SLS 12RS-856 **ORIGINAL**

Regular Session, 2012

SENATE BILL NO. 560

BY SENATOR DONAHUE

WORKERS' COMPENSATION. To provide relative to workers' compensation, the Louisiana Workers' Compensation Law. (8/1/12)

1 AN ACT

2 To amend and reenact R.S. 23:1123, 1124.1, 1201(F)(1), (2) and (4), 1210(A), 1221(3)(a)
3 and (4)(s)(i), and 1224, and to enact R.S. 23:1020.1, Subpart A-1 of Part I of Chapter
4 10 of the Louisiana Revised Statutes of 1950 consisting of R.S. 23:1213 through
5 1213.27, and 1314(D) and (E), relative to workers compensation; to provide for a
6 purpose; to provide for a burden of proof; to provide with respect to disputes as to
7 injury causation and extent of disability; to provide with respect to appointment of
8 independent medical examiners; to provide with respect to nonpayment of benefits;
9 to provide for medical provider networks; to provide with respect to burial benefits;
10 to provide with respect to supplemental earnings benefits; to provide with respect to
11 benefits for catastrophic injury; to provide with respect to payment of compensation
12 in first week; to provide with respect to prematurity of petition; and to provide for
13 related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1.R.S. 23:1123, 1124.1, 1201(F)(1), (2) and (4), 1210(A), 1221(3)(a) and
16 (4)(s)(i), and 1224 are hereby amended and reenacted, and R.S. 23:1020.1, Subpart A-1 of
17 Part I of Chapter 10 of the Louisiana Revised Statutes of 1950 consisting of R.S. 23:1213

Coding: Words which are ~~struck through~~ are deletions from existing law;
words in **boldface type and underscored** are additions.

1 through 1213.27, and 1314(D) and (E) are hereby enacted to read as follows:

2 **§1020.1. Purpose; construction; evidentiary standard**

3 **A. This Chapter shall be cited as the Louisiana Workers' Compensation**
4 **Law.**

5 **B. The purpose of workers' compensation shall be to pay timely**
6 **temporary and permanent disability benefits to all legitimately injured workers**
7 **who suffer an injury or disease arising out of and in the course of their**
8 **employment, to pay medical expenses that are due pursuant to this Chapter,**
9 **and then to return such workers to the work force. It is the intent of the**
10 **legislature that the Louisiana Workers' Compensation Law be interpreted so**
11 **as to assure the delivery of benefits to an injured employee in accordance with**
12 **this Chapter, and to facilitate the employee's return to employment at a**
13 **reasonable cost to the employer. The Louisiana Workers' Compensation Law**
14 **is based on mutual renunciation of legal rights and defenses by employers and**
15 **employees alike. It is the specific intent of the legislature that workers'**
16 **compensation cases shall be decided on their merits. The legislature hereby**
17 **declares that disputes concerning the facts in workers' compensation cases shall**
18 **not be given a broad liberal construction in favor of either employees or**
19 **employers, and the laws pertaining to workers' compensation shall be construed**
20 **in accordance with the basic principles of statutory construction and not in**
21 **favor of either employer or employee. Furthermore, when the workers'**
22 **compensation statutes of this state are amended, the legislature acknowledges**
23 **its responsibility to do so. If the workers' compensation statutes are to be**
24 **liberalized, broadened, or narrowed, such actions shall be the exclusive purview**
25 **of the legislature.**

26 **C. Unless otherwise provided in this Chapter, the evidentiary standard**
27 **for the burden of proof shall be by a preponderance of the evidence and placed**
28 **upon the party who is asserting entitlement to compensation or medical**
29 **benefits, or asserting entitlement to payment or additional payment for services**

Coding: Words which are ~~struck through~~ are deletions from existing law;
words in **boldface type and underscored** are additions.

rendered to an employee covered by this Act. Preponderance of the evidence means evidence that, when weighed with that opposed to it, has more convincing force and the greater probability of truth. When weighing the evidence, the test shall not be the relative number of witnesses, but the relative convincing force of the evidence.

* * *

§1123. Disputes as to condition~~,~~ **or** capacity to work~~, or current medical treatment of employee~~; examination under supervision of the **medical** director

If any dispute arises **between the opinions of physicians** as to the condition of the employee~~,~~ **or his** capacity to work, ~~or the current medical treatment for the employee,~~ the **medical** director, upon application of any party **or a workers' compensation judge**, shall order an examination of the employee to be made by a medical practitioner ~~selected and~~ appointed by the **medical** director. **Such medical examiner shall be selected from any workers' compensation medical network approved pursuant to R.S. 23:1213.3.** The medical examiner shall report his conclusions from the examination to the **medical** director ~~and to the parties~~**, who shall provide the report to the parties, and if applicable, to the requesting workers' compensation judge,** and such report shall be prima facie evidence of the facts therein stated in any subsequent proceedings under this Chapter.

* * *

§1124.1. Cumulative medical testimony; medical examination

Neither the claimant nor the respondent in hearing before the hearing officer shall be permitted to introduce the testimony of more than two physicians where the evidence of any additional physician would be cumulative testimony. ~~However, the hearing officer, on his own motion, may order that any claimant appearing before it be examined by other physicians.~~

* * *

§1201. Time and place of payment; failure to pay timely; failure to authorize; penalties and attorney fees

Coding: Words which are ~~struck through~~ are deletions from existing law; words in **boldface type and underscored** are additions.

* * *

F. Failure to provide payment in accordance with this Section or failure to consent to the employee's request to select a treating physician or change physicians when such consent is required by R.S. 23:1121 shall result in the assessment of a penalty in an amount up to the greater of twelve percent of any unpaid compensation or medical benefits, or fifty dollars per calendar day for each day in which any and all compensation or medical benefits remain unpaid or such consent is withheld, together with reasonable attorney fees for each disputed claim; however, the fifty dollars per calendar day penalty shall not exceed a maximum of two thousand dollars in the aggregate for any claim. The maximum amount of penalties which may be imposed at a hearing on the merits regardless of the number of penalties which might be imposed under this Section is eight thousand dollars. An award of penalties and attorney fees at any hearing on the merits shall be res judicata as to any and all claims for which penalties may be imposed under this Section which precedes the date of the hearing. Penalties shall be assessed in the following manner:

(1) ~~Such penalty and attorney fees shall be assessed against either the employer or the insurer, depending upon fault. No workers' compensation insurance policy shall provide that these sums shall be paid by the insurer if the workers' compensation judge determines that the penalty and attorney fees are to be paid by the employer rather than the insurer.~~ **In the event that the health care provider prevails on a claim for payment of his fee, penalties as provided in this Section and reasonable attorney fees based upon actual hours worked may be awarded and paid directly to the health care provider. This Subsection shall not be construed to provide for recovery of more than one penalty or attorney fee.**

(2) **(a)** This Subsection shall not apply ~~if the claim is reasonably controverted or if such nonpayment results from conditions over which the employer or insurer had no control~~ **unless the failure to make payment in accordance with this Section is arbitrary and capricious**.

(b) Such penalty and attorney fees shall be assessed against either the

Coding: Words which are ~~struck through~~ are deletions from existing law; words in **boldface type and underscored** are additions.

1 **employer or the insurer, depending upon fault. No workers' compensation**
2 **insurance policy shall provide that these sums shall be paid by the insurer if the**
3 **workers' compensation judge determines that the penalty and attorney fees are**
4 **to be paid by the employer rather than the insurer.**

5 * * *

6 (4) ~~In the event that the health care provider prevails on a claim for payment~~
7 ~~of his fee, penalties as provided in this Section and reasonable attorney fees based~~
8 ~~upon actual hours worked may be awarded and paid directly to the health care~~
9 ~~provider. This Subsection shall not be construed to provide for recovery of more than~~
10 ~~one penalty or attorney fee.~~ **(a) For purposes of this Chapter, "arbitrary and**
11 **capricious" means conduct or behavior which is callous, willful, unreasoning**
12 **and egregious and without consideration and regard for facts and**
13 **circumstances presented. An action is not arbitrary and capricious when**
14 **exercised honestly and upon due consideration, even though an erroneous**
15 **conclusion has been reached. The reliance upon facts and circumstances,**
16 **medical or vocational opinion, application of law or any other information**
17 **suggesting that a disputed benefit or claim might not be due shall preclude a**
18 **finding of arbitrary and capricious conduct.**

19 **(b) Attorney fees awarded under this Chapter shall be reasonable and**
20 **only be paid based upon actual hours worked.**

21 * * *

22 §1210. Burial expenses; duty to furnish

23 A. In every case of death, the employer shall pay or cause to be paid, in
24 addition to any other benefits allowable under the provisions of this Part, reasonable
25 expenses of the burial of the employee, not to exceed ~~seven~~ **eight** thousand five
26 hundred dollars.

27 * * *

28 **SUBPART A-1. MEDICAL PROVIDER NETWORKS**

29 **§1213. Existence or establishment of network; availability of treatment;**

Coding: Words which are ~~struck through~~ are deletions from existing law;
words in **boldface type and underscored** are additions.

1 **approval and regulations**

2 **A. (1) After January 1, 2013, any written contract or combination of**
3 **written contracts that form the basis of a workers' compensation medical**
4 **provider network certified under this Subpart for the purpose of providing**
5 **necessary medical services required by this Chapter shall be governed by this**
6 **Subpart.**

7 **(2) The purpose of this Subpart shall be to provide standards to existing**
8 **or newly created networks for medical services as defined in this Subpart to**
9 **injured employees by workers' compensation medical provider networks.**

10 **§1213.1. Limitations on applicability**

11 **This Subpart shall govern the creation, administration, evaluation, and**
12 **enforcement of the delivery of medical services to injured employees by**
13 **workers' compensation medical provider networks. The provisions of other**
14 **statutes relating to the delivery of medical services to persons other than injured**
15 **employees shall not apply unless specifically referenced in this Subpart.**
16 **Specifically, a workers' compensation medical provider network shall not be**
17 **subject to the provisions of Title 40 or Title 22 of the Louisiana Revised Statutes**
18 **of 1950. Furthermore, any penalty, fine, or other monetary method allowed by**
19 **law to prohibit or punish a certain act or failure to act, whether administrative,**
20 **civil, or criminal, shall not apply to a workers' compensation medical provider**
21 **network unless expressly provided in this Subpart.**

22 **§1213.2. Definitions**

23 **In this Subpart, unless the context clearly indicates otherwise:**

24 **(1) "Complainant" means a person who files a complaint under this**
25 **Subpart, and includes any of the following persons:**

26 **(a) An employee.**

27 **(b) An employer.**

28 **(c) A medical services provider.**

29 **(d) Another person designated to act on behalf of an employee.**

Coding: Words which are ~~struck through~~ are deletions from existing law;
words in **boldface type and underscored** are additions.

1 **(2) "Complaint" means any written expression of dissatisfaction by a**
2 **complainant to a network regarding any aspect of the network's operation.**
3 **Complaint also includes dissatisfaction relating to medical fee disputes and**
4 **network administration and the manner in which a service is provided. A**
5 **complaint shall not include any of the following circumstances:**
6 **(a) A misunderstanding or a problem that is resolved promptly by**
7 **clearing up the misunderstanding or supplying the appropriate information to**
8 **the satisfaction of the complainant.**
9 **(b) A written expression of dissatisfaction with an adverse**
10 **determination.**
11 **(3) "Fee dispute" means a dispute over the amount of payment due for**
12 **medical services determined to be medically necessary and appropriate for**
13 **treatment of a compensable injury.**
14 **(4) "Emergency care" means emergency care as defined in LAC 40:I,**
15 **Chapter 27, §2715.**
16 **(5) "Medical services" means a medical benefit owed to an injured**
17 **employee pursuant to R.S. 23:1203, including without limitation, medical care,**
18 **services, treatment, drugs, supplies, translation, transportation, durable**
19 **medical equipment, diagnostics, and any other medical related benefit provided**
20 **to the injured employee pursuant to R.S. 23:1203 and 1203.1.**
21 **(6) "Network" or "workers' compensation medical provider network"**
22 **includes any of the following organizations:**
23 **(a) An organization that has been in existence prior to the enactment of**
24 **this Subpart and in accordance with this Subpart becomes certified.**
25 **(b) An organization that was formed as a workers' compensation**
26 **medical provider network and certified in accordance with this Subpart.**
27 **(7) "Office" means the office of workers' compensation administration**
28 **established pursuant to R.S. 23:1291.**
29 **(8) "Payor" means a payor as defined in R.S. 23:1142(A).**

Coding: Words which are ~~struck through~~ are deletions from existing law;
words in **boldface type and underscored** are additions.

1 **(9) "Person" means any individual, company, insurer, association,**
2 **organization, reciprocal or inter-insurance exchange, partnership, business,**
3 **trust, limited liability company, or corporation.**
4 **(10) "Preauthorization" means the process required to request approval**
5 **from the payor or the network to provide a specific treatment or service before**
6 **the treatment or service is provided.**
7 **(11) "Rural area" means an area that is not designated as an urbanized**
8 **area by the United States Census Bureau.**
9 **(12) "Service Area" means a geographic area based upon the physical**
10 **address of the employer's business or the employee's residence within which**
11 **medical services from network providers are available and accessible to injured**
12 **employees.**
13 **(13) "Utilization review" means a review of the medical necessity of**
14 **medical services provided or to be provided to an injured employee in**
15 **accordance with the provisions of LAC 40:I, Chapter 27 or other applicable**
16 **network protocols.**
17 **§1213.3. Participation in network; notice of network requirements**
18 **A. After January 1, 2013, a payor may do any of the following:**
19 **(1) Establish a network certified pursuant to this Subpart to provide**
20 **medical services under this Chapter.**
21 **(2) Contract with another person for access to a network certified**
22 **pursuant to this Subpart to provide medical services under this Chapter.**
23 **(3) Maintain an existing network that was established by the payor, or**
24 **that was contracted with the payor, provided that such network becomes**
25 **certified pursuant to this Subpart.**
26 **(4) Choose not to participate in a network and continue to reimburse**
27 **providers in accordance with R.S. 23.1034.2.**
28 **B. An employer may have multiple specialty contracting entities, but**
29 **only one certified workers' compensation medical provider services network**

Coding: Words which are ~~struck through~~ are deletions from existing law;
words in **boldface type and underscored** are additions.

1 **within each service area.**

2 **C. If a payor establishes, maintains, or contracts for access to a certified**
3 **workers' compensation medical provider network, medical services owed to the**
4 **injured employee shall be obtained only within the network, except as provided**
5 **by R.S. 23:1203.7.**

6 **D. The injured employee shall be notified in writing of the network**
7 **requirements by the employer or the payor. Only one notice by either the**
8 **employer or payor is required, and the earliest notice provided shall be**
9 **recognized as the date of notice. Notice by the employer may occur prior to the**
10 **accident, and if provided, shall be signed by the employer and the employee**
11 **with the date the notice was provided to the employee. Notice by the payor, in**
12 **the event the employer did not provide notice, shall occur after the payor**
13 **receives notice of a claim or upon transferring an existing claim into the**
14 **network. Notice by the payor shall be accomplished by mailing written notice**
15 **to the employee. Such written notice shall, at a minimum, provide all of the**
16 **following items:**

17 **(1) A statement to the employee that medical services pursuant to this**
18 **Chapter shall be provided by a workers' compensation medical provider**
19 **network.**

20 **(2) The network's toll-free telephone number and address for obtaining**
21 **additional information about the network, including information about network**
22 **providers.**

23 **(3) Contact information for the payor and the network.**

24 **(4) A statement that in the event of an accident, the injured employee**
25 **shall select a treating doctor, either from a list of all the network's treating**
26 **doctors who have contracts with the network in that service area, or as**
27 **described in R.S. 23:1213.7.**

28 **(5) A statement that, except for emergency care, the injured employee**
29 **shall obtain all medical services and any referrals for medical services,**

Coding: Words which are ~~struck through~~ are deletions from existing law;
words in **boldface type and underscored** are additions.

1 **including specialists, through his treating doctor.**
2 **(6) An explanation that network providers have agreed to look only to**
3 **the network or payor and not to injured employees for payment for medical**
4 **services, except as provided by R.S. 23:1213.7.**
5 **(7) A statement that if the injured employee obtains medical services**
6 **from non-network providers, except as otherwise provided in this Section or as**
7 **provided by R.S. 23:1213.7, the payor shall not be liable, and the injured**
8 **employee may be liable for payment for those medical services.**
9 **(8) Information about how to obtain emergency care, including**
10 **emergency care outside the service area, and after-hours care.**
11 **(9) A list of the medical services for which the payor or network requires**
12 **preauthorization or concurrent review.**
13 **(10) An explanation regarding continuity of treatment in the event of the**
14 **termination from the network of a treating doctor.**
15 **(11) A list of the specialties that the network has chosen to serve as**
16 **treating doctors.**
17 **(12) A website address that provides a list of network medical services**
18 **providers within the appropriate service area updated at least quarterly,**
19 **including the names and addresses of such medical services providers.**
20 **(13) A description of the process by which a complainant shall initiate a**
21 **complaint to the network.**
22 **E. The network and the network's representatives and agents may not**
23 **cause or knowingly permit the use or distribution to employees of information**
24 **that is untrue or misleading.**
25 **F. A network that contracts with a payor shall provide all the**
26 **information necessary to allow the payor to comply with this Section.**
27 **G. An injured employee shall not be required to comply with the**
28 **network requirements until network notice has been provided as required by**
29 **this Section. Until such notice is provided, the payor owes medical services as**

Coding: Words which are ~~struck through~~ are deletions from existing law;
words in **boldface type and underscored** are additions.

1 **otherwise required by this Chapter.**

2 **H. The office may adopt rules as necessary to implement R.S. 23:1213.6.**

3 **§1213.4. Payor responsibility for out-of-network medical services**

4 **A. A payor that provides medical services through a certified workers'**
5 **compensation medical provider network shall be responsible for all of the**
6 **following out-of-network care provided to an injured employee:**

7 **(1) Emergency care.**

8 **(2) Medical services provided to an injured employee when the network**
9 **does not make available medical services providers necessary to treat the**
10 **injured worker's specific condition within the accessibility standards established**
11 **in R.S. 23:1213.24.**

12 **(3) Medical services provided by an out-of-network medical services**
13 **provider pursuant to a referral from the injured employee's treating doctor that**
14 **is within the network, and such referral has been approved by the payor.**

15 **B. A payor is not responsible for out-of-network medical services**
16 **obtained by the employee subsequent to those described in Subsection (A) of**
17 **this Section, provided that the network makes available medical service**
18 **providers for subsequent care necessary to treat the employee's condition within**
19 **the accessibility requirements contained in R.S. 23:1213.24.**

20 **§1213.5. Requirement to obtain network medical services**

21 **An injured employee shall be required to obtain medical services**
22 **through a certified workers' compensation medical provider network provided**
23 **that the Network meets the accessibility requirements contained in R.S.**
24 **23:1213.24.**

25 **§1213.6. Certification required**

26 **A. After January 1, 2013, a person shall not operate a workers'**
27 **compensation medical provider network in this state unless the person holds a**
28 **certificate of authority issued under this Subpart.**

29 **B. No person shall perform any act of a workers' compensation medical**

Coding: Words which are ~~struck through~~ are deletions from existing law;
words in **boldface type and underscored** are additions.

1 **provider network except in accordance with the specific authorization of this**
2 **Subpart.**
3 **C. A workers' compensation medical provider network shall contract in**
4 **writing with its medical services providers. Such written contract shall provide**
5 **for medical services pursuant to R.S. 23:1203 and 1203.1. An entity certified as**
6 **a workers' compensation medical provider network may have a written**
7 **contract with a medical services provider accessed by more than one employer**
8 **provided that no employer has more than one network in each service area.**
9 **§1213.7. Specialty contracting entity**
10 **"Specialty Contracting Entity" means a for-profit or not-for-profit**
11 **organization that contracts with medical services providers at a fixed**
12 **contractual rate for the purpose of providing access to ancillary or**
13 **complementary medical services, including but not limited to physical medicine,**
14 **diagnostic radiology, durable medical equipment, home health care, and**
15 **translation and transportation services, but not including treating physicians.**
16 **Specialty contracting entities may contract with certified networks and payors.**
17 **Specialty contracting entities shall not be eligible for certification under this**
18 **Subpart but shall comply with applicable provisions of R.S. 23:1213.9 relating**
19 **to provider agreements.**
20 **§1213.8. Certificate application**
21 **A. Any person may seek to operate as a workers' compensation medical**
22 **provider network.**
23 **B. A person who seeks to operate as a workers' compensation medical**
24 **provider network shall apply to the office of the workers' compensation**
25 **administration for a certificate to organize and operate as a network.**
26 **C. A certificate application shall be:**
27 **(1) Filed with the office in the form prescribed by the director.**
28 **(2) Verified by the applicant or an officer or other authorized**
29 **representative of the applicant.**

Coding: Words which are ~~struck through~~ are deletions from existing law;
words in **boldface type and underscored** are additions.

1 **(3) Accompanied by a non-refundable fee set by rule.**
2 **§1213.9. Contents of application**
3 **Each certificate application shall include all of the following provisions:**
4 **A. A cover page on the form prescribed by the director, to include, at a**
5 **minimum, all of the following information:**
6 **(1) Type of applicant (payor, network contracting entity, or other entity).**
7 **(2) Name of the applicant.**
8 **(3) Applicant's tax identification number.**
9 **(4) Name of medical provider network, if applicable.**
10 **(5) Contact name, title, address, email address and telephone number of**
11 **the person who will serve as the office's liaison.**
12 **(6) A signed verification statement by an officer or employee of the**
13 **applicant with the authority to act on behalf of the applicant with respect to the**
14 **network. The verification shall state: "I, the undersigned officer or employee**
15 **of the network applicant, have read and signed this application and know the**
16 **contents thereof, and verify that, to the best of my knowledge and belief, the**
17 **information included in this application is true and correct".**
18 **B. A description of the applicant's service area or areas.**
19 **C. A description of how the applicant complies with the access standards**
20 **set forth in R.S. 23:1213.21.**
21 **D. A sample of the employee notice that complies with R.S. 23:1213.6.**
22 **E. A description of the process by which a complainant may pursue a**
23 **complaint with the network.**
24 **§1213.10. Action on application; renewal of certification**
25 **A. The director shall approve or disapprove an application for**
26 **certification as a network not later than the sixty days after the date the**
27 **completed application is received by the office. An application is considered**
28 **complete on receipt of all information required by this Subpart, including**
29 **receipt of additional information requested by the director as needed to make**

Coding: Words which are ~~struck through~~ are deletions from existing law;
words in **boldface type and underscored** are additions.

1 **the determination.**

2 **B. The director shall notify the applicant of any deficiencies in the**
3 **application and may allow the applicant to request additional time to revise the**
4 **application, in which case the sixty day period for approval or disapproval is**
5 **suspended. The director may grant or deny requests for additional time at the**
6 **director's discretion.**

7 **C. An order issued by the director disapproving an application must**
8 **specify in what respects the application does not comply with applicable statutes**
9 **and rules. An applicant whose application is disapproved may request a hearing**
10 **under the Administrative Procedure Act before the office. The request must be**
11 **made not later than the 30 days after the date of the director's disapproval**
12 **order. Appeals may be taken in accordance with the Administrative Procedure**
13 **Act.**

14 **D. A certificate issued under this Subpart is valid until revoked or**
15 **suspended, provided the licensee shall be under a duty to annually file with the**
16 **office any information needed to cause the application to continue to be true and**
17 **accurate, and the office by rule may levy an annual fee to maintain the**
18 **certificate.**

19 **E. If the application meets the requirements of this Subpart, the director**
20 **shall not withhold approval, or disapprove the application based on the**
21 **selection of medical services providers. In developing a workers' compensation**
22 **medical providers network, the payor or the contracted network shall have the**
23 **exclusive right to determine the medical services providers in the network and**
24 **to add or remove providers at its discretion.**

25 **§1213.11. Use of certain insurance terms by network prohibited**

26 **A certified network whereby the payor is the applicant, whether created**
27 **after or existing prior to the enactment of this Subpart, may identify the**
28 **network as the payor's network. A network certified by an entity other than a**
29 **payor, which then contracts with a payor, whether created after or existing**

Coding: Words which are ~~struck through~~ are deletions from existing law;
words in **boldface type and underscored** are additions.

1 **prior to the enactment of this Subpart, may not identify the network as the**
2 **payor's network but rather shall identify the network by name as the entity that**
3 **was certified through application.**
4 **§1213.12. Restraint of trade; application of certain laws**
5 **A. A network that contracts with a medical services provider or medical**
6 **services providers practicing individually or as a group is not, because of the**
7 **contract or arrangement, deemed to be in violation of any state law prohibiting**
8 **arrangements or contracts which restrain trade.**
9 **B. Notwithstanding any other law or rule to the contrary, a person who**
10 **contracts under this Subpart with one or more medical services providers to**
11 **conduct activities that are permitted by law under this Subpart or under any**
12 **other applicable law but that do not require a certificate of authority or other**
13 **authorization under this Subpart is not, because of the contract, deemed to be**
14 **in violation of any state law prohibiting arrangements or contracts which**
15 **restrain trade.**
16 **§1213.13. Treating doctor; referrals**
17 **A. A network shall determine the specialty or specialties of doctors who**
18 **may serve as treating doctors.**
19 **B. For each compensable injury, an injured employee shall select a**
20 **treating doctor from the list of all treating doctors under contract with the**
21 **network within the accessibility requirements contained in R.S. 23:1213.21(F).**
22 **C. Each network shall, by contract, require treating doctors to provide,**
23 **at a minimum, the functions and services for injured employees described by**
24 **this Subpart.**
25 **D. A treating doctor shall provide medical services to the injured**
26 **employee for the employee's compensable injury and shall make referrals to**
27 **other network medical services providers where necessary, or make referrals**
28 **to out-of-network medical services providers if medically necessary services are**
29 **not available within the network accessibility requirements contained in R.S.**

Coding: Words which are ~~struck through~~ are deletions from existing law;
words in **boldface type and underscored** are additions.

1 **23:1213.21. Referrals to out-of-network providers must be preapproved by the**
2 **network.**
3 **E. The treating doctor shall participate in the medical case management**
4 **and utilization review programs as required by the network, including**
5 **participation in prompt return-to-work planning.**
6 **§1213.14. Selection of treating doctor**
7 **A. An injured employee is entitled to the employee's initial choice of a**
8 **treating doctor from the list provided by the network of all treating doctors**
9 **under contract with the network who provide services within the applicable**
10 **service area in which the injured employee lives. None of the following**
11 **constitutes an initial choice of treating doctor:**
12 **(1) A doctor salaried by the employer.**
13 **(2) A doctor providing emergency care.**
14 **(3) Any doctor who provides care before the employee is required to**
15 **obtain medical services from the network.**
16 **B. An injured employee who is dissatisfied with the initial choice of a**
17 **treating doctor is entitled to select one alternate treating doctor from the**
18 **network's list of treating doctors who provides services within the applicable**
19 **service area by notifying the payor in the manner prescribed by the network.**
20 **C. An injured employee who is dissatisfied with the second treating**
21 **doctor shall obtain authorization from the payor to select any subsequent**
22 **treating doctor in the manner prescribed by the network. The network shall**
23 **establish procedures and criteria to be used in authorizing an employee to select**
24 **subsequent treating doctors. The criteria shall include, at a minimum, all of the**
25 **following:**
26 **(1) Treatment by the current treating doctor is medically inappropriate.**
27 **(2) The injured employee is receiving appropriate medical care to reach**
28 **maximum medical improvement.**
29 **(3) A conflict exists between the injured employee and the current**

Coding: Words which are ~~struck through~~ are deletions from existing law;
words in **boldface type and underscored** are additions.

1 **treating doctor to the extent that the doctor-patient relationship is jeopardized**
2 **or impaired.**
3 **D. Denial of a request for any subsequent treating doctor is subject to the**
4 **appeal process for a complaint filed under this Subpart.**
5 **E. For purposes of this Section, none of the following circumstances**
6 **constitute the selection of an alternate or any subsequent treating doctor:**
7 **(1) A referral made by the treating doctor, including a referral for a**
8 **second or subsequent opinion.**
9 **(2) The selection of a treating doctor because the original treating doctor**
10 **dies, retires, or leaves the network.**
11 **(3) A change of treating doctor required because of a change of address**
12 **by the employee to a location outside the accessibility requirements contained**
13 **in R.S. 23:1213.24(F).**
14 **§1213.15. Payment of medical services provider**
15 **Notwithstanding any other provisions of this Subpart, a payor shall pay,**
16 **reduce, deny, or determine to audit, a claim for services provided through a**
17 **workers' compensation medical provider network in accordance with R.S.**
18 **23:1213.23.**
19 **§1213.16. Network contracts with providers**
20 **A. A network shall enter into a written contract with each medical**
21 **services provider or group of medical services providers, or a special**
22 **contracting entity, that participates in the network. A medical services provider**
23 **contract under this Section shall be confidential, shall not be subject to**
24 **disclosure as public record information under R.S. 44:31, et seq., and shall not**
25 **be subject to subpoena under any other applicable law.**
26 **B. Medical services provider contracts and subcontracts shall include,**
27 **at a minimum, all of the following provisions:**
28 **(1) A hold-harmless clause stating that the network and the network's**
29 **contracted medical services providers are prohibited from billing or attempting**

Coding: Words which are ~~struck through~~ are deletions from existing law;
words in **boldface type and underscored** are additions.

1 **to collect any amounts from injured employees for medical services under any**
2 **circumstances, including the insolvency of the payor or the network, except as**
3 **otherwise provided by R.S. 23:1203.7.**
4 **(2) A clause regarding appeal by the medical services provider of**
5 **termination of a medical services provider's contract and applicable written**
6 **notification to injured employees regarding such a termination.**
7 **C. Compensation to network medical services providers may not be**
8 **structured in order to achieve the goal of reducing, delaying, or denying medical**
9 **treatment or restricting access to medical treatment. Economic profiling is**
10 **specifically authorized pursuant to R.S. 23:1203.34.**
11 **§1213.17. Provider payment**
12 **A. (1) The amount of payment for services provided by a network**
13 **medical services provider is determined by the contract between the network**
14 **and the medical services provider or group of medical services providers or**
15 **between the special contracting entity and the medical services provider or**
16 **group of medical services providers. The network and the medical services**
17 **provider may agree to use any basis to calculate the payment, including, but not**
18 **limited to, the fee schedule established under R.S. 23:1034.2.**
19 **(2) The contract between the network and the medical services provider**
20 **or group of medical services providers shall include the following governing**
21 **provisions:**
22 **(a) The billing requirements for payment including when bills shall be**
23 **submitted from date of service and the forms used to bill.**
24 **(b) The information required for submission of a bill to substantiate**
25 **payment.**
26 **(c) The timeframes and requirements to request reconsideration of a**
27 **payment, reduced payment, or denial of payment.**
28 **(d) That the administrative review provisions of the contract shall be**
29 **exhausted prior to the filing of a disputed claim form LA-WC-1008.**

Coding: Words which are ~~struck through~~ are deletions from existing law;
words in **boldface type and underscored** are additions.

1 **B. If a payor or network has preauthorized a medical service, the payor**
2 **or network or the network's agent or other representative shall not deny**
3 **payment to a medical services provider except for reasons other than medical**
4 **necessity.**
5 **C. Out-of-network providers, including providers located in and licensed**
6 **to provide medical services in other states, who provide care as permitted by**
7 **this Subpart shall be paid as provided by the reimbursement schedule**
8 **established under R.S. 23:1034.2 and applicable rules of the office, provided**
9 **that nothing shall prohibit a network from negotiating payment for**
10 **out-of-network services at a rate other than the reimbursement schedule**
11 **established under R.S. 23:1034.2.**
12 **D. Subject to Subsection (A) of this Section, billing by, and payment to,**
13 **contracted and out-of-network medical services providers shall be subject to the**
14 **requirements of the Louisiana Workers' Compensation Law and applicable**
15 **rules, as consistent with this Subpart. This Subsection shall not be construed to**
16 **require application of rules of the office regarding reimbursement or payment**
17 **if application of those rules would negate payment amounts negotiated by the**
18 **network.**
19 **E. A complainant shall file a complaint with the network within sixty**
20 **days after the occurrence of the incident that creates the basis of the complaint.**
21 **After the receipt of a complaint filed timely, a network shall within sixty days**
22 **respond to the complaint in writing, either affirming, modifying, or reversing**
23 **the action set forth in the complaint. The complainant shall not be entitled to**
24 **further relief from the office of workers' compensation unless a timely**
25 **complaint has been filed with the network, and the network has adjudicated the**
26 **timely received complaint or failed to adjudicate it within sixty days of its**
27 **receipt.**
28 **§1213.18. Network-payor contracts**
29 **A. Except for emergencies and out-of-network referrals, a network may**

Coding: Words which are ~~struck through~~ are deletions from existing law;
words in **boldface type and underscored** are additions.

1 **make available medical services to employees only pursuant to a written**
2 **contract with a payor. A network-payor contract under this Section shall be**
3 **confidential and shall not be subject to disclosure as public record information**
4 **under any other applicable law.**
5 **B. A network's contract with a payor shall include a statement that the**
6 **network's role is to make available the services described under this Subpart as**
7 **well as any other services or functions agreed to between the network and the**
8 **payor.**
9 **§1213.19. Restrictions on payment and reimbursement**
10 **A party to a payor-network contract shall not sell, lease, or otherwise**
11 **transfer information regarding the payment terms of the contract without the**
12 **express authority of and prior adequate notification to the other contracting**
13 **parties. This Subsection shall not affect the authority of the director under this**
14 **Subpart to request and obtain information.**
15 **§1213.20. Network organization; service areas**
16 **The network shall establish one or more service areas within this state.**
17 **For each defined service area, the network must demonstrate to the satisfaction**
18 **of the office the ability to provide continuity, accessibility, availability, and**
19 **quality of medical services; and make available a complete provider directory**
20 **to all employers which have contracted with a payor which has a network in the**
21 **applicable service area and to all injured employees of each said employer. Such**
22 **directory may be made available through electronic means, including, but not**
23 **limited to, website access or electronic files.**
24 **§1213.21. Accessibility and availability requirements**
25 **A. All medical services specified by this Section shall be provided by a**
26 **medical services provider who holds an appropriate license, unless the medical**
27 **services provider is exempt from license requirements.**
28 **B. The network shall ensure that the network's medical services provider**
29 **panel includes an adequate number of treating doctors and specialists, who shall**

Coding: Words which are ~~struck through~~ are deletions from existing law;
words in **boldface type and underscored** are additions.

1 **be available and accessible to injured employees twenty-four hours a day, seven**
2 **days a week. A network shall include sufficient numbers and types of health**
3 **care providers to ensure choice, access, and quality of care to injured**
4 **employees. At a minimum, the network shall have at least two treating doctors**
5 **and specialists necessary to treat common injuries experienced by injured**
6 **employees within the accessibility requirements contained in Subsection (F) of**
7 **this Section.**
8 **C. Hospital services shall be available and accessible twenty-four hours**
9 **a day, seven days a week, within the accessibility requirements contained in**
10 **Subsection (F) of this Section.**
11 **D. Emergency care must be available and accessible twenty-four hours**
12 **a day, seven days a week, without restrictions as to where the services are**
13 **rendered.**
14 **E. Except for emergencies, a network shall make available medical**
15 **services, including specialists, to be accessible to injured employees on a timely**
16 **basis on request.**
17 **F. Each network shall provide that network services are sufficiently**
18 **accessible and available as necessary to ensure that the distance from the**
19 **employer's physical address or the employee's residence to a point of service by**
20 **a treating doctor or general hospital is not greater than thirty miles in nonrural**
21 **areas and sixty miles in rural areas and that the distance from the employer's**
22 **physical address or the employee's residence to a point of service by a specialist**
23 **or specialty hospital is not greater than seventy-five miles in all areas. For**
24 **portions of the service area in which the network identifies noncompliance with**
25 **this Subsection, the network must file an access plan with the office in**
26 **accordance with Subsection (G) of this Section.**
27 **G. (1) The network shall submit an access plan to the office for approval**
28 **at least thirty days before implementation of the plan if any medical services**
29 **service or a network medical services provider shall not be available to an**

Coding: Words which are ~~struck through~~ are deletions from existing law;
words in **boldface type and underscored** are additions.

1 **injured employee within the distance specified by Subsection (F) of this Section**
2 **for any of the following reasons:**
3 **(a) Medical services providers are not located within that distance.**
4 **(b) The network is unable to obtain medical services provider contracts.**
5 **(c) Medical services providers meeting the network's minimum quality**
6 **of care and credentialing requirements are not located within that distance.**
7 **(2) Nothing shall prohibit a network from submitting, as part of its**
8 **application, an access plan applicable to all its service areas allowing treatment**
9 **with an out-of-network medical service provider in the event medical services**
10 **are not available within the network mileage requirements established in**
11 **Subsection (F) of this Section.**
12 **H. The network may make arrangements with medical services**
13 **providers outside the service area to enable injured employees to receive a skill**
14 **or specialty not available within the network service area.**
15 **I. The network shall not be required to expand services outside the**
16 **network's service area to accommodate injured employees who live outside the**
17 **service area.**
18 **§1213.22. Quality of care**
19 **The network shall have the option of adopting a medical case**
20 **management program to work with treating doctors, referral medical services**
21 **providers, injured employees and employers to facilitate cost-effective care and**
22 **employee prompt return-to-work. Each network shall also have the option of**
23 **adopting nationally recognized prompt return-to-work guidelines.**
24 **§1213.23. Utilization review and retrospective review in network**
25 **The requirements of R.S. 23:1142, 1203.1, and LAC 40:1, Chapter 27,**
26 **shall apply to utilization review conducted in relation to claims in a workers'**
27 **compensation medical provider services network. In the event of a conflict**
28 **between R.S. 23:1142, 1203.1, and LAC 40:1, Chapter 27, and this Subpart, this**
29 **Subpart controls.**

Coding: Words which are ~~struck through~~ are deletions from existing law;
words in **boldface type and underscored** are additions.

1 **§1213.24. Confidentiality requirements**

2 **A. As necessary to implement this Subpart, the office may access**
3 **information from an executive agency that is otherwise confidential under any**
4 **law of this state, including the Louisiana Workers' Compensation Law.**

5 **B. Confidential information provided to or obtained by the office under**
6 **this Section shall remain confidential and shall not be subject to disclosure**
7 **under any public records law or be subject to subpoena under any other law.**
8 **The office shall not release, and a person shall not gain access to, any**
9 **information that could reasonably be expected to reveal the identity of an**
10 **injured employee, or disclose medical services provider discounts or**
11 **differentials between payments and billed charges for individual medical**
12 **services providers or networks.**

13 **C. Information that is in the possession of the office and that relates to**
14 **an individual injured employee, and any compilation, report, or analysis**
15 **produced from the information that identifies an individual injured employee,**
16 **shall not be subject to discovery, subpoena, or other means of legal compulsion**
17 **for release to any person, or admissible in any civil, administrative, or criminal**
18 **proceeding, except in connection with any claim for compensation under this**
19 **Chapter.**

20 **§1213.25. Determination of violation; notice**

21 **A. If the director determines that a network, payor, or any other person**
22 **or third party operating under this Subpart, including a third party to which**
23 **services have been delegated, is in violation of this Subpart or applicable**
24 **provisions of the Louisiana Workers' Compensation Law or rules adopted**
25 **pursuant thereto, the director or a designated representative shall notify the**
26 **network, payor, person, or third party of the alleged violation and may compel**
27 **the production of any documents or other information as necessary to**
28 **determine whether the violation occurred.**

29 **B. The director may initiate the proceedings under this Section.**

Coding: Words which are ~~struck through~~ are deletions from existing law;
words in **boldface type and underscored** are additions.

1 **C. A proceeding under this Section shall be conducted under the**
2 **Administrative Procedure Act.**
3 **D. If after a hearing, it is determined that a network, payor, or other**
4 **person or third party described under this Section has violated or is violating**
5 **this Subpart, or the Louisiana Workers' Compensation Law or rules adopted**
6 **pursuant thereto, the office may take any of the following actions:**
7 **(1) Suspend or revoke any certificate issued under this Subpart.**
8 **(2) Issue a cease and desist order.**
9 **(3) Take any combination of these actions.**
10 **§1213.26. Economic profiling**
11 **A. A payor that offers a workers' compensation medical provider**
12 **network under this Subpart and that uses economic profiling shall maintain a**
13 **description of any policies and procedures related to economic profiling utilized**
14 **by the network. The description shall describe how economic profiling is used**
15 **in utilization review, peer review, incentive and penalty programs, and in**
16 **medical services provider retention and termination decisions. The network**
17 **shall, upon request, provide a copy of the filing to an individual physician,**
18 **medical services provider, medical group or individual practice association.**
19 **B. The purposes of this Subpart, "economic profiling" means any**
20 **evaluation of a particular physician, medical services provider, medical group**
21 **or individual practice association based in whole or in part on the economic**
22 **costs or utilization of services associated with medical care provided or**
23 **authorized by the physician, medical services provider, medical group or**
24 **individual practice association.**
25 **§1213.27. Continuity of medical care; retention or termination of medical**
26 **services providers**
27 **A. A payor or employer that arranges for care for injured workers**
28 **through a workers' compensation medical provider network shall develop and**
29 **maintain a written continuity of care policy and information regarding the**

Coding: Words which are ~~struck through~~ are deletions from existing law;
words in **boldface type and underscored** are additions.

1 **process for an injured employee to request a review under the policy, and shall**
2 **provide, upon request, a copy of the written policy to an employee.**
3 **B.(1) The payor or employer that offers a workers' compensation**
4 **medical provider network shall, at the request of an injured employee, provide**
5 **the completion of treatment as set forth in this Section by a terminated medical**
6 **services provider.**
7 **(2) The completion of treatment shall be provided by a terminated**
8 **medical services provider to an injured employee who, at the time of the**
9 **medical services provider contract's termination, was receiving services from**
10 **that medical services provider for one of the conditions described in Paragraph**
11 **(3) of this Subsection.**
12 **(3) The payor or employer shall provide for the completion of treatment**
13 **for the following conditions subject to coverage under this Chapter:**
14 **(a) An acute condition. "An acute condition" means a medical condition**
15 **that involves a sudden onset of symptoms due to a compensable injury or**
16 **disease that requires prompt medical attention and that has a limited duration.**
17 **Completion of treatment shall be provided for the duration of the acute**
18 **condition.**
19 **(b) A serious chronic condition. "A serious chronic condition" means a**
20 **medical condition due to a compensable injury or disease, that is serious in**
21 **nature and that persists without full cure, or worsens over an extended period**
22 **of time, or requires ongoing treatment to maintain remission or prevent**
23 **deterioration. Completion of treatment shall be provided for a period of time**
24 **necessary to complete a course of treatment and to arrange for a safe transfer**
25 **to another medical services provider, as determined by the payor or employer**
26 **in consultation with the injured employee and the terminated medical services**
27 **provider, and consistent with good professional practice. Completion of**
28 **treatment under this Subsection shall not exceed twelve months from the**
29 **medical services provider contract termination date.**

Coding: Words which are ~~struck through~~ are deletions from existing law;
words in **boldface type and underscored** are additions.

1 **(c) A terminal illness. "A terminal illness" means an incurable or**
2 **irreversible condition as a result of a compensable injury or disease that has a**
3 **high probability of causing death within one year or less. Completion of**
4 **treatment shall be provided for the duration of a terminal illness.**
5 **(d) Surgery. The performance of a surgery or other procedure that is**
6 **authorized by the payor or employer and which is part of a documented course**
7 **of treatment and which has been recommended and documented by the medical**
8 **services provider to occur within one hundred eighty days of the medical**
9 **services provider contract's termination date.**
10 **(4) A payor or employer shall ensure that the requirements of this**
11 **Section are met.**
12 **(5) This Section shall not require a payor or employer to provide for**
13 **completion of treatment by a medical services provider whose medical services**
14 **provider contract with the payor or employer has been terminated or not**
15 **renewed for reasons related to a medical disciplinary cause or reason, fraud, or**
16 **any criminal activity.**
17 **(6) Nothing in this Section shall preclude a payor or employer from**
18 **providing continuity of care beyond the requirements of this Section.**
19 * * *
20 §1221. Temporary total disability; permanent total disability; supplemental earnings
21 benefits; permanent partial disability; schedule of payments
22 Compensation shall be paid under this Chapter in accordance with the
23 following schedule of payments:
24 * * *
25 (3) Supplemental earnings benefits.
26 (a) **(i)** For injury resulting in the employee's inability to earn wages equal to
27 ninety percent or more of wages at time of injury, supplemental earnings benefits**,**
28 **payable monthly,** equal to sixty-six and two-thirds percent of the difference between
29 the average monthly wages at time of injury and average monthly wages earned or

Coding: Words which are ~~struck through~~ are deletions from existing law;
words in **boldface type and underscored** are additions.

1 average monthly wages the employee is able to earn in any month thereafter in any
2 employment or self-employment, whether or not the same or a similar occupation as
3 that in which the employee was customarily engaged when injured and whether or
4 not an occupation for which the employee at the time of the injury was particularly
5 fitted by reason of education, training, and experience, such comparison to be made
6 on a monthly basis. Average monthly wages shall be computed by multiplying his
7 "wages" by fifty-two and then dividing the quotient by twelve.
8 **(ii) When the employee is no longer temporarily and totally disabled as**
9 **provided in this Section, but is not earning any income and the employer has not**
10 **established earning capacity pursuant to R.S. 23:1226, payments of benefits**
11 **shall continue in accordance with R.S. 23:1201A(1).**
12 * * *
13 (4) Permanent partial disability. In the following cases, compensation shall
14 be solely for anatomical loss of use or amputation and shall be as follows:
15 * * *
16 (s)(i) In addition to any other benefits to which an injured employee may be
17 entitled under this Chapter, any employee suffering an injury as a result of an
18 accident arising out of and in the course and scope of his employment shall be
19 entitled to a sum of ~~thirty~~ **fifty** thousand dollars, payable within one year after the
20 date of the injury. Interest on such payment shall not commence to accrue until after
21 it becomes payable. Such payment shall not be subject to any offset for payment of
22 any other benefit under this Chapter. Such payment shall not be subject to a claim
23 for attorney fees; however, attorney fees may be awarded in a claim to collect such
24 payment pursuant to R.S. 23:1201.2.
25 * * *
26 §1224. Payments not recoverable for first week; exceptions
27 No compensation shall be paid for the first week after the injury is received;
28 provided, that in cases where disability from injury continues for ~~six~~ **two** weeks or
29 longer after date of the accident, compensation for the first week shall be paid after

Coding: Words which are ~~struck through~~ are deletions from existing law;
words in **boldface type and underscored** are additions.

1 the first ~~six~~ **two** weeks have elapsed.

2 * * *

3 §1314. Necessary allegations; dismissal of premature petition

4 * * *

5 **D. Notwithstanding any other provisions of this Section, the employer**
6 **shall be permitted to file a claim to controvert benefits or concerning any other**
7 **dispute arising under this Chapter.**

8 **E. Disputes over whether medical treatment is due under the medical**
9 **treatment schedule shall be premature unless a decision of the medical director**
10 **has been obtained in accordance with R.S. 23:1203.1(J).**

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alan Miller.

DIGEST

Proposed law provides that the evidentiary standard for the burden of proof be by a preponderance of the evidence and placed upon the party who is asserting entitlement to compensation or medical benefits, or asserting entitlement to payment or additional payment for services rendered to an employee.

Present law requires that penalties and attorney fees be assessed against either the employer or the insurer, depending upon fault. Present law further requires that workers' compensation insurance policy provide that these sums be paid by the insurer if the workers' compensation judge determines that the penalty and attorney fees are to be paid by the employer rather than the insurer.

Proposed law repeals present law and provides that in the event that the health care provider prevails on a claim for payment of his fee, penalties, and reasonable attorney fees based upon actual hours worked be awarded and paid directly to the health care provider.

Proposed law regarding recovery of attorney fees only applies if the failure to make payment is arbitrary and capricious.

Present law provides that in every case of death, the employer shall pay reasonable expenses of the burial of the employee, not to exceed $7500.

Proposed law retains present law but increases the amount to $8500.

Proposed law provides for the governance, creation, administration, evaluation, and enforcement of the delivery of medical services to injured employees by workers' compensation medical provider networks.

Proposed law provides that after January 1, 2013, employers may participate in workers' compensation providers networks.

Proposed law provides that the employer is responsible for certain out-of-network care.

Coding: Words which are ~~struck through~~ are deletions from existing law; words in **boldface type and underscored** are additions.

Proposed law requires the injured worker to utilize medical service through the network, if accessible.

Proposed law requires that networks be certified and further provides for application procedures.

Proposed law allows for "specialty contracting entities" that can contract with the network to provide access to ancillary or complimentary medical services.

Proposed law requires the director of the office of workers' compensation to act on applications of applicants within 60 days of submission.

Proposed law provides that contracts between the network and health care providers do not constitute a restraint of trade.

Proposed law provides that the injured worker may select a treating doctor from the list of doctors participating in the network. Proposed law further provides that if the treating doctor shall make a referral, he shall make every effort to refer the injured worker to another doctor within the network.

Proposed law authorizes the injured worker to select a second doctor who participates in the network, if he is dissatisfied with his initial choice.

Proposed law requires the network to enter into a written contract with each medical services provider or group of medical services providers, or a special contracting entity, that participates in the network. Proposed law further provides that such medical services provider contracts are confidential, not subject to disclosure as public record information and not subject to subpoena.

Proposed law provides that the amount of payment for services provided by a network medical services provider is determined by the contract between the network and the medical services provider or group of medical services providers or between the special contracting entity and the medical services provider or group of medical services providers.

Proposed law generally prohibits a network from making available medical services to employees except pursuant to a written contract with a payor. A network-payor contract is confidential and not subject to disclosure as public record information under any other applicable law.

Proposed law prohibits a party to a payor-network contract from selling, leasing, or otherwise transferring information regarding the payment terms of the contract without the express authority of and prior adequate notification to the other contracting parties.

Proposed law requires that the network's medical services provider panel includes an adequate number of treating doctors and specialists, and be available and accessible to injured employees 24 hours a day, seven days a week. Proposed law further requires that the network include sufficient numbers and types of health care providers to ensure choice, access, and quality of care to injured employees.

Proposed law further requires that hospital services and emergency care be available and accessible to injured employees 24 hours a day, seven days a week.

Proposed law authorizes the network to adopt a medical case management program to work with treating doctors, referral medical services providers, injured employees and employers to facilitate cost-effective care and employee prompt return-to-work.

Proposed law provides for utilization review in relation to claims in a workers' compensation medical provider services network.

Coding: Words which are ~~struck through~~ are deletions from existing law;
words in **boldface type and underscored** are additions.

Proposed law authorizes the office of workers' compensation to access information from an executive agency that is otherwise confidential, in order to implement proposed law.

Proposed law provides that information that is in the possession of the office and that relates to an individual injured employee, and any compilation, report, or analysis produced from the information that identifies an individual injured employee, is not subject to discovery, subpoena, or other means of legal compulsion for release to any person, or admissible in any civil, administrative, or criminal proceeding, except in connection with any claim for compensation under proposed law.

Proposed law provides that if the director determines that a network, payer, or any other person or third party is in violation of proposed law, or applicable provisions of the La. Workers' Compensation Law or rules adopted pursuant thereto, the director or a designated representative shall notify the network, payor, person, or third party of the alleged violation and may compel the production of any documents or other information as necessary to determine whether the violation occurred.

Proposed law provides for "economic profiling" under certain circumstances. Economic profiling is defined as any evaluation of a particular physician, medical services provider, medical group or individual practice association based in whole or in part on the economic costs or utilization of services associated with medical care provided or authorized by the physician, medical services provider, medical group or individual practice association.

Proposed law requires the employer that arranges for care for injured workers through a workers' compensation medical provider network to develop and maintain a written continuity of care policy and information regarding the process for an injured employee to request a review under the policy, and further requires that the employer provide, upon request, a copy of the written policy to an employee.

Proposed law requires the employer to provide completion of treatment under the following conditions:

1. An acute condition. "An acute condition" means a medical condition that involves a sudden onset of symptoms due to compensable injury or disease that requires prompt medical attention and that has a limited duration. Completion of treatment shall be provided for the duration of the acute condition.

2. A serious chronic condition. "A serious chronic condition" means a medical condition due to a compensable injury or disease, that is serious in nature and that persists without full cure, or worsens over an extended period of time, or requires ongoing treatment to maintain remission or prevent deterioration. Completion of treatment shall be provided for a period of time necessary to complete a course of treatment and to arrange for a safe transfer to another medical services provider, as determined by the payer or employer in consultation with the injured employee and the terminated medical services provider, and consistent with good professional practice. Completion of treatment shall not exceed 12 months from the medical services provider contract termination date.

3. A terminal illness. "A terminal illness" means an incurable or irreversible condition as a result of a compensable injury or disease that has a high probability of causing death within one year or less. Completion of treatment shall be provided for the duration of a terminal illness.

4. Surgery. The performance of a surgery or other procedure that is authorized by the payor or employer and which is part of a documented course of treatment and which has been recommended and documented by the medical services provider to occur within 180 days of the medical services provider contract's termination date.

Proposed law requires that supplemental earnings benefits paid to injured workers be paid monthly.

Proposed law provides that when the employee is no longer temporarily and totally disabled, but is not earning any income and the employer has not established earning capacity, payments of benefits shall continue in accordance with present law.

Proposed law increases certain permanent partial disability payments from $30,000 to $50,000.

Proposed law provides that payments to injured workers begin two weeks after the injury occurred, if the disability continues.

Effective August 1, 2012.

(Amends R.S. 23:1123, 1124.1, 1201(F)(1), (2) and (4), 1210(A), 1221(3)(a) and (4)(s)(i), and 1224; adds R.S. 23:1020.1, 1213 through 1213.27, and 1314(D) and (E))