

1 **WORKERS' COMPENSATION AND OCCUPATIONAL SAFETY**

2 **RELATED AMENDMENTS**

3 2013 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Karen Mayne**

6 House Sponsor: James A. Dunnigan

7

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Workers' Compensation Act, Utah Occupational Disease Act, and
11 Utah Occupational Safety and Health Act to address issues related to health services
12 and reporting.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ amends definitions;
- 16 ▶ grants rulemaking authority related to treatment protocols and determinations of
17 medical necessity;
- 18 ▶ authorizes contracts related to treatment protocols;
- 19 ▶ addresses reporting requirements, including:
 - 20 • addressing reports by workers' compensation insurance carriers;
 - 21 • granting rulemaking authority;
 - 22 • addressing when civil assessments are imposed; and
 - 23 • removing certain criminal penalties; and
- 24 ▶ makes technical and conforming amendments.

25 **Money Appropriated in this Bill:**

26 None

27 **Other Special Clauses:**

28 This bill takes effect on July 1, 2013.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **34A-2-111**, as last amended by Laws of Utah 2009, Chapter 220

32 **34A-2-407**, as last amended by Laws of Utah 2009, Chapters 288 and 347

33 **34A-3-108**, as last amended by Laws of Utah 2009, Chapter 288

34 **34A-6-301**, as last amended by Laws of Utah 2011, Chapter 297

35 ENACTS:

36 **34A-2-407.5**, Utah Code Annotated 1953



38 *Be it enacted by the Legislature of the state of Utah:*

39 Section 1. Section **34A-2-111** is amended to read:

40 **34A-2-111. Managed health care programs -- Other safety programs.**

41 (1) As used in this section:

42 (a) (i) "Health care provider" means a person who furnishes treatment or care to
43 persons who have suffered bodily injury.

44 (ii) "Health care provider" includes:

45 (A) a hospital;

46 (B) a clinic;

47 (C) an emergency care center;

48 (D) a physician;

49 (E) a nurse;

50 (F) a nurse practitioner;

51 (G) a physician's assistant;

52 (H) a paramedic; or

53 (I) an emergency medical technician.

54 (b) "Physician" means any health care provider licensed under:

55 (i) Title 58, Chapter 5a, Podiatric Physician Licensing Act;

56 (ii) Title 58, Chapter 24b, Physical Therapy Practice Act;

57 (iii) Title 58, Chapter 67, Utah Medical Practice Act;

- 58 (iv) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
- 59 (v) Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act;
- 60 (vi) Title 58, Chapter 70a, Physician Assistant Act;
- 61 (vii) Title 58, Chapter 71, Naturopathic Physician Practice Act;
- 62 (viii) Title 58, Chapter 72, Acupuncture Licensing Act; [~~and~~]
- 63 (ix) Title 58, Chapter 73, Chiropractic Physician Practice Act[-]; and
- 64 (x) Title 58, Chapter 31b, Nurse Practice Act, as an advanced practice registered nurse.

- 65 (c) "Preferred health care facility" means a facility:
 - 66 (i) that is a health care facility as defined in Section 26-21-2; and
 - 67 (ii) designated under a managed health care program.
- 68 (d) "Preferred provider physician" means a physician designated under a managed
- 69 health care program.
- 70 (e) "Self-insured employer" is as defined in Section 34A-2-201.5.

71 (2) (a) A self-insured employer and insurance carrier may adopt a managed health care
72 program to provide employees the benefits of this chapter or Chapter 3, Utah Occupational
73 Disease Act, beginning January 1, 1993. The plan shall comply with this Subsection (2).

74 (b) (i) A preferred provider program may be developed if the preferred provider
75 program allows a selection by the employee of more than one physician in the health care
76 specialty required for treating the specific problem of an industrial patient.

77 (ii) (A) Subject to the requirements of this section, if a preferred provider program is
78 developed by an insurance carrier or self-insured employer, an employee is required to use:

79 (I) preferred provider physicians; and

80 (II) preferred health care facilities.

81 (B) If a preferred provider program is not developed, an employee may have free
82 choice of health care providers.

83 (iii) The failure to do the following may, if the employee has been notified of the
84 preferred provider program, result in the employee being obligated for any charges in excess of
85 the preferred provider allowances:

- 86 (A) use a preferred health care facility; or
- 87 (B) initially receive treatment from a preferred provider physician.
- 88 (iv) Notwithstanding the requirements of Subsections (2)(b)(i) through (iii), a
- 89 self-insured employer or other employer may:
 - 90 (A) (I) (Aa) have its own health care facility on or near its worksite or premises; and
 - 91 (Bb) continue to contract with other health care providers; or
 - 92 (II) operate a health care facility; and
 - 93 (B) require employees to first seek treatment at the provided health care or contracted
 - 94 facility.
- 95 (v) An employee subject to a preferred provider program or employed by an employer
- 96 having its own health care facility may procure the services of any qualified health care
- 97 provider:
 - 98 (A) for emergency treatment, if a physician employed in the preferred provider
 - 99 program or at the health care facility is not available for any reason;
 - 100 (B) for conditions the employee in good faith believes are nonindustrial; or
 - 101 (C) when an employee living in a rural area would be unduly burdened by traveling to:
 - 102 (I) a preferred provider physician; or
 - 103 (II) a preferred health care facility.
- 104 (c) (i) (A) An employer, insurance carrier, or self-insured employer may enter into
- 105 contracts with the following for the purposes listed in Subsection (2)(c)(i)(B):
 - 106 (I) health care providers;
 - 107 (II) medical review organizations; or
 - 108 (III) vendors of medical goods, services, and supplies including medicines.
- 109 (B) A contract described in Subsection (1)(c)(i)(A) may be made for the following
- 110 purposes:
 - 111 (I) insurance carriers or self-insured employers may form groups in contracting for
 - 112 managed health care services with health care providers;
 - 113 (II) peer review;

114 (III) methods of utilization review;
115 (IV) use of case management;
116 (V) bill audit;
117 (VI) discounted purchasing; and
118 (VII) the establishment of a reasonable health care treatment protocol program
119 including the implementation of medical treatment and quality care guidelines that are:
120 (Aa) scientifically based;
121 (Bb) peer reviewed; and
122 (Cc) consistent with standards for health care treatment protocol programs that the
123 commission shall establish by rules made in accordance with Title 63G, Chapter 3, Utah
124 Administrative Rulemaking Act, including the authority of the commission to approve a health
125 care treatment protocol program before it is used or disapprove a health care treatment protocol
126 program that does not comply with this Subsection (2)(c)(i)(B)(VII).
127 (ii) An insurance carrier may make any or all of the factors in Subsection (2)(c)(i) a
128 condition of insuring an entity in its insurance contract.
129 (3) (a) In addition to a managed health care program, an insurance carrier may require
130 an employer to establish a work place safety program if the employer:
131 (i) has an experience modification factor of 1.00 or higher, as determined by the
132 National Council on Compensation Insurance; or
133 (ii) is determined by the insurance carrier to have a three-year loss ratio of 100% or
134 higher.
135 (b) A workplace safety program may include:
136 (i) a written workplace accident and injury reduction program that:
137 (A) promotes safe and healthful working conditions; and
138 (B) is based on clearly stated goals and objectives for meeting those goals; and
139 (ii) a documented review of the workplace accident and injury reduction program each
140 calendar year delineating how procedures set forth in the program are met.
141 (c) A written workplace accident and injury reduction program permitted under

142 Subsection (3)(b)(i) should describe:

143 (i) how managers, supervisors, and employees are responsible for implementing the
144 program;

145 (ii) how continued participation of management will be established, measured, and
146 maintained;

147 (iii) the methods used to identify, analyze, and control new or existing hazards,
148 conditions, and operations;

149 (iv) how the program will be communicated to all employees so that the employees are
150 informed of work-related hazards and controls;

151 (v) how workplace accidents will be investigated and corrective action implemented;
152 and

153 (vi) how safe work practices and rules will be enforced.

154 (d) For the purposes of a workplace accident and injury reduction program of an
155 eligible employer described in Subsection 34A-2-103(7)(f), the workplace accident and injury
156 reduction program shall:

157 (i) include the provisions described in Subsections (3)(b) and (c), except that the
158 employer shall conduct a documented review of the workplace accident and injury reduction
159 program at least semiannually delineating how procedures set forth in the workplace accident
160 and injury reduction program are met; and

161 (ii) require a written agreement between the employer and all contractors and
162 subcontractors on a project that states that:

163 (A) the employer has the right to control the manner or method by which the work is
164 executed;

165 (B) if a contractor, subcontractor, or any employee of a contractor or subcontractor
166 violates the workplace accident and injury reduction program, the employer maintains the right
167 to:

168 (I) terminate the contract with the contractor or subcontractor;

169 (II) remove the contractor or subcontractor from the work site; or

170 (III) require that the contractor or subcontractor not permit an employee that violates
171 the workplace accident and injury reduction program to work on the project for which the
172 employer is procuring work; and

173 (C) the contractor or subcontractor shall provide safe and appropriate equipment
174 subject to the right of the employer to:

175 (I) inspect on a regular basis the equipment of a contractor or subcontractor; and

176 (II) require that the contractor or subcontractor repair, replace, or remove equipment
177 the employer determines not to be safe or appropriate.

178 (4) The premiums charged to any employer who fails or refuses to establish a
179 workplace safety program pursuant to Subsection (3)(b)(i) or (ii) may be increased by 5% over
180 any existing current rates and premium modifications charged that employer.

181 Section 2. Section **34A-2-407** is amended to read:

182 **34A-2-407. Reporting of industrial injuries -- Regulation of health care**
183 **providers.**

184 (1) As used in this section, "physician" is as defined in Section 34A-2-111.

185 (2) (a) An employee sustaining an injury arising out of and in the course of
186 employment shall provide notification to the employee's employer promptly of the injury.

187 (b) If the employee is unable to provide the notification required by Subsection (2)(a),
188 the following may provide notification of the injury to the employee's employer:

189 (i) the employee's next of kin; or

190 (ii) the employee's attorney.

191 (c) An employee claiming benefits under this chapter[;] or Chapter 3, Utah
192 Occupational Disease Act, shall comply with rules adopted by the commission regarding
193 disclosure of medical records of the employee medically relevant to the industrial accident or
194 occupational disease claim.

195 (3) (a) An employee is barred for any claim of benefits arising from an injury if the
196 employee fails to notify within the time period described in Subsection (3)(b):

197 (i) the employee's employer in accordance with Subsection (2); or

- 198 (ii) the division.
- 199 (b) The notice required by Subsection (3)(a) shall be made within:
- 200 (i) 180 days of the day on which the injury occurs; or
- 201 (ii) in the case of an occupational hearing loss, the time period specified in Section
- 202 34A-2-506.
- 203 (4) The following constitute notification of injury required by Subsection (2):
- 204 (a) an employer's ~~[or]~~ report filed with:
- 205 (i) the division; or
- 206 (ii) the employer's workers' compensation insurance carrier;
- 207 (b) a physician's injury report filed with:
- 208 (i) the division;
- 209 (ii) the employer; or
- 210 (iii) the employer's workers' compensation insurance carrier; ~~[or]~~
- 211 (c) a workers' compensation insurance carrier's report filed with the division; or
- 212 ~~[(b)]~~ (d) the payment of any medical or disability benefits by:
- 213 (i) the employer; or
- 214 (ii) the employer's workers' compensation insurance carrier.
- 215 (5) (a) ~~[In the form prescribed by the division, an]~~ An employer and the employer's
- 216 workers' compensation insurance carrier, if any, shall file a report [with the division] in
- 217 accordance with the rules made under Subsection (5)(b) of a:
- 218 (i) work-related fatality; or
- 219 (ii) work-related injury resulting in:
- 220 (A) medical treatment;
- 221 (B) loss of consciousness;
- 222 (C) loss of work;
- 223 (D) restriction of work; or
- 224 (E) transfer to another job.
- 225 (b) ~~[The]~~ An employer or the employer's workers' compensation insurance carrier, if

226 any, shall file ~~[the]~~ a report required by Subsection (5)(a) ~~[within seven days after:]~~, and any
 227 subsequent reports of a previously reported injury as may be required by the commission,
 228 within the time limits and in the manner established by rule by the commission made after
 229 consultation with the workers' compensation advisory council and in accordance with Title
 230 63G, Chapter 3, Utah Administrative Rulemaking Act. A rule made under this Subsection
 231 (5)(b) shall:

232 ~~[(i) the occurrence of a fatality or injury;]~~

233 ~~[(ii) the employer's first knowledge of a fatality or injury; or]~~

234 ~~[(iii) the employer's notification of a fatality or injury.]~~

235 ~~[(c) (i) An employer shall file a subsequent report with the division of a previously~~
 236 ~~reported injury that later results in death.]~~

237 ~~[(ii) The subsequent report required by this Subsection (5)(c) shall be filed with the~~
 238 ~~division within seven days following:]~~

239 ~~[(A) the death; or]~~

240 ~~[(B) the employer's first knowledge or notification of the death.]~~

241 (i) be reasonable; and

242 (ii) take into consideration the practicality and cost of complying with the rule.

243 ~~[(d)]~~ (c) A report is not required to be filed under this Subsection (5) for a minor
 244 injury, such as a cut or scratch that requires first aid treatment only, unless:

245 (i) a treating physician files a report with the division in accordance with Subsection
 246 (9); or

247 (ii) a treating physician is required to file a report with the division in accordance with
 248 Subsection (9).

249 (6) An employer and its workers' compensation insurance carrier, if any, required to
 250 file a report under Subsection (5) shall provide the employee with:

251 (a) a copy of the report submitted to the division; and

252 (b) a statement, as prepared by the division, of the employee's rights and
 253 responsibilities related to the industrial injury.

254 (7) An employer shall maintain a record in a manner prescribed by the commission by
255 rule of all:

- 256 (a) work-related fatalities; or
- 257 (b) work-related injuries resulting in:
 - 258 (i) medical treatment;
 - 259 (ii) loss of consciousness;
 - 260 (iii) loss of work;
 - 261 (iv) restriction of work; or
 - 262 (v) transfer to another job.

263 (8) (a) Except as provided in Subsection (8)(b), an employer or a workers'
264 compensation insurance carrier who refuses or neglects to make a report, maintain a record, or
265 file a report [~~with the division~~] as required by this section is[: ~~(i) guilty of a class C~~
266 ~~misdemeanor; and (ii)~~] subject to a civil assessment:

267 [~~(A)~~] (i) imposed by the division, subject to the requirements of Title 63G, Chapter 4,
268 Administrative Procedures Act; and

269 [~~(B)~~] (ii) that may not exceed \$500.

270 (b) An employer or workers' compensation insurance carrier is not subject to the civil
271 assessment [~~or guilty of a class C misdemeanor~~] under this Subsection (8) if:

272 (i) the employer or workers' compensation insurance carrier submits a report later than
273 required by this section; and

274 (ii) the division finds that the employer or workers' compensation insurance carrier has
275 shown good cause for submitting a report later than required by this section.

276 (c) (i) A civil assessment collected under this Subsection (8) shall be deposited into the
277 Uninsured Employers' Fund created in Section 34A-2-704 to be used for a purpose specified in
278 Section 34A-2-704.

279 (ii) The administrator of the Uninsured Employers' Fund shall collect money required
280 to be deposited into the Uninsured Employers' Fund under this Subsection (8)(c) in accordance
281 with Section 34A-2-704.

282 (9) (a) A physician attending an injured employee shall comply with rules established
283 by the commission regarding:

284 (i) fees for physician's services;

285 (ii) disclosure of medical records of the employee medically relevant to the employee's
286 industrial accident or occupational disease claim; ~~and~~

287 (iii) reports to the division regarding:

288 (A) the condition and treatment of an injured employee; or

289 (B) any other matter concerning industrial cases that the physician is treating[-]; and

290 (iv) rules made under Section 34A-2-407.5.

291 (b) A physician who is associated with, employed by, or bills through a hospital is
292 subject to Subsection (9)(a).

293 (c) A hospital providing services for an injured employee is not subject to the
294 requirements of Subsection (9)(a) except for rules made by the commission that are described
295 in Subsection (9)(a)(ii) or (iii) or Section 34A-2-407.5.

296 (d) The commission's schedule of fees may reasonably differentiate remuneration to be
297 paid to providers of health services based on:

298 (i) the severity of the employee's condition;

299 (ii) the nature of the treatment necessary; and

300 (iii) the facilities or equipment specially required to deliver that treatment.

301 (e) This Subsection (9) does not prohibit a contract with a provider of health services
302 relating to the pricing of goods and services.

303 (10) A copy of the initial report filed under Subsection (9)(a)(iii) shall be furnished to:

304 (a) the division;

305 (b) the employee; and

306 (c) (i) the employer; or

307 (ii) the employer's workers' compensation insurance carrier.

308 (11) (a) Subject to appellate review under Section 34A-1-303, the commission has
309 exclusive jurisdiction to hear and determine:

- 310 (i) whether goods provided to or services rendered to an employee are compensable
- 311 pursuant to this chapter or Chapter 3, Utah Occupational Disease Act, including:
- 312 (A) medical, nurse, or hospital services;
- 313 (B) medicines; and
- 314 (C) artificial means, appliances, or prosthesis;
- 315 (ii) the reasonableness of the amounts charged or paid for a good or service described
- 316 in Subsection (11)(a)(i); and
- 317 (iii) collection issues related to a good or service described in Subsection (11)(a)(i).

318 (b) Except as provided in Subsection (11)(a), Subsection 34A-2-211(6), or Section
 319 34A-2-212, a person may not maintain a cause of action in any forum within this state other
 320 than the commission for collection or payment for goods or services described in Subsection
 321 (11)(a) that are compensable under this chapter or Chapter 3, Utah Occupational Disease Act.

322 Section 3. Section **34A-2-407.5** is enacted to read:

323 **34A-2-407.5. Rules regarding treatment protocols and determinations of medical**
 324 **necessity -- Contracts.**

325 (1) The commission may by rule, made in accordance with Title 63G, Chapter 3, Utah
 326 Administrative Rulemaking Act, establish for purposes of health care goods and services
 327 compensable under this chapter and Chapter 3, Utah Occupational Disease Act, reasonable
 328 health care treatment protocols, that include determinations of medical necessity, and medical
 329 treatment and quality care guidelines that are:

- 330 (a) scientifically based;
- 331 (b) peer reviewed; and
- 332 (c) consistent with any general standards for health care treatment protocols that the
 333 commission establishes by rule.

334 (2) Notwithstanding Subsection (1), the commission may authorize an insurer or
 335 employer to use all or part of reasonable health care treatment protocols, that include
 336 determinations of medical necessity, and medical treatment and quality care guidelines that are:

- 337 (a) scientifically based;

- 338 **(b) peer reviewed; and**
- 339 **(c) consistent with any general standards for health care treatment protocols that the**
- 340 **commission shall establish by rule.**
- 341 **(3) Nothing in this section shall be construed to prevent:**
- 342 **(a) an insurer or employer from contracting with a provider of health services as**
- 343 **permitted by Subsection 34A-2-111(2)(c)(i)(B)(VII);**
- 344 **(b) the commission from adjudicating disputes arising under the terms of this section;**
- 345 **or**
- 346 **(c) a provider of health services from bringing to the commission a dispute arising**
- 347 **under protocols, guidelines, or other terms of this section.**

348 Section 4. Section **34A-3-108** is amended to read:

349 **34A-3-108. Reporting of occupational diseases -- Regulation of health care**

350 **providers.**

351 (1) An employee sustaining an occupational disease, as defined in this chapter, arising

352 out of and in the course of employment shall provide notification to the employee's employer

353 promptly of the occupational disease. If the employee is unable to provide notification, the

354 employee's next of kin or attorney may provide notification of the occupational disease to the

355 employee's employer.

356 (2) (a) An employee who fails to notify the employee's employer or the division within

357 180 days after the cause of action arises is barred from a claim of benefits arising from the

358 occupational disease.

359 (b) The cause of action is considered to arise on the date the employee first:

360 (i) suffers disability from the occupational disease; and

361 (ii) knows, or in the exercise of reasonable diligence should have known, that the

362 occupational disease is caused by employment.

363 (3) The following constitute notification of an occupational disease:

364 (a) an employer's [~~or~~] report filed with the:

365 (i) division; or

366 (ii) workers' compensation insurance carrier;
 367 (b) a physician's injury report filed with the:
 368 (i) division;
 369 (ii) employer; or
 370 (iii) workers' compensation insurance carrier; [or]
 371 (c) a workers' compensation insurance carrier's report to the division; or
 372 ~~[(b)]~~ (d) the payment of any medical or disability benefit by the employer or the
 373 employer's workers' compensation insurance carrier.

374 ~~(4) (a) [In the form prescribed by the division, an]~~ An employer and the employer's
 375 workers' compensation insurance carrier, if any, shall file a report [with the division] in
 376 accordance with the rules described in Subsection (4)(b) of any occupational disease resulting
 377 in:

378 (i) medical treatment;
 379 (ii) loss of consciousness;
 380 (iii) loss of work;
 381 (iv) restriction of work; or
 382 (v) transfer to another job.

383 ~~(b) [The report]~~ An employer or the employer's workers' compensation insurance
 384 carrier, if any, shall file a report required under Subsection (4)(a)[, shall be filed within seven
 385 days after:] and any subsequent reports of a previously reported occupational disease as may be
 386 required by the commission within the time limits and in the manner established by rule by the
 387 commission made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
 388 Act, under Subsection 34A-2-407(5).

389 ~~[(i) the occurrence of an occupational disease;]~~
 390 ~~[(ii) the employer's first knowledge of an occupational disease; or]~~
 391 ~~[(iii) the employee's notification of an occupational disease.]~~

392 ~~[(c) An employer shall file a subsequent report with the division of a previously~~
 393 ~~reported occupational disease that later resulted in death. The subsequent report shall be filed~~

394 ~~with the division within seven days following:]~~
395 ~~[(i) the death; or]~~
396 ~~[(ii) the employer's first knowledge or notification of the death.]~~
397 ~~[(d)]~~ (c) A report is not required ~~[for]~~:
398 (i) for a minor injury that requires first aid treatment only, unless a treating physician
399 files, or is required to file, the Physician's Initial Report of Work Injury or Occupational
400 Disease with the division;
401 (ii) for occupational diseases that manifest after the employee is no longer employed by
402 the employer with which the exposure occurred; or
403 (iii) when the employer is not aware of an exposure occasioned by the employment that
404 results in an occupational disease as defined by Section 34A-3-103.
405 (5) An employer or its workers' compensation insurance carrier, if any, shall provide
406 the employee with:
407 (a) a copy of the report submitted to the division; and
408 (b) a statement, as prepared by the division, of the employee's rights and
409 responsibilities related to the occupational disease.
410 (6) An employer shall maintain a record in a manner prescribed by the division of
411 occupational diseases resulting in:
412 (a) medical treatment;
413 (b) loss of consciousness;
414 (c) loss of work;
415 (d) restriction of work; or
416 (e) transfer to another job.
417 (7) An employer or a workers' compensation insurance carrier who refuses or neglects
418 to make a report, maintain a record, or file a report with the division as required by this section
419 is ~~[guilty of a class C misdemeanor and]~~ subject to citation ~~[under Section 34A-6-302 and a~~
420 ~~civil assessment as provided under Section 34A-6-307, unless the division finds that the~~
421 ~~employer has shown good cause for submitting a report later than required by this section]~~ and

422 civil assessment in accordance with Subsection 34A-2-407(8).

423 (8) (a) Except as provided in Subsection (8)(c), a physician, surgeon, or other health
424 care provider attending an occupationally diseased employee shall:

425 (i) comply with the rules, including the schedule of fees, for services as adopted by the
426 commission; ~~[and]~~

427 (ii) make reports to the division at any and all times as required as to the condition and
428 treatment of an occupationally diseased employee or as to any other matter concerning
429 industrial cases being treated[-]; and

430 (iii) comply with rules made under Section 34A-2-407.5.

431 (b) A physician, as defined in Section 34A-2-111, who is associated with, employed
432 by, or bills through a hospital is subject to Subsection (8)(a).

433 (c) A hospital is not subject to the requirements of Subsection (8)(a) except a hospital
434 is subject to rules made by the commission under Subsections 34A-2-407(9)(a)(ii) and (iii) and
435 Section 34A-2-407.5.

436 (d) The commission's schedule of fees may reasonably differentiate remuneration to be
437 paid to providers of health services based on:

438 (i) the severity of the employee's condition;

439 (ii) the nature of the treatment necessary; and

440 (iii) the facilities or equipment specially required to deliver that treatment.

441 (e) This Subsection (8) does not prohibit a contract with a provider of health services
442 relating to the pricing of goods and services.

443 (9) A copy of the physician's initial report shall be furnished to the:

444 (a) division;

445 (b) employee; and

446 (c) employer or its workers' compensation insurance carrier.

447 (10) (a) A person subject to reporting under Subsection (8)(a)(ii) or Subsection
448 34A-2-407(9)(a)(iii) who refuses or neglects to make a report or comply with this section is
449 ~~[guilty of a class C misdemeanor for each offense, unless the division finds that there is good~~

450 ~~cause for submitting a late report]~~ subject to a civil assessment in accordance with Subsection
451 34A-2-407(8).

452 (11) (a) An application for a hearing to resolve a dispute regarding an occupational
453 disease claim shall be filed with the Division of Adjudication.

454 (b) After the filing, a copy shall be forwarded by mail to:

455 (i) (A) the employer; or

456 (B) the employer's workers' compensation insurance carrier;

457 (ii) the applicant; and

458 (iii) the attorneys for the parties.

459 (12) (a) Subject to appellate review under Section 34A-1-303, the commission has
460 exclusive jurisdiction to hear and determine:

461 (i) whether goods provided to or services rendered to an employee is compensable
462 pursuant to this chapter and Chapter 2, Workers' Compensation Act, including the following:

463 (A) medical, nurse, or hospital services;

464 (B) medicines; and

465 (C) artificial means, appliances, or prosthesis;

466 (ii) the reasonableness of the amounts charged or paid for a good or service described
467 in Subsection (12)(a)(i); and

468 (iii) collection issues related to a good or service described in Subsection (12)(a)(i).

469 (b) Except as provided in Subsection (12)(a), Subsection 34A-2-211(6), or Section
470 34A-2-212, a person may not maintain a cause of action in any forum within this state other
471 than the commission for collection or payment of goods or services described in Subsection
472 (12)(a) that are compensable under this chapter or Chapter 2, Workers' Compensation Act.

473 Section 5. Section **34A-6-301** is amended to read:

474 **34A-6-301. Inspection and investigation of workplace, worker injury, illness, or**
475 **complaint -- Warrants -- Attendance of witnesses -- Recordkeeping by employers --**
476 **Employer and employee representatives -- Request for inspection -- Compilation and**
477 **publication of reports and information -- Rules.**

478 (1) (a) The division or its representatives, upon presenting appropriate credentials to
479 the owner, operator, or agent in charge, may:

480 (i) enter without delay at reasonable times any workplace where work is performed by
481 an employee of an employer;

482 (ii) inspect and investigate during regular working hours and at other reasonable times
483 in a reasonable manner[;] any workplace, worker injury, occupational disease, or complaint and
484 all pertinent methods, operations, processes, conditions, structures, machines, apparatus,
485 devices, equipment, and materials in the workplace; and

486 (iii) question privately any such employer, owner, operator, agent, or employee.

487 (b) The division, upon an employer's refusal to permit an inspection, may seek a
488 warrant pursuant to the Utah Rules of Criminal Procedure.

489 (2) (a) The division or its representatives may require the attendance and testimony of
490 witnesses and the production of evidence under oath.

491 (b) Witnesses shall receive fees and mileage in accordance with Section 78B-1-119.

492 (c) (i) If any person fails or refuses to obey an order of the division to appear, any
493 district court within the jurisdiction of which such person is found, or resides or transacts
494 business, upon the application by the division, shall have jurisdiction to issue to any person an
495 order requiring that person to:

496 (A) appear to produce evidence if, as, and when so ordered; and

497 (B) give testimony relating to the matter under investigation or in question.

498 (ii) Any failure to obey an order of the court described in this Subsection (2)(c) may be
499 punished by the court as a contempt.

500 (3) (a) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah
501 Administrative Rulemaking Act, requiring employers:

502 (i) to keep records regarding activities related to this chapter considered necessary for
503 enforcement or for the development of information about the causes and prevention of
504 occupational accidents and diseases; and

505 (ii) through posting of notices or other means, to inform employees of their rights and

506 obligations under this chapter including applicable standards.

507 (b) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah
508 Administrative Rulemaking Act, requiring employers to keep records regarding any
509 work-related death and injury and any occupational disease as provided in this Subsection
510 (3)(b).

511 (i) Each employer shall investigate or cause to be investigated all work-related injuries
512 and occupational diseases and any sudden or unusual occurrence or change of conditions that
513 pose an unsafe or unhealthful exposure to employees.

514 (ii) Each employer shall, within eight hours of occurrence, notify the division of any:

515 (A) work-related fatality;

516 (B) disabling, serious, or significant injury; or

517 (C) occupational disease incident.

518 (iii) (A) Each employer shall file a report with the Division of Industrial Accidents
519 ~~[within seven days after the occurrence of an injury or occupational disease]~~ in accordance with
520 Sections 34A-2-407 and 34A-3-108, after the employer's first knowledge of the occurrence, or
521 after the employee's notification of the same, in the form prescribed by the Division of
522 Industrial Accidents, of any work-related fatality or any work-related injury or occupational
523 disease resulting in:

524 (I) medical treatment;

525 (II) loss of consciousness;

526 (III) loss of work;

527 (IV) restriction of work; or

528 (V) transfer to another job.

529 (B) (I) Each employer shall file a subsequent report with the Division of Industrial
530 Accidents of any previously reported injury or occupational disease that later resulted in death.

531 (II) The subsequent report shall be filed with the Division of Industrial Accidents
532 ~~[within seven days following the death or the employer's first knowledge or notification of the~~
533 ~~death]~~ in accordance with Sections 34A-2-407 and 34A-3-108.

534 (iv) A report is not required for minor injuries, such as cuts or scratches that require
535 first aid treatment only, unless a treating physician files, or is required to file, the Physician's
536 Initial Report of Work Injury or Occupational Disease with the Division of Industrial
537 Accidents.

538 (v) A report is not required:

539 (A) for occupational diseases that manifest after the employee is no longer employed
540 by the employer with which the exposure occurred; or

541 (B) where the employer is not aware of an exposure occasioned by the employment
542 which results in a compensable occupational disease as defined by Section 34A-3-103.

543 (vi) Each employer shall provide the employee with:

544 (A) a copy of the report submitted to the Division of Industrial Accidents; and

545 (B) a statement, as prepared by the Division of Industrial Accidents, of the employee's
546 rights and responsibilities related to the industrial injury or occupational disease.

547 (vii) Each employer shall maintain a record in a manner prescribed by the commission
548 of all work-related fatalities or work-related injuries and of all occupational diseases resulting
549 in:

550 (A) medical treatment;

551 (B) loss of consciousness;

552 (C) loss of work;

553 (D) restriction of work; or

554 (E) transfer to another job.

555 (viii) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah
556 Administrative Rulemaking Act, to implement this Subsection (3)(b) consistent with nationally
557 recognized rules or standards on the reporting and recording of work-related injuries and
558 occupational diseases.

559 (c) (i) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah
560 Administrative Rulemaking Act, requiring employers to keep records regarding exposures to
561 potentially toxic materials or harmful physical agents required to be measured or monitored

562 under Section 34A-6-202.

563 (ii) (A) The rules made under Subsection (3)(c)(i) shall provide for employees or their
564 representatives:

565 (I) to observe the measuring or monitoring; and

566 (II) to have access to the records of the measuring or monitoring, and to records that
567 indicate their exposure to toxic materials or harmful agents.

568 (B) Each employer shall promptly notify employees being exposed to toxic materials or
569 harmful agents in concentrations that exceed prescribed levels and inform any such employee
570 of the corrective action being taken.

571 (4) Information obtained by the division shall be obtained with a minimum burden
572 upon employers, especially those operating small businesses.

573 (5) A representative of the employer and a representative authorized by employees
574 shall be given an opportunity to accompany the division's authorized representative during the
575 physical inspection of any workplace. If there is no authorized employee representative, the
576 division's authorized representative shall consult with a reasonable number of employees
577 concerning matters of health and safety in the workplace.

578 (6) (a) (i) (A) Any employee or representative of employees who believes that a
579 violation of an adopted safety or health standard exists that threatens physical harm, or that an
580 imminent danger exists, may request an inspection by giving notice to the division's authorized
581 representative of the violation or danger. The notice shall be:

582 (I) in writing, setting forth with reasonable particularity the grounds for notice; and

583 (II) signed by the employee or representative of employees.

584 (B) A copy of the notice shall be provided the employer or the employer's agent no
585 later than at the time of inspection.

586 (C) Upon request of the person giving notice, the person's name and the names of
587 individual employees referred to in the notice may not appear in the copy or on any record
588 published, released, or made available pursuant to Subsection (7).

589 (ii) (A) If upon receipt of the notice the division's authorized representative determines

590 there are reasonable grounds to believe that a violation or danger exists, the authorized
591 representative shall make a special inspection in accordance with this section as soon as
592 practicable to determine if a violation or danger exists.

593 (B) If the division's authorized representative determines there are no reasonable
594 grounds to believe that a violation or danger exists, the authorized representative shall notify
595 the employee or representative of the employees in writing of that determination.

596 (b) (i) Prior to or during any inspection of a workplace, any employee or representative
597 of employees employed in the workplace may notify the division or its representative of any
598 violation of a standard that they have reason to believe exists in the workplace.

599 (ii) The division shall:

600 (A) by rule, establish procedures for informal review of any refusal by a representative
601 of the division to issue a citation with respect to any alleged violation; and

602 (B) furnish the employees or representative of employees requesting review a written
603 statement of the reasons for the division's final disposition of the case.

604 (7) (a) The division may compile, analyze, and publish, either in summary or detailed
605 form, all reports or information obtained under this section, subject to the limitations set forth
606 in Section 34A-6-306.

607 (b) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah
608 Administrative Rulemaking Act, necessary to carry out its responsibilities under this chapter,
609 including rules for information obtained under this section, subject to the limitations set forth
610 in Section 34A-6-306.

611 (8) Any employer who refuses or neglects to make reports, to maintain records, or to
612 file reports with the commission as required by this section is guilty of a class C misdemeanor
613 and subject to citation under Section 34A-6-302 and a civil assessment as provided under
614 Section 34A-6-307, unless the commission finds that the employer has shown good cause for
615 submitting a report later than required by this section.

616 Section 6. **Effective date.**

617 This bill takes effect on July 1, 2013.

