

# STATE OF NEW YORK

343

2019-2020 Regular Sessions

## IN SENATE

(Prefiled)

January 9, 2019

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

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

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

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

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

19 ~~No such authorization shall be made in the absence of a recommendation  
20 of the appropriate society or board or of a review and recommendation by  
21 the medical appeals unit.]~~ No person shall render medical care or  
22 conduct independent medical examinations under this chapter without such  
23 authorization by the chair[~~, provided, that: (a)~~]. As used in this

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

LBD05172-01-9

1 title, the following definitions shall have the following meanings  
2 unless their context requires otherwise:

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

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

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

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

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

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

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

31 (h) "Occupational therapist" shall mean licensed as having a bach-  
32 elor's or master's degree in occupational therapy from a registered  
33 program with the education department or receipt of a diploma or degree  
34 resulting from completion of not less than four years of postsecondary  
35 study, which includes the professional study of occupational therapy in  
36 accordance with the education law and the regulations of the commis-  
37 ioner of education.

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

42 (j) "Physician" shall mean licensed with a degree of doctor of medi-  
43 cine, M.D., or doctor of osteopathic medicine, D.O., or an equivalent  
44 degree in accordance with the education law and the licensing require-  
45 ments of the state board of medicine and the regulations of the commis-  
46 sioner of education.

47 (k) "Physician assistant" shall mean a licensed provider who has grad-  
48 uated from a two- to four-year state-approved physician assistant  
49 program, has passed a licensing examination, and whose actions and  
50 duties are within the scope of practice of the supervising physician, in  
51 accordance with the education law and the regulations of the commis-  
52 ioner of education.

53 (l) "Podiatrist" shall mean a doctor of podiatric medicine licensed as  
54 having received a doctoral degree in podiatric medicine in accordance  
55 with the regulations of the commissioner of education and the education

1 law, and must satisfactorily meet all other requirements of the state  
2 board for podiatric medicine.

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

7 (n) "Psychologist" shall mean licensed as having received a doctoral  
8 degree in psychology from a program of psychology registered with the  
9 state education department or the substantial equivalent thereof in  
10 accordance with the education law, the requirements of the state board  
11 for psychology, and the regulations of the commissioner of education.

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

18 2. Any [physician] provider licensed [~~to practice medicine~~] pursuant  
19 to the education law to provide medical care and treatment in the state  
20 of New York may render emergency [medical] care and treatment in an  
21 emergency hospital or urgent care setting providing emergency treatment  
22 under this chapter without authorization by the chair under this  
23 section; [and

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

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

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

46 (e) Upon the prescription or referral of an authorized physician occu-  
47 pational therapy care may be rendered by a duly licensed occupational  
48 therapist. Where occupational therapy care is rendered records of the  
49 patient's condition and progress, together with records of instruction  
50 for treatment, if any shall be maintained by the occupational therapist  
51 and physician. Said records shall be submitted to the chair on forms and  
52 at such times as the chair may require.

53 (f)] (c) Where it would place an unreasonable burden upon the employer  
54 or carrier to arrange for, or for the claimant to attend, an independent  
55 medical examination by an authorized [physician] provider, the employer  
56 or carrier shall arrange for such examination to be performed by a qual-

1 ified [~~physician~~] provider in a medical facility convenient to the  
2 claimant.

3 [~~2-~~] (d) Upon the prescription or referral of an authorized physician,  
4 or nurse practitioner acting within the scope of his or her practice,  
5 care or treatment may be rendered to an injured employee by an author-  
6 ized physical therapist, occupational therapist or acupuncturist  
7 provided the conditions and the treatment performed are among the condi-  
8 tions that the physical therapist, occupational therapist or acupunctu-  
9 rist is authorized to treat pursuant to the education law or the regu-  
10 lations of the commissioner of education. Where any such care or  
11 treatment is rendered, records of the patient's condition and progress,  
12 together with records of instruction for treatment, if any, shall be  
13 maintained by the physical therapist, occupational therapist or acupunc-  
14 turist rendering treatment and by the referring physician or nurse prac-  
15 titioner. Said records shall be submitted to the chair on forms and at  
16 such times as the chair may require.

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

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

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

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

55 ~~3.]~~ 4. Laboratories and bureaus engaged in x-ray diagnosis or treat-  
56 ment or in physiotherapy or other therapeutic procedures and which

1 participate in the diagnosis or treatment of injured [~~workmen~~] workers  
2 under this chapter shall be operated or supervised by [~~qualified physi-~~  
3 ~~eians-duly~~] providers authorized under this chapter and shall be subject  
4 to the provisions of section thirteen-c of this article. The person in  
5 charge of diagnostic clinical laboratories duly authorized under this  
6 chapter shall possess the qualifications established by the public  
7 health and health planning council for approval by the state commission-  
8 er of health or, in the city of New York, the qualifications approved by  
9 the board of health of said city and shall maintain the standards of  
10 work required for such approval.

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

18 § 13-g. Payment of bills for medical care. (1) Within forty-five days  
19 after a bill for medical care or supplies delivered pursuant to section  
20 thirteen of this article has been rendered to the employer [~~by the~~  
21 ~~hospital, physician or self-employed physical or occupational therapist~~  
22 ~~who has rendered treatment pursuant to a referral from the injured~~  
23 ~~employee's authorized physician or authorized podiatrist for treatment~~  
24 ~~to the injured employee~~], such employer must pay the bill or notify the  
25 [~~hospital, physician or self-employed physical or occupational therapist~~  
26 ~~in writing~~] medical care provider or supplier in the format prescribed  
27 by the chair that the bill is not being paid and explain the reasons for  
28 non-payment. In the event that the employer fails to make payment or  
29 notify the [~~hospital, physician or self-employed physical or occupa-~~  
30 ~~tional therapist~~] medical care provider or supplier within such forty-  
31 five day period that payment is not being made, the [~~hospital, physi-~~  
32 ~~cian, self-employed physical therapist or self-employed occupational~~  
33 ~~therapist~~] medical care provider or supplier may notify the board in the  
34 format prescribed by the chair [~~in writing~~] that the bill has not been  
35 paid and request that the board make an award for payment of such bill.  
36 The board or the chair may make an award not in excess of the estab-  
37 lished fee schedules for any such bill or part thereof which remains  
38 unpaid after said forty-five day period or thirty days after all other  
39 questions duly and timely raised in accordance with the provisions of  
40 this chapter, relating to the employer's liability for the payment of  
41 such amount, shall have been finally determined adversely to the employ-  
42 er, whichever is later, in accordance with rules promulgated by the  
43 chair, and such award may be collected in like manner as an award of  
44 compensation. The chair shall assess the sum of fifty dollars against  
45 the employer for each such award made by the board, which sum shall be  
46 paid into the state treasury.

47 In the event that the employer has provided an explanation in writing  
48 why the bill has not been paid, in part or in full, within the aforesaid  
49 time period, and the parties can not agree as to the value of medical  
50 aid rendered under this chapter, such value shall be decided by arbi-  
51 tration [~~if requested by the hospital, physician or self-employed phys-~~  
52 ~~ical or occupational therapist, in accordance with the provisions of~~  
53 ~~subdivision two or subdivision three of this section, as appropriate,~~  
54 ~~and~~] as set forth in rules and regulations promulgated by the chair.

55 Where a [~~physician, physical or occupational therapist~~] bill for  
56 medical care or supplies has been determined to be due and owing in

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

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

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

1 ~~the workers' compensation board provided however, that the chair finds~~  
2 ~~that there are a sufficient number of physical therapy arbitrations in a~~  
3 ~~geographical area comprised of one or more counties to warrant a commit-~~  
4 ~~tee so comprised. In all other cases where the value of physical therapy~~  
5 ~~services is at issue and the amount of the disputed bill exceeds one~~  
6 ~~thousand dollars, the arbitration committee shall be similarly selected~~  
7 ~~and identical in composition, provided that the physical therapist~~  
8 ~~member shall serve without remuneration, and provided further that in~~  
9 ~~the event a physical therapist is not available, the committee shall be~~  
10 ~~comprised of three physicians designated in the same manner as in cases~~  
11 ~~where the value of medical aid is at issue.~~

12 ~~(c) Where the value of occupational therapy services is at issue the~~  
13 ~~arbitration committee shall consist of a member in good standing of a~~  
14 ~~recognized professional association representing occupational therapists~~  
15 ~~in the state of New York appointed by the president of such organiza-~~  
16 ~~tion, a physician designated by the employer or carrier and a physician~~  
17 ~~designated by the chair of the workers' compensation board provided,~~  
18 ~~however, that the chair finds that there are a sufficient number of~~  
19 ~~occupational therapy arbitrations in a geographical area comprised of~~  
20 ~~one or more counties to warrant a committee so comprised. In all other~~  
21 ~~cases where the value of occupational therapy services is at issue and~~  
22 ~~the amount of the disputed bill exceeds one thousand dollars, the arbi-~~  
23 ~~tration committee shall be similarly selected and identical in composi-~~  
24 ~~tion, provided that the occupational therapist member shall serve with-~~  
25 ~~out remuneration, and provided further that in the event an occupational~~  
26 ~~therapist is not available, the committee shall be comprised of three~~  
27 ~~physicians designated in the same manner as in cases where the value of~~  
28 ~~medical aid is at issue.] have three members designated by the chair in~~  
29 ~~consultation with the medical director's office of the workers' compen-~~  
30 ~~sation board.~~ The majority decision of any such arbitration committee  
31 shall be conclusive upon the parties as to the value of the services in  
32 dispute.

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

44 (b) ~~If an employer shall have notified the hospital in writing, as~~  
45 ~~provided in subdivision one of this section, why the bill has not been~~  
46 ~~paid, in part or in full, and the amount of the disputed bill exceeds~~  
47 ~~one thousand dollars, the value of such bill shall be determined by an~~  
48 ~~arbitration committee appointed by the chair for that purpose, which~~  
49 ~~committee shall consider all of the charges of the hospital, unless the~~  
50 ~~hospital expressly requests a single arbitrator process pursuant to~~  
51 ~~paragraph (a) of this subdivision. The committee shall consist of three~~  
52 ~~physicians. One member of the committee may be nominated by the chair~~  
53 ~~upon recommendation of the president of the hospital association of New~~  
54 ~~York state and one member may be nominated by the employer or insurance~~  
55 ~~carrier. The majority decision of any such committee shall be conclusive~~  
56 ~~upon the parties as to the value of the services rendered. The chair may~~

1 ~~make reasonable rules and regulations consistent with the provisions of~~  
 2 ~~this section.~~

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

11 (5) (4) In claims where the employer has failed to secure compen-  
 12 sation to his employees as required by section fifty of this chapter,  
 13 the board may make an award for the value of medical [~~and podiatry~~]  
 14 services, supplies or treatment rendered to such employees, in accord-  
 15 ance with the schedules of fees and charges prepared and established  
 16 under the provisions of [~~section thirteen, subdivision a, and section~~  
 17 ~~thirteen k, subdivision two, of~~] this chapter[, ~~and for the reasonable~~  
 18 ~~value of hospital care in accordance with the charges currently in force~~  
 19 ~~in hospitals in the same community for cases coming within the~~  
 20 ~~provisions of this chapter~~]. Such award shall be made to the [~~physician,~~  
 21 ~~podiatrist, or hospital~~] medical care provider or supplier entitled  
 22 thereto. A default in the payment of such award may be enforced in the  
 23 manner provided for the enforcement of compensation awards as set forth  
 24 in section twenty-six of this [~~chapter~~] article.

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

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

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

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

43 2. An employee injured under circumstances which make such injury  
 44 compensable under this article, when care is required for an injury to  
 45 the foot which injury or resultant condition therefrom may lawfully be  
 46 treated by a duly registered and licensed podiatrist of the state of New  
 47 York, may select to treat him or her any podiatrist authorized by the  
 48 chair to render [~~podiatry~~] podiatric medical care, as hereinafter  
 49 provided. If the injury or condition is one which is without the limits  
 50 prescribed by the education law for [~~podiatry~~] podiatric medical care  
 51 and treatment, or the injuries involved affect other parts of the body  
 52 in addition to the foot, the said podiatrist must so advise the said  
 53 injured employee and instruct him or her to consult a physician of said  
 54 employee's choice for appropriate care and treatment. Such physician  
 55 shall thenceforth have overall supervision of the treatment of said  
 56 patient including the future treatment to be administered to the patient

1 by the podiatrist. If for any reason during the period when [~~podiatry~~]  
2 podiatric medical treatment and care is required, the employee wishes to  
3 transfer his or her treatment and care to another authorized podiatrist  
4 he or she may do so, in accordance with rules prescribed by the chair,  
5 provided however that the employer shall be liable for the proper fees  
6 of the original podiatrist for the care and treatment he or she shall  
7 have rendered. [~~A podiatrist licensed and registered to practice podia-  
8 try in the state of New York who is desirous of being authorized to  
9 render podiatry care under this section and/or to conduct independent  
10 medical examinations in accordance with paragraph (b) of subdivision  
11 three of this section shall file an application for authorization under  
12 this section with the podiatry practice committee. In such application  
13 he or she shall agree to refrain from subsequently treating for remunera-  
14 tion, as a private patient, any person seeking podiatry treatment, or  
15 submitting to an independent medical examination, in connection with, or  
16 as a result of, any injury compensable under this chapter, if he or she  
17 has been removed from the list of podiatrists authorized to render  
18 podiatry care or to conduct independent medical examinations under this  
19 chapter, or if the person seeking such treatment has been transferred  
20 from his or her care in accordance with the provisions of this section.  
21 This agreement shall run to the benefit of the injured person so treated  
22 or examined, and shall be available to him or her as a defense in any  
23 action by such podiatrist for payment for treatment rendered by a podia-  
24 trist after he or she has been removed from the list of podiatrists  
25 authorized to render podiatry care or to conduct independent medical  
26 examinations under this section, or after the injured person was trans-  
27 ferred from his or her care in accordance with the provisions of this  
28 section. The podiatry practice committee if it deems such licensed  
29 podiatrist duly qualified shall recommend to the chair that such podia-  
30 trist be authorized to render podiatry care and/or to conduct independ-  
31 ent medical examinations under this section. Such recommendation shall  
32 be advisory to the chair only and shall not be binding or conclusive  
33 upon him or her.] The chair shall prepare and establish a schedule for  
34 the state, or schedules limited to defined localities, of charges and  
35 fees for [~~podiatry~~] podiatric medical treatment and care, to be deter-  
36 mined in accordance with and to be subject to change pursuant to rules  
37 promulgated by the chair. Before preparing such schedule for the state  
38 or schedules for limited localities the chair shall request the [~~podia-  
39 try~~] podiatric medicine practice committee to submit to him or her a  
40 report on the amount of remuneration deemed by such committee to be fair  
41 and adequate for the types of [~~podiatry~~] podiatric medical care to be  
42 rendered under this chapter, but consideration shall be given to the  
43 view of other interested parties. The amounts payable by the employer  
44 for such treatment and services shall be the fees and charges estab-  
45 lished by such schedule.~~

46 (b) Upon receipt of the notice provided for by paragraph (a) of this  
47 subdivision, the employer, the carrier and the claimant each shall be  
48 entitled to have the claimant examined by a qualified podiatrist author-  
49 ized by the chair in accordance with [~~subdivision two of this~~]  
50 thirteen-b and section one hundred thirty-seven of this chapter, at a  
51 medical facility convenient to the claimant and in the presence of the  
52 claimant's podiatrist, and refusal by the claimant to submit to such  
53 independent medical examination at such time or times as may reasonably  
54 be necessary in the opinion of the board shall bar the claimant from  
55 recovering compensation for any period during which he or she has  
56 refused to submit to such examination.

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

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

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

49 The chair shall prepare and establish a  
50 schedule for the state, or schedules limited to defined localities of  
51 charges and fees for chiropractic treatment and care, to be determined  
52 in accordance with and to be subject to change pursuant to rules promul-  
53 gated by the chair. Before preparing such schedule for the state or  
54 schedules for limited localities the chair shall request the chiroprac-  
55 tic practice committee to submit to him or her a report on the amount of  
56 remuneration deemed by such committee to be fair and adequate for the  
types of chiropractic care to be rendered under this chapter, but

1 consideration shall be given to the view of other interested parties,  
2 the amounts payable by the employer for such treatment and services  
3 shall be the fees and charges established by such schedule.

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

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

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

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

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

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

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

~~1 authorized to render psychological care or to conduct independent  
2 medical examinations under this section. The psychology practice commit-  
3 tee if it deems such licensed psychologist duly qualified shall recom-  
4 mend to the chair that such person be authorized to render psychological  
5 care and/or to conduct independent medical examinations under this  
6 section. Such recommendations shall be only advisory to the chair and  
7 shall not be binding or conclusive.]~~

8 The chair shall prepare and estab-  
9 lish a schedule for the state or schedules limited to defined localities  
10 of charges and fees for psychological treatment and care, to be deter-  
11 mined in accordance with and be subject to change pursuant to rules  
12 promulgated by the chair. Before preparing such schedule for the state  
13 or schedules for limited localities the chair shall request the psychol-  
14 ogy practice committee to submit to such chair a report on the amount of  
15 remuneration deemed by such committee to be fair and adequate for the  
16 types of psychological care to be rendered under this chapter, but  
17 consideration shall be given to the view of other interested parties.  
18 The amounts payable by the employer for such treatment and services  
19 shall be the fees and charges established by such schedule.

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

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

33 § 54-b. Enforcement on failure to pay award or judgment. In case of  
34 default by a carrier or self-insured employer in the payment of any  
35 compensation due under an award for the period of thirty days after  
36 payment is due and payable, or in the case of failure by a carrier or  
37 self-insured employer to make full payment of an award for medical care  
38 or supplies issued by the board or the chair pursuant to section thir-  
39 teen-g of this chapter, the chair in any such case or on the chair's  
40 consent any party to an award may file with the county clerk for the  
41 county in which the injury occurred or the county in which the carrier  
42 or self-insured employer has his or her principal place of business, (1)  
43 a certified copy of the decision of the board awarding compensation or  
44 ending, diminishing or increasing compensation previously awarded, from  
45 which no appeal has been taken within the time allowed therefor, or if  
46 an appeal has been taken by a carrier or self-insured employer who has  
47 not complied with the provisions of section fifty of this article, where  
48 he or she fails to deposit with the chair the amount of the award as  
49 security for its payment within ten days after the same is due and paya-  
50 ble, or (2) a certified copy of the award for medical care or supplies  
51 issued pursuant to section thirteen-g of this chapter, and thereupon  
52 judgment must be entered in the supreme court by the clerk of such coun-  
53 ty in conformity therewith immediately upon such filing. If the payment  
54 in default be an installment, the board may declare the entire award due  
55 and judgment may be entered in accordance with the provisions of this  
56 section. Such judgment shall be entered in the same manner, have the  
same effect and be subject to the same proceedings as though rendered in

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

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