

# STATE OF NEW YORK

8387--C

2017-2018 Regular Sessions

## IN ASSEMBLY

June 12, 2017

Introduced by M. of A. PRETLOW, TAYLOR, D'URSO, GOTTFRIED, STECK, McDONALD -- Multi-Sponsored by -- M. of A. EPSTEIN, PALMESANO -- read once and referred to the Committee on Labor -- recommitted to the Committee on Labor in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the workers' compensation law, in relation to extending the board's authority to resolve medical bill disputes and simplify the process

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

1 Section 1. Section 13-b of the workers' compensation law, as amended  
2 by chapter 1068 of the laws of 1960, the section heading, subdivisions 1  
3 and 2 as amended by chapter 473 of the laws of 2000 and subdivision 3 as  
4 amended by section 85 of part A of chapter 58 of the laws of 2010, is  
5 amended to read as follows:

6 § 13-b. Authorization of [physicians] providers, medical bureaus and  
7 laboratories by the chair. 1. [~~Upon the recommendation of the medical  
8 society of the county in which the physician's office is located or of a  
9 board designated by such county society or of a board representing duly  
10 licensed physicians of any other school of medical practice in such  
11 county, the chair may authorize physicians licensed to practice medicine  
12 in the state of New York to render medical care under this chapter and  
13 to perform independent medical examinations in accordance with subdivi-  
14 sion four of section thirteen a of this article. If, within sixty days  
15 after the chair requests such recommendations the medical society of  
16 such county or board fails to act, or if there is no such society in~~

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

LBD13065-05-8

~~such county, the chair shall designate a board of three outstanding physicians, who shall make the requisite recommendations.~~

~~No such authorization shall be made in the absence of a recommendation of the appropriate society or board or of a review and recommendation by the medical appeals unit.]~~ No person shall render medical care or conduct independent medical examinations under this chapter without such authorization by the chair~~[, provided, that: (a)]~~. As used in this title, the following definitions shall have the following meanings unless their context requires otherwise:

(a) "Acupuncturist" shall mean licensed as having completed a formal course of study and having passed an examination in accordance with the education law, the regulations of the commissioner of education, and the requirements of the board of regents. Acupuncturists are required by the education law to advise, in writing, each patient of the requirement that he or she consult with a physician for the condition or conditions necessitating acupuncture care, as prescribed by the education law.

(b) "Chair" of the board shall mean either the chair or the chair's designee.

(c) "Chiropractor" shall mean licensed and having completed two years of preprofessional college study and a four-year resident program in chiropractic in accordance with the education law, and consistent with the licensing requirements of the commissioner of education.

(d) "Dentist" shall mean licensed and having completed a four-year course of study leading to a D.D.S. or D.D.M. degree, or an equivalent degree, in accordance with the education law and the licensing requirements of the commissioner of education.

(e) "Employer" shall mean a self-insured employer or, if insured, the insurance carrier.

(f) "Independent medical examination" shall mean an examination performed by a medical provider, authorized under this section to perform such examination, for the purpose of examining or evaluating injury or illness pursuant to paragraph (b) of subdivision four of section thirteen-a and section one hundred thirty-seven of this chapter and as more fully set forth in regulation.

(g) "Nurse practitioner" shall mean a licensed registered professional nurse certified pursuant to section sixty-nine hundred ten of the education law.

(h) "Occupational therapist" shall mean licensed as having a bachelor's or master's degree in occupational therapy from a registered program with the education department or receipt of a diploma or degree resulting from completion of not less than four years of postsecondary study, which includes the professional study of occupational therapy in accordance with the education law and the regulations of the commissioner of education.

(i) "Physical therapist" shall mean licensed as having completed a master's degree or higher in physical therapy in accordance with the education law and the licensing requirements of the commissioner of education.

(j) "Physician" shall mean licensed with a degree of doctor of medicine, M.D., or doctor of osteopathic medicine, D.O., or an equivalent degree in accordance with the education law and the licensing requirements of the state board of medicine and the regulations of the commissioner of education.

(k) "Physician assistant" shall mean a licensed provider who has graduated from a two- to four-year state-approved physician assistant program, has passed a licensing examination, and whose actions and

1 duties are within the scope of practice of the supervising physician, in  
2 accordance with the education law and the regulations of the commission-  
3 er of education.

4 (l) "Podiatrist" shall mean a doctor of podiatric medicine licensed as  
5 having received a doctoral degree in podiatric medicine in accordance  
6 with the regulations of the commissioner of education and the education  
7 law, and must satisfactorily meet all other requirements of the state  
8 board for podiatric medicine.

9 (m) "Provider" shall mean a duly licensed acupuncturist, chiropractor,  
10 independent medical examiner, nurse practitioner, physical therapist,  
11 physician, physician assistant, podiatrist, psychologist, or social  
12 worker authorized by the chair.

13 (n) "Psychologist" shall mean licensed as having received a doctoral  
14 degree in psychology from a program of psychology registered with the  
15 state education department or the substantial equivalent thereof in  
16 accordance with the education law, the requirements of the state board  
17 for psychology, and the regulations of the commissioner of education.

18 (o) "Social worker" shall mean a licensed clinical social worker. A  
19 licensed clinical social worker has completed a master's degree of  
20 social work that includes completion of a core curriculum of at least  
21 twelve credit hours of clinical courses or the equivalent post-graduate  
22 clinical coursework, in accordance with the education law and the regu-  
23 lations of the commissioner of education.

24 2. Any [~~physician~~] provider licensed [~~to practice medicine~~] pursuant  
25 to the education law to provide medical care and treatment in the state  
26 of New York may render emergency [~~medical~~] care and treatment in an  
27 emergency hospital or urgent care setting providing emergency treatment  
28 under this chapter without authorization by the chair under this  
29 section; [~~and~~

30 ~~(b)~~ (a) Such licensed [~~physician~~] provider as identified in this  
31 subdivision who is [~~a member of a constituted medical staff of any~~  
32 hospital] on staff at any hospital or urgent care center providing emer-  
33 gency treatment may [~~render~~] continue such medical care under this chap-  
34 ter while an injured employee remains a patient in such hospital or  
35 urgent care setting; and

36 ~~(e)~~ (b) Under the [~~active and personal~~] direct supervision of an  
37 authorized [~~physician~~] provider, medical care may be rendered by a  
38 registered nurse or other person trained in laboratory or diagnostic  
39 techniques within the scope of such person's specialized training and  
40 qualifications. This supervision shall be evidenced by signed records of  
41 instructions for treatment and signed records of the patient's condition  
42 and progress. Reports of such treatment and supervision shall be made by  
43 such [~~physician~~] provider to the chair [~~on such forms and~~] in the format  
44 prescribed by the chair at such times as the chair may require.

45 ~~(d) Upon the referral which may be directive as to treatment of an~~  
46 authorized physician physical therapy care may be rendered by a duly  
47 licensed physical therapist. Where physical therapy care is rendered  
48 records of the patient's condition and progress, together with records  
49 of instruction for treatment, if any, shall be maintained by the phys-  
50 ical therapist and physician. Said records shall be submitted to the  
51 chair on such forms and at such times as the chair may require.

52 ~~(e) Upon the prescription or referral of an authorized physician occu-~~  
53 pational therapy care may be rendered by a duly licensed occupational  
54 therapist. Where occupational therapy care is rendered records of the  
55 patient's condition and progress, together with records of instruction  
56 for treatment, if any shall be maintained by the occupational therapist

~~1 and physician. Said records shall be submitted to the chair on forms and  
2 at such times as the chair may require.~~

3 ~~(f)~~ (c) Where it would place an unreasonable burden upon the employer  
4 or carrier to arrange for, or for the claimant to attend, an independent  
5 medical examination by an authorized [physician] provider, the employer  
6 or carrier shall arrange for such examination to be performed by a qual-  
7 ified [physician] provider in a medical facility convenient to the  
8 claimant.

9 ~~2-~~ (d) Upon the prescription or referral of an authorized physician,  
10 or nurse practitioner acting within the scope of his or her practice,  
11 care or treatment may be rendered to an injured employee by an author-  
12 ized physical therapist, occupational therapist or acupuncturist  
13 provided the conditions and the treatment performed are among the condi-  
14 tions that the physical therapist, occupational therapist or acupunctu-  
15 rist is authorized to treat pursuant to the education law or the regu-  
16 lations of the commissioner of education. Where any such care or  
17 treatment is rendered, records of the patient's condition and progress,  
18 together with records of instruction for treatment, if any, shall be  
19 maintained by the physical therapist, occupational therapist or acupunc-  
20 turist rendering treatment and by the referring physician or nurse prac-  
21 titioner. Said records shall be submitted to the chair on forms and at  
22 such times as the chair may require.

23 (e) A record, report or opinion of a physical therapist, occupational  
24 therapist, acupuncturist or physician assistant shall not be considered  
25 as evidence of the causal relationship of any condition to a work  
26 related accident or occupational disease under this chapter. Nor may a  
27 record, report or opinion of a physical therapist, occupational thera-  
28 pist or acupuncturist be considered evidence of disability. Nor may a  
29 record, report or opinion of a physician assistant be considered  
30 evidence of the presence of a permanent or initial disability or the  
31 degree thereof. Nor may a physical therapist, occupational therapist,  
32 acupuncturist or physician assistant perform an independent medical  
33 examination concerning a claim under this chapter.

34 (f) A nurse practitioner, or licensed certified social worker, may  
35 perform an independent medical examination on behalf of an employer only  
36 to the extent that the examination concerns treatment rendered by an  
37 identical provider type, but may not perform an independent medical  
38 examination on behalf of the employer concerning (1) the causal  
39 relationship of any condition to a work related accident or occupational  
40 disease under this chapter or (2) the presence of a disability or the  
41 degree thereof.

42 3. A ~~physician licensed to practice medicine in the state of New York~~  
43 ~~who is~~ provider properly licensed or certified pursuant to the regu-  
44 lations of the commissioner of education and the requirements of the  
45 education law desirous of being authorized to render medical care under  
46 this chapter and/or to conduct independent medical examinations in  
47 accordance with paragraph (b) of subdivision four of section thirteen-a  
48 and section one hundred thirty-seven of this chapter shall file an  
49 application for authorization under this chapter with the ~~[medical soci-~~  
50 ~~ety in the county in which his or her office is located, or with a board~~  
51 ~~designated by such society, or with a board designated by the chair as~~  
52 ~~provided in this section. In such application the applicant shall state~~  
53 ~~his or her training and qualifications, and shall agree to limit his or~~  
54 ~~her professional activities under this chapter to such medical care and~~  
55 ~~independent medical examinations, as his or her experience and training~~  
56 ~~qualify him or her to render. The applicant shall further agree to~~

1 ~~refrain~~] chair or chair's designee. Prior to receiving authorization, a  
2 physician must, together with submission of an application to the chair,  
3 submit such application to the medical society of the county in which  
4 the physician's office is located or of a board designated by such coun-  
5 ty society or of a board representing duly licensed physicians of any  
6 other school of medical practice in such county, and submit the recom-  
7 mendation to the board. In the event such county society or board fails  
8 to take action upon a physician's application within forty-five days,  
9 the chair may complete review of the application without such approval.  
10 Upon approval of the application by the chair or the chair's designee,  
11 the applicant shall further agree to refrain from subsequently treating  
12 for remuneration, as a private patient, any person seeking medical  
13 treatment, or submitting to an independent medical examination, in  
14 connection with, or as a result of, any injury compensable under this  
15 chapter, if he or she has been removed from the list of [~~physicians~~]  
16 providers authorized to render medical care or to conduct independent  
17 medical examinations under this chapter, or if the person seeking such  
18 treatment, or submitting to an independent medical examination, has been  
19 transferred from his or her care in accordance with the provisions of  
20 this chapter. This agreement shall run to the benefit of the injured  
21 person so treated or examined, and shall be available to him or her as a  
22 defense in any action by such [~~physician~~] provider for payment for  
23 treatment rendered by a [~~physician~~] provider after he or she has been  
24 removed from the list of [~~physicians~~] providers authorized to render  
25 medical care or to conduct independent medical examinations under this  
26 chapter, or after the injured person was transferred from his or her  
27 care in accordance with the provisions of this chapter. [~~The medical~~  
28 ~~society or the board designated by it, or the board as otherwise~~  
29 ~~provided under this section, if it deems such licensed physician duly~~  
30 ~~qualified, shall recommend to the chair that such physician be author-~~  
31 ~~ized to render medical care and/or conduct independent medical examina-~~  
32 ~~tions under this chapter, and such recommendation and authorization~~  
33 ~~shall specify the character of the medical care or independent medical~~  
34 ~~examination which such physician is qualified and authorized to render~~  
35 ~~under this chapter. Such recommendations shall be advisory to the chair~~  
36 ~~only and shall not be binding or conclusive upon him or her. The~~  
37 ~~licensed physician may present to the medical society or board,~~  
38 ~~evidences of additional qualifications at any time subsequent to his or~~  
39 ~~her original application. If the medical society or board fails to~~  
40 ~~recommend to the chair that a physician be authorized to render medical~~  
41 ~~care and/or to conduct independent medical examinations under this chap-~~  
42 ~~ter, the physician may appeal to the medical appeals unit. The medical~~  
43 ~~society or the board designated by it, or the board as otherwise~~  
44 ~~provided under this section, may upon its own initiative, or shall upon~~  
45 ~~request of the chair, review at any time the qualifications of any~~  
46 ~~physician as to the character of the medical care or independent medical~~  
47 ~~examinations which such physician has theretofore been authorized to~~  
48 ~~render under this chapter and may recommend to the chair that such~~  
49 ~~physician be authorized to render medical care or to conduct independent~~  
50 ~~medical examinations thereafter of the character which such physician is~~  
51 ~~then qualified to render. On such advisory recommendation the chair may~~  
52 ~~review and after reasonable investigation may revise the authorization~~  
53 ~~of a physician in respect to the character of medical care and/or to~~  
54 ~~conduct independent medical examinations which he or she is authorized~~  
55 ~~to render. If the medical society or board recommends to the chair that~~  
56 ~~a physician be authorized to render medical care and/or to conduct inde-~~

~~pendent medical examinations under this chapter of a character different from the character of medical care or independent medical examinations he or she has been theretofore authorized to render, such physician may appeal from such recommendation to the medical appeals unit.~~

3.] 4. Laboratories and bureaus engaged in x-ray diagnosis or treatment or in physiotherapy or other therapeutic procedures and which participate in the diagnosis or treatment of injured [~~workmen~~] workers under this chapter shall be operated or supervised by [~~qualified physicians duly~~] providers authorized under this chapter and shall be subject to the provisions of section thirteen-c of this article. The person in charge of diagnostic clinical laboratories duly authorized under this chapter shall possess the qualifications established by the public health and health planning council for approval by the state commissioner of health or, in the city of New York, the qualifications approved by the board of health of said city and shall maintain the standards of work required for such approval.

§ 2. Section 13-g of the workers' compensation law, as added by chapter 258 of the laws of 1935, subdivision 1 as amended by chapter 674 of the laws of 1994, subdivisions 2 and 3 as amended by section 4 of part GG of chapter 57 of the laws of 2013, subdivision 4 as amended by section 3 of part D of chapter 55 of the laws of 2015, subdivision 5 as amended by chapter 578 of the laws of 1959 and subdivision 6 as amended by chapter 639 of the laws of 1996, is amended to read as follows:

§ 13-g. Payment of bills for medical care. (1) Within forty-five days after a bill for medical care or supplies delivered pursuant to section thirteen of this article has been rendered to the employer [~~by the hospital, physician or self-employed physical or occupational therapist who has rendered treatment pursuant to a referral from the injured employee's authorized physician or authorized podiatrist for treatment to the injured employee~~], such employer must pay the bill or notify the [~~hospital, physician or self-employed physical or occupational therapist in writing~~] medical care provider or supplier in the format prescribed by the chair that the bill is not being paid and explain the reasons for non-payment. In the event that the employer fails to make payment or notify the [~~hospital, physician or self-employed physical or occupational therapist~~] medical care provider or supplier within such forty-five day period that payment is not being made, the [~~hospital, physician, self-employed physical therapist or self-employed occupational therapist~~] medical care provider or supplier may notify the board in the format prescribed by the chair [~~in writing~~] that the bill has not been paid and request that the board make an award for payment of such bill. The board or the chair may make an award not in excess of the established fee schedules for any such bill or part thereof which remains unpaid after said forty-five day period or thirty days after all other questions duly and timely raised in accordance with the provisions of this chapter, relating to the employer's liability for the payment of such amount, shall have been finally determined adversely to the employer, whichever is later, in accordance with rules promulgated by the chair, and such award may be collected in like manner as an award of compensation. The chair shall assess the sum of fifty dollars against the employer for each such award made by the board, which sum shall be paid into the state treasury.

In the event that the employer has provided an explanation in writing why the bill has not been paid, in part or in full, within the aforesaid time period, and the parties can not agree as to the value of medical aid rendered under this chapter, such value shall be decided by arbi-

1 tration [~~if requested by the hospital, physician or self-employed phys-~~  
2 ~~ical or occupational therapist, in accordance with the provisions of~~  
3 ~~subdivision two or subdivision three of this section, as appropriate,~~  
4 ~~and] as set forth in rules and regulations promulgated by the chair.~~

5 Where a [~~physician, physical or occupational therapist~~] bill for  
6 medical care or supplies has been determined to be due and owing in  
7 accordance with the provisions of this section the board shall include  
8 in the amount of the award interest of not more than one and one-half  
9 [~~per cent~~] percent (1 1/2%) per month payable to the [~~physician, phys-~~  
10 ~~ical or occupational therapist~~] medical care provider or supplier, in  
11 accordance with the rules and regulations promulgated by the board.  
12 Interest shall be calculated from the forty-fifth day after the bill was  
13 rendered or from the thirtieth day after all other questions duly and  
14 timely raised in accordance with the provisions of this chapter, relat-  
15 ing to the employer's liability for the payment of such amount, shall  
16 have been finally determined adversely to the employer, whichever is  
17 later, in accordance with rules promulgated by the chair.

18 (2) (a) If the parties fail to agree to the value of medical aid  
19 rendered under this chapter and the amount of the disputed bill is one  
20 thousand dollars or less, or if the amount of the disputed medical bill  
21 exceeds one thousand dollars and the [~~health~~] medical care provider or  
22 supplier expressly so requests, such value shall be decided by a single  
23 arbitrator process, pursuant to rules promulgated by the chair. [~~The~~  
24 ~~chair shall appoint a physician who is a member in good standing of the~~  
25 ~~medical society of the state of New York to determine the value of such~~  
26 ~~disputed medical bill. Where the physician whose charges are being~~  
27 ~~arbitrated is a member in good standing of the New York osteopathic~~  
28 ~~society, the value of such disputed bill shall be determined by a member~~  
29 ~~in good standing of the New York osteopathic society appointed by the~~  
30 ~~chair. Where the physician whose charges are being arbitrated is a~~  
31 ~~member in good standing of the New York homeopathic society, the value~~  
32 ~~of such disputed bill shall be determined by a member in good standing~~  
33 ~~of the New York homeopathic society appointed by the chair. Where the~~  
34 ~~value of physical therapy services or occupational therapy services is~~  
35 ~~at issue, such value shall be determined by a member in good standing of~~  
36 ~~a recognized professional association representing its respective~~  
37 ~~profession in the state of New York appointed by the chair.] Decisions  
38 rendered under the single arbitrator process shall be conclusive upon  
39 the parties as to the value of the services in dispute.~~

40 (b) If the parties fail to agree as to the value of medical aid  
41 rendered under this chapter and the amount of the disputed bill exceeds  
42 one thousand dollars, such value shall be decided by an arbitration  
43 committee unless the [~~health~~] medical care provider or supplier expres-  
44 sly requests a single arbitrator process in accordance with paragraph (a)  
45 of this subdivision. The arbitration committee shall [~~consist of one~~  
46 ~~physician designated by the president of the medical society of the~~  
47 ~~county in which the medical services were rendered, one physician who is~~  
48 ~~a member of the medical society of the state of New York, appointed by~~  
49 ~~the employer or carrier, and one physician, also a member of the medical~~  
50 ~~society of the state of New York, appointed by the chair of the workers'~~  
51 ~~compensation board. If the physician whose charges are being arbitrated~~  
52 ~~is a member in good standing of the New York osteopathic society or the~~  
53 ~~New York homeopathic society, the members of such arbitration committee~~  
54 ~~shall be physicians of such organization, one to be appointed by the~~  
55 ~~president of that organization, one by the employer or carrier and the~~  
56 ~~third by the chair of the workers' compensation board. Where the value~~

~~of physical therapy services is at issue and the amount of the disputed bill exceeds one thousand dollars, the arbitration committee shall consist of a member in good standing of a recognized professional association representing physical therapists in the state of New York appointed by the president of such organization, a physician designated by the employer or carrier and a physician designated by the chair of the workers' compensation board provided however, that the chair finds that there are a sufficient number of physical therapy arbitrations in a geographical area comprised of one or more counties to warrant a committee so comprised. In all other cases where the value of physical therapy services is at issue and the amount of the disputed bill exceeds one thousand dollars, the arbitration committee shall be similarly selected and identical in composition, provided that the physical therapist member shall serve without remuneration, and provided further that in the event a physical therapist is not available, the committee shall be comprised of three physicians designated in the same manner as in cases where the value of medical aid is at issue.~~

~~(c) Where the value of occupational therapy services is at issue the arbitration committee shall consist of a member in good standing of a recognized professional association representing occupational therapists in the state of New York appointed by the president of such organization, a physician designated by the employer or carrier and a physician designated by the chair of the workers' compensation board provided, however, that the chair finds that there are a sufficient number of occupational therapy arbitrations in a geographical area comprised of one or more counties to warrant a committee so comprised. In all other cases where the value of occupational therapy services is at issue and the amount of the disputed bill exceeds one thousand dollars, the arbitration committee shall be similarly selected and identical in composition, provided that the occupational therapist member shall serve without remuneration, and provided further that in the event an occupational therapist is not available, the committee shall be comprised of three physicians designated in the same manner as in cases where the value of medical aid is at issue.]~~ have three members designated by the chair in consultation with the medical director's office of the workers' compensation board. The majority decision of any such arbitration committee shall be conclusive upon the parties as to the value of the services in dispute.

(3) ~~[(a) If an employer shall have notified the hospital in writing, as provided in subdivision one of this section, why the bill has not been paid, in part or in full, and the amount of the disputed bill is one thousand dollars or less, or where the amount of the disputed medical bill exceeds one thousand dollars and the hospital expressly so requests, such value shall be decided by a single arbitrator process, pursuant to rules promulgated by the chair. The chair shall appoint a physician in good standing licensed to practice in New York state to determine the value of such disputed bill. Decisions rendered under the administrative resolution procedure shall be conclusive upon the parties as to the value of the services in dispute.~~

~~(b) If an employer shall have notified the hospital in writing, as provided in subdivision one of this section, why the bill has not been paid, in part or in full, and the amount of the disputed bill exceeds one thousand dollars, the value of such bill shall be determined by an arbitration committee appointed by the chair for that purpose, which committee shall consider all of the charges of the hospital, unless the hospital expressly requests a single arbitrator process pursuant to~~

~~paragraph (a) of this subdivision. The committee shall consist of three physicians. One member of the committee may be nominated by the chair upon recommendation of the president of the hospital association of New York state and one member may be nominated by the employer or insurance carrier. The majority decision of any such committee shall be conclusive upon the parties as to the value of the services rendered. The chair may make reasonable rules and regulations consistent with the provisions of this section.~~

(4) A provider or supplier initiating an arbitration, including a single arbitrator process, pursuant to this section shall not pay a fee to cover the costs related to the conduct of such arbitration. ~~[Each member of an arbitration committee for medical bills, and each member of an arbitration committee for hospital bills shall be entitled to receive and shall be paid a fee for each day's attendance at an arbitration session in any one count in an amount fixed by the chair of the workers' compensation board.]~~

(5) (4) In claims where the employer has failed to secure compensation to his employees as required by section fifty of this chapter, the board may make an award for the value of medical ~~[and podiatry]~~ services, supplies or treatment rendered to such employees, in accordance with the schedules of fees and charges prepared and established under the provisions of ~~[section thirteen, subdivision a, and section thirteen-k, subdivision two, of]~~ this chapter~~[, and for the reasonable value of hospital care in accordance with the charges currently in force in hospitals in the same community for cases coming within the provisions of this chapter]~~. Such award shall be made to the ~~[physician, podiatrist, or hospital]~~ medical care provider or supplier entitled thereto. A default in the payment of such award may be enforced in the manner provided for the enforcement of compensation awards as set forth in section twenty-six of this ~~[chapter]~~ article.

In all cases coming under this subdivision the payment of the claim ~~[of the physician, podiatrist, or hospital for medical, podiatry, or surgical services or treatment]~~ for medical care or supplies shall be subordinate to that of the claimant or his or her beneficiaries.

~~[(6) Notwithstanding any inconsistent provision of law, arbitration regarding payments for inpatient hospital services for any patient discharged on or after January first, nineteen hundred ninety one and prior to December thirty-first, nineteen hundred ninety six shall be resolved in accordance with paragraph (d) of subdivision three of section twenty eight hundred seven e of the public health law.]~~

§ 3. Subdivisions 1 and 2 and paragraph (b) of subdivision 3 of section 13-k of the workers' compensation law, subdivision 1 as added by chapter 787 of the laws of 1952 and subdivision 2 and paragraph (b) of subdivision 3 as amended by chapter 473 of the laws of 2000, are amended to read as follows:

1. When the term "chairman" is hereinafter used, it shall be deemed to mean the ~~[chairman]~~ chair of the ~~[workmen's]~~ workers' compensation board of the state of New York.

2. An employee injured under circumstances which make such injury compensable under this article, when care is required for an injury to the foot which injury or resultant condition therefrom may lawfully be treated by a duly registered and licensed podiatrist of the state of New York, may select to treat him or her any podiatrist authorized by the chair to render ~~[podiatry]~~ podiatric medical care, as hereinafter provided. If the injury or condition is one which is without the limits prescribed by the education law for ~~[podiatry]~~ podiatric medical care

1 and treatment, or the injuries involved affect other parts of the body  
2 in addition to the foot, the said podiatrist must so advise the said  
3 injured employee and instruct him or her to consult a physician of said  
4 employee's choice for appropriate care and treatment. Such physician  
5 shall thenceforth have overall supervision of the treatment of said  
6 patient including the future treatment to be administered to the patient  
7 by the podiatrist. If for any reason during the period when [~~podiatry~~]  
8 podiatric medical treatment and care is required, the employee wishes to  
9 transfer his or her treatment and care to another authorized podiatrist  
10 he or she may do so, in accordance with rules prescribed by the chair,  
11 provided however that the employer shall be liable for the proper fees  
12 of the original podiatrist for the care and treatment he or she shall  
13 have rendered. [~~A podiatrist licensed and registered to practice podiatry in the state of New York who is desirous of being authorized to render podiatry care under this section and/or to conduct independent medical examinations in accordance with paragraph (b) of subdivision three of this section shall file an application for authorization under this section with the podiatry practice committee. In such application he or she shall agree to refrain from subsequently treating for remuneration, as a private patient, any person seeking podiatry treatment, or submitting to an independent medical examination, in connection with, or as a result of, any injury compensable under this chapter, if he or she has been removed from the list of podiatrists authorized to render podiatry care or to conduct independent medical examinations under this chapter, or if the person seeking such treatment has been transferred from his or her care in accordance with the provisions of this section. This agreement shall run to the benefit of the injured person so treated or examined, and shall be available to him or her as a defense in any action by such podiatrist for payment for treatment rendered by a podiatrist after he or she has been removed from the list of podiatrists authorized to render podiatry care or to conduct independent medical examinations under this section, or after the injured person was transferred from his or her care in accordance with the provisions of this section. The podiatry practice committee if it deems such licensed podiatrist duly qualified shall recommend to the chair that such podiatrist be authorized to render podiatry care and/or to conduct independent medical examinations under this section. Such recommendation shall be advisory to the chair only and shall not be binding or conclusive upon him or her.~~] The chair shall prepare and establish a schedule for  
40 the state, or schedules limited to defined localities, of charges and  
41 fees for [~~podiatry~~] podiatric medical treatment and care, to be deter-  
42 mined in accordance with and to be subject to change pursuant to rules  
43 promulgated by the chair. Before preparing such schedule for the state  
44 or schedules for limited localities the chair shall request the [~~podiatry~~]  
45 podiatric medicine practice committee to submit to him or her a  
46 report on the amount of remuneration deemed by such committee to be fair  
47 and adequate for the types of [~~podiatry~~] podiatric medical care to be  
48 rendered under this chapter, but consideration shall be given to the  
49 view of other interested parties. The amounts payable by the employer  
50 for such treatment and services shall be the fees and charges estab-  
51 lished by such schedule.

52 (b) Upon receipt of the notice provided for by paragraph (a) of this  
53 subdivision, the employer, the carrier and the claimant each shall be  
54 entitled to have the claimant examined by a qualified podiatrist author-  
55 ized by the chair in accordance with [~~subdivision two of this~~] section  
56 thirteen-b and section one hundred thirty-seven of this chapter, at a

1 medical facility convenient to the claimant and in the presence of the  
2 claimant's podiatrist, and refusal by the claimant to submit to such  
3 independent medical examination at such time or times as may reasonably  
4 be necessary in the opinion of the board shall bar the claimant from  
5 recovering compensation for any period during which he or she has  
6 refused to submit to such examination.

7 § 4. Subdivisions 1 and 2 and paragraph (b) of subdivision 3 of  
8 section 13-1 of the workers' compensation law, subdivision 1 as added by  
9 chapter 940 of the laws of 1973 and subdivision 2 and paragraph (b) of  
10 subdivision 3 as amended by chapter 473 of the laws of 2000, are amended  
11 to read as follows:

12 1. Where the term "chairman" is hereinafter used, it shall be deemed  
13 to mean the [~~chairman~~] chair of the [~~workmen's~~] workers' compensation  
14 board of the state of New York.

15 2. An employee injured under circumstances which make such injury  
16 compensable under this article, when care is required for an injury  
17 which consists solely of a condition which may lawfully be treated by a  
18 chiropractor as defined in section sixty-five hundred fifty-one of the  
19 education law may select to treat him or her, any duly registered and  
20 licensed chiropractor of the state of New York, authorized by the chair  
21 to render chiropractic care as hereinafter provided. If the injury or  
22 condition is one which is outside the limits prescribed by the education  
23 law for chiropractic care and treatment, the said chiropractor must so  
24 advise the said injured employee and instruct him or her to consult a  
25 physician of said employee's choice for appropriate care and treatment.  
26 Such physician shall thenceforth have supervision of the treatment of  
27 said condition including the future treatment to be administered to the  
28 patient by the chiropractor. [~~A chiropractor licensed and registered to~~  
29 ~~practice chiropractic in the state of New York, who is desirous of being~~  
30 ~~authorized to render chiropractic care under this section and/or to~~  
31 ~~conduct independent medical examinations in accordance with paragraph~~  
32 ~~(b) of subdivision three of this section shall file an application for~~  
33 ~~authorization under this section with the chiropractic practice commit-~~  
34 ~~tee. In such application he or she shall agree to refrain from subse-~~  
35 ~~quently treating for remuneration, as a private patient, any person~~  
36 ~~seeking chiropractic treatment, or submitting to an independent medical~~  
37 ~~examination, in connection with, or as a result of, any injury compensa-~~  
38 ~~ble under this chapter, if he or she has been removed from the list of~~  
39 ~~chiropractors authorized to render chiropractic care or to conduct inde-~~  
40 ~~pendent medical examinations under this chapter, or if the person seek-~~  
41 ~~ing such treatment has been transferred from his or her care in accord-~~  
42 ~~ance with the provisions of this section. This agreement shall run to~~  
43 ~~the benefit of the injured person so treated, or examined, and shall be~~  
44 ~~available to him or her as a defense in any action by such chiropractor~~  
45 ~~for payment rendered by a chiropractor after he or she has been removed~~  
46 ~~from the list of chiropractors authorized to render chiropractic care or~~  
47 ~~to conduct independent medical examinations under this section, or after~~  
48 ~~the injured person was transferred from his or her care in accordance~~  
49 ~~with the provisions of this section. The chiropractic practice committee~~  
50 ~~if it deems such licensed chiropractor duly qualified shall recommend to~~  
51 ~~the chair that such be authorized to render chiropractic care and/or to~~  
52 ~~conduct independent medical examinations under this section. Such recom-~~  
53 ~~mendations shall be advisory to the chair only and shall not be binding~~  
54 ~~or conclusive upon him or her.~~] The chair shall prepare and establish a  
55 schedule for the state, or schedules limited to defined localities of  
56 charges and fees for chiropractic treatment and care, to be determined

1 in accordance with and to be subject to change pursuant to rules promul-  
2 gated by the chair. Before preparing such schedule for the state or  
3 schedules for limited localities the chair shall request the chiroprac-  
4 tic practice committee to submit to him or her a report on the amount of  
5 remuneration deemed by such committee to be fair and adequate for the  
6 types of chiropractic care to be rendered under this chapter, but  
7 consideration shall be given to the view of other interested parties,  
8 the amounts payable by the employer for such treatment and services  
9 shall be the fees and charges established by such schedule.

10 (b) Upon receipt of the notice provided for by paragraph (a) of this  
11 subdivision, the employer, the carrier, and the claimant each shall be  
12 entitled to have the claimant examined by a qualified chiropractor  
13 authorized by the chair in accordance with [~~subdivision two of this~~]  
14 section thirteen-b and section one hundred thirty-seven of this chapter  
15 at a medical facility convenient to the claimant and in the presence of  
16 the claimant's chiropractor, and refusal by the claimant to submit to  
17 such independent medical examination at such time or times as may  
18 reasonably be necessary in the opinion of the board shall bar the claim-  
19 ant from recovering compensation, for any period during which he or she  
20 has refused to submit to such examination.

21 § 5. Subdivisions 1, 2 and 3 and paragraph (b) of subdivision 4 of  
22 section 13-m of the workers' compensation law, subdivisions 1 and 2 as  
23 added by chapter 589 of the laws of 1989 and subdivision 3 and paragraph  
24 (b) of subdivision 4 as amended by chapter 473 of the laws of 2000, are  
25 amended to read as follows:

26 1. Where the term "chairman" is hereinafter used, it shall be deemed  
27 to mean the [~~chairman~~] chair of the workers' compensation board of the  
28 state of New York.

29 2. (a) An injured employee, injured under circumstances which make  
30 such injury compensable under this article, may lawfully be treated[~~r~~,  
31 ~~upon the referral of an authorized physician,~~] by a psychologist, duly  
32 registered and licensed by the state of New York, authorized by the  
33 [~~chairman~~] chair to render psychological care pursuant to [~~this~~]  
34 thirteen-b of this article. Such services shall be within the scope of  
35 such psychologist's specialized training and qualifications as defined  
36 in article one hundred fifty-three of the education law.

37 (b) Medical bureaus, medical centers jointly operated by labor and  
38 management representatives, hospitals and health maintenance organiza-  
39 tions, authorized to provide medical care pursuant to section thirteen-c  
40 of this [~~chapter~~] article, may provide psychological services when  
41 required[~~, upon the referral of an authorized physician, provided such~~  
42 ~~care is rendered by a duly registered, licensed and authorized psychol-~~  
43 ~~ogist, as required by this section~~].

44 (c) A psychologist rendering service pursuant to this section shall  
45 maintain records of the patient's psychological condition and treatment,  
46 and such records or reports shall be submitted to the [~~chairman~~] chair  
47 on such forms and at such times as the [~~chairman~~] chair may require.

48 3. [~~A psychologist, licensed and registered to practice psychology in~~  
49 ~~the state of New York, who is desirous of being authorized to render~~  
50 ~~psychological care under this section and/or to conduct independent~~  
51 ~~medical examinations in accordance with paragraph (b) of subdivision~~  
52 ~~four of this section shall file an application for authorization under~~  
53 ~~this section with the psychology practice committee. The applicant shall~~  
54 ~~agree to refrain from subsequently treating for remuneration, as a~~  
55 ~~private patient, any person seeking psychological treatment, or submit-~~  
56 ~~ting to an independent medical examination, in connection with, or as a~~

~~1 result of, any injury compensable under this chapter, if he or she has  
2 been removed from the list of psychologists authorized to render psycho-  
3 logical care under this chapter. This agreement shall run to the benefit  
4 of the injured person so treated, and shall be available as a defense in  
5 any action by such psychologist for payment for treatment rendered by  
6 such psychologist after being removed from the list of psychologists  
7 authorized to render psychological care or to conduct independent  
8 medical examinations under this section. The psychology practice commit-  
9 tee if it deems such licensed psychologist duly qualified shall recom-  
10 mend to the chair that such person be authorized to render psychological  
11 care and/or to conduct independent medical examinations under this  
12 section. Such recommendations shall be only advisory to the chair and  
13 shall not be binding or conclusive.]~~ The chair shall prepare and estab-  
14 lish a schedule for the state or schedules limited to defined localities  
15 of charges and fees for psychological treatment and care, to be deter-  
16 mined in accordance with and be subject to change pursuant to rules  
17 promulgated by the chair. Before preparing such schedule for the state  
18 or schedules for limited localities the chair shall request the psychol-  
19 ogy practice committee to submit to such chair a report on the amount of  
20 remuneration deemed by such committee to be fair and adequate for the  
21 types of psychological care to be rendered under this chapter, but  
22 consideration shall be given to the view of other interested parties.  
23 The amounts payable by the employer for such treatment and services  
24 shall be the fees and charges established by such schedule.

25 (b) Upon receipt of the notice provided for by paragraph (a) of this  
26 subdivision, the employer, the carrier, and the claimant each shall be  
27 entitled to have the claimant examined by a qualified psychologist,  
28 authorized by the chair in accordance with [~~subdivision three of this~~  
29 section **thirteen-b** and section one hundred thirty-seven of this chapter,  
30 at a medical facility convenient to the claimant and in the presence of  
31 the claimant's psychologist, and refusal by the claimant to submit to  
32 such independent medical examination at such time or times as may  
33 reasonably be necessary in the opinion of the board shall bar the claim-  
34 ant from recovering compensation, for any period during which he or she  
35 has refused to submit to such examination.

36 § 6. Section 54-b of the workers' compensation law, as amended by  
37 chapter 6 of the laws of 2007, is amended to read as follows:

38 § 54-b. Enforcement on failure to pay award or judgment. In case of  
39 default by a carrier or self-insured employer in the payment of any  
40 compensation due under an award for the period of thirty days after  
41 payment is due and payable, or in the case of failure by a carrier or  
42 self-insured employer to make full payment of an award for medical care  
43 **or supplies** issued by the board or the chair pursuant to section thir-  
44 teen-g of this chapter, the chair in any such case or on the chair's  
45 consent any party to an award may file with the county clerk for the  
46 county in which the injury occurred or the county in which the carrier  
47 or self-insured employer has his or her principal place of business, (1)  
48 a certified copy of the decision of the board awarding compensation or  
49 ending, diminishing or increasing compensation previously awarded, from  
50 which no appeal has been taken within the time allowed therefor, or if  
51 an appeal has been taken by a carrier or self-insured employer who has  
52 not complied with the provisions of section fifty of this article, where  
53 he or she fails to deposit with the chair the amount of the award as  
54 security for its payment within ten days after the same is due and paya-  
55 ble, or (2) a certified copy of the award for medical care **or supplies**  
56 issued pursuant to section thirteen-g of this chapter, and thereupon

1 judgment must be entered in the supreme court by the clerk of such coun-  
2 ty in conformity therewith immediately upon such filing. If the payment  
3 in default be an installment, the board may declare the entire award due  
4 and judgment may be entered in accordance with the provisions of this  
5 section. Such judgment shall be entered in the same manner, have the  
6 same effect and be subject to the same proceedings as though rendered in  
7 a suit duly heard and determined by the supreme court, except that no  
8 appeal may be taken therefrom. The court shall vacate or modify such  
9 judgment to conform to any later award or decision of the board upon  
10 presentation of a certified copy of such award or decision. The award  
11 may be so compromised by the board as in the discretion of the board may  
12 best serve the interest of the persons entitled to receive the compen-  
13 sation or benefits. Where an award has been made against a carrier or  
14 self-insured employer in accordance with the provisions of subdivision  
15 nine of section fifteen, or of section twenty-five-a of this chapter,  
16 such an award may be similarly compromised by the board, upon notice to  
17 a representative of the fund to which the award is payable, but if there  
18 be no representative of any such fund, notice shall be given to such  
19 representative as may be designated by the chair of the board; and  
20 notwithstanding any other provision of law, such compromise shall be  
21 effective without the necessity of any approval by the state comp-  
22 troller. Neither the chair nor any party in interest shall be required  
23 to pay any fee to any public officer for filing or recording any paper  
24 or instrument or for issuing a transcript of any judgment executed in  
25 pursuance of this section. The carrier or self-insured employer shall be  
26 liable for all costs and attorneys fees necessary to enforce the award.  
27 For the purposes of this section, the term "carrier" shall include the  
28 state insurance fund and any stock corporation, mutual corporation or  
29 reciprocal insurer authorized to transact the business of workers'  
30 compensation insurance in this state.

31 § 7. This act shall take effect on the ninetieth day after it shall  
32 have become a law.