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Maryland Statutes

LABOR AND EMPLOYMENT

TITLE 9. WORKERS' COMPENSATION

SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS

§ 9-101. Definitions

(a) In general. -- In this title the following words have the meanings indicated.

(b) Accidental personal injury. -- "Accidental personal injury" means:

(1) an accidental injury that arises out of and in the course of employment;

(2) an injury caused by a willful or negligent act of a third person directed against a covered employee in the course of the employment of the covered employee; or

(3) a disease or infection that naturally results from an accidental injury that arises out of and in the course of employment, including:

(i) an occupational disease; and

(ii) frostbite or sunstroke caused by a weather condition.

(c) Child. -- "Child" includes:

(1) an adopted child;

(2) an illegitimate child;

(3) a posthumous child; and

(4) a stepchild.

(d) Commission. -- "Commission" means the State Workers' Compensation Commission.

(e) Compensation. --

(1) "Compensation" means the money payable under this title to a covered employee or the dependents of a covered employee.

(2) "Compensation" includes funeral benefits payable under this title.

(f) Covered employee. -- "Covered employee" means an individual listed in Subtitle 2 of this title for whom a person, a governmental unit, or a quasi-public corporation is required by law to provide coverage under this title.

(g) Occupational disease. -- "Occupational disease" means a disease contracted by a covered employee:

(1) as the result of and in the course of employment; and

(2) that causes the covered employee to become temporarily or permanently, partially or totally incapacitated.

HISTORY: An. Code 1957, art. 101, §§ 1, 67; 1991, ch. 8, § 2; ch. 21, § 5; 2009, chs. 616, 617.

§ 9-102. Construction of title

(a) In general. -- This title shall be construed to carry out its general purpose.

(b) Rule for strict construction inapplicable. -- The rule that a statute in derogation of the common law is to be strictly construed does not apply to this title.

HISTORY: An. Code 1957, art. 101, § 63; 1991, ch. 8, § 2.

§ 9-103. Minor

(a) Deemed adult. -- Except as otherwise expressly provided in this title, each minor who is a covered employee shall be deemed an adult for purposes of this title.

(b) Limit on cause of action or right to compensation. -- Except as otherwise provided in this title, a person other than the minor covered employee does not have a cause of action or right to compensation for an injury to the minor covered employee.

HISTORY: An. Code 1957, art. 101, § 47; 1991, ch. 8, § 2.

§ 9-104. Agreements

(a) Exemption from duty; waiver of right. --

(1) Except as otherwise provided in this title, a covered employee or an employer of a covered employee may not by agreement, rule, or regulation:

(i) exempt the covered employee or the employer from a duty of the covered employee or the employer under this title; or

(ii) waive a right of the covered employee or the employer under this title.

(2) An agreement, rule, or regulation that violates paragraph (1) of this subsection is void to the extent of the violation.

(b) Railroads. --

(1) If federal law provides an exclusive remedy and compensation to an employee of a common carrier by railroad in this State or a dependent of the employee for disability or death caused by an accidental personal injury sustained in interstate or foreign commerce, the carrier and the employee may enter into an agreement that provides:

(i) for the payment by the carrier of compensation, in accordance with the federal law, to the employee or a dependent of the employee for disability or death caused by an accidental

personal injury sustained in intrastate commerce; and

(ii) except as otherwise provided in the agreement, that the carrier may not be civilly liable for the disability or death of the employee caused by the accidental personal injury.

(2) To enter into an agreement with any employees of a common carrier by railroad under paragraph (1) of this subsection, the carrier shall:

(i) submit, under seal, to the Commission a document that:

1. offers to enter into an agreement with each of its employees in the State under paragraph (1) of this subsection; and

2. refers to the applicable federal law; and

(ii) publish notice of the offer once a week for 3 successive weeks after the document is submitted to the Commission:

1. in a newspaper published in each county through which the carrier regularly runs a freight or passenger train; and

2. if the carrier regularly runs a freight or passenger train within Baltimore City, in 2 newspapers published in Baltimore City.

(3) Thirty days after a common carrier by railroad submits to the Commission a document making an offer under paragraph (2) of this subsection, each employee of the carrier shall be conclusively presumed to have entered into the agreement unless, within the 30 days, an employee submits to the Commission a written notice declining the offer.

(4) A common carrier by railroad or an employee of the carrier may end an agreement made under this subsection on the part of the carrier or employee by giving the Commission at least 30 days' written notice of intention to end the agreement.

(5) If a common carrier by railroad or an employee of the carrier gives the Commission notice of intention to end the agreement in accordance with paragraph (4) of this subsection, the agreement shall end on the part of the carrier or employee on the effective date of the notice.

(c) Subsequent injuries. -- A covered employee who has sustained an injury or partial disability

may waive by written contract the rights of the covered employee under this title for any subsequent injury that is naturally and proximately caused by the previous injury or disability if the covered employee:

(1) voluntarily enters into the contract; and

(2) executes the contract in the presence of 2 individuals who sign the contract as witnesses.

(d) Collective bargaining; alternative dispute resolution. --

(1) Subject to paragraph (5) of this subsection, as part of a collective bargaining agreement, an employer and a recognized or certified exclusive bargaining representative of employees under the purview of the Building and Construction Trade Council may agree to:

(i) an alternative dispute resolution system that modifies, supplements, or replaces all or part of the dispute prevention and dispute resolution processes contained in this title, and that may include but is not limited to mediation and binding arbitration;

(ii) the use of an agreed list of health care providers of medical treatment and expertise, which may be the source of all medical and related examinations, treatment, and testimony provided under this title;

(iii) the use of an agreed list of health care providers to conduct independent medical examinations;

(iv) a light duty, modified job, or return to work program; and

(v) a vocational rehabilitation or retraining program.

(2) (i) All settlements and resolutions of claims under an alternative dispute resolution system shall be submitted to the Commission for approval. The Commission shall approve settlements and resolutions of claims that the Commission determines are in compliance with this title.

(ii) All arbitration decisions under an alternative dispute resolution system shall be reviewable in the same manner and under the same procedures as a decision of a commissioner.

(3) An agreement under this subsection is not valid until it has been filed with the Commission

and determined by the Commission to be in compliance with this subsection and this title.

(4) Once an agreement under this subsection has been determined to be in compliance with this subsection and this title by the Commission it is binding on the employer and the bargaining unit.

(5) This subsection does not allow an agreement that:

(i) exempts a covered employee or an employer from a duty of the covered employee or employer under this title;

(ii) waives or limits a right or benefit of a covered employee or employer under this title, except as otherwise set forth in this subsection;

(iii) affects the imposition of an assessment on settlements and resolutions of claims, as described in §§ 9-806 and 9-1007 of this title; or

(iv) affects claims made under Subtitle 8 or Subtitle 10 of this title or claims made under Title 10, Subtitle 2 of this article.

(6) An agreement that violates paragraph (5) of this subsection is void.

(7) Notwithstanding paragraph (1)(ii) of this subsection, an injured employee whose injury or treatment is related to a medical condition for which the employee is being or has been treated may continue to seek treatment from the health care provider who is treating or has treated the condition.

(8) An agreement under this subsection shall provide for an appeal mechanism for a covered employee who wishes to use a health care provider who is not on the agreed list of health care providers.

(9) Nothing in this subsection requires an insurer to underwrite a program established under paragraph (1) of this subsection.

HISTORY: An. Code 1957, art. 101, §§ 32, 51; 1991, ch. 8, § 2; ch. 21, §§ 4, 5; 1992, ch. 22, § 1; 1997, ch. 591; 1998, ch. 21, § 1; 2002, ch. 173; 2008, ch. 36, § 6.

§ 9-105. Certificate of compliance

(a) Issuance of license or permit. -- Before a governmental unit may issue a license or permit to an employer to engage in an activity in which the employer might employ a covered employee, the employer shall submit to the governmental unit:

- (1) a certificate of compliance with this title; or
- (2) the number of a workers' compensation insurance policy or binder.

(b) Application forms. --

(1) The Commission shall provide blank application forms to each governmental unit that issues a license or permit under State law for applicants for the license or permit to use to get a certificate of compliance.

(2) The application form shall require information that will allow the Commission to determine whether the employer is in compliance with this title.

(c) Application procedure. -- To get a certificate of compliance with this title, an employer shall submit to the Commission an application on the form that the Commission provides.

(d) Determination. -- Within 10 days after the Commission receives an application form under this section, the Commission shall:

- (1) determine whether the applicant is in compliance with this title; and
- (2) mail to the applicant:
 - (i) a certificate of compliance; or
 - (ii) a notice of rejection, which shall include a statement of the reasons for the rejection.

(e) Reapplication or appeal. -- An applicant who receives a notice of rejection may:

- (1) reapply for a certificate of compliance; or

(2) appeal the rejection in accordance with §§ 10-222 and 10-223 of the State Government Article.

(f) Regulations. -- The Commission shall adopt reasonable regulations to administer this section.

(g) Appropriations. -- Money for the administration of this section shall be included in the annual State budget.

HISTORY: An. Code 1957, art. 101, § 31A; 1991, ch. 8, § 2; ch. 21, § 4; 1995, ch. 3, § 1.

SUBTITLE 2. COVERED EMPLOYEES AND EMPLOYERS

§ 9-201. Employers subject to title

This title applies to the following employers:

- (1) each person who has at least 1 covered employee; and
- (2) each governmental unit or quasi-public corporation that has at least 1 covered employee.

HISTORY: An. Code 1957, art. 101, § 21; 1991, ch. 8, § 2.

§ 9-202. Covered employee

(a) Presumption. -- An individual, including a minor, is presumed to be a covered employee while in the service of an employer under an express or implied contract of apprenticeship or hire.

(b) Unlawful employment -- Minors. -- A minor may be a covered employee under this section even if the minor is employed unlawfully.

(c) Overcoming presumption. -- To overcome the presumption of covered employment, an employer shall establish that the individual performing services is an independent contractor in

accordance with the common law or is specifically exempted from covered employment under this subtitle.

HISTORY: An. Code 1957, art. 101, § 21; 1991, ch. 8, § 2; 2009, ch. 188.

§ 9-203. Site of employment

(a) In general. -- Except as otherwise expressly provided, an individual is a covered employee while working for the employer of the individual:

(1) in this State;

(2) outside of this State on a casual, incidental, or occasional basis if the employer regularly employs the individual within this State; or

(3) wholly outside the United States under a contract of employment made in this State for the work to be done wholly outside of the United States.

(b) Incidental service in State. --

(1) An individual is not a covered employee while working in this State for an employer only intermittently or temporarily if:

(i) the individual and employer make a contract of hire in another state;

(ii) neither the individual nor the employer is a resident of this State;

(iii) the employer has provided workers' compensation insurance coverage under a workers' compensation or similar law of another state to cover the individual while working in this State;

(iv) the other state recognizes the extraterritorial provisions of this title; and

(v) the other state similarly exempts covered employees and their employers from its law.

(2) If an individual is exempted from coverage under this subsection and injured in this State while working for the employer of the individual, the sole remedy of the individual is the

workers' compensation or similar law of the state on which the exemption is based.

(3) A certificate from an authorized officer of the workers' compensation commission or similar unit of another state certifying that the employer is insured in that state and has provided extraterritorial insurance coverage for the employees of the employer while working within this State is prima facie evidence that the employer carries that compensation insurance.

(c) Outside State. -- Except as otherwise expressly provided, an individual who is employed wholly outside of this State is not a covered employee.

HISTORY: An. Code 1957, art. 101, § 21; 1991, ch. 8, § 2.

§ 9-204. Election to be subject to title

(a) In general. --

(1) Except as provided in subsection (b) of this section, with the approval of the Commission, an individual who otherwise would not be a covered employee and the employer of the individual may elect to make the individual a covered employee by filing a joint election with the Commission.

(2) The right to make an election under this subsection for an individual may be exercised by:

(i) an individual who is at least 16 years old; or

(ii) a parent or guardian of an individual who is less than 16 years old.

(b) Limitation. -- An individual who is not a covered employee due to § 9-223(c) of this subtitle and the employer of the individual may not make an election under this section if prohibited by federal law.

HISTORY: An. Code 1957, art. 101, § 31; 1991, ch. 8, § 2.

§ 9-205. Casual employee

A casual employee is not a covered employee.

HISTORY: An. Code 1957, art. 101, § 21; 1991, ch. 8, § 2.

§ 9-206. Corporate or limited liability company officer

(a) In general. -- Subject to subsection (b) of this section, an officer of a corporation or a member of a limited liability company is a covered employee if the officer or member provides a service for the corporation or limited liability company for monetary compensation.

(b) Election to be exempt. -- An individual who otherwise would be a covered employee under this section may elect to be exempt from coverage if:

(1) the individual:

(i) is an officer of a close corporation, as defined in § 4-101(b) of the Corporations and Associations Article; or

(ii) is an officer of a close corporation, as defined under the laws of the jurisdiction in which the corporation is incorporated;

(2) subject to subsection (c)(3) of this section, the individual is an officer of a corporation, other than a close corporation;

(3) the individual:

(i) is an officer of a corporation that earns at least 75% of its income from farm operations; and

(ii) owns at least 20% of the outstanding capital stock of the corporation;

(4) the individual:

(i) is an officer of a professional corporation, as defined in § 5-101(c) or (f) of the Corporations and Associations Article;

(ii) owns at least 20% of the outstanding capital stock of the corporation; and

(iii) performs for the corporation a professional service, as defined in § 5-101(g) of the Corporations and Associations Article; or

(5) the individual:

(i) is a member of a limited liability company, as defined in § 4A-101(k) of the Corporations and Associations Article; and

(ii) owns at least 20% of the outstanding interests in profits of the limited liability company.

(c) Notice of election. --

(1) A corporation or limited liability company shall submit to the Commission and to the insurer of the corporation or limited liability company a written notice that names the individual who has made an election to be exempt under subsection (b) of this section.

(2) An election under subsection (b)(1) or (b)(4) of this section is not effective until a corporation or limited liability company complies with this subsection.

(3) No more than five officers of a corporation described in subsection (b)(2) of this section may elect to be exempt under subsection (b)(2) of this section.

(d) Regulations. -- The Commission shall adopt regulations to carry out this section.

HISTORY: An. Code 1957, art. 101, §§ 21, 67; 1991, ch. 8, § 2; 1992, ch. 536; 1996, ch. 437; 1999, ch. 34, § 8; 2010, ch. 669; 2012, ch. 66, § 6; 2013, ch. 43.

§ 9-207. Department of Natural Resources -- Crew members and fire fighters

(a) Covered employee. -- A registered crew member, a paid law enforcement employee, or an individual engaged for fire fighting by the Department of Natural Resources is a covered employee.

(b) Site of employment. -- Notwithstanding § 9-203 of this subtitle, an individual engaged for fire fighting who otherwise would be a covered employee under subsection (a) of this section is a covered employee even if the fire fighting takes place outside of the State.

(c) Temporary or part-time employment. -- Notwithstanding § 9-205 of this subtitle, an individual who otherwise would be a covered employee under subsection (a) of this section is a covered employee even if engaged temporarily or part time.

(d) Employer. -- For the purpose of this title, the Department of Natural Resources is the employer of an individual who is a covered employee under this section.

HISTORY: An. Code 1957, art. 101, § 35A; 1991, ch. 8, § 2; 1999, ch. 179.

§ 9-208. Distributor or seller of newspapers

(a) Covered employee. -- An individual is a covered employee if the individual regularly distributes or sells newspapers:

(1) on the street; or

(2) to customers at their homes or places of business.

(b) Employer. -- For the purposes of this title, the employer of an individual who is a covered employee under this section is:

(1) each independent news agency for which the covered employee sells newspapers; and

(2) each publisher who engages the covered employee to distribute or sell its newspapers.

HISTORY: An. Code 1957, art. 101, § 21; 1991, ch. 8, § 2.

§ 9-209. Domestic servant

(a) In general. -- An individual who is employed as a domestic worker in a private home is a

covered employee with respect to a household if the individual earns at least \$ 1,000 in cash in a calendar quarter from that household.

(b) Election to make individual a covered employee. --

(1) Except as provided in paragraph (3) of this subsection, an individual and the employer of the individual may elect to make the individual a covered employee by filing a joint election with the Commission, if the individual:

(i) is employed as a domestic worker in a private home; and

(ii) would not be a covered employee with respect to a household under the provisions of subsection (a) of this section because the individual earns less than \$ 1,000 in cash in a calendar quarter from that household.

(2) The right to make an election under paragraph (1) of this subsection for an individual may be exercised by:

(i) an individual who is at least 16 years old; or

(ii) a parent or guardian of an individual who is less than 16 years old.

(3) For an individual who is not a covered employee due to § 9-223(c) of this subtitle, an employer may not make an election under this subsection if prohibited by federal law.

HISTORY: An. Code 1957, art. 101, § 21; 1991, ch. 8, § 2; 1996, ch. 207; 1998, ch. 57, § 1; 2007, ch. 230.

§ 9-210. Farm worker

(a) Definitions. --

(1) In this section the following words have the meanings indicated.

(2) "Farmer" includes a dairy farmer.

(3) (i) "Migrant farm worker" means an individual who is engaged in seasonal or other temporary agricultural employment and who is:

1. absent overnight from the permanent residence of the individual; or
2. transported to and from the place of employment of the individual by a day-haul operation.

(ii) "Migrant farm worker" does not include an individual who performs a service included in subsection (b) of this section if the individual:

1. does not operate equipment or machinery; and
2. is employed:
 - A. within 25 miles of the permanent residence of the individual; and
 - B. for not more than 13 weeks a year.

(b) Employee covered. -- Except as provided in subsection (c) of this section, an individual, including a migrant farm worker, is a covered employee if:

(1) the individual receives compensation from a farmer for any service other than office work, including:

- (i) operating a machine connected with animal, crop, or soil management;
- (ii) constructing or repairing a fixture or machine; or
- (iii) handling an animal or crop with or without a machine; and

(2) the farmer has:

- (i) at least 3 full-time employees; or
- (ii) an annual payroll of at least \$ 15,000 for full-time employees.

(c) Employee not covered. -- An individual, other than a migrant farm worker, who receives

compensation from a farmer for a service is not a covered employee if:

(1) the individual customarily is engaged in an independent business occupation of the same nature as that of the service performed;

(2) the individual is free from control and direction over the individual's performance of the service;

(3) the individual provides the individual's own equipment, materials, and tools; and

(4) the farmer is not required to withhold Social Security, unemployment, State, or federal taxes from the compensation paid to the individual.

HISTORY: An. Code 1957, art. 101, § 8; 1991, ch. 8, § 2; ch. 21, § 4; 1996, ch. 238.

§ 9-211. Helper

An individual is a covered employee if the individual is employed as a helper of another covered employee with the actual or constructive knowledge of the employer of the other covered employee, whether paid by the other covered employee or the employer.

HISTORY: An. Code 1957, art. 101, § 21; 1991, ch. 8, § 2.

§ 9-212. Jockey

(a) Scope of section. --

(1) This section applies to each jockey licensed by the State Racing Commission to ride a thoroughbred horse.

(2) This section applies only at a thoroughbred racing association or training facility under the jurisdiction of the State Racing Commission.

(b) Covered employee. -- A jockey is a covered employee while performing a service in

connection with racing or training a thoroughbred race horse.

(c) Employer. --

(1) For the purposes of this title, the joint employers of a jockey who is a covered employee under this section while performing a service in connection with racing are:

(i) the Maryland Jockey Injury Compensation Fund, Inc.; and

(ii) each licensed owner or trainer who is subject to assessment under § 11-906 of the Business Regulation Article at the time of any occurrence for which benefits are payable to the jockey under this title.

(2) For purposes of this title, the employer of a jockey who is a covered employee under this section while performing a service in connection with training is the trainer for whom the service is performed.

(3) This subsection does not affect any other provision of law or practice.

(d) Action against third party. -- Notwithstanding any other provision of law, this section may not be construed to bar an action by a jockey against a third party.

HISTORY: An. Code 1957, art. 101, § 21; 1991, ch. 8, § 2; 1992, ch. 22, § 1; ch. 26, § 2; ch. 543.

§ 9-213. Juror

(a) Covered employee. -- An individual on jury duty in a circuit court of a county is a covered employee.

(b) Employer. -- For the purposes of this title, the State is the employer of an individual who is a covered employee under this section.

HISTORY: An. Code 1957, art. 101, § 21; 1991, ch. 8, § 2.

§ 9-214. Maintenance worker or remodeler

An individual who is employed to do maintenance, remodeling, repairs, or similar work is not a covered employee if:

(1) the individual is employed for not more than 30 consecutive work days; and

(2) the work is done:

(i) in or about the private home of the employer; or

(ii) for an employer with no other covered employee, in or about the premises where the employer carries on a business, profession, or trade.

HISTORY: An. Code 1957, art. 101, § 21; 1991, ch. 8, § 2.

§ 9-215. Militia

(a) "Organized militia" defined. -- In this section, "organized militia" includes members of the Maryland Defense Force described under § 13-203 of the Public Safety Article.

(b) Covered employee. -- Each officer or enlisted member of the organized militia of the State is a covered employee in peace time, while the member is:

(1) training as part of the Maryland State Guard; or

(2) on active military duty in the organized militia under order of the Governor in time of:

(i) civil disorder;

(ii) labor disorder;

(iii) natural disaster; or

(iv) other events that require the support of the State Militia.

(c) Employer. -- For the purposes of this title, the State is the employer of an individual who is a covered employee under this section.

HISTORY: An. Code 1957, art. 101, § 33; 1991, ch. 8, § 2; 2006, ch. 369.

§ 9-216. Miner

(a) Definitions. --

(1) In this section the following words have the meanings indicated.

(2) "Mine" includes a drift, shaft, slope, tunnel, underground room, and any other underground places or workings.

(3) "Mineral" includes clay, coal, and iron.

(b) Covered employee. -- An individual is a covered employee while working in or about a mine to extract minerals.

(c) Site of work. -- An individual who is a covered employee under subsection (b) of this section is deemed to be employed entirely within this State if the mouth, principal entrance, or tippie of the mine in or about which the individual works is within this State, even if:

(1) a drift, shaft, slope, or other underground tunnel extends into an adjoining state; and

(2) the individual is injured or killed while working in the mine within the adjoining state.

HISTORY: An. Code 1957, art. 101, § 67; 1991, ch. 8, § 2.

§ 9-217. Official of political subdivision

(a) In general. -- Except as provided in subsection (b) of this section, each appointed or elected official of a political subdivision is a covered employee while performing an official duty.

(b) Member of board or commission. -- A nonsalaried member of a board or commission in Allegany, Carroll, Cecil, Charles, Frederick, Garrett, Queen Anne's, St. Mary's, Somerset, Washington, or Worcester County is not a covered employee.

HISTORY: An. Code 1957, art. 101, § 21; 1991, ch. 8, § 2.

§ 9-218. Owner operator of Class F (tractor) vehicle

(a) Applicability. --

(1) This section applies to an individual who is an owner operator of:

(i) a Class F (tractor) vehicle, as described in § 13-923 of the Transportation Article; or

(ii) except as provided in paragraph (2) of this subsection, a Class E (truck) vehicle, as described in § 13-916 of the Transportation Article, including a Class E (truck) vehicle described in § 13-919 of the Transportation Article.

(2) This section does not apply to the owner operator of a vehicle registered as a Class T vehicle under § 13-920 of the Transportation Article.

(b) Not covered employee under permanent or trip leasing agreement. -- An individual who is an owner operator is not a covered employee if:

(1) the individual and motor carrier make a written agreement for permanent or trip leasing;

(2) under the agreement:

(i) there is no intent to create an employer-employee relationship; and

(ii) the individual is paid rental compensation; and

(3) for federal tax purposes, the individual qualifies as an independent contractor.

(c) Principal contractor; subcontractor. --

(1) A motor carrier who enters into an agreement under subsection (b) of this section is considered a principal contractor under § 9-508 of this title.

(2) An individual who is an owner operator and enters into an agreement under subsection (b) of this section is:

(i) considered a subcontractor under § 9-508 of this title;

(ii) for purposes of being a subcontractor, not considered a covered employee of the entity that the individual operator owns; and

(iii) not entitled to compensation from a principal contractor under § 9-508 of this title.

(d) Proof of insurance. -- An individual who is an owner operator and enters into a written agreement under subsection (b) of this section shall provide proof of insurance for any covered employee of the individual as may be required by this title.

HISTORY: An. Code 1957, art. 101, § 21; 1991, ch. 8, § 2; 1995, ch. 390; 1996, ch. 113.

§ 9-219. Partner

(a) In general. -- Unless an election is made in accordance with this section, a partner of a partnership is not a covered employee.

(b) Election. -- A partnership may elect to make a partner a covered employee if the partner devotes full time to the business of the partnership.

(c) Notice of election. -- An election under this section is not effective until the partnership submits to the Commission and to the insurer of the partnership a written notice that names the individual to be a covered employee.

HISTORY: An. Code 1957, art. 101, §§ 21, 67; 1991, ch. 8, § 2; 1996, ch. 437.

§ 9-220. Police

(a) Auxiliary officers in Baltimore County and Howard County. --

(1) Each auxiliary police officer for Baltimore County is a covered employee while on duty as defined in the Baltimore County Police Manual of Rules, Regulations, and Procedures.

(2) Each auxiliary police officer for Howard County is a covered employee while on duty as defined in the Howard County Police Department's General Orders.

(b) Volunteer departments. --

(1) Except as provided in paragraph (2) of this subsection, each member of a volunteer police department is a covered employee.

(2) A member of a volunteer police department in Allegany, Carroll, Cecil, Charles, Garrett, Queen Anne's, St. Mary's, Somerset, Washington, or Worcester County is not a covered employee.

(3) For the purposes of this title, the political subdivision of the State where the department is organized is the employer of the covered employee in the department.

HISTORY: An. Code 1957, art. 101, §§ 21, 35C; 1991, ch. 8, § 2; 1999, ch. 530; 2007, ch. 52.

§ 9-221. Prisoner

(a) In general. -- A prisoner is a covered employee while the prisoner is:

(1) working for a board of county commissioners, a county council, or a county roads board if:

(i) the county pays the prisoner a wage or stipulated sum; and

(ii) the prisoner sustains permanent partial or permanent total disability or dies, as a result of an accidental personal injury; or

(2) engaged in work while under the supervision of Maryland Correctional Enterprises in the Federal Prison Industry Enhancement Program as provided in § 10-308(d) of the Correctional

Services Article.

(b) Payment for work. -- In Allegany, Anne Arundel, Charles, Montgomery, Washington, and Wicomico counties, payment of a stipend or other money into an account that a correctional institution administers for a prisoner does not constitute payment of a wage or stipulated sum under subsection (a)(1)(i) of this section.

HISTORY: An. Code 1957, art. 101, § 35; 1991, ch. 8, § 2; ch. 21, § 5; 1994, ch. 296; 1997, ch. 388; 1999, ch. 64; 2005, ch. 124.

§ 9-222. Real estate salesperson and associate real estate broker

An individual is not a covered employee if the individual:

- (1) is a licensed real estate salesperson or a licensed associate real estate broker;
- (2) is affiliated with a licensed real estate broker under a written agreement;
- (3) is compensated solely on a commission basis; and
- (4) for federal tax purposes, qualifies as an independent contractor.

HISTORY: An. Code 1957, art. 101, § 21; 1991, ch. 8, § 2.

§ 9-223. Recipient under federal law

(a) In general. -- An individual is not a covered employee if the individual is eligible under a federal law, other than the Social Security Act, for benefits for an accidental personal injury or occupational disease.

(b) Rule of liability. -- An individual for whom federal law provides a rule of liability for injury or death is not a covered employee.

(c) Intrastate and interstate or foreign commerce -- Severable. -- Notwithstanding subsections

(a) and (b) of this section, if an individual for whom federal law provides a rule of liability or method of compensation and the employer of the individual engage both in intrastate commerce and in foreign or interstate commerce, the individual is a covered employee when engaged in intrastate commerce to the extent that the mutual connection of the individual and the employer with intrastate commerce is clearly distinguishable and separable from foreign or interstate commerce.

HISTORY: An. Code 1957, art. 101, §§ 21, 26, 31; 1991, ch. 8, § 2; ch. 21, § 5; 1992, ch. 22, § 1.

§ 9-224. Recipient of public assistance

(a) Covered employee. -- An individual is a covered employee while the individual is assigned to a job under:

(1) general public assistance to employables; or

(2) a work experience program that the Department of Human Resources administers as part of its employment initiatives project.

(b) Employer. -- For the purposes of this title, the Department of Human Resources is the employer of an individual who is a covered employee under this section.

HISTORY: 1991, ch. 8, § 2.

§ 9-225. Resident in facility

A resident in a facility as defined in § 10-101(e) of the Health - General Article is not a covered employee.

HISTORY: An. Code 1957, art. 101, § 21; 1991, ch. 8, § 2.

§ 9-226. School aide

(a) Covered employee. -- A volunteer aide under § 6-106 of the Education Article is a covered employee.

(b) Employer. -- For the purposes of this title, the Board of School Commissioners of Baltimore City or the board of education for any other county is the employer of an individual who is a covered employee under this section in that county.

HISTORY: 1991, ch. 8, § 2; 1996, ch. 10, § 16.

§ 9-227. Sole proprietor

(a) In general. -- Unless an election is made in accordance with this section, a sole proprietor is not a covered employee.

(b) Election. -- A sole proprietor may elect to be a covered employee if the proprietor devotes full time to the business of the proprietorship.

(c) Notice of election. -- An election under this section is not effective until the proprietor submits to the Commission and to the insurer of the proprietor a written notice that names the individual who is to be a covered employee.

HISTORY: An. Code 1957, art. 101, §§ 21, 67; 1991, ch. 8, § 2; 1996, ch. 437; 2002, ch. 227.

§ 9-228. Students

(a) Student with disability. --

(1) A student with a disability as defined in § 8-401(a)(2) of the Education Article is a covered employee while working for an employer without wages in a work assignment in accordance with § 8-402 of the Education Article.

(2) For the purposes of this title, the employer for whom the student with a disability works is the employer of that student.

(b) Student intern or teacher. --

(1) An individual is a covered employee while working as a student intern or student teacher under § 6-107 of the Education Article.

(2) For the purposes of this title, the Board of School Commissioners of Baltimore City or the board of education for any other county is the employer of an individual who is a covered employee under this subsection in that county.

(c) Students in unpaid work-based learning experience positions. --

(1) A student is a covered employee when the student has been placed with an employer in an unpaid work-based learning experience coordinated by a county board or private noncollegiate institution under § 7-114 of the Education Article.

(2) For purposes of this title, the employer for whom the student works in the unpaid work-based learning experience is the employer of that student.

(d) DORS consumer. --

(1) (i) In this subsection the following words have the meanings indicated.

(ii) "DORS" means the Division of Rehabilitation Services in the State Department of Education.

(iii) "DORS consumer" has the meaning stated in § 21-310 of the Education Article.

(2) A DORS consumer is a covered employee when the individual has been placed by DORS with an employer in an unpaid work-based learning experience.

(3) For purposes of this title, the employer for whom the DORS consumer works in the unpaid work-based learning experience is the employer of the DORS consumer.

HISTORY: An. Code 1957, art. 101, § 21; 1991, ch. 8, § 2; 1996, ch. 10, § 16; 2003, ch. 354; 2006, ch. 563; 2007, ch. 229; 2008, ch. 363; 2010, ch. 209; 2012, ch. 420.

§ 9-229. Training

An individual who is a covered employee while regularly employed or while serving an apprenticeship continues to be a covered employee while the individual receives instruction or training outside the regular work hours of the individual that relates to the employment or apprenticeship of the individual.

HISTORY: An. Code 1957, art. 101, § 21; 1991, ch. 8, § 2; 1992, ch. 22, § 1.

§ 9-230. Vanpool operator or passenger

(a) Definitions. --

(1) In this section the following words have the meanings indicated.

(2) "Ridesharing" has the meaning stated in § 11-150.1 of the Transportation Article.

(3) "Vanpool operation" has the meaning stated in § 11-175.1(a) of the Transportation Article.

(b) Scope of section. -- This section applies only with respect to a vanpool operation in which the vehicle:

(1) is leased, operated, or owned by an employer for ridesharing;

(2) operates between the residence and place of employment of the passengers; and

(3) is insured in accordance with § 13-422 of the Transportation Article.

(c) Operator. -- An individual is a covered employee while operating a vehicle in a vanpool operation as part of the duties of the individual for the employer.

(d) Passenger. -- A passenger in a vanpool operation is not a covered employee.

HISTORY: An. Code 1957, art. 101, § 21; 1991, ch. 8, § 2.

§ 9-231. Volunteer -- In certain subdivisions

Except as otherwise expressly provided by law, a volunteer worker for a unit of a political subdivision in Allegany, Carroll, Cecil, Charles, Frederick, Garrett, Queen Anne's, St. Mary's, Somerset, Washington, or Worcester County is not a covered employee.

HISTORY: An. Code 1957, art. 101, § 21; 1991, ch. 8, § 2.

§ 9-231.1. Volunteer -- Unit of State government

(a) Covered employee. -- A volunteer worker for a unit of State government is a covered employee.

(b) Employer. -- For the purposes of this title, the State is the employer of an individual who is a covered employee under this section.

(c) Benefits. -- Notwithstanding any other provision of this title, benefits provided under this section shall consist only of medical services and treatment under Subtitle 6, Part IX of this title for a compensable injury.

HISTORY: 2008, ch. 541.

§ 9-232. Volunteer -- Civil defense

(a) Covered employee. -- Each regularly enrolled volunteer member or trainee of the Maryland Emergency Management Agency established under the Maryland Emergency Management Agency Act is a covered employee.

(b) Employer. -- For the purposes of this title, the State is the employer of each individual who is a covered employee under this section.

HISTORY: An. Code 1957, art. 101, § 21; 1991, ch. 8, § 2; 2006, ch. 369.

§ 9-232.1. Volunteer -- Civil defense emergency volunteers

(a) Definitions. --

(1) In this section the following words have the meanings indicated.

(2) (i) "Civil defense volunteer" means an individual who is precertified or preregistered with a unit of State government to provide services at the request of the State during an emergency.

(ii) "Civil defense volunteer" includes a credentialed or registered member of a professional volunteer health corps established by a unit of State government.

(3) (i) "Emergency" has the meaning stated in § 14-101(c) of the Public Safety Article.

(ii) "Emergency" includes:

1. a catastrophic health emergency as defined in § 14-3A-01 of the Public Safety Article;
and

2. any event for which the State provides volunteer services in accordance with:

A. the provisions for a state of emergency under § 14-107 or § 14-108 of the Public Safety Article;

B. The Interstate Emergency Management and Civil Defense Compact under § 14-602 of the Public Safety Article; or

C. The Emergency Management Assistance Compact under § 14-702 of the Public Safety Article.

(b) Coverage in general. --

(1) Subject to paragraph (2) of this subsection, a civil defense volunteer is a covered employee

if the individual sustains an injury in the course of providing services at the request of the State during an emergency while the emergency may reasonably be considered to be in existence, or during scheduled emergency training.

(2) A civil defense volunteer is not entitled to workers' compensation benefits under this section if the individual is otherwise covered by workers' compensation insurance for services performed at the request of the State during an emergency or scheduled emergency training.

(3) A civil defense volunteer must file a claim in this State to be eligible for benefits under this section.

(4) For the purpose of computing the average weekly wage of a civil defense volunteer who is covered under this section, the wages of the covered employee shall be:

(i) for a covered employee who received a salary or wages from other employment at the time of the accidental personal injury or last injurious exposure, the salary or wages from the other employment; or

(ii) for a covered employee who did not receive a salary or wages from other employment at the time of the accidental personal injury or last injurious exposure:

1. if the covered employee derived income from a source other than salary or wages at the time of the accidental personal injury or last injurious exposure, an amount that allows the maximum compensation under this title;

2. if the covered employee was not engaged in a business enterprise at the time of the accidental personal injury or last injurious exposure, the weekly income last received by the covered employee when engaged in a business enterprise; or

3. if the covered employee had never been engaged in a business enterprise at the time of the accidental personal injury or last injurious exposure, an amount that allows the minimum compensation under this title.

HISTORY: 2006, ch. 369.

§ 9-233. Volunteer -- Deputy sheriff in Cecil County; police officer in Frederick County; auxiliary volunteer in Charles County Sheriff's Office

(a) Cecil County. -- Each volunteer deputy sheriff of Cecil County is a covered employee while performing work assigned by the sheriff of the county.

(b) Frederick County. -- Each volunteer police officer of Frederick County is a covered employee entitled to medical benefits under §§ 9-660 and 9-661 of this title while performing work assigned by the Sheriff of Frederick County.

(c) Charles County. -- Each auxiliary volunteer of the Charles County Sheriff's Office is a covered employee while performing work assigned by the Sheriff of the county.

HISTORY: An. Code 1957, art. 101, § 35B; 1991, ch. 8, § 2; 1999, ch. 530; 2009, chs. 539, 540.

§ 9-234. Volunteer fire or rescue company

(a) Definitions. --

(1) In this section the following words have the meanings indicated.

(2) (i) "On duty" means:

1. fighting a fire;
2. performing a duty of a member of an advanced life support unit or an ambulance, first aid, or rescue squad in a volunteer company;
3. except as provided in subparagraph (ii) of this paragraph, performing a duty that the volunteer company assigns to the member;
4. performing a duty that a written bylaw or rule of government adopted for the volunteer company assigns to the member;
5. going to or from performing a duty included under item 1, 2, 3, or 4 of this subparagraph;

6. accompanying an accident or fire victim while being transported to a hospital in a helicopter;

7. returning to the home station of the individual after accompanying a victim under item 6 of this subparagraph;

8. performing a duty assigned to a member of a fire company appointed as a deputy sheriff under § 7-302 or § 7-303 of the Public Safety Article; or

9. performing a duty assigned to an individual appointed to serve as a member of the fire police in Washington County under § 7-304 of the Public Safety Article.

(ii) "On duty" does not include attendance of a member of a volunteer company at a social function unless a written bylaw or rule of government adopted for the volunteer company requires the attendance or participation of the member.

(3) "Volunteer company" means:

(i) a volunteer advanced life support unit;

(ii) a volunteer ambulance company or squad;

(iii) a volunteer fire company or department;

(iv) a volunteer rescue company, department, or squad; and

(v) a volunteer fire police unit.

(b) Scope of coverage. -- An individual who is a covered employee under subsection (h)(2), (k), (n), (o)(2), (p)(1)(ii), (r)(3), (v), or (x)(1) of this section continues to be a covered employee while:

(1) accompanying an accident or fire victim who is being transported to a hospital in a helicopter; and

(2) returning to the home station of the individual after accompanying a victim under item (1) of this subsection.

(c) Allegany County. --

(1) Unless an election is made under paragraph (2) of this subsection, a member of a volunteer company in Allegany County is not a covered employee.

(2) The Board of County Commissioners for Allegany County may provide by resolution for members of a volunteer company in the county to be covered employees while on duty.

(d) Anne Arundel County. -- A member of a volunteer company in Anne Arundel County is a covered employee while on duty.

(e) Baltimore County. -- A member of a volunteer company in Baltimore County is a covered employee while on duty.

(f) Calvert County. -- A member of a volunteer company in Calvert County is a covered employee while on duty.

(g) Caroline County. -- A member of a volunteer company in Caroline County is a covered employee while on duty.

(h) Carroll County. --

(1) Unless an election is made in accordance with this subsection, a member of a volunteer company in Carroll County is not a covered employee.

(2) A volunteer fire company in Carroll County may elect to make its members covered employees.

(3) A volunteer fire company that elects to make its members covered employees shall pay the premium for the coverage.

(i) Cecil County. --

(1) A member of a volunteer company in Cecil County who meets the guidelines set under paragraph (2) of this subsection is a covered employee while on duty.

(2) The Board of County Commissioners of Cecil County may set guidelines to determine the eligibility of members of a volunteer company in the county for coverage under this subsection.

(3) The guidelines under paragraph (2) of this subsection may not limit the number of covered employees in a volunteer company.

(j) Charles County. --

(1) Unless an election is made in accordance with this subsection, a member of a volunteer company in Charles County is not a covered employee.

(2) The Board of County Commissioners of Charles County may provide by resolution for members of a volunteer company in the county to be covered employees while on duty.

(k) Dorchester County. -- A member of a volunteer company in Dorchester County is a covered employee.

(l) Frederick County. -- A member of a volunteer company in Frederick County is a covered employee while on duty.

(m) Garrett County. --

(1) Unless an election is made under paragraph (2) of this subsection, a member of a volunteer company in Garrett County is not a covered employee.

(2) The Board of County Commissioners for Garrett County may provide by resolution for members of a volunteer company in the county to be covered employees while on duty.

(n) Harford County. -- A member of a volunteer company in Harford County is a covered employee.

(o) Howard County. -- An individual is a covered employee:

(1) while on duty as an actively participating member of a volunteer company in Howard County; or

(2) if not covered under item (1) of this subsection, while a member of a volunteer company in Howard County participating in the activities of the volunteer company.

(p) Kent County. --

(1) An individual is a covered employee:

(i) while on duty as an actively participating member of a volunteer company in Kent County; or

(ii) if not covered under item (i) of this paragraph, while a member of a volunteer company in Kent County.

(2) The Board of County Commissioners of Kent County shall impose annually a tax on assessable property in the county in an amount that is sufficient to pay for coverage under this subsection.

(3) The Board of County Commissioners of Kent County may limit the number of members in a volunteer company in the county.

(q) Montgomery County. -- A member of a volunteer company in Montgomery County is a covered employee while on duty.

(r) Prince George's County. -- An individual is a covered employee:

(1) while on duty as a member of the Laurel volunteer rescue squad in Prince George's County; or

(2) while a member of a volunteer company in Prince George's County.

(s) Queen Anne's County. -- A member of a volunteer company in Queen Anne's County is a covered employee while on duty.

(t) St. Mary's County. --

(1) Unless an election is made under paragraph (2) of this subsection, a member of a volunteer company in St. Mary's County is not a covered employee.

(2) The Board of County Commissioners for St. Mary's County may provide by resolution for the members of a volunteer company in the county to be covered employees while on duty.

(u) Somerset County. --

(1) Unless an election is made under paragraph (2) of this subsection, a member of a volunteer company in Somerset County is not a covered employee.

(2) The Board of County Commissioners for Somerset County may provide by resolution for members of a volunteer company in the county to be covered employees while on duty.

(v) Talbot County. --

(1) A member of a volunteer company in Talbot County is a covered employee.

(2) The County Council of Talbot County may provide by resolution for members of a volunteer company in the county to be covered employees while on duty.

(w) Washington County. --

(1) Unless an election is made under paragraph (2) of this subsection, a member of a volunteer company in Washington County is not a covered employee.

(2) The Board of County Commissioners for Washington County may provide by resolution for members of a volunteer company in the county to be covered employees while on duty.

(x) Wicomico County. --

(1) A member of a volunteer company in Wicomico County is a covered employee.

(2) The County Council of Wicomico County may provide by resolution for members of a volunteer company in the county to be covered employees while on duty.

(y) Worcester County. --

(1) Unless an election is made under paragraph (2) of this subsection, a member of a volunteer company in Worcester County is not a covered employee.

(2) The Board of County Commissioners for Worcester County may provide by resolution for members of a volunteer company in the county to be covered employees while on duty.

(z) Employer. --

(1) For the purposes of this title, a member of a volunteer company who is a covered employee under this section is an employee of the political subdivision of the State where the volunteer company is organized.

(2) A member of a volunteer company shall be covered while on duty by a policy of workers' compensation insurance.

(aa) Paid covered employee. -- A member of a volunteer company who is a covered employee under this section may not be considered a paid covered employee of the volunteer company for receiving as a membership benefit a yearly stipend of \$ 5,200 or less to help offset out-of-pocket expenses.

HISTORY: An. Code 1957, art. 101, §§ 21, 34, 35C; 1991, ch. 8, § 2; ch. 21, § 4; ch. 440, §§ 1, 3; ch. 575, §§ 1, 2; 1992, ch. 22, § 1; 1996, chs. 118, 343; 2000, ch. 61, § 1; 2005, ch. 552; 2006, ch. 44, §§ 1, 6; 2008, ch. 36; 2012, chs. 506, 507.

§ 9-235. Worker for aid or sustenance

An individual is not a covered employee while performing a service only for aid or sustenance from a charitable or religious organization.

HISTORY: An. Code 1957, art. 101, § 21; 1991, ch. 8, § 2.

§ 9-236. Service in course of business, occupation, profession, or trade of employer

An individual is a covered employee while performing a service for compensation in the course of the business, occupation, profession, or trade of an employer if, in relation to the service, the individual:

(1) does not maintain a separate business;

(2) neither represents to the public that the individual provides the service nor provides the service to the public; and

(3) does not have a covered employee.

HISTORY: An. Code 1957, art. 101, § 21; 1991, ch. 8, § 2.

SUBTITLE 3. STATE WORKERS' COMPENSATION COMMISSION

§ 9-301. Established

There is a State Workers' Compensation Commission established as an independent unit of the State government.

HISTORY: An. Code 1957, art. 41, § 10-301; art. 101, § 1; 1991, ch. 8, § 2.

§ 9-302. Membership

(a) Composition; appointment of members. -- The Commission consists of 10 members, appointed by the Governor with the advice and consent of the Senate.

(b) Qualifications. --

(1) Each member of the Commission:

(i) at the time of appointment, shall be at least 30 years old; and

(ii) for at least 5 years immediately before appointment, shall have been a resident of the State.

(2) Each member of the Commission shall:

(i) be a resident of the State;

(ii) be a citizen and qualified voter of the State;

(iii) have been admitted to practice law in the State; and

(iv) be distinguished for integrity, sound legal knowledge, and wisdom.

(c) Oath. -- Before taking office, each appointee to the Commission shall take the oath required by Article I, § 9 of the Maryland Constitution.

(d) Tenure; vacancies. --

(1) The term of a member is 12 years.

(2) The terms of members are staggered as required by the terms provided for members of the Commission on October 1, 1991.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(e) Removal. --

(1) Subject to the hearing requirements of this subsection, the Governor may remove a member from office for:

(i) inefficiency;

(ii) neglect of duty; or

(iii) malfeasance in office.

(2) Before the Governor removes a member, the Governor shall give the member:

(i) a copy of the charges against the member; and

(ii) an opportunity for a public hearing.

(3) At least 10 days before the hearing, the Governor shall give the member notice of the time and place of the hearing.

(4) The member may be represented at the hearing by counsel.

(f) Temporary assignment of former commissioners. --

(1) In this subsection, "former commissioner" means a commissioner who previously served as a member of the Commission.

(2) Except as provided in subsection (c) of this section, the Chairman may assign a former commissioner to conduct hearings if the former commissioner:

(i) served, in the aggregate, at least 3 years as a commissioner;

(ii) meets the standards established by this section as well as any additional standards established by rules of the Commission; and

(iii) consents to the temporary assignment.

(3) A former commissioner may not be recalled for temporary assignment if the commissioner:

(i) was removed or involuntarily retired from the Commission pursuant to the Constitution or laws of this State;

(ii) voluntarily retired by reason of disability; or

(iii) had the most recent service as a commissioner terminated by rejection of confirmation by the Senate.

(4) (i) A former commissioner recalled under this section may not be temporarily assigned for more than 120 working days in any calendar year.

(ii) If on the 120th working day in a calendar year that a former commissioner has served in a temporary assignment under this section the hearing on the case then being heard by the commissioner is not concluded, the Commission may extend the commissioner's assignment until that case is concluded.

(5) A former commissioner temporarily assigned under this section has all the power and authority of a member of this Commission.

(6) (i) 1. Notwithstanding the receipt of a retirement allowance, a former commissioner temporarily assigned under this section shall receive per diem compensation for each day actually engaged in the discharge of Commission duties.

2. The per diem shall be based on the current annual salary of a member of the Commission and computed on the basis of 246 working days a year.

3. If the sum of the per diem payments received by a former commissioner in any one calendar year, when added to the retirement allowance the former commissioner is entitled to receive during that calendar year, equals the annual salary of a member of the Commission, no further per diem may be paid to the former commissioner in that calendar year.

(ii) 1. A deduction may not be withheld for health benefits or retirement purposes from the compensation paid to a former commissioner during the time of the temporary assignment.

2. A commissioner on temporary assignment does not earn additional creditable service under the State retirement or pension system.

(iii) In addition to the per diem compensation provided for in subparagraph (i) of this paragraph, a former commissioner shall be reimbursed for reasonable expenses actually incurred by reason of the temporary assignment, in accordance with Standard State Travel Regulations.

(7) The Commission shall adopt regulations consistent with those for the recall of former circuit and District Court judges.

HISTORY: An. Code 1957, art. 101, §§ 1, 6; 1991, ch. 8, § 2; 1992, ch. 533; 2006, ch. 44.

§ 9-303. Chairman

(a) In general. -- From among the members of the Commission, the Governor shall appoint a chairman.

(b) Responsibilities for administration. --

(1) The Chairman is the administrative and executive head of the Commission.

(2) Subject to paragraph (3) of this subsection, the Chairman has final authority over:

(i) the administrative work of the Commission and its employees; and

(ii) the assignment of cases for hearing.

(3) The Chairman does not have final authority over:

(i) the adoption of regulations by the Commission; or

(ii) the conduct of hearings and the determination of cases by the other members of the Commission.

(c) Conduct of hearings. -- The Chairman shall conduct hearings unless the hearings interfere with the adequate and efficient performance of the administrative and executive functions of the Chairman.

HISTORY: An. Code 1957, art. 101, § 2; 1991, ch. 8, § 2; 2009, ch. 60.

§ 9-304. Full-time duties; compensation

(a) Full-time duties. --

(1) Each member of the Commission shall devote full time to the duties of office.

(2) While on the Commission, a member may not:

(i) practice law;

(ii) hold any political employment under State or federal law; or

(iii) hold any other position or engage in any business that interferes or is inconsistent with any duty of office.

(b) Compensation and reimbursement for expenses. --

(1) Each member of the Commission is entitled to:

(i) the salary provided in the State budget; and

(ii) reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(2) The annual salary of a member of the Commission:

(i) shall at least equal the salary provided in the State budget for a judge of the district court; and

(ii) for the Chairman, shall be at least \$ 1,500 more than the salary of the other members.

(3) Except as provided in paragraphs (1) and (2) of this subsection, a member of the Commission may not receive a fee or perquisite for the discharge of any duty of office.

HISTORY: An. Code 1957, art. 101, §§ 1, 3; 1991, ch. 8, § 2.

§ 9-305. Staff

(a) In general. --

(1) The Chairman of the Commission may employ a staff for the Commission in accordance with the State budget.

(2) Except as otherwise provided by law, the staff is in the State Personnel Management System.

(b) Secretary. -- The Secretary of the Commission shall:

(1) perform each duty that the Chairman of the Commission assigns; and

(2) keep, at the principal office of the Commission, a public record of:

(i) each proceeding of the Commission, including:

1. each claim that the Commission considers; and

2. each award that the Commission allows to an employee or any person for a service;

(ii) each document required to be submitted by the Commission or by a regulation of the Commission;

(iii) each decision of the Commission; and

(iv) each order passed by the Commission.

(c) **Absence of Secretary.** -- The Chairman may designate another employee of the Commission to exercise the powers and carry out the duties of the Secretary whenever the Secretary is absent.

HISTORY: An. Code 1957, art. 101, §§ 4, 6, 7; 1991, ch. 8, § 2; 1993, ch. 22, § 1; 1997, ch. 743.

§ 9-306. Offices

The Commission:

(1) shall have its principal office in Baltimore City; and

(2) may have in the State any branch offices that the Chairman considers necessary to carry out this title.

HISTORY: An. Code 1957, art. 101, §§ 1, 6; 1991, ch. 8, § 2.

§ 9-307. Hours

(a) In general. -- Except for legal holidays, the Commission shall be in session continuously and open for business during business hours Monday through Friday.

(b) Public. -- Each session shall be open to the public.

(c) Record of proceedings. -- The Commission may adjourn without recording notice of the adjournment in the record of proceedings.

HISTORY: An. Code 1957, art. 101, § 4; 1991, ch. 8, § 2.

§ 9-308. Hearings; decisions; orders; transmission of orders.

(a) In general. -- Any member of the Commission may conduct a hearing or other investigation for the Commission.

(b) Decisions; orders. -- A decision or order of a member of the Commission shall be considered a decision or order of the Commission.

(c) Transmission of copy of decision or order to party's attorney or to unrepresented party. -- A copy of each decision or order shall be sent to each party's attorney of record and to each unrepresented party:

(1) by first-class mail; or

(2) by electronic means, if the party's attorney of record consents or, if the party is unrepresented, the party consents.

HISTORY: An. Code 1957, art. 101, § 2; 1991, ch. 8, § 2; 2013, ch. 16.

§ 9-309. Miscellaneous powers and duties

(a) Regulations. -- The Commission may adopt regulations to carry out this title.

(b) Oaths; certification of official acts. -- To carry out this title, a member of the Commission, the Secretary of the Commission, a special examiner, or an inspector may:

(1) administer an oath; or

(2) certify to an official act.

(c) Depositions. --

(1) To carry out this title, a member of the Commission, the Secretary of the Commission, a special examiner, or any inspector may take a deposition as provided by law.

(2) In an investigation, the Commission may cause the deposition of a witness to be taken as provided by law.

(d) Seal. --

(1) The Commission shall have a seal inscribed with the words "Workers' Compensation Commission, State of Maryland -- Official Seal".

(2) The Commission shall use the seal for the authentication of its awards, orders, and proceedings.

(e) Approval of insurance policy. -- The Commission may approve the form of a workers' compensation insurance policy under § 19-402 of the Insurance Article.

HISTORY: An. Code 1957, art. 101, §§ 2, 6, 7, 8, 9; 1991, ch. 8, § 2; 1997, ch. 70, § 4.

§ 9-310. Determination of amount of penalty or fine

In determining the amount of a financial penalty or fine to be imposed under this title, the Commission, in a fair and equitable manner, shall consider:

(1) the seriousness and effect of the violation;

- (2) the good faith of the violator;
- (3) the violator's history of previous violations; and
- (4) the ability of the violator to pay.

HISTORY: An. Code 1957, art. 101, § 39B; 1991, ch. 8, § 2.

§ 9-310.1. Benefits wrongfully obtained; reimbursement; interest

(a) Reimbursement. -- In any administrative action before the Commission, if it is established by a preponderance of the evidence that a person has knowingly obtained benefits under this title to which the person is not entitled, the Commission shall order the person to reimburse the insurer, self-insured employer, the Uninsured Employers' Fund, or the Subsequent Injury Fund for the amount of all benefits that the person knowingly obtained and to which the person is not entitled.

(b) Interest. -- An order of reimbursement required under subsection (a) of this section shall include interest on the amount ordered to be reimbursed at a rate of 1.5% per month from the date the Commission notifies the person of the amount to be reimbursed.

HISTORY: 1993, ch. 171; 2004, ch. 471; 2012, ch. 570, § 6.

§ 9-310.2. Referral of certain fraud cases to Insurance Fraud Division; reports

(a) Referral of certain fraud cases to Insurance Fraud Division. -- In any administrative action before the Commission, if it is established by a preponderance of the evidence that a person knowingly affected or knowingly attempted to affect the payment of compensation, fees, or expenses under this title by means of a fraudulent representation, the Commission shall refer the case on the person to the Insurance Fraud Division in the Maryland Insurance Administration.

(b) Reports. -- In its annual report under § 9-312 of this subtitle, the Commission shall report

the number of cases referred to the Insurance Fraud Division in the Maryland Insurance Administration under this section.

HISTORY: 2004, ch. 471.

§ 9-311. Subpoenas

(a) In general. -- To carry out this title, a member of the Commission, the Secretary of the Commission, a special examiner, or an inspector may issue a subpoena for the attendance of a witness to testify or the production of a relevant document or record.

(b) On request -- In general. -- On request of a party to a proceeding before the Commission, the Commission shall issue a subpoena for a hearing before the Commission for:

(1) personal appearance of a witness; or

(2) a deposition by the party, as authorized under § 9-719 of this title.

(c) On request -- Pending issues. -- On a request of a party to a claim on which issues are currently pending, the Commission shall issue a subpoena for relevant documentation to be produced at the office of the requesting party and distributed to all parties to the claim in accordance with regulations adopted by the Commission.

(d) Penalty for bad faith request. -- If the Commission, after an evidentiary hearing, determines that a subpoena was requested in bad faith, the Commission may assess against the requesting party the whole cost of the proceeding, including reasonable attorney's fees.

(e) Service fee. -- An officer who serves a subpoena issued under this section is entitled to the same fee as the sheriff in the county where the witness is subpoenaed would be entitled.

HISTORY: An. Code 1957, art. 101, §§ 8, 9; 1991, ch. 8, § 2; 1992, ch. 22, § 1; 2005, ch. 192; 2014, ch. 89.

§ 9-312. Reports of Commission

(a) Annual report. -- As soon as practicable after the end of the fiscal year, the Chairman of the Commission shall submit an annual report to the Governor.

(b) Contents. -- The annual report shall include:

(1) any suggestions to improve the administration of this title;

(2) a detailed statement of receipts and disbursements of the Commission; and

(3) statistical analyses of:

(i) the costs of workers' compensation;

(ii) experiences; and

(iii) industrial injuries.

HISTORY: An. Code 1957, art. 101, § 14; 1991, ch. 8, § 2; 2014, ch. 38.

§ 9-313. Reports and analyses of insurance provider

(a) In general. -- The Commission may require an insurer or a self-insurer to submit a report or analysis that the Commission considers useful to increase public understanding of the purpose, administrative procedures, costs, coverage, or effectiveness of workers' compensation in the State.

(b) Case payment report. --

(1) Each insurer and each self-insurer, that provides workers' compensation insurance in the State, shall submit a quarterly case payment report to the Commission:

(i) on the printed forms or computer tapes provided to the insurer or self-insurer by the Commission, including a specially designated printed form or computer tape for the last case payment report for each covered employee; and

(ii) that includes all information required by the Commission or an explanation of why any required information is omitted from the report.

(2) An insurer or a self-insurer who is required to submit a report under paragraph (1) of this subsection shall submit the report within 40 days after the date on which the Commission mails the printed forms or computer tapes to the insurer or self-insurer.

(c) Fine. -- The Commission may assess a fine not exceeding \$ 1,000 against an insurer or a self-insurer if the insurer or self-insurer:

(1) fails to timely file a report under subsection (b) of this section; or

(2) files a report under subsection (b) of this section that includes inaccurate or insufficient information.

(d) Waiver; additional time. -- If the Commission determines that, after due diligence an insurer or a self-insurer is unable to timely submit the report required under subsection (b) of this section, the Commission may:

(1) waive the fine specified under subsection (c) of this section; and

(2) grant the insurer or self-insurer the additional time that may be necessary.

HISTORY: An. Code 1957, art. 101, § 14; 1991, ch. 8, § 2; 2012, ch. 570, § 6.

§ 9-314. Forms

(a) Distribution -- Employer. -- The Commission shall provide employers, without charge, blank forms for:

(1) an application for benefits;

(2) notice of compensation;

(3) proof of employment and wage earnings;

(4) proof of death;

(5) proof of injury;

(6) proof of medical attendance; and

(7) any other purpose that the Commission considers proper and advisable.

(b) Regulations. -- The Commission shall adopt regulations that provide for distribution and ready availability of the forms required under this section.

HISTORY: An. Code 1957, art. 101, § 13; 1991, ch. 8, § 2.

§ 9-315. Funding of Occupational Safety and Health Program

The Commission shall pay the costs of the administration of the Occupational Safety and Health Program by the Commissioner of Labor and Industry under Title 5 of this article.

HISTORY: An. Code 1957, art. 101, § 68; 1991, ch. 8, § 2.

§ 9-315.1. Administrative costs for workforce fraud program

The Commission shall pay the costs of the administration of the workforce fraud program by the Commissioner of Labor and Industry under Title 3, Subtitle 9 of this article.

HISTORY: 2009, ch. 188.

§ 9-316. Payment of expenses; tax

(a) Definitions. --

(1) In this section the following words have the meanings indicated.

(2) "Insured payroll" means the payroll of an employer who:

(i) is subject to this title; and

(ii) has obtained insurance for its covered employees from an insurer.

(3) "Insurer" means:

(i) a stock corporation or mutual association that is authorized under the Insurance Article to provide workers' compensation insurance in the State;

(ii) a governmental self-insurance group that meets the requirements of § 9-404 of this title;

(iii) a self-insurance group of private employers that meets the requirements of Title 25, Subtitle 3 of the Insurance Article; or

(iv) an individual employer that self-insures in accordance with § 9-405 of this title.

(b) Payment of expenses. -- Out of money appropriated for the maintenance of the Commission, the State shall pay the salaries, administrative expenses, and all other expenses of the Commission, including:

(1) the costs of the administration of the Occupational Safety and Health Program by the Commissioner of Labor and Industry under Title 5 of this article;

(2) The costs of the administration of the workforce fraud program by the Commissioner of Labor and Industry under Title 3, Subtitle 9 of this article; and

(3) any cost incurred by the State, including contribution as an employer, because of the participation of a Commissioner in the Judges' Retirement System of the State of Maryland.

(c) Tax. -- The Commission shall assess against and collect from each insurer a tax for the maintenance of the Commission.

(d) Calculation of tax. --

(1) Before each fiscal year, the Commission shall calculate for each insurer the tax for the

maintenance of the Commission in accordance with this section.

(2) First, the Commission shall calculate the assessment percentage by:

(i) determining the appropriation for the expenses of the Commission for the next fiscal year as:

1. decreasing by an amount equal to the revenues received during the current fiscal year under § 9-319(a)(2) and (3) of this subtitle;

2. decreasing by any amount the expenditures projected to the end of the current fiscal year that are expected to be less than the appropriation for that fiscal year; and

3. adjusting for any variances between the projected and actual expenditures for the previous fiscal year; and

(ii) dividing the amount determined under item (i) of this paragraph by the total insured payroll of all insurers.

(3) Then, the Commission shall apply the assessment percentage determined under paragraph (2) of this subsection to the insured payroll of each insurer.

(e) Enforcement. -- Payment of the tax assessed under this section may be enforced by a civil action in the name of the State.

(f) Disposition of money collected. -- The Commission shall pay the money that it collects for the tax under this section into the Workers' Compensation Fund in the State Treasury established under § 9-319 of this subtitle to reimburse the State for the expense of administering this title.

(g) Powers of Commission. -- The Commission may:

(1) examine payrolls and require reports from employers and insurers as may be reasonable and necessary to carry out this section; and

(2) adopt regulations to carry out this section.

HISTORY: An. Code 1957, art. 101, § 17; 1991, ch. 8, § 2; 1992, ch. 22, § 1; 1994, ch. 468; 1995,

ch. 3, § 1; 1996, ch. 38; 1997, ch. 70, § 4; 1999, ch. 316; 2002, ch. 487; 2003, ch. 21, § 1; 2009, ch. 188; 2012, ch. 570, § 6.

§ 9-317. Advisory Committee

(a) Establishment. -- There is an Advisory Committee on the budget of the Commission.

(b) Membership. --

(1) The Advisory Committee consists of 12 members, appointed by the Governor with the advice and consent of the Senate.

(2) Each member appointed by the Governor serves at the pleasure of the Governor.

(3) The Governor shall appoint a chairman from among the members of the Advisory Committee.

(c) Appointments. -- In making the appointments, the Governor shall:

(1) ensure that each geographic region of the State is represented;

(2) ensure that various disciplines within the workers' compensation community are represented, including:

(i) business;

(ii) labor;

(iii) the insurance industry;

(iv) the vocational rehabilitation industry;

(v) the medical profession;

(vi) claimants' bar; and

(vii) defense bar; and

(3) consider, in consultation with the chairman, the recommendations made by representatives of each of these disciplines.

(d) Term limits. --

(1) The term of an appointed member is 3 years.

(2) The terms of members are staggered.

(3) A member may be reappointed.

(4) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(5) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(e) Compensation and reimbursement. -- Members of the Advisory Committee shall serve without compensation, but each member shall be reimbursed for necessary travel and other expenses incurred in the performance of official committee duties in accordance with the Standard State Travel Regulations.

(f) Space, budget analysis, and staff. -- The Commission shall provide meeting space, budget analysis, and staff support for the Advisory Committee.

HISTORY: 2002, ch. 487.

§ 9-318. Operating budget

(a) Prepare tentative budget. -- By September 1 of each year, the Commission shall prepare a tentative operating budget for the next fiscal year and submit it to the Advisory Committee established under § 9-317 of this subtitle.

(b) Review tentative budget. -- By November 1 of each year, the Advisory Committee shall

review the tentative operating budget and make recommendations to the Commission as to any changes in any budget area of the Commission.

(c) Consideration of recommendations of Advisory Committee by Commission. -- The Commission shall give due consideration to the recommendations of the Advisory Committee prior to submitting the Commission's final budget to the Governor.

(d) Report. -- By December 1 of each year, the Advisory Committee shall submit a report to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly on the recommendations that it made to the Commission on the Commission's next fiscal year budget.

(e) Consideration of recommendations of Advisory Committee by Governor. -- The Governor shall give due consideration to the recommendations of the Advisory Committee.

HISTORY: 2002, ch. 487.

§ 9-319. Workers' Compensation Fund

(a) Establishment and contents. -- There is a Workers' Compensation Fund that consists of:

(1) all revenue received through the imposition and collection of the assessment tax under § 9-316 of this subtitle;

(2) income from investments that the Treasurer makes for the State Fund; and

(3) any other fee, examination assessment, or revenue received by the Commission under this title.

(b) Payment of fines and penalties collected. -- Notwithstanding subsection (a) of this section, the Commission shall pay all fines and penalties collected by the Commission under this title into the General Fund of the State.

(c) Purpose. -- The purpose of the Fund is to pay:

(1) the costs and expenses incurred by the Commission that are related to the operation of

the Commission, including:

(i) expenditures authorized under this title;

(ii) the cost of State employees specifically assigned to the Commission; and

(iii) reasonable expenses incurred by the Advisory Committee on the budget of the Commission established under § 9-317 of this subtitle; and

(2) any other expense authorized in the State budget, including costs specified under § 9-315 of this subtitle.

(d) Costs and expenses. --

(1) All the costs and expenses of the Commission shall be included in the State budget.

(2) Any expenditures from the Fund to cover costs and expenses of the Commission may only be made:

(i) with an appropriation from the Fund approved by the General Assembly in the annual State budget; or

(ii) by the budget amendment procedure provided for in § 7-209 of the State Finance and Procurement Article.

(3) (i) If, in any given fiscal year, the amount of the revenue collected by the Commission and deposited into the Fund exceeds the actual appropriation for the Commission, plus an additional 1 percent provision for unanticipated expenditures over the actual appropriation for the Commission, the excess amount shall be carried forward within the Fund for the purpose of reducing the assessment fee imposed by the Commission for the following fiscal year.

(ii) If, in any given year, the amount of revenue collected by the Commission and deposited into the Fund is insufficient to cover the expenditures of the Commission because of an unforeseen emergency and expenditures are made in accordance with the budget amendment procedure provided for in § 7-209 of the State Finance and Procurement Article, an additional assessment for the expenditures may be made.

(e) Custodian. --

(1) The State Treasurer is the custodian of the Fund.

(2) The State Treasurer shall deposit payments received from the Commission into the Fund.

(f) Character of Fund. --

(1) The Fund is a continuing, nonlapsing fund and is not subject to § 7-302 of the State Finance and Procurement Article, and may not be deemed a part of the General Fund of the State.

(2) Unless otherwise provided by law, no part of the Fund may revert or be credited to:

(i) the General Fund of the State; or

(ii) a special fund of the State.

HISTORY: 2002, ch. 487.

SUBTITLE 4. INSURANCE COVERAGE

§ 9-401. Definitions

(a) In general. -- In this subtitle the following words have the meanings indicated.

(b) Authorized insurer. -- "Authorized insurer" means a stock corporation or mutual association that is authorized under the Insurance Article to provide workers' compensation insurance in the State.

(c) Governmental self-insurance group. -- "Governmental self-insurance group" means a group of governmental employers that self-insures in accordance with § 9-404 of this subtitle.

HISTORY: 1991, ch. 8, § 2; 1997, ch. 70, § 4.

§ 9-402. Coverage required

(a) In general. -- Subject to subsections (b) through (f) of this section, each employer shall secure compensation for all covered employees of the employer by:

(1) maintaining insurance with an authorized insurer;

(2) participating in a governmental self-insurance group that meets the requirements of § 9-404 of this subtitle;

(3) participating in a self-insurance group of private employers that meets the requirements of Title 25, Subtitle 3 of the Insurance Article;

(4) maintaining self-insurance for an individual employer in accordance with § 9-405 of this subtitle; or

(5) having a county board of education or private noncollegiate institution secure compensation under § 8-402(c) or § 7-114(d) of the Education Article.

(b) Jurors. -- The State shall secure compensation for jurors by maintaining insurance with the Chesapeake Employers' Insurance Company and paying to the Company the premiums set by the Board for the Company as necessary to provide compensation for jurors.

(c) Organized militia. -- The Adjutant General shall secure compensation for officers and enlisted members of the organized militia of the State by maintaining insurance with the Chesapeake Employers' Insurance Company or an authorized insurer.

(d) Owner or trainer of racehorse. -- A licensed owner or trainer of a racehorse who is considered an employer under § 9-212 of this title is in compliance with the requirements of this subtitle if the owner or trainer is in compliance with the requirements of § 11-906 of the Business Regulation Article.

(e) Recipient of public assistance. -- The Secretary of Human Resources shall secure compensation for a recipient of public assistance who is a covered employee under § 9-224 of this title by maintaining insurance with the Chesapeake Employers' Insurance Company and paying to the Company the premiums set by the Board for the Company as necessary to provide compensation for those individuals.

(f) Volunteer fire company or rescue squad -- Anne Arundel, Kent, and Prince George's counties. -- Anne Arundel, Kent, and Prince George's counties shall secure compensation for members of a volunteer fire company or volunteer rescue squad by maintaining insurance with the Chesapeake Employers' Insurance Company or an authorized insurer.

HISTORY: An. Code 1957, art. 101, §§ 16, 21, 34; 1991, ch. 8, § 2; 1992, ch. 22, § 1; ch. 26, § 2; 1996, ch. 10, § 16; 1997, ch. 70, § 4; 2003, ch. 354; 2006, ch. 601; 2007, ch. 229; 2012, ch. 570, § 6; 2013, ch. 676.

§ 9-402.1. Failure to properly classify employee

(a) "Knowingly" defined. -- In this section, "knowingly" means having actual knowledge, deliberate ignorance, or reckless disregard for the truth.

(b) Prohibited. -- An employer may not fail to properly classify an individual as an employee.

(c) Order to secure compensation. -- If the Commission determines that an employer failed to properly classify an individual as an employee, the Commission shall order the employer to secure compensation for the covered employee in accordance with § 9-407 of this subtitle.

(d) Civil penalty. -- If the Commission determines that an employer knowingly failed to properly classify an individual as an employee, the Commission shall, in conformance with § 9-310 of this title, assess a civil penalty of not more than \$ 5,000.

(e) Knowing advisement to take action to violate section prohibited. --

(1) A person may not knowingly advise an employer to take action for the purpose of violating this section.

(2) A person found in violation of this subsection shall be subject to a civil penalty of not more than \$ 20,000.

(f) Double administrative penalties. -- An employer found to have knowingly violated this section who has also been found previously to have knowingly violated this section by a final order of a court or administrative unit may be assessed double the administrative penalties set

forth in subsection (d) of this section for the new violation.

(g) Number of orders. --

(1) An employer may be assessed civil penalties by only one order of a court or administrative unit for the same actions constituting a knowing failure to properly classify an individual as an employee.

(2) Notwithstanding paragraph (1) of this subsection, an employer may be ordered to make restitution, pay any interest due, and otherwise comply with all applicable laws and regulations by orders of a court, the Commission, and all other relevant administrative units, including the Comptroller, the Office of Unemployment Insurance, the Insurance Administration, and the Division of Labor and Industry.

(h) Notice of violation to other agencies. -- If the Commission determines that an employer has failed to properly classify an individual as an employee, the Commission shall promptly notify the Office of Unemployment Insurance, the Division of Labor and Industry, the insurer, if any, the Insurance Administration, and the Comptroller.

(i) Cooperation with other agencies. -- As authorized by State and federal law, units within the Department of Labor, Licensing, and Regulation and the Department of Budget and Management, the Secretary of State, the Comptroller, the Insurance Administration, and other State agencies shall cooperate and share information concerning any suspected violation of this title.

(j) Regulations. -- The Commission may adopt regulations to carry out this section.

HISTORY: 2009, ch. 60, § 5; ch. 188.

§ 9-403. Approval of self-insurance plan

(a) Required. -- An employer who wishes to self-insure under § 9-402(a)(4) of this subtitle and a governmental self-insurance group that wishes to establish joint self-insurance coverage under § 9-402(a)(2) of this subtitle shall get the approval of the Commission for the self-insurance plan of the employer or governmental self-insurance group.

(b) Application. -- To get the approval of the Commission for a self-insurance plan, an employer or a governmental self-insurance group shall apply to the Commission.

(c) Determination by Commission. -- The Commission may approve or deny the use of a self-insurance plan by an employer or a governmental self-insurance group.

(d) Application after denial. -- If the Commission denies the use of a self-insurance plan by an employer or governmental self-insurance group, the employer or governmental self-insurance group may apply to the Commission for approval to use another self-insurance plan.

(e) Revocation or modification of approval. -- The Commission may revoke or modify its approval for use of a self-insurance plan if the Commission determines that revoking or modifying approval is reasonably necessary:

(1) to secure compensation; or

(2) except for a public service corporation under the jurisdiction of the Public Service Commission, to prevent or otherwise to reduce accidents.

HISTORY: An. Code 1957, art. 101, § 16A; 1991, ch. 8, § 2; 2013, ch. 43, § 5.

§ 9-404. Governmental self-insurance group.

(a) Requirements of Commission. --

(1) The Commission shall adopt regulations:

(i) setting procedures and other requirements for a governmental self-insurance group to establish joint self-insurance coverage; and

(ii) establishing guidelines to govern the investment of surplus moneys not needed to meet current obligations in a manner that will ensure solvency of the Fund and timely payment of claims.

(2) Notwithstanding the local government guidelines set forth in §§ 17-101 and 17-102 of the Local Government Article, the guidelines required by paragraph (1)(ii) of this subsection shall:

(i) state the types of investment in which moneys may be invested;

(ii) include guidance for the prudent investment of moneys based on claim experience, cash flow projections, income, liquidity, investment ratings, and risk;

(iii) authorize investments of moneys in equities, provided that investments do not exceed 30 percent of the surplus moneys;

(iv) provide that moneys not invested in equities shall be invested in accordance with §§ 17-101 and 17-102 of the Local Government Article; and

(v) prohibit borrowing of funds for the express purpose of investing those funds.

(b) Authorized participants. --

(1) Subject to paragraph (2) of this subsection, a governmental self-insurance group may be formed by any combination of:

(i) counties;

(ii) municipal corporations;

(iii) boards of education; and

(iv) community colleges.

(2) A board of education or a community college may not participate in a governmental self-insurance group unless its participation is approved by its county governing body.

(c) Scope of county participation. -- Subject to the approval of the Commission, a county that participates in a governmental self-insurance group may include in the coverage:

(1) any unit created or funded by the county; and

(2) regardless of funding:

(i) the board of education of the county;

(ii) a community college in the county;

(iii) a regional community college in the county;

(iv) a housing agency of the county created under Division II of the Housing and Community Development Article;

(v) a municipal corporation in the county;

(vi) a multicounty unit that operates in the county; or

(vii) a revenue authority in the county created by the State.

(d) Certificate of authority. --

(1) A governmental self-insurance group shall get a certificate of authority from the Commission before the governmental self-insurance group may self-insure.

(2) To qualify for a certificate under this subsection, a governmental self-insurance group shall satisfy the Commission that the governmental self-insurance group:

(i) is financially able to pay compensation;

(ii) will have annual gross premiums of at least \$ 250,000; and

(iii) meets each other requirement under this section, § 9-403 of this subtitle, or a regulation of the Commission.

(3) The Commission shall issue a certificate of authority to each governmental self-insurance group that meets the requirements of paragraph (2) of this subsection.

(e) Security. --

(1) At any time, the Commission may require a governmental self-insurance group to secure payment of compensation by depositing with the Commission security:

(i) in a form accepted by a circuit court for investment of trust money; and

(ii) in the amount set by the Commission.

(2) On application and subject to paragraph (3) of this subsection, the Commission shall return security that a governmental self-insurance group has deposited under this subsection if:

(i) the members of the governmental self-insurance group cease to be subject to this title or secure compensation through an authorized insurer; and

(ii) the governmental self-insurance group has not been liable on a claim for compensation during the 5 years immediately after the day on which the event described in item (i) of this paragraph occurred.

(3) After reviewing the application and before returning security to a governmental self-insurance group, the Commission may require the governmental self-insurance group to submit to the Commission an indemnity bond in an amount equal to the value of the security.

(f) Excess insurance. -- Each governmental self-insurance group to which the Commission issues a certificate of authority shall have excess insurance in the amount set by the Commission.

(g) Local office. --

(1) Each governmental self-insurance group shall have in the State an office run by a competent individual who handles all of the workers' compensation work in the State for the governmental self-insurance group.

(2) Each governmental self-insurance group shall establish a toll-free telephone number through which an employee or claimant, or a representative of an employee or claimant, may make direct telephone inquiries during regular business hours.

(3) The Commission may assess a fine not exceeding \$ 1,000 on a governmental self-insurance group that does not comply with this subsection.

(h) Advance premium discounts. -- The Commission shall provide for advance premium discounts that are competitive with private insurance advance premium discounts.

(i) Reports; examination of business; assessments. --

(1) To be informed of the continuing financial responsibility of each governmental self-insurance group, the Commission:

(i) shall require each governmental self-insurance group to submit a report at least once each year; and

(ii) may examine the governmental self-insurance group under oath and make other examination of the business of the governmental self-insurance group.

(2) Each year, the Commission shall assess each governmental self-insurance group an amount not exceeding \$ 1,500 to be used for actuarial studies and audits.

(j) Revocation of approval. --

(1) The Commission shall revoke the approval of a governmental self-insurance group to self-insure under this section if the governmental self-insurance group:

(i) fails to deposit securities with or submit a bond to the Commission in accordance with subsection (e) of this section;

(ii) fails to submit satisfactory reports to the Commission in accordance with subsection (i)(1)(i) of this section; or

(iii) otherwise fails to satisfy the Commission that it is financially able to self-insure.

(2) Whenever the Commission revokes approval for a governmental self-insurance group to self-insure under this section, the members of the governmental self-insurance group immediately shall secure compensation through an authorized insurer.

(3) If a member of a governmental self-insurance group fails to secure compensation as required by paragraph (2) of this subsection, the Commission shall order the member of the governmental self-insurance group to secure compensation through an authorized insurer.

(k) Insolvency. -- If a governmental self-insurance group becomes insolvent, the Uninsured Employers' Fund shall pay the outstanding obligations of the governmental self-insurance group for compensation.

HISTORY: An. Code 1957, art. 101, §§ 16A, 18; 1991, ch. 8, § 2; ch. 21, § 4; 1992, ch. 22, § 1; 2000, ch. 468; 2006, chs. 64, 163; 2007, chs. 41, 42; 2012, ch. 570, § 6; 2013, chs. 136, 676.

§ 9-405. Self-insurance by individual employer

(a) Financial ability. -- Each employer who wants to self-insure under this section shall satisfy the Commission that the employer is financially able to pay compensation.

(b) Security. --

(1) At any time, the Commission may require an employer who self-insures under this section to secure payment of compensation by depositing with the Commission:

(i) security:

1. in a form accepted by a circuit court for investment of trust money; and
2. in the amount set by the Commission; or

(ii) letters of credit:

1. issued by a financial institution acceptable to the Commission;
2. in a form acceptable to and in the amount set by the Commission; and
3. that meet the requirements of § 9-408(c) of this subtitle.

(2) On application and subject to paragraph (3) of this subsection, the Commission shall return security that an employer has deposited under this subsection if the employer:

(i) ceases to be subject to this title or secures compensation through an authorized insurer; and

(ii) has not been liable on a claim for compensation during the 5 years immediately after the day on which the event described in item (i) of this paragraph occurred.

(3) After reviewing the application and before returning security to an employer the Commission may require the employer to submit to the Commission an indemnity bond in an amount equal to the value of the security.

(c) Excess insurance. -- The Commission may require an employer who self-insures under this

section to maintain and submit to the Commission a policy of excess insurance that is in the amount and contains the provisions that the Commission considers necessary to provide security for the payment of compensation and medical treatment.

(d) Local office. --

(1) Each employer that self-insures under this section shall have in the State competent individuals who:

(i) handle and adjust each disputed workers' compensation claim in the State for the employer; and

(ii) possess the knowledge and experience to handle and adjust each disputed claim.

(2) Each employer that self-insures under this section shall establish a toll-free telephone number through which an employee or claimant, or a representative of an employee or claimant, may make direct telephone inquiries during regular business hours.

(3) The Commission may assess a fine not exceeding \$ 1,000 on a self-insurer that does not comply with this subsection.

(e) Reports; examination of business; assessment. --

(1) To be informed of the continuing financial responsibility of each employer who self-insures under this section, the Commission:

(i) shall require each employer to submit a report at least once each year; and

(ii) may examine the employer under oath and make other examination of the business of the employer.

(2) Each year, the Commission shall assess each self-insured employer an amount not exceeding \$ 1,500 to be used for actuarial studies and audits.

(f) Revocation of approval. --

(1) The Commission shall revoke the approval of an employer to self-insure under this section if the employer:

(i) fails to deposit securities or letters of credit with or submit a bond to the Commission in accordance with subsection (b) of this section;

(ii) fails to submit satisfactory reports to the Commission in accordance with subsection (e)(1)(i) of this section; or

(iii) otherwise fails to satisfy the Commission that it is financially able to secure compensation.

(2) (i) On notice to the Commission pursuant to § 9-408(c)(2) of this subtitle that a letter of credit will not be renewed, the Commission shall demand that, within 30 days, the employer provide:

1. other satisfactory proof of the employer's financial ability to pay; or
2. another letter of credit in the same amount from another qualifying financial institution.

(ii) If the employer fails to furnish other satisfactory proof of the financial ability to pay or another acceptable letter of credit within 30 days after receipt of a demand under subparagraph (i) of this paragraph, the Commission shall demand payment from the financial institution of, and the financial institution shall pay, the amount represented by the letter of credit.

(iii) The Commission shall hold as security under this section the amount demanded and received under subparagraph (ii) of this paragraph until the employer can provide:

1. satisfactory proof of the employer's financial ability to pay; or
2. another acceptable letter of credit.

(iv) On provision of satisfactory proof of financial ability to pay or an acceptable letter of credit, the Commission shall return the amount of the letter of credit to the employer or the financial institution, whichever has the equitable right to that amount at the time that the proof or letter of credit is provided.

(3) Whenever the Commission revokes approval for an employer to self-insure under this section, the employer immediately shall secure compensation through an authorized insurer.

(4) If an employer fails to secure compensation as required by paragraph (3) of this subsection, the Commission shall order the employer to secure compensation through an authorized insurer.

(g) Insolvency. -- If an employer who self-insures under this section becomes insolvent, the Uninsured Employers' Fund shall pay the outstanding obligations of the employer for compensation.

HISTORY: An. Code 1957, art. 101, §§ 16A, 18; 1991, ch. 8, § 2; ch. 21, § 4; chs. 510, 669; 2000, ch. 468; 2001, ch. 609; 2006, ch. 163; 2012, ch. 570, § 6; 2013, ch. 676.

§ 9-406. Commission -- Exercise of discretion

In exercising the discretion granted to the Commission by this subtitle, the Commission shall consider:

(1) each condition or fact about security and prompt payment of compensation, including:

(i) the financial strength of the employer;

(ii) the number of covered employees of the employer;

(iii) the degree of hazard for covered employees of the employer;

(iv) the likelihood that several covered employees will be injured or killed in the same accident; and

(v) if the employer wants to use an authorized insurer, the reputation of the authorized insurer for fair and prompt settlement of claims for compensation; and

(2) except for a public service corporation under the jurisdiction of the Public Service Commission, each condition or fact about prevention of accidents, including the relative effect of each method authorized under this subtitle on the employer and covered employees of the employer.

HISTORY: An. Code 1957, art. 101, § 16A; 1991, ch. 8, § 2.

§ 9-407. Failure to insure.

(a) Hearing. -- If an employer fails to secure compensation for all covered employees of the employer as required by § 9-402 of this subtitle, the Commission shall:

(1) issue an order directing the employer to attend a hearing to show cause as to why the employer should not be:

(i) required to secure compensation for all covered employees of the employer;

(ii) found in violation of § 9-402 of this subtitle; and

(iii) assessed a penalty for noncompliance with § 9-402 of this subtitle; and

(2) set the hearing as soon as practicable.

(b) Order to insure. -- If, following the hearing, the Commission finds that the employer failed to secure compensation for all covered employees of the employer as required by § 9-402 of this subtitle, the Commission shall:

(1) order the employer to:

(i) secure and maintain insurance for all covered employees of the employer through an authorized insurer; and

(ii) submit proof of insurance coverage to the Commission; and

(2) order the employer to pay a penalty not to exceed \$ 10,000 to the Uninsured Employers' Fund.

(c) Failure to comply with order -- Hearing; penalty. --

(1) If an employer fails to comply with an order to insure with an authorized insurer issued under subsection (b) of this section or under § 9-404(j) or § 9-405(f) of this subtitle, within 30 days after the Commission issues the order, the Commission shall set a hearing as soon as practicable.

(2) If, following the hearing, the Commission finds that the employer failed to comply with an order issued under subsection (b)(1) of this section, the Commission may order the employer to pay a penalty not to exceed \$ 10,000 to the Uninsured Employers' Fund.

(d) Failure to pay penalty; liens; liability. --

(1) An employer's failure to pay a penalty under this section constitutes a default in payment of compensation and judgment shall be entered as in a case of default in payment of

compensation.

(2) (i) A penalty that is payable under this section is a lien against the assets of the employer that is liable for the penalty.

(ii) A lien under subparagraph (i) of this paragraph is subordinate to claims for unpaid wages and prior recorded liens.

(3) The Uninsured Employers' Fund may bring a civil action to collect any penalty ordered under this section or any assessment ordered under Subtitle 10 of this article.

(4) (i) Notwithstanding any other provision of law, if the uninsured employer is a corporation the assets of which are not sufficient to satisfy any penalty ordered under this section, any officer of the corporation who has responsibility for the general management of the corporation in the State is jointly and severally liable for the penalty if the corporate officer knowingly failed to secure compensation for the covered employees of the employer.

(ii) Notwithstanding any other provision of law, if the uninsured employer is a limited liability company the assets of which are not sufficient to satisfy any penalty ordered under this section, any member of the limited liability company who has responsibility for the general management of the limited liability company in the State is jointly and severally liable for the penalty if a member of the limited liability company who has general management responsibility knowingly failed to secure compensation for the covered employees of the employer.

HISTORY: An. Code 1957, art. 101, § 16A; 1991, ch. 8, § 2; 1992, ch. 22, § 1; 1995, ch. 3, § 22; 2012, ch. 570, § 6; 2013, ch. 43, § 5; ch. 676.

§ 9-408. Restrictions on agreements

(a) Agreement for indemnity. -- Any agreement of an employer that indemnifies the employer for damage or loss due to the injury of an employee caused by accidental personal injury, occupational disease, or negligence of the employer or an agent, officer, or servant of the employer is void unless the agreement also covers the liability of the employer to pay compensation under this title.

(b) Agreement for payment of premium. -- An agreement by a covered employee to pay to or for an employer any part of a premium for coverage under this title is void.

(c) Letters of credit. -- A letter of credit issued under this subtitle shall contain:

(1) a provision that the letter of credit is irrevocable for the term specified;

(2) a provision that the letter of credit renews automatically at the end of the term unless written notice of nonrenewal is sent by the financial institution to the Commission by registered mail at least 60 days before the date of expiration;

(3) a statement that the letter of credit is not subject to any condition or qualification; and

(4) a statement that the letter of credit is governed by the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce.

HISTORY: An. Code 1957, art. 101, §§ 19, 51; 1991, ch. 8, § 2; ch. 21, § 5; chs. 510, 669.

§ 9-409. Judicial review

An employer may appeal any decision of the Commission under this subtitle to the circuit court for the county in which the employer resides.

HISTORY: An. Code 1957, art. 101, § 16A; 1991, ch. 8, § 2.

§ 9-410. Workers' compensation insurer office and personnel requirements

(a) Local office. -- An insurer that provides workers' compensation insurance in the State shall have in the State competent individuals who:

(1) handle and adjust each disputed workers' compensation claim in the State for the insurer; and

(2) possess the knowledge and experience to handle and adjust each disputed claim.

(b) Toll-free telephone number. -- An insurer that provides workers' compensation insurance in the State shall establish a toll-free telephone number through which an insured or claimant, or a representative of an insured or claimant, may make direct telephone inquiries during regular business hours.

(c) Penalty. -- The Commission may assess a fine not exceeding \$ 1,000 on an insurer that does not comply with this section.

HISTORY: 2000, ch. 468; 2001, ch. 29, § 1; ch. 609.

SUBTITLE 5. ENTITLEMENT TO AND LIABILITY FOR COMPENSATION

§ 9-501. Accidental personal injury

(a) In general. -- Except as otherwise provided, each employer of a covered employee shall provide compensation in accordance with this title to:

(1) the covered employee for an accidental personal injury sustained by the covered employee; or

(2) the dependents of the covered employee for death of the covered employee:

(i) resulting from an accidental personal injury sustained by the covered employee; and

(ii) occurring within 7 years after the date of the accidental personal injury.

(b) Employer liable regardless of fault. -- An employer is liable to provide compensation in accordance with subsection (a) of this section, regardless of fault as to a cause of the accidental personal injury.

HISTORY: An. Code 1957, art. 101, §§ 15, 36; 1991, ch. 8, § 2; ch. 21, § 5.

§ 9-502. Occupational disease -- Compensation

(a) "Disablement" defined. -- In this section, "disablement" means the event of a covered employee becoming partially or totally incapacitated:

(1) because of an occupational disease; and

(2) from performing the work of the covered employee in the last occupation in which the covered employee was injuriously exposed to the hazards of the occupational disease.

(b) Scope of application to employer and insurer. -- Subsection (c) of this section applies only to:

(1) the employer in whose employment the covered employee was last injuriously exposed to the hazards of the occupational disease; and

(2) the insurer liable for the risk when the covered employee, while employed by the employer, was last injuriously exposed to the hazards of the occupational disease.

(c) Liability of employer and insurer. -- Subject to subsection (d) of this section and except as otherwise provided, an employer and insurer to whom this subsection applies shall provide compensation in accordance with this title to:

(1) a covered employee of the employer for disability of the covered employee resulting from an occupational disease; or

(2) the dependents of the covered employee for death of the covered employee resulting from an occupational disease.

(d) Limitation on liability. -- An employer and insurer are liable to provide compensation under subsection (c) of this section only if:

(1) the occupational disease that caused the death or disability:

(i) is due to the nature of an employment in which hazards of the occupational disease exist and the covered employee was employed before the date of disablement; or

(ii) has manifestations that are consistent with those known to result from exposure to a biological, chemical, or physical agent that is attributable to the type of employment in which the covered employee was employed before the date of disablement; and

(2) on the weight of the evidence, it reasonably may be concluded that the occupational disease was incurred as a result of the employment of the covered employee.

(e) False representation -- Compensation prohibited. -- A covered employee or a dependent of the covered employee is not entitled to compensation for a disability or death that results from an occupational disease if, when the covered employee began employment with the employer, the covered employee falsely represented in writing that the covered employee had not been disabled, laid off, or compensated in damages or otherwise, due to the occupational disease for which the covered employee or dependent is seeking compensation.

HISTORY: An. Code 1957, art. 101, §§ 22, 23, 67; 1991, ch. 8, § 2.

THIS SECTION HAS MORE THAN ONE DOCUMENT WITH VARYING EFFECTIVE DATES.

§ 9-503. Occupational disease -- Presumption -- Firefighters, fire fighting instructors, rescue squad members, advanced life support unit members, and police officers [Amendment subject to abrogation].

(a) Heart disease, hypertension, and lung disease -- Firefighters, fire fighting instructors, rescue squad members, and advanced life support unit members. -- A paid firefighter, paid fire fighting instructor, paid rescue squad member, paid advanced life support unit member, or sworn member of the Office of the State Fire Marshal employed by an airport authority, a county, a fire control district, a municipality, or the State or a volunteer firefighter, volunteer fire fighting instructor, volunteer rescue squad member, or volunteer advanced life support unit member who is a covered employee under § 9-234 of this title is presumed to have an occupational disease that was suffered in the line of duty and is compensable under this title if:

(1) the individual has heart disease, hypertension, or lung disease;

(2) the heart disease, hypertension, or lung disease results in partial or total disability or death; and

(3) in the case of a volunteer firefighter, volunteer fire fighting instructor, volunteer rescue squad member, or volunteer advanced life support unit member, the individual has met a suitable standard of physical examination before becoming a firefighter, fire fighting instructor, rescue squad member, or advanced life support unit member.

(b) Heart disease or hypertension -- Police officers. --

(1) A paid police officer employed by an airport authority, a county, the Maryland-National Capital Park and Planning Commission, a municipality, or the State, a deputy sheriff of Montgomery County, or, subject to paragraph (2) of this subsection, a deputy sheriff of Anne Arundel County, deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince George's County deputy sheriff, Prince George's County correctional officer, or deputy sheriff of Allegany County is presumed to be suffering from an occupational disease that was suffered in the line of duty and is compensable under this title if:

(i) the police officer, deputy sheriff, or correctional officer is suffering from heart disease or hypertension; and

(ii) the heart disease or hypertension results in partial or total disability or death.

(2) (i) A deputy sheriff of Anne Arundel County, a deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince George's County deputy sheriff, or Prince George's County correctional officer is entitled to the presumption under this subsection only to the extent that the individual suffers from heart disease or hypertension that is more severe than the individual's heart disease or hypertension condition existing prior to the individual's employment as a deputy sheriff of Anne Arundel County, deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince George's County deputy sheriff, or Prince George's County correctional officer.

(ii) To be eligible for the presumption under this subsection, a deputy sheriff of Anne Arundel County, a deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince George's County deputy sheriff, or Prince George's County correctional officer, as a condition of employment, shall submit to a medical examination to determine any heart disease or hypertension condition existing prior to the individual's employment as a deputy sheriff of Anne Arundel County, deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince George's County deputy sheriff, or Prince George's County correctional officer.

(c) Cancer. -- A paid firefighter, paid fire fighting instructor, paid rescue squad member, paid advanced life support unit member, or a sworn member of the Office of the State Fire Marshal employed by an airport authority, a county, a fire control district, a municipality, or the State or a volunteer firefighter, volunteer fire fighting instructor, volunteer rescue squad member, or volunteer advanced life support unit member who is a covered employee under § 9-234 of this title is presumed to be suffering from an occupational disease that was suffered in the line of duty and is compensable under this title if the individual:

(1) has leukemia or prostate, rectal, throat, multiple myeloma, non-Hodgkin's lymphoma, brain, testicular, or breast cancer that is caused by contact with a toxic substance that the individual has encountered in the line of duty;

(2) has completed at least 10 years of service as a firefighter, fire fighting instructor, rescue squad member, or advanced life support unit member or in a combination of those jobs in the department where the individual currently is employed or serves;

(3) is unable to perform the normal duties of a firefighter, fire fighting instructor, rescue squad member, or advanced life support unit member in the department where the individual currently is employed or serves because of the cancer or leukemia disability; and

(4) in the case of a volunteer firefighter, volunteer fire fighting instructor, volunteer rescue squad member, or volunteer advanced life support unit member, has met a suitable standard of physical examination before becoming a firefighter, fire fighting instructor, rescue squad member, or advanced life support unit member.

(d) Lyme disease. --

(1) (i) A paid law enforcement employee of the Department of Natural Resources who is a covered employee under § 9-207 of this title and a park police officer of the Maryland-National Capital Park and Planning Commission is presumed to have an occupational disease that was suffered in the line of duty and is compensable under this title if the employee:

1. is suffering from Lyme disease; and

2. was not suffering from Lyme disease before assignment to a position that regularly places the employee in an outdoor wooded environment.

(ii) The presumption under this subsection for a park police officer of the Maryland-National Capital Park and Planning Commission shall only apply:

1. during the time that the park police officer is assigned to a position that regularly places the park police officer in an outdoor wooded environment; and

2. for 3 years after the last date that the park police officer was assigned by the Maryland-National Capital Park and Planning Commission to a position that regularly placed the officer in

an outdoor wooded environment.

(2) (i) An employee of the Maryland-National Capital Park and Planning Commission other than a park police officer is presumed to have an occupational disease that was suffered in the line of duty and is compensable under this title if the employee:

1. is suffering from Lyme disease; and

2. was not suffering from Lyme disease before assignment to a position that regularly places the employee in an outdoor wooded environment.

(ii) The presumption under this paragraph shall apply only if:

1. for the 12-month period before the filing of the claim for workers' compensation under this section, the employee:

A. has not been employed by the Maryland-National Capital Park and Planning Commission as a seasonal or intermittent employee; and

B. has been employed by the Maryland-National Capital Park and Planning Commission on a full-time basis;

2. the employee's assignment to a position that regularly places the employee in an outdoor wooded environment lasted for at least 1 year; and

3. the employee files the claim for workers' compensation on or before the third anniversary of the last date that the employee was assigned to a position that regularly placed the employee in an outdoor wooded environment.

(e) Benefits in addition to retirement benefits. --

(1) Except as provided in paragraph (2) of this subsection, any paid firefighter, paid fire fighting instructor, sworn member of the Office of the State Fire Marshal, paid police officer, paid law enforcement employee of the Department of Natural Resources, deputy sheriff of Anne Arundel County, park police officer or employee of the Maryland-National Capital Park and Planning Commission, deputy sheriff of Montgomery County, deputy sheriff of Baltimore City, Montgomery County correctional officer, deputy sheriff of Prince George's County, or Prince George's County correctional officer who is eligible for benefits under subsection (a), (b),

(c), or (d) of this section or the dependents of those individuals shall receive the benefits in addition to any benefits that the individual or the dependents of the individual are entitled to receive under the retirement system in which the individual was a participant at the time of the claim.

(2) The benefits received under this title shall be adjusted so that the weekly total of those benefits and retirement benefits does not exceed the weekly salary that was paid to the paid law enforcement employee of the Department of Natural Resources, a park police officer or employee of the Maryland-National Capital Park and Planning Commission, firefighter, fire fighting instructor, sworn member of the Office of the State Fire Marshal, police officer, deputy sheriff, or Prince George's County or Montgomery County correctional officer.

HISTORY: An. Code 1957, art. 101, § 64A; 1991, ch. 8, § 2; 1992, ch. 341; 1996, chs. 118, 637; 1998, ch. 446; 1999, ch. 34, § 8; ch. 179; 2000, ch. 160; 2003, ch. 107; 2005, ch. 553; 2006, ch. 44, § 6; ch. 270; 2007, chs. 5, 350, 351; 2008, chs. 37, 98; 2009, ch. 60, § 5; ch. 709; 2010, chs. 75, 76; 2011, ch. 584; 2012, ch. 445; 2014, ch. 374.

THIS SECTION HAS MORE THAN ONE DOCUMENT WITH VARYING EFFECTIVE DATES.

§ 9-503. Occupational disease -- Presumption -- Firefighters, fire fighting instructors, rescue squad members, advanced life support unit members, and police officers (Abrogation of amendment effective September 30, 2015.)

(a) Heart disease, hypertension, and lung disease -- Firefighters, fire fighting instructors, rescue squad members, and advanced life support unit members. -- A paid firefighter, paid fire fighting instructor, paid rescue squad member, paid advanced life support unit member, or sworn member of the Office of the State Fire Marshal employed by an airport authority, a county, a fire control district, a municipality, or the State or a volunteer firefighter, volunteer fire fighting instructor, volunteer rescue squad member, or volunteer advanced life support unit member who is a covered employee under § 9-234 of this title is presumed to have an occupational disease that was suffered in the line of duty and is compensable under this title if:

(1) the individual has heart disease, hypertension, or lung disease;

(2) the heart disease, hypertension, or lung disease results in partial or total disability or death; and

(3) in the case of a volunteer firefighter, volunteer fire fighting instructor, volunteer rescue squad member, or volunteer advanced life support unit member, the individual has met a suitable standard of physical examination before becoming a firefighter, fire fighting instructor, rescue squad member, or advanced life support unit member.

(b) Heart disease or hypertension -- Police officers. --

(1) A paid police officer employed by an airport authority, a county, the Maryland-National Capital Park and Planning Commission, a municipality, or the State, a deputy sheriff of Montgomery County, or, subject to paragraph (2) of this subsection, a deputy sheriff of Anne Arundel County, deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince George's County deputy sheriff, Prince George's County correctional officer, or deputy sheriff of Allegany County is presumed to be suffering from an occupational disease that was suffered in the line of duty and is compensable under this title if:

(i) the police officer, deputy sheriff, or correctional officer is suffering from heart disease or hypertension; and

(ii) the heart disease or hypertension results in partial or total disability or death.

(2) (i) A deputy sheriff of Anne Arundel County, a deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince George's County deputy sheriff, or Prince George's County correctional officer is entitled to the presumption under this subsection only to the extent that the individual suffers from heart disease or hypertension that is more severe than the individual's heart disease or hypertension condition existing prior to the individual's employment as a deputy sheriff of Anne Arundel County, deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince George's County deputy sheriff, or Prince George's County correctional officer.

(ii) To be eligible for the presumption under this subsection, a deputy sheriff of Anne Arundel County, a deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince George's County deputy sheriff, or Prince George's County correctional officer, as a condition of employment, shall submit to a medical examination to determine any heart disease or hypertension condition existing prior to the individual's employment as a deputy sheriff of Anne Arundel County, deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince George's County deputy sheriff, or Prince George's County correctional officer.

(c) Cancer. -- A paid firefighter, paid fire fighting instructor, paid rescue squad member, paid advanced life support unit member, or a sworn member of the Office of the State Fire Marshal employed by an airport authority, a county, a fire control district, a municipality, or the State or a volunteer firefighter, volunteer fire fighting instructor, volunteer rescue squad member, or volunteer advanced life support unit member who is a covered employee under § 9-234 of this title is presumed to be suffering from an occupational disease that was suffered in the line of duty and is compensable under this title if the individual:

(1) has leukemia or prostate, rectal, throat, multiple myeloma, non-Hodgkin's lymphoma, brain, testicular, or breast cancer that is caused by contact with a toxic substance that the individual has encountered in the line of duty;

(2) has completed at least 10 years of service as a firefighter, fire fighting instructor, rescue squad member, or advanced life support unit member or in a combination of those jobs in the department where the individual currently is employed or serves;

(3) is unable to perform the normal duties of a firefighter, fire fighting instructor, rescue squad member, or advanced life support unit member in the department where the individual currently is employed or serves because of the cancer or leukemia disability; and

(4) in the case of a volunteer firefighter, volunteer fire fighting instructor, volunteer rescue squad member, or volunteer advanced life support unit member, has met a suitable standard of physical examination before becoming a firefighter, fire fighting instructor, rescue squad member, or advanced life support unit member.

(d) Lyme disease. --

(1) A paid law enforcement employee of the Department of Natural Resources who is a covered employee under § 9-207 of this title and a park police officer of the Maryland-National Capital Park and Planning Commission is presumed to have an occupational disease that was suffered in the line of duty and is compensable under this title if the employee:

(i) is suffering from Lyme disease; and

(ii) was not suffering from Lyme disease before assignment to a position that regularly places the employee in an outdoor wooded environment.

(2) The presumption under this subsection for a park police officer of the Maryland-National Capital Park and Planning Commission shall only apply:

(i) during the time that the park police officer is assigned to a position that regularly places the park police officer in an outdoor wooded environment; and

(ii) for 3 years after the last date that the park police officer was assigned by the Maryland-National Capital Park and Planning Commission to a position that regularly placed the officer in an outdoor wooded environment.

(e) Benefits in addition to retirement benefits. --

(1) Except as provided in paragraph (2) of this subsection, any paid firefighter, paid fire fighting instructor, sworn member of the Office of the State Fire Marshal, paid police officer, paid law enforcement employee of the Department of Natural Resources, deputy sheriff of Anne Arundel County, park police officer of the Maryland-National Capital Park and Planning Commission, deputy sheriff of Montgomery County, deputy sheriff of Baltimore City, Montgomery County correctional officer, deputy sheriff of Prince George's County, or Prince George's County correctional officer who is eligible for benefits under subsection (a), (b), (c), or (d) of this section or the dependents of those individuals shall receive the benefits in addition to any benefits that the individual or the dependents of the individual are entitled to receive under the retirement system in which the individual was a participant at the time of the claim.

(2) The benefits received under this title shall be adjusted so that the weekly total of those benefits and retirement benefits does not exceed the weekly salary that was paid to the paid law enforcement employee of the Department of Natural Resources, a park police officer of the Maryland-National Capital Park and Planning Commission, firefighter, fire fighting instructor, sworn member of the Office of the State Fire Marshal, police officer, deputy sheriff, or Prince George's County or Montgomery County correctional officer.

HISTORY: 2009, ch. 709.

§ 9-504. Hernia

Except as otherwise provided, an employer shall provide compensation in accordance with this title to a covered employee for a hernia caused by an accidental personal injury or by a

strain arising out of and in the course of employment if:

(1) the covered employee provides definite proof that satisfies the Commission that:

(i) the hernia did not exist before the accidental personal injury or strain occurred; or

(ii) as a result of the accidental personal injury or strain, a preexisting hernia has become so aggravated, incarcerated, or strangulated that an immediate operation is needed; and

(2) notwithstanding any other provision of this title about notice, the accidental personal injury or strain was reported to the employer within 30 days after its occurrence.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2; ch. 21, § 5; 1992, ch. 22, § 1.

§ 9-505. Occupational deafness

(a) In general. -- Except as otherwise provided, an employer shall provide compensation in accordance with this title to a covered employee for loss of hearing by the covered employee due to industrial noise in the frequencies of 500, 1,000, 2,000, and 3,000 hertz.

(b) Short-term employer. -- An employer is not liable for compensation for occupational deafness under subsection (a) of this section unless the covered employee claiming benefits worked for the employer in employment that exposed the covered employee to harmful noise for at least 90 days.

HISTORY: An. Code 1957, art. 101, § 25A; 1991, ch. 8, § 2; 2000, ch. 417.

§ 9-506. Compensation prohibited

(a) Deliberate act. -- A covered employee or a dependent of a covered employee is not entitled to compensation or benefits under this title as a result of:

(1) an intentional, self-inflicted accidental personal injury, compensable hernia, or occupational disease; or

(2) an attempt to injure or kill another.

(b) Drugs. -- A covered employee or a dependent of a covered employee is not entitled to compensation or benefits under this title as a result of an accidental personal injury, compensable hernia, or occupational disease if:

(1) the accidental personal injury, compensable hernia, or occupational disease was caused solely by the effect on the covered employee of:

(i) a depressant, hallucinogenic, hypnotic, narcotic, or stimulant drug; or

(ii) another drug that makes the covered employee incapable of satisfactory job performance; and

(2) the drug was not administered or taken in accordance with the prescription of a physician.

(c) Intoxication. -- A covered employee or a dependent of a covered employee is not entitled to compensation or benefits under this title as a result of an accidental personal injury, compensable hernia, or occupational disease if the accidental personal injury, compensable hernia, or occupational disease was caused solely by the intoxication of the covered employee while on duty.

(d) Primary cause. --

(1) In this subsection, "primary cause" means the cause that is first in importance.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, a covered employee or dependent of a covered employee is not entitled to compensation or benefits under this title, except for medical benefits under §§ 9-660 and 9-661 of this title, as a result of an accidental personal injury, compensable hernia, or occupational disease, if the primary cause of the accidental personal injury, compensable hernia, or occupational disease was the effect on the covered employee of a controlled dangerous substance defined in § 5-101 of the Criminal Law Article or listed in Title 5, Subtitle 4 of the Criminal Law Article.

(ii) Compensation or benefits shall not be denied under subparagraph (i) of this paragraph if the controlled dangerous substance was administered, taken, or used in accordance with the prescription of a physician and the administering, taking, or use of the controlled dangerous

substance was not excessive or abusive.

(3) Except for medical benefits under §§ 9-660 and 9-661 of this title, a covered employee or dependent of a covered employee is not entitled to compensation or benefits under this title as a result of an accidental personal injury, compensable hernia, or occupational disease, if the primary cause of the accidental personal injury, compensable hernia, or occupational disease was the intoxication of the covered employee while on duty.

(e) Willful misconduct. -- A covered employee or a dependent of a covered employee is not entitled to compensation or benefits under this title as a result of an accidental personal injury, compensable hernia, or occupational disease if the accidental personal injury, compensable hernia, or occupational disease was caused by the willful misconduct of the covered employee.

(f) Presumption. -- In a proceeding on a claim for compensation, there is, absent substantial evidence to the contrary, a presumption that an accidental personal injury, compensable hernia, or occupational disease:

(1) was not caused by the intent of the covered employee to injure or kill the covered employee or another individual;

(2) was not caused solely by the effect on the covered employee of:

(i) a depressant, hallucinogenic, hypnotic, narcotic, or stimulant drug; or

(ii) another drug that makes the covered employee incapable of satisfactory job performance; and

(3) was not caused solely by the intoxication of the covered employee while on duty.

(g) Presumption. -- In a proceeding on a claim for compensation under subsection (d) of this section, there is, absent substantial evidence to the contrary, a presumption that:

(1) the effect on the covered employee of a controlled dangerous substance was not the primary cause of the accidental personal injury, compensable hernia, or occupational disease; and

(2) the intoxication of the covered employee was not the primary cause of the accidental personal injury, compensable hernia, or occupational disease.

HISTORY: An. Code 1957, art. 101, §§ 15, 22, 45, 64; 1991, ch. 8, § 2; ch. 21, § 5; 1998, chs. 64, 108; 2002, ch. 213, § 6.

§ 9-507. Degree of risk

Compensation may not be denied to a covered employee because of the degree of risk of the employment of the covered employee.

HISTORY: An. Code 1957, art. 101, § 67; 1991, ch. 8, § 2.

§ 9-508. Liability of principal contractor for compensation

(a) In general. -- A principal contractor is liable to pay to a covered employee or the dependents of the covered employee any compensation that the principal contractor would have been liable to pay had the covered employee been employed directly by the principal contractor if:

(1) the principal contractor undertakes to perform any work that is part of the business, occupation, or trade of the principal contractor;

(2) the principal contractor contracts with a subcontractor for the execution by or under the subcontractor of all or part of the work undertaken by the principal contractor; and

(3) the covered employee is employed in the execution of that work.

(b) Principal contractor considered employer; computation of average weekly wage. --

(1) Except as provided in paragraph (2) of this subsection, in a claim filed or proceeding brought against a principal contractor by a covered employee employed to execute work as provided in subsection (a) of this section or a dependent of the covered employee, the principal contractor shall be considered the employer of the covered employee for the purposes of this title.

(2) In computing the average weekly wage of the covered employee under § 9-602 of this title, the Commission shall use as wages of the covered employee the wages paid by the employer who immediately employs the covered employee.

(c) Joinder. -- If an employee of a subcontractor or a dependent of the employee files a claim against a principal contractor under this title, the principal contractor may join the subcontractor and any intermediate contractor as defendant or codefendant.

(d) Indemnity. -- If a principal contractor is liable to pay compensation under this section, the principal contractor is entitled to indemnity from any employer who would have been liable to pay compensation independent of this section.

(e) Compensation from subcontractor. -- This section does not prevent a covered employee or a dependent of a covered employee from recovering compensation from a subcontractor instead of the principal contractor.

(f) Exemptions from liability. --

(1) A principal contractor is not liable to pay compensation to an individual under this title if the individual:

(i) is a corporate officer, or a member of a limited liability company, who elects to be exempt from coverage under § 9-206 of this title;

(ii) is a partner in a partnership and the partnership does not elect to make the individual a covered employee under § 9-219 of this title; or

(iii) is a sole proprietor who:

1. does not notify the principal contractor, on a form approved by the Commission, of the individual's status as a covered employee; and

2. does not elect to be a covered employee under § 9-227 of this title.

(2) An individual is presumed to be a sole proprietor who is not a covered employee under this section if:

(i) a substantial part of the individual's income is derived from the trade or business for

which a principal contractor engages the individual and from which the individual has attempted to earn taxable income; and

(ii) 1. the individual notifies the principal contractor on a form approved by the Commission that the individual has not elected to become a covered employee under § 9-227 under this title; or

2. the individual has filed the appropriate Internal Revenue Form 1040, Schedule C or F, for the previous taxable year.

HISTORY: An. Code 1957, art. 101, § 62; 1991, ch. 8, § 2; 1996, ch. 437; 2002, ch. 227.

§ 9-509. Exclusivity of compensation

(a) Employers. -- Except as otherwise provided in this title, the liability of an employer under this title is exclusive.

(b) Covered employees and dependents. -- Except as otherwise provided in this title, the compensation provided under this title to a covered employee or the dependents of a covered employee is in place of any right of action against any person.

(c) Exception -- Failure to secure compensation. --

(1) If an employer fails to secure compensation in accordance with this title, a covered employee who has sustained an accidental personal injury, compensable hernia, or occupational disease or, in case of death, the personal representative of the covered employee may:

(i) bring a claim for compensation under this title; or

(ii) bring an action for damages.

(2) In an action of a covered employee or personal representative under this subsection, an employer may not plead as a defense that:

(i) the covered employee assumed the risk of employment;

(ii) the covered employee was contributorily negligent; or

(iii) the negligence of a fellow servant caused the accidental personal injury, compensable hernia, or occupational disease.

(d) Exception -- Deliberate act. -- If a covered employee is injured or killed as the result of the deliberate intent of the employer to injure or kill the covered employee, the covered employee or, in the case of death, a surviving spouse, child, or dependent of the covered employee may:

(1) bring a claim for compensation under this title; or

(2) bring an action for damages against the employer.

HISTORY: An. Code 1957, art. 101, §§ 15, 22, 36, 44; 1991, ch. 8, § 2; ch. 21, § 5.

§ 9-510. Action after repeal or invalidation of provisions

(a) In general. -- Except as provided in subsection (b) of this section, if the provisions of this title that provide compensation for an accidental personal injury, compensable hernia, or occupational disease are adjudicated invalid or repealed, a covered employee or a dependent of a covered employee, who would have been entitled to compensation, may bring any action within the earlier of:

(1) 1 year after the adjudication or repeal; or

(2) the time allowed by law for bringing any action for an accidental personal injury, compensable hernia, or occupational disease, not counting the time between the occurrence of the accidental personal injury, compensable hernia, or occupational disease or resulting death and the adjudication or repeal.

(b) Exception. -- An individual may not bring an action for damages for an accidental personal injury, compensable hernia, or occupational disease under this section if compensation for the accidental personal injury, compensable hernia, or occupational disease has been paid in full under this title, either by lump sum or periodic payment.

(c) Credit. -- Compensation paid under this title shall be credited against a judgment in an action under this section.

HISTORY: An. Code 1957, art. 101, § 59; 1991, ch. 8, § 2; ch. 21, § 5; 1992, ch. 22, § 1.

SUBTITLE 6. BENEFITS

PART I. GENERAL PROVISIONS

§ 9-601. Construction of subtitle

A provision of this subtitle may not be construed to change:

(1) a law relating to an accidental personal injury or an occupational disease, that occurred before the effective date of the provision and for which a claim is made under this title; or

(2) the payment basis in effect when an accidental personal injury or an occupational disease, for which a claim is made under this title, occurred.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2; ch. 21, § 5.

§ 9-602. Average weekly wage

(a) Computation -- In general. --

(1) Except as otherwise provided in this section, the average weekly wage of a covered employee shall be computed by determining the average of the weekly wages of the covered employee:

(i) when the covered employee is working full time; and

(ii) at the time of:

1. the accidental personal injury; or

2. the last injurious exposure of the covered employee to the hazards of an occupational disease.

(2) For purposes of a computation under paragraph (1) of this subsection, wages shall include:

(i) tips; and

(ii) the reasonable value of housing, lodging, meals, rent, and other similar advantages that the covered employee received from the employer.

(3) If a covered employee establishes that, because of the age and experience of the covered employee at the time of the accidental personal injury or last injurious exposure to the hazards of the occupational disease, the wages of the covered employee could be expected to increase under normal circumstances, the expected increase may be taken into account when computing the average weekly wage of the covered employee under paragraph (1) of this subsection.

(b) Baltimore County -- Auxiliary police officer or member of volunteer fire company. -- For the purpose of computing the average weekly wage of an auxiliary police officer of Baltimore County who is a covered employee under § 9-220(a) of this title or a member of a volunteer ambulance, ambulance and rescue, or fire company in Baltimore County who is a covered employee under § 9-234 of this title, the wages of the covered employee shall be:

(1) if the covered employee had other employment at the time of the accidental personal injury or last injurious exposure, the salary or wages from the other employment;

(2) if the covered employee had had other employment but was not otherwise employed at the time of the accidental personal injury or last injurious exposure, the salary or wages last received by the covered employee from the other employment; or

(3) if the covered employee had never had other employment at the time of the accidental personal injury or last injurious exposure, an amount that allows minimum death or disability benefits under this title.

(c) Fire fighters -- Department of Natural Resources. -- For the purpose of computing the average weekly wage of an individual engaged for fire fighting by the Department of Natural Resources who is a covered employee under § 9-207 of this title, the wages of the covered employee shall be:

(1) the greater of:

(i) any salary or wages received by the covered employee for fire fighting; or

(ii) any salary or wages earned by the covered employee in other employment at the time of the accidental personal injury or last injurious exposure; or

(2) if the covered employee did not receive wages for fire fighting or from other employment at the time of the accidental personal injury or last injurious exposure, an amount that allows the minimum compensation or death benefits under this title.

(d) Handicapped student. -- For the purpose of computing the average weekly wage of a handicapped student who is a covered employee under § 9-228(a) of this title, the wages of the covered employee shall be the federal minimum wage that is in effect at the time of the accidental personal injury or last injurious exposure.

(e) Jockey. -- For the purpose of computing the average weekly wage of a jockey who is a covered employee under § 9-212 of this title, the wages of the covered employee shall be all of the earnings that the jockey earns as a jockey, including those derived from outside the State.

(f) Member of organized militia. -- For the purpose of computing the average weekly wage of a member of the organized militia of the State who is a covered employee under § 9-215 of this title, the wages of the covered employee shall be the greater of:

(1) the wage provided for active duty in § 13-406(b) of the Public Safety Article;

(2) the actual wages earned by the covered employee in employment in the National Guard;
or

(3) the actual wages earned by the covered employee in the employee's civilian employment at the time of entry into State active duty.

(g) Member of volunteer fire or rescue company. --

(1) Subject to paragraph (2) of this subsection, for the purpose of computing the average weekly wage of an individual who is a covered employee under § 9-234 of this title, the wages of the covered employee shall be:

(i) for a covered employee who received a salary or wages from other employment at the time of the accidental personal injury or last injurious exposure, the salary or wages from the other employment; or

(ii) for a covered employee who did not receive a salary or wages from other employment at the time of the accidental personal injury or last injurious exposure:

1. if the covered employee derived income from a source other than salary or wages at the time of the accidental personal injury or last injurious exposure, an amount that allows the maximum compensation under this title;

2. if the covered employee was not engaged in a business enterprise at the time of the accidental personal injury or last injurious exposure, the weekly income last received by the covered employee when engaged in a business enterprise; or

3. if the covered employee had never been engaged in a business enterprise at the time of the accidental personal injury or last injurious exposure, an amount that allows the minimum compensation under this title.

(2) A yearly stipend of \$ 5,200 or less to help offset out-of-pocket expenses that a volunteer company, as defined in § 9-234 of this title, pays to a member may not be used when determining the average weekly wage of the member.

(h) Prisoner. -- For the purpose of computing the average weekly wage of a prisoner who is a covered employee under § 9-221 of this title, the wages of the covered employee shall be:

(1) the wages paid to the prisoner by the county; and

(2) a fair and reasonable amount determined by the Commission for meals and maintenance of the prisoner, but not more than the amount customarily received by the county for its own use by prisoners engaged in employment by other employers.

(i) Recipient under federal veterans' benefit law. -- For the purpose of computing the average weekly wage of a covered employee whose wages from full-time employment are paid partly by an employer and partly by the United States under a federal veterans' benefit law, the wages of the covered employee shall be the total amounts jointly paid to the covered employee when working full time.

(j) Volunteer deputy sheriff of Cecil County. -- For the purpose of computing the average weekly wage of a volunteer deputy sheriff of Cecil County or an auxiliary volunteer of the Charles County Sheriff's Office who is a covered employee under § 9-233 of this title, the wages of the covered employee shall be:

(1) if the covered employee had other employment at the time of the accidental personal injury or last injurious exposure, the wages from the other employment;

(2) if the covered employee had had other employment but was not otherwise employed at the time of the accidental personal injury or last injurious exposure, the wages last received by the covered employee from the other employment; or

(3) if the covered employee had never had other employment at the time of the accidental personal injury or last injurious exposure, an amount that allows minimum compensation under this title.

(k) Juror. -- For the purpose of computing the average weekly wage of a juror who is a covered employee under § 9-213(a) of this title, the wages of the juror shall be the per diem received by the juror for jury duty.

(l) Covered employees with more than one employer. --

(1) This subsection applies only to a covered employee who:

(i) has suffered:

1. a serious permanent partial disability under § 9-630 of this subtitle; or

2. a permanent total disability under § 9-637 of this subtitle;

(ii) was concurrently employed by more than one employer at the time of the accidental personal injury;

(iii) worked, on average, 20 hours per week or less in the employment in which the accidental personal injury occurred; and

(iv) as a result of the accidental personal injury, is unable to work at any employment the

covered employee was engaged in at the time of the accidental personal injury or any similar type of employment.

(2) (i) If the covered employee earned weekly wages from another employment that exceeded the weekly wages the covered employee earned from the employment in which the accidental personal injury occurred, the average weekly wage of the covered employee shall be based on the weekly wages the covered employee earned in the other employment.

(ii) If the covered employee earned weekly wages from two or more other employments and, for more than one of such employments, the weekly wages earned by the employee exceeded the weekly wages of the covered employee from the employment in which the accidental personal injury occurred, the average weekly wage of the covered employee shall be based on weekly wages of the employment where the employee earned the highest wages.

(3) This subsection may not be interpreted as:

(i) except as provided in §§ 9-630 and 9-637 of this subtitle, relieving from liability to pay compensation the employer in whose employment the accidental personal injury occurred;

(ii) creating any liability to pay compensation on the part of another employer in whose employment the accidental personal injury did not occur; or

(iii) requiring the weekly wages from the employments the employee was engaged in at the time of the accidental personal injury to be combined for purposes of computing the average weekly wage of the covered employee.

HISTORY: An. Code 1957, art. 101, §§ 21, 23, 33, 34, 35, 35A, 35B, 35C, 46, 67; 1991, ch. 8, § 2; ch. 21, § 5; 1992, ch. 22, § 1; 1997, ch. 350; 2003, ch. 17; 2004, ch. 25; 2008, ch. 36, § 6; 2009, ch. 60, § 5; chs. 539, 540; 2010, ch. 208; 2012, chs. 506, 507.

§ 9-603. State average weekly wage

On or before December 15 of each year, the Department of Labor, Licensing, and Regulation shall:

(1) determine the State average weekly wage as of July 1 of that year; and

(2) report the State average weekly wage to the Commission.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2; 1995, ch. 120, § 5.

§ 9-604. Computation of compensation

(a) In general. -- The Commission shall compute all compensation awarded under this title in accordance with the applicable schedule in this subtitle.

(b) Rounding off. -- In computing the rate of compensation, the Commission shall round off any fractional dollar of compensation to the next higher dollar.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2.

§ 9-605. Payment of compensation by employer or insurer

If an employer or its insurer wholly or partly pays compensation, the payment bars recovery from the other of the amount paid.

HISTORY: An. Code 1957, art. 101, § 19; 1991, ch. 8, § 2.

§ 9-606. Illegally employed minor -- Double compensation

(a) In general. -- In a claim involving a minor who is employed illegally under State law, the Commission may double the amount of compensation and death benefits authorized by this title.

(b) Liability for excess award. -- When the Commission awards double compensation or death benefits under subsection (a) of this section:

(1) the employer of the minor is solely liable for the increased amount of compensation or death benefits; and

(2) an insurance policy may not provide for payment or indemnification of the employer of the minor for payment of the increased amount of compensation or death benefits.

(c) Conclusive evidence of legality. -- For purposes of this title, a certificate of the Commissioner of Labor and Industry is conclusive evidence of the legality of any employment of a minor.

HISTORY: An. Code 1957, art. 101, § 47; 1991, ch. 8, § 2.

§ 9-607. Prisoner

(a) Waiting period. -- The Commission may not award compensation to a prisoner who is a covered employee under § 9-221 of this title until the prisoner is discharged by pardon, parole, or expiration of sentence.

(b) Death benefits. -- If a prisoner dies from an accidental personal injury, the dependents of the prisoner are entitled to compensation under this title, based on the average weekly wage of the prisoner.

HISTORY: An. Code 1957, art. 101, § 35; 1991, ch. 8, § 2; ch. 21, § 5.

§ 9-608. Occupational disease -- Partial cause of death or disability

(a) Determination of percentage of contribution. -- The Commission shall determine the percentage that an occupational disease contributed to the death or disability of a covered employee when:

(1) the occupational disease is aggravated by another disease or infirmity that is not compensable; or

(2) the occupational disease accelerates, aggravates, prolongs, or in any way contributes to a disability or death from a cause that is not compensable.

(b) Reduction of compensation. --

(1) The compensation payable shall be reduced to the percentage of the compensation that would have been payable if the occupational disease had been the sole cause of the death or disability that equals the percentage that the occupational disease contributed to the death or disability, as determined by the Commission under subsection (a) of this section.

(2) As may be in the best interest of the covered employee under the circumstances of the case, the Commission shall reduce the compensation to the percentage required by paragraph (1) of this subsection by reducing:

(i) the number of weekly or monthly payments; or

(ii) the amount of the payments.

HISTORY: An. Code 1957, art. 101, § 22; 1991, ch. 8, § 2; 1992, ch. 22, § 1.

§ 9-609. Receipt of compensation or damages under law of another state

If a covered employee or the dependents of a covered employee receive compensation or damages under the law of another state, this title may not be construed to allow a total compensation for the same accidental personal injury or occupational disease that is greater than the total compensation provided under this title.

HISTORY: An. Code 1957, art. 101, § 21; 1991, ch. 8, § 2; ch. 21, § 5.

§ 9-610. Offset against other benefits

(a) Covered employee of governmental unit or quasi-public corporation. --

(1) Except for benefits subject to an offset under § 29-118 of the State Personnel and Pensions Article, if a statute, charter, ordinance, resolution, regulation, or policy, regardless of whether part of a pension system, provides a benefit to a covered employee of a governmental unit or a quasi-public corporation that is subject to this title under § 9-201(2) of this title or, in case of death, to the dependents of the covered employee, payment of the benefit by the

employer satisfies, to the extent of the payment, the liability of the employer and the Subsequent Injury Fund for payment of similar benefits under this title.

(2) If a benefit paid under paragraph (1) of this subsection is less than the benefits provided under this title, the employer, the Subsequent Injury Fund, or both shall provide an additional benefit that equals the difference between the benefit paid under paragraph (1) of this subsection and the benefits provided under this title.

(3) The computation of an additional benefit payable under paragraph (2) of this section shall be done at the time of the initial award and may not include any cost of living adjustment after the initial award.

(b) Covered employee of Military Department of State. --

(1) If federal law provides benefits for an individual who is a covered employee of the Military Department of the State under § 9-215 of this title that are equal to or greater than the benefits provided by this title, the covered employee is not entitled to benefits under this title.

(2) If federal law provides benefits for a covered employee of the Military Department of the State that are less than the benefits provided by this title, the State and its insurer shall provide an additional benefit that equals the difference between the benefit provided by federal law and the similar benefit provided by this title.

(c) Powers of Commission. --

(1) The Commission may:

(i) determine whether any benefit provided by the employer is equal to or greater than any benefit provided for in this title; and

(ii) make an award against the employer or the Subsequent Injury Fund or both to provide an additional benefit that equals the difference between the benefit provided by the employer and the benefits required by this title.

(2) A claim that comes under this section is subject to the continuing powers and jurisdiction of the Commission.

HISTORY: An. Code 1957, art. 101, § 33; 1991, ch. 8, § 2; 1997, ch. 279; 1999, ch. 340.

§ 9-610.1. Offsets or credits against permanent partial disability awards

The Workers' Compensation Commission may order an offset or credit against an award for permanent partial disability benefits for:

- (1) any vocational rehabilitation benefits previously provided to a covered employee; or
- (2) any temporary total disability benefits previously paid to a covered employee.

HISTORY: 2000, ch. 230.

§ 9-611. Occupational disease -- Abated award subject to assessment

An abated award of compensation for disability or death due to an occupational disease is subject to an assessment under § 9-1008 of this title.

HISTORY: An. Code 1957, art. 101, § 22; 1991, ch. 8, § 2.

PART II. TEMPORARY PARTIAL DISABILITY

§ 9-614. Scope of part

A covered employee who is temporarily partially disabled due to an accidental personal injury or an occupational disease shall be paid compensation in accordance with this Part II of this subtitle.

HISTORY: An. Code 1957, art. 101, § 35; 1991, ch. 8, § 2; ch. 21, § 5.

§ 9-615. Payment of compensation

(a) Amount of payment. --

(1) Subject to paragraph (2) of this subsection, if the wage earning capacity of a covered employee is less while temporarily partially disabled, the employer or its insurer shall pay the covered employee compensation that equals 50% of the difference between:

(i) the average weekly wage of the covered employee; and

(ii) the wage earning capacity of the covered employee in the same or other employment while temporarily partially disabled.

(2) The compensation payable under paragraph (1) of this subsection may not exceed 50% of the State average weekly wage.

(b) Duration of payment. -- The employer or its insurer shall pay the weekly compensation for the period that the covered employee is temporarily partially disabled.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2.

PART III. TEMPORARY TOTAL DISABILITY

§ 9-618. Scope of part

A covered employee who is temporarily totally disabled due to an accidental personal injury or an occupational disease shall be paid compensation in accordance with this Part III of this subtitle.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2; ch. 21, § 5.

§ 9-619. Effect on other laws

This Part III of this subtitle does not affect or change the law applicable to:

(1) an accidental personal injury or occupational disease that occurred before the provisions of this Part III of this subtitle became effective; or

(2) an individual eligible for benefits as the result of accidental personal injury or occupational disease that occurred when a different rate or percentage payment basis was in effect.

HISTORY: An. Code 1957, art. 101, §§ 22, 36; 1991, ch. 8, § 2; ch. 21, § 5.

§ 9-620. Waiting period for compensation

(a) Disability for 14 days or less. -- If a temporary total disability lasts for 14 days or less, compensation may not be allowed for 3 calendar days after the beginning of the disability except for payments for hospital, nursing, or other medical services, funeral expenses, or medicine.

(b) Computation of waiting period. -- If the covered employee was not paid for the day on which the accidental personal injury or occupational disease occurred, the Commission shall count that day as 1 of the 3 days in the waiting period under subsection (a) of this section.

(c) Disability for more than 14 days. -- If a temporary total disability lasts for more than 14 days, compensation shall be allowed from the day of disability.

HISTORY: An. Code 1957, art. 101, § 48; 1991, ch. 8, § 2; ch. 21, § 5.

§ 9-621. Payment of compensation

(a) Amount of payment. --

(1) Except as provided in paragraph (2) of this subsection, if a covered employee is temporarily totally disabled due to an accidental personal injury or an occupational disease, the employer or its insurer shall pay the covered employee compensation that equals two-thirds of the average weekly wage of the covered employee, but:

(i) does not exceed the average weekly wage of the State; and

(ii) is not less than \$ 50.

(2) If the average weekly wage of the covered employee is less than \$ 50 at the time of the accidental personal injury or the last injurious exposure to the hazards of the occupational disease, the employer or its insurer shall pay the covered employee compensation that equals the average weekly wage of the covered employee.

(b) Duration of payment. -- The employer or its insurer shall pay the compensation for the period that the covered employee is temporarily totally disabled.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2; ch. 21, § 5.

§ 9-622. Payment of compensation -- Reopening

(a) Amount of payment. -- If, under an initial claim filed on or after January 1, 1988, temporary total disability benefits are reopened under § 9-736(b) of this title, the employer or its insurer shall pay the covered employee compensation that equals two-thirds of the average weekly wage of the covered employee, but:

(1) does not exceed the lesser of:

(i) the average weekly wage of the State on the date of reopening; or

(ii) 150% of the initial award; and

(2) is not less than the initial award.

(b) Duration of payment. -- The employer or its insurer shall pay the compensation for the period that the covered employee is temporarily totally disabled.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2.

PART IV. PERMANENT PARTIAL DISABILITY

§ 9-625. Scope of part

A covered employee who is permanently partially disabled due to an accidental personal injury or an occupational disease shall be paid compensation in accordance with this Part IV of this subtitle.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2; ch. 21, § 5.

§ 9-626. Minimum compensation

(a) In general. -- Except as provided in subsection (b) of this section, a covered employee who is entitled to compensation under this subtitle for a permanent partial disability shall receive minimum weekly compensation of \$ 50.

(b) Covered employee with average weekly wage less than \$50. -- If the covered employee has an average weekly wage of less than \$ 50 at the time of the accidental personal injury or the last injurious exposure to the hazards of the occupational disease, the covered employee shall receive minimum compensation that equals the average weekly wage of the covered employee.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2; ch. 21, § 5.

§ 9-627. Duration of compensation

(a) In general. -- If a covered employee is entitled to compensation for a permanent partial disability under this Part IV of this subtitle, the employer or its insurer shall pay the covered employee compensation for the period stated in this section.

(b) Loss of thumb, finger, or great toe. -- Compensation shall be paid for the period listed for the loss of the following:

- (1) a thumb, 100 weeks;
- (2) a 1st finger, commonly called the index finger, 40 weeks;
- (3) a 2nd finger, 35 weeks;
- (4) a 3rd finger, 30 weeks;
- (5) a 4th finger, commonly called the little finger, 25 weeks; and
- (6) a great toe, 40 weeks.

(c) Loss and loss of use of phalanxes and digits. --

(1) Compensation for the loss of more than 1 phalanx of a digit of a hand or foot shall be the same as the compensation for the loss of the entire digit.

(2) Compensation for the loss of the 1st phalanx of a digit shall be 50% of the compensation for the loss of the entire digit.

(3) Compensation for the loss or loss of use of 2 or more digits or 1 or more phalanxes of 2 or more digits of a hand or foot:

(i) may be apportioned to the loss of use of the hand or foot caused by the loss or loss of use of the digits or phalanxes; but

(ii) may not exceed the compensation for the loss of a hand or foot.

(d) Loss of other toes, hand, arm, foot, leg, eye, hearing, or septum. --

(1) Compensation shall be paid for the period listed for the loss of the following:

(i) 1 of the toes other than the great toe, 10 weeks;

(ii) a hand, 250 weeks;

(iii) an arm, 300 weeks;

(iv) a foot, 250 weeks;

(v) a leg, 300 weeks; and

(vi) an eye, 250 weeks.

(2) Compensation shall be paid for the period listed for:

(i) the total loss of hearing of 1 ear, 125 weeks; and

(ii) the total loss of hearing of both ears, 250 weeks.

(3) Compensation shall be paid for a perforated nasal septum for 20 weeks.

(e) Permanent loss of use of hand, arm, foot, leg, or eye. -- The permanent loss of use of a hand, arm, foot, leg, or eye shall be considered equivalent to the loss of the hand, arm, foot, leg, or eye.

(f) Partial loss of vision. --

(1) When a covered employee has a partial loss of vision in 1 or both eyes, compensation shall be paid that bears the same ratio to compensation for a total loss of vision that the partial loss of vision bears to the total loss of vision.

(2) In determining the percentage of vision lost, consideration may not be given to the effect that a correcting lens may have on the eye.

(g) Amputation. --

(1) An amputation at or above the wrist or ankle may be apportioned to the loss of the use of the arm or leg, but may not be less than the compensation for the loss or loss of use of a hand or foot.

(2) Amputation at or above the elbow shall be considered the loss of an arm.

(3) Amputation at or above the knee shall be considered the loss of a leg.

(h) Amputation or loss of use of part of member of body. -- When there has been an

amputation or the loss of use of a part of any member of the body listed in this section for which compensation is not specifically provided in this section, the Commission shall award compensation for the proportion of the total number of weeks allowed for the amputation or loss of use of the entire member that the amputated or affected portion bears to the entire member.

(i) Mutilations and disfigurements. --

(1) For mutilations and disfigurements not provided for in this section, the Commission may award compensation for up to 156 weeks.

(2) In making an award under paragraph (1) of this subsection, the Commission shall consider the character of the mutilation or disfigurement as compared with mutilation and disfigurement specifically provided for in this section.

(j) Industrial loss -- Compensation for less than 75 weeks. --

(1) When compensation is awarded for less than 75 weeks for a disability listed in subsection (b) of this section, the Commission may determine that the disability results in an industrial loss by considering factors including:

(i) the nature of the physical disability; and

(ii) the age, experience, occupation, and training of the employee when the accidental personal injury or occupational disease occurred.

(2) If the Commission determines that the accidental personal injury or occupational disease results in industrial loss, the Commission may award the covered employee additional weeks of compensation not to exceed a total disability of 75 weeks.

(k) Other cases. --

(1) In all cases of permanent partial disability not listed in subsections (a) through (j) of this section, the Commission shall determine the percentage by which the industrial use of the covered employee's body was impaired as a result of the accidental personal injury or occupational disease.

(2) In making a determination under paragraph (1) of this subsection, the Commission shall

consider factors including:

(i) the nature of the physical disability; and

(ii) the age, experience, occupation, and training of the disabled covered employee when the accidental personal injury or occupational disease occurred.

(3) The Commission shall award compensation to the covered employee in the proportion that the determined loss bears to 500 weeks.

(4) Compensation shall be paid to the covered employee at the rates listed for the period in §§ 9-628 through 9-630 of this Part IV of this subtitle.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2; ch. 21, § 5; 1992, ch. 22, § 1.

§ 9-628. Compensation for less than 75 weeks.

(a) "Public safety employee" defined. -- In this section, "public safety employee" means:

(1) a firefighter, fire fighting instructor, or paramedic employed by:

(i) a municipal corporation;

(ii) a county;

(iii) the State;

(iv) the State Airport Authority; or

(v) a fire control district;

(2) a volunteer firefighter or volunteer ambulance, rescue, or advanced life support worker who is a covered employee under § 9-234 of this title and who provides volunteer fire or rescue services to:

(i) a municipal corporation;

(ii) a county;

(iii) the State;

(iv) the State Airport Authority; or

(v) a fire control district;

(3) a police officer employed by:

(i) a municipal corporation;

(ii) a county;

(iii) the State;

(iv) the State Airport Authority;

(v) the Maryland-National Capital Park and Planning Commission; or

(vi) the Washington Metropolitan Area Transit Authority;

(4) a Prince George's County deputy sheriff or correctional officer;

(5) a Montgomery County deputy sheriff or correctional officer;

(6) an Allegany County deputy sheriff;

(7) a Howard County deputy sheriff, but only when the deputy sheriff is performing law enforcement duties expressly requested, defined, and authorized in accordance with a written memorandum of understanding executed between the Howard County Sheriff and other law enforcement agencies; or

(8) an Anne Arundel County deputy sheriff.

(b) On or after January 1, 1988. -- Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from

events occurring on or after January 1, 1988, the employer or its insurer shall pay the covered employee compensation that equals one-third of the average weekly wage of the covered employee but does not exceed \$ 80.

(c) On or after January 1, 1989. -- Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from events occurring on or after January 1, 1989, the employer or its insurer shall pay the covered employee compensation that equals one-third of the average weekly wage of the covered employee but does not exceed \$ 82.50.

(d) On or after January 1, 1993. -- Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from events occurring on or after January 1, 1993, the employer or its insurer shall pay the covered employee compensation that equals one-third of the average weekly wage of the covered employee but does not exceed \$ 94.20.

(e) On or after January 1, 2000. -- Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from events occurring on or after January 1, 2000, the employer or its insurer shall pay the covered employee compensation that equals one-third of the average weekly wage of the covered employee but does not exceed \$ 114.

(f) On or after January 1, 2009; January 1, 2010; January 1, 2011. -- Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks, the employer or its insurer shall pay to the covered employee compensation that equals one-third of the average weekly wage of the covered employee but does not exceed:

(1) for claims arising from events occurring on or after January 1, 2009, but before January 1, 2010, 14.3% of the State average weekly wage;

(2) for claims arising from events occurring on or after January 1, 2010, but before January 1, 2011, 15.4% of the State average weekly wage; and

(3) for claims arising from events occurring on or after January 1, 2011, 16.7% of the State average weekly wage.

(g) Exception for certain disabilities. -- If a covered employee is awarded compensation for less

than 75 weeks for a disability listed in § 9-627(b) of this subtitle, the employer or its insurer shall pay the covered employee weekly compensation at the rate set for an award of compensation for a period greater than or equal to 75 weeks but less than 250 weeks under § 9-629 of this subtitle.

(h) Exception for public safety employees. -- If a public safety employee is awarded compensation for less than 75 weeks, the employer or its insurer shall pay the public safety employee compensation at the rate set for an award of compensation for a period greater than or equal to 75 weeks but less than 250 weeks under § 9-629 of this subtitle.

HISTORY: An. Code 1957, art. 101, §§ 36, 67; 1991, ch. 8, § 2; 1992, ch. 546; 1999, ch. 34, § 8; ch. 457; 2001, ch. 303; 2004, ch. 203; 2005, ch. 25, § 13; 2006, ch. 605; 2007, ch. 434; 2008, chs. 85, 109; 2010, chs. 75, 76; 2012, ch. 398; 2013, chs. 225, 226.

§ 9-629. Compensation for period equal to or greater than 75 weeks but less than 250 weeks

If a covered employee is awarded compensation for a period equal to or greater than 75 weeks but less than 250 weeks, the employer or its insurer shall pay the covered employee weekly compensation that equals two-thirds of the average weekly wage of the covered employee but does not exceed one-third of the State average weekly wage.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2; 2001, ch. 303; 2004, ch. 203; 2006, ch. 605; 2007, ch. 434; 2008, chs. 85, 109; 2010, chs. 75, 76; 2013, ch. 226.

§ 9-630. Serious disability -- Compensation for 250 weeks or more

(a) In general. --

(1) Except as provided in paragraph (2) of this subsection, if a covered employee is given an award or a combination of awards resulting from 1 accidental personal injury or occupational disease for 250 weeks or more under § 9-627 of this subtitle:

(i) the Commission shall increase the award or awards by one-third the number of weeks in the award or awards, computed to the nearest whole number; and

(ii) the employer or its insurer shall pay the covered employee weekly compensation that equals two-thirds of the average weekly wage of the covered employee, but does not exceed 75% of the State average weekly wage.

(2) An award for disfigurement or mutilation under § 9-627(i) of this subtitle may not be used to make up the 250 weeks under paragraph (1) of this subsection.

(b) More than one concurrent employer. --

(1) This subsection applies to the payment of weekly compensation required under subsection (a) of this section if the average weekly wage of a covered employee is computed under § 9-602(l) of this subtitle.

(2) The employer in whose employment the accidental personal injury occurred or the employer's insurer shall pay the covered employee weekly compensation that is based on the weekly wages of the covered employee at the employment in which the covered employee was injured.

(3) Subject to paragraph (4) of this subsection, any additional weekly compensation resulting from computing the average weekly wage based on weekly wages earned by the covered employee in other employment shall be payable in the first instance by the employer in whose employment the employee was injured or the employer's insurer.

(4) Subject to any right of the Subsequent Injury Fund to be impleaded or any right of the Subsequent Injury Fund to defend in a case involving payment from the Subsequent Injury Fund created under Title 10, Subtitle 2 of this article, as allowable under Subtitle 8 of this title, the Subsequent Injury Fund shall reimburse the employer in whose employment the employee was injured or the employer's insurer the amount of additional weekly compensation paid by the employer or insurer under paragraph (3) of this subsection.

(c) Relation to other provisions. --

(1) Except as provided in paragraph (2) of this subsection, § 9-627 of this subtitle applies to covered employees who are covered by this section.

(2) To the extent of any inconsistency, this section prevails over § 9-627 of this subtitle.

(d) Reopening. -- If a covered employee receives additional compensation for a disability on a petition to reopen for serious disability, the additional compensation may not increase the amount of compensation previously awarded and paid.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2; ch. 21, § 5; 1997, ch. 350; 2008, ch. 85.

§ 9-631. Benefits additional

Compensation for a permanent partial disability under this Part IV of this subtitle shall be paid in addition to and consecutively with compensation for a temporary total disability under Part III of this subtitle.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2.

§ 9-632. Survival of compensation

(a) Scope of section. -- This section does not apply to compensation paid under Title 10, Subtitle 2 of this article.

(b) In general. -- If a covered employee dies from a cause that is not compensable under this title, the right to compensation that is payable under this Part IV of this subtitle and unpaid on the date of death survives in accordance with this section.

(c) Surviving dependents. -- If there are surviving dependents of the covered employee, the right to compensation survives to the surviving dependents as the Commission may determine.

(d) No surviving dependents; obligation to support surviving spouse. -- If there are no surviving dependents of the covered employee and, on the date of death, the covered employee had a legal obligation to support a surviving spouse, the right to compensation survives jointly to:

(1) the surviving spouse of the covered employee; and

(2) the surviving minor children of the covered employee.

(e) No surviving dependents or obligation to support surviving spouse. -- If there are no surviving dependents and, on the date of death, the covered employee did not have a legal obligation to support a surviving spouse, the right to compensation survives only to the surviving minor children of the covered employee.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2; 1993, ch. 5, § 1.

§ 9-633. Reversal or change in compensation

If an award of permanent partial disability compensation is reversed or modified by a court on appeal, the payment of any new compensation awarded shall be:

- (1) subject to a credit for compensation previously awarded and paid; and
- (2) otherwise made in accordance with this Part IV of this subtitle.

HISTORY: 2001, ch. 714.

PART V. PERMANENT TOTAL DISABILITY

§ 9-635. Scope of Part

A covered employee who is permanently totally disabled due to an accidental personal injury or an occupational disease shall be paid compensation in accordance with this Part V of this subtitle.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2; ch. 21, § 5.

§ 9-636. Determination of disability; presumption

(a) Determination of disability. -- Except as provided in subsection (b) of this section, a permanent total disability shall be determined in accordance with the facts in each case.

(b) Presumption. -- Absent conclusive proof to the contrary, the loss or loss of use of any of the following constitutes a permanent total disability:

(1) both arms;

(2) both eyes;

(3) both feet;

(4) both hands;

(5) both legs; or

(6) a combination of any 2 of the following:

(i) an arm;

(ii) an eye;

(iii) a foot;

(iv) a hand; and

(v) a leg.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2.

§ 9-637. Payment of compensation

(a) Amount of payment. --

(1) Except as provided in paragraph (2) of this subsection, if a covered employee has a permanent total disability resulting from an accidental personal injury or an occupational disease, the employer or its insurer shall pay the covered employee compensation that equals

two-thirds of the average weekly wage of the covered employee, but may not:

(i) exceed the State average weekly wage; or

(ii) be less than \$ 25.

(2) If the average weekly wage of the covered employee is less than \$ 25 at the time of the accidental personal injury or last injurious exposure to the hazards of the occupational disease, the employer or its insurer shall pay the covered employee weekly compensation that equals the average weekly wage of the covered employee.

(3) Payments under paragraph (1) or (2) of this subsection may not exceed a total of \$ 45,000.

(b) Duration of payment. -- Notwithstanding the \$ 45,000 limitation in subsection (a)(3) of this section, the employer or its insurer shall pay the benefit for the period that the covered employee is permanently totally disabled.

(c) Apportionment of payment when more than one employer. --

(1) This subsection applies to the payment of weekly compensation required under subsection (a) of this section if the average weekly wage of a covered employee is computed under § 9-602(l) of this subtitle.

(2) The employer in whose employment the accidental personal injury occurred or the employer's insurer shall pay the covered employee weekly compensation that is based on the weekly wages of the covered employee at the employment in which the covered employee was injured.

(3) Subject to paragraph (4) of this subsection, any additional weekly compensation resulting from computing the average weekly wage based on weekly wages earned by the covered employee in other employment shall be payable in the first instance by the employer in whose employment the employee was injured or the employer's insurer.

(4) Subject to any right of the Subsequent Injury Fund to be impleaded or any right of the Subsequent Injury Fund to defend in a case involving payment from the Subsequent Injury Fund created under Title 10, Subtitle 2 of this article, as allowable under Subtitle 8 of this title, the Subsequent Injury Fund shall reimburse the employer in whose employment the employee was injured or the employer's insurer the amount of additional weekly compensation paid by the employer or insurer under paragraph (3) of this subsection.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2; ch. 21, § 5; 1992, ch. 22, § 1; 1997, ch. 350.

§ 9-638. Cost of living adjustment

(a) In general. --

(1) A covered employee under this section includes an individual who:

(i) is entitled to compensation for claims arising from events occurring after January 1, 1988;
or

(ii) 1. is entitled to compensation from the Chesapeake Employers' Insurance Company, as successor to the Injured Workers' Insurance Fund, for claims arising from events occurring on or before January 1, 1988; and

2. was not an employee of a county or municipal corporation when the claim was filed.

(2) Compensation paid to a covered employee under this Part V of this subtitle is subject to an annual cost of living adjustment.

(b) Report of change in Consumer Price Index. -- On or before June 30 of each year, the Department of Business and Economic Development shall determine and report to the Commission the rate of change in the Consumer Price Index in the preceding calendar year, using as the Consumer Price Index the lower of:

(1) the Consumer Price Index (all urban consumers, all item index) published by the United States Department of Labor for the Washington, D.C.-Baltimore CMSA; or

(2) the United States city average consumer price index (all urban consumers, all item index).

(c) Publication of cost of living adjustment. --

(1) On or before July 31 of each year, the Commission shall publish the amount of the cost of living adjustment that shall become effective on January 1 of the following year.

(2) The cost of living adjustment may not exceed 5%.

(d) Determination of adjustment. -- The compensation payable to a covered employee under

this Part V of this subtitle shall be adjusted by:

- (1) multiplying the initial rate of compensation by the cost of living adjustment; and
- (2) adding the product to the compensation, as adjusted, paid during the prior year.

(e) Reduction due to Social Security benefits. --

(1) If a covered employee who is entitled to compensation under this Part V of this subtitle also receives federal Social Security disability insurance benefits, the adjusted annual compensation paid shall be reduced to the extent necessary to avoid a diminution of the federal Social Security disability insurance benefits.

(2) If federal Social Security law on disability insurance benefits no longer imposes a diminution in the payment of the adjustment in compensation, payments of compensation shall be made to the full extent allowed under this section.

(f) Payment by Subsequent Injury Fund for violent crime victims. -- Abrogated.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2; 1995, ch. 120, § 5; 1999, ch. 136; 2000, ch. 280; 2007, ch. 446; 2014, ch. 45.

§ 9-638.1. Cost of living adjustment -- Employees of nongovernmental units, counties, or municipal corporations.

(a) Scope. -- This section applies to:

- (1) a nongovernmental unit that employs at least one covered employee;
- (2) a county; and
- (3) a municipal corporation.

(b) Qualification of covered employee. -- A covered employee under this section means an individual who:

(1) is entitled to compensation for claims arising from events occurring on or before January 1, 1988; and

(2) filed the claims for compensation paid by a nongovernmental unit, a county, or a municipal corporation.

(c) In general. -- Compensation paid to a covered employee under this Part V of this subtitle is subject to an annual cost of living adjustment if the employer, county, or municipal corporation chooses to provide an adjustment.

(d) Report of rate of change in Consumer Price Index. -- On or before June 30 of each year, the Department of Business and Economic Development shall determine and report to the Commission the rate of change in the Consumer Price Index in the preceding calendar year, using as the Consumer Price Index the lower of:

(1) the Consumer Price Index (all urban consumers, all item index) published by the United States Department of Labor for the Washington, D.C.-Baltimore CMSA; or

(2) the United States city average consumer price index (all urban consumers, all item index).

(e) Publication of cost of living adjustment. -- On or before July 31 of each year, the Commission shall publish the amount of the cost of living adjustment that shall become effective on January 1 of the following year.

(f) Adjustment of compensation. -- The compensation payable to a covered employee under this Part V of this subtitle may be adjusted by:

(1) multiplying the initial rate of compensation by the cost of living adjustment; and

(2) adding the product to the compensation, as adjusted, paid during the prior year.

(g) Reduction related to federal Social Security provisions. --

(1) If a covered employee who is entitled to compensation under this Part V of this subtitle also receives federal Social Security disability insurance benefits, the adjusted annual compensation paid shall be reduced to the extent necessary to avoid a diminution of the federal Social Security disability insurance benefits.

(2) If federal Social Security law on disability insurance benefits no longer imposes a diminution in the payment of the adjustment in compensation, payments of compensation shall be made to the full extent allowed under this section.

HISTORY: 2007, ch. 446.

§ 9-639. Benefits additional

Compensation for a permanent total disability under this Part V of this subtitle shall be paid in addition to and consecutively with compensation for a temporary total disability under Part III of this subtitle.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2.

§ 9-640. Survival of compensation

(a) Scope of section. -- This section does not apply to compensation paid under Title 10, Subtitle 2 of this article.

(b) In general. -- If a covered employee dies from a cause that is not compensable under this title, the right to compensation that is payable under this Part V of this subtitle and unpaid on the date of death survives in accordance with this section to the extent of \$ 45,000, as increased by the cost of living adjustments under § 9-638 of this Part V of this subtitle.

(c) Surviving dependents. -- If there are surviving dependents of the covered employee, the right to compensation survives to the surviving dependents as the Commission may determine.

(d) No surviving dependents; obligation to support surviving spouse. -- If there are no surviving dependents of the covered employee and, on the date of death, the covered employee had a legal obligation to support a surviving spouse, the right of compensation shall survive to:

(1) the surviving spouse of the covered employee; or

(2) the surviving spouse and the surviving minor children of the covered employee.

(e) No surviving dependents or obligation to support surviving spouse. -- If there are no surviving dependents and, on the date of death, the covered employee did not have a legal obligation to support a surviving spouse, the right to compensation survives only to the surviving minor children of the covered employee.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2; 1993, ch. 5, § 1.

PART VI. HERNIAS

§ 9-643. Scope of part

A covered employee who has a hernia resulting from an accidental personal injury or a strain shall be paid compensation in accordance with this Part VI of this subtitle.

HISTORY: 1991, ch. 8, § 2; ch. 21, § 5.

§ 9-644. Surgery; compensation

(a) Surgery. -- Whenever practicable, a femoral, inguinal, or other hernia proven to be the result of an accidental personal injury or strain in accordance with § 9-504 of this title shall be treated by surgery.

(b) Compensation for lost time. --

(1) Except as provided in subsection (c) of this section, if a covered employee suffers a compensable hernia and undergoes surgery, the employer or its insurer shall pay the covered employee compensation only for lost time.

(2) For the purpose of computing lost time under paragraph (1) of this subsection, any time lost because of a delay in holding a hearing shall not be counted as lost time if the delay occurred at the request or due to the fault of the covered employee.

(c) Compensation for disability. -- If a special examination shows that a covered employee who suffered from a compensable hernia and underwent surgery has a permanent partial, permanent total, or temporary total disability resulting from the operation, the employer or its insurer shall pay the covered employee compensation for a permanent partial, permanent total, or temporary total disability in accordance with the applicable part of this subtitle.

(d) Death benefits. -- If a covered employee who suffered a compensable hernia dies as a result of surgery, the death shall be considered death as a result of the accidental personal injury or strain that caused the hernia and the employer or its insurer shall provide death benefits in accordance with Part XII of this subtitle.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2; ch. 21, § 5.

§ 9-645. Refusal to undergo surgery

(a) In general. -- If a covered employee who suffers from a compensable hernia refuses to undergo surgery to cure the hernia, the employer or its insurer shall pay the covered employee compensation for 7.5 weeks.

(b) Refusal excused. --

(1) The Commission may excuse a refusal to undergo surgery if the covered employee satisfies the Commission that it is considered unsafe for the covered employee to undergo surgery because of the age or previous physical condition of the covered employee.

(2) If the Commission excuses a refusal to undergo surgery under paragraph (1) of this subsection, the employer or its insurer shall pay the covered employee compensation for 52 weeks.

(c) Payments in place of all other benefits. -- Payment of compensation under this section is in place of all other benefits for or on account of disability or death that resulted or is alleged to have resulted from the hernia.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2.

§ 9-646. Survival of compensation

(a) Scope of section. -- This section does not apply to compensation paid under Title 10, Subtitle 2 of this article.

(b) In general. -- If a covered employee dies from a cause that is not compensable under this title, the right to compensation that is payable under this Part VI of this subtitle and unpaid on the date of death survives in accordance with this section.

(c) Surviving dependents. -- If there are surviving dependents of the covered employee, the right to compensation survives to the surviving dependents as the Commission may determine.

(d) No surviving dependents; obligation to support surviving spouse. -- If there are no surviving dependents of the covered employee and, on the date of death, the covered employee had a legal obligation to support a surviving spouse, the right to compensation survives jointly to:

(1) the surviving spouse of the covered employee; and

(2) the surviving minor children of the covered employee.

(e) No surviving dependents or obligation to support surviving spouse. -- If there are no surviving dependents and, on the date of death, the covered employee did not have a legal obligation to support a surviving spouse, the right to compensation survives only to the surviving minor children of the covered employee.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2; 1992, ch. 22, § 1; 1993, ch. 5, § 1.

PART VII. OCCUPATIONAL DEAFNESS

§ 9-649. Scope of part

A covered employee who suffers from occupational deafness shall be paid compensation in accordance with this Part VII of this subtitle.

HISTORY: An. Code 1957, art. 101, § 25A; 1991, ch. 8, § 2.

§ 9-650. Calculation of percentage of hearing loss

(a) Measurement instruments. --

(1) Hearing loss shall be measured by audiometric instrumentation that meets the following criteria:

(i) ANSI 3.6-1996;

(ii) ANSI S3.43-1992; and

(iii) ANSI 3.39-1987 or any ANSI standard that supersedes the previous calibration or measurement criteria.

(2) Measurements shall be conducted in a sound room that meets the ANSI 3.1-1991 criteria for maximum permissible ambient noise for audiometric test rooms.

(3) Behavioral psychoacoustic measurements shall be obtained with instrumentation that utilizes insert earphones, as referenced in ANSI 3.6-1996.

(4) Electrodiagnostic measurements such as auditory evoked potentials, acoustic emittance measurements, or distortion product otoacoustic emissions may be obtained to determine the nature and extent of workplace hearing loss.

(5) Audiologic results shall be used in conjunction with other information to evaluate a claimant's compensable hearing loss.

(b) Calculation -- Average of thresholds of hearing. --

(1) The percentage of hearing loss for purposes of compensation for occupational deafness shall be determined by calculating the average, in decibels, of the thresholds of hearing for the frequencies of 500, 1,000, 2,000, and 3,000 hertz in accordance with paragraph (2) of this subsection.

(2) The average of the thresholds in hearing shall be calculated by:

(i) adding together the lowest measured losses in each of the 4 frequencies; and

(ii) dividing the total by 4.

(3) To allow for the average amount of hearing loss from nonoccupational causes found in the population at any given age, there shall be deducted from the total average decibel loss determined under paragraphs (1) and (2) of this subsection one-half of a decibel for each year of the covered employee's age over 50 at the time of the last exposure to industrial noise.

(c) Amount of compensable hearing loss. --

(1) If the average hearing loss in the 4 frequencies determined under subsection (b) of this section is 25 decibels or less, the covered employee does not have a compensable hearing loss.

(2) If the average hearing loss in the 4 frequencies determined under subsection (b) of this section is 91.7 decibels or more, the covered employee has a 100% compensable hearing loss.

(3) For every decibel that the average hearing loss exceeds 25 decibels, the covered employee shall be allowed 1.5% of the compensable hearing loss, up to a maximum of 100% compensable hearing loss at 91.7 decibels.

(d) Binaural percentage of hearing loss. -- The binaural percentage of hearing loss shall be determined by:

(1) multiplying the percentage of hearing loss in the better ear by 5;

(2) adding that product to the percentage of hearing loss in the poorer ear; and

(3) dividing that sum by 6.

(e) Amplification device; bone conduction thresholds. --

(1) In determining the percentage of hearing loss under this section, consideration may not be given to whether the use of an amplification device improves the ability of a covered employee to understand speech or enhance behavioral hearing thresholds.

(2) (i) In determining a workers' compensation claim for noise-related hearing loss, audiologic data shall use both bone conduction and air conduction results.

(ii) If a conductive loss is present, the bone conduction thresholds for each ear, rather than the air conduction levels, shall be used to calculate a claimant's average hearing loss.

HISTORY: An. Code 1957, art. 101, § 25A; 1991, ch. 8, § 2; 1999, ch. 34, § 8; 2000, ch. 417.

§ 9-651. Extent of liability

(a) In general. -- Except as provided in subsection (b) of this section, an employer is liable for the full extent of the occupational deafness of a covered employee if:

(1) the employment of the covered employee by the employer has contributed to any extent to the occupational deafness of the covered employee; and

(2) the employer otherwise is liable under this section and § 9-505 of this title.

(b) Limitation on liability. -- An employer is liable only for the part of the deafness attributable to the employment by the employer if the employer establishes by competent evidence, including the results of a professionally controlled hearing test, the extent of the deafness of the covered employee that existed before exposure to harmful noise in the employment of the employer.

HISTORY: An. Code 1957, art. 101, § 25A; 1991, ch. 8, § 2.

§ 9-652. Impleader

(a) Right of employer. -- In a proceeding for compensation on the claim of a covered employee, an employer who is liable for the full extent of the occupational deafness of the covered employee may implead any other employer in whose employment the covered employee was exposed to harmful noise.

(b) Notice of impleader. -- To implead another employer, the employer shall give to the impleaded employer and to the Commission notice on the form that the Commission requires.

(c) Liability of impleaded employer. --

(1) If the Commission finds that the impleaded employer would have been liable to the employee had the employee proceeded against the impleaded employer under the claim being adjudicated, the employer liable to the employee is entitled to an award that:

(i) is against the impleaded employer; and

(ii) may be enforced in the same manner as an award in favor of a covered employee.

(2) Unless the evidence warrants a different apportionment, the impleaded employer and the employer liable to the covered employee shall have equal liability to the employee.

HISTORY: An. Code 1957, art. 101, § 25A; 1991, ch. 8, § 2.

PART VIII. PERMANENT DISABILITY DUE IN PART TO PREEXISTING DISEASE OR INFIRMITY

§ 9-655. Scope of part

This Part VIII of this subtitle does not apply to:

(1) a temporary partial disability;

(2) a temporary total disability; or

(3) a disability where the combined effects resulting from a previous impairment that meets the requirements of § 9-802(b)(1) of this title and a subsequent accidental personal injury or occupational disease result in a permanent disability exceeding 50% of the body as a whole.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2; ch. 21, § 5.

§ 9-656. Apportionment

(a) Determination by Commission. -- If it appears that a permanent disability of a covered

employee following an accidental personal injury or occupational disease is due partly to the accidental personal injury or occupational disease and partly to a preexisting disease or infirmity, the Commission shall determine:

(1) the proportion of the disability that is reasonably attributable to the accidental personal injury or occupational disease; and

(2) the proportion of the disability that is reasonably attributable to the preexisting disease or infirmity.

(b) Payment of compensation. -- The covered employee:

(1) is entitled to compensation for the portion of the disability of the covered employee that is reasonably attributable solely to the accidental personal injury or occupational disease; and

(2) is not entitled to compensation for the portion of the disability that is reasonably attributable to the preexisting disease or infirmity.

HISTORY: An. Code 1957, art. 101, § 22, 36; 1991, ch. 8, § 2; ch. 21, § 5.

§ 9-657. Waiver

(a) In general. -- When entering into a contract of employment, an individual who has suffered the loss or loss of use of a hand, arm, foot, leg, or eye may waive any right to compensation to which the covered employee would be entitled because of the existing permanent partial disability in the event of a subsequent accidental personal injury or occupational disease.

(b) Form of waiver. -- For a waiver under subsection (a) of this section to be effective, the waiver shall:

(1) be made in writing, as part of the contract of employment or as a separate instrument;

(2) plainly describe the existing permanent partial disability; and

(3) be executed by the employee:

(i) with knowledge of its contents; and

(ii) before the occurrence of an accidental personal injury or occupational disease on which a claim is based.

(c) Effect of waiver. -- If a covered employee who has executed a waiver in accordance with this section suffers an additional accidental personal injury or occupational disease, the covered employee is entitled to compensation for a disability resulting solely from the additional injury or occupational disease.

HISTORY: An. Code 1957, art. 101, §§ 22, 36; 1991, ch. 8, § 2; ch. 21, § 5.

PART IX. MEDICAL BENEFITS

§ 9-660. Provision of medical services and treatment

(a) In general. -- In addition to the compensation provided under this subtitle, if a covered employee has suffered an accidental personal injury, compensable hernia, or occupational disease the employer or its insurer promptly shall provide to the covered employee, as the Commission may require:

- (1) medical, surgical, or other attendance or treatment;
- (2) hospital and nursing services;
- (3) medicine;
- (4) crutches and other apparatus; and
- (5) artificial arms, feet, hands, and legs and other prosthetic appliances.

(b) Duration. -- The employer or its insurer shall provide the medical services and treatment required under subsection (a) of this section for the period required by the nature of the accidental personal injury, compensable hernia, or occupational disease.

(c) Award or order -- Not to reopen case or change previous award. -- Except as provided in § 9-736(b) and (c) of this title, any award or order of the Commission under this section may not be

construed to:

(1) reopen any case; or

(2) allow any previous award to be changed.

HISTORY: An. Code 1957, art. 101, § 37; 1991, ch. 8, § 2; ch. 21, § 5.

§ 9-661. Repair or replacement of eyeglasses and prosthetic appliances

(a) In general. -- The employer or its insurer shall repair or replace an artificial eye, limb, tooth or other prosthetic appliance or eyeglasses damaged or destroyed because of an accident during the course of employment.

(b) Failure to repair or replace. -- If the employer or its insurer fails to make a repair or replacement required under subsection (a) of this section, the covered employee may make the repair or replacement at the expense of the employer or its insurer.

(c) Compensation for lost time. -- If the employer or its insurer fails to make a repair or replacement required under subsection (a) of this section within 3 days after the damage or destruction occurs, the Commission may order the employer or its insurer to pay compensation to the covered employee for any lost time after the 3-day waiting period.

HISTORY: An. Code 1957, art. 101, § 37; 1991, ch. 8, § 2; ch. 21, § 4.

§ 9-662. Providing excessive treatment

If the Chairman of the Commission finds or has reasonable cause to believe that a physician or health care provider has a pattern of providing excessive appliances, medicine, services, or treatment, the Chairman shall refer the case to the State Board of Physicians or the appropriate board of review of the health care provider to determine if the physician or health care provider provided excessive appliances, medicine, services, or treatment.

HISTORY: An. Code 1957, art. 101, § 37; 1991, ch. 8, § 2; 2000, ch. 61, § 1; 2003, ch. 252, § 10.

§ 9-663. Regulatory power of Commission

(a) Regulations. --

(1) The Commission shall adopt regulations setting standards for the assessment of fines under § 9-664 of this Part IX of this subtitle.

(2) The Commission may adopt regulations about:

(i) the provision of medicine and medical, nursing, and hospital services to a covered employee;

(ii) payment for the medicine and services; and

(iii) the exercise by the Chairman of the Commission of the powers granted under § 9-662 of this subtitle.

(b) Regulation of charges for services and treatment. --

(1) The Commission may regulate fees and other charges for medical services or treatment under this subtitle.

(2) Each fee or other charge for medical service or treatment under this subtitle is limited to the amount that prevails in the same community for similar treatment of an injured individual with a standard of living that is comparable to that of the covered employee.

(3) At least once every 2 years, the Commission shall:

(i) review its guide of medical and surgical fees for completeness and reasonableness; and

(ii) make appropriate revisions to the guide of medical and surgical fees.

HISTORY: An. Code 1957, art. 101, § 37; 1991, ch. 8, § 2.

§ 9-664. Fine and interest

(a) Fine. --

(1) If the Commission finds that the employer or its insurer has failed, without good cause, to pay for treatment or services required by § 9-660 of this Part IX of this subtitle within 45 days after the Commission, by order, finally approves the fee or charge for the treatment or services, the Commission may impose a fine on the employer or insurer, not exceeding 20% of the amount of the approved fee or charge.

(2) The employer or insurer shall pay the fine to the Commission to be deposited in the General Fund of the State.

(b) Interest. --

(1) Interest, payable to the provider of the treatment or services, shall accrue at the rate specified in § 11-107(a) of the Courts Article on any amount owed to the provider that:

(i) is due and payable; and

(ii) remains unpaid more than 45 days after notice of the payment due has been mailed.

(2) Interest shall accrue beginning on the 46th day after the later of:

(i) the day the payment becomes due; or

(ii) the day the notice of the payment due is mailed.

HISTORY: An. Code 1957, art. 101, § 37; 1991, ch. 8, § 2.

PART X. WAGE REIMBURSEMENT

§ 9-667. Wage reimbursement

In addition to any other compensation paid to a covered employee entitled to compensation under this title, the employer or its insurer shall reimburse the covered employee for lost wages due to time spent:

(1) being examined by a physician or other examiner at the request of the employer or its insurer; and

(2) attending and traveling to and from a Commission hearing scheduled as a result of a continuance caused by action of the employer or its insurer.

HISTORY: An. Code 1957, art. 101, § 36B; 1991, ch. 8, § 2.

PART XI. VOCATIONAL REHABILITATION BENEFITS

§ 9-670. Definitions

(a) In general. -- In this Part XI of this subtitle the following words have the meanings indicated.

(b) Disabled. -- "Disabled" means rendered unable as the result of an accidental personal injury or an occupational disease to perform work for which the person was previously qualified.

(c) Suitable gainful employment. -- "Suitable gainful employment" means employment, including self-employment, that restores the disabled covered employee, to the extent possible, to the level of support at the time of:

(1) if an accidental personal injury, the accidental personal injury; or

(2) if an occupational disease, disablement from the occupational disease.

(d) Vocational assessment. -- "Vocational assessment" means:

(1) collecting and analyzing each of the economic, educational, legal, medical, social, and vocational circumstances of a disabled covered employee, including the present mental and physical ability of the covered employee to participate in vocational rehabilitation services; and

(2) determining the appropriate vocational rehabilitation services reasonably necessary to return the disabled covered employee to suitable gainful employment.

(e) Vocational rehabilitation services. --

(1) "Vocational rehabilitation services" means professional services reasonably necessary during or after or both during and after medical treatment to enable a disabled covered employee, as soon as practical, to secure suitable gainful employment.

(2) "Vocational rehabilitation services" includes:

- (i) coordination of medical services;
- (ii) vocational assessment;
- (iii) vocational evaluation;
- (iv) vocational counseling;
- (v) vocational rehabilitation plan development;
- (vi) vocational rehabilitation plan monitoring;
- (vii) vocational rehabilitation training;
- (viii) job development; and
- (ix) job placement.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2; 1992, ch. 22, §§ 1, 12.

§ 9-671. Provider of vocational rehabilitation services -- Registration required

(a) Registration required. -- If required by the Commission, an individual who provides vocational rehabilitation services under this title in the State shall register with the Commission

as provided in Subtitle 6A of this title.

(b) Registration forms. -- An individual who is required under subsection (a) of this section shall register on the form required by the Commission.

(c) Failure to register. -- An individual who fails to register with the Commission under subsection (a) of this section may not receive payment for providing vocational rehabilitation services.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2; 1992, ch. 22, § 1; 1997, ch. 625.

§ 9-672. Vocational rehabilitation entitlement

A disabled covered employee is entitled to vocational rehabilitation services.

HISTORY: An. Code 1957, art. 101, §§ 22, 36; 1991, ch. 8, § 2; ch. 21, § 5; 1992, ch. 22, § 1.

§ 9-673. Vocational rehabilitation plan

(a) Referral to provider; obtaining plan. -- The Commission shall:

(1) refer a covered employee who is entitled to vocational rehabilitation services under § 9-672 of this Part XI of this subtitle to an appropriate vocational rehabilitation provider; and

(2) obtain from the provider a vocational rehabilitation plan that includes:

(i) a vocational assessment; and

(ii) recommendations for vocational rehabilitation services reasonably necessary to return the disabled covered employee to suitable gainful employment.

(b) Suitable gainful employment. -- In determining whether employment is suitable gainful employment, consideration shall be given to:

(1) the qualifications, interests, incentives, earnings before the accidental personal injury or date of disablement from the occupational disease, and future earning capacity of the covered employee;

(2) the nature and extent of the disability of the covered employee; and

(3) the current and future condition of the labor market.

(c) Notice. -- On receipt of a vocational rehabilitation plan, the Commission promptly shall give written notice of the contents of the plan to each party.

(d) Hearing. --

(1) Within 15 days after the day of written notification by the Commission of the contents of the vocational rehabilitation plan, any party in interest may request a hearing to contest the plan.

(2) At the hearing, the parties may present additional evidence as necessary.

(3) After the hearing, the Commission shall:

(i) wholly or partly accept or reject the vocational rehabilitation plan; and

(ii) pass an appropriate order about vocational rehabilitation of the covered employee.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2; 1992, ch. 22, § 1.

§ 9-674. Payment of expenses, compensation, maintenance, and transportation costs; duration of training

(a) Expenses. -- The employer or its insurer shall pay the expenses of the vocational assessment and vocational rehabilitation services of a covered employee.

(b) Compensation. --

(1) While a covered employee is receiving vocational rehabilitation services, the employer or

its insurer shall pay compensation to the covered employee as if the covered employee was temporarily totally disabled.

(2) If a covered employee refuses to accept vocational rehabilitation services in accordance with an order of the Commission and the Commission determines the refusal to be unreasonable, payments under paragraph (1) of this subsection are forfeited for the period of refusal.

(c) Maintenance. --

(1) If a covered employee is required to live away from home in the course of receiving vocational rehabilitation services, the employer or its insurer shall pay to the covered employee money that:

(i) is sufficient to maintain the covered employee while the covered employee receives vocational rehabilitation services; but

(ii) does not exceed \$ 40 a week.

(2) The employer or insurer shall make payments for maintenance under paragraph (1) of this subsection in addition to the payment of compensation under subsection (b) of this section.

(d) Transportation costs. --

(1) Except as provided in paragraph (2) of this subsection, a covered employee who resides at home during vocational rehabilitation training is not entitled to reimbursement of transportation costs to and from the place of vocational training.

(2) In unusual cases the Commission may allow reasonable transportation costs.

(e) Duration of training. -- For the purposes of this section, vocational rehabilitation training may not last for more than 24 months.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2; 1992, ch. 22, § 1; 1993, ch. 5, § 1.

§ 9-675. Vocational rehabilitation reports

(a) First report. -- When a covered employee has received temporary total disability benefits continuously for 6 months, the insurer or self-insurer shall submit to the Commission a vocational rehabilitation progress report on the form that the Commission requires.

(b) Further reports. -- After submitting a report under subsection (a) of this section, the insurer or self-insurer shall submit further vocational rehabilitation progress reports to the Commission every 120 days or sooner as requested by the Commission.

(c) Failure to submit report -- Fine. -- If the Commission finds that an insurer or self-insurer has failed to submit a report within the time period required by this section, the Commission may impose a fine not exceeding \$ 500 on the insurer or self-insurer.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2.

PART XII. DEATH BENEFITS

§ 9-678. Application of Part

A dependent of a covered employee who is entitled to compensation for the death of the covered employee resulting from an accidental personal injury or occupational disease shall be paid compensation in accordance with this Part XII of this subtitle.

HISTORY: An. Code 1957, art. 101, §§ 22, 36; 1991, ch. 8, § 2; ch. 21, § 5; 2011, chs. 435, 436.

§ 9-679. Determination of dependency

(a) Applicability of section. -- This section applies only to a covered employee of a municipal corporation or a county who is subject to § 9-503 of this title and the dependents of those covered employees, unless the municipal corporation or county has made an election under § 9-683.6 of this subtitle.

(b) In general. -- Except as otherwise provided in this subtitle, the Commission shall determine

all questions of partial or total dependency in accordance with the facts of each case that existed:

(1) at the time of the occurrence of the accidental personal injury that caused the death of the covered employee; or

(2) on the date of disablement from the occupational disease that caused the death of the covered employee.

HISTORY: An. Code 1957, art. 101, §§ 22, 36; 1991, ch. 8, § 2; ch. 21, § 5; 2011, chs. 435, 436.

§ 9-680. Compensation prohibited

(a) Applicability of section. -- This section applies only to a covered employee of a municipal corporation or a county who is subject to § 9-503 of this title and the dependents of those covered employees, unless the municipal corporation or county has made an election under § 9-683.6 of this subtitle.

(b) In general. -- The surviving spouse of a covered employee whose death was caused by an accidental personal injury or an occupational disease is not entitled to benefits under this title if:

(1) the surviving spouse deserts the covered employee for more than 1 year before the time of the occurrence of the accidental personal injury or the date of disablement from the occupational disease;

(2) the surviving spouse deserts the covered employee at any time after the time of the occurrence of the accidental personal injury or the date of disablement from the occupational disease; or

(3) the surviving spouse and the covered employee:

(i) were married after the time of the occurrence of the accidental personal injury or the date of disablement from the occupational disease; and

(ii) do not have any dependent children.

(c) Dependency after occurrence of occupational disease. --

(1) Except as provided in paragraph (2) of this subsection, an individual is not entitled to compensation due to the death of a covered employee from an occupational disease if the individual became dependent on the covered employee after the beginning of the 1st compensable disability of the covered employee resulting from the occupational disease.

(2) The prohibition against compensation in paragraph (1) of this subsection does not apply to a child of the deceased covered employee born:

(i) after the beginning of the 1st compensable disability of the covered employee resulting from the occupational disease; and

(ii) of a marriage that existed at the beginning of the disability.

HISTORY: An. Code 1957, art. 101, §§ 22, 23, 36; 1991, ch. 8, § 2; ch. 21, § 5; 2011, chs. 435, 436.

§ 9-681. Wholly dependent individuals

(a) Applicability of section. -- This section applies only to a covered employee of a municipal corporation or a county who is subject to § 9-503 of this title and the dependents of those covered employees, unless the municipal corporation or county has made an election under § 9-683.6 of this subtitle.

(b) In general. -- If there are individuals who were wholly dependent on a deceased covered employee at the time of death resulting from an accidental personal injury or occupational disease, the employer or its insurer shall pay death benefits in accordance with this section.

(c) Amount of death benefit. --

(1) Except as provided in paragraph (2) of this subsection, the death benefit payable under this section shall equal two-thirds of the average weekly wage of the deceased covered employee, but may not:

(i) exceed the State average weekly wage; or

(ii) be less than \$ 25.

(2) If the average weekly wage of the deceased covered employee was less than \$ 25 at the time of the accidental personal injury or the last injurious exposure to the hazards of the occupational disease, the weekly death benefit payable under this section shall equal the average weekly wage of the deceased covered employee.

(d) Duration of payment -- In general. -- Except as otherwise provided in this section, the employer or its insurer shall pay the weekly death benefit:

(1) for the period of total dependency; or

(2) until \$ 45,000 has been paid.

(e) Duration of payment -- Surviving spouse who remains wholly dependent. -- If a surviving spouse who was wholly dependent at the time of death continues to be wholly dependent after \$ 45,000 has been paid, the employer or its insurer shall continue to make payments to the surviving spouse at the same weekly rate during the total dependency of the surviving spouse.

(f) Duration of payment -- Surviving spouse who becomes self-supporting. --

(1) If a surviving spouse who is wholly dependent at the time of death becomes wholly self-supporting before \$ 45,000 has been paid, the employer or its insurer shall continue to pay death benefits until \$ 45,000 has been paid.

(2) If a surviving spouse who is wholly dependent at the time of death becomes partly self-supporting, the employer or its insurer shall continue to make payments to the surviving spouse in accordance with § 9-682 of this subtitle.

(g) Duration of payment -- Surviving spouse who remarries. --

(1) Except as provided in paragraph (2) of this subsection, if a surviving spouse who is wholly dependent remarries, payment to the surviving spouse shall stop on the date of remarriage, even if \$ 45,000 has not been paid.

(2) If a surviving spouse who is wholly dependent remarries and does not have dependent

children at the time of the remarriage, the employer or its insurer shall continue to make payments to the surviving spouse for 2 years after the date of the remarriage.

(h) Duration of payment -- Child who remains wholly dependent. -- If a surviving child continues to be wholly dependent after the total amount of \$ 45,000 has been paid, the employer or its insurer shall continue to make payments at the same weekly rate during the total dependency of the surviving child.

(i) Duration of payment -- Child who becomes self-supporting. -- Except as provided in subsection (j) of this section, if a child who is wholly dependent at the time of death becomes wholly or partly self-supporting, the employer or its insurer shall continue to pay death benefits until \$ 45,000 has been paid.

(j) Duration of payment -- Child who becomes 18. --

(1) Except as provided in paragraphs (2) and (3) of this subsection, the employer or its insurer shall continue to make payments to, or for the benefit of, a surviving child until the child reaches 18 years of age.

(2) The employer or its insurer shall continue to make payments to, or for the benefit of, a child who is 18 years old or older for the period of dependency if the child is:

(i) wholly dependent on the deceased covered employee; and

(ii) incapable of self-support because of mental or physical disability or other sufficient reason as determined by the Commission.

(3) The employer or its insurer shall continue to make payments to, or for the benefit of, a child who is 18 years old or older for up to 5 years after reaching the age of 18 if:

(i) the child is attending school on a full-time basis; and

(ii) the school offers an educational program or a vocational training program, that is accredited or approved by the State Department of Education.

(k) Continuing jurisdiction of Commission. -- The Commission has continuing jurisdiction to:

(1) determine whether a surviving spouse or child has become wholly or partly self-

supporting;

(2) suspend or terminate payments of compensation; and

(3) reinstate payments of compensation that have been suspended or terminated.

HISTORY: An. Code 1957, art. 101, §§ 23, 36; 1991, ch. 8, § 2; ch. 21, § 5; 2003, ch. 319; 2004, ch. 25; 2009, chs. 616, 617; 2011, chs. 435, 436.

§ 9-682. Partly dependent individuals

(a) Applicability of section. -- This section applies only to a covered employee of a municipal corporation or a county who is subject to § 9-503 of this title and the dependents of those covered employees, unless the municipal corporation or county has made an election under § 9-683.6 of this subtitle.

(b) In general. -- The employer or its insurer shall pay a death benefit in accordance with this section if:

(1) there are no individuals who were wholly dependent on the deceased covered employee at the time of death, but there are individuals who were partly dependent; or

(2) a surviving spouse who was wholly dependent on the deceased covered employee at the time of death becomes partly self-supporting.

(c) Amount of death benefit. --

(1) The maximum weekly death benefit payable under this section shall equal two-thirds of the average weekly wage of the deceased covered employee, but may not exceed two-thirds of the State average weekly wage.

(2) The weekly death benefit payable under this section shall be the percentage of the maximum weekly death benefit under paragraph (1) of this subsection that:

(i) the weekly earnings of the deceased covered employee bears to the combined weekly earnings of the deceased covered employee and the partly dependent individuals; and

(ii) does not exceed the maximum weekly death benefit.

(d) Duration of payment -- In general. -- Except as otherwise provided in this section, the employer or its insurer shall pay the weekly death benefit:

(1) for the period of partial dependency; or

(2) until \$ 75,000 has been paid, including any payments made during a period of total dependency under § 9-681 of this subtitle.

(e) Duration of payment -- Surviving spouse who remarries. --

(1) Subject to paragraph (2) of this subsection, if a surviving spouse who is partly dependent remarries and does not have dependent children at the time of the remarriage, the employer or its insurer shall make payments to the surviving spouse for 2 years after the date of the remarriage.

(2) The total of the payments made before the remarriage may not exceed \$ 75,000.

(f) Duration of payment -- Child who becomes 18. --

(1) Except as provided in paragraphs (2) and (3) of this subsection, the employer or its insurer shall continue to make payments to, or for the benefit of, a surviving child until the child reaches 18 years of age.

(2) If a child who is 18 years old or older remains partly dependent on the deceased covered employee, the employer or its insurer shall continue to make payments in accordance with subsections (c) and (d) of this section.

(3) The employer or its insurer shall continue to make payments to, or for the benefit of, a child who is 18 years old or older for up to 5 years after reaching the age of 18 if:

(i) the child is attending school on a full-time basis; and

(ii) the school offers an educational program or a vocational training program and the program is accredited or approved by the Maryland State Department of Education.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2; 1998, ch. 690; 2002, ch. 550; 2003, ch. 319; 2009, chs. 616, 617; 2011, chs. 435, 436.

§ 9-683. Apportionment and payment of death benefits

(a) Applicability of section. -- This section applies only to a covered employee of a municipal corporation or a county who is subject to § 9-503 of this title and the dependents of those covered employees, unless the municipal corporation or county has made an election under § 9-683.6 of this subtitle.

(b) Apportionment -- In general. -- If there are multiple dependents entitled to death benefits, the Commission may apportion an award of death benefits among the dependents in the manner that the Commission considers just and equitable.

(c) Apportionment -- Partial and total dependents. -- If there are wholly and partly dependent individuals entitled to death benefits, the Commission may:

(1) award the death benefits to the wholly dependent individuals only; or

(2) apportion the award among the wholly and partly dependent individuals in the manner that the Commission considers to be fair and equitable under all of the facts and circumstances of the case.

(d) Payment of death benefits. --

(1) Death benefits shall be paid to 1 or more of the dependents of a covered employee who are entitled to death benefits, as determined by the Commission, for the benefit of all of the dependents who are entitled to death benefits.

(2) A dependent to whom death benefits are paid shall apply the death benefits to the use of all of the dependents who are entitled to death benefits:

(i) according to the respective claims of the dependents on the deceased covered employee for support; and

(ii) in compliance with the findings and direction of the Commission.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2; 2011, chs. 435, 436.

§ 9-683.1. Determination of dependency

(a) Applicability of section. -- This section does not apply to a covered employee of a municipal corporation or a county who is subject to § 9-503 of this title and the dependents of those covered employees, unless the municipal corporation or county has made an election under § 9-683.6 of this subtitle.

(b) In general. -- Except as otherwise provided in this subtitle, the Commission shall determine all questions of dependency in accordance with the facts of each case that existed:

(1) at the time of the occurrence of the accidental personal injury that caused the death of the covered employee; or

(2) on the date of disablement from the occupational disease that caused the death of the covered employee.

(c) Determination of dependency of a child. -- Notwithstanding subsection (b) of this section, the Commission may determine the question of dependency of a child of a covered employee born after:

(1) the time of the occurrence of the accidental personal injury that caused the death of the covered employee;

(2) the date of disablement from the occupational disease that caused the death of the covered employee; or

(3) the death of the covered employee resulting from the accidental personal injury or occupational disease.

HISTORY: 2011, chs. 435, 436.

§ 9-683.2. Compensation prohibited

(a) Applicability of section. -- This section does not apply to a covered employee of a municipal corporation or a county who is subject to § 9-503 of this title and the dependents of those covered employees, unless the municipal corporation or county has made an election under § 9-683.6 of this subtitle.

(b) Surviving spouse -- Marriage after accidental personal injury or occupational disease. -- The surviving spouse of a deceased covered employee whose death was caused by an accidental personal injury or an occupational disease is not entitled to death benefits under this title if the surviving spouse and the covered employee were married after the time of the occurrence of the accidental personal injury or the date of disablement from the occupational disease.

HISTORY: 2011, chs. 435, 436.

§ 9-683.3. Dependent individuals

(a) Applicability of section. -- This section does not apply to a covered employee of a municipal corporation or a county who is subject to § 9-503 of this title and the dependents of those covered employees, unless the municipal corporation or county has made an election under § 9-683.6 of this subtitle.

(b) In general. -- If there are individuals who were dependent on a deceased covered employee at the time of death resulting from an accidental personal injury or occupational disease, the employer or its insurer shall pay death benefits in accordance with this section.

(c) Amount of death benefit. --

(1) Beginning on the date of death of a deceased covered employee and continuing for a period of 144 months, the employer or its insurer shall pay death benefits, as calculated in this section, to the dependents of the deceased covered employee.

(2) Except as otherwise provided in this subsection, death benefits shall be paid at the rate of two-thirds of the deceased covered employee's average weekly wage at the time of the occurrence of the accidental personal injury that caused the death of the covered employee or

on the date of the last injurious exposure of the covered employee to the hazards of the occupational disease that caused the death of the covered employee, not to exceed the State average weekly wage.

(3) The average weekly wage of all dependents and the deceased covered employee's average weekly wage shall be combined to determine the family income.

(4) The deceased covered employee's income shall be divided by the family income to determine the percent of the family income earned by the deceased covered employee.

(5) The percent of the family income earned by the deceased covered employee shall be multiplied by the death benefit, as calculated in paragraph (2) of this subsection, to determine the amount payable, collectively, to all dependents.

(6) If the average weekly wage of the deceased covered employee was less than \$ 100 at the time of the occurrence of the accidental personal injury that caused the death of the covered employee or on the date of disablement from the occupational disease that caused the death of the covered employee, the weekly death benefit paid under this section shall equal the average weekly wage of the deceased covered employee up to \$ 100 per week.

(d) Duration of payment -- In general. --

(1) Death benefits shall be paid for a minimum of 5 years after the covered employee's death.

(2) Subject to subsections (e) through (i) of this section, provided that a minimum of 5 years of death benefits has been paid, death benefits shall terminate on the date that would have been the deceased covered employee's 70th birthday.

(e) Duration of payment -- Dependent spouse or child. -- Notwithstanding the time limitations under subsections (c) and (d) of this section, if a dependent spouse or dependent child is incapable of self-support because of a mental or physical disability that preexisted the covered employee's death, death benefits shall continue for the duration of the dependent's disability.

(f) Duration of payment -- Dependent spouse remarries. -- If a dependent spouse remarries, death benefits shall terminate 2 years after the date of remarriage.

(g) Duration of payment -- Child reaches 18. -- The employer or its insurer shall continue to make payments to or for the benefit of a dependent child until the child reaches 18 years of

age.

(h) Duration of payment -- After child reaches 18. -- The employer or its insurer shall continue to make payments to, or for the benefit of, a dependent child for up to 5 years after the child reaches 18 years of age if:

(1) the child is attending school on a full-time basis; and

(2) the school offers an educational program or a vocational training program that is accredited or approved by the State Department of Education.

(i) Death benefit limit. --

(1) Except as provided in paragraph (2) of this subsection, all dependents who are neither a dependent spouse nor a dependent child shall be entitled to no more than a total of \$ 65,000, collectively, as their portion of the total death benefits payable in accordance with subsection (c) of this section.

(2) Beginning on January 1, 2012, the benefit limit under paragraph (1) of this subsection shall be adjusted annually by the same percent applicable to the adjustment of the State average weekly wage.

HISTORY: 2011, chs. 435, 436; 2012, ch. 663.

§ 9-683.4. Continuing jurisdiction

(a) Applicability of section. -- This section does not apply to a covered employee of a municipal corporation or a county who is subject to § 9-503 of this title and the dependents of those covered employees, unless the municipal corporation or county has made an election under § 9-683.6 of this subtitle.

(b) In general. -- The Commission has continuing jurisdiction to:

(1) suspend, reallocate, or terminate payments of compensation in accordance with this part; and

(2) reinstate payments of compensation that have been suspended or terminated under this section.

HISTORY: 2011, chs. 435, 436.

§ 9-683.5. Apportionment and payment of death benefits

(a) Applicability of section. -- This section does not apply to a covered employee of a municipal corporation or a county who is subject to § 9-503 of this title and the dependents of those covered employees, unless the municipal corporation or county has made an election under § 9-683.6 of this subtitle.

(b) Apportionment -- In general. -- If there are multiple dependents entitled to death benefits, the Commission may apportion an award of death benefits among the dependents in the manner that the Commission considers just and equitable.

(c) Payment of death benefits. --

(1) Death benefits shall be paid to 1 or more of the dependents of a covered employee who are entitled to death benefits, as determined by the Commission, for the benefit of all of the dependents who are entitled to death benefits.

(2) A dependent to whom death benefits are paid shall apply the death benefits to the use of all of the dependents who are entitled to death benefits:

(i) according to the respective claims of the dependents of the deceased covered employee for support; and

(ii) in compliance with the findings and direction of the Commission.

HISTORY: 2011, chs. 435, 436.

§ 9-683.6. Election by municipal corporation or county

(a) In general. -- A municipal corporation or county may make a one-time election to make their covered employees who are subject to § 9-503 of this title and their dependents subject to §§ 9-683.1 through 9-683.5 of this subtitle.

(b) Procedure. -- To make the election described under subsection (a) of this section, the governing body of the municipal corporation or county shall:

(1) adopt an ordinance or resolution stating that it is the intent of the governing body to exercise the right of election; and

(2) forward a copy of the ordinance or resolution to the Commission.

(c) Acknowledgment of receipt of ordinance or resolution. -- On receipt of a copy of the resolution, the Commission shall acknowledge receipt of the ordinance or resolution to the municipal corporation or county.

(d) Workers' compensation cases arising after acknowledged receipt. -- Once the Commission has acknowledged receipt of the ordinance or resolution, any workers' compensation case arising on or after the date of acknowledgement and involving a covered employee of the municipal corporation or county who is subject to § 9-503 of this title and the dependents of the covered employee shall be subject to §§ 9-683.1 through 9-683.5 of this subtitle.

HISTORY: 2011, chs. 435, 436.

§ 9-684. Liability when no dependents

If there are no dependents, the liability of an employer or its insurer shall be limited to:

(1) medical services or treatment under Part IX of this subtitle;

(2) funeral benefits under Part XIII of this subtitle; and

(3) assessments under § 9-1008 of this title.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2.

§ 9-685. Survival of death benefits

If a dependent of a covered employee dies, the right to any death benefit that is payable to the dependent and unpaid on the date of death of the dependent:

(1) shall survive and be vested in the surviving dependents of the covered employee, as determined by the Commission; and

(2) if there are no surviving dependents of the covered employee, shall not survive.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2.

§ 9-686. Nonresident alien dependent

(a) Representation by consular officer. -- A dependent of a covered employee who is a nonresident alien may be officially represented by a consular officer of the nation of which the dependent is a citizen or subject.

(b) Receipt and distribution of death benefits; discharge. -- If a consular officer represents a nonresident alien dependent:

(1) the consular officer shall have the right to receive all death benefits awarded to the dependent for distribution to the dependent; and

(2) receipt of death benefits by the consular officer is a full discharge of the amounts paid to and received by the consular officer.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2.

PART XIII. FUNERAL BENEFITS

§ 9-689. Funeral benefits

(a) In general. -- The employer or its insurer shall pay reasonable funeral expenses of a deceased covered employee, not exceeding \$ 7,000, if the covered employee died as a result of:

(1) an accidental personal injury, within 7 years of the accidental personal injury; or

(2) an occupational disease.

(b) Funeral expenses of more than \$7,000. -- Unless approved by the Commission, a bill for funeral expenses of more than \$ 7,000 is void and uncollectable out of:

(1) workers' compensation benefits payable with respect to the deceased covered employee;
or

(2) personal assets of any person to whom workers' compensation benefits are payable with respect to the deceased covered employee.

(c) No dependents. -- If there are no dependents, the employer or its insurer shall pay the expenses of the last sickness and funeral expenses of the covered employee.

HISTORY: An. Code 1957, art. 101, §§ 22, 37; 1991, ch. 8, § 2; ch. 21, § 5; 1998, ch. 725; 2011, chs. 435, 436.

SUBTITLE 6A. REHABILITATION PRACTITIONERS

§ 9-6A-01. Definitions

(a) In general. -- In this subtitle the following words have the meanings indicated.

(b) Advisory Committee. -- "Advisory Committee" means the Advisory Committee on the Registration of Rehabilitation Practitioners.

(c) Registration. -- "Registration" means the authorization of a rehabilitation practitioner to provide vocational rehabilitation services.

(d) Rehabilitation practitioner. --

(1) "Rehabilitation practitioner" means an individual who provides vocational rehabilitation services.

(2) "Rehabilitation practitioner" includes:

(i) a nurse certified by the State Board of Nursing as a nurse case manager;

(ii) a rehabilitation counselor; and

(iii) a vocational evaluator.

(e) State Department of Education, Division of Rehabilitation Services. -- "State Department of Education, Division of Rehabilitation Services" means the State agency designated to administer the public vocational rehabilitation services program.

(f) Vocational rehabilitation services. -- "Vocational rehabilitation services" has the meaning stated in § 9-670 of this title.

HISTORY: 1997, ch. 625; 2008, ch. 36, § 6.

§ 9-6A-02. Purpose of subtitle

The purpose of this subtitle is to establish educational and experience requirements for individuals who provide vocational rehabilitation services in the workers' compensation field and to establish a registration system to better regulate the activities of those individuals providing vocational rehabilitation services.

HISTORY: 1997, ch. 625.

§ 9-6A-03. Registration generally

(a) Registration by Division of Rehabilitation Services. -- The State Department of Education, Division of Rehabilitation Services, shall be registered with the Commission to provide vocational rehabilitation services under this subtitle.

(b) Certain State employees not required to register. -- Rehabilitation specialists employed by the State Department of Education, Division of Rehabilitation Services, are not required to register individually to provide vocational rehabilitation services to clients of the Division.

(c) Employers not required to register individually; limitations. --

(1) Employers of rehabilitation practitioners are not required to register individually for their business to provide vocational rehabilitation services.

(2) Exemption of registration applies only to those employers who are not registered rehabilitation practitioners.

(3) Exempt employers may not individually provide vocational rehabilitation services.

HISTORY: 1997, ch. 625.

§ 9-6A-04. Enforcement of subtitle

(a) Other health occupations. -- This subtitle does not limit the right of any individual to engage in a health occupation that the individual otherwise is authorized to engage in under the Health Occupations Article.

(b) Rules and regulations. -- The Commission has the authority to adopt and enforce rules and regulations regarding the standards of practice of rehabilitation counselors and vocational evaluators.

(c) Violation; penalty. -- Violation of the rules and regulations adopted or enforced by the Commission or the State Board of Nursing in accordance with this title by a rehabilitation practitioner shall be grounds for denial of a registration to any applicant, or suspension or

revocation of a registrant's registration pursuant to §§ 9-6A-15 and 9-6A-16 of this subtitle.

HISTORY: 1997, ch. 625.

§ 9-6A-05. Advisory Committee on Registration of Rehabilitation Practitioners

(a) In general. -- There is an Advisory Committee on the Registration of Rehabilitation Practitioners within the Commission.

(b) Members. -- The Advisory Committee consists of seven members appointed by the Commission in accordance with this section.

(c) Requirements. --

(1) The Advisory Committee shall be comprised of registered rehabilitation practitioners, who are registered with the Commission under this subtitle.

(2) The Commission shall appoint members of the Advisory Committee so that its membership reflects the geographic, racial, ethnic, and gender makeup of the population of the State.

(d) Terms. -- The term of an Advisory Committee member is 3 years.

(e) Continuity of service. -- In making appointments to the Advisory Committee, the Commission shall provide for continuity and rotation through a staggering of terms.

(f) Quorum. -- A majority of the fully authorized Advisory Committee is a quorum.

(g) Meetings. -- The Advisory Committee shall meet at the request of the Commission.

(h) Duties. -- In addition to the duties set forth elsewhere in this title, the Advisory Committee shall:

(1) review applications for registration submitted to the Commission whenever further clarification regarding the applicant is requested by the Commission; and

(2) after review and evaluation, provide recommendations to the Commission chairman on

the applicant.

HISTORY: 1997, ch. 625.

§ 9-6A-06. Payment for services

(a) Individual practitioners. -- A rehabilitation practitioner shall be registered with the Commission before the practitioner may receive payment under this title for providing vocational rehabilitation services.

(b) Employers. -- Any employer not registered by the Commission, but contracting on behalf of registered rehabilitation practitioners may receive payment for providing vocational rehabilitation services.

HISTORY: 1997, ch. 625.

§ 9-6A-07. Commission powers; fees

(a) Regulations. -- In addition to any powers set forth elsewhere, the Commission may adopt any regulation to carry out this subtitle.

(b) Fees. --

(1) Subject to paragraph (2) of this subsection, the Commission shall establish reasonable fees for registration, registration renewal, and any other service performed by the Commission necessary to carry out the provisions of this subtitle.

(2) (i) The fees established by the Commission shall be set in a manner that will produce funds sufficient to cover the actual direct and indirect costs of regulating the rehabilitation practitioner industry in this State in accordance with the provisions of this subtitle.

(ii) The fee for registration may not exceed \$ 165.

(3) The Commission shall pay all money collected under this subtitle into a special fund to be

used only to fund the actual direct and indirect costs of regulating the rehabilitation practitioner industry in this State in accordance with the provisions of this subtitle.

(4) Any surplus remaining in the special fund at the end of the fiscal year shall be used to reduce the registration fee for the following fiscal year.

HISTORY: 1997, ch. 625.

§ 9-6A-08. Individual registration requirements

(a) In general. -- To qualify for registration, an applicant shall be an individual who meets the requirements of this section.

(b) Basic requirements. -- The applicant shall:

(1) be at least 18 years old; and

(2) satisfy the education, experience, and supervision requirements of § 9-6A-09 of this subtitle.

HISTORY: 1997, ch. 625.

§ 9-6A-09. Education, experience, and supervision requirements

(a) Nurse case managers. -- To qualify for registration, a nurse case manager shall be certified as such by the State Board of Nursing.

(b) Rehabilitation counselors. -- To qualify for registration, a rehabilitation counselor shall:

(1) have a bachelor's degree from an accredited institution in rehabilitation counseling, human services, psychology, or a related field with at least 1 year of work experience in a human services occupation;

(2) have a master's or doctoral degree in rehabilitation counseling, human services,

psychology, education, or a related field; or

(3) be a certified rehabilitation counselor, certified vocational evaluator, certified disability management specialist, hold an equivalent national certification that is acceptable to the Commission, or have met all of the education and experience requirements to be eligible to be certified.

(c) Vocational evaluators. -- To qualify for registration, a vocational evaluator shall:

(1) have a bachelor's degree from an accredited institution in vocational evaluation, rehabilitation psychology, human services, education, or a related field with 1 year of work experience in that field;

(2) have a master's or doctoral degree in rehabilitation, vocational evaluation, psychology, human services, education, or a related field; or

(3) be certified or have met all of the educational and experience requirements to be eligible to be certified in vocational evaluation by the Commission on certification of work adjustment and vocational evaluation specialists, or have met all of the education and experience requirements to be eligible for certification.

(d) Additional requirements. -- In addition to the requirements of subsections (b) and (c) of this section:

(1) a rehabilitation counselor who has met the education requirements under subsection (b)(1) or (2) of this section to qualify for registration shall work under the administrative supervision of a certified rehabilitation counselor, certified vocational evaluator, certified disability management specialist, certified case manager, or certified rehabilitation registered nurse; and

(2) a vocational evaluator who has met the education requirements under subsection (c)(1) or (2) of this section shall work under the administrative supervision of a certified vocational evaluator, certified rehabilitation counselor, certified disability management specialist, certified case manager, or certified rehabilitation registered nurse.

HISTORY: 1997, ch. 625.

§ 9-6A-10. Application and fee

An applicant for registration shall submit an application to the Commission on the form required by the Commission and pay the registration fee as established by the Commission.

HISTORY: 1997, ch. 625.

§ 9-6A-11. Waiver of requirements

(a) In general. -- Subject to the provisions of this section, the Commission may waive any requirements of this subtitle for a rehabilitation practitioner who applies for registration to provide vocational rehabilitation services.

(b) Fewer than three patients. -- The Commission may grant a waiver under this section only if the applicant provides vocational rehabilitation services to less than three covered employees in a given year.

(c) Other waivers. -- Any other waiver that is granted shall be in accordance with regulations approved by the Commission.

HISTORY: 1997, ch. 625.

§ 9-6A-12. Registration of applicants required

The Commission shall register any applicant who meets the requirements of this subtitle.

HISTORY: 1997, ch. 625.

§ 9-6A-13. Effect of registration

A registration, while in effect, authorizes an individual, as a rehabilitation practitioner, to

provide vocational rehabilitation services.

HISTORY: 1997, ch. 625.

§ 9-6A-14. Expiration and renewal of registration

(a) Term of registration. -- A registration expires on the date set by the Commission, unless the registration is renewed for an additional term as provided in this section. A registration may not be renewed for a term longer than 3 years.

(b) Notice regarding renewal. -- At least 1 month before a registration expires, the Commission shall send to the registrant, by first-class mail to the last known address of the registrant:

(1) a renewal application form; and

(2) a renewal notice that states:

(i) the date on which the current registration expires;

(ii) the date by which the Commission must receive the renewal application in order that the renewed registration may be issued and mailed before the current registration expires; and

(iii) the amount of the registration and renewal fee.

(c) Renewal requirements. -- Before a registration expires, the registrant may renew the registration for an additional 3-year term, if the registrant:

(1) is entitled under this subtitle to be registered;

(2) pays to the Commission the renewal fee set by the Commission; and

(3) provides satisfactory evidence of compliance with continuing education requirements and other qualifications and requirements specified under this subtitle for registration renewal.

(d) Renewal of registration required. -- The Commission shall renew the registration of any registrant who meets the requirements of this section.

(e) Registrant's address. -- Each registrant shall give the Commission written notice of any change of address.

HISTORY: 1997, ch. 625.

§ 9-6A-15. Fraudulent practices in connection with registration

(a) Penalty; violation. -- The Commission may deny registration to any applicant, reprimand any registrant, or suspend or revoke any registration if the applicant or registrant:

(1) fraudulently or deceptively obtains or attempts to obtain a registration for the applicant or for another;

(2) fraudulently or deceptively uses a registration; or

(3) does not comply with the rules and regulations governing the standards of practice with regard to the delivery of vocational rehabilitation services.

(b) Review of registrant's status. -- The Commission may review the status of any rehabilitation practitioner registered under this subtitle at any time.

HISTORY: 1997, ch. 625.

§ 9-6A-16. Hearings

(a) Hearing before the Commission. -- Before the Commission takes any final action under § 9-6A-15 of this subtitle, the Commission shall give the individual against whom the action is contemplated an opportunity for a hearing before the Commission.

(b) Representation by counsel. -- The individual may be represented at the hearing by counsel.

(c) Notice; oaths; subpoenas. -- The Commission:

(1) shall give notice and hold a hearing in accordance with hearing regulations adopted by the

Commission;

(2) may administer oaths in connection with any proceeding under this section; and

(3) may issue subpoenas in connection with any proceeding under this section.

(d) Contempt. -- If an individual fails to comply with a subpoena issued under this section, on petition of the Commission, a court of competent jurisdiction may compel compliance with the subpoena.

(e) Failure to appear. -- If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, the Commission may hear and determine the matter.

HISTORY: 1997, ch. 625.

§ 9-6A-17. Appeal

Any individual aggrieved by a decision of the Commission under this subtitle may appeal the decision as allowed under Subtitle 7 of this title.

HISTORY: 1997, ch. 625.

§ 9-6A-18. Registration required -- Providing vocational rehabilitative services

Except as otherwise provided in this subtitle, an individual may not engage, attempt to engage, or offer to engage in the practice of providing vocational rehabilitation services in the State unless the individual is registered with the Commission.

HISTORY: 1997, ch. 625.

§ 9-6A-19. Registration required -- Reimbursement; advertising

Unless authorized under this subtitle to engage in the practice of providing vocational rehabilitation services, an individual may not:

(1) be reimbursed under this title for the provision of vocational rehabilitation services; or

(2) represent to the public by use of a title, including "registered rehabilitation consultant", by description of services, methods, procedures, or otherwise, that the individual is authorized to engage in the practice of providing vocational rehabilitation services in the State.

HISTORY: 1997, ch. 625.

§ 9-6A-20. Short title

This subtitle may be cited as the "Maryland Rehabilitation Practitioner Registration Act".

HISTORY: 1997, ch. 625.

SUBTITLE 7. CLAIMS PROCEDURE, HEARINGS, AND APPEALS

§ 9-701. Regulation of claims procedure

Subject to this title, the Commission shall:

(1) adopt reasonable and proper regulations to govern the procedures of the Commission, which shall be as simple and brief as reasonably possible;

(2) determine the nature and the form of an application for benefits or compensation;

(3) regulate and provide for the nature and form of notices and for the service of notices;

(4) regulate and provide for the nature and extent of evidence and proof and for the method of taking and providing evidence and proof to establish a right to compensation;

- (5) regulate the method of conducting an investigation or physical examination; and
- (6) set the time within which an adjudication or award shall be made.

HISTORY: An. Code 1957, art. 101, § 10; 1991, ch. 8, § 2.

§ 9-702. Presumptions

Absent substantial evidence to the contrary, in a proceeding for the enforcement of a claim under this title, it is presumed that:

- (1) the claim comes within this title;
- (2) sufficient notice was given to the employer; and
- (3) the employer or its insurer was not prejudiced by a failure to file a claim for an accidental personal injury within 60 days after the date of the accidental personal injury.

HISTORY: An. Code 1957, art. 101, § 64; 1991, ch. 8, § 2; ch. 21, § 5.

§ 9-703. Forms

Each employer shall have at all times a sufficient supply of each form that the Commission provides.

HISTORY: An. Code 1957, art. 101, § 13; 1991, ch. 8, § 2.

§ 9-704. Notice to employer -- Accidental personal injury

- (a) Scope of section. -- This section does not apply to a compensable hernia.
- (b) Notice required. -- If a covered employee is injured or dies due to an accidental personal

injury, oral or written notice shall be given to the employer:

(1) for injury, within 10 days after the accidental personal injury; or

(2) for death, within 30 days after the death.

(c) Written notice -- Contents. -- If the notice given under subsection (b) of this section is in writing, the notice shall:

(1) state the name and address of the covered employee;

(2) state, in plain language, the time, place, nature, and cause of the accidental personal injury; and

(3) be signed:

(i) for injury, by the covered employee or by an individual on behalf of the covered employee; or

(ii) for death, by at least 1 dependent of the covered employee or by an individual on behalf of the dependents of the covered employee.

(d) Failure to give notice. -- Unless excused by the Commission under § 9-706 of this subtitle, failure to give notice bars a claim under this title.

HISTORY: An. Code 1957, art. 101, § 38; 1991, ch. 8, § 2; ch. 21, § 5.

§ 9-705. Notice to employer -- Occupational disease

(a) Notice required. -- If a covered employee is disabled or dies due to an occupational disease, written notice of the disability or death shall be given to the employer by the covered employee or someone on behalf of the covered employee:

(1) for disability, within 1 year after the covered employee knows or has reason to believe that the covered employee has the occupational disease; or

(2) for death, within 1 year after the death.

(b) Failure to give notice. -- Unless notice is waived under subsection (d) of this section or excused by the Commission under § 9-706 of this subtitle, failure to give notice bars a claim under this title.

(c) Constructive notice. -- The employer in whose employment the covered employee was last injuriously exposed to the conditions that cause an occupational disease is considered to have notice of the occupational disease if the employer or the responsible superintendent in charge of the work of the covered employee has actual knowledge that the covered employee:

(1) was exposed to the conditions that cause the occupational disease; and

(2) has the occupational disease.

(d) Waiver. -- The notice required by subsection (a) of this section is waived if the employer or its insurer:

(1) pays compensation for disability or death from an occupational disease; or

(2) by its affirmative conduct leads the covered employee or other claimant to reasonably believe that the notice has been waived.

HISTORY: An. Code 1957, art. 101, §§ 23, 26; 1991, ch. 8, § 2.

§ 9-706. Failure to notify employer -- Excuse and waiver

(a) Excused by Commission. -- The Commission shall excuse a failure to comply with the notice requirement of § 9-704 or § 9-705 of this subtitle if the Commission finds that:

(1) there was a sufficient reason for the failure to comply; or

(2) the employer or its insurer has not been prejudiced by the failure to comply.

(b) Burden of proof. -- The employer or its insurer has the burden of proving that it has been prejudiced by the failure to comply with the notice requirement.

(c) Occupational disease -- Waiver of defense. -- In the case of an occupational disease, the

defense of failure to comply with the notice requirement is waived unless raised at a hearing on the claim before any award or decision is made.

HISTORY: An. Code 1957, art. 101, §§ 26, 38; 1991, ch. 8, § 2.

§ 9-707. Report by employer to Commission

(a) Accidental personal injury. -- If an accidental personal injury causes disability for more than 3 days or death, the employer shall report the accidental personal injury and the disability or death to the Commission within 10 days after receiving oral or written notice of the disability or death.

(b) Occupational disease. -- On learning or receiving notice that a covered employee has been disabled due to an occupational disease, the employer promptly shall report the disability to the Commission.

(c) Contents of report. -- Each report under subsection (a) or (b) of this section shall state:

(1) whether the accidental personal injury or occupational disease arose out of and in the course of employment;

(2) the time, cause, and nature of the disability and the accidental personal injury or occupational disease;

(3) the probable duration of the disability; and

(4) any other information that the Commission may require by regulation.

(d) Electronic access. -- The Commission shall provide the Commissioner of Labor and Industry with electronic access to the data contained in the reports filed under subsections (a) and (b) of this section.

HISTORY: An. Code 1957, art. 101, §§ 26, 38; 1991, ch. 8, § 2; ch. 21, § 5; 2014, ch. 38.

§ 9-708. Failure to submit report of accidental personal injury -- Claim limitation period tolled

(a) Scope of section. -- This section does not apply to:

(1) a partner whom a partnership elects to be a covered employee under § 9-219 of this title;

(2) a sole proprietor who elects to be a covered employee under § 9-227 of this title; or

(3) an officer of a corporation who:

(i) is a covered employee under § 9-206(a) of this title; and

(ii) is eligible but does not elect to be exempt from coverage under § 9-206(b) of this title.

(b) Claim limitation period tolled. -- In the case of an accidental personal injury, the claim limitation period in § 9-709(b)(3) of this subtitle does not begin to run until the employer files a report with the Commission in accordance with § 9-707 of this subtitle if:

(1) the employer has been notified in accordance with § 9-704 of this subtitle; or

(2) the employer or a designated representative of the employer at the place where the accidental personal injury occurred knows about the disability or death of the covered employee.

HISTORY: An. Code 1957, art. 101, § 38; 1991, ch. 8, § 2; ch. 21, § 5.

§ 9-709. Claim application -- Accidental personal injury

(a) Filing claim -- In general; authorization for release of relevant medical information. --

(1) Except as provided in subsection (c) of this section, if a covered employee suffers an accidental personal injury, the covered employee, within 60 days after the date of the accidental personal injury, shall file with the Commission:

(i) a claim application form; and

(ii) if the covered employee was attended by a physician chosen by the covered employee, the report of the physician.

(2) (i) A claim application form filed under paragraph (1) of this subsection shall include an authorization by the claimant for the release, to the claimant's attorney, the claimant's employer, and the insurer of the claimant's employer, or an agent of the claimant's attorney, the claimant's employer, or the insurer of the claimant's employer, of medical information that is relevant to:

1. the member of the body that was injured, as indicated on the claim application form; and

2. the description of how the accidental personal injury occurred, as indicated on the claim application form.

(ii) An authorization under subparagraph (i) of this paragraph:

1. includes the release of information relating to the history, findings, office and patient charts, files, examination and progress notes, and physical evidence;

2. is effective for 1 year from the date the claim is filed; and

3. does not restrict the redisclosure of medical information or written material relating to the authorization to a medical manager, health care professional, or certified rehabilitation practitioner.

(b) Failure to file claim. --

(1) Unless excused by the Commission under paragraph (2) of this subsection, failure to file a claim in accordance with subsection (a) of this section bars a claim under this title.

(2) The Commission may excuse a failure to file a claim in accordance with subsection (a) of this section if the Commission finds:

(i) that the employer or its insurer has not been prejudiced by the failure to file the claim; or

(ii) another sufficient reason.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, if a covered employee fails to file a claim within 2 years after the date of the accidental personal injury, the claim is completely barred.

(c) Filing claim -- Ionizing radiation. -- If a covered employee is disabled due to an accidental personal injury from ionizing radiation, the covered employee shall file a claim with the Commission within 2 years after:

(1) the date of disablement; or

(2) the date when the covered employee first knew that the disablement was due to ionizing radiation.

(d) Estoppel or fraud. --

(1) If it is established that a failure to file a claim in accordance with this section was caused by fraud or by facts and circumstances amounting to an estoppel, the covered employee shall file a claim with the Commission within 1 year after:

(i) the date of the discovery of the fraud; or

(ii) the date when the facts and circumstances that amount to estoppel ceased to operate.

(2) Failure to file a claim in accordance with paragraph (1) of this subsection bars a claim under this title.

HISTORY: An. Code 1957, art. 101, § 39; 1991, ch. 8, § 2; ch. 21, § 5; 2007, ch. 167.

§ 9-710. Claim application -- Death from accidental personal injury

(a) Scope of section. -- This section does not apply to a claim for death due to an accidental personal injury from ionizing radiation.

(b) Filing claim. --

(1) If a covered employee dies from an accidental personal injury, the dependents of the covered employee or an individual on their behalf shall, within 18 months after the date of death, file with the Commission:

(i) a claim application form;

(ii) proof of death;

(iii) certificates of any physician who attended the covered employee; and

(iv) any other proof that the Commission may require by regulation.

(2) (i) A claim application form filed under paragraph (1) of this subsection shall include an authorization by the claimant for the release, to the claimant's attorney, the covered employee's employer, and the insurer of the covered employee's employer, or an agent of the claimant's attorney, the covered employee's employer, or the insurer of the covered employee's employer, of medical information that is relevant to:

1. the member of the body that was injured, as indicated on the claim application form; and

2. the description of how the accidental personal injury occurred, as indicated on the claim application form.

(ii) An authorization under subparagraph (i) of this paragraph:

1. includes the release of information relating to the history, findings, office and patient charts, files, examination and progress notes, and physical evidence;

2. is effective for 1 year from the date the claim is filed; and

3. does not restrict the redisclosure of medical information or written material relating to the authorization to a medical manager, health care professional, or certified rehabilitation practitioner.

(c) Estoppel or fraud. --

(1) If it is established that a failure to file a claim in accordance with this section was caused

by fraud or by facts and circumstances amounting to an estoppel, the dependents of the covered employee or an individual on their behalf shall file a claim with the Commission within 1 year after:

(i) the date of the discovery of the fraud; or

(ii) the date when the facts and circumstances that amount to estoppel cease to operate.

(2) Failure to file a claim in accordance with paragraph (1) of this subsection bars a claim under this title.

HISTORY: An. Code 1957, art. 101, § 39; 1991, ch. 8, § 2; ch. 21, § 5; 2007, ch. 167.

§ 9-711. Claim application -- Disablement or death from occupational disease

(a) Filing claim; authorization for release of relevant medical information. --

(1) If a covered employee suffers a disablement or death as a result of an occupational disease, the covered employee or the dependents of the covered employee shall file a claim application form with the Commission within 2 years, or in the case of pulmonary dust disease within 3 years, after the date:

(i) of disablement or death; or

(ii) when the covered employee or the dependents of the covered employee first had actual knowledge that the disablement was caused by the employment.

(2) (i) A claim application form filed under paragraph (1) of this subsection shall include an authorization by the claimant for the release, to the claimant's attorney, the claimant's or covered employee's employer, and the insurer of the claimant's or covered employee's employer, or an agent of the claimant's attorney, the claimant's or covered employee's employer, or the insurer of the claimant's or covered employee's employer, of medical information that is relevant to:

1. the member of the body that was injured, as indicated on the claim application form;
and

2. the description of how the occupational disease occurred, as indicated on the claim application form.

(ii) An authorization under subparagraph (i) of this paragraph:

1. includes the release of information relating to the history, findings, office and patient charts, files, examination and progress notes, and physical evidence;

2. is effective for 1 year from the date the claim is filed; and

3. does not restrict the redisclosure of medical information or written material relating to the authorization to a medical manager, health care professional, or certified rehabilitation practitioner.

(b) Failure to file claim. -- Unless waived under subsection (c) of this section, failure to file a claim in accordance with subsection (a) of this section bars a claim under this title.

(c) Waiver. -- The defense of failure to file a claim in accordance with subsection (a) of this section is waived if the employer or its insurer:

(1) fails to raise the defense of the failure to file the claim at a hearing on the claim before the Commission makes any award or decision;

(2) pays compensation for the disability or death resulting from the occupational disease; or

(3) by its affirmative conduct leads the covered employee or other claimant to reasonably believe that the requirement of filing a claim has been waived.

HISTORY: An. Code 1957, art. 101, § 26; 1991, ch. 8, § 2; 2007, ch. 167.

§ 9-712. Submission of claim application form to insurer

(a) In general. -- If the employer or its insurer directs or requests a covered employee or, in case of death, the personal representative of the covered employee to submit the claim application form to the insurer, on receipt of the claim application form the insurer

immediately shall file the claim application form with the Commission.

(b) Advising that claim denied prohibited. -- The employer or insurer may not advise the covered employee or the personal representative of the covered employee that the claim has been denied.

HISTORY: An. Code 1957, art. 101, § 38; 1991, ch. 8, § 2.

§ 9-713. Payment of benefits or filing of issues

(a) Payment or filing within 21 days. -- Except as provided in subsection (c) of this section, within 21 days of the mailing of the notice of the filing of a claim, the employer or its insurer shall:

(1) begin paying temporary total disability benefits; or

(2) file with the Commission any issue to contest the claim.

(b) Failure to pay or file within 21 days -- Penalties. -- If the Commission finds that an employer or insurer has failed, without good cause, to begin paying temporary total disability benefits or to file issues contesting a claim within 21 days of the mailing of the notice of the filing of a claim, the Commission may assess against the employer or insurer a fine not exceeding 20% of the amount of the payment.

(c) Payment or filing within 30 days. -- If the employer or its insurer does not begin paying benefits or file issues within 21 days under subsection (a) of this section, within 30 days of the mailing of the notice of the filing of a claim, the employer or its insurer shall:

(1) begin paying temporary total disability benefits; or

(2) file with the Commission any issue to contest the claim.

(d) Failure to pay or file within 30 days -- Penalties. -- If the Commission finds that an employer or insurer has failed, without good cause, to begin paying temporary total disability benefits or to file issues contesting a claim within 30 days of the mailing of the notice of the filing of a claim, the Commission may assess against the employer or insurer a fine not exceeding 40% of

the payment.

(e) Payment to covered employee. -- The Commission shall order the employer or insurer to pay a fine assessed under this section to the covered employee.

(f) Payment of benefits not waiver. -- Subject to § 9-714 of this subtitle, payment by an employer or its insurer before an award does not waive the right of the employer or its insurer to contest the claim.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2; 2006, ch. 159.

§ 9-714. Claim processing.

(a) Investigation; hearing. -- When the Commission receives a claim, the Commission:

(1) may investigate the claim; and

(2) on application of any party to the claim, shall order a hearing.

(b) Determination. --

(1) The Commission shall make or deny an award within 30 days:

(i) after the mailing of the notice of the filing of a claim; or

(ii) if a hearing is held, after the hearing is concluded.

(2) The decision shall be recorded in the principal office of the Commission, and a copy of the decision shall be sent to each party's attorney of record or, if the party is unrepresented, to the party:

(i) by first-class mail; or

(ii) by electronic means, if the party's attorney of record consents or, if the party is unrepresented, the party consents.

HISTORY: An. Code 1957, art. 101, §§ 36, 40; 1991, ch. 8, § 2; 2001, ch. 197; 2006, ch. 159; 2008, ch. 36, § 6; 2013, ch. 16.

§ 9-715. Conduct of investigations

(a) In general. -- The Commission may conduct an investigation in the manner that the Commission finds best to:

- (1) determine the substantial rights of each party; and
- (2) carry out justly the spirit of this title.

(b) Rules of evidence and procedure. -- Except as otherwise provided in this title, the Commission is not bound by:

- (1) any common law or statutory rule of evidence; or
- (2) any formal or technical rule of procedure.

HISTORY: An. Code 1957, art. 101, § 11; 1991, ch. 8, § 2.

§ 9-716. Self-incrimination -- Not excused

(a) In general. -- In any investigation or hearing by the Commission, a person may not be excused from testifying or producing a document in accordance with an order of the Commission or its secretary on the ground that the testimony or document may:

- (1) tend to incriminate the person; or
- (2) subject the person to a forfeiture or penalty.

(b) Immunity. -- Except as provided in subsection (c) of this section, a person may not be prosecuted, punished, or subjected to any forfeiture or penalty because of any act, transaction, matter, or thing about which the person testifies under oath or produces a document, on order

of the Commission or an examiner or inspector of the Commission.

(c) Perjury. -- A person who commits perjury is subject to prosecution or punishment.

HISTORY: An. Code 1957, art. 101, § 8; 1991, ch. 8, § 2.

§ 9-717. Noncompliance by witness

(a) Application to circuit court. -- If, without reasonable cause, a witness refuses to produce a document or to testify in accordance with an order of the Commission, the Commission may and, on request of a party to the proceeding, shall apply to a circuit court for an order to show cause.

(b) Show-cause order. -- On proof by affidavit that a witness has refused to produce a document or testify in accordance with an order of the Commission, the circuit court shall pass an order, returnable within 2 to 5 days, that directs the witness to show cause why the witness should not be imprisoned.

(c) Show cause hearing. --

(1) On return of the order, the circuit court shall conduct a hearing to determine if the witness, without reasonable cause or legal excuse, refused to testify or provide a document in accordance with an order of the Commission.

(2) The circuit court shall:

(i) examine the witness under oath; and

(ii) give the witness an opportunity to be heard.

(3) If the circuit court finds that the witness, without reasonable cause or legal excuse, refused to produce a document or testify in accordance with an order of the Commission, the circuit court may have the witness immediately imprisoned until the witness:

(i) produces the document or testifies; or

(ii) is discharged in accordance with law.

HISTORY: An. Code 1957, art. 101, § 8; 1991, ch. 8, § 2; 1992, ch. 22, § 1.

§ 9-718. Transcript of investigation

(a) Acceptance as evidence. -- The Commission may receive into evidence all or any part of a transcript of an investigation if the transcript was made by a stenographer appointed by the Commission and the stenographer certifies under penalties of perjury that the transcript is correct.

(b) Effect. -- A transcript introduced into evidence under subsection (a) of this section has the same effect as if the stenographer were present and testified to the facts certified.

(c) Copy to party in interest. -- On request and payment of a fee in the amount set for a transcript from a circuit court, a copy of the transcript shall be provided to any party in interest.

HISTORY: An. Code 1957, art. 101, § 12; 1991, ch. 8, § 2.

§ 9-719. Depositions

(a) Authorized. -- Subject to subsection (b) of this section, a party to a proceeding before the Commission may take an oral deposition as provided by law for a civil case.

(b) Limited to perpetuation of testimony. -- A party may take a deposition under this section only to perpetuate testimony and not for discovery.

HISTORY: An. Code 1957, art. 101, § 8; 1991, ch. 8, § 2.

§ 9-720. Medical examinations

(a) In general. -- If requested by the Commission, a covered employee who is eligible for

compensation under this title shall submit to a medical examination at a place and time reasonably convenient to the covered employee, in accordance with the regulations of the Commission.

(b) Suspension of benefits. --

(1) If the covered employee obstructs or refuses to submit to a medical examination requested by the Commission under subsection (a) of this section, the right of the covered employee to compensation is suspended until the examination has taken place.

(2) Compensation is not payable during or for the period of the suspension.

HISTORY: An. Code 1957, art. 101, § 42; 1991, ch. 8, § 2.

§ 9-721. Evaluation of permanent impairments

(a) In general. -- Except as provided in subsection (c) of this section, a physician shall evaluate a permanent impairment and report the evaluation to the Commission in accordance with the regulations of the Commission.

(b) Contents of evaluation. -- A medical evaluation of a permanent impairment shall include information about:

(1) atrophy;

(2) pain;

(3) weakness; and

(4) loss of endurance, function, and range of motion.

(c) Impairments involving behavioral or mental disorders. -- If a permanent impairment involves a behavioral or mental disorder, a licensed psychologist or qualified physician shall:

(1) perform an evaluation of only the mental or behavioral portion of the permanent impairment; and

(2) report the evaluation to the Commission in accordance with the regulations of the Commission.

HISTORY: An. Code 1957, art. 101, § 36C; 1991, ch. 8, § 2; 2005, ch. 371.

§ 9-722. Claim settlement

(a) In general. -- Subject to approval by the Commission under subsection (c) of this section, after a claim has been filed by a covered employee or the dependents of a covered employee, the covered employee or dependents may enter into an agreement for the final compromise and settlement of any current or future claim under this title with:

- (1) the employer;
- (2) the insurer of the employer;
- (3) the Subsequent Injury Fund; or
- (4) the Uninsured Employers' Fund.

(b) Contents. -- The final compromise and settlement agreement shall contain the terms and conditions that the Commission considers proper.

(c) Approval. -- A final compromise and settlement agreement may not take effect unless it has been approved by the Commission.

(d) Effect. --

(1) When approved by the Commission, a final compromise and settlement agreement is binding on all of the parties to the agreement.

(2) Unless the Commission orders otherwise, a final compromise and settlement agreement between a covered employee or the dependents of a covered employee and the employer or its insurer precludes the right of the covered employee or the dependents of the covered employee to proceed against the Subsequent Injury Fund on the claim.

(e) Survival of right to payment. -- If an individual entitled to payment under a final compromise and settlement agreement dies before the individual receives the total amount payable, the balance payable is an asset of the estate of the individual.

HISTORY: An. Code 1957, art. 101, § 52; 1991, ch. 8, § 2; 2012, ch. 66, § 1.

§ 9-723. Defenses not available to insurer

In a proceeding to enforce a claim of an employee, an insurer may not assert, as a defense, that the employee is not a covered employee if the insurer has accepted or is entitled to receive from the employer, alone or in conjunction with other insurance, a premium for workers' compensation insurance with respect to the employee.

HISTORY: An. Code 1957, art. 101, § 65; 1991, ch. 8, § 2.

§ 9-724. Location of hearing

(a) Governmental agency defined. -- In this section, "governmental agency" includes:

- (1) a county;
- (2) a county board of education;
- (3) a statutory bicounty agency; and
- (4) an incorporated municipality.

(b) Election by covered employee. -- Except as provided in subsection (c) of this section, a covered employee may elect to have a hearing on a claim of the covered employee held at:

- (1) a regional hearing location determined by the Commission to be convenient to all parties;
- (2) a regional hearing location that covers the county where the covered employee resided when the accidental personal injury, or compensable hernia, or last injurious exposure to the

hazards of the occupational disease allegedly occurred; or

(3) Baltimore City.

(c) Governmental agency employer. --

(1) Unless the covered employee objects, if the employer is a governmental agency, the Commission shall conduct a hearing in the county in which the governmental agency is located, provided that hearings of the Commission are scheduled in that county.

(2) If hearings are not conducted in the county in which the governmental agency is located, a hearing may be held in the regional hearing location nearest that county's government offices.

(d) Notice of election. -- A covered employee shall notify the Commission of an election under this section within 10 days after the parties are notified of the hearing.

(e) Denial of election. -- The Commission may deny an election to hold a hearing in Baltimore City, if:

(1) the accidental personal injury, compensable hernia, or last injurious exposure to the hazards of the occupational disease allegedly occurred outside of Baltimore City;

(2) the covered employee did not reside in Baltimore City when the accidental personal injury, compensable hernia, or last injurious exposure to the hazards of the occupational disease allegedly occurred; and

(3) the Commission finds that holding the hearing in Baltimore City would inconvenience a party.

HISTORY: An. Code 1957, art. 101, §§ 5, 22; 1991, ch. 8, § 2; ch. 21, § 5; 2000, ch. 90.

§ 9-725. Unreasonable delay prohibited

The Commission shall schedule hearings to ensure that each claim under this title is heard without unreasonable delay.

HISTORY: An. Code 1957, art. 101, § 5; 1991, ch. 8, § 2.

§ 9-726. Rehearing

(a) Filing of motion. -- Within 15 days after the date of a decision by the Commission, a party may file with the Commission a written motion for a rehearing.

(b) Content. -- A motion filed under subsection (a) of this section shall state the grounds for the motion.

(c) Motion not a stay. -- A motion for rehearing does not stay:

(1) the decision of the Commission; or

(2) the right of another party to appeal from the decision.

(d) Decision on motion. --

(1) Even if an appeal by another party is pending, the Commission promptly shall rule on a motion for rehearing.

(2) The Commission may decide a motion for rehearing without granting a hearing on the motion.

(3) The Commission may grant a motion for rehearing only on grounds of error of law or newly discovered evidence.

(e) Holding rehearing. -- If the Commission grants a motion for rehearing, the Commission promptly shall hold the rehearing and pass an appropriate order, even if an appeal by another party is pending.

(f) Effect on time for taking appeal. -- If a party files a motion for a rehearing in accordance with subsection (a) of this section, the time within which an appeal may be taken from the decision starts on:

(1) the date on which the Commission mails notice of the denial of the motion for a rehearing;
or

(2) if the Commission grants the motion for rehearing, the date on which the Commission mails notice of an order under subsection (e) of this section.

(g) Notification by mail. --

(1) If the Commission denies a motion for a rehearing, the Commission shall send a copy of the denial by first-class mail to each party's attorney of record or, if the party is unrepresented, to the party.

(2) If the Commission grants a motion for a rehearing, the Commission shall send a copy of the order issued in accordance with subsection (e) of this section, by first-class mail to each party's attorney of record or, if the party is unrepresented, to the party.

(h) Determination of questions on appeal. --

(1) If a court hears an appeal from the decision before the Commission rules on a motion for a rehearing under subsection (d) of this section or passes an order under subsection (e) of this section, the court shall determine each question of fact or law, including a question that is still before the Commission.

(2) If a court hears an appeal after the Commission rules on a motion for a rehearing under subsection (d) of this section, the court shall determine each question of fact or law that arises under the original order and any later order that the Commission passes under subsection (e) of this section.

HISTORY: An. Code 1957, art. 101, § 56; 1991, ch. 8, § 2; 1992, ch. 22, § 1; 2001, ch. 197; 2008, ch. 36, § 6.

§ 9-727. Payment of award

The employer or its insurer shall begin paying compensation to the covered employee within 15 days after the later of the date:

(1) an award is made; or

(2) payment of an award is due.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2.

§ 9-728. Failure to pay award -- Penalties

(a) Within 15 days. -- If the Commission finds that an employer or its insurer has failed, without good cause, to begin paying an award within 15 days after the later of the date that the award is issued or the date that payment of the award is due, the Commission shall assess against the employer or its insurer a fine not exceeding 20% of the amount of the payment.

(b) Within 30 days. -- If the Commission finds that an employer or its insurer has failed, without good cause, to begin paying an award within 30 days after the later of the date that the award is issued or the date that payment of the award is due, the Commission shall assess against the employer or its insurer a fine not exceeding 40% of the amount of the payment.

(c) Payment to covered employee. -- The Commission shall order the employer or insurer to pay a fine assessed under this section to the covered employee.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2.

§ 9-729. Lump-sum payments -- On order of Commission

(a) Scope of section. -- This section does not apply to a claim involving a temporary disability.

(b) Conversion to lump sum. -- If the Commission finds that a lump-sum payment is warranted under the facts and circumstances of a claim, the Commission may order that compensation payable to a covered employee or the dependents of a covered employee be converted to a partial or total lump sum.

(c) Reduction of future payments. -- If the Commission grants a lump-sum payment under this section in a claim involving permanent total disability or death, the Commission shall:

(1) reduce the weekly rate of compensation until the amount of the lump sum would have been paid if it had been paid in weekly payments; and

(2) determine in the award:

(i) the dollar amount and the number of weeks to be paid by the employer or its insurer at the reduced weekly rate; and

(ii) if payments are made from the Subsequent Injury Fund, the dollar amount and the number of weeks to be paid by the Subsequent Injury Fund at the reduced weekly rate.

(d) Discount prohibited. -- An award may not be discounted because of a lump-sum payment.

HISTORY: An. Code 1957, art. 101, § 49; 1991, ch. 8, § 2.

§ 9-730. Lump-sum payments -- Conversion by insurer or self-insurer

(a) Scope of section. -- This section does not apply to compensation:

(1) for a serious disability under § 9-630 of this title; or

(2) payable by the Subsequent Injury Fund.

(b) Conversion to lump sum. -- Subject to the consent of the Commission, an insurer or self-insurer may convert an award of compensation for permanent partial disability, minus any attorney's fees, to a lump sum if the initial award did not exceed 51 weeks.

(c) Discount prohibited. -- An award may not be discounted because of a lump-sum payment.

HISTORY: An. Code 1957, art. 101, § 49A; 1991, ch. 8, § 2; 2008, ch. 36, § 6.

§ 9-731. Fees for legal services, funeral expenses, and medical services, supplies, or treatment

(a) In general. --

(1) Unless approved by the Commission, a person may not charge or collect a fee for:

(i) legal services in connection with a claim under this title;

(ii) medical services, supplies, or treatment provided under Subtitle 6, Part IX of this title; or

(iii) funeral expenses under Subtitle 6, Part XIII of this title.

(2) When the Commission approves a fee, the fee is a lien on the compensation awarded.

(3) Notwithstanding paragraph (2) of this subsection, a fee shall be paid from an award of compensation only in the manner set by the Commission.

(b) Lump-sum payment. --

(1) The Commission may order that a fee payable from compensation under subsection (a) of this section be paid in a lump sum.

(2) If the Commission grants a lump-sum payment under paragraph (1) of this subsection, the Commission shall:

(i) reduce the weekly rate of compensation until the amount of the lump sum would have been paid if it had been paid in weekly payments; and

(ii) state in the award the dollar amount and the number of weeks that the reduced rate shall be paid by:

1. the employer or its insurer; or

2. if payments are made from the Subsequent Injury Fund, the Subsequent Injury Fund.

(c) Attorney's fees -- Administrative review. -- On application of a party, the Commission may:

(1) hear and decide any question concerning legal services performed in connection with a claim; and

(2) order a person who received a fee for legal services to refund to the payer any part of the fee that the Commission may find to be excessive.

(d) Attorney's fees -- Enforcement and appeal. -- An order of the Commission regulating payment or refund of payment for legal services may be enforced or appealed in the same manner as a compensation award.

HISTORY: An. Code 1957, art. 101, §§ 49, 57; 1991, ch. 8, § 2.

§ 9-732. Prohibition against assignment, charge, attachment, or execution

Except as provided in Title 10 of the Family Law Article, before the issuance and delivery of a check or draft for any money payable under this title, the money may not be assigned, charged, or taken in attachment or execution.

HISTORY: An. Code 1957, art. 101, § 50; 1991, ch. 8, § 2.

§ 9-733. Termination of temporary total disability benefits -- Notice

(a) Scope of section. --

(1) This section does not apply to a termination of temporary total disability benefits if:

(i) the covered employee has returned to the current employment of the covered employee;

(ii) a treating physician chosen by the covered employee has advised the covered employee that the covered employee has reached maximum improvement from the disability of the covered employee; or

(iii) the termination is made after the termination date contained in an order of the Commission.

(2) This section does not apply to a termination of medical benefits if:

(i) the treatment by a physician or health care provider was not authorized by an insurer or self-insurer; or

(ii) a treating physician or health care provider chosen by the covered employee has advised the covered employee that the covered employee has reached maximum medical improvement from the disability of the covered employee.

(b) Notice. --

(1) (i) Before terminating the payment of temporary total disability benefits, an insurer or self-insurer shall give the covered employee written notice of the date that the benefits are to be terminated.

(ii) Before terminating the payment of medical benefits, an insurer or self-insurer shall give the covered employee and the covered employee's treating physician or health care provider written notice of the date that the benefits are to be terminated.

(2) In the case of temporary total benefits, the notice shall accompany the final payment of temporary total disability benefits to the covered employee.

(c) Contents. --

(1) The notice of termination under this section shall state:

(i) the reasons for the termination;

(ii) that the covered employee has a right to request a hearing before the Commission on the issue of the termination; and

(iii) the procedure and time for requesting a hearing.

(2) In the case of medical benefits, a copy of any medical record or report relied upon by the insurer or self-insurer in making the termination shall be attached to the notice.

HISTORY: An. Code 1957, art. 101, § 36; 1991, ch. 8, § 2; 1998, ch. 408.

§ 9-734. Frivolous proceedings

If the Commission finds that a person has brought a proceeding under this title without any reasonable ground, the Commission shall assess against the person the whole cost of the proceeding, including reasonable attorney's fees.

HISTORY: An. Code 1957, art. 101, § 57; 1991, ch. 8, § 2.

§ 9-735. Prisoners

(a) Scope of section. -- This section applies only to a prisoner who is a covered employee under § 9-221 of this title.

(b) Claim application. -- A prisoner who is permanently partially disabled or temporarily totally disabled shall file a claim with the Commission in accordance with this subtitle.

(c) Initial determination. --

(1) After a prisoner has filed a claim, the Commission shall decide any issue of coverage or compensability.

(2) Until the prisoner is discharged by pardon, parole, or expiration of sentence, the Commission may not:

(i) hold a hearing on or determine a permanent partial disability or permanent total disability of the prisoner; or

(ii) make an award to the prisoner.

(d) Discharge. --

(1) When the prisoner is discharged from a correctional institution, the institution promptly shall notify the Commission of the discharge.

(2) Promptly after receiving notice under paragraph (1) of this subsection, the Commission

shall schedule a hearing to determine the extent of any permanent partial or permanent total disability of the prisoner as of the date of discharge.

HISTORY: An. Code 1957, art. 101, § 35; 1991, ch. 8, § 2.

§ 9-736. Readjustment; continuing powers and jurisdiction; modification

(a) Readjustment of rate of compensation. -- If aggravation, diminution, or termination of disability takes place or is discovered after the rate of compensation is set or compensation is terminated, the Commission, on the application of any party in interest or on its own motion, may:

- (1) readjust for future application the rate of compensation; or
- (2) if appropriate, terminate the payments.

(b) Continuing powers and jurisdiction; modification. --

- (1) The Commission has continuing powers and jurisdiction over each claim under this title.
- (2) Subject to paragraph (3) of this subsection, the Commission may modify any finding or order as the Commission considers justified.
- (3) Except as provided in subsection (c) of this section, the Commission may not modify an award unless the modification is applied for within 5 years after the latter of:

- (i) the date of the accident;
- (ii) the date of disablement; or
- (iii) the last compensation payment.

(c) Estoppel; fraud. --

- (1) If it is established that a party failed to file an application for modification of an award because of fraud or facts and circumstances amounting to an estoppel, the party shall apply for

modification of an award within 1 year after:

(i) the date of discovery of the fraud; or

(ii) the date when the facts and circumstances amounting to an estoppel ceased to operate.

(2) Failure to file an application for modification in accordance with paragraph (1) of this subsection bars modification under this title.

HISTORY: An. Code 1957, art. 101, § 40; 1991, ch. 8, § 2; 2002, ch. 568.

§ 9-737. Judicial review -- Authorized

An employer, covered employee, dependent of a covered employee, or any other interested person aggrieved by a decision of the Commission, including the Subsequent Injury Fund and the Uninsured Employers' Fund, may appeal from the decision of the Commission provided the appeal is filed within 30 days after the date of the mailing of the Commission's order by:

(1) filing a petition for judicial review in accordance with Title 7 of the Maryland Rules;

(2) attaching to or including in the petition a certificate of service verifying that on the date of the filing a copy of the petition has been sent by first-class mail to the Commission and to each other party of record; and

(3) on the date of the filing, serving copies of the petition by first-class mail on the Commission and each other party of record.

HISTORY: An. Code 1957, art. 101, §§ 56, 95; 1991, ch. 8, § 2; 1995, ch. 394; 2001, ch. 197; 2008, ch. 36, § 6.

§ 9-738. Venue

(a) Section not subject to § 6-201 of the Courts Article. -- This section is not subject to the provisions set forth in § 6-201 of the Courts Article.

(b) Filing with circuit court. -- To take an appeal, a person shall file an order of appeal with the circuit court for the county where:

(1) the covered employee resides;

(2) the employer has its principal place of business; or

(3) the accidental personal injury, compensable hernia, or last injurious exposure to the hazards of the occupational disease occurred.

(c) Transfer for lack of jurisdiction. -- If an appeal is taken to a circuit court that does not have jurisdiction, the court shall transfer the appeal to the proper circuit court on the motion of a party.

(d) Transfer for inability to obtain fair trial. -- If a party to an appeal suggests in writing and under oath that the party cannot obtain a fair trial in the circuit court in which the appeal is pending, the circuit court shall transfer the appeal to another circuit court.

HISTORY: An. Code 1957, art. 101, § 56; 1991, ch. 8, § 2; ch. 21, § 5; 2011, ch. 65, § 5; chs. 256, 257.

§ 9-739. Record, statement in place of record, or stipulation

(a) Filing with circuit court. -- A certified copy of the record of the proceedings of the Commission, including any transcript of testimony, a statement of facts in place of the record, or stipulations shall be filed with the circuit court in accordance with Title 7 of the Maryland Rules.

(b) Cost of record. -- Subject to a final allocation of costs by the circuit court at the conclusion of the appeal, the cost of a certified copy of the record of the proceedings of the Commission, including a transcript of testimony, shall be paid:

(1) if the court on its own initiative orders that a copy be filed, by the party that the court specifies in its order; or

(2) unless the court orders otherwise, by the party that requests the copy.

HISTORY: An. Code 1957, art. 101, § 59; 1991, ch. 8, § 2; 1998, ch. 21, § 1.

§ 9-740. Scheduling of appeal

An appeal from the Commission has precedence over all other cases except criminal cases.

HISTORY: An. Code 1957, art. 101, § 56; 1991, ch. 8, § 2.

§ 9-741. Appeal not a stay

An appeal is not a stay of:

(1) an order of the Commission requiring payment of compensation; or

(2) an order or supplemental order of the Commission requiring the provision of medical treatment.

HISTORY: An. Code 1957, art. 101, § 56; 1991, ch. 8, § 2.

§ 9-742. Jurisdiction of Commission pending appeal

(a) In general. -- The Commission retains jurisdiction pending an appeal to consider:

(1) a request for additional medical treatment and attention;

(2) a request for temporary total disability benefits, provided that the covered employee's temporary total disability benefits were granted in the order on appeal, and were terminated by the insurer or self-insurer pending adjudication or resolution of the appeal; and

(3) a request for approval of a proposed settlement of all or part of a claim.

(b) Supplemental order. --

(1) If the Commission finds that a covered employee needs additional medical attention pending an appeal, the Commission may pass a supplemental order requiring the employer to provide additional medical treatment and attention.

(2) If the Commission finds that a covered employee's temporary total disability benefits were terminated pending adjudication or resolution of the appeal, and that the employee was temporarily totally disabled at the time of termination, the Commission may pass a supplemental order requiring the employer to provide the employee with temporary total disability benefits.

(3) If the Commission's decision to reinstate temporary total disability benefits is reversed or modified on appeal, the insurer or self-insurer shall be entitled to an offset or credit for overpayment of the temporary total disability benefits granted in the supplemental order.

(c) Review on pending appeal. -- A supplemental order passed by the Commission under this section is subject to review on the pending appeal.

(d) Jurisdiction when penalty appealed. -- When an appeal that is pending relates solely to a penalty imposed by the Commission, the Commission retains jurisdiction over all matters in the case other than imposition of the penalty.

(e) Offsets or credits. -- This section may not be construed to prevent the Commission from ordering an offset or credit against an award for temporary total or permanent partial disability benefits for any temporary total disability benefits previously paid to a covered employee, as authorized under any other provision of this title.

HISTORY: An. Code 1957, art. 101, § 56; 1991, ch. 8, § 2; 1997, ch. 641; 2000, ch. 398; 2011, chs. 45, 46.

§ 9-743. Award against Subsequent Injury Fund

Unless the Subsequent Injury Fund is a party to an appeal and is represented by counsel, the court to which the appeal is taken may not make an award against the Fund.

HISTORY: An. Code 1957, art. 101, § 56; 1991, ch. 8, § 2.

§ 9-744. Attorney General -- Representation of Commission

(a) Legal advisor. -- The Attorney General is the legal adviser of the Commission.

(b) Representation. -- When requested by any Commissioner, the Attorney General shall represent the Commission in any proceeding.

HISTORY: An. Code 1957, art. 101, § 56; 1991, ch. 8, § 2.

§ 9-745. Conduct of appeal proceedings

(a) In general. -- The proceedings in an appeal shall:

(1) be informal and summary; and

(2) provide each party a full opportunity to be heard.

(b) Presumption and burden of proof. -- In each court proceeding under this title:

(1) the decision of the Commission is presumed to be prima facie correct; and

(2) the party challenging the decision has the burden of proof.

(c) Determination by court. -- The court shall determine whether the Commission:

(1) justly considered all of the facts about the accidental personal injury, occupational disease, or compensable hernia;

(2) exceeded the powers granted to it under this title; or

(3) misconstrued the law and facts applicable in the case decided.

(d) Request for jury trial. -- On a motion of any party filed with the clerk of the court in accordance with the practice in civil cases, the court shall submit to a jury any question of fact involved in the case.

(e) Disposition. --

(1) If the court determines that the Commission acted within its powers and correctly construed the law and facts, the court shall confirm the decision of the Commission.

(2) If the court determines that the Commission did not act within its powers or did not correctly construe the law and facts, the court shall reverse or modify the decision or remand the case to the Commission for further proceedings.

HISTORY: An. Code 1957, art. 101, § 56; 1991, ch. 8, § 2; ch. 21, § 5.

§ 9-746. Court costs and allowances for witnesses

Court costs and allowances for witnesses shall be paid as in other civil cases.

HISTORY: An. Code 1957, art. 101, § 56; 1991, ch. 8, § 2.

§ 9-747. Copy of docket entries and judgment for Commission

The clerk of the court to which an appeal from the Commission is taken shall send promptly to the Commission a certified copy of each docket entry and judgment in the appeal.

HISTORY: An. Code 1957, art. 101, §§ 56, 60; 1991, ch. 8, § 2.

§ 9-748. Interest on compensation

When, on appeal, compensation is awarded by an affirmance, modification, or reversal of an

order of the Commission, the covered employee is entitled to interest on the compensation awarded at 6% a year on each installment of compensation not paid as it:

(1) becomes payable under the award of the Commission; or

(2) would have become payable if the Commission had awarded the same amount of compensation when it passed the order from which the appeal is taken.

HISTORY: An. Code 1957, art. 101, § 56; 1991, ch. 8, § 2; 1992, ch. 22, § 1.

§ 9-749. Frivolous appeal proceedings

If a court determines that the ground for an appeal is not a reasonable ground, the court shall assess against the appellant the whole cost of appeal, including reasonable attorney's fees.

HISTORY: An. Code 1957, art. 101, § 57; 1991, ch. 8, § 2.

§ 9-750. Appeal to Court of Special Appeals

A party may appeal from a decision of the circuit court to the Court of Special Appeals as provided for other civil cases.

HISTORY: An. Code 1957, art. 101, § 56; 1991, ch. 8, § 2.

SUBTITLE 8. SUBSEQUENT INJURIES

§ 9-801. Statement of intent

When a covered employee has a permanent impairment, suffers a subsequent accidental personal injury, occupational disease, or compensable hernia resulting in permanent partial or

permanent total disability, and otherwise meets the requirements of this subtitle, it is the intent of this subtitle that the total compensation to which the covered employee is entitled equal the amount of compensation that would be payable for the combined effects of:

- (1) the previous impairment; and
- (2) the subsequent accidental personal injury, occupational disease, or compensable hernia.

HISTORY: An. Code 1957, art. 101, §§ 22, 66; 1991, ch. 8, § 2; ch. 21, § 5.

§ 9-802. Compensation from Subsequent Injury Fund -- Permanent disability

(a) Limitation on liability of employer and insurer. -- If a covered employee has a permanent impairment and suffers a subsequent accidental personal injury, occupational disease, or compensable hernia resulting in permanent partial or permanent total disability that is substantially greater due to the combined effects of the previous impairment and the subsequent compensable event than it would have been from the subsequent compensable event alone, the employer or its insurer is liable only for the compensation payable under this title for the subsequent accidental personal injury, occupational disease, or compensable hernia.

(b) Compensation from Subsequent Injury Fund. -- In addition to the compensation for which an employer or its insurer is liable, the covered employee is entitled to compensation from the Subsequent Injury Fund if:

(1) the covered employee has a permanent impairment due to a previous accident, disease, or congenital condition that is or is likely to be a hindrance or obstacle to the employment of the covered employee;

(2) the covered employee suffers a subsequent compensable accidental personal injury, occupational disease, or compensable hernia resulting in permanent partial or permanent total disability that is substantially greater due to the combined effects of the previous impairment and the subsequent compensable event than it would have been from the subsequent compensable event alone;

(3) the combined effects of the previous impairment and the subsequent accidental personal

injury, occupational disease, or compensable hernia result in a permanent disability exceeding 50% of the body as a whole; and

(4) the previous impairment, as determined by the Commission at the time of the subsequent compensable event, and the subsequent accidental personal injury, occupational disease, or compensable hernia are each compensable for at least 125 weeks.

(c) Order of payments. -- Compensation from the Subsequent Injury Fund shall be paid after the completion of payments of compensation by the employer or its insurer.

HISTORY: An. Code 1957, art. 101, §§ 22, 66; 1991, ch. 8, § 2; ch. 21, § 5; 1992, ch. 22, § 1.

§ 9-803. Compensation from Subsequent Injury Fund -- Death

(a) Determination by Commission. -- If a covered employee who has a permanent impairment due to a previous accident, disease, or congenital condition that is or is likely to be a hindrance or obstacle to the employment of the covered employee dies due in part to the previous impairment and in part to a subsequent accidental personal injury, occupational disease, or compensable hernia, the Commission shall determine the portion of death that is reasonably attributable to:

(1) the previous impairment; and

(2) the subsequent accidental personal injury, occupational disease, or compensable hernia.

(b) Liability of employer or insurer. -- The employer or its insurer is liable for the compensation payable for the portion of the death of the covered employee that is reasonably attributable to the subsequent accidental personal injury, occupational disease, or compensable hernia.

(c) Liability of Subsequent Injury Fund. -- The Subsequent Injury Fund is liable for the remainder of the compensation payable as in cases of death resulting solely from an accidental personal injury, occupational disease, or compensable hernia.

HISTORY: An. Code 1957, art. 101, §§ 22, 66; 1991, ch. 8, § 2; ch. 21, § 5.

§ 9-804. Awards

(a) Findings by Commission. -- In an award against the Subsequent Injury Fund, the Commission shall find specifically:

- (1) the amount of the weekly payments to the covered employee;
- (2) the number of weeks of compensation to be paid;
- (3) the date when the Subsequent Injury Fund shall begin payments; and
- (4) if possible, the period for which payments are to continue.

(b) Deduction for prior award. --

(1) When the Commission makes an award against the Subsequent Injury Fund, if the prior permanent disability contributes to the covered employee's current permanent disability, the Commission shall deduct from the award the amount of all prior permanent disability payments received by the covered employee under:

(i) each prior award for permanent disability made by the Commission or a similar unit in another state; or

(ii) any prior final compromise and settlement agreement approved by the Commission or a similar unit in another state.

(2) In the case of a permanent total disability under Subtitle 6, Part V of this title, the deduction shall be made by reducing the weekly rate of compensation in accordance with § 9-729 of this title until the amount of the prior permanent disability payments awarded would have been paid if they had been paid in weekly payments.

HISTORY: An. Code 1957, art. 101, § 66; 1991, ch. 8, § 2; ch. 21, § 4; 1992, ch. 22, § 1.

§ 9-805. Waiver not a bar

A waiver executed under § 9-657 of this title by a covered employee who previously has lost or lost the use of a hand, arm, foot, leg, or eye is not a bar to benefits under this subtitle if the covered employee becomes permanently and totally disabled because of the loss or loss of use of a hand, arm, foot, leg, or eye due to an accidental personal injury, occupational disease, or compensable hernia.

HISTORY: An. Code 1957, art. 101, §§ 22, 66; 1991, ch. 8, § 2; ch. 21, § 5.

§ 9-806. Assessments

(a) In general. --

(1) The Commission shall impose an assessment of 6.5%, payable to the Subsequent Injury Fund, on:

(i) each award against an employer or its insurer for permanent disability or death, including awards for disfigurement and mutilation;

(ii) except as provided in paragraph (2) of this subsection, each amount payable by an employer or its insurer under a settlement agreement approved by the Commission; and

(iii) each amount payable under item (i) or (ii) of this paragraph by the Property and Casualty Guaranty Corporation on behalf of an insolvent insurer.

(2) The amount of medical benefits specified in a formal set-aside allocation that is part of an approved settlement agreement shall be excluded from the assessment imposed by the Commission under paragraph (1)(ii) of this subsection if:

(i) 1. the amount of medical benefits is in excess of \$ 50,000; and

2. the payment of medical benefits by the employer or its insurer is directly to an authorized insurer that provides periodic payments to the covered employee pursuant to a single premium annuity; or

(ii) 1. the amount of medical benefits is in any amount; and

2. the payment of medical benefits by the employer or its insurer is to an independent third-party administrator that controls and pays the medical services in accordance with the formal set-aside allocation, provided there is no reversionary interest to the covered employee or the covered employee's beneficiaries.

(3) (i) On or before July 1, 2014, and on or before July 1 each year thereafter, an employer or its insurer that is liable for payment of an assessment imposed under this section shall notify the Subsequent Injury Fund of the current billing address to which notices of payment shall be sent.

(ii) An employer or its insurer that has provided notice under subparagraph (i) of this paragraph shall notify the Subsequent Injury Fund of any change of billing address within 30 days of the change of address.

(b) Rounding off. -- In computing the amount of an assessment, the Commission shall round off any fractional dollar to the nearest whole dollar.

(c) Assessments in addition to compensation. -- Payment of an assessment under this section is in addition to any payment of compensation to a covered employee who has sustained an accidental personal injury, occupational disease, or compensable hernia or a dependent of the covered employee, as provided in this title.

(d) Remittance to State Treasurer. --

(1) The Director of the Subsequent Injury Fund promptly shall remit to the State Treasurer each payment of assessment received by the Subsequent Injury Fund.

(2) The State Treasurer shall hold, manage, and disburse the money in accordance with Title 10, Subtitle 2 of this article.

(e) Purpose of payment. -- The assessment imposed under this section is for payment of claims submitted to the Subsequent Injury Fund and is not a tax intended to benefit the State.

HISTORY: An. Code 1957, art. 101, § 66; 1987, ch. 447, § 3; 1991, ch. 8, § 2; ch. 21, § 5; 1995, ch. 3, § 13; ch. 293; 2003, ch. 63; 2012, chs. 40, 41; 2014, ch. 34.

§ 9-807. Impleader

(a) In general. -- In any case involving payment from the Subsequent Injury Fund, the Commission or any party in interest shall:

(1) give written notice to the State Treasurer or the attorney for the Subsequent Injury Fund that the Subsequent Injury Fund is or may be involved in the case; and

(2) implead the Fund, in writing, as a party.

(b) Time of impleading. --

(1) The Subsequent Injury Fund may be impleaded at any stage of the proceedings:

(i) before the Commission; or

(ii) on appeal.

(2) If the Subsequent Injury Fund is impleaded on appeal before a circuit court or the Court of Special Appeals, the court:

(i) as to an impleader filed at least 60 days before the scheduled trial in the circuit court or at least 60 days before the hearing in the Court of Special Appeals, shall:

1. suspend further proceedings; and

2. remand the case to the Commission for further proceedings to give the Subsequent Injury Fund an opportunity to defend against the claim; and

(ii) as to an impleader filed less than 60 days before the trial in the circuit court or less than 60 days before the hearing in the Court of Special Appeals, may for good cause shown:

1. suspend further proceedings; and

2. remand the case to the Commission for further proceedings to give the Subsequent Injury Fund an opportunity to defend against the claim.

HISTORY: An. Code 1957, art. 101, § 66; 1991, ch. 8, § 2; 2003, ch. 276.

§ 9-808. Judicial review

When an award is made against the Subsequent Injury Fund, the Subsequent Injury Fund may appeal the decision in accordance with Subtitle 7 of this title.

HISTORY: An. Code 1957, art. 101, § 66; 1991, ch. 8, § 2.

SUBTITLE 9. LIABILITY OF THIRD PARTIES

§ 9-901. Choice of proceeding against third party or employer

When a person other than an employer is liable for the injury or death of a covered employee for which compensation is payable under this title, the covered employee or, in case of death, the personal representative or dependents of the covered employee may:

(1) file a claim for compensation against the employer under this title; or

(2) bring an action for damages against the person liable for the injury or death or, in case of joint tortfeasors, against each joint tortfeasor.

HISTORY: An. Code 1957, art. 101, § 58; 1991, ch. 8, § 2.

§ 9-902. Action against third party after award or payment of compensation

(a) Action by self-insured employer, insurer, or fund. -- If a claim is filed and compensation is awarded or paid under this title, a self-insured employer, an insurer, the Subsequent Injury Fund, or the Uninsured Employers' Fund may bring an action for damages against the third

party who is liable for the injury or death of the covered employee.

(b) Recovery of damages exceeding compensation and other payments. -- If the self-insured employer, insurer, Subsequent Injury Fund, or Uninsured Employers' Fund recovers damages exceeding the amount of compensation paid or awarded and the amount of payments for medical services, funeral expenses, or any other purpose under Subtitle 6 of this title, the self-insured employer, insurer, Subsequent Injury Fund, or Uninsured Employers' Fund shall:

(1) deduct from the excess amount its costs and expenses for the action; and

(2) pay the balance of the excess amount to the covered employee or, in case of death, the dependents of the covered employee.

(c) Action by covered employee or dependents. -- If the self-insured employer, insurer, Subsequent Injury Fund, or Uninsured Employers' Fund does not bring an action against the third party within 2 months after the Commission makes an award, the covered employee or, in case of death, the dependents of the covered employee may bring an action for damages against the third party.

(d) Limitations period. -- The period of limitations for the right of action of a covered employee or the dependents of the covered employee against the third party does not begin to run until 2 months after the first award of compensation made to the covered employee or the dependents under this title.

(e) Distribution of damages. -- If the covered employee or the dependents of the covered employee recover damages, the covered employee or dependents:

(1) first, may deduct the costs and expenses of the covered employee or dependents for the action;

(2) next, shall reimburse the self-insured employer, insurer, Subsequent Injury Fund, or Uninsured Employers' Fund for:

(i) the compensation already paid or awarded; and

(ii) any amounts paid for medical services, funeral expenses, or any other purpose under Subtitle 6 of this title; and

(3) finally, may keep the balance of the damages recovered.

(f) Court costs and attorney's fees. -- In an action brought by a covered employee or the dependents of the covered employee under subsection (c) of this section, the covered employee or the dependents of the covered employee, the self-insured employer, the insurer, the Subsequent Injury Fund, and the Uninsured Employers' Fund shall pay court costs and attorney's fees in the proportion that the amount received by each bears to the whole amount paid in settlement of any claim or satisfaction of any judgment obtained in the case.

HISTORY: An. Code 1957, art. 101, § 58; 1991, ch. 8, § 2; ch. 21, § 4.

§ 9-903. Effect of receipt of amount in action

(a) In general. -- Except as provided in subsection (b) of this section, if a covered employee or the dependents of a covered employee receive an amount in an action:

- (1) the amount is in place of any award that otherwise could be made under this title; and
- (2) the case is finally closed and settled.

(b) Exception. -- If the amount of damages received by the covered employee or the dependents of the covered employee is less than the amount that the covered employee or dependents would otherwise be entitled to receive under this title, the covered employee or dependents may reopen the claim for compensation to recover the difference between:

- (1) the amount of damages received by the covered employee or dependents; and
- (2) the full amount of compensation that otherwise would be payable under this title.

HISTORY: An. Code 1957, art. 101, § 58; 1991, ch. 8, § 2.

SUBTITLE 10. UNINSURED EMPLOYERS

§ 9-1001. Definitions

- (a) In general. -- In this subtitle the following words have the meanings indicated.
- (b) Board. -- "Board" means the Uninsured Employers' Fund Board.
- (c) Director. -- "Director" means the Director of the Board.
- (d) Fund. -- "Fund" means the Uninsured Employers' Fund.
- (e) Uninsured employer. -- "Uninsured employer" means an employer who fails to secure payment of compensation to the covered employees of the employer in accordance with § 9-402 of this title.

HISTORY: An. Code 1957, art. 101, § 102; 1991, ch. 8, § 2; 2006, ch. 601.

§ 9-1002. Payment from Uninsured Employers' Fund

- (a) In general. -- An award is payable out of the Fund in accordance with this section.
- (b) Default. -- Unless an application for review has been timely filed under subsection (g) of this section or a notice of appeal timely served, an employer is in default on a claim by a covered employee or the dependents of a covered employee if the employer fails to:
 - (1) secure payment of compensation in accordance with § 9-402 of this title;
 - (2) except for a governmental self-insurance group authorized by § 9-404 of this title, deposit security in accordance with § 9-405 of this title that is:
 - (i) sufficient to cover a claim by a covered employee; and
 - (ii) at least \$ 100,000; and
 - (3) pay compensation in accordance with an award within 30 days after the date of the award.

(c) Notice of default. -- If an employer is in default under subsection (b) of this section, promptly after the expiration of 30 days after the date of the award, the Commission shall notify the employer that:

(1) the employer is in default; and

(2) the license or permit of the employer to do business in the State may be suspended.

(d) Payment; notice of objection. --

(1) On receipt of a notice of default, an employer promptly shall pay the award.

(2) To object to an award, the employer, within 30 days after receipt of the notice of default, shall notify the Commission of the reasons why the employer objects to the award.

(3) The notice of objection by the employer to the Commission serves as an application for review under subsection (g) of this section.

(e) Application for payment from Fund. -- If the employer does not pay the award and does not notify the Commission of its objection to the award in accordance with subsection (d) of this section, the covered employee or the dependents of the covered employee may apply to the Director for payment from the Fund.

(f) Payment or application for review. -- On receipt of an application for payment, the Fund may:

(1) pay the award; or

(2) apply for review under subsection (g) of this section.

(g) Procedure; review. --

(1) The provisions of Subtitle 7 of this title about procedure and the right to appeal apply to:

(i) a covered employee or the dependents of a covered employee who file a claim;

(ii) the uninsured employer; and

(iii) the Fund.

(2) The right of review of the Fund includes:

(i) raising issues;

(ii) discovery; and

(iii) a hearing before the Commission.

HISTORY: An. Code 1957, art. 101, §§ 90, 95; 1991, ch. 8, § 2.

§ 9-1003. Subrogation to rights of claimant

(a) In general. -- If the Fund makes payment to a covered employee or the dependents of a covered employee as directed by the Commission, the Fund is subrogated to the rights of the covered employee or dependents against the uninsured employer.

(b) Civil action; criminal prosecution. -- The Fund may:

(1) institute a civil action to recover the money paid under the award;

(2) refer the matter to the appropriate authority for prosecution under § 9-1108 of this title;
or

(3) do both.

(c) Liability of corporate officers. -- Notwithstanding any other provision of law, if the uninsured employer is a corporation the assets of which are not sufficient to satisfy an award, any officer of the corporation who has responsibility for the general management of the corporation in the State is jointly and severally liable for payment of the award if the corporate officer knowingly failed to secure workers' compensation insurance.

(d) Liability of limited liability company officers. -- Notwithstanding any other provision of law, if the uninsured employer is a limited liability company the assets of which are not sufficient to satisfy an award, any member of the company who has responsibility for the general

management of the limited liability company in the State is jointly and severally liable for payment of the award if a member of the limited liability company who has general management responsibility knowingly failed to secure workers' compensation insurance.

HISTORY: An. Code 1957, art. 101, § 90; 1991, ch. 8, § 2; 2006, ch. 601.

§ 9-1004. Subrogation to rights of uninsured employer

(a) In general. -- If the Fund pays compensation to a covered employee or the dependents of a covered employee, the Fund is subrogated to the rights of the uninsured employer under this title.

(b) Recovery by Fund. -- If the Fund and the uninsured employer both have paid compensation to or on behalf of a covered employee or the dependents of a covered employee, the Fund shall apply any money that it recovers from a third party:

(1) first, to repayment of the award paid by the Fund;

(2) second, to any unsatisfied demand for security and to assessments imposed against the uninsured employer under this subtitle; and

(3) finally, to the uninsured employer.

(c) Excess recovery by Fund. -- If the Fund and the uninsured employer both have paid compensation to or on behalf of a covered employee or the dependents of a covered employee, and the Fund recovers money from a third party exceeding the amount of compensation awarded to the covered employee or the dependents and the reasonable and necessary expenses incurred in making the recovery, the Fund shall:

(1) apportion the excess amount between the covered employee or the dependents and the Fund; and

(2) use the balance to:

(i) first, reimburse the Fund for its reasonable and necessary expenditures in making the recovery;

(ii) second, repay any award paid by the Fund;

(iii) third, satisfy any unsatisfied demand for security or assessments imposed against the

uninsured employer under this subtitle; and

(iv) finally, return the remainder to the uninsured employer.

HISTORY: An. Code 1957, art. 101, § 96; 1991, ch. 8, § 2; 1992, ch. 22, § 1.

§ 9-1005. Assessment against uninsured employer

(a) In general. --

(1) When the Commission makes a decision on a claim for compensation against an uninsured employer, the Commission shall impose against the uninsured employer an assessment of:

(i) at least \$ 500 but not exceeding \$ 1,000; and

(ii) 15% of any award made in the claim, not exceeding \$ 5,000 in any 1 claim.

(2) (i) Notwithstanding any other provision of law, if the uninsured employer is a corporation the assets of which are not sufficient to satisfy an assessment, any officer of the corporation who has responsibility for the general management of the corporation in the State is jointly and severally liable for the assessment if the corporate officer knowingly failed to secure workers' compensation insurance.

(ii) Notwithstanding any other provision of law, if the uninsured employer is a limited liability company the assets of which are not sufficient to satisfy an assessment, any member of the limited liability company who has responsibility for the general management of the limited liability company in the State is jointly and severally liable for the assessment if a member of the limited liability company who has general management responsibility knowingly failed to secure workers' compensation insurance.

(b) Payment into Fund. -- The Commission shall direct payment of an assessment under subsection (a) of this section into the Fund.

HISTORY: An. Code 1957, art. 101, § 91; 1991, ch. 8, § 2; ch. 272; 2006, ch. 601; 2010, ch. 731.

§ 9-1006. Assessment against insurer

(a) In general. -- The Commission may assess an insurer \$ 300 if:

(1) the insurer fails to comply with the requirements of the Commission about certification of insurance with the Commission; and

(2) the Commission finds that the Fund or the Commission was required to investigate or attend a hearing to determine whether an employer has insurance.

(b) Additional assessment. -- The Commission may assess the insurer an additional \$ 300 for each subsequent failure to comply with the insurance certification requirements of the Commission.

(c) Payment into Fund. -- The Commission shall direct payment of an assessment under subsection (a) or (b) of this section into the Fund.

(d) Notification of Insurance Commissioner. -- If an insurer fails to comply with the insurance certification requirements of the Commissioner 5 times in a fiscal year, the Commission may:

(1) notify the Insurance Commissioner; and

(2) request that the insurer show cause why the Insurance Commissioner should not impose sanctions under § 4-113(d) of the Insurance Article.

HISTORY: An. Code 1957, art. 101, § 91; 1991, ch. 8, § 2; 1997, ch. 70, § 4.

§ 9-1007. Assessment on awards and settlements

(a) In general. --

(1) Except as provided in subsection (b) of this section, the Commission shall impose against an employer or, if insured, its insurer an assessment equal to 1% of:

(i) each award against the employer for permanent disability or death, including awards for

disfigurement or mutilation; and

(ii) except as provided in paragraph (2) of this subsection, each amount payable by the employer or its insurer under a settlement agreement approved by the Commission.

(2) The amount of medical benefits specified in a formal set-aside allocation that is part of an approved settlement agreement shall be excluded from the assessment imposed by the Commission under paragraph (1)(ii) of this subsection if:

(i) 1. the amount of medical benefits is in excess of \$ 50,000; and

2. the payment of medical benefits by the employer or its insurer is directly to an authorized insurer that provides periodic payments to the covered employee pursuant to a single premium annuity; or

(ii) 1. the amount of medical benefits is in any amount; and

2. the payment of medical benefits by the employer or its insurer is to an independent third-party administrator that controls and pays the medical services in accordance with the formal set-aside allocation, provided there is no reversionary interest to the covered employee or the covered employee's beneficiaries.

(3) (i) Notwithstanding any other provision of law, if the employer is a corporation the assets of which are not sufficient to satisfy an assessment, any officer of the corporation who has responsibility for the general management of the corporation in the State is jointly and severally liable for the assessment if the corporate officer knowingly failed to secure workers' compensation insurance.

(ii) Notwithstanding any other provision of law, if the employer is a limited liability company the assets of which are not sufficient to satisfy an assessment, any member of the limited liability company who has responsibility for the general management of the limited liability company in the State is jointly and severally liable for the assessment if a member of the limited liability company who has general management responsibility knowingly failed to secure workers' compensation insurance.

(b) Fund reserves inadequate -- Additional assessment. -- Notwithstanding the limit on the balance of the Fund under § 9-1011 of this subtitle, if the Board determines that the reserves of the Fund are inadequate to meet anticipated losses, the Board may direct the Commission to

assess an additional 1% under subsection (a) of this section.

(c) Rounding off. -- Any fractional dollar of payment under this section shall be rounded off to the nearest whole dollar.

(d) Payment into Fund. -- The Commission shall direct payment of an assessment under subsection (a) or (b) of this section into the Fund.

(e) Payments in addition to compensation. -- Payments under this section are in addition to the payment of compensation to a covered employee or the dependents of a covered employee under this title.

HISTORY: An. Code 1957, art. 101, § 91; 1991, ch. 8, § 2; 1999, ch. 316; 2006, ch. 601; 2012, chs. 40, 41.

§ 9-1008. Assessment -- Compensation abated or not awarded; death without dependent

(a) Scope of section. -- This section does not apply to an award against the Subsequent Injury Fund.

(b) Compensation abated or not awarded. -- The Commission shall impose an assessment of 10%, not exceeding \$ 4,500, against compensation awarded or likely to be awarded against an insured or self-insured employer and not paid if the Commission determines that the compensation is not awarded or is abated because of:

(1) death; or

(2) lack of a covered employee or a dependent of a covered employee eligible for the compensation.

(c) Death without dependent. -- On expiration of the time period within which a claim may be filed under this title, the Commission shall assess the insurer or self-insured employer \$ 4,500 if a covered employee dies:

(1) due to an accidental personal injury or occupational disease; and

(2) without any surviving dependent.

(d) Payment to Fund. -- The Commission shall direct payment of an assessment under subsection (b) or (c) of this section into the Fund.

HISTORY: An. Code 1957, art. 101, § 91; 1991, ch. 8, § 2; ch. 21, § 5; 1992, ch. 22, § 1.

§ 9-1009. Notice and payment of assessments; disposition of money collected

(a) Notice of assessment. -- When the Commission imposes an assessment on an employer under this subtitle, the Commission shall mail the employer notice of the assessment.

(b) Payment of assessment. -- An employer shall pay an assessment under this subtitle into the Fund within 10 days after the date that notice of the assessment is mailed to the employer.

(c) Default; entry of judgment. -- If an employer fails to pay an assessment in accordance with subsection (b) of this section, the default constitutes a default in payment of compensation and judgment shall be entered as in a case of default in payment of compensation.

(d) Distribution of money collected in connection with claim but not payable from fund. -- Except for fines collected under § 9-1108 of this title, all money collected from an uninsured employer with respect to any claim for compensation but not payable from the Fund, whether collected before or after entry of a judgment against the employer, shall be:

(1) first, considered payment of and applied to any compensation or benefits due or security demanded from the employer in connection with the claim; and

(2) second, considered payment of and applied to assessments imposed under this subtitle.

(e) Disposition of money for failure to pay assessments or compensation and benefits. -- All money recovered from uninsured employers on judgments entered for failure to pay assessments and for failure to pay compensation and benefits that were paid from the Fund shall be paid into the Fund.

HISTORY: An. Code 1957, art. 101, § 91; 1991, ch. 8, § 2; 1992, ch. 22, § 1.

§ 9-1010. Assessment a lien

(a) In general. -- An assessment that is payable under this subtitle is a lien against the assets of the employer who is liable for the assessment.

(b) Subordination to other claims. -- A lien under subsection (a) of this section is subordinate to:

(1) claims for unpaid wages; and

(2) prior recorded liens.

HISTORY: An. Code 1957, art. 101, § 101; 1991, ch. 8, § 2.

§ 9-1011. Suspension and resumption of assessments

(a) Suspension of assessments. --

(1) When the amount of the Fund equals at least \$ 5,000,000, the payment of assessments by employers and insurers is suspended.

(2) The Director shall notify each self-insured employer and insurer of the suspension of the payment of assessments under paragraph (1) of this subsection.

(b) Resumption of assessments. --

(1) Payment of assessments shall be resumed if:

(i) the amount of the Fund becomes less than \$ 3,000,000 because of payments made under § 9-1002 of this subtitle or other payments; or

(ii) the Director determines that payments that are likely to be made from the Fund in the next 3 months will reduce the amount of the Fund to less than \$ 3,000,000.

(2) When payment of assessments is to be resumed under paragraph (1) of this subsection, the Director shall notify each self-insured employer and insurer that payment of assessments is to:

(i) resume on a specified date; and

(ii) continue until the amount of the Fund becomes at least \$ 5,000,000.

HISTORY: An. Code 1957, art. 101, § 91; 1991, ch. 8, § 2; 1999, ch. 316.

§ 9-1012. Suspension of license or permit

(a) Notice. --

(1) Notwithstanding any other provision of this subtitle, the Director shall notify an employer by certified mail, return receipt requested, that the license or permit of the employer to do business in the State may be suspended if the employer fails to:

(i) reimburse the Fund for payment of an award under § 9-1002 of this subtitle;

(ii) pay an assessment under this subtitle; or

(iii) pay a penalty ordered under § 9-407 of this title.

(2) The Director shall send a copy of the notice to each State, county, or municipal unit that has issued a license or permit to the employer for an activity for which workers' compensation coverage is required by law.

(b) Hearing. --

(1) Within 15 days after receipt of the notice, the licensing unit shall provide the employer with the notice and opportunity for a hearing as otherwise may be required by law.

(2) If law requires the licensing unit to hold a hearing, the licensing unit shall send written notice of the hearing date to the Director.

(c) Suspension. --

(1) The licensing unit shall suspend the license or permit of the employer if the licensing unit finds that the employer has failed to:

(i) reimburse the Fund for payment of an award under § 9-1002 of this subtitle;

(ii) pay an assessment under this subtitle; or

(iii) pay a penalty ordered under § 9-407 of this title.

(2) A suspension of a license or permit under paragraph (1) of this subsection shall continue until the employer:

(i) reimburses the Fund for payment of an award under § 9-1002 of this subtitle;

(ii) pays the assessment due to the Fund;

(iii) pays a penalty due to the Fund; or

(iv) agrees to reimburse the Fund for payment of an award or to pay the assessment and the penalty due to the Fund in a manner approved by the Board.

HISTORY: An. Code 1957, art. 101, §§ 90, 91; 1991, ch. 8, § 2; 2013, ch. 43, § 5; ch. 676.

§ 9-1013. Compromise of judgment

(a) Authorized. --

(1) If the Director considers compromise to be in the best interest of the Fund, the Director may compromise the amount of a judgment against an employer under this subtitle.

(2) A compromise under paragraph (1) is not required to be approved by any other State official to be effective.

(b) Limit. -- A compromise under this section may not reduce the amount of benefits payable to

or for a covered employee or the dependents of a covered employee.

(c) Modification of judgment. -- A judgment may be modified to reflect a compromise under this section.

HISTORY: An. Code 1957, art. 101, § 93; 1991, ch. 8, § 2.

§ 9-1014. Settlement by covered employee or dependents

Unless the Director gives written consent, a covered employee or the dependents of the covered employee may not settle a cause of action for an amount less than the amount that the Fund paid to or for the covered employee or dependents.

HISTORY: An. Code 1957, art. 101, § 97; 1991, ch. 8, § 2.

§ 9-1015. Payment by Maryland Jockey Injury Compensation Fund, Inc

(a) Application. -- A jockey who is a covered employee under § 9-212 of this title while performing a service in connection with training or the dependents of the jockey may apply for payment from the Maryland Jockey Injury Compensation Fund, Inc. if the employer of the jockey is in default on a claim under § 9-1002(b) of this subtitle.

(b) Payment. -- On receipt of an application for payment, the Maryland Jockey Injury Compensation Fund, Inc. shall pay the award.

(c) Subrogation; actions by Fund. --

(1) If the Maryland Jockey Injury Compensation Fund, Inc. makes payment under this section to a covered employee or the dependents of the covered employee as directed by the Commission, the Maryland Jockey Injury Compensation Fund, Inc. is subrogated to the rights of the covered employee or dependents against the uninsured employer.

(2) The Maryland Jockey Injury Compensation Fund, Inc. may:

(i) institute a civil action against the uninsured employer to recover the money paid under the award;

(ii) refer the matter to the Maryland Racing Commission for suspension or revocation of the occupational license of the uninsured employer;

(iii) refer the matter to the appropriate authority for prosecution under § 9-1108 of this title;
or

(iv) take action under any combination or all of items (i) through (iii) of this paragraph.

HISTORY: 1992, ch. 543; 2008, ch. 36, § 6.

SUBTITLE 11. PROHIBITED ACTS; PENALTIES

§ 9-1101. Deduction from wage

(a) Prohibited act. -- An employer may not deduct any part of the premium that the employer pays for workers' compensation insurance from the salary or wages of a covered employee.

(b) Penalty. -- A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$ 200.

HISTORY: An. Code 1957, art. 101, § 51; 1991, ch. 8, § 2.

§ 9-1102. Failure to report accident

An employer who fails to report an accidental personal injury within the time required under § 9-707(a) of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$ 50.

HISTORY: An. Code 1957, art. 101, § 38; 1991, ch. 8, § 2; ch. 21, § 5.

§ 9-1103. Attempt to influence choice of lawyer

(a) Prohibited act. -- An employer, superior, union official, member of a union, guild, or similar group, or another person connected with the employment of a covered employee entitled to benefits under this title may not attempt to influence, directly or indirectly, the choice of a lawyer by the covered employee:

(1) through corruption;

(2) by threat or force; or

(3) for personal gain.

(b) Penalty. -- A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$ 1,000 or imprisonment not exceeding 6 months or both.

HISTORY: An. Code 1957, art. 101, § 69; 1991, ch. 8, § 2.

§ 9-1104. Disclosure of information

(a) Prohibited act. -- An employee of the Commission may not disclose to any person other than a member of the Commission any information that the employee obtains about the business, property, or transactions of another.

(b) Penalty. -- A person who violates this section is guilty of a misdemeanor and on conviction:

(1) is subject to a fine not exceeding \$ 500 or imprisonment not exceeding 18 months; and

(2) is disqualified from appointment to or employment by the Commission.

HISTORY: An. Code 1957, art. 101, § 4; 1991, ch. 8, § 2.

§ 9-1105. Discharge of employee for filing claim

(a) Prohibited act. -- An employer may not discharge a covered employee from employment solely because the covered employee files a claim for compensation under this title.

(b) Penalty. -- A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$ 500 or imprisonment not exceeding 1 year or both.

HISTORY: An. Code 1957, art. 101, § 39A; 1991, ch. 8, § 2.

§ 9-1106. False claims

(a) Prohibited act. -- A person may not knowingly affect or knowingly attempt to affect the payment of compensation, fees, or expenses under this title by means of a fraudulent representation.

(b) Penalties. -- A person who violates this section, on conviction:

(1) is subject to the penalties of § 7-104 of the Criminal Law Article; and

(2) may not receive compensation, fees, or expenses under this title.

HISTORY: An. Code 1957, art. 101, § 41; 1991, ch. 8, § 2; 1993, ch. 171; 1994, ch. 540; 2002, ch. 213, § 6; 2004, ch. 471.

§ 9-1107. Failure to apply for approval of self-insurance plan; failure to pay or secure payment of compensation

(a) Failure to apply for approval. -- An employer who self insures under § 9-405 of this title or participates in a governmental self-insurance group under § 9-404 of this title and fails to apply to the Commission for approval of the self-insurance plan of the employer or governmental self-insurance group in accordance with § 9-403 of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$ 5,000 or imprisonment not exceeding 1 year or

both.

(b) Failure to pay or secure payment of compensation. -- An employer who is subject to this title and fails to secure payment of compensation in accordance with § 9-402 of this title or fails to pay an award of compensation is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$ 5,000 or imprisonment not exceeding 1 year or both.

(c) Corporate officers. -- If the employer is a corporation, the officer of the corporation who has responsibility for the general management of the corporation in the State is subject to the fine and imprisonment specified in subsection (a) or (b) of this section.

(d) Disposition of fines. --

(1) A fine imposed on an employer under this section shall be:

(i) paid to the State Treasury and credited to the Commission; and

(ii) used to pay, wholly or partly, an award made against the employer by the Commission.

(2) A disbursement under this subsection shall be made in the same manner as a disbursement of other money of the Commission.

(3) Any part of the fine that is not required to pay an award shall be transferred to the General Fund of the State.

(e) Remittance of penalty. -- A court may remit a penalty only if the employer who is in default:

(1) secures payment of compensation in accordance with § 9-402 of this title; and

(2) pays or secures payment of all compensation and other benefits awarded against the employer under this title.

HISTORY: An. Code 1957, art. 101, § 16A; 1991, ch. 8, § 2; 2006, ch. 601; 2008, ch. 36, § 6.

§ 9-1108. Failure to secure payment of compensation

(a) Failure to secure payment of compensation. -- An employer who fails to secure payment of compensation in accordance with § 9-402 of this title that will be in force on the date a cancellation of a contract of workers' compensation insurance becomes effective is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$ 5,000 or imprisonment not exceeding 1 year or both.

(b) Corporate officers. -- If the employer is a corporation, the officer of the corporation who has responsibility for the general management of the corporation in the State is subject to the fine and imprisonment specified in subsection (a) of this section.

(c) Payment into Uninsured Employers' Fund. -- A fine imposed against and collected from an employer under this section shall be paid into the Uninsured Employers' Fund.

HISTORY: An. Code 1957, art. 101, § 19; 1991, ch. 8, § 2; 1992, ch. 22, § 1; 2006, ch. 601.

SUBTITLE 12. SHORT TITLE

§ 9-1201. Short title

This title may be cited as the Maryland Workers' Compensation Act.

HISTORY: 1991, ch. 8, § 2.