

Part 10

Workers' Compensation Insurance Contracts

31A-22-1001 Obligation to write workers' compensation insurance.

- (1) As used in this section, "Workers' Compensation Fund" means the mutual corporation that is the successor to the quasi-public corporation created under Chapter 33, Workers' Compensation Fund, which is the chapter repealed by Laws of Utah 2017, Chapter 363.
- (2) The Workers' Compensation Fund shall write all workers' compensation insurance for which application is made to the Workers' Compensation Fund until the time designated by the commissioner, but no later than December 31, 2020. As a condition of the rights granted under this Subsection (2), the Workers' Compensation Fund agrees to provide notice by no later than July 1, 2018, if the Workers' Compensation Fund does not intend to seek a contract under Subsection (3).
- (3)
 - (a) Before entering the contract required under Subsection (3)(b), the commissioner shall work with the Workers' Compensation Fund and other workers' compensation insurance carriers to determine what constitutes the residual market within this state. After consulting with the Workers' Compensation Fund and other workers' compensation insurance carriers, the commissioner shall make the final decision of how to define the residual market. As part of the process of determining the residual market, the commissioner may make reasonable requests of data from the Workers' Compensation Fund and other workers' compensation insurance carriers.
 - (b) Beginning no later than January 1, 2021, the commissioner shall enter into a contract with a workers' compensation insurance carrier to write all workers' compensation insurance for which application is made to the workers' compensation insurance carrier.
 - (c) The commissioner shall comply with Title 63G, Chapter 6a, Utah Procurement Code, in selecting the workers' compensation insurance carrier described in Subsection (3)(b). Criteria the commissioner may consider include:
 - (i) the rating of the workers' compensation insurance carrier by a nationally recognized statistical ratings organization;
 - (ii) the financial size category of the workers' compensation insurance carrier as determined by a nationally recognized statistical ratings organization;
 - (iii) the length of time the workers' compensation insurance carrier has held a certificate of authority and has been active in the Utah workers' compensation insurance market; and
 - (iv) the workers' compensation insurance carrier's demonstration of the intent to provide statewide:
 - (A) safety consultation, employer training ability, and accident prevention expertise;
 - (B) claims handling, medical case management, rehabilitation, cost containment, and employee return to work capabilities; and
 - (C) physical offices and electronic access for the convenience of Utah employers and employees.
 - (d) A contract entered into under this Subsection (3) shall:
 - (i) notwithstanding Section 63G-6a-1204, be for a term of at least 10 years;
 - (ii) provide for an option to renew the contract;
 - (iii) require a workers' compensation insurance carrier with whom the commissioner contracts to provide notice that the workers' compensation carrier will not seek to renew the contract at least three years before the end of the contract; and

- (iv) contain other terms necessary to ensure that the workers' compensation insurance carrier awarded the contract will provide workers' compensation insurance to the residual market.
- (4) The commissioner shall annually submit a written report in accordance with Section 68-3-14 to the Business and Labor Interim Committee by no later than October 1 that:
 - (a) describes the status of the commissioner's activities under Subsection (3); and
 - (b) the need, if any, for legislation to address the residual market.

Revisor instructions Chapter 273, 2018 General Session
Amended by Chapter 363, 2017 General Session
Revisor instructions Chapter 363, 2017 General Session

31A-22-1002 Duration of coverage.

- (1) Any insurer assuming a workers' compensation risk shall carry it until the policy is canceled, either:
 - (a) by agreement between the Division of Industrial Accidents in the Labor Commission, the insurer, and the employer; or
 - (b) after:
 - (i) notice by the insurer to the employer as provided in Section 31A-21-303; and
 - (ii) notice to the Division of Industrial Accidents in the Labor Commission as provided in Section 34A-2-205.
- (2) Subsection (1) does not affect the requirements of Section 31A-22-1001.

Amended by Chapter 116, 2001 General Session

31A-22-1003 Comprehensive coverage.

Every insurance policy covering the liability of an employer under Title 34A, Chapter 2, Workers' Compensation Act, shall cover all types of workers' compensation benefits required to be provided under that chapter. This section does not preclude primary and excess coverage being provided under different contracts.

Amended by Chapter 375, 1997 General Session

31A-22-1004 Direct enforcement by employees.

All workers' compensation insurance policies shall contain a provision that employees may enforce, in their own names, the liability of the insurer.

Enacted by Chapter 242, 1985 General Session

31A-22-1005 Payment as bar to recovery.

Payment of compensation under a workers' compensation insurance policy, whether in whole or in part, by either the employer or the insurer, bars recovery by the employee or the employee's dependents to the extent of the payment.

Amended by Chapter 302, 2025 General Session

31A-22-1006 Insurer's constructive knowledge.

Every workers' compensation policy or contract shall contain a provision that, as between the employee and the insurer, notice to or knowledge of the occurrence of the injury on the part of the

employer is considered to be notice or knowledge to the insurer. This provision shall also state that the insurer is bound by and subject to the orders, findings, decisions, and awards rendered against the employer for the payment of compensation on account of compensable accidental injuries or occupational disease disability.

Enacted by Chapter 242, 1985 General Session

31A-22-1007 Employer's insolvency.

Every workers' compensation policy or contract shall contain a provision that the insolvency of the employer and the employer's discharge does not relieve the insurer from the payment of compensation for injuries or death sustained by an employee during the life of that policy or contract.

Amended by Chapter 302, 2025 General Session

31A-22-1008 Employer's breach of safety rules.

No condition in a workers' compensation policy requiring the insured employer to comply with certain safety rules may excuse the workers' compensation insurer from paying the required benefits to an employee injured as a result of the employer's breach of a safety rule that is a condition to the workers' compensation policy. However, the insurer may bring a claim against the insured employer for breach of the policy condition.

Enacted by Chapter 242, 1985 General Session

31A-22-1009 Other applicable provisions.

Workers' compensation insurance contracts are subject to any applicable requirements of Title 34A, Chapter 2, Workers' Compensation Act.

Amended by Chapter 375, 1997 General Session

31A-22-1010 Workers' compensation deductible policies.

- (1) An insurer authorized to transact the business of workers' compensation in this state may issue a workers' compensation insurance policy that provides for the insured to participate in the payment of the insurance claims and losses covered by the policy in accordance with rules made by the department.
- (2) Notwithstanding Subsection (1), an insurer:
 - (a) shall assume responsibility to pay all claims and losses under a workers' compensation insurance policy in accordance with Title 34A, Chapter 2, Workers' Compensation Act, and Chapter 3, Utah Occupational Disease Act;
 - (b) may not permit the insured to participate in the payment of the insurance claims and losses by any means except reimbursement of the insurer; and
 - (c) may not permit an employee to participate in the payment of claims or losses.
- (3) For policies issued under this section, the department shall make rules consistent with this section governing:
 - (a) the terms of the policies; and
 - (b) reporting requirements for the policies.

Enacted by Chapter 277, 1998 General Session

31A-22-1012 Workers' compensation insurance availability.

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to monitor the following related to employers who can only obtain workers' compensation insurance pursuant to Section 31A-22-1001 because of an underwriting standard or guideline described in Subsection (2):
 - (a) the number of employers;
 - (b) the type of employers;
 - (c) the underwriting standard or guideline that causes the employer to obtain workers' compensation under Section 31A-22-1001; or
 - (d) similar information to the information described in Subsections (1)(a) through (c).
- (2) An underwriting standard or guideline described in Subsection (1) includes a standard or guideline regarding:
 - (a) premium size;
 - (b) class code and risk characteristics;
 - (c) payroll and loss experience;
 - (d) another factor identified by the department; or
 - (e) a combination of the factors listed in Subsections (2)(a) through (d).

Enacted by Chapter 348, 2008 General Session

31A-22-1014 Conversion of Workers' Compensation Fund to mutual insurance corporation.

- (1) As used in this section, "Workers' Compensation Fund" means the mutual corporation that is the successor to the quasi-public corporation created under Chapter 33, Workers' Compensation Fund, which is the chapter repealed by Laws of Utah 2017, Chapter 363.
- (2) As a consequence of the repeal of Chapter 33, Workers' Compensation Fund, effective January 1, 2018:
 - (a) The Workers' Compensation Fund shall convert from a quasi-public corporation to a mutual insurance corporation subject to Chapter 5, Domestic Stock and Mutual Insurance Corporations.
 - (b) On or before December 31, 2017, the Workers' Compensation Fund shall file amended and restated articles of incorporation with the Department of Insurance and the Division of Corporations and Commercial Code that comply with Chapter 5, Domestic Stock and Mutual Insurance Corporations.
 - (c) Following the filing of the Workers' Compensation Fund's amended and restated articles of incorporation, if the commissioner determines that the Workers' Compensation Fund complies with Chapter 5, Domestic Stock and Mutual Insurance Corporations, the commissioner shall:
 - (i) reissue a certificate of authority effective January 1, 2018, for the Workers' Compensation Fund to write workers' compensation insurance in Utah as a mutual insurance corporation; and
 - (ii) reauthorize the Workers' Compensation Fund's existing filings, rates, forms, or other administrative matters on file with the department as a result of, or related to, Workers' Compensation Fund's existing insurance business in the state, so that the filings, rates, forms, or other administrative matters on file shall be effective January 1, 2018, with respect to the Workers' Compensation Fund's insurance business activities as a mutual insurance corporation.
 - (d) The Workers' Compensation Fund may adopt and conduct business under any name that complies with state law.

- (3) Subject to Subsection (2), the commissioner may, because of the Workers' Compensation Fund's developed status, waive or otherwise not impose requirements imposed on mutual insurance corporations by Chapter 5, Domestic Stock and Mutual Insurance Corporations, to facilitate the conversion of the Workers' Compensation Fund to a mutual insurance corporation effective January 1, 2018, so long as the commissioner finds those requirements unnecessary to protect policyholders and the public.
- (4)
- (a) From and after the Workers' Compensation Fund's conversion to a mutual insurance corporation, the Workers' Compensation Fund shall retain title to all assets of, and remain responsible for all liabilities incurred by, the Workers' Compensation Fund as a quasi-public corporation before the Workers' Compensation Fund conversion described in this section.
- (b) The state is not liable for the expenses, liabilities, or debts of:
- (i) the mutual insurance company described in this section;
 - (ii) the nonprofit, quasi-public corporation that preceded the mutual insurance company; or
 - (iii) a subsidiary or joint enterprise involving the mutual insurance company or quasi-public corporation.

Revisor instructions Chapter 273, 2018 General Session

Enacted by Chapter 363, 2017 General Session

Revisor instructions Chapter 363, 2017 General Session

31A-22-1016 Workers' compensation coverage for medical cannabis operations.

A licensed and admitted workers' compensation insurer may issue coverage to:

- (1) a cannabis production establishment as defined in Section 4-41a-102; or
- (2) a medical cannabis pharmacy as defined in Section 26B-4-201.

Amended by Chapter 328, 2023 General Session

31A-22-1017 Attestation required.

- (1) As used in this section, "zero estimated exposure policy" means a policy of insurance that an employer obtains to cover the employer's liability to pay compensation under Title 34A, Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act, after reporting the employer's total estimated exposure is zero.
- (2) An insurer shall require each applicant for a zero estimated exposure policy to sign an attestation in capital letters with substantially the following form and content: "I ATTEST THAT ALL INFORMATION PROVIDED IN THIS APPLICATION IS CURRENT, TRUE, ACCURATE, AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER ATTEST THAT I HAVE NO EMPLOYEES AND AN ESTIMATED EXPOSURE OF ZERO. IF I EMPLOY ANY EMPLOYEES DURING THE POLICY PERIOD, I SHALL PROVIDE WRITTEN NOTICE TO MY WORKERS' COMPENSATION INSURER WITHIN 60 DAYS AFTER THE EMPLOYMENT BEGINS, AND INCLUDE THE ESTIMATED PAYROLL AND CLASSIFICATION CODES FOR THOSE EMPLOYEES. I UNDERSTAND THAT AN OMISSION OR MISREPRESENTATION MADE WITH INTENT TO DEFRAUD IN THIS APPLICATION CONSTITUTES A CRIMINAL ACTION."

Enacted by Chapter 198, 2026 General Session