption established under subdivision (a)(2) of this
10 section may be rebutted by clear and convincing evidence establishing that
11 the covered injury is not an intoxication impact injury.

12 (b) A universal workers' compensation carrier is not liable for
13 compensation, except covered medical care, if:

14 (1) The covered employee's use of prescription drugs in
15 contravention of a physician's orders contributes to the cause or exacerbates
16 the effect of the covered injury as a prescription contravention-impact
17 injury;

18 (2) The presence of prescription drugs in contravention of a
19 physician's orders creates a rebuttable presumption that the covered injury
20 is a prescription contravention-impact injury;

21 (3) A covered employee is deemed by his or her employment to
22 have impliedly consented to reasonable and responsible testing by properly
23 trained medical or law enforcement personnel for the presence of any
24 prescription drugs that may cause or exacerbate injury in the employee's
25 body; and

26 (4) The presumption established under subdivision (b)(2) of this
27 section may be rebutted by clear and convincing evidence establishing that
28 the covered injury is not a prescription contravention-impact injury.

29 (c) A universal workers' compensation carrier is not liable for
30 compensation, except covered medical care, if a covered injury is deemed
31 intentionally self-inflicted.

32 (d) A universal workers' compensation carrier is not liable for
33 compensation, except covered medical care, if the covered injury is
34 associated with the covered employee's voluntary participation in a crime
35 classified as a felony.

36 (e) A universal workers' compensation carrier is not liable for

1 compensation, except covered medical care, if a covered injury is associated
2 with noncovered medical care that is not emergent medical care.

3
4 11-16-303. Lump sum payment.

5 A universal workers' compensation carrier, at its discretion, has the
6 right to satisfy periodic payments contemplated by this chapter in a lump sum
7 payment after applying a discount rate equal to the Universal Workers'
8 Compensation Act applicable rate under the terms and conditions of the
9 distinct universal workers' compensation insurance policy providing universal
10 workers' compensation coverage for the covered injury.

11
12 11-16-304. Settlement agreement.

13 (a) As used in this section, "designated Employee Retirement Income
14 Security Act of 1974 plan fiduciary" means a fiduciary of a plan under the
15 Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et seq., as
16 it existed on January 1, 2019, who is assigned the specific authority and
17 responsibility for reviewing and approving settlement agreements contemplated
18 by this section.

19 (b) A universal workers' compensation carrier and a covered employee
20 have the right to satisfy a universal workers' compensation claim by the
21 covered employee through a settlement agreement.

22 (c) A universal workers' compensation carrier and a terminated covered
23 employee have the right to satisfy a universal workers' compensation claim by
24 the terminated covered employee through a settlement agreement.

25 (d) A universal workers' compensation carrier and a beneficiary or
26 beneficiaries of a covered employee have the right to satisfy a universal
27 workers' compensation claim by the beneficiary or beneficiaries of a covered
28 employee through a settlement agreement.

29 (e) A settlement agreement contemplated by this section is contingent
30 upon approval by the covered employer and the designated Employee Retirement
31 Income Security Act of 1974 plan fiduciary, and the universal workers'
32 compensation carrier shall secure written approval of the settlement
33 agreement from the covered employer and the designated Employee Retirement
34 Income Security Act of 1974 plan fiduciary before remitting any payment under
35 the settlement agreement.

36

1 11-16-305. Physical disability requirement for covered disability –
2 Exceptions.

3 (a) If a covered employee receiving compensation for covered
4 disability is deemed physically able to perform some type of work by an
5 authorized medical care practitioner and objective evidence establishes that
6 the covered employee is permanently unable to return to work for the covered
7 employer, the covered employee may be entitled to additional compensation if
8 the covered employee is:

9 (1) Permanently unable to return to work for the covered
10 employer as a direct consequence of schizophrenia, bipolar disorder, or major
11 depressive disorder, as described in the Fifth Edition of the Diagnostic and
12 Statistical Manual of Mental Disorders, that is severe, chronic and
13 continuous despite treatment, then the covered employee shall be paid twenty-
14 six (26) weeks of additional compensation at the universal workers'
15 compensation rate;

16 (2) Permanently physically unable to return to work for the
17 covered employer as a direct consequence of a covered injury by accidental
18 cause, then the covered employee shall be paid fifty-two (52) weeks of
19 additional compensation at the universal workers' compensation rate; or

20 (3) Permanently physically unable to return to work for the
21 covered employer as a direct consequence of a covered injury by accidental
22 cause that would not have occurred but for the unsafe conduct of a co-
23 employee of the covered employee, then the covered employee shall be paid one
24 hundred fifty-six (156) weeks of additional compensation at the universal
25 workers' compensation rate.

26 (b) Compensation under subsection (a) of this section is not
27 compensation for covered disability.

28 (c) Additional compensation under subdivisions (a)(1)–(a)(3) of this
29 section shall be requested on a form and in the manner authorized by the
30 State Insurance Department within the twenty-one-day period following the
31 date the universal workers' compensation carrier provides notice to the
32 covered employee on a form and in the manner authorized by the department
33 that the covered employee is deemed physically able to perform some type of
34 work by an authorized medical care practitioner.

35
36 11-16-306. Reimbursement of overpayments.

1 (a) If the universal workers' compensation carrier pays any
2 compensation to or for the benefit of a covered employee over and above the
3 amount required by the distinct universal workers' compensation insurance
4 policy providing universal workers' compensation coverage for the covered
5 injury as overpayment, the universal workers' compensation carrier shall have
6 the right to reimbursement of the overpayment from the person, organization,
7 or entity receiving the overpayment.

8 (b) The universal workers' compensation carrier shall have the right
9 to satisfy the reimbursement through:

10 (1) Voluntary repayment;

11 (2) An offset against compensation in the future; and

12 (3) Collection proceedings.

13 (c) The universal workers' compensation carrier shall account for any
14 reimbursement contemplated under this chapter in the universal workers'
15 compensation coverage fund of the distinct universal workers' compensation
16 insurance policy providing universal workers' compensation coverage for the
17 covered injury.

18
19 11-16-307. Compensation from other sources.

20 (a)(1) As used in this section, "other coverage amount" means the
21 amount a covered employee receives or is eligible to receive for medical
22 care, disability, scheduled loss, or death associated with a covered injury
23 under this chapter as a named insured under an insurance policy or as a plan
24 participant under a self-insured plan providing coverage for the covered
25 employee outside of this chapter.

26 (2) A universal workers' compensation carrier providing
27 universal workers' compensation coverage for the covered injury shall
28 establish a credit equal to the other coverage amount as other coverage
29 amount credit, and the other coverage amount credit shall be applied to any
30 compensation, except compensation for covered medical care, payable by the
31 universal workers' compensation carrier for the covered injury until the
32 other coverage amount credit is satisfied in full.

33 (3) The other coverage amount shall not include the amount a
34 covered employee receives or is eligible to receive from an insurance policy
35 or self-insured plan if more than fifty percent (50%) of the premium or
36 premium equivalent is paid by the covered employee.

1 (b) A covered employee shall disclose immediately and under no
2 circumstance more than twenty-one (21) days after an occurrence contemplated
3 by this section, on a form and in a manner authorized by the State Insurance
4 Department, the identity, address, or phone number of any person,
5 organization, or entity responsible for a payment of any kind or character
6 associated with a covered injury under this chapter.

7 (c)(1) If the covered employee fails to disclose under subsection (b)
8 of this section and the universal workers' compensation carrier subsequently
9 remits compensation without applying the other coverage amount credit, the
10 universal workers' compensation carrier is entitled to reimbursement of the
11 other coverage amount that should have applied to the compensation remitted,
12 and the universal workers' compensation carrier shall have the right to
13 satisfy the reimbursement from the covered employee through:

14 (A) Voluntary repayment;

15 (B) An offset against future compensation, except
16 compensation for medical care; and

17 (C) Collection proceedings.

18 (2) This subsection does not apply if a covered employee is
19 unable to disclose due to severe physical or mental incapacity.

20
21 Subchapter 4 – Universal Workers' Compensation Coverage

22
23 11-16-401. General limitation of universal workers' compensation
24 coverage.

25 Universal workers' compensation coverage shall not exist unless:

26 (1) This chapter establishes coverage;

27 (2) A distinct universal workers' compensation insurance policy
28 provides universal workers' compensation coverage; and

29 (3) An employee is a covered employee under the distinct
30 universal workers' compensation insurance policy.

31
32 11-16-402. Termination of universal workers' compensation coverage.

33 (a) If a covered employer fails to comply with the terms and
34 conditions of the distinct universal workers' compensation insurance policy
35 providing universal workers' compensation coverage and a universal workers'
36 compensation carrier elects to terminate the distinct universal workers'

1 compensation insurance policy for the failure to comply with the terms and
2 conditions of the distinct universal workers' compensation insurance policy,
3 the universal workers' compensation carrier shall terminate the distinct
4 universal workers' compensation insurance policy in conformity with the
5 requirements of the plan under the Employee Retirement Income Security Act of
6 1974, 29 U.S.C. § 1001 et seq., as it existed on January 1, 2019.

7 (b) If a covered employer fails to pay the total premium under the
8 terms and conditions of the distinct universal workers' compensation
9 insurance policy, the universal workers' compensation carrier shall have a
10 lien on the assets of the covered employer held in this state and the
11 universal workers' compensation carrier may immediately proceed with
12 collection action against the covered employer and pursue any and all
13 available legal remedies.

14 (c) A notice of termination issued under this section shall be copied
15 to the State Insurance Department.

16
17 11-16-403. Overlapping universal workers' compensation insurance
18 policy universal workers' compensation coverage provisions.

19 If a covered employee is employed by two (2) or more covered employers
20 on the date of a covered injury, the following apply:

21 (1) A universal workers' compensation coverage fund of the
22 distinct universal workers' compensation insurance policy providing universal
23 workers' compensation coverage for the covered injury is liable for
24 compensation for covered disability under § 11-16-206, covered death under §
25 11-16-208, or covered scheduled loss under § 11-16-209, subject to specific
26 facts and circumstances exclusively applicable to the covered employer and
27 the terms and conditions of the distinct universal workers' compensation
28 insurance policy;

29 (2) A universal workers' compensation coverage fund of the
30 distinct universal workers' compensation insurance policy providing universal
31 workers' compensation coverage for the covered injury is liable only for its
32 share of compensation for covered medical care as determined by dividing the
33 compensation for covered disability payable under the distinct universal
34 workers' compensation insurance policy by the total compensation for covered
35 disability payable by the two (2) or more distinct universal workers'
36 compensation insurance policies; and

1 (3) The universal workers' compensation carrier shall pay
2 compensation contemplated by this section from a distinct universal workers'
3 compensation insurance policy providing universal workers' compensation
4 coverage for the covered injury.

5
6 Subchapter 5 – Premium and Fund Provisions

7
8 11-16-501. Premium assessment – Payment.

9 (a) The total premium for each distinct universal workers'
10 compensation insurance policy shall be paid by the covered employer under the
11 terms and conditions of the distinct universal workers' compensation
12 insurance policy.

13 (b) The covered employer shall withhold from the wages of a covered
14 employee the amount equal to the sum of the base premium and the health risk
15 premium as satisfaction of the covered employee's contribution to the total
16 premium.

17 (c) If a covered employee is receiving compensation for covered
18 disability, the universal workers' compensation carrier shall withhold from
19 all compensation for covered disability payable to the covered employee the
20 amount calculated, on a form and in the manner authorized by the State
21 Insurance Department, as follows:

22 (1) The amount from multiplying the base premium percentage by
23 the compensation for covered disability payable as the covered disability
24 base premium;

25 (2) The amount from multiplying the health risk percentage by
26 the compensation for covered disability payable, as covered disability health
27 risk premium; and

28 (3) Adding the covered disability base premium to the covered
29 disability health risk premium.

30
31 11-16-502. Universal workers' compensation coverage funds – Universal
32 workers' compensation administrative funds.

33 (a) For each distinct universal workers' compensation insurance
34 policy, the universal workers' compensation carrier shall establish two (2)
35 funds:

36 (1) A universal workers' compensation coverage fund; and

1 (2) A universal workers' compensation administrative fund.

2 (b) All investment income earned on assets held in the universal
3 workers' compensation coverage fund and the universal workers' compensation
4 administrative fund shall be retained by the specific fund and allocated to
5 the fund balance.

6 (c) For each distinct universal workers' compensation insurance
7 policy, the universal workers' compensation carrier shall account for the
8 universal workers' compensation coverage fund and the universal workers'
9 compensation administrative fund independently and report fund balances to
10 the State Insurance Department on a form and in the manner authorized by the
11 department.

12 (d) For each distinct universal workers' compensation insurance
13 policy:

14 (1) The universal workers' compensation carrier shall allocate
15 to the universal workers' compensation coverage fund ninety percent (90%) of
16 the total premium, and the universal workers' compensation coverage fund is
17 liable for:

18 (A) All compensation;

19 (B) All costs and expenses necessary to stabilize, secure,
20 and protect the universal workers' compensation coverage fund; and

21 (C) All costs and expenses necessary to process,
22 adjudicate, adjust, satisfy, resolve, and discharge all coverage obligations
23 under the distinct universal workers' compensation insurance policy;

24 (2) All liability anticipated by subdivision (d)(1) of this
25 section shall be paid from the universal workers' compensation coverage fund
26 and shall not be paid from the universal workers' compensation administrative
27 fund unless and until all assets of the universal workers' compensation
28 coverage fund have been fully depleted; and

29 (3) If liability anticipated by subdivision (d)(1) of this
30 section is shared by more than one (1) distinct universal workers'
31 compensation insurance policy as shared liability, the shared liability is
32 allocated by:

33 (A) Determining the total premium for each distinct
34 universal workers' compensation insurance policy that shares liability;

35 (B) Determining the aggregate total premium for all
36 distinct universal workers' compensation insurance policies that share

1 liability;

2 (C) Dividing the total premium for each distinct universal
3 workers' compensation insurance policy that shares liability by the aggregate
4 total premium for all distinct universal workers' compensation insurance
5 policies that share liability, expressed as a percentage for each distinct
6 universal workers' compensation insurance policy that shares liability;

7 (D) Multiplying the percentage for each distinct universal
8 workers' compensation insurance policy that shares liability by the total
9 amount of shared liability as distinct universal workers' compensation
10 coverage fund proportional share; and

11 (E) Allocating the distinct universal workers'
12 compensation coverage fund proportional share of the shared liability to the
13 universal workers' compensation coverage fund of each distinct universal
14 workers' compensation insurance policy that shares liability.

15 (e) For each distinct universal workers' compensation insurance
16 policy:

17 (1) The universal workers' compensation carrier shall allocate
18 to the universal workers' compensation administrative fund of a distinct
19 universal workers' compensation insurance policy ten percent (10%) of the
20 total premium for the distinct universal workers' compensation insurance
21 policy, and the universal workers' compensation administrative fund shall be
22 liable for:

23 (A) All administrative fees;

24 (B) Administrative returns to the universal workers'
25 compensation carrier;

26 (C) All costs and expenses related to and associated with
27 issuing the distinct universal workers' compensation insurance policy;

28 (D) All costs and expenses related to and associated with
29 protecting, supporting and promoting this chapter; and

30 (E) If the universal workers' compensation coverage fund
31 of the distinct universal workers' compensation insurance policy is fully
32 depleted, all coverage obligations under the distinct universal workers'
33 compensation insurance policy providing universal workers' compensation
34 coverage until the coverage obligations are fully discharged or the universal
35 workers' compensation administrative fund is fully depleted;

36 (2) All liabilities anticipated by subdivision (e)(1) of this

1 section that are directly related to a distinct universal workers'
2 compensation insurance policy shall be paid from the universal workers'
3 compensation administrative fund of that distinct universal workers'
4 compensation insurance policy; and

5 (3) If liability anticipated by subdivision (e)(1) of this
6 section is shared by more than one (1) distinct universal workers'
7 compensation insurance policy as shared liability, the shared liability shall
8 be allocated by:

9 (A) Determining the total premium for each distinct
10 universal workers' compensation insurance policy that shares liability;

11 (B) Determining the aggregate total premium for all
12 distinct universal workers' compensation insurance policies that share
13 liability;

14 (C) Dividing the total premium for each distinct universal
15 workers' compensation insurance policy that shares liability by the aggregate
16 total premium for all distinct universal workers' compensation insurance
17 policies that share liability, expressed as a percentage for each distinct
18 universal workers' compensation insurance policy that shares liability;

19 (D) Multiplying the percentage for each distinct universal
20 workers' compensation insurance policy that shares liability by the total
21 amount of shared liability as the distinct universal workers' compensation
22 coverage fund proportional share; and

23 (E) Allocating the distinct universal workers'
24 compensation coverage fund proportional share of the shared liability to the
25 universal workers' compensation coverage fund of each distinct universal
26 workers' compensation insurance policy that shares liability.

27 (f) An administrative fee shall be paid from the distinct universal
28 workers' compensation insurance policy universal workers' compensation
29 administrative fund to the universal workers' compensation carrier annually
30 on each anniversary date of the distinct universal workers' compensation
31 insurance policy, from inception of the distinct universal workers'
32 compensation insurance policy until final distribution of the distinct
33 universal workers' compensation insurance policy universal workers'
34 compensation administrative fund.

35 (g) If the universal workers' compensation coverage fund and the
36 universal workers' compensation administrative fund of the distinct universal

1 workers' compensation insurance policy are fully depleted, the universal
2 workers' compensation carrier is liable for the coverage obligations under
3 the distinct universal workers' compensation insurance policy until all
4 coverage obligations under the distinct universal workers' compensation
5 insurance policy are fully discharged.

6
7 11-16-503. Final distribution of fund balances.

8 (a)(1)(A) A universal workers' compensation carrier shall have the
9 right to file a petition with the State Insurance Department, on a form and
10 in the manner authorized by the department, requesting approval and
11 authorization of final distribution of the universal workers' compensation
12 coverage fund and the universal workers' compensation administrative fund of
13 a distinct universal workers' compensation insurance policy as a petition for
14 final distribution.

15 (B) The petition for final distribution shall include
16 information sufficient to establish that all coverage obligations under the
17 distinct universal workers' compensation insurance policy have been
18 discharged.

19 (C) Within the twenty-one (21) days following the filing
20 of the petition for final distribution by the universal workers' compensation
21 carrier, the department shall determine if the universal workers'
22 compensation carrier has established that:

23 (i) All coverage obligations of the universal
24 workers' compensation coverage fund have been discharged;

25 (ii) All obligations of the universal workers'
26 compensation administrative fund have been discharged; and

27 (iii) A final fund balance remains in the universal
28 workers' compensation coverage fund or the universal workers' compensation
29 administrative fund, or both.

30 (D) If the department determines that the universal
31 workers' compensation carrier:

32 (i) Failed to establish one (1) or more of the
33 elements required by subdivision (a)(1)(C) of this section, the department
34 shall, on a form and in the manner authorized by the department, deny the
35 petition for final distribution and provide the universal workers'
36 compensation carrier a detailed explanation outlining the basis for the

1 denial; or

2 (ii) Has established all of the elements required by
3 subdivision (a)(1)(C) of this section, the department shall, on a form and in
4 the manner authorized by the department, approve the petition for final
5 distribution and establish a date certain for final distribution that shall
6 be the final distribution authorization date.

7 (2) If the department denies the petition for final distribution
8 under subdivision (a)(1)(D)(i) of this section, the universal workers'
9 compensation carrier shall not have the right to file a petition for final
10 distribution for the same distinct universal workers' compensation insurance
11 policy for a period of at least twenty-one (21) days following the denial.

12 (3) The department shall not unreasonably deny a petition for
13 final distribution filed under subdivision (a)(1) of this section.

14 (b) Upon approval of final distribution under subdivision
15 (a)(1)(D)(ii) of this section, the department shall direct the universal
16 workers' compensation carrier to:

17 (1) Withdraw the final fund balance of the distinct universal
18 workers' compensation insurance policy universal workers' compensation
19 coverage fund, if any, on the final distribution authorization date;

20 (2) Distribute the final fund balance of the universal workers'
21 compensation coverage fund for the distinct universal workers' compensation
22 insurance policy to the covered employer for allocation to covered employees
23 under § 11-16-505;

24 (3) Withdraw the fund balance of the distinct universal workers'
25 compensation insurance policy universal workers' compensation administrative
26 fund, if any, on the final distribution authorization date;

27 (4) Distribute the prorated administrative fee to the universal
28 workers' compensation carrier;

29 (5) Distribute the administrative return to the universal
30 workers' compensation carrier; and

31 (6) Report the distributions to the department, on a form and in
32 the manner authorized by the department.

33 (c) The prorated administrative fee shall be calculated by:

34 (1) Determining the administrative fee that would have been paid
35 if the final distribution authorization date were the anniversary date of the
36 distinct universal workers' compensation insurance policy under § 11-16-

1 502(f);

2 (2) Determining the portion of the administrative fee that is
3 unearned by:

4 (A) Dividing the administrative fee by three hundred
5 sixty-five (365) or the daily rate;

6 (B) Determining the number of days between the final
7 distribution authorization date and the anniversary date or the remaining
8 days; and

9 (C) Multiplying the daily rate by the remaining days to
10 calculate the unearned administrative fee; and

11 (3) Subtracting the unearned administrative fee from the annual
12 administrative fee.

13
14 11-16-504. Interim distribution of universal workers' compensation
15 coverage fund balances.

16 (a)(1)(A) The universal workers' compensation carrier shall have the
17 right to file a petition with the State Insurance Department, on a form and
18 in the manner authorized by the department, requesting approval and
19 authorization of an interim distribution from the universal workers'
20 compensation coverage fund of a distinct universal workers' compensation
21 insurance policy as a petition for interim distribution.

22 (B) The petition for interim distribution shall include
23 the interim distribution amount and proof sufficient to establish that the
24 assets of the universal workers' compensation coverage fund are sufficient to
25 satisfy liabilities, including contingent liabilities, after accounting for
26 the interim distribution amount.

27 (C) Within the twenty-one (21) days following the filing
28 of the petition for interim distribution by the universal workers'
29 compensation carrier, the department shall determine if the universal
30 workers' compensation carrier has established that:

31 (i) The universal workers' compensation coverage
32 fund has sufficient assets to satisfy liabilities, including contingent
33 liabilities, after accounting for the interim distribution amount;

34 (ii) The financial viability, stability, and
35 security of the universal workers' compensation coverage fund shall not be
36 adversely affected by the interim distribution; and

1 (iii) The covered employer is prepared to administer
2 allocation of the interim distribution to covered employees under § 11-16-
3 505.

4 (D) If the department determines that the universal
5 workers' compensation carrier:

6 (i) Failed to establish one (1) or more of the
7 elements required by subdivision (a)(1)(C) of this section, the department
8 shall, on a form and in the manner authorized by the department, deny the
9 petition for interim distribution and provide the universal workers'
10 compensation carrier a detailed explanation outlining the basis for the
11 denial; or

12 (ii) Has established the elements required by
13 subdivision (a)(1)(C) of this section, the department shall approve the
14 petition for interim distribution and establish a date certain for interim
15 distribution that shall be the interim distribution authorization date.

16 (2) If the department denies the petition for interim
17 distribution under subdivision (a)(1)(D)(i) of this section, the universal
18 workers' compensation carrier shall not have the right to file a petition for
19 interim distribution for the same distinct universal workers' compensation
20 insurance policy for a period of at least twenty-one (21) days following the
21 denial.

22 (3) The department shall not unreasonably deny a petition for
23 interim distribution filed under subdivision (a)(1) of this section.

24 (b) Upon approval of the interim distribution under subdivision
25 (a)(1)(D)(ii) of this section, the department shall direct the universal
26 workers' compensation carrier to:

27 (1) Withdraw the interim distribution amount on the interim
28 distribution authorization date;

29 (2) Distribute the interim distribution amount to the covered
30 employer for allocation to covered employees under § 11-16-505; and

31 (3) Report the distribution to the department, on a form and in
32 the manner authorized by the department.

33 (c) Upon distribution of the interim distribution amount under
34 subsection (b) of this section, the universal workers' compensation carrier
35 shall not have the right to file a petition for interim distribution for the
36 same distinct universal workers' compensation insurance policy for a period

1 of twelve (12) months from the date of distribution.

2
3 11-16-505. Allocation of distribution of universal workers'
4 compensation coverage fund balance.

5 (a) As used in this section, "qualified covered employee" means an
6 employee who has been a covered employee for not less than the twelve (12)
7 consecutive months immediately preceding the date of any distribution of a
8 universal workers' compensation coverage fund balance.

9 (b) Distributions of universal workers' compensation coverage fund
10 balances shall be allocated by the covered employer to each qualified covered
11 employee per capita as the qualified covered employee's share, subject to
12 adjustments to account for length of employment, under the rules promulgated
13 by the State Insurance Department.

14 (c) The qualified covered employee's share shall be allocated
15 exclusively to allowable health-related benefits under the rules promulgated
16 by the department.

17
18 Subchapter 6 – State Insurance Department Provisions

19
20 11-16-601. Specific limitation of policy periods.

21 The State Insurance Department shall not allow a universal workers'
22 compensation insurance policy to be issued for a policy period greater than
23 one (1) year.

24
25 11-16-602. Premium tax assessment – Collection and remittance.

26 The State Insurance Department shall:

- 27 (1) Assess and collect all premium tax under this chapter; and
28 (2) Remit all premium tax collected under this chapter.

29
30 11-16-603. State Insurance Department – Additional authority.

31 (a) The State Insurance Department shall establish procedures for
32 approval of distinct medical compensation plans.

33 (b) The department shall designate specific health risks and assign a
34 specific health risk percentage for each specific health risk designated.

35 (c) The department shall:

- 36 (1) Authorize a universal workers' compensation carrier;

1 (2) Certify an authorized employer;

2 (3) Certify a universal workers' compensation insurance policy;

3 (4) Authorize any interim distribution from or final
4 distribution of any universal workers' compensation coverage fund balances;
5 and

6 (5) Issue a report assessing the financial viability, stability,
7 and security of each distinct universal workers' compensation insurance
8 policy.

9 (d) The department shall publish forms and, for each form,
10 instructions that describe the timely and accurate completion of the form.

11 (e) The department shall direct the manner of notice and response
12 under this chapter, including without limitation:

13 (1) The medium of notice or response;

14 (2) The required date of delivery by the person or entity
15 delivering the notice or response; and

16 (3) The required date of receipt by the person, organization, or
17 entity receiving the notice or response.

18
19 11-16-604. Premium tax for the State Insurance Department.

20 (a) The premium tax assessed and collected for the State Insurance
21 Department and remitted to the State Insurance Department shall be one
22 percent (1%) of the total premium.

23 (b) The State Insurance Department shall allocate and retain, from the
24 premium tax revenue remitted to the State Insurance Department under
25 subsection (a) of this section, the amount necessary to satisfy the current
26 budget of the State Insurance Department.

27 (c) Any premium tax revenue remitted to the State Insurance Department
28 under subsection (a) of this section in excess of the amount allocated and
29 retained under subsection (b) of this section shall be allocated and remitted
30 to the Department of Finance and Administration under the Arkansas Medical
31 Marijuana Amendment of 2016, Arkansas Constitution, Amendment 98, and shall
32 be distributed as provided in § 17 of the Arkansas Medical Marijuana
33 Amendment of 2016, Arkansas Constitution, Amendment 98.

34
35 Subchapter 7 – University of Arkansas for Medical Sciences Provisions
36

1 11-16-701. Creation – Center for Effective Medicine.

2 (a) There is established the Center for Effective Medicine within the
3 University of Arkansas for Medical Sciences as a not-for-profit entity for
4 the purpose of promoting clinical efficacy in medicine.

5 (b) The center shall be composed of a board of directors consisting of
6 three (3) members as follows:

7 (1) The Chancellor of the University of Arkansas for Medical
8 Sciences;

9 (2) The Chair of the Clinical Effectiveness Panel; and

10 (3) An independent member to be appointed by the Governor.

11 (c) As its first order of business, the center shall adopt bylaws
12 establishing organizational, procedural, and operational rules, protocols,
13 and processes by which it will be governed.

14 (d) The initial bylaws of the center shall be approved by the Governor
15 and confirmed by the Senate Committee on Public Health, Welfare, and Labor.

16 (e) Any amendments to the bylaws of the center shall be approved by
17 the Governor and confirmed by the committee.

18 (f) The independent member of the center shall serve as the Chair of
19 the Board of Directors of the Center for Effective Medicine.

20
21 11-16-702. Powers and duties.

22 (a) The Center for Effective Medicine shall:

23 (1) Publish the unofficial Clinical Effectiveness Panel
24 determinations generally within twenty-four (24) hours after the Clinical
25 Effectiveness Panel determination is rendered, through the media options
26 deemed most effective by the center; and

27 (2) Publish the official Clinical Effectiveness Panel
28 determinations specifically to authorized medical care practitioners, within
29 seven (7) days after the Clinical Effectiveness Panel determination is
30 rendered, through the media options deemed most effective by the center.

31 (b) A Clinical Effectiveness Panel determination shall be cited by
32 date and reference number.

33
34 11-16-703. Premium tax for the Center for Effective Medicine.

35 A premium tax of one percent (1%) of the total premium shall be
36 assessed and collected by the State Insurance Department for the Center for

1 Effective Medicine and the premium tax revenue collected by the department
2 under this section shall be remitted to the center and allocated pursuant to
3 § 11-16-705.

4
5 11-16-704. Clinical Effectiveness Panel.

6 (a)(1) The Center for Effective Medicine shall establish a panel of
7 nine (9) members that shall be known as the "Clinical Effectiveness Panel".

8 (2) Each member of the Clinical Effectiveness Panel shall:

9 (A) Have provided at least thirty (30) years of exemplary
10 service to his or her profession;

11 (B) Not have engaged in any activity that has ceded his or
12 her credibility or objectivity; and

13 (C) Not participate in any activity that may cede his or
14 her credibility or objectivity.

15 (b)(1) A Clinical Effectiveness Panel determination shall not
16 determine a specific medical care intervention for specific covered employees
17 on a case-by-case basis but shall determine, for purposes of this chapter,
18 whether a form, type, or subtype of intervention that is medical care is:

19 (A) Medical care deemed effective; or

20 (B) Medical care deemed ineffective.

21 (2) The Clinical Effectiveness Panel shall render Clinical
22 Effectiveness Panel determinations after reviewing validated science and
23 considering assessment criteria, including without limitation:

24 (A) Confirmable risk of harm to patients;

25 (B) Confirmable probability of benefit to patients; and

26 (C) Cost of the clinical intervention.

27 (3) Clinical Effectiveness Panel determinations shall be
28 guaranteed a rebuttable presumption in favor of the Clinical Effectiveness
29 Panel determinations in all claims, matters, or proceedings under, resulting
30 from, or related to this chapter, and the presumption is subject to rebuttal
31 by clear and convincing evidence to the contrary.

32 (4) Notwithstanding any other law to the contrary, the Clinical
33 Effectiveness Panel shall be entitled to the same exemption from the Freedom
34 of Information Act of 1967, § 25-19-101 et seq., afforded to Justices of the
35 Supreme Court under § 25-19-105(b)(7).

36 (c) The Clinical Effectiveness Panel shall consist of:

(1) Six (6) physicians of national prestige; and

(2) Three (3) attorneys of national prestige.

(d)(1) As its first order of business, the Clinical Effectiveness Panel shall adopt bylaws establishing organizational, procedural, and operational rules, protocols, and processes by which it will be governed.

(2) Before issuing the first Clinical Effectiveness Panel determination, the initial bylaws of the Clinical Effectiveness Panel shall be approved by the Governor and confirmed by the Senate Committee on Public Health, Welfare, and Labor.

(3) Selection, appointment, reappointment, removal, and replacement of members of the Clinical Effectiveness Panel shall be approved by the Governor and confirmed by the Senate Committee on Public Health, Welfare, and Labor and according to the bylaws of the Clinical Effectiveness Panel.

(4) Any amendments to the bylaws of the Clinical Effectiveness Panel shall be approved by the Governor and confirmed by the Senate Committee on Public Health, Welfare, and Labor.

(5) The initial term for each Clinical Effectiveness Panel member shall be seven (7) years.

11-16-705. Center for Effective Medicine – Funding and allocation.

(a) The Center for Effective Medicine shall solicit funding from private sources for operation of the Clinical Effectiveness Panel through a public-private partnership.

(b) The public-private partnership authorized by subsection (a) of this section shall first apply all funds received to funding for the Clinical Effectiveness Panel until the Clinical Effectiveness Panel is adequately and appropriately funded and then to funding for the center.

(c) The center shall allocate and remit premium tax revenue collected and remitted to the center under § 11-16-703 as follows:

(1) If annual premium tax revenue is less than five million dollars (\$5,000,000), the center shall allocate and remit all premium tax revenue to funding for the Clinical Effectiveness Panel; and

(2) If the center premium tax revenue is greater than five million dollars (\$5,000,000), the center shall allocate and remit premium tax revenue as follows:

1 (A) First, five million dollars (\$5,000,000) or the
2 current Clinical Effectiveness Panel budget established by the center,
3 whichever is greater, to funding for the Clinical Effectiveness Panel;

4 (B) To funding for operations and administration under the
5 current center budget; and

6 (C) The balance shall be allocated and remitted to the
7 Department of Finance and Administration under the Arkansas Medical Marijuana
8 Amendment of 2016, Arkansas Constitution, Amendment 98, and shall be
9 distributed as provided in § 17 of the Arkansas Medical Marijuana Amendment
10 of 2016, Arkansas Constitution, Amendment 98.

11 (c) The State of Arkansas shall have no funding obligation of any kind
12 or character regarding the center or the Clinical Effectiveness Panel except
13 assessment, collection, allocation, and remittance of premium tax revenue
14 under § 11-16-703 and this section.

15
16 11-16-706. Clinical Effectiveness Panel – Questions for determination.

17 (a) The Clinical Effectiveness Panel shall have the authority to
18 certify a question on its own motion for determination of the Clinical
19 Effectiveness Panel.

20 (b) A universal workers’ compensation carrier shall have the right to
21 certify a question to the Clinical Effectiveness Panel, on a form and in the
22 manner prescribed by the Clinical Effectiveness Panel, for determination of
23 the Clinical Effectiveness Panel.

24 (c) The State Insurance Department shall have the right to certify a
25 question to the Clinical Effectiveness Panel, on a form and in the manner
26 prescribed by the Clinical Effectiveness Panel, for determination of the
27 Clinical Effectiveness Panel.

28 (d) The Department of Human Services shall have the right to certify a
29 question to the Clinical Effectiveness Panel, on a form and in the manner
30 prescribed by the Clinical Effectiveness Panel, for determination of the
31 Clinical Effectiveness Panel.

32 (e) All other questions for determination of the Clinical
33 Effectiveness Panel shall be submitted to the Clinical Effectiveness Panel,
34 on a form and in the manner prescribed by the Clinical Effectiveness Panel,
35 and the Clinical Effectiveness Panel shall certify the questions approved by
36 a majority vote of the members of the Clinical Effectiveness Panel.

1
2 11-16-707. Clinical Effectiveness Panel – Determination.

3 All determinations of the Clinical Effectiveness Panel shall conclude
4 one (1) of the following:

5 (1) The medical care has robust scientific support demonstrating
6 clinically meaningful efficacy. The medical care is deemed effective;

7 (2) The medical care has scientific support that is less than
8 compelling, but the medical care has clinically meaningful efficacy based
9 upon the frequency and magnitude of clinical efficacy. The medical care is
10 deemed effective;

11 (3) The medical care has scientific support that is less than
12 compelling, and the medical care does not have clinically meaningful efficacy
13 based upon the frequency and magnitude of clinical efficacy. The medical
14 care is deemed ineffective;

15 (4) The medical care has been studied, and despite any degree of
16 general acceptance or theoretical promise, no clinically meaningful efficacy
17 has been demonstrated. The medical care is deemed ineffective; or

18 (5) The medical care has been studied, and despite any degree of
19 general acceptance or theoretical promise, the findings indicate that the
20 risk for clinical harm outweighs the likelihood of clinical benefit. The
21 medical care is deemed ineffective.

22
23 Subchapter 8 – Penalties and Lien Priority

24
25 11-16-801. Monetary penalties for employee failure to disclose.

26 (a)(1) A covered employee shall honestly, accurately, and completely
27 disclose a specific health risk.

28 (2) If the covered employee fails to disclose a specific health
29 risk, it shall be presumed that the initial failure to disclose occurred on
30 the date of the first response to questions regarding the specific health
31 risk.

32 (3) Evidence necessary to rebut the presumption established
33 under subdivision (a)(2) of this section shall be clear and convincing
34 evidence.

35 (b) A covered employee who fails to disclose as required by
36 subdivision (a)(1) of this section shall be penalized the amount equal to two

1 (2) times the premium underpayment, the difference between the premium paid
2 and the premium that would have been paid if the appropriate total health
3 risk premium had been assessed, from the date of the initial failure to
4 disclose to the date of discovery, and the universal workers' compensation
5 carrier shall apply penalty payments contemplated by this section to the
6 universal workers' compensation coverage funds of each distinct universal
7 workers' compensation insurance policy pro rata.

8 (c) The universal workers' compensation carrier shall have the right
9 to satisfy the penalty through:

10 (1) Voluntary repayment; and

11 (2) Collection proceedings.

12
13 11-16-802. Monetary penalties for employer failure to disclose.

14 (a)(1) A covered employer shall honestly, accurately, and completely
15 respond to any and all questions regarding employment status and wages.

16 (2) If a failure to disclose is discovered, it shall be presumed
17 that the initial failure to disclose occurred on the date the first distinct
18 universal workers' compensation insurance policy was issued to the covered
19 employer.

20 (3) Evidence necessary to rebut the presumption established
21 under subdivision (a)(2) of this section shall be clear and convincing
22 evidence.

23 (b) A covered employer that fails to disclose as required by
24 subdivision (a)(1) of this section shall be penalized the amount equal to two
25 (2) times the premium underpayment, the difference between the employer
26 premium paid and the employer premium that would have been paid if the
27 appropriate employer premium had been assessed, from the date of the initial
28 failure to disclose to the date of discovery or underpayment period, and the
29 universal workers' compensation carrier shall allocate the penalty
30 contemplated by this section to the universal workers' compensation coverage
31 fund of each distinct universal workers' compensation insurance policy
32 affected after reconciling the underpayment period to the distinct universal
33 workers' compensation insurance policy periods.

34 (c) The universal workers' compensation carrier shall have the right
35 to satisfy the penalty through:

36 (1) Voluntary repayment;

1 this chapter:

2 (A) In any court;

3 (B) In any administrative tribunal; or

4 (C) Before any official or group constituted for such
5 purpose; and

6 (3) Resolve by trial, mediation, settlement, or otherwise a
7 claim or action against a third party for an occurrence if the injury or
8 death is a covered injury or covered death under this chapter.

9 (c) A universal workers' compensation carrier providing universal
10 workers' compensation coverage for the covered employee shall:

11 (1) Be provided reasonable notice of a claim or action against a
12 third party for an occurrence if the injury or death is a covered injury or
13 covered death under a universal workers' compensation insurance policy issued
14 by the universal workers' compensation carrier;

15 (2) Be granted the opportunity to join in a claim or action
16 against the third party for an occurrence if the injury or death is a covered
17 injury or covered death under a universal workers' compensation insurance
18 policy issued by the universal workers' compensation carrier; and

19 (3) Have a lien on any recovery amount for an amount equal to
20 the total of the current satisfaction amount plus the future satisfaction
21 amount if the recovery amount is associated with a covered injury or covered
22 death under a universal workers' compensation insurance policy issued by the
23 universal workers' compensation carrier.

24 (d)(1) A universal workers' compensation carrier liable for
25 compensation under this chapter shall have the right to initiate and maintain
26 any claim or action contemplated by subsection (b) of this section against
27 any third party for an occurrence if the injury or death is a covered injury
28 or covered death under a universal workers' compensation insurance policy
29 issued by the universal workers' compensation carrier.

30 (2) However, the covered employee shall be entitled to
31 reasonable notice and opportunity to join in the claim or action against the
32 third party.

33 (e)(1) When the covered employee initiates a claim or action of any
34 kind or character against the covered employer and the claim or action is for
35 an occurrence where the injury or death is a covered injury or covered death
36 under this chapter and the claim or action is separate and apart from this

1 chapter, the covered employer shall have the right to assert any and all
2 defenses, including affirmative defenses, related to the claim or action.

3 (2) If the occurrence was not the result of intentional
4 disregard for the safety of the covered employee by the covered employer and
5 the covered employer pays a recovery amount, the covered employer shall have
6 the right to request reimbursement for the recovery amount from the universal
7 workers' compensation carrier under the distinct universal workers'
8 compensation insurance policy providing coverage for the covered injury or
9 covered death.

10 (3) Any reimbursement under subdivision (e)(2) of this section
11 shall be under the terms and conditions of the distinct universal workers'
12 compensation insurance policy providing coverage for the covered injury or
13 covered death.

14 (f)(1) The universal workers' compensation carrier shall be paid from
15 the recovery amount an amount equal to the current satisfaction amount.

16 (2) If the current satisfaction amount is less than the recovery
17 amount, the universal workers' compensation carrier shall establish a credit
18 in an amount equal to the difference between the recovery amount and the
19 current satisfaction amount.

20 (3) The universal workers' compensation carrier shall apply the
21 credit contemplated by subdivision (f)(2) of this section to the future
22 satisfaction amount until the credit is satisfied in full.

23 (g) The purpose and intent of this section is to protect, promote, and
24 secure the reimbursement of the universal workers' compensation coverage fund
25 of the distinct universal workers' compensation insurance policy providing
26 coverage for the covered employee for compensation under this chapter, both
27 currently paid and payable in the future, for an occurrence if the injury or
28 death is a covered injury under this chapter, to the full extent that the
29 covered employee receives any payment of any kind or character associated
30 with the occurrence if the injury or death is a covered injury or covered
31 death under this chapter, after deducting reasonable costs of collection, and
32 without consideration of any other factors, including without limitation any
33 determination related to whether the covered employee is "made whole" for the
34 injury or death by a payment or award outside of this chapter.

35
36 11-16-902. Supplemental premium.

1 (a) As used in this section:

2 (1) "Supplemental wages" means all wages paid or payable to a
3 covered employee from any person, organization, or entity other than a
4 covered employer; and

5 (2) "Total supplemental premium" means an additional premium
6 payable to the universal workers' compensation carrier that is calculated by:

7 (A) Multiplying the supplemental wages by the base premium
8 percentage as the supplemental base premium;

9 (B) Multiplying the supplemental wages by the health risk
10 percentage as the supplemental health risk premium;

11 (C) Adding the supplemental health risk premium to the
12 supplemental base premium as the supplemental combined premium;

13 (D) Multiplying the supplemental wages by 10 percent (10%)
14 as the supplemental premium fee; and

15 (E) Adding the supplemental premium fee to the
16 supplemental combined premium.

17 (b) If a covered employee earns supplemental wages:

18 (1) The covered employee shall, within ten (10) days of receipt
19 of the supplemental wages, report the supplemental wages to the universal
20 workers' compensation carrier on a form and in the manner authorized by the
21 State Insurance Department;

22 (2) The universal workers' compensation carrier shall:

23 (A) Calculate the total supplemental premium;

24 (B) Provide notice to the covered employee of the amount
25 of the total supplemental premium on a form and in the manner authorized by
26 the department; and

27 (C) Establish a payment schedule for paying the total
28 supplement premium on a form and in the manner authorized by the department;
29 and

30 (3) The covered employee shall pay the total supplemental
31 premium when due and payable under the established payment schedule.

32 (c) If the covered employee fails to pay the total supplemental
33 premium when due and payable under the established payment schedule, the
34 universal workers' compensation carrier shall have the right to collect the
35 total supplemental premium through:

36 (1) Voluntary payment;

1 (2) Collection proceedings; and

2 (3) A lien against wages.

3 (d) The universal workers' compensation carrier shall allocate the
4 total supplemental premium to the universal workers' compensation coverage
5 fund of each distinct universal workers' compensation insurance policy by
6 policy period.

7
8 11-16-903. Failure to report supplemental wages.

9 (a) If a universal workers' compensation carrier discovers that a
10 covered employee has received and failed to timely report any or all
11 supplemental wages to the universal workers' compensation carrier as
12 unreported supplemental wages, then the following rebuttable presumptions
13 shall vest:

14 (1) The covered employee's weekly unreported supplemental wages
15 equal the covered employee's average weekly wage as estimated unreported
16 weekly supplemental wages;

17 (2) The covered employee earned estimated unreported weekly
18 supplemental wages from the first day the covered employee was provided
19 universal workers' compensation coverage under any universal workers'
20 compensation insurance policy to the day the unreported supplemental wages
21 are discovered as estimated unreported supplemental wages period; and

22 (3) The universal workers' compensation carrier is entitled to a
23 total supplemental premium.

24 (b) The universal workers' compensation carrier shall:

25 (1) Provide notice to the covered employee of the covered
26 employee's failure to timely report supplemental wages, including the date
27 the unreported supplemental wages were discovered by the universal workers'
28 compensation carrier, on a form and in the manner authorized by the State
29 Insurance Department;

30 (2) Calculate the estimated unreported total supplemental
31 premium on a form and in the manner authorized by the department by:

32 (A) Multiplying the covered employee's average weekly wage
33 by the base premium percentage as estimated weekly unreported base premium;

34 (B) Multiplying the covered employee's average weekly wage
35 by the health risk percentage as estimated weekly unreported health risk
36 premium;

1 (C) Adding the estimated weekly unreported base premium to
2 the estimated weekly unreported health risk premium as the estimated weekly
3 unreported combined premium;

4 (D) Determining the number of days in the estimated
5 unreported supplemental wages period as the estimated unreported supplemental
6 wages days;

7 (E) Dividing the estimated unreported supplemental wages
8 days by seven (7) as the estimated unreported supplemental wages weeks;

9 (F) Multiplying the estimated weekly unreported combined
10 premium by two (2) as estimated weekly unreported supplemental premium; and

11 (G) Multiplying the estimated weekly unreported
12 supplemental premium by the estimated unreported supplemental wages weeks as
13 estimated unreported total supplemental premium; and

14 (3) Provide notice to the covered employee of the amount of the
15 estimated unreported total supplemental premium on a form and in the manner
16 authorized by the department.

17 (c)(1) The covered employee shall provide a response to the notice
18 contemplated by subdivision (b)(1) of this section to the universal workers'
19 compensation carrier within twenty-one (21) days from the date of receipt of
20 the notice, on a form and in the manner authorized by the department.

21 (2) The notice contemplated by subdivision (b)(3) of this
22 section shall provide the covered employee the following options:

23 (A) The estimated unreported total supplemental premium is
24 correct and should be deemed the total supplemental premium;

25 (B) The estimated unreported total supplemental premium is
26 incorrect and should not be deemed the total supplemental premium; or

27 (C) No supplemental wages were received.

28 (3) If the covered employee chooses the option under subdivision
29 (c)(2)(A) of this section, the covered employee's choice shall be the
30 determination of the total supplemental premium.

31 (d)(1) If the covered employee chooses the option under subdivision
32 (c)(2)(B) or subdivision (c)(2)(C) of this section, the choice shall be
33 deemed an appeal under the covered employer's plan under the Employee
34 Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et seq., as it
35 existed on January 1, 2019.

36 (2) The appeal process shall determine whether actual unreported

1 supplemental wages were earned, and if no actual unreported supplemental
2 wages were earned there shall not be a determination of the total
3 supplemental premium.

4 (3) If actual unreported supplemental wages were earned, the
5 appeals process shall determine the total supplemental premium by:

6 (A) Determining the amount of the actual unreported
7 supplemental wages as actual unreported supplemental wages amount;

8 (B) Multiplying the actual unreported supplemental wages
9 amount by the base premium percentage as unreported supplemental base
10 premium;

11 (C) Multiplying the actual unreported supplemental wages
12 by the health risk percentage as unreported supplemental health risk premium;

13 (D) Adding the unreported supplemental health risk premium
14 to the unreported supplemental base premium as unreported supplemental
15 combined premium; and

16 (E) Multiplying the unreported supplemental combined
17 premium by two (2).

18 (e) If the appeals process under subsection (d) of this section
19 determines that actual unreported supplemental wages were earned, the total
20 supplemental premium calculated pursuant to subdivision (d)(3) of this
21 section shall be the determination of the total supplemental premium.

22 (f) Upon the determination of the total supplemental premium under
23 subdivision (c)(3) or subsection (e) of this section:

24 (1) The universal workers' compensation carrier shall establish
25 a payment schedule for paying the total supplemental premium on a form and in
26 the manner authorized by the department;

27 (2) The covered employee shall pay the total supplemental
28 premium when due and payable under the established payment schedule; and

29 (3) If the covered employee fails to pay the total supplemental
30 premium when due and payable under the established payment schedule, the
31 universal workers' compensation carrier shall have the right to collect the
32 total supplemental premium through:

33 (A) Voluntary payment;

34 (B) Collection proceedings; and

35 (C) A lien against wages.

36 (g) The universal workers' compensation carrier shall allocate the

1 total supplemental premium to the universal workers' compensation coverage
2 fund of each distinct universal workers' compensation insurance policy
3 period.

4
5 Subchapter 10 – Arkansas State Medical Board Provisions

6
7 11-16-1001. Arkansas State Medical Board.

8 (a) The Arkansas State Medical Board shall confirm medical care
9 practitioners as authorized medical care practitioners.

10 (b) The board shall provide reciprocity if the medical care
11 practitioner seeking confirmation as an authorized medical care practitioner
12 is not directly regulated by the board.

13 (c) The board shall establish a fee schedule for application, review,
14 and confirmation of medical care practitioners as authorized medical care
15 practitioners that is consistent with and under no circumstances no more
16 costly than the board's fee schedule applied to medical care practitioners
17 directly regulated by the board.

18
19 11-16-1002. Rules.

20 The Arkansas State Medical Board shall promulgate rules necessary to
21 implement this subchapter.

22
23 11-16-1003. Purpose.

24 The purpose of this subchapter is to ensure a single repository for all
25 authorized medical practitioners under this chapter.

26
27 11-16-1004. Confirmation after provision of covered medical care.

28 (a) If a medical care practitioner provides medical care for a covered
29 injury during any period that the medical care practitioner is not deemed an
30 authorized medical care practitioner and the medical care practitioner
31 desires compensation for covered medical care:

32 (1) The medical care practitioner shall apply for confirmation
33 as an authorized medical care practitioner within forty-five (45) days after
34 the date of service;

35 (2) The medical care practitioner shall submit the universal
36 workers' compensation claim within sixty (60) days after the date of service;

1 and

2 (3) The universal workers' compensation claim shall be suspended
3 for a period not to exceed one hundred twenty (120) days from the date of
4 service as the Arkansas State Medical Board period pending confirmation of
5 the medical care practitioner as an authorize medical care practitioner by
6 the Arkansas State Medical Board.

7 (b) If the medical care practitioner is confirmed as an authorized
8 medical care practitioner by the Arkansas State Medical Board before the
9 expiration of the Arkansas State Medical Board period, the universal workers'
10 compensation claim shall be processed under the terms and conditions of
11 distinct universal workers' compensation insurance policy providing universal
12 workers' compensation coverage for the covered injury.

13 (c) If the medical care practitioner is not confirmed as an authorized
14 medical care practitioner by the Arkansas State Medical Board before the
15 expiration of the Arkansas State Medical Board period, the universal workers'
16 compensation claim shall be denied.

17
18 Subchapter 11 – Statute of Limitations Provisions

19
20 11-16-1101. Statute of limitations – Administrative review.

21 (a) As used in this section, "precipitating event" means the
22 occurrence that is the basis for a universal workers' compensation claim.

23 (b) An action of any kind or character under this chapter shall be
24 commenced within two (2) years from the date of the precipitating event,
25 without regard to the date discovered, or it shall be barred.

26 (c) The universal workers' compensation carrier shall incorporate the
27 administrative review process under the covered employer's plan under the
28 Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et seq., as
29 it existed on January 1, 2019, into the universal workers' compensation
30 insurance policy issued to the covered employer.

31
32 SECTION 2. Arkansas Code Title 19, Chapter 5, Subchapter 12, is
33 amended to add an additional section to read as follows:

34 19-5-1264. Center for Effective Medicine Fund.

35 (a) There is established on the books of the Treasurer of State, the
36 Auditor of State, and the Chief Fiscal Officer of the State a fund to be

1 known as the "Center for Effective Medicine Fund".

2 (b) The fund shall consist of those special revenues specified in §
3 11-16-705 and any other funds made available by the General Assembly from
4 time to time.

5 (c) The fund shall be used to provide public-private partnership
6 financing of various projects authorized by the General Assembly.

7
8 SECTION 3. Arkansas Code § 25-19-105(b)(7), concerning the exemptions
9 to the Freedom of Information Act of 1967, is amended to read as follows:

10 (7) Unpublished memoranda, working papers, and correspondence of
11 the Governor, members of the General Assembly, Supreme Court Justices, Court
12 of Appeals Judges, the Clinical Effectiveness Panel established under § 11-
13 16-701 et seq., and the Attorney General;

14
15 SECTION 4. DO NOT CODIFY. Rules.

16 (a) The State Insurance Department shall promulgate rules necessary to
17 implement this chapter.

18 (b)(1) When adopting the initial rules to implement this act, the
19 final rule shall be filed with the Secretary of State for adoption under §
20 25-15-204(f):

21 (A) On or before January 1, 2020; or

22 (B) If approval under § 10-3-309 has not occurred by
23 January 1, 2020, as soon as practicable after approval under § 10-3-309.

24 (2) The department shall file the proposed rule with the
25 Legislative Council under § 10-3-309(c) sufficiently in advance of January 1,
26 2020, so that the Legislative Council may consider the rule for approval
27 before January 1, 2020.

28
29 SECTION 5. Federal approval – Intent.

30 (a) The state shall seek a federal waiver for regulatory authority to
31 regulate issuance of a universal workers' compensation insurance policy under
32 this chapter.

33 (b) The universal workers' compensation insurance policy issued under
34 this chapter shall be to one (1) company with no more than five hundred (500)
35 employees.

36 (c) No additional universal workers' compensation insurance policy

1 shall be issued until the General Assembly grants authority to universal
2 workers' compensation carriers to issue universal workers' compensation
3 insurance policies to an authorized employer.

4
5 SECTION 6. DO NOT CODIFY. Expiration.

6 Unless the State Insurance Department verifies that a universal
7 workers' compensation insurance policy is issued by a universal workers'
8 compensation carrier, after approval by all appropriate federal regulatory
9 authorities for issuance in this state with authority to provide universal
10 workers' compensation coverage as established under this act, this act shall
11 expire on December on December 31, 2025.

12
13 SECTION 7. DO NOT CODIFY. The Clinical Effectiveness Panel shall be
14 initially composed of the following nine (9) members:

- 15 (1) Herman Ellis, MD MPH;
- 16 (2) Arthur T. Evans, MD MPH;
- 17 (3) William E. Golden, MD MACP;
- 18 (4) Nortin M. Hadler, MD MACP MACR FACOEM, Chair;
- 19 (5) Nancy M. P. King, JD;
- 20 (6) Robert B. Leflar, JD MPH;
- 21 (7) Robert A. McNutt, MD;
- 22 (8) Marjorie M. Shultz, JD; and
- 23 (9) John L. Zeller, MD PhD.

24
25 SECTION 8. EMERGENCY CLAUSE. It is found and determined by the
26 General Assembly of the State of Arkansas that there is a need for federal
27 approval; that Section 5 of this act mandates the state seek federal approval
28 to implement; and that Section 5 of this act is immediately necessary because
29 the state needs time to seek federal approval. Therefore, an emergency is
30 declared to exist, and Section 5 of this act being immediately necessary for
31 the preservation of the public peace, health, and safety shall become
32 effective on:

- 33 (1) The date of its approval by the Governor;
- 34 (2) If the bill is neither approved nor vetoed by the Governor,
35 the expiration of the period of time during which the Governor may veto the
36 bill; or

1 (3) If the bill is vetoed by the Governor and the veto is
2 overridden, the date the last house overrides the veto.

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