

FLOOR AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB3277

Page	Section	Lines	Of the printed Bill
			Of the Engrossed Bill

By deleting Sections 1, 4, 6, 8, 9, 12, 14, 17, 19, 21, 22, 23, 26, 27, 28, 31, 33, 41, 47, 62, 64 and 66 from the bill; and

adding the attached Sections 1, 4, 6, 8, 10, 12, 14, 17, 19, 21, 22, 23, 24, 27, 28, 29, 32, 34, 41, 45, 46, 48, 49, 50, 51, 55, 66 and 68 to the bill.

SEE ATTACHED

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Chris Kannady

Adopted: _____

Reading Clerk

1 "SECTION 1. AMENDATORY Section 2, Chapter 208, O.S.L.

2 2013 (85A O.S. Supp. 2017, Section 2), is amended to read as

3 follows:

4 Section 2. As used in the Administrative Workers' Compensation
5 Act:

6 1. "Actually dependent" means a surviving spouse, a child or
7 any other person who receives one-half (1/2) or more of his or her
8 support from the employee;

9 2. "Carrier" means any stock company, mutual company, or
10 reciprocal or interinsurance exchange authorized to write or carry
11 on the business of workers' compensation insurance in this state.
12 Whenever required by the context, the term "carrier" shall be deemed
13 to include duly qualified self-insureds or self-insured groups;

14 3. "Case management" means the ongoing coordination, by a case
15 manager, of health care services provided to an injured or disabled
16 worker, including but not limited to systematically monitoring the
17 treatment rendered and the medical progress of the injured or
18 disabled worker; ensuring that any treatment plan follows all
19 appropriate treatment protocols, utilization controls and practice
20 parameters; assessing whether alternative health care services are
21 appropriate and delivered in a cost-effective manner based upon
22 acceptable medical standards; and ensuring that the injured or
23 disabled worker is following the prescribed health care plan;

1 4. "Case manager" means a person who is a registered nurse with
2 a current, active unencumbered license from the Oklahoma Board of
3 Nursing, or possesses one or more of the following certifications
4 which indicate the individual has a minimum number of years of case
5 management experience, has passed a national competency test and
6 regularly obtains continuing education hours to maintain
7 certification:

- 8 a. Certified Disability Management Specialist (CDMS),
- 9 b. Certified Case Manager (CCM),
- 10 c. Certified Rehabilitation Registered Nurse (CRRN),
- 11 d. Case Manager - Certified (CMC),
- 12 e. Certified Occupational Health Nurse (COHN), or
- 13 f. Certified Occupational Health Nurse Specialist (COHN-
14 S);

15 5. "Certified workplace medical plan" means an organization of
16 health care providers or any other entity, certified by the State
17 Commissioner of Health, that is authorized to enter into a
18 contractual agreement with an employer, group self-insurance
19 association plan, an employer's workers' compensation insurance
20 carrier, third-party administrator or an insured to provide medical
21 care under the Administrative Workers' Compensation Act. Certified
22 plans shall only include plans which provide medical services and
23 payment for services on a fee-for-service basis to medical
24 providers;

1 6. "Child" means a natural or adopted son or daughter of the
2 employee under eighteen (18) years of age; or a natural or adopted
3 son or daughter of an employee eighteen (18) years of age or over
4 who is physically or mentally incapable of self-support; or any
5 natural or adopted son or daughter of an employee eighteen (18)
6 years of age or over who is actually dependent; or any natural or
7 adopted son or daughter of an employee between eighteen (18) and
8 twenty-three (23) years of age who is enrolled as a full-time
9 student in any accredited educational institution. The term "child"
10 includes a posthumous child, a child legally adopted or one for whom
11 adoption proceedings are pending at the time of death, an actually
12 dependent stepchild or an actually dependent acknowledged child born
13 out of wedlock;

14 7. "Claimant" means a person who claims benefits for an injury
15 or occupational disease pursuant to the provisions of the
16 Administrative Workers' Compensation Act;

17 8. "Commission" means the Workers' Compensation Commission;

18 9. a. "Compensable injury" means damage or harm to the
19 physical structure of the body, or prosthetic
20 appliances, including eyeglasses, contact lenses, or
21 hearing aids, caused solely as the result of either an
22 accident, cumulative trauma or occupational disease
23 arising out of the course and scope of employment. An
24

1 "accident" means an event involving factors external
2 to the employee that:

- 3 (1) was unintended, unanticipated, unforeseen,
4 unplanned and unexpected,
- 5 (2) occurred at a specifically identifiable time and
6 place,
- 7 (3) occurred by chance or from unknown causes, ~~and~~ or
- 8 (4) was independent of sickness, mental incapacity,
9 bodily infirmity or any other cause.

10 b. "Compensable injury" does not include:

- 11 (1) injury to any active participant in assaults or
12 combats which, although they may occur in the
13 workplace, are the result of non-employment-
14 related hostility or animus of one, both, or all
15 of the combatants and which assault or combat
16 amounts to a deviation from customary duties;
17 provided, however, injuries caused by horseplay
18 shall not be considered to be compensable
19 injuries, except for innocent victims,
- 20 (2) injury incurred while engaging in or performing
21 or as the result of engaging in or performing any
22 recreational or social activities for the
23 employee's personal pleasure,
24

- 1 (3) injury which was inflicted on the employee at a
2 time when employment services were not being
3 performed or before the employee was hired or
4 after the employment relationship was terminated,
- 5 (4) injury where the accident was caused by the use
6 of alcohol, an illegal ~~drugs~~ controlled
7 substance, ~~or~~ prescription drugs used in
8 contravention of physician's orders or a legal
9 controlled substance used in contravention of a
10 physician's orders. If, within twenty-four (24)
11 hours of being injured or reporting an injury, or
12 at any time after a fatal injury when the
13 employee does not survive at least twenty-four
14 (24) hours after an accident, a biological
15 specimen is collected by the Office of the
16 Oklahoma State Chief Medical Examiner, an
17 employee tests positive for ~~intoxication~~ alcohol,
18 an illegal controlled substance, prescription
19 drugs used in contravention of a physician's
20 orders or a legal controlled substance used in
21 contravention ~~to~~ of a treating physician's
22 orders, or refuses to undergo the drug and
23 alcohol testing, there shall be a rebuttable
24 presumption that the injury was caused by the use

1 of alcohol, an illegal ~~drugs~~ drug or,
2 prescription ~~drugs~~ drug used in contravention of
3 physician's orders or a legal controlled
4 substance used in contravention of a physician's
5 orders. This presumption may only be overcome if
6 the employee proves by clear and convincing
7 evidence that his or her state of intoxication
8 had no causal relationship to the injury,

9 (5) any strain, degeneration, damage or harm to, or
10 disease or condition of, the eye or
11 musculoskeletal structure or other body part
12 resulting from the natural results of aging,
13 osteoarthritis, arthritis, or degenerative
14 process including, but not limited to,
15 degenerative joint disease, degenerative disc
16 disease, degenerative
17 spondylosis/spondylolisthesis and spinal
18 stenosis, or

19 (6) any preexisting condition except when the
20 treating physician clearly confirms an
21 identifiable and significant aggravation incurred
22 in the course and scope of employment.

23 c. The definition of "compensable injury" shall not be
24 construed to limit or abrogate the right to recover

1 for mental injuries as described in Section 13 of this
2 ~~act~~ title, heart or lung injury or illness as
3 described in Section 14 of this ~~act~~ title, or
4 occupational diseases as described in Section 65 of
5 this ~~act~~ title.

6 d. A compensable injury shall be established by medical
7 evidence supported by objective findings as defined in
8 paragraph ~~30~~ 31 of this section.

9 e. The injured employee shall prove by a preponderance of
10 the evidence that he or she has suffered a compensable
11 injury.

12 f. Benefits shall not be payable for a condition which
13 results from a non-work-related independent
14 intervening cause following a compensable injury which
15 causes or prolongs disability, aggravation, or
16 requires treatment. A non-work-related independent
17 intervening cause does not require negligence or
18 recklessness on the part of a claimant.

19 g. An employee who suffers a compensable injury shall be
20 entitled to receive compensation as prescribed in this
21 act. Notwithstanding other provisions of law, if it
22 is determined that a compensable injury did not occur,
23 the employee shall not be entitled to compensation
24 under this act;

1 10. "Compensation" means the money allowance payable to the
2 employee or to his or her dependents and includes the medical
3 services and supplies provided for in Section 50 of this ~~aet~~ title
4 and funeral expenses;

5 11. "Consequential injury" means injury or harm to a part of
6 the body that is a direct result of the injury or medical treatment
7 to the part of the body originally injured in the claim. The
8 Commission shall not make a finding of a consequential injury unless
9 it is established by objective medical evidence that medical
10 treatment for such part of the body is required;

11 12. "Continuing medical maintenance" means medical treatment
12 that is reasonable and necessary to maintain claimant's condition
13 resulting from the compensable injury or illness after reaching
14 maximum medical improvement. Continuing medical maintenance shall
15 not include diagnostic tests, surgery, injections, counseling,
16 physical therapy, or pain management devices or equipment unless the
17 Commission finds it in the best interest of the employee;

18 13. "Course and scope of employment" means an activity of any
19 kind or character for which the employee was hired and that relates
20 to and derives from the work, business, trade or profession of an
21 employer, and is performed by an employee in the furtherance of the
22 affairs or business of an employer. The term includes activities
23 conducted on the premises of an employer or at other locations
24 designated by an employer and travel by an employee in furtherance

1 of the affairs of an employer that is specifically directed by the
2 employer. This term does not include:

- 3 a. an employee's transportation to and from his or her
4 place of employment,
- 5 b. travel by an employee in furtherance of the affairs of
6 an employer if the travel is also in furtherance of
7 personal or private affairs of the employee,
- 8 c. any injury occurring in a parking lot or other common
9 area adjacent to an employer's place of business
10 before the employee clocks in or otherwise begins work
11 for the employer or after the employee clocks out or
12 otherwise stops work for the employer unless the
13 employer owns or maintains exclusive control over the
14 area, or
- 15 d. any injury occurring while an employee is on a work
16 break, unless the injury occurs while the employee is
17 on a work break inside the employer's facility or in
18 an area owned by or exclusively controlled by the
19 employer and the work break is authorized by the
20 employee's supervisor;

21 14. "Cumulative trauma" means an injury to an employee that is
22 caused by the combined effect of repetitive physical activities
23 extending over a period of time in the course and scope of
24 employment. Cumulative trauma shall not mean fatigue, soreness or

1 general aches and pain that may have been caused, aggravated,
2 exacerbated or accelerated by the employee's course and scope of
3 employment. Cumulative trauma shall have resulted directly and
4 independently of all other causes ~~and the employee shall have~~
5 ~~completed at least one hundred eighty (180) days of continuous~~
6 ~~active employment with the employer;~~

7 15. "Death" means only death resulting from compensable injury
8 as defined in paragraph 9 of this section;

9 16. "Disability" means ~~incapacity because of compensable injury~~
10 ~~to earn, in the same or any other employment, substantially the same~~
11 ~~amount of wages the employee was receiving at the time of the~~
12 ~~compensable injury~~ the loss of use or function of a part of the body
13 which must be proved by objective findings, as defined in paragraph
14 31 of this section;

15 17. "Drive-away operations" includes every person engaged in
16 the business of transporting and delivering new or used vehicles by
17 driving, either singly or by towbar, saddle-mount or full-mount
18 method, or any combination thereof, with or without towing a
19 privately owned vehicle;

20 18. a. "Employee" means any person, including a minor, in the
21 service of an employer under any contract of hire or
22 apprenticeship, written or oral, expressed or implied,
23 but excluding one whose employment is casual and not
24 in the course of the trade, business, profession, or

1 occupation of his or her employer and excluding one
2 who is required to perform work for a municipality or
3 county or the state or federal government on having
4 been convicted of a criminal offense or while
5 incarcerated. "Employee" shall also include a member
6 of the Oklahoma National Guard while in the
7 performance of duties only while in response to state
8 orders and any authorized voluntary or uncompensated
9 worker, rendering services as a firefighter, peace
10 officer or emergency management worker. Travel by a
11 policeman, fireman, or a member of a first aid or
12 rescue squad, in responding to and returning from an
13 emergency, shall be deemed to be in the course of
14 employment.

15 b. The term "employee" shall not include:

16 (1) any person for whom an employer is liable under
17 any Act of Congress for providing compensation to
18 employees for injuries, disease or death arising
19 out of and in the course of employment including,
20 but not limited to, the Federal Employees'
21 Compensation Act, the Federal Employers'
22 Liability Act, the Longshore and Harbor Workers'
23 Compensation Act and the Jones Act, to the extent
24 his or her employees are subject to such acts,

- 1 (2) any person who is employed in agriculture or
2 horticulture by an employer who had a gross
3 annual payroll in the preceding calendar year of
4 less than One Hundred Thousand Dollars
5 (\$100,000.00) wages for agricultural or
6 horticultural workers, or any person who is
7 employed in agriculture or horticulture who is
8 not engaged in operation of motorized machines,
- 9 (3) any person who is a licensed real estate sales
10 associate or broker, paid on a commission basis,
- 11 (4) any person who is providing services in a medical
12 care or social services program, or who is a
13 participant in a work or training program,
14 administered by the Department of Human Services,
15 unless the Department is required by federal law
16 or regulations to provide workers' compensation
17 for such person. This division shall not be
18 construed to include nursing homes,
- 19 (5) any person employed by an employer with five or
20 fewer total employees, all of whom are related
21 within the second degree by blood or marriage to
22 the employer, are dependents living in the
23 household of the employer, or are a combination
24 of such relatives and dependents, if the employer

1 is a natural person ~~or a general or limited~~
2 ~~partnership, or an incorporator of a corporation~~
3 ~~if the corporation is the employer,~~ or in the
4 household of the owner of the employer if the
5 employer is not a natural person and the owner
6 owns fifty percent (50%) or more of the employer,

7 (6) any person employed by an employer which is a
8 youth sports league which qualifies for exemption
9 from federal income taxation pursuant to federal
10 law,

11 (7) sole proprietors, members of a partnership,
12 individuals who are party to a franchise
13 agreement as set out by the Federal Trade
14 Commission franchise disclosure rule, 16 CFR
15 436.1 through 436.11, members of a limited
16 liability company who own at least ten percent
17 (10%) of the capital of the limited liability
18 company or any stockholder-employees of a
19 corporation who own ten percent (10%) or more
20 stock in the corporation, unless they elect to be
21 covered by a policy of insurance covering
22 benefits under the Administrative Workers'
23 Compensation Act,

1 (8) any person providing or performing voluntary
2 service who receives no wages for the services
3 other than meals, drug or alcohol rehabilitative
4 therapy, transportation, lodging or reimbursement
5 for incidental expenses except for volunteers
6 specifically provided for in subparagraph a of
7 this paragraph,

8 (9) a person, commonly referred to as an owner-
9 operator, who owns or leases a truck-tractor or
10 truck for hire, if the owner-operator actually
11 operates the truck-tractor or truck and if the
12 person contracting with the owner-operator is not
13 the lessor of the truck-tractor or truck.
14 Provided, however, an owner-operator shall not be
15 precluded from workers' compensation coverage
16 under the Administrative Workers' Compensation
17 Act if the owner-operator elects to participate
18 as a sole proprietor,

19 (10) a person referred to as a drive-away owner-
20 operator who privately owns and utilizes a tow
21 vehicle in drive-away operations and operates
22 independently for hire, if the drive-away owner-
23 operator actually utilizes the tow vehicle and if
24 the person contracting with the drive-away owner-

operator is not the lessor of the tow vehicle.
Provided, however, a drive-away owner-operator shall not be precluded from workers' compensation coverage under the Administrative Workers' Compensation Act if the drive-away owner-operator elects to participate as a sole proprietor, and
(11) any person who is employed as a domestic servant or as a casual worker in and about a private home or household, which private home or household had a gross annual payroll in the preceding calendar year of less than Fifty Thousand Dollars (\$50,000.00) for such workers;

19. "Employer" means a person, partnership, association, limited liability company, corporation, and the legal representatives of a deceased employer, or the receiver or trustee of a person, partnership, association, corporation, or limited liability company, departments, instrumentalities and institutions of this state and divisions thereof, counties and divisions thereof, public trusts, boards of education and incorporated cities or towns and divisions thereof, employing a person included within the term "employee" as defined in this section. Employer may also mean the employer's workers' compensation insurance carrier, if applicable. Except as provided otherwise, this act applies to all public and private entities and institutions. ~~Employer shall not include a~~

1 ~~qualified employer with an employee benefit plan as provided under~~
2 ~~the Oklahoma Employee Injury Benefit Act in Sections 107 through 120~~
3 ~~of this act;~~

4 20. "Employment" includes work or labor in a trade, business,
5 occupation or activity carried on by an employer or any authorized
6 voluntary or uncompensated worker rendering services as a
7 firefighter, peace officer or emergency management worker;

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

12 22. "Gainful employment" means the capacity to perform
13 employment for wages for a period of time that is not part-time,
14 occasional or sporadic;

15 23. "Impaired self-insurer" means a private self-insurer or
16 group self-insurance association that fails to pay its workers'
17 compensation obligations, or is financially unable to do so and is
18 the subject of any proceeding under the Federal Bankruptcy Reform
19 Act of 1978, and any subsequent amendments or is the subject of any
20 proceeding in which a receiver, custodian, liquidator,
21 rehabilitator, trustee or similar officer has been appointed by a
22 court of competent jurisdiction to act in lieu of or on behalf of
23 the self-insurer;

1 24. "Incapacity" means inadequate strength or ability to
2 perform a work-related task;

3 25. "Insurance Commissioner" means the Insurance Commissioner
4 of the State of Oklahoma;

5 26. "Insurance Department" means the Insurance Department of
6 the State of Oklahoma;

7 27. "Major cause" means more than fifty percent (50%) of the
8 resulting injury, disease or illness. A finding of major cause
9 shall be established by a preponderance of the evidence. A finding
10 that the workplace was not a major cause of the injury, disease or
11 illness shall not adversely affect the exclusive remedy provisions
12 of this act and shall not create a separate cause of action outside
13 this act;

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

17 29. "Medical services" means those services specified in
18 Section 50 of this ~~act~~ title;

19 30. "Misconduct" shall include the following:

- 20 a. unexplained absenteeism or tardiness,
- 21 b. willful or wanton indifference to or neglect of the
22 duties required,
- 23 c. willful or wanton breach of any duty required by the
24 employer,

- d. the mismanagement of a position of employment by action or inaction,
- e. actions or omissions that place in jeopardy the health, life, or property of self or others,
- f. dishonesty,
- g. wrongdoing,
- h. violation of a law, or
- i. a violation of a policy or rule adopted to ensure orderly work or the safety of self or others;

31. a. (1) "Objective findings" are those findings which cannot come under the voluntary control of the patient.

(2) (a) When determining permanent disability, a physician, any other medical provider, an administrative law judge, the Commission or the courts shall not consider complaints of pain.

(b) For the purpose of making permanent disability ratings to the spine, physicians shall use criteria established by the most current edition of the American Medical Association "Guides to the Evaluation of Permanent Impairment".

1 (3) (a) Objective evidence necessary to prove
2 permanent disability in occupational hearing
3 loss cases may be established by medically
4 recognized and accepted clinical diagnostic
5 methodologies, including, but not limited
6 to, audiological tests that measure air and
7 bone conduction thresholds and speech
8 discrimination ability.

9 (b) Any difference in the baseline hearing
10 levels shall be confirmed by subsequent
11 testing; provided, however, such test shall
12 be given within four (4) weeks of the
13 initial baseline hearing level test but not
14 before five (5) days after being adjusted
15 for presbycusis.

16 b. Medical opinions addressing compensability and
17 permanent disability shall be stated within a
18 reasonable degree of medical certainty;

19 32. "Official Disability Guidelines" or "ODG" means the current
20 edition of the Official Disability Guidelines and the ODG Treatment
21 in Workers' Comp as published by the Work Loss Data Institute;

22 33. "Permanent disability" means the extent, expressed as a
23 percentage, of the loss of a portion of the total physiological
24 capabilities of the human body as established by competent medical

1 evidence and based on the current edition of the American Medical
2 Association guides to the evaluation of impairment, if the
3 impairment is contained therein. Loss of earning capacity directly
4 related to the permanent loss of use of a part of the body shall be
5 considered when determining permanent disability, but shall not
6 constitute a separate remedy under this act;

7 34. "Permanent partial disability" means a permanent disability
8 or loss of use of a part of the body after maximum medical
9 improvement has been reached ~~which prevents the injured employee,~~
10 ~~who has been released to return to work by the treating physician,~~
11 ~~from returning to his or her pre-injury or equivalent job~~ and loss
12 of earning capacity directly related to the disability. All
13 evaluations of permanent partial disability must be supported by
14 objective findings, as defined in paragraph 31 of this section, and
15 competent evidence of loss of earning capacity;

16 35. "Permanent total disability" means, based on objective
17 findings, incapacity, based upon accidental injury or occupational
18 disease, to earn wages in any employment for which the employee may
19 become physically suited and reasonably fitted by education,
20 training, experience or vocational rehabilitation provided under
21 this act. Loss of both hands, both feet, both legs, or both eyes,
22 or any two thereof, shall constitute permanent total disability;

23 36. "Preexisting condition" means any illness, injury, disease,
24 or other physical or mental condition, whether or not work-related,

1 for which medical advice, diagnosis, care or treatment was
2 recommended or received preceding the date of injury;

3 37. "Pre-injury or equivalent job" means the job that the
4 claimant was working for the employer at the time the injury
5 occurred or any other employment offered by the claimant's employer
6 that pays at least one hundred percent (100%) of the employee's
7 average weekly wage;

8 38. "Private self-insurer" means a private employer that has
9 been authorized to self-insure its workers' compensation obligations
10 pursuant to this act, but does not include group self-insurance
11 associations authorized by this act, or any public employer that
12 self-insures pursuant to this act;

13 39. "Prosthetic" means an artificial device used to replace a
14 part or joint of the body that is lost or injured in an accident or
15 illness covered by this act;

16 40. "Scheduled member" or "member" means hands, fingers, arms,
17 legs, feet, toes, and eyes. In addition, for purposes of the
18 Multiple Injury Trust Fund only, "scheduled member" means hearing
19 impairment;

20 41. "Scientifically based" involves the application of
21 rigorous, systematic, and objective procedures to obtain reliable
22 and valid knowledge relevant to medical testing, diagnoses and
23 treatment; is adequate to justify the general conclusions drawn; and
24 has been accepted by a peer-review journal or approved by a panel of

1 independent experts through a comparably rigorous, objective, and
2 scientific review;

3 42. "State average weekly wage" means the state average weekly
4 wage determined by the Oklahoma Employment Security Commission in
5 the preceding calendar year. If such determination is not
6 available, the Commission shall determine the wage annually after
7 reasonable investigation;

8 43. "Subcontractor" means a person, firm, corporation or other
9 legal entity hired by the general or prime contractor to perform a
10 specific task for the completion of a work-related activity;

11 44. "Surgery" does not include an injection, or the forcing of
12 fluids beneath the skin, for treatment or diagnosis;

13 45. "Surviving spouse" means the employee's spouse by reason of
14 a legal marriage recognized by the State of Oklahoma or under the
15 requirements of a common law marriage in this state, as determined
16 by the Workers' Compensation Commission;

17 46. "Temporary partial disability" means an injured employee
18 who is temporarily unable to perform his or her job, but may perform
19 alternative work offered by the employer;

20 47. "Time of accident" or "date of accident" means the time or
21 date of the occurrence of the accidental incident from which
22 compensable injury, disability, or death results; and

23 48. "Wages" means money compensation received for employment at
24 the time of the accident, including the reasonable value of board,

1 rent, housing, lodging, or similar advantage received from the
2 employer and includes the amount of tips required to be reported by
3 the employer under Section 6053 of the Internal Revenue Code and the
4 regulations promulgated pursuant thereto or the amount of actual
5 tips reported, whichever amount is greater.

6 SECTION 4. AMENDATORY Section 6, Chapter 208, O.S.L.
7 2013, as amended by Section 1, Chapter 390, O.S.L. 2015 (85A O.S.
8 Supp. 2017, Section 6), is amended to read as follows:

9 Section 6.

10 A. 1. a. Any person or entity who makes any material false
11 statement or representation, who willfully and
12 knowingly omits or conceals any material information,
13 or who employs any device, scheme, or artifice, or who
14 aids and abets any person for the purpose of:

- 15 (1) obtaining any benefit or payment,
16 (2) increasing any claim for benefit or payment, or
17 (3) obtaining workers' compensation coverage under
18 this act,

19 shall be guilty of a felony punishable pursuant to
20 Section 1663 of Title 21 of the Oklahoma Statutes.

21 b. A material false statement or representation includes,
22 but is not limited to, attempting to obtain treatment
23 or compensation for body parts that were not injured
24 in the course and scope of employment.

1 c. Fifty percent (50%) of any criminal fine imposed and
2 collected under this section shall be paid and
3 allocated in accordance with applicable law to the
4 Workers' Compensation Commission Revolving Fund
5 ~~administered by the Commission.~~

6 2. Any person or entity with whom any person identified in
7 division (1) of subparagraph a of paragraph 1 of this subsection has
8 conspired to achieve the proscribed ends shall, by reason of such
9 conspiracy, be guilty as a principal of a felony.

10 B. A copy of division (1) of subparagraph a of paragraph 1 of
11 subsection A of this section shall be included on all forms
12 prescribed by the Commission for the use of injured employees
13 claiming benefits and for the use of employers in responding to
14 employees' claims under this act.

15 C. Where the Commission or the Attorney General finds that a
16 violation of division (1) of subparagraph a of paragraph 1 of
17 subsection A of this section has been committed, or that any other
18 criminal violations in furtherance of this act were committed, the
19 chair of the Commission or the Attorney General shall refer the
20 matter for appropriate action to the prosecuting attorney having
21 criminal jurisdiction over the matter.

22 D. 1. a. There shall be established within the Office of the
23 Attorney General a Workers' Compensation Fraud
24 Investigation Unit, funded by the Commission. The

1 Attorney General shall appoint a Director of the
2 Workers' Compensation Fraud Investigation Unit, who
3 may also serve as the director of any other designated
4 insurance fraud investigation division within the
5 Attorney General's office.

6 b. (1) The Unit shall investigate workers' compensation
7 fraud, any additional criminal violations that
8 may be related to workers' compensation fraud,
9 and any other insurance fraud matters as may be
10 assigned at the discretion of the Attorney
11 General.

12 (2) The Attorney General shall designate the
13 personnel assigned to the Unit, who, on meeting
14 the qualifications established by the Oklahoma
15 Council on Law Enforcement Education and
16 Training, shall have the powers of specialized
17 law enforcement officers of the State of Oklahoma
18 for the purpose of conducting investigations
19 under this subparagraph. Personnel hired as
20 specialized law enforcement officers shall have a
21 minimum of three (3) years of certified law
22 enforcement experience or its equivalent in
23 national or military law enforcement experience
24

1 as approved by the Oklahoma Council on Law
2 Enforcement Education and Training.

3 2. The Attorney General and his or her deputies and assistants
4 and the Director of the Workers' Compensation Fraud Investigation
5 Unit and his or her deputies and assistants shall be vested with the
6 power of enforcing the requirements of this section.

7 3. It shall be the duty of the Unit to assist the Attorney
8 General in the performance of his or her duties. The Unit shall
9 determine the identity of employees in this state who have violated
10 division (1) of subparagraph a of paragraph 1 of subsection A of
11 this section and report the violation to the Office of the Attorney
12 General and the Commission. The Attorney General shall report the
13 violation to the prosecuting attorney having jurisdiction over the
14 matter.

15 4. a. In the course of any investigation being conducted by
16 the Unit, the Attorney General and his or her deputies
17 and assistants and the Director and his or her
18 deputies and assistants shall have the power of
19 subpoena and may:

- 20 (1) subpoena witnesses,
21 (2) administer oaths or affirmations and examine any
22 individual under oath, and
23 (3) require and compel the production of records,
24 books, papers, contracts, and other documents.

- 1 b. The issuance of subpoenas for witnesses shall be
2 served in the same manner as if issued by a district
3 court.
- 4 c. (1) Upon application by the commissioner or the
5 Director of the Unit, the district court located
6 in the county where a subpoena was served may
7 issue an order compelling an individual to comply
8 with the subpoena to testify.
- 9 (2) Any failure to obey the order of the court may be
10 punished as contempt.
- 11 d. If any person has refused in connection with an
12 investigation by the Director to be examined under
13 oath concerning his or her affairs, then the Director
14 is authorized to conduct and enforce by all
15 appropriate and available means any examination under
16 oath in any state or territory of the United States in
17 which any officer, director, or manager may then
18 presently be to the full extent permitted by the laws
19 of the state or territory.
- 20 e. In addition to the punishments described in paragraph
21 1 of subsection A of this section, any person
22 providing false testimony under oath or affirmation in
23 this state as to any matter material to any
24 investigation or hearing conducted under this

1 subparagraph, or any workers' compensation hearing,
2 shall upon conviction be guilty of perjury.

3 5. Fees and mileage of the officers serving the subpoenas and
4 of the witnesses in answer to subpoenas shall be as provided by law.

5 6. a. Every carrier or employer who has reason to suspect
6 that a violation of division (1) of subparagraph a of
7 paragraph 1 of subsection A of this section has
8 occurred shall be required to report all pertinent
9 matters to the unit.

10 b. No carrier or employer who makes a report for a
11 suspected violation of division (1) of subparagraph a
12 of paragraph 1 of subsection A of this section by an
13 employee shall be liable to the employee unless the
14 carrier or employer knowingly and intentionally
15 included false information in the report.

16 c. (1) Any carrier or employer who willfully and
17 knowingly fails to report a violation under
18 division (1) of subparagraph a of paragraph 1 of
19 subsection A of this section shall be guilty of a
20 misdemeanor and on conviction shall be punished
21 by a fine not to exceed One Thousand Dollars
22 (\$1,000.00).

23 (2) Fifty percent (50%) of any criminal fine imposed
24 and collected under this subparagraph shall be

1 paid and allocated in accordance with applicable
2 law to the fund administered by the Commission.

3 d. Any employee may report suspected violations of
4 division (1) of subparagraph a of paragraph 1 of
5 subsection A of this section. No employee who makes a
6 report shall be liable to the employee whose suspected
7 violations have been reported.

8 E. 1. For the purpose of imposing criminal sanctions or a fine
9 for violation of the duties of this act, the prosecuting attorney
10 shall have the right and discretion to proceed against any person or
11 organization responsible for such violations, both corporate and
12 individual liability being intended by this act.

13 2. The prosecuting attorney of the district to whom a suspected
14 violation of subsection A of this section, or any other criminal
15 violations that may be related thereto, have been referred shall,
16 for the purpose of assisting him or her in such prosecutions, have
17 the authority to appoint as special deputy prosecuting attorneys
18 licensed attorneys-at-law in the employment of the Unit or any other
19 designated insurance fraud investigation division within the
20 Attorney General's office. Such special deputy prosecuting
21 attorneys shall, for the purpose of the prosecutions to which they
22 are assigned, be responsible to and report to the prosecuting
23 attorney.

1 F. Notwithstanding any other provision of law, investigatory
2 files as maintained by the Attorney General's office and by the Unit
3 shall be deemed confidential and privileged. The files may be made
4 open to the public once the investigation is closed by the Director
5 of the Workers' Compensation Fraud Investigation Unit with the
6 consent of the Attorney General.

7 G. The Attorney General, with the cooperation and assistance of
8 the Commission, is authorized to establish rules as may be necessary
9 to carry out the provisions of this section.

10 H. Nothing in this section shall be deemed to create a civil
11 cause of action.

12 I. The Commission shall include a statement on all forms for
13 notices and instructions to employees, employers, carriers and
14 third-party administrators that any person who commits workers'
15 compensation fraud, upon conviction, shall be guilty of a felony
16 punishable by imprisonment, a fine or both.

17 J. If an injured employee is charged with workers' compensation
18 fraud, any pending workers' compensation proceeding, including
19 benefits, shall be stayed after the preliminary hearing is concluded
20 and the claimant is bound over and shall remain stayed until the
21 final disposition of the criminal case. All notice requirements
22 shall continue during the stay. This subsection shall not be
23 construed to pertain to the electronic data interchange system
24

1 developed and implemented by the Commission pursuant to Section 101
2 of this title.

3 K. If the Attorney General's Office is in compliance with the
4 discovery provisions of Section 258 of Title 22 of the Oklahoma
5 Statutes, medical records created for the purpose of treatment and
6 medical opinions obtained during the investigation shall be
7 admissible at the preliminary hearing without the appearance of the
8 medical professional creating such records or opinions. However,
9 when material evidence dispositive to the issues of whether there
10 was probable cause the crime was committed and whether the defendant
11 committed the crime, was not included in a report or opinion
12 admitted at preliminary hearing, but might be presented at a
13 pretrial hearing by a medical professional who created such report
14 or opinion, the judge may, upon the motion of either party, order
15 the appearance of the medical professional creating such report or
16 opinion. Questions of fact regarding the conduct of the defendant
17 that conflict with the findings of the medical professional
18 evaluating the defendant shall not constitute material evidence. In
19 the event of such motion, notice shall be given to the Attorney
20 General's Workers Compensation Fraud and Investigation and
21 Prosecution Unit. A hearing shall be held and, if the motion is
22 granted, the evidence shall not be presented fewer than five (5)
23 days later.

1 L. Any person or entity who, in good faith and exercising due
2 care, reports suspected workers' compensation fraud or insurance
3 fraud, or who allows access to medical records or other information
4 pertaining to suspected workers' compensation or insurance fraud, by
5 persons authorized to investigate a report concerning the workers'
6 compensation and insurance fraud, shall have immunity from any civil
7 or criminal liability for such report or access. Any such person or
8 entity shall have the same immunity with respect to participation in
9 any judicial proceeding resulting from such reports. For purposes
10 of any civil or criminal proceeding, there shall be a presumption of
11 good faith of any person making a report, providing medical records
12 or providing information pertaining to a workers' compensation or
13 insurance fraud investigation by the Attorney General, and
14 participating in a judicial proceeding resulting from a subpoena or
15 a report.

16 SECTION 6. AMENDATORY Section 13, Chapter 208, O.S.L.
17 2013 (85A O.S. Supp. 2017, Section 13), is amended to read as
18 follows:

19 Section 13. A. 1. A mental injury or illness is not a
20 compensable injury unless caused by a physical injury to the
21 employee, and shall not be considered an injury arising out of and
22 in the course and scope of employment or compensable unless
23 demonstrated by a preponderance of the evidence; provided, however,
24

1 that this physical injury limitation shall not apply to any victim
2 of a crime of violence.

3 2. No mental injury or illness under this section shall be
4 compensable unless it is also diagnosed by a licensed psychiatrist
5 or psychologist and unless the diagnosis of the condition meets the
6 criteria established in the most current issue of the Diagnostic and
7 Statistical Manual of Mental Disorders.

8 B. ~~1. Notwithstanding any other provision of this act, where a~~
9 ~~claim is for mental injury or illness, the employee shall be limited~~
10 ~~to twenty-six (26) weeks of disability benefits unless it is shown~~
11 ~~by clear and convincing evidence that benefits should continue for a~~
12 ~~set period of time, not to exceed a total of fifty-two (52) weeks.~~

13 ~~2. a. In cases where death results directly from the mental~~
14 ~~injury or illness within a period of one (1) year,~~
15 ~~compensation shall be paid the dependents as provided~~
16 ~~in other death cases under this act.~~

17 ~~b. Death directly or indirectly related to the mental~~
18 ~~injury or illness occurring one (1) year or more from~~
19 ~~the incident resulting in the mental injury or illness~~
20 ~~shall not be a compensable injury~~

21 An employee with a compensable mental injury or illness shall be
22 entitled to compensation in the same manner as cases designated as
23 "other cases" pursuant to subsection C of Section 46 of this title.
24

1 SECTION 8. AMENDATORY Section 18, Chapter 208, O.S.L.

2 2013 (85A O.S. Supp. 2017, Section 18), is amended to read as

3 follows:

4 Section 18. A. No hospital, physician, or other health care
5 provider shall bill or attempt to collect any fee or any portion of
6 a fee for services rendered to an employee due to a work-related
7 injury or report to any credit-reporting agency any failure of the
8 employee to make the payment, when a claim for compensation has been
9 filed under this act and the hospital, physician, or health care
10 provider has received actual notice given in writing by the employee
11 or the employee's representative. Actual notice shall be deemed
12 received by the hospital, physician, or health care provider five
13 (5) days after mailing by certified mail or sending by facsimile,
14 electronic mail or other electronic means with receipt of
15 confirmation by the employee or his or her representative to the
16 hospital, physician, or health care provider.

17 B. The notice shall include:

- 18 1. The name of the employer;
- 19 2. The name of the insurer, if known;
- 20 3. The name of the employee receiving the services;
- 21 4. The general nature of the injury, if known; and
- 22 5. Where a claim has been filed, the claim number, if known.

23 C. When an injury or bill is found to be noncompensable under
24 this act, the hospital, physician, or other health care provider

1 shall be entitled to pursue the employee for any unpaid portion of
2 the fee or other charges for authorized services provided to the
3 employee. Any applicable statute of limitations for an action for
4 the fees or other charges shall be tolled from the time notice is
5 given to the hospital, physician, or other health care provider
6 until a determination of noncompensability in regard to the injury
7 which is the basis of the services is made, or if there is an
8 appeal, until a final determination of noncompensability is rendered
9 and all appeal deadlines have passed.

10 D. This section shall not ~~avoid~~ void, modify, or amend any
11 other section or subsection of this act.

12 E. An order by the Workers' Compensation Commission under this
13 section shall stay all proceedings for collection.

14 F. Any party may employ the services of an interpreter or court
15 reporter at any hearing or proceeding or during discovery.
16 Provided, however, a party shall contract directly with an
17 interpreter or court reporter whose principal place of business is
18 in the State of Oklahoma. The charge for such service shall be
19 limited to the actual fee of the interpreter or court reporter.

20 SECTION 10. AMENDATORY Section 20, Chapter 208, O.S.L.
21 2013 (85A O.S. Supp. 2017, Section 20), is amended to read as
22 follows:
23
24

1 Section 20. A. In addition to its other duties and powers, the
2 Workers' Compensation Commission is given and granted full power and
3 authority:

4 1. To appoint administrative law judges to hear all claims for
5 compensation, including claims based on injuries which occurred
6 outside this state for which compensation is payable under this act.
7 An administrative law judge shall have been licensed to practice law
8 in this state for a period of not less than three (3) years and
9 shall have not less than three (3) years of workers' compensation
10 experience prior to appointment;

11 2. To remand any case to an administrative law judge for the
12 purpose of taking additional evidence;

13 3. To assess penalties;

14 4. To prescribe rules governing the representation of
15 employees, employers, and carriers in respect to claims before the
16 Commission;

17 5. To make available all records in connection with all cases
18 of personal injury to the Oklahoma Department of Labor. The
19 Commissioner of Labor may propose rules for the prevention of
20 injuries and transmit the rules to the Commission. The Commission
21 may recommend proposed rules for prevention of injuries to the
22 Commissioner of Labor; and

23 6. To have and exercise all other powers and duties conferred
24 or imposed by this act.

1 B. 1. In addition to the other powers and duties granted to
2 the Commission in this section and otherwise provided by law, the
3 Commission is authorized to establish and impose reasonable
4 administrative fees to recover the cost of preparation of various
5 informative materials distributed by the Commission.

6 2. The administrative fees shall be established by regulation
7 of the Commission.

8 3. Funds derived from administrative fees shall be deposited
9 into the Workers' Compensation Commission Revolving Fund to be used
10 to defray expenses incurred in preparation and distribution of
11 materials.

12 SECTION 12. AMENDATORY Section 22, Chapter 208, O.S.L.
13 2013 (85A O.S. Supp. 2017, Section 22), is amended to read as
14 follows:

15 Section 22. A. 1. For the purpose of administering the
16 provisions of this ~~act~~ title, the Workers' Compensation Commission
17 is authorized:

18 a. to make rules necessary for the administration and
19 operation of the Commission as provided in Section 19
20 of this title,

21 b. to appoint and fix the compensation of temporary
22 technical assistants, medical and legal advisers,
23 clerical assistants and other officers and employees,
24 and

1 c. to make such expenditures, including those for
2 personal service, rent, books, periodicals, office
3 equipment, and supplies, and for printing and binding
4 as may be necessary.

5 2. a. ~~Before the adoption, prescription, amendment,~~
6 ~~modification, or repeal of any rule, regulation, or~~
7 ~~form, the Commission shall give at least thirty (30)~~
8 ~~days' notice of its intended action.~~

9 b. ~~The notice shall include a statement of the terms or~~
10 ~~substance of the intended action or description of the~~
11 ~~subjects and issues involved, and the time, place, and~~
12 ~~manner in which interested persons may present their~~
13 ~~views thereon.~~

14 c. ~~The notice shall be mailed to any person specified by~~
15 ~~law or who shall have requested advance notice of~~
16 ~~rule-making proceedings.~~

17 3. ~~The Commission shall afford all interested persons a~~
18 ~~reasonable opportunity to submit written data, views, or arguments,~~
19 ~~and, if the Commission in its discretion shall so direct, oral~~
20 ~~testimony or argument.~~

21 4. ~~Each rule, regulation, or form adopted by the Commission~~
22 ~~shall be effective twenty (20) days after adoption unless a later~~
23 ~~date is specified by law or in the rule itself.~~

1 ~~5. All expenditures of the Commission in the administration of~~
2 ~~this act shall be allowed and paid from the Workers' Compensation~~
3 ~~Fund on the presentation of itemized vouchers approved by the~~

4 The Commission shall vote on any substantive change to any form
5 and the effective date of such substantive change.

6 B. 1. The Commission may appoint as many persons as may be
7 necessary to be administrative law judges and in addition may
8 appoint such examiners, investigators, medical examiners, clerks,
9 and other employees as it deems necessary to effectuate the
10 provisions of this ~~act~~ title.

11 2. Employees appointed under this subsection shall receive an
12 annual salary to be fixed by the Commission.

13 C. Additionally, the Commission shall have the following powers
14 and duties:

15 1. To hear and approve compromise settlements;

16 2. To review and approve own-risk applications and group self-
17 insurance association applications;

18 3. To monitor own-risk, self-insurer and group self-insurance
19 programs, in accordance with the rules of the Commission;

20 4. To contract with an appropriate state governmental entity,
21 insurance carrier or approved service organization to process,
22 investigate and pay valid claims against an impaired self-insurer
23 which fails, due to insolvency or otherwise, to pay its workers'
24 compensation obligations, charges for which shall be paid from the

1 proceeds of security posted with the Commission as provided in
2 Section 38 of this ~~act~~ title;

3 5. To establish a toll-free telephone number in order to
4 provide information and answer questions about the Commission;

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

7 7. To promulgate necessary rules for administering this ~~act~~
8 title and develop uniform forms and procedures for use by
9 administrative law judges. Such rules shall be reviewable by the
10 Legislature;

11 8. To invest funds on behalf of the Multiple Injury Trust Fund;

12 9. To appoint a Commission Mediator to conduct informal
13 sessions to attempt to resolve assigned disputes; ~~and~~

14 10. To establish a petty cash fund in an amount not to exceed
15 Five Hundred Dollars (\$500.00) to be used for the purpose of making
16 change for persons purchasing printed or electronic materials from
17 the Commission, paying fees and fines, and transacting other such
18 business with the Commission. The fund shall be established and
19 replenished from any monies available to the Commission for
20 operating expenses and it shall be administered pursuant to the
21 requirements of Section 195 of Title 62 of the Oklahoma Statutes;
22 and

23 11. Such other duties and responsibilities authorized by law.
24

1 D. It shall be the duty of an administrative law judge, under
2 the rules adopted by the Commission, to hear and determine claims
3 for compensation and to conduct hearings and investigations and to
4 make such judgments, decisions, and determinations as may be
5 required by any rule or judgment of the Commission.

6 SECTION 14. AMENDATORY Section 29, Chapter 208, O.S.L.
7 2013 (85A O.S. Supp. 2017, Section 29), is amended to read as
8 follows:

9 Section 29. A. Each carrier writing compensation insurance in
10 this state shall pay to the Workers' Compensation Commission ~~at the~~
11 ~~time of securing a license to transact business in this state~~ an
12 annual application fee of One Thousand Dollars (\$1,000.00) ~~for the~~
13 ~~privilege of qualifying with the Commission for the writing of~~
14 ~~compensation insurance.~~

15 B. Each self-insurer shall pay to the Commission an annual
16 application fee of One Thousand Dollars (\$1,000.00) ~~at the time it~~
17 ~~is approved to self-insure the obligations under this act.~~

18 C. ~~The Commission may assess~~ Each third-party ~~administrators~~
19 administrator and marketing firm shall pay to the Commission an
20 annual application fee of One Thousand Dollars (\$1,000.00).

21 D. Fees required pursuant to this section shall be deposited
22 ~~into~~ to the credit of the Workers' Compensation Commission Revolving
23 Fund.
24

1 SECTION 17. AMENDATORY Section 40, Chapter 208, O.S.L.
2 2013 (85A O.S. Supp. 2017, Section 40), is amended to read as
3 follows:

4 Section 40. A. 1. Any employer who fails to secure
5 compensation required under this act, upon conviction, shall be
6 guilty of a misdemeanor and subject to a fine of up to Ten Thousand
7 Dollars (\$10,000.00) to be deposited in the Workers' Compensation
8 Commission Revolving Fund.

9 2. This subsection shall not affect any other liability of the
10 employer under this act.

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

18 2. a. An employer may contest a proposed judgment of the
19 Commission issued under paragraph 1 of this subsection
20 by filing with the Commission, within twenty (20) days
21 of receipt of the proposed judgment, a written request
22 for a hearing.

23 b. The request for a hearing does not need to be in any
24 particular form but shall specify the grounds on which

1 the person contests the proposed judgment, the
2 proposed assessment, or both.

3 c. If a written request for hearing is not filed with the
4 Commission within the time specified in subparagraph a
5 of this paragraph, the proposed judgment, the proposed
6 penalty, or both, shall be a final judgment of the
7 Commission and shall not be subject to further review
8 by any court, except if the employer shows good cause
9 why it did not timely contest the judgment or penalty.

10 d. A proposed judgment by the Commission under this
11 section shall be prima facie correct, and the burden
12 is on the employer to prove that the proposed judgment
13 is incorrect.

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

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

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

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

3 4. Hearings under this section shall be procedurally conducted
4 as provided in Sections 69 through 78 of this ~~act~~ title.

5 5. The Commission may assess a fine against an employer who
6 fails to secure the payment of compensation in an amount up to One
7 Thousand Dollars (\$1,000.00) per day of violation payable to the
8 Workers' Compensation Commission Revolving Fund.

9 6. If an employer fails to secure the payment of compensation
10 or pay any civil penalty assessed against the employer after a
11 judgment issued under this section has become final by operation of
12 law or on appeal, the Commission may petition the Oklahoma County
13 District Court or the district court of the county where the
14 employer's principal place of business is located for an order
15 enjoining the employer from engaging in further employment until
16 such time as the employer secures the payment of compensation or
17 makes full payment of all civil penalties.

18 C. If an employee injury occurs during a period when an
19 employer has failed to secure the payment of compensation and the
20 employer has paid a civil penalty assessed pursuant to this section,
21 the Commission may, upon application of the injured employee and
22 hearing before an administrative law judge, award as compensation to
23 the injured employee an amount from the proceeds of the civil
24 penalty not to exceed the amount of the civil penalty.

1 D. Except as otherwise provided by law, the Commission may keep
2 its litigation files and investigatory reports pertaining to
3 enforcement of this section confidential.

4 SECTION 19. AMENDATORY Section 45, Chapter 208, O.S.L.
5 2013, as amended by Section 2, Chapter 390, O.S.L. 2015 (85A O.S.
6 Supp. 2017, Section 45), is amended to read as follows:

7 Section 45. A. Temporary Total Disability.

8 1. If the injured employee is temporarily unable to perform his
9 or her job or any alternative work offered by the employer, he or
10 she shall be entitled to receive compensation equal to seventy
11 percent (70%) of the injured employee's average weekly wage, but not
12 to exceed ~~seventy percent (70%)~~ of the state average weekly wage,
13 for one hundred four (104) weeks unless the Workers' Compensation
14 Commission by clear and convincing evidence finds that the employee
15 remains temporarily disabled and under active medical treatment.

16 Provided, there shall be no payment for the first three (3) days of
17 the initial period of temporary total disability. If an
18 administrative law judge finds that a consequential injury has
19 occurred and that additional time is needed to reach maximum medical
20 improvement, temporary total disability may continue for a period of
21 not more than an additional fifty-two (52) weeks. Such finding
22 shall be based upon a showing of medical necessity by clear and
23 convincing evidence. An employer shall have the right to recover
24 any overpayment of temporary total disability payments from a

1 subsequent permanent partial disability award if the offset is
2 deemed justified.

3 2. When the injured employee is released from active medical
4 treatment by the treating physician for all body parts found by the
5 Commission to be injured, or in the event that the employee, without
6 a valid excuse, misses three consecutive medical treatment
7 appointments, fails to comply with medical orders of the treating
8 physician, or otherwise abandons medical care, the employer shall be
9 entitled to terminate temporary total disability by notifying the
10 employee, or if represented, his or her counsel. If, however, an
11 objection to the termination is filed by the employee within ten
12 (10) days of termination, the Commission shall set the matter within
13 twenty (20) days for a determination if temporary total disability
14 compensation shall be reinstated. The temporary total disability
15 shall remain terminated ~~unless the employee proves the existence of~~
16 ~~a valid excuse for his or her failure to comply~~ until such time as
17 the employee complies with medical orders of the treating physician
18 ~~or his or her abandonment of medical care.~~ The administrative law
19 judge may appoint an independent medical examiner to determine if
20 further medical treatment is reasonable and necessary. The
21 independent medical examiner shall not provide treatment to the
22 injured worker, unless agreed upon by the parties.

23 B. Temporary Partial Disability.
24

1 1. If the injured employee is temporarily unable to perform his
2 or her job, but may perform alternative work offered by the
3 employer, he or she shall be entitled to receive compensation equal
4 to ~~the greater of~~ seventy percent (70%) of the difference between
5 the injured employee's average weekly wage before the injury and his
6 or her weekly wage for performing alternative work after the injury,
7 but only if his or her weekly wage for performing the alternative
8 work is less than the temporary total disability rate. The injured
9 employee's actual earnings plus temporary partial disability
10 compensation shall not exceed the temporary total disability rate.

11 2. Compensation under this subsection may not exceed fifty-two
12 (52) weeks.

13 3. If the employee refuses to perform the alternative work
14 offered by the employee, he or she shall not be entitled to benefits
15 under subsection A of this section or under this section.

16 C. Permanent Partial Disability.

17 1. A permanent partial disability award or combination of
18 awards granted an injured worker may not exceed a permanent partial
19 disability rating of one hundred percent (100%) to any body part or
20 to the body as a whole. The determination of permanent partial
21 disability shall be the responsibility of the Commission through its
22 administrative law judges. Any claim by an employee for
23 compensation for permanent partial disability must be supported by
24 competent medical testimony of a medical doctor, osteopathic

1 physician, or chiropractor, and shall be supported by objective
2 medical findings, as defined in this act. The opinion of the
3 physician shall include employee's percentage of permanent partial
4 disability and whether or not the disability is job-related and
5 caused by the accidental injury or occupational disease. A
6 physician's opinion of the nature and extent of permanent partial
7 disability to parts of the body other than scheduled members must be
8 based solely on criteria established by the current edition of the
9 American Medical Association's "Guides to the Evaluation of
10 Permanent Impairment" or an alternative evaluation method approved
11 by the Commission. A copy of any written evaluation shall be sent
12 to both parties within seven (7) days of issuance. Medical opinions
13 addressing compensability and permanent disability must be stated
14 within a reasonable degree of medical certainty. Any party may
15 submit the report of an evaluating physician.

16 2. Permanent partial disability shall not be allowed to a part
17 of the body for which no medical treatment has been received. A
18 determination of permanent partial disability made by the Commission
19 or administrative law judge which is not supported by objective
20 medical findings ~~provided by a treating physician who is a medical~~
21 ~~doctor, doctor of osteopathy, chiropractor or a qualified~~
22 ~~independent medical examiner~~ shall be considered an abuse of
23 discretion.

1 3. ~~The examining physician shall not deviate from the Guides~~
2 ~~except as may be specifically provided for in the Guides.~~

3 4. In cases of permanent partial disability, the compensation
4 shall be seventy percent (70%) of the employee's average weekly
5 wage, not to exceed ~~Three Hundred Twenty-three Dollars (\$323.00)~~
6 Three Hundred Ninety-one Dollars (\$391.00) per week, for a term not
7 to exceed a total of three hundred fifty (350) weeks for the body as
8 a whole.

9 5. ~~Except pursuant to settlement agreements entered into by the~~
10 ~~employer and employee, payment of a permanent partial disability~~
11 ~~award shall be deferred and held in reserve by the employer or~~
12 ~~insurance company if the employee has reached maximum medical~~
13 ~~improvement and has been released to return to work by his or her~~
14 ~~treating physician, and then returns to his pre-injury or equivalent~~
15 ~~job for a term of weeks determined by dividing the total dollar~~
16 ~~value of the award by seventy percent (70%) of the employee's~~
17 ~~average weekly wage.~~

18 a. ~~The amount of the permanent partial disability award~~
19 ~~shall be reduced by seventy percent (70%) of the~~
20 ~~employee's average weekly wage for each week he works~~
21 ~~in his pre-injury or equivalent job.~~

22 b. ~~If, for any reason other than misconduct as defined in~~
23 ~~Section 2 of this act, the employer terminates the~~
24 ~~employee or the position offered is not the pre-injury~~

1 ~~or equivalent job, the remaining permanent partial~~
2 ~~disability award shall be paid in a lump sum. If the~~
3 ~~employee is discharged for misconduct, the employer~~
4 ~~shall have the burden to prove that the employee~~
5 ~~engaged in misconduct.~~

6 ~~e. If the employee refuses an offer to return to his pre-~~
7 ~~injury or equivalent job, the permanent partial~~
8 ~~disability award shall continue to be deferred and~~
9 ~~shall be reduced by seventy percent (70%) of the~~
10 ~~employee's average weekly wage for each week he~~
11 ~~refuses to return to his pre-injury or equivalent job.~~

12 ~~d. Attorney fees for permanent partial disability awards,~~
13 ~~as approved by the Commission, shall be calculated~~
14 ~~based upon the total permanent partial disability~~
15 ~~award and paid in full at the time of the deferral.~~

16 ~~e. Assessments pursuant to Sections 31, 98, 112 and 165~~
17 ~~of this act shall be calculated based upon the amount~~
18 ~~of the permanent partial disability award and shall be~~
19 ~~paid at the time of the deferral.~~

20 ~~6.~~ 4. Previous Disability: The fact that an employee has
21 suffered previous disability or received compensation therefor shall
22 not preclude the employee from compensation for a later accidental
23 personal injury or occupational disease. In the event there exists
24 a previous permanent partial disability, including a previous non-

1 work-related injury or condition which produced permanent partial
2 disability and the same is aggravated or accelerated by an
3 accidental personal injury or occupational disease, compensation for
4 permanent partial disability shall be only for such amount as was
5 caused by such accidental personal injury or occupational disease
6 and no additional compensation shall be allowed for the preexisting
7 disability or impairment. Any such reduction shall not apply to
8 temporary total disability, nor shall it apply to compensation for
9 medical treatment.

10 a. If workers' compensation benefits have previously been
11 awarded through settlement or judicial or
12 administrative determination in Oklahoma, the
13 percentage basis of the prior settlement or award
14 shall conclusively establish the amount of permanent
15 partial disability determined to be preexisting. If
16 workers' compensation benefits have not previously
17 been awarded through settlement or judicial or
18 administrative determination in Oklahoma, the amount
19 of preexisting permanent partial disability shall be
20 established by competent evidence.

21 b. In all cases, the applicable reduction shall be
22 calculated as follows:

23 (1) if the preexisting impairment is the result of
24 injury sustained while working for the employer

1 against whom workers' compensation benefits are
2 currently being sought, any award of compensation
3 shall be reduced by the current dollar value
4 attributable under the Administrative Workers'
5 Compensation Act to the percentage of permanent
6 partial disability determined to be preexisting.
7 The current dollar value shall be calculated by
8 multiplying the percentage of preexisting
9 permanent partial disability by the compensation
10 rate in effect on the date of the accident or
11 injury against which the reduction will be
12 applied, and

13 (2) in all other cases, the employer against whom
14 benefits are currently being sought shall be
15 entitled to a credit for the percentage of
16 preexisting permanent partial disability.

17 ~~7.~~ 5. No payments on any permanent partial disability order
18 shall begin until payments on any preexisting permanent partial
19 disability orders have been completed.

20 ~~8.~~ 6. The whole body shall represent a maximum of three hundred
21 fifty (350) weeks.

22 ~~9.~~ 7. The permanent partial disability rate of compensation for
23 amputation or permanent total loss of use of a scheduled member
24 specified in Section 46 of this ~~act~~ title shall be seventy percent

(70%) of the employee's average weekly wage, not to exceed ~~Three Hundred Twenty-three Dollars (\$323.00)~~ Three Hundred Ninety-one Dollars (\$391.00), multiplied by the number of weeks set forth for the member in Section 46 of this ~~act~~ title, regardless of whether the injured employee is able to return to his or her pre-injury or equivalent job.

~~10.~~ 8. An injured employee who is eligible for permanent partial disability under this subsection shall be entitled to receive vocational rehabilitation services provided by a technology center or public secondary school offering vocational-technical education courses, or a member institution of The Oklahoma State System of Higher Education, which shall include retraining and job placement to restore the employee to gainful employment. Vocational rehabilitation services or training shall not extend for a period of more than ~~fifty-two (52)~~ one hundred four (104) weeks.

D. Permanent Total Disability.

1. In case of total disability adjudged to be permanent, seventy percent (70%) of the employee's average weekly wages, but not in excess of the state's average weekly wage, shall be paid to the employee during the continuance of the disability until such time as the employee reaches the age of maximum Social Security retirement benefits or for a period of fifteen (15) years, whichever is longer. In the event the claimant dies of causes unrelated to the injury or illness, benefits shall cease on the date of death.

1 Provided, however, any person entitled to revive the action shall
2 receive a one-time lump-sum payment equal to twenty-six (26) weeks
3 of weekly benefits for permanent total disability awarded the
4 claimant. If more than one person is entitled to revive the claim,
5 the lump-sum payment shall be evenly divided between or among such
6 persons. In the event the Commission awards both permanent partial
7 disability and permanent total disability benefits, the permanent
8 total disability award shall not be due until the permanent partial
9 disability award is paid in full. If otherwise qualified according
10 to the provisions of this act, permanent total disability benefits
11 may be awarded to an employee who has exhausted the maximum period
12 of temporary total disability even though the employee has not
13 reached maximum medical improvement.

14 2. The Workers' Compensation Commission shall annually review
15 the status of any employee receiving benefits for permanent total
16 disability against the last employer. The Commission shall require
17 the employee to annually file an affidavit under penalty of perjury
18 stating that he or she is not and has not been gainfully employed
19 and is not capable of gainful employment. Failure to file such
20 affidavit shall result in suspension of benefits; provided, however,
21 reinstatement of benefits may occur after proper hearing before the
22 Commission.

1 E. 1. The Workers' Compensation Commission ~~shall~~ may hire or
2 contract for a Vocational Rehabilitation Director to oversee the
3 vocational rehabilitation program of the Commission.

4 2. ~~The Vocational Rehabilitation Director shall help injured~~
5 ~~workers return to the work force. If the injured employee is unable~~
6 ~~to return to his or her pre-injury or equivalent position due to~~
7 ~~permanent restrictions as determined by the treating physician, upon~~
8 ~~the request of either party, the Vocational Rehabilitation Director~~
9 ~~shall determine if it is appropriate for a claimant to receive~~
10 ~~vocational rehabilitation training or services, and will oversee~~
11 ~~such training. If appropriate, the Vocational Rehabilitation~~
12 ~~Director shall issue administrative orders, including, but not~~
13 ~~limited to, an order for a vocational rehabilitation evaluation for~~
14 ~~any injured employee unable to work for at least ninety (90) days.~~
15 ~~In addition, the Vocational Rehabilitation Director may assign~~
16 ~~injured workers to vocational rehabilitation counselors for~~
17 ~~coordination of recommended services. The cost of the services~~
18 ~~shall be paid by the employer. All administrative orders are~~
19 ~~subject to appeal to the full Commission.~~

20 3. ~~There shall be a presumption in favor of ordering vocational~~
21 ~~rehabilitation services or training for an eligible injured employee~~
22 ~~under the following circumstances:~~
23
24

- a. ~~if the employee's occupation is truck driver or laborer and the medical condition is traumatic brain injury, stroke or uncontrolled vertigo,~~
- b. ~~if the employee's occupation is truck driver or laborer performing high-risk tasks and the medical condition is seizures,~~
- c. ~~if the employee's occupation is manual laborer and the medical condition is bilateral wrist fusions,~~
- d. ~~if the employee's occupation is assembly-line worker and the medical condition is radial head fracture with surgical excision,~~
- e. ~~if the employee's occupation is heavy laborer and the medical condition is myocardial infarction with congestive heart failure,~~
- f. ~~if the employee's occupation is heavy manual laborer and the medical condition is multilevel neck or back fusions greater than two levels,~~
- g. ~~if the employee's occupation is laborer performing overhead work and the medical condition is massive rotator cuff tears, with or without surgery,~~
- h. ~~if the employee's occupation is heavy laborer and the medical condition is recurrent inguinal hernia following unsuccessful surgical repair,~~

- ~~i. if the employee's occupation is heavy manual laborer and the medical condition is total knee replacement or total hip replacement,~~
- ~~j. if the employee's occupation is roofer and the medical condition is calcaneal fracture, medically or surgically treated,~~
- ~~k. if the employee's occupation is laborer of any kind and the medical condition is total shoulder replacement,~~
- ~~l. if the employee's occupation is laborer and the medical condition is amputation of a hand, arm, leg, or foot,~~
- ~~m. if the employee's occupation is laborer and the medical condition is tibial plateau fracture, pilon fracture,~~
- ~~n. if the employee's occupation is laborer and the medical condition is ankle fusion or knee fusion,~~
- ~~o. if the employee's occupation is driver or heavy equipment operator and the medical condition is unilateral industrial blindness, or~~
- ~~p. if the employee's occupation is laborer and the medical condition is 3-, 4-, or 5-level positive discogram of the cervical spine or lumbar spine, medically treated.~~

1 4. Upon the request of either party, ~~or by order of an~~
2 administrative law judge, ~~the Vocational Rehabilitation Director~~
3 ~~shall assist the Workers' Compensation Commission in determining~~
4 determine if it is appropriate for a claimant to receive vocational
5 rehabilitation training or services. If appropriate, the
6 administrative law judge shall refer the employee to a qualified
7 expert for evaluation of the practicability of, need for and kind of
8 rehabilitation services or training necessary and appropriate in
9 order to restore the employee to gainful employment. The cost of
10 the evaluation shall be paid by the employer. ~~Following the~~
11 ~~evaluation, if the employee refuses the services or training ordered~~
12 ~~by the administrative law judge, or fails to complete in good faith~~
13 ~~the vocational rehabilitation training ordered by the administrative~~
14 ~~law judge, then the cost of the evaluation and services or training~~
15 ~~rendered may, in the discretion of the administrative law judge, be~~
16 ~~deducted from any award of benefits to the employee which remains~~
17 ~~unpaid by the employer.~~

18 3. Upon receipt of such report, and after affording all parties
19 an opportunity to be heard, the administrative law judge shall order
20 that any rehabilitation services or training, recommended in the
21 report, or such other rehabilitation services or training as the
22 administrative law judge may deem necessary, provided the employee
23 elects to receive such services, shall be provided at the expense of
24 the employer. Except as otherwise provided in this subsection,

1 refusal to accept rehabilitation services by the employee shall in
2 no way diminish any benefits allowable to an employee.

3 ~~5.~~ 4. The administrative law judge may order vocational
4 rehabilitation before the injured employee reaches maximum medical
5 improvement, if the treating physician believes that it is likely
6 that the employee's injury will prevent the employee from returning
7 to his or her former employment. In granting early benefits for
8 vocational rehabilitation, the Commission shall consider temporary
9 restrictions and the likelihood that such rehabilitation will return
10 the employee to gainful employment earlier than if such benefits are
11 granted after the permanent partial disability hearing in the claim.

12 ~~6.~~ 5. Vocational rehabilitation services or training shall not
13 extend for a period of more than fifty-two (52) weeks. A request
14 for vocational rehabilitation services or training shall be filed
15 with the Commission by an interested party not later than sixty (60)
16 days from the date of receiving permanent restrictions that prevent
17 the injured employee from returning to his or her pre-injury or
18 equivalent position.

19 ~~7.~~ 6. If rehabilitation requires residence at or near the
20 facility or institution which is away from the employee's customary
21 residence, reasonable cost of the employee's board, lodging, travel,
22 tuition, books and necessary equipment in training shall be paid for
23 by the insurer in addition to weekly compensation benefits to which
24

1 the employee is otherwise entitled under the Administrative Workers'
2 Compensation Act.

3 ~~8.~~ 7. During the period when an employee is actively and in
4 good faith being evaluated or participating in a retraining or job
5 placement program for purposes of evaluating permanent total
6 disability status, the employee shall be entitled to receive
7 benefits at the same rate as the employee's temporary total
8 disability benefits for an additional fifty-two (52) weeks. All
9 tuition related to vocational rehabilitation services shall be paid
10 by the employer or the employer's insurer on a periodic basis
11 directly to the facility providing the vocational rehabilitation
12 services or training to the employee. ~~The employer or employer's~~
13 ~~insurer may deduct the amount paid for tuition from compensation~~
14 ~~awarded to the employee.~~

15 F. Disfigurement.

16 1. If an injured employee incurs serious and permanent
17 disfigurement to any part of the body, the Commission may award
18 compensation to the injured employee in an amount not to exceed
19 Fifty Thousand Dollars (\$50,000.00).

20 2. No award for disfigurement shall be entered until twelve
21 (12) months after the injury unless the treating physician deems the
22 wound or incision to be fully healed.
23
24

1 3. An injured employee shall not be entitled to compensation
2 under this subsection if he or she receives an award for permanent
3 partial disability to the same part of the body.

4 G. Benefits for a single-event injury shall be determined by
5 the law in effect at the time of injury. Benefits for a cumulative
6 trauma injury or occupational disease or illness shall be determined
7 by the law in effect at the time the employee knew or reasonably
8 should have known that the injury, occupational disease or illness
9 was related to work activity. Benefits for death shall be
10 determined by the law in effect at the time of death.

11 SECTION 21. AMENDATORY Section 50, Chapter 208, O.S.L.
12 2013 (85A O.S. Supp. 2017, Section 50), is amended to read as
13 follows:

14 Section 50. A. The employer shall promptly provide an injured
15 employee with medical, surgical, hospital, optometric, podiatric,
16 and nursing services, along any with medicine, crutches, ambulatory
17 devices, artificial limbs, eyeglasses, contact lenses, hearing aids,
18 and other apparatus as may be reasonably necessary in connection
19 with the injury received by the employee. The employer shall have
20 the right to choose the treating physician.

21 B. If the employer fails or neglects to provide medical
22 treatment within five (5) days after actual knowledge is received of
23 an injury, the injured employee may select a physician to provide
24 medical treatment at the expense of the employer; provided, however,

1 that the injured employee, or another in the employee's behalf, may
2 obtain emergency treatment at the expense of the employer where such
3 emergency treatment is not provided by the employer.

4 C. Diagnostic tests shall not be repeated sooner than six (6)
5 months from the date of the test unless agreed to by the parties or
6 ordered by the Commission for good cause shown.

7 D. Unless recommended by the treating doctor at the time
8 claimant reaches maximum medical improvement or by an independent
9 medical examiner, continuing medical maintenance shall not be
10 awarded by the Commission. The employer or insurance carrier shall
11 not be responsible for continuing medical maintenance or pain
12 management treatment that is outside the parameters established by
13 the Physician Advisory Committee or ODG. The employer or insurance
14 carrier shall not be responsible for continuing medical maintenance
15 or pain management treatment not previously ordered by the
16 Commission or approved in advance by the employer or insurance
17 carrier. An administrative law judge may order an employer to
18 provide detoxification treatment for employees who are prescribed
19 opioids or other narcotics. If an employee refuses such
20 detoxification treatment, the administrative law judge may terminate
21 pain management after reasonable notice and hearing.

22 E. An employee claiming or entitled to benefits under this act,
23 shall, if ordered by the Commission or requested by the employer or
24 insurance carrier, submit himself or herself for medical

1 examination. If an employee refuses to submit himself or herself to
2 examination, ~~his or her right to prosecute any proceeding under this~~
3 ~~act shall be suspended,~~ and no compensation shall be payable for the
4 period of such refusal.

5 F. For compensable injuries resulting in the use of a medical
6 device, ongoing service for the medical device shall be provided in
7 situations including, but not limited to, medical device battery
8 replacement, ongoing medication refills related to the medical
9 device, medical device repair, or medical device replacement.

10 G. The employer shall reimburse the employee for the actual
11 mileage in excess of twenty (20) miles round-trip to and from the
12 employee's home to the location of a medical service provider for
13 all reasonable and necessary treatment, for an evaluation of an
14 independent medical examiner and for any evaluation made at the
15 request of the employer or insurance carrier. The rate of
16 reimbursement for such travel expense shall be the official
17 reimbursement rate as established by the State Travel Reimbursement
18 Act. In no event shall the reimbursement of travel for medical
19 treatment or evaluation exceed six hundred (600) miles round trip.

20 H. Fee Schedule.

21 1. The Commission shall conduct a review of the Fee Schedule
22 every two (2) years. The Fee Schedule shall establish the maximum
23 rates that medical providers shall be reimbursed for medical care
24 provided to injured employees, including, but not limited to,

1 charges by physicians, dentists, counselors, hospitals, ambulatory
2 and outpatient facilities, clinical laboratory services, diagnostic
3 testing services, and ambulance services, and charges for durable
4 medical equipment, prosthetics, orthotics, and supplies. The most
5 current Fee Schedule established by the Administrator of the
6 Workers' Compensation Court prior to the effective date of this
7 section shall remain in effect, unless or until the Legislature
8 approves the Commission's proposed Fee Schedule.

9 2. Reimbursement for medical care shall be prescribed and
10 limited by the Fee Schedule as adopted by the Commission, after
11 notice and public hearing, and after approval by the Legislature by
12 joint resolution. The director of the Employees Group Insurance
13 Division of the Office of Management and Enterprise Services shall
14 provide the Commission such information as may be relevant for the
15 development of the Fee Schedule. The Commission shall develop the
16 Fee Schedule in a manner in which quality of medical care is assured
17 and maintained for injured employees. The Commission shall give due
18 consideration to additional requirements for physicians treating an
19 injured worker under this act, including, but not limited to,
20 communication with claims representatives, case managers, attorneys,
21 and representatives of employers, and the additional time required
22 to complete forms for the Commission, insurance carriers, and
23 employers.

24

1 3. In making adjustments to the Fee Schedule, the Commission
2 shall use, as a benchmark, the reimbursement rate for each Current
3 Procedural Terminology (CPT) code provided for in the fee schedule
4 published by the Centers for Medicare and Medicaid Services of the
5 U.S. Department of Health and Human Services for use in Oklahoma
6 (Medicare Fee Schedule) on the effective date of this section,
7 workers' compensation fee schedules employed by neighboring states,
8 the latest edition of "Relative Values for Physicians" (RVP), usual,
9 customary and reasonable medical payments to workers' compensation
10 health care providers in the same trade area for comparable
11 treatment of a person with similar injuries, and all other data the
12 Commission deems relevant. For services not valued by CMS, the
13 Commission shall establish values based on the usual, customary and
14 reasonable medical payments to health care providers in the same
15 trade area for comparable treatment of a person with similar
16 injuries.

- 17 a. No reimbursement shall be allowed for any magnetic
18 resonance imaging (MRI) unless the MRI is provided by
19 an entity that meets Medicare requirements for the
20 payment of MRI services or is accredited by the
21 American College of Radiology, the Intersocietal
22 Accreditation Commission or the Joint Commission on
23 Accreditation of Healthcare Organizations. For all
24 other radiology procedures, the reimbursement rate

1 shall be the lesser of the reimbursement rate allowed
2 by the 2010 Oklahoma Fee Schedule and two hundred
3 seven percent (207%) of the Medicare Fee Schedule.

4 b. For reimbursement of medical services for Evaluation
5 and Management of injured employees as defined in the
6 Fee Schedule adopted by the Commission, the
7 reimbursement rate shall not be less than one hundred
8 fifty percent (150%) of the Medicare Fee Schedule.

9 c. Any entity providing durable medical equipment,
10 prosthetics, orthotics or supplies shall be accredited
11 by a CMS-approved accreditation organization. If a
12 physician provides durable medical equipment,
13 prosthetics, orthotics, prescription drugs, or
14 supplies to a patient ancillary to the patient's
15 visit, reimbursement shall be no more than ten percent
16 (10%) above cost.

17 d. The Commission shall develop a reasonable stop-loss
18 provision of the Fee Schedule to provide for adequate
19 reimbursement for treatment for major burns, severe
20 head and neurological injuries, multiple system
21 injuries, and other catastrophic injuries requiring
22 extended periods of intensive care. An employer or
23 insurance carrier has the right to audit or question
24 the reasonableness and necessity of medical treatment

1 contained in a bill for treatment covered by the stop-
2 loss provision.

3 4. The right to recover charges for every type of medical care
4 for injuries arising out of and in the course of covered employment
5 as defined in this act shall lie solely with the Commission. When a
6 medical care provider has brought a claim to the Commission to
7 obtain payment for services, a party who prevails in full on the
8 claim shall be entitled to reasonable attorney fees.

9 5. Nothing in this section shall prevent an employer, insurance
10 carrier, group self-insurance association, or certified workplace
11 medical plan from contracting with a provider of medical care for a
12 reimbursement rate that is greater than or less than limits
13 established by the Fee Schedule.

14 6. A treating physician may not charge more than Four Hundred
15 Dollars (\$400.00) per hour for preparation for or testimony at a
16 deposition or appearance before the Commission in connection with a
17 claim covered by the Administrative Workers' Compensation Act.

18 7. The Commission's review of medical and treatment charges
19 pursuant to this section shall be conducted pursuant to the Fee
20 Schedule in existence at the time the medical care or treatment was
21 provided. The judgment approving the medical and treatment charges
22 pursuant to this section shall be enforceable by the Commission in
23 the same manner as provided in this act for the enforcement of other
24 compensation payments.

1 8. Charges for prescription drugs and compounded medications
2 dispensed by a pharmacy shall be limited to ~~ninety percent (90%) of~~
3 ~~the average wholesale price of the prescription, plus a dispensing~~
4 ~~fee of Five Dollars (\$5.00) per prescription. "Average wholesale~~
5 ~~price" means the amount determined from the latest publication~~
6 ~~designated by the Commission~~ one hundred twenty-five percent (125%)
7 of the reimbursement rate established by the Centers for Medicare
8 and Medicaid Services (CMS) for use in Oklahoma. Physicians shall
9 prescribe and pharmacies shall dispense generic equivalent drugs
10 when available. ~~If the National Drug Code, or "NDC", for the drug~~
11 ~~product dispensed is for a repackaged drug, then the maximum~~
12 ~~reimbursement shall be the lesser of the original labeler's NDC and~~
13 ~~the lowest cost therapeutic equivalent drug product. Compounded~~
14 ~~medications shall be billed by the compounding pharmacy at the~~
15 ~~ingredient level, with each ingredient identified using the~~
16 ~~applicable NDC of the drug product, and the corresponding quantity.~~
17 ~~Ingredients with no NDC area are not separately reimbursable.~~
18 ~~Payment shall be based on a sum of the allowable fee for each~~
19 ~~ingredient plus a dispensing fee of Five Dollars (\$5.00) per~~
20 ~~prescription.~~

21 9. ~~When medical care includes prescription drugs dispensed by a~~
22 ~~physician or other medical care provider and the NDC for the drug~~
23 ~~product dispensed is for a repackaged drug, then the maximum~~
24 ~~reimbursement shall be the lesser of the original labeler's NDC and~~

1 ~~the lowest cost therapeutic equivalent drug product~~ A physician
2 shall not be allowed to dispense prescription drugs from his or her
3 office. Payment for compounded medications or repackaged drugs
4 shall be based upon a sum of the allowable fee for each ingredient
5 plus a dispensing fee of Five Dollars (\$5.00) per prescription.
6 Compounded medications shall be billed by the compounding pharmacy.
7 An employer or insurance carrier shall have the right to designate a
8 pharmacy to provide prescription medicines to injured employees.

9 10. Implantables are paid in addition to procedural
10 reimbursement paid for medical or surgical services. A
11 manufacturer's invoice for the actual cost to a physician, hospital
12 or other entity of an implantable device shall be adjusted by the
13 physician, hospital or other entity to reflect, at the time
14 implanted, all applicable discounts, rebates, considerations and
15 product replacement programs and shall be provided to the payer by
16 the physician or hospital as a condition of payment for the
17 implantable device. If the physician, or an entity in which the
18 physician has a financial interest other than an ownership interest
19 of less than five percent (5%) in a publically traded company,
20 provides implantable devices, this relationship shall be disclosed
21 to patient, employer, insurance company, third-party commission,
22 certified workplace medical plan, case managers, and attorneys
23 representing claimant and defendant. If the physician, or an entity
24 in which the physician has a financial interest other than an

ownership interest of less than five percent (5%) in a publically traded company, buys and resells implantable devices to a hospital or another physician, the markup shall be limited to ten percent (10%) above cost.

11. Payment for medical care as required by this act shall be due within forty-five (45) days of the receipt by the employer or insurance carrier of a complete and accurate invoice, unless the employer or insurance carrier has a good-faith reason to request additional information about such invoice. Thereafter, the Commission may assess a penalty up to twenty-five percent (25%) for any amount due under the Fee Schedule that remains unpaid on the finding by the Commission that no good-faith reason existed for the delay in payment. If the Commission finds a pattern of an employer or insurance carrier willfully and knowingly delaying payments for medical care, the Commission may assess a civil penalty of not more than Five Thousand Dollars (\$5,000.00) per occurrence.

12. If an employee fails to appear for a scheduled appointment with a physician, the employer or insurance company shall pay to the physician a reasonable charge, to be determined by the Commission, for the missed appointment. In the absence of a good-faith reason for missing the appointment, the Commission shall order the employee to reimburse the employer or insurance company for the charge.

13. Physicians providing treatment under this act shall disclose under penalty of perjury to the Commission, on a form

1 prescribed by the Commission, any ownership or interest in any
2 health care facility, business, or diagnostic center that is not the
3 physician's primary place of business. The disclosure shall include
4 any employee leasing arrangement between the physician and any
5 health care facility that is not the physician's primary place of
6 business. A physician's failure to disclose as required by this
7 section shall be grounds for the Commission to disqualify the
8 physician from providing treatment under this act.

9 I. Formulary. The Commission by rule shall adopt a closed
10 formulary. Rules adopted by the Commission shall allow an appeals
11 process for claims in which a treating doctor determines and
12 documents that a drug not included in the formulary is necessary to
13 treat an injured employee's compensable injury. The Commission by
14 rule shall require the use of generic pharmaceutical medications and
15 clinically appropriate over-the-counter alternatives to prescription
16 medications unless otherwise specified by the prescribing doctor, in
17 accordance with applicable state law.

18 SECTION 22. AMENDATORY Section 53, Chapter 208, O.S.L.
19 2013 (85A O.S. Supp. 2017, Section 53), is amended to read as
20 follows:

21 Section 53. A. An injured employee claiming to be entitled to
22 benefits under this act shall submit to physical examination and
23 treatment by another qualified physician, designated or approved by
24

1 the Commission, as the Commission may require from time to time if
2 reasonable and necessary.

3 B. In cases where the Commission directs examination or
4 treatment, proceedings shall be suspended, and no compensation shall
5 be payable for any period during which the employee refuses to
6 submit to examination and treatment or otherwise obstructs the
7 examination or treatment.

8 C. Failure of the employee to obey a judgment of the Commission
9 for an examination or treatment ~~for a period of one (1) month from~~
10 ~~the date of the judgment~~ shall bar the right of the claimant to
11 further temporary total disability compensation in respect to the
12 injury.

13 SECTION 23. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 54.1 of Title 85A, unless there
15 is created a duplication in numbering, reads as follows:

16 A. If a treating physician recommends a surgery that is subject
17 to choice, and does not involve medical urgency or emergency, the
18 Workers' Compensation Commission, upon request by the employer,
19 shall appoint an Independent Medical Examiner to determine the
20 reasonableness and necessity of such surgery.

21 B. The Commission shall either approve, deny or modify the
22 request for surgery within sixty (60) days of the receipt of the
23 report of the Independent Medical Examiner.

SECTION 24. AMENDATORY Section 56, Chapter 208, O.S.L.

2013 (85A O.S. Supp. 2017, Section 56), is amended to read as follows:

Section 56. A. If the employer has previously contracted with a certified workplace medical plan, the employer shall select for the injured employee a treating physician from the physicians listed within the network of the certified workplace medical plan. The employee may apply for a change of physician by utilizing the dispute resolution process set out in the certified workplace medical plan on file with the State Department of Health.

B. If the employer is not covered by a certified workplace medical plan, the employer shall select the treating physician. The Commission on application of the employee shall order one change of treating physician. Upon the Commission's granting of the application, the ~~employer~~ employee shall provide a list of three physicians from whom the ~~employee~~ employer may select the replacement.

SECTION 27. AMENDATORY Section 62, Chapter 208, O.S.L.

2013 (85A O.S. Supp. 2017, Section 62), is amended to read as follows:

Section 62. A. Notwithstanding the provisions of Section 45 of this act, if an employee suffers a nonsurgical soft tissue injury, temporary total disability compensation shall not exceed eight (8) weeks, regardless of the number of parts of the body to which there

1 is a nonsurgical soft tissue injury. An employee who is treated
2 with an injection or injections shall be entitled to an extension of
3 an additional eight (8) weeks. For purposes of this section, an
4 injection shall not include facet injections or intravenous
5 injections. An employee who has been recommended by a treating
6 physician for surgery for a soft tissue injury may petition the
7 Workers' Compensation Commission for one extension of temporary
8 total disability compensation and the Commission may order an
9 extension, not to exceed sixteen (16) additional weeks. If the
10 surgery is not performed within thirty (30) days of the approval of
11 the surgery by the employer, its insurance carrier, or an order of
12 the Commission authorizing the surgery, and the delay is caused by
13 the employee acting in bad faith, the benefits for the extension
14 period shall be terminated and the employee shall reimburse the
15 employer any temporary total disability compensation he or she
16 received beyond eight (8) weeks. An epidural steroid injection, or
17 any procedure of the same or similar physical invasiveness, shall
18 not be considered surgery.

19 B. For purposes of this section, "soft tissue injury" means
20 damage to one or more of the tissues that surround bones and joints.
21 Soft tissue injury includes, but is not limited to, sprains,
22 strains, contusions, tendonitis and muscle tears. Cumulative trauma
23 is to be considered a soft tissue injury unless corrective surgery
24

1 is necessary. ~~Soft~~ Without limitation to this list, soft tissue
2 injury, for example, does not include any of the following:

3 1. Injury to or disease of the spine, spinal discs, spinal
4 nerves or spinal cord, where corrective surgery is performed;

5 2. Brain or closed-head injury as evidenced by:

6 a. sensory or motor disturbances,

7 b. communication disturbances,

8 c. complex integrated disturbances of cerebral function,

9 d. episodic neurological disorders, or

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

11 as severe in nature as any condition provided in

12 subparagraphs a through d of this paragraph; ~~or~~

13 3. Any joint replacement; or

14 4. Heat, electrical, radiation, friction or chemical burns.

15 SECTION 28. AMENDATORY Section 63, Chapter 208, O.S.L.
16 2013 (85A O.S. Supp. 2017, Section 63), is amended to read as
17 follows:

18 Section 63. A. Within ten (10) days after the date of receipt
19 of notice or of knowledge of injury or death, the employer shall
20 send to the Workers' Compensation Commission a report setting forth:

21 1. The name, address, and business of the employer;

22 2. The name, address, and occupation of the employee;

23 3. The cause and nature of the injury or death;

1 4. The year, month, day, approximately when, and the particular
2 locality where, the injury or death occurred; and

3 5. Such other information as the Commission may require.

4 B. Additional reports with respect to the injury and of the
5 condition of the employee shall be sent by the employer to the
6 Commission at such time and in such manner as the Commission may
7 prescribe. However, an employer may refuse to provide any
8 information that it deems privileged or confidential.

9 C. Any report provided for in subsection A or B of this section
10 shall not be evidence of any fact stated in the report in any
11 proceeding with respect to the injury or death on account of which
12 the report is made. Any such report shall be kept confidential and
13 shall not be open to public inspection; provided, any such report
14 shall be made available immediately upon request by the injured
15 employee named in the report, the injured employee's legal
16 representative, the employer, the employer's legal representative or
17 any prosecutorial authority, and at such time as an employee's first
18 notice of claim for compensation shall be filed.

19 D. The mailing of any report in a stamped envelope, properly
20 addressed, within the time prescribed in subsection A or B of this
21 section, shall be in compliance with this section. In addition, the
22 Commission shall establish a means of electronic delivery of any
23 report or other information required by this section.

1 E. 1. Any employer who after notice refuses to send any report
2 required by this section shall be subject to a civil penalty in an
3 amount of Five Hundred Dollars (\$500.00) for each refusal.

4 2. Whenever the employer has failed or refused to comply as
5 provided in this section, the Commission may serve on the employer a
6 proposed judgment declaring the employer to be in violation of this
7 act and containing the amount, if any, of the civil penalty to be
8 assessed against the employer under this section.

9 F. An employer may contest a proposed judgment of the
10 Commission issued under subsection E of this section by filing with
11 the Commission, within twenty (20) days of receipt of the proposed
12 judgment, a written request for a hearing. If a written request for
13 hearing is not filed with the Commission within this time, the
14 proposed judgment, proposed penalty, or both, shall be a final
15 judgment of the Commission. The request for a hearing does not need
16 to be in any particular form but shall specify the grounds on which
17 the person contests the proposed judgment, the proposed assessment,
18 or both. A proposed judgment by the Commission under this section
19 shall be prima facie correct, and the burden is on the employer to
20 prove that the proposed judgment is incorrect.

21 G. Hearings conducted under this section shall proceed as
22 provided in Sections 69 through 78 of this ~~act~~ title.

23 H. If an employer fails to pay any civil penalty assessed
24 against the employer after a judgment issued under this section has

1 become final by operation of law, the Commission may petition the
2 district court of the county where the employer's principal place of
3 business is located for an order enjoining the employer from
4 engaging in further employment or conduct of business until such
5 time as the employer makes all required reports and pays all civil
6 penalties.

7 SECTION 29. AMENDATORY Section 65, Chapter 208, O.S.L.
8 2013, as amended by Section 3, Chapter 390, O.S.L. 2015 (85A O.S.
9 Supp. 2017, Section 65), is amended to read as follows:

10 Section 65. A. If an employee suffers from an occupational
11 disease as defined in this section and is disabled or dies as a
12 result of the disease, the employee, or, in case of death, his or
13 her dependents, shall be entitled to compensation as if the
14 disability or death were caused by injury arising out of work
15 activities within the scope of employment, except as otherwise
16 provided in this section.

17 B. No compensation shall be payable for an occupational disease
18 if the employee, at the time of entering into the employment of the
19 employer by whom the compensation would otherwise be payable,
20 falsely represented himself or herself in writing as not having
21 previously been disabled, laid off, or compensated in damages or
22 otherwise, because of the disease.

23 C. 1. If an occupational disease is aggravated by any other
24 disease or infirmity, not itself compensable, or if disability or

1 death from any other cause, not itself compensable, is aggravated,
2 prolonged, accelerated, or in any way contributed to by an
3 occupational disease, the compensation payable shall be reduced and
4 limited to the proportion only of the compensation that would be
5 payable if the occupational disease were the major cause of the
6 disability or death as the occupational disease, as a causative
7 factor, bears to all the causes of the disability or death.

8 2. The reduction in compensation is to be effected by reducing
9 the number of weekly or monthly payments or the amounts of the
10 payments, as under the circumstances of the particular case may be
11 for the best interest of the claimant.

12 D. 1. "Occupational disease", as used in this act, unless the
13 context otherwise requires, means any disease that results in
14 disability or death and arises out of and in the course of the
15 occupation or employment of the employee or naturally follows or
16 unavoidably results from an injury as that term is defined in this
17 act. A causal connection between the occupation or employment and
18 the occupational disease shall be established by a preponderance of
19 the evidence.

20 2. No compensation shall be payable for any contagious or
21 infectious disease unless contracted in the course and scope of
22 employment.

23 3. No compensation shall be payable for any ordinary disease of
24 life to which the general public is exposed.

1 E. 1. When compensation is payable for an occupational
2 disease, the employer in whose employment the employee was last
3 injuriously exposed to the hazards of the disease and the carrier,
4 if any, on the risk when the employee was last injuriously exposed
5 under the employer shall be liable.

6 2. The amount of the compensation shall be based on the average
7 weekly wage of the employee when last injuriously exposed under the
8 employer, and the notice of injury and claim for compensation shall
9 be given and made to that employer.

10 F. ~~1.~~ An employer shall not be liable for any compensation for
11 an occupational disease unless:

12 ~~a. the disease is due to the nature of an employment in~~
13 ~~which the hazards of the disease actually exist and is~~
14 ~~actually incurred in the course and scope of his or~~
15 ~~her employment. This includes any disease due to or~~
16 ~~attributable to exposure to or contact with any~~
17 ~~radioactive material by an employee in the course and~~
18 ~~scope of his or her employment,~~

19 ~~b. disablement or death results within three (3) years in~~
20 ~~case of silicosis or asbestosis, or one (1) year in~~
21 ~~case of any other occupational disease, except a~~
22 ~~diseased condition caused by exposure to X-rays,~~
23 ~~radioactive substances, or ionizing radiation, after~~
24

1 ~~the last injurious exposure to the disease in the~~
2 ~~employment, or~~

3 ~~e. in case of death, death follows continuous disability~~
4 ~~from the disease, commencing within the period, for~~
5 ~~which compensation has been paid or awarded or timely~~
6 ~~claim made as provided in subparagraph b of this~~
7 ~~paragraph and results within seven (7) years after the~~
8 ~~last exposure.~~

9 ~~2. However, in case of a diseased condition caused by exposure~~
10 ~~to X-rays, radioactive substances, or ionizing radiation only, the~~
11 ~~limitations expressed do not apply.~~

12 SECTION 30. AMENDATORY Section 66, Chapter 208, O.S.L.
13 2013 (85A O.S. Supp. 2017, Section 66), is amended to read as
14 follows:

15 Section 66. A. As used in this act, unless the context
16 otherwise requires:

17 1. "Asbestosis" means the characteristic fibrotic condition of
18 the lungs caused by the inhalation of asbestos dust; and

19 2. "Silicosis" means the characteristic fibrotic condition of
20 the lungs caused by the inhalation of silica dust.

21 B. In the absence of ~~conclusive~~ a preponderance of the evidence
22 in favor of the claim, disability or death from silicosis or
23 asbestosis shall be presumed not to be due to the nature of any
24 occupation within the provision of this section unless during the

1 ten (10) years immediately preceding the date of disablement the
2 employee has been exposed to the inhalation of silica dust or
3 asbestos dust over a period of not less than five (5) years, two (2)
4 years of which shall have been in this state, under a contract of
5 employment performed in this state. However, if the employee has
6 been employed by the same employer during the entire five-year
7 period, his or her right to compensation against the employer shall
8 not be affected by the fact that he or she had been employed during
9 any part of the period outside of this state.

10 C. Except as otherwise provided in this section, compensation
11 for disability from uncomplicated silicosis or asbestosis shall be
12 payable in accordance with the provisions of Sections 45 and 48 of
13 this ~~act~~ title.

14 D. 1. In case of disability or death from silicosis or
15 asbestosis complicated with tuberculosis of the lungs, compensation
16 shall be payable as for uncomplicated silicosis or asbestosis,
17 provided that the silicosis or asbestosis was an essential factor in
18 the causing of disability or death.

19 2. In case of disability or death from silicosis or asbestosis
20 complicated with any other disease, or from any other disease
21 complicated with silicosis or asbestosis, the compensation shall be
22 reduced as provided in subsection C of Section 65 of this ~~act~~ title.

23 ~~E. 1. When an employee, though not actually disabled, is found~~
24 ~~by the Commission to be affected by silicosis or asbestosis to such~~

1 ~~a degree as to make it unduly hazardous for him or her to continue~~
2 ~~in an employment involving exposure to the hazards of the disease,~~
3 ~~the Commission may order that he or she be removed from his or her~~
4 ~~employment. In such a case, or in case he or she has already been~~
5 ~~discharged from the employment and is unemployed, he or she shall be~~
6 ~~entitled to compensation until he or she can obtain steady~~
7 ~~employment in some other suitable occupation in which there are no~~
8 ~~hazards of the disease.~~

9 ~~2. When in any case the forced change of employment shall, in~~
10 ~~the opinion of the Commission, require that the employee be given~~
11 ~~special training in order to qualify him or her for another~~
12 ~~occupation, the employer liable for compensation shall pay for the~~
13 ~~vocational rehabilitation and training provided for in this act.~~

14 SECTION 32. AMENDATORY Section 69, Chapter 208, O.S.L.
15 2013 (85A O.S. Supp. 2017, Section 69), is amended to read as
16 follows:

17 Section 69. A. Time for Filing.

18 1. A claim for benefits under this act, other than an
19 occupational disease, shall be barred unless it is filed with the
20 Workers' Compensation Commission within one (1) year from the date
21 of the injury. ~~If during the one-year period following the filing~~
22 ~~of the claim the employee receives no weekly benefit compensation~~
23 ~~and receives no medical treatment resulting from the alleged injury,~~
24 ~~the claim shall be barred thereafter.~~ When a claim for compensation

1 has been filed, unless the employee shall in good faith request a
2 hearing for benefits, with competent medical evidence to support the
3 request, within one (1) year from the date of the filing thereof, or
4 within one (1) year from the date of last payment of compensation or
5 wages in lieu thereof, or the date of the last authorized medical
6 appointment attended by the employee, the claim shall be dismissed
7 with prejudice for want of prosecution. For purposes of this
8 section, the date of the injury shall be defined as the date an
9 injury is caused by an accident as set forth in paragraph 9 of
10 Section 2 of this ~~act~~ title.

11 2. a. A claim for compensation for disability on account of
12 injury which is either an occupational disease or
13 occupational infection shall be barred unless filed
14 with the Commission within two (2) years from the date
15 of the last injurious exposure to the hazards of the
16 disease or infection.

17 b. A claim for compensation for disability on account of
18 silicosis or asbestosis shall be filed with the
19 Commission within one (1) year after the time of
20 disablement, and the disablement shall occur within
21 three (3) years from the date of the last injurious
22 exposure to the hazard of silicosis or asbestosis.

23 c. A claim for compensation for disability on account of
24 a disease condition caused by exposure to X-rays,

1 radioactive substances, or ionizing radiation only
2 shall be filed with the Commission within two (2)
3 years from the date the condition is made known to an
4 employee following examination and diagnosis by a
5 medical doctor.

6 3. A claim for compensation on account of death shall be barred
7 unless filed with the Commission within two (2) years of the date of
8 such a death.

9 4. If within ~~six (6) months~~ one (1) year after the filing of a
10 controverted claim for compensation no bona fide request for a
11 hearing has been made with respect to the claim, the claim may, on
12 motion and after hearing, be dismissed ~~with~~ without prejudice.

13 B. Time for Filing Additional Compensation.

14 1. In cases in which any compensation, including disability or
15 medical, has been paid on account of injury, a claim for additional
16 compensation shall be barred unless filed with the Commission within
17 one (1) year from the date of the last payment of ~~disability~~
18 compensation or two (2) years from the date of the injury, whichever
19 is greater.

20 2. The statute of limitations provided in this subsection shall
21 not apply to claims for the replacement of medicine, crutches,
22 ambulatory devices, artificial limbs, eyeglasses, contact lenses,
23 hearing aids, and other apparatus permanently or indefinitely
24 required as the result of a compensable injury, when the employer or

1 carrier previously furnished such medical supplies, but replacement
2 of such items shall not constitute payment of compensation so as to
3 toll the statute of limitations.

4 C. A claim for additional compensation shall specifically state
5 that it is a claim for additional compensation. Documents which do
6 not specifically request additional benefits shall not be considered
7 a claim for additional compensation.

8 D. If within ~~six (6) months~~ one (1) year after the filing of a
9 claim for additional compensation no bona fide request for a hearing
10 has been made with respect to the claim, the claim shall be
11 dismissed without prejudice to the refiling of the claim within the
12 limitation period specified in subsection B of this section.

13 E. Failure to File. Failure to file a claim within the period
14 prescribed in subsection A or B of this section shall not be a bar
15 to the right to benefits hereunder unless objection to the failure
16 is made at the first hearing on the claim in which all parties in
17 interest have been given a reasonable notice and opportunity to be
18 heard by the Commission.

19 F. Persons under Disability.

20 1. Notwithstanding any statute of limitation provided for in
21 this act, when it is established that failure to file a claim by an
22 injured employee or his or her dependents was induced by fraud, the
23 claim may be filed within one (1) year from the time of the
24 discovery of the fraud.

1 2. Subsections A and B of this section shall not apply to a
2 mental incompetent or minor so long as the person has no guardian or
3 similar legal representative. The limitations prescribed in
4 subsections A and B of this section shall apply to the mental
5 incompetent or minor from the date of the appointment of a guardian
6 or similar legal representative for that person, and when no
7 guardian or similar representative has been appointed, to a minor on
8 reaching the age of majority.

9 G. A latent injury or condition shall not delay or toll the
10 limitation periods specified in this section. This subsection shall
11 not apply to the limitation period for occupational diseases
12 specified in paragraph 2 of subsection A of this section.

13 SECTION 34. AMENDATORY Section 78, Chapter 208, O.S.L.
14 2013 (85A O.S. Supp. 2017, Section 78), is amended to read as
15 follows:

16 Section 78. A. Any party feeling aggrieved by the judgment,
17 decision, or award made by the administrative law judge may, within
18 ten (10) days of issuance, appeal to the Workers' Compensation
19 Commission. After hearing arguments, the Commission may reverse or
20 modify the decision only if it determines that the decision was
21 against the clear weight of the evidence or contrary to law. All
22 such proceedings of the Commission shall be recorded by a court
23 reporter, if requested by any party. Any judgment of the Commission
24

1 which reverses a decision of the administrative law judge shall
2 contain specific findings relating to the reversal.

3 B. The appellant shall pay a filing fee of One Hundred Seventy-
4 five Dollars (\$175.00) to the Commission at the time of filing his
5 or her appeal. The fee shall be deposited ~~in~~ to the credit of the
6 Workers' Compensation Commission Revolving Fund.

7 C. The judgment, decision or award of the Commission shall be
8 final and conclusive on all questions within its jurisdiction
9 between the parties unless an action is commenced in the Supreme
10 Court of this state to review the judgment, decision or award within
11 twenty (20) days of being sent to the parties. Any judgment,
12 decision or award made by an administrative law judge shall be
13 stayed until all appeal rights have been waived or exhausted. The
14 Supreme Court may modify, reverse, remand for rehearing, or set
15 aside the judgment or award only if it was:

- 16 1. In violation of constitutional provisions;
- 17 2. In excess of the statutory authority or jurisdiction of the
18 Commission;
- 19 3. Made on unlawful procedure;
- 20 4. Affected by other error of law;
- 21 5. Clearly erroneous in view of the reliable, material,
22 probative and substantial competent evidence;
- 23 6. Arbitrary or capricious;
- 24 7. Procured by fraud; or

1 8. Missing findings of fact on issues essential to the
2 decision.

3 This action shall be commenced by filing with the Clerk of the
4 Supreme Court a certified copy of the judgment, decision or award of
5 the Commission attached to the petition by the complaint which shall
6 specify why the judgment, decision or award is erroneous or illegal.
7 The proceedings shall be heard in a summary manner and shall have
8 precedence over all other civil cases in the Supreme Court, except
9 preferred Corporation Commission appeals. The Supreme Court shall
10 require the appealing party to file within forty-five (45) days from
11 the date of the filing of an appeal or a judgment appealed from, a
12 transcript of the record of the proceedings before the Commission,
13 or such later time as may be granted by the Supreme Court on
14 application and for good cause shown. The action shall be subject
15 to the law and practice applicable to other civil actions cognizable
16 in the Supreme Court.

17 D. A fee of One Hundred Dollars (\$100.00) per appeal to the
18 Supreme Court shall be paid to the Commission and deposited ~~in~~ to
19 the credit of the Workers' Compensation Commission Revolving Fund as
20 costs for preparing, assembling, indexing and transmitting the
21 record for appellate review. This fee shall be paid by the party
22 taking the appeal. If more than one party to the action files an
23 appeal from the same judgment, decision or award, the fee shall be
24

1 paid by the party whose petition in error commences the principal
2 appeal.

3 E. During the pendency of an appeal filed by an employer or the
4 employer's insurance carrier pursuant to this section, payment for
5 any prescription drugs prescribed by the treating physician shall be
6 continued. If payment for prescription drugs is an issue on appeal,
7 and the employer is held not to be liable for payment for the
8 prescription drugs, the employee shall reimburse the employer or the
9 employer's insurance carrier for the cost of prescriptions filled
10 during the time of the appeals process.

11 SECTION 41. AMENDATORY Section 98, Chapter 208, O.S.L.
12 2013, as amended by Section 4, Chapter 169, O.S.L. 2014 (85A O.S.
13 Supp. 2017, Section 98), is amended to read as follows:

14 Section 98. The Self-insurance Guaranty Fund shall be derived
15 from the following sources:

16 1. Any unexpended funds, including interest thereon, held by
17 the State Treasurer in the Workers' Compensation Self-insurance
18 Guaranty Fund transferred to the Self-insurance Guaranty Fund as
19 provided in Section 124 of this title;

20 2. Until the Self-insurance Guaranty Fund contains Two Million
21 Dollars (\$2,000,000.00) or in the event the amount in the fund falls
22 below One Million Dollars (\$1,000,000.00), an assessment against
23 each private self-insurer and group self-insurance association based
24 on an assessment rate to be determined by the commissioners, not

1 exceeding one percent (1%) of actual paid losses of the self-insurer
2 during the preceding calendar year, payable to the Tax Commission
3 for deposit to the fund. The assessment against private self-
4 insurers shall be determined using a rate equal to the proportion
5 that the deficiency in the fund attributable to private self-
6 insurers bears to the actual paid losses of all private self-
7 insurers for the year period of January 1 through December 31
8 preceding the assessment. The assessment against group self-
9 insurance associations shall be determined using a rate equal to the
10 proportion that the deficiency in excess of the surplus of the Group
11 Self-Insurance Association Guaranty Fund at the date of the transfer
12 attributable to group self-insurance associations bears to the
13 actual paid losses of all group self-insurance associations
14 cumulatively for any calendar year preceding the assessment. Each
15 self-insurer shall provide the Workers' Compensation Commission with
16 such information as the Commission may determine is necessary to
17 effectuate the purposes of this paragraph. For purposes of this
18 paragraph, "actual paid losses" means all medical and indemnity
19 payments, including temporary disability, permanent disability, and
20 death benefits, and excluding loss adjustment expenses and reserves.

- 21 a. The assessment shall be paid within thirty (30)
22 calendar days after the date the commissioners notify
23 the self-insurer of the assessment.

- 1 b. A private employer or group self-insurance association
2 which ceases to be a self-insurer shall remain liable
3 for any and all assessments of the self-insurer as
4 provided in this paragraph based on actual paid losses
5 for the calendar year period preceding the assessment.
- 6 c. Failure of a self-insurer to pay, or timely pay, an
7 assessment required by this paragraph, or to report
8 payment of the same to the Commission within ten (10)
9 days of payment, shall be grounds for revocation by
10 the Commission of the self-insurer's permit to self-
11 insure in this state, after notice and hearing. A
12 former self-insurer failing to make payments required
13 by this paragraph promptly and correctly, or failing
14 to report payment of the same to the Commission within
15 ten (10) days of payment, shall be subject to
16 administrative penalties as allowed by law, including
17 but not limited to, a fine in the amount of Five
18 Hundred Dollars (\$500.00) or an amount equal to one
19 percent (1%) of the unpaid amount, whichever is
20 greater, to be paid and deposited to the credit of the
21 Workers' Compensation Commission Revolving Fund
22 created in Section ~~28~~ 28.1 of this title. It shall be
23 the duty of the Tax Commission to collect the
24 assessment provided for in this paragraph. The Tax

Commission is authorized to bring an action for recovery of any delinquent or unpaid assessments, and may enforce payment of the assessment by proceeding in accordance with Section 79 of this title.

d. An impaired self-insurer shall be exempt from assessments beginning on the date of the Commission's designation until the Commission determines the self-insurer is no longer impaired.

e. The Tax Commission shall determine the fund balance as of March 1 and September 1 of each year, and when otherwise requested by the Workers' Compensation Commission, and shall advise the Workers' Compensation Commission in writing within thirty (30) days of each such determination; and

3. Any interest accruing on monies paid into the fund.

SECTION 45. AMENDATORY Section 161, Chapter 208, O.S.L. 2013 (85A O.S. Supp. 2017, Section 118), is amended to read as follows:

Section 118. A. A filing fee of One Hundred Forty Dollars (\$140.00) per case, including any Joint Petition, medical fee dispute, claim for discrimination or retaliation, or claim for benefits under the Multiple Injury Trust Fund authorized by this ~~act~~ title, shall be collected from the filer by the Workers' Compensation Commission ~~and~~. In the event any award becomes final

1 against an employer, such amount shall be assessed as costs against
2 the employer to be paid by the party against whom any award becomes
3 final, to be to the injured employee. The filing fee shall be
4 deposited as follows:

5 1. One Hundred Five Dollars (\$105.00) to the credit of the
6 Workers' Compensation Commission Revolving Fund ~~created by this act;~~

7 2. Ten Dollars (\$10.00) to the credit of the Attorney General's
8 Workers' Compensation Fraud Unit Revolving Fund created by Section
9 19.2 of Title 74 of the Oklahoma Statutes; and

10 3. Twenty-five Dollars (\$25.00) to the credit of the Workers'
11 Compensation Commission Revolving Fund for purposes of implementing
12 the provisions of this ~~act~~ title, including strengthening and
13 providing additional funding for the Attorney General's Workers'
14 Compensation Fraud Unit, providing counseling services pursuant to
15 the workers' compensation counselor or ombudsman program and safety
16 in the workplace.

17 B. A fee of One Hundred Thirty Dollars (\$130.00) per action to
18 reopen any case pursuant to Section 32 of this ~~act~~ title shall be
19 collected by the Commission and assessed as costs to be paid by the
20 party that reopens the case. The fee collected pursuant to this
21 subsection shall be deposited to the credit of the Workers'
22 Compensation Commission Revolving Fund for purposes of implementing
23 the provisions of this ~~act~~ title, including strengthening and
24 providing additional funding for the Attorney General's Workers'

1 Compensation Fraud Unit, providing counseling services pursuant to
2 the workers' compensation counselor or ombudsman program and safety
3 in the workplace.

4 SECTION 46. AMENDATORY Section 162, Chapter 208, O.S.L.
5 2013 (85A O.S. Supp. 2017, Section 119), is amended to read as
6 follows:

7 Section 119. A. Persons requesting and receiving copies of
8 documents on file with the Workers' Compensation Commission shall
9 pay a fee to the Commission of One Dollar (\$1.00) for each page
10 copied. All fees so collected shall be deposited in the State
11 Treasury in the Workers' Compensation Commission Revolving Fund.

12 B. All penalties and fines imposed by the Commission, upon
13 collection, shall be deposited to the credit of the Workers'
14 Compensation Commission Revolving Fund.

15 SECTION 49. AMENDATORY Section 165, Chapter 208, O.S.L.
16 2013, as amended by Section 4, Chapter 344, O.S.L. 2015 (85A O.S.
17 Supp. 2017, Section 122), is amended to read as follows:

18 Section 122. A. The Workers' Compensation Commission Revolving
19 Fund established by Section ~~2~~ 28.1 of this ~~act~~ title shall be used
20 for the costs of administering this act and for other purposes as
21 authorized by law.

22 B. For the purpose of providing funds for the Workers'
23 Compensation Commission Revolving Fund, for the Workers'
24 Compensation Administrative Fund created in Section ~~5~~ 401.1 of this

1 ~~act~~ title, for the Multiple Injury Trust Fund created in Section 28
2 of this title, and to fund other provisions within this title, the
3 following tax rates shall apply:

4 1. Each mutual or interinsurance association, stock company,
5 CompSource Oklahoma or other insurance carrier writing workers'
6 compensation insurance in this state shall pay to the Oklahoma Tax
7 Commission an assessment at a rate of one percent (1%) of all gross
8 direct premiums written during each quarter of the calendar year for
9 workers' compensation insurance on risks located in this state after
10 deducting from such gross direct premiums, return premiums,
11 unabsorbed portions of any deposit premiums, policy dividends,
12 safety refunds, savings and other similar returns paid or credited
13 to policyholders. Such payments to the Tax Commission shall be made
14 not later than the fifteenth day of the month following the close of
15 each quarter of the calendar year in which such gross direct premium
16 is collected or collectible. Contributions made by insurance
17 carriers and CompSource Oklahoma, under the provisions of this
18 section, shall be considered for the purpose of computing workers'
19 compensation rates; and

20 2. When an employer is authorized to become a self-insurer, the
21 Workers' Compensation Commission shall so notify the Tax Commission,
22 giving the effective date of such authorization. The Tax Commission
23 shall then assess and collect from the employers carrying their own
24 risk an assessment at the rate of two percent (2%) of the total

1 compensation for permanent total disability awards, permanent
2 partial disability awards and death benefits paid out during each
3 quarter of the calendar year by the employers. Such assessment
4 shall be payable by the employers and collected by the Tax
5 Commission according to the provisions of this section regarding
6 payment and collection of the assessment created in paragraph 1 of
7 this subsection.

8 C. It shall be the duty of the Tax Commission to collect the
9 payments provided for in this title. The Tax Commission is hereby
10 authorized to bring an action for the recovery of any delinquent or
11 unpaid payments required in this section. The Tax Commission may
12 also enforce payments by proceeding in accordance with the
13 provisions of Section 98 of this title.

14 D. The Tax Commission shall pay monthly to the State Treasurer
15 to the credit of the Multiple Injury Trust Fund all monies collected
16 under the provisions of this section less the annual amounts which
17 shall be apportioned by the Oklahoma Tax Commission as follows:

18 1. To be fulfilled first, Five Million Dollars (\$5,000,000.00)
19 shall be payable in equal monthly installments to the credit of the
20 Workers' Compensation Commission Revolving Fund established in
21 Section ~~2~~ 28.1 of this ~~act for the fiscal year ending June 30, 2016,~~
22 ~~and Three Million Dollars (\$3,000,000.00)~~ title for the fiscal year
23 ending June 30, ~~2017~~ 2019, and for all subsequent years to be used
24 to implement the provisions of this title; and

1 2. ~~Four Million Dollars (\$4,000,000.00)~~ Three Million Dollars
2 (\$3,000,000.00) shall be payable in equal monthly installments to
3 the credit of the Workers' Compensation Administrative Fund
4 established in Section 5 401.1 of this ~~act~~ title for the fiscal year
5 ending ~~June 30, 2016, Three Million Five Hundred Thousand Dollars~~
6 ~~(\$3,500,000.00) for the fiscal year ending June 30, 2017, Three~~
7 ~~Million Five Hundred Thousand Dollars (\$3,500,000.00) for the fiscal~~
8 ~~year ending June 30, 2018, Three Million Dollars (\$3,000,000.00) for~~
9 ~~the fiscal year ending~~ June 30, 2019, and Two Million Five Hundred
10 Thousand Dollars (\$2,500,000.00) for the fiscal year ending June 30,
11 2020. Monies deposited in the Workers' Compensation Administrative
12 Fund shall be used by the Workers' Compensation Court of Existing
13 Claims to implement provisions provided for in this title.

14 E. The refund provisions of Sections 227 through 229 of Title
15 68 of the Oklahoma Statutes shall be applicable to any payments made
16 pursuant to this section.

17 SECTION 50. AMENDATORY Section 166, Chapter 208, O.S.L.
18 2013 (85A O.S. Supp. 2017, Section 123), is amended to read as
19 follows:

20 Section 123. ~~Any~~ A. Except as otherwise provided in this
21 section, any form, claim, answer or report to be filed by any person
22 with the Workers' Compensation Commission pursuant to this act shall
23 contain or be verified by a written declaration that such form,
24 claim, answer or report is true and made under the penalty of

1 perjury. This subsection shall not be construed to pertain to the
2 electronic data interchange system developed and implemented by the
3 Commission pursuant to Section 101 of this title.

4 B. An electronic signature upon, or the act of submitting or
5 filing, any such form, claim, answer or report containing such a
6 written declaration to any online filing system employed by the
7 Commission shall constitute affirmation that the form, claim, answer
8 or report is true and made under the penalty of perjury.

9 SECTION 51. AMENDATORY Section 167, Chapter 208, O.S.L.
10 2013, as amended by Section 7, Chapter 169, O.S.L. 2014 (85A O.S.
11 Supp. 2017, Section 124), is amended to read as follows:

12 Section 124. A. 1. All unexpended funds, assets, property,
13 records, personnel and any outstanding financial obligations and
14 encumbrances of the Workers' Compensation Court ~~before February 1,~~
15 ~~2014,~~ are hereby transferred to the Workers' Compensation
16 Commission, except for personnel transferred to the Workers'
17 Compensation Court of Existing Claims on July 9, 2014. The
18 personnel transferred to the Commission and retained by the
19 Commission shall retain leave, sick and annual time earned and any
20 retirement and longevity benefits which have accrued during their
21 employment with the state. The salaries of employees who are
22 transferred shall not be reduced as a direct and immediate result of
23 the transfer. There shall be no reduction-in-force as a result of
24 the transfer. The Workers' Compensation Court of Existing Claims

1 shall pay the expense of maintaining the records of the Court and
2 the records of the former Workers' Compensation Court for as long as
3 the Legislature appropriates funding to the Court independent of
4 funding for the Commission. Thereafter, all such records shall be
5 transferred to the Commission.

6 2. Any unexpended funds, including interest thereon, held by
7 the State Treasurer in an interest-bearing division special account
8 maintained by the Workers' Compensation Court before February 1,
9 2014, from which a self-insured employer's workers' compensation
10 obligations are paid following nonpayment by the self-insured
11 employer for any reason, including insolvency, shall be transferred
12 to the Workers' Compensation Commission. Such funds shall be
13 expended by the Commission only for the purpose of paying workers'
14 compensation obligations of the self-insured employer, and costs
15 related to the administration of such obligations, to the extent of
16 the availability of such funds.

17 B. 1. All unexpended funds, assets, property, and records and
18 any outstanding financial obligations and encumbrances of the
19 Workers' Compensation Self-insurance Guaranty Fund Board before
20 February 1, 2014, are hereby transferred to the Self-insurance
21 Guaranty Fund Board created in the Administrative Workers'
22 Compensation Act.

23 2. Any unexpended funds, including interest thereon, held by
24 the State Treasurer in the Workers' Compensation Self-insurance

1 Guaranty Fund before February 1, 2014, shall be transferred to the
2 Self-insurance Guaranty Fund Board created by the Administrative
3 Workers' Compensation Act. Such funds shall be expended by the
4 Board only as authorized in the Administrative Workers' Compensation
5 Act.

6 3. Any claim existing or action or proceeding pending by,
7 against or before the Workers' Compensation Self-insurance Guaranty
8 Fund Board when the Board ceased existence may be continued as if
9 the Self-insurance Guaranty Fund Board was not created, or the Self-
10 insurance Guaranty Fund Board may be substituted in the matter. The
11 Self-insurance Guaranty Fund Board shall be responsible and liable
12 for all liabilities and obligations of the Workers' Compensation
13 Self-insurance Guaranty Fund Board.

14 C. All property and records of the Physician Advisory Committee
15 before February 1, 2014, are hereby transferred to the Physician
16 Advisory Committee created in the Administrative Workers'
17 Compensation Act.

18 D. All property and records of the Advisory Council on Workers'
19 Compensation before February 1, 2014, are hereby transferred to the
20 Advisory Council on Workers' Compensation created in the
21 Administrative Workers' Compensation Act.

22 E. All unexpended funds, assets, property, records, personnel
23 and any outstanding financial obligations and encumbrances of the
24 Multiple Injury Trust Fund before February 1, 2014, are hereby

1 transferred to the Multiple Injury Trust Fund created in the
2 Administrative Workers' Compensation Act. The personnel transferred
3 shall retain leave, sick and annual time earned and any retirement
4 and longevity benefits which have accrued during their employment
5 with the state. The salaries of employees who are transferred shall
6 not be reduced as a direct and immediate result of the transfer.
7 There shall be no reduction-in-force as a result of the transfer.

8 F. The Director of the Office of Management and Enterprise
9 Services is hereby directed to coordinate the transfer of funds,
10 allotments, purchase orders, outstanding financial obligations or
11 encumbrances provided for in subsections A and E of this section,
12 and the transfer of funds, outstanding financial obligations or
13 encumbrances provided for in subsection B of this section.

14 SECTION 55. AMENDATORY Section 128, Chapter 208, O.S.L.
15 2013 (85A O.S. Supp. 2017, Section 307), is amended to read as
16 follows:

17 Section 307. A. On application and motion of a person showing
18 an agreement to arbitrate and alleging another person's refusal to
19 arbitrate under the agreement:

20 1. If the refusing party does not appear or does not oppose the
21 motion, the Workers' Compensation Commission shall order the parties
22 to arbitrate; and

23 2. If the refusing party opposes the motion, the Commission
24 shall proceed summarily to decide the issue and order the parties to

1 arbitrate unless it finds that there is no enforceable agreement to
2 arbitrate. The Commission may also assess costs against the party
3 opposing the motion if it concludes the opposition was not brought
4 in good faith to be deposited in the Workers' Compensation
5 Commission Revolving Fund created by the Administrative Workers'
6 Compensation Act in Section 28.1 of this title.

7 B. On motion of a person alleging that an arbitration
8 proceeding has been initiated or threatened but that there is no
9 agreement to arbitrate, the Commission shall proceed summarily to
10 decide the issue. If the Commission finds that there is an
11 enforceable agreement to arbitrate, it shall order the parties to
12 arbitrate. The Commission may also assess costs against the party
13 opposing the motion if the Commission concludes the opposition was
14 not brought in good faith to be deposited in the Workers'
15 Compensation Fund created by the Administrative Workers'
16 Compensation Act.

17 C. If the Commission finds that the parties have not entered
18 into an enforceable arbitration agreement, the dispute shall be
19 resolved under the Administrative Workers' Compensation Act.

20 D. If an action is initiated in district court to determine
21 whether an enforceable arbitration agreement exists, on motion by
22 the responding party, that proceeding shall be transferred to the
23 Commission for determination.

1 E. If a party challenges the enforceability of an arbitration
2 agreement, the underlying claim, including all benefits, shall be
3 stayed until the Commission determines whether an enforceable
4 arbitration agreement exists.

5 SECTION 66. AMENDATORY Section 169, Chapter 208, O.S.L.
6 2013 (85A O.S. Supp. 2017, Section 400), is amended to read as
7 follows:

8 Section 400. A. The Workers' Compensation Court shall be
9 renamed the Workers' Compensation Court of Existing Claims for the
10 purpose of hearing disputes relating to claims that arise before
11 February 1, 2014. The Court shall consist of the existing judges
12 for the remainder of his or her term. Each judge of the Court shall
13 continue to serve as the appointment to a designated numbered
14 position on the Court. The positions shall be numbered one through
15 ten. The terms of the judges by position number shall expire on the
16 following dates:

17 Position 1 shall expire 7-1-14.

18 Position 2 shall expire 7-1-14.

19 Position 3 shall expire 7-1-14.

20 Position 4 shall expire 7-1-20.

21 Position 5 shall expire 7-1-20.

22 Position 6 shall expire 7-1-16.

23 Position 7 shall expire 7-1-16.

24 Position 8 shall expire 7-1-20.

1 Position 9 shall expire 7-1-20.

2 Position 10 shall expire 7-1-14.

3 Provided, judges who are serving unexpired terms on the Workers'
4 Compensation Court on the effective date of this section shall serve
5 on the Court created by this section until their respective terms
6 expire as provided in this act. Thereafter, each position shall be
7 dissolved. After a judge serves this term, such judge shall be
8 eligible to reapply for an administrative law judge with the
9 Workers' Compensation Commission.

10 B. When a vacancy on the Court occurs or is certain to occur,
11 ~~the Workers' Compensation Commission shall assign administrative law~~
12 ~~judges from the Commission to assist in the duties of the Workers'~~
13 ~~Compensation Court of Existing Claims~~ the Governor shall appoint a
14 judge to serve the remainder of the term from a list of three
15 applicants submitted to the Governor by the Judicial Nominating
16 Commission. The Governor shall appoint a Presiding Judge of the
17 Workers' Compensation Court of Existing Claims to select sufficient
18 staff to support the functions of the Court. In addition, the
19 Presiding Judge shall be authorized to contract with the Workers'
20 Compensation Commission or other individuals or entities for
21 services and shared services.

22 ~~B.~~ C. A judge may be removed for cause by the Court on the
23 Judiciary prior to the expiration of his or her term.

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

5 ~~D.~~ E. The Court shall operate by the rules adopted by the
6 Workers' Compensation Court prior to the effective date of this act.

7 ~~E.~~ F. The Court is hereby designated and confirmed as a court
8 of record, with respect to any matter within the limits of its
9 jurisdiction, and within such limits the judges thereof shall
10 possess the powers and prerogatives of the judges of the other
11 courts of record of this state, including the power to punish for
12 contempt those persons who disobey a subpoena, or refuse to be sworn
13 or to answer as a witness, when lawfully ordered to do so.

14 ~~F.~~ G. The principal office of the Court shall be situated in
15 the City of Oklahoma City in quarters assigned by the Office of
16 Management and Enterprise Services. The Court may hold hearings in
17 any city of this state.

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

21 ~~H.~~ I. Judges of the Workers' Compensation Court of Existing
22 Claims may punish for direct contempt pursuant to Sections 565,
23 565.1 and 566 of Title 21 of the Oklahoma Statutes.

1 ~~¶~~ J. The Court shall be vested with jurisdiction over all
2 claims filed pursuant to the Workers' Compensation Code or previous
3 statute in effect on the date of an injury that occurred before
4 February 1, 2014. All claims so filed shall be heard by the judge
5 sitting without a jury. The Court shall have full power and
6 authority to determine all questions in relation to payment of
7 claims for compensation under the provisions of the Workers'
8 Compensation Code. The Court, upon application of either party,
9 shall order a hearing. Upon a hearing, either party may present
10 evidence and be represented by counsel. The decision of the Court
11 shall be final as to all questions of fact and law; provided, the
12 decision of the Court may be appealed to the ~~Commission~~ Court en
13 banc or the Supreme Court as provided by the Workers' Compensation
14 Code. In the event that an insufficient number of active judges are
15 available to comprise the three-judge en banc panel, retired or
16 former judges of the district court or Workers' Compensation Court
17 may be designated by the Presiding Judge to serve on such panel.
18 The decision of the Court shall be issued within sixty (60) days
19 following the submission of the case by the parties. The power and
20 jurisdiction of the Court over each case shall be continuing and it
21 may, from time to time, make such modifications or changes with
22 respect to former findings or orders relating thereto if, in its
23 opinion, it may be justified.

1 ~~J. Any appeal of an order by the Workers' Compensation Court of~~
2 ~~Existing Claims shall be heard by the Commission en banc. The~~
3 ~~Commission shall review the decision using an abuse of discretion~~
4 ~~standard of review. Orders by the Commission may be appealed in~~
5 ~~accordance with Section 78 of this act.~~

6 ~~K. To protect the integrity of the transition from the Workers'~~
7 ~~Compensation Court to the administrative system created by this act,~~
8 ~~and to protect all rights and privileges of parties to claims~~
9 ~~adjudicated by the Workers' Compensation Court, the Commission shall~~
10 ~~retain all remedies and responsibilities of the Workers'~~
11 ~~Compensation Court for as long as cases involving claims for~~
12 ~~compensation accruing before the effective date of this act but~~
13 ~~filed thereafter or which were pending before or adjudicated by the~~
14 ~~Workers' Compensation Court shall remain open.~~

15 ~~L. For an injury occurring before the effective date of this~~
16 ~~act~~ February 1, 2014, all benefits and procedures to obtain benefits
17 shall be determined by the workers' compensation law of this state
18 in effect on the date of the injury. ~~Administrative law judges of~~
19 ~~the Commission shall enforce all final orders of the Workers'~~
20 ~~Compensation Court in a manner to secure for all parties the due~~
21 ~~process and equal protection guarantees of the Constitution of the~~
22 ~~State of Oklahoma.~~

23 ~~M. L.~~ All accrued rights and penalties incurred pursuant to a
24 final order of the Workers' Compensation Court shall be preserved.

~~Administrative law judges of the Commission shall be authorized to~~
~~issue orders and conduct legal proceedings to enforce all such~~
~~accrued rights and penalties incurred.~~ No accrued right, penalty
incurred, or proceeding begun by virtue of a statute repealed by
this act shall be abrogated by the terms of this act.

SECTION 68. REPEALER Sections 15, 24 and 36, Chapter
208, O.S.L. 2013 (85A O.S. Supp. 2017, Sections 15, 24 and 36), are
hereby repealed."

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