
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2140 Session of
1991

INTRODUCED BY SURRA, PISTELLA, DeWEESE, MURPHY, GIGLIOTTI,
DALEY, VEON, COHEN, KOSINSKI, RITTER, WILLIAMS, ROBINSON,
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OCTOBER 22, 1991

AMENDMENTS TO SENATE AMENDMENTS, HOUSE OF REPRESENTATIVES,
OCTOBER 5, 1992

AN ACT

1 Amending the act of June 2, 1915 (P.L.736, No.338), entitled, as
2 reenacted and amended, "An act defining the liability of an
3 employer to pay damages for injuries received by an employe
4 in the course of employment; establishing an elective
5 schedule of compensation; providing procedure for the
6 determination of liability and compensation thereunder; and
7 prescribing ~~penalties,~~" PENALTIES" AND TITLE 18 (CRIMES AND ←
8 OFFENSES) OF THE PENNSYLVANIA CONSOLIDATED STATUTES, adding
9 and amending certain definitions; redesignating referees as
10 workers' compensation judges; further providing for
11 contractors, for insurance and self-insurance, for
12 compensation and for payments for medical services; providing
13 for coordinated care organizations; further providing for
14 procedures for the payment of compensation and for medical
15 services and for procedures of the department, referees and
16 the board; adding provisions relating to insurance, self-
17 insurance pooling, self-insurance guaranty fund, health and
18 safety, the prevention of insurance fraud; further providing
19 for certain penalties; making repeals; and making editorial
20 changes.

21 The General Assembly of the Commonwealth of Pennsylvania
22 hereby enacts as follows:

23 Section 1. Section 101 of the act of June 2, 1915 (P.L.736,
24 No.338), known as The Pennsylvania Workmen's Compensation Act,
25 reenacted and amended June 21, 1939 (P.L.520, No.281) and

1 amended December 5, 1974 (P.L.782, No.263), is amended to read:

2 Section 101. That this act shall be called and cited as [The
3 Pennsylvania Workmen's] the Workers' Compensation Act, and shall
4 apply to all injuries occurring within this Commonwealth,
5 irrespective of the place where the contract of hiring was made,
6 renewed, or extended, and extraterritorially as provided by
7 section 305.2.

8 ~~Section 2. Section 104 of the act, amended March 29, 1972~~ <—
9 ~~(P.L.159, No.61), is amended to read:~~

10 ~~Section 104. The term "employe," as used in this act is~~
11 ~~declared to be synonymous with servant, and includes—~~

12 ~~All natural persons who perform services for another for a~~
13 ~~valuable consideration, exclusive of persons whose employment is~~
14 ~~casual in character and not in the regular course of the~~
15 ~~business of the employer, and exclusive of persons to whom~~
16 ~~articles or materials are given out to be made up, cleaned,~~
17 ~~washed, altered, ornamented, finished or repaired, or adapted~~
18 ~~for sale in the worker's own home, or on other premises, not~~
19 ~~under the control or management of the employer. [Every] Except~~
20 ~~as hereinafter provided in clause (c) of section 302 and~~
21 ~~sections 305 and 321 of this act, every executive officer of a~~
22 ~~corporation elected or appointed in accordance with the charter~~
23 ~~and by laws of the corporation, except elected officers of the~~
24 ~~Commonwealth or any of its political subdivisions, shall be an~~
25 ~~employe of the corporation [except as hereinafter provided in~~
26 ~~sections 302 (c), 305 and 321]. An executive officer of a~~
27 ~~corporation may, however, elect not to be an "employe" of the~~
28 ~~corporation for the purposes of this act. For purposes of this~~
29 ~~section, an executive officer is an individual who has the power~~
30 ~~to direct and cause the direction of the management and policies~~

1 ~~of the business and to make the day to day as well as major~~
2 ~~decisions in matters of policy, management and operations.~~

3 ~~Section 3. The act is amended by adding sections to read:~~

4 ~~Section 105.3. The term "construction design professional,"~~
5 ~~as used in this act, means a professional engineer or land~~
6 ~~surveyor licensed by the State Registration Board for~~
7 ~~Professional Engineers and Professional Land Surveyors under the~~
8 ~~act of May 23, 1945 (P.L.913, No.367), known as the~~
9 ~~"Professional Engineers and Professional Land Surveyors~~
10 ~~Registration Law," a landscape architect who is licensed by the~~
11 ~~State Board of Landscape Architects under the act of January 24,~~
12 ~~1966 (1965 P.L.1527, No.535), known as the "Landscape~~
13 ~~Architects' Registration Law," an architect who is licensed by~~
14 ~~the Architects Licensure Board under the act of December 14,~~
15 ~~1982 (P.L.1227, No.281), known as the "Architects Licensure~~
16 ~~Law," or any corporation or association (including professional~~
17 ~~corporations) organized or registered under the act of December~~
18 ~~21, 1988 (P.L.1444, No.177), known as the "General Association~~
19 ~~Act of 1988," practicing engineering, architecture, landscape~~
20 ~~architecture or surveying in this Commonwealth.~~

21 ~~Section 109. The term "sufficient, competent and substantial~~
22 ~~evidence," as used in this act, shall mean the aggregate of the~~
23 ~~terms, "sufficient evidence," "competent evidence" and~~
24 ~~"substantial evidence." The term "sufficient evidence," as used~~
25 ~~in this act, shall mean more than a scintilla but somewhat less~~
26 ~~than a preponderance. The term "competent evidence," as used in~~
27 ~~this act, shall mean evidence which is legally admissible. A~~
28 ~~technical or scientific opinion given in evidence by an expert~~
29 ~~must be based upon facts or data of a type reasonably relied~~
30 ~~upon by experts in the particular field and be logically derived~~

1 ~~by standard methodological principles. The term "substantial~~
2 ~~evidence," as used in this act, shall mean such relevant~~
3 ~~evidence as a reasonable mind might accept to support a decision~~
4 ~~upon a review of the record as a whole.~~

5 SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ: <—

6 Section 110. In addition to the definitions set forth in
7 this Article, the following words and phrases when used in this
8 act shall have the meanings given to them in this section unless
9 the context clearly indicates otherwise:

10 "Bill" means a statement or invoice for payment of services
11 under clause (f) of section 306 of this act which identifies the
12 claimant, the date of injury, the payment codes referred to in
13 clause (f) of section 306 of this act and a description of the
14 services provided on or in standard form prescribed by the
15 Department of Labor and Industry.

16 "Burn facility" means a facility which meets the service
17 standards of the American Burn Association.

18 "Commissioner" means the Insurance Commissioner of the
19 Commonwealth.

20 ~~"Coordinated care organization" or "CCO" means an~~ <—
21 ~~organization licensed in Pennsylvania and certified by the~~
22 ~~Secretary of Labor and Industry on a basis of established~~
23 ~~criteria possessing the capacity to provide primary medical~~
24 ~~services to an injured worker.~~

25 "COORDINATED CARE ORGANIZATION" OR "CCO" MEANS AN <—
26 ORGANIZATION OWNED OR CONTROLLED BY PROVIDERS, PROFESSIONAL
27 HEALTH SERVICE CORPORATIONS, HOSPITAL PLAN CORPORATIONS OR
28 HEALTH MAINTENANCE ORGANIZATIONS LICENSED IN PENNSYLVANIA AND
29 CERTIFIED BY THE SECRETARY OF LABOR AND INDUSTRY ON A BASIS OF
30 ESTABLISHED CRITERIA POSSESSING THE CAPACITY TO PROVIDE PRIMARY

1 MEDICAL SERVICES TO AN INJURED WORKER.

2 "DRG" means diagnosis related groups.

3 "HCFA" means the Health Care Financing Administration.

4 "Health maintenance organization" means an entity defined in
5 and subject to the act of December 29, 1972 (P.L.1701, No.364),
6 known as the "Health Maintenance Organization Act."

7 "Hospital plan corporation" means an entity defined in and
8 subject to Chapter 61 (relating to hospital plan corporations)
9 of Title 40 (relating to insurance) of the Pennsylvania
10 Consolidated Statutes.

11 "Insurance Company Law of 1921" means the act of May 17, 1921
12 (P.L.682, No.284), known as "The Insurance Company Law of 1921."

13 "Insurer" means an entity subject to the act of May 17, 1921
14 (P.L.682, No.284), known as "The Insurance Company Law of 1921,"
15 including the State Workmen's Insurance Fund, with which an
16 employer has insured liability under this act pursuant to
17 section 305 or a self-insured employer or fund exempted by the
18 Department of Labor and Industry pursuant to section 305 of this
19 act.

20 "Intermediary" means an organization with a contractual
21 relationship with the Health Care Financing Administration to
22 process Medicare Part A or Part B claims.

23 "Life-threatening injury" shall be as defined by the American
24 College of Surgeons' triage guidelines regarding use of trauma
25 centers for the region where the services are provided.

26 "Occupational Disease Act" means the act of June 21, 1939
27 (P.L.566, No.284), known as "The Pennsylvania Occupational
28 Disease Act."

29 "Pass-through costs" means Medicare reimbursed costs to a
30 hospital that "pass through" the prospective payment system and

1 are not included in the diagnosis related group payments. The
2 term includes medical education, capital expenditures, insurance
3 and interest expense on fixed assets.

4 "Peer review," for the purpose of undertaking reviews and
5 reports pursuant to section 420, means review by:

6 (1) an impartial physician, surgeon or other duly licensed
7 practitioner of the healing arts selected by the Secretary of
8 Labor and Industry upon recommendation of the deans of the
9 medical colleges located in this Commonwealth;

10 (2) a panel of such professionals and practitioners selected
11 by the Secretary of Labor and Industry upon recommendation of
12 the deans of the medical colleges located in this Commonwealth;

13 or

14 (3) a Peer Review Organization approved by the Insurance
15 Commissioner and selected by the Secretary of Labor and
16 Industry.

17 "Professional health service corporation" means an entity
18 defined in and subject to Chapter 63 (relating to professional
19 health services plan corporations) of Title 40 (relating to
20 insurance) of the Pennsylvania Consolidated Statutes.

21 "Provider" means a health care provider licensed by the
22 Commonwealth, including a person or institution providing
23 treatment, accommodations, products or services to a person
24 under clause (f) of section 306 of this act.

25 "Referee" means a workers' compensation judge, as designated
26 under section 401.

27 "Secretary" means the Secretary of Labor and Industry of the
28 Commonwealth.

29 "Trauma center" means a facility accredited by the
30 Pennsylvania Trauma Systems Foundation under the act of July 3,

1 1985 (P.L.164, No.45), known as the "Emergency Medical Services
2 Act."

3 "Urgent injury" shall be as defined by the American College
4 of Surgeons' triage guidelines regarding use of trauma centers
5 for the region where the services are provided.

6 "Usual, ~~customary and reasonable~~ AND CUSTOMARY charge" means <—
7 the charge most often made by providers of similar training,
8 experience and licensure for a specific treatment,
9 accommodation, product or service in the geographic area where
10 the treatment, accommodation, product or service is provided.

11 "Utilization review organizations" shall be those
12 organizations consisting of an impartial physician, surgeon or
13 other duly licensed practitioner of the healing arts or a panel
14 of such professionals and practitioners as authorized by the
15 Department of Labor and Industry and published as a list in the
16 form of a notice in the Pennsylvania Bulletin, for the purpose
17 of reviewing the reasonableness and necessity of medical
18 treatment pursuant to section 306(f.1)(6).

19 Section 4. ~~Section 204 of the act, amended December 5, 1974~~ <—
20 (P.L.782, No.263), is amended to read:

21 Section 204. ~~No agreement, composition, or release of~~
22 damages made before the date of any injury shall be valid or
23 shall bar a claim for damages resulting therefrom; and any such
24 agreement is declared to be against the public policy of this
25 Commonwealth. The receipt of benefits from any association,
26 society, or fund shall not bar the recovery of damages by action
27 at law, nor the recovery of compensation under article three
28 hereof; and any release executed in consideration of such
29 benefits shall be void: Provided, however, That if the employe
30 receives unemployment compensation benefits, such amount or

1 ~~amounts so received shall be credited as against the amount of~~
2 ~~the award made under the provisions of [section 108.] sections~~
3 ~~108 and 306, except for benefits payable under section 306(c).~~

4 ~~Section 5. Section 301(a) and (c)(1) of the act, amended~~
5 ~~October 17, 1972 (P.L.930, No.223) and December 5, 1974~~
6 ~~(P.L.782, No.263), are amended to read:~~

7 ~~Section 301. (a) Every employer shall be liable for~~
8 ~~compensation for personal injury to, or for the death of each~~
9 ~~employe, by an injury in the course of his employment, and such~~
10 ~~compensation shall be paid in all cases by the employer, without~~
11 ~~regard to negligence, according to the schedule contained in~~
12 ~~sections three hundred and six and three hundred and seven of~~
13 ~~this article: Provided, That no compensation shall be paid when~~
14 ~~the injury or death is intentionally self inflicted, or is~~
15 ~~caused by the employe's violation of law, or is caused by the~~
16 ~~employe's intoxication or illegal use of drugs, but the burden~~
17 ~~of proof of such fact shall be upon the employer, and no~~
18 ~~compensation shall be paid if, during hostile attacks on the~~
19 ~~United States, injury or death of employes results solely from~~
20 ~~military activities of the armed forces of the United States or~~
21 ~~from military activities or enemy sabotage of a foreign power.~~

22 ~~* * *~~

23 ~~(c) (1) The terms "injury" and "personal injury," as used~~
24 ~~in this act, shall be construed to mean an injury to an employe,~~
25 ~~regardless of his previous physical condition, arising in the~~
26 ~~course of his employment and related thereto, and such disease~~
27 ~~or infection as naturally results from the injury or is~~
28 ~~aggravated, reactivated or accelerated by the injury; and~~
29 ~~wherever death is mentioned as a cause for compensation under~~
30 ~~this act, it shall mean only death resulting from such injury~~

1 ~~and its resultant effects, and occurring within three hundred~~
2 ~~weeks after the injury. The term "injury arising in the course~~
3 ~~of his employment," as used in this article, shall not include~~
4 ~~an injury caused by an act of a third person intended to injure~~
5 ~~the employe because of reasons personal to him, and not directed~~
6 ~~against him as an employe or because of his employment; nor~~
7 ~~shall it include injuries sustained while the employe is~~
8 ~~operating a motor vehicle provided by the employer if the~~
9 ~~employe is not otherwise in the course of employment at the time~~
10 ~~of injury; but shall include all other injuries sustained while~~
11 ~~the employe is actually engaged in the furtherance of the~~
12 ~~business or affairs of the employer, whether upon the employer's~~
13 ~~premises or elsewhere, and shall include all injuries caused by~~
14 ~~the condition of the premises or by the operation of the~~
15 ~~employer's business or affairs thereon, sustained by the~~
16 ~~employe, who, though not so engaged, is injured upon the~~
17 ~~premises occupied by or under the control of the employer, or~~
18 ~~upon which the employer's business or affairs are being carried~~
19 ~~on, the employe's presence thereon being required by the nature~~
20 ~~of his employment.~~

21 * * *

22 Section ~~6~~ 3. Section 302 of the act, amended December 5, <—
23 1974 (P.L.782, No.263), is amended to read:

24 Section 302. (a) A contractor who subcontracts all or any
25 part of a contract and his insurer shall be liable for the
26 payment of compensation to the employes of the subcontractor
27 unless the subcontractor primarily liable for the payment of
28 such compensation has secured its payment as provided for in
29 this act. Any contractor or his insurer who shall become liable
30 hereunder for such compensation may recover the amount thereof

1 paid and any necessary expenses from the subcontractor primarily
2 liable therefor.

3 For purposes of this subsection, a person who contracts with
4 another (1) to have work performed consisting of (i) the
5 removal, excavation or drilling of soil, rock or minerals, or
6 (ii) the cutting or removal of timber from lands, or (2) to have
7 work performed of a kind which is a regular or recurrent part of
8 the business, occupation, profession or trade of such person
9 shall be deemed a contractor, and such other person a
10 subcontractor. This subsection shall not apply, however, to an
11 owner or lessee of land principally used for agriculture who is
12 not a covered employer under this act and who contracts for the
13 removal of timber from such land.

14 (b) Any employer who permits the entry upon premises
15 occupied by him or under his control of a laborer or an
16 assistant hired by an employe or contractor, for the performance
17 upon such premises of a part of such employer's regular business
18 entrusted to that employe or contractor, shall be liable for the
19 payment of compensation to such laborer or assistant unless such
20 hiring employe or contractor, if primarily liable for the
21 payment of such compensation, has secured the payment thereof as
22 provided for in this act. Any employer or his insurer who shall
23 become liable hereunder for such compensation may recover the
24 amount thereof paid and any necessary expenses from another
25 person if the latter is primarily liable therefor.

26 For purposes of this subsection (b), the term "contractor"
27 shall have the meaning ascribed in section 105 of this act.

28 (c) Any employer employing persons in agricultural labor
29 shall be required to provide workmen's compensation coverage for
30 such employes according to the provisions of this act, if such

1 employer is otherwise covered by the provisions of this act or
2 if during the calendar year such employer pays wages to one
3 employe for agricultural labor totaling one hundred fifty
4 dollars (\$150) or more or furnishes employment to one employe in
5 agricultural labor on twenty or more days in any of which events
6 the employer shall be required to provide coverage for all
7 employes.

8 (d) A contractor shall not subcontract all or any part of a
9 contract unless the subcontractor has presented proof of
10 insurance under this act.

11 (e) (1) Prior to issuing a building permit to a contractor,
12 a municipality shall require the contractor to present proof of
13 workers' compensation insurance for the duration of the work or
14 an affidavit that the contractor is the sole proprietor,
15 principal shareholder of a corporation or a partner in a
16 partnership which does not employ other individuals to perform
17 the work pursuant to the building permit.

18 (2) Every building permit issued by a municipality to a
19 contractor shall clearly set forth the name and workers'
20 compensation policy and the contractor's Federal or State
21 Employer Identification Number. This information shall be in
22 addition to any information required by municipal ordinance. If
23 the building permit is issued to a sole proprietor, principal
24 shareholder of a corporation or a partnership which does not
25 employ other individuals to perform the work pursuant to the
26 building permit, and is not otherwise obligated to maintain
27 workers' compensation insurance under this act, the permit shall
28 clearly set forth the contractor's Federal or State Employer
29 Identification Number and state that the sole proprietor,
30 principal shareholder or partner is not required to carry

1 workers' compensation insurance and that the sole proprietor,
2 principal shareholder or partner is not permitted to employ any
3 individual to perform work pursuant to the building permit.

4 (3) Every municipality issuing a building permit shall be
5 named as a workers' compensation policy certificate holder of a
6 contractor-issued building permit. This certificate shall be
7 filed with the municipality's copy of the building permit.

8 (4) A municipality shall issue a stop-work order to a
9 contractor who is performing work pursuant to a building permit,
10 in the event his workers' compensation insurance or self-insured
11 status is cancelled. If the municipality determines that a sole
12 proprietor, partner or shareholder who is performing work
13 pursuant to a building permit does not maintain required
14 workers' compensation insurance, the municipality may issue a
15 stop-work order. This order shall remain in effect until proper
16 workers' compensation coverage is obtained for all work
17 performed pursuant to the building permit.

18 (f) Where a contractor is performing work for a public body
19 or political subdivision, all contractors and subcontractors
20 shall provide proof of workers' compensation insurance to the
21 public body or political subdivision effective for the duration
22 of the work.

23 (g) Should such policy of workers' compensation insurance be
24 cancelled or expire during the duration of the work or should
25 the workers' compensation self-insurance status change during
26 the said period, the contractor shall immediately notify, in
27 writing, the municipality, public body or political subdivision
28 of such cancellation, expiration or change in status.

29 (h) Nothing in this act shall be the basis of any liability
30 on part of the municipality.

1 (i) For purposes of clauses (d), (e) and (f) of this
2 section, "proof of insurance" shall include a certificate of
3 insurance or self-insurance, demonstrating current coverage and
4 compliance with the requirements of this act, the "Occupational
5 Disease Act" and the "Longshore and Harbor Workers' Compensation
6 Act (44 Stat. 1424, 33 U.S.C. § 901 et seq.), its amendments and
7 supplements, where applicable.

8 (j) For purposes of clauses (d), (e) and (f), "proof of
9 insurance" shall not be required when the employer has been
10 exempted pursuant to section 304.2 of this act.

11 Section 7 4. Section 305 of the act, amended December 5, <—
12 1974 (P.L.782, No.263) and repealed in part April 28, 1978
13 (P.L.202, No.53), is amended to read:

14 Section 305. (a) (1) Every employer liable under this act
15 to pay compensation shall insure the payment of compensation in
16 the State Workmen's Insurance Fund, or in any insurance company,
17 or mutual association or company, authorized to insure such
18 liability in this Commonwealth, unless such employer shall be
19 exempted by the department from such insurance. Such insurer
20 shall assume the employer's liability hereunder and shall be
21 entitled to all of the employer's immunities and protection
22 hereunder except, that whenever any employer shall have
23 purchased insurance to provide benefits under this act to
24 persons engaged in domestic service, neither the employer nor
25 the insurer may invoke the provisions of section 321 as a
26 defense. An employer desiring to be exempt from insuring the
27 whole or any part of his liability for compensation shall make
28 application to the department, showing his financial ability to
29 pay such compensation, whereupon the department, if satisfied of
30 the applicant's financial ability, shall, upon the payment of a

1 fee of [one hundred dollars (\$100.00)] five hundred dollars
2 (\$500), issue to the applicant a permit authorizing such
3 exemption.

4 (2) In securing the payment of benefits, the department
5 shall require an employer wishing to self-insure its liability
6 to establish sufficient security by posting a bond or other
7 security, including letters of credit drawn on commercial banks
8 with a Thompson Bank Credit Service rating of C or better or a
9 CD rating of BB/A2 or better by Standard and Poor's. This
10 paragraph shall not apply to municipalities.

11 (3) The department shall establish a period of twelve (12)
12 calendar months, to begin and end at such times as the
13 department shall prescribe, which shall be known as the annual
14 exemption period. Unless previously revoked, all permits issued
15 under this section shall expire and terminate on the last day of
16 the annual exemption period for which they were issued. Permits
17 issued under this act shall be renewed upon the filing of an
18 application, and the payment of a renewal fee of one hundred
19 dollars (\$100.00). The department may, from time to time,
20 require further statements of the financial ability of such
21 employer, and, if at any time such employer appear no longer
22 able to pay compensation, shall revoke its permit granting
23 exemption, in which case the employer shall immediately
24 subscribe to the State Workmen's Insurance Fund, or insure his
25 liability in any insurance company or mutual association or
26 company, as aforesaid.

27 (b) Any employer who fails to comply with the provisions of
28 this section for every such failure, shall, upon [summary
29 conviction before any official of competent jurisdiction, be
30 sentenced to pay a fine of not less than five hundred dollars

1 (\$500) nor more than two thousand dollars (\$2,000), and costs of
2 prosecution, or imprisonment for a period of not more than one
3 (1) year, or both.] conviction in the court of common pleas, be
4 guilty of a ~~misdemeanor~~ FELONY of the third degree. Every day's ←
5 violation shall constitute a separate offense. A judge of the
6 court of common pleas may, in addition to imposing fines and
7 imprisonment, include restitution in his order: Provided, That
8 there is an injured employe who has obtained an award of
9 compensation. The amount of restitution shall be limited to that
10 specified in the award of compensation. It shall be the duty of
11 the department to enforce the provisions of this section; and it
12 shall investigate all violations that are brought to its notice
13 and shall institute prosecutions for violations thereof. All
14 fines recovered under the provisions of this section shall be
15 paid to the department, and by it paid into the State Treasury.

16 (c) In any proceeding against an employer under this
17 section, a certificate of non-insurance issued by the official
18 Workmen's Compensation Rating and Inspection Bureau and a
19 certificate of the department showing that the defendant has not
20 been exempted from obtaining insurance under this section, shall
21 be prima facie evidence of the facts therein stated.

22 (d) When any employer fails to secure the payment of
23 compensation under this act as provided in sections 305 and
24 305.2, the injured employe or his dependents may proceed either
25 under this act or in a suit for damages at law as provided by
26 article II.

27 (e) Every employer shall post a notice at its primary place
28 of business and at its sites of employment in a prominent and
29 easily accessible place, including, without limitation, areas
30 used for the treatment of injured employes or for the

1 administration of first aid, containing:

2 (1) Either the name of the employer's carrier and the
3 address and telephone number of such carrier or insurer or, if
4 the employer is self-insured, the name, address and telephone
5 number of the person to whom claims or requests for information
6 are to be addressed.

7 (2) The following statement: "Remember, it is important to
8 tell your employer about your injury."

9 The notice shall be posted in prominent and easily accessible
10 places at the site of employment, including such places as are
11 used for treatment and first aid of injured employes. Such a
12 listing shall contain the information as specified in this
13 section, typed or printed on eight and one-half inch by eleven
14 inch or eight and one-half inch by thirteen inch paper in
15 standard size type or larger.

16 ~~Section 8. Section 306(a) and (f) of the act, amended~~ <—
17 ~~December 5, 1974 (P.L.782, No.263) and July 1, 1978 (P.L.692,~~
18 ~~No.119), are amended and the section is amended by adding~~
19 ~~clauses to read:~~

20 SECTION 5. SECTION 306(F) OF THE ACT, AMENDED JULY 1, 1978 <—
21 (P.L.692, NO.119), IS AMENDED AND THE SECTION IS AMENDED BY
22 ADDING A CLAUSE TO READ:

23 Section 306. The following schedule of compensation is
24 hereby established:

25 ~~(a) For total disability, sixty six and two thirds per~~ <—
26 ~~centum of the wages of the injured employe as defined in section~~
27 ~~three hundred and nine beginning after the seventh day of total~~
28 ~~disability, and payable for the duration of total disability,~~
29 ~~but the compensation shall not be more than the maximum~~
30 ~~compensation payable [nor less than fifty per centum of the~~

1 ~~Statewide average weekly wage. If at the time of injury, the~~
2 ~~employee receives wages equal to or less than fifty per centum of~~
3 ~~the Statewide average weekly wage, then he shall receive ninety~~
4 ~~per centum of his average weekly wage as compensation, but in no~~
5 ~~event less than thirty three and one third per centum of the~~
6 ~~maximum weekly compensation payable] as defined in section~~
7 ~~105.2. Nothing in this clause shall require payment of~~
8 ~~compensation after disability shall cease. Nothing in this act~~
9 ~~shall require payment of compensation for any period during~~
10 ~~which the employee is incarcerated.~~

11 * * *

12 †(f) (1) (I) The employer shall provide payment IN <—
13 ACCORDANCE WITH THIS SECTION for reasonable surgical and medical
14 services, services rendered by PHYSICIANS OR OTHER duly licensed <—
15 practitioners of the healing arts, medicines, and supplies, as
16 and when needed[: Provided, That if]. PROVIDED AN EMPLOYER <—
17 ESTABLISHES a list of at least five designated physicians, ONE <—
18 OR MORE OF WHOM MAY BE A COORDINATED CARE ORGANIZATION, or other
19 duly licensed practitioners of the healing arts or a combination
20 thereof [is provided by the employer], the employee shall be <—
21 required to visit one of the physicians or other practitioners
22 so designated and shall continue to visit the same or another
23 DESIGNATED physician or practitioner for a period of fourteen <—
24 days from the date of the first visit. SHOULD THE EMPLOYEE NOT <—
25 COMPLY WITH THE FOREGOING, THE EMPLOYER WILL BE RELIEVED FROM
26 LIABILITY FOR THE PAYMENT FOR THE SERVICES RENDERED DURING SUCH
27 FOURTEEN-DAY PERIOD. Subsequent treatment may be provided by any
28 physician or any other duly licensed practitioner of the healing
29 arts or a combination thereof, of the employees own choice, and
30 such treatment shall be paid for by the employer. Any employee

1 who next following the termination of the fourteen-day period is
2 provided treatment from a physician or other duly licensed
3 practitioner of the healing arts who is not one of the
4 physicians or practitioners designated by the employer, shall
5 notify the employer within five days of the first visit to said
6 physician or practitioner. [However, if the employe fails to so <—
7 notify the employer, the employe shall suffer no loss of rights
8 or benefits to which he is otherwise entitled under the act.] <—
9 FAILURE TO SO NOTIFY THE EMPLOYER WILL NOT RELIEVE THE EMPLOYER <—
10 FROM LIABILITY FOR THE PAYMENT FOR THE SERVICES RENDERED PRIOR
11 TO APPROPRIATE NOTICE.

12 [(2) If and only if the employer has designated at least <—
13 five physicians or other duly licensed practitioners of the
14 healing arts or a combination thereof as permitted by the
15 preceding paragraph, the following reporting provisions shall
16 apply. Nothing in the following paragraphs shall eliminate
17 rights of the employer to obtain all records and data as
18 permitted under any other sections of this act.

19 (i) The physician or other duly licensed practitioner of the
20 healing arts shall be required to file periodic reports with the
21 employer on a form prescribed by the department which shall
22 include, where pertinent, history, diagnosis, treatment,
23 prognosis and physical findings. The report shall be filed
24 within twenty-one days of commencing treatment and at least once
25 a month thereafter, as long as treatment continues. The employer
26 shall not be liable to pay for such treatment until a report has
27 been filed.

28 (ii) The employer shall have the right to petition the
29 department for review of the necessity or frequency of treatment
30 or reasonableness of fees for services provided by a physician

1 or other duly licensed practitioner of the healing arts. Such a
2 petition shall in no event act as a supersedeas, and during the
3 pendency of any such petition the employer shall pay all medical
4 bills if the physician or other practitioner of the healing arts
5 files a report or reports as required by subparagraph (i) of
6 paragraph (2) of this subsection.

7 (3) After an employe has elected to be treated by a
8 physician or other duly licensed practitioner of the healing
9 arts who is not one of the physicians or practitioners
10 designated by the employer, he may thereafter elect to be
11 treated by another physician or other duly licensed practitioner
12 of the healing arts upon notice to his employer: Provided,
13 however, That no such notice shall be required in emergencies,
14 or in cases of referrals by one physician or practitioner to
15 another physician or practitioner or if the new physician or
16 practitioner makes a timely report to the employer within
17 twenty-one days after commencing treatment.

18 (4)] (II) In addition to the above service, the employer <—
19 shall provide payment for medicines and supplies, hospital
20 treatment, services and supplies and orthopedic appliances, and
21 prostheses IN ACCORDANCE WITH THIS SECTION. [The cost for such <—
22 hospital treatment, service and supplies shall not in any case
23 exceed the prevailing charge in the hospital for like services
24 to other individuals. If the employe shall refuse reasonable
25 services of duly licensed practitioners of the healing arts,
26 surgical, medical and hospital services, treatment, medicines
27 and supplies, he shall forfeit all rights to compensation for
28 any injury or any increase in his incapacity shown to have
29 resulted from such refusal.] Whenever an employe shall have <—
30 suffered the loss of a limb, part of a limb, or an eye, the

1 employer shall also provide payment for an artificial limb or
2 eye or other prostheses of a type and kind recommended by the
3 doctor attending such employe in connection with such injury and
4 any replacements for an artificial limb or eye which the employe
5 may require at any time thereafter, together with such continued
6 medical care as may be prescribed by the doctor attending such
7 employe in connection with such injury as well as such training
8 as may be required in the proper use of such prostheses. The
9 provisions of this section shall apply in injuries whether or
10 not loss of earning power occurs. If hospital confinement is
11 required, the employe shall be entitled to semi-private
12 accommodations but if no such facilities are available,
13 regardless of the patient's condition, the employer, not the
14 patient, shall be liable for the additional costs for the
15 facilities in a private room.

16 [(5) The payment by an insurer for any medical, surgical or <—
17 hospital services or supplies after any statute of limitations
18 provided for in this act shall have expired shall not act to
19 reopen or review the compensation rights for purposes of such
20 limitations.]

21 ~~(f.1) (1) Provided an employer establishes a list of at <—~~
22 ~~least five designated physicians, one or more of whom may be a~~
23 ~~coordinated care organization, or other duly licensed~~
24 ~~practitioners of the healing arts, the employe shall be required~~
25 ~~to visit one of the physicians or other practitioners so~~
26 ~~designated and shall continue to visit the same or another~~
27 ~~designated physician or practitioner for a period of forty five~~
28 ~~days from the date of the first visit. Should the employe not~~
29 ~~comply with the foregoing, the employer will be relieved from~~
30 ~~liability for the payment for the services rendered during such~~

~~forty five day period. Subsequent treatment may be provided by any physician or practitioner of the employe's own choice. Any employe who, next following termination of the forty five day period, is provided treatment from a nondesignated physician shall notify the employer within five days of the first visit to said physician or practitioner. Failure to so notify the employer will relieve the employer from liability for the payment for the services rendered prior to appropriate notice.~~

(2) Any provider who treats an injured employe shall provide ~~treatment notes, records and progress reports periodically to the employer on the employe's condition and capacity to work, as circumstances warrant or, on the request of the employer, or at a minimum once a month during such treatment, without charge.~~ <—
SUCH REPORTS SHALL BE ON A FORM PRESCRIBED BY THE DEPARTMENT. <—
The employer shall not be liable to pay for such treatment until a report has been filed. <—

(3) (i) For purposes of this clause, AND EXCEPT FOR A REQUEST BASED ON THE ERRONEOUS BUT GOOD FAITH BELIEF THAT THE REQUEST IS IN COMPLIANCE WITH THIS CLAUSE, a provider shall not require, request or accept payment for the treatment, accommodations, products or services in excess of ~~one hundred~~ <—
~~twenty~~ ONE HUNDRED SEVENTEEN per centum of the prevailing charge <—
at the seventy-fifth percentile; ~~one hundred twenty~~ ONE HUNDRED <—
SEVENTEEN per centum of the applicable fee schedule, the recommended fee or the inflation index charge; ~~one hundred~~ <—
~~twenty~~ ONE HUNDRED SEVENTEEN per centum of the DRG payment, plus <—
pass-through costs and applicable cost or day outliers; or ~~one~~ <—
~~hundred twenty~~ ONE HUNDRED SEVENTEEN per centum of any other <—
Medicare reimbursement mechanism, as determined by the Medicare carrier or intermediary, whichever pertains to the specialty <—

1 service involved, determined to be applicable in this
2 Commonwealth under the Medicare program for comparable services
3 rendered as of the effective date of this act, or the provider's <—
4 usual, customary and reasonable AT THE TIME THE SERVICES WERE <—
5 RENDERED, OR THE PROVIDER'S USUAL AND CUSTOMARY charge,
6 whichever is less. Future changes or additions to Medicare
7 allowances are ~~not~~ applicable under this section. If the <—
8 commissioner determines that an allowance for a particular
9 provider group or service under the Medicare program is not
10 reasonable, it may adopt, by regulation, a new percentage THE <—
11 COMMISSIONER MAY ADOPT, BY REGULATION, A NEW allowance. If the
12 prevailing charge, fee schedule, recommended fee, inflation
13 index charge, DRG payment or any other reimbursement has not
14 been calculated under the Medicare program for a particular
15 treatment, accommodation, product or service, OR IF THE <—
16 PARTICULAR TREATMENT, ACCOMMODATION, PRODUCT OR SERVICE IS
17 PROVIDED BY A REHABILITATION FACILITY, the amount of the payment
18 may not exceed eighty per centum of the charge most often made
19 by providers of similar training, experience and licensure for a
20 specific treatment, accommodation, product or service in the
21 geographic area where the treatment, accommodation, product or
22 service is provided.

23 (ii) ~~The maximum allowance for a health care service covered~~ <—
24 by subparagraph (i) of this paragraph shall be updated as of the
25 first day of January of each year. The update shall be equal to
26 the percentage change in the Statewide average weekly wage.

27 (iii) (II) The secretary shall retain the services of an <—
28 independent consulting firm to perform an annual accessibility
29 study of medical care provided under this act. The study ~~will~~ <—
30 SHALL review and provide information as to whether there is <—

1 adequate access to quality health care and products for injured
2 workers. If the secretary determines based on this study that as
3 a result of the medical care fee schedule there is not
4 sufficient access to quality health care or products for persons
5 suffering injuries covered by this act, the secretary may
6 recommend to the commissioner the adoption of regulations
7 providing for a new allowance. ~~to be applied against the~~ <—
8 ~~percentage limitation in this subsection.~~

9 ~~(iv)~~ (III) An allowance shall be reviewed for reasonableness <—
10 ~~where the commissioner determines~~ WHENEVER THE COMMISSIONER <—
11 RECEIVES INFORMATION PRESENTED BY PROVIDERS WHICH DEMONSTRATES
12 that the use of the allowance would result in payments more than
13 ten per centum lower than the average level of reimbursement the
14 provider would receive from coordinated care ~~insurers~~ <—
15 ORGANIZATIONS, including those entities subject to the act of <—
16 December 29, 1972 (P.L.1701, No.364), known as the "Health
17 Maintenance Organization Act," and those entities known as
18 preferred provider organizations which are subject to section
19 630 of the act of May 17, 1921 (P.L.682, No.284), known as "The
20 Insurance Company Law of 1921," for like treatments,
21 accommodations, products or services. In making this
22 determination, the commissioner shall consider INFORMATION <—
23 PRESENTED BY PROVIDERS WHICH DEMONSTRATES the extent to which
24 allowances applicable to other providers under this section
25 deviate from the reimbursement such OTHER providers would <—
26 receive from coordinated care ~~insurers~~ ORGANIZATIONS. Any <—
27 information received as a result of this subparagraph shall be
28 confidential.

29 ~~(v)~~ (IV) The reimbursement for prescription drugs and <—
30 professional pharmaceutical services shall be limited to one

1 hundred ten per centum of the average wholesale price of the
2 product: Provided, That a separate charge may be used if a
3 pharmacy provides drug use evaluation or utilization review.

4 ~~(vi)~~ (V) The applicable Medicare fee schedule shall include <—
5 fees associated with all permissible procedure codes. If the
6 Medicare fee schedule also includes a larger grouping of
7 procedure codes and corresponding charges than are specifically
8 reimbursed by Medicare, a provider may use these codes, and
9 corresponding charges shall be paid by insurers or employers. If
10 a Medicare code exists for application to a specific provider
11 specialty, that code shall be used. INSURERS AND PROVIDERS SHALL <—
12 UTILIZE THE LATEST MEDICARE PAYMENTS AS UPDATED AND PROVIDED BY
13 HCFA. MEDICARE PAYMENTS SHALL BE UTILIZED BY INSURERS AND
14 PROVIDERS WITHIN THIRTY DAYS OF THEIR EFFECTIVE DATE OR THE DATE
15 OF OFFICIAL PUBLICATION BY HCFA, WHICHEVER OCCURS LATER.
16 PERIODIC UPDATES BY HCFA TO THE MEDICARE PROCEDURE CODES SHALL
17 BE UTILIZED BY INSURERS AND PROVIDERS WITHIN THIRTY DAYS OF
18 THEIR EFFECTIVE DATE OR THE DATE OF OFFICIAL PUBLICATION BY
19 HCFA, WHICHEVER OCCURS LATER.

20 ~~(vii)~~ (VI) A provider shall not fragment or unbundle charges <—
21 imposed for specific care except as consistent with Medicare.
22 Changes to a provider's codes by an insurer shall be made only
23 as consistent with Medicare and when the insurer has sufficient
24 information to make the changes and following consultation with
25 the provider.

26 ~~(4)~~ Nothing in this act shall prohibit the provider, self- <—
27 insured employer, employer or insurer from contracting with a
28 coordinated care organization for reimbursement levels different
29 from those identified above.

30 ~~(5)~~ (4) The employer or insurer shall make payment, and

1 providers shall submit bills and records, in accordance with the
2 provisions of this section. All payments to providers for
3 treatment provided pursuant to this act shall be made within
4 thirty days of receipt of such bills and records, unless the <—
5 employer or insurer disputes the reasonableness or necessity of
6 treatment provided. A provider who has submitted the reports and
7 bills required by this section and who disputes the amount or
8 timeliness of the payment from the employer or insurer, except
9 in those situations where the reasonableness or necessity of
10 treatment is disputed, shall file an application for fee review
11 with the department. Within thirty days of the filing of such an
12 application, the department shall render an administrative
13 decision.

14 ~~(6) All disputes~~ (5) DISPUTES as to reasonableness or <—
15 necessity of medical treatment shall MAY be resolved in <—
16 accordance with the following provisions:

17 (i) The reasonableness or necessity of all medical treatment
18 provided under this act may be subject to prospective,
19 concurrent or retrospective utilization review at the request of
20 an employer or insurer, PROVIDED THAT THE REQUEST SHALL IN NO <—
21 EVENT ACT AS A SUPERSEDEAS AND THAT DURING THE PENDENCY OF THE
22 UTILIZATION REVIEW THE EMPLOYER OR THE INSURER SHALL PAY ALL
23 BILLS SUBMITTED IN ACCORDANCE WITH THIS SECTION SUBJECT TO
24 RECOUPMENT BY THE EMPLOYER OR THE INSURER FROM THE PROVIDER. The
25 department shall authorize utilization review organizations to
26 perform utilization review under this act. Organizations not
27 authorized by the department may not engage in such utilization
28 review.

29 (ii) The utilization review organization shall issue a
30 written report of its findings and conclusions within thirty

1 days of a request. If the provider, employer or insurer
2 disagrees with the finding of the utilization review
3 organization, a request for reconsideration must be filed no
4 later than thirty days after receipt of the utilization review
5 report. The request for reconsideration must be in writing and
6 must contain medical evidence not available at the time of the
7 initial review. IF THE RECONSIDERATION INVOLVES THE <—
8 REASONABLENESS AND NECESSITY OF CARE BY A LICENSED PRACTITIONER
9 OF THE HEALING ARTS, THE RECONSIDERATION SHALL BE EFFECTED BY A
10 LICENSED PRACTITIONER OF LIKE SPECIALTY AS THE LICENSED
11 PRACTITIONER WHO PROVIDED THE CARE. THE LICENSED PRACTITIONER
12 EFFECTING THE RECONSIDERATION MAY NOT BE THE SAME LICENSED
13 PRACTITIONER WHO RENDERED THE UTILIZATION REVIEW ORGANIZATION'S
14 INITIAL FINDING. A UTILIZATION REVIEW ORGANIZATION SHALL AFFORD
15 THE PARTY REQUESTING RECONSIDERATION THE OPPORTUNITY TO DISCUSS
16 THE CASE WITH THE LICENSED PRACTITIONER EFFECTING THE
17 RECONSIDERATION.

18 (iii) The employer shall pay the cost of the initial
19 utilization review. The party requesting WHICH DOES NOT PREVAIL <—
20 ON reconsideration of an initial review shall bear the advance <—
21 costs of such reconsideration. where required, which cost shall <—
22 be recoverable if the party requesting reconsideration prevails.

23 (iv) If the provider, employer or insurer disagrees with the
24 finding of the utilization review organization on
25 reconsideration, a petition for review by the department must be <—
26 filed within thirty days after receipt of the reconsideration
27 report. The department shall hold an informal hearing on the
28 matter within thirty days of the filing of the petition. The
29 department's decision shall be issued within thirty days of the
30 conclusion of such hearing and shall be based on any and all

1 ~~records and reports from the utilization review organization.~~
2 MAY BE FILED BY THE PROVIDER, EMPLOYER OR INSURER. SUCH PETITION <—
3 SHALL BE ASSIGNED TO A REFEREE FOR A HEARING.

4 ~~(7) (6) A provider shall not hold an employe liable for~~ <—
5 costs related to care or service rendered in connection with a
6 compensable injury under this act. unless the employe has failed <—
7 to comply with this clause. A PROVIDER SHALL NOT BILL OR <—
8 OTHERWISE ATTEMPT TO RECOVER FROM THE EMPLOYE THE DIFFERENCE
9 BETWEEN THE PROVIDER'S CHARGE AND THE AMOUNT PAID BY THE
10 EMPLOYER OR THE INSURER.

11 ~~(8) (7) If the employe shall refuse reasonable services of~~ <—
12 duly licensed practitioners of the healing arts, surgical,
13 medical and hospital services, treatment, medicines and
14 supplies, he shall forfeit all rights to compensation for any
15 injury or increase or continuation in his incapacity shown to
16 have resulted from such refusal.

17 ~~(9) (8) The payment by an insurer or employer for any~~ <—
18 medical, surgical or hospital services or supplies after any
19 statute of limitations provided for in this act shall have
20 expired shall not act to reopen or revive the compensation
21 rights for purposes of such limitations.

22 ~~(10) (9) If acute care is provided in an acute care facility~~ <—
23 to a patient with an immediately life threatening or urgent
24 injury by a Level I or Level II trauma center accredited by the
25 Pennsylvania Trauma Systems Foundation under the act of July 3,
26 1985 (P.L.164, No.45), known as the "Emergency Medical Services
27 Act," or to a major burn injury patient by a burn facility which
28 meets all the service standards of the American Burn
29 Association, or if basic or advanced life support services, as
30 defined and licensed under the "Emergency Medical Services Act,"

1 are provided the amount of payment shall be the usual, ~~customary~~ <—
2 and reasonable AND CUSTOMARY charge. <—

3 (g) (1) Medical services required by the act may be
4 provided through a coordinated care organization which is
5 certified by the Department of Labor and Industry subject to the
6 following:

7 (i) Each application for certification shall be accompanied
8 by a reasonable fee prescribed by the department. A certificate
9 ~~is~~ SHALL BE valid for such period as the department may <—
10 prescribe unless sooner revoked or suspended.

11 (ii) Application for certification shall be made in such
12 form and manner as the department shall require and shall set
13 forth information regarding the proposed plan for providing
14 services.

15 (2) The coordinated care organization ~~must~~ SHALL include an <—
16 adequate number and specialty distribution of licensed health
17 care providers in order to assure appropriate and timely
18 delivery of services required under the act and an appropriate
19 flexibility to workers in selecting providers. Services may be
20 provided directly, through affiliates or through contractual
21 referral arrangements with other health care providers.

22 (3) The secretary ~~shall~~ MAY certify an entity as a <—
23 coordinated care organization if the secretary finds that the
24 entity:

25 (i) Possesses the capacity to provide all primary medical
26 services as designated by the secretary in a manner that is
27 timely and effective.

28 (ii) Maintains a referral capacity to treat other injuries
29 and illnesses not covered by primary services but which are
30 covered by this act.

1 (iii) Provides a case management and evaluation system which
2 includes continuous monitoring of treatment from onset of injury
3 or illness until final resolution.

4 (iv) Provides a case communication system which relates
5 necessary and appropriate information among the employe,
6 employer, health care providers and insurer.

7 (v) Provides appropriate peer and utilization review and a
8 care dispute resolution system.

9 (vi) Complies with any other requirements of law regarding
10 delivery of medical care services.

11 (4) The secretary shall refuse to certify or may revoke or
12 suspend certification of any coordinated care organization if
13 the ~~director~~ SECRETARY finds that:

<—

14 (i) the plan for providing medical or health care services
15 fails to meet the requirements of this section; or

16 (ii) service under the plan is not being provided in
17 accordance with terms of the plan as certified.

18 (5) A person participating in utilization review, quality
19 assurance or peer review activities pursuant to this section
20 shall not be examined as to any communication made in the course
21 of such activities or the findings thereof, nor shall any person
22 be subject to an action for civil damages for actions taken or
23 statements made in good faith.

24 (6) Health care providers designated as rural by HCFA or
25 located in a county with a rural Health Professional Shortage
26 Area, who are attempting to form or operate a coordinated care
27 organization, shall be excluded from meeting all minimum
28 requirements set forth in paragraphs (2) and (3) of this clause,
29 as shall be determined in rules or regulations promulgated by
30 the department.

1 (7) The department shall have the power and authority to
2 promulgate, adopt, publish and use regulations for the
3 implementation of this section.

4 (8) A COORDINATED CARE ORGANIZATION SHALL NOT BE OWNED OR <—
5 CONTROLLED, DIRECTLY OR INDIRECTLY, IN WHOLE OR IN PART, EXCEPT
6 BY PROVIDERS, PROFESSIONAL HEALTH SERVICE CORPORATIONS, HOSPITAL
7 PLAN CORPORATIONS OR HEALTH MAINTENANCE ORGANIZATIONS LICENSED
8 IN THIS COMMONWEALTH.

9 Section ~~9~~ 6. Section 307 of the act, amended December 5, <—
10 1974 (P.L.782, No.263), is amended to read:

11 Section 307. In case of death, compensation shall be
12 computed on the following basis, and distributed to the
13 following persons: Provided, That in no case shall the wages of
14 the deceased be taken to be less than fifty per centum of the
15 Statewide average weekly wage for purposes of this section:

16 1. If there be no widow nor widower entitled to
17 compensation, compensation shall be paid to the guardian of the
18 child or children, or, if there be no guardian, to such other
19 persons as may be designated by the board as hereinafter
20 provided as follows:

21 (a) If there be one child, thirty-two per centum of wages of
22 deceased, but not in excess of the Statewide average weekly
23 wage.

24 (b) If there be two children, forty-two per centum of wages
25 of deceased, but not in excess of the Statewide average weekly
26 wage.

27 (c) If there be three children, fifty-two per centum of
28 wages of deceased, but not in excess of the Statewide average
29 weekly wage.

30 (d) If there be four children, sixty-two per centum of wages

1 of deceased, but not in excess of the Statewide average weekly
2 wage.

3 (e) If there be five children, sixty-four per centum of
4 wages of deceased, but not in excess of the Statewide average
5 weekly wage.

6 (f) If there be six or more children, sixty-six and two-
7 thirds per centum of wages of deceased, but not in excess of the
8 Statewide average weekly wage.

9 2. To the widow or widower, if there be no children, fifty-
10 one per centum of wages, but not in excess of the Statewide
11 average weekly wage.

12 3. To the widow or widower, if there be one child, sixty per
13 centum of wages, but not in excess of the Statewide average
14 weekly wage.

15 4. To the widow or widower, if there be two children, sixty-
16 six and two-thirds per centum of wages but not in excess of the
17 Statewide average weekly wage.

18 4 1/2. To the widow or widower, if there be three or more
19 children, sixty-six and two thirds per centum of wages, but not
20 in excess of the Statewide average weekly wage.

21 5. If there be neither widow, widower, nor children entitled
22 to compensation, then to the father or mother, if dependent to
23 any extent upon the employe at the time of the injury, thirty-
24 two per centum of wages but not in excess of the Statewide
25 average weekly wage: Provided, however, That in the case of a
26 minor child who has been contributing to his parents, the
27 dependency of said parents shall be presumed: And provided
28 further, That if the father or mother was totally dependent upon
29 the deceased employe at the time of the injury, the compensation
30 payable to such father or mother shall be fifty-two per centum

1 of wages, but not in excess of the Statewide average weekly
2 wage.

3 6. If there be neither widow, widower, children, nor
4 dependent parent, entitled to compensation, then to the brothers
5 and sisters, if actually dependent upon the decedent for support
6 at the time of his death, twenty-two per centum of wages for one
7 brother or sister, and five per centum additional for each
8 additional brother or sister, with a maximum of thirty-two per
9 centum of wages of deceased, but not in excess of the Statewide
10 average wage, such compensation to be paid to their guardian, or
11 if there be no guardian, to such other person as may be
12 designated by the board, as hereinafter provided.

13 7. Whether or not there be dependents as aforesaid, the
14 reasonable expense of burial, not exceeding [one thousand five
15 hundred dollars] three thousand dollars (\$3,000), which shall be
16 paid by the employer or insurer directly to the undertaker
17 (without deduction of any amounts theretofore paid for
18 compensation or for medical expenses).

19 Compensation shall be payable under this section to or on
20 account of any child, brother, or sister, only if and while such
21 child, brother, or sister, is under the age of eighteen unless
22 such child, brother or sister is dependent because of disability
23 when compensation shall continue or be paid during such
24 disability of a child, brother or sister over eighteen years of
25 age or unless such child is enrolled as a full-time student in
26 any accredited educational institution when compensation shall
27 continue until such student becomes twenty-three. No
28 compensation shall be payable under this section to a widow,
29 unless she was living with her deceased husband at the time of
30 his death, or was then actually dependent upon him and receiving

1 from him a substantial portion of her support. No compensation
2 shall be payable under this section to a widower, unless he be
3 incapable of self-support at the time of his wife's death and be
4 at such time dependent upon her for support. If members of
5 decedent's household at the time of his death, the terms "child"
6 and "children" shall include step-children, adopted children and
7 children to whom he stood in loco parentis, and children of the
8 deceased and shall include posthumous children. Should any
9 dependent of a deceased employe die or remarry, or should the
10 widower become capable of self-support, the right of such
11 dependent or widower to compensation under this section shall
12 cease except that if a widow remarries, she shall receive one
13 hundred four weeks compensation at a rate computed in accordance
14 with clause 2. of section 307 in a lump sum after which
15 compensation shall cease: Provided, however, That if, upon
16 investigation and hearing, it shall be ascertained that the
17 widow or widower is living with a man or woman, as the case may
18 be, in meretricious relationship and not married, or the widow
19 living a life of prostitution, the board may order the
20 termination of compensation payable to such widow or widower. If
21 the compensation payable under this section to any person shall,
22 for any cause, cease, the compensation to the remaining persons
23 entitled thereunder shall thereafter be the same as would have
24 been payable to them had they been the only persons entitled to
25 compensation at the time of the death of the deceased.

26 The board may, if the best interest of a child or children
27 shall so require, at any time order and direct the compensation
28 payable to a child or children, or to a widow or widower on
29 account of any child or children, to be paid to the guardian of
30 such child or children, or, if there be no guardian, to such

1 other person as the board as hereinafter provided may direct. If
2 there be no guardian or committee of any minor, dependent, or
3 insane employe, or dependent, on whose account compensation is
4 payable, the amount payable on account of such minor, dependent,
5 or insane employe, or dependent may be paid to any surviving
6 parent, or such other person as the board may order and direct,
7 and the board may require any person, other than a guardian or
8 committee, to whom it has directed compensation for a minor,
9 dependent, or insane employe, or dependent to be paid, to
10 render, as and when it shall so order, accounts of the receipts
11 and disbursements of such person, and to file with it a
12 satisfactory bond in a sum sufficient to secure the proper
13 application of the moneys received by such person.

14 ~~Section 10. The act is amended by adding a section to read:~~ <—

15 ~~Section 308.1. (a) The eligibility of professional athletes~~
16 ~~for compensation under this act shall be limited as provided in~~
17 ~~this section.~~

18 ~~(b) The term "professional athlete," as used in this~~
19 ~~section, shall mean a natural person employed as a professional~~
20 ~~athlete by a franchise of the National Football League, the~~
21 ~~National Basketball Association, the National Hockey League, the~~
22 ~~National League of Professional Baseball Clubs or the American~~
23 ~~League of Professional Baseball Clubs, under a contract for hire~~
24 ~~or a collective bargaining agreement, whose wages as defined in~~
25 ~~section 309 are more than six times the Statewide average weekly~~
26 ~~wage.~~

27 ~~(c) In the case of a professional athlete, any compensation~~
28 ~~payable under this act with respect to total disability, partial~~
29 ~~disability, permanent injury or death shall be reduced by the~~
30 ~~after tax amount of any:~~

1 ~~(1) Wages payable by the employer during the period of~~
2 ~~disability under a contract for hire or collective bargaining~~
3 ~~agreement.~~

4 ~~(2) Severance benefits payable by the employer.~~

5 ~~(3) Payments under a self insurance, wage continuation,~~
6 ~~annuity, disability or life insurance or similar plan funded by~~
7 ~~the employer.~~

8 ~~(4) Injury or death benefits payable by the employer under a~~
9 ~~contract for hire or collective bargaining agreement.~~

10 ~~(d) In the case of a professional athlete, the term "wages~~
11 ~~of the injured employe" as used in section 306(b) for the~~
12 ~~purpose of computing compensation for partial disability shall~~
13 ~~mean two times the Statewide average weekly wage.~~

14 Section ~~11~~ 7. Section 314 of the act, amended February 28, <—
15 1956 (1955 P.L.1120, No.356), is amended to read:

16 Section 314. (a) At any time after an injury the employe,
17 if so requested by his employer, must submit himself for
18 examination, at some reasonable time and place, to a physician
19 or physicians legally authorized to practice under the laws of
20 such place, who shall be selected and paid by the employer. If
21 the employe shall refuse upon the request of the employer, to
22 submit to the examination by the physician or physicians
23 selected by the employer, [the board] a referee assigned by the
24 department may, upon petition of the employer, order the employe
25 to submit to an examination at a time and place set by [it] the
26 referee, and by the physician or physicians selected and paid by
27 the employer, or by a physician or physicians designated by [it]
28 the referee and paid by the employer. The [board] referee may at
29 any time after such first examination, upon petition of the
30 employer, order the employe to submit himself to such further

1 examinations as [it] the referee shall deem reasonable and
2 necessary, at such times and places and by such physicians as
3 [it] the referee may designate; and in such case, the employer
4 shall pay the fees and expenses of the examining physician or
5 physicians, and the reasonable traveling expenses and loss of
6 wages incurred by the employe in order to submit himself to such
7 examination. The refusal or neglect, without reasonable cause or
8 excuse, of the employe to submit to such examination ordered by
9 the [board] referee, either before or after an agreement or
10 award, shall deprive him of the right to compensation, under
11 this article, during the continuance of such refusal or neglect,
12 and the period of such neglect or refusal shall be deducted from
13 the period during which compensation would otherwise be payable.

14 (b) The employe shall be entitled to have a physician or
15 physicians of his own selection, to be paid by him, participate
16 in any examination requested by his employer or ordered by the
17 [board] referee.

18 ~~Section 12. Section 321 of the act, added March 29, 1972~~ <—
19 ~~(P.L.159, No.61), is amended to read:~~

20 ~~Section 321. [Nothing contained in this act shall apply to~~
21 ~~or in any way affect any person who at the time of injury is~~
22 ~~engaged in domestic service: Provided, however, That in cases~~
23 ~~where the employer of any such person shall have, prior to such~~
24 ~~injury, by application to the Workmen's Compensation Board,~~
25 ~~approved by the board, elected to come within the provisions of~~
26 ~~the act, such exemption shall not apply.] Nothing contained in~~
27 ~~this act shall apply to or in any way affect:~~

28 ~~(1) Any person who at the time of injury is engaged in~~
29 ~~domestic service: Provided, however, That in cases where the~~
30 ~~employer of any such person shall have, prior to such injury, by~~

1 ~~application to the department, and approved by the department,~~
2 ~~elected to come within the provisions of the act, such exemption~~
3 ~~shall not apply.~~

4 ~~(2) Any person who is a licensed real estate salesperson or~~
5 ~~an associate real estate broker, affiliated with a licensed real~~
6 ~~estate broker, under a written agreement, remunerated on a~~
7 ~~commission only basis and who qualifies as an independent~~
8 ~~contractor for Federal tax purposes.~~

9 Section 13. The act is amended by adding sections to read:

10 Section 322. ~~It shall be unlawful for any employe to receive~~
11 ~~compensation under this act and at the same time receive~~
12 ~~workers' compensation under the laws of the Federal Government~~
13 ~~or any other state for the same injury. Further, it shall be~~
14 ~~unlawful for an employe to receive compensation under this act~~
15 ~~simultaneously from two or more employers or insurers during the~~
16 ~~same period of disability.~~

17 Section 323. (a) ~~No construction design professional who is~~
18 ~~retained to perform professional services on a construction~~
19 ~~project, or any employe of a construction design professional~~
20 ~~who is assisting or representing the construction design~~
21 ~~professional in the performance of professional services on the~~
22 ~~site of the construction project, shall be liable for any injury~~
23 ~~or death of a worker not an employe of such design professional~~
24 ~~on the construction project for which compensation is payable~~
25 ~~under the provisions of this act.~~

26 (b) ~~The immunity from liability provided by the above~~
27 ~~subsection shall not apply if:~~

28 (1) ~~the injury or death is caused by the negligent~~
29 ~~preparation of design plans or specifications by the~~
30 ~~construction design professional;~~

1 ~~(2) the construction design professional assumes~~
2 ~~responsibility for safety practices at the construction project~~
3 ~~by written contract; or~~

4 ~~(3) the construction design professional actually exercises~~
5 ~~control over the portion of the construction site where the~~
6 ~~worker is injured or killed.~~

7 ~~(c) Notwithstanding any provisions to the contrary, this~~
8 ~~section shall apply to claims for compensation based on injuries~~
9 ~~or death which incurred after the effective date of this act.~~

10 Section 14 8. The first paragraph of section 401, and <—
11 section 402 of the act, amended February 8, 1972 (P.L.25,
12 No.12), are amended to read:

13 Section 401. The term "referee," when used in this [article]
14 act, shall mean [Workmen's Compensation Referee] a Workers'
15 Compensation Judge of the Department of Labor and Industry,
16 appointed by and subject to the general supervision of the
17 Secretary of Labor and Industry for the purpose of conducting
18 departmental hearings under this act. The secretary may
19 establish different classes of [referees.] these judges. Any
20 reference in any statute to a workmen's compensation referee
21 shall be deemed to be a reference to a workers' compensation
22 judge.

23 * * *

24 Section 402. All proceedings before any referee, except
25 those for which an informal conference has been applied for as
26 provided by section 402.1 of this act, shall be instituted by
27 claim petition or other petition as the case may be or on the
28 department's own motion, and all appeals to the board, shall be
29 instituted by appeal addressed to the board. All claim
30 petitions, requests for informal conferences and other petitions

1 and appeals shall be in writing and in the form prescribed by
2 the department.

3 Section ~~15~~ 9. The act is amended by adding a section to ←
4 read:

5 Section 402.1. (a) In any action for which a petition is
6 required to be filed under this act or in any claim for
7 compensation under sections 406.1, 410 or 411 of this act or
8 where the right to compensation or medical services, or the
9 amount thereof, is in dispute, ~~any party may~~ THE PARTIES MAY ←
10 JOINTLY file a notice of request with the department for an
11 informal conference prior to filing any petition pursuant to
12 this act. The department shall assign the matter to a referee
13 for an informal conference and shall stay any proceedings
14 pending receipt of a petition.

15 (b) At any informal conference held pursuant to this
16 section:

17 (i) the referee may accept the statements of both parties,
18 together with any medical reports, witnesses' statements or
19 other documents which the parties would like to present;

20 (ii) all communications, verbal or written, from the parties
21 to the referee and any information and evidence presented to the
22 referee during the proceedings ~~are~~ SHALL BE confidential; and ←

23 (iii) each party may be represented, but the employer may
24 only be represented by an attorney at the informal conference if
25 the employe is also represented by an attorney at the informal
26 conference.

27 (c) The referee shall attempt to resolve the issues in
28 dispute between the parties, but in no event shall any
29 recommendations or findings made by the referee be binding upon
30 the parties unless accepted in writing by both parties. If the

1 parties come to agreement, the referee shall reduce such
2 agreement to writing, which shall be signed by all parties and
3 the referee, and such summary report shall be filed with the
4 department.

5 (d) In the event that the parties cannot resolve their
6 dispute, either party may file a petition with the department
7 requesting a hearing on the matter. Such petition will ~~SHALL~~ be <—
8 assigned to a referee for a hearing pursuant to section 414 of
9 this act.

10 (e) The results of the informal conference, as well as the
11 testimony, witnesses and evidence presented at the informal
12 conference, shall not be admissible at any subsequent proceeding
13 on the claim.

14 (f) ~~No~~ A referee who participates in an informal conference <—
15 conducted pursuant to this section shall NOT PRESIDE AT ANY <—
16 FORMAL HEARINGS WHICH INCLUDE THE SAME PARTIES OR be compelled
17 or permitted to testify about any matter discussed or revealed
18 during such proceedings in any other proceeding pursuant to this
19 act, except matters involving fraud.

20 ~~Section 16. Sections 406.1 and 420 of the act, amended or~~ <—
21 ~~added February 8, 1972 (P.L.25, No.12), are amended to read:~~

22 ~~Section 406.1. (a) The employer and insurer shall promptly~~
23 ~~investigate each injury reported or known to the employer and~~
24 ~~shall proceed promptly to commence the payment of compensation~~
25 ~~due either pursuant to an agreement upon the compensation~~
26 ~~payable or a notice of compensation payable as provided in~~
27 ~~section 407 or pursuant to a notice of temporary compensation~~
28 ~~payable as set forth in clause (d) of this section, on forms~~
29 ~~prescribed by the department and furnished by the insurer. The~~
30 ~~first installment of compensation shall be paid not later than~~

1 ~~the twenty first day after the employer has notice or knowledge~~
2 ~~of the employe's disability. Interest shall accrue on all due~~
3 ~~and unpaid compensation at the rate of ten per centum per annum.~~
4 ~~Any payment of compensation prior or subsequent to an agreement~~
5 ~~or notice of compensation payable or a temporary notice of~~
6 ~~compensation payable or greater in amount than provided therein~~
7 ~~shall, to the extent of the amount of such payment or payments,~~
8 ~~discharge the liability of the employer with respect to such~~
9 ~~case.~~

10 ~~(b) Payments of compensation pursuant to an agreement or~~
11 ~~notice of compensation payable may be suspended, terminated,~~
12 ~~reduced or otherwise modified by petition and subject to right~~
13 ~~of hearing as provided in section 413.~~

14 ~~(c) If the insurer controverts the right to compensation it~~
15 ~~shall promptly notify the employe or his dependent, on a form~~
16 ~~prescribed by the department, stating the grounds upon which the~~
17 ~~right to compensation is controverted and shall forthwith~~
18 ~~furnish a copy or copies to the department.~~

19 ~~(d) (1) In any instance where an employer is uncertain~~
20 ~~whether a claim is compensable under this act or is uncertain of~~
21 ~~the extent of its liability under this act, the employer may~~
22 ~~initiate compensation payments without prejudice and without~~
23 ~~admitting liability pursuant to a notice of temporary~~
24 ~~compensation payable as prescribed by the department.~~

25 ~~(2) The notice of temporary compensation payable shall be~~
26 ~~sent to the claimant and a copy filed with the department and~~
27 ~~shall notify the claimant that the payment of temporary~~
28 ~~compensation is not an admission of liability of the employer~~
29 ~~with respect to the injury subject to the notice of temporary~~
30 ~~compensation payable. The department shall, upon receipt of a~~

1 ~~notice of temporary compensation payable, send a notice to the~~
2 ~~claimant informing the claimant that:~~

3 ~~(i) the payment of temporary compensation and the claimant's~~
4 ~~acceptance of that compensation does not mean the claimant's~~
5 ~~employer is accepting responsibility for the injury or that a~~
6 ~~compensation claim has been filed or commenced;~~

7 ~~(ii) the payment of temporary compensation entitles the~~
8 ~~claimant to a maximum of six weeks of compensation; and~~

9 ~~(iii) the claimant must file a claim petition in a timely~~
10 ~~fashion under section 315 of this act, enter into an agreement~~
11 ~~with his employer or receive a notice of compensation payable~~
12 ~~from his employer to ensure continuation of compensation~~
13 ~~payments.~~

14 ~~(3) Payments of temporary compensation shall commence, and~~
15 ~~the notice of temporary compensation payable shall be sent~~
16 ~~within the time set forth in clause (a) of this section.~~

17 ~~(4) Payments of temporary compensation may continue until~~
18 ~~such time as the employer decides to controvert the claim or six~~
19 ~~weeks from the date the employer has notice or knowledge of the~~
20 ~~employee's disability, whichever shall first occur.~~

21 ~~(5) (i) If the employer ceases making payments pursuant to~~
22 ~~a notice of temporary compensation payable, a notice in the form~~
23 ~~prescribed by the department shall be sent to the claimant and a~~
24 ~~copy filed with the department, but in no event shall this~~
25 ~~notice be sent or filed later than five days after the last~~
26 ~~payment.~~

27 ~~(ii) This notice shall advise the claimant that if the~~
28 ~~employer is ceasing payment of temporary compensation that the~~
29 ~~payment of temporary compensation was not an admission of~~
30 ~~liability of the employer with respect to the injury subject to~~

1 ~~the notice of temporary compensation payable, and the employe~~
2 ~~must file a claim to establish the liability of the employer.~~

3 ~~(iii) If the employer ceases making payments pursuant to a~~
4 ~~notice of temporary compensation payable, after complying with~~
5 ~~this clause, the employer and employe retain all the rights,~~
6 ~~defenses and obligations with regard to the claim subject to the~~
7 ~~notice of temporary compensation payable, and the payment of~~
8 ~~temporary compensation may not be used to support a claim for~~
9 ~~compensation.~~

10 ~~(iv) Payment of temporary compensation shall be considered~~
11 ~~compensation for purposes of tolling the statute of limitations~~
12 ~~under section 315 of this act.~~

13 ~~(6) If the employer does not file a notice under paragraph~~
14 ~~(5) of clause (d) of this section within the six week period~~
15 ~~during which temporary compensation is paid or payable, the~~
16 ~~employer shall be deemed to have admitted liability and the~~
17 ~~notice of temporary compensation payable shall be converted to a~~
18 ~~notice of compensation payable.~~

19 SECTION 10. SECTION 420 OF THE ACT, AMENDED FEBRUARY 8, 1972 <—
20 (P.L.25, NO.12), IS AMENDED TO READ:

21 Section 420. (a) The board, the department or a referee, if
22 it or he deem it necessary, may, of its or his own motion,
23 either before, during, or after any hearing, make or cause to be
24 made an investigation of the facts set forth in the petition or
25 answer or facts pertinent in any injury under this act. The
26 board, department or referee may appoint one or more impartial
27 physicians or surgeons to examine the injuries of the plaintiff
28 and report thereon, or may employ the services of such other
29 experts as shall appear necessary to ascertain the facts. The
30 referee when necessary or appropriate or upon request of a party

1 in order to rule on petitions filed under clause (f.1) of
2 section 306 of this act, or under other provisions of this act,
3 may ask for an opinion from peer review about the necessity or
4 frequency of treatment under clause (f.1) of section 306 of this
5 act to peer review. The peer review report or the peer report of ←
6 any physician, surgeon, or expert appointed by the department or
7 by a referee, including the report of a peer review
8 organization, shall be filed with the board or referee, as the
9 case may be, and shall be a part of the record and open to
10 inspection as such. THE REFEREE SHALL NOT BE BOUND BY SUCH ←
11 REPORT.

12 (b) The board or referee, as the case may be, shall fix the
13 compensation of such physicians, surgeons, and experts, and
14 other peer review organizations which, when so fixed, shall be
15 paid out of the sum appropriated to the Department of Labor and
16 Industry for such purpose.

17 Section ~~17~~ 11. Section 422 of the act, amended February 8, ←
18 1972 (P.L.25, No.12) and March 29, 1972 (P.L.159, No.61), is
19 amended to read:

20 Section 422. (a) Neither the board nor any of its members
21 nor any referee shall be bound by the common law or statutory
22 rules of evidence in conducting any hearing or investigation,
23 but all findings of fact shall be based upon sufficient,
24 competent ~~and substantial~~ evidence to justify same. The ←
25 justification for each disputed finding shall be reasonably
26 explained, and the explanation shall include a cogent written
27 statement of the reasons for acceptance and rejection of
28 evidence.

29 (b) If any party or witness resides outside of the
30 Commonwealth, or through illness or other cause is unable to

1 testify before the board or a referee, his or her testimony or
2 deposition may be taken, within or without this Commonwealth, in
3 such manner and in such form as the department may, by special
4 order or general rule, prescribe. The records kept by a hospital
5 of the medical or surgical treatment given to an employe in such
6 hospital shall be admissible as evidence of the medical and
7 surgical matters stated therein.

8 (c) Where any claim for compensation is at issue before a
9 referee [involves twenty-five weeks or less of disability],
10 either the employe or the employer may submit a certificate by
11 any qualified physician as to the history, examination,
12 treatment, diagnosis and cause of the condition, and sworn
13 reports by other witnesses as to any other facts and such
14 statements shall be admissible as evidence of medical and
15 surgical or other matters therein stated and findings of fact
16 may be based upon such certificates or such reports[.]:
17 Provided, That, any party shall be allowed the opportunity to
18 take a deposition for purposes of cross-examination, upon the
19 tendering to the party offering said report reasonable expenses,
20 including the fee for such deposition: And further provided,
21 That the use of a deposition shall not preclude introduction of
22 a medical report. Should a dispute arise as to the
23 reasonableness of the amounts demanded or tendered, the referee
24 hearing the petition shall issue an order relating to the
25 assessment of costs.

26 (d) Where an employer shall have furnished surgical and
27 medical services or hospitalization in accordance with the
28 provisions of [subsection (f) of] section 306(f.1), or where the
29 employe has himself procured them, the employer or employe
30 shall, upon request, in any pending proceeding, be furnished

1 with, or have made available, a true and complete record of the
2 medical and surgical services and hospital treatment, including
3 X rays, laboratory tests, and all other medical and surgical
4 data in the possession or under the control of the party
5 requested to furnish or make available such data.

6 (e) The department may adopt rules and regulations governing
7 the conduct of all hearings held pursuant to any provisions of
8 this act, and hearings shall be conducted in accordance
9 therewith, and in such manner as best to ascertain the
10 substantial rights of the parties.

11 ~~Section 18. Section 423 of the act, amended March 29, 1972~~ <—
12 ~~(P.L.159, No.61), is amended to read:~~

13 ~~Section 423. (a) Any party in interest may, within twenty~~
14 ~~days after notice of a referee's [award or disallowance of~~
15 ~~compensation] adjudication shall have been served upon him, take~~
16 ~~an appeal to the board on the ground: (1) that the [award or~~
17 ~~disallowance of compensation] adjudication is not in conformity~~
18 ~~with the terms of this act, or that the referee committed any~~
19 ~~other error of law; (2) that the findings of fact and [award or~~
20 ~~disallowance of compensation] adjudication was unwarranted by~~
21 ~~sufficient, competent and substantial evidence or was procured~~
22 ~~by fraud, coercion, or other improper conduct of any party in~~
23 ~~interest. The board may, upon cause shown, extend the time~~
24 ~~provided in this article for taking such appeal or for the~~
25 ~~filing of an answer or other pleading.~~

26 ~~(b) In any such appeal the board may disregard the findings~~
27 ~~of fact of the referee if not supported by sufficient, competent~~
28 ~~and substantial evidence and if it deem proper may hear other~~
29 ~~evidence, and may substitute for the findings of the referee~~
30 ~~such findings of fact as the sufficient, competent and~~

1 ~~substantial~~ evidence taken before the referee and the board, as
2 hereinbefore provided, may, in the judgment of the board,
3 require, and may make such [disallowance or award of
4 compensation or other order] adjudication as the facts so
5 [founded] found by it may require.

6 Section 19. Sections 438 and 440 of the act, added February
7 8, 1972 (P.L.25, No.12), are amended to read:

8 SECTION 12. SECTION 438 OF THE ACT, ADDED FEBRUARY 8, 1972 <—
9 (P.L.25, NO.12), IS AMENDED TO READ:

10 Section 438. (a) An employer shall report all injuries
11 received by employes in the course of or resulting from their
12 employment immediately to the employer's insurer. If the
13 employer is self-insured such injuries shall be reported to the
14 person responsible for management of the employer's compensation
15 program.

16 (b) An employer shall report such injuries to the Department
17 of Labor and Industry by filing directly with the department on
18 the form it prescribes a report of injury within forty-eight
19 hours for every injury resulting in death, and mailing within
20 [three] ten days after the date of injury for all other injuries
21 except those resulting in disability continuing less than the
22 day, shift, or turn in which the injury was received. A copy of
23 this report to the department shall be mailed to the employer's
24 insurer forthwith.

25 (c) Reports of injuries filed with the department under this
26 section shall not be evidence against the employer or the
27 employer's insurer in any proceeding either under this act or
28 otherwise. Such reports may be made available by the department
29 to other State or Federal agencies for study or informational
30 purposes.

1 ~~Section 440. (a) In any contested case where the insurer~~
2 ~~has contested liability in whole or in part, including contested~~
3 ~~cases involving petitions to terminate, reinstate, increase,~~
4 ~~reduce or otherwise modify compensation awards, agreements or~~
5 ~~other payment arrangements or to set aside final receipts, the~~
6 ~~employee or his dependent, as the case may be, in whose favor the~~
7 ~~matter at issue has been finally determined shall be awarded, in~~
8 ~~addition to the award for compensation, a reasonable sum for~~
9 ~~costs incurred for attorney's fee, witnesses, necessary medical~~
10 ~~examination, and the value of unreimbursed lost time to attend~~
11 ~~the proceedings: Provided, That cost for attorney fees may be~~
12 ~~excluded when a reasonable basis for the contest has been~~
13 ~~established[: And provided further, That if].~~

14 ~~(b) If counsel fees are awarded and assessed against the~~
15 ~~insurer or employer, then the referee must make a finding as to~~
16 ~~the amount and the length of time for which such counsel fee is~~
17 ~~payable, based upon the complexity of the factual and legal~~
18 ~~issues involved, the skill required, the duration of the~~
19 ~~proceedings and the time and effort required and actually~~
20 ~~expended: If the insurer has paid or tendered payment of~~
21 ~~compensation and the controversy relates to the amount of~~
22 ~~compensation due, costs for attorney's fee shall be based only~~
23 ~~on the difference between the final award of compensation and~~
24 ~~the compensation paid or tendered by the insurer.~~

25 ~~{In contested cases involving petitions to terminate,~~
26 ~~reinstate, increase, reduce or otherwise modify compensation~~
27 ~~awards, agreements or other payment arrangements or to set aside~~
28 ~~final receipts, where the contested issue, in whole or part, is~~
29 ~~resolved in favor of the claimant, the claimant shall be~~
30 ~~entitled to an award of reasonable costs as hereinabove set~~

1 forth.]

2 Section 20. ~~Section 447 of the act, added May 20, 1976~~
3 ~~(P.L.135, No.61), is amended to read:~~

4 Section 447. ~~(a) [There is hereby created an advisory~~
5 ~~council, to be known as the Pennsylvania Workmen's Compensation~~
6 ~~Advisory Council, and to be composed of men and women with an~~
7 ~~equal number of employer, employe, and public representatives~~
8 ~~who may fairly be representative because of their vocation,~~
9 ~~employment, or affiliations. The council shall consist of a~~
10 ~~maximum of seven members including the Secretary of the~~
11 ~~Department of Labor and Industry, who shall be an ex officio~~
12 ~~member. The members of such council shall be appointed by the~~
13 ~~secretary within thirty days of the effective date of this~~
14 ~~amendatory act and shall serve a term of two years and until~~
15 ~~their successors have been appointed and qualified. The members~~
16 ~~of the council shall select one of their number to be chairman.~~
17 ~~Such council shall consider and advise the department upon all~~
18 ~~matters related to the administration of The Pennsylvania~~
19 ~~Workmen's Compensation Act and The Pennsylvania Occupational~~
20 ~~Disease Act. Such council may recommend to the secretary upon~~
21 ~~its own initiative such changes in the provisions of these acts~~
22 ~~and the administration thereof as it deems necessary and shall~~
23 ~~make periodic reports to the secretary regarding the performance~~
24 ~~of its duties and functions.] There is hereby created an~~
25 ~~advisory council, to be known as the Pennsylvania Workers'~~
26 ~~Compensation Advisory Council. The council shall be comprised of~~
27 ~~no fewer than seven members with at least two members being~~
28 ~~employe representatives, two members being employer~~
29 ~~representatives and two members representing insurers. The~~
30 ~~Secretary of Labor and Industry shall be an ex officio member.~~

~~1 Members shall be appointed by the secretary to serve terms of
2 two years and until their successors have been appointed. The
3 members shall elect one of their number to be chairman. The
4 council shall report to the Governor, the General Assembly and
5 the secretary at least on an annual basis on matters relevant to
6 the administration of this act, and may recommend within the
7 report such changes in the provisions of these acts and the
8 administration thereof as the council sees fit.~~

~~9 (b) In the performance of its duties, the council may hold
10 hearings, receive testimony, solicit and receive comments and
11 information from interested parties and the general public and
12 shall have full access to information relating to the purpose of
13 these acts. The council shall not have access to confidential
14 medical information pertaining to individual claimants, but may
15 develop statistical studies and surveys concerning the incidence
16 of occupational injuries and diseases generally.~~

~~17 (c) [The members of the advisory council shall serve without
18 compensation, but shall be entitled to be reimbursed for all
19 necessary expenses incurred in the discharge of their duties.
20 The secretary shall appoint an executive secretary and such
21 other personnel as he shall deem necessary to aid the council in
22 the performance of its functions. The compensation of such
23 employes and the amounts allowed them and to members of the
24 council for traveling and other council expenses shall be deemed
25 part of the expenses incurred in connection with the
26 administration of The Pennsylvania Workmen's Compensation and
27 The Pennsylvania Occupational Disease Acts.] The members of the
28 advisory council shall serve without compensation but shall be
29 entitled to be reimbursed for all necessary expenses incurred in
30 the discharge of their duties. The secretary shall provide~~

~~1 facility, clerical and professional support as needed by the
2 council to perform their duties. The compensation of such staff
3 and the amounts allowed them and to members of the council for
4 travel and expenses shall be deemed part of the expenses
5 incurred in connection with the administration of this act.~~

6 Section ~~21~~ 13. The act is amended by adding a section to <—
7 read:

8 Section 449. (a) An insurer issuing a workers' compensation
9 and employers' liability insurance policy shall offer, upon
10 request, as part of the policy or by endorsement, deductibles
11 optional to the policyholder for benefits payable under the
12 policy, subject to approval by the Insurance Commissioner and
13 subject to underwriting by the insurer consistent with the
14 principles in clause (b). The commissioner shall promulgate at
15 least three plans with varying deductible options, the least
16 amount of which shall be no less than one thousand dollars
17 (\$1,000), nor more than two thousand five hundred dollars
18 (\$2,500). The commissioner's authority to promulgate any such
19 plans shall not preclude an insurer from negotiating a
20 deductible in excess of the largest deductible plan herein
21 authorized, SUBJECT TO APPROVAL BY THE COMMISSIONER AND SUBJECT <—
22 TO UNDERWRITING BY THE INSURER CONSISTENT WITH THE PRINCIPLES IN
23 CLAUSE (B) OF THIS SECTION.

24 (b) The following standards shall govern the commissioner's
25 promulgation, and an insurer's offer, of deductible plans:

26 (1) Claimants' rights are properly protected and claimants'
27 benefits are paid without regard to any such deductible.

28 (2) Appropriate premium reductions reflect the type and
29 level of any deductible approved by the commissioner and
30 selected by the policyholder.

1 (3) Premium reductions for deductibles are determined before
2 application of any experience modification, premium surcharge or
3 premium discount.

4 (4) Recognition is given to policyholder characteristics,
5 including size, financial capabilities, nature of activities and
6 number of employes.

7 (5) If the policyholder selects a deductible, the
8 policyholder is liable to the insurer for the deductible amount
9 in regard to benefits paid for compensable claims.

10 (6) The insurer pays all of the deductible amount,
11 applicable to a compensable claim, to the person or provider
12 entitled to benefits and then seeks reimbursement from the
13 policyholder for the applicable deductible amount.

14 (7) Failure to reimburse deductible amounts by the
15 policyholder to the insurer is treated under the policy in the
16 same manner as non-payment of premiums.

17 Section ~~22~~ 14. The act is amended by adding articles to <—
18 read:

19 ARTICLE VII

20 ~~LOSS COSTS RATING~~ <—

21 APPROVAL OF RATES <—

22 Section 701. It is the intent of the General Assembly:

23 (1) To protect policyholders and the public against the
24 adverse effect of excessive, inadequate or unfairly
25 discriminatory rates.

26 (2) To encourage, as the most effective way to produce rates
27 that conform to the standards of paragraph (1) of this section,
28 independent action by and reasonable price competition among
29 insurers.

30 (3) To provide formal regulatory controls for use if price

1 competition fails.

2 (4) To authorize cooperative action among insurers in the
3 ratemaking process, and to regulate such cooperation in order to
4 prevent practices that tend to bring about monopoly or to lessen
5 or destroy competition.

6 (5) To provide rates that are responsive to competitive
7 market conditions and to improve the availability of insurance
8 in this Commonwealth.

9 ~~Section 702. This article applies to workers' compensation~~ <—
10 ~~and employer's liability insurance incidental thereto and~~
11 ~~written in connection therewith but shall not apply to~~
12 ~~reinsurance thereon.~~

13 SECTION 702. THIS ARTICLE APPLIES TO THE CLASSIFICATION OF <—
14 RISKS, UNDERWRITING RULES, MERIT RATING PLANS, PURE PREMIUM
15 RATES, EXPENSES, LOSSES AND PROFITS FOR INSURANCE OF EMPLOYERS
16 AND EMPLOYEES UNDER THIS ACT, FOR INSURANCE UNDER THE
17 OCCUPATIONAL DISEASE ACT AND FOR INSURANCE WITH RESPECT TO THE
18 COMMONWEALTH AS TO LIABILITY UNDER THE LONGSHORE AND HARBOR
19 WORKERS' COMPENSATION ACT (44 STAT. 1424, 33 U.S.C. § 901 ET
20 SEQ.), WRITTEN AS PART OF A WORKERS' COMPENSATION AND EMPLOYERS'
21 LIABILITY POLICY.

22 Section 703. As used in this article:

23 "Classification system" or "classification" means the plan,
24 system or arrangement for recognizing differences in exposure to
25 hazards among industries, occupations or operations of insurance
26 policyholders.

27 ~~"Competitive market" means a market, except when found to be~~ <—
28 ~~noncompetitive under the standards of section 710 of this~~
29 ~~article.~~

30 "Department" means the Insurance Department of the

1 Commonwealth.

2 "Experience rating" means a rating procedure utilizing past
3 insurance experience of the individual policyholder to forecast
4 future losses by measuring the policyholder's loss experience
5 against the loss experience of policyholders in the same
6 classification to produce a prospective premium credit, debit or
7 unity modification.

8 "Market" means the interaction in this State, between buyers
9 and sellers of workers' compensation and employers' liability
10 insurance within this Commonwealth pursuant to the provisions of
11 this article.

12 "Provision for claim payment" means historical aggregate
13 losses projected through development to their ultimate value and
14 through ~~tending~~ TRENDING to a future point in time, but ←
15 excluding all loss adjustment or claim management expenses,
16 other operating expenses, assessments, taxes, and profit or
17 contingency allowances.

18 "Rate" or "rates" means rate of premium, policy and
19 membership fee, or any other charge made by an insurer for or in
20 connection with a contract or policy of insurance of the kind to
21 which this article applies.

22 "Rating organization" means one or more organizations situate
23 within this Commonwealth, subject to supervision and to
24 examination by the Insurance Commissioner and approved by the
25 Insurance Commissioner as adequately equipped to perform the
26 functions specified in this article on an equitable and
27 impartial basis.

28 "Statistical plan" means the plan, system or arrangement used
29 in collecting data.

30 "Supporting information" means the experience and judgment of

1 the filer and the experience or data of other insurers or
2 organizations relied on by the filer, the interpretation of any
3 statistical data relied on by the filer, description or methods
4 used in making the rates, and any other similar information
5 required to be filed by the Insurance Commissioner.

6 "Supplementary rate information" means any manual or plan of
7 rates, statistical plan, classification system, rating schedule,
8 minimum premium policy fee, rating rule, rate-related
9 underwriting rule, and any other information, not otherwise
10 inconsistent with the purposes of this article, prescribed by
11 rule of the Insurance Commissioner.

12 Section 704. (a) The following standards shall apply to the
13 making and use of rates under this article:

14 (1) Rates may not be:

15 (i) excessive or inadequate, as defined under this article;
16 or

17 (ii) unfairly discriminatory.

18 ~~(2) Rates in a competitive market are not excessive. Rates~~ ←
19 ~~in a market as to which the Insurance Commissioner has issued a~~
20 ~~ruling under section 710, that a reasonable degree of~~
21 ~~competition does not exist, are excessive if they are likely to~~
22 ~~produce a long run profit that is unreasonably high in relation~~
23 ~~to the risk undertaken and the services to be rendered.~~

24 ~~(3) (2) A rate may not be held to be inadequate unless:~~

25 ~~(i) it is unreasonably low for the insurance provided and~~
26 ~~continued use of it would endanger solvency of the insurer; or~~

27 ~~(ii) the rate is unreasonably low for the insurance provided~~
28 ~~and the use of the rate by the insurer has had or, if continued,~~
29 ~~will have the effect of destroying competition or of creating~~
30 ~~monopoly.~~

1 (b) In determining whether rates comply with standards under
2 clause (a), due consideration shall be given to:

3 (1) Past and prospective loss experience within and outside
4 this Commonwealth in accordance with sound actuarial principles.

5 (2) Conflagration or catastrophe hazards.

6 (3) A reasonable margin for underwriting profit and
7 contingencies.

8 (4) Dividends, savings or unabsorbed premium deposits
9 allowed or returned by insurers to their policyholders or
10 members or subscribers.

11 (5) Past and prospective expenses, both countrywide and
12 those specially applicable to this Commonwealth.

13 (6) Investment income earned or realized by insurers both
14 from their unearned premium and from their loss reserve funds.

15 (7) All relevant factors within and outside this
16 Commonwealth.

17 (c) As to the kinds of insurance to which this article
18 applies, the systems of expense provisions included in the rates
19 for use by an insurer or group of insurers may differ from those
20 of any other insurers or groups of insurers to reflect the
21 requirements of the operating methods of the insurer or group of
22 insurers.

23 Section 705. (a) Each authorized insurer shall file with
24 the Insurance Commissioner all rates and supplementary rate
25 information and all changes and amendments thereof made by it
26 for use in this Commonwealth by the date they become effective.

27 Each rating organization shall ANNUALLY file with the Insurance <—
28 Commissioner a filing for the provision for claim payment and
29 SHALL PERIODICALLY MAKE such other filings as are authorized TO <—
30 BE MADE BY A RATING ORGANIZATION pursuant to this article. The

1 Secretary of Labor and Industry shall be a member of the board
2 of directors or governing body of any rating organization.

3 (b) An insurer may not make or issue a contract or policy of
4 insurance of the kind to which this article applies, except in
5 accordance with the filings which are in effect for the insurer
6 as provided in this article.

7 Section 706. Each filing and any supporting information
8 filed under this article shall, as soon as filed, be open to
9 public inspection. Copies may be obtained by any person on
10 request and upon payment of a reasonable charge.

11 Section 707. (a) Each workers' compensation insurer shall
12 be a member of a rating organization. Each workers' compensation
13 insurer shall adhere to the policy forms filed by the rating
14 organization.

15 (b) (1) Every workers' compensation insurer shall adhere to
16 the uniform classification system and uniform experience rating
17 plan filed with the Insurance Commissioner by the rating
18 organization to which it belongs: PROVIDED, THAT THE SYSTEM AND ←
19 PLAN HAVE BEEN APPROVED BY THE INSURANCE COMMISSIONER AS PART OF
20 THE APPROVAL OF THE RATING ORGANIZATION'S MOST RECENT FILING FOR
21 THE PROVISION FOR CLAIM PAYMENT. TOGETHER WITH ITS FIRST FILING
22 FOR THE PROVISION FOR CLAIM PAYMENT MADE ON OR AFTER JANUARY 1,
23 1994, EACH RATING ORGANIZATION SHALL SUBMIT A STUDY JUSTIFYING
24 ITS CLASSIFICATION SYSTEM. IN PREPARING THE STUDY, EACH RATING
25 ORGANIZATION SHALL HAVE AT LEAST ONE PUBLIC HEARING TO RECEIVE
26 EVIDENCE FROM EMPLOYERS AND EMPLOYEES REGARDING THE
27 CLASSIFICATION SYSTEM. THE INSURANCE COMMISSIONER SHALL
28 UNDERTAKE SUCH INVESTIGATION AS HE DEEMS NECESSARY TO DETERMINE
29 THE VALIDITY OF THE STUDY AND THE REASONABLENESS OF THE
30 CLASSIFICATION SYSTEM.

1 (2) (i) Subject to the conditions of this paragraph, an
2 insurer may develop subclassifications of the uniform
3 classification system upon which a rate may be made.

4 (ii) Any subclassification developed under subparagraph (i)
5 shall be filed with the rating organization and the Insurance
6 Commissioner thirty days prior to its use.

7 (iii) If the insurer fails to demonstrate that the data
8 produced under a subclassification can be reported in a manner
9 consistent with the rating organization's uniform statistical
10 plan and classification system, the Insurance Commissioner shall
11 disapprove the subclassification.

12 (c) Every workers' compensation insurer shall record and
13 report its workers' compensation experience to a rating
14 organization as set forth in the rating organization's uniform
15 statistical plan approved by the Insurance Commissioner.

16 (d) (1) Subject to the approval of the Insurance
17 Commissioner, a rating organization shall develop and file rules
18 reasonably related to the recording and reporting of data
19 pursuant to the uniform statistical plan, uniform experience
20 rating plan, and the uniform classification system.

21 (2) Every workers' compensation insurer shall adhere to the
22 approved rules and experience rating plan in writing and
23 reporting its business.

24 (3) An insurer ~~may~~ SHALL not agree with any other insurer or ←
25 with a rating organization to adhere to rules which are not
26 reasonably related to the recording and reporting of data
27 pursuant to the uniform classification system or the uniform
28 statistical plan.

29 (e) The experience rating plan shall have as a basis:

30 (1) reasonable eligibility standards;

(2) adequate incentives for loss prevention; and

<—

(3) sufficient premium differential so as to encourage

safety; AND

<—

(4) PREDICTIVE ACCURACY.

(f) (1) The uniform experience rating plan shall be the exclusive means of providing prospective premium adjustment based upon measurement of the loss producing characteristics of an individual insured.

(2) An insurer may file a rating plan that provides for retrospective premium adjustments based upon an insured's past experience.

Section 708. (a) The Insurance Commissioner may investigate and determine whether or not rates in this Commonwealth under this article are excessive, inadequate or unfairly discriminatory.

(b) In any such investigation and determination the Insurance Commissioner shall ~~give due consideration to those factors~~ FOLLOW THE PROCEDURES specified in section 710.

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Section 709. (a) ~~Except as provided in clause (d), the~~ THE Insurance Commissioner shall review each workers' compensation insurance filing made by a rating organization or an insurer as soon as reasonably possible after the filing has been made in order to determine whether it meets the requirements of this article. NO FILING FOR THE PROVISION FOR CLAIM PAYMENT SHALL BECOME EFFECTIVE PRIOR TO ITS APPROVAL BY THE INSURANCE COMMISSIONER UNLESS THE INSURANCE COMMISSIONER FAILS TO APPROVE OR DISAPPROVE THE FILING WITHIN ONE HUNDRED EIGHTY DAYS OF THE DATE OF FILING. NO FILING FOR LOSS ADJUSTMENT OR CLAIM MANAGEMENT EXPENSES, OTHER OPERATING EXPENSES, ASSESSMENTS, TAXES, AND PROFIT OR CONTINGENCY ALLOWANCES SHALL BECOME

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1 EFFECTIVE PRIOR TO ITS APPROVAL BY THE INSURANCE COMMISSIONER
2 UNLESS:

3 (1) THE INSURANCE COMMISSIONER FAILS TO APPROVE OR
4 DISAPPROVE THE FILING WITHIN SIXTY DAYS OF THE DATE OF THE
5 FILING;

6 (2) THE INSURANCE COMMISSIONER HAS AFTER THE EFFECTIVE DATE
7 OF THIS ACT APPROVED A FILING MADE INDIVIDUALLY BY THE INSURER
8 FOR LOSS ADJUSTMENT OR CLAIM MANAGEMENT EXPENSES, ASSESSMENTS,
9 TAXES, AND PROFIT OR CONTINGENCY ALLOWANCES; AND

10 (3) THE FILING WOULD NOT RAISE OR LOWER THAT PORTION OF THE
11 INSURER'S RATE ATTRIBUTABLE TO LOSS ADJUSTMENT OR CLAIM
12 MANAGEMENT EXPENSES, ASSESSMENTS, TAXES, AND PROFIT OR
13 CONTINGENCY ALLOWANCES BY MORE THAN FIVE PER CENTUM.

14 (b) (1) The effective date of each filing under this
15 article shall be the date specified in the filing. The effective
16 date of the filing may not be earlier than thirty days after the
17 date the filing is received by the Insurance Commissioner or the
18 date of receipt of the information furnished in support of the
19 filing if such supporting information is required by the
20 Insurance Commissioner.

21 (2) The period during which the filing may not become
22 effective may be extended by the Insurance Commissioner for an
23 additional period ~~not to exceed thirty days~~ if the Insurance <—
24 Commissioner gives written notice within the period described in
25 paragraph (1) to the insurer or rating organization which made
26 the filing that the Insurance Commissioner needs additional time
27 for the consideration of the filing. AN EXTENSION OF THE PERIOD <—
28 DURING WHICH THE FILING MAY NOT BECOME EFFECTIVE SHALL NOT
29 EXCEED ONE HUNDRED FIFTY DAYS IN THE CASE OF A FILING FOR THE
30 PROVISION FOR CLAIM PAYMENT OR THIRTY DAYS IN THE CASE OF ANY

1 OTHER FILING. NO FILING SHALL BE MADE EFFECTIVE FOR ANY PERIOD
2 PRIOR TO THE LATER OF THE PROPOSED EFFECTIVE DATE OR THE
3 EXPIRATION OF AN EXTENSION BY THE INSURANCE COMMISSIONER
4 PURSUANT TO THIS CLAUSE.

5 (3) Upon written application by an insurer or rating
6 organization, the Insurance Commissioner may authorize a filing
7 which the Insurance Commissioner has reviewed to become
8 effective before the expiration of the period described in
9 paragraph (1).

10 (4) A filing shall be deemed to meet the requirements of
11 this article unless disapproved by the Insurance Commissioner
12 within the period described in paragraph (1) or any extension
13 thereof.

14 (c) (1) Subject to approval or disapproval under clause
15 (b), a rating organization shall file with the Insurance
16 Commissioner:

17 (i) On an annual basis, workers' compensation rates and
18 rating plans that are limited to provision for claim payment.

19 (ii) Each workers' compensation policy form to be used by
20 its members.

21 (iii) The uniform classification system.

22 (iv) The uniform experience rating plan and related rules.

23 (v) Any other information that the Insurance Commissioner
24 requests relevant to the foregoing and is otherwise entitled to
25 receive under this article.

26 (2) Notwithstanding any other provisions of this article,
27 the Insurance Commissioner may approve or disapprove any filing
28 by a rating organization without determining whether a
29 reasonable degree of competition exists within the market.

30 ~~(d) If each rate in a schedule of workers' compensation~~

<—

1 ~~rates for specific classifications of risks filed by an insurer~~
2 ~~is not lower than the provision for claim payment contained in~~
3 ~~the schedule of workers' compensation rates for those~~
4 ~~classifications filed by a rating organization under clause (c)~~
5 ~~and approved pursuant to the provisions of this article, then~~
6 ~~the schedule of rates filed by the insurer shall not be subject~~
7 ~~to clause (b) but shall become effective for the purposes of~~
8 ~~section 705.~~

9 ~~(c) Notwithstanding clause (d), the Insurance Commissioner~~
10 ~~may investigate and evaluate all workers' compensation filings~~
11 ~~to determine whether the filings meet the requirements of this~~
12 ~~article.~~

13 ~~(f) Notwithstanding the provisions of section 705, the~~
14 ~~Insurance Commissioner may require any insurer or rating~~
15 ~~organization to comply with the requirements of clause (b) if~~
16 ~~the Insurance Commissioner has found pursuant to section 710,~~
17 ~~that a reasonable degree of competition does not exist within~~
18 ~~the workers' compensation insurance market.~~

19 ~~(D) THE INSURANCE COMMISSIONER MAY INVESTIGATE AND EVALUATE~~ <—
20 ~~ALL WORKERS' COMPENSATION FILINGS TO DETERMINE WHETHER THE~~
21 ~~FILINGS MEET THE REQUIREMENTS OF THIS ARTICLE.~~

22 ~~Section 710. (a) If the Insurance Commissioner finds after~~
23 ~~a hearing that a rate is not in compliance with section 704 or~~
24 ~~that a rate had been set in violation of section 714 712, the~~ <—
25 ~~Insurance Commissioner shall order that its use be discontinued~~
26 ~~for any policy issued or renewed after a date specified in the~~
27 ~~order and the order may prospectively provide for premium~~
28 ~~adjustment of any policy then in force. Except as provided in~~
29 ~~clause (b), the order shall be issued within thirty days after~~
30 ~~the close of the hearing or within a reasonable time extension~~

1 as fixed by the Insurance Commissioner. The order shall expire
2 one year after its effective date unless rescinded earlier by
3 the Insurance Commissioner.

4 (b) (1) Pending a hearing, the Insurance Commissioner may
5 order the suspension prospectively of a rate filed by an insurer
6 and reimpose the last previous rate in effect if the Insurance
7 Commissioner has reasonable cause to believe that:

8 (i) an insurer is in violation of section 704;

9 (ii) unless the order of suspension is issued, certain
10 insureds will suffer irreparable harm;

11 (iii) the hardship insureds will suffer absent the order if
12 suspension outweighs any hardship the insurer would suffer if
13 the order of suspension were to issue; and

14 (iv) the order of suspension will cause no substantial harm
15 to the public.

16 (2) In the event the Insurance Commissioner suspends a rate
17 under this clause, the Insurance Commissioner must, unless
18 waived by the insurer, hold a hearing within fifteen working
19 days after issuing the order suspending the rate. In addition,
20 the Insurance Commissioner must make a determination and issue
21 the order as to whether or not the rate should be disapproved
22 within fifteen working days after the close of the hearing.

23 ~~(c) (1) At any hearing to determine compliance with section~~ <—
24 ~~704, pursuant to clause (a), the Insurance Commissioner shall~~
25 ~~first determine whether a reasonable degree of competition~~
26 ~~exists within the market, and shall give a ruling to that~~
27 ~~effect. All insurers operating within such market shall have the~~
28 ~~burden of establishing that a reasonable degree of competition~~
29 ~~exists within that market. The Insurance Commissioner shall~~
30 ~~consider all relevant factors in determining the competitiveness~~

1 ~~of the market, including:~~

2 ~~(i) the number of insurers actively engaged in providing~~
3 ~~coverage;~~

4 ~~(ii) market shares;~~

5 ~~(iii) changes in market shares; and~~

6 ~~(iv) ease of entry.~~

7 ~~(2) If the Insurance Commissioner determines that a~~
8 ~~reasonable degree of competition does not exist in the market,~~
9 ~~any insurer designated by the Insurance Commissioner shall have~~
10 ~~the burden of justifying its rate in such market.~~

11 ~~(3) All determinations made by the Insurance Commissioner~~
12 ~~shall be on the basis of findings of fact and conclusions of~~
13 ~~law.~~

14 ~~(4) (C) If the Insurance Commissioner disapproves a rate, the~~ ←
15 ~~disapproval shall take effect not less than fifteen days after~~
16 ~~his order and the last previous rate in effect for the insurer~~
17 ~~shall be reimposed for a period of one year unless the Insurance~~
18 ~~Commissioner approves a rate under clause (d) or (e).~~

19 ~~(d) Within one year after the effective date of a~~
20 ~~disapproval order pursuant to paragraph (4) of clause (a), no~~ ←
21 ~~rate adopted to replace one disapproved under such order may be~~
22 ~~used until it has been filed with the Insurance Commissioner and~~
23 ~~not disapproved within thirty days thereafter.~~

24 ~~(e) Whenever an insurer has no legally effective rates as a~~
25 ~~result of the Insurance Commissioner's disapproval of rates, the~~
26 ~~Insurance Commissioner shall, on the insurer's request, specify~~
27 ~~interim rates for the insurer that are high enough to protect~~
28 ~~the interests of all parties and may order that a specified~~
29 ~~portion of the premiums be placed in a special reserve~~
30 ~~established by the insurer. When new rates become legally~~

1 effective, the Insurance Commissioner shall order the specially
2 reserved funds or any overcharge, in the interim rates to be
3 distributed appropriately to the insureds or insurer as the case
4 may be, except that refunds to policyholders that are minimal
5 may not be required.

6 Section 711. (a) The Insurance Commissioner may by order ←
7 require that a particular insurer file any or all of the
8 insurer's rates and supplementary rate information thirty days
9 prior to their effective date, if the Insurance Commissioner
10 finds after a hearing that the protection of the interests of
11 its insureds and the public in this Commonwealth requires closer
12 supervision of its rates because of the insurer's financial
13 condition or repetitive filing of rates which are not in
14 compliance with section 704.

15 (b) In the event that the waiting period is imposed pursuant
16 to clause (a), the Insurance Commissioner may extend the waiting
17 period for any filing for a period not exceeding thirty
18 additional days by written notice to the insurer before the
19 first thirty day period expires.

20 (c) The filing shall be approved or disapproved during the
21 waiting period, and if not disapproved before the expiration of
22 the waiting period, shall be deemed to meet the requirements of
23 this article, subject to the possibility of subsequent
24 disapproval under section 710.

25 (d) Any insurer affected by the Insurance Commissioner's
26 actions may request a rehearing by the Insurance Commissioner
27 after the expiration of twelve months from the date of the
28 Insurance Commissioner's former order.

29 Section 712. (a) (1) If the Insurance Commissioner finds
30 after hearing that competition is not an effective regulator of

~~1 the rates charged or that a substantial number of companies are
2 competing irresponsibly through the rates charged, or that there
3 are widespread violations of this article, the Insurance
4 Commissioner may adopt a rule requiring that any subsequent
5 changes in the rates or supplementary rate information be filed
6 with the Insurance Commissioner at least thirty working days
7 before they become effective.~~

~~8 (2) In the event that the waiting period is imposed pursuant
9 to paragraph (1), the Insurance Commissioner may extend the
10 waiting period for a period not to exceed thirty additional
11 working days by written notice to the filer before the first
12 thirty day period expires.~~

~~13 (b) In the event that the Insurance Commissioner has entered
14 an order pursuant to paragraph (1) of clause (a), the Insurance
15 Commissioner may require the filing of supporting data as the
16 Insurance Commissioner deems necessary for the proper
17 functioning of the rate monitoring and regulating process. The
18 supporting data shall include:~~

~~19 (1) the experience and judgment of the filer, and to the
20 extent the filer wishes or the Insurance Commissioner requires,
21 the experience and judgment of other insurers or rate service
22 organizations;~~

~~23 (2) the filer's interpretation of any statistical data
24 relied upon;~~

~~25 (3) a description of the actuarial and statistical methods
26 employed in setting the rate; and~~

~~27 (4) any other relevant matters required by the Insurance
28 Commissioner.~~

~~29 (c) A rule adopted under this section shall expire not more
30 than one year after issue. The Insurance Commissioner may renew~~

1 ~~it for an additional one year period after a hearing and~~
2 ~~appropriate findings under this section.~~

3 ~~(d) Whenever a filing is not accompanied by the information~~
4 ~~as the Insurance Commissioner has required under clause (a), the~~
5 ~~Insurance Commissioner may so inform the insurer and the filing~~
6 ~~shall be deemed to be made when the information is furnished.~~

7 Section 713 711. (a) No rating organization shall provide <—
8 any service relating to the rates of any insurance subject to
9 this article, and no insurer shall utilize the service of such
10 organization for those purposes unless the organization has
11 obtained a license pursuant to this article.

12 (b) No rating organization shall refuse to supply services
13 for which it is licensed in this Commonwealth to any insurer
14 authorized to do business in this Commonwealth and offering to
15 pay the fair and usual compensation for the services.

16 Section 714 712. (a) As used in this section, the word <—
17 "insurer" includes two or more affiliated insurers:

18 (1) under common management; or

19 (2) under common controlling ownership or under other common
20 effective legal control and in fact engaged in joint or
21 cooperative underwriting, investment management, marketing,
22 servicing or administration of their business and affairs as
23 insurers.

24 (b) An insurer or rating organization may not:

25 (1) monopolize or attempt to monopolize, or combine or
26 conspire with any other person or persons, or monopolize the
27 business of insurance of any kind, subdivision, or class
28 thereof;

29 (2) agree with any other insurer or rating organization to
30 charge or adhere to any rate, although insurers and rating

1 organizations may continue to exchange statistical information;

2 (3) make any agreement with any other insurer, rating
3 organization or other person to unreasonably restrain trade;

4 (4) make any agreement with any other insurer, rating
5 organization, or other person where the effect of the agreement
6 may be substantially to lessen competition in the business of
7 insurance of any kind, subdivision, or class; or

8 (5) make any agreement with any other insurer or rating
9 organization to refuse to deal with any person in connection
10 with the sale of insurance.

11 (c) An insurer may not acquire or retain any capital stock
12 or assets of, or have any common management with, any other
13 insurer if such acquisition, retention, or common management
14 substantially lessens competition in the business of insurance
15 of any kind, subdivision, or class.

16 (d) A rating organization or member or subscriber thereof
17 may not interfere with the right of any insurer to make its
18 rates independently of that rating organization or to charge
19 rates different from the rates made by that rating organization.

20 (e) Except as required under section 707, a rating
21 organization may not have or adopt any rule or exact any
22 agreement, formulate or engage in any program which would
23 require any member, subscriber or other insurer to:

24 (1) utilize some or all of its services;

25 (2) adhere to its rates, rating plan, rating systems,
26 underwriting rules; or

27 (3) prevent any insurer from acting independently.

28 Section ~~715~~ 713. Any rate in violation of section ~~714~~ 712 <—
29 shall be disapproved by the Insurance Commissioner in accordance
30 with the procedures prescribed in section 710, and each violator

1 shall be subject to the penalties provided in section ~~721~~ 719. <—

2 Section ~~716~~ 714. The Insurance Commissioner may maintain an <—

3 action to enjoin any violation of section ~~714~~ 712. <—

4 Section ~~717~~ 715. Notwithstanding any other provision of this <—

5 article, upon written application of an insurer stating its

6 reasons therefor, accompanied by the written consent of the

7 insured or prospective insured, filed with and approved by the

8 Insurance Commissioner, a rate in excess of that provided by a

9 filing otherwise applicable may be used as to any specific risk.

10 Section ~~718~~ 716. (a) Each rating organization and every <—

11 insurer to which this article applies which makes its own rates

12 shall provide within this Commonwealth reasonable means whereby

13 any person aggrieved by the application of its rating system may

14 be heard in person or by the person's authorized representative

15 on the person's written request to review the manner in which

16 such rating system has been applied in connection with the

17 insurance afforded the aggrieved person.

18 (b) If the rating organization or insurer fails to grant or

19 reject the aggrieved person's request within thirty days after

20 it is made, the applicant may proceed in the same manner as if

21 the application had been rejected.

22 (c) Any party affected by the action of that rating

23 organization or insurer on the request may, within thirty days

24 after written notice of that action, make application, in

25 writing, for an appeal to the Insurance Commissioner, setting

26 forth the basis for the appeal and the grounds to be relied upon

27 by the applicant.

28 (d) The Insurance Commissioner shall review the application,

29 and if the Insurance Commissioner finds that the application is

30 made in good faith, and that it sets forth on its face grounds

1 which reasonably justify holding a hearing, the Insurance
2 Commissioner shall conduct a hearing held on not less than ten
3 days' written notice to the applicant and to the rating
4 organization or insurer. The Insurance Commissioner, after
5 hearing, shall affirm or reverse the action.

6 Section 719 717. (a) Cooperation among rating organizations <—
7 or among rating organizations and insurers in ratemaking or in
8 other matters within the scope of this article is authorized, if
9 the filings resulting from that cooperation are subject to all
10 the provisions of this article which are applicable to filings
11 generally.

12 (b) The Insurance Commissioner may review these cooperative
13 activities and practices, and if, after hearing, the Insurance
14 Commissioner finds that any activity or practice is unfair,
15 unreasonable, or otherwise inconsistent with this article, the
16 Insurance Commissioner may issue a written order specifying in
17 what respects that activity or practice is unfair, unreasonable,
18 or otherwise inconsistent with this article, and requiring the
19 discontinuance of that activity or practice.

20 Section 720 718. (a) A person or organization may not <—
21 wilfully withhold information from or knowingly give false or
22 misleading information which will affect the rates or premiums
23 chargeable under this article to:

- 24 (1) the Insurance Commissioner; or
25 (2) any rating organization or any insurer.

26 (b) A violation of this section shall subject the one who
27 commits that violation to the penalties provided in section 721 <—
28 719, and anyone who violates this section with intent to deceive
29 commits perjury, and is subject to prosecution therefor in a
30 court of competent jurisdiction.

<—

1 Section 721 719. (a) Any person, organization, or insurer
2 found by the Insurance Commissioner after notice and hearing to
3 be guilty of a violation of any provision of this article,
4 including a regulation of the Insurance Commissioner adopted
5 under this article may be ordered to pay a penalty of five
6 hundred dollars (\$500) for each violation. Upon finding such
7 violation to be wilful, the Insurance Commissioner may impose a
8 penalty of not more than one thousand dollars (\$1,000) for each
9 such violation in addition to any other penalty provided by law.
10 The Insurance Commissioner has the right to suspend or revoke or
11 refuse to renew the license of any person, organization, or
12 insurer for violation of any of the provisions of this article.

13 (b) The Insurance Commissioner may determine when a
14 suspension or revocation of license will become effective, and
15 the suspension or revocation shall remain in effect for the
16 period fixed by the Insurance Commissioner unless the Insurance
17 Commissioner modifies or rescinds the suspension or revocation,
18 or until the order upon which the suspension or revocation is
19 based is modified or reversed as the result of an appeal
20 therefrom.

21 (c) A fine may not be imposed nor a license suspended or
22 revoked by the Insurance Commissioner except upon written order
23 stating the Insurance Commissioner's findings, made after a
24 hearing held on not less than ten days' written notice to the
25 person, organization, or insurer specifying the alleged
26 violation.

27 Section 722 720. All decisions and findings of the Insurance
28 Commissioner under this article shall be subject to judicial
29 review in accordance with 2 Pa.C.S. (relating to administrative
30 law and procedure).

<—

1 Section 723 721. Insurers and the rating organization are
 2 not required to immediately refile rates implemented before the
 3 effective date of this article. Any member of a rating
 4 organization is authorized to continue to use all rates and
 5 deviations filed or approved for its use until the insurer makes
 6 its own filing to change its rates in accordance with this
 7 article, provided however that such filing shall be made no
 8 later than one hundred twenty days after the effective date of
 9 the first filing by the applicable rating organization pursuant
 10 to this article. The rating organization shall make its first
 11 filing for provision for claim payment pursuant to the
 12 provisions of this article on or before thirty days after the
 13 effective date of this article.

14 ARTICLE VIII

15 SELF-INSURANCE POOLING

16 Section 801. The following words and phrases when used in
 17 this article shall have the meanings given to them in this
 18 section unless the context clearly indicates otherwise:

19 "Actuarially appropriate loss reserves" shall mean those
 20 reserves needed to pay known claims for compensation and
 21 expenses associated therewith and claims for compensation
 22 incurred but not reported and expenses associated therewith.

23 "Administrator" means an individual, partnership or
 24 corporation engaged by a fund's plan committee to carry out the
 25 policies established by the plan committee and to provide day-
 26 to-day management of the fund.

27 "Commissioner" means the Insurance Commissioner.

28 "Compensation" includes compensation paid under this act or
 29 the Occupational Disease Act.

30 "Department" means the Department of Labor and Industry of

1 the Commonwealth.

2 "Employer" means an employer as defined in section 103 of
3 this act or as defined in section 103 of the Occupational
4 Disease Act, where applicable.

5 "Excess insurance" means insurance, purchased from an
6 insurance company appropriately approved or authorized or
7 licensed in this Commonwealth covering losses in excess of an
8 amount established between the group and the insurer up to the
9 limits of coverage set forth in the insurance contract on a
10 specific per occurrence or per accident or annual aggregate
11 basis.

12 "Fund" means a group self-insurance fund organized by
13 employers to pool workers' compensation liabilities and approved
14 by the department under the authority of this act. A fund shall
15 not be deemed to be an insurer or insurance company and shall
16 not be subject to the provisions of the insurance laws and
17 regulations, except as specifically otherwise provided herein.

18 "Homogeneous employer" means employers who have been assigned
19 to the same classification series for at least one year or are
20 engaged in the same or similar types of business, including
21 political subdivisions.

22 "Independent actuary" means a member in good standing of the
23 Casualty Actuarial Society and a member in good standing of the
24 American Academy of Actuaries who has been identified by the
25 Academy as meeting its qualification standards for signing
26 casualty loss reserve opinions. Said actuary must not be an
27 officer, director or employe of the fund or a member of the fund
28 for which he or she is providing reports, certifications or
29 services.

30 "Insolvent fund" means the inability of a fund to pay its

1 outstanding liabilities as they mature, as may be shown either
2 by an excess of its required reserves and other liabilities over
3 its assets or by not having sufficient assets to reinsure all of
4 its outstanding liabilities after paying all accrued claims owed
5 by it.

6 "Permit" means the document issued by the department to a
7 fund which authorizes the fund to operate as a fund under the
8 provisions of this act.

9 "Plan committee" means a committee composed of
10 representatives of each employer participating in a fund.

11 "Political subdivision" means any county, city, borough,
12 incorporated town, township, school district, vocational school
13 district and county institution district, municipal authority or
14 other entity created by a political subdivision pursuant to law.

15 "Security" means surety bonds, cash, negotiable securities of
16 the United States Government or the Commonwealth or other
17 negotiable securities, such as letters of credit, acceptable to
18 the Insurance Department which are posted by the fund to
19 guaranty the payment of compensation.

20 "Surplus" means that amount of moneys found in the trust to
21 be in excess of all fixed costs and incurred losses attributed
22 to the pool net any occurrence or aggregate excess insurance.

23 "Trust" means a written contract signed by the members of the
24 fund which separates the legal and equitable rights to the
25 moneys held by an independent trustee as a fiduciary for the
26 benefit of employes of employers participating in the fund.

27 Section 802. (a) Employers shall be permitted to pool their
28 liabilities under this act and the Occupational Disease Act and
29 their employers' liability through participation in a fund
30 approved by the department.

1 (b) A group of homogeneous employers may be approved by the
2 department to act as a fund if the proposed group:

3 (1) Includes five or more homogeneous employers.

4 (2) Is comprised of at least five members of which each have
5 been employers for at least three each years prior to the filing
6 of the group's application.

7 (3) Has been created in good faith for the purpose of
8 becoming a fund.

9 (4) Has, except for political subdivisions, an aggregate net
10 worth of the employers participating calculated according to
11 generally accepted accounting principles which equals or exceeds
12 one million dollars or such amount as may be adjusted and
13 promulgated annually by the department and published in the
14 Pennsylvania Bulletin to take effect January 1 of each year.

15 (5) Has a combined annual payroll of fund members multiplied
16 by the rate utilized by the State Workmen's Insurance Fund which
17 is equal to or greater than \$500,000 as adjusted annually by the
18 percentage increase in the Statewide average weekly wage or such
19 amount as may be adjusted and promulgated annually by the
20 department and published in the Pennsylvania Bulletin to take
21 effect January 1 of each year.

22 (6) Guarantees benefit levels equal to those required by
23 this act and the Occupational Disease Act.

24 (7) Demonstrates sufficient aggregate financial strength and
25 liquidity to assure that all obligations under this act and the
26 Occupational Disease Act will be met as required by that act and
27 proposes a plan for the prompt payment of such benefits.

28 Information documenting an individual member's financial
29 strength and liquidity shall be presented to the department upon
30 the department's request or with the application as required by

1 the department.

2 (8) Executes a trust agreement under which each member
3 agrees to jointly and severally assume and discharge the
4 liabilities arising under this act and the Occupational Disease
5 Act of each and every party to such agreement.

6 (9) Files with the department the proposed trust agreement.

7 (10) Provides for excess insurance with retention amounts in
8 such amount as the department deems acceptable on a single
9 accident (single occurrence) and aggregate excess basis. The
10 department may waive the requirement for one or both types of
11 excess insurance if convinced that the fund's financial strength
12 is sufficient to assure payment of its obligations under this
13 act and the Occupational Disease Act.

14 (11) Provides security in a form and amount prescribed by
15 the department.

16 (12) Provides letters of intent from prospective fund
17 members and evidence that each prospective member:

18 (i) Has never defaulted on compensation due under this act
19 or the Occupational Disease Act as an individual self-insurer.

20 (ii) Has not been delinquent in payment of or canceled for
21 nonpayment of workers' compensation premiums for a period of at
22 least two years prior to application.

23 (iii) Has not been found to have violated section 305 or
24 section 435 of this act or the Occupational Disease Act as an
25 individual self-insurer.

26 (iv) Has not been and is not in default on or owes money
27 assessed under this act or the Occupational Disease Act.

28 (13) Provides that the fund will initiate and maintain a
29 loss prevention and safety program of the nature and extent that
30 would be required of members under the provisions of this act,

1 the Occupational Disease Act or regulations promulgated
2 hereunder.

3 (14) Provides for assessment upon employers participating in
4 the fund to establish and maintain actuarially appropriate loss
5 reserves and a plan for payment of such assessments.

6 (15) Provides proof of competent personnel and ample
7 facilities within its own organization with respect to claims
8 administration, underwriting matters, loss prevention and safety
9 engineering or presents a contract with a reputable service
10 company to provide such assistance.

11 (16) Meets the other criteria established by this act or by
12 the department pursuant to regulations promulgated under this
13 act or the Occupational Disease Act.

14 (c) Each application for approval of a fund shall be
15 accompanied by a nonrefundable fee of one thousand dollars,
16 payable to the department which shall be deposited in the
17 Workmen's Compensation Administration Fund.

18 Section 803. (a) (1) The department shall, in accordance
19 with section 802, review, approve or disapprove fund
20 applications under such rules and requirements relating to
21 applications under section 305 of this act and the Occupational
22 Disease Act as may be applicable and such rules and regulations
23 as are specifically adopted with regard to fund applications.

24 (2) During the pendency of the processing of any fund
25 application, the group of employers shall not operate as a fund.

26 (b) Permits shall identify an annual reporting period for
27 the fund as established by the department.

28 Section 804. All permits issued under this article shall
29 remain in effect unless terminated at the request of the fund or
30 revoked by the department.

1 Section 805. (a) If at any time the fund is found to be
2 insolvent, fails to pay any required assessments under this act
3 or the Occupational Disease Act, or fails to comply with any
4 provision of this act or the Occupational Disease Act or with
5 any rules promulgated thereunder, the department may revoke its
6 permit after notice and opportunity for a hearing.

7 (b) In the case of revocation of a permit, the department
8 may require the fund to insure or reinsure all incurred
9 liability with an authorized insurer. All fund members shall
10 immediately obtain coverage required by this act.

11 Section 806. (a) Members of said fund shall pay a minimum
12 of twenty-five per centum of their annual assessment into the
13 fund on or before the inception of the fund. The balance of the
14 annual assessments shall be paid to the fund on a monthly,
15 quarterly or semiannual basis as required by the fund's bylaws
16 and approved by the department.

17 (b) Each member's annual assessment to the fund shall equal
18 such member's annual payroll times the applicable rates utilized
19 by the State Workmen's Insurance Fund minus the premium discount
20 specified in Schedule Y as approved by the commissioner.
21 Dividends may be returned to members in accordance with section
22 809.

23 (c) Nothing contained in this section shall preclude the
24 assessment and payment of supplemental assessments as provided
25 in section 810.

26 Section 807. After the final permit approval date of the
27 fund, prospective new members of the fund shall submit an
28 application for membership to the fund's plan committee or
29 administrator in a form approved by the department. This
30 application shall include an agreement of joint and several

1 liability as required in section 803. The administrator or plan
2 committee may approve the application for membership pursuant to
3 the bylaws of the fund. The application approved by the fund
4 shall be filed with the department. The fund shall retain the
5 authority to reject any applicant.

6 Section 808. (a) Individual members may elect to terminate
7 their participation in a fund or be subject to cancellation by
8 the fund pursuant to the bylaws of the fund for nonpayment of
9 premium or other violations. Any member withdrawing from a fund
10 or member terminated by the fund for nonpayment of assessments
11 shall remain fully obligated for claims incurred during the
12 period of its membership in accord with fund bylaws, including,
13 but not limited to, amounts owed as annual or supplemental
14 assessments. Notice of termination of any participant shall be
15 filed with the fund. The fund shall attach any such notices of
16 termination to the renewal application filed with the
17 department.

18 (b) The fund shall notify the department immediately if
19 termination of a member causes the fund to fail to meet the
20 requirements of clause (b) of section 802. Within fifteen days
21 of the notice of withdrawal or decision to expel, the fund shall
22 advise the department of its plan to bring the fund into
23 compliance with clause (b) of section 802. If the plan does not
24 bring the fund into compliance with the requirements, the
25 department shall immediately review and revoke its permit.

26 (c) The department shall not grant the request of any fund
27 to terminate its permit unless the fund has insured or reinsured
28 all incurred workers' compensation obligations with an
29 authorized insurer under an agreement filed with and approved in
30 writing by the department. These obligations shall include both

1 known claims and expenses associated therewith and claims
2 incurred but not reported and expenses associated therewith.
3 These same requirements shall apply where the department revokes
4 a permit.

5 Section 809. Any fund may return to its members dividends
6 based upon the recommendation of an independent actuary.
7 Dividends shall not be returned if the payment of such dividends
8 would impair the fund's ability to meet its obligations under
9 this act or the Occupational Disease Act, nor shall dividends be
10 returned prior to the beginning of the thirteenth month
11 following the expiration of the preceding annual reporting
12 period. The initial dividend payment for any annual reporting
13 period shall not exceed thirty per centum of the surplus
14 available for the applicable annual reporting period. The fund
15 may, however, seek annual approval for payment of dividends from
16 the surplus remaining from any annual reporting period which has
17 been completed for at least twenty-five months or longer and may
18 include such dividend payments with initial dividend payments
19 from the subsequent annual reporting period.

20 Section 810. (a) If the assets of a fund are at any time
21 insufficient to enable the fund to discharge its legal
22 liabilities and other obligations and to maintain the
23 actuarially appropriate loss reserves required of it under
24 paragraph (14) of clause (b) of section 802, the fund shall
25 forthwith make up the deficiency or levy an assessment upon the
26 fund members for the amount needed to make up the deficiency.

27 (b) In the event of a deficiency in any annual reporting
28 period, such deficiency shall be made up immediately, either
29 from surplus from a year other than the current year, assessment
30 of the fund members if ordered by the fund or such alternate

1 method as the department may approve or direct.

2 (c) If the fund fails to assess its members or to otherwise
3 make up such deficit within thirty days the department shall
4 order it to do so.

5 (d) If the fund fails to make the required assessment of its
6 members within thirty days after the department orders it to do
7 so, or if the deficiency is not fully made up within sixty days
8 after the date on which such assessment is made or within such
9 longer period of time as may be specified by the department, the
10 fund shall be deemed to be insolvent.

11 (e) The department shall proceed against an insolvent fund
12 in the same manner as the department would proceed against an
13 insurer under Article IX.

14 (f) In addition, in the event of the liquidation or default
15 of a fund, the department may levy an assessment upon the fund
16 members for such an amount as the department determines to be
17 necessary to discharge all liabilities of the fund including the
18 reasonable cost of liquidation and shall deposit such
19 assessments into the Self-insurance Guaranty Fund for
20 distribution and payment by the Guaranty Fund as provided for in
21 Article IX.

22 Section 811. The annual assessment of each fund member shall
23 be based upon the annual payroll of fund members multiplied by
24 the rates as utilized by the State Workmen's Insurance Fund for
25 members minus any premium discounts. A fund may deviate from
26 these rates and establish its own rates with the approval of an
27 independent actuary and the department.

28 Section 812. Each fund shall request classifications for its
29 participants from the bureau or bureaus approved by the
30 commissioner and shall utilize those classifications making

1 assessments based upon rates as utilized by the State Workmen's
2 Insurance Fund for such classification except as provided in
3 section 811. The fund shall pay the appropriate bureau a
4 reasonable charge, approved by the department, for this service.
5 The fund may appeal classifications as provided in the
6 applicable sections of the Insurance Company Law of 1921, for
7 other employers.

8 Section 813. Each fund may invest any surplus moneys not
9 needed for current obligations in United States Government
10 obligations, United States Treasury Notes, investment share
11 accounts in any savings and loan association whose deposits are
12 insured by a Federal agency and certificates of deposit issued
13 by a duly chartered commercial bank. Deposits in savings and
14 loan associations and commercial banks shall be limited to
15 institutions in this Commonwealth and shall not exceed the
16 federally insured amount in any one account. Investments may
17 also be made in any permitted investments of capital or surplus
18 of stock casualty insurance companies set forth in section 602
19 or 603 of the Insurance Company Law of 1921, as may be
20 authorized by regulation approved by the commissioner.

21 Section 814. (a) Funds approved under this article shall
22 purchase excess insurance by reason of any single accident or
23 any single occurrence as provided in section 653 of the
24 Insurance Company Law of 1921, and aggregate excess insurance.
25 The department may waive the requirement for either single
26 accident (single occurrence) or aggregate excess insurance or
27 the requirement for both single accident (single occurrence) and
28 aggregate excess insurance.

29 (b) A policy of insurance by an insurance carrier may
30 include provisions for aggregate excess insurance in addition to

1 the single accident (single occurrence) excess insurance which
2 is authorized under section 653 of the Insurance Company Law of
3 1921.

4 Section 815. (a) A report shall be prepared by each fund
5 for each annual reporting period and shall be filed with the
6 department and made available to each fund member.

7 (b) The information contained in the annual report shall
8 include, for each member of the fund and the fund itself:

9 (1) Summary loss reports.

10 (2) An annual statement of the financial condition of the
11 fund prepared by a certified public accountant and performed in
12 accordance with generally accepted accounting principles.

13 (3) Reports of outstanding liabilities showing the number of
14 claims, amounts paid to date and current reserves as certified
15 by an independent actuary.

16 (4) Such other information as required by regulation of the
17 department as may be applicable to applicants for self-insurance
18 under section 305 of this act and the Occupational Disease Act
19 or regulations in regard to fund applications.

20 (c) The annual report shall be accompanied by a one thousand
21 dollar evaluation fee.

22 (d) The department may, at any time, examine the affairs,
23 transactions, accounts, records and assets of a fund and the
24 fund shall make all such items as are needed for such
25 examination available to the department. The department shall
26 bill the fund for the reasonable costs associated with such
27 examinations.

28 (e) If at any time there is a change in the fund, during an
29 annual reporting period other than as set forth in section 808,
30 that affects the ability of the fund to comply with the

1 requirements of clause (b) of section 802, the fund shall notify
2 the department of the change within thirty days after such
3 change.

4 Section 816. Each fund shall be assessed annually by the
5 department in a like manner and amount as other insurers or
6 self-insurers are now or hereafter assessed under this act and
7 the Occupational Disease Act and shall pay such assessment in
8 accordance with this act and the Occupational Disease Act. All
9 contributions received in accordance with this section shall be
10 deposited into the appropriate fund as required by the
11 applicable provision of law.

12 Section 817. Any group of five homogeneous employers who
13 will provide to the fund an annual volume of premium of at least
14 five hundred thousand dollars (\$500,000) may become subscribers
15 as a group to the State Workmen's Insurance Fund for the purpose
16 of insuring therein their liability to those of their employes
17 and any group of employers who shall desire to become ←
18 subscribers as a group to the said fund for the purpose of
19 insuring therein their liability for all sums. Such group shall
20 become legally obligated to pay any employe damages because of
21 bodily injury by accident or disease, including death at any
22 time resulting therefrom, sustained by such employe arising out
23 of and in the course of his employment. Such group shall make a
24 written application for subscription for group insurance to the
25 said board. Such application shall designate the name of the
26 group subscriber and shall include such information as
27 determined by the board as will allow the board to identify the
28 employers and to adequately assess risks and premiums to be
29 charged to employers to be insured by the fund under the group
30 subscription.

1 Section 818. The department is authorized to promulgate
2 rules and regulations for the administration and enforcement of
3 this article.

4 ARTICLE IX

5 SELF-INSURANCE GUARANTY FUND

6 Section 901. The following words and phrases when used in
7 this article shall have the meanings given to them in the
8 section unless the context clearly indicates otherwise:

9 "Compensation" means benefits paid pursuant to sections 306
10 and 307.

11 "Employer" means a self-insured employer or the employer as
12 defined in this act.

13 "Guaranty Fund" or "fund" means the Self-Insurance Guaranty
14 Fund established in section 902 for injuries and exposures
15 occurring on or after July 1, 1992.

16 "Security" means surety bonds, cash, negotiable securities of
17 the United States Government or the Commonwealth or other
18 negotiable securities, such as letter of credit, acceptable to
19 the Insurance Department which are posted by the fund to
20 guaranty the payment of workers' compensation benefits.

21 "Self-insurer" means an employer exempted under section 305
22 or a group self-insurance fund permitted to operate under
23 Article VIII.

24 Section 902. (a) (1) There is hereby established a special
25 fund to be known as the Self-Insurance Guaranty Fund.

26 (2) The fund shall be maintained as two distinct custodial
27 accounts in the State Treasury as separate and distinct accounts
28 subject to the procedures and provisions set forth in this
29 article.

30 (b) The moneys in each custodial account shall consist of

1 security and assessments, as defined in section 907 and interest
2 accumulated thereon.

3 (c) The administrator shall establish and maintain the
4 following two distinct and separate custodial accounts. The
5 moneys and other assets in each account are not to be commingled
6 or used to pay claims from the other account.

7 (1) Custodial account for self-insured employers for the
8 exclusive benefit of claims arising from defaulting individual
9 self-insured employers.

10 (2) Custodial account for self-insurance pooling as defined
11 under section 801 for the exclusive benefit of claims arising
12 from defaulting members of pooling arrangements.

13 (d) The secretary shall be the administrator of the fund and
14 shall have the power to collect, dispense and disperse money
15 from the fund.

16 Section 903. The fund shall be maintained to make payments
17 to any claimant or his dependents upon the default of the self-
18 insurer liable to pay compensation due under this act and the
19 Occupational Disease Act or costs associated therewith and shall
20 be maintained in an amount sufficient to pay such compensation
21 and costs or reasonably anticipated to be needed by virtue of
22 default by self-insurers.

23 Section 904. (a) When a self-insurer fails to pay
24 compensation when due, the department shall determine the
25 reasons for such failure.

26 (b) If the department determines that the failure to pay
27 compensation is due to the self-insurer's financial inability to
28 pay compensation, the department shall notify the self-insurer
29 of same and direct compensation to be paid within fifteen days
30 of such notice.

1 (c) If the self-insurer fails to pay the compensation as
2 directed and within the time set forth in this section, the
3 department shall declare the self-insurer in default.

4 (d) Whenever the department determines that a default has
5 occurred it shall:

6 (1) Investigate the circumstances surrounding the default,
7 the amount of security available and the ability of the self-
8 insured to cure the default.

9 (2) Determine whether the liabilities of the self-insurer
10 for compensation exceed or are less than the security:

11 (i) If the liabilities are less than the security, the
12 department shall demand the custodian of the security utilize
13 the security to cure the default and the department shall
14 monitor the situation to insure that compensation is paid as due
15 under this act or the Occupational Disease Act.

16 (ii) If at any time the liabilities exceed or can reasonably
17 be expected to exceed the security, in the opinion of the
18 department, the department may order payment of the security
19 into the fund's appropriate custodial account, and shall order
20 payment from the Guaranty Fund, as appropriate, to cure the
21 default and insure that compensation is paid as due under this
22 act or the Occupational Disease Act.

23 Section 905. (a) When payments are ordered from the
24 Guaranty Fund's appropriate custodial account, the fund assumes
25 the rights and obligations of the self-insurer under this act or
26 the Occupational Disease Act with regard to the payment of
27 compensation and shall have and may exercise the rights set
28 forth in this section.

29 (b) The Guaranty Fund shall have the right to:

30 (1) Institute and prosecute legal action against any self-

1 insurer and each and every member of a fund, jointly and
2 severally, on behalf of the employees of the self-insured
3 employer or fund members' employees and their dependents to
4 require the payment of compensation and the performance of any
5 other obligations of the self-insurer under this act or the
6 Occupational Disease Act.

7 (2) Appear and represent the Guaranty Fund in any
8 proceedings in bankruptcy involving the self-insurer on whose
9 behalf payments were made, including the ability to appear and
10 move to lift any stay orders affecting payment of compensation.

11 (3) Obtain, in any manner or by the use of any process or
12 procedure, including, but not limited to, the commencement and
13 prosecution of legal action, reimbursement from a self-insurer
14 and its successors, assigns and estate all moneys paid on
15 account of the self-insurer's obligation assumed by the fund,
16 including, but not limited to, reimbursement for all
17 compensation paid as well as reasonable administrative and legal
18 costs associated with such payment.

19 (4) Purchase reinsurance and take any and all other action
20 which effects the purpose of the Guaranty Fund.

21 Section 906. (a) (1) Security or funds from security
22 demanded and paid to the department under section 904 shall be
23 deposited into the Guaranty Fund.

24 (2) These funds and interest thereon shall be segregated in
25 individual custodial accounts within the Guaranty Fund by the
26 custodian and maintained solely for the payment of compensation
27 or costs associated therewith upon order of the department to
28 the employes of the defaulting self-insurer providing the
29 security from the appropriate custodial account.

30 (3) If there are funds from security or interest thereon

1 remaining in the individual account after all outstanding
2 obligations of the insolvent self-insurer have been satisfied
3 and the costs of administration and defense have been paid, such
4 amount as remains shall be returned upon order of the department
5 from the Guaranty Fund individual account to the self-insurer.

6 (b) Assessments made under section 907 and interest thereon
7 shall be deposited into the Guaranty Fund's appropriate
8 custodial account.

9 Section 907. (a) On a date to be determined by the
10 department following the effective date of this article,
11 employers who are self-insurers as of that effective date shall
12 pay an initial assessment of one-half per centum of the
13 compensation paid by each self-insurer in the year preceding the
14 assessment. Self-insurers who, prior to such effective date,
15 were not self-insurers, shall pay an assessment based on one-
16 half per centum of their modified manual premium for the twelve
17 months immediately prior to becoming self-insurers.

18 (b) (1) The department may, in addition to the initial
19 assessment, from time to time, assess each self-insurer a pro
20 rata share of the amounts needed for the fund to carry out the
21 requirements of this article.

22 (2) Such assessments shall be based on the ratio that each
23 private self-insurer's payments of compensation bears to the
24 total compensation paid by all self-insurers in the year
25 preceding the year of assessment.

26 (3) In no event shall a self-insurer be assessed in any one
27 calendar year more than one per centum of the compensation paid
28 by that self-insurer during the previous calendar year.

29 (c) A self-insurer which ceases to be a self-insurer shall
30 be liable for any and all assessments made pursuant to this

1 section during the period following the date its authority to
2 self-insure is withdrawn, revoked or surrendered until such time
3 as it has discharged all obligations to pay compensation which
4 arose during the period of time said former self-insurer was
5 self-insured. Assessments of such a former self-insurer shall be
6 based on the compensation paid by the former self-insurer during
7 the preceding calendar year on claims that arose during the
8 period of time said former self-insurer was self-insured.

9 Section 908. The department may promulgate rules and
10 regulations for the administration and enforcement of this
11 article.

12 ARTICLE X

13 HEALTH AND SAFETY

14 Section 1001. (a) All workers' compensation insurance <—
15 carriers shall provide safety consultations to each of their
16 policyholders requesting such consultations.

17 (b) This article shall not diminish or replace the
18 employer's responsibility to provide employes a safe place to
19 work.

20 (c) Neither the insurance carrier nor any of its agents or
21 employes shall incur any liability for illness or injury that
22 may result from any of their activities, including any breaches
23 of duty or failure to act, as a result of this section.

24 Section 1002. (a) A safety consultation shall mean a
25 service rendered or being rendered by an insurance carrier to
26 advise and assist a policyholder, management or an established
27 safety consultant of an employer in the identification,
28 evaluation and control of existing and potential accident and
29 occupational health problems. This service may be delivered in
30 person, by mail or by telephone, commensurate with the nature of

1 ~~the risk.~~

2 ~~(b) Safety consultive services may include the following:~~

3 ~~(1) On site surveys and subsequent evaluation of exposures~~
4 ~~relative to employes, material, equipment, processes and~~
5 ~~facilities.~~

6 ~~(2) Recommendations to policyholders with reference to the~~
7 ~~control of exposures to occupational accident, injury and/or~~
8 ~~illness.~~

9 ~~(3) Training aids, programs and materials made available~~
10 ~~when these assist in the control of exposures.~~

11 ~~(4) Consultations and advice relative to risk, exposures and~~
12 ~~experience in the policyholder's business.~~

13 ~~(5) Accident analysis to include a review of reported~~
14 ~~accidents to determine causes and trends.~~

15 ~~(6) Industrial hygiene service for the recognition and~~
16 ~~evaluation of chemical, physical, biological and ergonomic~~
17 ~~exposures.~~

18 ~~Section 1003. (a) (1) A safety consultant shall be a~~
19 ~~graduate of a four year accredited degree program, but~~
20 ~~experience in safety engineering or occupational health may be~~
21 ~~substituted on a year for year basis for the required college~~
22 ~~training.~~

23 ~~(2) Persons who do not meet the qualifications set forth in~~
24 ~~paragraph (1) may perform safety consultative services when~~
25 ~~working under the supervision of a qualified safety consultant.~~

26 ~~(b) A consultant shall stay current with the advances in the~~
27 ~~occupational safety and health field and in government~~
28 ~~regulations, and is encouraged to attend, either in house~~
29 ~~training and education programs or outside conferences, seminars~~
30 ~~or education courses.~~

1 ~~Section 1004. (a) The insurance carrier shall notify each~~
2 ~~policyholder or employer of the type of safety consultive~~
3 ~~services available and the address of the location where these~~
4 ~~services can be requested. The notice shall also remind~~
5 ~~management of their responsibility under applicable Federal and~~
6 ~~State law to assure safe and healthful working conditions for~~
7 ~~all employes.~~

8 ~~(b) The specific services to be utilized shall be within the~~
9 ~~discretion of the insurer, but shall include consideration of~~
10 ~~hazard, loss experience and size of policyholder operations.~~

11 ~~Section 1005. The insurer shall establish a system of~~
12 ~~priorities to use in responding to requests for work site~~
13 ~~consultive services, giving first priority to employers that~~
14 ~~have an unreasonably high actual or potential loss experience.~~
15 ~~Within thirty days of receipt of a request, contact should be~~
16 ~~made with management to arrange for provision of needed~~
17 ~~services.~~

18 ~~Section 1006. (a) Following completion of a requested on-~~
19 ~~site consultive visit, a report should be furnished to the~~
20 ~~policyholder or employer. The report should indicate the purpose~~
21 ~~of the visit, a summary of the findings, recommendations~~
22 ~~developed and reaction of management.~~

23 ~~(b) A record of all requests for consultive service and~~
24 ~~action taken in response thereto should be maintained at the~~
25 ~~carrier office for a minimum of eighteen months.~~

26 ~~Section 1007. (a) An insurance carrier shall have available~~
27 ~~adequate facilities and field representatives to provide safety~~
28 ~~consultive services. The number of consultants should be~~
29 ~~commensurate to the hazards, loss experience and size of the~~
30 ~~policyholder's business.~~

1 ~~(b) Private consultants may be used by insurance carriers~~
2 ~~who do not have in their employ consultants to provide the~~
3 ~~required safety consultive services. The insurance carriers~~
4 ~~shall duly inform their policyholders of available services in~~
5 ~~the same manner as if the consultants are in their employ. All~~
6 ~~rules for consultant qualifications, available services,~~
7 ~~response and reporting shall apply.~~

8 ~~Section 1008. The insurer shall submit to the department the~~
9 ~~following:~~

10 ~~(1) The name of insurer.~~

11 ~~(2) The business address and telephone number in the state~~
12 ~~where consultive service may be required.~~

13 ~~(3) A description of the consultive services to be~~
14 ~~available.~~

15 ~~(4) The method to be used to deliver the consultive service.~~

16 ~~(5) The qualifications of the consultive staff including~~
17 ~~staff training programs.~~

18 ~~(6) The specialized technical and professional services that~~
19 ~~will be available for use in the consultive program.~~

20 ~~(7) The name and business address of any private consultants~~
21 ~~or independent contractors who will provide the required service~~
22 ~~for the insurer.~~

23 ~~(8) The method of the timetable for notification of~~
24 ~~available services to policyholders.~~

25 ~~ARTICLE XI~~

26 ~~INSURANCE FRAUD~~

27 ~~Section 1101. The following words and phrases when used in~~
28 ~~this article shall have the meanings given to them in this~~
29 ~~section unless the context clearly indicates otherwise:~~

30 ~~"Attorney" means an individual admitted by the Pennsylvania~~

1 ~~Supreme Court to practice law in this Commonwealth.~~

2 ~~"Health care professional" means a person licensed or~~
3 ~~certified pursuant to law to perform health care activities.~~

4 ~~"Insurance claim" means a claim for payment or other benefits~~
5 ~~pursuant to an insurance policy or agreement for coverage of~~
6 ~~health or hospital services.~~

7 ~~"Insurance policy" means a document setting forth the terms~~
8 ~~and conditions of a contract of insurance or agreement for the~~
9 ~~coverage of health or hospital services.~~

10 ~~"Insurer" means a company, association or exchange defined by~~
11 ~~section 101 of the Insurance Company Law of 1921; an~~
12 ~~unincorporated association of underwriting members; a hospital~~
13 ~~plan corporation; a professional health services plan~~
14 ~~corporation; a health maintenance organization; a fraternal~~
15 ~~benefit society; and a self insured health care entity under the~~
16 ~~act of October 15, 1975 (P.L.390, No.111), known as the "Health~~
17 ~~Care Services Malpractice Act."~~

18 ~~"Person" means an individual, corporation, partnership,~~
19 ~~association, joint stock company, trust or unincorporated~~
20 ~~organization. The term includes any individual, corporation,~~
21 ~~association, partnership, reciprocal exchange, interinsurer,~~
22 ~~Lloyd's insurer, fraternal benefit society, beneficial~~
23 ~~association and any other legal entity engaged or proposing to~~
24 ~~become engaged, either directly or indirectly, in the business~~
25 ~~of insurance, including agents, brokers, adjusters and health~~
26 ~~care plans as defined in 40 Pa.C.S. Chs. 61 (relating to~~
27 ~~hospital plan corporations), 63 (relating to professional health~~
28 ~~services plan corporations), 65 (relating to fraternal benefit~~
29 ~~societies) and 67 (relating to beneficial societies) and the act~~
30 ~~of December 29, 1972 (P.L.1701, No.364), known as the "Health~~

1 ~~Maintenance Organization Act." For purposes of this article,~~
2 ~~health care plans, fraternal benefit societies and beneficial~~
3 ~~societies shall be deemed to be engaged in the business of~~
4 ~~insurance.~~

5 ~~"Statement" means any oral or written presentation or other~~
6 ~~evidence of loss, injury or expense, including, but not limited~~
7 ~~to, any notice, statement, proof of loss, bill of lading,~~
8 ~~receipt for payment, invoice, account, estimate of property~~
9 ~~damages, bill for services, diagnosis, prescription, hospital or~~
10 ~~doctor records, X ray, test result or computer generated~~
11 ~~documents.~~

12 ~~Section 1102. A person commits an offense if the person does~~
13 ~~any of the following:~~

14 ~~(1) Knowingly and with the intent to defraud a State or~~
15 ~~local government agency files, presents or causes to be filed~~
16 ~~with or presented to the government agency a document that~~
17 ~~contains false, incomplete or misleading information concerning~~
18 ~~any fact or thing material to the agency's determination in~~
19 ~~approving or disapproving a workers' compensation insurance rate~~
20 ~~filing, a workers' compensation transaction or other workers'~~
21 ~~compensation insurance action which is required or filed in~~
22 ~~response to an agency's request.~~

23 ~~(2) Knowingly and with the intent to defraud any insurer,~~
24 ~~presents or causes to be presented to any insurer any statement~~
25 ~~forming a part of, or in support of, a workers' compensation~~
26 ~~insurance claim that contains any false, incomplete or~~
27 ~~misleading information concerning any fact or thing material to~~
28 ~~the workers' compensation insurance claim.~~

29 ~~(3) Knowingly and with the intent to defraud any insurer,~~
30 ~~assists, abets, solicits or conspires with another to prepare or~~

1 ~~make any statement that is intended to be presented to any~~
2 ~~insurer in connection with, or in support of, a workers'~~
3 ~~compensation insurance claim that contains any false, incomplete~~
4 ~~or misleading information concerning any fact or thing material~~
5 ~~to the workers' compensation insurance claim.~~

6 ~~(4) Engages in unlicensed agent or broker activity as~~
7 ~~defined by the act of May 17, 1921 (P.L.789, No.285), known as~~
8 ~~"The Insurance Department Act of one thousand nine hundred and~~
9 ~~twenty one," knowingly and with the intent to defraud an insurer~~
10 ~~or the public.~~

11 ~~(5) Knowingly benefits, directly or indirectly, from the~~
12 ~~proceeds derived from a violation of this section due to the~~
13 ~~assistance, conspiracy or urging of any person.~~

14 ~~(6) Is the owner, administrator or employe of any health~~
15 ~~care facility and knowingly allows the use of such facility by~~
16 ~~any person in furtherance of a scheme or conspiracy to violate~~
17 ~~any of the provisions of this article.~~

18 ~~(7) Knowingly assists, abets, solicits or conspires with any~~
19 ~~person who engages in an unlawful act under this section.~~

20 ~~(8) Makes or causes to be made any knowingly false or~~
21 ~~fraudulent statement with regard to entitlement to benefits with~~
22 ~~the intent to discourage an injured worker from claiming~~
23 ~~benefits or pursuing a claim.~~

24 ~~Section 1103. (a) A lawyer may not compensate or give~~
25 ~~anything of value to a nonlawyer to recommend or secure~~
26 ~~employment by a client or as a reward for having made a~~
27 ~~recommendation resulting in employment by a client; except that~~
28 ~~the lawyer may pay:~~

29 ~~(1) the reasonable cost of advertising or written~~
30 ~~communication as permitted by the rules of professional conduct;~~

1 ~~or~~

2 ~~(2) the usual charges of a not for profit lawyer referral~~
3 ~~service or other legal service organization.~~

4 ~~Upon a conviction of an offense under this clause, the~~
5 ~~prosecutor shall certify the conviction to the disciplinary~~
6 ~~board of the Supreme Court for appropriate action, including~~
7 ~~suspension or disbarment.~~

8 ~~(b) With respect to an insurance benefit or claim, a health~~
9 ~~care provider may not compensate or give anything of value to a~~
10 ~~person to recommend or secure the provider's service to or~~
11 ~~employment by a patient or as a reward for having made a~~
12 ~~recommendation resulting in the provider's service to or~~
13 ~~employment by a patient; except that the provider may pay the~~
14 ~~reasonable cost of advertising or written communication as~~
15 ~~permitted by rules of professional conduct. Upon a conviction of~~
16 ~~an offense under this clause, the prosecutor shall certify the~~
17 ~~conviction to the appropriate licensing board in the Department~~
18 ~~of State which shall suspend or revoke the health care~~
19 ~~provider's license.~~

20 ~~(c) A lawyer or health care provider may not compensate or~~
21 ~~give anything of value to a person for providing names,~~
22 ~~addresses, telephone numbers or other identifying information of~~
23 ~~individuals seeking or receiving medical or rehabilitative care~~
24 ~~for accident, sickness or disease, except to the extent a~~
25 ~~referral and receipt of compensation is permitted under~~
26 ~~applicable professional rules of conduct. A person may not~~
27 ~~knowingly transmit such referral information to a lawyer or~~
28 ~~health care professional for the purpose of receiving~~
29 ~~compensation or anything of value. Attempts to circumvent this~~
30 ~~clause through use of any other person, including, but not~~

1 ~~limited to, employes, agents or servants, shall also be~~
2 ~~prohibited.~~

3 ~~Section 1104. If an insurance claim is made by means of~~
4 ~~computer billing tapes or other electronic means, it shall be a~~
5 ~~rebuttable presumption that the person knowingly made the claim~~
6 ~~if the person has advised the insurer in writing that claims~~
7 ~~will be submitted by use of computer billing tapes or other~~
8 ~~electronic means.~~

9 ~~Section 1105. (a) A person who violates section 1102 shall~~
10 ~~be guilty of a felony of the third degree, and, upon conviction~~
11 ~~thereof, shall be sentenced to pay a fine of not more than fifty~~
12 ~~thousand dollars or double the value of the fraud, or to undergo~~
13 ~~imprisonment for a period of not more than seven years, or both.~~

14 ~~(b) A person who violates section 1103 shall be guilty of a~~
15 ~~misdemeanor of the first degree, and, upon conviction thereof,~~
16 ~~shall be sentenced to pay a fine of not more than twenty~~
17 ~~thousand dollars (\$20,000) or double the amount of the fraud, or~~
18 ~~both.~~

19 ~~(c) A health care professional or lawyer who is guilty of an~~
20 ~~offense under section 1102 while acting on behalf of others~~
21 ~~shall be subject to disciplinary action, including suspension or~~
22 ~~revocation of a license or certificate or recommendation for~~
23 ~~disbarment to the Supreme Court.~~

24 ~~Section 1106. The court may, in addition to any other~~
25 ~~sentence authorized by law, sentence a person convicted of~~
26 ~~violating this section to make restitution under 18 Pa.C.S. §~~
27 ~~1106 (relating to restitution for injuries to person or~~
28 ~~property).~~

29 ~~Section 1107. An insurer and any agent, servant or employe~~
30 ~~thereof acting in the course and scope of his employment, and~~

1 ~~the division, acting pursuant to section 1206, shall be immune~~
2 ~~from civil or criminal liability arising from the supply or~~
3 ~~release of written or oral information to any entity duly~~
4 ~~authorized to receive such information by Federal or State law,~~
5 ~~or by Insurance Department regulations, only if the information~~
6 ~~is supplied to the agency in connection with an allegation of~~
7 ~~fraudulent conduct on the part of any person relating to a~~
8 ~~violation of this article.~~

9 ~~Section 1108. Nothing in this article shall be construed to~~
10 ~~prohibit any conduct by an attorney or law firm which is~~
11 ~~expressly permitted by the Rules of Professional Conduct of the~~
12 ~~Supreme Court or prohibit any conduct by a health care~~
13 ~~professional which is expressly permitted by law or regulation.~~

14 ~~Section 1109. (a) The district attorneys of the several~~
15 ~~counties shall have authority to investigate and to institute~~
16 ~~criminal proceedings for any violation of this article.~~

17 ~~(b) In addition to the authority conferred upon the Attorney~~
18 ~~General by the act of October 15, 1980 (P.L.950, No.164), known~~
19 ~~as the "Commonwealth Attorneys Act," the Attorney General shall~~
20 ~~have the authority to investigate and to institute criminal~~
21 ~~proceedings for any violation of this section or any series of~~
22 ~~such violations involving more than one county of this~~
23 ~~Commonwealth or involving any county of this Commonwealth and~~
24 ~~another state. No person charged with a violation of this~~
25 ~~article by the Attorney General shall have standing to challenge~~
26 ~~the authority of the Attorney General to investigate or~~
27 ~~prosecute the case, and, if any such challenge is made, the~~
28 ~~challenge shall be dismissed and no relief shall be available in~~
29 ~~the courts of the Commonwealth to the person making the~~
30 ~~challenge.~~

1 ~~Section 1110. Nothing contained in this article shall be~~
2 ~~construed to limit the regulatory or investigative authority of~~
3 ~~any department or agency of the Commonwealth whose functions~~
4 ~~might relate to persons, enterprises or matters falling within~~
5 ~~the scope of this article.~~

6 SECTION 1001. (A) NOTWITHSTANDING ANY OTHER PROVISION OF ←
7 LAW, AN INSURER DESIRING TO WRITE WORKERS' COMPENSATION
8 INSURANCE IN THIS COMMONWEALTH SHALL MAINTAIN OR PROVIDE
9 ACCIDENT PREVENTION FACILITIES AS A PREREQUISITE FOR A LICENSE
10 TO WRITE SUCH INSURANCE. PROOF OF COMPLIANCE WITH THIS SECTION
11 SHALL BE PROVIDED TO THE INSURANCE COMMISSIONER. SUCH FACILITIES
12 SHALL BE ADEQUATE TO FURNISH ACCIDENT PREVENTION REQUIRED BY THE
13 NATURE OF ITS BUSINESS OR ITS POLICYHOLDERS' OPERATIONS AND
14 SHALL INCLUDE SURVEYS, RECOMMENDATIONS, TRAINING PROGRAMS,
15 CONSULTATIONS, ANALYSES OF ACCIDENT CAUSES, INDUSTRIAL HYGIENE
16 AND INDUSTRIAL HEALTH SERVICES TO IMPLEMENT THE PROGRAM OF
17 ACCIDENT PREVENTION SERVICES. THE INSURER, PURSUANT TO ITS
18 RESPONSIBILITIES UNDER THIS SECTION, SHALL EMPLOY OR OTHERWISE
19 MAKE AVAILABLE QUALIFIED ACCIDENT AND ILLNESS PREVENTION
20 PERSONNEL. SUCH PERSONNEL SHALL MEET THE QUALIFICATIONS SET
21 FORTH IN REGULATIONS ISSUED BY THE DEPARTMENT.

22 (B) A SELF-INSURED EMPLOYER SHALL MAINTAIN AN ACCIDENT AND
23 ILLNESS PREVENTION PROGRAM AS A PREREQUISITE FOR RETENTION OF
24 ITS SELF-INSURED STATUS. SUCH PROGRAM SHALL BE ADEQUATE TO
25 FURNISH ACCIDENT PREVENTION REQUIRED BY THE NATURE OF ITS
26 BUSINESS AND SHALL INCLUDE SURVEYS, RECOMMENDATIONS, TRAINING
27 PROGRAMS, CONSULTATIONS, ANALYSES OF ACCIDENT CAUSES, INDUSTRIAL
28 HYGIENE AND INDUSTRIAL HEALTH SERVICES. THE SELF-INSURED
29 EMPLOYER PURSUANT TO ITS RESPONSIBILITIES UNDER THIS SECTION,
30 SHALL EMPLOY OR OTHERWISE MAKE AVAILABLE QUALIFIED ACCIDENT AND

1 ILLNESS PREVENTION PERSONNEL. SUCH PERSONNEL SHALL MEET THE
2 QUALIFICATIONS SET FORTH IN REGULATIONS ISSUED BY THE
3 DEPARTMENT.

4 (C) THE DEPARTMENT MAY CONDUCT INSPECTIONS TO DETERMINE THE
5 ADEQUACY OF THE INJURY PREVENTION SERVICES REQUIRED BY THIS
6 SECTION AT LEAST ONCE EVERY TWO YEARS FOR EACH INSURER.

7 (D) NOTICE THAT SERVICES REQUIRED BY THIS SECTION ARE
8 AVAILABLE TO THE EMPLOYER FROM AN INSURER MUST APPEAR IN NO LESS
9 THAN TEN-POINT BOLD TYPE ON THE FRONT OF EACH WORKERS'
10 COMPENSATION INSURANCE POLICY DELIVERED OR ISSUED FOR DELIVERY
11 IN THIS COMMONWEALTH.

12 (E) AT LEAST ONCE EACH YEAR EACH INSURER MUST SUBMIT TO THE
13 DEPARTMENT DETAILED INFORMATION ON THE TYPE OF ACCIDENT
14 PREVENTION SERVICES OFFERED OR PROVIDED TO THE INSURER'S
15 POLICYHOLDERS. THE INFORMATION MUST INCLUDE:

16 (1) THE AMOUNT OF MONEY SPENT BY THE INSURER ON ACCIDENT
17 PREVENTION SERVICES.

18 (2) THE NUMBER AND QUALIFICATIONS OF FIELD SAFETY
19 REPRESENTATIVES EMPLOYED BY THE INSURER.

20 (3) THE NUMBER OF SITE INSPECTIONS PERFORMED.

21 (4) ANY ACCIDENT PREVENTION SERVICES FOR WHICH THE INSURER
22 CONTRACTS.

23 (5) A BREAKDOWN OF THE PREMIUM SIZE OF THE RISKS TO WHICH
24 THE INSURER PROVIDED SERVICES.

25 (6) EVIDENCE OF THE EFFECTIVENESS OF AND ACCOMPLISHMENTS IN
26 ACCIDENT PREVENTION.

27 (7) ANY ADDITIONAL INFORMATION REQUIRED BY THE DEPARTMENT.

28 (F) FAILURE TO MAINTAIN OR PROVIDE THE INJURY PREVENTION
29 SERVICES REQUIRED BY THIS SECTION SHALL CONSTITUTE A CONTINUING
30 CIVIL VIOLATION SUBJECT TO A MAXIMUM FINE OF TWO THOUSAND

1 DOLLARS (\$2,000) PER DAY FOR EACH DAY THE ACCIDENT PREVENTION
2 SERVICES ARE NOT MAINTAINED OR PROVIDED. EACH DAY OF
3 NONCOMPLIANCE WITH THIS SECTION IS A SEPARATE VIOLATION. ALL
4 FINES RECOVERED UNDER THIS SECTION SHALL BE PAID TO THE
5 DEPARTMENT AND DEPOSITED BY THE DEPARTMENT INTO THE HEALTH AND
6 SAFETY ACCOUNT OF THE WORKMEN'S COMPENSATION ADMINISTRATION FUND
7 CREATED BY SECTION 446 OF THIS ACT.

8 (G) AN INSURER AND ITS AGENTS, SERVANTS AND EMPLOYES SHALL
9 NOT BE LIABLE ON ANY CIVIL CAUSE OF ACTION OR PROCEEDING ARISING
10 OUT OF, OR BASED UPON, ALLEGATIONS AND PLEADINGS RELATING TO
11 COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE: PROVIDED,
12 HOWEVER, THAT THIS IMMUNITY SHALL NOT AFFECT THE LIABILITY OF
13 THE EMPLOYER OR INSURER FOR COMPENSATION AS OTHERWISE PROVIDED
14 IN THIS ACT.

15 SECTION 1002. (A) AN EMPLOYER WHOSE LOST WORKDAYS COMPARED
16 TO THE PRECEDING TWELVE-MONTH PERIOD ARE REDUCED AS SET FORTH IN
17 PARAGRAPHS (1), (2) AND (3) OF THIS SUBSECTION SHALL RECEIVE A
18 REDUCTION ON EMPLOYER'S WORKERS' COMPENSATION RATES FOR THE NEXT
19 POLICY YEAR BEGINNING AFTER CERTIFICATION BY THE INSURER OF A
20 REDUCTION AS SET FORTH IN PARAGRAPH (1), (2) OR (3) OF THIS
21 SUBSECTION. CERTIFICATION SHALL OCCUR WITHIN THIRTY DAYS OF THE
22 END OF THE TWENTY-FOUR MONTH PERIOD FOR WHICH COMPARISONS ARE
23 MADE.

24 (1) AN EMPLOYER WHOSE LOST WORKDAYS WERE REDUCED BY AT LEAST
25 TEN PER CENTUM BUT LESS THAN FIFTEEN PER CENTUM SHALL BE
26 ENTITLED TO A MINIMUM PREMIUM REDUCTION OF FIVE PER CENTUM.

27 (2) AN EMPLOYER WHOSE LOST WORKDAYS WERE REDUCED BY AT LEAST
28 FIFTEEN PER CENTUM BUT LESS THAN TWENTY PER CENTUM SHALL BE
29 ENTITLED TO A MINIMUM PREMIUM REDUCTION OF TEN PER CENTUM.

30 (3) AN EMPLOYER WHOSE LOST WORKDAYS WERE REDUCED BY TWENTY

1 PER CENTUM OR MORE SHALL BE ENTITLED TO A MINIMUM PREMIUM
2 REDUCTION OF FIFTEEN PER CENTUM.

3 (B) THE INSURANCE COMMISSIONER SHALL TAKE SUCH ACTION AS IS
4 REASONABLY NECESSARY TO ASSURE THAT THE PREMIUM OF AN EMPLOYER
5 WHOSE LOST WORKDAYS COMPARED TO THE AVERAGE FOR ALL EMPLOYERS
6 WITH THE SAME TYPE OF RISK DOES NOT EXCEED AN AMOUNT APPROPRIATE
7 FOR THAT NUMBER OF LOST WORKDAYS AND TYPE OF RISK.

8 ARTICLE XI

9 INSURANCE FRAUD

10 SECTION 1101. ALL FINES AND PENALTIES IMPOSED FOLLOWING A
11 CONVICTION FOR A VIOLATION OF 18 PA.C.S. § 4117 (RELATING TO
12 INSURANCE FRAUD) REGARDING WORKER'S COMPENSATION SHALL BE
13 COLLECTED IN THE MANNER PROVIDED BY LAW AND SHALL BE PAID IN THE
14 FOLLOWING MANNER:

15 (1) IF THE PROSECUTOR IS A DISTRICT ATTORNEY, THE FINES AND
16 PENALTIES SHALL BE PAID INTO THE OPERATING FUND OF THE COUNTY IN
17 WHICH THE DISTRICT ATTORNEY IS ELECTED.

18 (2) IF THE PROSECUTOR IS THE ATTORNEY GENERAL, THE FINES AND
19 PENALTIES SHALL BE PAID INTO THE STATE TREASURY.

20 ARTICLE XII

21 FRAUD ENFORCEMENT

22 Section 1201. The following words and phrases when used in
23 this article shall have the meanings given to them in this
24 section unless the context clearly indicates otherwise:

25 "ANTIFRAUD PLAN" MEANS THE INSURANCE ANTIFRAUD PLAN REQUIRED <—
26 TO BE FILED AND MAINTAINED PURSUANT TO THIS ARTICLE.

27 "Commissioner" means the Insurance Commissioner of the
28 Commonwealth.

29 "COMPREHENSIVE DATABASE SYSTEM" MEANS A CENTRALIZED <—
30 ORGANIZATION OR ENTITY DESIGNED TO COLLECT AND DISSEMINATE

1 INSURANCE CLAIMS INFORMATION AND DATA FROM AND AMONG ITS MEMBERS
2 OR SUBSCRIBERS FOR THE PREVENTION AND SUPPRESSION OF INSURANCE
3 FRAUD.

4 "Department" means the Insurance Department of the
5 Commonwealth.

6 "Division" means the Workers' Compensation Fraud Enforcement <—
7 Division established in section 1202.

8 Section 1202. (a) There is established within the
9 department a Workers' Compensation Fraud Enforcement Division to
10 enforce the provisions of Article XI and to administer the
11 provisions of this article.

12 (b) If, by its own inquiries or as a result of complaints,

13 SECTION 1202. (A) THE DEPARTMENT IS AUTHORIZED TO REFER TO <—

14 THE APPROPRIATE LAW ENFORCEMENT OFFICIAL VIOLATIONS OF ARTICLE

15 XI IF the division DEPARTMENT has reason to believe that a <—

16 person has engaged in or is engaging in an act or practice that

17 violates Article XI., the division may make those investigations <—

18 within or outside this Commonwealth that it deems necessary to

19 determine whether any person has violated or is about to violate

20 any provision of Article XI, or to aid in the enforcement of

21 this article, and may publish information concerning any

22 violation of either article.

23 (c) For the purposes of an investigation under this article,

24 the commissioner or any officer designated by the commissioner

25 may administer oaths and affirmations, subpoena witnesses,

26 compel their attendance, take evidence and require the

27 production of any books, papers, correspondence, memoranda,

28 agreements or other documents or records which the commissioner

29 deems relevant or material to the inquiry.

30 (d) If any matter which the division seeks to obtain by

~~1 request is located outside this Commonwealth, the person so
2 requested may make it available to the division or its
3 representative to be examined at the place where it is located.
4 The division may designate representatives, including officials
5 of the state in which the matter is located, to inspect the
6 matter on its behalf, and the division may respond to similar
7 requests from officials of other states.~~

~~8 (c) Except as provided in clause (f), the department's
9 papers, documents, reports or evidence relative to the subject
10 of investigation under this section shall not be subject to
11 public inspection for as long a period as the commissioner deems
12 reasonably necessary to complete the investigation, to protect
13 the person investigated from unwarranted injury or to serve the
14 public interest. Such papers, documents, reports or evidence
15 shall not be subject to subpoena or subpoena duces tecum until
16 opened for public inspection by the commissioner and a hearing,
17 unless the commissioner otherwise consents or, after notice to
18 the commissioner and a hearing, the Commonwealth Court
19 determines that the public interest and any ongoing
20 investigation by the commissioner would not be unnecessarily
21 jeopardized by compliance with the subpoena duces tecum.~~

~~22 (f) The division (B) THE DEPARTMENT shall furnish all
23 papers, documents, reports, complaints or other facts or
24 evidence to any police, sheriff or other law enforcement agency
25 or governmental entity duly authorized to receive such
26 information, when so requested, and shall assist and cooperate
27 with those agencies.~~

~~28 (g) The commissioner shall ensure that the division
29 aggressively pursues all reported incidents of probable workers'
30 compensation fraud, as defined in Article XI, and forward to the~~

1 ~~appropriate disciplinary body the names, along with all~~
2 ~~supporting evidence, of individuals licensed under the laws of~~
3 ~~this Commonwealth suspected of actively engaging in fraudulent~~
4 ~~activity. The division shall report to the commissioner any~~
5 ~~insurer suspected of actively engaging in the fraudulent denial~~
6 ~~of claims.~~

7 ~~Section 1203. (a) To fund the investigation and prosecution~~
8 ~~of workers' compensation fraud there shall be an annual~~
9 ~~assessment, payable in each fiscal year in which the assessment~~
10 ~~is made, on insurers and self insurers under this act. The~~
11 ~~commissioner shall make the assessment and collect moneys based~~
12 ~~on the ratio that such insurer's or self insurer's payments of~~
13 ~~compensation bear to the total compensation paid in the~~
14 ~~preceding calendar year in which the assessment is made. The~~
15 ~~assessment shall be made in accordance with the following~~
16 ~~provisions:~~

17 ~~(1) The aggregate amount of the assessment shall be~~
18 ~~determined by the commissioner or his designees, pursuant to~~
19 ~~paragraphs (3), (4) and (5).~~

20 ~~(2) The amount collected, together with the fines collected~~
21 ~~for violations of the unlawful acts enumerated in Article XI~~
22 ~~shall be deposited in the Workers' Compensation Fraud~~
23 ~~Enforcement Account, which is hereby created as a restricted~~
24 ~~account, separate and apart from all other public moneys or~~
25 ~~funds of the Commonwealth, for use in carrying out the~~
26 ~~provisions of this act.~~

27 ~~(3) Any funds not expended in the fiscal year for which they~~
28 ~~have been assessed shall be applied to satisfy, for the~~
29 ~~immediately following fiscal year, the minimum total amount~~
30 ~~required by paragraph (4) and thereby reduce the annual~~

1 ~~assessment by the commissioner.~~

2 ~~(4) For the 1992 1993 fiscal year the total amount of~~
3 ~~revenue derived from the annual assessment pursuant to this~~
4 ~~clause shall, together with the total funds collected pursuant~~
5 ~~to fines imposed for unlawful acts enumerated in Article XI, not~~
6 ~~be less than two million dollars and not more than three million~~
7 ~~dollars.~~

8 ~~(5) In subsequent fiscal years the total revenue derived~~
9 ~~from the assessments shall not increase by a greater percentage~~
10 ~~than the annual percentage increase in the Consumer Price Index~~
11 ~~for all Urban Wage Earners during the prior calendar year, as~~
12 ~~certified by the commissioner as of June 30 of the fiscal year~~
13 ~~in which the new assessment is to be made.~~

14 ~~(6) After incidental expenses, sixty per centum of the funds~~
15 ~~to be used for the purposes of this section shall be provided to~~
16 ~~the division for investigative work, and forty per centum of the~~
17 ~~funds shall be distributed to district attorneys, pursuant to a~~
18 ~~determination by the commissioner as to the most effective~~
19 ~~distribution of moneys for purposes of the investigation and~~
20 ~~prosecution of workers' compensation insurance fraud cases. The~~
21 ~~commissioner shall consider population and historical incident~~
22 ~~of insurance fraud when awarding money to district attorneys.~~

23 ~~(b) Each district attorney desiring a portion of the funds~~
24 ~~shall submit to the division a plan detailing his projected use~~
25 ~~of any moneys which may be provided. The plan shall include a~~
26 ~~detailed accounting of assessed funds received and expended in~~
27 ~~prior years, including at a minimum:~~

28 ~~(1) the amount of funds received and expended;~~

29 ~~(2) the uses to which those funds were put, including~~
30 ~~payment of salaries and expenses, purchase of equipment and~~

1 ~~supplies and other expenditures by type;~~

2 ~~(3) result achieved as a consequence of expenditures made,~~
3 ~~including the number of investigations, arrests, indictments,~~
4 ~~convictions and the amounts originally claimed in cases~~
5 ~~prosecuted compared to payment actually made in those cases; and~~

6 ~~(4) other relevant information which the division may~~
7 ~~reasonably require. The plan shall be submitted within ninety~~
8 ~~days of the deadline established by the division.~~

9 ~~(c) Any district attorney receiving funds under this section~~
10 ~~shall submit an annual report to the division regarding the~~
11 ~~success of their efforts.~~

12 ~~(d) Documents required under this section shall be public~~
13 ~~records.~~

14 ~~Section 1204. The commissioner shall annually compile and~~
15 ~~report to the General Assembly on or before March 1 the~~
16 ~~following information for the previous fiscal year:~~

17 ~~(1) The number of cases reported to the division.~~

18 ~~(2) The number of cases rejected for which an investigation~~
19 ~~was not initiated by the division due to insufficient evidence~~
20 ~~to proceed, and the number of reported cases rejected for which~~
21 ~~an investigation was not initiated by the division due to any~~
22 ~~other reason.~~

23 ~~(3) The number of cases that were prosecuted in cooperation~~
24 ~~with Commonwealth licensing agencies.~~

25 ~~(4) The number of cases prosecuted using funds received~~
26 ~~under Article XI.~~

27 ~~(5) An estimate of the economic value of insurance fraud by~~
28 ~~type of insurance fraud.~~

29 ~~(6) Recommendations on ways insurance fraud may be reduced.~~

30 ~~(7) A summary of the division's activities aimed at reducing~~

1 ~~fraud in conjunction with other law enforcement agencies.~~

2 ~~(8) A summary of the division's activities with respect to~~
3 ~~the reduction of fraudulent denials and payment of compensation.~~

4 ~~Section 1205. Within existing resources, insurers licensed~~
5 ~~to sell workers' compensation insurance in this Commonwealth and~~
6 ~~self insured employers and professional associations shall~~
7 ~~designate employes to investigate and report to the division~~
8 ~~regarding possible fraudulent activities relating to workers'~~
9 ~~compensation insurance. The employes shall actively cooperate~~
10 ~~with the division in its investigations.~~

11 ~~Section 1206. (a) The division shall maintain and operate a~~
12 ~~depository data base containing concluded and current fraudulent~~
13 ~~claims investigations. The data contained shall be limited to~~
14 ~~information which the commissioner determines is necessary for~~
15 ~~the aggressive and effective investigation and monitoring of~~
16 ~~workers' compensation insurance fraud claims.~~

17 ~~(b) Upon written request to an insurer by an authorized~~
18 ~~governmental agency, an insurer or agent authorized by the~~
19 ~~insurer to act on its behalf shall release to the division all~~
20 ~~relevant information deemed important to the division by the~~
21 ~~commissioner relating to any specific workers' compensation~~
22 ~~fraud investigation.~~

23 ~~(c) (1) When an insurer knows or reasonably knows the~~
24 ~~identity of a person who it has reason to believe committed a~~
25 ~~fraudulent act relating to a workers' compensation insurance~~
26 ~~claim or has knowledge of a fraudulent act which is reasonably~~
27 ~~believed not to have been reported to an authorized agency, the~~
28 ~~insurer or its agent shall notify the local district attorney~~
29 ~~and the division. The insurer shall state in its notice the~~
30 ~~basis of its knowledge or reasonable belief.~~

1 ~~(2) (i) The division shall provide written notification~~
2 ~~that the notice has been filed to all persons who are implicated~~
3 ~~in the notice.~~

4 ~~(ii) The notification shall include the basis of the notice.~~

5 ~~(iii) The division shall provide all persons who are~~
6 ~~implicated in the notice with an opportunity to present~~
7 ~~exculpatory evidence.~~

8 ~~(d) An insurer providing information to an authorized~~
9 ~~governmental agency pursuant to this section shall provide the~~
10 ~~information within a reasonable time, but no later than thirty~~
11 ~~days after the date on which the duty to report arose.~~

12 ~~(e) (1) Any information acquired pursuant to this article~~
13 ~~shall not be part of the public record. Except as otherwise~~
14 ~~provided by law, any authorized governmental agency, insurer or~~
15 ~~agent which receives any information furnished pursuant to this~~
16 ~~article shall not release that information to any person not~~
17 ~~authorized to receive the information under this article. A~~
18 ~~person who violates this clause is guilty of a misdemeanor of~~
19 ~~the third degree.~~

20 ~~(2) The evidence or information described in this section~~
21 ~~shall be privileged and shall not be subject to subpoena or~~
22 ~~subpoena duces tecum in a civil or criminal proceeding, unless,~~
23 ~~after reasonable notice to any insurer, an agent or authorized~~
24 ~~governmental agency which has an interest in the information,~~
25 ~~and a hearing, the court determines that the public interest and~~
26 ~~any ongoing investigation by the authorized governmental agency,~~
27 ~~insurer or agent, will not be jeopardized by its disclosure or~~
28 ~~by the issuance of and compliance with a subpoena or subpoena~~
29 ~~duces tecum.~~

30 ~~(3) No insurer, or agent authorized by an insurer to act on~~

~~1 its behalf, who furnishes information, written or oral, pursuant
2 to this article, and no authorized governmental agency or its
3 employes who furnish or receive information, written or oral,
4 pursuant to this article or assists in any investigation of a
5 suspected violation of Article XI conducted by an authorized
6 governmental agency shall be subject to any civil liability in a
7 cause or action of any kind arising from the submission of
8 information pursuant to this article where the insurer,
9 authorized agent or authorized governmental agency acts in good
10 faith, without malice, and reasonably believes that the action
11 taken was warranted by the then known facts, obtained by
12 reasonable efforts. Nothing in this article is intended to, nor
13 does in any way or manner, abrogate or lessen the existing
14 common law or statutory privileges and immunities of an insurer
15 or agent authorized by the insurer to act on its behalf, or any
16 authorized governmental agency or its employes.~~

~~17 (4) The department shall provide access for the Majority
18 Chairmen and the Minority Chairmen of the Appropriations
19 Committee and the Banking and Insurance Committee of the Senate
20 and the Majority Chairmen and the Minority Chairmen of the
21 Appropriations Committee and the Insurance Committee of the
22 House of Representatives to the depository data base for
23 purposes consistent with this article.~~

~~24 Section 1207. This article shall expire on January 31, 1995,
25 unless extended by the General Assembly.~~

26 SECTION 1203. (A) A WORKERS' COMPENSATION INSURER SHALL
27 INSTITUTE AND MAINTAIN AN INSURANCE ANTIFRAUD PLAN: ←

28 (1) WORKERS' COMPENSATION INSURERS LICENSED ON THE EFFECTIVE
29 DATE OF THIS ARTICLE SHALL FILE AN ANTIFRAUD PLAN WITH THE
30 DEPARTMENT ON OR BEFORE DECEMBER 31, 1992.

1 (2) WORKERS' COMPENSATION INSURERS LICENSED AFTER THE
2 EFFECTIVE DATE OF THIS ARTICLE SHALL FILE AN ANTIFRAUD PLAN
3 WITHIN SIX MONTHS OF LICENSURE.

4 (B) ALL CHANGES TO AN ANTIFRAUD PLAN SHALL BE FILED WITH THE
5 DEPARTMENT WITHIN THIRTY DAYS AFTER IT HAS BEEN MODIFIED.

6 (C) AN ANTIFRAUD PLAN SHALL ESTABLISH SPECIFIC PROCEDURES:

7 (1) TO PREVENT INSURANCE FRAUD, INCLUDING INTERNAL FRAUD
8 INVOLVING EMPLOYEES OR COMPANY REPRESENTATIVES, FRAUD RESULTING
9 FROM MISREPRESENTATION ON APPLICATIONS FOR INSURANCE COVERAGE
10 AND CLAIMS FRAUD.

11 (2) TO REVIEW CLAIMS IN ORDER TO DETECT EVIDENCE OF POSSIBLE
12 INSURANCE FRAUD AND TO INVESTIGATE CLAIMS WHERE FRAUD IS
13 SUSPECTED.

14 (3) TO REPORT FRAUD TO APPROPRIATE LAW ENFORCEMENT AGENCIES
15 AND TO COOPERATE WITH SUCH AGENCIES IN THEIR PROSECUTION OF
16 FRAUD CASES.

17 (4) TO INITIATE CIVIL ACTIONS AGAINST PERSONS WHO HAVE
18 ENGAGED IN FRAUDULENT ACTIVITIES.

19 (5) TO REPORT WORKERS' COMPENSATION CLAIMS DATA TO A
20 COMPREHENSIVE DATABASE SYSTEM.

21 (6) TO ENSURE THAT COSTS INCURRED AS A RESULT OF DETECTED
22 WORKERS' COMPENSATION INSURANCE FRAUD ARE NOT INCLUDED IN ANY
23 RATE BASE AFFECTING THE PREMIUMS OF INSURANCE CONSUMERS.

24 SECTION 1204. (A) IF, AFTER REVIEW, THE COMMISSIONER FINDS
25 THAT THE ANTIFRAUD PLAN DOES NOT COMPLY WITH SECTION 1203, THE
26 ANTIFRAUD PLAN MAY BE DISAPPROVED. NOTICE OF DISAPPROVAL SHALL
27 INCLUDE A STATEMENT OF THE SPECIFIC REASONS FOR SUCH
28 DISAPPROVAL. ANY ANTIFRAUD PLAN DISAPPROVED BY THE COMMISSIONER
29 MUST BE REFILED WITHIN SIXTY DAYS OF THE DATE OF THE NOTICE OF
30 DISAPPROVAL.

1 (B) THE COMMISSIONER MAY AUDIT WORKERS' COMPENSATION
2 INSURERS TO ENSURE COMPLIANCE WITH ANTIFRAUD PLANS AS A PART OF
3 EXAMINATIONS PERFORMED UNDER SECTIONS 213, 214 AND 216 OF THE
4 ACT OF MAY 17, 1921 (P.L.789, NO.285), KNOWN AS "THE INSURANCE
5 DEPARTMENT ACT OF ONE THOUSAND NINE HUNDRED AND TWENTY-ONE."

6 SECTION 1205. ALL WORKERS' COMPENSATION INSURERS SHALL
7 ANNUALLY PROVIDE TO THE DEPARTMENT A SUMMARY REPORT ON ACTIONS
8 TAKEN UNDER AN ANTIFRAUD PLAN TO PREVENT AND COMBAT INSURANCE
9 FRAUD, INCLUDING, BUT NOT LIMITED TO, MEASURES TAKEN TO PROTECT
10 AND ENSURE THE INTEGRITY OF ELECTRONIC DATA PROCESSING-GENERATED
11 DATA AND MANUALLY COMPILED DATA, STATISTICAL DATA ON THE AMOUNT
12 OF RESOURCES COMMITTED TO COMBATING FRAUD AND THE AMOUNT OF
13 FRAUD IDENTIFIED AND RECOVERED DURING THE REPORTING PERIOD.

14 SECTION 1206. WORKERS' COMPENSATION INSURERS THAT FAIL TO
15 FILE TIMELY ANTIFRAUD PLANS AS REQUIRED BY SECTIONS 1203 AND
16 1204 SHALL BE SUBJECT TO THE PENALTY PROVISION OF SECTION 320 OF
17 THE INSURANCE COMPANY LAW OF 1921. WORKERS' COMPENSATION
18 INSURERS THAT DO NOT MAKE A GOOD FAITH ATTEMPT TO FILE AN
19 ANTIFRAUD PLAN WHICH COMPLIES WITH SECTION 1203 SHALL ALSO BE
20 SUBJECT TO THE PENALTY PROVISIONS OF SECTION 320 OF THE
21 INSURANCE COMPANY LAW OF 1921: PROVIDED, THAT NO PENALTY MAY BE
22 IMPOSED FOR THE FIRST FILING MADE BY A WORKERS' COMPENSATION
23 INSURER UNDER THIS ARTICLE. WORKERS' COMPENSATION INSURERS THAT
24 FAIL TO FOLLOW THE ANTIFRAUD PLAN SHALL BE SUBJECT TO A CIVIL
25 PENALTY FOR EACH VIOLATION, NOT TO EXCEED TEN THOUSAND DOLLARS
26 (\$10,000), AT THE DISCRETION OF THE COMMISSIONER AFTER
27 CONSIDERATION OF ALL RELEVANT FACTORS, INCLUDING THE WILFULNESS
28 OF ANY VIOLATION.

29 SECTION 1207. THE ANTIFRAUD PLANS AND REPORTS WHICH WORKERS'
30 COMPENSATION INSURERS FILE WITH THE DEPARTMENT AND ANY REPORTS

1 OR MATERIALS RELATED TO SUCH REPORTS ARE NOT PUBLIC RECORDS
2 WITHIN THE MEANING OF THIS OR ANY OTHER ACT AND SHALL NOT BE
3 SUBJECT TO PUBLIC INSPECTION.

4 SECTION 1208. EVERY WORKERS' COMPENSATION INSURER, AND ITS
5 EMPLOYES, AGENTS AND BROKERS, WHO HAS A REASONABLE BASIS TO
6 BELIEVE INSURANCE FRAUD HAS OCCURRED SHALL BE REQUIRED TO REPORT
7 THE INCIDENCE OF INSURANCE FRAUD TO FEDERAL, STATE OR LOCAL
8 CRIMINAL LAW ENFORCEMENT AUTHORITIES. LICENSED INSURANCE AGENTS
9 MAY ELECT TO MAKE THE REPORT REQUIRED BY THIS SECTION THROUGH
10 THE AFFECTED WORKERS' COMPENSATION INSURER WITH WHICH THEY HAVE
11 A CONTRACTUAL RELATIONSHIP. ALL WORKERS' COMPENSATION INSURER
12 REPORTS OF INSURANCE FRAUD TO LAW ENFORCEMENT AUTHORITIES SHALL
13 BE MADE IN WRITING AND SHALL INCLUDE THE PHYSICAL SUBMISSION OF
14 ALL FILE DOCUMENTATION TO SUCH AUTHORITIES. WHERE INSURANCE
15 FRAUD INVOLVES AGENTS OR BROKERS, A COPY OF THE REPORT SHALL
16 ALSO BE SENT TO THE DEPARTMENT.

17 SECTION 1209. (A) EACH WORKERS' COMPENSATION INSURER SHALL,
18 AS A CONDITION OF AUTHORITY TO TRANSACT THE BUSINESS OF
19 INSURANCE IN THIS COMMONWEALTH, OBTAIN AND MAINTAIN MEMBERSHIP
20 IN A COMPREHENSIVE DATABASE SYSTEM FOR THE PURPOSE OF REPORTING
21 AND ACCESSING WORKERS' COMPENSATION CLAIMS DATA AND INFORMATION.

22 (B) THE COMPREHENSIVE DATABASE SYSTEM SELECTED FOR
23 MEMBERSHIP BY A WORKERS' COMPENSATION INSURER SHALL MEET THE
24 FOLLOWING MINIMUM QUALIFICATIONS:

25 (1) HAVE AND MAINTAIN A COMPUTERIZED DATABASE.

26 (2) HAVE AND MAINTAIN THE CAPACITY TO INTERACT WITH OTHER
27 COMPREHENSIVE DATABASE SYSTEMS.

28 (3) HAVE A HISTORY OF SERVICING THE INSURANCE INDUSTRY,
29 INSURANCE REGULATORS OR LAW ENFORCEMENT AUTHORITIES ON AN
30 INTERSTATE BASIS.

1 (4) HAVE AND MAINTAIN A SUBSTANTIAL INSURER MEMBERSHIP.

2 (C) EACH WORKERS' COMPENSATION INSURER SHALL REPORT AND
3 ACCESS DATA AND INFORMATION RELATING TO WORKERS' COMPENSATION
4 CLAIMS.

5 (D) ANY DATA AND INFORMATION REPORTED TO A COMPREHENSIVE
6 DATABASE SYSTEM MAY BE MADE AVAILABLE TO LAW ENFORCEMENT
7 OFFICIALS.

8 SECTION 1210. INFORMATION COLLECTED PURSUANT TO THIS ARTICLE
9 SHALL ONLY BE USED BY WORKERS' COMPENSATION INSURERS AND LAW
10 ENFORCEMENT OFFICIALS FOR THE PREVENTION AND SUPPRESSION OF
11 FRAUD, AND INSURERS MAY NOT USE THIS INFORMATION FOR
12 UNDERWRITING PURPOSES.

13 SECTION 1211. NO PERSON SHALL BE SUBJECT TO CIVIL LIABILITY
14 FOR LIBEL, VIOLATION OF PRIVACY OR OTHERWISE BY VIRTUE OF THE
15 FILING OF REPORTS OR FURNISHING OF OTHER INFORMATION, IN GOOD
16 FAITH AND WITHOUT MALICE, REQUIRED BY THIS ARTICLE.

17 SECTION 1212. THE DEPARTMENT MAY PROMULGATE SUCH RULES AND
18 REGULATIONS AS MAY BE NECESSARY FOR THE ADMINISTRATION AND
19 ENFORCEMENT OF THIS ARTICLE.

20 ARTICLE XIII

21 BUSINESS-LABOR ADVOCATE

22 SECTION 1301. THE FOLLOWING WORDS AND PHRASES WHEN USED IN
23 THIS ARTICLE SHALL HAVE THE MEANINGS GIVEN TO THEM IN THE
24 SECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

25 "DEPARTMENT" MEANS THE INSURANCE DEPARTMENT OF THE
26 COMMONWEALTH.

27 SECTION 1302. (A) THERE IS HEREBY ESTABLISHED WITHIN THE
28 DEPARTMENT OF LABOR AND INDUSTRY THE OFFICE OF BUSINESS-LABOR
29 ADVOCATE TO REPRESENT THE INTEREST OF EMPLOYERS WHO PAY WORKERS'
30 COMPENSATION PREMIUMS AND THEIR EMPLOYEES IN MATTERS RELATING TO

1 RATEMAKING AS IT RELATES TO WORKERS' COMPENSATION INSURANCE. THE
2 OFFICE SHALL BE SUPERVISED BY THE BUSINESS-LABOR ADVOCATE.

3 (B) THE BUSINESS-LABOR ADVOCATE SHALL BE APPOINTED BY THE
4 GOVERNOR AND SHALL BE A PERSON WHO BY REASON OF TRAINING,
5 EXPERIENCE AND ATTAINMENT IS QUALIFIED TO REPRESENT THE INTEREST
6 OF EMPLOYERS AND THEIR EMPLOYEES.

7 (C) NO INDIVIDUAL WHO SERVES AS A BUSINESS-LABOR ADVOCATE
8 SHALL, WHILE SERVING IN SUCH POSITION, ENGAGE IN ANY BUSINESS,
9 VOCATION, OTHER EMPLOYMENT OR HAVE OTHER INTERESTS, INCONSISTENT
10 WITH HIS OFFICIAL RESPONSIBILITIES. ANY INDIVIDUAL WHO IS
11 APPOINTED TO THE POSITION OF BUSINESS-LABOR ADVOCATE SHALL NOT
12 SEEK ELECTION NOR ACCEPT APPOINTMENT TO ANY PUBLIC OFFICE DURING
13 HIS TENURE AS BUSINESS-LABOR ADVOCATE AND FOR A PERIOD OF TWO
14 YEARS AFTER HIS APPOINTMENT IS SERVED OR TERMINATED.

15 SECTION 1303. THE BUSINESS-LABOR ADVOCATE, WITH THE APPROVAL
16 OF THE SECRETARY OF LABOR AND INDUSTRY, SHALL APPOINT ATTORNEYS
17 AS ASSISTANT BUSINESS-LABOR ADVOCATES AND SUCH ADDITIONAL
18 CLERICAL, TECHNICAL AND PROFESSIONAL STAFF AS MAY BE
19 APPROPRIATE, AND MAY CONTRACT FOR SUCH ADDITIONAL SERVICES AS
20 SHALL BE NECESSARY FOR THE PERFORMANCE OF HIS FUNCTION. THE
21 COMPENSATION OF ASSISTANT BUSINESS-LABOR ADVOCATES AND SUCH
22 CLERICAL, TECHNICAL AND PROFESSIONAL STAFF SHALL BE SET BY THE
23 EXECUTIVE BOARD. NO ASSISTANT BUSINESS-LABOR ADVOCATE OR OTHER
24 STAFF EMPLOYEE SHALL, WHILE SERVING IN SUCH POSITION, ENGAGE IN
25 ANY BUSINESS, VOCATION, OTHER EMPLOYMENT OR HAVE OTHER
26 INTERESTS, INCONSISTENT WITH HIS OFFICIAL RESPONSIBILITIES.

27 SECTION 1304. IN ADDITION TO ANY OTHER AUTHORITY CONFERRED
28 UPON HIM BY THIS ARTICLE, THE BUSINESS-LABOR ADVOCATE IS
29 AUTHORIZED, AND IT SHALL BE HIS DUTY IN CARRYING OUT HIS
30 RESPONSIBILITIES UNDER THIS ACT, TO REPRESENT THE INTEREST OF

1 EMPLOYERS WHO PAY WORKERS' COMPENSATION PREMIUMS AND THEIR
2 EMPLOYEES AS A PARTY, OR OTHERWISE PARTICIPATE FOR THE PURPOSE OF
3 REPRESENTING THEIR INTERESTS IN MATTERS RELATING TO RATEMAKING
4 AS IT RELATES TO WORKERS' COMPENSATION INSURANCE, AND BEFORE ANY
5 COURT OR AGENCY, INITIATING PROCEEDINGS IF IN HIS JUDGMENT SUCH
6 MAY BE NECESSARY, IN CONNECTION WITH ANY SUCH MATTER OR THE
7 CORRESPONDING REGULATORY AGENCY OF THE UNITED STATES WHETHER ON
8 APPEAL OR OTHERWISE INITIATED. THE BUSINESS-LABOR ADVOCATE MAY
9 EXERCISE DISCRETION IN DETERMINING THE INTERESTS OF EMPLOYERS
10 AND EMPLOYEES WHICH WILL BE ADVOCATED IN ANY PARTICULAR
11 PROCEEDING AND, IN SO DETERMINING, SHALL CONSIDER THE PUBLIC
12 INTEREST, THE RESOURCES AVAILABLE AND THE SUBSTANTIALITY OF THE
13 EFFECT OF THE PROCEEDING ON THEIR INTEREST. THE BUSINESS-LABOR
14 ADVOCATE MAY REFRAIN FROM INTERVENING WHEN IN HIS JUDGMENT SUCH
15 IS NOT NECESSARY TO REPRESENT ADEQUATELY THEIR INTEREST. IN
16 ADDITION TO ANY OTHER AUTHORITY CONFERRED UPON HIM BY THIS
17 ARTICLE, THE BUSINESS-LABOR ADVOCATE IS AUTHORIZED TO REPRESENT
18 AN INTEREST OF EMPLOYERS OR EMPLOYEES WHICH IS PRESENTED TO HIM
19 FOR HIS CONSIDERATION UPON PETITION IN WRITING BY A SUBSTANTIAL
20 NUMBER OF PERSONS, WHO ARE AFFECTED BY THE RATEMAKING PROCESS
21 RELATING TO WORKERS' COMPENSATION INSURANCE. THE BUSINESS-LABOR
22 ADVOCATE SHALL NOTIFY THE PRINCIPAL SPONSORS OF ANY SUCH
23 PETITION OF THE ACTION TAKEN OR INTENDED TO BE TAKEN BY HIM WITH
24 RESPECT TO THEIR INTEREST PRESENTED IN SUCH PETITION. IF THE
25 BUSINESS-LABOR ADVOCATE DECLINES OR IS UNABLE TO REPRESENT SUCH
26 INTEREST, HE SHALL NOTIFY SUCH SPONSOR AND SHALL STATE HIS
27 REASONS THEREFORE. ANY ACTION BROUGHT BY THE BUSINESS-LABOR
28 ADVOCATE BEFORE A COURT OR AN AGENCY OF THIS COMMONWEALTH SHALL
29 BE BROUGHT IN THE NAME OF THE BUSINESS-LABOR ADVOCATE. THE
30 BUSINESS-LABOR ADVOCATE MAY NAME AN EMPLOYER OR EMPLOYEE OR GROUP

1 OF EMPLOYERS OR EMPLOYES IN WHOSE NAME THE ACTION MAY BE BROUGHT
2 OR MAY JOIN WITH AN EMPLOYER OR EMPLOYEE OR GROUP OF EMPLOYERS OR
3 EMPLOYES IN BRINGING THIS ACTION. AT SUCH TIME AS THE BUSINESS-
4 LABOR ADVOCATE DETERMINES, IN ACCORDANCE WITH APPLICABLE TIME
5 LIMITATIONS, TO INITIATE, INTERVENE, OR OTHERWISE PARTICIPATE IN
6 ANY COMMISSION, AGENCY, OR COURT PROCEEDING, HE SHALL ISSUE
7 PUBLICLY A WRITTEN STATEMENT, A COPY OF WHICH HE SHALL FILE IN
8 THE PROCEEDING IN ADDITION TO ANY REQUIRED ENTRY OF HIS
9 APPEARANCE, STATING CONCISELY THE SPECIFIC INTEREST OF EMPLOYERS
10 OR EMPLOYES TO BE PROTECTED.

11 SECTION 1305. IN DEALING WITH ANY PROPOSED ACTION WHICH MAY
12 SUBSTANTIALLY AFFECT THE INTEREST OF EMPLOYERS OR EMPLOYES
13 RELATING TO RATEMAKING AS IT RELATES TO WORKERS' COMPENSATION
14 INSURANCE, INCLUDING, BUT NOT LIMITED TO, A PROPOSED CHANGE OF
15 RATES AND THE ADOPTION OF RULES OR REGULATIONS, THE DEPARTMENT
16 SHALL NOTIFY THE BUSINESS-LABOR ADVOCATE WHEN NOTICE OF THE
17 PROPOSED ACTION IS GIVEN TO THE PUBLIC OR AT A TIME FIXED BY
18 AGREEMENT BETWEEN THE BUSINESS-LABOR ADVOCATE AND THE DEPARTMENT
19 IN A MANNER TO ASSURE THE BUSINESS-LABOR ADVOCATE REASONABLE
20 NOTICE AND ADEQUATE TIME TO DETERMINE WHETHER TO INTERVENE IN
21 SUCH MATTER.

22 SECTION 1306. THE BUSINESS-LABOR ADVOCATE SHALL ANNUALLY
23 TRANSMIT TO THE GOVERNOR, THE SECRETARY OF LABOR AND INDUSTRY
24 AND TO THE GENERAL ASSEMBLY, AND SHALL MAKE AVAILABLE TO THE
25 PUBLIC, AN ANNUAL REPORT ON THE CONDUCT OF THE OFFICE OF
26 BUSINESS-LABOR ADVOCATE. THE BUSINESS-LABOR ADVOCATE SHALL MAKE
27 RECOMMENDATIONS AS MAY FROM TIME TO TIME BE NECESSARY OR
28 DESIRABLE TO PROTECT THE INTEREST OF EMPLOYERS AND THEIR
29 EMPLOYES.

30 SECTION 1307. IN ADDITION TO ANY OTHER ASSESSMENT AUTHORIZED

1 BY SECTION 446, AN ADDITIONAL ANNUAL ASSESSMENT SHALL BE MADE ON
2 INSURERS AS A PERCENTAGE OF THE TOTAL COMPENSATION PAID, FOR THE
3 PURPOSE OF FUNDING THE OPERATIONS OF THE OFFICE OF BUSINESS-
4 LABOR ADVOCATE. ASSESSMENTS UNDER THIS SECTION SHALL BE MADE BY
5 THE DEPARTMENT OF LABOR AND INDUSTRY AND DEPOSITED INTO THE
6 WORKMEN'S COMPENSATION ADMINISTRATION FUND IN A RESTRICTED
7 ACCOUNT TO BE USED BY THE OFFICE OF BUSINESS-LABOR ADVOCATE. THE
8 TOTAL AMOUNT ASSESSED SHALL BE THE AMOUNT OF THE BUDGET APPROVED
9 ANNUALLY BY THE GENERAL ASSEMBLY FOR THE OFFICE OF BUSINESS-
10 LABOR ADVOCATE.

11 SECTION 1308. NOTHING CONTAINED IN THIS ARTICLE SHALL IN ANY
12 WAY LIMIT THE RIGHT OF ANY PERSON TO BRING A PROCEEDING BEFORE
13 EITHER THE DEPARTMENT OR A COURT.

14 SECTION 15. SECTION 4117 OF TITLE 18 OF THE PENNSYLVANIA
15 CONSOLIDATED STATUTES IS AMENDED TO READ:

16 § 4117. INSURANCE FRAUD.

17 (A) OFFENSE DEFINED.--A PERSON COMMITS AN OFFENSE IF THE
18 PERSON DOES ANY OF THE FOLLOWING:

19 (1) KNOWINGLY AND WITH THE INTENT TO DEFRAUD A STATE OR
20 LOCAL GOVERNMENT AGENCY FILES, PRESENTS OR CAUSES TO BE FILED
21 WITH OR PRESENTED TO THE GOVERNMENT AGENCY A DOCUMENT THAT
22 CONTAINS FALSE, INCOMPLETE OR MISLEADING INFORMATION
23 CONCERNING ANY FACT OR THING MATERIAL TO THE AGENCY'S
24 DETERMINATION IN APPROVING OR DISAPPROVING A MOTOR VEHICLE
25 INSURANCE RATE FILING, A MOTOR VEHICLE INSURANCE TRANSACTION
26 [OR], OTHER MOTOR VEHICLE INSURANCE ACTION, A WORKERS'
27 COMPENSATION INSURANCE RATE FILING, A WORKERS' COMPENSATION
28 TRANSACTION OR OTHER WORKERS' COMPENSATION ACTION WHICH IS
29 REQUIRED OR FILED IN RESPONSE TO AN AGENCY'S REQUEST.

30 (2) KNOWINGLY AND WITH THE INTENT TO DEFRAUD ANY

1 INSURER, PRESENTS OR CAUSES TO BE PRESENTED TO ANY INSURER
2 ANY STATEMENT FORMING A PART OF, OR IN SUPPORT OF, AN
3 INSURANCE CLAIM INCLUDING A WORKERS' COMPENSATION CLAIM THAT
4 CONTAINS ANY FALSE, INCOMPLETE OR MISLEADING INFORMATION
5 CONCERNING ANY FACT OR THING MATERIAL TO THE INSURANCE CLAIM.

6 (3) KNOWINGLY AND WITH THE INTENT TO DEFRAUD ANY
7 INSURER, ASSISTS, ABETS, SOLICITS OR CONSPIRES WITH ANOTHER
8 TO PREPARE OR MAKE ANY STATEMENT THAT IS INTENDED TO BE
9 PRESENTED TO ANY INSURER IN CONNECTION WITH, OR IN SUPPORT
10 OF, AN INSURANCE CLAIM, INCLUDING A WORKERS' COMPENSATION
11 CLAIM THAT CONTAINS ANY FALSE, INCOMPLETE OR MISLEADING
12 INFORMATION CONCERNING ANY FACT OR THING MATERIAL TO THE
13 [INSURANCE] CLAIM.

14 (4) ENGAGES IN UNLICENSED AGENT OR BROKER ACTIVITY AS
15 DEFINED BY THE ACT OF MAY 17, 1921 (P.L.789, NO.285), KNOWN
16 AS THE INSURANCE DEPARTMENT ACT OF ONE THOUSAND NINE HUNDRED
17 AND TWENTY-ONE, KNOWINGLY AND WITH THE INTENT TO DEFRAUD AN
18 INSURER OR THE PUBLIC.

19 (5) KNOWINGLY BENEFITS, DIRECTLY OR INDIRECTLY, FROM THE
20 PROCEEDS DERIVED FROM A VIOLATION OF THIS SECTION DUE TO THE
21 ASSISTANCE, CONSPIRACY OR URGING OF ANY PERSON.

22 (6) IS THE OWNER, ADMINISTRATOR OR EMPLOYEE OF ANY
23 HEALTH CARE FACILITY AND KNOWINGLY ALLOWS THE USE OF SUCH
24 FACILITY BY ANY PERSON IN FURTHERANCE OF A SCHEME OR
25 CONSPIRACY TO VIOLATE ANY OF THE PROVISIONS OF THIS SECTION.

26 (7) BORROWS OR USES ANOTHER PERSON'S FINANCIAL
27 RESPONSIBILITY OR OTHER INSURANCE IDENTIFICATION CARD OR
28 PERMITS HIS FINANCIAL RESPONSIBILITY OR OTHER INSURANCE
29 IDENTIFICATION CARD TO BE USED BY ANOTHER, KNOWINGLY AND WITH
30 INTENT TO PRESENT A FRAUDULENT INSURANCE CLAIM TO AN INSURER.

1 (8) KNOWINGLY AND WITH THE INTENT TO DEFRAUD, ASSISTS,
2 ABETS, SOLICITS OR CONSPIRES WITH ANY PERSON WHO ENGAGES IN
3 AN UNLAWFUL ACT UNDER THIS SECTION.

4 (9) MAKES OR CAUSES TO BE MADE ANY KNOWINGLY FALSE OR
5 FRAUDULENT STATEMENT WITH REGARD TO ENTITLEMENT TO BENEFITS
6 WITH THE INTENT TO DISCOURAGE AN INJURED WORKER FROM CLAIMING
7 BENEFITS OR PURSUING A CLAIM.

8 (10) KNOWINGLY AND WITH THE INTENT TO DEFRAUD MAKES ANY
9 FALSE STATEMENT FOR THE PURPOSE OF AVOIDING OR DIMINISHING
10 THE AMOUNT OF THE PAYMENT OF PREMIUMS TO AN INSURER OR SELF-
11 INSURANCE FUND.

12 (11) IS AN EMPLOYER AND KNOWINGLY DISCHARGES, DEMOTES,
13 SUSPENDS, OR IN ANY OTHER MANNER, DISCRIMINATES AGAINST ANY
14 EMPLOYEE OR THREATENS TO DISCHARGE, DEMOTE, SUSPEND, OR IN
15 ANY OTHER MANNER, DISCRIMINATE AGAINST ANY EMPLOYEE IF OR
16 BECAUSE THE EMPLOYEE FILES OR FILED A PETITION, OR TESTIFIES
17 OR TESTIFIED ON BEHALF OF HIMSELF OR ANOTHER IN A HEARING ON
18 A PETITION IN ACCORDANCE WITH THE ACT OF JUNE 2, 1915
19 (P.L.736, NO.338), KNOWN AS THE PENNSYLVANIA WORKMEN'S
20 COMPENSATION ACT.

21 (B) ADDITIONAL OFFENSES DEFINED.--

22 (1) A LAWYER MAY NOT COMPENSATE OR GIVE ANYTHING OF
23 VALUE TO A NONLAWYER TO RECOMMEND OR SECURE EMPLOYMENT BY A
24 CLIENT OR AS A REWARD FOR HAVING MADE A RECOMMENDATION
25 RESULTING IN EMPLOYMENT BY A CLIENT; EXCEPT THAT THE LAWYER
26 MAY PAY:

27 (I) THE REASONABLE COST OF ADVERTISING OR WRITTEN
28 COMMUNICATION AS PERMITTED BY THE RULES OF PROFESSIONAL
29 CONDUCT; OR

30 (II) THE USUAL CHARGES OF A NOT-FOR-PROFIT LAWYER

1 REFERRAL SERVICE OR OTHER LEGAL SERVICE ORGANIZATION.
2 UPON A CONVICTION OF AN OFFENSE PROVIDED FOR BY THIS
3 PARAGRAPH, THE PROSECUTOR SHALL CERTIFY SUCH CONVICTION TO
4 THE DISCIPLINARY BOARD OF THE SUPREME COURT FOR APPROPRIATE
5 ACTION. SUCH ACTION MAY INCLUDE A SUSPENSION OR DISBARMENT.

6 (2) WITH RESPECT TO AN INSURANCE BENEFIT OR CLAIM, A
7 HEALTH CARE PROVIDER MAY NOT COMPENSATE OR GIVE ANYTHING OF
8 VALUE TO A PERSON TO RECOMMEND OR SECURE THE PROVIDER'S
9 SERVICE TO OR EMPLOYMENT BY A PATIENT OR AS A REWARD FOR
10 HAVING MADE A RECOMMENDATION RESULTING IN THE PROVIDER'S
11 SERVICE TO OR EMPLOYMENT BY A PATIENT; EXCEPT THAT THE
12 PROVIDER MAY PAY THE REASONABLE COST OF ADVERTISING OR
13 WRITTEN COMMUNICATION AS PERMITTED BY RULES OF PROFESSIONAL
14 CONDUCT. UPON A CONVICTION OF AN OFFENSE PROVIDED FOR BY THIS
15 PARAGRAPH, THE PROSECUTOR SHALL CERTIFY SUCH CONVICTION TO
16 THE APPROPRIATE LICENSING BOARD IN THE DEPARTMENT OF STATE
17 WHICH SHALL SUSPEND OR REVOKE THE HEALTH CARE PROVIDER'S
18 LICENSE.

19 (3) A LAWYER OR HEALTH CARE PROVIDER MAY NOT COMPENSATE
20 OR GIVE ANYTHING OF VALUE TO A PERSON FOR PROVIDING NAMES,
21 ADDRESSES, TELEPHONE NUMBERS OR OTHER IDENTIFYING INFORMATION
22 OF INDIVIDUALS SEEKING OR RECEIVING MEDICAL OR REHABILITATIVE
23 CARE FOR ACCIDENT, SICKNESS OR DISEASE, EXCEPT TO THE EXTENT
24 A REFERRAL AND RECEIPT OF COMPENSATION IS PERMITTED UNDER
25 APPLICABLE PROFESSIONAL RULES OF CONDUCT. A PERSON MAY NOT
26 KNOWINGLY TRANSMIT SUCH REFERRAL INFORMATION TO A LAWYER OR
27 HEALTH CARE PROFESSIONAL FOR THE PURPOSE OF RECEIVING
28 COMPENSATION OR ANYTHING OF VALUE. ATTEMPTS TO CIRCUMVENT
29 THIS PARAGRAPH THROUGH USE OF ANY OTHER PERSON, INCLUDING,
30 BUT NOT LIMITED TO, EMPLOYEES, AGENTS OR SERVANTS, SHALL ALSO

1 BE PROHIBITED.

2 (C) ELECTRONIC CLAIMS SUBMISSION.--IF AN INSURANCE CLAIM IS
3 MADE BY MEANS OF COMPUTER BILLING TAPES OR OTHER ELECTRONIC
4 MEANS, IT SHALL BE A REBUTTABLE PRESUMPTION THAT THE PERSON
5 KNOWINGLY MADE THE CLAIM IF THE PERSON HAS ADVISED THE INSURER
6 IN WRITING THAT CLAIMS WILL BE SUBMITTED BY USE OF COMPUTER
7 BILLING TAPES OR OTHER ELECTRONIC MEANS.

8 (D) GRADING.--AN OFFENSE UNDER SUBSECTION (A)(1) THROUGH (7)
9 IS A FELONY OF THE THIRD DEGREE. AN OFFENSE UNDER SUBSECTION (B)
10 IS A MISDEMEANOR OF THE FIRST DEGREE.

11 (E) RESTITUTION.--THE COURT MAY, IN ADDITION TO ANY OTHER
12 SENTENCE AUTHORIZED BY LAW, SENTENCE A PERSON CONVICTED OF
13 VIOLATING THIS SECTION TO MAKE RESTITUTION UNDER SECTION 1106
14 (RELATING TO RESTITUTION FOR INJURIES TO PERSON OR PROPERTY).

15 (F) IMMUNITY.--AN INSURER, AND ANY AGENT, SERVANT OR
16 EMPLOYEE THEREOF ACTING IN THE COURSE AND SCOPE OF HIS
17 EMPLOYMENT, AND THE MOTOR VEHICLE FRAUD INDEX BUREAU, AS
18 DESIGNATED BY THE INSURANCE COMMISSIONER PURSUANT TO 75 PA.C.S.
19 § 1821 (RELATING TO DESIGNATION), ACTING PURSUANT TO ITS PLAN OF
20 OPERATION, SHALL BE IMMUNE FROM CIVIL OR CRIMINAL LIABILITY
21 ARISING FROM THE SUPPLY OR RELEASE OF WRITTEN OR ORAL
22 INFORMATION TO ANY ENTITY DULY AUTHORIZED TO RECEIVE SUCH
23 INFORMATION BY FEDERAL OR STATE LAW, OR BY INSURANCE DEPARTMENT
24 REGULATIONS, ONLY IF BOTH OF THE FOLLOWING CONDITIONS EXIST:

25 (1) THE INFORMATION IS SUPPLIED TO THE AGENCY IN
26 CONNECTION WITH AN ALLEGATION OF FRAUDULENT CONDUCT ON THE
27 PART OF ANY PERSON RELATING TO A VIOLATION OF THIS SECTION;
28 AND

29 (2) THE INSURER, AGENT, SERVANT OR EMPLOYEE OR THE MOTOR
30 VEHICLE FRAUD INDEX BUREAU HAS REASON TO BELIEVE THAT THE

1 INFORMATION SUPPLIED IS RELATED TO THE ALLEGATION OF FRAUD.

2 (G) CIVIL ACTION.--AN INSURER DAMAGED AS A RESULT OF A
3 VIOLATION OF THIS SECTION MAY SUE THEREFOR IN ANY COURT OF
4 COMPETENT JURISDICTION TO RECOVER COMPENSATORY DAMAGES, WHICH
5 MAY INCLUDE REASONABLE INVESTIGATION EXPENSES, COSTS OF SUIT AND
6 ATTORNEY FEES. AN INSURER MAY RECOVER DAMAGES IF THE COURT
7 DETERMINES THAT THE DEFENDANT HAS ENGAGED IN A PATTERN OF
8 VIOLATING THIS SECTION.

9 (H) CRIMINAL ACTION.--

10 (1) THE DISTRICT ATTORNEYS OF THE SEVERAL COUNTIES SHALL
11 HAVE AUTHORITY TO INVESTIGATE AND TO INSTITUTE CRIMINAL
12 PROCEEDINGS FOR ANY VIOLATION OF THIS SECTION.

13 (2) IN ADDITION TO THE AUTHORITY CONFERRED UPON THE
14 ATTORNEY GENERAL BY THE ACT OF OCTOBER 15, 1980 (P.L.950,
15 NO.164), KNOWN AS THE COMMONWEALTH ATTORNEYS ACT, THE
16 ATTORNEY GENERAL SHALL HAVE THE AUTHORITY TO INVESTIGATE AND
17 TO INSTITUTE CRIMINAL PROCEEDINGS FOR ANY VIOLATION OF THIS
18 SECTION OR ANY SERIES OF SUCH VIOLATIONS INVOLVING MORE THAN
19 ONE COUNTY OF THE COMMONWEALTH OR INVOLVING ANY COUNTY OF THE
20 COMMONWEALTH AND ANOTHER STATE. NO PERSON CHARGED WITH A
21 VIOLATION OF THIS SECTION BY THE ATTORNEY GENERAL SHALL HAVE
22 STANDING TO CHALLENGE THE AUTHORITY OF THE ATTORNEY GENERAL
23 TO INVESTIGATE OR PROSECUTE THE CASE, AND, IF ANY SUCH
24 CHALLENGE IS MADE, THE CHALLENGE SHALL BE DISMISSED AND NO
25 RELIEF SHALL BE AVAILABLE IN THE COURTS OF THE COMMONWEALTH
26 TO THE PERSON MAKING THE CHALLENGE.

27 (I) REGULATORY AND INVESTIGATIVE POWERS ADDITIONAL TO THOSE
28 NOW EXISTING.--NOTHING CONTAINED IN THIS SECTION SHALL BE
29 CONSTRUED TO LIMIT THE REGULATORY OR INVESTIGATIVE AUTHORITY OF
30 ANY DEPARTMENT OR AGENCY OF THE COMMONWEALTH WHOSE FUNCTIONS

1 MIGHT RELATE TO PERSONS, ENTERPRISES OR MATTERS FALLING WITHIN
2 THE SCOPE OF THIS SECTION.

3 (J) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
4 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
5 SUBSECTION:

6 "ATTORNEY." AN INDIVIDUAL ADMITTED BY THE SUPREME COURT TO
7 PRACTICE LAW IN THIS COMMONWEALTH.

8 "HEALTH CARE PROFESSIONAL." A PERSON LICENSED OR CERTIFIED
9 PURSUANT TO LAW TO PERFORM HEALTH CARE ACTIVITIES.

10 "INSURANCE CLAIM." A CLAIM FOR PAYMENT OR OTHER BENEFIT
11 PURSUANT TO AN INSURANCE POLICY OR AGREEMENT FOR COVERAGE OF
12 HEALTH OR HOSPITAL SERVICES OR WORKER'S COMPENSATION.

13 "INSURANCE POLICY." A DOCUMENT SETTING FORTH THE TERMS AND
14 CONDITIONS OF A CONTRACT OF INSURANCE OR AGREEMENT FOR THE
15 COVERAGE OF HEALTH OR HOSPITAL SERVICES OR WORKER'S
16 COMPENSATION.

17 "INSURER." A COMPANY, ASSOCIATION OR EXCHANGE DEFINED BY
18 SECTION 101 OF THE ACT OF MAY 17, 1921 (P.L.682, NO.284), KNOWN
19 AS THE INSURANCE COMPANY LAW OF 1921; AN UNINCORPORATED
20 ASSOCIATION OF UNDERWRITING MEMBERS; A HOSPITAL PLAN
21 CORPORATION; A PROFESSIONAL HEALTH SERVICES PLAN CORPORATION; A
22 HEALTH MAINTENANCE ORGANIZATION; A FRATERNAL BENEFIT SOCIETY;
23 AND A SELF-INSURED HEALTH CARE ENTITY UNDER THE ACT OF OCTOBER
24 15, 1975 (P.L.390, NO.111), KNOWN AS THE HEALTH CARE SERVICES
25 MALPRACTICE ACT.

26 "PERSON." AN INDIVIDUAL, CORPORATION, PARTNERSHIP,
27 ASSOCIATION, JOINT-STOCK COMPANY, TRUST OR UNINCORPORATED
28 ORGANIZATION. THE TERM INCLUDES ANY INDIVIDUAL, CORPORATION,
29 ASSOCIATION, PARTNERSHIP, RECIPROCAL EXCHANGE, INTERINSURER,
30 LLOYD'S INSURER, FRATERNAL BENEFIT SOCIETY, BENEFICIAL

1 ASSOCIATION AND ANY OTHER LEGAL ENTITY ENGAGED OR PROPOSING TO
2 BECOME ENGAGED, EITHER DIRECTLY OR INDIRECTLY, IN THE BUSINESS
3 OF INSURANCE, INCLUDING AGENTS, BROKERS, ADJUSTERS AND HEALTH
4 CARE PLANS AS DEFINED IN 40 PA.C.S. CHS. 61 (RELATING TO
5 HOSPITAL PLAN CORPORATIONS), 63 (RELATING TO PROFESSIONAL HEALTH
6 SERVICES PLAN CORPORATIONS), 65 (RELATING TO FRATERNAL BENEFIT
7 SOCIETIES) AND 67 (RELATING TO BENEFICIAL SOCIETIES) AND THE ACT
8 OF DECEMBER 29, 1972 (P.L.1701, NO.364), KNOWN AS THE HEALTH
9 MAINTENANCE ORGANIZATION ACT. FOR PURPOSES OF THIS SECTION,
10 HEALTH CARE PLANS, FRATERNAL BENEFIT SOCIETIES AND BENEFICIAL
11 SOCIETIES SHALL BE DEEMED TO BE ENGAGED IN THE BUSINESS OF
12 INSURANCE.

13 "STATEMENT." ANY ORAL OR WRITTEN PRESENTATION OR OTHER
14 EVIDENCE OF LOSS, INJURY OR EXPENSE, INCLUDING, BUT NOT LIMITED
15 TO, ANY NOTICE, STATEMENT, PROOF OF LOSS, BILL OF LADING,
16 RECEIPT FOR PAYMENT, INVOICE, ACCOUNT, ESTIMATE OF PROPERTY
17 DAMAGES, BILL FOR SERVICES, DIAGNOSIS, PRESCRIPTION, HOSPITAL OR
18 DOCTOR RECORDS, X-RAY, TEST RESULT OR COMPUTER-GENERATED
19 DOCUMENTS.

20 Section ~~23~~ 16. Notwithstanding any other provision of law to <—
21 the contrary, regulations promulgated under the authority of
22 section ~~306(f.1)(3)(ii)~~ 306(F.1) of the act, as amended by this <—
23 act, shall not be subject to the provisions of the act of
24 October 15, 1980 (P.L.950, No.164), known as the Commonwealth
25 Attorneys Act, or the act of June 25, 1982 (P.L.633, No.181),
26 known as the Regulatory Review Act.

27 Section ~~24~~ 17. (A) In order to provide an efficient <—
28 implementation of this act and to assure fair and equitable
29 treatment of insurers and insureds, any rate requests filed with
30 the Insurance Department and pending as of the effective date of

1 Article VII of this act are hereby disapproved as being in
2 conflict with this act. ~~Each rating organization shall, within~~ ←
3 ~~30 days of the effective date of Article VII of this act, refile~~
4 ~~rates to be used for new and renewal policies for workers'~~
5 ~~compensation insurance with effective dates after January 1,~~
6 ~~1992 and prior to 60 days after the effective date of Article~~
7 ~~VII of this act. Such filings shall be subject to approval or~~
8 ~~disapproval by the Insurance Commissioner pursuant to section~~
9 ~~654 of the act of May 17, 1921 (P.L.682, No.284), known as The~~
10 ~~Insurance Company Law of 1921. Each rating organization shall~~
11 ~~also file, within 30 days of the effective date of Article VII~~
12 ~~of this act, a loss cost filing pursuant to section 709(c) of~~
13 ~~Article VII of this act for new and renewal policies for~~
14 ~~workers' compensation insurance, with effective dates on and~~
15 ~~after 60 days after the effective date of Article VII of this~~
16 ~~act. The hearing record and briefs of any rate filings~~
17 ~~disapproved pursuant to this section shall be part of the record~~
18 ~~of any rate filing required by this section.~~

19 Section 25. ~~(a) The following act and parts of acts are~~
20 ~~repealed:~~

21 Section 654 of the act of May 17, 1921 (P.L.682, No.284),
22 known as The Insurance Company Law of 1921.

23 75 Pa.C.S. §§ 1735 and 1737.

24 ~~(b) The provisions of 75 Pa.C.S. §§ 1720 and 1722 are~~
25 ~~repealed insofar as they relate to workers' compensation~~
26 ~~payments or other benefits under the Workers' Compensation Act.~~

27 ~~(c) All other acts and parts of acts are repealed insofar as~~
28 ~~they are inconsistent with this act.~~

29 (B) THE INSURANCE COMMISSIONER SHALL INITIATE AN ←
30 INVESTIGATION PURSUANT TO SECTION 708 WITH REGARD TO ANY RATE

1 REQUESTS APPROVED ON OR AFTER JULY 1, 1992, AND PRIOR TO THE
2 EFFECTIVE DATE OF ARTICLE VII OF THIS ACT.

3 SECTION 18. (A) SECTION 654 OF THE ACT OF MAY 17, 1921
4 (P.L.682, NO.284), KNOWN AS THE INSURANCE COMPANY LAW OF 1921,
5 IS REPEALED.

6 (B) ALL OTHER ACTS AND PARTS OF ACTS ARE REPEALED INsofar AS
7 THEY ARE INCONSISTENT WITH THIS ACT.

8 Section ~~26~~ 19. This act shall take effect as follows: <—

9 (1) THE ADDITION OF Articles VIII and IX of the act <—
10 shall take effect in 120 days.

11 (2) THE ADDITION OF Article VII of the act shall take <—
12 effect immediately.

13 (3) ~~Section 25(a) of this~~ THE ADDITION OF ARTICLE XIII <—
14 OF THE act shall take effect January 1, 1993.

15 (4) This section shall take effect immediately.

16 (5) The remainder of this act shall take effect in 60
17 days.