

1 ENGROSSED HOUSE
2 BILL NO. 2652

By: Sullivan, McCullough,
Moore, Duncan and Osborn of
the House

3
4 and

5 Coffee of the Senate
6
7

8 (workers' compensation - amending various sections
9 in Title 85 - definitions - reporting procedures -
10 medical services after an injury - vocational
11 rehabilitation counselors - codification -
12 effective date)
13
14

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

16 SECTION 1. AMENDATORY 85 O.S. 2001, Section 3, as last
17 amended by Section 9, Chapter 1, 1st Extraordinary Session, O.S.L.
18 2005 (85 O.S. Supp. 2009, Section 3), is amended to read as follows:

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

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

22 2. "Amount in dispute" means the dollar value of any permanent
23 disability award granted to the employee by the Court for a
24 disability claim which is greater than the dollar amount offered by

1 the employer to the employee for such disability claim if the
2 employer admits compensability within twenty (20) days of the filing
3 of the Employee's First Notice of Accidental Injury and Claim for
4 Compensation, has not disputed medical treatment, and has made a
5 written settlement offer within ~~fifteen (15)~~ thirty (30) days of the
6 employee reaching maximum medical improvement;

7 3. "Case management" means the ongoing coordination, by a case
8 manager, of health care services provided to an injured or disabled
9 worker, including, but not limited to:

- 10 a. systematically monitoring the treatment rendered and
11 the medical progress of the injured or disabled
12 worker,
- 13 b. ensuring that any treatment plan follows all
14 appropriate treatment protocols, utilization controls
15 and practice parameters,
- 16 c. assessing whether alternative health care services are
17 appropriate and delivered in a cost-effective manner
18 based upon acceptable medical standards, and
- 19 d. ensuring that the injured or disabled worker is
20 following the prescribed health care plan;

21 4. "Case manager" means a person who:

- 22 a. is a registered nurse with a current, active
23 unencumbered license from the Oklahoma Board of
24 Nursing, or

1 b. possesses one or more of the following certifications
2 which indicate the individual has a minimum number of
3 years of case management experience, has passed a
4 national competency test and regularly obtains
5 continuing education hours to maintain certification:

6 (1) Certified Disability Management Specialist
7 (CDMS),

8 (2) Certified Case Manager (CCM),

9 (3) Certified Rehabilitation Registered Nurse (CRRN),

10 (4) Case Manager - Certified (CMC),

11 (5) Certified Occupational Health Nurse (COHN), or

12 (6) Certified Occupational Health Nurse Specialist
13 (COHN-S);

14 5. "Claimant" means a person who claims benefits for an injury
15 pursuant to the provisions of the Workers' Compensation Act;

16 6. a. "Compensable injury":

17 (1) means any injury or occupational illness, causing
18 internal or external harm to the body, which
19 arises out of and in the course of employment if
20 such employment was the major cause of the
21 specific injury or illness. An injury, other
22 than cumulative trauma, is compensable only if it
23 is caused by a specific incident and is
24 identifiable by time, place and occurrence unless

1 it is otherwise defined as compensable in this
2 title. A compensable injury must be established
3 by objective medical evidence, as defined in this
4 section. An injury by accident is compensable
5 only if the accident was the prevailing factor in
6 causing both the resulting medical condition and
7 disability. The "prevailing factor" is defined
8 to be the primary factor, in relation to any
9 other factor, causing both the resulting medical
10 condition and disability supported by objective
11 medical finding,

12 (2) includes heart-related or vascular injury,
13 illness or death only if an accident or the
14 claimant's employment is the major cause of the
15 heart-related or vascular injury. A heart-
16 related or vascular injury, illness, or death is
17 a compensable injury only if, in relation to
18 other factors contributing to the physical harm,
19 an accident is the major cause of the physical
20 harm.

21 An injury, illness or death included in this
22 subparagraph shall not be deemed to be a
23 compensable injury unless it is shown that the
24 exertion of the work necessary to precipitate

1 disability or death was extraordinary and unusual
2 in comparison to the usual work of the employee
3 in the course of the regular employment of the
4 employee, or alternatively, that some unusual and
5 unpredicted incident occurred which is found to
6 have been the major cause of the physical harm.
7 Stress, physical or mental, shall not be
8 considered in determining whether the employee or
9 claimant has met the burden of proof.

10 The injury must be established by objective
11 medical evidence, as defined in this section.

12 The employee has the burden of proof to establish
13 by a preponderance of the evidence that such
14 unexpected or unforeseen injury was in fact
15 caused by the employment. There is no
16 presumption from the mere occurrence of such
17 unexpected or unforeseen injury that the injury
18 was in fact caused by the employment,

19 (3) includes personal property which is used to make
20 up the physical structure of the body, such as
21 artificial dentures, artificial limbs, glass
22 eyes, eye glasses and other prostheses which are
23 placed in or on the body to replace the physical
24

1 structure which became damaged as a result of the
2 injury,

3 (4) includes injury due to the willful act of a third
4 person directed against an employee because of
5 the employee's employment, and

6 (5) includes an injury or disease resulting from a
7 vaccine administered at the direction of the
8 employer or in response to a declaration by the
9 Secretary of the United States Department of
10 Health and Human Services under the Public Health
11 Services Act to address an actual or potential
12 health risk related to the employee's employment.

13 b. "Compensable injury" shall not include:

14 (1) mental injury that is unaccompanied by physical
15 injury, except in the case of rape, holdups,
16 witnessing killings, or violent death which
17 arises out of and in the course of employment,

18 (2) alcoholism and disabilities attributable thereto,

19 (3) drug addiction or disabilities resulting
20 therefrom, except when such addiction or
21 disability resulted from the use of drugs or
22 medicines prescribed for the treatment of the
23 initial injury by an authorized physician and the
24 employee followed the dosage prescribed,

1 (4) an employee's use of a motor vehicle that was
2 provided to the employee by a motor vehicle
3 dealer and bears a dealer's license plate for
4 commuting to or from work or any other non-work
5 activity,

6 (5) injury or disability caused primarily by the
7 natural deterioration of tissue, an organ or part
8 of the body, nor by the ordinary, gradual
9 deterioration or progressive degeneration caused
10 by the aging process, unless the employment is a
11 major cause of the deterioration or degeneration
12 and is supported by objective medical evidence,

13 (6) an injury incurred by an employee by the
14 employee's willful intention to injure oneself or
15 another,

16 (7) an injury or disease caused by exposure to a
17 toxic substance, including, but not limited to,
18 asbestos, silica, fungus or mold, unless there is
19 a preponderance of the evidence establishing that
20 exposure to the specific substance involved, at
21 the levels to which the employee was exposed, can
22 cause the injury or disease sustained by the
23 employee,

1 (8) a claim for mental stress resulting solely from
2 disciplinary action taken in good faith by the
3 employer,

4 (9) an injury resulting directly or indirectly from
5 idiopathic causes,

6 (10) any contagious or infectious disease unless it
7 arises out of and occurs during the course of
8 employment,

9 (11) death due to natural causes occurring while the
10 worker is at work,

11 (12) injury which was inflicted upon the employee at a
12 time when employment services were not being
13 performed or before the employee was hired or
14 after the employment relationship was terminated,
15 or

16 (13) injury where the accident was substantially
17 occasioned by the use of alcohol, illegal drugs,
18 or prescription drugs used in contravention of
19 the orders of a physician.

20 (a) The presence of alcohol, illegal drugs, or
21 prescription drugs used in contravention of
22 orders of a physician shall create a
23 rebuttable presumption that the injury or
24 accident was substantially occasioned by the

1 use of alcohol, illegal drugs, or
2 prescription drugs used in contravention of
3 orders of a physician.

4 (b) Every employee is deemed by his or her
5 performance of services to have impliedly
6 consented to reasonable and responsible
7 testing by properly trained medical or law
8 enforcement personnel for the presence of
9 any of the aforementioned substances in the
10 body of the employee.

11 (c) An employee shall not be entitled to
12 compensation unless it is proved by a
13 preponderance of the evidence that the
14 alcohol, illegal drugs, or prescription
15 utilized in contravention of the orders of
16 the physician did not substantially occasion
17 the injury or accident.

18 (d) Notwithstanding Section 554 of Title 40 of
19 the Oklahoma Statutes, a public or private
20 employer may require an employee to undergo
21 drug or alcohol testing if the employee or
22 another person has sustained a work-related
23 injury. For purposes of workers'
24 compensation, an employee who tests positive

1 for the presence of substances defined and
2 consumed pursuant to Section 465.20 of Title
3 63 of the Oklahoma Statutes, alcohol, or
4 prescription drugs not prescribed by the
5 employee's treating medical provider shall
6 not be eligible for such compensation unless
7 the employee proves by a preponderance of
8 the evidence that the substances or alcohol
9 were not the proximate cause of the injury
10 or accident.

11 c. A compensable injury must be established by medical
12 evidence supported by objective findings as defined in
13 the Workers' Compensation Act.

14 d. The burden of proof of a compensable injury shall be
15 on the employee.

16 e. When an employee is determined to have a compensable
17 injury, the employee is entitled to medical and
18 temporary disability as provided by this section.

19 (1) Permanent benefits shall be awarded only upon a
20 determination that the compensable injury was the
21 major cause of the disability or impairment.

22 (2) If any compensable injury combines with a
23 preexisting disease or condition or the natural
24 process of aging to cause or prolong disability

1 or a need for treatment, permanent benefits shall
2 be payable for the resultant condition only if
3 the compensable injury is the major cause of the
4 permanent disability or need for treatment.

5 (3) Under this subparagraph, benefits shall not be
6 payable for a condition which results from a non-
7 work-related independent intervening cause
8 following a compensable injury which causes or
9 prolongs disability or a need for treatment. A
10 non-work-related independent intervening cause
11 does not require negligence or recklessness on
12 the part of a claimant.

13 (4) Nothing in this subparagraph shall limit the
14 payment of rehabilitation benefits or benefits
15 for disfigurement as set forth in this section.

16 f. Aging and the effects of aging on a compensable injury
17 are not to be considered in determining whether there
18 has been a change in physical condition. Nor shall
19 aging or the effect of aging on a compensable injury
20 be considered in determining permanent disability
21 pursuant to this section or any other section in the
22 Workers' Compensation Act. The purpose and intent of
23 this section is to annul any and all case law
24 inconsistent with this section;

1 7. "Court" means the Workers' Compensation Court;

2 8. "Compensation" means the benefit payable to the employee or
3 the dependents of the employee in the form of:

4 a. temporary total or temporary partial disability
5 payments,

6 b. permanent partial or permanent total disability
7 payments, settlements or awards, and

8 c. other compensation which may include medical care,
9 prescription costs, other fees or costs associated
10 with physical or vocational rehabilitation and funeral
11 expenses.

12 Compensation shall be computed on the average weekly wage earned by
13 the employee in force at the time of the accident. Where the
14 injured employee was working other than full time, the average
15 weekly wage shall be determined by dividing the earnings of the
16 employee by the number of hours required to earn the wages during
17 the period not to exceed fifty-two (52) weeks preceding the week in
18 which the accident occurred and by multiplying this hourly wage by
19 the number of hours in a full-time workweek as set out in this
20 title, as it applies to the claimant;

21 ~~7.~~ 9. "Cumulative trauma" means a compensable injury, the major
22 cause of which results from employment activities which are
23 repetitive in nature and engaged in over a period of time and which
24

1 is supported by objective medical evidence as defined in this
2 section;

3 ~~8.~~ 10. "Death" means only death resulting from a compensable
4 injury as defined in this title;

5 11. "Employer", except when otherwise expressly stated, means a
6 person, partnership, association, limited liability company,
7 corporation, and the legal representatives of a deceased employer,
8 or the receiver or trustee of a person, partnership, association,
9 corporation, or limited liability company, departments,
10 instrumentalities and institutions of this state and divisions
11 thereof, counties and divisions thereof, public trusts, boards of
12 education and incorporated cities or towns and divisions thereof,
13 employing a person included within the term "employee" as herein
14 defined. "Employer" may also include the insurance company or
15 representative of the insurance company of the employer, if
16 appropriate;

17 ~~9.~~ 12. "Employee" means any person engaged in the employment of
18 any person, firm, limited liability company or corporation covered
19 by the terms of the Workers' Compensation Act, and shall include
20 workers associating themselves together under an agreement for the
21 performance of a particular piece of work, in which event such
22 persons so associating themselves together shall be deemed employees
23 of the person having the work executed; provided, that if such
24 associated workers shall employ a worker in the execution of such

1 contract, then as to such employed worker, both the associated
2 employees and the principal employer shall at once become subject to
3 the provisions of the Workers' Compensation Act relating to
4 independent contractors. Sole proprietors, members of a
5 partnership, members of a limited liability company who own at least
6 ten percent (10%) of the capital of the limited liability company or
7 any stockholder-employees of a corporation who own ten percent (10%)
8 or more stock in the corporation are specifically excluded from the
9 foregoing definition of "employee", and shall not be deemed to be
10 employees as respects the benefits of the Workers' Compensation Act.
11 Provided, a sole proprietor, member of a partnership, member of a
12 limited liability company who owns at least ten percent (10%) of the
13 capital of the limited liability company or any stockholder-employee
14 of a corporation who owns ten percent (10%) or more stock in the
15 corporation who does not so elect to be covered by a policy of
16 insurance covering benefits under the Workers' Compensation Act,
17 when acting as a subcontractor, shall not be eligible to be covered
18 under the prime contractor's policy of workers' compensation
19 insurance; however, nothing herein shall relieve the entities
20 enumerated from providing workers' compensation insurance coverage
21 for their employees. Sole proprietors, members of a partnership,
22 members of a limited liability company who own at least ten percent
23 (10%) of the capital of the limited liability company or any
24 stockholder-employees of a corporation who own ten percent (10%) or

1 more stock in the corporation may elect to include the sole
2 proprietors, any or all of the partnership members, any or all of
3 the limited liability company members or any or all stockholder-
4 employees as employees, if otherwise qualified, by endorsement to
5 the policy specifically including them under any policy of insurance
6 covering benefits under the Workers' Compensation Act. When so
7 included, the sole proprietors, members of a partnership, members of
8 a limited liability company or any or all stockholder-employees
9 shall be deemed to be employees as respects the benefits of the
10 Workers' Compensation Act. "Employee" shall also include any person
11 who is employed by the departments, instrumentalities and
12 institutions of this state and divisions thereof, counties and
13 divisions thereof, public trusts, boards of education and
14 incorporated cities or towns and divisions thereof. "Employee"
15 shall also include a member of the Oklahoma National Guard while in
16 the performance of duties only while in response to state orders and
17 any authorized voluntary or uncompensated worker, rendering services
18 as a firefighter, peace officer or emergency management worker.
19 Provided, "employee" shall not include any other person providing or
20 performing voluntary service who receives no wages for the services
21 other than meals, drug or alcohol rehabilitative therapy,
22 transportation, lodging or reimbursement for incidental expenses.
23 "Employee" shall also include a participant in a sheltered workshop
24 program which is certified by the United States Department of Labor.

1 "Employee" shall not include a person, commonly referred to as an
2 owner-operator, who owns or leases a truck-tractor or truck for
3 hire, if the owner-operator actually operates the truck-tractor or
4 truck and if the person contracting with the owner-operator is not
5 the lessor of the truck-tractor or truck. Provided, however, an
6 owner-operator shall not be precluded from workers' compensation
7 coverage under the Workers' Compensation Act if the owner-operator
8 elects to participate as a sole proprietor. "Employee" shall not
9 include a person referred to as a drive-away owner-operator who
10 privately owns and utilizes a tow vehicle in drive-away operations
11 and operates independently for hire, if the drive-away owner-
12 operator actually utilizes the tow vehicle and if the person
13 contracting with the drive-away owner-operator is not the lessor of
14 the tow vehicle. Provided, however, a drive-away owner-operator
15 shall not be precluded from workers' compensation coverage under the
16 Workers' Compensation Act if the drive-away owner-operator elects to
17 participate as a sole proprietor;

18 ~~10.~~ 13. "Drive-away operations" include every person engaged in
19 the business of transporting and delivering new or used vehicles by
20 driving, either singly or by tow bar, saddle mount or full mount
21 method, or any combination thereof, with or without towing a
22 privately owned vehicle;

23 ~~11.~~ 14. "Employment" includes work or labor in a trade,
24 business, occupation or activity carried on by an employer or any

1 authorized voluntary or uncompensated worker rendering services as a
2 firefighter, peace officer or emergency management worker;

3 ~~12. "Compensation" means the money allowance payable to an~~
4 ~~employee as provided for in the Workers' Compensation Act;~~

5 ~~13. a. "Compensable injury" means any injury or occupational~~
6 ~~illness, causing internal or external harm to the~~
7 ~~body, which arises out of and in the course of~~
8 ~~employment if such employment was the major cause of~~
9 ~~the specific injury or illness. An injury, other than~~
10 ~~cumulative trauma, is compensable only if it is caused~~
11 ~~by a specific incident and is identifiable by time,~~
12 ~~place and occurrence unless it is otherwise defined as~~
13 ~~compensable in this title. A compensable injury must~~
14 ~~be established by objective medical evidence, as~~
15 ~~defined in this section.~~

16 ~~b. "Compensable injury" includes heart related or~~
17 ~~vascular injury, illness or death only if an accident~~
18 ~~or the claimant's employment is the major cause of the~~
19 ~~heart related or vascular injury. Such injury shall~~
20 ~~be compensable only if it is demonstrated that the~~
21 ~~exertion necessary to produce the harm was~~
22 ~~extraordinary and unusual in comparison to other~~
23 ~~occupations and that the occupation was the major~~
24 ~~cause of the harm. The injury must be established by~~

1 ~~objective medical evidence, as defined in this~~
2 ~~section.~~

3 e. ~~"Injury" or "personal injury" shall not include mental~~
4 ~~injury that is unaccompanied by physical injury,~~
5 ~~except in the case of rape which arises out of and in~~
6 ~~the course of employment.~~

7 d. ~~"Compensable injury" shall not include the ordinary,~~
8 ~~gradual deterioration or progressive degeneration~~
9 ~~caused by the aging process, unless the employment is~~
10 ~~a major cause of the deterioration or degeneration and~~
11 ~~is supported by objective medical evidence, as defined~~
12 ~~in this section; nor shall it include injury incurred~~
13 ~~while engaging in, performing or as the result of~~
14 ~~engaging in or performing any recreational or social~~
15 ~~activities;~~

16 ~~14.~~ 15. "Healing period" means that period for healing of an
17 injury resulting from an accident;

18 16. "Insurance Commissioner" means the Insurance Commissioner
19 of the state;

20 17. a. "Major cause" means the predominant cause of the
21 resulting injury or illness is more than fifty-one
22 percent (51%) of the cause.

1 b. A finding of major cause shall be established
2 according to the preponderance of the objective
3 medical evidence only.

4 c. A determination that a work-related injury or illness
5 is noncompensable for any reason, including a finding
6 that the workplace was not a major cause of the injury
7 or illness, shall not adversely affect the exclusive
8 remedy provisions of this title, and shall not create
9 a separate cause of action outside of this title;

10 18. "Objective findings" are those findings which cannot come
11 under the voluntary control of the patient.

12 a. When determining physical or anatomical impairment,
13 neither a physician, any other medical provider,
14 administrative law judge nor the courts may consider
15 complaints of pain.

16 b. For the purpose of making physical or anatomical
17 impairment ratings to the spine, straight-leg-raising
18 tests or range-of-motion tests shall not be considered
19 objective finding.

20 c. Objective evidence necessary to prove physical or
21 anatomical impairment in occupational hearing-loss
22 cases may be established by medically recognized and
23 accepted clinical diagnostic methodologies, including,
24 but not limited to, audiological tests that measure

1 air and bone conduction thresholds and speech
2 discrimination ability.

3 d. Any difference in the baseline hearing levels must be
4 confirmed with a subsequent test within four (4) weeks
5 following the initial test or tests performed pursuant
6 to subparagraph c of this paragraph but not before
7 five (5) days and being adjusted for presbycusis.

8 e. Objective findings in support of medical evidence are
9 verifiable indications of injury or disease that may
10 include, but are not limited to, range of motion,
11 atrophy, muscle strength and palpable muscle spasm.
12 "Objective findings" does not include physical
13 findings or subjective responses to physical
14 examinations that are not reproducible, measurable or
15 observable.

16 f. Medical opinions addressing compensability and
17 permanent impairment must be stated within a
18 reasonable degree of medical certainty. Any medical
19 opinion addressing the issue of compensability must be
20 based on the treatment guidelines adopted under this
21 title, and any medical opinion addressing permanent
22 impairment must be based on the Court's most recently
23 adopted version of the American Medical Association's
24

1 "Guides to the Evaluation of Permanent Impairment",
2 excluding pain;

3 19. "Wages" means the money rate at which the service rendered
4 is recompensed ~~under the contract of hiring~~ in force at the time of
5 the injury, including the reasonable value of board, rent, housing,
6 lodging, or similar advantage received from the employer;

7 ~~15.~~ 20. "Insurance carrier" shall include CompSource Oklahoma,
8 stock corporations, reciprocal or interinsurance associations, or
9 mutual associations with which employers have insured, and employers
10 permitted to pay compensation, directly under the provisions of
11 paragraph 4 of subsection A of Section 61 of this title. Whenever
12 required by the context, the term "insurance carrier" shall be
13 deemed to include duly qualified self-insureds or self-insured
14 groups;

15 ~~16.~~ "~~Major cause~~" means ~~the predominate cause of the resulting~~
16 ~~injury or illness;~~

17 ~~17.~~ "~~Objective medical evidence~~" means ~~evidence which meets the~~
18 ~~criteria of Federal Rule of Evidence 702 and all U.S. Supreme Court~~
19 ~~case law applicable thereto;~~

20 ~~18.~~ 21. "Occupational disease" means only that disease or
21 illness which is due to causes and conditions characteristic of or
22 peculiar to the particular trade, occupation, process or employment
23 in which the employee is exposed to such disease. An occupational
24 disease arises out of the employment only if the employment was the

1 major cause of the resulting occupational disease and such is
2 supported by objective medical evidence, as defined in this section.
3 No compensation shall be payable for any ordinary disease of life to
4 which the general public is exposed;

5 ~~19.~~ 22. "Permanent impairment" means any anatomical abnormality
6 after maximum medical improvement has been achieved, which
7 abnormality or loss the physician considers to be capable of being
8 evaluated at the time the rating is made. Except as otherwise
9 provided herein, any examining physician shall only evaluate
10 impairment in accordance with the latest publication of the American
11 Medical Association's "Guides to the Evaluation of Permanent
12 Impairment" in effect at the time of the injury. ~~The Physician~~
13 ~~Advisory Committee may, pursuant to Section 201.1 of this title,~~
14 ~~recommend the adoption of a method or system to evaluate permanent~~
15 ~~impairment that shall be used in place of or in combination with the~~
16 ~~American Medical Association's "Guides to the Evaluation of~~
17 ~~Permanent Impairment". Such recommendation shall be made to the~~
18 ~~Administrator of the Workers' Compensation Court who may adopt the~~
19 ~~recommendation in part or in whole. The adopted method or system~~
20 ~~shall be submitted by the Administrator to the Governor, the Speaker~~
21 ~~of the House of Representatives and the President Pro Tempore of the~~
22 ~~Senate within the first ten (10) legislative days of a regular~~
23 ~~session of the Legislature. Such method or system to evaluate~~
24 ~~permanent impairment that shall be used in place of or in~~

1 ~~combination with the American Medical Association's "Guides to the~~
2 ~~Evaluation of Permanent Impairment" shall be subject to disapproval~~
3 ~~in whole or in part by joint or concurrent resolution of the~~
4 ~~Legislature during the legislative session in which submitted. Such~~
5 ~~method or system shall be operative one hundred twenty (120) days~~
6 ~~after the last day of the month in which the Administrator submits~~
7 ~~the adopted method or system to the Legislature if the Legislature~~
8 ~~takes no action or one hundred twenty (120) days after the last day~~
9 ~~of the month in which the Legislature disapproves it in part. If~~
10 ~~adopted, permanent impairment shall be evaluated only in accordance~~
11 ~~with the latest version of the alternative method or system in~~
12 ~~effect at the time of injury. Except as otherwise provided in~~
13 ~~Section 11 of this title, all evaluations shall include an~~
14 ~~apportionment of injury causation. However, revisions to the guides~~
15 ~~made by the American Medical Association which are published after~~
16 ~~January 1, 1989, and before January 1, 1995, shall be operative one~~
17 ~~hundred twenty (120) days after the last day of the month of~~
18 ~~publication. Revisions to the guides made by the American Medical~~
19 ~~Association which are published after December 31, 1994, may be~~
20 ~~adopted in whole or in part by the Administrator following~~
21 ~~recommendation by the Physician Advisory Committee. Revisions~~
22 ~~adopted by the Administrator shall be submitted by the Administrator~~
23 ~~to the Governor, the Speaker of the House of Representatives and the~~
24 ~~President Pro Tempore of the Senate within the first ten (10)~~

1 ~~legislative days of a regular session of the Legislature. Such~~
2 ~~revisions shall be subject to disapproval in whole or in part by~~
3 ~~joint or concurrent resolution of the Legislature during the~~
4 ~~legislative session in which submitted. Revisions shall be~~
5 ~~operative one hundred twenty (120) days after the last day of the~~
6 ~~month in which the Administrator submits the revisions to the~~
7 ~~Governor and the Legislature if the Legislature takes no action or~~
8 ~~one hundred twenty (120) days after the last day of the month in~~
9 ~~which the Legislature disapproves them in part. The examining~~
10 ~~physician shall not follow the guides based on race or ethnic~~
11 ~~origin. The examining physician shall not deviate from said guides~~
12 ~~or any alternative thereto except as may be specifically provided~~
13 ~~for in the guides or modifications to the guides or except as may be~~
14 ~~specifically provided for in any alternative or modifications~~
15 ~~thereto, adopted by the Administrator of the Workers' Compensation~~
16 ~~Court as provided for in Section 201.1 of this title. These~~
17 ~~officially adopted guides or modifications thereto or alternative~~
18 ~~system or method of evaluating permanent impairment or modifications~~
19 ~~thereto shall be the exclusive basis for testimony and rating~~
20 ~~conclusions with regard to permanent impairment with the exception~~
21 ~~of paragraph 3 of Section 22 of this title, relating and as it~~
22 ~~relates to individual scheduled member injury or loss, and~~
23 ~~impairment, including pain, and these officially adopted guides~~
24 ~~shall be the exclusive basis for testimony and rating conclusions~~

1 with regard to permanent impairment combining scheduled member
2 injury or loss of function or loss of strength⁷. Permanent
3 impairment may be awarded with respect to those injuries or areas of
4 the body not specifically covered by said guides ~~or alternative to~~
5 ~~said guides~~. However, in no event shall scheduled member injury or
6 impairment, including injuries to the shoulder or hip, be converted
7 or combined to the body as a whole. All evaluations of permanent
8 impairment must be supported by objective medical evidence and shall
9 not include pain;

10 ~~20.~~ 23. "Permanent total disability" means incapacity because
11 of accidental injury or occupational disease to earn any wages in
12 any employment for which the employee may become physically suited
13 and reasonably fitted by education, training or experience,
14 including vocational rehabilitation; loss of both hands, or both
15 feet, or both arms, or both legs, or both eyes, or any two thereof,
16 shall constitute permanent total disability;

17 ~~21.~~ 24. "Permanent partial disability" means permanent
18 disability which is less than total and shall be equal to or the
19 same as permanent impairment;

20 ~~22.~~ 25. "Maximum medical improvement" means that no further
21 material improvement would reasonably be expected from medical
22 treatment or the passage of time;

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24

1 ~~23.~~ 26. "Independent medical examiner" means a licensed
2 physician authorized to serve as a medical examiner pursuant to
3 Section 17 of this title;

4 ~~24.~~ 27. "Certified workplace medical plan" means an
5 organization of health care providers or any other entity, certified
6 by the State Commissioner of Health pursuant to Section 14.3 of this
7 title, that is authorized to enter into a contractual agreement with
8 a self-insured employer, group self-insurance association plan, an
9 employer's workers' compensation insurance carrier or an insured,
10 which shall include any member of an approved group self-insured
11 association, policyholder or public entity, regardless of whether
12 such entity is insured by CompSource Oklahoma, to provide medical
13 care under the Workers' Compensation Act. ~~Certified plans shall
14 only include such plans which provide medical services and payment
15 for services on a fee for service basis to medical providers and
16 shall not include other plans which contract in some other manner,
17 such as capitated or pre-paid plans; and~~

18 ~~25.~~ 28. "Surgery" means a medical procedure involving an
19 incision into the skin allowing insertion of an instrument or device
20 through the skin for treatment or diagnosis. An injection, or the
21 forcing of fluids beneath the skin, does not constitute surgery for
22 purposes of the Workers' Compensation Act regarding either temporary
23 or permanent disability determinations; and

1 29. "Treating physician" means the licensed physician selected
2 as provided in Section 14 of this title.

3 SECTION 2. AMENDATORY 85 O.S. 2001, Section 3.1, is
4 amended to read as follows:

5 Section 3.1 A. In respect to death benefits under the Workers'
6 Compensation Act, the following definitions shall apply:

7 ~~(1)~~ 1. "Actually dependent" means:

8 a. a surviving spouse as defined in this section~~7~~1,

9 b. a child as defined in this ~~section~~act, or

10 c. any other person dependent in fact upon the employee
11 and refers only to a person who receives one-half
12 (1/2) or more of his support from the employee;

13 ~~(2)~~ 2. "Surviving spouse" means only the employee's spouse
14 living with or actually dependent upon the employee at the time of
15 his injury or death, or living apart for justifiable cause or by
16 reason of desertion by the employee;

17 ~~(3)~~ 3. "Child" means ~~a natural or adopted son or daughter of~~
18 ~~the employee under eighteen (18) years of age; or a natural or~~
19 ~~adopted son or daughter of an employee eighteen (18) years of age or~~
20 ~~over and physically or mentally incapable of self support; or any~~
21 ~~natural or adopted son or daughter of an employee eighteen (18)~~
22 ~~years of age or over who is actually dependent; or any natural or~~
23 ~~adopted son or daughter of an employee between eighteen (18) and~~
24 ~~twenty three (23) years of age who is enrolled as a full time~~

1 ~~student in any accredited educational institution. The term "child"~~
2 ~~includes a posthumous child, a child legally adopted or one for whom~~
3 ~~adoption proceedings are pending at the time of death, an actually~~
4 ~~dependent stepchild or an actually dependent acknowledged child born~~
5 ~~out of wedlock~~ any dependent child as defined by the Internal
6 Revenue Service;

7 ~~(4)~~ 4. "Grandchild" means a child of a child, as herein
8 defined;

9 ~~(5)~~ 5. "Brother" and "sister" ~~means~~ mean a sibling of the
10 employee under eighteen (18) years of age, eighteen (18) years of
11 age or over and physically or mentally incapable of self-support,
12 eighteen (18) years of age or over and actually dependent and
13 brothers and sisters by adoption. Married brothers or married
14 sisters shall not be included except as provided in paragraph ~~(1)~~ 1
15 of this ~~section~~ subsection; and

16 ~~(6)~~ 6. "Parent" means a mother or father, a stepparent, a
17 parent by adoption and a parent-in-law, if actually dependent in
18 each case except as provided in paragraph ~~(1)~~ 1 of this ~~section~~
19 subsection.

20 B. All questions of relationship and dependency shall be
21 determined as of the time of injury for purposes of income benefits
22 for injury, and as of the time of death for purposes of income
23 benefits for death.

24

1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3.1a of Title 85, unless there
3 is created a duplication in numbering, reads as follows:

4 Compensation to alien nonresident dependents of the United
5 States shall be the same in amount as provided for resident
6 dependents, except that alien nonresident dependents in any foreign
7 country shall be limited to the surviving spouse or minor children
8 or both surviving spouse and minor children.

9 SECTION 4. AMENDATORY 85 O.S. 2001, Section 3.4, is
10 amended to read as follows:

11 Section 3.4 A. Unless a single-incident injury either renders
12 the employee physically or mentally unable to do so, the employee
13 shall report the injury to the employer on a form prescribed or
14 approved by the Workers' Compensation Court and to a person or at a
15 place specified by the employer, and if not reported in writing
16 within ten (10) business days of the date of the injury, the
17 employer shall not be responsible for disability, medical or other
18 benefits. All reporting procedures shall be reasonable and shall
19 afford each employee reasonable notice of the reporting
20 requirements. Furthermore, any signed statement by an employee that
21 an injury or illness was not work-related shall serve as an absolute
22 bar against any future claim of workers' compensation for that
23 injury or illness. If a claim is found to be noncompensable due to
24 late filing of notice of injury, or for a prior statement having

1 been signed by the employee indicating that the injury or illness
2 was not work-related, there shall be no further remedy for the
3 employee outside of this title.

4 B. The Workers' Compensation Court is authorized and directed
5 to promulgate appropriate rules to establish and implement, for
6 claims with respect to injuries occurring on or after November 1,
7 2010, a preliminary conference procedure designed to accomplish the
8 following objectives:

9 1. To provide the claimant an opportunity to confer with a
10 counselor on the staff of the Court to be advised of the rights of
11 the claimant under the Workers' Compensation Act;

12 2. To provide an opportunity for, but not to compel, a binding
13 settlement of some or all the issues present at the time;

14 3. To facilitate the resolution of issues without the expense
15 of litigation or attorney fee for either party; and

16 4. a. To achieve compromise settlements entered into at or
17 as a result of the preliminary conference and
18 facilitating the filing of those joint petition
19 settlements entered into pursuant to the Workers'
20 Compensation Act.

21 b. The purpose and intent of this section is to affirm
22 the duty of the Court to provide assistance, thereby
23 reducing litigation and workers' compensation costs.

24

1 C. 1. All claims for any compensation or benefits under the
2 Workers' Compensation Act shall be commenced with the filing of a
3 notice of injury with the Administrator. The filing fee for
4 claimants shall be paid at the time of the filing of the Claimant's
5 Form 3. All claims filed for workers' compensation benefits shall
6 contain a statement that all matters stated therein are true and
7 accurate, and shall be signed by the claimant and the claimant's
8 agent, if any. Any person who signs this statement or causes
9 another to sign this statement knowing the statement to be false
10 shall be guilty of perjury. An individual who signs on behalf of a
11 claimant may be presumed to have the authorization of the claimant
12 and to be acting at the claimant's direction. All answers and
13 defenses to claims or other documents filed on behalf of a
14 respondent or the respondent's insurer in a workers' compensation
15 case shall contain a statement that all matters stated therein are
16 true and accurate, and shall be signed by the respondent, the
17 insurer, or their respective agents, if any. Any person who signs
18 such a statement or causes another to sign such a statement, knowing
19 the statement to be false, shall be guilty of perjury. An
20 individual who signs on behalf of a respondent, its insurer, or its
21 agent may be presumed to have the authorization of the respondent,
22 its insurer and agent to be acting at their direction.

23 2. All matters pertaining to such claims shall be presented to
24 the Administrator until such time as the Administrator is notified

1 in writing by a party that there is a controverted issue that cannot
2 be resolved by the parties or that the parties have received an
3 agreed final order from the Court. The Administrator shall, within
4 seven (7) days of the receipt of such notification, set the matter
5 for hearing at the earliest available time to be heard by the Court
6 in the appropriate judicial district as provided in Section 3.5 of
7 this title. The Administrator shall assign a member of the Court to
8 hear a docket in each judicial district of the state at least once
9 each calendar month when there has been a request for a hearing in
10 the judicial district. The Administrator shall assign judges to the
11 state judicial districts on a rotating basis for the purpose of
12 holding prehearing conferences and settlement conferences and
13 hearing cases. At the request of either party, a prehearing
14 conference shall be held before the member of the Court assigned to
15 the case within forty-five (45) days of the filing of a claimant's
16 request for a hearing. The purpose of the prehearing conference
17 shall be to mediate and encourage settlement of the case or
18 determine issues in dispute.

19 3. The Court, upon its own motion or at the request of any of
20 the parties, may set a settlement conference at any practicable
21 time. The conference shall be held before any Workers' Compensation
22 Court Judge or an Active Retired Judge sitting by special
23 designation for that purpose, other than the judge assigned to the
24 case. The purpose of the settlement conference is to permit an

1 informal discussion among the parties, the attorneys, and the
2 settlement judge on every aspect of the case bearing on its
3 settlement value in an effort to resolve the matter before trial.
4 The settlement judge shall not have any communications regarding the
5 case or the settlement conference with the assigned trial judge
6 other than to advise the trial judge that a settlement was or was
7 not reached. The setting of a settlement conference by the Court,
8 or a request for a settlement conference by any party, shall not
9 preclude any party from filing a Motion to Set for Trial.

10 4. The Court shall be vested with jurisdiction over all claims
11 filed pursuant to the Workers' Compensation Act. The Court shall
12 determine the lawfulness of any claim for compensation under the
13 Workers' Compensation Act based on the weight of evidence; provided,
14 however, any claim, and subsequent disability, that has as its
15 source a physical condition resulting from incremental damage or
16 injury or a gradual deterioration of physical health, which is
17 caused by a condition arising out of and in the course of
18 employment, must be proven by a preponderance of the evidence
19 presented to the Court.

20 ~~B. D.~~ All claims so filed shall be heard by the judge sitting
21 without a jury. ~~All petitions for final orders or awards filed~~
22 ~~pursuant to the provisions of Section 84 of this title must be~~
23 ~~approved by the Court having jurisdiction before a final order or~~
24 ~~award may be entered.~~ Any agreed-upon settlement between the

1 claimant and the employer shall be final upon signed agreement by
2 both parties. All matters relating to a claim for benefits under
3 the Workers' Compensation Act shall be filed with the Administrator.

4 E. 1. The Workers' Compensation Court shall be bound by the
5 Oklahoma Evidence Code. If there is a further question of evidence
6 or procedure, Title 12 of the Oklahoma Statutes shall be used.

7 2. When deciding any issue, the Court shall determine, on the
8 basis of the record as a whole, whether the party having the burden
9 of proof on the issue has established it by a preponderance of
10 evidence.

11 3. Medical reports or depositions shall only be allowed to
12 assist the Court in determining compensability of the claim.

13 SECTION 5. AMENDATORY 85 O.S. 2001, Section 3.6, is
14 amended to read as follows:

15 Section 3.6 A. All the evidence pertaining to each case,
16 except upon agreed orders, shall, insofar as may be possible, be
17 heard by the judge initially assigned to the case. Upon the
18 completion of such hearing or hearings, the judge hearing the cause
19 shall make such order, decision or award as is proper, just and
20 equitable in the matter. Either party feeling himself aggrieved by
21 such order, decision or award shall, within ten (10) days, have the
22 right to take an appeal from the order, decision or award of the
23 Judge to the Workers' Compensation Court sitting en banc. Such
24 appeal shall be allowed as a matter of right to either party upon

1 filing with the Administrator a notice of such appeal. Such Court
2 en banc shall consist of three (3) Judges of the Court, none of whom
3 shall have presided over any of the previous hearings on the claim.
4 The Court en banc may reverse or modify the decision only if it
5 determines that such decision was against the clear weight of the
6 evidence or contrary to law. Upon completion of the appeal, the
7 members of the Court sitting en banc shall issue such order,
8 decision or award as is proper, just and equitable. ~~Only those~~
9 ~~members participating in the hearing on appeal shall participate in~~
10 ~~the making of the order, decision or award. All orders, decisions~~
11 ~~or awards shall be approved by a majority of the members of the~~
12 ~~Court sitting en banc. Provided, there may be more than one Court~~
13 ~~en banc sitting at the same time for purposes of hearing the appeals~~
14 ~~provided for herein.~~ Appeals shall be allowed on a question of law
15 or a question of fact, or a mixed question of law and fact, and
16 shall be determined on the record made before the Judge. Provided,
17 when the order of the Judge of the Court making an award to a
18 claimant is appealed by the employer or the insurance carrier,
19 interest shall be allowed on the accrued amounts of the award due
20 from the date the award was filed, if the award is not modified or
21 vacated on appeal.

22 B. In each case filed in the Court en banc, and at the time of
23 filing same, the appellant shall deposit with the clerk as costs One
24 Hundred Twenty-five Dollars (\$125.00) of which no rebate of any part

1 thereof shall be made. The fee collected under this subsection
2 shall be deposited as follows: One Hundred Dollars (\$100.00) to the
3 credit of the Administrator of Workers' Compensation Revolving Fund
4 created by Section 95 of this title for the costs of administering
5 the Workers' Compensation Act; and Twenty-five Dollars (\$25.00) to
6 the credit of the Administrator of Workers' Compensation Revolving
7 Fund for purposes of implementing the provisions of ~~this act~~ the
8 Workers' Compensation Act, including strengthening and providing
9 additional funding for the Attorney General's Workers' Compensation
10 Fraud Unit, providing counseling services pursuant to the workers'
11 compensation counselor program and safety in the workplace.

12 C. The order, decision or award of the Court shall be final and
13 conclusive upon all questions within its jurisdiction between the
14 parties, unless, within twenty (20) days after a copy of such order,
15 decision or award has been sent by the Administrator to the parties
16 affected, an action is commenced in the Supreme Court of the state,
17 to review such order, decision or award. The Supreme Court may hear
18 appeals and modify, reverse, remand for rehearing, or set aside the
19 order or award, upon any of the following grounds, and no other,
20 that the:

- 21 1. Court acted without or in excess of its powers;
- 22 2. Order or award was procured by fraud; or
- 23 3. Order or award was against the clear weight of the evidence
24 of record.

1 Any order, decision or award made by a judge of the Court shall
2 be considered as final under the provisions of this section unless
3 appealed to the Workers' Compensation Court sitting en banc as
4 provided for in subsection A of this section. The order, decision
5 or award of a judge of the Court shall be final and conclusive upon
6 all questions within his jurisdiction between the parties unless
7 appealed directly to the Supreme Court or to the Workers'
8 Compensation Court sitting en banc as hereinbefore provided. Any
9 party litigant desiring to appeal directly from such order, decision
10 or award to the Supreme Court, shall, within twenty (20) days after
11 a copy of the order, decision or award has been sent by the
12 Administrator to the parties affected, commence an action in the
13 Supreme Court of the state to review such order, decision or award.
14 The Supreme Court shall have original jurisdiction of such action,
15 and shall prescribe rules for the commencement and trial of the
16 same. Such action shall be commenced by filing with the Clerk of
17 the Supreme Court a certified copy of the order, decision or award
18 of the Workers' Compensation Court sitting en banc or the judge
19 attached to the petition by the complaint wherein the complainant or
20 petitioner shall make his assignments or specifications as to
21 wherein said order, decision or award is erroneous or illegal.
22 Provided, however, no proceeding to reverse, vacate or modify any
23 order, decision or award of the Workers' Compensation Court sitting
24 en banc or judge of the Court wherein compensation has been awarded

1 an injured employee shall be entertained by the Supreme Court unless
2 the Administrator shall take a written undertaking to the claimant
3 executed on the part of the respondent or insurance carrier, or
4 both, with one or more sureties to be approved by the Administrator,
5 to the effect that the appellant will pay the amount of the award
6 rendered therein, together with interest thereon from the date of
7 the award by the judge of the Court and all costs of the proceeding,
8 or on the further order of the Workers' Compensation Court sitting
9 en banc or judge of the Court after the appeal has been decided by
10 the Supreme Court, except that municipalities and other political
11 subdivisions of the State of Oklahoma are exempt from making such
12 written undertakings. Before the Clerk of the Supreme Court shall
13 accept the action for filing, a certificate from the Administrator
14 shall be required, showing that this provision has been complied
15 with. Said proceedings shall be heard in a summary manner and shall
16 have precedence over all other civil cases in the Supreme Court,
17 except preferred Corporation Commission appeals. The Supreme Court
18 shall require the appealing party to file within forty-five (45)
19 days from the date of the filing of an appeal or an order appealed
20 from, a transcript of the record of the proceedings before the
21 Workers' Compensation Court, or upon application and for good cause
22 shown, the Supreme Court may extend the time for filing said
23 transcript of the record for a period of time not to exceed ninety
24 (90) days from said date, and such action shall be subject to the

1 law and practice applicable to other civil actions cognizable in
2 said Supreme Court. The Court whose action was appealed shall enter
3 any order directed by the Supreme Court under the final
4 determination.

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

16 E. An action to reopen any case under the provisions of the
17 Workers' Compensation Act shall be assigned in the same manner as
18 original assignments made hereunder.

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

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

24

1 H. The Supreme Court may require a bond from any party, if it
2 deems necessary, in cases appealed to the Court.

3 SECTION 6. AMENDATORY 85 O.S. 2001, Section 3.7, is
4 amended to read as follows:

5 Section 3.7 The Administrator shall have the following powers
6 and duties:

7 1. To ~~hear and approve~~ accept and record settlements ~~pursuant~~
8 ~~to direction by the judges of the Court;~~

9 2. To review and approve "own-risk" applications and group
10 Self-insurance associations applications;

11 3. To monitor "own-risk", self-insurer and group self-insurance
12 programs in accordance with the rules of the Court;

13 4. To establish a toll free telephone number in order to
14 provide information and answer questions about the Court;

15 5. To hear and determine claims concerning disputed medical
16 bills;

17 6. To promulgate necessary rules subject to the approval of the
18 presiding judge; and

19 7. Such other duties and responsibilities authorized by law or
20 as the judges of the Court may prescribe;

21 ~~8. To adopt rules which require every insurance company, the~~
22 ~~State Insurance Fund and every self insurer authorized to transact~~
23 ~~workers' compensation insurance in this state to report to the~~
24 ~~Administrator its statistical experience and its experience~~

1 ~~regarding the utilization of independent medical examiners in~~
2 ~~permanent disability cases during the period from July 1, 1995, to~~
3 ~~July 1, 1997. The information regarding utilization of independent~~
4 ~~medical examiners shall include, but not be limited to, the number~~
5 ~~of independent medical examiner appointments, the parties requesting~~
6 ~~the independent medical examiner, the doctors participating and the~~
7 ~~number of evaluations done by each, a summary of awards and~~
8 ~~settlements, medical costs, and duration of temporary total~~
9 ~~disability. The Administrator shall compile the information~~
10 ~~collected and present a report of his findings to the President Pro~~
11 ~~Tempore of the Senate, the Speaker of the House of Representatives,~~
12 ~~the Governor, the Advisory Council on Workers' Compensation and the~~
13 ~~Physician Advisory Committee; and~~

14 ~~9. To adopt rules which impose an administrative penalty of One~~
15 ~~Hundred Dollars (\$100.00) for each day an insurance company or self-~~
16 ~~insurer fails to provide the information required pursuant to~~
17 ~~paragraph 8 of this section.~~

18 SECTION 7. AMENDATORY 85 O.S. 2001, Section 11, as
19 amended by Section 77, Chapter 264, O.S.L. 2006 (85 O.S. Supp. 2009,
20 Section 11), is amended to read as follows:

21 Section 11. A. Every Subject to limitations found in the
22 Workers' Compensation Act, every employer subject to the provisions
23 of the Workers' Compensation Act shall pay, or provide as required
24 by the Workers' Compensation Act, compensation according to the

1 schedules of the Workers' Compensation Act for the disability or
2 death of an employee resulting from an accidental personal injury
3 sustained by the employee arising out of and in the course of
4 employment, ~~without regard to fault as a cause of such injury, and~~
5 ~~in the event of disability only, except as follows:~~

6 1. ~~An injury occasioned by the willful intention of the injured~~
7 ~~employee to bring about injury to himself or herself, or another,~~

8 2. ~~An injury resulting directly from the willful failure of the~~
9 ~~injured employee to use a guard or protection against accident~~
10 ~~furnished for use pursuant to any statute or by order of the~~
11 ~~Commissioner of Labor;~~

12 3. ~~An injury which occurs when an employee is using substances~~
13 ~~defined and consumed pursuant to Section 465.20 of Title 63 of the~~
14 ~~Oklahoma Statutes, or is using or abusing alcohol or illegal drugs,~~
15 ~~or is illegally using chemicals; provided, this paragraph shall only~~
16 ~~apply when the employee is unable to prove by a preponderance of the~~
17 ~~evidence that the substances, alcohol, illegal drugs, or illegally~~
18 ~~used chemicals were not the proximate cause of the injury or~~
19 ~~accident. For the purposes of this paragraph, post-accident alcohol~~
20 ~~or drug testing results shall be admissible as evidence; and~~

21 4. ~~Except for innocent victims, an injury caused by a prank,~~
22 ~~horseplay, or similar willful or intentional behavior.~~

23 B. Liability of any person, firm, or corporation having an
24 interest in the subject matter, employers and contracting employers,

1 general or intermediate, for compensation under the Workers'
2 Compensation Act, when other than the immediate employer of the
3 injured employee, shall be as follows:

4 1. The independent contractor shall, at all times, be liable
5 for compensation due to his or her direct employees, or the
6 employees of any subcontractor of such independent contractor, and
7 the principal employer shall also be liable in the manner
8 hereinafter specified for compensation due all direct employees,
9 employees of the independent contractors, subcontractors, or other
10 employees engaged in the general employer's business; provided,
11 however, if an independent contractor relies in good faith on proof
12 of a valid workers' compensation insurance policy issued to a
13 subcontractor of the independent contractor or on proof of an
14 Affidavit of Exempt Status Under the Workers' Compensation Act
15 properly executed by the subcontractor under Section ~~75~~ 924.4 of
16 ~~this act~~ Title 36 of the Oklahoma Statutes, then the independent
17 contractor shall not be liable for injuries of any employees of the
18 subcontractor. Provided further, such independent contractor shall
19 not be liable for injuries of any subcontractor of the independent
20 contractor unless an employer-employee relationship is found to
21 exist by the Workers' Compensation Court despite the execution of an
22 Affidavit of Exempt Status Under the Workers' Compensation Act.

23 2. The person entitled to such compensation shall have the
24 right to recover the same directly from the person's immediate

1 employer, the independent contractor or intermediate contractor, and
2 such claims may be presented against all such persons in one
3 proceeding. If it appears in such proceeding that the principal
4 employer has failed to require a compliance with the Workers'
5 Compensation Act of this state, by the independent contractor, then
6 such employee may proceed against such principal employer without
7 regard to liability of any independent, intermediate or other
8 contractor; provided, however, if a principal employer relies in
9 good faith on proof of a valid workers' compensation insurance
10 policy issued to an independent contractor of the employer or to a
11 subcontractor of the independent contractor or on proof of an
12 Affidavit of Exempt Status Under the Workers' Compensation Act
13 properly executed by the independent contractor or subcontractor
14 under Section ~~75~~ 924.4 of ~~this act~~ Title 36 of the Oklahoma
15 Statutes, then the principal employer shall not be liable for
16 injuries of any employees of the independent contractor or
17 subcontractor. Provided further, such principal employer shall not
18 be liable for injuries of any independent contractor of the employer
19 or of any subcontractor of the independent contractor unless an
20 employer-employee relationship is found to exist by the Workers'
21 Compensation Court despite the execution of an Affidavit of Exempt
22 Status Under the Workers' Compensation Act. Provided, however, in
23 any proceeding where compensation is awarded against the principal
24 employer under the provisions hereof, such award shall not preclude

1 the principal employer from recovering the same, and all expense in
2 connection with said proceeding from any independent contractor,
3 intermediate contractor or subcontractor whose duty it was to
4 provide security for the payment of such compensation, and such
5 recovery may be had by supplemental proceedings in the cause before
6 the Court or by an independent action in any court of competent
7 jurisdiction to enforce liability of contracts.

8 3. Where work is performed on a single family residential
9 dwelling or its premises occupied by the owner, or for a farmer
10 whose cash payroll for wages, excluding supplies, materials and
11 equipment, for the preceding calendar year did not exceed One
12 Hundred Thousand Dollars (\$100,000.00), such owner or farmer shall
13 not be liable for compensation under the Workers' Compensation Act.
14 Such owner or farmer shall not be liable to the employee of any
15 independent contractor or subcontractor, where applicable, or the
16 farmer's own employee.

17 4. Where compensation is payable for an occupational disease,
18 the employer in whose employment the employee was last injuriously
19 exposed to the hazards of such disease and the insurance carrier, if
20 any, on the risk when such employee was last so exposed under such
21 employer, shall alone be liable therefor, without right to
22 contribution from any prior employer or insurance carrier; provided,
23 however, that in the case of silicosis or asbestosis, the only
24 employer and insurance carrier liable shall be the last employer in

1 whose employment the employee was last exposed to harmful quantities
2 of silicon dioxide (SiO₂) dust on each of at least sixty (60) days
3 or more, and the insurance carrier, if any, on the risk when the
4 employee was last so exposed under such employer.

5 5. Where compensation is payable for an injury resulting from
6 cumulative trauma, the last employer in whose employment the
7 employee was last injuriously exposed to the trauma during a period
8 of at least ninety (90) days or more, and the insurance carrier, if
9 any, on the risk when the employee was last so exposed under such
10 employer, shall alone be liable therefor, without right to
11 contribution from any prior employer or insurance carrier. If there
12 is no employer in whose employment the employee was injuriously
13 exposed to the trauma for a period of at least ninety (90) days,
14 then the last employer in whose employment the employee was last
15 injuriously exposed to the trauma and the insurance carrier, if any,
16 on the risk when such employee was last so exposed under such
17 employer, shall be liable therefor, with right to contribution from
18 any prior employer or insurance carrier.

19 SECTION 8. AMENDATORY 85 O.S. 2001, Section 12, as
20 amended by Section 14, Chapter 1, 1st Extraordinary Session, O.S.L.
21 2005 (85 O.S. Supp. 2009, Section 12), is amended to read as
22 follows:

23 Section 12. The liability prescribed in Section 11 of this
24 title shall be exclusive and in place of all other liability of the

1 employer and any of his employees, any architect, professional
2 engineer, or land surveyor retained to perform professional services
3 on a construction project, at common law or otherwise, for such
4 injury, loss of services, or death, to the employee, or the spouse,
5 personal representative, parents, or dependents of the employee, or
6 any other person. If an employer subject to the Workers'
7 Compensation Act has failed to secure the payment of compensation
8 for his injured employee, as provided for in this title, an injured
9 employee, or his legal representatives if death results from the
10 injury, may maintain an action in the courts for damages on account
11 of such injury, and in such action the defendant may not plead or
12 prove as a defense that the injury was caused by the negligence of a
13 fellow servant, or that the employee assumed the risk of his
14 employment, or that the injury was due to the contributory
15 negligence of the employee; provided:

16 ~~(i)~~ 1. The immunity created by the provisions of this section
17 shall not extend to action by an employee, or the spouse, personal
18 representative, parents, or dependents of the employee, or any other
19 person against another employer, or its employees, on the same job
20 as the injured or deceased worker where such other employer does not
21 stand in the position of an intermediate or principal employer to
22 the immediate employer of the injured or deceased worker;

23 ~~(ii)~~ 2. The immunity created by the provisions of this section
24 shall not extend to action against another employer, or its

1 employees, on the same job as the injured or deceased worker even
2 though such other employer may be considered as standing in the
3 position of a special master of a loaned servant where such special
4 master neither is the immediate employer of the injured or deceased
5 worker nor stands in the position of an intermediate or principal
6 employer to the immediate employer of the injured or deceased
7 worker; and

8 ~~(iii)~~ 3. This provision shall not be construed to abrogate the
9 loaned servant doctrine in any respect other than that described in
10 paragraph ~~(ii)~~ 2 of this section. This section shall not be
11 construed to relieve the employer from any other penalty provided
12 for in this title for failure to secure the payment of compensation
13 provided for in this title.

14 ~~(iv)~~ 4. For the purpose of extending the immunity of this
15 section, any architect, professional engineer, or land surveyor
16 shall be deemed an intermediate or principal employer for services
17 performed at or on the site of a construction project, but this
18 immunity shall not extend to the negligent preparation of design
19 plans and specifications.

20 ~~(v) Nothing contained herein shall abrogate any rights arising~~
21 ~~under the Oklahoma Constitution.~~

22 SECTION 9. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 12.1 of Title 85, unless there
24 is created a duplication in numbering, reads as follows:

1 A. 1. Any employer required to secure the payment of
2 compensation under the Workers' Compensation Act who fails to secure
3 compensation shall be subject to a fine of up to Ten Thousand
4 Dollars (\$10,000.00) as determined by the Workers' Compensation
5 Court payable to the Death and Permanent Total Disability Trust Fund
6 or be guilty of a misdemeanor and shall be punished by a fine not to
7 exceed Five Hundred Dollars (\$500.00), or by imprisonment in the
8 county jail for a term not to exceed one (1) year, or by both fine
9 and imprisonment.

10 2. This subsection shall not affect any other liability of the
11 employer under the Workers' Compensation Act.

12 B. 1. Whenever the Court has reason to believe that an
13 employer required to secure the payment of compensation under the
14 Workers' Compensation Act has failed to do so, the Court shall serve
15 upon the employer a proposed order declaring the employer to be in
16 violation of the Workers' Compensation Act and containing the
17 amount, if any, of the civil penalty to be assessed against the
18 employer pursuant to paragraph 5 of this subsection.

19 2. a. An employer may contest a proposed order of the Court
20 issued pursuant to paragraph 1 of this subsection by
21 filing with the Court, within twenty (20) days of
22 receipt of the proposed order, a written request for a
23 hearing.

24

1 b. Such a request for a hearing need not be in any
2 particular form but shall specify the grounds upon
3 which the person contests the proposed order, the
4 proposed assessment, or both.

5 c. If a written request for hearing is not filed with the
6 Court within this time, the proposed order, the
7 proposed penalty, or both, shall be a final order of
8 the Court and shall not be subject to further review
9 by any court.

10 d. A proposed order by the Court pursuant to this section
11 is prima facie correct, and the burden is upon the
12 employer to prove that the proposed order is
13 incorrect.

14 3. a. If the employer alleges that a carrier has contracted
15 to provide the employer workers' compensation
16 insurance coverage for the period in question, the
17 employer shall include the allegation in its request
18 for hearing and shall name the carrier.

19 b. The Court shall promptly notify the carrier of the
20 allegation of the employer and of the date of hearing.

21 c. The carrier shall promptly, and no later than five (5)
22 days prior to the hearing, respond in writing to the
23 allegation of the employer by providing evidence of
24

1 coverage for the period in question or by
2 affirmatively denying the allegation of the employer.

3 4. The Court may assess a fine against any employer who fails
4 to secure the payment of compensation in an amount up to One
5 Thousand Dollars (\$1,000.00) per day of violation payable to the
6 Fund.

7 5. If an employer fails to secure the payment of compensation
8 or pay any civil penalty assessed against the employer after an
9 order issued pursuant to this section has become final by operation
10 of law or upon appeal, the Court may petition the district court of
11 Oklahoma County or of the county where the principal place of
12 business of the employer is located for an order enjoining the
13 employer from engaging in further employment until the employer
14 secures the payment of compensation or makes full payment of all
15 civil penalties.

16 SECTION 10. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 12.2 of Title 85, unless there
18 is created a duplication in numbering, reads as follows:

19 A. Every employer who has secured compensation under the
20 provisions of the Workers' Compensation Act shall keep posted in a
21 conspicuous place in and about the place of business of the
22 employer, typewritten or printed notices in accordance with a form
23 prescribed by the Workers' Compensation Court. The notices shall
24

1 state that the employer has secured the payment of compensation in
2 accordance with the provisions of the Workers' Compensation Act.

3 B. The notices shall contain the name and address of the
4 carrier, if any, with whom the employer has secured payment of
5 compensation.

6 SECTION 11. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 13.1 of Title 85, unless there
8 is created a duplication in numbering, reads as follows:

9 The employer shall not be liable for any of the payments
10 provided for by the Workers' Compensation Act if the Workers'
11 Compensation Court determines that the injury is not compensable.

12 SECTION 12. AMENDATORY 85 O.S. 2001, Section 14, as last
13 amended by Section 15, Chapter 1, 1st Extraordinary Session, O.S.L.
14 2005 (85 O.S. Supp. 2009, Section 14), is amended to read as
15 follows:

16 Section 14. A. 1. The employer shall promptly provide for an
17 injured employee such medical, surgical or other attendance or
18 treatment, nurse and hospital service, medicine, crutches, and
19 apparatus as may be necessary after the injury. The treating
20 physician shall supply the injured employee and the employer with a
21 full examining report of injuries found at the time of examination
22 and proposed treatment, this report to be supplied within seven (7)
23 days after the examination; also, at the conclusion of the treatment
24

1 the treating physician shall supply a full report of the treatment
2 to the employer of the injured employee.

3 2. The treating physician who renders treatment to the employee
4 at any time shall promptly notify the employee and employer or the
5 employer's insurer in writing after the employee has reached maximum
6 medical improvement and is released from active medical care. If
7 the employee is capable of returning to modified light duty work,
8 the treating physician shall promptly notify the employee and the
9 employer or the employer's insurer thereof in writing and shall also
10 specify what restrictions, if any, must be followed by the employer
11 in order to return the employee to work. In the event the treating
12 physician provides such notification to the employer's insurer, the
13 insurer shall promptly notify the employer. If an injured employee,
14 only partially disabled, refuses employment consistent with any
15 restrictions ordered by the treating physician, the employee shall
16 not be entitled to temporary benefits during the continuance of such
17 refusal unless in the opinion of the treating physician such refusal
18 was justifiable; provided, before compensation may be denied, the
19 employee shall be served with a notice setting forth the
20 consequences of the refusal of employment and that temporary
21 benefits will be discontinued fifteen (15) days after the date of
22 such notice. The employee, upon receipt of such notice, may seek a
23 hearing before the Workers' Compensation Court. The Court shall
24 grant an expedited hearing within five (5) days of any such

1 application by the employee. At such hearing, the Court may enter
2 an order allowing the discontinuation of such benefits, denying the
3 discontinuance of such benefits or temporarily denying the
4 discontinuance of such benefits pending further hearing. An order
5 denying or temporarily denying the discontinuation of temporary
6 benefits shall be based on a finding by the Court that probable
7 cause exists to believe the work does not meet the conditions of the
8 treating physician's restrictions or that the restrictions are
9 unreasonable.

10 B. The employer's selected physician shall have the right and
11 responsibility to treat the injured employee. A report of such
12 examination shall be furnished to the employer and the injured
13 employee within seven (7) days after such examination.

14 C. If the employer fails or neglects to provide medical
15 treatment within three (3) days after actual knowledge of the injury
16 is received by the employer, the injured employee, during the period
17 of such neglect or failure, may select a physician to provide
18 medical treatment at the expense of the employer; provided, however,
19 that the injured employee, or another in the employee's behalf, may
20 obtain emergency treatment at the expense of the employer where such
21 emergency treatment is not provided by the employer. The attending
22 physician so selected by the employee shall notify the employer and
23 the insurance carrier within seven (7) days after examination or
24 treatment was first rendered. Once the employer has selected a

1 treating physician and has offered the employee treatment, the
2 physician selected by the employer shall become the treating
3 physician.

4 D. 1. If a self-insured employer, group self-insurance
5 association plan, an employer's workers' compensation insurance
6 carrier or an insured, which shall include any member of an approved
7 group self-insured association, policyholder or public entity,
8 regardless of whether such entity is insured by CompSource Oklahoma,
9 has previously contracted with a certified workplace medical plan,
10 the employer shall select for the injured employee ~~a~~ the treating
11 physician from the physicians listed within the network of the
12 certified workplace medical plan.

13 2. The claimant may apply for a change of physician by
14 utilizing the dispute resolution process set out in the certified
15 workplace medical plan on file with the State Department of Health.

16 E. The term "physician" as used in this section shall mean any
17 person licensed in this state as a medical doctor, chiropractor,
18 podiatrist, dentist, osteopathic physician or optometrist. The
19 Court may accept testimony from a psychologist if the testimony is
20 requested by the Court. If an injured employee should die, whether
21 or not the employee has filed a claim, that fact shall not affect
22 liability for medical attention previously rendered, and any person
23 entitled to such benefits may enforce charges therefor as though the
24 employee had survived.

1 F. 1. Whoever renders medical, surgical, or other attendance
2 or treatment, nurse and hospital service, medicine, crutches and
3 apparatus, or emergency treatment, may submit such charges and
4 duration of treatment to the Administrator of the Court for review
5 in accordance with the rules of the Administrator.

6 2. Such charges and duration of treatment shall be limited to
7 the usual, customary and reasonable payments and duration of
8 treatment as prescribed and limited by a schedule of fees and
9 treatment for all medical providers to be adopted, after notice and
10 public hearing, by the Administrator. Beginning January 1, 2006,
11 the fee and treatment schedule for physician services shall be based
12 on the most current Relative Value Units (RVU) produced by the
13 Centers for Medicare and Medicaid Services (CMS) for the Medicare
14 Physician Fee Schedule as of January 1 of the prior year. These
15 relative values shall be multiplied by appropriate conversion
16 factors to be determined by the Administrator. The conversion
17 factors shall be adjusted by the Consumer Price Index and shall be
18 adequate to reflect the usual and customary rates for treatment of
19 workers' compensation patients taking into consideration all
20 relevant factors including, but not limited to, the additional time
21 required to provide disability management. The Current Procedural
22 Terminology (CPT) codes shall be adjusted to reflect any changes or
23 additions to the CPT codes and coding of supplies and materials as
24 published by the American Medical Association (AMA) or CMS. If the

1 AMA adds a new CPT code, the Administrator shall review the
2 procedure contemplated by the new CPT code, and after such review,
3 and notice and public hearing, the Administrator may add the new CPT
4 code and set the base fee for the CPT code to ensure the adequacy of
5 the physician's fee and treatment schedule. For services not valued
6 by CMS, the Administrator shall establish values based on the usual,
7 customary and reasonable medical payments to health care providers
8 in the same trade area for comparable treatment of a person with
9 similar injuries and the duration of treatment prevailing in this
10 state for persons with similar injuries. The fee and treatment
11 schedule shall be reviewed biennially by the Administrator and,
12 after such review, and notice and public hearing, the Administrator
13 shall be empowered to amend or alter the fee and treatment schedule
14 to ensure its adequacy. The Administrator shall not increase the
15 overall maximum reimbursement levels for health care providers,
16 including hospitals and ambulatory surgical centers, in an amount
17 exceeding the cumulative percentage of change of the Consumer Price
18 Index - Urban (CPI-U) for all costs since the last biennial review.
19 The fee schedule adopted by the Administrator as of January 1, 2006,
20 shall be structured so as to result in at least a four-percent
21 savings in workers' compensation medical costs. In no event shall
22 the reimbursement rate for any single procedure be equal to an
23 amount which is less than one hundred fifteen percent (115%) of the
24 current Medicare reimbursement rate for the procedure.

1 3. The Administrator shall adopt a new fee and treatment
2 schedule to be effective not later than January 1, 1998, which
3 establishes maximum allowable reimbursement levels for preparation
4 for or testimony at a deposition or court appearance which shall not
5 exceed Two Hundred Dollars (\$200.00) per hour and for work-related
6 or medical disability evaluation services.

7 4. An invoice for the actual cost to the hospital of an
8 implantable device shall be adjusted by the hospital to reflect all
9 applicable discounts, rebates, considerations and product
10 replacement programs and must be provided to the payor by the
11 hospital as a condition of payment for the implantable device.

12 5. The Administrator's review of medical and treatment charges
13 pursuant to this section shall be conducted pursuant to the fee and
14 treatment schedule in existence at the time the medical care or
15 treatment was provided. The order of the approving medical and
16 treatment charges pursuant to this section shall be enforceable by
17 the Court in the same manner as provided in the Workers'
18 Compensation Act for the enforcement of other compensation payments.
19 Any party feeling aggrieved by the order, decision or award of the
20 Administrator shall, within ten (10) days, have the right to request
21 a hearing on such medical and treatment charges by a judge of the
22 Workers' Compensation Court. The judge of the Court may affirm the
23 decision of the Administrator, or reverse or modify said decision
24 only if it is found to be contrary to the fee and treatment schedule

1 existing at the time the said medical care or treatment was
2 provided. The order of the judge shall be subject to the same
3 appellate procedure set forth in Section 3.6 of this title for all
4 other orders of the Court. The right to recover charges for every
5 type of medical care for personal injuries arising out of and in the
6 course of covered employment as herein defined, shall lie solely
7 with the Workers' Compensation Court, and all jurisdiction of the
8 other trial courts of this state over such action is hereby
9 abolished. The foregoing provision, relating to approval and
10 enforcement of such charges and duration of treatment, shall not
11 apply where a written contract exists between the employer or
12 insurance carrier and the person who renders such medical, surgical
13 or other attendance or treatment, nurse and hospital service, or
14 furnishes medicine, crutches or apparatus. When a medical care
15 provider has brought a claim in the Workers' Compensation Court to
16 obtain payment for services, a party who prevails in full on the
17 claim shall be entitled to a reasonable attorney fee.

18 6. Charges for prescription drugs shall be limited to ninety
19 percent (90%) of the average wholesale price of the prescription,
20 plus a dispensing fee of Five Dollars (\$5.00) per prescription.

21 "Average wholesale price" means the amount determined from the
22 latest publication of the blue book, a universally subscribed
23 pharmacist reference guide annually published by the Hearst
24 Corporation. "Average wholesale price" may also be derived

1 electronically from the drug pricing database synonymous with the
2 latest publication of the blue book and furnished in the National
3 Drug Data File (NDDF) by First Data Bank (FDB), a service of the
4 Hearst Corporation. Physicians shall prescribe and pharmacies shall
5 dispense generic equivalent drugs when available.

6 G. Where the employee is not covered by a certified workplace
7 medical plan, the employer shall select the treating physician. The
8 Court on application of the employee shall order one change of
9 treating physician. In the event the employee makes application for
10 such a change, the employee shall list on such application three (3)
11 proposed physicians who are qualified to treat the body part
12 affected. The employer may agree to one of the physicians listed by
13 the employee or submit its own list of three (3) physicians. If the
14 employee and employer do not agree on the physician, the Court shall
15 select from the list of independent medical examiners maintained by
16 the Court a treating physician who is qualified to treat the body
17 part affected and who can see the employee within a reasonable time.
18 Additionally, a change of physician shall be allowed for each
19 individual body part injured if the treating physician determines
20 that the employee's injured body parts cannot be treated by the same
21 physician.

22 H. 1. For cases not covered by a certified workplace medical
23 plan, and where the insurance company does not provide case
24 management, case management may be granted by the Workers'

1 Compensation Court on the request of any party, or when the Court
2 determines that case management is appropriate. The Court shall
3 appoint a case manager from a list of qualified case managers
4 developed, maintained and periodically reviewed by the Court.

5 2. The reasonable and customary charges of a medical case
6 manager appointed by the Court shall be borne by the employer.

7 3. Except in cases covered by a certified workplace medical
8 plan, upon application of the employee, the Court may order the
9 employer to provide one change of case manager if the employee did
10 not make the initial selection of the case manager.

11 I. Diagnostic tests shall not be repeated sooner than six (6)
12 months from the date of the test unless agreed to by the parties or
13 ordered by the Court.

14 J. Duration of treatment is subject to the limitation
15 established in the treatment guidelines and protocols recommended by
16 the Physician Advisory Committee unless waived by the employer. For
17 compensable injuries resulting in the use of a medical device,
18 ongoing service for the medical device would be provided in
19 situations including, but not limited to, medical device battery
20 replacement, ongoing medication refills related to the medical
21 device, medical device repair or medical device replacement.

22 SECTION 13. AMENDATORY 85 O.S. 2001, Section 14.3, as
23 amended by Section 17, Chapter 1, 1st Extraordinary Session, O.S.L.

24

1 2005 (85 O.S. Supp. 2009, Section 14.3), is amended to read as
2 follows:

3 Section 14.3 A. Any person or entity may make written
4 application to the Commissioner of Health of the State of Oklahoma
5 to have a workplace medical plan certified that provides management
6 of quality treatment to injured employees for injuries and diseases
7 compensable under the Workers' Compensation Act. Each application
8 for certification shall be accompanied by a fee of One Thousand Five
9 Hundred Dollars (\$1,500.00). A workplace medical plan may be
10 certified to provide services to a limited geographic area. A
11 certificate is valid for a five-year period, unless revoked or
12 suspended. Application for certification shall be made in the form
13 and manner and shall set forth information regarding the proposed
14 program for providing services as the Commissioner may prescribe.
15 The information shall include, but not be limited to:

16 1. A list of the names of all medical providers who will
17 provide services under the plan, together with appropriate evidence
18 of compliance with any licensing or certification requirements for
19 those providers to practice in this state; and

20 2. A description of the places and manner of providing services
21 under the plan.

22 B. 1. The Commissioner shall not certify a plan unless the
23 Commissioner finds that the plan:

24

1 a. proposes to provide quality services for all medical
2 services which:

3 (1) may be required by the Workers' Compensation Act
4 in a manner that is timely, effective and
5 convenient for the employee, and

6 (2) utilizes medical treatment guidelines and
7 protocols substantially similar to those
8 established for use by medical service providers,
9 which have been recommended by the Physician
10 Advisory Committee and adopted by the
11 Administrator pursuant to subsection B of Section
12 201.1 of this title. If the Administrator has
13 not adopted medical treatment guidelines and
14 protocols, the Commissioner may certify a plan
15 that utilizes medical guidelines and protocols
16 established by the plan if, in the discretion of
17 the Commissioner, the guidelines and protocols
18 are reasonable and will carry out the intent of
19 the Workers' Compensation Act. Certified plans
20 must utilize medical treatment guidelines and
21 protocols substantially similar to those adopted
22 by the Administrator pursuant to Section 201.1 of
23 this title, as such guidelines and protocols
24 become adopted,

- 1 b. is reasonably geographically convenient to residents
2 of the area for which it seeks certification,
3 c. provides appropriate financial incentives to reduce
4 service costs and utilization without sacrificing the
5 quality of service,
6 d. provides adequate methods of peer review, utilization
7 review and dispute resolution to prevent
8 inappropriate, excessive or medically unnecessary
9 treatment, and excludes participation in the plan by
10 those providers who violate these treatment standards,
11 e. requires the dispute resolution procedure of the plan
12 to include a requirement that disputes on an issue,
13 including a subsequent change of physician as
14 described in the provisions of Section 14 of this
15 title and this section, related to medical care under
16 the plan be attempted to be resolved within ten (10)
17 days of the time the dispute arises and if not
18 resolved within ten (10) days, the employee may pursue
19 remedies in the Workers' Compensation Court,
20 f. provides aggressive case management for injured
21 employees and a program for early return to work,
22 g. provides workplace health and safety consultative
23 services,
24

1 h. provides a timely and accurate method of reporting to
2 the Commissioner necessary information regarding
3 medical service costs and utilization to enable the
4 Commissioner to determine the effectiveness of the
5 plan,

6 i. authorizes necessary emergency medical treatment for
7 an injury provided by a provider of medical, surgical,
8 and hospital services who is not a part of the plan,

9 j. does not discriminate against or exclude from
10 participation in the plan any category of providers of
11 medical, surgical, or hospital services and includes
12 an adequate number of each category of providers of
13 medical, surgical, and hospital services to give
14 participants access to all categories of providers and
15 does not discriminate against ethnic minority
16 providers of medical services, and

17 k. complies with any other requirement the Commissioner
18 determines is necessary to provide quality medical
19 services and health care to injured employees.

20 2. The Commissioner may accept findings, licenses or
21 certifications of other state agencies as satisfactory evidence of
22 compliance with a particular requirement of this section.

23 C. If any insurer, except CompSource Oklahoma, fails to
24 contract with or provide access to a certified workplace medical

1 plan, an insured, after sixty (60) days' written notice to its
2 insurance carrier, shall be authorized to contract independently
3 with a plan of his or her choice for a period of ~~one (1) year~~ five
4 (5) years, to provide medical care under the Workers' Compensation
5 Act. The insured shall be authorized to contract, after sixty (60)
6 days' written notice to its insurance carrier, for additional ~~one-~~
7 ~~year~~ five-year periods if his or her insurer has not contracted with
8 or provided access to a certified workplace medical plan.

9 D. If CompSource Oklahoma fails to contract with at least three
10 certified workplace medical plans, each covering at least fifty
11 counties, then the insured, after sixty (60) days' written notice to
12 CompSource Oklahoma, shall be authorized to contract independently
13 with a plan of the insured's choice for a period of one (1) year to
14 provide medical care under the Workers' Compensation Act. The
15 insured shall be authorized to contract, after sixty (60) days'
16 written notice to CompSource Oklahoma, for additional one-year
17 periods if CompSource Oklahoma has not contracted with or fails to
18 continue contracts with at least three certified workplace medical
19 plans covering at least fifty counties.

20 E. 1. An employee shall ~~exhaust~~ obtain written confirmation
21 from the certified workplace medical plan that the dispute
22 resolution procedure of the certified workplace medical plan has
23 been exhausted before seeking legal relief on an issue related to
24 medical care under the plan, including a subsequent change of

1 physician as described in the provisions of Section 14 of this title
2 and this section, provided the dispute resolution procedure shall
3 create a process which shall attempt to resolve the dispute within
4 ten (10) days of the time the dispute arises and if not resolved
5 within ten (10) days, the employee may pursue remedies in the
6 Workers' Compensation Court.

7 2. For those employees covered by a certified workplace medical
8 plan, any medical evaluation obtained outside the plan, after the
9 commencement of treatment under the plan and prior to obtaining
10 written confirmation from the plan that the dispute resolution
11 process has been exhausted, shall not be admissible unless such
12 evaluation provides clear and convincing evidence that the treatment
13 offered under the plan is contrary to the nationally recognized
14 treatment guidelines adopted by the plan.

15 F. The Commissioner shall refuse to certify or shall revoke or
16 suspend the certification of a plan if the Commissioner finds that
17 the program for providing medical or health care services fails to
18 meet the requirements of this section, or service under the plan is
19 not being provided in accordance with the terms of a plan.

20 G. On or before November 1, 2005, the Commissioner of Health
21 shall implement a site visit protocol for employees of the State
22 Department of Health to perform an inspection of a certified
23 workplace medical plan to ensure that medical services to a claimant
24 and the medical management of the claimant's needs are adequately

1 met in a timely manner and that the certified workplace medical plan
2 is complying with all other applicable provisions of ~~this act~~ the
3 Workers' Compensation Act and the rules of the State Department of
4 Health. Such protocol shall include, but not be limited to:

5 1. A site visit shall be made to each certified workplace
6 medical plan not less often than once every year, but not later than
7 thirty (30) days following the anniversary date of issuance of the
8 initial or latest renewal certificate;

9 2. A site visit shall conclude with a determination that a
10 certified workplace medical plan is or is not operating in
11 accordance with its latest application to the State Department of
12 Health;

13 3. Compliant operations shall include, but not be limited to:

14 a. timely and effective medical services are available
15 with reasonable geographic convenience,

16 b. use of appropriate treatment guidelines and protocols,
17 and

18 c. effective programs for utilization review, case
19 management, grievances, and dispute resolution;

20 4. Performance of a site visit shall include:

21 a. inspection of organizational documentation,

22 b. inspection of systems documentation and processes,

23 c. random or systematic sampling of closed and open case
24 management cases (files),

- d. random or systematic sampling, or a one hundred percent (100%) inspection of all dispute resolution, grievance, and/or Department of Health request for assistance files,
- e. workplace medical plan employee and management interviews, as appropriate;

5. An initial site visit may occur with an interval of less than twelve (12) months to a recently certified plan, or a site visit may occur more often than once in every twelve (12) months if the Commissioner of Health has reason to suspect that a plan is not operating in accordance with its certification;

6. If a deficient practice is identified during a site visit, the State Department of Health shall require a certified workplace medical plan to submit a timely and acceptable written plan of correction, and then may perform a follow-up visit(s) to ensure that the deficient practice has been eliminated;

7. A deficient practice that is not remedied by a certified workplace medical plan on a timely basis shall require the Commissioner of Health to revoke or to suspend the certification of a plan;

8. The fees payable to the State Department of Health shall be:

- a. One Thousand Five Hundred Dollars (\$1,500.00) for an initial, annual site visit,

- 1 b. One Thousand Dollars (\$1,000.00) if a follow-up visit
2 is performed,
3 c. separate from the once in five (5) years certification
4 application fee, and
5 d. not charged if more than two site visits occur in a
6 twelve-month period; and

7 9. In addition to the site visit fee, employees of the State
8 Department of Health may charge to the certified workplace medical
9 plan reasonable travel and travel-related expenses for the site
10 visit such as overnight lodging and meals. A certified workplace
11 medical plan shall reimburse travel expenses to the State Department
12 of Health at rates equal to the amounts then currently allowed under
13 the State Travel Reimbursement Act.

14 H. The State Board of Health shall adopt such rules as may be
15 necessary to implement the provisions of this title and this
16 section. Such rules shall authorize any person to petition the
17 Commissioner of Health for decertification of a certified workplace
18 medical plan for material violation of any rules promulgated
19 pursuant to this section.

20 I. All state agencies shall adopt and implement the certified
21 workplace medical plan of their insurer's choice no later than
22 November 1, 2011.

23 SECTION 14. AMENDATORY 85 O.S. 2001, Section 15, is
24 amended to read as follows:

1 Section 15. ~~Where~~ If a compensable injury results in the loss
2 of one or more eyes, teeth, or limbs of the body, the employer shall
3 furnish such prosthetic devices as may be necessary as determined by
4 the Court in the treatment and rehabilitation of the injured ~~workman~~
5 employee. ~~Where a workman~~ If an employee sustains a compensable
6 injury, arising out of and in the course of ~~his~~ their employment,
7 which results in damage to a prosthetic device with which such
8 ~~workman~~ employee is equipped, the employer shall repair or replace
9 such device.

10 SECTION 15. AMENDATORY 85 O.S. 2001, Section 16, as
11 amended by Section 18, Chapter 1, 1st Extraordinary Session, O.S.L.
12 2005 (85 O.S. Supp. 2009, Section 16), is amended to read as
13 follows:

14 Section 16. A. The Administrator of the Workers' Compensation
15 Court shall hire a Vocational Rehabilitation Director to oversee the
16 vocational rehabilitation program of the Court. The Vocational
17 Rehabilitation Director shall have not less than a masters degree in
18 rehabilitation counseling and at least ten (10) years of experience
19 in rehabilitation of injured workers.

20 B. The Vocational Rehabilitation Director shall help injured
21 workers return to the work force through the encouragement of light-
22 duty work or retraining. Upon the request of either party, the
23 Vocational Rehabilitation Director shall determine if it is
24 appropriate for a claimant to receive vocational rehabilitation

1 training or services, and shall oversee such training. If
2 appropriate, the Vocational Rehabilitation Director shall issue
3 administrative orders, including, but not limited to, an order for a
4 vocational rehabilitation evaluation for any injured employee unable
5 to work for at least ninety (90) days. In addition, the Vocational
6 Rehabilitation Director may assign injured workers to vocational
7 rehabilitation counselors for coordination of recommended services.
8 The cost of the services shall be paid by the employer. If
9 possible, vocational rehabilitation services shall begin
10 concurrently with medical treatment, while the injured employee is
11 temporarily totally disabled and receiving benefits. The Director
12 may order an evaluation for any injured worker receiving medical
13 case management services. All such administrative orders are
14 subject to appeal.

15 C. An employee who has suffered an accidental injury or
16 occupational disease covered by the Workers' Compensation Act shall
17 be entitled to prompt and reasonable physical rehabilitation
18 services. When, as a result of the injury, the employee is unable
19 to perform the same occupational duties he was performing prior to
20 the injury, the employee shall be entitled to such vocational
21 rehabilitation services provided by a technology center school, a
22 public vocational skills center or public secondary school offering
23 vocational-technical education courses, or a member institution of
24 The Oklahoma State System of Higher Education, which shall include

1 retraining and job placement so as to restore the employee to
2 gainful employment. No person shall be adjudicated to be
3 permanently and totally disabled unless first having obtained an
4 evaluation as to the practicability of restoration to gainful
5 employment through vocational rehabilitation services or training.
6 The employee shall pay the cost of the evaluation. If an employee
7 claiming permanent total disability status unreasonably refuses to
8 be evaluated or to accept vocational rehabilitation services or
9 training, permanent total disability benefits shall not be awarded
10 during the period of such refusal, and the employee shall be limited
11 to permanent partial disability benefits only. The Administrator
12 shall promulgate rules governing notice to an injured employee of
13 the right to receive vocational rehabilitation. If rehabilitation
14 services are not voluntarily offered by the employer and accepted by
15 the employee, the judge of the Court may on the Court's own motion,
16 or if requested by a party may, after affording all parties an
17 opportunity to be heard, refer the employee to a qualified physician
18 or facility for evaluation of the practicability of, need for and
19 kind of rehabilitation services or training necessary and
20 appropriate in order to restore the employee to gainful employment.
21 The cost of the evaluation shall be paid by the employer. Following
22 the evaluation, if the employee refuses the services or training
23 ordered by the Court, or fails to complete in good faith the
24 vocational rehabilitation training ordered by the Court, then the

1 cost of the evaluation and services or training rendered may, in the
2 discretion of the Court, be deducted from any award of benefits to
3 the employee which remains unpaid by the employer. Upon receipt of
4 such report, and after affording all parties an opportunity to be
5 heard, the Court shall order that any rehabilitation services or
6 training, recommended in the report, or such other rehabilitation
7 services or training as the Court may deem necessary, provided the
8 employee elects to receive such services, shall be provided at the
9 expense of the employer. Except as otherwise provided in this
10 subsection, refusal to accept rehabilitation services by the
11 employee shall in no way diminish any benefits allowable to an
12 employee.

13 ~~B.~~ D. Vocational rehabilitation services or training shall not
14 extend for a period of more than ~~fifty two (52)~~ one hundred four
15 (104) weeks. This period may be extended for an additional fifty-
16 two (52) weeks or portion thereof by special order of the Court,
17 after affording the interested parties an opportunity to be heard.
18 A request for vocational rehabilitation services or training may be
19 filed with the Administrator by an interested party at any time
20 after the date of injury but not later than sixty (60) days from the
21 date of the final determination that permanent partial disability
22 benefits are payable to the employee. Vocational rehabilitation
23 services or training shall be payable only to the appropriate
24 agency, institution or facility performing the rehabilitation and

1 shall not be payable as a separate item in any settlement, order or
2 award to the claimant. The value of such vocational rehabilitation
3 services or training shall not be included in any calculation for
4 legal fees.

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

12 ~~D.~~ F. During the period when an employee is actively and in
13 good faith being evaluated or participating in a retraining or job
14 placement program for purposes of evaluating permanent total
15 disability status, the employee shall be entitled to receive
16 benefits at the same rate as the employee's temporary total
17 disability benefits computed pursuant to Section 22 of this title
18 for a period of ~~fifty two (52)~~ one hundred four (104) weeks which
19 may be extended by the Court for up to a maximum of an additional
20 fifty-two (52) weeks. No attorney fees shall be awarded or deducted
21 from such benefits received during this period. All tuition related
22 to vocational rehabilitation services shall be paid by the employer
23 or the employer's insurer on a periodic basis directly to the
24

1 facility providing the vocational rehabilitation services or
2 training to the employee.

3 G. Any employer offering to provide on-the-job training to an
4 injured employee may opt out of workers' compensation insurance
5 while the employee is in such training.

6 H. If an employer does not offer light duty or early return to
7 work programs, the injured employee shall be eligible for a
8 vocational evaluation.

9 SECTION 16. AMENDATORY 85 O.S. 2001, Section 22, as last
10 amended by Section 1, Chapter 172, O.S.L. 2009 (85 O.S. Supp. 2009,
11 Section 22), is amended to read as follows:

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

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

18 (a) In the absence of clear and convincing proof to the
19 contrary, the loss of both hands, both legs, both arms, or both eyes
20 shall constitute permanent total disability.

21 (b) Except in a statutory permanent total disability case, in no
22 case shall a claimant receive both permanent total disability and
23 any other form of disability, including but not limited to permanent
24

1 partial, temporary partial or temporary total, at the same time or
2 for the same period of disability.

3 (c) No more often than annually, the carrier, self-insured
4 employer or the Death and Permanent Total Disability Trust Fund may
5 require an injured worker receiving permanent total disability
6 benefits, or the treating physician, or both injured worker and
7 treating physician, to certify on forms provided by the Court that
8 the injured worker is permanently and totally disabled and not
9 gainfully employed. Failure of the employee to so certify within
10 thirty (30) days after receipt of the notice shall permit the
11 discontinuation of benefits without penalty. If the Court finds
12 that the claim of permanent total disability was made in bad faith
13 by the employee, or if the employee made misleading representations
14 regarding disability benefits, the Court shall refer the case to the
15 Workers' Compensation Fraud Unit for appropriate prosecution.

16 2. Temporary Total Disability. (a) With respect to injuries
17 occurring before November 4, 1994, in cases of temporary total
18 disability, seventy percent (70%) of the employee's average weekly
19 wages shall be paid to the employee during the continuance thereof,
20 but not in excess of one hundred fifty (150) weeks, except as
21 otherwise provided in the Workers' Compensation Act. Provided,
22 after compensation has been paid for a period of one hundred forty
23 (140) weeks, the employee may request a review of the case by a
24 judge of the Workers' Compensation Court for continued temporary

1 total disability benefits provided by the Workers' Compensation Act.
2 Upon a finding that benefits should be extended beyond the initial
3 one-hundred-fifty-week period, compensation may be continued for an
4 additional one hundred fifty (150) weeks.

5 (b) With respect to injuries occurring on or after November 4,
6 1994, in cases of temporary total disability, seventy percent (70%)
7 of the employee's average weekly wages shall be paid to the employee
8 during the continuance thereof, but not in excess of fifty-two (52)
9 weeks, except as otherwise provided in the Workers' Compensation
10 Act. Provided, after compensation has been paid for a period of
11 forty-two (42) weeks, the employee may request a review of the case
12 by a judge of the Court for continued temporary total disability
13 benefits provided by the Workers' Compensation Act. Upon a finding
14 that benefits should be extended beyond the initial fifty-two-week
15 period, compensation may be continued for additional successive
16 fifty-two-week periods, provided the employee has requested review
17 of the case at forty-two (42) weeks during each period involved, and
18 upon a finding by the Court that benefits should be extended. Total
19 payments of compensation for temporary total disability may not
20 exceed a maximum of three hundred (300) weeks in the aggregate.

21 (c) With respect to injuries occurring on or after November 1,
22 1997, total payments of compensation for temporary total disability
23 may not exceed a maximum of one hundred fifty-six (156) weeks in the
24 aggregate except for good cause shown, as determined by the Court.

1 Total payments of compensation for temporary total disability,
2 inclusive of consequential injuries, may not exceed a maximum of
3 three hundred (300) weeks in the aggregate.

4 3. Permanent Partial Disability. (a) With respect to injuries
5 occurring prior to November 4, 1994, in case of disability, partial
6 in character but permanent in quality, the compensation shall be
7 seventy percent (70%) of the employee's average weekly wages, and
8 shall be paid to the employee for the period named in the schedule,
9 as follows:

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

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

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

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

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

18 Phalange of Thumb or Finger: The loss of the first phalange of
19 the thumb or finger shall be considered equal to the loss of one-
20 half (1/2) of such thumb or finger, and compensation shall be one-
21 half (1/2) of the amount above specified; the loss of more than one
22 phalange shall be considered as the loss of the entire thumb or
23 finger; provided, however, that in no case shall the amount received
24

1 for more than one finger exceed the amount provided in this schedule
2 for the loss of a hand.

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

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

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

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

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

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

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

14 Eye: For the loss of an eye, two hundred fifty (250) weeks.

15 Deafness: Deafness from industrial cause, including occupations
16 which are hazardous to hearing, accident or sudden trauma, three
17 hundred (300) weeks, and total deafness of one ear from industrial
18 cause, including occupations which are hazardous to hearing,
19 accident or sudden trauma, one hundred (100) weeks. Except as
20 otherwise provided herein, any examining physician shall only
21 evaluate deafness or hearing impairment in accordance with the
22 latest publication of the American Medical Association's "Guides to
23 the Evaluation of Permanent Impairment" in effect at the time of the
24 injury. The Physician Advisory Committee may, pursuant to Section

1 201.1 of this title, recommend the adoption of a method or system to
2 evaluate permanent impairment that shall be used in place of or in
3 combination with the American Medical Association's "Guides to the
4 Evaluation of Permanent Impairment". Such recommendation shall be
5 made to the Administrator of the Workers' Compensation Court who may
6 adopt the recommendation in part or in whole. The adopted method or
7 system shall be submitted by the Administrator to the Governor, the
8 Speaker of the House of Representatives and President Pro Tempore of
9 the Senate within the first ten (10) legislative days of a regular
10 session of the Legislature. Such method or system to evaluate
11 permanent impairment that shall be used in place of or in
12 combination with the American Medical Association's "Guides to the
13 Evaluation of Permanent Impairment" shall be subject to disapproval
14 in whole or in part by joint or concurrent resolution of the
15 Legislature during the legislative session in which submitted. Such
16 method or system shall be operative one hundred twenty (120) days
17 after the last day of the month in which the Administrator submits
18 the adopted method or system to the Legislature if the Legislature
19 takes no action or one hundred twenty (120) days after the last day
20 of the month in which the Legislature disapproves it in part. If
21 adopted, permanent impairment shall be evaluated only in accordance
22 with the latest version of the alternative method or system in
23 effect at the time of injury. Except as otherwise provided in
24 Section 11 of this title, all evaluations shall include an

1 appportionment of injury causation. However, revisions to the guides
2 made by the American Medical Association which are published after
3 January 1, 1989, and before January 1, 1995, shall be operative one
4 hundred twenty (120) days after the last day of the month of
5 publication. Revisions to the guides made by the American Medical
6 Association which are published after December 31, 1994, may be
7 adopted in whole or in part by the Administrator following
8 recommendation by the Physician Advisory Committee. Revisions
9 adopted by the Administrator shall be submitted by the Administrator
10 to the Governor, the Speaker of the House of Representatives and
11 President Pro Tempore of the Senate within the first ten (10)
12 legislative days of a regular session of the Legislature. Such
13 revisions shall be subject to disapproval in whole or in part by
14 joint or concurrent resolution of the Legislature during the
15 legislative session in which submitted. Revisions shall be
16 operative one hundred twenty (120) days after the last day of the
17 month in which the Administrator submits the revisions to the
18 Legislature if the Legislature takes no action or one hundred twenty
19 (120) days after the last day of the month in which the Legislature
20 disapproves them in part. The examining physician shall not follow
21 the guides based on race or ethnic origin. The examining physician
22 shall not deviate from said guides or any alternative thereof except
23 as may be specifically provided for in the guides or modifications
24 to the guides or except as may be specifically provided for in any

1 alternative or modifications thereto adopted by the Administrator of
2 the Workers' Compensation Court as provided for in Section 201.1 of
3 this title. The guides or modifications thereto or alternative
4 system or method of evaluating permanent impairment or modifications
5 thereto shall be the exclusive basis for testimony and conclusions
6 with regard to deafness or hearing impairment.

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

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

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

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

1 In case of an injury resulting in serious and permanent
2 disfigurement, compensation shall be payable in an amount to be
3 determined by the Court, but not in excess of Twenty Thousand
4 Dollars (\$20,000.00); provided, that compensation for permanent
5 disfigurement shall not be in addition to the other compensation
6 provided for in this section, but shall be taken into consideration
7 in fixing the compensation otherwise provided.

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

23 Other Cases: In all other classes of disabilities, excluding
24 only those heretofore referred to in paragraph 3 of this section,

1 which disabilities result in loss of use of any portion of an
2 employee's body, and which disabilities are permanent in quality but
3 partial in character, disability shall mean the percentage of
4 permanent impairment. The compensation ordered paid shall be
5 seventy percent (70%) of the employee's average weekly wage for the
6 number of weeks which the partial disability of the employee bears
7 to five hundred (500) weeks.

8 (b) With respect to injuries occurring after November 4, 1994,
9 through December 31, 2001, in case of disability, partial in
10 character but permanent in quality, the compensation shall be
11 seventy percent (70%) of the employee's average weekly wages, and
12 shall be paid to the employee for the period prescribed by the
13 following schedule:

14 (1) For each percent of the first nine percent (9%) of
15 disability, eighty percent (80%) of the number of weeks of
16 compensation provided by law prior to November 4, 1994;

17 (2) For each percent of the next eleven percent (11%) of
18 disability, the identical number of weeks of compensation provided
19 by law prior to November 4, 1994;

20 (3) For each percent of the next thirty percent (30%) of
21 disability, one hundred twenty percent (120%) of the number of weeks
22 of compensation provided by law prior to November 4, 1994; and
23
24

1 (4) For each remaining percent of disability, the identical
2 number of weeks of compensation provided by law prior to November 4,
3 1994.

4 (c) With respect to injuries occurring on or after January 1,
5 2002, through December 31, 2002, in case of disability, partial in
6 character but permanent in quality, the compensation shall be
7 seventy percent (70%) of the employee's average weekly wages, and
8 shall be paid to the employee for the period prescribed by the
9 following schedule:

10 Thumb: For the loss of thumb, sixty-three (63) weeks.

11 First Finger: For the loss of the first finger, commonly called
12 the index finger, thirty-seven (37) weeks.

13 Second Finger: For the loss of a second finger, thirty-two (32)
14 weeks.

15 Third Finger: For the loss of a third finger, twenty-one (21)
16 weeks.

17 Fourth Finger: For the loss of a fourth finger, commonly called
18 the little finger, sixteen (16) weeks.

19 Phalange of Thumb or Finger: The loss of the first phalange of
20 the thumb or finger shall be considered equal to the loss of one-
21 half (1/2) of such thumb or finger, and compensation shall be one-
22 half (1/2) of the amount above specified; the loss of more than one
23 phalange shall be considered as the loss of the entire thumb or
24 finger; provided, however, that in no case shall the amount received

1 for more than one finger exceed the amount provided in this schedule
2 for the loss of a hand.

3 Great Toe: For the loss of a great toe, thirty-two (32) weeks.

4 Other Toes: For the loss of one of the toes other than the great
5 toe, eleven (11) weeks.

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

10 Hand: For the loss of a hand, two hundred ten (210) weeks.

11 Arm: For the loss of an arm, two hundred sixty-three (263)
12 weeks.

13 Foot: For the loss of a foot, two hundred ten (210) weeks.

14 Leg: For the loss of a leg, two hundred sixty-three (263) weeks.

15 Eye: For the loss of an eye, two hundred sixty-three (263)
16 weeks.

17 Deafness: Deafness from industrial cause, including occupations
18 which are hazardous to hearing, accident or sudden trauma, three
19 hundred fifteen (315) weeks, and total deafness of one ear from
20 industrial cause, including occupations which are hazardous to
21 hearing, accident or sudden trauma, one hundred five (105) weeks.

22 Except as otherwise provided herein, any examining physician shall
23 only evaluate deafness or hearing impairment in accordance with the
24 latest publication of the American Medical Association's "Guides to

1 the Evaluation of Permanent Impairment" in effect at the time of the
2 injury. The Physician Advisory Committee may, pursuant to Section
3 201.1 of this title, recommend the adoption of a method or system to
4 evaluate permanent impairment that shall be used in place of or in
5 combination with the American Medical Association's "Guides to the
6 Evaluation of Permanent Impairment". Such recommendation shall be
7 made to the Administrator of the Workers' Compensation Court who may
8 adopt the recommendation in part or in whole. The adopted method or
9 system shall be submitted by the Administrator to the Governor, the
10 Speaker of the House of Representatives and President Pro Tempore of
11 the Senate within the first ten (10) legislative days of a regular
12 session of the Legislature. Such method or system to evaluate
13 permanent impairment that shall be used in place of or in
14 combination with the American Medical Association's "Guides to the
15 Evaluation of Permanent Impairment" shall be subject to disapproval
16 in whole or in part by joint or concurrent resolution of the
17 Legislature during the legislative session in which submitted. Such
18 method or system shall be operative one hundred twenty (120) days
19 after the last day of the month in which the Administrator submits
20 the adopted method or system to the Legislature if the Legislature
21 takes no action or one hundred twenty (120) days after the last day
22 of the month in which the Legislature disapproves it in part. If
23 adopted, permanent impairment shall be evaluated only in accordance
24 with the latest version of the alternative method or system in

1 effect at the time of injury. Except as otherwise provided in
2 Section 11 of this title, all evaluations shall include an
3 apportionment of injury causation. However, revisions to the guides
4 made by the American Medical Association which are published after
5 January 1, 1989, and before January 1, 1995, shall be operative one
6 hundred twenty (120) days after the last day of the month of
7 publication. Revisions to the guides made by the American Medical
8 Association which are published after December 31, 1994, may be
9 adopted in whole or in part by the Administrator following
10 recommendation by the Physician Advisory Committee. Revisions
11 adopted by the Administrator shall be submitted by the Administrator
12 to the Governor, the Speaker of the House of Representatives and
13 President Pro Tempore of the Senate within the first ten (10)
14 legislative days of a regular session of the Legislature. Such
15 revisions shall be subject to disapproval in whole or in part by
16 joint or concurrent resolution of the Legislature during the
17 legislative session in which submitted. Revisions shall be
18 operative one hundred twenty (120) days after the last day of the
19 month in which the Administrator submits the revisions to the
20 Legislature if the Legislature takes no action or one hundred twenty
21 (120) days after the last day of the month in which the Legislature
22 disapproves them in part. The examining physician shall not follow
23 the guides based on race or ethnic origin. The examining physician
24 shall not deviate from such guides or any alternative thereof except

1 as may be specifically provided for in the guides or modifications
2 to the guides or except as may be specifically provided for in any
3 alternative or modifications thereto adopted by the Administrator of
4 the Workers' Compensation Court as provided in Section 201.1 of this
5 title. The guides or modifications thereto or alternative system or
6 method of evaluating permanent impairment or modifications thereto
7 shall be the exclusive basis for testimony and conclusions with
8 regard to deafness or hearing impairment.

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

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

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

24

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

4 In case of an injury resulting in serious and permanent
5 disfigurement, compensation shall be payable in an amount to be
6 determined by the Court, but not in excess of Twenty Thousand
7 Dollars (\$20,000.00); provided, that compensation for permanent
8 disfigurement shall not be in addition to the other compensation
9 provided for in this section but shall be taken into consideration
10 in fixing the compensation otherwise provided.

11 Hernia: In case of an injury resulting in hernia, temporary
12 total compensation for six (6) weeks, and the cost of an operation
13 shall be payable, unless the employee has not been released from
14 active medical treatment, temporary total compensation not to exceed
15 nine (9) weeks, and the cost of an operation shall be payable;
16 provided, in any case where the injured employee has been twice
17 previously operated on for hernia in the same area and it is
18 established by opinion of a competent surgeon that further surgery
19 in the same area will not result in full relief of the condition,
20 the Court may then award compensation for disability resulting
21 therefrom under paragraph 1 of this section, or, if not totally and
22 permanently disabled, then under the "Other Cases" subdivision
23 following, and, after a second surgical attempt to repair hernia,
24 the injured may not be required to submit to further surgery in an

1 effort to relieve the disability thereafter existing; provided
2 further, the use of any artificial reinforcement or device, with or
3 without surgery, shall not be the basis of reducing extent of
4 disability to be awarded.

5 Other Cases: In all other classes of disabilities, excluding
6 only those heretofore referred to in this paragraph, which
7 disabilities result in loss of use of any portion of an employee's
8 body, and which disabilities are partial in character but permanent
9 in quality, disability shall mean the percentage of permanent
10 impairment. The compensation ordered paid shall be seventy percent
11 (70%) of the employee's average weekly wage for the number of weeks
12 which the partial disability of the employee bears to five hundred
13 (500) weeks.

14 (d) With respect to injuries occurring on or after January 1,
15 2003, in case of disability, partial in character but permanent in
16 quality, the compensation shall be seventy percent (70%) of the
17 employee's average weekly wages, and shall be paid to the employee
18 for the period prescribed by the following schedule:

19 Thumb: For the loss of thumb, sixty-six (66) weeks.

20 First Finger: For the loss of the first finger, commonly called
21 the index finger, thirty-nine (39) weeks.

22 Second Finger: For the loss of a second finger, thirty-three
23 (33) weeks.

24

1 Third Finger: For the loss of a third finger, twenty-two (22)
2 weeks.

3 Fourth Finger: For the loss of a fourth finger, commonly called
4 the little finger, seventeen (17) weeks.

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

13 Great Toe: For the loss of a great toe, thirty-three (33) weeks.

14 Other Toes: For the loss of one of the toes other than the great
15 toe, eleven (11) weeks.

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

20 Hand: For the loss of a hand, two hundred twenty (220) weeks.

21 Arm: For the loss of an arm, two hundred seventy-five (275)
22 weeks.

23 Foot: For the loss of a foot, two hundred twenty (220) weeks.
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1 Leg: For the loss of a leg, two hundred seventy-five (275)
2 weeks.

3 Eye: For the loss of an eye, two hundred seventy-five (275)
4 weeks.

5 Deafness: Deafness from industrial cause, including occupations
6 which are hazardous to hearing, accident or sudden trauma, three
7 hundred thirty (330) weeks, and total deafness of one ear from
8 industrial cause, including occupations which are hazardous to
9 hearing, accident or sudden trauma, one hundred ten (110) weeks.

10 Except as otherwise provided herein, any examining physician shall
11 only evaluate deafness or hearing impairment in accordance with the
12 latest publication of the American Medical Association's "Guides to
13 the Evaluation of Permanent Impairment" in effect at the time of the
14 injury. The Physician Advisory Committee may, pursuant to Section
15 201.1 of this title, recommend the adoption of a method or system to
16 evaluate permanent impairment that shall be used in place of or in
17 combination with the American Medical Association's "Guides to the
18 Evaluation of Permanent Impairment". Such recommendation shall be
19 made to the Administrator of the Workers' Compensation Court who may
20 adopt the recommendation in part or in whole. The adopted method or
21 system shall be submitted by the Administrator to the Governor, the
22 Speaker of the House of Representatives and President Pro Tempore of
23 the Senate within the first ten (10) legislative days of a regular
24 session of the Legislature. Such method or system to evaluate

1 permanent impairment that shall be used in place of or in
2 combination with the American Medical Association's "Guides to the
3 Evaluation of Permanent Impairment" shall be subject to disapproval
4 in whole or in part by joint or concurrent resolution of the
5 Legislature during the legislative session in which submitted. Such
6 method or system shall be operative one hundred twenty (120) days
7 after the last day of the month in which the Administrator submits
8 the adopted method or system to the Legislature if the Legislature
9 takes no action or one hundred twenty (120) days after the last day
10 of the month in which the Legislature disapproves it in part. If
11 adopted, permanent impairment shall be evaluated only in accordance
12 with the latest version of the alternative method or system in
13 effect at the time of injury. Except as otherwise provided in
14 Section 11 of this title, all evaluations shall include an
15 apportionment of injury causation. However, revisions to the guides
16 made by the American Medical Association which are published after
17 January 1, 1989, and before January 1, 1995, shall be operative one
18 hundred twenty (120) days after the last day of the month of
19 publication. Revisions to the guides made by the American Medical
20 Association which are published after December 31, 1994, may be
21 adopted in whole or in part by the Administrator following
22 recommendation by the Physician Advisory Committee. Revisions
23 adopted by the Administrator shall be submitted by the Administrator
24 to the Governor, the Speaker of the House of Representatives and

1 President Pro Tempore of the Senate within the first ten (10)
2 legislative days of a regular session of the Legislature. Such
3 revisions shall be subject to disapproval in whole or in part by
4 joint or concurrent resolution of the Legislature during the
5 legislative session in which submitted. Revisions shall be
6 operative one hundred twenty (120) days after the last day of the
7 month in which the Administrator submits the revisions to the
8 Legislature if the Legislature takes no action or one hundred twenty
9 (120) days after the last day of the month in which the Legislature
10 disapproves them in part. The examining physician shall not follow
11 the guides based on race or ethnic origin. The examining physician
12 shall not deviate from such guides or any alternative thereof except
13 as may be specifically provided for in the guides or modifications
14 to the guides or except as may be specifically provided for in any
15 alternative or modifications thereto adopted by the Administrator of
16 the Workers' Compensation Court as provided in Section 201.1 of this
17 title. The guides or modifications thereto or alternative system or
18 method of evaluating permanent impairment or modifications thereto
19 shall be the exclusive basis for testimony and conclusions with
20 regard to deafness or hearing impairment.

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

24

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

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

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

16 In case of an injury resulting in serious and permanent
17 disfigurement, compensation shall be payable in an amount to be
18 determined by the Court, but not in excess of Twenty Thousand
19 Dollars (\$20,000.00) for an injury occurring before November 1,
20 2005, and not in excess of Fifty Thousand Dollars (\$50,000.00) for
21 an injury occurring on or after November 1, 2005; provided, that
22 compensation for permanent disfigurement shall not be in addition to
23 the other compensation provided for in this section but shall be
24

1 taken into consideration in fixing the compensation otherwise
2 provided.

3 Hernia: In case of an injury resulting in hernia, temporary
4 total compensation for six (6) weeks, and all necessary medical
5 costs including, but not limited to, the cost of an operation shall
6 be payable. A claimant who has had surgery for a hernia may
7 petition the court for one extension of temporary total compensation
8 and the court may order such an extension, not to exceed six (6)
9 additional weeks, if the treating physician indicates such an
10 extension is appropriate, or as agreed to by all parties.

11 Soft Tissue Injury: In case of a nonsurgical soft tissue injury,
12 temporary total compensation shall not exceed eight (8) weeks. A
13 claimant who has been recommended by a treating physician for
14 surgery for a soft tissue injury, or who has had surgery for a soft
15 tissue injury as a result of a recommendation by a treating
16 physician, may petition the Court for one extension of temporary
17 total compensation and the court may order such an extension, not to
18 exceed sixteen (16) additional weeks, if the treating physician
19 indicates that such an extension is appropriate or as agreed to by
20 all parties. In the event the surgery is not recommended, or is
21 recommended but not performed within ninety (90) days after the
22 recommendation, the benefits for the extension period shall be
23 terminated. For purposes of this section, "soft tissue injury"
24 means damage to one or more of the tissues that surround bones and

1 joints. "Soft tissue injury" includes, but is not limited to:
2 sprains, strains, contusions, tendonitis, and muscle tears.
3 Cumulative trauma is to be considered a soft tissue injury. "Soft
4 tissue injury" does not include any of the following:

5 (1) Injury to or disease of the spine, spinal disks, spinal
6 nerves or spinal cord, where corrective surgery is performed;

7 (2) Brain or closed-head injury as evidenced by:

8 a. sensory or motor disturbances,

9 b. communication disturbances,

10 c. complex integrated disturbances of cerebral function,

11 d. episodic neurological disorders, or

12 e. other brain and closed-head injury conditions at least
13 as severe in nature as any condition provided in
14 subdivisions a through d of this division; or

15 (3) Total knee replacement.

16 In all cases of soft tissue injury, the employee shall only be
17 entitled to appropriate and necessary medical care and temporary
18 total disability as set out in ~~paragraph 2 of this section~~, this
19 subparagraph. The employee shall not be entitled to permanent
20 impairment unless there is objective medical evidence of a permanent
21 anatomical abnormality. In determining the existence of such an
22 abnormality, the Court may consider if there is credible medical
23 evidence that the ability of the employee to earn wages at the same
24 level as before the injury has been permanently impaired.

1 Other Cases: In all other classes of disabilities, excluding
2 only those heretofore referred to in this paragraph, which
3 disabilities result in loss of use of any portion of an employee's
4 body, and which disabilities are partial in character but permanent
5 in quality, disability shall mean the percentage of permanent
6 impairment. The compensation ordered paid shall be seventy percent
7 (70%) of the employee's average weekly wage for the number of weeks
8 which the partial disability of the employee bears to five hundred
9 (500) weeks. No permanent disability shall be awarded unless there
10 is objective medical evidence, as defined in Section 3 of this
11 title, of a permanent anatomical abnormality. In determining the
12 existence of such an abnormality, the Court may consider if there is
13 credible medical evidence that the ability of the employee to earn
14 wages at the same level as before the injury has been permanently
15 impaired.

16 (e) With respect to injuries occurring on or after November 1,
17 2010, in case of disability, partial in character but permanent in
18 quality, the compensation shall be sixty-six and two-thirds percent
19 (66 2/3%) of the employee's average weekly wages, not to exceed
20 Three Hundred Forty-two Dollars (\$342.00) per week, and shall be
21 paid to the employee for the period prescribed by the following
22 schedule:

23 Thumb: For the loss of thumb, sixty-six (66) weeks.
24

1 First Finger: For the loss of the first finger, commonly called
2 the index finger, thirty-nine (39) weeks.

3 Second Finger: For the loss of a second finger, thirty-three
4 (33) weeks.

5 Third Finger: For the loss of a third finger, twenty-two (22)
6 weeks.

7 Fourth Finger: For the loss of a fourth finger, commonly called
8 the little finger, seventeen (17) weeks.

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

17 Great Toe: For the loss of a great toe, thirty-three (33) weeks.

18 Other toes: For the loss of one of the toes other than the great
19 toe, eleven (11) weeks.

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

24 Hand: For the loss of a hand, two hundred twenty (220) weeks.

1 Arm: For the loss of an arm, two hundred seventy-five (275)
2 weeks.

3 Foot: For the loss of a foot, two hundred twenty (220) weeks.

4 Leg: For the loss of a leg, two hundred seventy-five (275)
5 weeks.

6 Eye: For the loss of an eye, two hundred seventy-five (275)
7 weeks.

8 Deafness: Deafness, three hundred thirty (330) weeks, and total
9 deafness of one ear, one hundred ten (110) weeks.

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

13 For the permanent partial loss of use of a member, loss of
14 hearing or sight of an eye, sixty-six and two-thirds percent (66
15 2/3%) of the employee's average weekly wage during that portion of
16 the number of weeks in the foregoing schedule provided for the loss
17 of such member or sight of an eye which the partial loss of use
18 thereof bears to the total loss of use of such member, loss of
19 hearing or sight of an eye.

20 Amputations: Amputation between the elbow and the wrist shall be
21 considered as the equivalent of the loss of a hand. Amputation
22 between the knee and the ankle shall be considered as the loss of a
23 foot. Amputation at or above the elbow shall be considered as the
24

1 loss of an arm. Amputation at or above the knee shall be considered
2 as the loss of a leg.

3 Permanent disfigurement: In case of an injury resulting in
4 serious and permanent disfigurement to that portion of the body not
5 normally covered by clothing and open to public view, compensation
6 shall be payable in an amount to be determined by the Court, but not
7 in excess of Five Thousand Dollars (\$5,000.00).

8 Hernia: In case of an injury resulting in hernia, temporary
9 total compensation for six (6) weeks, and all necessary medical
10 costs including, but not limited to, the cost of an operation shall
11 be payable. A claimant who has had surgery for a hernia may
12 petition the court for one extension of temporary total compensation
13 and the court may order such an extension, not to exceed six (6)
14 additional weeks, if the treating physician indicates such an
15 extension is appropriate, or as agreed to by all parties.

16 Soft Tissue Injury: In case of a nonsurgical soft tissue injury,
17 temporary total compensation shall not exceed eight (8) weeks. A
18 claimant who has been recommended by a treating physician for
19 surgery for a soft tissue injury, or who has had surgery for a soft
20 tissue injury as a result of a recommendation by a treating
21 physician, may petition the Court for one extension of temporary
22 total compensation and the Court may order such an extension, not to
23 exceed sixteen (16) additional weeks, if the treating physician
24 indicates that such an extension is appropriate or as agreed to by

1 all parties. In the event the surgery is not recommended, or is
2 recommended but not performed within ninety (90) days after the
3 recommendation, the benefits for the extension period shall be
4 terminated. For purposes of this section, "soft tissue injury"
5 includes, but is not limited to: sprains, strains, contusions,
6 tendonitis, and muscle tears. Cumulative trauma is to be considered
7 a soft tissue injury. In all cases of nonsurgical soft tissue
8 injury, the employee shall only be entitled to appropriate and
9 necessary medical care and temporary total disability as set out in
10 this subparagraph. "Soft tissue injury" does not include any of the
11 following:

12 (1) Injury to or disease of the spine, spinal disks, spinal
13 nerves or spinal cord, where corrective surgery is performed;

14 (2) Brain or closed-head injury as evidenced by:

15 a. sensory or motor disturbances,

16 b. communication disturbances,

17 c. complex integrated disturbances of cerebral function,

18 d. episodic neurological disorders, or

19 e. other brain and closed-head injury conditions at least

20 as severe in nature as any condition provided in

21 subdivisions a through d of this division; or

22 (3) Total knee replacement.

23 Odd-lot doctrine: The Court shall not consider the odd-lot

24 doctrine for permanent disability claims.

1 4. Temporary Partial Disability. (a) With respect to injuries
2 occurring before November 4, 1994, in case of temporary partial
3 disability, except the particular cases mentioned in paragraph 3 of
4 this section, an injured employee shall receive seventy percent
5 (70%) of the difference between the employee's average weekly wages
6 and the employee's wage-earning capacity thereafter in the same
7 employment or otherwise, if less than before the injury, during
8 continuance of such partial disability, but not to exceed one
9 hundred fifty (150) weeks. Provided, after compensation has been
10 paid for a period of one hundred forty (140) weeks, the employee may
11 request a review of the case by a judge of the Court for continued
12 temporary partial disability benefits provided by the Workers'
13 Compensation Act. Upon a finding that benefits should be extended
14 beyond the initial one-hundred-fifty-week period, compensation may
15 be continued for an additional one hundred fifty (150) weeks.

16 (b) With respect to injuries occurring on or after November 4,
17 1994, in case of temporary partial disability, except the particular
18 cases mentioned in paragraph 3 of this section, an injured employee
19 shall receive seventy percent (70%) of the difference between the
20 employee's average weekly wages and the employee's wage-earning
21 capacity thereafter in the same employment or otherwise, if less
22 than before the injury, during continuance of such partial
23 disability, but not to exceed fifty-two (52) weeks. Provided, after
24 compensation has been paid for a period of forty-two (42) weeks, the

1 employee may request a review of the case by a judge of the Court
2 for continued temporary partial disability benefits provided by the
3 Workers' Compensation Act. Upon a finding that benefits should be
4 extended beyond the initial fifty-two-week period, compensation may
5 be continued for additional successive fifty-two-week periods
6 provided the employee has requested review of the case at forty-two
7 (42) weeks during each period involved, and upon a finding by the
8 Court that benefits should be extended. Total payments of
9 compensation for temporary partial disability may not exceed a
10 maximum of three hundred (300) weeks in the aggregate.

11 (c) With respect to injuries occurring on or after November 1,
12 1997, total payments of compensation for temporary partial
13 disability may not exceed a maximum of one hundred fifty-six (156)
14 weeks in the aggregate except for good cause shown, as determined by
15 the Court. Total payments of compensation for temporary partial
16 disability, inclusive of consequential injuries, may not exceed a
17 maximum of three hundred (300) weeks in the aggregate.

18 (d) With respect to injuries occurring before November 1, 2010,
19 in case of temporary partial disability, except the particular cases
20 mentioned in paragraph 3 of this section, an injured employee shall
21 receive sixty-six and two-thirds percent (66 2/3%) of the difference
22 between the employee's average weekly wages and the employee's wage-
23 earning capacity thereafter in the same employment or otherwise, if

24

1 less than before the injury, during continuance of such partial
2 disability, but not to exceed one hundred four (104) weeks.

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

11 If any compensation payments owed without an award are not paid
12 within ten (10) days after becoming due, there shall be added to
13 such owed payments an amount equal to ten percent (10%) of the
14 amount due which shall be paid at the same time in addition to the
15 owed payments unless such nonpayment is excused by the Court after a
16 showing by the employer that conditions exist over which the
17 employer had no control in that either payments were not made within
18 the prescribed time or the employer denies coverage within the time
19 specified for the employer to respond.

20 6. Limitation. The compensation payments under the provisions
21 of the Workers' Compensation Act shall not exceed the sum of
22 seventy-five percent (75%) of the state's average weekly wage as
23 determined by the Oklahoma Employment Security Commission, the sum
24 of ninety percent (90%) of the state's average weekly wage beginning

1 January 1, 1995, for injuries occurring after December 31, 1994, and
2 the sum of one hundred percent (100%) of the state's average weekly
3 wage beginning January 1, 1996, for injuries occurring after
4 December 31, 1995, for temporary disability; Sixty Dollars (\$60.00)
5 per week beginning as of the effective date of the Workers'
6 Compensation Act, and Seventy Dollars (\$70.00) per week beginning
7 January 1, 1979, and Eighty Dollars (\$80.00) per week beginning
8 January 1, 1980, and Ninety Dollars (\$90.00) per week beginning
9 January 1, 1981, and to fifty percent (50%) of the state's average
10 weekly wage beginning January 1, 1982, for permanent partial
11 disability; Seventy-five Dollars (\$75.00) per week beginning as of
12 the effective date of the Workers' Compensation Act, and Ninety
13 Dollars (\$90.00) per week beginning January 1, 1979, and One Hundred
14 Ten Dollars (\$110.00) per week beginning January 1, 1980, to sixty-
15 six and two-thirds percent (66 2/3%) of the state's average weekly
16 wage beginning January 1, 1981, to seventy-five percent (75%) of the
17 state's average weekly wage beginning September 1, 1992, to ninety
18 percent (90%) of the state's average weekly wage beginning January
19 1, 1995, for injuries occurring after December 31, 1994, and to one
20 hundred percent (100%) of the state's average weekly wage beginning
21 January 1, 1996, for injuries occurring after December 31, 1995, for
22 permanent total disability, or at any time be less than Thirty
23 Dollars (\$30.00) per week; provided, however, that if the employee's
24 wages at the time of the injury are less than Thirty Dollars

1 (\$30.00) per week, the employee shall receive the employee's full
2 weekly wages; provided further, that the compensation received, as
3 provided for temporary partial disability, shall not, when added to
4 the wages received by such employee after such injury, amount to a
5 greater sum than eighty percent (80%) of the average weekly wages of
6 the employee received prior to said injury. Provided, further, that
7 for injuries occurring after November 1, 2010, the compensation for
8 permanent partial disability shall not exceed Three Hundred Forty-
9 two Dollars (\$342.00) per week.

10 The average weekly wage in this state shall be determined by the
11 Oklahoma Employment Security Commission every year beginning July 1,
12 1984, and shall be used to establish maximum benefits under the
13 Workers' Compensation Act for injuries occurring during a one-year
14 period, which period shall begin on the first day of November after
15 publication by the Oklahoma Employment Security Commission. For the
16 purpose of computing benefits payable under the Workers'
17 Compensation Act, the state's average weekly wage shall be rounded
18 to the nearest dollar amount.

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

24

1 7. Previous Disability. The fact that an employee has suffered
2 previous disability or impairment or received compensation therefore
3 shall not preclude the employee from compensation for a later
4 accidental personal injury or occupational disease; but in
5 determining compensation for the later accidental personal injury or
6 occupational disease the employee's average weekly wages shall be
7 such sum as will reasonably represent the employee's earning
8 capacity at the time of the later accidental personal injury or
9 occupational disease. In the event there exists a previous
10 impairment, including a previous non-work-related injury or
11 condition which produced permanent disability and the same is
12 aggravated or accelerated by an accidental personal injury or
13 occupational disease, compensation for permanent disability shall be
14 only for such amount as was caused by such accidental personal
15 injury or occupational disease and no additional compensation shall
16 be allowed for the pre-existing disability or impairment. The sum
17 of all permanent partial disability awards, excluding awards against
18 the Multiple Injury Trust Fund and awards for amputations, and
19 surgeries, shall not exceed one hundred percent (100%) permanent
20 partial disability for any individual. An individual may not
21 receive more than five hundred twenty (520) weeks' compensation for
22 permanent partial disability, but may receive other benefits under
23 the Workers' Compensation Act if otherwise eligible as provided in
24 the Workers' Compensation Act.

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

5 (a) Benefit amounts for particular classes of dependents.

6 (1) If there is a surviving spouse, to such surviving spouse
7 seventy percent (70%) of the average weekly wages the deceased was
8 earning. In no event shall this spousal income benefit be
9 diminished.

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

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

20 (4) To the children, if there is no surviving spouse, fifty
21 percent (50%) of the average weekly wages the deceased was earning
22 for one child, and twenty percent (20%) of such wage for each
23 additional child, divided among all children, to share and share
24

1 alike, subject to the provisions of subparagraphs (c) and (d) of
2 this paragraph.

3 (5) The income benefits payable for the benefit of any child
4 under this section shall cease:

5 a. when the child dies, marries, or reaches the age of
6 eighteen (18),

7 b. when the child over eighteen (18) years of age ceases
8 to be physically or mentally incapable of self-
9 support,

10 c. when the actually dependent child ceases to be
11 actually dependent, or

12 d. when the child has been enrolled as a full-time
13 student in any accredited educational institution or
14 has been receiving education by other means, including
15 education at home pursuant to Section 4 of Article
16 XIII of the Oklahoma Constitution, and the child
17 ceases to be so enrolled or educated or reaches
18 twenty-three (23) years of age. A child who
19 originally qualified as a dependent by virtue of being
20 less than eighteen (18) years of age may, upon
21 reaching eighteen (18) years of age, continue to
22 qualify if the child satisfies the tests of being
23 physically or mentally incapable of self-support,
24 actually dependent, or enrolled in an accredited

1 educational institution or being educated by other
2 means, including education at home pursuant to Section
3 4 of Article XIII of the Oklahoma Constitution.

4 (6) To each parent, if actually dependent, twenty-five percent
5 (25%) of the average weekly wages the deceased was earning subject
6 to the provisions of subparagraphs (c) and (d) of this paragraph.

7 (7) To the brothers, sisters, grandparents and grandchildren, if
8 actually dependent, twenty-five percent (25%) of the average weekly
9 wages the deceased was earning to each such dependent. If there
10 should be more than one of such dependents, the total income
11 benefits payable for the benefit of such dependents shall be divided
12 to share and share alike subject to the provisions of subparagraphs
13 (c) and (d) of this paragraph.

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

21 (9) A person ceases to be actually dependent when the person's
22 income from all sources exclusive of workers' compensation income
23 benefits is such that, if it had existed at the time the original
24 determination of actual dependency was made, it would not have

1 supported a finding of dependency. If the present annual income of
2 an actually dependent person including workers' compensation income
3 benefits at any time exceeds the total annual support received by
4 the person from the deceased employee, the workers' compensation
5 benefits shall be reduced so that the total annual income is no
6 greater than such amount of annual support received from the
7 deceased employee. In all cases, a person found to be actually
8 dependent shall be presumed to be no longer actually dependent three
9 (3) years after the time as of which the person was found to be
10 actually dependent. This presumption may be overcome by proof of
11 continued actual dependency as defined in this paragraph and
12 paragraph ~~(1)~~ 1 of Section 3.1 of this title.

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

20 (c) Maximum income benefits for death. For the purposes of this
21 section, the average weekly wage of the employee shall be taken as
22 not more than the average weekly wage of the state. If the average
23 weekly wages of the employee are equal to or greater than the
24 average weekly wage of the state, then the aggregate weekly income

1 benefits payable to all beneficiaries under this section shall not
2 exceed the average weekly wage of the state. If the average weekly
3 wages of the employee are less than the average weekly wage of the
4 state, the aggregate weekly income benefits payable to all
5 beneficiaries under this section shall not exceed one hundred
6 percent (100%) of the average weekly wages of the employee.

7 (d) Maximum total payment. The maximum weekly income benefits
8 payable for all beneficiaries in case of death shall not exceed one
9 hundred percent (100%) of the average weekly wages the deceased was
10 earning, subject to the maximum limits in subparagraph (c) of this
11 paragraph. The maximum aggregate limitation shall not apply in case
12 of payment of two (2) years' income benefits to the surviving spouse
13 upon remarriage, as provided under division (3) of subparagraph (a)
14 of this paragraph, to prevent the immediate recalculation and
15 payments of benefits to the remaining beneficiaries as provided
16 under subparagraph (b) of this paragraph. The weekly income
17 benefits as recalculated to the remaining beneficiaries shall not
18 exceed the weekly benefit that was or would have been payable for
19 total permanent disability to the deceased. The classes of
20 beneficiaries specified in divisions (1), (2) and (4) of
21 subparagraph (a) of this paragraph shall have priority over all
22 other beneficiaries in the apportionment of income benefits. If the
23 provisions of this subparagraph should prevent payments to other
24 beneficiaries of the income benefits to the full extent otherwise

1 provided for by this section, the gross remaining amount of income
2 benefits payable to such other beneficiaries shall be apportioned by
3 class, proportionate to the interest of each class in the remaining
4 amount. Parents shall be considered to be in one class and those
5 specified in division (7) of subparagraph (a) of this paragraph in a
6 separate class.

7 9. Where some pecuniary loss may be shown by heirs-at-law of
8 the deceased, as defined by the descent and distribution statutes of
9 Oklahoma, who are otherwise not entitled to receive benefits under
10 other provisions of this section, such heirs-at-law shall receive
11 compensation for their pecuniary loss not to exceed an aggregate of
12 Five Thousand Dollars (\$5,000.00).

13 10. For deaths occurring before November 1, 2005, in the event
14 that no benefits under other provisions of this section are paid to
15 the dependents or the heirs-at-law of the deceased, an amount not to
16 exceed Five Thousand Dollars (\$5,000.00) shall be paid for funeral
17 expenses. For deaths occurring on or after November 1, 2005, in the
18 event that no benefits under other provisions of this section are
19 paid to the dependents or the heirs-at-law of the deceased, an
20 amount not to exceed Eight Thousand Dollars (\$8,000.00) shall be
21 paid for funeral expenses.

22 11. (a) For deaths occurring before January 1, 1995, if there
23 is a surviving spouse and surviving children entitled to receive
24 death benefits herein, such survivors shall be entitled to an

1 immediate lump-sum payment of Ten Thousand Dollars (\$10,000.00) to
2 the spouse and Two Thousand Five Hundred Dollars (\$2,500.00) to each
3 surviving child not to exceed two children. For deaths occurring
4 after December 31, 1994, if there is a surviving spouse and
5 surviving children entitled to receive death benefits herein, such
6 survivors shall be entitled to an immediate lump-sum payment of
7 Twenty Thousand Dollars (\$20,000.00) to the spouse and Five Thousand
8 Dollars (\$5,000.00) to each surviving child not to exceed two
9 children. For deaths occurring on or after November 1, 2005, if
10 there is a surviving spouse and surviving children entitled to
11 receive death benefits herein, such survivors shall be entitled to
12 an immediate lump-sum payment of One Hundred Thousand Dollars
13 (\$100,000.00) to the spouse and Twenty-five Thousand Dollars
14 (\$25,000.00) to each surviving child not to exceed two children. In
15 addition, the survivors shall be entitled to receive funeral
16 benefits in an amount not to exceed Ten Thousand Dollars
17 (\$10,000.00).

18 (b) For deaths occurring before November 1, 2005, if there is no
19 surviving spouse but there are surviving children entitled to
20 receive death benefits herein, such surviving children shall be
21 entitled to a lump-sum payment of Ten Thousand Dollars (\$10,000.00)
22 to be divided among all the children to share and share alike. For
23 deaths occurring on or after November 1, 2005, if there is no
24 surviving spouse but there are surviving children entitled to

1 receive death benefits herein, each surviving child shall be
2 entitled to a lump-sum payment of Twenty-five Thousand Dollars
3 (\$25,000.00), provided the total amount of lump-sum payments shall
4 not exceed One Hundred Fifty Thousand Dollars (\$150,000.00), to be
5 divided among all the children to share and share alike. The
6 survivors shall also be entitled to receive funeral benefits in an
7 amount not to exceed Ten Thousand Dollars (\$10,000.00).

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

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

1 The judgment awarding lump-sum death benefits shall contain
2 instructions for regularly scheduled disbursements to be fixed by
3 the Court which may be modified by the Court upon a proper showing
4 of change of circumstance. The banking institution shall issue a
5 numbered receipt to the person paying the benefits into trust and
6 deliver a copy of the receipt to the Administrator. Each banking
7 institution receiving trust funds for deposit shall receive a
8 schedule of disbursements and shall monthly pay said disbursements
9 to the beneficiary as ordered by the Court. An annual accounting of
10 all such trust funds received and deposited shall be rendered by
11 each banking institution to the Court granting the judgment.

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

15 13. (a) Any employee convicted of a misdemeanor or felony and
16 sentenced to a term of incarceration of at least ninety (90) days in
17 this state or in any other jurisdiction shall have all benefits for
18 temporary total disability awarded by the Workers' Compensation
19 Court forfeited by order of the Court on motion of the employer or
20 the employer's insurer after confirmation of the employee's
21 incarceration. The Court also may order the forfeiture of such
22 benefits on its own motion upon receipt of notice from the Director
23 of the Department of Corrections that the person awarded the
24 benefits is incarcerated as an inmate in a facility operated by or

1 under contract with the Department. The provisions of this
2 subparagraph shall not apply to any benefits awarded to an inmate
3 for compensable injuries sustained by the inmate while in the employ
4 of a private for-profit employer or while employed in private prison
5 industries, involving a for-profit employer, which deal in
6 interstate commerce or which sell products or services to the
7 federal government.

8 (b) Any employee convicted of a misdemeanor or felony and
9 sentenced to a term of incarceration of at least ninety (90) days in
10 this state shall have all benefits for permanent total disability or
11 temporary partial disability awarded by the Workers' Compensation
12 Court and paid during the period of incarceration deposited to the
13 credit of an account established pursuant to Section 549 of Title 57
14 of the Oklahoma Statutes for distribution in full to the Department
15 of Corrections for costs of incarceration. The State Board of
16 Corrections shall have the power to collect workers' compensation
17 benefits on behalf of the prisoner as provided in this subparagraph
18 and to distribute the benefits as provided by law.

19 SECTION 17. AMENDATORY 85 O.S. 2001, Section 24.2, is
20 amended to read as follows:

21 Section 24.2 A. Unless an employee or former employee gives
22 oral or written notice to the employer or former employer within
23 ~~thirty (30)~~ ten (10) business days of the date an injury occurs ~~or~~
24 ~~the employee receives medical attention from a licensed physician~~

1 ~~during the thirty day period from the date an injury occurred,~~ the
2 rebuttable presumption shall be that the injury was not work
3 related. Such presumption must be overcome by a preponderance of
4 the evidence. For an occupational disease or cumulative trauma,
5 written notice shall be given to the employer within the statutory
6 period for occupational disease set out in ~~Section 43~~ of this title;
7 provided, there shall be a rebuttable presumption that injury from
8 occupational disease or injury caused by cumulative trauma does not
9 arise out of and in the course of employment unless ~~oral or~~ written
10 notice is given by the employee to the employer within ~~ninety (90)~~
11 thirty (30) days of the employee's separation from employment. Such
12 presumption must be overcome by a preponderance of the evidence.

13 B. If the employer has notice of the injury and the injury is
14 not disputed and weekly temporary total disability benefit payments
15 are not commenced within twenty (20) days or if any subsequent
16 installment of temporary total disability benefits is not made
17 within ten (10) days after it becomes due, the insurer of the
18 employer shall pay to the employee a penalty of fifteen percent
19 (15%) of the unpaid or delayed weekly benefits. This penalty may be
20 imposed by the Court for good cause shown on a case-by-case basis.

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

24

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

3 SECTION 18. AMENDATORY 85 O.S. 2001, Section 26, as
4 amended by Section 22, Chapter 1, 1st Extraordinary Session, O.S.L.
5 2005 (85 O.S. Supp. 2009, Section 26), is amended to read as
6 follows:

7 Section 26. A. The Administrator shall provide printed notice
8 forms to be used by the injured employee. Notice of injury filed by
9 the employee with the Administrator shall be verified subject to the
10 laws of perjury of this state and shall be styled: In re: Claim of
11 the _____ (the name of the employee) and shall include in addition
12 to any other requirements the following information:

- 13 1. The name and social security number of the employee;
- 14 2. The name of the employer;
- 15 3. The judicial district of the county of residence of the
16 employee at the time of the injury;
- 17 4. The address of the principal place of business of the
18 employer;
- 19 5. The judicial district of the county where the injury
20 occurred; and
- 21 6. The judicial district of the county where the injured
22 employee wants the claim docketed.

23 B. Any time after the expiration of the first three (3) days of
24 disability on the part of the injured employee, a claim for

1 compensation may be presented to the Administrator. If the employer
2 and the injured employee shall reach a final agreement as to the
3 facts with relation to an injury, and the resulting disability for
4 which compensation is claimed under the Workers' Compensation Act, a
5 memorandum of such agreement, in form as prescribed by the
6 Administrator, signed by both the employer and employee shall be
7 filed by the employer with the Administrator. In cases in which the
8 claimant is not represented by legal counsel, the claimant and the
9 employer may reach a compromise settlement of all issues. ~~The~~
10 ~~settlement must be approved by the Administrator or a judge of the~~
11 ~~Court after the filing of an Employer's First Notice of Injury and~~
12 ~~may be paid in a lump sum.~~ There shall be no requirement for the
13 filing of an Employee's First Notice of Accidental Injury and Claim
14 for Compensation to effect such settlement. ~~The Court shall~~
15 ~~promulgate rules to allow the creation of a file, the making of a~~
16 ~~record before a reporter of the Workers' Compensation Court, and the~~
17 ~~approval of the settlement. This procedure shall be known as a~~
18 ~~"compromise settlement". Compensation received by a claimant in a~~
19 ~~compromise settlement as defined by this subsection or in a~~
20 ~~settlement based upon a dismissal of a claim with prejudice shall~~
21 ~~not be considered to be an award of permanent partial disability.~~
22 In the absence of fraud this agreement shall be deemed binding upon
23 the parties thereto. ~~The Court shall have full power and authority~~
24 ~~to determine all questions in relation to payment of claims for~~

1 ~~compensation under the provisions of the Workers' Compensation Act.~~
2 ~~The Court shall make, or cause to be made, such investigation as it~~
3 ~~deems necessary, and upon application of either party shall order a~~
4 ~~hearing, and as soon as practicable, after a claim for compensation~~
5 ~~is submitted under this section, or such hearing closed, shall make~~
6 ~~or deny an award determining such claim for compensation, and file~~
7 ~~the same in the office of the Administrator, together with the~~
8 ~~statement of its conclusion of fact and rulings of law. Upon a~~
9 ~~hearing pursuant to this section either party may present evidence~~
10 ~~and be represented by counsel. The decision of the Court shall be~~
11 ~~final as to all questions of fact, and except as provided in Section~~
12 ~~3.6 of this title, as to all questions of law.~~

13 C. A good faith effort shall be made on the part of any
14 insurance carrier, CompSource Oklahoma, or group self-insured plan
15 to notify an insured employer of the possibility of, and/or terms
16 of, any settlement of a workers' compensation case pursuant to this
17 section. Written comments or objections to settlements shall be
18 filed with the Workers' Compensation Court and periodically shared
19 with the management of the applicable insurer. A written notice
20 shall be made to all policyholders of their right to a good faith
21 effort by their insurer to notify them of any proposed settlement,
22 if the policyholder so chooses.

23
24

1 SECTION 19. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 28.1 of Title 85, unless there
3 is created a duplication in numbering, reads as follows:

4 A. 1. The Workers' Compensation Court may review any
5 compensation order, award, or decision, except joint petition
6 settlements which have been agreed upon and filed with the Court.

7 2. Review by the Court of any compensation order or award, made
8 by the Court, may be done at any time within three (3) months of
9 termination of the compensation period fixed in the original
10 compensation order or award, upon the application of any party in
11 interest, on the ground of a change in physical condition.

12 3. Upon the review, the Court may make an order or award
13 terminating, continuing, decreasing, or increasing for the future
14 the compensation previously awarded, subject to the maximum limits
15 provided for in the Workers' Compensation Act.

16 B. The review and subsequent order or award shall be made in
17 accordance with the procedure prescribed in the Workers'
18 Compensation Act.

19 C. The Court may, at any time within twelve (12) months from
20 the issuance of any order or award, correct any clerical error in
21 any order or award.

22 SECTION 20. AMENDATORY 85 O.S. 2001, Section 30, as
23 amended by Section 23, Chapter 1, 1st Extraordinary Session, O.S.L.

24

1 2005 (85 O.S. Supp. 2009, Section 30), is amended to read as
2 follows:

3 Section 30. A. 1. If the Workers' Compensation Court before
4 which any proceedings for compensation or concerning an award of
5 compensation have been brought, under the Workers' Compensation Act,
6 determines that such proceedings have not been brought on a
7 reasonable ground, or that denial of benefits has not been based on
8 a reasonable ground, the Court shall assess the total cost of the
9 proceedings on the party, who has brought them or the party who has
10 unreasonably denied payment of benefits.

11 2. In the event a respondent fails to pay travel expenses as
12 required by an order of the Court within twenty-five (25) business
13 days of such order, the Court shall assess a Five Hundred Dollar
14 (\$500.00) penalty against the respondent and payable to the
15 claimant.

16 B. Claims for services or treatment rendered or supplies
17 furnished pursuant to Section 14 of this title shall not be
18 enforceable unless approved by the Court. If approved, such claim
19 shall become a lien upon the compensation awarded, but shall be paid
20 therefrom only in the manner fixed by the Court.

21 C. A claim for legal services shall be determined by the Court
22 pursuant to the provisions of this subsection.

23 1. A claim for legal services in contested temporary disability
24 cases shall not exceed ten percent (10%) of the amount of the award

1 for temporary disability. Legal service fees paid in uncontested
2 cases for temporary total disability shall not exceed ten percent
3 (10%) as ordered by the Court.

4 2. A claim for legal services shall not exceed twenty percent
5 (20%) of the amount of the award for permanent disability or death
6 benefits.

7 D. Claims for legal services for temporary disability awards
8 shall be paid periodically. Claims for legal fees for permanent
9 total disability awards shall be paid periodically at the rate of
10 twenty percent (20%) of each weekly check to the claimant until the
11 attorney fee is satisfied, based upon a maximum of four hundred
12 (400) weeks of compensation. The right to any such attorney fee
13 shall be vested at the time the award therefor becomes final.
14 Claims for legal services for permanent partial disability awards
15 may be paid in a lump sum the same to be deducted from the end of
16 the award. Claims for legal services for death awards may be paid
17 in a lump sum which shall be deducted from the periodic compensation
18 payments at a rate of ten percent (10%) per payment until the
19 attorney fee is satisfied.

20 E. In any claim in which the respondent has ~~admitted~~
21 ~~compensability of an accidental injury within twenty (20) days of~~
22 ~~the filing of an Employee's First Notice of Accidental Injury and~~
23 ~~Claim for Compensation, has not disputed medical treatment, and has~~
24 made a settlement offer in writing within ~~fifteen (15)~~ thirty (30)

1 days after receipt of notice that the claimant reaches has reached
2 maximum medical improvement, the attorney fee shall be limited to
3 ~~thirty five percent (35%)~~ twenty percent (20%) of the amount of any
4 award or settlement of permanent partial disability which is greater
5 than the amount of the offer. ~~In addition, an attorney fee shall be~~
6 ~~awarded for other contested benefits obtained on behalf of the~~
7 ~~claimant at any time during the pendency of the claim and shall be~~
8 ~~based upon a reasonable hourly rate.~~ In no event shall the total
9 attorney fee be in excess of twenty percent (20%) of the total
10 permanent partial disability award or settlement. All attorney fees
11 shall be deducted from the award or settlement to the claimant.

12 F. An attorney and counselor shall not deduct or withhold any
13 portion of a judgment from the Court, a court of law, settlement
14 proceeds of a client, or any monies held in trust for a client for
15 the purpose of donating or contributing funds or monies to a
16 political fund, political action committee, campaign of any kind, or
17 candidate for state, federal or local office.

18 SECTION 21. AMENDATORY 85 O.S. 2001, Section 41, is
19 amended to read as follows:

20 Section 41. A. Awards for permanent partial disability under
21 Section 22 of this title shall be made for the total number of weeks
22 of compensation which the Court shall find the claimant will be
23 entitled to receive, less any sums previously paid which the Court
24 may find to be a proper credit thereon. When the award becomes

1 final, the whole sum or any unpaid portion thereof shall operate as
2 a final adjudicated obligation and payment thereof may be enforced
3 by the claimant or in case of his death, by the surviving
4 beneficiary entitled to the proceeds as provided in ~~Section 48~~ of
5 this title. All awards shall be paid by periodic installments as
6 determined by the Court. Whenever an injured person receives an
7 award for permanent partial disability, ~~permanent total disability~~
8 ~~or death benefits~~, the injured employee or claimant, for good cause
9 shown, may have the award commuted to a lump-sum payment by
10 permission of the Court. This authorization for commutation shall
11 not be applicable to attorney fees in permanent total disability
12 cases. The lump-sum payment shall not exceed Four Thousand Dollars
13 (\$4,000.00) or twenty-five percent (25%) of the total award,
14 whichever is the larger sum. Attorney fees shall be based upon not
15 more than a five-hundred-week award and, with respect to attorney
16 fees in a permanent total disability case, shall be paid
17 periodically. Such commutation shall be in addition to any
18 commutation to a lump-sum payment for legal services. The balance
19 of the total award shall be paid in periodic installments. In case
20 of the death of a claimant due to causes other than his accidental
21 personal injury or occupational disease at any time before
22 satisfaction or payment of the total award is made, the award shall
23 not abate, but shall be revived in favor of the persons determined
24 by the Court to be entitled thereto. In proceedings to enforce

1 claims for compensation during a period of healing or temporary
2 total disability, the compensation under the provisions of the
3 Workers' Compensation Act shall be payable periodically, in
4 accordance with the method of payment of the wages of the employee
5 at the time of his injury, and shall be so provided for in any award
6 made.

7 B. Awards for permanent total disability shall be made by the
8 Court under Section 22 of this title. The Court shall make a
9 determination that the claimant will be entitled to receive the
10 weekly income benefits provided in this title as long as his
11 permanent total disability continues to exist. When an award for
12 total permanent disability becomes final, the accrued portion
13 thereof shall operate as a final adjudicated obligation and payment
14 thereof may be enforced by the claimant. In proceedings to enforce
15 claims for total permanent disability, the compensation under the
16 provisions of the Workers' Compensation Act shall be payable
17 periodically and shall be so provided in any award made thereon.
18 Total permanent disability awards shall not be commuted to a
19 lump-sum payment.

20 C. All payments shall be made on any award in the manner and
21 form prescribed by the Court not to exceed the weekly rate of
22 compensation specified in Section 22 of this title, and employers
23 and insurance carriers shall, for such purposes, be permitted, or
24 when necessary to protect the interests of the beneficiary, may be

1 required to make deposits with the Administrator to secure the
2 prompt and convenient payment of awards made. Provided that, all
3 weekly or periodic payments shall be made through the use of United
4 States legal tender, negotiable instruments payable on demand or
5 negotiable drafts when each such payment does not exceed One
6 Thousand Dollars (\$1,000.00). Failure for ten (10) days to pay any
7 final award or any portion thereof, as ordered shall immediately
8 entitle the beneficiary to an order finding the respondent and/or
9 insurance carrier to be in default and all unpaid portions,
10 including future periodic installments unpaid, shall immediately
11 become due and may be immediately enforced as provided by ~~Section 42~~
12 ~~of~~ this title.

13 An award for disability may be made after the death of the
14 injured employee, when death results from causes other than the
15 injury. If an employee dies as a result of a compensable injury or
16 an occupational disease, any unaccrued portions of an award or order
17 shall abate.

18 SECTION 22. AMENDATORY 85 O.S. 2001, Section 41.1, is
19 amended to read as follows:

20 Section 41.1 ~~A-~~ In the event salary or any other remuneration
21 is paid in lieu of temporary total compensation during the period of
22 temporary total disability or for any other period of time, ~~ne a~~
23 respondent or insurance carrier shall be allowed to deduct from the
24 amount of the award for permanent total or ~~partial~~ permanent partial

1 disability any amounts paid for temporary total disability, ~~nor~~ and
2 shall he be given credit for such additional payments on future
3 temporary total disability, permanent partial disability,
4 disfigurement, or any other compensation provided by the workers'
5 compensation law.

6 ~~B. Notwithstanding the provisions of subsection A of this~~
7 ~~section, a qualified individual self-insured employer that pays~~
8 ~~temporary total disability benefits at a higher weekly rate than~~
9 ~~required by statute, without diminishing the employee's accrued~~
10 ~~leave on such payments, shall be given credit for such overpayment~~
11 ~~against any permanent partial disability owed, after payment of~~
12 ~~attorney fees and taxes. This provision shall not apply where~~
13 ~~salary continuation was made by the self-insured employer pursuant~~
14 ~~to an applicable collective bargaining agreement.~~

15 SECTION 23. AMENDATORY 85 O.S. 2001, Section 42, is
16 amended to read as follows:

17 Section 42. A. If payment of compensation or an installment
18 payment of compensation due under the terms of an award, except in
19 the case of an appeal of an award or an award from the Multiple
20 Injury Trust Fund, is not made within ten (10) days after the same
21 is due by the employer or insurance carrier liable therefor, the
22 Court may order a certified copy of the award to be filed in the
23 office of the court clerk of any county, which award whether
24 accumulative or lump sum shall have the same force and be subject to

1 the same law as judgments of the district court. Any compensation
2 awarded and all payments thereof directed to be made by order of the
3 Court, except in the case of an appeal of an award or an award of
4 compensation from the Multiple Injury Trust Fund, shall bear
5 interest at the rate of ~~eighteen percent (18%)~~ the average U.S.
6 Treasury Bill rate of the preceding calendar year per year from the
7 date ordered paid by the Court until the date of satisfaction. On
8 or after November 1, 2001, compensation ordered to be paid from the
9 Multiple Injury Trust Fund shall bear simple interest only at the
10 percentage rate applicable to judgments in civil cases pursuant to
11 Section 727 of Title 12 of the Oklahoma Statutes from the date of
12 the award. Any award from the Multiple Injury Trust Fund prior to
13 November 4, 1994, shall bear interest at the percentage rate
14 applicable to judgments in civil cases pursuant to Section 727 of
15 Title 12 of the Oklahoma Statutes. Upon the filing of the certified
16 copy of the Court award a writ of execution shall issue and process
17 shall be executed and the cost thereof taxed, as in the case of
18 writs of execution, on judgments of courts of record, as provided by
19 Title 12 of the Oklahoma Statutes; provided, however, the provisions
20 of this section relating to execution and process for the
21 enforcement of awards shall be and are cumulative to other
22 provisions now existing or which may hereafter be adopted relating
23 to liens or enforcement of awards or claims for compensation.

24

1 B. If any insurance carrier intentionally, knowingly, or
2 willfully violates any of the provisions of the Workers'
3 Compensation Act or any published rules or regulations promulgated
4 thereunder, the Insurance Commissioner, on the request of a judge of
5 the Court or the Administrator, ~~shall~~ may suspend or revoke the
6 license or authority of such insurance carrier to do a compensation
7 business in this state.

8 SECTION 24. AMENDATORY 85 O.S. 2001, Section 43, as
9 amended by Section 24, Chapter 1, 1st Extraordinary Session, O.S.L.
10 2005 (85 O.S. Supp. 2009, Section 43), is amended to read as
11 follows:

12 Section 43. A. The right to claim compensation under the
13 Workers' Compensation Act shall be forever barred unless, within ~~two~~
14 ~~(2) years~~ six (6) months after the date of accidental injury or
15 death, a claim for compensation is filed with the Workers'
16 Compensation Court. Provided however, a claim may be filed within
17 ~~two (2) years~~ ninety (90) days of the last medical treatment which
18 was authorized by the employer or the insurance carrier or payment
19 of any compensation or remuneration paid in lieu of compensation.
20 Provided further however, with respect to disease or injury caused
21 by repeated trauma causally connected with employment, a claim may
22 be filed within ~~two (2) years~~ six (6) months of the date of last
23 trauma or hazardous exposure. Provided, further however, in the
24 case of asbestosis, silicosis or exposure to nuclear radiation

1 causally connected with employment, a claim may be filed within two
2 (2) years of the date of last hazardous exposure or within two (2)
3 years from the date said condition first becomes manifest by a
4 symptom or condition from which one learned in medicine could, with
5 reasonable accuracy, diagnose such specific condition, whichever
6 last occurs. The filing of any form or report by the employer or
7 insurance carrier shall not toll the above limitations. ~~Post-~~
8 ~~termination injury~~ Injury claims shall be filed within ~~six (6)~~
9 ~~months~~ ten (10) business days of termination of employment, provided
10 that nothing herein shall extend any limitation period set forth in
11 this section.

12 B. When a claim for compensation has been filed with the
13 Administrator as herein provided, unless the claimant shall in good
14 faith request a hearing and final determination thereon within ~~three~~
15 ~~(3)~~ two (2) years from the date of filing thereof or within ~~three~~
16 ~~(3)~~ ~~years~~ one (1) year from the date of last payment of compensation
17 or wages in lieu thereof, same shall be barred as the basis of any
18 claim for compensation under the Workers' Compensation Act and shall
19 be dismissed by the Court for want of prosecution, which action
20 shall operate as a final adjudication of the right to claim
21 compensation thereunder. If represented by counsel, the claimant
22 may, upon the payment of the Court's filing fee, dismiss any claim
23 brought by the claimant at any time before final submission of the
24 case to the Court for decision. Any claimant not represented by

1 counsel may, upon the payment of the Court's filing fee and with an
2 order of the Court, dismiss any claim brought by the claimant at any
3 time before final submission of the case to the Court for decision.
4 Such dismissal shall be without prejudice unless the words "with
5 prejudice" are included in the order. If any claim that is filed
6 within the statutory time permitted by this section is dismissed
7 without prejudice, a new claim may be filed within one (1) year
8 after the entry of the order dismissing the first claim even if the
9 statutory time for filing has expired.

10 C. The jurisdiction of the Court to reopen any ~~cause~~
11 surgically-treated claim upon an application based upon a change in
12 condition for the worse shall extend for three (3) years from the
13 date of the last order, and unless filed within said period of time,
14 shall be forever barred. An order denying an application to reopen
15 a such surgically-treated claim shall not extend the period of the
16 time set out herein for reopening the case.

17 D. Each employer shall post a notice advising employees that
18 they are covered by the Workers' Compensation Act and that workers'
19 compensation counselor services are available at the Workers'
20 Compensation Court. The form of the notice shall be prescribed by
21 the rules of the Court. No other notice to the employee shall be
22 required other than said poster required by this section; provided
23 that nothing in this subsection shall be construed to toll the
24 Statute of Limitations provided above.

1 SECTION 25. AMENDATORY 85 O.S. 2001, Section 44, as
2 amended by Section 25, Chapter 1, 1st Extraordinary Session, O.S.L.
3 2005 (85 O.S. Supp. 2009, Section 44), is amended to read as
4 follows:

5 Section 44. (a) If a worker entitled to compensation under the
6 Workers' Compensation Act is injured or killed by the negligence or
7 wrong of another not in the same employ, such injured worker shall,
8 before any suit or claim under the Workers' Compensation Act, elect
9 whether to take compensation under the Workers' Compensation Act, or
10 to pursue his remedy against such other. Such election shall be
11 evidenced in such manner as the Administrator may by rule or
12 regulation prescribe. If he elects to take compensation under the
13 Workers' Compensation Act, the cause of action against such other
14 shall be assigned to the insurance carrier liable for the payment of
15 such compensation, and if he elects to proceed against such other
16 person or insurance carrier, as the case may be, the employer's
17 insurance carrier shall contribute only the deficiency, if any,
18 between the amount of the recovery against such other person
19 actually collected, and the compensation provided or estimated by
20 the Workers' Compensation Act for such case. The compromise of any
21 such cause of action by the worker at any amount less than the
22 compensation provided for by the Workers' Compensation Act shall be
23 made only with the written approval of the Court. Whenever recovery
24 against such other person is effected without compromise settlement

1 by the employee or his representatives, the employer or insurance
2 company having paid compensation under the Workers' Compensation Act
3 shall be entitled to reimbursement as hereinafter set forth and
4 shall pay from its share of said reimbursement a proportionate share
5 of the expenses, including attorneys fees, incurred in effecting
6 said recovery to be determined by the ratio that the amount of
7 compensation paid by the employer bears to the amount of the
8 recovery effected by the employee. After the expenses and attorneys
9 fees have been paid, the balance of the recovery shall be
10 apportioned between the employer or insurance company having paid
11 the compensation and the employee or his representatives in the same
12 ratio that the amount of compensation paid by the employer bears to
13 the total amount recovered; provided, however, the balance of the
14 recovery may be divided between the employer or insurance company
15 having paid compensation and the employee or his representatives as
16 they may agree.

17 In the event that recovery is effected by compromise settlement,
18 then in that event the expenses, attorneys fees and the balance of
19 the recovery may be divided between the employer or insurance
20 company having paid compensation and the employee or his
21 representatives as they may agree. Provided, that in the event they
22 are unable to agree, then the same shall be apportioned by the
23 district court having jurisdiction of the employee's action against
24 such other person, in such manner as is just and reasonable.

1 ~~(b) Notwithstanding subsection (d) of this section, the~~
2 ~~employer or his insurance carrier shall not have the right of~~
3 ~~subrogation to recover money paid by the employer or his insurance~~
4 ~~carrier for death claims or death benefits under the Workers'~~
5 ~~Compensation Act from third persons, with all common law rights~~
6 ~~against other than the employer and his employees preserved and to~~
7 ~~be in those persons who would have had such rights had there been no~~
8 ~~death claim or death benefits under the Workers' Compensation Act.~~

9 ~~(e) The employer or his insurance carrier shall have the right~~
10 ~~of subrogation to recover money paid by the employer or his~~
11 ~~insurance carrier for the expenses of the last illness or accident~~
12 ~~under the Workers' Compensation Act from third persons, with all~~
13 ~~common law rights against other than the employer and his employees~~
14 ~~preserved and to be in those persons who would have had such rights~~
15 ~~had there been no benefits under the Workers' Compensation Act.~~

16 ~~(d) An employer shall have a cause of action against a third~~
17 ~~party whose wrongful or negligent conduct causes the death of an~~
18 ~~employee entitled to compensation under this title to recover any~~
19 ~~money paid for death benefits on behalf of the employee. Nothing~~
20 ~~contained in this section shall allow an employer or insurance~~
21 ~~carrier for an employer to seek an interest in either the death~~
22 ~~benefits received by the employee or the employee's beneficiary or~~
23 ~~in a life insurance policy procured by the employee.~~

24

1 SECTION 26. AMENDATORY 85 O.S. 2001, Section 45, is
2 amended to read as follows:

3 Section 45. A. No benefits, saving or insurance of the injured
4 employee, independent of the provisions of ~~this act~~ the Workers'
5 Compensation Act shall be considered in determining the compensation
6 or benefit to be paid under ~~this act~~ the Workers' Compensation Act.

7 B. No employee may receive temporary total disability benefits
8 covering the same period of time as unemployment compensation
9 benefits received by the employee as provided by the Oklahoma
10 Employment Security Commission or the unemployment insurance law of
11 any other state.

12 SECTION 27. AMENDATORY 85 O.S. 2001, Section 47.1, is
13 amended to read as follows:

14 Section 47.1 Where an applicant for employment, though not
15 actually disabled, is found to be affected by silicosis or
16 asbestosis, he may, subject to the approval of the ~~State Industrial~~
17 ~~Commission~~ Workers' Compensation Court, be permitted to waive in
18 writing full compensation for any aggravation of his condition that
19 may result from his continuing in his hazardous occupation. In the
20 event of total disablement as a result of the disease with which the
21 employee was so affected, after such a waiver, compensation shall
22 nevertheless be payable as herein elsewhere provided, but in no case
23 for longer than one hundred (100) weeks or to exceed Two Thousand
24 (\$2,000.00) Dollars in the aggregate. A waiver so permitted shall

1 remain effective, for the trade, occupation, process or employment
2 for which executed, notwithstanding a change or changes of employer.
3 The ~~Commission~~ Court shall make reasonable rules and regulations
4 relative to the form, execution, filing or registration and public
5 inspection of waivers or records thereof.

6 SECTION 28. AMENDATORY 85 O.S. 2001, Section 64, as last
7 amended by Section 79, Chapter 264, O.S.L. 2006 (85 O.S. Supp. 2009,
8 Section 64), is amended to read as follows:

9 Section 64. A. Every policy of insurance covering the
10 liability of the employer for compensation issued by a stock company
11 or by a mutual association or other concern authorized to transact
12 workers' compensation insurance in this state shall contain a
13 provision setting forth the right of the Administrator to enforce in
14 the name of the state, for the benefit of the person entitled to the
15 compensation insured by the policy either by filing a separate
16 application or by making the insurance carrier a party to the
17 original application, the liability of the insurance carrier in
18 whole or in part for the payment of such compensation; provided,
19 however, that payment in whole or in part of the compensation by
20 either the employer or the insurance carrier shall, to the extent
21 thereof, be a bar to the recovery against the other of the amount so
22 paid.

23 B. Every such policy shall contain a provision that, as between
24 the employee and the insurance carrier, the notice to or knowledge

1 of the occurrence of the injury on the part of the employer shall be
2 deemed notice or knowledge, as the case may be on the part of the
3 insurance carrier, that jurisdiction of the employer shall, for the
4 purpose incorporated in this title, be jurisdiction of the insurance
5 carrier, and that the insurance carrier shall in all things be bound
6 by and subject to the orders, findings, decisions or awards rendered
7 against the employer for the payment of compensation under the
8 provisions incorporated in this title.

9 C. Every such policy shall contain a provision to the effect
10 that the insolvency or bankruptcy of the employer shall not relieve
11 the insurance carrier from the payment of compensation for injuries
12 sustained by an employee during the life of such policy.

13 D. 1. Every such policy issued to cover a risk in this state
14 shall include provisions giving the insured employer the option of
15 choosing a deductible amount for medical benefits in amounts ranging
16 from Five Hundred Dollars (\$500.00) to Two Thousand Five Hundred
17 Dollars (\$2,500.00) in increments of Five Hundred Dollars (\$500.00).
18 The policy issued may also include separate provisions giving the
19 insured employer the option of choosing a deductible amount for
20 indemnity benefits in amounts ranging from Five Hundred Dollars
21 (\$500.00) to Two Thousand Five Hundred Dollars (\$2,500.00) in
22 increments of Five Hundred Dollars (\$500.00). The insured employer,
23 if choosing to exercise the option, shall choose only one deductible
24 amount.

1 2. If an insured employer exercises the option and chooses a
2 medical benefits deductible or indemnity benefits deductible, the
3 insured employer shall be liable for the amount of the deductible or
4 deductibles for the medical or indemnity benefits paid for each
5 claim of work injury suffered by an injured employee.

6 3. The Insurance Commissioner, in exercising the authority to
7 approve the form of the policy to be issued, shall not approve any
8 policy form that permits, directly or indirectly, any part of the
9 deductible to be charged to or passed on to the injured worker or
10 insurer.

11 4. The insurer shall pay the entire cost of medical bills
12 directly to the provider of the services and then seek reimbursement
13 from the insured employer for the deductible amount. The insurer
14 shall pay the entire cost of the indemnity benefits as if no
15 deductible were in place and then seek reimbursement from the
16 insured employer for the deductible amount.

17 5. If the insured employer does not reimburse the deductible
18 amount directly to the insurer within sixty (60) days of a written
19 demand therefor, the insurer shall pay the compensable medical claim
20 or indemnity benefit and may seek to recover the full amount of such
21 claim from the insured employer.

22 6. Claim amounts up to Five Hundred Dollars (\$500.00) annually
23 which are paid under the medical benefits deductible or indemnity
24

1 benefits deductible pursuant to this subsection shall be excluded
2 from the calculation of the insured employer's experience modifier.

3 7. The provisions of this subsection shall be fully disclosed
4 to the prospective purchaser in writing.

5 E. Every such policy issued to a sole proprietor, partnership,
6 limited liability company, corporation, or other business entity
7 must disclose to the potential purchaser in writing the option to
8 elect to include the sole proprietors, any or all of the partnership
9 members, any or all of the limited liability company members, or any
10 or all stockholder-employees as employees for the purpose of
11 workers' compensation insurance coverage by endorsing the policy in
12 accordance with Section 3 of this title.

13 F. Every contract or agreement of an employer the purpose of
14 which is to indemnify the employer from loss or damage on account of
15 the injury of an employee by accidental means, or on account of the
16 negligence of such employer or the employer's officer, agent or
17 servant shall be absolutely void unless it shall also cover
18 liability for the payment of the compensation provided for in this
19 title.

20 G. No contract of insurance issued by a stock company or mutual
21 association or other concern against the liability arising under
22 this title shall be canceled within the time limited in such
23 contract for its expiration until at least ten (10) days after
24 notice of intention to cancel such contract, on a date specified in

1 such notice, shall be filed in the office of the Administrator and
2 also served on the employer. Such notice shall be served on the
3 employer by delivering it to the employer or by sending it by mail,
4 by registered letter, addressed to the employer at the employer's
5 last-known place of residence; provided, that if the employer be a
6 partnership, then such notice may be so given to any one of the
7 partners, and if the employer be a corporation, then the notice may
8 be given to any agent or officer of the corporation upon whom legal
9 process may be served. Provided, however, if a contract of
10 insurance has been terminated by an employer insured thereunder who
11 has obtained other compensation insurance, as evidenced by filing in
12 compliance with Section 61 of this title, and no intervening rights
13 of any employee are involved, omission of a predecessor insurer to
14 file notice of time of termination of liability shall not constitute
15 basis for imposition of liability against such predecessor insurer.

16 H. An insurance carrier or its representative commits an
17 administrative violation under Title 36 of the Oklahoma Statutes if
18 the representative attends a workers' compensation dispute
19 resolution proceeding without complete settlement authority or fails
20 to exercise authority to effectuate agreement or settlement.

21 SECTION 29. AMENDATORY 85 O.S. 2001, Section 110, as
22 amended by Section 1, Chapter 338, O.S.L. 2002 (85 O.S. Supp. 2009,
23 Section 110), is amended to read as follows:

24

1 Section 110. A. Except as otherwise provided by state or
2 federal law and subject to the provisions of this section, an
3 employer may inquire about previous workers' compensation claims
4 paid to an employee while the employee was employed by a previous
5 employer. If the employee fails to answer truthfully about any
6 previous ~~permanent partial disability awards made pursuant to~~
7 workers' compensation claims, the employee shall be subject to
8 discharge by the employer.

9 B. 1. All requests made to the Workers' Compensation Court for
10 information on prior workers' compensation claims involving a
11 worker, including written inquiries about prior claims and requests
12 to access a worker's compensation claim file, must be in writing, on
13 a form prescribed by the Administrator, and accompanied by a fee of
14 One Dollar (\$1.00) per search request, not to exceed One Dollar
15 (\$1.00) per claims record of a particular worker. The fee shall be
16 deposited to the credit of the Administrator of Workers'
17 Compensation Revolving Fund created by Section 95 of this title.
18 The form shall require identification of the person requesting the
19 information, and the person for whom a search is being made if
20 different from the requester. The form must contain an affidavit
21 signed by the requester under penalty of perjury that the
22 information sought is not requested for a purpose in violation of
23 state or federal law. The form must be used by all repositories of
24 archived Workers' Compensation Court claim files. All request forms

1 shall be maintained by the Administrator as a public record,
2 together with a record of a worker's written authorization
3 permitting a search indexed by the worker's social security number
4 as required by Section 3113 of Title 74 of the Oklahoma Statutes.
5 The request forms and authorizations shall be indexed alphabetically
6 by the last name of the worker.

7 2. This subsection shall not apply:

- 8 a. to requests for claims information made by a public
9 officer or by a public employee in the performance of
10 his or her duties on behalf of a governmental entity
11 or as may be allowed by law,
- 12 b. to requests for claims information made by an insurer,
13 self-insured employer, third-party claims
14 administrator, or a legal representative thereof, when
15 necessary to process or defend a worker's compensation
16 claim,
- 17 c. when a worker or the worker's representative requests
18 review of the worker's claims information,
- 19 d. when the disclosure is made for educational or
20 research purposes and in such a manner that the
21 disclosed information cannot be used to identify any
22 worker who is the subject of a claim,
- 23 e. to requests for claims information made by a health
24 care or rehabilitation provider or the provider's

1 legal representative when necessary to process payment
2 of health care or rehabilitation services rendered to
3 a worker, and

4 f. to requests for claim information made by an employer
5 or personnel service company (including but not
6 limited to an individual or entity) where the worker
7 executes a written authorization permitting the search
8 and designating the employer or personnel service
9 company as the worker's representative for that
10 purpose; however, nothing in this subparagraph shall
11 relieve the employer or personnel service company from
12 complying with the requirements of utilizing the form
13 set forth in paragraph 1 of this subsection.

14 SECTION 30. AMENDATORY 85 O.S. 2001, Section 112, is
15 amended to read as follows:

16 Section 112. A. There is hereby created an Advisory Council on
17 Workers' Compensation.

18 B. The voting membership of the Advisory Council shall consist
19 of ~~nine (9)~~ seven (7) members. The Administrator and Presiding
20 Judge of the Court shall be ex officio nonvoting members.

21 1. The Governor shall appoint ~~three (3)~~ two members, one
22 representing employers in this state, ~~one of whom shall be from a~~
23 ~~list of nominees provided by the predominant statewide broad-based~~
24 ~~business organization;~~ and one representing employees in this state.

1 2. The Speaker of the House of Representatives shall appoint
2 ~~three (3)~~ two members, one representing employees employers in this
3 state, ~~one of whom shall be from a list of nominees provided by the~~
4 ~~most representative labor organization in the state,~~ and one
5 representing employees in this state.

6 3. The President Pro Tempore of the Senate shall appoint ~~three~~
7 ~~(3)~~ two members ~~who are attorneys representing the legal profession~~
8 ~~in this state, one of whom shall be an attorney who practices~~
9 ~~primarily in the area of defense of workers' compensation claims,~~
10 one representing employers in this state and one representing
11 employees in this state.

12 4. The six members of the Advisory Council so appointed shall
13 select a seventh member who shall serve as Chair.

14 5. No attorneys, employees of law firms or insurance companies,
15 physicians, or employees of workers' compensation medical providers
16 shall be appointed or selected to serve on the Advisory Council.

17 C. 1. ~~The term of office for initial appointees shall be as~~
18 ~~follows:~~

- 19 a. ~~the term of office for three positions, one each~~
20 ~~appointed by the Governor, the President Pro Tempore~~
21 ~~of the Senate and the Speaker of the House of~~
22 ~~Representatives shall expire on March 1, 1992,~~
- 23 b. ~~the term of office for three positions, one each~~
24 ~~appointed by the Governor, the President Pro Tempore~~

1 ~~of the Senate and the Speaker of the House of~~
2 ~~Representatives shall expire on March 1, 1993, and~~
3 ~~e. the term of office for three positions, one each~~
4 ~~appointed by the Governor, the President Pro Tempore~~
5 ~~of the Senate and the Speaker of the House of~~
6 ~~Representatives shall expire on March 1, 1994,~~

7 ~~2. Thereafter, All members of the Advisory Council and their~~
8 ~~successors in office shall be appointed for a three-year term.~~
9 ~~Members shall be eligible to succeed themselves in office, and.~~

10 ~~3. 2.~~ Any person appointed to fill a vacancy shall be appointed
11 for the unexpired portion of the term.

12 ~~D. The chairman and the vice chairman of the Advisory Council,~~
13 ~~one of whom shall be an employee representative and one of whom~~
14 ~~shall be an employer representative, shall be elected by the Council~~
15 ~~from among its voting members.~~

16 ~~E.~~ Members shall receive their traveling and other necessary
17 expenses incurred in the performance of their duties as provided in
18 the State Travel Reimbursement Act, Section 500.1 et seq. of Title
19 74 of the Oklahoma Statutes.

20 ~~F. E.~~ Meetings of the Advisory Council shall be quarterly or as
21 called by the chair or upon petition by a majority of the voting
22 members. The presence of ~~five (5)~~ four voting members constitutes a
23 quorum. No action shall be taken by the Advisory Council without
24 the affirmative vote of at least ~~five (5)~~ four members.

1 ~~G.~~ F. The Administrator of the Court shall provide office
2 supplies and personnel of the Workers' Compensation Court to carry
3 out any of the duties that have been entrusted to the Council.

4 ~~H.~~ G. The Advisory Council shall analyze and review the
5 workers' compensation system, the reports of the Administrator of
6 the Workers' Compensation Court, and trends in the field of workers'
7 compensation. The Council may recommend improvements and proper
8 responses to developing trends. The Council shall report its
9 findings annually to the Governor, the Chief Justice of the Supreme
10 Court, the President Pro Tempore of the Senate, and the Speaker of
11 the House of Representatives.

12 ~~I.~~ H. In addition to other duties required by this section, the
13 Advisory Council shall consult with the Workers' Compensation Court
14 regarding oversight of independent medical examiners as provided in
15 ~~Section 17 of~~ this title.

16 SECTION 31. AMENDATORY 85 O.S. 2001, Section 201.1, as
17 last amended by Section 31, Chapter 1, 1st Extraordinary Session,
18 O.S.L. 2005 (85 O.S. Supp. 2009, Section 201.1), is amended to read
19 as follows:

20 Section 201.1 A. 1. There is hereby created a Physician
21 Advisory Committee comprised of nine (9) members to be appointed as
22 follows:

23 a. the Governor shall appoint three members, one of whom
24 shall be licensed in this state as a doctor of

1 medicine and surgery, one of whom shall be engaged in
2 the practice of family medicine in a rural community
3 of the state, and one of whom shall be an osteopathic
4 physician,

5 b. the President Pro Tempore of the Senate shall appoint
6 three members, one of whom shall be licensed in this
7 state as a doctor of medicine and surgery, one of whom
8 shall be licensed in this state either as a doctor of
9 medicine or a doctor of osteopathy and shall be
10 engaged in the practice of occupational medicine, and
11 one of whom shall be licensed in this state as a
12 podiatric physician,

13 c. the Speaker of the House of Representatives shall
14 appoint three members, one of whom shall be licensed
15 in this state as an osteopathic physician, one of whom
16 shall be licensed in this state either as a doctor of
17 medicine or a doctor of osteopathy, and one of whom
18 shall be licensed in this state as a chiropractic
19 physician.

20 2. a. To fill the positions for which the term of office
21 expires on January 1, 1996, the Governor shall appoint
22 a resident of the Fifth Congressional District, the
23 President Pro Tempore of the Senate shall appoint a
24 resident of the First Congressional District and the

1 Speaker of the House of Representatives shall appoint
2 a resident of the Second Congressional District.

3 b. To fill the positions for which the term of office
4 expires on January 1, 1997, the Governor shall appoint
5 a resident of the Sixth Congressional District, the
6 President Pro Tempore of the Senate shall appoint a
7 resident of the Third Congressional District and the
8 Speaker of the House of Representatives shall appoint
9 a resident of the Fourth Congressional District.

10 c. To fill the positions for which the term of office
11 expires on January 1, 1998, the Governor, the
12 President Pro Tempore of the Senate and the Speaker of
13 the House of Representatives shall appoint residents
14 of the state at large.

15 d. Thereafter, appointments shall be made from the
16 Congressional District numbered the same as the
17 district from which the original appointment was made
18 pursuant to this paragraph, if a Congressional
19 District so numbered exists. When congressional
20 districts are redrawn, each member appointed prior to
21 July 1 of the year in which such modification becomes
22 effective shall complete the current term of office
23 and appointments made after July 1 of the year in
24 which such modification becomes effective shall be

1 based on the redrawn districts. Appointments that
2 were to be made from a numbered Congressional District
3 which no longer exists shall be appointed from the
4 state at large.

5 e. Effective July 1, 2005, all members of the Physicians
6 Advisory Committee shall be subject to reappointment
7 regardless of their appointment date, with any new
8 appointee to serve out the remainder of the unexpired
9 term of the committee member so replaced.

10 B. The Committee shall:

11 1. Assist and advise the Administrator of the Workers'
12 Compensation Court regarding utilization review as it relates to the
13 medical practice and treatment of work-related injuries. Such
14 utilization review shall include a review of reasonable and
15 necessary treatment; abusive practices; needless treatments,
16 testing, or procedures; or a pattern of billing in excess of or in
17 violation of the Schedule of Medical Fees. The Physician Advisory
18 Committee shall review and make findings and recommendations to the
19 Administrator of the Workers' Compensation Court with respect to
20 charges of inappropriate or unnecessary treatment or procedures,
21 abusive practices, or excessive billing disclosed through
22 utilization review;

23 2. Assist the Administrator of the Workers' Compensation Court
24 in reviewing medical practices of health care providers, including

1 evaluations of permanent impairment provided by health care
2 providers, as provided for in ~~Section 201~~ of this title. The
3 Committee shall review and make findings and recommendations to the
4 Administrator with respect to charges of abusive practices by health
5 care providers providing medical services or evaluations of
6 permanent impairment through the workers' compensation system;

7 3. After public hearing, review and make recommendations for
8 acceptable deviations from the American Medical Association's
9 "Guides to the Evaluation of Permanent Impairment" using appropriate
10 and scientifically valid data. Those recommendations ~~may~~ shall be
11 reviewed and adopted, in part or in whole, by the Administrator to
12 be used as provided for in ~~paragraph 11 of Section 3 and Section 22~~
13 ~~of~~ this title;

14 4. ~~After public hearing, review and make recommendations for an~~
15 ~~alternative method or system to evaluate permanent impairment that~~
16 ~~shall be used in place of or in combination with the American~~
17 ~~Medical Association's "Guides to the Evaluation of Permanent~~
18 ~~Impairment". Appropriate and scientific data shall be considered.~~
19 ~~The alternative method or system to evaluate permanent impairment~~
20 ~~may be adopted, in part or in whole, by the Administrator to be used~~
21 ~~as provided for in paragraph 11 of Section 3 and Section 22 of this~~
22 ~~title. Revisions, deviations and alternatives to the American~~
23 ~~Medical Association's "Guides to the Evaluation of Permanent~~
24 ~~Impairment" shall become effective as provided in paragraph 11 of~~

1 ~~Section 3 and Section 22 of this title~~ Ensure that appropriate
2 medical treatment guidelines are recommended to the Administrator
3 for adoption and use in all workers' compensation claims.

4 a. As used in this section, and notwithstanding any other
5 provision of law, medical treatment that is reasonably
6 required to be proper and necessary for the injured
7 worker from the effects of the worker's injury means
8 treatment that is based upon the guidelines adopted by
9 the Administrator. For all injuries not covered by
10 the Administrator's medical treatment guidelines,
11 authorized treatment shall be in accordance with other
12 evidence-based medical treatment guidelines that are
13 recognized generally by the national medical community
14 and scientifically based, as noted in this section.

15 b. The recommended guidelines pursuant to subparagraph a
16 of this paragraph shall reflect practices that are
17 evidence and scientifically based, nationally
18 recognized, or state developed. The guidelines shall
19 be designed to assist providers by offering an
20 analytical framework for the evaluation and treatment
21 of injured workers, and shall constitute care for all
22 injured workers diagnosed with work-related injuries
23 or illnesses.

1 c. A treating doctor may provide medical treatment that
2 is outside of the treatment recommended by the
3 treatment guidelines if the medical treatment is
4 reasonably required and necessary to relieve or cure
5 the individual patient. Prior authorization from the
6 insurer shall be required in order to be reimbursed
7 for treatment outside of that which is recommended by
8 the treatment guidelines.

9 d. If the Administrator awards payment of medical
10 treatment outside that which is recommended by the
11 treatment guidelines then the order must explain why
12 the medical treatment was reasonably required and
13 necessary to relieve or cure the individual patient;

14 5. ~~After public hearing, adopt treatment guidelines and~~
15 ~~protocols for treatment of injuries, including, but not limited to,~~
16 ~~injuries to the hand, wrist, back, knee, neck and shoulder and~~
17 ~~utilization controls for all treatments, including, but not limited~~
18 ~~to, x ray and imaging technology for diagnostic purposes, for~~
19 ~~adoption by the Administrator. Treatment guidelines and protocols~~
20 ~~shall be based upon nationally accepted practice standards and shall~~
21 ~~indicate when surgery is indicated and the appropriate surgical~~
22 ~~procedure for the condition. Among the standards that must be~~
23 ~~considered are the Occupational Medicine Practice Guidelines~~
24 ~~promulgated by the American College of Occupational and~~

1 ~~Environmental Medicine. Compliance with treatment guidelines shall~~
2 ~~be mandatory and an employer or insurer for an employer shall not be~~
3 ~~required to pay for treatment which is not in compliance with the~~
4 ~~guidelines, unless prior authorization is received. If an employer~~
5 ~~or insurer for an employer refuses to give such prior authorization,~~
6 ~~the employee may request the case be reviewed by an independent~~
7 ~~medical examiner pursuant to the provisions of subsection B of~~
8 ~~Section 17 of this title. Provided, however, if the employer and~~
9 ~~employee are unable to agree on the appointment of an independent~~
10 ~~medical examiner for prior authorization purposes, the Court shall~~
11 ~~randomly select an independent medical examiner within seven (7)~~
12 ~~days of receipt of a written request by the employee. The~~
13 ~~independent medical examiner shall review the medical records of the~~
14 ~~employee, examine the employee, or both, as necessary to render an~~
15 ~~opinion as to whether prior authorization should be given. If prior~~
16 ~~authorization is granted, the employer shall pay the costs of the~~
17 ~~independent medical examiner subject to limits established by the~~
18 ~~Administrator. If prior authorization is denied, the employee shall~~
19 ~~pay the costs of the independent medical examiner subject to the~~
20 ~~limits established by the Administrator,~~

21 ~~6.~~ After public hearing, adopt guidelines for the prescription
22 and dispensing of any controlled substance included in Schedule II
23 of the Uniform Controlled Dangerous Substances Act;

24

1 ~~7.~~ 6. Review utilization on cases or of providers when
2 requested by any employer, injured employee or insurer. The
3 Committee may issue a public or private censure to any provider for
4 utilization which is excessive or inadequate, or recommend the Court
5 order treatment within the treatment guidelines;

6 ~~8.~~ 7. Provide general recommendations to the judges of the
7 Workers' Compensation Court on the issues of injury causation and
8 apportionment;

9 ~~9.~~ 8. Conduct educational seminars for the judges of the
10 Workers' Compensation Court, employers, employees, and other
11 interested parties;

12 ~~10.~~ 9. Assist the judges of the Workers' Compensation Court in
13 accessing medical information from scientific literature; and

14 ~~11.~~ 10. Report its progress annually to the Governor, the
15 President Pro Tempore of the Senate, and the Speaker of the House of
16 Representatives.

17 C. As used in this section:

18 1. "Evidence-based" means expert-based, literature-supported
19 and outcomes validated by well-designed randomized trials when such
20 information is available and which uses the best available evidence
21 to support medical decision making;

22 2. "Nationally recognized" includes but is not limited to
23 syntheses of clinical issues that may take the form of published
24 reports in the scientific literature, national consensus documents,

1 formalized documents addressing standards of practice, practice
2 parameters from professional societies or commissions, and
3 technology assessments produced by independent evidence-based
4 practice centers;

5 3. "Scientifically based" involves the application of rigorous,
6 systematic, and objective procedures to obtain reliable and valid
7 knowledge relevant to medical testing, diagnoses and treatment; is
8 adequate to justify the general conclusions drawn; and has been
9 accepted by a peer-reviewed journal or approved by a panel of
10 independent experts through a comparably rigorous, objective, and
11 scientific review;

12 4. "Peer review" means the process of subjecting submitted
13 manuscripts, guidelines, or other clinical or scholarly work to the
14 scrutiny of others who are experts in the same field; and

15 5. "State-developed" includes formalized treatment guidelines
16 developed and adopted by state governments.

17 D. The term of office for initial appointees shall expire March
18 1, 1994. Thereafter, successors in office shall serve as follows:

19 1. The term of office for three positions, one each appointed
20 by the Governor, the President Pro Tempore of the Senate and the
21 Speaker of the House of Representatives, shall expire on January 1,
22 1996;

23 2. The term of office for three positions, one each appointed
24 by the Governor, the President Pro Tempore of the Senate and the

1 Speaker of the House of Representatives, shall expire on January 1,
2 1997;

3 3. The term of office for three positions, one each appointed
4 by the Governor, the President Pro Tempore of the Senate and the
5 Speaker of the House of Representatives, shall expire on January 1,
6 1998;

7 4. Thereafter, successors in office shall be appointed for a
8 three-year term. Members shall be eligible to succeed themselves in
9 office; and

10 5. Any person appointed to fill a vacancy shall be appointed
11 for the unexpired portion of the term.

12 ~~D.~~ E. Members of the Physician Advisory Committee shall receive
13 no compensation for serving on the Committee but shall be reimbursed
14 by the Workers' Compensation Court for their necessary travel
15 expenses incurred in the performance of their duties in accordance
16 with the State Travel Reimbursement Act.

17 ~~E.~~ F. Meetings of the Physician Advisory Committee shall be
18 called by the Administrator but held at least quarterly. The
19 presence of a simple majority of the members constitutes a quorum.
20 No action shall be taken by the Physician Advisory Committee without
21 the affirmative vote of at least a simple majority of the members.

22 ~~F.~~ G. The Administrator shall provide office supplies and
23 personnel of the Workers' Compensation Court to assist the Committee
24 in the performance of its duties.

1 ~~G.~~ H. Upon written request, the State Insurance Commissioner,
2 CompSource Oklahoma, and every approved self-insured employer in
3 Oklahoma shall provide the Committee with data necessary to the
4 performance of its duties.

5 ~~H.~~ I. Any health care provider acting in good faith and within
6 the scope of the provider's duties as a member of the Physician
7 Advisory Committee shall be immune from civil liability for making
8 any report or other information available to the judges of the
9 Workers' Compensation Court or to the Administrator of the Workers'
10 Compensation Court or for assisting in the origination,
11 investigation, or preparation of the report or other information so
12 provided.

13 SECTION 32. REPEALER 85 O.S. 2001, Section 21, is hereby
14 repealed.

15 SECTION 33. REPEALER 85 O.S. 2001, Section 28, is hereby
16 repealed.

17 SECTION 34. REPEALER 85 O.S. 2001, Section 122, is
18 hereby repealed.

19 SECTION 35. REPEALER 85 O.S. 2001, Section 201.2, is
20 hereby repealed.

21 SECTION 36. This act shall become effective November 1, 2010.
22
23
24

1 Passed the House of Representatives the 1st day of March, 2010.

2
3
4 Presiding Officer of the House of
Representatives

5
6 Passed the Senate the ____ day of _____, 2010.

7
8
9 Presiding Officer of the Senate