

**Oklahoma Workers' Compensation Court**  
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**SUMMARY OF 2013 WORKERS' COMPENSATION RELATED LEGISLATION**

*Following is a general overview of legislation passed by the 1st Regular Session of the 54<sup>th</sup> Oklahoma Legislature (2013) which impacts the workers' compensation system. It is for informational purposes only. It is not a statement of policy, is not binding in any way on any workers' compensation tribunal, its officers or employees, and should not be relied upon as the basis of any action.*

**[HB 1108 – EFFECTIVE NOVEMBER 1, 2013](#)**

Allows a captive insurance company to apply to the Insurance Commissioner for a license in all insurance, removing the exemption of workers' compensation insurance, allowing a captive insurance company to provide excess insurance to its parent and affiliated companies. A captive insurance company may not join or contribute financially to a guaranty or insolvency fund in this state and no benefits from any such fund for claims arising out of the captive insurance company's operations shall be received by the captive insurance company, or its insured or its parent or any affiliated company or any member organization of its association, a subscriber of the company or a protected cell or participant in a protected cell.

**[HB 1343 – EFFECTIVE NOVEMBER 1, 2013](#)**

Authorizes any insurance company or other insurance entity which is owned or financially controlled in whole or in part by any federally recognized American Indian tribe or nation to apply for a certificate of authority or license to transact insurance business in this state.

**[HB 1419 – EFFECTIVE NOVEMBER 1, 2013](#)**

Directs the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control to send a written or electronic notice to a prescribing practitioner alerting them of the possibility that a person engaged in fraudulent or deceptive efforts to fill or refill multiple prescriptions for controlled dangerous substances may be unlawfully obtaining prescription drugs in violation of the Uniform Controlled Dangerous Substances Act.

**[HB 1622 – EFFECTIVE NOVEMBER 1, 2013](#)**

Allows the carrying of a concealed or unconcealed weapon on private elementary or private secondary school property if a policy has been adopted by the governing entity of the private school. A governing entity of a private school which has adopted a policy is immune from liability except for acts of gross negligence or willful or wanton misconduct. The immunity does not extend to claims made pursuant to the Workers' Compensation Code.

### **HB 1783 – EFFECTIVE NOVEMBER 1, 2013**

Provides that a written or oral prescription for any product containing hydrocodone with another active ingredient shall not be refilled.

### **HB 2188 – EFFECTIVE NOVEMBER 1, 2013**

Modifies charges for accessing medical records. Providers may charge a patient or the patient's personal representative, spouse or responsible family member not more than \$0.50 per page for copies of medical records; provided, the cost of any x-ray or other photograph or image or pathology slide shall be \$5.00. Medical record requests by attorneys, insurance companies or pursuant to subpoena shall be charged a base fee of \$10.00, in addition to the per page charges, plus postage or a delivery fee. Under certain circumstances, the provider or their business associates as defined in 45 C.F.R., §160.103, shall reproduce the record in digital form at the rate of \$0.30 per page. The charge for reproduction of electronically stored and delivered medical records shall not exceed \$200.00, plus postage or a delivery fee. No fee for searching, retrieving, reviewing and preparing records for copying, or for providing copies by facsimile, to a person who requests their own record shall be charged.

### **HB 2201 – EFFECTIVE JANUARY 1, 2015, provided various sections have different operative dates**

Creates the CompSource Mutual Insurance Company Act for the purpose of converting CompSource Oklahoma to a domestic mutual insurer operating in accordance with the Oklahoma Insurance Code, with specific exemptions, effective January 1, 2015. The company shall be known as CompSource Mutual Insurance Company. It shall provide workers' compensation insurance to any employer in Oklahoma which seeks such insurance and meets other reasonable requirements relating thereto. The Insurance Commissioner shall approve the company's articles of incorporation and issue a certificate of authority to the company by August 1, 2014 to write workers' compensation insurance as provided by law which shall become effective January 1, 2015. The bill establishes a ten (10) member board of directors comprised of public and private sector representatives. The company shall be a member of and be protected by the Oklahoma Property and Casualty Insurance Guaranty Association; provided, in the event of the company's insolvency, the Association shall only be liable for claims with a date of injury occurring on or after January 1, 2015. All persons employed by CompSource before January 1, 2015 shall remain members of the Oklahoma Public Employees Retirement System until retirement or termination. The company is responsible for employer contributions to the system and the employees shall continue to pay employee contributions. Allows CompSource Mutual Insurance Company to influence the Multiple Injury Trust Fund assessment until the Multiple Injury Trust Fund repays in full any loan owed by the Multiple Injury Trust Fund to the company or its predecessor CompSource Oklahoma. Severs the Multiple Injury Trust Fund from CompSource Oklahoma effective August 23, 2013 and provides that the person serving as the Administrator of the Multiple Injury Trust Fund on the date of passage and approval of the act shall serve as the initial MITF Director, if that person is serving as the MITF Administrator on the effective date of the act. Amends various sections in Title 85 of the Oklahoma Statutes.

**COMMENT: This bill amends nine sections in Title 85 of the Oklahoma Statutes which are repealed effective February 1, 2014, pursuant to §171, SB 1062 (2013). Three of the nine sections amended (85 O.S., §§373, 403 and 406) become effective August 23, 2013 and six (85 O.S., §§308, 313, 328, 339, 352 and 407) become effective January 1, 2015.**

### SB 173 – NOVEMBER 1, 2013

Makes a place of business, worship, corporation or other business entity that allows a person to carry a loaded or unloaded concealed or unconcealed weapon on property that it owns or controls immune from liability arising from that decision, except for acts of gross negligence or willful or wanton misconduct. The immunity does not extend to claims made pursuant to the Workers' Compensation Code.

### SB 250 – APRIL 13, 2013

Modifies restrictions on reimbursement for magnetic resonance imaging (MRI) by replacing the 1.0 Tesla field strength limitation with a requirement that the MRI be provided by an entity that meets Medicare requirements for the payment of MRI services or is accredited by the American College of Radiology, the Intersocietal Accreditation Commission or the Joint Commission on Accreditation of Healthcare Organizations.

**COMMENT: This bill amends 85 O.S., §327 which is to be repealed effective February 1, 2014, pursuant to §171, SB 1062 (2013). The MRI changes made in SB 250 are included in 85A O.S., §50(H) (§50, SB 1062) of the Administrative Workers' Compensation Act. That section becomes effective August 23, 2013.**

### SB 549 – NOVEMBER 1, 2013

Expands "racketeering activity" under the Oklahoma Racketeer-Influenced and Corrupt Organizations Act to include insurance fraud and workers' compensation fraud.

### SB 788 – JULY 1, 2013

Requires contractors to have and be able to prove issuance of a workers' compensation policy in compliance with Title 85 of the Oklahoma Statutes. A bona fide association representing construction related entities may offer benefit plans and insurance coverage to a particular trade, business, profession or industry or their subsidiaries as authorized by Title 85 of the Oklahoma Statutes. A workers' compensation policy for a nonresident contractor shall show "Oklahoma" or "All States" for Other States Insurance on Section 3C of the policy. Any contractor failing to provide the required information or proof of bond, if required, shall be fined by the Oklahoma Tax Commission in an amount not to exceed 10% of the contractor's total bid, which shall be in addition to any other penalties allowed by law.

### SB 1062 – EFFECTIVE FEBRUARY 1, 2014, provided various sections have different operative dates

Creates the Administrative Workers' Compensation Act (AWCA), Oklahoma Employee Injury Benefit Act (OEIBA), Workers' Compensation Arbitration Act (WCAA), and the Workers' Compensation Court of Existing Claims (CEC). These provisions are codified in a new Title 85A of the Oklahoma Statutes. Most existing workers' compensation statutes are repealed effective February 1, 2014. The **AWCA** provides that a Workers' Compensation Commission has jurisdiction of all workers' compensation claims with injury dates on and after February 1, 2014. Claims for compensation with injury dates before February 1, 2014 are governed by prior law and are to be administered by the **CEC** (previously known as the Workers' Compensation Court). Judges of the Workers' Compensation Court shall serve as judges of the CEC until their respective terms expire. The positions dissolve as the terms expire. Administrative law judges shall be assigned to assist the CEC when a vacancy on the Court occurs or is certain to occur. The **OEIBA** allows an employer to voluntarily elect to be exempt from the AWCA and become a "qualified employer". The

election is contingent upon satisfaction of certain notice requirements, payment of a nonrefundable \$1,500 fee to the Insurance Commissioner (and annually thereafter), and establishment of a benefit plan for payment of benefits to covered employees as a result of occupational injury. A qualified employer's liability under a benefit plan is exclusive and in place of all other liability of the qualified employer and any of its employees at common law or otherwise, for a covered employee's occupational injury or loss of services, to the covered employee, the employee's dependents or any other person, except for intentional torts. The **WCAA** allows parties to enter into an agreement to arbitrate claims for injuries covered by the Administrative Workers' Compensation Act.

For a more detailed summary of the measure, click [here](#).

### **SB 1090 – NOVEMBER 1, 2013**

Amends sections related to judgments against certain political subdivisions of the state. Grants exclusive jurisdiction over workers' compensation actions against the political subdivision in administrative law judges and the administrative agency designated by the Legislature to administer the state's workers' compensation laws, and makes the agency's administrative orders "judgments" payable against the political subdivision.