

The New Administrative Workers' Compensation System

By Dave Roberts

About the author: At the time of his death, Dave had tried over 100 civil cases in 21 various Oklahoma State District Courts. He also tried over 25 civil cases in various Federal District Courts, and tried thousands of cases at the Oklahoma Workers' Compensation Court. Dave was past chairman of the Ethics Committee of the Oklahoma Bar Association and also served as Chairman of the Oklahoma Board of Bar Examiners. Dave authored several articles for the Oklahoma Bar Journal and the American Bar Association Journal. At the time of his death, he was one of only nine life-sustaining members of Scribes, the pre-eminent National Legal Writers' Society. Excerpted from Dave Roberts' obituary.

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Introduction. On May 6, 2013, Governor Fallin signed one of the most historic pieces of legislation ever passed in Oklahoma. A new administrative system was created for handling workers' compensation claims. The new administrative system is a product of four different Acts found in Senate Bill 1062 (2013): The Administrative Workers' Compensation Act¹, Workers' Compensation Court of Existing Claims², Oklahoma Employee Injury Benefit Act³, and the Workers' Compensation Arbitration Act.⁴ These four Acts are now found in newly created Title 85 A.

Title 85 had previously governed all Oklahoma Workers' Compensation claims. Now it only governs claims that arise before February 1, 2014.

Effective date of the Act. The new legislation will apply to all injuries and occupational diseases that occur on and after February 1, 2014.⁵ The time delay is necessary because time is needed to set up a new administrative system to deal with workers' compensation claims that arise on and after February 1, 2014.

After February 1, 2014, there will be dual systems to govern workers' compensation claims. The old Workers' Compensation Court system will be retained to administer claims that arise before February 1, 2014⁶. The new system will be governed and administered by the Oklahoma Workers' Compensation Commission for all claims that arise on and after February 1, 2014.

The new system will be an administrative system. The old court-of-record system will be governed by The Workers' Compensation Court of Existing Claims, the new name given to the old Workers' Compensation Court.

Immunity retained. As was the case under the old law, once an employer complies with the Act and provides the required coverage⁷ to its employees, the employer will be immune from any suit or claim that the employee might have made in District Court for a job related injury. The only remedy available to the employee will be under the Act.⁸ The law regarding the immunity of the employer will essentially be the same as it has been since workers' compensation was introduced in Oklahoma.

There is a new provision regarding any operator or owner of an oil or gas well or other operation for exploring for, drilling for, or producing oil and gas. The owner or operator will be deemed the intermediate or principal employer and therefore immune from any District Court action or any claim of any employee of any employer providing services.⁹ This immunity is extended to the operator if it has complied with the provisions requiring coverage under the Act.¹⁰ This provision is very similar to a provision of the Texas Workers' Compensation Act.

Vertical immunity will be retained.¹¹ The Act specifically provides that the Act does not abrogate the loaned servant doctrine.¹²

The old Workers' Compensation Court is renamed the Workers' Compensation Court of Existing Claims.¹³ This renamed Court will hear all claims that arise before February 1, 2014.¹⁴ The date of the employee's injury will be deemed as the date the claim arose.¹⁵ The Act specifically provides that benefits for a single-event injury will be determined by the law in effect at the time of the injury. Cumulative trauma injuries will be determined by the law in

effect at the time the employee knew or reasonably should have known the change of physical condition was related to work activity (also called date of awareness).¹⁶ Benefits for death will be determined by the date of death.¹⁷ The Court of Existing Claims will handle old claims that pre-date February 1, 2014 under the “old law” that applies to those claims.

The current judges of the Court of Existing Claims will serve out the remainder of their terms.¹⁸ As the terms expire, their judicial positions will be eliminated.¹⁹ Four of the current judicial terms expire on July 1, 2014. These judges will not be replaced. The Court will have six judges until July 1, 2016 at which time two more judicial terms will expire. This will leave four judges who will serve until their terms expire July 1, 2020.²⁰

If necessary, the new Workers’ Compensation Commission may assign administrative law judges to handle the dockets of the Court of Existing Claims.²¹ This provision is designed to address the handling of “old claims” that will be subject to being handled by fewer judges.

The New Workers’ Compensation Commission.²² The Governor, subject to confirmation of the Senate,²³ will appoint three Commissioners who will have the exclusive responsibility and duty to carry out all of the provisions of the Act.²⁴ There is no requirement they be attorneys. The only requirement is they must have been involved in the workers’ compensation field for at least three years.²⁵ The Commission will be vested with total subject matter jurisdiction over all claims filed under the new Act²⁶ and will have full power and authority to determine all questions in relation to claims for compensation under the Act.²⁷

The Commissioners will serve six year terms with the terms initially staggered so the changes of Commissioners will be limited to one every two years. They will be paid the same as a district judge.²⁸ The Governor will appoint one of the Commissioners to be the Chairman of the Commission.²⁹

Duties of the Commission will be to:

- Adopt rules of procedure for administrative hearings.³⁰
- Hear appeals from decisions of the administrative law judges³¹
- Conduct hearings.³²
- Appoint administrative law judges who will conduct administrative hearings.³³
- Prescribe rules governing the legal and non-legal representation of employees, employers, and carriers.³⁴ Non-lawyers may represent parties before the Commission.
- Hire employees and incur necessary expenses to administratively run the Commission.³⁵ This will include examiners, investigators, medical examiners, clerks, court reporters, and other necessary employees.³⁶
- Hear and approve compromise settlements.³⁷
- Hear and determine claims concerning disputed medical bills.³⁸
- Require the employee to submit to examination by an Independent Medical Examiner chosen by the Commission if they think it to be appropriate.³⁹
- Exercise exclusive jurisdiction to hear retaliatory discharge claims⁴⁰. It can award up to \$100,000.00⁴¹ for such claims in addition to costs and attorney fees.⁴²
- To hear Court En Banc appeals from the Court of Existing Claims.⁴³
- Supervise the administrative work of the administrative law judges.⁴⁴

- Employ an administrative staff for the Commission.⁴⁵
- With the rest of the Commission members, monitor own-risk, self-insurer, and group self-insurance programs.⁴⁶

Duties of the Administrative Law Judges⁴⁷ will be to:

- Hear and determine claims for compensation.⁴⁸
- Conduct hearings and undertake investigations.⁴⁹
- Make judgments, decisions, and determinations as required by the rules or judgments of the Commission.⁵⁰ Their decisions must be issued within 30 days of the submission of a case before them.⁵¹
- Hear challenges to Arbitration agreements.⁵²
- Assume duties of the Court of Existing Claims if it becomes necessary as that Court winds down.⁵³

Hearings before the Commission. The employer must provide workers' compensation benefits for "clean claims" (as defined by the Act) within thirty (30) days of the receipt by the employer of the claim. A "clean claim" is defined by the Act as a claim that has no defect or impropriety, including a lack of any required substantiating documentation, or any circumstance requiring special treatment that might impede prompt payment.⁵⁴

If the employer desires to contest an employee's right to compensation benefits, it must give notice to contest the claim to the employee within fifteen (15) days following their receipt of notice of the claim.⁵⁵ If the employer cannot obtain the necessary information to accept or deny the claim within fifteen (15) days, it may request an extension of time from the Commission before filing a response.⁵⁶

The Commission is directed to conduct a preliminary conference designed to provide the employee a chance to confer with a legal advisor on staff with the Commission. This is designed to facilitate resolving all issues without the expense of litigation and the need for payment of attorney fees by either party.⁵⁷ Under certain circumstances, the preliminary conference can be held in the county where the injury occurred⁵⁸.

Once the employee files a claim for compensation with the Commission, an administrative law judge will be assigned the claim upon application for hearing filed by either party.⁵⁹ The commission must give notice to the employer of filing a claim for compensation benefits by the employee.⁶⁰ Once either party applies for a hearing, the parties will be given ten (10) day's notice of a hearing to be held in Oklahoma City or Tulsa.⁶¹

The administrative law judge then must conduct an administrative hearing. The judge will not be bound by technical or statutory rules of evidence.⁶² The Act anticipates that medical evidence will be presented by written reports although there is a provision that medical testimony can be taken by deposition.⁶³ Both parties may take the deposition of any witness in a manner to be determined by the Commission with its new rules.⁶⁴

The administrative law judge must issue an award or order resolving all issues.⁶⁵ The standard for the judge's decision is that the party having the burden of proof on any issue must establish proof by a preponderance of evidence.⁶⁶

Appeals may be taken from an Order of the administrative law judge directly to the Commission.⁶⁷ The Commission may reverse or modify the decision if it determines the decision was against the clear weight of the evidence or contrary to law.⁶⁸

If an award or order of the Commission has not been paid by the employer, there is a procedure for the Commission to certify the award or order to the District Court for enforcement.⁶⁹

Appeals from the Commission may be taken to the Supreme Court.⁷⁰ The Supreme Court may reverse the finding of the Commission under a laundry list of standards of review contained in the new Act.⁷¹ These considerations are an attempt by the legislature to dictate the Standard of Review to the Oklahoma Supreme Court. Appeals to the Supreme Court must be filed within twenty (20) days of the Order of the Commission.⁷²

All hearings, including any hearing involving the Commission, must be stenographically reported.⁷³ The Act provides that the Commission will be responsible to prepare a record of all hearings and other proceedings before it.⁷⁴

Neither party to the administrative hearing must be represented by an attorney. Evidence may be presented by any party authorized in writing to act for either party.⁷⁵

The Commission and the administrative law judges operating under the supervision of the Commission may issue subpoenas and require third-parties such as medical providers, the parties to the case, and others, to produce documents and allow depositions to be taken.⁷⁶

Methods for the employer to secure coverage for its employees.⁷⁷ Compliance and the securing coverage for employees is required of employers under the Act. The employer may:

- Purchase a workers' compensation insurance policy from a licensed carrier.⁷⁸
- Provide guaranty insurance as defined by the Act.⁷⁹
- Become an own-risk employer by complying with rules of the Commission.⁸⁰
- Become a member of a group self-insurance association that has complied with the rules of the Commission.⁸¹
- Comply with the Opt Out provisions described in the following section.

The employee cannot waive his or her right to compensation under the Act.⁸² Nor can the employee be required to pay any of the premiums for coverage under the Act.⁸³ Failure to secure workers' compensation coverage for employees will result in onerous penalties to the employer.⁸⁴

Opt-Out Provisions.⁸⁵ The Opt-Out Provisions of the new legislation are contained in the "Oklahoma Employee Injury Benefit Act."⁸⁶ It allows "qualified employers"⁸⁷ to have an alternative method of complying with the Act and providing benefits under a brand-new system.⁸⁸ If the employer desires to be exempt from the Administrative Workers' Compensation Act, it must establish a "benefit plan,"⁸⁹ pay the Insurance Commissioner \$1,500.00, notify its employees it does not carry workers' compensation insurance, and give notice to the Insurance Commissioner of its desire to elect to become a Qualified Employer.⁹⁰

The Insurance Commissioner is given the power and responsibility of regulating qualified employers and the duty to ensure that such employers have complied with the Opt-Out provisions of the Act.⁹¹

A qualified employer must give notice to employees it does not carry workers' compensation insurance coverage, that it is a qualified employer, and has opted out of the system.⁹² Compliance with this notice provision may be made by posting such notice at

conspicuous locations at the qualified employer's places of business in the form, content, and manner of delivery required by the Insurance Commissioner.⁹³

The benefit plan must provide for payment of the same forms of benefits included in the Act for most benefits under the Act.⁹⁴ This includes temporary total disability, temporary partial disability, permanent partial disability, vocational rehabilitation, permanent total disability, disfigurement, amputations, death benefits, and medical benefits⁹⁵. Medical management, dispute resolution, and other provisions of the Act do not apply to Opt-Out Benefit Plans.⁹⁶

Settlements are allowed under the Plans.⁹⁷ But many of the provisions of the Act such as suspension and termination of benefits, medical management, and dispute resolution are not applicable to Opt-Out plans.⁹⁸ The Opt-Out employer will have extraordinary discretion in designing benefits and managing claims.

These Plans were initially designed for large employers who desired to self-insure and opt-out of the system, but the Act also allows for the employer to contract with a licensed insurance carrier to opt-out of the system.⁹⁹ For those employers who desire to self-insure, the Act provides for onerous provisions relating to furnishing satisfactory proof to the Insurance Commissioner of the ability to pay benefits.¹⁰⁰

If the Opt-Out Plans are held to be unconstitutional by the Oklahoma Supreme Court, the Act provides that the employer retains immunity and has ninety (90) days from any final decision to secure other compliance with the Act.¹⁰¹

How a claim works under the Opt-Out system.¹⁰² If an employee makes a claim against the employer under the Plan, the employer has fifteen (15) days to accept or deny the claim.¹⁰³ If denied, the employer must explain why the claim was denied and advise the employee how to appeal the decision.¹⁰⁴ If the claim is denied, the employee may then appeal to a three-person committee composed of employer representatives. The committee may request any additional information it deems necessary to make a decision, including having the employee submit to a medical exam. The committee has forty five (45) days to decide.¹⁰⁵

If the committee has continued to deny any part of the employee's claim, the employee may, within one year of the decision of the committee, petition the Commission sitting en banc to review the employer's decisions.¹⁰⁶ It should be noted that the employee does not have access to the Commission for up to 60 days from the date a claim was made. If an appeal is made to the Commission, the Commission must give the parties ten (10) day's notice of the hearing it must schedule. The Commission must issue its ruling within twenty (20) days of the submission of the case before it.

If the decision is unfavorable to either party, an appeal may be filed with the Supreme Court in twenty (20) days.¹⁰⁷ The Act provides for a laundry list of standards of review that may be used by the Supreme Court in considering any appeal.¹⁰⁸

The ultimate legal question concerning the opt-out system is how much discretion will be given to the employer in defining what injuries are covered and what kind of medical management program the employer might institute.

Use of Independent Medical Examiners.¹⁰⁹ The Commission is mandated to create and maintain a list of Independent Medical Examiners.¹¹⁰ It may use them as it thinks necessary in any medical situation, such as surgery, that might come before the Court.¹¹¹ All of the previous rules and procedures under the old law have been retained.

Medical case management.¹¹² The Act encourages medical case management. The Commission may appoint “Case managers”, as defined by the act,¹¹³ at the request of either the employee or employer in situations where the employee is not subject to a certified workplace medical plan or where the employer has not already hired a case manager.¹¹⁴

For cases not covered by a certified workplace medical plan, and where the employer, insurance company, or own-risk employer do not provide case management, case management may be granted by the Workers' Compensation Commission on the request of any party, or when the Commission determines that case management is appropriate. The administrative law judge shall appoint a case manager from a list of qualified case managers developed, maintained and periodically reviewed by the Commission. The period of qualification shall be two (2) years. Case managers may be qualified for successive two-year periods. Case managers serving as qualified case managers on the effective date of this act shall serve the remainder of their respective two-year qualification periods and may reapply for successive qualification periods. The reasonable and customary charges of a medical case manager appointed by the Commission shall be borne by the employer or insurance carrier. One change of case manager per party shall be made upon application of any party.

Temporary Total Disability.¹¹⁵ Under Oklahoma law, the injured employee is entitled to receive weekly income benefits payments (termed temporary total disability or TTD) while undergoing medical treatment and cannot work.¹¹⁶ Under the old law, the employee was entitled to recover 70% of his average weekly wage with a limitation that the weekly payments could not exceed 100% of the state’s average weekly wage.¹¹⁷ For example, if the employee was injured before October 31, 2012, the employee could receive up to \$735.00 per week provided his average weekly wage was over \$1,000 per week. These benefits could last up to 156 weeks.¹¹⁸ The employee could receive up to 104 weeks of temporary total disability and up to an additional 52 weeks if proper proof was shown.¹¹⁹

Under the new Act, the employee can receive 70% of his average weekly wage¹²⁰, but is limited to a maximum of 70% of the state’s average weekly wage. This would cause a new maximum benefit of \$515.00 per week. This will be a reduction of 30% of the temporary total disability benefits that the employee could have recovered under the old Act.

If an employer wishes to terminate temporary total disability payments being made to the employee and the employee has not returned to work, the employer must give notice to the employee. If the employee files an objection with ten (10) days, the commission must set the matter for hearing within twenty (20) days for a determination to see if temporary total disability will be reinstated.¹²¹

As was the case under the old law, no temporary total disability may be payable while the employee is receiving unemployment benefits.¹²²

Official Disability Guidelines (ODG).¹²³ The ODG Guidelines, published by the Work Loss Data Institute, will be recognized as the primary standard of reference for determining the frequency and extent of medical services, including prescription medication,¹²⁴ to be rendered to the employee under the Act.¹²⁵ The ODG guidelines will not act as a requirement or mandate, but it is anticipated they will be used in nearly all situations. Under the old law, the ODG guidelines are mandatory for all parts of the body except the spine. The length of medical

treatment will, as was the case under the old Act, determine the length of temporary total disability.

Choice of treating physician. Under the new Act, the employer has the right to choose the treating physician and the corresponding responsibility to provide the employee with appropriate medical treatment.¹²⁶ If the employer fails to provide medical treatment within five days of notice of the injury, the employee may choose the treating physician.¹²⁷

If the employee is dissatisfied with the treating physician chosen by the employer, the Commission has the power to grant one change of the treating physician. The employer will submit three physicians. The employee must then choose the replacement treating physician from the list provided by the employer.¹²⁸ This is a big change from the old Act.

Medical treatment. The Act provides that the Commission will have sole and exclusive subject matter jurisdiction over claims and charges for medical treatment provided under the Act.¹²⁹ As was the case under the old Act, the District Court will not have jurisdiction over any bill for medical treatment incident to a job-related injury. The employer and any medical provider may submit any dispute regarding medical charges to the Commission.¹³⁰ The medical provider may not pursue payment of its medical bill until there is a final determination made by the Commission regarding compensability.¹³¹ If the claim is found to be compensable, the Commission will have sole and exclusive jurisdiction over the medical bill. If the claim is not found to be compensable, the District Court will have jurisdiction.

The employer, as was the case under the old law, must pay 100% of the employee's medical expenses, subject to the Fee Schedule, with no maximum limits on the amounts payable.¹³² As noted above, the ODG will be recognized as the primary standard for the rendition of medical treatment.¹³³

The Act provides for various circumstances where the employer is not responsible for medical treatment or temporary total disability for missed appointments by the employee.¹³⁴

Soft tissue injuries.¹³⁵ Compensation for nonsurgical soft tissue injuries will not exceed eight (8) weeks of temporary total disability.¹³⁶ If the employee is treated with an injection or injections, such employee can be entitled to an additional eight (8) weeks of temporary total disability.¹³⁷ If surgery is recommended, the Commission may order an additional sixteen (16) weeks of temporary total disability with certain restrictions.¹³⁸

Brain disorders, spinal cord disorders, and other such conditions are specifically excluded from the Act's definition of "soft tissue injuries".¹³⁹

Hernias.¹⁴⁰ The employee is entitled to six (6) weeks of temporary total disability benefits for a hernia injury. If the employee refuses a recommended hernia operation, the total benefits payable are thirteen (13) weeks.¹⁴¹ The Act provides for new proof requirements to make recovery for a hernia injury.¹⁴²

Mental injuries.¹⁴³ The Act changes the law relative to compensability of mental injuries. A mental injury is not a compensable injury unless it was caused by a physical injury arising out of the employment. This provision does not apply to any victim of a crime of violence.¹⁴⁴ Any claim for mental injury must conform to the Diagnostic and Statistical Manual of Mental Disorders.¹⁴⁵

The Act provides the employee is limited to 26 weeks of disability benefits for mental injuries unless it can be shown by clear and convincing evidence that benefits should continue for a total of 52 weeks.¹⁴⁶

Heart attacks and strokes.¹⁴⁷ The Act provides for the standard of evidence necessary to recover in heart attack and stroke claims. A heart attack, stroke, or similar incident is only compensable if the employment was the major cause of the incident.¹⁴⁸

To recover benefits for these incidents, the employee must show that the incident was precipitated by extraordinary and unusual circumstances in comparison to the employee's usual work or was caused by an unusual and unpredicted event.¹⁴⁹ Mental or physical stress may not be considered under the new Act in determining whether the employee has met the necessary burden of proof.¹⁵⁰ The writer is unaware whether there is stress other than mental stress or physical stress.

Permanent Partial Disability.¹⁵¹ Determining permanent partial disability will be the sole responsibility of the Commission through its administrative law judges.¹⁵² As was the case under the old law, each party may submit a report of an evaluating physician regarding permanent partial disability.¹⁵³ Any award for permanent partial disability must be under the current edition of Guides (now the 6th Edition) for the Evaluation of Permanent Impairment promulgated by the American Medical Association.¹⁵⁴

There are new limitations on the nature of permanent partial disability that may be awarded. First, the maximum number of weeks that can be awarded is 350 weeks rather than the 500 weeks provided under the old law. This is a reduction of 30% as compared to the old law.¹⁵⁵ For example, an award of 10% to the body under the old law would allow up to 50 weeks of permanent disability (\$16,150.00). Under the new Act, 10% to the body would amount to 35 weeks of permanent disability (\$11,305.00). The maximum rate that can be awarded for permanent partial disability is capped at \$323.00 per week.¹⁵⁶

Second, unless the employee and employer come to a settlement agreement regarding permanent partial disability, the payment of any award for permanent partial disability is deferred and under some circumstances is reduced if the employee has returned to work for the employer or has returned to an equivalent job.¹⁵⁷

Permanent partial disability cannot be awarded to a body part for which no medical treatment was rendered.¹⁵⁸

The amount of permanent disability awarded is then reduced by 70% of the employee's average weekly wage for each week he works in his pre-injury or equivalent job.¹⁵⁹ If the employer terminates the employee or the position offered is not the pre-injury or equivalent job, the remaining permanent partial disability award will be paid to the employee in a lump sum.¹⁶⁰ If the employee refuses an offer to return to his pre-injury or equivalent job, the award of permanent partial disability is deferred and reduced as outlined above.¹⁶¹ Settlement agreements will not be subject to the deferral provisions¹⁶².

If the employee was represented by an attorney at a contested permanent partial disability hearing, the attorney fees are calculated on the permanent partial disability at the time of the award, not under any deferral.¹⁶³

As was the case before the new Act, any award of permanent partial disability must be over and above any pre-existing disability.¹⁶⁴

The Physician Advisory Committee is directed to recommend changes to the evaluation of permanent disability. If such changes are adopted by the Commission, they must be submitted to the Governor and the legislature for approval.¹⁶⁵

Vocational Rehabilitation Benefits.¹⁶⁶ The new Act encourages vocational rehabilitation. Any employee eligible for permanent partial disability will be entitled to vocational rehabilitation benefits.¹⁶⁷ The Act mandates that the Commission hire or contract with a Vocational Rehabilitation Director to oversee the rehabilitation program of the Commission.¹⁶⁸ The Director will oversee all employee rehabilitation efforts and may assign work out to private vocational counselors.¹⁶⁹

The Act provides a list of situations where there will be a presumption in favor of ordering vocational rehabilitation services.¹⁷⁰

The Act provides for a much needed change in connection with vocational benefits. Now the administrative law judge can order vocational changes even though the employee is temporarily totally disabled and under active medical care.¹⁷¹ The employee does not have to wait to be vocationally rehabilitated until medical treatment has been completed.¹⁷²

As was the case under the old Act, vocational rehabilitation benefits may be awarded for up to 52 weeks and may be extended an additional 52 weeks under certain circumstances.¹⁷³ As was the case under the old Act, the employee may receive weekly benefits at the previously established temporarily total disability rate while undergoing vocational rehabilitation.¹⁷⁴

A new provision allows the employer, under certain circumstances, to deduct the tuition it has paid from a later permanent disability award.¹⁷⁵

Permanent Total Disability Benefits.¹⁷⁶ The new Act retains the old statutory definition of Permanent Total Disability. Permanent Total Disability must be based on objective findings. It is defined as the inability to earn wages in any employment, for which the employee may become physically suited and reasonably fitted by education, training, experience or vocational rehabilitation.¹⁷⁷ The statute also defines Permanent Total Disability as the loss of both hands, both feet, both legs, and both eyes or any two thereof.¹⁷⁸

An employee found to be permanently and totally disabled will be entitled to receive up to seventy (70) % of the employee's average weekly wage, not to exceed the state's average weekly wage.¹⁷⁹ Unlike Permanent Partial Disability, there will be no cap on the state's average weekly wage. The state's average weekly wage will be determined by the original accident or injury date.

Permanent Total Disability may be awarded where Temporary Total Disability has been exhausted even though the employee has not reached maximum medical improvement.¹⁸⁰ The weekly benefits are in addition to the requirement that the employer provide maintenance medical benefits to the claimant and a lifetime requirement for prosthetic devices.

Amputations and permanent loss. The Act retains the provisions of the old law relating to amputations and loss of vision¹⁸¹ in a laundry list fashion.¹⁸² For example, the employee will receive 275 weeks of permanent partial disability payments for a leg amputated at the knee or between the knee and the hip.¹⁸³

The new Act provides that the weekly calculation is based on 70% of the employee's average weekly wage, not to exceed \$323.00 per week.¹⁸⁴ In the leg amputation cited above, the employee would be entitled to \$88,825.00. Had the accident occurred between November 1,

2009 and August 26, 2010, the maximum recovery would have been \$98,725.00.¹⁸⁵ This would represent a reduction in benefits of 10%.

Restrictions on medical maintenance. No continuing medical maintenance will be awarded under the new Act once the employee has reached the full benefit of conservative medical management unless such treatment is recommended by the treating physician or an independent medical examiner chosen by the Commission.¹⁸⁶

Disfigurement. The employee may receive up to \$50,000.00 in benefits for disfigurement.¹⁸⁷ Such benefits cannot be awarded until 12 months after the original injury date and cannot be awarded to any body part awarded permanent partial disability.¹⁸⁸

Death benefits.¹⁸⁹ Lump sum benefits payable to spouses, children, and others payable because of the employees' death arising out of and in the course and scope of employment are changed from the old law.¹⁹⁰ Funeral expenses have been raised to \$10,000 from the previous \$8,000.¹⁹¹ The distribution and calculation of weekly income benefits changed from the old law.¹⁹² Lump sum benefits are slightly changed.¹⁹³ Within a few weeks, the Court of Existing Claims and the Commission will both be issuing separate handbooks that will show the new benefits as compared to the old benefits.

Unemployment benefits. As was the case under the old law, the employee cannot recover temporary total disability while receiving unemployment insurance benefits.¹⁹⁴

Statute of limitations.¹⁹⁵ The time in which to file some claims has been shortened. Unless the employee has received temporary total disability payments or medical attention provided by the employer, the employee must file the claim within one (1) year of injury rather than the old two-year period.¹⁹⁶ If temporary total disability is paid, the claim must be filed within one (1) year of the last payment or two (2) years from the injury, whichever is greater.¹⁹⁷

Occupational disease claims must be filed within two (2) years of the last injurious exposure to the hazards of the disease.¹⁹⁸

Once a claim is filed, a request for hearing must be filed within (6) months or the claim will be dismissed with prejudice.¹⁹⁹ This provision was rarely, if ever, used under the old law. It is hoped this provision will not be used under the new Act where the employer and employee are having no disputes and benefits are being provided.

Death claims must be filed within one year of death rather than the two-year period allowed under the old law.²⁰⁰

Final settlements.²⁰¹ The new Act allows for Joint Petition settlements (final settlements).²⁰² A record of the Joint Petition must be made by an official Commission reporter.²⁰³

Re-opening of claims.²⁰⁴ The effects of aging cannot be considered in determining whether there has been a change of physical condition.²⁰⁵ A request for change in benefits based upon a change of condition must be made within six (6) months of an award, rather than the old law that provided for a 3-year statute of limitations.²⁰⁶

Changes in provisions regarding attorneys.²⁰⁷ The Act specifically allows anyone to appear on behalf of either the employee or employer.²⁰⁸ The only requirement for representation is that proof of representation is in writing and filed with the Commission.²⁰⁹ The Act specifically provides that fees for legal services rendered in a claim shall not be valid unless approved by the Commission.²¹⁰ This writer assumes this provision applies to both the employee and employer.

Fees for the attorney representing the employee cannot exceed 10% of temporary total disability, 10% of the value of any vocational rehabilitation services recovered²¹¹, and 20% of any permanent partial disability recovered.²¹² If the employer has made a written offer of settlement, the attorney can only recover 30% of the difference between the offer and the award of the court.²¹³ No provision allows the attorney for the employee to recover expenses incurred in the prosecution of the claim, including the expense of obtaining a medical report or other similar expenses to support the claim for benefits. The recovery of such expenses was allowed under the old law.

The Commission may award attorney fees to the employee's attorney only on "controverted" claims²¹⁴ defined by the Act. A "controverted claim" is defined as a contested hearing over whether there has been a compensable injury or whether the employee is entitled to temporary total disability, temporary partial disability, permanent partial disability, permanent total disability, or death benefits.²¹⁵ A request for a change of physician will not trigger the definition of "controverted" claim.²¹⁶ In the event that such a request is made, the attorney fee for the successful change of physician will be \$200.00.²¹⁷

Certified Workplace Medical Plans.²¹⁸ The rules and provisions regarding Certified Workplace Medical Plans are much the same as the old law.²¹⁹ The employer may directly contract with a CWMP after giving its carrier 60 day notice of its intention to directly contract with a CWMP.²²⁰

As was the case under the old law, there is an incentive for the employer to use a CWMP. If the employer is not experience-rated when it participates in a certified workplace medical plan, its workers' compensation insurer must grant a ten-percent premium deduction.²²¹

Certified workplace medical plans will continue to be regulated by the State Commissioner of Health in the same manner as under the Old Law.²²²

New alternative dispute resolution and mediation provisions.²²³ The Commission is directed to develop an alternative dispute resolution program²²⁴ and to appoint a Commission Mediator to conduct informal sessions to attempt to resolve assigned disputes.²²⁵ Where the employee does not have an attorney, the Commission Mediator is directed within thirty (30) days to have an informal mediation between the parties regarding issues such as closed-end periods of temporary total disability where the employee has returned to work, medical benefits, reimbursement of travel and medical treatment.²²⁶

While mediation remains voluntary, informal, and nonbinding, it is encouraged by the Act.²²⁷ As before, mediations remain confidential.²²⁸

The Commission is directed to certify private attorneys and non-attorneys as mediators. The private certified mediator must have five (5) years' experience in workers' compensation.²²⁹

New subrogation provisions.²³⁰ The Act provides for a new schematic for the subrogation recovery by the employer and insurance carrier against third-parties who have

caused the injury to the employee. Although not specifically addressed in the Act, all entities such as self-insureds, group associations, opt-out entities, and all who have been authorized to underwrite workers' compensation claims and have paid such claims will be given the benefit of the new subrogation provisions.

Under the old law, the employer was subject to the distribution of benefits by the trial judge if a settlement against a third-party was less than the benefits paid by the employer until the settlement. If the third-party settlement was for more than the benefits paid, the employer was limited to the formula pronounced by the Supreme Court in Prettyman v. Halliburton. The employer could then off-set any future benefits payable to the employee against the net recovery by the employee in the third party settlement.

The new scheme provides the employer is entitled to two-thirds (2/3) of the recovery from a third party after a deduction for reasonable fees and costs of the litigation whether the settlement was for more or less than the subrogation claim of the employer/insurance carrier.²³¹ The recovery by the employer not only includes the money paid by the employer to the date of the settlement, but also includes the amount to be paid (reserved) on an open claim that has not been settled.²³² The Act does not address whether the District Court where a third-party case is filed or the Commission has jurisdiction to determine whether the reserve on a case claimed by the employer or insurance carrier is reasonable.

The employer may sue the third-party in its own name.²³³ But the Act addresses the normal situation where the employee first sues. In that event, notice must be given the employer. The employer then must be allowed to intervene in the employee's lawsuit.²³⁴

Once the employer recovers all it has paid or will pay, the employee is entitled to the remainder of the recovery.²³⁵

Under the old law, the employer was not entitled to make any recovery against an uninsured or underinsured motorist policy. The new Act provides that the employer is entitled to maintain a third-party action against the employer's uninsured motorist or under insured motorist coverage.²³⁶

Prime contractor and subcontractor liability.²³⁷ An immediate employer of an employee is required by the Act to provide coverage under the act to all its direct employees²³⁸ unless²³⁹:

- The employer is subject to a Federal Workers' Compensation Act.
- The employer is in the business of agriculture or horticulture and had a payroll of less than \$100,000 in the preceding calendar year.
- The employee is a participant in a work or training program administered by the Department of Human Services.
- The employee is employed by an employer who has five or fewer employees, all of whom are related by blood or marriage to the employer, if the employer is a natural person or a general or limited partnership, or an incorporator of a corporation if the corporation is the employer.
- Certain employees employed in a youth sports league and certain people performing voluntary services.
- The employee is a licensed real estate agent paid on a commission basis
- Certain owner-operators who own or lease a truck-tractor or truck for hire.
- Certain operators of drive-away operations regarding a tow vehicle.

- Domestic workers in a private home or household who had an annual payroll of less than \$50,000 in the preceding calendar year.

Any employer may waive these exceptions and provide coverage to its employees.²⁴⁰

The immediate employer must provide coverage to its employees under the Act.²⁴¹ If the immediate employer fails to secure compensation required by the Act, the prime or principal contractor that contracted with the immediate employer will be liable for providing coverage to the employee unless there is an intermediate employer who has coverage. In that case, the intermediate employer will be responsible to provide coverage to the employee.²⁴²

If the intermediate or prime contractor is forced to provide coverage because the immediate employer failed to provide coverage, it will have a lien against any monies due or to become due to the immediate employer.²⁴³ This would be besides any remedy it might have against the immediate employer in District Court for damages not associated with workers' compensation obligations.

Additional provisions address the liability of the prime contractor when the principal employer has presented a certificate of non-coverage.²⁴⁴ The Commission will be vested with the power to issue Certificates of Non-Coverage.²⁴⁵

Workers' compensation counselor or ombudsman program.²⁴⁶ The new Act provides to expand the worker compensation/ombudsman program. The Act states the purpose of the expanded program is to assist injured workers through the system without the necessity of retaining legal representation.²⁴⁷ The ombudsman is directed to provide information to injured workers, investigate complaints, and communicate with employers, insurance carriers, self-insureds and health providers. The ombudsman program will be required to provide workshops for employers and medical providers²⁴⁸.

New retaliatory discharge provisions.²⁴⁹ The Act vests the Commission, rather than District Court as was the case under the old law, with the exclusive subject matter jurisdiction to hear claims from employees who claim that the employer has discriminated or retaliated against them because the employee filed a claim under the Act or hired a lawyer for representation under the Act.²⁵⁰

The Commission may award up to \$100,000.²⁵¹ The prevailing party will be entitled to recover costs and a reasonable attorney fee.²⁵²

The Act also provides that the employer may not discharge the employee for the sole reason that the employee was absent from work while temporarily disabled or for any purpose to avoid payment of temporary total disability to the injured employee.²⁵³ The employer is not required to rehire or retain an employee who, after temporarily total disability has been exhausted, is determined by a physician to be physically unable to perform his or her assigned duties or situations where the position is no longer available.²⁵⁴

Medical Fee Schedule. The new Act provides that the Commission must review the Medical Fee Schedule at least every two years and consider whether it will recommend changes to the legislature.²⁵⁵ Any change to the Fee Schedule must be approved by the legislature.²⁵⁶ The Commission is given various benchmarks to use in recommending adjustments to the Fee

Schedule.²⁵⁷ Various limits on medical procedures, medical equipment, and prescriptions as well as stop-loss provisions are provided for in the Act.²⁵⁸

The Commission retains exclusive jurisdiction to resolve fee schedule disputes.²⁵⁹

Multiple Injury Trust Fund provisions.²⁶⁰ The Act provides that the employee will receive compensation for permanent total disability if the injury received in his most recent accident when combined with any previous disability renders the employee permanently and totally disabled. The employer will only be liable for the degree of disability that would have resulted from the last injury as if there had been no pre-existing impairment. The Multiple Injury Trust Fund will be responsible for Total Permanent Disability only when the permanent partial disability awarded to the employee when added to any pre-existing disability of the employee results in the employee being totally and permanently disabled.²⁶¹

Claims against the Multiple Injury Trust Fund must be filed within two years of the last order for permanent partial disability.²⁶²

The Act provides for assessment of carriers, self-insurers, group associations, and CompSource Oklahoma for the funding of the Multiple Injury Trust Fund.²⁶³ The Commission will administer the Fund.²⁶⁴

Physicians Advisory Committee.²⁶⁵ The Act retains the nine person Physicians Advisory Committee appointed by the Governor, Speaker of the House, and Pro Tempore of the Senate.²⁶⁶ The committee is given the responsibilities to:

- Review treatment for inappropriate and unnecessary treatment, procedures, and any abuse practice or inappropriate method or billings.²⁶⁷
- Make recommendations regarding any abusive practice by health providers.²⁶⁸
- Make recommendations regarding acceptable deviations from the American Medical Association's "Guides to the Evaluation of Permanent Impairment".²⁶⁹
- Address and make recommendations regarding any protocols not addressed by the ODG.²⁷⁰
- Make recommendations regarding all manner and means of medical issues, including injury causation and apportionment.²⁷¹

Advisory Council on Workers' Compensation.²⁷² The Advisory Council will have nine (9) members-three (3) appointed by the Governor, three (3) appointed by the Speaker, and three (3) appointed by the Pro Tempore.²⁷³ The Governor's appointments will include both the Chairman and Vice Chairman of the Council.²⁷⁴ Among other duties, the Advisory Council is directed to review Oklahoma Treatment Guidelines,²⁷⁵ provide oversight of the Independent Medical Examiners,²⁷⁶ and review and analyze all aspects of the system, the work done by the Commissioners, and study trends in the field of workers' compensation²⁷⁷.

The Advisory Council is to meet at least quarterly²⁷⁸ and submit its findings annually to the Governor, Speaker, Pro Tempore, and the Chief Justice of the Supreme Court²⁷⁹.

Recovery of fees for services by medical providers.²⁸⁰ The Commission retains subject matter jurisdiction regarding medical expenses incurred by the employee for any work related

injury. Just like the old law, the District Court has no jurisdiction regarding such expenses if the Commission finds the medical treatment to be because of an on-the-job injury.²⁸¹

Medical providers may voluntarily contract with the attorney for the employer to recover disputed medical charges.²⁸² This writer assumes that the Commission will allow medical providers to contract with whomever they want to contract, not just the attorney for the employer.

Disclosure of medical records. Medical providers who render treatment to employees covered by the Act must permit copying of their medical records and furnish full written information to the Commission.²⁸³ This writer recommends that the party requesting such records obtain a release from the employee that complies with HIPPA.

The Workers' Compensation Arbitration Act. (WCAA)²⁸⁴ The WCAA applies to arbitration agreements made on and after February 1, 2014.²⁸⁵ The WCAA only applies to employees covered by the Act.²⁸⁶

The paramount issue regarding the WCAA is whether the employer may force the employee to arbitrate the employee's claim when the employee does not desire to arbitrate her claim. If so, it would deny the employee access to the judicial system. Most employees do not have the expertise to fight with an employer in an arbitration proceeding. Few employees have the money to pay for an attorney and incur the associated costs of an arbitration proceeding. Such costs and attorney fees are not generally recoverable under the WCAA,²⁸⁷ although the employer must pay the fees and expenses of the arbitrator.²⁸⁸

The WCAA provides that an administrative law judge may hear and determine challenges to an agreement to arbitrate.²⁸⁹ An aggrieved party may appeal such decision to the Commission.²⁹⁰

The arbitrator may hold a pre-hearing conference, decide cases on a summary disposition, subpoena witnesses, and permit discovery, including depositions.²⁹¹ The arbitrator may award all benefits allowable under the Act.²⁹²

Final decisions of an arbitrator may only be appealed to the District Court.²⁹³

Other provisions. The new legislation provides for:

- Fees and costs under the new system,²⁹⁴
- The Self-Insurance Guaranty Fund,²⁹⁵
- The Oklahoma Option (Opt Out) Insured Guarantee Fund,²⁹⁶
- Insurance policies with deductibles paid by the employer,²⁹⁷
- Funding of the new system,²⁹⁸
- The formation of group self-insurance associations,²⁹⁹
- Own Risk Employers,³⁰⁰
- Fraud provisions,³⁰¹
- Occupational diseases,³⁰²
- New provisions regarding Asbestosis and Silicosis,³⁰³
- Reporting requirements of employers who have claims submitted against them,³⁰⁴
- Methods for public entities to comply with the Act,³⁰⁵
- New provisions for compensation payable to alien non-residents,³⁰⁶

- An employee who is incarcerated is not eligible to receive medical or disability benefits under the Act,³⁰⁷ and
- Advance payments and payment of full wages with a method of recoupment of such payments.³⁰⁸

The Act also gives the employer the capability of off-set or reduction in an amount equal to, dollar-for-dollar, the benefits the injured employee has previously received for the same medical services or period of disability, whether those benefits were paid under a group health care service plan, a group disability policy, a group loss of income policy, a group accident, health, or accident and health policy, or a group hospital or medical services contract. The reduction will not apply if the injured employee has paid for the policy.³⁰⁹

It is assumed that Medicare and Medicaid must be paid back for any medical benefits they have provided in situations where the medical treatment was in connection with a job-related injury.

The new legislation also provides that by July 1, 2014, the Commission, with the assistance of the Insurance Commissioner, will implement an electronic data interchange (EDI) system that provides relevant data concerning the Oklahoma Workers' Compensation System and the delivery of benefits to injured workers.³¹⁰ Within thirty (30) days of the effective date of the Act, the Governor must name five (5) people to serve as the Oklahoma Workers' Compensation electronic Data Interchange Advisory Committee.³¹¹

¹ 85A O.S. § 1-167; See 85A O.S. § 3

² 85A O.S. § 400; Old law see 85 O.S. § 303

³ 85A O.S. § 107-120

⁴ 85A O.S. § 121-149

⁵ 85A O.S. § 172; See § 400; § 3.B.1.; See also 85A O.S. §45; Old law see 85 O.S § 315

⁶ 85A O.S. § 400

⁷ 85A O.S. § 35

⁸ 85A O.S. § 5

⁹ 85A O.S. § 5 A.

¹⁰ 85A O.S. § 5; § 33

¹¹ 85A O.S. § 5 E. F.

¹² 85A O.S. § 5 G.

¹³ 85A O.S. § 400 A

¹⁴ 85A O.S. § 400 A

¹⁵ 85A O.S. § 400 L

¹⁶ 85A O.S. § 45 G.; See § 400

¹⁷ 85A O.S. § 45 G

¹⁸ 85A O.S. § 400 A..

¹⁹ 85A O.S. § 400 A.

²⁰ 85A O.S. § 400 A.

²¹ 85A O.S. § 400 A.

²² 85A O.S. § 19

²³ 85A O.S. § 19 B.

²⁴ 85A O.S. § 19 C.

²⁵ 85A O.S. § 19 B.

²⁶ 85A O.S. § 27; See 85A O.S. § 19 C.; 85A O.S. § 326

²⁷ 85A O.S. § 27 A.B.C.

²⁸ 85A O.S. § 19 B.

²⁹ 85A O.S. § 19 C.

30 85A O.S. § 19 C.; See 85A O.S. § 70 and § 111
31 85A O.S. § 78
32 85A O.S. § 27 A.B.; See 85A O.S. § 73 and § 75
33 85A O.S. § 20 A.1.; see § 21 D. and §22 B. and § 71
34 85A O.S. § 20 A.4.; 85A O.S. § 22 A.1.
35 85A O.S. § 22
36 85A O.S. § 22 A.1.b.; 85A O.S. § 2.a.
37 85A O.S. § 22 C.1.
38 85A O.S. § 22 B. 6.
39 85A O.S. § 53
40 85A O.S. § 7 A.B.
41 85A O.S. § 7 C.
42 85A O.S. § 7 D.
43 85A O.S. § 400 J
44 85A O.S. § 19 E.1.
45 85A O.S. § 19 E.2.
46 85A O.S. § 22 B. 2. 3.
47 85A O.S. § 72; 85A O.S. § 27
48 85A O.S. § 22 D.; § 72 A.
49 85A O.S. § 22 D.; and § 71 B.C.; § 72 A.
50 85A O.S. § 22 D.; § 72 A.
51 85A O.S. § 27 A.
52 85A O.S. § 27
53 85A O.S. § 27 B.3.
54 85A O.S. § 85
55 85A O.S. § 86 A.B.
56 85A O.S. § 86 B.
57 85A O.S. § 70
58 85A O.S. § 70 1.
59 85A O.S. § 71 B.
60 85A O.S. § 71
61 85A O.S. § 71 B.4.
62 85A O.S. § 71 C.; 85A O.S. § 72 A.1.; §75
63 85A O.S. § 72 C.2.a.; § 72 A.1.
64 85A O.S. § 75
65 85A O.S. § 71 D.; 85A O.S. § 72A.4.;§ 72 B.5.
66 85A O.S. § 72 A.3.
67 85A O.S. § 78 A.; Old law see 85 O.S. § 340
68 85A O.S. § 78 A.
69 85A O.S. § 79; Old law see 85 O.S. § 346 A
70 85A O.S. § 78
71 85A O.S. § 78 C.1-8
72 85A O.S. § 78 C.
73 85A O.S. § 72 B.1.a.and C.1.
74 85A. O.S. § 72 B.1.b.
75 85A O.S. § 71 C.1.
76 85A O.S. § 71, 72,73,75
77 85A O.S. § 38 A. 1.; Old law see 85 O.S. § 351
78 85A O.S. § 38 A.2.; §42; Old law see 85 O.S. § 356
79 85A O.S. § 36 A. 2.
80 85A O.S. § 36 A.3.
81 85A O.S. § 36 A.4.
82 85A O.S. § 8 A.; Old law see 85 O.S. §413 B
83 85A O.S. § 9; Old law see 85 O.S. § 349 A
84 85A O.S. § 40; Old law see 85 O.S. § 352-354

85 85A O.S. § 200-213
86 85A O.S. § 200
87 85A O.S. § 201 A.8.
88 85A O.S. §202, 209
89 85A O.S. § 201 A.1
90 85A O.S. § 202 C.D.E.F.G.I.
91 85A O.S. § 202-203
92 85A O.S. § 202 H.
93 85A O.S. § 203 I.
94 85A O.S. § 203 B.; 85A O.S. § 45-47
95 85A O.S. § 203B
96 85A O.S. § 203 B.
97 85A O.S. § 203 C.
98 85A O.S. § 203 C.; § 203 B
99 85A O.S. § 204 A.B.
100 85A O.S. § 204 B. 3.
101 85A O.S. § 219 B.;85A O.S. § 213 (B) § 204 B.2.;C-I
102 85A O.S. § 211 (I)
103 85A O.S. § 211 A.
104 85A O.S. § 211 A.
105 85A O.S. § 211 B. 4.
106 85A O.S. § 211 B. 5. 6. 7.
107 85A O.S. § 211 B. 7.
108 85A O.S. § 211 b. 7.
109 85A O.S. § 112
110 85A O.S. § 112
111 85A O.S. § 112
112 85A O.S. § 113; Old Law see 85 O.S. § 330
113 85A O.S. § 2. 3.; § 113
114 85A O.S. §113
115 85A O.S. § 45; 85A O.S. § 113; Old law see 85 O.S. § 332
116 85A O.S. § 45 A.1.2.
117 85A O.S. §59; Old law see 85 O.S. §331
118 Old Law 85 O.S. § 332
119 85A O.S. § 5 A.1.
120 85A O.S. § 59
121 85A O.S. § 45 A.2.
122 85A O.S. §49; Old law see 85 O.S. § 332 (P)
123 85A O.S. § 16; See 85A O.S. § 17 C.
124 85A O.S. § 16 B.
125 85A O.S. § 16 A.
126 85A O.S. § 16; See § 50; 85A O.S. § 56.; Old Law See 85 O.S. § 326
127 85A O.S. § 50 B.
128 85A O.S. § 56 B.
129 85A O.S. § 50 H.4.;85A O.S. § 18; See § 16
130 85A O.S. § 55; See §16
131 85A O.S. §18
132 85A O.S. § 51; See §16; Old law see 85 O.S. § 326-327
133 85A O.S. § 51
134 85A O.S. § 57; § 45; Old law see 85 O.S. § 327
135 85A. O.S. § 62; Old law see 85 O.S. § 332 (K) (L) (M)
136 85A O.S. § 62 A.
137 85A O.S. § 62 A.
138 85A O.S. § 62 A.
139 85A O.S. § 62 B.1.2.

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- 140 85A O.S. § 61; Old law 85 O.S. § 333 (E)
- 141 85A O.S. § 61; § 54
- 142 85A O.S. § 61
- 143 85A O.S. § 13; Old law see 85 O.S. § 308 (10) (f)
- 144 85A O.S. § 13 A.
- 145 85A O.S. § 13 A. 2; See 85A O.S. § 17 C.
- 146 85A O.S. § 13 B.
- 147 85A O.S. § 14; Old law see 85 O.S. § 308 (10) (b)
- 148 85A O.S. § 14 A.
- 149 85A O.S. § 14 B.
- 150 85A O.S. § 14 B.2.
- 151 85A O.S. § 45 C.; Old law see 85 O.S. § 308 (35); 85 O.S. § 333
- 152 85A O.S. § 45 C.1.
- 153 85A O.S. § 45 C.1.
- 154 85A O.S. § 45 C.1.
- 155 85A O.S. § 45 C. 8.; Old law see 85 O.S. § 333 (B)
- 156 85A O.S. § 45 C.4.
- 157 85A O.S. § 43 C. 5.
- 158 85A O.S. § 45 C.2.
- 159 85A O.S. § 45 C.5.
- 160 85A O.S. § 45 C.5.
- 161 85A O.S. § 45 C. 5.
- 162 85A O.S. § 45 C. 5.
- 163 85A O.S. § 45 C. 5. d.
- 164 85A O.S. § 45 6.B.1.
- 165 85A O.S. § 60 B.
- 166 85A O.S. § 45; Old law see 85 O.S. § 328
- 167 85A O.S. § 45 C.10.
- 168 85A O.S. § 45 E.1.
- 169 85A O.S. § 45 E.2.
- 170 85A O.S. § 45 E.3.
- 171 85A O.S. § 45 E.4.5.
- 172 85A O.S. § 45 E.5.
- 173 85A O.S. § 45 E.6.
- 174 85A O.S. § 45 E.8.
- 175 85A O.S. § 45 E.8.
- 176 85A O.S. § 45; Old law see 85 O.S. § 336
- 177 85A O.S. § 2. 35.
- 178 85A O.S. § 2. 35.
- 179 85A O.S. § 45 D.
- 180 85A O.S. § 45 D.1.
- 181 85A O.S. § 46 E.1.2.
- 182 85A O.S. § 46 A.C.D.E.
- 183 85A O.S. § 46 A.3.
- 184 85A O.S. § 6 B.
- 185 See old law 85 O.S. § 333 F,1
- 186 85A O.S. 50 D.; Old law see 85 O.S. § 326
- 187 85A O.S. § 45 F.1.; Old law see 85 O.S. § 334
- 188 85A O.S. § 45 F.2.3.
- 189 85A O.S. § 47; 85A. O.S. § 11; Old law see 85 O.W. § 337
- 190 85A.O.S. § 47; Old law see 85 O.S. § 337 (A) (13); (A) (3); (A) (5) (6) (E)
- 191 85A O.S. § 47 C.5.
- 192 85A O.S. § 47 2.3.4.; 85 O.S. § 337 (C)
- 193 85A O.S. § 47 C.3.
- 194 85A O.S. § 49; Old law see 85 O.S. § 332 (P)

195 85A O.S. § 69; Old law see 85 O.S. § 318
196 85A O.S. § 69 A.1.
197 85A O.S. § 69 B.1.
198 85A O.S. § 69 A.2.a.
199 85A O.S. § 69 D.
200 85A.O.S. § 69; Old law see 85 O.S. § 318
201 85A O.S. § 87; 85A O.S. § 115 A.; Old law see 85 O.S. § 337, § 339
202 85A O.S. § 87; 85A O.S. § 115; Old law see O.S. § 337 (K), § 339
203 85A O.S. § 115
204 85A O.S. § 69 B.C., § 80; Old law see 85 O.S. § 318 (F)
205 85A O.S. § 80 D.
206 85A O.S. § 80; Old law see 85 O.S. § 318 (F)
207 85A O.S. § 82; Old law see 85 O.S. § 343
208 85A O.S. § 71 C.1.
209 85A O.S. § 83; § 71
210 85A O.S. § 82 A.1.a.
211 85A O.S. § 82 A.1.b.(4); Old law 85 O.S. § 343 (F) does not allow recovery of attorney fees
212 85A O.S. § 82 A.1.a.; see 85A O.S. § 210 A. 3.
213 85A O.S. § 82 A.1.b.
214 85A O.S. § 82 O.S. § A.1.b.c.
215 85A O.S. § 82 O.S. § A.1.c.
216 85A O.S. § 82 A.1.c.
217 85A O.S. § 82 A.1.b.(3)
218 85A O.S. § 64
219 85A O.S. § 56; 85A O.S. § 64
220 85A O.S. § 64 D.
221 85A O.S. § 64 E.
222 85A O.S. § 64
223 85A O.S. § 110; Old law see 85 O.S. § 321
224 85S O.S. § 110 A.
225 85A O.S. § 22 C.9.
226 85A O.S. § 110 D
227 85A O.S. § 110
228 85A O.S. § 110 F.
229 85A O.S. § 110 G.
230 85A O.S. § 43; Old law see 85 O.S. § 348
231 85A O.S. § 43 A.2.; Old law see 85 O.S. § 348 and cases interpreting same
232 85A O.S. § 43 A.1.c.
233 85A O.S. § 43 B.
234 85A O.S. § 43
235 85A O.S. § 43 B.3.
236 85A O.S. § 43 B.4.
237 85A O.S. § 5; 85A O.S. § 36 E; Old law see 85 O.S. § 348
238 85A O.S. § 3
239 85A O.S. § 2.18.b.
240 85A O.S. § 37
241 85A O.S. § 35-37; § 40
242 85A O.S. § 36-37
243 85A O.S. § 33
244 85A O.S. § 33; See 85A. O.S. § 36 C.
245 85A O.S. § 36 C. D.
246 85A O.S. § 109; Old law see 85 O.S. § 320
247 85A O.S. § 109 A.
248 85A O.S. § 109 B.D.
249 85A O.S. § 7

250 85A O.S. § 7 B.; Old law see 85 O.S. § 341
251 85A O.S. § 7 C.
252 85A O.S. § 7 D.
253 85A O.S. § 7 E.
254 85A O.S. § 7 F.
255 85A O.S. § 50 H.1.
256 85A O.S. § 50 H.1.
257 85A O.S. § 50 H.3.
258 85A O.S. § 50 H.3.
259 85A O.S. § 55 A.; Old law see 85 O.S. § 327
260 85A O.S. § 30-34; Old law see 85 O.S. § 402-403, § 406
261 85A O.S. § 32 A.
262 85A O.S. § 33 A.
263 85A O.S. § 31, § 29; Old law see 85 O.S. § 403
264 85A O.S. § 31-32
265 85A O.S. § 17; Old law see 85 O.S. § 373
266 85A O.S. § 17 A. 1.2.3.
267 85A O.S. § 17 B.1.
268 85A O.S. § 17 B.2.
269 85A O.S. § 17 B.3.; See also 85A O.S. § 60
270 85A O.S. § 17 B.4.
271 85A O.S. § 17 B.6.
272 85A O.S. § 121
273 85A O.S. § 121 B.1.2.3.
274 85A O.S. § 121 F.
275 85A O.S. § 121 L.
276 85A O.S. § 121 K.
277 85A O.S. § 121 J.
278 85A O.S. § 63 H.
279 85A O.S. § 121 J.
280 85A O.S. § 18 A.
281 85A O.S. § 18
282 85A O.S. § 82 A.4.; See 85A O.S. § 64; Old law see 85 O.S. § 328
283 85A O.S. § 58
284 85A O.S. § 300-328
285 85A O.S. § 303
286 85A O.S. § 301
287 85A O.S. § 316, §321, §325
288 85A O.S. § 321
289 85A O.S. § 326
290 85A O.S. § 327
291 85A O.S. § 315, § 317
292 85A O.S. § 321
293 85A O.S. § 327-328
294 85A O.S. § 58; Old law see 85 O.S. § 308, § 370
295 85A O.S. § 96 § 28; § 100, § 205; Old law see 85 O.S. § 407, § 361-364
296 85A O.S. § 205
297 85A O.S. § 91; § 95
298 85A O.S. § 260, § 264, § 28, § 207, § 260, § 266, §29; See § 129 of House bill 301 (2013)
299 85A O.S. § 103; § 123
300 85A O.S. § 111; § 204; § 206-207
301 85A O.S. § 6; Old law see 85 O.S. § 410 and 21 O.S. § 1663
302 85A O.S. § 65, § 67-68; Old law see 85 O.S. § 316, § 318 (F), § 323 (A), § 323 (B)
303 85A O.S. § 66; Old law see 85 O.S. § 316, See 85A O.S. § 69
304 85A O.S. § 63

³⁰⁵ 85A O.S. § 107

³⁰⁶ 85A O.S. § 11

³⁰⁷ 85A O.S. § 9; Old law see 85 O.S. § 332 (I); § 336 (B)

³⁰⁸ 85A O.S. § 89; Old law see 85 O.S. § 345 (E)

³⁰⁹ 85A O.S. § 44 A.

³¹⁰ 85A O.S. § 101 B.; See 85A O.S. § 25

³¹¹ 85A O.S. § 101 C.