

# State of South Dakota

EIGHTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2012

256T0334

## HOUSE BILL NO. 1054

Introduced by: Representatives Gosch, Abdallah, Feinstein, Hunt, Lust, and Rausch and  
Senators Cutler, Gray, and Tieszen

1 FOR AN ACT ENTITLED, An Act to amend certain provisions concerning Worker's  
2 Compensation.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 62-7-10 be amended to read as follows:

5 62-7-10. An employee who claims compensation for an injury shall immediately, or as soon  
6 thereafter as practical, notify the employer of the occurrence of the injury. Written notice of the  
7 injury shall be provided to the employer no later than ~~three~~ seven business days after its  
8 occurrence. The notice need not be in any particular form but must advise the employer of when,  
9 where, and how the injury occurred. Failure to give notice as required by this section prohibits  
10 a claim for compensation under this title unless the employee or the employee's representative  
11 can show:

- 12 (1) The employer or the employer's representative had actual knowledge of the injury;  
13 or  
14 (2) The employer was given written notice after the date of the injury and the employee  
15 had good cause for failing to give written notice within the ~~three~~ seven business-day



1 period, which determination shall be liberally construed in favor of the employee.

2 Section 2. That § 62-1-1.1 be amended to read as follows:

3 62-1-1.1. For purposes of this title only, a health care provider licensed and practicing within  
4 the scope of ~~his~~ the licensed profession ~~under Title 36~~ is a medical practitioner.

5 Section 3. That § 62-1-1.3 be amended to read as follows:

6 62-1-1.3. If an employer denies coverage of a claim ~~on the basis that the injury is not~~  
7 ~~compensable under this title due to the provisions of subsection 62-1-1(7)(a), (b), or (c),~~ for any  
8 reason under this Title or any reason permissible under Title 58, such injury is presumed to be  
9 nonwork related for other insurance purposes, and any other insurer covering bodily injury or  
10 disease of the injured employee shall pay according to the policy provisions. If coverage is  
11 denied by an insurer without a full explanation of the basis in the insurance policy in relation  
12 to the facts or applicable law for denial, the director of the Division of Insurance may determine  
13 such denial to be an unfair practice under chapter 58-33. If it is later determined that the injury  
14 is compensable under this title, the employer shall immediately reimburse the parties not liable  
15 for all payments made, including interest at the category B rate specified in § 54-3-16.