



SPONSOR: Sen. Walsh & Rep. B. Short  
Reps. Baumbach, Brady, J. Johnson, Osienski, Wilson

DELAWARE STATE SENATE  
149th GENERAL ASSEMBLY

SENATE BILL NO. 258

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO WORKERS' COMPENSATION DATA COLLECTION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 2322A, Title 19 of the Delaware Code by making deletions as shown by strike through and  
2 insertions as shown by underline as follows:

3 § 2322A. Workers' Compensation Oversight Panel.

4 (e)(1) Data collection. — ~~It is the intent of the General Assembly that, among its other duties, the~~ The Workers'  
5 Compensation Oversight Panel ~~be provided with data enabling it to conduct studies ("Panel") may collect data~~ to evaluate  
6 the workers' compensation system in the ~~State, identify~~ State to do all of the following:

7 a. ~~Identify systemic cost drivers, provide~~ drivers.

8 b. Provide objective information to guide policy ~~formulation and identify~~ formulations.

9 c. Identify carrier specific cost drivers. To that end, the

10 (2) All of the following must provide data to the Panel, if requested:

11 a. The Insurance Commissioner, for data from insurance carriers and other entities, including a third-  
12 party administrator that contracts with an insurance carrier to provide services under this chapter.

13 b. The Secretary of Labor, for data from self-insured employers and other entities, including a third-  
14 party administrator that contracts with an insurance carrier to provide services under this chapter.

15 c. Any person providing healthcare services under this chapter.

16 (3) The data the Panel is authorized to collect data concerning reports under paragraph (2) of this section  
17 includes all of the following:

18 a. Reports of industrial injuries and occupational ~~disease, the~~ diseases.

19 b. The cost of benefits associated with such industrial injuries and diseases, and ~~compliance~~  
20 occupational diseases.

21 c. Compliance by employers with the mandatory workers' compensation insurance or self-insurance  
22 requirement. The Panel is also charged with ensuring

23 (4) To ensure that an individual insurance carrier and any entity that contracts with an insurance carrier,  
24 including third-party administrators, complies ~~compliance by individual carriers~~ with their responsibilities relating  
25 to medical ~~and indemnity cost control~~ control, the Panel may, through the Insurance Commissioner, collect any  
26 data available to the Insurance Commissioner under Title 18, including data call and market conduct examination.

27 (5)a. The Department of Labor may exercise its authority under this title to address a legitimate  
28 competitive, trade secret, or health privacy concern regarding data under paragraph (2)b. of this section but may  
29 not exercise this authority in a manner that interferes with the Panel's ability to fulfill the Panel's statutory  
30 obligations.

31 b. The Secretary of Labor may issue subpoenas and promulgate regulations to ensure the receipt of  
32 data that the Panel determines is necessary to fulfill the Panel's statutory obligations.

33 (6) On at least a quarterly basis, the Insurance Commissioner shall collect and provide to the Panel data  
34 sufficient for the Panel to carry out the duties described in this subsection. In addition, the Panel or its designee  
35 shall have the authority to demand directly from any person or entity providing health-care services under this  
36 ~~chapter~~ chapter, including a self-insured employer, data sufficient for the Panel to carry out the duties described in  
37 this subsection.

38 (7)a. The advisory organization designated pursuant to under § 2607 of Title 18 shall also shall, on an  
39 ~~annual basis~~ basis, provide the Panel with carrier-specific medical cost data for each workers' compensation carrier  
40 having a market share in Delaware of 1% or greater over the 12 preceding months.

41 b. If, after reviewing said data and making necessary inquiries with individual carriers, the Panel  
42 determines that there is a well-founded concern that an individual insurance carrier is not sufficiently  
43 scrutinizing medical payments, the Panel may ~~direct~~ request that the Insurance Commissioner to conduct  
44 a formal examination of a carrier to determine compliance with applicable laws and regulations regarding  
45 medical reimbursements. The Insurance Commissioner may not unreasonably deny a request from the  
46 Panel for a formal examination.

47 c. The Department of Insurance may exercise its authority granted under Title 18 to address legitimate  
48 competitive, trade secret, or health-privacy concerns that arise in connection with its responsibilities under this  
49 section, provided that the Department's exercise of this authority shall not interfere with the Panel's ability to fulfill  
50 its statutory obligations. The Secretary of Labor shall have authority to address legitimate competitive, trade  
51 secret, or health-privacy concerns that arise in connection with the Panel's collection of data directly from persons  
52 or entities providing health care services under this chapter, provided that the Secretary's exercise of this authority

53 ~~shall not interfere with the Panel's ability to fulfill its statutory obligations. regarding data under paragraph (2)a. of~~  
54 ~~this section but may not exercise this authority in a manner that interferes with the Panel's ability to fulfill the~~  
55 ~~Panel's statutory obligations.~~

56 (6) Data acquired by the Panel under this section is confidential and is specifically excluded from the  
57 definition of public record under § 10002 of Title 29 and may not be subpoenaed.

#### SYNOPSIS

This Act revises the data collection procedures and authority of the Workers' Compensation Oversight Panel ("Panel") to ensure that the Panel is able to obtain the data necessary to perform its statutory duties, without infringing upon the authority of the Department of Insurance to regulate the insurance industry. This Act also protects the confidentiality of data acquired by the Panel from the Department of Insurance or the Department of Labor.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

Author: Senator Walsh