

By: Taylor of Galveston

H.B. No. 2605

Substitute the following for H.B. No. 2605:

By: Cook

C.S.H.B. No. 2605

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the continuation and functions of the division of
3 workers' compensation of the Texas Department of Insurance.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 31.004(b), Insurance Code, is amended to
6 read as follows:

7 (b) Unless continued as provided by Chapter 325, Government
8 Code, the duties of the division of workers' compensation of the
9 Texas Department of Insurance under Title 5, Labor Code, expire
10 September 1, 2017 [~~2011~~], or another date designated by the
11 legislature.

12 SECTION 2. Sections 1305.355(e), (f), and (g), Insurance
13 Code, are amended to read as follows:

14 (e) A party to a medical dispute that remains unresolved
15 after a review under this section is entitled to a hearing and [~~may~~
16 ~~seek~~] judicial review of the decision in accordance with Section
17 1305.356. The division of workers' compensation and the department
18 are not considered to be parties to the medical dispute.

19 (f) A determination of an independent review organization
20 related to a request for preauthorization or concurrent review is
21 binding during the pendency of a dispute [~~any appeal~~], and the
22 carrier and network shall comply with the determination.

23 (g) If a contested case hearing or judicial review is not
24 sought under Section 1305.356 [~~this section~~], the carrier and

1 network shall comply with the independent review organization's
2 determination.

3 SECTION 3. Subchapter H, Chapter 1305, Insurance Code, is
4 amended by adding Section 1305.356 to read as follows:

5 Sec. 1305.356. CONTESTED CASE HEARING ON AND JUDICIAL
6 REVIEW OF INDEPENDENT REVIEW. (a) A party to a medical dispute
7 that remains unresolved after a review under Section 1305.355 is
8 entitled to a contested case hearing. A hearing under this
9 subsection shall be conducted by the department's division of
10 workers' compensation in the same manner as a hearing conducted
11 under Section 413.0311, Labor Code.

12 (b) At a contested case hearing held under Subsection (a),
13 the hearing officer conducting the hearing shall consider
14 evidence-based treatment guidelines adopted by the network under
15 Section 1305.304.

16 (c) A party that has exhausted all administrative remedies
17 under Subsection (a) and is aggrieved by a final decision of the
18 department's division of workers' compensation may seek judicial
19 review of the decision.

20 (d) Judicial review under Subsection (c) shall be conducted
21 in the manner provided for judicial review of a contested case under
22 Subchapter G, Chapter 2001, Government Code, and is governed by the
23 substantial evidence rule.

24 SECTION 4. Section 2051.151(e), Insurance Code, is amended
25 to read as follows:

26 (e) An insurance company that fails to comply with this
27 section commits an [~~a Class D~~] administrative violation under

1 Subtitle A, Title 5, Labor Code.

2 SECTION 5. Section 2053.206(a), Insurance Code, is amended
3 to read as follows:

4 (a) A person commits an [~~a Class A~~] administrative violation
5 under Subtitle A, Title 5, Labor Code, if the person engages in
6 conduct that violates this subchapter.

7 SECTION 6. Section 402.023, Labor Code, is amended by
8 adding Subsection (c-1) to read as follows:

9 (c-1) The division shall adopt a policy outlining the
10 division's complaint process from receipt of the initial complaint
11 to the complaint's disposition.

12 SECTION 7. Subchapter B, Chapter 402, Labor Code, is
13 amended by adding Section 402.0231 to read as follows:

14 Sec. 402.0231. DOCUMENTATION AND ANALYSIS OF COMPLAINTS.

15 (a) The division shall develop procedures to formally document and
16 analyze complaints received by the division.

17 (b) The division shall compile detailed statistics on all
18 complaints received and analyze complaint information trends,
19 including:

20 (1) the number of complaints;

21 (2) the source of each complaint;

22 (3) the types of complaints;

23 (4) the length of time from the receipt of the
24 complaint to its disposition; and

25 (5) the disposition of complaints.

26 (c) The division shall further analyze the information
27 compiled under Subsection (b) by field office and by program.

1 (d) The division shall report the information compiled and
2 analyzed under Subsections (b) and (c) to the commissioner at
3 regular intervals.

4 SECTION 8. Section 402.073, Labor Code, is amended by
5 amending Subsections (b) and (c) and adding Subsections (d) and (e)
6 to read as follows:

7 (b) In a case in which a hearing is conducted by the State
8 Office of Administrative Hearings under Section 413.031 or [7]
9 413.055, [~~or 415.034,~~] the administrative law judge who conducts
10 the hearing for the State Office of Administrative Hearings shall
11 enter the final decision in the case after completion of the
12 hearing.

13 (c) In a case in which a hearing is conducted in conjunction
14 with Section 402.072, 407.046, [~~or~~] 408.023, or 415.034, and in
15 other cases under this subtitle that are not subject to Subsection
16 (b), the administrative law judge who conducts the hearing for the
17 State Office of Administrative Hearings shall propose a decision to
18 the commissioner for final consideration and decision by the
19 commissioner.

20 (d) The notice of the commissioner's order must include a
21 statement of the right of the person to judicial review of the
22 order.

23 (e) In issuing an order under this section, the commissioner
24 shall comply with the requirements applicable to a state agency
25 under Section 2001.058, Government Code.

26 SECTION 9. Section 403.001(a), Labor Code, is amended to
27 read as follows:

1 (a) Except as provided by Sections 403.006, ~~[and]~~ 403.007,
2 and 403.008, or as otherwise provided by law, money collected under
3 this subtitle, including ~~[administrative penalties and]~~ advance
4 deposits for purchase of services, shall be deposited in the
5 general revenue fund of the state treasury to the credit of the
6 Texas Department of Insurance operating account.

7 SECTION 10. Chapter 403, Labor Code, is amended by adding
8 Section 403.008 to read as follows:

9 Sec. 403.008. DEPOSIT OF ADMINISTRATIVE PENALTIES.
10 Administrative penalties collected under this subtitle shall be
11 deposited in the general revenue fund.

12 SECTION 11. Section 408.0041, Labor Code, is amended by
13 amending Subsection (b) and adding Subsection (b-1) to read as
14 follows:

15 (b) Except as provided by Section 408.1225(f), a [A] medical
16 examination requested under Subsection (a) shall be performed by
17 the next available doctor on the division's list of certified
18 designated doctors whose credentials are appropriate for the area
19 of the body affected by the injury [issue in question] and the
20 injured employee's diagnosis [medical condition] as determined by
21 commissioner rule. [A designated doctor, other than a
22 chiropractor, is subject to Section 408.0043. A designated doctor
23 who is a chiropractor is subject to Section 408.0045.] The division
24 shall assign a designated doctor not later than the 10th day after
25 the date on which the request under Subsection (a) is approved, and
26 the examination must be conducted not later than the 21st day after
27 the date on which the commissioner issues the order under

1 Subsection (a). An examination under this section may not be
2 conducted more frequently than every 60 days, unless good cause for
3 more frequent examinations exists, as defined by commissioner
4 rules.

5 (b-1) A designated doctor, other than a chiropractor, is
6 subject to Section 408.0043. A designated doctor who is a
7 chiropractor is subject to Section 408.0045. To the extent of a
8 conflict between this section and Section 408.0043 or 408.0045,
9 this section controls.

10 SECTION 12. Section 408.022, Labor Code, is amended by
11 amending Subsections (b) and (c) and adding Subsections (c-1) and
12 (c-2) to read as follows:

13 (b) If an employee is dissatisfied with the initial choice
14 of a doctor [~~from the division's list~~], the employee may notify the
15 insurance carrier [~~division~~] and request authority to select an
16 alternate doctor. The notification must be in writing stating the
17 reasons for the change, except notification may be by telephone
18 when a medical necessity exists for immediate change.

19 (c) The commissioner shall prescribe criteria to be used by
20 an insurance carrier [~~the division~~] in granting the employee
21 authority to select an alternate doctor. The criteria may include:

22 (1) whether treatment by the current doctor is
23 medically inappropriate;

24 (2) the professional reputation of the doctor;

25 (3) whether the employee is receiving appropriate
26 medical care to reach maximum medical improvement; and

27 (4) whether a conflict exists between the employee and

1 the doctor to the extent that the doctor-patient relationship is
2 jeopardized or impaired.

3 (c-1) The employee may dispute a denial of authority to
4 select an alternate doctor. A dispute under this subsection is
5 subject to Chapter 410.

6 (c-2) The commissioner shall adopt rules to implement this
7 section, including procedures for disputing a denial of authority.

8 SECTION 13. Section 408.085, Labor Code, is amended to read
9 as follows:

10 Sec. 408.085. ADVANCE OF BENEFITS FOR HARDSHIP. (a) If
11 there is a likelihood that income benefits will be paid, the
12 insurance carrier [~~commissioner~~] may grant an employee suffering
13 financial hardship advances as provided by this subtitle against
14 the amount of income benefits to which the employee may be entitled.
15 An advance may be granted [~~ordered~~] before or after the employee
16 attains maximum medical improvement. [~~An insurance carrier shall~~
17 ~~pay the advance ordered.~~]

18 (b) An employee must apply to the insurance carrier
19 [~~division~~] for an advance on a form prescribed by the commissioner.
20 The application must describe the hardship that is the grounds for
21 the advance.

22 (c) An advance under this section may not exceed an amount
23 equal to four times the maximum weekly benefit for temporary income
24 benefits as computed in Section 408.061. An insurance carrier [~~The~~
25 ~~commissioner~~] may not grant more than three advances to a
26 particular employee based on the same injury.

27 (d) An insurance carrier [~~The commissioner~~] may not grant an

1 advance to an employee who is receiving, on the date of the
2 application under Subsection (b), at least 90 percent of the
3 employee's net preinjury wages under Section 408.003 or 408.129.

4 (e) The employee may dispute a denial or the amount of an
5 advance of benefits. A dispute under this subsection is subject to
6 Chapter 410.

7 (f) The commissioner shall adopt rules to implement this
8 section, including procedures for requesting an advance of benefits
9 and disputing the denial or the amount of an advance of benefits.

10 SECTION 14. Sections 408.104(a) and (b), Labor Code, are
11 amended to read as follows:

12 (a) On application by ~~[either]~~ the employee, ~~[or]~~ the
13 insurance carrier~~[, the commissioner by order]~~ may extend the
14 104-week period described by Section 401.011(30)(B) if the employee
15 has had spinal surgery, or has been approved for spinal surgery
16 under Section 408.026 and commissioner rules, within 12 weeks
17 before the expiration of the 104-week period. If the insurance
18 carrier grants an extension ~~[an order is issued]~~ under this
19 section, the insurance carrier ~~[order]~~ shall extend the statutory
20 period for maximum medical improvement to a date certain, based on
21 medical evidence presented to the insurance carrier
22 ~~[commissioner]~~.

23 (b) The ~~[Either the]~~ employee ~~[or the insurance carrier]~~ may
24 dispute the disposition of an application for extension made under
25 this section. A dispute under this subsection is subject to Chapter
26 410.

27 SECTION 15. Section 408.1225, Labor Code, is amended by

1 amending Subsections (a), (b), and (e) and adding Subsections
2 (a-1), (a-2), (a-3), (a-4), (a-5), and (f) to read as follows:

3 (a) To be eligible to serve as a designated doctor, a doctor
4 must maintain an active certification by the division [~~meet~~
5 ~~specific qualifications, including training in the determination~~
6 ~~of impairment ratings and demonstrated expertise in performing~~
7 ~~examinations and making evaluations as described by Section~~
8 ~~408.0041. The commissioner shall develop qualification standards~~
9 ~~and administrative policies to implement this subsection and may~~
10 ~~adopt rules as necessary~~].

11 (a-1) The commissioner by rule shall develop a process for
12 the certification of a designated doctor.

13 (a-2) The rules adopted by the commissioner under
14 Subsection (a-1) must:

15 (1) require the division to evaluate the qualification
16 of designated doctors for certification using eligibility
17 requirements, including:

18 (A) educational experience;

19 (B) previous training; and

20 (C) demonstrated ability to perform the specific
21 designated doctor duties described by Section 408.0041; and

22 (2) require standard training and testing to be
23 completed in accordance with policies and guidelines developed by
24 the division.

25 (a-3) The division shall develop guidelines for
26 certification training programs for certification of a designated
27 doctor under Subsection (a-1) to ensure a designated doctor's

1 competency and continued competency in providing assessments,
2 including:

- 3 (1) a standard curriculum;
4 (2) standard course materials; and
5 (3) testing criteria.

6 (a-4) The division shall develop and implement a procedure
7 to periodically review and update the guidelines developed under
8 Subsection (a-3).

9 (a-5) The division may authorize an independent training
10 and testing provider to conduct the certification program for the
11 division under the guidelines developed under Subsection (a-3).

12 (b) The commissioner shall ensure the quality of designated
13 doctor decisions and reviews through active monitoring of the
14 decisions and reviews, and may take action as necessary to:

15 (1) restrict the participation of a designated doctor;
16 ~~[or]~~

17 (2) deny renewal of [remove] a [doctor from inclusion
18 on the department's list of] designated doctor's certification; or

19 (3) revoke a designated doctor's certification under
20 Section 413.044 [doctors].

21 (e) A designated doctor, other than a chiropractor, is
22 subject to Section 408.0043. A designated doctor who is a
23 chiropractor is subject to Section 408.0045. To the extent of a
24 conflict between this section and Section 408.0043 or 408.0045,
25 this section controls.

26 (f) A designated doctor shall continue providing services
27 related to a case assigned to the designated doctor, including

1 performing subsequent examinations or acting as a resource for
2 division disputes, unless the division authorizes the designated
3 doctor to discontinue providing services. The commissioner by rule
4 shall prescribe the circumstances under which a designated doctor
5 is permitted to discontinue providing services, including:

6 (1) the doctor decides to stop practicing in the
7 workers' compensation system; or

8 (2) the doctor relocates the doctor's residence or
9 practice.

10 SECTION 16. Section 408.129, Labor Code, is amended by
11 amending Subsections (a), (b), and (d) and adding Subsection (e) to
12 read as follows:

13 (a) On approval by an insurance carrier [~~the commissioner~~]
14 of a written request received from an employee, the [~~an insurance~~]
15 carrier shall accelerate the payment of impairment income benefits
16 to the employee. The accelerated payment may not exceed a rate of
17 payment equal to that of the employee's net preinjury wage.

18 (b) An insurance carrier [~~The commissioner~~] shall approve
19 the request and accelerate [~~order the acceleration of~~] the benefits
20 if the carrier [~~commissioner~~] determines that the acceleration is:

21 (1) required to relieve hardship; and

22 (2) in the overall best interest of the employee.

23 (d) The employee may dispute a denial or the amount of an
24 acceleration of benefits. A dispute under this subsection is
25 subject to Chapter 410.

26 (e) The commissioner shall adopt rules [~~may prescribe forms~~
27 ~~necessary~~] to implement this section, including procedures for

1 requesting an acceleration of benefits and disputing the denial or
2 the amount of an acceleration of benefits.

3 SECTION 17. Section 408.141, Labor Code, is amended to read
4 as follows:

5 Sec. 408.141. AWARD OF SUPPLEMENTAL INCOME BENEFITS. An
6 award of a supplemental income benefit [~~, whether by the~~
7 ~~commissioner or a court,~~] shall be made in accordance with this
8 subchapter.

9 SECTION 18. Section 408.1415, Labor Code, is amended by
10 amending Subsection (a) and adding Subsections (d) and (e) to read
11 as follows:

12 (a) The commissioner by rule shall adopt compliance
13 standards for supplemental income benefit recipients that require
14 each recipient to demonstrate an active effort to obtain
15 employment, including [~~. To be eligible to receive supplemental~~
16 ~~income benefits under this chapter, a recipient must provide~~
17 ~~evidence satisfactory to the division of~~]:

18 (1) active participation in a vocational
19 rehabilitation program conducted by the Department of Assistive and
20 Rehabilitative Services or a private vocational rehabilitation
21 provider;

22 (2) active participation in work search efforts
23 conducted through the Texas Workforce Commission; or

24 (3) active work search efforts documented by job
25 applications submitted by the recipient.

26 (d) To be eligible to receive supplemental income benefits
27 under this subchapter, a recipient must provide evidence

1 satisfactory to the insurance carrier that the recipient has
2 complied with the standards adopted by the commissioner under
3 Subsection (a).

4 (e) The employee may dispute a denial of supplemental income
5 benefits by an insurance carrier under this section. A dispute
6 under this subsection is subject to Chapter 410. The commissioner
7 by rule shall adopt procedures for disputing the denial of
8 benefits.

9 SECTION 19. Section 408.143(a), Labor Code, is amended to
10 read as follows:

11 (a) An [~~After the commissioner's initial determination of~~
12 ~~supplemental income benefits, the~~] employee seeking supplemental
13 income benefits must file a statement with the insurance carrier
14 stating:

15 (1) that the employee has earned less than 80 percent
16 of the employee's average weekly wage as a direct result of the
17 employee's impairment;

18 (2) the amount of wages the employee earned in the
19 filing period provided by Subsection (b); and

20 (3) that the employee has complied with the
21 requirements adopted under Section 408.1415.

22 SECTION 20. Section 408.147, Labor Code, is amended to read
23 as follows:

24 Sec. 408.147. CONTEST OF SUPPLEMENTAL INCOME BENEFITS BY
25 INSURANCE CARRIER; ATTORNEY'S FEES. [~~(a) An insurance carrier may~~
26 ~~request a benefit review conference to contest an employee's~~
27 ~~entitlement to supplemental income benefits or the amount of~~

1 ~~supplemental income benefits.~~

2 ~~[(b) If an insurance carrier fails to make a request for a~~
3 ~~benefit review conference within 10 days after the date of the~~
4 ~~expiration of the impairment income benefit period or within 10~~
5 ~~days after receipt of the employee's statement, the insurance~~
6 ~~carrier waives the right to contest entitlement to supplemental~~
7 ~~income benefits and the amount of supplemental income benefits for~~
8 ~~that period of supplemental income benefits.~~

9 ~~[(c)]~~ If an insurance carrier denies an employee's
10 entitlement ~~[disputes the commissioner's determination that an~~
11 ~~employee is entitled]~~ to supplemental income benefits or there is a
12 dispute regarding the amount of supplemental income benefits due
13 and the employee prevails on any disputed issue, the insurance
14 carrier is liable for reasonable and necessary attorney's fees
15 incurred by the employee as a result of the ~~[insurance carrier's]~~
16 dispute and for supplemental income benefits accrued but not paid
17 and interest on that amount, according to Section 408.064.
18 Attorney's fees awarded under this section ~~[subsection]~~ are not
19 subject to Sections 408.221(b), (f), and (i).

20 SECTION 21. Section 408.149(b), Labor Code, is amended to
21 read as follows:

22 (b) Either party may request a benefit review conference to
23 contest a determination of the commissioner at any time~~[, subject~~
24 ~~only to the limits placed on the insurance carrier by Section~~
25 ~~408.147]~~.

26 SECTION 22. Section 408.151(a), Labor Code, is amended to
27 read as follows:

1 (a) On or after the second anniversary of the date the
2 employee is initially awarded [~~commissioner makes the initial award~~
3 ~~of~~] supplemental income benefits, an insurance carrier may not
4 require an employee who is receiving supplemental income benefits
5 to submit to a medical examination more than annually if, in the
6 preceding year, the employee's medical condition resulting from the
7 compensable injury has not improved sufficiently to allow the
8 employee to return to work.

9 SECTION 23. Section 408.221(b), Labor Code, is amended to
10 read as follows:

11 (b) Except as otherwise provided, an attorney's fee under
12 this section is based on the attorney's time and expenses according
13 to written evidence presented to the division or court. Except as
14 provided by Subsection (c) or Section 408.147 [~~408.147(c)~~], the
15 attorney's fee shall be paid from the claimant's recovery.

16 SECTION 24. Section 409.021(e), Labor Code, is amended to
17 read as follows:

18 (e) An insurance carrier commits an administrative [~~a~~]
19 violation if the insurance carrier does not initiate payments or
20 file a notice of refusal as required by this section. [~~A violation~~
21 ~~under this subsection shall be assessed at \$500 if the carrier~~
22 ~~initiates compensation or files a notice of refusal within five~~
23 ~~working days of the date required by Subsection (a), \$1,500 if the~~
24 ~~carrier initiates compensation or files a notice of refusal more~~
25 ~~than five and less than 16 working days of the date required by~~
26 ~~Subsection (a), \$2,500 if the carrier initiates compensation or~~
27 ~~files a notice of refusal more than 15 and less than 31 working days~~

1 ~~of the date required by Subsection (a), or \$5,000 if the carrier~~
2 ~~initiates compensation or files a notice of refusal more than 30~~
3 ~~days after the date required by Subsection (a). The administrative~~
4 ~~penalties are not cumulative.]~~

5 SECTION 25. Section 410.023, Labor Code, is amended by
6 amending Subsection (b) and adding Subsections (c) and (d) to read
7 as follows:

8 (b) The division shall require the party requesting the
9 benefit review conference to provide documentation of efforts made
10 to resolve the disputed issues before the request was submitted.

11 (c) The commissioner by rule shall:

12 (1) adopt guidelines regarding the type of information
13 necessary to satisfy the requirements of Subsection (b); and

14 (2) establish a process through which the division
15 evaluates the sufficiency of the documentation provided under
16 Subsection (b) [this requirement].

17 (d) The division may deny a request for a benefit review
18 conference if the party requesting the benefit review conference
19 does not provide the documentation required under Subsection (b).

20 SECTION 26. Section 410.028, Labor Code, is amended to read
21 as follows:

22 Sec. 410.028. FAILURE TO ATTEND; ADMINISTRATIVE VIOLATION.

23 (a) A scheduled benefit review conference shall be conducted even
24 though a party fails to attend unless the benefit review officer
25 determines that good cause, as defined by commissioner rule, exists
26 to reschedule the conference.

27 (b) If a party to a benefit review conference under Section

1 410.023 requests that the benefit review conference be rescheduled
2 under this section, the party must submit a request in the same
3 manner as an initial request under Section 410.023. The division
4 shall evaluate a request for a rescheduled benefit review
5 conference received under this section in the same manner as an
6 initial request received under Section 410.023.

7 (c) If a [A party commits an administrative violation if
8 the] party fails to request that a benefit review conference be
9 rescheduled in the time required by commissioner rule or fails to
10 attend a benefit review conference without good cause as defined
11 [determined] by commissioner rule, the party forfeits the party's
12 entitlement to attend a benefit review conference on the issue in
13 dispute, unless a [the] benefit review officer is authorized to
14 schedule an additional benefit review conference under Section
15 410.026(b).

16 (d) The commissioner shall adopt rules necessary to
17 implement and enforce this section, including rules that:

18 (1) define good cause; and

19 (2) establish deadlines for requesting that a benefit
20 review conference be rescheduled under Subsection (b).

21 SECTION 27. Section 410.203(b), Labor Code, is amended to
22 read as follows:

23 (b) The appeals panel may:

24 (1) reverse the decision of the hearings officer and
25 render a new decision; ~~or~~

26 (2) reverse the decision of the hearings officer and
27 remand the case to the hearing officer for further consideration

1 and development of evidence; or

2 (3) affirm the decision of the hearings officer in a
3 case described by Section 410.204(a-1).

4 SECTION 28. Section 410.204, Labor Code, is amended by
5 amending Subsection (a) and adding Subsection (a-1) to read as
6 follows:

7 (a) The appeals panel shall review each request and issue a
8 written decision on each reversed or remanded case. The appeals
9 panel may issue a written decision on an affirmed case as described
10 by Subsection (a-1). The decision must be in writing and shall be
11 issued not later than the 45th day after the date on which the
12 written response to the request for appeal is filed. The appeals
13 panel shall file a copy of the decision with the commissioner.

14 (a-1) An appeals panel may only issue a written decision in
15 a case in which the panel affirms the decision of a hearings officer
16 if the case:

17 (1) is a case of first impression;

18 (2) involves a recent change in law; or

19 (3) involves errors at the contested case hearing that
20 require correction but do not affect the outcome of the hearing,
21 including:

22 (A) findings of fact for which insufficient
23 evidence exists;

24 (B) incorrect conclusions of law;

25 (C) findings of fact or conclusions of law
26 regarding matters that were not properly before the hearings
27 officer; and

1 (D) legal errors not otherwise described by this
2 subdivision.

3 SECTION 29. Sections 413.031(k) and (k-1), Labor Code, are
4 amended to read as follows:

5 (k) A party to a medical dispute [~~, other than a medical~~
6 ~~dispute regarding spinal surgery subject to Subsection (l) and a~~
7 ~~dispute subject to Section 413.0311,~~] that remains unresolved after
8 a review of the medical service under this section is entitled to a
9 hearing under Section 413.0311 or 413.0312, as applicable. [A
10 ~~hearing under this subsection shall be conducted by the State~~
11 ~~Office of Administrative Hearings not later than the 60th day after~~
12 ~~the date on which the party notifies the division of the request for~~
13 ~~a hearing. The hearing shall be conducted in the manner provided~~
14 ~~for a contested case under Chapter 2001, Government Code.]~~

15 (k-1) A party who has exhausted all administrative remedies
16 described by [~~under~~] Subsection (k) and who is aggrieved by a final
17 decision of the division or the State Office of Administrative
18 Hearings may seek judicial review of the decision. Judicial review
19 under this subsection shall be conducted in the manner provided for
20 judicial review of a contested case under Subchapter G, Chapter
21 2001, Government Code.

22 SECTION 30. The heading to Section 413.0311, Labor Code, is
23 amended to read as follows:

24 Sec. 413.0311. REVIEW OF [~~CERTAIN~~] MEDICAL NECESSITY
25 DISPUTES; CONTESTED CASE HEARING.

26 SECTION 31. Section 413.0311(a), Labor Code, is amended to
27 read as follows:

1 (a) This section applies only to ~~[the following medical~~
2 ~~disputes that remain unresolved after any applicable review under~~
3 ~~Sections 413.031(b) through (i):~~

4 ~~[(1) a medical fee dispute in which the amount of~~
5 ~~reimbursement sought by the requestor in its request for medical~~
6 ~~dispute resolution does not exceed \$2,000;~~

7 ~~[(2)] an appeal of an independent review organization~~
8 ~~decision regarding determination of the [retrospective] medical~~
9 ~~necessity for a health care service [for which the amount billed~~
10 ~~does not exceed \$3,000; and~~

11 ~~[(3) an appeal of an independent review organization~~
12 ~~decision regarding determination of the concurrent or prospective~~
13 ~~medical necessity for a health care service].~~

14 SECTION 32. Subchapter C, Chapter 413, Labor Code, is
15 amended by adding Section 413.0312 to read as follows:

16 Sec. 413.0312. REVIEW OF MEDICAL FEE DISPUTES; BENEFIT
17 REVIEW CONFERENCE. (a) This section applies only to a medical fee
18 dispute that remains unresolved after any applicable review under
19 Sections 413.031(b) through (i).

20 (b) Subject to Subsection (e), a party to a medical fee
21 dispute described by Subsection (a) must adjudicate the dispute in
22 the manner required by Subchapter B, Chapter 410.

23 (c) At a benefit review conference conducted under this
24 section, the parties to the dispute may not resolve the dispute by
25 negotiating fees that are inconsistent with any applicable fee
26 guidelines adopted by the commissioner.

27 (d) If issues remain unresolved after a benefit review

1 conference, the parties may elect to engage in arbitration as
2 provided by Section 410.104.

3 (e) If arbitration is not elected as described by Subsection
4 (d), a party to a medical fee dispute described by Subsection (a) is
5 entitled to a contested case hearing. A hearing under this
6 subsection shall be conducted by the State Office of Administrative
7 Hearings in the manner provided for a contested case under Chapter
8 2001, Government Code.

9 (f) The commissioner or the division may participate in a
10 contested case hearing conducted under Subsection (e) if the
11 hearing involves the interpretation of fee guidelines adopted by
12 the commissioner. The division and the department are not
13 considered to be parties to the medical fee dispute for purposes of
14 this section.

15 (g) The cost of the contested case hearing shall be paid by
16 the nonprevailing party.

17 SECTION 33. Section 413.044(b), Labor Code, is amended to
18 read as follows:

19 (b) Sanctions imposed under Subsection (a) may include:

20 (1) revocation of certification for a designated
21 doctor on [~~removal or suspension from~~] the division list of
22 designated doctors; or

23 (2) restrictions on the reviews made by the person as a
24 designated doctor.

25 SECTION 34. Section 413.0512, Labor Code, is amended by
26 amending Subsections (b), (c), (d), (e), and (f) and adding
27 Subsections (g) and (h) to read as follows:

1 (b) The agencies that regulate health professionals who are
2 licensed or otherwise authorized to practice a health profession
3 under Title 3, Occupations Code, and who are involved in the
4 provision of health care as part of the workers' compensation
5 system in this state [~~Texas State Board of Medical Examiners and the~~
6 ~~Texas Board of Chiropractic Examiners, with input from their~~
7 ~~respective professional associations,~~] shall develop lists of
8 health care providers [~~physicians and chiropractors~~] licensed or
9 otherwise regulated by those agencies who have demonstrated
10 experience in workers' compensation or utilization review. The
11 medical advisor shall consider appointing some of the members of
12 the medical quality review panel from the names on those lists and,
13 when appointing members of the medical quality review panel, shall
14 select specialists from various health care specialty fields to
15 serve on the panel to ensure that the membership of the panel has
16 expertise in a wide variety of health care specialty fields. The
17 medical advisor shall also consider nominations for the panel made
18 by labor, business, and insurance organizations.

19 (c) The medical quality review panel shall recommend to the
20 medical advisor:

21 (1) appropriate action regarding doctors, other
22 health care providers, insurance carriers, utilization review
23 agents, and independent review organizations; [~~and~~]

24 (2) the addition or deletion of doctors from the list
25 of approved doctors under Section 408.023; and

26 (3) the certification, revocation of certification,
27 or denial of renewal of certification [~~or the list~~] of a designated

1 doctor [~~doctors established~~] under Section 408.1225.

2 (d) A person who serves on the medical quality review panel
3 is immune from suit and from civil liability for an act performed,
4 or a recommendation made, within the scope of the person's
5 functions as a member of the panel if the person acts without malice
6 and in the reasonable belief that the action or recommendation is
7 warranted by the facts known to that person. In the event of a civil
8 action brought against a member of the panel that arises from the
9 person's participation on the panel, the person is entitled to the
10 same protections afforded the commissioner [~~a commission member~~]
11 under Section 402.00123 [~~402.010~~].

12 (e) The actions of a person serving on the medical quality
13 review panel do not constitute utilization review and are not
14 subject to Chapter 4201 [~~Article 21.58A~~], Insurance Code.

15 (f) A member of the medical quality review panel [~~, other~~
16 ~~than a chiropractor,~~] who reviews a specific workers' compensation
17 case is subject to Section 408.0043, 408.0044, or [~~. A chiropractor~~
18 ~~who reviews a specific workers' compensation case is subject to~~
19 ~~Section~~] 408.0045, as applicable.

20 (g) The medical advisor shall notify the division if the
21 medical advisor determines that:

22 (1) it is no longer necessary for the medical quality
23 review panel to include a member that practices in a particular
24 health care specialty field; or

25 (2) there is a need for the panel to include a member
26 that practices in a particular health care specialty field not
27 represented on the panel.

1 (h) If the division receives notice from the medical advisor
2 under Subsection (g)(2), the division may enter into agreements
3 with other state agencies to access, as necessary, expertise in
4 that health care specialty field.

5 SECTION 35. Subchapter E, Chapter 413, Labor Code, is
6 amended by adding Sections 413.05115, 413.05121, and 413.05122 to
7 read as follows:

8 Sec. 413.05115. MEDICAL QUALITY REVIEW PROCESS. (a) The
9 division shall develop, and the commissioner shall adopt, criteria
10 concerning the medical case review process under this subchapter.
11 In developing the criteria, and before adopting the criteria, the
12 division and the commissioner, as applicable, must consult with the
13 medical advisor and seek input from potentially affected parties,
14 including health care providers and insurance carriers.

15 (b) The criteria developed and adopted under this section
16 must establish a clear process or processes:

17 (1) for handling complaint-based medical case
18 reviews; and

19 (2) through which the division selects health care
20 providers or other entities for a compliance audit or review.

21 (c) The division shall make the criteria developed and
22 adopted under this section available on the Internet website
23 maintained by the division.

24 Sec. 413.05121. QUALITY ASSURANCE PANEL. (a) The medical
25 advisor shall establish the quality assurance panel within the
26 medical quality review panel to:

27 (1) provide an additional level of evaluation in

1 medical case reviews; and

2 (2) assist the medical advisor in performing the
3 advisor's duties under Section 413.0511(b)(6) and the medical
4 quality review panel in performing that panel's duties under
5 Section 413.0512.

6 (b) Members of the quality assurance panel shall evaluate
7 medical care and recommend enforcement actions to the medical
8 advisor.

9 (c) The quality assurance panel shall meet periodically to
10 discuss issues and otherwise offer assistance to the medical
11 advisor and the medical quality review panel under Subsection
12 (a)(2).

13 Sec. 413.05122. MEDICAL QUALITY REVIEW PANEL: RULES;
14 TRAINING. (a) The commissioner, after consultation with the
15 medical advisor, shall adopt rules concerning the operation of the
16 medical quality review panel, including rules that establish:

17 (1) the qualifications necessary for a health care
18 provider to serve on the medical quality review panel;

19 (2) the composition of the medical quality review
20 panel, including the number of members to be included on the panel
21 and the health care specialty fields required to be represented by
22 the members of the panel;

23 (3) the maximum length of time a health care provider
24 may serve on the medical quality review panel;

25 (4) a policy defining situations that constitute a
26 conflict of interest for a member of the medical quality review
27 panel;

1 (5) procedures and grounds for removing a member of
2 the medical quality review panel from the panel, including as a
3 ground for removal that a member is repeatedly delinquent in
4 conducting case reviews; and

5 (6) a procedure through which members of the medical
6 quality review panel are notified concerning the status and
7 enforcement outcomes of cases resulting from the medical quality
8 review process.

9 (b) In addition to the rules required under Subsection (a),
10 the commissioner shall adopt rules concerning the training
11 requirements for members of the medical quality review panel. The
12 rules adopted under this subsection must ensure that panel members
13 are fully aware of any requirements imposed by this subtitle
14 concerning the medical quality review process and the division's
15 goals concerning the process. The rules adopted under this
16 subsection may require members to receive training on any topic
17 determined by the division or the commissioner to be relevant to the
18 operations of the panel and must require members of the panel to
19 receive training concerning:

20 (1) administrative violations that affect the
21 delivery of appropriate medical care;

22 (2) the confidentiality requirements described by
23 Section 413.0513 and the immunity from liability provided to
24 members of the panel under Section 413.054; and

25 (3) the medical quality review criteria adopted under
26 Section 413.05115.

27 SECTION 36. Section 413.054(a), Labor Code, is amended to

1 read as follows:

2 (a) A person who performs services for the division as a
3 designated doctor, an independent medical examiner, a doctor
4 performing a medical case review, or a member of a peer review panel
5 has the same immunity from liability as the commissioner under
6 Section 402.00123 [~~402.0024~~].

7 SECTION 37. Section 414.005, Labor Code, is amended to read
8 as follows:

9 Sec. 414.005. INVESTIGATION UNIT. (a) The division shall
10 maintain an investigation unit to conduct investigations relating
11 to alleged violations of this subtitle, commissioner rules, or a
12 commissioner order or decision, with particular emphasis on
13 violations of Chapters 415 and 416.

14 (b) As often as the commissioner considers necessary, the
15 commissioner or the investigation unit may review the operations of
16 a person regulated by the division, including an agent of the person
17 performing functions regulated by the division, to determine
18 compliance with this subtitle.

19 (c) The review described by Subsection (b) may include
20 on-site visits to the person's premises. The commissioner is not
21 required to announce an on-site visit in advance.

22 (d) During an on-site visit, a person regulated by the
23 division shall make available to the division all records relating
24 to the person's participation in the workers' compensation system.

25 (e) The commissioner by rule shall prescribe the procedures
26 to be used for both announced and unannounced on-site visits
27 authorized under this section, including specifying the records

1 subject to inspection.

2 SECTION 38. Section 415.0035(e), Labor Code, is amended to
3 read as follows:

4 (e) A person regulated by the division under this title [~~An~~
5 ~~insurance carrier or health care provider~~] commits an
6 administrative violation if the [~~that~~] person violates this
7 subtitle or a rule, order, or decision of the commissioner.

8 SECTION 39. Section 415.008(a), Labor Code, is amended to
9 read as follows:

10 (a) A person commits an administrative [~~a~~] violation if the
11 person, to obtain or deny a payment of a workers' compensation
12 benefit or the provision of a benefit for the person or another,
13 knowingly or intentionally:

14 (1) makes a false or misleading statement;

15 (2) misrepresents or conceals a material fact;

16 (3) fabricates, alters, conceals, or destroys a
17 document; or

18 (4) conspires to commit an act described by
19 Subdivision (1), (2), or (3).

20 SECTION 40. Sections 415.009 and 415.010, Labor Code, are
21 amended to read as follows:

22 Sec. 415.009. FRIVOLOUS ACTIONS; ADMINISTRATIVE VIOLATION.

23 [~~(a)~~] A person commits an administrative [~~a~~] violation if the
24 person brings, prosecutes, or defends an action for benefits under
25 this subtitle or requests initiation of an administrative violation
26 proceeding that does not have a basis in fact or is not warranted by
27 existing law or a good faith argument for the extension,

1 modification, or reversal of existing law.

2 ~~[(b) A violation under Subsection (a) is a Class B~~
3 ~~administrative violation.]~~

4 Sec. 415.010. BREACH OF AGREEMENT; ADMINISTRATIVE
5 VIOLATION. ~~[(a)]~~ A party to an agreement approved by the division
6 commits an administrative ~~[a]~~ violation if the person breaches a
7 provision of the agreement.

8 ~~[(b) A violation under Subsection (a) is a Class C~~
9 ~~administrative violation.]~~

10 SECTION 41. The heading to Subchapter B, Chapter 415, Labor
11 Code, is amended to read as follows:

12 SUBCHAPTER B. SANCTIONS ~~[PENALTIES]~~

13 SECTION 42. Section 415.021(a), Labor Code, is amended to
14 read as follows:

15 (a) In addition to any other provisions in this subtitle
16 relating to violations, a person commits an administrative
17 violation if the person violates, fails to comply with, or refuses
18 to comply with this subtitle or a rule, order, or decision of the
19 commissioner, including an emergency cease and desist order issued
20 under Section 415.0211. In addition to any sanctions,
21 administrative penalty, or other remedy authorized by this
22 subtitle, the commissioner may assess an administrative penalty
23 against a person who commits an administrative violation. The
24 administrative penalty shall not exceed \$25,000 per day per
25 occurrence. Each day of noncompliance constitutes a separate
26 violation. The commissioner's authority under this chapter is in
27 addition to any other authority to enforce a sanction, penalty,

1 fine, forfeiture, denial, suspension, or revocation otherwise
2 authorized by law.

3 SECTION 43. Subchapter B, Chapter 415, Labor Code, is
4 amended by adding Section 415.0211 to read as follows:

5 Sec. 415.0211. EMERGENCY CEASE AND DESIST ORDER. (a) The
6 commissioner ex parte may issue an emergency cease and desist order
7 if:

8 (1) the commissioner believes a person regulated by
9 the division under this title is engaging in conduct violating a
10 law, rule, or order; and

11 (2) the commissioner believes that the alleged conduct
12 under Subdivision (1) will result in harm to the health, safety, or
13 welfare of another person.

14 (b) On issuance of an order under Subsection (a), the
15 commissioner shall serve on the affected person an order that
16 contains a statement of the charges and requires the person
17 immediately to cease and desist from the acts, methods, or
18 practices stated in the order. The commissioner shall serve the
19 order by registered or certified mail, return receipt requested, to
20 the affected person's last known address. The order is final on the
21 31st day after the date the affected person receives the order,
22 unless the affected person requests a hearing under Subsection (c).

23 (c) A person affected by an order is entitled to request a
24 hearing to contest the order. The affected person must request the
25 hearing not later than the 30th day after the date the person
26 receives the order required by Subsection (b). A request to contest
27 an order must:

- 1 (1) be in writing;
2 (2) be directed to the commissioner; and
3 (3) state the grounds for the request to set aside or
4 modify the order.

5 (d) On receiving a request for a hearing, the commissioner
6 shall serve notice of the time and place of the hearing. The
7 hearing is subject to the procedures for a contested case under
8 Chapter 2001, Government Code. The hearing shall be held not later
9 than the 10th day after the date the commissioner receives the
10 request for a hearing unless the parties mutually agree to a later
11 hearing date. At the hearing, the person requesting the hearing is
12 entitled to show cause why the order should not be affirmed.
13 Following receipt of the proposal for decision from the State
14 Office of Administrative Hearings regarding the hearing, the
15 commissioner shall wholly or partly affirm, modify, or set aside
16 the order.

17 (e) Pending a hearing under this section, an order continues
18 in effect unless the order is stayed by the commissioner.

19 SECTION 44. Section 402.072, Labor Code, is transferred to
20 Subchapter B, Chapter 415, Labor Code, and redesignated as Section
21 415.0215, Labor Code, to read as follows:

22 Sec. 415.0215 [~~402.072~~]. SANCTIONS. (a) The division may
23 impose sanctions against any person regulated by the division under
24 this subtitle.

25 (b) Only the commissioner may impose:

26 (1) a sanction that deprives a person of the right to
27 practice before the division or of the right to receive

1 remuneration under this subtitle for a period exceeding 30 days; or

2 (2) another sanction suspending for more than 30 days
3 or revoking a license, certification, or permit required for
4 practice in the field of workers' compensation.

5 (c) A sanction imposed by the division is binding pending
6 appeal.

7 SECTION 45. Sections 415.025, 415.032, 415.033, and
8 415.034, Labor Code, are amended to read as follows:

9 Sec. 415.025. REFERENCES TO A CLASS OF VIOLATION OR
10 PENALTY. A reference in this code or other law, or in rules of the
11 former Texas Workers' Compensation Commission or the commissioner,
12 to a particular class of violation, administrative violation, or
13 penalty shall be construed as a reference to an administrative
14 penalty. An ~~[Except as otherwise provided by this subtitle, an]~~
15 administrative penalty may not exceed \$25,000 per day per
16 occurrence. Each day of noncompliance constitutes a separate
17 violation.

18 Sec. 415.032. NOTICE OF POSSIBLE ADMINISTRATIVE VIOLATION;
19 RESPONSE. (a) If investigation by the division indicates that an
20 administrative violation has occurred, the division shall notify
21 the person alleged to have committed the violation in writing of:

- 22 (1) the charge;
23 (2) the proposed sanction ~~[penalty]~~;
24 (3) the right to consent to the charge and the sanction
25 ~~[penalty]~~; and
26 (4) the right to request a hearing.

27 (b) Not later than the 20th day after the date on which

1 notice is received, the charged party shall:

2 (1) remit the amount of the sanction [~~penalty~~] to the
3 division or otherwise consent to the imposed sanction; or

4 (2) submit to the division a written request for a
5 hearing.

6 Sec. 415.033. FAILURE TO RESPOND. If, without good cause, a
7 charged party fails to respond as required under Section 415.032,
8 [~~the penalty is due and~~] the division shall initiate enforcement
9 proceedings.

10 Sec. 415.034. HEARING PROCEDURES. [~~(a)~~] On the request of
11 the charged party or the commissioner, the State Office of
12 Administrative Hearings shall set a hearing. The hearing shall be
13 conducted in the manner provided for a contested case under Chapter
14 2001, Government Code (the administrative procedure law).

15 [~~(b) At the close of the hearing, the hearing officer~~
16 ~~conducting the hearing shall make findings of fact and conclusions~~
17 ~~of law and shall issue a written decision. If the hearing officer~~
18 ~~determines that an administrative violation has occurred, the~~
19 ~~hearing officer shall include in the decision the amount of the~~
20 ~~administrative penalty assessed and shall order payment of the~~
21 ~~penalty.~~

22 [~~(c) The findings of fact, the decision, and the order shall~~
23 ~~be sent immediately to the charged party.]~~

24 SECTION 46. Subchapter C, Chapter 415, Labor Code, is
25 amended by adding Section 415.036 to read as follows:

26 Sec. 415.036. STANDARD OF JUDICIAL REVIEW OF COMMISSIONER'S
27 ORDER. An order of the commissioner is subject to judicial review

1 under the substantial evidence rule.

2 SECTION 47. Section 419.001, Labor Code, is amended by
3 adding Subsection (c) to read as follows:

4 (c) For purposes of this chapter, a person acts in a
5 "deceptive manner" if the person knows or should know that the
6 person's actions would convey, or could reasonably be interpreted
7 or construed as conveying, the false impression that:

8 (1) an item is approved, endorsed, sponsored,
9 authorized by, the same as, or associated with the division, the
10 department, this state, or an agency of this state; or

11 (2) the person has a connection with or authorization
12 from the division, the department, this state, or an agency of this
13 state.

14 SECTION 48. Section 419.002, Labor Code, is amended to read
15 as follows:

16 Sec. 419.002. MISUSE OF DIVISION'S NAME OR SYMBOLS
17 PROHIBITED. (a) Except as authorized by law, a person, in
18 connection with any impersonation, advertisement, solicitation,
19 business name, business activity, document, product, or service
20 made or offered by the person regarding workers' compensation
21 coverage or benefits, may not knowingly use or cause to be used in a
22 deceptive manner:

23 (1) the words "Texas Department of Insurance,"
24 "Department of Insurance," "Texas Workers' Compensation," or
25 "division of workers' compensation";

26 (2) any term using both "Texas" and "Workers'
27 Compensation" or any term using both "Texas" and "Workers' Comp";

1 (3) the initials "T.D.I."; or

2 (4) any combination or variation of the words or
3 initials, or any term deceptively similar to the words or initials,
4 described by Subdivisions (1)-(3).

5 (b) A person subject to Subsection (a) may not knowingly use
6 or cause to be used in a deceptive manner a word, term, or initials
7 described by Subsection (a) alone or in conjunction with:

8 (1) the state seal or a representation of the state
9 seal;

10 (2) a picture or map of this state; or

11 (3) the official logo of the department or the
12 division or a representation of the department's or division's
13 logo.

14 SECTION 49. The following provisions of the Labor Code are
15 repealed:

16 (1) Section 413.031(1);

17 (2) Sections 415.0035(c), (d), and (f);

18 (3) Section 415.0036(c);

19 (4) Section 415.004;

20 (5) Section 415.008(b); and

21 (6) Section 415.022.

22 SECTION 50. Sections 1305.355(e), (f), and (g), Insurance
23 Code, as amended by this Act, and Section 1305.356, Insurance Code,
24 as added by this Act, apply to a medical dispute based on a review by
25 an independent review organization under Section 1305.355 that is
26 commenced on or after the effective date of this Act. A dispute
27 based on a review by an independent review organization under

1 Section 1305.355 that is commenced before the effective date of
2 this Act is governed by the law in effect immediately before the
3 effective date of this Act, and that law is continued in effect for
4 that purpose.

5 SECTION 51. Section 402.073, Labor Code, as amended by this
6 Act, applies only to an administrative hearing that is conducted on
7 or after the effective date of this Act. An administrative hearing
8 conducted before the effective date of this Act is governed by the
9 law in effect when the hearing was conducted, and the former law is
10 continued in effect for that purpose.

11 SECTION 52. Section 403.001, Labor Code, as amended by this
12 Act, and Section 403.008, Labor Code, as added by this Act, apply
13 only to an administrative penalty assessed for an administrative
14 violation that occurs on or after the effective date of this Act.
15 An administrative penalty assessed for an administrative violation
16 that occurred before the effective date of this Act is governed by
17 the law in effect when the violation occurred, and the former law is
18 continued in effect for that purpose.

19 SECTION 53. (a) The commissioner of workers' compensation
20 shall adopt the rules regarding certification of designated doctors
21 required by Section 408.1225, Labor Code, as amended by this Act,
22 not later than January 1, 2013.

23 (b) A designated doctor is not required to obtain
24 certification under Section 408.1225, Labor Code, as amended by
25 this Act, before January 1, 2013.

26 (c) Sections 408.1225(b), 413.044(b), and 413.0512(c),
27 Labor Code, as amended by this Act, apply only to a disciplinary

1 action taken against a designated doctor on or after January 1,
2 2013. A disciplinary action taken against a designated doctor
3 before that date is governed by the law as it existed immediately
4 before the effective date of this Act, and the former law is
5 continued in effect for that purpose.

6 (d) Section 408.0041, Labor Code, as amended by this Act,
7 applies only to a medical examination by a designated doctor that
8 occurs on or after January 1, 2013. A medical examination that
9 occurs before that date is governed by the law in effect when the
10 medical examination occurred, and the former law is continued in
11 effect for that purpose.

12 SECTION 54. (a) Sections 408.022, 408.085, 408.104,
13 408.129, 408.1415, 408.143, 408.147, and 408.151, Labor Code, as
14 amended by this Act, apply to an application filed or a request made
15 on or after January 1, 2013. An application filed or a request made
16 before January 1, 2013, is governed by the law in effect when the
17 application was filed or the request was made, and the former law is
18 continued in effect for that purpose.

19 (b) The commissioner of workers' compensation shall adopt
20 the rules required by Sections 408.022, 408.085, 408.104, 408.129,
21 and 408.1415, Labor Code, as amended by this Act, as soon as
22 practicable after the effective date of this Act.

23 SECTION 55. The change in law made by this Act in amending
24 Sections 409.021, 415.0035, 415.008, 415.009, 415.010, 415.021,
25 415.025, 415.032, 415.033, and 415.034, Labor Code, and Sections
26 2051.151 and 2053.206, Insurance Code, adding Section 415.0211,
27 Labor Code, and repealing Sections 415.0035(c), (d), and (f),

1 415.0036(c), 415.004, 415.008(b), and 415.022, Labor Code, applies
2 only to an administrative violation that occurs on or after the
3 effective date of this Act. An administrative violation that
4 occurs before the effective date of this Act is governed by the law
5 in effect on the date the violation occurred, and the former law is
6 continued in effect for that purpose.

7 SECTION 56. Sections 410.023 and 410.028, Labor Code, as
8 amended by this Act, apply only to a benefit review conference
9 requested on or after the effective date of this Act. A benefit
10 review conference requested before the effective date of this Act
11 is governed by the law in effect immediately before the effective
12 date of this Act, and that law is continued in effect for that
13 purpose.

14 SECTION 57. Sections 413.031(k) and (k-1) and 413.0311(a),
15 Labor Code, as amended by this Act, and Section 413.0312, Labor
16 Code, as added by this Act, apply only to the appeal of a medical fee
17 dispute under those sections that is based on a review conducted by
18 the division of workers' compensation of the Texas Department of
19 Insurance on or after the effective date of this Act. The appeal of
20 a medical fee dispute that is based on a review conducted by the
21 division of workers' compensation before the effective date of this
22 Act is governed by the law in effect on the date the review was
23 conducted, and that law is continued in effect for that purpose.

24 SECTION 58. Section 414.005, Labor Code, as amended by this
25 Act, applies only to an investigation or review conducted on or
26 after the effective date of this Act. An investigation or review
27 conducted before the effective date of this Act is governed by the

1 law in effect when the investigation or review was conducted, and
2 the former law is continued in effect for that purpose.

3 SECTION 59. Section 415.036, Labor Code, as added by this
4 Act, applies only to an order of the commissioner of workers'
5 compensation issued on or after the effective date of this Act. An
6 order of the commissioner that was issued before the effective date
7 of this Act is governed by the law in effect when the order was
8 issued, and the former law is continued in effect for that purpose.

9 SECTION 60. This Act takes effect September 1, 2011.