STATE OF NEW YORK

6164

2019-2020 Regular Sessions

IN ASSEMBLY

February 28, 2019

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:

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 Subdivision 4 of section 10 of the workers' compensation law is REPEALED.

§ 2. Section 12 of the workers' compensation law, as amended by chapter 500 of the laws of 1965, is amended to read as follows:

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

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

(5) No claim for specialist consultations, surgical operations, physiotherapeutic or occupational therapy procedures, x-ray examinations or special diagnostic laboratory tests costing more than [~~one~~] **two** thousand dollars shall be valid and enforceable, as against such employer, unless such special services shall have been authorized by the employer or by the board, or unless such authorization has been unreasonably withheld, or withheld for a period of more than [~~thirty~~] **seven** calendar days from receipt of a request for authorization, or unless such special 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.

LBD07704-01-9

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

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

(c) At the time a request for authorization for special diagnostic tests, x-ray examinations, magnetic resonance imaging or other radiological examinations or tests costing more than [~~one~~] **two** thousand dollars as required by subdivision five of this section is approved, the insurance carrier, self-insurer or state insurance fund, or if so delegated the network with which the insurance carrier, self-insurer or state insurance fund has contracted, shall notify the physician requesting authorization of the requirement that the claimant obtain or undergo the special diagnostic test, x-ray examination, magnetic resonance imaging or other radiological examination or test with a provider or at a facility affiliated with the network or networks with which it has contracted, the contact information for the network and a list of the providers and facilities within the claimant's geographic location, as defined by regulation of the board. The claimant, in consultation with the provider who requested the special diagnostic test, x-ray examination, magnetic resonance imaging or other radiological test or exam, will determine the provider or facility from within the network which will perform such diagnostic test, x-ray examination, magnetic resonance imaging or other radiological examination or test.

§ 5. Section 2 of the workers' compensation law is amended by adding a new subdivision 25 to read as follows:

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

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

§ 13-bb. Regulation of independent medical examinations. 1. (a) There is hereby established in the workers' compensation board an advisory committee on independent medical examinations which shall consist of three members. One member shall be appointed by the governor; the chief executive officers of the New York State American Federation of Labor-Congress of Industrial Organizations and the Business Council of New York State shall be members by virtue of their offices. The chief executive officers of the New York State American Federation of Labor-Congress of Industrial Organizations and the Business Council of New York State may designate representatives to act in their place or stead and on their behalf as members of such advisory committee. In addition, the chair, executive director and the commissioner of labor or their designated representatives shall be invited to attend and participate in all 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

(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

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

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

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

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)

* 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.

Source	Nature of Income	Self/ Spouse	Category of Amount (In Table I)

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.

Source	Nature of Income	Self/ Spouse	Category of Amount (In Table I)

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)

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)

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.

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

Category DDDDD $10,000,000 or over

TABLE II

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 $500,000
Category K $500,000 to under $750,000
Category L $750,000 to under $1,000,000
Category M $1,000,000 to under $1,250,000
Category N $1,250,000 to under $1,500,000
Category O $1,500,000 to under $1,750,000
Category P $1,750,000 to under $2,000,000
Category Q $2,000,000 to under $2,250,000
Category R $2,250,000 to under $2,500,000
Category S $2,500,000 to under $2,750,000
Category T $2,750,000 to under $3,000,000
Category U $3,000,000 to under $3,250,000
Category V $3,250,000 to under $3,500,000
Category W $3,500,000 to under $3,750,000
Category X $3,750,000 to under $4,000,000
Category Y $4,000,000 to under $4,250,000
Category Z $4,250,000 to under $4,500,000
Category AA $4,500,000 to under $4,750,000
Category BB $4,750,000 to under $5,000,000
Category CC $5,000,000 to under $5,250,000
Category DD $5,250,000 to under $5,500,000
Category EE $5,500,000 to under $5,750,000
Category FF $5,750,000 to under $6,000,000
Category GG $6,000,000 to under $6,250,000
Category HH $6,250,000 to under $6,500,000
Category II $6,500,000 to under $6,750,000
Category JJ $6,750,000 to under $7,000,000
Category KK $7,000,000 to under $7,250,000
Category LL $7,250,000 to under $7,500,000
Category MM $7,500,000 to under $7,750,000
Category NN $7,750,000 to under $8,000,000
Category OO $8,000,000 to under $8,250,000
Category PP $8,250,000 to under $8,500,000
Category QQ $8,500,000 to under $8,750,000
Category RR $8,750,000 to under $9,000,000
Category SS $9,000,000 to under $9,250,000
Category TT $9,250,000 to under $9,500,000
Category UU $9,500,000 or over

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

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

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

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

7. (a) Pursuant to the state administrative procedure law, on or before January first, two thousand twenty-one, the chair shall promulgate regulations establishing a statewide continuing examiner education program.

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

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

(d) Courses must address one or more of the following topics: professional responsibility, ethics and technological advancements in treatment of injured workers.

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

(b) The office shall be administered by an independent inspector general. On or before January first, two thousand twenty, the inspector general shall be appointed by the governor, with the advice and consent of the senate. The independent medical examination inspector general shall serve for a term of twelve years. The independent medical examination inspector general shall receive an annual salary of one hundred

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

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

(d) The office of the independent medical examiner inspector general shall: (i) enforce annual registration and financial disclosure requirements pursuant to this section; (ii) collect, review and aggregate information contained in annual financial disclosure statements; (iii) periodically audit examiners and independent medical examination organizations to verify the veracity of information contained in annual audits and to verify compliance with continuing examiner education requirements; (iv) investigate conflicts of interest, malfeasance and nonfeasance in connection with independent medical examinations; and (v) report annually to the governor, temporary president of the senate and speaker of the assembly on the use of independent medical examinations, on individual investigations and recommend regulatory and statutory changes.

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

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

(3) The chair shall immediately conduct a study to analyze the availability and quality of care for injured workers based on specialty, practice area and geographical region of the state. The results of that study shall be released to the public on or before December thirty-first, two thousand nineteen. Where certain geographical regions of the state are underserved by authorized providers in a specialty, the chair shall devise and implement a course of action to attract additional providers of that specific specialty to participate in the system. This course of action shall include, but is not limited to, increasing medical reimbursement rates for specialty services in regions where participating providers of such services are scarce, regardless of overall increase of cost to the system.

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

(1-a) Where an employer or carrier exhibits a pattern of controverting medical bills on the forty-fifth day following rendering, there shall be a presumption that such controversion is frivolous and unfounded. If the employer or carrier fails to provide clear and convincing evidence rebutting this presumption, the carrier or employer must pay the bill as if notice of controversion has not been provided. For the purposes of this section, a pattern of controversion on the forty-fifth day following rendering exists where within the past six months, five percent or more of an employer or carrier's medical bill controversions occur on the forty-fifth day following rendering. The chair shall maintain a list, to be published on the board's website and to be updated daily, of employers and carriers whose controversion practices qualify them for 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, paragraph w as amended by section 1 of subpart A and paragraph x as added by section 1 of subpart B of part NNN of chapter 59 of the laws of 2017, 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~~] **624**
b. Leg	[~~288~~] **576**
c. Hand	[~~244~~] **488**
d. Foot	[~~205~~] **410**
e. eye	[~~160~~] **320**
f. Thumb	[~~75~~] **150**
g. First finger	[~~46~~] **92**
h. Great toe	[~~38~~] **76**
i. Second finger	[~~30~~] **60**
j. Third finger	[~~25~~] **50**
k. Toe other than great toe	[~~16~~] **32**
l. Fourth finger	[~~15~~] **30**

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

w. Other cases. In all other cases of permanent partial disability, the compensation shall be sixty-six and two-thirds percent of the difference between the injured employee's average weekly wages and his or her wage-earning capacity thereafter in the same employment or otherwise. Compensation under this paragraph shall be payable during the continuance of such permanent partial disability, without the necessity for the claimant who is entitled to benefits at the time of classification to demonstrate ongoing attachment to the labor market, but subject to reconsideration of the degree of such impairment by the board on its own motion or upon application of any party in interest [~~however, all compensation payable under this paragraph shall not exceed (i) five hundred twenty-five weeks in cases in which the loss of wage-earning capacity is greater than ninety-five percent; (ii) five hundred weeks in cases in which the loss of wage-earning capacity is greater than ninety percent but not more than ninety-five percent; (iii) four hundred seventy-five weeks in cases in which the loss of wage-earning capacity is greater than eighty-five percent but not more than ninety percent; (iv) four hundred fifty weeks in cases in which the loss of wage-earning capacity is greater than eighty percent but not more than eighty-five percent; (v) four hundred twenty-five weeks in cases in which the loss of wage-earning capacity is greater than seventy-five percent but not more than eighty percent; (vi) four hundred weeks in cases in which the loss of wage-earning capacity is greater than seventy percent but not more than seventy-five percent; (vii) three hundred seventy-five weeks in cases in which the loss of wage-earning capacity is greater than sixty percent but not more than seventy percent; (viii) three hundred fifty weeks in cases in which the loss of wage-earning capacity is greater than fifty percent but not more than sixty percent; (ix) three hundred weeks in cases in which the loss of wage-earning capacity is greater than forty percent but not more than fifty percent; (x) two hundred seventy-five weeks in cases in which the loss of wage-earning capacity is greater than thirty percent but not more than forty percent; (xi) two hundred fifty weeks in cases in which the loss of wage-earning capacity is greater than fifteen percent but not more than thirty percent; and (xii) two hundred twenty-five weeks in cases in which the loss of wage-earning capacity is fifteen percent or less. For a claimant with a date of accident or disablement after the effective date of the chapter of the laws of two thousand seventeen that amended this subdivision, where the carrier or employer has provided compensation pursuant

~~to subdivision five of this section beyond one hundred thirty weeks from the date of accident or disablement, all subsequent weeks in which compensation was paid shall be considered to be benefit weeks for purposes of this section, with the carrier or employer receiving credit for all such subsequent weeks against the amount of maximum benefit weeks when permanent partial disability under this section is determined. In the event of payment for intermittent temporary partial disability paid after one hundred thirty weeks from the date of accident or disablement, such time shall be reduced to a number of weeks, for which the carrier will receive a credit against the maximum benefit weeks. For a claimant with a date of accident or disablement after the effective date of the chapter of the laws of two thousand seventeen that amended this subdivision, when permanency is at issue, and a claimant has submitted medical evidence that he or she is not at maximum medical improvement, and the carrier has produced or has had a reasonable opportunity to produce an independent medical examination concerning maximum medical improvement, and the board has determined that the claimant is not yet at maximum medical improvement, the carrier shall not receive a credit for benefit weeks prior to a finding that the claimant has reached maximum medical improvement, at which time the carrier shall receive credit for any weeks of temporary disability paid to claimant after such finding against the maximum benefit weeks awarded under this subdivision. For those claimants classified as permanently partially disabled who no longer receive indemnity payments because they have surpassed their number of maximum benefit weeks, the following provisions will apply:~~

~~(1) There will be a presumption that medical services shall continue notwithstanding the completion of the time period for compensation set forth in this section and the burden of going forward and the burden of proof will lie with the carrier, self-insured employer or state insurance 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~~].

x. Impairment guidelines. The chair shall consult with representatives of labor, business, medical providers, insurance carriers, and self-insured employers regarding revisions to permanency impairment guidelines, including permitting review and comment by such representatives' chosen medical advisors, and after consultation shall, in accordance with the state administrative procedure act, propose for public comment revised permanency guidelines concerning medical evaluation of impairment and the determination of permanency as set forth in paragraphs a through v of this subdivision by September first, two thousand seventeen, with such guidelines to be adopted by the chair by January first, two thousand eighteen. The permanency impairment guidelines shall be reflective of advances in modern medicine that enhance healing and result in better outcomes. In the event the chair fails to adopt such permanency guidelines to be effective by January first, two thousand eighteen, the chair shall adopt, by emergency regulation, permanency impairment guidelines. The permanency impairment guidelines adopted by emergency regulation shall be either the impairment guidelines proposed by the chair on September first, two thousand seventeen or the permanency impairment

guidelines created by the consultant to the board and submitted to representatives of labor, business, medical providers, insurance carriers, and self-insured employers, as voted on in an emergency meeting of the board to be held on December twenty-ninth, two thousand seventeen. In the event the board is unable to reach a decision at such meeting, the chair shall select the permanency guidelines to be adopted by emergency regulations. Emergency regulations shall be in effect for ninety days or until such time as permanent regulations are adopted by the chair. As of January first, two thousand eighteen the 2012 permanency impairment guidelines pertaining to paragraphs a through v of subdivision three of section fifteen of this article are repealed, and shall have no effect. The board shall train adjudication and other staff to ensure timely and effective implementation.

§ 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 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, two thousand seven shall not exceed five hundred dollars per week, (2) on or after July first, two thousand eight shall not exceed five hundred fifty dollars per week, (3) on or after July first, two thousand nine shall not exceed six hundred dollars per week, and (4) on or after July first, two thousand ten, and on or after July first of each succeeding year, shall not exceed two-thirds of the New York state average weekly wage for the year in which it is reported. 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 on or after July first, two thousand seven shall not be less than one hundred dollars per week except that if the employee's wages at the time of injury are less than one hundred dollars per week, the employee shall receive his or her full wages. 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 on or after May first, two thousand thirteen shall not be less than one hundred fifty dollars per week except that if the employee's wages at the time of injury are less than one hundred fifty dollars per week, the employee shall receive his or her full wages. **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 on or after the effective date of the chapter of the laws of two thousand nineteen that amended this paragraph shall not be less than one seventh of the New York state average weekly wage except that if the employee's weekly wage, the employee shall receive his or her full wages.** In no event shall compensation when combined with decreased earnings or earning capacity exceed the amount of wages 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 or injury that occurred as a result of World Trade Center rescue activity by an employee of a private voluntary hospital, 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 disablement or occupational disease or injury, shall not exceed three-quarters of a claimant's wage on September eleventh, two thousand one. In no event shall compensation when combined with decreased earnings or earning capacity exceed the amount of wages the employee was receiving on September eleventh, two thousand one.

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

10. Cost-of-living adjustments of disability benefits. (a) Notwithstanding any other provision of law, in addition to any other amount received pursuant to this article as disability benefits, an employee with a disability or the beneficiary dependent of such 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 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 employee or beneficiary to any benefit to which such employee or beneficiary would otherwise be entitled pursuant to law.

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

1. Funeral expenses. The chair shall prepare and establish a schedule for the state or schedules limited to defined localities of maximum charges and fees for such funeral expenses, to be determined in accordance with, and to be subject to change pursuant to, rules promulgated by the chair. **The maximum charges and fees for funeral expenses established in a schedule or schedules shall not be less than twelve thousand dollars.** Before preparing such schedule for the state or schedules for limited localities, the chair shall request the president of the New York state funeral directors' association to submit to the chair a report on the amount of remuneration deemed by such association to be fair and adequate for the types of funeral services rendered under this chapter, but consideration shall also be given to the views of other interested parties. The amounts payable by the employer for such services shall be the actual fees and charges up to the maximum established by such schedule. Provided, however, no such schedule of charges and fees shall apply where a firefighter dies from injuries received in the line of duty as a direct result of firefighting or where a police officer dies from injuries received in the line of duty as a direct result of law enforcement activities, where such funeral expenses are reasonable. If such funeral expenses shall have been paid by the claimants entitled to compensation under this section or by others, the funeral expenses awarded shall be made payable to such claimants or others, otherwise they shall be made payable to the undertaker who shall have provided burial. Funeral expenses shall be awarded in case of all injuries causing death including cases in which there are no persons entitled to other compensation under this chapter.

1-b. If there be a surviving spouse and no child of the deceased under the age of eighteen years and no child 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 forty per centum of the average wages of the deceased [~~during widowhood or widowerhood with two years' compensation in one sum, upon remarriage~~]; and where the death occurred prior to July first, nineteen hundred forty-eight, to such wife (or dependent husband) thirty per centum of such wages [~~during widowhood (or dependent widowerhood) with two years' compensation in one sum, upon remarriage~~].

1-c. If there be a surviving spouse 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, and the death occurs on or after January first, nineteen hundred seventy-eight, to such spouse sixty-six and two-thirds per centum of the average wages of the deceased [~~during widowhood or widowerhood with two years' compensation, in one sum, upon remarriage~~]. Where the death occurs on or after January first, nineteen hundred seventy-eight, 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. 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 each such child until the age of eighteen years or until the removal of the dependency of the blind or physically disabled child or children; in case of the subsequent death [~~or remarriage~~] of such surviving spouse any surviving child of the deceased employee, at the time under eighteen years of age or dependent through mental or physical infirmity, shall have his **or her** compensation increased to thirty per centum of such wages, and the same shall be payable until he shall reach the age of eighteen years or until such dependent blind or physically disabled condition shall have been removed; provided that the total amount payable shall in no case exceed sixty-six and two-thirds per centum of such wages. Upon statutory termination of compensation payments to all such children, the compensation of the surviving spouse shall be increased to forty per centum of such wages [~~with two years' compensation, at such rate, in one sum, upon remarriage~~].

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

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

2-a. If there be a surviving spouse 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 and the death occurs on or after January first, nineteen hundred seventy-eight, to such spouse thirty-six and two-thirds per centum of the average wages 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 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; in

the case of the subsequent death of such surviving spouse the surviving child shall have his **or her** compensation increased to sixty-six and two-thirds 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 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 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 twenty-five 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 dependent blind or physically disabled sixty-six and two-thirds 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 sixty-six and two-thirds per centum of such wages [~~with two years' compensation, at such rate, in one sum, upon remarriage~~]. 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 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 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 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 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 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; 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.

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

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

§ 21. Section 23 of the workers' compensation law, as amended by section 3 of subpart A of part NNN of chapter 59 of the laws of 2017, is amended to read as follows:

§ 23. Appeals. An award or decision of the board shall be final and conclusive upon all questions within its jurisdiction, as against the state fund or between the parties, unless reversed or modified on appeal therefrom as hereinafter provided. Any party may within thirty days after notice of the filing of an award or decision of a referee, file with the board an application in writing for a modification or rescission or review of such award or decision, as provided in this chapter. The board shall render its decision upon such application in writing and shall include in such decision a statement of the facts which formed the basis of its action on the issues raised before it on such application. Within thirty days after notice of the decision of the board upon such application has been served upon the parties, or within thirty days after notice of an administrative redetermination review decision by the chair pursuant to subdivision five of section fifty-two, section one hundred thirty-one or section one hundred forty-one-a of this chapter has been served upon any party in interest, an appeal may be taken therefrom to the appellate division of the supreme court, third department, by any party in interest, including an employer insured in the state fund; provided, however, that any party in interest may within thirty days after notice of the filing of the board panel's decision with the secretary of the board, make application in writing for review thereof by the full board. If the decision or determination was that of a panel of the board and there was a dissent from such decision or determination other than a dissent the sole basis of which is to refer the case to an impartial specialist, or if there was a decision or determination by the panel which reduced the loss of wage earning capacity finding made by a compensation claims referee pursuant to subparagraph w of subdivision three of section fifteen of this article from a percentage at or above the percentage set forth in subdivision three of section thirty-five of this article whereby a claimant would be eligible to apply for an extreme hardship redetermination to a percentage below the threshold, the full board shall review and affirm, modify or rescind such decision or determination in the same manner as herein above provided for an award or decision of a referee. If the decision or determination was that of a unanimous panel of the board, or there was a dissent from such decision or determination the sole basis of which is to refer the case to an impartial specialist, the board may in its sole discretion review and affirm, modify or rescind such decision or determination in the same manner as herein above provided for an award or decision of a referee. Failure to apply for review by the full board shall not bar any party in interest from taking an appeal directly to the court as above provided. The board may also, in its discretion certify to such appellate division

of the supreme court, questions of law involved in its decision. Such appeals and the question so certified shall be heard in a summary manner and shall have precedence over all other civil cases in such court. The board shall be deemed a party to every such appeal from its decision upon such application, and the chair shall be deemed a party to every such appeal from an administrative redetermination review decision pursuant to subdivision five of section fifty-two of this chapter. The attorney general shall represent the board and the chair thereon. An appeal may also be taken to the court of appeals in the same manner and subject to the same limitations not inconsistent herewith as is now provided in the civil practice law and rules. It shall not be necessary to file exceptions to the rulings of the board. An appeal to the appellate division of the supreme court, third department, or to the court of appeals, shall not operate as a stay of the payment of compensation required by the terms of the award or of the payment of the cost of such medical, dental, surgical, optometric or other attendance, treatment, devices, apparatus or other necessary items the employer is required to provide pursuant to section thirteen of this article which are found to be fair and reasonable. Where such award is modified or rescinded upon appeal, the appellant shall be entitled to reimbursement in a sum equal to the compensation in dispute paid to the respondent in addition to a sum equal to the cost of such medical, dental, surgical, optometric or other attendance, treatment, devices, apparatus or other necessary items the employer is required to provide pursuant to section thirteen of this article paid by the appellant pending adjudication of the appeal. Such reimbursement shall be paid from administration expenses as provided in section one hundred fifty-one of this chapter upon audit and warrant of the comptroller upon vouchers approved by the chair. Where such award is subject to the provisions of section twenty-seven of this article, the appellant shall pay directly to the claimant all compensation as it becomes due during the pendency of the appeal, and upon affirmance shall be entitled to credit for such payments. Neither the chair, the board, the commissioners of the state insurance fund nor the claimant shall be required to file a bond upon an appeal to the court of appeals. Upon final determination of such an appeal, the board or chair, as the case may be, shall enter an order in accordance therewith. Whenever a notice of appeal is served or an application made to the board by the employer or insurance carrier for a modification or rescission or review of an award or decision, and the board shall find that such notice of appeal was served or such application was made for the purpose of delay or upon frivolous grounds, the board shall impose a penalty in the amount of five hundred dollars upon the employer or insurance carrier, which penalty shall be added to the compensation and paid to the claimant. The penalties provided herein shall be collected in like manner as compensation. A party against whom an award of compensation shall be made may appeal from a part of such award. In such a case the payment of such part of the award as is not appealed from shall not prejudice any rights of such party on appeal, nor be taken as an admission against such party. Any appeal by an employer from an administrative redetermination review decision pursuant to subdivision five of section fifty-two of this chapter shall in no way serve to relieve the employer from the obligation to timely pay compensation and benefits otherwise payable in accordance with the provisions of this chapter.

Applications or petitions to the board for review, modification, rescission, rehearing or review by the full board must be decided within thirty days of the petition or application or within thirty days of

completion of motion practice on the petition or application, whichever is later.

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

§ 22. Section 77 of the workers' compensation law, as amended by chapter 6 of the laws of 2007, is amended to read as follows:

§ 77. Administration. The state insurance fund shall be administered by the commissioners of the state insurance fund, of whom there shall be [~~ten~~] eight. The commissioner of labor 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 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 or representation as to a material fact in the course of reporting, investigation of, or adjusting a claim for any benefit or payment under this chapter for the purpose of avoiding provision of such payment or benefit shall be guilty of a class E felony. Upon conviction, the court in addition to any other authorized sentence, may order forfeiture of any property, including real property, buildings and appurtenances that constitute the instrumentality of the employer or carrier and may also require restitution of any amount received as a result of a violation of this subdivision.

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

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

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

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

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

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

§ 140. [~~Workmen's~~] Workers' compensation board. The [~~workmen's~~] workers' compensation board in the department of labor is hereby continued. Such board shall consist of thirteen members, at least four of whom shall be attorneys and counsellors-at-law duly admitted to practice in this state. The members of the board shall be appointed by the governor, by and with the advice and consent of the senate. Three members shall be appointed by the governor upon recommendation of the speaker of the assembly; three members shall be appointed by the governor upon recommendation of the temporary president of the senate; two members shall be appointed by the governor upon recommendation of the New York State American Federation of Labor-Congress of Industrial Organizations; and two members shall be appointed by the governor upon recommendation of the Business Council of the state of New York. The members of the board in office, together with the additional members and the members appointed to fill vacancies, if any, at the time this section takes effect, shall continue, notwithstanding the appointment of any of the members for a term expiring on a different date, to hold office for terms to be assigned by the governor by and with the advice and consent of the senate; two such terms to expire on December thirty-first, nineteen hundred fifty; two to expire on December thirty-first, nineteen hundred fifty-one; two to expire on December thirty-first, nineteen hundred fifty-two; two to expire on December thirty-first, nineteen hundred fifty-three; two to expire on December thirty-first, nineteen hundred fifty-four; two to expire on December thirty-first, nineteen hundred fifty-five; and one to expire on December thirty-first, nineteen hundred fifty-six. The members next appointed, except to fill a vacancy created otherwise than by expiration of term, shall be appointed for terms of seven years. The governor shall designate one of the members of the board as chairman and another as vice-chairman.

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

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

(a) commissioner of corrections and community supervision, commissioner of education, commissioner of health, commissioner of mental health, commissioner of developmental disabilities, commissioner of children and family services, commissioner of temporary and disability assistance, chancellor of the state university of New York, commissioner of transportation, commissioner of environmental conservation, superintendent of state police, commissioner of general services, commissioner of the division of homeland security and emergency services [~~and~~], the executive director of the state gaming commission, and the chair of the workers' compensation board;

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

(c) commissioner of agriculture and markets, commissioner of alcoholism and substance abuse services, adjutant general, commissioner and president of state civil service commission, commissioner of economic development, chair of the energy research and development authority, president of higher education services corporation, commissioner of motor vehicles, member-chair of board of parole, chair of public employment relations board, secretary of state, commissioner of alcoholism and

substance abuse services, executive director of the housing finance agency, commissioner of housing and community renewal, executive director of state insurance fund, commissioner-chair of state liquor authority, [~~chair~~] **and members** of the workers' compensation board;

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

(e) chairman of state athletic commission, director of the office of victim services, chairman of human rights appeal board, chairman of the industrial board of appeals, chairman of the state commission of correction, members of the board of parole, member-chairman of unemployment insurance appeal board, **and** director of veterans' affairs[~~, and vice-chairman of the workers' compensation board~~];

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

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

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

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

§ 71. Reinstatement after separation for disability. Where an employee has been separated from the service by reason of a disability resulting from occupational injury or disease as defined in the [~~workmen's~~] **workers'** compensation law, he or she shall be entitled to a leave of absence for at least one year, unless his or her disability is of such a nature

as to permanently incapacitate him or her for the performance of the duties of his or her position. Notwithstanding the foregoing, where an employee has been separated from the service by reason of a disability resulting from an assault sustained in the course of his or her employment, he or she shall be entitled to a leave of absence for at least two years, unless his or her disability is of such a nature as to permanently incapacitate him or her for the performance of the duties of his or her position. **Notwithstanding the foregoing, where an employee is absent by reason of a disability resulting from occupational injury or disease as defined in the workers' compensation law and that employee has not yet received care directed by his or her treating provider as a result of the employer or carrier's dispute, that employee is entitled to an indefinite leave of absence, unless his or her disability is of such a nature as to permanently incapacitate him or her for the performance of the duties of his or her position.** Such employee may, within one year after the termination of such disability, make application to the civil service department or municipal commission having jurisdiction over the position last held by such employee for a medical examination to be conducted by a medical officer selected for that purpose by such department or commission. If, upon such medical examination, such medical officer shall certify that such person is physically and mentally fit to perform the duties of his or her former position, he or she shall be reinstated to his or her former position, if vacant, or to a vacancy in a similar position or a position in a lower grade in the same occupational field, or to a vacant position for which he or she was eligible for transfer. If no appropriate vacancy shall exist to which reinstatement may be made, or if the work load does not warrant the filling of such vacancy, the name of such person shall be placed upon a preferred list for his or her former position, and he or she shall be eligible for reinstatement from such preferred list for a period of four years. In the event that such person is reinstated to a position in a grade lower than that of his or her former position, his or her name shall be placed on the preferred eligible list for his or her former position or any similar position. This section shall not be deemed to modify or supersede any other provisions of law applicable to the re-employment of persons retired from the public service on account of disability.

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

(b) Any felony set forth elsewhere in the laws of this state and defined by the tax law relating to alcoholic beverage, cigarette, gasoline and similar motor fuel taxes; article seventy-one of the environmental conservation law relating to water pollution, hazardous waste or substances hazardous or acutely hazardous to public health or safety of the environment; article twenty-three-A of the general business law relating to prohibited acts concerning stocks, bonds and other securities, article twenty-two of the general business law concerning monopolies**, article seven of the workers' compensation law concerning fraud**.

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