IC 22-3-7

Chapter 7. Worker's Occupational Diseases Compensation

IC 22-3-7-1

Repealed

(Repealed by P.L.28-1988, SEC.118.)

IC 22-3-7-2

Applicability; burden of proof; police and firefighter coverage

Sec. 2. (a) Every employer and every employee, except as stated in this chapter, shall comply with this chapter, requiring the employer and employee to pay and accept compensation for disablement or death by occupational disease arising out of and in the course of the employment, and shall be bound thereby. The burden of proof is on the employee. The proof by the employee of an element of a claim does not create a presumption in favor of the employee with regard to another element of the claim.

(b) This chapter does not apply to the following:

(1) A person who enters into an independent contractor agreement with a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to perform youth coaching services on a part-time basis.

(2) A nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the corporation enters into an independent contractor agreement with a person for the performance of youth coaching services on a part-time basis.

(c) This chapter does not apply to employees of municipal corporations in Indiana who are members of:

(1) the fire department or police department of any such municipality; and

(2) a firefighters' pension fund or a police officers' pension fund.

However, if the common council elects to purchase and procure worker's occupational disease insurance to insure said employees with respect to medical benefits under this chapter, the medical provisions apply to members of the fire department or police department of any such municipal corporation who are also members of a firefighters' pension fund or a police officers' pension fund.

(d) When any municipal corporation purchases or procures worker's occupational disease insurance covering members of the fire department or police department who are also members of a firefighters' pension fund or a police officers' pension fund and pays the premium or premiums for the insurance, the payment of the premiums is a legal and allowable expenditure of funds of any municipal corporation.

(e) Except as provided in subsection (f), where the common council has procured worker's occupational disease insurance as provided under this section, any member of the fire department or

police department employed in the city carrying the worker's occupational disease insurance under this section is limited to recovery of medical and surgical care, medicines, laboratory, curative and palliative agents and means, x-ray, diagnostic and therapeutic services to the extent that the services are provided for in the worker's occupational disease policy so procured by the city, and may not also recover in addition to that policy for the same benefits provided in IC 36-8-4.

(f) If the medical benefits provided under a worker's occupational disease policy procured by the common council terminate for any reason before the police officer or firefighter is fully recovered, the common council shall provide medical benefits that are necessary until the police officer or firefighter is no longer in need of medical care.

(g) Nothing in this section affects the rights and liabilities of employees and employers had by them prior to April 1, 1963, under this chapter.

(Formerly: Acts 1937, c.69, s.2; Acts 1963, c.388, s.1; Acts 1974, P.L.109, SEC.1.) As amended by Acts 1981, P.L.11, SEC.126; P.L.28-1988, SEC.49; P.L.217-1989, SEC.2; P.L.201-2005, SEC.6; P.L.134-2006, SEC.8.

IC 22-3-7-2.5

School to work student

Sec. 2.5. (a) As used in this section, "school to work student" refers to a student participating in on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.).

(b) A school to work student is entitled to the following compensation and benefits under this chapter:

(1) Medical benefits.

(2) Permanent partial impairment compensation under section 16 of this chapter. Permanent partial impairment compensation for a school to work student shall be paid in a lump sum upon agreement or final award.

(3) In the case that death results from the injury:

(A) death benefits in a lump sum amount of one hundred seventy-five thousand dollars ($175,000), payable upon agreement or final award to any dependents of the student under sections 11 through 14 of this chapter, or, if the student has no dependents, to the student's parents; and

(B) burial compensation under section 15 of this chapter.

(c) For the sole purpose of modifying an award under section 27 of this chapter, a school to work student's average weekly wage is presumed to be equal to the federal minimum wage.

(d) A school to work student is not entitled to the following compensation under this chapter:

(1) Temporary total disability compensation under section 16 of this chapter.

(2) Temporary partial disability compensation under section 19 of this chapter.

(e) Except for remedies available under IC 5-2-6.1, recovery under subsection (b) is the exclusive right and remedy for:

(1) a school to work student; and

(2) the personal representatives, dependents, or next of kin, at common law or otherwise, of a school to work student;

on account of disablement or death by occupational disease arising out of and in the course of school to work employment.

As added by P.L.235-1999, SEC.6.

IC 22-3-7-3

Waiver of exemption from act by employer; notice of acceptance; filing

Sec. 3. (a) An employer who is exempt under this section from the operation of the compensation provisions of this chapter may at any time waive such exemption and thereby accept the provisions of this chapter by giving notice as provided in subsection (b).

(b) The notice of acceptance referred to in subsection (a) shall be given thirty (30) days prior to any accident resulting in injury or death, provided that if any such injury occurred less than thirty (30) days after the date of employment, notice of acceptance given at the time of employment shall be sufficient notice thereof. The notice shall be in writing or print in a substantial form prescribed by the worker's compensation board and shall be given by the employer by posting the same in a conspicuous place in the plant, shop, office, room, or place where the employee is employed, or by serving it personally upon the employee. The notice shall be given by the employee by sending the same in registered letter addressed to the employer at his last known residence or place of business, or by giving it personally to the employer, or any of his agents upon whom a summons in civil actions may be served under the laws of the state.

(c) A copy of the notice in prescribed form shall also be filed with the worker's compensation board, within five (5) days after its service in such manner upon the employee or employer.

(Formerly: Acts 1937, c.69, s.3; Acts 1963, c.388, s.2; Acts 1974, P.L.109, SEC.2.) As amended by P.L.28-1988, SEC.50.

IC 22-3-7-4

Repealed

(Repealed by Acts 1974, P.L.109, SEC.8.)

IC 22-3-7-5

Coal mining; application of law

Sec. 5. On and after April 1, 1963, the provisions of this chapter shall apply to the state, to all political divisions thereof, to all municipal corporations within the state, to persons, partnerships, limited liability companies, and corporations engaged in mining coal, and to employees thereof, without any right of exemption from the compensation provisions of this chapter, except as provided in section 34(i) of this chapter.

(Formerly: Acts 1937, c.69, s.4b; Acts 1963, c.388, s.5.) As amended

by P.L.144-1986, SEC.57; P.L.8-1993, SEC.283.

IC 22-3-7-6
Exclusive remedies

Sec. 6. The rights and remedies granted under this chapter to an employee subject to this chapter on account of disablement or death by occupational disease arising out of and in the course of the employment shall exclude all other rights and remedies of such employee, his personal representatives, dependents, or next of kin, at common law or otherwise, on account of such disablement or death.

(Formerly: Acts 1937, c.69, s.4c; Acts 1963, c.388, s.6.) As amended by P.L.144-1986, SEC.58.

IC 22-3-7-7
Statutory duties; application of law

Sec. 7. Nothing in this chapter shall be construed to relieve any employer or employee from penalty for failure or neglect to perform any statutory duty.

(Formerly: Acts 1937, c.69, s.4d; Acts 1963, c.388, s.7.) As amended by P.L.144-1986, SEC.59.

IC 22-3-7-8
Place of exposure; foreign states or foreign countries

Sec. 8. Every employer and employee under this chapter shall be bound by the provisions of this chapter whether exposure and disablement therefrom or death resulting from an occupational disease occurs within the state or in some other state or in a foreign country.

(Formerly: Acts 1937, c.69, s.4e; Acts 1963, c.388, s.8.) As amended by P.L.144-1986, SEC.60.

IC 22-3-7-9
Definitions; applicability of chapter; exemptions

Sec. 9. (a) As used in this chapter, "employer" includes the state and any political subdivision, any municipal corporation within the state, any individual or the legal representative of a deceased individual, firm, association, limited liability company, or corporation or the receiver or trustee of the same, using the services of another for pay. A parent corporation and its subsidiaries shall each be considered joint employers of the corporation's, the parent's, or the subsidiaries' employees for purposes of sections 6 and 33 of this chapter. Both a lessor and a lessee of employees shall each be considered joint employers of the employees provided by the lessor to the lessee for purposes of sections 6 and 33 of this chapter. The term also includes an employer that provides on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth under section 2.5 of this chapter. If the employer is insured, the term includes the employer's insurer so far as applicable. However, the inclusion of an employer's insurer within

this definition does not allow an employer's insurer to avoid payment for services rendered to an employee with the approval of the employer. The term does not include a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the corporation enters into an independent contractor agreement with a person for the performance of youth coaching services on a part-time basis.

(b) As used in this chapter, "employee" means every person, including a minor, in the service of another, under any contract of hire or apprenticeship written or implied, except one whose employment is both casual and not in the usual course of the trade, business, occupation, or profession of the employer. For purposes of this chapter the following apply:

(1) Any reference to an employee who has suffered disablement, when the employee is dead, also includes the employee's legal representative, dependents, and other persons to whom compensation may be payable.

(2) An owner of a sole proprietorship may elect to include the owner as an employee under this chapter if the owner is actually engaged in the proprietorship business. If the owner makes this election, the owner must serve upon the owner's insurance carrier and upon the board written notice of the election. No owner of a sole proprietorship may be considered an employee under this chapter unless the notice has been received. If the owner of a sole proprietorship:

(A) is an independent contractor in the construction trades and does not make the election provided under this subdivision, the owner must obtain a certificate of exemption under section 34.5 of this chapter; or

(B) is an independent contractor and does not make the election provided under this subdivision, the owner may obtain a certificate of exemption under section 34.5 of this chapter.

(3) A partner in a partnership may elect to include the partner as an employee under this chapter if the partner is actually engaged in the partnership business. If a partner makes this election, the partner must serve upon the partner's insurance carrier and upon the board written notice of the election. No partner may be considered an employee under this chapter until the notice has been received. If a partner in a partnership:

(A) is an independent contractor in the construction trades and does not make the election provided under this subdivision, the partner must obtain a certificate of exemption under section 34.5 of this chapter; or

(B) is an independent contractor and does not make the election provided under this subdivision, the partner may obtain a certificate of exemption under section 34.5 of this chapter.

(4) Real estate professionals are not employees under this

chapter if:

(A) they are licensed real estate agents;

(B) substantially all their remuneration is directly related to sales volume and not the number of hours worked; and

(C) they have written agreements with real estate brokers stating that they are not to be treated as employees for tax purposes.

(5) A person is an independent contractor in the construction trades and not an employee under this chapter if the person is an independent contractor under the guidelines of the United States Internal Revenue Service.

(6) An owner-operator that provides a motor vehicle and the services of a driver under a written contract that is subject to IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 376, to a motor carrier is not an employee of the motor carrier for purposes of this chapter. The owner-operator may elect to be covered and have the owner-operator's drivers covered under a worker's compensation insurance policy or authorized self-insurance that insures the motor carrier if the owner-operator pays the premiums as requested by the motor carrier. An election by an owner-operator under this subdivision does not terminate the independent contractor status of the owner-operator for any purpose other than the purpose of this subdivision.

(7) An unpaid participant under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the extent set forth under section 2.5 of this chapter.

(8) A person who enters into an independent contractor agreement with a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to perform youth coaching services on a part-time basis is not an employee for purposes of this chapter.

(9) An officer of a corporation who is an employee of the corporation under this chapter may elect not to be an employee of the corporation under this chapter. If an officer makes this election, the officer must serve written notice of the election on the corporation's insurance carrier and the board. An officer of a corporation may not be considered to be excluded as an employee under this chapter until the notice is received by the insurance carrier and the board.

(10) An individual who is not an employee of the state or a political subdivision is considered to be a temporary employee of the state for purposes of this chapter while serving as a member of a mobile support unit on duty for training, an exercise, or a response, as set forth in IC 10-14-3-19(c)(2)(B).

(c) As used in this chapter, "minor" means an individual who has not reached seventeen (17) years of age. A minor employee shall be considered as being of full age for all purposes of this chapter. However, if the employee is a minor who, at the time of the last exposure, is employed, required, suffered, or permitted to work in

violation of the child labor laws of this state, the amount of compensation and death benefits, as provided in this chapter, shall be double the amount which would otherwise be recoverable. The insurance carrier shall be liable on its policy for one-half (1/2) of the compensation or benefits that may be payable on account of the disability or death of the minor, and the employer shall be wholly liable for the other one-half (1/2) of the compensation or benefits. If the employee is a minor who is not less than sixteen (16) years of age and who has not reached seventeen (17) years of age, and who at the time of the last exposure is employed, suffered, or permitted to work at any occupation which is not prohibited by law, the provisions of this subsection prescribing double the amount otherwise recoverable do not apply. The rights and remedies granted to a minor under this chapter on account of disease shall exclude all rights and remedies of the minor, the minor's parents, the minor's personal representatives, dependents, or next of kin at common law, statutory or otherwise, on account of any disease.

(d) This chapter does not apply to casual laborers as defined in subsection (b), nor to farm or agricultural employees, nor to household employees, nor to railroad employees engaged in train service as engineers, firemen, conductors, brakemen, flagmen, baggagemen, or foremen in charge of yard engines and helpers assigned thereto, nor to their employers with respect to these employees. Also, this chapter does not apply to employees or their employers with respect to employments in which the laws of the United States provide for compensation or liability for injury to the health, disability, or death by reason of diseases suffered by these employees.

(e) As used in this chapter, "disablement" means the event of becoming disabled from earning full wages at the work in which the employee was engaged when last exposed to the hazards of the occupational disease by the employer from whom the employee claims compensation or equal wages in other suitable employment, and "disability" means the state of being so incapacitated.

(f) For the purposes of this chapter, no compensation shall be payable for or on account of any occupational diseases unless disablement, as defined in subsection (e), occurs within two (2) years after the last day of the last exposure to the hazards of the disease except for the following:

(1) In all cases of occupational diseases caused by the inhalation of silica dust or coal dust, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within three (3) years after the last day of the last exposure to the hazards of the disease.

(2) In all cases of occupational disease caused by the exposure to radiation, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within two (2) years from the date on which the employee had knowledge of the nature of the employee's occupational disease or, by exercise of reasonable diligence, should have known of the

existence of such disease and its causal relationship to the employee's employment.

(3) In all cases of occupational diseases caused by the inhalation of asbestos dust, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within three (3) years after the last day of the last exposure to the hazards of the disease if the last day of the last exposure was before July 1, 1985.

(4) In all cases of occupational disease caused by the inhalation of asbestos dust in which the last date of the last exposure occurs on or after July 1, 1985, and before July 1, 1988, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within twenty (20) years after the last day of the last exposure.

(5) In all cases of occupational disease caused by the inhalation of asbestos dust in which the last date of the last exposure occurs on or after July 1, 1988, no compensation shall be payable unless disablement (as defined in subsection (e)) occurs within thirty-five (35) years after the last day of the last exposure.

(g) For the purposes of this chapter, no compensation shall be payable for or on account of death resulting from any occupational disease unless death occurs within two (2) years after the date of disablement. However, this subsection does not bar compensation for death:

(1) where death occurs during the pendency of a claim filed by an employee within two (2) years after the date of disablement and which claim has not resulted in a decision or has resulted in a decision which is in process of review or appeal; or

(2) where, by agreement filed or decision rendered, a compensable period of disability has been fixed and death occurs within two (2) years after the end of such fixed period, but in no event later than three hundred (300) weeks after the date of disablement.

(h) As used in this chapter, "billing review service" refers to a person or an entity that reviews a medical service provider's bills or statements for the purpose of determining pecuniary liability. The term includes an employer's worker's compensation insurance carrier if the insurance carrier performs such a review.

(i) As used in this chapter, "billing review standard" means the data used by a billing review service to determine pecuniary liability.

(j) As used in this chapter, "community" means a geographic service area based on ZIP code districts defined by the United States Postal Service according to the following groupings:

(1) The geographic service area served by ZIP codes with the first three (3) digits 463 and 464.

(2) The geographic service area served by ZIP codes with the first three (3) digits 465 and 466.

(3) The geographic service area served by ZIP codes with the first three (3) digits 467 and 468.

(4) The geographic service area served by ZIP codes with the first three (3) digits 469 and 479.

(5) The geographic service area served by ZIP codes with the first three (3) digits 460, 461 (except 46107), and 473.

(6) The geographic service area served by the 46107 ZIP code and ZIP codes with the first three (3) digits 462.

(7) The geographic service area served by ZIP codes with the first three (3) digits 470, 471, 472, 474, and 478.

(8) The geographic service area served by ZIP codes with the first three (3) digits 475, 476, and 477.

(k) As used in this chapter, "medical service provider" refers to a person or an entity that provides services or products to an employee under this chapter. Except as otherwise provided in this chapter, the term includes a medical service facility.

(l) As used in this chapter, "medical service facility" means any of the following that provides a service or product under this chapter and uses the CMS 1450 (UB-04) form for Medicare reimbursement:

(1) A hospital (as defined in IC 16-18-2-179).

(2) A hospital based health facility (as defined in IC 16-18-2-180).

(3) A medical center (as defined in IC 16-18-2-223.4).

The term does not include a professional corporation (as defined in IC 23-1.5-1-10) comprised of health care professionals (as defined in IC 23-1.5-1-8) formed to render professional services as set forth in IC 23-1.5-2-3(a)(4) or a health care professional (as defined in IC 23-1.5-1-8) who bills for a service or product provided under this chapter as an individual or a member of a group practice or another medical service provider that uses the CMS 1500 form for Medicare reimbursement.

(m) As used in this chapter, "pecuniary liability" means the responsibility of an employer or the employer's insurance carrier for the payment of the charges for each specific service or product for human medical treatment provided under this chapter as follows:

(1) This subdivision applies before July 1, 2014, to all medical service providers, and after June 30, 2014, to a medical service provider that is not a medical service facility. Payment of the charges in a defined community, equal to or less than the charges made by medical service providers at the eightieth percentile in the same community for like services or products.

(2) This subdivision applies after June 30, 2014, to a medical service facility. Payment of the charges in a reasonable amount, which is established by payment of one (1) of the following:

(A) The amount negotiated at any time between the medical service facility and any of the following, if an amount has been negotiated:

(i) The employer.

(ii) The employer's insurance carrier.

(iii) A billing review service on behalf of a person described in item (i) or (ii).

(iv) A direct provider network that has contracted with a

person described in item (i) or (ii).

(B) Two hundred percent (200%) of the amount that would be paid to the medical service facility on the same date for the same service or product under the medical service facility's Medicare reimbursement rate, if an amount has not been negotiated as described in clause (A).

(n) "Service or product" or "services and products" refers to medical, hospital, surgical, or nursing service, treatment, and supplies provided under this chapter.

(Formerly: Acts 1937, c.69, s.5; Acts 1955, c.131, s.1; Acts 1955, c.195, s.1; Acts 1961, c.240, s.1; Acts 1963, c.48, s.16; Acts 1969, c.101, s.1; Acts 1974, P.L.109, SEC.3.) As amended by Acts 1979, P.L.228, SEC.2; P.L.224-1985, SEC.1; P.L.95-1988, SEC.12; P.L.75-1993, SEC.5; P.L.8-1993, SEC.284; P.L.1-1994, SEC.111; P.L.110-1995, SEC.34; P.L.216-1995, SEC.5; P.L.2-1996, SEC.266; P.L.258-1997(ss), SEC.13; P.L.235-1999, SEC.7; P.L.31-2000, SEC.7; P.L.202-2001, SEC.8; P.L.201-2005, SEC.7; P.L.1-2009, SEC.127; P.L.180-2009, SEC.2; P.L.42-2011, SEC.38; P.L.168-2011, SEC.12; P.L.6-2012, SEC.150; P.L.71-2013, SEC.11; P.L.275-2013, SEC.12; P.L.99-2014, SEC.4.

IC 22-3-7-9.2

"Violation of the child labor laws of this state"

Sec. 9.2. As used in section 9(c) of this chapter, the term "violation of the child labor laws of this state" means a violation of IC 20-33-3-35. The term does not include a violation of any other provision of IC 20-33-3.

As added by P.L.37-1985, SEC.32. Amended by P.L.106-1992, SEC.12; P.L.1-2005, SEC.183.

IC 22-3-7-10

Definitions; course of employment

Sec. 10. (a) As used in this chapter, "occupational disease" means a disease arising out of and in the course of the employment. Ordinary diseases of life to which the general public is exposed outside of the employment shall not be compensable, except where such diseases follow as an incident of an occupational disease as defined in this section.

(b) A disease arises out of the employment only if there is apparent to the rational mind, upon consideration of all of the circumstances, a direct causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident of the work as a result of the exposure occasioned by the nature of the employment, and which can be fairly traced to the employment as the proximate cause, and which does not come from a hazard to which workers would have been equally exposed outside of the employment. The disease must be incidental to the character of the business and not independent of the relation of employer and employee. The disease need not have been foreseen or expected but

after its contraction it must appear to have had its origin in a risk connected with the employment and to have flowed from that source as a rational consequence.
(Formerly: Acts 1937, c.69, s.6.) As amended by P.L.144-1986, SEC.61; P.L.28-1988, SEC.51.

IC 22-3-7-10.5
Average weekly wages of public employee; determination

Sec. 10.5. For purposes of this chapter, the average weekly wages of a public employee shall be determined without regard to any salary reduction agreement under Section 125 of the Internal Revenue Code.
As added by P.L.5-1992, SEC.9.

IC 22-3-7-11
Death benefits; payment

Sec. 11. On and after April 1, 1957, and prior to April 1, 1967, when death results from an occupational disease within four hundred (400) weeks, there shall be paid to total dependents of said deceased, as determined by the provisions of IC 22-3-7-12, IC 22-3-7-13, IC 22-3-7-14, IC 22-3-7-15, a weekly compensation amounting to sixty (60) per centum of the deceased's average weekly wage until the compensation so paid when added to any compensation paid to the deceased employee shall equal four hundred (400) weeks, and to partial dependents as hereinafter provided.

On and after April 1, 1967, and prior to April 1, 1969, when death results from an occupational disease within four hundred fifty (450) weeks, there shall be paid to total dependents of said deceased, as determined by the provisions of IC 22-3-7-12, IC 22-3-7-13, IC 22-3-7-14, IC 22-3-7-15, a weekly compensation amounting to sixty (60) per centum of the deceased's average weekly wage, until the compensation so paid when added to any compensation paid to the deceased employee shall equal four hundred fifty (450) weeks, and to partial dependents as hereinafter provided.

On and after April 1, 1969, and prior to July 1, 1974, when death results from occupational disease within five hundred (500) weeks, there shall be paid to total dependents of said deceased, as determined by the provisions of IC 22-3-7-12, IC 22-3-7-13, IC 22-3-7-14, IC 22-3-7-15, a weekly compensation amounting to sixty (60) per centum of the deceased's average weekly wage, until the compensation so paid when added to any compensation paid to the deceased employee shall equal five hundred (500) weeks, and to partial dependents as hereinafter provided.

On and after July 1, 1974, and before July 1, 1976, when death results from occupational disease within five hundred (500) weeks, there shall be paid to total dependents of said deceased as determined by the provisions of IC 22-3-7-12, IC 22-3-7-13, IC 22-3-7-14, IC 22-3-7-15, a weekly compensation amounting to sixty-six and two-thirds (66 2/3) per centum of the deceased's average weekly wage, up to one hundred thirty-five dollars ($135.00) average weekly

wages, until the compensation so paid when added to any compensation paid to the deceased employee shall equal five hundred (500) weeks, and to partial dependents as hereinafter provided.

On and after July 1, 1976, when death results from occupational disease within five hundred (500) weeks, there shall be paid to total dependents of the deceased, as determined by the provisions of IC 22-3-7-12 through IC 22-3-7-15, a weekly compensation amounting to sixty-six and two-thirds percent (66 2/3%) of the deceased's average weekly wage, as defined in IC 22-3-7-19, until the compensation paid, when added to compensation paid to the deceased employee, equals five hundred (500) weeks, and to partial dependents as provided in this chapter.

(Formerly: Acts 1937, c.69, s.7; Acts 1943, c.115, s.1; Acts 1945, c.290, s.1; Acts 1947, c.164, s.1; Acts 1949, c.242, s.3; Acts 1951, c.250, s.3; Acts 1957, c.353, s.1; Acts 1967, c.313, s.1; Acts 1969, c.101, s.2; Acts 1974, P.L.109, SEC.4.) As amended by Acts 1976, P.L.112, SEC.4.

IC 22-3-7-12

Dependents; classification

Sec. 12. (a) Dependents under this chapter shall consist of the following three (3) classes:

(1) Presumptive dependents.

(2) Total dependents in fact.

(3) Partial dependents in fact.

(b) Presumptive dependents shall be entitled to compensation to the complete exclusion of total dependents in fact and partial dependents in fact and shall be entitled to such compensation in equal shares.

(c) Total dependents in fact shall be entitled to compensation to the complete exclusion of partial dependents in fact and shall be entitled to such compensation, if more than one (1) such dependent exists, in equal shares. The question of total dependency shall be determined as of the time of death.

(d) Partial dependents in fact shall not be entitled to any compensation if any other class of dependents exist. The weekly compensation to persons partially dependent in fact shall be in the same proportion to the weekly compensation of persons wholly dependent as the average amount contributed weekly by the deceased to such partial dependent in fact bears to his average weekly wages at the time of the disablement. The question of partial dependency in fact shall be determined as of the time of the disablement.

(Formerly: Acts 1937, c.69, s.7a; Acts 1947, c.164, s.2.) As amended by P.L.144-1986, SEC.62.

IC 22-3-7-13

Presumptive dependents; termination of dependency

Sec. 13. (a) The following persons are conclusively presumed to be wholly dependent for support upon a deceased employee and shall

constitute the class known as presumptive dependents in section 12 of this chapter:

(1) A wife upon a husband with whom she is living at the time of his death, or upon whom the laws of the state impose the obligation of her support at such time. The term "wife", as used in this subdivision, shall exclude a common law wife unless such common law relationship was entered into before January 1, 1958, and, in addition, existed openly and notoriously for a period of not less than five (5) years immediately preceding the death.

(2) A husband upon his wife with whom he is living at the time of her death. The term "husband", as used in this subdivision, shall exclude a common law husband unless such common law relationship was entered into before January 1, 1958, and, in addition existed openly and notoriously for a period of not less than five (5) years immediately preceding the death.

(3) An unmarried child under the age of twenty-one (21) years upon the parent with whom the child is living at the time of the death of such parent.

(4) An unmarried child under twenty-one (21) years upon the parent with whom the child may not be living at the time of the death of such parent, but upon whom at such time, the laws of the state impose the obligation to support such child.

(5) A child over the age of twenty-one (21) years who has never been married and who is either physically or mentally incapacitated from earning the child's own support, upon a parent upon whom the laws of the state impose the obligation of the support of such unmarried child.

(6) A child over the age of twenty-one (21) years who has never been married and who at the time of the death of the parent is keeping house for and living with such parent and is not otherwise gainfully employed.

(b) As used in this section, the term "child" includes stepchildren, legally adopted children, posthumous children, and acknowledged children born out of wedlock. The term "parent" includes stepparents and parents by adoption.

(c) The dependency of a child under subsections (a)(3) and (a)(4) shall terminate when the child attains the age of twenty-one (21).

(d) The dependency of any person as a presumptive dependent shall terminate upon the marriage of such dependent subsequent to the death of the employee, and such dependency shall not be reinstated by divorce. However, for deaths from injuries occurring on and after July 1, 1977, a surviving spouse who is a presumptive dependent and who is the only surviving dependent of the deceased is entitled to receive, upon remarriage before the expiration of the maximum statutory compensation period, a lump sum settlement equal to the smaller of one hundred four (104) weeks of compensation or the compensation for the remainder of the maximum statutory period.

(e) The dependency of any child under subsection (a)(6) shall be

terminated at such time as such dependent becomes gainfully employed or marries.
(Formerly: Acts 1937, c.69, s.7b; Acts 1947, c.164, s.3; Acts 1963, c.388, s.9.) As amended by Acts 1977, P.L.261, SEC.4; P.L.152-1987, SEC.7; P.L.134-1990, SEC.2.

IC 22-3-7-14
Dependents; total or partial dependents; relatives; termination of dependency

Sec. 14. Total or partial dependents in fact shall include only those persons related to the deceased employee by blood or by marriage, except an unmarried child under eighteen (18) years of age. Any such person who is actually totally or partially dependent upon the deceased employee is entitled to compensation as such dependent in fact. The right to compensation of any person totally or partially dependent in fact shall be terminated by the marriage of such dependent subsequent to the death of the employee and such dependency shall not be reinstated by divorce.
(Formerly: Acts 1937, c.69, s.7c; Acts 1947, c.164, s.4.)

IC 22-3-7-15
Death benefits; burial expenses

Sec. 15. In cases of the death of an employee from an occupational disease arising out of and in the course of the employee's employment under circumstances that the employee would have been entitled to compensation if death had not resulted, the employer shall pay the burial expenses of such employee, not exceeding seven thousand five hundred dollars ($7,500).
(Formerly: Acts 1937, c.69, s.7d; Acts 1947, c.164, s.5; Acts 1955, c.241, s.1; Acts 1963, c.388, s.10; Acts 1967, c.313, s.2; Acts 1971, P.L.354, SEC.1.) As amended by P.L.225-1983, SEC.3; P.L.95-1988, SEC.13; P.L.170-1991, SEC.18; P.L.201-2005, SEC.8.

IC 22-3-7-16
Disablements; awards

Sec. 16. (a) Compensation shall be allowed on account of disablement from occupational disease resulting in only temporary total disability to work or temporary partial disability to work beginning with the eighth day of such disability except for the medical benefits provided for in section 17 of this chapter. Compensation shall be allowed for the first seven (7) calendar days only as provided in this section. The first weekly installment of compensation for temporary disability is due fourteen (14) days after the disability begins. Not later than fifteen (15) days from the date that the first installment of compensation is due, the employer or the employer's insurance carrier shall tender to the employee or to the employee's dependents, with all compensation due, a properly prepared compensation agreement in a form prescribed by the board. Whenever an employer or the employer's insurance carrier denies or is not able to determine liability to pay compensation or benefits, the

employer or the employer's insurance carrier shall notify the worker's compensation board and the employee in writing on a form prescribed by the worker's compensation board not later than thirty (30) days after the employer's knowledge of the claimed disablement. If a determination of liability cannot be made within thirty (30) days, the worker's compensation board may approve an additional thirty (30) days upon a written request of the employer or the employer's insurance carrier that sets forth the reasons that the determination could not be made within thirty (30) days and states the facts or circumstances that are necessary to determine liability within the additional thirty (30) days. More than thirty (30) days of additional time may be approved by the worker's compensation board upon the filing of a petition by the employer or the employer's insurance carrier that sets forth:

(1) the extraordinary circumstances that have precluded a determination of liability within the initial sixty (60) days;

(2) the status of the investigation on the date the petition is filed;

(3) the facts or circumstances that are necessary to make a determination; and

(4) a timetable for the completion of the remaining investigation.

An employer who fails to comply with this section is subject to a civil penalty under IC 22-3-4-15.

(b) Once begun, temporary total disability benefits may not be terminated by the employer unless:

(1) the employee has returned to work;

(2) the employee has died;

(3) the employee has refused to undergo a medical examination under section 20 of this chapter;

(4) the employee has received five hundred (500) weeks of temporary total disability benefits or has been paid the maximum compensation allowable under section 19 of this chapter; or

(5) the employee is unable or unavailable to work for reasons unrelated to the compensable disease.

In all other cases the employer must notify the employee in writing of the employer's intent to terminate the payment of temporary total disability benefits, and of the availability of employment, if any, on a form approved by the board. If the employee disagrees with the proposed termination, the employee must give written notice of disagreement to the board and the employer within seven (7) days after receipt of the notice of intent to terminate benefits. If the board and employer do not receive a notice of disagreement under this section, the employee's temporary total disability benefits shall be terminated. Upon receipt of the notice of disagreement, the board shall immediately contact the parties, which may be by telephone or other means and attempt to resolve the disagreement. If the board is unable to resolve the disagreement within ten (10) days of receipt of the notice of disagreement, the board shall immediately arrange for

an evaluation of the employee by an independent medical examiner. The independent medical examiner shall be selected by mutual agreement of the parties or, if the parties are unable to agree, appointed by the board under IC 22-3-4-11. If the independent medical examiner determines that the employee is no longer temporarily disabled or is still temporarily disabled but can return to employment that the employer has made available to the employee, or if the employee fails or refuses to appear for examination by the independent medical examiner, temporary total disability benefits may be terminated. If either party disagrees with the opinion of the independent medical examiner, the party shall apply to the board for a hearing under section 27 of this chapter.

(c) An employer is not required to continue the payment of temporary total disability benefits for more than fourteen (14) days after the employer's proposed termination date unless the independent medical examiner determines that the employee is temporarily disabled and unable to return to any employment that the employer has made available to the employee.

(d) If it is determined that as a result of this section temporary total disability benefits were overpaid, the overpayment shall be deducted from any benefits due the employee under this section and, if there are no benefits due the employee or the benefits due the employee do not equal the amount of the overpayment, the employee shall be responsible for paying any overpayment which cannot be deducted from benefits due the employee.

(e) For disablements occurring on and after July 1, 1976, from occupational disease resulting in temporary total disability for any work there shall be paid to the disabled employee during the temporary total disability weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wages, as defined in section 19 of this chapter, for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days.

(f) For disablements occurring on and after July 1, 1974, from occupational disease resulting in temporary partial disability for work there shall be paid to the disabled employee during such disability a weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of the difference between the employee's average weekly wages, as defined in section 19 of this chapter, and the weekly wages at which the employee is actually employed after the disablement, for a period not to exceed three hundred (300) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days. In case of partial disability after the period of temporary total disability, the latter period shall be included as a part of the maximum period allowed for partial disability.

(g) For disabilities occurring on and after July 1, 1979, and before July 1, 1988, from occupational disease in the schedule set forth in subsection (j), the employee shall receive in addition to disability

benefits, not exceeding fifty-two (52) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred twenty-five dollars ($125) average weekly wages, for the period stated for the disabilities.

(h) For disabilities occurring on and after July 1, 1988, and before July 1, 1989, from occupational disease in the schedule set forth in subsection (j), the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred sixty-six dollars ($166) average weekly wages, for the period stated for the disabilities.

(i) For disabilities occurring on and after July 1, 1989, and before July 1, 1990, from occupational disease in the schedule set forth in subsection (j), the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred eighty-three dollars ($183) average weekly wages, for the period stated for the disabilities.

(j) For disabilities occurring on and after July 1, 1990, and before July 1, 1991, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars ($200) average weekly wages, for the period stated for the disabilities.

(1) Amputations: For the loss by separation, of the thumb, sixty (60) weeks; of the index finger, forty (40) weeks; of the second finger, thirty-five (35) weeks; of the third or ring finger, thirty (30) weeks; of the fourth or little finger, twenty (20) weeks; of the hand by separation below the elbow, two hundred (200) weeks; of the arm above the elbow joint, two hundred fifty (250) weeks; of the big toe, sixty (60) weeks; of the second toe, thirty (30) weeks; of the third toe, twenty (20) weeks; of the fourth toe, fifteen (15) weeks; of the fifth or little toe, ten (10) weeks; of the foot below the knee joint, one hundred fifty (150) weeks; and of the leg above the knee joint, two hundred (200) weeks. The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the thumb or toe and compensation shall be paid for one-half (1/2) of the period for the loss of the entire thumb or toe. The loss of not more than two (2) phalanges of a finger shall be considered as the loss of one-half (1/2) the finger and compensation shall be paid for one-half

(1/2) of the period for the loss of the entire finger.

(2) Loss of Use: The total permanent loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange and the compensation shall be paid for the same period as for the loss thereof by separation.

(3) Partial Loss of Use: For the permanent partial loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange, compensation shall be paid for the proportionate loss of the use of such arm, hand, thumb, finger, leg, foot, toe, or phalange.

(4) For disablements for occupational disease resulting in total permanent disability, five hundred (500) weeks.

(5) For the loss of both hands, or both feet, or the total sight of both eyes, or any two (2) of such losses resulting from the same disablement by occupational disease, five hundred (500) weeks.

(6) For the permanent and complete loss of vision by enucleation of an eye or its reduction to one-tenth (1/10) of normal vision with glasses, one hundred fifty (150) weeks, and for any other permanent reduction of the sight of an eye, compensation shall be paid for a period proportionate to the degree of such permanent reduction without correction or glasses. However, when such permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, but correction or glasses would result in restoration of vision, then compensation shall be paid for fifty percent (50%) of such total loss of vision without glasses plus an additional amount equal to the proportionate amount of such reduction with glasses, not to exceed an additional fifty percent (50%).

(7) For the permanent and complete loss of hearing, two hundred (200) weeks.

(8) In all other cases of permanent partial impairment, compensation proportionate to the degree of such permanent partial impairment, in the discretion of the worker's compensation board, not exceeding five hundred (500) weeks.

(9) In all cases of permanent disfigurement, which may impair the future usefulness or opportunities of the employee, compensation in the discretion of the worker's compensation board, not exceeding two hundred (200) weeks, except that no compensation shall be payable under this paragraph where compensation shall be payable under subdivisions (1) through (8). Where compensation for temporary total disability has been paid, this amount of compensation shall be deducted from any compensation due for permanent disfigurement.

(k) With respect to disablements in the following schedule occurring on and after July 1, 1991, the employee shall receive in addition to temporary total disability benefits, not exceeding one hundred twenty-five (125) weeks on account of the disablement, compensation in an amount determined under the following schedule

to be paid weekly at a rate of sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wages during the fifty-two (52) weeks immediately preceding the week in which the disablement occurred:

(1) Amputation: For the loss by separation of the thumb, twelve (12) degrees of permanent impairment; of the index finger, eight (8) degrees of permanent impairment; of the second finger, seven (7) degrees of permanent impairment; of the third or ring finger, six (6) degrees of permanent impairment; of the fourth or little finger, four (4) degrees of permanent impairment; of the hand by separation below the elbow joint, forty (40) degrees of permanent impairment; of the arm above the elbow, fifty (50) degrees of permanent impairment; of the big toe, twelve (12) degrees of permanent impairment; of the second toe, six (6) degrees of permanent impairment; of the third toe, four (4) degrees of permanent impairment; of the fourth toe, three (3) degrees of permanent impairment; of the fifth or little toe, two (2) degrees of permanent impairment; of separation of the foot below the knee joint, thirty-five (35) degrees of permanent impairment; and of the leg above the knee joint, forty-five (45) degrees of permanent impairment.

(2) Amputations occurring on or after July 1, 1997: For the loss by separation of any of the body parts described in subdivision (1) on or after July 1, 1997, the dollar values per degree applying on the date of the injury as described in subsection (l) shall be multiplied by two (2). However, the doubling provision of this subdivision does not apply to a loss of use that is not a loss by separation.

(3) The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the degrees of permanent impairment for the loss of the entire thumb or toe. The loss of not more than one (1) phalange of a finger shall be considered as the loss of one-third (1/3) of the finger and compensation shall be paid for one-third (1/3) of the degrees payable for the loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger shall be considered as the loss of one-half (1/2) of the finger and compensation shall be paid for one-half (1/2) of the degrees payable for the loss of the entire finger.

(4) For the loss by separation of both hands or both feet or the total sight of both eyes or any two (2) such losses in the same accident, one hundred (100) degrees of permanent impairment.

(5) For the permanent and complete loss of vision by enucleation or its reduction to one-tenth (1/10) of normal vision with glasses, thirty-five (35) degrees of permanent impairment.

(6) For the permanent and complete loss of hearing in one (1)

ear, fifteen (15) degrees of permanent impairment, and in both ears, forty (40) degrees of permanent impairment.

(7) For the loss of one (1) testicle, ten (10) degrees of permanent impairment; for the loss of both testicles, thirty (30) degrees of permanent impairment.

(8) Loss of use: The total permanent loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid in the same amount as for the loss by separation. However, the doubling provision of subdivision (2) does not apply to a loss of use that is not a loss by separation.

(9) Partial loss of use: For the permanent partial loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange, compensation shall be paid for the proportionate loss of the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.

(10) For disablements resulting in total permanent disability, the amount payable for impairment or five hundred (500) weeks of compensation, whichever is greater.

(11) For any permanent reduction of the sight of an eye less than a total loss as specified in subdivision (5), the compensation shall be paid in an amount proportionate to the degree of a permanent reduction without correction or glasses. However, when a permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, then compensation shall be paid for fifty percent (50%) of the total loss of vision without glasses, plus an additional amount equal to the proportionate amount of the reduction with glasses, not to exceed an additional fifty percent (50%).

(12) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subdivision (6), compensation shall be paid in an amount proportionate to the degree of a permanent reduction.

(13) In all other cases of permanent partial impairment, compensation proportionate to the degree of a permanent partial impairment, in the discretion of the worker's compensation board, not exceeding one hundred (100) degrees of permanent impairment.

(14) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding forty (40) degrees of permanent impairment except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

(l) With respect to disablements occurring on and after July 1, 1991, compensation for permanent partial impairment shall be paid according to the degree of permanent impairment for the disablement

determined under subsection (k) and the following:

(1) With respect to disablements occurring on and after July 1, 1991, and before July 1, 1992, for each degree of permanent impairment from one (1) to thirty-five (35), five hundred dollars ($500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), nine hundred dollars ($900) per degree; for each degree of permanent impairment above fifty (50), one thousand five hundred dollars ($1,500) per degree.

(2) With respect to disablements occurring on and after July 1, 1992, and before July 1, 1993, for each degree of permanent impairment from one (1) to twenty (20), five hundred dollars ($500) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), eight hundred dollars ($800) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand three hundred dollars ($1,300) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(3) With respect to disablements occurring on and after July 1, 1993, and before July 1, 1997, for each degree of permanent impairment from one (1) to ten (10), five hundred dollars ($500) per degree; for each degree of permanent impairment from eleven (11) to twenty (20), seven hundred dollars ($700) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(4) With respect to disablements occurring on and after July 1, 1997, and before July 1, 1998, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars ($750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars ($1,700) per degree.

(5) With respect to disablements occurring on and after July 1, 1998, and before July 1, 1999, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars ($750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars ($1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred

dollars ($1,700) per degree.
(6) With respect to disablements occurring on and after July 1, 1999, and before July 1, 2000, for each degree of permanent impairment from one (1) to ten (10), nine hundred dollars ($900) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand one hundred dollars ($1,100) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand six hundred dollars ($1,600) per degree; for each degree of permanent impairment above fifty (50), two thousand dollars ($2,000) per degree.
(7) With respect to disablements occurring on and after July 1, 2000, and before July 1, 2001, for each degree of permanent impairment from one (1) to ten (10), one thousand one hundred dollars ($1,100) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand three hundred dollars ($1,300) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand dollars ($2,000) per degree; for each degree of permanent impairment above fifty (50), two thousand five hundred fifty dollars ($2,500) per degree.
(8) With respect to disablements occurring on and after July 1, 2001, and before July 1, 2007, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred dollars ($1,300) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred dollars ($1,500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred dollars ($2,400) per degree; for each degree of permanent impairment above fifty (50), three thousand dollars ($3,000) per degree.
(9) With respect to disablements occurring on and after July 1, 2007, and before July 1, 2008, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred forty dollars ($1,340) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred forty-five dollars ($1,545) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred seventy-five dollars ($2,475) per degree; for each degree of permanent impairment above fifty (50), three thousand one hundred fifty dollars ($3,150) per degree.
(10) With respect to disablements occurring on and after July 1, 2008, and before July 1, 2009, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred sixty-five dollars ($1,365) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred seventy dollars ($1,570) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand five hundred twenty-five dollars

($2,525) per degree; for each degree of permanent impairment above fifty (50), three thousand two hundred dollars ($3,200) per degree.

(11) With respect to disablements occurring on and after July 1, 2009, and before July 1, 2010, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred eighty dollars ($1,380) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred eighty-five dollars ($1,585) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand six hundred dollars ($2,600) per degree; for each degree of permanent impairment above fifty (50), three thousand three hundred dollars ($3,300) per degree.

(12) With respect to disablements occurring on and after July 1, 2010, and before July 1, 2014, for each degree of permanent impairment from one (1) to ten (10), one thousand four hundred dollars ($1,400) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand six hundred dollars ($1,600) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand seven hundred dollars ($2,700) per degree; for each degree of permanent impairment above fifty (50), three thousand five hundred dollars ($3,500) per degree.

(13) With respect to disablements occurring on and after July 1, 2014, and before July 1, 2015, for each degree of permanent impairment from one (1) to ten (10), one thousand five hundred seventeen dollars ($1,517) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand seven hundred seventeen dollars ($1,717) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand eight hundred sixty-two dollars ($2,862) per degree; for each degree of permanent impairment above fifty (50), three thousand six hundred eighty-seven dollars ($3,687) per degree.

(14) With respect to disablements occurring on and after July 1, 2015, and before July 1, 2016, for each degree of permanent impairment from one (1) to ten (10), one thousand six hundred thirty-three dollars ($1,633) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand eight hundred thirty-five dollars ($1,835) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand twenty-four dollars ($3,024) per degree; for each degree of permanent impairment above fifty (50), three thousand eight hundred seventy-three dollars ($3,873) per degree.

(15) With respect to disablements occurring on and after July 1, 2016, for each degree of permanent impairment from one (1) to ten (10), one thousand seven hundred fifty dollars ($1,750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand nine hundred fifty-two

dollars ($1,952) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand one hundred eighty-six dollars ($3,186) per degree; for each degree of permanent impairment above fifty (50), four thousand sixty dollars ($4,060) per degree.

(m) The average weekly wages used in the determination of compensation for permanent partial impairment under subsections (k) and (l) shall not exceed the following:

(1) With respect to disablements occurring on or after July 1, 1991, and before July 1, 1992, four hundred ninety-two dollars ($492).

(2) With respect to disablements occurring on or after July 1, 1992, and before July 1, 1993, five hundred forty dollars ($540).

(3) With respect to disablements occurring on or after July 1, 1993, and before July 1, 1994, five hundred ninety-one dollars ($591).

(4) With respect to disablements occurring on or after July 1, 1994, and before July 1, 1997, six hundred forty-two dollars ($642).

(5) With respect to disablements occurring on or after July 1, 1997, and before July 1, 1998, six hundred seventy-two dollars ($672).

(6) With respect to disablements occurring on or after July 1, 1998, and before July 1, 1999, seven hundred two dollars ($702).

(7) With respect to disablements occurring on or after July 1, 1999, and before July 1, 2000, seven hundred thirty-two dollars ($732).

(8) With respect to disablements occurring on or after July 1, 2000, and before July 1, 2001, seven hundred sixty-two dollars ($762).

(9) With respect to disablements occurring on or after July 1, 2001, and before July 1, 2002, eight hundred twenty-two dollars ($822).

(10) With respect to disablements occurring on or after July 1, 2002, and before July 1, 2006, eight hundred eighty-two dollars ($882).

(11) With respect to disablements occurring on or after July 1, 2006, and before July 1, 2007, nine hundred dollars ($900).

(12) With respect to disablements occurring on or after July 1, 2007, and before July 1, 2008, nine hundred thirty dollars ($930).

(13) With respect to disablements occurring on or after July 1, 2008, and before July 1, 2009, nine hundred fifty-four dollars ($954).

(14) With respect to disablements occurring on or after July 1, 2009, and before July 1, 2014, nine hundred seventy-five dollars ($975).

(15) With respect to disablements occurring on or after July 1,

2014, and before July 1, 2015, one thousand forty dollars ($1,040).

(16) With respect to disablements occurring on or after July 1, 2015, and before July 1, 2016, one thousand one hundred five dollars ($1,105).

(17) With respect to disablements occurring on or after July 1, 2016, one thousand one hundred seventy dollars ($1,170).

(n) If any employee, only partially disabled, refuses employment suitable to the employee's capacity procured for the employee, the employee shall not be entitled to any compensation at any time during the continuance of such refusal unless, in the opinion of the worker's compensation board, such refusal was justifiable. The employee must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board.

(o) If an employee has sustained a permanent impairment or disability from an accidental injury other than an occupational disease in another employment than that in which the employee suffered a subsequent disability from an occupational disease, such as herein specified, the employee shall be entitled to compensation for the subsequent disability in the same amount as if the previous impairment or disability had not occurred. However, if the permanent impairment or disability resulting from an occupational disease for which compensation is claimed results only in the aggravation or increase of a previously sustained permanent impairment from an occupational disease or physical condition regardless of the source or cause of such previously sustained impairment from an occupational disease or physical condition, the board shall determine the extent of the previously sustained permanent impairment from an occupational disease or physical condition as well as the extent of the aggravation or increase resulting from the subsequent permanent impairment or disability, and shall award compensation only for that part of said occupational disease or physical condition resulting from the subsequent permanent impairment. An amputation of any part of the body or loss of any or all of the vision of one (1) or both eyes caused by an occupational disease shall be considered as a permanent impairment or physical condition.

(p) If an employee suffers a disablement from an occupational disease for which compensation is payable while the employee is still receiving or entitled to compensation for a previous injury by accident or disability by occupational disease in the same employment, the employee shall not at the same time be entitled to compensation for both, unless it be for a permanent injury, such as specified in subsection (k)(1), (k)(4), (k)(5), (k)(8), or (k)(9), but the employee shall be entitled to compensation for that disability and from the time of that disability which will cover the longest period and the largest amount payable under this chapter.

(q) If an employee receives a permanent disability from an occupational disease such as specified in subsection (k)(1), (k)(4), (k)(5), (k)(8), or (k)(9) after having sustained another such

permanent disability in the same employment the employee shall be entitled to compensation for both such disabilities, but the total compensation shall be paid by extending the period and not by increasing the amount of weekly compensation and, when such previous and subsequent permanent disabilities, in combination result in total permanent disability or permanent total impairment, compensation shall be payable for such permanent total disability or impairment, but payments made for the previous disability or impairment shall be deducted from the total payment of compensation due.

(r) When an employee has been awarded or is entitled to an award of compensation for a definite period from an occupational disease wherein disablement occurs on and after April 1, 1963, and such employee dies from other causes than such occupational disease, payment of the unpaid balance of such compensation not exceeding three hundred fifty (350) weeks shall be paid to the employee's dependents of the second and third class as defined in sections 11 through 14 of this chapter and compensation, not exceeding five hundred (500) weeks shall be made to the employee's dependents of the first class as defined in sections 11 through 14 of this chapter.

(s) Any payment made by the employer to the employee during the period of the employee's disability, or to the employee's dependents, which, by the terms of this chapter, was not due and payable when made, may, subject to the approval of the worker's compensation board, be deducted from the amount to be paid as compensation, but such deduction shall be made from the distal end of the period during which compensation must be paid, except in cases of temporary disability.

(t) When so provided in the compensation agreement or in the award of the worker's compensation board, compensation may be paid semimonthly, or monthly, instead of weekly.

(u) When the aggregate payments of compensation awarded by agreement or upon hearing to an employee or dependent under eighteen (18) years of age do not exceed one hundred dollars ($100), the payment thereof may be made directly to such employee or dependent, except when the worker's compensation board shall order otherwise.

(v) Whenever the aggregate payments of compensation, due to any person under eighteen (18) years of age, exceed one hundred dollars ($100), the payment thereof shall be made to a trustee, appointed by the circuit or superior court, or to a duly qualified guardian, or, upon the order of the worker's compensation board, to a parent or to such minor person. The payment of compensation, due to any person eighteen (18) years of age or over, may be made directly to such person.

(w) If an employee, or a dependent, is mentally incompetent, or a minor at the time when any right or privilege accrues to the employee under this chapter, the employee's guardian or trustee may, in the employee's behalf, claim and exercise such right and privilege.

(x) All compensation payments named and provided for in this

section, shall mean and be defined to be for only such occupational diseases and disabilities therefrom as are proved by competent evidence, of which there are or have been objective conditions or symptoms proven, not within the physical or mental control of the employee.

(Formerly: Acts 1937, c.69, s.8; Acts 1949, c.242, s.1; Acts 1951, c.250, s.1; Acts 1955, c.326, s.1; Acts 1963, c.388, s.11; Acts 1971, P.L.354, SEC.2; Acts 1974, P.L.109, SEC.5.) As amended by Acts 1976, P.L.112, SEC.5; Acts 1977, P.L.261, SEC.5; Acts 1979, P.L.227, SEC.5; P.L.95-1988, SEC.14; P.L.170-1991, SEC.19; P.L.258-1997(ss), SEC.14; P.L.31-2000, SEC.8; P.L.1-2001, SEC.28; P.L.134-2006, SEC.9; P.L.168-2011, SEC.13; P.L.275-2013, SEC.13.

IC 22-3-7-17

Medical attendance and treatment; prosthetic devices; emergency treatment; liability to providers; medical service provider claims

Sec. 17. (a) During the period of disablement, the employer shall furnish or cause to be furnished, free of charge to the employee, an attending physician for the treatment of the employee's occupational disease, and in addition thereto such services and products as the attending physician or the worker's compensation board may deem necessary. If the employee is requested or required by the employer to submit to treatment outside the county of employment, the employer shall also pay the reasonable expense of travel, food, and lodging necessary during the travel, but not to exceed the amount paid at the time of the travel by the state of Indiana to its employees. If the treatment or travel to or from the place of treatment causes a loss of working time to the employee, the employer shall reimburse the employee for the loss of wages using the basis of the employee's average daily wage.

(b) During the period of disablement resulting from the occupational disease, the employer shall furnish such physician, services and products, and the worker's compensation board may, on proper application of either party, require that treatment by such physician and such services and products be furnished by or on behalf of the employer as the board may deem reasonably necessary. After an employee's occupational disease has been adjudicated by agreement or award on the basis of permanent partial impairment and within the statutory period for review in such case as provided in section 27(i) of this chapter, the employer may continue to furnish a physician or a surgeon and other services and products, and the board may, within such statutory period for review as provided in section 27(i) of this chapter, on a proper application of either party, require that treatment by such physician or surgeon and such services and products be furnished by and on behalf of the employer as the board may deem necessary to limit or reduce the amount and extent of such impairment. The refusal of the employee to accept such services and products when so provided by or on behalf of the employer, shall bar the employee from all compensation otherwise payable during the

period of such refusal and the employee's right to prosecute any proceeding under this chapter shall be suspended and abated until such refusal ceases. The employee must be served with a notice setting forth the consequences of the refusal under this section. The notice must be in a form prescribed by the worker's compensation board. No compensation for permanent total impairment, permanent partial impairment, permanent disfigurement, or death shall be paid or payable for that part or portion of such impairment, disfigurement, or death which is the result of the failure of such employee to accept such services and products, provided that an employer may at any time permit an employee to have treatment for the employee's disease or injury by spiritual means or prayer in lieu of such physician, services and products.

(c) Regardless of when it occurs, where a compensable occupational disease results in the amputation of a body part, the enucleation of an eye, or the loss of natural teeth, the employer shall furnish an appropriate artificial member, braces, and prosthodontics. The cost of repairs to or replacements for the artificial members, braces, or prosthodontics that result from a compensable occupational disease pursuant to a prior award and are required due to either medical necessity or normal wear and tear, determined according to the employee's individual use, but not abuse, of the artificial member, braces, or prosthodontics, shall be paid from the second injury fund upon order or award of the worker's compensation board. The employee is not required to meet any other requirement for admission to the second injury fund.

(d) If an emergency or because of the employer's failure to provide such attending physician or such services and products or such treatment by spiritual means or prayer as specified in this section, or for other good reason, a physician other than that provided by the employer treats the diseased employee within the period of disability, or necessary and proper services and products are procured within the period, the reasonable cost of such services and products shall, subject to approval of the worker's compensation board, be paid by the employer.

(e) An employer or employer's insurance carrier may not delay the provision of emergency medical care whenever emergency medical care is considered necessary in the professional judgment of the attending health care facility physician.

(f) This section may not be construed to prohibit an agreement between an employer and employees that has the approval of the board and that:

(1) binds the parties to medical care furnished by medical service providers selected by agreement before or after disablement; or

(2) makes the findings of a medical service provider chosen in this manner binding upon the parties.

(g) The employee and the employee's estate do not have liability to a medical service provider for payment for services obtained under this section. The right to order payment for all services provided

under this chapter is solely with the board. All claims by a medical service provider for payment for services are against the employer and the employer's insurance carrier, if any, and must be made with the board under this chapter. After June 30, 2011, a medical service provider must file an application for adjustment of a claim for a medical service provider's fee with the board not later than two (2) years after the receipt of an initial written communication from the employer, the employer's insurance carrier, if any, or an agent acting on behalf of the employer after the medical service provider submits a bill for services. To offset a part of the board's expenses related to the administration of medical service provider reimbursement disputes, a medical service facility shall pay a filing fee of sixty dollars ($60) in a balance billing case. The filing fee must accompany each application filed with the board. If an employer, employer's insurance carrier, or an agent acting on behalf of the employer denies or fails to pay any amount on a claim submitted by a medical service facility, a filing fee is not required to accompany an application that is filed for the denied or unpaid claim. A medical service provider may combine up to ten (10) individual claims into one (1) application whenever:

(1) all individual claims involve the same employer, insurance carrier, or billing review service; and

(2) the amount of each individual claim does not exceed two hundred dollars ($200).

(Formerly: Acts 1937, c.69, s.9; Acts 1947, c.164, s.6; Acts 1963, c.388, s.12.) As amended by P.L.144-1986, SEC.63; P.L.28-1988, SEC.52; P.L.95-1988, SEC.15; P.L.170-1991, SEC.20; P.L.258-1997(ss), SEC.15; P.L.31-2000, SEC.9; P.L.67-2010, SEC.3; P.L.168-2011, SEC.14; P.L.275-2013, SEC.14.

IC 22-3-7-17.1

Collection of medical expense payments; civil penalties; good faith errors

Sec. 17.1. (a) A medical service provider or a medical service provider's agent, servant, employee, assignee, employer, or independent contractor on behalf of the medical service provider may not knowingly collect or attempt to collect the payment of a charge for medical services or products covered under IC 22 from an employee or the employee's estate or family members.

(b) If after a hearing, the worker's compensation board finds that a medical service provider has violated this section, the worker's compensation board may assess a civil penalty against the medical service provider in an amount that is at least one hundred dollars ($100) but less than one thousand dollars ($1,000) for each violation.

(c) The worker's compensation board may not assess a civil penalty against a medical service provider for a violation of this section that is the result of a good faith error.

As added by P.L.216-1995, SEC.6.

IC 22-3-7-17.2 Version a

Billing review service standards

Note: This version of section effective until 7-1-2014. See also following version of this section, effective 7-1-2014.

Sec. 17.2. (a) A billing review service shall adhere to the following requirements to determine the pecuniary liability of an employer or an employer's insurance carrier for a specific service or product covered under this chapter provided before July 1, 2014, by all medical service providers, and after June 30, 2014, by a medical service provider that is not a medical service facility:

(1) The formation of a billing review standard, and any subsequent analysis or revision of the standard, must use data that is based on the medical service provider billing charges as submitted to the employer and the employer's insurance carrier from the same community. This subdivision does not apply when a unique or specialized service or product does not have sufficient comparative data to allow for a reasonable comparison.

(2) Data used to determine pecuniary liability must be compiled on or before June 30 and December 31 of each year.

(3) Billing review standards must be revised for prospective future payments of medical service provider bills to provide for payment of the charges at a rate not more than the charges made by eighty percent (80%) of the medical service providers during the prior six (6) months within the same community. The data used to perform the analysis and revision of the billing review standards may not be more than two (2) years old and must be periodically updated by a representative inflationary or deflationary factor. Reimbursement for these charges may not exceed the actual charge invoiced by the medical service provider.

(b) This subsection applies after June 30, 2014, to a medical service facility. The pecuniary liability of an employer or an employer's insurance carrier for a specific service or product covered under this chapter and provided by a medical service facility is equal to a reasonable amount, which is established by payment of one (1) of the following:

(1) The amount negotiated at any time between the medical service facility and any of the following:

(A) The employer.

(B) The employer's insurance carrier.

(C) A billing review service on behalf of a person described in clause (A) or (B).

(D) A direct provider network that has contracted with a person described in clause (A) or (B).

(2) Two hundred percent (200%) of the amount that would be paid to the medical service facility on the same date for the same service or product under the medical service facility's Medicare reimbursement rate, if an amount has not been negotiated as described in subdivision (1).

(c) The payment to a medical service provider for an implant

furnished to an employee under this chapter may not exceed the invoice amount plus twenty-five percent (25%).

(d) A medical service provider may request an explanation from a billing review service if the medical service provider's bill has been reduced as a result of application of the eightieth percentile or of a Current Procedural Terminology (CPT) or Medicare coding change. The request must be made not later than sixty (60) days after receipt of the notice of the reduction. If a request is made, the billing review service must provide:

(1) the name of the billing review service used to make the reduction;

(2) the dollar amount of the reduction;

(3) the dollar amount of the medical service at the eightieth percentile; and

(4) in the case of a CPT or Medicare coding change, the basis upon which the change was made;

not later than thirty (30) days after the date of the request.

(e) If, after a hearing, the worker's compensation board finds that a billing review service used a billing review standard that did not comply with subsection (a)(1) through (a)(3), as applicable, in determining the pecuniary liability of an employer or an employer's insurance carrier for a medical service provider's charge for services or products covered under occupational disease compensation, the worker's compensation board may assess a civil penalty against the billing review service in an amount not less than one hundred dollars ($100) and not more than one thousand dollars ($1,000).

As added by P.L.216-1995, SEC.7. Amended by P.L.202-2001, SEC.9; P.L.275-2013, SEC.15; P.L.2-2014, SEC.100.

IC 22-3-7-17.2 Version b

Billing review service standards

Note: This version of section effective 7-1-2014. See also preceding version of this section, effective until 7-1-2014.

Sec. 17.2. (a) A billing review service shall adhere to the following requirements to determine the pecuniary liability of an employer or an employer's insurance carrier for a specific service or product covered under this chapter provided before July 1, 2014, by all medical service providers, and after June 30, 2014, by a medical service provider that is not a medical service facility:

(1) The formation of a billing review standard, and any subsequent analysis or revision of the standard, must use data that is based on the medical service provider billing charges as submitted to the employer and the employer's insurance carrier from the same community. This subdivision does not apply when a unique or specialized service or product does not have sufficient comparative data to allow for a reasonable comparison.

(2) Data used to determine pecuniary liability must be compiled on or before June 30 and December 31 of each year.

(3) Billing review standards must be revised for prospective

future payments of medical service provider bills to provide for payment of the charges at a rate not more than the charges made by eighty percent (80%) of the medical service providers during the prior six (6) months within the same community. The data used to perform the analysis and revision of the billing review standards may not be more than two (2) years old and must be periodically updated by a representative inflationary or deflationary factor. Reimbursement for these charges may not exceed the actual charge invoiced by the medical service provider.

(b) This subsection applies after June 30, 2014, to a medical service facility. The pecuniary liability of an employer or an employer's insurance carrier for a specific service or product covered under this chapter and provided by a medical service facility is equal to a reasonable amount, which is established by payment of one (1) of the following:

(1) The amount negotiated at any time between the medical service facility and any of the following:

(A) The employer.

(B) The employer's insurance carrier.

(C) A billing review service on behalf of a person described in clause (A) or (B).

(D) A direct provider network that has contracted with a person described in clause (A) or (B).

(2) Two hundred percent (200%) of the amount that would be paid to the medical service facility on the same date for the same service or product under the medical service facility's Medicare reimbursement rate, if an amount has not been negotiated as described in subdivision (1).

(c) A medical service provider may request an explanation from a billing review service if the medical service provider's bill has been reduced as a result of application of the eightieth percentile or of a Current Procedural Terminology (CPT) or Medicare coding change. The request must be made not later than sixty (60) days after receipt of the notice of the reduction. If a request is made, the billing review service must provide:

(1) the name of the billing review service used to make the reduction;

(2) the dollar amount of the reduction;

(3) the dollar amount of the medical service at the eightieth percentile; and

(4) in the case of a CPT or Medicare coding change, the basis upon which the change was made;

not later than thirty (30) days after the date of the request.

(d) If, after a hearing, the worker's compensation board finds that a billing review service used a billing review standard that did not comply with subsection (a)(1) through (a)(3), as applicable, in determining the pecuniary liability of an employer or an employer's insurance carrier for a medical service provider's charge for services or products covered under occupational disease compensation, the

worker's compensation board may assess a civil penalty against the billing review service in an amount not less than one hundred dollars ($100) and not more than one thousand dollars ($1,000).
As added by P.L.216-1995, SEC.7. Amended by P.L.202-2001, SEC.9; P.L.275-2013, SEC.15; P.L.2-2014, SEC.100; P.L.99-2014, SEC.5.

IC 22-3-7-17.4
Repackaged drugs; maximum reimbursement amount

Sec. 17.4. (a) As used in this section, "legend drug" has the meaning set forth in IC 25-26-14-7.

(b) As used in this section, "repackage" has the meaning set forth in IC 25-26-14-9.3.

(c) This subsection does not apply to a retail or mail order pharmacy. Except as provided in subsection (d), whenever a prescription covered by this chapter is filled using a repackaged legend drug:

(1) the maximum reimbursement amount for the repackaged legend drug must be computed using the average wholesale price set by the original manufacturer for the legend drug;

(2) the medical service provider may not be reimbursed for more than one (1) office visit for each repackaged legend drug prescribed; and

(3) the maximum period during which a medical service provider may receive reimbursement for a repackaged legend drug begins on the date of the disablement and ends at the beginning of the eighth day after the date of the disablement.

(d) If the National Drug Code (established under Section 510 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 360) for a legend drug cannot be determined from the medical service provider's billing or statement, the maximum reimbursement amount for the repackaged legend drug under subsection (c) is the lowest cost generic for that legend drug.
As added by P.L.275-2013, SEC.16. Amended by P.L.99-2014, SEC.6.

IC 22-3-7-18
Awards; lump sum payments

Sec. 18. (a) Any employer or employee or beneficiary who shall desire to have such compensation, or any unpaid part thereof, paid in a lump sum, may petition the worker's compensation board, asking that such compensation be so paid, and if, upon proper notice to the interested parties, and a proper showing made before the worker's compensation board, or any member thereof, it appears to the best interest of the parties that such compensation be so paid, the worker's compensation board may order the commutation of the compensation to an equivalent lump sum, which commutation shall be an amount which will equal the total sum of the probable future payments capitalized at their present value upon the basis of interest calculated at three percent (3%) per year with annual rests. In cases indicating

complete disability, no petition for a commutation to a lump sum basis shall be entertained by the board until after the expiration of six (6) months from the date of the disablement.

(b) Whenever the worker's compensation board deems it expedient, any lump sum under this section shall be paid by the employer to some suitable person or corporation appointed by the circuit or superior court, as trustee, to administer the same for the benefit of the person entitled thereto, in the manner authorized by the court appointing such trustee. The receipt of such trustee for the amount so paid shall discharge the employer or anyone else who is liable therefor.

(Formerly: Acts 1937, c.69, s.10.) As amended by P.L.28-1988, SEC.53; P.L.1-2006, SEC.341.

IC 22-3-7-19

Awards; computation; average weekly wages

Sec. 19. (a) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1985, and before July 1, 1986, the average weekly wages are considered to be:

(1) not more than two hundred sixty-seven dollars ($267); and

(2) not less than seventy-five dollars ($75).

(b) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1986, and before July 1, 1988, the average weekly wages are considered to be:

(1) not more than two hundred eighty-five dollars ($285); and

(2) not less than seventy-five dollars ($75).

(c) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1988, and before July 1, 1989, the average weekly wages are considered to be:

(1) not more than three hundred eighty-four dollars ($384); and

(2) not less than seventy-five dollars ($75).

(d) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1989, and before July 1, 1990, the average weekly wages are considered to be:

(1) not more than four hundred eleven dollars ($411); and

(2) not less than seventy-five dollars ($75).

(e) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1990, and before July 1, 1991, the average weekly wages are considered to be:

(1) not more than four hundred forty-one dollars ($441); and

(2) not less than seventy-five dollars ($75).

(f) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1991, and before July 1, 1992, the average weekly wages are considered to be:

(1) not more than four hundred ninety-two dollars ($492); and

(2) not less than seventy-five dollars ($75).

(g) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1992, and before July 1, 1993, the average weekly wages are considered to be:

(1) not more than five hundred forty dollars ($540); and

(2) not less than seventy-five dollars ($75).

(h) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1993, and before July 1, 1994, the average weekly wages are considered to be:

(1) not more than five hundred ninety-one dollars ($591); and

(2) not less than seventy-five dollars ($75).

(i) In computing compensation for temporary total disability, temporary partial disability and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1994, and before July 1, 1997, the average weekly wages are considered to be:

(1) not more than six hundred forty-two dollars ($642); and

(2) not less than seventy-five dollars ($75).

(j) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, the average weekly wages are considered to be:

(1) with respect to occupational diseases occurring on and after July 1, 1997, and before July 1, 1998:

(A) not more than six hundred seventy-two dollars ($672); and

(B) not less than seventy-five dollars ($75);

(2) with respect to occupational diseases occurring on and after July 1, 1998, and before July 1, 1999:

(A) not more than seven hundred two dollars ($702); and

(B) not less than seventy-five dollars ($75);

(3) with respect to occupational diseases occurring on and after July 1, 1999, and before July 1, 2000:

(A) not more than seven hundred thirty-two dollars ($732); and

(B) not less than seventy-five dollars ($75);

(4) with respect to occupational diseases occurring on and after July 1, 2000, and before July 1, 2001:

(A) not more than seven hundred sixty-two dollars ($762); and

(B) not less than seventy-five dollars ($75);

(5) with respect to disablements occurring on and after July 1, 2001, and before July 1, 2002:

(A) not more than eight hundred twenty-two dollars ($822); and

(B) not less than seventy-five dollars ($75);

(6) with respect to disablements occurring on and after July 1, 2002, and before July 1, 2006:

(A) not more than eight hundred eighty-two dollars ($882); and

(B) not less than seventy-five dollars ($75);

(7) with respect to disablements occurring on and after July 1, 2006, and before July 1, 2007:

(A) not more than nine hundred dollars ($900); and

(B) not less than seventy-five dollars ($75);

(8) with respect to disablements occurring on and after July 1, 2007, and before July 1, 2008:

(A) not more than nine hundred thirty dollars ($930); and

(B) not less than seventy-five dollars ($75);

(9) with respect to disablements occurring on and after July 1, 2008, and before July 1, 2009:

(A) not more than nine hundred fifty-four dollars ($954); and

(B) not less than seventy-five dollars ($75);

(10) with respect to disablements occurring on and after July 1, 2009, and before July 1, 2014:

(A) not more than nine hundred seventy-five dollars ($975); and

(B) not less than seventy-five dollars ($75);

(11) with respect to disablements occurring on and after July 1, 2014, and before July 1, 2015:

(A) not more than one thousand forty dollars ($1,040); and

(B) not less than seventy-five dollars ($75);

(12) with respect to disablements occurring on and after July 1, 2015, and before July 1, 2016:

(A) not more than one thousand one hundred five dollars ($1,105); and

(B) not less than seventy-five dollars ($75); and

(13) with respect to disablements occurring on and after July 1, 2016:

(A) not more than one thousand one hundred seventy dollars ($1,170); and

(B) not less than seventy-five dollars ($75).

(k) The maximum compensation with respect to disability or death occurring on and after July 1, 1985, and before July 1, 1986, which shall be paid for occupational disease and the results thereof under the provisions of this chapter or under any combination of its provisions may not exceed eighty-nine thousand dollars ($89,000) in any case.

(l) The maximum compensation with respect to disability or death

occurring on and after July 1, 1986, and before July 1, 1988, which shall be paid for occupational disease and the results thereof under the provisions of this chapter or under any combination of its provisions may not exceed ninety-five thousand dollars ($95,000) in any case.

(m) The maximum compensation with respect to disability or death occurring on and after July 1, 1988, and before July 1, 1989, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of its provisions may not exceed one hundred twenty-eight thousand dollars ($128,000) in any case.

(n) The maximum compensation with respect to disability or death occurring on and after July 1, 1989, and before July 1, 1990, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of its provisions may not exceed one hundred thirty-seven thousand dollars ($137,000) in any case.

(o) The maximum compensation with respect to disability or death occurring on and after July 1, 1990, and before July 1, 1991, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of its provisions may not exceed one hundred forty-seven thousand dollars ($147,000) in any case.

(p) The maximum compensation with respect to disability or death occurring on and after July 1, 1991, and before July 1, 1992, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed one hundred sixty-four thousand dollars ($164,000) in any case.

(q) The maximum compensation with respect to disability or death occurring on and after July 1, 1992, and before July 1, 1993, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed one hundred eighty thousand dollars ($180,000) in any case.

(r) The maximum compensation with respect to disability or death occurring on and after July 1, 1993, and before July 1, 1994, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed one hundred ninety-seven thousand dollars ($197,000) in any case.

(s) The maximum compensation with respect to disability or death occurring on and after July 1, 1994, and before July 1, 1997, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed two hundred fourteen thousand dollars ($214,000) in any case.

(t) The maximum compensation that shall be paid for occupational disease and the results of an occupational disease under this chapter or under any combination of the provisions of this

chapter may not exceed the following amounts in any case:

(1) With respect to disability or death occurring on and after July 1, 1997, and before July 1, 1998, two hundred twenty-four thousand dollars ($224,000).

(2) With respect to disability or death occurring on and after July 1, 1998, and before July 1, 1999, two hundred thirty-four thousand dollars ($234,000).

(3) With respect to disability or death occurring on and after July 1, 1999, and before July 1, 2000, two hundred forty-four thousand dollars ($244,000).

(4) With respect to disability or death occurring on and after July 1, 2000, and before July 1, 2001, two hundred fifty-four thousand dollars ($254,000).

(5) With respect to disability or death occurring on and after July 1, 2001, and before July 1, 2002, two hundred seventy-four thousand dollars ($274,000).

(6) With respect to disability or death occurring on and after July 1, 2002, and before July 1, 2006, two hundred ninety-four thousand dollars ($294,000).

(7) With respect to disability or death occurring on and after July 1, 2006, and before July 1, 2007, three hundred thousand dollars ($300,000).

(8) With respect to disability or death occurring on and after July 1, 2007, and before July 1, 2008, three hundred ten thousand dollars ($310,000).

(9) With respect to disability or death occurring on and after July 1, 2008, and before July 1, 2009, three hundred eighteen thousand dollars ($318,000).

(10) With respect to disability or death occurring on and after July 1, 2009, and before July 1, 2014, three hundred twenty-five thousand dollars ($325,000).

(11) With respect to disability or death occurring on and after July 1, 2014, and before July 1, 2015, three hundred forty-seven thousand dollars ($347,000).

(12) With respect to disability or death occurring on and after July 1, 2015, and before July 1, 2016, three hundred sixty-eight thousand dollars ($368,000).

(13) With respect to disability or death occurring on and after July 1, 2016, three hundred ninety thousand dollars ($390,000).

(u) For all disabilities occurring on and after July 1, 1985, "average weekly wages" means the earnings of the injured employee during the period of fifty-two (52) weeks immediately preceding the disability divided by fifty-two (52). If the employee lost seven (7) or more calendar days during the period, although not in the same week, then the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts of weeks remaining after the time lost has been deducted. If employment before the date of disability extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts of weeks during which the employee earned

wages shall be followed if results just and fair to both parties will be obtained. If by reason of the shortness of the time during which the employee has been in the employment of the employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages for the employee, the employee's average weekly wages shall be considered to be the average weekly amount that, during the fifty-two (52) weeks before the date of disability, was being earned by a person in the same grade employed at the same work by the same employer or, if there is no person so employed, by a person in the same grade employed in that same class of employment in the same district. Whenever allowances of any character are made to an employee instead of wages or a specified part of the wage contract, they shall be considered a part of the employee's earnings.

(v) The provisions of this article may not be construed to result in an award of benefits in which the number of weeks paid or to be paid for temporary total disability, temporary partial disability, or permanent total disability benefits combined exceeds five hundred (500) weeks. This section shall not be construed to prevent a person from applying for an award under IC 22-3-3-13. However, in case of permanent total disability resulting from a disablement occurring on or after January 1, 1998, the minimum total benefit shall not be less than seventy-five thousand dollars ($75,000).

(Formerly: Acts 1937, c.69, s.11; Acts 1943, c.115, s.2; Acts 1945, c.290, s.2; Acts 1949, c.242, s.2; Acts 1951, c.250, s.2; Acts 1953, c.174, s.1; Acts 1955, c.276, s.1; Acts 1957, c.353, s.2; Acts 1959, c.266, s.1; Acts 1963, c.388, s.19; Acts 1965, c.206, s.1; Acts 1967, c.313, s.3; Acts 1969, c.101, s.3; Acts 1971, P.L.354, SEC.3; Acts 1974, P.L.109, SEC.6.) As amended by Acts 1976, P.L.112, SEC.6; Acts 1977, P.L.261, SEC.6; Acts 1979, P.L.227, SEC.6; P.L.225-1983, SEC.4; P.L.223-1985, SEC.3; P.L.224-1985, SEC.2; P.L.95-1988, SEC.16; P.L.170-1991, SEC.21; P.L.258-1997(ss), SEC.16; P.L.31-2000, SEC.10; P.L.134-2006, SEC.10; P.L.275-2013, SEC.17.

IC 22-3-7-20

Physical examinations; board and lodging; traveling expenses; reports; autopsy

Sec. 20. (a) After disablement and during the period of claimed resulting disability or impairment, the employee, if so requested by the employee's employer or ordered by the worker's compensation board, shall submit to an examination at reasonable times and places by a duly qualified physician or surgeon designated and paid by the employer or by order of the board. The employee shall have the right to have present at any such examination any duly qualified physician or surgeon provided and paid for by the employee. No fact communicated to or otherwise learned by any physician or surgeon who may have attended or examined the employee, or who may have been present at any examination, shall be privileged either in the hearings provided for in this chapter, or in any action at law brought

to recover damages against any employer who is subject to the compensation provisions of this chapter. If the employee refuses to submit to, or in any way obstructs the examinations, the employee's right to compensation and right to take or prosecute any proceedings under this chapter shall be suspended until the refusal or obstruction ceases. No compensation shall at any time be payable for the period of suspension unless in the opinion of the board, the circumstances justified the refusal or obstruction. The employee must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board.

(b) Any employer requesting an examination of any employee residing within Indiana shall pay, in advance of the time fixed for the examination, sufficient money to defray the necessary expenses of travel by the most convenient means to and from the place of examination, and the cost of meals and lodging necessary during the travel. If the method of travel is by automobile, the mileage rate to be paid by the employer shall be the rate as is then currently being paid by the state to its employees under the state travel policies and procedures established by the department of administration and approved by the state budget agency. If the examination or travel to or from the place of examination causes any loss of working time on the part of the employee, the employer shall reimburse the employee for the loss of wages upon the basis of such employee's average daily wage.

(c) When any employee injured in Indiana moves outside Indiana, the travel expense and the cost of meals and lodging necessary during the travel, payable under this section, shall be paid from the point in Indiana nearest to the employee's then residence to the place of examination. No travel and other expense shall be paid for any travel and other expense required outside Indiana.

(d) A duly qualified physician or surgeon provided and paid for by the employee may be present at an examination, if the employee so desires. In all cases, where the examination is made by a physician or surgeon engaged by the employer and the employee who has a disability or is injured has no physician or surgeon present at the examination, it shall be the duty of the physician or surgeon making the examination to deliver to the injured employee, or the employee's representative, a statement in writing of the conditions evidenced by such examination. The statement shall disclose all facts that are reported by the physician or surgeon to the employer. This statement shall be furnished to the employee or the employee's representative as soon as practicable, but not later than thirty (30) days before the time the case is set for hearing. The statement may be submitted by either party as evidence by that physician or surgeon at a hearing before the worker's compensation board if the statement meets the requirements of subsection (f). If the physician or surgeon fails or refuses to furnish the employee or the employee's representative with such statement thirty (30) days before the hearing, then the statement may not be submitted as evidence, and the physician shall not be

permitted to testify before the worker's compensation board as to any facts learned in the examination. All of the requirements of this subsection apply to all subsequent examinations requested by the employer.

(e) In all cases where an examination of an employee is made by a physician or surgeon engaged by the employee, and the employer has no physician or surgeon present at such examination, it shall be the duty of the physician or surgeon making the examination to deliver to the employer or the employer's representative a statement in writing of the conditions evidenced by such examination. The statement shall disclose all the facts that are reported by such physician or surgeon to the employee. The statement shall be furnished to the employer or the employer's representative as soon as practicable, but not later than thirty (30) days before the time the case is set for hearing. The statement may be submitted by either party as evidence by that physician or surgeon at a hearing before the worker's compensation board if the statement meets the requirements of subsection (f). If the physician or surgeon fails or refuses to furnish the employer or the employer's representative with such statement thirty (30) days before the hearing, then the statement may not be submitted as evidence, and the physician or surgeon shall not be permitted to testify before the worker's compensation board as to any facts learned in such examination. All of the requirements of this subsection apply to all subsequent examinations made by a physician or surgeon engaged by the employee.

(f) All statements of physicians or surgeons required by this section, whether those engaged by employee or employer, shall contain the following information:

(1) The history of the injury, or claimed injury, as given by the patient.

(2) The diagnosis of the physician or surgeon concerning the patient's physical or mental condition.

(3) The opinion of the physician or surgeon concerning the causal relationship, if any, between the injury and the patient's physical or mental condition, including the physician's or surgeon's reasons for the opinion.

(4) The opinion of the physician or surgeon concerning whether the injury or claimed injury resulted in a disability or impairment and, if so, the opinion of the physician or surgeon concerning the extent of the disability or impairment and the reasons for the opinion.

(5) The original signature of the physician or surgeon.

Notwithstanding any hearsay objection, the worker's compensation board shall admit into evidence a statement that meets the requirements of this subsection unless the statement is ruled inadmissible on other grounds.

(g) Delivery of any statement required by this section may be made to the attorney or agent of the employer or employee and such an action shall be construed as delivery to the employer or employee.

(h) Any party may object to a statement on the basis that the

statement does not meet the requirements of subsection (e). The objecting party must give written notice to the party providing the statement and specify the basis for the objection. Notice of the objection must be given no later than twenty (20) days before the hearing. Failure to object as provided in this subsection precludes any further objection as to the adequacy of the statement under subsection (f).

(i) The employer upon proper application, or the worker's compensation board, shall have the right in any case of death to require an autopsy at the expense of the party requesting the same. If, after a hearing, the board orders an autopsy and the autopsy is refused by the surviving spouse or next of kin, in this event any claim for compensation on account of the death shall be suspended and abated during the refusal. The surviving spouse or dependent must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board. No autopsy, except one performed by or on the authority or order of the coroner in discharge of the coroner's duties, shall be held in any case by any person without notice first being given to the surviving spouse or next of kin, if they reside in Indiana or their whereabouts can reasonably be ascertained, of the time and place thereof, and reasonable time and opportunity shall be given such surviving spouse or next of kin to have a representative or representatives present to witness same. However, if such notice is not given, all evidence obtained by the autopsy shall be suspended on motion duly made to the board.

(Formerly: Acts 1937, c.69, s.12a; Acts 1963, c.388, s.14; Acts 1975, P.L.235, SEC.5.) As amended by P.L.28-1988, SEC.54; P.L.95-1988, SEC.17; P.L.109-1992, SEC.2; P.L.99-2007, SEC.183.

IC 22-3-7-21

Awards; disqualification

Sec. 21. (a) No compensation is allowed for any condition of physical or mental ill-being, disability, disablement, or death for which compensation is recoverable on account of accidental injury under chapters 2 through 6 of this article.

(b) No compensation is allowed for any disease or death knowingly self-inflicted by the employee, or due to his intoxication, his commission of an offense, his knowing failure to use a safety appliance, his knowing failure to obey a reasonable written or printed rule of the employer which has been posted in a conspicuous position in the place of work, or his knowing failure to perform any statutory duty. The burden of proof is on the defendant.

(Formerly: Acts 1937, c.69, s.14.) As amended by Acts 1978, P.L.2, SEC.2212.

IC 22-3-7-22

Industrial board; expenses; office space; meetings

Sec. 22. (a) The members of the board and its assistants shall be entitled to receive from the state their actual and necessary expenses

while traveling on the business of the board, but such expenses shall be sworn to by the person who incurred the same, and shall be approved by the chairman of the board before payment is made. All expenses of the board in connection with this chapter shall be audited and paid out of the state treasury in the manner prescribed for similar expenses in other departments or branches of the state service.

(b) The board shall be provided with adequate offices in the capitol or some other suitable building in the city of Indianapolis in which the records shall be kept and its official business be transacted during regular business hours. It shall also be provided with necessary office furniture, stationery, and other supplies. The board or any member thereof may hold sessions at any place within the state as may be deemed necessary.

(Formerly: Acts 1937, c.69, s.15.) As amended by P.L.144-1986, SEC.64.

IC 22-3-7-23

Jurisdiction; administration

Sec. 23. The worker's compensation board shall have jurisdiction over the operation and administration of the compensation provisions of this chapter, the board shall perform all of the duties imposed upon it by the provisions of this chapter, and such further duties as may be imposed by law and the rules of the board not inconsistent with this chapter.

(Formerly: Acts 1937, c.69, s.16.) As amended by P.L.144-1986, SEC.65; P.L.28-1988, SEC.55.

IC 22-3-7-24

Rules; hearings; subpoenas; production of books and papers; attorney's fees

Sec. 24. (a) The worker's compensation board may make rules not inconsistent with this chapter for carrying out the provisions of this chapter. Processes and procedures under this chapter shall be as summary and simple as reasonably may be. The board, or any member thereof, shall have the power, for the purpose of this chapter, to subpoena witnesses, administer or cause to have administered oaths, and to examine or cause to have examined such parts of the books and records of the parties to a proceeding as relate to questions in dispute. The county sheriff shall serve all subpoenas of the board and shall receive the same fees as provided by law for like service in civil actions. Each witness who appears in obedience to such subpoena of the board shall receive for attendance the fees and mileage for witnesses in civil cases in the courts. The circuit or superior court shall, on application of the board or any member thereof, enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers, and records.

(b) The fees of attorneys and physicians and charges of nurses and hospitals for services under this chapter shall be subject to the approval of the worker's compensation board. When any claimant for

compensation is represented by an attorney in the prosecution of his claim, the board shall fix and state in the award, if compensation be awarded, the amount of the claimant's attorney's fees. The fee so fixed shall be binding upon both the claimant and his attorney, and the employer shall pay to the attorney, out of the award, the fee so fixed, and the receipt of the attorney therefor shall fully acquit the employer for an equal portion of the award.

(c) Whenever the worker's compensation board shall determine upon hearing of a claim that the employer has acted in bad faith in adjusting and settling said award, or whenever the board shall determine upon hearing of a claim that the employer has not pursued the settlement of said claim with diligence, then the board shall, if compensation be awarded, fix the amount of the claimant's attorney's fees and such attorney's fees shall be paid to the attorney and shall not be charged against the award to the claimant. Such fees as are fixed and awarded on account of a lack of diligence or because of bad faith on the part of the employer shall not be less than one hundred fifty dollars ($150).

(d) The worker's compensation board may withhold the approval of the fees of the attending physician in any case until he shall file a report with the board on the form prescribed by such board.

(Formerly: Acts 1937, c.69, s.17; Acts 1965, c.206, s.2.) As amended by P.L.144-1986, SEC.66; P.L.28-1988, SEC.56.

IC 22-3-7-25

Forms and literature; reports; confidential information

Sec. 25. The board shall prepare and cause to be printed, and upon request furnish free of charge to any employer or employee, such blank forms and literature as it shall deem requisite to facilitate or promote the efficient administration of this chapter. The reports of occupational diseases and reports of attending physicians shall be the private records of the board, which shall be open to the inspection of the employer, the employee, and their legal representatives, but not to the public unless, in the opinion of the board, the public interest shall so require.

(Formerly: Acts 1937, c.69, s.18.) As amended by P.L.144-1986, SEC.67.

IC 22-3-7-26

Disputes; settlement

Sec. 26. All disputes arising under this chapter, except section 3 of this chapter, if not settled by the agreement of the parties interested therein, with the approval of the board, shall be determined by the board.

(Formerly: Acts 1937, c.69, s.19.) As amended by P.L.144-1986, SEC.68.

IC 22-3-7-27

Awards; modification; hearings; appeals; investigations

Sec. 27. (a) If the employer and the employee or the employee's

dependents disagree in regard to the compensation payable under this chapter, or, if they have reached such an agreement, which has been signed by them, filed with and approved by the worker's compensation board, and afterward disagree as to the continuance of payments under such agreement, or as to the period for which payments shall be made, or as to the amount to be paid, because of a change in conditions since the making of such agreement, either party may then make an application to the board for the determination of the matters in dispute. When compensation which is payable in accordance with an award or by agreement approved by the board is ordered paid in a lump sum by the board, no review shall be had as in this subsection mentioned.

(b) The application making claim for compensation filed with the worker's compensation board shall state the following:

(1) The approximate date of the last day of the last exposure and the approximate date of the disablement.

(2) The general nature and character of the illness or disease claimed.

(3) The name and address of the employer by whom employed on the last day of the last exposure, and if employed by any other employer after such last exposure and before disablement, the name and address of such other employer or employers.

(4) In case of death, the date and place of death.

(5) Amendments to applications making claim for compensation which relate to the same disablement or disablement resulting in death originally claimed upon may be allowed by the board in its discretion, and, in the exercise of such discretion, it may, in proper cases, order a trial de novo. Such amendment shall relate back to the date of the filing of the original application so amended.

(c) Upon the filing of such application, the board shall set the date of hearing, which shall be as early as practicable, and shall notify the parties, in the manner prescribed by the board, of the time and place of hearing. The hearing of all claims for compensation on account of occupational disease shall be held in the county in which the last exposure occurred or in any adjoining county, except when the parties consent to a hearing elsewhere. Claims assigned to an individual board member that are considered to be of an emergency nature by that board member, may be heard in any county within the board member's jurisdiction.

(d) The board by any or all of its members shall hear the parties at issue, their representatives, and witnesses, and shall determine the dispute in a summary manner. The award shall be filed with the record of proceedings, and a copy thereof shall immediately be sent by registered mail to each of the parties in dispute.

(e) If an application for review is made to the board within thirty (30) days from the date of the award made by less than all the members, the full board, if the first hearing was not held before the full board, shall review the evidence, or, if deemed advisable, hear the parties at issue, their representatives, and witnesses as soon as

practicable, and shall make an award and file the same with the finding of the facts on which it is based and send a copy thereof to each of the parties in dispute, in like manner as specified in subsection (d).

(f) An award of the board by less than all of the members as provided in this section, if not reviewed as provided in this section, shall be final and conclusive. An award by the full board shall be conclusive and binding unless either party to the dispute, within thirty (30) days after receiving a copy of such award, appeals to the court of appeals under the same terms and conditions as govern appeals in ordinary civil actions. The court of appeals shall have jurisdiction to review all questions of law and of fact. The board, of its own motion, may certify questions of law to the court of appeals for its decision and determination. An assignment of errors that the award of the full board is contrary to law shall be sufficient to present both the sufficiency of the facts found to sustain the award and the sufficiency of the evidence to sustain the finding of facts. All such appeals and certified questions of law shall be submitted upon the date filed in the court of appeals, shall be advanced upon the docket of the court, and shall be determined at the earliest practicable date, without any extensions of time for filing briefs. An award of the full board affirmed on appeal, by the employer, shall be increased thereby five percent (5%), and by order of the court may be increased ten percent (10%).

(g) Upon order of the worker's compensation board made after five (5) days notice is given to the opposite party, any party in interest may file in the circuit or superior court of the county in which the disablement occurred a certified copy of the memorandum of agreement, approved by the board, or of an order or decision of the board, or of an award of the full board unappealed from, or of an award of the full board affirmed upon an appeal, whereupon the court shall render judgment in accordance therewith and notify the parties. Such judgment shall have the same effect and all proceedings in relation thereto shall thereafter be the same as though such judgment has been rendered in a suit duly heard and determined by the court. Any such judgment of such circuit or superior court, unappealed from or affirmed on appeal or modified in obedience to the mandate of the court of appeals, shall be modified to conform to any decision of the worker's compensation board ending, diminishing, or increasing any weekly payment under the provisions of subsection (i) upon the presentation to it of a certified copy of such decision.

(h) In all proceedings before the worker's compensation board or in a court under the compensation provisions of this chapter, the costs shall be awarded and taxed as provided by law in ordinary civil actions in the circuit court.

(i) The power and jurisdiction of the worker's compensation board over each case shall be continuing, and, from time to time, it may, upon its own motion or upon the application of either party on account of a change in conditions, make such modification or change

in the award ending, lessening, continuing, or extending the payments previously awarded, either by agreement or upon hearing, as it may deem just, subject to the maximum and minimum provided for in this chapter. When compensation which is payable in accordance with an award or settlement contract approved by the board is ordered paid in a lump sum by the board, no review shall be had as in this subsection mentioned. Upon making any such change, the board shall immediately send to each of the parties a copy of the modified award. No such modification shall affect the previous award as to any money paid thereunder. The board shall not make any such modification upon its own motion, nor shall any application therefor be filed by either party after the expiration of two (2) years from the last day for which compensation was paid. The board may at any time correct any clerical error in any finding or award.

(j) The board or any member thereof may, upon the application of either party or upon its own motion, appoint a disinterested and duly qualified physician or surgeon to make any necessary medical examination of the employee and to testify in respect thereto. Such physician or surgeon shall be allowed traveling expenses and a reasonable fee, to be fixed by the board. The fees and expenses of such physician or surgeon shall be paid by the state only on special order of the board or a member thereof.

(k) The board or any member thereof may, upon the application of either party or upon its own motion, appoint a disinterested and duly qualified industrial hygienist, industrial engineer, industrial physician, or chemist to make any necessary investigation of the occupation in which the employee alleges that the employee was last exposed to the hazards of the occupational disease claimed upon, and testify with respect to the occupational disease health hazards found by such person or persons to exist in such occupation. Such person or persons shall be allowed traveling expenses and a reasonable fee, to be fixed by the board. The fees and expenses of such persons shall be paid by the state, only on special order of the board or a member thereof.

(l) Whenever any claimant misconceives the claimant's remedy and files an application for adjustment of a claim under IC 22-3-2 through IC 22-3-6 and it is subsequently discovered, at any time before the final disposition of such cause, that the claim for injury or death which was the basis for such application should properly have been made under the provisions of this chapter, then the application so filed under IC 22-3-2 through IC 22-3-6 may be amended in form or substance or both to assert a claim for such disability or death under the provisions of this chapter, and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and such compensation may be awarded as is warranted by the whole evidence pursuant to the provisions of this chapter. When such amendment is submitted, further or additional evidence may be heard by the worker's compensation board when deemed necessary. Nothing in this section contained shall be construed to be or permit a waiver of any of the provisions of this chapter with reference to

notice or time for filing a claim, but notice of filing of a claim, if given or done, shall be deemed to be a notice or filing of a claim under the provisions of this chapter if given or done within the time required in this chapter.
(Formerly: Acts 1937, c.69, s.20; Acts 1947, c.164, s.8; Acts 1963, c.388, s.15; Acts 1969, c.101, s.4.) As amended by P.L.144-1986, SEC.69; P.L.28-1988, SEC.57; P.L.170-1991, SEC.22; P.L.235-1999, SEC.8; P.L.1-2006, SEC.342; P.L.134-2006, SEC.11.

IC 22-3-7-28
Destruction of records

Sec. 28. In order to prevent the accumulation of unnecessary and useless files of papers, the board, in its discretion, may destroy all papers which have been on file for more than two (2) years when there is no claim for compensation pending, or, when compensation has been awarded either by agreement or upon hearing, and more than one (1) year has elapsed since the termination of the compensation period as fixed by the board, but notices of election or rejection shall not be destroyed. However, all records of insurance coverage shall be maintained for forty-five (45) years.
(Formerly: Acts 1937, c.69, s.21.) As amended by Acts 1979, P.L.17, SEC.34; P.L.224-1985, SEC.3; P.L.95-1988, SEC.18.

IC 22-3-7-29
Priorities and preferences; assignment; claims of creditors; child support income withholding

Sec. 29. (a) All rights of compensation granted by this chapter shall have the same preference or priority for the whole thereof against the assets of the employer as is allowed by law for any unpaid wages for labor.

(b) Except as provided in subsection (c), no claims for compensation under this chapter shall be assignable, and all compensation and claims therefor shall be exempt from all claims of creditors.

(c) Compensation awards under section 16 of this chapter are subject to child support income withholding under IC 31-16-15 and other remedies available for the enforcement of a child support order. The maximum amount that may be withheld under this subsection is one-half (1/2) of the compensation award.
(Formerly: Acts 1937, c.69, s.22.) As amended by P.L.144-1986, SEC.70; P.L.95-1988, SEC.19; P.L.1-1997, SEC.107.

IC 22-3-7-30
Awards; private agreements; filing

Sec. 30. (a) If, after seven (7) days from the date of disablement or any time, in case of death, the employer and the employee or his dependents reach an agreement in regard to compensation under this chapter, a memorandum of the agreement in the form prescribed by the worker's compensation board shall be filed with the board; otherwise such agreement shall be voidable by the employee or his

dependent.

(b) If approved by the board, the memorandum shall for all purposes be enforceable by the court decree as specified in this chapter.

(c) An agreement under this section shall be approved by the board only when the terms conform to this chapter.

(Formerly: Acts 1937, c.69, s.23.) As amended by P.L.144-1986, SEC.71; P.L.28-1988, SEC.58.

IC 22-3-7-31

Waiver of compensation; approval; silicosis or asbestosis

Sec. 31. (a) No employee, personal representative, or beneficiary shall have power to waive any of the provisions of this chapter in regard to the amount of compensation which may be payable to such employee, personal representative, or beneficiary except after approval by the worker's compensation board.

(b) Any employee who, prior to June 7, 1937, has contracted silicosis or asbestosis but is not disabled therefrom may, by August 6, 1937, file with the industrial board a request for permission to waive full compensation on account of disability or death resulting from silicosis or asbestosis, or any direct result thereof, supported by medical evidence satisfactory to the industrial board that he has actually contracted silicosis or asbestosis but is not disabled therefrom.

(c) If the industrial board shall approve a waiver filed under subsection (b), the compensation payable for such resulting disability or death of such employee, after further exposure in the employment of any employer shall be fifty percent (50%) of the compensation which but for such waiver would have been payable by any such employer.

(Formerly: Acts 1937, c.69, s.24.) As amended by P.L.144-1986, SEC.72; P.L.28-1988, SEC.59.

IC 22-3-7-32

Actions and proceedings; notice; limitation of actions

Sec. 32. (a) No proceedings for compensation under this chapter shall be maintained unless notice has been given to the employer of disablement arising from an occupational disease as soon as practicable after the date of disablement. No defect or inaccuracy of such notices shall be a bar to compensation unless the employer proves that he is unduly prejudiced in such proceedings by such defect or inaccuracy.

(b) The notice provided for in subsection (a) shall state the name and address of the employee and the nature and cause of the occupational disease and disablement or death therefrom, and shall be signed by the employee with a disability or by someone in the employee's behalf, or by one (1) or more of the dependents, in case of death, or by some person in their behalf. Such notice may be served personally upon the employer or upon any foreman, superintendent, or manager of the employer to whose orders the

employee with a disability or deceased employee was required to conform or upon any agent of the employer upon whom a summons in a civil action may be served under the laws of the state or may be sent to the employer by registered letter, addressed to the employer's last known residence or place of business.

(c) No proceedings by an employee for compensation under this chapter shall be maintained unless claim for compensation shall be filed by the employee with the worker's compensation board within two (2) years after the date of the disablement.

(d) No proceedings by dependents of a deceased employee for compensation for death under this chapter shall be maintained unless claim for compensation shall be filed by the dependents with the worker's compensation board within two (2) years after the date of death.

(e) No limitation of time provided in this chapter shall run against any person who is mentally incompetent or a minor dependent, so long as the person has no guardian or trustee.

(Formerly: Acts 1937, c.69, s.25; Acts 1955, c.195, s.2.) As amended by P.L.144-1986, SEC.73; P.L.28-1988, SEC.60; P.L.99-2007, SEC.184.

IC 22-3-7-33

Exposure; presumptions; joint employers

Sec. 33. (a) An employee shall be conclusively deemed to have been exposed to the hazards of an occupational disease when for any length of time, however short, he is employed in an occupation or process in which the hazard of the disease exists. The employer liable for the compensation provided for in this chapter shall be the employer in whose employment the employee was last exposed to the hazards of the occupational disease claimed upon regardless of the length of time of the last exposure. In cases involving silicosis or asbestos, the only employer liable shall be the last employer in whose employment the employee was last exposed during the period of sixty (60) days or more to the hazard of the occupational disease. In cases involving silicosis or asbestos, an exposure during a period of less than sixty (60) days shall not be considered a last exposure. The insurance carrier liable shall be the carrier whose policy was in effect covering the employer liable on the last day of the exposure rendering the employer liable, in accordance with the provisions of this chapter.

(b) Whenever any employee for whose disability or death compensation is payable under this chapter shall, at the time of the last exposure, be exposed in the joint service of two (2) or more employers subject to the compensation provisions of this chapter, the employers shall contribute to the payment of the compensation in proportion to their wage liability to the employees. Nothing in this section shall prevent any reasonable arrangements between employers for a different distribution between themselves of the ultimate burden of compensation.

(Formerly: Acts 1937, c.69, s.26; Acts 1957, c.353, s.3.) As amended

by P.L.224-1985, SEC.4.

IC 22-3-7-34
Insurance; self-insurance; exemptions

Sec. 34. (a) As used in this section, "person" does not include:

(1) an owner who contracts for performance of work on the owner's owner occupied residential property; or

(2) a nonprofit corporation that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the corporation enters into an independent contractor agreement with a person for the performance of youth coaching services on a part-time basis.

(b) Every employer bound by the compensation provisions of this chapter, except the state, counties, townships, cities, towns, school cities, school towns, school townships, other municipal corporations, state institutions, state boards, and state commissions, shall insure the payment of compensation to the employer's employees and their dependents in the manner provided in this chapter, or procure from the worker's compensation board a certificate authorizing the employer to carry such risk without insurance. While that insurance or certificate remains in force, the employer, or those conducting the employer's business, and the employer's occupational disease insurance carrier shall be liable to any employee and the employee's dependents for disablement or death from occupational disease arising out of and in the course of employment only to the extent and in the manner specified in this chapter.

(c) Every employer who, by election, is bound by the compensation provisions of this chapter, except those exempted from the provisions by subsection (b), shall:

(1) insure and keep insured the employer's liability under this chapter in some corporation, association, or organization authorized to transact the business of worker's compensation insurance in this state; or

(2) furnish to the worker's compensation board satisfactory proof of the employer's financial ability to pay the compensation in the amount and manner and when due as provided for in this chapter.

In the latter case the board may require the deposit of an acceptable security, indemnity, or bond to secure the payment of compensation liabilities as they are incurred.

(d) Every employer required to carry insurance under this section shall file with the worker's compensation board in the form prescribed by it, within ten (10) days after the termination of the employer's insurance by expiration or cancellation, evidence of the employer's compliance with subsection (c) and other provisions relating to the insurance under this chapter. The venue of all criminal actions under this section lies in the county in which the employee was last exposed to the occupational disease causing disablement. The prosecuting attorney of the county shall prosecute all violations upon written request of the board. The violations shall be prosecuted

in the name of the state.

(e) Whenever an employer has complied with subsection (c) relating to self-insurance, the worker's compensation board shall issue to the employer a certificate which shall remain in force for a period fixed by the board, but the board may, upon at least thirty (30) days notice, and a hearing to the employer, revoke the certificate, upon presentation of satisfactory evidence for the revocation. After the revocation, the board may grant a new certificate to the employer upon the employer's petition, and satisfactory proof of the employer's financial ability.

(f)(1) Subject to the approval of the worker's compensation board, any employer may enter into or continue any agreement with the employer's employees to provide a system of compensation, benefit, or insurance in lieu of the compensation and insurance provided by this chapter. A substitute system may not be approved unless it confers benefits upon employees and their dependents at least equivalent to the benefits provided by this chapter. It may not be approved if it requires contributions from the employees unless it confers benefits in addition to those provided under this chapter, which are at least commensurate with such contributions.

(f)(2) The substitute system may be terminated by the worker's compensation board on reasonable notice and hearing to the interested parties, if it appears that the same is not fairly administered or if its operation shall disclose latent defects threatening its solvency, or if for any substantial reason it fails to accomplish the purpose of this chapter. On termination, the board shall determine the proper distribution of all remaining assets, if any, subject to the right of any party in interest to take an appeal to the court of appeals.

(g)(1) No insurer shall enter into or issue any policy of insurance under this chapter until its policy form has been submitted to and approved by the worker's compensation board. The board shall not approve the policy form of any insurance company until the company shall file with it the certificate of the insurance commissioner showing that the company is authorized to transact the business of worker's compensation insurance in Indiana. The filing of a policy form by any insurance company or reciprocal insurance association with the board for approval constitutes on the part of the company or association a conclusive and unqualified acceptance of each of the compensation provisions of this chapter, and an agreement by it to be bound by the compensation provisions of this chapter.

(g)(2) All policies of insurance companies and of reciprocal insurance associations, insuring the payment of compensation under this chapter, shall be conclusively presumed to cover all the employees and the entire compensation liability of the insured under this chapter in all cases in which the last day of the exposure rendering the employer liable is within the effective period of such policy.

(g)(3) Any provision in any such policy attempting to limit or modify the liability of the company or association insuring the same

shall be wholly void.

(g)(4) Every policy of any company or association shall be deemed to include the following provisions:

"(A) The insurer assumes in full all the obligations to pay physician's fees, nurse's charges, hospital supplies, burial expenses, compensation or death benefits imposed upon or accepted by the insured under this chapter.

(B) This policy is subject to the provisions of this chapter relative to the liability of the insured to pay physician's fees, nurse's charges, hospital services, hospital supplies, burial expenses, compensation or death benefits to and for such employees, the acceptance of such liability by the insured, the adjustment, trial and adjudication of claims for such physician's fees, nurse's charges, hospital services, hospital supplies, burial expenses, compensation, or death benefits.

(C) Between this insurer and the employee, notice to or knowledge of the occurrence of the disablement on the part of the insured (the employer) shall be notice or knowledge thereof, on the part of the insurer. The jurisdiction of the insured (the employer) for the purpose of this chapter is the jurisdiction of this insurer, and this insurer shall in all things be bound by and shall be subject to the awards, judgments and decrees rendered against the insured (the employer) under this chapter.

(D) This insurer will promptly pay to the person entitled to the same all benefits conferred by this chapter, including all physician's fees, nurse's charges, hospital services, hospital supplies, burial expenses, and all installments of compensation or death benefits that may be awarded or agreed upon under this chapter. The obligation of this insurer shall not be affected by any default of the insured (the employer) after disablement or by any default in giving of any notice required by this policy, or otherwise. This policy is a direct promise by this insurer to the person entitled to physician's fees, nurse's charges, fees for hospital services, charges for hospital services, charges for hospital supplies, charges for burial, compensation, or death benefits, and shall be enforceable in the name of the person.

(E) Any termination of this policy by cancellation shall not be effective as to employees of the insured covered hereby unless at least thirty (30) days prior to the taking effect of such cancellation, a written notice giving the date upon which such termination is to become effective has been received by the worker's compensation board of Indiana at its office in Indianapolis, Indiana.

(F) This policy shall automatically expire one (1) year from the effective date of the policy, unless the policy covers a period of three (3) years, in which event, it shall automatically expire three (3) years from the effective date of the policy. The termination either of a one (1) year or a three (3) year policy, is effective as to the employees of the insured covered by the policy.".

(g)(5) All claims for compensation, nurse's charges, hospital services, hospital supplies, physician's fees, or burial expenses may be made directly against either the employer or the insurer or both, and the award of the worker's compensation board may be made against either the employer or the insurer or both.

(g)(6) If any insurer shall fail to pay any final award or judgment (except during the pendency of an appeal) rendered against it, or its insured, or, if it shall fail to comply with this chapter, the worker's compensation board shall revoke the approval of its policy forms, and shall not accept any further proofs of insurance from it until it shall have paid the award or judgment or complied with this chapter, and shall have resubmitted its policy form and received the approval of the policy by the worker's compensation board.

(h) No policy of insurance covering the liability of an employer for worker's compensation shall be construed to cover the liability of the employer under this chapter for any occupational disease unless the liability is expressly accepted by the insurance carrier issuing the policy and is endorsed in that policy. The insurance or security in force to cover compensation liability under this chapter shall be separate from the insurance or security under IC 22-3-2 through IC 22-3-6. Any insurance contract covering liability under either part of this article need not cover any liability under the other.

(i) For the purpose of complying with subsection (c), groups of employers are authorized to form mutual insurance associations or reciprocal or interinsurance exchanges subject to any reasonable conditions and restrictions fixed by the department of insurance. This subsection does not apply to mutual insurance associations and reciprocal or interinsurance exchanges formed and operating on or before January 1, 1991, which shall continue to operate subject to the provisions of this chapter and to such reasonable conditions and restrictions as may be fixed by the worker's compensation board.

(j) Membership in a mutual insurance association or a reciprocal or interinsurance exchange so proved, together with evidence of the payment of premiums due, is evidence of compliance with subsection (c).

(k) Any person bound under the compensation provisions of this chapter, contracting for the performance of any work exceeding one thousand dollars ($1,000) in value, in which the hazard of an occupational disease exists, by a contractor subject to the compensation provisions of this chapter without exacting from the contractor a certificate from the worker's compensation board showing that the contractor has complied with subsections (b), (c), and (d), shall be liable to the same extent as the contractor for compensation, physician's fees, hospital fees, nurse's charges, and burial expenses on account of the injury or death of any employee of such contractor, due to occupational disease arising out of and in the course of the performance of the work covered by such contract.

(l) Any contractor who sublets any contract for the performance of any work to a subcontractor subject to the compensation provisions of this chapter, without obtaining a certificate from the

worker's compensation board showing that the subcontractor has complied with subsections (b), (c), and (d), is liable to the same extent as the subcontractor for the payment of compensation, physician's fees, hospital fees, nurse's charges, and burial expense on account of the injury or death of any employee of the subcontractor due to occupational disease arising out of and in the course of the performance of the work covered by the subcontract.

(m) A person paying compensation, physician's fees, hospital fees, nurse's charges, or burial expenses, under subsection (k) or (l), may recover the amount paid or to be paid from any person who would otherwise have been liable for the payment thereof and may, in addition, recover the litigation expenses and attorney's fees incurred in the action before the worker's compensation board as well as the litigation expenses and attorney's fees incurred in an action to collect the compensation, medical expenses, and burial expenses.

(n) Every claim filed with the worker's compensation board under this section shall be instituted against all parties liable for payment. The worker's compensation board, in an award under subsection (k), shall fix the order in which such parties shall be exhausted, beginning with the immediate employer and, in an award under subsection (l), shall determine whether the subcontractor has the financial ability to pay the compensation and medical expenses when due and, if not, shall order the contractor to pay the compensation and medical expenses.

(Formerly: Acts 1937, c.69, s.27; Acts 1943, c.248, s.1; Acts 1959, c.359, s.1; Acts 1961, c.312, s.1; Acts 1963, c.388, s.16.) As amended by Acts 1978, P.L.2, SEC.2213; Acts 1982, P.L.135, SEC.2; P.L.28-1988, SEC.61; P.L.170-1991, SEC.23; P.L.258-1997(ss), SEC.17; P.L.202-2001, SEC.10; P.L.201-2005, SEC.9; P.L.1-2006, SEC.343.

IC 22-3-7-34.3

Proof of compliance; notice; civil penalty; Internet posting

Sec. 34.3. (a) The worker's compensation board is entitled to request that an employer provide the board with current proof of compliance with section 34 of this chapter.

(b) If an employer fails or refuses to provide current proof of compliance by the tenth day after the employer receives the board's request under subsection (a), the board:

(1) shall send the employer a written notice that the employer is in violation of section 34 of this chapter; and

(2) may assess a civil penalty against the employer of fifty dollars ($50) per employee per day.

(c) An employer may challenge the board's assessment of a civil penalty under subsection (b)(2) by requesting a hearing in accordance with procedures established by the board.

(d) The board shall waive a civil penalty assessed under subsection (b)(2) if the employer provides the board current proof of compliance by the twentieth day after the date the employer receives the board's notice under subsection (b)(1).

(e) If an employer fails or refuses to:

(1) provide current proof of compliance by the twentieth day after the date the employer receives the board's notice under subsection (b)(1); or

(2) pay a civil penalty assessed under subsection (b)(2);

the board may, after notice to the employer and a hearing, order that the noncompliant employer's name be listed on the board's Internet web site.

(f) A noncompliant employer's name may be removed from the board's Internet web site only after the employer does the following:

(1) Provides current proof of compliance with section 34 of this chapter.

(2) Pays all civil penalties assessed under subsection (b)(2).

(g) The civil penalties provided for in this section are cumulative.

(h) Civil penalties collected under this section shall be deposited in the worker's compensation supplemental administrative fund established by IC 22-3-5-6.

As added by P.L.168-2011, SEC.15.

IC 22-3-7-34.5

Independent contractors seeking exemption from chapter; filing statement; fees; certificate of exemption

Sec. 34.5. (a) As used in this section, "independent contractor" refers to a person described in section 9(b)(5) of this chapter.

(b) As used in this section, "person" means an individual, a proprietorship, a partnership, a joint venture, a firm, an association, a corporation, or other legal entity.

(c) An independent contractor who does not make an election under section 9(b)(2) of this chapter or section 9(b)(3) of this chapter is not subject to the compensation provisions of this chapter and must file a statement with the department of state revenue and obtain a certificate of exemption.

(d) An independent contractor shall file with the department of state revenue, in the form prescribed by the department of state revenue, a statement containing the information required by IC 6-3-7-5.

(e) Together with the statement required in subsection (d), an independent contractor shall file annually with the department documentation in support of independent contractor status before being granted a certificate of exemption. The independent contractor must obtain clearance from the department of state revenue before issuance of the certificate.

(f) An independent contractor shall pay a filing fee in the amount of fifteen dollars ($15) with the certificate filed under subsection (h). The fees collected under this subsection shall be deposited in the worker's compensation supplemental administrative fund and shall be used for all expenses the board incurs.

(g) The worker's compensation board shall maintain a data base consisting of certificates received under this section and on request may verify that a certificate was filed.

(h) A certificate of exemption must be filed with the worker's compensation board. The board shall indicate that the certificate has been filed by stamping the certificate with the date of receipt and returning a stamped copy to the person filing the certificate. A certificate becomes effective as of midnight seven (7) business days after the date file stamped by the worker's compensation board. The board shall maintain a data base containing information required in subsections (e) and (g).

(i) A person who contracts for services of another person not covered by this chapter to perform work must secure a copy of a stamped certificate of exemption filed under this section from the person hired. A person may not require a person who has provided a stamped certificate to have worker's compensation coverage. The worker's compensation insurance carrier of a person who contracts with an independent contractor shall accept a stamped certificate in the same manner as a certificate of insurance.

(j) A stamped certificate filed under this section is binding on and holds harmless for all claims:

(1) a person who contracts with an independent contractor after receiving a copy of the stamped certificate; and

(2) the worker's compensation insurance carrier of the person who contracts with the independent contractor.

The independent contractor may not collect compensation under this chapter for an injury from a person or the person's worker's compensation carrier to whom the independent contractor has furnished a stamped certificate.

As added by P.L.75-1993, SEC.6. Amended by P.L.202-2001, SEC.11.

IC 22-3-7-35

Contract relieving employer of obligations

Sec. 35. No contract or agreement, written or implied, rule, regulation, or other device shall in any manner operate to relieve any employer, in whole or in part, of any obligation created by this chapter, except as provided in this chapter.

(Formerly: Acts 1937, c.69, s.28.) As amended by P.L.144-1986, SEC.74.

IC 22-3-7-36

Third parties; actions to recover damages; subrogation; limitation of actions

Sec. 36. (a) Whenever disablement or death from an occupational disease arising out of and in the course of the employment for which compensation is payable under this chapter, shall have been sustained under circumstances creating in some other person than the employer and not in the same employ a legal liability to pay damages in respect thereto, the injured employee, or the employee's dependents, in case of death, may commence legal proceedings against such other person to recover damages notwithstanding such employer's or such employer's occupational disease insurance

carrier's payment of, or liability to pay, compensation under this chapter. In such case, however, if the action against such other person is brought by the injured employee or the employee's dependents and judgment is obtained and paid and accepted and settlement is made with such other person, either with or without suit, then from the amount received by such employee or dependents there shall be paid to the employer, or such employer's occupational disease insurance carrier, the amount of compensation paid to such employee or dependents, plus the services and products and burial expense paid by the employer or such employer's occupational disease insurance carrier, and the liability of the employer or such employer's occupational disease insurance carrier to pay further compensation or other expenses shall thereupon terminate, whether or not one (1) or all of the dependents are entitled to share in the proceeds of the settlement or recovery and whether or not one (1) or all of the dependents could have maintained the action or claim for wrongful death.

(b) In the event such employee or the employee's dependents, not having received compensation or services and products or death benefits, or such employer's occupational disease insurance carrier, shall procure a judgment against such other party for disablement or death from an occupational disease arising out of and in the course of the employment, which judgment is paid, or if settlement is made with such other person, either with or without suit, then the employer or such employer's occupational disease insurance carrier shall have no liability for payment of compensation or for payment of medical, surgical, hospital, or nurse's services and supplies or death benefits whatsoever, whether or not one (1) or all of the dependents are entitled to share in the proceeds of settlement or recovery and whether or not one (1) or all of the dependents could have maintained the action or claim for wrongful death.

(c) In the event an employee, or in the event of the employee's death, the employee's dependents, shall procure a final judgment against such other person other than by agreement, for disablement or death from an occupational disease arising out of and in the course of the employment and such judgment is for a lesser sum than the amount for which the employer or such employer's occupational disease insurance carrier is liable for compensation and for services and products, as of the date the judgment becomes final, then the employee, or in the event of the employee's death, the employee's dependents, shall have the option of either collecting such judgment and repaying the employer or such employer's occupational disease insurance carrier for compensation previously drawn, if any, and repaying the employer or such employer's occupational disease insurance carrier for services and products previously paid, if any, and of repaying the employer or such employer's occupational disease insurance carrier, the burial benefits paid, if any, or of assigning all rights under said judgment to the employer or such employer's occupational disease insurance carrier and thereafter receiving all compensation and services and products to which the

employee, or in the event of the employee's death, to which the employee's dependents would be entitled if there had been no action brought against such other party.

(d) If the employee or the employee's dependents agree to receive compensation, because of an occupational disease arising out of and in the course of the employment, from the employer or such employer's occupational disease insurance carrier, or to accept from the employer or such employer's occupational disease insurance carrier by loan or otherwise, any payment on account of such compensation or institute proceedings to recover the same, the said employer or such employer's occupational disease insurance carrier shall have a lien upon any settlement award, judgment, or fund out of which such employee might be compensated from the third party.

(e) The employee, or in the event of the employee's death, the employee's dependents, shall institute legal proceedings against such other person for damages within two (2) years after said cause of action accrues. If, after said proceeding is commenced, the same is dismissed, the employer or such employer's occupational disease insurance carrier, having paid compensation or having become liable therefor, may collect in their own name or in the name of the employee with a disability, or in the case of death, in the name of the employee's dependents, from the other person in whom legal liability for damages exists, the compensation paid or payable to the employee with a disability, or the employee's dependents, plus such services and products and burial expense paid by the employer or such employer's occupational disease insurance carrier for which they have become liable. The employer or such employer's occupational disease insurance carrier may commence such action at law for such collection against the other person in whom legal liability for damages exists, not later than one (1) year from the date said action so commenced, has been dismissed, notwithstanding the provisions of any statute of limitations to the contrary.

(f) If said employee, or in the event of the employee's death, the employee's dependents, shall fail to institute legal proceedings, against such other person for damages within two (2) years after said cause of action accrues, the employer or such employer's occupational disease insurance carrier, having paid compensation or having been liable therefor, may collect in their own name or in the name of the employee with a disability, or in the case of the employee's death, in the name of the employee's dependents, from the other person in whom legal liability for damage exists, the compensation paid or payable to the employee with a disability or to the employee's dependents, plus the services and products and burial expenses, paid by them or for which they have become liable, and the employer or such employer's occupational disease insurance carrier may commence such action at law for such collection against such other person in whom legal liability exists at any time within one (1) year from the date of the expiration of the two (2) years when the action accrued to the employee with a disability or, in the event of the employee's death, to the employee's dependents, notwithstanding

the provisions of any statute of limitations to the contrary.

(g) In such actions brought as provided in this section by the employee or the employee's dependents, the employee or the employee's dependents shall, within thirty (30) days after such action is filed, notify the employer or such employer's occupational disease insurance carrier, by personal service or registered or certified mail, of such fact and the name of the court in which suit is brought, filing proof thereof in such action.

(h) If the employer does not join in the action within ninety (90) days after receipt of the notice, then out of any actual money reimbursement received by the employer or such employer's occupational disease insurance carrier pursuant to this section, they shall pay their pro rata share of all costs and reasonably necessary expenses in connection with such third party claim, action, or suit, and to the attorney at law selected by the employee or the employee's dependents, a fee of twenty-five percent (25%), if collected without trial, of the amount of benefits after the expenses and costs in connection with such third party claim have been deducted therefrom, and a fee of thirty-three and one-third percent (33 1/3%), if collected after trial, of the amount of such benefits after deduction of the costs and reasonably necessary expenses in connection with such third party claim, action, or suit. The employer may, within ninety (90) days after receipt of notice of suit from the employee or the employee's dependents, join in the action upon the employee's motion so that all orders of court after hearing and judgment shall be made for the employee's protection.

(i) No release or settlement of claim for damages by reason of such injury or death, and no satisfaction of judgment in such proceedings shall be valid without the written consent of both employer or such employer's occupational disease insurance carrier, and employee, or the employee's dependents. However, in the case of the employer or such employer's occupational disease insurance carrier, such consent shall not be required where the employer or such employer's occupational disease insurance carrier has been fully indemnified or protected by court order.

(Formerly: Acts 1937, c.69, s.29; Acts 1963, c.388, s.17; Acts 1969, c.101, s.5; Acts 1974, P.L.109, SEC.7.) As amended by P.L.28-1988, SEC.62; P.L.99-2007, SEC.185; P.L.275-2013, SEC.18.

IC 22-3-7-37

Reports of disablements; penalties; venue

Sec. 37. (a) Every employer operating under the compensation provisions of this chapter shall keep a record of all disablements by occupational disease, fatal or otherwise, received by the employer's employees in the course of their employment and shall provide a copy of the record to the board upon request. Within seven (7) days after the first day of a disablement by occupational disease and the employer's knowledge of the disablement, as provided in section 32 of this chapter, that causes the employee's death or absence from work for more than one (1) day, a report thereof shall be made in

writing and mailed to the employer's insurance carrier or, if the employer is self insured, to the worker's compensation board on blanks to be procured from the board for the purpose. The insurance carrier shall mail the report to the worker's compensation board not later than seven (7) days after receipt or fourteen (14) days after the employer's knowledge of the occurrence, whichever is later. An employer or insurance carrier that fails to comply with this subsection is subject to a civil penalty under IC 22-3-4-15.

(b) The report shall contain the name, nature and location of the business of the employer, the name, age, sex, wages, occupation of the employee, the approximate dates between which exposure occurred, the nature and cause of the occupational disease, and such other information as may be required by the board.

(c) A person who violates this section commits a Class C misdemeanor.

(d) The venue of all criminal actions for the violation of this section lies in the county in which the employee was last exposed to the occupational disease causing disablement. The prosecuting attorney of the county shall prosecute these violations upon written request of the worker's compensation board. These shall be prosecuted in the name of the state.

(Formerly: Acts 1937, c.69, s.30; Acts 1963, c.388, s.18.) As amended by Acts 1978, P.L.2, SEC.2214; P.L.28-1988, SEC.63; P.L.170-1991, SEC.24; P.L.168-2011, SEC.16.

IC 22-3-7-38

Application of law

Sec. 38. Acts 1937, c.69, s.31 does not extinguish or in any way affect any right of action existing on June 7, 1937, and no employer shall be liable for compensation or damages under the provisions of this chapter in any case in which the disablement on which claim is predicated shall have occurred prior to June 7, 1937; but nothing contained in this section shall affect any case in which exposure as defined in this chapter shall have taken place after June 7, 1937.

(Formerly: Acts 1937, c.69, s.32.) As amended by P.L.144-1986, SEC.75.