

# STATE OF NEW YORK

7455

2017-2018 Regular Sessions

## IN ASSEMBLY

April 26, 2017

Introduced by M. of A. TITONE, ZEBROWSKI, STIRPE, GUNTHER, JAFFEE, COOK, MONTESANO, BENEDETTO, MAGNARELLI -- Multi-Sponsored by -- M. of A. ABBATE, CROUCH, HIKIND, HOOPER, McLAUGHLIN -- read once and referred to the Committee on Labor

AN ACT to amend the workers' compensation law, in relation to the establishment of rates of payment and delivery of health care services

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

1 Section 1. The closing paragraph of subdivision (a) of section 13 of  
2 the workers' compensation law, as amended by chapter 6 of the laws of  
3 2007, is amended to read as follows:

4 The chair, in consultation with the board's medical director, shall  
5 biennially prepare and establish a schedule for the state, or schedules  
6 limited to defined localities, of charges and fees for such medical  
7 treatment and care, and including all medical, dental, surgical, optome-  
8 tric or other attendance or treatment, nurse and hospital service, medi-  
9 cine, optometric services, crutches, eye-glasses, false teeth, artifi-  
10 cial eyes, orthotics, prosthetic devices, functional assistive and  
11 adaptive devices and apparatus in accordance with and to be subject to  
12 change pursuant to rules promulgated by the chair. Before preparing such  
13 schedule for the state or schedules for limited localities the chair  
14 shall request the president of the medical society of the state of New  
15 York and the president of the New York state osteopathic medical society  
16 to submit to him or her a report on the amount of remuneration deemed by  
17 such society to be fair and adequate for the types of medical care to be  
18 rendered under this chapter, but consideration shall be given to the  
19 view of other interested parties. In the case of physical therapy fees  
20 schedules the chair shall request the president of [~~a recognized profes-~~  
21 ~~sional association representing physical therapists in the state of New~~  
22 ~~York~~] the New York physical therapy association to submit to him or her  
23 a report on the amount of remuneration deemed by such association to be

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

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1 fair and reasonable for the type of physical therapy services rendered  
2 under this chapter, but consideration shall be given to the views of  
3 other interested parties. The chair shall also prepare and establish a  
4 schedule for the state, or schedules limited to defined localities, of  
5 charges and fees for outpatient hospital services not covered under the  
6 medical fee schedule previously referred to in this subdivision, to be  
7 determined in accordance with and to be subject to change pursuant to  
8 rules promulgated by the chair. Before preparing such schedule for the  
9 state or schedules for limited localities the chair shall request the  
10 president of the hospital association of New York state to submit to him  
11 or her a report on the amount of remuneration deemed by such association  
12 to be fair and adequate for the types of hospital outpatient care to be  
13 rendered under this chapter, but consideration shall be given to the  
14 views of other interested parties. In the case of occupational therapy  
15 fees schedules the chair shall request the president of a recognized  
16 professional association representing occupational therapists in the  
17 state of New York to submit to him or her a report on the amount of  
18 remuneration deemed by such association to be fair and reasonable for  
19 the type of occupational therapy services rendered under this chapter,  
20 but consideration shall be given to the views of other interested  
21 parties. The amounts payable by the employer for such treatment and  
22 services shall be the fees and charges established by such schedule.  
23 Nothing in this schedule, however, shall prevent voluntary payment of  
24 amounts higher or lower than the fees and charges fixed therein, but no  
25 physician rendering medical treatment or care, and no physical or occu-  
26 pational therapist rendering their respective physical or occupational  
27 therapy services may receive payment in any higher amount unless such  
28 increased amount has been authorized by the employer, or by decision as  
29 provided in section thirteen-g of this article. Nothing in this section  
30 shall be construed as preventing the employment of a duly authorized  
31 physician on a salary basis by an authorized compensation medical bureau  
32 or laboratory.

33 § 2. Subdivision 2 of section 13-k of the workers' compensation law,  
34 as amended by chapter 473 of the laws of 2000, is amended to read as  
35 follows:

36 2. An employee injured under circumstances which make such injury  
37 compensable under this article, when care is required for an injury to  
38 the foot which injury or resultant condition therefrom may lawfully be  
39 treated by a duly registered and licensed podiatrist of the state of New  
40 York, may select to treat him or her any podiatrist authorized by the  
41 chair to render podiatry care, as hereinafter provided. If the injury or  
42 condition is one which is without the limits prescribed by the education  
43 law for podiatry care and treatment, or the injuries involved affect  
44 other parts of the body in addition to the foot, the said podiatrist  
45 must so advise the said injured employee and instruct him or her to  
46 consult a physician of said employee's choice for appropriate care and  
47 treatment. Such physician shall thenceforth have overall supervision of  
48 the treatment of said patient including the future treatment to be  
49 administered to the patient by the podiatrist. If for any reason during  
50 the period when podiatry treatment and care is required, the employee  
51 wishes to transfer his or her treatment and care to another authorized  
52 podiatrist he or she may do so, in accordance with rules prescribed by  
53 the chair, provided however that the employer shall be liable for the  
54 proper fees of the original podiatrist for the care and treatment he or  
55 she shall have rendered. A podiatrist licensed and registered to prac-  
56 tice podiatry in the state of New York who is desirous of being author-

1 ized to render podiatry care under this section and/or to conduct inde-  
2 pendent medical examinations in accordance with paragraph (b) of  
3 subdivision three of this section shall file an application for authori-  
4 zation under this section with the podiatry practice committee. In such  
5 application he or she shall agree to refrain from subsequently treating  
6 for remuneration, as a private patient, any person seeking podiatry  
7 treatment, or submitting to an independent medical examination, in  
8 connection with, or as a result of, any injury compensable under this  
9 chapter, if he or she has been removed from the list of podiatrists  
10 authorized to render podiatry care or to conduct independent medical  
11 examinations under this chapter, or if the person seeking such treatment  
12 has been transferred from his or her care in accordance with the  
13 provisions of this section. This agreement shall run to the benefit of  
14 the injured person so treated or examined, and shall be available to him  
15 or her as a defense in any action by such podiatrist for payment for  
16 treatment rendered by a podiatrist after he or she has been removed from  
17 the list of podiatrists authorized to render podiatry care or to conduct  
18 independent medical examinations under this section, or after the  
19 injured person was transferred from his or her care in accordance with  
20 the provisions of this section. The podiatry practice committee if it  
21 deems such licensed podiatrist duly qualified shall recommend to the  
22 chair that such podiatrist be authorized to render podiatry care and/or  
23 to conduct independent medical examinations under this section. Such  
24 recommendation shall be advisory to the chair only and shall not be  
25 binding or conclusive upon him or her. The chair, in consultation with  
26 the board's medical director, shall biennially prepare and establish a  
27 schedule for the state, or schedules limited to defined localities, of  
28 charges and fees for podiatry treatment and care, to be determined in  
29 accordance with and to be subject to change pursuant to rules promulgat-  
30 ed by the chair. Before preparing such schedule for the state or sched-  
31 ules for limited localities the chair shall request the podiatry prac-  
32 tice committee to submit to him or her a report on the amount of  
33 remuneration deemed by such committee to be fair and adequate for the  
34 types of podiatry care to be rendered under this chapter, but consider-  
35 ation shall be given to the view of other interested parties. The  
36 amounts payable by the employer for such treatment and services shall be  
37 the fees and charges established by such schedule.

38 § 3. Subdivision 2 of section 13-1 of the workers' compensation law,  
39 as amended by chapter 473 of the laws of 2000, is amended to read as  
40 follows:

41 2. An employee injured under circumstances which make such injury  
42 compensable under this article, when care is required for an injury  
43 which consists solely of a condition which may lawfully be treated by a  
44 chiropractor as defined in section sixty-five hundred fifty-one of the  
45 education law may select to treat him or her, any duly registered and  
46 licensed chiropractor of the state of New York, authorized by the chair  
47 to render chiropractic care as hereinafter provided. If the injury or  
48 condition is one which is outside the limits prescribed by the education  
49 law for chiropractic care and treatment, the said chiropractor must so  
50 advise the said injured employee and instruct him or her to consult a  
51 physician of said employee's choice for appropriate care and treatment.  
52 Such physician shall thenceforth have supervision of the treatment of  
53 said condition including the future treatment to be administered to the  
54 patient by the chiropractor. A chiropractor licensed and registered to  
55 practice chiropractic in the state of New York, who is desirous of being  
56 authorized to render chiropractic care under this section and/or to

1 conduct independent medical examinations in accordance with paragraph  
2 (b) of subdivision three of this section shall file an application for  
3 authorization under this section with the chiropractic practice commit-  
4 tee. In such application he or she shall agree to refrain from subse-  
5 quently treating for remuneration, as a private patient, any person  
6 seeking chiropractic treatment, or submitting to an independent medical  
7 examination, in connection with, or as a result of, any injury compensa-  
8 ble under this chapter, if he or she has been removed from the list of  
9 chiropractors authorized to render chiropractic care or to conduct inde-  
10 pendent medical examinations under this chapter, or if the person seek-  
11 ing such treatment has been transferred from his or her care in accord-  
12 ance with the provisions of this section. This agreement shall run to  
13 the benefit of the injured person so treated, or examined, and shall be  
14 available to him or her as a defense in any action by such chiropractor  
15 for payment rendered by a chiropractor after he or she has been removed  
16 from the list of chiropractors authorized to render chiropractic care or  
17 to conduct independent medical examinations under this section, or after  
18 the injured person was transferred from his or her care in accordance  
19 with the provisions of this section. The chiropractic practice committee  
20 if it deems such licensed chiropractor duly qualified shall recommend to  
21 the chair that such be authorized to render chiropractic care and/or to  
22 conduct independent medical examinations under this section. Such recom-  
23 mendations shall be advisory to the chair only and shall not be binding  
24 or conclusive upon him or her. The chair, in consultation with the  
25 board's medical director, shall biennially prepare and establish a sche-  
26 dule for the state, or schedules limited to defined localities of charg-  
27 es and fees for chiropractic treatment and care, to be determined in  
28 accordance with and to be subject to change pursuant to rules promulgat-  
29 ed by the chair. Before preparing such schedule for the state or sched-  
30 ules for limited localities the chair shall request the chiropractic  
31 practice committee to submit to him or her a report on the amount of  
32 remuneration deemed by such committee to be fair and adequate for the  
33 types of chiropractic care to be rendered under this chapter, but  
34 consideration shall be given to the view of other interested parties,  
35 the amounts payable by the employer for such treatment and services  
36 shall be the fees and charges established by such schedule.

37 § 4. Subdivision 3 of section 13-m of the workers' compensation law,  
38 as amended by chapter 473 of the laws of 2000, is amended to read as  
39 follows:

40 3. A psychologist, licensed and registered to practice psychology in  
41 the state of New York, who is desirous of being authorized to render  
42 psychological care under this section and/or to conduct independent  
43 medical examinations in accordance with paragraph (b) of subdivision  
44 four of this section shall file an application for authorization under  
45 this section with the psychology practice committee. The applicant shall  
46 agree to refrain from subsequently treating for remuneration, as a  
47 private patient, any person seeking psychological treatment, or submit-  
48 ting to an independent medical examination, in connection with, or as a  
49 result of, any injury compensable under this chapter, if he or she has  
50 been removed from the list of psychologists authorized to render psycho-  
51 logical care under this chapter. This agreement shall run to the benefit  
52 of the injured person so treated, and shall be available as a defense in  
53 any action by such psychologist for payment for treatment rendered by  
54 such psychologist after being removed from the list of psychologists  
55 authorized to render psychological care or to conduct independent  
56 medical examinations under this section. The psychology practice commit-

1 tee if it deems such licensed psychologist duly qualified shall recom-  
2 mend to the chair that such person be authorized to render psychological  
3 care and/or to conduct independent medical examinations under this  
4 section. Such recommendations shall be only advisory to the chair and  
5 shall not be binding or conclusive. The chair, in consultation with the  
6 board's medical director, shall biennially prepare and establish a sche-  
7 dule for the state or schedules limited to defined localities of charges  
8 and fees for psychological treatment and care, to be determined in  
9 accordance with and be subject to change pursuant to rules promulgated  
10 by the chair. Before preparing such schedule for the state or schedules  
11 for limited localities the chair shall request the psychology practice  
12 committee to submit to such chair a report on the amount of remuneration  
13 deemed by such committee to be fair and adequate for the types of  
14 psychological care to be rendered under this chapter, but consideration  
15 shall be given to the view of other interested parties. The amounts  
16 payable by the employer for such treatment and services shall be the  
17 fees and charges established by such schedule.

18 § 5. Notwithstanding the provisions of section one of this act or of  
19 any other law, rule or regulation to the contrary, a revision to the fee  
20 schedules established pursuant to sections 13, 13-k, 13-l and 13-m of  
21 the workers' compensation law existing as of the effective date of this  
22 act shall be published by the chair of the workers' compensation board  
23 on behalf of such board no later than one year following the effective  
24 date of this act. Subsequent biennial schedules shall be published in  
25 final form on January fifteenth every other year. Nothing in this  
26 section shall limit the authority of the chair of the workers' compen-  
27 sation board to make adjustments in the fee schedule other than at the  
28 biennial publication.

29 § 6. This act shall take effect immediately.