

STATE OF NEW YORK

4825

2017-2018 Regular Sessions

IN ASSEMBLY

February 3, 2017

Introduced by M. of A. TITUS -- read once and referred to the Committee on Labor

AN ACT to amend the workers' compensation law, the executive law, the insurance law, the civil service law and the penal law, in relation to workers' compensation; and to repeal certain provisions of the workers' compensation law relating thereto

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

1 Section 1. Subdivision 4 of section 10 of the workers' compensation
2 law is REPEALED.

3 § 2. Section 12 of the workers' compensation law, as amended by chap-
4 ter 500 of the laws of 1965, is amended to read as follows:

5 § 12. Compensation not allowed for first seven days. No compensation
6 shall be allowed for the first seven days of disability, except the
7 benefits provided for in section thirteen of this chapter, provided,
8 however, that in case the injury results in disability of more than
9 [~~fourteen~~ seven days, the compensation shall be allowed from the date
10 of the disability.

11 § 3. Subdivision 5 of section 13-a of the workers' compensation law,
12 as amended by chapter 6 of the laws of 2007 and as further amended by
13 section 104 of part A of chapter 62 of the laws of 2011, is amended to
14 read as follows:

15 (5) No claim for specialist consultations, surgical operations,
16 physiotherapeutic or occupational therapy procedures, x-ray examinations
17 or special diagnostic laboratory tests costing more than [~~one~~ two thou-
18 sand dollars shall be valid and enforceable, as against such employer,
19 unless such special services shall have been authorized by the employer
20 or by the board, or unless such authorization has been unreasonably
21 withheld, or withheld for a period of more than [~~thirty~~ seven calendar
22 days from receipt of a request for authorization, or unless such special
23 services are required in an emergency, provided, however, that the basis

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

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1 for a denial of such authorization by the employer must be based on a
2 conflicting second opinion rendered by a physician authorized by the
3 board. The board, with the approval of the superintendent of financial
4 services, shall issue and maintain a list of pre-authorized procedures
5 under this section. Such list of pre-authorized procedures shall be
6 issued and maintained for the purpose of expediting authorization of
7 treatment of injured workers. Such list of pre-authorized procedures
8 shall not be construed or relied upon to support the premise that proce-
9 dures not included on the pre-authorized list should be denied. Pre-au-
10 thorized procedures shall not be given preference over alternative forms
11 of treatment that are not on the pre-authorized procedures list.

12 § 4. Paragraph (c) of subdivision 7 of section 13-a of the workers'
13 compensation law, as added by chapter 6 of the laws of 2007, is amended
14 to read as follows:

15 (c) At the time a request for authorization for special diagnostic
16 tests, x-ray examinations, magnetic resonance imaging or other radiolog-
17 ical examinations or tests costing more than ~~[one]~~ two thousand dollars
18 as required by subdivision five of this section is approved, the insur-
19 ance carrier, self-insurer or state insurance fund, or if so delegated
20 the network with which the insurance carrier, self-insurer or state
21 insurance fund has contracted, shall notify the physician requesting
22 authorization of the requirement that the claimant obtain or undergo the
23 special diagnostic test, x-ray examination, magnetic resonance imaging
24 or other radiological examination or test with a provider or at a facil-
25 ity affiliated with the network or networks with which it has
26 contracted, the contact information for the network and a list of the
27 providers and facilities within the claimant's geographic location, as
28 defined by regulation of the board. The claimant, in consultation with
29 the provider who requested the special diagnostic test, x-ray examina-
30 tion, magnetic resonance imaging or other radiological test or exam,
31 will determine the provider or facility from within the network which
32 will perform such diagnostic test, x-ray examination, magnetic resonance
33 imaging or other radiological examination or test.

34 § 5. Section 2 of the workers' compensation law is amended by adding a
35 new subdivision 24 to read as follows:

36 24. "Examiner" means an individual qualified and authorized to perform
37 independent medical examinations pursuant to sections thirteen-b and
38 thirteen-bb of this chapter and registered with the board pursuant to
39 section thirteen-bb of this chapter.

40 § 6. The workers' compensation law is amended by adding a new section
41 13-bb to read as follows:

42 § 13-bb. Regulation of independent medical examinations. 1. (a) There
43 is hereby established in the workers' compensation board an advisory
44 committee on independent medical examinations which shall consist of
45 three members. One member shall be appointed by the governor; the chief
46 executive officers of the New York State American Federation of Labor-
47 Congress of Industrial Organizations and the Business Council of New
48 York State shall be members by virtue of their offices. The chief execu-
49 tive officers of the New York State American Federation of Labor-Con-
50 gress of Industrial Organizations and the Business Council of New York
51 State may designate representatives to act in their place or stead and
52 on their behalf as members of such advisory committee. In addition, the
53 chair, executive director and the commissioner of labor or their desig-
54 nated representatives shall be invited to attend and participate in all
55 meetings.

(b) It shall be the duty of the advisory committee hereby established to advise, counsel and confer with the chair and executive director on matters of policy in connection with the administration and enforcement of laws and regulations relating to independent medical examinations. The advisory committee shall specifically examine the frequency of use of independent medical examinations, the qualifications of examiners, the existence of conflicts of interest involving examiners and independent medical examination organizations, the frequency with which recommendations resulting from independent medical examinations are invalidated or amended and the adequacy of continuing education programs for examiners to ensure that use of independent medical examinations is not adversely impacting the timeliness or quality of care injured workers receive. The advisory committee shall review existing and proposed state laws and regulations pertaining to independent medical examinations and recommend to the chair, executive director and the chairpersons of the assembly and senate standing committees on labor and insurance, necessary changes or additions to laws, regulations and board programs to improve medical care for injured workers, the effectiveness of the board's regulation of independent medical examinations, examiners and independent medical examination organizations and enforcement activities. The committee shall review and revoke authorizations of individual examiners if such examiners exhibit bias, conflicts of interest or otherwise fail to uphold their obligations under this chapter.

(c) The chair shall assign staff to assist the advisory committee as necessary and shall provide necessary information and space for meetings of the advisory committee. The advisory committee shall keep a record of its meetings and recommendations.

(d) The advisory committee shall meet at the call of the chair or any member and at such other times as it may deem necessary and at such places as may be convenient. In any event, meetings shall be held at least once per state fiscal quarter. An initial meeting shall be held within sixty days after the effective date of this section.

2. All examiners and all individuals with ownership interests in independent medical examination organizations must file statements of financial disclosure with the board on an annual basis as described in subdivision four of this section.

3. The annual statement of financial disclosure shall contain the following information and shall be in the form set forth below:

Annual statement of financial disclosure - (For calendar year)

1. Name

2. (a) check one

() Examiner

() Owner of independent medical examination organization

Name and address of independent medical examination organization

(b) Address of Present Office

(c) Office Telephone Number

3. (a) Marital Status

If married, please give spouse's full name including maiden name where applicable.

(b) List the names of all unemancipated children.

Answer each of the following questions completely, with respect to calendar year , unless another period or date is otherwise specified. If additional space is needed, attach additional pages.

Whenever a "value" or "amount" is required to be reported herein, such value or amount shall be reported as being within one of the following Categories in Table I or Table II of this subdivision as called for in the question: A reporting individual shall indicate the Category by letter only. Whenever "income" is required to be reported herein, the term "income" shall mean the aggregate net income before taxes from the source identified. The term "calendar year" shall mean the year ending the December 31st preceding the date of filing of the annual statement.

4. (a) List any office, trusteeship, directorship, partnership, or position of any nature, whether compensated or not, held by the reporting individual with any firm, corporation, association, partnership, or other organization. Include compensated honorary positions; do not list membership or uncompensated honorary positions.

Position	Organization
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(b) List any office, trusteeship, directorship, partnership, or position of any nature, whether compensated or not, held by the spouse or unemancipated child of the reporting individual, with any firm, corporation, association, partnership, or other organization. Include compensated honorary positions; do not list membership or uncompensated honorary positions.

Position	Organization
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5. List the name, address and description of any occupation, employment (other than the employment listed under Item 2 above), trade, business or profession engaged in by the reporting individual.

Name & Address of Organization	Position	Description
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6. List each source of gifts in excess of \$500, received during the reporting period for which this statement is filed by the reporting individual or such individual's spouse or unemancipated child from the same donor, excluding gifts from a relative. Include the name and address of the donor. The term "gifts" does not include reimbursements, which term is defined in item 7. Indicate the value and nature of each such gift.

Category	Self, Spouse or Child	Name of Donor	Nature of Gift	Value of Gift
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7. Identify and briefly describe the source of any reimbursements for expenditures, in excess of \$250 from each such source. For purposes of this item, the term "reimbursements" shall mean any travel-related expenses provided by sources and for activities related to the reporting individual's official duties such as, speaking engagements, conferences,

or fact finding events. The term "reimbursements" does not include gifts reported under item 6.

Source	Description
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8. List the identity and value, if reasonably ascertainable, of each interest in a trust, estate or other beneficial interest, including retirement plans, and deferred compensation plans (e.g. 401, 403(b), 457, etc.) established in accordance with the internal revenue code, in which the reporting individual held a beneficial interest in excess of \$1,000 at any time during the preceding year. Do not report interests in a trust, estate or other beneficial interest established by or for, or the estate of, a relative.

Identity	Category of Value*	(In Table II)
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* The value of such interest shall be reported only if reasonably ascertainable.

9. List below the nature and amount of any income in excess of \$500 from each source for the reporting individual and such individual's spouse for the taxable year last occurring prior to the date of filing. Each such source must be described with particularity. Income includes, but is not limited to, all income (other than that received from the employment listed under Item 2 above) from compensated employment whether public or private, directorships and other fiduciary positions, contractual arrangements, teaching income, partnerships, honorariums, lecture fees, consultant fees, bank and bond interest, dividends, income derived from a trust, real estate rents, and recognized gains from the sale or exchange of real or other property. Income from a business or profession and real estate rents shall be reported with the source identified by the building address in the case of real estate rents and otherwise by the name of the entity and not by the name of the individual customers, clients or tenants, with the aggregate net income before taxes for each building address or entity. The receipt of maintenance received in connection with a matrimonial action, alimony and child support payments shall not be listed.

Self/ Source	Nature of Income	Category Spouse of Amount (In Table I)
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10. List the sources of any deferred income (not retirement income) in excess of \$500 from each source to be paid to the reporting individual following the close of the calendar year for which this disclosure statement is filed, other than deferred compensation reported in item 8 hereinabove. Deferred income derived from the practice of a profession shall be listed in the aggregate and shall identify as the source, the name of the firm, corporation, partnership or association through which the income was derived, but shall not identify individual clients.

Self/ Source	Nature of Income	Category Spouse of Amount (In Table I)
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11. List each assignment of income in excess of \$500, and each transfer other than to a relative during the reporting period for which this statement is filed for less than fair consideration of an interest in a trust, estate or other beneficial interest, securities or real property, by the reporting individual, in excess of \$500, which would otherwise be required to be reported herein and is not or has not been so reported.

Source	Item Assigned	Category of Value (In Table I)
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12. List below the type and market value of securities held by the reporting individual or such individual's spouse from each issuing entity in excess of \$1,000 at the close of the taxable year last occurring prior to the date of filing, including the name of the issuing entity exclusive of securities held by the reporting individual issued by a professional corporation. Whenever an interest in securities exists through a beneficial interest in a trust, the securities held in such trust shall be listed only if the reporting individual has knowledge thereof except where the reporting individual or the reporting individual's spouse has transferred assets to such trust for his or her benefit in which event such securities shall be listed unless they are not ascertainable by the reporting individual because the trustee is under an obligation not to disclose the contents of the trust to the reporting individual. Securities of which the reporting individual or the reporting individual's spouse is the owner of record but in which such individual or the reporting individual's spouse has no beneficial interest shall not be listed. Indicate percentage of ownership only if the reporting person or the reporting person's spouse holds more than five percent (5%) of the stock of a corporation in which the stock is publicly traded or more than ten percent (10%) of the stock of a corporation in which the stock is not publicly traded. Also list securities owned for investment purposes by a corporation more than fifty percent (50%) of the stock of which is owned or controlled by the reporting individual or such individual's spouse. For the purpose of this item, the term "securities" shall mean mutual funds, bonds, mortgages, notes, obligations, warrants and stocks of any class, investment interests in limited or general partnerships and certificates of deposits (CDs) and such other evidences of indebtedness and certificates of interest as are usually referred to as securities. The market value for such securities shall be reported only if reasonably ascertainable and shall not be reported if the security is an interest in a general partnership that was listed above or if the security is corporate stock, NOT publicly traded, in a trade or business of a reporting individual or a reporting individual's spouse.

Self/ Spouse	Issuing Entity	Type of Security	Percentage of Ownership	Category of Value (In Table II)
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13. List below the location, size, general nature, acquisition date, market value and percentage of ownership of any real property in which any vested or contingent interest in excess of \$1,000 is held by the

reporting individual or the reporting individual's spouse. Also list real property owned for investment purposes by a corporation more than fifty percent (50%) of the stock of which is owned or controlled by the reporting individual or such individual's spouse. Do not list any real property which is the primary or secondary personal residence of the reporting individual or the reporting individual's spouse, except where there is a co-owner who is other than a relative.

Self/ Spouse	Location Size	Percentage of Ownership	General Nature	Acquisition Date	Category of Market Value
(In Table II)					

14. List below all notes and accounts receivable, other than from goods or services sold, held by the reporting individual at the close of the taxable year last occurring prior to the date of filing and other debts owed to such individual at the close of the taxable year last occurring prior to the date of filing, in excess of \$500, including the name of the debtor, type of obligation, date due and the nature of the collateral securing payment of each, if any, excluding securities reported above. Debts, notes and accounts receivable owed to the individual by a relative shall not be reported.

Name of Debtor	Type of Obligation	Date Due	Nature of Collateral	Category of Amount (In Table II)

15. List below all liabilities of the reporting individual and such individual's spouse, in excess of \$2,500 as of the date of filing of this statement, other than liabilities to a relative. Do not list liabilities incurred by, or guarantees made by, the reporting individual or such individual's spouse or by any proprietorship, partnership or corporation in which the reporting individual or such individual's spouse has an interest, when incurred or made in the ordinary course of the trade, business or professional practice of the reporting individual or such individual's spouse. Include the name of the creditor and any collateral pledged by such individual to secure payment of any such liability. A reporting individual shall not list any obligation to pay maintenance in connection with a matrimonial action, alimony or child support payments. Any loan issued in the ordinary course of business by a financial institution to finance educational costs, the cost of home purchase or improvements for a primary or secondary residence, or purchase of a personally owned motor vehicle, household furniture or appliances shall be excluded. If any such reportable liability has been guaranteed by any third person, list the liability and name the guarantor.

Category

Name of Creditor or Guarantor	Type of Liability	Collateral, if any	Category of Amount (In Table II)

The requirements of law relating to the reporting of financial interests

are in the public interest and no adverse inference of unethical or illegal conduct or behavior will be drawn merely from compliance with these requirements.

(Signature of Reporting Individual) Date (month/day/year)

TABLE I

Category A none

Category B \$ 1 to under \$ 1,000

Category C \$ 1,000 to under \$ 5,000

Category D \$ 5,000 to under \$ 20,000

Category E \$ 20,000 to under \$ 50,000

Category F \$ 50,000 to under \$ 75,000

Category G \$ 75,000 to under \$ 100,000

Category H \$ 100,000 to under \$ 150,000

Category I \$ 150,000 to under \$ 250,000

Category J \$ 250,000 to under \$ 350,000

Category K \$ 350,000 to under \$ 450,000

Category L \$ 450,000 to under \$ 550,000

Category M \$ 550,000 to under \$ 650,000

Category N \$ 650,000 to under \$ 750,000

Category O \$ 750,000 to under \$ 850,000

Category P \$ 850,000 to under \$ 950,000

Category Q \$ 950,000 to under \$ 1,050,000

Category R \$ 1,050,000 to under \$ 1,150,000

Category S \$1,150,000 to under \$1,250,000

Category T \$1,250,000 to under \$1,350,000

Category U \$1,350,000 to under \$1,450,000

Category V \$1,450,000 to under \$1,550,000

Category W \$1,550,000 to under \$1,650,000

Category X \$1,650,000 to under \$1,750,000

Category Y \$1,750,000 to under \$1,850,000

Category Z \$1,850,000 to under \$1,950,000

Category AA \$1,950,000 to under \$2,050,000

Category BB \$2,050,000 to under \$2,150,000

Category CC \$2,150,000 to under \$2,250,000

Category DD \$2,250,000 to under \$2,350,000

Category EE \$2,350,000 to under \$2,450,000

Category FF \$2,450,000 to under \$2,550,000

Category GG \$2,550,000 to under \$2,650,000

Category HH \$2,650,000 to under \$2,750,000

Category II \$2,750,000 to under \$2,850,000

Category JJ \$2,850,000 to under \$2,950,000

Category KK \$2,950,000 to under \$3,050,000

Category LL \$3,050,000 to under \$3,150,000

Category MM \$3,150,000 to under \$3,250,000

Category NN \$3,250,000 to under \$3,350,000

Category OO \$3,350,000 to under \$3,450,000

Category PP \$3,450,000 to under \$3,550,000

Category QQ \$3,550,000 to under \$3,650,000

Category RR \$3,650,000 to under \$3,750,000

Category SS \$3,750,000 to under \$3,850,000

Category TT \$3,850,000 to under \$3,950,000

Category UU \$3,950,000 to under \$4,050,000

Category VV \$4,050,000 to under \$4,150,000

Category WW \$4,150,000 to under \$4,250,000

Category XX \$4,250,000 to under \$4,350,000

Category YY \$4,350,000 to under \$4,450,000

Category ZZ \$4,450,000 to under \$4,550,000
Category AAA \$4,550,000 to under \$4,650,000
Category BBB \$4,650,000 to under \$4,750,000
Category CCC \$4,750,000 to under \$4,850,000
Category DDD \$4,850,000 to under \$4,950,000
Category EEE \$4,950,000 to under \$5,050,000
Category FFF \$5,050,000 to under \$5,150,000
Category GGG \$5,150,000 to under \$5,250,000
Category HHH \$5,250,000 to under \$5,350,000
Category III \$5,350,000 to under \$5,450,000
Category JJJ \$5,450,000 to under \$5,550,000
Category KKK \$5,550,000 to under \$5,650,000
Category LLL \$5,650,000 to under \$5,750,000
Category MMM \$5,750,000 to under \$5,850,000
Category NNN \$5,850,000 to under \$5,950,000
Category OOO \$5,950,000 to under \$6,050,000
Category PPP \$6,050,000 to under \$6,150,000
Category QQQ \$6,150,000 to under \$6,250,000
Category RRR \$6,250,000 to under \$6,350,000
Category SSS \$6,350,000 to under \$6,450,000
Category TTT \$6,450,000 to under \$6,550,000
Category UUU \$6,550,000 to under \$6,650,000
Category VVV \$6,650,000 to under \$6,750,000
Category WWW \$6,750,000 to under \$6,850,000
Category XXX \$6,850,000 to under \$6,950,000
Category YYY \$6,950,000 to under \$7,050,000
Category ZZZ \$7,050,000 to under \$7,150,000
Category AAAA \$7,150,000 to under \$7,250,000
Category BBBB \$7,250,000 to under \$7,350,000
Category CCCC \$7,350,000 to under \$7,450,000
Category DDDD \$7,450,000 to under \$7,550,000
Category EEEE \$7,550,000 to under \$7,650,000
Category FFFF \$7,650,000 to under \$7,750,000
Category GGGG \$7,750,000 to under \$7,850,000
Category HHHH \$7,850,000 to under \$7,950,000
Category IIII \$7,950,000 to under \$8,050,000
Category JJJJ \$8,050,000 to under \$8,150,000
Category KKKK \$8,150,000 to under \$8,250,000
Category LLLL \$8,250,000 to under \$8,350,000
Category MMMM \$8,350,000 to under \$8,450,000
Category NNNN \$8,450,000 to under \$8,550,000
Category OOOO \$8,550,000 to under \$8,650,000
Category PPPP \$8,650,000 to under \$8,750,000
Category QQQQ \$8,750,000 to under \$8,850,000
Category RRRR \$8,850,000 to under \$8,950,000
Category SSSS \$8,950,000 to under \$9,050,000
Category TTTT \$9,050,000 to under \$9,150,000
Category UUUU \$9,150,000 to under \$9,250,000
Category VVVV \$9,250,000 to under \$9,350,000
Category WWWW \$9,350,000 to under \$9,450,000
Category XXXX \$9,450,000 to under \$9,550,000
Category YYYY \$9,550,000 to under \$9,650,000
Category ZZZZ \$9,650,000 to under \$9,750,000
Category AAAAA \$9,750,000 to under \$9,850,000
Category BBBBB \$9,850,000 to under \$9,950,000
Category CCCCC \$9,950,000 to under \$10,000,000

1 Category DDDDD \$10,000,000 or over

2 TABLE II

3 Category A none

4 Category B \$1 to under \$1,000

5 Category C \$1,000 to under \$5,000

6 Category D \$5,000 to under \$20,000

7 Category E \$20,000 to under \$50,000

8 Category F \$50,000 to under \$75,000

9 Category G \$75,000 to under \$100,000

10 Category H \$100,000 to under \$150,000

11 Category I \$150,000 to under \$250,000

12 Category J \$250,000 to under \$500,000

13 Category K \$500,000 to under \$750,000

14 Category L \$750,000 to under \$1,000,000

15 Category M \$1,000,000 to under \$1,250,000

16 Category N \$1,250,000 to under \$1,500,000

17 Category O \$1,500,000 to under \$1,750,000

18 Category P \$1,750,000 to under \$2,000,000

19 Category Q \$2,000,000 to under \$2,250,000

20 Category R \$2,250,000 to under \$2,500,000

21 Category S \$2,500,000 to under \$2,750,000

22 Category T \$2,750,000 to under \$3,000,000

23 Category U \$3,000,000 to under \$3,250,000

24 Category V \$3,250,000 to under \$3,500,000

25 Category W \$3,500,000 to under \$3,750,000

26 Category X \$3,750,000 to under \$4,000,000

27 Category Y \$4,000,000 to under \$4,250,000

28 Category Z \$4,250,000 to under \$4,500,000

29 Category AA \$4,500,000 to under \$4,750,000

30 Category BB \$4,750,000 to under \$5,000,000

31 Category CC \$5,000,000 to under \$5,250,000

32 Category DD \$5,250,000 to under \$5,500,000

33 Category EE \$5,500,000 to under \$5,750,000

34 Category FF \$5,750,000 to under \$6,000,000

35 Category GG \$6,000,000 to under \$6,250,000

36 Category HH \$6,250,000 to under \$6,500,000

37 Category II \$6,500,000 to under \$6,750,000

38 Category JJ \$6,750,000 to under \$7,000,000

39 Category KK \$7,000,000 to under \$7,250,000

40 Category LL \$7,250,000 to under \$7,500,000

41 Category MM \$7,500,000 to under \$7,750,000

42 Category NN \$7,750,000 to under \$8,000,000

43 Category OO \$8,000,000 to under \$8,250,000

44 Category PP \$8,250,000 to under \$8,500,000

45 Category QQ \$8,500,000 to under \$8,750,000

46 Category RR \$8,750,000 to under \$9,000,000

47 Category SS \$9,000,000 to under \$9,250,000

48 Category TT \$9,250,000 to under \$9,500,000

49 Category UU \$9,500,000 or over

50 4. A reporting individual who knowingly and willfully fails to file an
51 annual statement of financial disclosure or who knowingly and willfully
52 with intent to deceive makes a false statement or gives information
53 which such individual knows to be false on such statement of financial
54 disclosure filed pursuant to this section shall be subject to a civil
55 penalty in an amount not to exceed forty thousand dollars. Assessment
56 of a civil penalty hereunder shall be made by the board.

1 The board may in lieu of or in addition to a civil penalty, refer a
2 violation to the appropriate prosecutor and upon such conviction, but
3 only after such referral, such violation shall be punishable as a class
4 A misdemeanor. A civil penalty for false filing may not be imposed here-
5 under in the event a category of "value" or "amount" reported hereunder
6 is incorrect unless such reported information is falsely understated.
7 Notwithstanding any other provision of law to the contrary, no other
8 penalty, civil or criminal may be imposed for a failure to file, or for
9 a false filing, of such statement, except that the board may impose
10 disciplinary action as otherwise provided by law. The board shall be
11 deemed to be an agency within the meaning of article three of the state
12 administrative procedure act and shall adopt rules governing the conduct
13 of adjudicatory proceedings and appeals relating to the assessment of
14 the civil penalties herein authorized. Such rules, which shall be
15 subject to the approval requirements of the state administrative proce-
16 dure act, shall provide for due process procedural mechanisms substan-
17 tially similar to those set forth in such article three but such mech-
18 anisms need not be identical in terms or scope. Assessment of a civil
19 penalty shall be final unless modified, suspended or vacated within
20 thirty days of imposition and upon becoming final shall be subject to
21 review at the instance of the affected reporting individual in a
22 proceeding commenced against the board, pursuant to article seventy-
23 eight of the civil practice law and rules.

24 5. Notwithstanding any other provision of law or any professional
25 disciplinary rule to the contrary, the disclosure of the identity of any
26 client or customer on a reporting individual's annual statement of
27 financial disclosure shall not constitute professional misconduct or a
28 ground for disciplinary action of any kind, or form the basis for any
29 civil or criminal cause of action or proceeding.

30 6. Starting January first, two thousand twenty, in addition to
31 requirements set forth in section thirteen-b of this article, examiners
32 must: (a) treat fifty patients per year; (b) treat ten injured workers
33 per year; (c) perform twenty-four credit hours of continuing examiner
34 education per year, six hours of which must focus on professional
35 ethics; and (d) register with the board annually and submit an annual
36 registration fee of five hundred dollars.

37 7. (a) Pursuant to the state administrative procedure law, on or
38 before January first, two thousand nineteen, the chair shall promulgate
39 regulations establishing a statewide continuing examiner education
40 program.

41 (b) All continuing examiner education courses must be organized,
42 taught and administered by board staff with expertise in the subject
43 matter of the course.

44 (c) Courses must be performed and attended in-person.

45 (d) Courses must address one or more of the following topics: profes-
46 sional responsibility, ethics and technological advancements in treat-
47 ment of injured workers.

48 8. (a) There is hereby established in the workers' compensation board
49 an office of the independent medical examination inspector general.

50 (b) The office shall be administered by an independent inspector
51 general. On or before January first, two thousand eighteen, the inspec-
52 tor general shall be appointed by the governor, with the advice and
53 consent of the senate. The independent medical examination inspector
54 general shall serve for a term of twelve years. The independent medical
55 examination inspector general shall receive an annual salary of one

1 hundred fifty thousand dollars and may not hold any other office or
2 position or engage in other employment.

3 (c) Fees, assessments, fines and penalties paid pursuant to subdivi-
4 sions four, six and nine of this section shall be collected by the board
5 and maintained in a dedicated fund to be used as the operating revenue
6 of the office of the independent medical examination inspector general.
7 The chair shall provide additional revenue as necessary to carry out the
8 responsibilities of the office.

9 (d) The office of the independent medical examiner inspector general
10 shall: (i) enforce annual registration and financial disclosure require-
11 ments pursuant to this section; (ii) collect, review and aggregate
12 information contained in annual financial disclosure statements; (iii)
13 periodically audit examiners and independent medical examination organ-
14 izations to verify the veracity of information contained in annual
15 audits and to verify compliance with continuing examiner education
16 requirements; (iv) investigate conflicts of interest, malfeasance and
17 nonfeasance in connection with independent medical examinations; and (v)
18 report annually to the governor, temporary president of the senate and
19 speaker of the assembly on the use of independent medical examinations,
20 on individual investigations and recommend regulatory and statutory
21 changes.

22 9. For each independent medical examination ordered or requested by a
23 carrier or the state fund and performed by an examiner, the carrier or
24 state fund shall pay an assessment of fifty dollars to the board within
25 seven days of the date of the examination. Such assessment shall be
26 maintained by the board in a dedicated fund for the purpose of funding
27 the office of the independent medical examination inspector general.

28 § 7. Section 13-f of the workers' compensation law is amended by
29 adding a new subdivision 3 to read as follows:

30 (3) The chair shall immediately conduct a study to analyze the avail-
31 ability and quality of care for injured workers based on specialty,
32 practice area and geographical region of the state. The results of that
33 study shall be released to the public on or before December thirty-
34 first, two thousand seventeen. Where certain geographical regions of the
35 state are underserved by authorized providers in a specialty, the chair
36 shall devise and implement a course of action to attract additional
37 providers of that specific specialty to participate in the system. This
38 course of action shall include, but is not limited to, increasing
39 medical reimbursement rates for specialty services in regions where
40 participating providers of such services are scarce, regardless of over-
41 all increase of cost to the system.

42 § 8. Section 13-g of the workers' compensation law is amended by
43 adding a new subdivision 1-a to read as follows:

44 (1-a) Where an employer or carrier exhibits a pattern of controverting
45 medical bills on the forty-fifth day following rendering, there shall be
46 a presumption that such controversion is frivolous and unfounded. If the
47 employer or carrier fails to provide clear and convincing evidence
48 rebutting this presumption, the carrier or employer must pay the bill as
49 if notice of controversion has not been provided. For the purposes of
50 this section, a pattern of controversion on the forty-fifth day follow-
51 ing rendering exists where within the past six months, five percent or
52 more of an employer or carrier's medical bill controversions occur on
53 the forty-fifth day following rendering. The chair shall maintain a
54 list, to be published on the board's website and to be updated daily, of
55 employers and carriers whose controversion practices qualify them for
56 such presumption.

§ 9. Subdivision 3 of section 13-n of the workers' compensation law, as added by chapter 6 of the laws of 2007, is amended to read as follows:

3. The chair, upon finding that an examiner or entity that derives income from independent medical examinations has materially altered an independent medical examination report, or caused such a report to be materially altered, ~~[may]~~ shall revoke the authorization of such examiner or the registration of such entity, impose a penalty ~~[not—exceeding]~~ of at least ten thousand dollars and refer the matter to the attorney general for prosecution.

§ 10. Subdivision 5 of section 14 of the workers' compensation law, as amended by chapter 730 of the laws of 1978, is amended to read as follows:

5. If it be established that the injured employee was under the age of ~~[twenty-five]~~ thirty-five when injured, or was accepted to or enrolled in an apprenticeship training program approved by the commissioner of labor pursuant to article twenty-three of the labor law, and that under normal conditions his or her wages would be expected to increase, that fact ~~[may]~~ shall be considered in arriving at his or her average weekly wages.

§ 11. The section heading of section 14-a of the workers' compensation law, as amended by chapter 142 of the laws of 1947, is amended to read as follows:

Double compensation and death benefits when ~~[minors]~~ workers illegally employed.

§ 12. Subdivision 1 of section 14-a of the workers' compensation law, as amended by chapter 67 of the laws of 1983, is amended to read as follows:

1. Compensation, death benefits, and awards to the commissioner of taxation and finance in accordance with subdivision nine of section fifteen and section twenty-five-a, as provided in this article, shall be double the amount otherwise payable if the injured employee at the time of the accident is ~~[a minor employed,]~~ permitted or suffered to work in violation of any provision of the labor law or in violation of ~~[any rule heretofore or hereafter adopted by the board of standards and appeals pursuant to subdivision four of section one hundred thirty-three of said law]~~ municipal, county, state or federal statute, rule or regulation.

An employer who knowingly permits or suffers a newspaper carrier to work in violation of section thirty-two hundred twenty-eight of the education law, shall be liable for the increased awards provided by this section.

§ 13. Subdivision 1 of section 15 of the workers' compensation law, as amended by chapter 675 of the laws of 1977, is amended to read as follows:

1. Permanent total disability. In case of total disability adjudged to be permanent sixty-six and two-thirds per centum of the average weekly wages shall be paid to the employee during the continuance of such total disability. Loss of both hands, or both arms, or both feet, or both legs, or both eyes, or of any two thereof, or approval for federal social security disability benefits, shall, in the absence of conclusive proof to the contrary, constitute permanent total disability. In all other cases permanent total disability shall be determined in accordance with the facts. Notwithstanding any other provision of this chapter, an injured employee disabled due to the loss or total loss of use of both eyes, or both hands, or both arms, or both feet, or both legs, or of any two thereof shall not suffer any diminution of his compensation by

engaging in business or employment provided his or her earnings or wages, when combined with his compensation, shall not be in excess of the wage base on which the maximum weekly compensation benefit is computed under the law in effect at time of such earning; further provided, that if the combination exceeds such wage base, the compensation shall be diminished to an amount which, together with his or her earnings or wages, shall equal the wage base; and further provided that the application of this subdivision shall not result in reduction of compensation which an injured employee who is disabled due to the loss or total loss of use of both eyes, or both hands, or both arms, or both feet, or both legs or of any two thereof, would otherwise be entitled to under any other provision of this section.

§ 14. Subdivision 3 of section 15 of the workers' compensation law, paragraph e as amended by chapter 317 and paragraph f as amended by chapter 320 of the laws of 1924, paragraph m as amended by chapter 554 of the laws of 1927, paragraph o as amended by chapter 754 of the laws of 1928, paragraph q as amended by chapter 661 of the laws of 1935, paragraph s as amended by chapter 204 of the laws of 1988, paragraph t as amended by chapter 774 of the laws of 1945, subparagraphs 1 and 2 of paragraph t as amended by chapter 924 of the laws of 1990, paragraph u as amended by chapter 351 of the laws of 2009, paragraph v as amended by chapter 364 of the laws of 1989 and paragraph w as amended by chapter 6 of the laws of 2007, is amended to read as follows:

3. Permanent partial disability. In case of disability partial in character but permanent in quality the compensation shall be sixty-six and two-thirds per centum of the average weekly wages and shall be paid to the employee for the period named in this subdivision, as follows:

Member lost	Number of weeks' compensation
a. Arm	[312] <u>624</u>
b. Leg	[288] <u>576</u>
c. Hand	[244] <u>488</u>
d. Foot	[205] <u>410</u>
e. eye	[160] <u>320</u>
f. Thumb	[75] <u>150</u>
g. First finger	[46] <u>92</u>
h. Great toe	[38] <u>76</u>
i. Second finger	[30] <u>60</u>
j. Third finger	[25] <u>50</u>
k. Toe other than great toe	[16] <u>32</u>
l. Fourth finger	[15] <u>30</u>

m. Loss of hearing. Compensation for the complete loss of the hearing of one ear, for [~~sixty~~] one hundred twenty weeks, for the loss of hearing of both ears, for [~~one hundred and fifty~~] three hundred weeks.

n. Phalanges. Compensation for the loss of ~~[more than]~~ one phalange of a digit shall be the same as for loss of the entire digit. ~~[Compensation for loss of the first phalange shall be one-half of the compensation for loss of the entire digit.]~~

o. Amputated arm or leg. Compensation for an arm or a leg, if amputated at or above the wrist or ankle, shall be for the ~~[proportionate loss of the]~~ entire arm or leg.

p. Binocular vision or per centum of vision. Compensation for loss of binocular vision or for ~~[eighty]~~ fifty per centum or more of the vision of an eye shall be the same as for loss of the eye.

q. Two or more digits. Compensation for loss or loss of use of two or more digits, or one or more phalanges of two or more digits, of a hand or foot ~~[may be proportioned to the loss of use of the hand or foot occasioned thereby but shall not exceed]~~ shall equal the compensation for loss of a hand or foot.

r. Total loss of use. Compensation for permanent total loss of use of a member shall be the same as for loss of the member.

s. Partial loss or partial loss of use. Compensation for permanent partial loss or loss of use of a member may be for proportionate loss or loss of use of the member. Compensation for permanent partial loss or loss of use of an eye shall be awarded on the basis of uncorrected loss of vision or corrected loss of vision resulting from an injury whichever is the greater.

t. Disfigurement. 1. The board ~~[may]~~ shall award proper and equitable compensation for serious ~~[facial or head]~~ disfigurement, not to exceed ~~[twenty]~~ five hundred thousand dollars~~[, including a disfigurement continuous in length which is partially in the facial area and also extends into the neck region as described in paragraph two hereof].~~

2. The board, if in its opinion the earning capacity of an employee has been or may in the future be impaired, may award compensation for any serious disfigurement ~~[in the region above the sterno-clavicular articulations anterior to and including the region of the sterno-cleido-mastoid muscles on either side]~~, but no award under subdivisions one and two of this section shall, in the aggregate, exceed ~~[twenty]~~ five hundred thousand dollars.

~~[3. Notwithstanding any other provision hereof, two or more serious disfigurements, not continuous in length, resulting from the same injury, if partially in the facial area and partially in the neck region as described in paragraph two hereof, shall be deemed to be a facial disfigurement.]~~

u. Total or partial loss or loss of use of more than one member or parts of members. In any case in which there shall be a loss or loss of use of more than one member or parts of more than one member set forth in paragraphs a through t, inclusive, of this subdivision, but not amounting to permanent total disability, the board shall award compensation for the loss or loss of use of each such member or part thereof, which awards shall be fully payable in one lump sum upon the request of the injured employee.

v. Additional compensation for impairment of wage earning capacity in certain permanent partial disabilities. Notwithstanding any other provision of this subdivision, ~~[additional]~~ compensation shall be payable for impairment of wage earning capacity ~~[for any period after the termination of an award]~~, during the entire period of such impairment, regardless of whether an award was made under paragraphs a, b, c, ~~[or]~~ d, e, f, g, h, i, j, k, l, m, n, o, p, q, r, s, t or u of this subdivision for the loss or proportional loss of use of ~~[fifty per centum or~~

1 ~~more of~~] a member, provided such impairment of earning capacity shall be
2 due solely thereto. Such [additional] compensation shall be determined
3 in accordance with paragraph w of this subdivision. ~~[The additional~~
4 ~~compensation shall be reduced by fifty per centum of any amount of disa-~~
5 ~~bility benefits which the disabled employee is receiving or entitled to~~
6 ~~receive for the same period under the social security act, and shall~~
7 ~~cease on the date the disabled employee receives or is entitled to~~
8 ~~receive old-age insurance benefits under the social security act.]~~ As
9 soon as practicable after the injury, the worker shall be required to
10 participate in a board approved rehabilitation program; or shall have
11 demonstrated cooperation with efforts to institute such a board approved
12 program and shall have been determined by the board not to be a feasible
13 candidate for rehabilitation; such rehabilitation shall constitute
14 treatment and care as provided in this chapter.

15 w. Other cases. In all other cases of permanent partial disability,
16 the compensation shall be sixty-six and two-thirds percent of the
17 difference between the injured employee's average weekly wages and his
18 or her wage-earning capacity thereafter in the same employment or other-
19 wise. Compensation under this paragraph shall be payable during the
20 continuance of such permanent partial disability, but subject to recon-
21 sideration of the degree of such impairment by the board on its own
22 motion or upon application of any party in interest ~~[however, all~~
23 ~~compensation payable under this paragraph shall not exceed (i) five~~
24 ~~hundred twenty-five weeks in cases in which the loss of wage-earning~~
25 ~~capacity is greater than ninety five percent, (ii) five hundred weeks in~~
26 ~~cases in which the loss of wage-earning capacity is greater than ninety~~
27 ~~percent but not more than ninety five percent, (iii) four hundred seven-~~
28 ~~ty-five weeks in cases in which the loss of wage-earning capacity is~~
29 ~~greater than eighty-five percent but not more than ninety percent, (iv)~~
30 ~~four hundred fifty weeks in cases in which the loss of wage-earning~~
31 ~~capacity is greater than eighty percent but not more than eighty five~~
32 ~~percent, (v) four hundred twenty five weeks in cases in which the loss~~
33 ~~of wage-earning capacity is greater than seventy-five percent but not~~
34 ~~more than eighty percent, (vi) four hundred weeks in cases in which the~~
35 ~~loss of wage-earning capacity is greater than seventy percent but not~~
36 ~~more than seventy five percent, (vii) three hundred seventy five weeks~~
37 ~~in cases in which the loss of wage-earning capacity is greater than~~
38 ~~sixty percent but not more than seventy percent, (viii) three hundred~~
39 ~~fifty weeks in cases in which the loss of wage-earning capacity is~~
40 ~~greater than fifty percent but not more than sixty percent, (ix) three~~
41 ~~hundred weeks in cases in which the loss of wage-earning capacity is~~
42 ~~greater than forty percent but not more than fifty percent, (x) two~~
43 ~~hundred seventy-five weeks in cases in which the loss of wage-earning~~
44 ~~capacity is greater than thirty percent but not more than forty percent,~~
45 ~~(xi) two hundred fifty weeks in cases in which the loss of wage-earning~~
46 ~~capacity is greater than fifteen percent but not more than thirty~~
47 ~~percent, and (xii) two hundred twenty five weeks in cases in which the~~
48 ~~loss of wage-earning capacity is fifteen percent or less. For those~~
49 ~~claimants classified as permanently partially disabled who no longer~~
50 ~~receive indemnity payments because they have surpassed their number of~~
51 ~~maximum benefit weeks, the following provisions will apply:~~

52 ~~(1) There will be a presumption that medical services shall continue~~
53 ~~notwithstanding the completion of the time period for compensation set~~
54 ~~forth in this section and the burden of going forward and the burden of~~
55 ~~proof will lie with the carrier, self-insured employer or state insur-~~
56 ~~ance fund in any application before the board to discontinue or suspend~~

~~such services. Medical services will continue during the pendency of any such application and any appeals thereto.~~

~~(2) The board is directed to promulgate regulations that establish an independent review and appeal by an outside agent or entity of the board's choosing of any administrative law judge's determination to discontinue or suspend medical services before a final determination of the board].~~

§ 15. Paragraph a of subdivision 6 of section 15 of the workers' compensation law, as amended by section 7-a of part GG of chapter 57 of the laws of 2013, is amended to read as follows:

(a) Compensation for permanent or temporary total disability due to an accident or disablement resulting from an occupational disease that occurs, (1) on or after January first, nineteen hundred seventy-eight, shall not exceed one hundred twenty-five dollars per week, that occurs (2) on or after July first, nineteen hundred seventy-eight, shall not exceed one hundred eighty dollars per week, that occurs (3) on or after January first, nineteen hundred seventy-nine, shall not exceed two hundred fifteen dollars per week, that occurs (4) on or after July first, nineteen hundred eighty-three, shall not exceed two hundred fifty-five dollars per week, that occurs (5) on or after July first, nineteen hundred eighty-four, shall not exceed two hundred seventy-five dollars per week, that occurs (6) on or after July first, nineteen hundred eighty-five, shall not exceed three hundred dollars per week, that occurs (7) on or after July first, nineteen hundred ninety, shall not exceed three hundred forty dollars per week; and in the case of temporary total disability shall not be less than thirty dollars per week and in the case of permanent total disability shall not be less than twenty dollars per week except that if the employee's wages at the time of injury are less than thirty or twenty dollars per week respectively, he or she shall receive his or her full weekly wages. Compensation for permanent or temporary partial disability due to an accident or disablement resulting from an occupational disease that occurs (1) on or after January first, nineteen hundred seventy-eight, shall not exceed one hundred five dollars per week, that occurs (2) on or after July first, nineteen hundred eighty-three, shall not exceed one hundred twenty-five dollars per week, that occurs (3) on or after July first, nineteen hundred eighty-four, shall not exceed one hundred thirty-five dollars per week, that occurs (4) on or after July first, nineteen hundred eighty-five, shall not exceed one hundred fifty dollars per week, that occurs (5) on or after July first, nineteen hundred ninety, shall not exceed two hundred eighty dollars per week; nor be less than twenty dollars per week; except that if the employee's wages at the time of injury are less than twenty dollars per week, he or she shall receive his or her full weekly wages. In no event shall compensation when combined with decreased earnings or earning capacity exceed the amount of wages which the employee was receiving at the time the injury occurred. Compensation for permanent or temporary partial disability, or for permanent or temporary total disability due to an accident or disablement resulting from an occupational disease that occurs (1) on or after July first, nineteen hundred ninety-one and prior to July first, nineteen hundred ninety-two, shall not exceed three hundred fifty dollars per week; (2) on or after July first, nineteen hundred ninety-two, shall not exceed four hundred dollars per week; nor be less than forty dollars per week except that if the employee's wages at the time of injury are less than forty dollars per week, the employee shall receive his or her full wages. Compensation for permanent or temporary

1 partial disability, or for permanent or temporary total disability due
2 to an accident or disablement resulting from an occupational disease
3 that occurs (1) on or after July first, two thousand seven shall not
4 exceed five hundred dollars per week, (2) on or after July first, two
5 thousand eight shall not exceed five hundred fifty dollars per week, (3)
6 on or after July first, two thousand nine shall not exceed six hundred
7 dollars per week, and (4) on or after July first, two thousand ten, and
8 on or after July first of each succeeding year, shall not exceed two-
9 thirds of the New York state average weekly wage for the year in which
10 it is reported. Compensation for permanent or temporary partial disabili-
11 ty, or for permanent or temporary total disability due to an accident
12 or disablement resulting from an occupational disease that occurs on or
13 after July first, two thousand seven shall not be less than one hundred
14 dollars per week except that if the employee's wages at the time of
15 injury are less than one hundred dollars per week, the employee shall
16 receive his or her full wages. Compensation for permanent or temporary
17 partial disability, or for permanent or temporary total disability due
18 to an accident or disablement resulting from an occupational disease
19 that occurs on or after May first, two thousand thirteen shall not be
20 less than one hundred fifty dollars per week except that if the employ-
21 ee's wages at the time of injury are less than one hundred fifty dollars
22 per week, the employee shall receive his or her full wages. Compen-
23 sation for permanent or temporary partial disability, or for permanent
24 or temporary total disability due to an accident or disablement result-
25 ing from an occupational disease that occurs on or after the effective
26 date of the chapter of the laws of two thousand seventeen that amended
27 this paragraph shall not be less than one seventh of the New York state
28 average weekly wage except that if the employee's weekly wage, the
29 employee shall receive his or her full wages. In no event shall compen-
30 sation when combined with decreased earnings or earning capacity exceed
31 the amount of wages the employee was receiving at the time the injury
32 occurred. Compensation for permanent or temporary partial disability, or
33 for permanent or temporary total disability due to an accident or disa-
34 blement resulting from an occupational disease or injury that occurred
35 as a result of World Trade Center rescue activity by an employee of a
36 private voluntary hospital, who passed a physical examination upon
37 employment as a rescue worker that failed to reveal evidence of a condi-
38 tion that was the proximate cause of disablement or occupational disease
39 or injury, shall not exceed three-quarters of a claimant's wage on
40 September eleventh, two thousand one. In no event shall compensation
41 when combined with decreased earnings or earning capacity exceed the
42 amount of wages the employee was receiving on September eleventh, two
43 thousand one.

44 § 16. Section 15 of the workers' compensation law is amended by adding
45 a new subdivision 10 to read as follows:

46 10. Cost-of-living adjustments of disability benefits. (a) Notwith-
47 standing any other provision of law, in addition to any other amount
48 received pursuant to this article as disability benefits, an employee
49 with a disability or the beneficiary dependent of such employee shall be
50 entitled to an additional allowance, to be known as a cost-of-living
51 adjustment allowance, payable annually.

52 (b) The cost-of-living adjustment allowance shall be computed by
53 applying an adjustment for regional costs of living and shall be based
54 on two-thirds of the annual increase in the consumer price index for all
55 urban consumers (CPI-U) as promulgated by the United States department
56 of labor.

1 (c) This subdivision shall not be deemed or construed to diminish the
2 right of any employee or beneficiary to any benefit to which such
3 employee or beneficiary would otherwise be entitled pursuant to law.

4 § 17. Subdivisions 1, 1-b, 1-c, 1-d, 2, 2-a and 2-b of section 16 of
5 the workers' compensation law, subdivision 1 as amended by chapter 245
6 of the laws of 2005, subdivisions 1-b, 1-c and 2 as amended by chapter
7 168 of the laws of 1979, subdivisions 1-d and 2-b as added by chapter
8 689 of the laws of 2007, subdivision 2-a as amended by chapter 174 of
9 the laws of 1981, are amended to read as follows:

10 1. Funeral expenses. The chair shall prepare and establish a schedule
11 for the state or schedules limited to defined localities of maximum
12 charges and fees for such funeral expenses, to be determined in accord-
13 ance with, and to be subject to change pursuant to, rules promulgated by
14 the chair. The maximum charges and fees for funeral expenses estab-
15 lished in a schedule or schedules shall not be less than twelve thousand
16 dollars. Before preparing such schedule for the state or schedules for
17 limited localities, the chair shall request the president of the New
18 York state funeral directors' association to submit to the chair a
19 report on the amount of remuneration deemed by such association to be
20 fair and adequate for the types of funeral services rendered under this
21 chapter, but consideration shall also be given to the views of other
22 interested parties. The amounts payable by the employer for such
23 services shall be the actual fees and charges up to the maximum estab-
24 lished by such schedule. Provided, however, no such schedule of charges
25 and fees shall apply where a firefighter dies from injuries received in
26 the line of duty as a direct result of firefighting or where a police
27 officer dies from injuries received in the line of duty as a direct
28 result of law enforcement activities, where such funeral expenses are
29 reasonable. If such funeral expenses shall have been paid by the claim-
30 ants entitled to compensation under this section or by others, the
31 funeral expenses awarded shall be made payable to such claimants or
32 others, otherwise they shall be made payable to the undertaker who shall
33 have provided burial. Funeral expenses shall be awarded in case of all
34 injuries causing death including cases in which there are no persons
35 entitled to other compensation under this chapter.

36 1-b. If there be a surviving spouse and no child of the deceased under
37 the age of eighteen years and no child of any age dependent blind or
38 physically disabled, and the death occurs on or after July first, nine-
39 teen hundred forty-eight, and prior to January first, nineteen hundred
40 seventy-eight, to such spouse forty per centum of the average wages of
41 the deceased [~~during widowhood or widowerhood with two years' compen-~~
42 ~~sation in one sum, upon remarriage~~]; and where the death occurred prior
43 to July first, nineteen hundred forty-eight, to such wife (or dependent
44 husband) thirty per centum of such wages [~~during widowhood (or dependent~~
45 ~~widowerhood) with two years' compensation in one sum, upon remarriage~~].

46 1-c. If there be a surviving spouse and no child of the deceased under
47 the age of eighteen years or under the age of twenty-three years if
48 enrolled and attending as a full time student in an accredited educa-
49 tional institution and such enrollment and fulltime attendance is
50 certified by such institution and no child of any age dependent blind or
51 physically disabled, and the death occurs on or after January first,
52 nineteen hundred seventy-eight, to such spouse sixty-six and two-thirds
53 per centum of the average wages of the deceased [~~during widowhood or~~
54 ~~widowerhood with two years' compensation, in one sum, upon remarriage~~].
55 Where the death occurs on or after January first, nineteen hundred
56 seventy-eight, and the spouse is receiving the survivors insurance bene-

fits under the social security act, the death benefit payable under this section shall be reduced in accordance with the provisions of table No. 1 below by five per centum of the spouse's share of the survivor's insurance benefits under the social security act for each ten dollars of deceased's average weekly wage in excess of one hundred dollars provided that in no case shall such reduction exceed fifty per centum of said spouse's share of the survivors insurance benefits under the social security act.

TABLE No. I

Offset provisions applicable in death benefits
where there is a sole surviving spouse

AVERAGE WEEKLY WAGE	PERCENTAGE OF SPOUSE'S SHARE OF SURVIVORS INSURANCE BENEFITS
---------------------	--

over \$100 up to and including \$110	5
over \$110 up to and including \$120	10
over \$120 up to and including \$130	15
over \$130 up to and including \$140	20
over \$140 up to and including \$150	25
over \$150 up to and including \$160	30
over \$160 up to and including \$170	35
over \$170 up to and including \$180	40
over \$180 up to and including \$190	45
over \$190 up to and including \$200	50
over \$200	50

1-d. If there be a surviving spouse of an employee of a private voluntary hospital killed in a World Trade Center rescue, who passed a physical examination upon employment as a rescue worker that failed to reveal evidence of a condition that was the proximate cause of death, and no child of the deceased under the age of eighteen years, or under the age of twenty-three years if enrolled and attending as a full-time student in an accredited educational institution and such enrollment and full-time attendance is certified by such institution, and no child of any age dependent blind or physically disabled, to such spouse seventy-five per centum of the average wages of the deceased ~~[during widowhood or widowerhood, with two years' compensation, in one sum, upon remarriage]~~. Where such death occurs, and the spouse is receiving the survivors insurance benefits under the social security act, the death benefit payable under this section shall be reduced in accordance with the provisions of table No. I in subdivision one-c of this section by five per centum of the spouse's share of the survivor's insurance benefits under the social security act for each ten dollars of deceased's average weekly wage in excess of one hundred dollars; provided that in no case shall such reduction exceed fifty per centum of such spouse's share of the survivors insurance benefits under the social security act.

2. If there be a surviving spouse and a surviving child or children of the deceased under the age of eighteen years or a surviving child or children of any age dependent blind or physically disabled, and the death occurs on or after July first, nineteen hundred forty-eight, and prior to January first, nineteen hundred seventy-eight, to such spouse thirty per centum of the average wages of the deceased ~~[during widowhood or widowerhood with two years' compensation in one sum, upon remarriage]~~; and the additional amount of twenty per centum of such wages for

1 each such child until the age of eighteen years or until the removal of
2 the dependency of the blind or physically disabled child or children; in
3 case of the subsequent death [~~or remarriage~~] of such surviving spouse
4 any surviving child of the deceased employee, at the time under eighteen
5 years of age or dependent through mental or physical infirmity, shall
6 have his or her compensation increased to thirty per centum of such
7 wages, and the same shall be payable until he shall reach the age of
8 eighteen years or until such dependent blind or physically disabled
9 condition shall have been removed; provided that the total amount paya-
10 ble shall in no case exceed sixty-six and two-thirds per centum of such
11 wages. Upon statutory termination of compensation payments to all such
12 children, the compensation of the surviving spouse shall be increased to
13 forty per centum of such wages [~~with two years' compensation, at such~~
14 ~~rate, in one sum, upon remarriage~~].

15 If there be a surviving wife (or dependent husband) and any of the
16 aforementioned surviving children, and the death occurred prior to July
17 first, nineteen hundred forty-eight, to such wife (or dependent husband)
18 thirty per centum of the average wages of the deceased [~~during widowhood~~
19 ~~(or dependent widowerhood) with two years' compensation in one sum, upon~~
20 ~~remarriage~~]; and the additional amount of ten per centum of such wages
21 for each such child until eighteen years of age or until the removal of
22 the dependency of the blind or physically disabled child or children; in
23 case of the subsequent death [~~or remarriage~~] of such surviving wife (or
24 dependent husband) any surviving child of the deceased shall have his or
25 her compensation increased to fifteen per centum of such wages until he
26 shall reach the age of eighteen years or until such dependent blind or
27 physically disabled condition shall have been removed; provided that the
28 total amount payable shall in no case exceed sixty-six and two-thirds
29 per centum of such wages.

30 The board may in its discretion require the appointment of a guardian
31 for the purpose of receiving the compensation of a minor child or a
32 dependent blind or physically disabled child. In the absence of such a
33 requirement by the board the appointment of a guardian for such purposes
34 shall not be necessary.

35 2-a. If there be a surviving spouse and a surviving child under the
36 age of eighteen years or under the age of twenty-three years if enrolled
37 and attending as a full time student in an accredited educational insti-
38 tution and such enrollment and full time attendance is certified by such
39 institution or a surviving child of any age dependent blind or phys-
40 ically disabled and the death occurs on or after January first, nineteen
41 hundred seventy-eight, to such spouse thirty-six and two-thirds per
42 centum of the average wages of the deceased [~~during widowhood or widow-~~
43 ~~erhood with two years' compensation in one sum, upon remarriage~~]; and
44 thirty per centum of such wages to such child under the age of eighteen
45 years or under the age of twenty-three years if enrolled and attending
46 as a full time student in an accredited educational institution and such
47 enrollment and full time attendance is certified by such institution or
48 a surviving child of any age dependent blind or physically disabled; in
49 the case of the subsequent death of such surviving spouse the surviving
50 child shall have his or her compensation increased to sixty-six and
51 two-thirds per centum of such wages and the same shall be payable so
52 long as he or she is under the age of eighteen years or under the age of
53 twenty-three years if enrolled and attending as a full time student in
54 an accredited educational institution and such enrollment and full time
55 attendance is certified by such institution or a surviving child of any
56 age dependent blind or physically disabled; upon statutory termination

of compensation payable to such child, the compensation of the surviving spouse shall be increased to sixty-six and two-thirds per centum of such wages [~~with two years' compensation, at such rate, in one sum, upon remarriage. Upon remarriage of such surviving spouse, the surviving child shall continue to receive thirty per centum of such wages~~]. Where the death occurs on or after January first, nineteen hundred seventy-eight and the spouse is receiving survivors insurance benefits under the social security act, the death benefit payable under this section shall be reduced by five per centum of the spouse's share of the survivors insurance benefits under the social security act for each ten dollars of deceased's average weekly wage in excess of one hundred dollars provided that in no case shall such reduction exceed fifty per centum of said spouse's share of the survivors insurance benefits under the social security act as set forth in table No. I below.

TABLE No. I

Offset provisions applicable in death benefits
where there is a surviving spouse and one child

AVERAGE WEEKLY WAGE	PERCENTAGE OF SPOUSE'S SHARE OF SURVIVORS INSURANCE BENEFITS
over \$100 up to and including \$110	5
over \$110 up to and including \$120	10
over \$120 up to and including \$130	15
over \$130 up to and including \$140	20
over \$140 up to and including \$150	25
over \$150 up to and including \$160	30
over \$160 up to and including \$170	35
over \$170 up to and including \$180	40
over \$180 up to and including \$190	45
over \$190 up to and including \$200	50
over \$200	50

If there be a surviving spouse and two or more surviving children under the age of eighteen years or under the age of twenty-three years if enrolled and attending as a full time student in an accredited educational institution and such enrollment and full time attendance is certified by such institution or a surviving child or children of any age dependent blind or physically disabled and a death occurs on or after January first, nineteen hundred seventy-eight, to such spouse thirty-six and two-thirds per centum of the average wage of the deceased [~~during widowhood or widowerhood with two years' compensation in one sum upon remarriage~~]; and thirty per centum of such wages to such children under the age of eighteen years or under the age of twenty-three years if enrolled and attending as a full time student in an accredited educational institution and such enrollment and full time attendance is certified by such institution or a surviving child or children of any age dependent blind or physically disabled, share and share alike; in case of the subsequent death of such surviving spouse the surviving children shall have their compensation increased to sixty-six and two-thirds per centum of such wages and the aggregate sum shall be payable, share and share alike, so long as they are under the age of eighteen years or under the age of twenty-three years if enrolled and attending as a full time student in an accredited educational institution and such enrollment and full time attendance is certified by such institution or

1 a surviving child or children of any age dependent blind or physically
 2 disabled. [~~Upon remarriage of such surviving spouse, if there be two~~
 3 ~~surviving children each shall receive twenty-five per centum of such~~
 4 ~~wages, and if there are surviving more than two children under the age~~
 5 ~~of eighteen years or under the age of twenty-three if enrolled and~~
 6 ~~attending as a full time student in an accredited educational institu-~~
 7 ~~tion and such enrollment and full time attendance is certified by such~~
 8 ~~institution or a surviving child or children of any age dependent blind~~
 9 ~~or physically disabled sixty-six and two-thirds per centum of such wages~~
 10 ~~share and share alike.~~] Upon statutory termination of compensation paya-
 11 ble to such children, the compensation of the surviving spouse shall be
 12 increased to sixty-six and two-thirds per centum of such wages [~~with two~~
 13 ~~years' compensation, at such rate, in one sum, upon remarriage~~]. Where
 14 the death occurs on or after January first, nineteen hundred seventy-
 15 eight, and the spouse is receiving survivors insurance benefits under
 16 the social security act, the death benefits payable under this section
 17 shall be reduced by five per centum of the spouse's share of the survi-
 18 vors insurance benefits under the social security act for each ten
 19 dollars of deceased's average weekly wage in excess of one hundred fifty
 20 dollars provided that in no case shall such reduction exceed fifty per
 21 centum of said spouse's share of the survivors insurance benefits under
 22 the social security act as set forth in table No. II below.

TABLE No. II

Offset provisions applicable in death benefits
 where there is a surviving spouse and two or more children

AVERAGE WEEKLY WAGE	PERCENTAGE OF SPOUSE'S SHARE OF SURVIVORS INSURANCE BENEFITS
over \$150 up to and including \$160	5
over \$160 up to and including \$170	10
over \$170 up to and including \$180	15
over \$180 up to and including \$190	20
over \$190 up to and including \$200	25
over \$200 up to and including \$210	30
over \$210 up to and including \$220	35
over \$220 up to and including \$230	40
over \$230 up to and including \$240	45
over \$240 up to and including \$250	50
over \$250	50

2-b. If there be a surviving spouse of an employee of a private volun-
 tary hospital killed in a World Trade Center rescue, who passed a phys-
 ical examination upon employment as a rescue worker that failed to
 reveal evidence of a condition that was the proximate cause of death,
 and a surviving child under the age of eighteen years, or under the age
 of twenty-three years if enrolled and attending as a full-time student
 in an accredited educational institution and such enrollment and full-
 time attendance is certified by such institution, or a surviving child
 of any age dependent blind or physically disabled, to such spouse forty
 per centum of the average wages of the deceased [~~during widowhood or~~
~~widowerhood, with two years' compensation in one sum, upon remarriage~~];
 and thirty-five per centum of such wages to such child under the age of
 eighteen years, or under the age of twenty-three years if enrolled and
 attending as a full-time student in an accredited educational institu-

tion and such enrollment and full-time attendance is certified by such institution, or a surviving child of any age dependent blind or physically disabled; in the case of the subsequent death of such surviving spouse the surviving child shall have his or her compensation increased to seventy-five per centum of such wages and the same shall be payable so long as he or she is under the age of eighteen years, or under the age of twenty-three years if enrolled and attending as a full-time student in an accredited educational institution and such enrollment and full-time attendance is certified by such institution, or a surviving child of any age dependent blind or physically disabled; upon statutory termination of compensation payable to such child, the compensation of the surviving spouse shall be increased to seventy-five per centum of such wages [~~with two years' compensation, at such rate, in one sum, upon remarriage. Upon remarriage of such surviving spouse, the surviving child shall continue to receive thirty-five per centum of such wages~~]. Where such death occurs, and the spouse is receiving survivors insurance benefits under the social security act, the death benefit payable under this section shall be reduced by five per centum of the spouse's share of the survivors insurance benefits under the social security act for each ten dollars of deceased's average weekly wage in excess of one hundred dollars; provided that in no case shall such reduction exceed fifty per centum of such spouse's share of the survivors insurance benefits under the social security act as set forth in table No. I in subdivision one-c of this section. If there be a surviving spouse of an employee of a private voluntary hospital killed in a World Trade Center rescue, who passed a physical examination upon employment as a rescue worker that failed to reveal evidence of a condition that was the proximate cause of death, and two or more surviving children under the age of eighteen years, or under the age of twenty-three years if enrolled and attending as a full-time student in an accredited educational institution and such enrollment and full-time attendance is certified by such institution, or a surviving child or children of any age dependent blind or physically disabled and a death occurs on or after September eleventh, two thousand one, to such spouse forty per centum of the average wage of the deceased [~~during widowhood or widowerhood with two years' compensation in one sum upon remarriage~~]; and thirty-five per centum of such wages to such children under the age of eighteen years, or under the age of twenty-three years if enrolled and attending as a full-time student in an accredited educational institution and such enrollment and full-time attendance is certified by such institution, or a surviving child or children of any age dependent blind or physically disabled, share and share alike; in case of the subsequent death of such surviving spouse the surviving children shall have their compensation increased to seventy-five per centum of such wages and the aggregate sum shall be payable, share and share alike, so long as they are under the age of eighteen years, or under the age of twenty-three years if enrolled and attending as a full-time student in an accredited educational institution and such enrollment and full-time attendance is certified by such institution, or a surviving child or children of any age dependent blind or physically disabled. [~~Upon remarriage of such surviving spouse, if there be two surviving children each shall receive thirty-seven and one-half per centum of such wages, and if there are surviving more than two children under the age of eighteen years, or under the age of twenty-three if enrolled and attending as a full-time student in an accredited educational institution and such enrollment and full-time attendance is certified by such institution, or a surviving child or children~~

~~of any age dependant blind or physically disabled, seventy-five per centum of such wages share and share alike.~~] Upon statutory termination of compensation payable to such children, the compensation of the surviving spouse shall be increased to seventy-five per centum of such wages ~~[with two years' compensation, at such rate, in one sum, upon remarriage]~~. Where the death occurs on or after September eleventh, two thousand one, and the spouse is receiving survivors insurance benefits under the social security act, the death benefits payable under this section shall be reduced by five per centum of the spouse's share of the survivors insurance benefits under the social security act for each ten dollars of deceased's average weekly wage in excess of one hundred fifty dollars; provided that in no case shall such reduction exceed fifty per centum of said spouse's share of the survivors insurance benefits under the social security act as set forth in table No. II in subdivision two-a of this section.

§ 18. Section 16 of the workers' compensation law is amended by adding a new subdivision 8 to read as follows:

8. (a) Notwithstanding any other provision of law, in addition to any other amount received pursuant to this article as death benefits, a dependent of a deceased employee shall be entitled to an additional allowance, to be known as a cost-of-living adjustment allowance, payable annually.

(b) The cost-of-living adjustment allowance shall be computed by applying an adjustment for regional costs of living in the region where the deceased employee lived at the time of death or initial disability, whichever was earlier, and shall be based on two-thirds of the annual increase in the consumer price index for all urban consumers (CPI-U) as promulgated by the United States department of labor.

(c) This subdivision shall not be deemed or construed to diminish the right of any beneficiary to any benefits to which such beneficiary would otherwise be entitled pursuant to law.

§ 19. Section 17 of the workers' compensation law, as amended by chapter 538 of the laws of 1985, is amended to read as follows:

§ 17. Aliens. Compensation under this chapter to aliens not residents or about to become nonresidents of the United States or Canada and their surviving dependents, shall be the same in amount as provided for residents~~[, except that dependents in any foreign country shall be limited to surviving spouse and child or children, or, if there is no surviving spouse or child or children, to surviving father or mother whom the employee has supported, either wholly or in part, for the period of one year prior to the date of the accident].~~

§ 20. Section 21 of the workers' compensation law, subdivision 5 as amended by chapter 268 of the laws of 1946, is amended to read as follows:

§ 21. Presumptions. In any proceeding for the enforcement of a claim for compensation under this chapter, it shall be presumed in the absence of substantial evidence to the contrary:

1. That the claim comes within the provision of this chapter~~[+]~~.

2. That sufficient notice thereof was given~~[+]~~.

3. That the injury was not occasioned by the willful intention of the injured employee to bring about the injury or death of himself or of another~~[+]~~.

4. That the injury did not result solely from the intoxication of the injured employee while on duty.

1 5. That the contents of medical and surgical reports introduced in
2 evidence by claimants for compensation shall constitute prima facie
3 evidence of fact as to the matter contained therein.

4 6. That an injured worker whose employer has not offered her or him
5 reemployment has not voluntarily withdrawn from the labor market.

6 § 21. Section 23 of the workers' compensation law, as amended by
7 section 10 of part GG of chapter 57 of the laws of 2013, is amended to
8 read as follows:

9 § 23. Appeals. An award or decision of the board shall be final and
10 conclusive upon all questions within its jurisdiction, as against the
11 state fund or between the parties, unless reversed or modified on appeal
12 therefrom as hereinafter provided. Any party may within thirty days
13 after notice of the filing of an award or decision of a referee, file
14 with the board an application in writing for a modification or rescis-
15 sion or review of such award or decision, as provided in this chapter.
16 The board shall render its decision upon such application in writing and
17 shall include in such decision a statement of the facts which formed the
18 basis of its action on the issues raised before it on such application.
19 Within thirty days after notice of the decision of the board upon such
20 application has been served upon the parties, or within thirty days
21 after notice of an administrative redetermination review decision by the
22 chair pursuant to subdivision five of section fifty-two, section one
23 hundred thirty-one or section one hundred forty-one-a of this chapter
24 has been served upon any party in interest, an appeal may be taken ther-
25 efrom to the appellate division of the supreme court, third department,
26 by any party in interest, including an employer insured in the state
27 fund; provided, however, that any party in interest may within thirty
28 days after notice of the filing of the board panel's decision with the
29 secretary of the board, make application in writing for review thereof
30 by the full board. If the decision or determination was that of a panel
31 of the board and there was a dissent from such decision or determination
32 other than a dissent the sole basis of which is to refer the case to an
33 impartial specialist, the full board shall review and affirm, modify or
34 rescind such decision or determination in the same manner as herein
35 above provided for an award or decision of a referee. If the decision
36 or determination was that of a unanimous panel of the board, or there
37 was a dissent from such decision or determination the sole basis of
38 which is to refer the case to an impartial specialist, the board may in
39 its sole discretion review and affirm, modify or rescind such decision
40 or determination in the same manner as herein above provided for an
41 award or decision of a referee. Failure to apply for review by the full
42 board shall not bar any party in interest from taking an appeal directly
43 to the court as above provided. The board may also, in its discretion
44 certify to such appellate division of the supreme court, questions of
45 law involved in its decision. Such appeals and the question so certified
46 shall be heard in a summary manner and shall have precedence over all
47 other civil cases in such court. The board shall be deemed a party to
48 every such appeal from its decision upon such application, and the chair
49 shall be deemed a party to every such appeal from an administrative
50 redetermination review decision pursuant to subdivision five of section
51 fifty-two of this chapter. The attorney general shall represent the
52 board and the chair thereon. An appeal may also be taken to the court of
53 appeals in the same manner and subject to the same limitations not
54 inconsistent herewith as is now provided in the civil practice law and
55 rules. It shall not be necessary to file exceptions to the rulings of
56 the board. An appeal to the appellate division of the supreme court,

1 third department, or to the court of appeals, shall not operate as a
2 stay of the payment of compensation required by the terms of the award
3 or of the payment of the cost of such medical, dental, surgical, optome-
4 tric or other attendance, treatment, devices, apparatus or other neces-
5 sary items the employer is required to provide pursuant to section thir-
6 teen of this article which are found to be fair and reasonable. Where
7 such award is modified or rescinded upon appeal, the appellant shall be
8 entitled to reimbursement in a sum equal to the compensation in dispute
9 paid to the respondent in addition to a sum equal to the cost of such
10 medical, dental, surgical, optometric or other attendance, treatment,
11 devices, apparatus or other necessary items the employer is required to
12 provide pursuant to section thirteen of this article paid by the appel-
13 lant pending adjudication of the appeal. Such reimbursement shall be
14 paid from administration expenses as provided in section one hundred
15 fifty-one of this chapter upon audit and warrant of the comptroller upon
16 vouchers approved by the chair. Where such award is subject to the
17 provisions of section twenty-seven of this article, the appellant shall
18 pay directly to the claimant all compensation as it becomes due during
19 the pendency of the appeal, and upon affirmance shall be entitled to
20 credit for such payments. Neither the chair, the board, the commission-
21 ers of the state insurance fund nor the claimant shall be required to
22 file a bond upon an appeal to the court of appeals. Upon final determi-
23 nation of such an appeal, the board or chair, as the case may be, shall
24 enter an order in accordance therewith. Whenever a notice of appeal is
25 served or an application made to the board by the employer or insurance
26 carrier for a modification or rescission or review of an award or deci-
27 sion, and the board shall find that such notice of appeal was served or
28 such application was made for the purpose of delay or upon frivolous
29 grounds, the board shall impose a penalty in the amount of five hundred
30 dollars upon the employer or insurance carrier, which penalty shall be
31 added to the compensation and paid to the claimant. The penalties
32 provided herein shall be collected in like manner as compensation. A
33 party against whom an award of compensation shall be made may appeal
34 from a part of such award. In such a case the payment of such part of
35 the award as is not appealed from shall not prejudice any rights of such
36 party on appeal, nor be taken as an admission against such party. Any
37 appeal by an employer from an administrative redetermination review
38 decision pursuant to subdivision five of section fifty-two of this chap-
39 ter shall in no way serve to relieve the employer from the obligation to
40 timely pay compensation and benefits otherwise payable in accordance
41 with the provisions of this chapter.

42 Applications or petitions to the board for review, modification,
43 rescission, rehearing or review by the full board must be decided within
44 thirty days of the petition or application or within thirty days of
45 completion of motion practice on the petition or application, whichever
46 is later.

47 Nothing contained in this section shall be construed to inhibit the
48 continuing jurisdiction of the board as provided in section one hundred
49 twenty-three of this chapter.

50 § 22. Section 77 of the workers' compensation law, as amended by chap-
51 ter 6 of the laws of 2007, is amended to read as follows:

52 § 77. Administration. The state insurance fund shall be administered
53 by the commissioners of the state insurance fund, of whom there shall be
54 ~~ten~~ eight. The commissioner of labor and the chief executive officers
55 of the New York State American Federation of Labor-Congress of Indus-
56 trial Organizations and the Business Council of the State of New York

shall, in addition, be ~~[a commissioner]~~ commissioners of such fund by virtue of ~~[his or her office]~~ their offices. The commissioners shall elect annually from the appointive members a chair and a vice-chair who shall act as chair in the absence of the chair. The commissioner of labor may designate a deputy commissioner and the chief executive officers of the New York State American Federation of Labor-Congress of Industrial Organizations and the Business Council of the State of New York may each designate a representative to ~~[act in his or her]~~ execute their duties as commissioners of such fund in their place and stead ~~[as a commissioner of such fund]~~. The remaining commissioners shall be appointed by the governor, by and with the advice and consent of the senate. ~~[One commissioner shall be appointed by the governor upon recommendation by the New York State American Federation of Labor-Congress of Industrial Organizations, and one commissioner shall be appointed by the governor upon recommendation of the Business Council of the State of New York.]~~ They shall be policyholders insured in the state insurance fund. The commissioners shall be appointed for terms of three years each. They shall serve until their successors are appointed and have qualified. Vacancies shall be filled for the unexpired terms. Each commissioner shall before entering upon his or her duties, take and subscribe the constitutional oath of office which shall be filed in the office of the secretary of state.

§ 23. Section 114 of the workers' compensation law, as added by chapter 635 of the laws of 1996, subdivision 4 as amended and subdivision 5 as added by chapter 6 of the laws of 2007, is amended to read as follows:

§ 114. Penalties for fraudulent practices. 1. Any person who, knowingly and with intent to defraud presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by an insurer or purported insurer, or any agent thereof, any written statement as part of, or in support of, an application for the issuance of or the rating of an insurance policy for compensation insurance~~[, or a claim for payment or other benefit pursuant to a compensation policy]~~ which he or she knows to: (i) contain a false statement or representation concerning any fact material thereto; or (ii) omits any fact material thereto, shall be guilty of a class E felony. Upon conviction, the court in addition to any other authorized sentence, may order forfeiture of ~~[all rights to compensation or payments of any benefit]~~ any property, including real property, buildings and appurtenances that constitute the instrumentality of the entity on whose behalf the application was made, and may also require restitution of any amount received as a result of a violation of this subdivision.

1-a. Any person who, knowingly and with intent to defraud presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by an insurer or purported insurer, or any agent thereof, any written statement as part of, or in support of, a claim for payment or other benefit pursuant to a compensation policy which he or she knows to: (i) contain a false statement or representation concerning any fact material thereto; or (ii) omits any fact material thereto, shall be guilty of a class E felony. Upon conviction, the court in addition to any other authorized sentence, may order forfeiture of all rights to compensation or payments of any benefit, and may also require restitution of any amount received as a result of a violation of this subdivision.

2. An employer or carrier, or any employee, agent, or person acting on behalf of an employer or carrier, who knowingly makes a false statement

1 or representation as to a material fact in the course of reporting,
2 investigation of, or adjusting a claim for any benefit or payment under
3 this chapter for the purpose of avoiding provision of such payment or
4 benefit shall be guilty of a class E felony. Upon conviction, the court
5 in addition to any other authorized sentence, may order forfeiture of
6 any property, including real property, buildings and appurtenances that
7 constitute the instrumentality of the employer or carrier and may also
8 require restitution of any amount received as a result of a violation of
9 this subdivision.

10 3. A person who knowingly makes a false statement or representation as
11 to a material fact for the purpose of obtaining, maintaining or renewing
12 insurance under this chapter, whether for himself or herself or for any
13 other person or entity or for the purpose of evading the requirements of
14 section fifty of this chapter shall be guilty of a class E felony. Upon
15 conviction, the court in addition to any other authorized sentence, may
16 order forfeiture of any property, including real property, buildings and
17 appurtenances that constitute the instrumentality of the entity on whose
18 behalf the application was made. In addition to any other remedy, the
19 carrier providing insurance shall be entitled to restitution of any
20 amount obtained or withheld as a result of a violation of this subdivi-
21 sion.

22 4. Consistent with the provisions of the criminal procedure law, in
23 any prosecution alleging a violation of subdivision one, two or three of
24 this section, or sections fifty-two and one hundred thirty-one of this
25 chapter, in which the act or acts alleged may also constitute a
26 violation of the penal or other law, the prosecuting official may charge
27 a person pursuant to the provisions of this section and in the same
28 accusatory instrument with a violation of such other law.

29 5. A person (a) who is convicted of a second or subsequent offense
30 under this section within ten years of the prior conviction, or (b) who
31 violates any provision of this section concerning two or more claimants,
32 shall be guilty of a class [D] B felony.

33 § 24. Section 122 of the workers' compensation law, as amended by
34 chapter 113 of the laws of 1946, is amended to read as follows:

35 § 122. Transcripts. A copy of the testimony, evidence and procedure of
36 any investigation, or a particular part thereof, recorded and tran-
37 scribed by a stenographer in the employ of the board and certified by
38 such stenographer to be true and correct may be received in evidence
39 with the same effect as if such stenographer were present and testifying
40 to the facts so certified. A copy of such transcript shall be furnished
41 to any party upon payment of the fee for transcripts of similar minutes
42 in the supreme court.

43 § 25. Section 140 of the workers' compensation law, as amended by
44 chapter 57 of the laws of 1951, is amended to read as follows:

45 § 140. [~~Workmen's~~] Workers' compensation board. The [~~workmen's~~] work-
46 ers' compensation board in the department of labor is hereby continued.
47 Such board shall consist of thirteen members, at least four of whom
48 shall be attorneys and counsellors-at-law duly admitted to practice in
49 this state. The members of the board shall be appointed by the governor,
50 by and with the advice and consent of the senate. Three members shall
51 be appointed by the governor upon recommendation of the speaker of the
52 assembly; three members shall be appointed by the governor upon recom-
53 mendation of the temporary president of the senate; two members shall be
54 appointed by the governor upon recommendation of the New York State
55 American Federation of Labor-Congress of Industrial Organizations; and
56 two members shall be appointed by the governor upon recommendation of

1 the Business Council of the state of New York. The members of the board
2 in office, together with the additional members and the members
3 appointed to fill vacancies, if any, at the time this section takes
4 effect, shall continue, notwithstanding the appointment of any of the
5 members for a term expiring on a different date, to hold office for
6 terms to be assigned by the governor by and with the advice and consent
7 of the senate; two such terms to expire on December thirty-first, nine-
8 teen hundred fifty; two to expire on December thirty-first, nineteen
9 hundred fifty-one; two to expire on December thirty-first, nineteen
10 hundred fifty-two; two to expire on December thirty-first, nineteen
11 hundred fifty-three; two to expire on December thirty-first, nineteen
12 hundred fifty-four; two to expire on December thirty-first, nineteen
13 hundred fifty-five; and one to expire on December thirty-first, nineteen
14 hundred fifty-six. The members next appointed, except to fill a vacancy
15 created otherwise than by expiration of term, shall be appointed for
16 terms of seven years. The governor shall designate one of the members of
17 the board as chairman and another as vice-chairman.

18 § 26. Subdivision 1 of section 169 of the executive law, as amended by
19 section 9 of part A of chapter 60 of the laws of 2012, is amended to
20 read as follows:

21 1. Salaries of certain state officers holding the positions indicated
22 hereinbelow shall be as set forth in subdivision two of this section:

23 (a) commissioner of corrections and community supervision, commission-
24 er of education, commissioner of health, commissioner of mental health,
25 commissioner of developmental disabilities, commissioner of children and
26 family services, commissioner of temporary and disability assistance,
27 chancellor of the state university of New York, commissioner of trans-
28 portation, commissioner of environmental conservation, superintendent of
29 state police, commissioner of general services, commissioner of the
30 division of homeland security and emergency services [~~and~~], the execu-
31 tive director of the state gaming commission, and the chair of the work-
32 ers' compensation board;

33 (b) commissioner of labor, chairman of public service commission,
34 commissioner of taxation and finance, superintendent of financial
35 services, commissioner of criminal justice services, [~~and~~] commissioner
36 of parks, recreation and historic preservation, and the vice-chair of
37 the workers' compensation board;

38 (c) commissioner of agriculture and markets, commissioner of alcohol-
39 ism and substance abuse services, adjutant general, commissioner and
40 president of state civil service commission, commissioner of economic
41 development, chair of the energy research and development authority,
42 president of higher education services corporation, commissioner of
43 motor vehicles, member-chair of board of parole, chair of public employ-
44 ment relations board, secretary of state, commissioner of alcoholism and
45 substance abuse services, executive director of the housing finance
46 agency, commissioner of housing and community renewal, executive direc-
47 tor of state insurance fund, commissioner-chair of state liquor authori-
48 ty, [~~chair~~] and members of the workers' compensation board;

49 (d) director of office for the aging, commissioner of human rights,
50 commissioners of the department of public service, chairman of state
51 commission on quality of care for the mentally disabled, chairman of
52 commission on alcoholism and substance abuse prevention and education,
53 executive director of the council on the arts and executive director of
54 the board of social welfare;

55 (e) chairman of state athletic commission, director of the office of
56 victim services, chairman of human rights appeal board, chairman of the

1 industrial board of appeals, chairman of the state commission of
2 correction, members of the board of parole, member-chairman of unemploy-
3 ment insurance appeal board, and director of veterans' affairs[, ~~and~~
4 ~~vice-chairman of the workers' compensation board~~];

5 (f) executive director of adirondack park agency, members of state
6 commission of correction, and members of unemployment insurance appeal
7 board[, ~~and members of the workers' compensation board~~].

8 § 27. Paragraph 1 of subsection (t) of section 2313 of the insurance
9 law, as amended by chapter 237 of the laws of 2012, is amended to read
10 as follows:

11 (1) The governing body of a workers' compensation rate service organ-
12 ization shall be comprised of nine voting members. Four members shall
13 represent insurers authorized to write workers' compensation insurance
14 in this state, and shall be selected in such manner as is determined by
15 the members of the rate service organization. One member of the govern-
16 ing body shall be a representative of the state insurance fund. Each of
17 the remaining four members of the governing body shall serve for a term
18 of two years and until his or her successor shall have been appointed
19 and approved, provided that the appointing entity appoints a successor
20 member within one hundred twenty days of the expiration of the term of
21 office, and shall not be employed by, or serve as an officer or director
22 of, an insurer authorized to write workers' compensation insurance in
23 this state, or any parent, subsidiary, or affiliate thereof, except the
24 state insurance fund. One such member of the governing body shall be
25 appointed by the superintendent. The other three such members shall be
26 appointed subject to the approval of the superintendent by, and shall
27 serve as representatives of, the following: (A) the workers' compen-
28 sation board; (B) the Business Council of New York State, Inc.; and (C)
29 the American Federation of Labor - Congress of Industrial Organizations
30 of New York State. Any vacancy on the governing body shall be filled in
31 the same manner as the initial appointment. The governing body shall
32 select a chief executive officer who shall serve at the pleasure of the
33 governing body and whose terms and conditions of employment shall be
34 approved by the governing body. No restriction in this subsection shall
35 apply if compliance is prevented by the failure of any appointing
36 authority to make an appointment, or of the superintendent to approve
37 such appointment.

38 § 28. Section 71 of the civil service law, as amended by chapter 577
39 of the laws of 2003, is amended to read as follows:

40 § 71. Reinstatement after separation for disability. Where an employee
41 has been separated from the service by reason of a disability resulting
42 from occupational injury or disease as defined in the ~~[workmen's]~~ work-
43 ers' compensation law, he or she shall be entitled to a leave of absence
44 for at least one year, unless his or her disability is of such a nature
45 as to permanently incapacitate him or her for the performance of the
46 duties of his or her position. Notwithstanding the foregoing, where an
47 employee has been separated from the service by reason of a disability
48 resulting from an assault sustained in the course of his or her employ-
49 ment, he or she shall be entitled to a leave of absence for at least two
50 years, unless his or her disability is of such a nature as to permanent-
51 ly incapacitate him or her for the performance of the duties of his or
52 her position. Notwithstanding the foregoing, where an employee is absent
53 by reason of a disability resulting from occupational injury or disease
54 as defined in the workers' compensation law and that employee has not
55 yet received care directed by his or her treating provider as a result
56 of the employer or carrier's dispute, that employee is entitled to an

1 indefinite leave of absence, unless his or her disability is of such a
2 nature as to permanently incapacitate him or her for the performance of
3 the duties of his or her position. Such employee may, within one year
4 after the termination of such disability, make application to the civil
5 service department or municipal commission having jurisdiction over the
6 position last held by such employee for a medical examination to be
7 conducted by a medical officer selected for that purpose by such depart-
8 ment or commission. If, upon such medical examination, such medical
9 officer shall certify that such person is physically and mentally fit to
10 perform the duties of his or her former position, he or she shall be
11 reinstated to his or her former position, if vacant, or to a vacancy in
12 a similar position or a position in a lower grade in the same occupa-
13 tional field, or to a vacant position for which he or she was eligible
14 for transfer. If no appropriate vacancy shall exist to which rein-
15 statement may be made, or if the work load does not warrant the filling
16 of such vacancy, the name of such person shall be placed upon a
17 preferred list for his or her former position, and he or she shall be
18 eligible for reinstatement from such preferred list for a period of four
19 years. In the event that such person is reinstated to a position in a
20 grade lower than that of his or her former position, his or her name
21 shall be placed on the preferred eligible list for his or her former
22 position or any similar position. This section shall not be deemed to
23 modify or supersede any other provisions of law applicable to the re-em-
24 ployment of persons retired from the public service on account of disa-
25 bility.

26 § 29. Paragraph (b) of subdivision 1 of section 460.10 of the penal
27 law, as amended by chapter 442 of the laws of 2006, is amended to read
28 as follows:

29 (b) Any felony set forth elsewhere in the laws of this state and
30 defined by the tax law relating to alcoholic beverage, cigarette, gaso-
31 line and similar motor fuel taxes; article seventy-one of the environ-
32 mental conservation law relating to water pollution, hazardous waste or
33 substances hazardous or acutely hazardous to public health or safety of
34 the environment; article twenty-three-A of the general business law
35 relating to prohibited acts concerning stocks, bonds and other securi-
36 ties, article twenty-two of the general business law concerning monop-
37 lies, article seven of the workers' compensation law concerning fraud.

38 § 30. This act shall take effect on the ninetieth day after it shall
39 have become a law; provided, however that the amendments to paragraph 1
40 of subsection (t) of section 2313 of the insurance law made by section
41 twenty-seven of this act shall not affect the repeal of such subsection
42 and shall be deemed repealed therewith.