

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

HOUSE BILL 2994

By: McEntire

AS INTRODUCED

An Act relating to workers' compensation; amending Sections 2 and 3, Chapter 208, O.S.L. 2013 (85A O.S. Supp. 2017, Sections 2 and 3), which relate to the Administrative Workers' Compensation Act; modifying definitions; specifying application of the Administrative Workers' Compensation Act; amending Section 6, Chapter 208, O.S.L. 2013, as amended by Section 1, Chapter 390, O.S.L. 2015 (85A O.S. Supp. 2017, Section 6), which relates to crimes in violation of the Administrative Workers' Compensation Act; eliminating certain notice requirement; amending Section 18, Chapter 208, O.S.L. 2013 (85A O.S. Supp. 2017, Section 18), which relates to billing and collection of fees for services; expanding methods of providing notice; amending Section 22, Chapter 208, O.S.L. 2013 (85A O.S. Supp. 2017, Section 22), which relates to administration of the Administrative Workers' Compensation Act; modifying powers and duties of the Workers' Compensation Commission; amending Sections 38 and 40, Chapter 208, O.S.L. 2013 (85A O.S. Supp. 2017, Sections 38 and 40), which relate to securing workers' compensation for employees; changing certain rule-making authority; authorizing the Commission to award compensation in certain instances in which an employer has failed to secure compensation; amending Section 45, Chapter 208, O.S.L. 2013, as amended by Section 2, Chapter 390, O.S.L. 2015 (85A O.S. Supp. 2017, Section 45), which relates to disability; modifying temporary partial disability compensation; amending Section 60, Chapter 208, O.S.L. 2013 (85A O.S. Supp. 2017, Section 60), which relates to evaluation of permanent disability; modifying reference to title of the director of the Commission; amending Sections 63, 67, 69, 71, 80 and 82, Chapter 208, O.S.L. 2013 (85A O.S.

1 Supp. 2017, Sections 63, 67, 69, 71, 80 and 82),
2 which relate to notification and procedure after
3 injury; making certain reports confidential and not
4 subject to the Oklahoma Open Records Act; modifying
5 scope of review and compensation modification;
6 expanding methods for certain notice; modifying
7 allowable venue for hearings; modifying procedure and
8 requirements for review of compensation rulings;
9 placing limitations on review; modifying entity that
10 certain claims are brought against; amending Section
11 90, Chapter 208, O.S.L. 2013 (85A O.S. Supp. 2017,
12 Section 90), which relates to bond or other deposit
13 requirements; limiting Supreme Court review unless
14 certain requirements are met; amending Section 101,
15 Chapter 208, O.S.L. 2013 (85A O.S. Supp. 2017,
16 Section 101), which relates to certain reports and
17 electronic data; modifying time for implementation of
18 electronic data interchange system; amending Section
19 105, Chapter 208, O.S.L. 2013 (85A O.S. Supp. 2017,
20 Section 105), which relates to testimony by employees
21 of the Commission; providing exceptions to
22 prohibition against employee testimony; amending
23 Section 152, Chapter 208, O.S.L. 2013 (85A O.S. Supp.
24 2017, Section 109), which relates to the workers'
compensation counselor or ombudsman program;
modifying method of notification of program;
eliminating the authority of the Commission to
provide additional information regarding program;
amending Section 158, Chapter 208, O.S.L. 2013 (85A
O.S. Supp. 2017, Section 115), which relates to joint
petitions for settlement; correcting references;
amending Section 161, Chapter 208, O.S.L. 2013 (85A
O.S. Supp. 2017, Section 118), which relates to fees;
modifying scope of fee requirement; correcting
statutory references; amending Section 163, Chapter
208, O.S.L. 2013 (85A O.S. Supp. 2017, Section 120),
which relates to inquiries about compensation claims;
modifying scope of certain requests; correcting
statutory reference; amending Section 164, Chapter
208, O.S.L. 2013 (85A O.S. Supp. 2017, Section 121),
which relates to the Advisory Council on Workers'
Compensation; modifying duties of the Council;
amending Section 165, Chapter 208, O.S.L. 2013, as
amended by Section 4, Chapter 344, O.S.L. 2015 (85A
O.S. Supp. 2017, Section 122), which relates to tax
rates and distribution of certain funds; modifying
certain apportionment and funding amount; amending

1 Section 167, Chapter 208, O.S.L. 2013, as amended by
2 Section 7, Chapter 169, O.S.L. 2014 (85A O.S. Supp.
3 2017, Section 124), which relates to transfers from
4 the Workers' Compensation Court; modifying transfer;
5 requiring the Workers' Compensation Court of Existing
6 Claims to pay certain expenses; amending Sections
7 121, 125, 126, 133, 134, 135, 137, 139, 141, 142,
8 143, 144 and 148, Chapter 208, O.S.L. 2013 (85A O.S.
9 Supp. 2017, Sections 300, 304, 305, 312, 313, 314,
10 316, 318, 320, 321, 322, 323 and 327), which relate
11 to the Workers' Compensation Arbitration Act;
12 updating statutory references; amending Section 169,
13 Chapter 208, O.S.L. 2013 (85A O.S. Supp. 2017,
14 Section 400), which relates to the Workers'
15 Compensation Court of Existing Claims; eliminating
16 the authority of the Workers' Compensation Commission
17 to appoint administrative law judges to assist the
18 Court when vacancies occur on the Court; eliminating
19 procedure whereby rulings of the Court are appealable
20 to the Commission; eliminating certain duty of
21 administrative law judges; repealing Section 15,
22 Chapter 208, O.S.L. 2013 (85A O.S. Supp. 2017,
23 Section 15), which relates to reports regarding
24 funding needs for the Workers' Compensation Fraud
Investigation Unit; repealing Section 57, Chapter
208, O.S.L. 2013 (85A O.S. Supp. 2017, Section 57),
which relates to scheduled treatment appointments;
and providing an effective date.

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

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

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

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

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

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

19 4. "Case manager" means a person who is a registered nurse with
20 a current, active unencumbered license from the Oklahoma Board of
21 Nursing, or possesses one or more of the following certifications
22 which indicate the individual has a minimum number of years of case
23 management experience, has passed a national competency test and
24

1 regularly obtains continuing education hours to maintain
2 certification:

- 3 a. Certified Disability Management Specialist (CDMS),
- 4 b. Certified Case Manager (CCM),
- 5 c. Certified Rehabilitation Registered Nurse (CRRN),
- 6 d. Case Manager - Certified (CMC),
- 7 e. Certified Occupational Health Nurse (COHN), or
- 8 f. Certified Occupational Health Nurse Specialist (COHN-
9 S);

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

20 6. "Child" means a natural or adopted son or daughter of the
21 employee under eighteen (18) years of age; or a natural or adopted
22 son or daughter of an employee eighteen (18) years of age or over
23 who is physically or mentally incapable of self-support; or any
24 natural or adopted son or daughter of an employee eighteen (18)

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

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

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

13 9. a. "Compensable injury" means damage or harm to the
14 physical structure of the body, or prosthetic
15 appliances, including eyeglasses, contact lenses, or
16 hearing aids, caused solely as the result of either an
17 accident, cumulative trauma or occupational disease
18 arising out of the course and scope of employment. An
19 "accident" means an event involving factors external
20 to the employee that:

21 (1) was unintended, unanticipated, unforeseen,
22 unplanned and unexpected,

23 (2) occurred at a specifically identifiable time and
24 place,

- 1 (3) occurred by chance or from unknown causes, and
2 (4) was independent of sickness, mental incapacity,
3 bodily infirmity or any other cause.

4 b. "Compensable injury" does not include:

- 5 (1) injury to any active participant in assaults or
6 combats which, although they may occur in the
7 workplace, are the result of non-employment-
8 related hostility or animus of one, both, or all
9 of the combatants and which assault or combat
10 amounts to a deviation from customary duties;
11 provided, however, injuries caused by horseplay
12 shall not be considered to be compensable
13 injuries, except for innocent victims,
14 (2) injury incurred while engaging in or performing
15 or as the result of engaging in or performing any
16 recreational or social activities for the
17 employee's personal pleasure,
18 (3) injury which was inflicted on the employee at a
19 time when employment services were not being
20 performed or before the employee was hired or
21 after the employment relationship was terminated,
22 (4) injury where the accident was caused by the use
23 of alcohol, illegal drugs, or prescription drugs
24 used in contravention of physician's orders. If

1 a biological specimen is collected within twenty-
2 four (24) hours of the employee being injured or
3 reporting an injury, ~~an~~ or if at any time after
4 the injury a biological specimen is collected by
5 the Office of the Oklahoma State Chief Medical
6 Examiner if the injured employee does not survive
7 at least twenty-four (24) hours after the
8 accident and the employee tests positive for
9 intoxication, an illegal controlled substance, or
10 a legal controlled substance used in
11 contravention to a treating physician's orders,
12 or refuses to undergo the drug and alcohol
13 testing, there shall be a rebuttable presumption
14 that the injury was caused by the use of alcohol,
15 illegal drugs, or prescription drugs used in
16 contravention of physician's orders. This
17 presumption may only be overcome if the employee
18 proves by clear and convincing evidence that his
19 or her state of intoxication had no causal
20 relationship to the injury,

- 21 (5) any strain, degeneration, damage or harm to, or
22 disease or condition of, the eye or
23 musculoskeletal structure or other body part
24 resulting from the natural results of aging,

1 osteoarthritis, arthritis, or degenerative
2 process including, but not limited to,
3 degenerative joint disease, degenerative disc
4 disease, degenerative
5 spondylosis/spondylolisthesis and spinal
6 stenosis, or

7 (6) any preexisting condition except when the
8 treating physician clearly confirms an
9 identifiable and significant aggravation incurred
10 in the course and scope of employment.

11 c. The definition of "compensable injury" shall not be
12 construed to limit or abrogate the right to recover
13 for mental injuries as described in Section 13 of this
14 ~~act~~ title, heart or lung injury or illness as
15 described in Section 14 of this ~~act~~ title, or
16 occupational diseases as described in Section 65 of
17 this ~~act~~ title.

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

21 e. The injured employee shall prove by a preponderance of
22 the evidence that he or she has suffered a compensable
23 injury.

1 f. Benefits shall not be payable for a condition which
2 results from a non-work-related independent
3 intervening cause following a compensable injury which
4 causes or prolongs disability, aggravation, or
5 requires treatment. A non-work-related independent
6 intervening cause does not require negligence or
7 recklessness on the part of a claimant.

8 g. An employee who suffers a compensable injury shall be
9 entitled to receive compensation as prescribed in this
10 act. Notwithstanding other provisions of law, if it
11 is determined that a compensable injury did not occur,
12 the employee shall not be entitled to compensation
13 under this act;

14 10. "Compensation" means the money allowance payable to the
15 employee or to his or her dependents and includes the medical
16 services and supplies provided for in Section 50 of this ~~act~~ title
17 and funeral expenses;

18 11. "Consequential injury" means injury or harm to a part of
19 the body that is a direct result of the injury or medical treatment
20 to the part of the body originally injured in the claim. The
21 Commission shall not make a finding of a consequential injury unless
22 it is established by objective medical evidence that medical
23 treatment for such part of the body is required;

1 12. "Continuing medical maintenance" means medical treatment
2 that is reasonable and necessary to maintain claimant's condition
3 resulting from the compensable injury or illness after reaching
4 maximum medical improvement. Continuing medical maintenance shall
5 not include diagnostic tests, surgery, injections, counseling,
6 physical therapy, or pain management devices or equipment;

7 13. "Course and scope of employment" means an activity of any
8 kind or character for which the employee was hired and that relates
9 to and derives from the work, business, trade or profession of an
10 employer, and is performed by an employee in the furtherance of the
11 affairs or business of an employer. The term includes activities
12 conducted on the premises of an employer or at other locations
13 designated by an employer and travel by an employee in furtherance
14 of the affairs of an employer that is specifically directed by the
15 employer. This term does not include:

- 16 a. an employee's transportation to and from his or her
17 place of employment,
- 18 b. travel by an employee in furtherance of the affairs of
19 an employer if the travel is also in furtherance of
20 personal or private affairs of the employee,
- 21 c. any injury occurring in a parking lot or other common
22 area adjacent to an employer's place of business
23 before the employee clocks in or otherwise begins work
24

1 for the employer or after the employee clocks out or
2 otherwise stops work for the employer, or

3 d. any injury occurring while an employee is on a work
4 break, unless the injury occurs while the employee is
5 on a work break inside the employer's facility and the
6 work break is authorized by the employee's supervisor;

7 14. "Cumulative trauma" means an injury to an employee that is
8 caused by the combined effect of repetitive physical activities
9 extending over a period of time in the course and scope of
10 employment. Cumulative trauma shall not mean fatigue, soreness or
11 general aches and pain that may have been caused, aggravated,
12 exacerbated or accelerated by the employee's course and scope of
13 employment. Cumulative trauma shall have resulted directly and
14 independently of all other causes and the employee shall have
15 completed at least one hundred eighty (180) days of continuous
16 active employment with the employer;

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

19 16. "Disability" means incapacity because of compensable injury
20 to earn, in the same or any other employment, substantially the same
21 amount of wages the employee was receiving at the time of the
22 compensable injury;

23 17. "Drive-away operations" includes every person engaged in
24 the business of transporting and delivering new or used vehicles by

1 driving, either singly or by towbar, saddle-mount or full-mount
2 method, or any combination thereof, with or without towing a
3 privately owned vehicle;

4 18. a. "Employee" means any person, including a minor, in the
5 service of an employer under any contract of hire or
6 apprenticeship, written or oral, expressed or implied,
7 but excluding one whose employment is casual and not
8 in the course of the trade, business, profession, or
9 occupation of his or her employer and excluding one
10 who is required to perform work for a municipality or
11 county or the state or federal government on having
12 been convicted of a criminal offense or while
13 incarcerated. "Employee" shall also include a member
14 of the Oklahoma National Guard while in the
15 performance of duties only while in response to state
16 orders and any authorized voluntary or uncompensated
17 worker, rendering services as a firefighter, peace
18 officer or emergency management worker. Travel by a
19 policeman, fireman, or a member of a first aid or
20 rescue squad, in responding to and returning from an
21 emergency, shall be deemed to be in the course of
22 employment.

23 b. The term "employee" shall not include:
24

- 1 (1) any person for whom an employer is liable under
2 any Act of Congress for providing compensation to
3 employees for injuries, disease or death arising
4 out of and in the course of employment including,
5 but not limited to, the Federal Employees'
6 Compensation Act, the Federal Employers'
7 Liability Act, the Longshore and Harbor Workers'
8 Compensation Act and the Jones Act, to the extent
9 his or her employees are subject to such acts,
- 10 (2) any person who is employed in agriculture or
11 horticulture by an employer who had a gross
12 annual payroll in the preceding calendar year of
13 less than One Hundred Thousand Dollars
14 (\$100,000.00) wages for agricultural or
15 horticultural workers, or any person who is
16 employed in agriculture or horticulture who is
17 not engaged in operation of motorized machines,
- 18 (3) any person who is a licensed real estate sales
19 associate or broker, paid on a commission basis,
- 20 (4) any person who is providing services in a medical
21 care or social services program, or who is a
22 participant in a work or training program,
23 administered by the Department of Human Services,
24 unless the Department is required by federal law

1 or regulations to provide workers' compensation
2 for such person. This division shall not be
3 construed to include nursing homes,

4 (5) any person employed by an employer with five or
5 fewer total employees, all of whom are related
6 within the second degree by blood or marriage to
7 the employer, are dependents living in the
8 household of the employer, or are a combination
9 of such relatives and dependents, if the employer
10 is a natural person ~~or a general or limited~~
11 ~~partnership, or an incorporator of a corporation~~
12 ~~if the corporation is the employer~~, or the
13 household of the owner of the employer if the
14 employer is not a natural person and the owner
15 owns fifty percent (50%) or more of the employer,

16 (6) any person employed by an employer which is a
17 youth sports league which qualifies for exemption
18 from federal income taxation pursuant to federal
19 law,

20 (7) sole proprietors, members of a partnership,
21 individuals who are party to a franchise
22 agreement as set out by the Federal Trade
23 Commission franchise disclosure rule, 16 CFR
24 436.1 through 436.11, members of a limited

1 liability company who own at least ten percent
2 (10%) of the capital of the limited liability
3 company or any stockholder-employees of a
4 corporation who own ten percent (10%) or more
5 stock in the corporation, unless they elect to be
6 covered by a policy of insurance covering
7 benefits under the Administrative Workers'
8 Compensation Act,

9 (8) any person providing or performing voluntary
10 service who receives no wages for the services
11 other than meals, drug or alcohol rehabilitative
12 therapy, transportation, lodging or reimbursement
13 for incidental expenses except for volunteers
14 specifically provided for in subparagraph a of
15 this paragraph,

16 (9) a person, commonly referred to as an owner-
17 operator, who owns or leases a truck-tractor or
18 truck for hire, if the owner-operator actually
19 operates the truck-tractor or truck and if the
20 person contracting with the owner-operator is not
21 the lessor of the truck-tractor or truck.

22 Provided, however, an owner-operator shall not be
23 precluded from workers' compensation coverage
24 under the Administrative Workers' Compensation

1 Act if the owner-operator elects to participate
2 as a sole proprietor,

3 (10) a person referred to as a drive-away owner-
4 operator who privately owns and utilizes a tow
5 vehicle in drive-away operations and operates
6 independently for hire, if the drive-away owner-
7 operator actually utilizes the tow vehicle and if
8 the person contracting with the drive-away owner-
9 operator is not the lessor of the tow vehicle.
10 Provided, however, a drive-away owner-operator
11 shall not be precluded from workers' compensation
12 coverage under the Administrative Workers'
13 Compensation Act if the drive-away owner-operator
14 elects to participate as a sole proprietor, and

15 (11) any person who is employed as a domestic servant
16 or as a casual worker in and about a private home
17 or household, which private home or household had
18 a gross annual payroll in the preceding calendar
19 year of less than Fifty Thousand Dollars
20 (\$50,000.00) for such workers;

21 19. "Employer" means a person, partnership, association,
22 limited liability company, corporation, and the legal
23 representatives of a deceased employer, or the receiver or trustee
24 of a person, partnership, association, corporation, or limited

1 liability company, departments, instrumentalities and institutions
2 of this state and divisions thereof, counties and divisions thereof,
3 public trusts, boards of education and incorporated cities or towns
4 and divisions thereof, employing a person included within the term
5 "employee" as defined in this section. Employer may also mean the
6 employer's workers' compensation insurance carrier, if applicable.
7 Except as provided otherwise, this act applies to all public and
8 private entities and institutions. Employer shall not include a
9 qualified employer with an employee benefit plan as provided under
10 the Oklahoma Employee Injury Benefit Act in Sections ~~107~~ 200 through
11 ~~120~~ 213 of this ~~act~~ title;

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

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

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

23 23. "Impaired self-insurer" means a private self-insurer or
24 group self-insurance association that fails to pay its workers'

1 compensation obligations, or is financially unable to do so and is
2 the subject of any proceeding under the Federal Bankruptcy Reform
3 Act of 1978, and any subsequent amendments or is the subject of any
4 proceeding in which a receiver, custodian, liquidator,
5 rehabilitator, trustee or similar officer has been appointed by a
6 court of competent jurisdiction to act in lieu of or on behalf of
7 the self-insurer;

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

10 25. "Insurance Commissioner" means the Insurance Commissioner
11 of the State of Oklahoma;

12 26. "Insurance Department" means the Insurance Department of
13 the State of Oklahoma;

14 27. "Major cause" means more than fifty percent (50%) of the
15 resulting injury, disease or illness. A finding of major cause
16 shall be established by a preponderance of the evidence. A finding
17 that the workplace was not a major cause of the injury, disease or
18 illness shall not adversely affect the exclusive remedy provisions
19 of this act and shall not create a separate cause of action outside
20 this act;

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

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

3 30. "Misconduct" shall include the following:

- 4 a. unexplained absenteeism or tardiness,
- 5 b. willful or wanton indifference to or neglect of the
- 6 duties required,
- 7 c. willful or wanton breach of any duty required by the
- 8 employer,
- 9 d. the mismanagement of a position of employment by
- 10 action or inaction,
- 11 e. actions or omissions that place in jeopardy the
- 12 health, life, or property of self or others,
- 13 f. dishonesty,
- 14 g. wrongdoing,
- 15 h. violation of a law, or
- 16 i. a violation of a policy or rule adopted to ensure
- 17 orderly work or the safety of self or others;

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

21 (2) (a) When determining permanent disability, a
22 physician, any other medical provider, an
23 administrative law judge, the Commission or
24

1 the courts shall not consider complaints of
2 pain.

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

9 (3) (a) Objective evidence necessary to prove
10 permanent disability in occupational hearing
11 loss cases may be established by medically
12 recognized and accepted clinical diagnostic
13 methodologies, including, but not limited
14 to, audiological tests that measure air and
15 bone conduction thresholds and speech
16 discrimination ability.

17 (b) Any difference in the baseline hearing
18 levels shall be confirmed by subsequent
19 testing; provided, however, such test shall
20 be given within four (4) weeks of the
21 initial baseline hearing level test but not
22 before five (5) days after being adjusted
23 for presbycusis.
24

1 b. Medical opinions addressing compensability and
2 permanent disability shall be stated within a
3 reasonable degree of medical certainty;

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

7 33. "Permanent disability" means the extent, expressed as a
8 percentage, of the loss of a portion of the total physiological
9 capabilities of the human body as established by competent medical
10 evidence and based on the current edition of the American Medical
11 Association guides to the evaluation of impairment, if the
12 impairment is contained therein;

13 34. "Permanent partial disability" means a permanent disability
14 or loss of use after maximum medical improvement has been reached
15 which prevents the injured employee, who has been released to return
16 to work by the treating physician, from returning to his or her pre-
17 injury or equivalent job. All evaluations of permanent partial
18 disability must be supported by objective findings;

19 35. "Permanent total disability" means, based on objective
20 findings, incapacity, based upon accidental injury or occupational
21 disease, to earn wages in any employment for which the employee may
22 become physically suited and reasonably fitted by education,
23 training, experience or vocational rehabilitation provided under
24

1 this act. Loss of both hands, both feet, both legs, or both eyes,
2 or any two thereof, shall constitute permanent total disability;

3 36. "Preexisting condition" means any illness, injury, disease,
4 or other physical or mental condition, whether or not work-related,
5 for which medical advice, diagnosis, care or treatment was
6 recommended or received preceding the date of injury;

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

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

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

20 40. "Scheduled member" or "member" means hands, fingers, arms,
21 legs, feet, toes, and eyes. In addition, for purposes of the
22 Multiple Injury Trust Fund only, "scheduled member" means hearing
23 impairment;

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

8 42. "State average weekly wage" means the state average weekly
9 wage determined by the Oklahoma Employment Security Commission in
10 the preceding calendar year. If such determination is not
11 available, the Commission shall determine the wage annually after
12 reasonable investigation;

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

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

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

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

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

4 48. "Wages" means money compensation received for employment at
5 the time of the accident, including the reasonable value of board,
6 rent, housing, lodging, or similar advantage received from the
7 employer and includes the amount of tips required to be reported by
8 the employer under Section 6053 of the Internal Revenue Code and the
9 regulations promulgated pursuant thereto or the amount of actual
10 tips reported, whichever amount is greater.

11 SECTION 2. AMENDATORY Section 3, Chapter 208, O.S.L.
12 2013 (85A O.S. Supp. 2017, Section 3), is amended to read as
13 follows:

14 Section 3. A. Every employer ~~and every employee, unless~~
15 ~~otherwise specifically provided in this act, shall be~~ subject and
16 bound to the provisions of the Administrative Workers' Compensation
17 Act. ~~However, nothing~~ shall pay or provide benefits according to
18 the provisions of this act for the accidental injury or death of an
19 employee arising out of and in the course of his or her employment,
20 without regard to fault for such injury, if the employee's contract
21 of employment was made in this state or if the injury occurred
22 within this state. If an employee makes a claim for an injury in
23 another jurisdiction and a final adjudication is entered in the
24 case, the employee is precluded from a right of action under the

1 Administrative Workers' Compensation Act of this state. If the
2 employee makes a claim or brings an action in this state prior to a
3 final adjudication in another jurisdiction, any receipt of benefits
4 in the other jurisdiction shall not bar the claim or action in this
5 state; provided however, in no event shall the Workers' Compensation
6 Commission grant benefits that duplicate benefits paid by the
7 employer or the employer's insurance carrier in the other
8 jurisdiction. Nothing in this act shall be construed to conflict
9 with any valid Act of Congress governing the liability of employers
10 for injuries received by their employees.

11 B. ~~This act~~ The State of Oklahoma accepts the provisions of the
12 Acts of Congress designated as 40 U.S.C., Section 3172, formerly 40
13 U.S.C., Section 290, and hereby extends the territorial jurisdiction
14 of the Administrative Workers' Compensation Act of this state to all
15 lands and premises within the exterior boundaries of this state
16 which the federal government of the United States of America owns or
17 holds by deed or act of cession, and to all purchases, projects,
18 buildings, constructions, improvements and property within the
19 exterior boundaries of this state belonging to the federal
20 government of the United States of America, in the same manner and
21 to the same extent as if the premises were under the exclusive
22 jurisdiction of this state, subject only to the limitations placed
23 thereon by the Acts of Congress.

1 C. The Administrative Workers' Compensation Act shall apply
2 only to claims for injuries and death based on accidents which occur
3 on or after ~~the effective date of this act~~ February 1, 2014.

4 ~~C. D.~~ D. The Workers' Compensation Code in effect before ~~the~~
5 ~~effective date of this act~~ February 1, 2014, shall govern all rights
6 in respect to claims for injuries and death based on accidents
7 occurring before ~~the effective date of this act~~ February 1, 2014.

8 SECTION 3. AMENDATORY Section 6, Chapter 208, O.S.L.
9 2013, as amended by Section 1, Chapter 390, O.S.L. 2015 (85A O.S.
10 Supp. 2017, Section 6), is amended to read as follows:

11 Section 6.

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

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

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

23 b. A material false statement or representation includes,
24 but is not limited to, attempting to obtain treatment

1 or compensation for body parts that were not injured
2 in the course and scope of employment.

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

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

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

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

1 D. 1. a. There shall be established within the Office of the
2 Attorney General a Workers' Compensation Fraud
3 Investigation Unit, funded by the Commission. The
4 Attorney General shall appoint a Director of the
5 Workers' Compensation Fraud Investigation Unit, who
6 may also serve as the director of any other designated
7 insurance fraud investigation division within the
8 Attorney General's office.

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

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

1 enforcement experience or its equivalent in
2 national or military law enforcement experience
3 as approved by the Oklahoma Council on Law
4 Enforcement Education and Training.

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

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

17 4. a. In the course of any investigation being conducted by
18 the Unit, the Attorney General and his or her deputies
19 and assistants and the Director and his or her
20 deputies and assistants shall have the power of
21 subpoena and may:
22 (1) subpoena witnesses,
23 (2) administer oaths or affirmations and examine any
24 individual under oath, and

(3) require and compel the production of records,
books, papers, contracts, and other documents.

b. The issuance of subpoenas for witnesses shall be
served in the same manner as if issued by a district
court.

c. (1) Upon application by the commissioner or the
Director of the Unit, the district court located
in the county where a subpoena was served may
issue an order compelling an individual to comply
with the subpoena to testify.

(2) Any failure to obey the order of the court may be
punished as contempt.

d. If any person has refused in connection with an
investigation by the Director to be examined under
oath concerning his or her affairs, then the Director
is authorized to conduct and enforce by all
appropriate and available means any examination under
oath in any state or territory of the United States in
which any officer, director, or manager may then
presently be to the full extent permitted by the laws
of the state or territory.

e. In addition to the punishments described in paragraph
1 of subsection A of this section, any person
providing false testimony under oath or affirmation in

1 this state as to any matter material to any
2 investigation or hearing conducted under this
3 subparagraph, or any workers' compensation hearing,
4 shall upon conviction be guilty of perjury.

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

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

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

18 c. (1) Any carrier or employer who willfully and
19 knowingly fails to report a violation under
20 division (1) of subparagraph a of paragraph 1 of
21 subsection A of this section shall be guilty of a
22 misdemeanor and on conviction shall be punished
23 by a fine not to exceed One Thousand Dollars
24 (\$1,000.00).

1 (2) Fifty percent (50%) of any criminal fine imposed
2 and collected under this subparagraph shall be
3 paid and allocated in accordance with applicable
4 law to the fund administered by the Commission.

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

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

15 2. The prosecuting attorney of the district to whom a suspected
16 violation of subsection A of this section, or any other criminal
17 violations that may be related thereto, have been referred shall,
18 for the purpose of assisting him or her in such prosecutions, have
19 the authority to appoint as special deputy prosecuting attorneys
20 licensed attorneys-at-law in the employment of the Unit or any other
21 designated insurance fraud investigation division within the
22 Attorney General's office. Such special deputy prosecuting
23 attorneys shall, for the purpose of the prosecutions to which they
24

1 are assigned, be responsible to and report to the prosecuting
2 attorney.

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

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

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

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

19 ~~J.~~ If an injured employee is charged with workers' compensation
20 fraud, any pending workers' compensation proceeding, including
21 benefits, shall be stayed after the preliminary hearing is concluded
22 and the claimant is bound over and shall remain stayed until the
23 final disposition of the criminal case. All notice requirements
24 shall continue during the stay.

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

22 ~~L.~~ K. Any person or entity who, in good faith and exercising
23 due care, reports suspected workers' compensation fraud or insurance
24 fraud, or who allows access to medical records or other information

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

13 SECTION 4. AMENDATORY Section 18, Chapter 208, O.S.L.
14 2013 (85A O.S. Supp. 2017, Section 18), is amended to read as
15 follows:

16 Section 18. A. No hospital, physician, or other health care
17 provider shall bill or attempt to collect any fee or any portion of
18 a fee for services rendered to an employee due to a work-related
19 injury or report to any credit-reporting agency any failure of the
20 employee to make the payment, when a claim for compensation has been
21 filed under this act and the hospital, physician, or health care
22 provider has received actual notice given in writing by the employee
23 or the employee's representative. Actual notice shall be deemed
24 received by the hospital, physician, or health care provider five

1 (5) days after mailing by certified mail or sending by facsimile,
2 email or other electronic means with receipt of confirmation by the
3 employee or his or her representative to the hospital, physician, or
4 health care provider.

5 B. The notice shall include:

- 6 1. The name of the employer;
- 7 2. The name of the insurer, if known;
- 8 3. The name of the employee receiving the services;
- 9 4. The general nature of the injury, if known; and
- 10 5. Where a claim has been filed, the claim number, if known.

11 C. When an injury or bill is found to be noncompensable under
12 this act, the hospital, physician, or other health care provider
13 shall be entitled to pursue the employee for any unpaid portion of
14 the fee or other charges for authorized services provided to the
15 employee. Any applicable statute of limitations for an action for
16 the fees or other charges shall be tolled from the time notice is
17 given to the hospital, physician, or other health care provider
18 until a determination of noncompensability in regard to the injury
19 which is the basis of the services is made, or if there is an
20 appeal, until a final determination of noncompensability is rendered
21 and all appeal deadlines have passed.

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

1 E. An order by the Commission under this section shall stay all
2 proceedings for collection.

3 SECTION 5. AMENDATORY Section 22, Chapter 208, O.S.L.
4 2013 (85A O.S. Supp. 2017, Section 22), is amended to read as
5 follows:

6 Section 22. A. 1. For the purpose of administering the
7 provisions of this ~~act~~ title, the Workers' Compensation Commission
8 is authorized:

- 9 a. to make rules necessary for the administration and
10 operation of the Commission,
11 b. to appoint and fix the compensation of temporary
12 technical assistants, medical and legal advisers,
13 clerical assistants and other officers and employees,
14 and
15 c. to make such expenditures, including those for
16 personal service, rent, books, periodicals, office
17 equipment, and supplies, and for printing and binding
18 as may be necessary.

19 2. a. ~~Before~~ The Commission shall vote on any substantive
20 change to any form and the effective date of such
21 substantive change.

22 b. The Commission shall comply with the Administrative
23 Procedures Act applicable to the filing and
24 publication requirements for rules before the

1 adoption, prescription, amendment, modification, or
2 repeal of any rule, regulation, or form, the
3 Commission shall give at least thirty (30) days'
4 notice of its intended action.

5 b. The notice shall include a statement of the terms or
6 substance of the intended action or description of the
7 subjects and issues involved, and the time, place, and
8 manner in which interested persons may present their
9 views thereon.

10 c. The notice shall be mailed to any person specified by
11 law or who shall have requested advance notice of
12 rule-making proceedings.

13 3. The Commission shall afford all interested persons a
14 reasonable opportunity to submit written data, views, or arguments,
15 and, if the Commission in its discretion shall so direct, oral
16 testimony or argument.

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

20 5. All expenditures of the Commission in the administration of
21 this act shall be allowed and paid from the Workers' Compensation
22 Fund on the presentation of itemized vouchers approved by the
23 Commission.

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

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

8 C. Additionally, the Commission shall have the following powers
9 and duties:

10 1. To hear and approve compromise settlements;

11 2. To review and approve own-risk applications and group self-
12 insurance association applications;

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

15 4. ~~To contract with an appropriate state governmental entity,~~
16 ~~insurance carrier or approved service organization to process,~~
17 ~~investigate and pay valid claims against an impaired self-insurer~~
18 ~~which fails, due to insolvency or otherwise, to pay its workers'~~
19 ~~compensation obligations, charges for which shall be paid from the~~
20 ~~proceeds of security posted with the Commission as provided in~~
21 ~~Section 38 of this act;~~

22 5. To establish a toll-free telephone number in order to
23 provide information and answer questions about the Commission;
24

1 ~~6.~~ 5. To hear and determine claims concerning disputed medical
2 bills;

3 ~~7.~~ 6. To promulgate necessary rules for administering this ~~act~~
4 title and develop uniform forms and procedures for use by
5 administrative law judges. Such rules shall be reviewable by the
6 Legislature;

7 ~~8.~~ 7. To invest funds on behalf of the Multiple Injury Trust
8 Fund;

9 ~~9.~~ 8. To appoint a Commission Mediator to conduct informal
10 sessions to attempt to resolve assigned disputes;

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

19 and

20 10. Such other duties and responsibilities authorized by law.

21 D. It shall be the duty of an administrative law judge, under
22 the rules adopted by the Commission, to hear and determine claims
23 for compensation and to conduct hearings and investigations and to
24

1 make such judgments, decisions, and determinations as may be
2 required by any rule or judgment of the Commission.

3 SECTION 6. AMENDATORY Section 38, Chapter 208, O.S.L.
4 2013 (85A O.S. Supp. 2017, Section 38), is amended to read as
5 follows:

6 Section 38. A. An employer shall secure compensation to
7 employees under this act in one of the following ways:

8 1. By insuring and keeping insured the payment of compensation
9 with any stock corporation, mutual association, or other concerns
10 authorized to transact the business of workers' compensation
11 insurance in this state. When an insurer issues a policy to provide
12 workers' compensation benefits under the provisions of this act, it
13 shall file a notice with the Workers' Compensation Commission
14 containing the name, address, and principal occupation of the
15 employer, the number, effective date, and expiration date of the
16 policy, and such other information as may be required by the
17 Commission. The notice shall be filed by the insurer within thirty
18 (30) days after the effective date of the policy. Any insurer who
19 does not file the notice required by this paragraph shall be subject
20 to a fine by the Commission of not more than One Thousand Dollars
21 (\$1,000.00);

22 2. By obtaining and keeping in force guaranty insurance with
23 any company authorized to do guaranty business in this state. Each
24 company that issues workers' compensation guaranty insurance shall

1 file a copy of the contract with the Commission within thirty (30)
2 days after the effective date of the contract. Any company that
3 does not file a copy of the contract as required by this paragraph
4 shall be subject to a fine by the Commission of not more than One
5 Thousand Dollars (\$1,000.00);

6 3. By furnishing satisfactory proof to the Commission of the
7 employer's financial ability to pay the compensation. ~~The~~
8 ~~Commission, under~~ Under rules adopted by the ~~Insurance Department~~
9 Commission, the Commission shall require any employer that has:

10 a. less than one hundred employees or less than One
11 Million Dollars (\$1,000,000.00) in net assets to:

12 (1) deposit with the Commission securities, an
13 irrevocable letter of credit or a surety bond
14 payable to the state, in an amount determined by
15 the Commission which shall be at least an average
16 of the yearly claims for the last three (3)
17 years, or

18 (2) provide proof of excess coverage with such terms
19 and conditions as is commensurate with their
20 ability to pay the benefits required by the
21 provisions of this act, and

22 b. one hundred or more employees and One Million Dollars
23 (\$1,000,000.00) or more in net assets to:
24

- (1) secure a surety bond payable to the state, or an irrevocable letter of credit, in an amount determined by the Commission which shall be at least an average of the yearly claims for the last three (3) years, or
- (2) provide proof of excess coverage with terms and conditions that are commensurate with their ability to pay the benefits required by the provisions of this act;

4. By forming a group self-insurance association consisting of two or more employers which shall have a common interest and which shall have entered into an agreement to pool their liabilities under the Administrative Workers' Compensation Act. Such agreement shall be subject to rules of the Commission. Any employer, upon application to become a member of a group self-insurance association, shall file with the Commission a notice, in such form as prescribed by the Commission, acknowledging that the employer accepts joint and several liability. Upon approval by the Commission of such application for membership, said member shall be a qualified self-insured employer; or

5. By any other security as may be approved by the Commission and the Insurance Department.

B. The Commission may waive the requirements of this section in an amount which is commensurate with the ability of the employer to

1 pay the benefits required by the provisions of this act.
2 Irrevocable letters of credit required by this subsection shall
3 contain such terms as may be prescribed by the Commission and shall
4 be issued for the benefit of the state by a financial institution
5 whose deposits are insured by the Federal Deposit Insurance
6 Corporation.

7 C. An employer who does not fulfill the requirements of this
8 section is not relieved of the obligation to pay compensation under
9 this act. The security required under this section, including any
10 interest, shall be maintained by the Commission as provided in this
11 act until each claim for benefits is paid, settled, or lapses under
12 this act, and costs of administration of such claims are paid.

13 D. Failure on the part of any employer to secure the payment of
14 compensation provided in this act shall have the effect of enabling
15 the Commission to assert the rights of an injured employee against
16 the employer.

17 E. Any employer that knowingly provides false information to
18 the Commission for purposes of securing or maintaining a self-
19 insurance permit shall be guilty of a felony and subject to a
20 maximum fine of Ten Thousand Dollars (\$10,000.00).

21 SECTION 7. AMENDATORY Section 40, Chapter 208, O.S.L.
22 2013 (85A O.S. Supp. 2017, Section 40), is amended to read as
23 follows:
24

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

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

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

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

20 b. The request for a hearing does not need to be in any
21 particular form but shall specify the grounds on which
22 the person contests the proposed judgment, the
23 proposed assessment, or both.

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

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

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

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

19 c. The carrier shall promptly, and no later than five (5)
20 days before the hearing, respond in writing to the
21 employer's allegation by providing evidence of
22 coverage for the period in question or by
23 affirmatively denying the employer's allegation.
24

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

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

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

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

1 SECTION 8. AMENDATORY Section 45, Chapter 208, O.S.L.

2 2013, as amended by Section 2, Chapter 390, O.S.L. 2015 (85A O.S.
3 Supp. 2017, Section 45), is amended to read as follows:

4 Section 45. A. Temporary Total Disability.

5 1. If the injured employee is temporarily unable to perform his
6 or her job or any alternative work offered by the employer, he or
7 she shall be entitled to receive compensation equal to seventy
8 percent (70%) of the injured employee's average weekly wage, but not
9 to exceed seventy percent (70%) of the state average weekly wage,
10 for one hundred four (104) weeks. Provided, there shall be no
11 payment for the first three (3) days of the initial period of
12 temporary total disability. If an administrative law judge finds
13 that a consequential injury has occurred and that additional time is
14 needed to reach maximum medical improvement, temporary total
15 disability may continue for a period of not more than an additional
16 fifty-two (52) weeks. Such finding shall be based upon a showing of
17 medical necessity by clear and convincing evidence.

18 2. When the injured employee is released from active medical
19 treatment by the treating physician for all body parts found by the
20 Commission to be injured, or in the event that the employee, without
21 a valid excuse, misses three consecutive medical treatment
22 appointments, fails to comply with medical orders of the treating
23 physician, or otherwise abandons medical care, the employer shall be
24 entitled to terminate temporary total disability by notifying the

1 employee, or if represented, his or her counsel. If, however, an
2 objection to the termination is filed by the employee within ten
3 (10) days of termination, the Commission shall set the matter within
4 twenty (20) days for a determination if temporary total disability
5 compensation shall be reinstated. The temporary total disability
6 shall remain terminated unless the employee proves the existence of
7 a valid excuse for his or her failure to comply with medical orders
8 of the treating physician or his or her abandonment of medical care.
9 The administrative law judge may appoint an independent medical
10 examiner to determine if further medical treatment is reasonable and
11 necessary. The independent medical examiner shall not provide
12 treatment to the injured worker, unless agreed upon by the parties.

13 B. Temporary Partial Disability.

14 1. If the injured employee is temporarily unable to perform his
15 or her job, but may perform alternative work offered by the
16 employer, he or she shall be entitled to receive compensation equal
17 to ~~the greater of~~ seventy percent (70%) of the difference between
18 the injured employee's average weekly wage before the injury and his
19 or her weekly wage for performing alternative work after the injury,
20 but only if his or her weekly wage for performing the alternative
21 work is less than the temporary total disability rate. The injured
22 employee's actual earnings plus temporary partial disability
23 compensation shall not exceed the temporary total disability rate.
24

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

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

6 C. Permanent Partial Disability.

7 1. A permanent partial disability award or combination of
8 awards granted an injured worker may not exceed a permanent partial
9 disability rating of one hundred percent (100%) to any body part or
10 to the body as a whole. The determination of permanent partial
11 disability shall be the responsibility of the Commission through its
12 administrative law judges. Any claim by an employee for
13 compensation for permanent partial disability must be supported by
14 competent medical testimony of a medical doctor, osteopathic
15 physician, or chiropractor, and shall be supported by objective
16 medical findings, as defined in this act. The opinion of the
17 physician shall include employee's percentage of permanent partial
18 disability and whether or not the disability is job-related and
19 caused by the accidental injury or occupational disease. A
20 physician's opinion of the nature and extent of permanent partial
21 disability to parts of the body other than scheduled members must be
22 based solely on criteria established by the current edition of the
23 American Medical Association's "Guides to the Evaluation of
24 Permanent Impairment". A copy of any written evaluation shall be

1 sent to both parties within seven (7) days of issuance. Medical
2 opinions addressing compensability and permanent disability must be
3 stated within a reasonable degree of medical certainty. Any party
4 may submit the report of an evaluating physician.

5 2. Permanent partial disability shall not be allowed to a part
6 of the body for which no medical treatment has been received. A
7 determination of permanent partial disability made by the Commission
8 or administrative law judge which is not supported by objective
9 medical findings provided by a treating physician who is a medical
10 doctor, doctor of osteopathy, chiropractor or a qualified
11 independent medical examiner shall be considered an abuse of
12 discretion.

13 3. The examining physician shall not deviate from the Guides
14 except as may be specifically provided for in the Guides.

15 4. In cases of permanent partial disability, the compensation
16 shall be seventy percent (70%) of the employee's average weekly
17 wage, not to exceed Three Hundred Twenty-three Dollars (\$323.00) per
18 week, for a term not to exceed a total of three hundred fifty (350)
19 weeks for the body as a whole.

20 5. Except pursuant to settlement agreements entered into by the
21 employer and employee, payment of a permanent partial disability
22 award shall be deferred and held in reserve by the employer or
23 insurance company if the employee has reached maximum medical
24 improvement and has been released to return to work by his or her

1 treating physician, and then returns to his pre-injury or equivalent
2 job for a term of weeks determined by dividing the total dollar
3 value of the award by seventy percent (70%) of the employee's
4 average weekly wage.

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

9 b. If, for any reason other than misconduct as defined in
10 Section 2 of this ~~act~~ title, the employer terminates
11 the employee or the position offered is not the pre-
12 injury or equivalent job, the remaining permanent
13 partial disability award shall be paid in a lump sum.
14 If the employee is discharged for misconduct, the
15 employer shall have the burden to prove that the
16 employee engaged in misconduct.

17 c. If the employee refuses an offer to return to his pre-
18 injury or equivalent job, the permanent partial
19 disability award shall continue to be deferred and
20 shall be reduced by seventy percent (70%) of the
21 employee's average weekly wage for each week he
22 refuses to return to his pre-injury or equivalent job.

23 d. Attorney fees for permanent partial disability awards,
24 as approved by the Commission, shall be calculated

1 based upon the total permanent partial disability
2 award and paid in full at the time of the deferral.

- 3 e. Assessments pursuant to Sections 31, 98, ~~112~~ and ~~165~~
4 122 of this ~~act~~ title shall be calculated based upon
5 the amount of the permanent partial disability award
6 and shall be paid at the time of the deferral.

7 6. Previous Disability: The fact that an employee has suffered
8 previous disability or received compensation therefor shall not
9 preclude the employee from compensation for a later accidental
10 personal injury or occupational disease. In the event there exists
11 a previous permanent partial disability, including a previous non-
12 work-related injury or condition which produced permanent partial
13 disability and the same is aggravated or accelerated by an
14 accidental personal injury or occupational disease, compensation for
15 permanent partial disability shall be only for such amount as was
16 caused by such accidental personal injury or occupational disease
17 and no additional compensation shall be allowed for the preexisting
18 disability or impairment. Any such reduction shall not apply to
19 temporary total disability, nor shall it apply to compensation for
20 medical treatment.

- 21 a. If workers' compensation benefits have previously been
22 awarded through settlement or judicial or
23 administrative determination in Oklahoma, the
24 percentage basis of the prior settlement or award

1 shall conclusively establish the amount of permanent
2 partial disability determined to be preexisting. If
3 workers' compensation benefits have not previously
4 been awarded through settlement or judicial or
5 administrative determination in Oklahoma, the amount
6 of preexisting permanent partial disability shall be
7 established by competent evidence.

8 b. In all cases, the applicable reduction shall be
9 calculated as follows:

10 (1) if the preexisting impairment is the result of
11 injury sustained while working for the employer
12 against whom workers' compensation benefits are
13 currently being sought, any award of compensation
14 shall be reduced by the current dollar value
15 attributable under the Administrative Workers'
16 Compensation Act to the percentage of permanent
17 partial disability determined to be preexisting.
18 The current dollar value shall be calculated by
19 multiplying the percentage of preexisting
20 permanent partial disability by the compensation
21 rate in effect on the date of the accident or
22 injury against which the reduction will be
23 applied, and
24

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

5 7. No payments on any permanent partial disability order shall
6 begin until payments on any preexisting permanent partial disability
7 orders have been completed.

8 8. The whole body shall represent a maximum of three hundred
9 fifty (350) weeks.

10 9. The permanent partial disability rate of compensation for
11 amputation or permanent total loss of use of a scheduled member
12 specified in Section 46 of this ~~act~~ title shall be seventy percent
13 (70%) of the employee's average weekly wage, not to exceed Three
14 Hundred Twenty-three Dollars (\$323.00), multiplied by the number of
15 weeks set forth for the member in Section 46 of this ~~act~~ title,
16 regardless of whether the injured employee is able to return to his
17 or her pre-injury or equivalent job.

18 10. An injured employee who is eligible for permanent partial
19 disability under this subsection shall be entitled to receive
20 vocational rehabilitation services provided by a technology center
21 or public secondary school offering vocational-technical education
22 courses, or a member institution of The Oklahoma State System of
23 Higher Education, which shall include retraining and job placement
24 to restore the employee to gainful employment. Vocational

1 rehabilitation services or training shall not extend for a period of
2 more than fifty-two (52) weeks.

3 D. Permanent Total Disability.

4 1. In case of total disability adjudged to be permanent,
5 seventy percent (70%) of the employee's average weekly wages, but
6 not in excess of the state's average weekly wage, shall be paid to
7 the employee during the continuance of the disability until such
8 time as the employee reaches the age of maximum Social Security
9 retirement benefits or for a period of fifteen (15) years, whichever
10 is longer. In the event the claimant dies of causes unrelated to
11 the injury or illness, benefits shall cease on the date of death.
12 Provided, however, any person entitled to revive the action shall
13 receive a one-time lump-sum payment equal to twenty-six (26) weeks
14 of weekly benefits for permanent total disability awarded the
15 claimant. If more than one person is entitled to revive the claim,
16 the lump-sum payment shall be evenly divided between or among such
17 persons. In the event the Commission awards both permanent partial
18 disability and permanent total disability benefits, the permanent
19 total disability award shall not be due until the permanent partial
20 disability award is paid in full. If otherwise qualified according
21 to the provisions of this act, permanent total disability benefits
22 may be awarded to an employee who has exhausted the maximum period
23 of temporary total disability even though the employee has not
24 reached maximum medical improvement.

1 2. The Workers' Compensation Commission shall annually review
2 the status of any employee receiving benefits for permanent total
3 disability against the last employer. The Commission shall require
4 the employee to annually file an affidavit under penalty of perjury
5 stating that he or she is not and has not been gainfully employed
6 and is not capable of gainful employment. Failure to file such
7 affidavit shall result in suspension of benefits; provided, however,
8 reinstatement of benefits may occur after proper hearing before the
9 Commission.

10 E. 1. The Workers' Compensation Commission shall hire or
11 contract for a Vocational Rehabilitation Director to oversee the
12 vocational rehabilitation program of the Commission.

13 2. The Vocational Rehabilitation Director shall help injured
14 workers return to the work force. If the injured employee is unable
15 to return to his or her pre-injury or equivalent position due to
16 permanent restrictions as determined by the treating physician, upon
17 the request of either party, the Vocational Rehabilitation Director
18 shall determine if it is appropriate for a claimant to receive
19 vocational rehabilitation training or services, and will oversee
20 such training. If appropriate, the Vocational Rehabilitation
21 Director shall issue administrative orders, including, but not
22 limited to, an order for a vocational rehabilitation evaluation for
23 any injured employee unable to work for at least ninety (90) days.
24 In addition, the Vocational Rehabilitation Director may assign

1 injured workers to vocational rehabilitation counselors for
2 coordination of recommended services. The cost of the services
3 shall be paid by the employer. All administrative orders are
4 subject to appeal to the full Commission.

5 3. There shall be a presumption in favor of ordering vocational
6 rehabilitation services or training for an eligible injured employee
7 under the following circumstances:

- 8 a. if the employee's occupation is truck driver or
9 laborer and the medical condition is traumatic brain
10 injury, stroke or uncontrolled vertigo,
- 11 b. if the employee's occupation is truck driver or
12 laborer performing high-risk tasks and the medical
13 condition is seizures,
- 14 c. if the employee's occupation is manual laborer and the
15 medical condition is bilateral wrist fusions,
- 16 d. if the employee's occupation is assembly-line worker
17 and the medical condition is radial head fracture with
18 surgical excision,
- 19 e. if the employee's occupation is heavy laborer and the
20 medical condition is myocardial infarction with
21 congestive heart failure,
- 22 f. if the employee's occupation is heavy manual laborer
23 and the medical condition is multilevel neck or back
24 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.

4. Upon the request of either party, or by order of an administrative law judge, the Vocational Rehabilitation Director shall assist the Workers' Compensation Commission in determining if it is appropriate for a claimant to receive vocational rehabilitation training or services. If appropriate, the administrative law judge shall refer the employee to a qualified expert for evaluation of the practicability of, need for and kind of rehabilitation services or training necessary and appropriate in order to restore the employee to gainful employment. The cost of the evaluation shall be paid by the employer. Following the evaluation, if the employee refuses the services or training ordered by the administrative law judge, or fails to complete in good faith the vocational rehabilitation training ordered by the administrative law judge, then the cost of the evaluation and services or training rendered may, in the discretion of the administrative law judge, be deducted from any award of benefits to the employee which remains unpaid by the employer. Upon receipt of such report, and after

1 affording all parties an opportunity to be heard, the administrative
2 law judge shall order that any rehabilitation services or training,
3 recommended in the report, or such other rehabilitation services or
4 training as the administrative law judge may deem necessary,
5 provided the employee elects to receive such services, shall be
6 provided at the expense of the employer. Except as otherwise
7 provided in this subsection, refusal to accept rehabilitation
8 services by the employee shall in no way diminish any benefits
9 allowable to an employee.

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

19 6. Vocational rehabilitation services or training shall not
20 extend for a period of more than fifty-two (52) weeks. A request
21 for vocational rehabilitation services or training shall be filed
22 with the Commission by an interested party not later than sixty (60)
23 days from the date of receiving permanent restrictions that prevent
24

1 the injured employee from returning to his or her pre-injury or
2 equivalent position.

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

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

22 F. Disfigurement.

23 1. If an injured employee incurs serious and permanent
24 disfigurement to any part of the body, the Commission may award

1 compensation to the injured employee in an amount not to exceed
2 Fifty Thousand Dollars (\$50,000.00).

3 2. No award for disfigurement shall be entered until twelve
4 (12) months after the injury.

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

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

15 SECTION 9. AMENDATORY Section 60, Chapter 208, O.S.L.
16 2013 (85A O.S. Supp. 2017, Section 60), is amended to read as
17 follows:

18 Section 60. The Physician Advisory Committee may recommend the
19 adoption of a method or system to evaluate permanent disability that
20 shall deviate from, or be used in place of or in combination with
21 the Guides. Such recommendation shall be made to the Workers'
22 Compensation Commission which may adopt the recommendation in part
23 or in whole. The adopted method or system shall be submitted by the
24 Executive Director of the Commission to the Governor, the Speaker of

1 the House of Representatives and the President Pro Tempore of the
2 Senate within the first ten (10) legislative days of a regular
3 session of the Legislature. Such method or system so submitted
4 shall be subject to disapproval by joint or concurrent resolution of
5 the Legislature during the legislative session in which submitted.
6 If disapproved, the existing method of determining permanent partial
7 disability shall continue in effect. If the Legislature takes no
8 action on the method or system submitted by the Executive Director,
9 the method or system shall become operative thirty (30) days
10 following the adjournment of the Legislature.

11 SECTION 10. AMENDATORY Section 63, Chapter 208, O.S.L.
12 2013 (85A O.S. Supp. 2017, Section 63), is amended to read as
13 follows:

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

- 17 1. The name, address, and business of the employer;
- 18 2. The name, address, and occupation of the employee;
- 19 3. The cause and nature of the injury or death;
- 20 4. The year, month, day, approximately when, and the particular
21 locality where, the injury or death occurred; and
- 22 5. Such other information as the Commission may require.

23 B. Additional reports with respect to the injury and of the
24 condition of the employee shall be sent by the employer to the

1 Commission at such time and in such manner as the Commission may
2 prescribe. However, an employer may refuse to provide any
3 information that it deems privileged or confidential.

4 C. Any report provided for in subsection A or B of this section
5 shall not be evidence of any fact stated in the report in any
6 proceeding with respect to the injury or death on account of which
7 the report is made. Any such report shall not be made public
8 without authorization for a specific purpose as approved by the
9 Commission and any such report shall be exempt from Section 24A.5 of
10 Title 51 of the Oklahoma Statutes.

11 D. The mailing of any report in a stamped envelope, properly
12 addressed, within the time prescribed in subsection A or B of this
13 section, shall be in compliance with this section. In addition, the
14 Commission shall establish a means of electronic delivery of any
15 report or other information required by this section.

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

19 2. Whenever the employer has failed or refused to comply as
20 provided in this section, the Commission may serve on the employer a
21 proposed judgment declaring the employer to be in violation of this
22 act and containing the amount, if any, of the civil penalty to be
23 assessed against the employer under this section.

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

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

15 H. If an employer fails to pay any civil penalty assessed
16 against the employer after a judgment issued under this section has
17 become final by operation of law, the Commission may petition the
18 district court of the county where the employer's principal place of
19 business is located for an order enjoining the employer from
20 engaging in further employment or conduct of business until such
21 time as the employer makes all required reports and pays all civil
22 penalties.

1 SECTION 11. AMENDATORY Section 67, Chapter 208, O.S.L.

2 2013 (85A O.S. Supp. 2017, Section 67), is amended to read as
3 follows:

4 Section 67. A. 1. Except as otherwise provided in this
5 section, notice of disability resulting from an occupational disease
6 or cumulative trauma shall be the same as in cases of accidental
7 injury.

8 2. Written notice shall be given to the employer of an
9 occupational disease or cumulative trauma by the employee, or a
10 representative of the employee in the case of incapacity or death,
11 within six (6) months after the first distinct manifestation of the
12 disease or cumulative trauma or within six (6) months after death.

13 B. An award or denial of award of compensation for an
14 occupational disease ~~or cumulative trauma~~ may be reviewed and
15 compensation increased, reduced, or terminated where previously
16 awarded, or awarded where previously denied, only on proof of fraud
17 or undue influence or of change of condition, and then only on
18 application by a party in interest made not later than one (1) year
19 after the denial of award or, where compensation has been awarded,
20 after the award or the date when the last payment was made under the
21 award, except in cases of silicosis or asbestosis, where the statute
22 of limitations shall be two (2) years.

SECTION 12. AMENDATORY Section 69, Chapter 208, O.S.L.
2013 (85A O.S. Supp. 2017, Section 69), is amended to read as
follows:

Section 69. A. Time for Filing.

1. A claim for benefits under this act, other than an
occupational disease, shall be barred unless it is filed with the
Commission within one (1) year from the date of the injury. If
during the one-year period following the filing of the claim the
employee receives no weekly benefit compensation and receives no
medical treatment resulting from the alleged injury, the claim shall
be barred thereafter. For purposes of this section, the date of the
injury shall be defined as the date an injury is caused by an
accident as set forth in paragraph 9 of Section 2 of this ~~act~~ title.

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

b. A claim for compensation for disability on account of
silicosis or asbestosis shall be filed with the
Commission within one (1) year after the time of
disablement, and the disablement shall occur within

1 three (3) years from the date of the last injurious
2 exposure to the hazard of silicosis or asbestosis.

3 c. A claim for compensation for disability on account of
4 a disease condition caused by exposure to X-rays,
5 radioactive substances, or ionizing radiation only
6 shall be filed with the Commission within two (2)
7 years from the date the condition is made known to an
8 employee following examination and diagnosis by a
9 medical doctor.

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

13 4. If within six (6) months after the filing of a claim for
14 compensation no bona fide request for a hearing has been made with
15 respect to the claim, the claim may, on motion and after hearing, be
16 dismissed with prejudice.

17 B. Time for Filing Additional Compensation.

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

1 2. The statute of limitations provided in this subsection shall
2 not apply to claims for the replacement of medicine, crutches,
3 ambulatory devices, artificial limbs, eyeglasses, contact lenses,
4 hearing aids, and other apparatus permanently or indefinitely
5 required as the result of a compensable injury, when the employer or
6 carrier previously furnished such medical supplies, but replacement
7 of such items shall not constitute payment of compensation so as to
8 toll the statute of limitations.

9 C. A claim for additional compensation shall specifically state
10 that it is a claim for additional compensation. Documents which do
11 not specifically request additional benefits shall not be considered
12 a claim for additional compensation.

13 D. If within six (6) months after the filing of a claim for
14 additional compensation no bona fide request for a hearing has been
15 made with respect to the claim, the claim shall be dismissed without
16 prejudice to the refiling of the claim within the limitation period
17 specified in subsection B of this section.

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

24 F. Persons under Disability.

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

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

14 G. A latent injury or condition shall not delay or toll the
15 limitation periods specified in this section. This subsection shall
16 not apply to the limitation period for occupational diseases
17 specified in paragraph 2 of subsection A of this section.

18 SECTION 13. AMENDATORY Section 71, Chapter 208, O.S.L.
19 2013 (85A O.S. Supp. 2017, Section 71), is amended to read as
20 follows:

21 Section 71. A. Notice. Within ten (10) days after a claim for
22 compensation has been filed, the Workers' Compensation Commission
23 shall notify the employer and any other interested person of the
24 filing of the claim.

1 B. Investigation - Hearing.

2 1. The Commission shall assign the claim to an administrative
3 law judge who shall hold a hearing on application of any interested
4 party, or on its own motion.

5 2. An application for a hearing shall clearly set forth the
6 specific issues of fact or law in controversy and the contentions of
7 the party applying for the hearing.

8 3. If any party is not represented by a lawyer, the
9 administrative law judge shall define the issues to be heard.

10 4. If a hearing on the claim is ordered, the administrative law
11 judge shall give the claimant and other interested parties ten (10)
12 days' notice of the hearing served personally on the claimant and
13 other parties, or by registered mail, facsimile, email or by other
14 electronic means with receipt of confirmation. The hearing ~~shall~~
15 may be held in ~~Tulsa or Oklahoma County~~ any county of this state, as
16 determined by the Commission.

17 5. The award, together with the statement of the findings of
18 fact and other matters pertinent to the issues, shall be filed with
19 the record of the proceedings, and a copy of the award shall
20 immediately be sent to the parties in or to counsels of record, if
21 any.

22 C. Evidence and Construction.

23 1. a. At the hearing the claimant and the employer may each
24 present evidence relating to the claim. Evidence may

1 be presented by any person authorized in writing for
2 such purpose. The evidence may include verified
3 medical reports which shall be accorded such weight as
4 may be warranted when considering all evidence in the
5 case.

6 b. Any determination of the existence or extent of
7 physical impairment shall be supported by objective
8 and measurable physical or mental findings.

9 2. When deciding any issue, administrative law judges and the
10 Commission shall determine, on the basis of the record as a whole,
11 whether the party having the burden of proof on the issue has
12 established it by a preponderance of the evidence.

13 3. Administrative law judges, the Commission, and any reviewing
14 courts shall strictly construe the provisions of this act.

15 4. In determining whether a party has met the burden of proof
16 on an issue, administrative law judges and the Commission shall
17 weigh the evidence impartially and without giving the benefit of the
18 doubt to any party.

19 D. Judgment. The judgment denying the claim or making the
20 award shall be filed in the office of the Commission, and a copy
21 shall be sent by registered mail, facsimile, email or by other means
22 with receipt of confirmation to the claimant and to the employer or
23 to their attorneys.

1 E. No compensation for disability of an injured employee shall
2 be payable for any period beyond his or her death; provided,
3 however, an award of compensation for disability may be made after
4 the death of the injured employee for the period of disability
5 preceding death.

6 SECTION 14. AMENDATORY Section 80, Chapter 208, O.S.L.
7 2013 (85A O.S. Supp. 2017, Section 80), is amended to read as
8 follows:

9 Section 80. A. Except where a joint petition settlement has
10 been approved, the Workers' Compensation Commission may reopen for
11 review any compensation judgment, award, or decision. Such review
12 based on a change of physical condition may be done at any time
13 ~~within six (6) months of termination of the compensation period~~
14 ~~fixed in the original compensation judgment or award~~ from the date
15 of the last order in which monetary benefits or active medical
16 treatment was provided, on the Commission's own motion or on the
17 application of any party in interest, ~~on the ground of a change in~~
18 ~~physical condition or on proof of erroneous wage rate~~ and unless
19 filed within such period of time shall be forever barred. On
20 review, the Commission may make a judgment or award terminating,
21 continuing, decreasing, or increasing for the future the
22 compensation previously awarded, subject to the maximum limits
23 provided for in this act. An order denying an application to reopen
24 a claim shall not extend the period of time set out in this section

1 for reopening the case. A failure to comply with a medical
2 treatment plan ordered by the Commission shall bar the reopening of
3 a claim.

4 B. The review and subsequent judgment or award shall be made in
5 accordance with the procedure prescribed in Sections 69 through 78
6 of this ~~act~~ title. No review shall affect any compensation paid
7 under a prior order, judgment or award.

8 C. The Commission may correct any clerical error in any
9 compensation judgment or award within one (1) year from the date of
10 its issuance.

11 D. Aging and the effects of aging on a compensable injury are
12 not to be considered in determining whether there has been a change
13 in physical condition. Aging or the effect of aging on a
14 compensable injury shall not be considered in determining permanent
15 disability under this section or any other section in this act.

16 SECTION 15. AMENDATORY Section 82, Chapter 208, O.S.L.
17 2013 (85A O.S. Supp. 2017, Section 82), is amended to read as
18 follows:

19 Section 82.

20 A. 1. a. Fees for legal services rendered in a claim shall not
21 be valid unless approved by the Workers' Compensation
22 Commission.

23 b. An attorney representing an injured employee may only
24 recover attorney fees up to ten percent (10%) of any

1 temporary total disability or temporary partial
2 disability compensation and twenty percent (20%) of
3 any permanent partial disability, permanent total
4 disability, or death compensation awarded to an
5 injured employee by the Commission from a controverted
6 claim. If the employer makes a written offer to
7 settle permanent partial disability, permanent total
8 disability, or death compensation and that offer is
9 rejected, the employee's attorney may not recover
10 attorney fees in excess of thirty percent (30%) of the
11 difference between the amount of any award and the
12 settlement offer.

13 (1) Attorney fees may not be collected for recovery
14 on noncontroverted claims.

15 (2) Attorney fees shall not be awarded on medical
16 benefits or services.

17 (3) The fee for legal services rendered by an
18 attorney representing an employee in connection
19 with a change of physician requested by the
20 injured employee, controverted by the employer,
21 and awarded by the Commission, shall be Two
22 Hundred Dollars (\$200.00).

23 (4) Attorney fees may include not more than ten
24 percent (10%) of the value, or reasonable

1 estimate thereof, of vocational rehabilitation
2 services.

3 c. A "controverted claim" means that there has been a
4 contested hearing before the Commission over whether
5 there has been a compensable injury or whether the
6 employee is entitled to temporary total disability,
7 temporary partial disability, permanent partial
8 disability, permanent total disability, or death
9 compensation. A request for a change in physician
10 shall not trigger a controverted claim for purposes of
11 recovering any attorney fees except the fees under
12 division 3 of subparagraph b of this paragraph. A
13 controverted claim shall not exist if the employee or
14 his or her representative has withheld pertinent
15 information in his or her possession related to the
16 claim from the employer or has violated the provisions
17 of Section 6 of this ~~act~~ title.

18 2. Any person who or entity that brings a controverted claim
19 against ~~the State Treasurer, as a custodian of the Multiple Injury~~
20 ~~Trust Fund,~~ shall provide notice of the claim to the Commission.
21 Thereafter, the Commission shall direct fees for legal services be
22 paid from the Fund, in addition to any compensation award. The fees
23 shall be authorized only on the difference between the amount of
24 compensation controverted and the amount awarded from the Fund.

1 3. In any case where attorney fees are allowed by the
2 Commission, the limitations expressed in subparagraph b of paragraph
3 1 of this subsection shall apply.

4 4. Medical providers may voluntarily contract with the attorney
5 for the employee to recover disputed charges, and the provider may
6 charge a reasonable fee for the cost of collection.

7 B. An attorney representing an employee under this act may not
8 recover fees for services except as expressly provided in this
9 section.

10 SECTION 16. AMENDATORY Section 90, Chapter 208, O.S.L.
11 2013 (85A O.S. Supp. 2017, Section 90), is amended to read as
12 follows:

13 Section 90. A. The Workers' Compensation Commission may
14 require any employer to make a deposit or bond with the Commission
15 to secure the prompt and convenient payment of compensation, and
16 payments shall be made on judgment of the Commission.

17 B. No proceeding to reverse, vacate or modify any order,
18 decision or award of the Commission en banc or administrative law
19 judge of the Commission wherein compensation has been awarded to an
20 injured employee shall be entertained by the Supreme Court unless
21 the Executive Director of the Commission shall take a written
22 undertaking to the claimant executed on the part of the respondent
23 or insurance carrier, or both the respondent and insurance carrier,
24 with one or more sureties to be approved by the Executive Director,

1 to the effect that the appellant shall pay the amount of the award
2 rendered therein, together with interest thereon from the date of
3 the award by the administrative law judge of the Commission and all
4 costs of the proceeding, or on the further order of the Commission
5 en banc or administrative law judge of the Commission after the
6 appeal has been decided by the Supreme Court, except that
7 municipalities and other political subdivisions of this state are
8 exempt from making such written undertakings.

9 SECTION 17. AMENDATORY Section 101, Chapter 208, O.S.L.
10 2013 (85A O.S. Supp. 2017, Section 101), is amended to read as
11 follows:

12 Section 101. A. On or before the first day of July each year,
13 the Workers' Compensation Commission shall prepare, make public and
14 submit a report for the prior calendar year to the Governor, the
15 President Pro Tempore of the Senate, the Speaker of the House of
16 Representatives, and each member of the Legislature, containing a
17 statement of the number of awards made and the causes of the
18 accidents leading to the injuries for which the awards were made,
19 total work load data of the administrative law judges, including a
20 detailed report of the work load and judgments written by each
21 judge, a detailed statement of the expenses of the Commission,
22 together with any other matter which the Commission deems proper to
23 report.

1 B. After public hearing and consultation with representatives
2 of employers, insurance carriers, and employees, the Commission
3 shall implement, with the assistance of the Insurance Commissioner,
4 ~~by July 1, 2014,~~ an electronic data interchange (EDI) system that
5 provides relevant data concerning the Oklahoma workers' compensation
6 system and the delivery of benefits to injured workers on a time
7 frame to be reasonably determined by the Commission.

8 C. To assist the Commission in developing and implementing the
9 EDI system, there is hereby created the Oklahoma Workers'
10 Compensation Electronic Data Interchange Advisory Committee. ~~Within~~
11 ~~thirty (30) days of the effective date of this act, the~~ The Governor
12 shall appoint five persons to serve as members of the advisory
13 committee, one of whom shall be selected by the Governor as chair.
14 The chair shall provide adequate notice of meetings of the advisory
15 committee and public hearings as required by law.

16 SECTION 18. AMENDATORY Section 105, Chapter 208, O.S.L.
17 2013 (85A O.S. Supp. 2017, Section 105), is amended to read as
18 follows:

19 Section 105. A. No employee of the Workers' Compensation
20 Commission shall be competent to testify on any matter concerning
21 any information the employee has received through the performance of
22 the employee's duties under the provisions of this act, except for
23 employees of the Compliance Division of the Commission regarding
24 their investigations, custodians of the Commission's records and if

1 the Commission or any employees of the Commission are named as
2 parties in the matter.

3 B. The commissioners and employees of the Commission shall not
4 solicit employment for any attorney or physician nor shall they
5 recommend or refer any claimant or employer to an attorney or
6 physician. If any employee of the Commission makes such a
7 solicitation, recommendation or reference, that person, upon
8 conviction, shall be guilty of a misdemeanor punishable, for each
9 offense, by a fine of not more than One Thousand Dollars (\$1,000.00)
10 or by imprisonment in the county jail not to exceed one (1) year, or
11 by both such fine and imprisonment. The Commission shall
12 immediately terminate the employment of any employee who is guilty
13 of such solicitation, recommendation or reference. A commissioner
14 guilty of such solicitation, recommendation or reference shall be
15 subject to removal from office.

16 C. No administrative law judge shall engage in any ex parte
17 communication with any party to an action pending before the
18 Commission or with any witness or medical provider regarding the
19 merits of a specific matter pending before the judge for resolution.
20 Any violation of this provision shall subject the judge to
21 disqualification from the action or matter upon presentation of an
22 application for disqualification.

1 SECTION 19. AMENDATORY Section 152, Chapter 208, O.S.L.

2 2013 (85A O.S. Supp. 2017, Section 109), is amended to read as
3 follows:

4 Section 109. A. The Workers' Compensation Commission shall
5 establish a workers' compensation counselor or ombudsman program to
6 assist injured workers, employers and persons claiming death
7 benefits in obtaining benefits under this act. A special effort
8 shall be made to equip counselors or ombudsmen with sufficient
9 resources to assist injured workers through the system without the
10 necessity of retaining legal representation.

11 B. Workers' compensation counselors or ombudsmen shall provide
12 information to injured workers; investigate complaints; communicate
13 with employers, insurance carriers, self-insurers, and health care
14 providers; provide informational seminars and workshops on workers'
15 compensation for medical providers, insurance adjustors, and
16 employee and employer groups; and develop informational materials
17 for employees, employers and medical providers.

18 C. The Commission shall ~~mail a notice to the injured worker~~
19 ~~within ten (10) days of the filing of an Employer's First Notice of~~
20 ~~Injury. The notice shall advise the injured worker of~~ publish on
21 the Commission's website the availability of the services of the
22 Commission's counselor or ombudsman program and of the availability
23 of mediation and other forms of alternative dispute resolution to
24

1 assist the injured worker. ~~The Commission shall provide additional~~
2 ~~information as the Commission may determine necessary.~~

3 D. The Commission shall develop a program that provides for
4 annual training for own-risk employers and claims representatives
5 handling workers' compensation claims in Oklahoma. The training
6 shall include information about the alternative dispute resolution
7 program, including counselor and ombudsman programs, mediation, and
8 other services provided by the Commission.

9 SECTION 20. AMENDATORY Section 158, Chapter 208, O.S.L.
10 2013 (85A O.S. Supp. 2017, Section 115), is amended to read as
11 follows:

12 Section 115. A. If the employee and employer shall reach an
13 agreement for the full, final and complete settlement of any issue
14 of a claim pursuant to this act, a form designated as "Joint
15 Petition" shall be signed by both the employer and employee, or
16 representatives thereof, and shall be approved by the Workers'
17 Compensation Commission or an administrative law judge, and filed
18 with the Workers' Compensation Commission. In cases in which the
19 employee is not represented by legal counsel, the Commission or an
20 administrative law judge shall have jurisdiction to approve a full,
21 final and complete settlement of any issue upon the filing of an
22 Employer's First Notice of Injury. There shall be no requirement
23 for the filing of an Employee's First Notice of Claim for
24

1 Compensation to effect such settlement in cases in which the
2 employee is not represented by legal counsel.

3 B. In the event all issues of a claim are not fully, finally
4 and completely settled by a Joint Petition, the issues not settled
5 by the parties and subject to the Commission's continuing
6 jurisdiction must be noted by appendix to the Joint Petition or on a
7 form created for such purpose by the Commission. The appendix must
8 be signed by the parties and approved by the Commission as set forth
9 herein.

10 C. In the absence of fraud, a Joint Petition shall be deemed
11 binding upon the parties thereto and a final adjudication of all
12 rights pursuant to this act or the workers' compensation law in
13 effect at the time of the injury or final order of the Workers'
14 Compensation ~~Court~~ Commission. An official record shall be made by
15 an official Commission reporter of the testimony taken to effect the
16 Joint Petition.

17 D. A good-faith effort shall be made on the part of any
18 insurance carrier, ~~CompSource Oklahoma~~, or group self-insured plan
19 to notify an insured employer of the possibility of and terms of any
20 settlement of a workers' compensation case pursuant to this section.
21 Written comments or objections to settlements shall be filed with
22 the Commission and periodically shared with the management of the
23 applicable insurer. A written notice shall be made to all
24 policyholders of their right to a good-faith effort by their insurer

1 to notify them of any proposed settlement, if the policyholder so
2 chooses.

3 SECTION 21. AMENDATORY Section 161, Chapter 208, O.S.L.
4 2013 (85A O.S. Supp. 2017, Section 118), is amended to read as
5 follows:

6 Section 118. A. A At the time of commencement of a claim a fee
7 of One Hundred Forty Dollars (\$140.00) per case, including any Joint
8 Petition, medical fee dispute, claim for discrimination or
9 retaliation, or claim for benefits under the Multiple Injury Trust
10 Fund authorized by this ~~act~~ title, shall be collected from the party
11 filing the claim by the Workers' Compensation Commission ~~and~~. In
12 the event any award becomes final against an employer, such amount
13 shall be assessed as costs ~~to be paid by the party against whom any~~
14 ~~award becomes final, to~~ and paid to the injured employee. The fee
15 paid at the commencement of the claim shall be deposited as follows:

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

18 2. Ten Dollars (\$10.00) to the credit of the Attorney General's
19 Workers' Compensation Fraud Unit Revolving Fund created by Section
20 19.2 of Title 74 of the Oklahoma Statutes; and

21 3. Twenty-five Dollars (\$25.00) to the credit of the Workers'
22 Compensation Commission Revolving Fund for purposes of implementing
23 the provisions of this act, including strengthening and providing
24 additional funding for the Attorney General's Workers' Compensation

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

4 B. A fee of One Hundred Thirty Dollars (\$130.00) per action to
5 reopen any case pursuant to Section 32 of this ~~act~~ title shall be
6 collected by the Commission and assessed as costs to be paid by the
7 party that reopens the case. The fee collected pursuant to this
8 subsection shall be deposited to the credit of the Workers'
9 Compensation Commission Revolving Fund for purposes of implementing
10 the provisions of this act, including strengthening and providing
11 additional funding for the Attorney General's Workers' Compensation
12 Fraud Unit, providing counseling services pursuant to the workers'
13 compensation counselor or ombudsman program and safety in the
14 workplace.

15 SECTION 22. AMENDATORY Section 163, Chapter 208, O.S.L.
16 2013 (85A O.S. Supp. 2017, Section 120), is amended to read as
17 follows:

18 Section 120. A. Except as otherwise provided by state or
19 federal law and subject to the provisions of this section, an
20 employer may inquire about previous workers' compensation claims
21 paid to an employee while the employee was employed by a previous
22 employer. If the employee fails to answer truthfully about any
23 previous permanent partial disability awards made pursuant to
24

workers' compensation claims, the employee shall be subject to discharge by the employer.

B. 1. All requests ~~made to the Workers' Compensation Commission~~ for information on ~~prior~~ workers' compensation claims involving a worker, including written inquiries about prior claims and requests to access a worker's compensation claim file, must be in writing, on a form prescribed by the Commission, and accompanied by a fee of One Dollar (\$1.00) per search request, not to exceed One Dollar (\$1.00) per claims record of a particular worker. The fee shall be deposited to the credit of the Workers' Compensation Commission Revolving Fund. The form shall require identification of the person requesting the information, and the person for whom a search is being made if different from the requester. The form must contain an affidavit signed by the requester under penalty of perjury that the information sought is not requested for a purpose in violation of state or federal law. The form must be used by all repositories of archived Court claim files. All request forms shall be maintained by the Commission as a public record, together with a record of a worker's written authorization permitting a search indexed by the worker's social security number as required by Section 3113 of Title 74 of the Oklahoma Statutes. The request forms and authorizations shall be indexed alphabetically by the last name of the worker.

2. This subsection shall not apply:

- a. to requests for claims information made by a public officer or by a public employee in the performance of his or her duties on behalf of a governmental entity or as may be allowed by law,
- b. to requests for claims information made by an insurer, self-insured employer, third-party claims administrator, or a legal representative thereof, when necessary to process or defend a workers' compensation claim,
- c. when a worker or the worker's representative requests review of the worker's claims information,
- d. when the disclosure is made for educational or research purposes and in such a manner that the disclosed information cannot be used to identify any worker who is the subject of a claim,
- e. to requests for claims information made by a health care or rehabilitation provider or the provider's legal representative when necessary to process payment of health care or rehabilitation services rendered to a worker, and
- f. to requests for claims information made by an employer or personnel service company, including but not limited to an individual or entity, where the worker executes a written authorization permitting the search

1 and designating the employer or personnel service
2 company as the worker's representative for that
3 purpose; however, nothing in this subparagraph shall
4 relieve the employer or personnel service company from
5 complying with the requirements of utilizing the form
6 set forth in paragraph 1 of this subsection.

7 SECTION 23. AMENDATORY Section 164, Chapter 208, O.S.L.
8 2013 (85A O.S. Supp. 2017, Section 121), is amended to read as
9 follows:

10 Section 121. A. There is hereby created an Advisory Council on
11 Workers' Compensation.

12 B. The voting membership of the Advisory Council shall consist
13 of nine (9) members. Any member serving on the effective date of
14 this section shall serve the remainder of his or her term. The
15 chair of the Workers' Compensation Commission shall be an ex officio
16 nonvoting member.

17 1. The Governor shall appoint three members representing
18 employers in this state, one of whom shall be from a list of
19 nominees provided by the predominant statewide broad-based business
20 organization.

21 2. The Speaker of the House of Representatives shall appoint
22 three members representing employees in this state, one of whom
23 shall be from a list of nominees provided by the most representative
24 labor organization in the state.

1 3. The President Pro Tempore of the Senate shall appoint three
2 members, two who are attorneys representing the legal profession in
3 this state, one of whom shall be an attorney who practices primarily
4 in the area of defense of workers' compensation claims, and one of
5 whom shall be an attorney who primarily represents claimants, and a
6 medical doctor or doctor of osteopathy actively engaged in the
7 treatment of injured workers.

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

9 1. The term of office for three positions, one each appointed
10 by the Governor, the President Pro Tempore of the Senate and the
11 Speaker of the House of Representatives shall expire on January 1,
12 2015;

13 2. The term of office for three positions, one each appointed
14 by the Governor, the President Pro Tempore of the Senate and the
15 Speaker of the House of Representatives shall expire on January 1,
16 2016; and

17 3. The term of office for three positions, one each appointed
18 by the Governor, the President Pro Tempore of the Senate and the
19 Speaker of the House of Representatives shall expire on January 1,
20 2017.

21 D. Thereafter, successors in office shall be appointed for a
22 three-year term. Members shall be eligible to succeed themselves in
23 office.
24

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

3 F. The chair and the vice-chair of the Advisory Council shall
4 be appointed by the Governor.

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

8 H. Meetings of the Advisory Council shall be quarterly or as
9 called by the chair or upon petition by a majority of the voting
10 members. The presence of five voting members constitutes a quorum.
11 No action shall be taken by the Advisory Council without the
12 affirmative vote of at least five members.

13 I. The Commission shall provide office supplies and personnel
14 of the Commission to carry out any of the duties that have been
15 entrusted to the Advisory Council.

16 J. The Advisory Council shall analyze and review the workers'
17 compensation system, the reports of the Commission, and trends in
18 the field of workers' compensation. The Advisory Council may
19 recommend improvements and proper responses to developing trends.
20 The Advisory Council shall report its findings annually to the
21 Governor, the Chief Justice of the Supreme Court, the President Pro
22 Tempore of the Senate, and the Speaker of the House of
23 Representatives.

1 K. In addition to other duties required by this section, the
2 Advisory Council shall consult with the ~~Court~~ Commission regarding
3 oversight of independent medical examiners as provided in Section 45
4 of this ~~act~~ title.

5 ~~L. The Advisory Council shall review the Oklahoma Treatment~~
6 ~~Guidelines as provided in the Workers' Compensation Code, and report~~
7 ~~the findings of such review to the Commission as provided in this~~
8 ~~act.~~

9 SECTION 24. AMENDATORY Section 165, Chapter 208, O.S.L.
10 2013, as amended by Section 4, Chapter 344, O.S.L. 2015 (85A O.S.
11 Supp. 2017, Section 122), is amended to read as follows:

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

16 B. For the purpose of providing funds for the Workers'
17 Compensation Commission Revolving Fund, for the Workers'
18 Compensation Administrative Fund created in Section ~~5~~ 401.1 of this
19 ~~act~~ title, for the Multiple Injury Trust Fund created in Section 28
20 of this title, and to fund other provisions within this title, the
21 following tax rates shall apply:

22 1. Each mutual or interinsurance association, stock company,
23 CompSource Oklahoma or other insurance carrier writing workers'
24 compensation insurance in this state shall pay to the Oklahoma Tax

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

14 2. When an employer is authorized to become a self-insurer, the
15 Commission shall so notify the Tax Commission, giving the effective
16 date of such authorization. The Tax Commission shall then assess
17 and collect from the employers carrying their own risk an assessment
18 at the rate of two percent (2%) of the total compensation for
19 permanent total disability awards, permanent partial disability
20 awards and death benefits paid out during each quarter of the
21 calendar year by the employers. Such assessment shall be payable by
22 the employers and collected by the Tax Commission according to the
23 provisions of this section regarding payment and collection of the
24 assessment created in paragraph 1 of this subsection.

1 C. It shall be the duty of the Tax Commission to collect the
2 payments provided for in this title. The Tax Commission is hereby
3 authorized to bring an action for the recovery of any delinquent or
4 unpaid payments required in this section. The Tax Commission may
5 also enforce payments by proceeding in accordance with the
6 provisions of Section 98 of this title.

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

11 1. To be fulfilled first, Five Million Dollars (\$5,000,000.00)
12 shall be payable in equal monthly installments to the credit of the
13 Workers' Compensation Commission Revolving Fund established in
14 Section ~~2~~ 28.1 of this ~~act~~ title for the fiscal year ending June 30,
15 2016, and ~~Three Million Dollars (\$3,000,000.00)~~ Five Million Dollars
16 (\$5,000,000.00) for the fiscal year ending June 30, ~~2017~~ 2018, and
17 for all subsequent years to be used to implement the provisions of
18 this title; and

19 2. Four Million Dollars (\$4,000,000.00) shall be payable in
20 equal monthly installments to the credit of the Workers'
21 Compensation Administrative Fund established in Section ~~5~~ 401.1 of
22 this ~~act~~ title for the fiscal year ending June 30, 2016, Three
23 Million Five Hundred Thousand Dollars (\$3,500,000.00) for the fiscal
24 year ending June 30, 2017, Three Million Five Hundred Thousand

1 Dollars (\$3,500,000.00) for the fiscal year ending June 30, 2018,
2 Three Million Dollars (\$3,000,000.00) for the fiscal year ending
3 June 30, 2019, and Two Million Five Hundred Thousand Dollars
4 (\$2,500,000.00) for the fiscal year ending June 30, 2020. Monies
5 deposited in the Workers' Compensation Administrative Fund shall be
6 used by the Workers' Compensation Court of Existing Claims to
7 implement provisions provided for in this title.

8 E. The refund provisions of Sections 227 through 229 of Title
9 68 of the Oklahoma Statutes shall be applicable to any payments made
10 pursuant to this section.

11 SECTION 25. AMENDATORY Section 167, Chapter 208, O.S.L.
12 2013, as amended by Section 7, Chapter 169, O.S.L. 2014 (85A O.S.
13 Supp. 2017, Section 124), is amended to read as follows:

14 Section 124. A. 1. All unexpended funds, assets, property,
15 records, personnel and any outstanding financial obligations and
16 encumbrances of the Workers' Compensation Court ~~before February 1,~~
17 ~~2014,~~ are hereby transferred to the Workers' Compensation
18 Commission, except for personnel transferred to the Workers'
19 Compensation Court of Existing Claims on July 9, 2014. The
20 personnel transferred to the Commission and retained by the
21 Commission shall retain leave, sick and annual time earned and any
22 retirement and longevity benefits which have accrued during their
23 employment with the state. The salaries of employees who are
24 transferred shall not be reduced as a direct and immediate result of

1 the transfer. There shall be no reduction-in-force as a result of
2 the transfer. The Workers' Compensation Court of Existing Claims
3 shall pay the expense of maintaining the records of the Court for as
4 long as the Legislature appropriates funding to the Court
5 independent of funding for 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 26. AMENDATORY Section 121, Chapter 208, O.S.L.
15 2013 (85A O.S. Supp. 2017, Section 300), is amended to read as
16 follows:

17 Section 300. Sections ~~121~~ 300 through ~~149~~ 328 of this ~~act~~ title
18 shall be known and may be cited as the "Workers' Compensation
19 Arbitration Act".

20 SECTION 27. AMENDATORY Section 125, Chapter 208, O.S.L.
21 2013 (85A O.S. Supp. 2017, Section 304), is amended to read as
22 follows:

23 Section 304. A. Except as otherwise provided in subsections B
24 and C of this section and in the laws of this state outside of this

1 act, a party to an agreement to arbitrate or to an arbitration
2 proceeding may waive, or the parties may vary the effect of, the
3 requirements of this act to the extent permitted by law.

4 B. Before a controversy arises that is subject to an agreement
5 to arbitrate, a party to the agreement may not:

6 1. Waive or agree to vary the effect of the requirements of
7 subsection A of Section ~~126~~ 305, subsection A of Section ~~127~~ 306,
8 Section ~~128~~ 307, subsection A or B of Section ~~138~~ 317, Section ~~147~~
9 326 or Section ~~149~~ 328 of this ~~act~~ title;

10 2. Agree to unreasonably restrict the right to notice of the
11 initiation of an arbitration proceeding under Section ~~130~~ 309 of
12 this ~~act~~ title;

13 3. Agree to unreasonably restrict the right to disclosure of
14 any facts by an arbitrator under Section ~~133~~ 312 of this ~~act~~ title;

15 4. Waive the right of a party to an agreement to arbitrate to
16 be represented by a lawyer at any proceeding or hearing under
17 Section ~~137~~ 316 of this ~~act~~ title; or

18 5. Agree to conduct arbitration proceedings outside of this
19 state.

20 C. A party to an agreement to arbitrate or to an arbitration
21 proceeding may not waive, or the parties may not vary the effect of,
22 the requirements of this section or subsection A or C of Section ~~124~~
23 304, Sections ~~128, 135 and 139~~ 307, 314 and 318, subsection D or E
24

1 of Section ~~141~~ 320, Sections ~~143, 144 and 145~~ 322, 323 and 324, or
2 subsection A or B of Section ~~146~~ 325 of this ~~act~~ title.

3 SECTION 28. AMENDATORY Section 126, Chapter 208, O.S.L.
4 2013 (85A O.S. Supp. 2017, Section 305), is amended to read as
5 follows:

6 Section 305. A. Except as otherwise provided in Section ~~150~~
7 107 of this ~~act~~ title, an application for judicial relief under this
8 act shall be made by application and motion to the Workers'
9 Compensation Commission and heard in the manner provided by law or
10 rule of the Commission for making and hearing motions.

11 B. Unless a civil action involving the agreement to arbitrate
12 is pending, notice of an initial application and motion to the
13 Commission under this act shall be served in the manner provided by
14 law for the service of a summons in the filing of a civil action.
15 Otherwise, notice of the motion shall be given in the manner
16 provided by law or rule of court for serving motions in pending
17 cases.

18 SECTION 29. AMENDATORY Section 133, Chapter 208, O.S.L.
19 2013 (85A O.S. Supp. 2017, Section 312), is amended to read as
20 follows:

21 Section 312. A. Before accepting appointment, an individual
22 who is requested to serve as an arbitrator, after making a
23 reasonable inquiry, shall disclose to the parties to the arbitration
24 agreement, the parties to the arbitration proceeding, and any other

1 arbitrators any known facts that a reasonable person would consider
2 likely to affect the impartiality of the arbitrator in the
3 arbitration proceeding, including but not limited to:

4 1. A financial or personal interest in the outcome of the
5 arbitration proceeding; and

6 2. An existing or past relationship with any of the parties to
7 the agreement to arbitrate or the arbitration proceeding, their
8 counsel or representatives, a witness, or another arbitrator.

9 B. An arbitrator has a continuing obligation to disclose to the
10 parties to the arbitration agreement, the arbitration proceeding,
11 and to any other arbitrators any facts that the arbitrator learns
12 after accepting appointment which a reasonable person would consider
13 likely to affect the impartiality of the arbitrator.

14 C. If an arbitrator discloses a conflict under subsection A or
15 B of this section, any party to the arbitration agreement or the
16 arbitration proceeding may have the arbitrator removed by filing a
17 notice of conflict with the Workers' Compensation Commission. If a
18 notice of conflict is not filed within ten (10) days of disclosure
19 of the conflict, the parties waive their rights to have any order or
20 award entered vacated under Section ~~144~~ 323 of this ~~act~~ title.

21 SECTION 30. AMENDATORY Section 134, Chapter 208, O.S.L.
22 2013 (85A O.S. Supp. 2017, Section 313), is amended to read as
23 follows:
24

1 Section 313. If there is more than one arbitrator, the powers
2 of an arbitrator shall be exercised by a majority of the
3 arbitrators, but all of them shall conduct the hearing under Section
4 ~~136~~ 315 of this ~~act~~ title.

5 SECTION 31. AMENDATORY Section 135, Chapter 208, O.S.L.
6 2013 (85A O.S. Supp. 2017, Section 314), is amended to read as
7 follows:

8 Section 314. A. Arbitrators and arbitration organizations
9 providing services under this act are immune from civil liability to
10 the same extent as a judge of a court of this state acting in a
11 judicial capacity.

12 B. The immunity afforded by this section supplements any
13 immunity under other law.

14 C. The failure of an arbitrator to make a disclosure required
15 by Section ~~133~~ 312 of this ~~act~~ title shall not cause any loss of
16 immunity under this section.

17 D. An arbitrator or representative of an arbitration
18 organization is not competent to testify in a judicial,
19 administrative, or similar proceeding and may not be required to
20 produce records as to any statement, conduct, decision, or ruling
21 occurring during the arbitration proceeding, to the same extent as a
22 judge of a court of this state acting in a judicial capacity. This
23 subsection shall not apply to:
24

1 1. The extent necessary to determine the claim of an
2 arbitrator, arbitration organization, or representative of the
3 arbitration organization against a party to the arbitration
4 proceeding; or

5 2. A hearing on an application and motion to vacate an award
6 under paragraphs 1 or 2 of subsection A of Section ~~144~~ 323 of this
7 ~~act~~ title if the movant establishes prima facie that a ground for
8 vacating the award exists.

9 E. If a person commences a civil action against an arbitrator,
10 arbitration organization, or representative of an arbitration
11 organization arising from the services of the arbitrator,
12 organization, or representative or if a person seeks to compel an
13 arbitrator or a representative of an arbitration organization to
14 testify or produce records in violation of subsection D of this
15 section, and the court decides that the arbitrator, arbitration
16 organization, or representative of an arbitration organization is
17 immune from civil liability or that the arbitrator or representative
18 of the organization is not competent to testify, the court shall
19 award to the arbitrator, organization, or representative reasonable
20 attorney fees and other reasonable expenses of litigation.

21 SECTION 32. AMENDATORY Section 137, Chapter 208, O.S.L.
22 2013 (85A O.S. Supp. 2017, Section 316), is amended to read as
23 follows:
24

1 Section 316. A. A party to an arbitration proceeding may be
2 represented by a lawyer.

3 B. Each party shall be responsible for payment of his or her
4 legal fees incurred during arbitration, except as provided for in
5 Section ~~142~~ 321 of this ~~act~~ title.

6 C. The employee's attorney may not recover legal fees in excess
7 of the limits described in Section 82 of this ~~act~~ title.

8 SECTION 33. AMENDATORY Section 139, Chapter 208, O.S.L.
9 2013 (85A O.S. Supp. 2017, Section 318), is amended to read as
10 follows:

11 Section 318. If an arbitrator makes a pre-award ruling in favor
12 of a party, the party may request the arbitrator to incorporate the
13 ruling into an award under Section ~~140~~ 319 of this ~~act~~ title. A
14 prevailing party may make an application and motion to the
15 Commission for an expedited judgment to confirm the award under
16 Section ~~143~~ 322 of this ~~act~~ title, in which case the Workers'
17 Compensation Commission shall summarily decide the motion. The
18 Commission shall issue a judgment to confirm the award unless the
19 ~~court~~ Commission vacates, modifies, or corrects the award under
20 Section ~~144 or 145~~ 323 or 324 of this ~~act~~ title.

21 SECTION 34. AMENDATORY Section 141, Chapter 208, O.S.L.
22 2013 (85A O.S. Supp. 2017, Section 320), is amended to read as
23 follows:
24

1 Section 320. A. On motion by a party to an arbitration
2 proceeding, the arbitrator may modify or correct an award:

3 1. On a ground stated in paragraph 1 or 3 of subsection A of
4 Section ~~145~~ 324 of this ~~act~~ title;

5 2. Because the arbitrator has not made a final and definite
6 award upon a claim submitted by the parties to the arbitration
7 proceeding; or

8 3. To clarify the award.

9 B. A motion under subsection A of this section shall be made
10 and notice given to all parties within twenty (20) days after the
11 award is issued to the parties.

12 C. A party to the arbitration proceeding shall give notice of
13 any objection to the motion within ten (10) days after receipt of
14 the motion.

15 D. If a motion to the Workers' Compensation Commission is
16 pending under Section ~~144 or 145~~ 323 or 324 of this ~~act~~ title, the
17 Commission may submit the claim to the arbitrator to consider
18 whether to modify or correct the award:

19 1. On a ground stated in paragraph 1 or 3 of subsection A of
20 Section ~~145~~ 324 of this ~~act~~ title;

21 2. Because the arbitrator has not made a final and definite
22 award upon a claim submitted by the parties to the arbitration
23 proceeding; or

24 3. To clarify the award.

1 E. An award modified or corrected under this section is subject
2 to Sections ~~143, 144 and 145~~ 322, 323 and 324 of this ~~act~~ title.

3 SECTION 35. AMENDATORY Section 142, Chapter 208, O.S.L.
4 2013 (85A O.S. Supp. 2017, Section 321), is amended to read as
5 follows:

6 Section 321. A. An arbitrator may award benefits set forth in
7 Sections 45, 46, 47 and 51 of this ~~act~~ title.

8 B. An arbitrator may award reasonable attorney fees and other
9 reasonable expenses of arbitration if the arbitrator finds that a
10 party was not acting in good faith throughout the arbitration.

11 C. As to all remedies other than those authorized by
12 subsections A and B of this section, an arbitrator may order such
13 remedies as the arbitrator considers just and appropriate under the
14 circumstances of the arbitration proceeding. The fact that such a
15 remedy could not or would not be granted by the Workers'
16 Compensation Commission is not a ground for refusing to confirm an
17 award under Section ~~143~~ 322 of this ~~act~~ title or for vacating an
18 award under Section ~~144~~ 323 of this ~~act~~ title.

19 D. An arbitrator's expenses and fees, together with other
20 expenses, shall be paid by the employer.

21 E. If an arbitrator awards relief under subsection A of this
22 section, the arbitrator shall specify in the award the basis in fact
23 justifying and the basis in law authorizing the award.

SECTION 36. AMENDATORY Section 143, Chapter 208, O.S.L. 2013 (85A O.S. Supp. 2017, Section 322), is amended to read as follows:

Section 322. After a party to an arbitration proceeding receives notice of an award, the party may make an application and motion to the Workers' Compensation Commission for a judgment confirming the award at which time the Commission shall issue a confirming judgment unless the award is modified or corrected under Section ~~141 or 145~~ 320 or 324 of this ~~act~~ title or is vacated under Section ~~144~~ 323 of this ~~act~~ title.

SECTION 37. AMENDATORY Section 144, Chapter 208, O.S.L. 2013 (85A O.S. Supp. 2017, Section 323), is amended to read as follows:

Section 323. A. On an application and motion to the court by a party to an arbitration proceeding, the Workers' Compensation Commission shall vacate an award made in the arbitration proceeding if:

1. The award was procured by corruption, fraud, or other undue means;

2. There was:

- a. evident partiality by an arbitrator appointed as a neutral arbitrator,
- b. corruption by an arbitrator, or

c. misconduct by an arbitrator prejudicing the rights of a party to the arbitration proceeding;

3. An arbitrator refused to postpone the hearing upon showing of sufficient cause for postponement, refused to consider evidence material to the controversy, or otherwise conducted the hearing contrary to Section ~~136~~ 315 of this ~~act~~ title, so as to prejudice substantially the rights of a party to the arbitration proceeding;

4. An arbitrator exceeded his or her powers under this act;

5. The arbitration was conducted without proper notice of the initiation of an arbitration as required in Section ~~130~~ 309 of this ~~act~~ title so as to prejudice substantially the rights of a party to the arbitration proceeding; or

6. It is determined that an arbitrator did not disclose a conflict under Section ~~133~~ 312 of this ~~act~~ title.

B. An application and motion under this section shall be filed within thirty (30) days after the movant receives notice of the award or within thirty (30) days after the movant receives notice of a modified or corrected award, unless the movant alleges that the award was procured by corruption, fraud, or other undue means, in which case the motion shall be made within ninety (90) days after the ground is known or by the exercise of reasonable care would have been known by the movant.

C. If the Commission vacates an award it may order a rehearing. If the award is vacated on a ground stated in paragraph 1, 2 or 6 of

1 subsection A of this section, the rehearing shall be before a new
2 arbitrator. If the award is vacated on a ground stated in paragraph
3 3, 4 or 5 of subsection A of this section, the rehearing may be
4 before the arbitrator who made the award or the arbitrator's
5 successor. The arbitrator shall render the decision in the
6 rehearing within the same time as that provided in subsection B of
7 Section ~~140~~ 319 of this ~~act~~ title for an award.

8 D. If the Commission denies a motion to vacate an award, it
9 shall confirm the award unless a motion to modify or correct the
10 award is pending.

11 SECTION 38. AMENDATORY Section 148, Chapter 208, O.S.L.
12 2013 (85A O.S. Supp. 2017, Section 327), is amended to read as
13 follows:

14 Section 327. A. A party may appeal the following actions to
15 the district court as provided in Section ~~149~~ 328 of this ~~act~~ title:

- 16 1. An order denying a motion to compel arbitration;
- 17 2. An order granting a motion to stay arbitration;
- 18 3. An order confirming or denying confirmation of an award;
- 19 4. An order modifying or correcting an award;
- 20 5. An order vacating an award without directing a rehearing; or
- 21 6. A final judgment entered under the Workers' Compensation
22 Arbitration Act.

SECTION 39. AMENDATORY Section 169, Chapter 208, O.S.L.

2013 (85A O.S. Supp. 2017, Section 400), is amended to read as follows:

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

Position 1 shall expire 7-1-14.

Position 2 shall expire 7-1-14.

Position 3 shall expire 7-1-14.

Position 4 shall expire 7-1-20.

Position 5 shall expire 7-1-20.

Position 6 shall expire 7-1-16.

Position 7 shall expire 7-1-16.

Position 8 shall expire 7-1-20.

Position 9 shall expire 7-1-20.

Position 10 shall expire 7-1-14.

Provided, judges who are serving unexpired terms on the Workers' Compensation Court on the effective date of this section shall serve

1 on the Court created by this section until their respective terms
2 expire as provided in this act. Thereafter, each position shall be
3 dissolved. After a judge serves this term, such judge shall be
4 eligible to reapply for an administrative law judge with the
5 Workers' Compensation Commission.

6 ~~When a vacancy on the Court occurs or is certain to occur, the~~
7 ~~Workers' Compensation Commission shall assign administrative law~~
8 ~~judges from the Commission to assist in the duties of the Workers'~~
9 ~~Compensation Court of Existing Claims.~~

10 B. A judge may be removed for cause by the Court on the
11 Judiciary prior to the expiration of his or her term.

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

16 D. The Court shall operate by the rules adopted by the Workers'
17 Compensation Court prior to the effective date of this act.

18 E. The Court is hereby designated and confirmed as a court of
19 record, with respect to any matter within the limits of its
20 jurisdiction, and within such limits the judges thereof shall
21 possess the powers and prerogatives of the judges of the other
22 courts of record of this state, including the power to punish for
23 contempt those persons who disobey a subpoena, or refuse to be sworn
24 or to answer as a witness, when lawfully ordered to do so.

1 F. The principal office of the Court shall be situated in the
2 City of Oklahoma City in quarters assigned by the Office of
3 Management and Enterprise Services. The Court may hold hearings in
4 any city of this state.

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

8 H. Judges of the Workers' Compensation Court of Existing Claims
9 may punish for direct contempt pursuant to Sections 565, 565.1 and
10 566 of Title 21 of the Oklahoma Statutes.

11 I. The Court shall be vested with jurisdiction over all claims
12 filed pursuant to the Workers' Compensation Code. All claims so
13 filed shall be heard by the judge sitting without a jury. The Court
14 shall have full power and authority to determine all questions in
15 relation to payment of claims for compensation under the provisions
16 of the Workers' Compensation Code. The Court, upon application of
17 either party, shall order a hearing. Upon a hearing, either party
18 may present evidence and be represented by counsel. The decision of
19 the Court shall be final as to all questions of fact and law,
20 ~~provided, the decision of the Court may be appealed to the~~
21 ~~Commission.~~ The decision of the Court shall be issued within sixty
22 (60) days following the submission of the case by the parties. The
23 power and jurisdiction of the Court over each case shall be
24 continuing and it may, from time to time, make such modifications or

1 changes with respect to former findings or orders relating thereto
2 if, in its opinion, it may be justified.

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

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

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

1 ~~M.~~ L. All accrued rights and penalties incurred pursuant to a
2 final order of the Workers' Compensation Court shall be preserved.
3 Administrative law judges of the Commission shall be authorized to
4 issue orders and conduct legal proceedings to enforce all such
5 accrued rights and penalties incurred. No accrued right, penalty
6 incurred, or proceeding begun by virtue of a statute repealed by
7 this act shall be abrogated by the terms of this act.

8 SECTION 40. REPEALER Sections 15 and 57, Chapter 208,
9 O.S.L. 2013 (85A O.S. Supp. 2017, Sections 15 and 57), are hereby
10 repealed.

11 SECTION 41. This act shall become effective November 1, 2018.

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