

# STATE OF NEW YORK

4030

2023-2024 Regular Sessions

## IN SENATE

February 2, 2023

Introduced by Sen. SCARCELLA-SPANTON -- read twice and ordered printed,  
and when printed to be committed to the Committee on Labor

AN ACT to amend the workers' compensation law, in relation to presump-  
tions in opioid overdose claims for compensation

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

- 1 Section 1. Section 21 of the workers' compensation law, subdivision 5  
2 as amended by chapter 268 of the laws of 1946, is amended to read as  
3 follows:  
4 § 21. Presumptions. In any proceeding for the enforcement of a claim  
5 for compensation under this chapter, it shall be presumed in the absence  
6 of substantial evidence to the contrary:  
7 1. That the claim comes within the provision of this chapter;  
8 2. That sufficient notice thereof was given;  
9 3. That the injury was not occasioned by the willful intention of the  
10 injured employee to bring about the injury or death of himself or  
11 herself or of another;  
12 4. That the injury did not result solely from the intoxication of the  
13 injured employee while on duty~~[-]~~;  
14 5. That the contents of medical and surgical reports introduced in  
15 evidence by claimants for compensation shall constitute prima facie  
16 evidence of fact as to the matter contained therein~~[-]~~; and  
17 6. That the death of an injured worker due to opioid overdose is  
18 compensable where that injured worker was prescribed opioids as a result  
19 of his or her workplace injury.  
20 § 2. This act shall take effect immediately.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
~~[-]~~ is old law to be omitted.

LBD02902-01-3