

WCLA MCLE 12-19-2019

- Year-End Wrap up & Review
- Thursday December 19, 2019
- 12:00 noon to 1 pm
- James R. Thompson Center Auditorium, Chicago, IL
- 1 hour general MCLE credit

WCLA 2020 MCLE SCHEDULE

- Thursday January 30, 2020 (12pm to 1 pm)
- Wednesday February 12, 2020 (Lincoln's Birthday observed, Special 3 hour Professional Conduct beginning at 8:30am to 12pm)
- Thursday February 27, 2020 (12pm to 1 pm)
- Thursday March 26, 2020 (12pm to 1 pm)
- Wednesday April ?, 2020 Spring Medical Seminar (Coinciding with IWCC Judicial Training beginning at 1pm to 4pm)
- Thursday April 30, 2020 (12pm to 1 pm)
- Thursday May 28, 2020 (12pm to 1 pm)
- Monday June 8, 2020 (Summer Medical Seminar beginning at 1pm to 4pm)
- Thursday June 25, 2020 (12pm to 1 pm)
- Thursday July 30, 2020 (12pm to 1 pm)
- Thursday August 27, 2020 (12pm to 1 pm)
- Wednesday September ?, 2020 Fall Medical Seminar (coinciding with IWCC Judicial Training beginning at 1pm to 4pm)
- Thursday September 24, 2020 (12pm to 1 pm)
- Thursday October 29, 2020 (12pm to 1 pm)
- Thursday November 19, 2020 (12pm to 1 pm)
- Thursday December 17, 2020 (12pm to 1 pm)
- All programs will be held in the **JRTC Assembly Hall** which is the auditorium on the **Concourse (basement)** level of the James R. Thompson Center (State of Illinois Building) at 100 W. Randolph in Chicago. All programs **begin at 12:00 noon and end at 1:00 pm, except as otherwise indicated.**

NCCI Data

Date	Rate Recommendation	Loss Cost	Total Premium	# of Policies
9-1-2011	-8.8%		\$2.42 billion	
1-1-2012	+3.5%	+3.7%	\$2.60 billion	
1-1-2013	-3.8%	-3.5%	\$2.68 billion	188,018
1-1-2014	-4.5%	-5.8%	\$2.75 billion	
1-1-2015	-5.5%	-6.2%	\$2.83 billion	
1-1-2016	No filing	No filing	\$2.72 billion	
1-1-2017	-12.9%	-13.4%	\$2.56 billion	
1-1-2018	-10.9%	-11.4%	\$2.47 billion	
1-1-2019	-8.5%	-8.5%		
1-1-2020	-5.1%	-5.1%		
Total	-56.5%	-50.2%		

Premium Increase Notice

- (215 ILCS 5/462a)
- Sec. 462a. Premium increase notice. A policy of workers' compensation insurance issued, delivered, amended, or renewed on or after January 1, 2019 shall remain in full force and effect subject to the same terms and conditions, loss cost multipliers, and classification of the employer with regard to the payment of dividends, unless written notice is mailed or delivered by the insurer to the employer, at the address shown on the policy, and to the employer's authorized agent or broker, **indicating the insurer's intention to condition renewal upon issuance of a policy that supersedes the policy previously issued and that will result in a premium in excess of 5% above the rate recommendation filed with the Department, exclusive of any premium increase generated as a result of increased loss costs or increased exposure units or as a result of experience rating, contractor credit adjustment program, large deductible, retrospective rating, or audit.** The notice shall be delivered at least 30 days in advance of the expiration date of the policy, and shall set forth: (1) the amount of the premium increase or, if the amount cannot reasonably be determined as of the time the notice is provided, a reasonable estimate of the premium increase based upon the information available to the insurer at that time; and (2) the reason for the increased premium in excess of the rate recommendation filed with the Department. Nothing in this Section requires the insurer to provide notice when the employer, an agent or broker authorized by the employer, or another insurer of the employer has delivered written notice that the policy has been replaced or is no longer desired. Source: P.A. 100-1118, eff. 11-27-18.

Minimum Wage/Minimum Rates

- PA 101-0001: Increases the minimum wage to \$9.25 per hour beginning January 1, 2020. Provides for annual increases in the minimum wage culminating in a minimum wage of \$15 per hour beginning on January 1, 2025. (\$10 on 7-1-20; \$11 on 1-1-21; \$12 on 1-1-22; \$13 on 1-1-23; \$14 on 1-1-24)
- Sec. 8(b)1: The compensation rate for temporary total incapacity under this paragraph (b) of this Section shall be equal to 66 2/3% of the employee's average weekly wage computed in accordance with Section 10, provided that it shall be ***not less 66 2/3% of the sum of the Federal minimum wage under the Fair Labor Standards Act, or the Illinois minimum wage under the Minimum Wage Law, whichever is more, multiplied by 40 hours.*** This percentage rate shall be increased by 10% for each spouse and child, not to exceed 100% of the total minimum wage calculation, nor exceed the employee's average weekly wage computed in accordance with the provisions of Section 10, whichever is less.
- Same for PPD rate
- Minimum TTD/PPD rate 1-1-20: \$246.67 (single); 7-1-20: \$266.67 (single)

Legal MJ/Mary Jane

- HB1438/PA101-0027 goes into effect 1-1-20
- Provides that it is lawful for persons 21 years of age or older to possess, use, and purchase limited amounts of cannabis for personal use in accordance with the Act. Authorizes registered qualifying patients to cultivate limited amounts of cannabis for personal use.
- Impact on Section 11:
- If at the time of the accidental injuries, there was 0.08% or more by weight of alcohol in the employee's blood, breath, or urine or if there is any evidence of impairment due to **the unlawful or unauthorized use of (1) cannabis as defined in the Cannabis Control Act,** (2) a controlled substance listed in the Illinois Controlled Substances Act, or (3) an intoxicating compound listed in the Use of Intoxicating Compounds Act or if the employee refuses to submit to testing of blood, breath, or urine, then there shall be a rebuttable presumption that the employee was intoxicated and that the intoxication was the proximate cause of the employee's injury.

SB 1429 - PA101-0550 (eff. 1-1-20)

- (735 ILCS 5/Art. VIII Pt. 29 heading new) Part 29. Immigration Status
- (735 ILCS 5/8-2901 new) Sec. 8-2901. Admissibility of evidence; immigration status.
- (a) Except as provided in subsection (b), evidence related to a person's immigration status is not admissible in any civil proceeding.
- (b) Evidence otherwise inadmissible under this Act is admissible if:(1) it is essential to prove an element of a claim or an affirmative defense;(2) it is offered to prove an interest or bias of a witness, if it does not cause confusion of the issues or mislead the trier of fact, and the probative value of the evidence outweighs its prejudicial nature; or (3) a person or his or her attorney voluntarily reveals his or her immigration status to the court.
- (c) A party intending to offer evidence relating to a person's immigration status shall file a written motion at least 14 days before a hearing or a trial specifically describing the evidence and stating the purpose for which it is offered. A court, for good cause, may require a different time for filing or permit filing during trial. Upon receipt of the motion and notice to all parties, the court shall conduct an in camera hearing, with counsel present, limited to review of the probative value of the person's immigration status to the case. If the court finds that the evidence relating to a person's immigration status meets the criteria set forth in paragraph (1), (2), or (3) of subsection(b), the court shall make findings of fact and conclusions of law regarding the permitted use of the evidence. The motion, related papers, and the record of the hearing shall be sealed and remain under seal unless the court orders otherwise.
- (d) A person may not, with the intent to deter any person or witness from testifying freely, fully, and truthfully to any matter before trial or in any court or before a grand jury, administrative agency, or any other State or local governmental unit, threaten to or actually disclose, directly or indirectly, a person's or witness's immigration status to any entity or any immigration or law enforcement agency. A person who violates this subsection commits a Class C misdemeanor.

CompFile (WC E-Filing)

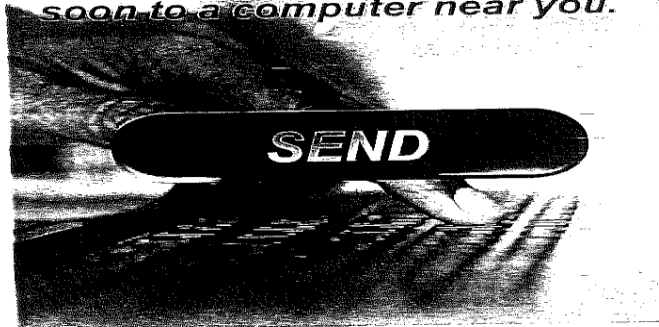


State of Illinois
Illinois Workers' Compensation Commission

Introducing . . .

CompFile

The Illinois Workers' Compensation Commission's new e-filing system coming soon to a computer near you.



Illinois Workers'
Compensation
Commission

The Illinois Workers' Compensation Commission is excited to announce CompFile, the new e-filing system for managing workers' compensation cases.

What: CompFile is an online portal where attorneys can access their workers' compensation cases and electronically file case documents.

Who: Electronic filing of case documents through CompFile will be mandatory for all Illinois attorneys practicing before the Commission. Attorneys will create secure online accounts to access CompFile.

When: The CompFile project team will roll out the system in 3 phases. The first phase scheduled for early 2020 will involve attorney and firm registration. The project will be completed in late 2020.

For more information, visit www.iwcc.il.gov/compfile



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In Re Elena Hernandez, No. 18-1789 (3-18-19)

US Court of Appeals, 7th Circuit

- Bankruptcy Judge denies exemption for WC medical bills, District Court affirms denial of exemption
- Without guidance from the Illinois Supreme Court, we decline to hold, as the district court did, that section 21 no longer blocks this class of creditors. That's one reasonable interpretation of the amended Act, but it's also possible that the General Assembly's silence on the matter means the workers' compensation exemption remains intact.
- In her appellate brief, Hernandez moves to certify this question to the Illinois Supreme Court. The healthcare providers join her motion. We may certify a question if "the rules of the highest court of a state provide for certification to that court." 7TH CIR. R. 52(a). The Illinois Supreme Court permits certification provided the question is one of state law, "determinative of the said cause," and unanswered by "controlling precedents." ILL. S. CT. R. 20(a).
- There is an added layer of uncertainty here because the Illinois Supreme Court hasn't answered a key preliminary question: whether section 21 creates an exemption in the first place. To be sure, a federal bankruptcy court has construed section 21 to do so, see In re McClure, 175 B.R. at 24, and other bankruptcy courts have followed suit. But that's not dispositive.
- After the 2005 amendments does section 21 of the Illinois Workers' Compensation Act exempt the proceeds of a workers' compensation settlement from the claims of medical-care providers who treated the illness or injury associated with that settlement?
- Argued 11-20-19 in IL SUP CT

Gary Stagen v. Reladyne LLC

19IWCC0174

- Respondent engaged Transitional Work Solutions to enroll Petitioner
- Petitioner chose “not to participate”
- “Offered no explanation”
- “In stating that Respondent and not Habitat was his employer, Petitioner advances a distinction without a difference.”
- Petitioner was to be paid his “regular” salary
- Petitioner remained “subject to Respondent’s human resources and attendance policies”
- “No inference can be reasonably made...of any changes to Petitioner’s employment with Respondent”
- “Petitioner’s claim to be entitled to continued TTD simply because the *offered light duty* is not with the Respondent does not comport with the remedial purpose of the Act.”
- Argued before Judge Duffy, Cook County Circuit Court, decision due 1-9-20

McAllister v. IWCC

2019 IL App (1st) 162747WC

- Special Concurrence (3-2): Neutral Risk Analysis and gets same result = Zero
- What is an “employment related risk”?
- “Distinctly associated with the employment”
 - “Acts instructed to perform by his employer” OR
 - “Common law/statutory duty to perform” OR
 - “Reasonably expected to perform incident to assigned duties”
- “A risk is incidental to the employment when it belongs to or is connected with what the employee has to do in fulfilling his duties”
- Is “everyday activity” or “common bodily movement” ever be “employment-related” risk? See definition above.
- Is “everyday activity” or “common bodily movement” always a “neutral risk” governed by neutral risk analysis (qualitative/quantitative)?
- Petition for Leave to Appeal Granted by IL SUP CT 9-25-19

Arbitrator Assignments 2020

- Notice of Arbitrator Assignments Effective January 1, 2020
- The following Arbitrators will be assigned and/or reassigned to the following Chicago Calls, effective January 1, 2020:
 - Arbitrator Joseph Amarilio will take the Call previously designated as TBA.
 - Arbitrator Elaine Llerena will take the Call previously designated as Cellini.
 - Arbitrator Christopher Harris will take the Call previously designated as TBA4.
 - Arbitrator William McLaughlin will take the Call previously designated as Robert Harris.
- All other Chicago Assignments will remain as reported previously.
- The following Arbitrators will be assigned and/or reassigned to the following Zones, effective January 1, 2020:
 - Zone 1: Arbitrator Linda Cantrell will replace Arbitrator Edward Lee. Arbitrators Gallagher and Nowak will continue to serve in Zone 1.
 - Zone 2: Arbitrator Dennis O'Brien will take the call previously designated as TBA5. Arbitrator Lee will take the call that was designated as Cantrell. Arbitrator Pulia will remain in Zone 2.
 - Zone 3: Arbitrator Adam Hinrichs will take the call previously designated as Paul Seal. Arbitrators Rowe-Sullivan and Granada will continue to serve in Zone 3.
 - Zone 4: Arbitrator Cellini will take the call previously designated as Dollison. Arbitrator Doherty will take the call previously designated as TBA 2 and Arbitrator Hegarty will take the call previously designated as Erbacci.
 - Zone 5: Arbitrator Erbacci will take the call previously designated as Hegarty. Arbitrator Seal will take the call previously designated as Doherty and Arbitrator Glaub will remain in Zone 5.
 - Zone 6: Arbitrator Robert Harris will take the call previously designated as Ory. Arbitrators Soto and Friedman will remain in Zone 6.