START\_STATUTE23-908.  Injury reports by employer and physician; schedule of fees; notification; public meeting; violation; classification

A.  Every employer that is affected by this chapter, and every physician who attends an injured employee of that employer, shall file with the commission and the employer's insurance carrier from time to time a full and complete report of every known injury to the employee arising out of or in the course of employment and resulting in loss of life or injury requiring medical treatment.  The report shall be furnished to the commission and the insurance carrier at times and in the form and detail the commission prescribes, and the report shall make special answers to all questions required by the commission under its rules.  For the purposes of this subsection, medical treatment does not include any onetime, short‑term treatment by nonmedical staff that requires little technology or training to administer, including treatment of minor scratches, cuts, burns and splinters and other issues that ordinarily do not require medical care.

B.  The commission shall fix a schedule of fees to be charged by physicians, physical therapists or occupational therapists attending injured employees and, subject to subsection C of this section, for prescription medicines required to treat an injured employee under this chapter.  Notwithstanding subsection C of this section, the schedule of fees may include other reimbursement guidelines for medications dispensed in settings that are not accessible to the general public. The commission shall annually review the schedule of fees.  For the purposes of this subsection, settings that are not accessible to the general public do not include mail order pharmacies delivering pharmaceutical services to workers' compensation claimants, if both of the following apply:

1.  The pharmacy does not limit or restrict access to claimants with an affiliation to a medical provider or other entity.

2.  Any medical provider or other entity referring a claimant to the pharmacy does not receive or accept any rebate, refund, commission, preference or other consideration as compensation for the referral.

C.  If a schedule of fees for prescription medicines adopted pursuant to subsection B of this section includes provisions regarding the use of generic equivalent drugs or interchangeable biological products, those provisions shall comply with section 32‑1963.01, subsections A, B and D through L.  If the commission considers the adoption of fee schedule provisions that involve specific prices, values or reimbursements for prescription drugs, the commission shall base the adoption on studies or practices that are validated and accepted in the industry, including the applicability of formulas that use average wholesale price, plus a dispensing fee, and that have been made publicly available for at least one hundred eighty days before any hearing conducted by the commission. Before the commission takes final action on the schedule of fees pursuant to this subsection and subsection B of this section, except during a public health emergency, the commission shall:

1.  Prominently post on its publicly accessible website the proposed schedule of fees at least thirty days before conducting a public hearing on that proposed schedule of fees.

2.  Hold at least one meeting that all interested parties may jointly attend and interactively participate in after posting the proposed schedule of fees but before conducting the hearing on the proposed schedule of fees.

3.  At least seven business days in advance, prominently post on its publicly accessible website the final proposed schedule of fees to be acted on for adoption.

D.  Notwithstanding section 12‑2235, information obtained by any physician or surgeon examining or treating an injured person shall not be considered a privileged communication if that information is requested by interested parties for a proper understanding of the case and a determination of the rights involved.  Hospital records of an employee concerning an industrial claim shall not be considered privileged if requested by an interested party in order to determine the rights involved.  Medical information from any source pertaining to conditions unrelated to the pending industrial claim shall remain privileged.

E.  When an accident occurs to an employee, the employee shall forthwith report the accident and the injury resulting from the accident to the employer, and any physician employed by the injured employee shall forthwith report the accident and the injury resulting from the accident to the employer, the insurance carrier and the commission.

F.  If an accident occurs to an employee, the employer may designate in writing a physician chosen by the employer, who shall be allowed by the employee, or any person in charge of the employee, to make one examination of the injured employee in order to ascertain the character and extent of the injury occasioned by the accident.  The physician so chosen shall forthwith report to the employer, the insurance carrier and the commission the character and extent of the injury as the physician ascertains.  If the accident is not reported by the employee or the employee's physician forthwith, as required, or if the injured employee or those in charge of the employee refuse to allow the employer's physician to make the examination, and the injured employee is a party to the refusal, no compensation shall be paid for the injury claimed to have resulted from the accident.  The commission may relieve the injured person or that person's dependents from the loss or forfeiture of compensation if it believes after investigation that the circumstances attending the failure on the part of the employee or physician to report the accident and injury are such as to have excused them.

G.  Within ten days after receiving notice of an accident, the employer shall inform the insurance carrier and the commission on the forms and in the manner as prescribed by the commission.

H.  Immediately on notice to the employer of an accident resulting in an injury to an employee, the employer shall provide the employee with the name and address of the employer's insurance carrier, the policy number and the expiration date.

I.  Any person failing or refusing to comply with this section is guilty of a petty offense.

J.  Subsection B of this section does not prohibit:

1.  A health care provider or pharmacy from entering into a separate contract or network that governs fees, in which case reimbursement shall be made according to the applicable contracted charge or negotiated rate.

2.  An employer from directing medical, surgical or hospital care pursuant to section 23‑1070. END\_STATUTE