

1                   A bill to be entitled  
2           An act relating to workers' compensation; amending s.  
3           440.02, F.S.; redefining the term "specificity";  
4           amending s. 440.105, F.S.; authorizing certain  
5           attorneys to receive fees or other consideration for  
6           services related to Workers' Compensation Law;  
7           amending s. 440.13, F.S.; requiring carriers to take  
8           specified actions by telephone or in writing relating  
9           to a request for authorization; specifying that a  
10          notice to the employer is not a notice to the carrier;  
11          conforming a provision to changes made by the act;  
12          requiring a panel to annually adopt statewide workers'  
13          compensation schedules of maximum reimbursement  
14          allowances by using specified methodologies;  
15          authorizing such panel to adopt a reimbursement  
16          methodology under certain circumstances; revising and  
17          providing maximum reimbursement methodologies to be  
18          incorporated in such schedules; prohibiting dispensing  
19          practitioners from possessing prescription medications  
20          in certain circumstances; amending s. 440.15, F.S.;  
21          extending the timeframe in which certain employees may  
22          receive temporary total disability benefits; providing  
23          conditions under which employees may receive permanent  
24          impairment benefits; extending the timeframe in which  
25          carriers must notify treating doctors of certain

26 requirements; deleting a provision relating to the  
27 calculation of time periods for payment of benefits;  
28 conforming provisions; creating s. 440.1915, F.S.;  
29 requiring claimants to sign an attestation before  
30 engaging the services of an attorney or other  
31 representation related to a workers' compensation  
32 claim; providing requirements; amending s. 440.192,  
33 F.S.; revising conditions under which the Office of  
34 the Judges of Compensation Claims must dismiss  
35 petitions for benefits; revising requirements for such  
36 petitions; requiring a good faith effort to resolve a  
37 dispute; requiring dismissal of a petition for failure  
38 to make such good faith effort; revising construction  
39 relating to dismissals of petitions or portions  
40 thereof; requiring judges of compensation claims to  
41 enter orders on certain motions to dismiss within  
42 specified timeframes; revising a restriction on  
43 awarding attorney fees; amending s. 440.25, F.S.;  
44 requiring the filing of an attestation detailing a  
45 claimant's attorney hours before pretrial and final  
46 hearings; extending the timeframe in which attorney  
47 fees attach; amending s. 440.34, F.S.; revising  
48 provisions relating to awarding attorney fees;  
49 providing that retainer agreements do not require  
50 approval by a judge of compensation claims but are

51 required to be filed with the Office of the Judges of  
 52 Compensation Claims; conforming a cross-reference;  
 53 extending the timeframe in which attorney fees attach;  
 54 authorizing a judge of compensation claims to depart  
 55 from the attorney fees schedule under certain  
 56 circumstances; requiring a judge to consider certain  
 57 factors when awarding attorney fees that depart from  
 58 such schedule; defining terms; limiting the amount of  
 59 such fee; amending s. 440.345, F.S.; providing  
 60 requirements for a carrier's report; amending s.  
 61 440.491, F.S.; specifying that training and education  
 62 benefits provided to a claimant are not in addition to  
 63 the maximum number of weeks in which a claimant may  
 64 receive temporary benefits; amending s. 627.211, F.S.;  
 65 authorizing a member of or subscriber to a rating  
 66 organization to depart from the rates set by such  
 67 organization under certain circumstances; providing  
 68 requirements for such departure; providing an  
 69 effective date.

71 Be It Enacted by the Legislature of the State of Florida:

72  
 73 Section 1. Subsection (40) of section 440.02, Florida  
 74 Statutes, is amended to read:  
 75 440.02 Definitions.—When used in this chapter, unless the

76 | context clearly requires otherwise, the following terms shall  
77 | have the following meanings:

78 |       (40) "Specificity" means information on the petition for  
79 | benefits sufficient to put the employer or carrier on notice of  
80 | the exact statutory classification and outstanding time period  
81 | for each requested benefit, the specific amount of each  
82 | requested benefit, the calculation used for computing the  
83 | specific amount of each requested benefit, of benefits being  
84 | ~~requested~~ and ~~includes~~ a detailed explanation of any benefits  
85 | received that should be increased, decreased, changed, or  
86 | otherwise modified. If the petition is for medical benefits, the  
87 | information must ~~shall~~ include specific details as to why such  
88 | benefits are being requested, why such benefits are medically  
89 | necessary, and why current treatment, if any, is not sufficient.  
90 | Any petition requesting alternate or other medical care,  
91 | including, but not limited to, petitions requesting psychiatric  
92 | or psychological treatment, must specifically identify the  
93 | physician, as defined in s. 440.13(1), who is recommending such  
94 | treatment. A copy of a report from such physician making the  
95 | recommendation for alternate or other medical care must ~~shall~~  
96 | also be attached to the petition. A judge of compensation claims  
97 | may ~~shall~~ not order such treatment if a physician is not  
98 | recommending such treatment.

99 |       Section 2. Paragraph (c) of subsection (3) of section  
100 | 440.105, Florida Statutes, is amended to read:

101 440.105 Prohibited activities; reports; penalties;  
 102 limitations.—

103 (3) Whoever violates any provision of this subsection  
 104 commits a misdemeanor of the first degree, punishable as  
 105 provided in s. 775.082 or s. 775.083.

106 (c) Except for an attorney retained by or for an injured  
 107 worker receiving a fee or other consideration from or on behalf  
 108 of an injured worker, it is unlawful for any ~~attorney or other~~  
 109 person, in his or her individual capacity or in his or her  
 110 capacity as a public or private employee, or for any firm,  
 111 corporation, partnership, or association to receive any fee or  
 112 other consideration or any gratuity from a person on account of  
 113 services rendered for a person in connection with any  
 114 proceedings arising under this chapter, unless such fee,  
 115 consideration, or gratuity is approved by a judge of  
 116 compensation claims or by the Deputy Chief Judge of Compensation  
 117 Claims.

118 Section 3. Paragraphs (d) and (i) of subsection (3) and  
 119 subsection (12) of section 440.13, Florida Statutes, are amended  
 120 to read:

121 440.13 Medical services and supplies; penalty for  
 122 violations; limitations.—

123 (3) PROVIDER ELIGIBILITY; AUTHORIZATION.—

124 (d) By telephone or in writing, a carrier must authorize  
 125 or deny ~~respond, by telephone or in writing,~~ to a request for

126 | authorization from an authorized health care provider, or inform  
 127 | the provider of material deficiencies that prevent authorization  
 128 | or denial, by the close of the third business day after receipt  
 129 | of the request. A carrier who fails to respond to a written  
 130 | request for authorization for referral for medical treatment by  
 131 | the close of the third business day after receipt of the request  
 132 | consents to the medical necessity for such treatment. All such  
 133 | requests must be made to the carrier. Notice to the employer  
 134 | ~~carrier~~ does not include notice to the carrier ~~employer~~.

135 | (i) Notwithstanding paragraph (d), a claim for specialist  
 136 | consultations, surgical operations, physiotherapeutic or  
 137 | occupational therapy procedures, X-ray examinations, or special  
 138 | diagnostic laboratory tests that cost more than \$1,000 and other  
 139 | specialty services that the department identifies by rule is not  
 140 | valid and reimbursable unless the services have been expressly  
 141 | authorized by the carrier, unless the carrier has failed to  
 142 | authorize or deny, or inform the provider of material  
 143 | deficiencies that prevent authorization or denial, ~~respond~~  
 144 | within 10 days after ~~to~~ a written request for authorization, or  
 145 | unless emergency care is required. The insurer shall authorize  
 146 | such consultation or procedure unless the health care provider  
 147 | or facility is not authorized, unless such treatment is not in  
 148 | accordance with practice parameters and protocols of treatment  
 149 | established in this chapter, or unless a judge of compensation  
 150 | claims has determined that the consultation or procedure is not

151 medically necessary, not in accordance with the practice  
152 parameters and protocols of treatment established in this  
153 chapter, or otherwise not compensable under this chapter.  
154 Authorization of a treatment plan does not constitute express  
155 authorization for purposes of this section, except to the extent  
156 the carrier provides otherwise in its authorization procedures.  
157 This paragraph does not limit the carrier's obligation to  
158 identify and disallow overutilization or billing errors.

159 (12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM  
160 REIMBURSEMENT ALLOWANCES.—

161 (a)1. A three-member panel is created, consisting of the  
162 Chief Financial Officer, or the Chief Financial Officer's  
163 designee, and two members to be appointed by the Governor,  
164 subject to confirmation by the Senate, one member who, on  
165 account of present or previous vocation, employment, or  
166 affiliation, shall be classified as a representative of  
167 employers, the other member who, on account of previous  
168 vocation, employment, or affiliation, shall be classified as a  
169 representative of employees.

170 2. Annually, the panel shall adopt ~~determine~~ statewide  
171 schedules of maximum reimbursement allowances for medically  
172 necessary treatment, care, and attendance provided by  
173 physicians, hospitals, ambulatory surgical centers, work-  
174 hardening programs, pain programs, and durable medical  
175 equipment. ~~The maximum reimbursement allowances for inpatient~~

176 ~~hospital care shall be based on a schedule of per diem rates, to~~  
177 ~~be approved by the three member panel no later than March 1,~~  
178 ~~1994, to be used in conjunction with a precertification manual~~  
179 ~~as determined by the department, including maximum hours in~~  
180 ~~which an outpatient may remain in observation status, which~~  
181 ~~shall not exceed 23 hours. All compensable charges for hospital~~  
182 ~~outpatient care shall be reimbursed at 75 percent of usual and~~  
183 ~~eustomary charges, except as otherwise provided by this~~  
184 ~~subsection. Annually, the three member panel shall adopt~~  
185 ~~schedules of maximum reimbursement allowances for physicians,~~  
186 ~~hospital inpatient care, hospital outpatient care, ambulatory~~  
187 ~~surgical centers, work-hardening programs, and pain programs. An~~  
188 ~~individual physician, hospital, ambulatory surgical center, pain~~  
189 ~~program, or work-hardening program shall be reimbursed either~~  
190 ~~the agreed upon contract price or the maximum reimbursement~~  
191 ~~allowance in the appropriate schedule.~~

192 (b) Except as provided in this subsection, the schedules  
193 of maximum reimbursement allowances adopted by the panel must be  
194 based upon the reimbursement methodologies provided in this  
195 subsection. However, the panel may adopt a reimbursement  
196 methodology for compensable medical care for which a  
197 reimbursement methodology is not provided in this subsection.  
198 Reimbursements shall be made based upon adopted schedules of  
199 maximum reimbursement allowances. It is the intent of the  
200 Legislature to increase the schedule of maximum reimbursement



201 ~~allowances for selected physicians effective January 1, 2004,~~  
202 ~~and to pay for the increases through reductions in payments to~~  
203 ~~hospitals. Revisions developed pursuant to this subsection are~~  
204 ~~limited to the following:~~

205       1. Payments for outpatient physical, occupational, and  
206 speech therapy provided by hospitals shall be reimbursed at  
207 ~~reduced to~~ the schedule of maximum reimbursement allowances for  
208 these services which apply ~~applies~~ to nonhospital providers.

209       2. Payments for scheduled outpatient nonemergency  
210 radiological and clinical laboratory services that are not  
211 provided in conjunction with a surgical procedure shall be  
212 reimbursed at ~~reduced to~~ the schedule of maximum reimbursement  
213 allowances for these services which applies to nonhospital  
214 providers.

215       3.a. Reimbursement for scheduled outpatient surgery in a  
216 hospital or ambulatory surgical center shall be 160 percent of  
217 the fee or rate established by the Medicare outpatient  
218 prospective payment system, except as otherwise provided by this  
219 subsection.

220       b. Reimbursement for scheduled outpatient surgery in a  
221 hospital or ambulatory surgical center that does not have a fee  
222 or rate under the Medicare outpatient prospective payment system  
223 shall be 60 percent of the statewide average charge for that  
224 service derived from the division's database of billed hospital  
225 or ambulatory surgical center charges, as applicable, over a

226 consecutive 18-month period within the 36 months before the  
227 adoption of the schedule, as designated by the panel if at least  
228 50 bills for the billed service are contained in the database  
229 during the 18-month period. Services related to scheduled  
230 outpatient surgery in a hospital or ambulatory surgical center  
231 which do not have a fee or rate under the Medicare outpatient  
232 prospective payment system and do not have a statewide average  
233 charge shall be reimbursed at 60 percent of the facility's  
234 actual billed charge ~~Outpatient reimbursement for scheduled~~  
235 ~~surgeries shall be reduced from 75 percent of charges to 60~~  
236 ~~percent of charges.~~

237 4.a. Reimbursement for nonscheduled hospital outpatient  
238 care shall be 200 percent of the fee or rate established by the  
239 Medicare outpatient prospective payment system, except as  
240 otherwise provided by this subsection.

241 b. Reimbursement for nonscheduled hospital outpatient  
242 surgical services that do not have a fee or rate under the  
243 Medicare outpatient prospective payment system shall be 75  
244 percent of the statewide average charge for that service derived  
245 from the division's database of billed hospital charges over a  
246 consecutive 18-month period within the 36 months before the  
247 adoption of the schedule, as designated by the panel, if at  
248 least 50 bills for the billed service are contained in the  
249 database during the 18-month period. Nonscheduled hospital  
250 outpatient surgical services that do not have a fee or rate

251 under the Medicare outpatient prospective payment system and do  
252 not have a statewide average charge shall be reimbursed at 75  
253 percent of the hospital's actual billed charge.

254 5. Maximum reimbursement for a physician licensed under  
255 chapter 458 or chapter 459 shall be ~~at increased to~~ 110 percent  
256 of the reimbursement allowed by Medicare, using appropriate  
257 codes and modifiers or the medical reimbursement level adopted  
258 by the ~~three-member~~ panel as of January 1, 2003, whichever is  
259 greater.

260 ~~6.5.~~ Maximum reimbursement for surgical procedures shall  
261 be ~~at increased to~~ 140 percent of the reimbursement allowed by  
262 Medicare or the medical reimbursement level adopted by the  
263 ~~three-member~~ panel as of January 1, 2003, whichever is greater.

264 7. Maximum reimbursement for inpatient hospital care shall  
265 be based on a schedule of per diem rates, subject to a stop-loss  
266 amount, approved by the panel to be used in conjunction with a  
267 precertification manual as determined by the department,  
268 including maximum hours in which an outpatient may remain in  
269 observation status, which reimbursement may not exceed 23 hours  
270 of observation, regardless of whether more than 23 hours of  
271 observation occurred.

272 8. Maximum reimbursement for a physician, hospital,  
273 ambulatory surgical center, work-hardening program, pain-  
274 management program, or durable medical equipment provider shall  
275 be the agreed-upon contract price or the maximum reimbursement

276 | allowance in the appropriate schedule adopted by the panel.

277 |       (c)1. ~~As to reimbursement for a prescription medication,~~  
278 | The reimbursement amount for a prescription medication shall be  
279 | the average wholesale price plus \$4.18 for the dispensing fee.  
280 | For repackaged or relabeled prescription medications dispensed  
281 | by a dispensing practitioner as provided in s. 465.0276, the fee  
282 | schedule for reimbursement shall be 112.5 percent of the average  
283 | wholesale price, plus \$8.00 for the dispensing fee. For purposes  
284 | of this subsection, the average wholesale price shall be  
285 | calculated by multiplying the number of units dispensed times  
286 | the per-unit average wholesale price set by the original  
287 | manufacturer of the underlying drug dispensed by the  
288 | practitioner, based upon the published manufacturer's average  
289 | wholesale price published in the Medi-Span Master Drug Database  
290 | as of the date of dispensing. All pharmaceutical claims  
291 | submitted for repackaged or relabeled prescription medications  
292 | must include the National Drug Code of the original  
293 | manufacturer. Fees for pharmaceuticals and pharmaceutical  
294 | services shall be reimbursable at the applicable fee schedule  
295 | amount except where the employer or carrier, or a service  
296 | company, third party administrator, or any entity acting on  
297 | behalf of the employer or carrier directly contracts with the  
298 | provider seeking reimbursement for a lower amount.

299 |       2. For prescription medication purchased under the  
300 | requirements of this paragraph, a dispensing practitioner may

301 not possess a prescription medication unless payment has been  
302 made by the practitioner, the practitioner's professional  
303 practice, or the practitioner's practice management company or  
304 employer to the supplying manufacturer, wholesaler, distributor,  
305 or drug repackager within 60 days after such practitioner takes  
306 possession of such medication.

307 (d) Reimbursement for all fees and other charges for such  
308 treatment, care, and attendance, including treatment, care, and  
309 attendance provided by any hospital or other health care  
310 provider, ambulatory surgical center, work-hardening program, or  
311 pain program, must not exceed the amounts provided by the  
312 ~~uniform~~ schedule of maximum reimbursement allowances as  
313 determined by the panel or as otherwise provided in this  
314 section. This subsection also applies to independent medical  
315 examinations performed by health care providers under this  
316 chapter. In determining the ~~uniform~~ schedule, the panel shall  
317 first approve the data which it finds representative of  
318 prevailing charges in the state for similar treatment, care, and  
319 attendance of injured persons. Each health care provider, health  
320 care facility, ambulatory surgical center, work-hardening  
321 program, or pain program receiving workers' compensation  
322 payments shall maintain records verifying their usual charges.  
323 In establishing the ~~uniform~~ schedule of maximum reimbursement  
324 allowances, the panel must consider:

325 1. The levels of reimbursement for similar treatment,

326 care, and attendance made by other health care programs or  
327 third-party providers;

328 2. The impact upon cost to employers for providing a level  
329 of reimbursement for treatment, care, and attendance which will  
330 ensure the availability of treatment, care, and attendance  
331 required by injured workers;

332 3. The financial impact of the reimbursement allowances  
333 upon health care providers and health care facilities, including  
334 trauma centers as defined in s. 395.4001, and its effect upon  
335 their ability to make available to injured workers such  
336 medically necessary remedial treatment, care, and attendance.  
337 The ~~uniform~~ schedule of maximum reimbursement allowances must be  
338 reasonable, must promote health care cost containment and  
339 efficiency with respect to the workers' compensation health care  
340 delivery system, and must be sufficient to ensure availability  
341 of such medically necessary remedial treatment, care, and  
342 attendance to injured workers; and

343 4. The most recent average maximum allowable rate of  
344 increase for hospitals determined by the Health Care Board under  
345 chapter 408.

346 (e) In addition to establishing the ~~uniform~~ schedule of  
347 maximum reimbursement allowances, the panel shall:

348 1. Take testimony, receive records, and collect data to  
349 evaluate the adequacy of the workers' compensation fee schedule,  
350 nationally recognized fee schedules and alternative methods of

351 reimbursement to health care providers and health care  
352 facilities for inpatient and outpatient treatment and care.

353 2. Survey health care providers and health care facilities  
354 to determine the availability and accessibility of workers'  
355 compensation health care delivery systems for injured workers.

356 3. Survey carriers to determine the estimated impact on  
357 carrier costs and workers' compensation premium rates by  
358 implementing changes to the carrier reimbursement schedule or  
359 implementing alternative reimbursement methods.

360 4. Submit recommendations on or before January 15, 2017,  
361 and biennially thereafter, to the President of the Senate and  
362 the Speaker of the House of Representatives on methods to  
363 improve the workers' compensation health care delivery system.

364 (f) The department, as requested, shall provide data to  
365 the panel, including, but not limited to, utilization trends in  
366 the workers' compensation health care delivery system. The  
367 department shall provide the panel with an annual report  
368 regarding the resolution of medical reimbursement disputes and  
369 ~~any~~ actions pursuant to subsection (8). The department shall  
370 provide administrative support and service to the panel to the  
371 extent requested by the panel. ~~For prescription medication~~  
372 ~~purchased under the requirements of this subsection, a~~  
373 ~~dispensing practitioner shall not possess such medication unless~~  
374 ~~payment has been made by the practitioner, the practitioner's~~  
375 ~~professional practice, or the practitioner's practice management~~

376 ~~company or employer to the supplying manufacturer, wholesaler,~~  
377 ~~distributor, or drug repackager within 60 days of the dispensing~~  
378 ~~practitioner taking possession of that medication.~~

379 Section 4. Paragraph (a) of subsection (2), paragraph (d)  
380 of subsection (3), paragraphs (a) and (e) of subsection (4), and  
381 subsection (6) of section 440.15, Florida Statutes, are amended,  
382 and subsection (13) is added to that section, to read:

383 440.15 Compensation for disability.—Compensation for  
384 disability shall be paid to the employee, subject to the limits  
385 provided in s. 440.12(2), as follows:

386 (2) TEMPORARY TOTAL DISABILITY.—

387 (a) Subject to subparagraph (3)(d)3. and subsections  
388 ~~subsection (7) and (13)~~, in case of disability total in  
389 character but temporary in quality, 66 2/3 or 66.67 percent of  
390 the average weekly wages shall be paid to the employee during  
391 the continuance thereof, ~~not to exceed 104 weeks~~ except as  
392 provided in this subsection and, s. 440.12(1), ~~and s. 440.14(3)~~.  
393 Once the employee reaches the maximum number of weeks allowed,  
394 or the employee reaches overall ~~the date of~~ maximum medical  
395 improvement, whichever occurs earlier, temporary disability  
396 benefits shall cease and the injured worker's permanent  
397 impairment shall be determined. If the employee reaches the  
398 maximum number of weeks allowed, but has not reached overall  
399 maximum medical improvement, benefits shall be provided pursuant  
400 to subparagraph (3)(d)3.



401 (3) PERMANENT IMPAIRMENT BENEFITS.—

402 (d) After the employee has been certified by a doctor as  
403 having reached maximum medical improvement or 6 weeks before the  
404 expiration of temporary benefits, whichever occurs earlier, the  
405 certifying doctor shall evaluate the condition of the employee  
406 and assign an impairment rating, using the impairment schedule  
407 referred to in paragraph (b). If the certification and  
408 evaluation are performed by a doctor other than the employee's  
409 treating doctor, the certification and evaluation must be  
410 submitted to the treating doctor, the employee, and the carrier  
411 within 10 days after the evaluation. The treating doctor must  
412 indicate to the carrier agreement or disagreement with the other  
413 doctor's certification and evaluation.

414 1. The certifying doctor shall issue a written report to  
415 the employee and the carrier certifying that maximum medical  
416 improvement has been reached, stating the impairment rating to  
417 the body as a whole, and providing any other information  
418 required by the department by rule. The carrier shall establish  
419 an overall maximum medical improvement date and permanent  
420 impairment rating, based upon all such reports.

421 2. Within 14 days after the carrier's knowledge of each  
422 maximum medical improvement date and impairment rating to the  
423 body as a whole upon which the carrier is paying benefits, the  
424 carrier shall report such maximum medical improvement date and,  
425 when determined, the overall maximum medical improvement date

426 and associated impairment rating to the department in a format  
427 as set forth in department rule. If the employee has not been  
428 certified as having reached overall maximum medical improvement  
429 before the expiration of 254 ~~98~~ weeks after the date temporary  
430 disability benefits begin to accrue, the carrier shall notify  
431 the treating doctor of the requirements of this section.

432 3. If an employee receiving benefits under subsection (2)  
433 has not reached overall maximum medical improvement before  
434 receiving the maximum number of weeks of temporary disability  
435 benefits, the maximum number of weeks are extended for up to an  
436 additional 26 weeks. If the employee has not reached overall  
437 maximum medical improvement after receiving the additional weeks  
438 allowed under this subparagraph, a judge of compensation claims,  
439 upon petition, must determine the employee's current eligibility  
440 for benefits under this subsection and subsection (1).

441 4. If an employee receiving benefits under subsection (4)  
442 has not reached overall maximum medical improvement before  
443 receiving the maximum number of weeks of temporary disability  
444 benefits, the employee shall receive benefits under this  
445 subsection in accordance with the greatest single impairment  
446 rating assigned to the employee. Impairment benefits received  
447 under this subparagraph shall be credited against indemnity  
448 benefits subsequently due to the employee.

449 (4) TEMPORARY PARTIAL DISABILITY.—

450 (a) Subject to subparagraph (3)(d)3. and subsections

451 ~~subsection~~ (7) and (13), in case of temporary partial  
452 disability, compensation shall be equal to 80 percent of the  
453 difference between 80 percent of the employee's average weekly  
454 wage and the salary, wages, and other remuneration the employee  
455 is able to earn postinjury, as compared weekly; however, weekly  
456 temporary partial disability benefits may not exceed an amount  
457 equal to 66 2/3 or 66.67 percent of the employee's average  
458 weekly wage at the time of accident. In order to simplify the  
459 comparison of the preinjury average weekly wage with the salary,  
460 wages, and other remuneration the employee is able to earn  
461 postinjury, the department may by rule provide for payment of  
462 the initial installment of temporary partial disability benefits  
463 to be paid as a partial week so that payment for remaining weeks  
464 of temporary partial disability can coincide as closely as  
465 possible with the postinjury employer's work week. The amount  
466 determined to be the salary, wages, and other remuneration the  
467 employee is able to earn shall in no case be less than the sum  
468 actually being earned by the employee, including earnings from  
469 sheltered employment. Benefits shall be payable under this  
470 subsection only if overall maximum medical improvement has not  
471 been reached and the medical conditions resulting from the  
472 accident create restrictions on the injured employee's ability  
473 to return to work.

474 (e) Subject to subparagraph (3) (d)3. and subsections (7)  
475 and (13), such benefits shall be paid during the continuance of

476 such disability, ~~not to exceed a period of 104 weeks,~~ as  
477 provided by this subsection and subsection (2). ~~Once the injured~~  
478 ~~employee reaches the maximum number of weeks, temporary~~  
479 ~~disability benefits cease and the injured worker's permanent~~  
480 ~~impairment must be determined.~~ If the employee is terminated  
481 from postinjury employment based on the employee's misconduct,  
482 temporary partial disability benefits are not payable as  
483 provided for in this section. The department shall by rule  
484 specify forms and procedures governing the method and time for  
485 payment of temporary disability benefits for dates of accidents  
486 before January 1, 1994, and for dates of accidents on or after  
487 January 1, 1994.

488 (6) EMPLOYEE REFUSES EMPLOYMENT.—If an injured employee  
489 refuses employment suitable to the capacity thereof, offered to  
490 or procured therefor, such employee shall not be entitled to any  
491 compensation at any time during the continuance of such refusal  
492 unless at any time in the opinion of the judge of compensation  
493 claims such refusal is justifiable. ~~Time periods for the payment~~  
494 ~~of benefits in accordance with this section shall be counted in~~  
495 ~~determining the limitation of benefits as provided for in~~  
496 ~~paragraphs (2) (a), (3) (c), and (4) (b).~~

497 (13) MAXIMUM BENEFITS ALLOWED.—The total number of weeks  
498 of benefits received by an employee for temporary total  
499 disability payable pursuant to subsection (2), temporary partial  
500 disability payable pursuant to subsection (4), and temporary

501 total disability payable pursuant to s. 440.491 may not exceed  
 502 260 weeks, except as provided in subparagraph (3)(d)3.

503 Section 5. Section 440.1915, Florida Statutes, is created  
 504 to read:

505 440.1915 Notice regarding payment of attorney fees.—An  
 506 injured employee or any other party making a claim for benefits  
 507 under this chapter through an attorney or other representative  
 508 shall provide his or her personal signature attesting that he or  
 509 she has reviewed, understands, and acknowledges the following  
 510 statement, which must be in at least 14-point bold type, prior  
 511 to engaging an attorney or other representative for services  
 512 related to a petition for benefits under s. 440.192 or s.  
 513 440.25: "THE WORKERS' COMPENSATION LAW REQUIRES YOU TO PAY YOUR  
 514 OWN ATTORNEY FEES. YOUR EMPLOYER AND/OR ITS INSURANCE CARRIER  
 515 ARE NOT REQUIRED TO PAY YOUR ATTORNEY FEES, EXCEPT IN CERTAIN  
 516 CIRCUMSTANCES. EVEN THEN, YOU MAY BE RESPONSIBLE FOR PAYING  
 517 ATTORNEY FEES IN ADDITION TO ANY AMOUNT YOUR EMPLOYER OR ITS  
 518 CARRIER MAY BE REQUIRED TO PAY, DEPENDING ON THE DETAILS OF YOUR  
 519 AGREEMENT WITH YOUR ATTORNEY OR REPRESENTATIVE. CAREFULLY READ  
 520 AND MAKE SURE YOU UNDERSTAND ANY AGREEMENT OR RETAINER FOR  
 521 REPRESENTATION BEFORE YOU SIGN IT." If the injured employee or  
 522 other party does not sign or refuses to sign the document  
 523 attesting that he or she has reviewed, understands, and  
 524 acknowledges the statement, the injured employee or other party  
 525 making a claim under this chapter shall be prohibited from

526 proceeding with a petition for benefits under s. 440.192 or s.  
 527 440.25, except pro se, until such signature is obtained.

528 Section 6. Subsections (2), (4), (5), and (7) of section  
 529 440.192, Florida Statutes, are amended to read:

530 440.192 Procedure for resolving benefit disputes.—

531 (2) Upon receipt, the Office of the Judges of Compensation  
 532 Claims shall review each petition and shall dismiss each  
 533 petition or any portion of such a petition that does not on its  
 534 face meet the requirements of this section and the definition of  
 535 specificity under s. 440.02, and specifically identify or  
 536 itemize the following:

537 (a) The name, address, and telephone number,~~and social~~  
 538 ~~security number~~ of the employee.

539 (b) The name, address, and telephone number of the  
 540 employer.

541 (c) A detailed description of the injury and cause of the  
 542 injury, including the Florida county or, if outside of Florida,  
 543 the state location of the occurrence and the date or dates of  
 544 the accident.

545 (d) A detailed description of the employee's job, work  
 546 responsibilities, and work the employee was performing when the  
 547 injury occurred.

548 (e) The specific time period for which compensation and  
 549 the specific classification of compensation were not timely  
 550 provided.

551 (f) The specific date of maximum medical improvement,  
552 character of disability, and specific statement of all benefits  
553 or compensation that the employee is seeking. A claim for  
554 permanent benefits must include the specific date of maximum  
555 medical improvement and the specific date that such permanent  
556 benefits are claimed to begin.

557 (g) All specific travel costs to which the employee  
558 believes she or he is entitled, including dates of travel and  
559 purpose of travel, means of transportation, and mileage and  
560 including the date the request for mileage was filed with the  
561 carrier and a copy of the request filed with the carrier.

562 (h) A specific listing of all medical charges alleged  
563 unpaid, including the name and address of the medical provider,  
564 the amounts due, and the specific dates of treatment.

565 (i) The type or nature of treatment care or attendance  
566 sought and the justification for such treatment. If the employee  
567 is under the care of a physician for an injury identified under  
568 paragraph (c), a copy of the physician's request, authorization,  
569 or recommendation for treatment, care, or attendance must  
570 accompany the petition.

571 (j) The specific amount of compensation claimed and the  
572 methodology used to calculate the average weekly wage, if the  
573 average weekly wage calculated by the employer or carrier is  
574 disputed; otherwise, the average weekly wage and corresponding  
575 compensation calculated by the employer or carrier are presumed

576 | to be accurate.

577 |       ~~(k)-(j)~~ A specific explanation of any other disputed issue  
 578 | that a judge of compensation claims will be called to rule upon.

579 |       (l) The signed attestation required pursuant to s.  
 580 | 440.1915.

581 |       (m) Evidence of a good faith attempt to resolve the  
 582 | dispute pursuant to subsection (4).

583 |

584 | The dismissal of any petition or portion of such a petition  
 585 | under this subsection ~~section~~ is without prejudice and does not  
 586 | require a hearing.

587 |       (4) Prior to filing a petition, the claimant or, if the  
 588 | claimant is represented by counsel, the claimant's attorney must  
 589 | make a good faith effort to resolve the dispute. The petition  
 590 | must include evidence that a certification by the claimant or,  
 591 | if the claimant is represented by counsel, the claimant's  
 592 | attorney, stating that the claimant, or attorney if the claimant  
 593 | is represented by counsel, has made a good faith effort to  
 594 | resolve the dispute and that the claimant or attorney was unable  
 595 | to resolve the dispute with the carrier or employer, if self-  
 596 | insured. If the petition is not dismissed under subsection (2),  
 597 | the judge of compensation claims must review the evidence  
 598 | required under this subsection and determine, in her or his  
 599 | independent discretion, whether a good faith effort to resolve  
 600 | the dispute was made by the claimant or the claimant's attorney.



601 Upon a determination that the claimant or the claimant's  
602 attorney has not made a good faith effort to resolve the  
603 dispute, the judge of compensation claims must dismiss the  
604 petition and may impose sanctions to ensure compliance with this  
605 subsection, which may include an order to pay to the other party  
606 or parties the amount of the reasonable expenses incurred  
607 because of the filing of the petition, including reasonable  
608 attorney fees.

609 (5) (a) All motions to dismiss must state with  
610 particularity the basis for the motion. The judge of  
611 compensation claims shall enter an order upon such motions  
612 without hearing, unless good cause for hearing is shown.  
613 Dismissal of any petition or portion of a petition under this  
614 subsection is without prejudice.

615 (b) Upon motion that a petition or portion of a petition  
616 be dismissed for lack of specificity, a judge of compensation  
617 claims shall enter an order on the motion, unless stipulated in  
618 writing by the parties, within 10 days after the motion is filed  
619 or, if good cause for hearing is shown, within 20 days after  
620 hearing on the motion. When any petition or portion of a  
621 petition is dismissed for lack of specificity under this  
622 subsection, the claimant must be allowed 20 days after the date  
623 of the order of dismissal in which to file an amended petition.  
624 Any grounds for dismissal for lack of specificity under this  
625 section which are not asserted within 30 days after receipt of

626 the petition for benefits are thereby waived.

627 (7) Notwithstanding ~~the provisions of s. 440.34~~, a judge  
628 of compensation claims may not award attorney ~~attorney's~~ fees  
629 payable by the employer or carrier for services expended or  
630 costs incurred before ~~prior to~~ the filing of a petition ~~that~~  
631 ~~does not meet the requirements of this section.~~

632 Section 7. Paragraphs (a), (c), (h), and (j) of subsection  
633 (4) of section 440.25, Florida Statutes, are amended to read:

634 440.25 Procedures for mediation and hearings.—

635 (4)

636 (a) If the parties fail to agree to written submission of  
637 pretrial stipulations, the judge of compensation claims shall  
638 conduct a live pretrial hearing. The judge of compensation  
639 claims shall give the interested parties at least 14 days'  
640 advance notice of the pretrial hearing by mail or by electronic  
641 means approved by the Deputy Chief Judge. At least 5 days before  
642 the pretrial hearing, the claimant's attorney must file with the  
643 judge of compensation claims, and serve on all interested  
644 parties, a personal attestation detailing his or her hours to  
645 date, which specifically allocates the hours by each benefit  
646 claimed, and accounting for hours relating to multiple benefits  
647 in a manner that apportions such hours by percentage, in whole  
648 numbers, to each benefit.

649 (c) The judge of compensation claims shall give the  
650 interested parties at least 14 days' advance notice of the final

651 hearing, served upon the interested parties by mail or by  
652 electronic means approved by the Deputy Chief Judge. At least 5  
653 days before the final hearing, the claimant's attorney must file  
654 with the judge of compensation claims, and serve on all  
655 interested parties, a personal attestation detailing his or her  
656 hours to date, which specifically allocates the hours by each  
657 benefit claimed, and accounting for hours relating to multiple  
658 benefits in a manner that apportions such hours by percentage,  
659 in whole numbers, to each benefit.

660 (h) To further expedite dispute resolution and to enhance  
661 the self-executing features of the system, those petitions filed  
662 in accordance with s. 440.192 that involve a claim for benefits  
663 of \$5,000 or less shall, in the absence of compelling evidence  
664 to the contrary, be presumed to be appropriate for expedited  
665 resolution under this paragraph; and any other claim filed in  
666 accordance with s. 440.192, upon the written agreement of both  
667 parties and application by either party, may similarly be  
668 resolved under this paragraph. A claim in a petition of \$5,000  
669 or less for medical benefits only or a petition for  
670 reimbursement for mileage for medical purposes shall, in the  
671 absence of compelling evidence to the contrary, be resolved  
672 through the expedited dispute resolution process provided in  
673 this paragraph. For purposes of expedited resolution pursuant to  
674 this paragraph, the Deputy Chief Judge shall make provision by  
675 rule or order for expedited and limited discovery and expedited

676 docketing in such cases. At least 15 days prior to hearing, the  
677 parties shall exchange and file with the judge of compensation  
678 claims a pretrial outline of all issues, defenses, and  
679 witnesses, including a personal attestation detailing his or her  
680 hours to date, which specifically allocates the hours by each  
681 benefit claimed, and accounting for hours relating to multiple  
682 benefits in a manner that apportions such hours by percentage,  
683 in whole numbers, to each benefit, on a form adopted by the  
684 Deputy Chief Judge; provided, in no event shall such hearing be  
685 held without 15 days' written notice to all parties. No pretrial  
686 hearing shall be held and no mediation scheduled unless  
687 requested by a party. The judge of compensation claims shall  
688 limit all argument and presentation of evidence at the hearing  
689 to a maximum of 30 minutes, and such hearings shall not exceed  
690 30 minutes in length. Neither party shall be required to be  
691 represented by counsel. The employer or carrier may be  
692 represented by an adjuster or other qualified representative.  
693 The employer or carrier and any witness may appear at such  
694 hearing by telephone. The rules of evidence shall be liberally  
695 construed in favor of allowing introduction of evidence.

696 (j) A judge of compensation claims may not award interest  
697 on unpaid medical bills and the amount of such bills may not be  
698 used to calculate the amount of interest awarded. Regardless of  
699 the date benefits were initially requested, attorney ~~attorney's~~  
700 fees do not attach under this subsection until 45 ~~30~~ days after

701 the date the carrier ~~or self-insured employer~~ receives the  
702 petition.

703 Section 8. Section 440.34, Florida Statutes, is amended to  
704 read:

705 440.34 Attorney ~~Attorney's~~ fees; costs.—

706 (1) A judge of compensation claims may award attorney fees  
707 payable to the claimant pursuant to this section to be paid by  
708 the employer or carrier. An employer or carrier may not pay a  
709 fee, gratuity, or other consideration ~~may not be paid~~ for a  
710 claimant in connection with any proceedings arising under this  
711 chapter, unless approved by the judge of compensation claims or  
712 court having jurisdiction over such proceedings. Attorney fees  
713 awarded ~~Any attorney's fee approved~~ by a judge of compensation  
714 claims for benefits secured on behalf of a claimant must equal  
715 ~~to~~ 20 percent of the first \$5,000 of the amount of the benefits  
716 secured, 15 percent of the next \$5,000 of the amount of the  
717 benefits secured, 10 percent of the remaining amount of the  
718 benefits secured to be provided during the first 10 years after  
719 the date the claim is filed, and 5 percent of the benefits  
720 secured after 10 years. A ~~The judge of compensation claims shall~~  
721 ~~not approve a compensation order, a joint stipulation for lump-~~  
722 ~~sum settlement, a stipulation or agreement between a claimant~~  
723 ~~and his or her attorney, or any other agreement related to~~  
724 ~~benefits under this chapter which provides for an attorney's fee~~  
725 ~~in excess of the amount permitted by this section. The judge of~~

726 ~~compensation claims is not required to approve any~~ retainer  
727 agreement between the claimant and his or her attorney is not  
728 subject to approval by a judge of compensation claims but must  
729 be filed with the Office of the Judges of Compensation Claims.  
730 Attorney fees are a lien upon compensation payable to the  
731 claimant, notwithstanding s. 440.22. A retainer agreement may  
732 not place any portion of the employee's compensation into an  
733 escrow account until benefits are secured. ~~The retainer~~  
734 ~~agreement as to fees and costs may not be for compensation in~~  
735 ~~excess of the amount allowed under this subsection or subsection~~  
736 ~~(7).~~

737 (2) In awarding a claimant's attorney fees ~~attorney's fee~~,  
738 a ~~the~~ judge of compensation claims must ~~shall~~ consider only  
739 those benefits secured by the attorney. ~~An~~ ~~Attorney is not~~  
740 ~~entitled to attorney's fees~~ are not due for representation in  
741 any issue that was ripe, due, and owing and that reasonably  
742 could have been addressed, but was not addressed, during the  
743 pendency of other issues for the same injury or on claimant  
744 attorney hours reasonably related to a benefit upon which the  
745 claimant did not prevail. The amount, statutory basis, and type  
746 of benefits obtained through legal representation shall be  
747 listed on all attorney ~~attorney's~~ fees awarded by a ~~the~~ judge of  
748 compensation claims. For purposes of this section, the term  
749 "benefits secured" does not include future medical benefits to  
750 be provided ~~on any date~~ more than 5 years after the date the

751 petition claim is filed. In the event an offer to settle an  
752 issue pending before a judge of compensation claims, including  
753 attorney ~~attorney's~~ fees ~~as provided for in this section~~, is  
754 communicated in writing to the claimant or the claimant's  
755 attorney at least 30 days before ~~prior to~~ the trial date on such  
756 issue, for purposes of calculating the amount of attorney  
757 ~~attorney's~~ fees to be taxed against the employer or carrier, the  
758 term "benefits secured" includes ~~shall be deemed to include~~ only  
759 that amount awarded to the claimant above the amount specified  
760 in the offer to settle. If multiple issues are pending before a  
761 ~~the~~ judge of compensation claims, said offer of settlement must  
762 ~~shall~~ address each issue pending and ~~shall~~ state explicitly  
763 whether or not the offer on each issue is severable. The written  
764 offer must ~~shall~~ also unequivocally state whether or not it  
765 includes medical witness fees and expenses and all other costs  
766 associated with the claim.

767 (3) If a ~~any~~ party prevails ~~should prevail~~ in any  
768 proceedings before a judge of compensation claims or court,  
769 there shall be taxed against the nonprevailing party the  
770 reasonable costs of such proceedings, not to include attorney  
771 ~~attorney's~~ fees. A claimant is responsible for the payment of  
772 her or his own attorney ~~attorney's~~ fees, except that a claimant  
773 is entitled to recover attorney fees ~~an attorney's fee~~ in an  
774 amount equal to the amount provided for in subsection (1),  
775 subsection (5), or subsection (6) ~~(7)~~ from a carrier or

776 employer:

777 (a) Against whom she or he successfully asserts a petition  
 778 for medical benefits only, if the claimant has not filed or is  
 779 not entitled to file at such time a claim for disability,  
 780 permanent impairment, ~~wage-loss,~~ or death benefits, arising out  
 781 of the same accident;

782 (b) In a ~~any~~ case in which the employer or carrier files a  
 783 response to petition denying benefits with the Office of the  
 784 Judges of Compensation Claims and the injured person has  
 785 employed an attorney in the successful prosecution of the  
 786 petition;

787 (c) In a proceeding in which a carrier or employer denies  
 788 that an accident occurred for which compensation benefits are  
 789 payable, and the claimant prevails on the issue of  
 790 compensability; or

791 (d) In cases in which ~~where~~ the claimant successfully  
 792 prevails in proceedings filed under s. 440.24 or s. 440.28.

793  
 794 Regardless of the date benefits were initially requested,  
 795 attorney ~~attorney's~~ fees do ~~shall~~ not attach under this  
 796 subsection until 45 ~~30~~ days after the date the carrier or  
 797 employer, ~~if self-insured,~~ receives the petition.

798 ~~(4) In such cases in which the claimant is responsible for~~  
 799 ~~the payment of her or his own attorney's fees, such fees are a~~  
 800 ~~lien upon compensation payable to the claimant, notwithstanding~~



801 ~~s. 440.22.~~

802 (4)~~(5)~~ If ~~any~~ proceedings are had for review of a ~~any~~  
 803 claim, award, or compensation order before any court, the court  
 804 may, in its discretion, award the injured employee or dependent  
 805 attorney fees ~~an attorney's fee~~ to be paid by the employer or  
 806 carrier, ~~in its discretion, which shall be paid~~ as the court may  
 807 direct.

808 (5) (a) As used in this subsection, the term:

809 1. "Attorney hours" means the number of hours necessary  
 810 for the claimant's attorney to obtain the benefits secured as  
 811 determined by a judge of compensation claims. The term does not  
 812 include the volume of hours expended by the claimant's attorney  
 813 which were devoted to claimed benefits upon which the claimant  
 814 did not prevail.

815 2. "Customary fee" means the average hourly rate that an  
 816 attorney for an employer or carrier customarily charges in the  
 817 same locality for similar legal services in defense of claims  
 818 under this chapter as determined by a judge of compensation  
 819 claims.

820 3. "Departure fee" means the amount of attorney fees  
 821 calculated by a judge of compensation claims in place of the fee  
 822 allowed under subsection (1) when attorney fees are due under  
 823 this section.

824 (b) A departure fee under this subsection is in place of,  
 825 not in addition to, the amount allowed under subsection (1) or

826 subsection (6).

827 (c) Upon a petition, a judge of compensation claims may  
828 depart from the attorney fees amount set forth in subsection (1)  
829 upon a finding that the attorney fees provided for in that  
830 subsection are less than 40 percent or greater than 125 percent  
831 of the customary fee when the amount allowed under subsection  
832 (1) is converted to an hourly rate by dividing that amount by  
833 the attorney hours necessary to obtain the benefits secured.

834 (d) When resolving a petition for a departure fee under  
835 this subsection, a judge of compensation claims must:

836 1. Determine the number of attorney hours and make  
837 specific detailed findings specifically allocating the attorney  
838 hours to each benefit claimed, which must account for hours  
839 relating to multiple benefits in a manner that, in the  
840 independent discretion of the judge of compensation claims,  
841 apportions such hours by percentage, in whole numbers, to each  
842 benefit claimed;

843 2. Specify the number of hours claimed by the claimant's  
844 attorney that, in the independent discretion of the judge of  
845 compensation claims, reasonably relate to benefits upon which  
846 the claimant did not prevail; and

847 3. Reduce the number of attorney hours if he or she  
848 determines, in her or his independent discretion, that the  
849 number of attorney hours are excessive.

850 (e) A judge of compensation claims may determine the

851 locality and is not limited to an average hourly rate or number  
852 of attorney hours pled by a party, but may not exceed the amount  
853 or hours pled by the claimant's attorney, and may rely on  
854 evidence or take notice of credible data, including attorney fee  
855 data on file with the office of the judges of compensation  
856 claims or the Florida Bar.

857 (f) If a departure is permitted pursuant to paragraph (c),  
858 a judge of compensation claims must consider the following  
859 factors when departing from the amount set forth in subsection  
860 (1):

861 1. Whether the departure fee sought by the claimant's  
862 attorney is excessive.

863 2. The time and labor reasonably required, the novelty and  
864 difficulty of the questions involved, and the skill required to  
865 properly perform the legal services as established by evidence  
866 or as independently determined by the judge of compensation  
867 claims.

868 3. The customary fee.

869 4. Whether the total fee available under this section in  
870 relation to the amount involved in the controversy is excessive.

871 5. Whether the total fee available under this section in  
872 relation to the amount of benefits secured is excessive.

873 6. The time limits imposed by the circumstances.

874 7. The contingency or certainty of a claimant's attorney  
875 fee, taking into account any retainer agreement filed under this

876 section.

877 8. The volume of hours expended by the claimant's attorney  
878 that were devoted to issues upon which the claimant did not  
879 prevail.

880 9. Whether the departure fee sought by the claimant's  
881 attorney shocks the conscience as excessive.

882 (g) Based on the considerations of the factors in  
883 paragraph (f), a judge of compensation claims shall determine  
884 the hourly rate used to compute the departure fee awarded under  
885 this subsection, in \$1 increments, which may not exceed \$150 per  
886 hour. A judge of compensation claims is not limited to an hourly  
887 rate pled by a party.

888 (h) Using the hourly rate determined under paragraph (g)  
889 and number of attorney hours determined under paragraph (d), a  
890 judge of compensation claims must determine the amount of the  
891 departure fee under this subsection by multiplying the hourly  
892 rate by the number of attorney hours. The claimant is  
893 responsible for attorney fees pursuant to his or her retainer  
894 agreement that exceed the departure fee.

895 (i) The employer or carrier may contest the departure fee  
896 amount awarded under this section within 20 calendar days after  
897 the entry of the departure fee award. Upon the filing of a  
898 request by the employer or carrier, the departure fee award must  
899 be vacated and reviewed de novo upon the existing record by a  
900 judge of compensation claims in another district as assigned by

901 the Deputy Chief Judge of Compensation Claims if the number of  
902 attorney hours determined by the presiding judge of compensation  
903 claims under paragraph (d) exceeds 125 percent of the number of  
904 hours the employer's or carrier's attorney attests were devoted  
905 by him or her to the defense of the benefits secured. The  
906 reviewing judge of compensation claims must issue an order  
907 determining the amount of the departure fee under this paragraph  
908 making all determinations and findings required under this  
909 subsection. The judge of compensation claims must issue the  
910 order within 30 calendar days after receiving the assignment.  
911 This paragraph does not apply to cases settled under s.  
912 440.20(11) or if a stipulation has been filed resolving the  
913 claimant's attorney fees.

914 ~~(6) A judge of compensation claims may not enter an order~~  
915 ~~approving the contents of a retainer agreement that permits~~  
916 ~~placing any portion of the employee's compensation into an~~  
917 ~~escrow account until benefits have been secured.~~

918 ~~(7)~~ If an attorney ~~attorney's~~ fee is owed under paragraph  
919 (3) (a), a ~~the~~ judge of compensation claims may approve an  
920 alternative attorney ~~attorney's~~ fee not to exceed \$1,500 ~~only~~  
921 ~~once per accident~~, based on a maximum hourly rate of \$150 per  
922 hour, if the judge of compensation claims expressly finds that  
923 the attorney ~~attorney's~~ fee amount provided for in subsection  
924 (1), based on benefits secured, results in an effective hourly  
925 rate of less than \$150 per hour ~~fails to fairly compensate the~~

926 ~~attorney~~ for disputed medical-only claims as provided in  
 927 paragraph (3) (a) ~~and the circumstances of the particular case~~  
 928 ~~warrant such action.~~ The attorney fees under this subsection are  
 929 in place of, not in addition to, any attorney fees available  
 930 under this section.

931 Section 9. Section 440.345, Florida Statutes, is amended  
 932 to read:

933 440.345 Reporting of attorney ~~attorney's~~ fees.—All fees  
 934 paid to attorneys for services rendered under this chapter shall  
 935 be reported to the Office of the Judges of Compensation Claims  
 936 as the Division of Administrative Hearings requires by rule. A  
 937 carrier must specify in its report the total amount of attorney  
 938 fees paid for and the total number of attorney hours spent on  
 939 services related to the defense of petitions, and the total  
 940 amount of attorney fees paid for services unrelated to the  
 941 defense of petitions.

942 Section 10. Paragraph (b) of subsection (6) of section  
 943 440.491, Florida Statutes, is amended to read:

944 440.491 Reemployment of injured workers; rehabilitation.—

945 (6) TRAINING AND EDUCATION.—

946 (b) When an employee who has attained maximum medical  
 947 improvement is unable to earn at least 80 percent of the  
 948 compensation rate and requires training and education to obtain  
 949 suitable gainful employment, the employer or carrier shall pay  
 950 the employee additional training and education temporary total

951 compensation benefits while the employee receives such training  
952 and education for a period not to exceed 26 weeks, which period  
953 may be extended for an additional 26 weeks or less, if such  
954 extended period is determined to be necessary and proper by a  
955 judge of compensation claims. The benefits provided under this  
956 paragraph are ~~shall~~ not ~~be~~ in addition to the maximum number of  
957 ~~104~~ weeks as specified in s. 440.15(2). However, a carrier or  
958 employer is not precluded from voluntarily paying additional  
959 temporary total disability compensation beyond that period. If  
960 an employee requires temporary residence at or near a facility  
961 or an institution providing training and education which is  
962 located more than 50 miles away from the employee's customary  
963 residence, the reasonable cost of board, lodging, or travel must  
964 be borne by the department from the Workers' Compensation  
965 Administration Trust Fund established by s. 440.50. An employee  
966 who refuses to accept training and education that is recommended  
967 by the vocational evaluator and considered necessary by the  
968 department will forfeit any additional training and education  
969 benefits and any additional compensation ~~payment for lost wages~~  
970 under this chapter. The carrier shall notify the injured  
971 employee of the availability of training and education benefits  
972 as specified in this chapter. The Department of Financial  
973 Services shall include information regarding the eligibility for  
974 training and education benefits in informational materials  
975 specified in ss. 440.207 and 440.40.

976 Section 11. Subsection (1) of section 627.211, Florida  
977 Statutes, is amended, and subsection (7) is added to that  
978 section, to read:

979 627.211 Deviations and departures; workers' compensation  
980 and employer's liability insurances.—

981 (1) Except as provided in subsection (7), every member or  
982 subscriber to a rating organization shall, as to workers'  
983 compensation or employer's liability insurance, adhere to the  
984 filings made on its behalf by such organization; except that any  
985 such insurer may make written application to the office for  
986 permission to file a uniform percentage decrease or increase to  
987 be applied to the premiums produced by the rating system so  
988 filed for a kind of insurance, for a class of insurance which is  
989 found by the office to be a proper rating unit for the  
990 application of such uniform percentage decrease or increase, or  
991 for a subdivision of workers' compensation or employer's  
992 liability insurance:

993 (a) Comprised of a group of manual classifications which  
994 is treated as a separate unit for ratemaking purposes; or

995 (b) For which separate expense provisions are included in  
996 the filings of the rating organization.

997  
998 Such application shall specify the basis for the modification  
999 and shall be accompanied by the data upon which the applicant  
1000 relies. A copy of the application and data shall be sent



1001 | simultaneously to the rating organization.

1002 |       (7) Without approval of the office, a member or subscriber

1003 | to a rating organization may depart from the filings made on its

1004 | behalf by a rating organization for a period of 12 months by a

1005 | uniform decrease of up to 5 percent to be applied uniformly to

1006 | the premiums resulting from the approved rates for the policy

1007 | period. The member or subscriber must file an informational

1008 | departure statement with the office within 30 days after initial

1009 | use of such departure specifying the percentage of the departure

1010 | from the approved rates and an explanation of how the departure

1011 | will be applied. If the departure is to be applied over a

1012 | subsequent 12-month period, the member or subscriber must file a

1013 | supplemental informational departure statement pursuant to this

1014 | subsection at least 30 days before the end of the current

1015 | period. If the office determines that a departure violates the

1016 | applicable principles for ratemaking under ss. 627.062 and

1017 | 627.072, would result in predatory pricing, or imperils the

1018 | financial condition of the member or subscriber, the office must

1019 | issue an order specifying its findings and stating the time

1020 | period within which the departure expires, which must be within

1021 | a reasonable time period after the order is issued. The order

1022 | does not affect an insurance contract or policy made or issued

1023 | before the departure expiration period set forth in the order.

1024 |       Section 12. This act shall take effect July 1, 2018.