

INSURANCE

Regulatory Changes		
HB 12-1071 (Enacted) <i>Portable Electronics Insurance</i>	HB 12-1211 (Postponed Indefinitely) <i>Title Insurance Agent Physical Office In State</i>	HB 12-1289 (Enacted) <i>Auto Insurance Complaints Adverse Action</i>
Workers' Compensation		
HB 12-1033 (Enacted) <i>Workers' Compensation Administrative Audit Fines</i>		
Unemployment Insurance		
SB 12-177 (Deemed Lost) <i>Unemployment Insurance Rates Revenue Bonds</i>	HB 12S-1002 (Enacted) <i>Unemployment Insurance Revenue Bonds</i>	HB 12-1120 (Enacted) <i>Create Unemployment Insurance Division in the Department of Labor and Employment</i>
HB 12-1127 (Enacted) <i>Unemployment Insurance Rate Reduction New Employers</i>	HB 12-1259 (Postponed Indefinitely) <i>Waive Confidentiality Unemployment Benefits</i>	HB 12-1272 (Enacted) <i>Enhanced Benefits Unemployed Workers In Training</i>
Health Insurance		
SB 12-065 (Postponed Indefinitely) <i>Prior Authorization Form Prescription Drugs</i>	HB 12-1221 (Enacted) <i>Direct Billing for Anatomic Pathology Services</i>	HB 12-1245 (Postponed Indefinitely) <i>Health Care Options Government Employees</i>
HB 12-1257 (Postponed Indefinitely) <i>Health Care Consumer and Provider Protections</i>		

The General Assembly heard a number of bills regarding insurance during the 2012 session. These bills included bills relating to regulatory changes in insurance, workers' compensation insurance, unemployment insurance, and health insurance.

Regulatory Changes

The General Assembly considered three bills relating to the regulatory structure of insurance. **House Bill 12-1071** allows an employee or authorized representative of a vendor of portable electronic devices to sell insurance on those devices as long as certain conditions are met. Portable electronics insurance provides coverage for the repair or replacement of portable electronic devices due to loss, theft, mechanical failure or malfunction, or other similar causes of loss. Vendors are required to obtain a limited lines producer license, train their employees on portable electronics insurance, and provide informational materials to consumers. A vendor may compensate its employees or authorized representatives for sales of portable electronics insurance but must not compensate them based primarily on the number of customers enrolled for coverage. A supervising entity, which can be an insurance company or insurance producer authorized by an insurance company, must supervise the administration of any portable electronics insurance program. The

supervising entity must maintain a registry of authorized vendor locations that is open for inspection and examination by the Commissioner of Insurance.

Under current law, to dispute an adverse action of an auto insurance company, a policyholder must file a formal protest following specific deadlines, with the Commissioner of Insurance. If the commissioner finds the protest to have merit, he must hold a hearing within 45 days of receipt of the protest. **House Bill 12-1289** changes the formal protest process to a complaint process that is completed without a hearing. Adverse actions subject to this complaint process include nonrenewal or cancellation of a policy.

Another bill, **House Bill 12-1211**, that did not pass, would have required title insurance agencies doing business in Colorado to maintain a physical office in the state that is the primary workplace for one or more full-time employees including the designated responsible insurance agent. The bill would not have applied to an attorney who is licensed to practice law in this state who is also a licensed title insurance agent.

Workers' Compensation

One bill affecting workers' compensation was considered and passed during the 2012 legislative session, **House Bill 12-1033**. The bill prohibits the Director of the Workers' Compensation Division of the Colorado Department of Labor and Employment (CDLE) from imposing an administrative fine on an insurer or self-insured pool for late reporting of an injury, occupational disease, or fatality when the insurer or self-insured pool was not given sufficient notice of the incident to comply with the reporting deadline. The director may impose an administrative fine in cases where he finds that the late reporting constituted a knowing or repeated pattern of noncompliance by the insurer or self-insured pool and not a lack of notice of the incident.

Unemployment Insurance

The unemployment insurance program (UI) provides temporary and partial wage replacement to workers who have become unemployed through no fault of their own. The program is administered by the Unemployment Compensation Section in the Division of Employment and Training within the CDLE.

The General Assembly considered a number of bills related to the funding and administration of unemployment insurance. One bill, **Senate Bill 12-177**, did not pass; however, **House Bill 12S-1002**, a similar bill, did pass during the special session. Under current law, the Colorado Housing and Finance Authority (CHFA) has the authority to issue revenue bonds on behalf of the UI program in the CDLE. House Bill 12S-1002 authorizes the Division of Employment and Training to issue these bonds as an alternative to CHFA. In the event of a bond issuance, the bill allows special assessments charged to employers for bond principal repayment to be deposited in the UI Trust Fund rather than paid directly to CHFA, thus allowing these assessments to count toward improving the experience rating of employers. House Bill 12S-1002 also accelerates the date for the creation of the Division of Unemployment Insurance by adding an effective date of June 1, 2012.

House Bill 12-1120 relocates the existing UI program in the CDLE, creating a new Division of Unemployment Insurance within the department. The bill requires the appointment of a director to head the new division.

House Bill 12-1127 changes the premium rate new employers are charged for unemployment insurance. House Bill 11-1288 changed the way the unemployment insurance (UI) system is financed. It created a new premium rate schedule that becomes effective once the UI Trust Fund becomes solvent. Premium rates for new employers will range from 2.96 percent to 4.65 percent of the first \$11,000 of an employee's wages. The rate depends on the reserve ratio of the UI Trust Fund, with a lower rate applied when the fund's reserves are high and a higher rate applied when the fund's reserves are low or the fund is insolvent. This bill reduces the rate for new employers to a 1.7 percent default rate unless they have benefits charged against them from involvement in an earlier business entity. In that situation they are charged a computed rate that takes those charges into account. New employers will also be subject to a computed rate if they start having benefits charged against them while they are still classified as new employers.

House Bill 12-1272 extends until June 30, 2014, enhanced unemployment insurance compensation benefits for eligible UI claimants engaged in an approved training program for entry into an occupation. Under current law, the CDLE can obligate \$15 million over three years, ending June 30, 2012, for enhanced UI benefits. This bill authorizes the CDLE to obligate \$8 million for FY 2012-13 and FY 2013-14. The division may seek, accept, and expend gifts, grants, and donations to cover its administrative costs.

The bill also expands the definition of an approved training program to include employer-based or entrepreneurial training programs approved by the director of the Division of Employment and Training within CDLE. The definition of eligible UI claimant is expanded to include those receiving extended benefits, or benefits under a military or federal claim.

One bill that did not pass, **House Bill 12-1259**, would have directed the CDLE to offer each applicant for UI the opportunity to waive confidentiality for four specific record items containing contact information, specifically, were name, address, telephone number, and e-mail address. The department would have been authorized to transmit waived record information to employers seeking employees. Under current law, the CDLE is required to maintain records regarding applicants and claimants in UI claims commencing in the application process and continuing for at least five years following the active period of a claim. These records are confidential and accessible only by the claimant and certain public employees as required to administer public benefits.

Health Insurance

During the 2012 legislative session, the General Assembly considered four bills related to health insurance coverage and regulation. One bill was adopted, and the others were postponed indefinitely.

House Bill 12-1221 concerns billing for anatomic pathology services. Anatomic pathology services include histopathology or surgical pathology, cytopathology, hematology, subcellular pathology or molecular pathology, and blood-banking services performed by pathologists. The bill

prohibits a health care practitioner from billing for anatomic pathology services unless the services were rendered personally by the practitioner or under the practitioner's direct supervision. Further, the bill specifies that a laboratory or physician may only bill the following individuals and entities for anatomic pathology services:

- the patient;
- the responsible insurance carrier or other third-party payer;
- the hospital, public health clinic, or nonprofit health clinic ordering such services;
- the referring laboratory; or
- a governmental agency on behalf of the recipient of the services.

Senate Bill 12-065 would have required the Commissioner of Insurance to develop a uniform prior authorization form to be used by health care providers and health insurance carriers. The form would have been developed with input from interested parties and be finalized by July 1, 2013. On and after January 1, 2014, every prescribing provider would have been required to use the form to request prior authorization for coverage of prescription drugs, and every health benefit plan would have been required to accept the form. The bill was postponed indefinitely.

House Bill 12-1245 would have created the 13-member Group Purchase of Health Care Insurance by Government Employees Task Force. The task force would have met in the 2012 legislative interim to study, make recommendations, and report on strategies to:

- leverage the purchasing power of state and local governments to expand health care coverage for state and local government employees and their families; and
- address impediments to such goals provided by federal or state law.

The task force would have been required to submit a final report of its findings to the House and Senate Health and Local Government Committees by December 15, 2012. The bill was postponed indefinitely.

House Bill 12-1257 would have required health care providers and health insurers to make certain disclosures to consumers. Health care providers who provide outpatient health care would have been required to disclose to a patient the right to request the nondiscounted charge for the care or treatment. The charges would not have had to be disclosed prior to emergency care.

In addition, the bill defined a third-party administrator (TPA) as a person who conducts utilization management and review, provider credentialing, administration of health insurance benefits, setting or negotiation of reimbursement rates, payment to providers, network development, or disease management programs. Insurance companies would have been required to disclose to policyholders when they contract with a TPA. The disclosure was to include the TPA's identity and the relationship among the TPA, the policyholder, and the insurance company and the amount paid to the TPA. TPAs were prohibited from altering a health care provider's charges or adding charges to any of the insurance claims submitted by a health care provider. The bill was postponed indefinitely.