

EHB 2652

THE STATE SENATE
Thursday, March 25, 2010

ENGROSSED

House Bill No. 2652

As Amended

ENGROSSED HOUSE BILL NO. 2652 - By: Sullivan, McCullough, Moore,
Duncan and Osborn of the House and Coffee of the Senate.

(workers' compensation - amending various sections in Title
85 - definitions - reporting procedures - medical services
after an injury - vocational rehabilitation counselors -
codification - effective date)

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

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

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

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

2. "Amount in dispute" means the dollar value of any permanent
disability award granted to the employee by the Court for a
disability claim which is greater than the dollar amount offered by
the employer to the employee for such disability claim if the
employer admits compensability within twenty (20) days of the filing
of the Employee's First Notice of Accidental Injury and Claim for
Compensation, has not disputed medical treatment, and has made a

1 written settlement offer within ~~fifteen (15)~~ thirty (30) days of the
2 employee reaching maximum medical improvement;

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

6 a. systematically monitoring the treatment rendered and
7 the medical progress of the injured or disabled
8 worker,

9 b. ensuring that any treatment plan follows all
10 appropriate treatment protocols, utilization controls
11 and practice parameters,

12 c. assessing whether alternative health care services are
13 appropriate and delivered in a cost-effective manner
14 based upon acceptable medical standards, and

15 d. ensuring that the injured or disabled worker is
16 following the prescribed health care plan;

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

18 a. is a registered nurse with a current, active
19 unencumbered license from the Oklahoma Board of
20 Nursing, or

21 b. possesses one or more of the following certifications
22 which indicate the individual has a minimum number of
23 years of case management experience, has passed a

1 national competency test and regularly obtains
2 continuing education hours to maintain certification:

- 3 (1) Certified Disability Management Specialist
4 (CDMS),
5 (2) Certified Case Manager (CCM),
6 (3) Certified Rehabilitation Registered Nurse (CRRN),
7 (4) Case Manager - Certified (CMC),
8 (5) Certified Occupational Health Nurse (COHN), or
9 (6) Certified Occupational Health Nurse Specialist
10 (COHN-S);

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

13 6. a. "Compensable injury":

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

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

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

19 An injury, illness or death included in this
20 subparagraph shall not be deemed to be a
21 compensable injury unless it is shown that the
22 exertion of the work necessary to precipitate
23 disability or death was extraordinary and unusual

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

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

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

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

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

1 initial injury by an authorized physician and the
2 employee followed the dosage prescribed,

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

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

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

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

- 1 cause the injury or disease sustained by the
2 employee,
- 3 (8) a claim for mental stress resulting solely from
4 disciplinary action taken in good faith by the
5 employer,
- 6 (9) an injury resulting directly or indirectly from
7 idiopathic causes,
- 8 (10) any contagious or infectious disease unless it
9 arises out of and occurs during the course of
10 employment,
- 11 (11) death due to natural causes occurring while the
12 worker is at work,
- 13 (12) injury which was inflicted upon the employee at a
14 time when employment services were not being
15 performed or before the employee was hired or
16 after the employment relationship was terminated,
17 or
- 18 (13) injury where the accident was substantially
19 occasioned by the use of alcohol, illegal drugs,
20 or prescription drugs used in contravention of
21 the orders of a physician.
- 22 (a) The presence of alcohol, illegal drugs, or
23 prescription drugs used in contravention of

1 orders of a physician shall create a
2 rebuttable presumption that the injury or
3 accident was substantially occasioned by the
4 use of alcohol, illegal drugs, or
5 prescription drugs used in contravention of
6 orders of a physician.

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

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

21 (d) Notwithstanding Section 554 of Title 40 of
22 the Oklahoma Statutes, a public or private
23 employer may require an employee to undergo

1 drug or alcohol testing if the employee or
2 another person has sustained a work-related
3 injury. For purposes of workers'
4 compensation, an employee who tests positive
5 for the presence of substances defined and
6 consumed pursuant to Section 465.20 of Title
7 63 of the Oklahoma Statutes, alcohol, or
8 prescription drugs not prescribed by the
9 employee's treating medical provider shall
10 not be eligible for such compensation unless
11 the employee proves by a preponderance of
12 the evidence that the substances or alcohol
13 were not the proximate cause of the injury
14 or accident.

15 c. A compensable injury must be established by medical
16 evidence supported by objective findings as defined in
17 the Workers' Compensation Act.

18 d. The burden of proof of a compensable injury shall be
19 on the employee.

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

- 1 (1) Permanent benefits shall be awarded only upon a
2 determination that the compensable injury was the
3 major cause of the disability or impairment.
- 4 (2) If any compensable injury combines with a
5 preexisting disease or condition or the natural
6 process of aging to cause or prolong disability
7 or a need for treatment, permanent benefits shall
8 be payable for the resultant condition only if
9 the compensable injury is the major cause of the
10 permanent disability or need for treatment.
- 11 (3) Under this subparagraph, benefits shall not be
12 payable for a condition which results from a non-
13 work-related independent intervening cause
14 following a compensable injury which causes or
15 prolongs disability or a need for treatment. A
16 non-work-related independent intervening cause
17 does not require negligence or recklessness on
18 the part of a claimant.
- 19 (4) Nothing in this subparagraph shall limit the
20 payment of rehabilitation benefits or benefits
21 for disfigurement as set forth in this section.
- 22 f. Aging and the effects of aging on a compensable injury
23 are not to be considered in determining whether there

1 has been a change in physical condition. Nor shall
2 aging or the effect of aging on a compensable injury
3 be considered in determining permanent disability
4 pursuant to this section or any other section in the
5 Workers' Compensation Act. The purpose and intent of
6 this section is to annul any and all case law
7 inconsistent with this section;

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

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

- 11 a. temporary total or temporary partial disability
12 payments,
- 13 b. permanent partial or permanent total disability
14 payments, settlements or awards, and
- 15 c. other compensation which may include medical care,
16 prescription costs, other fees or costs associated
17 with physical or vocational rehabilitation and funeral
18 expenses.

19 Compensation shall be computed on the average weekly wage earned by
20 the employee in force at the time of the accident. Where the
21 injured employee was working other than full time, the average
22 weekly wage shall be determined by dividing the earnings of the
23 employee by the number of hours required to earn the wages during

1 the period not to exceed fifty-two (52) weeks preceding the week in
2 which the accident occurred and by multiplying this hourly wage by
3 the number of hours in a full-time workweek as set out in this
4 title, as it applies to the claimant;

5 ~~7-~~ 9. "Cumulative trauma" means a compensable injury, the major
6 cause of which results from employment activities which are
7 repetitive in nature and engaged in over a period of time and which
8 is supported by objective medical evidence as defined in this
9 section;

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

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

1 ~~9-~~ 12. "Employee" means any person engaged in the employment of
2 any person, firm, limited liability company or corporation covered
3 by the terms of the Workers' Compensation Act, and shall include
4 workers associating themselves together under an agreement for the
5 performance of a particular piece of work, in which event such
6 persons so associating themselves together shall be deemed employees
7 of the person having the work executed; provided, that if such
8 associated workers shall employ a worker in the execution of such
9 contract, then as to such employed worker, both the associated
10 employees and the principal employer shall at once become subject to
11 the provisions of the Workers' Compensation Act relating to
12 independent contractors. Sole proprietors, members of a
13 partnership, members of a limited liability company who own at least
14 ten percent (10%) of the capital of the limited liability company or
15 any stockholder-employees of a corporation who own ten percent (10%)
16 or more stock in the corporation are specifically excluded from the
17 foregoing definition of "employee", and shall not be deemed to be
18 employees as respects the benefits of the Workers' Compensation Act.
19 Provided, a sole proprietor, member of a partnership, member of a
20 limited liability company who owns at least ten percent (10%) of the
21 capital of the limited liability company or any stockholder-employee
22 of a corporation who owns ten percent (10%) or more stock in the
23 corporation who does not so elect to be covered by a policy of

1 insurance covering benefits under the Workers' Compensation Act,
2 when acting as a subcontractor, shall not be eligible to be covered
3 under the prime contractor's policy of workers' compensation
4 insurance; however, nothing herein shall relieve the entities
5 enumerated from providing workers' compensation insurance coverage
6 for their employees. Sole proprietors, members of a partnership,
7 members of a limited liability company who own at least ten percent
8 (10%) of the capital of the limited liability company or any
9 stockholder-employees of a corporation who own ten percent (10%) or
10 more stock in the corporation may elect to include the sole
11 proprietors, any or all of the partnership members, any or all of
12 the limited liability company members or any or all stockholder-
13 employees as employees, if otherwise qualified, by endorsement to
14 the policy specifically including them under any policy of insurance
15 covering benefits under the Workers' Compensation Act. When so
16 included, the sole proprietors, members of a partnership, members of
17 a limited liability company or any or all stockholder-employees
18 shall be deemed to be employees as respects the benefits of the
19 Workers' Compensation Act. "Employee" shall also include any person
20 who is employed by the departments, instrumentalities and
21 institutions of this state and divisions thereof, counties and
22 divisions thereof, public trusts, boards of education and
23 incorporated cities or towns and divisions thereof. "Employee"

1 shall also include a member of the Oklahoma National Guard while in
2 the performance of duties only while in response to state orders and
3 any authorized voluntary or uncompensated worker, rendering services
4 as a firefighter, peace officer or emergency management worker.
5 Provided, "employee" shall not include any other person providing or
6 performing voluntary service who receives no wages for the services
7 other than meals, drug or alcohol rehabilitative therapy,
8 transportation, lodging or reimbursement for incidental expenses.
9 "Employee" shall also include a participant in a sheltered workshop
10 program which is certified by the United States Department of Labor.
11 "Employee" shall not include a person, commonly referred to as an
12 owner-operator, who owns or leases a truck-tractor or truck for
13 hire, if the owner-operator actually operates the truck-tractor or
14 truck and if the person contracting with the owner-operator is not
15 the lessor of the truck-tractor or truck. Provided, however, an
16 owner-operator shall not be precluded from workers' compensation
17 coverage under the Workers' Compensation Act if the owner-operator
18 elects to participate as a sole proprietor. "Employee" shall not
19 include a person referred to as a drive-away owner-operator who
20 privately owns and utilizes a tow vehicle in drive-away operations
21 and operates independently for hire, if the drive-away owner-
22 operator actually utilizes the tow vehicle and if the person
23 contracting with the drive-away owner-operator is not the lessor of

1 the tow vehicle. Provided, however, a drive-away owner-operator
2 shall not be precluded from workers' compensation coverage under the
3 Workers' Compensation Act if the drive-away owner-operator elects to
4 participate as a sole proprietor;

5 ~~10.~~ 13. "Drive-away operations" include every person engaged in
6 the business of transporting and delivering new or used vehicles by
7 driving, either singly or by tow bar, saddle mount or full mount
8 method, or any combination thereof, with or without towing a
9 privately owned vehicle;

10 ~~11.~~ 14. "Employment" includes work or labor in a trade,
11 business, occupation or activity carried on by an employer or any
12 authorized voluntary or uncompensated worker rendering services as a
13 firefighter, peace officer or emergency management worker;

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

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

1 ~~compensable in this title. A compensable injury must~~
2 ~~be established by objective medical evidence, as~~
3 ~~defined in this section.~~

4 b. ~~"Compensable injury" includes heart related or~~
5 ~~vascular injury, illness or death only if an accident~~
6 ~~or the claimant's employment is the major cause of the~~
7 ~~heart related or vascular injury. Such injury shall~~
8 ~~be compensable only if it is demonstrated that the~~
9 ~~exertion necessary to produce the harm was~~
10 ~~extraordinary and unusual in comparison to other~~
11 ~~occupations and that the occupation was the major~~
12 ~~cause of the harm. The injury must be established by~~
13 ~~objective medical evidence, as defined in this~~
14 ~~section.~~

15 e. ~~"Injury" or "personal injury" shall not include mental~~
16 ~~injury that is unaccompanied by physical injury,~~
17 ~~except in the case of rape which arises out of and in~~
18 ~~the course of employment.~~

19 d. ~~"Compensable injury" shall not include the ordinary,~~
20 ~~gradual deterioration or progressive degeneration~~
21 ~~caused by the aging process, unless the employment is~~
22 ~~a major cause of the deterioration or degeneration and~~
23 ~~is supported by objective medical evidence, as defined~~

1 ~~in this section; nor shall it include injury incurred~~
2 ~~while engaging in, performing or as the result of~~
3 ~~engaging in or performing any recreational or social~~
4 ~~activities;~~

5 ~~14.~~ 15. "Healing period" means that period for healing of an
6 injury resulting from an accident;

7 16. "Insurance Commissioner" means the Insurance Commissioner
8 of the state;

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

12 b. A finding of major cause shall be established
13 according to the preponderance of the objective
14 medical evidence only.

15 c. A determination that a work-related injury or illness
16 is noncompensable for any reason, including a finding
17 that the workplace was not a major cause of the injury
18 or illness, shall not adversely affect the exclusive
19 remedy provisions of this title, and shall not create
20 a separate cause of action outside of this title;

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

- 1 a. When determining physical or anatomical impairment,
2 neither a physician, any other medical provider,
3 administrative law judge nor the courts may consider
4 complaints of pain.
- 5 b. For the purpose of making physical or anatomical
6 impairment ratings to the spine, straight-leg-raising
7 tests or range-of-motion tests shall not be considered
8 objective finding.
- 9 c. Objective evidence necessary to prove physical or
10 anatomical impairment in occupational hearing-loss
11 cases may be established by medically recognized and
12 accepted clinical diagnostic methodologies, including,
13 but not limited to, audiological tests that measure
14 air and bone conduction thresholds and speech
15 discrimination ability.
- 16 d. Any difference in the baseline hearing levels must be
17 confirmed with a subsequent test within four (4) weeks
18 following the initial test or tests performed pursuant
19 to subparagraph c of this paragraph but not before
20 five (5) days and being adjusted for presbycusis.
- 21 e. Objective findings in support of medical evidence are
22 verifiable indications of injury or disease that may
23 include, but are not limited to, range of motion,

1 atrophy, muscle strength and palpable muscle spasm.
2 "Objective findings" does not include physical
3 findings or subjective responses to physical
4 examinations that are not reproducible, measurable or
5 observable.

6 f. Medical opinions addressing compensability and
7 permanent impairment must be stated within a
8 reasonable degree of medical certainty. Any medical
9 opinion addressing the issue of compensability must be
10 based on the treatment guidelines adopted under this
11 title, and any medical opinion addressing permanent
12 impairment must be based on the Court's most recently
13 adopted version of the American Medical Association's
14 "Guides to the Evaluation of Permanent Impairment",
15 excluding pain;

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

20 ~~15.~~ 20. "Insurance carrier" shall include CompSource Oklahoma,
21 stock corporations, reciprocal or interinsurance associations, or
22 mutual associations with which employers have insured, and employers
23 permitted to pay compensation, directly under the provisions of

1 paragraph 4 of subsection A of Section 61 of this title. Whenever
2 required by the context, the term "insurance carrier" shall be
3 deemed to include duly qualified self-insureds or self-insured
4 groups;

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

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

10 ~~18.~~ 21. "Occupational disease" means only that disease or
11 illness which is due to causes and conditions characteristic of or
12 peculiar to the particular trade, occupation, process or employment
13 in which the employee is exposed to such disease. An occupational
14 disease arises out of the employment only if the employment was the
15 major cause of the resulting occupational disease and such is
16 supported by objective medical evidence, as defined in this section.
17 No compensation shall be payable for any ordinary disease of life to
18 which the general public is exposed;

19 ~~19.~~ 22. "Permanent impairment" means any anatomical abnormality
20 after maximum medical improvement has been achieved, which
21 abnormality or loss the physician considers to be capable of being
22 evaluated at the time the rating is made. Except as otherwise
23 provided herein, any examining physician shall only evaluate

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

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

1 ~~one hundred twenty (120) days after the last day of the month in~~
2 ~~which the Legislature disapproves them in part. The examining~~
3 ~~physician shall not follow the guides based on race or ethnic~~
4 ~~origin. The examining physician shall not deviate from said guides~~
5 ~~or any alternative thereto except as may be specifically provided~~
6 ~~for in the guides or modifications to the guides or except as may be~~
7 ~~specifically provided for in any alternative or modifications~~
8 ~~thereto, adopted by the Administrator of the Workers' Compensation~~
9 ~~Court as provided for in Section 201.1 of this title. These~~
10 ~~officially adopted guides or modifications thereto or alternative~~
11 ~~system or method of evaluating permanent impairment or modifications~~
12 ~~thereto shall be the exclusive basis for testimony and rating~~
13 ~~conclusions with regard to permanent impairment with the exception~~
14 ~~of paragraph 3 of Section 22 of this title, relating and as it~~
15 ~~relates to individual scheduled member injury or loss; and~~
16 ~~impairment, including pain, and these officially adopted guides~~
17 ~~shall be the exclusive basis for testimony and rating conclusions~~
18 ~~with regard to permanent impairment combining scheduled member~~
19 ~~injury or loss of function or loss of strength~~7~~. Permanent~~
20 ~~impairment may be awarded with respect to those injuries or areas of~~
21 ~~the body not specifically covered by said guides or alternative to~~
22 ~~said guides. However, in no event shall scheduled member injury or~~
23 ~~impairment, including injuries to the shoulder or hip, be converted~~

1 or combined to the body as a whole. All evaluations of permanent
2 impairment must be supported by objective medical evidence and shall
3 not include pain;

4 ~~20.~~ 23. "Permanent total disability" means incapacity because
5 of accidental injury or occupational disease to earn any wages in
6 any employment for which the employee may become physically suited
7 and reasonably fitted by education, training or experience,
8 including vocational rehabilitation; loss of both hands, or both
9 feet, or both arms, or both legs, or both eyes, or any two thereof,
10 shall constitute permanent total disability;

11 ~~21.~~ 24. "Permanent partial disability" means permanent
12 disability which is less than total and shall be equal to or the
13 same as permanent impairment;

14 ~~22.~~ 25. "Maximum medical improvement" means that no further
15 material improvement would reasonably be expected from medical
16 treatment or the passage of time;

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

20 ~~24.~~ 27. "Certified workplace medical plan" means an
21 organization of health care providers or any other entity, certified
22 by the State Commissioner of Health pursuant to Section 14.3 of this
23 title, that is authorized to enter into a contractual agreement with

1 a self-insured employer, group self-insurance association plan, an
2 employer's workers' compensation insurance carrier or an insured,
3 which shall include any member of an approved group self-insured
4 association, policyholder or public entity, regardless of whether
5 such entity is insured by CompSource Oklahoma, to provide medical
6 care under the Workers' Compensation Act. ~~Certified plans shall
7 only include such plans which provide medical services and payment
8 for services on a fee for service basis to medical providers and
9 shall not include other plans which contract in some other manner,
10 such as capitated or pre paid plans; and~~

11 ~~25.~~ 28. "Surgery" means a medical procedure involving an
12 incision into the skin allowing insertion of an instrument or device
13 through the skin for treatment or diagnosis. An injection, or the
14 forcing of fluids beneath the skin, does not constitute surgery for
15 purposes of the Workers' Compensation Act regarding either temporary
16 or permanent disability determinations; and

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

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

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

23 ~~(1)~~ 1. "Actually dependent" means:

- 1 a. a surviving spouse as defined in this section~~,,~~
2 b. a child as defined in this ~~section,~~ act, or
3 c. any other person dependent in fact upon the employee
4 and refers only to a person who receives one-half
5 (1/2) or more of his support from the employee;

6 ~~(2)~~ 2. "Surviving spouse" means only the employee's spouse
7 living with or actually dependent upon the employee at the time of
8 his injury or death, or living apart for justifiable cause or by
9 reason of desertion by the employee;

10 ~~(3)~~ 3. "Child" means ~~a natural or adopted son or daughter of~~
11 ~~the employee under eighteen (18) years of age; or a natural or~~
12 ~~adopted son or daughter of an employee eighteen (18) years of age or~~
13 ~~over and physically or mentally incapable of self support; or any~~
14 ~~natural or adopted son or daughter of an employee eighteen (18)~~
15 ~~years of age or over who is actually dependent; or any natural or~~
16 ~~adopted son or daughter of an employee between eighteen (18) and~~
17 ~~twenty three (23) years of age who is enrolled as a full-time~~
18 ~~student in any accredited educational institution. The term "child"~~
19 ~~includes a posthumous child, a child legally adopted or one for whom~~
20 ~~adoption proceedings are pending at the time of death, an actually~~
21 ~~dependent stepchild or an actually dependent acknowledged child born~~
22 ~~out of wedlock~~ any dependent child as defined by the Internal
23 Revenue Service;

1 ~~(4)~~ 4. "Grandchild" means a child of a child, as herein
2 defined;

3 ~~(5)~~ 5. "Brother" and "sister" ~~means~~ mean a sibling of the
4 employee under eighteen (18) years of age, eighteen (18) years of
5 age or over and physically or mentally incapable of self-support,
6 eighteen (18) years of age or over and actually dependent and
7 brothers and sisters by adoption. Married brothers or married
8 sisters shall not be included except as provided in paragraph ~~(1)~~ 1
9 of this ~~section~~ subsection; and

10 ~~(6)~~ 6. "Parent" means a mother or father, a stepparent, a
11 parent by adoption and a parent-in-law, if actually dependent in
12 each case except as provided in paragraph ~~(1)~~ 1 of this ~~section~~
13 subsection.

14 B. All questions of relationship and dependency shall be
15 determined as of the time of injury for purposes of income benefits
16 for injury, and as of the time of death for purposes of income
17 benefits for death.

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

21 Compensation to alien nonresident dependents of the United
22 States shall be the same in amount as provided for resident
23 dependents, except that alien nonresident dependents in any foreign

1 country shall be limited to the surviving spouse or minor children
2 or both surviving spouse and minor children.

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

5 Section 3.4 A. Unless a single-incident injury either renders
6 the employee physically or mentally unable to do so, the employee
7 shall report the injury to the employer on a form prescribed or
8 approved by the Workers' Compensation Court and to a person or at a
9 place specified by the employer, and if not reported in writing
10 within ten (10) business days of the date of the injury, the
11 employer shall not be responsible for disability, medical or other
12 benefits. All reporting procedures shall be reasonable and shall
13 afford each employee reasonable notice of the reporting
14 requirements. Furthermore, any signed statement by an employee that
15 an injury or illness was not work-related shall serve as an absolute
16 bar against any future claim of workers' compensation for that
17 injury or illness. If a claim is found to be noncompensable due to
18 late filing of notice of injury, or for a prior statement having
19 been signed by the employee indicating that the injury or illness
20 was not work-related, there shall be no further remedy for the
21 employee outside of this title.

22 B. The Workers' Compensation Court is authorized and directed
23 to promulgate appropriate rules to establish and implement, for

1 claims with respect to injuries occurring on or after November 1,
2 2010, a preliminary conference procedure designed to accomplish the
3 following objectives:

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

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

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

11 4. a. To achieve compromise settlements entered into at or
12 as a result of the preliminary conference and
13 facilitating the filing of those joint petition
14 settlements entered into pursuant to the Workers'
15 Compensation Act.

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

19 C. 1. All claims for any compensation or benefits under the
20 Workers' Compensation Act shall be commenced with the filing of a
21 notice of injury with the Administrator. The filing fee for
22 claimants shall be paid at the time of the filing of the Claimant's
23 Form 3. All claims filed for workers' compensation benefits shall

1 contain a statement that all matters stated therein are true and
2 accurate, and shall be signed by the claimant and the claimant's
3 agent, if any. Any person who signs this statement or causes
4 another to sign this statement knowing the statement to be false
5 shall be guilty of perjury. An individual who signs on behalf of a
6 claimant may be presumed to have the authorization of the claimant
7 and to be acting at the claimant's direction. All answers and
8 defenses to claims or other documents filed on behalf of a
9 respondent or the respondent's insurer in a workers' compensation
10 case shall contain a statement that all matters stated therein are
11 true and accurate, and shall be signed by the respondent, the
12 insurer, or their respective agents, if any. Any person who signs
13 such a statement or causes another to sign such a statement, knowing
14 the statement to be false, shall be guilty of perjury. An
15 individual who signs on behalf of a respondent, its insurer, or its
16 agent may be presumed to have the authorization of the respondent,
17 its insurer and agent to be acting at their direction.

18 2. All matters pertaining to such claims shall be presented to
19 the Administrator until such time as the Administrator is notified
20 in writing by a party that there is a controverted issue that cannot
21 be resolved by the parties or that the parties have received an
22 agreed final order from the Court. The Administrator shall, within
23 seven (7) days of the receipt of such notification, set the matter

1 for hearing at the earliest available time to be heard by the Court
2 in the appropriate judicial district as provided in Section 3.5 of
3 this title. The Administrator shall assign a member of the Court to
4 hear a docket in each judicial district of the state at least once
5 each calendar month when there has been a request for a hearing in
6 the judicial district. The Administrator shall assign judges to the
7 state judicial districts on a rotating basis for the purpose of
8 holding prehearing conferences and settlement conferences and
9 hearing cases. At the request of either party, a prehearing
10 conference shall be held before the member of the Court assigned to
11 the case within forty-five (45) days of the filing of a claimant's
12 request for a hearing. The purpose of the prehearing conference
13 shall be to mediate and encourage settlement of the case or
14 determine issues in dispute.

15 3. The Court, upon its own motion or at the request of any of
16 the parties, may set a settlement conference at any practicable
17 time. The conference shall be held before any Workers' Compensation
18 Court Judge or an Active Retired Judge sitting by special
19 designation for that purpose, other than the judge assigned to the
20 case. The purpose of the settlement conference is to permit an
21 informal discussion among the parties, the attorneys, and the
22 settlement judge on every aspect of the case bearing on its
23 settlement value in an effort to resolve the matter before trial.

1 The settlement judge shall not have any communications regarding the
2 case or the settlement conference with the assigned trial judge
3 other than to advise the trial judge that a settlement was or was
4 not reached. The setting of a settlement conference by the Court,
5 or a request for a settlement conference by any party, shall not
6 preclude any party from filing a Motion to Set for Trial.

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

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

1 both parties. All matters relating to a claim for benefits under
2 the Workers' Compensation Act shall be filed with the Administrator.

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

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

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

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

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

1 Hundred Twenty-five Dollars (\$125.00) of which no rebate of any part
2 thereof shall be made. The fee collected under this subsection
3 shall be deposited as follows: One Hundred Dollars (\$100.00) to the
4 credit of the Administrator of Workers' Compensation Revolving Fund
5 created by Section 95 of this title for the costs of administering
6 the Workers' Compensation Act; and Twenty-five Dollars (\$25.00) to
7 the credit of the Administrator of Workers' Compensation Revolving
8 Fund for purposes of implementing the provisions of ~~this act~~ the
9 Workers' Compensation Act, including strengthening and providing
10 additional funding for the Attorney General's Workers' Compensation
11 Fraud Unit, providing counseling services pursuant to the workers'
12 compensation counselor program and safety in the workplace.

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

- 22 1. Court acted without or in excess of its powers;
- 23 2. Order or award was procured by fraud; or

1 3. Order or award was against the clear weight of the evidence
2 of record.

3 Any order, decision or award made by a judge of the Court shall
4 be considered as final under the provisions of this section unless
5 appealed to the Workers' Compensation Court sitting en banc as
6 provided for in subsection A of this section. The order, decision
7 or award of a judge of the Court shall be final and conclusive upon
8 all questions within his jurisdiction between the parties unless
9 appealed directly to the Supreme Court or to the Workers'
10 Compensation Court sitting en banc as hereinbefore provided. Any
11 party litigant desiring to appeal directly from such order, decision
12 or award to the Supreme Court, shall, within twenty (20) days after
13 a copy of the order, decision or award has been sent by the
14 Administrator to the parties affected, commence an action in the
15 Supreme Court of the state to review such order, decision or award.
16 The Supreme Court shall have original jurisdiction of such action,
17 and shall prescribe rules for the commencement and trial of the
18 same. Such action shall be commenced by filing with the Clerk of
19 the Supreme Court a certified copy of the order, decision or award
20 of the Workers' Compensation Court sitting en banc or the judge
21 attached to the petition by the complaint wherein the complainant or
22 petitioner shall make his assignments or specifications as to
23 wherein said order, decision or award is erroneous or illegal.

1 Provided, however, no proceeding to reverse, vacate or modify any
2 order, decision or award of the Workers' Compensation Court sitting
3 en banc or judge of the Court wherein compensation has been awarded
4 an injured employee shall be entertained by the Supreme Court unless
5 the Administrator shall take a written undertaking to the claimant
6 executed on the part of the respondent or insurance carrier, or
7 both, with one or more sureties to be approved by the Administrator,
8 to the effect that the appellant will pay the amount of the award
9 rendered therein, together with interest thereon from the date of
10 the award by the judge of the Court and all costs of the proceeding,
11 or on the further order of the Workers' Compensation Court sitting
12 en banc or judge of the Court after the appeal has been decided by
13 the Supreme Court, except that municipalities and other political
14 subdivisions of the State of Oklahoma are exempt from making such
15 written undertakings. Before the Clerk of the Supreme Court shall
16 accept the action for filing, a certificate from the Administrator
17 shall be required, showing that this provision has been complied
18 with. Said proceedings shall be heard in a summary manner and shall
19 have precedence over all other civil cases in the Supreme Court,
20 except preferred Corporation Commission appeals. The Supreme Court
21 shall require the appealing party to file within forty-five (45)
22 days from the date of the filing of an appeal or an order appealed
23 from, a transcript of the record of the proceedings before the

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

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

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

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

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

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

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

10 Section 3.7 The Administrator shall have the following powers
11 and duties:

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

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

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

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

20 5. To hear and determine claims concerning disputed medical
21 bills;

22 6. To promulgate necessary rules subject to the approval of the
23 presiding judge; and

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

3 ~~8. To adopt rules which require every insurance company, the
4 State Insurance Fund and every self insurer authorized to transact
5 workers' compensation insurance in this state to report to the
6 Administrator its statistical experience and its experience
7 regarding the utilization of independent medical examiners in
8 permanent disability cases during the period from July 1, 1995, to
9 July 1, 1997. The information regarding utilization of independent
10 medical examiners shall include, but not be limited to, the number
11 of independent medical examiner appointments, the parties requesting
12 the independent medical examiner, the doctors participating and the
13 number of evaluations done by each, a summary of awards and
14 settlements, medical costs, and duration of temporary total
15 disability. The Administrator shall compile the information
16 collected and present a report of his findings to the President Pro
17 Tempore of the Senate, the Speaker of the House of Representatives,
18 the Governor, the Advisory Council on Workers' Compensation and the
19 Physician Advisory Committee; and~~

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

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

4 Section 11. A. Every Subject to limitations found in the
5 Workers' Compensation Act, every employer subject to the provisions
6 of the Workers' Compensation Act shall pay, or provide as required
7 by the Workers' Compensation Act, compensation according to the
8 schedules of the Workers' Compensation Act for the disability or
9 death of an employee resulting from an accidental personal injury
10 sustained by the employee arising out of and in the course of
11 employment, ~~without regard to fault as a cause of such injury, and~~
12 ~~in the event of disability only, except as follows:~~

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

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

19 ~~3. An injury which occurs when an employee is using substances~~
20 ~~defined and consumed pursuant to Section 465.20 of Title 63 of the~~
21 ~~Oklahoma Statutes, or is using or abusing alcohol or illegal drugs,~~
22 ~~or is illegally using chemicals; provided, this paragraph shall only~~
23 ~~apply when the employee is unable to prove by a preponderance of the~~

1 ~~evidence that the substances, alcohol, illegal drugs, or illegally~~
2 ~~used chemicals were not the proximate cause of the injury or~~
3 ~~accident. For the purposes of this paragraph, post-accident alcohol~~
4 ~~or drug testing results shall be admissible as evidence; and~~

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

7 B. Liability of any person, firm, or corporation having an
8 interest in the subject matter, employers and contracting employers,
9 general or intermediate, for compensation under the Workers'
10 Compensation Act, when other than the immediate employer of the
11 injured employee, shall be as follows:

12 1. The independent contractor shall, at all times, be liable
13 for compensation due to his or her direct employees, or the
14 employees of any subcontractor of such independent contractor, and
15 the principal employer shall also be liable in the manner
16 hereinafter specified for compensation due all direct employees,
17 employees of the independent contractors, subcontractors, or other
18 employees engaged in the general employer's business; provided,
19 however, if an independent contractor relies in good faith on proof
20 of a valid workers' compensation insurance policy issued to a
21 subcontractor of the independent contractor or on proof of an
22 Affidavit of Exempt Status Under the Workers' Compensation Act
23 properly executed by the subcontractor under Section 75 924.4 of

1 ~~this act~~ Title 36 of the Oklahoma Statutes, then the independent
2 contractor shall not be liable for injuries of any employees of the
3 subcontractor. Provided further, such independent contractor shall
4 not be liable for injuries of any subcontractor of the independent
5 contractor unless an employer-employee relationship is found to
6 exist by the Workers' Compensation Court despite the execution of an
7 Affidavit of Exempt Status Under the Workers' Compensation Act.

8 2. The person entitled to such compensation shall have the
9 right to recover the same directly from the person's immediate
10 employer, the independent contractor or intermediate contractor, and
11 such claims may be presented against all such persons in one
12 proceeding. If it appears in such proceeding that the principal
13 employer has failed to require a compliance with the Workers'
14 Compensation Act of this state, by the independent contractor, then
15 such employee may proceed against such principal employer without
16 regard to liability of any independent, intermediate or other
17 contractor; provided, however, if a principal employer relies in
18 good faith on proof of a valid workers' compensation insurance
19 policy issued to an independent contractor of the employer or to a
20 subcontractor of the independent contractor or on proof of an
21 Affidavit of Exempt Status Under the Workers' Compensation Act
22 properly executed by the independent contractor or subcontractor
23 under Section ~~75~~ 924.4 of ~~this act~~ Title 36 of the Oklahoma

1 Statutes, then the principal employer shall not be liable for
2 injuries of any employees of the independent contractor or
3 subcontractor. Provided further, such principal employer shall not
4 be liable for injuries of any independent contractor of the employer
5 or of any subcontractor of the independent contractor unless an
6 employer-employee relationship is found to exist by the Workers'
7 Compensation Court despite the execution of an Affidavit of Exempt
8 Status Under the Workers' Compensation Act. Provided, however, in
9 any proceeding where compensation is awarded against the principal
10 employer under the provisions hereof, such award shall not preclude
11 the principal employer from recovering the same, and all expense in
12 connection with said proceeding from any independent contractor,
13 intermediate contractor or subcontractor whose duty it was to
14 provide security for the payment of such compensation, and such
15 recovery may be had by supplemental proceedings in the cause before
16 the Court or by an independent action in any court of competent
17 jurisdiction to enforce liability of contracts.

18 3. Where work is performed on a single family residential
19 dwelling or its premises occupied by the owner, or for a farmer
20 whose cash payroll for wages, excluding supplies, materials and
21 equipment, for the preceding calendar year did not exceed One
22 Hundred Thousand Dollars (\$100,000.00), such owner or farmer shall
23 not be liable for compensation under the Workers' Compensation Act.

1 Such owner or farmer shall not be liable to the employee of any
2 independent contractor or subcontractor, where applicable, or the
3 farmer's own employee.

4 4. Where compensation is payable for an occupational disease,
5 the employer in whose employment the employee was last injuriously
6 exposed to the hazards of such disease and the insurance carrier, if
7 any, on the risk when such employee was last so exposed under such
8 employer, shall alone be liable therefor, without right to
9 contribution from any prior employer or insurance carrier; provided,
10 however, that in the case of silicosis or asbestosis, the only
11 employer and insurance carrier liable shall be the last employer in
12 whose employment the employee was last exposed to harmful quantities
13 of silicon dioxide (SiO₂) dust on each of at least sixty (60) days
14 or more, and the insurance carrier, if any, on the risk when the
15 employee was last so exposed under such employer.

16 5. Where compensation is payable for an injury resulting from
17 cumulative trauma, the last employer in whose employment the
18 employee was last injuriously exposed to the trauma during a period
19 of at least ninety (90) days or more, and the insurance carrier, if
20 any, on the risk when the 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. If there
23 is no employer in whose employment the employee was injuriously

1 exposed to the trauma for a period of at least ninety (90) days,
2 then the last employer in whose employment the employee was last
3 injuriously exposed to the trauma and the insurance carrier, if any,
4 on the risk when such employee was last so exposed under such
5 employer, shall be liable therefor, with right to contribution from
6 any prior employer or insurance carrier.

7 SECTION 8. AMENDATORY 85 O.S. 2001, Section 12, as
8 amended by Section 14, Chapter 1, 1st Extraordinary Session, O.S.L.
9 2005 (85 O.S. Supp. 2009, Section 12), is amended to read as
10 follows:

11 Section 12. The liability prescribed in Section 11 of this
12 title shall be exclusive and in place of all other liability of the
13 employer and any of his employees, any architect, professional
14 engineer, or land surveyor retained to perform professional services
15 on a construction project, at common law or otherwise, for such
16 injury, loss of services, or death, to the employee, or the spouse,
17 personal representative, parents, or dependents of the employee, or
18 any other person. If an employer subject to the Workers'
19 Compensation Act has failed to secure the payment of compensation
20 for his injured employee, as provided for in this title, an injured
21 employee, or his legal representatives if death results from the
22 injury, may maintain an action in the courts for damages on account
23 of such injury, and in such action the defendant may not plead or

1 prove as a defense that the injury was caused by the negligence of a
2 fellow servant, or that the employee assumed the risk of his
3 employment, or that the injury was due to the contributory
4 negligence of the employee; provided:

5 ~~(i)~~ 1. The immunity created by the provisions of this section
6 shall not extend to action by an employee, or the spouse, personal
7 representative, parents, or dependents of the employee, or any other
8 person against another employer, or its employees, on the same job
9 as the injured or deceased worker where such other employer does not
10 stand in the position of an intermediate or principal employer to
11 the immediate employer of the injured or deceased worker;

12 ~~(ii)~~ 2. The immunity created by the provisions of this section
13 shall not extend to action against another employer, or its
14 employees, on the same job as the injured or deceased worker even
15 though such other employer may be considered as standing in the
16 position of a special master of a loaned servant where such special
17 master neither is the immediate employer of the injured or deceased
18 worker nor stands in the position of an intermediate or principal
19 employer to the immediate employer of the injured or deceased
20 worker; and

21 ~~(iii)~~ 3. This provision shall not be construed to abrogate the
22 loaned servant doctrine in any respect other than that described in
23 paragraph ~~(ii)~~ 2 of this section. This section shall not be

1 construed to relieve the employer from any other penalty provided
2 for in this title for failure to secure the payment of compensation
3 provided for in this title.

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

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

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

15 A. 1. Any employer required to secure the payment of
16 compensation under the Workers' Compensation Act who fails to secure
17 compensation shall be subject to a fine of up to Ten Thousand
18 Dollars (\$10,000.00) as determined by the Workers' Compensation
19 Court payable to the Death and Permanent Total Disability Trust Fund
20 or be guilty of a misdemeanor and shall be punished by a fine not to
21 exceed Five Hundred Dollars (\$500.00), or by imprisonment in the
22 county jail for a term not to exceed one (1) year, or by both fine
23 and imprisonment.

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

3 B. 1. Whenever the Court has reason to believe that an
4 employer required to secure the payment of compensation under the
5 Workers' Compensation Act has failed to do so, the Court shall serve
6 upon the employer a proposed order declaring the employer to be in
7 violation of the Workers' Compensation Act and containing the
8 amount, if any, of the civil penalty to be assessed against the
9 employer pursuant to paragraph 5 of this subsection.

10 2. a. An employer may contest a proposed order of the Court
11 issued pursuant to paragraph 1 of this subsection by
12 filing with the Court, within twenty (20) days of
13 receipt of the proposed order, a written request for a
14 hearing.

15 b. Such a request for a hearing need not be in any
16 particular form but shall specify the grounds upon
17 which the person contests the proposed order, the
18 proposed assessment, or both.

19 c. If a written request for hearing is not filed with the
20 Court within this time, the proposed order, the
21 proposed penalty, or both, shall be a final order of
22 the Court and shall not be subject to further review
23 by any court.

1 d. A proposed order by the Court pursuant to this section
2 is prima facie correct, and the burden is upon the
3 employer to prove that the proposed order is
4 incorrect.

5 3. a. If the employer alleges that a carrier has contracted
6 to provide the employer workers' compensation
7 insurance coverage for the period in question, the
8 employer shall include the allegation in its request
9 for hearing and shall name the carrier.

10 b. The Court shall promptly notify the carrier of the
11 allegation of the employer and of the date of hearing.

12 c. The carrier shall promptly, and no later than five (5)
13 days prior to the hearing, respond in writing to the
14 allegation of the employer by providing evidence of
15 coverage for the period in question or by
16 affirmatively denying the allegation of the employer.

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

21 5. If an employer fails to secure the payment of compensation
22 or pay any civil penalty assessed against the employer after an
23 order issued pursuant to this section has become final by operation

1 of law or upon appeal, the Court may petition the district court of
2 Oklahoma County or of the county where the principal place of
3 business of the employer is located for an order enjoining the
4 employer from engaging in further employment until the employer
5 secures the payment of compensation or makes full payment of all
6 civil penalties.

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

10 A. Every employer who has secured compensation under the
11 provisions of the Workers' Compensation Act shall keep posted in a
12 conspicuous place in and about the place of business of the
13 employer, typewritten or printed notices in accordance with a form
14 prescribed by the Workers' Compensation Court. The notices shall
15 state that the employer has secured the payment of compensation in
16 accordance with the provisions of the Workers' Compensation Act.

17 B. The notices shall contain the name and address of the
18 carrier, if any, with whom the employer has secured payment of
19 compensation.

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

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

4 SECTION 12. AMENDATORY 85 O.S. 2001, Section 14, as last
5 amended by Section 15, Chapter 1, 1st Extraordinary Session, O.S.L.
6 2005 (85 O.S. Supp. 2009, Section 14), is amended to read as
7 follows:

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

18 2. The treating physician who renders treatment to the employee
19 at any time shall promptly notify the employee and employer or the
20 employer's insurer in writing after the employee has reached maximum
21 medical improvement and is released from active medical care. If
22 the employee is capable of returning to modified light duty work,
23 the treating physician shall promptly notify the employee and the

1 employer or the employer's insurer thereof in writing and shall also
2 specify what restrictions, if any, must be followed by the employer
3 in order to return the employee to work. In the event the treating
4 physician provides such notification to the employer's insurer, the
5 insurer shall promptly notify the employer. If an injured employee,
6 only partially disabled, refuses employment consistent with any
7 restrictions ordered by the treating physician, the employee shall
8 not be entitled to temporary benefits during the continuance of such
9 refusal unless in the opinion of the treating physician such refusal
10 was justifiable; provided, before compensation may be denied, the
11 employee shall be served with a notice setting forth the
12 consequences of the refusal of employment and that temporary
13 benefits will be discontinued fifteen (15) days after the date of
14 such notice. The employee, upon receipt of such notice, may seek a
15 hearing before the Workers' Compensation Court. The Court shall
16 grant an expedited hearing within five (5) days of any such
17 application by the employee. At such hearing, the Court may enter
18 an order allowing the discontinuation of such benefits, denying the
19 discontinuance of such benefits or temporarily denying the
20 discontinuance of such benefits pending further hearing. An order
21 denying or temporarily denying the discontinuation of temporary
22 benefits shall be based on a finding by the Court that probable
23 cause exists to believe the work does not meet the conditions of the

1 treating physician's restrictions or that the restrictions are
2 unreasonable.

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

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

21 D. 1. If a self-insured employer, group self-insurance
22 association plan, an employer's workers' compensation insurance
23 carrier or an insured, which shall include any member of an approved

1 group self-insured association, policyholder or public entity,
2 regardless of whether such entity is insured by CompSource Oklahoma,
3 has previously contracted with a certified workplace medical plan,
4 the employer shall select for the injured employee a the treating
5 physician from the physicians listed within the network of the
6 certified workplace medical plan.

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

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

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

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

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

21 3. The Administrator shall adopt a new fee and treatment
22 schedule to be effective not later than January 1, 1998, which
23 establishes maximum allowable reimbursement levels for preparation

1 for or testimony at a deposition or court appearance which shall not
2 exceed Two Hundred Dollars (\$200.00) per hour and for work-related
3 or medical disability evaluation services.

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

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

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

16 6. Charges for prescription drugs shall be limited to ninety
17 percent (90%) of the average wholesale price of the prescription,
18 plus a dispensing fee of Five Dollars (\$5.00) per prescription.
19 "Average wholesale price" means the amount determined from the
20 latest publication of the blue book, a universally subscribed
21 pharmacist reference guide annually published by the Hearst
22 Corporation. "Average wholesale price" may also be derived
23 electronically from the drug pricing database synonymous with the

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

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

21 H. 1. For cases not covered by a certified workplace medical
22 plan, and where the insurance company does not provide case
23 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.

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:

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

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

- 1 g. provides workplace health and safety consultative
2 services,
- 3 h. provides a timely and accurate method of reporting to
4 the Commissioner necessary information regarding
5 medical service costs and utilization to enable the
6 Commissioner to determine the effectiveness of the
7 plan,
- 8 i. authorizes necessary emergency medical treatment for
9 an injury provided by a provider of medical, surgical,
10 and hospital services who is not a part of the plan,
- 11 j. does not discriminate against or exclude from
12 participation in the plan any category of providers of
13 medical, surgical, or hospital services and includes
14 an adequate number of each category of providers of
15 medical, surgical, and hospital services to give
16 participants access to all categories of providers and
17 does not discriminate against ethnic minority
18 providers of medical services, and
- 19 k. complies with any other requirement the Commissioner
20 determines is necessary to provide quality medical
21 services and health care to injured employees.

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

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

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

1 continue contracts with at least three certified workplace medical
2 plans covering at least fifty counties.

3 E. 1. An employee shall ~~exhaust~~ obtain written confirmation
4 from the certified workplace medical plan that the dispute
5 resolution procedure of the certified workplace medical plan has
6 been exhausted before seeking legal relief on an issue related to
7 medical care under the plan, including a subsequent change of
8 physician as described in the provisions of Section 14 of this title
9 and this section, provided the dispute resolution procedure shall
10 create a process which shall attempt to resolve the dispute within
11 ten (10) days of the time the dispute arises and if not resolved
12 within ten (10) days, the employee may pursue remedies in the
13 Workers' Compensation Court.

14 2. For those employees covered by a certified workplace medical
15 plan, any medical evaluation obtained outside the plan, after the
16 commencement of treatment under the plan and prior to obtaining
17 written confirmation from the plan that the dispute resolution
18 process has been exhausted, shall not be admissible unless such
19 evaluation provides clear and convincing evidence that the treatment
20 offered under the plan is contrary to the nationally recognized
21 treatment guidelines adopted by the plan.

22 F. The Commissioner shall refuse to certify or shall revoke or
23 suspend the certification of a plan if the Commissioner finds that

1 the program for providing medical or health care services fails to
2 meet the requirements of this section, or service under the plan is
3 not being provided in accordance with the terms of a plan.

4 G. On or before November 1, 2005, the Commissioner of Health
5 shall implement a site visit protocol for employees of the State
6 Department of Health to perform an inspection of a certified
7 workplace medical plan to ensure that medical services to a claimant
8 and the medical management of the claimant's needs are adequately
9 met in a timely manner and that the certified workplace medical plan
10 is complying with all other applicable provisions of ~~this act~~ the
11 Workers' Compensation Act and the rules of the State Department of
12 Health. Such protocol shall include, but not be limited to:

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

17 2. A site visit shall conclude with a determination that a
18 certified workplace medical plan is or is not operating in
19 accordance with its latest application to the State Department of
20 Health;

21 3. Compliant operations shall include, but not be limited to:
22 a. timely and effective medical services are available
23 with reasonable geographic convenience,

- 1 b. use of appropriate treatment guidelines and protocols,
2 and
3 c. effective programs for utilization review, case
4 management, grievances, and dispute resolution;
- 5 4. Performance of a site visit shall include:
- 6 a. inspection of organizational documentation,
7 b. inspection of systems documentation and processes,
8 c. random or systematic sampling of closed and open case
9 management cases (files),
10 d. random or systematic sampling, or a one hundred
11 percent (100%) inspection of all dispute resolution,
12 grievance, and/or Department of Health request for
13 assistance files,
14 e. workplace medical plan employee and management
15 interviews, as appropriate;
- 16 5. An initial site visit may occur with an interval of less
17 than twelve (12) months to a recently certified plan, or a site
18 visit may occur more often than once in every twelve (12) months if
19 the Commissioner of Health has reason to suspect that a plan is not
20 operating in accordance with its certification;
- 21 6. If a deficient practice is identified during a site visit,
22 the State Department of Health shall require a certified workplace
23 medical plan to submit a timely and acceptable written plan of

1 correction, and then may perform a follow-up visit(s) to ensure that
2 the deficient practice has been eliminated;

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

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

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

10 b. One Thousand Dollars (\$1,000.00) if a follow-up visit
11 is performed,

12 c. separate from the once in five (5) years certification
13 application fee, and

14 d. not charged if more than two site visits occur in a
15 twelve-month period; and

16 9. In addition to the site visit fee, employees of the State
17 Department of Health may charge to the certified workplace medical
18 plan reasonable travel and travel-related expenses for the site
19 visit such as overnight lodging and meals. A certified workplace
20 medical plan shall reimburse travel expenses to the State Department
21 of Health at rates equal to the amounts then currently allowed under
22 the State Travel Reimbursement Act.

1 H. The State Board of Health shall adopt such rules as may be
2 necessary to implement the provisions of this title and this
3 section. Such rules shall authorize any person to petition the
4 Commissioner of Health for decertification of a certified workplace
5 medical plan for material violation of any rules promulgated
6 pursuant to this section.

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

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

12 Section 15. ~~Where~~ If a compensable injury results in the loss
13 of one or more eyes, teeth, or limbs of the body, the employer shall
14 furnish such prosthetic devices as may be necessary as determined by
15 the Court in the treatment and rehabilitation of the injured ~~workman~~
16 employee. ~~Where a workman~~ If an employee sustains a compensable
17 injury, arising out of and in the course of ~~his~~ their employment,
18 which results in damage to a prosthetic device with which such
19 ~~workman~~ employee is equipped, the employer shall repair or replace
20 such device.

21 SECTION 15. AMENDATORY 85 O.S. 2001, Section 16, as
22 amended by Section 18, Chapter 1, 1st Extraordinary Session, O.S.L.

1 2005 (85 O.S. Supp. 2009, Section 16), is amended to read as
2 follows:

3 Section 16. A. The Administrator of the Workers' Compensation
4 Court shall hire a Vocational Rehabilitation Director to oversee the
5 vocational rehabilitation program of the Court. The Vocational
6 Rehabilitation Director shall have not less than a masters degree in
7 rehabilitation counseling and at least ten (10) years of experience
8 in rehabilitation of injured workers.

9 B. The Vocational Rehabilitation Director shall help injured
10 workers return to the work force through the encouragement of light-
11 duty work or retraining. Upon the request of either party, the
12 Vocational Rehabilitation Director shall determine if it is
13 appropriate for a claimant to receive vocational rehabilitation
14 training or services, and shall oversee such training. If
15 appropriate, the Vocational Rehabilitation Director shall issue
16 administrative orders, including, but not limited to, an order for a
17 vocational rehabilitation evaluation for any injured employee unable
18 to work for at least ninety (90) days. In addition, the Vocational
19 Rehabilitation Director may assign injured workers to vocational
20 rehabilitation counselors for coordination of recommended services.
21 The cost of the services shall be paid by the employer. If
22 possible, vocational rehabilitation services shall begin
23 concurrently with medical treatment, while the injured employee is

1 temporarily totally disabled and receiving benefits. The Director
2 may order an evaluation for any injured worker receiving medical
3 case management services. All such administrative orders are
4 subject to appeal.

5 C. An employee who has suffered an accidental injury or
6 occupational disease covered by the Workers' Compensation Act shall
7 be entitled to prompt and reasonable physical rehabilitation
8 services. When, as a result of the injury, the employee is unable
9 to perform the same occupational duties he was performing prior to
10 the injury, the employee shall be entitled to such vocational
11 rehabilitation services provided by a technology center school, a
12 public vocational skills center or public secondary school offering
13 vocational-technical education courses, or a member institution of
14 The Oklahoma State System of Higher Education, which shall include
15 retraining and job placement so as to restore the employee to
16 gainful employment. No person shall be adjudicated to be
17 permanently and totally disabled unless first having obtained an
18 evaluation as to the practicability of restoration to gainful
19 employment through vocational rehabilitation services or training.
20 The employee shall pay the cost of the evaluation. If an employee
21 claiming permanent total disability status unreasonably refuses to
22 be evaluated or to accept vocational rehabilitation services or
23 training, permanent total disability benefits shall not be awarded

1 during the period of such refusal, and the employee shall be limited
2 to permanent partial disability benefits only. The Administrator
3 shall promulgate rules governing notice to an injured employee of
4 the right to receive vocational rehabilitation. If rehabilitation
5 services are not voluntarily offered by the employer and accepted by
6 the employee, the judge of the Court may on the Court's own motion,
7 or if requested by a party may, after affording all parties an
8 opportunity to be heard, refer the employee to a qualified physician
9 or facility for evaluation of the practicability of, need for and
10 kind of rehabilitation services or training necessary and
11 appropriate in order to restore the employee to gainful employment.
12 The cost of the evaluation shall be paid by the employer. Following
13 the evaluation, if the employee refuses the services or training
14 ordered by the Court, or fails to complete in good faith the
15 vocational rehabilitation training ordered by the Court, then the
16 cost of the evaluation and services or training rendered may, in the
17 discretion of the Court, be deducted from any award of benefits to
18 the employee which remains unpaid by the employer. Upon receipt of
19 such report, and after affording all parties an opportunity to be
20 heard, the Court shall order that any rehabilitation services or
21 training, recommended in the report, or such other rehabilitation
22 services or training as the Court may deem necessary, provided the
23 employee elects to receive such services, shall be provided at the

1 expense of the employer. Except as otherwise provided in this
2 subsection, refusal to accept rehabilitation services by the
3 employee shall in no way diminish any benefits allowable to an
4 employee.

5 ~~B.~~ D. Vocational rehabilitation services or training shall not
6 extend for a period of more than ~~fifty two (52)~~ one hundred four
7 (104) weeks. This period may be extended for an additional fifty-
8 two (52) weeks or portion thereof by special order of the Court,
9 after affording the interested parties an opportunity to be heard.
10 A request for vocational rehabilitation services or training may be
11 filed with the Administrator by an interested party at any time
12 after the date of injury but not later than sixty (60) days from the
13 date of the final determination that permanent partial disability
14 benefits are payable to the employee. Vocational rehabilitation
15 services or training shall be payable only to the appropriate
16 agency, institution or facility performing the rehabilitation and
17 shall not be payable as a separate item in any settlement, order or
18 award to the claimant. The value of such vocational rehabilitation
19 services or training shall not be included in any calculation for
20 legal fees.

21 ~~C.~~ E. Where rehabilitation requires residence at or near the
22 facility or institution which is away from the employee's customary
23 residence, reasonable cost of the employee's board, lodging, travel,

1 tuition, books and necessary equipment in training shall be paid for
2 by the insurer in addition to weekly compensation benefits to which
3 the employee is otherwise entitled under the Workers' Compensation
4 Act.

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

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

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

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

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

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

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

16 (b) Except in a statutory permanent total disability case, in no
17 case shall a claimant receive both permanent total disability and
18 any other form of disability, including but not limited to permanent
19 partial, temporary partial or temporary total, at the same time or
20 for the same period of disability.

21 (c) No more often than annually, the carrier, self-insured
22 employer or the Death and Permanent Total Disability Trust Fund may
23 require an injured worker receiving permanent total disability

1 benefits, or the treating physician, or both injured worker and
2 treating physician, to certify on forms provided by the Court that
3 the injured worker is permanently and totally disabled and not
4 gainfully employed. Failure of the employee to so certify within
5 thirty (30) days after receipt of the notice shall permit the
6 discontinuation of benefits without penalty. If the Court finds
7 that the claim of permanent total disability was made in bad faith
8 by the employee, or if the employee made misleading representations
9 regarding disability benefits, the Court shall refer the case to the
10 Workers' Compensation Fraud Unit for appropriate prosecution.

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

1 (b) With respect to injuries occurring on or after November 4,
2 1994, in cases of temporary total disability, seventy percent (70%)
3 of the employee's average weekly wages shall be paid to the employee
4 during the continuance thereof, but not in excess of fifty-two (52)
5 weeks, except as otherwise provided in the Workers' Compensation
6 Act. Provided, after compensation has been paid for a period of
7 forty-two (42) weeks, the employee may request a review of the case
8 by a judge of the Court for continued temporary total disability
9 benefits provided by the Workers' Compensation Act. Upon a finding
10 that benefits should be extended beyond the initial fifty-two-week
11 period, compensation may be continued for additional successive
12 fifty-two-week periods, provided the employee has requested review
13 of the case at forty-two (42) weeks during each period involved, and
14 upon a finding by the Court that benefits should be extended. Total
15 payments of compensation for temporary total disability may not
16 exceed a maximum of three hundred (300) weeks in the aggregate.

17 (c) With respect to injuries occurring on or after November 1,
18 1997, total payments of compensation for temporary total disability
19 may not exceed a maximum of one hundred fifty-six (156) weeks in the
20 aggregate except for good cause shown, as determined by the Court.
21 Total payments of compensation for temporary total disability,
22 inclusive of consequential injuries, may not exceed a maximum of
23 three hundred (300) weeks in the aggregate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 Deafness: Deafness from industrial cause, including occupations
13 which are hazardous to hearing, accident or sudden trauma, three
14 hundred (300) weeks, and total deafness of one ear from industrial
15 cause, including occupations which are hazardous to hearing,
16 accident or sudden trauma, one hundred (100) weeks. Except as
17 otherwise provided herein, any examining physician shall only
18 evaluate deafness or hearing impairment in accordance with the
19 latest publication of the American Medical Association's "Guides to
20 the Evaluation of Permanent Impairment" in effect at the time of the
21 injury. The Physician Advisory Committee may, pursuant to Section
22 201.1 of this title, recommend the adoption of a method or system to
23 evaluate 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". Such recommendation shall be
3 made to the Administrator of the Workers' Compensation Court who may
4 adopt the recommendation in part or in whole. The adopted method or
5 system shall be submitted by the Administrator to the Governor, the
6 Speaker of the House of Representatives and President Pro Tempore of
7 the Senate within the first ten (10) legislative days of a regular
8 session of the Legislature. Such method or system to evaluate
9 permanent impairment that shall be used in place of or in
10 combination with the American Medical Association's "Guides to the
11 Evaluation of Permanent Impairment" shall be subject to disapproval
12 in whole or in part by joint or concurrent resolution of the
13 Legislature during the legislative session in which submitted. Such
14 method or system shall be operative one hundred twenty (120) days
15 after the last day of the month in which the Administrator submits
16 the adopted method or system to the Legislature if the Legislature
17 takes no action or one hundred twenty (120) days after the last day
18 of the month in which the Legislature disapproves it in part. If
19 adopted, permanent impairment shall be evaluated only in accordance
20 with the latest version of the alternative method or system in
21 effect at the time of injury. Except as otherwise provided in
22 Section 11 of this title, all evaluations shall include an
23 apportionment of injury causation. However, revisions to the guides

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

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 fourteen (14) weeks, and the cost of an
13 operation shall be payable; provided, in any case where the injured
14 employee has been twice previously operated for hernia in the same
15 area and it is established by opinion of a competent surgeon that
16 further surgery in the same area will not result in full relief of
17 the condition, the Court may then award compensation for disability
18 resulting therefrom under paragraph 1 of this section, or, if not
19 totally and permanently disabled, then under the "Other Cases"
20 subdivision following, and, after a second surgical attempt to
21 repair hernia, the injured may not be required to submit to further
22 surgery in an effort to relieve the disability thereafter existing;
23 provided, further, the use of any artificial reinforcement or

1 device, with or without surgery, shall not be the basis of reducing
2 extent of disability to be awarded.

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

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

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

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

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

4 (4) For each remaining percent of disability, the identical
5 number of weeks of compensation provided by law prior to November 4,
6 1994.

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

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

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

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

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

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

22 Phalange of Thumb or Finger: The loss of the first phalange of
23 the thumb or finger shall be considered equal to the loss of one-

1 half (1/2) of such thumb or finger, and compensation shall be one-
2 half (1/2) of the amount above specified; the loss of more than one
3 phalange shall be considered as the loss of the entire thumb or
4 finger; provided, however, that in no case shall the amount received
5 for more than one finger exceed the amount provided in this schedule
6 for the loss of a hand.

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

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

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

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

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

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

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

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

21 Deafness: Deafness from industrial cause, including occupations
22 which are hazardous to hearing, accident or sudden trauma, three
23 hundred fifteen (315) weeks, and total deafness of one ear from

1 industrial cause, including occupations which are hazardous to
2 hearing, accident or sudden trauma, one hundred five (105) weeks.
3 Except as otherwise provided herein, any examining physician shall
4 only evaluate deafness or hearing impairment in accordance with the
5 latest publication of the American Medical Association's "Guides to
6 the Evaluation of Permanent Impairment" in effect at the time of the
7 injury. The Physician Advisory Committee may, pursuant to Section
8 201.1 of this title, recommend the adoption of a method or system to
9 evaluate permanent impairment that shall be used in place of or in
10 combination with the American Medical Association's "Guides to the
11 Evaluation of Permanent Impairment". Such recommendation shall be
12 made to the Administrator of the Workers' Compensation Court who may
13 adopt the recommendation in part or in whole. The adopted method or
14 system shall be submitted by the Administrator to the Governor, the
15 Speaker of the House of Representatives and President Pro Tempore of
16 the Senate within the first ten (10) legislative days of a regular
17 session of the Legislature. Such method or system to evaluate
18 permanent impairment that shall be used in place of or in
19 combination with the American Medical Association's "Guides to the
20 Evaluation of Permanent Impairment" shall be subject to disapproval
21 in whole or in part by joint or concurrent resolution of the
22 Legislature during the legislative session in which submitted. Such
23 method or system shall be operative one hundred twenty (120) days

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

1 operative one hundred twenty (120) days after the last day of the
2 month in which the Administrator submits the revisions to the
3 Legislature if the Legislature takes no action or one hundred twenty
4 (120) days after the last day of the month in which the Legislature
5 disapproves them in part. The examining physician shall not follow
6 the guides based on race or ethnic origin. The examining physician
7 shall not deviate from such guides or any alternative thereof except
8 as may be specifically provided for in the guides or modifications
9 to the guides or except as may be specifically provided for in any
10 alternative or modifications thereto adopted by the Administrator of
11 the Workers' Compensation Court as provided in Section 201.1 of this
12 title. The guides or modifications thereto or alternative system or
13 method of evaluating permanent impairment or modifications thereto
14 shall be the exclusive basis for testimony and conclusions with
15 regard to deafness or hearing impairment.

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

19 For the permanent partial loss of use of a member, loss of
20 hearing or sight of an eye, seventy percent (70%) of the employee's
21 average weekly wage during that portion of the number of weeks in
22 the foregoing schedule provided for the loss of such member or sight

1 of an eye which the partial loss of use thereof bears to the total
2 loss of use of such member, loss of hearing or sight of an eye.

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

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

12 In case of an injury resulting in serious and permanent
13 disfigurement, compensation shall be payable in an amount to be
14 determined by the Court, but not in excess of Twenty Thousand
15 Dollars (\$20,000.00); provided, that compensation for permanent
16 disfigurement shall not be in addition to the other compensation
17 provided for in this section but shall be taken into consideration
18 in fixing the compensation otherwise provided.

19 Hernia: In case of an injury resulting in hernia, temporary
20 total compensation for six (6) weeks, and the cost of an operation
21 shall be payable, unless the employee has not been released from
22 active medical treatment, temporary total compensation not to exceed
23 nine (9) weeks, and the cost of an operation shall be payable;

1 provided, in any case where the injured employee has been twice
2 previously operated on for hernia in the same area and it is
3 established by opinion of a competent surgeon that further surgery
4 in the same area will not result in full relief of the condition,
5 the Court may then award compensation for disability resulting
6 therefrom under paragraph 1 of this section, or, if not totally and
7 permanently disabled, then under the "Other Cases" subdivision
8 following, and, after a second surgical attempt to repair hernia,
9 the injured may not be required to submit to further surgery in an
10 effort to relieve the disability thereafter existing; provided
11 further, the use of any artificial reinforcement or device, with or
12 without surgery, shall not be the basis of reducing extent of
13 disability to be awarded.

14 Other Cases: In all other classes of disabilities, excluding
15 only those heretofore referred to in this paragraph, which
16 disabilities result in loss of use of any portion of an employee's
17 body, and which disabilities are partial in character but permanent
18 in quality, disability shall mean the percentage of permanent
19 impairment. The compensation ordered paid shall be seventy percent
20 (70%) of the employee's average weekly wage for the number of weeks
21 which the partial disability of the employee bears to five hundred
22 (500) weeks.

1 (d) With respect to injuries occurring on or after January 1,
2 2003, in case of disability, partial in character but permanent in
3 quality, the compensation shall be seventy percent (70%) of the
4 employee's average weekly wages, and shall be paid to the employee
5 for the period prescribed by the following schedule:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 Deafness: Deafness from industrial cause, including occupations
16 which are hazardous to hearing, accident or sudden trauma, three
17 hundred thirty (330) weeks, and total deafness of one ear from
18 industrial cause, including occupations which are hazardous to
19 hearing, accident or sudden trauma, one hundred ten (110) weeks.
20 Except as otherwise provided herein, any examining physician shall
21 only 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

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

1 shall not deviate from such guides or any alternative thereof except
2 as may be specifically provided for in the guides or modifications
3 to the guides or except as may be specifically provided for in any
4 alternative or modifications thereto adopted by the Administrator of
5 the Workers' Compensation Court as provided in Section 201.1 of this
6 title. The guides or modifications thereto or alternative system or
7 method of evaluating permanent impairment or modifications thereto
8 shall be the exclusive basis for testimony and conclusions with
9 regard to deafness or hearing impairment.

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

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

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

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

6 In case of an injury resulting in serious and permanent
7 disfigurement, compensation shall be payable in an amount to be
8 determined by the Court, but not in excess of Twenty Thousand
9 Dollars (\$20,000.00) for an injury occurring before November 1,
10 2005, and not in excess of Fifty Thousand Dollars (\$50,000.00) for
11 an injury occurring on or after November 1, 2005; provided, that
12 compensation for permanent disfigurement shall not be in addition to
13 the other compensation provided for in this section but shall be
14 taken into consideration in fixing the compensation otherwise
15 provided.

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

1 Soft Tissue Injury: In case of a nonsurgical soft tissue injury,
2 temporary total compensation shall not exceed eight (8) weeks. A
3 claimant who has been recommended by a treating physician for
4 surgery for a soft tissue injury, or who has had surgery for a soft
5 tissue injury as a result of a recommendation by a treating
6 physician, may petition the Court for one extension of temporary
7 total compensation and the court may order such an extension, not to
8 exceed sixteen (16) additional weeks, if the treating physician
9 indicates that such an extension is appropriate or as agreed to by
10 all parties. In the event the surgery is not recommended, or is
11 recommended but not performed within ninety (90) days after the
12 recommendation, the benefits for the extension period shall be
13 terminated. For purposes of this section, "soft tissue injury"
14 means damage to one or more of the tissues that surround bones and
15 joints. "Soft tissue injury" includes, but is not limited to:
16 sprains, strains, contusions, tendonitis, and muscle tears.
17 Cumulative trauma is to be considered a soft tissue injury. "Soft
18 tissue injury" does not include any of the following:

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

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

22 a. sensory or motor disturbances,

23 b. communication disturbances,

- 1 c. complex integrated disturbances of cerebral function,
- 2 d. episodic neurological disorders, or
- 3 e. other brain and closed-head injury conditions at least
- 4 as severe in nature as any condition provided in
- 5 subdivisions a through d of this division; or

6 (3) Total knee replacement.

7 In all cases of soft tissue injury, the employee shall only be
8 entitled to appropriate and necessary medical care and temporary
9 total disability as set out in ~~paragraph 2 of this section~~, this
10 subparagraph. The employee shall not be entitled to permanent
11 impairment unless there is objective medical evidence of a permanent
12 anatomical abnormality. In determining the existence of such an
13 abnormality, the Court may consider if there is credible medical
14 evidence that the ability of the employee to earn wages at the same
15 level as before the injury has been permanently impaired.

16 Other Cases: In all other classes of disabilities, excluding
17 only those heretofore referred to in this paragraph, which
18 disabilities result in loss of use of any portion of an employee's
19 body, and which disabilities are partial in character but permanent
20 in quality, disability shall mean the percentage of permanent
21 impairment. The compensation ordered paid shall be seventy percent
22 (70%) of the employee's average weekly wage for the number of weeks
23 which the partial disability of the employee bears to five hundred

1 (500) weeks. No permanent disability shall be awarded unless there
2 is objective medical evidence, as defined in Section 3 of this
3 title, of a permanent anatomical abnormality. In determining the
4 existence of such an abnormality, the Court may consider if there is
5 credible medical evidence that the ability of the employee to earn
6 wages at the same level as before the injury has been permanently
7 impaired.

8 (e) With respect to injuries occurring on or after November 1,
9 2010, in case of disability, partial in character but permanent in
10 quality, the compensation shall be sixty-six and two-thirds percent
11 (66 2/3%) of the employee's average weekly wages, not to exceed
12 Three Hundred Forty-two Dollars (\$342.00) per week, and shall be
13 paid to the employee for the period prescribed by the following
14 schedule:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 For the permanent partial loss of use of a member, loss of
7 hearing or sight of an eye, sixty-six and two-thirds percent (66
8 2/3%) of the employee's average weekly wage during that portion of
9 the number of weeks in the foregoing schedule provided for the loss
10 of such member or sight of an eye which the partial loss of use
11 thereof bears to the total loss of use of such member, loss of
12 hearing or sight of an eye.

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

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

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

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

1 a soft tissue injury. In all cases of nonsurgical soft tissue
2 injury, the employee shall only be entitled to appropriate and
3 necessary medical care and temporary total disability as set out in
4 this subparagraph. "Soft tissue injury" does not include any of the
5 following:

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

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

- 9 a. sensory or motor disturbances,
- 10 b. communication disturbances,
- 11 c. complex integrated disturbances of cerebral function,
- 12 d. episodic neurological disorders, or
- 13 e. other brain and closed-head injury conditions at least
14 as severe in nature as any condition provided in
15 subdivisions a through d of this division; or

16 (3) Total knee replacement.

17 Odd-lot doctrine: The Court shall not consider the odd-lot
18 doctrine for permanent disability claims.

19 4. Temporary Partial Disability. (a) With respect to injuries
20 occurring before November 4, 1994, in case of temporary partial
21 disability, except the particular cases mentioned in paragraph 3 of
22 this section, an injured employee shall receive seventy percent
23 (70%) of the difference between the employee's average weekly wages

1 and the employee's wage-earning capacity thereafter in the same
2 employment or otherwise, if less than before the injury, during
3 continuance of such partial disability, but not to exceed one
4 hundred fifty (150) weeks. Provided, after compensation has been
5 paid for a period of one hundred forty (140) weeks, the employee may
6 request a review of the case by a judge of the Court for continued
7 temporary partial disability benefits provided by the Workers'
8 Compensation Act. Upon a finding that benefits should be extended
9 beyond the initial one-hundred-fifty-week period, compensation may
10 be continued for an additional one hundred fifty (150) weeks.

11 (b) With respect to injuries occurring on or after November 4,
12 1994, in case of temporary partial disability, except the particular
13 cases mentioned in paragraph 3 of this section, an injured employee
14 shall receive seventy percent (70%) of the difference between the
15 employee's average weekly wages and the employee's wage-earning
16 capacity thereafter in the same employment or otherwise, if less
17 than before the injury, during continuance of such partial
18 disability, but not to exceed fifty-two (52) weeks. Provided, after
19 compensation has been paid for a period of forty-two (42) weeks, the
20 employee may request a review of the case by a judge of the Court
21 for continued temporary partial disability benefits provided by the
22 Workers' Compensation Act. Upon a finding that benefits should be
23 extended beyond the initial fifty-two-week period, compensation may

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

7 (c) With respect to injuries occurring on or after November 1,
8 1997, total payments of compensation for temporary partial
9 disability may not exceed a maximum of one hundred fifty-six (156)
10 weeks in the aggregate except for good cause shown, as determined by
11 the Court. Total payments of compensation for temporary partial
12 disability, inclusive of consequential injuries, may not exceed a
13 maximum of three hundred (300) weeks in the aggregate.

14 (d) With respect to injuries occurring before November 1, 2010,
15 in case of temporary partial disability, except the particular cases
16 mentioned in paragraph 3 of this section, an injured employee shall
17 receive sixty-six and two-thirds percent (66 2/3%) of the difference
18 between the employee's average weekly wages and the employee's wage-
19 earning capacity thereafter in the same employment or otherwise, if
20 less than before the injury, during continuance of such partial
21 disability, but not to exceed one hundred four (104) weeks.

22 5. Notwithstanding any other section of the Workers'
23 Compensation Act, temporary disability shall be payable without an

1 award by the Court. The first payment of temporary disability
2 compensation shall become due on the tenth day after the employer
3 has received notice of injury as specified in ~~Section 24.2~~ of this
4 title. All compensation owed on that date shall be paid and
5 thereafter payments shall be made weekly except when otherwise
6 ordered by the Court.

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

16 6. Limitation. The compensation payments under the provisions
17 of the Workers' Compensation Act shall not exceed the sum of
18 seventy-five percent (75%) of the state's average weekly wage as
19 determined by the Oklahoma Employment Security Commission, the sum
20 of ninety percent (90%) of the state's average weekly wage beginning
21 January 1, 1995, for injuries occurring after December 31, 1994, and
22 the sum of one hundred percent (100%) of the state's average weekly
23 wage beginning January 1, 1996, for injuries occurring after

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

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

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

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

22 7. Previous Disability. The fact that an employee has suffered
23 previous disability or impairment or received compensation therefore

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

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,

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

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

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

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

22 (9) A person ceases to be actually dependent when the person's
23 income from all sources exclusive of workers' compensation income

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

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

22 (c) Maximum income benefits for death. For the purposes of this
23 section, the average weekly wage of the employee shall be taken as

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

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

1 subparagraph (a) of this paragraph shall have priority over all
2 other beneficiaries in the apportionment of income benefits. If the
3 provisions of this subparagraph should prevent payments to other
4 beneficiaries of the income benefits to the full extent otherwise
5 provided for by this section, the gross remaining amount of income
6 benefits payable to such other beneficiaries shall be apportioned by
7 class, proportionate to the interest of each class in the remaining
8 amount. Parents shall be considered to be in one class and those
9 specified in division (7) of subparagraph (a) of this paragraph in a
10 separate class.

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

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

1 amount not to exceed Eight Thousand Dollars (\$8,000.00) shall be
2 paid for funeral expenses.

3 11. (a) For deaths occurring before January 1, 1995, if there
4 is a surviving spouse and surviving children entitled to receive
5 death benefits herein, such survivors shall be entitled to an
6 immediate lump-sum payment of Ten Thousand Dollars (\$10,000.00) to
7 the spouse and Two Thousand Five Hundred Dollars (\$2,500.00) to each
8 surviving child not to exceed two children. For deaths occurring
9 after December 31, 1994, if there is a surviving spouse and
10 surviving children entitled to receive death benefits herein, such
11 survivors shall be entitled to an immediate lump-sum payment of
12 Twenty Thousand Dollars (\$20,000.00) to the spouse and Five Thousand
13 Dollars (\$5,000.00) to each surviving child not to exceed two
14 children. For deaths occurring on or after November 1, 2005, if
15 there is a surviving spouse and surviving children entitled to
16 receive death benefits herein, such survivors shall be entitled to
17 an immediate lump-sum payment of One Hundred Thousand Dollars
18 (\$100,000.00) to the spouse and Twenty-five Thousand Dollars
19 (\$25,000.00) to each surviving child not to exceed two children. In
20 addition, the survivors shall be entitled to receive funeral
21 benefits in an amount not to exceed Ten Thousand Dollars
22 (\$10,000.00).

1 (b) For deaths occurring before November 1, 2005, if there is no
2 surviving spouse but there are surviving children entitled to
3 receive death benefits herein, such surviving children shall be
4 entitled to a lump-sum payment of Ten Thousand Dollars (\$10,000.00)
5 to be divided among all the children to share and share alike. For
6 deaths occurring on or after November 1, 2005, if there is no
7 surviving spouse but there are surviving children entitled to
8 receive death benefits herein, each surviving child shall be
9 entitled to a lump-sum payment of Twenty-five Thousand Dollars
10 (\$25,000.00), provided the total amount of lump-sum payments shall
11 not exceed One Hundred Fifty Thousand Dollars (\$150,000.00), to be
12 divided among all the children to share and share alike. The
13 survivors shall also be entitled to receive funeral benefits in an
14 amount not to exceed Ten Thousand Dollars (\$10,000.00).

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

1 Provided, that all judgments rendered awarding lump-sum death
2 benefits, except lump-sum attorney fee awards, may, at the
3 discretion of the Court, provide that said benefits be paid in trust
4 to an interest-bearing account in a federally insured banking
5 institution in the county wherein the judgment was rendered. The
6 banking institution may make appropriate charges to the beneficiary
7 for costs of trust management. These charges shall be fixed by
8 agreement of such institution and the judge rendering the judgment.
9 The judgment awarding lump-sum death benefits shall contain
10 instructions for regularly scheduled disbursements to be fixed by
11 the Court which may be modified by the Court upon a proper showing
12 of change of circumstance. The banking institution shall issue a
13 numbered receipt to the person paying the benefits into trust and
14 deliver a copy of the receipt to the Administrator. Each banking
15 institution receiving trust funds for deposit shall receive a
16 schedule of disbursements and shall monthly pay said disbursements
17 to the beneficiary as ordered by the Court. An annual accounting of
18 all such trust funds received and deposited shall be rendered by
19 each banking institution to the Court granting the judgment.

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

1 13. (a) Any employee convicted of a misdemeanor or felony and
2 sentenced to a term of incarceration of at least ninety (90) days in
3 this state or in any other jurisdiction shall have all benefits for
4 temporary total disability awarded by the Workers' Compensation
5 Court forfeited by order of the Court on motion of the employer or
6 the employer's insurer after confirmation of the employee's
7 incarceration. The Court also may order the forfeiture of such
8 benefits on its own motion upon receipt of notice from the Director
9 of the Department of Corrections that the person awarded the
10 benefits is incarcerated as an inmate in a facility operated by or
11 under contract with the Department. The provisions of this
12 subparagraph shall not apply to any benefits awarded to an inmate
13 for compensable injuries sustained by the inmate while in the employ
14 of a private for-profit employer or while employed in private prison
15 industries, involving a for-profit employer, which deal in
16 interstate commerce or which sell products or services to the
17 federal government.

18 (b) Any employee convicted of a misdemeanor or felony and
19 sentenced to a term of incarceration of at least ninety (90) days in
20 this state shall have all benefits for permanent total disability or
21 temporary partial disability awarded by the Workers' Compensation
22 Court and paid during the period of incarceration deposited to the
23 credit of an account established pursuant to Section 549 of Title 57

1 of the Oklahoma Statutes for distribution in full to the Department
2 of Corrections for costs of incarceration. The State Board of
3 Corrections shall have the power to collect workers' compensation
4 benefits on behalf of the prisoner as provided in this subparagraph
5 and to distribute the benefits as provided by law.

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

8 Section 24.2 A. Unless an employee or former employee gives
9 ~~oral or~~ written notice to the employer or former employer within
10 ~~thirty (30)~~ ten (10) business days of the date an injury occurs ~~or~~
11 ~~the employee receives medical attention from a licensed physician~~
12 ~~during the thirty day period from the date an injury occurred,~~ the
13 rebuttable presumption shall be that the injury was not work
14 related. Such presumption must be overcome by a preponderance of
15 the evidence. For an occupational disease or cumulative trauma,
16 written notice shall be given to the employer within the statutory
17 period for occupational disease set out in ~~Section 43 of~~ this title;
18 provided, there shall be a rebuttable presumption that injury from
19 occupational disease or injury caused by cumulative trauma does not
20 arise out of and in the course of employment unless ~~oral or~~ written
21 notice is given by the employee to the employer within ~~ninety (90)~~
22 thirty (30) days of the employee's separation from employment. Such
23 presumption must be overcome by a preponderance of the evidence.

1 B. If the employer has notice of the injury and the injury is
2 not disputed and weekly temporary total disability benefit payments
3 are not commenced within twenty (20) days or if any subsequent
4 installment of temporary total disability benefits is not made
5 within ten (10) days after it becomes due, the insurer of the
6 employer shall pay to the employee a penalty of fifteen percent
7 (15%) of the unpaid or delayed weekly benefits. This penalty may be
8 imposed by the Court for good cause shown on a case-by-case basis.

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

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

14 SECTION 18. AMENDATORY 85 O.S. 2001, Section 26, as
15 amended by Section 22, Chapter 1, 1st Extraordinary Session, O.S.L.
16 2005 (85 O.S. Supp. 2009, Section 26), is amended to read as
17 follows:

18 Section 26. A. The Administrator shall provide printed notice
19 forms to be used by the injured employee. Notice of injury filed by
20 the employee with the Administrator shall be verified subject to the
21 laws of perjury of this state and shall be styled: In re: Claim of
22 the _____ (the name of the employee) and shall include in addition
23 to any other requirements the following information:

1 1. The name and social security number of the employee;
2 2. The name of the employer;
3 3. The judicial district of the county of residence of the
4 employee at the time of the injury;
5 4. The address of the principal place of business of the
6 employer;
7 5. The judicial district of the county where the injury
8 occurred; and
9 6. The judicial district of the county where the injured
10 employee wants the claim docketed.

11 B. Any time after the expiration of the first three (3) days of
12 disability on the part of the injured employee, a claim for
13 compensation may be presented to the Administrator. If the employer
14 and the injured employee shall reach a final agreement as to the
15 facts with relation to an injury, and the resulting disability for
16 which compensation is claimed under the Workers' Compensation Act, a
17 memorandum of such agreement, in form as prescribed by the
18 Administrator, signed by both the employer and employee shall be
19 filed by the employer with the Administrator. In cases in which the
20 claimant is not represented by legal counsel, the claimant and the
21 employer may reach a compromise settlement of all issues. ~~The
22 settlement must be approved by the Administrator or a judge of the
23 Court after the filing of an Employer's First Notice of Injury and~~

1 ~~may be paid in a lump sum.~~ There shall be no requirement for the
2 filing of an Employee's First Notice of Accidental Injury and Claim
3 for Compensation to effect such settlement. ~~The Court shall~~
4 ~~promulgate rules to allow the creation of a file, the making of a~~
5 ~~record before a reporter of the Workers' Compensation Court, and the~~
6 ~~approval of the settlement. This procedure shall be known as a~~
7 ~~"compromise settlement". Compensation received by a claimant in a~~
8 ~~compromise settlement as defined by this subsection or in a~~
9 ~~settlement based upon a dismissal of a claim with prejudice shall~~
10 ~~not be considered to be an award of permanent partial disability.~~
11 In the absence of fraud this agreement shall be deemed binding upon
12 the parties thereto. ~~The Court shall have full power and authority~~
13 ~~to determine all questions in relation to payment of claims for~~
14 ~~compensation under the provisions of the Workers' Compensation Act.~~
15 ~~The Court shall make, or cause to be made, such investigation as it~~
16 ~~deems necessary, and upon application of either party shall order a~~
17 ~~hearing, and as soon as practicable, after a claim for compensation~~
18 ~~is submitted under this section, or such hearing closed, shall make~~
19 ~~or deny an award determining such claim for compensation, and file~~
20 ~~the same in the office of the Administrator, together with the~~
21 ~~statement of its conclusion of fact and rulings of law. Upon a~~
22 ~~hearing pursuant to this section either party may present evidence~~
23 ~~and be represented by counsel. The decision of the Court shall be~~

1 ~~final as to all questions of fact, and except as provided in Section~~
2 ~~3.6 of this title, as to all questions of law.~~

3 C. A good faith effort shall be made on the part of any
4 insurance carrier, CompSource Oklahoma, or group self-insured plan
5 to notify an insured employer of the possibility of, and/or terms
6 of, any settlement of a workers' compensation case pursuant to this
7 section. Written comments or objections to settlements shall be
8 filed with the Workers' Compensation Court and periodically shared
9 with the management of the applicable insurer. A written notice
10 shall be made to all policyholders of their right to a good faith
11 effort by their insurer to notify them of any proposed settlement,
12 if the policyholder so chooses.

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

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

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

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

5 B. The review and subsequent order or award shall be made in
6 accordance with the procedure prescribed in the Workers'
7 Compensation Act.

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

11 SECTION 20. AMENDATORY 85 O.S. 2001, Section 30, as
12 amended by Section 23, Chapter 1, 1st Extraordinary Session, O.S.L.
13 2005 (85 O.S. Supp. 2009, Section 30), is amended to read as
14 follows:

15 Section 30. A. 1. If the Workers' Compensation Court before
16 which any proceedings for compensation or concerning an award of
17 compensation have been brought, under the Workers' Compensation Act,
18 determines that such proceedings have not been brought on a
19 reasonable ground, or that denial of benefits has not been based on
20 a reasonable ground, the Court shall assess the total cost of the
21 proceedings on the party, who has brought them or the party who has
22 unreasonably denied payment of benefits.

1 2. In the event a respondent fails to pay travel expenses as
2 required by an order of the Court within twenty-five (25) business
3 days of such order, the Court shall assess a Five Hundred Dollar
4 (\$500.00) penalty against the respondent and payable to the
5 claimant.

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

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

13 1. A claim for legal services in contested temporary disability
14 cases shall not exceed ten percent (10%) of the amount of the award
15 for temporary disability. Legal service fees paid in uncontested
16 cases for temporary total disability shall not exceed ten percent
17 (10%) as ordered by the Court.

18 2. A claim for legal services shall not exceed twenty percent
19 (20%) of the amount of the award for permanent disability or death
20 benefits.

21 D. Claims for legal services for temporary disability awards
22 shall be paid periodically. Claims for legal fees for permanent
23 total disability awards shall be paid periodically at the rate of

1 twenty percent (20%) of each weekly check to the claimant until the
2 attorney fee is satisfied, based upon a maximum of four hundred
3 (400) weeks of compensation. The right to any such attorney fee
4 shall be vested at the time the award therefor becomes final.
5 Claims for legal services for permanent partial disability awards
6 may be paid in a lump sum the same to be deducted from the end of
7 the award. Claims for legal services for death awards may be paid
8 in a lump sum which shall be deducted from the periodic compensation
9 payments at a rate of ten percent (10%) per payment until the
10 attorney fee is satisfied.

11 E. In any claim in which the respondent has ~~admitted~~
12 ~~compensability of an accidental injury within twenty (20) days of~~
13 ~~the filing of an Employee's First Notice of Accidental Injury and~~
14 ~~Claim for Compensation, has not disputed medical treatment, and has~~
15 made a settlement offer in writing within ~~fifteen (15)~~ thirty (30)
16 days after receipt of notice that the claimant ~~reaches~~ has reached
17 maximum medical improvement, the attorney fee shall be limited to
18 ~~thirty five percent (35%)~~ twenty percent (20%) of the amount of any
19 award or settlement of permanent partial disability which is greater
20 than the amount of the offer. ~~In addition, an attorney fee shall be~~
21 ~~awarded for other contested benefits obtained on behalf of the~~
22 ~~claimant at any time during the pendency of the claim and shall be~~
23 ~~based upon a reasonable hourly rate.~~ In no event shall the total

1 attorney fee be in excess of twenty percent (20%) of the total
2 permanent partial disability award or settlement. All attorney fees
3 shall be deducted from the award or settlement to the claimant.

4 F. An attorney and counselor shall not deduct or withhold any
5 portion of a judgment from the Court, a court of law, settlement
6 proceeds of a client, or any monies held in trust for a client for
7 the purpose of donating or contributing funds or monies to a
8 political fund, political action committee, campaign of any kind, or
9 candidate for state, federal or local office.

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

12 Section 41. A. Awards for permanent partial disability under
13 Section 22 of this title shall be made for the total number of weeks
14 of compensation which the Court shall find the claimant will be
15 entitled to receive, less any sums previously paid which the Court
16 may find to be a proper credit thereon. When the award becomes
17 final, the whole sum or any unpaid portion thereof shall operate as
18 a final adjudicated obligation and payment thereof may be enforced
19 by the claimant or in case of his death, by the surviving
20 beneficiary entitled to the proceeds as provided in ~~Section 48~~ of
21 this title. All awards shall be paid by periodic installments as
22 determined by the Court. Whenever an injured person receives an
23 award for permanent partial disability, ~~permanent total disability~~

1 ~~or death benefits,~~ the injured employee or claimant, for good cause
2 shown, may have the award commuted to a lump-sum payment by
3 permission of the Court. This authorization for commutation shall
4 not be applicable to attorney fees in permanent total disability
5 cases. The lump-sum payment shall not exceed Four Thousand Dollars
6 (\$4,000.00) or twenty-five percent (25%) of the total award,
7 whichever is the larger sum. Attorney fees shall be based upon not
8 more than a five-hundred-week award and, with respect to attorney
9 fees in a permanent total disability case, shall be paid
10 periodically. Such commutation shall be in addition to any
11 commutation to a lump-sum payment for legal services. The balance
12 of the total award shall be paid in periodic installments. In case
13 of the death of a claimant due to causes other than his accidental
14 personal injury or occupational disease at any time before
15 satisfaction or payment of the total award is made, the award shall
16 not abate, but shall be revived in favor of the persons determined
17 by the Court to be entitled thereto. In proceedings to enforce
18 claims for compensation during a period of healing or temporary
19 total disability, the compensation under the provisions of the
20 Workers' Compensation Act shall be payable periodically, in
21 accordance with the method of payment of the wages of the employee
22 at the time of his injury, and shall be so provided for in any award
23 made.

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

14 C. All payments shall be made on any award in the manner and
15 form prescribed by the Court not to exceed the weekly rate of
16 compensation specified in Section 22 of this title, and employers
17 and insurance carriers shall, for such purposes, be permitted, or
18 when necessary to protect the interests of the beneficiary, may be
19 required to make deposits with the Administrator to secure the
20 prompt and convenient payment of awards made. Provided that, all
21 weekly or periodic payments shall be made through the use of United
22 States legal tender, negotiable instruments payable on demand or
23 negotiable drafts when each such payment does not exceed One

1 Thousand Dollars (\$1,000.00). Failure for ten (10) days to pay any
2 final award or any portion thereof, as ordered shall immediately
3 entitle the beneficiary to an order finding the respondent and/or
4 insurance carrier to be in default and all unpaid portions,
5 including future periodic installments unpaid, shall immediately
6 become due and may be immediately enforced as provided by ~~Section 42~~
7 ~~of~~ this title.

8 An award for disability may be made after the death of the
9 injured employee, when death results from causes other than the
10 injury. If an employee dies as a result of a compensable injury or
11 an occupational disease, any unaccrued portions of an award or order
12 shall abate.

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

15 Section 41.1 ~~A-~~ In the event salary or any other remuneration
16 is paid in lieu of temporary total compensation during the period of
17 temporary total disability or for any other period of time, ~~ne a~~
18 respondent or insurance carrier shall be allowed to deduct from the
19 amount of the award for permanent total or ~~partial~~ permanent partial
20 disability any amounts paid for temporary total disability, ~~nor~~ and
21 shall he be given credit for such additional payments on future
22 temporary total disability, permanent partial disability,

1 disfigurement, or any other compensation provided by the workers'
2 compensation law.

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

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

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

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

22 B. If any insurance carrier intentionally, knowingly, or
23 willfully violates any of the provisions of the Workers'

1 Compensation Act or any published rules or regulations promulgated
2 thereunder, the Insurance Commissioner, on the request of a judge of
3 the Court or the Administrator, ~~shall~~ may suspend or revoke the
4 license or authority of such insurance carrier to do a compensation
5 business in this state.

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

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

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

11 B. When a claim for compensation has been filed with the
12 Administrator as herein provided, unless the claimant shall in good
13 faith request a hearing and final determination thereon within ~~three~~
14 ~~(3)~~ two (2) years from the date of filing thereof or within ~~three~~
15 ~~(3)~~ years one (1) year from the date of last payment of compensation
16 or wages in lieu thereof, same shall be barred as the basis of any
17 claim for compensation under the Workers' Compensation Act and shall
18 be dismissed by the Court for want of prosecution, which action
19 shall operate as a final adjudication of the right to claim
20 compensation thereunder. If represented by counsel, the claimant
21 may, upon the payment of the Court's filing fee, dismiss any claim
22 brought by the claimant at any time before final submission of the
23 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

1 that nothing in this subsection shall be construed to toll the
2 Statute of Limitations provided above.

3 SECTION 25. AMENDATORY 85 O.S. 2001, Section 44, as
4 amended by Section 25, Chapter 1, 1st Extraordinary Session, O.S.L.
5 2005 (85 O.S. Supp. 2009, Section 44), is amended to read as
6 follows:

7 Section 44. (a) If a worker entitled to compensation under the
8 Workers' Compensation Act is injured or killed by the negligence or
9 wrong of another not in the same employ, such injured worker shall,
10 before any suit or claim under the Workers' Compensation Act, elect
11 whether to take compensation under the Workers' Compensation Act, or
12 to pursue his remedy against such other. Such election shall be
13 evidenced in such manner as the Administrator may by rule or
14 regulation prescribe. If he elects to take compensation under the
15 Workers' Compensation Act, the cause of action against such other
16 shall be assigned to the insurance carrier liable for the payment of
17 such compensation, and if he elects to proceed against such other
18 person or insurance carrier, as the case may be, the employer's
19 insurance carrier shall contribute only the deficiency, if any,
20 between the amount of the recovery against such other person
21 actually collected, and the compensation provided or estimated by
22 the Workers' Compensation Act for such case. The compromise of any
23 such cause of action by the worker at any amount less than the

1 compensation provided for by the Workers' Compensation Act shall be
2 made only with the written approval of the Court. Whenever recovery
3 against such other person is effected without compromise settlement
4 by the employee or his representatives, the employer or insurance
5 company having paid compensation under the Workers' Compensation Act
6 shall be entitled to reimbursement as hereinafter set forth and
7 shall pay from its share of said reimbursement a proportionate share
8 of the expenses, including attorneys fees, incurred in effecting
9 said recovery to be determined by the ratio that the amount of
10 compensation paid by the employer bears to the amount of the
11 recovery effected by the employee. After the expenses and attorneys
12 fees have been paid, the balance of the recovery shall be
13 apportioned between the employer or insurance company having paid
14 the compensation and the employee or his representatives in the same
15 ratio that the amount of compensation paid by the employer bears to
16 the total amount recovered; provided, however, the balance of the
17 recovery may be divided between the employer or insurance company
18 having paid compensation and the employee or his representatives as
19 they may agree.

20 In the event that recovery is effected by compromise settlement,
21 then in that event the expenses, attorneys fees and the balance of
22 the recovery may be divided between the employer or insurance
23 company having paid compensation and the employee or his

1 representatives as they may agree. Provided, that in the event they
2 are unable to agree, then the same shall be apportioned by the
3 district court having jurisdiction of the employee's action against
4 such other person, in such manner as is just and reasonable.

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

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

20 ~~(d) An employer shall have a cause of action against a third~~
21 ~~party whose wrongful or negligent conduct causes the death of an~~
22 ~~employee entitled to compensation under this title to recover any~~
23 ~~money paid for death benefits on behalf of the employee. Nothing~~

1 ~~contained in this section shall allow an employer or insurance~~
2 ~~carrier for an employer to seek an interest in either the death~~
3 ~~benefits received by the employee or the employee's beneficiary or~~
4 ~~in a life insurance policy procured by the employee.~~

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

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

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

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

18 Section 47.1 Where an applicant for employment, though not
19 actually disabled, is found to be affected by silicosis or
20 asbestosis, he may, subject to the approval of the ~~State Industrial~~
21 ~~Commission~~ Workers' Compensation Court, be permitted to waive in
22 writing full compensation for any aggravation of his condition that
23 may result from his continuing in his hazardous occupation. In the

1 event of total disablement as a result of the disease with which the
2 employee was so affected, after such a waiver, compensation shall
3 nevertheless be payable as herein elsewhere provided, but in no case
4 for longer than one hundred (100) weeks or to exceed Two Thousand
5 (\$2,000.00) Dollars in the aggregate. A waiver so permitted shall
6 remain effective, for the trade, occupation, process or employment
7 for which executed, notwithstanding a change or changes of employer.
8 The ~~Commission~~ Court shall make reasonable rules and regulations
9 relative to the form, execution, filing or registration and public
10 inspection of waivers or records thereof.

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

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

1 however, that payment in whole or in part of the compensation by
2 either the employer or the insurance carrier shall, to the extent
3 thereof, be a bar to the recovery against the other of the amount so
4 paid.

5 B. Every such policy shall contain a provision that, as between
6 the employee and the insurance carrier, the notice to or knowledge
7 of the occurrence of the injury on the part of the employer shall be
8 deemed notice or knowledge, as the case may be on the part of the
9 insurance carrier, that jurisdiction of the employer shall, for the
10 purpose incorporated in this title, be jurisdiction of the insurance
11 carrier, and that the insurance carrier shall in all things be bound
12 by and subject to the orders, findings, decisions or awards rendered
13 against the employer for the payment of compensation under the
14 provisions incorporated in this title.

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

19 D. 1. Every such policy issued to cover a risk in this state
20 shall include provisions giving the insured employer the option of
21 choosing a deductible amount for medical benefits in amounts ranging
22 from Five Hundred Dollars (\$500.00) to Two Thousand Five Hundred
23 Dollars (\$2,500.00) in increments of Five Hundred Dollars (\$500.00).

1 The policy issued may also include separate provisions giving the
2 insured employer the option of choosing a deductible amount for
3 indemnity benefits in amounts ranging from Five Hundred Dollars
4 (\$500.00) to Two Thousand Five Hundred Dollars (\$2,500.00) in
5 increments of Five Hundred Dollars (\$500.00). The insured employer,
6 if choosing to exercise the option, shall choose only one deductible
7 amount.

8 2. If an insured employer exercises the option and chooses a
9 medical benefits deductible or indemnity benefits deductible, the
10 insured employer shall be liable for the amount of the deductible or
11 deductibles for the medical or indemnity benefits paid for each
12 claim of work injury suffered by an injured employee.

13 3. The Insurance Commissioner, in exercising the authority to
14 approve the form of the policy to be issued, shall not approve any
15 policy form that permits, directly or indirectly, any part of the
16 deductible to be charged to or passed on to the injured worker or
17 insurer.

18 4. The insurer shall pay the entire cost of medical bills
19 directly to the provider of the services and then seek reimbursement
20 from the insured employer for the deductible amount. The insurer
21 shall pay the entire cost of the indemnity benefits as if no
22 deductible were in place and then seek reimbursement from the
23 insured employer for the deductible amount.

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

6 6. Claim amounts up to Five Hundred Dollars (\$500.00) annually
7 which are paid under the medical benefits deductible or indemnity
8 benefits deductible pursuant to this subsection shall be excluded
9 from the calculation of the insured employer's experience modifier.

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

12 E. Every such policy issued to a sole proprietor, partnership,
13 limited liability company, corporation, or other business entity
14 must disclose to the potential purchaser in writing the option to
15 elect to include the sole proprietors, any or all of the partnership
16 members, any or all of the limited liability company members, or any
17 or all stockholder-employees as employees for the purpose of
18 workers' compensation insurance coverage by endorsing the policy in
19 accordance with Section 3 of this title.

20 F. Every contract or agreement of an employer the purpose of
21 which is to indemnify the employer from loss or damage on account of
22 the injury of an employee by accidental means, or on account of the
23 negligence of such employer or the employer's officer, agent or

1 servant shall be absolutely void unless it shall also cover
2 liability for the payment of the compensation provided for in this
3 title.

4 G. No contract of insurance issued by a stock company or mutual
5 association or other concern against the liability arising under
6 this title shall be canceled within the time limited in such
7 contract for its expiration until at least ten (10) days after
8 notice of intention to cancel such contract, on a date specified in
9 such notice, shall be filed in the office of the Administrator and
10 also served on the employer. Such notice shall be served on the
11 employer by delivering it to the employer or by sending it by mail,
12 by registered letter, addressed to the employer at the employer's
13 last-known place of residence; provided, that if the employer be a
14 partnership, then such notice may be so given to any one of the
15 partners, and if the employer be a corporation, then the notice may
16 be given to any agent or officer of the corporation upon whom legal
17 process may be served. Provided, however, if a contract of
18 insurance has been terminated by an employer insured thereunder who
19 has obtained other compensation insurance, as evidenced by filing in
20 compliance with Section 61 of this title, and no intervening rights
21 of any employee are involved, omission of a predecessor insurer to
22 file notice of time of termination of liability shall not constitute
23 basis for imposition of liability against such predecessor insurer.

1 H. An insurance carrier or its representative commits an
2 administrative violation under Title 36 of the Oklahoma Statutes if
3 the representative attends a workers' compensation dispute
4 resolution proceeding without complete settlement authority or fails
5 to exercise authority to effectuate agreement or settlement.

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

9 Section 110. A. Except as otherwise provided by state or
10 federal law and subject to the provisions of this section, an
11 employer may inquire about previous workers' compensation claims
12 paid to an employee while the employee was employed by a previous
13 employer. If the employee fails to answer truthfully about any
14 previous ~~permanent partial disability awards made pursuant to~~
15 workers' compensation claims, the employee shall be subject to
16 discharge by the employer.

17 B. 1. All requests made to the Workers' Compensation Court for
18 information on prior workers' compensation claims involving a
19 worker, including written inquiries about prior claims and requests
20 to access a worker's compensation claim file, must be in writing, on
21 a form prescribed by the Administrator, and accompanied by a fee of
22 One Dollar (\$1.00) per search request, not to exceed One Dollar
23 (\$1.00) per claims record of a particular worker. The fee shall be

1 deposited to the credit of the Administrator of Workers'
2 Compensation Revolving Fund created by Section 95 of this title.
3 The form shall require identification of the person requesting the
4 information, and the person for whom a search is being made if
5 different from the requester. The form must contain an affidavit
6 signed by the requester under penalty of perjury that the
7 information sought is not requested for a purpose in violation of
8 state or federal law. The form must be used by all repositories of
9 archived Workers' Compensation Court claim files. All request forms
10 shall be maintained by the Administrator as a public record,
11 together with a record of a worker's written authorization
12 permitting a search indexed by the worker's social security number
13 as required by Section 3113 of Title 74 of the Oklahoma Statutes.
14 The request forms and authorizations shall be indexed alphabetically
15 by the last name of the worker.

- 16 2. This subsection shall not apply:
- 17 a. to requests for claims information made by a public
18 officer or by a public employee in the performance of
19 his or her duties on behalf of a governmental entity
20 or as may be allowed by law,
 - 21 b. to requests for claims information made by an insurer,
22 self-insured employer, third-party claims
23 administrator, or a legal representative thereof, when

1 necessary to process or defend a worker's compensation
2 claim,
3 c. when a worker or the worker's representative requests
4 review of the worker's claims information,
5 d. when the disclosure is made for educational or
6 research purposes and in such a manner that the
7 disclosed information cannot be used to identify any
8 worker who is the subject of a claim,
9 e. to requests for claims information made by a health
10 care or rehabilitation provider or the provider's
11 legal representative when necessary to process payment
12 of health care or rehabilitation services rendered to
13 a worker, and
14 f. to requests for claim information made by an employer
15 or personnel service company (including but not
16 limited to an individual or entity) where the worker
17 executes a written authorization permitting the search
18 and designating the employer or personnel service
19 company as the worker's representative for that
20 purpose; however, nothing in this subparagraph shall
21 relieve the employer or personnel service company from
22 complying with the requirements of utilizing the form
23 set forth in paragraph 1 of this subsection.

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

3 Section 112. A. There is hereby created an Advisory Council on
4 Workers' Compensation.

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

8 1. The Governor shall appoint ~~three (3)~~ two members, one
9 representing employers in this state, ~~one of whom shall be from a~~
10 ~~list of nominees provided by the predominant statewide broad based~~
11 ~~business organization,~~ and one representing employees in this state.

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

17 3. The President Pro Tempore of the Senate shall appoint ~~three~~
18 ~~(3)~~ two members ~~who are attorneys representing the legal profession~~
19 ~~in this state, one of whom shall be an attorney who practices~~
20 ~~primarily in the area of defense of workers' compensation claims,~~
21 one representing employers in this state and one representing
22 employees in this state.

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

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

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

8 a. ~~the term of office for three positions, one each~~
9 ~~appointed by the Governor, the President Pro Tempore~~
10 ~~of the Senate and the Speaker of the House of~~
11 ~~Representatives shall expire on March 1, 1992,~~

12 b. ~~the term of office for three positions, one each~~
13 ~~appointed by the Governor, the President Pro Tempore~~
14 ~~of the Senate and the Speaker of the House of~~
15 ~~Representatives shall expire on March 1, 1993, and~~

16 c. ~~the term of office for three positions, one each~~
17 ~~appointed by the Governor, the President Pro Tempore~~
18 ~~of the Senate and the Speaker of the House of~~
19 ~~Representatives shall expire on March 1, 1994;~~

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

1 ~~3-~~ 2. Any person appointed to fill a vacancy shall be appointed
2 for the unexpired portion of the term.

3 D. ~~The chairman and the vice chairman of the Advisory Council,~~
4 ~~one of whom shall be an employee representative and one of whom~~
5 ~~shall be an employer representative, shall be elected by the Council~~
6 ~~from among its voting members.~~

7 E. Members shall receive their traveling and other necessary
8 expenses incurred in the performance of their duties as provided in
9 the State Travel Reimbursement Act, Section 500.1 et seq. of Title
10 74 of the Oklahoma Statutes.

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

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

19 ~~H.~~ G. The Advisory Council shall analyze and review the
20 workers' compensation system, the reports of the Administrator of
21 the Workers' Compensation Court, and trends in the field of workers'
22 compensation. The Council may recommend improvements and proper
23 responses to developing trends. The Council shall report its

1 findings annually to the Governor, the Chief Justice of the Supreme
2 Court, the President Pro Tempore of the Senate, and the Speaker of
3 the House of Representatives.

4 ~~F.~~ H. In addition to other duties required by this section, the
5 Advisory Council shall consult with the Workers' Compensation Court
6 regarding oversight of independent medical examiners as provided in
7 ~~Section 17~~ of this title.

8 SECTION 31. AMENDATORY 85 O.S. 2001, Section 201.1, as
9 last amended by Section 31, Chapter 1, 1st Extraordinary Session,
10 O.S.L. 2005 (85 O.S. Supp. 2009, Section 201.1), is amended to read
11 as follows:

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

- 15 a. the Governor shall appoint three members, one of whom
16 shall be licensed in this state as a doctor of
17 medicine and surgery, one of whom shall be engaged in
18 the practice of family medicine in a rural community
19 of the state, and one of whom shall be an osteopathic
20 physician,
21 b. the President Pro Tempore of the Senate shall appoint
22 three members, one of whom shall be licensed in this
23 state as a doctor of medicine and surgery, one of whom

1 shall be licensed in this state either as a doctor of
2 medicine or a doctor of osteopathy and shall be
3 engaged in the practice of occupational medicine, and
4 one of whom shall be licensed in this state as a
5 podiatric physician,

6 c. the Speaker of the House of Representatives shall
7 appoint three members, one of whom shall be licensed
8 in this state as an osteopathic physician, one of whom
9 shall be licensed in this state either as a doctor of
10 medicine or a doctor of osteopathy, and one of whom
11 shall be licensed in this state as a chiropractic
12 physician.

13 2. a. To fill the positions for which the term of office
14 expires on January 1, 1996, the Governor shall appoint
15 a resident of the Fifth Congressional District, the
16 President Pro Tempore of the Senate shall appoint a
17 resident of the First Congressional District and the
18 Speaker of the House of Representatives shall appoint
19 a resident of the Second Congressional District.

20 b. To fill the positions for which the term of office
21 expires on January 1, 1997, the Governor shall appoint
22 a resident of the Sixth Congressional District, the
23 President Pro Tempore of the Senate shall appoint a

1 resident of the Third Congressional District and the
2 Speaker of the House of Representatives shall appoint
3 a resident of the Fourth Congressional District.

4 c. To fill the positions for which the term of office
5 expires on January 1, 1998, the Governor, the
6 President Pro Tempore of the Senate and the Speaker of
7 the House of Representatives shall appoint residents
8 of the state at large.

9 d. Thereafter, appointments shall be made from the
10 Congressional District numbered the same as the
11 district from which the original appointment was made
12 pursuant to this paragraph, if a Congressional
13 District so numbered exists. When congressional
14 districts are redrawn, each member appointed prior to
15 July 1 of the year in which such modification becomes
16 effective shall complete the current term of office
17 and appointments made after July 1 of the year in
18 which such modification becomes effective shall be
19 based on the redrawn districts. Appointments that
20 were to be made from a numbered Congressional District
21 which no longer exists shall be appointed from the
22 state at large.

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

6 B. The Committee shall:

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

19 2. Assist the Administrator of the Workers' Compensation Court
20 in reviewing medical practices of health care providers, including
21 evaluations of permanent impairment provided by health care
22 providers, as provided for in ~~Section 201~~ of this title. The
23 Committee shall review and make findings and recommendations to the

1 Administrator with respect to charges of abusive practices by health
2 care providers providing medical services or evaluations of
3 permanent impairment through the workers' compensation system;

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

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

1 medical treatment guidelines are recommended to the Administrator
2 for adoption and use in all workers' compensation claims.

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

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

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

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

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

9 ~~8.~~ 7. Provide general recommendations to the judges of the
10 Workers' Compensation Court on the issues of injury causation and
11 apportionment;

12 ~~9.~~ 8. Conduct educational seminars for the judges of the
13 Workers' Compensation Court, employers, employees, and other
14 interested parties;

15 ~~10.~~ 9. Assist the judges of the Workers' Compensation Court in
16 accessing medical information from scientific literature; and

17 ~~11.~~ 10. Report its progress annually to the Governor, the
18 President Pro Tempore of the Senate, and the Speaker of the House of
19 Representatives.

20 C. As used in this section:

21 1. "Evidence-based" means expert-based, literature-supported
22 and outcomes validated by well-designed randomized trials when such

1 information is available and which uses the best available evidence
2 to support medical decision making;

3 2. "Nationally recognized" includes but is not limited to
4 syntheses of clinical issues that may take the form of published
5 reports in the scientific literature, national consensus documents,
6 formalized documents addressing standards of practice, practice
7 parameters from professional societies or commissions, and
8 technology assessments produced by independent evidence-based
9 practice centers;

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

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

20 5. "State-developed" includes formalized treatment guidelines
21 developed and adopted by state governments.

22 D. The term of office for initial appointees shall expire March
23 1, 1994. Thereafter, successors in office shall serve as follows:

1 1. The term of office for three positions, one each appointed
2 by the Governor, the President Pro Tempore of the Senate and the
3 Speaker of the House of Representatives, shall expire on January 1,
4 1996;

5 2. The term of office for three positions, one each appointed
6 by the Governor, the President Pro Tempore of the Senate and the
7 Speaker of the House of Representatives, shall expire on January 1,
8 1997;

9 3. The term of office for three positions, one each appointed
10 by the Governor, the President Pro Tempore of the Senate and the
11 Speaker of the House of Representatives, shall expire on January 1,
12 1998;

13 4. Thereafter, successors in office shall be appointed for a
14 three-year term. Members shall be eligible to succeed themselves in
15 office; and

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

18 ~~D.~~ E. Members of the Physician Advisory Committee shall receive
19 no compensation for serving on the Committee but shall be reimbursed
20 by the Workers' Compensation Court for their necessary travel
21 expenses incurred in the performance of their duties in accordance
22 with the State Travel Reimbursement Act.

1 ~~E.~~ F. Meetings of the Physician Advisory Committee shall be
2 called by the Administrator but held at least quarterly. The
3 presence of a simple majority of the members constitutes a quorum.
4 No action shall be taken by the Physician Advisory Committee without
5 the affirmative vote of at least a simple majority of the members.

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

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

13 ~~H.~~ I. Any health care provider acting in good faith and within
14 the scope of the provider's duties as a member of the Physician
15 Advisory Committee shall be immune from civil liability for making
16 any report or other information available to the judges of the
17 Workers' Compensation Court or to the Administrator of the Workers'
18 Compensation Court or for assisting in the origination,
19 investigation, or preparation of the report or other information so
20 provided.

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

1 SECTION 33. REPEALER 85 O.S. 2001, Section 28, is hereby
2 repealed.

3 SECTION 34. REPEALER 85 O.S. 2001, Section 122, is
4 hereby repealed.

5 SECTION 35. REPEALER 85 O.S. 2001, Section 201.2, is
6 hereby repealed.

7 SECTION 36. This act shall become effective November 1, 2010.

8 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 3-23-10 - DO
9 PASS, As Amended.