

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 Oklahoma Office of the Chief Medical Examiner
6 if the injured employee does not survive at least
7 twenty-four (24) hours after the accident and the
8 employee tests positive for intoxication, an
9 illegal controlled substance, or a legal
10 controlled substance used in contravention to a
11 treating physician's orders, or refuses to
12 undergo the drug and alcohol testing, there shall
13 be a rebuttable presumption that the injury was
14 caused by the use of alcohol, illegal drugs, or
15 prescription drugs used in contravention of
16 physician's orders. This presumption may only be
17 overcome if the employee proves by clear and
18 convincing evidence that his or her state of
19 intoxication had no causal relationship to the
20 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 title, heart or lung injury or illness as described in
15 Section 14 of this title, or occupational diseases as
16 described in Section 65 of this title.

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

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

23 f. Benefits shall not be payable for a condition which
24 results from a non-work-related independent

1 intervening cause following a compensable injury which
2 causes or prolongs disability, aggravation, or
3 requires treatment. A non-work-related independent
4 intervening cause does not require negligence or
5 recklessness on the part of a claimant.

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

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

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

22 12. "Continuing medical maintenance" means medical treatment
23 that is reasonable and necessary to maintain claimant's condition
24 resulting from the compensable injury or illness after reaching

1 maximum medical improvement. Continuing medical maintenance shall
2 not include diagnostic tests, surgery, injections, counseling,
3 physical therapy, or pain management devices or equipment;

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

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

1 on a work break inside the employer's facility and the
2 work break is authorized by the employee's supervisor;

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

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

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

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

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

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

21 (1) any person for whom an employer is liable under
22 any Act of Congress for providing compensation to
23 employees for injuries, disease or death arising
24 out of and in the course of employment including,

1 but not limited to, the Federal Employees'
2 Compensation Act, the Federal Employers'
3 Liability Act, the Longshore and Harbor Workers'
4 Compensation Act and the Jones Act, to the extent
5 his or her employees are subject to such acts,

6 (2) any person who is employed in agriculture,
7 ranching or horticulture by an employer who had a
8 gross annual payroll in the preceding calendar
9 year of less than One Hundred Thousand Dollars
10 (\$100,000.00) wages for agricultural, ranching or
11 horticultural workers, or any person who is
12 employed in agriculture, ranching or horticulture
13 who is not engaged in operation of motorized
14 machines. This exemption applies to any period
15 of time for which such employment exists,
16 irrespective of whether or not the person is
17 employed in other activities for which the
18 exemption does not apply. If the person is
19 employed for part of a year in exempt activities
20 and for part of a year in nonexempt activities,
21 the employer shall be responsible for providing
22 workers' compensation only for the period of time
23 for which the person is employed in nonexempt
24 activities,

- 1 (3) any person who is a licensed real estate sales
2 associate or broker, paid on a commission basis,
- 3 (4) any person who is providing services in a medical
4 care or social services program, or who is a
5 participant in a work or training program,
6 administered by the Department of Human Services,
7 unless the Department is required by federal law
8 or regulations to provide workers' compensation
9 for such person. This division shall not be
10 construed to include nursing homes,
- 11 (5) any person employed by an employer with five or
12 fewer total employees, all of whom are related
13 within the second degree by blood or marriage to
14 the employer, ~~if the employer is a natural person~~
15 ~~or a general or limited partnership, or an~~
16 ~~incorporator of a corporation if the corporation~~
17 ~~is the employer,~~ all of whom are dependents
18 living in the household of the employer, or all
19 of whom are a combination of such relatives and
20 dependents. In the event the employer is not a
21 natural person, such relative shall be related
22 within the second degree by blood or marriage to
23 a person who owns fifty percent (50%) or more of
24 the employer or such dependent shall live in the

1 household of a person who owns fifty percent
2 (50%) or more of the employe,

3 (6) any person employed by an employer which is a
4 youth sports league which qualifies for exemption
5 from federal income taxation pursuant to federal
6 law,

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

20 (8) any person providing or performing voluntary
21 service who receives no wages for the services
22 other than meals, drug or alcohol rehabilitative
23 therapy, transportation, lodging or reimbursement
24 for incidental expenses except for volunteers

1 specifically provided for in subparagraph a of
2 this paragraph,

3 (9) a person, commonly referred to as an owner-
4 operator, who owns or leases a truck-tractor or
5 truck for hire, if the owner-operator actually
6 operates the truck-tractor or truck and if the
7 person contracting with the owner-operator is not
8 the lessor of the truck-tractor or truck.

9 Provided, however, an owner-operator shall not be
10 precluded from workers' compensation coverage
11 under the Administrative Workers' Compensation
12 Act if the owner-operator elects to participate
13 as a sole proprietor,

14 (10) a person referred to as a drive-away owner-
15 operator who privately owns and utilizes a tow
16 vehicle in drive-away operations and operates
17 independently for hire, if the drive-away owner-
18 operator actually utilizes the tow vehicle and if
19 the person contracting with the drive-away owner-
20 operator is not the lessor of the tow vehicle.

21 Provided, however, a drive-away owner-operator
22 shall not be precluded from workers' compensation
23 coverage under the Administrative Workers'
24

1 Compensation Act if the drive-away owner-operator
2 elects to participate as a sole proprietor, and
3 (11) any person who is employed as a domestic servant
4 or as a casual worker in and about a private home
5 or household, which private home or household had
6 a gross annual payroll in the preceding calendar
7 year of less than Fifty Thousand Dollars
8 (\$50,000.00) for such workers;

9 19. "Employer" means a natural person, partnership,
10 association, limited liability company, corporation, and the legal
11 representatives of a deceased employer, or the receiver or trustee
12 of a person, partnership, association, corporation, or limited
13 liability company, departments, instrumentalities and institutions
14 of this state and divisions thereof, counties and divisions thereof,
15 public trusts, boards of education and incorporated cities or towns
16 and divisions thereof, employing a person included within the term
17 "employee" as defined in this section. Employer may also mean the
18 employer's workers' compensation insurance carrier, if applicable.
19 Except as provided otherwise, this act applies to all public and
20 private entities and institutions. ~~Employer shall not include a~~
21 ~~qualified employer with an employee benefit plan as provided under~~
22 ~~the Oklahoma Employee Injury Benefit Act in Sections 200 through 213~~
23 ~~of this title;~~

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

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

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

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

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

23 25. "Insurance Commissioner" means the Insurance Commissioner
24 of the State of Oklahoma;

1 26. "Insurance Department" means the Insurance Department of
2 the State of Oklahoma;

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

10 28. "Maximum medical improvement" means that no further
11 material improvement would reasonably be expected from medical
12 treatment or the passage of time;

13 29. "Medical services" means those services specified in
14 Section 50 of this title;

15 30. "Misconduct" shall include the following:

- 16 a. unexplained absenteeism or tardiness,
- 17 b. willful or wanton indifference to or neglect of the
18 duties required,
- 19 c. willful or wanton breach of any duty required by the
20 employer,
- 21 d. the mismanagement of a position of employment by
22 action or inaction,
- 23 e. actions or omissions that place in jeopardy the
24 health, life, or property of self or others,

- 1 f. dishonesty,
- 2 g. wrongdoing,
- 3 h. violation of a law, or
- 4 i. a violation of a policy or rule adopted to ensure
- 5 orderly work or the safety of self or others;

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

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

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

20 (3) (a) Objective evidence necessary to prove
21 permanent disability in occupational hearing
22 loss cases may be established by medically
23 recognized and accepted clinical diagnostic
24 methodologies, including, but not limited

1 to, audiological tests that measure air and
2 bone conduction thresholds and speech
3 discrimination ability.

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

11 b. Medical opinions addressing compensability and
12 permanent disability shall be stated within a
13 reasonable degree of medical certainty;

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

17 33. "Permanent disability" means the extent, expressed as a
18 percentage, of the loss of a portion of the total physiological
19 capabilities of the human body as established by competent medical
20 evidence and based on the current edition of the American Medical
21 Association guides to the evaluation of impairment, if the
22 impairment is contained therein;

23 34. "Permanent partial disability" means a permanent disability
24 or loss of use after maximum medical improvement has been reached

1 which prevents the injured employee, who has been released to return
2 to work by the treating physician, from returning to his or her pre-
3 injury or equivalent job. All evaluations of permanent partial
4 disability must be supported by objective findings;

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

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

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

21 38. "Private self-insurer" means a private employer that has
22 been authorized to self-insure its workers' compensation obligations
23 pursuant to this act, but does not include group self-insurance
24

1 associations authorized by this act, or any public employer that
2 self-insures pursuant to this act;

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

6 40. "Scheduled member" or "member" means hands, fingers, arms,
7 legs, feet, toes, and eyes. In addition, for purposes of the
8 Multiple Injury Trust Fund only, "scheduled member" means hearing
9 impairment;

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

17 42. "State average weekly wage" means the state average weekly
18 wage determined by the Oklahoma Employment Security Commission in
19 the preceding calendar year. If such determination is not
20 available, the Commission shall determine the wage annually after
21 reasonable investigation;

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

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

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

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

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

13 48. "Wages" means money compensation received for employment at
14 the time of the accident, including the reasonable value of board,
15 rent, housing, lodging, or similar advantage received from the
16 employer and includes the amount of tips required to be reported by
17 the employer under Section 6053 of the Internal Revenue Code and the
18 regulations promulgated pursuant thereto or the amount of actual
19 tips reported, whichever amount is greater.

20 SECTION 2. AMENDATORY Section 3, Chapter 208, O.S.L.
21 2013 (85A O.S. Supp. 2018, Section 3), is amended to read as
22 follows:

23 Section 3. A. ~~Every employer and every employee, unless~~
24 ~~otherwise specifically provided in this act, shall be~~ subject and

1 bound to the provisions of the Administrative Workers' Compensation
2 Act. ~~However, nothing~~ shall pay or provide benefits according to
3 the provisions of this act for the accidental injury or death of an
4 employee arising out of and in the course of his or her employment,
5 without regard to fault for such injury, if the employee's contract
6 of employment was made in this state or if the injury occurred
7 within this state. If an employee makes a claim for an injury in
8 another jurisdiction and a final adjudication is entered in the
9 case, the employee is precluded from a right of action under the
10 Administrative Workers' Compensation Act of this state. If the
11 employee makes a claim or brings an action in this state prior to a
12 final adjudication in another jurisdiction, any receipt of benefits
13 in the other jurisdiction shall not bar the claim or action in this
14 state; provided, however, in no event shall the Workers'
15 Compensation Commission grant benefits that duplicate benefits paid
16 by the employer or the employer's insurance carrier in the other
17 jurisdiction. Nothing in this act shall be construed to conflict
18 with any valid Act of Congress governing the liability of employers
19 for injuries received by their employees.

20 B. ~~This act~~ The State of Oklahoma accepts the provisions of the
21 Acts of Congress designated as 40 U.S.C., Section 3172, formerly 40
22 U.S.C., Section 290, and hereby extends the territorial jurisdiction
23 of the Administrative Workers' Compensation Act of this state to all
24 lands and premises within the exterior boundaries of this state

1 which the federal government of the United States of America owns or
2 holds by deed or act of cession, and to all purchases, projects,
3 buildings, constructions, improvements and property within the
4 exterior boundaries of this state belonging to the federal
5 government of the United States of America, in the same manner and
6 to the same extent as if the premises were under the exclusive
7 jurisdiction of this state, subject only to the limitations placed
8 thereon by the Acts of Congress.

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

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

16 SECTION 3. AMENDATORY Section 6, Chapter 208, O.S.L.
17 2013, as amended by Section 1, Chapter 390, O.S.L. 2015 (85A O.S.
18 Supp. 2018, Section 6), is amended to read as follows:

19 Section 6.

20 A. 1. a. Any person or entity who makes any material false
21 statement or representation, who willfully and
22 knowingly omits or conceals any material information,
23 or who employs any device, scheme, or artifice, or who
24 aids and abets any person for the purpose of:

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

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

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

11 c. Fifty percent (50%) of any criminal fine imposed and
12 collected under this section shall be paid and
13 allocated in accordance with applicable law to the
14 Workers' Compensation Commission Revolving Fund
15 ~~administered by the Commission.~~

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

20 B. A Except for forms submitted through the Electronic Data
21 Interchange system employed by the Commission pursuant to Section
22 101 of this title, a copy of division (1) of subparagraph a of
23 paragraph 1 of subsection A of this section shall be included on all
24 forms prescribed by the Commission for the use of injured employees

1 claiming benefits and for the use of employers in responding to
2 employees' claims under this act.

3 C. Where the Commission or the Attorney General finds that a
4 violation of division (1) of subparagraph a of paragraph 1 of
5 subsection A of this section has been committed, or that any other
6 criminal violations in furtherance of this act were committed, the
7 chair of the Commission or the Attorney General shall refer the
8 matter for appropriate action to the prosecuting attorney having
9 criminal jurisdiction over the matter.

10 D. 1. a. There shall be established within the Office of the
11 Attorney General a Workers' Compensation Fraud
12 Investigation Unit, funded by the Commission. The
13 Attorney General shall appoint a Director of the
14 Workers' Compensation Fraud Investigation Unit, who
15 may also serve as the director of any other designated
16 insurance fraud investigation division within the
17 Attorney General's office.

18 b. (1) The Unit shall investigate workers' compensation
19 fraud, any additional criminal violations that
20 may be related to workers' compensation fraud,
21 and any other insurance fraud matters as may be
22 assigned at the discretion of the Attorney
23 General.

24

1 (2) The Attorney General shall designate the
2 personnel assigned to the Unit, who, on meeting
3 the qualifications established by the Oklahoma
4 Council on Law Enforcement Education and
5 Training, shall have the powers of specialized
6 law enforcement officers of the State of Oklahoma
7 for the purpose of conducting investigations
8 under this subparagraph. Personnel hired as
9 specialized law enforcement officers shall have a
10 minimum of three (3) years of certified law
11 enforcement experience or its equivalent in
12 national or military law enforcement experience
13 as approved by the Oklahoma Council on Law
14 Enforcement Education and Training.

15 2. The Attorney General and his or her deputies and assistants
16 and the Director of the Workers' Compensation Fraud Investigation
17 Unit and his or her deputies and assistants shall be vested with the
18 power of enforcing the requirements of this section.

19 3. It shall be the duty of the Unit to assist the Attorney
20 General in the performance of his or her duties. The Unit shall
21 determine the identity of employees in this state who have violated
22 division (1) of subparagraph a of paragraph 1 of subsection A of
23 this section and report the violation to the Office of the Attorney
24 General and the Commission. The Attorney General shall report the

1 violation to the prosecuting attorney having jurisdiction over the
2 matter.

3 4. a. In the course of any investigation being conducted by
4 the Unit, the Attorney General and his or her deputies
5 and assistants and the Director and his or her
6 deputies and assistants shall have the power of
7 subpoena and may:

8 (1) subpoena witnesses,

9 (2) administer oaths or affirmations and examine any
10 individual under oath, and

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

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

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

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

23 d. If any person has refused in connection with an
24 investigation by the Director to be examined under

1 oath concerning his or her affairs, then the Director
2 is authorized to conduct and enforce by all
3 appropriate and available means any examination under
4 oath in any state or territory of the United States in
5 which any officer, director, or manager may then
6 presently be to the full extent permitted by the laws
7 of the state or territory.

8 e. In addition to the punishments described in paragraph
9 1 of subsection A of this section, any person
10 providing false testimony under oath or affirmation in
11 this state as to any matter material to any
12 investigation or hearing conducted under this
13 subparagraph, or any workers' compensation hearing,
14 shall upon conviction be guilty of perjury.

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

17 6. a. Every carrier or employer who has reason to suspect
18 that a violation of division (1) of subparagraph a of
19 paragraph 1 of subsection A of this section has
20 occurred shall be required to report all pertinent
21 matters to the unit.

22 b. No carrier or employer who makes a report for a
23 suspected violation of division (1) of subparagraph a
24 of paragraph 1 of subsection A of this section by an

1 employee shall be liable to the employee unless the
2 carrier or employer knowingly and intentionally
3 included false information in the report.

4 c. (1) Any carrier or employer who willfully and
5 knowingly fails to report a violation under
6 division (1) of subparagraph a of paragraph 1 of
7 subsection A of this section shall be guilty of a
8 misdemeanor and on conviction shall be punished
9 by a fine not to exceed One Thousand Dollars
10 (\$1,000.00).

11 (2) Fifty percent (50%) of any criminal fine imposed
12 and collected under this subparagraph shall be
13 paid and allocated in accordance with applicable
14 law to the ~~fund administered by the Workers'~~
15 Compensation Commission Revolving Fund.

16 d. Any employee may report suspected violations of
17 division (1) of subparagraph a of paragraph 1 of
18 subsection A of this section. No employee who makes a
19 report shall be liable to the employee whose suspected
20 violations have been reported.

21 E. 1. For the purpose of imposing criminal sanctions or a fine
22 for violation of the duties of this act, the prosecuting attorney
23 shall have the right and discretion to proceed against any person or
24

1 organization responsible for such violations, both corporate and
2 individual liability being intended by this act.

3 2. The prosecuting attorney of the district to whom a suspected
4 violation of subsection A of this section, or any other criminal
5 violations that may be related thereto, have been referred shall,
6 for the purpose of assisting him or her in such prosecutions, have
7 the authority to appoint as special deputy prosecuting attorneys
8 licensed attorneys-at-law in the employment of the Unit or any other
9 designated insurance fraud investigation division within the
10 Attorney General's office. Such special deputy prosecuting
11 attorneys shall, for the purpose of the prosecutions to which they
12 are assigned, be responsible to and report to the prosecuting
13 attorney.

14 F. Notwithstanding any other provision of law, investigatory
15 files as maintained by the Attorney General's office and by the Unit
16 shall be deemed confidential and privileged. The files may be made
17 open to the public once the investigation is closed by the Director
18 of the Workers' Compensation Fraud Investigation Unit with the
19 consent of the Attorney General.

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

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

1 I. ~~The~~ Except for forms submitted through the Electronic Data
2 Interchange system employed by the Commission pursuant to Section
3 101 of this title, the Commission shall include a statement on all
4 forms for notices and instructions to employees, employers, carriers
5 and third-party administrators that any person who commits workers'
6 compensation fraud, upon conviction, shall be guilty of a felony
7 punishable by imprisonment, a fine or both.

8 ~~J.~~ If an injured employee is charged with workers' compensation
9 fraud, any pending workers' compensation proceeding, including
10 benefits, shall be stayed after the preliminary hearing is concluded
11 and the claimant is bound over and shall remain stayed until the
12 final disposition of the criminal case. All notice requirements
13 shall continue during the stay.

14 ~~K.~~ J. If the Attorney General's Office is in compliance with
15 the discovery provisions of Section 258 of Title 22 of the Oklahoma
16 Statutes, medical records created for the purpose of treatment and
17 medical opinions obtained during the investigation shall be
18 admissible at the preliminary hearing without the appearance of the
19 medical professional creating such records or opinions. However,
20 when material evidence dispositive to the issues of whether there
21 was probable cause the crime was committed and whether the defendant
22 committed the crime, was not included in a report or opinion
23 admitted at preliminary hearing, but might be presented at a
24 pretrial hearing by a medical professional who created such report

1 or opinion, the judge may, upon the motion of either party, order
2 the appearance of the medical professional creating such report or
3 opinion. Questions of fact regarding the conduct of the defendant
4 that conflict with the findings of the medical professional
5 evaluating the defendant shall not constitute material evidence. In
6 the event of such motion, notice shall be given to the Attorney
7 General's Workers Compensation Fraud and Investigation and
8 Prosecution Unit. A hearing shall be held and, if the motion is
9 granted, the evidence shall not be presented fewer than five (5)
10 days later.

11 ~~H.~~ K. Any person or entity who, in good faith and exercising
12 due care, reports suspected workers' compensation fraud or insurance
13 fraud, or who allows access to medical records or other information
14 pertaining to suspected workers' compensation or insurance fraud, by
15 persons authorized to investigate a report concerning the workers'
16 compensation and insurance fraud, shall have immunity from any civil
17 or criminal liability for such report or access. Any such person or
18 entity shall have the same immunity with respect to participation in
19 any judicial proceeding resulting from such reports. For purposes
20 of any civil or criminal proceeding, there shall be a presumption of
21 good faith of any person making a report, providing medical records
22 or providing information pertaining to a workers' compensation or
23 insurance fraud investigation by the Attorney General, and

24

1 participating in a judicial proceeding resulting from a subpoena or
2 a report.

3 SECTION 4. AMENDATORY Section 18, Chapter 208, O.S.L.
4 2013 (85A O.S. Supp. 2018, Section 18), is amended to read as
5 follows:

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

19 B. The notice shall include:

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

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

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

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

16 SECTION 5. AMENDATORY Section 19, Chapter 208, O.S.L.
17 2013, as amended by Section 4, H.J.R. No. 1096, O.S.L. 2014 (85A
18 O.S. Supp. 2018, Section 19), is amended to read as follows:

19 Section 19. A. There is hereby created the Oklahoma Workers'
20 Compensation Commission, an executive agency of the State of
21 Oklahoma, which shall have the exclusive responsibility and duty to
22 carry out the provisions of ~~this act~~ the Administrative Workers'
23 Compensation Act, except as otherwise provided.

24

1 B. The Commission shall consist of three (3) full-time
2 commissioners, each of whom must have been involved in the workers'
3 compensation field for at least three (3) years, appointed by the
4 Governor: one of whom is chosen from a slate of three selected by
5 the Speaker of the House of Representatives, with all three
6 confirmed by the Senate. The term of each appointee shall be six
7 (6) years to administer the provisions of this act. The Governor
8 may request a subsequent slate of nominees from the Speaker of the
9 House of Representatives if a suitable nominee is not found. Any or
10 all of the commissioners may be reappointed for additional six-year
11 terms upon reconfirmation by the Senate. However, the initial
12 commissioners shall serve staggered terms of two (2), four (4), and
13 six (6) years, respectively, as determined by the Governor. If the
14 Legislature is not in session at the time of appointment, the
15 appointment shall be subject to confirmation by the Senate upon
16 convening of the next regular session of the Legislature.

17 Membership on the Commission shall be a full-time position and no
18 commissioner shall have any other employment, unless authorized or
19 excused by law. Each commissioner shall receive a salary equal to
20 that paid to a district judge of this state; provided however, the
21 commissioners shall not receive any increase in salary as a result
22 of the provisions of Section 1 of this resolution.

23 C. The Commission shall have the authority to adopt reasonable
24 rules within its respective areas of responsibility including the

1 rules of procedure for administrative hearings, after notice and
2 public hearing, for effecting the purposes of ~~this act~~ the
3 Administrative Workers' Compensation Act, in accordance with the
4 Oklahoma Administrative Procedures Act. All rules, upon adoption,
5 shall be published and be made available to the public and, if not
6 inconsistent with the law, shall be binding in the administration of
7 ~~this act~~ the Administrative Workers' Compensation Act.

8 D. The principal office of the Commission shall be situated in
9 the City of Oklahoma City in quarters assigned by the Office of
10 Management and Enterprise Services. The Commission shall maintain
11 and keep open, during reasonable business hours, the office in
12 Oklahoma City, for the transaction of business, at which office its
13 official records and papers shall be kept. The Commission or any
14 commissioner may hold hearings in any city of this state.

15 E. The Governor shall appoint one of the commissioners to be
16 chair of the Commission. In addition to other duties, the chair of
17 the Commission shall have the following powers and duties:

18 1. To organize, direct and develop the administrative work of
19 the administrative law judges, including but not limited to
20 docketing, clerical, technical and financial work and establishment
21 of hours of operation;

22 2. To employ administrative staff for the Commission, within
23 budgetary limitation; and
24

1 3. Such other duties and responsibilities authorized by law or
2 as the Commission may prescribe.

3 F. All appeals or disputes arising from actions of the
4 Commission shall be governed by provisions of ~~this act~~ the
5 Administrative Workers' Compensation Act and the Commission shall
6 not be subject to the provisions of the Oklahoma Administrative
7 Procedures Act, except as provided in ~~this act~~ the Administrative
8 Workers' Compensation Act.

9 G. When any commissioner of the Commission is disqualified for
10 any reason to hear and participate in the determination of any
11 matter pending before the Commission, the Governor shall appoint a
12 qualified person to hear and participate in the decision on the
13 particular matter. The special commissioner so appointed shall have
14 all authority and responsibility with respect to the particular
15 matter before the Commission as if the person were a regular
16 commissioner of the Commission but shall have no authority or
17 responsibility with respect to any other matter before the
18 Commission. A person appointed as a special commissioner of the
19 Commission under the provisions of this subsection shall be entitled
20 to receive a per diem equal to the annual salary of the
21 commissioners prorated for the number of days he or she serves in
22 the capacity of a special commissioner of the Commission.
23 Furthermore, when a vacancy on the Commission occurs or is certain
24

1 to occur, the position shall be filled pursuant to the provisions of
2 this section.

3 H. Communications, whether in person, by electronic medium or
4 in writing, that reflect the pre-decisional deliberations of the
5 Commissioners among each other or with Commission staff, and which
6 occur while exercising their quasi-judicial duties such as reviewing
7 decisions or awards made by the administrative law judges of the
8 Commission pursuant to Section 78 of this title or reviewing
9 arbitration awards pursuant to Section 322 and Section 323 of this
10 title, shall not be subject to requirements of the Oklahoma Open
11 Meeting Act or Oklahoma Open Records Act, shall be confidential and
12 shall be considered protected deliberative communications.

13 SECTION 6. AMENDATORY Section 22, Chapter 208, O.S.L.
14 2013 (85A O.S. Supp. 2018, Section 22), is amended to read as
15 follows:

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

- 19 a. to make rules necessary for the administration and
20 operation of the Commission,
- 21 b. to appoint and fix the compensation of temporary
22 technical assistants, medical and legal advisers,
23 clerical assistants and other officers and employees,
24 and

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

5 2. a. ~~Before~~ The Commission shall vote on any substantive
6 change to any form and the effective date of such
7 substantive change.

8 b. The Commission shall comply with the Administrative
9 Procedures Act applicable to the filing and
10 publication requirements for rules before the
11 adoption, prescription, amendment, modification, or
12 repeal of any rule, ~~regulation, or form,~~ the
13 Commission shall give at least thirty (30) days'
14 notice of its intended action.

15 ~~b. The notice shall include a statement of the terms or~~
16 ~~substance of the intended action or description of the~~
17 ~~subjects and issues involved, and the time, place, and~~
18 ~~manner in which interested persons may present their~~
19 ~~views thereon.~~

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

23 ~~3. The Commission shall afford all interested persons a~~
24 ~~reasonable opportunity to submit written data, views, or arguments,~~

1 ~~and, if the Commission in its discretion shall so direct, oral~~
2 ~~testimony or argument.~~

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

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

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

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

17 C. Additionally, the Commission shall have the following powers
18 and duties:

19 1. To hear and approve compromise settlements;

20 2. To review and approve own-risk applications and group self-
21 insurance association applications, except for those established
22 pursuant to Section 85.58A of Title 74 of the Oklahoma Statutes;

23 3. To monitor own-risk, self-insurer and group self-insurance
24 programs, in accordance with the rules of the Commission, except for

1 those established pursuant to Section 85.58A of Title 74 of the
2 Oklahoma Statutes;

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

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

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

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

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

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

21 9. To establish a petty cash fund in an amount not to exceed
22 Five Hundred Dollars (\$500.00) to be used for the purpose of making
23 change for persons purchasing printed or electronic materials from
24 the Commission, paying fees and fines, and transacting other such

1 business with the Commission. The fund shall be established and
2 replenished from any monies available to the Commission for
3 operating expenses and it shall be administered pursuant to the
4 requirements of Section 195 of Title 62 of the Oklahoma Statutes;
5 and

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

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

12 SECTION 7. AMENDATORY Section 28, Chapter 208, O.S.L.
13 2013, as last amended by Section 1, Chapter 344, O.S.L. 2015 (85A
14 O.S. Supp. 2018, Section 28), is amended to read as follows:

15 Section 28. A. There are established within the Office of the
16 State Treasurer two separate funds:

17 1. The "Multiple Injury Trust Fund"; and

18 2. The "Self-insurance Guaranty Fund".

19 B. ~~Except as provided in Section 97 of this title, no money~~
20 ~~shall be appropriated from these funds for any purpose except for~~
21 ~~the use and benefit, or at the direction, of the Oklahoma Workers'~~
22 ~~Compensation Commission.~~

23 C. ~~Except as provided in Section 96 of this title, all funds~~
24 ~~established under this section shall be administered, disbursed, and~~

1 ~~invested under the direction of the Commission and the State~~
2 ~~Treasurer.~~

3 ~~D.~~ All incomes derived through investment of the Multiple
4 Injury Trust Fund shall be credited as investment income to the fund
5 that participated in the investment.

6 ~~E.~~ C. No monies deposited to these funds shall be subject to
7 any deduction, tax, levy, or any other type of assessment.

8 ~~F.~~ D. If the balance in the Multiple Injury Trust Fund becomes
9 insufficient to fully compensate those employees to whom it is
10 obligated, payment shall be suspended until such time as the
11 Multiple Injury Trust Fund is capable of meeting its obligations,
12 paying all arrearages, and restoring normal benefit payments.

13 ~~G.~~ E. On the effective maturity dates of each investment, the
14 investment shall be transferred to the State Treasurer for deposit
15 into the Multiple Injury Trust Fund created in this section.

16 ~~H.~~ F. Unless provided otherwise in the Administrative Workers'
17 Compensation Act, all fines and penalties assessed under the
18 Administrative Workers' Compensation Act shall be deposited into the
19 Workers' Compensation Commission Revolving Fund. Any monies
20 remaining in the Workers' Compensation Fund on June 30, 2015, shall
21 be transferred to the Workers' Compensation Commission Revolving
22 Fund.

23

24

1 SECTION 8. AMENDATORY Section 29, Chapter 208, O.S.L.
2 2013 (85A O.S. Supp. 2018, Section 29), is amended to read as
3 follows:

4 Section 29. A. Each carrier writing compensation insurance in
5 this state shall pay to the Commission ~~at the time of securing a~~
6 ~~license to transact business in this state~~ an annual application fee
7 of One Thousand Dollars (\$1,000.00) ~~for the privilege of qualifying~~
8 ~~with the Commission for the writing of compensation insurance.~~

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

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

15 D. Fees required pursuant to this section shall be deposited
16 into the Workers' Compensation Commission Revolving Fund.

17 SECTION 9. AMENDATORY Section 31, Chapter 208, O.S.L.
18 2013, as amended by Section 3, Chapter 344, O.S.L. 2015 (85A O.S.
19 Supp. 2018, Section 31), is amended to read as follows:

20 Section 31. A. The Multiple Injury Trust Fund shall be derived
21 from the following additional sources:

22 1. As soon as practicable after January 1 of each year, the
23 commissioners of the Workers' Compensation Commission shall
24 establish an assessment rate applicable to each mutual or

1 interinsurance association, stock company, CompSource Oklahoma, or
2 other insurance carrier writing workers' compensation insurance in
3 this state, each employer carrying its own risk, and each group
4 self-insurance association, for amounts for purposes of computing
5 the assessment authorized by this section necessary to pay the
6 annual obligations of the Multiple Injury Trust Fund determined on
7 or before December 31 of each year by the MITF Director, provided
8 for in subsection P of this section, to be outstanding for the next
9 calendar year, and to pay the allocations provided for in subsection
10 I of this section. The rate shall be equal for all parties required
11 to pay the assessment. If CompSource begins operating as a mutual
12 insurance company, the Board of Directors for CompSource Mutual
13 Insurance Company shall have the power to disapprove the rate
14 established by the MITF Director until the Multiple Injury Trust
15 Fund repays in full the amount due on any loan from CompSource
16 Mutual Insurance Company or its predecessor CompSource Oklahoma. If
17 the MITF Director and CompSource have not agreed on the assessment
18 rate within thirty (30) days, the Commission shall set an assessment
19 rate sufficient to cover all foreseeable obligations of the Multiple
20 Injury Trust Fund, including interest and principal owed by the Fund
21 on any loan. The rate in effect on the effective date of this act
22 shall remain effective through June 30, 2014;

23 2. The Oklahoma Tax Commission shall assess and collect from
24 any uninsured employer a temporary assessment at the rate of five

1 percent (5%) of the total compensation for permanent total
2 disability awards, permanent partial disability awards, and death
3 benefits paid out during each quarter of the calendar year by the
4 employers;

5 3. The assessments shall be paid to the Tax Commission.

6 Insurance carriers, self-insurers, group self-insurance associations
7 and CompSource Oklahoma shall pay the assessment in four equal
8 installments not later than the fifteenth day of the month following
9 the close of each quarter of the calendar year of the assessment.

10 Assessments shall be determined based upon gross direct written
11 premiums, normal premiums or actual paid losses of the paying party,
12 as applicable, during the calendar quarter for which the assessment
13 is due. Uninsured employers shall pay the assessment not later than
14 the fifteenth day of the month following the close of each quarter
15 of the calendar year of the assessment. For purposes of this
16 section, "uninsured employer" means an employer required by law to
17 carry workers' compensation insurance but who has failed or
18 neglected to do so.

19 a. The assessment authorized in this section shall be
20 determined using a rate equal to the proportion that
21 the sum of the outstanding obligations of the Multiple
22 Injury Trust Fund as determined pursuant to paragraph
23 1 of this subsection and the allocations provided for
24 in subsection I of this section bear to the combined

1 gross direct written premiums of all such insurers;
2 all actual paid losses of all individual self-
3 insureds; and the normal premium of all group self-
4 insurance associations, for the year period from
5 January 1 to December 31 preceding the assessment.

6 b. For purposes of this subsection:

7 (1) "actual paid losses" means all medical and
8 indemnity payments, including temporary
9 disability, permanent disability, and death
10 benefits, and excluding loss adjustment expenses
11 and reserves, and

12 (2) "normal premium" means a standard premium less
13 any discounts;

14 4. By April 15 of each year, the Insurance Commissioner, the
15 MITF Director and each individual and group self-insured shall
16 provide the Commission with such information as the Commission may
17 determine is necessary to effectuate the purposes of this section;

18 5. Each mutual or interinsurance association, stock company,
19 CompSource Oklahoma, or other insurance carrier writing workers'
20 compensation insurance in this state, and each employer carrying its
21 own risk, including each group self-insurance association, shall be
22 notified by the Commission in writing of the rate for the assessment
23 on or before May 1 of each year in which a rate is determined. The
24 rate determined by the Commission shall be in effect for four

1 calendar quarters beginning July 1 following determination by the
2 Commission; and

3 6. a. No mutual or interinsurance association, stock
4 company, CompSource Oklahoma, or other insurance
5 carrier writing workers' compensation insurance in
6 this state may be assessed in any year an amount
7 greater than six percent (6%) of the gross direct
8 written premiums of that insurer.

9 b. No employer carrying its own risk may be assessed in
10 any year an amount greater than six percent (6%) of
11 the total actual paid losses of that individual self-
12 insured.

13 c. No group self-insurance association may be assessed in
14 any year an amount greater than six percent (6%) of
15 the normal premium of that group self-insurance
16 association.

17 d. If the maximum assessment does not provide in any one
18 year an amount sufficient to make all necessary
19 payments for obligations of the Multiple Injury Trust
20 Fund and for the allocations provided for in
21 subsection I of this section, the unpaid portion shall
22 be paid as soon thereafter as funds become available.

23 B. The Multiple Injury Trust Fund is hereby authorized to
24 receive and expend monies appropriated by the Legislature.

1 C. It shall be the duty of the Tax Commission to collect the
2 payments provided for in this act. 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.

5 D. Any mutual or interinsurance association, stock company, or
6 other insurance company, which is subject to regulation by the
7 Insurance Commissioner, or CompSource Oklahoma, failing to make
8 payments required in this act promptly and correctly, and failing to
9 report payment of the same to the Insurance Commission within ten
10 (10) days of payment shall be subject to administrative penalties as
11 allowed by law, including but not limited to a fine in the amount of
12 Five Hundred Dollars (\$500.00) or an amount equal to one percent
13 (1%) of the unpaid amount, whichever is greater, to be paid to the
14 Insurance Commissioner.

15 E. Any employer carrying its own risk, or group self-insurance
16 association failing to make payments required in this act promptly
17 and correctly, and failing to report payment of the same to the
18 Commission within ten (10) days of payment shall be subject to
19 administrative penalties as allowed by law, including but not
20 limited to a fine in the amount of Five Hundred Dollars (\$500.00) or
21 an amount equal to one percent (1%) of the unpaid amount, whichever
22 is greater, to be paid to the Commission.

23 F. 1. On or before the first day of April of each year, the
24 State Treasurer shall advise the Commission, the MITF Director and

1 the Tax Commission of the amount of money held as of March 1 of that
2 year by the State Treasurer to the credit of the Multiple Injury
3 Trust Fund. On or before the first day of November of each year,
4 the State Treasurer shall advise the Commission, the MITF Director
5 and the Tax Commission of the amount of money held as of October 1
6 of that year by the State Treasurer to the credit of the Multiple
7 Injury Trust Fund.

8 2. Until such time as the Multiple Injury Trust Fund fully
9 satisfies any loan obligation payable to CompSource Mutual Insurance
10 Company or its predecessor CompSource Oklahoma, the State Treasurer
11 shall:

12 a. advise the Chief Executive Officer of CompSource on or
13 before the first day of April of the money held as of
14 March 1 of that year by the State Treasurer to the
15 credit of the Multiple Injury Trust Fund, and

16 b. advise the Chief Executive Officer of CompSource on or
17 before the first day of November of the money held as
18 of October 1 of that year by the State Treasurer to
19 the credit of the Multiple Injury Trust Fund.

20 G. Eighty percent (80%) of all sums held by the State Treasurer
21 to the credit of the Multiple Injury Trust Fund may by order of the
22 MITF Director be invested in or loaned on the pledge of any of the
23 securities in which a state bank may invest the monies deposited
24 therein by the State Treasurer; or may be deposited in state or

1 national banks or trust companies upon insured time deposit bearing
2 interest at a rate no less than currently being paid upon insured
3 savings accounts in the institutions. As used in this section,
4 "insured" means insurance as provided by an agency of the federal
5 government. All such securities or evidence of indebtedness shall
6 be placed in the hands of the State Treasurer, who shall be the
7 custodian thereof, who shall collect the principal and interest when
8 due, and pay the same into the Multiple Injury Trust Fund. The
9 State Treasurer shall pay by vouchers drawn on the Multiple Injury
10 Trust Fund for the making of such investments, when signed by the
11 MITF Director, upon delivery of such securities or evidence of
12 indebtedness to the State Treasurer. The MITF Director may sell any
13 of such securities, the proceeds thereof to be paid over to the
14 State Treasurer for the Multiple Injury Trust Fund.

15 H. The refund provisions of Sections 227 through 229 of Title
16 68 of the Oklahoma Statutes shall be applicable to any payments made
17 to the Multiple Injury Trust Fund. Refunds shall be paid from and
18 out of the Multiple Injury Trust Fund.

19 I. The Tax Commission shall pay, monthly, to the State
20 Treasurer to the credit of the Multiple Injury Trust Fund all monies
21 collected pursuant to the provisions of this section. The State
22 Treasurer shall pay out of the Multiple Injury Trust Fund only upon
23 the order and direction of the Workers' Compensation Commission
24 acting under the provisions hereof.

1 J. The Commission shall promulgate rules as the Commission
2 deems necessary to effectuate the provisions of this section.

3 K. The Insurance Commissioner shall promulgate rules relating
4 to insurers as defined in Title 36 of the Oklahoma Statutes, as the
5 Insurance Commissioner deems necessary to effectuate the provisions
6 of this section.

7 L. The MITF Director shall have authority to fulfill all
8 payment obligations of the Multiple Injury Trust Fund.

9 M. The Multiple Injury Trust Fund may enter into an agreement
10 with any reinsurer licensed to sell reinsurance by the Insurance
11 Commissioner pursuant to a competitive process administered by the
12 Director of Central Purchasing in the Office of Management and
13 Enterprise Services.

14 N. Any dividend, rebate, or other distribution, payable by
15 CompSource Oklahoma or any other workers' compensation insurance
16 carrier, to a state agency policyholder shall be paid to the State
17 Treasurer, and shall be credited as follows:

18 1. In the event of failure of the Multiple Injury Trust Fund to
19 meet all lawful obligations, the monies shall be credited to the
20 Multiple Injury Trust Fund and shall be used by the Multiple Injury
21 Trust Fund to meet all lawful obligations of the Multiple Injury
22 Trust Fund; and

23 2. Otherwise, all future dividends made by CompSource Oklahoma
24 or any workers' compensation insurance carrier, on behalf of state

1 agencies, shall be deposited to the credit of the General Revenue
2 Fund of the State Treasury.

3 ~~O. The Workers' Compensation Commission shall be charged with
4 the administration and protection of the Multiple Injury Trust Fund.~~

5 ~~P.~~ The person serving as the Administrator of the Multiple
6 Injury Trust Fund on the date of passage and approval of this act
7 shall serve as the initial MITF Director, provided such person is
8 serving as the Administrator of the Multiple Injury Trust Fund on
9 the effective date of this act. The MITF Director shall be
10 appointed by and serve at the pleasure of the Governor.

11 ~~Q.~~ P. Any party interested shall have a right to bring a
12 proceeding in the Supreme Court to review an award of the Commission
13 affecting such Multiple Injury Trust Fund, in the same manner as is
14 provided by law with reference to other awards by the Commission.

15 ~~R. The State Treasurer shall allocate to the Commission out of
16 the Multiple Injury Trust Fund sufficient funds for administration
17 expenses thereof in amounts to be fixed and approved by the
18 Administrator for the Multiple Injury Trust Fund, unless rejected by
19 the Commission.~~

20 SECTION 10. AMENDATORY Section 38, Chapter 208, O.S.L.
21 2013 (85A O.S. Supp. 2018, Section 38), is amended to read as
22 follows:

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

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

15 2. By obtaining and keeping in force guaranty insurance with
16 any company authorized to do guaranty business in this state. Each
17 company that issues workers' compensation guaranty insurance shall
18 file a copy of the contract with the Commission within thirty (30)
19 days after the effective date of the contract. Any company that
20 does not file a copy of the contract as required by this paragraph
21 shall be subject to a fine by the Commission of not more than One
22 Thousand Dollars (\$1,000.00);

23 3. By furnishing satisfactory proof to the Commission of the
24 employer's financial ability to pay the compensation. ~~The~~

1 ~~Commission, under~~ Under rules adopted by the ~~Insurance Department~~
2 Commission, the Commission shall require any employer that has:

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

5 (1) deposit with the Commission securities, an
6 irrevocable letter of credit or a surety bond
7 payable to the state, in an amount determined by
8 the Commission which shall be at least an average
9 of the yearly claims for the last three (3)
10 years, or

11 (2) provide proof of excess coverage with such terms
12 and conditions as is commensurate with their
13 ability to pay the benefits required by the
14 provisions of this act, and

15 b. one hundred or more employees and One Million Dollars
16 (\$1,000,000.00) or more in net assets to:

17 (1) secure a surety bond payable to the state, or an
18 irrevocable letter of credit, in an amount
19 determined by the Commission which shall be at
20 least an average of the yearly claims for the
21 last three (3) years, or

22 (2) provide proof of excess coverage with terms and
23 conditions that are commensurate with their
24

1 ability to pay the benefits required by the
2 provisions of this act;

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

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

16 B. The Commission may waive the requirements of this section in
17 an amount which is commensurate with the ability of the employer to
18 pay the benefits required by the provisions of this act.

19 Irrevocable letters of credit required by this subsection shall
20 contain such terms as may be prescribed by the Commission and shall
21 be issued for the benefit of the state by a financial institution
22 whose deposits are insured by the Federal Deposit Insurance
23 Corporation.

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

7 D. Failure on the part of any employer to secure the payment of
8 compensation provided in this act shall have the effect of enabling
9 the Commission to assert the rights of an injured employee against
10 the employer.

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

15 SECTION 11. AMENDATORY Section 40, Chapter 208, O.S.L.
16 2013 (85A O.S. Supp. 2018, Section 40), is amended to read as
17 follows:

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

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

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

8 2. a. An employer may contest a proposed judgment of the
9 Commission issued under paragraph 1 of this subsection
10 by filing with the Commission, within twenty (20) days
11 of receipt of the proposed judgment, a written request
12 for a hearing.

13 b. The request for a hearing does not need to be in any
14 particular form but shall specify the grounds on which
15 the person contests the proposed judgment, the
16 proposed assessment, or both.

17 c. If a written request for hearing is not filed with the
18 Commission within the time specified in subparagraph a
19 of this paragraph, the proposed judgment, the proposed
20 penalty, or both, shall be a final judgment of the
21 Commission and shall not be subject to further review
22 by any court, except if the employer shows good cause
23 why it did not timely contest the judgment or penalty.
24

1 d. A proposed judgment by the Commission under this
2 section shall be prima facie correct, and the burden
3 is on the employer to prove that the proposed judgment
4 is incorrect.

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

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

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

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

19 5. The Commission may assess a fine against an employer who
20 fails to secure the payment of compensation in an amount up to One
21 Thousand Dollars (\$1,000.00) per day of violation payable to the
22 Workers' Compensation Revolving Fund, but not to exceed a total of
23 Fifty Thousand Dollars (\$50,000.00) for the first violation.
24

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

10 7. Upon any penalty becoming final under this section, the
11 Commission may institute collection proceedings independently or in
12 district court including, but not limited to, an asset hearing,
13 garnishment of income and wages, judgment lien against personal or
14 business property, or an intercept of an employer's income tax
15 refund consistent with Section 205.2 of Title 68 of the Oklahoma
16 Statutes.

17 8. Information subject to subsections A or B of Section 4-508
18 of Title 40 of the Oklahoma Statutes may be disclosed to employees
19 of the Commission for purposes of investigation and enforcement of
20 workers' compensation coverage requirements pursuant to this title,
21 and any such information shall be admissible in any hearing before
22 an administrative law judge of the Commission.

1 SECTION 12. 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. 2018, Section 45), is amended to read as follows:

4 Section 45. A. Temporary Total Disability. 1. If the injured
5 employee is temporarily unable to perform his or her job or any
6 alternative work offered by the employer, he or she shall be
7 entitled to receive compensation equal to seventy percent (70%) of
8 the injured employee's average weekly wage, but not to exceed
9 seventy percent (70%) of the state average weekly wage, for one
10 hundred four (104) weeks. Provided, there shall be no payment for
11 the first three (3) days of the initial period of temporary total
12 disability. If an administrative law judge finds that a
13 consequential injury has occurred and that additional time is needed
14 to reach maximum medical improvement, temporary total disability may
15 continue for a period of not more than an additional fifty-two (52)
16 weeks. Such finding shall be based upon a showing of medical
17 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,

- 1 g. if the employee's occupation is laborer performing
2 overhead work and the medical condition is massive
3 rotator cuff tears, with or without surgery,
- 4 h. if the employee's occupation is heavy laborer and the
5 medical condition is recurrent inguinal hernia
6 following unsuccessful surgical repair,
- 7 i. if the employee's occupation is heavy manual laborer
8 and the medical condition is total knee replacement or
9 total hip replacement,
- 10 j. if the employee's occupation is roofer and the medical
11 condition is calcaneal fracture, medically or
12 surgically treated,
- 13 k. if the employee's occupation is laborer of any kind
14 and the medical condition is total shoulder
15 replacement,
- 16 l. if the employee's occupation is laborer and the
17 medical condition is amputation of a hand, arm, leg,
18 or foot,
- 19 m. if the employee's occupation is laborer and the
20 medical condition is tibial plateau fracture, pilon
21 fracture,
- 22 n. if the employee's occupation is laborer and the
23 medical condition is ankle fusion or knee fusion,
24

- 1 o. if the employee's occupation is driver or heavy
2 equipment operator and the medical condition is
3 unilateral industrial blindness, or
4 p. if the employee's occupation is laborer and the
5 medical condition is 3-, 4-, or 5-level positive
6 discogram of the cervical spine or lumbar spine,
7 medically treated.

8 4. Upon the request of either party, or by order of an
9 administrative law judge, the Vocational Rehabilitation Director
10 shall assist the Workers' Compensation Commission in determining if
11 it is appropriate for a claimant to receive vocational
12 rehabilitation training or services. If appropriate, the
13 administrative law judge shall refer the employee to a qualified
14 expert for evaluation of the practicability of, need for and kind of
15 rehabilitation services or training necessary and appropriate in
16 order to restore the employee to gainful employment. The cost of
17 the evaluation shall be paid by the employer. Following the
18 evaluation, if the employee refuses the services or training ordered
19 by the administrative law judge, or fails to complete in good faith
20 the vocational rehabilitation training ordered by the administrative
21 law judge, then the cost of the evaluation and services or training
22 rendered may, in the discretion of the administrative law judge, be
23 deducted from any award of benefits to the employee which remains
24 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 13. AMENDATORY Section 50, Chapter 208, O.S.L.
16 2013 (85A O.S. Supp. 2018, Section 50), is amended to read as
17 follows:

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

1 B. If the employer fails or neglects to provide medical
2 treatment within five (5) days after actual knowledge is received of
3 an injury, the injured employee may select a physician to provide
4 medical treatment at the expense of the employer; provided, however,
5 that the injured employee, or another in the employee's behalf, may
6 obtain emergency treatment at the expense of the employer where such
7 emergency treatment is not provided by the employer.

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

11 D. Unless recommended by the treating doctor at the time
12 claimant reaches maximum medical improvement or by an independent
13 medical examiner, continuing medical maintenance shall not be
14 awarded by the Commission. The employer or insurance carrier shall
15 not be responsible for continuing medical maintenance or pain
16 management treatment that is outside the parameters established by
17 the Physician Advisory Committee or ODG. The employer or insurance
18 carrier shall not be responsible for continuing medical maintenance
19 or pain management treatment not previously ordered by the
20 Commission or approved in advance by the employer or insurance
21 carrier.

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

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

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

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

20 H. Fee Schedule.

21 1. The Commission shall conduct a review of the Fee Schedule
22 every two (2) years, provided the Fee Schedule shall be revised in
23 2019 to provide a two-percent increase in maximum rate of
24 reimbursement to physicians and hospitals in 2019; an additional

1 increase of two percent (2%) in 2020; and an additional increase of
2 two percent (2%) in 2021. The Fee Schedule shall establish the
3 maximum rates that medical providers shall be reimbursed for medical
4 care provided to injured employees, including, but not limited to,
5 charges by physicians, dentists, counselors, hospitals, ambulatory
6 and outpatient facilities, clinical laboratory services, diagnostic
7 testing services, and ambulance services, and charges for durable
8 medical equipment, prosthetics, orthotics, and supplies. The most
9 current Fee Schedule established by the Administrator of the
10 Workers' Compensation Court prior to the effective date of this
11 section shall remain in effect, unless or until the Legislature
12 approves the Commission's proposed Fee Schedule.

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

1 and representatives of employers, and the additional time required
2 to complete forms for the Commission, insurance carriers, and
3 employers.

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

20 a. No reimbursement shall be allowed for any magnetic
21 resonance imaging (MRI) unless the MRI is provided by
22 an entity that meets Medicare requirements for the
23 payment of MRI services or is accredited by the
24 American College of Radiology, the Intersocietal

1 Accreditation Commission or the Joint Commission on
2 Accreditation of Healthcare Organizations. For all
3 other radiology procedures, the reimbursement rate
4 shall be the lesser of the reimbursement rate allowed
5 by the 2010 Oklahoma Fee Schedule and two hundred
6 seven percent (207%) of the Medicare Fee Schedule.

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

12 c. Any entity providing durable medical equipment,
13 prosthetics, orthotics or supplies shall be accredited
14 by a CMS-approved accreditation organization. If a
15 physician provides durable medical equipment,
16 prosthetics, orthotics, prescription drugs, or
17 supplies to a patient ancillary to the patient's
18 visit, reimbursement shall be no more than ten percent
19 (10%) above cost.

20 d. The Commission shall develop a reasonable stop-loss
21 provision of the Fee Schedule to provide for adequate
22 reimbursement for treatment for major burns, severe
23 head and neurological injuries, multiple system
24

1 injuries, and other catastrophic injuries requiring
2 extended periods of intensive care.

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

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

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

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

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

18 9. When medical care includes prescription drugs dispensed by a
19 physician or other medical care provider and the NDC for the drug
20 product dispensed is for a repackaged drug, then the maximum
21 reimbursement shall be the lesser of the original labeler's NDC and
22 the lowest-cost therapeutic equivalent drug product. Payment shall
23 be based upon a sum of the allowable fee for each ingredient plus a
24

1 dispensing fee of Five Dollars (\$5.00) per prescription. Compounded
2 medications shall be billed by the compounding pharmacy.

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

23 11. Payment for medical care as required by this act shall be
24 due within forty-five (45) days of the receipt by the employer or

1 insurance carrier of a complete and accurate invoice, unless the
2 employer or insurance carrier has a good-faith reason to request
3 additional information about such invoice. Thereafter, the
4 Commission may assess a penalty up to twenty-five percent (25%) for
5 any amount due under the Fee Schedule that remains unpaid on the
6 finding by the Commission that no good-faith reason existed for the
7 delay in payment. If the Commission finds a pattern of an employer
8 or insurance carrier willfully and knowingly delaying payments for
9 medical care, the Commission may assess a civil penalty of not more
10 than Five Thousand Dollars (\$5,000.00) per occurrence.

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

17 13. Physicians providing treatment under this act shall
18 disclose under penalty of perjury to the Commission, on a form
19 prescribed by the Commission, any ownership or interest in any
20 health care facility, business, or diagnostic center that is not the
21 physician's primary place of business. The disclosure shall include
22 any employee leasing arrangement between the physician and any
23 health care facility that is not the physician's primary place of
24 business. A physician's failure to disclose as required by this

1 section shall be grounds for the Commission to disqualify the
2 physician from providing treatment under this act.

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

12 SECTION 14. AMENDATORY Section 60, Chapter 208, O.S.L.
13 2013 (85A O.S. Supp. 2018, Section 60), is amended to read as
14 follows:

15 Section 60. The Physician Advisory Committee may recommend the
16 adoption of a method or system to evaluate permanent disability that
17 shall deviate from, or be used in place of or in combination with
18 the Guides. Such recommendation shall be made to the Workers'
19 Compensation Commission which may adopt the recommendation in part
20 or in whole. The adopted method or system shall be submitted by the
21 Executive Director of the Commission to the Governor, the Speaker of
22 the House of Representatives and the President Pro Tempore of the
23 Senate within the first ten (10) legislative days of a regular
24 session of the Legislature. Such method or system so submitted

1 shall be subject to disapproval by joint or concurrent resolution of
2 the Legislature during the legislative session in which submitted.
3 If disapproved, the existing method of determining permanent partial
4 disability shall continue in effect. If the Legislature takes no
5 action on the method or system submitted by the Executive Director,
6 the method or system shall become operative thirty (30) days
7 following the adjournment of the Legislature.

8 SECTION 15. AMENDATORY Section 63, Chapter 208, O.S.L.
9 2013 (85A O.S. Supp. 2018, Section 63), is amended to read as
10 follows:

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

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

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

1 C. Any report provided for in subsection A or B of this section
2 shall not be evidence of any fact stated in the report in any
3 proceeding with respect to the injury or death on account of which
4 the report is made. Any such report shall be kept confidential and
5 shall not be open to public inspection; provided, however, such
6 report shall be made available immediately upon request of the
7 injured employee named in the report, the injured employee's legal
8 representative or any prosecutorial authority, at such time as an
9 employee's first notice of claim for compensation shall be filed.

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

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

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

23 F. An employer may contest a proposed judgment of the
24 Commission issued under subsection E of this section by filing with

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

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

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

21 SECTION 16. AMENDATORY Section 67, Chapter 208, O.S.L.
22 2013 (85A O.S. Supp. 2018, Section 67), is amended to read as
23 follows:
24

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

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

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

20 SECTION 17. AMENDATORY Section 69, Chapter 208, O.S.L.
21 2013 (85A O.S. Supp. 2018, Section 69), is amended to read as
22 follows:

23 Section 69. A. Time for Filing.
24

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

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

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

22 c. A claim for compensation for disability on account of
23 a disease condition caused by exposure to X-rays,
24 radioactive substances, or ionizing radiation only

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

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

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

12 B. Time for Filing Additional Compensation.

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

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

1 of such items shall not constitute payment of compensation so as to
2 toll the statute of limitations.

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

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

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

18 F. Persons under Disability.

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

24

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

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

13 SECTION 18. AMENDATORY Section 71, Chapter 208, O.S.L.
14 2013 (85A O.S. Supp. 2018, Section 71), is amended to read as
15 follows:

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

20 B. Investigation - Hearing.

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

24

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

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

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

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

18 C. Evidence and Construction.

19 1. a. At the hearing the claimant and the employer may each
20 present evidence relating to the claim. Evidence may
21 be presented by any person authorized in writing for
22 such purpose. The evidence may include verified
23 medical reports which shall be accorded such weight as
24

1 may be warranted when considering all evidence in the
2 case.

3 b. Any determination of the existence or extent of
4 physical impairment shall be supported by objective
5 and measurable physical or mental findings.

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

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

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

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

21 E. No compensation for disability of an injured employee shall
22 be payable for any period beyond his or her death; provided,
23 however, an award of compensation for disability may be made after
24

1 the death of the injured employee for the period of disability
2 preceding death.

3 SECTION 19. AMENDATORY Section 78, Chapter 208, O.S.L.
4 2013 (85A O.S. Supp. 2018, Section 78), is amended to read as
5 follows:

6 Section 78. A. Any party feeling aggrieved by the judgment,
7 decision, or award made by the administrative law judge may, within
8 ten (10) days of issuance, appeal to the Workers' Compensation
9 Commission. After hearing arguments, the Commission may reverse or
10 modify the decision only if it determines that the decision was
11 against the clear weight of the evidence or contrary to law. All
12 such proceedings of the Commission shall be recorded by a court
13 reporter, if requested by any party. Any judgment of the Commission
14 which reverses a decision of the administrative law judge shall
15 contain specific findings relating to the reversal.

16 B. The appellant shall pay a filing fee of One Hundred Seventy-
17 five Dollars (\$175.00) to the Commission at the time of filing his
18 or her appeal. The fee shall be deposited in the Workers'
19 Compensation Commission Revolving Fund.

20 C. The judgment, decision or award of the Commission shall be
21 final and conclusive on all questions within its jurisdiction
22 between the parties unless an action is commenced in the Supreme
23 Court of this state to review the judgment, decision or award within
24 twenty (20) days of being sent to the parties. Any judgment,

1 decision or award made by an administrative law judge shall be
2 stayed until all appeal rights have been waived or exhausted. The
3 Supreme Court may modify, reverse, remand for rehearing, or set
4 aside the judgment or award only if it was:

- 5 1. In violation of constitutional provisions;
- 6 2. In excess of the statutory authority or jurisdiction of the
7 Commission;
- 8 3. Made on unlawful procedure;
- 9 4. Affected by other error of law;
- 10 5. Clearly erroneous in view of the reliable, material,
11 probative and substantial competent evidence;
- 12 6. Arbitrary or capricious;
- 13 7. Procured by fraud; or
- 14 8. Missing findings of fact on issues essential to the
15 decision.

16 This action shall be commenced by filing with the Clerk of the
17 Supreme Court a certified copy of the judgment, decision or award of
18 the Commission attached to the petition by the complaint which shall
19 specify why the judgment, decision or award is erroneous or illegal.
20 The proceedings shall be heard in a summary manner and shall have
21 precedence over all other civil cases in the Supreme Court, except
22 preferred Corporation Commission appeals. The Supreme Court shall
23 require the appealing party to file within forty-five (45) days from
24 the date of the filing of an appeal or a judgment appealed from, a

1 transcript of the record of the proceedings before the Commission,
2 or such later time as may be granted by the Supreme Court on
3 application and for good cause shown. The action shall be subject
4 to the law and practice applicable to other civil actions cognizable
5 in the Supreme Court.

6 D. A fee of One Hundred Dollars (\$100.00) per appeal to the
7 Supreme Court shall be paid to the Commission and deposited in the
8 Workers' Compensation Fund as costs for preparing, assembling,
9 indexing and transmitting the record for appellate review. This fee
10 shall be paid by the party taking the appeal. If more than one
11 party to the action files an appeal from the same judgment, decision
12 or award, the fee shall be paid by the party whose petition in error
13 commences the principal appeal.

14 SECTION 20. AMENDATORY Section 80, Chapter 208, O.S.L.
15 2013 (85A O.S. Supp. 2018, Section 80), is amended to read as
16 follows:

17 Section 80. A. Except where a joint petition settlement has
18 been approved, the Workers' Compensation Commission may reopen for
19 review any compensation judgment, award, or decision. Such review
20 based on a change of physical condition may be done at any time
21 within six (6) months of termination of the compensation period
22 fixed in the original compensation judgment or award from the date
23 of the last order in which monetary benefits or active medical
24 treatment was provided, on the Commission's own motion or on the

1 application of any party in interest, ~~on the ground of a change in~~
2 ~~physical condition or on proof of erroneous wage rate~~ and unless
3 filed within such period of time shall be forever barred. On
4 review, the Commission may make a judgment or award terminating,
5 continuing, decreasing, or increasing for the future the
6 compensation previously awarded, subject to the maximum limits
7 provided for in this ~~act~~ title. An order denying an application to
8 reopen a claim shall not extend the period of time set out in this
9 section for reopening the case. A failure to comply with a medical
10 treatment plan ordered by the Commission shall bar the reopening of
11 a claim.

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

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

19 D. Aging and the effects of aging on a compensable injury are
20 not to be considered in determining whether there has been a change
21 in physical condition. Aging or the effect of aging on a
22 compensable injury shall not be considered in determining permanent
23 disability under this section or any other section in this act.

24

1 SECTION 21. AMENDATORY Section 82, Chapter 208, O.S.L.
2 2013 (85A O.S. Supp. 2018, Section 82), is amended to read as
3 follows:

4 Section 82.

5 A. 1. a. Fees for legal services rendered in a claim shall not
6 be valid unless approved by the Workers' Compensation
7 Commission.

8 b. An attorney representing an injured employee may only
9 recover attorney fees up to ten percent (10%) of any
10 temporary total disability or temporary partial
11 disability compensation and twenty percent (20%) of
12 any permanent partial disability, permanent total
13 disability, or death compensation awarded to an
14 injured employee by the Commission from a controverted
15 claim. If the employer makes a written offer to
16 settle permanent partial disability, permanent total
17 disability, or death compensation and that offer is
18 rejected, the employee's attorney may not recover
19 attorney fees in excess of thirty percent (30%) of the
20 difference between the amount of any award and the
21 settlement offer.

22 (1) Attorney fees may not be collected for recovery
23 on noncontroverted claims.
24

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

3 (3) The fee for legal services rendered by an
4 attorney representing an employee in connection
5 with a change of physician requested by the
6 injured employee, controverted by the employer,
7 and awarded by the Commission, shall be Two
8 Hundred Dollars (\$200.00).

9 (4) Attorney fees may include not more than ten
10 percent (10%) of the value, or reasonable
11 estimate thereof, of vocational rehabilitation
12 services.

13 c. A "controverted claim" means that there has been a
14 contested hearing before the Commission over whether
15 there has been a compensable injury or whether the
16 employee is entitled to temporary total disability,
17 temporary partial disability, permanent partial
18 disability, permanent total disability, or death
19 compensation. A request for a change in physician
20 shall not trigger a controverted claim for purposes of
21 recovering any attorney fees except the fees under
22 division 3 of subparagraph b of this paragraph. A
23 controverted claim shall not exist if the employee or
24 his or her representative has withheld pertinent

1 information in his or her possession related to the
2 claim from the employer or has violated the provisions
3 of Section 6 of this ~~act~~ title.

4 2. Any person who or entity that brings a controverted claim
5 against ~~the State Treasurer, as a custodian of~~ the Multiple Injury
6 Trust Fund, shall provide notice of the claim to the Commission.
7 Thereafter, the Commission shall direct fees for legal services be
8 paid from the Fund, in addition to any compensation award. The fees
9 shall be authorized only on the difference between the amount of
10 compensation controverted and the amount awarded from the Fund.

11 3. In any case where attorney fees are allowed by the
12 Commission, the limitations expressed in subparagraph b of paragraph
13 1 of this subsection shall apply.

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

17 B. An attorney representing an employee under this act may not
18 recover fees for services except as expressly provided in this
19 section.

20 SECTION 22. AMENDATORY Section 90, Chapter 208, O.S.L.
21 2013 (85A O.S. Supp. 2018, Section 90), is amended to read as
22 follows:

23 Section 90. A. The Workers' Compensation Commission may
24 require any employer to make a deposit or bond with the Commission

1 to secure the prompt and convenient payment of compensation, and
2 payments shall be made on judgment of the Commission.

3 B. No proceeding to reverse, vacate or modify any order,
4 decision or award of the Commission en banc or administrative law
5 judge of the Commission wherein compensation has been awarded to an
6 injured employee shall be entertained by the Supreme Court unless
7 the Executive Director of the Commission shall take a written
8 undertaking to the claimant executed on the part of the respondent
9 or insurance carrier, or both the respondent and insurance carrier,
10 with one or more sureties to be approved by the Executive Director,
11 to the effect that the appellant shall pay the amount of the award
12 rendered therein, together with interest thereon from the date of
13 the award by the administrative law judge of the Commission and all
14 costs of the proceeding, or on the further order of the Commission
15 en banc or administrative law judge of the Commission after the
16 appeal has been decided by the Supreme Court, except that
17 municipalities and other political subdivisions of this state are
18 exempt from making such written undertakings.

19 SECTION 23. AMENDATORY Section 101, Chapter 208, O.S.L.
20 2013 (85A O.S. Supp. 2018, Section 101), is amended to read as
21 follows:

22 Section 101. A. On or before the first day of July each year,
23 the Workers' Compensation Commission shall prepare, make public and
24 submit a report for the prior calendar year to the Governor, the

1 President Pro Tempore of the Senate, the Speaker of the House of
2 Representatives, and each member of the Legislature, containing a
3 statement of the number of awards made and the causes of the
4 accidents leading to the injuries for which the awards were made,
5 total work load data of the administrative law judges, including a
6 detailed report of the work load and judgments written by each
7 judge, a detailed statement of the expenses of the Commission,
8 together with any other matter which the Commission deems proper to
9 report.

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

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

1 SECTION 24. AMENDATORY Section 152, Chapter 208, O.S.L.
2 2013 (85A O.S. Supp. 2018, 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 the
21 availability of the services of the Commission's counselor or
22 ombudsman program and of the availability of mediation and other
23 forms of alternative dispute resolution to assist the injured
24

1 worker. ~~The Commission shall provide additional information as the~~
2 ~~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 25. AMENDATORY Section 158, Chapter 208, O.S.L.
10 2013 (85A O.S. Supp. 2018, 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 26. AMENDATORY Section 161, Chapter 208, O.S.L.
4 2013 (85A O.S. Supp. 2018, Section 118), is amended to read as
5 follows:

6 Section 118. A. A At the time of commencement of a claim, a
7 fee of One Hundred Forty Dollars (\$140.00) per case, including any
8 Joint 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
15 filing fee 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 27. AMENDATORY Section 163, Chapter 208, O.S.L.
16 2013 (85A O.S. Supp. 2018, 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

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

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

24 2. This subsection shall not apply:

- 1 a. to requests for claims information made by a public
2 officer or by a public employee in the performance of
3 his or her duties on behalf of a governmental entity
4 or as may be allowed by law,
- 5 b. to requests for claims information made by an insurer,
6 self-insured employer, third-party claims
7 administrator, or a legal representative thereof, when
8 necessary to process or defend a workers' compensation
9 claim,
- 10 c. when a worker or the worker's representative requests
11 review of the worker's claims information,
- 12 d. when the disclosure is made for educational or
13 research purposes and in such a manner that the
14 disclosed information cannot be used to identify any
15 worker who is the subject of a claim,
- 16 e. to requests for claims information made by a health
17 care or rehabilitation provider or the provider's
18 legal representative when necessary to process payment
19 of health care or rehabilitation services rendered to
20 a worker, and
- 21 f. to requests for claims information made by an employer
22 or personnel service company, including but not
23 limited to an individual or entity, where the worker
24 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 28. AMENDATORY Section 164, Chapter 208, O.S.L.
8 2013 (85A O.S. Supp. 2018, 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.

24

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 29. 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. 2018, 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~~ 2020, and ~~Three Million Dollars (\$3,000,000.00) for the fiscal~~
16 ~~year ending June 30, 2017,~~ and for all subsequent years to be used
17 to implement the provisions of this title; and

18 2. Four Million Dollars (\$4,000,000.00) shall be payable in
19 equal monthly installments to the credit of the Workers'
20 Compensation Administrative Fund established in Section ~~5~~ 401.1 of
21 this ~~act~~ title for the fiscal year ending June 30, 2016, Three
22 Million Five Hundred Thousand Dollars (\$3,500,000.00) for the fiscal
23 year ending June 30, 2017, Three Million Five Hundred Thousand
24 Dollars (\$3,500,000.00) for the fiscal year ending June 30, 2018,

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

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

10 SECTION 30. AMENDATORY Section 166, Chapter 208, O.S.L.
11 2013 (85A O.S. Supp. 2018, Section 123), is amended to read as
12 follows:

13 Section 123. A. Any form, claim, answer or report to be filed
14 by any person with the Workers' Compensation Commission pursuant to
15 this act shall contain or be verified by a written declaration that,
16 to the best of the knowledge of the filing party, such form, claim,
17 answer or report is true and made under the penalty of perjury.

18 B. Notwithstanding subsection A of this section, submission of
19 any report by Electronic Data Interchange pursuant to the
20 requirements of Section 101 of this title is sufficient ipso facto
21 to establish that the trading partner making the filing declares to
22 the best of his or her knowledge that any information contained in
23 the report is true and made under the penalty of perjury.
24

1 SECTION 31. AMENDATORY Section 167, Chapter 208, O.S.L.
2 2013, as amended by Section 7, Chapter 169, O.S.L. 2014 (85A O.S.
3 Supp. 2018, Section 124), is amended to read as follows:

4 Section 124. A. 1. All unexpended funds, assets, property,
5 ~~and records, personnel and any outstanding financial obligations and~~
6 ~~encumbrances of the Workers' Compensation Court before February 1,~~
7 ~~2014, are hereby~~ shall be deemed transferred to the Workers'
8 Compensation Commission at such time as the Legislature no longer
9 appropriates funding to the Court independent of funding for the
10 Commission for the purpose of maintaining such assets or records.

11 ~~The personnel transferred shall retain leave, sick and annual time~~
12 ~~earned and any retirement and longevity benefits which have accrued~~
13 ~~during their employment with the state. The salaries of employees~~
14 ~~who are transferred shall not be reduced as a direct and immediate~~
15 ~~result of the transfer. There shall be no reduction in force as a~~
16 ~~result of the transfer.~~

17 2. Any unexpended funds, including interest thereon, held by
18 the State Treasurer in an interest-bearing division special account
19 maintained by the Workers' Compensation Court before February 1,
20 2014, from which a self-insured employer's workers' compensation
21 obligations are paid following nonpayment by the self-insured
22 employer for any reason, including insolvency, shall be transferred
23 to the Workers' Compensation Commission. Such funds shall be
24 expended by the Commission only for the purpose of paying workers'

1 compensation obligations of the self-insured employer, and costs
2 related to the administration of such obligations, to the extent of
3 the availability of such funds.

4 B. 1. All unexpended funds, assets, property, and records and
5 any outstanding financial obligations and encumbrances of the
6 Workers' Compensation Self-insurance Guaranty Fund Board before
7 February 1, 2014, are hereby transferred to the Self-insurance
8 Guaranty Fund Board created in the Administrative Workers'
9 Compensation Act.

10 2. Any unexpended funds, including interest thereon, held by
11 the State Treasurer in the Workers' Compensation Self-insurance
12 Guaranty Fund before February 1, 2014, shall be transferred to the
13 Self-insurance Guaranty Fund Board created by the Administrative
14 Workers' Compensation Act. Such funds shall be expended by the
15 Board only as authorized in the Administrative Workers' Compensation
16 Act.

17 3. Any claim existing or action or proceeding pending by,
18 against or before the Workers' Compensation Self-insurance Guaranty
19 Fund Board when the Board ceased existence may be continued as if
20 the Self-insurance Guaranty Fund Board was not created, or the Self-
21 insurance Guaranty Fund Board may be substituted in the matter. The
22 Self-insurance Guaranty Fund Board shall be responsible and liable
23 for all liabilities and obligations of the Workers' Compensation
24 Self-insurance Guaranty Fund Board.

1 C. All property and records of the Physician Advisory Committee
2 before February 1, 2014, are hereby transferred to the Physician
3 Advisory Committee created in the Administrative Workers'
4 Compensation Act.

5 D. All property and records of the Advisory Council on Workers'
6 Compensation before February 1, 2014, are hereby transferred to the
7 Advisory Council on Workers' Compensation created in the
8 Administrative Workers' Compensation Act.

9 E. All unexpended funds, assets, property, records, personnel
10 and any outstanding financial obligations and encumbrances of the
11 Multiple Injury Trust Fund before February 1, 2014, are hereby
12 transferred to the Multiple Injury Trust Fund created in the
13 Administrative Workers' Compensation Act. The personnel transferred
14 shall retain leave, sick and annual time earned and any retirement
15 and longevity benefits which have accrued during their employment
16 with the state. The salaries of employees who are transferred shall
17 not be reduced as a direct and immediate result of the transfer.
18 There shall be no reduction-in-force as a result of the transfer.

19 F. The Director of the Office of Management and Enterprise
20 Services is hereby directed to coordinate the transfer of funds,
21 allotments, purchase orders, outstanding financial obligations or
22 encumbrances provided for in subsections A and E of this section,
23 and the transfer of funds, outstanding financial obligations or
24 encumbrances provided for in subsection B of this section.

1 SECTION 32. AMENDATORY Section 121, Chapter 208, O.S.L.
2 2013 (85A O.S. Supp. 2018, Section 300), is amended to read as
3 follows:

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

7 SECTION 33. AMENDATORY Section 125, Chapter 208, O.S.L.
8 2013 (85A O.S. Supp. 2018, Section 304), is amended to read as
9 follows:

10 Section 304. A. Except as otherwise provided in subsections B
11 and C of this section and in the laws of this state outside of this
12 act, a party to an agreement to arbitrate or to an arbitration
13 proceeding may waive, or the parties may vary the effect of, the
14 requirements of this act to the extent permitted by law.

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

17 1. Waive or agree to vary the effect of the requirements of
18 subsection A of Section ~~126~~ 305, subsection A of Section ~~127~~ 306,
19 Section ~~128~~ 307, subsection A or B of Section ~~138~~ 317, Section ~~147~~
20 326 or Section ~~149~~ 328 of this ~~act~~ title;

21 2. Agree to unreasonably restrict the right to notice of the
22 initiation of an arbitration proceeding under Section ~~130~~ 309 of
23 this ~~act~~ title;

24

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

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

6 5. Agree to conduct arbitration proceedings outside of this
7 state.

8 C. A party to an agreement to arbitrate or to an arbitration
9 proceeding may not waive, or the parties may not vary the effect of,
10 the requirements of this section or subsection A or C of Section ~~124~~
11 304, Sections ~~128, 135 and 139~~ 307, 314 and 318, subsection D or E
12 of Section ~~141~~ 320, Sections ~~143, 144 and 145~~ 322, 323 and 324, or
13 subsection A or B of Section ~~146~~ 325 of this ~~act~~ title.

14 SECTION 34. AMENDATORY Section 126, Chapter 208, O.S.L.
15 2013 (85A O.S. Supp. 2018, Section 305), is amended to read as
16 follows:

17 Section 305. A. Except as otherwise provided in Section ~~150~~
18 107 of this ~~act~~ title, an application for judicial relief under this
19 act shall be made by application and motion to the Workers'
20 Compensation Commission and heard in the manner provided by law or
21 rule of the Commission for making and hearing motions.

22 B. Unless a civil action involving the agreement to arbitrate
23 is pending, notice of an initial application and motion to the
24 Commission under this act shall be served in the manner provided by

1 law for the service of a summons in the filing of a civil action.
2 Otherwise, notice of the motion shall be given in the manner
3 provided by law or rule of court for serving motions in pending
4 cases.

5 SECTION 35. AMENDATORY Section 133, Chapter 208, O.S.L.
6 2013 (85A O.S. Supp. 2018, Section 312), is amended to read as
7 follows:

8 Section 312. A. Before accepting appointment, an individual
9 who is requested to serve as an arbitrator, after making a
10 reasonable inquiry, shall disclose to the parties to the arbitration
11 agreement, the parties to the arbitration proceeding, and any other
12 arbitrators any known facts that a reasonable person would consider
13 likely to affect the impartiality of the arbitrator in the
14 arbitration proceeding, including but not limited to:

15 1. A financial or personal interest in the outcome of the
16 arbitration proceeding; and

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

20 B. An arbitrator has a continuing obligation to disclose to the
21 parties to the arbitration agreement, the arbitration proceeding,
22 and to any other arbitrators any facts that the arbitrator learns
23 after accepting appointment which a reasonable person would consider
24 likely to affect the impartiality of the arbitrator.

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

8 SECTION 36. AMENDATORY Section 134, Chapter 208, O.S.L.
9 2013 (85A O.S. Supp. 2018, Section 313), is amended to read as
10 follows:

11 Section 313. If there is more than one arbitrator, the powers
12 of an arbitrator shall be exercised by a majority of the
13 arbitrators, but all of them shall conduct the hearing under Section
14 ~~136~~ 315 of this ~~act~~ title.

15 SECTION 37. AMENDATORY Section 135, Chapter 208, O.S.L.
16 2013 (85A O.S. Supp. 2018, Section 314), is amended to read as
17 follows:

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

22 B. The immunity afforded by this section supplements any
23 immunity under other law.

24

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

4 D. An arbitrator or representative of an arbitration
5 organization is not competent to testify in a judicial,
6 administrative, or similar proceeding and may not be required to
7 produce records as to any statement, conduct, decision, or ruling
8 occurring during the arbitration proceeding, to the same extent as a
9 judge of a court of this state acting in a judicial capacity. This
10 subsection shall not apply to:

11 1. The extent necessary to determine the claim of an
12 arbitrator, arbitration organization, or representative of the
13 arbitration organization against a party to the arbitration
14 proceeding; or

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

19 E. If a person commences a civil action against an arbitrator,
20 arbitration organization, or representative of an arbitration
21 organization arising from the services of the arbitrator,
22 organization, or representative or if a person seeks to compel an
23 arbitrator or a representative of an arbitration organization to
24 testify or produce records in violation of subsection D of this

1 section, and the court decides that the arbitrator, arbitration
2 organization, or representative of an arbitration organization is
3 immune from civil liability or that the arbitrator or representative
4 of the organization is not competent to testify, the court shall
5 award to the arbitrator, organization, or representative reasonable
6 attorney fees and other reasonable expenses of litigation.

7 SECTION 38. AMENDATORY Section 137, Chapter 208, O.S.L.
8 2013 (85A O.S. Supp. 2018, Section 316), is amended to read as
9 follows:

10 Section 316. A. A party to an arbitration proceeding may be
11 represented by a lawyer.

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

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

17 SECTION 39. AMENDATORY Section 139, Chapter 208, O.S.L.
18 2013 (85A O.S. Supp. 2018, Section 318), is amended to read as
19 follows:

20 Section 318. If an arbitrator makes a pre-award ruling in favor
21 of a party, the party may request the arbitrator to incorporate the
22 ruling into an award under Section ~~140~~ 319 of this ~~act~~ title. A
23 prevailing party may make an application and motion to the
24 Commission for an expedited judgment to confirm the award under

1 Section ~~143~~ 322 of this ~~act~~ title, in which case the Workers'
2 Compensation Commission shall summarily decide the motion. The
3 Commission shall issue a judgment to confirm the award unless the
4 court Commission vacates, modifies, or corrects the award under
5 Section ~~144 or 145~~ 323 or 324 of this ~~act~~ title.

6 SECTION 40. AMENDATORY Section 141, Chapter 208, O.S.L.
7 2013 (85A O.S. Supp. 2018, Section 320), is amended to read as
8 follows:

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

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

13 2. Because the arbitrator has not made a final and definite
14 award upon a claim submitted by the parties to the arbitration
15 proceeding; or

16 3. To clarify the award.

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

20 C. A party to the arbitration proceeding shall give notice of
21 any objection to the motion within ten (10) days after receipt of
22 the motion.

23 D. If a motion to the Workers' Compensation Commission is
24 pending under Section ~~144 or 145~~ 323 or 324 of this ~~act~~ title, the

1 Commission may submit the claim to the arbitrator to consider
2 whether to modify or correct the 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 E. An award modified or corrected under this section is subject
10 to Sections ~~143, 144 and 145~~ 322, 323 and 324 of this ~~act~~ title.

11 SECTION 41. AMENDATORY Section 142, Chapter 208, O.S.L.
12 2013 (85A O.S. Supp. 2018, Section 321), is amended to read as
13 follows:

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

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

19 C. As to all remedies other than those authorized by
20 subsections A and B of this section, an arbitrator may order such
21 remedies as the arbitrator considers just and appropriate under the
22 circumstances of the arbitration proceeding. The fact that such a
23 remedy could not or would not be granted by the Workers'
24 Compensation Commission is not a ground for refusing to confirm an

1 award under Section ~~143~~ 322 of this ~~act~~ title or for vacating an
2 award under Section ~~144~~ 323 of this ~~act~~ title.

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

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

8 SECTION 42. AMENDATORY Section 143, Chapter 208, O.S.L.
9 2013 (85A O.S. Supp. 2018, Section 322), is amended to read as
10 follows:

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

18 SECTION 43. AMENDATORY Section 144, Chapter 208, O.S.L.
19 2013 (85A O.S. Supp. 2018, Section 323), is amended to read as
20 follows:

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

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

3 2. There was:

4 a. evident partiality by an arbitrator appointed as a
5 neutral arbitrator,

6 b. corruption by an arbitrator, or

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

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

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

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

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

21 B. An application and motion under this section shall be filed
22 within thirty (30) days after the movant receives notice of the
23 award or within thirty (30) days after the movant receives notice of
24 a modified or corrected award, unless the movant alleges that the

1 award was procured by corruption, fraud, or other undue means, in
2 which case the motion shall be made within ninety (90) days after
3 the ground is known or by the exercise of reasonable care would have
4 been known by the movant.

5 C. If the Commission vacates an award it may order a rehearing.
6 If the award is vacated on a ground stated in paragraph 1, 2 or 6 of
7 subsection A of this section, the rehearing shall be before a new
8 arbitrator. If the award is vacated on a ground stated in paragraph
9 3, 4 or 5 of subsection A of this section, the rehearing may be
10 before the arbitrator who made the award or the arbitrator's
11 successor. The arbitrator shall render the decision in the
12 rehearing within the same time as that provided in subsection B of
13 Section ~~140~~ 319 of this ~~act~~ title for an award.

14 D. If the Commission denies a motion to vacate an award, it
15 shall confirm the award unless a motion to modify or correct the
16 award is pending.

17 SECTION 44. AMENDATORY Section 148, Chapter 208, O.S.L.
18 2013 (85A O.S. Supp. 2018, Section 327), is amended to read as
19 follows:

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

- 22 1. An order denying a motion to compel arbitration;
- 23 2. An order granting a motion to stay arbitration;
- 24 3. An order confirming or denying confirmation of an award;

- 1 4. An order modifying or correcting an award;
- 2 5. An order vacating an award without directing a rehearing; or
- 3 6. A final judgment entered under the Workers' Compensation
- 4 Arbitration Act.

5 SECTION 45. AMENDATORY Section 169, Chapter 208, O.S.L.
6 2013 (85A O.S. Supp. 2018, Section 400), is amended to read as
7 follows:

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

- 17 Position 1 shall expire 7-1-14.
- 18 Position 2 shall expire 7-1-14.
- 19 Position 3 shall expire 7-1-14.
- 20 Position 4 shall expire 7-1-20.
- 21 Position 5 shall expire 7-1-20.
- 22 Position 6 shall expire 7-1-16.
- 23 Position 7 shall expire 7-1-16.
- 24 Position 8 shall expire 7-1-20.

1 Position 9 shall expire 7-1-20.

2 Position 10 shall expire 7-1-14.

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

10 ~~When a vacancy on the Court occurs or is certain to occur, the~~
11 ~~Workers' Compensation Commission shall assign administrative law~~
12 ~~judges from the Commission to assist in the duties of the Workers'~~
13 ~~Compensation Court of Existing Claims.~~

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

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

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

22 E. The Court is hereby designated and confirmed as a court of
23 record, with respect to any matter within the limits of its
24 jurisdiction, and within such limits the judges thereof shall

1 possess the powers and prerogatives of the judges of the other
2 courts of record of this state, including the power to punish for
3 contempt those persons who disobey a subpoena, or refuse to be sworn
4 or to answer as a witness, when lawfully ordered to do so.

5 F. The principal office of the Court shall be situated in the
6 City of Oklahoma City in quarters assigned by the Office of
7 Management and Enterprise Services. The Court may hold hearings in
8 any city of this state.

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

12 H. Judges of the Workers' Compensation Court of Existing Claims
13 may punish for direct contempt pursuant to Sections 565, 565.1 and
14 566 of Title 21 of the Oklahoma Statutes.

15 I. The Court shall be vested with jurisdiction over all claims
16 filed pursuant to the Workers' Compensation Code. All claims so
17 filed shall be heard by the judge sitting without a jury. The Court
18 shall have full power and authority to determine all questions in
19 relation to payment of claims for compensation under the provisions
20 of the Workers' Compensation Code. The Court, upon application of
21 either party, shall order a hearing. Upon a hearing, either party
22 may present evidence and be represented by counsel. The decision of
23 the Court shall be final as to all questions of fact and law;
24 ~~provided, the decision of the Court may be appealed to the~~

1 ~~Commission~~. The decision of the Court shall be issued within sixty
2 (60) days following the submission of the case by the parties. The
3 power and jurisdiction of the Court over each case shall be
4 continuing and it may, from time to time, make such modifications or
5 changes with respect to former findings or orders relating thereto
6 if, in its opinion, it may be justified.

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

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

21 ~~L.~~ K. For an injury occurring before ~~the effective date of this~~
22 ~~act~~ February 1, 2014, all benefits and procedures to obtain benefits
23 shall be determined by the workers' compensation law of this state
24 in effect on the date of the injury. Administrative law judges of

1 the Commission shall enforce all final orders of the Workers'
2 Compensation Court in a manner to secure for all parties the due
3 process and equal protection guarantees of the Constitution of the
4 State of Oklahoma.

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

12 SECTION 46. REPEALER Sections 15, 25 and 57, Chapter
13 208, O.S.L. 2013 (85A O.S. Supp. 2018, Sections 15, 25 and 57), are
14 hereby repealed.

15 SECTION 47. REPEALER Sections 107, 108, 109, 110, as
16 amended by Section 4, Chapter 390, O.S.L. 2015, 111, 112, as amended
17 by Section 5, Chapter 390, O.S.L. 2015, 113, 114, 115, 116, 117,
18 118, as amended by Section 6, Chapter 390, O.S.L. 2015, 119 and 120,
19 Chapter 208, O.S.L. 2013 (85A O.S. Supp. 2018, Sections 200, 201,
20 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212 and 213), are
21 hereby repealed.

22 SECTION 48. This act shall become effective July 1, 2019.

23 SECTION 49. It being immediately necessary for the preservation
24 of the public peace, health or safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

3

4 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 04/15/2019 - DO PASS,
5 As Amended.

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