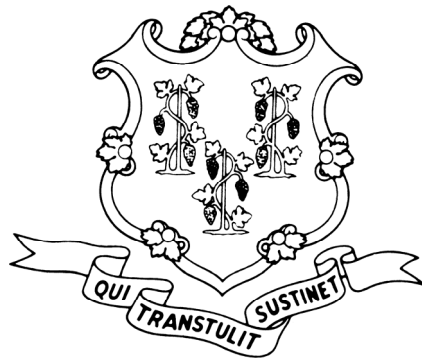


BULLETIN No. 46

STATE OF CONNECTICUT

Workers' Compensation

**THE WORKERS' COMPENSATION ACT
AS AMENDED TO JANUARY 1, 2005**



**ISSUED BY
THE WORKERS' COMPENSATION COMMISSION
JANUARY 1, 2005**

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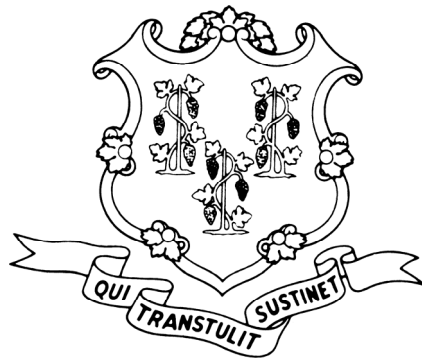
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BULLETIN No. 46

STATE OF CONNECTICUT

Workers' Compensation

**THE WORKERS' COMPENSATION ACT
AS AMENDED TO JANUARY 1, 2005**



**ISSUED BY
THE WORKERS' COMPENSATION COMMISSION
JANUARY 1, 2005**

PREFATORY NOTE

The Connecticut Workmen's Compensation Act was adopted in 1913, (changed to Workers' Compensation Act in 1979) as chapter 138 of the Public Acts of that year. It became generally effective with the year 1914, and was printed as part of bulletin No. 1. Its provisions covered injuries from January 1, 1914, to May 20, 1915 at which time it was amended by chapter 288 of the Public Acts of 1915. These amendments were incorporated into the act and printed in bulletin No. 5, which was applicable to injuries from May 20, 1915, to July, 1917.

On July 1, 1917, amendments enacted by the General Assembly of that year went into effect. The main provisions formed the subject matter of chapter 368 of the Public Acts of that year. The original act, with amendments up to that date, was printed in bulletin No. 6, and there were added the provisions of the Public Acts of 1915, chapter 287, and of the Public Acts of 1917, chapter 126.

Injuries from July 1, 1918, to July 1, 1919, are covered by chapter 285 of the General Statutes, Revision of 1918. As this was a revision of the act generally in matters of arrangement and form only, its provisions were not incorporated into any bulletin, bulletin No. 6 being sufficient for practically all purposes.

Bulletin No. 7 was issued in 1919, and contains the act as amended by the General Assembly of that year.

The various legislatures from 1921 to 1929 inclusive amended the act in different particulars. These changes were covered by bulletins Nos. 8 to 11 inclusive but were not effective until August 6, 1929. It should be noted that injuries occurring between July 1, 1919, and August 6, 1929, are governed by the law as it appears in bulletin No. 7, that bulletin No. 11 applies only to injuries occurring from August 7, 1929, to the date when the Revised Statutes of 1930 became effective.

See *Preveslin vs. Derby*, 112 Conn. 129.

Bulletin No. 12 contained the act as it appears in the General Statutes, Revision of 1930, as amended by chapter 9 and chapter 132 of the Public Acts of 1931.

In bulletins Nos. 13 to 42 inclusive were incorporated the amendments passed by the General Assembly from 1930 through 1995 which were in effect as of January 1, 1996.

Several areas of the administration of the act are subject to regulations. These are printed immediately after the statutes in this bulletin and should be carefully noted as they have the force of the law.

A number of sections of the General Statutes, while not properly a part of the Workers' Compensation act, confer additional jurisdiction on Compensation Commissioners or concern the rights of special categories of employees. The most significant of such provisions, including those of interest to employees of the state, civil defense workers, volunteer fire fighters, etc., are printed after the Workers' Compensation Act and before the administrative regulations in this bulletin.

Each district Commissioner has jurisdiction of injuries which occur within that district. In 1965 a Commissioner at Large was added to sit in districts designated by the Chairman. The districts ceased to be identical with Congressional districts in 1969.

In 1967, the legislature established a separately funded Division of Workmen's Rehabilitation whose title was changed in 1979 to Division of Workers' Rehabilitation.

The legislature in 1979 amended the Workmen's Compensation Act title to Workers' Compensation Act effective October 1, 1979.

Also in 1979, the legislature eliminated the appeal from a Commissioner to the Superior Court and provided an intra-agency appeal to the Compensation Review Division presided over by the Chairman.

The legislature in 1980 made the Chairman a full-time position and added the Chairman as a ninth Commissioner with power to hear any case in any district and with control over the hearings calendars of the district Commissioners.

The 1981 legislature created a Statistical Division.

The 1982 legislature created a separately funded Division of Worker Education.

The 1984 legislature created the Eighth District.

The 1985 legislature amended the Workers' Compensation Act requiring employers to report employee injuries to the Chairman of the Workers' Compensation Commission. The amendment effectively initiated the computerization of the Workers' compensation commission's data base. The 1985 legislature added one and the 1987 legislature added two Commissioners at Large bringing the total number of Commissioners to thirteen.

The 1991 legislative session made numerous substantive, administrative, and technical changes to the Workers' Compensation Act. Among the substantive changes; the compensation rate was changed to eighty percent of average weekly earnings after deduction for federal income taxes and social security withholdings, the maximum rate for permanent partial, partial incapacity, scarring and disfigurement was limited to one hundred percent of the average weekly production earnings rate and the dependency allowance was eliminated. Among the administrative changes; the formation of a Workers' Compensation Commission advisory board appointed by the Governor, the addition of a Commissioner increasing total number of Commissioners to 14 including the Chairman, vesting of greater administrative powers in the position of the Chairman, and the assignment of all Commissioners on an at large basis. The technical changes to the Act involved reorganizing and re-grouping various statutes and updating certain language in the text of the statutes.

In 1993 the legislature enacted Public Act 93-228 which made sweeping changes in our Workers' Compensation Act. Among some of the changes were; restrictions for claims filed by non-residents injured in this state, disallowance of injuries resulting from voluntary participation in activities which are mostly social or recreational, disallowance of mental or emotional injuries which either result from a personnel action or do not result from a physical injury or occupational disease, elimination of cost of living allowances,

reduction in the compensation rate to seventy-five percent of the injured workers' average weekly earnings after deduction for federal and state taxes and for social security, extension of the time period for the computation of the average weekly wage from twenty-six weeks to fifty-two weeks, reduction in the number of weeks for the proportional and total loss of certain body parts, organs or systems, and reduction in the maximum compensation rate for temporary total disability to one hundred percent of the average weekly earnings of all workers in the state. Additionally, the legislature amended provisions regarding employer sponsored medical care plans enacted in Public Act 91-339 by including in Public Act 93-228 language that failure to treat in an approved employer sponsored medical care plan shall suspend the right to compensation, subject to the order of a commissioner.

In 1995 the legislature made significant changes to the provisions of the Workers' Compensation Act which concerned the operation of, and transfer of claims to the Second Injury Fund. Public Act 95-277 significantly increased the penalties for the failure to carry workers' compensation insurance and mandated the imposition of those penalties. Public Act 95-277 also altered the procedures for notice to the Second Injury Fund for the transfer of claims, required the submission of controverted claims regarding the existence of a previous disability to a medical panel appointed by the Chairman and terminated the transfer of claims to the Second Injury Fund for injuries arising after July 1, 1995. Additionally, Public Act 95-277 altered the method of apportionment for payment of concurrent employment benefits and mandated local building officials require proof of workers' compensation insurance prior to issuing any building permit.

In 1996 the legislature again made several noteworthy changes to the Workers' Compensation Act. Public Act 96-65 permitted civil actions against employers who failed to carry insurance. Public Act 96-72 repealed the residency requirements for commissioners. Public Act 96-125 required the furnishing of medical reports concerning any injury sustained in the course of employment within 30 days. Public Act 96-216 increased the penalty for an employer's noncompliance with the obligation to carry workers' compensation insurance by removing the \$1,000 penalty cap and subjecting the offending employer to fines under § 31-288. Public Act 96-242 provided a date certain, July 1, 1999, by which all claims to the Second Injury Fund for injuries occurring prior to July 1, 1995 must be effected.

In 1997 the legislature amended the act's provisions regarding cost of living adjustments. The act was amended so as to provide cost of living adjustments to those who were injured after July 1, 1993 and were: (1) permanently disabled or adjudicated totally disabled for a period of 5 years or more, or (2) surviving dependents of a claimant. The legislature expanded the definition of personal injury so as to include board of education employees injured as a result of participation at a school-sponsored activity.

In 1998 the legislature again amended its provisions regarding cost of living adjustments [COLAs]. The act was amended so as to permit the re-calculation of COLAs for those entitled to a COLA and injured prior to July 1, 1993 on the basis of the annual percentage increase in the maximum compensation rate between their compensation rate at the date of injury or October 1, 1990, whichever is later. That year the legislature also enacted a provision requiring employers or insurance carriers to forward a notice within 30

days of the death of an employee to the last known address of the deceased employee indicating that dependents may be eligible for surviving dependents benefits. The legislature also amended the Workers' Compensation Act so as to require relevant diagnostic and prophylactic procedures for police and fire officers who may have been exposed to a blood borne disease.

In 2000, the legislature added the female reproductive organs to the scheduled list of body parts for which Permanent Partial Disability benefits may be given. The legislature also provided tuition waivers at certain state higher education institutions for dependent children of a municipal or state employee killed in the line of duty.

In 2001, the legislature amended the mileage reimbursement rate for transportation to medical treatment and extended the time for filing appeals with the Compensation Review Board from 10 days to 20 days. The legislature also amended the Workers' Compensation Act so as to require employers or insurance carriers to pay the costs of prescription drugs directly to the provider.

In 2004, the legislature extended the time by which payments must be made pursuant to § 31-303 from 10 days to 20 days. Additionally, the legislature amended § 31-302 so as to codify a commissioner's ability to pro rate lump sum settlements.

This bulletin brings the law up to date.

CONSTRUCTION OF STATUTES

The Connecticut Workers' Compensation Act, being Chapter 568 of the General Statutes, Revision of 2005, as amended January 1, 2005

CHAPTER 568*

WORKERS' COMPENSATION ACT

*See Sec. 38a-470 re liens on workers' compensation awards in favor of insurers, hospital or medical service corporations or employee welfare benefit plans.

Theory of the workmen's compensation act. 89 C. 145; Id., 160; 93 C. 428; 105 C. 299; 120 C. 546. Act should be broadly construed to effectuate its purpose. 89 C. 146. It covers injury received out of state under a contract of employment made here. Id., 374; 111 C. 695. Liability rests on contract. Id., 682; 90 C. 220. Statute in force when the injury was received controls. 90 C. 220. One employed in another state but received injury here. 91 C. 524; 92 C. 371. Contracts made elsewhere for work wholly or partly done here considered. 99 C. 457; 103 C. 107. Proceedings for compensation are purely statutory. 101 C. 358. Affecting interstate commerce. 109 C. 97. Underlying purpose to protect employee, even to the extent of rendering nugatory his own agreement. 128 C. 579. See note to Sec. 31-322. Cited. 154 C. 48, 51. No change was made by 1961 act in previously existing determination of when employer is subject to act. 156 C. 276. Payments of awards hereunder should be made only in accordance with express statutory authority. 159 C. 53. Procedural avenue for bringing claims under Sec. 7-433c is the Workmen's Compensation Act. 165 C. 615. "Employer," within the meaning of this chapter, entitled to summary judgment when sued by an employee who had claimed and been awarded benefits under this chapter. 167 C. 621. Cited. 168 C. 84. Lack of a definitive diagnosis does not preclude recovery under the act. 175 C. 392. Cited. Id., 424. Cited. 176 C. 547. Cited. 178 C. 664. Where employee is injured by the negligence of a fellow employee the sole remedy is under this chapter except where the negligence is in the operation of a motor vehicle. 180 C. 469. Where personal injuries sustained in another state applicable law is the law of the place of the employment relation; discussion of contract choice of law, tort choice of law and workers' compensation choice of law. 182 C. 24. Cited. 185 C. 616. Cited. 186 C. 623. Cited. 187 C. 53. Cited. 189 C. 550. These statutes are not the exclusive remedy for injuries arising out of and in the course of employment where injuries claimed are compensable under Sec. 7-433c. 193 C. 59. Cited. 193 C. 297. Cited. 194 C. 139. Cited. 196 C. 91. Where case clearly within scope of Workers' Compensation Act there is no basis for action under Sec. 31-49. Id., 529. Workers' Compensation Act cited. 200 C. 562. Sec. 31-275 et seq. cited. 201 C. 632. Workers' Compensation Act cited. 203 C. 34. Meritorious workers' compensation claim by a minor illegally employed when injured not barred by decision permitting common law suit. Id. Workers' Compensation Act cited. Id., 324; 204 C. 104. Cited. Id., 563. Workers' Compensation Act cited. 205 C. 219; 206 C. 242; Id., 495; 207 C. 88; Id., 420; Id., 665. Cited. 208 C. 576. Workers' compensation act cited. Id. Workers' compensation act, Sec. 31-275 et seq. cited. Id., 589. Court declined to create exception to fellow employee rule of the act. Id. Workers' compensation act or statutes cited. Id., 709. Workers' compensation act cited. 209 C. 59; Id., 219. Cited. 210 C. 423. Workers' compensation act cited. Id. Workers' compensation act cited. Id., 580; Id., 626; 212 C. 138; Id., 427. Cited. 213 C. 54. Sec. 31-275 et seq., workers' compensation act cited. Id. Does not apply to members of judiciary. Id. Cited. 214 C. 181; Id., 189; Id., 394; Id., 552; 215 C. 206; workers' compensation act cited. Id. Workers' compensation act cited. 216 C. 29; Id., 237. Sec. 31-275 et seq., workers' compensation act cited. 217 C. 42. Cited. Id., 50. Sec. 31-275 et seq., workers' compensation act cited. Id. Workers' compensation act cited. 218 C. 9; Id., 19; Id., 46. Workers' compensation act, Sec. 31-275 et seq. cited; application of law to workers' firm out of state discussed. Id., 181. Cited. Id., 531. The workers' compensation act cited. Id. Workers' compensation act cited. 219 C. 28. Workers' compensation act cited; public policy prohibiting double recovery discussed. Id., 439. Workers' compensation act cited. Id., 581. Sec. 31-275 et seq. cited. Id. Workers' compensation act cited. Id., 674. Cited. 220 C. 721. Workers' compensation act, Sec. 31-275 et seq. cited. 221 C. 29. Cited. Id., 41. Workers' compensation act, Sec. 31-275 et seq. cited. Id. Workers' compensation act cited. 221 C. 336; Id., 465; 222 C. 78. Cited. Id., 744. Workers' compensation act cited. Id.; Id., 769. Workers' compensation act, Sec. 31-275 et seq. cited. 223 C. 336. Workers' compensation act cited. Id., 492; 224 C. 8; Id., 382; 225 C. 165. Workers' compensation act, Sec. 31-275 et seq. cited. 226 C. 282. Workers' compensation act cited. Id., 404. Workers' compensation act, Secs. 31-275—31-355a cited. Id., 508. Workers' compensation act cited. Id., 569. Plaintiff's estate entitled to permanent partial disability award. Judgment of appellate court in *McCurdy v. State*, 26 CA 469 reversed. 227 C. 261. Workers' compensation act cited. Id.; Id., 333. Workers' compensation act, Sec. 31-275 et seq. cited. 228 C. 1. Workers' compensation act cited. Id., 358. Cited. Id., 401. Connecticut workers' compensation act cited. Id. Connecticut's act cited. Id. "Act" cited. Id. Workers' compensation act cited. 229 C. 99. Workers' Compensation Act cited. 231 C. 287. Cited. Id., 370. Workers' Compensation Act Sec. 31-275 et seq. cited. Id.; Id., 381; Id., 469. Judgment of appellate court in *Muldoon v. Homestead Insulation Co.*, 33 CA 695, reversed and case remanded for further proceedings. Id. Workers' Compensation Act cited. Id., 529; Id., 690; 232 C. 91; Id., 311; Id., 758; Id., 780; 233 C. 14; Id., 251; 234 C. 51; 235 C. 185; Id., 778; 236 C. 330. Sec. 31-275 et seq. cited. Id. Workers' Compensation Act, Sec. 31-275 et seq. cited. 237 C. 1. A medical provider does not have standing before commission to initiate a claim in absence of claim by injured employee for benefits under the act. Id. Workers' Compensation Act Sec. 31-275 et seq. cited. Id., 490. Workers' Compensation Act cited. 238 C. 285. Workers' Compensation Act Sec. 31-275 et seq. cited. Id., 637; 239 C. 19. Workers' Compensation Act cited. Id., 408. Cited. Id., 676. Workers' Compensation Act, Secs. 31-275—31-355a cited. Id. Workers' Compensation Act Sec. 31-275 through 31-355a cited. 240 C. 788. Workers' Compensation Act, Sec. 31-275 et seq. cited. 241 C. 170; Id., 282; Id., 692; 242 C. 255; Id., 375. Workers' Compensation Act cited. Id., 432; Id., 570; 243 C. 66. Purpose of Workers' Compensation Act. 245 C. 66. Workers' Compensation Act to be construed broadly in order to serve its remedial purpose. 252 C. 641. Collateral estoppel applies to bar employer and its insurers from contesting cause of employee's death in action under Workers' Com-

pensation Act which was preceded by judgment under the federal Longshore and Harbor Workers' Compensation Act, where same burden of proof applied in both proceedings. 255 C. 762.

Cited. 1 CA 58; Id., 264. Cited. 2 CA 255. Cited. 3 CA 40. Cited. Id., 162. Cited. Id., 246. Cited. Id., 450. Cited. Id., 547. Cited. 5 CA 369. Cited. 6 CA 60. Cited. Id., 265. Cited. 7 CA 19. Cited. Id., 142. Cited. Id., 296. Cited. Id., 575. Workers' Compensation Act cited. 11 CA 391; 12 CA 138; 13 CA 208. Cited. 14 CA 178. Cited. 15 CA 84. Connecticut workers' compensation act, Secs. 31-275—31-355a cited. 15 CA 615. Relationship of benefits awards under federal and state compensation laws arising from same injury discussed. Id. Workers' compensation act, law or statutes cited. 16 CA 65; Id., 121; Id., 437; Id., 660; Id., 676; 19 CA 273. Workers' compensation act cited. 21 CA 9; judgment reversed, see 218 C. 46; Id., 20; Id., 107; Id., 610; 22 CA 88. Worker' compensation act cited. 22 CA 539; judgment reversed, see 219 C. 439. Workers' compensation act cited. 23 CA 325. Sec. 31-275 et seq. cited; Workers' compensation act cited. 24 CA 234. Workers' compensation act Sec. 31-275 et seq. cited. Id., 362. Workers' compensation act cited. Id., 719; Id., 739. Workers' compensation act, Sec. 31-275 et seq. cited. 25 CA 350. Workers' compensation act cited; Sec. 31-275 et seq. cited. Id., 492. Cited. 26 CA 194. Workers' compensation act Sec. 31-275 et seq. cited. Id. Workers' compensation act cited. 27 CA 800. Workers' compensation act, Secs. 31-275—31-355a cited. 28 CA 113. Workers' compensation act, Sec. 31-275 et seq. cited. Id., 226. Connecticut workers' compensation act, Sec. 31-275 et seq. cited. Id., 660. Workers' compensation act, Sec. 31-275 et seq. cited. 29 CA 249. Workers' compensation statutes cited. Id., 441. Workers' compensation act cited. Id., 618; 30 CA 295; Id., 630; Id., 729. Workers' compensation act, Sec. 31-275 et seq. cited. 32 CA 16. Workers' compensation act cited. Id., 595; 33 CA 99. Cited. Id., 667. Workers' compensation act, Secs. 31-275—31-355a cited. 34 CA 521. Workers' compensation act cited. Id., 708. Workers' Compensation Act cited. 36 CA 150; Id., 635; judgment reversed, see 236 C. 330. Workers' Compensation Act, Sec. 31-275 et seq. cited. 37 CA 392. Cited. Id., 835. Workers' Compensation Act, Sec. 31-275 et seq. cited. Id. Cited. 38 CA 1. Workers' Compensation Act cited. Id.; Id., 73; 39 CA 28; 40 CA 278; Id., 409. Workers' Compensation Act cited. 41 CA 430; Id., 664. Workers' Compensation Act Sec. 31-275 et seq. cited. 42 CA 147. Workers' Compensation Act cited. Id., 200. Workers' Compensation Act Sec. 31-275 et seq. cited. Id., 542. Workers' Compensation Act cited. Id., 803; 44 CA 1; Id., 771. Cited. 45 CA 324. Workers' Compensation Act Sec. 31-275 et seq. cited. Id.; Id., 441; 46 CA 298. Connecticut Workers' Compensation Act, Sec. 31-275 et seq. cited. Id., 596. Cited. Id., 699. Workers' Compensation Act cited. Id. Workers' Compensation Act Sec. 31-275 et seq. cited. Id., 712. Workers' Compensation Act does not permit double compensation. 49 CA 66. Employer not required to prove existence and breach of an independent legal duty in seeking indemnification from third party under circumstances of case. 53 CA 72. Workers' Compensation Act should be broadly construed but its remedial purpose cannot transcend its statutorily defined jurisdictional boundaries. Id. Board properly found that commissioner could reconsider prior findings and that the record supported conclusions. Id., 671. One purpose of workers' compensation statute is the avoidance of two independent compensations for an injury. 57 CA 406. Chapter imposes a form of strict liability on the employer. Id., 472. Workers' Compensation Act discussed re whether employee's injury occurred within the scope of employment. 58 CA 109.

Cited. 9 CS 471. Minor employed in violation of child-labor statute is entitled to workmen's compensation. 12 CS 304. Employee's return to work does not relieve employer from liability under the act. Id., 453. Cited. 23 CS 55. Cases under this act are on a different basis than actions between ordinary litigants. 31 CS 331. Cited. 38 CS 331. Where plaintiff brought action under both this statute and Sec. 7-433c he was not required to assume greater burden of proving compensability under this section. Id., 359. Cited. 39 CS 102. Cited. Id., 250. Cited. 40 CS 165. Cited. Id., 253. Workers' compensation act cited. 41 CS 115; Id., 326; 42 CS 168. Workers' Compensation Act cited. 44 CS 510. Employer's motion for summary judgment denied under substantial certainty doctrine where employer failed to provide money carrier with bullet-proof vest despite employer's mandate that employees wear such vests. 47 CS 30.

PART A

WORKERS' COMPENSATION COMMISSION. COMPENSATION COMMISSIONERS. EMPLOYERS' LIABILITY

I

WORKERS' COMPENSATION COMMISSION. COMPENSATION COMMISSIONERS

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

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

the employer's business or affairs by the direction, express or implied, of the employer, provided:

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

(ii) Notwithstanding the provisions of clause (i) of this subparagraph, the dependents of any deceased employee of the Department of Correction who was injured in the course of his employment, as defined in this subparagraph, on or after July 1, 2000, and who died not later than July 15, 2000, shall be paid compensation on account of the death, in accordance with the provisions of section 31-306, retroactively to the date of the employee's death. The cost of the payment shall be paid by the employer or its insurance carrier which shall be reimbursed for such cost from the Second Injury Fund as provided in section 31-354 upon presentation of any vouchers and information that the Treasurer may require;

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

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

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

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

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

(G) The Workers' Compensation Commission shall adopt regulations, in accordance with the provisions of chapter 54, to implement the provisions of this section and shall define the terms "a preliminary act" and "acts in preparation for work" on or before October 1, 1995.

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

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

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

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

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

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

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

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

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

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

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

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

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

(vi) Is an elected or appointed official or agent of any town, city or borough in the state, upon vote of the proper authority of the town, city or borough, including the elected or appointed official or agent, irrespective of the manner in which he is appointed or employed. Nothing in this subdivision shall be construed as affecting any existing rights as to pensions which such persons or their dependents had on July 1, 1927, or as preventing any existing custom of paying the full salary of any such person during disability due to injury arising out of and in the course of his employment.

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

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

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

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

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

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

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

(10) "Employer" means any person, corporation, limited liability company, firm, partnership, voluntary association, joint stock association, the state and any public corporation within the state using the services of one or more employees for pay, or the legal representative of any such employer, but all contracts of employment between an employer employing persons excluded from the definition of employee and any such employee shall be conclusively presumed to include the following mutual agreements between employer and employee: (A) That the employer may accept and become bound by the provisions of this chapter by immediately complying with section 31-284; (B) that, if the employer accepts the provisions of this chapter, the employee shall then be deemed to accept and be bound by such provisions unless the employer neglects or refuses to furnish immediately to the employee, on his written request, evidence of compliance with section 31-284 in the form of a certificate from the commissioner, the Insurance Commissioner or the insurer, as the case may be; (C) that the employee may, at any time, withdraw his acceptance of, and become released from, the provisions of this chapter by giving written or printed notice of his withdrawal to the commissioner and to the employer, and the withdrawal shall take effect immediately from the time of its service on the commissioner and the employer; and (D) that the employer may withdraw his acceptance and the acceptance of the employee by filing a written or printed notice of his withdrawal with the commissioner and with the employee, and the withdrawal shall take effect immediately from the time of its service on the commissioner and the employee. The notices of acceptance and withdrawal to be given by an employer employing persons excluded from the definition of employee and the notice of withdrawal to be given by the employee, as provided in this subdivision, shall be served upon the

commissioner, employer or employee, either by personal presentation or by registered or certified mail. In determining the number of employees employed by an individual, the employees of a partnership of which he is a member shall not be included. A person who is the sole proprietor of a business may accept the provisions of this chapter by notifying the commissioner, in writing, of his intent to do so. If such person accepts the provisions of this chapter he shall be considered to be an employer and shall insure his full liability in accordance with subdivision (2) of subsection (b) of section 31-284. Such person may withdraw his acceptance by giving notice of his withdrawal, in writing, to the commissioner. Any person who is a partner in a business shall be deemed to have accepted the provisions of this chapter and shall insure his full liability in accordance with subdivision (2) of subsection (b) of section 31-284, unless the partnership elects to be excluded from the provisions of this chapter by notice, in writing and by signed agreement of each partner, to the commissioner.

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

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

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

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

(15) "Occupational disease" includes any disease peculiar to the occupation in which the employee was engaged and due to causes in excess of the ordinary hazards of employment as such, and includes any disease due to or attributable to exposure to or contact with any radioactive material by an employee in the course of his employment.

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

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

(i) An injury to an employee which results from his voluntary participation in any activity the major purpose of which is social or recreational, including, but not limited

to, athletic events, parties and picnics, whether or not the employer pays some or all of the cost of such activity;

(ii) A mental or emotional impairment, unless such impairment arises from a physical injury or occupational disease;

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

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

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

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

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

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

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

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

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

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

History: 1961 act entirely replaced previous provisions; 1967 act redefined “commission” as seven rather than five commissioners, added exception in definition of “dependent” and redefined “employer” as those employing one or more rather than two or more persons; 1969 acts redefined “arising out of and in the course of his employment” to include special provision re policemen and firemen, redefined “physician” to include those practicing a healing art and duly licensed rather than those practicing as chiropractors, added definition of “podiatrist”, redefined “occupational disease” to include diseases resulting from exposure to or contact with radioactive materials and specified “regularly” employed in Subdiv. (d) of definition of “employer”; 1972 act included persons elected as members of the general assembly in definition of “employee”; P.A. 77-614 made insurance department a division within the department of business regulation with insurance commissioner as its head, effective January 1, 1979 (See Subsec. (6)); P.A. 78-324 included volunteer police officers in definition of “employee”; P.A. 79-113 divided section into Subsecs. and redefined “employee” and “employer” to include provisions re persons who are sole proprietors or partners in a business; P.A. 79-540 redefined “commission” to raise number of commissioners to eight and defined “compensation review division”; P.A. 80-124 substituted “causally” for “casually” in Subsec. (8); P.A. 80-284 inserted new Subsec. (13) defining “full-time student” and renumbered former Subsec. (13) accordingly; P.A. 80-414 redefined “commission” and “compensation review division” to reflect increase in number of commissioners to nine; P.A. 80-482 reinstated insurance department and deleted reference to abolished department of business regulation; P.A. 80-483 made technical correction; P.A. 82-398 defined “income”, including within it all forms of remuneration to an individual from his employment; P.A. 84-320 amended Subsecs. (2) and (3) to increase the number of commissioners to ten; P.A. 85-420 amended Subdivs. (2) and (3) to increase the number of commissioners to eleven; P.A. 88-184 redefined “commission” and “compensation review division” to reflect an increase in number of commissioners to thirteen; P.A. 88-364 made a technical change in Subsec. (5); P.A. 91-32 replaced existing definitions with Subdivs. (1) to (22), inclusive; P.A. 91-339 redefined “commission” in Subsec. (2), deleted definition of “compensation review division” in former Subsec. (5), deleted reference to Sec. 31-308b from renumbered Subsec. (6), added new Subsec. (8) defining “disfigurement” and added new Subsec. (21) defining “scar”, renumbering as necessary; P.A. 92-31 redefined “compensation” to delete dependency allowances; P.A. 93-228 redefined “arising out of and in the course of his employment”, “employee”, “employer” and “personal injury” in Subdivs. (1), (9), (10) and (16), respectively, added definition of “narcotic drugs” in Subdiv. (1), and deleted definitions of “significant disfigurement” and “significant scar” in Subdivs. (8) and (21), respectively, effective July 1, 1993; P.A. 95-79 redefined “employer” in Subdiv. (10) to include a limited liability company, effective May 31, 1995; P.A. 95-262 amended Subdiv. (1) to redefine “arising out of and in the course of his employment” to exclude as a personal injury, any injury sustained at the employee’s place of abode while the employee is engaged in a preliminary act or acts in preparation for work unless at the express direction or request of the employer, to define “place of abode” and to require the Workers’ Compensation Commission to adopt regulations and to define “a preliminary act” and “acts in preparation for work”, effective July 6, 1995 (Revisor’s note: The phrase “the Workers Compensation Commissioner shall adopt regulations” was changed editorially by the Revisors to “the Workers Compensation Commission shall adopt regulations” to correct an apparent clerical error in the reference to “Commissioner”); P.A. 96-180 amended Subdivs. (9) and (10) to make technical changes, effective June 3, 1996; P.A. 97-205 amended Subpara. (B) of Subdiv. (16) to define “personal injury” and “school-sponsored activity”; P.A. 99-102 amended Subdiv. (17) by deleting obsolete reference to chapter 371; P.A. 01-208 amended Subdiv. (1) by making technical changes throughout, designating existing Subpara. (A) as Subpara. (A)(i), adding Subpara. (A)(ii) re dependents of certain deceased employees of the Department of Correction and designating portions of existing Subpara. (E) as Subparas. (F) and (G), effective July 13, 2001; June 30 Sp. Sess. P.A. 03-6 replaced Commissioner of Consumer Protection with Commissioner of Agriculture and Consumer Protection, effective July 1, 2004; P.A. 04-189 repealed Sec. 146 of June 30 Sp. Sess. P.A. 03-6, thereby reversing the merger of the Departments of Agriculture and Consumer Protection, effective June 1, 2004.

Dependent. Dependency is a question of fact. 89 C. 152; 95 C. 165; Id., 674. Father without income is dependent on minor though his earnings did not exceed the cost of his support. 90 C. 258; 105 C. 423. Cited. 91 C. 231; 106 C. 235; 130 C. 658; 131 C. 202; 132 C. 171. Adult son able to support his family is not a dependent of his father. 92 C. 458. Employee’s mistress is not a dependent but illegitimate children are. 93 C. 423. Wife living with husband is presumably supported by him and not dependent of eleven year old son. 95 C. 166. Father who adds son’s wages to invested capital is not dependent. Id., 676. Sister held dependent who relied on decedent’s earnings though his contributions were voluntary and not enforceable. 96 C. 303. Sister held dependent though not living with decedent. 97 C. 113. Employee. A sheriff is not an employee of the state though it pays him a salary. 89 C. 684. Contract of employment implied. Id. Employee distinguished from independent contractor. 90 C. 447; 95 C. 421; 96 C. 636; 105 C. 545; 107 C. 146. Musicians for a dance on defendant’s premises engaged from an orchestra leader held defendant’s employees. 92 C. 407. Newspaper reporter is an employee. 94 C. 159. Formerly policemen and firemen were not employees. Id., 403. One doing personal service to a corporation officer in hope of a tip not an employee of either the corporation or the officer. Id., 490. Consideration of whether or not one illegally employed is within the act. 95 C. 166. Employee distinguished from city officer. 96 C. 560. Firemen and policemen included in 1921. 102 C. 340.

Tree warden is officer in supervisory duties and employee when performing manual labor. *Id.*, 573. Burden is on claimant to show that he is employee. 105 C. 551. "Employer" includes one working for another in return for prior assistance from the other. 102 C. 474. "Outworker" does not include treasurer taking clerical work home to complete. 105 C. 520. "Personal injury" is a localized abnormal condition of the body directly and contemporaneously caused by accident. 91 C. 162. Erysipelas caused by frost bite due to employment is compensable. 90 C. 131. Also sunstroke from heat of the work. 93 C. 153; *Id.*, 315. Under the act of 1919 the injury need not be located at a definite time and place. 98 C. 652. A weakened condition making him susceptible to disease and injury. *Id.*; 102 C. 10. Weakened resistance is injury only if incapacitating disease results. The act of 1921 broadly interpreted as to resulting diseases. 103 C. 98; *Id.*, 707; 104 C. 718. These decisions seem to be overthrown by the amendment of 1927. "Occupational disease" was not compensable in the original act. 90 C. 349; 91 C. 158. "Arising out of and in the course of his employment". The definition given in the present act overthrows expressions in some of the earlier cases. First defined. 90 C. 120. Causal connection must exist between the employment and the injury. *Id.*, 119; *Id.*, 309; 92 C. 387. Sufficient if employment creates condition from which the injury arose. 93 C. 587; 100 C. 392. This definition developed. 92 C. 276; 93 C. 315; 104 C. 712; 105 C. 517; *Id.*, 698. That an employee does work for his employer not strictly required does not put him out of the "course of his employment". Injuries held compensable received while returning to work after temporary stoppage. 92 C. 84. Resting on the premises waiting for his turn of work. *Id.*, 277. Being transported to work by the employer. *Id.*, 91; 93 C. 85; 103 C. 564; 107 C. 505; 108 C. 630. Driving his own car on employer's business. 98 C. 548. When an injury received on the highway is compensable. 105 C. 518; 107 C. 168. Foreman employed on the highway stepping across the road to speak to a friend. 93 C. 52. Stopping at a company store on the way home. *Id.*, 59. Lightning stroke while park laborer was under a tree for shelter. 94 C. 12. Employer's pistol fired by a curious office boy. *Id.*, 264. Stones thrown at employer's glass which employee was trying to protect. *Id.*, 381. Following usual path over railroad tracks. 95 C. 412. Fall from the scaffold where he worked though due to vertigo. 97 C. 46. Crossing tracks to get food for employer's dog. 98 C. 289. Traveling salesman injured in hotel fire. *Id.*, 758. Injury by an insane fellow workman on the premises. 100 C. 377. Policeman going along the highway to police station. 102 C. 342. Hotel manager driving thief away from the refrigerator. 103 C. 761. Insanity and suicide resulting from close application to library work. 107 C. 60. Compensation refused in the following cases: fighting with a fellow employee. 92 C. 386. Employee, sent by defendant to a doctor, took short cut across railroad tracks and was killed. 96 C. 343. Taking own route home from work though the company paid traveling expenses. *Id.*, 355; 105 C. 518. Injury caused by smoking against orders in toilet. 104 C. 334. Injury from playful push by a visitor. 105 C. 397. Sleeping by permission in employer's barn. *Id.*, 701. Doing work for oneself on employer's machine during the rest hour. 107 C. 517. Washing car sometimes used in employer's business. *Id.*, 646. Scarlet fever contracted while in hospital for treatment of compensable injury. 108 C. 148. Claim to compensation must be based on more than speculation and conjecture. 146 C. 505. When an activity may be an incident of employment. 147 C. 267. "Aggravation of a preexisting disease" may be a personal injury. 90 C. 544. This term defined. 97 C. 552. Apportionment of the award is not made in case of death. 103 C. 705; (but see the words "or death" added by the amendment in 1927). Mere susceptibility is not a preexisting disease and "injury" means compensable injury. *Id.*, 726. Syphilis "lighted up" by fall was compensable. 104 C. 365; (but see the exclusion of syphilis added in 1927). Tuberculosis aggravated by employee doing any work, but not by the particular employment, not compensable. *Id.*, 711. Aliter, when it is directly caused by the employment. *Id.*, 726; 105 C. 656. Action denied when excitement aroused in a corporation manager by the result of a prosecution in court "lighted up" angina pectoris. 108 C. 493. Causal connection between factory conditions and grippe held too uncertain. 106 C. 365. Employer has burden of proof that preexisting disease contributed to the disability. 103 C. 731; 107 C. 66. Preexisting disease due to former employment by defendant is no mitigation. 107 C. 67. Cited. 110 C. 227; 112 C. 462; 114 C. 30; *Id.*, 136; 125 C. 189; 127 C. 395. Minor illegally employed is covered. 131 C. 157. Employee or independent contractor. 121 C. 127; 123 C. 320; 124 C. 433; 126 C. 379. Trade or business and causal defined. 118 C. 367; 119 C. 224; 129 C. 44. Part or process of trade or business, but injury did not occur in, on or about premises under control of respondent. 125 C. 109. Statute does not require that time be fixed by stopwatch or the place by a mathematical point. 119 C. 44. What constitutes occupational disease. 118 C. 29; 128 C. 499. Tuberculosis not an occupational disease. 121 C. 664. Distinction between employee and independent contractor. 124 C. 433. Status of F.E.R.A. employee. 123 C. 504. Status of relief worker. 126 C. 265. Child employed in violation of law entitled to compensation. 111 C. 229. Meaning of "accidental injury". 128 C. 608; 131 C. 572; 132 C. 118; *Id.*, 479. Unusual susceptibility of linotypist. 128 C. 499. Employee killed on property not under control of employer. 130 C. 1; 131 C. 244. Previous condition of employee immaterial. 123 C. 192; 129 C. 532. Injury must arise out of employment and be causally traceable to it. 109 C. 378; *Id.*, 473; 115 C. 446; 116 C. 297; 119 C. 1; *Id.*, 170; *Id.*, 248; *Id.*, 694; 122 C. 343; 123 C. 327; 124 C. 355; 129 C. 240; *Id.*, 669; 130 C. 11; 133 C. 78; *Id.*, 614. When bodily injury arises through weakened resistance, entitled to compensation. 110 C. 248; 129 C. 532. Injury from (pneumonia) weakened resistance does not entitle to compensation. 111 C. 188. Meaning of "through weakened resistance and lowered vitality". 116 C. 186. Litigation neurosis not compensable. *Id.*, 229. Apportionment for aggravation applied to death cases. 114 C. 389; 121 C. 71. Apportionment for aggravation of disease applies only to occupational disease. 130 C. 401. Deviation from employment. 132 C. 606. Domestic away from employer's house. 131 C. 334; *Id.*, 341. Situation in which employee sought gasoline rations for the mutual benefit of employer and employee. 132 C. 563. Transportation provided by employer. 125 C. 238. Construction of "aggravation of preexisting syphilitic disease". 122 C. 353. Where premises were under defendant's control, plaintiff held to be a subagent and employee. 134 C. 462. Plaintiffs injured by horseplay held not compensable. *Id.*, 672. Commissioner's conclusion that claimant was employee of police department sustained. 136 C. 361. An employer may by his dealing with an employee annex to the actual performance of the work, as an incident of the employment, the going to or departure from work. 137 C. 134. Cited. *Id.*, 486. If one employee assaults another to gratify his feeling of anger, the resulting injury does not arise out of the employment. *Id.*, 626. Definitions of independent contractor restated. 138 C. 317. Plaintiff not on payroll, but paid by quantity, who used his own

equipment and occasionally bought supplies for which he was reimbursed, was employee and not independent contractor, since defendant had general control of work. 148 C. 624. An employee seeking workmen's compensation has burden of proving that he sustained an injury, not merely in the course of his employment, but arising out of, that is, caused by, his employment. 150 C. 328. Cited. 154 C. 1, 4. Causal connection between employee's disability and his work must be established for him to be entitled to compensation. Id., 48, 52. Findings of fact by hearing commissioner that claimant was injured while using elevator in premises he was cleaning which he had expressly been forbidden to use would not be disturbed and conclusion claimant was not injured in course of his employment sustained. 155 C. 214. Benefits under workmen's compensation act are payable only to claimants who have been dependents of employee whose injury or death is basis of award. 156 C. 245. "Employer" is one customarily using services of two or more employees and employee who was temporarily sole employee is still to be kept covered under act. Id., 276. Volunteer firemen are not included in definition of employee in this statute. 159 C. 53. Cited. 162 C. 148; 163 C. 221. Cited. 165 C. 338, 340. "Injury", as used in the Workmen's Compensation Act, includes an injury to employee which is causally connected with his employment and is the direct result of repetitive trauma or acts incident to such employment. 168 C. 413. Cited. 175 C. 392. Sections 31-275 through 31-355 cited. 175 C. 424. Cited. 178 C. 371; Id., 664; 179 C. 501; Id., 662; 182 C. 24. Cited. 187 C. 53. Cited. 204 C. 104. Cited. 208 C. 589. Cited. 221 C. 29. Cited. 223 C. 336. Cited. 227 C. 333. Cited. Id., 930. Cited. 229 C. 587. Cited. 231 C. 287. Cited. 241 C. 692. Injury sustained by discharged employee while retrieving personal belongings compensable as injury sustained in the course of employment. 244 C. 502. Cited as Workers Compensation Act, sec. 31-275 et. seq., in accord with prior cases, the determination of whether injury arose out of and in the course of employment is a question of fact for the commissioner. 245 C. 613. Cited as Workers Compensation Act, sec. 31-275 et. seq., the "right to control" test cannot coexist with the "relative nature of work" test; court affirmed use of "right to control" test. Id. Aggravation of preexisting psychiatric condition due to work-related physical injury may be a sufficiently distinct and identifiable injury constituting an impairment arising from a compensable work-related physical injury. 258 C. 137. When read in conjunction with Sec. 31-293a, statute plainly states that emotional distress not arising from physical injury is not compensable through workers' compensation. 265 C. 21. Question of whether injuries resulted from incident that occurred in course of employment is a separate and distinct question from whether injuries arose out of employment. If supported by evidence and not inconsistent with the law, commissioner's inference that injury did or did not arise out of and in the course of employment is conclusive. 267 C. 583.

Cited. 3 CA 16. Cited. 32 CA 595.

When the life expectancy of the decedent is less than the term covered by the award. 2 CS 30. Compensation is allowed only when the preexisting disease is aggravated by the injury; it does not include the situation where the injury is made more serious because of the preexisting disease. 6 CS 256. Plaintiff injured while being transported to place of employment by employer on day before her salary began was within the course of her employment. Id., 288. Heart condition is not necessarily inconsistent with the occurrence of an accident within the concept of the statute. 7 CS 5. One who reported to a municipal station after each snowfall for employment in snow removal work was not an employee under the act until he was hired. 12 CS 313. Cited. 13 CS 417. Enlargement of plaintiff's heart not a "personal injury". 14 CS 131. Cited. 15 CS 324. Distinction drawn between "special hazards" test and "arising out of and in the course of his employment". 20 CS 202. Injury sustained as result of playing basketball at company club held not to have arisen out of and in the course of employment. 24 CS 262.

Former Subsec. (b):

"Employment of casual nature" defined. 90 C. 451; 92 C. 407; 105 C. 594; 107 C. 363. Police duty is not, though on theater assignment. 102 C. 342. Washing windows in defendant's factory is not. 107 C. 192. This exception not to be construed strictly against the employee. Id., 364.

Former Subsec. (c):

Employee of partnership not barred because the son lived in the house of a partner. 91 C. 380.

Cited. 21 CA 610.

Subdiv. (1):

Compensation for aggravation of plaintiff's post-traumatic stress disorder is not limited by apportionment provisions of Subpara. (D). 259 C. 29.

Cited. 41 CA 430. Special policeman appointed pursuant to Sec. 29-18 is not a policeman for purposes of Subpara. (A) if he has limited authority to arrest or to carry weapons, was not issued a state vehicle, was not entitled to travel pay, and lacked training required of police officers. 60 CA 707.

Subdiv. (4):

Cited. 239 C. 676.

Cited. 5 CA 369. Cited. 24 CA 234.

Subdiv. (5):

Cited. 193 C. 59. Cited. 203 C. 34. Cited. 207 C. 420. Cited. 213 C. 54. Cited. 219 C. 674. Subpara. (D): Work in construction of barn on premises of private residence not in excess of twenty-six hours a week is excluded from provisions of workers' compensation act. Id. Cited. 228 C. 401. P.A. 93-228, Sec. 1 (9)(B)(vi) cited. Id.

Cited. 21 CA 610.

Subdiv. (6):

Cited. 207 C. 420. Cited. 213 C. 54. Cited. 239 C. 19.

Cited. 18 CA 614. Cited. 21 CA 610.

Subdiv. (8):

Cited. 196 C. 91.

Cited. 3 CA 370.

Cited. 37 CS 836.

Subdiv. (9):

Subpara. (B)(iii) cited. 225 C. 165. Cited. 226 C. 508. Term “employee” encompasses illegal alien, thus claim for work-related injury by illegal alien was within jurisdictional confines of Workers’ Compensation Act. 244 C. 781. In order to be “regularly employed” pursuant to Subpara. (B)(iv), a person must work more than twenty-six hours per week during majority of the fifty-two weeks preceding date of his or her injury. 265 C. 816.

Cited. 29 CA 249.

Subdiv. (10):

Cited. 226 C. 508. Joint venture between two nonprofit organizations may be an employer under the Workers’ Compensation Act. 252 C. 641.

Subdiv. (11):

Cited. 28 CA 226.

Cited. 38 CS 324.

Subdiv. (12):

Cited. 186 C. 623.

Cited. 25 CA 599. Cited. 27 CA 800.

Cited. 39 CS 408.

Subdiv. (14):

Cited. 214 C. 394. Cited. Id., 552.

Cited. 24 CA 234. Cited. 44 CA 397.

Subdiv. (15):

Cited. 242 C. 570.

Cited. 38 CA 1. Cited. 41 CA 430. Cited. 42 CA 803.

Subdiv. (16):

Subpara. (A): Exposures to two potentially fatal infectious diseases are compensable injuries under the act. 241 C. 692.

Subpara. (A) cited. 242 C. 570. Subpara. (B)(ii): Although plaintiff police officer suffered an occupational disease pursuant to Subdiv. (15), his post-traumatic stress disorder is excluded from coverage under this Subdiv. because it did not arise from a physical injury. 250 C. 65. Legislative intent of subdivision states that mental anguish resulting from sexual assault would be compensable under workers’ compensation. 252 C. 215. Pursuant to Subpara. (A) three types of injuries fall within definition of “personal injury” and are covered by the act: Accidental injuries, repetitive trauma injuries and occupational diseases. Id., 596. When aggravation of a preexisting psychiatric condition is direct consequence of a work-related physical injury, aggravation of the psychiatric condition is, itself, a sufficiently distinct and identifiable injury to constitute “mental or emotional impairment” that “arises from” compensable work-related physical injury under Subpara. (B)(ii). 259 C. 29. Subpara (B): Tort actions for emotional injuries that are not compensable under the act are not barred by exclusivity provisions of the act. Id., 729.

Subpara. (A) cited. 42 CA 803; 45 CA 707.

Subdiv. (19):

Cited. 226 C. 569. Former Sec. 31-306 cited. Id.

Subdiv. (20):

Cited. 237 C. 490.

Secs. 31-275a and 31-275b. District defined; continuation of commissioners in office. Workers’ compensation districts. Sections 31-275a and 31-275b are repealed.

(April, 1964, P.A. 3, S. 3; 1969, P.A. 662, S. 1, 2; 1972, P.A. 190; June, 1972, P.A. 1, S. 7; P.A. 79-376, S. 34, 35; P.A. 84-320, S. 3, 6; P.A. 91-32, S. 2, 41; 91-339, S. 53-55.)

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

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

Sec. 31-276. Workers’ Compensation Commission. Compensation commissioners. Nomination by Governor. Appointment by General Assembly. Terms of office. Removal. Selection of chairman. (a) There shall be a Workers’ Compensation Commission to administer the workers’ compensation system. There shall be sixteen workers’ compensation commissioners. On or before the date of the expiration of the term of

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

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

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

(d) Notwithstanding the provisions of section 4-19, no vacancy in the position of a compensation commissioner shall be filled by the Governor when the General Assembly is not in session unless, prior to such filling, the Governor submits the name of the proposed vacancy appointee to the committee on the judiciary. Within ten days, the committee on the judiciary may, upon the call of either chairman, hold a special meeting for the purpose of approving or disapproving such proposed vacancy appointee by majority vote. Failure of the committee to act on such proposed vacancy appointee within such ten-day period shall be deemed to be an approval.

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

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

History: 1961 act entirely replaced previous provisions; 1964 act revised districts along other than congressional district lines; 1965 act raised number of commissioners from five to seven, consisting of one for each of the six congressional districts and one at-large commissioner; 1969 act raised number of commissioners to eight and revised districts to be those created under Sec. 31-275b rather than congressional districts; 1971 act required commissioners to devote full time to duties of office;

P.A. 80-414 increased number of commissioners to nine, created position of chairman of the board and specified his qualifications and appointment procedure; P.A. 83-353 amended Subsec. (a) to provide that the governor shall "nominate" rather than "appoint" the commissioners, added Subsec. (b) re the procedure for appointment by the general assembly and added Subsec. (c) re the procedure for the nomination and appointment of commissioners to fill vacancies while the general assembly is not in session, deleting prior provision whereby governor was solely responsible for filling vacancies; P.A. 84-320 amended Subsec. (a) to provide for ten commissioners, and to provide that the commissioner from the new eighth district shall be nominated by the governor on or before January 1, 1985; P.A. 84-546 made technical change, referring to "houses" rather than "branches" of the general assembly; P.A. 85-420 amended Subsec. (a) to increase the number of at-large commissioners from one to two; P.A. 87-301 revised Subsec. (a) by eliminating references to specific appointments of commissioners commencing January first and July first and rewording appointment provisions, adding provision re appointment by general assembly as prescribed by law and removal by impeachment; P.A. 88-125 inserted new Subsec. (b) to specify that term of any commissioner on and after October 1, 1988, whose term expires on December thirty-first shall continue to serve until next succeeding March thirty-first; and relettered remaining Subsecs.; P.A. 88-184 amended Subsec. (a) to provide for thirteen commissioners, including four commissioners at large, and to provide that the two commissioners at large shall be nominated by the governor on or before October 1, 1988; P.A. 91-339 amended Subsec. (a) by adding provisions re workers' compensation commission, changing number of commissioners from thirteen to fourteen, deleting provisions re district and at large commissioners and the chairman of the board of compensation commissioners, adding requirement that not less than two commissioners reside in each U.S. congressional district and adding provisions re selection of the chairman of the workers' compensation commission, June Sp. Sess. P.A. 91-12 amended Subsec. (a) by changing the required period that the chairman must serve as a compensation commissioner prior to selection by the governor from three years to two years; P.A. 92-176 amended Subsec. (a) to provide that the commissioner selected to be chairman shall have served as a compensation commissioner for at least one year, rather than two years; P.A. 93-228 amended Subsec. (a) to increase the number of workers' compensation commissioners from fourteen to sixteen and to provide that persons nominated as commissioners shall have been members of the Connecticut bar for at least five years, effective July 1, 1993; P.A. 94-193, effective October 1, 1994, and May 25 Sp. Sess. P.A. 94-1, effective July 1, 1994, both made a technical correction in Subsec. (a) by amending a provision changing the number of workers' compensation commissioners from "fourteen" to "sixteen" which was omitted from P.A. 93-228; P.A. 96-72 amended Subsec. (a) to eliminate the requirement that not less than two commissioners reside in each United States congressional district, effective May 8, 1996.

See Sec. 31-278 re powers and duties of commissioners.

The commissioner is not a court; some of his acts are quasi-judicial and some wholly administrative. 89 C. 148. Appointment of commissioner unaffected by subsequent resignation of governor. 133 C. 687.
Cited. 14 CS 421.

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

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

History: P.A. 79-376 substituted "workers' compensation" for "workmen's compensation".

See Sec. 4-38f for definition of "administrative purposes only".

Sec. 31-277. Salary of compensation commissioners. Longevity payments. (a) Each commissioner shall, during his first year of service as a commissioner, receive an annual salary of six thousand dollars less than the highest step level of a Superior Court judge; during his second year of service as a commissioner, each commissioner shall receive an annual salary of five thousand dollars less than the highest step level of a Superior Court judge; during his third year of service as a commissioner, he shall receive an annual salary of four thousand dollars less than the highest step level of a Superior Court judge; during his fourth year of service as a commissioner, he shall receive an annual salary of three thousand dollars less than the highest step level of a Superior Court judge; during his fifth year of service as a commissioner, he shall receive an annual salary of two thousand dollars less than the highest step level of a Superior Court judge; and during his sixth year of service as a commissioner, he shall receive an annual salary of one thousand dollars less than the highest step level of a Superior Court judge, together with his necessary clerical, office and travel expenses as approved by the Comptroller; and the chairman of the Workers' Compensation Commission shall receive

in addition ten thousand dollars annually. Each commissioner shall devote his entire time to the duties of his office and shall not be otherwise gainfully employed.

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

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

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

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

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

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

History: 1959 act raised commissioners' salary from thirteen thousand five hundred to fifteen thousand dollars; 1961 act entirely replaced previous provisions; 1965 act increased commissioners' salary to seventeen thousand five hundred dollars; 1969 act replaced specific salary with provision calling for salaries "in an amount equal to that paid to a judge of the court of common pleas"; P.A. 76-436 called for salaries "of six thousand dollars less than the highest step level of a superior court judge", effective July 1, 1978; P.A. 79-540 replaced single salary figure with schedule of salaries fixed according to years of service; P.A. 84-399 amended section by adding Subsec. (b) re longevity payments; P.A. 91-32 deleted obsolete references to July 1, 1979, and made technical changes; P.A. 93-379 amended Subsec. (b) to permit credit for longevity purposes for other state service or service as an elected official of the state or any combination of service, effective June 30, 1993; June Sp. Sess. P.A. 00-1 amended Subsec. (a) to increase additional compensation of chairman from one thousand dollars annually to ten thousand dollars annually, effective July 1, 2000.

See Sec. 51-47 re salaries of judges.

Sec. 31-278. Powers and duties of commissioners. Each commissioner shall, for the purposes of this chapter, have power to summon and examine under oath such witnesses, and may direct the production of, and examine or cause to be produced or examined, such books, records, vouchers, memoranda, documents, letters, contracts or other papers in relation to any matter at issue as he may find proper, and shall have the same powers in reference thereto as are vested in magistrates taking depositions and shall have the power to order depositions pursuant to section 52-148. He shall have power to certify to official acts and shall have all powers necessary to enable him to perform the duties imposed upon him by the provisions of this chapter. Each commissioner shall hear all claims and questions arising under this chapter in the district to which the commissioner is assigned and all such claims shall be filed in the district in which the claim arises, provided, if it is uncertain in which district a claim arises, or if a claim arises out of several injuries or occupational diseases which occurred in one or more districts, the commissioner to whom the first request for hearing is made shall hear and determine such

claim to the same extent as if it arose solely within his own district. If a commissioner is disqualified or temporarily incapacitated from hearing any matter, or if the parties shall so request and the chairman of the Workers' Compensation Commission finds that it will facilitate a speedier disposition of the claim, he shall designate some other commissioner to hear and decide such matter. The Superior Court, on application of a commissioner or the chairman or the Attorney General, may enforce, by appropriate decree or process, any provision of this chapter or any proper order of a commissioner or the chairman rendered pursuant to any such provision. Any compensation commissioner, after ceasing to hold office as such compensation commissioner, may settle and dispose of all matters relating to appealed cases, including correcting findings and certifying records, as well as any other unfinished matters pertaining to causes theretofore tried by him, to the same extent as if he were still such compensation commissioner.

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

History: 1961 act entirely replaced previous provisions; 1965 act added exceptions to residency requirement, established sixth district office in New Britain and revised list of towns which serve as hearing locations; 1969 act deleted references to "congressional" districts, established seventh district office in Stamford and revised list of towns which serve as hearing locations; 1971 act deleted exceptions to residency requirement which had existed for fourth district commissioner and which had stated that at-large commissioner must reside in a town of the state, added proviso re jurisdiction in cases where there is uncertainty as to district in which claim arises, allowed designation of other than usual commissioner to hear claims if parties request it and commissioner finds it will aid speedy disposition; P.A. 73-152 revised list of towns which serve as hearing locations; P.A. 76-80 empowered commissioners "to order depositions pursuant to section 52-148"; P.A. 80-414 added provision re board chairman's maintenance of an office; P.A. 81-472 made technical changes; P.A. 82-289 referred to Norwich as a town rather than as a city; P.A. 84-320 provided that the commissioner for the eighth district shall maintain an office in Middletown, and that hearings in the district shall be held in Middletown; P.A. 91-339 deleted provisions re commissioners residing in assigned districts and requirements re office locations and changed certain references to "commission" to read "chairman", effective July 1, 1992.

See Sec. 31-276 re compensation commissioners' nomination, appointment, terms of office, removal, etc.

Commissioner has jurisdiction only in his own district unless local commissioner is "disqualified or incapacitated"; cannot act by consent of parties. 99 C. 236. Powers of commissioners are purely statutory. 108 C. 33. Contract made in this state, to be performed in another state, governed by our law. 111 C. 696. No jurisdiction to determine rights between employer and two insurance companies. 113 C. 504; 120 C. 503. When acting commissioner is disqualified, commissioner in whose district accident occurred has jurisdiction to name commissioner to act further. 118 C. 29. Cited. 129 C. 594; 132 C. 172; 133 C. 668. Cited. 218 C. 46. Cited. 232 C. 758. Section does not give commissioner subject matter jurisdiction over insurance coverage issues that require application of laws other than provisions of the Workers' Compensation Act. 248 C. 754. Because of the use of "may" instead of "shall", commissioners are permitted, not required, to continue to hear cases subsequent to their retirement. 251 C. 153.

Cited. 16 CA 138. Cited. 21 CA 9; judgment reversed, see 218 C. 46. Cited. 22 CA 539; judgment reversed, see 219 C. 439. Cited. 24 CA 234. Cited. 29 CA 249. Cited. 31 CA 819. Cited. 34 CA 673. Cited. 36 CA 150. P.A. 91-339 cited. Id.

Former workmen's compensation commissioner who heard the case originally had authority to hear it upon remand after appeal. 14 CS 302. Cited. 39 CS 321.

Sec. 31-279. Notice of availability of compensation. Uniform system for determination of degree of physical impairment. Employer-sponsored plan for medical care and treatment. Indemnification of medical advisory panel members. (a) The chairman of the Workers' Compensation Commission shall adopt regulations, in accordance with the provisions of chapter 54, specifying the minimum information to be contained in a notice of the availability of compensation which shall be posted in the workplace by each employer subject to the provisions of this chapter pursuant to subsection (f) of section 31-284.

(b) The chairman of the Workers' Compensation Commission shall, not later than July 1, 1991, adopt regulations, in accordance with chapter 54, to create a uniform sys-

tem to be used by medical professionals in determining the degree of physical impairment of persons receiving compensation under this chapter.

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

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

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

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

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

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

(2) The election by an employee covered by a plan established under this subsection to obtain medical care and treatment from a provider of medical services who is not listed in the plan shall suspend the employee's right to compensation, subject to the order of the commissioner.

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

(e) Any person who serves as a member of the medical advisory panel, appointed by the chairman of the Workers' Compensation Commission pursuant to subsection (d) of this section, shall be deemed to be a state officer or employee for purposes of indemnification and defense under section 5-141d.

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

History: 1961 act entirely replaced previous provisions; 1967 act added provisions re commissioners' duties to maintain approved list of practicing physicians, surgeons and dentists, etc.; 1969 act added podiatrists to approved list; P.A. 90-116 added provision concerning regulations creating a uniform system for determination of the degree of physical impairment; P.A. 91-32 added provisions re notice of availability of compensation and made technical changes; P.A. 91-339 deleted provisions re adoption of rules by the commissioners, designated provisions re notice of availability of compensation as Subsec. (a) and authorized the chairman to adopt regulations governing, deleted provisions re list of physicians, surgeons, podiatrists and dentists, designated provisions re uniform system for determination of degree of physical impairment as Subsec. (b) and authorized the chairman to adopt regulations governing, deleted provisions re annual report of commissioner to the governor and added Subsecs. (c) to (e), inclusive, re employer-sponsored plans for medical care and treatment; P.A. 93-228 amended Subsec. (c) to delete requirement that employer-sponsored plans for medical care and treatment by employers with fifty or more employees include designation of labor-management safety committee and to prohibit employees from receiving compensation for treatment outside such plans, deleting provisions which had specified conditions permitting care and treatment by outside providers and deleted Subsec. (e) re compensation for treatment by practitioners not listed in employer-sponsored plans, effective July 1, 1993; P.A. 95-240 added Subsec. (e) re indemnification of members of the medical advisory panel; P.A. 01-85 amended Subsec. (c) by dividing existing provisions into Subdivs. (1)(A) and (1)(C) to (E) and Subdiv. (2), adding Subdiv. (1)(B) re direct payments to pharmacies and making technical changes, effective January 1, 2002.

Cited. 219 C. 439.

Cited. 29 CA 249.

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

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

History: P.A. 79-376 replaced "workmen's compensation" with "workers' compensation"; P.A. 92-31 substituted "chairman of workers' compensation commission" for "workers' compensation commissioners".

Sec. 31-279b. Notice of availability of coverage under act. Content. Posting. Section 31-279b is repealed.

(P.A. 75-223; P.A. 79-376, S. 38; P.A. 91-32, S. 40, 41.)

Sec. 31-280. Chairman of the Workers' Compensation Commission. Powers and duties. Budget. Report of expenses. (a) There shall continue to be a chairman of the Workers' Compensation Commission selected by the Governor as provided in section 31-276. The chairman may not hear any matter arising under this chapter, except appeals brought before the Compensation Review Board and except as provided in subdivision (14) of subsection (b) of this section. The chairman shall prepare the forms used by the commission, shall have custody of the insurance coverage cards, shall prepare and keep a list of self-insurers, shall prepare the annual report to the Governor and shall publish, when necessary, bulletins showing the changes in the compensation law, with annotations to the Connecticut cases. The chairman shall be provided with sufficient staff to assist him in the performance of his duties. The chairman may, within available appropriations, appoint acting compensation commissioners on a per diem basis from among

former workers' compensation commissioners or qualified members of the bar of this state. Any acting compensation commissioner appointed under this subsection shall be paid on a per diem basis in an amount to be determined by the Commissioner of Administrative Services, subject to the provisions of section 4-40, and shall have all the powers and duties of compensation commissioners. The Workers' Compensation Commission shall not be construed to be a commission or board subject to the provisions of section 4-9a.

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

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

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

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

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

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

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

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

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

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

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

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

(B) In consultation with employers, their insurance carriers, union representatives, physicians and third-party reimbursement organizations establish, not later than October 1, 1993, and publish annually thereafter, a fee schedule setting the fees payable by an employer or its insurance carrier for services rendered under this chapter by an approved physician, surgeon, podiatrist, optometrist or dentist, provided the fee schedule shall not apply to services rendered to a claimant who is participating in an employer's managed care plan pursuant to section 31-279. The fee schedule shall limit the annual growth in total medical fees to the annual percentage increase in the consumer price index for all urban workers. Payment of the established fees by the employer or its insurance carrier shall constitute payment in full to the practitioner, and the practitioner may not recover any additional amount from the claimant to whom services have been rendered;

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

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

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

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

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

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

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

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

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

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

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

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

(23) Develop guidelines for expediting disputed cases;

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

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

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

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

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

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

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

(d) The chairman and the Comptroller, as soon as practicable after August first in each year, shall ascertain the total amount of expenses incurred by the commission, including, in addition to the direct cost of personnel services, the cost of maintenance and operation, rentals for space occupied in state leased offices and all other direct and indirect costs, incurred by the commission during the preceding fiscal year in connection with the administration of the Workers' Compensation Act and the total noncontributory payments required to be made to the Treasurer towards commissioners' retirement salaries as provided in sections 51-49, 51-50, 51-50a and 51-50b. An itemized statement of the expenses as so ascertained shall be available for public inspection in the office of the chairman of the Workers' Compensation Commission for thirty days after notice to all insurance carriers, and to all employers permitted to pay compensation directly affected thereby.

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

History: 1961 act entirely replaced previous provisions; 1969 act deleted requirement that chairman publish a digest of compensation decisions and added Subsecs. (b) and (c) re budget and record of expenditures; 1971 acts substituted "disposition" of business for "dispensation" of business in Subsec. (a) and required inclusion of "noncontributory payments required to be made to the treasurer towards commissioners' retirement salaries" as part of expenses incurred under Subsec. (c); P.A. 77-614 transferred power to appoint at-large commissioner from personnel policy board to commissioner of administrative services "subject to the provisions of section 4-40"; P.A. 78-303 specified that commission is not a commission or board subject to Sec. 4-9a in Subsec. (a); P.A. 79-376 replaced "workmen's compensation" with "workers' compensation"; P.A. 79-540 specified that chairman of board of compensation commissioners is also chairman of compensation review division in Subsec. (a); P.A. 80-414 clarified duties of chairman as administrative, granting him powers to control hearing calendars to expedite processing of claims and power to hear matters and required that chairman be provided with sufficient staff to perform his duties in Subsec. (a); P.A. 90-116 amended Subsec. (a) to allow for the appointment of temporary commissioners at the discretion of any commissioner within available appropriations; P.A. 91-339 changed "board of compensation commissioners" to "workers' compensation commission", deleted provisions re chairman of the compensation review division, added provisions re hearing of matters by the chairman, and deleted provisions re administrative nature of the chairman's duties, commissioners at large and the chairman's control over the hearing calendars of the commissioners in Subsec. (a), added new Subsec. (b) re powers and duties of the chairman of the workers' compensation commission, redesignated existing Subsec. (b) as Subsec. (c) and required estimated budget to include all direct and indirect costs incurred by the commission, redesignated existing Subsec. (c) as Subsec. (d) and made technical changes; P.A. 93-228 amended Subsec. (b) to apply provisions to optometrists, to require chairman to establish medical fee schedule, attorney fee guidelines, commissioner training program, medical billing guidelines, practice protocols and utilization review procedures, to evaluate commissioners' performance and, when necessary, to preside over informal workers' compensation hearings, effective July 1, 1993; P.A. 97-205 amended Subdiv. (1) of Subsec. (b) to permit the chairman to reassign compensation commissioners.

See Sec. 31-277 re salaries of compensation commissioners.

Cited. 232 C. 758.

Cited. 36 CA 150. Section provides a broad grant of power to chairman to adopt regulations to carry out his responsibilities under the act. 55 CA 129.

Subsec. (b):

Commissioner is authorized to make a determination on case which he has presided over even after he has been transferred to another district. 47 CA 391.

Sec. 31-280a. Advisory Board of the Workers' Compensation Commission. (a) There shall be an Advisory Board of the Workers' Compensation Commission to advise the chairman on matters concerning policy for and the operation of the commission. The advisory board shall consist of eight members, who shall be appointed by the Governor, with the advice and consent of the General Assembly. Four of such members shall represent employees and four shall represent employers. One of such members representing employees shall be an individual who has suffered an extensive disability arising out of and in the course of his employment. One of such members representing employers shall be a representative of a major general hospital in the state. On or before January 1, 1992, the Governor shall appoint, and the General Assembly shall confirm, such members of the advisory board as follows: Two shall serve a term of four years from said date, one of whom shall represent employees and one of whom shall represent employers; two shall serve a term of three years from said date, one of whom shall represent employees and one of whom shall represent employers; two shall serve a term of two years from said date, one of whom shall represent employees and one of whom shall represent employers; and two shall serve a term of one year from said date, one of whom shall represent employees and one of whom shall represent employers. Thereafter such members shall be appointed for a term of four years from January first in the year of their appointment. Any vacancy on the advisory board shall be filled for the remainder of the term in the same manner as the original appointment. The chairman of the Workers' Compensation Commission shall serve as an ex-officio member of the advisory board without the power to vote.

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

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

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

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

Sec. 31-280b. Compensation Review Board. (a) There shall be a Compensation Review Board within the Workers' Compensation Commission. The chairman of the Workers' Compensation Commission shall serve as chief of the Compensation Review

Board and shall have responsibility for the operation of the board. On or before January 1, 1992, the chairman shall appoint a chief clerk of the Compensation Review Board under the provisions of chapter 67 who shall be responsible to the chairman for the efficient operation of the board.

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

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

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

Cited. 38 CA 637.

Subsec. (b):

Cited. 231 C. 287.

Sec. 31-281. Designation of commissioner to act in another district. Section 31-281 is repealed.

(1949 Rev., S. 7439; 1958 Rev., S. 31-145; 1961, P.A. 491, S. 7; P.A. 91-339, S. 53, 55.)

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

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

History: 1961 act entirely replaced previous provisions.

Sec. 31-283. Annual pension upon retirement of commissioner. Any compensation commissioner, in the state service as such commissioner twenty or more years in the aggregate, who leaves such service because of failure of reappointment, or because of abolition of his position, shall, during the remainder of his life, receive an annual pension payable from the General Fund equal to fifty per cent of his average annual salary for the five years next preceding his retirement. The compensation commissioners may continue to contribute to the State Employees Retirement Fund and shall be entitled to general retirement rights under chapter 66. The acceptance of the pension herein provided for shall be in lieu of all benefits under the State Employees Retirement Act, and any commissioner accepting a pension under this section shall not be entitled to the return of any payments made by him to the State Employees Retirement Fund.

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

History: 1961 act entirely replaced previous provisions.

Sec. 31-283a. Rehabilitation programs for employees suffering compensable injuries. (a) The Workers' Compensation Commission shall provide rehabilitation programs for employees suffering compensable injuries within the provisions of this chapter, which injuries disabled them from performing their customary or most recent work. The chairman shall establish rehabilitation programs which shall best suit the needs of injured employees and shall make the programs available in convenient locations throughout the state. After consultation with the Labor Commissioner, the chairman may establish fees for the programs, so as to provide the most effective rehabilitation programs at a minimum rate. In order to carry out the provisions of this section, the chairman of the Workers' Compensation Commission shall adopt regulations, in accordance with the provisions of chapter 54 and, subject to the provisions of chapter 67, provide for the employment of necessary assistants.

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

(1967, P.A. 569, S. 1; P.A. 79-376, S. 40; P.A. 85-133, S. 1; P.A. 91-32, S. 4, 41; 91-339, S. 8, 55; P.A. 95-265, S. 1, 7; P.A. 96-216, S. 1, 5.)

History: P.A. 79-376 replaced "workmen's compensation" with "workers' compensation"; P.A. 85-133 required that the commission adopt regulations on or before October 1, 1986, concerning the operations of the division of workers' rehabilitation; P.A. 91-32 designated existing section as Subsec. (a), made technical changes and added Subsecs. (b) and (c), re method of financing cost of rehabilitation division and re director's powers; P.A. 91-339 amended Subsec. (a) by requiring that the director be appointed by the chairman of the workers' compensation commission, that the chairman approve the establishment of fees and that the director report to the chairman, and by authorizing the chairman to adopt regulations, deleted Subsec. (b), redesignated Subsec. (c) as Subsec. (b) and made technical changes; P.A. 95-265 amended Subsec. (a) by eliminating the Division of Workers Rehabilitation and the full-time salaried director, transferring to Workers Compensation Commission chairman the authority to establish rehabilitation programs, and to cap funds appropriated for rehabilitation program to no more than five hundred fifty thousand dollars and made technical corrections in Subsec. (b), effective July 1, 1995; P.A. 96-216 amended Subsec. (a) to make a technical correction concerning approval of the chairman before establishing fees and removed the limitation on the amount of funds used as grants to implement the section, effective June 4, 1996.

Cited. 223 C. 376.

Secs. 31-283b and 31-283c. Financing of division and programs. Agreements with other state or federal agencies. Sections 31-283b and 31-283c are repealed.

(1967, P.A. 569, S. 2, 3; 1971, P.A. 335; 1972, P.A. 294, S. 33; P.A. 77-119, S. 2; P.A. 79-376, S. 41; P.A. 81-469, S. 4, 8; P.A. 85-189, S. 2; P.A. 91-32, S. 40, 41; 91-339, S. 52, 55.)

Sec. 31-283d. Adjustment of salary of certain retired commissioners. On July 1, 1971, the retirement salary of each person retired prior to July 1, 1965, under the provisions of section 31-283 or any predecessor statute shall be increased in the amount of that percentage of the monthly retirement salary being paid to him on June 30, 1967, which was provided under section 5-162b for members of the state employees retirement system who retired in the same year as such person. On July 1, 1972, and annually thereafter, the retirement salary of each such person shall be adjusted to reflect increases or decreases in the Consumer Price Index in the same manner and to the same extent that the retirement salary of persons retired under chapter 66 is adjusted under section 5-162c.

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

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

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

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

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

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

History: P.A. 91-339 amended Subsec. (a) by adding provisions re full-time director and deleted Subsecs. (c) and (d) which had required formation of plan for efficient use of statistical division in compiling information and had established an advisory panel.

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

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

History: P.A. 82-94, S. 1, effective July 1, 1983; P.A. 90-116 added the provision of training and information for medical professionals in workers' compensation among the division's responsibilities; P.A. 91-32 designated existing section as Subsec. (a), made technical changes and added Subsec. (b) re method of financing costs of division of worker education; P.A. 91-339 added requirement that the director report to the chairman of the workers' compensation commission, deleted Subsec. (b) re method of financing division operating expenses and programs and made technical changes; P.A. 95-265 eliminated the Division of Worker Education and the full-time salaried director, effective July 1, 1995.

Sec. 31-283h. Financing of Division of Worker Education. Section 31-283h is repealed.

(P.A. 82-94, S. 2, 3; P.A. 85-189, S. 3; P.A. 91-32, S. 40, 41; 91-339, S. 52, 55.)

II EMPLOYERS' LIABILITY

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

(b) Each employer who does not furnish to the chairman of the Workers' Compensation Commission satisfactory proof of his solvency and financial ability to pay directly to injured employees or other beneficiaries compensation provided by this chapter shall insure his full liability under this chapter, other than his liability for assessments pursuant to sections 31-345 and 31-354 in one of the following ways: (1) By filing with the Insurance Commissioner in form acceptable to him security guaranteeing the performance of the obligations of this chapter by the employer; or (2) by insuring his full liability under this part, exclusive of any liability resulting from the terms of section 31-284b, in any stock or mutual companies or associations that are or may be authorized to take such risks in this state; or (3) by any combination of the methods provided in subdivisions (1) and (2) of this subsection as he may choose, subject to the approval of the Insurance Commissioner. If the employer fails to comply with the requirements of this subsection, an employee may bring an action against such employer for damages on account of personal injury sustained by such employee arising out of and in the course of his employment or on account of death resulting from personal injury so sustained, except that there shall be no liability under this section to an individual on the part of the employer if such individual held himself out to the employer as an independent contractor and the employer, in good faith, relied on that representation as well as other indicia of such status and classified such individual as an independent contractor. In case of an alleged noncompliance with the provisions of this subsection, a certificate of noncompliance under oath, by the chairman of the Workers' Compensation Commission, shall constitute prima facie evidence of noncompliance.

(c) Each employer who does not furnish to the chairman of the Workers' Compensation Commission satisfactory proof of his solvency and financial ability to pay directly to the State Treasurer the assessments required in sections 31-345 and 31-354 shall insure his full liability for the assessments in one of the following ways: (1) By filing with the Insurance Commissioner in form acceptable to him security guaranteeing the pay-

ment of the assessments by the employer; (2) by insuring his full liability for the assessments in any stock or mutual companies or associations that are or may be authorized to take such risks in this state; or (3) by any combination of the methods provided in subdivisions (1) and (2) of this subsection as he may choose, subject to the approval of the Insurance Commissioner. The payment of the assessments required under sections 31-345 and 31-354 is a condition of doing business in this state and failure to pay the assessments, when due, shall result in the denial of the privilege of doing business in this state or to self-insure under subsections (b) and (c) of this section. If the liability for the assessments is insured, the insurance shall be by endorsement to a policy meeting all of the requirements of the Insurance Commissioner, or by a separate policy insuring the liability for the assessments, and otherwise meeting all of the requirements of the Insurance Commissioner. In the case of any employer who files acceptable security guaranteeing the liability for the assessments, failure to pay the assessments, when due, shall result in the denial of the privilege to self-insure under subsections (b) and (c) of this section.

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

(e) Whenever an employer fails to comply with the requirements of subsection (b) of this section, the Attorney General may bring a civil action in the superior court for the judicial district of Hartford to enjoin the employer, until such time as he fully complies with such requirements, from entering into any contracts of employment as a result of which he will employ additional employees.

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

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

History: 1959 act increased fine from one hundred to two hundred fifty dollars, required that fines be paid over to second injury and assurance fund or its successor and replaced references to specific sections, parts, etc. with references to chapter; 1961 act entirely replaced previous provisions; 1967 act added proviso protecting employee's right to secure additional benefits from employer in Subsec. (a); P.A. 77-614 placed insurance commissioner within the department of business regulation and made insurance department a division within that same department, effective January 1, 1979; P.A. 80-482 reinstated insurance division as an independent department with commissioner as its head following abolition of department of business regulation; P.A. 82-398 excluded liability resulting from terms of Sec. 31-284b in Subsec. (b)(2); P.A. 85-184 amended Subsec. (b) to require that proof of solvency be filed by employers with the board of compensation commissioners, rather than with an individual commissioner; P.A. 85-189 added Subsec. (c), which establishes the liability of employers for the assessments required for the various funds under workers' compensation, and permits the purchasing of insurance for such liabilities; P.A. 85-349 added Subsec. (d), which prohibits employers from self-insuring their workers' compensation liability for ten years if payment from the second injury fund has been required; P.A. 86-165 added Subsec. (e), empowering the attorney

general to bring a civil action to enjoin any employer who doesn't comply with the issuance requirements of the section from entering into new employment contracts; P.A. 86-403 made technical change in Subsec. (c); P.A. 88-230 replaced "judicial district of Hartford-New Britain" with "judicial district of Hartford", effective September 1, 1991; P.A. 90-98 changed the effective date of P.A. 88-230 from September 1, 1991, to September 1, 1993; P.A. 91-32 made technical changes and added Subsec. (f) re notice of the availability of compensation; P.A. 91-339 changed "board of compensation commissioners" to "chairman of the workers' compensation commission" and made technical changes; P.A. 93-142 changed the effective date of P.A. 88-230 from September 1, 1993, to September 1, 1996, effective June 14, 1993; P.A. 95-220 changed the effective date of P.A. 88-230 from September 1, 1996, to September 1, 1998, effective July 1, 1995; P.A. 96-65 amended Subsec. (a) to exempt employers who comply with the requirements of Subsec. (b) from liability and amended Subsec. (b) to allow an employee to bring an action against an employer who fails to comply with the subsection, replacing provision imposing one-thousand-dollar fine; P.A. 96-216 amended Subsec. (b) to change the penalty for an employer from a fine to the penalties in Subsecs. (c) and (d) of Sec. 31-288, effective June 4, 1996, but failed to take effect, P.A. 96-65 having deleted the penalty provision in its entirety.

Annotations to former statutes:

Former statute which applied to employers of five or more employees. "Serious and willful misconduct" defined. 98 C. 597. Does not include failure to take shelter during a blast; 93 C. 60; nor trying to jump on a moving truck; *Id.*, 589; nor going on a scaffold though subject to vertigo; 97 C. 55; nor driving auto 35 to 40 miles an hour; 98 C. 548; nor disobedience of safety rules by an ignorant woman. *Id.*, 600. Cited. 112 C. 462; 114 C. 130; 116 C. 96; 125 C. 297; 126 C. 275; 128 C. 611; 129 C. 534; 130 C. 259; 131 C. 157; *Id.*, 246; 133 C. 308; *Id.*, 644. The claimant will have sustained the burden of proof of five or more employees if it does not appear that the condition exists upon which exemption for less than five rests. 125 C. 22. Number employed relates to group; not number during period. 117 C. 496. When arises out of and in the course of employment. 109 C. 178; 122 C. 343; 127 C. 248; *Id.*, 528; 132 C. 563; 133 C. 78. When injured after return to way necessary to go, even if there had been a prior departure, entitled to compensation. 109 C. 378. When horseplay considered to arise out of employment. *Id.*, 473. What constitutes serious and willful misconduct. 124 C. 409. Burning while washing overalls of fellow employee considered to arise out of the course of employment. 127 C. 248. Going to picnic, while being paid, injury arises out of employment. 110 C. 384. Drowning on route chosen by employee. 114 C. 519. Store manager killed by robbers while mailing employer's report on way home. 115 C. 665. Permitted smoking in overtime. 112 C. 635; 132 C. 279. Employer contracts to furnish transportation; injury occurring on way to place of employment arose out of employment. 125 C. 238. Arises out of employment when using own car on employer's business. 118 C. 295; 132 C. 388. Injury on afternoon off not compensable. 128 C. 488. Arises out of when traveling salesman is injured while on highway. 111 C. 532. When does not arise out of employment. *Id.*, 365; *Id.*, 655. When injured on highway does not arise out of employment unless it arises in course of it. 123 C. 327. Accident while crossing railroad adjacent to employer's plant not always compensable. 122 C. 129. Arose in course of, but did not arise out of. 130 C. 8. May arise before work begins or after it ceases. 125 C. 238. Sunstroke is personal injury. *Id.*, 380. Heat exhaustion must be special hazard. 113 C. 721. Cerebral thrombosis not chargeable to employment. 123 C. 327. Coronary occlusion not caused by employment. 127 C. 717. Two back injuries; compensated for first; returned to light work at full wages; injured again in employ of another; second employer liable. 123 C. 188. Burden of proof on claimant. 130 C. 1. Willful misconduct. 118 C. 312. Walking beside truck as it proceeds up mountain. *Id.* Worker in federal relief program not employee. 123 C. 504. Apportionment for aggravation not applicable to death cases. 114 C. 389. Burden on respondent to show fact that he is only liable for aggravation. *Id.* Finding that head injury causing death arose out of employment sustained. 139 C. 215. Cited. 141 C. 539; 143 C. 77.

Minor employed in violation of law is nonetheless an employee and as such is denied the right to obtain damages from his employer; he may recover under the workmen's compensation act. 12 CS 304. Effect of intoxication of employee discussed. 17 CS 246.

(1958 Rev., S. 31-148.) General consideration; when within act. 109 C. 178. Cited. 111 C. 236. Injured while traveling on duty. 123 C. 327.

(1958 Rev., S. 31-149.) Cited. 111 C. 236. Injured compensation claimant may sue fellow employee responsible for injuries. 115 C. 117. When one is not "casual". 122 C. 185. Exception of employer "having regularly less than five employees" construed.

(1949 Rev., S. 7418.) 125 C. 22.

(1958 Rev., S. 31-150.) Proper method of pleading, in a civil action for damages, the fact that the plaintiff is covered by the workmen's compensation act and therefore cannot sue at common law. 21 CS 240. This section is not a denial of jurisdiction in the superior court, but is a destruction of an otherwise existent common-law right of action. *Id.*

(1958 Rev., S. 31-180.) Cited. 112 C. 468, 580; 113 C. 516; 116 C. 221; 122 C. 192; 125 C. 259.

(1958 Rev., S. 31-189.) In the original act an employer of less than five was under Part B. By failing to comply with Sec. 31-180 he exposed himself to suit at law, but it did not take away from employee his right to claim compensation. 89 C. 168. Cited. 112 C. 468; 122 C. 192.

Annotations to present section:

An employee seeking workmen's compensation has burden of proving that he sustained an injury, not merely in the course of his employment, but arising out of, that is, caused by his employment. 150 C. 328. Burden of proving injury sustained in course of employment on claimant. 151 C. 430. Cited. 153 C. 410; 156 C. 280, 281. Persons employed by board of education deemed town employees. 164 C. 65. Summary judgment for defendant employer sustained where plaintiff employee, injured while parking his car in the employees parking lot by a fellow employee driving the employer's truck, had claimed and been paid benefits pursuant to Workmen's Compensation Act. 167 C. 621. Cited. 169 C. 646. Cited. 175 C. 174. To be compensable, injury must, *inter alia*, occur while employee is reasonably fulfilling duties of employment or engaged in

activity incidental to it. Activity is incidental if regularly engaged in on employer's premises within period of employment, with employer's approval and acquiescence. 176 C. 547. Cited. 178 C. 371; 179 C. 662. Cited. 183 C. 508. Cited. 185 C. 616. Cited. 189 C. 671; Id., 701. Court declined to extend an exception to the statute to include injuries to employees resulting from "intentional" or "willful" or "reckless" violation by employees of safety standards established pursuant to federal and state laws such as OSHA. 196 C. 91. Cited. 203 C. 34. Cited. 204 C. 104. Cited. 206 C. 495. Cited. 212 C. 138. Cited. Id., 427. Cited. Id., 814. Cited. 219 C. 439. Cited. 221 C. 465. Cited. 223 C. 336. Cited. 229 C. 99. Cited. 237 C. 1. Cited. 238 C. 285. Cited. 242 C. 255. Maximum \$10,000 penalty imposed on first-time offender who failed to obtain workers' compensation insurance coverage for single employee within first two weeks of employee's engagement deemed excessive. 244 C. 781. Purpose. 245 C. 66.

Cited. 3 CA 16. Cited. Id., 547. Cited 5 CA 193. By granting immunity to employees from loss of consortium suits statute does not violate due process clause of federal or state constitutions. Id., 369. Cited. 7 CA 296. Cited. 10 CA 618. Cited. 15 CA 615. Cited. 16 CA 660. Bars receipt of uninsured motorist's benefits by plaintiff in receipt of workers' compensation benefits from same circumstances. 19 CA 169. Cited. 24 CA 739. Cited. 25 CA 492; judgment reversed, see 222 C. 744. Does not bar employee in receipt of compensation benefits from also obtaining uninsured or underinsured motorist benefits reduced by compensation benefits paid or payable. Id., 651; judgment reversed, see 222 C. 769. Cited. 27 CA 800. Cited. 30 CA 630. Cited. 34 CA 521. Cited. 44 CA 1. Cited. 46 CA 346.

Cited. 27 CS 280. Action in negligence, against insurer of employer who has paid compensation to plaintiff employee for failure of insurer to inspect dangerous machinery in shop, is precluded by merger of identities of employer and insurer and policy of workmen's compensation acts. 28 CS 1. Cited. 30 CS 126. An employer cannot be sued as a joint tortfeasor by a third party whom his employee is suing for negligence, absent a separate contractual relation with third party. 31 CS 322. The Workmen's Compensation Act is not a bar to indemnity where such a right can be predicated on some legal relationship between the third party and employer giving rise to a duty on the part of the employer to the third party which is either contractually or tortiously breached. 32 CS 96. Cited. 38 CS 359; Id., 607. Cited. 39 CS 408. Cited. 42 CS 168.

Subsec. (a):

Cited. 176 C. 320. Cited. 179 C. 215. Personal injuries are compensable under workers' compensation when incurred while walking from employer-furnished transportation to employer-furnished lodging. Id., 501. Cited. 189 C. 550. Cited. 196 C. 529. Did not bar plaintiff administrator's wrongful death action where minor illegally hired in violation of public policy. 203 C. 34. To the extent inconsistent overruled 131 C. 157. Id. Cited. Id., 324. Cited. 205 C. 219. Cited. 208 C. 589. Cited. 209 C. 59. Cited. 218 C. 531. Cited. 220 C. 721. Cited. 221 C. 356. Construing uninsured motorist coverage as "exception" to workers' compensation act is irreconcilable with language of section. Judgment of appellate court in *Bouley v. Norwich*, 25 CA 492 reversed. 222 C. 744. Section bars work-related claim for uninsured motorist benefits under insurance policy procured by employer including employer's personal automobile liability insurance. Judgment of appellate court in *CNA Ins. Co. v. Colman*, 25 CA 651 reversed. Id., 769. Cited. Id., 775. Cited 223 C. 917. Cited. 226 C. 282. Cited. Id., 404. Cited. 227 C. 333. Cited. 234 C. 51. Cited. 235 C. 790. Employee not barred from recovering uninsured motorist coverage benefits against employer's insurer in regard to accident occurring prior to effective date of P.A. 93-297. 238 C. 285. P.A. 93-297 cited. Id. Cited. 240 C. 694. Limitation on remedies under tort law is appropriate trade-off for benefits provided by workers' compensation. 252 C. 215. Tort actions for emotional injuries that are not compensable under the act are not barred by exclusivity provisions of the act. 259 C. 729.

Cited. 2 CA 363. Cited. 3 CA 40. Cited. 6 CA 60. Cited. 28 CA 660. Cited. 32 CA 16. Cited. 45 CA 324. Cited. 46 CA 699. Employee is barred from bringing negligence claim against employer. 52 CA 1. Court applied standard of "substantial causative factor" to the affirmative defense of willful and serious misconduct, declining to apply a standard of "sole proximate cause". 56 CA 215.

Not a bar to an action for indemnification by a bailee against an employer where the action is based on breach of a warranty of fitness under the bailment contract. 32 CS 210. Cited. Id., 213. Breach of an independent duty is sufficient to overcome the defense based on the Workmen's Compensation Act. Id., 214. In absence of special relationship, workmen's compensation is the exclusive remedy against an employer. 35 CS 268. Cited. 38 CS 324. Cited 39 CS 250.

Sec. 31-284a. State contracting with private insurance carrier. Duties and powers of Commissioner of Administrative Services. (a) Notwithstanding the provisions of sections 4a-19 and 4a-20 to the contrary, the Commissioner of Administrative Services shall solicit proposals from any management firm engaged in the business of administering workers' compensation claims, or from any authorized mutual insurance company or stock company or subsidiary thereof writing workers' compensation or employer's liability insurance in this state, for the purposes of administering the workers' compensation claims filed against the state, or of insuring the state's full liability under workers' compensation and administering such claims. The commissioner may, at said commissioner's discretion, reject any or all of such proposals if they are deemed to be inadequate to effectively serve the needs of the state concerning workers' compensation.

(b) The Commissioner of Administrative Services shall adopt regulations, in accordance with the provisions of chapter 54, which establish the fees payable by this state for its employees under the provisions of this chapter, based on the medical procedure, combination of procedures or diagnosis of the patient, provided the fee schedule shall not apply to services rendered to a claimant who is participating in the state's managed care plan. The regulations shall limit annual growth in total medical fees payable by the state to no more than the annual percentage increase in the consumer price index for all urban workers. Said commissioner may exclude from participation in the state workers' compensation managed care program any medical provider found, through a systematic program of utilization review, to exceed generally accepted standards of the scope, duration or intensity of services rendered to patients with similar diagnostic characteristics. The state shall not make any payment to a facility owned in whole or in part by the referring practitioner.

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

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

History: P.A. 93-228 added Subsec. (b) re commissioner of administrative services' regulatory power and designated existing language as Subsec. (a), effective July 1, 1993; May Sp. Sess. P.A. 04-2 amended Subsec. (a) to make technical changes and to delete provision re S.A. 81-22, and added Subsec. (c) to vest Commissioner of Administrative Services with sole authority for establishing procedures for executive branch agencies re state workers' compensation program, except mandatory collective bargaining re modified or alternative duty, effective July 1, 2004.

Cited. 220 C. 915; *Id.*, 920.

Sec. 31-284b. Employer to continue insurance coverage or welfare plan payments for employees eligible to receive workers' compensation. Use of Second Injury Fund. (a) In order to maintain, as nearly as possible, the income of employees who suffer employment-related injuries, any employer who provides accident and health insurance or life insurance coverage for any employee or makes payments or contributions at the regular hourly or weekly rate for full-time employees to an employee welfare plan, shall provide to the employee equivalent insurance coverage or welfare plan payments or contributions while the employee is eligible to receive or is receiving compensation pursuant to this chapter, or while the employee is receiving wages under a provision for sick leave payments for time lost due to an employment-related injury. As used in this section, "income" means all forms of remuneration to an individual from his employment, including wages, accident and health insurance coverage, life insurance coverage and employee welfare plan contributions and "employee welfare plan" means any plan established or maintained for employees or their families or dependents, or for both, for medical, surgical or hospital care benefits.

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

combination of the methods provided in subdivisions (1) to (3), inclusive, of this subsection that he may choose.

(c) In the case of an employee welfare plan, an employer may provide equivalent protection by making payments or contributions for such hours of contributions established by the trustees of the employee welfare plan as necessary to maintain continuation of such insurance coverage when the amount is less than the amount of regular hourly or weekly contributions for full-time employees.

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

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

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

History: P.A. 86-403 made technical change in Subsec. (b), substituting "mutual" for "municipal" companies; P.A. 91-32 added definition of "income" to Subsec. (a) and made technical changes; P.A. 91-339 changed "employee welfare fund" to "employee welfare plan", added a definition of the latter term in Subsec. (a) and deleted the reference to Sec. 31-53 in Subsec. (a).

Cited. 214 C. 552. Cited. 219 C. 439. Cited. 223 C. 376. Court found no legislative intent to mandate transfer of liability for this section's benefits to the fund as "compensation" under Sec. 31-349 in case of employee with preexisting impairment. 231 C. 287.

Cited. 16 CA 660. Dependents' benefits are part of workers' income to be maintained by employer. 24 CA 234. Cited. 40 CA 409. Cited. 44 CA 397. Board incorrectly interpreted section as requiring city to continue insurance coverage for plaintiff and his family once plaintiff's compensation payments under Sec. 7-433c ended. 61 CA 9. Definition of "compensation" in Sec. 31-293 inapplicable to section as it existed on date of plaintiff's injury. Id. Payments by city for plaintiff's medical care did not constitute compensation payment required by statute or regulation and did not trigger benefits under section. Id.

Subsec. (a):

Cited. 214 C. 394.

Term "compensation payments" as used in subsection as it existed on date of plaintiff's injury does not include payments for medical care after the indemnity compensation period has ceased. 61 CA 9. Term "compensation payments" as used in Subsec. does not include payments for medical care after the indemnity compensation period has ceased. Plaintiff accordingly was not entitled to benefits pursuant to section. 81 CA 339.

Subsec. (b):

Authorizes employer to meet its workers' compensation obligations under Ch. 568 by enumerated methods, including self-insurance. 247 C. 442.

Sec. 31-284c. Complaints of violations. Hearing. Findings and award. Appeal.

Any employee eligible to receive or receiving workers' compensation may file a complaint alleging violation of the provisions of section 31-284b with the workers' compensation commissioner. The commissioner shall hold a hearing in accordance with the provisions of sections 31-297 and 31-298. After the hearing, the commissioner shall send to each party a written copy of his findings and award in accordance with the provisions of section 31-300. The provisions of section 31-300 concerning finality of the award and an execution issued upon the award shall be applicable to an award made pursuant to this section. Any appeal of an award of the commissioner under this section shall be taken in accordance with the provisions of section 31-301. The commissioner, in awarding benefits for temporary and permanent partial and total disability, shall require the provision

of equivalent insurance coverage or contribution to an employee welfare plan, as provided in section 31-284b, for the period of the injured employee's eligibility to receive benefits under this chapter.

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

History: P.A. 91-339 required the commissioner to send each party a written copy of his findings and changed "employee welfare fund" to "employee welfare plan".

Sec. 31-285. Substitute systems of compensation. With the approval of the state Insurance Commissioner, any employer may enter into an agreement with his employees to provide a system of compensation, benefit and insurance in lieu of the compensation and insurance provided by this chapter. No such substitute system shall be approved unless it confers benefits upon injured employees at least equivalent to the benefits provided by this chapter, nor shall any such substitute system be approved which contains an obligation of employees to join in it as a condition of employment unless it contains equitable provision for the withdrawal of employees from it and the distribution of its assets. If any such system requires contributions from employees, it shall not be approved unless it confers benefits in addition to those provided under this chapter at least commensurate with such contributions. The Insurance Commissioner, having given his approval of such substitute system, shall have over it all the jurisdiction given him by sections 38a-14 and 38a-17 over insurance companies. He may withdraw his approval upon reasonable notice to the employer and order a distribution of the assets, subject to the right of any party in interest to take an appeal to the superior court for the judicial district of Hartford.

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

History: 1961 act entirely replaced previous provisions; P.A. 77-614 made insurance department a division within the department of business regulation with insurance commissioner as its head, effective January 1, 1979; P.A. 78-280 replaced "Hartford county" with "judicial district of Hartford-New Britain"; P.A. 80-482 reinstated insurance division as independent department with insurance commissioner as its head following abolition of department of business regulation; P.A. 88-230 replaced "judicial district of Hartford-New Britain" with "judicial district of Hartford", effective September 1, 1991; P.A. 90-98 changed the effective date of P.A. 88-230 from September 1, 1991, to September 1, 1993; P.A. 93-142 changed the effective date of P.A. 88-230 from September 1, 1993, to September 1, 1996, effective June 14, 1993; P.A. 95-220 changed the effective date of P.A. 88-230 from September 1, 1996, to September 1, 1998, effective July 1, 1995.

Cited. 169 C. 646.

Cited. 23 CS 298.

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

348, setting forth such fact and stating the date of expiration of such insurance, which certificate shall thereupon become a part of the records of the office of such compensation commissioner.

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

History: 1961 act entirely replaced previous provisions; P.A. 77-614 made insurance department a division within the department of business regulation with commissioner as its head, effective January 1, 1979; P.A. 80-482 restored insurance division as independent department and abolished department of business regulation.

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

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

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

(d) For purposes of this section, "sufficient evidence" means (1) a certificate of self-insurance issued by a workers' compensation commissioner pursuant to section 31-284, or (2) a certificate of compliance issued by the Insurance Commissioner pursuant to section 31-286, or (3) a certificate of insurance issued by any stock or mutual insurance company or mutual association authorized to write workers' compensation insurance in this state or its agent.

(P.A. 86-87; P.A. 91-207, S. 2, 9.)

History: P.A. 91-207 made a technical change to fund's name in Subsec. (c).

Sec. 31-286b. Proof of workers' compensation coverage prior to issuance of building permit, condition. (a) Prior to issuing a building permit pursuant to section 29-263 to any person other than a sole proprietor or property owner unless such sole proprietor or property owner is acting as a general contractor or principal employer, a local building official shall require proof of workers' compensation coverage for all employees, as defined in section 31-275, who are employed by an employer, as defined in said section, who are engaged to perform services on the site of the construction project for which the permit was issued.

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

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

History: P.A. 95-277 effective July 1, 1995; P.A. 96-216 made existing language Subsec. (a) and excepted certain sole proprietors and property owners from proof requirements and removed one hundred thousand dollar limitation and property owner certification requirement and added Subsec. (b), defining “proof of workers’ compensation coverage”, effective June 4, 1996.

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

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

History: 1959 act revised applicability re employer’s insurance by reducing number of regular employees from three to two and replaced references to specific sections and parts with references to chapter; 1961 act entirely replaced previous provisions.

Cited. 113 C. 515; 114 C. 27; 116 C. 221; 125 C. 31. No reformation of policy where no mistake shown. 120 C. 503. This statute has no application to employer liability imposed by special bonus legislation unrelated to traditional workers’ compensation concepts. 178 C. 664.

Cited. 37 CA 835.

Cited. 28 CS 4.

Sec. 31-288. Additional liability. Penalty for undue delay, noncompliance with insurance requirements and for defrauding workers’ compensation insurance carrier. Notice of penalty to Attorney General and State Treasurer. Payment. Civil action for nonpayment. (a) If an employer wilfully fails to conform to any other provision of this chapter, he shall be fined not more than two hundred fifty dollars for each such failure.

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

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

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

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

(f) When any employer knowingly and wilfully fails to comply with the insurance and self-insurance requirements of subsection (b) of section 31-284, such employer, if

he is an owner, in the case of a sole proprietorship, a partner, in the case of a partnership, a principal, in the case of a limited liability company or a corporate officer, in the case of a corporation, shall be guilty of a class D felony.

(g) Any employer who, with the intent to injure, defraud or deceive any insurance company insuring the liability of such employer under this chapter, (1) knowingly misrepresents one or more employees as independent contractors, or (2) knowingly provides false, incomplete or misleading information to such company concerning the number of employees, for the purpose of paying a lower premium on a policy obtained from such company, shall be guilty of a class D felony.

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

History: P.A. 84-299 added Subsec. (b), providing for penalties of up to five hundred dollars for each case by a party of undue delay in the completion of hearings or the adjustment or payment of compensation; P.A. 86-174 added Subsec. (c), establishing a civil penalty to be assessed against employers who don't comply with the insurance requirements of Sec. 31-284; P.A. 93-228 added Subsec. (d) to provide that employer which defrauds its workers' compensation insurance carrier for the purpose of paying a lower premium is guilty of a class D felony, effective July 1, 1993; P.A. 93-419 made technical changes in Subsec. (b), effective July 1, 1993; P.A. 95-277 amended Subsec. (c) to provide for specific procedures, penalties and hearings associated with the failure of an employer to comply with insurance and self-insurance requirements, to make assessment of civil penalty mandatory, to impose minimum penalty of not less than five hundred dollars per employee or five thousand dollars whichever is less and to increase maximum penalty from ten thousand to fifty thousand dollars, inserted new Subsecs. (d) re additional penalty after the noncompliance finding, (e) re monthly transfer of penalty funds by the chairman of the Workers' Compensation Commission to the custodian of the Second Injury Fund, appeal procedure and regulations to use in setting fines, and (f) classifying knowing and wilful violations as a class D felony and relettered the existing Subsecs. (d) to (f), effective July 1, 1995; P.A. 96-267 amended Subsec. (e) to require the chairman to notify the State Treasurer and Attorney General when penalties are imposed and when penalties are not paid within ninety days to give notice of the prescribed method of payment and to give notice of potential double penalties for nonpayment.

See Sec. 52-570e re action for damages resulting from violation of chapter.

Cited. 7 CA 142.

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

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

History: P.A. 84-299 provided that penalties collected pursuant to "subsection (a)" of section 31-288 shall be paid into the second injury and compensation assurance fund; P.A. 91-207 made a technical change in fund's name.

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

(b) An affidavit sworn to or affirmed by the chairman of the Workers' Compensation Commission, or by the commissioner who imposed the civil penalty referred to in the

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

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

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

History: P.A. 91-339 changed "board of compensation commissioners" to "workers' compensation commission" and changed "workers' compensation commissioner" to "commissioner".

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

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

History: P.A. 93-228 effective July 1, 1993. (Revisor's note: P.A. 88-230, P.A. 90-98 and P.A. 93-142 authorized substitution of "judicial district of Hartford" for "judicial district of Hartford-New Britain" in public acts of the 1993 session of the general assembly, to take effect September 1, 1996); P.A. 95-220 changed the effective date of P.A. 88-230 from September 1, 1996, to September 1, 1998, effective July 1, 1995; P.A. 96-267 deleted the word "repeatedly" which modified "fails to comply".

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

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

History: 1961 act entirely replaced previous provisions.

Cited. 128 C. 579; 157 C. 545.

Subsec. (b):

In making award under this subsec., commissioner required to make "due allowance" under Sec. 31-314 for any sum paid by employer. 49 CA 66.

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

(b) Any employee who is so discharged or discriminated against may either: (1) Bring a civil action in the superior court for the judicial district where the employer has

its principal office for the reinstatement of his previous job, payment of back wages and reestablishment of employee benefits to which he would have otherwise been entitled if he had not been discriminated against or discharged and any other damages caused by such discrimination or discharge. The court may also award punitive damages. Any employee who prevails in such a civil action shall be awarded reasonable attorney's fees and costs to be taxed by the court; or (2) file a complaint with the chairman of the Workers' Compensation Commission alleging violation of the provisions of subsection (a) of this section. Upon receipt of any such complaint, the chairman shall select a commissioner to hear the complaint, provided any commissioner who has previously rendered any decision concerning the claim shall be excluded. The hearing shall be held in the workers' compensation district where the employer has its principal office. After the hearing, the commissioner shall send each party a written copy of his decision. The commissioner may award the employee the reinstatement of his previous job, payment of back wages and reestablishment of employee benefits to which he otherwise would have been eligible if he had not been discriminated against or discharged. Any employee who prevails in such a complaint shall be awarded reasonable attorney's fees. Any party aggrieved by the decision of the commissioner may appeal the decision to the Appellate Court.

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

Cited. 216 C. 40. Cited. 219 C. 1. Cited. 221 C. 356. Cited. 226 C. 475. Employer does not violate this section when it discharges employee solely on the basis that employee, who claims a continued inability to work, fails to return to work following a compensable injury despite having been cleared to do so by his or her treating physician. 258 C. 724. Plaintiff failed to establish prima facie case of employment discrimination under statute by failing to present sufficient evidence that she had exercised any rights afforded to her under the act and by lack of evidence in the record to support workers' compensation commissioner's finding that the principal or vice principal knew that plaintiff was exercising her rights or that they intended to discriminate against her for exercising her rights. 270 C. 751.

Cited. 24 CA 362. Cited. 28 CA 660. Cited. 33 CA 490. Cited. 34 CA 708. Cited. 40 CA 577. Cited. 43 CA 1. Reaffirmed prior rulings that plaintiff has burden of proving discrimination by a fair preponderance of the evidence. 52 CA 570. Where plaintiff offered no evidence to raise an inference of discrimination and failed to present a genuine issue of material fact as to the reason for termination, trial court properly found that a trier of fact could not find discriminatory intent as required under the statute. 64 CA 263.

Subsec. (a):

Section contains no requirement that any particular word be used in terminating an employee's employment. Standard for proof of a retaliatory discharge. 49 CA 66.

Subsec. (b):

Cited. 219 C. 314. Subdiv. (1) cited. 232 C. 91. Subdiv. (2) cited. Id.

Subdiv. (2) cited. 41 CA 116. Subject matter jurisdiction cannot be waived by consent and therefore a stipulation between plaintiff and defendant cannot deprive commissioner of jurisdiction over plaintiff's claim. 49 CA 114.

Sec. 31-290b. Penalty for false statement. Section 31-290b is repealed.

(P.A. 85-602, S. 1, 4; P.A. 90-244, S. 2.)

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

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

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

(P.A. 90-244.)

No indication that legislature intended statute authorizing penalties for workers' compensation fraud to encompass sanctions against employees for misrepresentations on employment applications. 244 C. 781.
Cited. 45 CA 324.

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

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

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

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

History: P.A. 00-211 amended Subsec. (b) to require quarterly reports to be submitted to the Insurance Commissioner.

No indication that legislature intended statutes authorizing penalties for workers' compensation fraud to encompass sanctions against employees for misrepresentations on employment applications. 244 C. 781.

PART B*
WORKERS' COMPENSATION

*Sec. 31-291 et seq. cited. 242 C. 375.

Workers' compensation act, Secs. 31-291–31-355a cited. 15 CA 381; 21 CA 270; judgment reversed, see 218 C. 19.

Sec. 31-291. Principal employer, contractor and subcontractor. When any principal employer procures any work to be done wholly or in part for him by a contractor, or through him by a subcontractor, and the work so procured to be done is a part or process in the trade or business of such principal employer, and is performed in, on or about premises under his control, such principal employer shall be liable to pay all compensation under this chapter to the same extent as if the work were done without the intervention of such contractor or subcontractor. The provisions of this section shall not extend immunity to any principal employer from a civil action brought by an injured employee or his dependent under the provisions of section 31-293 to recover damages resulting from personal injury or wrongful death occurring on or after May 28, 1988, unless such principal employer has paid compensation benefits under this chapter to such injured employee or his dependent for the injury or death which is the subject of the action.

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

History: 1961 act entirely replaced previous provisions; P.A. 88-226 added the provision limiting the immunity for principal employers.

Section makes each one of a chain of contractors liable to the employee. He need not sue his immediate employer first. 99 C. 353. One who lets out by contract the construction of an entire building is not a "principal employer"; aliter, if he gives out parts to different contractors. 101 C. 34. Conditions to liability of principal employer. 106 C. 113; 107 C. 191. General contractor liable for death of employee of subcontractor; both may be held jointly liable. 109 C. 39. General contractor may recover from subcontractor sum which he has been compelled to pay under act to an employee of the latter. 110 C. 221. Question of whether one is a principal employer is largely one of degree and fact. 114 C. 126. Collection of rubbish part of business of city. *Id.*, 546. Cited. 118 C. 368; 119 C. 224. Principal employer liable for compensation cannot be sued at common law. 122 C. 188. Independent contractor not subject to control of employer. 123 C. 320. Cited. 124 C. 230. When one is an employee and not a contractor. *Id.*, 409; *Id.*, 433. Principal employer not liable for compensation as injury did not occur on premises under its control, although work was part or process of trade or business. 125 C. 109; *Id.*, 728. Cited. *Id.*, 265. Independent contractor not servant at time of injury. 126 C. 379. Relationship of principal employer and contractor did not exist. 127 C. 316; 132 C. 81. Work held not "part or process of" employer's trade or business. 129 C. 44; *Id.*, 636. Cited. *Id.*, 593. Work not done in, on or about premises under control of defendant. 130 C. 256. Work held "part or process of" employer's trade or business. *Id.*, 385. Cited. 131 C. 246; 134 C. 468. Cited. 135 C. 500. No distinction between "contractor" and "independent contractor" as used in this section. *Id.*, 294. Emphasis is on area rather than actual control of implements which caused accident. 136 C. 529. Work not a part or process in trade or business of defendant. *Id.*, 698. Cited. 138 C. 77. If work is of such a character that it ordinarily or appropriately would be performed by principal employer's own employees in the furtherance of his business, or as an essential part in the maintenance thereof, it is a part or process of his work. *Id.*, 569. Work held not a part or process in trade or business of principal employer. *Id.*, 646. Special purpose of section is to protect employees of minor contractors against irresponsibility of immediate employers by making principal contractor liable where three conditions of statute are met. 154 C. 611. Cited. 166 C. 298. Cited. 189 C. 701. Not unconstitutional within provisions of section 1 of article first of the Connecticut Constitution. 212 C. 427. Cited. 226 C. 508. Injured employee of a subcontractor may sue general contractor if employee can establish contractor's liability to employee under case law. 264 C. 509.

Cited. 6 CA 60. Cited. 10 CA 261. Cited. 15 CA 806. Purpose. 48 CA 449. Specific meaning of "control". *Id.*

Where employee's injuries are compensable, it is improper under statute for the court or compensation commissioner to determine question of liability between employer, contractor and subcontractor defendants. 1 CS 78. Remodeling and installing fixtures as a "part or process in the trade or business" of a department store discussed. 9 CS 429. Where a third person was permitted to conduct a nonprofit cafeteria for the convenience of employees, the cafeteria was not "a part or process in the trade or business" of the employer. 12 CS 203. To satisfy statute, work must be carried on in some defined physical area within observation of principal employer affording opportunity, by sufficient oversight, to prevent or minimize danger. 27 CS 281. Cited. 30 CS 330. Cited. 42 CS 168.

Sec. 31-291a. Method of computing workers' compensation premiums for construction contractors. On or before July 1, 1996, the rating organization licensed pursuant to section 38a-672 shall file with the Insurance Commissioner a method of computing workers' compensation premiums which does not discriminate against or penalize employers in the construction industry solely because they pay higher wages than other employers to workers in the same job classification. Such method shall grant premium credits to construction contractors (1) who have workers' compensation insurance policies in which at least fifty per cent of the premium is attributable to construction classifications and (2) whose experience modification is unity or less as of July 1, 1996. Such credits shall apply to workers' compensation insurance policies issued or renewed on or after July 1, 1996.

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

History: P.A. 95-262 effective July 6, 1995.

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

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

History: 1961 act entirely replaced previous provisions; P.A. 79-376 substituted "worker" for "workmen".

Loaned employee when loanee had right of control. 114 C. 143. Employee of contractor collecting rubbish for city is not loaned employee. *Id.*, 546. Construction of this section. 121 C. 640.

Cited. 22 CS 163.

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

ployer is a party defendant in the action, the employer may join as a party plaintiff in the action. The bringing of any action against an employer shall not constitute notice to the employer within the meaning of this section. If the employer and the employee join as parties plaintiff in the action and any damages are recovered, the damages shall be so apportioned that the claim of the employer, as defined in this section, shall take precedence over that of the injured employee in the proceeds of the recovery, after the deduction of reasonable and necessary expenditures, including attorneys' fees, incurred by the employee in effecting the recovery. The rendition of a judgment in favor of the employee or the employer against the party shall not terminate the employer's obligation to make further compensation which the commissioner thereafter deems payable to the injured employee. If the damages, after deducting the employee's expenses as provided in this subsection, are more than sufficient to reimburse the employer, damages shall be assessed in his favor in a sum sufficient to reimburse him for his claim, and the excess shall be assessed in favor of the injured employee. No compromise with the person by either the employer or the employee shall be binding upon or affect the rights of the other, unless assented to by him. For the purposes of this section, the claim of the employer shall consist of (1) the amount of any compensation which he has paid on account of the injury which is the subject of the suit and (2) an amount equal to the present worth of any probable future payments which he has by award become obligated to pay on account of the injury. The word "compensation", as used in this section, shall be construed to include incapacity payments to an injured employee, payments to the dependents of a deceased employee, sums paid out for surgical, medical and hospital services to an injured employee, the burial fee provided by subdivision (1) of subsection (a) of section 31-306, payments made under the provisions of sections 31-312 and 31-313, and payments made under the provisions of section 31-284b in the case of an action brought under this section by the employer or an action brought under this section by the employee in which the employee has alleged and been awarded such payments as damages. Each employee who brings an action against a party in accordance with the provisions of this subsection shall include in his complaint (A) the amount of any compensation paid by the employer or the Second Injury Fund on account of the injury which is the subject of the suit and (B) the amount equal to the present worth of any probable future payments which the employer or the Second Injury Fund has, by award, become obligated to pay on account of the injury. Notwithstanding the provisions of this subsection, when any injury for which compensation is payable under the provisions of this chapter has been sustained under circumstances creating in a person other than an employer who has complied with the requirements of subsection (b) of section 31-284, a legal liability to pay damages for the injury and the injured employee has received compensation for the injury from such employer, its workers' compensation insurance carrier or the Second Injury Fund pursuant to the provisions of this chapter, the employer, insurance carrier or Second Injury Fund shall have a lien upon any judgment received by the employee against the party or any settlement received by the employee from the party, provided the employer, insurance carrier or Second Injury Fund shall give written notice of the lien to the party prior to such judgment or settlement.

(b) When an injury for which compensation is payable under the provisions of this chapter is determined to be the result of a motor vehicle accident or other accident or circumstance in which a third person other than the employer was negligent and the claim is subrogated by the employer or its workers' compensation insurance carrier, the

insurance carrier shall provide a rate adjustment to the employer's workers' compensation policy to reflect the recovery of any compensation paid by the insurance carrier prior to subrogation.

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

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

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

History: 1961 act entirely replaced previous provisions; 1967 acts allowed employer to be party plaintiff in cases where employee brings an action against a third party, specified that bringing action against employer does not constitute notice and increased burial fee from five hundred to one thousand dollars; P.A. 86-266 added Subsec. (b), limiting the civil liability of certain architects, engineers and their employees for injuries compensable under workers' compensation which occur on construction projects; P.A. 90-145 added Subsec. (c) concerning limitations on the liability of insurers, self-insurance service organizations and unions in relation to safety inspections and safety advisory services; P.A. 91-32 made technical changes; P.A. 91-191 amended the definition of "compensation" in Subsec. (a) to include payments made under Sec. 31-284b in certain cases; P.A. 93-228 amended Subsec. (a) to specify required contents of employees' complaints against third parties and to give employers liens on judgments or settlements paid by third parties to employees, added new Subsec. (b) to prohibit insurers from adjusting employers' workers' compensation insurance rates if payments made by insurers will be recovered from negligent third party, and redesignated existing Subsecs. (b) and (c) as (c) and (d), respectively, effective July 1, 1993; P.A. 96-65 amended Subsec. (a) to make technical changes for consistency and to include references to the custodian of the Second Injury Fund and employers who fail to comply with Subsec. (b) of Sec. 31-284.

If employee settles with tortfeasor, employer may accept the settlement and have credit for the amount received. 92 C. 398. Right of an insurer to recover from tortfeasor who has settled with the employee direct. 101 C. 200. Form of judgment in suit by both employee and employer against tortfeasor; "reasonable attorney's fee" may be nothing. 104 C. 507. That employer was "subsidiary" of third party not a defense. 112 C. 510. Cited. 114 C. 130. Injured person who receives compensation may still sue doctor for malpractice. 115 C. 563. Where employer pays compensation in death case, he is entitled to reimbursement out of judgment obtained by administratrix from third party. 116 C. 91. Cited. 123 C. 514; 124 C. 230. Statute applied where

employee injured by fellow employee. 125 C. 293. Cited. 128 C. 521; 129 C. 637; 132 C. 545. Liability for compensation after judgment against third party. *Id.*, 671. Cited. 133 C. 448. Not necessary to make administratrix of deceased employee a party. Employer's rights discussed. 136 C. 670. Cited. 143 C. 77. Contains no exception for a situation wherein the employer is reimbursed from a judgment obtained against a third party tortfeasor. 144 C. 322. Cited. 150 C. 211. Employer's time to intervene does not begin to run until notice of the action is given to him. 154 C. 708. By stipulation approved by compensation commissioner employer effectively released "any further claims under the Workmen's Compensation Act" including right to recover from third parties. 157 C. 538. Cited. 160 C. 482. No standing to appeal on behalf of plaintiff's employer's participation. 163 C. 365. Cited. 176 C. 622. Cited. 181 C. 321; 182 C. 24. Cited. 183 C. 508. Cited. 192 C. 460. Cited. 193 C. 59. Cited. *Id.*, 297. Cited. 204 C. 485. Cited. 208 C. 589. Notice in compliance with statute need not include information re right of intervention and legal consequences of failure to intervene within statutory time period. 216 C. 533. Employer entitlement to a credit for unknown future benefits against the net proceeds of a third party recovery discussed. 218 C. 19. Cited. *Id.*, 46. Cited. *Id.*, 531. Cited. 219 C. 439. Cited. 222 C. 744. Third party tortfeasor may not raise the negligence of the employer as a special defense when employer has intervened in personal injury action as party plaintiff in order to secure his statutory right to reimbursement of workers' compensation benefits. *Id.*, 775. Cited. 224 C. 382. Cited. 225 C. 915. Notice under section does not require specific reference to employment relationship. 230 C. 100. Cited. *Id.*, 914. Cited. 232 C. 918. Cited. 233 C. 251. Cited. 236 C. 330. Cited. 241 C. 170. Cited. 242 C. 375. In order for abatement provision to be invoked, notice given pursuant to section must comport with both the statutory requirements and the due process clause. *Id.*, 432. Section authorizes injured employee to seek recovery from third party, other than employer, for work-related injuries caused by that third party. 247 C. 442. City employer's right to intervene in employee's negligence action against physician is incorporated into Sec. 7-433c pursuant to this section. 253 C. 429. Relevant figure for determining whether to award interest under Sec. 52-192a is amount of the jury verdict, not amount of the postapportionment judgment rendered pursuant this section. 264 C. 314.

Cited. 3 CA 450. Cited. 9 CA 194. Cited. 11 CA 391. Cited. 15 CA 381. Cited. 16 CA 138. Cited. 18 CA 614. Cited. 21 CA 9; judgment reversed, see 218 C. 46. Cited. *Id.*, 270; judgment reversed, see 218 C. 19. Cited. 22 CA 539; judgment reversed, see 219 C. 439. Cited. 24 CA 531. Cited. *Id.*, 719. Cited. *Id.*, 739. Cited. 25 CA 492; judgment reversed, see 222 C. 744. Cited. 29 CA 618. Cited. 33 CA 422. Cited. 34 CA 521. Cited. 36 CA 635; judgment reversed, see 236 C. 330. Cited. 37 CA 423. Because employer and its compensation insurance carrier did not bring action pursuant to section they were not entitled to a credit and were obligated to pay plaintiff's hospital bill. 42 CA 200. Cited. 46 CA 712. Section does not entitle employer to make a claim against any benefits that might be due to an employee under uninsured motorist provisions of employer's policy. 53 CA 452. Definition of "compensation" inapplicable to Sec. 31-284b as it existed on date of plaintiff's injury. 61 CA 9. State does not waive its right to sovereign immunity and subject itself to a counterclaim when intervening pursuant to this statute when state's claim is derivative, depends on injured plaintiff recovering against defendant and does not enlarge defendant's liability or try to establish that defendant is liable to the state. 65 CA 418.

Since the right is a substantive one, it does not matter that the exact method prescribed by this section has not been followed. 4 CS 5. Plaintiff employer is required to join as coplaintiff and if he does not, his right of action abates. 5 CS 108. Cited. 6 CS 152. Purpose of statute is fulfilled if the rights of the employer as well as the employees are determined in one action and an allowance of a motion by the employer to join as a codefendant does not constitute a judgment or settle a question of fact. 9 CS 68. Right of employer is not one for a wrong done to employee but one conferred by statute. 10 CS 508. Statute requires that employee give employer formal notice; it is not enough that the employer has knowledge of the existence of a pending action. 12 CS 325. Available only to employer who has paid or is obligated to make payments under this act. 17 CS 69. Defendant employer and its insurer are not required to intervene in employee's representative's suit against the tortfeasor within the one year statutory period. 20 CS 30. Where employer brings action against third person within time limited by statute and employee, within thirty days after institution of suit, has moved to join, fact that motion was filed more than year after tortious act took place would not defeat motion. 23 CS 106. Cited. 27 CS 383. Demurrer to complaint sustained in third party action by employee against employer's insurance carrier. Duties under workmen's compensation act merge identities of employer and his insurer. 28 CS 1. Cited. 30 CS 126. Statute contain no authorization for suit against employee. 33 CS 661. Time limitation, within which right must be enforced, is limitation of liability itself and not of remedy alone. *Id.* "Shall abate" provision does not apply to employee's entire cause of action but only to extent it has previously been prosecuted by employer; not required that defense be by plea in abatement. 35 CS 60. Comparative negligence of employee is a defense in an action by an employer against a third party. 36 CS 137. Cited. *Id.*, 317. Comparative negligence apportionment between employer and employee of sums received from third party; public policy discussed. 39 CS 222. Cited. 40 CS 165.

Cited. 6 Conn. Cir. Ct. 671.

Subsec. (a):

Cited. 211 C. 133. Cited. 217 C. 631. Employer credit to extent of third party recovery may be awarded by workers' compensation commission. 218 C. 46. Cited. 221 C. 465. Cited. 224 C. 8. Sec. 13a-149 does not bar employer from seeking reimbursement under this section. 231 C. 370. Cited. *Id.*, 381. Judgment of appellate court in *Rana v. Ritacco*, 36 CA 635, reversed; language of section "does not indicate that service must have been completed before notice can be sent". 236 C. 330. Does not apply to uninsured motorist coverage. 242 C. 375. Cited. *Id.*, 432. Applicable statute of limitations on underlying claim is tolled if employer receives notice of an employee's timely filed action against a third party tortfeasor and intervenes within thirty-day period prescribed by statute. 246 C. 156. Employer has cause of action under this section that is separate and distinct from that of its injured employee. 247 C. 442. "Compensation" in this section includes sums paid pursuant to voluntary settlement agreement authorized by Sec. 31-296. 259 C. 325. Term "injury", as used in Subsec. does not encompass the harm alleged by plaintiff in his legal malpractice action because it is unrelated to plaintiff's work. 269 C. 507. "Third person"

to which Subsec. refers is person in whom a legal liability has been created to pay damages for the employees' work-related injury. Id. "Third person", as used in Subsec. refers to the actual tortfeasor who caused the work-related injury. Id. Cited. 22 CA 27; judgment reversed, see 217 C. 631. Cited. 30 CA 263. Cited. Id., 801. Cited. 41 CA 664.

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

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

History: 1969 act clarified provisions re actions against fellow employees and added provisions re insurance policies and contracts; P.A. 83-297 provided that contractor's mobile equipment designed for use principally off public roads are not "motor vehicles" for purposes of this section if the injuries involving the equipment occur at the worksite; P.A. 84-22 made clear that the exclusions from the definition of "motor vehicle" established in P.A. 83-297 apply only to injuries which occur on or after October 1, 1983.

Cited. 167 C. 499. Cited. 169 C. 630. Fact that employer worked with plaintiff did not change his status to "fellow employee" to come within statute provisions. 178 C. 371. Employee has no right of action against fellow employee who directed operation of truck's hydraulic hoist since actions did not constitute "the operation of a motor vehicle". 180 C. 469. Cited. 182 C. 24. Cited. 183 C. 508. Specific language of Sec. 4-165 prevails over general language of this statute as applied to fellow state employees. 185 C. 616. This section, which permits an action against a fellow employee for injuries arising out of the negligent operation of a motor vehicle, does not supersede the more specific provisions of Sec. 7-308. 187 C. 53. Term "operation of a motor vehicle" construed as not including activities unrelated to movement of the vehicle. 189 C. 354. Cited. Id., 550. Cited. 193 C. 59. Cited. 196 C. 91. Cited. 203 C. 34. Cited. 206 C. 495. Cited. 208 C. 589. "Motor vehicle" exception discussed. 215 C. 55. Cited. 220 C. 721. Cited. 221 C. 356. Cited. 222 C. 744. Cited. 237 C. 1. Cited. 242 C. 375. Tort actions for emotional injuries that are not compensable under the act are not barred by exclusivity provisions of the act. 259 C. 729. When read in conjunction with Sec. 31-275, statute plainly states that emotional distress not arising from physical injury is not compensable through workers' compensation. 265 C. 21.

Cited. 2 CA 174. Cited. 3 CA 40. Exception under the statute is concerned only with those engaged in any activity related to driving or moving a vehicle or related to a circumstance resulting from the movement of a vehicle. Id., 246. Cited. 7 CA 296. Cited. Id., 575. Cited. 9 CA 290. Cited. 10 CA 18. Cited. Id., 618. Cited. 20 CA 619. Cited. 22 CA 88. Definition of "motor vehicle" for purposes of the exception in this section is controlled by Sec. 14-1(a)(47) definition as further refined by Sec. 14-165(i). 30 CA 263. Cited. 41 CA 664. Golf cart not a "motor vehicle" for purposes of the "motor vehicle" exception to exclusivity provision of Workers' Compensation Act. 54 CA 479. Statute does not authorize plaintiff's action against his employer arising out of a fellow employee's negligent operation of a motor vehicle. 56 CA 325. Defendant's operation of a payload to jump start plaintiff's dump truck did not constitute "operation of a motor vehicle" so as to bring the incident within the exception contained in this section. 64 CA 409.

Cited. 30 CS 233. Cited. 36 CS 101. Cited. 39 CS 102. Cited. 40 CS 165. "Motor vehicle" exception discussed. 41 CS 326. Cited. 41 CS 391. Cited. 44 CS 148. Legislature did not treat or intend to treat golf carts differently from any other non-highway-type mechanism for purposes of this section. 46 CS 24.

Sec. 31-294. Notice of injury and of claim for compensation. Section 31-294 is repealed.

(1949 Rev., S. 7426, 7442; 1953, 1955, S. 3041d; 1958, S. 31-157, 31-168; 1959, P.A. 387; 580, S. 8; 1961, P.A. 491, S. 16; 1963, P.A. 642, S. 36; 1967, P.A. 842, S. 3; 1969, P.A. 692; P.A. 80-124, S. 5; P.A. 81-472, S. 67, 159; P.A. 82-472, S. 108, 183; P.A. 85-133, S. 2; 85-184, S. 1; P.A. 87-160, S. 1; P.A. 88-357, S. 19; P.A. 89-371, S. 22; P.A. 90-116, S. 5; P.A. 91-32, S. 40, 41.)

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

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

History: P.A. 79-376 replaced "workmen's compensation" with "workers' compensation".

Cited. 228 C. 1. Sec. 31-294 (repealed) cited. *Id.*

Sec. 31-294b. Report of injury to employer. Any employee who has sustained an injury in the course of his employment shall immediately report the injury to his employer, or some person representing his employer. If the employee fails to report the injury immediately, the commissioner may reduce the award of compensation proportionately to any prejudice that he finds the employer has sustained by reason of the failure, provided the burden of proof with respect to such prejudice shall rest upon the employer.

(P.A. 91-32, S. 10, 41.)

Cited. 228 C. 1. Sec. 31-294 (repealed) cited. *Id.* Cited. 237 C. 1.

Employer's first report of injury form and an attorney's letter taken together meet statutory requirement of written notice of claim. 52 CA 194.

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

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

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

History: P.A. 91-339 amended Subsec. (b) to change “commissioners” to “chairman of the workers’ compensation commission”; P.A. 93-228 amended Subsec. (b) to change the circumstances under which a conclusive presumption of employer liability is established and to allow an employer who successfully contests liability for a claim to recover compensation paid to the claimant, effective July 1, 1993; P.A. 93-419 made technical change in Subsec. (b), replacing “commended” with “commended”, effective July 1, 1993.

Cited. 228 C. 1. Sec. 31-294 (repealed) cited. Id. Cited. 231 C. 529. Cited. 232 C. 780. Sec. 31-294 cited. Id. Cited. 237 C. 1. Cited. 239 C. 19. Workers’ compensation legislation is remedial and should be broadly construed to accomplish its humanitarian purpose. 252 C. 596. Where workers’ compensation appeal involves issue of statutory construction that has not been subjected to judicial scrutiny, Supreme Court has plenary power to review the administrative decision. Id. HIV is an occupational disease for correction officers who are members of emergency response units which are special teams of correction officers that respond to major disturbances and riots, and, therefore plaintiff’s notice of claim was timely filed under statute; HIV is peculiar to and distinctively associated with decedent’s occupation as a correction officer in an emergency response unit because of the direct causal connection between the specific duties of his employment, which required him to interact with inmates with a high HIV infection rate and in a manner that greatly increased the risk of contracting HIV and the AIDS the decedent contracted. 268 C. 753.

Cited. 38 CA 1. Cited. Id., 73. Cited. 44 CA 465. Employer’s first report of injury form and an attorney’s letter taken together meet statutory requirement of written notice of claim. 52 CA 194. Workers’ compensation review board properly concluded that, under the totality of the circumstances, completion of accident investigation form by defendant’s fire department indicating that plaintiff had been transported to the hospital for high blood pressure, plaintiff’s filing of first report of injury for high blood pressure with defendant’s workers’ compensation division and the employer’s investigative report prepared by the defendant’s workers’ compensation division for defendant’s controller’s office constituted “substantial compliance” with notice requirements. 63 CA 570. Does not require that notice of injury by employee include statutory reference. 70 CA 321.

Subsec. (a):

Cited. 239 C. 408. Cited. 240 C. 788. Cited. 242 C. 570. Notice of claim for repetitive trauma injury is sufficient to support a motion to preclude if it provides adequate information as to period of time over which the injury is alleged to have occurred sufficient to allow employer to make timely investigation of the claim. 252 C. 596. Service on employer of amended complaint in third party action and employer’s acknowledgement that it “may” become obligated to pay benefits to plaintiff are not sufficient to establish that employer had actual notice of plaintiff’s intent to seek survivor’s benefits as a result of decedent’s death. 265 C. 525.

Cited. 40 CA 446. Cited. 42 CA 803. Cited. 44 CA 465. Cited. 45 CA 707. “Accident” and “occupational disease” must be read broadly enough so that even an injury that is defined as stemming from repetitive trauma under Sec. 31-275(8) may be deemed to fall into one of the two categories. 56 CA 90. Without timely written notice of claim, commissioner lacks subject matter jurisdiction over such claim. 68 CA 590. Separate notice of claim not required when dependent pursues derivative claim for death benefit. 71 CA 140.

Subsec. (b):

Cited. 241 C. 692. Notice to contest liability must state both date of alleged injury and specific reasons for contesting compensation. 252 C. 596. Compensability, in terms of whether a type of injury falls within scope of the act, is a jurisdictional fact that would allow employer to contest liability beyond the time frame allotted by subsec; hence, because the emotional impairment claimed by plaintiff in the present case does not fall within scope of the act, commissioner and board initially properly denied plaintiff’s motion to preclude defendants from contesting liability. 270 C. 532.

Cited. 30 CA 295. Cited. 40 CA 446. Employer not precluded from challenging commissioner’s subject matter jurisdiction. 64 CA 1. Issue of compensability of an injury does not implicate commissioner’s subject matter jurisdiction and, accordingly, statutory presumption of liability cannot be circumvented. Id. Does not implicate insurer’s right to raise the defense of lack of coverage against an employer. 67 CA 361.

Subsec. (c):

Employer’s insurer’s payment of medical bills during one-year period constituted the furnishing of medical treatment. 47 CA 530. Employee’s claim was not time barred because he failed to file notice of claim that specifically referenced all of his injuries. 48 CA 357.

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

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

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

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

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

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

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

History: P.A. 91-339 amended Subsecs. (b) and (e) to change "commissioners" to "chairman of the workers' compensation commission"; P.A. 98-160 amended Subsec. (a) to provide specific diagnosis and treatment for certain employees exposed in the line of duty to blood or bodily fluids; P.A. 00-99 replaced reference to high sheriff, chief deputy sheriff, deputy sheriff and special deputy sheriff with state marshal and judicial marshal in Subsec. (a), effective December 1, 2000; P.A. 01-85 amended Subsec. (a) by dividing existing provisions into Subdivs. (1) and (2), adding provisions in Subdiv. (1) re furnishing prescription drugs and payment of prescription drug costs directly to provider and making technical changes, effective January 1, 2002.

Cited. 228 C. 1. Sec. 31-294 (repealed) cited. *Id.* Cited. 237 C. 1. Cited. 241 C. 692.

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

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

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

Cited. 228 C. 1. Sec. 31-294 (repealed) cited. *Id.*

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

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

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

History: P.A. 91-339 amended Subsec. (a) to change "commissioners" to "chairman of the workers' compensation commission"; P.A. 96-125 amended Subsec. (b) by replacing "Any medical reports resulting from an examination requested by an employer or directed by the commissioner under this section" with "All medical reports concerning any injury of an employee sustained in the course of his employment" and by deleting the provision re furnishing of all "other" medical reports.

Cited. 228 C. 1. Sec. 31-294 (repealed) cited. *Id.*

Statute provides employer the right to an independent and meaningful medical examination of injured employee. 65 CA 592.

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

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

Cited. 228 C. 1. Sec. 31-294 (repealed) cited. *Id.*

Sec. 31-295. Waiting period. When compensation begins. Penalty for late payment of permanent partial disability benefits. (a) No compensation shall be payable for total or partial incapacity under the provisions of this chapter on account of any injury which does not incapacitate the injured employee for a period of more than three days from earning full wages at his customary employment. If the incapacity continues for a period of more than three days but less than seven days, compensation shall begin at the expiration of the first three days of total or partial incapacity. If the incapacity continues for a period of seven days, compensation shall begin from the date of the injury.

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

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

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

History: 1959 act divided section into Subsecs. and reduced periods of incapacity used to determine compensation from seven to three days and from ten to seven days; 1961 act entirely replaced previous provisions; 1967 act added Subsec. (c) re compensation for permanent disability; P.A. 91-32 made technical changes; P.A. 91-339 amended Subsec. (c) to require the chairman of the workers' compensation commission to adopt regulations; P.A. 93-228 amended Subsec. (c) to increase the interest penalty for late payment of permanent partial disability benefits from six to ten per cent per year, effective July 1, 1993.

"Incapacity" defined. 113 C. 710. Cited. 119 C. 560.

Cited. 7 CA 142.

Defendant may not counterclaim against intervening plaintiff employer based on contract between employer and defendant for former to hold latter harmless for personal injury claims. 22 CS 23.

Subsec. (a):

Cited. 241 C. 692.

Subsec. (b):

Cited. 16 CA 437.

Subsec. (c):

Nothing in subsection expressly prohibits plaintiff from receiving incapacity benefits until both legs have reached maximum medical improvement and such result does not undermine purpose of the Worker's Compensation Act. 263 C. 328.

Cited. 37 CA 648.

Sec. 31-296. Voluntary agreements. If an employer and an injured employee, or in case of fatal injury his legal representative or dependent, at a date not earlier than the expiration of the waiting period, reach an agreement in regard to compensation, such agreement shall be submitted in writing to the commissioner by the employer with a statement of the time, place and nature of the injury upon which it is based; and, if such commissioner finds such agreement to conform to the provisions of this chapter in every regard, he shall so approve it. A copy of the agreement, with a statement of the commis-

sioner's approval thereof, shall be delivered to each of the parties and thereafter it shall be as binding upon both parties as an award by the commissioner. The commissioner's statement of approval shall also inform the employee or his dependent, as the case may be, of any rights the individual may have to an annual cost-of-living adjustment or to participate in a rehabilitation program under the provisions of this chapter. He shall retain the original agreement, with his approval thereof, in his office and, if an application is made to the superior court for an execution, he shall, upon the request of said court, file in the court a certified copy of the agreement and his statement of approval thereof. Before discontinuing or reducing payment on account of total or partial incapacity under any such agreement, the employer, if it is claimed by or on behalf of the injured person that his incapacity still continues, shall notify the commissioner and the employee, by certified mail, of the proposed discontinuance or reduction of such payments, with the date of such proposed discontinuance or reduction and the reason therefor, and, such discontinuance or reduction shall not become effective unless specifically approved in writing by the commissioner. The employee may request a hearing on any such proposed discontinuance or reduction within ten days of receipt of such notice. Any such request for a hearing shall be given priority over requests for hearings on other matters. The commissioner shall not approve any such discontinuance or reduction prior to the expiration of the period for requesting a hearing or the completion of such hearing, whichever is later. In any case where the commissioner finds that an employer has discontinued or reduced any payments made in accordance with this section without the approval of the commissioner, such employer shall be required to pay to the employee the total amount of all payments so discontinued or the total amount by which such payments were reduced, as the case may be, and shall be required to pay interest to the employee, at a rate of one and one-quarter per cent per month or portion thereof, on any payments so discontinued or on the total amount by which such payments were reduced, as the case may be, plus reasonable attorney's fees incurred by the employee in relation to such discontinuance or reduction. Such notice of intention to discontinue or reduce payments shall be in substantially the following form:

WORKERS' COMPENSATION COMMISSION
OF CONNECTICUT
NOTICE TO COMPENSATION COMMISSIONER AND
EMPLOYEE OF INTENTION TO DISCONTINUE OR REDUCE
PAYMENTS.

To the Compensation Commissioner for the Congressional District and to, employee:

You are hereby notified that the undersigned employer intends on the day of, 20.., to discontinue or reduce the payments of compensation to the above-named employee for the following reason, to wit:

....

.... Employer
by (Indicate Official Position), Insurer or Agent

I HEREBY CERTIFY that the above named employee is able to return to
usual
light work on the day of, 20...
selected

will

There will not be permanent loss or loss of use of (member)

.... Attending Surgeon

The following blanks are to be filled out in order that the case may be properly located
in the records of the Commissioner:

Date of Injury

Date of Award or approval of agreement

Date when mailed by respondents

The employee may request a hearing by the compensation commissioner on the discon-
tinuance or reduction set forth in this notice within ten days of receipt of this notice.

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

History: 1961 act entirely replaced previous provisions; 1971 act changed point at which discontinuance is effective from time notices are sent to commissioner to time when specifically approved in writing by commissioner; P.A. 79-376 replaced "workmen's compensation" with "workers' compensation"; P.A. 83-114 provided that the commissioner's statement of approval of a voluntary agreement shall inform the individual as to his rights for an annual cost-of-living adjustment under this chapter; P.A. 84-180 provided that the commissioner's statement of approval inform the employee of his rights to participate in a rehabilitation program; P.A. 88-106 authorized reduction of benefits; P.A. 90-116 provided that notices of discontinuance and reduction shall be made by certified mail, provided for priority hearing on discontinuances and reductions and provided for interest and attorney's fees against the employer in cases of wrongful discontinuance or reduction (Revisor's note: The references in this section to the date "19.." were changed editorially by the Revisors to "20.." to reflect the new millennium).

Agreement for compensation approved by commissioner may be modified by him on facts not made known to him though known to the parties. 95 C. 356. Widow bound by agreement signed by her and late husband. 120 C. 280. Cited. 126 C. 491; 128 C. 578; 151 C. 559. Agreement by which employer waived all further claims under Workmen's Compensation Act was binding on him as waiver of his subrogation rights under section 31-293. 157 C. 538. Cited. 159 C. 302. Cited. 177 C. 107. Cited. 231 C. 287. Cited. Id., 469. Cited. 233 C. 14. Cited. 237 C. 259. Sums paid pursuant to voluntary agreements are "compensation" and recoverable by employers or Second Injury Fund under Secs. 31-293 and 31-352. 259 C. 325.

Cited. 13 CA 208. Cited. 21 CA 464. Cited. 28 CA 113. Cited. 33 CA 490. Cited. 36 CA 298. Cited. 38 CA 754. Cited. 40 CA 36. Cited. 44 CA 771. Cited. 45 CA 324. Meaning of "voluntary agreement" as used in regulation section 31-296-1 discussed. 58 CA 45. Court was within discretion to deny request to execute voluntary agreement that was not a final settlement. Id.

Cited. 4 CS 467; 28 CS 5. Cited. 42 CS 514.

Sec. 31-296a. Discontinuance or reduction of payments under oral agreements.

No employer shall discontinue or reduce payment on account of total or partial incapacity under any oral agreement or in any case where the employer's acceptance of compensability has been conclusively presumed under subsection (b) of section 31-294c because of failure to file a timely notice contesting liability, if it is claimed by or on behalf of the injured person that his incapacity still continues, unless such employer notifies the commissioner and the employee of the proposed discontinuance or reduction in

the manner prescribed in section 31-296 and the commissioner specifically approves such discontinuance or reduction in writing.

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

History: 1972 act prohibited discontinuing payments “in any case where the employer’s acceptance of compensability has been conclusively presumed ... because of failure to file a timely notice contesting liability”; P.A. 88-106 added the provisions regarding the reduction of benefits; P.A. 92-31 made a technical change.

Cited. 28 CA 113.

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

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

History: 1961 act entirely replaced previous provisions; 1967 act divided section into Subsecs., required filing of notice on or before twentieth day after receipt of written notice of claim rather than after “knowledge of alleged injury or death” and specified that employer’s failure to file notice contesting liability results in presumption of his acceptance of liability; P.A. 83-123 required that, if no voluntary agreement has been reached within sixty days of the filing of a notice of claim for compensation, a formal hearing on the claim shall be scheduled and held within thirty days of the end of the sixty-day period, unless a prior hearing date was previously established; P.A. 89-31 added Subsec. (c), providing a twenty-eight-day period for an employer to give notice that he contests a claim for injuries sustained on or after October 1, 1989; P.A. 90-116 provided that the employer’s failure to contest shall not constitute a conclusive presumption when the notice has not been properly served or when the notice fails to include a warning concerning the time period to contest liability; P.A. 91-32 made technical changes and deleted Subsecs. (b) and (c) re filing of notice that claim is contested, but see Sec. 31-294c.

Ten days’ notice does not apply to hearing on motion for extension of time. 109 C. 469. Cited. 159 C. 302. The giving of notice by the employer as to the specific grounds on which the right to compensation is contested is a condition precedent to the defense of the action. 165 C. 338, 348. Cited. 227 C. 333. Cited. 239 C. 408.

Cited. 2 CA 365. Cited. 13 CA 208. Cited. 29 CA 441. Cited. 30 CA 320. Cited. 40 CA 278.

Cited. 38 CS 331.

Subsec. (a):

Cited. 177 C. 107.

Subsec. (b):

Cited (dissent). 165 C. 338. Applies only to contests of initial liability to pay compensation, not to contests of extent of disability, in requiring filing of a specific defense. 177 C. 107. Inquiry on existence of subject matter jurisdiction proper. 207 C. 420. Preclusion available to one claimant establishes compensability as to all eligible claimants. *Id.*, 665. Cited. 213 C. 54. Cited. 218 C. 181. Cited. 222 C. 62. Cited. 228 C. 535.

Held to be constitutional under both state and federal constitutions. 2 CA 363. Cited. *Id.*, 162. Cited. 9 CA 91. Cited. *Id.*, 425. Timely filing of a notice of claim under Sec. 31-294 is a precondition to statutory preclusion from contesting liability under this section. 13 CA 276. Cited. 16 CA 676. Cited. 19 CA 273. Cited. 21 CA 63. Cited. *Id.*, 610. Cited. 22 CA 515. Cited. 25 CA 350. Amendment not to be applied retroactively. Date of injury rule applies. 29 CA 441. Amendment applied only prospectively. *Id.*, 654. P.A. 90-116, Sec. 9 cited. *Id.* Cited 30 CA 295. Cited. 33 CA 495. Cited. 42 CA 147. Cited. 45 CA

499. Does not expressly provide for notice to claimants who are not employees or dependents. Notice to last-known address of decedent employee, which was also claimants' address, was adequate. 63 CA 1.
Cited. 39 CS 403.

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

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

History: P.A. 93-228 authorized chairman of workers' compensation commission to preside over informal hearings, effective July 1, 1993.

Cited. 42 CA 147.

Sec. 31-298. Conduct of hearings. Both parties may appear at any hearing, either in person or by attorney or other accredited representative, and no formal pleadings shall be required, beyond any informal notices that the commission approves. In all cases and hearings under the provisions of this chapter, the commissioner shall proceed, so far as possible, in accordance with the rules of equity. He shall not be bound by the ordinary common law or statutory rules of evidence or procedure, but shall make inquiry, through oral testimony, deposition testimony or written and printed records, in a manner that is best calculated to ascertain the substantial rights of the parties and carry out the provisions and intent of this chapter. No fees shall be charged to either party by the commissioner in connection with any hearing or other procedure, but the commissioner shall furnish at cost (1) certified copies of any testimony, award or other matter which may be of record in his office, and (2) duplicates of audio cassette recordings of any formal hearings. Witnesses subpoenaed by the commissioner shall be allowed the fees and traveling expenses that are allowed in civil actions, to be paid by the party in whose interest the witnesses are subpoenaed. When liability or extent of disability is contested by formal hearing before the commissioner, the claimant shall be entitled, if he prevails on final judgment, to payment for oral testimony or deposition testimony rendered on his behalf by a competent physician, surgeon or other medical provider, including the stenographic and videotape recording costs thereof, in connection with the claim, the commissioner to determine the reasonableness of such charges.

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

History: 1961 act entirely replaced previous provisions; 1967, P.A. 242 added, "and attorney's fees for representation of the claimant at the formal hearing," in the last sentence before "the commissioner to determine the reasonableness of such charges." (Held repealed by implication, see 165 C. 338, 349.) 1967, P.A. 842 added reference to contest of extent of liability and entitled claimant to one-fifth of weekly compensation for each day or portion of day he attends a formal hearing if he is not receiving compensation at that time; 1971 act entitled claimant to reimbursement for wages lost because he has been called to appear at conference or informal hearing; P.A. 85-65 required the commissioner to furnish to the parties, at cost, duplicates of audio cassette recordings of any formal hearings; P.A. 91-32 made technical changes and deleted provisions re reimbursement of wages lost by reason of appearance at a conference or informal hearing and provisions re payments made to claimants who prevail on final judgment; P.A. 93-228 added provision allowing use of deposition testimony during workers' compensation hearings, effective July 1, 1993; P.A. 97-106 added provisions entitling claimant to payment for medical testimony if he prevails on final judgment.

See Sec. 52-260 re witness fees.

Admissions by insurance adjuster may be accepted by the commissioner. 93 C. 295. Conduct of hearing. 94 C. 9. Burden of proof is on claimant, but may be sustained by reasonable inferences as well as by direct testimony. 95 C. 43. Declarations by the decedent. 98 C. 649. Procedure simple and without pleadings. 106 C. 9. Conclusions reached by superintendent at an immediate investigation. *Id.*, 252. Claimant held not to have had an adequate hearing. 107 C. 457. Evidence which commissioner may accept. Findings, to be open to attack, must be unreasonable to justify judicial interference. 109 C. 62. Cited. 114 C. 29. Commissioner not bound by rules of evidence. 116 C. 297; 122 C. 360; 133 C. 667. Evidence that workers in other factories under substantially same conditions do not contract disease is admissible. 118 C. 29. Commissioner judge when conflicting medical testimony presented. 123 C. 405; 130 C. 455; 131 C. 484. Evidence as to extent of incapacity from susceptibility to dermatitis necessary to finding of compensation commissioner. 125 C. 140. Commissioner judge of fact. 128 C. 621. Burden of proof rests on claimant. 130 C. 1. Cited. 132 C. 172; 135 C. 504; 136 C. 345. Workmen's compensation commissioner not bound by rules of evidence. 138 C. 53. While finding or conclusion of commissioner based on conflicting medical opinions cannot be disturbed, such finding cannot be based on incompetent medical testimony to which objection was seasonably made. 149 C. 118. Opinion of physician based wholly or partly on statements and symptoms related to him by patient on personal examination is inadmissible where examination was made for purpose of qualifying physician to testify as medical expert. *Id.*, 119. Cited. 159 C. 302. Cited. 165 C. 338. Cited. 199 C. 667. Cited. 213 C. 54. Cited. 226 C. 508. Cited. 237 C. 1. Section addresses the conduct of hearings; does not provide commissioner with any specific jurisdiction over particular types of claims or questions. 248 C. 754. Commissioner has authority to dismiss claim without a hearing on the merits in an appropriate case. 254 C. 60.

Cited. 29 CA 249. Cited. 40 CA 278. Workers' compensation commissioners not bound by Daubert standard in determining whether to admit scientific testimony; establishing formal requirements for admissibility of scientific testimony in workers' compensation cases is contrary to spirit of statute. 48 CA 774. Equitable requirements of section do not apply to scheduling of hearings and notice to parties, matters that are specifically addressed in Sec. 31-297. 66 CA 332.

Cited. 38 CS 331.

Sec. 31-298a. Use of medical panel. Duties of commissioner and panel. Appeal. Regulations. (a) A medical panel shall be established for use in solving controverted medical issues in claims for workers' compensation due to occupational lung disease. The American College of Chest Physicians shall submit to the chairman of the Workers' Compensation Commission by October 10, 1981, and annually thereafter a list of five to ten physicians who are expert in the diagnosis, care and treatment of occupational lung disease for membership in the panel. In the event that no such list is submitted, the chairman shall appoint to the panel five to ten licensed physicians who are expert in the diagnosis, care and treatment of such diseases.

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

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

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

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

History: P.A. 91-339 changed "compensation review division" to "compensation review board" in Subsec. (c) and changed "workers' compensation commissioners" to "the chairman of the workers' compensation commission" in Subsec. (d).

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

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

History: 1961 act entirely replaced previous provisions; 1967 act added provisions re oral statements at hearings.

Cited. 159 C. 302.

Sec. 31-299a. Payments under group medical policy not defense to claim for benefits. Health insurer's duty to pay. Lien. (a) Where an employer contests the compensability of an employee's claim for compensation, proof of payment made under a group health, medical or hospitalization plan or policy shall not be a defense to a claim for compensation under this chapter.

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

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

History: P.A. 84-139 added Subsec. (b), providing that an employer's health insurer may not deny benefits to an otherwise eligible employee because that employee has filed a workers' compensation claim which has been contested; P.A. 91-32 made technical changes; P.A. 93-228 amended Subsec. (b) to allow a health insurer to recover from an employer the value of benefits paid to or on behalf of an employee for an injury compensable under this chapter and to prohibit a health insurer who has

not paid benefits to or on behalf of an injured employee from placing a lien on the employee's workers' compensation award, effective July 1, 1993.

Cited. 219 C. 439.

Cited. 22 CA 539; judgment reversed and case remanded to appellate court with direction to affirm decision of compensation review division, see 219 C. 439.

Sec. 31-299b. Initial liability of last employer. Reimbursement. If an employee suffers an injury or disease for which compensation is found by the commissioner to be payable according to the provisions of this chapter, the employer who last employed the claimant prior to the filing of the claim, or the employer's insurer, shall be initially liable for the payment of such compensation. The commissioner shall, within a reasonable period of time after issuing an award, on the basis of the record of the hearing, determine whether prior employers, or their insurers, are liable for a portion of such compensation and the extent of their liability. If prior employers are found to be so liable, the commissioner shall order such employers or their insurers to reimburse the initially liable employer or insurer according to the proportion of their liability. Reimbursement shall be made within ten days of the commissioner's order with interest, from the date of the initial payment, at twelve per cent per annum. If no appeal from the commissioner's order is taken by any employer or insurer within twenty days, the order shall be final and may be enforced in the same manner as a judgment of the Superior Court.

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

History: P.A. 01-22 increased time for taking an appeal from order of commissioner from ten to twenty days.

Cited. 231 C. 469. Cited. 232 C. 758. Cited. 241 C. 282. Application is limited to cases of ongoing repetitive trauma or occupational disease. 263 C. 279.

Cited. 33 CA 695; judgment reversed, see 231 C. 469.

Sec. 31-300. Award as judgment. Interest. Attorney's fee. Procedure on discontinuance or reduction. As soon as may be after the conclusion of any hearing, but no later than one hundred twenty days after such conclusion, the commissioner shall send to each party a written copy of the commissioner's findings and award. The commissioner shall, as part of the written award, inform the employee or the employee's dependent, as the case may be, of any rights the individual may have to an annual cost-of-living adjustment or to participate in a rehabilitation program under the provisions of this chapter. The commissioner shall retain the original findings and award in said commissioner's office. If no appeal from the decision is taken by either party within twenty days thereafter, such award shall be final and may be enforced in the same manner as a judgment of the Superior Court. The court may issue execution upon any uncontested or final award of a commissioner in the same manner as in cases of judgments rendered in the Superior Court; and, upon the filing of an application to the court for an execution, the commissioner in whose office the award is on file shall, upon the request of the clerk of said court, send to the clerk a certified copy of such findings and award. In cases where, through the fault or neglect of the employer or insurer, adjustments of compensation have been unduly delayed, or where through such fault or neglect, payments have been unduly delayed, the commissioner may include in the award interest at the rate prescribed in section 37-3a and a reasonable attorney's fee in the case of undue delay in adjustments of compensation and may include in the award in the case of undue delay in payments of compensation, interest at twelve per cent per annum and a reasonable attorney's fee. Payments not commenced within thirty-five days after the filing of a written

notice of claim shall be presumed to be unduly delayed unless a notice to contest the claim is filed in accordance with section 31-297. In cases where there has been delay in either adjustment or payment, which delay has not been due to the fault or neglect of the employer or insurer, whether such delay was caused by appeals or otherwise, the commissioner may allow interest at such rate, not to exceed the rate prescribed in section 37-3a, as may be fair and reasonable, taking into account whatever advantage the employer or insurer, as the case may be, may have had from the use of the money, the burden of showing that the rate in such case should be less than the rate prescribed in section 37-3a to be upon the employer or insurer. In cases where the claimant prevails and the commissioner finds that the employer or insurer has unreasonably contested liability, the commissioner may allow to the claimant a reasonable attorney's fee. No employer or insurer shall discontinue or reduce payment on account of total or partial incapacity under any such award, if it is claimed by or on behalf of the injured person that such person's incapacity still continues, unless such employer or insurer notifies the commissioner and the employee of such proposed discontinuance or reduction in the manner prescribed in section 31-296 and the commissioner specifically approves such discontinuance or reduction in writing. The commissioner shall render the decision within fourteen days of receipt of such notice and shall forward to all parties to the claim a copy of the decision not later than seven days after the decision has been rendered. If the decision of the commissioner finds for the employer or insurer, the injured person shall return any wrongful payments received from the day designated by the commissioner as the effective date for the discontinuance or reduction of benefits. Any employee whose benefits for total incapacity are discontinued under the provisions of this section and who is entitled to receive benefits for partial incapacity as a result of an award, shall receive those benefits commencing the day following the designated effective date for the discontinuance of benefits for total incapacity. In any case where the commissioner finds that the employer or insurer has discontinued or reduced any such payment without having given such notice and without the commissioner having approved such discontinuance or reduction in writing, the commissioner shall allow the claimant a reasonable attorney's fee together with interest at the rate prescribed in section 37-3a on the discontinued or reduced payments.

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

History: 1961 act entirely replaced previous provisions; 1967 acts deleted references to "original findings" and specified that claimant may be allowed reasonable attorneys fees where commissioner finds that employer or insurer has unreasonably contested liability; P.A. 75-122 added provisions re procedure for discontinuance of payments; P.A. 79-80 specified that six per cent interest applies "in the case of undue delay in adjustments of compensation", allowed twelve per cent interest where there is undue delay in payments and defined undue delay; P.A. 83-114 provided that the commissioner shall inform the individual, as part of the written award, of his rights to an annual cost-of-living adjustment under this chapter; P.A. 84-180 required the commissioner to inform the employee in the award of his right to participate in a rehabilitation program; P.A. 84-299 provided that payments not made within thirty-five days after the filing of a claim shall be considered "unduly delayed" unless the claim has been timely contested; P.A. 85-64 required the commissioner to send each party a written copy of his award within one hundred twenty days of the conclusion of hearings on the claim; P.A. 88-106 added the provisions regarding reduction of benefits and provided for an award of attorneys' fees in cases of undue delay in adjustments and payments resulting from the fault or neglect of an employer or insurer; P.A. 89-17 increased the rate of interest from six per cent to ten per cent for all cases except cases where payments are discontinued or reduced without notice and approval; P.A. 89-316 changed the rates of allowable interest from specific percentages enacted under P.A. 89-17 to the rate prescribed in Sec. 37-3a; P.A. 91-339 required the commissioner to send to each party a written copy of his findings; P.A. 93-228 added provisions modifying procedures re discontinuances or reductions in workers' compensation benefits, effective July 1, 1993; P.A. 01-22 increased time for taking an appeal from the decision of the commissioner from ten to twenty days and made technical changes for the purpose of gender neutrality.

What the finding should contain. 90 C. 540; 94 C. 262; Id., 627; 96 C. 354; 97 C. 78; 114 C. 393; 117 C. 603. Commissioner may make his memorandum of decision part of the finding. 100 C. 389; 103 C. 104; Id., 428. Prolix and evidential finding criticized. 103 C. 708. Commissioner must expressly find subordinate facts on which his conclusions rest. 104 C. 463. When award not appealed from, finding becomes final on subsequent hearing for further compensation. 109 C. 599. When award becomes final judgment. 112 C. 370. When it appears claimant may establish claim on retrial, case is remanded. 118 C. 29; 130 C. 1. Motion to erase proper method to raise question whether there was a judgment from which appeal might be taken. 123 C. 103. Finding as to causal connection. Id., 405. Correction of finding. 124 C. 296; 130 C. 423; Id., 478; Id., 482. Finding of incapacity must be based on extent and consequent loss of earning power due to susceptibility due to dermatitis. 125 C. 140. Award may be enforced in same manner as judgment of superior court. 126 C. 491. Judgment of superior court interlocutory ruling, not final. Id., 522. Cited. 165 C. 338. All appeals since 1972 amendments should be taken from the court of common pleas. Hence reservation from the superior court under section 31-324 was dismissed for lack of jurisdiction. 168 C. 84. Cited. 169 C. 646. Cited. 208 C. 576. Cited. 212 C. 441. Cited. 219 C. 439. Cited. 224 C. 441. Cited. 237 C. 71. Cited. Id., 378. Attorney's fees awarded under section do not constitute "payments due under an award" pursuant to Sec. 31-303, and are not subject to a penalty as a late payment thereunder. 260 C. 21.

Where no specific time limit set under statute for finding and award to be made, commissioner does not lose jurisdiction to render decision after certain lapse of time. 2 CA 689. Cited. 7 CA 142. Cited. 12 CA 138. Cited. 21 CA 464. Cited. 22 CA 539; judgment reversed and case remanded to appellate court with direction to affirm decision of compensation review division, see 219 C. 439. Cited. 26 CA 194. Cited. 28 CA 113. Cited. 33 CA 667. Cited. 39 CA 717. Cited. 40 CA 36. Cited. 45 CA 324. Cited. Id., 499. Plaintiff's conduct constituted an implied waiver of her right to have commissioner's decision vacated for failure to issue decision within time limit. 49 CA 339. Court was within discretion to deny request to execute a voluntary agreement that was not a final settlement; section granted trial court subject matter jurisdiction in matter. 58 CA 45. Finding that employer or insurer acted in an unreasonable manner or caused undue delay is necessary to predicate an order to pay attorney's fees pursuant to this statute. 65 CA 592. Where commissioner failed to issue decision within mandatory time period and defendant objected to the decision on the day of its eventual issuance, it was held that defendant had not waived any objection to the late issuance since there is no requirement that a party object to a decision prior to its issuance. 72 CA 497.

Award has the force of judgment but execution on plaintiff's award was denied where defendant had action pending in superior court to determine whether plaintiff could keep award and retain proceeds from a Massachusetts death action based on same loss. 27 CS 382. Cited. 28 CS 5. Cited. 39 CS 386.

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

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

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

(d) When any appeal is pending, and it appears to the Compensation Review Board that any part of the award appealed from is not affected by the issues raised by the appeal, the Compensation Review Board may, on motion or of its own motion, render a

judgment directing compliance with any portion of the award not affected by the appeal; or if the only issue raised by the appeal is the amount of the average weekly wage for the purpose of determining the amount of compensation, as provided in section 31-310, the commissioner shall, on motion of the claimant, direct the payment of the portion of the compensation payable under his award that is not in dispute, if any, pending final adjudication of the disputed portion thereof. In all appeals in which one of the parties is not represented by counsel, and in which the party taking the appeal does not prosecute the case within a reasonable time from the date of appeal, the Compensation Review Board may, of its own motion, affirm, reverse or modify the award.

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

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

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

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

History: 1961 act entirely replaced previous provisions; 1963 act allowed appeals after commissioner's decision upon a motion and required that appeals be made to court for county where injury occurred rather than county where award was filed, adding provision re court for appeal when injury occurred outside state; 1967 act deleted references to findings of commissioners and specified that appeal procedure is same as for appeals from superior court to supreme court; 1972 act replaced superior court with court of common pleas throughout section, effective September 1, 1972, except that courts with cases pending retain jurisdiction; P.A. 74-183 added references to judicial districts and made appeal procedure same as for appeals from court of common pleas to superior court, effective December 31, 1974; P.A. 76-436 replaced court of common pleas with superior court and deleted provision re appeal procedure, effective July 1, 1978; P.A. 78-280 deleted references to counties; P.A. 79-540 replaced provisions re appeals to superior court with new provisions re appeals to compensation review division; P.A. 81-155 permitted the appeal of orders made by the commissioner according to the provisions of Sec. 31-299b; P.A. 81-

472 made technical changes; P.A. 84-133 added Subsec. (b), providing for the payment of compensation and benefits due under an occupational disease award during the pendency of any appeal of such award; P.A. 86-27 provided that compensation and benefits due under any award made pursuant to this chapter shall be paid by the second injury fund during the pendency of any appeal of the award; P.A. 86-56 required the compensation review division to issue its decision on any appeal within one year of the filing of the appeal petition, except that any decision on an appeal pending on October 1, 1986, shall be issued within one year of said date; P.A. 91-32 divided existing Subsec. (a) into Subsecs. (a) to (e), inclusive, divided existing Subsec. (b) into Subsecs. (f) and (g) and made technical changes; P.A. 91-339 changed "compensation review division" to "compensation review board", changed "chairman" to "chief" of the board, added reference to Sec. 31-380b in Subsec. (b) and authorized the chairman of the workers' compensation commission to adopt regulations in Subsec. (e); P.A. 95-277 amended Subsec. (f) to provide that the compensation and medical treatment of the injured employee be paid by the employer or its insurer rather than Second Injury Fund and, in Subsec. (g) substituted references to "Second Injury Fund" with "employer or its insurer" to reflect the closing of the Second Injury Fund and deleted provision re reimbursement of Second Injury Fund by employer, effective July 1, 1995; P.A. 01-22 amended Subsec. (a) by increasing the time to take an appeal from ten to twenty days.

Appeal does not open the case for trial de novo. 89 C. 143, 150; Id., 370; 92 C. 90. The commissioner's finding is part of the record and may be corrected by the superior court in the same manner as the finding of a trial court by the supreme court. 90 C. 446; 91 C. 531; 92 C. 90; 93 C. 94; 95 C. 673; 96 C. 634; 98 C. 287; Id., 755; 99 C. 355; 103 C. 429; 104 C. 537; 107 C. 251. Reasons of appeal and answer thereto should be filed in the court. 91 C. 227. What justifies setting award aside. 93 C. 83; 94 C. 9; 96 C. 299. If the court materially alters the finding, it should recommit it to the commissioner to decide on the altered facts. 97 C. 77; 106 C. 254. Conclusion of fact based on subordinate facts is reviewable by the court. 100 C. 347; 102 C. 5; Id., 237; Id., 472. There is no appeal from refusal of commissioner to rehear the case or alter his finding. 101 C. 358; 108 C. 161. Where the facts found are too indefinite to support the award, finding should be recommitted to commissioner. 102 C. 238; 106 C. 215; Id., 253; 107 C. 171; Id., 647. Nature of the appeal and correction of finding by superior court fully reviewed. 102 C. 514. Court should not set aside award because it differs with the commissioner as to preponderance of evidence. 106 C. 109. There is no appeal from an award of commissioner made in compliance with the decision of the superior court on a former appeal; appeal must be to the supreme court from the superior court decision. 108 C. 159. Expense of printing testimony not taxable as costs on appeal. 109 C. 737. Superior court cannot change finding unless commissioner has found facts without evidence or has reached unreasonable conclusions. 120 C. 606; 121 C. 56; Id., 483; Id., 541; Id., 708; 122 C. 129. When entire transcript may properly be filed. 121 C. 274. When testimony necessary for proper determination of case is not presented, case remanded for further hearing. Id. Motion to erase proper method to raise question whether there was a judgment from which appeal might be taken. 123 C. 103. Cited. 132 C. 209. Where motion to open award is made by party who intends to appeal from award if motion is denied, he may postpone the filing of the appeal until the motion is determined. 134 C. 269. Where commissioner failed to pass upon specific claim potentially decisive of the case, it should be returned for further proceedings. 138 C. 482. Cited. 141 C. 321. Section affects the court to which appeal is taken not employee's right to compensation. Appeal brought to superior court after Sept. 1, 1972 was brought to wrong court and superior court has no jurisdiction. 169 C. 646. Cited. 179 C. 662. Cited. 207 C. 420. Cited. 213 C. 54. Cited. 217 C. 143. Cited. 220 C. 739. Cited. 232 C. 758. Cited. 233 C. 14. Cited. 235 C. 790. Cited. 239 C. 408. Cited. 240 C. 788. Provision re payment deadline applies when payment is due under an award by compensation review board. 249 C. 365. Ten-day appeal period tolled when aggrieved party establishes that, through no fault of his own, he did not receive notice of commissioner's decision within ten days of the date it was sent. 250 C. 581. Provision re ten-day period for appeal commences on the date notice is sent to a party's counsel. Id., 592.

Cited. 1 CA 142. Cited. 7 CA 142. Cited. 11 CA 693. Cited. 16 CA 138. Cited. 33 CA 695; judgment reversed, see 231 C. 469. P.A. 91-339, Sec. 20 cited. Id. Cited. 36 CA 150. Cited. Id., 298. Cited. 38 CA 1. Cited. 39 CA 717. Cited. 45 CA 199. In matter where the issue was causation of injury, board did not improperly substitute its factual findings for those of commissioner but rather determined that commissioner's finding could not stand without the support of expert medical testimony and properly refused to remand the case for further proceedings. 62 CA 440.

Authority to extend time for taking an appeal. 9 CS 38. Imposes on party seeking the order, the burden of showing (1) inability to pay and (2) that justice requires the action of the commissioner be appealed from. Id., 379. A plea in abatement and not a motion to expunge is appropriate remedy to attack appeal not brought within ten days. 15 CS 33. Cited. 17 CS 288; 27 CS 410. Amendment of October 1, 1967, applied to pending appeal which was then dismissed for failure to prosecute with due diligence. 24 CS 411. Cited. 38 CS 648.

Subsec. (a):

Cited. 206 C. 242. Cited. 207 C. 535. Cited. 212 C. 441. Cited. 227 C. 333. Cited. 228 C. 535. Cited. 231 C. 469. Cited. 237 C. 1. Cited. 241 C. 282.

Cited. 33 CA 495. Proper interpretation of limitation period contained in this section is that ten-day period begins to run on day on which party wanting appeal is sent meaningful notice of commissioner's decision. 36 CA 298. Cited. 37 CA 392. Cited. 46 CA 298. Ten-day appeal period begins to run on day on which party wanting to appeal is sent meaningful notice of commissioner's decision. 49 CA 1. Notice must be sent directly to plaintiff, not plaintiff's attorney, in order for appeal period to commence. 51 CA 92.

Subsec. (b):

Cited. 227 C. 333. Cited. 231 C. 287.

Subsec. (c):

It is implicit in statutory authority to reverse a decision of the trial commissioner that board may remand a case for a new hearing. 251 C. 153. Legislature did not intend to impose unstated limitations on review board's discretion to order appropriately adjudicated new hearings. Id.

Cited. 34 CA 673.

Subsec. (f):

Should be applied retroactively to all cases not actually transferred to the fund prior to the date provision became effective; concurring opinion based on legislative intent. 243 C. 311.

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

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

History: P.A. 91-339 changed "compensation review division" to "compensation review board".

Awards become final if and when parties fail to appeal within applicable statutory time period and are not "pending matters" subject to modification based on subsequent changes in law. 244 C. 1.

Cited. 28 CA 113.

Sec. 31-301b. Appeal of decision of Compensation Review Board. Any party aggrieved by the decision of the Compensation Review Board upon any question or questions of law arising in the proceedings may appeal the decision of the Compensation Review Board to the Appellate Court.

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

History: June Sp. Sess. P.A. 83-29 deleted reference to appellate session of the superior court and included reference to appellate court; P.A. 91-339 changed "compensation review division" to "compensation review board".

Cited. 193 C. 59. Cited. 206 C. 242. Cited. 218 C. 181. Cited. 219 C. 674. Cited. 223 C. 376. Cited. 226 C. 569. Cited. 227 C. 261. Cited. 228 C. 401. Cited. Id., 535. Cited. 231 C. 287. Cited. Id., 469. Cited. 235 C. 790. Cited. 239 C. 676. Cited. 241 C. 282. Awards become final if and when parties fail to appeal within applicable statutory time period and are not "pending matters" subject to modification based on subsequent changes in law. 244 C. 1. Defendant was an aggrieved party for purpose of appeal to Appellate Court. 245 C. 437. In order for decision of review board to be appealable under this section, it must be a decision that has the same elements of finality as a final judgment rendered by a trial court. 246 C. 281. Meaning of "any party" discussed. 250 C. 147.

Cited. 3 CA 162. Cited. Id., 335. Cited. Id., 370. Cited. 6 CA 45. Cited. Id., 498. Cited. 13 CA 566. Cited. 21 CA 107. Cited. 26 CA 194. Cited. 28 CA 113. Cited. 33 CA 495. Cited. Id., 695. Cited. 36 CA 298. Cited. 37 CA 392. Cited. Id., 648. Cited. 38 CA 1. Cited. 39 CA 653. Cited. 41 CA 116. Cited. 45 CA 199.

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

(b) Whenever an employer or his insurer appeals a commissioner's award, and upon completion of the appeal process the employer or insurer loses such appeal, the Compensation Review Board or the Appellate Court, as the case may be, shall add interest on the amount of such award affirmed on appeal and not paid to the claimant during the pendency of such appeal, from the date of the original award to the date of the final appeal decision, at the rate prescribed in section 37-3a.

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

History: June Sp. Sess. P.A. 83-29 deleted reference to appellate session of the superior court and added reference to appellate court; P.A. 84-288 added Subsec. (b), which provides that the final arbiter of an appeal on an award shall add six per

cent interest to the amount of the award which is unpaid and affirmed by his decision; P.A. 89-316 amended Subsec. (b) to change the rate of interest from six per cent per annum to the rate "prescribed in section 37-3a"; P.A. 91-339 changed "compensation review division" to "compensation review board".

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

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

History: P.A. 80-483 substituted "pursuant to" for "in pursuance of"; P.A. 91-339 changed "compensation review division" to "compensation review board" and "chairman" to "chief" of the board.

Sec. 31-302. Payment of compensation. Commutation into monthly, quarterly or lump sums. Compensation payable under this chapter shall be paid at the particular times in the week and in the manner the commissioner may order, and shall be paid directly to the persons entitled to receive them unless the commissioner, for good reason, orders payment to those entitled to act for such persons, except that when the commissioner finds it just or necessary, the commissioner may approve or direct the commutation, in whole or in part, of weekly compensation under the provisions of this chapter into monthly or quarterly payments, or into a single lump sum, which may be paid to the one then entitled to the compensation, and the commutation shall be binding upon all persons entitled to compensation for the injury in question. In any case of commutation, a true equivalence of value shall be maintained, with due discount of sums payable in the future; and, when commutation is made into a single lump sum, (1) the commissioner may direct that it be paid to any savings bank, trust company or life insurance company authorized to do business within this state, to be held in trust for the beneficiary or beneficiaries under the provisions of this chapter and paid in conformity with the provisions of this chapter, and (2) the parties, by agreement and with approval of the commissioner, may prorate the single lump sum over the life expectancy of the injured employee.

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

History: 1961 act entirely replaced previous provisions; P.A. 91-32 made technical changes; P.A. 04-214 made a technical change, designated existing provisions re lump sum payments as Subdiv. (1), and added Subdiv. (2) to allow prorating of lump sum payments over life expectancy of injured employee, effective June 3, 2004.

Commutation can be made only when the compensation period is definite. 96 C. 674; 98 C. 236; 108 C. 644. When commutation may be made in cases of total or partial incapacity. 120 C. 541. Award commuted into lump sum becomes final judgment. 126 C. 491. Award did not establish existence of a compensable claim. 137 C. 185. Cited. 208 C. 576. Cited. 226 C. 569.

Cited. 26 CA 194.

Record of agreement for lump-sum payment improperly excluded in action for damages for injury to person since it would have contradicted plaintiff's statement that at time of injury sued on he was suffering from no other disability. 3 Conn. Cir. Ct. 371.

Sec. 31-303. Day when compensation payments become due. Penalty for late payments. Payments agreed to under a voluntary agreement shall commence on or before the twentieth day from the date of agreement. Payments due under an award shall

commence on or before the twentieth day from the date of such award. Payments due from the Second Injury Fund shall be payable on or before the twentieth business day after receipt of a fully executed agreement. Any employer who fails to pay within the prescribed time limitations of this section shall pay a penalty for each late payment, in the amount of twenty per cent of such payment, in addition to any other interest or penalty imposed pursuant to the provisions of this chapter.

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

History: 1961 act entirely replaced previous provisions; P.A. 89-70 added the provision allowing the second injury fund ten business days to make payments; P.A. 93-228 added provision imposing twenty per cent penalty, in addition to interest and other existing penalties, on compensation payments which are paid more than ten days after the date of the agreement or award, effective July 1, 1993; P.A. 04-47 replaced references to "tenth" day with references to "twentieth" day, effective May 4, 2004.

Cited. 233 C. 14. Phrase "payments due under an award" does not encompass attorney's fees included in an award pursuant to Sec. 31-300, and such attorney's fees are not subject to penalty as a late payment thereunder. 260 C. 21.

Penalty provision applicable to workers' compensation cases resolved by stipulation. 54 CA 841. Penalty provision may be applied before effective date. Id.

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

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

History: 1961 act entirely replaced previous provisions.

Sec. 31-305. Medical examinations. Section 31-305 is repealed.

(1949 Rev., S. 7445; 1958 Rev., S. 31-172; 1961, P.A. 491, S. 28; 1967, P.A. 842, S. 11; P.A. 87-160, S. 2; P.A. 91-32, S. 40, 41.)

Sec. 31-306. Death resulting from accident or occupational disease. Dependents. Compensation. (a) Compensation shall be paid to dependents on account of death resulting from an accident arising out of and in the course of employment or from an occupational disease as follows:

(1) Four thousand dollars shall be paid for burial expenses in any case in which the employee died on or after October 1, 1988. If there is no one wholly or partially dependent upon the deceased employee, the burial expenses of four thousand dollars shall be paid to the person who assumes the responsibility of paying the funeral expenses.

(2) To those wholly dependent upon the deceased employee at the date of the deceased employee's injury, a weekly compensation equal to seventy-five per cent of the average weekly earnings of the deceased calculated pursuant to section 31-310, after such earnings have been reduced by any deduction for federal or state taxes, or both, and for the federal Insurance Contributions Act made from such employee's total wages received during the period of calculation of the employee's average weekly wage pursuant to said section 31-310, as of the date of the injury but not more than the maximum weekly compensation rate set forth in section 31-309 for the year in which the injury occurred or less than twenty dollars weekly. (A) The weekly compensation rate of each dependent entitled to receive compensation under this section as a result of death arising

from a compensable injury occurring on or after October 1, 1977, shall be adjusted annually as provided in this subdivision as of the following October first, and each subsequent October first, to provide the dependent with a cost-of-living adjustment in the dependent's weekly compensation rate as determined as of the date of the injury under section 31-309. If the maximum weekly compensation rate, as determined under the provisions of said section 31-309, to be effective as of any October first following the date of the injury, is greater than the maximum weekly compensation rate prevailing at the date of the injury, the weekly compensation rate which the injured employee was entitled to receive at the date of the injury or October 1, 1990, whichever is later, shall be increased by the percentage of the increase in the maximum weekly compensation rate required by the provisions of said section 31-309 from the date of the injury or October 1, 1990, whichever is later, to such October first. The cost-of-living increases provided under this subdivision shall be paid by the employer without any order or award from the commissioner. The adjustments shall apply to each payment made in the next succeeding twelve-month period commencing with the October first next succeeding the date of the injury. With respect to any dependent receiving benefits on October 1, 1997, with respect to any injury occurring on or after July 1, 1993, and before October 1, 1997, such benefit shall be recalculated to October 1, 1997, as if such benefits had been subject to recalculation annually under this subparagraph. The difference between the amount of any benefits that would have been paid to such dependent if such benefits had been subject to such recalculation and the actual amount of benefits paid during the period between such injury and such recalculation shall be paid to the dependent not later than December 1, 1997, in a lump-sum payment. The employer or its insurer shall be reimbursed by the Second Injury Fund, as provided in section 31-354, for adjustments, including lump-sum payments, payable under this subparagraph for deaths from compensable injuries occurring on or after July 1, 1993, and before October 1, 1997, upon presentation of any vouchers and information that the Treasurer shall require. (B) The weekly compensation rate of each dependent entitled to receive compensation under this section as a result of death arising from a compensable injury occurring on or before September 30, 1977, shall be adjusted as of October 1, 1977, and October 1, 1980, and thereafter, as provided in this subdivision to provide the dependent with partial cost-of-living adjustments in the dependent's weekly compensation rate. As of October 1, 1977, the weekly compensation rate paid prior to October 1, 1977, to the dependent shall be increased by twenty-five per cent. The partial cost-of-living adjustment provided under this subdivision shall be paid by the employer without any order or award from the commissioner. In addition, on each October first, the weekly compensation rate of each dependent as of October 1, 1990, shall be increased by the percentage of the increase in the maximum compensation rate over the maximum compensation rate of October 1, 1990, as determined under the provisions of section 31-309 existing on October 1, 1977. The cost of the adjustments shall be paid by the employer or its insurance carrier who shall be reimbursed for such cost from the Second Injury Fund as provided in section 31-354 upon presentation of any vouchers and information that the Treasurer shall require.

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

(4) If there is a presumptive dependent spouse surviving and also one or more presumptive dependent children, all of which children are either children of the surviving

spouse or are living with the surviving spouse, the entire compensation shall be paid to the surviving spouse in the same manner and for the same period as if the surviving spouse were the sole dependent. If, however, any of the presumptive dependent children are neither children of the surviving spouse nor living with the surviving spouse, the compensation shall be divided into as many parts as there are presumptive dependents. The shares of any children having a presumptive dependent parent shall be added to the share of the parent and shall be paid to the parent. The share of any dependent child not having a surviving dependent parent shall be paid to the father or mother of the child with whom the child may be living, or to the legal guardian of the child, or to any other person, for the benefit of the child, as the commissioner may direct.

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

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

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

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

(c) (1) The dependents of any deceased employee who was injured between January 1, 1952, and December 31, 1973, and who subsequently dies, shall be paid compensation on account of the death retroactively to the date of the employee's death. The cost of the payment or adjustment shall be paid by the employer or its insurance carrier who shall be reimbursed for such cost from the Second Injury Fund as provided in section 31-354 upon presentation of any vouchers and information that the Treasurer shall require.

(2) The dependents of any deceased employee who was injured before January 1, 1952, and who died on or before October 1, 1991, shall be paid compensation on account of the death retroactively to the date of the employee's death. The cost of the payment or adjustment shall be paid by the employer or its insurance carrier who shall be reimbursed for such cost from the Second Injury Fund as provided in section 31-354 upon presentation of any vouchers and information that the Treasurer shall require.

(d) The dependents of any deceased employee who was injured in an accident arising out of and in the course of employment before January 1, 1952, and who died, as a result of those injuries, after October 1, 1991, shall be paid compensation, under the provisions of this section, effective as of the date of death of any such employee. Notwithstanding the provisions of subsection (a) of this section, the weekly compensation rate for such dependents shall equal the amount of compensation the injured employee was receiving prior to death pursuant to section 31-307. Such weekly compensation rate shall hereafter be adjusted in accordance with the provisions of subsection (a) of this section. The cost of such payment or adjustment shall be paid by the employer or the insurance carrier of such employer who shall be reimbursed for such cost from the Second Injury Fund provided for in section 31-354.

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

History: 1959 act replaced previous provisions and was in turn replaced by provisions of 1961 act; 1967 act increased payments for burial expenses from five hundred to one thousand dollars in all cases where previously thousand-dollar payment was given to father, mother, brother, sister, son or daughter of deceased in Subsec. (a) and raised weekly compensation allowed in Subsec. (b) from sixty to sixty-six and two-thirds per cent of deceased's average weekly earnings; P.A. 77-554 increased burial payments to one thousand five hundred dollars and deleted requirement that death must have occurred within six years of date of injury or first manifestation of occupational disease symptoms in Subsec. (b), added provisions re cost-of-living adjustments in Subsec. (b) and amended Subsec. (c) to allow compensation to widows and widowers on same basis where previously widowers' payments terminated after three hundred and twelve weeks; P.A. 78-369 reorganized Subsecs., designating former Subsecs. (a) to (h) as Subdivs. (1) to (8) under Subsec. (b) and deleted former Subsec. (i) re reduction of compensation period by the period for which payments were made to deceased if death occurred more than two years from date of injury or manifestation of disease symptoms; P.A. 80-124 specified in Subsec. (b)(2) that time of injury is date of incapacity to work because of disease in cases involving occupational disease; P.A. 80-284 added Subdiv. (4) in Subsec. (a) re unmarried children, rephrased Subdiv. (5) in Subsec. (b) accordingly and deleted Subdiv. (6); P.A. 80-329 added provisions re cost-of-living adjustments as of October 1, 1980; P.A. 84-453 amended Subdiv. (1) of Subsec. (b) to increase burial expense benefits from one thousand five hundred dollars to three thousand dollars; P.A. 88-92 amended Subdiv. (1) of Subsec. (b) to increase burial expense benefits from three to four thousand dollars; P.A. 89-68 added Subsec. (c) providing for the payment of compensation to dependents of deceased employees who were injured on or after January 1, 1974, and who died not later than December 31, 1981; P.A. 91-32 deleted existing Subsec. (a) which had detailed persons to be considered wholly dependent on a deceased employee, relettering remaining Subsecs. accordingly and made technical changes; P.A. 91-339 changed the

weekly compensation allowed in Subsec. (a)(2) from sixty-six and two-thirds per cent of average weekly earnings to eighty per cent of average weekly earnings reduced by deductions for federal taxes and FICA; P.A. 92-31 amended Subdiv. (1) of Subsec. (a) to provide that burial expenses shall be paid in any case where the employee died on or after October 1, 1988, amended Subdiv. (2) of Subsec. (a) to provide that cost-of-living increases shall be calculated using a percentage instead of a dollar amount, and amended Subsec. (b) to authorize the payment of compensation to dependents of deceased employees who died not later than November 1, 1991; May Sp. Sess. P.A. 92-11 added Subsec. (c) (Revisor's note: A reference to "second injury and compensation assurance fund" was changed editorially by the Revisors to read "second injury fund" for consistency with section 38 of public act 91-32); P.A. 93-228 amended Subdiv. (2) of Subsec. (a) to decrease weekly compensation benefits for dependents of deceased employee from eighty to seventy-five per cent of deceased's average weekly earnings, to require that state taxes be deducted in calculating such earnings, and to eliminate cost-of-living adjustments for dependents of deceased employees injured on or after July 1, 1993, effective July 1, 1993; P.A. 97-205 amended Subsec. (a)(2) to reinstate cost-of-living adjustments to benefits received for injuries occurring on or after July 1, 1993, and before October 1, 1997; P.A. 98-104 increased the annual cost-of-living adjustment on workers' compensation benefits paid to those dependent upon a deceased employee who died of on-the-job injuries prior to October 1, 1990, effective July 1, 1998; P.A. 01-162 made technical changes in Subsecs. (a) and (b), added new Subsec. (c) re compensation to dependents of any deceased employee who was injured between January 1, 1952, and December 31, 1973, and compensation to dependents of any deceased employee who was injured before January 1, 1952, and who died on or before October 1, 1991, and redesignated existing Subsec. (c) as Subsec. (d), making a technical change therein, effective July 6, 2001.

See Sec. 31-275 for applicable definitions.

Annotations to former statutes:

1958 Rev., S. 31-159: For definition of "dependent" see Sec. 31-275 and note thereto. Payment to employee before his death not deductible from compensation for death. 93 C. 157. Where minor paid entire wage to his mother and she spent part of it in his support, her compensation was based on the total wage. 105 C. 423. Validating acts not retroactive as to amount. 112 C. 129. Cited. *Id.*, 468. Heart case complainant to prove death arose from injury. *Id.*, 691. Parent total dependent on minor son. 120 C. 35. Cited. 121 C. 72; 126 C. 279; 127 C. 395; 130 C. 661; 132 C. 170; 137 C. 295. Child's dependency, being one of fact and not one by presumption, did not terminate by reason of her becoming eighteen. *Id.*, 484.

If payments are neither more than \$30 per week nor more than the sum actually contributed by the deceased, the question of classification of whole or partial dependency is academic. 14 CS 334.

1958 Rev., S. 31-160: The total dependence of husband on wife does not exclude his partial dependence on minor son. 90 C. 259. Distribution between alien and resident dependents prior to 1921. 97 C. 113. Partial dependence defined and extent estimated on facts of the case. *Id.*, 688. Wife living abroad and receiving less than \$55 a year is a partial not total dependent. 100 C. 350. This discrimination against aliens is valid. *Id.*, 219. Mother may be dependent although no contribution has been made. 112 C. 233. Widow or widower who is conclusively presumed to be wholly dependent entitled to entire award. 127 C. 394. Partial dependency may exist, though contributions be irregular. 119 C. 37. Cited. 130 C. 661; 131 C. 202. Premature determination of children's rights. 132 C. 169. Principle of equal division between those wholly dependent applies. 137 C. 292. Cited. *Id.*, 486; 142 C. 596. The determination of dependency under the workmen's compensation act should be made in accordance with the fact at the time of the injury. 142 C. 598. See note to Sec. 31-222.

Cited. 8 CS 313.

Annotations to present section:

Status of dependent in fact involves three factual elements: (1) Reliance on contributions of decedent for necessary living expenses; (2) a reasonable expectation that the contributions will continue; (3) an absence of sufficient means at hand for meeting these expenses. The first two are fixed at the time of injury and consequently the measure of dependence in section 31-315 can change from that existing at the time of the injury only if there is a subsequent change in the financial resources of the claimant. 152 C. 481. Where commissioner found claimant was partial dependent at time of injury but subsequently received sufficient funds from other sources to supply her present necessities, commissioner correctly concluded that, although claimant was dependent in fact at time of injury, her "measure of dependence" had changed before the time of the hearing and consequently defendants were relieved from paying compensation to her unless and until she showed a further change in circumstances. *Id.*, 481, 482. An award to a dependent in fact as well as to a presumptive dependent is an award of compensation and subject to modification under section 31-315. *Id.* Question of dependency is one of fact not subject to review unless ascertained through an illegal standard or based on no evidence. 156 C. 245. Cited. 187 C. 53. Cited. 207 C. 665. Cited. 208 C. 576. Elimination of waiting period not accorded retroactive application. 209 C. 219. Cited. 213 C. 54. Concurrent payment of benefits for death caused by heart disease under this section and benefits for permanent partial impairment of one's heart under Sec. 31-308(d) is prohibited. 217 C. 50. Cited. 219 C. 28. Cited. 223 C. 336. Cited. 224 C. 382. Cited. 229 C. 587. Cited. 232 C. 311. Employee, in settling claim, has the authority to compromise the compensation rights of dependents and a clear and unequivocal expression of intent to do so by the employee will bar a claim under this section. 239 C. 19.

Cited. 3 CA 162. Cited. 21 CA 63. Cited. 32 CA 595. Cited. 34 CA 307. Cited. 37 CA 835. Cited. 38 CA 73. Cited. *Id.*, 754. Cited. 43 CA 737. Cited. 44 CA 112.

Subsec. (a):

Cited. 206 C. 242. Subdiv. (2)(A) does not require Special Injury Fund to reimburse municipal employer for cost-of-living adjustments paid in connection with a claim for benefits under Heart and Hypertension Act in Sec. 7-433c which benefits are special compensation and are not workers compensation benefits for purposes of reimbursement and such a result does not deny employers a protected property interest without due process of law. 269 C. 763.

Subdiv. (2)(A): Formula devised in *Gil v. Courthouse One*, 239 Conn. 676, for calculating cost of living increases to total disability benefits also applies to calculation of cost of living increases to survivors' benefits under this Subdiv. from October 1, 1995 through June 30, 1998. 63 CA 370.

Subsec. (b):

Subdiv. (6) cited. 206 C. 242.

Sec. 31-306a. Payments due children committed to the Commissioner of Social Services or the Commissioner of Children and Families. Notwithstanding any contrary provision in section 31-306, any compensation due on behalf of any presumptive dependent child under the provisions of said section, which child has been committed to the Commissioner of Social Services or the Commissioner of Children and Families as neglected or uncared-for, shall be payable to the commissioner as legal guardian of the child less fees approved under subsection (b) of section 31-327.

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

History: P.A. 74-251 added reference to children committed to children and youth services commissioner; P.A. 77-614 replaced welfare commissioner with commissioner of human resources, effective January 1, 1979; P.A. 91-32 made technical changes; P.A. 93-91 substituted commissioner and department of children and families for commissioner and department of children and youth services, effective July 1, 1993; P.A. 93-262 authorized substitution of commissioner and department of social services for commissioner and department of human resources, effective July 1, 1993.

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

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

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

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

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

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

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

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

(e) Notwithstanding any provision of the general statutes to the contrary, compensation paid to an employee for an employee's total incapacity shall be reduced while the employee is entitled to receive old age insurance benefits pursuant to the federal Social Security Act. The amount of each reduced workers' compensation payment shall equal the excess, if any, of the workers' compensation payment over the old age insurance benefits.

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

History: 1961 act entirely replaced previous provisions; 1967 act increased compensation rate from sixty to sixty-six and two-thirds per cent of average weekly earnings at time of injury and deleted references to normal vision "with glasses"; P.A. 78-360 authorized compensation at seventy-five per cent rate where injury or illness caused by employer's violation of health or safety regulation has been cited and he has subsequently failed to abate violation; P.A. 80-124 specified that time of injury is date of incapacity to work as a result of disease in cases involving occupational diseases; P.A. 82-455 changed the minimum weekly benefit from twenty dollars to twenty per cent of the maximum weekly compensation rate, provided the minimum does not exceed eighty per cent of the employee's average weekly wage; P.A. 90-272 increased the weekly compensation from seventy-five per cent of the employee's weekly earnings to one hundred per cent for injury or illness caused by his employer's OSHA violations; P.A. 91-32 divided the existing section into Subsecs. (a) to (d), inclusive, and made technical changes; P.A. 91-339 changed the weekly compensation allowed in Subsec. (a) from sixty-six and two-thirds per cent of average weekly earnings to eighty per cent of average weekly earnings reduced by deductions for federal taxes and FICA; P.A. 93-228 amended Subsec. (a) to decrease weekly compensation allowed for total incapacity from eighty to seventy-five per cent of injured employee's average weekly earnings, to require that state taxes be deducted in calculating such earnings, and to decrease maximum compensation allowed for minimum payment from eighty to seventy-five per cent of employee's average weekly wage, and added Subsec. (e) to require that compensation for total incapacity be offset by Social Security retirement benefits, effective July 1, 1993.

If a one-eyed man lost his eye he was entitled to compensation for total incapacity. 95 C. 354; but see last clause of the present act. Where plaintiff's labor is unmarketable, may substitute total incapacity. 110 C. 282. Cited. 112 C. 132; *Id.*, 629. Compensation limited to 520 weeks including specific loss. 113 C. 707. Cited. 123 C. 194; *Id.*, 513; 125 C. 564; 126 C. 495. Disability followed by specific indemnity and subsequent disability traceable to original injury, final disability compensable. 127 C. 294. Whether paid specific or total or partial compensation, discretionary with commissioner. 129 C. 591. Not in conjunction with previous incapacity. 130 C. 401. "Total incapacity to work" means not the employee's inability to work at his customary calling, but the destruction of his capacity to earn in that or any other occupation which he can reasonably pursue. If, though he can work, his physical condition is such that no one will employ him, he is just as much totally incapacitated as though he could not work at all. 135 C. 498. Where plaintiff has equal earning capacity in other work, but there is no other work because of business conditions, he is not totally incapacitated. 136 C. 514. Does not apply to partial incapacity. 137 C. 235. If, because of employee's injury, his labor becomes unmarketable, he is totally incapacitated. *Id.*, 454. Since 1946 accident was an equal, concurrent and contributing cause of plaintiff's disability by reason of which compensation was paid in 1950, the award was properly predicated on statutory rate payable in 1950 rather than lower rate of 1946. 139 C. 338. Cited. 196 C. 104. Cited. *Id.*, 529. Cited. 209 C. 59. Rule against double compensation prohibits concurrent payment of specific indemnity benefits for permanent partial impairment under Sec. 31-308(b) and benefits for total incapacity under this section as result of same incident. 217 C. 42. Cited. *Id.*, 50. Cited. 218 C. 9. Cited. *Id.*, 531. Cited. 219 C. 28. Special benefits under Sec. 5-142(a) are not an obstacle to greater recovery under this section. 220 C. 721. Cited. *Id.*, 739. Cited. 221 C. 41. Cited. 226 C. 569. Cited. 227 C. 261. Cited. 231 C. 287. Injured employee's workers' compensation benefit rate to be determined in case of traumatic injury by reference to his earnings preceding the date on which he became incapacitated. *Id.*, 529. Cited. 233 C. 14. Cited. 237 C. 71. Does not permit discontinuance of total disability benefits to incarcerated recipients. 261 C. 181.

Cited. 7 CA 142. Cited. 16 CA 660. Cited. 25 CA 350. Cited. 26 CA 466. Cited. 27 CA 483. Cited. *Id.*, 699. Benefits are calculated on wages on the date of incapacity to work rather than date of injury. 28 CA 226. Cited. 29 CA 559. Cited. 36 CA 298. Cited. 45 CA 324.

Cited. 9 CS 375. See note to Sec. 31-310. Cited. 38 CS 648. Benefits under Sec. 31-308(d) are payable contemporaneously with those under this statute. 39 CS 449.

Subsec. (a):

Cited. 239 C. 676.

Subsec. (e):

Is constitutional because legislature's goal of cost saving was legitimate and the offset is a rational means to achieve that goal. 263 C. 328.

Applies prospectively because it impacts substantive rights. 78 CA 472.

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

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

(b) The weekly compensation rate of each employee entitled to receive compensation under section 31-307 as a result of an injury sustained prior to October 1, 1969, which has disabled the employee for a period extending to October 1, 1969, or thereafter shall be adjusted as of October 1, 1969, and annually thereafter, as provided in this subsection to provide the injured employee with a partial cost-of-living adjustment in his weekly compensation rate. The weekly compensation rate paid prior to October 1, 1969, to the injured employee shall be increased as of October 1, 1969, by the amount that the maximum weekly compensation rate as determined under section 31-309 to be effective for injuries sustained on or after October 1, 1969, is greater than the maximum weekly compensation rate as determined under section 31-309 to be effective for injuries sustained on or after October 1, 1965, or the date of the injury, whichever is later, but not more than fifteen dollars per week. Thereafter, increases, if any, for cost-of-living as provided in subsection (a) of this section shall be added to the amount of weekly compensation payable as of the date of the injury or October 1, 1990, whichever is later. The partial cost-of-living adjustments provided under this subsection shall be paid by the employer without any order or award from the commissioner. The adjustments shall apply to each payment made in the next twelve-month period, on or after October 1, 1969. The cost of the adjustments shall be paid by the employer or his insurance carrier who shall be reimbursed therefor from the Second Injury Fund as provided in section 31-354 upon presentation of any vouchers and information that the Treasurer shall require.

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

1997, with respect to any such injury occurring on or after July 1, 1993, and before October 1, 1997, or with respect to any employee who was adjudicated to be totally incapacitated permanently subsequent to the date of his injury or is totally incapacitated permanently due to the fact that the employee has been totally incapacitated by such an injury for a period of five years or more, such benefit shall be recalculated to October 1, 1997, to the date of such adjudication or to the end of such five-year period, as the case may be, as if such benefits had been subject to recalculation annually under the provisions of this subsection. The difference between the amount of any benefits which would have been paid to such employee if such benefits had been subject to such recalculation and the actual amount of benefits paid during the period between such injury and such recalculation shall be paid to the dependent not later than December 1, 1997, or thirty days after such adjudication or the end of such period, as the case may be, in a lump-sum payment. The employer or his insurer shall be reimbursed by the Second Injury Fund, as provided in section 31-354, for adjustments, including lump-sum payments, payable under this subsection for compensable injuries occurring on or after July 1, 1993, and before October 1, 1997, upon presentation of any vouchers and information that the Treasurer shall require.

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

History: 1969 act rewrote previous provisions in greater detail and required presentation of vouchers etc. as required by treasurer rather than comptroller; P.A. 91-32 made technical changes; P.A. 91-339 amended Subsec. (a) to provide a cost of living adjustment based on the percentage of the increase in the maximum weekly compensation rate; P.A. 93-228 amended Subsec. (a) to eliminate cost-of-living adjustments for totally incapacitated employees injured on or after July 1, 1993, effective July 1, 1993; P.A. 97-205 added new Subsec. (c) establishing cost-of-living adjustments for compensation received by totally incapacitated employees on and after October 1, 1997; P.A. 98-104 increased the annual cost-of-living adjustment on workers' compensation benefits paid to employees totally and permanently disabled by a work-related injury prior to October 1, 1990, effective July 1, 1998.

Cited. 239 C. 676.

Cited. 45 CA 324.

Subsec. (c):

P.A. 97-205, which reinstated cost-of-living-adjustments, also provided that fund, rather than employers and insurers, was responsible for paying such adjustments to qualified employees who sustained compensable injuries on or after July 1, 1993, and before October 1, 1997. 262 C. 416.

Sec. 31-307b. Benefits after relapse from recovery. Recurrent injuries. If any employee who receives compensation under section 31-307 returns to work after recovery from his injury and subsequently suffers total or partial incapacity caused by a relapse from the recovery from, or a recurrence of, the injury, the employee shall be paid a weekly compensation equal to seventy-five per cent of his average weekly earnings as of the date of the original injury or at the time of his relapse or at the time of the recurrence of the injury, whichever is the greater sum, calculated pursuant to section 31-310, after such earnings have been reduced by any deduction for federal or state taxes, or both, and for the federal Insurance Contributions Act made from such employee's total wages received during the period of calculation of the employee's average weekly wage pursuant to said section 31-310, but not more than (1) the maximum compensation rate set pursuant to section 31-309 if the employee suffers total incapacity, or (2) one hundred per cent, raised to the next even dollar, of the average weekly earnings of production and related workers in manufacturing in the state, as determined in accordance with the provisions of section 31-309, if the employee suffers partial incapacity, for the year in which the employee suffered the relapse or recurrent injury and the minimum rate under this chapter for that year, and provided (A) the compensation shall not continue longer

than the period of total or partial incapacity following the relapse or recurrent injury and (B) no employee eligible for compensation for specific injuries set forth in section 31-308 shall receive compensation under this section. The employee shall also be entitled to receive the cost-of-living adjustment provided in accordance with the provisions of section 31-307a commencing on October first following the relapse or recurrent injury which disables him. If the injury occurred originally prior to October 1, 1969, the difference between the employee's original weekly compensation rate and the rate required by this section and the cost-of-living adjustment, if any, thereafter due shall be paid initially by the employer or his insurance carrier who shall be reimbursed for such payment from the Second Injury Fund as provided by section 31-354 upon presentation of any vouchers and information that the Treasurer shall require. In no event shall the employee receive more than the prevailing maximum compensation.

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

History: 1969 act deleted reference to Sec. 31-306(b), deleted reference to "maximum" recovery from injury and set forth provisions re payments for cost-of-living adjustments; P.A. 79-376 added references to recurrent injuries; P.A. 91-32 made technical changes; June Sp. Sess. P.A. 91-12 changed the weekly compensation allowed under this section from sixty-six and two-thirds per cent of average weekly earnings to eighty per cent of average weekly earnings reduced by deductions for federal taxes and FICA, and provided for maximum compensation in the case of total and partial incapacity; P.A. 93-228 decreased weekly compensation benefits for relapse or recurrence of previous injury from eighty to seventy-five per cent of employee's average weekly earnings and required that state taxes be deducted in calculating such earnings, effective July 1, 1993.

Claimant need only have recovered sufficiently to have returned to work with medical permission to be entitled to the section's benefits on a relapse or recurrence of injury. 231 C. 529.

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

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

History: 1969 act specified applicability of cost-of-living adjustments; P.A. 79-376 replaced "workmen's compensation" with "workers' compensation"; P.A. 91-207 made a technical change in fund's name.

Sec. 31-308. Compensation for partial incapacity. (a) If any injury for which compensation is provided under the provisions of this chapter results in partial incapacity, the injured employee shall be paid a weekly compensation equal to seventy-five per cent of the difference between the wages currently earned by an employee in a position comparable to the position held by the injured employee before his injury, after such wages have been reduced by any deduction for federal or state taxes, or both, and for the federal Insurance Contributions Act in accordance with section 31-310, and the amount he is able to earn after the injury, after such amount has been reduced by any deduction for federal or state taxes, or both, and for the federal Insurance Contributions Act in accordance with section 31-310, except that when (1) the physician attending an injured employee certifies that the employee is unable to perform his usual work but is able to

perform other work, (2) the employee is ready and willing to perform other work in the same locality and (3) no other work is available, the employee shall be paid his full weekly compensation subject to the provisions of this section. Compensation paid under this subsection shall not be more than one hundred per cent, raised to the next even dollar, of the average weekly earnings of production and related workers in manufacturing in the state, as determined in accordance with the provisions of section 31-309, and shall continue during the period of partial incapacity, but no longer than five hundred twenty weeks. If the employer procures employment for an injured employee that is suitable to his capacity, the wages offered in such employment shall be taken as the earning capacity of the injured employee during the period of the employment.

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

MEMBER	INJURY	WEEKS OF COMPENSATION
Arm		
Master arm	Loss at or above elbow	208
Other arm	Loss at or above elbow	194
Hand		
Master hand	Loss at or above wrist	168
Other hand	Loss at or above wrist	155
One leg	Loss at or above knee	155
One foot	Loss at or above ankle	125
Hearing		
	Both ears	104
	One ear	35

MEMBER	INJURY	WEEKS OF COMPENSATION
One eye	Complete and permanent loss of sight in, or reduction of sight to one-tenth or less of normal vision	157
Thumb*	On master hand On other hand	63 54
Fingers**	First finger Second finger Third finger Fourth finger	36 29 21 17
Toes***	Great toe Other toes	28 9
Back		Number of weeks which the proportion of incapacity represents to a maximum of 374 weeks
Heart		520
Brain		520
Carotid artery		520
Pancreas		416
Liver		347
Stomach		260
Loss of bladder		233
Speech		163
Lung		117
Cervical spine		117
Kidney		117
Rib cage	Bilateral	69
Ovary		35
Testis		35
Mammary		35

MEMBER	INJURY	WEEKS OF COMPENSATION
Nose	Sense and respiratory function	35
Jaw	Mastication	35
Uterus		35-104
Vagina		35-104
Penis		35-104
Coccyx	Actual removal	35
Sense of smell		17
Sense of taste		17
Spleen	In addition to scar	13
Gall bladder		13
Tooth	Minimum	1
Loss of drainage duct of eye (If corrected by prosthesis)		17 for each
Loss of drainage duct of eye (If uncorrected by prosthesis)		33 for each
Pelvis		percentage of back

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

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

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

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

visions of this subsection, the complete loss or loss of use of an organ which results in the death of an employee shall be compensable pursuant only to section 31-306.

(c) In addition to compensation for total or partial incapacity or for a specific loss of a member or use of the function of a member of the body, the commissioner, not earlier than one year from the date of the injury and not later than two years from the date of the injury or the surgery date of the injury, may award compensation equal to seventy-five per cent of the average weekly earnings of the injured employee, calculated pursuant to section 31-310, after such earnings have been reduced by any deduction for federal or state taxes, or both, and for the federal Insurance Contributions Act made from such employee's total wages received during the period of calculation of the employee's average weekly wage pursuant to said section 31-310, but not more than one hundred per cent, raised to the next even dollar, of the average weekly earnings of production and related workers in manufacturing in the state, as determined in accordance with the provisions of section 31-309, for up to two hundred eight weeks, for any permanent significant disfigurement of, or permanent significant scar on, (A) the face, head or neck, or (B) on any other area of the body which handicaps the employee in obtaining or continuing to work. The commissioner may not award compensation under this subsection when the disfigurement was caused solely by the loss of or the loss of use of a member of the body for which compensation is provided under subsection (b) of this section or for any scar resulting from an inguinal hernia operation or any spinal surgery. In making any award under this subsection, the commissioner shall consider (1) the location of the scar or disfigurement, (2) the size of the scar or disfigurement, (3) the visibility of the scar or disfigurement due to hyperpigmentation or depigmentation, whether hypertrophic or keloidal, (4) whether the scar or disfigurement causes a tonal or textural skin change, causes loss of symmetry of the affected area or results in noticeable bumps or depressions in the affected area, and (5) other relevant factors. Notwithstanding the provisions of this subsection, no compensation shall be awarded for any scar or disfigurement which is not located on (A) the face, head or neck, or (B) any other area of the body which handicaps the employee in obtaining or continuing to work. In addition to the requirements contained in section 31-297, the commissioner shall provide written notice to the employer prior to any hearing held by the commissioner to consider an award for any scar or disfigurement under this subsection.

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

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

History: 1959 act replaced forty-five dollar maximum weekly benefit with reference to rate established by Sec. 31-309 (i.e. fifty-five per cent of average production wage in state for year in which injury occurred raised to next even dollar, to be determined annually), raised minimum benefit from fifteen to twenty dollars, added special provisions re loss of master hand and master thumb in Subdivs. (b) and (h) and allowed compensation for serious and permanent disfigurement of upper arms and legs below the knees; 1961 act entirely replaced previous provisions; 1967 act raised compensation rate from sixty to sixty-six and two-thirds per cent of difference between average weekly earnings before injury and amount person can earn afterward, added exceptions re payment of full compensation, increased compensation period for loss of master arm from two hundred ninety-six to three hundred twelve weeks, for loss of master hand from forty-two to fifty-two weeks and for loss of master thumb from eighty-seven to ninety-five weeks, deleted reference to normal vision "with glasses", added Subdiv. (m) re

loss of use of the back, specified commissioners' discretionary powers, replaced reference to disfigurement of specific body parts with reference to disfigurement or scarring of any body part, specifically including scarring from hernial or spinal surgery and deleted limit of seven hundred eighty weeks for compensation; P.A. 75-48 specified scarring from "inguinal hernia"; P.A. 79-376 divided section into Subsecs. and changed alphabetic Subdiv. indicators to numeric ones, used wages currently earned by employee in comparable position rather than incapacitated person's earnings at time of injury in calculating benefits, specified "significant" disfigurement or scarring and replaced "workmen's compensation" with "workers' compensation"; P.A. 89-36 raised minimum benefit from twenty to fifty dollars; P.A. 89-346 added Subsec. (e) providing for the payment of benefits in the event of an employee's death; P.A. 91-32 made technical changes; P.A. 91-339 changed the compensation formula in Subsecs. (a), (b) and (c) from sixty-six and two-thirds per cent of average weekly earnings to eighty per cent of average weekly earnings reduced by deductions for federal taxes and FICA, limited compensation to one hundred per cent of the average weekly production wage in Subsecs. (a), (b) and (e), provided that awards under Subsec. (e) shall not be made earlier than one year from the date of the injury, and added considerations to be made by the commissioner, notice requirements and provisions re discernible scars or disfigurements in Subsec. (e); P.A. 93-228 changed the compensation formula in existing Subsecs. (a), (b) and (e) from eighty per cent to seventy-five per cent of average weekly earnings less deductions for state and federal taxes and FICA, reduced maximum duration of temporary and permanent partial disability benefits provided under Subsecs. (a) and (b), modified the schedule of injuries listed in Subsec. (b), deleted Subsecs. (c) and (d) authorizing commissioner to make discretionary awards, relettering former Subsecs. (e) and (f) accordingly, amended relettered Subsec. (c) to prohibit commissioner from awarding scarring benefits later than two years from the injury or surgery date and for scar located on any area of the body other than the face, head or neck, unless it handicaps the employee in obtaining or continuing to work, and amended relettered Subsec. (d) to entitle a deceased employee's dependents to collect compensation due the deceased employee under an informal or formal agreement or award, effective July 1, 1993; P.A. 00-8 amended Subsec. (b) to include injuries to ovary, uterus and vagina and to make technical changes.

See Sec. 31-259(c) re withdrawals from Employment Security Administration Fund.

See Sec. 31-349 re compensation for second disability and payment of insurance for totally incapacitated persons.

May recover for total incapacity for a time, plus the specific award for subsequent amputation. 93 C. 19; 96 C. 37. May recover for total incapacity for a time plus partial incapacity for a further time resulting from the same accident; but not total and partial for the same period. 93 C. 22. Specific award for the loss of a member bars claim for subsequent period exceeding the specific term. *Id.*, 28. If the loss of a member results in incapacity of another member, additional compensation may be allowed. 94 C. 628; so also if incapacity distinct from loss of the member and not a normal incident thereof. 99 C. 550. For incapacity naturally following amputation only the statutory award for loss of the member can be given. 95 C. 300. The specific statutory award does not apply if the injury, because of prior disability, creates total incapacity. *Id.*, 354. (Aliter by the present statute.) The statutory award for specified injury does not expire with employee's death. 100 C. 421. Injury caused partial loss of sight in one eye; prior defect in the other eye not to be considered. 104 C. 577. Payments after his death go to dependents not to administrators. 105 C. 305. Payments accrued during his life go to administrator. *Id.*, 400. Computation of partial loss of sight discussed. 106 C. 406. Hernia was compensable under the act of 1927 but that is now changed. 108 C. 309. Cited. 110 C. 284; 112 C. 132. Where evidence conflicting, amount of disability is question of fact for commissioner. 112 C. 432; 113 C. 532; *Id.*, 747; 116 C. 707. Pending award for specific loss of second eye, claimant is entitled to total incapacity. 112 C. 627. Cited. 113 C. 707. "Inability to work" means inability to do customary work. 119 C. 556. Cited. 120 C. 285. Under former statute, "snap" not equivalent to feeling of pain when related to hernia. 123 C. 43. Loss of eye resulting from infection year after injury not causally connected with original injury. *Id.*, 405. Cited. *Id.*, 513. Inability to obtain work must exist because of defect which is personal to workman and a direct result of the injury. 125 C. 140. Specific indemnity starts on date maximum of improvement is reached even though total incapacity continues. *Id.*, 563. Cited. *Id.*, 564. When several years after total disability and specific indemnity payments for total loss of vision of one eye were completed eye had to be removed, final disability compensable. 127 C. 294. Cited. 128 C. 578. Evidence of pain accompanied by injury. *Id.*, 608. Whether pay specific, or total or partial compensation is discretionary with commissioner. 129 C. 591. Cited. 130 C. 383; *Id.*, 403. Commissioner has discretion to make award for partial incapacity rather than specific indemnity. Award must be confined to such proportion of sum provided for incapacity as shall represent proportion of total loss or loss of use found to exist. 137 C. 228. "Average weekly earnings" defined. 145 C. 101. "Amount he is able to earn thereafter" limited to employment in which he was injured or substitute employment. *Id.* Award for disfigurement may be made even though claimant is unable to prove disfigurement likely to cause any loss of earnings or earning capacity. 148 C. 87. Disfigurement, to be serious, must be of such character that it substantially detracts from appearance of person disfigured. *Id.* Injury not excludable merely because it is not clinically or objectively demonstrable. 152 C. 214. Cited. 154 C. 1, 11. Under former section, phrase "legs below the knees", as used in disfigurement provision of this section, held not to include the feet. *Id.*, 162. History discussed. *Id.*, 164. Cited. 171 C. 577. Cited. 203 C. 34. Cited. 208 C. 576. Cited. *Id.*, 709. Cited. 211 C. 166. Award of special benefits not precluded by provisions of Sec. 7-433c. 214 C. 181. Cited. *Id.*, 189. Cited. 218 C. 9. Cited. *Id.*, 531. Cited. 221 C. 29. Cited. 223 C. 376. Cited. 226 C. 569. Cited. 227 C. 261. Cited. 231 C. 287. Cited. *Id.*, 529.

Cited. 12 CA 138. Cited. 21 CA 63. Cited. 25 CA 350. Cited. 27 CA 699. Cited. 28 CA 113. Cited. *Id.*, 226. Cited. 29 CA 432. Cited. 34 CA 307. Cited. 40 CA 409. Cited. *Id.*, 562. Test for determining whether particular conduct is a proximate cause of permanent partial loss of function is whether it was a substantial factor in producing the result. 61 CA 131. Commissioner's conclusion that plaintiff's employment was not a substantial factor in causing plaintiff's permanent partial loss of function is conclusive, provided it is supported by competent evidence and is otherwise consistent with the law. *Id.*

The word "hand" does not include disfigurement of the forearm. 10 CS 470. Loss of function of reproductive and urinary members of the body are not further compensable under this section. 13 CS 182.

Subsec. (b):

Cited. 209 C. 59. Cited. 215 C. 206. Rule against double compensation prohibits concurrent payment of specific indemnity benefits for permanent partial impairment under this section and benefits for total incapacity under Sec. 31-307 are result of same incident. 217 C. 42. GS (1918 Rev.) Sec. 5352 cited. Id. Cited. Id., 50. Cited. 218 C. 19. Cited. 220 C. 721. Cited. Id., 739. Cited. 221 C. 920. Cited. 224 C. 8. Following the amendments in Sec. 19 of P.A. 93-228, Subsec. does not provide commissioner with discretion to award compensation for loss or permanent partial disability of an unscheduled body part or organ. 248 C. 793. Subsec. does not violate equal protection clauses of either fourteenth amendment to the United States Constitution or article first, sec. 20, of state constitution, because it does not involve either a fundamental right or a suspect class, and because rational justification can be found for constructing a statute such that the loss or permanent partial disability of many organs and body parts is compensable, but permanent partial disability of the skin is not. Id. Phrase “in addition to the usual compensation for total incapacity but in lieu of all other payments for compensation” was intended to prohibit double payment of permanency awards and to address case law precluding claimant suffering incapacity following a permanent disability from being able to thereafter collect total incapacity benefits. 263 C. 328.

Cited. 26 CA 466; judgment reversed, see 227 C. 261. Cited. 39 CA 28.

Payments under this section are neither in lieu of wages nor based on loss of earnings; therefore are not includable as income for purpose of determining child support. 42 CS 34, 35.

Subsec. (c):

Cited. 26 CA 466.

Cited. 42 CS 34.

Subsec. (d):

Cited. 209 C. 808. Cited. 210 C. 580. Plain language of statute precludes recovery for surgical scars. 211 C. 116. Cited. 214 C. 394. Cited. Id., 552. Cited. 215 C. 206. Cited. 217 C. 42. Concurrent payment of benefits for death caused by heart disease under Sec. 31-306 and benefits for permanent partial impairment of one’s heart under this section is prohibited. Id., 50. Cited. 224 C. 8.

Cited. 15 CA 615.

Cited. 38 CS 648. Benefits under this statute are payable contemporaneously with those under Sec. 31-308(d). 39 CS 449.

Subsec. (e):

P.A. 89-346 cited. 29 CA 432.

Subsec. (m):

A claim for disability, resulting from partial incapacity, under this statute, is not translatable into an initial claim for liability under section 31-297(b) encompassing a “preclusion of defense” situation. 177 C. 107.

Sec. 31-308a. Additional benefits for partial permanent disability. (a) In addition to the compensation benefits provided by section 31-308 for specific loss of a member or use of the function of a member of the body, or any personal injury covered by this chapter, the commissioner, after such payments provided by said section 31-308 have been paid for the period set forth in said section, may award additional compensation benefits for such partial permanent disability equal to seventy-five per cent of the difference between the wages currently earned by an employee in a position comparable to the position held by such injured employee prior to his injury, after such wages have been reduced by any deduction for federal or state taxes, or both, and for the federal Insurance Contributions Act in accordance with section 31-310, and the weekly amount which such employee will probably be able to earn thereafter, after such amount has been reduced by any deduction for federal or state taxes, or both, and for the federal Insurance Contributions Act in accordance with section 31-310, to be determined by the commissioner based upon the nature and extent of the injury, the training, education and experience of the employee, the availability of work for persons with such physical condition and at the employee’s age, but not more than one hundred per cent, raised to the next even dollar, of the average weekly earnings of production and related workers in manufacturing in the state, as determined in accordance with the provisions of section 31-309. If evidence of exact loss of earnings is not available, such loss may be computed from the proportionate loss of physical ability or earning power caused by the injury. The duration of such additional compensation shall be determined upon a similar basis by the commissioner, but in no event shall the duration of such additional compensation exceed the lesser of (1) the duration of the employee’s permanent partial disability bene-

fits, or (2) five hundred twenty weeks. Additional benefits provided under this section shall be available only to employees who are willing and able to perform work in this state.

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

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

History: 1969 act changed amount of additional compensation benefits from the difference between employee's average weekly benefits and his probable weekly earnings after injury to two-thirds of that difference; P.A. 79-376 used wages currently earned by employee in comparable position to that of injured employee prior to injury rather than injured employee's average weekly wages as basis of computation; June Sp. Sess. P.A. 91-12 changed the additional compensation allowed under this section to eighty per cent of the difference between wages currently earned in a comparable position prior to injury, reduced by deductions for federal taxes and FICA, and the weekly amount earned after the injury, reduced by deductions for federal tax and FICA, but not more than one hundred per cent of the average production wage; P.A. 93-228 designated existing language as Subsec. (a) and decreased amount of additional benefits available for permanent partial disability from eighty to seventy-five per cent of difference between wages currently earned in a comparable position prior to injury, less deductions for state and federal taxes and FICA, and weekly amount earned after injury, less such deductions, and to place limitations on availability and duration of such additional benefits, and added Subsec. (b) to condition availability of additional benefits on nature of injury and its effect on employee's earning capacity, effective July 1, 1993.

Cited. 223 C. 376. Cited. 231 C. 287. Cited. 237 C. 71. It appears that in calculating benefits, legislature was concerned, not with a broad all-inclusive definition of "earnings", but intended the formula to reflect the difference between actual wages claimant had earned from his employer before his injury and wages claimant would be able to earn after his injury. 270 C. 1. Because legislature has explicitly provided for an offset mechanism under either Sec. 5-169(g), which governs Tier I retirees, or Sec. 5-192p (d), which governs Tier II retirees, benefits awarded under this section need not be offset by claimant's receipt of state disability retirement benefits. *Id.*, 32.

Cited. 40 CA 562. Cited. 42 CA 147. Statute does not specifically require claimant to seek employment to qualify for a discretionary award of benefits. 54 CA 289. Court accepts established policy of board and declines to adopt the "whole man" theory. *Id.*, 296. Exclusion of regular retirement pension and Social Security benefits from calculation of award of additional benefits under statute proper and not violative of public policy by allowing double recovery. 82 CA 505.

Subsec. (a):

Use of word "are" evinces legislature's intent that claimant must presently fulfill "willing and able" requirement to receive benefits. 72 CA 611.

Subsec. (b):

Expressly restricts commissioner's authority to compensate even those employees who meet criteria in Subsec. (a). 72 CA 611.

Sec. 31-308b. Dependency allowance. Section 31-308b is repealed.

(1967, P.A. 842, S. 22; 1969, P.A. 696, S. 9; P.A. 76-217; P.A. 80-284, S. 3; P.A. 91-32, S. 27, 31; 91-339, S. 52, 55.)

Sec. 31-309. Maximum weekly compensation. Determination of average weekly earnings of state workers and production and related workers in manufacturing.

(a) Except as provided in section 31-307, the weekly compensation received by an injured employee under the provisions of this chapter shall in no case be more than one hundred per cent, raised to the next even dollar, of the average weekly earnings of all workers in the state as hereinafter defined for the year in which the injury occurred except that the weekly compensation received by an injured employee whose injury occurred before July 1, 1993, shall be computed according to the provisions of law in effect at the time of his injury. In the case of an occupational disease, the time of injury shall be the date of total or partial incapacity to work as a result of such disease.

(b) (1) The average weekly earnings of all workers in the state shall be determined by the Labor Commissioner on or before the fifteenth day of August of each year, to be effective the following October first, and shall be the average of all workers' weekly

earnings for the year ending the previous June thirtieth and shall be so determined in accordance with the standards for the determination of average weekly earnings of all workers established by the United States Department of Labor, Bureau of Labor Statistics.

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

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

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

History: 1961 act entirely replaced previous provisions; 1967 act set maximum at sixty rather than fifty-five per cent of average production wage in state for year in which injury occurred; 1969 act substituted "weekly earnings of production and related workers" for "production wage"; 1971 act raised percentage maximum to sixty-six and two-thirds per cent; P.A. 78-354 raised percentage to eighty-five per cent and added exception re employees injured before January 1, 1979; P.A. 78-360 added exception re Sec. 31-307; P.A. 79-483 raised percentage maximum to one hundred per cent except for those injured October 1, 1979; P.A. 80-124 specified that in cases of occupational disease, time of injury is date of total or partial inability to work as a result of disease; P.A. 87-547 increased maximum percentages to one hundred fifty per cent; P.A. 88-2 replaced "1979" with "1987," in provision re applicable injury date; P.A. 91-339 divided existing section into Subsecs. (a) and (b) and changed applicable date from October 1, 1987, to October 1, 1991; P.A. 93-228 amended Subsec. (a) to decrease maximum for persons injured on or after July 1, 1993, from one hundred fifty per cent to one hundred per cent of state average weekly wage for all workers, inserted new Subsec. (b) to require labor commissioner to annually calculate average weekly earnings of all state workers as well as production and related workers, and redesignated existing Subsec. (b) as Subsec. (c), effective July 1, 1993, except that Subdiv. (2) of Subsec. (b) effective June 30, 1993.

Rate applicable to volunteer firemen under section 7-314a. 159 C. 53. Cited. 187 C. 363. Cited 217 C. 42. Cited. 220 C. 739. Cited. 239 C. 676.

P.A. 79-483 (product liability law) cited. 16 CA 558, 562. Cited. 38 CA 754. Cited. 40 CA 409. Cited. 39 CS 449.

Sec. 31-310. Determination of average weekly wage of injured worker. Concurrent employment. Payments from Second Injury Fund. Publication of wage tables.

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

has agreed to pay a certain hourly wage to the employee, the hourly wage so agreed upon shall be the hourly wage for the injured employee and his average weekly wage shall be computed by multiplying the hourly wage by the regular number of hours that is permitted each week in accordance with the agreement. For the purpose of determining the amount of compensation to be paid in the case of a minor under the age of eighteen who has sustained an injury entitling him to compensation for total or partial incapacity for a period of fifty-two or more weeks, or to specific indemnity for any injury under the provisions of section 31-308, the commissioner may add fifty per cent to his average weekly wage, except in the case of a minor under the age of sixteen, the commissioner may add one hundred per cent to his average weekly wage. When the injured employee is a trainee or apprentice receiving a subsistence allowance from the United States because of war service, the allowance shall be added to his actual earnings in determining the average weekly wage. Where the injured employee has worked for more than one employer as of the date of the injury and the average weekly wage received from the employer in whose employ he was injured, as determined under the provisions of this section, are insufficient for him to obtain the maximum weekly compensation rate from the employer under section 31-309, prevailing as of the date of the injury, his average weekly wages shall be calculated upon the basis of wages earned from all such employers in the period of concurrent employment not in excess of fifty-two weeks prior to the date of the injury, but the employer in whose employ the injury occurred shall be liable for all medical and hospital costs and a portion of the compensation rate equal to seventy-five per cent of the average weekly wage paid by him to the injured employee, after such earnings have been reduced by any deduction for federal or state taxes, or both, and for the federal Insurance Contribution Act made from such employee's total wages received from such employer during the period of calculation of such average weekly wage, but not less than an amount equal to the minimum compensation rate prevailing as of the date of the injury. The remaining portion of the applicable compensation rate shall be paid from the Second Injury Fund upon submission to the Treasurer by the employer or the employer's insurer of such vouchers and information as the Treasurer may require. In cases which involve concurrent employment and in which there is a claim against a third party, the injured employee or the employer in whose employ the injury was sustained or the employer's insurer shall advise the custodian of the Second Injury Fund if there is a third party claim, and the employee, employer or employer's insurer shall pursue its subrogation rights as provided for in section 31-293 and shall include in its claim all compensation paid by the Second Injury Fund and shall reimburse the Second Injury Fund for all payments made for compensation in the event of a recovery against the third party.

(b) Each August fifteenth, the chairman of the Workers' Compensation Commission, in consultation with the advisory board, shall publish tables of the average weekly wage and seventy-five per cent of the average weekly wage after being reduced by any deduction for federal or state taxes, or both, and for the federal Insurance Contributions Act, to be effective the following October first, except that not later than June thirtieth, the chairman, in consultation with the advisory board, shall publish tables of the average weekly wage and seventy-five per cent of the average weekly wage after being reduced by any deduction for federal or state taxes, or both, and for the federal Insurance Contributions Act, to be effective during the period July 1, 1993, to October 1, 1993. Such tables shall be conclusive for the purpose of determining seventy-five per cent of the

average weekly earnings of an injured employee after such earnings have been reduced by any deduction for federal or state taxes, or both, and for the federal Insurance Contributions Act made from such employee's total wages received during the period of calculation of the employee's average weekly wage for purposes of sections 31-306, 31-307 and 31-308.

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

History: 1961 act entirely replaced previous provisions; 1967 act added provisions re calculation of and liability for compensation payments when injured employee worked for more than one employer; 1969 act expanded provisions added in 1967 to specify applicability to cases where wages at time of injury would not enable injured employee to receive maximum benefits, to change basis of calculation in such cases, to require that injured person receive at least minimum prevailing rate from employer and dependency allowance if he is totally incapacitated; 1971 act added provisions re third party claims; P.A. 79-376 substituted "worker" for "workman" and rephrased reference to Sec. 31-308; P.A. 91-32 made technical changes; P.A. 91-339 designated existing section as Subsec. (a), deleted provisions re dependency allowance, added provisions re submission of vouchers and information to the treasurer and added Subsec. (b) re average weekly wage tables; P.A. 93-228 amended Subsec. (a) to change the basis of calculation for an employee's average weekly wage from twenty-six to fifty-two weeks and amended Subsec. (b) to require the chairman of the workers' compensation commission to publish tables of seventy-five, rather than eighty, per cent of the average weekly wage less deductions for state and federal taxes and for the federal Insurance Contributions Act, effective July 1, 1993, except that Subsec. (b) effective June 30, 1993; P.A. 95-277 amended Subsec. (a) to change portion of wages paid by the employer in whose employ the injury incurred from a "pro-rata" share to a portion equal to "seventy-five per cent of the average weekly wage paid by him to the injured employee" after such earnings has been reduced by the applicable federal and state taxes and the federal Insurance Contribution Act and made technical corrections for clarity by substituting "insurer" for "insurance carrier", effective July 1, 1995.

Construed. 95 C. 607. Applies if employee worked two weeks in all within the last twenty-six, though not continuously. 98 C. 820. Basis of compensation is average wage 26 weeks before incapacity occurs, though not in employ of employer in whose service disease is contracted. 114 C. 24; 116 C. 193. When allowance for board and room is added to weekly wage. 114 C. 410. Cited. 121 C. 152. Determination of average wage on basis of allowance for truck and hourly rate. 124 C. 433. Average weekly wage. 126 C. 265; 129 C. 591. Prevailing wage in same locality. *Id.*, 234. Working for more than one employer. 133 C. 215. Cited. 135 C. 500. "Prevailing" wage held to be the wage earned by part-time workers engaged for one day a week. 136 C. 107. Construed with section 31-308 when employee holds two jobs. 145 C. 101. Industrial corporation employee who was member of volunteer fire department was not person who worked for more than one employer within meaning of this section. 159 C. 53. Cited. 203 C. 34. Cited. 220 C. 721. Recovery of either salary benefits under Sec. 5-142(a) or workers' compensation benefits including right to receive concurrent employment benefits under this section discussed. *Id.*, 739. Cited. 221 C. 356. Cited. 223 C. 911. Injured volunteer firefighters do not come within concurrent employment provisions of this section. 224 C. 479. Injured employee's workers' compensation benefit rate to be determined in case of traumatic injury by reference to his earnings preceding the date on which he became incapacitated. 231 C. 529. Provides method for calculating average weekly wage of individual who was unemployed when disease manifested itself. 245 C. 66. "Wages" do not include insurance and pension benefits. 247 C. 126.

Cited. 12 CA 138. Cited. 29 CA 559. Cited. 44 CA 112. Cited. *Id.*, 397. Formula to establish average weekly wage is clear and unambiguous, includes employee's part-time employment and does not include earnings from another part-time job during year prior to injury. 47 CA 628.

Cited. 5 CS 10. When plaintiff on "call" or "daily list", held that each day is an independent contract of employment. *Id.*, 49. Where part time worker is injured, wages criterion is that of men similarly employed. 16 CS 30. Cited. *Id.*, 164. Where apprentice employee was totally incapacitated, amount received as war service subsistence allowance was not to be computed as "amount he is able to earn", thus classifying employee as partially incapacitated under section 31-162. *Id.*, 481.

Subsec. (b):

Applies only to those employees whose income is subject to deduction for contribution to FICA. 259 C. 783. Because it would be inefficient and unduly burdensome to require case-by-case calculations of compensation rates, there is a rational basis for treating employees who contribute to FICA different from employees who do not contribute to FICA, and statute thus does not violate equal protection clauses of federal and state constitutions. *Id.*

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

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

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

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

History: P.A. 79-376 replaced "workmen's compensation" with "workers' compensation"; P.A. 91-32 made technical changes and added Subsec. (c), re average weekly wage to be considered for purposes of determining compensation.

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

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

History: P.A. 79-376 replaced "workmen's compensation" with "workers' compensation".

Sec. 31-310c. Average weekly wage of worker with an occupational disease. For the purposes of this chapter, in the case of an occupational disease the average weekly wage shall be calculated as of the date of total or partial incapacity to work. However, in the case of an occupational disease which manifests itself at a time when the worker has not worked during the twenty-six weeks immediately preceding the diagnosis of such disease, the claimant's average weekly wage shall be considered to be equivalent to the greater of (1) the average weekly wage determined pursuant to section 31-310 and adjusted pursuant to section 31-307a or (2) the average weekly wage earned by the claimant during the fifty-two calendar weeks last worked by the claimant, which wage shall be determined in accordance with said section 31-310 and adjusted pursuant to said section 31-307a.

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

History: P.A. 93-228 amended Subdiv. (2) to base payment on wages earned during preceding fifty-two weeks, rather than twenty-six weeks, effective July 1, 1993.

Purpose and retroactive application. 245 C. 66. Calculation of benefits for surviving dependent spouse and estate of employee who died as result of occupational disease. Id., 88.

Cited. 44 CA 112.

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

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

History: 1961 act entirely replaced previous provisions; 1967 act required that employer repair or replace artificial teeth; 1972 act required employer to repair or replace contact lenses and hearing aids.

Sec. 31-312. Compensation for time lost during and expense of medical treatment. Reimbursement of wages lost due to appearance at informal hearing. Payments to prevailing claimants in contested cases. Medical attention outside regular work hours.

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

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

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

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

History: 1961 act entirely replaced previous provisions; 1969 act expanded and clarified employer's responsibility to furnish or pay for transportation, replacing previous provision which simply stated that costs for travel "outside the one fare limit from the plant to the place of treatment and return shall be borne by the employer and shall not be included in the maximum limit set forth above"; 1971 act added Subsec. (b) prohibiting employer from requiring treatment to occur outside injured employee's regular work hours; P.A. 79-376 replaced "workmen's compensation" with "workers' compensation"; P.A. 80-10 increased transportation allowance from ten to fifteen cents per mile; P.A. 91-32 made technical changes, added new Subsec. (b) re claimant's right to reimbursement for certain expenses and redesignated existing Subsec. (b) as Subsec. (c); P.A. 01-33 amended Subsec. (a) by changing the mileage reimbursement rate from fifteen cents per mile to a rate equal to the federal mileage reimbursement rate for use of a privately owned automobile and made technical changes for purposes of gender neutrality.

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

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

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

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

History: 1961 act replaced previous provisions entirely; 1967 act increased weekly payments for rehabilitation treatments from fifteen to forty dollars and added Subsec. (b) re reassignment of employees to different work positions; P.A. 79-376 specified that employee be transferred or reassigned to "full-time" suitable work in Subsecs. (a) and (b) and substituted

“worker” and “workers’ compensation” for “workman” and “workmen’s compensation”; P.A. 83-65 amended Subsec. (a) to remove the provisions for compensation of forty dollars per week for rehabilitation treatments and to remove the requirement that the commissioners establish rules and regulations to carry out the provisions of this section and compile a list of available in-state rehabilitation facilities; P.A. 86-166 amended Subsecs. (a) and (b) to specifically provide that the commissioner shall conduct a hearing to determine if a job transfer or assignment is necessary, and to issue an order for the employer to do so and added Subsec. (c), establishing a civil penalty for employers who fail to comply with the transfer requirements; P.A. 91-207 made a technical change to fund’s name in Subsec. (c).

Cited. 16 CA 437. Cited. 24 CA 362.

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

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

History: 1961 act entirely replaced previous provisions.

Payment to employee not deductible from amount due to dependent for his subsequent death. 93 C. 159. “Payments made on account of” means those payments paid on credit, or in advance of, any sums that subsequently become payable by employer. 270 C. 1.

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

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

History: 1961 act entirely replaced previous provisions; P.A. 95-277 amended the section to include any transfer of liability for a claim to the Second Injury Fund and allowed for its modification upon request of the custodian of the fund, effective July 1, 1995.

Power of commissioner to modify award. 94 C. 625; 95 C. 298; 97 C. 83; *Id.*, 335. Modification because disability has ceased may be retroactive to the date when it ceased. 108 C. 36. No bar that the controlling facts were known to claimant and might have been presented in the former hearing. 95 C. 356; 97 C. 76, 84. *Aliter* in case of long continued negligence of moving party. 100 C. 185. Power to open corresponds to that of a court during the term. 98 C. 741. But this is only as to the change of facts named in the first sentence of section. 100 C. 185; 103 C. 704. Employer may claim revision as well as employee. 97 C. 332. Death of employee after award does not entitle employer to retry the question of liability. 103 C. 705; 105 C. 419. Commissioner may open award because he misunderstood the facts. 106 C. 92. Can open only on the motion of some person entitled to claim revision. 101 C. 113. Procedure on petition to open award. 94 C. 626; 106 C. 5. Having opened the award, commissioner may try it *de novo*. 97 C. 84. May determine who shall receive payments after employee’s death. 100 C. 419. Powers of commissioner under this section. 129 C. 591. No right of appeal from denial of motion to reopen and rehear unless commissioner exceeds limits of legal discretion. 112 C. 333. As to power to reopen. 109 C. 601; 128 C. 1; *Id.*, 284; *Id.*, 574. Motion to reopen should follow terminology of statute. 113 C. 747; 126 C. 522. Reopening rests largely within discretion of commissioner. 119 C. 170; *id.*, 522. No power to reopen to correct mistake of law. 116 C. 1. When it is error in refusing to

reopen. 112 C. 333; 113 C. 282. If question of law involved, decision subject to appeal. 113 C. 262. Voluntary agreement may be modified if fraud shown. 121 C. 149. Cited. 110 C. 285; 111 C. 403; 113 C. 172; 114 C. 395; 116 C. 229; 120 C. 284; 126 C. 494; 127 C. 297; 130 C. 665; 132 C. 172. Power of commissioner to open an award. 134 C. 269. Commissioner was justified in treating plaintiff's motion as one for a new trial rather than for a modification of award. 136 C. 340. Denial of a motion to reopen an award is proper subject of a separate appeal. Motion to reopen on ground of mistake denied. 136 C. 361. Cited. 137 C. 187; *Id.*, 487. Status of dependent in fact involves three factual elements: (1) Reliance on contributions of decedent for necessary living expenses; (2) a reasonable expectation that the contributions will continue; (3) an absence of sufficient means at hand for meeting these expenses. The first two are fixed at the time of injury and consequently the measure of dependence in this section can change from that existing at the time of the injury only if there is a subsequent change in the financial resources of the claimant. 152 C. 481. Where commissioner found claimant was partial dependent at time of injury but subsequently received sufficient funds from other sources to supply her present necessities, commissioner correctly concluded that, although claimant was dependent in fact at the time of injury, her "measure of dependence" had changed before the time of the hearing and consequently defendants were relieved from paying compensation to her unless and until she showed a further change in circumstances. *Id.*, 481, 482. An award to a dependent in fact as well as to a presumptive dependent is an award of compensation and subject to modification. *Id.* Trial court was in error in admitting testimony of draftsman of agreement made under section 31-296 which was clear and unambiguous on its face as only workmen's compensation commissioner could open and modify the award. 157 C. 538. Cited. 159 C. 302. Cited. 177 C. 107. Cited. 206 C. 242. Cited. 210 C. 423. Cited. 212 C. 441. Cited. 219 C. 28. Cited. 221 C. 905. Cited. 226 C. 569. Cited. 231 C. 469. Authority to modify otherwise final awards does not authorize modifications based on changes of law. 244 C. 1.

Cited. 26 CA 194. Cited. 28 CA 536. Cited. 37 CA 648. Cited. 45 CA 324. Commissioner lacked authority to modify award because statute does not authorize modifications based on a new interpretation of law and therefore, lacked authority to recalculate the plaintiff's benefits. 55 CA 789. Workers' compensation commissioner did not have authority to grant Second Injury Fund equitable relief under section to open approved stipulation and schedule approval hearing because there was no evidence that fund was prevented from making a defense by fraud, accident, mistake, surprise or improper management of opposite party. 66 CA 332. Under this section, commissioner has same power as a court to open and modify an award. 75 CA 591.

Sec. 31-316. Employer to record and report employees' injuries and report insurance coverage or welfare plan payments provided to employees. Increased award due to employer's failure to file. (a) Each employer shall keep a record of the injuries sustained by his employees in the course of their employment that result in incapacity for one day or more. Each employer shall send to the chairman of the Workers' Compensation Commission, in duplicate, each week, or more often if so directed, a report of all injuries that the rules prescribed by the chairman determine, including the time of each injury, together with notices of claims for compensation that have been served upon the employer under section 31-294c, within one week of the receipt of the notices of claims. The employer shall inform the chairman as to the extent to which he provides accident and health insurance and life insurance coverage for his employees, and his payment or contribution requirements for any employee welfare plan, as defined in section 31-284b. No other report of injuries to employees shall be required by any department or office of the state from employers. The duplicates of the reports shall be immediately transmitted to the Labor Commissioner.

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

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

History: 1961 act entirely replaced previous provisions; P.A. 82-398 required the employer to inform the commissioner as to the insurance coverage and welfare fund payments he provides for his employees and required that injury reports include "time of each injury"; P.A. 85-32 provided that the reports concerning injuries, insurance coverage and employee welfare fund payments shall be sent by each employer to the chairman of the board of compensation commissioners; P.A. 91-32 made technical changes; P.A. 91-339 changed "board of compensation commissioners" to "workers' compensation commission" and changed "employee welfare fund" to "employee welfare plan"; P.A. 96-267 added Subsec. (b) to allow the commissioner to increase an employee's award proportionate to prejudice caused by an employer's failure to report injuries as required.

See Sec. 31-40 re required reporting of serious accidents in establishments or work places.
Cited. 109 C. 469; 122 C. 192.

Sec. 31-317. Claims against the state. Section 31-317 is repealed.

(1949 Rev., S. 7443; 1958 Rev., S. 31-169; 1961, P.A. 491, S. 40; P.A. 81-469, S. 3, 8; P.A. 91-32, S. 40, 41.)

Sec. 31-318. Action for minors and incompetents. When any employee affected by the provisions of this chapter or any person entitled to compensation thereunder is a minor or mentally incompetent, his parent or duly appointed guardian may, on his behalf, perform any act or duty required or exercise any right conferred by the provisions of this chapter with the same effect as if such person were legally capable to act in his own behalf and had so acted. The commissioner may, for just cause shown, authorize or direct the payment of compensation directly to a minor or to some person nominated by the minor and approved by the commissioner, which person shall act in behalf of such minor.

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

History: 1961 act entirely replaced previous provisions.

Minor illegally employed is under act. 131 C. 157.

Sec. 31-319. Fees to be approved. Section 31-319 is repealed.

(1949 Rev., S. 7457; 1958 Rev., S. 31-185; 1961, P.A. 491, S. 45; 1969, P.A. 556, S. 2; P.A. 88-357, S. 20; P.A. 89-371, S. 23; P.A. 91-32, S. 40, 41.)

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

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

History: 1961 act entirely replaced previous provisions; P.A. 79-376 substituted "workers" for "workmen".

See Sec. 33-896 et seq. re judicial dissolution of a stock corporation and appointment of receiver or custodian.

See Sec. 45a-392 re order of payment of claims.

See Sec. 52-512 re wages as preferred claim.

Cited. 224 C. 8.

Defendant's workmen's compensation award could be garnished by welfare commissioner in action for reimbursement of funds expended for care and maintenance of defendant's family. Purpose of this exemption statute is to provide support money to claimant and his dependents. 5 Conn. Cir. Ct. 69.

Sec. 31-321. Manner of serving notices. Unless otherwise specifically provided, or unless the circumstances of the case or the rules of the commission direct otherwise, any notice required under this chapter to be served upon an employer, employee or commissioner shall be by written or printed notice, service personally or by registered or certified mail addressed to the person upon whom it is to be served at his last-known residence or place of business. Notices in behalf of a minor shall be given by or to his parent or guardian or, if there is no parent or guardian, then by or to such minor.

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

History: 1961 act entirely replaced previous provisions.

Cited. 226 C. 508. Strict compliance with statutory methods of service under section is necessary to constitute meaningful notice under Sec. 31-301(a). 263 C. 279. Commission's failure to comply strictly with statutorily prescribed methods of notice and service under section will not trigger party's obligation to file appeal under Sec. 31-301(a). Id.

Cited. 3 CA 162. Cited. 29 CA 441. Cited. 30 CA 295. Cited. 45 CA 199. Does not expressly provide for notice to claimants who are not employees or dependents. Notice to last-known address of decedent employee, which was also claimants' address, was adequate. 63 CA 1.

Sec. 31-322. Injuries received in interstate commerce. Section 31-322 is repealed.

(1949 Rev., S. 7460; 1958 Rev., S. 31-188; 1961, P.A. 491, S. 48; P.A. 91-32, S. 40, 41.)

Sec. 31-323. Attachments to secure payment of compensation. When any person presents in writing to the commissioner a claim for compensation, either for injury sustained by himself arising out of and in the course of his employment or for injury resulting in the death of some person of whom he is an alleged dependent, he may ask that a writ of attachment issue to secure the payment of the claim or claims for compensation as may arise out of the injury. Unless it appears from the records of the commissioner that there has been a compliance with the provisions of section 31-284, which compliance is then effective, or that the Insurance Commissioner has approved a substitute system of compensation, benefit and insurance, the commissioner may issue a writ of attachment in the manner and form of writs of attachment in civil actions and shall be vested with the same jurisdiction as authorities authorized to issue writs of attachment in civil actions. If a writ is issued under this section and thereafter it appears to the satisfaction of the commissioner that there has been a compliance with the provisions of section 31-284, which compliance was then effective and applicable to the injury in question, or that the Insurance Commissioner has approved a substitute system of compensation, benefit and insurance, the commissioner may vacate the writ of attachment on the payment by the employer of the expense actually incurred under such writ of attachment. The commissioners are vested with the authority of the various courts to dissolve attachments made under this section and, on the dissolution of an attachment, may require the substitution of a bond in the same manner as any court upon the dissolution of attachments in civil actions.

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

History: 1961 act entirely replaced previous provisions; P.A. 91-32 made technical changes and added provisions re approval of substitute compensation system by the insurance commissioner.

Cited. 112 C. 377. Cited. 169 C. 646.

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

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

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

History: 1961 act entirely replaced previous provisions; P.A. 74-338 replaced superior court with court of common pleas; P.A. 76-436 replaced court of common pleas with superior court, effective July 1, 1978; P.A. 79-540 replaced superior court with compensation review division and supreme court with appellate session of superior court for purposes of section and deleted provisions re pro forma awards where commissioner believes a doubtful question of law is involved which public interest requires to be finally and definitely determined; June Sp. Sess. P.A. 83-29 deleted reference to appellate session of the superior court and added reference to appellate court; P.A. 91-339 changed "compensation review division" to "compensation review board".

Cited. 94 C. 262; 95 C. 609. Effect of a pro forma award and function of an appeal. 116 C. 219. In absence of judgment there can be no appeal to supreme court. 123 C. 102. Reservation can be made without any appeal or judgment when facts are not in dispute. 138 C. 620. Cited. 150 C. 154; 159 C. 53. Reservation from the court of common pleas and not the superior court is the proper procedure to follow. Reservation from superior court dismissed for lack of jurisdiction. 168 C. 84. Cited. 213 C. 54. Cited. 232 C. 758.

Cited. 2 CA 363. Cited. 36 CA 150.

Cited. 8 CS 313.

Sec. 31-325. Acknowledgment by employees having certain physical conditions.

Section 31-325 is repealed, effective June 29, 1995.

(1949 Rev., S. 7465; 1949, S. 3051d; 1958 Rev., S. 31-192; 1961, P.A. 491, S. 51; 1967, P.A. 842, S. 19; 1971, P.A. 336; P.A. 79-376, S. 79; P.A. 91-32, S. 33, 41; P.A. 95-277, S. 18, 19.)

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

Whenever the chairman of the Workers' Compensation Commission finds that any insurance company or association insuring the liability of an employer under the provisions of this chapter is conducting such business improperly or is dilatory in investigating and adjusting claims or making payments, or fails to comply with the provisions of this chapter or the rules, methods or procedure and forms adopted by the chairman, the chairman shall notify the Insurance Commissioner, in writing, setting forth the facts, and thereupon the Insurance Commissioner shall fix a time and place for a hearing thereon, giving reasonable notice to the chairman and to such company or association of such hearing, and, if he finds the allegations to be true, he shall either suspend for a time or revoke the license of such company or association to transact such business in this state. Whenever a compensation commissioner has reason to believe that any employer who has furnished proof of his financial ability or filed with the Insurance Commissioner security for the performance of the obligations of this chapter in accordance with section 31-284 is dilatory in investigating or adjusting claims or in making payments, or fails to comply with the provisions of this chapter or the rules, methods of procedure and forms adopted by the chairman, he may notify the Insurance Commissioner, in writing, setting forth the facts, and thereupon the Insurance Commissioner shall fix the time and place for a hearing thereon, giving reasonable notice to the commissioner and to such employer, and, if he finds the allegations to be true, then, after ten days from the notice of such findings to such employer, the compliance of such employer with the terms of section 31-284 shall be, as to any future injuries, null and void.

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

History: 1961 act entirely replaced previous provisions; P.A. 77-614 made insurance department a division within the department of business regulation with insurance commissioner as its head, effective January 1, 1979; P.A. 80-482 reinstated insurance division as an independent department with commissioner as its head and deleted reference to abolished department of business regulation; P.A. 91-339 changed "compensation commissioners, or a majority of them" to "chairman of the workers' compensation commission".

Cited. 28 CS 5.

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

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

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

History: 1961 act entirely replaced previous provisions; P.A. 91-32 made technical changes, designated existing section as Subsec. (a) and added Subsec. (b) re approval of attorneys', physicians' and other fees by commissioner.

Cited. 103 C. 434.

Workers' compensation review board can review commissioner's award for consistency with fee guidelines. 59 CA 816. Commissioner has authority to approve attorneys' fees contained in an award separate from an award for compensation. 64 CA 301.

Cited. 28 CS 5.

PART C

EMPLOYERS' MUTUAL INSURANCE

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

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

History: 1959 act replaced reference to Part B of chapter with reference to entire chapter; 1961 act entirely replaced previous provisions; P.A. 77-614 placed insurance commissioner within department of business regulation and made insurance department a division of that department, effective January 1, 1979; P.A. 80-482 restored insurance division as independent department with commissioner as its head and deleted reference to abolished business regulation department.

Sec. 31-329. Approval by Insurance Commissioner. Before giving his approval, the Insurance Commissioner may require the incorporators of any such association to include in their proposed certificate of incorporation such lawful provisions for the regu-

lation of the affairs of the association and the definition of its powers and the powers of its officers, directors and incorporators as shall satisfy him that it is well designed and wisely adapted to its proposed purposes. When such a certificate, in form and substance acceptable to the Insurance Commissioner, has been approved by and filed with the Secretary of the State, the incorporators shall forthwith cause copies thereof to be filed in the offices of the Insurance Commissioner and each of the compensation commissioners.

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

History: 1961 act entirely replaced previous provisions; P.A. 77-614 placed insurance commissioner within department of business regulation and made insurance department a division within that department, effective January 1, 1979; P.A. 80-482 restored insurance division as independent department with commissioner as its head, deleting references to abolished business regulation department.

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

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

History: 1961 act entirely replaced previous provisions.

Sec. 31-331. Control of associations. Except as herein otherwise provided, such associations shall be subject to the same regulation and control as is or may be imposed by law upon other corporations or associations taking similar risks in this state, and over them the Insurance Commissioner shall have all the jurisdiction given him by sections 38a-14 and 38a-17 over insurance companies.

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

History: 1961 act entirely replaced previous provisions; P.A. 77-614 placed insurance commissioner within the department of business regulation and made insurance department a division within that department, effective January 1, 1979; P.A. 80-482 restored insurance division as independent department with commissioner as its head and deleted reference to abolished business regulation department.

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

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

History: 1961 act entirely replaced previous provisions; P.A. 77-614 placed insurance commissioner within department of business regulation and made insurance department a division within that department, effective January 1, 1979; P.A. 80-482 restored insurance division as independent department with commissioner as its head, deleting reference to abolished department of business regulation; P.A. 81-472 made technical changes.

Sec. 31-333. Officers and voting. The affairs of all associations incorporated under this chapter shall be managed by such officers and directors as may be chosen in manner prescribed by the bylaws of the association; but each member shall be entitled to cast at least one ballot in all elections and votes, any member having had for six months an average of more than one hundred and not more than five hundred employees to whom he is bound to pay compensation under this chapter shall be entitled to cast two ballots, and each additional five hundred employees shall entitle such member to an additional ballot, but no member shall be entitled to cast more than eight ballots.

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

History: 1961 act entirely replaced previous provisions.

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

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

History: 1961 act entirely replaced previous provisions.

Sec. 31-335. Premium rates. Reserve notes. Each association shall have power to determine the comparative premium rates for each occupation or risk insured by it and to prescribe rates of cash premiums sufficient to cover the current cost. Such premium rates shall prevail for the fiscal year of the association, but they may be changed annually by the directors. The current cost herein specified shall be such an amount as is estimated to cover the expenses and the claims or portions of claims payable within the same fiscal year within which they originated. Members of each association shall be required to pay yearly in advance cash premiums for current costs, and in addition thereto an amount in negotiable notes sufficient to maintain a reserve equal to that required by statute of stock or commercial casualty companies for similar classes of risks. These notes shall be payable on the call of the treasurer of the association as they may be required to meet estimated losses or expenses in excess of the current cost or to meet claims covering losses not payable within the same fiscal year within which the claim originated. The directors may, in their discretion, fix rates of interest on either notes or balances.

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

History: 1961 act entirely replaced previous provisions.

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

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

History: 1961 act entirely replaced previous provisions.

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

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

History: 1961 act entirely replaced previous provisions.

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

(1949 Rev., S. 7478; 1958 Rev., S. 31-205; 1959, P.A. 617, S. 110; 1961, P.A. 491, S. 64; P.A. 77-614, S. 163, 610; P.A. 80-482, S. 211, 348; P.A. 96-256, S. 186, 209.)

History: 1959 act replaced reference to Sec. 33-149 with reference to Sec. 33-446; 1961 act entirely replaced previous provisions; P.A. 77-614 placed commissioner of insurance within department of business regulation and made insurance department a division within that department, effective January 1, 1979; P.A. 80-482 restored insurance division as independent department with commissioner as its head, deleting reference to abolished business regulation department; P.A. 96-256 replaced reference to Sec. 33-446 with Sec. 33-1057, effective January 1, 1997.

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

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

History: 1961 act entirely replaced previous provisions; P.A. 77-614 placed insurance commissioner within department of business regulation and made insurance department a division within that department, effective January 1, 1979; P.A. 78-280 replaced "Hartford county" with "judicial district of Hartford-New Britain"; P.A. 80-482 restored insurance division as independent department with commissioner as its head and deleted reference to abolished business regulation department; P.A. 88-230 replaced "judicial district of Hartford-New Britain" with "judicial district of Hartford", effective September 1, 1991; P.A. 90-98 changed the effective date of P.A. 88-230 from September 1, 1991, to September 1, 1993; P.A. 93-142 changed the effective date of P.A. 88-230 from September 1, 1993, to September 1, 1996, effective June 14, 1993; P.A. 95-220 changed the effective date of P.A. 88-230 from September 1, 1996, to September 1, 1998, effective July 1, 1995.

PART D

WORKERS' COMPENSATION INSURANCE

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

by either the employer or the insurer shall to the extent thereof be a bar to the recovery against the other of the amount so paid.

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

History: 1961 act entirely replaced previous provisions.

Cited. 113 C. 130; 515. Cited. 223 C. 336.

Cited. 46 CA 596.

Cited. 28 CS 4.

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

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

History: 1961 act entirely replaced previous provisions.

Cited. 28 CS 5.

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

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

History: 1961 act entirely replaced previous provisions.

The award should ordinarily be against both employer and insurer. 105 C. 741. Where one company insured until and another after August 1st, and employee was injured May 25th but disability began September 19th, first company is solely liable. Id., 740. Cited. 113 C. 130; Id., 520; 114 C. 27. In occupational disease cases, award should be made against all insurers within whose periods of coverage claimant's work was a substantial factor in the disability. 116 C. 216. Award against principal employer even though direct employer has paid all compensation claims. 124 C. 227.

Cited. 28 CS 4.

Sec. 31-343. Certain defenses not available against employee or dependent. As between any such injured employee or his dependent and the insurer, every such contract of insurance shall be conclusively presumed to cover the entire liability of the insured, and no question as to breach of warranty, coverage or misrepresentation by the insured shall be raised by the insurer in any proceeding before the compensation commissioner or on appeal therefrom.

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

History: 1961 act entirely replaced previous provisions.

Effect of this section. 105 C. 739. Cited. 111 C. 237; 113 C. 130, 504; 116 C. 221.

Cited. 46 CA 596.

Sec. 31-344. When representations avoid policy. No statement in an application for a policy of compensation insurance shall vitiate such policy as between the insurer

and the insured, unless such statement is false and materially affects either the acceptance of the risk or the hazard assumed by the insurer.

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

History: 1961 act entirely replaced previous provisions.

Cited. 28 CS 5.

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

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

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

(b) (1) When, after the close of a fiscal year ending prior to July 1, 1990, the chairman of the Workers' Compensation Commission and the Comptroller have determined the total amount of expenses of the Workers' Compensation Commission in accordance with the provisions of subsection (d) of section 31-280, the Treasurer shall thereupon assess upon and collect from each employer, other than the state and any municipality participating for purposes of its liability under this chapter as a member in an interlocal risk management agency pursuant to chapter 113a, the proportion of such expenses that the total compensation and payment for hospital, medical and nursing care made by such self-insured employer or private insurance carrier acting on behalf of any such employer bore to the total compensation and payments for hospital, medical and nursing care made by all such insurance carriers and self-insurers. The amount so secured shall be used to reimburse the Treasurer for appropriations theretofore made by the state for the payment in the first instance of the expenses of administering this chapter. On and after July 1, 1986, the Treasurer shall, as soon as possible after the close of a fiscal year ending prior to July 1, 1990, estimate the pro rata cost to each employer based upon the

costs assessed to such employer in the immediately preceding fiscal year and shall assess upon and collect from each such employer such estimated costs annually which shall be payable as provided in subsection (a) of this section except each annual assessment shall include an amount which represents the difference between the payments collected and the actual costs assessed to such employer for the immediately preceding fiscal year. The Treasurer is authorized to make credits or rebates for overpayments made under this subsection by any employer for any fiscal year.

(2) The chairman of the Workers' Compensation Commission shall annually, on or after July first of each fiscal year, determine an amount sufficient in the chairman's judgment to meet the expenses of the Workers' Compensation Commission. Such expenses shall include the costs of the Division of Workers' Rehabilitation and the programs established by its director, the costs of the Division of Worker Education and the programs established by its director and funding for the occupational health clinic program created pursuant to sections 31-396 to 31-402, inclusive. The Treasurer shall thereupon assess upon and collect from each employer, other than the state and any municipality participating for purposes of its liability under this chapter as a member in an interlocal risk management agency pursuant to chapter 113a, the proportion of such expenses, based on the immediately preceding fiscal year, that the total compensation and payment for hospital, medical and nursing care made by such self-insured employer or private insurance carrier acting on behalf of any such employer bore to the total compensation and payments for the immediately preceding fiscal year for hospital, medical and nursing care made by such insurance carriers and self-insurers. For the fiscal years ending June 30, 2000, and June 30, 2001, such assessments shall not exceed five per cent of such total compensation and payments made by such insurance carriers and self-insurers. For the fiscal years ending June 30, 2002, and June 30, 2003, such assessments shall not exceed four and one-half per cent of such total compensation and payments made by such insurance carriers and self-insurers. For any fiscal year ending on or after June 30, 2004, such assessment shall not exceed four per cent of such total compensation and payments made by such insurance carriers and self-insurers. Such assessments and expenses shall not exceed the budget estimates submitted in accordance with subsection (c) of section 31-280. For each fiscal year, such assessment shall be reduced pro rata by the amount of any surplus from the assessments of prior fiscal years. Said surplus shall be determined in accordance with subdivision (3) of this subsection. Such assessments shall be made in one annual assessment upon receipt of the chairman's expense determination by the Treasurer. All assessments shall be paid not later than sixty days following the date of the assessment by the Treasurer. Any employer who fails to pay such assessment to the Treasurer within the time prescribed by this subdivision shall pay interest to the Treasurer on the assessment at the rate of eight per cent per annum from the date the assessment is due until the date of payment. All assessments received by the Treasurer pursuant to this subdivision shall be deposited in the Workers' Compensation Administration Fund established under section 31-344a. The Treasurer is hereby authorized to make credits or rebates for overpayments made under this subsection by any employer for any fiscal year.

(3) As soon as practicable after the close of the state fiscal year, the Comptroller shall examine the Workers' Compensation Administration Fund and shall direct the State Treasurer to set aside within said fund amounts in excess of fifty per cent of the

expenditures of the Workers' Compensation Commission for the most recently completed fiscal year, which shall be considered a surplus for purposes of subdivision (2) of subsection (b) of this section.

(1949 Rev., S. 7485; 1958 Rev., S. 31-212; 1961, P.A. 491, S. 71; 1969, P.A. 696, S. 13; 1971, P.A. 334; P.A. 73-32; P.A. 76-246, S. 1, 3; P.A. 77-614, S. 163, 610; P.A. 78-241, S. 1, 2; P.A. 81-469, S. 5, 8; P.A. 85-189, S. 4; P.A. 90-311, S. 1, 3; P.A. 91-191, S. 1, 3; 91-339, S. 34, 55; June Sp. Sess. P.A. 91-14, S. 18, 30; P.A. 92-31, S. 5, 7; P.A. 96-267, S. 25; P.A. 99-214, S. 1, 2; June Sp. Sess. P.A. 01-9, S. 29, 131.)

History: 1961 act entirely replaced previous provisions; 1969 act made previous provisions applicable to employers who have been issued a certificate of solvency, added provisions requiring payment of pro rata share of administration costs and other specified payments before insurer or self-insured employer writes insurance and added Subsec. (b) re assessment of administration expenses; 1971 act deleted requirement that insurer pay one thousand dollars if it has not, prior to July first in any year, paid out any compensation or benefits before it writes insurance, in Subsec. (a); P.A. 73-32 required that filing of receipt proving payment of pro rata share of administration costs be made on or before October first rather than September first in Subsec. (a); P.A. 76-246 added provisions re quarterly installments of estimated pro rata costs and credits and rebates of overpayments; P.A. 77-614 placed insurance commissioner within the department of business regulation and made insurance department a division within that department, effective January 1, 1979 (provisions later repealed by P.A. 80-482); P.A. 78-241 made payments of estimated costs payable on annual rather than quarterly basis; P.A. 81-469 amended Subsec. (b) to provide that the amount of compensation and payments made by a carrier due to the state's liabilities as an employer shall be exempted when calculating the amount due under the subsection; P.A. 85-189 provided that each employer, other than the state and certain municipalities, is liable for the assessments used to cover administrative costs; P.A. 90-311 added Subdiv. (2) of Subsec. (b) concerning the assessment of expenses on or after July 1, 1990; P.A. 91-191 amended Subsec. (b) replacing quarterly assessment with a single annual assessment in Subdiv. (2); P.A. 91-339 amended Subsec. (b) to include the costs of the rehabilitation division and the division of worker education in the expenses of the workers' compensation commission and to limit assessments to four per cent of the total compensation and payments; June Sp. Sess. P.A. 91-14 amended Subdiv. (2) of Subsec. (b) to provide that on and after July 1, 1991, all assessments received by treasurer pursuant to said subdivision shall be deposited in workers' compensation administration fund; P.A. 92-31 amended Subdiv. (2) of Subsec. (b) to require employers who fail to pay assessments within the prescribed time to pay interest at the rate of eight per cent and to delete provision authorizing pro rata reduction of assessments in accordance with prior years' surplus; P.A. 96-267 amended Subdiv. (b)(2) to require a pro rata assessment reduction equal to any prior fiscal year surplus, and added Subdiv. (3) to calculate such surplus and to direct the State Treasurer to set aside the surplus; P.A. 99-214 amended Subdiv. (2) of Subsec. (b) by increasing, for fiscal years 2000 and 2001, the employer assessment cap from four to five per cent of employers' workers' compensation expenses for the prior year, reducing the cap to four per cent for fiscal years commencing on or after 2002, and requiring the chairman to include the cost of funding occupational health clinic programs in determining the amount necessary to meet the Workers' Compensation Commission's annual expenses, effective July 1, 1999; June Sp. Sess. P.A. 01-9 amended Subsec. (b)(2) to add provision re four and one-half per cent maximum annual employer assessment for the fiscal years ending June 30, 2002, and June 30, 2003, and to provide for a four per cent maximum annual employer assessment for fiscal years ending on or after June 30, 2004, effective July 1, 2001.

Cited. 37 CA 835.

Sec. 31-345a. Deductibles in workers' compensation coverage. Approval of Insurance Commissioner. Each insurer issuing workers' compensation and employers' liability insurance may issue such coverage with deductibles in accordance with plans filed with and approved by the Insurance Commissioner.

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

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

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

History: 1961 act entirely replaced previous provisions.

Cited. 28 CS 5.

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

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

History: 1961 act entirely replaced previous provisions; P.A. 77-614 placed insurance commissioner within department of business regulation and made insurance department a division within that department, effective January 1, 1979; P.A. 80-482 restored insurance division as independent department with commissioner as its head and abolished business regulation department.

Cited. 28 CS 5.

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

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

History: 1961 act entirely replaced previous provisions; P.A. 81-469 required any insurance company insuring the state's liability under this chapter to report such fact as it would for any other policyholder; P.A. 90-116 allowed for reports from agents of companies and for reports other than in writing; P.A. 91-339 changed "board of commissioners" to "chairman of the workers' compensation commission" and "one week" to "fifteen days".

See 113 C. 128, 504; 127 C. 706.

Insurer's initial letter to insured indicating that failure to pay premiums due would result in policy cancellation was not sufficiently unequivocal to constitute notice of cancellation under this section. 62 CA 440. Section not applicable to nonrenewals of policies. 67 CA 361.

Cited. 28 CS 5.

Sec. 31-348a. Compensation insurers to reduce premiums. (a) On or before July 1, 1993, each insurer writing workers' compensation insurance in this state, either individually or through a rating organization licensed pursuant to section 38a-672 of which the insurer is a member or subscriber, shall file new voluntary pure premium and assigned risk rates effective for the period July 1, 1993, to June 30, 1994, containing a nineteen per cent benefit level reduction and allowing due consideration for changes in loss costs based upon experience updated through the end of 1992.

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

(c) Within thirty days of the Insurance Commissioner's final decision regarding a filing by a rating organization made pursuant to this section, each insurer writing workers' compensation insurance in this state shall file revised rates for the voluntary market in accordance with the provisions of section 38a-676. Such revised rates shall be applicable to all new and renewal workers' compensation insurance policies effective on or after July 1, 1993. For any policy in effect as of June 30, 1993, during the period from July 1, 1993, through the end of the policy period, the premium shall be reduced by a percentage which equals the benefit level reduction certified pursuant to subsection (b) of this section. With respect to new and renewal policies effective on or after July 1, 1993, and before the final approval of the rates filed pursuant to this subsection, each workers' compensation insurance carrier shall, not later than forty-five days after the rates approved pursuant to this section become final, adjust the premium of such new or renewal policy for the period after July 1, 1993, to reflect the difference between the premium on the policy as issued and the premium which reflects the rates as finally approved, which rates shall reflect the specific savings achieved by this section and sections 31-40u, 31-40v, 31-275, 31-276, 31-279, 31-280, 31-284a, 31-288, 31-289b, 31-293, 31-294c, 31-295, 31-297a, 31-298, 31-299a, 31-300, 31-303, 31-306, 31-307 to 31-307b, inclusive, 31-308, 31-308a, 31-309, 31-310, 31-310c, 31-349, 31-349a and 31-354.

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

History: P.A. 93-228 effective July 1, 1993.

PART E*

SECOND INJURY FUND

*Sec. 31-349 et seq. cited. 212 C. 427. Second injury fund cited. Id. Second injury and compensation assurance fund, Sec. 31-349 et seq. cited; second injury fund cited. 218 C. 9. Secs. 31-349—31-355 cited. 231 C. 287.

Secs. 31-349—31-355 cited. 37 CA 835.

Cited. 38 CS 644. Cited. 39 CS 250.

Sec. 31-349. Compensation for second disability. Payment of insurance coverage. Second Injury Fund closed July 1, 1995, to new claims. Procedure. (a) The fact that an employee has suffered a previous disability, shall not preclude him from compensation for a second injury, nor preclude compensation for death resulting from the second injury. If an employee having a previous disability incurs a second disability from a second injury resulting in a permanent disability caused by both the previous disability and the second injury which is materially and substantially greater than the disability that would have resulted from the second injury alone, he shall receive compensation for (1) the entire amount of disability, including total disability, less any compensation payable or paid with respect to the previous disability, and (2) necessary medical care, as provided in this chapter, notwithstanding the fact that part of the disability was due to a previous disability. For purposes of this subsection, "compensation payable or paid with respect to the previous disability" includes compensation payable or paid pursuant to the provisions of this chapter, as well as any other compensation

payable or paid in connection with the previous disability, regardless of the source of such compensation.

(b) As a condition precedent to the liability of the Second Injury Fund, the employer or its insurer shall: (1) Notify the custodian of the fund by certified mail no later than three calendar years after the date of injury or no later than ninety days after completion of payments for the first one hundred and four weeks of disability, whichever is earlier, of its intent to transfer liability for the claim to the Second Injury Fund; (2) include with the notification (A) copies of all medical reports, (B) an accounting of all benefits paid, (C) copies of all findings, awards and approved voluntary agreements, (D) the employer's or insurer's estimate of the reserve amount to ultimate value for the claim, (E) a two-thousand-dollar notification fee payable to the custodian to cover the fund's costs in evaluating the claim proposed to be transferred and (F) such other material as the custodian may require. The employer by whom the employee is employed at the time of the second injury, or its insurer, shall in the first instance pay all awards of compensation and all medical expenses provided by this chapter for the first one hundred four weeks of disability. Failure on the part of the employer or an insurer to comply does not relieve the employer or insurer of its obligation to continue furnishing compensation under the provisions of this chapter. The custodian of the fund shall, by certified mail, notify a self-insured employer or an insurer, as applicable, of the rejection of the claim within ninety days after receiving the completed notification. Any claim which is not rejected pursuant to this section shall be deemed accepted, unless the custodian notifies the self-insured employer or the insurer within the ninety-day period that up to an additional ninety days is necessary to determine if the claim for transfer will be accepted. If the claim is accepted for transfer, the custodian shall file with the workers' compensation commissioner for the district in which the claim was filed, a form indicating that the claim has been transferred to the Second Injury Fund and the date that such claim was transferred and shall refund fifteen hundred dollars of the notification fee to the self-insured employer or the insurer, as applicable. A copy of the form shall be mailed to the self-insured employer or the insurer and to the claimant. No further action by the commissioner shall be required to transfer said claim. If the custodian rejects the claim of the employer or its insurer, the question shall be submitted by certified mail within thirty days of the receipt of the notice of rejection by the employer or its insurer to the commissioner having jurisdiction, and the employer or insurer shall continue furnishing compensation until the outcome is finally decided. Claims not submitted to the commissioner within said time period shall be deemed withdrawn with prejudice. If the employer or insurer prevails, or if the custodian accepts the claim all payments made beyond the one-hundred-four-week period shall be reimbursed to the employer or insurer by the Second Injury Fund.

(c) If the second injury of an employee results in the death of the employee, and it is determined that the death would not have occurred except for a preexisting permanent physical impairment, the employer or its insurer shall, in the first instance, pay the funeral expense described in this chapter, and shall pay death benefits as may be due for the first one hundred four weeks. The employer or its insurer may thereafter transfer liability for the death benefits to the Second Injury Fund in accordance with the procedures set forth in subsection (b) of this section.

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

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

(f) No claim, where the custodian of the Second Injury Fund was served with a valid notice of intent to transfer under this section, shall be eligible for transfer to the Second Injury Fund unless all requirements for transfer, including payment of the one hundred and four weeks of benefits by the employer or its insurer, have been completed prior to July 1, 1999. All claims, pursuant to this section, not eligible for transfer to the fund on or before July 1, 1999, will remain the responsibility of the employer or its insurer.

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

History: 1959 act simplified provisions by deleting references to specific loss of or damage to body organs, allowed compensation for injuries which result in permanent partial incapacity greater than would have resulted if person did not have preexisting incapacity, specified amount of additional compensation as "the same amount as the weekly compensation paid by his employer"; changed minimum payment for total incapacity from fifteen to twenty dollars and maximum payment from forty-five dollars to maximum rate in Sec. 31-309 and replaced seven-hundred-eighty-week payment limit with unspecified "period of incapacity"; 1961 act entirely replaced previous provisions and was entirely replaced by provisions of 1967 act; 1969 act deleted requirement that insurer or employer furnish custodian with a copy of the agreement or award and deleted provision which stated that fund was to be used to pay for injuries covered by Sec. 31-310; 1971 act clarified employer's responsibilities to notify custodian of agreement and award; P.A. 79-376 substituted executions of acknowledgment of physical defect for executions of waiver and reduced compensation by amount of "any compensation benefits payable or paid with respect to the previous disability"; P.A. 81-464 permitted the use of the second injury fund for payment of insurance coverage for totally incapacitated recipients of workers' compensation after one hundred four weeks of benefits and provided for notification of fund custodian; P.A. 82-398 replaced the reference to Sec. 31-51h with a reference to Sec. 31-284b, as Sec. 31-51h was repealed by the act and deleted obsolete provision requiring employer to notify custodian of second injury fund within sixty days after October 1, 1981, that coverage is required for persons who have received payments for more than one hundred and four weeks as of that date; P.A. 82-472 made a technical correction; P.A. 86-31 divided section into Subsecs. and clarified the notice requirements for payment by the second injury fund of insurance coverage costs for totally incapacitated workers' compensation recipients; P.A. 88-40 amended Subsec. (b) to provide that the cost of insurance for totally incapacitated individuals shall be paid to the employer as reimbursement and the employer shall furnish all medical information in support of the claim as to liability of the second injury fund as requested; P.A. 88-47 added Subsec. (c) re payment of the cost of accident and health insurance coverage by the second injury fund for certain employees receiving workers' compensation payments who are affected by a plant move or shutdown; P.A. 89-66 specified that the provisions of Subsec. (c) apply to employers who shut down or relocate on or after January 1, 1985, specified that the fund's liability is effective as of the date it receives notice and provided that the fund shall be liable for the cost of equivalent insurance; P.A. 90-116 amended Subsec. (c) to provide that notice shall be by certified mail; P.A. 90-327 added Subsec. (d) concerning insurance coverage for employees injured on or after January 1, 1980, but before January 1, 1982; P.A. 91-32 made technical changes and divided existing Subsec. (a) into Subsecs. (a) to (d), inclusive, relettering former Subsecs. (b) to (d), inclusive, accordingly; P.A. 91-339 amended Subsec. (f) to provide that the fund's liability shall begin fifteen days after notice to the custodian and by adding provisions re determination of ineligibility for costs of coverage in Subdiv. (2); P.A. 93-228 amended Subsec. (a) to define "compensation payable or paid with respect to the previous disability" for purposes of the subsection, effective July 1, 1993; P.A. 93-429 amended Subsecs. (b) and (c) to modify the notice and filing requirements imposed on employers or their insurance carriers in order to transfer liability for an injury or death to the second injury fund, effective July 1, 1993; P.A. 95-277 amended Subsec. (b) to replace previous provisions re transfer of claims to the Second Injury Fund, to substitute references to "insurer" for "insurance carrier", to detail notification procedure for the rejection of a claim and to specify that improper submittal of claims within specific time period could result in a prejudice of claim, amended Subsec. (c) to replace previous provisions re transfer of liability for death benefits with new provisions, deleted Subsecs. (d) to (g), inclusive, added a new Subsec. (d) to close the Second Injury Fund for injuries occurring on or after July 1, 1995, and new Subsec. (e) requiring an employer or insurer to notify the

custodian of the fund prior to October 1, 1995, of its intention to pursue a transfer of claim to the Second Injury Fund, effective July 1, 1995; P.A. 96-242 added Subsec. (f) concerning the eligibility of claims for transfer to the Second Injury Fund, effective June 6, 1996.

Cited. 150 C. 156. "Second injury fund", legislative history and purpose discussed. The phrase "permanent physical impairment" construed to include a decedent's heart disease, although that disease had neither manifested itself so as to be a hindrance to obtaining employment nor come to the attention of the employer. 166 C. 352. Second injury fund assumes responsibility for compensation and medical treatment only when preexisting impairment contributes materially and substantially to permanent disability. 171 C. 577. Cited. 174 C. 181. Cited. 218 C. 9. Cited. 222 C. 78. Cited. 223 C. 336. Phrase "one-hundred-four-week period" refers to time period of claimant's disability. 224 C. 382. Cited. 226 C. 569. Cited. 227 C. 333. Interpretation of "compensation" discussed. 231 C. 287. Cited. Id., 469. Cited. 232 C. 311. Cited. 233 C. 14. Cited. Id., 243. Cited. 235 C. 778. Cited. Id., 790. Cited. 237 C. 259. Cited. Id., 490. Cited. 241 C. 282. Limitations provision in Subsec. (b) and re-notification provision of Subsec. (e) do not violate contract or due process clauses of U.S. Constitution because premise that second injury fund had contractual relationship with employees, employers and insurers is unsustainable. 248 C. 466. Section requires employer at time of claimant's second injury to accept liability for all compensation benefits due claimant for a period of 104 weeks, and thereafter, requires fund to accept liability for all benefits due claimant for the combined injuries. Id., 635. Legislature intended amendment to this section, contained in P.A. 95-277, to remove fund's obligation to reimburse employers on or after July 1, 1995. 250 C. 753.

Cited. 6 CA 45. Notification provision relating to a fatality is mandatory. 15 CA 625, 627. Cited. 27 CA 699. Cited. 37 CA 131. Cited. 41 CA 231. Cited. 42 CA 147. P.A. 71-447, Sec. 1 cited. Id. Cited. 43 CA 732. Cited. Id., 737. Cited. 45 CA 324. Cited. Id., 448. Cited. 46 CA 346. Where employee has suffered two separate injuries that result in total disability, fund is liable only for the portion of disability attributable to the second injury. 48 CA 474. "Disability", as used in section, connotes medical impairment. 76 CA 563.

Cited. 37 CS 742.

Subsec. (a):

"Compensation benefits" refers only to compensation under the act. 223 C. 336. P.A. 79-376 cited. Id. P.A. 91-32, Sec. 35 cited. Id. For purposes of calculating one-hundred-four-week period in which notice must be given, "disability" refers to claimant's degree of medical impairment, rather than inability to work or loss of earning capacity. 243 C. 513.

Disability refers to physical impairment, not capacity for employment. 59 CA 565.

Subsec. (b):

Cited. 38 CA 175. Employer's insurer was excused from complying with statutory notice requirements for transfer of liability to Second Injury Fund where evidence showed that employer was defunct and that insurer was unable to obtain wage information necessary for strict compliance with statute. 52 CA 819. Employer and insurance company did not give timely notice of their intent to transfer liability to the fund because period of plaintiff's disability began on the day he was injured rather than on the day he sought medical care for the injuries or the day he underwent surgeries for the injuries. 67 CA 385. Appeal dismissed as moot—notice filed was timely but not proper. 69 CA 385. A person can be disabled for purposes of section even though such person can carry on all aspects of the employment. 73 CA 523.

Subsec. (d):

With passage of this section legislature rebutted any presumption in favor of prospective only application of Sec. 31-349c. Id. P.A. 95-277 Sec. 3(d) cited. Id. Apportionment is not an available form of relief for second injury employer or its insurer under subsection. 263 C. 279.

Subsec. (e):

Re-notification clause in this subsec. does not violate contract or due process clauses of U.S. Constitution, because no showing under circumstances of this case that legislature, in establishing second injury fund, entered into a contract with employees, employers and insurers. 248 C. 457.

Renotice letter was timely where town sent it by certified mail on September 28, 1995 and fund received it on October 2, 1995. 67 CA 276.

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

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

History: P.A. 91-207 made a technical change in fund's name; P.A. 91-339 added provisions re investigation of compliance with Sec. 31-284; P.A. 93-228 transferred jurisdiction over second injury fund investigators from the state treasurer's office to the workers' compensation commission and expanded the powers and duties of the investigators to include investigation of all claims, not just second injury fund claims, which violate the provisions of this chapter, effective July 1, 1993; P.A. 95-277 transferred jurisdiction over Second Injury Fund investigations from the Workers' Compensation Commission to the

office of the State Treasurer, effective June 29, 1995; P.A. 96-216 deleted "at the direction of the commissioner" when referring to the powers of peace officers, effective June 4, 1996.

Sec. 31-349b. Certificate for permanent vocational disability. Employer reimbursed by Second Injury Fund for insurance premiums for certified employees. (a) Any employee who has suffered a compensable injury under the provisions of this chapter, and who is receiving benefits for such injury from the Second Injury Fund pursuant to the provisions of section 31-349, may file a written request with the commissioner in the district where the original claim was filed for a hearing to determine whether the employee's injury constitutes a permanent vocational disability. The hearing shall be held within sixty days of the date the request was filed. Upon the request of the commissioner and prior to the conclusion of such hearing, the director of the Division of Workers' Rehabilitation within the Workers' Compensation Commission shall, after receiving such information on the case which the commissioner deems necessary, submit written recommendations concerning the case to the commissioner for his consideration. The commissioner shall issue his decision, in writing, within ten days after the conclusion of the hearing. If the commissioner determines that the employee's injury is a permanent vocational disability, the employee shall be issued a certificate of disability by the commissioner. Such certificate shall be effective for a stated period of time of from one to five years, as determined by the commissioner. The decision of the commissioner may be appealed in accordance with the provisions of section 31-301.

(b) (1) Whenever any individual who has been issued a certificate of disability, pursuant to the provisions of subsection (a) of this section, is thereafter employed, the employer, upon written application and presentation of sufficient proof to the State Treasurer, shall be reimbursed from the Second Injury Fund for any workers' compensation insurance premiums paid by the employer which are attributable to such individual's employment during the effective period of such certificate. (2) Whenever any such certified individual is hired by an employer to whom a certificate of self-insurance has been issued pursuant to section 31-284, the employer, upon written application and presentation of sufficient proof to the State Treasurer, shall be reimbursed from the Second Injury Fund at the rate of two per cent of the gross wages paid to the individual for work performed during the effective period of his certificate. No employer may make more than one such application related to a certified employee within a twelve-month period.

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

(P.A. 86-33; P.A. 91-207, S. 7, 9; P.A. 95-277, S. 10, 19.)

History: P.A. 91-207 made technical changes re name of fund; P.A. 95-277 in Subsec. (a) eliminated the reference to "section 31-325", effective July 1, 1995.

Sec. 31-349c. Controverted issues of previous disability. Physician panel established. (a) The custodian of the Second Injury Fund and an insurer or self-insured employer seeking to transfer a claim to the fund shall submit all controverted issues regard-

ing the existence of a previous disability under section 31-349 to the chairman of the Workers' Compensation Commission. The chairman shall appoint a panel of three physicians, as defined in subdivision (17) of section 31-275, and submit such dispute to the panel, along with whatever evidence and materials he deems necessary for consideration in the matter. The panel may examine the claimant, who shall submit to any examination such panel may require. Within sixty days of receiving the submission, the panel shall file its opinion, in writing, with the chairman, who shall forward it, along with any records generated by the panel's work on the case, to the commissioner having jurisdiction over the claim in which the dispute arose. The panel's opinion shall be determined by a majority vote of the three members. Such opinion shall be binding on all parties to the claim and may not be appealed to the Compensation Review Board pursuant to section 31-301.

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

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

History: P.A. 95-277 effective July 1, 1995.

Court concluded legislation intended section to apply retroactively to be consistent with Sec. 31-349(d). 241 C. 282. P.A. 95-277, Sec. 4(a) cited. Id.

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

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

History: P.A. 95-277 effective July 1, 1995.

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

ity of those members present and voting, provided at least four members shall be present and voting. The board may adopt any rules of procedure that it deems necessary to carry out its duties.

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

History: P.A. 95-277 effective July 29, 1995; P.A. 98-104 authorized members' designees to vote, effective July 1, 1998; P.A. 01-31 changed voting requirement for board action from six members or their designees to a majority of those members present and voting, provided at least four members are present and voting, and made technical changes for purposes of gender neutrality.

Sec. 31-349f. Condition of the Second Injury Fund. Report to the Governor and General Assembly. On or before July 1, 1996, and annually thereafter, the Treasurer shall submit to the Governor and the General Assembly a report on the financial condition of the Second Injury Fund. Such report shall include (1) an estimate of the fund's unfunded liability as of the preceding July first; (2) the effect of settlements and stipulations on the unfunded liability; (3) the number and amount of assessments levied under section 31-354 for the previous fiscal year; (4) the number and amount of such assessments projected for the coming year; and (5) any recommendations for legislative change to improve the operation or financing of the fund.

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

History: P.A. 95-277 effective July 1, 1995.

Sec. 31-349g. Method of assessing all employers for the liabilities of the Second Injury Fund. Regulations. (a) On or before January 1, 1996, the State Treasurer, in consultation with the Insurance Commissioner, shall adopt regulations, in accordance with the provisions of chapter 54, regarding the method of assessing all employers for the liabilities of the Second Injury Fund. The liabilities shall be allocated between self-insured employers and insured employers based on paid losses for the preceding calendar year. The method of assessing self-insured employers shall be based on paid losses. The method of assessment for insured employers shall be a surcharge based on premium. In adopting regulations under this section, the State Treasurer shall consider their effect upon (1) the cost of doing business in this state, (2) the overall cost of the workers' compensation system, (3) the effect of the regulations on insurers, insureds and self-insured employers, and (4) the financial condition and liabilities of the fund.

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

(c) For purposes of this section:

(1) "Insured employer" includes any member of a workers' compensation pool administered by an interlocal risk management agency, and on and after January 1, 2005, an employer mutual association organized prior to June 6, 1996, with a membership composed exclusively of health care providers and whose premium base is derived entirely from health care organizations.

(2) For the period commencing October 1, 2004, and ending December 31, 2004, “self-insured employer” includes an employer mutual association organized prior to June 6, 1996, with a membership composed exclusively of health care providers and whose premium base is derived entirely from health care organizations.

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

History: P.A. 95-277 effective July 1, 1995; P.A. 96-242 made technical change correcting the references to the State Treasurer and included certain employer mutual associations in the definition of “self-insured employers” after January 1, 1996, effective June 6, 1996; P.A. 04-229 designated existing provisions as Subsecs. (a) and (c), making technical and conforming changes therein, added Subsec. (b) re certain employer mutual associations organized prior to June 6, 1996, and added provision re such associations in Subsec. (c).

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

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

History: P.A. 96-242 effective June 6, 1996.

Deadline of July 1, 1999, re transfer of claims applies only to claims where eligibility for transfer is not in question on said date. 257 C. 481.

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

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

History: P.A. 96-242 effective June 6, 1996.

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

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

Secs. 31-350 and 31-351. Notice to commissioner of second injury. Hearings; awards. Sections 31-350 and 31-351 are repealed.

(1949 Rev., S. 7490, 7491; 1958 Rev., S. 31-217, 31-218; 1961, P.A. 491, S. 76, 77; 1967, P.A. 692, S. 3; P.A. 79-376, S. 50; P.A. 91-32, S. 40, 41.)

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

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

History: 1961 act entirely replaced previous provisions; P.A. 91-32 made technical changes.

Cited. 150 C. 156. "Second injury fund", legislative history and purpose discussed. 166 C. 352. Cited. 171 C. 577. Cited. 174 C. 181. Fund is entitled to recover payment made pursuant to voluntary settlement agreement as "compensation" paid within meaning of Sec. 31-293. 259 C. 325
Cited. 24 CA 93.

Sec. 31-353. Voluntary agreements; approval. If the Treasurer and an injured employee, or his legal representative, reach an agreement in regard to compensation payable under section 31-349, such agreement shall be submitted in writing to the commissioner for his approval and, upon approval, shall remain in effect until otherwise ordered by the commissioner. He may make payment by way of final settlement in any matter concerning the fund, subject to the approval of the commissioner, whenever it is for the best interests of the injured employee.

(1949 Rev., S. 7493; 1949, 1951, S. 3055d; 1958 Rev., S. 31-220; 1961, P.A. 491, S. 79.)

History: 1961 act entirely replaced previous provisions.

Cited. 150 C. 156. "Second injury fund", legislative history and purpose discussed. 166 C. 352. Cited. 171 C. 577. Cited. 174 C. 181.
Cited. 16 CS 225.

Sec. 31-354. Second Injury Fund contributions. Duties and powers of State Treasurer. (a) There shall be a fund to be known as the Second Injury Fund. Each employer, other than the state, shall, within thirty days after notice given by the State Treasurer, pay to the State Treasurer for the use of the state a sum in payment of his liability under this chapter which shall be the special assessment premium surcharge and shall be assessed in accordance with subsection (f) of section 31-349, sections 31-349g, 31-349h and 31-349i, this section, section 31-354b and sections 8 and 9 of public act 96-242*. Such sum shall be an amount sufficient to (1) pay the debt service on state revenue bond obligations authorized to be issued under and for the purposes set forth in section 31-354b including reserve and covenant coverage requirements, (2) provide for costs and expenses of operating the Second Injury Fund, and (3) pay Second Injury Fund stipulations on claims settled by the custodian or other benefits payable out of the Second Injury Fund and not funded through state revenue bond obligations and shall be determined in accordance with the regulations adopted pursuant to the provisions of section 31-349g. The custodian shall establish a factor for the annual special assessment premium surcharge that caps such surcharge for the fiscal years ending June 30, 1996, 1997 and 1998. In determining such factor the custodian shall consider the funding mechanism authorized by subsection (f) of section 31-349, sections 31-349g, 31-349h and 31-349i, this section, section 31-354b and sections 8 and 9 of public act 96-242*, recognize that an acceptable level of employer assessment is important to the vitality of the economy of the state and nevertheless shall assure provision of services to injured workers that enhances their ability to return to work and improve their quality of life. In any event, such factor shall not exceed, with respect to insured employers, a rate of fifteen per cent on the standard premiums with respect to workers' compensation and employers' liability policies and, with respect to self-insured employers, a comparable percentage limitation representing their pro rata share of any special assessment premium surcharge. Any employer who fails to pay in accordance with such regulations shall pay interest to the State Treasurer on the sum at the rate of fifteen per cent per annum from the date the sum should have been paid until the date of payment. The State Treasurer shall notify each employer of the penalty provision with the notice of assessment. Effective July 1, 1993, whenever the assessment is levied, the State Treasurer

shall pay to the fund, on behalf of the state, a sum not to exceed the total amount of money expended by the fund on behalf of state employees during the period following the last assessment. The sums received shall be accounted for separately and apart from all other state moneys and the faith and credit of the state of Connecticut is pledged for their safe-keeping. The State Treasurer shall be the custodian of the fund and all disbursements from the fund shall be made by him or his deputies. The moneys of the fund shall be invested by him in accordance with applicable law and section 8 of public act 96-242*. Interest, income and dividends from the investments shall be credited to the fund. Each employer, each private insurance carrier acting on behalf of any employer and each interlocal risk management agency acting on behalf of any employer shall annually, on or before April first, report to the State Treasurer, in the form prescribed by the State Treasurer, the amount of money expended by or on behalf of the employer in payments for the preceding calendar year. Each private insurance carrier and each interlocal risk management agency shall submit annually, on or before April first, to the State Treasurer, in the form prescribed by the State Treasurer, a report of the total standard earned premium collected in the preceding calendar year and a report of the projected total standard earned premium for the current calendar year. The fund shall be used to provide the benefits set forth in section 31-306 for adjustments in the compensation rate and payment of certain death benefits, in section 31-307b for adjustments where there are relapses after a return to work, in section 31-307c for totally disabled persons injured prior to October 1, 1953, in section 31-349 for disabled or handicapped employees and in section 31-355 for the payment of benefits due injured employees whose employers or insurance carriers have failed to pay the compensation, and medical expenses required by this chapter, or any other compensation payable from the fund as may be required by any provision contained in this chapter or any other statute and to reimburse employers or insurance carriers for payments made under subsection (b) of section 31-307a. The assessment required by this section is a condition of doing business in this state and failure to pay the assessment, when due, shall result in the denial of the privilege of doing business in this state or to self-insure under section 31-284. Any administrative or other costs or expenses incurred by the State Treasurer in connection with carrying out the provisions of this part, including the hiring of necessary employees, shall be paid from the fund. The State Treasurer may adopt regulations, in accordance with the provisions of chapter 54, prescribing the practices, policies and procedures to be followed in the administration of the Second Injury Fund.

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

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

*Note: Sections 8 and 9 of public act 96-242 are special in nature and therefore have not been codified but remain in full force and effect according to their terms.

History; 1959 act created second injury and compensation assurance fund and transferred assets of second injury fund to it on October 1, 1959; 1961 act entirely replaced previous provisions; 1967 act required that fund be maintained at one hundred thousand dollar level rather than fifty thousand dollar level; 1969 act required self-insurers to pay one and one-half per cent rather than one per cent of their liability payments for preceding year, increased level at which to be maintained to two hundred and fifty thousand dollars, specified uses to which fund is to be put and required payment of assessment as a condition of doing business in state; 1971 act made provisions applicable to mutual insurance companies; 1972 act required payment of assessment within thirty days after notice by treasurer rather than "annually on or before July first", increased payments to not more than two per cent of preceding year's liability payments and replaced requirements re two hundred fifty thousand dollar level to be maintained in fund with provision allowing treasurer to make assessments to cover expenditure and maintain fund at five hundred thousand dollar level; P.A. 77-119 increased assessment rate to three and one-half per cent; P.A. 77-554 specified that funds be used for adjustments in compensation rate; P.A. 79-376 replaced "workmen's compensation" with "workers' compensation"; P.A. 81-469 provided that the amount of money expended by a carrier in payment of the state's liabilities under this chapter shall be exempted when calculating the payment due under section; P.A. 82-472 made a technical correction; P.A. 85-189 provided that each employer, other than the state and certain municipalities, is liable for assessments levied by the state treasurer to fund the second injury and compensation assurance fund; P.A. 86-21 provided that assessments shall be levied by the state treasurer against employers on whose behalf the second injury fund has made payments pursuant to Sec. 31-355; P.A. 86-25 increased the maximum assessment from three and one-half to five per cent and increased the fund's minimum reserve from five hundred thousand to one million dollars; P.A. 87-277 added provision re payment from fund of costs or expenses incurred by treasurer in carrying out provisions of part E of chapter 568; P.A. 87-589 changed effective date of P.A. 87-277 from July 1, 1988, to July 1, 1987; P.A. 88-29 added an interest penalty to be imposed on any employer who fails to make payment of an assessment when due to the second injury fund under the Workers' Compensation Act; P.A. 89-68 provided that the fund shall be used to provide the benefits set forth in Subsec. (c) of Sec. 31-306; P.A. 90-230 corrected an omission; P.A. 90-311 removed the exemption from payment for municipalities participating in interlocal risk management agencies, effective July 1, 1991; P.A. 91-32 made technical changes; P.A. 91-339 added provisions re payments to the fund by the treasurer on behalf of the state and deleted reference to dependency allowance; P.A. 93-228 raised the amount of money to be contributed to the second injury fund by the state treasurer on behalf of the state from five per cent of expenditures to the total amount of expenditures, effective July 1, 1993; P.A. 93-429 authorized the state treasurer to adopt regulations re administrative practices, policies and procedures for the second injury fund, effective July 1, 1993; P.A. 95-277 added a requirement that each private insurance carrier and each interlocal risk management agency annually submit to the Treasurer a report of the total standard earned premium collected in the preceding calendar year, effective June 29, 1995, and replaced provisions detailing funding of Second Injury Fund by employer contributions with provision authorizing Treasurer to develop such policies re determination of employers' contributions through regulations, effective January 1, 1996; P.A. 96-242 made existing language Subsec. (a) and made technical change concerning the reference to the State Treasurer, added provisions on the special assessment premium surcharge, specified April first as annual report deadline and required report to include projected total standard earned premium and added Subsec. (b) requiring State Treasurer to establish three accounts within the Second Injury Fund, effective June 6, 1996.

See Sec. 31-289 re deposit of certain fines and penalties in Second Injury and Compensation Assurance Fund.

Cited. 150 C. 156; 159 C. 53. "Second injury fund", legislative history and purpose discussed. 166 C. 352. Cited. 171 C. 577. Cited. 174 C. 181. Cited. 210 C. 626. Cited. 212 C. 427. Cited. 226 C. 569.
Cited. 37 CA 835. Cited. 46 CA 346.

Sec. 31-354a. Assistant administrators of the Second Injury Fund. (a) The Treasurer may, in his discretion, appoint not more than four assistant administrators as necessary to assist him in carrying out his duties as custodian of the Second Injury Fund under section 31-354. Such assistant administrators shall be in the unclassified service and shall serve at the pleasure of the Treasurer. Such assistant administrators shall be sworn to the faithful discharge of their duties and shall perform such functions relating to the administration of the Second Injury Fund under sections 31-275 to 31-355a, inclusive, as the Treasurer may direct.

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

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

Cited. 37 CA 835.

Sec. 31-354b. Finance account within Second Injury Fund. Subaccounts. Duties of State Treasurer. (a) There is established within the Second Injury Fund an account to be known as the finance account. The account shall be administered by the State Treasurer as a trust fund in, and accounted for as an account within, the Second Injury

Fund. The State Treasurer may enter into contracts that may be useful to the organization, establishment, operation and administration of the account. The finance account shall be funded, first, with state revenue bond proceeds and interest income or income earned on investment of moneys for disbursement purposes and, second, from the special assessment premium surcharges for payment of debt service and reserve requirements. All costs of organizing, establishing and operating the account, including the costs of personnel and contractual services and establishing billing and collection procedures, shall be a charge upon and paid by the State Treasurer from the account unless the State Treasurer otherwise determines to pay such costs from the operating account.

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

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

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

(e) There shall be deposited in the cost of issuance and finance administration subaccount: (1) The proceeds of revenue bonds expected to be deposited into the said subaccount; and (2) any additional money received from employers in payment of special assessment premium surcharges established in accordance with section 31-354 to offset the costs and expenses of administering and operating the finance account.

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

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

account under this section and such amounts shall be assessed as a special assessment premium surcharge as provided in section 31-354.

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

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

*Note: Sections 8 and 9 of public act 96-242 are special in nature and therefore have not been codified but remain in full force and effect according to their terms.

History: P.A. 96-242 effective June 6, 1996.

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

(b) When an award of compensation has been made under the provisions of this chapter against an employer who fails or is unable to pay medical and surgical aid or hospital and nursing service required under this chapter or any type of compensation for disability, or both, whether for total or partial disability of a permanent or temporary nature, death benefit, funeral expense, or any adjustment in compensation required by this chapter, and whose insurer fails or is unable to pay the compensation, such compensation shall be paid from the Second Injury Fund. The commissioner, on a finding of failure or inability to pay compensation, shall give notice to the Treasurer of the award, directing the Treasurer to make payment from the fund. Whenever liability to pay compensation is contested by the Treasurer, the Treasurer shall file with the commissioner, on or before the twenty-eighth day after he has received an order of payment from the commissioner, a notice in accordance with a form prescribed by the chairman of the Workers’ Compensation Commission stating that the right to compensation is contested, the name of the claimant, the name of the employer, the date of the alleged injury or death and the specific grounds on which the right to compensation is contested. A copy of the notice shall be sent to the employee. The commissioner shall hold a hearing on such contested liability at the request of the Treasurer or the employee in accordance with the provisions of this chapter. If the Treasurer fails to file the notice contesting liability within the time prescribed in this section, the Treasurer shall be conclusively presumed to have accepted the compensability of such alleged injury or death from the Second Injury Fund and shall have no right thereafter to contest the employee’s right to receive compensation on any grounds or contest the extent of the employee’s disability.

(c) The employer and the insurer, if any, shall be liable to the state for any payments made out of the fund in accordance with this section or which the state has by award become obligated to make from the fund, together with cost of attorneys’ fees as fixed by the court. If reimbursement is not made, or a plan for payment to the fund has not been agreed to by the Treasurer and employer, within ninety days of any payment from the fund, the Attorney General shall bring a civil action, in the superior court for the judicial district where the award was made, to recover all amounts paid by the fund pur-

suant to the award, plus double damages together with reasonable attorney's fees and costs as taxed by the court. Any amount paid to the Treasurer by the employer or insurer after the filing of an action, but prior to its completion, shall be subject to an interest charge of eighteen per cent per annum, calculated from the date of original payment from the fund.

(d) Any recovery made under this section, including any recovery for costs or attorney's fees, shall be paid into the fund. Any administrative or other costs or expenses incurred by the Attorney General in connection with carrying out the purposes of this section, including the hiring of necessary employees, shall be paid from the fund. The Treasurer shall adopt regulations, in accordance with the provisions of chapter 54, which describe what constitutes a proper and sufficient "plan for payment to the fund" for the purposes of this section.

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

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

History: 1961 act entirely replaced previous provisions; 1969 act specified benefits to be considered as "compensation"; P.A. 85-349 required the attorney general to bring a civil action for reimbursement of the payments made by the fund, and assessed an interest charge of eighteen per cent on delinquent payments; P.A. 86-35 provided (1) any recovery of moneys pursuant to this section shall be paid into the second injury fund, (2) outside counsel may be used for reimbursement procedures and paid for from the fund, (3) the treasurer may agree to a reimbursement payment plan in lieu of civil action, and (4) payments due from an insolvent workers' compensation insurer shall be the obligation of the Connecticut Insurance Guaranty Association; P.A. 87-277 deleted provision re payment from fund of compensation for outside counsel and substituted provision re payment from fund of costs or expenses incurred by attorney general in carrying out purposes of section; P.A. 87-589 changed effective date of P.A. 87-277 from July 1, 1988 to July 1, 1987; P.A. 91-32 made technical changes, added new Subsec. (a), divided existing Subsec. (a) into Subsecs. (b) to (d), inclusive, and redesignated existing Subsec. (b) as Subsec. (e); P.A. 91-207 amended Subsec. (b) by adding provisions re notice whenever liability to pay compensation is contested by the treasurer; P.A. 92-31 made technical changes in Subsec. (b).

Where injury complained of occurred prior to effective date of number 580 of the 1959 public acts, and award in favor of injured employee was made subsequent to that date, provisions of act apply to award so as to require state treasurer to pay it. 150 C. 153. "Second injury fund", legislative history and purpose discussed. 166 C. 352. Cited. 171 C. 577. Cited. 174 C. 181. Cited. 187 C. 53. Cited. 210 C. 626. Cited. 212 C. 427. Legislature intended that fund would be liable if an employer were bankrupt, in which case no judgment could enter against it. 256 C. 456. Commissioner's ability to enter an award against employer's estate for the purpose of establishing fund's liability when a claim against the estate is barred by the nonclaim statute is necessary for the operation of this section. Id. Commissioner need not determine whether a claim against an employer's estate is barred by the nonclaim statute before entering an award against the estate or ordering fund to make payments. Id.

Cited. 24 CA 93. Cited. 37 CA 835. Cited. 46 CA 346. Cited. Id., 596.

Cited. 28 CS 5.

Subsec. (b):

Purpose of section is to provide compensation for injured employee when employer fails to pay; section does not make distinctions concerning reasons for employer's failure to pay. 256 C. 456. No duty is imposed on commissioner to determine reasons for employer's failure to pay before imposing liability on the fund. Id. There is no requirement that commissioner provide the fund with opportunity to contest liability in every case where an order to make payment is entered against the fund, regardless of whether the fund participated in prior proceedings. Id.

Subsec.(c):

Employer and its insurer are liable to reimburse the fund for any payment made to an employee. 256 C. 456.

Subsec. (e):

Jurisdiction of workers' compensation commission to adjudicate claims originating under Workers' Compensation Act against Connecticut Insurance Guaranty Association discussed. 243 C. 438.

Sec. 31-355a. Collection of moneys owed to the Second Injury Fund. Tax warrants. Lien. Foreclosure. (a) Whenever the Second Injury Fund is required, pursuant to section 31-355 or subsection (c) of section 31-349, to pay benefits or compensation mandated by the provisions of this chapter for any employer or insurer who fails or is unable to make such payments, the amount so paid by the fund shall be collectible by any means provided by law for the collection of any tax due the state of Connecticut or any subdivision thereof, including any means provided by section 12-35. Tax warrants referred to in said section 12-35 may be signed by the State Treasurer.

(b) Any such amount due shall be a lien from the due date until discharged by payment against all the property of the employer or insurer within the state, whether real or personal, except such as is exempt from execution, including debts to the employer or insurer, and a certificate of such lien without specifically describing such real or personal property, signed by the State Treasurer, may be filed in the office of the clerk of any town in which such real property is situated, or, in the case of personal property, in the office of the Secretary of the State, which lien shall be effective from the date on which it is recorded. When any such amount with respect to which a lien has been recorded under the provisions of this section has been satisfied, the State Treasurer, upon request of any interested party, shall issue a certificate discharging such lien. Any action for the foreclosure of such lien shall be brought by the Attorney General in the name of the state in the superior court for the judicial district in which the property subject to such lien is situated or, if such property is located in two or more judicial districts, in the superior court for any one such judicial district and the court may limit the time for redemption or order the sale of such property or pass such other or further decree as it judges equitable. When the property to be liened is concealed in the hands of an agent or trustee so that it cannot be found or attached, or is a debt due to the employer, the certificate of lien may be filed by leaving a copy thereof with such agent, trustee or debtor, or by mailing to him a copy thereof by registered or certified mail, and from the time of the receipt of such lien all the effects of the employer or insurer in the hands of such agent or trustee and any debt due from such debtor to the employer or insurer shall be secured in the hands of such agent, trustee or debtor to pay the amount secured by such lien. The payment by such agent, trustee or debtor to the State Treasurer shall discharge him of his liability to the employer or insurer to the extent thereof. The State Treasurer may require such agent, trustee or debtor to disclose under oath within ten days whether he has in his hands the goods or effects of the employer or insurer or is indebted to him. If such agent, trustee or debtor fails to disclose or, having disclosed, fails to turn over such effects or pay to the State Treasurer the amount of his indebtedness to the employer or insurer, the lien shall have the effect of a judgment and the State Treasurer may proceed against him by scire facias taken out from the clerk of the superior court for the judicial district of Hartford in the manner provided in chapter 905 for scire facias against a garnishee.

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

History: P.A. 88-47 added the reference to Subsec. (c) of Sec. 31-349; P.A. 88-230 replaced "judicial district of Hartford-New Britain" with "judicial district of Hartford", effective September 1, 1991; P.A. 88-364 made a technical change in Subsec. (b); P.A. 90-98 changed the effective date of P.A. 88-230 from September 1, 1991, to September 1, 1993; P.A. 91-207 made a technical change to fund's name in Subsec. (a); P.A. 93-142 changed the effective date of P.A. 88-230 from September 1, 1993, to September 1, 1996, effective June 14, 1993; P.A. 95-220 changed the effective date of P.A. 88-230 from September 1, 1996, to September 1, 1998, effective July 1, 1995.

Cited. 37 CA 835.

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

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

OTHER SELECTED STATUTES

The following selected statutes are enclosed for the reader's convenience. They have been selected as they are often referred to in the course of the administration of Chapter 568.

Sec. 5-142. Disability compensation. (a) If any member of the Division of State Police within the Department of Public Safety or of any correctional institution, or any institution or facility of the Department of Mental Health and Addiction Services giving care and treatment to persons afflicted with a mental disorder or disease, or any institution for the care and treatment of persons afflicted with any mental defect, or any full-time enforcement officer of the Department of Environmental Protection, the Department of Motor Vehicles, the Department of Consumer Protection who carries out the duties and responsibilities of sections 30-2 to 30-68m, inclusive, the Office of Adult Probation, the Department of Public Works or the Board of Pardons and Paroles, any probation officer for juveniles or any employee of any juvenile detention home, any member of the police or fire security force of The University of Connecticut, any member of the police or fire security force of Bradley International Airport, any member of the Office of State Capitol Police or any person appointed under section 29-18 as a special policeman for the State Capitol building and grounds and the Legislative Office Building and parking garage and related structures and facilities and other areas under the supervision and control of the Joint Committee on Legislative Management, the Chief State's Attorney, the Chief Public Defender, the Deputy Chief State's Attorney, the Deputy Chief Public Defender, any state's attorney, any assistant state's attorney or deputy assistant state's attorney, any public defender, assistant public defender or deputy assistant public defender, any chief inspector or inspector appointed under section 51-286 or any staff member or employee of the Division of Criminal Justice or of the Division of Public Defender Services, or any Judicial Department employee sustains any injury (1) while making an arrest or in the actual performance of such police duties or guard duties or fire duties or inspection duties, or prosecution or public defender or courthouse duties, or while attending or restraining an inmate of any such institution or as a result of being assaulted in the performance of such person's duty, or while responding to an emergency or code at a correctional institution, and (2) that is a direct result of the special hazards inherent in such duties, the state shall pay all necessary medical and hospital expenses resulting from such injury. If total incapacity results from such injury, such person shall be removed from the active payroll the first day of incapacity, exclusive of the day of injury, and placed on an inactive payroll. Such person shall continue to receive the full salary that such person was receiving at the time of injury subject to all salary benefits of active employees, including annual increments, and all salary adjustments, including salary deductions, required in the case of active employees, for a period of two hundred sixty weeks from the date of the beginning of such incapacity. Thereafter, such person shall be removed from the payroll and shall receive compensation at the rate of fifty per cent of the salary that such person was receiving at the expiration of said two hundred sixty weeks as long as such person remains so disabled, except that any such person who is a member of the Division of State Police within the Department of Public Safety shall receive compensation at the rate of sixty-five per cent of such salary as long as such person remains so disabled. Such benefits shall be payable to a member

of the Division of State Police after two hundred sixty weeks of disability only if the member elects in writing to receive such benefits in lieu of any benefits payable to the employee under the state employees retirement system. In the event that such disabled member of the Division of State Police elects the compensation provided under this subsection, no benefits shall be payable under chapter 568 or the state employees retirement system until the former of the employee's death or recovery from such disability. The provisions of section 31-293 shall apply to any such payments, and the state of Connecticut is authorized to bring an action or join in an action as provided by said section for reimbursement of moneys paid and which it is obligated to pay under the terms of this subsection. All other provisions of the workers' compensation law not inconsistent with this subsection, including the specific indemnities and provisions for hearing and appeal, shall be available to any such state employee or the dependents of such a deceased employee. All payments of compensation made to a state employee under this subsection shall be charged to the appropriation provided for compensation awards to state employees. On and after October 1, 1991, any full-time officer of the Department of Environmental Protection, the Department of Motor Vehicles, the Department of Consumer Protection who carries out the duties and responsibilities of sections 30-2 to 30-68m, inclusive, the Office of Adult Probation, the Department of Public Works or the Board of Pardons and Paroles, any probation officer for juveniles or any employee of any juvenile detention home, the Chief State's Attorney, the Chief Public Defender, the Deputy Chief State's Attorney, the Deputy Chief Public Defender, any state's attorney, assistant state's attorney or deputy assistant state's attorney, any public defender, assistant public defender or deputy assistant public defender, any chief inspector or inspector appointed under section 51-286 or any staff member or employee of the Division of Criminal Justice or the Division of Public Defender Services, or any Judicial Department employee who sustains any injury in the course and scope of such person's employment shall be paid compensation in accordance with the provisions of section 5-143 and chapter 568, except, if such injury is sustained as a result of being assaulted in the performance of such person's duty, any such person shall be compensated pursuant to the provisions of this subsection.

(b) Each state employee who, during the performance of his duties, comes into contact with persons or animals afflicted with any communicable disease, or who comes into contact with any culture, collection or concentration of the organisms producing any communicable disease, or who is regularly exposed to the bacteria, germs, virus or other organisms, by whatever name called, producing any communicable disease, shall be given a physical examination semiannually by the state. If any such employee is found to be infected with any such disease, contracted while in the employ of the state and during the performance of such employee's duties, the state shall pay for all necessary medical and hospital expenses resulting from such disease and, if incapacity results, such employee shall be removed from the payroll the first day of incapacity and shall receive compensation at the rate of one-half the salary he was receiving at the time of infection. Such state employee may elect to receive, in addition to the benefits due him under this subsection, an amount which will result in his receiving his full salary or wages for the period of any accumulated sick leave, computed on an hourly basis, due him. Upon the expiration of such period of sick leave, the provisions of this subsection shall apply. All provisions of the workers' compensation law not inconsistent herewith, including the specific indemnities and provisions for hearing and appeal, shall be avail-

able to any such state employee or the dependents of such a deceased employee. All payments of compensation made to a state employee under this section shall be made from the fund designated "Compensation Awards to State Employees". If a state employee has been disabled by tuberculosis at any time prior to his employment by the state or if on the first physical examination herein provided for he is found to have a tuberculous lesion, any subsequent disability from tuberculosis within five years of the commencement of such employment shall be presumed prima facie to be due to his previous infection and not to have been contracted in the course of such employment, even if such employment involved exposure to tuberculosis. In such case such state employee shall be removed from the payroll the first day of incapacity and the state shall not be liable for the payment of any resulting medical or hospital expenses or for the payment of compensation for loss of earnings of such disabled state employee.

(c) If a member of the Division of State Police within the Department of Public Safety who is not subject to the federal Insurance Contributions Act for such employment becomes or became disabled on or after July 1, 1979, and (1) the disability is not compensable under the terms of subsection (a) of this section and he elects or elected to receive disability retirement benefits under the provisions of section 5-169 or section 5-192p, or (2) he elects or elected to receive such disability retirement benefits in lieu of benefits otherwise available under subsection (a) of this section, the member shall be eligible to receive benefits under the provisions of subsection (d) of this section. Notwithstanding any other provision of the general statutes, the benefits granted under subsection (d) shall be deemed to be federal Social Security disability benefits for purposes of calculating the maximum benefits available under the provisions of section 5-169 or 5-192p. Any disability Social Security benefits payable to or on behalf of such member shall also be recognized for purposes of calculating such maximum benefits. For the purposes of this subsection "disability" means any medically determinable injury or physical or mental impairment which permanently prevents the discharge of normal police functions by any member of the Division of State Police, provided the Commissioner of Public Safety cannot find a suitable position within the agency for such member. The determination as to whether a member is so disabled shall be made by the board of physicians established under section 5-169. Notwithstanding any provisions to the contrary in section 5-169, the maximum benefit limitation as set forth in subdivisions (1) and (2) of subsection (g) of section 5-169 shall apply to any member receiving the new benefits provided by subsection (d) of this section.

(d) Commencing on May 8, 1984, or the date of disability, if later, each such disabled member of the Division of State Police within the Department of Public Safety shall receive a monthly allowance payable by the state employees retirement system, so long as the member remains so disabled, as follows: (1) To a disabled member, a monthly allowance of three hundred dollars for his lifetime; (2) if such disabled member is married, an additional monthly allowance of two hundred fifty dollars payable to the member and payable for the member's lifetime or until the spouse's divorce from the member; (3) if there are less than three dependent children, a monthly allowance of two hundred fifty dollars payable to the member for each child until each such child reaches the age of eighteen or until the child's marriage if such occurs earlier; (4) if there are three or more dependent children, a monthly allowance of five hundred and seventy-five dollars payable to the member but deemed to be divided equally among them. As each

such dependent child reaches the age of eighteen years, or marries, if such occurs earlier, the child's share shall be deemed divided equally among the remaining surviving children, provided each child's share shall not exceed two hundred fifty dollars; when the shares payable on behalf of all but one of such dependent children have ceased, the disability benefit payable on behalf of the remaining child shall be two hundred fifty dollars. These benefits shall be integrated with the benefits of section 5-169 or 5-192p as if they were federal Social Security disability benefits in order to determine the maximum benefits payable to such disabled member. These benefits shall be subject to increases as provided in subsection (e). All benefits provided under this subsection shall be discontinued at the earlier of the member's recovery from disability or the member's death. If a disabled member dies, the survivor benefits provided under sections 5-146 to 5-150, inclusive, shall be payable.

(e) On January 1, 1985, and annually thereafter, up to and including January 1, 1988, the benefits then being provided under subsection (d) of this section to a disabled member of the Division of State Police within the Department of Public Safety shall be increased by three per cent. Such increase shall not affect the initial level of benefits payable to a member who qualifies for such disability benefits under subsection (d) after the date of any increase under this subsection. Such benefits shall be deemed to be the cost-of-living provision of the federal Social Security disability law for purposes of calculating the maximum benefits available under the provisions of section 5-169 or 5-192p.

(1949 Rev., S. 419; 1949, 1951, 1953, 1955, S. 183d; 1949, 1953, S. 2131d; 1957, P.A. 251; March, 1958, P.A. 27, S. 35; 1959, P.A. 331; 1963, P.A. 298; February, 1965, P.A. 151; 1969, P.A. 175, S. 1; 730, S. 14; P.A. 73-122, S. 13, 27; 73-402; P.A. 76-111, S. 5; 76-436, S. 399, 681; P.A. 77-614, S. 69, 70, 165, 486, 610; P.A. 78-138, S. 1—3; 78-162, S. 1—3; P.A. 79-376, S. 3; P.A. 80-34, S. 1, 2; 80-482, S. 4, 6, 170, 191, 345, 348; P.A. 83-13, S. 5; P.A. 84-48, S. 13, 17; P.A. 85-510, S. 2, 35; P.A. 87-496, S. 43, 110; P.A. 89-82, S. 7, 11; P.A. 91-339, S. 40; P.A. 95-195, S. 5, 83; 95-257, S. 11, 58; P.A. 96-219, S. 6; P.A. 01-208, S. 1, 3; P.A. 03-19, S. 10; June 30 Sp. Sess. P.A. 03-6, S. 146 (d); P.A. 04-169, S. 17; 04-189, S. 1; 04-234, S. 2.)

History: 1959 act included employees at facilities of the mental health department; 1963 act amended Subsec. (b) to allow election to receive payments based on accumulated sick leave; 1965 act amended Subsec. (a) to specify members of both police and fire security force of university are included; 1969 acts substituted department of finance and control for state welfare department in Subsec. (a); P.A. 73-122 substituted department of environmental protection for state board of fisheries and game and division of criminal justice for any state's attorney's office and included the chief state's attorney, deputy chief state's attorney and prosecuting attorneys under provisions of section; P.A. 73-402 included members of Bradley airport police or fire security forces under provisions of section; P.A. 76-111 replaced "detective" with "chief inspector or inspector"; P.A. 76-436 deleted references to juvenile court and replaced reference to prosecuting attorneys with "assistant state's attorney or deputy assistant state's attorney", effective July 1, 1978; P.A. 77-614 substituted department of administrative services for department of finance and control and, effective January 1, 1979, substituted division of liquor control within the department of business regulation for liquor control commission and division of state police within the department of public safety for state police department; P.A. 78-138 replaced adult probation commission with office of adult probation and included chief, deputy chief, assistant, deputy assistant and other public defenders and employees of the division of public defender services under provisions of section; P.A. 78-162 included judicial department employees and courthouse duties under provisions of section; P.A. 79-376 substituted "workers' compensation" for "workmen's compensation"; P.A. 80-34 included members of the office of capitol security and special policemen for capitol building and grounds under provisions of section; P.A. 80-482 deleted reference to department of business regulation and gave division of liquor control departmental status; P.A. 83-13 amended Subsec. (a) by changing "capitol security" to "state capitol security"; P.A. 84-48 included reference to special policemen for other areas under the supervision and control of the joint committee on legislative management; P.A. 85-510 made technical changes in Subsec. (a) and added provisions re disability compensation for members of the division of state police within the department of public safety and added Subsecs. (c) to (e), inclusive, re disability compensation for such members; P.A. 87-496 amended Subsec. (a) to substitute public works commissioner for administrative services commissioner; P.A. 89-82 expanded reference in Subsec. (a) to state capitol building and grounds to include legislative office building and parking garage and related structures and facilities and other areas under the supervision and control of the joint committee on legislative management; P.A. 91-339 amended Subsec. (a) by adding requirement that the injury is a direct result of the special hazards inherent in the employee's duties and provisions re compensation for certain injured state employees on and after October 1, 1991, and by deleting provisions re reimbursement for damaged personal property; P.A. 95-195 amended Subsec. (a) to replace member of the Department of Liquor Control with member of the Department of Consumer Protection who carries out the duties of Secs. 30-2 to 30-68m, inclusive, effective July 1, 1995; P.A. 95-257 replaced Commissioner and Department of Mental Health with Commissioner and Department of Mental Health and Addiction Services, effective July 1, 1995; P.A. 96-219 amended Subsec. (a) by changing the name of the "Office of State Capitol Security" to the "Office of State

Capitol Police"; P.A. 01-208 amended Subsec. (a) by adding "or while responding to an emergency or code at a correctional institution" in Subdiv. (1) and making technical changes for the purposes of gender neutrality; P.A. 03-19 made technical changes in Subsec. (a), effective May 12, 2003; June 30 Sp. Sess. P.A. 03-6 and P.A. 04-169 replaced Department of Consumer Protection with Department of Agriculture and Consumer Protection, effective July 1, 2004; P.A. 04-189 repealed Sec. 146 of June 30 Sp. Sess. P.A. 03-6, thereby reversing the merger of the Departments of Agriculture and Consumer Protection, effective June 1, 2004; P.A. 04-234 replaced Board of Parole with Board of Pardons and Paroles in Subsec. (a), effective July 1, 2004.

See Sec. 5-161(f) re retirement contributions and credit for those receiving disability compensation.

See Sec. 29-4a re disability of member of Division of State Police resulting from hypertension or heart disease.

Reactivation of tuberculosis constituted contraction of disease within meaning of statute. 138 C. 620. Cited. 175 C. 424. Cited. 220 C. 721. Cited. 221 C. 41.

Cited. 16 CA 65.

Subsec. (a):

Special benefits conferred by this section not an obstacle to greater recovery under Sec. 31-307. 220 C. 721. Recovery of either salary benefits under this section or workers' compensation benefits including right to receive concurrent employment benefits under Sec. 31-310 discussed. *Id.*, 739.

Only required that claimant be in actual performance of police or guard duties, not proof that duties were themselves hazardous. 16 CA 65. "Salary" limited to base salary excluding previously paid overtime, shift differential or maintenance allowance. 29 CA 559. Workers' compensation review board properly reversed decision of workers' compensation commissioner in determining that correction officer was neither restraining an inmate nor injured by a special hazard inherent in his guard duties when inmate stepped out of shower, slipped on floor, and grabbed the officer to break his fall. 67 CA 330.

Subsec. (b):

Cited. 221 C. 29.

Sec. 5-142a. Injury or death of sheriff. Any high sheriff, chief deputy sheriff, deputy sheriff or special deputy sheriff who suffers death, disability or injury, while in performance of any duty for which he is compensated by the state, shall, for the purposes of section 5-142 and chapter 568, be presumed to be an employee of the state and shall be compensated by the state in accordance with said section and chapter.

(1967, P.A. 660.)

Cited. 175 C. 424. Cited. 221 C. 41.

Sec. 5-143. Applicability of Workers' Compensation Act. Additional sick leave compensation. Each state employee who sustains an injury arising out of and in the course of his employment, except as provided in section 5-142, shall be paid compensation in accordance with the provisions of the Workers' Compensation Act. The injured state employee may elect to receive, in addition to the benefits due him as workers' compensation, an amount which will result in his receiving his full salary or wages for the period of any accumulated sick leave, computed on an hourly basis, due him. Upon expiration of such period of sick leave the provisions of the Workers' Compensation Act shall apply.

(1949 Rev., S. 420; 1951, S. 185d; 1961, P.A. 243, S. 1; P.A. 79-376, S. 4; P.A. 91-339, S. 41.)

History: 1961 act added provisions re payment of accumulated sick leave; P.A. 79-376 replaced "workmen's compensation" with "workers' compensation"; P.A. 91-339 deleted provision that employee incapacitated by injury shall receive his full salary or wages for the first seven days of the incapacity.

See chapter 67 (Sec. 5-193 et seq.) for State Personnel Act.

Cited. 175 C. 424. Cited. 185 C. 616. Cited. 220 C. 721.

Sec. 5-144. Death benefits for state employees, state officers and members of General Assembly. If any state employee, state officer or member of the General Assembly serving with compensation or remuneration sustains an injury while acting within the scope of his employment, which injury is not the result of his own wilful or wanton act, and dies as a result of such injury, and a spouse and a dependent child or

children under eighteen years of age survive him, the Comptroller, upon the recommendation of the appointing authority, and with the approval of the Attorney General, shall draw his order on the Treasurer for the sum of one hundred thousand dollars, payable in equal monthly installments over a period of not less than ten years to such employee's or officer's or member's spouse, provided any such payments shall terminate on the death or remarriage of such spouse within said ten-year period, and the Comptroller, upon the recommendation of the appointing authority and with the approval of the Attorney General, shall also draw an order on the Treasurer for monthly payments of fifty dollars for each dependent child under eighteen years of age, payable to such spouse or the guardian of such child or children until such child or children reach eighteen years of age. If such employee or officer or member leaves a spouse and no child or children under eighteen years of age, the Comptroller, upon the recommendation of the appointing authority and with the approval of the Attorney General, shall draw an order on the Treasurer for the sum of fifty thousand dollars payable in equal monthly installments over a period of not less than ten years, to such spouse, provided any such payments shall terminate on the death or remarriage of such spouse within such ten-year period. If such employee or officer or member leaves no spouse and no child or children under eighteen years of age but leaves a parent or parents dependent upon him, the Comptroller, upon recommendation of the appointing authority and with the approval of the Attorney General, shall draw an order on the Treasurer for the sum of fifty thousand dollars, payable to such employee's or officer's or member's parent or parents in equal monthly installments over a period of not less than ten years, provided, on the death of one such parent, the surviving parent shall continue to receive the entire monthly payments under the provisions of this section and provided such payments shall cease on the death of both such parents during such ten-year period. As used in this section and section 5-145, the appointing authority for members of the General Assembly shall be the president pro tempore of the Senate and the speaker of the House of Representatives. The appointing authority for state officers shall be the Governor.

(1949 Rev., S. 421; 1953, 1955, S. 186d; November, 1955, S. N5; 1957, P.A., 122; February, 1965, P.A. 466; P.A. 98-263, S. 8, 21; June Sp. Sess. P.A. 99-2, S. 7, 72.)

History: 1965 act deleted requirement that parents be "solely" dependent on employees in order to be eligible to receive benefits; P.A. 98-263 expanded persons eligible for benefits to include survivors of state officers or members of the General Assembly, designated appointing authority for such officers or members and increased benefits payable to surviving spouse, dependent children and dependent parents over ten-year rather than five-year period, effective July 1, 1998, and applicable to any death occurring on or after January 1, 1998; June Sp. Sess. P.A. 99-2 added coverage for specified victims of homicide employed by a nonprofit organization contracting with the state and made technical changes, effective October 1, 1999, until October 1, 2000.

See Sec. 5-149 re cases where death benefits are not payable.

Covers injury involving heart attack only (a) when it occurs within period of employment and (b) when in some way it is causally connected to performance of duties of employment. 175 C. 424.

Sec. 5-145. Notice of injury or death of state employee, state officer or member of General Assembly. Each appointing authority shall notify the Commissioner of Administrative Services, who shall notify the Attorney General, of the injury, or death resulting from an injury, of any employee, state officer or member of the General Assembly serving with compensation or remuneration, which injury was incurred in the performance of his duties.

(1949 Rev., S. 360; P.A. 77-614, S. 66, 610; P.A. 98-263, S. 9, 21.)

History: P.A. 77-614 replaced personnel commissioner with commissioner of administrative services; P.A. 98-263 expanded notification responsibilities of appointing authority to include injury or death of state officers or members of the General Assembly, effective July 1, 1998, and applicable to any death occurring on or after January 1, 1998.

Cited. 175 C. 424.

Sec. 5-145a. Hypertension or heart disease in certain university, aeronautics, State Capitol police, correction, mental health, criminal justice or hazardous duty personnel. Any condition of impairment of health caused by hypertension or heart disease resulting in total or partial disability or death to a member of the security force or fire department of The University of Connecticut or the aeronautics operations of the Department of Transportation, or to a member of the Office of State Capitol Police or any person appointed under section 29-18 as a special policeman for the State Capitol building and grounds, the Legislative Office Building and parking garage and related structures and facilities, and other areas under the supervision and control of the Joint Committee on Legislative Management, or to state personnel engaged in guard or instructional duties in the Connecticut Correctional Institution, Somers, Connecticut Correctional Institution, Enfield-Medium, the Carl Robinson Correctional Institution, Enfield, John R. Manson Youth Institution, Cheshire, the Connecticut Correctional Institution, Niantic, the Connecticut Correctional Center, Cheshire, or the community correctional centers, or to any employee of the Whiting Forensic Division with direct and substantial patient contact, or to any detective, chief inspector or inspector in the Division of Criminal Justice or chief detective, or to any state employee designated as a hazardous duty employee pursuant to an applicable collective bargaining agreement who successfully passed a physical examination on entry into such service, which examination failed to reveal any evidence of such condition, shall be presumed to have been suffered in the performance of his duty and shall be compensable in accordance with the provisions of chapter 568, except that for the first three months of compensability the employee shall continue to receive the full salary which he was receiving at the time of injury in the manner provided by the provisions of section 5-142. Any such employee who began such service prior to June 28, 1985, and was not covered by the provisions of this section prior to said date shall not be required, for purposes of this section, to show proof that he successfully passed a physical examination on entry into such service.

(1963, P.A. 563; February, 1965, P.A. 189, S. 1; 1967, P.A. 803; 1969, P.A. 798; 1972, P.A. 71, S. 6; P.A. 77-614, S. 556, 610; P.A. 80-75, S. 1, 2; P.A. 83-13, S. 6; P.A. 84-48, S. 14, 17; P.A. 85-510, S. 14, 35; P.A. 86-186, S. 2; P.A. 87-282, S. 2; P.A. 89-82, S. 8, 11; P.A. 95-257, S. 20, 58; P.A. 96-219, S. 7.)

History: 1965 act added State Prison guards; 1967 act included Connecticut Reformatory guards; 1969 act included members of the aeronautics department and replaced "State Prison and Connecticut Reformatory" with references to Connecticut Correctional Institutions at Osborn and Cheshire and community correctional centers; 1972 act deleted reference to correctional institution at Osborn and included correctional institutions at Somers and Enfield; P.A. 77-614 deleted reference to separate aeronautics department, replacing it with reference to aeronautics operations of transportation department, effective January 1, 1979; P.A. 80-75 included members of office of capitol security and special policemen for capitol building and grounds; P.A. 83-13 changed reference to "capitol security" to "state capitol security"; P.A. 84-48 included reference to special policemen for other areas under the supervision and control of the joint committee on legislative management; P.A. 85-510 added personnel engaged in "instructional" duties in correctional facilities; added the Connecticut Correctional Institution, Niantic to such facilities; added employees of the Whiting Forensic Institute with direct and substantial patient contact, or any detective, chief inspector or inspector in the division of criminal justice or chief detective, or any state employee designated as a hazardous duty employee pursuant to a collective bargaining agreement; deleted provision that nothing herein shall be construed to affect the application of chapter 568 and substituted provision that disability or death shall be compensable in accordance with chapter 568, except that for the first three months of compensability the employee shall continue to receive the full salary he was receiving at the time of injury in the manner provided by Sec. 5-142 and added provision that any employee who began such service prior to June 28, 1985, and was not covered by this section prior to such date shall not be required to show proof that he passed a physical examination on entry into such service; P.A. 86-186 changed the name of the Connecticut Correctional Institution, Enfield to the Connecticut Correctional Institution, Enfield-Medium, added the Connecticut Correctional Institution, Enfield-Medium and the Connecticut Correctional Center, Cheshire and changed the name of the Connecticut Correctional Institution, Cheshire to the John R. Manson Youth Institution, Cheshire; P.A. 87-282 changed the name of the

Connecticut Correctional Institution, Enfield-Minimum to the Carl Robinson Correctional Institution, Enfield; P.A. 89-82 expanded reference to state capitol building and grounds to include legislative office building and parking garage and related structures and facilities; P.A. 95-257 replaced "Whiting Forensic Institute" with "Whiting Forensic Division", effective July 1, 1995; P.A. 96-219 changed the name of the "Office of State Capitol Security" to the "Office of State Capitol Police".

See Sec. 29-4a re death or disability of member of Division of State Police resulting from heart disease or hypertension.

Cited. 170 C. 410. Cited. 175 C. 424. Section provides rebuttable presumption of compensability, but does not, without further evidence, include heart disease or hypertension as an occupational disease pursuant to workers compensation law. 266 C. 728.

Cited. 37 CA 835. State police trooper employed by Department of Public Safety does not have an election of remedies as between Secs. 5-145a and 29-4a; rather, trooper must proceed under Sec. 29-4a. 70 CA 321. Burden is on employer to demonstrate that plaintiff's condition or disease was caused by factors outside plaintiff's employment. *Id.*

Presumption of hypertension lies only where preemployment, physical examination fails to reveal any evidence of hypertension or heart disease. 31 CS 75.

Sec. 5-145b. Hypertension or heart disease in motor vehicle inspectors. Any condition of impairment of health caused by hypertension or heart disease resulting in total or partial disability or death to an inspector of vehicles for the Department of Motor Vehicles who successfully passed a physical examination on entry into such service, which examination failed to reveal any evidence of such condition, shall be presumed to have been suffered in the performance of his duty. Nothing herein shall be construed to affect the provisions of chapter 568.

(1967, P.A. 899, S. 2.)

History: (Revisor's note: In 1997 references throughout the general statutes to "Motor Vehicle(s) Commissioner" and "Motor Vehicle(s) Department" were replaced editorially by the Revisors with "Commissioner of Motor Vehicles" or "Department of Motor Vehicles", as the case may be, for consistency with customary statutory usage).

Cited. 175 C. 424.

Sec. 5-145c. Hypertension or heart disease in chief inspectors or inspectors in the Division of Criminal Justice. Any condition of impairment of health caused by hypertension or heart disease resulting in total or partial disability or death to any chief inspector or inspector in the Division of Criminal Justice who had successfully passed a physical examination on entry into prior service in any state or municipal police department, which examination failed to reveal any evidence of such condition, shall be presumed to have been suffered in the performance of his duty as a chief inspector or inspector in the Division of Criminal Justice. Nothing herein shall be construed to affect the application of chapter 568 to such person.

(P.A. 73-275; P.A. 76-111, S. 6; P.A. 78-280, S. 11, 127.)

History: P.A. 76-111 and P.A. 78-280 replaced references to county detectives with "chief inspector or inspector" in the division of criminal justice.

Cited. 175 C. 424. Section provides rebuttable presumption of compensability, but does not, without further evidence, include heart disease or hypertension as an occupational disease pursuant to workers compensation law. 266 C. 728.

Sec. 7-314. Definitions. Exemption from Freedom of Information Act. (a) Whenever used in this section and sections 7-314a and 7-322a, the word "municipality" includes each town, consolidated town and city, consolidated town and borough, city, borough, school district, fire district, fire and sewer district, sewer district, lighting district, improvement association or any other municipal corporation or taxing district, upon which is placed the duty of, or which has itself assumed the duty of, protecting its inhabitants from loss by fire; the term "fire duties" includes duties performed while at fires, while answering alarms of fire, while answering calls for mutual aid assistance, while returning from calls for mutual aid assistance, while directly returning from fires,

while at fire drills or parades, while going directly to or returning directly from fire drills or parades, while at tests or trials of any apparatus or equipment normally used by the fire department, while going directly to or returning directly from such tests or trials, while instructing or being instructed in fire duties, while answering or returning from ambulance calls where the ambulance service is part of the fire service, while answering or returning from fire department emergency calls and any other duty ordered to be performed by a superior or commanding officer in the fire department; the term “active member of a volunteer fire company” includes all active members of said fire company, fire patrol or fire and police patrol company, whether paid or not paid for their services, except firemen who, because of contract of employment, come under the Workers’ Compensation Act.

(b) The records and meetings of a volunteer fire department which is established by municipal charter or constituted as a not-for-profit Connecticut corporation shall not be subject to the provisions of the Freedom of Information Act, as defined in section 1-200, if such records and meetings concern fraternal or social matters. Records and meetings concerning matters of public safety, expenditures of public funds or other public business shall be subject to disclosure under said sections.

(1949 Rev., S. 910; 1959, P.A. 567, S. 1; 1963, P.A. 19; 1967, P.A. 892, S. 1; P.A. 79-376, S. 9; P.A. 86-408, S. 3, 4; P.A. 89-22, S. 1, 3; P.A. 96-83, S. 2, 3; P.A. 97-47, S. 15.)

History: 1959 act included members of fire patrol or fire and police patrol companies in definition of “active member of a volunteer fire company”; 1963 act included going to and returning from fire drills or parades and tests or trials of apparatus in definition of “fire duties”; 1967 act made technical changes; P.A. 79-376 substituted “workers’ compensation” for “workmen’s compensation”; P.A. 86-408 added Subsec. (b) exempting operational meetings of active members of volunteer fire department from requirements of freedom of information act; P.A. 89-22 added answering and returning calls for mutual aid assistance to the definition of fire duties; P.A. 96-83 amended Subsec. (b) by exempting from the Freedom of Information Act the records and meetings of a volunteer fire department established by municipal charter or constituted as a not-for-profit Connecticut corporation if such records and meetings concern fraternal or social matters and specified that records and meetings concerning public safety, expenditures of public funds or other public business are not exempt, effective May 8, 1996; P.A. 97-47 amended Subsec. (b) by substituting “the Freedom of Information Act, as defined in Sec. 1-18a” for list of sections.

Cited. 159 C. 53. Cited. 196 C. 192. Cited. 209 C. 268.

Cited. 15 CA 84.

Subsec. (a):

Cited. 44 CS 230.

Subsec. (b):

Cited. 212 C. 100. Cited. 221 C. 393.

Cited. 44 CS 230.

Sec. 7-314a. Death, disability and injury benefits. Presumption. (a) Except as provided in subsections (e) and (f) of this section, active members of volunteer fire departments and active members of organizations certified as a volunteer ambulance service in accordance with section 19a-180 shall be construed to be employees of the municipality for the benefit of which volunteer fire services or such ambulance services are rendered while in training or engaged in volunteer fire duty or such ambulance service and shall be subject to the jurisdiction of the Workers’ Compensation Commission and shall be compensated in accordance with the provisions of chapter 568 for death, disability or injury incurred while in training for or engaged in volunteer fire duty or such ambulance service.

(b) For the purpose of this section, the average weekly wage of a volunteer fireman or volunteer ambulance service member shall be construed to be the average production

wage in the state as determined by the Labor Commissioner under the provisions of section 31-309.

(c) For the purpose of this section, there shall be no prorating of compensation benefits because of other employment by a volunteer fireman or volunteer ambulance service provider.

(d) For the purpose of adjudication of claims for the payment of benefits under the provisions of chapter 568, any condition of impairment of health occurring to an active member of a volunteer fire department or organization certified as a volunteer ambulance service in accordance with section 19a-180 while such member is in training for or engaged in volunteer fire duty or such ambulance service, caused by hypertension or heart disease resulting in death or temporary or permanent total or partial disability, shall be presumed to have been suffered in the line of duty and within the scope of his employment, provided such member had previously successfully passed a physical examination by a licensed physician appointed by such department or ambulance service which examination failed to reveal any evidence of such condition.

(e) Any member of a volunteer fire company or department or organization certified as a volunteer ambulance service in accordance with section 19a-180 performing fire duties or such ambulance service pursuant to a mutual aid understanding between municipalities shall be entitled to all benefits pursuant to this section and shall be construed to be an employee of the municipality in which his fire company or department or such ambulance service is located.

(f) Any member of a volunteer fire company or department and any person summoned by the State Forest Fire Warden or by any state forest fire personnel or district or deputy fire warden under the supervision of the State Forest Fire Warden pursuant to section 23-37, who performs fire duties under the direction of such personnel or warden pursuant to section 23-37, shall be construed to be an employee of the state for the purpose of receiving compensation in accordance with the provisions of chapter 568 for death, disability or injury incurred while performing such fire duties under such direction.

(1967, P.A. 892, S. 2; 1969, P.A. 464, S. 1; P.A. 79-376, S. 10; P.A. 89-22, S. 2, 3; P.A. 95-243, S. 1; June 18 Sp. Sess. P.A. 97-8, S. 84, 88; June 18 Sp. Sess. P.A. 97-10, S. 4, 7.)

History: 1969 act deleted provision distinguishing state and municipal employees acting as volunteer firemen from others in Subsec. (a) and added Subsecs. (c) and (d) prohibiting prorating of compensation benefits and making provisions concerning hypertension and heart disease; P.A. 79-376 substituted "workers' compensation" for "workmen's compensation"; P.A. 89-22 added Subsec. (e) concerning liability for workers' compensation coverage for firemen injured while performing duties pursuant to a mutual aid agreement, amending Subsec. (a) to reflect its inclusion; P.A. 95-243 added Subsec. (f) to include members of a volunteer fire company or department and any person summoned by the State Forest Fire Warden who performs fire fighting duty under such authority as an employee of the state for workers' compensation purposes and amended Subsec. (a) to refer to said subsection; June 18 Sp. Sess. P.A. 97-8 added volunteer and municipal ambulance service members as employees, effective July 1, 1997; June 18 Sp. Sess. P.A. 97-10 deleted references to municipal ambulance service members as employees, effective July 1, 1997.

Workmen's compensation commissioners have jurisdiction over claims arising under statute. 159 C. 53. Volunteer firemen injured on duty come within this section, not section 31-310, although regularly employed in an industry. *Id.* Section "... speaks to the conduct of towns". 209 C. 268. Cited. 220 C. 739. Cited. 223 C. 911. Cited. 224 C. 479.

Cited. 15 CA 84. Cited. 37 CA 835.

Subsec. (b):

Cited. 38 CA 754.

Subsec. (d):

Cited. 44 CS 230.

Sec. 7-314b. Collection of workers' compensation benefits by volunteer firefighters and members of volunteer ambulance services. (a) Any active member of a volunteer fire company or department engaged in volunteer fire duties or any active member of an organization certified as a volunteer ambulance service in accordance with section 19a-180 may collect benefits under the provisions of chapter 568 based on the salary of his employment or the amount specified in subsection (b) of section 7-314a, whichever is greater, if said firefighter or volunteer ambulance service provider is injured while engaged in fire duties or volunteer ambulance service.

(b) As used in this section, the terms "fire duties" includes duties performed while at fires, answering alarms of fire, answering calls for mutual aid assistance, returning from calls for mutual aid assistance, at fire drills or training exercises, and directly returning from fires, "active member of a volunteer fire company or department" includes all active members of said fire company or department, fire patrol or fire and police patrol company, whether paid or not paid for their services, "ambulance service" includes answering alarms, calls for emergency medical service or directly returning from calls for the emergency situations, duties performed while performing transportation or treatment services to patients under emergency conditions, while at any location where emergency medical service is rendered, while engaged in drills or training exercises, while at tests or trials of any apparatus or equipment normally used in the performance of such medical service drills, and "active member of an organization certified as a volunteer ambulance service in accordance with section 19a-180" includes all active members of said ambulance service whether paid or not paid for their services.

(c) The provisions of subsection (a) of this section shall only apply if the volunteer firefighter or volunteer ambulance service provider is unable to perform his regular employment duties.

(P.A. 95-243, S. 2; June 18 Sp. Sess. P.A. 97-8, S 85, 88; June 18 Sp. Sess. P.A. 97-10, S. 5, 7.)

History: June 18 Sp. Sess. P.A. 97-8 added volunteer and municipal ambulance service members as employees, and defined the terms "ambulance service" and "active member of an organization certified as a volunteer or municipal ambulance service in accordance with section 19a-180", effective July 1, 1997; June 18 Sp. Sess. P.A. 97-10 deleted references to municipal ambulance service members as employees and in Subsec. (b) included fire drills or training exercises in definition of "fire duties", effective July 1, 1997.

Sec. 7-314c. Assumption of liability by the state for volunteer firefighters. The liability of a municipality shall not be affected by the implementation of sections 7-314a and 7-314b due to the assumption of liability by the state for benefits paid pursuant to the provisions of chapter 568 for volunteer firefighters.

(P.A. 95-243, S. 3.)

Sec. 7-322a. Benefits for volunteers rendering service to another fire company. Any active member of a volunteer fire company who offers his services to an officer or person in charge of another fire company which is actively engaged in fire duties, and whose services are accepted by such officer or person, shall be entitled to receive all benefits payable under the provisions of sections 7-314 and 7-314a. Such payments shall be made by the municipality in which the fire company of which such a fireman is a member is located.

(February, 1965, P.A. 264; 1967, P.A. 892, S. 3; 1969, P.A. 464, S. 2.)

History: 1967 act made technical changes; 1969 act deleted provision restricting offer of services to other volunteer fire companies by removing word "volunteer".

Applies to conduct of individuals. 209 C. 268.

Cited. 15 CA 84.

Sec. 7-322b. Volunteers serving in municipality where employed. Fire and ambulance leaves. Enactment by municipality. List of participating members. Benefits.

(a) Any active member of a volunteer fire company, as defined in section 7-314, or any emergency medical technician, as defined in section 19a-175, who is a member of an emergency medical service organization and employed between the hours of eight o'clock a.m. and five o'clock p.m. in a municipality other than the municipality in which the volunteer fire company or emergency medical service organization to which the individual belongs is located, may serve as a member of any volunteer fire company or emergency medical service organization located in the municipality where such individual is employed during such hours, subject to the provisions of this section. Nothing herein shall be construed to require any volunteer fire company or emergency medical service organization to accept the services of persons who are available for service pursuant to this section.

(b) Upon the request of a volunteer fire company or an emergency medical service organization, a municipality may, by vote of its legislative body, provide that the municipality and any person, firm or corporation located within such municipality which employs ten or more persons at one location shall allow any active member of a volunteer fire company, as defined in section 7-314, or any emergency medical technician, as defined in section 19a-175, to leave his place of employment, without loss of pay, vacation time, sick leave or earned overtime accumulation, to respond to an emergency to which a volunteer fire company or emergency medical service organization of the municipality is responding, subject to such conditions and regulations as the municipality may provide by ordinance. No employer shall (1) discharge, discipline or reduce the wages, vacation time, sick leave or earned overtime accumulation of any employee because such employee is a member in a volunteer fire company or emergency medical service organization or (2) require refusal to respond to an emergency as a condition of continued employment. The requirements of this section shall not be altered by any collective bargaining agreement.

(c) Any such member or technician who participates pursuant to this section shall register with the volunteer fire department or emergency medical service organization in the municipality in which such person is employed. Each volunteer fire company or emergency medical service organization shall maintain a list of individuals employed within the municipality where such volunteer fire company or emergency medical service organization is located and available to respond to an emergency between the hours of eight o'clock a.m. and five o'clock p.m.

(d) The services of a member of a volunteer fire company or emergency medical service organization who leaves a place of employment to respond to an emergency shall be provided in accordance with any internal operating procedures established by the volunteer fire company or emergency medical service organization.

(e) Any member of a volunteer fire company or emergency medical service organization who responds to an emergency pursuant to the provisions of this section shall be entitled to receive all benefits payable under the provisions of sections 7-314 and 7-314a. Such payments shall be made by the municipality in which the fire company or the emergency medical service organization of which such a fireman or technician is a member is located.

(f) Any volunteer fire company or emergency medical service organization may request the municipality where such company or organization is located to enact the provisions of this section. Such a request shall be made to the chief executive officer of the municipality and shall be considered by the legislative body.

(P.A. 89-379, S. 1; P.A. 96-180, S. 6, 166; June 18 Sp. Sess. P.A. 97-8, S. 86, 88.)

History: P.A. 96-180 amended Subsec. (a) by deleting reference to Subsec. (e) of Sec. 19a-175, effective June 3, 1996; June 18 Sp. Sess. P.A. 97-8 amended Subsec. (e) by deleting references to Secs. 19a-191 and 19a-192, effective July 1, 1997.

Sec. 7-433b. Survivors' benefits for firemen and policemen. Maximum cumulative payment. (a) Notwithstanding the provisions of any general statute, charter or special act to the contrary affecting the noncontributory or contributory retirement systems of any municipality of the state, or any special act providing for a police benefit fund or other retirement system, the survivors of any uniformed or regular member of a paid fire department or any regular member of a paid police department whose death has been suffered in the line of duty shall be eligible to receive such survivor benefits as are provided for in the Workers' Compensation Act, and, in addition, they shall receive such survivor benefits as may be provided for in the retirement system in which such department member was a participant at the time of his death; provided such pension benefits shall be adjusted so that the total weekly benefits received by such survivors shall not exceed one hundred per cent of the weekly compensation being paid, during their compensable period, to members of such department in the same position which was held by such deceased at the time of his death. Nothing contained herein shall prevent any town, city or borough from paying money from its general fund to any such survivors, provided total weekly benefits paid shall not exceed said one hundred per cent of the weekly compensation.

(b) Notwithstanding the provisions of any general statute, charter or special act to the contrary affecting the noncontributory or contributory retirement systems of any municipality of the state, or any special act providing for a police or firemen benefit fund or other retirement system, the cumulative payments, not including payments for medical care, for compensation and retirement or survivors benefits under section 7-433c shall be adjusted so that the total of such cumulative payments received by such member or his dependents or survivors shall not exceed one hundred per cent of the weekly compensation being paid, during their compensable period, to members of such department in the same position which was held by such member at the time of his death or retirement. Nothing contained herein shall prevent any town, city or borough from paying money from its general fund to any such member or his dependents or survivors, provided the total of such cumulative payments shall not exceed said one hundred per cent of the weekly compensation.

(1959, P.A. 604; P.A. 77-520, S. 2, 3; P.A. 79-376, S. 12.)

History: P.A. 77-520 added Subsec. (b) for bidding payment of benefits which would exceed 100 per cent of weekly compensation of workers in same position as member; P.A. 79-376 substituted "workers' compensation" for "workmen's compensation".

See Sec. 7-323a et seq. re Policemen and Firemen Survivors' Benefit Fund.

Cited. 177 C. 456. Cited. 194 C. 139. Cited. 204 C. 563. Cited. 208 C. 576. Cited. 214 C. 189. Cited. 224 C. 441.

Cited. 2 CA 255. Cited. 12 CA 138. Cited. 26 CA 194.

Subsec. (b):

Cited. 214 C. 181. Ceiling imposed on award of benefits applies at time of retirement. *Id.*, 189. "Weekly compensation" includes overtime as well as base salary. *Id.*, 552. "Ceiling" on benefits applies to total payments composed of heart and hypertension disability payments and retirement pension payments not related to Sec. 7-433c. 243 C. 747.

Interpretation of the statute focuses on amount of compensation that recipient would have received if he continued working. 12 CA 138. Cited. 26 CA 194. Section not applicable where pension was not awarded under Sec. 7-433c but was a regular pension for long years of service. 43 CA 773.

Sec. 7-433c. Benefits for policemen or firemen disabled or dead as a result of hypertension or heart disease. (a) Notwithstanding any provision of chapter 568 or any other general statute, charter, special act or ordinance to the contrary, in the event a uni-

formed member of a paid municipal fire department or a regular member of a paid municipal police department who successfully passed a physical examination on entry into such service, which examination failed to reveal any evidence of hypertension or heart disease, suffers either off duty or on duty any condition or impairment of health caused by hypertension or heart disease resulting in his death or his temporary or permanent, total or partial disability, he or his dependents, as the case may be, shall receive from his municipal employer compensation and medical care in the same amount and the same manner as that provided under chapter 568 if such death or disability was caused by a personal injury which arose out of and in the course of his employment and was suffered in the line of duty and within the scope of his employment, and from the municipal or state retirement system under which he is covered, he or his dependents, as the case may be, shall receive the same retirement or survivor benefits which would be paid under said system if such death or disability was caused by a personal injury which arose out of and in the course of his employment, and was suffered in the line of duty and within the scope of his employment. If successful passage of such a physical examination was, at the time of his employment, required as a condition for such employment, no proof or record of such examination shall be required as evidence in the maintenance of a claim under this section or under such municipal or state retirement systems. The benefits provided by this section shall be in lieu of any other benefits which such policeman or fireman or his dependents may be entitled to receive from his municipal employer under the provisions of chapter 568 or the municipal or state retirement system under which he is covered, except as provided by this section, as a result of any condition or impairment of health caused by hypertension or heart disease resulting in his death or his temporary or permanent, total or partial disability. As used in this section, the term "municipal employer" shall have the same meaning and shall be defined as said term is defined in section 7-467.

(b) Notwithstanding the provisions of subsection (a) of this section, those persons who began employment on or after July 1, 1996, shall not be eligible for any benefits pursuant to this section.

(1971, P.A. 524, S. 1; P.A. 77-520, S. 1, 3; P.A. 92-81, S. 1, 3; P.A. 96-230, S. 2, 3; 96-231, S. 1, 2.)

History: P.A. 77-520 provided that benefits under section be in lieu of others except as specified; P.A. 92-81 added Subsec. (b) re benefits for police officers and firefighters who begin employment on or after July 1, 1992; P.A. 96-230 amended Subsec. (b) to read "Notwithstanding the provisions of subsection (a) of this section, those persons who began employment on

or after the effective date of this act (July 1, 1996) shall not be eligible for any benefits pursuant to this section.”, effective July 1, 1996; P.A. 96-231 deleted legislative finding from Subsec. (a) and amended Subsec. (b) to read “Notwithstanding the provisions of subsection (a) of this section, only those persons employed on the effective date of this act (July 1, 1996) shall be eligible for any benefits provided by this section.”, effective July 1, 1996 (Revisor’s note: Pursuant to the provisions of Sec. 2-30b the amendment to Subsec. (b) of this section contained in P.A. 96-231 did not take effect since it was deemed repealed by the conflicting amendment to said Subsec. (b) contained in P.A. 96-230 which passed the General Assembly later than P.A. 96-231).

Only procedure mentioned for bringing claims under this section is the Workmen’s Compensation Act. 165 C. 615. This statute serves a public purpose and is constitutional despite its conferring a direct benefit on a certain class of individuals. 168 C. 84. Cited. 177 C. 456. Statute is neither a workers’ compensation law nor occupational disease law within meaning of insurance contract. 178 C. 664. Workers’ compensation statutes are not the exclusive remedy for injuries arising out of and in the course of employment where injuries claimed are compensable under this statute. 193 C. 59. Benefits under this statute may be taken into account in determining maximum amount payable from pension plan; history and interpretation discussed. 194 C. 139. “... Purpose not to remove benefits from realm of arm’s-length collective bargaining but merely to ensure that they are provided for members of police and fire departments ...” 201 C. 577. Cited. 204 C. 563. Cited. 207 C. 665. Does not require payment of benefits to estate of a deceased recipient. 208 C. 576. Use of words “hypertensive” and “heart disease” on claim form sufficient to invoke award under this section. 210 C. 423. Does not preclude award of special benefits under Sec. 31-308. 214 C. 181. Cited. Id., 189. Economic benefits qualified as “compensation” under this section may include fringe benefits in certain circumstances. Id., 394. Cited. Id., 552. Heart and hypertension act also cited. Id. Cited. 217 C. 50. Heart and hypertension act cited. Id. Cited. 220 C. 721. Cited. 222 C. 62. Cited. 224 C. 441. Cited. 231 C. 287. Benefits awarded under section are subject to review and modification procedures set forth in the Connecticut Workers’ Compensation Act. 252 C. 708. City employer’s right to intervene in employee’s negligence action against physician is incorporated into section pursuant to Sec. 31-293. 253 C. 429. Benefits paid under section are special compensation and not workers’ compensation for purposes of reimbursement from Special Injury Fund pursuant to Sec. 31-306(a)(2)(A) and such a result does not deny employers a protected property interest without due process of law. 269 C. 763.

Pension benefits payable under the city’s ordinances must be reduced by benefits awarded under this statute. 1 CA 58. Purpose of statute is to protect firemen and policemen from economic loss; measure of the loss must be determined by extent to which claimant is precluded from rejoining work force in his former capacity or any other reasonable occupation due to his disability. 2 CA 255. Benefits not retroactively applied; also not applicable to those no longer in active service, either on or off duty. 4 CA 226. Cited. 6 CA 265. Cited. 7 CA 142. Cited. 12 CA 138. No requirement that an appointment be “permanent”. 13 CA 566. Cited. 17 CA 633. Cited. 21 CA 28. Cited. 26 CA 194. In order to be eligible for any benefits for either hypertension or heart disease, plaintiff must have successfully passed a preemployment physical showing no evidence of either hypertension or heart disease. 28 CA 754. Cited. 34 CA 307. Cited. 37 CA 835. Without evidence establishing claimant’s injury is result of an occupational disease one-year statute of limitations applies. 38 CA 1. Cited. 43 CA 773. Language of statute clearly and unambiguously mandates that for claimant to be foreclosed from the benefits of the statute, results of the preemployment physical examination must contain evidence of hypertension or heart disease. 56 CA 235. Board incorrectly interpreted Sec. 31-284b as requiring city to continue insurance coverage for plaintiff and his family once plaintiff’s compensation payments under section ended. 61 CA 9. Section demonstrates clear policy of creating additional benefits for certain classes of disabled municipal employees. 66 CA 105. Member of municipal fire or police department hired before July 1, 1996, may elect to be covered under either this Sec. or chapter 568. 70 CA 321. Statute not intended to provide its beneficiaries with dual dollar benefits, but to eliminate two of the basic requirements for coverage under Workers’ Compensation Act, i.e. the causal connection between hypertension and heart disease and the employment and requirement that the illness was suffered during the course of employment. Id.

Plaintiff not required to assume burden of proving compensability under chapter 568 where he brought action under both chapter 568 and this statute. 38 CS 359. Town must have organized police department under Sec. 7-274 in order for this statute to be operative. Id., 419. Cited. 39 CS 321. Claims under this statute are subject to procedural requirements of Workers’ Compensation Act. Id., 403.

Subsec. (a):

Benefits may not be awarded concurrently. 57 CA 472.

Sec. 7-433d. Injury or death of fireman while engaged in fire duties with another company. Any uniformed member of a paid fire department who offers his services to an officer or person in charge of another fire company which is actively engaged in fire duties, and whose services are accepted by such officer or person, shall be entitled to receive benefits under chapter 568, and under the contributory or noncontributory retirement system of the municipality for which such services were performed, in the event of his injury or death arising out of such services, as if he were a member of the fire department of such municipality.

(1971, P.A. 520.)

Sec. 10-236a. Indemnification of educational personnel assaulted in the line of duty. (a) Each board of education shall protect and save harmless any member of such board or any teacher or other employee thereof or any member of its supervisory or administrative staff, and the State Board of Education, the Board of Governors of Higher Education, the board of trustees of each state institution and each state agency which employs any teacher, and the managing board of any public school, as defined in section 10-183b, shall protect and save harmless any member of such boards, or any teacher or other employee thereof or any member of its supervisory or administrative staff employed by it, from financial loss and expense, including payment of expenses reasonably incurred for medical or other service necessary as a result of an assault upon such teacher or other employee while such person was acting in the discharge of his or her duties within the scope of his employment or under the direction of such board of education, Board of Governors of Higher Education, board of trustees, state agency, department or managing board, which expenses are not paid by the individual teacher's or employee's insurance, workers' compensation or any other source not involving an expenditure by such teacher or employee.

(b) Any teacher or employee absent from employment as a result of injury sustained during an assault or for a court appearance in connection with such assault shall continue to receive his or her full salary, while so absent, except that the amount of any workers' compensation award may be deducted from salary payments during such absence. The time of such absence shall not be charged against such teacher or employee's sick leave, vacation time or personal leave days.

(c) For the purposes of this section, the terms "teacher" and "other employee" shall include any student teacher doing practice teaching under the direction of a teacher employed by a local or regional board of education or by the State Board of Education or Board of Governors of Higher Education, and any member of the faculty or staff or any student employed by The University of Connecticut Health Center or health services.

(P.A. 73-492; P.A. 77-573, S. 24, 30; P.A. 78-208, S. 31, 35; 78-218, S. 168; P.A. 79-376, S. 16; P.A. 82-218, S. 37, 46; P.A. 84-241, S. 2, 5.)

History: P.A. 77-573 replaced commission for higher education with board of higher education; P.A. 78-208 substituted Sec. 10-183b for reference to repealed Sec. 10-161; P.A. 78-218 included feminine personal pronouns in Subsecs. (a) and (b), substituted "local or regional" board of education for "town" board in Subsec. (c) and made technical change in Subsec. (a); P.A. 79-376 substituted "workers' compensation" for "workmen's compensation"; P.A. 82-218 replaced board of higher education with board of governors pursuant to reorganization of higher education system, effective March 1, 1983; P.A. 84-241 added "of higher education" to board of governors' title.

Sec. 20-1. *(See end of section for amended version and effective date.) Healing arts defined. The practice of the healing arts means the practice of medicine, chiropractic, podiatry, natureopathy and, except as used in chapters 384a and 388, and sections 19a-16a to 19a-16c, inclusive, the practice of optometry.

(1949 Rev., S. 4352; P.A. 80-484, S. 168, 176; P.A. 81-471, S. 4, 71; P.A. 94-202; P.A. 99-102, S. 1.)

***Note:** On and after the later of October 1, 2000, or the date notice is published by the Commissioner of Public Health in the Connecticut Law Journal indicating that the licensing of athletic trainers and physical therapist assistants is being implemented by the commissioner, this section, as amended by section 10 of public act 00-226, is to read as follows:

“Sec. 20-1. Healing arts defined. The practice of the healing arts means the practice of medicine, chiropractic, podiatry, natureopathy and, except as used in chapters 384a and 388, the practice of optometry.”

(1949 Rev., S. 4352; P.A. 80-484, S. 168, 176; P.A. 81-471, S. 4, 71; P.A. 94-202; P.A. 99-102, S. 1; P.A. 00-226, S. 10, 20.)

History: P.A. 80-484 substituted “means” for “shall be understood to be”; P.A. 81-471 added podiatry to professions included within the term “healing arts” as of July 1, 1981; P.A. 94-202 conditionally included optometry as a healing art; P.A. 99-102 deleted obsolete reference to osteopathy; P.A. 00-226 deleted reference to Secs. 19a-16a to 19a-16c, inclusive, effective the later of October 1, 2000, or the date notice is published by the Commissioner of Public Health in the Connecticut Law Journal indicating that the licensing of athletic trainers and physical therapist assistants is being implemented by the commissioner.

Cited. 15 CS 468.

Sec. 20-7a. Billing for clinical laboratory services. Cost of diagnostic tests. Financial disclosures to patients. (a) Any practitioner of the healing arts who agrees with any clinical laboratory, either private or hospital, to make payments to such laboratory for individual tests or test series for patients shall disclose on the bills to patients or third party payors the name of such laboratory, the amount or amounts charged by such laboratory for individual tests or test series and the amount of his procurement or processing charge, if any, for each test or test series. Any person who violates the provisions of this section shall be fined not more than one hundred dollars.

(b) Each practitioner of the healing arts who recommends a test to aid in the diagnosis of a patient’s physical condition shall, to the extent the practitioner is reasonably able, inform the patient of the approximate range of costs of such test.

(c) Each practitioner of the healing arts who (1) has an ownership or investment interest in an entity which provides diagnostic or therapeutic services, or (2) receives compensation or remuneration for referral of such patient to an entity which provides diagnostic or therapeutic services shall disclose such interest to any patient prior to referring such patient to such entity for diagnostic or therapeutic services and provide reasonable referral alternatives. Such information shall be verbally disclosed to each patient or shall be posted in a conspicuous place visible to patients in the practitioner’s office. The posted information shall list the therapeutic and diagnostic services in which the practitioner has an ownership or investment interest and therapeutic and diagnostic services from which the practitioner receives compensation or remuneration for referrals and state that alternate referrals will be made upon request. Therapeutic services include physical therapy, radiation therapy, intravenous therapy and rehabilitation services including physical therapy, occupational therapy or speech pathology or any combination thereof. This subsection shall not apply to in-office ancillary services. As used in this subsection, “ownership or investment interest” shall not include ownership of investment securities purchased by the practitioner on terms available to the general public and which are publicly traded; and “entity which provides diagnostic or therapeutic services” shall include services provided by an entity within a hospital but which is not owned by the hospital. Violation of this subsection shall constitute conduct subject to disciplinary action under subdivision (6) of subsection (a) of section 19a-17.

(P.A. 73-159; P.A. 91-168; P.A. 92-24.)

History: P.A. 91-168 added a new Subsec. (b) to require practitioners to inform patients regarding the costs of diagnostic tests ordered, and added a new Subsec. (c) to require practitioners to make disclosures of financial interests in diagnostic imaging equipment to patients; P.A. 92-24 amended Subsec. (c) to change disclosure requirements from diagnostic imaging

equipment to diagnostic or therapeutic services or compensation or remuneration for referrals of such services, to explain verbal and posted disclosure requirements, to add definition of entity which provides diagnostic or therapeutic services, and to make violation of Subsec. subject to disciplinary action.

Sec. 20-87a. Definitions. Scope of practice. (a) The practice of nursing by a registered nurse is defined as the process of diagnosing human responses to actual or potential health problems, providing supportive and restorative care, health counseling and teaching, case finding and referral, collaborating in the implementation of the total health care regimen, and executing the medical regimen under the direction of a licensed physician, dentist or advanced practice registered nurse.

(b) Advanced nursing practice is defined as the performance of advanced level nursing practice activities that, by virtue of postbasic specialized education and experience, are appropriate to and may be performed by an advanced practice registered nurse. The advanced practice registered nurse performs acts of diagnosis and treatment of alterations in health status, as described in subsection (a) of this section, and shall collaborate with a physician licensed to practice medicine in this state. If practicing in (1) an institution licensed pursuant to subsection (a) of section 19a-491 as a hospital, residential care home, health care facility for the handicapped, nursing home, rest home, mental health facility, substance abuse treatment facility, infirmary operated by an educational institution for the care of students enrolled in, and faculty and staff of, such institution, or facility operated and maintained by any state agency and providing services for the prevention, diagnosis and treatment or care of human health conditions, or (2) an industrial health facility licensed pursuant to subsection (h) of section 31-374 which serves at least two thousand employees, or (3) a clinic operated by a state agency, municipality, or private nonprofit corporation, or (4) a clinic operated by any educational institution prescribed by regulations adopted pursuant to section 20-99a, the advanced practice registered nurse may, in collaboration with a physician licensed to practice medicine in this state, prescribe, dispense, and administer medical therapeutics and corrective measures. In all other settings, the advanced practice registered nurse may, in collaboration with a physician licensed to practice medicine in the state, prescribe and administer medical therapeutics and corrective measures and may request, sign for, receive and dispense drugs in the form of professional samples in accordance with sections 20-14c to 20-14e, inclusive, except that an advanced practice registered nurse licensed pursuant to section 20-94a and maintaining current certification from the American Association of Nurse Anesthetists who is prescribing and administering medical therapeutics during surgery may only do so if the physician who is medically directing the prescriptive activity is physically present in the institution, clinic or other setting where the surgery is being performed. For purposes of this subsection, "collaboration" means a mutually agreed upon relationship between an advanced practice registered nurse and a physician who is educated, trained or has relevant experience that is related to the work of such advanced practice registered nurse. The collaboration shall address a reasonable and appropriate level of consultation and referral, coverage for the patient in the absence of the advanced practice registered nurse, a method to review patient outcomes and a method of disclosure of the relationship to the patient. Relative to the exercise of prescriptive authority, the collaboration between an advanced practice registered nurse and a physician shall be in writing and shall address the level of schedule II and III controlled substances that the advanced practice registered nurse may prescribe and provide a method to review patient

outcomes, including, but not limited to, the review of medical therapeutics, corrective measures, laboratory tests and other diagnostic procedures that the advanced practice registered nurse may prescribe, dispense and administer. An advanced practice registered nurse licensed under the provisions of this chapter may make the determination and pronouncement of death of a patient, provided the advanced practice registered nurse attests to such pronouncement on the certificate of death and signs the certificate of death no later than twenty-four hours after the pronouncement.

(c) The practice of nursing by a licensed practical nurse is defined as the performing of selected tasks and sharing of responsibility under the direction of a registered nurse or an advanced practice registered nurse and within the framework of supportive and restorative care, health counseling and teaching, case finding and referral, collaborating in the implementation of the total health care regimen and executing the medical regimen under the direction of a licensed physician or dentist.

(d) In the case of a registered or licensed practical nurse employed by a home health care agency, the practice of nursing includes, but is not limited to, executing the medical regimen under the direction of a physician licensed in a state that borders Connecticut.

(P.A. 75-166, S. 1, 6; P.A. 89-107, S. 1; 89-389, S. 1, 22; P.A. 94-213, S. 4; P.A. 97-112, S. 2; P.A. 99-168, S. 1; P.A. 03-8, S. 1; P.A. 04-221, S. 34; 04-255, S. 22; May Sp. Sess. P.A. 04-2, S. 108.)

History: P.A. 89-107 added Subsec. (c) re nurses' powers of administration of medical regimen under direction of physician in bordering state; P.A. 89-389 inserted new Subsec. (b) re duties of advanced practice registered nurses, relettered the existing Subsec. (b) as Subsec. (c) and added the reference in Subsec. (c) to an advanced practice registered nurse; P.A. 94-213 amended Subsec. (b) to delete Subdiv. (5) regarding other settings as prescribed in regulations and added conditions for prescribing and administering medical therapeutics and corrective measures and dispensing professional samples; P.A. 97-112 replaced "home for the aged" with "residential care home"; P.A. 99-168 redefined "advanced nursing practice" in Subsec. (b) to include collaboration with a physician, defined "collaboration" for purposes of Subsec. (b), modified prescriptive authority of advanced practice registered nurses and made technical changes in Subsecs. (b) and (d); P.A. 03-8 amended Subsec. (a) by adding "advanced practice registered nurse"; P.A. 04-221 amended Subsec. (b) to allow advanced practice registered nurses to request, sign for and receive drug samples; P.A. 04-255 amended Subsec. (b) by adding provision allowing advanced practice registered nurse to make determination and pronouncement of death; May Sp. Sess. P.A. 04-2 changed effective date of P.A. 04-221 from October 1, 2004, to June 8, 2004, effective May 12, 2004.

Sec. 20-312b. Licensed real estate broker or real estate salesperson not deemed "employee" under section 31-275. A licensed real estate broker or real estate salesperson shall not be considered an employee under the provisions of section 31-275 if substantially all of the remuneration for the services performed by such broker or salesperson, whether paid in cash or otherwise, is directly related to sales or other output rather than to the number of hours worked, and such services are performed by the broker or salesperson pursuant to a written contract that contains the following provisions:

(1) The broker or salesperson, for purposes of workers' compensation, is engaged as an independent contractor associated with the person for whom services are performed;

(2) The broker or salesperson shall be paid a commission based on his gross sales, if any, without deduction for taxes, which commission shall be directly related to sales or other output;

(3) The broker or salesperson shall not receive any remuneration related to the number of hours worked and shall not be treated as an employee with respect to such services for purposes of workers' compensation;

(4) The broker or salesperson shall be permitted to work any hours he chooses;

(5) The broker or salesperson shall be permitted to work out of his own home or the office of the person for whom services are performed;

(6) The broker or salesperson shall be free to engage in outside employment;

(7) The person for whom the services are performed may provide office facilities and supplies for the use of the broker or salesperson, but the broker or salesperson shall otherwise pay his own expenses, including, but not limited to, automobile, travel and entertainment expenses; and

(8) The contract may be terminated by either party at any time upon notice given to the other.

(P.A. 91-364; P.A. 93-354, S. 7, 54; P.A. 94-36, S. 41, 42; P.A. 96-200, S. 8.)

History: P.A. 93-354 deleted references to real estate appraisers throughout section (see Sec. 20-507), effective in accordance with Sec. 20-528; P.A. 94-36 changed effective date of P.A. 93-354 but without affecting this section; P.A. 96-200 substituted "salesperson" for "salesman".

Cited. 231 C. 690.

Sec. 20-507. Licensed or certified real estate appraiser not deemed "employee" under section 31-275. A certified, licensed, limited or provisional appraiser shall not be considered an employee under the provisions of section 31-275 if substantially all of the remuneration for the services performed by such appraiser, whether paid in cash or otherwise, is directly related to sales or other output rather than to the number of hours worked, and such services are performed by the appraiser pursuant to a written contract that contains the following provisions: (1) The appraiser, for purposes of workers' compensation, is engaged as an independent contractor associated with the person for whom services are performed; (2) the appraiser shall not receive any remuneration related to the number of hours worked, and shall not be treated as an employee with respect to such services for purposes of workers' compensation; (3) the appraiser shall be permitted to work any hours the appraiser chooses; (4) the appraiser shall be permitted to work out of the appraiser's own home or the office of the person for whom services are performed; (5) the appraiser shall be free to engage in outside employment; (6) the person for whom the services are performed may provide office facilities and supplies for the use of the appraiser, but the appraiser shall otherwise pay the appraiser's own expenses, including, but not limited to, automobile, travel and entertainment expenses; and (7) the contract may be terminated by either party at any time upon notice given to the other.

(P.A. 93-354, S. 32, 54; P.A. 94-36, S. 41, 42; P.A. 00-192, S. 60, 102.)

History: P.A. 93-354 effective in accordance with Sec. 20-528; P.A. 94-36 changed effective date of P.A. 93-354 but without affecting this section; P.A. 00-192 replaced reference to "tenured appraiser" with reference to "limited appraiser" and made technical changes for the purposes of gender neutrality, effective May 26, 2000.

Sec. 28-14. Compensation for death, disability or injury. (a) All members of any auxiliary police, auxiliary fire or other civil preparedness force shall be compensated for death, disability or injury incurred while in training for or on civil preparedness duty under the provisions of this chapter as follows: (1) Employees of the state, municipalities or political subdivisions of the state who are members of civil preparedness forces and for whom such compensation is provided by any provision of existing law shall be construed to be acting within the scope of their employment while in training for or engaged in civil preparedness duties and shall be compensated in accordance with the pro-

visions of chapter 568, section 5-142 or any special act concerning compensation to certain employees: Regular policemen or firemen who are members of the State Police Association or the State Firemen's Association shall be construed to be acting within the scope of their employment while in training for or engaged in civil preparedness duties and shall be entitled to all the benefits as members of said associations; (2) any persons who are engaged in regular employment apart and separate from their duties as members of civil preparedness forces and for whom such compensation is not so provided shall, while in training for or engaged in civil preparedness duty under the provisions of this chapter, be construed to be employees of the state for the purposes of chapter 568 and section 5-142 and shall be compensated by the state in accordance with the provisions of said chapter 568 and section 5-142. For the purposes of this subsection, the average weekly wage, as said term is used in said chapter 568, shall be ascertained by dividing the total wages received by the injured person from all employers during the twenty-six calendar weeks immediately preceding that in which he was injured by the number of calendar weeks during which, or any portion of which, such person was actually employed, but, in making such computation, absence for seven consecutive calendar days, though not in the same calendar week, shall be considered as absence for a calendar week. For the purpose of determining the amount of compensation to be paid in the case of a minor under the age of eighteen years who has sustained an injury entitling him to compensation for total or partial incapacity for a period of fifty-two or more weeks, or to specific indemnity for any of the injuries enumerated in section 31-308, fifty per cent may be added to the average weekly wage. When the injured person is a trainee or apprentice receiving a subsistence allowance from the United States because of war service, such allowance shall be added to his actual earnings in determining the average weekly wage. All claims under this subsection shall be determined according to the procedures specified in chapter 568. For the purpose of this subsection, no person shall be considered regularly employed unless his total employment previous to injury as provided above exceeds a net period of thirteen calendar weeks; (3) any member of the civil preparedness forces not covered in subdivision (1) or (2) hereof, for disability or injury incurred while in training or on civil preparedness duty under the provisions of this chapter, or his dependents in the event of his death while in such training or on such civil preparedness duty, shall be compensated by the state in such amount as is determined to be just and reasonable by the compensation commissioner for the district in which such member resides or resided, provided a claim shall be made in writing to the commissioner for the district in which the claimant resides within one year from the date of injury or death. In no event shall such amount exceed the maximum payments provided in chapter 568 or be less than the minimum wage as determined by the Labor Commissioner for a period of recovery from injury to be determined by such compensation commissioner.

(b) Any sums payable under any Act of Congress or other federal program as compensation for death, disability or injury of civil preparedness workers shall be deducted from the amount payable under subsection (a) of this section.

(June, 1951, S. 1918d; 1959, P.A. 65, S. 3; P.A. 73-544, S. 14; P.A. 78-324, S. 1.)

History: 1959 act included auxiliary police and fire forces in section; P.A. 73-544 substituted "civil preparedness" for "civil defense" throughout; P.A. 78-324 provided that compensation be no less than minimum wage for period of recovery.

See Sec. 28-1 for applicable definitions.

Sec. 29-4a. Death or disability from hypertension or heart disease. Compensation. Any condition of impairment of health caused by hypertension or heart disease resulting in total or partial disability or death to a member of the Division of State Police within the Department of Public Safety who successfully passed a physical examination on entry into such service, which examination failed to reveal any evidence of such condition, shall be presumed to have been suffered in the performance of his duty and shall be compensable in accordance with the provisions of section 5-142 for a period of three months. If, at the end of that period, the administrator of the state's workers' compensation claims wishes to contest whether the disability occurred in the actual performance of police duty as defined in subsection (a) of section 5-142, he shall notify the member of his decision. The member or the employee organization may then bring the matter before the workers' compensation commissioner of the appropriate district to determine if the disability is compensable under chapter 568 or subsection (a) of section 5-142. A member who has suffered such total or partial disability shall have the right to elect to receive either (1) the compensation indicated in section 5-142, or (2) the benefits produced under chapter 568 and the state employees retirement system, but not both. The provisions of subsection (a) of section 5-142 shall apply with regard to the timing of such election.

(1959, P.A. 246, S. 1; P.A. 77-614, S. 486, 610; P.A. 85-510, S. 1, 35.)

History: P.A. 77-614 made state police department a division within the department of public safety, effective January 1, 1979; P.A. 85-510 added provisions re compensation for disability and deleted provision that nothing in this section shall be construed to affect the provisions of chapter 568.

State police trooper employed by Department of Public Safety does not have an election of remedies as between Secs. 5-145a and 29-4a; rather, trooper must proceed under Sec. 29-4a. 70 CA 321.

Sec. 29-22. Volunteer auxiliary force. The Commissioner of Public Safety is authorized to recruit, train and organize a volunteer police auxiliary force for the purpose of providing emergency services throughout the state for peacetime or wartime emergencies or threatened emergencies and for augmenting the state police force in such manner as the Commissioner of Public Safety may deem appropriate. Such volunteer police auxiliary force shall at all times be under the direction of said commissioner and subject to the rules and regulations of the Division of State Police within the Department of Public Safety. The total membership of the auxiliary force shall not exceed in number twice the authorized strength prescribed in section 29-4 for the state police, and such auxiliary force may be equipped with uniforms prescribed by the commissioner and delegated special police powers for specific emergency police duties. The commissioner may, within available appropriations, provide subsistence and maintenance to the volunteer police auxiliary force when called to duty. In the event of participation in emergency services, the members of the volunteer police auxiliary force shall have the same immunities and privileges as apply to the organized militia and to the regular members of the Division of State Police. All members of the volunteer police auxiliary force shall be compensated for death, disability or injury incurred while in training for or on auxiliary state police duty under the provisions of this section as follows: (1) Employees of the state, municipalities or political subdivisions of the state who are members of the volunteer police auxiliary force and for whom such compensation is provided by any provision of existing law shall be construed to be acting within the scope of their employment while in training for or engaged in auxiliary state police duty and shall be compensated in accordance with the provisions of chapter 568 and sections 5-142 and 5-

144. (2) Any persons who are engaged in regular employment apart and separate from their duties as members of the volunteer police auxiliary force and for whom such compensation is not so provided shall, while in training for or engaged in duties under the provisions of this section, be construed to be employees of the state for the purpose of chapter 568 and sections 5-142 and 5-144, and shall be compensated by the state in accordance with the provisions of said chapter and sections.

(1951, S. 1990d; 1963, P.A. 618; P.A. 77-614, S. 486, 610; P.A. 96-230, S. 1, 3.)

History: 1963 act clarified provisions, authorized use of auxiliary force for "peace time or war time emergencies or threatened emergencies and for augmenting the state police force ..." where previously its use was for "disasters caused by fires, explosions or floods and for such threatened disasters" and added references to compensation under Secs. 5-142 and 5-144; P.A. 77-614 made state police department a division within the department of public safety and replaced commissioner of state police with commissioner of public safety, effective January 1, 1979; P.A. 96-230 made technical change, specifying that aid to volunteer police auxiliary forces be "within available appropriations", effective July 1, 1996.

Sec. 31-40a. (Formerly Sec. 19-48). Reports of occupational diseases and investigations concerning them. Each physician having knowledge of any person whom he believes to be suffering from poisoning from lead, phosphorus, arsenic, brass, wood alcohol or mercury or their compounds, or from anthrax or from compressed-air illness or any other disease, contracted as a result of the nature of the employment of such person, shall, within forty-eight hours, mail to the Labor Department, Department of Factory Inspection, as provided in section 31-9, a report stating the name, address and occupation of such patient, the name, address and business of his employer, the nature of the disease and such other information as may reasonably be required by said department. The department shall prepare and furnish to the physicians of this state suitable blanks for the reports herein required. No report made pursuant to the provisions of this section shall be admissible as evidence of the facts therein stated in any action at law or in any action under the Workers' Compensation Act against any employer of such diseased person. Any physician who fails to send any report herein required or who fails to send the same within the time specified herein shall be liable to the state for a penalty of not more than ten dollars, recoverable by civil action in the name of the state by said department. The Labor Department, Department of Factory Inspection, as provided in section 31-9, is authorized to investigate and make recommendations for the elimination or prevention of occupational diseases reported to it in accordance with the provisions of this section. Said department is also authorized to study and provide advice in regard to conditions suspected of causing occupational diseases, provided information obtained upon investigations made in accordance with the provisions of this section shall not be admissible as evidence in any action at law to recover damages for personal injury or in any action under the Workers' Compensation Act.

(1949 Rev., S. 3867; P.A. 73-449, S. 2; P.A. 78-349, S. 1, 3; P.A. 79-376, S. 28.)

History: P.A. 73-449 replaced department of health with labor department, department of factory inspection; Sec. 19-48 transferred to Sec. 31-40a in 1975; P.A. 78-349 deleted provision requiring labor department to pay physicians fifty cents for making report; P.A. 79-376 substituted "workers' compensation act" for "workmen's compensation act".

Sec. 31-40v. Establishment of safety and health committees by certain employers. (a) In order to promote health and safety in places of employment in this state, each employer of twenty-five or more employees in this state, including the state and any political subdivision of the state, and each employer whose rate of work related injury and illness exceeds the average incidence rate of all industries in this state, shall admin-

ister a safety and health committee in accordance with regulations adopted pursuant to subsection (b) of this section. For purposes of this subsection, "incidence rate" means the number of federal Occupational Safety and Health Administration recordable injuries and illnesses per one hundred full-time employees.

(b) The chairman of the Workers' Compensation Commission, in consultation with the Labor Commissioner and in accordance with the provisions of chapter 54, shall adopt regulations to carry out the provisions of this section. The regulations shall (1) prescribe the membership of safety and health committees to ensure representation of employees and employers; (2) specify the frequency of committee meetings; (3) require employers to make, file and maintain adequate written records of each committee meeting subject to inspection by the chairman or his authorized designee; (4) require employers to compensate employee representatives at their regular hourly wage while the employee representatives are engaged in safety and health committee training or are attending committee meetings; (5) prescribe the duties and functions of safety and health committees, which shall include (A) establishing procedures for workplace safety inspections by the committee, (B) establishing procedures for investigating all safety incidents, accidents, illnesses and deaths, (C) evaluating accident and illness prevention programs, (D) establishing training programs for the identification and reduction of hazards in the workplace which damage the reproductive systems of employees, and (E) establishing training programs to assist committee members in understanding and identifying the effects of employee substance abuse on workplace accidents and safety; and (6) prescribe guidelines for the training of safety and health committee members.

(c) Notwithstanding the provisions of this section, each employer who, on July 1, 1993, has an existing health and safety program or other program determined by the chairman of the Workers' Compensation Commission to be effective in the promotion of health and safety in the workplace, shall not be required to comply with this section. The chairman of the Workers' Compensation Commission, in consultation with the Labor Commissioner, shall adopt regulations, in accordance with the provisions of chapter 54, establishing the criteria for evaluating such programs.

(P.A. 93-228, S. 28, 35.)

History: P.A. 93-228 effective July 1, 1993.

Sec. 31-230. Benefit year, base period and alternative base period. Regulations.

(a) An individual's benefit year shall commence with the beginning of the week with respect to which the individual has filed a valid initiating claim and shall continue through the Saturday of the fifty-first week following the week in which it commenced, provided no benefit year shall end until after the end of the third complete calendar quarter, plus the remainder of any uncompleted calendar week that began in such quarter, following the calendar quarter in which it commenced, and provided further, the benefit year of an individual who has filed a combined wage claim, as described in subsection (b) of section 31-255, shall be the benefit year prescribed by the law of the paying state. In no event shall a benefit year be established before the termination of an existing benefit year previously established under the provisions of this chapter. Except as provided in subsection (b) of this section, the base period of a benefit year shall be the first four of the five most recently completed calendar quarters prior to such benefit year, provided such quarters were not

previously used to establish a prior valid benefit year and provided further, the base period with respect to a combined wage claim, as described in subsection (b) of section 31-255, shall be the base period of the paying state, except that for any individual who is eligible to receive or is receiving workers' compensation or who is properly absent from work under the terms of the employer's sick leave or disability leave policy, the base period shall be the first four of the five most recently worked quarters prior to such benefit year, provided such quarters were not previously used to establish a prior valid benefit year and provided further, the last most recently worked calendar quarter is no more than twelve calendar quarters prior to the date such individual makes an initiating claim. As used in this section, an initiating claim shall be deemed valid if the individual is unemployed and meets the requirements of subdivisions (1) and (3) of subsection (a) of section 31-235. The base period of an individual's benefit year shall include wages paid by any nonprofit organization electing reimbursement in lieu of contributions, or by the state and by any town, city or other political or governmental subdivision of or in this state or of any municipality to such person with respect to whom such employer is subject to the provisions of this chapter. With respect to weeks of unemployment beginning on or after January 1, 1978, wages for insured work shall include wages paid for previously uncovered services. For purposes of this section, the term "previously uncovered services" means services that (1) were not employment, as defined in section 31-222, and were not services covered pursuant to section 31-223, at any time during the one-year period ending December 31, 1975; and (2)(A) are agricultural labor, as defined in subparagraph (H) of subdivision (1) of subsection (a) of section 31-222, or domestic service, as defined in subparagraph (J) of subdivision (1) of subsection (a) of section 31-222, or (B) are services performed by an employee of this state or a political subdivision of this state, as provided in subparagraph (C) of subdivision (1) of subsection (a) of section 31-222, or by an employee of a nonprofit educational institution that is not an institution of higher education, as provided in subparagraph (E)(iii) of subdivision (1) of subsection (a) of section 31-222, except to the extent that assistance under Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 was paid on the basis of such services.

(b) For a period from January 1, 2003, to December 31, 2005, or three calendar years from the date of implementation of this section, whichever is later, the base period of a benefit year for any individual who is ineligible to receive benefits using the base period set forth in subsection (a) of this section shall be the four most recently completed calendar quarters prior to the individual's benefit year, provided such quarters were not previously used to establish a prior valid benefit year, except that for any such individual who is eligible to receive or is receiving workers' compensation or who is properly absent from work under the terms of an employer's sick leave or disability leave policy, the base period shall be the four most recently worked calendar quarters prior to such benefit year, provided such quarters were not previously used to establish a prior valid benefit year and provided further, the last most recently worked calendar quarter is not more than twelve calendar quarters prior to the date such individual makes the initiating claim. If the wage information for an individual's most recently worked calendar quarter is unavailable to the administrator from regular quarterly reports of systematically accessible wage information, the administrator shall promptly contact the individual's employer to obtain such wage information.

(c) On or before July 1, 2003, the administrator shall adopt regulations, in accordance with the provisions of chapter 54, to implement the provisions of this section, provided the administrator may implement the provisions of this section prior to the adoption of such regulations. Such regulations shall specify the manner and format in which the administrator shall:

(1) Provide written notice to individuals of the potential availability of the alternative base period calculation set forth in subsection (b) of this section; and

(2) Promptly obtain wage information from an employer in order to calculate the alternative base period set forth in subsection (b) of this section.

(1949 Rev., S. 7503; 1949, 1953, S. 3068d; 1969, P.A. 700, S. 4; 1971, P.A. 835, S. 12; P.A. 73-78; P.A. 75-334; 75-525, S. 7, 13; P.A. 77-115; 77-426, S. 5, 19; P.A. 79-40; 79-376, S. 30; P.A. 83-421; May 9 Sp. Sess. 02-7, S. 69.)

History: 1969 act made minor wording changes for clarity; 1971 act added reference to "governmental" subdivisions and included wages paid by nonprofit organizations electing reimbursement in lieu of contributions; P.A. 73-78 clarified continuation of benefit year as "through the Saturday of the fifty-first week following the week in which it commenced" and prohibited establishment of new benefit year before termination of existing benefit year; P.A. 75-334 added exception re benefit year base period for those eligible to receive or receiving workmen's compensation; P.A. 75-525 required that benefit year and benefit period of claimant's filing combined claim be that prescribed by paying state; P.A. 77-115 required that last most recently worked quarter be no more than twelve, rather than four, quarters before claim made in provision re those receiving or eligible to receive workmen's compensation; P.A. 77-426 added provisions re weeks of unemployment beginning on and after January 1, 1978; P.A. 79-40 excluded use of quarters used previously to establish prior benefit year in establishing base period for subsequent benefit year; P.A. 79-376 substituted "workers'" for "workmen's" compensation; P.A. 83-421 provided that, for any individual who is properly on sick or disability leave from his employment, the base period will be the first four of the five most recently worked quarters prior to the benefit year; (Revisor's note: In 1991 the reference to "this subsection" was changed editorially by the Revisors to read "this section"); May 9 Sp. Sess. P.A. 02-7 designated existing provisions as Subsec. (a) and made technical changes therein, added new Subsec. (b) to establish a temporary, alternative method for calculating the base period of a benefit year for individuals ineligible to receive benefits using the original base period set forth in Subsec. (a), and added new Subsec. (c) to require the administrator to adopt regulations implementing the alternative base period authorized by Subsec. (b), effective August 15, 2002.

Section is constitutional; does not impair vested rights. 137 C. 129. Workers' compensation benefits do not qualify as "wages" within meaning of Sec. 31-222(b)(1) and therefore could not be used to determine the base period of a benefit year under the section. 239 C. 233.

Cited. 17 CA 441.

Cited. 44 CS 285.

Sec. 31-258. Repayment of benefits on receipt of workers' compensation. Any person who has drawn benefits under this chapter who subsequently receives compensation for temporary disability under a workers' compensation law with respect to the same period for which he has drawn unemployment compensation benefits shall be liable to repay to the administrator the sum so received under this chapter, provided the amount which he is liable to repay shall not exceed the amount received under the workers' compensation law. If such person does not repay the sum at that time, such sum may be offset by the administrator against any future claims for benefits which such person may have.

(1955, S. 3083d; P.A. 79-376, S. 33.)

History: P.A. 79-376 replaced "workmen's compensation" with "workers' compensation".

Sec. 37-3a. Rate recoverable as damages. Rate on debt arising out of hospital services. (a) Except as provided in sections 37-3b, 37-3c and 52-192a, interest at the rate of ten per cent a year, and no more, may be recovered and allowed in civil actions or arbitration proceedings under chapter 909, including actions to recover money loaned at a greater rate, as damages for the detention of money after it becomes payable. Judgment may be given for the recovery of taxes assessed and paid upon the loan, and the insur-

ance upon the estate mortgaged to secure the loan, whenever the borrower has agreed in writing to pay such taxes or insurance or both. Whenever the maker of any contract is a resident of another state or the mortgage security is located in another state, any obligee or holder of such contract, residing in this state, may lawfully recover any agreed rate of interest or damages on such contract until it is fully performed, not exceeding the legal rate of interest in the state where such contract purports to have been made or such mortgage security is located.

(b) In the case of a debt arising out of services provided at a hospital, prejudgment and postjudgment interest shall be no more than five per cent per year. The awarding of interest in such cases is discretionary.

(1972, P.A. 292, S. 1; P.A. 76-316, S. 1; P.A. 79-364, S. 2; P.A. 81-315, S. 1; P.A. 83-267, S. 1; P.A. 87-260, S. 2; May Sp. Sess. P.A. 92-11, S. 10, 70; P.A. 03-266, S. 7.)

History: P.A. 76-316 added exception as provided in Sec. 52-192a; P.A. 79-364 applied section to arbitration proceedings; P.A. 81-315 added reference to Sec. 37-3b as an exception to this section; P.A. 83-267 increased rate of interest from eight to ten per cent; P.A. 87-260 added reference to Sec. 37-3c as an exception to this section; May Sp. Sess. P.A. 92-11 deleted exception re recovery of interest with respect to demand obligations as provided in repealed Sec. 42a-3-122(4)(a); P.A. 03-266 designated existing provisions as Subsec. (a) and added Subsec. (b) re rate on debt arising out of hospital services.

Cited. 175 C. 138. Cited. 178 C. 323; 180 C. 11. Statute does not apply to interest payments ordered by the public utilities control authority (PUCA). 183 C. 128. Challenge by general contractor to constitutionality of mechanic's lien statutes discussed. 185 C. 583. Where condemnation award contemplated payment of interest at the prevailing statutory rate, court did not err in awarding interest at 6% from date of taking to October 1, 1979, when statute was amended to provide for interest at 8% from that date to date of payment. 187 C. 171. Prejudgment and postjudgment interest discussed with reference to Sec. 52-192a. 192 C. 301. Determination of interest in condemnation proceedings is not subject to provisions of the statute. *Id.*, 377. Cited. 196 C. 81. Increase in interest rate only prospective in its operation. 199 C. 683. Cited. 203 C. 324. Cited. 207 C. 468. Cited. 210 C. 734. Cited. 211 C. 648. Cited. 213 C. 145. Cited. 217 C. 281. Cited. 218 C. 628. Cited. *Id.*, 646. Cited. *Id.*, 681. Cited. 222 C. 480. Cited. 224 C. 758. Cited. *Id.*, 766. Cited. 228 C. 206. Cited. 234 C. 169. Cited. 235 C. 1. Cited. 238 C. 293. Cited. 239 C. 144. Cited. *Id.*, 708. Cited. 240 C. 287. Cited. 241 C. 749. Interest payable on money wrongfully withheld calculated from date on which court determines the money was due and payable. 247 C. 242.

Cited. 1 CA 595. Held not an abuse of discretion for trial court to determine that statutory eight per cent interest rate which became effective in 1979 should be applied to money due since 1973. 2 CA 322. Cited. 3 CA 111. Cited. 6 CA 292. Cited. *Id.*, 417. Cited. *Id.*, 447. Cited. 12 CA 468. Cited. 13 CA 330. Cited. 16 CA 705. Cited. 18 CA 559. Cited. 20 CA 566. Cited. *Id.*, 676. Cited. *Id.*, 680. Cited. 21 CA 359. Cited. *Id.*, 380. Cited. *Id.*, 549. Cited. 22 CA 640. Cited. 25 CA 529. Cited. 27 CA 635. Cited. 29 CA 484. Cited. 30 CA 136. Cited. *Id.*, 729, 736. Cited. 31 CA 253. Cited. *Id.*, 455. Inapplicable to punitive damages. 32 CA 133. Cited. 34 CA 27. Cited. 35 CA 504. Cited. 36 CA 322. Cited. 39 CA 122. Cited. 41 CA 302. Cited. 42 CA 712. Cited. 43 CA 645. Cited. 44 CA 402. Cited. *Id.*, 490. Cited. 45 CA 543. Cited. 46 CA 37. Cited. *Id.*, 87. Section interpreted as providing for interest to date of judgment. 56 CA 139. Prejudgment interest owed where defendant wrongfully withheld moneys owed plaintiffs at the time they were payable. 69 CA 366. Postjudgment interest awarded pursuant to section begins to run from date of judgment. Where there is a rescript that modifies a judgment, postjudgment interest is to run from date of the original judgment. It should be as if the correct judgment had been issued by the original trial court, with interest running from that date. 73 CA 492. Trial court properly ruled that plaintiff was not entitled to prejudgment interest pursuant to section because plaintiff sought damages necessary to correct damage proximately caused by defendant's negligence. 75 CA 334. Plaintiff was entitled to prejudgment interest based on facts of case. 81 CA 213. Award of statutory prejudgment interest is contingent on the presence of two components: Claim to which the interest attaches must be for a liquidated sum of money wrongfully withheld, and trier must find that equitable considerations warrant payment of interest. Prejudgment interest pursuant to section is not warranted, however, in actions for breach of contract where damages sought are similar to those in a personal injury action for negligence, where a party seeks to be made whole for a loss caused by another. *Id.*, 419.

Cited. 33 CS 609. Cited. 37 CS 50. Cited. 38 CS 610. Cited. 41 CS 538. Cited. 44 CS 207.

Sec. 38a-470. (Formerly Sec. 38-174n). Lien on workers' compensation awards for insurers. Notice of lien. (a) For purposes of this section, "controverted claim" means any claim in which compensation is denied either in whole or in part by the workers' compensation carrier or the employer, if self-insured.

(b) Any insurer, hospital or medical service corporation, health care center or employee welfare benefit plan which furnished benefits or services under a health insurance

policy or a self-insured employee welfare benefit plan to any person suffering an injury or illness covered by the Workers' Compensation Act has a lien on the proceeds of any award or approval of any compromise made by a workers' compensation commissioner less attorneys' fees approved by the district commissioner and reasonable costs related to the proceeding, to the extent of benefits paid or services provided for the effects of the injury or illness arising out of and in the course of employment as a result of a controverted claim, provided such plan, policy or contract provides for reduction, exclusion, or coordination of benefits of the policy or plan on account of workers' compensation benefits.

(c) The lien shall arise at the time such benefits are paid or such services are rendered. The person or entity furnishing such benefits or services shall serve written notice upon the employee, the insurance company providing workers' compensation benefits or the employer, if self-insured, and the workers' compensation commissioner for the district in which the claim for workers' compensation has been filed, setting forth the nature and extent of the lien allowable under subsection (b). The lien shall be effective against any workers' compensation award made after the notice is received.

(d) The written notice shall be served upon the employee at his last-known address, the insurance company at its principal place of business in this state or the employer, if self-insured, at its principal place of business, and the workers' compensation commissioner, at the district office. Service shall be made to all parties by certified or registered mail. The notice shall be in duplicate and shall contain, in addition to the information set forth in subsection (c) of this section, the name of the injured or ill employee, the name of the company providing workers' compensation benefits, the amount expended and an estimate of the amount to be expended for benefits or services provided to such injured or ill employee.

(e) The insurance company providing workers' compensation coverage or the employer, if self-insured, shall reimburse the insurance company, hospital or medical service corporation, health care center or employee welfare benefit plan providing benefits or service directly, to the extent of any such lien. The receipt of such reimbursement by such insurer, hospital or medical service corporation, health care center or employee welfare benefit plan shall fully discharge such lien.

(f) The validity or amount of the lien may be contested by the workers' compensation carrier, the employer, if self-insured or the employee by bringing an action in the superior court for the judicial district of Hartford or in the judicial district in which the plaintiff resides. Such cases shall have the same privilege with respect to their assignment for trial as appeals from the workers' compensation review division but shall first be claimed for the short calendar unless the court shall order the matter placed on the trial list. An appeal may be taken from the decision of the Superior Court to the Appellate Court in the same manner as is provided in section 51-197b. In any appeal in which one of the parties is not represented by counsel and in which the party taking the appeal does not claim the case for the short calendar or trial within a reasonable time after the return day, the court may of its own motion dismiss the appeal, or the party ready to proceed may move for nonsuit or default as appropriate. During the pendency of the appeal

any workers' compensation benefits due shall be paid into the court in accordance with the rules relating to interpleader actions.

(P.A. 81-386, S. 1; June Sp. Sess. P.A. 83-29, S. 34, 82; P.A. 88-230, S. 1, 12; P.A. 90-98, S. 1, 2; 90-243, S. 69; P.A. 93-142, S. 4, 7, 8; P.A. 95-220, S. 4-6.)

History: June Sp. Sess. P.A. 83-29 deleted reference to supreme court and substituted appellate court in lieu thereof in Subsec. (f); P.A. 88-230 replaced "judicial district of Hartford-New Britain" with "judicial district of Hartford", effective September 1, 1991; P.A. 90-98 changed the effective date of P.A. 88-230 from September 1, 1991, to September 1, 1993; P.A. 90-243 added references to "health care center" and substituted reference to "health insurance policies" for reference to various health, disability and accident policies; Sec. 38-174n transferred to Sec. 38a-470 in 1991; P.A. 93-142 changed the effective date of P.A. 88-230 from September 1, 1993, to September 1, 1996, effective June 14, 1993; P.A. 95-220 changed the effective date of P.A. 88-230 from September 1, 1996, to September 1, 1998, effective July 1, 1995.

See Secs. 38a-199 to 38a-209, inclusive, re hospital service corporations.

See Secs. 38a-214 to 38a-225, inclusive, re medical service corporations.

Annotations to former section 38-174n:

Cited. 216 C. 815. Cited. 219 C. 439.

Cited. 22 CA 539; judgment reversed, see 219 C. 439.

Subsec. (b):

Cited. 217 C. 631.

Cited. 22 CA 27; judgment reversed, see 217 C. 631.

Annotations to present section:

Cited. 219 C. 439.

Subsec. (b):

Cited. 217 C. 631.

Sec. 38a-1000. Applicability. The provisions of subsection (e) of section 31-288 and sections 31-289b, 31-316, 31-345 and 38a-1000 to 38a-1023, inclusive, shall apply to workers' compensation self-insurance groups here and after formed in accordance with said sections. Subsection (e) of section 31-288 and sections 31-289b, 31-316, 31-345 and 38a-1000 to 38a-1023, inclusive, shall not apply to public employees or governmental entities. Groups which are issued a certificate of approval by the commissioner shall be subject to the provisions of sections 38a-14 and 38a-17 but shall not be deemed to be insurers or insurance companies and shall not be subject to the provisions of this title and any regulations issued pursuant to this title except as otherwise provided.

(P.A. 96-267, S. 1.)

Sec. 38a-1001. Definitions. As used in subsection (e) of section 31-288 and sections 31-289b, 31-316, 31-345 and 38a-1000 to 38a-1023, inclusive:

(1) "Administrator" means an individual, partnership or corporation engaged by a workers' compensation self-insurance group's board of trustees to carry out the policies established by the group's board of trustees and to provide day-to-day management of the group.

(2) "Commissioner" means the Insurance Commissioner.

(3) "Insolvent" or "insolvency" means the inability of a workers' compensation self-insurance group to pay its outstanding lawful obligations as they mature in the regular course of business, as may be shown either by an excess of its required reserves and other liabilities over its assets or by its not having sufficient assets to reinsure all of its outstanding liabilities after paying all accrued claims owed by it.

(4) “Net premium” means premium derived from standard premium adjusted by any advance premium discounts.

(5) “Service company” means a person or entity which provides services not provided by the administrator, including but not limited to: (A) Claims adjustment; (B) safety engineering; (C) compilation of statistics and the preparation of premium, loss and tax reports; (D) preparation of other required self-insurance reports; (E) development of members’ assessments and fees; and (F) administration of a claim fund.

(6) “Standard premium” means the premium derived from the manual rates adjusted by experience modification factors but before advance premium discounts.

(7) “Workers’ compensation”, when used as a modifier of “benefits”, “liabilities” or “obligations”, includes both workers’ compensation and employers’ liability.

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

(P.A. 96-267, S. 2.)

Sec. 38a-1002. Approval of self-insurance group required. No person, association or other entity shall act as a workers’ compensation self-insurance group unless it has received approval by the commissioner to transact such business.

(P.A. 96-267, S. 3.)

Sec. 38a-1003. Group certificate of approval. Application. Fees. (a) A proposed workers’ compensation self-insurance group shall file with the commissioner its application for a certificate of approval accompanied by a nonrefundable filing fee in the amount of two hundred fifty dollars. Such application shall include the group’s name, location of its principal office, date of organization, name and address of each member and such other information as the commissioner may reasonably require, together with the following:

- (1) Proof of compliance with the provisions of subsection (b) of this section;
- (2) A copy of the articles of association, if any;
- (3) A copy of agreements with the administrator and with any service company;
- (4) A copy of the bylaws of the proposed group;

(5) A copy of the agreement between the group and each member securing the payment of workers’ compensation benefits, which shall include a provision for payment of assessments as provided in section 38a-1018;

- (6) Designation of the initial board of trustees and administrator;

(7) The address in this state where the books and records of the group shall be maintained at all times;

(8) A pro forma financial statement on a form acceptable to the commissioner showing the financial ability of the group to pay the workers' compensation obligations of its members;

(9) An actuarial feasibility study prepared (A) by an independent person with a designation of Fellow of the Casualty Actuarial Society (FCAS) or (B) by a member of the American Academy of Actuaries (MAAA) with experience in making Connecticut workers' compensation actuarial projections. Such study shall be based on a consolidated summary of the historical workers' compensation claims loss experience and the allocated loss expenses of the member applicants of the group over a period of the most recent completed three full policy years, as well as the current partially completed policy year to the most current quarter under the current policy; and

(10) Proof of payment to the group by each member of not less than twenty-five per cent of that member's first year estimated annual net premium on a date prescribed by the commissioner. Each payment shall be considered to be part of the first year premium payment of each member, if the proposed group is granted a certificate of approval by the commissioner.

(b) To obtain and to maintain its certificate of approval, a workers' compensation self-insurance group shall comply with the following requirements as well as any other requirements established under the provisions of chapter 568. Such group shall have:

(1) A combined net worth of all members of a group of private employers of at least five million dollars. Such group shall maintain a minimum working capital of two hundred fifty thousand dollars. The minimum premium or portion thereof required in subdivision (1) of subsection (a) of section 38a-1017 shall be used to satisfy the working capital requirements of this section.

(2) A security, in the amount of five hundred thousand dollars or more and such security shall be in the form of a surety bond, security deposit or financial security endorsement or any combination thereof. If a surety bond is used to meet the security requirement, it shall be issued by a corporate surety company authorized to transact business in this state. If a security deposit is used to meet the security requirement, such securities shall be limited to bonds or other evidence of indebtedness issued, assumed or guaranteed by the United States of America or by an agency or instrumentality thereof; certificates of deposit in a federally insured bank; shares or savings deposits in a federally insured savings and loan association or credit union; or any bond or security issued by a state of the United States of America and backed by the full faith and credit of the state. Any such securities shall be deposited with the State Treasurer and assigned to and made negotiable by the Chairman of the Workers' Compensation Commission pursuant to a trust document acceptable to the commissioner. Interest accruing on a negotiable security so deposited shall be collected and transmitted to the depositor provided the depositor is not in default. A financial security endorsement, issued as part of an acceptable excess insurance contract, may be used to meet all or part of the security requirement. The bond, security deposit or financial security endorsement shall be: (A) For the

benefit of the state solely to pay claims and associated expenses; and (B) payable upon the failure of the group to pay workers' compensation benefits that it is legally obligated to pay. The commissioner may establish and adjust from time to time, requirements for the amount of security based on differences among groups in their size, types of employment, years in existence and other relevant factors.

(3) Specific and aggregate excess insurance in a form, in an amount, and by an insurance company acceptable to the commissioner. The commissioner may establish minimum requirements for the amount of specific and aggregate excess insurance based on differences among groups in their size, types of employment, years in existence and other relevant factors, and may permit a group to meet this requirement by placing in a designated depository securities of the type referred to in subdivision (2) of this subsection.

(4) An estimated annual standard premium of at least one million dollars during a group's first year of operation and annually thereafter. No single member applicant shall have more than twenty per cent of the total combined standard premium of the group.

(5) An indemnity agreement jointly and severally binding the group and each member thereof to meet the workers' compensation obligations of each member. The indemnity agreement shall be in a form prescribed by the commissioner and shall include minimum uniform substantive provisions prescribed by the commissioner. Subject to the commissioner's approval, a group may add other provisions as are necessary to perform its obligations.

(6) A fidelity bond for the administrator in a form and amount prescribed by the commissioner.

(7) A fidelity bond for the service company in a form and amount prescribed by the commissioner. The commissioner may also require the service company providing claim services to furnish a performance bond in a form and amount he prescribes.

(c) A group shall notify the commissioner of any change in the information required to be filed under subsection (a) of this section or in the manner of its compliance with subsection (b) of this section no later than thirty days after the change.

(d) The commissioner shall evaluate the information provided by the application required to be filed under subsection (a) of this section to assure that no breach in funding exists and that the funds necessary to pay workers' compensation benefits will be available.

(e) The commissioner shall act upon a completed application for a certificate of approval within sixty days. If, because of the number of applications, the commissioner is unable to act upon an application within the initial sixty-day period, the commissioner shall have an additional sixty days to act.

(f) The commissioner shall issue to the group a certificate of approval upon finding that the proposed group has met all requirements, or the commissioner shall issue an order refusing the certificate setting forth reasons for such refusal and his finding as to why the proposed group does not meet all of the requirements.

(g) Each workers' compensation self-insurance group shall be deemed to have appointed the commissioner as its agent for receipt of service of legal process pursuant to section 38a-25. The appointment shall be irrevocable, shall bind any successor in interest and shall remain in effect as long as there is in this state any obligation or liability of the group for workers' compensation benefits.

(P.A. 96-267, S. 4.)

Sec. 38a-1004. Duration and termination of certificate of approval. (a) The certificate of approval issued by the commissioner to a workers' compensation self-insurance group shall authorize the group to provide workers' compensation benefits. The certificate of approval shall remain in effect until terminated at the request of the group or revoked by the commissioner, pursuant to the provisions of section 38a-1021, or any other provision of this title.

(b) The commissioner shall not grant the request of any group to terminate its certificate of approval unless such group has insured or reinsured all incurred workers' compensation obligations with an authorized insurer under an agreement filed with and approved, in writing, by the commissioner. Such obligations shall include both known claims and expenses associated therewith and claims incurred but not reported and expenses associated therewith.

(c) Subject to the approval of the commissioner, any group may merge with another group engaged in the same or similar type of business only if the resulting group assumes in full all obligations of the merging groups. The commissioner may hold a hearing on the merger and shall do so if any party, including any member of any of the merging groups, requests it.

(P.A. 96-267, S. 5.)

Sec. 38a-1005. Examination of group. Costs. The commissioner may examine the affairs, transactions, accounts, records, assets and liabilities of each group if said commissioner has reasonable cause to believe that such examination is necessary. The expense of such examinations shall be assessed against the group in the same manner that insurers are assessed for examinations.

(P.A. 96-267, S. 6.)

Sec. 38a-1006. Group board of trustees. Each group shall be operated by a board of trustees which shall consist of not less than five persons whom the members of a group elect for stated terms of office. At least two-thirds of the trustees shall be employees, officers or directors of members of the group. The group's service company or any owner, officer, employee of, or any other person affiliated with such service company shall not serve on the board of trustees of the group. All trustees shall be residents of this state or officers of corporations authorized to do business in this state. The board of trustees of each group shall ensure that all claims are paid promptly and take all necessary precautions to safeguard the assets of the group, including all of the following:

(1) The board of trustees shall:

(A) Maintain responsibility for all moneys collected or disbursed from the group and segregate all moneys into a claims fund account and an administrative fund account. At least seventy per cent of the net premium shall be placed into a designated depository for the sole purpose of paying claims, allocated claims expenses, reinsurance or excess insurance and special fund contributions, including second injury and other loss-related funds. This shall be called the "claims fund account". The remaining net premium shall be placed into a designated depository for the payment of taxes, general regulatory fees and assessments and administrative costs. This shall be called the "administrative fund account". The commissioner may approve an administrative fund account of more than thirty per cent and a claims fund account of less than seventy per cent only if the group shows to the commissioner's satisfaction that: (i) More than thirty per cent is needed for an effective safety and loss control program; or (ii) the group's aggregate excess insurance attaches at less than seventy per cent.

(B) Maintain minutes of its meetings and make the minutes available to the commissioner.

(C) Designate an administrator to carry out the policies established by the board of trustees and to provide day-to-day management of the group, and delineate in the written minutes of its meetings the areas of authority it delegates to the administrator.

(D) Retain an independent certified public accountant to prepare the statement of financial condition required by subsection (a) of section 38a-1010.

(2) The board of trustees shall not:

(A) Extend credit to individual members for payment of a premium, except pursuant to payment plans approved by the commissioner.

(B) Borrow any moneys from the group or in the name of the group except in the ordinary course of business without first advising the commissioner of the nature and purpose of the loan and obtaining prior approval from the commissioner.

(P.A. 96-267, S. 7.)

Sec. 38a-1007. Requirements for an employer to join group after its approval. Termination of membership. Insolvency or bankruptcy of member. (a) An employer joining a workers' compensation self-insurance group after the group has been issued a certificate of approval shall: (1) Submit an application for membership to the board of trustees or its administrator; and (2) enter into the indemnity agreement required by subparagraph (B) of subdivision (5) of subsection (b) of section 38a-1003. Membership takes effect no earlier than each member's date of approval. The application for membership and its approval shall be maintained as permanent records of the board of trustees.

(b) Individual members of a group shall be subject to cancellation by the group pursuant to the bylaws of the group. In addition, individual members may elect to terminate their participation in the group. The group shall notify the Commissioner and Chairman of the Workers' Compensation Commission of a termination or cancellation of a member within ten days and shall maintain coverage of each cancelled or terminated member

for thirty days after notice, at the terminating member's expense, unless the group is notified sooner by the Workers' Compensation Commission that the cancelled or terminated member has procured workers' compensation insurance, has become an approved self-insurer or has become a member of another group.

(c) The group shall pay all workers' compensation benefits for which each member incurs liability during its period of membership. A member who elects to terminate its membership or is cancelled by a group remains jointly and severally liable for workers' compensation obligations of the group and its members which were incurred during the cancelled or terminated member's period of membership.

(d) A group member shall not be relieved of its workers' compensation liabilities incurred during its period of membership except through payment by the group or the member of required workers' compensation benefits.

(e) The insolvency or bankruptcy of a member shall not relieve the group or any other member of liability for the payment of any workers' compensation benefits incurred during the insolvent or bankrupt member's period of membership.

(P.A. 96-267, S. 8.)

Sec. 38a-1008. Service company and administrator to be mutually disinterested. (a) No service company or its employees, officers or directors shall be an employee, officer or director of, or have either a direct or indirect financial interest in, an administrator. No administrator or its employees, officers or directors shall be an employee, officer or director of, or have either a direct or indirect financial interest in, a service company.

(b) The service contract shall state that unless the commissioner permits otherwise the service company shall handle, to its conclusion, all claims and other obligations incurred during the contract period.

(P.A. 96-267, S. 9.)

Sec. 38a-1009. Nonemployee soliciting group membership must be licensed. Except for a salaried employee of a group, its administrator or its service company, any person soliciting membership for a workers' compensation self-insurance group shall be licensed pursuant to chapter 702.

(P.A. 96-267, S. 10.)

Sec. 38a-1010. Annual statement of financial condition required. Untrue statement prohibited. (a) Each group shall submit to the commissioner a statement of financial condition audited by an independent certified public accountant on or before the last day of the sixth month following the end of the group's fiscal year. The financial statement shall be in a form prescribed by the commissioner and shall include, but not be limited to, actuarially appropriate reserves for: (1) Known claims and any associated expenses; (2) claims incurred but not reported and any associated expenses; (3) unearned premiums; and (4) bad debts, which shall be shown as liabilities.

(b) An actuarial opinion regarding reserves for: (1) Known claims and any associated expenses; and (2) claims incurred but not reported and any associated expenses shall be included in the audited financial statement. The actuarial opinion shall be prepared (i) by an independent person with a designation of Fellow of the Casualty Actuarial Society (FCAS), (ii) by a member of the American Academy of Actuaries (MAAA) with experience in preparing such opinions, or (iii) by any other qualified loss reserve specialist in accordance with the provisions of section 38a-14.

(c) No person shall make any untrue statement of a material fact, or omit to state a material fact necessary in order to make the statement made, in light of the circumstances under which it is made, not misleading, in connection with the solicitation of membership in a group.

(d) The commissioner may prescribe the format and frequency of other reports which may include, but shall not be limited to, payroll audit reports, summary loss reports and quarterly financial statements and make any regulations necessary to carry out the provisions of subsection (e) of section 31-288 and sections 31-289b, 31-316, 31-345 and 38a-1000 to 38a-1023, inclusive.

(P.A. 96-267, S. 11.)

Sec. 38a-1011. Taxes. Each workers' compensation self-insurance group, as defined in section 38a-1001, shall pay a tax to the Commissioner of Revenue Services for the calendar year commencing on January 1, 1997, and annually thereafter, at the rate of one and three-quarters per cent of the total net premium received on any new or renewal contract or policy by such group during each such calendar year, which shall be in addition to any other payment required under sections 31-345, 31-354 and 38a-48. The provisions of chapter 207 pertaining to the filing of returns, declarations, installment payments, assessments and collection of taxes, penalties, administrative hearings and appeals imposed on domestic insurance companies shall apply with respect to the charge imposed under this section.

(P.A. 96-267, S. 12.)

Sec. 38a-1012. Misrepresentation and omission in membership solicitation prohibited. No person shall make a material misrepresentation or omission of a material fact in connection with the solicitation of membership of a group.

(P.A. 96-267, S. 13.)

Sec. 38a-1013. Investments. Funds not needed for current obligations may be invested by the board of trustees in accordance with sections 38a-102 to 38a-102h, inclusive.

(P.A. 96-267, S. 14.)

Sec. 38a-1014. Classifications and rating. Premium contributions. Audits. Hearings. (a) Every workers' compensation self-insurance group shall adhere to the

uniform classification system, uniform experience rating plan and manual rules filed with the commissioner.

(b) Premium contributions to the group shall be determined by applying the manual rates and rules to the appropriate classification of each member which shall be adjusted by each member's experience credit or debit. Subject to approval by the commissioner, any premium contributions may also be reduced by an advance premium discount factor reflecting the groups expense levels and loss experience.

(c) Notwithstanding the provisions of subsection (b) of this section, a group may apply to the commissioner for permission to utilize its own rates. Such rates shall be based on at least five years of experience of the members of the group.

(d) Each group shall be audited at least annually by an auditor acceptable to the commissioner to verify proper classifications, experience rating, payroll and rates. A report of the audit shall be filed with the commissioner in a form acceptable to the commissioner. A group or any member thereof may request a hearing on any objections to the classifications. If the commissioner determines that as a result of an improper classification, a member's premium contribution is insufficient, he shall order the group to assess that member in an amount equal to the deficiency. If the commissioner determines that as a result of an improper classification a member's premium is excessive, he shall order the group to refund to the member the excess collected. Any audit shall be at the expense of the group.

(P.A. 96-267, S. 15.)

Sec. 38a-1015. Excess moneys refundable. Refund plan. Notice. (a) Any moneys for a fund year in excess of the amount necessary to fund all obligations for that fund year may be declared to be refundable by the board of trustees not less than twelve months after the end of the fund year.

(b) Each member shall be given a written description of the refund plan at the time of application for membership. A refund for any fund year shall be paid only to those employers who remain participants in the group for the entire fund year. Payment of a refund based on a previous fund year shall not be contingent on continued membership in the group after that fund year.

(P.A. 96-267, S. 16.)

Sec. 38a-1016. Premium payment plan required. Loss reserves. Bad debt reserves. (a) Each group shall establish to the satisfaction of the commissioner a premium payment plan which shall include: (1) An initial payment by each member of at least twenty-five per cent of that member's annual premium before the start of the group's fund year; and (2) payment of the balance of each member's annual premium in monthly or quarterly installments.

(b) Each group shall establish and maintain actuarially appropriate loss reserves which shall include reserves for: (1) Known claims and any associated expenses; and (2) Claims incurred but not reported and any associated expenses.

(c) Each group shall establish and maintain bad debt reserves based on the historical experience of the group or other groups or such other data as the commissioner may determine.

(P.A. 96-267, S. 17.)

Sec. 38a-1017. Deficiencies. Insolvency. Liquidation and assessment. (a) If the assets of a group are at any time insufficient to enable the group to discharge its legal liabilities and other obligations and to maintain the reserves required of it under the provisions of subsection (e) of section 31-288 and sections 31-289b, 31-316, 31-345 and 38a-1000 to 38a-1023, inclusive, after consideration of present value of investment interest and income, it shall make up the deficiency or levy an assessment upon its members for the amount needed to make up the deficiency.

(b) In the event of a deficiency as determined in subsection (a) of this section, in any fund year, the deficiency shall be made up from: (1) Surplus from a fund year other than the current fund year; (2) administrative funds; (3) assessment of the membership, if ordered by the group; or (4) such alternate method as the commissioner may approve or direct. The commissioner shall be notified prior to any transfer of surplus funds from one fund year to another.

(c) If the group fails to assess its members or to otherwise make up such deficit within thirty days, the commissioner shall order it to do so.

(d) If the group fails to make the required assessment of its members within thirty days after the commissioner so orders, or if the deficiency is not fully made up within sixty days after the date on which the assessment is made, or within such longer period of time as may be specified by the commissioner, the group shall be deemed to be insolvent.

(e) The commissioner shall proceed against an insolvent group in the same manner as the commissioner would proceed against an insolvent domestic insurer in this state as prescribed in sections 38a-903 to 38a-961, inclusive. The commissioner shall have the same powers and limitations in such proceedings as are provided under the provisions of said sections 38a-903 to 38a-961, inclusive, except as provided in subsection (e) of section 31-288 and sections 31-289b, 31-316, 31-345 and 38a-1000 to 38a-1023, inclusive.

(f) In the event of the liquidation of a group, the commissioner shall levy an assessment upon its members for such an amount as the commissioner determines to be necessary to discharge all liabilities of the group, including the reasonable cost of liquidation.

(P.A. 96-267, S. 18.)

Sec. 38a-1018. Penalties. After notice and opportunity for a hearing, the commissioner may impose a monetary penalty on any person or group found to be in violation of any provision of subsection (e) of section 31-288 or section 31-289b, 31-316, 31-345 or 38a-1000 to 38a-1023, inclusive, or of any rules or regulations adopted pursuant to said provisions. Such monetary penalty shall not exceed one thousand dollars for each act or violation and shall not exceed an aggregate of ten thousand dollars. The amount of any monetary penalty shall be paid to the commissioner for deposit in the General Fund.

(P.A. 96-267, S. 19.)

Sec. 38a-1019. Cease and desist orders. Violations. Penalties. License and certificate revocation. (a) After notice and opportunity for a hearing, the commissioner may issue an order requiring a person or group to cease and desist from engaging in an act or practice found to be in violation of any provision of subsection (e) of section 31-288 or section 31-289b, 31-316, 31-345 or 38a-1000 to 38a-1023, inclusive, or of any rules or regulations adopted pursuant to said sections.

(b) Upon a finding, after notice and opportunity for a hearing, that any person or group has violated any cease and desist order, the commissioner may do either or both of the following: (1) Impose a monetary penalty of not more than ten thousand dollars for each and every act or violation of the order not to exceed an aggregate monetary penalty of one hundred thousand dollars; or (2) revoke the group's certificate of approval for the group or any insurance license held by the person.

(P.A. 96-267, S. 20.)

Sec. 38a-1020. Revocation of certificate of approval. (a) After notice and opportunity for a hearing, the commissioner may revoke a group's certificate of approval if it: (1) Is found to be insolvent; (2) fails to pay any premium tax, regulatory fee or assessment or special fund contribution imposed upon it; or (3) fails to comply with any of the provisions of subsection (e) of section 31-288, 31-289b, 31-316, 31-345 or 38a-1000 to 38a-1023, inclusive, with any rules adopted pursuant to said sections, or with any lawful order of the commissioner within the time prescribed.

(b) In addition, the commissioner may revoke a group's certificate of approval if, after notice and opportunity for hearing, the commissioner finds that: (1) Any certificate of approval that was issued to the group was obtained by fraud; (2) there was a material misrepresentation in the application for the certificate of approval; or (3) the group or its administrator has misappropriated, converted, illegally withheld or refused to pay over upon proper demand any moneys that belong to a member, an employee of a member, or a person otherwise entitled thereto and that have been entrusted to the group or its administrator in its fiduciary capacities.

(P.A. 96-267, S. 21.)

Sec. 38a-1021. Additional provisions. The provisions of sections 38a-16, 38a-132, 38a-140 and 38a-815 to 38a-819, inclusive, shall be additional to any other powers to enforce any penalties, fines or forfeitures authorized by law.

(P.A. 96-267, S. 22.)

Sec. 38a-1022. Regulations. The commissioner shall adopt such reasonable regulations as he deems necessary to carry out the provisions of subsection (e) of section 31-288 and sections 31-289b, 31-316, 31-345 and 38a-1000 to 38a-1023, inclusive.

(P.A. 96-267, S. 23.)

Sec. 38a-1023. Severability. If any provision of subsection (e) of section 31-288 or section 31-289b, 31-316, 31-345 or 38a-1000 to 38a-1023, inclusive, or the application thereof to any person or circumstance is subsequently held to be invalid, such invalidity shall not affect other provisions or applications of said sections.

(P.A. 96-267, S. 24.)

Sec. 51-85. Authority and powers of commissioners of the Superior Court. Each attorney-at-law admitted to practice within the state, while in good standing, shall be a commissioner of the Superior Court and, in such capacity, may, within the state, sign writs and subpoenas, take recognizances, administer oaths and take depositions and acknowledgments of deeds. Each such attorney may also issue subpoenas to compel the attendance of witnesses and subpoenas duces tecum in administrative proceedings. If, in any administrative proceeding, any person disobeys such subpoena or, having appeared in obedience thereto, refuses to answer any proper and pertinent question or refuses to produce any books, papers or documents pursuant thereto, application may be made to the Superior Court or any judge thereof for an order compelling obedience.

(1949 Rev., S. 7648; P.A. 77-386, S. 1, 2; P.A. 78-280, S. 80, 127.)

History: P.A. 77-386 authorized issuance of subpoenas and subpoenas duces tecum and added provision re application for order compelling obedience where person disobeys subpoena or fails to answer questions, etc.; P.A. 78-280 required that application for order compelling obedience be made to superior court rather than to court of common pleas, fulfilling requirements of P.A. 76-436 which transferred functions of common pleas court to superior court.

A woman may be appointed. 50 C. 136. The signing of a writ by a lawyer as a commissioner of the superior court is not a mere ministerial act. A writ of mandamus to compel the signing will not be granted. 142 C. 411. Cited. 162 C. 255. Cited. 171 C. 705, 723. Cited. 180 C. 243, 246, 247. Cited. 197 C. 507, 514. Cited. 207 C. 77, 85, 86. Cited. 222 C. 541, 544; judgment reversed, see 222 C. 541 et seq. Cited. 223 C. 618, 631.

Cited. 9 CA 825. Cited. 25 CA 543, 544. Cited. 38 CA 555, 562.

Court refused to consider claim that town attorney had authority to apply for order compelling obedience where claim not made to trial court. 35 CS 668, 671. Cited. *Id.* Cited. 42 CS 602, 613.

Sec. 52-149a. Depositions of medical witnesses. (a) The deposition of any physician, psychologist, chiropractor, natureopathic physician or dentist licensed under the provisions of the general statutes, may be taken on behalf of either party to any civil action, workers' compensation matter or probate proceeding, in which the physician, psychologist, chiropractor, natureopathic physician or dentist may be called as an expert witness, on notice by certified mail to each adverse party or the party's attorney, as the case may be. The deposition may be received in evidence at the trial or hearing of the civil action, workers' compensation matter or probate proceeding in lieu of the appearance of the witness in court or at the hearing. The deposition may be taken by stenographic means, videotape or in such other manner as may be provided by rule of court or of the compensation commissioners.

(b) Whenever the deposition of a physician, psychologist, chiropractor, natureopathic physician or dentist is so taken, the party requesting the deposition shall pay to the medical expert the fee for giving testimony for the deposition.

(P.A. 76-423; P.A. 77-210; P.A. 79-376, S. 71; P.A. 82-160, S. 71; P.A. 99-102, S. 47.)

History: P.A. 77-210 added Subsec. (b) re payment of fee for testimony to medical experts; P.A. 79-376 substituted "workers' compensation" for "workmen's compensation" where appearing; P.A. 82-160 made minor technical changes; P.A. 99-102 deleted obsolete references to osteopathic physicians and made a technical change re gender neutrality.

Cited. 211 C. 555, 560. Cited. 229 C. 716, 752.

Cited. 45 CA 165.

Subsec. (a):
Cited. 203 C. 554, 564.

Sec. 52-174. Admissibility of records and reports of certain expert witnesses as business entries. (a) In all actions for the recovery of damages for personal injuries or death, (1) if a physician, dentist, chiropractor, natureopath, physical therapist, podiatrist, psychologist, emergency medical technician, optometrist, professional engineer or land surveyor has died prior to the trial of the action, or (2) if a physician, dentist, chiropractor, natureopath, physical therapist, podiatrist, psychologist, emergency medical technician, optometrist, professional engineer or land surveyor is physically or mentally disabled at the time of the trial of the action to such an extent that such person is no longer actively engaged in the practice of the profession, the party desiring to offer into evidence the written records and reports of the physician, dentist, chiropractor, natureopath, physical therapist, podiatrist, psychologist, emergency medical technician or optometrist concerning the patient who suffered the injuries or death and the reports and scale drawings of the professional engineer or land surveyor concerning matter relevant to the circumstances under which the injuries or death was sustained shall apply to the court in which the action is pending for permission to introduce the evidence. Notice of the application shall be served on the adverse party in the same manner as any other pleading. The court to which the application is made shall determine whether the person is disabled to the extent that the person cannot testify in person in the action. Upon the court finding that the person is so disabled, the matters shall be admissible in evidence as a business entry in accordance with the provisions of section 52-180 when offered by any party in the trial of the action.

(b) In all actions for the recovery of damages for personal injuries or death, pending on October 1, 1977, or brought thereafter, and in all court proceedings in family relations matters, as defined in section 46b-1, or in the Family Support Magistrate Division, pending on October 1, 1998, or brought thereafter, and in all other civil actions pending on October 1, 2001, or brought thereafter, any party offering in evidence a signed report and bill for treatment of any treating physician, dentist, chiropractor, natureopath, physical therapist, podiatrist, psychologist, emergency medical technician or optometrist may have the report and bill admitted into evidence as a business entry and it shall be presumed that the signature on the report is that of the treating physician, dentist, chiropractor, natureopath, physical therapist, podiatrist, psychologist, emergency medical technician or optometrist and that the report and bill were made in the ordinary course of business. The use of any such report or bill in lieu of the testimony of such treating physician, dentist, chiropractor, natureopath, physical therapist, podiatrist, psychologist, emergency medical technician or optometrist shall not give rise to any adverse inference concerning the testimony or lack of testimony of such treating physician, dentist, chiropractor, natureopath, physical therapist, podiatrist, psychologist, emergency medical technician or optometrist.

(c) This section shall not be construed as prohibiting either party or the court from calling the treating physician, dentist, chiropractor, natureopath, physical therapist, podiatrist, psychologist, emergency medical technician or optometrist as a witness.

(1957, P.A. 414; February, 1965, P.A. 235; 1967, P.A. 656, S. 40; 848; 1969, P.A. 215; 1972, P.A. 24; P.A. 77-226; P.A. 78-140; P.A. 82-160, S. 78; P.A. 84-101; P.A. 89-153; P.A. 94-158, S. 1; P.A. 95-42; P.A. 98-81, S. 8; P.A. 99-102, S. 48; P.A. 01-15.)

History: 1965 act added provisions re professional engineers; 1967 acts added Subdiv. (2) re use of written records as testimony where physician, dentist or engineer has impairment of mental faculties which prevents him from testifying and specified evidence consisting of reports, records, etc. is admissible “as a business entry in accordance with the provisions of section 52-180”; 1969 act applied provisions to chiropractors, osteopaths and land surveyors; 1972 act applied provisions to natureopaths and revised provisions to allow use of records, etc. when person is either physically or mentally disabled “to such an extent that he is no longer actively engaged in the practice of his profession” and to make court responsible for determining if person is disabled so that he cannot testify where previously use of records allowed if person was judged mentally unfit to testify upon determination of hospital superintendent; P.A. 77-226 added Subsec. (b) re use of signed report and bill for services as evidence in actions for recovery of damages for personal injury or death; P.A. 78-140 restated Subsec. (b), specifying that report signature is presumed to be that of treating physician, dentist, etc. and the report and bill are presumed to have been made in ordinary course of business and deleting details re subpoena of medical expert; P.A. 82-160 amended Subsec. (a) by deleting provisions stating that the section was applicable to actions “pending on October 1, 1957, or which are thereafter brought”, designated the last sentence of Subsec. (b) as a new Subsec. (c), and made minor technical changes to the section; P.A. 84-101 applied provisions to podiatrists; P.A. 89-153 amended Subsec. (b) to add provision that the use of any report or bill in lieu of the testimony of a treating health care provider shall not give rise to any adverse inference re testimony or lack of testimony of such treating health care provider; P.A. 94-158 applied provisions to psychologists, emergency medical technicians and optometrists; P.A. 95-42 applied provisions to physical therapists; P.A. 98-81 amended Subsec. (b) making provisions of section apply to proceedings in family relations matters or in the Family Support Magistrate Division; P.A. 99-102 deleted obsolete references to osteopathy and made technical changes re gender neutrality; P.A. 01-15 amended Subsec. (b) by adding provision re all other civil actions pending on October 1, 2001, or brought thereafter.

Cited. 159 C. 397. Cited. 177 C. 677, 731, 733. Cited. 211 C. 555, 560.

Cited. 5 CA 629, 630. Cited. 17 CA 684, 689, 690. Cited. 23 CA 468, 474, 477. Cited. 24 CA 276, 283. Cited. 29 CA 519, 520.

Subsec. (a):

Cited. 205 C. 542, 546, 547, 551. Cited. 225 C. 637, 641.

Cited. 36 CA 737, 742.

Subsec. (b):

Statute not limited to resident medical practitioners. 205 C. 542—545, 547—549, 551—554. Cited. *Id.*, 623, 625—629. Cited. 219 C. 324, 315, 335—338. Statute not extended to dissolution case. 247 C. 356.

Cited. 2 CA 167. Cited. 5 CA 629, 632. Cited. 12 CA 632, 633, 635. Cited. 17 CA 684, 686—689, 691. Cited. *Id.*, 684, 687, 689. Cited. 23 CA 468, 474, 475, 477. Cited. 24 CA 276, 284. Cited. 36 CA 737, 741, 750. Cited. 38 CA 628, 629, 631, 632. Cited. 45 CA 165. Cited. *Id.*, 248. Cited. 47 CA 46. No adverse inference concerning use of written medical reports is permitted in court’s charge to the jury. 65 CA 776. Section does not require that bill for treatment accompany a medical report admitted into evidence. 80 CA 111. Requirements under section regarding admissibility of report were met where there was evidence that the signatory psychologist had treated the patient and had signed the report. *Id.* Subsec. applies to document on a physician’s letterhead, signed by such physician, who is plaintiff’s treating physician; plaintiff is not required to lay a foundation under the business record exception in Sec. 52-180. 84 CA 667.

Cited. 39 CS 301, 304.

Subsec. (c):

Cited. 205 C. 542, 545, 547.

Cited. 5 CA 629, 632. Cited. 23 CA 468, 477. Cited. 45 CA 165.

Sec. 52-362d. Lien against property of obligor for unpaid child support. Notice of intent. Foreclosure. Information re unpaid support reported to participating consumer reporting agency. Offset for child support arrearage against money payable by state to obligor. Notification by Connecticut Lottery Corporation. Hearing. Regulations. (a) Whenever an order of the Superior Court or a family support magistrate for support of a minor child or children is issued and such payments have been ordered to be made to the state acting by and through the IV-D agency and the person against whom such support order was issued owes past-due support in the amount of five hundred dollars or more, the state shall have a lien on any property, real or personal, in which such person has an interest to enforce payment of such past-due support after first providing such person with notice of intent to place such lien, and an opportunity for a hearing before a hearing officer to contest the amount of such past-due support. The lien for past-due child support shall be secured by the IV-D agency pursuant to procedures contained in the general statutes applicable to the type of property to be secured.

Any such lien on real property may, at any time during which the obligor owes the amount of past-due child support secured by such lien, be foreclosed in an action brought in a court of competent jurisdiction by the Commissioner of Social Services in a title IV-D case or by the person to whom the child support is due. A lien for past-due support arising in any other state shall be given full faith and credit by this state provided such other state has complied with its procedural rules relating to recording or serving of liens.

(b) On October 1, 1991, and monthly thereafter, the Department of Social Services shall compile a list of all obligors who owe overdue support in the amount of one thousand dollars or more accruing after the entry of an initial court order establishing a child support obligation. Any overdue support in an amount of one thousand dollars or more shall be subject to the reporting provisions of this section. The state shall report to any participating consumer reporting agency, as defined in 15 USC 1681a(f), information regarding the amount of such overdue support owed by an obligor if the amount of such overdue support is one thousand dollars or more, on a computer tape in a format acceptable to the consumer reporting agency. Such information shall be reported by the department only after notice has been sent by the department to such obligor of the proposed action, and such obligor is given an opportunity for a hearing before a hearing officer of the department to contest the amount of the alleged arrearage. Any such notice sent to such obligor shall contain a telephone number and address of the Department of Social Services and shall contain the following language in bold type: "If you are no longer in arrears or have received this notice in error, please contact the department at the following address or telephone number." On a monthly basis, the Department of Social Services shall provide to each consumer reporting agency informed of the original arrearage of an obligor updated information concerning any such obligor and the status of payments, including a list of obligors who no longer owe overdue support, in such acceptable computer format. The department shall designate one or more persons in the department to receive telephone or other requests from an obligor or a consumer reporting agency regarding verification of information supplied to a consumer reporting agency. The department shall respond to any such request within five working days of its receipt. Upon satisfactory verification that an obligor is no longer in arrears, the department shall send a statement to such obligor, and such statement shall constitute proof to a creditor that such obligor is no longer in arrears as of the date of the statement. A participating consumer reporting agency which receives such updated information from the department that an obligor no longer owes any overdue support shall record such information within thirty days of receipt of such notification unless the information was in a format which was unusable by the agency or contained an error which prevented the agency from matching the updated information to previously supplied data. Any consumer reporting agency which negligently or wilfully fails to use reasonable efforts to comply with any requirement imposed under this subsection with respect to an obligor shall be liable to such obligor in an amount equal to the sum of (1) any actual damages sustained by the obligor as a result of such failure, and (2) a reasonable attorney's fee as determined by the court.

(c) When any person redeems a winning lottery ticket worth five thousand dollars or more at the central office of the Connecticut Lottery Corporation, the Connecticut Lottery Corporation shall check the name and other identifying information of such person

against a list of obligors supplied by the Commissioner of Social Services. If such person is included on the list of obligors, the Connecticut Lottery Corporation shall request confirmation from the Commissioner of Social Services that such person is in fact an obligor, and upon notification by the Commissioner of Social Services that money is due from any such person as a result of a claim for support which has been assigned to the state pursuant to section 17b-77, or is to be paid to the state acting by and through the IV-D agency, the Connecticut Lottery Corporation shall withhold from any lottery winnings payable to such person under the provisions of chapter 226 or chapter 229a the amount of such claim for support owed to an individual for any portion of support which has not been assigned to the state and then the amount of such claim for support owed to the state, provided the Connecticut Lottery Corporation shall notify such person that (1) lottery winnings have been withheld as a result of the amount due for such support, and (2) such person has the right to a hearing before a hearing officer designated by the Commissioner of Social Services if such person contests the amount of the alleged claim for support. The Connecticut Lottery Corporation shall pay any such person in accordance with any decisions of the hearing officer or the court upon appeal of the hearing officer's decision.

(d) Whenever an order of the Superior Court or a family support magistrate of this state, or an order of another state that has been registered in this state, for support of a minor child or children is issued and such payments have been ordered through the IV-D agency, and the obligor against whom such support order was issued owes overdue support under such order in the amount of five hundred dollars or more, the IV-D agency, as defined in subdivision (12) of subsection (b) of section 46b-231, or Support Enforcement Services of the Superior Court may notify (1) any state or local agency with authority to distribute benefits to such obligor including, but not limited to, unemployment compensation and workers' compensation, (2) any person having or expecting to have custody or control of or authority to distribute any amounts due such obligor under any judgment or settlement, (3) any financial institution holding assets of such obligor, and (4) any public or private entity administering a public or private retirement fund in which such obligor has an interest that such obligor owes overdue support in a IV-D support case. Upon receipt of such notice, such agency, person, institution or entity shall withhold delivery or distribution of any such benefits, amounts, assets or funds until receipt of further notice from the IV-D agency.

(e) In IV-D cases in which a notice is sent pursuant to subsection (d) of this section, the IV-D agency shall notify the obligor that such benefits, amounts, assets or funds have been withheld as a result of overdue support in a IV-D support case in accordance with an order of the Superior Court or family support magistrate of this state, or an order of another state that has been registered in this state. The IV-D agency shall further notify the agency, person, institution or entity to whom notice was sent pursuant to subsection (d) of this section as follows: (1) Upon expiration of the time for requesting a hearing specified in section 17b-60, to make payment to the state from any such benefits, amounts, assets or funds withheld in accordance with subsection (d) of this section provided, in the case of retirement funds, such payment shall only be made in accordance with a withholding order issued under section 52-362 when the obligor is entitled to receive retirement benefits from such fund; (2) upon payment of such overdue support by such obligor, to release or distribute, as appropriate, such benefits, amounts, assets or

funds to such obligor; or (3) upon issuance of a decision by the hearing officer or the court upon appeal of such officer's decision, to take such other action as may be ordered by such officer or such court, and such agency, person, institution or entity shall forthwith comply with such notice received from the IV-D agency.

(f) Support collected pursuant to this section shall be distributed as required by Title IV-D of the Social Security Act.

(g) The Commissioner of Social Services shall adopt regulations, in accordance with chapter 54, setting forth procedures providing for adequate notice of (1) the right to a hearing before a hearing officer, and (2) procedures for a fair hearing for any person alleged by the commissioner to owe past-due or overdue child support to the state, or to an individual when the payments have been ordered payable to the state acting by and through the IV-D agency, if the commissioner has filed a lien on the property of such person or claimed an offset against money payable by the state to enforce a claim for payment of such past-due or overdue support, or intends to seize any benefits, amounts, assets or funds withheld in accordance with subsection (d) of this section or report such overdue support to a consumer credit agency.

(P.A. 85-548, S. 7; P.A. 86-359, S. 38, 44; P.A. 88-257, S. 1, 2; P.A. 90-206; 90-213, S. 40, 56; P.A. 91-139; P.A. 93-262, S. 1, 87; 93-329, S. 1; June 18 Sp. Sess. P.A. 97-7, S. 29, 38; P.A. 01-91, S. 23; 01-207, S. 9, 10, 12; P.A. 03-109, S. 1; P.A. 04-16, S. 16.)

History: P.A. 86-359 amended Subsec. (a) to add reference to family support magistrates' orders and to refer to the child support enforcement "bureau" rather than "unit"; P.A. 88-257 inserted new Subsec. (c) re withholding of order upon treasurer for payment due from winnings pursuant to chapter 226 as result of amount due for child support and amended relettered Subsec. (d) to include regulations re notice in cases where commissioner intends to claim offset against money payable by state; P.A. 90-206 amended Subsec. (b) by providing that (1) on and after November 1, 1990, and annually thereafter, the department of human resources shall compile a list of obligors who owe overdue support of one thousand dollars or more and report such list to participating consumer reporting agencies, (2) notice to obligor shall contain telephone number and address of department and notice to contact department if error, (3) the department shall provide monthly updated information re arrearages and (4) consumer reporting agencies notified that obligor no longer owes overdue support shall record information within fifteen days of notification or be liable for damages incurred by obligor for failure to record such information; P.A. 90-213 changed office to which payments are to be made from the family relations office to the commissioner of administrative services or through the support enforcement division; P.A. 91-139 amended Subsec. (b) to provide that on October 1, 1991, and monthly thereafter the department is required to report on computer tape in format acceptable to the consumer reporting agency, to add "from an obligor or a consumer reporting agency" after "requests", to increase the time within which a consumer reporting agency is required to record updated information from fifteen to thirty days after receipt, to add exception to such recording requirement providing "unless the information was in a format which was unusable by the agency or contained an error which prevented the agency from matching the updated information to previously supplied data", and to change liability of consumer reporting agency from being liable to obligor for damages incurred for failure by such agency to record that obligor no longer owes overdue support, to liability to the obligor in an amount equal to sum of (1) actual damages and (2) reasonable attorney's fee if agency negligently or wilfully fails to use reasonable efforts to comply with requirements of section; P.A. 93-262 authorized substitution of commissioner and department of social services for commissioner and department of human resources, effective July 1, 1993; P.A. 93-329 amended Subsec. (b) by adding "initial" before "court order", adding "establishing a child support obligation" after "court order" and adding provision that overdue support in amount of one thousand dollars or more shall be reported unless court or magistrate makes specific finding that amount of overdue support shall not be reported; June 18 Sp. Sess. P.A. 97-7 amended Subsec. (a) re lien for past-due child support by deleting references to Commissioner of Administrative Services, Support Enforcement Division of the Superior Court and Child Support Enforcement Bureau of the Department of Social Services and adding references to the state, acting by and through the IV-D agency and by adding provisions re lien secured by IV-D agency pursuant to procedures in general statutes, reapplications of lien proceeds and re full faith and credit, amended Subsec. (c) by making a conforming change, added new Subsecs. (d), (e) and (f) re withholding and seizure of unemployment and workers' compensation benefits, amounts due under judgment or settlement, retirement funds or assets held by financial institution of any obligor who owes overdue support of five hundred dollars or more, notice re withholding and application of overdue support collected and redesignated former Subsec. (d) as Subsec. (g), amended Subsec. (g) to provide for fair hearing re overdue support if IV-D agency has filed lien for past due support or intends to seize, withhold assets or benefits and made technical changes, effective July 1, 1997; P.A. 01-91, effective October 1, 2001, and P.A. 01-207, effective July 1, 2001, both amended Subsec. (d) by changing "the Support Enforcement Division" to "Support Enforcement Services"; P.A. 01-207 also amended Subsec. (a) to require proceeds of the lien to be applied to the family's current and past-due support first when past-due support is owing both to a family and to the state and to make a technical change, amended Subsec. (c) to make extensive changes, substituting "Connecticut Lottery Corporation" for "Comptroller", requiring such corporation to withhold from any lottery winnings payable under the provisions of chapter 226 or 229a the amount of such claim for support provided such corporation notifies such person that lottery winnings have been withheld as a

result of amount due for support, eliminating references to the Treasurer and making technical changes for purposes of gender neutrality, and amended Subsec. (e)(1) to add “and any current support obligation”, effective July 1, 2001; P.A. 03-109 amended Subsec. (a) by deleting requirement that lien proceeds be applied to family’s current and past-due support first when past-due support is owing to both a family and the state, amended Subsec. (b) by deleting provision that allowed a court or family support magistrate to make a finding that overdue support in excess of one thousand dollars shall not be reported and by making a technical change, amended Subsec. (c) to require Connecticut Lottery Corporation to check the name and other identifying information of any person redeeming a winning lottery ticket worth five thousand dollars or more against list of obligors supplied by Commissioner of Social Services and, upon confirming that such person is an obligor, withhold lottery winnings for support owed, amended Subsecs. (d) and (e) by adding “of this state, or an order of another state that has been registered in this state” and, in Subsec. (e)(1), deleting “to satisfy such overdue support and any current support obligation”, amended Subsec. (f) by replacing former provisions with provisions requiring collected support to be “distributed as required by Title IV-D of the Social Security Act”, and amended Subsec. (g) by making a technical change; P.A. 04-16 made technical changes in Subsec. (c).

Section applies when orders of support are to be paid to state by and through the Title IV-D agency and the obligor owes past due support of five hundred dollars or more; statute is separate and distinct from Sec. 17b-93 and any Sec. 17b-93 lien would be in addition to a lien for past due support obligations. 47 CS 583.

Subsec. (a):

Cited. 234 C. 194, 209.

Subsec. (b):

Cited. 234 C. 194, 210.

Subsec. (c):

Cited. 234 C. 194, 210.

Subsec. (d):

Procedures provided in this subsec. for notice and opportunity for hearing after obligor’s assets withheld, rather than before, not in violation of right to procedural due process. 47 CS 492.

Subsec. (e):

Procedures provided in this subsec. for notice and opportunity for hearing after obligor’s assets withheld, rather than before, not in violation of right to procedural due process. 47 CS 492.

Sec. 52-564. Treble damages for theft. Any person who steals any property of another, or knowingly receives and conceals stolen property, shall pay the owner treble his damages.

(1949 Rev., S. 8305; 1963, P.A. 99.)

History: 1963 act provided recovery be treble damages rather than treble the value of the property stolen.

See Sec. 53-202 re machine guns.

See chapter 952, part X, re larceny, robbery and related offenses, generally.

In a public prosecution for theft, the court will not on conviction award treble damages to the owner. 6 C. 105. Plaintiff not bound to prove his case “beyond a reasonable doubt”. 30 C. 103. Rules of evidence are the same as in any civil suit. *Id.*, 556. This is not a penal statute. 74 C. 135; 87 C. 468. Is constitutional. 82 C. 5. Statutory treble damages discussed. 188 C. 36, 42, 43. Cited. 206 C. 125, 127. Cited. 216 C. 200, 213, 217, 219. Cited. 236 C. 582, 585. Cited. 241 C. 678. Statutory theft under section is synonymous with larceny as provided in Sec. 53a-119. 255 C. 20. Statutory theft requires that defendant wrongfully take, obtain or hold property of another. *Id.*

Cited. 1 CA 303, 306. Cited. 8 CA 96—98, 104, 105. Cited. 11 CA 161—168. Cited. 18 CA 20, 31. Cited. 33 CA 303, 309. Cited. 37 CA 7, 10. Cited. 42 CA 599. Cited. 43 CA 1. Cited. 45 CA 46. Cited. *Id.*, 324. Statute synonymous with larceny under Sec. 53a-119. 47 CA 517.

Sec. 53a-35a. Imprisonment for any felony committed on or after July 1, 1981: Definite sentences; terms authorized. For any felony committed on or after July 1, 1981, the sentence of imprisonment shall be a definite sentence and the term shall be fixed by the court as follows: (1) For a capital felony, a term of life imprisonment without the possibility of release unless a sentence of death is imposed in accordance with section 53a-46a; (2) for the class A felony of murder, a term not less than twenty-five years nor more than life; (3) for a class A felony other than murder, a term not less than ten years nor more than twenty-five years; (4) for the class B felony of manslaughter in the first degree with a firearm under section 53a-55a, a term not less than five years nor more than forty years; (5) for a class B felony other than manslaughter in the first degree with a firearm under section 53a-55a, a term not less than one year nor more than twenty

years, except that for a conviction under section 53a-59(a)(1), 53a-59a, 53a-70a, 53a-94a, 53a-101(a)(1) or 53a-134(a)(2), the term shall be not less than five years nor more than twenty years; (6) for a class C felony, a term not less than one year nor more than ten years, except that for a conviction under section 53a-56a, the term shall be not less than three years nor more than ten years; (7) for a class D felony, a term not less than one year nor more than five years, except that for a conviction under section 53a-60b or 53a-217, the term shall be not less than two years nor more than five years, for a conviction under section 53a-60c, the term shall be not less than three years nor more than five years, and for a conviction under section 53a-216, the term shall be five years; (8) for an unclassified felony, a term in accordance with the sentence specified in the section of the general statutes that defines the crime.

(P.A. 80-442, S. 10, 28; P.A. 86-220; P.A. 92-260, S. 15; July Sp. Sess. P.A. 94-2, S. 2.)

History: P.A. 80-442 effective July 1, 1981; P.A. 86-220 amended Subdiv. (1) to add “imprisonment without the possibility of release” to reflect revision made by P.A. 85-366; P.A. 92-260 amended Subdiv. (6) to add reference to “Sec. 53a-217” and provision that “for a conviction under section 53a-216, the term shall be five years”, to reflect existing minimum mandatory sentences prescribed in said sections; July Sp. Sess. P.A. 94-2 added a new Subdiv. (4) to provide a term of not less than five years nor more than forty years for the class B felony of manslaughter in the first degree with a firearm under Sec. 53a-55a, renumbering the remaining Subdivs. accordingly, and amended Subdiv. (5) to provide that the specified sentence is for a class B felony “other than manslaughter in the first degree with a firearm under section 53a-55a” and delete a reference to Sec. 53a-55a, reflecting the separate sentencing provisions established for Sec. 53a-55a in Subdiv. (4).

See Sec. 53a-41 re fines for felonies.

Cited. 196 C. 655, 659. Cited. 197 C. 337, 353, 355, 357. Cited. 198 C. 92, 94. Cited. 200 C. 268, 279. Cited. *Id.*, 664, 674. Cited. 201 C. 598, 600. Cited. 210 C. 519, 525. Cited. 211 C. 258, 282—285. Cited. 212 C. 31, 47. Definite sentencing scheme for any felony under this section implicitly repealed indeterminate sentencing aspect of Sec. 21a-278(a). 214 C. 378, 382—384, 386—388. Cited. 219 C. 752, 759. Cited. 220 C. 169, 171. Cited. 225 C. 559, 562. Cited. 230 C. 109, 114, 115, 118. Cited. 234 C. 139, 143, 166. Cited. *Id.*, 735, 748. Cited. 235 C. 502, 517. Cited. 238 C. 389. Cited. 240 C. 743.

Cited. 6 CA 680, 681. Cited. 8 CA 491, 493. Cited. 9 CA 686, 693, 717, 719, 720, 731. Cited. 10 CA 659, 665. Cited. 12 CA 403—407. Cited. 19 CA 571, 573—575. Cited. 23 CA 201, 205. Cited. 32 CA 759, 764. Cited. 35 CA 714, 720. Cited. 42 CA 348.

Subdiv. (1):

Cited. 207 C. 374, 382, 392, 393. Cited. 235 C. 206, 227. Cited. 238 C. 389.

Subdiv. (2):

Cited. 216 C. 282, 285, 294, 295. Cited. 219 C. 752, 759.

Cited. 34 CA 58, 93; judgment reversed, see 232 C. 537 et seq.

Subdiv. (3):

Cited. 198 C. 671, 674. Cited. 235 C. 679, 681.

Cited. 8 CA 177, 178.

Subdiv. (4):

Cited. 202 C. 93, 99. Cited. 219 C. 752, 759.

Cited. 15 CA 416, 444.

Subdiv. (5):

Cited. 6 CA 680, 681.

Subdiv. (6):

Cited. 218 C. 273, 275.

Cited. 9 CA 686, 728. Cited. 10 CA 486, 493.

Subdiv. (7):

Cited. 211 C. 258, 284. Cited. 214 C. 378, 385.

ADMINISTRATIVE REGULATIONS

Note: Some of the following administrative regulations were adopted prior to numerical changes in the codification of certain statutes. Therefore, the regulation section number may not necessarily refer directly to powers contained in the specified statute due to various legislative changes in prior sessions. (See e.g., 31-297(b)-1)

Establishment and Administration of Safety and Health Committees at Work Sites

Sec. 31-40v-1. Purpose and Scope.

Section 31-40v of the general statutes “Establishment of safety and health committees by certain employers” requires that every covered employer administer a safety and health committee to promote health and safety in places of employment in this state. The purpose of this regulation is to specify rules for establishing and administering committees which will bring employers and employees together in a non-adversarial, cooperative, and effective effort to promote safety and health at each work site.

(Effective May 22, 1995)

Sec. 31-40v-2. Definitions.

For the purpose of sections 31-40v-1 through 31-40v-11, inclusive:

(a) “Average incidence rate” means the average incidence rate of work-related injury and illness for all industries in this state as determined by the Department of Labor.

(b) “Chairman” means the chairman of the Connecticut Workers’ Compensation Commission or his designated agent.

(c) “Employee” means a person engaged in service to an employer in a business of his employer.

(d) “Employer” means a person engaged in business who has employees, including the State of Connecticut and any political subdivision thereof.

(e) “Managerial member” means any individual who has the authority to use his judgment in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, or responsibility to direct them, or to adjust their grievances or effectively to recommend such actions.

(Effective May 22, 1995)

Sec. 31-40v-3. Establishment of committees.

(a) Except as provided in subsection (e) of section 31-40v-4 and section 31-40v-10 of these regulations, each employer who has twenty-five or more employees at any single work site in this state, as well as each employer who has twenty-four or less employees in this state whose rate of work-related injury and illness exceeds the average incidence rate, shall establish and administer a safety and health committee for that work site.

(b) In determining employment levels under sections 31-40v-1 to 31-40v-11, inclusive, of these regulations, the employer shall count all regular employees excluding temporary and seasonal workers under the employer's direction and control.

(Effective May 22, 1995)

Sec. 31-40v-4. Committee membership and composition.

(a) The committee shall be composed of at least as many employee members as employer members. The number of employee members on the committee may be greater than the number of employer members.

(b) The employer's non-managerial employees shall select employee safety and health members.

(c) Each committee shall have a chairperson elected by the committee members. Employer and employee members may have rotating responsibilities for chairing committee meetings.

(d) Reasonable efforts shall be made to ensure that committee members are representative of the major work activities at the work site.

(e) An employer need not provide a safety and health committee where the employees do not primarily report to or work at a fixed location and at work sites where less than 25 employees are employed. In such situations, a single centralized committee may represent the safety and health concerns of covered employees.

(Effective May 22, 1995)

Sec. 31-40v-5. Frequency of meetings.

The committee shall meet at least once every three months, but may meet more often should they so choose.

(Effective May 22, 1995)

Sec. 31-40v-6. Recordkeeping.

(a) The employer shall keep a roster containing the names and departments of all committee members. The names of current committee members shall be posted to ensure that all employees can readily contact committee members.

(b) The employer shall keep a record of attendance and minutes of meetings.

(c) All records regarding safety and health committees shall be provided to the chairman or his designee.

(d) The retention time for such records is three (3) years, after which said records may be purged.

(Effective May 22, 1995)

Sec. 31-40v-7. Compensation.

Any employee who participates in committee activities in his/her role as a committee member, including, but not limited to, attending meetings, training activities, and inspections, shall be paid at his/her regular rate of pay for all time spent on such activities.

(Effective May 22, 1995)

Sec. 31-40v-8. Duties and functions.

The committee's duties and responsibilities shall include, but not be limited to, establishing procedures for sharing ideas with the employer concerning:

(a) Safety inspections;

(b) Investigating safety incidents, accidents, illnesses and deaths;

(c) Evaluating accident and illness prevention programs;

(d) Establishing training programs for the identification and reduction of hazards in the workplace which damage the reproductive system of employees; and

(e) Establishing training programs to assist committee members in understanding and identifying the effects of employee substance abuse on workplace accidents and safety.

(Effective May 22, 1995)

Sec. 31-40v-9. Training.

All members of the committee shall be trained as committee members at no cost to the employees.

(Effective May 22, 1995)

Sec. 31-40v-10. Pre-existing committees.

Any employer who can establish that, prior to July 1, 1993, it had an existing safety and health program or other program determined by the chairman to be effective in the promotion of health and safety in the workplace may not be required to establish a safety and health committee pursuant to section 31-40v-3 of these regulations if such existing

safety and health committee or program is in substantial compliance with the provisions of sections 31-40v-1 to 31-40v-11, inclusive, of these regulations.

(Effective May 22, 1995)

Sec. 31-40v-11. Construction.

A safety and health committee established under and operating in conformity with the provisions of sections 31-40v-1 to 31-40v-11, inclusive, of these regulations is intended to respect all rights of all employees, including those rights arising under the National Labor Relations Act and the Railway Labor Act, and a committee operating pursuant to the provisions of sections 31-40v-1 to 31-40v-11, inclusive, shall not be construed to constitute a labor organization within the meaning of section 2(5) of the National Labor Relations Act or a representative within the meaning of section 1, sixth, of the Railway Labor Act.

(Effective May 22, 1995)

**Preliminary Act and Acts in Preparation for Work
and Employee's Place of Abode**

Sec. 31-275-1. Definitions.

As used in subdivision (1) of section 31-275 of the general statutes:

(1) "A Preliminary Act" and "Acts In Preparation For Work" mean acts performed prior to the start of the employee's work day, and include, but are not limited to, the following acts, except when undertaken at the express direction or request of the employer:

(a) Personal activities;

(b) Household chores;

(c) Personal grooming or hygiene, such as showering, dressing, brushing teeth, ironing clothes, drying and combing hair, applying makeup, and shaving;

(d) Preparing meals, including a lunch or snack to take to work;

(e) Removal of obstacles from one's walkway, driveway or yard, including, but not limited to snow, ice, trash cans, recycling containers, or stones, in order to facilitate entry from one's residence onto a public thoroughfare, unless said removal is necessary to accommodate work required by the employer; and

(f) Any other acts necessary in order to prepare oneself for work.

(2) "Employee's place of abode" includes, but is not limited to:

(a) House, condominium, or apartment;

(b) Inside of residential structures;

- (c) Garages;
- (d) Common hallways;
- (e) Stairways;
- (f) Driveways;
- (g) Walkways, or
- (h) Yards.

(Effective October 18, 1996)

Insurance and Self-Insurance Certification

Sec. 31-279-1. Claims administration. (a) As a condition of procuring a certificate of self-insurance or a license to write workers' compensation insurance, each self-insurer or carrier shall maintain a staff of claims adjusters or attorneys of sufficient size to attend hearings in the various districts at times convenient to the injured employee and the compensation commissioner.

(b) The employer, and his service company where applicable, shall complete a certification of servicing for self-insurers form and file it with the chairman or his designee.

(c) The chairman or his designee shall be notified immediately of any change of third party administrator.

(d) The claims administrator shall notify the chairman or his designee in writing within fourteen (14) days of a self-insured employer's failure to provide adequate funding for timely payment of benefits.

(Effective October 1, 1996)

(Note: See also Administrative Regulation Sections 31-284-1 through 31-284-20)

Assignment and Postponement of Hearings and the Authority of Claims Personnel

Sec. 31-279-2. Attendance at hearings. Punctual appearance by an authorized representative at every conference or hearing assigned by the commissioner is required, unless such attendance is excused by the commissioner prior to the conference or hearing.

(Effective November 30, 1971)

Sec. 31-279-3. Request for continuance. Except in cases of unforeseeable emergency, requests for continuances shall be made in time to provide adequate notice to all parties, and should normally not be made ex parte, but only after communication with other parties to the claim.

(Effective November 30, 1971)

Sec. 31-279-4. Basis for decision. Unless prior approval for cause is secured from the commissioner, a claim assigned for a formal hearing shall be decided on the basis of the evidence adduced by the parties at the time and place designated. No party can assume the granting of a continuance to produce witnesses at a later date, or for any other reason not regularly recognized in a judicial proceeding.

(Effective November 30, 1971)

Sec. 31-279-5. Voluntary agreements and stipulations. Representatives of carriers and self-insurers who appear at informal and formal hearings shall be authorized by their principals to enter into voluntary agreements and stipulations, at least up to a minimum amount, and an agent with full authority for each principal shall be reasonably accessible by telephone at the time of hearing.

(Effective November 30, 1971)

Sec. 31-279-6. Assignment of hearings. An assignment should normally be requested of a compensation commissioner only when prior consultations between the parties have failed to achieve an agreement which can be reduced to writing. It shall therefore be considered an impropriety for a hearing to be requested by an employer or carrier with no prior discussions between the claimant and the respondent.

(Effective November 30, 1971)

Sec. 31-279-7. List of approved physicians. (Omitted)

See, Sec. 31-280-1.

Sec. 31-279-8. Fees for professional services. (Omitted)

See, Sec. 31-280-2 and 31-280-3.

Obligations of Attending Physician

Sec. 31-279-9. Obligations of attending physician. Persons who supply professional services to injured employees entitled to medical care by virtue of chapter 568 of the general statutes shall be presumed to agree to the following conditions:

(a) The employer or its insurance carrier will receive an early original report of injury, and such regular subsequent progress reports from the attending physician as may be reasonably required in each case.

(b) No fee will be charged by the attending physician for the completion of any of the forms approved by the board of compensation commissioners or for routine progress reports submitted to the employer or carrier. Where detailed reports are requested or indicated, requiring a significant expenditure of time by the attending physician, a reasonable additional charge for such time will be appropriate.

(c) It shall be the duty of the attending physician, without specific request, to keep the employer or insurance carrier advised of any significant development in the course of his treatment, such as the attainment of maximum medical improvement, a hospital admission, a surgical procedure, a failure to accept indicated treatment or to keep scheduled appointments, or an ability to return to gainful employment.

(d) Upon reasonable notice, an attending physician will make himself available as a witness in hearings before a compensation commissioner, for which appearance he will be entitled to be paid a reasonable fee by the party requesting his attendance, subject to the pertinent provisions of law.

(e) All charges for medical, surgical, hospital and nursing services, except those for expert testimony, shall be solely the responsibility of the employer or carrier, and no claim will be made against the injured employee for all or part of a fee.

(f) It will be considered professionally reprehensible for a physician to refuse to send out his patient's medical report to a party properly entitled because his medical bill for services rendered has not been paid up to that time.

(g) Violation of these regulations shall constitute sufficient cause for a removal from the approved list of physicians maintained by the board of compensation commissioners.

(Effective July 9, 1973)

Medical Care Plans

Sec. 31-279-10. Medical care plans.

(a) All medical care plans submitted pursuant to Section 31-279 of the Connecticut General Statutes by any employer or, on behalf of one or more employers, by any insurer, mutual employer association, self-insurance service organization or other sponsoring organization to arrange for the provision of medical and health care services, includ-

ing medical and surgical aid or hospital and nursing service and medical rehabilitation services, shall include the following in addition to the information required by said section:

(1) The identity of any company or organization which will participate in the operation of the medical care plan, a description of such participation and, where applicable, the following:

(A) a certificate from the Secretary of the State and/or the Insurance Commissioner regarding the company or organization's good standing to do business in the State of Connecticut;

(B) a copy of the company or organization's balance sheet at the end of its most recently concluded fiscal year, along with the name and address of any public accounting firm or internal accountant which prepared or assisted in the preparation of such balance sheet;

(C) a list of the names, business addresses and official positions of members of the company or organization's board of directors or other policymaking body and of those executive officers who are responsible for the company or organization's activities with respect to the medical care plan;

(D) a list of the company or organization's principal owners;

(E) in the case of an out-of-state company or organization, a certificate that such company or organization is in good standing in its state of organization;

(F) the identity, address and current relationship of any related or predecessor company or organization; "related" for this purpose means that a substantial number of the board or policymaking body members, executive officers or principal owners of both companies are the same; and

(G) in the case of a Connecticut or out-of-state company or organization, a report of the details of any suspension, sanction or other disciplinary action relating to such company or organization in this state or in any other state.

(2) A description of the general financial arrangements between the employer, insurer, mutual employer association, self-insurance service organization or other sponsoring organization and any company or organization participating in the operation of the medical care plan, and a description of the financial arrangements with the providers of health care and medical services, including any fee schedule(s) or formula(s) used to determine the fees of such providers. To the extent permitted by law, the information required in this subdivision shall be confidential and may be reviewed only by the Chairman of the Workers' Compensation Commission or his designee.

(3) A general description of the medical care plan, including the responsibilities of the following:

(A) the employer, insurer, mutual employer association, self-insurance service organization or other sponsoring organization;

- (B) any company or organization identified in subdivision (1) of subsection (a);
- (C) providers of health care and medical services; and
- (D) employees covered under the plan.

(4) Provision that such plan applies only to illnesses or injuries incurred by employees covered under the plan subsequent to the effective date of the medical care plan.

(5) Provision that all medical and health care services that may be required within the service area identified by the plan shall be available at the offices of participating providers during regular or extended office hours, and through participating hospital emergency rooms for emergency cases which cannot be treated at the offices of participating providers during such regular or extended office hours. The numbers and locations of such participating providers, including hospital emergency rooms, shall be such that care may be provided immediately for emergency cases, that an initial evaluation and either appropriate care or referral to other plan providers may take place within twenty-four (24) hours for an injury or disease not previously treated which is not an emergency case, and that other necessary care will be provided as appropriate. With respect to hospital emergency rooms and other providers of emergency care, the plan shall indicate its minimum criteria for distance and/or travel time to such emergency care facilities from the employer's principal employment locations.

(6) A list of all employee and contract providers included within the plan; in the case of contract providers, their relationships with the plan shall be described in a written agreement, a copy of which shall be made available to the Chairman of the Workers' Compensation Commission at his request. Said list of providers shall be filed with the plan's application for approval, updated for changes at least quarterly and shall include:

(A) at least one occupational health clinic, auxiliary occupational health clinic or hospital that has a Board Eligible or Board Certified Occupational Health Physician.

(B) at least three providers (not in the same group or practice) or two providers (not in the same group or practice) with a minimum choice in total of five individual providers of each of the following types of medical and health care service:

- (i) Cardiology;
- (ii) Chiropractic Medicine,
- (iii) Dentistry;
- (iv) Dermatology;
- (v) Family Practice;
- (vi) Gastroenterology;
- (vii) General Hospital Service;
- (viii) General Surgery;

- (ix) Internal Medicine;
- (x) Neurology;
- (xi) Neurological Surgery;
- (xii) Obstetrics and Gynecology;
- (xiii) Ophthalmology;
- (xiv) Optometry;
- (xv) Orthopedic Surgery;
- (xvi) Otolaryngology;
- (xvii) Physical Medicine and Rehabilitation;
- (xviii) Physical Therapy;
- (xvix) Plastic Surgery;
- (xx) Podiatry;
- (xxi) Psychiatry;
- (xxii) Psychology;
- (xxiii) Pulmonary Medicine;
- (xxiv) Radiology;
- (xxv) Thoracic Surgery;
- (xxvi) Urology; and

(xxvii) Service from such other providers of medical and health care service as determined by the plan to be necessary.

(7) A description of the selection criteria and removal procedures for providers of medical and health care services under the medical care plan. This provision shall not be construed to require a medical care plan to accept all providers who apply for participation and meet the selection criteria. To the extent permitted by law, the information required in this subdivision shall be confidential and may be reviewed only by the Chairman of the Workers' Compensation Commission or his designee.

(8) A written description of the plan's review and appeal procedures and standards for service utilization review and dispute resolution adopted pursuant to subsections (e) and (h) of this regulation.

(9) A copy of the information to be distributed to employees covered by the medical care plan. This information shall be written in plain language and include the following:

(A) a description of the medical care and treatment services available from providers of medical and health care services listed in the plan;

(B) the manner in which the employee or his representatives may obtain medical and health care services, whether from plan providers or other providers;

(C) a description of the procedures by which an employee may question or dispute the level of benefits paid under the plan; and

(D) a detailed description of an employee's right to obtain medical care and treatment services from a provider of medical services who is not listed in the plan and the employee's financial and other obligations in the event the employee exercises this right.

(10) A statement by the employer that an eligible employee's participation in the medical care plan is not inconsistent with any collective bargaining agreement affecting such employee and that a copy of the applicable collective bargaining agreement will be made available to the Chairman on request.

(11) In the case of an insurer, mutual employer association, self-insurance service organization or other sponsoring organization, a statement that each employer whose employees are eligible to participate in the medical care plan has given written consent to such participation and such written consent is in the insurer's, association's or organization's possession and will be made available to the Chairman on request.

(12) Provision that a request made by an employee to be examined for a second opinion by a reputable practicing physician or surgeon not listed in the plan shall be considered reasonable and shall be paid for by the employer if such request is submitted to and approved by a Workers' Compensation Commissioner. For these purposes, a reputable practicing physician or surgeon shall be a physician or surgeon on the approved list of practicing physicians, surgeons, podiatrists and dentists established by regulation.

(b) The Chairman may approve plans which include employee or contract providers for some but not all of the types of medical and health care service required by subparagraph (B) of subdivision (6) of subsection (a) of this section so long as the following requirements are satisfied:

(1) the plan provides to the employees the name, address and telephone number of each contract and employee provider of the plan;

(2) for each type of medical and health care service not provided by employee or contract providers, the plan shall clearly indicate that such service is available from practitioners on the approved list of practicing physicians, surgeons, podiatrists and dentists established by regulation;

(3) the plan complies with all other requirements of this regulation except, in the case of practitioners on the approved list who are not employee or contract providers and who are not providing medical and health care services pursuant to an employee's election to obtain their services rather than the services of a plan provider, the service utilization review and dispute resolution provisions of subsection (e) shall not apply.

(c) Medical care plans submitted on behalf of employers having twenty-five (25) or more employees shall include a labor-management safety committee for each such employer with representatives of labor at least equal in number to representatives of management, in compliance with regulations established by the Workers' Compensation Commission in Sections 31-40v-1 through 31-40v-11, unless such committee representation is inconsistent with a collective bargaining agreement.

(d) Medical care plans submitted on behalf of employers having fifty (50) or more employees shall include provision for plan providers to evaluate the capacity of injured employees of such employers to return to their most recent employment, with or without modification, or to another position with their employer. Such providers shall indicate any limitations on the ability of such employees to perform work related tasks.

(e) Each medical care plan shall include provision for both a service utilization review providing a method to evaluate the necessity and appropriateness of medical and health care services recommended by a provider, and a means of dispute resolution if payment for such medical and health care services is denied. Such service utilization review and dispute resolution shall include, at a minimum, the following review and appeal procedures:

(1) Initiation of a review by any one or more of the following parties: the employee, the provider, the employer, or the medical care plan itself, either directly or through a utilization review contractor. If a party other than the plan initiates the review, such party shall supply to the plan all information in its possession which is relevant to the review. The plan may also request such information as it deems necessary to conduct the review.

(2) Upon receipt of all proffered and requested information, the plan shall review such recommended treatment, utilizing written clinical criteria which have been established by the plan and periodically evaluated by appropriate providers of medical and health care services required under Chapter 568 of the Connecticut General Statutes.

(3) Not more than two (2) business days after receipt of all such information, the plan shall provide written notice to the provider and employee of its determination regarding the recommended treatment. Any written notice of a determination not to certify an admission, service, procedure or extension of stay shall include the reasons therefor and the name and telephone number of the person to contact with regard to an appeal. The provider and the employee shall also be provided with a copy of the written review and appeal procedures.

(4) The provider or the employee may, within fifteen (15) days of the written notice of determination, notify the plan of his or her intent to appeal a determination to deny payment for the recommended treatment.

(5) Upon such appeal, the plan shall provide, at the request of the employee or provider, a practitioner in a specialty relating to the employee's condition for the purpose of reviewing the plan's initial decision.

(6) Within fifteen (15) days of the request for such review and submission of any further documentation regarding the review, the reviewing practitioner shall submit his

opinion regarding such recommended treatment to the medical director of the medical care plan who shall, within fifteen (15) days thereafter, render a written decision regarding such treatment.

(7) The employee, the provider or the employer may request a further review of the medical director's written decision; such request for further review shall be in writing and shall be submitted to the chief executive officer of the medical care plan within fifteen (15) days of the medical director's written decision. The party requesting further review shall have an opportunity for a hearing if such party requests it in writing and may, at such party's expense, produce whatever written support or oral testimony it wishes at any such hearing. Such hearing shall be conducted within fifteen (15) days of the written request therefor. The chief executive officer of the medical care plan shall make any final determination of such request for further review and may utilize an advisory committee to assist him in his determination. The chief executive officer shall issue a final written decision on the request for further review as soon as practical but, in any event, within thirty (30) days of the later of the date of submission of the written request for such review or the date of conclusion of the hearing requested as part of such review.

(8) In the case of an emergency condition, an employee or his representative shall be provided a minimum of twenty-four (24) hours following an admission, service or procedure to request certification and continuing treatment for that emergency condition before a utilization determination is made. If a determination is made not to provide such continuing treatment and the employee or his representative, the provider, or the employer requests a review of such determination, an expedited review shall be conducted by the medical director and a final decision rendered within two (2) days of the request for review.

(f) The necessity and appropriateness of medical and health care services recommended by providers of a medical care plan shall not be subject to review by a Workers' Compensation Commissioner until the plan's utilization review and dispute resolution review and appeal procedures, as described in subsection (e) have been exhausted. The decision of the chief executive officer of the plan relating to payment for such medical and health care services shall be subject to modification only upon showing that it was unreasonable, arbitrary or capricious.

(g) Each medical care plan shall include a quarterly report to the Chairman describing the result and number of appeals processed pursuant to the utilization review and dispute resolution review and appeal procedure set forth in subsection (e).

(h) The service utilization review and dispute resolution review and appeal procedures of subsection (e) shall, at a minimum, satisfy the following standards:

(1) Nurses and other health professionals other than physicians making utilization review recommendations and decisions shall hold current and valid licenses from a state licensing agency in the United States. Physicians making utilization review recommendations and decisions shall hold current and valid licenses in the State of Connecticut.

(2) Utilization review staff shall be generally available by toll-free telephone, at least forty hours per week during regular business hours.

(3) Each utilization review professional shall comply with all applicable state and federal laws to protect the confidentiality of individual medical records; summary and aggregate data shall not be considered confidential if it does not provide sufficient information to allow identification of individual patients.

(4) All hospitals which are plan providers shall permit licensed utilization review professionals to conduct reviews on the premises. Each utilization review professional shall conduct its telephone and on-site information gathering reviews and hospital communications during the hospitals' reasonable and normal business hours, unless otherwise mutually agreed. Utilization review professionals shall identify themselves by name and by the name of their organization, if any, and, for on-site reviews, shall carry picture identification.

(5) The provider being reviewed shall provide to each utilization review professional, within a reasonable period of time, all relevant information necessary for the utilization review professional to certify the admission, procedure, treatment or length of stay. Failure of the provider to provide such documentation for review shall be grounds for a denial of certification in accordance with the policy of the utilization review organization or medical care plan.

(6) No utilization review professional may receive any financial incentive based on the number of denials of certification made by such professional.

(7) Any medical care plan which engages directly in utilization review and any utilization review contractor which performs utilization review on behalf of a medical care plan shall, according to law, be licensed by the Commissioner of Insurance as a utilization review company.

(i) Each medical care plan shall include a procedure for reporting information annually which provides, at a minimum, the following:

(1) data comparing employees treated under the medical care plan with employees treated outside the medical care plan, either because their illnesses or injuries were incurred before the effective date of such plan or because they exercised their right to select their own providers outside the plan, and such comparisons shall be made in terms of:

- (A) type of care;
- (B) volume of care;
- (C) cost of care; and
- (D) lost time days per employee.

(2) the number of employees who began their treatment under the plan but subsequently sought treatment outside the plan, such data to be expressed both in absolute numbers and as a percentage of the average employee plan population.

(j) Medical care plans may include, as a means of reducing service costs and utilization, the use of appropriate employees or designated contract providers as care managers

or coordinators; such care managers or coordinators shall be licensed, as required by law and as provided in subsection (h) of this regulation and may have the following duties:

(1) To assist employees in obtaining initial treatment and subsequent referrals to providers of medical and health care services within the plan.

(2) To monitor the employee's progress under the treatment plan designed for that employee and make suggested changes or modifications in such treatment plan in the interests of quality care and cost-effective delivery of such quality care.

(3) To communicate appropriately with the employer, insurer, self-insurance service organization or other claim administrator with respect to the employee's medical and health care treatment and recommended payment therefor.

(k) Nothing in this section is intended to prohibit an employer from providing more than one medical care plan for its employees, either directly or through an insurer, mutual employer association, self-insurance service organization or other sponsoring organization.

(Effective December 2, 1997)

Notice to Employees

Sec. 31-279(b)-1. Statutory notice to employees. The notice to employees required by Public Act 75-223 shall be substantially in the following form:



STATE OF CONNECTICUT NOTICE TO EMPLOYEES

WORKERS' COMPENSATION ACT

Chapter 568 of the Connecticut General Statutes requires that your employer,

_____ /
provide benefits to you in case of injury or occupational disease in the course of employment.

Any employee who has sustained an injury in the course of employment shall forthwith notify the employer, or some person representing the employer, of such injury; and, on failure to give such notice, the commissioner may reduce the award of compensation proportionately to any prejudice which the commissioner finds the employer has sustained by reason of such failure; but the burden of proof with respect to such prejudice shall rest upon the employer. SUCH A REPORT IS NOT A WRITTEN NOTICE OF CLAIM.

The Insurance Company for this employer is:

Name: _____

Address: _____

Telephone: _____
(If authorized self-insurer so indicate)

The Workers' Compensation Office for this workplace is located at:

Address: _____

Telephone: _____ OR 1-800-223-WORK

Any questions as to your rights under the law or the obligations of the employer or insurance company should be addressed to the employer, the insurance company or the Commission.

Workers' Compensation Commission
State of Connecticut

THIS NOTICE MUST BE IN TYPE OF NOT LESS THAN TEN POINT BOLD-FACE AND POSTED IN A CONSPICUOUS PLACE IN EACH PLACE OF EMPLOYMENT. FAILURE TO POST THIS NOTICE WILL SUBJECT THE EMPLOYER TO STATUTORY PENALTY.

Date Posted _____

Sec. 31-279(b)-2. Type size on notice. Such notice shall be printed in type not less than ten point bold face.

(Effective May 24, 1976)

Sec. 31-279(b)-3. Posting requirement. Each place of employment of persons subject to the provisions of chapter 568 of the general statutes shall post such a notice in a place readily accessible to all employees.

(Effective May 24, 1976)

Sec. 31-279(b)-4. Policy revisions. The information in such notice shall be kept current by each employer to whom a certificate of solvency has been issued, and shall be revised by each insured employer each time a new policy of workers' compensation insurance is issued to it.

(Effective May 24, 1976)

Sec. 31-279(b)-5. Effective date. These regulations shall take effect upon the joint approval of the Attorney General and the Legislative Regulations Review Committee.

(Effective May 24, 1976)

Approved Physicians and Other Practitioners

Sec. 31-280-1. List of approved physicians, surgeons, podiatrists, optometrists and dentists; standards for approval and removal from the list.

(a) The list of approved practicing physicians, surgeons, podiatrists, optometrists and dentists from which an injured employee shall choose for examination and treatment under the provisions of Chapter 568, including but not limited to specialists, shall include all such practitioners who hold a current and valid license in their field in the State of Connecticut and who meet the following standards:

(1) continuation of a current and valid license in the State without revocation, suspension or limitation of such license in any way;

(2) possession of a valid federal Drug Enforcement Administration registration certificate in the case of practitioners whose license permits them to prescribe controlled drugs;

(3) compliance with the Medicare anti-kickback regulations promulgated by the United States Department of Health and Human Services;

(4) possession of admitting/active staff privileges at a general hospital accredited by the Joint Commission on Accreditation of Hospitals, if such privileges are required in

order to provide satisfactory professional services within the practitioner's area of practice;

(5) compliance with the administrative obligations of attending physicians and other practitioners under Section 31-279-9 of the Regulations of Connecticut State Agencies;

(6) forbearance from requiring in advance a payment for providing an opinion or report, either written or oral, or for presenting testimony as a witness at a hearing or a deposition;

(7) completion of a course of training, approved by the Chairman, which course shall include a session describing the general responsibilities and obligations of physicians under the provisions of Connecticut General Statutes Chapter 568, along with training in the recognition and reporting of certain occupational and other diseases under sections 31-40a and 19a-110 of the Connecticut General Statutes; and

(8) forbearance from referring workers' compensation patients for physical therapy or diagnostic testing to a facility in which such practitioner has an ownership or investment interest other than ownership of investment securities purchased by the practitioner on terms available to the general public and which are publicly traded.

(b) The chairman of the Workers' Compensation Commission may, after notice and an opportunity to be heard, remove a practitioner from the list of approved physicians, surgeons, podiatrists, optometrists or dentists if such practitioner fails to meet one or more of the standards in subsection (a) of this section.

(Effective November 23, 1993)

Practitioner Fee Schedule

Sec. 31-280-2. Practitioner fee schedule.

- (a) Definitions
- (b) Practitioner Fee Schedule
- (c) Medical Advisory Board
- (d) Practitioner Billing and Payment Guidelines
- (e) Dispute Resolution

(Effective January 31, 1994)

Sec. 31-280-3. Practitioner fee schedule.

(a) Definitions.

For purposes of section 31-280-3 governing practitioner fee schedule, the following definitions apply:

(1) “Chairman” means the Chairman of the Workers’ Compensation Commission.

(2) “CPT Code” means the descriptive terms and identifying codes used in reporting services and procedures performed by Practitioners as listed in the American Medical Association’s Physician’s Current Procedural Terminology (CPT).

(3) “Dispute Resolution Panels” means the three-member panels appointed by the Chairman pursuant to subsection (e) (2) of these regulations to consider and resolve disputes regarding CPT Code assignment or other claims and payment issues.

(4) “Employer” means any employer subject to the requirements of the Workers’ Compensation system as further defined in Conn. Gen. Stat. 31-275 (10).

(5) “Annual Increase” means the annual percentage increase in the consumer price index for all urban workers which according to Public Act 93-228 shall be applied to the Practitioner Fee Schedule as a limit on the annual growth in total medical fees.

(6) “Payor” means any person, corporation, firm, partnership, other entity, or the State of Connecticut and any public corporation within the State that, based on statutory obligation or contract, makes payment to Practitioners for services provided to employees under the Workers’ Compensation system, including but not limited to insurance companies, self-insured employers, and mutual insurance associations or trusts.

(7) “Practitioner” means any health care practitioner authorized by the Workers’ Compensation Commission to provide services to eligible employees under the Workers’ Compensation Act.

(8) “Practitioner Billing and Payment Guidelines” means the manual prepared and published by the Chairman in accordance with Public Act 93-228 to set guidelines for the billing, claims payment review, and payment process for Practitioners, Payors and Reviewers.

(9) “Practitioner Fee Schedule” means the schedule of payments to Practitioners which is established, published, and updated annually by the Chairman in accordance with these regulations.

(10) “Reviewer” means any person, corporation, firm, partnership or other entity, which may be a Payor or a third-party entity acting on behalf of a Payor, that reviews, examines, evaluates or makes recommendations for payment of any bills, claims or fees submitted by a Practitioner to a Payor under the Workers’ Compensation system. The term “Reviewer” shall not apply to individual employees of a Reviewer company providing claims payment review services.

(b) Practitioner Fee Schedule.

(1) The Chairman shall establish, publish and update annually in accordance with section 31-280-3 a Practitioner Fee Schedule.

(2) No later than sixty (60) days following the effective date of section 31-280-3, the Chairman shall establish a Practitioner Fee Schedule listing fees by CPT Codes. Such Practitioner Fee Schedule shall be calculated from a data base consisting of current

charge data (collected within the past year). Such data may be broadly based and may include health and accident claims as well as Workers' Compensation claims. Such data base shall include representative data from the entire State of Connecticut. Practitioner fees shall be uniform throughout the State. Separate conversion factors may be established for surgical, medical, radiology; pathology, anesthesiology and other types of services or claims as determined by the chairman.

The Practitioner Fee Schedule for physicians shall be established as the 74th percentile level of the data base of statewide charges. The fee schedule for non-physician practitioners billing under the same CPT Code, except for physical medicine, shall be seventy percent (70%) numerically of the Practitioner Fee Schedule for physicians. The fee will be determined by the licensure of the practitioner providing the service, not the licensure of the practitioner billing for the services.

The Chairman may contract with a private data company (1) to obtain statistically valid and reliable charge data, conversion factors, unit values, and follow-up days; and (2) to consult in establishing and updating the Practitioner Fee Schedule.

(3) The Practitioner Fee Schedule shall be adjusted and published annually with respect to the factors listed in subsection (b) (2) of section 31-280-3, upon consultation with the Medical Advisory Board and subject to the Annual Increase limit established by Public Act 93-228.

(4) Except where the Practitioner and Payer have entered into a specific written agreement providing otherwise, Provider charges for medical services provided to employees under the Workers' Compensation System shall be recognized in accordance with these regulations and the Practitioner Billing and Payment Guidelines and payable up to the Practitioner Fee Schedule. Except as otherwise provided by contract, the Practitioner Fee Schedule shall be the maximum permissible payment amount.

(c) Medical Advisory Board.

(1) The Medical Advisory Board shall advise the Chairman concerning the ongoing development and updating of the Practitioner Fee Schedule established and updated pursuant to these regulations. The Board shall review and assist the Chairman in the implementation of the Practitioner Fee Schedule, the management of disputes, issues concerning communications with Practitioners (including explanations of benefits), and any other issues that arise regarding payment review.

(2) The Medical Advisory Board shall annually review the Practitioner Billing and Payment Administration Guidelines and recommend any necessary changes.

(d) Practitioner Billing and Payment Guidelines.

(1) Pursuant to Public Act 93-228, the Chairman shall publish Practitioner Billing and Payment Guidelines. Such guidelines shall govern the billing, claims payment review, and payment process for Practitioners, Reviewers and Payors. The Medical Advisory Board shall assist the Chairman in accordance with Subsection (c) (2) of section 31-280-1.

(2) Practitioners shall bill for Workers' Compensation services using CPT Codes and the Practitioner Billing and Payment Guidelines.

(3) The guidelines shall require that Practitioners submit all bills using the HCFA 1500 form or its current equivalent beginning no later than October 1, 1993.

(4) Practitioners shall use a system of global billing for surgery claims, combining office visits with surgical fees in accordance with the guidelines.

(5) Additional areas to be covered by the guidelines include but shall not be limited to procedures for billing and payment, assignment of CPT Codes, and retention of billing documentation by Reviewers and Payors.

(e) Dispute Resolution.

(1) Each Payor shall establish an internal mechanism for resolving disputes regarding CPT Code assignment, claims payment review and other payment issues. A written description of such dispute resolution mechanism shall be filed with the Chairman not later than sixty (60) days following the effective date of these regulations and shall be provided by the Payors to Practitioners upon request. The dispute resolution mechanism shall provide for a Payor response no later than 60 days from the submission of the dispute by the Practitioner.

(2) Effective no later than sixty (60) days following the effective date of these regulations, the Chairman shall maintain a list of members to serve on the Dispute Resolution Panels. Such Dispute Resolution Panels shall resolve issues that cannot be resolved through the internal mechanisms established by Payors. Each panel shall consist of three members appointed by the Chairman: one Reviewer or Payor representative, one Practitioner representative, and one representative from the Commission. Payor representatives shall be appointed from lists of nominations provided by the Connecticut Business and Industry Association and the Insurance Association of Connecticut. Practitioner representatives shall be appointed from a list of nominations provided by the professional society that represents the Practitioner, i.e., the Connecticut State Medical Society, the Connecticut Chiropractic Association, or the Connecticut Physical Therapy Association.

(3) A Practitioner may request review of unresolved payment issue disputes by submitting a written request for review to the Chairman and the Payor. Within 21 days following receipt of such request, the Payor, or a Reviewer acting on behalf of the Payor, must forward all supporting documentation for the claim to the Dispute Resolution Panel.

(4) The Dispute Resolution Panel will consider the evidence previously submitted in the internal dispute resolution process and, at the discretion of the Panel, other relevant factors (which may include utilization). Any party may submit written argument with copies provided to other parties, but may not submit new evidence as part of such review unless permitted by the Panel.

(5) The Dispute Resolution Panel shall consider the matter and issue a written determination within 90 days following receipt of the request for review. The determination

of the Dispute Resolution Panel shall be final and the only appeal shall be in accordance with section 31-301 of the Connecticut General Statutes.

(Effective January 31, 1994)

Structure and Operation of Workers' Rehabilitation Programs

Sec. 31-283a-1. Definitions.

As used in sections 31-283a-1 through 31-283a-6, inclusive:

(1) "Chairman" means the Chairman of the Connecticut Workers' Compensation Commission, selected by the Governor pursuant to Section 31-276, whose powers are enumerated in Sec. 31-280(b); or his designee.

(2) "Commissioner" means one of the sixteen (16) Workers' Compensation Commissioners as defined in Section 31-275(3).

(3) "Rehabilitation Programs" means the following vocational rehabilitation services provided by the Workers' Compensation Commission, with available supporting benefits, to employees who have suffered disabling injuries within the provisions of the Connecticut Workers' Compensation Act:

- (A) Outreach
- (B) Testing and evaluation
- (C) Counseling
- (D) Training
- (E) Job placement
- (F) Post-placement follow-up

(Effective October 18, 1995)

Sec. 31-283a-2. Vocational rehabilitation benefit eligibility.

As provided in Section 31-283a of the general statutes, a disabled employee may be eligible for vocational rehabilitation benefits, provided the Chairman or his designee finds that:

(1) The employee, employer, insurance carrier, physician, Commissioner, or other interested party has requested vocational rehabilitation services by completing and filing an application signed by the applicant for vocational rehabilitation benefits with the Chairman or his designee.

(2) There exists a permanent impairment which substantially disables the employee for a significant period of time from performing the worker's most recent or customary

type of work and that such permanent impairment is a direct result of an injury found to be compensable under Chapter 568 of the general statutes by a Commissioner, a voluntary agreement, an award; or in lieu of those, a stipulation approved by a Commissioner.

(Effective October 18, 1995)

Sec. 31-283a-3. Vocational rehabilitation programs and benefits provided to eligible employees.

(a) **Vocational evaluation.** Each employee may be evaluated to determine the need and/or type of rehabilitation services which may be provided. This evaluation may include a summary of physical, psychological, intellectual capabilities and limitations, a work accommodation analysis, work history, education, inventories of transferable skills and vocational interests, and all other data pertinent to the individual's vocational capabilities.

(b) **Employment capabilities determination.** Following vocational evaluation, the Chairman or his designee shall determine whether:

(1) The employee has the capacity to return to his or her customary or most recent work. In this case all services will be terminated.

(2) The employee has the capacity to return to his or her customary or most recent work provided job modifications are effected. In this case the Commission will assist the employee in obtaining suitably modified employment.

(3) The employee possesses adequate vocational skills to obtain other employment. In this case the Commission will assist the employee in obtaining suitable employment.

(4) The employee's current medically documented residual capacities and vocational status is so unstable or unclear that no meaningful rehabilitation effort is practicable. In this case the Chairman or his designee will defer further determination until a change in circumstances warrants reconsideration.

(5) The employee's medically documented residual capacities present a reasonable expectation of successful completion of a program of vocational rehabilitation including but not limited to reemployment by the same employer in a different capacity, on-the-job training, or vocational education for a new occupation. In this case the Chairman or his designee will provide an appropriate program.

(6) The employee lacks sufficient transferable skills to function adequately within the labor market to which the employee is most likely to be exposed. In this case the Chairman or his designee will provide an appropriate program.

(7) Accommodation of the employee's vocational goals would not require modification of the policies, practices and procedures of the rehabilitation program such that it would cause a fundamental alteration of the nature of the services offered thereunder.

(c) **Determination of employment objective.** The Chairman or his designee shall determine which of the following employment objectives is the most feasible in each case:

(1) Reemployment by the same employer with appropriate job modification.

(2) Reemployment by the same employer after the employee has received vocational rehabilitation services.

(3) Reemployment in the competitive labor market with other than the original employer in a job after the employee has received vocational rehabilitation services.

(d) **Establishment and structure of vocational rehabilitation plan.** The Chairman or his designee will prepare an individual rehabilitation plan and trainee program manual for each disabled employee whose determined employment objective will require the disbursement of funds. Such plan shall be approved by the Chairman or his designee and contain the following data:

(1) Employment objective;

(2) Proposed beginning and ending dates;

(3) Program content;

(4) Program source;

(5) Special conditions upon which the program is based;

(6) All other data including the cost effective factors as may be required by the Chairman or his designee;

(7) Total estimated program cost;

(8) Program approval as evidenced by the signatures of the injured employee, counseling coordinator, and the Chairman or his designee. No commitment of funds shall be effected or disbursement made in the absence of these approvals.

(e) **Job placement.** The Chairman or his designee will provide appropriate services for each eligible employee for whom reemployment is proposed. These may include, but are not limited to, the following:

(1) Formal training in job seeking skills;

(2) Job market research and assessment;

(3) Job accommodation analysis;

(4) Job placement assistance as appropriate or through other agencies both public and private;

(5) Post-placement follow-up to assess the employee's successful reentry into the labor market.

(f) **Vocational counseling.** The Chairman or his designee shall provide appropriate individual counseling and rehabilitation services to each eligible employee in a timely manner.

(Effective October 18, 1995)

Sec. 31-283a-4. Rehabilitation allowance payments.

(a) **Eligibility.** The Chairman or his designee may provide to each person for whom a vocational rehabilitation plan has been approved, timely allowances for basic living expenses of the employee while engaged in a full-time vocational training program under the rehabilitation program's sponsorship, provided:

(1) The employee is not receiving or eligible to receive any benefits provided by Chapter 568 of the general statutes, is not receiving or eligible to receive other benefits such as, but not limited to, unemployment compensation or social security disability benefits.

(2) The employee is engaged in a training program described by a vocational rehabilitation plan requiring the trainee to be present at the place of instruction at least 25 scheduled hours, or at a college level program consisting of a course load of no less than 12 credit hours required and earned per semester, or no less than six credit hours required and earned during the summer.

(3) The trainee is adhering to the specific terms of the plan and trainee manual and is providing timely and accurate information as to training progress, performance, and attendance, as required by the Chairman or his designee.

(b) **Schedule of payments.** The Workers' Compensation Commission may pay vocational rehabilitation allowances to eligible trainees in accordance with the following:

(1) The allowance paid each trainee shall be a percentage of the benefits which the trainee would receive for the same period if eligible for compensation provided in Section 31-307, 31-307a, 31-308(a), or 31-308a of the general statutes; which percentage shall be established at least annually by the Chairman or his designee. An additional allowance includes travel expenses from the employee's home to the training facility and return.

(2) Each trainee's starting date and payment amount shall be approved by a Workers' Compensation Commissioner and submitted to the Chairman or his designee on an authorization for rehabilitation allowance.

(3) Payments will be made at two-week intervals, upon completion and submission to the Chairman or his designee of a claim for payment of rehabilitation allowance, at the end of each period.

(c) **Termination of payments.** The Workers' Compensation Commission shall cease to pay vocational rehabilitation allowances to any person whose training under the plan has been concluded. If payments are terminated for reasons other than scheduled expira-

tion of the trainee's vocational rehabilitation plan, written notice of termination and the reason therefor shall be provided to the employee by the Chairman or his designee.

(Effective October 18, 1995)

Sec. 31-283a-5. Discontinuance of benefits.

(a) **Maintenance of benefits.** The trainee shall complete each approved vocational rehabilitation plan unless the Chairman or his designee shall find one or more of the following conditions to exist:

(1) Absences from training exceed ten percent (10%) of the scheduled instruction time for a period; being one semester or one module (a single course or unit of instruction as defined by the training school's course description).

(2) Performance is determined to be substandard, as evidenced by a grade report, transcript, or training progress report form received from the training provider.

(3) The Commission is informed by written statement from the training provider that the trainee's conduct at the training site fails to meet minimum standards as established by the training site's written policy.

(4) Trainee has willfully submitted false claims, reports or statements to the Workers' Compensation Commission.

(5) Any combination of the preceding conditions as a result of which the program no longer offers a reasonable expectation of successful conclusion.

(b) **Procedure for vocational rehabilitation plan termination.** Except for those plans terminated for reasons stated in subdivision (5) of subsection (a) of this section, no plan may be terminated except in accordance with the following procedure:

(1) The trainee shall be given written warning specifying why his or her conduct, performance or attendance record is unacceptable, and that failure to correct the deficiency shall result in his/her termination from the program.

(2) If the deficiency set forth in the warning notice has not been corrected within 30 days, or such other time specified therein, he/she shall be withdrawn from the program.

(Effective October 18, 1995)

Sec. 31-283a-6. Contested vocational rehabilitation cases. Appeal process.

(a) **Notice of appeal.** Any person having made application for vocational rehabilitation benefits and aggrieved by action of the Workers' Compensation Commission in withholding or providing benefits, and having been unable to effect resolution through informal discussion, shall be afforded an opportunity for hearing upon submission of a written notice of appeal to the Chairman or his designee. This notice shall include but not necessarily be limited to the following:

- (1) The specific nature of the grievance;
- (2) The remedy sought;
- (3) Acceptable alternative remedies, if any.

(b) **Appeal procedure.** Upon receipt of a notice of appeal as provided in subsection (a) of this section the Chairman or his designee shall initiate the following appeal procedure:

(1) Within fifteen (15) days of receipt of a notice of appeal, an informal conference will be scheduled with the grievant, at a mutually acceptable time and place, for the purposes of effecting a remedy acceptable to both parties.

(2) If the informal conference does not result in resolution of the issue within 15 days, the grievant will be so informed in writing. The grievant may further pursue a remedy by submitting a written request for a hearing to the Chairman or his designee.

(3) The Chairman or his designee shall, not more than 30 days following receipt of the request for hearing, notify the employee of the time and place selected for the hearing.

(4) The Chairman shall conduct the hearing, accepting all relevant evidence, both oral and written.

(5) Within 30 days of the conclusion of the hearing, the Chairman shall render his written decision notifying the grievant of what remedial action, if any, the Workers' Compensation Commission is prepared to implement.

(6) The Chairman's final decision shall be binding and shall not be appealable.

(Effective October 18, 1995)

Self-Insurance Certification

Sec. 31-284-1. Definitions.

As used in Sections 31-284-1 through 31-284-20, inclusive:

(1) "Act" means the State of Connecticut Workers' Compensation Act, Chapter 568, as amended; Sections 37-3a, 38a-470, 51-85, 52-149a, and 52-174; and Administrative Regulations 31-40v-1 through 31-40v-11, 31-279-1 through 31-279-10, and 31-280-1 through 31-280-3.

(2) "Commission" means the State of Connecticut Workers' Compensation Commission.

(3) "Chairman or his designee" means the governor-appointed chairperson of the State of Connecticut Workers' Compensation Commission pursuant to Section 31-276 whose powers are enumerated in Sec. 31-280, or his designee.

(4) "Liabilities" means the amount of compensation for medical and indemnity benefits and related expenses incurred.

(5) "Outstanding Liabilities" means the estimated future costs of incurred claims.

(Effective October 1, 1996)

Sec. 31-284-2. Application process.

(a) **Application Filing.** An employer who seeks exemption from insuring its risk under the Workers' Compensation Act shall apply to the Chairman of the commission or his designee for the privilege of becoming an individual self-insurer. An employer who is approved to self-insure agrees to meet by cash payments, all obligations incurred by it under the Act as such become due and payable. An employer who is approved to self-insure is subject to the Commission's rules and regulations as adopted or amended and subject to the Commission's full right and authority to prescribe new and additional rules and regulations. The Commission's authority and its rules and regulations pertaining to self-insurance shall continue to apply to all employers previously self-insured until all liabilities incurred while self-insured have been fully discharged.

(b) **Application Form.** Application shall be made on the Commission's prescribed form and signed by an officer of the corporation, partnership, or the proprietor. All questions shall be answered fully and all required documentation shall be attached.

(c) **Insurance.** Workers' compensation insurance shall be maintained during the application process and until self-insurance authorization is effective. Applications from employers who do not have insurance as required by the Act pursuant to Section 31-284 of the general statutes shall not be considered.

(d) **Certificate of Self-Insurance.** Employers approved to self-insure are granted a certificate of self-insurance for a one-year period, or the otherwise stated duration on the certificate. The certificate shall be renewed annually, except for municipal employers issued certificates that are continuous until revoked. The Commission may stagger renewal dates of certificates to facilitate its workload. A certificate of self-insurance applies only to the applicant and its affiliated businesses or subsidiaries included in the application. Other affiliates or subsidiaries may be included under a self-insurer's certificate in the future upon the approval of the Chairman or his designee.

(Effective October 1, 1996)

Sec. 31-284-3. Partial self-insurance.

An employer may be approved by the Chairman to self-insure the operations of one or more separately incorporated and independently managed business units and insure the remainder with an insurance carrier if it can show that there will be a clear distinction between the insured and self-insured portions of the employer's liabilities. The separation of operations and payroll shall be clear. The insured portions shall be identified by name, locations, carrier, policy number, and coverage dates. If a dispute arises as to responsibility for payment, the employer shall assume full financial responsibility to

immediately render all payments to the injured employee without waiting for the dispute to be settled.

(Effective October 1, 1996)

Sec. 31-284-4. Delayed start-up.

If an employer has not implemented its self-insurance program within the first six (6) months following the Chairman or his designee's approval, the approval shall be void, thus requiring a new application to be filed for approval.

(Effective October 1, 1996)

Sec. 31-284-5. Decisions of the commission.

The Chairman or his designee may deny an application, or move to revoke a certificate of self-insurance if the employer does not have sufficient assets, net worth, or liquidity to meet its obligations, or any component of a proposed or existing self-insurance program does not meet the standards set by the Chairman or his designee.

(Effective October 1, 1996)

Sec. 31-284-6. Evaluation factors.

Self-insurance is a privilege and shall only be granted to those employers capable of demonstrating the following:

(1) Financial strength and stability sufficient to permit payment of all workers' compensation benefits and assessments required under the Act. Particular emphasis shall be placed upon:

(A) Sufficient working capital and cash flow to meet current and future obligations;

(B) Acceptable levels of long term debt; and

(C) Established record of financial stability and solvency.

(2) Accurate reporting and reserving of workers' compensation injuries and illnesses.

(3) Acceptable levels of work hazards as determined by loss history.

(4) Qualified personnel who shall handle the administration of claims and reserves, and deliver benefits to injured workers or their beneficiaries or dependents in a fair, efficient, and competent manner in accordance with the Act.

(5) Protection against catastrophic occurrences by purchasing excess insurance at levels approved by the Chairman or his designee.

(6) Years in business in present corporate form.

(7) Reliable sources of information provided.

(8) Satisfactory responses to all applicable questions on the application.

(Effective October 1, 1996)

Sec. 31-284-7. Reconsideration.

An employer whose initial or renewal application for self-insurance has been denied, or a self-insurer who takes exception to excess insurance or reserve requirements made upon it, may request a reconsideration by the Chairman or his designee. The request for reconsideration shall be submitted in writing and be received by the Chairman or his designee no later than 30 days after the notice of the Commission's determination.

(Effective October 1, 1996)

Sec. 31-284-8. Security requirements.

As a condition of self-insurance, employers shall post and maintain a security deposit for the certificate period in a form and amount approved by the Chairman or his designee, unless waived by the Chairman or his designee. All self-insurers shall execute a security deposit agreement as part of the application process. If approved, an applicant shall post a security deposit in accordance with the security deposit agreement. Security shall be provided in the form of a surety bond, an irrevocable funded trust, an irrevocable letter of credit, or cash deposit.

(1) Surety bonds shall be issued on the prescribed form. Bonds shall not be released until either a new bond is executed which fully replaces and assumes the liabilities of the previous bond or until all obligations have been fully discharged under a terminated self-insurance program.

(2) Irrevocable funded trusts may be used as a security deposit. The fund's trustee is required to report the fund's assets, market value, and investment activity on a periodic basis. Interest or dividends shall accumulate to the trust. Trust assets may not be transferred or reverted back to the employer unless amounts in excess of sufficient funding needs are approved by the Chairman or his designee.

(3) Irrevocable letters of credit and/or cash deposits may be accepted only at the discretion and approval of the Chairman or his designee. Letters of credit shall renew automatically, have a minimum sixty (60) day cancellation by certified mail, and not be subject to any conditions by the bank or contingent upon reimbursement. Letters shall be issued on the prescribed forms and issued by an acceptable bank with a branch office or confirming bank in Connecticut. Any outstanding liabilities under a letter shall be secured with a surety bond at least ten (10) days before any cancellation takes effect or the letter will be drawn on and the monies deposited to an account under the State's control. Cash deposits shall be made to a custodial account with the State or an approved depository institution. The account shall be assigned to the State by the employer to secure the payment of the employer's obligations under the Act.

(4) Funds held by the State as security shall be accompanied by appropriate legal instruments which designate their use solely for payment of workers' compensation ob-

ligations, and effectively assign right, title, and interest in such funds to the State. No judgment creditors, other than claimants entitled to benefits under the Act, have a right to levy upon any of a self-insurer's security deposits made under this regulation.

(Effective October 1, 1996)

Sec. 31-284-9. Guarantee of liabilities.

Each subsidiary or affiliate company shall provide a guarantee by the parent corporation for payment of benefits under the Act with an accompanying authorization resolution. The form and substance of such guarantee shall be approved by the Chairman or his designee. Separate legal entities may be self-insured under one certificate only if they are majority-owned subsidiaries or if the same person or group of persons owns a majority interest in such entities. An agreement jointly and severally binding each entity for the liability created under the approval shall be executed in a form acceptable to the Chairman or his designee. Execution of a Guarantee of Liabilities shall not reduce the amount of required security.

(Effective October 1, 1996)

Sec. 31-284-10. Excess insurance.

(a) Excess insurance shall be maintained by each self-insurer unless waived by the Chairman or his designee.

(b) Excess insurance shall be issued by an insurance carrier permitted to write workers' compensation insurance in the State of Connecticut. The Chairman shall approve the issuing carrier, coverage language, upper limits, and retained amounts of the policy. Thirty (30) days advance notice to the Chairman or his designee is required for cancellation.

(c) Failure to maintain said coverage will be grounds for automatic revocation of a self-insurance certificate.

(Effective October 1, 1996)

Sec. 31-284-11. Reporting requirements.

(a) Financial Reports. Initial applications shall be accompanied by the three (3) preceding fiscal years' independently audited financial reports. Renewal applicants shall submit the latest available fiscal year-end audited financial reports. Current self-insurers shall submit audited financial year-end reports within thirty (30) days of availability.

(1) If the latest audited financial statement is more than six (6) months old, the corporate treasurer, partner, or proprietor, shall file an affidavit stating that there has been no significant deterioration in the financial condition of the applicant.

(2) If there has been a material adverse change since the date of the audited financial report, an explanation from the company treasurer shall be attached or a new statement prepared and submitted.

(b) Interim reports may be requested by the Chairman or his designee when the financial strength of the employer is at question as determined by the Chairman or his designee.

(c) All applicants shall provide a description of the primary and secondary sources of funds for the payments of claims.

(Effective October 1, 1996)

Sec. 31-284-12. Claims reporting requirements.

Self-insurers shall maintain true and accurate loss records. All self-insurance applicants and self-insurers shall report loss information. Losses shall be reported at least annually at the time of renewal, but more frequent reports may be required.

(Effective October 1, 1996)

Sec. 31-284-13. Reserves.

All self-insurers are required to evaluate and maintain adequate records of the future liability of all claims incurred under its self-insurance program. Future liabilities shall represent the probable total cost of compensation over the life of each claim, based on all available information at the valuation date for the period of time covered by the annual report. Reserves shall be reported at least annually at the time of renewal, more frequent reports, however, may be required.

(Effective October 1, 1996)

Sec. 31-284-14. Additional reporting requirements.

(a) The Chairman or his designee shall be notified within ten (10) days by certified mail of any bankruptcy filing by a current or former self-insurer.

(b) If there is a change in the majority ownership of the self-insurer, through sale, merger, or corporate restructuring, the self-insurance certification shall automatically terminate and the employer shall reapply in order to continue self-insurance. The Chairman or his designee may extend termination of the self-insurance certification to allow for filing. In some cases, it may be possible to amend and transfer an existing certificate without a new application.

(Effective October 1, 1996)

Sec. 31-284-15. Renewal applications.

(a) Renewal applications are to be submitted sixty (60) days prior to the expiration of the current certificate of self-insurance. The application is to be completed in full and accompanied by:

(1) Self-insurer's latest audited annual financial report;

(2) Certificate of insurance that shows continued or renewed excess insurance coverage; and

(3) Documented compliance with security requirements.

(b) Municipal employers issued certificates that are continuous until revoked shall submit a completed municipality update form by each November first (November 1) until all self-insured claims are fully discharged.

(Effective October 1, 1996)

Sec. 31-284-16. Termination of self-insured status.

(a) An employer may voluntarily terminate its self-insurance privileges of any or all of its operations by writing to the Chairman or his designee and providing the reason for the termination, the date and time of the intended termination, the carrier name, policy number and effective date of the full coverage insurer assuming the risk after the self-insurance termination, and full identification of the purchaser of any self-insured operations sold, including the date and time the sale is effective.

(b) The Chairman or his designee shall be provided with thirty (30) days advance written notice of an employer's intent to terminate its self-insurance, but no later than ten (10) days after a change in ownership in the case of a sale.

(c) All former self-insurers are responsible for any and all workers' compensation liabilities incurred during the self-insurance period. The incurred liabilities of a subsidiary or division are not subject to transfer to another entity through a sale unless the liabilities are to be fully covered under a workers' compensation insurance policy or a qualified self-insurance program. Such transfer shall have prior written approval from the Chairman or his designee.

(d) Whenever an employer exits the self-insurance program, the Chairman or his designee may require such employer to provide all available information regarding incurred liabilities.

(e) An employer whose self-insurance certification has been terminated or revoked shall continue to provide competent administration of incurred claims. If it is determined by the Chairman or his designee that the claims are not being competently administered or reported, the Chairman or his designee may notify the employer of the problem and require it to be addressed within sixty (60) days. If the problem is not addressed within sixty (60) days, the Chairman or his designee may require the employer to select a new administrator. If the employer fails to enter into an agreement with a new administrator

in a timely manner the Chairman or his designee may designate a new claims administrator and the costs shall be borne by the employer.

(f) The Chairman or his designee may seek to enjoin a currently or previously self-insured employer from liquidating its assets, selling its tangible Connecticut property, or moving its operations out of Connecticut before it has received approval from the Chairman or his designee of an acceptable exit plan to provide for the continued payment of its outstanding workers' compensation liabilities.

(Effective October 1, 1996)

Sec. 31-284-17. Assessments.

The assessments made by the Connecticut State Treasurer under statutory provisions for the expenses of the operation of the Workers' Compensation Commission and the Second Injury Fund, or a subsequent guaranty fund, shall be paid in full. Delinquent assessments may be grounds for the revocation of a certificate of self-insurance. Each self-insurer shall report to the State Treasurer by April first (April 1) of each year the total amount of compensation paid in the previous calendar year on all losses incurred during any year of its self-insurance program. Administrative assessment payments are required of former self-insurers based upon any cases incurred during the entire period of self-insurance until all the cases are closed.

(Effective October 1, 1996)

Sec. 31-284-18. New regulation grace period.

If the specific requirements prescribed in Sections 31-284-1 through 31-284-17 would create a hardship on an existing self-insurer, the self-insurer may apply to the Chairman or his designee for a temporary deviation waiver. The request shall be made in writing before any deadline prescribed in Section 31-284-7 and should include a detailed explanation for the request and the estimated time needed to comply. The request may also suggest alternatives for achieving substantial compliance during such grace period. Approval of a temporary deviation waiver is discretionary upon showing of hardship. Approvals shall be in writing. Approvals will advise the self-insurer of its new deadline for regulatory compliance and may contain conditions necessary to the approval. The Chairman or his designee will not grant a temporary deviation waiver if there is reason to believe that a self-insurer is unable to comply with specific requirements because of deterioration in its financial position or if such waiver will impede the Commission's ability to obtain relevant information to monitor a self-insurer's financial condition.

(Effective October 1, 1996)

Sec. 31-284-19. Severability.

If any portion of this Section or its application is held invalid, remaining Sections or separate applications shall not be affected, to the end that the Sections of this regulation are severable.

(Effective October 1, 1996)

Sec. 31-284-20. Grandfathered employers.

These regulations apply to any self-insurance program approved by the Chairman or his designee on or after October 1, 1996. Employers with self-insurance programs approved by the Chairman or his designee prior to October 1, 1996 will continue to be covered by the requirements set forth by the Chairman at the time they were first approved, however, if the program has been approved for two (2) or more years, then at the time of the program's last renewal.

(Effective October 1, 1996)

(Note: See also Administrative Regulation Section 31-279-1, Claims administration.)

Filing of Voluntary Agreements

Sec. 31-296-1. Voluntary agreements. A voluntary agreement shall be prepared by the employer or his insurer in connection with all cases concerning which there is no dispute that the claimant suffered an accident and injury arising out of and in the course of his employment causing either temporary partial or temporary total disability beyond the three-day waiting period. The voluntary agreement shall be submitted to the claimant for execution by him and forwarded by the employer or its insurer to the commissioner having jurisdiction within three weeks after the employer has actual knowledge of the accident and that the disability will extend beyond the three-day waiting period. Failure of the employer to furnish the insurer with a wage statement for the computation of the proper compensation rate shall not excuse failure to comply with the provisions of this section. Failure or inability of the employer to secure a medical report shall not excuse failure to file a voluntary agreement whenever the employer or the insurer has actual knowledge, or with reasonable diligence could have secured knowledge, that the claimant was actually disabled by a compensable accident. Noncompliance with this section is subject to the penalty provided in section 31-288 of the general statutes.

(Effective January 5, 1971)

Sec. 31-296-2. Undetermined liability. In any case in which the employer or the insurer doubts the fact of accident or the causal relationship between the accident and the disability, but wishes to make payment without prejudice and without admitting liability, he shall notify both the claimant and the commissioner by letter that payment

will be made without prejudice. Such letter shall contain a statement of the average weekly wage, the compensation disability rate, the number of dependent children or stepchildren and the total weekly benefit to be paid. A formal notice of the employer's intention to contest liability (Form 43) shall accompany such letter to protect the respondent's rights. Payments without prejudice shall be made for not more than six weeks. If, at the end of such period, the employer or insurer has completed his investigation and determines the accident is compensable, a voluntary agreement shall be offered. Otherwise, the employer shall promptly request an informal hearing.

(Effective January 5, 1971)

Preclusion of Compensation Liability

Sec. 31-297(b)-1. Motion to Preclude. Whenever a party files a Motion to Preclude presentation of defenses, alleging rights under Sec. 31-297(b) C.G.S., the movant shall support such filing by such documents as are appropriate, including but not limited to affidavits, copies of notices with return receipt indicating date of service and written admissions. The movant shall also file a memorandum of law in support of such motion.

The adverse party prior to the date set for hearing on such motion shall file opposing affidavits and any further documentation and memoranda of law.

All such motions and accompanying filings and memoranda shall be filed and served on all parties.

Upon good cause shown the Commissioner may waive any of these requirements.

(Adopted by Commission March 19, 1987)

(Effective date: April 1, 1987)

[Note: See, Sec. 31-294c]

Appeal from Compensation Commissioner (CRB Appeal Procedure)

Sec. 31-301-1. Appeal. An appeal from an award, a finding and award, or a decision of the commissioner upon a motion shall be made to the Compensation Review Board by filing in the office of the commissioner from which such award or such decision on a motion originated an appeal petition and five copies thereof. Such appeal shall be filed within twenty days after the entry of such award or decision and shall be in substantial conformity with the forms approved by said Board. Such commissioner within three days thereafter shall mail such petition and three copies thereof to the chairman of the Compensation Review Board and a copy thereof to the adverse party or parties, and shall thereupon, or as soon thereafter as shall be practicable, cause to be filed with the Chairman of the Compensation Review Board a certified copy of the award or of the

decision upon a motion together with a finding upon which the award was predicated, with such other parts of the record as are necessary for a proper consideration of the appeal. The commissioner shall, upon order of the Compensation Review Board, file a certified copy of any other document comprising a part of the record which the Board deems necessary for the proper disposition of the appeal.

(Effective December 18, 2001)

Sec. 31-301-2. Reasons of Appeal. Within ten days after the filing of the appeal petition, the appellant shall file with the compensation review division his reasons of appeal. Where the reasons of appeal present an issue of fact for determination by the division, issue must be joined by a pleading filed in accordance with the rules applicable in ordinary civil actions; but where the issue is to be determined upon the basis of the finding of the commissioner and the evidence before him, no pleadings by the appellee are necessary.

(Effective June 24, 1980)

Sec. 31-301-3. Finding. The finding of the commissioner should contain only the ultimate relevant and material facts essential to the case in hand and found by him, together with a statement of his conclusions and the claims of law made by the parties. It should not contain excerpts from evidence or merely evidential facts, nor the reasons for his conclusions. The opinions, beliefs, reasons and argument of the commissioner should be expressed in the memorandum of decision, if any be filed, so far as they may be helpful in the decision of the case.

(Effective June 24, 1980)

Sec. 31-301-4. Correction of Finding. If the appellant desires to have the finding of the commissioner corrected he must, within two weeks after such finding has been filed, unless the time is extended for cause by the commissioner, file with the commissioner his motion for the correction of the finding and with it such portions of the evidence as he deems relevant and material to the corrections asked for, certified by the stenographer who took it, but if the appellant claims that substantially all the evidence is relevant and material to the correction sought, he may file all of it so certified, indicating in his motion so far as possible the portion applicable to each correction sought. The commissioner shall forthwith, upon the filing of the motion and of the transcript of the evidence, give notice to the adverse party or parties.

(Effective June 24, 1980)

Sec. 31-301-5. Evidence to be Filed by Appellee. The appellee should if he deems that additional evidence is relevant and material to the motion to correct, within one week after the appellant has filed his transcript of evidence, so notify the commissioner, and at the earliest time he can procure it file with the commissioner such additional evidence.

(Effective June 24, 1980)

Sec. 31-301-6. Assignable Errors. The reasons of appeal may assign, in addition to other errors: first, that the conclusions of the commissioner are legally inconsistent with the subordinate facts found; second, that the commissioner erred in refusing to grant a motion to correct the finding or in refusing to find the facts as contained in the motion.

(Effective June 24, 1980)

Sec. 31-301-7. Duty of Commissioner on Appeal. The commissioner shall file with the compensation review division, within a reasonable time, such motions together with his decisions thereon. If the motions are denied in whole or in part and such denial is made a ground of appeal, the commissioner shall, within a reasonable time thereafter, file in the compensation review division the transcripts of evidence as may have been taken before the commissioner in the form of testimony, or taken by him in other ways, and deemed by him to be relevant and material to these corrections.

(Effective June 24, 1980)

Sec. 31-301-8. Function of Compensation Review Division. Ordinarily, appeals are heard by the compensation review division upon the certified copy of the record filed by the commissioner. In such cases the division will not retry the facts or hear evidence. It considers no evidence other than that certified to it by the commissioner, and then for the limited purpose of determining whether the finding should be corrected, or whether there was any evidence to support in law the conclusion reached. It cannot review the conclusions of the commissioner when these depend upon the weight of the evidence and the credibility of witnesses. Its power in the corrections of the finding of the commissioner is analogous to, and its method of correcting the finding similar to the power and method of the Supreme Court in correcting the findings of the trial court.

(Effective June 24, 1980)

Sec. 31-301-9. Additional Evidence. If any party to an appeal shall allege that additional evidence or testimony is material and that there were good reasons for failure to present it in the proceedings before the commissioner, he shall by written motion request an opportunity to present such evidence or testimony to the compensation review division, indicating in such motion the nature of such evidence or testimony, the basis of the claim of materiality, and the reasons why it was not presented in the proceedings before the commissioner. The compensation review division may act on such motion with or without a hearing, and if justice so requires may order a certified copy of the evidence

for the use of the employer, the employee or both, and such certified copy shall be made a part of the record on such appeal.


(Effective June 24, 1980)

Sec. 31-301-10. Pro Forma Award. In the case of a pro forma award by a commissioner as provided by Section 31-324, Connecticut General Statutes, if a correction of the commissioner's finding is sought, an appeal to the compensation review division shall be taken but shall be confined to the issues involved in the corrections claimed.

(Effective June 24, 1980)

Sec. 31-301-11. Motion to Correct Not Reserved. Motions to correct the finding of the commissioner cannot be reserved. They must be decided by the compensation review division.


(Effective June 24, 1980)

	State of Connecticut Workers' Compensation Commission <small>Please TYPE or PRINT IN INK</small>	<small>Rev. 10-20-2001</small>	<h1 style="font-size: 2em; margin: 0;">PFR</h1>
<h2 style="margin: 0;">Petition for Review</h2> <p style="margin: 0;">Compensation Review Board</p> <p style="margin: 0; font-size: 0.8em;">Parties should consult Section 31-301 C.G.S. and any other statutes and Administrative Regulations pertaining to the appeal process.</p>	Date filed with CRB <small>(for WCC use only)</small>	WCC File # 	
		Date filed in District <small>(for WCC use only)</small>	
Appeal The undersigned party(ies) hereby appeal(s) to the Compensation Review Board from the Commissioner's: <input type="checkbox"/> finding & award/dismissal <input type="checkbox"/> ruling on motion <input type="checkbox"/> order dated: _____	Claimant Name of Claimant _____ Address _____ City/Town _____ State _____ Zip Code _____		
Directions and Requirements An original and five (5) copies of this form must be completed and filed with a district office, preferably where the award, order/finding, or decision which you are appealing was rendered, <u>within twenty (20) days after its issuance, or the appeal will be dismissed.</u> Reasons of Appeal [See Sec. 31-301-2] A statement of the reasons for the appeal must be filed with the Compensation Review Board within ten (10) days after the filing of this petition, unless the Chairman extends such time for cause. The reasons should state why the trial Commissioner erred in regard to the law, or in regard to finding or not finding important facts according to the evidence presented at the hearing. Correction of Finding [See Sec. 31-301-4] If Appellant claims the Commissioner's factual findings are incorrect, a motion to correct the findings should be filed within two (2) weeks after such findings have been filed, unless the Commissioner extends such time for cause. With the motion must be filed the portions of the evidence and/or such portions or all of the transcript upon which the Appellant relies; and, for this purpose a transcript must be requested. Are you requesting a transcript for this appeal? <input type="checkbox"/> Yes <input type="checkbox"/> No If a transcript is requested, please enter the appropriate formal hearing date(s): _____ Additional Evidence [See Sec. 31-301-9] The Appellant may also file a motion to submit additional evidence or testimony, together with the reasons for failure to present it in the hearing. Will you be filing a motion asking permission to submit additional evidence or testimony? <input type="checkbox"/> Yes <input type="checkbox"/> No	v. Employer Name of Employer _____ Address _____ City/Town _____ State _____ Zip Code _____ Insurer Name of Insurer _____ Address _____ City/Town _____ State _____ Zip Code _____ Signature of Appellant or Attorney Signature _____ Date _____ Name of Appellant or Attorney _____ Address _____ City/Town _____ State _____ Zip Code _____		

**STATE OF CONNECTICUT
WORKERS' COMPENSATION COMMISSION
FORMS**


The following selected forms are enclosed for the readers' convenience. They represent the forms which are frequently referred to in the administration of the Workers' Compensation Act.

Please note forms may be subject to change.

	State of Connecticut Workers' Compensation Commission <small>Please TYPE or PRINT IN INK</small>	<small>Rev. 7-22-2002</small>	VA
<h2 style="margin: 0;">Voluntary Agreement</h2> <p style="margin: 0;">This form is <u>NOT</u> a final settlement.</p> <ul style="list-style-type: none"> Review and sign 4 copies. This does NOT close out your case. Your eligibility for Rehabilitation Services remains unaffected by this agreement. Certain individuals may be eligible to receive COLAs pursuant to C.G.S. § 31-307a. 		WCC File # _____ Insurer # _____ Date filed in District _____ <small>(for WCC use only)</small>	
Employee Name _____ Soc. Sec.# (optional) _____ D.O.B. (MMDDYY) _____ Address _____ City/Town _____ State _____ Zip Code _____ Tel.# _____	Concurrent Employment <input type="checkbox"/> Check, if employee had MORE THAN ONE employer <small>If concurrently employed, see reverse side for directions.</small>		
Employer Name _____ Address _____ City/Town _____ State _____ Zip Code _____ Tel.# _____ FICA withheld for the above-named employee? <input type="checkbox"/> YES <input type="checkbox"/> NO	Injury Date of Injury (MMDDYY) _____ Date Incapacity Began (MMDDYY) _____ City/Town of Injury _____ State _____ Zip Code _____ Cause of Injury _____ Describe Specific Body Part(s) Injured and Nature of Injury: _____ <input type="checkbox"/> Occupational Disease <input type="checkbox"/> Repetitive Trauma Name of Authorized Physician _____		
Insurer Name _____ Pnt.# _____ Address _____ City/Town _____ State _____ Zip Code _____ Tel.# _____ Third Party Administrator _____			
Computation of Average Weekly Wage The number of weeks worked* _____ divided into the Gross Wages earned \$ _____ equals the Average Weekly Wage \$ _____ <small>*52 weeks is the maximum number allowed</small>			
IF THE BENEFIT IS FOR: <ol style="list-style-type: none"> 1 — TOTAL Incapacity, the Basic Compensation Rate is based upon the appropriate benefit rate table [C.G.S. § 31-307]. Employer to pay to employee \$ _____ per week. 2 — TEMPORARY PARTIAL Incapacity, Light Duty Job Differential, and/or Job Search, benefit paid per benefit rate table to a maximum of \$ _____ [C.G.S. § 31-308(a)]. 3 — PERMANENT PARTIAL Disability, the Specific Award is paid at the Basic Compensation Rate [C.G.S. § 31-308(b)], according to the following: <ol style="list-style-type: none"> (a) Employer to pay employee for _____ % loss, or loss of use, of body part(s)* _____ at \$ _____ per week. <small>*INDICATE <input type="checkbox"/> master OR <input type="checkbox"/> non-master</small> (b) Pursuant to C.G.S. § 31-308(b), the benefit computes to _____ weeks beginning on (MMDDYY) _____, the date of Maximum Medical Improvement. (c) A Licensed Physician's Report, as well as Form 1A ("Filing Status & Exemption"), MUST be attached or this form will NOT be processed. 			
Agreement and Approval <small>The Voluntary Agreement will NOT be processed without both signatures and the Form 1A, Filing Status & Exemption.</small>			
The undersigned parties acknowledge and accept all of the facts stated above, subject to C.G.S. § 31-315. Employee Signature (and parent/guardian, if minor) _____ Date (MMDDYY) _____ Authorized Signature of Respondent _____ Date (MMDDYY) _____ Name of Person Completing Form (please print) _____ Tel.# (area code + number + extension) _____	Workers' Compensation Commission Approval <small>(for WCC use only)</small>		

See reverse side for Calculations and Information on Concurrent Employment.

WORKSHEET Calculating Concurrent Employment / Second Injury Fund Responsibility <small>(C.G.S. § 31-310)</small>		Employee Name: _____
<p>If the injured employee was working for more than one employer on the date of the injury, the employer in whose employ he/she was injured is responsible for (1) all medical costs and either (2) the entire weekly compensation rate <i>(if wages earned from this employer entitle the injured employee to the maximum compensation rate)</i> or (3) a pro rata portion of the weekly compensation rate based on the calculations below.</p> <p>Only wages earned during the "weeks of concurrent employment" listed below (A) can be used in the calculations.</p> <p>Weeks of Concurrent Employment: from _____ to _____ Total number of weeks = _____ (A) <small>(MMDDYY) (MMDDYY)</small></p>		
Responsible Employer		
Responsible Employer _____ Address _____ City/Town _____ State _____ Zip Code _____ Tel.# _____ <p style="text-align: right;">Gross Wages earned from this employer during weeks of concurrent employment = \$ _____ (B)</p>		
Concurrent Employers		
Concurrent Employer 1 _____ Address _____ City/Town _____ State _____ Zip Code _____ Tel.# _____ <p style="text-align: right;">Gross Wages earned during weeks with Concurrent Employer 1 = \$ _____</p> Concurrent Employer 2 _____ Address _____ City/Town _____ State _____ Zip Code _____ Tel.# _____ <p style="text-align: right;">Gross Wages earned during weeks with Concurrent Employer 2 = \$ _____</p> <p style="text-align: right;">Add TOTAL Gross Wages earned from the Concurrent Employer(s) = \$ _____ (C)</p>		
Total Gross Wages		
<p style="text-align: right;">Total number of weeks worked concurrently for all employers listed above (same as A) = _____ (D)</p> <p style="text-align: right;">Total Gross Wages earned from all employers during period of concurrent employment is (B) plus (C) = \$ _____ (E)</p>		
Calculation and Responsibility for Payment of Benefits		
<p style="text-align: center;">Average Weekly Wage for all employers is (E) divided by (D) = \$ _____ <small>(See the Benefit Rate Table that coincides with the date of injury.)</small></p> <p style="text-align: right;">Total incapacity compensation rate for this AWW = \$ _____ (F)</p> <p style="text-align: center;">Average Weekly Wage for responsible employer is (B) divided by (D) = \$ _____ <small>(See the Benefit Rate Table that coincides with the date of injury.)</small></p> <p style="text-align: right;">Total incapacity compensation rate for this AWW = \$ _____ (G)</p> <p style="text-align: right;">Amount of compensation to be contributed by the Second Injury Fund (Form 44) is (F) minus (G) = \$ _____ (H)</p>		



**State of Connecticut
Workers' Compensation Commission**
Please TYPE or PRINT IN INK

Rev. 4-4-2003

1A

Filing Status and Exemption

This form must be executed in every case of compensable disability for injuries occurring ON OR AFTER October 1, 1991, and must be completed in its entirety.

Employee

Name _____ Soc. Sec.# (optional) _____

Address _____

City/Town _____ State _____ Zip Code _____

WCC File # _____

Date filed in District _____

(for WCC use only)

Filing Status and Exemptions

In order to determine your weekly benefit rate, as per Sec. 31-310 C.G.S., we need the following information:

1. Select your Federal tax filing status based upon your ACTUAL filing status as of the date of injury listed at right:

Single
 Head of Household
 Married filing jointly
 Married filing separately
2. Number of exemptions (including yourself) as of the date of injury listed at right = _____
3. Check all appropriate boxes:

Employee 65 years of age or older
 Employee legally blind
 Spouse 65 years of age or older
 Spouse legally blind
4. FICA withheld for the above-named employee? YES NO — If NO, insurer must manually calculate weekly benefit rate.
5. List name (yourself first), date of birth, and relationship to you for all exemptions included in question #2, above:

Name	Date of Birth	Relationship
		SELF

Injury

Date of Injury _____

The Filing Status and Exemption(s) indicated at left MUST reflect employee's Federal tax status for the Date of Injury provided here.

Concurrent Employment

To be certain you receive all the benefits to which you are entitled provide the following information, if you were working for more than one employer on the date of injury indicated above:

Name of Employer	Address	Date of Hire

NOTE: Wage information for each concurrent employer must be supplied by the claimant.

Signature of Injured Worker or Representative

WARNING: Any person who intentionally misrepresents or fails to disclose any material fact related to a claimed injury may be guilty of a felony.

Employee's Signature _____ Date _____

State of Connecticut
Workers' Compensation Commission
COMMUTATION AND WHAT IT MEANS

A COMMUTATION IS a lump sum payment of permanent partial disability benefits as awarded by a Voluntary Agreement approved by this office. Instead of receiving your benefits on a weekly basis, you or your attorney may request that the Commissioner order the insurance company to pay either a portion of or the entire amount of the award in a lump sum payment.

COMMUTATIONS ARE AWARDED pursuant to Section 31-302 of the Connecticut General Statutes. In determining whether your request is "just or necessary" according to Section 31-302, you may be required to provide a specific reason why your benefits should be paid in a lump sum. For example, if you need the money to pay outstanding debts, the commissioner may require you to provide copies of outstanding bills, or if you plan to use the money to purchase a home, car or business, you may be required to provide a copy of the sales contract. Since ordering a commutation is "discretionary", the Commissioner can refuse to grant any lump sum payment if he/she does not feel it would be in your best interest.

IF THE COMMISSIONER GRANTS your request to receive your benefits in a lump sum, the total amount will be reduced by up to 6%. This represents the discount the insurance company is entitled to for paying your future benefits now.

IN ADDITION, you understand that by accepting the lump sum payment you will be receiving benefits that would normally be paid over a period of time. Therefore, if at a later date during the period you would be receiving your permanent partial disability benefits your doctor determines you are totally disabled as a result of your work injury, THE INSURANCE COMPANY MAY REFUSE TO PAY YOU ANY FURTHER BENEFITS DURING THIS PERIOD OF TIME. Many insurance companies, as well as the Second Injury Fund, may agree to pay applicable cost of living adjustment and dependency allowances for the period of time you are found to be totally disabled. However, they may refuse to pay your full compensation for that time period.


If you have any questions regarding the Commutation or its effects on your entitlement to future benefits, please call your Representative or the district office. If not, please indicate below whether you:


- | | YES | NO |
|--|-----|-----|
| a) have returned to work | ___ | ___ |
| b) understand the issue discussed above,
and | ___ | ___ |
| c) still wish to receive all or a portion
of your benefits in a lump sum payment. | ___ | ___ |

You will so indicate by signing your name below the appropriate paragraphs and dating it.

Witness

Claimant/Date

 <p>State of Connecticut Workers' Compensation Commission Please TYPE or PRINT IN INK</p>	<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Rev. 1-15-2004</p>	<h1 style="font-size: 2em; margin: 0;">6B</h1>
<p>Coverage Election by Employee who is an Officer of a Corporation, Manager of an LLC, or Member of a Multiple-Member LLC</p> <p>Pursuant to Section 31-321 C.G.S., this notice must be served upon the Compensation Commissioner in person or by registered or certified mail.</p>		<p>Date filed in District</p> <p>(for WCC use only)</p>
<p>Coverage Election</p> <p>To the Compensation Commissioner for the _____ Compensation District of Connecticut at _____ <small>(district number) (city of compensation office)</small></p> <p>and to _____ of _____, Employer: <small>(name of employer) (employer's city/town)</small></p> <p>I, _____, an Employee of _____, <small>(name of employee) (soc. sec. # — optional)</small></p> <p>_____ located at _____ <small>(exact name of corporation or LLC)</small></p> <p>_____ and also the _____ <small>(complete address of corporation or LLC)</small></p> <p>_____ of said Corporation or LLC, <small>(office held)</small></p> <p>hereby elect to:</p> <p><input type="checkbox"/> BE EXCLUDED FROM COVERAGE under the Workers' Compensation Act pursuant to Section 31-275 of the Connecticut General Statutes</p> <p><input type="checkbox"/> REVOKE ANY PREVIOUS ELECTION OF EXCLUSION from the provisions of Section 31-275 of the Connecticut General Statutes</p>		
<p>Affirmation</p> <p>Section 31-284 of the Connecticut General Statutes requires that workers' compensation insurance be obtained for all covered employees.</p> <p>Dated on this _____ day of _____, 20____. <small>(number) (month) (year)</small></p> <p>Employee Signature _____ Soc. Sec. # (optional) _____</p> <p>Employee Address _____</p> <p>City/Town _____ State _____ Zip Code _____</p>		

 <p>State of Connecticut Workers' Compensation Commission Please TYPE or PRINT IN INK</p>	<p>Rev. 1-15-2004</p>	<h1 style="margin: 0;">6B-1</h1>
<p>Coverage Election by Employees who are Members of a Partnership</p> <p>Pursuant to Section 31-321 C.G.S., this notice must be served upon the Compensation Commissioner in person or by registered or certified mail.</p> <p>If there are more than four partners, attach additional sheets for names, signatures, and social security numbers.</p>		<p>Date filed in District _____</p> <p style="text-align: center; font-size: small;">(for WCC use only)</p>
<p>Coverage Election</p>		
<p>To the Compensation Commissioner for the _____ Compensation District of Connecticut at _____</p> <p style="text-align: center; font-size: x-small;">(district number) (city of compensation office)</p> <p>and to _____</p> <p style="text-align: center; font-size: x-small;">(name of partnership)</p> <p>of _____ having a total of _____ partners:</p> <p style="text-align: center; font-size: x-small;">(complete address of partnership) (number)</p> <p>We, _____ , _____ ,</p> <p style="text-align: center; font-size: x-small;">(name of partner 1) (name of partner 2)</p> <p>_____ , _____ , employees at</p> <p style="text-align: center; font-size: x-small;">(name of partner 3) (name of partner 4)</p> <p>_____ , _____</p> <p style="text-align: center; font-size: x-small;">(exact name of partnership) (CT registration number)</p> <p>hereby elect to:</p> <p><input type="checkbox"/> BE EXCLUDED FROM COVERAGE under the Workers' Compensation Act pursuant to Section 31-275(10) of the Connecticut General Statutes</p> <p><input type="checkbox"/> REVOKE ANY PREVIOUS ELECTION OF EXCLUSION from the provisions of Section 31-275(10) of the Connecticut General Statutes</p>		
<p>Affirmations</p>		
<p style="text-align: center;">Section 31-284 of the Connecticut General Statutes requires that workers' compensation insurance be obtained for all covered employees.</p> <p>Dated on this _____ day of _____, 20____.</p> <p style="text-align: center; font-size: x-small;">(number) (month) (year)</p> <p>Partner 1: Signature _____ Soc. Sec. # (optional) _____</p> <p>Partner 2: Signature _____ Soc. Sec. # (optional) _____</p> <p>Partner 3: Signature _____ Soc. Sec. # (optional) _____</p> <p>Partner 4: Signature _____ Soc. Sec. # (optional) _____</p>		



State of Connecticut
Workers' Compensation Commission

Please TYPE or PRINT IN INK

Rev. 4-15-2004

75

Date filed in District

Coverage Election by Sole Proprietor
or Single-Member LLC

Pursuant to Section 31-321 C.G.S., this notice must be served upon the Compensation Commissioner in person or by registered or certified mail.

(for WCC use only)

Coverage Election

To the Compensation Commissioner for the _____ Compensation District of Connecticut at _____
(district number) (city of compensation office)

the undersigned sole proprietor of a business or member of a single-member LLC hereby elects to:

- BE INCLUDED FOR COVERAGE** under the Workers' Compensation Act pursuant to Section 31-275 of the Connecticut General Statutes
- REVOKE ANY PREVIOUS ELECTION OF INCLUSION** pursuant to the provisions of Section 31-275 of the Connecticut General Statutes

Affirmation

Section 31-284 of the Connecticut General Statutes
requires that workers' compensation insurance be obtained for all covered employees.

Dated on this _____ day of _____, 20____.
(number) (month) (year)

Employee Signature _____ Soc. Sec. # (optional) _____

PRINT Employee Name _____ Address _____

City/Town _____ State _____ Zip Code _____

Business / Company Name _____ Address _____

City/Town _____ State _____ Zip Code _____

Federal Employer Identification Number _____ CT Registration Number _____



State of Connecticut
Workers' Compensation Commission

DIRECTIONS for FILING FORMS 7A, 7B and 7C

Rev. 10/2/2004

7A - 7B - 7C
DIRECTIONS

Building Permit Requirements for Workers' Compensation

Section 31-286b of the Workers' Compensation Act requires anyone who requests a building permit to first submit "proof of workers' compensation coverage for all of the employees who are engaged to perform services on the site of the construction project for which the permit was issued."

The only exceptions to this law are the sole proprietor or property owner who will **not** be acting as general contractor or principal employer.

What to give to the Building Official to obtain a Building Permit:

1. The **General Contractor or Principal Employer** must provide a written certificate of workers' compensation insurance for all of the employees on their project. This certificate may **not** be for liability, disability or any other type of insurance.
2. The **Sole Proprietor or Property Owner** who **will not** act as a general contractor or principal employer is not required to have workers' compensation coverage. In order to obtain the building permit, a **FORM 7A** should be completed and given to the building official.
3. The **Sole Proprietor or Property Owner** who **will** act as a general contractor or a principal employer must provide a written certificate of workers' compensation insurance for all of the employees on their project and must file a **FORM 7B** with the building official — **OR** he will sign a sworn notarized affidavit on **FORM 7B**, stating that he will require proof of workers' compensation insurance for all those employed on the job site.
4. The **General Contractor or Principal Employer** who has properly **excluded** himself from coverage using the appropriate WCC form (see **NOTE** below) must file the **FORM 7C** with the building official. This form certifies that they have properly excluded themselves, and attests that they will require proof of workers' compensation insurance from every employee that works on the designated job site.

NOTE: The general contractor or principal employer may exclude himself from workers' compensation coverage by filing one of the following forms with the appropriate Workers' Compensation Commission district office:

Form 6B for employees who are Officers of a Corporation or Managers / Members of an LLC

Form 6B-1 for employees who are Members of a Partnership



State of Connecticut
Workers' Compensation Commission

Please TYPE or PRINT IN INK

Rev. 10/12/2004

7A

**Proof of Workers' Compensation Coverage when Applying
for a Building Permit for the Sole Proprietor or Property Owner
who WILL NOT act as General Contractor or Principal Employer**

Applicant for Building Permit

Name of Applicant for Building Permit _____

Property located at _____

in the City / Town of _____

Attest

If you are the owner of the above-named property or the sole proprietor of a business doing work on the site of the construction project at the above-named property and you WILL NOT act as the general contractor or principal employer, you are not required to have workers' compensation insurance coverage.

CHECK ONE (1) BOX ONLY and complete the following:

I am the **OWNER** of the above-named property. I WILL NOT act as the general contractor or principal employer.

Signature of OWNER Applicant _____

I am the **SOLE PROPRIETOR** of a business doing work at the above-named property. I WILL NOT act as the general contractor or principal employer.

Name of Business _____

Federal Employer ID# (FEIN) _____

Signature of SOLE PROPRIETOR Applicant _____



State of Connecticut
Workers' Compensation Commission

Please TYPE or PRINT IN INK

Rev. 10-12-2004

7B

Proof of Workers' Compensation Coverage when Applying for a Building Permit for the Sole Proprietor or Property Owner who WILL act as General Contractor or Principal Employer

Applicant for Building Permit

Name of Applicant for Building Permit _____
 Property located at _____
 in the City / Town of _____

Attest

If you are the owner of the above-named property or the sole proprietor of a business doing work on the site of the construction project at the above-named property and you WILL act as the general contractor or principal employer, you must provide proof of workers' compensation insurance coverage for all employees.

Complete this form and, if applicable, sign the Affidavit below in the presence of a Notary Public or a Commissioner of the Superior Court.

CHECK ONE (1) BOX ONLY, provide the appropriate information, and sign:

I am the **OWNER** of the above-named property. I WILL act as the general contractor or principal employer and, as such, will submit proof of workers' compensation insurance coverage for all employees who are doing work on the site of the construction project at the above-named property.

Signature of OWNER Applicant _____

I am the **SOLE PROPRIETOR** of a business doing work at the above-named property. I WILL act as the general contractor or principal employer and, as such, will submit proof of workers' compensation insurance coverage for all employees who are doing work on the site of the construction project at the above-named property.

Signature of SOLE PROPRIETOR Applicant _____

I am the **OWNER** of the above-named property or the **SOLE PROPRIETOR** of a business doing work at the above-named property. I will not personally submit proof of workers' compensation insurance coverage, but I will attest to the following:

AFFIDAVIT

I hereby swear and attest that I will require proof of workers' compensation insurance for every contractor, subcontractor, or other worker before he or she does work on the site of the construction project at the above-named property in accordance with Section 31-286b of the Workers' Compensation Act.

Signature of OWNER or SOLE PROPRIETOR Applicant _____

Name of Business—*if applicable* _____

Federal Employer ID# (FEIN)—*if applicable* _____

Subscribed and sworn to before me this _____ day of _____, 200 _____.

Signature of Notary Public / Commissioner of the Superior Court _____



State of Connecticut
Workers' Compensation Commission

Please TYPE or PRINT IN INK

Rev. 10-12-2004

7C

**Proof of Workers' Compensation Coverage when Applying
for a Building Permit for the General Contractor or Principal
Employer who has chosen to be EXCLUDED from Coverage**

Applicant for Building Permit

Name of Applicant for Building Permit _____
Property located at _____
in the City / Town of _____

Attest

If you are the General Contractor or Principal Employer of a business doing work on the site of the construction project at the above-named property and you have properly excluded yourself from workers' compensation coverage by filing one of the appropriate forms listed below with the Workers' Compensation Commission, complete this form and, if applicable, sign the Affidavit below in the presence of a Notary Public or a Commissioner of the Superior Court.

FIRST — CHECK ONE (1) BOX:

I am: an Officer of a Corporation a Manager or Member of an LLC a Partner in a Business

THEN — CHECK ONE (1) BOX, provide the appropriate information, and sign the Affidavit below:

I have filed the following certificate with the Workers' Compensation Commission:

- Form 6B (for an Officer of a Corporation, a Manager of an LLC, or a Member of a Multiple-Member LLC)
- Form 6B-1 (for a Partner in a Business)

AFFIDAVIT

I hereby swear and attest that I will require proof of workers' compensation insurance for every contractor, subcontractor, or other worker before he or she does work on the site of the construction project at the above-named property in accordance with Section 31-286b of the Workers' Compensation Act.


Signature of GENERAL CONTRACTOR or PRINCIPAL EMPLOYER Applicant _____


Name of Business—if applicable _____


Federal Employer ID# (FEIN)—if applicable _____

Subscribed and sworn to before me this _____ day of _____, 200 _____.

Signature of Notary Public / Commissioner of the Superior Court _____

 <p>State of Connecticut Workers' Compensation Commission</p> <p><small>Send this form to: Workers' Compensation Commission, 21 Oak Street, Hartford, CT 06106-8011</small></p>		<p>Rev. 7-22-2012</p> <p>FRI</p>	
<p>Employer's First Report of Occupational Injury or Illness</p> <p><small>File pursuant to C.G.S. § 31-316 for injuries that result in INCAPACITY FOR ONE DAY OR MORE. Please TYPE or PRINT IN INK.</small></p>			<p>Date filed in Chairman's Office</p> <p><small>(for WCC use only)</small></p>
EMPLOYER			
Employer (Name, Address & Zip)		Phone #	Carrier / Administrator Claim #
SIC Code		FEIN	OSHA Log Case #
Jurisdiction		Jurisdiction Claim #	
Employer's Location Address (if different)		Phone #	
CARRIER			
Carrier (Name, Address & Zip)		Phone #	
CI AIMS ADMINISTRATOR			
Claims Administrator (Name, Address & Zip)		Phone #	
POLICY			
Policy / Self-Insured #		<input type="checkbox"/> Check, if Self-Insured	
Policy Period (MMDDYY)		FROM: TO:	
EMPLOYEE			
Last Name		First Name	Middle Name
Address (not Zip)		Phone #	
Date of Birth (MMDDYY)		Social Security #	
Gender		WAGE	
<input type="checkbox"/> Male		Date Hired (MMDDYY)	
<input type="checkbox"/> Female		State of Hire	
Occupation / Job Title		Rate of Pay \$ _____ per	
NCCI Class Code		<input type="checkbox"/> Hour <input type="checkbox"/> Day <input type="checkbox"/> Week <input type="checkbox"/> Bi-Weekly <input type="checkbox"/> Other	
OCCURRENCE		TREATMENT	
Date of Injury / Illness (MMDDYY)		Physician / Health Care Provider (Name, Address & Zip)	
Town of Injury / Illness		Hospital (Name, Address & Zip)	
Time Employee Began Work <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.		Initial Treatment	
Did Injury / Illness occur on Employer's Premises? <input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> No Medical Treatment <input type="checkbox"/> Emergency Care	
Time of Occurrence <input type="checkbox"/> cannot be determined <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.		<input type="checkbox"/> Minor — by Employer <input type="checkbox"/> Hospitalized More Than 24 Hours	
Type of Injury / Illness		<input type="checkbox"/> Minor — by Clinic / Hospital <input type="checkbox"/> Future Major Medical — Lost Time Anticipated	
Part of Body Affected		PREPARER	
Date Employer Notified (MMDDYY)		Date Administrator Notified (MMDDYY)	
Type of Injury / Illness Code		Date Prepared (MMDDYY)	
Part of Body Affected Code		Preparer's Name & Title	
Were Safeguards or Safety Equipment provided? <input type="checkbox"/> Yes <input type="checkbox"/> No		Phone #	
If provided, were they used? <input type="checkbox"/> Yes <input type="checkbox"/> No		Cause of Injury Code	
If Fatal, Date of Death (MMDDYY)		Contact Name	
How Injury / Illness Occurred — Describe the sequence of events, including any objects or substances that directly injured the employee or made the employee ill:		Phone #	
All equipment, materials, and/or chemicals employee was using when accident or illness exposure occurred:			
Specific activity and/or work process employee was engaged in when accident or illness exposure occurred:			

 <p>State of Connecticut Workers' Compensation Commission</p> <p style="font-size: small;">Please TYPE or PRINT IN INK and SEND A COPY OF THIS REQUEST TO ANY OTHER INTERESTED PARTY(IES)</p> <h2 style="margin: 0;">Hearing Request</h2> <p>I hereby notify the Workers' Compensation Commission of my request for the following hearing:</p> <p> <input type="checkbox"/> Informal <input type="checkbox"/> Pre-Formal <input type="checkbox"/> Formal <input type="checkbox"/> Stip Approval </p> <p> <input type="checkbox"/> Disfigurement / Scar — Surgery Date(s): _____ <small>For injuries occurring ON OR AFTER July 1, 1993, disfigurement/scar benefits are available ONLY for disfigurements or scars on the face, head, neck, or any other area of the body that handicaps the employee from obtaining or continuing to work. [See Sec. 31-308(c)]</small> </p> <p>Reason(s) for the requested hearing (required): _____</p>	Rev. 10-20-2001	HR
		WCC File # _____ Date filed in District _____ (for WCC use only)
Injured Worker	Injury	
Name _____ Soc. Sec.# (optional) _____ D.O.B. _____ Address _____ City/Town _____ State _____ Zip Code _____ Tel.# _____	Date of Injury _____ City/Town of Injury _____ State _____ Zip Code _____ Body Part _____	
Employer	Attorney or Representative of Injured Worker	
Name _____ Address _____ City/Town _____ State _____ Zip Code _____ Tel.# _____	Name _____ Name of Firm _____ Address _____ City/Town _____ State _____ Zip Code _____ Tel.# _____	
Insurance	Additional Interested Parties for Notification	
Policy Insurer Name _____ Policy No. _____ Eff. Date _____ Address _____ City/Town _____ State _____ Zip Code _____ Tel.# _____ Administrator Name _____ Contact Person _____ Address _____ City/Town _____ State _____ Zip Code _____ Tel.# _____ Attorney for Insurance Carrier _____ Name of Firm _____ Address _____ City/Town _____ State _____ Zip Code _____ Tel.# _____	Please list: Signature of Requesting Party As the party requesting the hearing, I CONFIRM THAT I HAVE TRIED TO RESOLVE THE ABOVE ISSUES BY TELEPHONE OR WRITTEN COMMUNICATION WITH THE OTHER PARTY. I understand that it is improper to request a hearing without first trying to resolve the issues with the other party. I am the (check ONE): <input type="checkbox"/> injured worker or representative <input type="checkbox"/> insurance company or representative <input type="checkbox"/> additional interested party (please specify): _____ Signature _____ Date _____	

	State of Connecticut Workers' Compensation Commission <small>Please TYPE or PRINT IN INK</small>	Rev. 10-20-2001	30C		
<h2 style="margin: 0;">Notice of Claim for Compensation</h2> <p style="margin: 0;">(Employee to Commissioner and to Employer)</p> <p style="margin: 0; font-size: small;"><i>This form prepared by the WCC is proper for ordinary use and is recommended, but any other notice complying with Section 31-294c shall be deemed sufficient.</i></p> <p style="margin: 0;">Notice is hereby given that the injured worker, while in the employ of the employer, sustained injuries arising out of and in the course of his/her employment as follows, and makes claim for compensation benefits.</p>		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">WCC File #</td> </tr> <tr> <td style="padding: 2px;">Date filed in District</td> </tr> </table> <p style="text-align: center; font-size: x-small;">(for WCC use only)</p>		WCC File #	Date filed in District
WCC File #					
Date filed in District					
Injured Worker		Injury			
Name _____ Soc. Sec.# (optional) _____ D.O.B. _____ Check, if a Minor <input type="checkbox"/> <small>(under 18 yrs. of age)</small> Address _____ Town _____ State _____ Zip Code _____ Tel.# _____		Date of Injury _____ Town of Injury _____ Body Part(s) _____ Describe Injury and How It Happened: <input type="checkbox"/> Check, if an Occupational Disease or a Repetitive Trauma <input type="checkbox"/> Check, if you have MORE THAN ONE Employer			
Employer		Signature of Injured Worker or Representative			
Employer _____ Address _____ Town _____ State _____ Zip Code _____ Tel.# _____ Was Injury ON Premises of Employer? <input type="checkbox"/> YES <input type="checkbox"/> NO If NO, where? _____ Address _____ Town _____ Zip Code _____ Tel.# _____		Signature _____ Date _____ <i>Print name & address below, if other than injured worker:</i> Name _____ Name of Firm _____ Address _____ Town _____ State _____ Zip Code _____ Tel.# _____			

This notice must be served upon the Commissioner and *Employer by personal presentation or by registered or certified mail. For the protection of both parties, the employer should note the date when this notice was received and the claimant should keep a copy of this notice with the date it was served.
 * Persons employed by the State of Connecticut must also serve the employer by serving this notice upon the Commissioner of Administrative Services, 165 Capitol Avenue, Hartford, CT 06106.

WARNING: If an employer does not file a notice contesting liability (e.g. Form 43) for this claim OR begin making workers' compensation benefit payments "without prejudice" within 28 calendar days from the date when this claim is received by personal delivery or by registered or certified mail, COMPENSABILITY SHALL BE PRESUMED and cannot thereafter be contested. If an employer chooses to begin making workers' compensation benefit payments "without prejudice" within 28 calendar days from the date of receipt of this claim and still wishes to contest this claim, it must do so by filing a notice contesting liability for this claim within one year from receipt of this claim. [See Sec. 31-294c(b).]

A 30C Form should be filed promptly after a work-related injury or illness takes place. There is a statute of limitation for filing workers' compensation claims: within **one** year of the date of an accidental injury or within **three** years from the first manifestation of a symptom of an occupational disease. [NOTE: If, within the applicable time period described above, (1) there has been a hearing or a written request for a hearing or an assignment for a hearing or (2) your employer's insurance carrier has already signed a Voluntary Agreement, you do **NOT** need to file a 30C Form for the injury or illness it covers.]

You Should File A 30C Form Because . . .

- There will be no doubt that you are claiming that you have a work-related injury or occupational disease.
- It is the **best way** to insure that you have met the statute of limitations for filing a workers' compensation claim.
- A simple "accident report" filed with the employer is **not** an official claim for workers' compensation.
- Your claim will be more likely to receive prompt attention from your employer or insurance carrier.
- Once your employer receives an official claim, they have only 28 calendar days in which to either deny your claim or to begin making workers' compensation benefit payments "without prejudice." If an official denial is not issued within 28 calendar days or if benefit payments are not initiated within 28 calendar days, your employer must accept the compensability of your claim.

Directions for Completing the 30C Claim Form

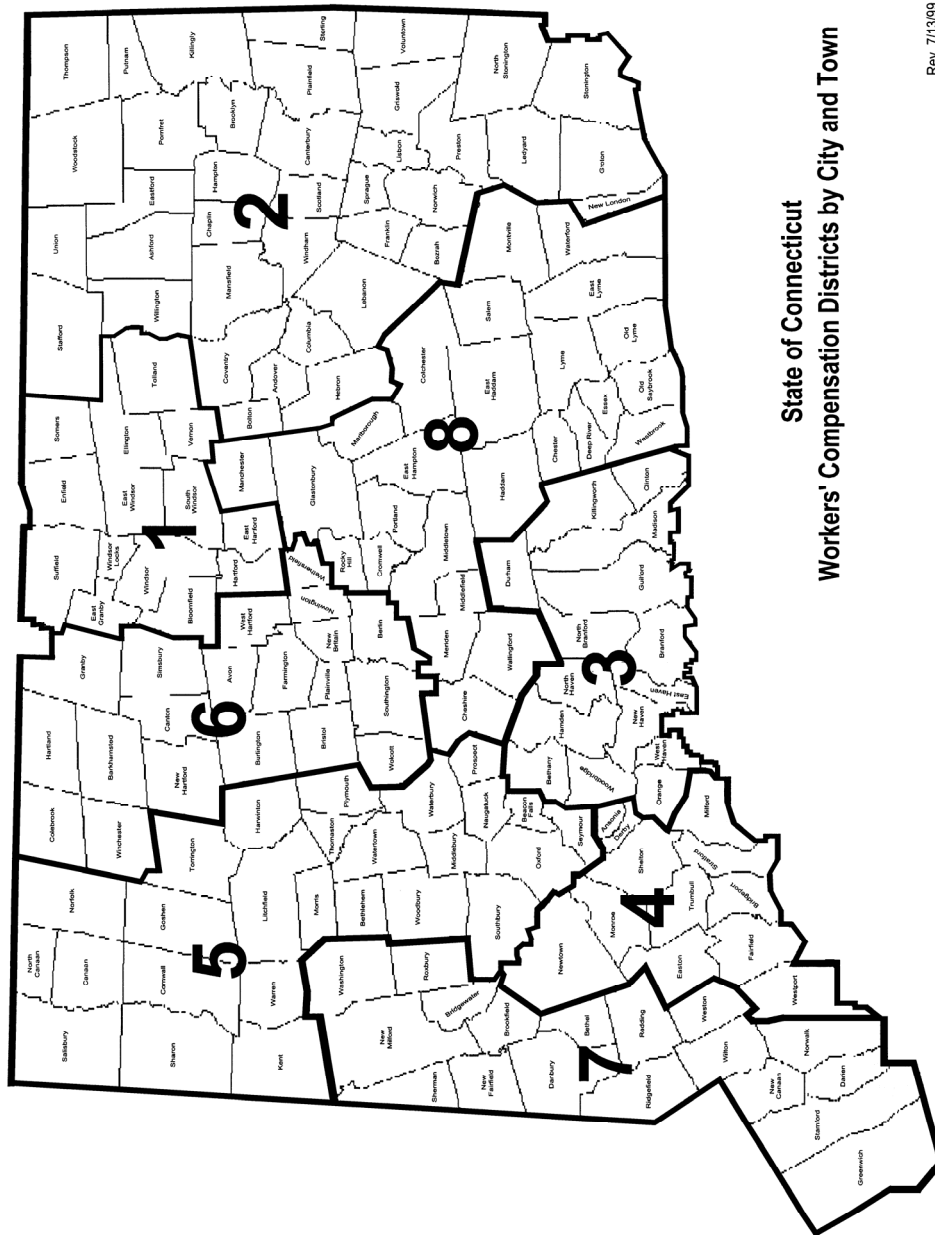
Please pay close attention to these directions.
When filling out a 30C Form, remember to Type or Print Neatly In Ink (except for signatures).

In filling out the 30C Form, please note the following:

1. In the "INJURED WORKER" box at the upper left side of the form, **type or neatly print the name of the injured worker (If YOU are the injured worker, print YOUR name here.)**. Also fill in the injured worker's Social Security number, D.O.B. (date of birth), put a check in the box, if the worker is a minor (under the age of 18) and fill in the injured worker's street address, town, state, zip code, and telephone number.
2. In the "EMPLOYER" box at the lower left side of the form, **type or neatly print the name of the employer** ("Name of employer" means the name of the organization for which you work, **NOT** your boss or supervisor.) **and its street address, town, state, zip code, and telephone number**. Next indicate (YES or NO) whether the injured worker's injury occurred at the employer's location just listed; **if the injury took place at a location other than that listed, fill in the location, street address, town, state, zip code, and telephone number where the injury actually occurred**.
3. In the "INJURY" box at the upper right side of the form, **type or neatly print the date of the injured worker's injury and the town in which the injury occurred** (Note the city or town in which the injury actually occurred. This will **not necessarily** be the same location as the employer's business address!). **Next indicate the part(s) of the worker's body injured and how the injury occurred** (In the blank space describe your injury in simple terms. Indicate the part(s) of your body affected and the type(s) of injury. For example: "sprain to the right shoulder", "amputation of the left thumb", "fracture of the right ankle", "severe strain to lower back", etc.). **Lastly, indicate (YES or NO) whether the injury is an occupational disease or a repetitive trauma, and check the appropriate box, if you have more than one employer**.
4. In the "SIGNATURE OF INJURED WORKER OR REPRESENTATIVE" box at the lower right side of the form, **sign your name and fill in the date of your signature, if you are the injured worker**. **If you are NOT the injured worker, then sign your name, fill in the date of your signature, and then type or neatly print your name, the name (if any) of your firm, your street address, town, state, zip code, and your telephone number**.
5. In the "WCC File #" box at the upper right side of the form (just below the "30C" number with the black background), **type or neatly print the WCC File Number, ONLY IF YOU KNOW IT**. In most instances, this number will be assigned to your claim by the Workers' Compensation Commission only after you send the 30C Form in, so it is **okay to leave this one area of the form blank, if you are not absolutely sure of the number**.

Once you have completed the 30C Form, follow these procedures:

6. **Make two (2) extra copies of your completed 30C Form** (this can be done at many quick-copy printers).
7. **Send the original 30C to your employer** by Certified or Registered mail, return receipt requested. The claim may also be delivered in person but if so, have the employer acknowledge **in writing** the receipt of the claim. **State employees' work-related injuries and illnesses** are reported on Form PER-WC 207, entitled "Report of Occupational Injury or Disease to an Employee". If a State employee elects to file a 30C Form, then he or she must send the 30C Form to the Commissioner of Administrative Services, 165 Capitol Avenue, Hartford, CT 06106, **NOT** to the particular office where employed. (The Form PER-WC 207 is **ONLY** an accident report and is **NOT** the official claim form for workers' compensation benefits — State employees, like any other employees, must file a 30C Form in order to file an official workers' compensation claim.)
8. **Send a copy of the 30C to the appropriate Workers' Compensation Commission District Office** by Certified or Registered mail, return receipt requested, or deliver by personal presentation. Addresses for all Workers' Compensation Commission District Offices may be found in this packet of material. **The "District Office" refers to the number given to the District Workers' Compensation Commission Office for the town in which you were injured**. Refer to the Connecticut map provided with the Form 30C for the number of the Compensation District for the town in which you were injured.



**State of Connecticut
Workers' Compensation Districts by City and Town**

Workers' Compensation Commission District Offices

District 1 — Hartford

999 Asylum Avenue
Hartford, CT 06105

Phone: (860) 566-4154
Fax: (860) 566-6137

District 5 — Waterbury

55 West Main Street
Waterbury, CT 06702

Phone: (203) 596-4207
Fax: (203) 596-4318

District 2 — Norwich

90 Sachem Street
Norwich, CT 06360

Phone: (860) 823-3900
Fax: (860) 823-1725

District 6 — New Britain

233 Main Street
New Britain, CT 06051

Phone: (860) 827-7180
Fax: (860) 827-7913

District 3 — New Haven

700 State Street
New Haven, CT 06511-6500

Phone: (203) 789-7512
Fax: (203) 789-7168

District 7 — Stamford

111 High Ridge Road
Stamford, CT 06905

Phone: (203) 325-3881
Fax: (203) 967-7264

District 4 — Bridgeport

350 Fairfield Avenue
Bridgeport, CT 06604

Phone: (203) 382-5600
Fax: (203) 335-8760

District 8 — Middletown

90 Court Street
Middletown, CT 06457

Phone: (860) 344-7453
Fax: (860) 344-7487

Connecticut Towns and their Workers' Compensation Districts

Workers' Compensation Commission District Offices and the cities, towns and subdivisions they serve.

First District - Hartford: 999 Asylum St. 06105; (860) 566-4154

Bloomfield	East Windsor Hill	Poquonock	South Windsor	West Suffield
Blue Hills	Ellington	Rainbow	Suffield	Wilson
Broad Brook	Enfield	Rockville	Talcottville	Windsor
Crystal Lake	Hartford	Sadds Mill	Thompsonville	Windsor Locks
Dobsonville	Hazardville	Scantic	Tolland	Windsorville
East Granby	Melrose	Scitico	Vernon	
East Hartford	North Somers	Somers	Vernon Center	
East Windsor	North Thompsonville	Somersville	Warehouse Point	

Second District - Norwich: 90 Sachus St. 06360; (860) 823-3900

Abington	East Putnam	Killingly Center	Occum	Stafford Springs
Almyville	East Thompson	Kenyonville	Ocean Beach	Staffordville
Amston	East Willington	Laurel Glen	Old Mystic	Sterling
Andover	East Woodstock	Lebanon	Oneco	Sterling Hill
Ashford	Ekronk	Ledyard	Orcuttville	Stonington
Attawaugan	Elmville	Ledyard Center	Packaug	Storrs
Atwoodville	Exeter	Liberty Hill	Packerville	Taftville
Ballouville	Fabyan	Lisbon	Pawcatuck	Thompson
Baltic	Fitchville	Long Society	Phoenixville	Union
Bolton	Franklin	Lords Point	Plainfield	Versailles
Bolton Notch	Gales Ferry	Mansfield	Pomfret	Village Hill (<i>Lebanon</i>)
Bozrah	Gilman	Mansfield Center	Pomfret Center	Voluntown
Bozrah Street	Glasco	Mansfield Depot	Pomfret Landing	Warrenville
Brooklyn	Goshen Hill	Mansfield Hollow	Poquetamuck	Wauregan
Burnetts Corner	Greenville	Mashapaug	Poquonock Bridge	Wequetequoek
Canterbury	Griswold	Mechanicsville	Preston	Westford
Center Groton	Grosvenor Dale	(<i>Thompson</i>)	Putnam	Westminster
Central Village	Groton	Merrow	Putnam Heights	West Mystic
Chaplin	Groton Heights	Moosup	Quaddick	West Stafford
Chestnut Hill (<i>Lebanon</i>)	Groton Long Point	Mystic	Quinebaug	West Thompson
Clark Falls	Gurleyville	Newent	Rogers	West Willington
Clarks Corner	Hallville	New London	Scotland	West Woodstock
Columbia	Hampton	Noank	Sodom	Willimantic
Coventry	Hanover	North Ashford	South Chaplin	Willington
Danielson	Harrisville	North Franklin	South Killingly	Wilsonville
Dayville	Hebron	North Grosvenor Dale	South Willington	Windham
Doaneville	Hopeville	North Stonington	South Windham	Woodstock
Eagleville	Hop River	North Windham	South Woodstock	Woodstock Valley
East Brooklyn	Hydeville	North Woodstock	Sprague	Yantic
Eastford	Jewett City	Norwich	Spring Hill (<i>Mansfield</i>)	
East Killingly	Killingly	Norwichtown	Stafford	

Third District - New Haven: 700 State St. 06510; (203) 789-7512

Allingtown	East River	Montowese	Orange	Spring Glen
Augerville	Fair Haven	Morningside	Pine Orchard (<i>Branford</i>)	Stony Creek
Bethany	Foxon	Mount Carmel	Pond Meadow	West Haven
Branford	Guilford	New Haven	(<i>Killingworth</i>)	Westville
Burr Hill	Hamden	North Branford	Quinnipiac	Whitneyville
Clinton	Indian Neck	Northford	Rivercliff	Woodbridge
Clintonville	Killingworth	North Guilford	Rockland	
Durham	Madison	North Haven	Sachem Head	
East Haven	Momauguin	North Madison	Short Beach	

Fourth District - Bridgeport: 350 Fairfield Ave. 06604; (203) 382-5600

Ansonia	Easton	Huntington	Nichols	Stevenson
Berkshire	East Village	Huntingtown	Riverside (<i>Newtown</i>)	Stratford
Botsford	Fairfield	Long Hill District	Sandy Hook	Trumbull
Bridgeport	Greenfield Hill	Lordship	Saugatuck	Upper Stepney
Derby	Greens Farms	Millford	Shelton	Westport
Devon	Hattertown	Monroe	Southport	Woodmont
Dodgingtown	Hawleyville	Newtown	Stepney	

Fifth District - Waterbury: 55 West Main St. 06702; (203) 596-4207

Amesville	East Plymouth	Macedonia	Plymouth	Torrington
Bantam	Ellsworth	Middlebury	Pomperaug	Torrington
Beacon Falls	Falls Village	Millville	Prospect	Twin Lakes
Bethlehem	Flanders	Milton	Quaker Farms	Union City
Burrville	Goshen	Minortown	Salisbury	Warren
Campville (<i>Litchfield</i>)	Greystone	Morris	Seymour	Waterbury
Canaan	Harwinton	Naugatuck	Sharon	Watertown
Canaan Valley	Hotchkissville	Newfield (<i>Torrington</i>)	South Britain	West Cornwall
Cornwall	Huntsville	Norfolk	Southbury	West Goshen
Cornwall Bridge	Kent	North Canaan	South Canaan	West Torrington
Cornwall Center	Kent Furnace	Northfield	Southford	White Oak
Cornwall Hollow	Lakeside	North Kent	South Kent	Woodbury
Drakeville	Lakeville	North Woodbury	Straitsville	Wrightville
East Canaan	Lime Rock	Oakville	Taconic	
East Litchfield	Litchfield	Oxford	Terryville	
East Morris	Lower City	Pequabuck	Thomaston	

Sixth District - New Britain: 233 Main St. 06051; (860) 827-7180


Avon	East Hartland	Nepaug	Riverton	West Simsbury
Bakersville	Edgewood	New Britain	Robertsville	Wethersfield
Barkhamsted	Elmwood	New Hartford	Simsbury	Whigville
Berlin	Farmington	Newington	Southington	Winchester
Bristol	Forestville	North Canton	Tariffville	Winchester Center
Burlington	Granby	North Colebrook	Unionville	Winsted
Canton	Hartland	North Granby	Weatogue	Wolcott
Canton Center	Kensington	Pine Meadow	West Avon	
Colebrook	Marion	Plainville	West Granby	
Collinsville	Mechanicsville (<i>Granby</i>)	Plantsville	West Hartford	
East Berlin	Milldale	Pleasant Valley	West Hartland	

Seventh District - Stamford: 111 High Ridge Rd. 06905; (203) 325-3881


Banksville	East Norwalk	New Canaan	Ridgefield	Topstone
Belltown	Gaylordsville	New Fairfield	Riverside (<i>Greenwich</i>)	Turn Of River
Bethel	Georgetown	New Milford	Romford	Upper Merryall
Boardsman Bridge	Germantown	New Preston	Round Hill (<i>Greenwich</i>)	Washington
Branchville	Glenbrook	Noroton	Rowayton	Washington Depot
Bridgewater	Glenville	Noroton Heights	Roxbury	West Norwalk
Brookfield	Greenwich	North Stamford	Roxbury Falls	Weston
Brookfield Center	High Ridge	Northville	Roxbury Station	West Redding
Byram	Long Ridge (<i>Stamford</i>)	North Wilton	Sherman	Wilton
Cannondale	Lower Merryall	Norwalk	Silvermine (<i>Norwalk</i>)	Winnipauk
Church Hill	Lyons Plain	Old Greenwich	South Norwalk	Woodville
Cos Cob	Marble Dale	Park Lane	South Wilton	
Cranbury	Merryall	Redding	Springdale	
Danbury	Mianus	Redding Ridge	Stamford	
Darien	Mill Plain	Ridgebury (<i>Ridgefield</i>)	Titicus	

Eighth District - Middletown: 90 Court St. 06457; (860) 344-7453


Addison	East Haddam	Hopewell	Mohegan	Rocky Hill
Baileyville	East Hampton	Ivoryton	Montville	Salem
Bashan	East Lyme	Jordan Village	Moodus	Salem Four Corners
Black Hall	Essex	Knollwood Beach	Morningside Park	Saybrook Manor
Black Point	Fenwick	Laysville	Niantic	Saybrook Point
Buckingham	Flanders Village	Leesville	North Lyme	Shailerville
Buckland	Gildersleeve	Little Haddam	North Plains	Sound View
Centerbrook	Gilead	Lyme	North Westchester	South Glastonbury
Cheshire	Glastonbury	Manchester	Oakdale	South Lyme
Chester	Graniteville	Manchester Green	Old Lyme	South Meriden
Chesterfield	Grove Beach (<i>Westbrook</i>)	Marlborough	Old Saybrook	Tylerville
Cobalt	Haddam	Meriden	Pleasure Beach	Uncasville
Colchester	Haddam Neck	Middlefield	Pond Meadow	Wallingford
Cornfield Point	Hadlyme	Middlefield Center	(<i>Westbrook</i>)	Waterford
Crescent Beach	Hamburg	Middle Haddam	Ponset	Westbrook
Cromwell	Higganum	Middletown	Portland	Westfield
Deep River	Highland	Millington	Quaker Hill	Winthrop
East Glastonbury	Highland Park	Mixville	Rockfall	Yalesville


	State of Connecticut Workers' Compensation Commission <small>Please TYPE or PRINT IN INK</small>	<small>Rev. 7-22-2002</small>	43
<h2 style="margin: 0;">Notice to Compensation Commissioner and Employee of Intention to Contest Employee's Right to Compensation Benefits</h2>		WCC File #	
		Date filed in District	
<small>(for WCC use only)</small>			
Employee		Injury	
Name _____		Date of Injury _____	
Soc. Sec.# (optional) _____		Date of Death _____	
D.O.B. _____		City/Town of Injury _____	
Address _____		State _____ Zip Code _____	
City/Town _____ State _____		Body Part(s) _____	
Zip Code _____ Tel.# _____		Nature of Injury _____	
Attorney or Representative of Employee		<input type="checkbox"/> Check, if an Occupational Disease or a Repetitive Trauma	
Name _____		Reason(s) for Contest — Signature	
Name of Firm _____		You are hereby notified that the employer/insurer will contest liability to pay compensation benefits to the employee named on this form for the following reason(s) — SPECIFIC EXPLANATION REQUIRED:	
Address _____			
City/Town _____ State _____			
Zip Code _____ Tel.# _____			
Employer			
Name _____			
Address _____			
City/Town _____ State _____			
Zip Code _____ Tel.# _____			
Insurer			
Claim Number _____			
Name _____			
Address _____			
City/Town _____ State _____			
Zip Code _____			
Contact Person _____		Signature _____	
Tel.# _____		Date _____	
		Name (type or print) _____	
		Title _____	


This notice must be served upon the Commissioner and Employee (or representative, if applicable) by personal presentation or by registered or certified mail. When medical care is the issue for contest, send a copy of this form to the medical provider also. For the protection of both parties, the claimant should note the date when this notice was received and the employer/insurer should keep a copy of this notice with the date it was served.


 <p>State of Connecticut Workers' Compensation Commission <small>Please TYPE or PRINT IN INK</small></p> <p>Notice to Employee and Compensation Commissioner of Intention to Discontinue or Reduce Payments</p> <p><i><u>IMPORTANT INFORMATION FOR THE EMPLOYEE</u></i></p> <p>If you object to the discontinuation or reduction of benefits as stated below, you must be prepared to provide medical and other documentation to support your objection at an Informal Hearing. You must request this hearing with the appropriate Workers' Compensation Commissioner <i>WITHIN 10 DAYS</i> from your receipt of this notice, or this notice will automatically be approved by the Compensation Commissioner.</p>	<div style="background-color: black; color: white; padding: 5px; font-size: 2em; font-weight: bold;">36</div> <p>Rev. 4-31-2005</p> <p>WCC File # _____</p> <p>Date filed in District _____</p> <p style="font-size: 0.8em;">(for WCC use only)</p>
Notice of Discontinuation or Reduction of Payments	
<p>You are hereby notified that the employer/insurer intends to discontinue or reduce your compensation payments on _____ <small>(date)</small></p> <p>for the following reason(s) — EXPLAIN AND ATTACH SUPPORTING MEDICAL DOCUMENTATION:</p> <p>The employer/insurer <input type="checkbox"/> DOES <input type="checkbox"/> DOES NOT require you to do a job search pursuant to Sections 31-296 and 31-296a C.G.S.</p> <p>If employee is returned to light or selected duty work, ATTACH JOB SEARCH INFORMATION to the claimant's copy of this form.</p>	
<p>Employee</p> <p>Name _____</p> <p>Soc. Sec. # (optional) _____</p> <p>D.O.B. _____</p> <p>Address _____</p> <p>City/Town _____ State _____</p> <p>Zip Code _____ Tel.# _____</p>	<p>Injury</p> <p>Date of Injury _____</p> <p>City/Town of Injury _____</p> <p>State _____ Zip Code _____</p> <p>Body Part _____</p> <p>Nature of Injury _____</p> <p>Cause of Injury _____</p>
<p>Attorney or Representative of Employee</p> <p>Name _____</p> <p>Name of Firm _____</p> <p>Address _____</p> <p>City/Town _____ State _____</p> <p>Zip Code _____ Tel.# _____</p>	<p>Insurer</p> <p>Claim Number _____</p> <p>Voluntary Agreement Issued? <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>.....</p> <p>Name _____</p> <p>Address _____</p> <p>City/Town _____ State _____</p> <p>Zip Code _____</p> <p>.....</p> <p>Contact Person _____</p> <p>Tel.# _____</p> <p>Date Mailed _____</p>
<p>Employer</p> <p>Name _____</p> <p>Address _____</p> <p>City/Town _____ State _____</p> <p>Zip Code _____ Tel.# _____</p>	


This notice must be served upon the Commissioner and Employee by personal presentation or by registered or certified mail. For the protection of both parties, the claimant should note the date when this notice was received and the employer/insurer should keep a copy of this notice with the date it was served. ** IF THE CLAIMANT IS REPRESENTED BY AN ATTORNEY, A COPY SHOULD ALSO BE SENT TO THE CLAIMANT'S ATTORNEY. **

 <p>State of Connecticut Workers' Compensation Commission Please TYPE or PRINT IN INK</p>	<small>Rev. 1-31-2005</small>	98
<p>Mandatory Notice to Dependents by Employer or Insurer to be filed upon Death of Employee who is receiving Weekly Disability Benefits</p> <p><small>Pursuant to Section 31-306b C.G.S., this notice must be sent by registered or certified mail to the last address to which the injured employee's workers' compensation benefit checks were mailed.</small></p> <p><small>A copy of this form must also be sent by the Employer or Insurer to the Workers' Compensation Commissioner.</small></p>		<p>Date filed in District</p>
<small>(for WCC use only)</small>		
Notification of Eligibility for Death Benefits		
<p>To the Dependents of _____ <small>(name of employee)</small></p> <p>of _____ <small>(employee's address)</small></p> <p>We have been notified that the above-named employee may have died as a consequence of an injury arising from his or her employment. Our records indicate that he or she was injured on _____ <small>(date of injury)</small></p> <p>and was receiving benefits under Connecticut's Workers' Compensation Act. As dependents, you may be eligible for benefits under Section 31-306 of the Connecticut General Statutes.</p> <p>Any dependent who requests such benefits must file a written notice of claim with the Connecticut Workers' Compensation Commission. The notice must be filed so as to comply with the time limits set forth in Section 31-294c of the Connecticut General Statutes. Failure to comply with the notice requirements of Section 31-294c may result in forfeiture of any benefits to which a dependent may be entitled.</p> <p>In the event you have any questions relating to the above, we urge you to call the Workers' Compensation Commission at 1-800-223-9675 or consult with your legal advisor.</p>		
Employer or Insurer SENDING Notice		
<p>This Notice is being SENT BY:</p> <p>Employer or Insurer Name _____</p> <p>Address _____</p> <p>City/Town _____ State _____ Zip Code _____</p> <p>Signature _____ Date Sent _____</p> <p>Print Name _____ Title _____</p>		

 <p>State of Connecticut Workers' Compensation Commission Please TYPE or PRINT IN INK</p>	<small>Rev. 7-22-2002</small>	NOA
Notification of Appearance		<p>WCC File # _____</p> <p>Date filed in District _____</p> <p style="text-align: right; font-size: 0.8em;">(for WCC use only)</p>
<p>I hereby notify the Workers' Compensation Commission _____ District Office regarding the following matter: (1st - 8th)</p> <p>CLAIMANT _____ v. RESPONDENT _____</p> <p>WCC File # (ONE only) _____ Date of Injury _____</p>		
Representation		
<p>Your Name _____</p> <p>Name of Firm _____</p> <p>Address _____</p> <p>City/Town _____ State _____ Zip Code _____</p> <p>Telephone Number _____ Fax Number _____</p>		
Appearance		
<p>1 — CHECK AT LEAST ONE (1) BOX below and provide the appropriate information for any box(es) you check.</p> <p><input type="checkbox"/> I represent the CLAIMANT _____</p> <p><input type="checkbox"/> I represent the DEPENDENT SURVIVOR _____</p> <p><input type="checkbox"/> I represent the INSURER _____</p> <p> ... FOR THE EMPLOYER _____</p> <p> ... FOR THE POLICY PERIOD (MMDDYY - MMDDYY) _____</p> <p><input type="checkbox"/> I represent the EMPLOYER (only) _____</p> <p><input type="checkbox"/> I represent the EMPLOYER FOR § 31-290a CLAIM (only) _____</p> <p><input type="checkbox"/> I represent the MEDICAL PROVIDER _____</p> <p><input type="checkbox"/> I represent ANOTHER PARTY (please specify) _____</p>		
<p>2 — CHECK ANY APPLICABLE BOX(ES) below and provide the appropriate information for any box(es) you check.</p> <p><input type="checkbox"/> I am appearing in lieu of _____</p> <p><input type="checkbox"/> I am appearing in addition to _____</p>		
<p>3 — DATE AND SIGN this form.</p> <p>Date _____ Signature _____</p>		

 <p>State of Connecticut Workers' Compensation Commission</p> <p><small>Please TYPE or PRINT IN INK</small></p>	<small>Rev. 3-5-2004</small>	<h1 style="font-size: 48pt; margin: 0;">44</h1>
<h2 style="margin: 0;">Order to Second Injury Fund in Cases of Concurrent Employment</h2> <p style="font-size: 8pt; margin: 5px 0 0 0;">The Insurer / Payor shall furnish the Treasurer such documents as is necessary to verify payments for which it is seeking reimbursement.</p>		<p>WCC File # _____</p> <p>Date filed in District _____</p> <p style="font-size: 8pt; text-align: center;">(for WCC use only)</p>
<p>Order</p> <p>Pursuant to C.G.S. Section 31-310, the Treasurer of the State of Connecticut is ordered to reimburse the subject Insurer / Payor for the prorated share it has expended under Voluntary Agreement approved on _____ (date) for the captioned injury.</p> <p>The Insurer / Payor attests that it has paid the complete adjusted total weekly benefit as agreed to on the subject Voluntary Agreement and now seeks reimbursement for the prorated share in the amount of \$ _____</p> <p>for the weekly periods enumerated below, check to be made payable to:</p> <p>Temporary Total Benefits = \$ _____ from _____ to _____</p> <p>Temporary Partial Benefits = \$ _____ from _____ to _____</p> <p>Permanent Partial Benefits = \$ _____ from _____ to _____</p> <p>The Form 44 will NOT be processed without both signatures:</p> <p>_____ Signature of INSURER / PAYOR Representative Date (MM/DD/YY)</p> <p>_____ Date (MM/DD/YY) Sent to SIF</p> <p>_____ Signature of SECOND INJURY FUND Representative Date (MM/DD/YY)</p>	<p>Claimant</p> <p>Name _____</p> <p>Soc. Sec. # (optional) _____</p> <p>D.O.B. _____</p> <p>Address _____</p> <p>City/Town _____ State _____</p> <p>Zip Code _____ Tel.# _____</p> <p>Injury</p> <p>Date of Injury _____</p> <p>Employer</p> <p>Name _____</p> <p>Address _____</p> <p>City/Town _____ State _____</p> <p>Zip Code _____ Tel.# _____</p> <p>Insurer / Payor</p> <p>Name _____</p> <p>Address _____</p> <p>City/Town _____ State _____</p> <p>Zip Code _____ Tel.# _____</p> <p>Contact Person _____</p> <p>Workers' Compensation Commission Approval</p> <p style="font-size: 8pt; text-align: center;">(for WCC use only)</p>	

 <p>State of Connecticut Workers' Compensation Commission</p> <p>Please TYPE or PRINT IN INK</p>	<p>Rev. 10-20-2001</p> <h1 style="font-size: 48px; margin: 0;">PFR</h1>	
<p>Petition for Review</p> <p>Compensation Review Board</p> <p>Parties should consult Section 31-301 C.G.S. and any other statutes and Administrative Regulations pertaining to the appeal process.</p>	<p>Date filed with CRB</p> <p style="text-align: center; font-size: 8px;">(for WCC use only)</p>	<p>WCC File #</p> <p>Date filed in District</p> <p style="text-align: center; font-size: 8px;">(for WCC use only)</p>
<p>Appeal</p> <p>The undersigned party(ies) hereby appeal(s) to the Compensation Review Board from the Commissioner's:</p> <p> <input type="checkbox"/> finding & award/dismissal <input type="checkbox"/> ruling on motion <input type="checkbox"/> order </p> <p>dated: _____</p>	<p>Claimant</p> <p>Name of Claimant _____</p> <p>Address _____</p> <p>City/Town _____</p> <p>State _____ Zip Code _____</p>	
<p>Directions and Requirements</p> <p>An original and five (5) copies of this form must be completed and filed with a district office, preferably where the award, order/finding, or decision which you are appealing was rendered, <u>within twenty (20) days after its issuance, or the appeal will be dismissed.</u></p> <p>Reasons of Appeal [See Sec. 31-301-2] A statement of the reasons for the appeal must be filed with the Compensation Review Board within ten (10) days after the filing of this petition, unless the Chairman extends such time for cause. The reasons should state why the trial Commissioner erred in regard to the law, or in regard to finding or not finding important facts according to the evidence presented at the hearing.</p> <p>Correction of Finding [See Sec. 31-301-4] If Appellant claims the Commissioner's factual findings are incorrect, a motion to correct the findings should be filed within two (2) weeks after such findings have been filed, unless the Commissioner extends such time for cause. With the motion must be filed the portions of the evidence and/or such portions or all of the transcript upon which the Appellant relies; and, for this purpose a transcript must be requested.</p> <p>Are you requesting a transcript for this appeal? <input type="checkbox"/> Yes <input type="checkbox"/> No </p> <p>If a transcript is requested, please enter the appropriate formal hearing date(s): _____</p> <p>Additional Evidence [See Sec. 31-301-9] The Appellant may also file a motion to submit additional evidence or testimony, together with the reasons for failure to present it in the hearing.</p> <p>Will you be filing a motion asking permission to submit additional evidence or testimony? <input type="checkbox"/> Yes <input type="checkbox"/> No </p>	<p>v. Employer</p> <p>Name of Employer _____</p> <p>Address _____</p> <p>City/Town _____</p> <p>State _____ Zip Code _____</p>	
	<p>Insurer</p> <p>Name of Insurer _____</p> <p>Address _____</p> <p>City/Town _____</p> <p>State _____ Zip Code _____</p>	
	<p>Signature of Appellant or Attorney</p> <p>Signature _____ Date _____</p> <p>Name of Appellant or Attorney _____</p> <p>Address _____</p> <p>City/Town _____</p> <p>State _____ Zip Code _____</p>	

	<p>State of Connecticut Workers' Compensation Commission</p> <p><small>Please TYPE or PRINT IN INK</small></p>	<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Rev. 1-31-2005</p>	<h1 style="font-size: 48pt; margin: 0;">42</h1>
<h2 style="margin: 0;">Physician's Permanent Impairment Evaluation</h2> <p style="margin-top: 10px;">The Form 42 should be mailed to <u>ALL</u> parties (employee, insurer, attorneys).</p>		<p>WCC File # _____</p> <p>Insurer # _____</p> <p>Date filed in District _____</p> <p style="text-align: center; font-size: 8pt;">(for WCC use only)</p>	
Employee		Employer	
Name _____		Name _____	
Soc. Sec. # (optional) _____		Injury	
D.O.B. _____			
Address _____			
City/Town _____ State _____			
Zip Code _____ Tel. # _____			
		Date of Injury _____	
		City/Town of Injury _____	
		State _____ Zip Code _____	
Evaluation			
<p>IMPORTANT — Use a separate Form 42 for EACH body part!</p> <p style="font-size: 8pt;">Connecticut Statutes do NOT recognize whole person ratings [Section 31-308(b)].</p>			
Body Part _____		Percentage of Permanent Loss (or Loss of Use) _____	
LIMB is <input type="checkbox"/> LEFT <input type="checkbox"/> RIGHT		Maximum Medical Improvement Exam Date _____	
HAND, ARM, or THUMB is <input type="checkbox"/> MASTER <input type="checkbox"/> MINOR		Which standards were utilized in your evaluation? (AMA Edition # or Other Source) _____	
EYE is <input type="checkbox"/> LEFT * <input type="checkbox"/> RIGHT *			
<p>* Indicate: <input type="checkbox"/> complete and permanent loss of sight <input type="checkbox"/> reduction of sight to one-tenth (1/10) or less of normal vision</p>			
Connecticut-Licensed Physician — Signature			
Name _____		Tel. # _____	
Address _____			
City/Town _____		State _____ Zip Code _____	
Signature of Connecticut-Licensed Physician _____		Date _____	
Print Name of Connecticut-Licensed Physician _____			

WCC File # _____

State of Connecticut
Workers' Compensation Commission
STIPULATION QUESTIONNAIRE

Claimant _____
v.
Respondent _____

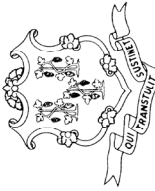
The following information will be necessary for approval of the stipulation.
Please include information regarding all relevant injuries.

1. Is this an accepted claim?
2. Was a Voluntary Agreement form approved?
3. What is the nature of the injury?
4. What is the *claimant's* base compensation rate?
5. Has the *treating physician* concluded treatment? Attach last report.
6. Has the *claimant* been rated for **permanent partial disability**? By whom?
7. What is the rating?
8. Has the permanent partial disability been paid? Partially or in full?
9. Have all medical bills been paid to date?
10. Are there any outstanding liens (e.g. Support Enforcement Services, Medical, AFDC/General Assistance, Attorney's Fees, etc.)?
11. Has the claimant applied for, or is she/he receiving Social Security Disability or Social Security Supplemental Income?
12. Please explain the basis for the amount arrived at in the Stipulation.
13. Attorney's fee _____
14. For the purpose of **Rehabilitation Services**:
Is the claimant working? _____ If yes: Employer _____
Job Title _____ F.T./P.T. _____ Salary (optional) _____

Commissioner
District _____

Signature of person completing questionnaire
(Employer, Insurer, Attorney, or Other)

Please print name and company below:

 <p>State of Connecticut Workers' Compensation Commission Rehabilitation Services 21 Oak Street, 4th Floor Hartford, CT 06106-8011</p>		<p>WCR-1</p> <p>Rev. 2-16-2005</p> <p>Date filed with Rehabilitation Services</p>
<p>Rehabilitation Request</p> <p>Please TYPE or PRINT IN INK</p>		
<p>CASE IDENTIFICATION</p>		
Name	Social Security #	Injured Body Part
Address	City or Town	State
	City or Town Where Injured	Employer at Time of Injury
Date of Injury		
<p>EMPLOYEE'S REQUEST — Signature Required</p> <p>I wish to receive services that will help me to return to full-time work — EMPLOYEE SIGNATURE REQUIRED:</p>		
	Telephone (Area Code + Number)	Date
<p>FOR OFFICE USE ONLY</p>		
Rehabilitation District	Compensation District	WCC File #
Referral Source	Comments	
Address	Date	

(for WCC use only)

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