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Connecticut Workers' Compensation Act

Chapter 568

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Workers' Compensation Act — Part A

I: Workers' Compensation Commission. Compensation Commissioners.

Sec. 31-275. Definitions. As used in this chapter, unless the context otherwise provides:

(1) "Arising out of and in the course of his employment" means an accidental injury happening to an employee or an occupational disease of an employee originating while the employee has been engaged in the line of the employee's duty in the business or affairs of the employer upon the employer's premises, or while engaged elsewhere upon the employer's business or affairs by the direction, express or implied, of the employer, provided:

(A) (i) For a police officer or firefighter, "in the course of his employment" encompasses such individual's departure from such individual's place of abode to duty, such individual's duty, and the return to such individual's place of abode after duty;

(ii) For an employee of the Department of Correction, (I) when responding to a direct order to appear at his or her work assignment under circumstances in which nonessential employees are excused from working, or (II) following two or more mandatory overtime work shifts on consecutive days, "in the course of his employment" encompasses such individual's departure from such individual's place of abode directly to duty, such individual's duty, and the return directly to such individual's place of abode after duty;

(iii) Notwithstanding the provisions of clauses (i) and (ii) of this subparagraph, the dependents of any deceased employee of the Department of Correction who was injured in the course of his employment, as defined in this subparagraph, on or after July 1, 2000, and who died not later than July 15, 2000, shall be paid compensation on account of the death, in accordance with the provisions of section 31-306, retroactively to the date of the employee's

death. The cost of the payment shall be paid by the employer or its insurance carrier which shall be reimbursed for such cost from the Second Injury Fund as provided in section 31-354 upon presentation of any vouchers and information that the Treasurer may require;

(B) A personal injury shall not be deemed to arise out of the employment unless causally traceable to the employment other than through weakened resistance or lowered vitality;

(C) In the case of an accidental injury, a disability or a death due to the use of alcohol or narcotic drugs shall not be construed to be a compensable injury;

(D) For aggravation of a preexisting disease, compensation shall be allowed only for that proportion of the disability or death due to the aggravation of the preexisting disease as may be reasonably attributed to the injury upon which the claim is based;

(E) A personal injury shall not be deemed to arise out of the employment if the injury is sustained: (i) At the employee's place of abode, and (ii) while the employee is engaged in a preliminary act or acts in preparation for work unless such act or acts are undertaken at the express direction or request of the employer;

(F) For purposes of subparagraph (C) of this subdivision, "narcotic drugs" means all controlled substances, as designated by the Commissioner of Consumer Protection pursuant to subsection (c) of section 21a-243, but does not include drugs prescribed in the course of medical treatment or in a program of research operated under the direction of a physician or pharmacologist. For purposes of subparagraph (E) of this subdivision, "place of abode" includes

the inside of the residential structure, the garage, the common hallways, stairways, driveways, walkways and the yard;

(G) The Workers' Compensation Commission shall adopt regulations, in accordance with the provisions of chapter 54, to implement the provisions of this section and shall define the terms "a preliminary act", "acts in preparation for work", "departure from place of abode directly to duty" and "return directly to place of abode after duty" on or before January 1, 2006.

(2) "Commission" means the Workers' Compensation Commission.

(3) "Commissioner" means the compensation commissioner who has jurisdiction in the matter referred to in the context.

(4) "Compensation" means benefits or payments mandated by the provisions of this chapter, including, but not limited to, indemnity, medical and surgical aid or hospital and nursing service required under section 31-294d and any type of payment for disability, whether for total or partial disability of a permanent or temporary nature, death benefit, funeral expense, payments made under the provisions of section 31-284b, 31-293a or 31-310, or any adjustment in benefits or payments required by this chapter.

(5) "Date of the injury" means, for an occupational disease, the date of total or partial incapacity to work as a result of such disease.

(6) "Dependent" means a member of the injured employee's family or next of kin who was wholly or partly dependent upon the earnings of the employee at the time of the injury.

(7) "Dependent in fact" means a person determined to be a dependent of an injured employee, in any case where there is no presumptive dependent, in accordance with the facts existing at the date of the injury.

(8) "Disfigurement" means impairment of or injury to the beauty, symmetry or appearance of a person that renders the person unsightly, misshapen or imperfect, or deforms the person in some manner, or otherwise causes a detrimental change in the external form of the person.

(9) (A) "Employee" means any person who:

(i) Has entered into or works under any contract of service or apprenticeship with an employer, whether the contract contemplated the performance of duties within or without the state;

(ii) Is a sole proprietor or business partner who accepts the provisions of this chapter in accordance with subdivision (10) of this section;

(iii) Is elected to serve as a member of the General Assembly of this state;

(iv) Is a salaried officer or paid member of any police department or fire department;

(v) Is a volunteer police officer, whether the officer is designated as special or auxiliary, upon vote of the legislative body of the town, city or borough in which the officer serves;

(vi) Is an elected or appointed official or agent of any town, city or borough in the state, upon vote of the proper authority of the town, city or borough, including the elected or

appointed official or agent, irrespective of the manner in which he or she is appointed or employed. Nothing in this subdivision shall be construed as affecting any existing rights as to pensions which such persons or their dependents had on July 1, 1927, or as preventing any existing custom of paying the full salary of any such person during disability due to injury arising out of and in the course of his or her employment;

(vii) Is an officer or enlisted person of the National Guard or other armed forces of the state called to active duty by the Governor while performing his or her active duty service; or

(viii) Is elected to serve as a probate judge for a probate district established in section 45a-2.

(B) "Employee" shall not be construed to include:

(i) Any person to whom articles or material are given to be treated in any way on premises not under the control or management of the person who gave them out;

(ii) One whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business;

(iii) A member of the employer's family dwelling in his house; but, if, in any contract of insurance, the wages or salary of a member of the employer's family dwelling in his house is included in the payroll on which the premium is based, then that person shall, if he sustains an injury arising out of and in the course of his employment, be deemed an employee and compensated in accordance with the provisions of this chapter;

(iv) Any person engaged in any type of service in or about a private dwelling provided he is not regularly employed by the owner or occupier over twenty-six hours per week;

(v) An employee of a corporation who is a corporate officer and who elects to be excluded from coverage under this chapter by notice in writing to his employer and to the commissioner;
or

(vi) Any person who is not a resident of this state but is injured in this state during the course of his employment, unless such person (I) works for an employer who has a place of employment or a business facility located in this state at which such person spends at least fifty per cent of his employment time, or (II) works for an employer pursuant to an employment contract to be performed primarily in this state.

(10) "Employer" means any person, corporation, limited liability company, firm, partnership, voluntary association, joint stock association, the state and any public corporation within the state using the services of one or more employees for pay, or the legal representative of any such employer, but all contracts of employment between an employer employing persons excluded from the definition of employee and any such employee shall be conclusively presumed to include the following mutual agreements between employer and employee: (A) That the employer may accept and become bound by the provisions of this chapter by immediately complying with section 31-284; (B) that, if the employer accepts the provisions of this chapter, the employee shall then be deemed to accept and be bound by such provisions unless the employer neglects or refuses to furnish immediately to the employee, on his written request, evidence of compliance with section 31-284 in the form of a certificate

from the commissioner, the Insurance Commissioner or the insurer, as the case may be; (C) that the employee may, at any time, withdraw his acceptance of, and become released from, the provisions of this chapter by giving written or printed notice of his withdrawal to the commissioner and to the employer, and the withdrawal shall take effect immediately from the time of its service on the commissioner and the employer; and (D) that the employer may withdraw his acceptance and the acceptance of the employee by filing a written or printed notice of his withdrawal with the commissioner and with the employee, and the withdrawal shall take effect immediately from the time of its service on the commissioner and the employee. The notices of acceptance and withdrawal to be given by an employer employing persons excluded from the definition of employee and the notice of withdrawal to be given by the employee, as provided in this subdivision, shall be served upon the commissioner, employer or employee, either by personal presentation or by registered or certified mail. In determining the number of employees employed by an individual, the employees of a partnership of which he is a member shall not be included. A person who is the sole proprietor of a business may accept the provisions of this chapter by notifying the commissioner, in writing, of his intent to do so. If such person accepts the provisions of this chapter he shall be considered to be an employer and shall insure his full liability in accordance with subdivision (2) of subsection (b) of section 31-284. Such person may withdraw his acceptance by giving notice of his withdrawal, in writing, to the commissioner. Any person who is a partner in a business shall be deemed to have accepted the provisions of this chapter and shall insure his full liability in accordance with subdivision (2) of subsection (b) of section 31-284, unless the partnership elects to be excluded

from the provisions of this chapter by notice, in writing and by signed agreement of each partner, to the commissioner.

(11) "Full-time student" means any student enrolled for at least seventy-five per cent of a full-time student load at a postsecondary educational institution which has been approved by a state-recognized or federally-recognized accrediting agency or body. "Full-time student load" means the number of credit hours, quarter credits or academic units required for a degree from such institution, divided by the number of academic terms needed to complete the degree.

(12) "Medical and surgical aid or hospital and nursing service", when requested by an injured employee and approved by the commissioner, includes treatment by prayer or spiritual means through the application or use of the principles, tenets or teachings of any established church without the use of any drug or material remedy, provided sanitary and quarantine regulations are complied with, and provided all those ministering to the injured employee are bona fide members of such church.

(13) "Member" includes all parts of the human body referred to in subsection (b) of section 31-308.

(14) "Nursing" means the practice of nursing as defined in subsection (a) of section 20-87a, and "nurse" means a person engaged in such practice.

(15) "Occupational disease" includes any disease peculiar to the occupation in which the employee was engaged and due to causes in excess of the ordinary hazards of employment as

such, and includes any disease due to or attributable to exposure to or contact with any radioactive material by an employee in the course of his employment.

(16) (A) "Personal injury" or "injury" includes, in addition to accidental injury that may be definitely located as to the time when and the place where the accident occurred, an injury to an employee that is causally connected with the employee's employment and is the direct result of repetitive trauma or repetitive acts incident to such employment, and occupational disease.

(B) "Personal injury" or "injury" shall not be construed to include:

(i) An injury to an employee that results from the employee's voluntary participation in any activity the major purpose of which is social or recreational, including, but not limited to, athletic events, parties and picnics, whether or not the employer pays some or all of the cost of such activity;

(ii) A mental or emotional impairment, unless such impairment (I) arises from a physical injury or occupational disease, (II) in the case of a police officer, arises from such police officer's use of deadly force or subjection to deadly force in the line of duty, regardless of whether such police officer is physically injured, provided such police officer is the subject of an attempt by another person to cause such police officer serious physical injury or death through the use of deadly force, and such police officer reasonably believes such police officer to be the subject of such an attempt, or (III) in the case of a firefighter, is diagnosed as post-traumatic stress disorder by a licensed and board certified mental health professional, determined by such

professional to be originating from the firefighter witnessing the death of another firefighter while engaged in the line of duty and not subject to any other exclusion in this section. As used in this clause, “police officer” means a member of the Division of State Police within the Department of Emergency Services and Public Protection, an organized local police department or a municipal constabulary, “firefighter” means a uniformed member of a municipal paid or volunteer fire department, and “in the line of duty” means any action that a police officer or firefighter is obligated or authorized by law, rule, regulation or written condition of employment service to perform, or for which the police officer or firefighter is compensated by the public entity such officer serves;

(iii) A mental or emotional impairment that results from a personnel action, including, but not limited to, a transfer, promotion, demotion or termination; or

(iv) Notwithstanding the provisions of subparagraph (B)(i) of this subdivision, “personal injury” or “injury” includes injuries to employees of local or regional boards of education resulting from participation in a school-sponsored activity but does not include any injury incurred while going to or from such activity. As used in this clause, “school-sponsored activity” means any activity sponsored, recognized or authorized by a board of education and includes activities conducted on or off school property and “participation” means acting as a chaperone, advisor, supervisor or instructor at the request of an administrator with supervisory authority over the employee.

(17) "Physician" includes any person licensed and authorized to practice a healing art, as defined in section 20-1, and licensed under the provisions of chapters 370, 372 and 373 to practice in this state.

(18) "Podiatrist" means any practitioner of podiatry, as defined in section 20-50, and duly licensed under the provisions of chapter 375 to practice in this state.

(19) "Presumptive dependents" means the following persons who are conclusively presumed to be wholly dependent for support upon a deceased employee: (A) A wife upon a husband with whom she lives at the time of his injury or from whom she receives support regularly; (B) a husband upon a wife with whom he lives at the time of her injury or from whom he receives support regularly; (C) any child under the age of eighteen, or over the age of eighteen but physically or mentally incapacitated from earning, upon the parent with whom he is living or from whom he is receiving support regularly, at the time of the injury of the parent; (D) any unmarried child who has attained the age of eighteen but has not attained the age of twenty-two and who is a full-time student, upon the parent with whom he is living or from whom he is receiving support regularly, provided, any child who has attained the age of twenty-two while a full-time student but has not completed the requirements for, or received, a degree from a postsecondary educational institution shall be deemed not to have attained the age of twenty-two until the first day of the first month following the end of the quarter or semester in which he is enrolled at the time, or if he is not enrolled in a quarter or semester system, until the first day of the first month following the completion of the course in which he is enrolled or until the first day of the third month beginning after such time, whichever occurs first.

(20) "Previous disability" means an employee's preexisting condition caused by the total or partial loss of, or loss of use of, one hand, one arm, one foot or one eye resulting from accidental injury, disease or congenital causes, or other permanent physical impairment.

(21) "Scar" means the mark left on the skin after the healing of a wound or sore, or any mark, damage or lasting effect resulting from past injury.

(22) "Second disability" means a disability arising out of a second injury.

(23) "Second injury" means an injury, incurred by accident, repetitive trauma, repetitive acts or disease arising out of and in the course of employment, to an employee with a previous disability.

(1949 Rev., S. 7416; 1949, S. 3037d; 1958 Rev., S. 31-139; 1961, P.A. 491, S. 1; 1967, P.A. 842, S. 1; 1969, P.A. 289; 556, S. 1; 696, S. 1; 806, S. 1; 1972, P.A. 281, S. 2; P.A. 77-614, S. 163, 610; P.A. 78-324, S. 3; P.A. 79-113; 79-540, S. 1; P.A. 80-124, S. 1; 80-284, S. 1; 80-414, S. 1; 80-482, S. 201, 348; 80-483, S. 95, 186; P.A. 82-398, S. 1; P.A. 84-320, S. 1, 6; P.A. 85-420, S. 1, 4; P.A. 88-184, S. 1, 3; 88-364, S. 50, 123; P.A. 91-32, S. 1, 41; 91-339, S. 1; P.A. 92-31, S. 1, 7; P.A. 93-228, S. 1, 35; P.A. 95-79, S. 117, 189; 95-262, S. 2, 3; P.A. 96-180, S. 104, 166; P.A. 97-205, S. 1; P.A. 99-102, S. 41; P.A. 01-208, S. 2, 3; June 30 Sp. Sess. P.A. 03-6, S. 146(c); P.A. 04-189, S. 1; P.A. 05-208, S. 4; 05-230, S. 1; 05-236, S. 2; P.A. 11-51, S. 134; 11-128, S. 2; P.A. 12-126, S. 1.)

Sec. 31-275c. Officers of fraternal organizations. The officer of a fraternal corporation who receives a salary of less than one hundred dollars per year shall not be considered an employee under section 31-275.

(1969, P.A. 806, S. 2.)

Sec. 31-276. Workers' Compensation Commission. Compensation commissioners.

Nomination by Governor. Appointment by General Assembly. Terms of office. Removal.

Selection of chairman. (a) There shall be a Workers' Compensation Commission to administer the workers' compensation system. There shall be sixteen workers' compensation commissioners. On or before the date of the expiration of the term of each commissioner or upon the occurrence of a vacancy in the office of any commissioner for any reason, the Governor shall nominate a competent person to fill that office. Subsequent to July 1, 1993, each person nominated by the Governor to serve as a commissioner shall have been a member in good standing of the Connecticut bar for at least five years preceding the nomination, provided the Governor shall not be precluded from renominating an individual who has previously served as a commissioner. The commissioners shall, upon nomination by the Governor, be appointed by the General Assembly as prescribed by law. They shall serve for a term of five years, but may be removed by impeachment. The Governor shall from time to time select one of the sixteen commissioners to serve as chairman of the Workers' Compensation Commission at the pleasure of the Governor. The commissioner selected by the Governor to be

chairman shall have previously served as a compensation commissioner in this state for at least one year.

(b) Notwithstanding the provisions of subsection (a) of this section, on and after October 1, 1988, any commissioner whose term expires on December thirty-first shall continue to serve until the next succeeding March thirty-first.

(c) Each nomination made by the Governor to the General Assembly for a compensation commissioner shall be referred, without debate, to the committee on the judiciary, which shall report thereon within thirty legislative days from the time of reference, but no later than seven legislative days before the adjourning of the General Assembly. Each appointment by the General Assembly of a compensation commissioner shall be by concurrent resolution. The action on the passage of each such resolution in the House and in the Senate shall be by vote taken on the electrical roll-call device. No resolution shall contain the name of more than one nominee. The Governor shall, within five days after he has notice that any nomination for a compensation commissioner made by him has failed to be approved by the affirmative concurrent action of both houses of the General Assembly, make another nomination to such office.

(d) Notwithstanding the provisions of section 4-19, no vacancy in the position of a compensation commissioner shall be filled by the Governor when the General Assembly is not in session unless, prior to such filling, the Governor submits the name of the proposed vacancy appointee to the committee on the judiciary. Within forty-five days, the committee on the judiciary may, upon the call of either chairman, hold a special meeting for the purpose of

approving or disapproving such proposed vacancy appointee by majority vote. The Governor shall not administer the oath of office to such proposed vacancy appointee until the committee has approved such proposed vacancy appointee. If the committee determines that it cannot complete its investigation and act on such proposed vacancy appointee within such forty-five-day period, it may extend such period by an additional fifteen days. The committee shall notify the Governor in writing of any such extension. Failure of the committee to act on such proposed vacancy appointee within such forty-five-day period or any fifteen-day extension period shall be deemed to be an approval.

(e) Each commissioner shall be sworn to a faithful performance of his duties. After notice and public hearing the Governor may remove any commissioner for cause and the good of the public service. Each compensation commissioner shall devote his full time to the duties of his office and shall not be otherwise gainfully employed.

(1949 Rev., S. 7435; 1958 Rev., S. 31-140; 1961, P.A. 491, S. 2; April, 1964, P.A. 3, S. 1; February, 1965, P.A. 577, S. 1; 1969, P.A. 662, S. 3; 1971, P.A. 639, S. 2; P.A. 80-414, S. 2; P.A. 83-353, S. 2; P.A. 84-320, S. 2, 6; 84-546, S. 154, 173; P.A. 85-420, S. 2, 4; P.A. 87-301; P.A. 88-125; 88-184, S. 2, 3; P.A. 91-339, S. 2, 55; June Sp. Sess. P.A. 91-12, S. 50, 55; P.A. 92-176, S. 1, 2; P.A. 93-228, S. 2, 35; P.A. 94-193, S. 2; May 25 Sp. Sess. P.A. 94-1, S. 29, 130; P.A. 96-72, S. 1, 2; P.A. 07-29, S. 1; P.A. 10-32, S. 104.)

Sec. 31-276a. Commissioners and commission to be within Labor Department for administrative purposes only. The workers' compensation commissioners and the Workers'

Compensation Commission are transferred to the Labor Department for administrative purposes only.

(P.A. 77-614, S. 481, 610; P.A. 79-376, S. 36.)

Sec. 31-277. Salary of compensation commissioners. Longevity payments. (a) Each commissioner shall, during his first year of service as a commissioner, receive an annual salary of six thousand dollars less than the highest step level of a Superior Court judge; during his second year of service as a commissioner, each commissioner shall receive an annual salary of five thousand dollars less than the highest step level of a Superior Court judge; during his third year of service as a commissioner, he shall receive an annual salary of four thousand dollars less than the highest step level of a Superior Court judge; during his fourth year of service as a commissioner, he shall receive an annual salary of three thousand dollars less than the highest step level of a Superior Court judge; during his fifth year of service as a commissioner, he shall receive an annual salary of two thousand dollars less than the highest step level of a Superior Court judge; and during his sixth year of service as a commissioner, he shall receive an annual salary of one thousand dollars less than the highest step level of a Superior Court judge, together with his necessary clerical, office and travel expenses as approved by the Comptroller; and the chairman of the Workers' Compensation Commission shall receive in addition ten thousand dollars annually. Each commissioner shall devote his entire time to the duties of his office and shall not be otherwise gainfully employed.

(b) Each commissioner, who has completed not less than ten years of service as a commissioner, or other state service or service as an elected officer of the state, or any combination of such service, shall receive semiannual longevity payments based on service completed as of the first day of July and the first day of January of each year as follows:

(1) A commissioner who has completed ten or more years but less than fifteen years of service shall receive one-quarter of three per cent of the annual salary payable under subsection (a) of this section.

(2) A commissioner who has completed fifteen or more years but less than twenty years of service shall receive one-half of three per cent of the annual salary payable under subsection (a) of this section.

(3) A commissioner who has completed twenty or more years but less than twenty-five years of service shall receive three-quarters of three per cent of the annual salary payable under subsection (a) of this section.

(4) A commissioner who has completed twenty-five or more years of service shall receive three per cent of the annual salary payable under subsection (a) of this section.

(1949 Rev., S. 3600; 1951, 1955, S. 1969d; 1958 Rev., S. 31-141; 1959, P.A. 428, S. 1; 1961, P.A. 491, S. 3; February, 1965, P.A. 331, S. 45; 1969, P.A. 696, S. 2; P.A. 76-436, S. 621, 681; P.A. 79-540, S. 10, 11; P.A. 84-399, S. 12, 17; P.A. 91-32, S. 3, 41; P.A. 93-379, S. 7, 8; June Sp. Sess. P.A. 00-1, S. 38, 46.)

Sec. 31-278. Powers and duties of commissioners. Each commissioner shall, for the purposes of this chapter, have power to summon and examine under oath such witnesses, and may direct the production of, and examine or cause to be produced or examined, such books, records, vouchers, memoranda, documents, letters, contracts or other papers in relation to any matter at issue as he may find proper, and shall have the same powers in reference thereto as are vested in magistrates taking depositions and shall have the power to order depositions pursuant to section 52-148. He shall have power to certify to official acts and shall have all powers necessary to enable him to perform the duties imposed upon him by the provisions of this chapter. Each commissioner shall hear all claims and questions arising under this chapter in the district to which the commissioner is assigned and all such claims shall be filed in the district in which the claim arises, provided, if it is uncertain in which district a claim arises, or if a claim arises out of several injuries or occupational diseases which occurred in one or more districts, the commissioner to whom the first request for hearing is made shall hear and determine such claim to the same extent as if it arose solely within his own district. If a commissioner is disqualified or temporarily incapacitated from hearing any matter, or if the parties shall so request and the chairman of the Workers' Compensation Commission finds that it will facilitate a speedier disposition of the claim, he shall designate some other commissioner to hear and decide such matter. The Superior Court, on application of a commissioner or the chairman or the Attorney General, may enforce, by appropriate decree or process, any provision of this chapter or any proper order of a commissioner or the chairman rendered pursuant to any such provision. Any compensation commissioner, after ceasing to hold office as such compensation

commissioner, may settle and dispose of all matters relating to appealed cases, including correcting findings and certifying records, as well as any other unfinished matters pertaining to causes theretofore tried by him, to the same extent as if he were still such compensation commissioner.

(1949 Rev., S. 7436; 1958 Rev., S. 31-142; 1961, P.A. 491, S. 4; February, 1965, P.A. 577, S. 2; 1969, P.A. 662, S. 4; 1971, P.A. 339; P.A. 73-152; P.A. 76-80, S. 1, 3; P.A. 80-414, S. 4; P.A. 81-472, S. 65, 159; P.A. 82-289, S. 2; P.A. 84-320, S. 4, 6; P.A. 91-339, S. 4, 55.)

Sec. 31-279. Notice of availability of compensation. Uniform system for determination of degree of physical impairment. Employer-sponsored plan for medical care and treatment.

Indemnification of medical advisory panel members. (a) The chairman of the Workers' Compensation Commission shall adopt regulations, in accordance with the provisions of chapter 54, specifying the minimum information to be contained in a notice of the availability of compensation which shall be posted in the workplace by each employer subject to the provisions of this chapter pursuant to subsection (f) of section 31-284.

(b) The chairman of the Workers' Compensation Commission shall, not later than July 1, 1991, adopt regulations, in accordance with chapter 54, to create a uniform system to be used by medical professionals in determining the degree of physical impairment of persons receiving compensation under this chapter.

(c) (1) Any employer or any insurer acting on behalf of an employer, may establish a plan, subject to the approval of the chairman of the Workers' Compensation Commission under subsection (d) of this section, for the provision of medical care that the employer provides for treatment of any injury or illness under this chapter. Each plan shall contain such information as the chairman shall require, including, but not limited to:

(A) A listing of all persons who will provide services under the plan, along with appropriate evidence that each person listed has met any licensing, certification or registration requirement necessary for the person to legally provide the service in this state;

(B) A listing of all pharmacies that will provide services under the plan, to which the employer, any insurer acting on behalf of the employer, or any other entity acting on behalf of the employer or insurer shall make direct payments for any prescription drug prescribed by a physician participating in the plan;

(C) A designation of the times, places and manners in which the services will be provided;

(D) A description of how the quality and quantity of medical care will be managed; and

(E) Such other provisions as the employer and the employees may agree to, subject to the approval of the chairman.

(2) The election by an employee covered by a plan established under this subsection to obtain medical care and treatment from a provider of medical services who is not listed in the

plan shall suspend the employee's right to compensation, subject to the order of the commissioner.

(d) Each plan established under subsection (c) of this section shall be submitted to the chairman for his approval at least one hundred twenty days before the proposed effective date of the plan and each approved plan, along with any proposed changes therein, shall be resubmitted to the chairman every two years thereafter for reapproval. The chairman shall approve or disapprove such plans on the basis of standards established by the chairman in consultation with a medical advisory panel appointed by the chairman. Such standards shall include, but not be limited to: (1) The ability of the plan to provide all medical and health care services that may be required under this chapter in a manner that is timely, effective and convenient for the employees; (2) the inclusion in the plan of all categories of medical service and of an adequate number of providers of each type of medical service in accessible locations to ensure that employees are given an adequate choice of providers; (3) the provision in the plan for appropriate financial incentives to reduce service costs and utilization without a reduction in the quality of service; (4) the inclusion in the plan of fee screening, peer review, service utilization review and dispute resolution procedures designed to prevent inappropriate or excessive treatment; and (5) the inclusion in the plan of a procedure by which information on medical and health care service costs and utilization will be reported to the chairman in order for him to determine the effectiveness of the plan.

(e) Any person who serves as a member of the medical advisory panel, appointed by the chairman of the Workers' Compensation Commission pursuant to subsection (d) of this section,

shall be deemed to be a state officer or employee for purposes of indemnification and defense under section 5-141d.

(1949 Rev., S. 7437; September, 1957, P.A. 11, S. 13; 1958 Rev., S. 31-143; 1961, P.A. 491, S. 5; 1967, P.A. 842, S. 2; 1969, P.A. 556, S. 3; P.A. 90-116, S. 1; P.A. 91-32, S. 4, 41; 91-339, S. 5, 55; P.A. 93-228, S. 3, 35; P.A. 95-240; P.A. 01-85, S. 1, 3.)

Sec. 31-279a. Booklet to be distributed explaining act. The chairman of the Workers' Compensation Commission shall prepare, publish and distribute an illustrated booklet explaining, in informal and readily understandable language, employee benefits and responsibilities under the Workers' Compensation Act. The chairman shall prepare, publish and distribute revisions to such booklet whenever changes in the workers' compensation law necessitate such revision.

(P.A. 73-421; P.A. 79-376, S. 37; P.A. 92-31, S. 2, 7.)

Sec. 31-280. Chairman of the Workers' Compensation Commission. Powers and duties.

Budget. Report of expenses. (a) There shall continue to be a chairman of the Workers' Compensation Commission selected by the Governor as provided in section 31-276. The chairman may not hear any matter arising under this chapter, except appeals brought before the Compensation Review Board and except as provided in subdivision (14) of subsection (b) of

this section. The chairman shall prepare the forms used by the commission, shall have custody of the insurance coverage cards, shall prepare and keep a list of self-insurers, shall prepare the annual report to the Governor and shall publish, when necessary, bulletins showing the changes in the compensation law, with annotations to the Connecticut cases. The chairman shall be provided with sufficient staff to assist him in the performance of his duties. The chairman may, within available appropriations, appoint acting compensation commissioners on a per diem basis from among former workers' compensation commissioners or qualified members of the bar of this state. Any acting compensation commissioner appointed under this subsection shall be paid on a per diem basis in an amount to be determined by the Commissioner of Administrative Services, subject to the provisions of section 4-40, and shall have all the powers and duties of compensation commissioners. The Workers' Compensation Commission shall not be construed to be a commission or board subject to the provisions of section 4-9a.

(b) The chairman of the Workers' Compensation Commission shall:

(1) Establish workers' compensation districts and district offices within the state, assign compensation commissioners to the districts to hear all matters arising under this chapter within the districts and may reassign compensation commissioners once each year, except that when there is a vacancy, illness or other emergency, or when unexpected caseload increases require, the chairman may reassign compensation commissioners more than once each year;

(2) Adopt such rules as the chairman, in consultation with the advisory board, deems necessary for the conduct of the internal affairs of the Workers' Compensation Commission;

(3) Adopt regulations, in consultation with the advisory board and in accordance with the provisions of chapter 54, to carry out his responsibilities under this chapter;

(4) Prepare and adopt an annual budget and plan of operation in consultation with the advisory board;

(5) Prepare and submit an annual report to the Governor and the General Assembly;

(6) Allocate the resources of the commission to carry out the purposes of this chapter;

(7) Establish an organizational structure and such divisions for the commission, consistent with this chapter, as the chairman deems necessary for the efficient and prompt operation of the commission;

(8) Establish policy for all matters over which the commission has jurisdiction, including education, statistical support and administrative appeals;

(9) Appoint such supplementary advisory panels as the chairman deems necessary and helpful;

(10) Establish, in consultation with the advisory board, (A) an approved list of practicing physicians, surgeons, podiatrists, optometrists and dentists from which an injured employee shall choose for examination and treatment under the provisions of this chapter, which shall include, but not be limited to, classifications of approved practitioners by specialty, and (B) standards for the approval and removal of physicians, surgeons, podiatrists, optometrists and dentists from the list by the chairman;

(11) (A) Establish standards in consultation with the advisory board for approving all fees for services rendered under this chapter by attorneys, physicians, surgeons, podiatrists, optometrists, dentists and other persons;

(B) In consultation with employers, their insurance carriers, union representatives, physicians and third-party reimbursement organizations establish, not later than October 1, 1993, and publish annually thereafter, a fee schedule setting the fees payable by an employer or its insurance carrier for services rendered under this chapter by an approved physician, surgeon, podiatrist, optometrist, dentist and other persons, provided the fee schedule shall not apply to services rendered to a claimant who is participating in an employer's managed care plan pursuant to section 31-279. On and after April 1, 2008, the chairman shall implement and annually update relative values based on the Medicare resource-based relative value scale and implement coding guidelines in conformance with the Correct Coding Initiative used by the federal Centers for Medicare and Medicaid Services. The conversion to the Medicare resource-based relative value scale shall be revenue-neutral. The fee schedule shall limit the annual growth in total medical fees to the annual percentage increase in the consumer price index for all urban workers. The chairman may make necessary adjustments to the fee schedule for services rendered under this chapter where there is no established Medicare resource-based relative value. Payment of the established fees by the employer or its insurance carrier shall constitute payment in full to the practitioner, and the practitioner may not recover any additional amount from the claimant to whom services have been rendered;

(C) Issue, not later than October 1, 1993, and publish annually thereafter, guidelines for the maximum fees payable by a claimant for any legal services rendered by an attorney in connection with the provisions of this chapter, which fees shall be approved in accordance with the standards established by the chairman pursuant to subparagraph (A) of this subdivision;

(12) Approve applications for employer-sponsored medical care plans, based on standards developed in consultation with a medical advisory panel as provided in section 31-279;

(13) Establish procedures for the hiring, dismissing or otherwise disciplining and promoting employees of the commission, subject where appropriate to the provisions of chapter 67;

(14) Control the hearing calendars of the compensation commissioners, and if necessary, preside over informal hearings in regard to compensation under the provisions of this chapter in order to facilitate the timely and efficient processing of cases;

(15) Enter into contracts with consultants and such other persons as necessary for the proper functioning of the commission;

(16) Direct and supervise all administrative affairs of the commission;

(17) Keep and maintain a record of all advisory board proceedings;

(18) Assign and reassign a district manager and other staff to each of the commission's district offices;

(19) Collect and analyze statistical data concerning the administration of the Workers' Compensation Commission;

(20) Direct and supervise the implementation of a uniform case filing and processing system in each of the district offices that will include, but not be limited to, the ability to provide data on the number of cases having multiple hearings, the number of postponed hearings and hearing schedules for each district office;

(21) Establish staff development, training and education programs designed to improve the quality of service provided by the commission, including, but not limited to, a program to train district office staff in the screening of hearing requests;

(22) Develop standard forms for requesting hearings and standard policies regarding limits on the number of informal hearings that will be allowed under this chapter, and limits on the number of postponements that will be permitted before a formal hearing is held pursuant to section 31-297;

(23) Develop guidelines for expediting disputed cases;

(24) Establish an ongoing training program, in consultation with the advisory board, designed to assist the commissioners in the fulfillment of their duties pursuant to the provisions of section 31-278, which program shall include instruction in the following areas: Discovery, evidence, statutory interpretation, medical terminology, legal decision writing and the purpose and procedures of informal and formal hearings;

(25) Evaluate, in conjunction with the advisory board, the performance of each commissioner biannually and, notwithstanding the provisions of subsection (b) of section 1-210 and chapter 55, make the performance evaluation of any commissioner available only to the Governor, the members of the joint standing committee on the judiciary and the respective commissioner prior to any public hearing on the reappointment of any such commissioner. Any information disclosed to such persons shall be used by such persons only for the purpose for which it was given and shall not be disclosed to any other person;

(26) (A) In consultation with insurers and practitioners, establish not later than October 1, 1993, and publish annually thereafter, practitioner billing guidelines for employers, workers' compensation insurance carriers and practitioners approved by the chairman pursuant to subdivision (10) of this subsection. The guidelines shall include procedures for the resolution of billing disputes and shall prohibit a practitioner from billing or soliciting payments from a claimant for services rendered to the claimant under the provisions of this chapter (i) during a payment dispute between the practitioner and the employer or its workers' compensation insurance carrier, or (ii) in excess of the maximum fees established pursuant to subparagraph (B) of subdivision (11) of this subsection;

(B) In consultation with practitioners and insurers, develop not later than July 1, 1994, practice protocols for reasonable and appropriate treatment of a claimant under the provisions of this chapter, based on the diagnosis of injury or illness. The commission shall annually publish the practice protocols for use by approved practitioners, employers, workers'

compensation insurance carriers and commissioners in evaluating the necessity and appropriateness of care provided to a claimant under the provisions of this chapter;

(C) In consultation with practitioners and insurers, develop not later than July 1, 1994, utilization review procedures for reasonable and appropriate treatment of a claimant under the provisions of this chapter. The chairman shall annually publish the procedures for use by approved practitioners, employers, workers' compensation insurance carriers and commissioners in evaluating the necessity and appropriateness of care provided to a claimant under the provisions of this chapter.

(c) The chairman, as soon as practicable after April first of each year, shall submit to the Comptroller an estimated budget of expenditures which shall include all direct and indirect costs incurred by the Workers' Compensation Commission for the succeeding fiscal year commencing on July first next. The Workers' Compensation Commission, for the purposes of administration, shall not expend more than the amounts specified in such estimated budget for each item of expenditure except as authorized by the Comptroller. The chairman shall include in his annual report to the Governor a statement showing the expenses of administering the Workers' Compensation Act for the preceding fiscal year.

(d) The chairman and the Comptroller, as soon as practicable after August first in each year, shall ascertain the total amount of expenses incurred by the commission, including, in addition to the direct cost of personnel services, the cost of maintenance and operation, rentals for space occupied in state leased offices and all other direct and indirect costs, incurred by the commission and the expenses incurred by the Department of Rehabilitation Services in

providing rehabilitation services for employees suffering compensable injuries in accordance with the provisions of section 31-283a, during the preceding fiscal year in connection with the administration of the Workers' Compensation Act and the total noncontributory payments required to be made to the Treasurer towards commissioners' retirement salaries as provided in sections 51-49, 51-50, 51-50a and 51-50b. An itemized statement of the expenses as so ascertained shall be available for public inspection in the office of the chairman of the Workers' Compensation Commission for thirty days after notice to all insurance carriers, and to all employers permitted to pay compensation directly affected thereby.

(1949 Rev., S. 7438; September, 1957, P.A. 11, S. 13; 1958 Rev., S. 31-144; 1961, P.A. 491, S. 6; 1969, P.A. 696, S. 3; 1971, P.A. 366; 639, S. 7; P.A. 77-614, S. 130, 610; P.A. 78-303, S. 32, 136; P.A. 79-376, S. 39; 79-540, S. 2; P.A. 80-414, S. 3; P.A. 90-116, S. 3; P.A. 91-339, S. 6, 55; P.A. 93-228, S. 4, 35; P.A. 97-205, S. 2; P.A. 07-31, S. 1; P.A. 11-61, S. 84, 85; June 12 Sp. Sess. P.A. 12-1, S. 83.)

Sec. 31-280a. Advisory Board of the Workers' Compensation Commission. (a) There shall be an Advisory Board of the Workers' Compensation Commission to advise the chairman on matters concerning policy for and the operation of the commission. The advisory board shall consist of eight members, who shall be appointed by the Governor, with the advice and consent of the General Assembly. Four of such members shall represent employees and four shall represent employers. One of such members representing employees shall be an individual who has suffered an extensive disability arising out of and in the course of his employment. One of

such members representing employers shall be a representative of a major general hospital in the state. On or before January 1, 1992, the Governor shall appoint, and the General Assembly shall confirm, such members of the advisory board as follows: Two shall serve a term of four years from said date, one of whom shall represent employees and one of whom shall represent employers; two shall serve a term of three years from said date, one of whom shall represent employees and one of whom shall represent employers; two shall serve a term of two years from said date, one of whom shall represent employees and one of whom shall represent employers; and two shall serve a term of one year from said date, one of whom shall represent employees and one of whom shall represent employers. Thereafter such members shall be appointed for a term of four years from January first in the year of their appointment. Any vacancy on the advisory board shall be filled for the remainder of the term in the same manner as the original appointment. The chairman of the Workers' Compensation Commission shall serve as an ex-officio member of the advisory board without the power to vote.

(b) The appointed members of the advisory board shall select a ninth member who shall be impartial and shall serve as the chairman of the advisory board. The members of the advisory board shall serve without compensation. Each member shall be reimbursed for expenses necessarily incurred by the member in the performance of his duties. The advisory board shall not be construed to be a board or commission subject to the provisions of section 4-9a. The Workers' Compensation Commission shall provide such staff as is necessary for the performance of the functions and duties of the advisory board.

(c) The advisory board shall meet at least twice in each calendar quarter and at such other times as the chairman or the chairman of the Workers' Compensation Commission deem necessary. All actions of the advisory board shall require the affirmative vote of six members of the advisory board. The advisory board may bring any matter related to the operation of the workers' compensation system to the attention of the chairman of the Workers' Compensation Commission. The advisory board may adopt any rules of procedure that the board deems necessary to carry out its duties under this chapter.

(d) The advisory board shall submit its written recommendations concerning the reappointment of each compensation commissioner to the Governor and the General Assembly not later than three months before the expiration of the term of the commissioner.

(P.A. 91-339, S. 3, 55.)

Sec. 31-280b. Compensation Review Board. (a) There shall be a Compensation Review Board within the Workers' Compensation Commission. The chairman of the Workers' Compensation Commission shall serve as chief of the Compensation Review Board and shall have responsibility for the operation of the board. On or before January 1, 1992, the chairman shall appoint a chief clerk of the Compensation Review Board under the provisions of chapter 67 who shall be responsible to the chairman for the efficient operation of the board.

(b) The board shall review appeals of decisions made by compensation commissioners pursuant to this chapter. The chief shall annually select two compensation commissioners to sit with him to hear such appeals for a term of one year, except that no commissioner may sit in review of an award or decision rendered by him. The chief may select a third compensation commissioner to sit on the board if one of the board members is disqualified or temporarily incapacitated from hearing the matter under review.

(c) No compensation commissioner except the chief may serve as a member of the Compensation Review Board for more than one year during the term for which he was appointed.

(P.A. 91-339, S. 7, 55.)

Sec. 31-282. Successor may complete acts when commissioner dies. If any compensation commissioner dies before the final settlement of any matter in which he had been acting in his official capacity, his successor in office may continue such matter to its completion.

(1949 Rev., S. 7440; 1958 Rev., S. 31-146; 1961, P.A. 491, S. 8.)

Sec. 31-283. Annual pension upon retirement of commissioner. Any compensation commissioner, in the state service as such commissioner twenty or more years in the

aggregate, who leaves such service because of failure of reappointment, or because of abolition of his position, shall, during the remainder of his life, receive an annual pension payable from the General Fund equal to fifty per cent of his average annual salary for the five years next preceding his retirement. The compensation commissioners may continue to contribute to the State Employees Retirement Fund and shall be entitled to general retirement rights under chapter 66. The acceptance of the pension herein provided for shall be in lieu of all benefits under the State Employees Retirement Act, and any commissioner accepting a pension under this section shall not be entitled to the return of any payments made by him to the State Employees Retirement Fund.

(1949 Rev., S. 3601; 1958 Rev., S. 31-147; 1961, P.A. 491, S. 9.)

Sec. 31-283a. Rehabilitation programs for employees suffering compensable injuries. (a)

The Department of Rehabilitation Services shall provide rehabilitation programs for employees suffering compensable injuries within the provisions of this chapter, which injuries disabled them from performing their customary or most recent work. The Commissioner of Rehabilitation Services shall establish rehabilitation programs which shall best suit the needs of injured employees and shall make the programs available in convenient locations throughout the state. After consultation with the Labor Commissioner, the Commissioner of Rehabilitation Services may establish fees for the programs, so as to provide the most effective rehabilitation programs at a minimum rate. In order to carry out the provisions of this section, the

Commissioner of Rehabilitation Services shall adopt regulations, in accordance with the provisions of chapter 54, and, subject to the provisions of chapter 67, provide for the employment of necessary assistants.

(b) The Commissioner of Rehabilitation Services shall be authorized to (1) enter into agreements with other state or federal agencies to carry out the purposes of this section and expend money for that purpose, and (2) on behalf of the state of Connecticut, develop matching programs or activities to secure federal grants or funds for the purposes of this section and may pledge or use funds supplied from the administrative costs fund, as provided in section 31-345, to finance the state's share of the programs or activities.

(1967, P.A. 569, S. 1; P.A. 79-376, S. 40; P.A. 85-133, S. 1; P.A. 91-32, S. 4, 41; 91-339, S. 8, 55; P.A. 95-265, S. 1, 7; P.A. 96-216, S. 1, 5; P.A. 11-44, S. 47; June 12 Sp. Sess. P.A. 12-1, S. 84.)

Sec. 31-283d. Adjustment of salary of certain retired commissioners. On July 1, 1971, the retirement salary of each person retired prior to July 1, 1965, under the provisions of section 31-283 or any predecessor statute shall be increased in the amount of that percentage of the monthly retirement salary being paid to him on June 30, 1967, which was provided under section 5-162b for members of the state employees retirement system who retired in the same year as such person. On July 1, 1972, and annually thereafter, the retirement salary of each such person shall be adjusted to reflect increases or decreases in the Consumer Price Index in

the same manner and to the same extent that the retirement salary of persons retired under chapter 66 is adjusted under section 5-162c.

(1971, P.A. 639, S. 1.)

Sec. 31-283e. Election of retirement benefits. Any compensation commissioner holding such office on July 1, 1971, may elect to be included within the provisions of sections 51-49, 51-50, 51-50a and 51-50b or to continue to be subject to the provisions of section 31-283.

(1971, P.A. 639, S. 8.)

Sec. 31-283f. Statistical Division. (a) A Statistical Division shall be established within the Workers' Compensation Commission. The division shall compile and maintain statistics concerning occupational injuries and diseases, voluntary agreements, status of claims and commissioners' dockets. The division shall be administered by a full-time salaried director who shall be appointed by the chairman of the Workers' Compensation Commission under the provisions of chapter 67. The director shall report to the chairman.

(b) Sufficient funding for the establishment and maintenance of the Workers' Compensation Statistical Division shall be supplied from the Administrative Costs Fund, as provided in section 31-345.

(P.A. 81-407, S. 1—5; P.A. 91-339, S. 9, 55.)

Sec. 31-283g. Education services for employees concerning the prevention of occupational diseases and injuries. The Workers' Compensation Commission shall provide, in convenient locations throughout the state, education services to employees concerning the prevention of occupational diseases and injuries, training for nonmanagement employees in workers' compensation procedures and substantive rights, information to employers concerning known and suspected workplace hazards and training and information for medical professionals in workers' compensation procedures, standards and requirements. The chairman shall be provided with sufficient staff to assist him in the performance of his duties. The chairman of the Workers' Compensation Commission may adopt regulations, in accordance with the provisions of chapter 54, to implement the provisions of this section.

(P.A. 82-94, S. 1, 3; P.A. 90-116, S. 4; P.A. 91-32, S. 6, 41; 91-339, S. 10, 55; P.A. 95-265, S. 2, 7.)

Workers' Compensation Act — Part A

II: Employers' Liability.

Sec. 31-284. Basic rights and liabilities. Civil action to enjoin noncomplying employer from entering into employment contracts. Notice of availability of compensation. (a) An employer who complies with the requirements of subsection (b) of this section shall not be liable for any action for damages on account of personal injury sustained by an employee arising out of and in the course of his employment or on account of death resulting from personal injury so sustained, but an employer shall secure compensation for his employees as provided under this chapter, except that compensation shall not be paid when the personal injury has been caused by the wilful and serious misconduct of the injured employee or by his intoxication. All rights and claims between an employer who complies with the requirements of subsection (b) of this section and employees, or any representatives or dependents of such employees, arising out of personal injury or death sustained in the course of employment are abolished other than rights and claims given by this chapter, provided nothing in this section shall prohibit any employee from securing, by agreement with his employer, additional compensation from his employer for the injury or from enforcing any agreement for additional compensation.

(b) Each employer who does not furnish to the chairman of the Workers' Compensation Commission satisfactory proof of his solvency and financial ability to pay directly to injured employees or other beneficiaries compensation provided by this chapter shall insure his full liability under this chapter, other than his liability for assessments pursuant to sections 31-345 and 31-354 in one of the following ways: (1) By filing with the Insurance Commissioner in form acceptable to him security guaranteeing the performance of the obligations of this chapter by the employer; or (2) by insuring his full liability under this part, exclusive of any liability resulting from the terms of section 31-284b, in any stock or mutual companies or associations

that are or may be authorized to take such risks in this state; or (3) by any combination of the methods provided in subdivisions (1) and (2) of this subsection as he may choose, subject to the approval of the Insurance Commissioner. If the employer fails to comply with the requirements of this subsection, an employee may bring an action against such employer for damages on account of personal injury sustained by such employee arising out of and in the course of his employment or on account of death resulting from personal injury so sustained, except that there shall be no liability under this section to an individual on the part of the employer if such individual held himself out to the employer as an independent contractor and the employer, in good faith, relied on that representation as well as other indicia of such status and classified such individual as an independent contractor. In case of an alleged noncompliance with the provisions of this subsection, a certificate of noncompliance under oath, by the chairman of the Workers' Compensation Commission, shall constitute prima facie evidence of noncompliance.

(c) Each employer who does not furnish to the chairman of the Workers' Compensation Commission satisfactory proof of his solvency and financial ability to pay directly to the State Treasurer the assessments required in sections 31-345 and 31-354 shall insure his full liability for the assessments in one of the following ways: (1) By filing with the Insurance Commissioner in form acceptable to him security guaranteeing the payment of the assessments by the employer; (2) by insuring his full liability for the assessments in any stock or mutual companies or associations that are or may be authorized to take such risks in this state; or (3) by any combination of the methods provided in subdivisions (1) and (2) of this subsection as he may choose, subject to the approval of the Insurance Commissioner. The payment of the assessments required under sections 31-345 and 31-354 is a condition of doing business in this

state and failure to pay the assessments, when due, shall result in the denial of the privilege of doing business in this state or to self-insure under subsections (b) and (c) of this section. If the liability for the assessments is insured, the insurance shall be by endorsement to a policy meeting all of the requirements of the Insurance Commissioner, or by a separate policy insuring the liability for the assessments, and otherwise meeting all of the requirements of the Insurance Commissioner. In the case of any employer who files acceptable security guaranteeing the liability for the assessments, failure to pay the assessments, when due, shall result in the denial of the privilege to self-insure under subsections (b) and (c) of this section.

(d) Any employer to whom a certificate of self-insurance has been issued pursuant to this section who fails or is unable to pay any compensation mandated by the provisions of this chapter, thereby requiring payment from the Second Injury Fund pursuant to section 31-355, shall be prohibited from self-insuring his liability under this chapter for a period of ten years from the date of the payment. The employer shall be required during the ten-year period to insure his full liability under this part, exclusive of any liability resulting from the terms of section 31-284b, in any stock or mutual companies or associations that are or may be authorized to take such risks in this state. Failure to so insure his liability shall result in the denial of the privilege of doing business in this state.

(e) Whenever an employer fails to comply with the requirements of subsection (b) of this section, the Attorney General may bring a civil action in the superior court for the judicial district of Hartford to enjoin the employer, until such time as he fully complies with such

requirements, from entering into any contracts of employment as a result of which he will employ additional employees.

(f) Each employer subject to the provisions of this chapter shall post, in a conspicuous place, a notice of the availability of compensation, in type of not less than ten-point boldface. The notice shall contain, at a minimum, the information required by regulations adopted pursuant to section 31-279.

(1949 Rev., S. 7417, 7418, 7419, 7453, 7461; 1949, S. 3038d, 3050d; 1958 Rev., S. 31-148, 31-149, 31-150, 31-180, 31-189; 1959, P.A. 580, S. 1—3, 15, 17, 20, 21; 1961, P.A. 491, S. 10; 1967, P.A. 842, S. 4; P.A. 77-614, S. 163, 610; P.A. 80-482, S. 202, 348; P.A. 82-398, S. 2; P.A. 85-184, S. 2; 85-189, S. 1; 85-349, S. 1; P.A. 86-165; 86-403, S. 64, 132; P.A. 88-230, S. 1, 12; P.A. 90-98, S. 1, 2; P.A. 91-32, S. 7, 41; 91-339, S. 11, 55; P.A. 93-142, S. 4, 7, 8; P.A. 95-220, S. 4—6; P.A. 96-65, S. 1; 96-216, S. 2, 5.)

Sec. 31-284a. State contracting with private insurance carrier. Duties and powers of Commissioner of Administrative Services. (a) Notwithstanding the provisions of sections 4a-19 and 4a-20 to the contrary, the Commissioner of Administrative Services shall solicit proposals from any management firm engaged in the business of administering workers' compensation claims, or from any authorized mutual insurance company or stock company or subsidiary thereof writing workers' compensation or employer's liability insurance in this state, for the purposes of administering the workers' compensation claims filed against the state, or of insuring the state's full liability under workers' compensation and administering such claims.

The commissioner may, at said commissioner's discretion, reject any or all of such proposals if they are deemed to be inadequate to effectively serve the needs of the state concerning workers' compensation.

(b) The Commissioner of Administrative Services may exclude from participation in the state workers' compensation managed care program any medical provider found, through a systematic program of utilization review, to exceed generally accepted standards of the scope, duration or intensity of services rendered to patients with similar diagnostic characteristics. The state shall not make any payment to a facility owned in whole or in part by the referring practitioner.

(c) The Commissioner of Administrative Services shall have sole responsibility for establishing procedures for all executive branch agencies participating in the state of Connecticut workers' compensation program, except that all mandatory subjects of collective bargaining pertaining to modified or alternative duty shall continue to be governed by the provisions of chapter 68.

(P.A. 81-469, S. 1, 8; P.A. 93-228, S. 5, 35; May Sp. Sess. P.A. 04-2, S. 29; P.A. 12-205, S. 23.)

Sec. 31-284b. Employer to continue insurance coverage or welfare plan payments for employees eligible to receive workers' compensation. Use of Second Injury Fund. (a) In order to maintain, as nearly as possible, the income of employees who suffer employment-related

injuries, any employer who provides accident and health insurance or life insurance coverage for any employee or makes payments or contributions at the regular hourly or weekly rate for full-time employees to an employee welfare plan, shall provide to the employee equivalent insurance coverage or welfare plan payments or contributions while the employee is eligible to receive or is receiving compensation pursuant to this chapter, or while the employee is receiving wages under a provision for sick leave payments for time lost due to an employment-related injury. As used in this section, "income" means all forms of remuneration to an individual from his employment, including wages, accident and health insurance coverage, life insurance coverage and employee welfare plan contributions and "employee welfare plan" means any plan established or maintained for employees or their families or dependents, or for both, for medical, surgical or hospital care benefits.

(b) An employer may provide such equivalent accident and health or life insurance coverage or welfare plan payments or contributions by: (1) Insuring his full liability under this section in any stock or mutual companies or associations that are or may be authorized to take such risks in this state; (2) creating an injured employee's plan as an extension of any existing plan for working employees; (3) self-insurance; or (4) by any combination of the methods provided in subdivisions (1) to (3), inclusive, of this subsection that he may choose.

(c) In the case of an employee welfare plan, an employer may provide equivalent protection by making payments or contributions for such hours of contributions established by the trustees of the employee welfare plan as necessary to maintain continuation of such insurance

coverage when the amount is less than the amount of regular hourly or weekly contributions for full-time employees.

(d) In any case where compensation payments to an individual for total incapacity under the provisions of section 31-307 continue for more than one hundred four weeks, the cost of accident and health insurance or life insurance coverage after the one-hundred-fourth week shall be paid out of the Second Injury Fund in accordance with the provisions of section 31-349.

(e) Accident and health insurance coverage may include, but shall not be limited to, coverage provided by insurance or directly by the employer for the following health care services: Medical, surgical, dental, nursing and hospital care and treatment, drugs, diagnosis or treatment of mental conditions or alcoholism, and pregnancy and child care.

(P.A. 82-398, S. 3; P.A. 86-403, S. 99, 132; P.A. 91-32, S. 8, 41; 91-339, S. 12.)

THIS PROVISION HAS BEEN DEEMED INAPPLICABLE TO PRIVATE EMPLOYERS SUBJECT TO THE FEDERAL EMPLOYEE RETIREMENT INCOME SECURITY ACT [ERISA]. SEE DISTRICT OF COLUMBIA V. GREATER WASHINGTON BOARD OF TRADE, 506 U.S. 125 (1992); LUIS V. FRITO-LAY, INC., SUPREME COURT, DOCKET NO. SC 14536 (ORDER, APRIL 27, 1993).

Sec. 31-284c. Complaints of violations. Hearing. Findings and award. Appeal. Any employee eligible to receive or receiving workers' compensation may file a complaint alleging violation of the provisions of section 31-284b with the workers' compensation commissioner.

The commissioner shall hold a hearing in accordance with the provisions of sections 31-297 and 31-298. After the hearing, the commissioner shall send to each party a written copy of his findings and award in accordance with the provisions of section 31-300. The provisions of section 31-300 concerning finality of the award and an execution issued upon the award shall be applicable to an award made pursuant to this section. Any appeal of an award of the commissioner under this section shall be taken in accordance with the provisions of section 31-301. The commissioner, in awarding benefits for temporary and permanent partial and total disability, shall require the provision of equivalent insurance coverage or contribution to an employee welfare plan, as provided in section 31-284b, for the period of the injured employee's eligibility to receive benefits under this chapter.

(P.A. 82-398, S. 5; P.A. 91-339, S. 13.)

Sec. 31-285. Substitute systems of compensation. With the approval of the state Insurance Commissioner, any employer may enter into an agreement with his employees to provide a system of compensation, benefit and insurance in lieu of the compensation and insurance provided by this chapter. No such substitute system shall be approved unless it confers benefits upon injured employees at least equivalent to the benefits provided by this chapter, nor shall any such substitute system be approved which contains an obligation of employees to join in it as a condition of employment unless it contains equitable provision for the withdrawal of employees from it and the distribution of its assets. If any such system requires contributions

from employees, it shall not be approved unless it confers benefits in addition to those provided under this chapter at least commensurate with such contributions. The Insurance Commissioner, having given his approval of such substitute system, shall have over it all the jurisdiction given him by sections 38a-14 and 38a-17 over insurance companies. He may withdraw his approval upon reasonable notice to the employer and order a distribution of the assets, subject to the right of any party in interest to take an appeal to the superior court for the judicial district of Hartford.

(1949 Rev., S. 7452; 1958 Rev., S. 31-179; 1961, P.A. 491, S. 25; P.A. 77-614, S. 163, 610; P.A. 78-280, S. 6, 127; P.A. 80-482, S. 203, 348; P.A. 88-230, S. 1, 12; P.A. 90-98, S. 1, 2; P.A. 93-142, S. 4, 7, 8; P.A. 95-220, S. 4—6.)

Sec. 31-286. Certificate of employer's compliance. Any employer who has complied with the provisions of section 31-285 by entering into an agreement with his employees to provide a system of compensation, benefit and insurance in lieu of the compensation and insurance provided by this chapter, which agreement has been approved by the Insurance Commissioner, or any employer who has complied with the provisions of section 31-284 by filing with the Insurance Commissioner security guaranteeing the performance of his obligation under this chapter or by insuring his full liability or by a combination of the two last-named methods approved by the Insurance Commissioner, may file, in the office of the commissioner who may have jurisdiction in case of injury, a certificate of the Insurance Commissioner stating that such substitute system has been approved or that such security guaranteeing the performance of

the obligations of this chapter has been filed with and accepted by the Insurance Commissioner or that a combination of the methods stated in section 31-284 has been approved. Any employer who has insured his full liability may file a certificate, in the manner prescribed in section 31-348, setting forth such fact and stating the date of expiration of such insurance, which certificate shall thereupon become a part of the records of the office of such compensation commissioner.

(1949 Rev., S. 7462; 1958 Rev., S. 31-182; 1961, P.A. 491, S. 42; P.A. 77-614, S. 163, 610; P.A. 80-482, S. 204, 348.)

Sec. 31-286a. Insurance requirements for contractors on public works projects and renewals of state business licenses. (a) Notwithstanding any provision of any general statute, special act, charter or ordinance, neither the state, or its agents, nor any political subdivision of the state, or its agents, may enter into any contract on or after October 1, 1986, for the construction, remodeling, refinishing, refurbishing, rehabilitation, alteration or repair of any public works project before receiving from each of the other parties to such contract (1) sufficient evidence of compliance with the workers' compensation insurance and self-insurance requirements of subsection (b) of section 31-284, and (2) a current statement from the State Treasurer that, to the best of his knowledge and belief, as of the date of the statement, the particular party was not liable to the state for any workers' compensation payments made pursuant to section 31-355.

(b) On and after October 1, 1986, no state department, board or agency may renew a license or permit to operate a business in this state unless the applicant first presents sufficient evidence of current compliance with the workers' compensation insurance coverage requirements of section 31-284.

(c) This section shall not be construed to create any liability on the part of the state or any political subdivision thereof to pay workers' compensation benefits or to indemnify the Second Injury Fund, any employer or any insurer who pays workers' compensation benefits.

(d) For purposes of this section, "sufficient evidence" means (1) a certificate of self-insurance issued by a workers' compensation commissioner pursuant to section 31-284, (2) a certificate of compliance issued by the Insurance Commissioner pursuant to section 31-286, (3) a certificate of insurance issued by any stock or mutual insurance company or mutual association authorized to write workers' compensation insurance in this state or its agent, or (4) in lieu of a physical certificate of insurance being presented for the issuance or renewal of licenses and permits issued by the Department of Consumer Protection or the Department of Public Health, the entrance by the applicant on the renewal form of the name of the insurer, insurance policy number, effective dates of coverage, and a certification that the same is truthful and accurate.

(P.A. 86-87; P.A. 91-207, S. 2, 9; P.A. 09-104, S. 1; P.A. 10-9, S. 9; P.A. 11-242, S. 18.)

Sec. 31-286b. Proof of workers' compensation coverage prior to issuance of building

permit, condition. (a) Prior to issuing a building permit pursuant to section 29-263 to any person other than a sole proprietor or property owner unless such sole proprietor or property owner is acting as a general contractor or principal employer, a local building official shall require proof of workers' compensation coverage for all employees, as defined in section 31-275, who are employed by an employer, as defined in said section, who are engaged to perform services on the site of the construction project for which the permit was issued.

(b) As used in subsection (a) of this section, "proof of workers' compensation coverage" means (1) a written certificate of insurance provided by the general contractor or principal employer, (2) a certificate from the Workers' Compensation Commissioner indicating that the general contractor or principal employer has properly chosen not to obtain workers' compensation coverage pursuant to section 31-275, or (3) if a property owner or sole proprietor intends to act as a general contractor or principal employer, a written certificate of insurance or a sworn notarized affidavit, which he shall provide, stating that he will require proof of workers' compensation insurance for all those employed on the job site in accordance with the provisions of this chapter. A local building official shall require proof of workers' compensation coverage only at the time of the general contractor's or principal employer's initial application.

(P.A. 95-277, S. 7, 19; P.A. 96-216, S. 4, 5.)

Sec. 31-287. Provisions required in liability insurance policies. No policy of insurance against liability under this chapter, except as provided in section 31-284, shall be made unless the same covers the entire liability of the employer thereunder and contains an agreement by the insurer that, as between the employee and the insurer, notice or knowledge of the occurrence of injury by the insured shall be deemed notice or knowledge by the insurer, that jurisdiction of the insured for the purposes of this chapter shall be jurisdiction of the insurer and the insurer shall in all things be bound by and subject to the findings, awards and judgments rendered against such insured; and also that, if the insured becomes insolvent or is discharged in bankruptcy during the period that the policy is in operation, or the compensation, or any part of it, is due and unpaid or if an execution upon a judgment for compensation is returned unsatisfied, an injured employee or other person entitled to compensation under the provisions of this chapter may enforce his claim to compensation against the insurer to the same extent that the insured could have enforced his claim against such insurer had he paid compensation.

(1949 Rev., S. 7454; 1958 Rev., S. 31-181; 1959, P.A. 580, S. 16; 1961, P.A. 491, S. 41.)

Sec. 31-288. Additional liability. Penalty for undue delay, noncompliance with insurance requirements and for defrauding workers' compensation insurance carrier. Notice of penalty to Attorney General and State Treasurer. Payment. Civil action for nonpayment. (a) If an

employer wilfully fails to conform to any other provision of this chapter, he shall be fined not more than two hundred fifty dollars for each such failure.

(b) (1) Whenever through the fault or neglect of an employer or insurer, the adjustment or payment of compensation due under this chapter is unduly delayed, such employer or insurer may be assessed by the commissioner hearing the claim a civil penalty of not more than one thousand dollars for each such case of delay, to be paid to the claimant. (2) Whenever either party to a claim under this chapter has unreasonably, and without good cause, delayed the completion of the hearings on such claim, the delaying party or parties may be assessed a civil penalty of not more than five hundred dollars by the commissioner hearing the claim for each such case of delay. Any appeal of a penalty assessed pursuant to this subsection shall be taken in accordance with the provisions of section 31-301.

(c) Whenever an investigator in the investigations unit of the office of the State Treasurer, whether initiating an investigation at the request of the custodian of the Second Injury Fund, the Workers' Compensation Commission, or a commissioner, finds that an employer is not in compliance with the insurance and self-insurance requirements of subsection (b) of section 31-284, such investigator shall issue a citation to such employer requiring him to obtain insurance and fulfill the requirements of said section and notifying him of the requirement of a hearing before the commissioner and the penalties required under this subsection. The investigator shall also file an affidavit advising the commissioner of the citation and requesting a hearing on such violation. The commissioner shall conduct a hearing, after sufficient notice to the employer and within thirty days of the citation, wherein the employer shall be required to

present sufficient evidence of his compliance with said requirements. Whenever the commissioner finds that the employer is not in compliance with said requirements he shall assess a civil penalty of not less than five hundred dollars per employee or five thousand dollars, whichever is less and not more than fifty thousand dollars against the employer.

(d) In addition to the penalties assessed pursuant to subsection (c) of this section, the commissioner shall assess an additional penalty of one hundred dollars for each day after the finding of noncompliance that the employer fails to comply with the insurance and self-insurance requirements of subsection (b) of section 31-284. Any penalties assessed under the provisions of this subsection shall not exceed fifty thousand dollars in the aggregate.

(e) The chairman of the Workers' Compensation Commission shall notify the State Treasurer and the Attorney General of the imposition of any penalty, the date it was imposed, the amount and whether there has been an appeal of said penalty. Any civil penalty order issued pursuant to subsection (c) or (d) of this section shall state that payment shall be made to the Second Injury Fund of the State Treasurer, and that failure to pay within ninety days may result in civil action to double the penalty. The State Treasurer shall collect any penalty owed, and if the penalty is not paid within ninety days, the State Treasurer shall notify the chairman of the Workers' Compensation Commission and the Attorney General so that civil action may be brought pursuant to section 31-289. Any appeal of a penalty assessed pursuant to the provisions of subsections (c) and (d) of this section shall be taken in accordance with the provisions of section 31-301. The chairman shall adopt regulations for the commissioners to use

in setting fines which shall require the commissioners to take into account the nature of the employer's business and his number of employees.

(f) When any employer knowingly and wilfully fails to comply with the insurance and self-insurance requirements of subsection (b) of section 31-284, such employer, if he is an owner, in the case of a sole proprietorship, a partner, in the case of a partnership, a principal, in the case of a limited liability company or a corporate officer, in the case of a corporation, shall be guilty of a class D felony.

(g) Any employer who (1) has failed to meet the requirements of subsection (b) or (c) of section 31-284, or (2) with the intent to injure, defraud or deceive any insurance company insuring the liability of such employer under this chapter or the state of Connecticut because of failure to pay workers' compensation assessments in accordance with the provisions of section 31-345 or Second Injury Fund assessments in accordance with the provisions of section 31-354, (A) knowingly misrepresents one or more employees as independent contractors, or (B) knowingly provides false, incomplete or misleading information to such company concerning the number of employees, for the purpose of paying a lower premium on a policy obtained from such company, shall be guilty of a class D felony and shall be subject to a stop work order issued by the Labor Commissioner in accordance with section 31-76a.

(1961, P.A. 491, S. 11; P.A. 84-299, S. 1; P.A. 86-174, S. 1; P.A. 93-228, S. 6, 35; 93-419, S. 7, 9; P.A. 95-277, S. 1, 19; P.A. 96-267, S. 26; P.A. 07-80, S. 2; 07-89, S. 1; P.A. 10-12, S. 2.)

Sec. 31-289. Disposition of fines and penalties. Violations under section 31-284 and subsection (a) of section 31-288 shall be prosecuted in the appropriate court. Any fines or penalties collected under the provisions of sections 31-284 and 31-288 shall be paid over to the Second Injury Fund or its successor.

(1961, P.A. 491, S. 12; P.A. 84-299, S. 2; P.A. 91-207, S. 3, 9.)

Sec. 31-289a. Civil action to recover civil penalties. Privileged assignment for trial. (a) If any civil penalty imposed pursuant to any provision of this chapter is not paid within ninety days of its imposition by a workers' compensation commissioner, or within ninety days of the final disposition of an appeal, as the case may be, the chairman of the Workers' Compensation Commission shall immediately notify the Attorney General of such failure to pay. Upon such notification, the Attorney General may bring a civil action in the name of the state of Connecticut in the superior court for the judicial district where the commissioner imposed the civil penalty, to recover double the amount of the civil penalty together with reasonable attorney's fees and costs as taxed by the court. Any recovery under this section shall be disbursed in the same manner as recoveries pursuant to section 31-355.

(b) An affidavit sworn to or affirmed by the chairman of the Workers' Compensation Commission, or by the commissioner who imposed the civil penalty referred to in the affidavit, stating the name of the commissioner who imposed the civil penalty, the amount of the civil penalty, the name of the violator against whom the civil penalty was imposed, whether or not

an appeal was taken, the disposition of the appeal and whether or not the penalty was paid, shall constitute prima facie proof of the facts contained in the affidavit. Copies of the records of the Workers' Compensation Commission, or of any commissioner, certified by said chairman or by the commissioner having custody of the records, containing the name of the commissioner who imposed a civil penalty, the amount of the civil penalty, the name of the violator against whom the civil penalty was imposed, whether or not an appeal was taken, the disposition of the appeal and whether or not the penalty was paid, shall constitute prima facie proof of the facts contained in the records.

(c) Civil actions pursuant to this section shall be privileged in their assignment for trial.

(P.A. 86-174, S. 2; P.A. 91-339, S. 14, 55.)

Sec. 31-289b. Civil action to enjoin noncomplying employer from conducting business in the state. Whenever an employer wilfully fails to comply with the requirements of this chapter, the Attorney General may bring a civil action in the superior court for the judicial district of Hartford to enjoin the employer from conducting business in this state until the employer fully complies with the requirements of this chapter.

(P.A. 88-230, S. 1, 12; P.A. 90-98, S. 1, 2; P.A. 93-142, S. 4, 7, 8; 93-228, S. 27, 35; P.A. 95-220, S. 4—6; P.A. 96-267, S. 27.)

Sec. 31-290. Obligations not to be evaded. No contract, expressed or implied, no rule, regulation or other device shall in any manner relieve any employer, in whole or in part, of any obligation created by this chapter, except as herein set forth.

(1949 Rev., S. 7455; 1958 Rev., S. 31-183; 1961, P.A. 491, S. 43.)

Sec. 31-290a. Discharge or discrimination prohibited. Right of action. (a) No employer who is subject to the provisions of this chapter shall discharge, or cause to be discharged, or in any manner discriminate against any employee because the employee has filed a claim for workers' compensation benefits or otherwise exercised the rights afforded to him pursuant to the provisions of this chapter.

(b) Any employee who is so discharged or discriminated against may either: (1) Bring a civil action in the superior court for the judicial district where the employer has its principal office for the reinstatement of his previous job, payment of back wages and reestablishment of employee benefits to which he would have otherwise been entitled if he had not been discriminated against or discharged and any other damages caused by such discrimination or discharge. The court may also award punitive damages. Any employee who prevails in such a civil action shall be awarded reasonable attorney's fees and costs to be taxed by the court; or (2) file a complaint with the chairman of the Workers' Compensation Commission alleging violation of the provisions of subsection (a) of this section. Upon receipt of any such complaint,

the chairman shall select a commissioner to hear the complaint, provided any commissioner who has previously rendered any decision concerning the claim shall be excluded. The hearing shall be held in the workers' compensation district where the employer has its principal office. After the hearing, the commissioner shall send each party a written copy of his decision. The commissioner may award the employee the reinstatement of his previous job, payment of back wages and reestablishment of employee benefits to which he otherwise would have been eligible if he had not been discriminated against or discharged. Any employee who prevails in such a complaint shall be awarded reasonable attorney's fees. Any party aggrieved by the decision of the commissioner may appeal the decision to the Appellate Court.

(P.A. 84-300, S. 1, 2.)

Sec. 31-290c. Fraudulent claim or receipt of benefits. Penalties. (a) Any person or his representative who makes or attempts to make any claim for benefits, receives or attempts to receive benefits, prevents or attempts to prevent the receipt of benefits or reduces or attempts to reduce the amount of benefits under this chapter based in whole or in part upon (1) the intentional misrepresentation of any material fact including, but not limited to, the existence, time, date, place, location, circumstances or symptoms of the claimed injury or illness or (2) the intentional nondisclosure of any material fact affecting such claim or the collection of such benefits, shall be guilty of a class C felony if the amount of benefits claimed or received, including but not limited to, the value of medical services, is less than two thousand dollars, or

shall be guilty of a class B felony if the amount of such benefits exceeds two thousand dollars. Such person shall also be liable for treble damages in a civil proceeding under section 52-564.

(b) Any person, including an employer, who intentionally aids, abets, assists, promotes or facilitates the making of, or the attempt to make, any claim for benefits or the receipt or attempted receipt of benefits under this chapter by another person in violation of subsection (a) of this section shall be liable for the same criminal and civil penalties as the person making or attempting to make the claim or receiving or attempting to receive the benefits.

(P.A. 90-244.)

Sec. 31-290d. Workers' compensation fraud unit. (a) There shall be a workers' compensation fraud unit within the office of the Chief State's Attorney in the Division of Criminal Justice. The unit, under the supervision of the Chief State's Attorney, may, upon receipt of a complaint, at the request of the chairman of the Workers' Compensation Commission or on its own initiative, investigate cases of alleged fraud involving any claim for benefits, any receipt or payment of benefits, or the insurance or self-insurance of liability under sections 31-275 to 31-355a, inclusive. Upon conclusion of the investigation, the Chief State's Attorney shall take appropriate action to enforce the laws of this state.

(b) The workers' compensation fraud unit shall submit a quarterly report detailing its activities to the chairman and the Advisory Board of the Workers' Compensation Commission and to the Insurance Commissioner.

(c) The cost of the workers' compensation fraud unit shall be appropriated by the General Assembly as an expense of the Workers' Compensation Commission and shall be paid from the Workers' Compensation Administration Fund established under section 31-344a. The unit shall not engage in nor be assigned any duties or responsibilities other than those authorized by or necessary to carry out the provisions of this section.

(P.A. 92-173; P.A. 00-211, S. 2.)

Workers' Compensation Act — Part B

Workers' Compensation.

Sec. 31-291. Principal employer, contractor and subcontractor. When any principal employer procures any work to be done wholly or in part for him by a contractor, or through him by a subcontractor, and the work so procured to be done is a part or process in the trade or business of such principal employer, and is performed in, on or about premises under his control, such principal employer shall be liable to pay all compensation under this chapter to the same extent as if the work were done without the intervention of such contractor or

subcontractor. The provisions of this section shall not extend immunity to any principal employer from a civil action brought by an injured employee or his dependent under the provisions of section 31-293 to recover damages resulting from personal injury or wrongful death occurring on or after May 28, 1988, unless such principal employer has paid compensation benefits under this chapter to such injured employee or his dependent for the injury or death which is the subject of the action.

(1949 Rev., S. 7423; 1958 Rev., S. 31-154; 1961, P.A. 491, S. 13; P.A. 88-226, S. 1, 2.)

Sec. 31-291a. Method of computing workers' compensation premiums for construction

contractors. On or before July 1, 1996, the rating organization licensed pursuant to section 38a-672 shall file with the Insurance Commissioner a method of computing workers' compensation premiums which does not discriminate against or penalize employers in the construction industry solely because they pay higher wages than other employers to workers in the same job classification. Such method shall grant premium credits to construction contractors (1) who have workers' compensation insurance policies in which at least fifty per cent of the premium is attributable to construction classifications and (2) whose experience modification is unity or less as of July 1, 1996. Such credits shall apply to workers' compensation insurance policies issued or renewed on or after July 1, 1996.

(P.A. 95-262, S. 1, 3.)

Sec. 31-291b. Method of computing workers' compensation premiums for volunteer staff of municipality or volunteer ambulance service. On or before October 1, 2009, the rating organization licensed pursuant to section 38a-672 shall file with the Insurance Commissioner a method of calculating workers' compensation premiums for volunteer staff which does not base such premium calculation primarily on the number of ambulances owned by the municipality or volunteer ambulance service. Such method shall be based primarily on ambulance usage and shall apply to workers' compensation insurance policies issued or renewed on or after October 1, 2009. Ambulance usage shall be determined by the estimated number of calls responded to annually. For purposes of this section, "municipality or volunteer ambulance service" means a volunteer organization or municipality licensed by the Commissioner of Public Health to transport patients.

(P.A. 09-88, S. 1.)

Sec. 31-292. Liability of employer for worker lent to or employed by another. When the services of a worker are temporarily lent or let on hire to another person by the person with whom the worker has entered into a contract of service, the latter shall, for the purposes of this chapter, be deemed to continue to be the employer of such worker while he is so lent or hired by another.

(1949 Rev., S. 7424; 1958 Rev., S. 31-155; 1961, P.A. 491, S. 14; P.A. 79-376, S. 42.)

Sec. 31-293. Liability of third persons to employer and employee. Limitations on liability of architects and engineers. Limitations on liability of insurers, self-insurance service organizations and unions relating to safety matters. (a) When any injury for which compensation is payable under the provisions of this chapter has been sustained under circumstances creating in a person other than an employer who has complied with the requirements of subsection (b) of section 31-284, a legal liability to pay damages for the injury, the injured employee may claim compensation under the provisions of this chapter, but the payment or award of compensation shall not affect the claim or right of action of the injured employee against such person, but the injured employee may proceed at law against such person to recover damages for the injury; and any employer or the custodian of the Second Injury Fund, having paid, or having become obligated to pay, compensation under the provisions of this chapter may bring an action against such person to recover any amount that he has paid or has become obligated to pay as compensation to the injured employee. If the employee, the employer or the custodian of the Second Injury Fund brings an action against such person, he shall immediately notify the others, in writing, by personal presentation or by registered or certified mail, of the action and of the name of the court to which the writ is returnable, and the others may join as parties plaintiff in the action within thirty days after such notification, and, if the others fail to join as parties plaintiff, their right of action against such person shall abate unless the employer, insurance carrier or Second Injury Fund gives written notice of a lien in accordance with this subsection. In any case in which an employee brings an

action against a party other than an employer who failed to comply with the requirements of subsection (b) of section 31-284, in accordance with the provisions of this section, and the employer is a party defendant in the action, the employer may join as a party plaintiff in the action. The bringing of any action against an employer shall not constitute notice to the employer within the meaning of this section. If the employer and the employee join as parties plaintiff in the action and any damages are recovered, the damages shall be so apportioned that the claim of the employer, as defined in this section, shall take precedence over that of the injured employee in the proceeds of the recovery, after the deduction of reasonable and necessary expenditures, including attorneys' fees, incurred by the employee in effecting the recovery. If the action has been brought by the employee, the claim of the employer shall be reduced by one-third of the amount of the benefits to be reimbursed to the employer, unless otherwise agreed upon by the parties, which reduction shall inure solely to the benefit of the employee, except that such reduction shall not apply if the reimbursement is to the state of Connecticut or a political subdivision of the state including a local public agency, as the employer, or the custodian of the Second Injury Fund. The rendition of a judgment in favor of the employee or the employer against the party shall not terminate the employer's obligation to make further compensation which the commissioner thereafter deems payable to the injured employee. If the damages, after deducting the employee's expenses as provided in this subsection, are more than sufficient to reimburse the employer, damages shall be assessed in his favor in a sum sufficient to reimburse him for his claim, and the excess shall be assessed in favor of the injured employee. No compromise with the person by either the employer or the employee shall be binding upon or affect the rights of the other, unless assented to by him. For

the purposes of this section, the claim of the employer shall consist of (1) the amount of any compensation which he has paid on account of the injury which is the subject of the suit, and (2) an amount equal to the present worth of any probable future payments which he has by award become obligated to pay on account of the injury. The word "compensation", as used in this section, shall be construed to include incapacity payments to an injured employee, payments to the dependents of a deceased employee, sums paid out for surgical, medical and hospital services to an injured employee, the burial fee provided by subdivision (1) of subsection (a) of section 31-306, payments made under the provisions of sections 31-312 and 31-313, and payments made under the provisions of section 31-284b in the case of an action brought under this section by the employer or an action brought under this section by the employee in which the employee has alleged and been awarded such payments as damages. Each employee who brings an action against a party in accordance with the provisions of this subsection shall include in his complaint (A) the amount of any compensation paid by the employer or the Second Injury Fund on account of the injury which is the subject of the suit, and (B) the amount equal to the present worth of any probable future payments which the employer or the Second Injury Fund has, by award, become obligated to pay on account of the injury. Notwithstanding the provisions of this subsection, when any injury for which compensation is payable under the provisions of this chapter has been sustained under circumstances creating in a person other than an employer who has complied with the requirements of subsection (b) of section 31-284, a legal liability to pay damages for the injury and the injured employee has received compensation for the injury from such employer, its workers' compensation insurance carrier or the Second Injury Fund pursuant to the provisions

of this chapter, the employer, insurance carrier or Second Injury Fund shall have a lien upon any judgment received by the employee against the party or any settlement received by the employee from the party, provided the employer, insurance carrier or Second Injury Fund shall give written notice of the lien to the party prior to such judgment or settlement.

(b) When an injury for which compensation is payable under the provisions of this chapter is determined to be the result of a motor vehicle accident or other accident or circumstance in which a third person other than the employer was negligent and the claim is subrogated by the employer or its workers' compensation insurance carrier, the insurance carrier shall provide a rate adjustment to the employer's workers' compensation policy to reflect the recovery of any compensation paid by the insurance carrier prior to subrogation.

(c) Notwithstanding the provisions of subsection (a) of this section, no construction design professional who is retained to perform professional services on a construction project, or any employee of a construction design professional who is assisting or representing the construction design professional in the performance of professional services on the site of the construction project, shall be liable for any injury on the construction project for which compensation is payable under the provisions of this chapter, unless responsibility for safety practices is specifically assumed by contract. The immunity provided by this subsection to any construction design professional shall not apply to the negligent preparation of design plans or specifications. For the purposes of this subsection "construction design professional" means (1) any person licensed as an architect under the provisions of chapter 390, (2) any person licensed, or exempted from licensure, as an engineer under the provisions of chapter 391, or (3)

any corporation organized to render professional services through the practice of either or both of such professions in this state.

(d) Notwithstanding the provisions of subsection (a) of this section, the furnishing of or the failure to furnish safety inspections or safety advisory services (1) by an insurer incident to providing workers' compensation insurance to an employer, (2) pursuant to a contract providing for safety inspections or safety advisory services between an employer and a self-insurance service organization incident to providing workers' compensation related services or (3) by a union representing employees of the employer, shall not subject the insurer or self-insurance service organization or their agents or employees, or the union, its members or the members of its safety committee, to third party liability for damages for injury, death or loss resulting therefrom unless the liability arises from a breach of a duty of fair representation of its members by a union. The immunity from liability extended under this subsection shall not be extended to any insurer or self-insurance service organization other than where the immunity is incident to the provision of workers' compensation insurance or workers' compensation related services.

(1949 Rev., S. 7425; 1949, 1951, S. 3040d; 1958 Rev., S. 31-156; 1961, P.A. 491, S. 15; 1967, P.A. 692, S. 4; 842, S. 27; P.A. 86-266, S. 1; P.A. 90-145; P.A. 91-32, S. 9, 41; 91-191, S. 2, 3; P.A. 93-228, S. 7, 35; P.A. 96-65, S. 2; P.A. 11-205, S. 1.)

Sec. 31-293a. No right against fellow employee; exception. If an employee or, in case of his death, his dependent has a right to benefits or compensation under this chapter on account of injury or death from injury caused by the negligence or wrong of a fellow employee, such right shall be the exclusive remedy of such injured employee or dependent and no action may be brought against such fellow employee unless such wrong was wilful or malicious or the action is based on the fellow employee's negligence in the operation of a motor vehicle as defined in section 14-1. For purposes of this section, contractors' mobile equipment such as bulldozers, powershovels, rollers, graders or scrapers, farm machinery, cranes, diggers, forklifts, pumps, generators, air compressors, drills or other similar equipment designed for use principally off public roads are not "motor vehicles" if the claimed injury involving such equipment occurred at the worksite on or after October 1, 1983. No insurance policy or contract shall be accepted as proof of financial responsibility of the owner and as evidence of the insuring of such person for injury to or death of persons and damage to property by the Commissioner of Motor Vehicles required by chapter 246 if it excludes from coverage under such policy or contract any agent, representative or employee of such owner from such policy or contract. Any provision of such an insurance policy or contract effected after July 1, 1969, which excludes from coverage thereunder any agent, representative or employee of the owner of a motor vehicle involved in an accident with a fellow employee shall be null and void.

(1967, P.A. 842, S. 5; 1969, P.A. 696, S. 4; P.A. 83-297; P.A. 84-22, S. 1, 2.)

Sec. 31-294a. Eligibility for podiatric care. Any recipient of benefits under the Workers' Compensation Act shall be eligible to receive the services of a podiatrist to the same extent that such person is eligible to receive the services of a practicing physician, surgeon or dentist.

(1969, P.A. 556, S. 4; P.A. 79-376, S. 43.)

Sec. 31-294b. Report of injury to employer. Notice of claim form provided by commission.

(a) Any employee who has sustained an injury in the course of his employment shall immediately report the injury to his employer, or some person representing his employer. If the employee fails to report the injury immediately, the commissioner may reduce the award of compensation proportionately to any prejudice that he finds the employer has sustained by reason of the failure, provided the burden of proof with respect to such prejudice shall rest upon the employer.

(b) Once the first report of injury has been submitted to the Workers' Compensation Commission, pursuant to section 31-294c, by the employer, the employer's insurance carrier or the employer's representative, the Workers' Compensation Commission shall provide to the injured employee, not later than five business days after receipt of such notice, a copy of Form 30C, Notice of Claim for Compensation, or any successor form prepared by the Workers' Compensation Commission to help injured employees comply with the notice requirements of section 31-294c. The Workers' Compensation Commission shall provide such form to the

injured employee in person or by mail sent to such employee's current address on file with the employer.

(P.A. 91-32, S. 10, 41; P.A. 08-3, S. 1.)

Sec. 31-294c. Notice of claim for compensation. Notice contesting liability. Exception for dependents of certain deceased employees. (a) No proceedings for compensation under the provisions of this chapter shall be maintained unless a written notice of claim for compensation is given within one year from the date of the accident or within three years from the first manifestation of a symptom of the occupational disease, as the case may be, which caused the personal injury, provided, if death has resulted within two years from the date of the accident or first manifestation of a symptom of the occupational disease, a dependent or dependents, or the legal representative of the deceased employee, may make claim for compensation within the two-year period or within one year from the date of death, whichever is later. Notice of a claim for compensation may be given to the employer or any commissioner and shall state, in simple language, the date and place of the accident and the nature of the injury resulting from the accident, or the date of the first manifestation of a symptom of the occupational disease and the nature of the disease, as the case may be, and the name and address of the employee and of the person in whose interest compensation is claimed. An employee of the state shall send a copy of the notice to the Commissioner of Administrative Services. As used in this section, "manifestation of a symptom" means manifestation to an employee claiming

compensation, or to some other person standing in such relation to him that the knowledge of the person would be imputed to him, in a manner that is or should be recognized by him as symptomatic of the occupational disease for which compensation is claimed.

(b) Whenever liability to pay compensation is contested by the employer, he shall file with the commissioner, on or before the twenty-eighth day after he has received a written notice of claim, a notice in accord with a form prescribed by the chairman of the Workers' Compensation Commission stating that the right to compensation is contested, the name of the claimant, the name of the employer, the date of the alleged injury or death and the specific grounds on which the right to compensation is contested. The employer shall send a copy of the notice to the employee in accordance with section 31-321. If the employer or his legal representative fails to file the notice contesting liability on or before the twenty-eighth day after he has received the written notice of claim, the employer shall commence payment of compensation for such injury or death on or before the twenty-eighth day after he has received the written notice of claim, but the employer may contest the employee's right to receive compensation on any grounds or the extent of his disability within one year from the receipt of the written notice of claim, provided the employer shall not be required to commence payment of compensation when the written notice of claim has not been properly served in accordance with section 31-321 or when the written notice of claim fails to include a warning that (1) the employer, if he has commenced payment for the alleged injury or death on or before the twenty-eighth day after receiving a written notice of claim, shall be precluded from contesting liability unless a notice contesting liability is filed within one year from the receipt of the written notice of claim, and (2) the employer shall be conclusively presumed to have accepted the compensability of

the alleged injury or death unless the employer either files a notice contesting liability on or before the twenty-eighth day after receiving a written notice of claim or commences payment for the alleged injury or death on or before such twenty-eighth day. An employer shall be entitled, if he prevails, to reimbursement from the claimant of any compensation paid by the employer on and after the date the commissioner receives written notice from the employer or his legal representative, in accordance with the form prescribed by the chairman of the Workers' Compensation Commission, stating that the right to compensation is contested. Notwithstanding the provisions of this subsection, an employer who fails to contest liability for an alleged injury or death on or before the twenty-eighth day after receiving a written notice of claim and who fails to commence payment for the alleged injury or death on or before such twenty-eighth day, shall be conclusively presumed to have accepted the compensability of the alleged injury or death.

(c) Failure to provide a notice of claim under subsection (a) of this section shall not bar maintenance of the proceedings if there has been a hearing or a written request for a hearing or an assignment for a hearing within a one-year period from the date of the accident or within a three-year period from the first manifestation of a symptom of the occupational disease, as the case may be, or if a voluntary agreement has been submitted within the applicable period, or if within the applicable period an employee has been furnished, for the injury with respect to which compensation is claimed, with medical or surgical care as provided in section 31-294d. No defect or inaccuracy of notice of claim shall bar maintenance of proceedings unless the employer shows that he was ignorant of the facts concerning the personal injury and was

prejudiced by the defect or inaccuracy of the notice. Upon satisfactory showing of ignorance and prejudice, the employer shall receive allowance to the extent of the prejudice.

(d) Notwithstanding the provisions of subsection (a) of this section, a dependent or dependents of a deceased employee seeking compensation under section 31-306 who was barred by a final judgment in a court of law from filing a claim arising out of the death of the deceased employee, whose date of injury was between June 1, 1991, and June 30, 1991, and whose date of death was between November 1, 1992, and November 30, 1992, because of the failure of the dependent to timely file a separate death benefits claim, shall be allowed to file a written notice of claim for compensation not later than one year after July 8, 2005, and the commissioner shall have jurisdiction to determine such dependent's claim.

(P.A. 91-32, S. 11, 41; 91-339, S. 47, 55; P.A. 93-228, S. 8, 35; 93-419, S. 8, 9; P.A. 05-230, S. 2.)

Sec. 31-294d. Medical and surgical aid; hospital and nursing service. (a)(1) The employer, as soon as the employer has knowledge of an injury, shall provide a competent physician or surgeon to attend the injured employee and, in addition, shall furnish any medical and surgical aid or hospital and nursing service, including medical rehabilitation services and prescription drugs, as the physician or surgeon deems reasonable or necessary. The employer, any insurer acting on behalf of the employer, or any other entity acting on behalf of the employer or

insurer shall be responsible for paying the cost of such prescription drugs directly to the provider.

(2) If the injured employee is a local or state police officer, state marshal, judicial marshal, correction officer, emergency medical technician, paramedic, ambulance driver, firefighter, or active member of a volunteer fire company or fire department engaged in volunteer duties, who has been exposed in the line of duty to blood or bodily fluids that may carry blood-borne disease, the medical and surgical aid or hospital and nursing service provided by the employer shall include any relevant diagnostic and prophylactic procedure for and treatment of any blood-borne disease.

(b) The employee shall select the physician or surgeon from an approved list of physicians and surgeons prepared by the chairman of the Workers' Compensation Commission. If the employee is unable to make the selection, the employer shall do so, subject to ratification by the employee or his next of kin. If the employer has a full-time staff physician or if a physician is available on call, the initial treatment required immediately following the injury may be rendered by that physician, but the employee may thereafter select his own physician as provided by this chapter for any further treatment without prior approval of the commissioner.

(c) The commissioner may, without hearing, at the request of the employer or the injured employee, when good reason exists, or on his own motion, authorize or direct a change of physician or surgeon or hospital or nursing service provided pursuant to subsection (a) of this section.

(d) The pecuniary liability of the employer for the medical and surgical service required by this section shall be limited to the charges that prevail in the same community or similar communities for similar treatment of injured persons of a like standard of living when the similar treatment is paid for by the injured person. The liability of the employer for hospital service shall be the amount it actually costs the hospital to render the service, as determined by the commissioner, except in the case of state humane institutions, the liability of the employer shall be the per capita cost as determined by the Comptroller under the provisions of section 17b-223. All disputes concerning liability for hospital services in workers' compensation cases shall be settled by the commissioner in accordance with this chapter.

(e) If the employer fails to promptly provide a physician or surgeon or any medical and surgical aid or hospital and nursing service as required by this section, the injured employee may obtain a physician or surgeon, selected from the approved list prepared by the chairman, or such medical and surgical aid or hospital and nursing service at the expense of the employer.

(P.A. 91-32, S. 12, 41; 91-339, S. 48, 55; P.A. 98-160; P.A. 00-99, S. 81, 154; P.A. 01-85, S. 2, 3.)

Sec. 31-294e. Employee's option to obtain medical care at employee's expense. Refusal of employee to accept or obtain reasonable medical care. (a) At his option, the injured employee may refuse the medical and surgical aid or hospital and nursing service provided by his employer and obtain the same at his own expense.

(b) If it appears to the commissioner that an injured employee has refused to accept and failed to obtain reasonable medical and surgical aid or hospital and nursing service, all rights of compensation under the provisions of this chapter shall be suspended during such refusal and failure.

(P.A. 91-32, S. 13, 41.)

Sec. 31-294f. Medical examination of injured employee. Medical reports. (a) An injured employee shall submit himself to examination by a reputable practicing physician or surgeon, at any time while claiming or receiving compensation, upon the reasonable request of the employer or at the direction of the commissioner. The examination shall be performed to determine the nature of the injury and the incapacity resulting from the injury. The physician or surgeon shall be selected by the employer from an approved list of physicians and surgeons prepared by the chairman of the Workers' Compensation Commission and shall be paid by the employer. At any examination requested by the employer or directed by the commissioner under this section, the injured employee shall be allowed to have in attendance any reputable practicing physician or surgeon that the employee obtains and pays for himself. The employee shall submit to all other physical examinations as required by this chapter. The refusal of an injured employee to submit himself to a reasonable examination under this section shall suspend his right to compensation during such refusal.

(b) All medical reports concerning any injury of an employee sustained in the course of his employment shall be furnished within thirty days after the completion of the reports, at the same time and in the same manner, to the employer and the employee or his attorney.

(P.A. 91-32, S. 14, 41; 91-339, S. 49, 55; P.A. 96-125.)

Sec. 31-294g. State employee notice of claim for compensation. Whenever the Commissioner of Administrative Services receives a notice of claim for compensation from an employee of the state pursuant to subsection (a) of section 31-294c, the Commissioner of Administrative Services shall send a copy of the notice of claim to the chief executive officer of the state agency, department, board, institution or commission in which the employee works.

(P.A. 91-339, S. 15, 55.)

Sec. 31-294h. Benefits for police officers and firefighters suffering mental or emotional impairment. Notwithstanding any provision of this chapter, workers' compensation benefits for any (1) police officer, as defined in subparagraph (B)(ii) of subdivision (16) of section 31-275, who suffers a mental or emotional impairment arising from such police officer's use of deadly force or subjection to deadly force in the line of duty, or (2) firefighter, as defined in subparagraph (B)(ii) of subdivision (16) of section 31-275, who suffers a mental or emotional impairment diagnosed as post-traumatic stress disorder originating from the firefighter

witnessing the death of another firefighter while engaged in the line of duty, shall be limited to treatment by a psychologist or a psychiatrist who is on the approved list of practicing physicians established by the chairman of the Workers' Compensation Commission pursuant to section 31-280.

(P.A. 05-208, S. 5; P.A. 12-126, S. 2.)

Sec. 31-294i. Municipal firefighters and police officers. Employer presumption of liability for cardiac emergencies. For the purpose of adjudication of claims for payment of benefits under the provisions of this chapter to a uniformed member of a paid municipal fire department or a regular member of a paid municipal police department or constable who began such employment on or after July 1, 1996, any condition or impairment of health caused by a cardiac emergency occurring to such member on or after July 1, 2009, while such member is in training for or engaged in fire duty at the site of an accident or fire, or other public safety operation within the scope of such member's employment for such member's municipal employer that results in death or temporary or permanent total or partial disability, shall be presumed to have been suffered in the line of duty and within the scope of such member's employment, unless the contrary is shown by a preponderance of the evidence, provided such member successfully passed a physical examination on entry into service conducted by a licensed physician designated by such department which examination failed to reveal any evidence of such condition. For the purposes of this section, "cardiac emergency" means

cardiac arrest or myocardial infarction, and “constable” means any municipal law enforcement officer who is authorized to make arrests and has completed Police Officer Standards and Training Council certification pursuant to section 7-294a.

(P.A. 08-61, S. 1.)

Sec. 31-294j. Eligibility of municipal firefighters, police officers, constables and volunteer ambulance service members re benefits for diseases arising out of and in the course of employment. For the purpose of adjudication of claims for payment of benefits under the provisions of this chapter, a uniformed member of a paid municipal or volunteer fire department, a regular member of a paid municipal police department, a constable, as defined in section 31-294i, or a member of a volunteer ambulance service shall be eligible for such benefits for any disease arising out of and in the course of employment, including, but not limited to, hepatitis, meningococcal meningitis, tuberculosis, Kahler’s Disease, non-Hodgkin’s lymphoma, and prostate or testicular cancer that results in death or temporary or permanent total or partial disability.

(P.A. 10-37, S. 1; June Sp. Sess. P.A. 10-1, S. 55.)

Sec. 31-295. Waiting period. When compensation begins. Penalty for late payment of permanent partial disability benefits. (a) No compensation shall be payable for total or partial

incapacity under the provisions of this chapter on account of any injury which does not incapacitate the injured employee for a period of more than three days from earning full wages at his customary employment. If the incapacity continues for a period of more than three days but less than seven days, compensation shall begin at the expiration of the first three days of total or partial incapacity. If the incapacity continues for a period of seven days, compensation shall begin from the date of the injury.

(b) The injured employee shall be entitled to full wages for the entire day of the injury and that day shall not be counted as a day of incapacity.

(c) If the employee is entitled to receive compensation for permanent disability to an injured member in accordance with the provisions of subsection (b) of section 31-308, the compensation shall be paid to him beginning not later than thirty days following the date of the maximum improvement of the member or members and, if the compensation payments are not so paid, the employer shall, in addition to the compensation rate, pay interest at the rate of ten per cent per annum on such sum or sums from the date of maximum improvement. The employer shall ascertain at least monthly whether employees are entitled to compensation because of a loss of wages as a result of the injury and, if there is a loss of wages, shall pay the compensation. The chairman of the Workers' Compensation Commission shall adopt regulations, in accordance with the provisions of chapter 54, for the purpose of assuring prompt payment by the employer or his insurance carrier.

(1949 Rev., S. 7427; 1957, P.A. 451; 1958 Rev., S. 31-158; 1959, P.A. 580, S. 4; 1961, P.A. 491, S. 17; 1967, P.A. 842, S. 6; P.A. 91-32, S. 15, 41; 91-339, S. 16, 55; P.A. 93-228, S. 9, 35.)

Sec. 31-296. Voluntary agreements. (a) If an employer and an injured employee, or in case of fatal injury the employee's legal representative or dependent, at a date not earlier than the expiration of the waiting period, reach an agreement in regard to compensation, such agreement shall be submitted in writing to the commissioner by the employer with a statement of the time, place and nature of the injury upon which it is based; and, if such commissioner finds such agreement to conform to the provisions of this chapter in every regard, the commissioner shall so approve it. A copy of the agreement, with a statement of the commissioner's approval, shall be delivered to each of the parties and thereafter it shall be as binding upon both parties as an award by the commissioner. The commissioner's statement of approval shall also inform the employee or the employee's dependent, as the case may be, of any rights the individual may have to an annual cost-of-living adjustment or to participate in a rehabilitation program administered by the Department of Rehabilitation Services under the provisions of this chapter. The commissioner shall retain the original agreement, with the commissioner's approval thereof, in the commissioner's office and, if an application is made to the superior court for an execution, the commissioner shall, upon the request of said court, file in the court a certified copy of the agreement and statement of approval.

(b) Before discontinuing or reducing payment on account of total or partial incapacity under any such agreement, the employer or the employer's insurer, if it is claimed by or on behalf of the injured employee that such employee's incapacity still continues, shall notify the commissioner and the employee, by certified mail, of the proposed discontinuance or reduction

of such payments. Such notice shall specify the reason for the proposed discontinuance or reduction and the date such proposed discontinuance or reduction will commence. No discontinuance or reduction shall become effective unless specifically approved in writing by the commissioner. The employee may request a hearing on any such proposed discontinuance or reduction not later than fifteen days after receipt of such notice. Any such request for a hearing shall be given priority over requests for hearings on other matters. The commissioner shall not approve any such discontinuance or reduction prior to the expiration of the period for requesting a hearing or the completion of such hearing, whichever is later. In any case where the commissioner finds that an employer has discontinued or reduced any payments made in accordance with this section without the approval of the commissioner, such employer shall be required to pay to the employee the total amount of all payments so discontinued or the total amount by which such payments were reduced, as the case may be, and shall be required to pay interest to the employee, at a rate of one and one-quarter per cent per month or portion of a month, on any payments so discontinued or on the total amount by which such payments were reduced, as the case may be, plus reasonable attorney's fees incurred by the employee in relation to such discontinuance or reduction.

(c) The employer's or insurer's notice of intention to discontinue or reduce payments shall (1) identify the claimant, the claimant's attorney or other representative, the employer, the insurer, and the injury, including the date of the injury, the city or town in which the injury occurred and the nature of the injury, (2) include medical documentation that (A) establishes the basis for the discontinuance or reduction of payments, and (B) identifies the claimant's attending physician, and (3) be in substantially the following form:

IMPORTANT

STATE OF CONNECTICUT WORKERS' COMPENSATION COMMISSION

YOU ARE HEREBY NOTIFIED THAT THE EMPLOYER OR INSURER INTENDS TO REDUCE OR DISCONTINUE YOUR COMPENSATION PAYMENTS ON (date) FOR THE FOLLOWING REASONS:

If you object to the reduction or discontinuance of benefits as stated in this notice, YOU MUST REQUEST A HEARING NOT LATER THAN 15 DAYS after your receipt of this notice, or this notice will automatically be approved.

To request an Informal Hearing, call the Workers' Compensation Commission District Office in which your case is pending.

Be prepared to provide medical and other documentation to support your objection. For your protection, note the date when you received this notice.

(1949 Rev., S. 7444; 1953, S. 3047d; 1958 Rev., S. 31-170; 1961, P.A. 491, S. 18; 1971, P.A. 510, S. 1; P.A. 79-376, S. 44; P.A. 83-114, S. 1; P.A. 84-180, S. 1; P.A. 88-106, S. 1; P.A. 90-116, S. 6; P.A. 07-80, S. 1; P.A. 11-44, S. 48; June 12 Sp. Sess. P.A. 12-1, S. 85.)

Sec. 31-296a. Discontinuance or reduction of payments under oral agreements. No employer shall discontinue or reduce payment on account of total or partial incapacity under any oral agreement or in any case where the employer's acceptance of compensability has

been conclusively presumed under subsection (b) of section 31-294c because of failure to file a timely notice contesting liability, if it is claimed by or on behalf of the injured person that his incapacity still continues, unless such employer notifies the commissioner and the employee of the proposed discontinuance or reduction in the manner prescribed in section 31-296 and the commissioner specifically approves such discontinuance or reduction in writing.

(1971, P.A. 510, S. 2; 1972, P.A. 43; P.A. 88-106, S. 2; P.A. 92-31, S. 3, 7.)

Sec. 31-297. Hearing of claims. If an employer and his injured employee, or his legal representative, as the case may be, fail to reach an agreement in regard to compensation under the provisions of this chapter, either party may notify the commissioner of the failure. Upon such notice, or upon the knowledge that an agreement has not been reached in a case in which a right to compensation may exist, the commissioner shall schedule an early hearing upon the matter, giving both parties notice of time and place not less than ten days prior to the scheduled date; provided the commissioner may, on finding an emergency to exist, give such notice as he finds reasonable under the circumstances. If no agreement has been reached within sixty days after the date notice of claim for compensation was received by the commissioner, as provided in section 31-294c, a formal hearing shall be scheduled on the claim and held within thirty days after the end of the sixty-day period, except that if an earlier hearing date has previously been scheduled, the earlier date shall prevail. Hearings shall be held, if practicable, in the town in which the injured employee resides; or, if it is not practicable to hold

a hearing in the town, in any other convenient place that the commissioner may prescribe.

Sufficient notice of the hearing may be given to the parties in interest by a brief written statement in ordinary terms of the date, place and nature of the injury upon which the claim for compensation is based.

(1949 Rev., S. 7446; 1958 Rev., S. 31-173; 1961, P.A. 491, S. 19; 1967, P.A. 842, S. 7; P.A. 83-123; P.A. 89-31; P.A. 90-116, S. 9; P.A. 91-32, S. 16, 41.)

Sec. 31-297a. Informal hearings. In any informal hearing held by the commissioner or chairman of the Workers' Compensation Commission in regard to compensation under the provisions of this chapter, any recommendations made by the commissioner or chairman at the informal hearing shall be reduced to writing and, if the parties accept such recommendations, the recommendations shall be as binding upon both parties as an award by the commissioner or chairman. The commissioner or chairman shall not postpone any such informal hearing if one party fails to attend unless both parties agree to the postponement.

(P.A. 91-339, S. 17, 55; P.A. 93-228, S. 10, 35.)

Sec. 31-298. Conduct of hearings. Both parties may appear at any hearing, either in person or by attorney or other accredited representative, and no formal pleadings shall be required, beyond any informal notices that the commission approves. In all cases and hearings under the

provisions of this chapter, the commissioner shall proceed, so far as possible, in accordance with the rules of equity. He shall not be bound by the ordinary common law or statutory rules of evidence or procedure, but shall make inquiry, through oral testimony, deposition testimony or written and printed records, in a manner that is best calculated to ascertain the substantial rights of the parties and carry out the provisions and intent of this chapter. No fees shall be charged to either party by the commissioner in connection with any hearing or other procedure, but the commissioner shall furnish at cost (1) certified copies of any testimony, award or other matter which may be of record in his office, and (2) duplicates of audio cassette recordings of any formal hearings. Witnesses subpoenaed by the commissioner shall be allowed the fees and traveling expenses that are allowed in civil actions, to be paid by the party in whose interest the witnesses are subpoenaed. When liability or extent of disability is contested by formal hearing before the commissioner, the claimant shall be entitled, if he prevails on final judgment, to payment for oral testimony or deposition testimony rendered on his behalf by a competent physician, surgeon or other medical provider, including the stenographic and videotape recording costs thereof, in connection with the claim, the commissioner to determine the reasonableness of such charges.

(1949 Rev., S. 7447; 1958 Rev., S. 31-174; 1961, P.A. 491, S. 20; 1967, P.A. 242; 842, S. 8; 1971, P.A. 521; P.A. 85-65; P.A. 91-32, S. 17, 41; P.A. 93-228, S. 11, 35; P.A. 97-106.)

Sec. 31-298a. Use of medical panel. Duties of commissioner and panel. Appeal.

Regulations. (a) A medical panel shall be established for use in solving controverted medical issues in claims for workers' compensation due to occupational lung disease. The American College of Chest Physicians shall submit to the chairman of the Workers' Compensation

Commission by October 10, 1981, and annually thereafter a list of five to ten physicians who are expert in the diagnosis, care and treatment of occupational lung disease for membership in the panel. In the event that no such list is submitted, the chairman shall appoint to the panel five to ten licensed physicians who are expert in the diagnosis, care and treatment of such diseases.

(b) In each occupational lung disease claim for workers' compensation where there are controverted medical issues, the commissioner hearing the case may choose three members of the medical panel for assistance in the case. The commissioner shall submit, at his discretion and within thirty days after choosing said panel, interrogatories concerning the controverted medical issues to such three-member panel, along with whatever evidence and materials the commissioner deems necessary for their consideration. The three-member panel may examine the employee, who shall submit to any examination such panel may require. Within sixty days of the submission of such interrogatories to it, the three-member panel shall file with the commissioner its answers, report and findings on all such medical issues, along with any records generated from its work in the case. The answers to the interrogatories and the contents of the report shall be determined by majority vote of the three panel members.

(c) The answers to the interrogatories, report, findings and records of the three-member panel shall become part of the record of the hearing before the commissioner. In making his decision in such a case, the commissioner shall conform his decision or award to the findings of such panel as to medical issues. Either party may appeal the decision of the commissioner to the Compensation Review Board according to the provisions of section 31-301.

(d) The chairman of the Workers' Compensation Commission shall adopt regulations in accordance with the provisions of chapter 54 to establish a fee schedule for the payment of medical panel members. Sufficient funding for the payment of such fees shall be supplied from the administrative costs fund, as provided in section 31-345.

(P.A. 81-392, S. 1—4; P.A. 91-339, S. 18, 55.)

Sec. 31-299. Prior statements of parties as evidence at hearings before commissioners. At any hearing before a compensation commissioner no written statement, and no oral statement taken by means of tape recorder or any mechanical, electrical or electronic device, concerning the facts out of which the claim arose or affecting such claim, given by either party to the other, or to his agent, attorney or insurer, shall be admissible in evidence unless a copy of the written statement or a transcript of the oral statement, as the case may be, is retained by the party giving such statement or delivered to him at the time such statement was given or within thirty days thereafter. In the case of an oral statement taken by means of tape recorder or other mechanical, electrical or electronic device, the person recording such oral statement shall prepare a full and complete transcript thereof and submit it to the person giving such statement for signature and such transcript must be signed by the employee before such statement may be used at any such hearing.

(1949 Rev., S. 7448; 1958 Rev., S. 31-175; 1961, P.A. 491, S. 21; 1967, P.A. 842, S. 9.)

Sec. 31-299a. Payments under group medical policy not defense to claim for benefits.

Health insurer's duty to pay. Lien. (a) Where an employer contests the compensability of an employee's claim for compensation, proof of payment made under a group health, medical or hospitalization plan or policy shall not be a defense to a claim for compensation under this chapter.

(b) Where an employer contests the compensability of an employee's claim for compensation, and the employee has also filed a claim for benefits or services under the employer's group health, medical, disability or hospitalization plan or policy, the employer's health insurer may not delay or deny payment of benefits due to the employee under the terms of the plan or policy by claiming that treatment for the employee's injury or disease is the responsibility of the employer's workers' compensation insurer. The health insurer may file a claim in its own right against the employer for the value of benefits paid by the insurer within two years from payment of the benefits. The health insurer shall not have a lien on the proceeds of any award or approval of any compromise made by the commissioner pursuant to the employee's compensation claim, in accordance with the provisions of section 38a-470, unless the health insurer actually paid benefits to or on behalf of the employee.

(1967, P.A. 842, S. 29; P.A. 84-139, S. 1, 2; P.A. 91-32, S. 18, 41; P.A. 93-228, S. 12, 35.)

Sec. 31-299b. Initial liability of last employer. Reimbursement. If an employee suffers an injury or disease for which compensation is found by the commissioner to be payable according to the provisions of this chapter, the employer who last employed the claimant prior to the filing of the claim, or the employer's insurer, shall be initially liable for the payment of such compensation. The commissioner shall, within a reasonable period of time after issuing an award, on the basis of the record of the hearing, determine whether prior employers, or their insurers, are liable for a portion of such compensation and the extent of their liability. If prior employers are found to be so liable, the commissioner shall order such employers or their insurers to reimburse the initially liable employer or insurer according to the proportion of their liability. Reimbursement shall be made within ten days of the commissioner's order with interest, from the date of the initial payment, at twelve per cent per annum. If no appeal from the commissioner's order is taken by any employer or insurer within twenty days, the order shall be final and may be enforced in the same manner as a judgment of the Superior Court. For purposes of this section, the Second Injury Fund shall not be deemed an employer or an insurer and shall be exempt from any liability. The amount of any compensation for which the Second Injury Fund would be liable except for the exemption provided under this section shall be reallocated among any other employers, or their insurers, who are liable for such compensation according to a ratio, the numerator of which is the percentage of the total compensation for which an employer, or its insurer, is liable and the denominator of which is the total percentage of liability of all employers, or their insurers, excluding the percentage that would have been attributable to the Second Injury Fund, for such compensation.

(P.A. 81-155, S. 1; P.A. 01-22, S. 2; P.A. 05-199, S. 1.)

Sec. 31-300. Award as judgment. Interest. Attorney's fee. Procedure on discontinuance or reduction. As soon as may be after the conclusion of any hearing, but no later than one hundred twenty days after such conclusion, the commissioner shall send to each party a written copy of the commissioner's findings and award. The commissioner shall, as part of the written award, inform the employee or the employee's dependent, as the case may be, of any rights the individual may have to an annual cost-of-living adjustment or to participate in a rehabilitation program administered by the Department of Rehabilitation Services under the provisions of this chapter. The commissioner shall retain the original findings and award in said commissioner's office. If no appeal from the decision is taken by either party within twenty days thereafter, such award shall be final and may be enforced in the same manner as a judgment of the Superior Court. The court may issue execution upon any uncontested or final award of a commissioner in the same manner as in cases of judgments rendered in the Superior Court; and, upon the filing of an application to the court for an execution, the commissioner in whose office the award is on file shall, upon the request of the clerk of said court, send to the clerk a certified copy of such findings and award. In cases where, through the fault or neglect of the employer or insurer, adjustments of compensation have been unduly delayed, or where through such fault or neglect, payments have been unduly delayed, the commissioner may include in the award interest at the rate prescribed in section 37-3a and a reasonable attorney's fee in the case of undue delay in adjustments of compensation and may include in the award in the case of undue delay in payments of compensation, interest at twelve per cent per annum

and a reasonable attorney's fee. Payments not commenced within thirty-five days after the filing of a written notice of claim shall be presumed to be unduly delayed unless a notice to contest the claim is filed in accordance with section 31-297. In cases where there has been delay in either adjustment or payment, which delay has not been due to the fault or neglect of the employer or insurer, whether such delay was caused by appeals or otherwise, the commissioner may allow interest at such rate, not to exceed the rate prescribed in section 37-3a, as may be fair and reasonable, taking into account whatever advantage the employer or insurer, as the case may be, may have had from the use of the money, the burden of showing that the rate in such case should be less than the rate prescribed in section 37-3a to be upon the employer or insurer. In cases where the claimant prevails and the commissioner finds that the employer or insurer has unreasonably contested liability, the commissioner may allow to the claimant a reasonable attorney's fee. No employer or insurer shall discontinue or reduce payment on account of total or partial incapacity under any such award, if it is claimed by or on behalf of the injured person that such person's incapacity still continues, unless such employer or insurer notifies the commissioner and the employee of such proposed discontinuance or reduction in the manner prescribed in section 31-296 and the commissioner specifically approves such discontinuance or reduction in writing. The commissioner shall render the decision within fourteen days of receipt of such notice and shall forward to all parties to the claim a copy of the decision not later than seven days after the decision has been rendered. If the decision of the commissioner finds for the employer or insurer, the injured person shall return any wrongful payments received from the day designated by the commissioner as the effective date for the discontinuance or reduction of benefits. Any employee whose benefits for

total incapacity are discontinued under the provisions of this section and who is entitled to receive benefits for partial incapacity as a result of an award, shall receive those benefits commencing the day following the designated effective date for the discontinuance of benefits for total incapacity. In any case where the commissioner finds that the employer or insurer has discontinued or reduced any such payment without having given such notice and without the commissioner having approved such discontinuance or reduction in writing, the commissioner shall allow the claimant a reasonable attorney's fee together with interest at the rate prescribed in section 37-3a on the discontinued or reduced payments.

(1949 Rev., S. 7449; 1951, S. 3049d; 1958 Rev., S. 31-176; 1961, P.A. 491, S. 22; 1967, P.A. 692, S. 1; 842, S. 10; P.A. 75-122; P.A. 79-80; P.A. 83-114, S. 2; P.A. 84-180, S. 2; 84-299, S. 3; P.A. 85-64, S. 1, 2; P.A. 88-106, S. 3; P.A. 89-17; 89-316, S. 1; P.A. 91-339, S. 19; P.A. 93-228, S. 13, 35; P.A. 01-22, S. 3; P.A. 11-44, S. 49; June 12 Sp. Sess. P.A. 12-1, S. 86.)

Sec. 31-301. Appeals to the Compensation Review Board. Payment of award during pendency of appeal. (a) At any time within twenty days after entry of an award by the commissioner, after a decision of the commissioner upon a motion or after an order by the commissioner according to the provisions of section 31-299b, either party may appeal therefrom to the Compensation Review Board by filing in the office of the commissioner from which the award or the decision on a motion originated an appeal petition and five copies thereof. The commissioner within three days thereafter shall mail the petition and three copies thereof to the chief of the Compensation Review Board and a copy thereof to the adverse party

or parties. If a party files a motion subsequent to the finding and award, order or decision, the twenty-day period for filing an appeal of an award or an order by the commissioner shall commence on the date of the decision on such motion.

(b) The appeal shall be heard by the Compensation Review Board as provided in section 31-280b. The Compensation Review Board shall hear the appeal on the record of the hearing before the commissioner, provided, if it is shown to the satisfaction of the board that additional evidence or testimony is material and that there were good reasons for failure to present it in the proceedings before the commissioner, the Compensation Review Board may hear additional evidence or testimony.

(c) Upon the final determination of the appeal by the Compensation Review Board, but no later than one year after the date the appeal petition was filed, the Compensation Review Board shall issue its decision, affirming, modifying or reversing the decision of the commissioner. The decision of the Compensation Review Board shall include its findings, conclusions of law and award.

(d) When any appeal is pending, and it appears to the Compensation Review Board that any part of the award appealed from is not affected by the issues raised by the appeal, the Compensation Review Board may, on motion or of its own motion, render a judgment directing compliance with any portion of the award not affected by the appeal; or if the only issue raised by the appeal is the amount of the average weekly wage for the purpose of determining the amount of compensation, as provided in section 31-310, the commissioner shall, on motion of the claimant, direct the payment of the portion of the compensation payable under his award

that is not in dispute, if any, pending final adjudication of the disputed portion thereof. In all appeals in which one of the parties is not represented by counsel, and in which the party taking the appeal does not prosecute the case within a reasonable time from the date of appeal, the Compensation Review Board may, of its own motion, affirm, reverse or modify the award.

(e) When an appeal is taken to the Compensation Review Board, the chief clerk thereof shall notify the commissioner from whose award the appeal was taken, in writing, of any action of the Compensation Review Board thereon and of the final disposition of the appeal, whether by judgment, withdrawal or otherwise, and shall upon the decision of the appeal, furnish the commissioner with a copy of the decision. Whenever any appeal is pending, if it appears to the Compensation Review Board that justice so requires, the Compensation Review Board shall order a certified copy of the evidence for the use of the employer, the employee or both, and the certified copy shall be made a part of the record on the appeal. The procedure in appealing from an award of the commissioner shall be the same as the procedure employed in an appeal from the Superior Court to the Supreme Court, where applicable. The chairman of the Workers' Compensation Commission shall adopt regulations, in accordance with the provisions of chapter 54, to establish rules, methods of procedure and forms as the chairman deems expedient for the purposes of this chapter.

(f) During the pendency of any appeal of an award made pursuant to this chapter, the claimant shall receive all compensation and medical treatment payable under the terms of the award to the extent the compensation and medical treatment are not being paid by any health insurer or by any insurer or employer who has been ordered, pursuant to the provisions of

subsection (a) of this section, to pay a portion of the award. The compensation and medical treatment shall be paid by the employer or its insurer.

(g) If the final adjudication results in the denial of compensation to the claimant, and he has previously received compensation on the claim pursuant to subsection (f) and this subsection, the claimant shall reimburse the employer or its insurer for all sums previously expended, plus interest at the rate of ten per cent per annum. Upon any such denial of compensation, the commissioner who originally heard the case or his successor shall conduct a hearing to determine the repayment schedule for the claimant.

(1949 Rev., S. 7450; 1958 Rev., S. 31-177; 1961, P.A. 491, S. 23; 1963, P.A. 642, S. 85; 1967, P.A. 692, S. 2; 1972, P.A. 108, S. 6; P.A. 74-183, S. 268, 291; P.A. 76-436, S. 231, 681; P.A. 78-280, S. 1, 127; P.A. 79-540, S. 3; P.A. 81-155, S. 2; 81-472, S. 144, 159; P.A. 84-133; P.A. 86-27; 86-56; P.A. 91-32, S. 19, 41; 91-339, S. 20, 55; P.A. 95-277, S. 9, 19; P.A. 01-22, S. 1; P.A. 07-31, S. 2.)

Sec. 31-301a. Decision of Compensation Review Board. Any decision of the Compensation Review Board, in the absence of an appeal therefrom, shall become final after a period of twenty days has expired from the issuance of notice of the rendition of the judgment or decision.

(P.A. 79-540, S. 4; P.A. 91-339, S. 21, 55.)

Sec. 31-301b. Appeal of decision of Compensation Review Board. Any party aggrieved by the decision of the Compensation Review Board upon any question or questions of law arising in the proceedings may appeal the decision of the Compensation Review Board to the Appellate Court, whether or not the decision is a final decision within the meaning of section 4-183 or a final judgment within the meaning of section 52-263.

(P.A. 79-540, S. 5; June Sp. Sess. P.A. 83-29, S. 15, 82; P.A. 91-339, S. 22, 55; P.A. 09-178, S. 1.)

Sec. 31-301c. Costs of appeal. Interest added to award affirmed on appeal. (a) No costs shall be taxed in favor of either party on any such appeal either in the Compensation Review Board or in the Appellate Court, and no party shall be liable to pay any fees or costs in connection therewith, except the record fee on appeal to the Supreme Court; provided, if an appeal is taken to the Appellate Court from a decision of the Compensation Review Board, and such appeal is found by said court to be either frivolous or taken for the purpose of vexation or delay, said court may tax costs in its discretion against the person so taking the appeal.

(b) Whenever an employer or his insurer appeals a commissioner's award, and upon completion of the appeal process the employer or insurer loses such appeal, the Compensation Review Board or the Appellate Court, as the case may be, shall add interest on the amount of such award affirmed on appeal and not paid to the claimant during the pendency of such

appeal, from the date of the original award to the date of the final appeal decision, at the rate prescribed in section 37-3a.

(P.A. 79-540, S. 6; June Sp. Sess. P.A. 83-29, S. 30, 82; P.A. 84-288; P.A. 89-316, S. 2; P.A. 91-339, S. 23, 55.)

Sec. 31-301d. Power of Compensation Review Board re witnesses and production of evidence. Enforcement of order. The Compensation Review Board and each member thereof shall have the same power in summoning and examining witnesses and in requiring production of evidence as is vested in each commissioner under section 31-278. The Superior Court, on application of the chief of the Compensation Review Board, may enforce by appropriate decree or process, any provision of this chapter or any proper order of the Compensation Review Board rendered pursuant to any such provision.

(P.A. 79-540, S. 8; P.A. 80-483, S. 96, 186; P.A. 91-339, S. 24, 55.)

Sec. 31-302. Payment of compensation. Commutation into monthly, quarterly or lump sums. Compensation payable under this chapter shall be paid at the particular times in the week and in the manner the commissioner may order, and shall be paid directly to the persons entitled to receive them unless the commissioner, for good reason, orders payment to those entitled to act for such persons, except that when the commissioner finds it just or necessary,

the commissioner may approve or direct the commutation, in whole or in part, of weekly compensation under the provisions of this chapter into monthly or quarterly payments, or into a single lump sum, which may be paid to the one then entitled to the compensation, and the commutation shall be binding upon all persons entitled to compensation for the injury in question. In any case of commutation, a true equivalence of value shall be maintained, with due discount of sums payable in the future; and, when commutation is made into a single lump sum, (1) the commissioner may direct that it be paid to any savings bank, trust company or life insurance company authorized to do business within this state, to be held in trust for the beneficiary or beneficiaries under the provisions of this chapter and paid in conformity with the provisions of this chapter, and (2) the parties, by agreement and with approval of the commissioner, may prorate the single lump sum over the life expectancy of the injured employee.

(1949 Rev., S. 7451; 1958 Rev., S. 31-178; 1961, P.A. 491, S. 24; P.A. 91-32, S. 20, 41; P.A. 04-214, S. 1.)

Sec. 31-303. Day when compensation payments become due. Penalty for late payments.

Payments agreed to under a voluntary agreement shall commence on or before the twentieth day from the date of agreement. Payments due under an award shall commence on or before the twentieth day from the date of such award. Payments due from the Second Injury Fund shall be payable on or before the twentieth business day after receipt of a fully executed agreement. Any employer who fails to pay within the prescribed time limitations of this section

shall pay a penalty for each late payment, in the amount of twenty per cent of such payment, in addition to any other interest or penalty imposed pursuant to the provisions of this chapter.

(1959, P.A. 580, S. 21; 1961, P.A. 491, S. 26; P.A. 89-70, S. 1, 2; P.A. 93-228, S. 14, 35; P.A. 04-47, S. 1.)

Sec. 31-304. Destruction of agreement. Any judge of the Superior Court may order that the original of any approved agreement between an employer and an injured employee as to compensation, filed in the office of any clerk of the Superior Court pursuant to any provision of this chapter more than ten years prior to the date of such order, may be destroyed by the person having the custody thereof.

(1955, S. 3048d; 1961, P.A. 491, S. 27.)

Sec. 31-306. Death resulting from accident or occupational disease. Dependents.

Compensation. (a) Compensation shall be paid to dependents on account of death resulting from an accident arising out of and in the course of employment or from an occupational disease as follows:

(1) Four thousand dollars shall be paid for burial expenses in any case in which the employee died on or after October 1, 1988. If there is no one wholly or partially dependent

upon the deceased employee, the burial expenses of four thousand dollars shall be paid to the person who assumes the responsibility of paying the funeral expenses.

(2) To those wholly dependent upon the deceased employee at the date of the deceased employee's injury, a weekly compensation equal to seventy-five per cent of the average weekly earnings of the deceased calculated pursuant to section 31-310, after such earnings have been reduced by any deduction for federal or state taxes, or both, and for the federal Insurance Contributions Act made from such employee's total wages received during the period of calculation of the employee's average weekly wage pursuant to said section 31-310, as of the date of the injury but not more than the maximum weekly compensation rate set forth in section 31-309 for the year in which the injury occurred or less than twenty dollars weekly. (A) The weekly compensation rate of each dependent entitled to receive compensation under this section as a result of death arising from a compensable injury occurring on or after October 1, 1977, shall be adjusted annually as provided in this subdivision as of the following October first, and each subsequent October first, to provide the dependent with a cost-of-living adjustment in the dependent's weekly compensation rate as determined as of the date of the injury under section 31-309. If the maximum weekly compensation rate, as determined under the provisions of said section 31-309, to be effective as of any October first following the date of the injury, is greater than the maximum weekly compensation rate prevailing at the date of the injury, the weekly compensation rate which the injured employee was entitled to receive at the date of the injury or October 1, 1990, whichever is later, shall be increased by the percentage of the increase in the maximum weekly compensation rate required by the provisions of said section 31-309 from the date of the injury or October 1, 1990, whichever is later, to such October first.

The cost-of-living increases provided under this subdivision shall be paid by the employer without any order or award from the commissioner. The adjustments shall apply to each payment made in the next succeeding twelve-month period commencing with the October first next succeeding the date of the injury. With respect to any dependent receiving benefits on October 1, 1997, with respect to any injury occurring on or after July 1, 1993, and before October 1, 1997, such benefit shall be recalculated to October 1, 1997, as if such benefits had been subject to recalculation annually under this subparagraph. The difference between the amount of any benefits that would have been paid to such dependent if such benefits had been subject to such recalculation and the actual amount of benefits paid during the period between such injury and such recalculation shall be paid to the dependent not later than December 1, 1997, in a lump-sum payment. The employer or its insurer shall be reimbursed by the Second Injury Fund, as provided in section 31-354, for adjustments, including lump-sum payments, payable under this subparagraph for deaths from compensable injuries occurring on or after July 1, 1993, and before October 1, 1997, upon presentation of any vouchers and information that the Treasurer shall require. No claim for payment of retroactive benefits may be made to the Second Injury Fund more than two years after the date on which the employer or its insurer paid such benefits in accordance with this subparagraph. (B) The weekly compensation rate of each dependent entitled to receive compensation under this section as a result of death arising from a compensable injury occurring on or before September 30, 1977, shall be adjusted as of October 1, 1977, and October 1, 1980, and thereafter, as provided in this subdivision to provide the dependent with partial cost-of-living adjustments in the dependent's weekly compensation rate. As of October 1, 1977, the weekly compensation rate paid prior to October 1, 1977, to the

dependent shall be increased by twenty-five per cent. The partial cost-of-living adjustment provided under this subdivision shall be paid by the employer without any order or award from the commissioner. In addition, on each October first, the weekly compensation rate of each dependent as of October 1, 1990, shall be increased by the percentage of the increase in the maximum compensation rate over the maximum compensation rate of October 1, 1990, as determined under the provisions of section 31-309 existing on October 1, 1977. The cost of the adjustments shall be paid by the employer or its insurance carrier who shall be reimbursed for such cost from the Second Injury Fund as provided in section 31-354 upon presentation of any vouchers and information that the Treasurer shall require. No claim for payment of retroactive benefits may be made to the Second Injury Fund more than two years after the date on which the employer or its insurance carrier paid such benefits in accordance with this subparagraph.

(3) If the surviving spouse is the sole presumptive dependent, compensation shall be paid until death or remarriage.

(4) If there is a presumptive dependent spouse surviving and also one or more presumptive dependent children, all of which children are either children of the surviving spouse or are living with the surviving spouse, the entire compensation shall be paid to the surviving spouse in the same manner and for the same period as if the surviving spouse were the sole dependent. If, however, any of the presumptive dependent children are neither children of the surviving spouse nor living with the surviving spouse, the compensation shall be divided into as many parts as there are presumptive dependents. The shares of any children having a presumptive dependent parent shall be added to the share of the parent and shall be paid to the parent. The

share of any dependent child not having a surviving dependent parent shall be paid to the father or mother of the child with whom the child may be living, or to the legal guardian of the child, or to any other person, for the benefit of the child, as the commissioner may direct.

(5) If the compensation being paid to the surviving presumptive dependent spouse terminates for any reason, or if there is no surviving presumptive dependent spouse at the time of the death of the employee, but there is at either time one or more presumptive dependent children, the compensation shall be paid to the children as a class, each child sharing equally with the others. Each child shall receive compensation until the child reaches the age of eighteen or dies before reaching age eighteen, provided the child shall continue to receive compensation up to the attainment of the age of twenty-two if unmarried and a full-time student, except any child who has attained the age of twenty-two while a full-time student but has not completed the requirements for, or received, a degree from a postsecondary educational institution shall be deemed not to have attained age twenty-two until the first day of the first month following the end of the quarter or semester in which the child is enrolled at the time, or if the child is not enrolled in a quarter or semester system, until the first day of the first month following the completion of the course in which the child is enrolled or until the first day of the third month beginning after such time, whichever occurs first. When a child's participation ceases, such child's share shall be divided among the remaining eligible dependent children, provided if any child, when the child reaches the age of eighteen years, is physically or mentally incapacitated from earning, the child's right to compensation shall not terminate but shall continue for the full period of incapacity.

(6) In all cases where there are no presumptive dependents, but where there are one or more persons wholly dependent in fact, the compensation in case of death shall be divided according to the relative degree of their dependence. Compensation payable under this subdivision shall be paid for not more than three hundred and twelve weeks from the date of the death of the employee. The compensation, if paid to those wholly dependent in fact, shall be paid at the full compensation rate. The compensation, if paid to those partially dependent in fact upon the deceased employee as of the date of the injury, shall not, in total, be more than the full compensation rate nor less than twenty dollars weekly, nor, if the average weekly sum contributed by the deceased at the date of the injury to those partially dependent in fact is more than twenty dollars weekly, not more than the sum so contributed.

(7) When the sole presumptive dependents are, at the time of the injury, nonresident aliens and the deceased has in this state some person or persons who are dependent in fact, the commissioner may in the commissioner's discretion equitably apportion the sums payable as compensation to the dependents.

(b) The dependents of any deceased employee who was injured on or after January 1, 1974, and who subsequently dies shall be paid compensation on account of the death retroactively to the date of the employee's death. The cost of the payment or adjustment shall be paid by the employer or its insurance carrier who shall be reimbursed for such cost from the Second Injury Fund as provided in section 31-354 upon presentation of any vouchers and information that the Treasurer shall require.

(c) (1) The dependents of any deceased employee who was injured between January 1, 1952, and December 31, 1973, and who subsequently dies, shall be paid compensation on account of the death retroactively to the date of the employee's death. The cost of the payment or adjustment shall be paid by the employer or its insurance carrier who shall be reimbursed for such cost from the Second Injury Fund as provided in section 31-354 upon presentation of any vouchers and information that the Treasurer shall require. No claim for payment of retroactive benefits may be made to the Second Injury Fund more than two years after the date on which the employer or its insurance carrier paid such benefits in accordance with this subdivision.

(2) The dependents of any deceased employee who was injured before January 1, 1952, and who died on or before October 1, 1991, shall be paid compensation on account of the death retroactively to the date of the employee's death. The cost of the payment or adjustment shall be paid by the employer or its insurance carrier who shall be reimbursed for such cost from the Second Injury Fund as provided in section 31-354 upon presentation of any vouchers and information that the Treasurer shall require. No claim for payment of retroactive benefits may be made to the Second Injury Fund more than two years after the date on which the employer or its insurance carrier paid such benefits in accordance with this subdivision.

(d) The dependents of any deceased employee who was injured in an accident arising out of and in the course of employment before January 1, 1952, and who died, as a result of those injuries, after October 1, 1991, shall be paid compensation, under the provisions of this section, effective as of the date of death of any such employee. Notwithstanding the provisions of

subsection (a) of this section, the weekly compensation rate for such dependents shall equal the amount of compensation the injured employee was receiving prior to death pursuant to section 31-307. Such weekly compensation rate shall hereafter be adjusted in accordance with the provisions of subsection (a) of this section. The cost of such payment or adjustment shall be paid by the employer or the insurance carrier of such employer who shall be reimbursed for such cost from the Second Injury Fund provided for in section 31-354. No claim for payment of retroactive benefits may be made to the Second Injury Fund more than two years after the date on which the employer or its insurance carrier paid such benefits in accordance with this subsection.

(1949 Rev., S. 7428, 7429; 1949, 1951, 1953, 1955, S. 3042d; 1957, P.A. 463, S. 1; 1958 Rev., S. 31-159, 31-160; 1959, P.A. 580, S. 5, 22; 1961, P.A. 491, S. 29; 1967, P.A. 842, S. 12, 13; P.A. 77-554, S. 1; P.A. 78-369; P.A. 80-124, S. 2; 80-284, S. 2; 80-329; P.A. 84-453; P.A. 88-92; P.A. 89-68, S. 1; P.A. 91-32, S. 21, 41; 91-339, S. 25; P.A. 92-31, S. 4, 7; May Sp. Sess. P.A. 92-11, S. 54, 70; P.A. 93-228, S. 15, 35; P.A. 97-205, S. 3; P.A. 98-104, S. 2, 6; P.A. 01-162, S. 1, 2; P.A. 05-199, S. 2—4.)

Sec. 31-306a. Payments due children committed to the Commissioner of Social Services or the Commissioner of Children and Families. Notwithstanding any contrary provision in section 31-306, any compensation due on behalf of any presumptive dependent child under the provisions of said section, which child has been committed to the Commissioner of Social Services or the Commissioner of Children and Families as neglected or uncared-for, shall be

payable to the commissioner as legal guardian of the child less fees approved under subsection (b) of section 31-327.

(1967, P.A. 574, S. 1; P.A. 74-251, S. 12; P.A. 77-614, S. 521, 610; P.A. 91-32, S. 22, 41; P.A. 93-91, S. 1, 2; 93-262, S. 1, 87.)

Sec. 31-306b. Written notice of potential eligibility for death benefits. (a) Not later than thirty days after the date an employer or insurer discontinues paying weekly disability benefits to an injured employee under the provisions of this chapter due to the death of the injured employee, the employer or insurer shall send by registered or certified mail to the last address to which the injured employee's workers' compensation benefit checks were mailed, a written notice stating, in simple language, that dependents of the deceased employee may be eligible for death benefits under this chapter, subject to the filing and benefit eligibility requirements of this chapter.

(b) Not later than October 1, 1998, the chairman of the Workers' Compensation Commission shall develop a standard form that may be used by employers and insurers to provide the notice required under subsection (a) of this section.

(c) The failure of an employer or insurer to comply with the notice requirements of subsection (a) of this section shall not excuse a dependent of a deceased employee from making a claim for compensation within the time limits prescribed by subsection (a) of section 31-294c unless the dependent of the deceased employee demonstrates, in the opinion of the

commissioner, that he was prejudiced by such failure to comply. Each dependent who, in the opinion of the commissioner, demonstrates that he was prejudiced by the failure of an employer or insurer to comply with the notice requirements of subsection (a) of this section shall be granted an extension of time in which to file a notice of claim for compensation with the deceased employee's employer or insurer pursuant to section 31-294c, but such extension shall not exceed the period of time equal to the interim between the end of the thirty-day period set forth in subsection (a) of this section and the date the notice required under said subsection was actually mailed.

(P.A. 98-104, S. 1.)

Sec. 31-307. Compensation for total incapacity. (a) If any injury for which compensation is provided under the provisions of this chapter results in total incapacity to work, the injured employee shall be paid a weekly compensation equal to seventy-five per cent of the injured employee's average weekly earnings as of the date of the injury, calculated pursuant to section 31-310, after such earnings have been reduced by any deduction for federal or state taxes, or both, and for the federal Insurance Contributions Act made from such employee's total wages received during the period of calculation of the employee's average weekly wage pursuant to section 31-310; but the compensation shall not be more than the maximum weekly benefit rate set forth in section 31-309 for the year in which the injury occurred. No employee entitled to compensation under this section shall receive less than twenty per cent of the maximum

weekly compensation rate, as provided in section 31-309, provided the minimum payment shall not exceed seventy-five per cent of the employee's average weekly wage, as determined under section 31-310, and the compensation shall not continue longer than the period of total incapacity.

(b) Notwithstanding the provisions of subsection (a) of this section, any employee who suffers any injury or illness caused by the employer's violation of any health or safety regulation adopted pursuant to chapter 571 or adopted by the federal Occupational Safety and Health Administration and listed in 29 CFR, Chapter XVII, after the violation has been cited in accordance with the provisions of section 31-375 or the provisions of the Occupational Safety and Health Act of 1970, 84 Stat. 1601 (1970), 29 USC 658 and not abated within the time fixed by the citation, provided the citation has not been set aside by appeal to the appropriate agency or court having jurisdiction, shall receive a weekly compensation equal to one hundred per cent of the employee's average weekly earnings at the time of the injury or illness.

(c) The following injuries of any person shall be considered as causing total incapacity and compensation shall be paid accordingly: (1) Total and permanent loss of sight of both eyes, or the reduction to one-tenth or less of normal vision; (2) the loss of both feet at or above the ankle; (3) the loss of both hands at or above the wrist; (4) the loss of one foot at or above the ankle and one hand at or above the wrist; (5) any injury resulting in permanent and complete paralysis of the legs or arms or of one leg and one arm; (6) any injury resulting in incurable imbecility or mental illness.

(d) An employee who has suffered the loss or loss of the use of one of the members of the body, or part of one of the members of the body, or the reduction of vision in one eye to one-tenth or less of normal vision, shall not receive compensation for the later injury in excess of the compensation allowed for the injury when considered by itself and not in conjunction with the previous incapacity except as provided in this chapter.

(1949 Rev., S. 7430; 1949, 1951, 1953, S. 3043d; 1957, P.A. 463, S. 2; 1958 Rev., S. 31-161; 1961, P.A. 491, S. 30; 1967, P.A. 842, S. 14; P.A. 78-360, S. 1; P.A. 80-124, S. 3; P.A. 82-455; P.A. 90-272, S. 1, 2; P.A. 91-32, S. 23, 41; 91-339, S. 26; P.A. 93-228, S. 16, 35; P.A. 06-84, S. 1.)

Sec. 31-307a. Cost-of-living adjustment in compensation rates. (a) The weekly compensation rate of each employee entitled to receive compensation under section 31-307 as a result of an injury sustained on or after October 1, 1969, and before July 1, 1993, which totally disables the employee continuously or intermittently for any period extending to the following October first or thereafter, shall be adjusted annually as provided in this subsection as of the following October first, and each subsequent October first, to provide the injured employee with a cost-of-living adjustment in his or her weekly compensation rate as determined as of the date of the injury under section 31-309. If the maximum weekly compensation rate as determined under the provisions of section 31-309, to be effective as of any October first following the date of the injury, is greater than the maximum weekly compensation rate prevailing as of the date of the injury, the weekly compensation rate which the injured employee was entitled to receive at the date of the injury or October 1, 1990, whichever is

later, shall be increased by the percentage of the increase in the maximum weekly compensation rate required by the provisions of section 31-309 from the date of the injury or October 1, 1990, whichever is later, to such October first. The cost-of-living increases provided under this subsection shall be paid by the employer without any order or award from the commissioner. The adjustments shall apply to each payment made in the next succeeding twelve-month period commencing with the October first next succeeding the date of the injury.

(b) The weekly compensation rate of each employee entitled to receive compensation under section 31-307 as a result of an injury sustained prior to October 1, 1969, which has disabled the employee for a period extending to October 1, 1969, or thereafter shall be adjusted as of October 1, 1969, and annually thereafter, as provided in this subsection to provide the injured employee with a partial cost-of-living adjustment in his or her weekly compensation rate. The weekly compensation rate paid prior to October 1, 1969, to the injured employee shall be increased as of October 1, 1969, by the amount that the maximum weekly compensation rate as determined under section 31-309 to be effective for injuries sustained on or after October 1, 1969, is greater than the maximum weekly compensation rate as determined under section 31-309 to be effective for injuries sustained on or after October 1, 1965, or the date of the injury, whichever is later, but not more than fifteen dollars per week. Thereafter, increases, if any, for cost-of-living as provided in subsection (a) of this section shall be added to the amount of weekly compensation payable as of the date of the injury or October 1, 1990, whichever is later. The partial cost-of-living adjustments provided under this subsection shall be paid by the employer without any order or award from the commissioner. The adjustments shall apply to each payment made in the next twelve-month period, on or

after October 1, 1969. The cost of the adjustments shall be paid by the employer or the employer's insurance carrier who shall be reimbursed therefor from the Second Injury Fund as provided in section 31-354 upon presentation of any vouchers and information that the Treasurer shall require. No claim for payment of retroactive benefits may be made to the Second Injury Fund more than two years after the date on which the employer or its insurance carrier paid such benefits in accordance with this subsection.

(c) On and after October 1, 1997, the weekly compensation rate of each employee entitled to receive compensation under section 31-307 as a result of an injury sustained on or after July 1, 1993, which totally incapacitates the employee permanently, shall be adjusted as provided in this subsection as of October 1, 1997, or the October first following the injury date, whichever is later, and annually on each subsequent October first, to provide the injured employee with a cost-of-living adjustment in his or her weekly compensation rate as determined as of the date of injury under section 31-309. If the maximum weekly compensation rate, as determined under the provisions of said section 31-309, to be effective as of any October first following the date of the injury, is greater than the maximum weekly compensation rate prevailing as of the date of injury, the weekly compensation rate which the injured employee was entitled to receive as of the date of injury shall be increased by the percentage of the increase in the maximum weekly compensation rate required by the provisions of said section 31-309 from the date of the injury to such October first. The cost-of-living adjustments provided under this subdivision shall be paid by the employer without any order or award from the commissioner. The adjustments shall apply to each payment made in the next succeeding twelve-month period commencing with October 1, 1997, or the October first next succeeding the date of

injury, whichever is later. With respect to any employee receiving benefits on October 1, 1997, with respect to any such injury occurring on or after July 1, 1993, and before October 1, 1997, or with respect to any employee who was adjudicated to be totally incapacitated permanently subsequent to the date of his or her injury or is totally incapacitated permanently due to the fact that the employee has been totally incapacitated by such an injury for a period of five years or more, such benefit shall be recalculated to October 1, 1997, to the date of such adjudication or to the end of such five-year period, as the case may be, as if such benefits had been subject to recalculation annually under the provisions of this subsection. The difference between the amount of any benefits which would have been paid to such employee if such benefits had been subject to such recalculation and the actual amount of benefits paid during the period between such injury and such recalculation shall be paid to the dependent not later than December 1, 1997, or thirty days after such adjudication or the end of such period, as the case may be, in a lump-sum payment. The employer or the employer's insurer shall be reimbursed by the Second Injury Fund, as provided in section 31-354, for adjustments, including lump-sum payments, payable under this subsection for compensable injuries occurring on or after July 1, 1993, and before October 1, 1997, upon presentation of any vouchers and information that the Treasurer shall require. No claim for payment of retroactive benefits may be made to the Second Injury Fund more than two years after the date on which the employer or its insurance carrier paid such benefits in accordance with this subsection.

(1967, P.A. 842, S. 23, 24; 1969, P.A. 696, S. 5; P.A. 91-32, S. 24, 41; 91-339, S. 27; P.A. 93-228, S. 17, 35; P.A. 97-205, S. 4; P.A. 98-104, S. 3, 6; P.A. 05-199, S. 5.)

Sec. 31-307b. Benefits after relapse from recovery. Recurrent injuries. If any employee who receives compensation under section 31-307 returns to work after recovery from his or her injury and subsequently suffers total or partial incapacity caused by a relapse from the recovery from, or a recurrence of, the injury, the employee shall be paid a weekly compensation equal to seventy-five per cent of his or her average weekly earnings as of the date of the original injury or at the time of his or her relapse or at the time of the recurrence of the injury, whichever is the greater sum, calculated pursuant to section 31-310, after such earnings have been reduced by any deduction for federal or state taxes, or both, and for the federal Insurance Contributions Act made from such employee's total wages received during the period of calculation of the employee's average weekly wage pursuant to said section 31-310, but not more than (1) the maximum compensation rate set pursuant to section 31-309 if the employee suffers total incapacity, or (2) one hundred per cent, raised to the next even dollar, of the average weekly earnings of production and related workers in manufacturing in the state, as determined in accordance with the provisions of section 31-309, if the employee suffers partial incapacity, for the year in which the employee suffered the relapse or recurrent injury and the minimum rate under this chapter for that year, and provided (A) the compensation shall not continue longer than the period of total or partial incapacity following the relapse or recurrent injury and (B) no employee eligible for compensation for specific injuries set forth in section 31-308 shall receive compensation under this section. The employee shall also be entitled to receive the cost-of-living adjustment provided in accordance with the provisions of section 31-307a commencing on October first following the relapse or recurrent

injury which disables him or her. If the injury occurred originally prior to October 1, 1969, the difference between the employee's original weekly compensation rate and the rate required by this section and the cost-of-living adjustment, if any, thereafter due shall be paid initially by the employer or the employer's insurance carrier who shall be reimbursed for such payment from the Second Injury Fund as provided by section 31-354 upon presentation of any vouchers and information that the Treasurer shall require. No claim for payment of retroactive benefits may be made to the Second Injury Fund more than two years after the date on which the employer or its insurance carrier paid such benefits in accordance with this section. In no event shall the employee receive more than the prevailing maximum compensation.

(1967, P.A. 842, S. 28; 1969, P.A. 696, S. 6; P.A. 79-376, S. 74; P.A. 91-32, S. 25, 41; June Sp. Sess. P.A. 91-12, S. 51; P.A. 93-228, S. 18, 35; P.A. 05-199, S. 6.)

Sec. 31-307c. Compensation under agreements or awards effected prior to October 1, 1953. Any person who received compensation for total incapacity under a workers' compensation agreement or award effected prior to October 1, 1953, shall receive such compensation as was authorized by such agreement or award under section 31-307 or for not longer than the period of total disability, and shall be paid in addition thereto the cost-of-living adjustment provided for under subsection (b) of section 31-307a. The compensation authorized under this section, including the cost-of-living adjustment, shall be paid out of the Second Injury Fund provided for in section 31-354. Such compensation and cost-of-living adjustment shall be paid only for weeks of total disability existing or commencing on or after October 1, 1969.

(1967, P.A. 842, S. 30; 1969, P.A. 696, S. 7; P.A. 79-376, S. 45; P.A. 91-207, S. 4, 9.)

Sec. 31-308. Compensation for partial incapacity. (a) If any injury for which compensation is provided under the provisions of this chapter results in partial incapacity, the injured employee shall be paid a weekly compensation equal to seventy-five per cent of the difference between the wages currently earned by an employee in a position comparable to the position held by the injured employee before his injury, after such wages have been reduced by any deduction for federal or state taxes, or both, and for the federal Insurance Contributions Act in accordance with section 31-310, and the amount he is able to earn after the injury, after such amount has been reduced by any deduction for federal or state taxes, or both, and for the federal Insurance Contributions Act in accordance with section 31-310, except that when (1) the physician or the advanced practice registered nurse attending an injured employee certifies that the employee is unable to perform his usual work but is able to perform other work, (2) the employee is ready and willing to perform other work in the same locality and (3) no other work is available, the employee shall be paid his full weekly compensation subject to the provisions of this section. Compensation paid under this subsection shall not be more than one hundred per cent, raised to the next even dollar, of the average weekly earnings of production and related workers in manufacturing in the state, as determined in accordance with the provisions of section 31-309, and shall continue during the period of partial incapacity, but no longer than five hundred twenty weeks. If the employer procures employment for an injured

employee that is suitable to his capacity, the wages offered in such employment shall be taken as the earning capacity of the injured employee during the period of the employment.

(b) With respect to the following injuries, the compensation, in addition to the usual compensation for total incapacity but in lieu of all other payments for compensation, shall be seventy-five per cent of the average weekly earnings of the injured employee, calculated pursuant to section 31-310, after such earnings have been reduced by any deduction for federal or state taxes, or both, and for the federal Insurance Contributions Act made from such employee's total wages received during the period of calculation of the employee's average weekly wage pursuant to said section 31-310, but in no case more than one hundred per cent, raised to the next even dollar, of the average weekly earnings of production and related workers in manufacturing in the state, as determined in accordance with the provisions of section 31-309, or less than fifty dollars weekly. All of the following injuries include the loss of the member or organ and the complete and permanent loss of use of the member or organ referred to:

MEMBER	INJURY	WEEKS OF COMPENSATION
Arm		
Master arm	Loss at or above	208

	elbow	
Other arm	Loss at or above	194
	elbow	
Hand		
Master hand	Loss at or above	168
	wrist	
Other hand	Loss at or above	155
	wrist	
One leg	Loss at or above	155
	knee	
One foot	Loss at or above	125
	ankle	
Hearing		
	Both ears	104
	One ear	35

One eye	Complete and permanent loss of sight in, or reduction of sight to one-tenth or less of normal vision	157
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Thumb*

On master hand	63
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On other hand	54
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Fingers**

First finger	36
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Second finger	29
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Third finger 21

Fourth finger 17

Toes***

Great toe 28

Other toes 9

Back

Number of weeks

which the

proportion of

incapacity

represents to a

maximum of 374

weeks

Heart

520

Brain		520
Carotid artery		520
Pancreas		416
Liver		347
Stomach		260
Loss of bladder		233
Speech		163
Lung		117
Cervical spine		117
Kidney		117
Rib cage	Bilateral	69
Ovary		35
Testis		35

Mammary		35
Nose	Sense and respiratory function	35
Jaw	Mastication	35
Uterus		35-104
Vagina		35-104
Penis		35-104
Coccyx	Actual removal	35
Sense of smell		17
Sense of taste		17
Spleen	In addition to scar	13
Gall bladder		13

Tooth	Minimum	1
Loss of drainage duct of eye (If corrected by prosthesis)		17 for each
Loss of drainage duct of eye (If uncorrected by prosthesis)		33 for each
Pelvis		percentage of back

*The loss or loss of use of one phalanx of a thumb shall be construed as seventy-five per cent of the loss of the thumb.

**The loss or loss of use of one phalanx of a finger shall be construed as fifty per cent of the loss of the finger. The loss of or loss of use of two phalanges of a finger shall be construed as ninety per cent of the loss of the finger.

***The loss or loss of use of one phalanx of a great toe shall be construed as sixty-six and two-thirds per cent of the loss of the great toe. The loss of the greater part of any phalanx shall be construed as the loss of a phalanx and shall be compensated accordingly.

If the injury consists of the loss of a substantial part of a member resulting in a permanent partial loss of the use of a member, or if the injury results in a permanent partial loss of function, the commissioner may, in the commissioner's discretion, in lieu of other compensation, award to the injured employee the proportion of the sum provided in this subsection for the total loss of, or the loss of the use of, the member or for incapacity or both that represents the proportion of total loss or loss of use found to exist, and any voluntary agreement submitted in which the basis of settlement is such proportionate payment may, if otherwise conformable to the provisions of this chapter, be approved by the commissioner in the commissioner's discretion. Notwithstanding the provisions of this subsection, the complete loss or loss of use of an organ which results in the death of an employee shall be compensable pursuant only to section 31-306.

(c) In addition to compensation for total or partial incapacity or for a specific loss of a member or use of the function of a member of the body, the commissioner, not earlier than one year from the date of the injury and not later than two years from the date of the injury or the surgery date of the injury, may award compensation equal to seventy-five per cent of the average weekly earnings of the injured employee, calculated pursuant to section 31-310, after such earnings have been reduced by any deduction for federal or state taxes, or both, and for the federal Insurance Contributions Act made from such employee's total wages received during the period of calculation of the employee's average weekly wage pursuant to said section 31-310, but not more than one hundred per cent, raised to the next even dollar, of the average weekly earnings of production and related workers in manufacturing in the state, as determined in accordance with the provisions of section 31-309, for up to two hundred eight

weeks, for any permanent significant disfigurement of, or permanent significant scar on, (A) the face, head or neck, or (B) on any other area of the body which handicaps the employee in obtaining or continuing to work. The commissioner may not award compensation under this subsection when the disfigurement was caused solely by the loss of or the loss of use of a member of the body for which compensation is provided under subsection (b) of this section or for any scar resulting from an inguinal hernia operation or any spinal surgery. In making any award under this subsection, the commissioner shall consider (1) the location of the scar or disfigurement, (2) the size of the scar or disfigurement, (3) the visibility of the scar or disfigurement due to hyperpigmentation or depigmentation, whether hypertrophic or keloidal, (4) whether the scar or disfigurement causes a tonal or textural skin change, causes loss of symmetry of the affected area or results in noticeable bumps or depressions in the affected area, and (5) other relevant factors. Notwithstanding the provisions of this subsection, no compensation shall be awarded for any scar or disfigurement which is not located on (A) the face, head or neck, or (B) any other area of the body which handicaps the employee in obtaining or continuing to work. In addition to the requirements contained in section 31-297, the commissioner shall provide written notice to the employer prior to any hearing held by the commissioner to consider an award for any scar or disfigurement under this subsection.

(d) Any award or agreement for compensation made pursuant to this section shall be paid to the employee, or in the event of the employee's death, whether or not a formal award has been made prior to the death, to his surviving spouse or, if he has no surviving spouse, to his dependents in equal shares or, if he has no surviving spouse or dependents, to his children, in equal shares, regardless of their age.

(1949 Rev., S. 7431; 1949, 1951, 1953, S. 3044d; 1957, P.A. 463, S. 3; 1958 Rev., S. 31-162; 1959, P.A. 580, S. 7; 1961, P.A. 491, S. 31; 1967, P.A. 842, S. 15; P.A. 75-48; P.A. 79-376, S. 75; P.A. 89-36; 89-346; P.A. 91-32, S. 26, 41; 91-339, S. 28; P.A. 93-228, S. 19, 35; P.A. 00-8; P.A. 12-197, S. 37.)

Sec. 31-308a. Additional benefits for partial permanent disability. (a) In addition to the compensation benefits provided by section 31-308 for specific loss of a member or use of the function of a member of the body, or any personal injury covered by this chapter, the commissioner, after such payments provided by said section 31-308 have been paid for the period set forth in said section, may award additional compensation benefits for such partial permanent disability equal to seventy-five per cent of the difference between the wages currently earned by an employee in a position comparable to the position held by such injured employee prior to his injury, after such wages have been reduced by any deduction for federal or state taxes, or both, and for the federal Insurance Contributions Act in accordance with section 31-310, and the weekly amount which such employee will probably be able to earn thereafter, after such amount has been reduced by any deduction for federal or state taxes, or both, and for the federal Insurance Contributions Act in accordance with section 31-310, to be determined by the commissioner based upon the nature and extent of the injury, the training, education and experience of the employee, the availability of work for persons with such physical condition and at the employee's age, but not more than one hundred per cent, raised to the next even dollar, of the average weekly earnings of production and related workers in manufacturing in the state, as determined in accordance with the provisions of section 31-309.

If evidence of exact loss of earnings is not available, such loss may be computed from the proportionate loss of physical ability or earning power caused by the injury. The duration of such additional compensation shall be determined upon a similar basis by the commissioner, but in no event shall the duration of such additional compensation exceed the lesser of (1) the duration of the employee's permanent partial disability benefits, or (2) five hundred twenty weeks. Additional benefits provided under this section shall be available only to employees who are willing and able to perform work in this state.

(b) Notwithstanding the provisions of subsection (a) of this section, additional benefits provided under this section shall be available only when the nature of the injury and its effect on the earning capacity of an employee warrant additional compensation.

(1967, P.A. 842, S. 25; 1969, P.A. 696, S. 8; P.A. 79-376, S. 76; June Sp. Sess. P.A. 91-12, S. 52; P.A. 93-228, S. 20, 35.)

Sec. 31-309. Maximum weekly compensation. Determination of average weekly earnings of state workers and production and related workers in manufacturing. (a) Except as provided in section 31-307, the weekly compensation received by an injured employee under the provisions of this chapter shall in no case be more than one hundred per cent, raised to the next even dollar, of the average weekly earnings of all workers in the state as hereinafter defined for the year in which the injury occurred except that the weekly compensation received by an injured employee whose injury occurred before July 1, 1993, shall be computed according

to the provisions of law in effect at the time of his injury. In the case of an occupational disease, the time of injury shall be the date of total or partial incapacity to work as a result of such disease.

(b) (1) The average weekly earnings of all workers in the state shall be determined by the Labor Commissioner on or before the fifteenth day of August of each year, to be effective the following October first, and shall be the average of all workers' weekly earnings for the year ending the previous June thirtieth and shall be so determined in accordance with the standards for the determination of average weekly earnings of all workers established by the United States Department of Labor, Bureau of Labor Statistics.

(2) Prior to July 1, 1993, the Labor Commissioner shall determine the average weekly earnings of all workers in the state to be effective during the period July 1, 1993, to October 1, 1993.

(c) The average weekly earnings of production and related workers in manufacturing in the state shall be determined by the Labor Commissioner on or before the fifteenth day of August of each year, to be effective the following October first, and shall be the average of the manufacturing production and related workers' weekly earnings for the year ending the previous June thirtieth and shall be so determined in accordance with the standards for the determination of average weekly earnings of production and related workers in manufacturing established by the United States Department of Labor, Bureau of Labor Statistics.

(1959, P.A. 580, S. 19; 1961, P.A. 491, S. 32; 1967, P.A. 842, S. 16; 1969, P.A. 696, S. 10; 1971, P.A. 371; P.A. 78-354, S. 1, 8; 78-360, S. 2; P.A. 79-483, S. 12; P.A. 80-124, S. 4; P.A. 87-547; P.A. 88-2, S. 1, 2; P.A. 91-339, S. 29; P.A. 93-228, S. 21, 35.)

Sec. 31-310. Determination of average weekly wage of injured worker. Concurrent employment. Payments from Second Injury Fund. Publication of wage tables. (a) For the purposes of this chapter, the average weekly wage shall be ascertained by dividing the total wages received by the injured employee from the employer in whose service the employee is injured during the fifty-two calendar weeks immediately preceding the week during which the employee was injured, by the number of calendar weeks during which, or any portion of which, the employee was actually employed by the employer, but, in making the computation, absence for seven consecutive calendar days, although not in the same calendar week, shall be considered as absence for a calendar week. When the employment commenced otherwise than at the beginning of a calendar week, that calendar week and wages earned during that week shall be excluded in making the computation. When the period of employment immediately preceding the injury is computed to be less than a net period of two calendar weeks, the employee's weekly wage shall be considered to be equivalent to the average weekly wage prevailing in the same or similar employment in the same locality at the date of the injury except that, when the employer has agreed to pay a certain hourly wage to the employee, the hourly wage so agreed upon shall be the hourly wage for the injured employee and the employee's average weekly wage shall be computed by multiplying the hourly wage by the

regular number of hours that is permitted each week in accordance with the agreement. For the purpose of determining the amount of compensation to be paid in the case of a minor under the age of eighteen who has sustained an injury entitling the employee to compensation for total or partial incapacity for a period of fifty-two or more weeks, or to specific indemnity for any injury under the provisions of section 31-308, the commissioner may add fifty per cent to the employee's average weekly wage, except in the case of a minor under the age of sixteen, the commissioner may add one hundred per cent to the minor's average weekly wage. When the injured employee is a trainee or apprentice receiving a subsistence allowance from the United States because of war service, the allowance shall be added to the injured employee's actual earnings in determining the average weekly wage. Where the injured employee has worked for more than one employer as of the date of the injury and the average weekly wage received from the employer in whose employ the injured employee was injured, as determined under the provisions of this section, are insufficient to obtain the maximum weekly compensation rate from the employer under section 31-309, prevailing as of the date of the injury, the injured employee's average weekly wages shall be calculated upon the basis of wages earned from all such employers in the period of concurrent employment not in excess of fifty-two weeks prior to the date of the injury, but the employer in whose employ the injury occurred shall be liable for all medical and hospital costs and a portion of the compensation rate equal to seventy-five per cent of the average weekly wage paid by the employer to the injured employee, after such earnings have been reduced by any deduction for federal or state taxes, or both, and for the federal Insurance Contribution Act made from such employee's total wages received from such employer during the period of calculation of such average weekly

wage, but not less than an amount equal to the minimum compensation rate prevailing as of the date of the injury. The remaining portion of the applicable compensation rate shall be paid from the Second Injury Fund upon submission to the Treasurer by the employer or the employer's insurer of such vouchers and information as the Treasurer may require. For purposes of this subsection, the Second Injury Fund shall not be deemed an employer or an insurer for any claim brought on behalf of an insolvent insurer and shall be exempt from liability, unless such claim is brought not later than thirty days after a determination of such insurer's bankruptcy. No claim for payment of retroactive benefits may be made to the Second Injury Fund more than two years from the date on which the employer or its insurer paid such benefits in accordance with this subsection. In cases which involve concurrent employment and in which there is a claim against a third party, the injured employee or the employer in whose employ the injury was sustained or the employer's insurer shall advise the custodian of the Second Injury Fund if there is a third party claim, and the employee, employer or employer's insurer shall pursue its subrogation rights as provided for in section 31-293 and shall include in its claim all compensation paid by the Second Injury Fund and shall reimburse the Second Injury Fund for all payments made for compensation in the event of a recovery against the third party.

(b) Each August fifteenth, the chairman of the Workers' Compensation Commission, in consultation with the advisory board, shall publish tables of the average weekly wage and seventy-five per cent of the average weekly wage after being reduced by any deduction for federal or state taxes, or both, and for the federal Insurance Contributions Act, to be effective the following October first, except that not later than June thirtieth, the chairman, in consultation with the advisory board, shall publish tables of the average weekly wage and

seventy-five per cent of the average weekly wage after being reduced by any deduction for federal or state taxes, or both, and for the federal Insurance Contributions Act, to be effective during the period July 1, 1993, to October 1, 1993. Such tables shall be conclusive for the purpose of determining seventy-five per cent of the average weekly earnings of an injured employee after such earnings have been reduced by any deduction for federal or state taxes, or both, and for the federal Insurance Contributions Act made from such employee's total wages received during the period of calculation of the employee's average weekly wage for purposes of sections 31-306, 31-307 and 31-308.

(1949 Rev., S. 7432; 1949, S. 3045d; 1958 Rev., S. 31-163; 1961, P.A. 491, S. 33; 1967, P.A. 842, S. 17; 1969, P.A. 696, S. 11; 1971, P.A. 350, S. 1; P.A. 79-376, S. 77; P.A. 91-32, S. 28, 41; 91-339, S. 30, 55; P.A. 93-228, S. 22, 35; P.A. 95-277, S. 2, 19; P.A. 05-199, S. 7.)

Sec. 31-310a. Average weekly wage of supernumerary policemen and volunteer police officers. (a) For purposes of compensation the average weekly wage of a supernumerary policeman shall be construed to be the average weekly earnings of production and related workers in manufacturing in the state as determined by the Labor Commissioner in accordance with the provisions of section 31-309.

(b) For the purposes of this section, compensation shall not be prorated because of other employment by a supernumerary policeman.

(c) For the purpose of determining compensation payable under this chapter for death, disability or injury incurred by volunteer police officers, the average weekly wage of such officers shall be the average production wage in the state as determined by the Labor Commissioner under the provisions of section 31-309.

(1969, P.A. 565, S. 1, 2; P.A. 79-376, S. 46; P.A. 91-32, S. 29, 41.)

Sec. 31-310b. Average weekly wage of General Assembly member. For purposes of workers' compensation the average weekly wage of a member of the General Assembly shall be construed to be the average weekly earnings of production and related workers in manufacturing in the state as determined by the Labor Commissioner in accordance with the provisions of section 31-309. For the purposes of this section, there shall be no prorating of benefits because of other employment by a member of the General Assembly.

(1972, P.A. 281, S. 3; P.A. 79-376, S. 47.)

Sec. 31-310c. Average weekly wage of worker with an occupational disease. For the purposes of this chapter, in the case of an occupational disease the average weekly wage shall be calculated as of the date of total or partial incapacity to work. However, in the case of an occupational disease which manifests itself at a time when the worker has not worked during the twenty-six weeks immediately preceding the diagnosis of such disease, the claimant's

average weekly wage shall be considered to be equivalent to the greater of (1) the average weekly wage determined pursuant to section 31-310 and adjusted pursuant to section 31-307a or (2) the average weekly wage earned by the claimant during the fifty-two calendar weeks last worked by the claimant, which wage shall be determined in accordance with said section 31-310 and adjusted pursuant to said section 31-307a.

(P.A. 90-116, S. 8; P.A. 93-228, S. 23, 35.)

Sec. 31-311. Replacement of artificial aids. Each employer subject to the provisions of this chapter shall be liable for the payment of damages accidentally sustained by an employee in the course of his employment to artificial legs, feet, arms or hands. Such payments shall consist of the cost of the replacement or repair of such artificial aid. The employer shall also repair or replace eyeglasses, contact lenses, hearing aids and artificial teeth, where damage to such eyeglasses, contact lenses, hearing aids and artificial teeth is accompanied by bodily injury about the face or head.

(1955, S. 3046d; 1958 Rev., S. 31-164; 1961, P.A. 491, S. 34; 1967, P.A. 842, S. 18; 1972, P.A. 171.)

Sec. 31-312. Compensation for time lost during and expense of medical treatment.

Reimbursement of wages lost due to appearance at informal hearing. Payments to prevailing

claimants in contested cases. Medical attention outside regular work hours. (a) An employee receiving medical attention under the provisions of this chapter and required to be absent from work for medical treatment, examination, laboratory tests, x-rays or other diagnostic procedures, and not otherwise receiving or eligible to receive weekly compensation, shall be compensated for the time lost from the job for required medical treatment and tests at the rate of such employee's average earnings, but not less than at the minimum wage established by law, provided the amount payable in any one week shall not exceed the employee's weekly compensation rate. Time lost from the job shall include necessary travel time from the plant to the place of treatment, the time for the treatment and any other time that is necessary for the treatment, examination or laboratory test. The employer shall furnish or pay for the transportation of the employee by ambulance or taxi where transportation is medically required from the point of departure for treatment and return. In all other cases, the employer shall furnish the employee transportation or reimbursement for the cost of transportation actually used, at a rate equal to the federal mileage reimbursement rate for use of a privately owned automobile set forth in 41 CFR Part 301-10.303, as from time to time amended, for a private motor vehicle or the cost incurred for public transportation, from the employee's point of departure, whether from the employee's home or place of employment, and return, if the employee is required to travel beyond a one-fare limit on an available common carrier from the point of departure to the place of treatment, examination or laboratory test. Where the medical attention or treatment is provided at a time other than during the employee's regular working hours and the employee is not otherwise receiving or eligible to receive weekly compensation, the employee shall be compensated for the time involved for the medical

treatment as though it were time lost from the job at the rate of the employee's average hourly earnings and shall be paid for the cost of necessary transportation as provided in this subsection.

(b) When a claimant is given notice to appear at a conference or an informal hearing before a commissioner and does appear, he shall be entitled to reimbursement of wages lost by reason of the appearance if he is not then receiving compensation for the appearance as provided in this subsection. When liability or extent of disability is contested by formal hearing before the commissioner, the claimant shall be entitled, if he prevails on final judgment, to payment for services rendered him by a competent physician or surgeon for examination, x-ray, medical tests and testimony in connection with the claim, the commissioner to determine the reasonableness of the charges, and he shall be entitled to receive payment of one-fifth of the weekly compensation, as computed in accordance with section 31-310, for each day, or part thereof, that he is in attendance at the formal hearing if he is not then receiving compensation.

(c) No employer shall require any person receiving medical attention under the provisions of this chapter to receive such medical attention outside the person's regular work hours if such work hours overlap or coincide with the office hours of the treating physician.

(1959, P.A. 580, S. 9; 1961, P.A. 491, S. 35; 1969, P.A. 696, S. 12; 1971, P.A. 474; P.A. 79-376, S. 48; P.A. 80-10; P.A. 91-32, S. 30, 41; P.A. 01-33.)

Sec. 31-313. Transfer to suitable work during period of treatment or rehabilitation or because of physical incapacity. Civil penalty for failure of employer to comply. (a)(1) Where an employee has suffered a compensable injury which disables him from performing his customary or most recent work, his employer at the time of such injury shall transfer him to full-time work suitable to his physical condition where such work is available, during the time that the employee is subjected to medical treatment or rehabilitation or both and until such treatment is discontinued on the advice of the physician conducting the same or of the therapist in charge of the rehabilitation program or until the employee has reached the maximum level of rehabilitation for such worker in the judgment of the commissioner under all of the circumstances, whichever period is the longest. (2) The commissioner shall conduct a hearing upon the request of an employee who claims his employer has not transferred him to such available suitable work. Whenever the commissioner finds that the employee is so disabled, and that the employer has failed to transfer the employee to such available suitable work, he shall order the employer to transfer the employee to such work.

(b) The commissioner shall conduct a hearing upon the request of an employee claiming to be unable to perform his customary or most recent work because of physical incapacity resulting from an injury or disease. Whenever the commissioner finds that the employee has such a physical incapacity, he shall order that the injured worker be removed from work detrimental to his health or which cannot be performed by a person so disabled and be assigned to other suitable full-time work in the employer's establishment, if available; provided the exercise of this authority shall not conflict with any provision of a collective bargaining

agreement between such employer and a labor organization which is the collective bargaining representative of the unit of which the injured worker is a part.

(c) Whenever the commissioner finds that an employer has failed to comply with the transfer requirements of subdivision (1) of subsection (a) of this section, or has failed to comply with any transfer order issued by him pursuant to this section, he may assess a civil penalty of not more than five hundred dollars against the employer. Any appeal of a penalty assessed pursuant to this subsection shall be taken in accordance with the provisions of section 31-301. Any penalties collected under the provisions of this subsection shall be paid over to the Second Injury Fund or its successor.

(1959, P.A. 580, S. 10; 1961, P.A. 491, S. 36; 1967, P.A. 842, S. 26; P.A. 79-376, S. 78; P.A. 83-65; P.A. 86-166; P.A. 91-207, S. 5, 9.)

Sec. 31-314. Allowance for advance payments. In fixing the amount of any compensation under this chapter, due allowance shall be made for any sum which the employer has paid to any injured employee or to his dependents on account of the injury, except such sums as the employer has expended or directed to be expended for medical, surgical or hospital service.

(1949 Rev., S. 7433; 1958 Rev., S. 31-165; 1961, P.A. 491, S. 37.)

Sec. 31-315. Modification of award or voluntary agreement. Any award of, or voluntary agreement concerning, compensation made under the provisions of this chapter or any transfer of liability for a claim to the Second Injury Fund under the provisions of section 31-349 shall be subject to modification in accordance with the procedure for original determinations, upon the request of either party or, in the case of a transfer under section 31-349, upon request of the custodian of the Second Injury Fund, whenever it appears to the compensation commissioner, after notice and hearing thereon, that the incapacity of an injured employee has increased, decreased or ceased, or that the measure of dependence on account of which the compensation is paid has changed, or that changed conditions of fact have arisen which necessitate a change of such agreement, award or transfer in order properly to carry out the spirit of this chapter. The commissioner shall also have the same power to open and modify an award as any court of the state has to open and modify a judgment of such court. The compensation commissioner shall retain jurisdiction over claims for compensation, awards and voluntary agreements, for any proper action thereon, during the whole compensation period applicable to the injury in question.

(1949 Rev., S. 7434; 1958 Rev., S. 31-166; 1961, P.A. 491, S. 38; P.A. 95-277, S. 11, 19.)

Sec. 31-316. Employer to record and report employees' injuries and report insurance coverage or welfare plan payments provided to employees. Increased award due to employer's failure to file. (a) Each employer shall keep a record of the injuries sustained by his

employees in the course of their employment that result in incapacity for one day or more. Each employer shall send to the chairman of the Workers' Compensation Commission, in duplicate, each week, or more often if so directed, a report of all injuries that the rules prescribed by the chairman determine, including the time of each injury, together with notices of claims for compensation that have been served upon the employer under section 31-294c, within one week of the receipt of the notices of claims. The employer shall inform the chairman as to the extent to which he provides accident and health insurance and life insurance coverage for his employees, and his payment or contribution requirements for any employee welfare plan, as defined in section 31-284b. No other report of injuries to employees shall be required by any department or office of the state from employers. The duplicates of the reports shall be immediately transmitted to the Labor Commissioner.

(b) Upon determining that the employer or the employer's representative failed to report injuries as required by subsection (a) of this section, the workers' compensation commissioner may increase the award for compensation for the employee's injuries proportionate to the prejudice that the employee sustained due to the employer's failure to file.

(1949 Rev., S. 7441; 1958 Rev., S. 31-167; 1961, P.A. 491, S. 39; P.A. 82-398, S. 4; P.A. 85-32; P.A. 91-32, S. 31, 41; 91-339, S. 31; P.A. 96-267, S. 29; P.A. 08-3, S. 2.)

Sec. 31-318. Action for minor or mentally incompetent person. When any employee affected by the provisions of this chapter or any person entitled to compensation thereunder is

a minor or mentally incompetent, his parent or duly appointed guardian may, on his behalf, perform any act or duty required or exercise any right conferred by the provisions of this chapter with the same effect as if such person were legally capable to act on his own behalf and had so acted. The commissioner may, for just cause shown, authorize or direct the payment of compensation directly to a minor or to some person nominated by the minor and approved by the commissioner, which person shall act on behalf of such minor.

(1949 Rev., S. 7456; 1958 Rev., S. 31-184; 1961, P.A. 491, S. 44; P.A. 10-32, S. 105.)

Sec. 31-320. Exemption and preference of compensation. All sums due for compensation under the provisions of this chapter shall be exempt from attachment and execution and shall be nonassignable before and after award. The rights of compensation granted by this chapter, reckoned at their present value, shall have the same preference against the assets of an insolvent employer as may be allowed by law to a claim for the unpaid wages of workers earned within three months.

(1949 Rev., S. 7458; 1958 Rev., S. 31-186; 1961, P.A. 491, S. 46; P.A. 79-376, S. 49.)

Sec. 31-321. Manner of serving notices. Unless otherwise specifically provided, or unless the circumstances of the case or the rules of the commission direct otherwise, any notice required under this chapter to be served upon an employer, employee or commissioner shall be

by written or printed notice, service personally or by registered or certified mail addressed to the person upon whom it is to be served at the person's last-known residence or place of business. Notices on behalf of a minor shall be given by or to such minor's parent or guardian or, if there is no parent or guardian, then by or to such minor.

(1949 Rev., S. 7459; 1958 Rev., S. 31-187; 1961, P.A. 491, S. 47; P.A. 10-32, S. 106.)

Sec. 31-323. Attachments to secure payment of compensation. When any person presents in writing to the commissioner a claim for compensation, either for injury sustained by such person arising out of and in the course of his or her employment or for injury resulting in the death of some person of whom such person is an alleged dependent, or when it appears to the commissioner that the claim may require payment from the Second Injury Fund, such person or the Second Injury Fund, as the case may be, may ask that a writ of attachment issue to secure the payment of the claim or claims for compensation or for reimbursement for payments made or to be made by the Second Injury Fund. Unless it appears from the records of the commissioner that there has been a compliance with the provisions of section 31-284, which compliance is then effective, or that the Insurance Commissioner has approved a substitute system of compensation, benefit and insurance, the commissioner may issue a writ of attachment in the manner and form of writs of attachment in civil actions and shall be vested with the same jurisdiction as authorities authorized to issue writs of attachment in civil actions. If a writ is issued under this section and thereafter it appears to the satisfaction of the

commissioner that there has been a compliance with the provisions of section 31-284, which compliance was then effective and applicable to the injury in question, or that the Insurance Commissioner has approved a substitute system of compensation, benefit and insurance, the commissioner may vacate the writ of attachment on the payment by the employer of the expense actually incurred under such writ of attachment. The commissioners are vested with the authority of the various courts to dissolve attachments made under this section and, on the dissolution of an attachment, may require the substitution of a bond in the same manner as any court upon the dissolution of attachments in civil actions.

(1949 Rev., S. 7463; 1958 Rev., S. 31-190; 1961, P.A. 491, S. 49; P.A. 91-32, S. 32, 41; P.A. 12-77, S. 1.)

Sec. 31-324. Reservation of cases for the Appellate Court. When, in any case arising under the provisions of this chapter, the Compensation Review Board is of the opinion that the decision involves principles of law which are not free from reasonable doubt and which public interest requires shall be determined by the Appellate Court, in order that a definite rule be established applicable to future cases, said Compensation Review Board may, on its own motion and without any agreement or act of the parties or their counsel, reserve such case for the opinion of the Appellate Court. Upon a reservation so made, no costs shall be taxed in favor of either party, and no entry fee, record fee, judgment fee or other clerk's fee in either court shall be taxed. Upon the filing of such a reservation, the question shall come before the Appellate Court as though an appeal had been taken, and said court shall thereupon reserve

the case for the opinion of the Supreme Court in the manner herein indicated; but if, in the opinion of the Appellate Court, the principles of law involved in the decision are in fact free from reasonable doubt and the public interest does not in fact require that they be determined by the Supreme Court, the Appellate Court may, in its discretion, hear and determine the controversy as in other cases.

(1949 Rev., S. 7464; 1958 Rev., S. 31-191; 1961, P.A. 491, S. 50; P.A. 74-338, S. 51, 94; P.A. 76-436, S. 622, 681; P.A. 79-540, S. 7; June Sp. Sess. P.A. 83-29, S. 31, 82; P.A. 91-339, Sec. 32, 55.)

Sec. 31-326. Proceedings against delinquent insurance companies or employers.

Whenever the chairman of the Workers' Compensation Commission finds that any insurance company or association insuring the liability of an employer under the provisions of this chapter is conducting such business improperly or is dilatory in investigating and adjusting claims or making payments, or fails to comply with the provisions of this chapter or the rules, methods or procedure and forms adopted by the chairman, the chairman shall notify the Insurance Commissioner, in writing, setting forth the facts, and thereupon the Insurance Commissioner shall fix a time and place for a hearing thereon, giving reasonable notice to the chairman and to such company or association of such hearing, and, if he finds the allegations to be true, he shall either suspend for a time or revoke the license of such company or association to transact such business in this state. Whenever a compensation commissioner has reason to believe that any employer who has furnished proof of his financial ability or filed with the Insurance

Commissioner security for the performance of the obligations of this chapter in accordance with section 31-284 is dilatory in investigating or adjusting claims or in making payments, or fails to comply with the provisions of this chapter or the rules, methods of procedure and forms adopted by the chairman, he may notify the Insurance Commissioner, in writing, setting forth the facts, and thereupon the Insurance Commissioner shall fix the time and place for a hearing thereon, giving reasonable notice to the commissioner and to such employer, and, if he finds the allegations to be true, then, after ten days from the notice of such findings to such employer, the compliance of such employer with the terms of section 31-284 shall be, as to any future injuries, null and void.

(1949 Rev., S. 7466; 1958 Rev., S. 31-193; 1961, P.A. 491, S. 52; P.A. 77-614, S. 163, 610; P.A. 80-482, S. 205, 348; P.A. 91-339, S. 33, 55.)

Sec. 31-327. Award of fees and expenses. (a) Whenever any fees or expenses are, under the provisions of this chapter, to be paid by the employer or insurer and not by the employee, the commissioner may make an award directly in favor of the person entitled to the fees or expenses, which award shall be filed in court, shall be subject to appeal and shall be enforceable by execution as in other cases. The award may be combined with an award for compensation in favor of or against the injured employee or the dependent or dependents of a deceased employee or may be the subject of an award covering only the fees and expenses.

(b) All fees of attorneys, physicians, podiatrists or other persons for services under this chapter shall be subject to the approval of the commissioner.

(1949 Rev., S. 7467; 1958 Rev., S. 31-194; 1961, P.A. 491, S. 53; P.A. 91-32, S. 34, 41.)

Workers' Compensation Act — Part C

Employers' Mutual Insurance.

Sec. 31-328. Mutual associations authorized. With the approval of the Insurance Commissioner, employers who are subject to this chapter and are bound to pay compensation to their employees thereunder may associate themselves, in accordance with the law for the formation of corporations without capital stock, for the purpose of establishing and maintaining mutual associations to insure their liabilities under this chapter; but no such association shall be formed to include employers not in the same or similar trade or business or in trades or businesses with substantially similar degrees of hazard of injury to employees.

(1949 Rev., S. 7468; 1958 Rev., S. 31-195; 1959, P.A. 580, S. 18; 1961, P.A. 491, S. 54; P.A. 77-614, S. 163, 610; P.A. 80-482, S. 206, 348.)

Sec. 31-329. Approval by Insurance Commissioner. Before giving his approval, the Insurance Commissioner may require the incorporators of any such association to include in their proposed certificate of incorporation such lawful provisions for the regulation of the affairs of the association and the definition of its powers and the powers of its officers, directors and incorporators as shall satisfy him that it is well designed and wisely adapted to its proposed purposes. When such a certificate, in form and substance acceptable to the Insurance Commissioner, has been approved by and filed with the Secretary of the State, the incorporators shall forthwith cause copies thereof to be filed in the offices of the Insurance Commissioner and each of the compensation commissioners.

(1949 Rev., S. 7469; 1958 Rev., S. 31-196; 1961, P.A. 491, S. 55; P.A. 77-614, S. 163, 610; P.A. 80-482, S. 207, 348.)

Sec. 31-330. Membership. Membership in such associations shall be limited to employers as defined in this chapter, and each association shall have power, by appropriate bylaws, to provide for the admission, suspension, withdrawal or expulsion of members.

(1949 Rev., S. 7470; 1958 Rev., S. 31-197; 1961, P.A. 491, S. 56.)

Sec. 31-331. Control of associations. Insurance Commissioner authorized to accept statement of financial condition by certain employers' mutual associations organized before

June 6, 1996. Except as herein otherwise provided, such associations shall be subject to the same regulation and control as is or may be imposed by law upon other corporations or associations taking similar risks in this state, and over them the Insurance Commissioner shall have all the jurisdiction given him by sections 38a-14 and 38a-17 over insurance companies, provided with respect to any such association organized prior to June 6, 1996, with a membership composed exclusively of health care providers and whose premium base is derived entirely from health care organizations, the commissioner may accept a statement of financial condition that shall be audited by an independent certified public accountant using generally accepted accounting principles if such statement also includes a conversion to the accounting standards prescribed by section 38a-70. Such statement of financial condition shall be submitted to the commissioner by such association, annually, on or before the first day of March, signed and sworn to by its president or vice president and secretary or an assistant secretary, of its financial condition on the thirty-first day of December next preceding, prepared in such form and detail as may be prescribed by the commissioner and shall include a certification by an actuary or reserve specialist of all reserve liabilities prepared in accordance with subsection (e) of section 38a-53. In addition to such annual statement of financial condition, any such association shall file, quarterly, unaudited financial statements using generally accepted accounting principles if such statements also include a conversion to the accounting standards prescribed by section 38a-70.

(1949 Rev., S. 7471; 1958 Rev., S. 31-198; 1961, P.A. 491, S. 57; P.A. 77-614, S. 163, 610; P.A. 80-482, S. 208, 348; P.A. 07-27, S. 1.)

Sec. 31-332. Policies. Number of members required. No policies shall be issued by any such association until members in such numbers and with such numbers of employees as the Insurance Commissioner may decide will give a fair diffusion of risks have obligated themselves to take policies immediately upon their authorization, nor shall any policies be issued except such as the Insurance Commissioner has approved as conforming in all respects to the requirements of this chapter. In conformance with the provisions of section 31-284, policies may be issued covering claims only in excess of a certain amount. If, at any time, by the retirement of members, reduction of numbers of employees or other cause, the membership of any association appears to the Insurance Commissioner no longer to afford a fair diffusion of risks, he may suspend or forbid the further issue of policies until the former conditions of the association have been restored.

(1949 Rev., S. 7472; 1958 Rev., S. 31-199; 1961, P.A. 491, S. 58; P.A. 77-614, S. 163, 610; P.A. 80-482, S. 209, 348; P.A. 81-472, S. 63, 159.)

Sec. 31-333. Officers and voting. The affairs of all associations incorporated under this chapter shall be managed by such officers and directors as may be chosen in manner prescribed by the bylaws of the association; but each member shall be entitled to cast at least one ballot in all elections and votes, any member having had for six months an average of more than one hundred and not more than five hundred employees to whom he is bound to pay compensation under this chapter shall be entitled to cast two ballots, and each additional five hundred

employees shall entitle such member to an additional ballot, but no member shall be entitled to cast more than eight ballots.

(1949 Rev., S. 7473; 1958 Rev., S. 31-200; 1961, P.A. 491, S. 59.)

Sec. 31-334. Safety rules. Each association shall have power to prescribe and enforce reasonable rules for safety regulations on the premises of its members, and for that purpose its inspectors shall have free access to all such premises during regular working hours.

(1949 Rev., S. 7474; 1958 Rev., S. 31-201; 1961, P.A. 491, S. 60.)

Sec. 31-335. Premium rates. Reserve notes. Each association shall have power to determine the comparative premium rates for each occupation or risk insured by it and to prescribe rates of cash premiums sufficient to cover the current cost. Such premium rates shall prevail for the fiscal year of the association, but they may be changed annually by the directors. The current cost herein specified shall be such an amount as is estimated to cover the expenses and the claims or portions of claims payable within the same fiscal year within which they originated. Members of each association shall be required to pay yearly in advance cash premiums for current costs, and in addition thereto an amount in negotiable notes sufficient to maintain a reserve equal to that required by statute of stock or commercial casualty companies for similar classes of risks. These notes shall be payable on the call of the treasurer of the

association as they may be required to meet estimated losses or expenses in excess of the current cost or to meet claims covering losses not payable within the same fiscal year within which the claim originated. The directors may, in their discretion, fix rates of interest on either notes or balances.

(1949 Rev., S. 7475; 1958 Rev., S. 31-202; 1961, P.A. 491, S. 61.)

Sec. 31-336. Assessments. If an association is not possessed of funds sufficient for the payment of incurred losses and expenses, it shall make an assessment for the amount needed to pay such losses and expenses upon the members liable to assessment therefor, in proportion to their several liabilities.

(1949 Rev., S. 7476; 1958 Rev., S. 31-203; 1961, P.A. 491, S. 62.)

Sec. 31-337. Investments. The funds of each association shall be invested by the directors in the same classes of securities and in the same manner in which funds of domestic life insurance companies are by law required or permitted to be invested.

(1949 Rev., S. 7477; 1958 Rev., S. 31-204; 1961, P.A. 491, S. 63.)

Sec. 31-338. Bylaws and regulations. Each association shall have power to determine the premiums, contingent liabilities, assessments, penalties and dividends of its members, and to enforce or administer the same without the limitations imposed upon corporations without capital stock by section 33-1057. It shall also have power to make and amend bylaws or regulations for the prompt, economical and safe conduct of its affairs. All bylaws and regulations of each association shall be filed with the Insurance Commissioner and shall be subject to his approval. If not disapproved by him, they shall go into effect thirty days after filing or at such later date as may be indicated in the bylaws or regulations.

(1949 Rev., S. 7478; 1958 Rev., S. 31-205; 1959, P.A. 617, S. 110; 1961, P.A. 491, S. 64; P.A. 77-614, S. 163, 610; P.A. 80-482, S. 210, 348; P.A. 96-256, S. 186, 209.)

Sec. 31-339. Appeals to Superior Court. From any decision or order of the Insurance Commissioner affecting any association, such association shall have the right of appeal to the superior court for the judicial district of Hartford.

(1949 Rev., S. 7479; 1958 Rev., S. 31-206; 1961, P.A. 491, S. 65; P.A. 77-614, S. 163, 610; P.A. 78-280, S. 6, 127; P.A. 80-482, S. 211, 348; P.A. 88-230, S. 1, 12; P.A. 90-98, S. 1, 2; P.A. 93-142, S. 4, 7, 8; P.A. 95-220, S. 4—6.)

Workers' Compensation Act — Part D

Workers' Compensation Insurance.

Sec. 31-340. Insurer directly liable to employee or dependent. Whenever any employer of labor as defined in this chapter insures his liability under this chapter with any company authorized to transact a compensation insurance business in this state, the contract of insurance between such employer of labor and such insurer shall be a contract for the benefit of any employee who sustains an injury arising out of and in the course of his employment by such insured by reason of the business operations described in the policy, while conducted at any working place therein described or elsewhere in connection therewith, or, in the event of such injury resulting in death, for the benefit of the dependents of such employee. Every such policy shall contain an agreement by the insurer to the effect that the insurer shall be directly and primarily liable to the employee and, in the event of his death, to his dependents or to any person entitled to burial expenses under section 31-306, to pay to him or to them the compensation, if any, for which the employer is liable; but payment in whole or in part of such compensation by either the employer or the insurer shall to the extent thereof be a bar to the recovery against the other of the amount so paid.

(1949 Rev., S. 7480; 1949, 1951, S. 3052d; 1958 Rev., S. 31-207; 1961, P.A. 491, S. 66.)

Sec. 31-341. Notice to insurer. When a claim for compensation by any such injured employee or the dependent of an injured employee of an employer who has insured his liability as aforesaid does not result in a voluntary agreement and a hearing before a compensation commissioner is necessary to determine such claim, the insurer shall receive the same notice of such hearing as is by law required to be given to the employer and shall thereupon be a party to the proceeding.

(1949 Rev., S. 7481; 1958 Rev., S. 31-208; 1961, P.A. 491, S. 67.)

Sec. 31-342. Award; enforcement. In any such hearing, the commissioner having jurisdiction may make his award directly against such employer, insurer or both, except that, when there is doubt as to the respective liability of two or more insurers, he shall make his award directly against such insurers; and such awards shall be enforceable against the insurer in all respects as provided by law for enforcing awards against an employer, and the proceedings on hearing, finding, award, appeal and execution shall be in all respects similar to that provided by law as between employer and employee.

(1949 Rev., S. 7482; 1958 Rev., S. 31-209; 1961, P.A. 491, S. 68.)

Sec. 31-343. Certain defenses not available against employee or dependent. As between any such injured employee or his dependent and the insurer, every such contract of insurance

shall be conclusively presumed to cover the entire liability of the insured, and no question as to breach of warranty, coverage or misrepresentation by the insured shall be raised by the insurer in any proceeding before the compensation commissioner or on appeal therefrom.

(1949 Rev., S. 7483; 1958 Rev., S. 31-210; 1961, P.A. 491, S. 69.)

Sec. 31-344. When representations avoid policy. No statement in an application for a policy of compensation insurance shall vitiate such policy as between the insurer and the insured, unless such statement is false and materially affects either the acceptance of the risk or the hazard assumed by the insurer.

(1949 Rev., S. 7484; 1958 Rev., S. 31-211; 1961, P.A. 491, S. 70.)

Sec. 31-344a. Workers' Compensation Administration Fund established. There is established a fund to be known as the "Workers' Compensation Administration Fund". The fund may contain any moneys required by law to be deposited in the fund and shall be held by the Treasurer separate and apart from all other moneys, funds and accounts. The interest derived from the investment of the fund shall be credited to the fund. Amounts in the fund may be expended only pursuant to appropriation by the General Assembly. Any balance remaining in the fund at the end of any fiscal year shall be carried forward in the fund for the fiscal year next succeeding.

(June Sp. Sess. P.A. 91-14, S. 17, 30.)

Sec. 31-345. Insurance Commissioner to approve form of policy. Assessments against employers for administrative costs. Surpluses. (a) No insurer or employer to whom a certificate of solvency pursuant to subsection (b) of section 31-284 has been issued, shall issue any policy of insurance purporting to cover the liability of an employer under the provisions of this chapter until a copy of the form of such policy has been filed with and approved by the Insurance Commissioner. No insurer or employer who is self-insured in whole or in part shall engage in writing insurance under this chapter or providing the compensation and benefits directly to employees unless he files with the Insurance Commissioner a receipt from the State Treasurer or the Comptroller on or before the first day of October, that the employer has paid his pro rata cost of administration required by this section or if the self-insured employer has not, prior to July first of any year, provided compensation and benefits under this chapter, the self-insured employer shall file such receipt on or before October first, annually that he has paid an amount equal to one-quarter of one per cent of the self-insured employer's payroll for the twelve months immediately preceding such July first.

(b) (1) When, after the close of a fiscal year ending prior to July 1, 1990, the chairman of the Workers' Compensation Commission and the Comptroller have determined the total amount of expenses of the Workers' Compensation Commission in accordance with the provisions of subsection (d) of section 31-280, the Treasurer shall thereupon assess upon and collect from

each employer, other than the state and any municipality participating for purposes of its liability under this chapter as a member in an interlocal risk management agency pursuant to chapter 113a, the proportion of such expenses that the total compensation and payment for hospital, medical and nursing care made by such self-insured employer or private insurance carrier acting on behalf of any such employer bore to the total compensation and payments for hospital, medical and nursing care made by all such insurance carriers and self-insurers. The amount so secured shall be used to reimburse the Treasurer for appropriations theretofore made by the state for the payment in the first instance of the expenses of administering this chapter. On and after July 1, 1986, the Treasurer shall, as soon as possible after the close of a fiscal year ending prior to July 1, 1990, estimate the pro rata cost to each employer based upon the costs assessed to such employer in the immediately preceding fiscal year and shall assess upon and collect from each such employer such estimated costs annually which shall be payable as provided in subsection (a) of this section except each annual assessment shall include an amount which represents the difference between the payments collected and the actual costs assessed to such employer for the immediately preceding fiscal year. The Treasurer is authorized to make credits or rebates for overpayments made under this subsection by any employer for any fiscal year.

(2) The chairman of the Workers' Compensation Commission shall annually, on or after July first of each fiscal year, determine an amount sufficient in the chairman's judgment to meet the expenses incurred by the Workers' Compensation Commission and the Department of Rehabilitation Services in providing rehabilitation services for employees suffering compensable injuries in accordance with section 31-283a. Such expenses shall include (A) the costs of the

Division of Workers' Rehabilitation and the programs established by its director, for fiscal years prior to the fiscal year beginning July 1, 2011, (B) the costs of the Division of Worker Education and the programs established by its director, and (C) funding for the occupational health clinic program created pursuant to sections 31-396 to 31-402, inclusive. The Treasurer shall thereupon assess upon and collect from each employer, other than the state and any municipality participating for purposes of its liability under this chapter as a member in an interlocal risk management agency pursuant to chapter 113a, the proportion of such expenses, based on the immediately preceding fiscal year, that the total compensation and payment for hospital, medical and nursing care made by such self insured employer or private insurance carrier acting on behalf of any such employer bore to the total compensation and payments for the immediately preceding fiscal year for hospital, medical and nursing care made by such insurance carriers and self insurers. For the fiscal years ending June 30, 2000, and June 30, 2001, such assessments shall not exceed five per cent of such total compensation and payments made by such insurance carriers and self-insurers. For the fiscal years ending June 30, 2002, and June 30, 2003, such assessments shall not exceed four and one-half per cent of such total compensation and payments made by such insurance carriers and self-insurers. For any fiscal year ending on or after June 30, 2004, such assessment shall not exceed four per cent of such total compensation and payments made by such insurance carriers and self insurers. Such assessments and expenses shall not exceed the budget estimates submitted in accordance with subsection (c) of section 31-280. For each fiscal year, such assessment shall be reduced pro rata by the amount of any surplus from the assessments of prior fiscal years. Said surplus shall be determined in accordance with subdivision (3) of this subsection. Such assessments shall be

made in one annual assessment upon receipt of the chairman's expense determination by the Treasurer. All assessments shall be paid not later than sixty days following the date of the assessment by the Treasurer. Any employer who fails to pay such assessment to the Treasurer within the time prescribed by this subdivision shall pay interest to the Treasurer on the assessment at the rate of eight per cent per annum from the date the assessment is due until the date of payment. All assessments received by the Treasurer pursuant to this subdivision to meet the expenses of the Workers' Compensation Commission shall be deposited in the Workers' Compensation Administration Fund established under section 31-344a. All assessments received by the Treasurer pursuant to this subdivision to meet the expenses incurred by the Department of Rehabilitation Services in providing rehabilitation services for employees suffering compensable injuries in accordance with section 31-283a shall be deposited in the Workers' Compensation Administration Fund. The Treasurer is hereby authorized to make credits or rebates for overpayments made under this subsection by any employer for any fiscal year.

(3) As soon as practicable after the close of the state fiscal year, the Comptroller shall examine the Workers' Compensation Administration Fund and shall direct the State Treasurer to set aside within said fund amounts in excess of fifty per cent of the expenditures of the Workers' Compensation Commission for the most recently completed fiscal year, which shall be considered a surplus for purposes of subdivision (2) of subsection (b) of this section.

(1949 Rev., S. 7485; 1958 Rev., S. 31-212; 1961, P.A. 491, S. 71; 1969, P.A. 696, S. 13; 1971, P.A. 334; P.A. 73-32; P.A. 76-246, S. 1, 3; P.A. 77-614, S. 163, 610; P.A. 78-241, S. 1, 2; P.A. 81-469, S. 5, 8; P.A. 85-189, S. 4; P.A. 90-311, S. 1, 3; P.A. 91-191, S. 1, 3; 91-339, S. 34, 55; June Sp.

Sess. P.A. 91-14, S. 18, 30; P.A. 92-31, S. 5, 7; P.A. 96-267, S. 25; P.A. 99-214, S. 1, 2; June Sp. Sess. P.A. 01-9, S. 29, 131; P.A. 11-61, S. 83; June 12 Sp. Sess. P.A. 12-1, S. 87.)

Sec. 31-345a. Deductibles in workers' compensation coverage. Approval of Insurance

Commissioner. Each insurer issuing workers' compensation and employers' liability insurance may issue such coverage with deductibles in accordance with plans filed with and approved by the Insurance Commissioner.

(P.A. 81-469, S. 7, 8.)

Sec. 31-346. Damages for material misstatements. When any insured knowingly makes a material misstatement to any insurer to the damage of such insurer, such insurer may recover just damages resulting from such misstatement.

(1949 Rev., S. 7486; 1958 Rev., S. 31-213; 1961, P.A. 491, S. 72.)

Sec. 31-347. Experience in compensation insurance. Each insurer which writes liability or compensation policies shall include in the annual statement required by law a schedule of its experience thereunder in such form as the Insurance Commissioner may prescribe.

(1949 Rev., S. 7487; 1958 Rev., S. 31-214; 1961, P.A. 491, S. 73; P.A. 77-614, S. 163, 610; P.A. 80-482, S. 212, 348.)

Sec. 31-348. Compensation insurance companies to report their risks. Every insurance company writing compensation insurance or its duly appointed agent shall report in writing or by other means to the chairman of the Workers' Compensation Commission, in accordance with rules prescribed by the chairman, the name of the person or corporation insured, including the state, the day on which the policy becomes effective and the date of its expiration, which report shall be made within fifteen days from the date of the policy. The cancellation of any policy so written and reported shall not become effective until fifteen days after notice of such cancellation has been filed with the chairman. Any insurance company violating any provision of this section shall be fined not less than one hundred nor more than one thousand dollars for each offense.

(1949 Rev., S. 7488; 1958 Rev., S. 31-215; 1961, P.A. 491, S. 74; P.A. 81-469, S. 2, 8; P.A. 90-116, S. 10; P.A. 91-339, S. 35, 55.)

Sec. 31-348a. Compensation insurers to reduce premiums. (a) On or before July 1, 1993, each insurer writing workers' compensation insurance in this state, either individually or through a rating organization licensed pursuant to section 38a-672 of which the insurer is a member or subscriber, shall file new voluntary pure premium and assigned risk rates effective

for the period July 1, 1993, to June 30, 1994, containing a nineteen per cent benefit level reduction and allowing due consideration for changes in loss costs based upon experience updated through the end of 1992.

(b) Upon receipt of any rate filing made under this section by a rating organization licensed pursuant to section 38a-672, the Insurance Commissioner shall conduct a public hearing regarding the filing and consult with an independent actuary engaged for the purpose of certifying the accuracy of the benefit level reduction set forth in subsection (a) of this section and determining whether the filed rates are excessive, inadequate or unfairly discriminatory as determined by the provisions of section 38a-665. The rates approved for the period July 1, 1993, to June 30, 1994, shall reflect (i) the actual loss costs experience through the end of 1992 and (ii) the savings from benefit level reductions effective July 1, 1993, as achieved by this section and sections 31-40u, 31-40v, 31-275, 31-276, 31-279, 31-280, 31-284a, 31-288, 31-289b, 31-293, 31-294c, 31-295, 31-297a, 31-298, 31-299a, 31-300, 31-303, 31-306, 31-307 to 31-307b, inclusive, 31-308, 31-308a, 31-309, 31-310, 31-310c, 31-349, 31-349a and 31-354.

(c) Within thirty days of the Insurance Commissioner's final decision regarding a filing by a rating organization made pursuant to this section, each insurer writing workers' compensation insurance in this state shall file revised rates for the voluntary market in accordance with the provisions of section 38a-676. Such revised rates shall be applicable to all new and renewal workers' compensation insurance policies effective on or after July 1, 1993. For any policy in effect as of June 30, 1993, during the period from July 1, 1993, through the end of the policy period, the premium shall be reduced by a percentage which equals the benefit level reduction

certified pursuant to subsection (b) of this section. With respect to new and renewal policies effective on or after July 1, 1993, and before the final approval of the rates filed pursuant to this subsection, each workers' compensation insurance carrier shall, not later than forty-five days after the rates approved pursuant to this section become final, adjust the premium of such new or renewal policy for the period after July 1, 1993, to reflect the difference between the premium on the policy as issued and the premium which reflects the rates as finally approved, which rates shall reflect the specific savings achieved by this section and sections 31-40u, 31-40v, 31-275, 31-276, 31-279, 31-280, 31-284a, 31-288, 31-289b, 31-293, 31-294c, 31-295, 31-297a, 31-298, 31-299a, 31-300, 31-303, 31-306, 31-307 to 31-307b, inclusive, 31-308, 31-308a, 31-309, 31-310, 31-310c, 31-349, 31-349a and 31-354.

(P.A. 93-228, S. 32, 35.)

Workers' Compensation Act — Part E

Second Injury Fund.

Sec. 31-349. Compensation for second disability. Payment of insurance coverage. Second Injury Fund closed July 1, 1995, to new claims. Procedure. (a) The fact that an employee has suffered a previous disability, shall not preclude him from compensation for a second injury, nor preclude compensation for death resulting from the second injury. If an employee having a previous disability incurs a second disability from a second injury resulting in a permanent

disability caused by both the previous disability and the second injury which is materially and substantially greater than the disability that would have resulted from the second injury alone, he shall receive compensation for (1) the entire amount of disability, including total disability, less any compensation payable or paid with respect to the previous disability, and (2) necessary medical care, as provided in this chapter, notwithstanding the fact that part of the disability was due to a previous disability. For purposes of this subsection, "compensation payable or paid with respect to the previous disability" includes compensation payable or paid pursuant to the provisions of this chapter, as well as any other compensation payable or paid in connection with the previous disability, regardless of the source of such compensation.

(b) As a condition precedent to the liability of the Second Injury Fund, the employer or its insurer shall: (1) Notify the custodian of the fund by certified mail no later than three calendar years after the date of injury or no later than ninety days after completion of payments for the first one hundred and four weeks of disability, whichever is earlier, of its intent to transfer liability for the claim to the Second Injury Fund; (2) include with the notification (A) copies of all medical reports, (B) an accounting of all benefits paid, (C) copies of all findings, awards and approved voluntary agreements, (D) the employer's or insurer's estimate of the reserve amount to ultimate value for the claim, (E) a two-thousand-dollar notification fee payable to the custodian to cover the fund's costs in evaluating the claim proposed to be transferred and (F) such other material as the custodian may require. The employer by whom the employee is employed at the time of the second injury, or its insurer, shall in the first instance pay all awards of compensation and all medical expenses provided by this chapter for the first one hundred four weeks of disability. Failure on the part of the employer or an insurer to comply

does not relieve the employer or insurer of its obligation to continue furnishing compensation under the provisions of this chapter. The custodian of the fund shall, by certified mail, notify a self-insured employer or an insurer, as applicable, of the rejection of the claim within ninety days after receiving the completed notification. Any claim which is not rejected pursuant to this section shall be deemed accepted, unless the custodian notifies the self-insured employer or the insurer within the ninety-day period that up to an additional ninety days is necessary to determine if the claim for transfer will be accepted. If the claim is accepted for transfer, the custodian shall file with the workers' compensation commissioner for the district in which the claim was filed, a form indicating that the claim has been transferred to the Second Injury Fund and the date that such claim was transferred and shall refund fifteen hundred dollars of the notification fee to the self-insured employer or the insurer, as applicable. A copy of the form shall be mailed to the self-insured employer or the insurer and to the claimant. No further action by the commissioner shall be required to transfer said claim. If the custodian rejects the claim of the employer or its insurer, the question shall be submitted by certified mail within thirty days of the receipt of the notice of rejection by the employer or its insurer to the commissioner having jurisdiction, and the employer or insurer shall continue furnishing compensation until the outcome is finally decided. Claims not submitted to the commissioner within said time period shall be deemed withdrawn with prejudice. If the employer or insurer prevails, or if the custodian accepts the claim all payments made beyond the one-hundred-four-week period shall be reimbursed to the employer or insurer by the Second Injury Fund.

(c) If the second injury of an employee results in the death of the employee, and it is determined that the death would not have occurred except for a preexisting permanent

physical impairment, the employer or its insurer shall, in the first instance, pay the funeral expense described in this chapter, and shall pay death benefits as may be due for the first one hundred four weeks. The employer or its insurer may thereafter transfer liability for the death benefits to the Second Injury Fund in accordance with the procedures set forth in subsection (b) of this section.

(d) Notwithstanding the provisions of this section, no injury which occurs on or after July 1, 1995, shall serve as a basis for transfer of a claim to the Second Injury Fund under this section. All such claims shall remain the responsibility of the employer or its insurer under the provisions of this section.

(e) All claims for transfer of injuries for which the fund has been notified prior to July 1, 1995, shall be deemed withdrawn with prejudice, unless the employer or its insurer notifies the custodian of the fund by certified mail prior to October 1, 1995, of its intention to pursue transfer pursuant to the provisions of this section. No notification fee shall be required for notices submitted pursuant to this subsection. This subsection shall not apply to notices submitted prior to July 1, 1995, in response to the custodian's request, issued on March 15, 1995, for voluntary resubmission of notices.

(f) No claim, where the custodian of the Second Injury Fund was served with a valid notice of intent to transfer under this section, shall be eligible for transfer to the Second Injury Fund unless all requirements for transfer, including payment of the one hundred and four weeks of benefits by the employer or its insurer, have been completed prior to July 1, 1999. All claims,

pursuant to this section, not eligible for transfer to the fund on or before July 1, 1999, will remain the responsibility of the employer or its insurer.

(1949 Rev., S. 7489; 1949, 1951, 1953, S. 3053d; September, 1957, P.A. 13, S. 6; 1958 Rev., S. 31-216; 1959, P.A. 580, S. 11; 1961, P.A. 491, S. 75; 1967, P.A. 842, S. 20; 1969, P.A. 696, S. 14; 1971, P.A. 447, S. 1; P.A. 79-376, S. 80; P.A. 81-464, S. 2; P.A. 82-398, S. 6; 82-472, S. 109, 183; P.A. 86-31; P.A. 88-40, S. 1, 2; 88-47, S. 1; P.A. 89-66, S. 1, 2; P.A. 90-116, S. 7; 90-327, S. 2, 3; P.A. 91-32, S. 35, 41; 91-339, S. 36, 55; P.A. 93-228, S. 24, 35; 93-429, S. 2, 7; P.A. 95-277, S. 3, 19; P.A. 96-242, S. 1, 10.)

Sec. 31-349a. Powers of investigators in the office of the State Treasurer. Any investigator in the investigations unit of the office of the State Treasurer, when investigating Second Injury Fund claims which may violate the requirements of this chapter and when investigating compliance by employers with the provisions of section 31-284, shall have the powers, as described in section 54-1f, of a peace officer as defined in subdivision (9) of section 53a-3.

(P.A. 85-602, S. 2, 4; P.A. 91-207, S. 6, 9; 91-339, S. 37, 55; P.A. 93-228, S. 25, 35; P.A. 95-277, S. 12, 19; P.A. 96-216, S. 3, 5.)

Sec. 31-349b. Certificate for permanent vocational disability. Employer reimbursed by Second Injury Fund for insurance premiums for certified employees. (a) Any employee who has suffered a compensable injury under the provisions of this chapter, and who is receiving

benefits for such injury from the Second Injury Fund pursuant to the provisions of section 31-349, may file a written request with the commissioner in the district where the original claim was filed for a hearing to determine whether the employee's injury constitutes a permanent vocational disability. The hearing shall be held within sixty days of the date the request was filed. Upon the request of the commissioner and prior to the conclusion of such hearing, the Commissioner of Rehabilitation Services shall, after receiving such information on the case which the commissioner deems necessary, submit written recommendations concerning the case to the commissioner for his consideration. The commissioner shall issue his decision, in writing, within ten days after the conclusion of the hearing. If the commissioner determines that the employee's injury is a permanent vocational disability, the employee shall be issued a certificate of disability by the commissioner. Such certificate shall be effective for a stated period of time of from one to five years, as determined by the commissioner. The decision of the commissioner may be appealed in accordance with the provisions of section 31-301.

(b) (1) Whenever any individual who has been issued a certificate of disability, pursuant to the provisions of subsection (a) of this section, is thereafter employed, the employer, upon written application and presentation of sufficient proof to the State Treasurer, shall be reimbursed from the Second Injury Fund for any workers' compensation insurance premiums paid by the employer which are attributable to such individual's employment during the effective period of such certificate. (2) Whenever any such certified individual is hired by an employer to whom a certificate of self-insurance has been issued pursuant to section 31-284, the employer, upon written application and presentation of sufficient proof to the State Treasurer, shall be reimbursed from the Second Injury Fund at the rate of two per cent of the

gross wages paid to the individual for work performed during the effective period of his certificate. No employer may make more than one such application related to a certified employee within a twelve-month period.

(c) Upon the expiration of any certificate of disability or of an extension of such certificate, the person to whom such certificate was issued may file a written request with the commissioner for an extension of the effective period of such certificate. The determination as to whether such an extension should be granted shall be made by the commissioner in accordance with the provisions of subsection (a) of this section, provided such extension shall be effective for a stated period of time of from one to five years.

(P.A. 86-33; P.A. 91-207, S. 7, 9; P.A. 95-277, S. 10, 19; P.A. 11-44, S. 50; June 12 Sp. Sess. P.A. 12-1, S. 88.)

Sec. 31-349c. Controverted issues of previous disability. Physician panel established. (a)

The custodian of the Second Injury Fund and an insurer or self-insured employer seeking to transfer a claim to the fund shall submit all controverted issues regarding the existence of a previous disability under section 31-349 to the chairman of the Workers' Compensation Commission. The chairman shall appoint a panel of three physicians, as defined in subdivision (17) of section 31-275, and submit such dispute to the panel, along with whatever evidence and materials he deems necessary for consideration in the matter. The panel may examine the claimant, who shall submit to any examination such panel may require. Within sixty days of

receiving the submission, the panel shall file its opinion, in writing, with the chairman, who shall forward it, along with any records generated by the panel's work on the case, to the commissioner having jurisdiction over the claim in which the dispute arose. The panel's opinion shall be determined by a majority vote of the three members. Such opinion shall be binding on all parties to the claim and may not be appealed to the Compensation Review Board pursuant to section 31-301.

(b) The chairman of the Workers' Compensation Commission shall adopt regulations in accordance with the provisions of chapter 54 to establish a fee schedule for payment of medical panel members. Any fees paid pursuant to the provisions of this section shall be paid by the self-insured employer or insurer seeking fund reimbursement.

(P.A. 95-277, S. 4, 19.)

Sec. 31-349d. Treasurer to solicit proposals for the managing of Second Injury Fund claims. Notwithstanding the provisions of sections 4a-19 and 4a-20 to the contrary, the Treasurer may solicit proposals from any firm engaged in the business of workers' compensation medical case management for purposes of managing Second Injury Fund claims or providing any other necessary service not provided by state employees.

(P.A. 95-277, S. 5, 19.)

Sec. 31-349e. Advisory board for the Second Injury Fund. There shall be an advisory board for the Second Injury Fund to advise the custodian of the Second Injury Fund on matters concerning administration, operation, claim handling and finances of the fund. On or before July 1, 1995, the Treasurer shall appoint six of the eight members to the board. Three members shall represent employers and insurers who pay assessments to the fund pursuant to section 31-354. Three such members shall represent employees receiving benefits paid or reimbursed by the fund. The two remaining members shall be the chairpersons of the labor and public employees committee of the General Assembly or their designees. The six members appointed by the Treasurer shall be appointed for a term of four years from January first in the year of their appointment. Any vacancy shall be filled for the remainder of the term in the same manner as the original appointment. All members shall serve without compensation. The board shall elect a chairperson from among its members. The Treasurer shall provide such staff as is necessary for the performance of the functions and duties of the board. The board shall meet at least twice a year. All actions of the board shall require an affirmative vote of a majority of those members present and voting, provided at least four members shall be present and voting. The board may adopt any rules of procedure that it deems necessary to carry out its duties.

(P.A. 95-277, S. 6, 19; P.A. 98-104, S. 5, 6; P.A. 01-31.)

Sec. 31-349f. Condition of the Second Injury Fund. Report to the Governor and General

Assembly. On or before July 1, 1996, and annually thereafter, the Treasurer shall submit to the Governor and the General Assembly a report on the financial condition of the Second Injury Fund. Such report shall include (1) an estimate of the fund's unfunded liability as of the preceding July first; (2) the effect of settlements and stipulations on the unfunded liability; (3) the number and amount of assessments levied under section 31-354 for the previous fiscal year; (4) the number and amount of such assessments projected for the coming year; and (5) any recommendations for legislative change to improve the operation or financing of the fund.

(P.A. 95-277, S. 8, 19.)

Sec. 31-349g. Method of assessing all employers for liabilities of Second Injury Fund.

Reporting. Audits. Insurance companies deemed collection agents. (a) For purposes of this section:

(1) "Insured employer" means an employer who insures its risks incurred under this chapter with an insurance company authorized to issue workers' compensation policies in this state by the Insurance Department, and includes any member of a workers' compensation pool administered by an interlocal risk management agency, and on and after January 1, 2005, an employer mutual association organized prior to June 6, 1996, with a membership composed exclusively of health care providers and whose premium base is derived entirely from health care organizations.

(2) "Self-insured employer" means an employer who is approved to self-insure its liabilities under this chapter by the chairman of the Workers' Compensation Commission. For the period commencing October 1, 2004, and ending December 31, 2004, "self-insured employer" includes an employer mutual association organized prior to June 6, 1996, with a membership composed exclusively of health care providers and whose premium base is derived entirely from health care organizations.

(3) "Paid losses" means the total indemnity, medical and any other expenses, prior to any credits or deductions being taken, paid on or after January 1, 2006, by or on behalf of an employer to or on behalf of an injured employee. Paid losses includes all legal expenses paid for the benefit of an injured worker in accordance with this chapter and any loss payments within deductible limits on workers' compensation policies.

(4) "Second Injury Fund surcharge base" means direct written premium on policies prior to application of any deductible policy premium credits.

(5) "Direct written premium" includes all endorsements, retrospective adjustments, audits and minimum premium and shall be determined without regard to when or whether the premium on the policy is paid.

(6) "Second Injury Fund surcharge" for insurance companies, interlocal risk management agencies and self-insurance groups means the rate set by the custodian multiplied by the Second Injury Fund surcharge base.

(7) "Self-insurance group" means a not-for-profit association consisting of fifteen or more employers who are engaged in the same or similar type of business, who are members of the same bona fide trade or professional association which has been in existence for not less than five years, and who enter into agreements to pool their liabilities for workers' compensation benefits and employers' liability.

(b) The State Treasurer, in consultation with the Insurance Commissioner, may adopt regulations, in accordance with the provisions of chapter 54, regarding the method of assessing all employers for the liabilities of the Second Injury Fund. The liabilities shall be allocated between self-insured employers and insured employers based on a percentage of paid losses for the preceding calendar year for each group. No credits shall be taken against paid losses, except voided checks in connection with expenses paid under this chapter previously reported as a paid loss, recoveries from third party tortfeasors, reimbursement granted pursuant to section 31-299b and Second Injury Fund reimbursements. The method of assessment for self-insured employers shall be based on paid losses. The method of assessment for insured employers, for policies with effective dates before July 1, 2006, shall be based on the standard premium, and for policies with effective dates on or after July 1, 2006, shall be based on the Second Injury Fund surcharge base. In adopting regulations under this section, the State Treasurer shall consider their effect upon (1) the cost of doing business in this state, (2) the overall cost of the workers' compensation system, (3) the effect of the regulations on insurers, insureds and self-insured employers, and (4) the financial condition and liabilities of the fund.

(c) An employer mutual association organized prior to June 6, 1996, with a membership composed exclusively of health care providers and whose premium base is derived entirely from health care organizations may make payments without penalty or interest over a five-year period for any outstanding assessment due from the association for the period commencing January 1, 1996, and ending December 31, 2004.

(d) (1) For insured employers and self-insurance groups, the Second Injury Fund surcharge base shall initially be reported to the fund in the quarter of the effective date of the policy, regardless of when the policy is billed by the insurance carrier or self-insurance group or paid by the policyholder or member of a self-insurance group. All endorsements, retrospective adjustments and audits shall be reported in the quarter processed by the insurance carrier or group self-insured employer.

(2) The custodian of the fund shall conduct an audit or periodic audits of any self-insured employer, group self-insured employer, insured employer or insurance company acting as collection agent of the Second Injury Fund relative to any information or payment required by the custodian. The employer and insurer shall provide all necessary documents and information in relation to an audit by the custodian in a manner prescribed by the Treasurer. The period of review of an audit shall be not more than three years, except that when the date of the previous audit is less than three years prior to such audit, the period of review shall be to the date of such prior audit. If the audit determines repeated errors or underreporting by an employer or an insurer acting as collection agent of the Second Injury Fund, the fund reserves the right to audit an additional two-year review period. Upon the determination of the

Treasurer or the Treasurer's agents, as a result of an audit, that an employer or an insurer acting as collection agent of the Second Injury Fund has not properly reported to the Second Injury Fund and, as a result, has underpaid the assessment or surcharge, the employer or the insurer acting as collection agent of the Second Injury Fund, upon notice from the Treasurer or the Treasurer's agent, shall pay the full amount of the underpaid assessment or surcharge, along with interest and any penalty due not later than thirty days after such notice.

(e) For purposes of collection of the Second Injury Fund surcharge from insureds and payment of such surcharge to the Second Injury Fund, insurance companies shall be deemed to be collection agents of the Second Injury Fund. The insured employer is liable for payment of the surcharge, and the insurance company shall collect such payment and remit it to the Second Injury Fund in accordance with section 31-354. Insurance companies shall be subject to the audit provisions of this section and shall be subject to the penalty and interest provisions of this section for failure to remit the surcharge to the Second Injury Fund.

(P.A. 95-277, S. 14, 19; P.A. 96-242, S. 5, 10; P.A. 04-229, S. 1; P.A. 05-199, S. 8.)

Sec. 31-349h. Transfer of claims. Claims not transferred. All transfers of claims to the Second Injury Fund with a date of injury prior to July 1, 1995, shall be effected no later than July 1, 1999. All claims not transferred to the Second Injury Fund, on or before July 1, 1999, shall remain the responsibility of the employer or its insurer.

(P.A. 96-242, S. 2, 10.)

Sec. 31-349i. Cost-saving methodologies. The custodian of the Second Injury Fund may implement cost-saving methodologies within the existing prescription drug program but shall not mandate the use of a mail order pharmacy by the claimant.

(P.A. 96-242, S. 3, 10.)

Sec. 31-349j. Appeal of decision by State Treasurer concerning the method of assessing the employer for the liabilities of the Second Injury Fund. Any employer or any private insurance carrier or interlocal risk management agency acting on behalf of an employer that is aggrieved by a decision of the State Treasurer or the State Treasurer's agents concerning the method of assessing the employer for the liabilities of the Second Injury Fund pursuant to section 31-349g may appeal the decision to the Superior Court in accordance with the provisions of section 4-183.

(P.A. 01-40, S. 2.)

Sec. 31-352. Enforcement of liability of third person. The provisions of section 31-293 shall apply to any payments from the Second Injury Fund and the Treasurer is authorized to bring an action, or join in an action as provided by said section, when he has paid, or by award has become obligated to pay, compensation out of the fund.

(1949 Rev., S. 7492; 1949, 1951, S. 3054d; 1958 Rev., S. 31-219; 1961, P.A. 491, S. 78; P.A. 91-32, S. 36, 41.)

Sec. 31-353. Voluntary agreements and stipulated settlements; approval. (a) If the Treasurer and an injured employee, or his legal representative, reach an agreement in regard to compensation payable under the provisions of this chapter, such agreement shall be submitted in writing to the commissioner for his approval and, upon approval, shall remain in effect until otherwise ordered by the commissioner.

(b) The Treasurer may make payment by way of stipulated settlement in any matter concerning the fund under the provisions of this chapter, subject to the approval of the commissioner, whenever such stipulated settlement is: (1) In the best interests of the injured employee, (2) in the best interests of the injured employee's dependents, or (3) for claims by an employer or insurer pursuant to section 31-306, 31-307a or 31-310.

(1949 Rev., S. 7493; 1949, 1951, S. 3055d; 1958 Rev., S. 31-220; 1961, P.A. 491, S. 79; P.A. 05-199, S. 9; P.A. 12-77, S. 2.)

Sec. 31-354. Second Injury Fund contributions. Duties and powers of State Treasurer. (a)

There shall be a fund to be known as the Second Injury Fund. Each employer, other than the state, shall, within thirty days after notice given by the State Treasurer, pay to the State Treasurer for the use of the state a sum in payment of his liability under this chapter which shall be calculated in accordance with the Second Injury Fund surcharge base, as defined in section 31-349g, and shall be assessed in accordance with subsection (f) of section 31-349, sections 31-349g, 31-349h and 31-349i, this section, section 31-354b and sections 8 and 9 of public act 96-242*. Such sum shall be an amount sufficient to (1) pay the debt service on state revenue bond obligations authorized to be issued under and for the purposes set forth in section 31-354b including reserve and covenant coverage requirements, (2) provide for costs and expenses of operating the Second Injury Fund, and (3) pay Second Injury Fund stipulations on claims settled by the custodian or other benefits payable out of the Second Injury Fund and not funded through state revenue bond obligations and shall be determined in accordance with the regulations adopted pursuant to the provisions of section 31-349g. The custodian shall establish a factor for the annual surcharge that caps such surcharge for the fiscal years ending June 30, 1996, 1997 and 1998. In determining such factor the custodian shall consider the funding mechanism authorized by subsection (f) of section 31-349, sections 31-349g, 31-349h and 31-349i, this section, section 31-354b and sections 8 and 9 of public act 96-242*, recognize that an acceptable level of employer assessment is important to the vitality of the economy of the state and nevertheless shall assure provision of services to injured workers that enhances their ability to return to work and improve their quality of life. In any event, such factor shall not exceed,

with respect to insured employers, a rate of fifteen per cent on the Second Injury Fund surcharge base with respect to workers' compensation and employers' liability policies and, with respect to self-insured employers, a comparable percentage limitation representing their pro rata share of any assessment. Any employer or any insurance company acting as collection agent for the custodian of the Second Injury Fund who fails to pay in accordance with such regulations shall pay a penalty to the State Treasurer of fifteen per cent on the unpaid assessment or surcharge or fifty dollars, whichever is greater. Interest at the rate of six per cent per annum shall be charged on any amounts owed on assessment audits or surcharge audits. For self-insured employers interest shall accrue thirty days after notice from the Second Injury Fund of the unpaid audit assessment. For insurance companies, the interest shall accrue from the date of the notice of audit errors or deficiencies as determined by the date postmarked by the United States Postal Service. The State Treasurer shall notify each employer of the penalty or interest provision with the notice of assessment. Any partial payments made to the fund shall be first applied to any unpaid penalty, then to any unpaid interest and the remainder, if any, to the unpaid assessment or surcharge. Interest or penalties shall be applied if assessment or surcharge reports or payments are postmarked by the United States Postal Service after the designated due date. The sums received shall be accounted for separately and apart from all other state moneys and the faith and credit of the state of Connecticut is pledged for their safekeeping. The State Treasurer shall be the custodian of the fund and all disbursements from the fund shall be made by the Treasurer or the Treasurer's deputies. The moneys of the fund shall be invested by the Treasurer in accordance with applicable law and section 8 of public act 96-242*. Interest, income and dividends from the investments shall be credited to the fund.

Each employer, each private insurance carrier acting on behalf of any employer and each interlocal risk management agency acting on behalf of any employer shall annually, on or before April first, report to the State Treasurer, in the form prescribed by the State Treasurer, the amount of money expended by or on behalf of the employer in payments for the preceding calendar year. Each private insurance carrier, each self-insurance group and each interlocal risk management agency shall submit annually, on or before April first, to the State Treasurer, in the form prescribed by the State Treasurer, a report of the total Second Injury Fund surcharge base collected in the preceding calendar year and a report of the projected total Second Injury Fund surcharge base for the current calendar year. The fund shall be used to provide the benefits set forth in section 31-306 for adjustments in the compensation rate and payment of certain death benefits, in section 31-307b for adjustments where there are relapses after a return to work, in section 31-307c for totally disabled persons injured prior to October 1, 1953, in section 31-349 for disabled or handicapped employees and in section 31-355 for the payment of benefits due injured employees whose employers or insurance carriers have failed to pay the compensation, and medical expenses required by this chapter, or any other compensation payable from the fund as may be required by any provision contained in this chapter or any other statute and to reimburse employers or insurance carriers for payments made under subsection (b) of section 31-307a. The assessment required by this section is a condition of doing business in this state and failure to pay the assessment, when due, shall result in the denial of the privilege of doing business in this state or to self-insure under section 31-284. Any administrative or other costs or expenses incurred by the State Treasurer in connection with carrying out the provisions of this part, including the hiring of necessary

employees, shall be paid from the fund. The State Treasurer may adopt regulations, in accordance with the provisions of chapter 54, prescribing the practices, policies and procedures to be followed in the administration of the Second Injury Fund.

(b) The State Treasurer shall establish within the Second Injury Fund three accounts to be known as the operating account, the settlement account and the finance account which accounts shall be held separate and apart from each other. The operating account shall cover the costs and expenses to the state of operating the Second Injury Fund. The settlement account shall cover actual disbursement of the settled claims whether by one-time full payments or by payments over a period of time. The finance account shall contain such funds and be operated in the manner provided in section 31-354b.

(1949 Rev., S. 7494; 1949, 1951, S. 3056d; 1958 Rev., S. 31-221; 1959, P.A. 580, S. 12; 1961, P.A. 491, S. 80; 1967, P.A. 842, S. 21; 1969, P.A. 696, S. 15; 1971, P.A. 351, S. 1; 1972, P.A. 136, S. 1; P.A. 77-119, S. 1; 77-554, S. 2; P.A. 79-376, S. 51; P.A. 81-469, S. 6, 8; P.A. 82-472, S. 110, 183; P.A. 85-189, S. 5; P.A. 86-21; 86-25; P.A. 87-277, S. 1, 4; 87-589, S. 58, 87; P.A. 88-29, S. 1, 2; P.A. 89-68, S. 2; P.A. 90-230, S. 54, 101; 90-311, S. 2, 3; P.A. 91-32, S. 37, 38, 41; 91-339, S. 38, 55; P.A. 93-228, S. 26, 35; 93-429, S. 3, 7; P.A. 95-277, S. 15, 16, 19; P.A. 96-242, S. 6, 10; P.A. 05-199, S. 10; P.A. 10-11, S. 1.)

Sec. 31-354a. Assistant administrators of the Second Injury Fund. (a) The Treasurer may, in his discretion, appoint not more than four assistant administrators as necessary to assist him in carrying out his duties as custodian of the Second Injury Fund under section 31-354. Such

assistant administrators shall be in the unclassified service and shall serve at the pleasure of the Treasurer. Such assistant administrators shall be sworn to the faithful discharge of their duties and shall perform such functions relating to the administration of the Second Injury Fund under sections 31-275 to 31-355a, inclusive, as the Treasurer may direct.

(b) Any administrative and personnel costs incurred pursuant to subsection (a) of this section shall be paid from the Second Injury Fund.

(May Sp. Sess. P.A. 92-1, S. 1, 7.)

Sec. 31-354b. Finance account within Second Injury Fund. Subaccounts. Duties of State

Treasurer. (a) There is established within the Second Injury Fund an account to be known as the finance account. The account shall be administered by the State Treasurer as a trust fund in, and accounted for as an account within, the Second Injury Fund. The State Treasurer may enter into contracts that may be useful to the organization, establishment, operation and administration of the account. The finance account shall be funded, first, with state revenue bond proceeds and interest income or income earned on investment of moneys for disbursement purposes and, second, from the special assessment premium surcharges for payment of debt service and reserve requirements. All costs of organizing, establishing and operating the account, including the costs of personnel and contractual services and establishing billing and collection procedures, shall be a charge upon and paid by the State

Treasurer from the account unless the State Treasurer otherwise determines to pay such costs from the operating account.

(b) There is established within the finance account (1) a single cost of issuance and finance administration subaccount, (2) a bond proceeds subaccount, and (3) a debt service and reserve subaccount, which subaccounts shall be held separate and apart from each other. Additional subaccounts may be established by the State Treasurer as he deems necessary.

(c) There shall be deposited in the bond proceeds subaccount proceeds of revenue bonds issued in accordance with section 8 of public act 96-242* for application, in accordance with the bond authorization documentation for one or more of the following purposes: (1) To pay in full the settlement of certain claims, including any interest due thereon; (2) to provide cash advances for payment of other claims pending receipt of anticipated current year assessments therefor; and (3) to provide for cost of issuance, capitalized interest, if necessary, reinsurance premiums, if any, and other cash flow requirements.

(d) There shall be deposited in the debt service and reserve subaccount, in accordance with the proceeding authorizing the bonds, the proceeds of the issuance of revenue bonds which are expected to be applied as capitalized interest to the extent required prior to receipt of special assessment premium surcharges and to provide for a reserve which shall not exceed the maximum debt service in any year.

(e) There shall be deposited in the cost of issuance and finance administration subaccount:
(1) The proceeds of revenue bonds expected to be deposited into the said subaccount; and (2)

any additional money received from employers in payment of special assessment premium surcharges established in accordance with section 31-354 to offset the costs and expenses of administering and operating the finance account.

(f) Investment earnings credited to the assets of the finance account and to any subaccount within the account shall become part of the assets of the Second Injury Fund and applied in accordance with the bond authorization documents. Any balance remaining in the account at the end of any fiscal year shall be carried forward in the account and subaccount for the next fiscal year.

(g) Upon the issuance of revenue bonds and to the extent there are sufficient proceeds or other amounts in the finance account available therefor, the State Treasurer may withdraw from the finance account, in accordance with the bond authorization documents amounts determined to be necessary for the purposes of section 9 of public act 96-242*. The State Treasurer shall, from time to time and at least annually, determine the amount of interest, amortization, reserve and associated costs required for the finance account under this section and such amounts shall be assessed as a special assessment premium surcharge as provided in section 31-354.

(h) Unless the context requires a different meaning, the term “bonds” or “revenue bonds” under this section and section 8 of public act 96-242* includes notes issued in anticipation of the issuance of revenue bonds or notes issued pursuant to a commercial paper program.

(P.A. 96-242, S. 7, 10.)

Sec. 31-355. Hearings; awards. Payments from Second Injury Fund on employer's failure to comply with award. Civil action for reimbursement. Insolvent insurer. Settlements and agreements. Failure of uninsured employer to pay. (a) The commissioner shall give notice to the Treasurer of all hearing of matters that may involve payment from the Second Injury Fund, and may make an award directing the Treasurer to make payment from the fund.

(b) When an award of compensation has been made under the provisions of this chapter against an employer who failed, neglected, refused or is unable to pay any type of benefit coming due as a consequence of such award or any adjustment in compensation required by this chapter, and whose insurer failed, neglected, refused or is unable to pay the compensation, such compensation shall be paid from the Second Injury Fund. The commissioner, on a finding of failure or inability to pay compensation, shall give notice to the Treasurer of the award, directing the Treasurer to make payment from the fund. Whenever liability to pay compensation is contested by the Treasurer, the Treasurer shall file with the commissioner, on or before the twenty-eighth day after the Treasurer has received an order of payment from the commissioner, a notice in accordance with a form prescribed by the chairman of the Workers' Compensation Commission stating that the right to compensation is contested, the name of the claimant, the name of the employer, the date of the alleged injury or death and the specific grounds on which the right to compensation is contested. A copy of the notice shall be sent to the employee. The commissioner shall hold a hearing on such contested liability at the request of the Treasurer or the employee in accordance with the provisions of this chapter. If the

Treasurer fails to file the notice contesting liability within the time prescribed in this section, the Treasurer shall be conclusively presumed to have accepted the compensability of such alleged injury or death from the Second Injury Fund and shall have no right thereafter to contest the employee's right to receive compensation on any grounds or contest the extent of the employee's disability.

(c) The employer and the insurer, if any, shall be liable to the state for any payments made out of the fund in accordance with this section or which the Treasurer has by award become obligated to make from the fund, together with cost of attorneys' fees as fixed by the court. If reimbursement is not made, or a plan for payment to the fund has not been agreed to by the Treasurer and employer, not later than ninety days after any payment from the fund, the Attorney General shall bring a civil action, in the superior court for the judicial district where the award was made, to recover all amounts paid by the fund pursuant to the award, plus double damages together with reasonable attorney's fees and costs as taxed by the court. Any amount paid to the Treasurer by the employer or insurer after the filing of an action, but prior to its completion, shall be subject to an interest charge of eighteen per cent per annum, calculated from the date of original payment from the fund.

(d) Any recovery made under this section, including any recovery for costs or attorney's fees, shall be paid into the fund. Any administrative or other costs or expenses incurred by the Attorney General in connection with carrying out the purposes of this section, including the hiring of necessary employees, shall be paid from the fund. The Treasurer shall adopt

regulations, in accordance with the provisions of chapter 54, which describe what constitutes a proper and sufficient “plan for payment to the fund” for the purposes of this section.

(e) Notwithstanding the provisions of subsections (a) to (d), inclusive, of this section, whenever the employer’s insurer has been determined to be insolvent, as defined in section 38a-838, payments required under this section shall be the obligation of the Connecticut Insurance Guaranty Association pursuant to the provisions of sections 38a-836 to 38a-853, inclusive.

(f) Notwithstanding subsection (b) of this section, the commissioner may approve a stipulated settlement for benefits between an injured worker and the Treasurer under this chapter at any time prior to or after the issuance of a finding and award against the employer if the commissioner determines that it is in the best interest of the injured workers to do so. Notice of the proposed settlement shall be sent to the employer by certified mail, return receipt requested, to the employer’s last known address on file with the Secretary of the State or local postal authority. The commissioner shall hold a hearing on such proposed settlement at the request of the employer in accordance with the provisions of this chapter. If the employer does not file with the Workers’ Compensation Commission a written objection to the proposed settlement not later than twenty-eight days after the date of the notice to the employer of the proposed settlement, the employer shall be deemed to have consented to the proposed settlement and may not thereafter contest the terms of the settlement in any forum. Where payment has been ordered under this subsection, the terms of such order shall have the same

status and be governed by the same provisions as an award issued pursuant to subsection (b) of this section.

(g) Nothing in this section shall preclude the Treasurer from entering into an agreement with the employer for the reimbursement of expenses, costs or benefits paid by the fund. The Treasurer, the uninsured employer, the injured worker, or the injured worker's beneficiaries, or a third party who is liable under section 31-293 may enter into a settlement agreement to finally or partially settle the rights and liabilities of any or all parties under this chapter, subject to the approval of the commissioner.

(h) When a finding and award of compensation has been made against an uninsured employer who fails to pay it, that compensation shall be paid from the Second Injury Fund, and if there are further claims for any related, reasonable and necessary treatment, payment shall be provided to the claimant without a subsequent finding and award.

(1959, P.A. 580, S. 13; 1961, P.A. 491, S. 81; 1969, P.A. 696, S. 16; P.A. 85-349, S. 2; P.A. 86-35, S. 1; P.A. 87-277, S. 2, 4; 87-589, S. 58, 87; P.A. 91-32, S. 39, 41; 91-207, S. 1, 9; P.A. 92-31, S. 6, 7; P.A. 05-199, S. 11.)

Sec. 31-355a. Collection of moneys owed to the Second Injury Fund. Tax warrants. Lien.

Foreclosure. (a) Whenever the Second Injury Fund is required, pursuant to section 31-355 or subsection (c) of section 31-349, to pay benefits or compensation mandated by the provisions of this chapter for any employer or insurer who fails or is unable to make such payments, the

amount so paid by the fund shall be collectible by any means provided by law for the collection of any tax due the state of Connecticut or any subdivision thereof, including any means provided by section 12-35. Tax warrants referred to in said section 12-35 may be signed by the State Treasurer.

(b) Any such amount due shall be a lien from the due date until discharged by payment against all the property of the employer or insurer within the state, whether real or personal, except such as is exempt from execution, including debts to the employer or insurer, and a certificate of such lien without specifically describing such real or personal property, signed by the State Treasurer, may be filed in the office of the clerk of any town in which such real property is situated, or, in the case of personal property, in the office of the Secretary of the State, which lien shall be effective from the date on which it is recorded. When any such amount with respect to which a lien has been recorded under the provisions of this section has been satisfied, the State Treasurer, upon request of any interested party, shall issue a certificate discharging such lien. Any action for the foreclosure of such lien shall be brought by the Attorney General in the name of the state in the superior court for the judicial district in which the property subject to such lien is situated or, if such property is located in two or more judicial districts, in the superior court for any one such judicial district and the court may limit the time for redemption or order the sale of such property or pass such other or further decree as it judges equitable. When the property to be liened is concealed in the hands of an agent or trustee so that it cannot be found or attached, or is a debt due to the employer, the certificate of lien may be filed by leaving a copy thereof with such agent, trustee or debtor, or by mailing to him a copy thereof by registered or certified mail, and from the time of the receipt of such

lien all the effects of the employer or insurer in the hands of such agent or trustee and any debt due from such debtor to the employer or insurer shall be secured in the hands of such agent, trustee or debtor to pay the amount secured by such lien. The payment by such agent, trustee or debtor to the State Treasurer shall discharge him of his liability to the employer or insurer to the extent thereof. The State Treasurer may require such agent, trustee or debtor to disclose under oath within ten days whether he has in his hands the goods or effects of the employer or insurer or is indebted to him. If such agent, trustee or debtor fails to disclose or, having disclosed, fails to turn over such effects or pay to the State Treasurer the amount of his indebtedness to the employer or insurer, the lien shall have the effect of a judgment and the State Treasurer may proceed against him by scire facias taken out from the clerk of the superior court for the judicial district of Hartford in the manner provided in chapter 905 for scire facias against a garnishee.

(P.A. 86-173; P.A. 88-47, S. 2; 88-230, S. 1, 12; 88-364, S. 49, 123; P.A. 90-98, S. 1, 2; P.A. 91-207, S. 8, 9; P.A. 93-142, S. 4, 7, 8; P.A. 95-220, S. 4—6.)

Sec. 31-355b. Actions against entities failing to comply with Second Injury Fund reporting requirements. Upon request by the State Treasurer, the Attorney General is authorized to bring an action in the Superior Court against any employer or any private insurance carrier or interlocal risk management agency acting on behalf of an employer that fails to comply with the Second Injury Fund reporting requirements set forth in section 31-354 for injunctive relief requiring compliance with such reporting requirements.

(P.A. 01-40, S. 1.)