

1 **SENATE FLOOR VERSION**

2 April 11, 2017

3 **AS AMENDED**

4 ENGROSSED HOUSE

5 BILL NO. 1462

6 By: Echols of the House

7 and

8 Sykes of the Senate

9 [ Workers' compensation - modifying various  
10 provisions relating to workers' compensation -  
11 effective date ]

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

13 SECTION 1. AMENDATORY Section 1, Chapter 208, O.S.L.

14 2013 (85A O.S. Supp. 2016, Section 1), is amended to read as

15 follows:

16 Section 1. Sections 1 through ~~106 and 150 through 168~~ 125 of

17 this ~~act~~ title shall be known and may be cited as the

18 "Administrative Workers' Compensation Act". The provisions of the

19 Administrative Workers' Compensation Act shall be strictly

20 construed.

21 SECTION 2. AMENDATORY Section 2, Chapter 208, O.S.L.

22 2013 (85A O.S. Supp. 2016, Section 2), is amended to read as

23 follows:

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

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

6 2. "Carrier" means any stock company, mutual company, or  
7 reciprocal or interinsurance exchange authorized to write or carry  
8 on the business of workers' compensation insurance in this state.

9 Whenever required by the context, the term "carrier" shall be deemed  
10 to include duly qualified self-insureds or self-insured groups;

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

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

1 management experience, has passed a national competency test and  
2 regularly obtains continuing education hours to maintain  
3 certification:

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

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

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

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

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

13 ~~8.~~ "Commission" means the Workers' Compensation Commission;

14 ~~9.~~ 8. a. "Compensable injury" means damage or harm to the  
15 physical structure of the body, or prosthetic  
16 appliances, including eyeglasses, contact lenses, or  
17 hearing aids, caused solely as the result of either an  
18 accident, cumulative trauma or occupational disease  
19 arising out of the course and scope of employment. ~~An~~  
20 ~~"accident" means an event involving factors external~~  
21 ~~to the employee that:~~

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

24

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

6           b. "Compensable injury" does not include:

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

1 (4) injury where the accident was caused by the use  
2 of alcohol, illegal drugs, or prescription drugs  
3 used in contravention of physician's orders. If,  
4 within twenty-four (24) hours of being injured or  
5 reporting an injury, an employee tests positive  
6 for intoxication, an illegal controlled  
7 substance, or a legal controlled substance used  
8 in contravention to a treating physician's  
9 orders, or refuses to undergo the drug and  
10 alcohol testing, there shall be a rebuttable  
11 presumption that the injury was caused by the use  
12 of alcohol, illegal drugs, or prescription drugs  
13 used in contravention of physician's orders.  
14 This presumption may only be overcome if the  
15 employee proves by objective, clear and  
16 convincing evidence that his or her state of  
17 intoxication had no causal relationship to the  
18 injury,

19 (5) any strain, degeneration, damage or harm to, or  
20 disease or condition of, the eye or  
21 musculoskeletal structure or other body part  
22 resulting from the natural results of aging,  
23 osteoarthritis, arthritis, or degenerative  
24 process including, but not limited to,

1 degenerative joint disease, degenerative disc  
2 disease, degenerative  
3 spondylosis/spondylolisthesis and spinal  
4 stenosis, or

5 (6) any injury that is related to a preexisting  
6 condition except ~~when~~ if the treating physician  
7 ~~clearly confirms~~ determines by objective findings  
8 that the injury is an identifiable and  
9 significant aggravation ~~incurred~~ of the  
10 preexisting condition that:

11 (a) occurred in the course and scope of  
12 employment,

13 (b) is not just a recurrence of symptoms  
14 inherent in the etiology of the preexisting  
15 condition, and

16 (c) is substantially caused by the work-related  
17 accident.

18 c. The definition of "compensable injury" shall not be  
19 construed to limit or abrogate the right to recover  
20 for mental injuries as described in Section 13 of this  
21 ~~act~~ title, heart or lung injury or illness as  
22 described in Section 14 of this ~~act~~ title, or  
23 occupational diseases as described in Section 65 of  
24 this ~~act~~ title.

1 d. A compensable injury shall be established by medical  
2 evidence supported by objective findings as defined in  
3 paragraph ~~30~~ 26 of this section.

4 e. The injured employee shall prove by a preponderance of  
5 the evidence that he or she has suffered a compensable  
6 injury.

7 f. Benefits shall not be payable for a condition which  
8 results from a non-work-related independent  
9 intervening cause following a compensable injury which  
10 causes or prolongs disability, aggravation, or  
11 requires treatment. A non-work-related independent  
12 intervening cause does not require negligence or  
13 recklessness on the part of ~~a claimant~~ an employee.

14 g. An employee who suffers a compensable injury shall be  
15 entitled to receive compensation as prescribed in this  
16 ~~act~~ title. Notwithstanding other provisions of law,  
17 if it is determined that a compensable injury did not  
18 occur, the employee shall not be entitled to  
19 compensation under this ~~act~~ title;

20 ~~10.~~ 9. "Compensation" means the money allowance payable to the  
21 employee or to his or her dependents and includes the medical  
22 services and supplies provided for in Section 50 of this ~~act~~ title  
23 and funeral expenses;



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

7       ~~12.~~ 10. "Continuing medical maintenance" means medical  
8 treatment that is reasonable and necessary to maintain ~~claimant's~~ an  
9 employee's condition resulting from the compensable injury or  
10 illness after reaching maximum medical improvement. Continuing  
11 medical maintenance shall not include diagnostic tests, surgery,  
12 injections, counseling, physical therapy, or pain management devices  
13 or equipment;

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

- 23           a. an employee's transportation to and from his or her  
24                 place of employment,

1 b. travel by an employee in furtherance of the affairs of  
2 an employer if the travel is also in furtherance of  
3 personal or private affairs of the employee,

4 c. any injury occurring in a parking lot or other common  
5 area adjacent to an employer's place of business  
6 before the employee clocks in or otherwise begins work  
7 for the employer or after the employee clocks out or  
8 otherwise stops work for the employer, or

9 d. any injury occurring while an employee is on a work  
10 break, unless the injury occurs while the employee is  
11 on a work break inside the employer's facility and the  
12 work break is authorized by the employee's supervisor;

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

23 ~~15.~~ 13. "Death" means only death resulting from compensable  
24 injury as defined in paragraph ~~9~~ 8 of this section;

1       ~~16.~~ 14. "Disability" means ~~incapacity because of,~~ based on  
2 objective findings, impairment of a portion of the total  
3 physiological capabilities of the human body caused by a compensable  
4 ~~injury to earn, in the same or any other employment, substantially~~  
5 ~~the same amount of wages the employee was receiving at the time of~~  
6 ~~the compensable injury;~~

7       ~~17.~~ 15. "Drive-away ~~operations~~ owner-operator" includes every  
8 person engaged in the business of transporting and delivering new or  
9 used vehicles by driving, either singly or by towbar, saddle-mount  
10 or full-mount method, or any combination thereof, with or without  
11 towing a privately owned vehicle;

12       ~~18.~~ 16.

13       a. "Employee" means any person, including a minor, in the  
14 service of an employer under any contract of hire or  
15 apprenticeship, written or oral, expressed or implied,  
16 but excluding one whose employment is casual and not  
17 in the course of the trade, business, profession, or  
18 occupation of his or her employer and excluding one  
19 who is required to perform work for a municipality or  
20 county or the state or federal government on having  
21 been convicted of a criminal offense or while  
22 incarcerated. "Employee" shall also include a member  
23 of the Oklahoma National Guard while in the  
24 performance of duties only while in response to state

1 orders and any authorized voluntary or uncompensated  
2 worker, rendering services as a firefighter, peace  
3 officer or emergency management worker. Travel by a  
4 policeman, fireman, or a member of a first aid or  
5 rescue squad, in responding to and returning from an  
6 emergency, shall be deemed to be in the course of  
7 employment.

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

9 (1) any person for whom an employer is liable under  
10 any Act of Congress for providing compensation to  
11 employees for injuries, disease or death arising  
12 out of and in the course of employment including,  
13 but not limited to, the Federal Employees'  
14 Compensation Act, the Federal Employers'  
15 Liability Act, the Longshore and Harbor Workers'  
16 Compensation Act and the Jones Act, to the extent  
17 his or her employees are subject to such acts,

18 (2) any person who is employed in agriculture or  
19 horticulture by an employer who had a gross  
20 annual payroll in the preceding calendar year of  
21 less than One Hundred Thousand Dollars  
22 (\$100,000.00) wages for agricultural or  
23 horticultural workers, or any person who is  
24

- 1 employed in agriculture or horticulture who is  
2 not engaged in operation of motorized machines,
- 3 (3) any person who is a licensed real estate sales  
4 associate or broker, paid on a commission basis,
- 5 (4) any person who is providing services in a medical  
6 care or social services program, or who is a  
7 participant in a work or training program,  
8 administered by the Department of Human Services,  
9 unless the Department is required by federal law  
10 or regulations to provide workers' compensation  
11 for such person. This division shall not be  
12 construed to include nursing homes,
- 13 (5) any person employed by an employer with five or  
14 fewer total employees, ~~all of whom~~ who are either  
15 related within the second degree by blood or  
16 marriage to the employer or are dependents living  
17 in the household of the employer, if the employer  
18 is a natural person or a general or limited  
19 partnership, ~~or~~ an incorporator of a corporation  
20 if the corporation is the employer, or a member  
21 or manager of a limited liability company if the  
22 limited liability company is the employer,
- 23 (6) any person employed by an employer which is a  
24 youth sports league which qualifies for exemption

1 from federal income taxation pursuant to federal  
2 law,

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

16 (8) any person providing or performing voluntary  
17 service who receives no wages for the services  
18 other than meals, drug or alcohol rehabilitative  
19 therapy, transportation, lodging or reimbursement  
20 for incidental expenses except for volunteers  
21 specifically provided for in subparagraph a of  
22 this paragraph,

23 (9) a person, commonly referred to as an owner-  
24 operator, who owns or leases a truck-tractor or

1 truck for hire, if the owner-operator actually  
2 operates the truck-tractor or truck and if the  
3 person contracting with the owner-operator is not  
4 the lessor of the truck-tractor or truck.

5 Provided, however, an owner-operator shall not be  
6 precluded from workers' compensation coverage  
7 under the Administrative Workers' Compensation  
8 Act if the owner-operator elects to participate  
9 as a sole proprietor,

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

17 Provided, however, a drive-away owner-operator  
18 shall not be precluded from workers' compensation  
19 coverage under the Administrative Workers'  
20 Compensation Act if the drive-away owner-operator  
21 elects to participate as a sole proprietor, and

22 (11) any person who is employed as a domestic servant  
23 or as a casual worker in and about a private home  
24 or household, which private home or household had

1 a gross annual payroll in the preceding calendar  
2 year of less than Fifty Thousand Dollars  
3 (\$50,000.00) for such workers;

4 ~~19.~~ 17. "Employer" means a person, partnership, association,  
5 limited liability company, corporation, and the legal  
6 representatives of a deceased employer, or the receiver or trustee  
7 of a person, partnership, association, corporation, or limited  
8 liability company, departments, instrumentalities and institutions  
9 of this state and divisions thereof, counties and divisions thereof,  
10 public trusts, boards of education and incorporated cities or towns  
11 and divisions thereof, employing a person included within the term  
12 "employee" as defined in this section. Employer may also mean the  
13 employer's workers' compensation insurance carrier, if applicable.  
14 Except as provided otherwise, ~~this act~~ the Administrative Workers'  
15 Compensation Act applies to all public and private entities and  
16 institutions. ~~Employer shall not include a qualified employer with~~  
17 ~~an employee benefit plan as provided under the Oklahoma Employee~~  
18 ~~Injury Benefit Act in Sections 107 through 120 of this act;~~

19 ~~20.~~ 18. "Employment" includes work or labor in a trade,  
20 business, occupation or activity carried on by an employer or any  
21 authorized voluntary or uncompensated worker rendering services as a  
22 firefighter, peace officer or emergency management worker;

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



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

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

6 ~~23. 19. "Impairment" means a loss of, or loss of the formation~~  
7 ~~of, a body part, organ or system;~~

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

17 ~~24. "Incapacity" means inadequate strength or ability to~~  
18 ~~perform a work-related task;~~

19 ~~25. 21.~~ 21. "Insurance Commissioner" means the Insurance  
20 Commissioner of the State of Oklahoma;

21 ~~26. 22.~~ 22. "Insurance Department" means the Insurance Department  
22 of the State of Oklahoma;

23 ~~27. "Major cause" means more than fifty percent (50%) of the~~  
24 ~~resulting injury, disease or illness. A finding of major cause~~

1 ~~shall be established by a preponderance of the evidence. A finding~~  
2 ~~that the workplace was not a major cause of the injury, disease or~~  
3 ~~illness shall not adversely affect the exclusive remedy provisions~~  
4 ~~of this act and shall not create a separate cause of action outside~~  
5 ~~this act;~~

6 ~~28.~~ 23. "Maximum medical improvement" means that no further  
7 material improvement would reasonably be expected from medical  
8 treatment or the passage of time;

9 ~~29.~~ 24. "Medical services" means those services specified in  
10 Section 50 of this ~~act~~ title;

11 ~~30.~~ 25. "Misconduct" shall include the following:

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

24

1 i. a violation of a policy or rule adopted to ensure  
2 orderly work or the safety of self or others;

3 ~~31.~~ 26.

4 a. (1) "Objective findings" ~~are those~~ means findings  
5 based on objective medical evidence which cannot  
6 come under the voluntary control of the patient.

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

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

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

1 bone conduction thresholds and speech  
2 discrimination ability.

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

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

13 ~~32.~~ 27. "Official Disability Guidelines" or "~~ODG~~" means the  
14 ~~current edition~~ Sixth Edition of the Official Disability Guidelines  
15 and the ~~ODG~~ Treatment in Workers' ~~Comp~~ Compensation as published by  
16 the Work Loss Data Institute;

17 ~~33.~~ 28. "Occupational disease" means a disease arising out of  
18 and in the course and scope of employment that causes damage or harm  
19 to the physical structure of the body. The term includes a disease  
20 or infection that naturally results from the work-related disease.  
21 The term does not include an ordinary disease of life to which the  
22 general public is exposed outside of employment unless that disease  
23 is an incident to a compensable injury or work-related disease;  
24

1        29. "Permanent disability" means the ~~extent, expressed as a~~  
2 ~~percentage, of the~~ permanent loss of a portion of the total  
3 physiological capabilities of the human body ~~as established by~~  
4 ~~competent medical evidence and~~ caused by a compensable injury based  
5 on the ~~current edition~~ Sixth Edition of the American Medical  
6 Association ~~guides~~ "Guides to the evaluation Evaluation of  
7 ~~impairment~~ Permanent Impairment", if the impairment is contained  
8 therein;

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

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

22        ~~36.~~ 30. "Preexisting condition" means any illness, injury,  
23 disease, or other physical or mental condition, whether or not work-

24

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

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

8 ~~38.~~ 31. "Private self-insurer" means a private employer that  
9 has been authorized to self-insure its workers' compensation  
10 obligations pursuant to this ~~act~~ title, but does not include group  
11 self-insurance associations authorized by this ~~act~~ title, or any  
12 public employer that self-insures pursuant to this ~~act~~ title;

13 ~~39.~~ 32. "Prosthetic" means an artificial device used to replace  
14 a part or joint of the body that is lost or injured in an accident  
15 or illness covered by this ~~act~~ title;

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

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

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

3 42. 33. "State average weekly wage" means the state average  
4 weekly wage determined by the Oklahoma Employment Security  
5 Commission in the preceding calendar year. If such determination is  
6 not available, the Commission shall determine the wage annually  
7 after reasonable investigation;

8 43. 34. "Subcontractor" means a person, firm, corporation or  
9 other legal entity hired by the general or prime contractor to  
10 perform a specific task for the completion of a work-related  
11 activity;

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

14 45. 35. "Surviving spouse" means the employee's spouse by  
15 reason of a legal marriage recognized by the State of Oklahoma or  
16 under the requirements of a common law marriage in this state, as  
17 determined by the Workers' Compensation Commission;

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

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

24

1        ~~48.~~ 36. "Total loss of use" means a one-hundred-percent  
2 permanent partial disability rating to the specific body part; and

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

10        SECTION 3.        AMENDATORY        Section 3, Chapter 208, O.S.L.  
11 2013 (85A O.S. Supp. 2016, Section 3), is amended to read as  
12 follows:

13        Section 3. A. Every employer and every employee, unless  
14 otherwise specifically provided in this ~~act~~ title, shall be subject  
15 and bound to the provisions of the Administrative Workers'  
16 Compensation Act. However, nothing in this ~~act~~ title shall be  
17 construed to conflict with any valid Act of Congress governing the  
18 liability of employers for injuries received by their employees.

19        B. This ~~act~~ title shall apply only to claims for injuries and  
20 death based on accidents which occur on or after ~~the effective date~~  
21 ~~of this act~~ February 1, 2014.

22        C. The Workers' Compensation Code in effect before ~~the~~  
23 ~~effective date of this act~~ February 1, 2014, shall govern all rights  
24



1 in respect to claims for injuries and death based on accidents  
2 occurring before ~~the effective date of this act~~ February 1, 2014.

3 D. If an employee files a workers' compensation claim or  
4 receives benefits in another jurisdiction, the employee is not  
5 eligible to receive benefits under this title for the same injury.

6 SECTION 4. AMENDATORY Section 4, Chapter 208, O.S.L.  
7 2013 (85A O.S. Supp. 2016, Section 4), is amended to read as  
8 follows:

9 Section 4. A. If any part of this ~~act~~ title be decided by the  
10 courts to be unconstitutional or invalid, the same shall not affect  
11 the validity of this ~~act~~ title as a whole, or any part thereof other  
12 than the part so decided to be unconstitutional or invalid.

13 B. If the adjudication of unconstitutionality has the effect of  
14 invalidating any payment of compensation under this ~~act~~ title, the  
15 amount of any compensation paid under this ~~act~~ title on account of  
16 the injury shall be deducted from the amount of damages awarded in  
17 the action in respect to the injury.

18 SECTION 5. AMENDATORY Section 5, Chapter 208, O.S.L.  
19 2013 (85A O.S. Supp. 2016, Section 5), is amended to read as  
20 follows:

21 Section 5. A. The rights and remedies granted to an employee  
22 subject to the provisions of the Administrative Workers'  
23 Compensation Act shall be exclusive of all other rights and remedies  
24 of the employee, his or her legal representative, dependents, next

1 of kin, or anyone else claiming rights to recovery on behalf of the  
2 employee against the employer, or any principal, officer, director,  
3 employee, stockholder, partner, or prime contractor of the employer  
4 on account of injury, illness, or death. Negligent acts of a co-  
5 employee may not be imputed to the employer. No role, capacity, or  
6 persona of any employer, principal, officer, director, employee, or  
7 stockholder other than that existing in the role of employer of the  
8 employee shall be relevant for consideration for purposes of this  
9 ~~aet~~ title, and the remedies and rights provided by this ~~aet~~ title  
10 shall be exclusive regardless of the multiple roles, capacities, or  
11 personas the employer may be deemed to have. For the purpose of  
12 extending the immunity of this section, any operator or owner of an  
13 oil or gas well or other operation for exploring for, drilling for,  
14 or producing oil or gas shall be deemed to be an intermediate or  
15 principal employer for services performed at a drill site or  
16 location with respect to injured or deceased workers whose immediate  
17 employer was hired by such operator or owner at the time of the  
18 injury or death.

19 B. Exclusive remedy shall not apply if:

20 1. An employer fails to secure the payment of compensation due  
21 to the employee as required by this ~~aet~~ title. An injured employee,  
22 or his or her legal representative in case death results from the  
23 injury, may, at his or her option, elect to claim compensation under  
24

1 this act or to maintain a legal action in court for damages on  
2 account of the injury or death; or

3 2. The injury was caused by an intentional tort committed by  
4 the employer. An intentional tort shall exist only when the  
5 employee is injured as a result of willful, deliberate, specific  
6 intent of the employer to cause such injury. Allegations or proof  
7 that the employer had knowledge that the injury was substantially  
8 certain to result from the employer's conduct shall not constitute  
9 an intentional tort. The employee shall plead facts that show it is  
10 at least as likely as it is not that the employer acted with the  
11 purpose of injuring the employee. The issue of whether an act is an  
12 intentional tort shall be a question of law.

13 C. The immunity from civil liability described in subsection A  
14 of this section shall apply regardless of whether the injured  
15 employee is denied compensation or deemed ineligible to receive  
16 compensation under this ~~act~~ title.

17 D. If an employer has failed to secure the payment of  
18 compensation for his or her injured employee as provided for in this  
19 ~~act~~ title, an injured employee, or his or her legal representative  
20 if death results from the injury, may maintain an action in the  
21 district court for damages on account of such injury.

22 E. The immunity created by the provisions of this section shall  
23 not extend to action against another employer, or its employees, on  
24 the same job as the injured or deceased worker where such other

1 employer does not stand in the position of an intermediate or  
2 principal employer to the immediate employer of the injured or  
3 deceased worker.

4 F. The immunity created by the provisions of this section shall  
5 not extend to action against another employer, or its employees, on  
6 the same job as the injured or deceased worker even though such  
7 other employer may be considered as standing in the position of a  
8 special master of a loaned servant where such special master neither  
9 is the immediate employer of the injured or deceased worker nor  
10 stands in the position of an intermediate or principal employer to  
11 the immediate employer of the injured or deceased worker.

12 G. This section shall not be construed to abrogate the loaned  
13 servant doctrine in any respect other than that described in  
14 subsection F of this section. Nothing in this ~~act~~ title shall be  
15 construed to relieve the employer from any other penalty provided  
16 for in this ~~act~~ title for failure to secure the payment of  
17 compensation under this ~~act~~ title.

18 H. For the purpose of extending the immunity of this section,  
19 any architect, professional engineer, or land surveyor shall be  
20 deemed an intermediate or principal employer for services performed  
21 at or on the site of a construction project, but this immunity shall  
22 not extend to the negligent preparation of design plans and  
23 specifications.

24

1 I. If the employer has failed to secure ~~the payment of~~ workers'  
2 compensation insurance or become an approved self-insured as  
3 provided in this ~~act~~ title or in the case of an intentional tort,  
4 the injured employee or his or her legal representative may maintain  
5 an action either before the Commission or in the district court, but  
6 not both.

7 SECTION 6. AMENDATORY Section 6, Chapter 208, O.S.L.  
8 2013, as amended by Section 1, Chapter 390, O.S.L. 2015 (85A O.S.  
9 Supp. 2016, Section 6), is amended to read as follows:

10 Section 6.

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

16 (1) obtaining any benefit or payment,

17 (2) increasing any claim for benefit or payment, or

18 (3) obtaining workers' compensation coverage under  
19 this ~~act~~ title,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (1) subpoena witnesses,

23 (2) administer oaths or affirmations and examine any  
24 individual under oath, and



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

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

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

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

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

22 e. In addition to the punishments described in paragraph  
23 1 of subsection A of this section, any person  
24 providing false testimony under oath or affirmation in

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 SECTION 7. AMENDATORY Section 7, Chapter 208, O.S.L.  
14 2013 (85A O.S. Supp. 2016, Section 7), is amended to read as  
15 follows:

16 Section 7. A. An employer may not discriminate or retaliate  
17 against an employee when the employee has in good faith:

- 18 1. Filed a claim under this ~~act~~ title;
- 19 2. Retained a lawyer for representation regarding a claim under  
20 this ~~act~~ title;
- 21 3. Instituted or caused to be instituted any proceeding under  
22 the provisions of this ~~act~~ title; or
- 23 4. Testified or is about to testify in any proceeding under the  
24 provisions of this ~~act~~ title.

1       ~~B. The Commission shall have exclusive jurisdiction to hear and~~  
2 ~~decide claims based on subsection A of this section.~~

3       ~~C. If the Commission~~ a district court of this state determines  
4 ~~that the defendant~~ an employer violated ~~subsection A~~ a provision of  
5 ~~this section, the Commission may award the employee back pay up to a~~  
6 ~~maximum of One Hundred Thousand Dollars (\$100,000.00),~~ such employer  
7 shall be liable for reasonable compensatory damages suffered by an  
8 employee as a result of the violation. The employee shall have the  
9 burden of proof to show such violation by a preponderance of the  
10 evidence. Interim earnings or amounts earnable with reasonable  
11 diligence by the person discriminated against shall reduce the ~~back~~  
12 ~~pay~~ compensatory damages otherwise allowable. Exemplary or punitive  
13 damage awards made pursuant to this section shall not exceed One  
14 Hundred Thousand Dollars (\$100,000.00).

15       ~~D. C.~~ C. The prevailing party shall be entitled to recover costs  
16 and a reasonable attorney fee.

17       ~~E. D.~~ D. No employer may discharge an employee during a period of  
18 temporary total disability for the sole reason of being absent from  
19 work or for the purpose of avoiding payment of temporary total  
20 disability benefits to the injured employee.

21       ~~F. E.~~ E. Notwithstanding any other provision of this section, an  
22 employer shall not be required to rehire or retain an employee who,  
23 after temporary total disability has been exhausted, is determined  
24

1 by a physician to be physically unable to perform his or her  
2 assigned duties, or whose position is no longer available.

3 ~~G.~~ F. This section shall not be construed as establishing an  
4 exception to the employment-at-will doctrine.

5 ~~H.~~ G. The remedies provided for in this section shall be  
6 exclusive with respect to any claim arising out of the conduct  
7 described in subsection A of this section.

8 SECTION 8. AMENDATORY Section 8, Chapter 208, O.S.L.  
9 2013 (85A O.S. Supp. 2016, Section 8), is amended to read as  
10 follows:

11 Section 8. A. No agreement by an employee to waive his or her  
12 right to compensation shall be valid. No contract, regulation, or  
13 device shall operate to relieve the employer or carrier, in whole or  
14 in part, from any liability created by this ~~act~~ title, except as  
15 specifically provided in this ~~act~~ title.

16 B. Any officer of a corporation, sole proprietor, partner of a  
17 partnership, member of a limited liability company, member of a  
18 professional association, or self-employed employer who is not a  
19 subcontractor and who owns and operates his or her own business may,  
20 by agreement or contract, exclude himself or herself from coverage  
21 or waive his or her right to coverage or compensation under this ~~act~~  
22 title.

23

24



1 SECTION 9. AMENDATORY Section 9, Chapter 208, O.S.L.  
2 2013 (85A O.S. Supp. 2016, Section 9), is amended to read as  
3 follows:

4 Section 9. No agreement by an employee to pay any portion of  
5 the premium paid by his or her employer to a carrier or a benefit  
6 fund or department maintained by the employer for the purpose of  
7 providing compensation or medical services and supplies as required  
8 by this ~~act~~ title shall be valid. Any employer who makes a  
9 deduction for such purposes from the pay of any employee entitled to  
10 the benefits of this ~~act~~ title shall be guilty of a misdemeanor.

11 SECTION 10. AMENDATORY Section 13, Chapter 208, O.S.L.  
12 2013 (85A O.S. Supp. 2016, Section 13), is amended to read as  
13 follows:

14 Section 13. A. 1. A mental injury or illness is not a  
15 compensable injury unless caused by a physical injury to the  
16 employee, and shall not be considered an injury arising out of and  
17 in the course and scope of employment or compensable unless  
18 demonstrated by a preponderance of the evidence; provided, however,  
19 that this physical injury limitation shall not apply to any victim  
20 of a crime of violence.

21 2. No mental injury or illness under this section shall be  
22 compensable unless it is also diagnosed by a licensed psychiatrist  
23 or psychologist and unless the diagnosis of the condition meets the  
24

1 criteria established in the most current issue of the Diagnostic and  
2 Statistical Manual of Mental Disorders.

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

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

13 b. Death directly or indirectly related to the mental  
14 injury or illness occurring one (1) year or more from  
15 the incident resulting in the mental injury or illness  
16 shall not be a compensable injury.

17 SECTION 11. AMENDATORY Section 14, Chapter 208, O.S.L.  
18 2013 (85A O.S. Supp. 2016, Section 14), is amended to read as  
19 follows:

20 Section 14. ~~A.~~ A cardiovascular, coronary, pulmonary,  
21 respiratory, or cerebrovascular accident or myocardial infarction  
22 causing injury, illness, or death is a compensable injury only if,  
23 ~~in relation to other factors contributing to the physical harm, the~~  
24 ~~course and scope of employment was the major cause.~~

1 ~~B. 1. An injury or disease included in subsection A of this~~  
2 ~~section shall not be deemed to be a compensable injury unless it is~~  
3 ~~shown that the exertion of the work necessary to precipitate the~~  
4 ~~disability or death was extraordinary and unusual in comparison to~~  
5 ~~the employee's usual work in the course of the employee's regular~~  
6 ~~employment, or that some unusual and unpredicted incident occurred~~  
7 ~~which is found to have been the major cause of the physical harm.~~

8 ~~2. Physical or mental stress shall not be considered in~~  
9 ~~determining whether the employee or claimant has met his or her~~  
10 ~~burden of proof:~~

11 1. It occurred at a definite time and place;

12 2. It was caused by a specific event occurring in the course  
13 and scope of employment;

14 3. The preponderance of the evidence indicates that the  
15 employee's work rather than the natural progression of a preexisting  
16 condition was the main contributing factor; and

17 4. It was not triggered by physical or mental stress.

18 SECTION 12. AMENDATORY Section 16, Chapter 208, O.S.L.  
19 2013 (85A O.S. Supp. 2016, Section 16), is amended to read as  
20 follows:

21 Section 16. A. The Official Disability Guidelines ~~Treatment~~  
22 ~~in Workers Compensation (ODG), published by the Work Loss Data~~  
23 ~~Institute, is to be recognized as the primary shall be the mandatory~~  
24 ~~standard of reference, at the time of treatment, in determining the~~

1 frequency and extent of services presumed to be medically necessary  
2 and appropriate for compensable injuries under this act, or in  
3 resolving such matters in the event a dispute arises. ~~The medical~~  
4 ~~treatment guidelines are not requirements, nor are they mandates or~~  
5 ~~standards; they provide advice by identifying the care most likely~~  
6 ~~to benefit injured workers. The guidelines shall be evidence-based,~~  
7 ~~scientifically valid, outcome-focused, and designed to reduce~~  
8 ~~excessive or inappropriate medical care while safeguarding necessary~~  
9 ~~medical care.~~

10 B. Physicians providing care to an employee shall prescribe for  
11 the employee any necessary prescription drugs and over-the-counter  
12 alternatives to prescription medicine as clinically appropriate and  
13 as recommended under the Official Disability Guidelines.  
14 Prescriptions and nonprescription drugs that are not preferred,  
15 exceed or are not addressed by ~~ODG~~ the Official Disability  
16 Guidelines require preauthorization and the preauthorization request  
17 shall include the prescribing doctor's drug regimen plan of care and  
18 the anticipated dosage or range of dosages.

19 SECTION 13. AMENDATORY Section 17, Chapter 208, O.S.L.  
20 2013 (85A O.S. Supp. 2016, Section 17), is amended to read as  
21 follows:

22 Section 17. A. There is hereby created a Physician Advisory  
23 Committee comprised of nine (9) members to be appointed as follows:  
24

1           1. The Governor shall appoint three members, one of whom shall  
2 be licensed in this state as a doctor of medicine and surgery, one  
3 of whom shall be engaged in the practice of family medicine in a  
4 rural community of the state, and one of whom shall be an  
5 osteopathic physician;

6           2. The President Pro Tempore of the Senate shall appoint three  
7 members, one of whom shall be licensed in this state as a doctor of  
8 medicine and orthopedic surgery, one of whom shall be licensed in  
9 this state either as a doctor of medicine or a doctor of osteopathy  
10 and a neurosurgeon, and one of whom shall be licensed in this state  
11 as a podiatric physician; and

12           3. The Speaker of the House of Representatives shall appoint  
13 three members, one of whom shall be licensed in this state as an  
14 osteopathic physician, one of whom shall be licensed in this state  
15 either as a doctor of medicine or a doctor of osteopathy and shall  
16 be engaged in the practice of occupational medicine, and one of whom  
17 shall be licensed in this state as a chiropractic physician.

18           Any member serving on the effective date of this section shall  
19 serve the remainder of his or her term. Thereafter, each position  
20 will be filled by the appointing official for a term of three (3)  
21 years. Members shall be subject to reappointment, with any new  
22 appointee to serve out the remainder of the unexpired term of the  
23 Committee member so replaced.

24           B. The Committee shall:

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

12           2. Assist the Commission in reviewing medical practices of  
13 health care providers, including evaluations of permanent disability  
14 provided by health care providers. The Committee shall review and  
15 make findings and recommendations to the Commission with respect to  
16 charges of abusive practices by health care providers providing  
17 medical services or evaluations of permanent partial disability  
18 through the workers' compensation system;

19           3. After public hearing, review and make recommendations for  
20 acceptable deviations from the Sixth Edition of the American Medical  
21 Association's "Guides to the Evaluation of Permanent Impairment";

22           4. After public hearing, adopt Physician Advisory Committee  
23 Guidelines (PACG) and protocols for only medical treatment not  
24

1 addressed by the latest edition of the Official Disability  
2 Guidelines;

3 5. After public hearing, adopt Physician Advisory Committee  
4 Guidelines for the prescription and dispensing of any controlled  
5 substance included in Schedule II of the Uniform Controlled  
6 Dangerous Substances Act if not addressed by the current edition of  
7 the Official Disability Guidelines;

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

13 7. Provide general recommendations to the Commission on the  
14 issues of injury causation and apportionment;

15 8. Conduct educational seminars for the Commission, employers,  
16 employees, and other interested parties;

17 9. Assist the Commission in accessing medical information from  
18 scientific literature; and

19 10. Report its progress annually to the Governor, the President  
20 Pro Tempore of the Senate, and the Speaker of the House of  
21 Representatives.

22 C. The Commission shall recognize the latest edition of the  
23 Official Disability Guidelines as the primary standard of reference,  
24 at the time of treatment, in determining the frequency and extent of

1 services presumed to be medically necessary and appropriate for  
2 compensable injuries under this ~~act~~ title, or in resolving such  
3 matters in the event a dispute arises.

4 D. Members of the Physician Advisory Committee shall receive no  
5 compensation for serving on the Committee but shall be reimbursed by  
6 the Commission for their necessary travel expenses incurred in the  
7 performance of their duties in accordance with the State Travel  
8 Reimbursement Act.

9 E. Meetings of the Physician Advisory Committee shall be called  
10 by the Commission but held at least quarterly. The presence of a  
11 majority of the members shall constitute a quorum. No action shall  
12 be taken by the Physician Advisory Committee without the affirmative  
13 vote of at least a majority of the members.

14 F. The Commission shall provide office supplies and personnel  
15 of the Commission to assist the Committee in the performance of its  
16 duties.

17 G. Upon written request, the Insurance Commissioner, CompSource  
18 Oklahoma, and every approved self-insured employer in Oklahoma shall  
19 provide the Committee with data necessary to the performance of its  
20 duties.

21 H. Any health care provider acting in good faith and within the  
22 scope of the provider's duties as a member of the Physician Advisory  
23 Committee shall be immune from civil liability for making any report  
24 or other information available to the judges of the Commission or to



1 the Commission or for assisting in the origination, investigation,  
2 or preparation of the report or other information so provided.

3 SECTION 14. AMENDATORY Section 18, Chapter 208, O.S.L.  
4 2013 (85A O.S. Supp. 2016, 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~~ title and the hospital, physician, or health  
12 care provider has received actual notice given in writing by the  
13 employee or the employee's representative. Actual notice shall be  
14 deemed received by the hospital, physician, or health care provider  
15 five (5) days after mailing by certified mail or sending by  
16 facsimile, electronic mail or other electronic means with  
17 confirmation of receipt by the employee or his or her representative  
18 to the 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 title.

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

16 SECTION 15. AMENDATORY Section 19, Chapter 208, O.S.L.  
17 2013, as amended by Section 4, H.J.R. No. 1096, p. 1745, O.S.L. 2014  
18 (85A O.S. Supp. 2016, Section 19), is amended to read as follows:

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

24

1 B. The Commission shall consist of three (3) full-time  
2 commissioners, ~~each~~ two of whom must have been involved in the  
3 workers' compensation field for at least three (3) years, appointed  
4 by the Governor: one of whom is chosen from a slate of three  
5 selected by the Speaker of the House of Representatives, with all  
6 three confirmed by the Senate. The term of each appointee shall be  
7 six (6) years to administer the provisions of this ~~act~~ title. The  
8 Governor may request a subsequent slate of nominees from the Speaker  
9 of the House of Representatives if a suitable nominee is not found.  
10 Any or all of the commissioners may be reappointed for additional  
11 six-year terms upon reconfirmation by the Senate. However, the  
12 initial commissioners shall serve staggered terms of two (2), four  
13 (4), and six (6) years, respectively, as determined by the Governor.  
14 If the 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~~ House Joint  
23 Resolution No. 1096 of the 2nd Session of the 54th Oklahoma  
24 Legislature.

1 C. The Commission shall have the authority to adopt reasonable  
2 rules within its respective areas of responsibility including the  
3 rules of procedure for administrative hearings, after notice and  
4 public hearing, for effecting the purposes of this ~~act~~ title, in  
5 accordance with the Oklahoma Administrative Procedures Act. All  
6 rules, upon adoption, shall be published and be made available to  
7 the public and, if not inconsistent with the law, shall be binding  
8 in the administration of this ~~act~~ title.

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

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

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

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

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~~ title and the  
5 Commission shall not be subject to the provisions of the Oklahoma  
6 Administrative Procedures Act, except as provided in this ~~act~~ title.

7           G. ~~When any commissioner of the Commission is disqualified for~~  
8 ~~any reason to hear and participate in the determination of any~~  
9 ~~matter pending before the Commission, the Governor shall appoint a~~  
10 ~~qualified person to hear and participate in the decision on the~~  
11 ~~particular matter. The special commissioner so appointed shall have~~  
12 ~~all authority and responsibility with respect to the particular~~  
13 ~~matter before the Commission as if the person were a regular~~  
14 ~~commissioner of the Commission but shall have no authority or~~  
15 ~~responsibility with respect to any other matter before the~~  
16 ~~Commission. A person appointed as a special commissioner of the~~  
17 ~~Commission under the provisions of this subsection shall be entitled~~  
18 ~~to receive a per diem equal to the annual salary of the~~  
19 ~~commissioners prorated for the number of days he or she serves in~~  
20 ~~the capacity of a special commissioner of the Commission.~~  
21 ~~Furthermore, when a vacancy on the Commission occurs or is certain~~  
22 ~~to occur, the position shall be filled pursuant to the provisions of~~  
23 ~~this section~~ The power of the Commission to decide issues of fact  
24 does not include the power to determine the constitutionality of

1 provisions of this title or the constitutionality of application of  
2 the provisions of this title.

3 SECTION 16. AMENDATORY Section 20, Chapter 208, O.S.L.  
4 2013 (85A O.S. Supp. 2016, Section 20), is amended to read as  
5 follows:

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

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

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

18 3. To assess penalties;

19 4. To prescribe rules governing the representation of  
20 employees, employers, and carriers in respect to claims before the  
21 Commission;

22 5. To make available all records in connection with all cases  
23 of personal injury to the Oklahoma Department of Labor. The  
24 Commissioner of Labor may propose rules for the prevention of

1 injuries and transmit the rules to the Commission. The Commission  
2 may recommend proposed rules for prevention of injuries to the  
3 Commissioner of Labor; and

4 6. To have and exercise all other powers and duties conferred  
5 or imposed by this ~~act~~ title.

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

11 2. The administrative fees shall be established by regulation  
12 of the Commission.

13 3. Funds derived from administrative fees shall be deposited  
14 into the Workers' Compensation Fund to be used to defray expenses  
15 incurred in preparation and distribution of materials.

16 SECTION 17. AMENDATORY Section 21, Chapter 208, O.S.L.  
17 2013 (85A O.S. Supp. 2016, Section 21), is amended to read as  
18 follows:

19 Section 21. A. Commissioners shall be considered officers ~~and~~  
20 ~~shall take the oath prescribed by the Oklahoma Constitution and the~~  
21 ~~laws~~ of this state.

22 B. 1. A majority of the Workers' Compensation Commission shall  
23 constitute a quorum for the transaction of business, and vacancies  
24 shall not impair the right of the remaining commissioners to

1 exercise all the powers of the full Commission, so long as a  
2 majority remains.

3 2. Any investigation, inquiry, or hearing which the Commission  
4 is authorized to hold or undertake may be held or undertaken by or  
5 before any one commissioner of the Commission, or appointee acting  
6 for him or her, under authorization of the Commission.

7 C. The Commission shall have a seal for authentication of its  
8 judgments, awards, and proceedings, on which shall be inscribed the  
9 words: "Workers' Compensation Commission, State of Oklahoma".

10 D. Except with respect to the Commission's authority to hear  
11 appeals of decisions from administrative law judges other than as  
12 provided pursuant to subsection B of Section 78 of this title, any  
13 reference in this ~~act~~ title to the Commission's ability to hear and  
14 decide the rights of interested parties under this ~~act~~ title shall  
15 not prevent it from delegating that responsibility to an  
16 administrative law judge.

17 SECTION 18. AMENDATORY Section 22, Chapter 208, O.S.L.  
18 2013 (85A O.S. Supp. 2016, Section 22), is amended to read as  
19 follows:

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

23 a. to make rules necessary for the administration and  
24 operation of the Commission,



1           b. to appoint and fix the compensation of temporary  
2           technical assistants, medical and legal advisers,  
3           clerical assistants and other officers and employees,  
4           and

5           c. to make such expenditures, including those for  
6           personal service, rent, books, periodicals, office  
7           equipment, and supplies, and for printing and binding  
8           as may be necessary.

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

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

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

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

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

4       ~~5. All expenditures of the Commission in the administration of~~  
5 ~~this act shall be allowed and paid from the Workers' Compensation~~  
6 ~~Fund on the presentation of itemized vouchers approved by the The~~  
7 ~~Commission shall comply with the provisions of the Administrative~~  
8 ~~Procedures Act applicable to the filing and publication requirements~~  
9 ~~for rules.~~

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;

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

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

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

10       ~~6.~~ 5. To hear and determine claims concerning disputed medical  
11 bills;

12       ~~7.~~ 6. To promulgate necessary rules for administering this ~~act~~  
13 title and develop uniform forms and procedures for use by  
14 administrative law judges. Such rules shall be reviewable by the  
15 Legislature;

16       ~~8.~~ 7. To invest funds on behalf of the Multiple Injury Trust  
17 Fund;

18       ~~9.~~ 8. To appoint a Commission Mediator to conduct informal  
19 sessions to attempt to resolve assigned disputes; and

20       ~~10.~~ 9. Such other duties and responsibilities authorized by  
21 law.

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

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

3 SECTION 19. AMENDATORY Section 24, Chapter 208, O.S.L.  
4 2013 (85A O.S. Supp. 2016, Section 24), is amended to read as  
5 follows:

6 Section 24. On or before the first day of the regular session  
7 of the Legislature, the Workers' Compensation Commission shall  
8 submit to the Governor and the Legislature a report of the  
9 administration of this ~~act~~ title for the preceding biennial period,  
10 together with such recommendations as the Commission may deem  
11 advisable.

12 SECTION 20. AMENDATORY Section 25, Chapter 208, O.S.L.  
13 2013 (85A O.S. Supp. 2016, Section 25), is amended to read as  
14 follows:

15 Section 25. The Workers' Compensation Commission shall publish  
16 annually, on an aggregate basis, information pertaining to the  
17 distribution of workers' compensation insurance premiums, losses,  
18 expenses, and net income to be compiled from reports required to be  
19 filed with the Insurance Commissioner or any similar information  
20 required to be filed by the Insurance Commissioner regarding  
21 workers' compensation insurance. The Commission shall also publish  
22 in the annual report information regarding aggregate workers'  
23 compensation benefit distribution to ~~claimants~~ employees, medical  
24 providers, and attorneys, if available.

1 SECTION 21. AMENDATORY Section 27, Chapter 208, O.S.L.  
2 2013 (85A O.S. Supp. 2016, Section 27), is amended to read as  
3 follows:

4 Section 27. A. The Workers' Compensation Commission shall be  
5 vested with jurisdiction over all claims filed pursuant to the  
6 Administrative Workers' Compensation Act. All claims so filed shall  
7 be heard by the administrative law judge sitting without a jury.  
8 The Commission shall have full power and authority to determine all  
9 questions in relation to claims for compensation under the  
10 provisions of the Administrative Workers' Compensation Act. The  
11 Commission, upon application of either party, shall order a hearing.  
12 Upon a hearing, either party may present evidence and be represented  
13 by counsel. Except as provided in this ~~act~~ title, the decision of  
14 the administrative law judge shall be final as to all questions of  
15 fact and law. The decision of the administrative law judge shall be  
16 issued within thirty (30) days following the submission of the case  
17 by the parties. The power and jurisdiction of the Commission over  
18 each case shall be continuing and it may, from time to time, make  
19 such modifications or changes with respect to former findings or  
20 orders relating thereto if, in its opinion, it may be justified.

21 B. In addition to the duties set forth in this section, the  
22 administrative law judges shall have the following duties and  
23 powers:  
24

1 1. To hear and determine claims for compensation, to conduct  
2 hearings and investigations, and to make such judgments, decisions,  
3 and determinations as may be required by any rule or judgment of the  
4 Commission;

5 2. To hear and determine challenges to an agreement to  
6 arbitrate under the Workers' Compensation Arbitration Act;

7 3. To assume duties within the Workers' Compensation Court of  
8 Existing Claims as assigned by the Commission; and

9 4. To have and exercise all other powers and duties conferred  
10 or imposed by the Commission or this ~~act~~ title.

11 SECTION 22. AMENDATORY Section 29, Chapter 208, O.S.L.  
12 2013 (85A O.S. Supp. 2016, Section 29), is amended to read as  
13 follows:

14 Section 29. A. Each carrier writing compensation insurance in  
15 this state shall pay to the Workers' Compensation Commission at the  
16 time of securing or renewing a license to transact business in this  
17 state an annual fee of One Thousand Dollars (\$1,000.00) for the  
18 privilege of qualifying with the Commission for the writing of  
19 compensation insurance.

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

23 C. The Commission may assess third-party administrators an  
24 annual fee of One Thousand Dollars (\$1,000.00).

1 D. Fees required pursuant to this section shall be deposited  
2 into the Workers' Compensation Fund.

3 SECTION 23. AMENDATORY Section 30, Chapter 208, O.S.L.  
4 2013 (85A O.S. Supp. 2016, Section 30), is amended to read as  
5 follows:

6 Section 30. A. For the purposes of Sections 31 through 35 of  
7 this ~~act~~ title, the term "physically impaired person" means a person  
8 who, as a result of accident, disease, birth, military action, or  
9 any other cause, has suffered:

10 1. The loss of the sight of one eye;

11 2. The loss by amputation of the whole or a part of a member of  
12 the body;

13 3. The loss of use or partial loss of use of a member such as  
14 is obvious and apparent from observation or examination by a person  
15 who is not skilled in the medical profession; or

16 4. Any previous adjudications of disability adjudged and  
17 determined by the Workers' Compensation Court or the Workers'  
18 Compensation Commission or any disability resulting from separately  
19 adjudicated injuries and adjudicated occupational diseases even  
20 though arising at the same time. Provided, that any adjudication of  
21 preexisting disability to a part of the body shall not be combinable  
22 for purposes of the Multiple Injury Trust Fund unless that part of  
23 the body was deemed to have been injured in the claim being  
24 adjudicated.

1 B. This section shall apply to all adjudications of Multiple  
2 Injury Trust Fund claims heard by the Commission on or after ~~the~~  
3 ~~effective date of this act~~ February 1, 2014.

4 SECTION 24. AMENDATORY Section 31, Chapter 208, O.S.L.  
5 2013, as amended by Section 3, Chapter 344, O.S.L. 2015 (85A O.S.  
6 Supp. 2016, Section 31), is amended to read as follows:

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

9 1. As soon as practicable after January 1 of each year, ~~the~~  
10 ~~commissioners of~~ the Workers' Compensation Commission shall  
11 establish an assessment rate applicable to each mutual or  
12 interinsurance association, stock company, CompSource Oklahoma, or  
13 other insurance carrier writing workers' compensation insurance in  
14 this state, each employer carrying its own risk, and each group  
15 self-insurance association, for amounts for purposes of computing  
16 the assessment authorized by this section necessary to pay the  
17 annual obligations of the Multiple Injury Trust Fund determined on  
18 or before December 31 of each year by the MITF Director, provided  
19 for in subsection P of this section, to be outstanding for the next  
20 calendar year, and to pay the allocations provided for in subsection  
21 I of this section. The rate shall be equal for all parties required  
22 to pay the assessment. If CompSource begins operating as a mutual  
23 insurance company, the Board of Directors for CompSource Mutual  
24 Insurance Company shall have the power to disapprove the rate



1 established by the MITF Director until the Multiple Injury Trust  
2 Fund repays in full the amount due on any loan from CompSource  
3 Mutual Insurance Company or its predecessor CompSource Oklahoma. If  
4 the MITF Director and CompSource have not agreed on the assessment  
5 rate within thirty (30) days, the Commission shall set an assessment  
6 rate sufficient to cover all foreseeable obligations of the Multiple  
7 Injury Trust Fund, including interest and principal owed by the Fund  
8 on any loan. The rate in effect on ~~the effective date of this act~~  
9 February 1, 2014, shall remain effective through June 30, 2014;

10 2. The Oklahoma Tax Commission shall assess and collect from  
11 any uninsured employer a temporary assessment at the rate of five  
12 percent (5%) of the total compensation for permanent total  
13 disability awards, permanent partial disability awards, and death  
14 benefits paid out during each quarter of the calendar year by the  
15 employers;

16 3. The assessments shall be paid to the Tax Commission.  
17 Insurance carriers, self-insurers, group self-insurance associations  
18 and CompSource Oklahoma shall pay the assessment in four equal  
19 installments not later than the fifteenth day of the month following  
20 the close of each quarter of the calendar year of the assessment.  
21 Assessments shall be determined based upon gross direct written  
22 premiums, normal premiums or actual paid losses of the paying party,  
23 as applicable, during the calendar quarter for which the assessment  
24 is due. Uninsured employers shall pay the assessment not later than

1 the fifteenth day of the month following the close of each quarter  
2 of the calendar year of the assessment. For purposes of this  
3 section, "uninsured employer" means an employer required by law to  
4 carry workers' compensation insurance but who has failed or  
5 neglected to do so.

6 a. The assessment authorized in this section shall be  
7 determined using a rate equal to the proportion that  
8 the sum of the outstanding obligations of the Multiple  
9 Injury Trust Fund as determined pursuant to paragraph  
10 1 of this subsection and the allocations provided for  
11 in subsection I of this section bear to the combined  
12 gross direct written premiums of all such insurers;  
13 all actual paid losses of all individual self-  
14 insureds; and the normal premium of all group self-  
15 insurance associations, for the year period from  
16 January 1 to December 31 preceding the assessment.

17 b. For purposes of this subsection:

18 (1) "actual paid losses" means all medical and  
19 indemnity payments, including temporary  
20 disability, permanent disability, and death  
21 benefits, and excluding loss adjustment expenses  
22 and reserves, and

23 (2) "normal premium" means a standard premium less  
24 any discounts;

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

5           5. Each mutual or interinsurance association, stock company,  
6 CompSource Oklahoma, or other insurance carrier writing workers'  
7 compensation insurance in this state, and each employer carrying its  
8 own risk, including each group self-insurance association, shall be  
9 notified by the Commission in writing of the rate for the assessment  
10 on or before May 1 of each year in which a rate is determined. The  
11 rate determined by the Commission shall be in effect for four  
12 calendar quarters beginning July 1 following determination by the  
13 Commission; and

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

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

1 c. No group self-insurance association may be assessed in  
2 any year an amount greater than six percent (6%) of  
3 the normal premium of that group self-insurance  
4 association.

5 d. If the maximum assessment does not provide in any one  
6 year an amount sufficient to make all necessary  
7 payments for obligations of the Multiple Injury Trust  
8 Fund and for the allocations provided for in  
9 subsection I of this section, the unpaid portion shall  
10 be paid as soon thereafter as funds become available.

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

13 C. It shall be the duty of the Tax Commission to collect the  
14 payments provided for in this act. The Tax Commission is hereby  
15 authorized to bring an action for the recovery of any delinquent or  
16 unpaid payments required in this section.

17 D. Any mutual or interinsurance association, stock company, or  
18 other insurance company, which is subject to regulation by the  
19 Insurance Commissioner, or CompSource Oklahoma, failing to make  
20 payments required in this ~~act~~ title promptly and correctly, and  
21 failing to report payment of the same to the Insurance ~~Commission~~  
22 Commissioner within ten (10) days of payment shall be subject to  
23 administrative penalties as allowed by law, including but not  
24 limited to a fine in the amount of Five Hundred Dollars (\$500.00) or

1 an amount equal to one percent (1%) of the unpaid amount, whichever  
2 is greater, to be paid to the Insurance Commissioner.

3 E. Any employer carrying its own risk, or group self-insurance  
4 association failing to make payments required in this ~~act~~ title  
5 promptly and correctly, and failing to report payment of the same to  
6 the Workers' Compensation Commission within ten (10) days of payment  
7 shall be subject to administrative penalties as allowed by law,  
8 including but not limited to a fine in the amount of Five Hundred  
9 Dollars (\$500.00) or an amount equal to one percent (1%) of the  
10 unpaid amount, whichever is greater, to be paid to the Commission.

11 F. ~~1.~~ On or before the first day of April of each year, the  
12 State Treasurer shall advise the Workers' Compensation Commission,  
13 the MITF Director and the Tax Commission of the amount of money held  
14 as of March 1 of that year by the State Treasurer to the credit of  
15 the Multiple Injury Trust Fund. On or before the first day of  
16 November of each year, the State Treasurer shall advise the  
17 Commission, the MITF Director and the Tax Commission of the amount  
18 of money held as of October 1 of that year by the State Treasurer to  
19 the credit of the Multiple Injury Trust Fund.

20 ~~2. Until such time as the Multiple Injury Trust Fund fully~~  
21 ~~satisfies any loan obligation payable to CompSource Mutual Insurance~~  
22 ~~Company or its predecessor CompSource Oklahoma, the State Treasurer~~  
23 ~~shall:~~

24

- 1           ~~a. advise the Chief Executive Officer of CompSource on or~~  
2           ~~before the first day of April of the money held as of~~  
3           ~~March 1 of that year by the State Treasurer to the~~  
4           ~~credit of the Multiple Injury Trust Fund, and~~  
5           ~~b. advise the Chief Executive Officer of CompSource on or~~  
6           ~~before the first day of November of the money held as~~  
7           ~~of October 1 of that year by the State Treasurer to~~  
8           ~~the credit of the Multiple Injury Trust Fund.~~

9           G. Eighty percent (80%) of all sums held by the State Treasurer  
10          to the credit of the Multiple Injury Trust Fund may by order of the  
11          MITF Director be invested in or loaned on the pledge of any of the  
12          securities in which a state bank may invest the monies deposited  
13          therein by the State Treasurer; or may be deposited in state or  
14          national banks or trust companies upon insured time deposit bearing  
15          interest at a rate no less than currently being paid upon insured  
16          savings accounts in the institutions. As used in this section,  
17          "insured" means insurance as provided by an agency of the federal  
18          government. All such securities or evidence of indebtedness shall  
19          be placed in the hands of the State Treasurer, who shall be the  
20          custodian thereof, who shall collect the principal and interest when  
21          due, and pay the same into the Multiple Injury Trust Fund. The  
22          State Treasurer shall pay by vouchers drawn on the Multiple Injury  
23          Trust Fund for the making of such investments, when signed by the  
24          MITF Director, upon delivery of such securities or evidence of

1 indebtedness to the State Treasurer. The MITF Director may sell any  
2 of such securities, the proceeds thereof to be paid over to the  
3 State Treasurer for the Multiple Injury Trust Fund.

4 H. The refund provisions of Sections 227 through 229 of Title  
5 68 of the Oklahoma Statutes shall be applicable to any payments made  
6 to the Multiple Injury Trust Fund. Refunds shall be paid from and  
7 out of the Multiple Injury Trust Fund.

8 I. The Tax Commission shall pay, monthly, to the State  
9 Treasurer to the credit of the Multiple Injury Trust Fund all monies  
10 collected pursuant to the provisions of this section. The State  
11 Treasurer shall pay out of the Multiple Injury Trust Fund only upon  
12 the order and direction of the Workers' Compensation Commission  
13 acting under the provisions hereof.

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

16 K. The Insurance Commissioner shall promulgate rules relating  
17 to insurers as defined in Title 36 of the Oklahoma Statutes, as the  
18 Insurance Commissioner deems necessary to effectuate the provisions  
19 of this section.

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

22 M. The Multiple Injury Trust Fund may enter into an agreement  
23 with any reinsurer licensed to sell reinsurance by the Insurance  
24 Commissioner pursuant to a competitive process administered by the

1 Director of Central Purchasing in the Office of Management and  
2 Enterprise Services.

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

7 1. In the event of failure of the Multiple Injury Trust Fund to  
8 meet all lawful obligations, the monies shall be credited to the  
9 Multiple Injury Trust Fund and shall be used by the Multiple Injury  
10 Trust Fund to meet all lawful obligations of the Multiple Injury  
11 Trust Fund; and

12 2. Otherwise, all future dividends made by CompSource Oklahoma  
13 or any workers' compensation insurance carrier, on behalf of state  
14 agencies, shall be deposited to the credit of the General Revenue  
15 Fund of the State Treasury.

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

18 P. The person serving as the Administrator of the Multiple  
19 Injury Trust Fund on ~~the date of passage and approval of this act~~  
20 May 5, 2013, shall serve as the initial MITF Director, provided such  
21 person is serving as the Administrator of the Multiple Injury Trust  
22 Fund on ~~the effective date of this act~~ February 1, 2014. The MITF  
23 Director shall be appointed by and serve at the pleasure of the  
24 Governor.



1 Q. Any party interested shall have a right to bring a  
2 proceeding in the Supreme Court to review an award of the Commission  
3 affecting such Multiple Injury Trust Fund, in the same manner as is  
4 provided by law with reference to other awards by the Commission.

5 R. The State Treasurer shall allocate to the Commission out of  
6 the Multiple Injury Trust Fund sufficient funds for administration  
7 expenses thereof in amounts to be fixed and approved by the  
8 Administrator for the Multiple Injury Trust Fund, unless rejected by  
9 the Commission.

10 SECTION 25. AMENDATORY Section 32, Chapter 208, O.S.L.  
11 2013 (85A O.S. Supp. 2016, Section 32), is amended to read as  
12 follows:

13 Section 32. A. For actions in which the subsequent injury  
14 occurred on or after November 1, 2005, if such combined disabilities  
15 constitute permanent total disability, as ~~defined~~ provided for in  
16 subsection D of Section 2 45 of this act title, the employee shall  
17 receive full compensation as provided by law for the disability  
18 resulting directly and specifically from the subsequent injury. In  
19 addition, the employee shall receive compensation for permanent  
20 total disability if the combination of injuries renders the employee  
21 permanently and totally disabled. The employer shall be liable only  
22 for the degree of percent of disability which would have resulted  
23 from the subsequent injury if there had been no preexisting  
24 ~~impairment~~ disability. The compensation rate for permanent total

1 disability awards from the Multiple Injury Trust Fund shall be the  
2 compensation rate for permanent partial disability paid by the  
3 employer in the last combinable compensable injury.

4 B. Permanent total disability awards from the Multiple Injury  
5 Trust Fund shall be payable in periodic installments for a period of  
6 fifteen (15) years or until the employee reaches sixty-five (65)  
7 years of age, whichever period is longer.

8 C. Permanent total disability awards from the Multiple Injury  
9 Trust Fund shall accrue from the file date of the order of the  
10 Workers' Compensation Commission finding the ~~claimant~~ employee to be  
11 permanently and totally disabled.

12 D. Awards under this section shall abate upon the death, from  
13 any cause, of the employee.

14 E. Reopening any prior claim other than the last claim against  
15 the employer shall not give a ~~claimant~~ an employee the right to  
16 additional Multiple Injury Trust Fund benefits.

17 F. The Multiple Injury Trust Fund shall have authority to  
18 compromise a claim for less than the indicated amount of permanent  
19 total disability. An order entered after ~~the effective date of this~~  
20 ~~act~~ February 1, 2014, may be paid in periodic installments beginning  
21 on the date of the award, or may be commuted to a lump-sum payment  
22 or payments, by agreement of the ~~claimant~~ employee and the Multiple  
23 Injury Trust Fund.

1 G. An attorney for a ~~claimant~~ an employee against the Multiple  
2 Injury Trust Fund shall be entitled to a fee equal to twenty percent  
3 (20%) of permanent disability benefits awarded. For awards entered  
4 after ~~the effective date of this act~~ February 1, 2014, the attorney  
5 fee shall be paid in periodic installments by the attorney receiving  
6 every fifth check. All benefits awarded to the attorney shall be  
7 vested.

8 H. In the event a ~~claimant~~ an employee receiving benefits for  
9 permanent and total disability from the Multiple Injury Trust Fund  
10 dies as a result of his or her injury before the award has been  
11 fully paid, payments shall continue to the surviving spouse for five  
12 (5) years or upon remarriage, whichever occurs first. In no event  
13 shall payments to the surviving spouse extend beyond the period of  
14 benefits awarded to the ~~claimant~~ employee.

15 SECTION 26. AMENDATORY Section 33, Chapter 208, O.S.L.  
16 2013 (85A O.S. Supp. 2016, Section 33), is amended to read as  
17 follows:

18 Section 33. A. The right to claim compensation for benefits  
19 from the Multiple Injury Trust Fund shall be forever barred unless a  
20 Notice of Claim, on a form prescribed by the Workers' Compensation  
21 Commission, shall be filed with the Commission within two (2) years  
22 of the date of the last order for permanent partial disability from  
23 the latest claim against the employer.

24

1 B. When a claim for benefits from the Multiple Injury Trust  
2 Fund is filed, unless ~~claimant~~ the employee shall in good faith  
3 request a hearing and final determination thereon within three (3)  
4 years of the filing thereof, the same shall be barred.

5 C. An attorney who represents a respondent or insurance carrier  
6 in a claim against the last employer shall not represent the  
7 employee in a subsequent claim against the Multiple Injury Trust  
8 Fund.

9 SECTION 27. AMENDATORY Section 35, Chapter 208, O.S.L.  
10 2013 (85A O.S. Supp. 2016, Section 35), is amended to read as  
11 follows:

12 Section 35. A. 1. Every employer shall secure compensation as  
13 provided under this ~~act~~ title to its employees for compensable  
14 injuries without regard to fault.

15 2. There shall be no liability for compensation under this ~~act~~  
16 ~~where~~ title if the injury or death was substantially occasioned by  
17 the willful intention of the injured employee to bring about such  
18 compensable injury or death.

19 B. The primary obligation to pay compensation is on the  
20 employer, and the procurement of a policy of insurance by an  
21 employer to cover the obligation in respect to this ~~act~~ title shall  
22 not relieve the employer of the obligation.

23  
24

1 SECTION 28. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 36.1 of Title 85A, unless there  
3 is created a duplication in numbering, reads as follows:

4 A. Any person who is not required to be covered under a  
5 workers' compensation insurance policy or other plan for the payment  
6 of workers' compensation may execute an Affidavit of Exempt Status  
7 under the Administrative Workers' Compensation Act. The affidavit  
8 shall be a form prescribed by the Workers' Compensation Commission  
9 and will be available on the Commission's website.

10 B. Execution of the affidavit shall establish a rebuttable  
11 presumption that the executor is not an employee for purposes of the  
12 Administrative Workers' Compensation Act and therefore shall not be  
13 eligible to seek workers' compensation benefits against any  
14 contractor.

15 C. The execution of an affidavit shall not affect the rights or  
16 coverage of any employee of the individual executing the affidavit.

17 D. The lack of an executed affidavit under this section shall  
18 not prejudice any defense by an employer to a claim for workers'  
19 compensation benefits.

20 E. 1. Knowingly providing false information on a notarized  
21 Affidavit of Exempt Status under the Administrative Workers'  
22 Compensation Act shall constitute a misdemeanor punishable by a fine  
23 not to exceed One Thousand Dollars (\$1,000.00).  
24

1           2. Affidavits shall conspicuously state on the front thereof in  
2 at least ten-point, boldface print that it is a crime to falsify  
3 information on the form.

4           3. The Commission shall immediately notify the Workers'  
5 Compensation Fraud Unit in the Office of the Attorney General of any  
6 violations or suspected violations of this section. The Commission  
7 shall cooperate with the Fraud Unit in any investigation involving  
8 affidavits executed pursuant to this section.

9           F. The Commission may assess a fee not to exceed Fifty Dollars  
10 (\$50.00) for an Affidavit of Exempt Status application. Fees  
11 collected pursuant to this section shall be deposited in the State  
12 Treasury to the credit of the Workers' Compensation Commission  
13 Revolving Fund.

14           G. If an employer relies in good faith on proof of a valid  
15 workers' compensation insurance policy issued to a contractor of any  
16 tier or on proof of an Affidavit of Exempt Status under this  
17 section, the employer shall not be liable for injuries of any  
18 employees of the contractor.

19           SECTION 29.           AMENDATORY           Section 38, Chapter 208, O.S.L.  
20 2013 (85A O.S. Supp. 2016, Section 38), is amended to read as  
21 follows:

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

24

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~~  
6 title, it shall file a notice with the Workers' Compensation  
7 Commission containing the name, address, and principal occupation of  
8 the 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 rules adopted by the ~~Insurance Department~~  
2 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~~ title, 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~~ title;

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~~ title.  
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~~ title. The security required under this section, including  
4 any interest, shall be maintained by the Commission as provided in  
5 this ~~act~~ title until each claim for benefits is paid, settled, or  
6 lapses under this ~~act~~ title, and costs of administration of such  
7 claims are paid.

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

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

16 SECTION 30. AMENDATORY Section 39, Chapter 208, O.S.L.  
17 2013 (85A O.S. Supp. 2016, Section 39), is amended to read as  
18 follows:

19 Section 39. A. In order that the liability for compensation  
20 may be effectively administered, the employer's carrier may  
21 discharge the obligations and duties of the employer under this ~~act~~  
22 title if the employer is not a self-insurer.

23 B. For the purpose of an employer's carrier discharging the  
24 obligation and duties of the employer:

1 1. An employer's knowledge of an injury shall constitute the  
2 carrier's knowledge of the injury;

3 2. The Workers' Compensation Commission shall have jurisdiction  
4 over the carrier to the same extent it has over the employer under  
5 this ~~act~~ title; and

6 3. Any determinations by the Commission shall be binding on the  
7 carrier to the same extent as they are on the employer.

8 SECTION 31. AMENDATORY Section 40, Chapter 208, O.S.L.  
9 2013 (85A O.S. Supp. 2016, Section 40), is amended to read as  
10 follows:

11 Section 40. A. 1. Any employer who fails to secure  
12 compensation required under this ~~act~~ title, upon conviction, shall  
13 be guilty of a misdemeanor and subject to a fine of up to Ten  
14 Thousand Dollars (\$10,000.00) to be deposited in the Workers'  
15 Compensation Fund.

16 2. This subsection shall not affect any other liability of the  
17 employer under this ~~act~~ title.

18 B. 1. Whenever the Workers' Compensation Commission has reason  
19 to believe that any employer required to secure the payment of  
20 compensation under this ~~act~~ title has failed to do so, the  
21 Commission shall serve on the employer a proposed judgment declaring  
22 the employer to be in violation of this ~~act~~ title and containing the  
23 amount, if any, of the civil penalty to be assessed against the  
24 employer under paragraph 5 of this subsection.

- 1           2.    a.    An employer may contest a proposed judgment of the  
2                    Commission issued under paragraph 1 of this subsection  
3                    by filing with the Commission, within twenty (20) days  
4                    of receipt of the proposed judgment, a written request  
5                    for a hearing.
- 6            b.    The request for a hearing does not need to be in any  
7                    particular form but shall specify the grounds on which  
8                    the person contests the proposed judgment, the  
9                    proposed assessment, or both.
- 10           c.    If a written request for hearing is not filed with the  
11                   Commission within the time specified in subparagraph a  
12                   of this paragraph, the proposed judgment, the proposed  
13                   penalty, or both, shall be a final judgment of the  
14                   Commission and shall not be subject to further review  
15                   by any court, except if the employer shows good cause  
16                   why it did not timely contest the judgment or penalty.
- 17           d.    A proposed judgment by the Commission under this  
18                   section shall be prima facie correct, and the burden  
19                   is on the employer to prove that the proposed judgment  
20                   is incorrect.
- 21           3.    a.    If the employer alleges that a carrier has contracted  
22                   to provide it workers' compensation insurance coverage  
23                   for the period in question, the employer shall include  
24

1 the allegation in its request for hearing and shall  
2 name the carrier.

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

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

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

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

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

1 SECTION 32. AMENDATORY Section 41, Chapter 208, O.S.L.  
2 2013 (85A O.S. Supp. 2016, Section 41), is amended to read as  
3 follows:

4 Section 41. A. Every employer who has secured compensation  
5 under the provisions of ~~this act~~ the Administrative Workers'  
6 Compensation Act shall keep posted in a conspicuous place in and  
7 about the employer's place of business typewritten or printed  
8 notices in accordance with a form prescribed by the Workers'  
9 Compensation Commission. The notices shall state that the employer  
10 has secured the payment of compensation in accordance with the  
11 provisions of this ~~act~~ title.

12 B. The notices shall contain the name and address of the  
13 carrier, if any, with whom the employer has secured payment of  
14 compensation and the date of the expiration of the policy.

15 SECTION 33. AMENDATORY Section 42, Chapter 208, O.S.L.  
16 2013 (85A O.S. Supp. 2016, Section 42), is amended to read as  
17 follows:

18 Section 42. A. Contents. Every policy or contract of  
19 insurance issued by a carrier to an employer to secure the payment  
20 of compensation under ~~this act~~ the Administrative Workers'  
21 Compensation Act shall contain:

- 22 1. a. Provisions that identify the insured employer and  
23 either identify each covered employee or describe  
24 covered employees by class or type of labor performed

1 and the estimated number of employees of each such  
2 class or type.

3 b. No single policy of workers' compensation insurance  
4 may be issued to any group of employers who are  
5 unaffiliated with one another in terms of ownership,  
6 control, or right to participate in the profits of the  
7 affiliated enterprises;

8 2. Provisions that insolvency or bankruptcy of the employer or  
9 discharge therein shall not relieve the carrier from payment of  
10 compensation for compensable injuries sustained by an employee  
11 during the term of the policy or contract;

12 3. a. The agreement of the carrier that it shall promptly  
13 pay to the person entitled to compensation every  
14 installment of compensation that may be awarded or  
15 agreed on and that this obligation shall not be  
16 affected by any default of the employer or by any  
17 default in the giving of any notice required by the  
18 policy or otherwise.

19 b. The agreement shall be construed to be a direct  
20 obligation by the carrier to the person entitled to  
21 compensation, enforceable in that person's name; and

22 4. Such other provisions as the Insurance Department allows or  
23 requires carriers to include in workers' compensation policies.

24 B. Cancellation.

1 1. An employer may cancel coverage with a carrier by giving the  
2 carrier at least thirty (30) days' notice, unless a shorter period  
3 is permitted under subparagraph b of this paragraph.

4 a. Cancellation of coverage is effective at 12:01 a.m.  
5 thirty (30) days after the date the cancellation  
6 notice is received by the carrier, unless a later date  
7 is specified in the notice to the carrier.

8 b. (1) An employer may cancel coverage effective less  
9 than thirty (30) days after written notice is  
10 received by the carrier ~~where~~ if the employer  
11 obtains other coverage or becomes a self-insurer.

12 (2) A cancellation under this subsection is effective  
13 immediately on the effective date of the other  
14 coverage or on authorization as a self-insurer.

15 2. a. A notice of cancellation from the carrier shall state  
16 the hour and date that cancellation is effective.

17 b. A carrier shall not cancel coverage issued to an  
18 employer under ~~this act~~ the Administrative Workers'  
19 Compensation Act before the date specified for  
20 expiration in the policy or contract or until at least  
21 thirty (30) days have elapsed after a notice of  
22 cancellation has been mailed to the Workers'  
23 Compensation Commission and to the employer, or until  
24 ten (10) days have elapsed after the notice has been



1 mailed to the employer and to the Commission if the  
2 cancellation is for nonpayment of premium.

3 c. If the employer procures other insurance within the  
4 notice period, the effective date of the new policy  
5 shall be the cancellation date of the old policy.

6 3. Cancellation of coverage by an employer or a carrier shall  
7 in no way limit liability that was incurred under the policy or  
8 contract before the effective date of cancellation.

9 C. Coverage.

10 1. No policy or contract of insurance shall be issued against  
11 liability under ~~this act~~ the Administrative Workers' Compensation  
12 Act unless the policy or contract covers the entire liability of the  
13 employer. Split coverage whereby some employees of an employer are  
14 insured by one carrier and other employees are insured by another  
15 carrier, or a plan of self-insurance, is expressly prohibited except  
16 for a policy issued covering the liability of an employer or of  
17 multiple employers as to specific jobs, ventures, contracts, or  
18 undertakings, but only if the policy meets with the reasonable  
19 satisfaction and approval of the Insurance Commissioner that the  
20 policy is in the best interest of the employers and the employees  
21 concerned and does not unduly or improperly affect the continuity of  
22 workers' compensation coverage by seriously and negatively affecting  
23 other carriers and agents with outstanding policies issued to any of  
24 the employers in issue.

1           2. The terms of the policy or contract shall govern any  
2 questions of liability between the employer and the carrier.

3           D. Under such rules as may be adopted by the Insurance  
4 Commissioner, and notwithstanding other provisions of this ~~act~~  
5 title, he or she may certify five or more employers as an insurance  
6 group which shall be considered an employer for the purposes of this  
7 ~~act~~ title.

8           SECTION 34.            AMENDATORY            Section 43, Chapter 208, O.S.L.  
9 2013 (85A O.S. Supp. 2016, Section 43), is amended to read as  
10 follows:

11           Section 43.  A.  ~~Liability Unaffected.~~

12           ~~1.   a.   The making of a claim for acceptance of compensation~~  
13                   benefits from or the making of a claim for  
14                   compensation against ~~any~~ an employer or ~~carrier~~  
15                   insurer for the injury or death of an employee shall  
16                   not affect the right of the employee, or his or her  
17                   dependents, to ~~make a claim or maintain an action in~~  
18                   ~~court against~~ sue any ~~third~~ other party for the such  
19                   injury or death.

20           ~~b.   The employer ~~or~~ and the ~~employer's~~ insurance carrier~~  
21                   ~~shall be entitled to reasonable notice and opportunity~~  
22                   ~~to join in the action.~~

23           ~~c.   If the employer or employer's carrier join in the~~  
24                   ~~action against a third party for injury or death, they~~

1           ~~shall be entitled to a~~ have an automatic first lien on  
2           ~~two-thirds (2/3) of the net proceeds~~ the amount  
3           ~~recovered in the action that remain after the payment~~  
4           ~~of the reasonable costs of collection, for the payment~~  
5           ~~to them of the amount paid and to be paid by them as~~  
6           ~~compensation to~~ by the injured employee or his or her  
7           ~~dependents-~~ or legal representative from a third  
8           ~~party, which shall be applied as follows:~~

9           1. Reasonable costs of collection as approved and allowed by  
10          the court in which such action is pending, or by the Workers'  
11          Compensation Commission in case of settlement without suit, shall be  
12          deducted;

13          ~~2. The commencement of an action by an employee or his or her~~  
14          ~~dependents against a third party for damages by reason of an injury~~  
15          ~~to which this act is applicable, or the adjustment of any claim,~~  
16          ~~shall not affect the rights of the injured employee or his or her~~  
17          ~~dependents to recover compensation, but any amount recovered by the~~  
18          ~~injured employee or his or her dependents from a third party shall~~  
19          ~~be applied as follows:~~

20                 ~~a. reasonable fees and costs of collection shall be~~  
21                 ~~deducted,~~

22                 ~~b. the employer or~~ and insurance carrier, ~~as applicable,~~  
23                 ~~shall receive two-thirds (2/3) of the remainder of the~~

1 recovery or the amount of the workers' compensation  
2 lien, whichever is less~~r~~; and

3 ~~e. the remainder of the recovery~~

4 3. Any excess shall ~~go~~ belong to the injured employee or his or  
5 her dependents.

6 B. Subrogation.

7 1. An employer or carrier liable for compensation under this  
8 ~~act~~ title for the injury or death of an employee shall have the  
9 right to maintain an action in tort against any third party  
10 responsible for the injury or death. However, the employer or the  
11 carrier shall notify the ~~claimant~~ employee in writing that the  
12 ~~claimant~~ employee has the right to hire a private attorney to pursue  
13 any benefits to which the ~~claimant~~ employee is entitled in addition  
14 to the subrogation interest against any third party responsible for  
15 the injury or death.

16 2. After reasonable notice and opportunity to be represented in  
17 the action has been given to the injured employee, the liability of  
18 the third party to the compensation beneficiary shall be determined  
19 in the action, as well as the third party's liability to the  
20 employer and carrier.

21 3. If the employer recovers against the third party, by suit or  
22 otherwise, the injured employee shall be entitled to any amount  
23 recovered in excess of the amount that the employer and carrier have  
24

1 paid or are liable for in compensation, after deducting reasonable  
2 costs of collection.

3 4. An employer or carrier who is liable for compensation under  
4 this ~~act~~ title on account of injury or death of an employee shall be  
5 entitled to maintain a third-party action against the employer's  
6 uninsured motorist coverage or underinsured motorist coverage.

7 SECTION 35. AMENDATORY Section 44, Chapter 208, O.S.L.  
8 2013 (85A O.S. Supp. 2016, Section 44), is amended to read as  
9 follows:

10 Section 44. A. Any benefits payable to an injured employee  
11 under this ~~act~~ title shall be reduced in an amount equal to, dollar-  
12 for-dollar, the amount of benefits the injured employee has  
13 previously received for the same medical services or period of  
14 disability, whether those benefits were paid under a group health  
15 care service plan, a group disability policy, a group loss of income  
16 policy, a group accident, health, or accident and health policy, a  
17 self-insured employee health or welfare benefit plan, or a group  
18 hospital or medical service contract; provided, however, such  
19 reduction does not apply to any benefit received from a group policy  
20 for disability if the injured employee has paid for the policy.

21 B. The ~~claimant~~ employee shall be required to disclose in a  
22 manner to be determined by the Workers' Compensation Commission the  
23 identity, address, or phone number of any person or entity which has  
24

1 paid benefits described in this section in connection with any claim  
2 under this ~~act~~ title.

3 SECTION 36. AMENDATORY Section 45, Chapter 208, O.S.L.  
4 2013, as amended by Section 2, Chapter 390, O.S.L. 2015 (85A O.S.  
5 Supp. 2016, Section 45), is amended to read as follows:

6 Section 45. A. Temporary Total Disability.

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

23 2. When the injured employee is released from active medical  
24 treatment by the treating physician for all body parts found by the

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

19 B. Temporary Partial Disability.

20 1. If the injured employee is temporarily unable to perform his  
21 or her job because of a disability, but may perform alternative work  
22 offered by the employer, he or she shall be entitled to receive  
23 compensation equal to ~~the greater of~~ seventy percent (70%) of the  
24 difference between the injured employee's average weekly wage before

1 the injury and his or her weekly wage for performing alternative  
2 work after the injury, but only if his or her weekly wage for  
3 performing the alternative work is less than the temporary total  
4 disability rate. However, the injured employee's actual earnings  
5 plus temporary partial disability shall not exceed the temporary  
6 total disability rate.

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

9 3. If the employee refuses to perform the alternative work  
10 offered by the ~~employee~~ employer, he or she shall not be entitled to  
11 benefits under subsection A of this section or under this section.

12 C. Permanent Partial Disability.

13 1. If the injured employee has a permanent disability after  
14 reaching maximum medical improvement, he or she shall be entitled to  
15 receive compensation equal to seventy percent (70%) of the  
16 employee's average weekly wage per week, not to exceed Three Hundred  
17 Fifty Dollars (\$350.00) per week, for three and one-half (3 1/2)  
18 weeks for each percentage point of impairment but not to exceed the  
19 earlier of three hundred fifty (350) weeks or the date of the  
20 injured employee's death.

21 2. A permanent partial disability award or combination of  
22 awards granted an injured worker may not exceed a permanent partial  
23 disability rating of one hundred percent (100%) to any body part or  
24 to the body as a whole. The determination of permanent partial



1 disability shall be the responsibility of the Commission through its  
2 administrative law judges. Any claim by an employee for  
3 compensation for permanent partial disability must be supported by  
4 competent medical testimony of a medical doctor, osteopathic  
5 physician, or chiropractor, and shall be supported by objective  
6 ~~medical~~ findings, as defined in ~~this act~~ Section 2 of this title.

7 The opinion of the physician shall include employee's percentage of  
8 permanent partial disability and whether or not the disability is  
9 job-related and caused by the accidental injury or occupational  
10 disease. A physician's opinion of the nature and extent of  
11 permanent partial disability to parts of the body other than  
12 scheduled members must be based solely on criteria established by  
13 the current edition of the American Medical Association's "Guides to  
14 the Evaluation of Permanent Impairment". A copy of any written  
15 evaluation shall be sent to both parties within seven (7) days of  
16 issuance. Medical opinions addressing compensability and permanent  
17 disability must be stated within a reasonable degree of medical  
18 certainty. Any party may submit the report of an evaluating  
19 physician.

20 ~~2.~~ 3. Permanent partial disability shall not be allowed to a  
21 part of the body for which no medical treatment has been received.  
22 A determination of permanent partial disability made by the  
23 Commission or administrative law judge which is not supported by  
24 objective ~~medical~~ findings provided by a treating physician who is a

1 medical doctor, doctor of osteopathy, chiropractor or a qualified  
2 independent medical examiner shall be considered an abuse of  
3 discretion.

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

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

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

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

24

1           ~~b. If, for any reason other than misconduct as defined in~~  
2           ~~Section 2 of this act, the employer terminates the~~  
3           ~~employee or the position offered is not the pre-injury~~  
4           ~~or equivalent job, the remaining permanent partial~~  
5           ~~disability award shall be paid in a lump sum. If the~~  
6           ~~employee is discharged for misconduct, the employer~~  
7           ~~shall have the burden to prove that the employee~~  
8           ~~engaged in misconduct.~~

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

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

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

1       4. If an employee is eligible to receive permanent total  
2 disability benefits, he or she shall not also receive permanent  
3 partial disability benefits.

4       5. An employee may elect to commute the remainder of the  
5 permanent partial disability award, including an award under Section  
6 46 of this title, to which the employee is entitled if the employee  
7 has returned to work for at least six (6) months, earning at least  
8 seventy percent (70%) of the employee's average weekly wage at the  
9 time of the injury. An employee who elects to commute the permanent  
10 partial disability award is not entitled to additional benefits for  
11 the injury.

12       6. Previous Disability: The fact that an employee has suffered  
13 previous disability or received compensation therefor shall not  
14 preclude the employee from compensation for a later accidental  
15 personal injury or occupational disease. In the event there exists  
16 a previous permanent partial disability, including a previous non-  
17 work-related injury or condition which produced permanent partial  
18 disability and the same is aggravated or accelerated by an  
19 accidental personal injury or occupational disease, compensation for  
20 permanent partial disability shall be only for such amount as was  
21 caused by such accidental personal injury or occupational disease  
22 and no additional compensation shall be allowed for the preexisting  
23 disability ~~or impairment~~. Any such reduction shall not apply to  
24

1 temporary total disability, nor shall it apply to compensation for  
2 medical treatment.

3 a. If workers' compensation benefits have previously been  
4 awarded through settlement or judicial or  
5 administrative determination in Oklahoma, the  
6 percentage basis of the prior settlement or award  
7 shall conclusively establish the amount of permanent  
8 partial disability determined to be preexisting. If  
9 workers' compensation benefits have not previously  
10 been awarded through settlement or judicial or  
11 administrative determination in Oklahoma, the amount  
12 of preexisting permanent partial disability shall be  
13 established by competent evidence.

14 b. In all cases, the applicable reduction shall be  
15 calculated as follows:

16 (1) if the preexisting ~~impairment~~ disability is the  
17 result of injury sustained while working for the  
18 employer against whom workers' compensation  
19 benefits are currently being sought, any award of  
20 compensation shall be reduced by the current  
21 dollar value attributable under the  
22 Administrative Workers' Compensation Act to the  
23 percentage of permanent partial disability  
24 determined to be preexisting. The current dollar

1 value shall be calculated by multiplying the  
2 percentage of preexisting permanent partial  
3 disability by the compensation rate in effect on  
4 the date of the accident or injury against which  
5 the reduction will be applied, and

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

10 7. No payments on any permanent partial disability order shall  
11 begin until payments on any preexisting permanent partial disability  
12 orders have been completed.

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

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

23 10. An injured employee who is eligible for permanent partial  
24 disability under this subsection shall be entitled to receive

1 vocational rehabilitation services provided by a technology center  
2 or public secondary school offering vocational-technical education  
3 courses, or a member institution of The Oklahoma State System of  
4 Higher Education, which shall include retraining and job placement  
5 to restore the employee to gainful employment. Vocational  
6 rehabilitation services or training shall not extend for a period of  
7 more than fifty-two (52) weeks.

8 D. Permanent Total Disability.

9 ~~1. In case of total disability adjudged to be permanent, If the~~  
10 injured employee is incapable of earning wages in any employment for  
11 which the employee may become physically suited and reasonably  
12 fitted by education, training, experience or vocational  
13 rehabilitation provided under this title because of a disability, he  
14 or she shall be entitled to receive compensation equal to seventy  
15 percent (70%) of the employee's average weekly wages, but not in  
16 excess of the state's average weekly wage, shall be paid to the  
17 employee during the continuance per week for the duration of the  
18 disability until such time as the employee reaches the age of  
19 maximum Social Security retirement benefits or for a period of  
20 fifteen (15) years, whichever is longer. In the event the claimant  
21 employee dies of causes unrelated to the injury or illness, benefits  
22 shall cease on the date of death. Provided, however, any person  
23 entitled to revive the action shall receive a one-time lump sum  
24 payment equal to twenty-six (26) weeks of weekly benefits for

1 ~~permanent total disability awarded the claimant. If more than one~~  
2 ~~person is entitled to revive the claim, the lump-sum payment shall~~  
3 ~~be evenly divided between or among such persons. In the event the~~  
4 ~~Commission awards both permanent partial disability and permanent~~  
5 ~~total disability benefits, the permanent total disability award~~  
6 ~~shall not be due until the permanent partial disability award is~~  
7 ~~paid in full. If otherwise qualified according to the provisions of~~  
8 ~~this act title, permanent total disability benefits may be awarded~~  
9 ~~to an employee who has exhausted the maximum period of temporary~~  
10 ~~total disability even though the employee has not reached maximum~~  
11 ~~medical improvement.~~

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

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

23 ~~2. The Vocational Rehabilitation Director shall help injured~~  
24 ~~workers return to the work force. If the injured employee is unable~~



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

15 ~~3. There shall be a presumption in favor of ordering vocational~~  
16 ~~rehabilitation services or training for an eligible injured employee~~  
17 ~~under the following circumstances:~~

- 18 ~~a. if the employee's occupation is truck driver or~~  
19 ~~laborer and the medical condition is traumatic brain~~  
20 ~~injury, stroke or uncontrolled vertigo,~~
- 21 ~~b. if the employee's occupation is truck driver or~~  
22 ~~laborer performing high-risk tasks and the medical~~  
23 ~~condition is seizures,~~

- 1           ~~e. if the employee's occupation is manual laborer and the~~  
2           ~~medical condition is bilateral wrist fusions,~~
- 3           ~~d. if the employee's occupation is assembly line worker~~  
4           ~~and the medical condition is radial head fracture with~~  
5           ~~surgical excision,~~
- 6           ~~e. if the employee's occupation is heavy laborer and the~~  
7           ~~medical condition is myocardial infarction with~~  
8           ~~congestive heart failure,~~
- 9           ~~f. if the employee's occupation is heavy manual laborer~~  
10           ~~and the medical condition is multilevel neck or back~~  
11           ~~fusions greater than two levels,~~
- 12           ~~g. if the employee's occupation is laborer performing~~  
13           ~~overhead work and the medical condition is massive~~  
14           ~~rotator cuff tears, with or without surgery,~~
- 15           ~~h. if the employee's occupation is heavy laborer and the~~  
16           ~~medical condition is recurrent inguinal hernia~~  
17           ~~following unsuccessful surgical repair,~~
- 18           ~~i. if the employee's occupation is heavy manual laborer~~  
19           ~~and the medical condition is total knee replacement or~~  
20           ~~total hip replacement,~~
- 21           ~~j. if the employee's occupation is roofer and the medical~~  
22           ~~condition is calcaneal fracture, medically or~~  
23           ~~surgically treated,~~
- 24

- 1           ~~k. if the employee's occupation is laborer of any kind~~  
2           ~~and the medical condition is total shoulder~~  
3           ~~replacement,~~
- 4           ~~l. if the employee's occupation is laborer and the~~  
5           ~~medical condition is amputation of a hand, arm, leg,~~  
6           ~~or foot,~~
- 7           ~~m. if the employee's occupation is laborer and the~~  
8           ~~medical condition is tibial plateau fracture, pilon~~  
9           ~~fracture,~~
- 10          ~~n. if the employee's occupation is laborer and the~~  
11          ~~medical condition is ankle fusion or knee fusion,~~
- 12          ~~o. if the employee's occupation is driver or heavy~~  
13          ~~equipment operator and the medical condition is~~  
14          ~~unilateral industrial blindness, or~~
- 15          ~~p. if the employee's occupation is laborer and the~~  
16          ~~medical condition is 3-, 4-, or 5-level positive~~  
17          ~~discogram of the cervical spine or lumbar spine,~~  
18          ~~medically treated.~~

19           ~~4. Upon the request of either party, or by order of an~~  
20           ~~administrative law judge, the Vocational Rehabilitation Director~~  
21           ~~shall assist the Workers' Compensation Commission in determining if~~  
22           ~~it is appropriate for a claimant to receive vocational~~  
23           ~~rehabilitation training or services. If appropriate, the~~  
24           ~~administrative law judge shall refer the employee to a qualified~~

1 ~~expert for evaluation of the practicability of, need for and kind of~~  
2 ~~rehabilitation services or training necessary and appropriate in~~  
3 ~~order to restore the employee to gainful employment. The cost of~~  
4 ~~the evaluation shall be paid by the employer. Following the~~  
5 ~~evaluation, if the employee refuses the services or training ordered~~  
6 ~~by the administrative law judge, or fails to complete in good faith~~  
7 ~~the vocational rehabilitation training ordered by the administrative~~  
8 ~~law judge, then the cost of the evaluation and services or training~~  
9 ~~rendered may, in the discretion of the administrative law judge, be~~  
10 ~~deducted from any award of benefits to the employee which remains~~  
11 ~~unpaid by the employer. Upon receipt of such report, and after~~  
12 ~~affording all parties an opportunity to be heard, the administrative~~  
13 ~~law judge shall order that any rehabilitation services or training,~~  
14 ~~recommended in the report, or such other rehabilitation services or~~  
15 ~~training as the administrative law judge may deem necessary,~~  
16 ~~provided the employee elects to receive such services, shall be~~  
17 ~~provided at the expense of the employer. Except as otherwise~~  
18 ~~provided in this subsection, refusal to accept rehabilitation~~  
19 ~~services by the employee shall in no way diminish any benefits~~  
20 ~~allowable to an employee.~~

21 ~~5. The administrative law judge may order vocational~~  
22 ~~rehabilitation before the injured employee reaches maximum medical~~  
23 ~~improvement, if the treating physician believes that it is likely~~  
24 ~~that the employee's injury will prevent the employee from returning~~

1 ~~to his or her former employment. In granting early benefits for~~  
2 ~~vocational rehabilitation, the Commission shall consider temporary~~  
3 ~~restrictions and the likelihood that such rehabilitation will return~~  
4 ~~the employee to gainful employment earlier than if such benefits are~~  
5 ~~granted after the permanent partial disability hearing in the claim.~~

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

13 ~~7. If rehabilitation requires residence at or near the facility~~  
14 ~~or institution which is away from the employee's customary~~  
15 ~~residence, reasonable cost of the employee's board, lodging, travel,~~  
16 ~~tuition, books and necessary equipment in training shall be paid for~~  
17 ~~by the insurer in addition to weekly compensation benefits to which~~  
18 ~~the employee is otherwise entitled under the Administrative Workers'~~  
19 ~~Compensation Act.~~

20 ~~8. During the period when an employee is actively and in good~~  
21 ~~faith being evaluated or participating in a retraining or job~~  
22 ~~placement program for purposes of evaluating permanent total~~  
23 ~~disability status, the employee shall be entitled to receive~~  
24 ~~benefits at the same rate as the employee's temporary total~~

1 ~~disability benefits for an additional fifty-two (52) weeks. All~~  
2 ~~tuition related to vocational rehabilitation services shall be paid~~  
3 ~~by the employer or the employer's insurer on a periodic basis~~  
4 ~~directly to the facility providing the vocational rehabilitation~~  
5 ~~services or training to the employee. The employer or employer's~~  
6 ~~insurer may deduct the amount paid for tuition from compensation~~  
7 ~~awarded to the employee.~~

8 E. Vocational Rehabilitation.

9 1. If the injured employee has a permanent disability after  
10 reaching maximum medical improvement and, as a result, is unable to  
11 return to his or her pre-injury job or another job that pays at  
12 least eighty percent (80%) of the injured employee's pre-injury  
13 wages, the injured employee shall be entitled to vocational  
14 rehabilitation services provided by a technology center or public  
15 secondary school offering vocational-technical education courses or  
16 a member institution of The Oklahoma State System of Higher  
17 Education, which shall include retraining and job placement to  
18 restore the employee to full-time employment. Vocational  
19 rehabilitation services or training shall not extend for a period of  
20 more than fifty-two (52) weeks.

21 2. An administrative law judge may order vocational  
22 rehabilitation before the injured employee reaches maximum medical  
23 improvement if the treating physician believes that it is likely  
24 that the employee will ultimately be eligible.

1        3. If vocational rehabilitation requires residence at or near  
2 the facility or institution which is away from the employee's  
3 customary residence, reasonable cost of the employee's board,  
4 lodging, travel, tuition, books and necessary equipment in training  
5 shall be paid for by the employer in addition to weekly compensation  
6 benefits to which the employee is otherwise entitled.

7        F. Disfigurement.

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

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

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

17        ~~G. Benefits for a single event injury shall be determined by~~  
18 ~~the law in effect at the time of injury. Benefits for a cumulative~~  
19 ~~trauma injury or occupational disease or illness shall be determined~~  
20 ~~by the law in effect at the time the employee knew or reasonably~~  
21 ~~should have known that the injury, occupational disease or illness~~  
22 ~~was related to work activity. Benefits for death shall be~~  
23 ~~determined by the law in effect at the time of death.~~

1 SECTION 37. AMENDATORY Section 46, Chapter 208, O.S.L.  
2 2013 (85A O.S. Supp. 2016, Section 46), is amended to read as  
3 follows:

4 Section 46. A. ~~An~~ In lieu of compensation provided pursuant to  
5 paragraph 1 of subsection C of Section 45 of this title, an injured  
6 employee who is entitled to receive permanent partial disability  
7 compensation under Section 45 of this act suffers amputation or  
8 permanent total loss of use of a scheduled member shall receive  
9 compensation for each part of the body in accordance with equal to  
10 seventy percent (70%) of the employee's average weekly wage, not to  
11 exceed Three Hundred Fifty Dollars (\$350.00) multiplied by the  
12 number of weeks for the scheduled ~~loss~~ member set forth below. as  
13 follows:

- 14 1. Arm amputated at the elbow, or between the elbow and  
15 shoulder, two hundred seventy-five (275) weeks;
- 16 2. Arm amputated between the elbow and wrist, two hundred  
17 twenty (220) weeks;
- 18 3. Leg amputated at the knee, or between the knee and the hip,  
19 two hundred seventy-five (275) weeks;
- 20 4. Leg amputated between the knee and the ankle, two hundred  
21 twenty (220) weeks;
- 22 5. Hand amputated, two hundred twenty (220) weeks;
- 23 6. Thumb amputated, sixty-six (66) weeks;
- 24 7. First finger amputated, thirty-nine (39) weeks;



- 1 8. Second finger amputated, thirty-three (33) weeks;
- 2 9. Third finger amputated, twenty-two (22) weeks;
- 3 10. Fourth finger amputated, seventeen (17) weeks;
- 4 11. Foot amputated, two hundred twenty (220) weeks;
- 5 12. Great toe amputated, thirty-three (33) weeks;
- 6 13. Toe other than great toe amputated, eleven (11) weeks;
- 7 14. Eye enucleated, in which there was useful vision, two  
8 hundred seventy-five (275) weeks;
- 9 15. Loss of hearing of one ear, one hundred ten (110) weeks;
- 10 16. Loss of hearing of both ears, three hundred thirty (330)  
11 weeks; and
- 12 17. Loss of one testicle, fifty-three (53) weeks; loss of both  
13 testicles, one hundred fifty-eight (158) weeks.

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

21 C. ~~Other cases: In cases in which the Commission finds an~~  
22 ~~injury to a part of the body not specifically covered by the~~  
23 ~~foregoing provisions of this section, the employee may be entitled~~  
24 ~~to compensation for permanent partial disability. The compensation~~

1 ~~ordered paid shall be seventy percent (70%) of the employee's~~  
2 ~~average weekly wage, not to exceed Three Hundred Twenty-three~~  
3 ~~Dollars (\$323.00) for the number of weeks which the partial~~  
4 ~~disability of the employee bears to three hundred fifty (350) weeks.~~

5 ~~D.~~ 1. Compensation for amputation of the first phalange of a  
6 digit shall be one-half (1/2) of the compensation for the amputation  
7 of the entire digit.

8 2. Compensation for amputation of more than one phalange of a  
9 digit shall be the same as for amputation of the entire digit.

10 ~~E.~~ C. 1. Compensation for the permanent loss of eighty percent  
11 (80%) or more of the vision of an eye shall be the same as for the  
12 loss of an eye.

13 2. In all cases of permanent loss of vision, the use of  
14 corrective lenses may be taken into consideration in evaluating the  
15 extent of loss of vision.

16 ~~F.~~ D. Compensation for amputation or loss of use of two or more  
17 digits or one or more phalanges of two or more digits of a hand or a  
18 foot may be proportioned to the total loss of use of the hand or the  
19 foot occasioned thereby but shall not exceed the compensation for  
20 total loss of a hand or a foot.

21 ~~G.~~ ~~Compensation for permanent total loss of use of a member~~  
22 ~~shall be the same as for amputation of the member.~~

23

24

1       ~~H. The sum of all permanent partial disability awards,~~  
2 ~~excluding awards against the Multiple Injury Trust Fund, shall not~~  
3 ~~exceed three hundred fifty (350) weeks.~~

4       SECTION 38.       AMENDATORY       Section 48, Chapter 208, O.S.L.  
5 2013 (85A O.S. Supp. 2016, Section 48), is amended to read as  
6 follows:

7       Section 48. When an injury or death is sustained by a minor  
8 employed in violation of federal or state statutes relating to  
9 minimum ages for employment of minors, disability or death benefits  
10 provided for by this ~~act~~ title shall be doubled; provided, however,  
11 such penalty shall not apply when the minor misrepresents his or her  
12 age, in writing, to the employer.

13       SECTION 39.       AMENDATORY       Section 49, Chapter 208, O.S.L.  
14 2013 (85A O.S. Supp. 2016, Section 49), is amended to read as  
15 follows:

16       Section 49. Notwithstanding any other provision of this ~~act~~  
17 title, no compensation for temporary total disability shall be  
18 payable to an injured employee for any week for which the injured  
19 employee receives unemployment insurance benefits under the laws of  
20 this state or the unemployment insurance law of any other state. If  
21 a claim for temporary total disability is controverted and later  
22 determined to be compensable, temporary total disability shall be  
23 payable to an injured employee for any week for which the injured  
24 employee receives unemployment benefits but only to the extent that

1 the temporary total disability otherwise payable exceeds the  
2 unemployment benefits.

3 SECTION 40. AMENDATORY Section 50, Chapter 208, O.S.L.  
4 2013 (85A O.S. Supp. 2016, Section 50), is amended to read as  
5 follows:

6 Section 50. A. The employer shall promptly provide an injured  
7 employee with medical, surgical, hospital, optometric, podiatric,  
8 and nursing services, along ~~any~~ with any medicine, crutches,  
9 ambulatory devices, artificial limbs, eyeglasses, contact lenses,  
10 hearing aids, and other apparatus as may be reasonably necessary in  
11 connection with the injury received by the employee. The employer  
12 shall have the right to choose the treating physician.

13 B. If the employer fails or neglects to provide medical  
14 treatment within five (5) days after actual knowledge is received of  
15 an injury, the injured employee may select a physician to provide  
16 medical treatment at the expense of the employer; provided, however,  
17 that the injured employee, or another in the employee's behalf, may  
18 obtain emergency treatment at the expense of the employer where such  
19 emergency treatment is not provided by the employer.

20 C. Diagnostic tests shall not be repeated sooner than six (6)  
21 months from the date of the test unless agreed to by the parties or  
22 ordered by the Workers' Compensation Commission for good cause  
23 shown.

24

1 D. Unless recommended by the treating doctor at the time  
2 ~~claimant~~ employee reaches maximum medical improvement or by an  
3 independent medical examiner, continuing medical maintenance shall  
4 not be awarded by the Commission. The employer or insurance carrier  
5 shall not be responsible for continuing medical maintenance or pain  
6 management treatment that is outside the parameters established by  
7 the Physician Advisory Committee or ~~ODG~~ the Official Disability  
8 Guidelines. The employer or insurance carrier shall not be  
9 responsible for continuing medical maintenance or pain management  
10 treatment not previously ordered by the Commission or approved in  
11 advance by the employer or insurance carrier.

12 E. An employee claiming or entitled to benefits under this ~~act~~  
13 title, shall, if ordered by the Commission or requested by the  
14 employer or insurance carrier, submit himself or herself for medical  
15 examination. If an employee refuses to submit himself or herself to  
16 examination, his or her right to prosecute any proceeding under this  
17 ~~act~~ section shall be suspended, and no compensation shall be payable  
18 for the period of such refusal.

19 F. For compensable injuries resulting in the use of a medical  
20 device, ongoing service for the medical device shall be provided in  
21 situations including, but not limited to, medical device battery  
22 replacement, ongoing medication refills related to the medical  
23 device, medical device repair, or medical device replacement.

24

1 G. The employer shall reimburse the employee for the actual  
2 mileage in excess of twenty (20) miles round-trip to and from the  
3 employee's home to the location of a medical service provider for  
4 all reasonable and necessary treatment, for an evaluation of an  
5 independent medical examiner and for any evaluation made at the  
6 request of the employer or insurance carrier. The rate of  
7 reimbursement for such travel expense shall be the official  
8 reimbursement rate as established by the State Travel Reimbursement  
9 Act. In no event shall the reimbursement of travel for medical  
10 treatment or evaluation exceed six hundred (600) miles round-trip.

11 H. Fee Schedule.

12 1. The Commission shall conduct a review of the Fee Schedule  
13 every two (2) years. The Fee Schedule shall establish the maximum  
14 rates that medical providers shall be reimbursed for medical care  
15 provided to injured employees, including, but not limited to,  
16 charges by physicians, dentists, counselors, hospitals, ambulatory  
17 and outpatient facilities, clinical laboratory services, diagnostic  
18 testing services, and ambulance services, and charges for durable  
19 medical equipment, prosthetics, orthotics, and supplies. The most  
20 current Fee Schedule established by the Administrator of the  
21 Workers' Compensation Court prior to the effective date of this  
22 section shall remain in effect, unless or until the Legislature  
23 approves the Commission's proposed Fee Schedule.

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

16           3. In making adjustments to the Fee Schedule, the Commission  
17 shall use, as a benchmark, the reimbursement rate for each Current  
18 Procedural Terminology (CPT) code provided for in the fee schedule  
19 published by the Centers for Medicare and Medicaid Services of the  
20 U.S. Department of Health and Human Services for use in Oklahoma  
21 (Medicare Fee Schedule) on the effective date of this section,  
22 workers' compensation fee schedules employed by neighboring states,  
23 the latest edition of "Relative Values for Physicians" (RVP), usual,  
24 customary and reasonable medical payments to workers' compensation

1 health care providers in the same trade area for comparable  
2 treatment of a person with similar injuries, and all other data the  
3 Commission deems relevant. For services not valued by CMS, the  
4 Commission shall establish values based on the usual, customary and  
5 reasonable medical payments to health care providers in the same  
6 trade area for comparable treatment of a person with similar  
7 injuries.

8 a. No reimbursement shall be allowed for any magnetic  
9 resonance imaging (MRI) unless the MRI is provided by  
10 an entity that meets Medicare requirements for the  
11 payment of MRI services or is accredited by the  
12 American College of Radiology, the Intersocietal  
13 Accreditation Commission or the Joint Commission on  
14 Accreditation of Healthcare Organizations. For all  
15 other radiology procedures, the reimbursement rate  
16 shall be the lesser of the reimbursement rate allowed  
17 by the 2010 Oklahoma Fee Schedule and two hundred  
18 seven percent (207%) of the Medicare Fee Schedule.

19 b. For reimbursement of medical services for Evaluation  
20 and Management of injured employees as defined in the  
21 Fee Schedule adopted by the Commission, the  
22 reimbursement rate shall not be less than one hundred  
23 fifty percent (150%) of the Medicare Fee Schedule.

24



1 c. Any entity providing durable medical equipment,  
2 prosthetics, orthotics or supplies shall be accredited  
3 by a CMS-approved accreditation organization. If a  
4 physician provides durable medical equipment,  
5 prosthetics, orthotics, prescription drugs, or  
6 supplies to a patient ancillary to the patient's  
7 visit, reimbursement shall be no more than ten percent  
8 (10%) above cost.

9 d. The Commission shall develop a reasonable stop-loss  
10 provision of the Fee Schedule to provide for adequate  
11 reimbursement for treatment for major burns, severe  
12 head and neurological injuries, multiple system  
13 injuries, and other catastrophic injuries requiring  
14 extended periods of intensive care.

15 4. The right to recover charges for every type of medical care  
16 for injuries arising out of and in the course of covered employment  
17 as defined in this ~~act~~ title shall lie solely with the Commission.  
18 When a medical care provider has brought a claim to the Commission  
19 to obtain payment for services, a party who prevails in full on the  
20 claim shall be entitled to reasonable attorney fees.

21 5. Nothing in this section shall prevent an employer, insurance  
22 carrier, group self-insurance association, or certified workplace  
23 medical plan from contracting with a provider of medical care for a  
24

1 reimbursement rate that is greater than or less than limits  
2 established by the Fee Schedule.

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

7 7. The Commission's review of medical and treatment charges  
8 pursuant to this section shall be conducted pursuant to the Fee  
9 Schedule in existence at the time the medical care or treatment was  
10 provided. The judgment approving the medical and treatment charges  
11 pursuant to this section shall be enforceable by the Commission in  
12 the same manner as provided in this ~~act~~ title for the enforcement of  
13 other compensation payments.

14 8. Charges for prescription drugs dispensed by a pharmacy shall  
15 be limited to ninety percent (90%) of the average wholesale price of  
16 the prescription, plus a dispensing fee of Five Dollars (\$5.00) per  
17 prescription. "Average wholesale price" means the amount determined  
18 from the latest publication designated by the Commission.

19 Physicians shall prescribe and pharmacies shall dispense generic  
20 equivalent drugs when available. If the National Drug Code, or  
21 "NDC", for the drug product dispensed is for a repackaged drug, then  
22 the maximum reimbursement shall be the lesser of the original  
23 labeler's NDC and the lowest-cost therapeutic equivalent drug  
24 product. Compounded medications shall be billed by the compounding

1 pharmacy at the ingredient level, with each ingredient identified  
2 using the applicable NDC of the drug product, and the corresponding  
3 quantity. Ingredients with no NDC area are not separately  
4 reimbursable. Payment shall be based on a sum of the allowable fee  
5 for each ingredient plus a dispensing fee of Five Dollars (\$5.00)  
6 per prescription.

7 9. When medical care includes prescription drugs dispensed by a  
8 physician or other medical care provider and the NDC for the drug  
9 product dispensed is for a repackaged drug, then the maximum  
10 reimbursement shall be the lesser of the original labeler's NDC and  
11 the lowest-cost therapeutic equivalent drug product. Payment shall  
12 be based upon a sum of the allowable fee for each ingredient plus a  
13 dispensing fee of Five Dollars (\$5.00) per prescription. Compounded  
14 medications shall be billed by the compounding pharmacy.

15 10. Implantables are paid in addition to procedural  
16 reimbursement paid for medical or surgical services. A  
17 manufacturer's invoice for the actual cost to a physician, hospital  
18 or other entity of an implantable device shall be adjusted by the  
19 physician, hospital or other entity to reflect, at the time  
20 implanted, all applicable discounts, rebates, considerations and  
21 product replacement programs and shall be provided to the payer by  
22 the physician or hospital as a condition of payment for the  
23 implantable device. If the physician, or an entity in which the  
24 physician has a financial interest other than an ownership interest

1 of less than five percent (5%) in a publically traded company,  
2 provides implantable devices, this relationship shall be disclosed  
3 to patient, employer, insurance company, third-party commission,  
4 certified workplace medical plan, case managers, and attorneys  
5 representing ~~claimant~~ the employee and defendant. If the physician,  
6 or an entity in which the physician has a financial interest other  
7 than an ownership interest of less than five percent (5%) in a  
8 publically traded company, buys and resells implantable devices to a  
9 hospital or another physician, the markup shall be limited to ten  
10 percent (10%) above cost.

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

23 12. If an employee fails to appear for a scheduled appointment  
24 with a physician, the employer or insurance company shall pay to the

1 physician a reasonable charge, to be determined by the Commission,  
2 for the missed appointment. In the absence of a good-faith reason  
3 for missing the appointment, the Commission shall order the employee  
4 to reimburse the employer or insurance company for the charge.

5 13. Physicians providing treatment under this ~~act~~ title shall  
6 disclose under penalty of perjury to the Commission, on a form  
7 prescribed by the Commission, any ownership or interest in any  
8 health care facility, business, or diagnostic center that is not the  
9 physician's primary place of business. The disclosure shall include  
10 any employee leasing arrangement between the physician and any  
11 health care facility that is not the physician's primary place of  
12 business. A physician's failure to disclose as required by this  
13 section shall be grounds for the Commission to disqualify the  
14 physician from providing treatment under this ~~act~~ title.

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

24

1 SECTION 41. AMENDATORY Section 52, Chapter 208, O.S.L.  
2 2013 (85A O.S. Supp. 2016, Section 52), is amended to read as  
3 follows:

4 Section 52. The employer shall not be liable for any of the  
5 payments for medical services and supplies under this ~~act~~ title if  
6 the Workers' Compensation Commission determines that there was not a  
7 compensable injury.

8 SECTION 42. AMENDATORY Section 53, Chapter 208, O.S.L.  
9 2013 (85A O.S. Supp. 2016, Section 53), is amended to read as  
10 follows:

11 Section 53. A. An injured employee claiming to be entitled to  
12 benefits under this ~~act~~ title shall submit to physical examination  
13 and treatment by another qualified physician, designated or approved  
14 by the Workers' Compensation Commission, as the Commission may  
15 require from time to time if reasonable and necessary.

16 B. In cases where the Commission directs examination or  
17 treatment, proceedings shall be suspended, and no compensation shall  
18 be payable for any period during which the employee refuses to  
19 submit to examination and treatment or otherwise obstructs the  
20 examination or treatment.

21 C. Failure of the employee to obey a judgment of the Commission  
22 for an examination or treatment for a period of one (1) month from  
23 the date of the judgment shall bar the right of the ~~claimant~~  
24 employee to further compensation in respect to the injury.

1 SECTION 43. AMENDATORY Section 54, Chapter 208, O.S.L.  
2 2013 (85A O.S. Supp. 2016, Section 54), is amended to read as  
3 follows:

4 Section 54. ~~Except in cases of hernia, which are specifically~~  
5 ~~covered by Section 61 of this act, where~~ If an injured employee  
6 unreasonably refuses to submit to a surgical operation which has  
7 been advised by at least two qualified physicians and ~~where~~ if the  
8 recommended operation does not involve unreasonable risk of life or  
9 additional serious physical ~~impairment~~ disability, the Workers'  
10 Compensation Commission shall take the refusal into consideration  
11 when determining compensation for permanent partial or permanent  
12 total disability.

13 SECTION 44. AMENDATORY Section 55, Chapter 208, O.S.L.  
14 2013 (85A O.S. Supp. 2016, Section 55), is amended to read as  
15 follows:

16 Section 55. A. If an employer or carrier believes that a  
17 charge for medical services or supplies under this ~~act~~ title is  
18 unreasonable, it may submit the charge to the Workers' Compensation  
19 Commission for review. If the Commission determines that the charge  
20 is unreasonable, it may amend the charges to reflect the Fee  
21 Schedule established under Section 50 of this ~~act~~ title, if  
22 applicable, or in accordance with reasonable market rates for the  
23 services or supplies provided.

24

1 B. The provisions of this section relating to charges shall not  
2 apply if a written contract exists between the employer and the  
3 person who renders the medical service or supplies.

4 SECTION 45. AMENDATORY Section 56, Chapter 208, O.S.L.  
5 2013 (85A O.S. Supp. 2016, Section 56), is amended to read as  
6 follows:

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

14 B. If the employer is not covered by a certified workplace  
15 medical plan, the employer shall select the treating physician  
16 regardless of the number of body parts being treated. The Workers'  
17 Compensation Commission on application of the employee shall order  
18 one change of treating physician. Upon the Commission's granting of  
19 the application, the employer shall provide a list of three  
20 physicians from whom the employee may select the replacement. The  
21 employer may identify physicians within the same practice, facility  
22 or hospital as the treating physician. The only requirement for the  
23 list of three physicians is that they be licensed and accredited to  
24 perform the necessary treatment.



1 SECTION 46. AMENDATORY Section 57, Chapter 208, O.S.L.  
2 2013 (85A O.S. Supp. 2016, Section 57), is amended to read as  
3 follows:

4 Section 57. A. If an injured employee misses ~~two~~ three or more  
5 scheduled appointments for treatment, he or she shall no longer be  
6 eligible to receive benefits under this ~~act~~ title, unless his or her  
7 absence was:

8 1. Caused by extraordinary circumstances beyond the employee's  
9 control as determined by the Workers' Compensation Commission; or

10 2. The employee gave the employer at least two (2) hours prior  
11 notice of the absence and had a valid excuse.

12 B. Inability to get transportation to or from the appointment  
13 shall not be considered extraordinary circumstances nor a valid  
14 excuse for the absence.

15 SECTION 47. AMENDATORY Section 59, Chapter 208, O.S.L.  
16 2013 (85A O.S. Supp. 2016, Section 59), is amended to read as  
17 follows:

18 Section 59. A. 1. Compensation under this ~~act~~ title based on  
19 the employee's average weekly wage shall be computed by dividing the  
20 employee's gross earnings by the number of full weeks of employment  
21 with the employer, up to a maximum of fifty-two (52) weeks.

22 2. If the injured employee was working on a piece basis, the  
23 average weekly wage shall be determined by dividing the earnings of  
24 the employee by the number of hours required to earn the wages

1 during the period not to exceed fifty-two (52) weeks preceding the  
2 week in which the accident occurred and by multiplying this hourly  
3 wage by the number of hours in a full-time workweek in the  
4 employment.

5 B. Overtime earnings are to be added to the regular weekly  
6 wages and shall be computed by dividing the overtime earnings by the  
7 number of weeks worked by the employee in the same employment under  
8 the contract of hire in force at the time of the accident, not to  
9 exceed a period of fifty-two (52) weeks preceding the accident.

10 C. If, because of exceptional circumstances, the average weekly  
11 wage cannot be fairly and justly determined by the above formulas,  
12 the Workers' Compensation Commission may determine the average  
13 weekly wage by a method that is just and fair to all parties  
14 concerned.

15 D. The benefit level for members of the National Guard and any  
16 authorized voluntary or uncompensated worker rendering services as a  
17 firefighter, peace officer or civil defense worker shall be  
18 determined by using the wages of the employee in his or her regular  
19 occupation.

20 SECTION 48. AMENDATORY Section 62, Chapter 208, O.S.L.  
21 2013 (85A O.S. Supp. 2016, Section 62), is amended to read as  
22 follows:

23 Section 62. A. Notwithstanding the provisions of Section 45 of  
24 this ~~act~~ title, if an employee suffers a nonsurgical soft tissue

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

21 B. For purposes of this section, "surgery" does not include an  
22 injection, or the forcing of fluids beneath the skin, for treatment  
23 or diagnosis.

24

1        C. For purposes of this section, "soft tissue injury" means  
2 damage to one or more of the tissues that surround bones and joints.  
3 Soft tissue injury includes, but is not limited to, sprains,  
4 strains, contusions, tendonitis and muscle tears. Cumulative trauma  
5 is to be considered a soft tissue injury. Soft tissue injury does  
6 not include any of the following:

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

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

10                  a. sensory or motor disturbances,

11                  b. communication disturbances,

12                  c. complex integrated disturbances of cerebral function,

13                  d. episodic neurological disorders, or

14                  e. other brain and closed-head injury conditions at least  
15 as severe in nature as any condition provided in  
16 subparagraphs a through d of this paragraph; or

17            3. Any joint replacement.

18        SECTION 49.        AMENDATORY        Section 64, Chapter 208, O.S.L.  
19 2013 (85A O.S. Supp. 2016, Section 64), is amended to read as  
20 follows:

21        Section 64.    A. Any person or entity may make written  
22 application to the State Commissioner of Health to have a workplace  
23 medical plan certified that provides management of quality treatment  
24 to injured employees for injuries and diseases compensable under

1 this ~~act~~ title. Each application for certification shall be  
2 accompanied by a fee of One Thousand Five Hundred Dollars  
3 (\$1,500.00). A workplace medical plan may be certified to provide  
4 services to a limited geographic area. A certificate is valid for a  
5 five-year period, unless revoked or suspended. Application for  
6 certification shall be made in the form and manner and shall set  
7 forth information regarding the proposed program for providing  
8 services as the State Commissioner of Health may prescribe. The  
9 information shall include, but not be limited to:

10 1. A list of the names of all medical providers who shall  
11 provide services under the plan, together with appropriate evidence  
12 of compliance with any licensing or certification requirements for  
13 those providers to practice in this state; and

14 2. A description of the places and manner of providing services  
15 under the plan.

16 B. The State Commissioner of Health shall not certify a plan  
17 unless he or she finds that the plan:

18 1. Proposes to provide quality services for all medical  
19 services which:

20 a. may be required by this ~~act~~ title in a manner that is  
21 timely, effective and convenient for the employee, and

22 b. utilize medical treatment guidelines and protocols  
23 consistent with those established by the Official  
24 Disability Guidelines;

- 1           2. Is reasonably geographically convenient to residents of the  
2 area for which it seeks certification;
- 3           3. Provides appropriate financial incentives to reduce service  
4 costs and utilization without sacrificing the quality of service;
- 5           4. Provides adequate methods of peer review, utilization review  
6 and dispute resolution to prevent inappropriate, excessive or  
7 medically unnecessary treatment, and excludes participation in the  
8 plan by those providers who violate these treatment standards;
- 9           5. Provides aggressive case management for injured employees  
10 and a program for early return to work;
- 11           6. Provides a timely and accurate method of reporting to the  
12 State Commissioner of Health necessary information regarding medical  
13 service costs and utilization to enable the State Commissioner of  
14 Health to determine the effectiveness of the plan;
- 15           7. Authorizes necessary emergency medical treatment for an  
16 injury provided by a provider of medical, surgical, and hospital  
17 services who is not a part of the plan; and
- 18           8. Does not discriminate against or exclude from participation  
19 in the plan any category of providers of medical, surgical, or  
20 hospital services and includes an adequate number of each category  
21 of providers of medical, surgical, and hospital services to give  
22 participants access to all categories of providers and does not  
23 discriminate against ethnic minority providers of medical services.
- 24

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

5 D. Except for self-insured employers, if any insurer does not  
6 contract with or provide access to a certified workplace medical  
7 plan, an insured, after sixty (60) days' written notice to its  
8 insurance carrier, shall be authorized to contract independently  
9 with a plan of his or her choice for a period of one (1) year, to  
10 provide medical care under this ~~act~~ title. The insured shall be  
11 authorized to contract, after sixty (60) days' written notice to its  
12 insurance carrier, for additional one-year periods if the insurer  
13 has not contracted with or provided access to a certified workplace  
14 medical plan.

15 E. If an employer is not experience-rated when it participates  
16 in a certified workplace medical plan, its workers' compensation  
17 insurer shall grant a ten-percent premium reduction.

18 F. The State Commissioner of Health shall refuse to certify or  
19 shall revoke or suspend the certification of a plan if the State  
20 Commissioner of Health finds that the program for providing medical  
21 or health care services fails to meet the requirements of this  
22 section, or service under the plan is not being provided in  
23 accordance with the terms of the plan.

1 G. The State Commissioner of Health shall implement a site  
2 visit protocol for employees of the State Department of Health to  
3 perform an inspection of a certified workplace medical plan to  
4 ensure that medical services to an employee and the medical  
5 management of the employee's needs are adequately met in a timely  
6 manner and that the certified workplace medical plan is complying  
7 with all other applicable provisions of this act and the State  
8 Department of Health. This protocol shall include, but not be  
9 limited to:

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

14 2. A site visit shall determine whether or not a certified  
15 workplace medical plan is operating in accordance with its latest  
16 application to the State Department of Health;

17 3. Compliant operations shall include, but not be limited to:

18 a. timely and effective medical services available with  
19 reasonable geographic convenience,

20 b. treatment guidelines and protocols consistent with the  
21 Official Disability Guidelines, and

22 c. effective programs for utilization review, case  
23 management, grievances, and dispute resolution;

24 4. Performance of a site visit shall include:



- a. inspection of organizational documentation,
- b. inspection of systems documentation and processes,
- c. random or systematic sampling of closed and open case management cases,
- d. workplace medical plan employee and management interviews, as appropriate;

5. An initial site visit may occur with an interval of less than twelve (12) months to a recently certified plan, or a site visit may occur more often than once in every twelve (12) months if the State Commissioner of Health has reason to suspect that a plan is not operating in accordance with its certification;

6. If a deficient practice is identified during a site visit, the State Department of Health shall require a certified workplace medical plan to submit a timely and acceptable written plan of correction, and then may perform a follow-up visit or visits to ensure that the deficient practice has been eliminated;

7. If a deficient practice is not remedied by a certified workplace medical plan on a timely basis, the State Commissioner of Health shall revoke or suspend the certification of the plan;

8. In addition to the certification fee required pursuant to subsection A of this section, certified workplace medical plans shall pay the State Department of Health:

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

1           b.    One Thousand Dollars (\$1,000.00) for each follow-up  
2                    visit, but only if less than two site visits occur in  
3                    a twelve-month period; and

4           9.    In addition to the site visit fee required pursuant to  
5 paragraph 8 of this subsection, employees of the State Department of  
6 Health may charge to the certified workplace medical plan reasonable  
7 travel and travel-related expenses for the site visit such as  
8 overnight lodging and meals. A certified workplace medical plan  
9 shall reimburse travel expenses to the State Department of Health at  
10 rates equal to the amounts then currently allowed under the State  
11 Travel Reimbursement Act.

12           I.    The State Board of Health shall adopt such rules as may be  
13 necessary to implement the provisions of this section. Such rules  
14 shall authorize any person to petition the State Commissioner of  
15 Health for decertification of a certified workplace medical plan for  
16 a material violation of any rules promulgated pursuant to this  
17 section.

18           SECTION 50.        AMENDATORY        Section 65, Chapter 208, O.S.L.  
19 2013, as amended by Section 3, Chapter 390, O.S.L. 2015 (85A O.S.  
20 Supp. 2016, Section 65), is amended to read as follows:

21           Section 65.   A.   If an employee suffers from an occupational  
22 disease ~~as defined in this section~~ and is disabled or dies as a  
23 result of the disease, the employee, or, in case of death, his or  
24 her dependents, shall be entitled to compensation as if the

1 disability or death were caused by injury arising out of work  
2 activities within the scope of employment, except as otherwise  
3 provided in this section.

4 B. No compensation shall be payable for an occupational disease  
5 if the employee, at the time of entering into the employment of the  
6 employer by whom the compensation would otherwise be payable,  
7 falsely represented himself or herself in writing as not having  
8 previously been disabled, laid off, or compensated in damages or  
9 otherwise, because of the disease.

10 C. 1. If an occupational disease is aggravated by any other  
11 disease or infirmity, not itself compensable, or if disability or  
12 death from any other cause, not itself compensable, is aggravated,  
13 prolonged, accelerated, or in any way contributed to by an  
14 occupational disease, the compensation payable shall be reduced and  
15 limited to the proportion ~~only of the compensation that would be~~  
16 ~~payable if~~ of the occupational disease ~~were the major cause of the~~  
17 ~~disability or death as the occupational disease, as a causative~~  
18 ~~factor, bears to all the causes of the disability or death~~ that is  
19 compensable.

20 2. The reduction in compensation is to be effected by reducing  
21 the number of weekly or monthly payments or the amounts of the  
22 payments, as under the circumstances of the particular case may be  
23 for the best interest of the ~~claimant~~ employee.

24

1 D. 1. ~~"Occupational disease", as used in this act, unless the~~  
2 ~~context otherwise requires, means any disease that results in~~  
3 ~~disability or death and arises out of and in the course of the~~  
4 ~~occupation or employment of the employee or naturally follows or~~  
5 ~~unavoidably results from an injury as that term is defined in this~~  
6 ~~act.~~ A causal connection between the occupation or employment and  
7 the occupational disease shall be established by a preponderance of  
8 the evidence.

9 2. No compensation shall be payable for any contagious or  
10 infectious disease unless contracted in the course and scope of  
11 employment.

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

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

19 2. The amount of the compensation shall be based on the average  
20 weekly wage of the employee when last injuriously exposed under the  
21 employer, and the notice of injury and claim for compensation shall  
22 be given and made to that employer.

23 F. 1. An employer shall not be liable for any compensation for  
24 an occupational disease unless:

- 1           a.    the disease is due to the nature of an employment in  
2                    which the hazards of the disease actually exist and is  
3                    actually incurred in the course and scope of his or  
4                    her employment. This includes any disease due to or  
5                    attributable to exposure to or contact with any  
6                    radioactive material by an employee in the course and  
7                    scope of his or her employment,
- 8           b.    disablement or death results within three (3) years in  
9                    case of silicosis or asbestosis, or one (1) year in  
10                   case of any other occupational disease, except a  
11                   diseased condition caused by exposure to X-rays,  
12                   radioactive substances, or ionizing radiation, after  
13                   the last injurious exposure to the disease in the  
14                   employment, or
- 15           c.    in case of death, death follows continuous disability  
16                   from the disease, commencing within the period, for  
17                   which compensation has been paid or awarded or timely  
18                   claim made as provided in subparagraph b of this  
19                   paragraph and results within seven (7) years after the  
20                   last exposure.

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

1 SECTION 51. AMENDATORY Section 66, Chapter 208, O.S.L.  
2 2013 (85A O.S. Supp. 2016, Section 66), is amended to read as  
3 follows:

4 Section 66. A. As used in this ~~act~~ title, unless the context  
5 otherwise requires:

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

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

10 B. In the absence of conclusive evidence in favor of the claim,  
11 disability or death from silicosis or asbestosis shall be presumed  
12 not to be due to the nature of any occupation within the provision  
13 of this section unless during the ten (10) years immediately  
14 preceding the date of disablement the employee has been exposed to  
15 the inhalation of silica dust or asbestos dust over a period of not  
16 less than five (5) years, two (2) years of which shall have been in  
17 this state, under a contract of employment performed in this state.  
18 However, if the employee has been employed by the same employer  
19 during the entire five-year period, his or her right to compensation  
20 against the employer shall not be affected by the fact that he or  
21 she had been employed during any part of the period outside of this  
22 state.

23 C. Except as otherwise provided in this section, compensation  
24 for disability from uncomplicated silicosis or asbestosis shall be

1 payable in accordance with the provisions of Sections 45 and 48 of  
2 this ~~act~~ title.

3 D. 1. In case of disability or death from silicosis or  
4 asbestosis complicated with tuberculosis of the lungs, compensation  
5 shall be payable as for uncomplicated silicosis or asbestosis,  
6 provided that the silicosis or asbestosis was an essential factor in  
7 the causing of disability or death.

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

12 E. 1. When an employee, though not actually disabled, is found  
13 by the Workers' Compensation Commission to be affected by silicosis  
14 or asbestosis to such a degree as to make it unduly hazardous for  
15 him or her to continue in an employment involving exposure to the  
16 hazards of the disease, the Commission may order that he or she be  
17 removed from his or her employment. In such a case, or in case he  
18 or she has already been discharged from the employment and is  
19 unemployed, he or she shall be entitled to compensation until he or  
20 she can obtain steady employment in some other suitable occupation  
21 in which there are no hazards of the disease.

22 2. When in any case the forced change of employment shall, in  
23 the opinion of the Commission, require that the employee be given  
24 special training in order to qualify him or her for another

1 occupation, the employer liable for compensation shall pay for the  
2 vocational rehabilitation and training provided for in this ~~act~~  
3 title.

4 SECTION 52. AMENDATORY Section 68, Chapter 208, O.S.L.  
5 2013 (85A O.S. Supp. 2016, Section 68), is amended to read as  
6 follows:

7 Section 68. A. ~~Unless an~~ An employee ~~gives oral or written~~  
8 must give notice to the employer within ~~thirty (30)~~ fifteen (15)  
9 days of ~~the~~ :

10 1. The date an the injury occurs, the; or

11 2. If the injury is an occupational disease or cumulative  
12 trauma, the date the employee knew or should have known that the  
13 injury may be related to the employment.

14 B. If the employee does not give timely notice of an injury,  
15 there shall be a rebuttable presumption ~~shall be~~ that the injury was  
16 ~~not work-related.~~ Such is not a compensable injury; provided,  
17 however, the presumption must may be overcome by a preponderance of  
18 the evidence.

19 ~~B. Unless an employee gives oral or written notice to the~~  
20 ~~employer within thirty (30) days of the employee's separation from~~  
21 ~~employment, there shall be a rebuttable presumption that an~~  
22 ~~occupational disease or cumulative trauma injury did not arise out~~  
23 ~~of and in the course of employment. Such presumption must be~~  
24 ~~overcome by a preponderance of the evidence.~~



1 SECTION 53. AMENDATORY Section 69, Chapter 208, O.S.L.  
2 2013 (85A O.S. Supp. 2016, Section 69), is amended to read as  
3 follows:

4 Section 69. A. Time for Filing.

5 1. A claim for benefits under ~~this act, other than an~~  
6 ~~occupational disease,~~ the Administrative Workers' Compensation Act  
7 shall be ~~barred unless it is~~ filed with the Workers' Compensation  
8 Commission within:

9 a. one (1) year from the date of the injury,

10 b. two (2) years from the date of injury for an  
11 occupational disease or cumulative trauma, and

12 c. two (2) years from the date of death. ~~If during the~~  
13 ~~one-year period following the filing of the claim the~~  
14 ~~employee receives no weekly benefit compensation and~~  
15 ~~receives no medical treatment resulting from the~~  
16 ~~alleged injury, the claim shall be barred thereafter.~~  
17 ~~For purposes of this section, the date of the injury~~  
18 ~~shall be defined as the date an injury is caused by an~~  
19 ~~accident as set forth in paragraph 9 of Section 2 of~~  
20 ~~this act.~~

21 2. ~~a.~~ ~~A claim for compensation for disability on account of~~  
22 ~~injury which is either an occupational disease or~~  
23 ~~occupational infection shall be barred unless filed~~  
24 ~~with the Commission within two (2) years from the date~~

1 ~~of the last injurious exposure to the hazards of the~~  
2 ~~disease or infection.~~

3 ~~b. A claim for compensation for disability on account of~~  
4 ~~silicosis or asbestosis shall be filed with the~~  
5 ~~Commission within one (1) year after the time of~~  
6 ~~disablement, and the disablement shall occur within~~  
7 ~~three (3) years from the date of the last injurious~~  
8 ~~exposure to the hazard of silicosis or asbestosis.~~

9 ~~e. A claim for compensation for disability on account of~~  
10 ~~a disease condition caused by exposure to X-rays,~~  
11 ~~radioactive substances, or ionizing radiation only~~  
12 ~~shall be filed with the Commission within two (2)~~  
13 ~~years from the date the condition is made known to an~~  
14 ~~employee following examination and diagnosis by a~~  
15 ~~medical doctor.~~

16 ~~3. A claim for compensation on account of death shall be barred~~  
17 ~~unless filed with the Commission within two (2) years of the date of~~  
18 ~~such a death.~~

19 ~~4. If within six (6) months after the filing of a claim for~~  
20 ~~compensation no bona fide request for a hearing has been made with~~  
21 ~~respect to the claim, the claim may, on motion and after hearing, be~~  
22 ~~dismissed with prejudice~~ For the purposes of this section, the date  
23 of injury for an occupational disease or cumulative trauma shall be  
24

1 the date that the employee knew or should have known that the injury  
2 may be related to the employment.

3 B. Time for Filing Additional Compensation.

4 ~~1. In cases in which any compensation, including disability or~~  
5 ~~medical, has been paid on account of injury, a claim for additional~~  
6 ~~compensation shall be barred unless filed with the Commission within~~  
7 ~~one (1) year from the date of the last payment of disability~~  
8 ~~compensation or two (2) years from the date of the injury, whichever~~  
9 ~~is greater~~ If a claim for benefits under this title has been timely  
10 filed with the Commission, any claim for additional benefits must be  
11 filed within three (3) months after the date that the last benefit  
12 was received, except as otherwise prescribed by the treating  
13 physician at the time of the last appointment the employee has with  
14 the treating physician.

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

23 C. ~~A claim for additional compensation shall specifically state~~  
24 ~~that it is a claim for additional compensation. Documents which do~~

1 ~~not specifically request additional benefits shall not be considered~~  
2 ~~a claim for additional compensation.~~

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

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

14 ~~F. Persons under Disability.~~

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

20 ~~2. Subsections A and B of this section shall not apply to a~~  
21 ~~mental mentally incompetent person or a minor so long as the person~~  
22 ~~has no guardian or similar legal representative. The limitations~~  
23 ~~prescribed in subsections A and B of this section shall apply to the~~  
24 ~~mental mentally incompetent person or minor from the date of the~~

1 appointment of a guardian or similar legal representative for that  
2 person, and when no guardian or similar representative has been  
3 appointed, to a minor on reaching the age of majority.

4 ~~C. A latent injury or condition shall not delay or toll the~~  
5 ~~limitation periods specified in this section. This subsection shall~~  
6 ~~not apply to the limitation period for occupational diseases~~  
7 ~~specified in paragraph 2 of subsection A of this section.~~

8 SECTION 54. AMENDATORY Section 70, Chapter 208, O.S.L.  
9 2013 (85A O.S. Supp. 2016, Section 70), is amended to read as  
10 follows:

11 Section 70. The Workers' Compensation Commission is authorized  
12 and directed to promulgate rules to establish and implement a  
13 preliminary conference procedure designed to accomplish the  
14 following objectives:

15 1. To provide the ~~claimant~~ employee an opportunity to confer  
16 with a legal advisor on the staff of the Commission to be advised of  
17 his or her rights under this ~~act~~ title and to ensure that the rights  
18 are protected. The conference shall be held in the county where the  
19 accident occurred, if the accident occurred in this state, unless  
20 otherwise agreed to by the parties, or otherwise directed by the  
21 Commission;

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

24

1 3. To facilitate the resolution of issues without the expense  
2 of litigation or attorney fees for either party; and

3 4. To authorize the legal advisor to approve compromise  
4 settlements entered into while attending or as a result of the  
5 preliminary conference and those joint petition settlements entered  
6 into under Section 87 of this ~~act~~ title. Provided, however, the  
7 same legal advisors shall not both advise the ~~claimant~~ employee and  
8 approve the joint petition.

9 SECTION 55. AMENDATORY Section 71, Chapter 208, O.S.L.  
10 2013 (85A O.S. Supp. 2016, Section 71), is amended to read as  
11 follows:

12 Section 71. A. ~~Notice.~~ Within ten (10) days after a an  
13 Employee's Notice of Claim for Compensation or other claim for  
14 compensation benefits has been filed, the Workers' Compensation  
15 Commission shall notify the employer and any other interested person  
16 of the filing of the claim.

17 B. ~~Investigation — Hearing.~~

18 ~~1.~~ The Commission shall assign the claim to an administrative  
19 law judge who shall hold a ~~hearing on application of any interested~~  
20 ~~party, or on its own motion~~ prehearing conference within seven (7)  
21 days after the filing of the Employee's Notice of Claim for  
22 Compensation or other claim for benefits. At the prehearing  
23 conference, the issue or issues shall be set for trial at a date no  
24 later than sixty (60) days after the prehearing conference.

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. The hearing shall be held in~~  
10 ~~Tulsa or Oklahoma County, as determined by the Commission.~~

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

16       C. Hearings and trials shall not be continued, absent  
17 extraordinary circumstances as determined by the Commission.

18       D. Evidence and Construction.

19       1. a. At the hearing the ~~claimant~~ employee and the employer  
20           may each present evidence relating to the claim.

21           Evidence may be presented by any person authorized in  
22           writing for such purpose. The evidence may include  
23           verified medical reports which shall be accorded such  
24

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

3 b. Any determination of the existence or extent of  
4 physical ~~impairment~~ disability shall be supported by  
5 objective ~~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~~ title.

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.~~ E. 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 confirmation of receipt to the ~~claimant~~  
20 employee and to the employer or to their attorneys.

21 ~~E.~~ F. No compensation for disability of an injured employee  
22 shall 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 G. Conduct of Hearing or Inquiry.

4 1. In making an investigation or inquiry or conducting a  
5 hearing, the administrative law judges and the Commission shall not  
6 be bound by technical or statutory rules of evidence or by technical  
7 or formal rules of procedure, except as provided by this title. The  
8 administrative law judges and the Commission may make such  
9 investigation or inquiry, or conduct the hearing, in a manner as  
10 shall best ascertain the rights of the parties.

11 2. Declarations of a deceased employee concerning the injury  
12 may be received in evidence and may, if corroborated by other  
13 evidence, be sufficient to establish the injury.

14 3. When deciding any issue, administrative law judges and the  
15 Commission shall determine, on the basis of the record as a whole,  
16 whether the party having the burden of proof on the issue has  
17 established the proof by a preponderance of evidence.

18 4. Administrative law judges are required to make specific, on-  
19 the-record findings of ultimate facts responsive to the issues  
20 shaped by the evidence as well as conclusions of law on which  
21 judgment is to be rested.

22 H. Hearings to be Public - Records.

23 1. a. Hearings before the Commission shall be open to the  
24 public and shall be stenographically reported. The

1 Commission is authorized to contract for the reporting  
2 of the hearings.

3 b. The Commission shall, by rule, provide for the  
4 preparation of a record of all hearings and other  
5 proceedings before it.

6 2. The Commission shall not be required to stenographically  
7 report or prepare a record of joint petition hearings. The  
8 administrative law judge or legal advisor shall record the hearing  
9 at no cost to the parties.

10 I. Introduction of Evidence.

11 1. All oral evidence or documentary evidence shall be presented  
12 to the designated representative of the Commission at the initial  
13 hearing on a controverted claim. The oral evidence shall be  
14 stenographically reported. Each party shall present all evidence at  
15 the initial hearing. Further hearings for the purpose of  
16 introducing additional evidence shall be granted only at the  
17 discretion of the hearing officer or Commission. A request for a  
18 hearing for the introduction of additional evidence shall show the  
19 substance of the evidence desired to be presented.

20 2. a. Any party proposing to introduce medical reports or  
21 testimony of physicians at the hearing of a  
22 controverted claim shall, as a condition precedent to  
23 the right to do so, furnish to the opposing party and  
24 to the Commission copies of the written reports of the

1 physicians of their findings and opinions at least  
2 seven (7) days before the date of the hearing. If no  
3 written reports are available to a party, the party  
4 shall notify in writing the opposing party and the  
5 Commission of the name and address of the physicians  
6 proposed to be used as witnesses and the substance of  
7 their testimony at least seven (7) days before the  
8 hearing.

9 b. If the opposing party desires to cross-examine the  
10 physician, he or she should notify the party who  
11 submits a medical report to him or her as soon as  
12 practicable, in order that he or she may make every  
13 effort to have the physician present for the hearing.

14 3. A party failing to observe the requirements of this  
15 subsection may not be allowed to introduce medical reports or  
16 testimony of physicians at a hearing, except in the discretion of  
17 the hearing officer or the Commission.

18 4. The time periods may be waived by the consent of the  
19 parties.

20 J. Expert testimony shall not be allowed unless it satisfies  
21 the requirements of Federal Rule of Evidence 702 with annotations  
22 and amendments.

1 SECTION 56. AMENDATORY Section 77, Chapter 208, O.S.L.  
2 2013 (85A O.S. Supp. 2016, Section 77), is amended to read as  
3 follows:

4 Section 77. If the Workers' Compensation Commission is a party  
5 to or is otherwise interested in a court proceeding under this ~~act~~  
6 title, it may employ attorneys to appear on its behalf. If  
7 requested by the Commission, it shall be the duty of the Attorney  
8 General or the ~~prosecuting~~ district attorneys of the different  
9 districts to represent the Commission without extra compensation.

10 SECTION 57. AMENDATORY Section 78, Chapter 208, O.S.L.  
11 2013 (85A O.S. Supp. 2016, Section 78), is amended to read as  
12 follows:

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

23 B. The chair of the Commission shall have the authority to  
24 appoint an administrative law judge to the en banc panel when any

1 Commissioner of the Commission is disqualified for any reason, to  
2 fill a vacancy, or in the absence of a Commissioner; provided, the  
3 appointed administrative law judge shall not have presided over any  
4 of the previous hearings on the claim.

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

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

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

1           6. Arbitrary or capricious;

2           7. Procured by fraud; or

3           8. Missing findings of fact on issues essential to the  
4 decision.

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

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

1 or award, the fee shall be paid by the party whose petition in error  
2 commences the principal appeal.

3 SECTION 58. AMENDATORY Section 82, Chapter 208, O.S.L.  
4 2013 (85A O.S. Supp. 2016, Section 82), is amended to read as  
5 follows:

6 Section 82.

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

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

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

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

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

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

15 c. A "controverted claim" means ~~that there has been a~~  
16 ~~contested hearing before the Commission over whether~~  
17 ~~there has been a compensable injury or whether the~~  
18 ~~employee is entitled to~~ a claim for which the employer  
19 has denied compensability or denied the payment of  
20 temporary total disability, temporary partial  
21 disability, permanent partial disability, permanent  
22 total disability, or death compensation. A request  
23 for a change in physician shall not trigger a  
24 controverted claim for purposes of recovering any



1 attorney fees except the fees under division 3 of  
2 subparagraph b of this paragraph. A controverted  
3 claim shall not exist if the employee or his or her  
4 representative has withheld pertinent information in  
5 his or her possession related to the claim from the  
6 employer or has violated the provisions of Section 6  
7 of this ~~act~~ title.

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

15 3. In any case where attorney fees are allowed by the  
16 Commission, the limitations expressed in subparagraph b of paragraph  
17 1 of this subsection shall apply.

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

21 B. An attorney representing an employee under this ~~act~~ title  
22 may not recover fees for services except as expressly provided in  
23 this section.

1 SECTION 59. AMENDATORY Section 85, Chapter 208, O.S.L.  
2 2013 (85A O.S. Supp. 2016, Section 85), is amended to read as  
3 follows:

4 Section 85. Clean claims for services rendered under this ~~act~~  
5 title are payable within thirty (30) days after receipt by the  
6 employer unless disputed as to compensability or amount. "Clean  
7 claim" means a claim that has no defect or impropriety, including a  
8 lack of any required substantiating documentation, or particular  
9 circumstance requiring special treatment that impedes prompt  
10 payment.

11 SECTION 60. AMENDATORY Section 86, Chapter 208, O.S.L.  
12 2013 (85A O.S. Supp. 2016, Section 86), is amended to read as  
13 follows:

14 Section 86. A. 1. Each employer desiring to controvert an  
15 employee's right to compensation shall file with the Workers'  
16 Compensation Commission on or before the fifteenth day following  
17 notice of the alleged injury or death a statement on a form  
18 prescribed by the Commission that the right to compensation is  
19 controverted and the grounds for the controversion, the names of the  
20 ~~claimant~~ employee, employer, and carrier, if any, and the date and  
21 place of the alleged injury or death.

22 2. Failure to file the statement of controversion shall not  
23 preclude the employer's ability to controvert the claim or cause it  
24

1 to waive any defenses. The employer can make additional defenses  
2 not included in the initial notice at any time.

3 B. If an employer is unable to obtain sufficient medical  
4 information as to the alleged injury or death within fifteen (15)  
5 days following receipt of notice, although the employer has acted in  
6 good faith and with all due diligence, the employer may apply in  
7 writing for an extension of time for making payment of the first  
8 installment or controverting the claim. This written application is  
9 to be postmarked within the fifteen-day period. The Commission may,  
10 in its discretion, grant the extension and fix the additional time  
11 to be allowed. Filing of application for an extension shall not be  
12 deemed to be a controversion of the claim.

13 C. The provisions in subsection B of this section shall not  
14 apply in cases where the physician is an employee of, on retainer  
15 with, or has a written contract to provide medical services for the  
16 employer.

17 SECTION 61. AMENDATORY Section 87, Chapter 208, O.S.L.  
18 2013 (85A O.S. Supp. 2016, Section 87), is amended to read as  
19 follows:

20 Section 87. A. If the employer or carrier and the injured  
21 employee desire to settle the claim, they shall file a joint  
22 petition for settlement with the Workers' Compensation Commission.  
23 After the joint petition has been filed, the Commission shall order  
24

1 that all claims between the parties have been settled. No appeal  
2 shall lie from a judgment or award denying a joint petition.

3 B. The Commission shall not approve a joint petition or other  
4 settlement that provides for the payment of benefits in a lump sum  
5 except as otherwise provided in this title.

6 SECTION 62. AMENDATORY Section 89, Chapter 208, O.S.L.  
7 2013 (85A O.S. Supp. 2016, Section 89), is amended to read as  
8 follows:

9 Section 89. If the employer has made advance payments for  
10 compensation, the employer shall be entitled to be reimbursed out of  
11 any unpaid installment or installments of compensation due. If the  
12 injured employee receives full wages during disability, he or she  
13 shall not be entitled to compensation during the period. Any wages  
14 paid by the employer, over the statutory temporary disability  
15 maximum, shall be deducted from the permanent partial disability  
16 award. Such deduction shall be made after any such applicable  
17 attorney fee and any such assessment made pursuant to Sections 45  
18 and 46 of this ~~act~~ title have been paid.

19 SECTION 63. AMENDATORY Section 91, Chapter 208, O.S.L.  
20 2013 (85A O.S. Supp. 2016, Section 91), is amended to read as  
21 follows:

22 Section 91. Compensation shall bear interest pursuant to  
23 Section 727.1 of Title 12 of the Oklahoma Statutes from the day an  
24 award is made by either an administrative law judge or the ~~full~~

1 Workers' Compensation Commission on all accrued and unpaid  
2 compensation.

3 SECTION 64. AMENDATORY Section 94, Chapter 208, O.S.L.  
4 2013 (85A O.S. Supp. 2016, Section 94), is amended to read as  
5 follows:

6 Section 94. An employee who is incarcerated shall not be  
7 eligible to receive medical or disability benefits under this ~~aet~~  
8 title.

9 SECTION 65. AMENDATORY Section 95, Chapter 208, O.S.L.  
10 2013 (85A O.S. Supp. 2016, Section 95), is amended to read as  
11 follows:

12 Section 95. A. On approval by the Insurance Commissioner, and  
13 following the adoption of such rules as the Insurance Commissioner  
14 deems necessary, each insurer issuing a policy under this ~~aet~~ title  
15 shall offer, as a part of the policy or as an optional endorsement  
16 to the policy, deductibles optional to the policyholder for benefits  
17 payable under this ~~aet~~ title. Deductible amounts offered shall be  
18 fully disclosed to the prospective policyholder in writing. The  
19 policyholder exercising the deductible option shall choose only one  
20 deductible amount.

21 B. Optional deductibles shall be offered in each policy  
22 insuring liability for workers' compensation that is issued,  
23 delivered, issued for delivery, or renewed under this ~~aet~~ title on  
24 or after approval by the Insurance Commissioner, unless an insured

1 employer and insurer agree to renegotiate a workers' compensation  
2 policy in effect on that date so as to include a provision allowing  
3 for a deductible.

4 C. If the policyholder exercises the option and chooses a  
5 deductible, the insured employer shall be liable for the amount of  
6 the deductible for benefits paid for each compensable claim of work  
7 injury suffered by an employee. The insurer shall pay all or part  
8 of the deductible amount, whichever is applicable to a compensable  
9 claim, to the person or medical provider entitled to the benefits  
10 conferred by this ~~act~~ title and seek reimbursement from the insured  
11 employer for the applicable deductible amount. The payment or  
12 nonpayment of deductible amounts by the insured employer to the  
13 insurer shall be treated under the policy insuring the liability for  
14 workers' compensation in the same manner as payment or nonpayment of  
15 premiums.

16 D. If the Insurance Commissioner determines it to be feasible,  
17 and under such rules as he or she may adopt, premium reduction for  
18 deductibles may be determined before the application of any  
19 experience modification, premium surcharge, or premium discounts,  
20 and, to the extent that an employer's experience rating or safety  
21 record is based on benefits paid, money paid by the insured employer  
22 under a deductible as provided in this section may not be included  
23 as benefits paid so as to harm the experience rating of the  
24 employer.

1 E. This section shall not apply to employers who are approved  
2 to self-insure against liability for workers' compensation or group  
3 self-insurance funds for workers' compensation.

4 SECTION 66. AMENDATORY Section 98, Chapter 208, O.S.L.  
5 2013, as amended by Section 4, Chapter 169, O.S.L. 2014 (85A O.S.  
6 Supp. 2016, Section 98), is amended to read as follows:

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

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

13 2. ~~Until~~ In the event that the Self-insurance Guaranty Fund  
14 contains ~~Two Million Dollars (\$2,000,000.00) or in the event the~~  
15 ~~amount in the fund falls below One Million Dollars (\$1,000,000.00)~~  
16 Eight Hundred Thousand Dollars (\$800,000.00) or less, an assessment  
17 levied by the Workers' Compensation Commission against each private  
18 self-insurer and group self-insurance association based on an  
19 assessment rate to be determined by the commissioners, not exceeding  
20 ~~one percent (1%)~~ two percent (2%) of actual paid losses of the self-  
21 insurer during the preceding calendar year, payable to the Tax  
22 Commission for deposit to the fund. The assessment against private  
23 self-insurers shall be determined using a rate equal to the  
24 proportion that the deficiency in the fund attributable to private

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

16 a. The assessment shall be paid within thirty (30)  
17 calendar days after the date the commissioners notify  
18 the self-insurer of the assessment.

19 b. A private employer or group self-insurance association  
20 which ceases to be a self-insurer shall remain liable  
21 for any and all assessments of the self-insurer as  
22 provided in this paragraph based on actual paid losses  
23 for the calendar year period preceding the assessment.

24



1 c. Failure of a self-insurer to pay, or timely pay, an  
2 assessment required by this paragraph, or to report  
3 payment of the same to the Commission within ten (10)  
4 days of payment, shall be grounds for revocation by  
5 the Commission of the self-insurer's permit to self-  
6 insure in this state, after notice and hearing. A  
7 former self-insurer failing to make payments required  
8 by this paragraph promptly and correctly, or failing  
9 to report payment of the same to the Commission within  
10 ten (10) days of payment, shall be subject to  
11 administrative penalties as allowed by law, including  
12 but not limited to, a fine in the amount of Five  
13 Hundred Dollars (\$500.00) or an amount equal to one  
14 percent (1%) of the unpaid amount, whichever is  
15 greater, to be paid and deposited to the credit of the  
16 Workers' Compensation Fund created in Section 28 of  
17 this title. It shall be the duty of the Tax  
18 Commission to collect the assessment provided for in  
19 this paragraph. The Tax Commission is authorized to  
20 bring an action for recovery of any delinquent or  
21 unpaid assessments, and may enforce payment of the  
22 assessment by proceeding in accordance with Section 79  
23 of this title.  
24

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

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

11 3. Any excess funds, including interest thereon, transferred to  
12 the Self-insurance Guaranty Fund, as provided in subsection D of  
13 Section 99 of this title; and

14 4. Any interest accruing on monies paid into the fund.

15 SECTION 67. AMENDATORY Section 99, Chapter 208, O.S.L.  
16 2013, as amended by Section 5, Chapter 169, O.S.L. 2014 (85A O.S.  
17 Supp. 2016, Section 99), is amended to read as follows:

18 Section 99. On determination by the Workers' Compensation  
19 Commission that a self-insurer has become an impaired self-insurer,  
20 the Commission shall secure release of the security required by  
21 Section 38 of this title ~~and~~, advise the Self-insurance Guaranty  
22 Fund Board of the impairment and transfer the proceeds of the  
23 security to the Self-insurance Guaranty Fund Board to be maintained  
24 in a segregated interest-bearing division special agency account for

1 administering workers' compensation obligations of the impaired  
2 self-insurer. The Self-insurance Guaranty Fund Board shall be the  
3 fiduciary of the account. ~~Claims administration, including~~  
4 ~~processing, investigating and paying valid claims against an~~  
5 ~~impaired self-insurer under the Administrative Workers' Compensation~~  
6 ~~Act, may include payment by the surety that issued the surety bond~~  
7 ~~or be under a contract between the Commission and an insurance~~  
8 ~~carrier, appropriate state governmental entity or an approved~~  
9 ~~service organization, as approved by the Commission.~~

10 B. Proceeds from the released security, including interest  
11 thereon, shall be used by the Board to administer the workers'  
12 compensation obligations of the impaired self-insurer. Claims  
13 administration includes, but is not limited to, processing,  
14 investigating and paying claims, actuarial studies, attorney fees  
15 incurred for filing a proof of claim in the bankruptcy of the  
16 impaired self-insurer, and a pro rata portion of the staff expenses  
17 of the Self-insurance Guaranty Fund Board.

18 C. Any unexpended funds, including interest thereon, held by  
19 the State Treasurer in an interest-bearing account on the effective  
20 date of this act from which an impaired self-insurer's workers'  
21 compensation obligations are paid, shall be transferred to the  
22 Board. Such funds shall be expended by the Board only for the  
23 purpose of administering the workers' compensation obligations of  
24

1 the impaired self-insurer and as otherwise authorized in subsection  
2 D of this section.

3 D. Except as otherwise provided by law or by agreement of the  
4 parties, excess proceeds from the security remaining after each  
5 claim for benefits of an impaired self-insurer has been paid,  
6 settled or lapsed under the Administrative Workers' Compensation Act  
7 and costs of administration of such claims have been paid, as  
8 determined by the Self-insurance Guaranty Fund Board, shall be  
9 transferred to the Self-insurance Guaranty Fund by the Board.

10 SECTION 68. AMENDATORY Section 101, Chapter 208, O.S.L.  
11 2013 (85A O.S. Supp. 2016, Section 101), is amended to read as  
12 follows:

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

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

7 C. To assist the Commission in developing and implementing the  
8 EDI system, there is hereby created the Oklahoma Workers'  
9 Compensation Electronic Data Interchange Advisory Committee. Within  
10 thirty (30) days ~~of the effective date of this act~~ after February 1,  
11 2014, the Governor shall appoint five persons to serve as members of  
12 the advisory committee, one of whom shall be selected by the  
13 Governor as chair. The chair shall provide adequate notice of  
14 meetings of the advisory committee and public hearings as required  
15 by law.

16 SECTION 69. AMENDATORY Section 102, Chapter 208, O.S.L.  
17 2013 (85A O.S. Supp. 2016, Section 102), is amended to read as  
18 follows:

19 Section 102. A. The Workers' Compensation Commission shall  
20 adopt rules permitting two or more employers, not otherwise subject  
21 to the provisions of Section ~~150~~ 107 of this ~~act~~ title, to pool  
22 together liabilities under this ~~act~~ title for the purpose of  
23 qualifying as a group self-insurer and each such employer shall be  
24 classified as a self-insurer.

1 B. The Commission shall approve the distribution of all  
2 undistributed policyholders' surplus of a Workers' Compensation  
3 Self-Insurance Program if the Program complies with the following  
4 criteria:

5 1. Has been in business for at least five (5) years;

6 2. Has its financial statements audited by a public accounting  
7 firm which audits at least one corporate client which has assets in  
8 excess of One Billion Dollars (\$1,000,000,000.00) and on which the  
9 accounting firm has issued an unqualified opinion as to the fair  
10 presentation of the financial position of the Program showing  
11 adequate solvency and reserves; and

12 3. Is in compliance with the provisions of this ~~act~~ title and  
13 all other regulations as required by the Commission.

14 C. A group self-insurer created pursuant to this section either  
15 prior to or after ~~the effective date of this act~~ February 1, 2014,  
16 shall not be subject to the provisions of the Oklahoma Securities  
17 Act.

18 SECTION 70. AMENDATORY Section 103, Chapter 208, O.S.L.  
19 2013 (85A O.S. Supp. 2016, Section 103), is amended to read as  
20 follows:

21 Section 103. The Workers' Compensation Commission shall adopt  
22 rules permitting two or more group self-insurance associations to  
23 pool their liabilities under this ~~act~~ title for the purpose of  
24

1 providing such group self-insurance associations specific and  
2 aggregate excess insurance.

3 SECTION 71. AMENDATORY Section 104, Chapter 208, O.S.L.  
4 2013 (85A O.S. Supp. 2016, Section 104), is amended to read as  
5 follows:

6 Section 104. No member or personnel of the Workers'  
7 Compensation Commission, the Self-insurance Guaranty Fund Board, or  
8 administrative law judge shall be liable in a civil proceeding for  
9 any act performed in good faith in the performance of that person's  
10 powers or duties under this ~~act~~ title.

11 SECTION 72. AMENDATORY Section 105, Chapter 208, O.S.L.  
12 2013 (85A O.S. Supp. 2016, Section 105), is amended to read as  
13 follows:

14 Section 105. A. No employee of the Workers' Compensation  
15 Commission shall be competent to testify on any matter concerning  
16 any information the employee has received through the performance of  
17 the employee's duties under the provisions of this ~~act~~ title.

18 B. The commissioners and employees of the Commission shall not  
19 solicit employment for any attorney or physician nor shall they  
20 recommend or refer any ~~claimant~~ employee or employer to an attorney  
21 or physician. If any employee of the Commission makes such a  
22 solicitation, recommendation or reference, that person, upon  
23 conviction, shall be guilty of a misdemeanor punishable, for each  
24 offense, by a fine of not more than One Thousand Dollars (\$1,000.00)

1 or by imprisonment in the county jail not to exceed one (1) year, or  
2 by both such fine and imprisonment. The Commission shall  
3 immediately terminate the employment of any employee who is guilty  
4 of such solicitation, recommendation or reference. A commissioner  
5 guilty of such solicitation, recommendation or reference shall be  
6 subject to removal from office.

7 C. No administrative law judge shall engage in any ex parte  
8 communication with any party to an action pending before the  
9 Commission or with any witness or medical provider regarding the  
10 merits of a specific matter pending before the judge for resolution.  
11 Any violation of this provision shall subject the judge to  
12 disqualification from the action or matter upon presentation of an  
13 application for disqualification.

14 SECTION 73. AMENDATORY Section 150, Chapter 208, O.S.L.  
15 2013 (85A O.S. Supp. 2016, Section 107), is amended to read as  
16 follows:

17 Section 107. A. 1. All public entities of this state, their  
18 agencies and instrumentalities, authorities, and public trusts of  
19 which they are beneficiaries shall provide workers' compensation to  
20 their employees and elected officials engaged in either governmental  
21 or proprietary functions in accordance with this section.  
22 Compensation or indemnification for compensation shall be paid out  
23 of the funds of the public entities.

24



1           2. Except as otherwise provided, the state and all its  
2 institutions of higher education, departments, instrumentalities,  
3 institutions, and public trusts of which it or they are  
4 beneficiaries shall insure against liability for workers'  
5 compensation with CompSource Oklahoma and shall not be permitted to  
6 insure with any other insurance carrier unless:

7           a. CompSource Oklahoma refuses to accept the risk when  
8 the application for insurance is made,

9           b. specifically authorized by law,

10          c. the state entity can obtain workers' compensation  
11 insurance coverage at the same cost or at a lower cost  
12 from another insurance carrier licensed in this state,  
13 or

14          d. CompSource Oklahoma begins operating as a mutual  
15 insurance company.

16          3. a. The state, all state institutions of higher education  
17 except comprehensive universities, and all state  
18 departments, instrumentalities, institutions, and  
19 public trusts of which the state is a beneficiary, may  
20 self-insure. Self-insurance administration may only  
21 be obtained through CompSource Oklahoma, unless  
22 CompSource Oklahoma begins operating as a mutual  
23 insurance company.

1           b.    If CompSource Oklahoma begins operating as a mutual  
2           insurance company:

3           (1)   the state, all state institutions of higher  
4           education except comprehensive universities, and  
5           all state departments, instrumentalities,  
6           institutions, and public trusts so electing to  
7           self-insure shall pay premiums set by CompSource  
8           Oklahoma which shall collect premiums, pay claims  
9           and provide for excess insurance, and

10          (2)   all dividends or profits accumulating from a  
11          self-insurance program shall be refunded to the  
12          participants on a formula devised by CompSource  
13          Oklahoma.

14          B.    All counties, cities and towns, their instrumentalities and  
15          public trusts of which they are beneficiaries shall insure against  
16          their liability for workers' compensation with CompSource Oklahoma  
17          or, through any combination of the following, may:

18           1.    Insure with an insurance carrier licensed in this state;

19           2.    Self-insure and make any appropriation of funds to cover  
20          their risk;

21           3.    Secure reinsurance or excess insurance over and above a  
22          self-insurance retention in any manner authorized by subsections B  
23          and C of Section 167 of Title 51 of the Oklahoma Statutes; or  
24

1 4. Secure compensation for their employees in the manner  
2 provided in The Governmental Tort Claims Act, subsection C of  
3 Section 167 of Title 51 of the Oklahoma Statutes.

4 C. Boards of education, their instrumentalities and public  
5 trusts of which they are beneficiaries shall insure against their  
6 liability for workers' compensation through any combination of the  
7 following:

8 1. Insure with an insurance carrier licensed in Oklahoma;

9 2. Self-insure and make any appropriation of funds to cover  
10 their risk; or

11 3. Secure reinsurance or excess insurance over and above a  
12 self-insurance retention in any manner authorized by subsection B of  
13 Section 168 of Title 51 of the Oklahoma Statutes.

14 D. Comprehensive universities shall insure against their  
15 liability for workers' compensation with CompSource Oklahoma or, if  
16 it can be demonstrated to the Board of Regents of the comprehensive  
17 university prior to the inception date of a workers' compensation  
18 policy that the policy will result in a lower cost than one with  
19 CompSource Oklahoma or if CompSource Oklahoma begins operating as a  
20 mutual insurance company, through any combination of the following:

21 1. Insure with an insurance carrier licensed in Oklahoma; or

22 2. Self-insurance, making any appropriation of funds to cover  
23 their risk.

24

1 E. In addition to any other provision of this section, city,  
2 county, city-county, and public trust hospitals may insure with  
3 other insurance carriers licensed in this state if it can be  
4 demonstrated to the governing body of the hospital prior to the  
5 inception date of a workers' compensation policy each year that the  
6 policy will result in a lower cost than one with CompSource Oklahoma  
7 or if CompSource Oklahoma begins operating as a mutual insurance  
8 company.

9 F. For purposes of this ~~act~~ title, all contracts of employment  
10 for state, county, municipal, and state-funded educational entities  
11 and public trusts will be considered to have been entered into in  
12 this state regardless of where the work is performed.

13 G. When a person is employed by the state, a municipality, a  
14 county, or by any political subdivision thereof, and, while off-duty  
15 from the employment, is employed by a private employer, the private  
16 employer alone shall be liable for compensation under this ~~act~~ title  
17 for any injury or death of the person arising out of and in the  
18 course of employment which occurs during the hours of actual  
19 employment by the private employer. The provisions of this  
20 subsection shall not relieve the state, a municipality or a county,  
21 or any political subdivision thereof, from providing disability  
22 benefits to which a person may be entitled pursuant to a pension or  
23 retirement plan. The provisions of this subsection shall not  
24 preclude an employee or group of employees so employed from

1 providing separate compensation coverage for off-duty employment by  
2 a private employer.

3 SECTION 74. AMENDATORY Section 151, Chapter 208, O.S.L.  
4 2013 (85A O.S. Supp. 2016, Section 108), is amended to read as  
5 follows:

6 Section 108. Any ~~claimant~~ employee may, upon the payment of the  
7 Workers' Compensation Commission's filing fee, dismiss any claim  
8 brought by the ~~claimant~~ employee at any time before final submission  
9 of the case to the Commission for decision. Such dismissal shall be  
10 without prejudice unless the words "with prejudice" are included in  
11 the order. If any claim that is filed within the statutory time  
12 permitted by Section 18 of this ~~act~~ title is dismissed without  
13 prejudice, a new claim may be filed within one (1) year after the  
14 entry of the order dismissing the first claim even if the statutory  
15 time for filing has expired.

16 SECTION 75. AMENDATORY Section 152, Chapter 208, O.S.L.  
17 2013 (85A O.S. Supp. 2016, Section 109), is amended to read as  
18 follows:

19 Section 109. A. The Workers' Compensation Commission shall  
20 establish a workers' compensation counselor or ombudsman program to  
21 assist injured ~~workers~~ employees, employers and persons claiming  
22 death benefits in obtaining benefits under this ~~act~~ title. A  
23 special effort shall be made to equip counselors or ombudsmen with  
24

1 sufficient resources to assist injured ~~workers~~ employees through the  
2 system without the necessity of retaining legal representation.

3 B. Workers' compensation counselors or ombudsmen shall provide  
4 information to injured ~~workers~~ employees; investigate complaints;  
5 communicate with employers, insurance carriers, self-insurers, and  
6 health care providers; provide informational seminars and workshops  
7 on workers' compensation for medical providers, insurance adjustors,  
8 and employee and employer groups; and develop informational  
9 materials for employees, employers and medical providers.

10 C. ~~The~~ Upon request, the Commission shall mail ~~a notice to the~~  
11 ~~injured worker within ten (10) days of the filing of an Employer's~~  
12 ~~First Notice of Injury. The notice shall advise the injured worker~~  
13 ~~of~~ information to the injured employee about the availability of the  
14 services of the Commission's counselor or ombudsman program and of  
15 the availability of mediation and other forms of alternative dispute  
16 resolution to assist the injured ~~worker~~ employee. The Commission  
17 shall provide additional information as the Commission may determine  
18 necessary.

19 D. The Commission shall develop a program that provides for  
20 annual training for own-risk employers and claims representatives  
21 handling workers' compensation claims in Oklahoma. The training  
22 shall include information about the alternative dispute resolution  
23 program, including counselor and ombudsman programs, mediation, and  
24 other services provided by the Commission.

1 SECTION 76. AMENDATORY Section 153, Chapter 208, O.S.L.  
2 2013 (85A O.S. Supp. 2016, Section 110), is amended to read as  
3 follows:

4 Section 110. A. The Workers' Compensation Commission shall  
5 develop an alternative dispute resolution program which affords an  
6 injured employee the opportunity to obtain benefits by request or  
7 informal procedure. The program shall include an increased emphasis  
8 on making mediation and other alternative dispute resolution  
9 programs affordable and convenient to an injured employee not  
10 represented by counsel.

11 B. Participation in an alternative dispute resolution program  
12 is not a prerequisite to the commencement of a claim for benefits  
13 under this ~~act~~ title. A request for alternative dispute resolution  
14 or a consent to participate in such program does not invoke the  
15 jurisdiction of the Commission.

16 C. Mediation shall be voluntary, informal, and nonbinding in  
17 any claim arising pursuant to the provisions of this ~~act~~ title,  
18 except for claims against the Multiple Injury Trust Fund and medical  
19 treatment issues subject to a certified workplace medical plan.  
20 Provided, however, the parties may waive mediation and proceed  
21 directly to an administrative hearing.

22 D. A Commission mediator, appointed by the Commission, shall  
23 conduct an informal mediation between the parties in regard to  
24 claims for a closed period of lost time where the employee has

1 returned to work, for medical benefits only, for reimbursement of  
2 travel expenses and medical treatment, in cases in which the  
3 employee is not represented by an attorney, or there is no record of  
4 insurance coverage. Such mediation shall be conducted by the  
5 Commission mediator within thirty (30) days of the filing of a  
6 request for any such benefit.

7 E. Upon the filing of a request for an administrative hearing  
8 on issues not specifically listed in subsection D of this section,  
9 the Commission shall set the case for prehearing before the assigned  
10 judge within fifteen (15) days. At the prehearing, the  
11 administrative law judge shall accept a waiver of mediation by the  
12 parties or appoint a mediator and issue an order reflecting such  
13 appointment. The mediator shall contact the parties and schedule a  
14 mediation session within thirty (30) days of such order, unless  
15 otherwise agreed to by the parties.

16 F. Mediation is confidential and no part of the proceeding  
17 shall be considered a matter of public record. Recommendations of  
18 the mediator are not binding unless the parties enter into a  
19 settlement agreement. If an agreement is not reached, the results  
20 and statements made during the mediation are not admissible in any  
21 following proceeding.

22 G. The Commission shall be responsible for certifying those  
23 persons who are eligible and qualified to serve as mediators. An  
24 individual may be certified as a mediator if the applicant meets the



1 qualifications as required by the Commission. A certified mediator  
2 may be an attorney or nonattorney who has worked in the area of  
3 Oklahoma workers' compensation benefits for at least five (5) years.  
4 Mediators serving as Commission-certified mediators on the effective  
5 date of this section shall serve the remainder of their respective  
6 five-year certification periods and may reapply for successive  
7 certification periods.

8 H. Each certified mediator shall remain on the list for five  
9 (5) years, unless removed. Mediators shall be required to complete  
10 at least six (6) hours of continuing education per two-year period  
11 in the areas of mediation and workers' compensation. Proof of  
12 compliance with this requirement shall be submitted to the  
13 Commission. This continuing education requirement shall be in  
14 addition to any other such general requirement which may be required  
15 by the Oklahoma State Bar Association. Cost of continuing education  
16 is to be borne by the applicant.

17 I. Mediators shall be compensated at the rate or fee as  
18 determined by the mediator; provided, however, the rate or fee shall  
19 not exceed a maximum rate to be established by the Commission by  
20 rule. The cost of mediation shall be paid by the respondent or its  
21 insurance carrier. A mediator must schedule mediations for a  
22 minimum two-hour block of time, and may not schedule more than one  
23 mediation to take place at a time.

24

1 J. At the time of a mediation, the ~~claimant~~ employee shall be  
2 in attendance unless all parties agree, and all parties shall be  
3 represented during the entire mediation session by a person with  
4 full settlement authority to settle any issue of the claim. If a  
5 party does not have full settlement authority, or does not  
6 participate in good faith in the mediation process, the mediator  
7 shall report to the assigned administrative law judge of the  
8 Commission who may for good cause shown assess costs, attorney fees,  
9 and sanctions.

10 K. To encourage early resolution of claims, an injured employee  
11 may participate in mediation without counsel. Upon compromise  
12 settlement of the claim, the parties may submit the settlement  
13 agreement to any administrative law judge for final approval.

14 SECTION 77. AMENDATORY Section 154, Chapter 208, O.S.L.  
15 2013 (85A O.S. Supp. 2016, Section 111), is amended to read as  
16 follows:

17 Section 111. A. ~~Any claim for any benefit under this act shall~~  
18 ~~be commenced with the~~ If any employee is denied any rights under  
19 this title, he or she may challenge the denial by filing of an  
20 Employee's First Notice of Claim for Compensation by the employee  
21 with the Workers' Compensation Commission. The claim shall contain  
22 a The Employee's First Notice of Claim for Compensation shall be on  
23 a form prescribed by the Commission and shall require the following  
24 information:

1        1. A description of the alleged injury, including the affected  
2 body parts;

3        2. A description of the employee's claim for benefits,  
4 including the rights alleged to have been denied by the employer;

5        3. The section of this title which is the basis for the  
6 employee's claim; and

7        4. A statement that all matters stated therein are true and  
8 accurate and shall be signed by the ~~claimant~~ employee and the  
9 ~~claimant's~~ employee's agent, if any. Any person who signs this  
10 statement or causes another to sign this statement knowing the  
11 statement to be false shall be guilty of perjury. An individual who  
12 signs on behalf of a ~~claimant~~ employee may be presumed to have  
13 the authorization of the ~~claimant~~ employee and to be acting at the  
14 ~~claimant's~~ employee's direction.

15 If the Employee's First Notice of Claim for Compensation does not  
16 contain the required information, it shall be rejected by the  
17 Commission.

18        B. If an employer controverts any issue related to the  
19 Employee's First Notice of Claim for Compensation, the employer  
20 shall file a Notice of Contested Issues on a form prescribed by the  
21 Commission. All answers and defenses to claims or other documents  
22 filed on behalf of a respondent or the respondent's insurer in a  
23 workers' compensation case shall contain a statement that all  
24 matters stated therein are true and accurate and shall be signed by

1 the respondent, the insurer, or their respective agents, if any.  
2 Any person who signs such a statement or causes another to sign such  
3 a statement, knowing the statement to be false, shall be guilty of  
4 perjury. An individual who signs on behalf of a respondent, its  
5 insurer, or its agent may be presumed to have the authorization of  
6 the respondent, its insurer or agent and to be acting at their  
7 direction.

8 ~~C. Any party shall have the right to request a prehearing~~  
9 ~~conference or administrative hearing before the Commission on any~~  
10 ~~issue. The Commission shall, within seven (7) days of the receipt~~  
11 ~~of such notification, set the matter for prehearing conference or~~  
12 ~~administrative hearing at the earliest available time. In the event~~  
13 ~~the compensability of a claim is contested, the respondent shall~~  
14 ~~complete discovery and secure a medical evaluation of the claimant~~  
15 ~~within sixty (60) days of the filing of a request for benefits.~~

16 SECTION 78. AMENDATORY Section 155, Chapter 208, O.S.L.  
17 2013 (85A O.S. Supp. 2016, Section 112), is amended to read as  
18 follows:

19 Section 112. A. The Workers' Compensation Commission shall  
20 create, maintain and review a list of licensed physicians who shall  
21 serve as independent medical examiners from a list of licensed  
22 physicians who have completed such course study as the Commission  
23 may require. An independent medical examiner must agree to examine  
24 an employee within forty-five (45) days of appointment. The

1 Commission shall, to the best of its ability, include the most  
2 experienced and competent physicians in the specific fields of  
3 expertise utilized most often in the treatment of injured employees.  
4 The period of qualification shall be two (2) years. Physicians may  
5 be qualified for successive two-year periods. Physicians serving as  
6 independent medical examiners on ~~the effective date of this act~~  
7 February 1, 2014, shall serve the remainder of their respective two-  
8 year qualification periods and may reapply for successive  
9 qualification periods. The Commission may remove an independent  
10 medical examiner from the list for cause.

11 B. An administrative law judge may appoint an independent  
12 medical examiner to assist in determining any issue before the  
13 Commission. In the event surgery is recommended by a treating  
14 physician, upon request of the employer, an independent medical  
15 examiner shall be appointed to determine the reasonableness and  
16 necessity of the recommended surgery. Such independent medical  
17 examiner shall be qualified to perform the type of surgery  
18 recommended.

19 C. An independent medical examiner shall be selected from the  
20 list of independent medical examiners within ten (10) days when the  
21 employer or the employee petitions the Commission for the selection  
22 of an independent medical examiner. The independent medical  
23 examiner shall be certified by a recognized specialty board in the  
24 area or areas appropriate to the condition under review.

1 D. The Commission shall, to the best of its ability, maintain a  
2 geographic balance of independent medical examiners.

3 E. Counsel for the employee and employer are responsible for  
4 transmittal of the employee's medical records to the independent  
5 medical examiner within ten (10) days of appointment.

6 F. After a physical examination and review of medical records  
7 and other appropriate information, including depositions and  
8 surveillance video, the independent medical examiner shall submit a  
9 verified written report to the Commission and to the parties. In  
10 the event the independent medical examiner determines that more  
11 medical treatment is necessary, the employer shall designate a  
12 treating physician to provide the indicated treatment.

13 G. Any independent medical examiner selected pursuant to the  
14 provisions of this section shall be reimbursed for the medical  
15 examination, reports and fees in a reasonable and customary amount  
16 set by the Commission, and these costs shall be borne by the  
17 employer.

18 H. The Commission shall create a review process to oversee on a  
19 continuing basis the quality of performance and the timeliness of  
20 the submission of medical findings by independent medical examiners.

21 I. If the Commission does not follow the opinion of the  
22 independent medical examiner on any issue, the administrative law  
23 judge or member of the Board of Review shall set out its reasons for  
24 deviating from the opinion of the independent medical examiner. The

1 opinion of the independent medical examiner shall be followed unless  
2 there is clear and convincing evidence to the contrary.

3 J. Upon receipt of an independent medical examiner's report,  
4 any party shall have the right to object to the introduction of the  
5 report into evidence. The objection must be made by giving written  
6 notification to all parties and to the Commission within ten (10)  
7 days after receipt of the report. The employer shall be responsible  
8 for the reasonable charges of the physician for such testimony,  
9 preparation time, and the expense of the deposition.

10 SECTION 79. AMENDATORY Section 156, Chapter 208, O.S.L.  
11 2013 (85A O.S. Supp. 2016, Section 113), is amended to read as  
12 follows:

13 Section 113. For cases not covered by a certified workplace  
14 medical plan, and where the employer, insurance company, or own-risk  
15 employer do not provide case management, case management may be  
16 granted by the Workers' Compensation Commission on the request of  
17 any party, or when the Commission determines that case management is  
18 appropriate. The administrative law judge shall appoint a case  
19 manager from a list of qualified case managers developed, maintained  
20 and periodically reviewed by the Commission. The period of  
21 qualification shall be two (2) years. Case managers may be  
22 qualified for successive two-year periods. Case managers serving as  
23 qualified case managers on ~~the effective date of this act~~ February  
24 1, 2014, shall serve the remainder of their respective two-year

1 qualification periods and may reapply for successive qualification  
2 periods. The reasonable and customary charges of a medical case  
3 manager appointed by the Commission shall be borne by the employer  
4 or insurance carrier. One change of case manager per party shall be  
5 made upon application of any party.

6 SECTION 80. AMENDATORY Section 157, Chapter 208, O.S.L.  
7 2013 (85A O.S. Supp. 2016, Section 114), is amended to read as  
8 follows:

9 Section 114. When a compensable injury results in the loss of  
10 one or more eyes, teeth, or members of the body, or the replacement  
11 of a joint, the employer shall furnish such prosthetic devices as  
12 may be necessary as determined by the Workers' Compensation  
13 Commission in the treatment and rehabilitation of the injured ~~worker~~  
14 employee for the lifetime of the ~~worker~~ employee. When ~~a worker~~ an  
15 employee sustains a compensable injury, arising out of and in the  
16 course of his or her employment, which results in damage to a  
17 prosthetic device with which such worker is equipped, the employer  
18 shall repair or replace such device. Provided, that a subsequent  
19 injury to the part of the body for which a prosthetic device is  
20 provided shall terminate the obligation of the employer to provide  
21 such prosthetic device.

22 SECTION 81. AMENDATORY Section 158, Chapter 208, O.S.L.  
23 2013 (85A O.S. Supp. 2016, Section 115), is amended to read as  
24 follows:



1           Section 115. A. If the employee and employer shall reach an  
2 agreement for the full, final and complete settlement of any issue  
3 of a claim pursuant to ~~this act~~ the Administrative Workers'  
4 Compensation Act, a form designated as "Joint Petition" shall be  
5 signed by both the employer and employee, or representatives  
6 thereof, and shall be approved by the Workers' Compensation  
7 Commission or an administrative law judge, and filed with the  
8 Commission. In cases in which the employee is not represented by  
9 legal counsel, the Commission or an administrative law judge shall  
10 have jurisdiction to approve a full, final and complete settlement  
11 of any issue upon the filing of an Employer's First Notice of ~~Injury~~  
12 Claim for Compensation. There shall be no requirement for the  
13 filing of an Employee's First Notice of Claim for Compensation to  
14 effect such settlement in cases in which the employee is not  
15 represented by legal counsel.

16           B. In the event all issues of a claim are not fully, finally  
17 and completely settled by a Joint Petition, the issues not settled  
18 by the parties and subject to the Commission's continuing  
19 jurisdiction must be noted by appendix to the Joint Petition or on a  
20 form created for such purpose by the Commission. The appendix must  
21 be signed by the parties and approved by the Commission as set forth  
22 herein.

23           C. In the absence of fraud, a Joint Petition shall be deemed  
24 binding upon the parties thereto and a final adjudication of all

1 rights pursuant to this ~~act~~ title or the workers' compensation law  
2 in effect at the time of the injury or final order of the Workers'  
3 Compensation Court. An official record shall be made by an official  
4 Commission reporter of the testimony taken to effect the Joint  
5 Petition.

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

16 SECTION 82. AMENDATORY Section 161, Chapter 208, O.S.L.  
17 2013 (85A O.S. Supp. 2016, Section 118), is amended to read as  
18 follows:

19 Section 118. A. A fee of One Hundred Forty Dollars (\$140.00)  
20 per case, including any Joint Petition authorized by this ~~act~~ title,  
21 shall be collected by the Workers' Compensation Commission and  
22 assessed as costs to be paid by the party against whom any award  
23 becomes final, to be deposited as follows:

24

1           1. One Hundred Five Dollars (\$105.00) to the credit of the  
2 Workers' Compensation Commission Revolving Fund created by Section  
3 28.1 of this ~~act~~ title;

4           2. Ten Dollars (\$10.00) to the credit of the Attorney General's  
5 Workers' Compensation Fraud Unit Revolving Fund created by Section  
6 19.2 of Title 74 of the Oklahoma Statutes; and

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

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

1 SECTION 83. AMENDATORY Section 164, Chapter 208, O.S.L.  
2 2013 (85A O.S. Supp. 2016, Section 121), is amended to read as  
3 follows:

4 Section 121. A. There is hereby created an Advisory Council on  
5 Workers' Compensation.

6 B. The voting membership of the Advisory Council shall consist  
7 of nine (9) members. Any member serving on ~~the effective date of~~  
8 ~~this section~~ February 1, 2014, shall serve the remainder of his or  
9 her term. The chair of the Workers' Compensation Commission shall  
10 be an ex officio nonvoting member.

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

15 2. The Speaker of the House of Representatives shall appoint  
16 three members representing employees in this state, one of whom  
17 shall be from a list of nominees provided by the most representative  
18 labor organization in the state.

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

24

1 employees, and a medical doctor or doctor of osteopathy actively  
2 engaged in the treatment of injured ~~workers~~ employees.

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

4 1. The term of office for three positions, one each appointed  
5 by the Governor, the President Pro Tempore of the Senate and the  
6 Speaker of the House of Representatives shall expire on January 1,  
7 2015;

8 2. The term of office for three positions, one each appointed  
9 by the Governor, the President Pro Tempore of the Senate and the  
10 Speaker of the House of Representatives shall expire on January 1,  
11 2016; and

12 3. The term of office for three positions, one each appointed  
13 by the Governor, the President Pro Tempore of the Senate and the  
14 Speaker of the House of Representatives shall expire on January 1,  
15 2017.

16 D. Thereafter, successors in office shall be appointed for a  
17 three-year term. Members shall be eligible to succeed themselves in  
18 office.

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

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

1 G. Members shall receive their traveling and other necessary  
2 expenses incurred in the performance of their duties as provided in  
3 the State Travel Reimbursement Act.

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

9 I. The Commission shall provide office supplies and personnel  
10 of the Commission to carry out any of the duties that have been  
11 entrusted to the Advisory Council.

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

20 K. In addition to other duties required by this section, the  
21 Advisory Council shall consult with the Court regarding oversight of  
22 independent medical examiners as provided in Section 45 of this ~~act~~  
23 title.

1 L. The Advisory Council shall review the Oklahoma Treatment  
2 Guidelines as provided in the Administrative Workers' Compensation  
3 ~~Code Act~~, and report the findings of such review to the Commission  
4 as provided in this ~~act~~ section.

5 SECTION 84. AMENDATORY Section 165, Chapter 208, O.S.L.  
6 2013, as amended by Section 4, Chapter 344, O.S.L. 2015 (85A O.S.  
7 Supp. 2016, Section 122), is amended to read as follows:

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

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

18 1. Each mutual or interinsurance association, stock company,  
19 CompSource Oklahoma or other insurance carrier writing workers'  
20 compensation insurance in this state shall pay to the Oklahoma Tax  
21 Commission an assessment at a rate of one percent (1%) of all gross  
22 direct premiums written during each quarter of the calendar year for  
23 workers' compensation insurance on risks located in this state after  
24 deducting from such gross direct premiums, return premiums,

1 unabsorbed portions of any deposit premiums, policy dividends,  
2 safety refunds, savings and other similar returns paid or credited  
3 to policyholders. Such payments to the Tax Commission shall be made  
4 not later than the fifteenth day of the month following the close of  
5 each quarter of the calendar year in which such gross direct premium  
6 is collected or collectible. Contributions made by insurance  
7 carriers and CompSource Oklahoma, under the provisions of this  
8 section, shall be considered for the purpose of computing workers'  
9 compensation rates; and

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

22 C. It shall be the duty of the Tax Commission to collect the  
23 payments provided for in this title. The Tax Commission is hereby  
24 authorized to bring an action for the recovery of any delinquent or



1 unpaid payments required in this section. The Tax Commission may  
2 also enforce payments by proceeding in accordance with the  
3 provisions of Section 98 of this title.

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

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

15 2. Four Million Dollars (\$4,000,000.00) shall be payable in  
16 equal monthly installments to the credit of the Workers'  
17 Compensation Administrative Fund established in Section ~~5~~ 401.1 of  
18 this ~~act~~ title for the fiscal year ending June 30, 2016, Three  
19 Million Five Hundred Thousand Dollars (\$3,500,000.00) for the fiscal  
20 year ending June 30, 2017, Three Million Five Hundred Thousand  
21 Dollars (\$3,500,000.00) for the fiscal year ending June 30, 2018,  
22 Three Million Dollars (\$3,000,000.00) for the fiscal year ending  
23 June 30, 2019, and Two Million Five Hundred Thousand Dollars  
24 (\$2,500,000.00) for the fiscal year ending June 30, 2020. Monies

1 deposited in the Workers' Compensation Administrative Fund shall be  
2 used by the Workers' Compensation Court of Existing Claims to  
3 implement provisions provided for in this title.

4 E. The refund provisions of Sections 227 through 229 of Title  
5 68 of the Oklahoma Statutes shall be applicable to any payments made  
6 pursuant to this section.

7 SECTION 85. AMENDATORY Section 166, Chapter 208, O.S.L.  
8 2013 (85A O.S. Supp. 2016, Section 123), is amended to read as  
9 follows:

10 Section 123. Any form, claim, answer or report to be filed by  
11 any person with the Workers' Compensation Commission pursuant to  
12 this ~~act~~ title shall contain or be verified by a written declaration  
13 that such form, claim, answer or report is true and made under the  
14 penalty of perjury.

15 SECTION 86. AMENDATORY Section 168, Chapter 208, O.S.L.  
16 2013 (85A O.S. Supp. 2016, Section 125), is amended to read as  
17 follows:

18 Section 125. The time within which an act is to be done, as  
19 provided for in this ~~act~~ title, shall be computed by excluding the  
20 first day and including the last day. If the last day is a legal  
21 holiday as defined by Section 82.1 of Title 25 of the Oklahoma  
22 Statutes, it shall be excluded.

23 SECTION 87. REPEALER Sections 36, 60, 61, 63, 67, 72,  
24 80, 159 and 160, Chapter 208, O.S.L. 2013 (85A O.S. Supp. 2016,

1 Sections 36, 60, 61, 63, 67, 72, 80, 116 and 117), are hereby  
2 repealed.

3 SECTION 88. This act shall become effective in accordance with  
4 the provisions of Section 58 of Article V of the Oklahoma  
5 Constitution.

6 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
7 April 11, 2017 - DO PASS AS AMENDED  
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