

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1447

By: Glover

COMMITTEE SUBSTITUTE

An Act relating to workers' compensation; amending 85 O.S. 1991, Sections 1.2, as amended by Section 1, Chapter 294, O.S.L. 1992, 3, as amended by Section 2, Chapter 294, O.S.L. 1992, 3.6, 3.8, 14, as amended by Section 4, Chapter 294, O.S.L. 1992, 16, as amended by Section 5, Chapter 294, O.S.L. 1992, 22, as amended by Section 7, Chapter 294, O.S.L. 1992, 24.2, 43, 61, as amended by Section 33, Chapter 335, O.S.L. 1992, 172, as amended by Section 11, Chapter 294, O.S.L. 1992, 173, as amended by Section 12, Chapter 294, O.S.L. 1992, and 201, as amended by Section 13, Chapter 294, O.S.L. 1992 (85 O.S. Supp. 1992, Sections 1.2, 3, 14, 16, 22, 61, 172, 173 and 201), which relate to the Workers' Compensation Act; amending 20 O.S. 1991, Sections 30.2 and 30.15, which relate to the Court of Appeals; deleting obsolete language; modifying the authority of the Workers' Compensation Court to adopt certain rules; updating statutory reference to the Department of Central Services; modifying definitions; modifying appellate procedures applicable to rulings of the Workers' Compensation Court; authorizing reconsideration of certain rulings and providing procedures related thereto; abolishing the Workers' Compensation Court en banc; deleting obsolete language; permitting interest on certain awards and providing for the computation thereof; creating the Workers' Compensation Appellate Division; providing for membership, term of office and duties; prohibiting certain acts by judges of the Workers' Compensation Court; modifying the authority of an employee to select a physician; modifying the requisites of the fee and treatment schedule; authorizing self-insured employers and certain insurers to select a managed care program; stating duties of the State Insurance Commissioner; requiring certain evaluations prior to adjudication of permanent total disability; deleting requirement for cooperation with the Vocational Rehabilitation Section of the Department of Human Services; modifying procedures relating to vocational rehabilitation; authorizing certain benefits during the receipt of vocational rehabilitation services; modifying schedule of compensation; requiring suspension of certain benefits during period of incarceration and providing procedures related thereto; providing exceptions; adding certain notice requirements; modifying entitlement to benefits from the Special Indemnity Fund; providing for apportionment of Special Indemnity Fund deposits; modifying review of medical practices; adding disclosure requirement; creating the Physician Advisory Committee; providing for composition, duties, compensation and

terms; stating powers and duties of the Commissioner of Labor; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 85 O.S. 1991, Section 1.2, as amended by Section 1, Chapter 294, O.S.L. 1992 (85 O.S. Supp. 1992, Section 1.2), is amended to read as follows:

Section 1.2 A. There is hereby created the Workers' Compensation Court which shall consist of nine (9) judges. Each judge of the Court shall be appointed to a designated numbered position on the Court. The positions shall be numbered one through nine. The initial terms of the judges by position number shall expire on the following dates:

Position 1 shall expire 7-1-84.

Position 2 shall expire 7-1-84.

Position 3 shall expire 7-1-84.

Position 4 shall expire 7-1-82.

Position 5 shall expire 7-1-82.

Position 6 shall expire 7-1-80.

Position 7 shall expire 7-1-80.

Position 8 shall expire 7-1-88.

Position 9 shall expire 7-1-88 after being appointed under the provisions hereinafter set forth effective August 1, 1985.

Thereafter, each position shall be filled by a judge appointed to serve a six-year term.

Provided the judges serving unexpired terms on the State Industrial Court shall serve on the Workers' Compensation Court until their terms expire only as provided herein. The judges of the State Industrial Court whose terms expire March 14, 1979, shall serve in Positions 6 and 7 until that date, and the judge whose term expires March 14, 1981, shall serve in Position 5 until that date. Upon expiration of these terms, the Governor shall appoint judges to serve the remainder of the initial terms designated in this section. When a vacancy on the Court occurs or is certain to occur or for initial appointments to the Court, the

Judicial Nominating Commission shall choose and submit to the Governor and the Chief Justice of the Supreme Court the names of three persons, in addition to the name of the incumbent judge, if any, for each appointment, each of whom has previously notified the Commission in writing that he will serve as a judge if appointed. The Governor shall appoint one of the nominees to fill the vacancy, but if he fails to do so within sixty (60) days, the Chief Justice of the Supreme Court shall appoint one of the nominees, the appointment to be certified to the Secretary of State.

B. A judge of the Court shall have been licensed to practice law in this state for a period of not less than five (5) years prior to appointment. Each judge, before entering upon the duties of his office, shall take and subscribe to an oath of office and file same with the Secretary of State. Each judge shall continue to serve until his successor shall have been appointed and qualified. A judge shall be eligible for reappointment, provided that he may be removed for cause by the Court on the Judiciary prior to the expiration of his term.

C. Each judge shall receive a salary equal to that paid to a district judge of this state, and shall devote full time to his duties and shall not engage in the private practice of law during the term in office.

D. The Governor shall appoint from among the judges of the Workers' Compensation Court a presiding judge of that Court who shall serve for a two-year term commencing with the initial appointment beginning January 1, 1987. Any judge so appointed shall not serve more than two times in succession. The presiding judge shall preside at all hearings held by the Court, preside at such meetings of the judges of the Court as may be necessary and perform such other supervisory duties as the needs of the Court may require. The presiding judge may designate one of the other judges to act as presiding judge in his place whenever necessary during the disqualification, disability, or absence of the presiding judge. During the disqualification, disability, or

absence of the presiding judge, the acting presiding judge shall exercise all of the powers of the presiding judge.

E. The Court shall have the authority to adopt reasonable rules ~~and regulations~~ within its respective areas of responsibility, including ~~the rules of procedure for the Court en banc governing requests for reconsideration~~, after notice and public hearing, for effecting the purposes of the Workers' Compensation Act. All of the judges of the Court shall be present at all meetings wherein rules ~~and regulations~~ are adopted or amended. All rules ~~and regulations~~, upon adoption, shall be submitted to the Supreme Court, which shall either approve or disapprove them within thirty (30) days. All rules ~~and regulations~~, upon approval by the Supreme Court, shall be published and be made available to the public and, if not inconsistent with the law, shall be binding in the administration of the Workers' Compensation Act.

F. The Court is hereby designated and confirmed as a court of record, with respect to any matter within the limits of its jurisdiction, and within such limits the judges thereof shall possess the powers and prerogatives of the judges of the other courts of record of this state.

G. The principal office of the Court shall be situated in the City of Oklahoma City in quarters assigned by the ~~Office of Public Affairs~~ Department of Central Services. The Court may hold hearings in any city of this state.

H. All county commissioners and presiding district judges of this state shall make quarters available for the conducting of hearings by a judge of the Court upon request by the Court.

I. The judges of the Court shall determine the qualifications necessary for the job of Administrator. Said qualifications shall be submitted to the Chief Justice of the Supreme Court for approval, disapproval or modification.

J. Judges of the Workers' Compensation Court may punish for direct contempt pursuant to Sections 565, 565.1 and 566 of Title 21 of the Oklahoma Statutes.

SECTION 2. AMENDATORY 85 O.S. 1991, Section 3, as amended by Section 2, Chapter 294, O.S.L. 1992 (85 O.S. Supp. 1992, Section 3), is amended to read as follows:

Section 3. As used in the Workers' Compensation Act:

1. "Administrator" means the Administrator of workers' compensation as provided for in the Workers' Compensation Act.

2. "Court" means the Workers' Compensation Court.

3. "Employer", except when otherwise expressly stated, means a person, partnership, association, corporation, limited liability company, and the legal representatives of a deceased employer, or the receiver or trustee of a person, partnership, association ~~or~~, corporation or limited liability company, departments, instrumentalities and institutions of this state and divisions thereof, counties and divisions thereof, public trusts, boards of education and incorporated cities or towns and divisions thereof, employing a person included within the term "employee" as herein defined.

4. "Employee" means any person engaged in the employment of any person, firm or corporation covered by the terms of the Workers' Compensation Act, and shall include workers associating themselves together under an agreement for the performance of a particular piece of work, in which event such persons so associating themselves together shall be deemed employees of the person having the work executed; provided, that if such associated workers shall employ a worker in the execution of such contract, then as to such employed worker, both the associated employees and the principal employer shall at once become subject to the provisions of the Workers' Compensation Act relating to independent contractors. Sole proprietors, members of a partnership, members of a limited liability company, or any stockholder-employees of a corporation who own ten percent (10%) or more stock in the corporation are specifically excluded from the foregoing definition of "employee", and shall not be deemed to be employees as respects the benefits of the Workers' Compensation Act. Provided, a sole proprietor, member of a partnership, member of a limited liability company, or any stockholder-employee of a

corporation who owns ten percent (10%) or more stock in the corporation who does not so elect to be covered by a policy of insurance covering benefits under the Workers' Compensation Act, when acting as a subcontractor, shall not be eligible to be covered under the prime contractor's policy of workers' compensation insurance; however, nothing herein shall relieve the entities enumerated from providing workers' compensation insurance coverage for their employees. Sole proprietors, members of a partnership, members of a limited liability company, or any stockholder-employees of a corporation who own ten percent (10%) or more stock in the corporation may elect to include the sole proprietors, any or all of the partnership members, any or all of the members of the limited liability company, or any or all stockholder-employees as employees, if otherwise qualified, by endorsement to the policy specifically including them under any policy of insurance covering benefits under the Workers' Compensation Act. When so included, the sole proprietors ~~or,~~ members of a partnership, members of a limited liability company, or any or all stockholder-employees shall be deemed to be employees as respects the benefits of the Workers' Compensation Act. "Employee" shall also include any person who is employed by the departments, instrumentalities and institutions of this state and divisions thereof, counties and divisions thereof, public trusts, boards of education and incorporated cities or towns and divisions thereof. "Employee" shall also include a member of the Oklahoma National Guard while in the performance of duties only while in response to state orders and any authorized voluntary or uncompensated worker, rendering services as a fire fighter, peace officer or civil defense worker. "Employee" shall also include a participant in a sheltered workshop program which is certified by the United States Department of Labor. "Employee" shall not include a person, commonly referred to as an owner-operator, who owns or leases a truck-tractor or truck for hire, if the owner-operator actually operates the truck-tractor or truck and if the person contracting with the owner-operator is not the lessor of the truck-tractor or truck. Provided however, an

owner-operator shall not be precluded from workers' compensation coverage under the Workers' Compensation Act if the owner-operator elects to participate as a sole proprietor.

5. "Employment" includes work or labor in a trade, business, occupation or activity carried on by an employer for pecuniary gain or any authorized voluntary or uncompensated worker rendering services as a fire fighter, peace officer or civil defense worker.

6. "Compensation" means the money allowance payable to an employee as provided for in the Workers' Compensation Act.

7. a. "Injury" or "personal injury" means only accidental injuries arising out of and in the course of employment and such disease or infection as may naturally result therefrom and occupational disease arising out of and in the course of employment as herein defined. Provided, only injuries having as their source a risk not purely personal but one that is reasonably connected with the conditions of employment shall be deemed to arise out of the employment.

b. "Injury" or "personal injury" includes heart-related or perivascular injury, illness or death if resultant from stress in excess of that experienced by a person in the conduct of everyday living. Such stress must arise out of and in the course of a claimant's employment.

c. "Injury" or "personal injury" shall not include:
(1) mental injury that is unaccompanied by physical injury; or
(2) a physical condition which has resulted from incremental damage or injury or a gradual deterioration of physical health, and which is caused substantially by a condition not arising out of and in the course of employment.

8. "Wages" means the money rate at which the service rendered is recompensed under the contract of hiring in force at the time

of the injury, including the reasonable value of board, rent, housing, lodging, or similar advantage received from the employer.

9. "Insurance carrier" shall include stock corporations, reciprocal or interinsurance associations, or mutual associations with which employers have insured, and employers permitted to pay compensation, directly under the provisions of paragraph 4 of subsection A of Section 61 of this title.

10. "Occupational disease" means only that disease or illness which is due to causes and conditions characteristic of or peculiar to the particular trade, occupation, process or employment in which the employee is exposed to such disease.

11. "Permanent impairment" means any anatomical or functional abnormality or loss after reasonable medical treatment has been achieved, which abnormality or loss the physician considers to be capable of being evaluated at the time the rating is made. Except as otherwise provided herein, any examining physician shall only evaluate impairment in accordance with the latest publication of the American Medical Association's "Guides to the Evaluation of Permanent Impairment" in effect at the time of the injury. All evaluations shall include an apportionment of injury causation. However, revisions to the guides made by the American Medical Association which are published after January 1, 1989, shall be operative one hundred twenty (120) days after the last day of the month of publication. The examining physician shall not follow the guides based on race or ethnic origin ~~and~~. The examining physician shall not deviate from said guides except as may be specifically provided for in the guides or modifications to the guides adopted by the Administrator of the Workers' Compensation Court as provided for in Section 17 of this act. These officially adopted guides or modifications thereto shall be the exclusive basis for testimony and conclusions with regard to permanent impairment with the exception of paragraph 3 of Section 22 of this title, relating to scheduled member injury or loss; and impairment, including pain or loss of strength, may be awarded with respect to those injuries or areas of the body not specifically covered by said guides.

12. "Permanent total disability" means incapacity because of accidental injury or occupational disease to earn any wages in any employment for which the employee ~~is or becomes~~ may become physically suited and reasonably fitted by education, training or experience, including vocational rehabilitation; loss of both hands, or both feet, or both legs, or both eyes, or any two thereof, shall constitute permanent total disability.

13. "Permanent partial disability" means permanent disability which is less than total and shall be equal to or the same as permanent impairment.

SECTION 3. AMENDATORY 85 O.S. 1991, Section 3.6, is amended to read as follows:

Section 3.6 A. All the evidence pertaining to each case, except upon agreed orders, shall, insofar as may be possible, be heard by the judge initially assigned to the case. Upon the completion of such hearing or hearings, the judge hearing the cause shall make such order, decision or award as is proper, just and equitable in the matter. Either party feeling himself aggrieved by such order, decision or award shall, within ten (10) days, have the right to ~~take an appeal from the order, decision or award of the Judge to the Workers' Compensation Court sitting en banc~~ request reconsideration on any question of law or fact. Such ~~appeal~~ request for reconsideration shall be allowed as a matter of right to either party upon filing with the Administrator a notice of such ~~appeal~~. ~~In each case filed in the Court en banc, and at the time of filing same, the appellant~~ request for reconsideration. The requesting party shall deposit with the clerk as costs One Hundred Dollars (\$100.00) of which no rebate of any part thereof shall be made. All fees so collected shall be deposited in the Workers' Compensation Administration Fund. ~~Such Court en banc shall consist of three (3) Judges of the Court, none of whom shall have presided over any of the previous hearings on the claim. The Court en banc~~ On request for reconsideration, the assigned judge may reverse or modify the decision only if it ~~determines~~ is determined that such decision was against the clear weight of the evidence or contrary to law. ~~Upon completion of the~~

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~~appeal, the members of the Court sitting en banc shall issue such order, decision or award as is proper, just and equitable. Only those members participating in the hearing on appeal shall participate in the making of the order, decision or award. All orders, decisions or awards shall be approved by a majority of the members of the Court sitting en banc. Provided, there may be more than one Court en banc sitting at the same time for purposes of hearing the appeals provided for herein. Appeals shall be allowed on a question of law or a question of fact, or a mixed question of law and fact, and shall be determined on the record made before the Judge. Provided, when the order of the Judge of the Court making an award to a claimant is appealed by the employer or the insurance carrier, interest in the amount of eighteen percent (18%) per year shall be allowed on the accrued amounts of the award due from the date the award was filed, if the award is not modified or vacated on appeal. Provided, when the employer or insurance carrier requests reconsideration before a judge of the Court, interest shall be allowed on the accrued amounts of the award due from the date the award was filed, if the award was not modified or vacated on reconsideration.~~

B. The order, decision or award of the Court shall be final and conclusive upon all questions within its jurisdiction between the parties, unless, within twenty (20) days after a copy of such order, decision or award has been sent by the Administrator to the parties affected, an action is commenced in the Supreme Court of the state, to review such order, decision or award. Any order, decision or award made by a judge of the Court shall be considered as final ~~under the provisions of this section unless appealed to the Workers' Compensation Court sitting en banc~~ a request for reconsideration is filed as provided ~~for~~ in subsection A of this section. The order, decision or award of a judge of the Court shall be final and conclusive upon all questions within his jurisdiction between the parties unless appealed directly to the Supreme Court or ~~to the Workers' Compensation Court sitting en banc~~ unless a request for reconsideration is filed as hereinbefore provided. Any party litigant desiring to appeal directly from

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such order, decision or award to the Supreme Court, shall, within twenty (20) days after a copy of the order, decision or award has been sent by the Administrator to the parties affected, commence an action in the Supreme Court of the state to review such order, decision or award. The Supreme Court shall have original jurisdiction of such action, and shall prescribe rules for the commencement and trial of the same. Such action shall be commenced by filing with the Clerk of the Supreme Court a certified copy of the order, decision or award of ~~the Workers' Compensation Court sitting en banc or~~ the judge attached to the petition by the complaint wherein the complainant or petitioner shall make his assignments or specifications as to wherein said order, decision or award is erroneous or illegal. Provided, however, no proceeding to reverse, vacate or modify any order, decision or award of the ~~Workers' Compensation Court sitting en banc or~~ judge of the Court wherein compensation has been awarded an injured employee shall be entertained by the Supreme Court unless the Administrator shall take a written undertaking to the claimant executed on the part of the respondent or insurance carrier, or both, with one or more sureties to be approved by the Administrator, to the effect that the appellant will pay the amount of the award rendered therein, together with interest thereon ~~at the rate of eighteen percent (18%) per year~~ from the date of the award by the judge of the Court and all costs of the proceeding, or on the further order of the ~~Workers' Compensation Court sitting en banc or~~ judge of the Court after the appeal has been decided by the Supreme Court, except that municipalities and other political subdivisions of the State of Oklahoma are exempt from making such written undertakings. Before the Clerk of the Supreme Court shall accept the action for filing, a certificate from the Administrator shall be required, showing that this provision has been complied with. Said proceedings shall be heard in a summary manner and shall have precedence over all other civil cases in the Supreme Court, except preferred Corporation Commission appeals. The Supreme Court shall require the appealing party to file within forty-five (45) days from the date of the

filing of an appeal or an order appealed from, a transcript of the record of the proceedings before the Workers' Compensation Court, or upon application and for good cause shown, the Supreme Court may extend the time for filing said transcript of the record for a period of time not to exceed ninety (90) days from said date, and such action shall be subject to the law and practice applicable to other civil actions cognizable in said Supreme Court. The Court whose action was appealed shall enter any order directed by the Supreme Court under the final determination.

C. When the only controverted issue in a death claim is the determination of proper beneficiaries entitled to receive death benefits, and the parties-beneficiary appeal the decision of the Court, the employer or insurance carrier may pay the proceeds, as they accrue, to the Administrator. The Administrator shall hold the proceeds in trust in an interest-bearing account during the appeal period and shall distribute the proceeds and interest to the proper beneficiaries upon written direction of the Court. The employer or insurance carrier shall not be taxed interest or cost on the order of the death claim if payments have been made to the Administrator as they accrue.

~~D. Claims filed and pending before the Workers' Compensation Court but which have not been finally determined by the effective date of this act shall be transferred to the Administrator for assignment for hearing and determination by a judge of the Court in the judicial district designated by the claimant consistent with the provisions of Section 3.5 of this title regarding venue, for a de novo determination pursuant to the Workers' Compensation Court sitting en banc in accordance with the prescribed procedures set forth in subsection A of this section. An action to reopen any case under the provisions of the Workers' Compensation Act shall be assigned in the same manner as original assignments made hereunder.~~

Benefits for an injury shall be determined by the law in effect at the time of injury; benefits for death shall be determined by the law in effect at the time of death.

E. For purposes of this section, interest shall be computed pursuant to Section 727 of Title 12 of the Oklahoma Statutes.

SECTION 4. AMENDATORY 20 O.S. 1991, Section 30.2, is amended to read as follows:

Section 30.2 A. The Court of Appeals ~~shall~~, upon the ~~member~~ members being elected or appointed and qualified, shall consist of ~~four~~ (4) five permanent divisions. Two divisions shall sit in Tulsa County and ~~two~~ three divisions shall sit in Oklahoma County.

B. Each division shall consist of three ~~(3)~~ Judges, at least two of whom shall concur in any decision and each division shall select a presiding Judge who shall act in that capacity without additional compensation. The assignment of Judges to the divisions shall be effected by the Supreme Court. Judges may be transferred from one division to another.

C. One of the divisions that sits in Oklahoma County shall be the Workers' Compensation Appellate Division. All cases appealed to the Supreme Court from the Workers' Compensation Court, if assigned by the Supreme Court, shall be assigned to the Workers' Compensation Appellate Division.

SECTION 5. AMENDATORY 20 O.S. 1991, Section 30.15, is amended to read as follows:

Section 30.15 A. Two Judges shall be appointed or elected to the Court of Appeals from each of the six congressional districts of the State of Oklahoma. Three additional Judges shall be appointed from any congressional district of this state.

B. The three additional Judges shall comprise the Workers' Compensation Appellate Division. The Governor shall make the appointments from a list of three nominees for each position forwarded to the Governor from the Judicial Nominating Commission. If the Governor fails to make an appointment within sixty (60) days of receiving the names of the nominees, the Chief Justice of the Supreme Court shall make the appointment from the list of nominees submitted by the Judicial Nominating Commission. The initial term of office of the three Judges shall be as follows:

1. One Judge shall serve an initial term of office expiring on the second Monday in January of 1995;

2. One Judge shall serve an initial term of office expiring on the second Monday in January of 1997; and

3. One Judge shall serve an initial term of office expiring on the second Monday in January of 1999.

C. Each Judge of the Court of Appeals shall have had prior to election or appointment, a minimum of four (4) years' experience as a licensed practicing attorney, or as a judge of a court of record, or both, within the State of Oklahoma; shall be a qualified elector of the respective district; and shall have such additional qualifications as may be prescribed by statute. Judges of the Court of Appeals shall continue to be licensed attorneys while in office.

D. The terms of office of the Judges of the Court of Appeals shall be six (6) years and shall begin on the second Monday of January following their election. Those appointed or elected to fill vacancies shall assume office immediately upon qualifying for the office.

SECTION 6. AMENDATORY 85 O.S. 1991, Section 3.8, is amended to read as follows:

Section 3.8 A. No employee of the Administrator shall be competent to testify on any matter before a court concerning any information he has received through the performance of his duties under the provisions of the Workers' Compensation Act.

B. The Administrator and his employees shall not solicit employment for any attorney or physician nor shall they recommend or refer any claimant or employer to an attorney or physician. If the Administrator or any of his employees makes such a solicitation, recommendation or reference, that person, upon conviction, shall be guilty of a misdemeanor ~~and, upon conviction thereof, shall~~ punishable, for each offense, ~~be punished~~ by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment not to exceed one (1) year, or by both such fine and imprisonment. The Administrator shall immediately terminate the employment of any such employee who is guilty of such solicitation, recommendation or reference. An Administrator

guilty of such solicitation, recommendation or reference shall be subject to removal from office.

C. No judge of the Workers' Compensation Court shall engage in any ex parte communication with any party to an action pending before the Court or with any medical provider regarding the merits of a specific matter pending before the judge for resolution. Any violation of this provision shall subject the judge to disqualification from the action or matter upon presentation of an application for disqualification.

SECTION 7. AMENDATORY 85 O.S. 1991, Section 14, as amended by Section 4, Chapter 294, O.S.L. 1992 (85 O.S. Supp. 1992, Section 14), is amended to read as follows:

Section 14. A. The employer shall promptly provide for an injured employee such medical, surgical or other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus as may be necessary after the injury. The attending physician shall supply the injured employee and the employer with a full examining report of injuries found at the time of examination and proposed treatment, this report to be supplied within seven (7) days after the examination; also, at the conclusion of the treatment the attending physician shall supply a full report of his treatment to the employer of the injured employee.

B. The employer's selected physician shall have the right to examine the injured employee. A report of such examination shall be furnished the injured employee within seven (7) days after such examination.

C. If the employer fails or neglects to provide the same within a reasonable time after knowledge of the injury, the injured employee, during the period of such neglect or failure, may do so at the expense of the employer; provided, however, that the injured employee, or another in his behalf, may obtain emergency treatment at the expense of the employer where such emergency treatment is not provided by the employer.

~~Notwithstanding any other provision of this section~~ Except as provided in Section 8 of this act, the employee may select a

physician of his choice to render necessary medical treatment, at the expense of the employer; ~~provided, however, that the~~. The attending physician so selected by the employee shall notify the employer and/or the insurance carrier within seven (7) days after examination or treatment was first rendered.

D. The term "physician" as used in this section shall mean any person licensed in Oklahoma as a medical doctor, chiropractor, chiropodist, dentist, osteopathic physician or optometrist. The Court may accept testimony from a psychologist if the testimony is made under the direction of a medical doctor. If such injured employee should become deceased, whether or not he has filed a claim, such fact shall not affect liability for medical attention previously rendered, and any person or persons entitled to such benefits may enforce charges therefor as though such employee had survived.

E. Whoever renders medical, surgical or other attendance or treatment, nurse and hospital service, medicine, crutches and apparatus, or emergency treatment, may submit such charges and duration of treatment to the Administrator of the Court for review in accordance with the rules and regulations of the Administrator. Such charges and duration of treatment shall be limited to the usual, customary and reasonable charges and duration of treatment as prescribed and limited by a schedule of fees and treatment for all medical providers to be adopted, after notice and public hearing, by the Administrator. Said fee and treatment schedule shall be based on the usual, customary and reasonable medical charges of health care providers in the same trade area for comparable treatment of a person with similar injuries and the duration of treatment prevailing in this state for persons with similar injuries. The fee and treatment schedule shall be reviewed biennially by the Administrator and, after such review, and notice and public hearing, the Administrator shall be empowered to amend or alter said fee and treatment schedule to ensure its adequacy. No later than the first biennial review required following the effective date of this act, the fee and treatment schedule shall utilize the latest Current Procedural

Terminology (CPT) codes as published by the American Medical Association. The Administrator's review of medical and treatment charges pursuant to this section shall be conducted pursuant to the fee and treatment schedule in existence at the time the medical care or treatment was provided. The order of the Administrator approving medical and treatment charges pursuant to this section shall be enforceable by the Court in the same manner as provided in the Workers' Compensation Act for the enforcement of other compensation payments. Any party feeling aggrieved by the order, decision or award of the Administrator shall, within ten (10) days, have the right to request a hearing on such medical and treatment charges by a judge of the Workers' Compensation Court. The judge of the Court may affirm the decision of the Administrator, or reverse or modify said decision only if it is found to be contrary to the fee and treatment schedule existing at the time the said medical care or treatment was provided. The order of the judge shall be subject to the same appellate procedure set forth in Section 3.6 of this title for all other orders of the Court. The right to recover charges for every type of medical care for personal injuries arising out of and in the course of covered employment as herein defined, shall lie solely with the Workers' Compensation Court, and all jurisdiction of the other trial courts of this state over such action is hereby abolished. The foregoing provision, relating to approval and enforcement of such charges and duration of treatment, shall not apply where a written contract exists between the employer or insurance carrier and the person who renders such medical, surgical or other attendance or treatment, nurse and hospital service, or furnishes medicine, crutches or apparatus.

F. The Court or Administrator shall have authority on application of employee or employer or its insurance carrier to order a change of physicians at the expense of the employer when, in its judgment, such change is desirable or necessary; provided, the employer shall not be liable to make any of the payments provided for in this section, in case of contest of liability,

where the Court shall decide that the injury does not come within the provisions of the Workers' Compensation Act.

G. If the employee chooses a physician for treatment and subsequently changes physicians without the approval of the Court or Administrator, or without agreement of the parties, the maximum liability of the employer for the aggregate expenses of all such subsequent physicians shall be Five Hundred Dollars (\$500.00). Provided, the limitations shall not apply to referrals by the treating physician for treatment or diagnostic procedures.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 14.1 of Title 85, unless there is created a duplication in numbering, reads as follows:

A. If an employer pays seventy-five percent (75%) or more of the entire cost of the employee's health insurance policy or plan, that self-insured employer or the employer's workers' compensation insurance carrier may direct employees' medical care as required under the Workers' Compensation Act by selecting a managed care program. The selection of a managed care program shall not preclude an employee from petitioning the Workers' Compensation Court or the Administrator of the Court for a change of physician or from seeking emergency medical treatment as provided in Section 14 of Title 85 of the Oklahoma Statutes. Notice of an employer's authority under this section to direct employees' medical care shall be provided to employees pursuant to Section 43 of Title 85 of the Oklahoma Statutes and to the Workers' Compensation Court pursuant to Section 61 of Title 85 of the Oklahoma Statutes.

B. The Insurance Commissioner of the State of Oklahoma shall certify medical providers as managed care providers for purposes of the Workers' Compensation Act and shall promulgate such rules as may be necessary to implement the provisions of this subsection. Such rules shall authorize any person to petition the Commissioner for removal of a medical provider from the list of certified managed care providers for violation of any rules promulgated pursuant to this subsection.

C. The Insurance Commissioner of the State of Oklahoma shall establish a pilot program of integrated management of an

employer's workers' compensation and group health insurance claims by an insurer authorized to do business in the state and shall promulgate such rules as may be necessary to implement the provisions of this subsection. The integrated management of such claims shall in no event affect any benefits, rights or coverage established pursuant to a workers' compensation insurance policy.

SECTION 9. AMENDATORY 85 O.S. 1991, Section 16, as amended by Section 5, Chapter 294, O.S.L. 1992 (85 O.S. Supp. 1992, Section 16), is amended to read as follows:

Section 16. A. An employee who has suffered an accidental injury or occupational disease covered by the Workers' Compensation Act shall be entitled to prompt and reasonable physical rehabilitation services. When, as a result of the injury, the employee is unable to perform the same occupational duties he was performing prior to the injury, he shall be entitled to such vocational rehabilitation services, ~~including~~ which shall include retraining and job placement so as to restore him to gainful employment. No person shall be adjudicated to be permanently and totally disabled unless first having been evaluated as to the practicability of restoration to gainful employment through vocational rehabilitation services or training. If an employee claiming permanent total disability status unreasonably refuses to be evaluated or to accept vocational rehabilitation services or training, permanent total disability benefits shall not be awarded during the period of such refusal, and the employee shall be limited to permanent partial disability benefits only. The Administrator shall promulgate rules ~~and regulations~~ governing notice to an injured employee of the right to receive vocational rehabilitation. If rehabilitation services are not voluntarily offered by the employer and accepted by the employee, the judge of the Court may on his own motion, or if requested by a party shall, after affording all parties an opportunity to be heard, refer the employee to a qualified physician or facility for evaluation of the practicability of, need for and kind of rehabilitation services or training necessary and appropriate in order to restore the employee to gainful

employment. Upon receipt of such report, and after affording all parties an opportunity to be heard, the Court shall order that any rehabilitation services or training, recommended in the report, or such other rehabilitation services or training as the Court may deem necessary, provided the employee elects to receive such services, shall be provided at the expense of the employer.

~~Refusal~~ Except as otherwise provided in this subsection, refusal to accept rehabilitation services by the employee shall in no way diminish any benefits allowable to an employee.

~~B. The Court shall cooperate on a reciprocal basis with the Vocational Rehabilitation Section of the Department of Human Services and the employment service of the Oklahoma Employment Security Commission for the purpose of providing the injured employee vocational rehabilitation and job placement services.~~

~~C.~~ Vocational rehabilitation services or training shall not extend for a period of more than fifty-two (52) weeks. This period may be extended for an additional fifty-two (52) weeks or portion thereof by special order of the Court, after affording the interested parties an opportunity to be heard. A request for vocational rehabilitation services or training may be filed with the Administrator by an interested party at any time after the date of injury but not later than ~~sixty (60) days from~~ the date of the final determination that permanent disability benefits are payable to the employee.

~~D.~~ C. Where rehabilitation requires residence at or near the facility or institution which is away from the employee's customary residence, reasonable cost of his board, lodging, travel, tuition, books and necessary equipment in training shall be paid for by the insurer in addition to weekly compensation benefits to which the employee is otherwise entitled under the Workers' Compensation Act.

D. During the period when an employee is actively participating in a retraining or job placement program for purposes of evaluating permanent total disability status, the employee shall be entitled to receive benefits at the same rate as the employee's temporary total disability benefits computed

pursuant to Section 22 of this title. No attorney fees shall be awarded or deducted from such benefits received during this period. All tuition related to vocational rehabilitation services shall be paid by the employer or the employer's insurer on a periodic basis directly to the educational institution attended by the employee.

SECTION 10. AMENDATORY 85 O.S. 1991, Section 22, as amended by Section 7, Chapter 294, O.S.L. 1992 (85 O.S. Supp. 1992, Section 22), is amended to read as follows:

Section 22. The following schedule of compensation is hereby established:

1. Permanent Total Disability. In case of total disability adjudged to be permanent, seventy percent (70%) of the employee's average weekly wages shall be paid to the employee during the continuance of such total disability.

2. Temporary Total Disability. In cases of temporary total disability, seventy percent (70%) of the employee's average weekly wages shall be paid to the employee during the continuance thereof, but not in excess of one hundred fifty (150) weeks, except as otherwise provided in the Workers' Compensation Act. Provided, after compensation has been paid for a period of one hundred forty (140) weeks, the employee may request a review of the case by a judge of the Court for continued temporary total disability benefits provided by the Workers' Compensation Act. Upon a finding that benefits should be extended beyond the initial one-hundred-fifty-week period, compensation may be continued for an additional one hundred fifty (150) weeks.

3. Permanent Partial Disability. ~~In~~ (a) With respect to injuries occurring prior to the effective date of this act, in case of disability, partial in character but permanent in quality, the compensation shall be seventy percent (70%) of the employee's average weekly wages, and shall be paid to the employee for the period named in the schedule, as follows:

Thumb: For the loss of thumb, sixty (60) weeks.

First Finger: For the loss of the first finger, commonly called the index finger, thirty-five (35) weeks.

Second Finger: For the loss of a second finger, thirty (30) weeks.

Third Finger: For the loss of a third finger, twenty (20) weeks.

Fourth Finger: For the loss of a fourth finger, commonly called the little finger, fifteen (15) weeks.

Phalange of Thumb or Finger: The loss of the first phalange of the thumb or finger shall be considered equal to the loss of one-half (1/2) of such thumb or finger, and compensation shall be one-half (1/2) of the amount above specified; the loss of more than one phalange shall be considered as the loss of the entire thumb or finger; provided, however, that in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.

Great Toe: For the loss of a great toe, thirty (30) weeks.

Other Toes: For the loss of one of the toes other than the great toe, ten (10) weeks.

Phalange of Toe: The loss of the first phalange of any toe shall be considered to be equal to the loss of one-half (1/2) of the amount specified. The loss of more than one phalange shall be considered as the loss of the entire toe.

Hand: For the loss of a hand, two hundred (200) weeks.

Arm: For the loss of an arm, two hundred fifty (250) weeks.

Foot: For the loss of a foot, two hundred (200) weeks.

Leg: For the loss of a leg, two hundred fifty (250) weeks.

Eye: For the loss of an eye, two hundred (200) weeks.

Deafness: Deafness from industrial cause, including occupations which are hazardous to hearing, accident or sudden trauma, three hundred (300) weeks, and total deafness of one ear from industrial cause, including occupations which are hazardous to hearing, accident or sudden trauma, one hundred (100) weeks. Any examining physician shall only evaluate deafness or hearing impairment in accordance with the latest publication of the American Medical Association's "Guides to the Evaluation of Permanent Impairment" in effect at the time of the injury. All evaluations shall include an apportionment of injury causation.

However, revisions to the guides made by the American Medical Association which are published after January 1, 1989, shall be operative one hundred twenty (120) days after the last day of the month of publication. The examining physician shall not follow the guides based on race or ethnic origin ~~and~~. The examining physician shall not deviate from said guides except as may be specifically provided for in the guides or modifications to the guides adopted by the Administrator of the Workers' Compensation Court as provided for in Section 17 of this act. The guides or modifications thereto shall be the exclusive basis for testimony and conclusions with regard to deafness or hearing impairment.

Loss of Use: Permanent loss of use of a thumb, finger, toe, arm, hand, foot, leg or eye shall be considered as the equivalent of the loss of such thumb, finger, toe, hand, arm, foot, leg or eye.

For the permanent partial loss of use of a member, loss of hearing or sight of an eye, seventy percent (70%) of the employee's average weekly wage during that portion of the number of weeks in the foregoing schedule provided for the loss of such member or sight of an eye which the partial loss of use thereof bears to the total loss of use of such member, loss of hearing or sight of an eye.

Amputations: Amputation between the elbow and the wrist shall be considered as the equivalent of the loss of a hand. Amputation between the knee and the ankle shall be considered as the loss of a foot. Amputation at or above the elbow shall be considered as the loss of an arm. Amputation at or above the knee shall be considered as the loss of a leg.

The compensation for the foregoing specific injuries shall be in lieu of all other compensation except the benefits provided in Section 14 of this title and Section 16 of this title.

In case of an injury resulting in serious and permanent disfigurement, compensation shall be payable in an amount to be determined by the Court, but not in excess of Twenty Thousand Dollars (\$20,000.00); provided, that compensation for permanent disfigurement shall not be in addition to the other compensation

provided for in this section, but shall be taken into consideration in fixing the compensation otherwise provided.

Hernia: In case of an injury resulting in hernia, temporary total compensation for fourteen (14) weeks, and the cost of an operation shall be payable; provided, in any case where the injured employee has been twice previously operated for hernia in the same area and it is established by opinion of a competent surgeon that further surgery in the same area will not result in full relief of the condition, the Court may then award compensation for disability resulting therefrom under paragraph 1 of this section, or, if not totally and permanently disabled, then under the "Other Cases" subdivision following, and, after a second surgical attempt to repair hernia, the injured may not be required to submit to further surgery in an effort to relieve the disability thereafter existing; provided, further, the use of any artificial reinforcement or device, with or without surgery, shall not be the basis of reducing extent of disability to be awarded.

Other Cases: In all other classes of disabilities, excluding only those heretofore referred to in paragraph 3 of this section, which disabilities result in loss of use of any portion of an employee's body, and which disabilities are permanent in quality but partial in character, disability shall mean the percentage of permanent impairment. The compensation ordered paid shall be seventy percent (70%) of the employee's average weekly wage for the number of weeks which the partial disability of the employee bears to five hundred (500) weeks.

(b) With respect to injuries occurring after the effective date of this act, in case of disability, partial in character but permanent in quality, the compensation shall be seventy percent (70%) of the employee's average weekly wages, and shall be paid to the employee for the period prescribed by the following schedule:

(1) For each percent of the first ten percent (10%) of disability, eighty percent (80%) of the number of weeks of compensation provided by law prior to the effective date of this act;

(2) For each percent of the next ten percent (10%) of disability, the identical number of weeks of compensation provided by law prior to the effective date of this act;

(3) For each percent of the next thirty percent (30%) of disability, one hundred twenty percent (120%) of the number of weeks of compensation provided by law prior to the effective date of this act; and

(4) For each remaining percent of disability, the identical number of weeks of compensation provided by law prior to the effective date of this act.

4. Temporary Partial Disability. In case of temporary partial disability, except the particular cases mentioned in paragraph 3 of this section, an injured employee shall receive seventy percent (70%) of the difference between his average weekly wages and his wage-earning capacity thereafter in the same employment or otherwise, if less than before the injury, during continuance of such partial disability, but not to exceed one hundred fifty (150) weeks. Provided, after compensation has been paid for a period of one hundred forty (140) weeks, the employee may request a review of the case by a judge of the Court for continued temporary partial disability benefits provided by the Workers' Compensation Act. Upon a finding that benefits should be extended beyond the initial one-hundred-fifty-week period, compensation may be continued for an additional one hundred fifty (150) weeks.

5. Notwithstanding any other section of the Workers' Compensation Act, temporary disability shall be payable without an award by the Court. The first payment of temporary disability compensation shall become due on the tenth day after the employer has received notice of injury as specified in Section 24.2 of this title. All compensation owed on that date shall be paid and thereafter payments shall be made weekly except when otherwise ordered by the Court.

If any compensation payments owed without an award are not paid within ten (10) days after becoming due there shall be added to such owed payments an amount equal to ten percent (10%) of the

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amount due which shall be paid at the same time in addition to the owed payments unless such nonpayment is excused by the Court after a showing by the employer that conditions exist over which the employer had no control in that either payments were not made within the prescribed time or the employer denies coverage within the time specified for the employer to respond.

6. Limitation. The compensation payments under the provisions of the Workers' Compensation Act shall not exceed the sum of seventy-five percent (75%) of the state's average weekly wage as determined by the Oklahoma Employment Security Commission for temporary disability; Sixty Dollars (\$60.00) per week beginning as of the effective date of the Workers' Compensation Act, and Seventy Dollars (\$70.00) per week beginning January 1, 1979, and Eighty Dollars (\$80.00) per week beginning January 1, 1980, and Ninety Dollars (\$90.00) per week beginning January 1, 1981, and to fifty percent (50%) of the state's average weekly wage beginning January 1, 1982, for permanent partial disability; Seventy-five Dollars (\$75.00) per week beginning as of the effective date of the Workers' Compensation Act, and Ninety Dollars (\$90.00) per week beginning January 1, 1979, and One Hundred Ten Dollars (\$110.00) per week beginning January 1, 1980, to sixty-six and two-thirds percent (66 2/3%) of the state's average weekly wage beginning January 1, 1981, and to seventy-five percent (75%) of the state's average weekly wage beginning September 1, 1992, for permanent total disability, or at any time be less than Thirty Dollars (\$30.00) per week; provided, however, that if the employee's wages at the time of the injury are less than Thirty Dollars (\$30.00) per week, he shall receive his full weekly wages; provided further, that the compensation received, as provided under paragraph 4 of this section, shall not, when added to the wages received by such employee after such injury, amount to a greater sum than eighty percent (80%) of his average weekly wages received prior to said injury.

The average weekly wage in this state shall be determined by the Oklahoma Employment Security Commission every three (3) years beginning July 1, 1984, and shall be used to establish maximum

benefits under the Workers' Compensation Act for injuries occurring during a three-year period, which period shall begin on the first day of November after publication by the Oklahoma Employment Security Commission. For the purpose of computing benefits payable under the Workers' Compensation Act, the state's average weekly wage shall be rounded to the nearest dollar amount.

The benefit level for members of the National Guard and any authorized voluntary or uncompensated worker rendering services as a fire fighter, peace officer or civil defense worker shall be determined by using the earnings of the individual in his regular occupation.

7. Previous Disability. The fact that an employee has suffered previous disability or impairment or received compensation therefor shall not preclude him from compensation for a later accidental personal injury or occupational disease; but in determining compensation for the later accidental personal injury or occupational disease his average weekly wages shall be such sum as will reasonably represent his earning capacity at the time of the later accidental personal injury or occupational disease. In the event there exists a previous impairment which produced permanent disability and the same is aggravated or accelerated by an accidental personal injury or occupational disease, compensation for permanent disability shall be only for such amount as was caused by such accidental personal injury or occupational disease and no additional compensation shall be allowed for the pre-existing disability or impairment.

8. Income benefits for death. If the injury or occupational disease causes death, income benefits shall be payable in the amount and for the benefit of the persons following, subject to the maximum limits specified hereafter:

(a) Benefit amounts for particular classes of dependents.

(1) If there is a surviving spouse, to such surviving spouse fifty percent (50%) of the average weekly wages the deceased was earning. In no event shall this spousal income benefit be diminished.

(2) If there is a child or children, to such child or children fifteen percent (15%) of the average weekly wages the deceased was earning for each child. Where there are more than two such children, the income benefits payable for the benefit of all children shall be divided among all children, to share and share alike, subject to the provisions of subparagraphs (c) and (d) of this paragraph.

(3) In addition to the benefits theretofore paid or due, two (2) years' indemnity benefit in one lump sum shall be payable to a surviving spouse upon remarriage.

(4) To the children, if there is no surviving spouse, thirty-five percent (35%) of the average weekly wages the deceased was earning for one child, and fifteen percent (15%) of such wage for each additional child, divided among all children, to share and share alike, subject to the provisions of subparagraphs (c) and (d) of this paragraph.

(5) The income benefits payable for the benefit of any child under this section shall cease when he dies, marries or reaches the age of eighteen (18), or when the child over such age ceases to be physically or mentally incapable of self-support, or if the actually dependent child ceases to be actually dependent, or, if enrolled as a full-time student in any accredited educational institution, ceases to be so enrolled or reaches the age of twenty-three (23). A child who originally qualified as a dependent by virtue of being less than eighteen (18) years of age may, upon reaching age eighteen (18), continue to qualify if he satisfies the tests of being physically or mentally incapable of self-support, actually dependent or enrolled in an accredited educational institution.

(6) To each parent, if actually dependent, twenty-five percent (25%) of the average weekly wages the deceased was earning subject to the provisions of subparagraphs (c) and (d) of this paragraph.

(7) To the brothers, sisters, grandparents and grandchildren, if actually dependent, twenty-five percent (25%) of the average weekly wages the deceased was earning to each such dependent. If

there should be more than one of such dependents, the total income benefits payable for the benefit of such dependents shall be divided to share and share alike subject to the provisions of subparagraphs (c) and (d) of this paragraph.

(8) The income benefits of each beneficiary under divisions (6) and (7) above, shall be paid until the beneficiary, if a parent or grandparent, dies, marries or ceases to be actually dependent, or, if a brother, sister or grandchild, dies, marries or reaches the age of eighteen (18), is over the age of eighteen (18) and ceases to be physically or mentally incapable of self-support or ceases to be actually dependent.

(9) A person ceases to be actually dependent when his income from all sources exclusive of workers' compensation income benefits is such that, if it had existed at the time the original determination of actual dependency was made, it would not have supported a finding of dependency. If the present annual income of an actually dependent person including workers' compensation income benefits at any time exceeds the total annual support received by the person from the deceased employee, the workers' compensation benefits shall be reduced so that the total annual income is no greater than such amount of annual support received from the deceased employee. In all cases, a person found to be actually dependent shall be presumed to be no longer actually dependent three (3) years after the time as of which the person was found to be actually dependent. This presumption may be overcome by proof of continued actual dependency as defined in this paragraph and paragraph (1) of Section 3.1 of this title.

(b) Change in dependents. Upon the cessation of income benefits under this section to or for the benefit of any person, the income benefits payable to the remaining persons who continue to be entitled to income benefits for the unexpired part of the period during which their income benefits are payable shall be that which such persons would have received if they had been the only persons entitled to income benefits at the time of the decedent's death.

(c) Maximum income benefits for death. For the purposes of this section, the average weekly wage of the employee shall be taken as not more than the average weekly wage of the state. In no case shall the aggregate weekly income benefits payable to all beneficiaries under this section exceed the maximum income benefits that were or would have been payable for total permanent disability to the deceased.

(d) Maximum total payment. The maximum weekly income benefits payable for all beneficiaries in case of death shall not exceed seventy-five percent (75%) of the average weekly wages the deceased was earning, subject to the maximum limits in subparagraph (c) of this paragraph. The maximum aggregate limitation shall not apply in case of payment of two (2) years' income benefits to the surviving spouse upon remarriage, as provided under division (3) of subparagraph (a) of this paragraph, to prevent the immediate recalculation and payments of benefits to the remaining beneficiaries as provided under subparagraph (b) of this paragraph. The weekly income benefits as recalculated to the remaining beneficiaries shall not exceed the weekly benefit that was or would have been payable for total permanent disability to the deceased. The classes of beneficiaries specified in divisions (1), (2) and (4) of subparagraph (a) of this paragraph shall have priority over all other beneficiaries in the apportionment of income benefits. If the provisions of this subparagraph should prevent payments to other beneficiaries of the income benefits to the full extent otherwise provided for by this section, the gross remaining amount of income benefits payable to such other beneficiaries shall be apportioned by class, proportionate to the interest of each class in the remaining amount. Parents shall be considered to be in one class and those specified in division (7) of subparagraph (a) of this paragraph in a separate class.

9. Where some pecuniary loss may be shown by heirs-at-law of the deceased, as defined by the descent and distribution statutes of Oklahoma, who are otherwise not entitled to receive benefits under other provisions of this section, such heirs-at-law shall

receive compensation for their pecuniary loss not to exceed an aggregate of Five Thousand Dollars (\$5,000.00).

10. In the event that no benefits under other provisions of this section are paid to the dependents or the heirs-at-law of the deceased, an amount not to exceed ~~Three Thousand Dollars (\$3,000.00)~~ Five Thousand Dollars (\$5,000.00) shall be paid for funeral expenses.

11. (a) If there is a surviving spouse and surviving children entitled to receive death benefits herein, such survivors shall be entitled to an immediate lump-sum payment of Ten Thousand Dollars (\$10,000.00) to the spouse and Two Thousand Five Hundred Dollars (\$2,500.00) to each surviving child not to exceed two children.

(b) If there is no surviving spouse but there are surviving children entitled to receive death benefits herein, such surviving children shall be entitled to a lump-sum payment of Ten Thousand Dollars (\$10,000.00) to be divided among all the children to share and share alike.

(c) Any claim under this paragraph shall be substantiated by the filing of a properly executed and authenticated proof of loss, which form shall be prescribed by the Administrator, and payment of such sum shall be made within fifteen (15) days after adjudication of entitlement by the Court. Such sum shall not be subject to any award of attorney fees in uncontested cases, except the Court shall appoint a guardian ad litem to represent known and unknown minor children and said guardian ad litem shall be paid a reasonable fee for his services.

Provided, that all judgments rendered awarding lump-sum death benefits, except lump-sum attorney fee awards, may, at the discretion of the Court, provide that said benefits be paid in trust to an interest-bearing account in a federally insured banking institution in the county wherein the judgment was rendered. The banking institution may make appropriate charges to the beneficiary for costs of trust management. These charges shall be fixed by agreement of such institution and the judge rendering the judgment. The judgment awarding lump-sum death

benefits shall contain instructions for regularly scheduled disbursements to be fixed by the Court which may be modified by the Court upon a proper showing of change of circumstance. The banking institution shall issue a numbered receipt to the person paying the benefits into trust and deliver a copy of the receipt to the Administrator. Each banking institution receiving trust funds for deposit shall receive a schedule of disbursements and shall monthly pay said disbursements to the beneficiary as ordered by the Court. An annual accounting of all such trust funds received and deposited shall be rendered by each banking institution to the Court granting the judgment.

12. No payments on any permanent impairment order shall start until payments on any pre-existing permanent impairment orders have been completed.

13. Any employee convicted of a misdemeanor or felony and sentenced to a term of incarceration of at least ninety (90) days in this state or in any other jurisdiction shall have all benefits for permanent total disability, temporary total disability or temporary partial disability awarded by the Workers' Compensation Court suspended by order of the Court for the period of such incarceration. The benefits shall be suspended by order of the Workers' Compensation Court on motion of the employer or the employer's insurer after confirmation of the employee's incarceration. The Court also may order the suspension of such benefits on its own motion upon receipt of notice from the Director of the Oklahoma Department of Corrections that the person awarded the benefits is incarcerated as an inmate in a facility operated by or under contract with the Department. The provisions of this paragraph shall not apply to any benefits awarded to an inmate for compensable injuries sustained by the inmate while in the employ of a private for-profit employer or while employed in private prison industries, involving a for-profit employer, which deal in interstate commerce or which sell products or services to the federal government.

SECTION 11. AMENDATORY 85 O.S. 1991, Section 24.2, is amended to read as follows:

Section 24.2 A. Unless an employee gives oral or written notice to the employer within sixty (60) days of the date an injury occurs or the employee receives medical attention from a licensed physician during the sixty-day period from the date an injury occurred, the claim shall be forever barred, unless, in the discretion of the trial judge, good cause is shown by the employee to the Court to excuse such failure of notice or treatment. Provided, for an occupational disease or repeated trauma, notice shall be given to the employer within the statutory period for occupational disease set out in Section 43 of ~~Title 85 of the Oklahoma Statutes~~ this title. Provided further, there shall be a rebuttable presumption that injury from occupational disease or injury caused by repeated trauma does not arise out of and in the course of employment unless oral or written notice is given by the employee to the employer within sixty (60) days of the employee's separation from employment.

B. If the employer has notice of the injury and the injury is not disputed and weekly temporary total disability benefit payments are not commenced within twenty (20) days or if any subsequent installment of temporary total disability benefits is not made within ten (10) days after it becomes due, the insurer of the employer shall pay to the employee a penalty of fifteen percent (15%) of the unpaid or delayed weekly benefits. This penalty may be imposed by the Court for good cause shown on a case by case basis.

C. The Administrator, on the basis of information collected, may ask the Court to impose the penalty provided in subsection B of this section.

D. Any penalty imposed pursuant to subsections B or C of this section shall not be reported or used for ratemaking purposes.

SECTION 12. AMENDATORY 85 O.S. 1991, Section 43, is amended to read as follows:

Section 43. A. The right to claim compensation under the Workers' Compensation Act shall be forever barred unless, within two (2) years after the date of accidental injury or death, a claim for compensation is filed with the Workers' Compensation

Court. Provided however, a claim may be filed within two (2) years of the last payment of any compensation or remuneration paid in lieu of compensation or medical treatment which was authorized by the employer or the insurance carrier. Provided further however, with respect to disease or injury caused by repeated trauma causally connected with employment, a claim may be filed within two (2) years of the date of last trauma or hazardous exposure. Provided further however, in the case of asbestosis, silicosis or exposure to nuclear radiation causally connected with employment, a claim may be filed within two (2) years of the date of last hazardous exposure or within two (2) years from the date said condition first becomes manifest by a symptom or condition from which one learned in medicine could, with reasonable accuracy, diagnose such specific condition, whichever last occurs. The filing of any form or report by the employer or insurance carrier shall not toll the above limitations.

B. When a claim for compensation has been filed with the Administrator as herein provided, unless the claimant shall in good faith request a hearing and final determination thereon within five (5) years from the date of filing thereof or within five (5) years from the date of last payment of compensation or wages in lieu thereof, same shall be barred as the basis of any claim for compensation under the Workers' Compensation Act and shall be dismissed by the Court for want of prosecution, which action shall operate as a final adjudication of the right to claim compensation thereunder. Provided, that any claims heretofore filed and pending on the effective date of the Workers' Compensation Act before the State Industrial Court shall likewise be barred after the expiration of five (5) years from the filing date or within five (5) years from the date of last payment of compensation or wages in lieu thereof.

C. The jurisdiction of the Court to reopen any cause upon an application based upon a change in condition shall extend for that period of time measured by the maximum number of weeks that could be awarded for the particular scheduled member where the change of condition occurred, or for three hundred (300) weeks in the case

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of injuries to the body or injuries not otherwise scheduled under the provisions of Section 22 of this title, and unless filed within said period of time after the date of the last order, shall be forever barred.

D. Each employer shall post a notice advising employees that they are covered by the Workers' Compensation Act ~~and~~, that ombudsman services are available at the Workers' Compensation Court and that the employer may qualify under the provisions of the Workers' Compensation Act to direct employees' medical care by selecting a managed care program. The form of the notice shall be prescribed by the rules of the Court. No other notice to the employee shall be required other than said poster required by this section; provided that nothing in this subsection shall be construed to toll the Statute of Limitations provided above.

SECTION 13. AMENDATORY 85 O.S. 1991, Section 61, as amended by Section 33, Chapter 335, O.S.L. 1992 (85 O.S. Supp. 1992, Section 61), is amended to read as follows:

Section 61. A. An employer shall secure compensation to his employees in one of the following ways:

1. By insuring and keeping insured the payment of such compensation with any stock corporation, mutual association, or other concerns authorized to transact the business of workers' compensation insurance in this state, or by exchanging contracts of indemnity or interinsurance, pursuant to reasonable rules ~~or regulations~~ prescribed by the Administrator providing for and securing the payment of the compensation provided for in the Workers' Compensation Act. When an insurer issues a policy to provide workers' compensation benefits pursuant to the provisions of the Workers' Compensation Act, the insurer shall file, or cause to be filed, with the Administrator a notice in such form and detail as the Administrator may prescribe by rule ~~and regulation~~. The notice shall identify whether the employer is qualified under Section 8 of this act to direct employees' medical care by selecting a managed care program and shall contain the name, address, and principal occupation of the employer, the number, effective date, and expiration date of the policy, and such other

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information as may be required by the Administrator. The notice shall be filed by the insurer within thirty (30) days after the effective date of the policy. Any insurer who fails to file the notice required by this subsection shall be liable for an administrative violation and subject to a fine by the Administrator of not more than One Thousand Dollars (\$1,000.00) ~~;~~

2. By obtaining and keeping in force guaranty insurance with any company authorized to do guaranty business in this state. Each company that issues such guaranty insurance shall file a copy of the contract with the Administrator within thirty (30) days after the effective date of the contract. Any company that fails to file a copy of the contract as required by this subsection shall be liable for an administrative violation and subject to a fine by the Administrator of not more than One Thousand Dollars (\$1,000.00) ~~;~~

3. Subject to the approval of the Administrator, by entering into or continuing an agreement with his employees to provide a scheme of compensation, benefits, or insurance in lieu of the compensation and insurance provided for in the Workers' Compensation Act. The scheme shall not provide less than the benefits secured by the Workers' Compensation Act nor vary the compensation period for disabilities or the provisions of the Workers' Compensation Act with respect to periodic payments or the percentage that those payments shall bear to weekly wages, except that the sums required may be increased. The Administrator shall approve a scheme that provides for contributions by workers, only when it confers benefits commensurate with such contributions and in addition to those required by the Workers' Compensation Act ~~;~~
or

4. By furnishing satisfactory proof to the Administrator of the employer's financial ability to pay such compensation. The Administrator, pursuant to rules adopted by the Court or the Administrator for an individual self-insured, ~~an own risk carrier~~ or a group self-insurance association, shall require an employer that has:

- a. less than one hundred (100) employees or less than One Million Dollars (\$1,000,000.00) in net assets to:
 - (1) deposit with the Administrator securities, an irrevocable letter of credit or a surety bond payable to the state, in an amount determined by the Administrator which shall be at least an average of the yearly claims for the last three (3) years; or
 - (2) provide proof of excess coverage with such terms and conditions as is commensurate with their ability to pay the benefits required by the provisions of the Workers' Compensation Act.
- b. one hundred (100) or more employees and One Million Dollars (\$1,000,000.00) or more in net assets to:
 - (1) secure a surety bond payable to the state, or an irrevocable letter of credit, in an amount determined by the Administrator which shall be at least an average of the yearly claims for the last three (3) years; or
 - (2) secure excess insurance.

The Administrator may waive the requirements of this paragraph in an amount which is commensurate with the ability of the individual self-insured, ~~own risk carrier~~ or group self-insurance association to pay the benefits required by the provisions of the Workers' Compensation Act. Irrevocable letters of credit required by this ~~section~~ paragraph shall contain such terms as may be prescribed by the Administrator and shall be issued for the benefit of the Workers' Compensation Court by a financial institution whose deposits are insured by the Federal Deposit Insurance Corporation. An employer authorized to self-insure as provided in this paragraph shall file with the Administrator a notice, in such form as may be prescribed by the Administrator, identifying whether the employer is qualified to direct employees' medical care by selecting a managed care program.

B. An employer who fails to comply with the provisions of this section shall be subject to the penalty provided for in Section 12 of this title.

C. Any employer that knowingly provides false information to the Administrator for purposes of becoming self-insured, ~~an own risk carrier~~ or a group self-insurance association shall be subject to the perjury laws of this state.

D. The provisions of this title shall not be construed to limit or restrict the ability of political subdivisions of this state or employers subject to the provisions of the Workers' Compensation Act from joining together to form group self-insurance associations pursuant to law or rules promulgated by the Court or the Administrator.

SECTION 14. AMENDATORY 85 O.S. 1991, Section 172, as amended by Section 11, Chapter 294, O.S.L. 1992 (85 O.S. Supp. 1992, Section 172), is amended to read as follows:

Section 172. A. If an employee who is a "physically impaired person" receives an accidental personal injury compensable under the Workers' Compensation Act which results in additional permanent disability so that the degree of disability caused by the combination of both disabilities is materially greater than that which would have resulted from the subsequent injury alone, the employee shall receive compensation on the basis of such combined disabilities. Only disability due to an injury to the body as a whole shall be combinable with a prior body disability, except that disability to a major member may be combined with disability to the body as a whole. ~~If~~ For injuries occurring before the effective date of this act, if such combined disabilities constitute partial permanent disability as now defined by the Workers' Compensation Act of this state, then such employee shall receive full compensation as now provided by law for the disability resulting directly and specifically from such subsequent injury, and in addition thereto such employee shall receive full compensation for his combined disability as above defined, after deducting therefrom the percent of that disability that constituted the employee a "physically impaired person", as

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defined herein, all of which shall be computed upon the schedule and provision of the Workers' Compensation Act of this state. Provided the employer shall be liable only for the degree of percent of disability which would have resulted from the latter injury if there had been no preexisting impairment. After payments by the employer or his insurance carrier, if any, have ceased, the remainder of such compensation shall be paid out of the Special Indemnity Fund provided for in Section 173 of this title, in periodic installments.

B. If such combined disabilities constitute permanent total disability, as now defined by the Workers' Compensation Act, then the employee shall receive full compensation as now provided by law for the disability resulting directly and specifically from such subsequent injury. In addition, the employee shall receive full compensation for his combined disability, as above defined, all of which shall be computed upon the schedule and provisions of the Workers' Compensation Act. The employer shall be liable only for the degree of percent of disability which would have resulted from the latter injury if there had been no preexisting impairment. After payments by the employer or his insurance carrier have ceased, the remainder of such compensation shall be paid out of the Special Indemnity Fund provided for in Section 173 of this title, in periodic installments. In permanent total disability cases the same shall be paid in periodic payments, as set forth in Section 22 of this title, and shall not be commuted to a lump-sum payment. The compensation rate for permanent total awards from the Special Indemnity Fund shall be the compensation rate for permanent partial disability paid by the employer in the last combinable compensable injury. Permanent total awards from the Special Indemnity Fund shall be payable for a period of five (5) years or until the employee reaches sixty-five (65) years of age, whichever period is the longer.

C. ~~Before~~ For injuries occurring prior to the effective date of this act, before a physically impaired person can proceed against the Special Indemnity Fund, the preexisting permanent partial disability and the permanent partial disability from the

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last injury must exceed a total amount equal to forty percent (40%) to the body. For injuries occurring on or after the effective date of this act, only those physically impaired persons whose combined disabilities constitute permanent total disability can proceed against the Special Indemnity Fund.

D. Awards from the Special Indemnity Fund shall abate upon the death, from any cause, of the employee.

SECTION 15. AMENDATORY 85 O.S. 1991, Section 173, as amended by Section 12, Chapter 294, O.S.L. 1992 (85 O.S. Supp. 1992, Section 173), is amended to read as follows:

Section 173. There is hereby created, for the purposes herein declared, a Special Indemnity Fund to be derived from the following sources:

A. Each mutual or interinsurance association, stock company, the State Insurance Fund, or other insurance carrier writing workers' compensation insurance in this state, and each self-insurer, shall pay to the Oklahoma Tax Commission a sum equal to five percent (5%) of the total compensation for permanent total disability or permanent partial disability paid out or payable during each quarter-year period of the calendar year. Such payments to the Tax Commission shall be made not later than the fifteenth day of the month following the close of the quarter-year in which compensation is paid or becomes payable. Contributions made by insurance carriers and the State Insurance Fund, under the provisions of the Workers' Compensation Act, to the Special Indemnity Fund shall be considered losses for the purpose of computing workers' compensation rates.

B. The Special Indemnity Fund is hereby authorized to receive and expend monies appropriated by the Legislature.

C. Where an award has been made by the Court, or any payments in lieu thereof, for compensable injury for a permanent total disability or a permanent partial disability, the employer or insurance carrier shall pay to such employee ninety-five percent (95%) of the same and the remaining five percent (5%) thereof shall be paid by such employer to the Oklahoma Tax Commission. Such payments to the Tax Commission shall be made not later than

the fifteenth day of the month following the close of each quarter of the calendar year in which compensation is paid or became payable.

D. The payments provided for in the foregoing subsections A and C, which aggregate ten percent (10%) of the awards for permanent disability, shall, in the event the award becomes final, accrue and be payable regardless of whether or not the award made to a claimant is paid.

E. In making and entering awards for compensation for permanent total disability or permanent partial disability, the Court shall determine and fix the amounts that shall be paid to the Tax Commission under subsections A and C of this section. The total amount of the deduction so determined and fixed shall have the same force and effect as an award of the Court for compensation and all provisions relating to the collection of awards of the Court shall apply to such judgments.

F. It shall be the duty of the Oklahoma Tax Commission to collect the payments provided for herein. The Oklahoma Tax Commission is hereby authorized to bring an action for the recovery of any delinquent or unpaid payments required in this section. The Oklahoma Tax Commission may also enforce payments by proceeding in accordance with the provisions of Section 42 of this title.

G. The Oklahoma Tax Commission shall on or before the first day of April of each year find and determine the amount of money held as of March 1 of that year by the State Treasurer for the benefit of the Special Indemnity Fund and shall on or before the first day of October of each year find and determine the amount of money held as of September 1 of that year by the State Treasurer for the benefit of the Special Indemnity Fund. Promptly after making each such determination, the Oklahoma Tax Commission shall advise the State Insurance Fund and the Administrator in writing of its findings and determination in the foregoing particulars.

H. Eighty percent (80%) of all sums held by the State Treasurer to the credit of the Special Indemnity Fund may by order of the Commissioner of the State Insurance Fund, with the approval

of the Board of Managers of the State Insurance Fund, be invested in or loaned on the pledge of any of the securities in which a state bank may invest the monies deposited therein by the State Treasurer; or may be deposited in state or national banks or trust companies upon insured time deposit bearing interest at a rate no less than currently being paid upon insured savings accounts in said institutions. "Insured" as used in this section shall mean insurance as provided by an agency of the federal government. All such securities or evidence of indebtedness shall be placed in the hands of the State Treasurer, who shall be the custodian thereof, who shall collect the principal and interest when due, and pay the same into the Special Indemnity Fund. The State Treasurer shall pay by vouchers drawn on the Special Indemnity Fund for the making of such investments, when signed by the Commissioner and approved by the Board of Managers of the State Insurance Fund, upon delivery of such securities or evidence of indebtedness to him. The Commissioner may, upon like approval of the Board of Managers of the State Insurance Fund, sell any of such securities, the proceeds thereof to be paid over to the State Treasurer for the Special Indemnity Fund.

I. The refund provisions of Sections 227 through 229 of Title 68 of the Oklahoma Statutes shall be applicable to any payments made to the Special Indemnity Fund. Refunds shall be paid from and out of the Special Indemnity Fund.

J. The Oklahoma Tax Commission shall pay, monthly, to the State Treasurer to the credit of the Special Indemnity Fund all monies collected under the provisions of this section. On the first day of the month following the date of approval by the United States Secretary of Labor of a state plan for Oklahoma under Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C., Sections 657 and 667), monies collected under this section shall be distributed as follows: seventy percent (70%) to the credit of the Special Indemnity Fund and thirty percent (30%) to the credit of the Oklahoma Department of Labor. Monies received by the Department under this section shall be used for the regulation of the safety of public and private employees

through the Occupational Safety and Health Act of 1970 pursuant to the state plan. The State Treasurer shall pay out of the Special Indemnity Fund only upon the order and direction of the Court of this state acting under the provisions hereof.

SECTION 16. AMENDATORY 85 O.S. 1991, Section 201, as amended by Section 13, Chapter 294, O.S.L. 1992 (85 O.S. Supp. 1992, Section 201), is amended to read as follows:

Section 201. A. A health care provider who knowingly charges for treatment under Workers' Compensation an amount greater than that normally charged for similar treatment to a payor outside the workers' compensation system, except for mandated or negotiated charges, shall be liable for an administrative penalty.

B. The Administrator shall adopt rules ~~and regulations~~ to establish a system of review of medical practices of health care providers through the workers' compensation system to evaluate on an aggregate basis the quantity and quality of treatment and charges of such providers. If the Administrator determines that a health care provider has, on an aggregate basis, established a pattern of over or under treating, failing to adhere to the AMA Guides or modifications thereto, or overcharging, the Administrator shall impose administrative penalties for abusive practices. A pattern of abusive practices shall include, but not be limited to, a pattern of referral to a medical facility for treatment found to be in excess of treatment guidelines adopted by the Administrator under Section 17 of this act. Physicians providing treatment under the Workers' Compensation Act shall disclose any ownership or interest in any health care facility that is in the physician's primary place of business, to the Administrator of the Workers' Compensation Court on a form prescribed by the Administrator.

C. If the Administrator determines that there is a reasonable likelihood that a violation has occurred, the Administrator shall notify the health care provider, by certified mail, return receipt requested, delivery restricted. This notice shall contain the following:

1. The substance of the alleged violation;

2. The amount of any fees, fines, penalties and costs which may be imposed if the provider is found guilty or fails to respond; and

3. The date that a response must be made or a hearing requested.

D. The provider shall file a response to the allegations or request a hearing within twenty (20) days after receipt of the notice required by subsection C of this section.

E. Upon receipt of the response or request for hearing, the Administrator shall set a date, time and place for hearing which shall be not less than ten (10) nor more than thirty (30) days after receipt of the request for hearing. The Administrator shall notify all interested parties of the hearing by first-class mail. This notice shall include the following:

1. The date, time and place for such hearing;
2. A brief description of the procedures to be followed; and
3. A statement that the health care provider may appear, may be represented by counsel, and may present witnesses and testimony.

F. The Administrator shall, within thirty (30) days after completion of the proceedings, make written findings of fact and conclusions of law which shall be sent to the health care provider by first-class mail together with a notice which shall contain the following:

1. A statement that a health care provider aggrieved by the decision of the Administrator shall have ten (10) days after the decision is filed within which to request a hearing before a judge of the Workers' Compensation Court to determine the propriety of the Administrator's decision; and that the order of the judge shall be subject to the same appellate procedure set forth in Section 3.6 of this title for all other orders of the Court; and
2. Directions for remitting the penalty, if any.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 201.1 of Title 85, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created a Physician Advisory Committee for the purpose of assisting the Administrator of the Workers' Compensation Court in the review of medical practices of health care providers as provided for in Section 201 of Title 85 of the Oklahoma Statutes. The Committee shall:

1. After public hearing, review and make recommendations for acceptable deviations from the American Medical Association's "Guides to the Evaluation of Permanent Impairment" using appropriate and scientifically valid data. Those recommendations may be adopted, in part or in whole, by the Administrator to be used as provided for in paragraph 11 of Section 3 and Section 22 of Title 85 of the Oklahoma Statutes;

2. After public hearing, review and make recommendations for treatment guidelines. Those recommendations may be adopted, in part or in whole, by the Administrator;

3. Provide general recommendations to the judges of the Workers' Compensation Court on the issues of injury causation and apportionment;

4. Conduct educational seminars for the judges of the Workers' Compensation Court, employers, employees, and other interested parties; and

5. Assist the judges of the Workers' Compensation Court in accessing medical information from scientific literature.

B. The Governor shall appoint five medical providers, three of whom shall be persons licensed in Oklahoma as a medical doctor, one of whom shall be a person licensed in Oklahoma as a chiropractor, and one of whom shall be a person licensed in Oklahoma as an osteopathic physician.

C. The term of office for initial appointees shall be as follows:

1. The term of office for the chiropractor position and one medical doctor position shall expire on March 1, 1994;

2. The term of office for the osteopathic position and one medical doctor position shall expire on March 1, 1995; and

3. The term of office for one medical doctor position shall expire on March 1, 1996.

D. Thereafter, successors in office shall be appointed for a three-year term. Members shall be eligible to succeed themselves in office and any person appointed to fill a vacancy shall be appointed for the unexpired portion of the term.

E. During their respective terms of office, the physicians appointed to the Physician Advisory Committee shall be strictly prohibited from serving as a third physician appointed by the Workers' Compensation Court as described in Section 17 of Title 85 of the Oklahoma Statutes.

F. Members shall receive their traveling and other necessary expenses incurred in the performance of their duties as provided in the State Travel Reimbursement Act.

G. Meetings of the Physician Advisory Committee shall be called by the Administrator but held at least quarterly. The presence of three members constitutes a quorum. No action shall be taken by the Physician Advisory Committee without the affirmative vote of at least three members.

H. The Administrator shall provide office supplies and personnel of the Workers' Compensation Court to carry out any of the duties that have been entrusted to the Committee.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 415.1 of Title 40, unless there is created a duplication in numbering, reads as follows:

The Commissioner of Labor shall receive and maintain any "Certification of Non-Coverage Under the Workers' Compensation Act", which, if filed by an individual exempt from the definition of employee under Section 3 of Title 85 of the Oklahoma Statutes, shall establish a rebuttable presumption that the filer is not an employee for purposes of the Workers' Compensation Act. The Commissioner of Labor shall develop necessary rules for the establishment and maintenance of such certificates and shall charge a reasonable filing fee, not to exceed Ten Dollars (\$10.00) for each certificate issued. The filing of such a certificate shall not affect the rights or coverage of any employee of the individual filing the certificate. Falsifying information for

purposes of obtaining a "Certification of Non-Coverage Under the Workers' Compensation Act" shall constitute a misdemeanor.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 418.1 of Title 40, unless there is created a duplication in numbering, reads as follows:

The State of Oklahoma, by and through the Commissioner of Labor, may submit a state plan to the United States Secretary of Labor to contract with the United States Department of Labor to cede jurisdiction over all public and private employees to the State of Oklahoma through the Oklahoma Department of Labor for the regulation of the safety of those employees through the Occupational Safety and Health Act of 1970.

SECTION 20. This act shall become effective September 1, 1993.

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