

## BILL ANALYSIS

Senate Research Center  
79R3046 PB-F

S.B. 5  
By: Staples, Nelson  
State Affairs  
2/14/05  
As Filed

### AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, the Texas workers' compensation system is governed by the Texas Workers' Compensation Act (Texas Labor Code, Title 5, Subtitle A). The Act lays out a system of benefits for employees injured on the job and imposes duties and regulations on participants in the system, including employees, employers, health care providers, insurance carriers, and attorneys. The state administers the system through the Texas Workers' Compensation Commission (TWCC) and, to some extent, through the Texas Department of Insurance (TDI). However, numerous studies and analyses by both the state and other entities demonstrate that Texas has one of the most costly and least effective workers' compensation systems in the country.

The most significant change made by S.B. 5 is to the medical care delivery system. Under current law, an employee injured on the job receives care from a doctor on TWCC's approved doctor list. State law and TWCC closely define many aspects of the medical care delivery system, including provider fees, dispute processes, preauthorization of care requirements, and other areas. As proposed, S.B. 5 allows for the formation of workers' compensation health care networks and requires the networks to be certified and regulated by TDI. If an employer offers a network, employees would receive treatment for on-the-job injuries from network providers. Networks and the parties with which they contract could negotiate many aspects of the medical care delivery process currently defined by TWCC.

S.B. 5 also abolishes TWCC and replaces it with the Texas Department of Workers' Compensation (TDWC), headed by a single commissioner. Further, S.B. 5 makes greater use of, and requires greater accountability in, the designated doctor process by which independent doctors consider disputed issues related to indemnity benefits. TDWC would be required to adopt evidence-based medical treatment guidelines, and could adopt more specific treatment protocols.

### RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of the Texas Department of Workers' Compensation in SECTION 2.007 (Section 402.061, Labor Code), SECTION 3.071 (Section 408.004(b), Labor Code), SECTION 3.077 (Section 408.0231(g), Labor Code), SECTION 3.080 (Sections 408.0251(a) and (c), Labor Code) and SECTION 3.238 (Section 413.022, Labor Code) of this bill. Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 3.017 (Section 405.002, Labor Code) and SECTION 4.02 (Sections 1305.005, 1305.007, 1305.054, 1305.301, and 1305.502, Insurance Code) of this bill.

### SECTION BY SECTION ANALYSIS

#### ARTICLE 1. ORGANIZATION OF DEPARTMENT

SECTION 1.001. Amends Subchapter A, Chapter 402, Labor Code, as follows:

##### SUBCHAPTER A. ORGANIZATION

Sec. 402.001. DUTIES OF DEPARTMENT. Requires the Texas Department of Workers' Compensation (department) to regulate the business of workers' compensation

and ensure that laws regarding workers' compensation are executed, in addition to the other duties required of the department.

Sec. 402.002. COMPOSITION OF DEPARTMENT. Provides that the department is composed of the commissioner and other officers and employees as required to efficiently implement certain workers' compensation laws.

Sec. 402.003. CHIEF EXECUTIVE. (a) Provides that the commissioner is the department's chief executive and administrative officer. Requires the commissioner to administer and enforce this title and other laws governing workers' compensation.

(b) Provides that the commissioner has the powers and duties vested in the department by this title and other workers' compensation laws of this state.

Sec. 402.004. APPOINTMENT; TERM. Requires the governor, with the advice and consent of the senate, to appoint the commissioner, who serves two-year terms that expire on February 1 of each odd-numbered year. Requires the governor to appoint the commissioner in a nondiscriminatory manner.

Sec. 402.005. QUALIFICATIONS. Sets forth qualifications to be met by the commissioner.

Sec. 402.006. INELIGIBILITY FOR PUBLIC OFFICE. Provides that the commissioner is ineligible to be a candidate for a public elective office in this state unless the commissioner resigns and the governor has accepted the resignation.

Sec. 402.007. COMPENSATION. Provides that the commissioner is entitled to compensation as provided by the General Appropriations Act. Deletes existing text related to membership requirements for the Texas Workers' Compensation Commission (commission).

Sec. 402.008. EFFECT OF LOBBYING ACTIVITY. Redesignated from Section 402.003. Prohibits a person from serving as commissioner, rather than a member of the commission, or acting as the general counsel to the department, rather than commission, if the person is required to register as a lobbyist under Chapter 305 (Registration of Lobbyists), Government Code. Makes conforming changes.

Deletes existing text of Section 402.004 (Voting Requirements).

Sec. 402.009. New heading: GROUNDS FOR REMOVAL. Redesignated from Section 402.005 (Removal of Commission Members). (a) Provides that it is a ground for removal from office if the commissioner, rather than the commission member, commits certain offenses. Makes conforming changes.

(b) Makes conforming changes. Deletes existing text of Subsection (c) related to notification of a potential ground for removal.

Sec. 402.010. PROHIBITED GIFTS, ADMINISTRATIVE VIOLATION. Redesignated from Section 402.006. Makes conforming changes.

Deletes existing text of Section 402.007 (Meetings).

Deletes existing text of Section 402.008 (Chairman).

Deletes existing text of Section 402.009 (Leave of Absence).

Sec. 402.011. New heading: CIVIL LIABILITY OF THE COMMISSIONER. Redesignated from Section 402.010. Makes conforming changes.

Deletes existing text of Section 402.011 (Reimbursement).

Sec. 402.012. CONFLICT OF INTEREST. Makes conforming changes.

SECTION 1.002. Amends Subchapter C, Chapter 402, Labor Code, as follows:

SUBCHAPTER C. New heading: DEPARTMENT PERSONNEL

Sec. 402.041. APPOINTMENTS. (a) Requires the commissioner to, subject to the General Appropriations Act, appoint certain personnel as necessary to carry out the powers and duties of the commissioner and the department under this title and other workers' compensation laws.

(b) Requires a person appointed under this section to have the necessary experience and qualifications necessary to perform job duties.

(c) Requires that a person appointed as an associate or deputy commissioner or to hold an equivalent position to have five years of relevant experience, with at least two years in a related position.

Sec. 402.042. DIVISION OF RESPONSIBILITIES. Requires the commissioner to develop and implement policies that clearly define the responsibilities of the commissioner and the staff of the department. Deletes existing text related to the specific duties of the executive director.

Deletes existing text of Section 402.042 (General Powers and Duties of Executive Director) and Section 402.043 (Administrative Assistants).

Sec. 402.043. CAREER LADDER; ANNUAL PERFORMANCE EVALUATIONS. Redesignated from existing section 402.044. Requires the commissioner or the commissioner's designee, rather than the executive director, to develop an intra-agency career ladder program and a system of annual performance evaluations. Makes conforming changes.

Sec. 402.044. EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT. Redesignated from Section 402.045. Requires that a policy statement prepared under this section be reviewed by the civil rights division of the Texas Workforce Commission, rather than the Commission on Human Rights. Makes conforming changes.

ARTICLE 2. CONFORMING AMENDMENTS WITHIN CHAPTER 402, LABOR CODE

SECTION 2.001. Amends the heading to Chapter 402, Labor Code, to read as follows:

CHAPTER 402. TEXAS DEPARTMENT OF WORKERS' COMPENSATION

SECTION 2.002. Amends Section 402.021, Labor Code, to make conforming changes.

SECTION 2.003. Amends Section 402.022, Labor Code, to make conforming changes.

SECTION 2.004. Amends Section 402.023, Labor Code, to make conforming changes.

SECTION 2.005. Amends Section 402.024, Labor Code, to make conforming changes.

SECTION 2.006. Amends the heading to Subchapter D, Chapter 402, Labor Code, to read as follows:

SUBCHAPTER D. GENERAL POWERS AND DUTIES OF DEPARTMENT

SECTION 2.007. Amends Section 402.061, Labor Code, to make conforming changes.

SECTION 2.008. Amends Section 402.062, Labor Code, to make conforming changes.

SECTION 2.009. Amends Section 402.064, Labor Code, to make conforming changes.

SECTION 2.010. Amends Section 402.065, Labor Code, to make conforming changes.

SECTION 2.011. Amends Section 402.066, Labor Code, to make conforming changes.

SECTION 2.012. Amends Section 402.0665, Labor Code, to make conforming changes.

SECTION 2.013. Amends Section 402.067, Labor Code, to make conforming changes.

SECTION 2.014. Amends Section 402.068, Labor Code, to make conforming changes.

SECTION 2.015. Amends Section 402.069, Labor Code, to make conforming changes.

SECTION 2.016. Amends Section 402.071(a), Labor Code, to make conforming changes.

SECTION 2.017. Amends Section 402.072, Labor Code, to make conforming changes.

SECTION 2.018. Amends Sections 402.073(a) and (c), Labor Code, to make conforming changes.

SECTION 2.019. Amends Section 402.081, Labor Code, to require the fee for access to information under Chapter 552 (Public Information), Government Code, to be in accord with the rules of the Texas Building and Procurement Commission, rather than the General Services Commission, that prescribe the method for computing the charge for copies. Makes conforming changes.

SECTION 2.020. Amends Section 402.082, Labor Code, to make conforming changes.

SECTION 2.021. Amends Section 402.083(a), Labor Code, to provide that information in or derived from a claim file regarding an employee is confidential and may not be disclosed by the department except as provided by this subtitle or other law. Makes a conforming change.

SECTION 2.022. Amends Sections 402.084(a), (b), and (d), Labor Code, to authorize information on a claim to be released to a subclaimant under Section 409.009 (Subclaims) that is an insurance carrier that has adopted an antifraud plan under Subchapter B, Chapter 704 (Antifraud Plans), rather than Article 3.97-3, Insurance Code. Makes conforming changes.

SECTION 2.023. Amends Section 402.085, Labor Code, as follows:

Sec. 402.085. EXCEPTIONS TO CONFIDENTIALITY. (a) Requires the department to release information on a claim to the Texas Department of Insurance for any statutory or regulatory purpose, including a research purpose under Chapter 405 (Workers' Compensation Research). Deletes existing Subsection (4) related to the Research and Oversight Council on Workers' Compensation and renumbers subsequent sections accordingly. Makes conforming changes.

(b) Authorizes the department to release information on a claim to a governmental agency, political subdivision, or regulatory body to use to assess financial resources in an action, including an administrative action to cooperate with another state in an action authorized under Chapter 231 (Title IV-D Services), Family Code, rather than Chapter 76, Human Resources Code. Makes a conforming change.

SECTION 2.024. Amends Sections 402.088(a), (b), and (d), Labor Code, to make conforming changes.

SECTION 2.025. Amends Section 402.089(a), Labor Code, to make a conforming change.

SECTION 2.026. Amends Section 402.090, Labor Code, to authorize the Texas Department of Insurance, rather than the Texas Workers' Compensation Research Center (research center), to

prepare and release statistical information if the identity of the employee is not explicitly or implicitly disclosed. Makes a conforming change.

SECTION 2.027. Amends Section 402.091(a), Labor Code, to make a conforming change.

SECTION 2.028. Amends Sections 402.092(a), (b), (d), (e), and (f), Labor Code to make conforming changes.

### ARTICLE 3. GENERAL OPERATION OF WORKERS' COMPENSATION SYSTEM; CONFORMING AMENDMENTS WITHIN LABOR CODE

SECTION 3.001. Amends Section 91.003(b), Labor Code, to make conforming changes.

SECTION 3.002. Amends Section 401.002, Labor Code, to provide that, unless continued in existence as provided by Chapter 325 (Sunset Law), Government Code, the department is abolished September 1, 2017, rather than 2005. Makes conforming changes.

SECTION 3.003. Amends Section 401.003(a), Labor Code, to make conforming changes.

SECTION 3.004. Amends Section 401.011, Labor Code, by amending Subdivisions (8), (15), (31), (37), and (39) and by adding Subdivision (45), as follows:

(8) Defines "commissioner." Deletes existing text defining "commission."

(15) Redefines "designated doctor" to make a conforming change.

(31) Redefines "medical benefit."

(37) Redefines "representative" to make a conforming change.

(39) Redefines "sanction" to make conforming changes.

(45) Defines "department."

SECTION 3.005. Amends Section 401.021, Labor Code, to make conforming changes.

SECTION 3.006. Amends Section 401.023(b), Labor Code, to make a conforming change.

SECTION 3.007. Amends Section 401.024(b), (c) and (d), Labor Code, to make conforming changes.

SECTION 3.008. Amends Subchapter C, Chapter 401, Labor Code, by adding Section 401.025, as follows:

Sec. 401.025. REFERENCES TO COMMISSION AND EXECUTIVE DIRECTOR. (a) Provides that a reference in this code or other law to the Texas Workers' Compensation Commission or the executive director of that commission means the department or the commissioner as consistent with the respective duties of the commissioner and the department.

(b) Provides that a reference in this code or other law to the executive director of the Texas Workers' Compensation commission means the commissioner.

SECTION 3.009. Amends the heading to Chapter 403, Labor Code, to read as follows:

### CHAPTER 403. DEPARTMENT FINANCING

SECTION 3.010. Amends Section 403.001, Labor Code, to authorize money deposited in the general revenue fund to be used to satisfy the requirements of Section 201.052 (Reimbursement), rather than Article 4.19, Insurance Code. Makes conforming changes.

SECTION 3.011. Amends Section 403.003, Labor Code, to make conforming changes.

SECTION 3.012. Amends Section 403.004, Labor Code, to make conforming changes.

SECTION 3.013. Amends Section 403.005, Labor Code, to make conforming changes.

SECTION 3.014. Reenacts and amends Section 403.006, Labor Code, as amended by Chapters 211 and 1296, Acts of the 78th Legislature, Regular Session, 2003, as follows:

Sec. 403.006. SUBSEQUENT INJURY FUND. (a) Provides that the subsequent injury fund is a dedicated account, rather than an account, in the general revenue fund and that money in the account may be appropriated only for the purposes of this section or as provided by other law. Deletes existing text related to the applicability of Section 403.095, Government Code.

(b) Provides that the subsequent injury fund is liable for certain payments and reimbursements. Deletes existing text related to the payment of an assessment of feasibility and the development of regional networks. Makes conforming changes.

(c) and (d) Makes conforming changes.

SECTION 3.015. Amends Section 403.007, Labor Code, to make conforming changes.

SECTION 3.016. Amends Section 405.001, Labor Code, to define "commissioner." Makes conforming changes.

SECTION 3.017. Amends Section 405.002, Labor Code, by amending Subsection (a) and adding Subsections (d) and (e), as follows:

(a) Requires the department to conduct professional studies and research related to the impact of workers' compensation health care networks certified under Chapter 1305 (Workers' Compensation Healthcare Networks), Insurance Code, on claims costs and injured employee outcomes. Makes conforming changes.

(d) Requires the department to, in accordance with Subchapter K, Chapter 1305, Insurance Code, biennially evaluate the cost and quality of health care provided by workers' compensation health care networks and issue annual consumer report cards comparing workers' compensation health care networks certified by the department.

(e) Requires the commissioner of insurance to adopt rules as necessary to establish data reporting requirements to support the research duties of the department.

SECTION 3.018. Amends Chapter 405, Labor Code, by adding Section 405.0021, as follows:

Sec. 405.0021. RESEARCH AGENDA. (a) Requires the department to prepare a proposed workers' compensation research agenda for commissioner review and approval to be published annually in the Texas Register.

(b) Requires the commissioner to accept public comments on the research agenda and hold a public hearing on the proposed research agenda if a hearing is requested.

SECTION 3.019. Amends the heading to Section 406.004, Labor Code, to make a conforming change.

SECTION 3.020. Amends Sections 406.004(a), (b), (c), and (d), Labor Code, to make conforming changes.

SECTION 3.021. Amends Section 406.005(c), Labor Code, to make a conforming change.

SECTION 3.022. Amends Sections 406.006(a), (b), and (c), Labor Code, to make conforming changes.

SECTION 3.023. Amends Sections 406.007(a), (b), and (c), Labor Code, to make conforming changes.

SECTION 3.024. Amends Section 406.008, Labor Code, to make conforming changes.

SECTION 3.025. Amends Sections 406.009(a), (b), (c), and (d), Labor Code, to make conforming changes.

SECTION 3.026. Amends Section 406.010(c), Labor Code, to make a conforming change.

SECTION 3.027. Amends Section 406.011(a), Labor Code, to make conforming changes.

SECTION 3.028. Amends Section 406.012, Labor Code, to make a conforming change.

SECTION 3.029. Amends Section 406.051(c), Labor Code, to make a conforming change.

SECTION 3.030. Amends Section 406.073(b), Labor Code, to make a conforming change.

SECTION 3.031. Amends Sections 406.074(a) and (b), Labor Code, to make conforming changes.

SECTION 3.032. Amends Section 406.093(b), Labor Code, to make a conforming change.

SECTION 3.033. Amends Section 406.095(b), Labor Code, to make a conforming change.

SECTION 3.034. Amends Sections 406.144(c) and (d), Labor Code, to make conforming changes.

SECTION 3.035. Amends Sections 406.145(a), (b), (c), (d), and (f), Labor Code, to make conforming changes.

SECTION 3.036. Amends Section 406.162(b), Labor Code, to make conforming changes.

SECTION 3.037. Amends Section 407.001(3), Labor Code, to make a conforming change.

SECTION 3.038. Amends Section 407.021, Labor Code, to make a conforming change.

SECTION 3.039. Amends Section 407.022, Labor Code, to make conforming changes.

SECTION 3.040. Amends Section 407.023, Labor Code, to make conforming changes.

SECTION 3.041. Amends Sections 407.041(a), (b), and (c), Labor Code, to make conforming changes.

SECTION 3.042. Amends Section 407.042, Labor Code, to require the commissioner, with the approval of the Texas Certified Self-Insurer Guaranty Association, to issue a certificate of authority to self-insure to an applicant who meets the certification requirements and pays the required fee. Deletes existing text related to a required majority vote. Makes a conforming change.

SECTION 3.043. Amends Section 407.043, Labor Code, to make conforming changes.

SECTION 3.044. Amends Section 407.044(a), Labor Code, to make a conforming change.

SECTION 3.045. Amends Section 407.045, Labor Code, to make conforming changes.

SECTION 3.046. Amends Sections 407.046(a), (b), and (d), Labor Code, to make conforming changes.

SECTION 3.047. Amends Section 407.047(b), Labor Code, to make conforming changes.

SECTION 3.048. Amends Sections 407.061(a), (c), (e), and (f), Labor Code, to make conforming changes.

SECTION 3.049. Amends Section 407.062, Labor Code, to make conforming changes.

SECTION 3.050. Amends Section 407.063(a), Labor Code, to make a conforming change.

SECTION 3.051. Amends Section 407.064(b), Labor Code, to make a conforming change.

SECTION 3.052. Amends Sections 407.081(a), (b), (c), (d), (f), and (g), Labor Code, to make conforming changes.

SECTION 3.053. Amends Sections 407.082(a), (c), and (d), Labor Code, to make conforming changes.

SECTION 3.054. Amends Section 407.101(b), Labor Code, to make a conforming change.

SECTION 3.055. Amends Section 407.102, Labor Code, to make a conforming change.

SECTION 3.056. Amends Sections 407.103(a) and (d), Labor Code, to make conforming changes.

SECTION 3.057. Amends Sections 407.104(b), (c), and (e), Labor Code, to make conforming changes.

SECTION 3.058. Amends Sections 407.122(b) and (c), Labor Code, as follows:

(b) Provides that the board of directors is composed of three certified self-insurers, the commissioner, rather than one commission member representing wage earners and one commission member representing employers, and the public counsel of the office of public insurance counsel. Renumbers subdivisions to reflect deletions.

(c) Provides that the director of the division of self-insurance regulation serves as a nonvoting member of the board of directors. Deletes text relating to the executive director of the commission. Makes conforming changes.

SECTION 3.059. Amends Section 407.123(b), Labor Code, to make a conforming change.

SECTION 3.060. Amends Sections 407.124(a) and (c), Labor Code, to make conforming changes.

SECTION 3.061. Amends Section 407.126(d), Labor Code, to make a conforming change.

SECTION 3.062. Amends Section 407.127(a), Labor Code, to make a conforming change.

SECTION 3.063. Amends Section 407.133(a), Labor Code, to make a conforming change.

SECTION 3.064. Amends Section 407A.053(d), Labor Code, to make conforming changes.

SECTION 3.065. Amends Section 407A.201(c), Labor Code, to make conforming changes.

SECTION 3.066. Amends the heading to Section 407A.301, Labor Code, to read as follows:

Sec. 407A.301. MAINTENANCE TAX FOR DEPARTMENT OF WORKERS' COMPENSATION AND RESEARCH FUNCTIONS OF INSURANCE DEPARTMENT.



SECTION 3.067. Amends Section 407A.301(a), Labor Code, to make conforming changes.

SECTION 3.068. Amends Sections 407A303(a) and (c), Labor Code, to make conforming changes.

SECTION 3.069. Amends Section 407A.357(b), Labor Code, to make conforming changes.

SECTION 3.070. Amends Section 408.003(c), Labor Code, to make conforming changes.

SECTION 3.071. Amends Section 408.004, Labor Code, by amending Subsections (a), (b), (d), (e), and (f), and adding Subsection (h), as follows:

(a) Authorizes the commissioner to require an employee to submit to medical examinations to resolve the appropriateness of the health care received by the employee. Deletes existing text related to examinations to resolve similar issues. Makes a conforming change.

(b) Deletes existing text related to certain medical examinations. Makes conforming changes.

(d) Makes conforming changes.

(e) Deletes existing text related to temporary income benefits. Makes conforming changes.

(f) Provides that this section does not apply to health care provided through a workers' compensation health care network established under Chapter 1305 (Workers' Compensation Healthcare Networks), Insurance Code. Deletes existing text related to benefit review conferences.

(h) Provides that a person who makes a frivolous request for a medical examination under Subsection (b), as determined by the commissioner, commits a Class B administrative violation.

SECTION 3.072. Amends Section 408.0041, Labor Code, as follows:

Sec. 408.0041. DESIGNATED DOCTOR EXAMINATION. (a) Requires the commissioner, at the request of an insurance carrier or an employee, or on the commissioner's own order, to order a medical examination to resolve any question about the extent of the employee's compensable injury, the ability of the employee to return to work, or other similar issues. Makes a conforming change.

(b), (d), and (e) Makes conforming changes.

(f) Requires the insurance carrier to pay benefits based on the opinion of the designated doctor during the pendency of any dispute. Deletes existing text related to allowing an insurance carrier reasonable time to decide on the merits of a case. Makes a conforming change.

(g) Provides that an injured employee is entitled to have a doctor of the employee's choice present at an examination requested by an insurance carrier. Requires the carrier to pay a fee set by the commissioner to the doctor selected by the employee.

(h) Redesignated from existing Subsection (g).

(i) Provides that an employee who fails or refuses to appear at the time scheduled for an examination commits a Class D administrative violation.

(j) Created from text of existing Subsection (h). Provides that an employee is not entitled to temporary income benefits during and for a period in which the employee fails to submit to an examination required by Subsection (a), rather than this chapter, unless the commissioner determines that the employee had good cause for the failure. Makes conforming changes.

(k) Redesignated from existing Subsection (i). Authorizes the insurance carrier to suspend or reduce the payment of temporary income benefits if the report of a designated doctor indicates that an employee has reached maximum medical improvement or is otherwise able to return to work immediately.

(l) Provides that a person who makes a frivolous request for a medical examination under Subsection (a) or (f), as determined by the commissioner, commits a Class B administrative violation.

SECTION 3.073. Amends Section 408.005(e), Labor Code, to make a conforming change.

SECTION 3.074. Amends Section 408.021(a), Labor Code, to define "health care reasonably required." Deletes existing text related to an employee's entitlement to health care that promotes recovery. Makes conforming changes.

SECTION 3.075. Amends Section 408.022, Labor Code, by amending Subsections (a)-(c) to make conforming changes, and adding Subsection (f), as follows:

(f) Provides that this section does not apply to requirements regarding the selection of a doctor under a workers' compensation health care network established under Chapter 1305 (Workers' Compensation Healthcare Networks), Insurance Code, except as provided by that chapter.

SECTION 3.076. Amends Section 408.023, Labor Code, to provide that a doctor who contracts with a workers' compensation health care network certified under Chapter 1305 (Workers' Compensation Healthcare Networks), Insurance Code, is not subject to the registration requirements of this section. Requires a doctor who contracts with a workers' compensation health care network to comply with certain requirements. Provides that a violation of this section is a Class A administrative violation. Prohibits an insurance carrier from using a certification of maximum medical improvement or an impairment rating assigned by a doctor who fails to comply with the commissioner rule for the purpose of suspending temporary income benefits or computing impairment income benefits. Deletes existing text related to doctors who participate in regional networks. Makes conforming and nonsubstantive changes.

SECTION 3.077. Amends Section 408.0231, Labor Code, to require the commissioner to adopt rules regarding doctors who perform peer review functions for insurance carriers. Sets forth guidelines for such rules. Makes conforming changes.

SECTION 3.078. Amends Section 408.024, Labor Code, to make conforming changes.

SECTION 3.079. Amends Sections 408.025(a), (b), and (d), Labor Code, to make conforming changes.

SECTION 3.080. Amends Subchapter B, Chapter 408, Labor Code, by adding Section 408.0251, as follows:

Sec. 408.0251. **ELECTRONIC BILLING REQUIREMENTS.** (a) Requires the commissioner, by rule, to establish requirements regarding the electronic submission and payment of medical bills.

(b) Requires insurance carriers to accept medical bills submitted electronically by health care providers.

(c) Requires the commissioner, by rule, to establish criteria for granting exceptions to insurance carriers who are not able to accept medical bills electronically.

SECTION 3.081. Amends Section 408.026, Labor Code, to make a conforming change.

SECTION 3.082. Amends Section 408.027(d), Labor Code, to make a conforming change.

SECTION 3.083. Amends Sections 408.028(b), (d), and (e), Labor Code, to make conforming changes.

SECTION 3.084. Amends Section 408.030, Labor Code, to make conforming changes.

SECTION 3.085. Amends Subchapter B, Chapter 408, Labor Code, by adding Section 408.031, as follows:

Sec. 408.031. WORKERS' COMPENSATION HEALTH CARE NETWORKS. (a) Authorizes an injured employee to receive benefits under a workers' compensation health care network established under Chapter 1305, Insurance Code, in the manner provided by that chapter, notwithstanding any other provision of this chapter.

(b) Provides that Chapter 1305, Insurance Code, prevails in a situation in which a conflict arises as to the operation and regulation of workers' compensation health care networks and other related topics.

SECTION 3.086. Amends Section 408.041(c), Labor Code, to make conforming changes.

SECTION 3.087. Amends Sections 408.042(d), (f), and (g), Labor Code, to make conforming changes.

SECTION 3.088. Amends Section 408.043(c), Labor Code, to make conforming changes.

SECTION 3.089. Amends Section 408.0445(b), Labor Code, to make a conforming change.

SECTION 3.090. Amends Sections 408.0446(d) and (e), Labor Code, to make conforming changes.

SECTION 3.091. Amends Section 408.045, Labor Code, to make a conforming change.

SECTION 3.092. Amends Section 408.047, Labor Code, as follows:

Sec. 308.047. STATE AVERAGE WEEKLY RATE. (a) Provides that, on and after October 1, 2006, the state average weekly wage is equal to 85 percent of the average weekly wage in covered employment computed by the Texas Workforce Commission under Section 207.002(c) (Benefits for Total Unemployment), Labor Code.

(b) Provides that the state average weekly wage for the period, rather than fiscal year, beginning September 1, 2005, and ending September 30, 2006, is \$540. Provides that this subsection expires October 1, 2006. Deletes existing text related to former dates and weekly wages.

SECTION 3.093. Amends Section 408.061(f), Labor Code, to make conforming changes.

SECTION 3.094. Amends Section 408.062(b), Labor Code, to make a conforming change.

SECTION 3.095. Amends Section 408.063(a), Labor Code, to make a conforming change.

SECTION 3.096. Amends Sections 408.081(b) and (c), Labor Code, to make conforming changes.

SECTION 3.097. Amends Section 408.082(c), Labor Code, to require that compensation will be computed from the date the disability begins if the disability continues for two, rather than four, weeks or longer after the date it begins.

SECTION 3.098. Amends Sections 408.084(a) and (b), Labor Code, to make conforming changes.

SECTION 3.099. Amends Section 408.085, Labor Code, to make conforming changes.

SECTION 3.100. Amends Section 408.086, Labor Code, to make conforming changes.

SECTION 3.101. Amends Section 408.102(b), Labor Code, to make a conforming change.

SECTION 3.102. Amends Section 408.103(b), Labor Code, to make conforming changes.

SECTION 3.103. Amends Sections 408.104(a) and (c), Labor Code, to make conforming changes.

SECTION 3.104. Amends Subchapter G, Chapter 408, Labor Code, by amending Section 408.122 and adding Section 408.1225, as follows:

Sec. 408.122. New heading: ELIGIBILITY FOR IMPAIRMENT INCOME BENEFITS. Deletes designation of Subsection(s).

Sec. 408.1225. DESIGNATED DOCTOR. Creates this section from text of existing Sections 408.122 (b) and (c). (a) Provides that, to be eligible to serve as a designated doctor, a doctor must meet specific qualifications, including demonstrated expertise in performing examinations and making evaluations as described by Section 408.0041 (Designated Doctor Examination). Requires the commissioner to ensure the quality of designated doctor decisions and reviews through active monitoring of the decisions and reviews, and authorizes the commissioner to take action as necessary to restrict or remove the participation of a designated doctor. Makes conforming changes.

(b) Created from existing text.

(c) Makes conforming changes.

SECTION 3.105. Amends and reenacts Section 408.123, Labor Code, to make conforming changes.

SECTION 3.106. Amends Section 408.124, Labor Code, to make conforming changes.

SECTION 3.107. Amends Sections 408.125(a)-(d), Labor Code, to make conforming changes.

SECTION 3.108. Amends Section 408.127(c), Labor Code, to make a conforming change.

SECTION 3.109. Amends Sections 408.129(a), (b), and (d), Labor Code, to make conforming changes.

SECTION 3.110. Amends Section 408.141, Labor Code, to make a conforming change.

SECTION 3.111. Amends Sections 408.143(a) and (b), Labor Code, to make conforming changes.

SECTION 3.112. Amends Section 408.147(c), Labor Code, to make a conforming change.

SECTION 3.113. Amends Section 408.148, Labor Code, to make conforming changes.

SECTION 3.114. Amends Section 408.149, Labor Code, to make conforming changes.

SECTION 3.115. Amends Section 408.150, Labor Code, to require the department to refer an employee to the Department of Assistive and Rehabilitative Services, rather than the Texas Rehabilitation Commission, with a recommendation for appropriate services. Makes conforming changes.

SECTION 3.116. Amends Section 408.151, Labor Code, to delete existing text related to medical examinations to determine compensable injuries. Makes conforming changes.

SECTION 3.117. Amends Section 408.161(d), Labor Code, to make conforming changes.

SECTION 3.118. Amends Sections 408.181(c) and (d), Labor Code, to make conforming changes.

SECTION 3.119. Amends Section 408.182(f), Labor Code, to make a conforming change.

SECTION 3.120. Amends Section 408.183(b), Labor Code, to make a conforming change.

SECTION 3.121. Amends Section 408.187(c), Labor Code, to make a conforming change.

SECTION 3.122. Amends Section 408.202, Labor Code, to make a conforming change.

SECTION 3.123. Amends Sections 408.221(a)-(g), Labor Code, to delete text related to the September 1, 2005 expiration date. Makes conforming changes.

SECTION 3.124. Amends Section 408.222, Labor Code, to make conforming changes.

SECTION 3.125. Amends Section 409.002, Labor Code, to make a conforming change.

SECTION 3.126. Amends Section 409.003, Labor Code, to make a conforming change.

SECTION 3.127. Amends Section 409.004, Labor Code, to make a conforming change.

SECTION 3.128. Amends Sections 409.005(d), (e), (f), (h), (i), (j), and (k), to make conforming changes.

SECTION 3.129. Amends Sections 409.006(b) and (c), Labor Code, to make conforming changes.

SECTION 3.130. Amends Section 409.007(a), Labor Code, to make a conforming change.

SECTION 3.131. Amends Section 409.009, Labor Code, to make a conforming change.

SECTION 3.132. Amends Section 409.010, Labor Code, to make conforming changes.

SECTION 3.133. Amends Sections 409.011(a) and (c), Labor Code, to make conforming changes.

SECTION 3.134. Amends Section 409.012, Labor Code, to require the department and the Department of Assistive and Rehabilitative Services to report to the legislature not later than August 1, 2006, on their actions to improve access to and the effectiveness of vocational rehabilitation programs for injured employees. Sets forth requirements for the report's content. Makes conforming changes.

SECTION 3.135. Amends Section 409.013, Labor Code, to make conforming changes.

SECTION 3.136. Amends Sections 409.021(a) and (b), Labor Code, to make conforming changes.

SECTION 3.137. Amends Section 409.022(c), Labor Code, to make a conforming change.

SECTION 3.138. Amends Section 409.023(a), Labor Code, to make a conforming change.

SECTION 3.139. Amends Section 409.0231(b), Labor Code, to make a conforming change.

SECTION 3.140. Amends Section 409.024, Labor Code, to make conforming changes.

SECTION 3.141. Amends Section 409.041(a), Labor Code, to make a conforming change.

SECTION 3.142. Amends Sections 409.042(a) and (c), Labor Code, to make conforming changes.

SECTION 3.143. Amends Section 409.043(a), Labor Code, to make a conforming change.

SECTION 3.144. Amends Section 409.044, Labor Code, to make a conforming change.

SECTION 3.145. Amends Section 410.002, Labor Code, to make a conforming change.

SECTION 3.146. Amends Section 410.004, Labor Code, to make a conforming change.

SECTION 3.147. Amends Section 410.005(a), Labor Code, to make a conforming change.

SECTION 3.148. Amends Section 410.021, Labor Code, to make a conforming change.

SECTION 3.149. Amends Sections 410.022(b) and (c), Labor Code, to make conforming changes.

SECTION 3.150. Amends Section 410.023, Labor Code, to make a conforming change.

SECTION 3.151. Amends Section 410.024, Labor Code, to make conforming changes.

SECTION 3.152. Amends Section 410.025, Labor Code, to make conforming changes.

SECTION 3.153. Amends Section 410.026(a), Labor Code, to make a conforming change.

SECTION 3.154. Amends Section 410.027(a), Labor Code, to make a conforming change.

SECTION 3.155. Amends Section 410.030, Labor Code, to make conforming changes.

SECTION 3.156. Amends Section 410.034(b), Labor Code, to make a conforming change.

SECTION 3.157. Amends Section 410.102, Labor Code, to delete text related to an affirmative vote required to approve an arbitrator. Makes conforming changes.

SECTION 3.158. Amends Section 410.103, Labor Code, to make a conforming change.

SECTION 3.159. Amends Sections 410.104(b) and (c), Labor Code, to make conforming changes.

SECTION 3.160. Amends Section 410.105, Labor Code, to delete text related to the removal of an arbitrator who does not receive an affirmative vote. Makes conforming changes.

SECTION 3.161. Amends Section 410.106, Labor Code, to make conforming changes.

SECTION 3.162. Amends Section 410.107(a), Labor Code, to make conforming changes.

SECTION 3.163. Amends Section 410.108(a), Labor Code, to make a conforming change.

SECTION 3.164. Amends Section 410.109, Labor Code, to make conforming changes.

SECTION 3.165. Amends Section 410.111, Labor Code to make a conforming change.

SECTION 3.166. Amends Section 410.114(b), Labor Code, to make a conforming change.

SECTION 3.167. Amends Section 410.118(d), Labor Code, to make a conforming change.

SECTION 3.168. Amends Section 410.119(b), Labor Code, to make a conforming change.

SECTION 3.169. Amends Sections 410.121(a) and (b), Labor Code, to make conforming changes.

SECTION 3.170. Amends Section 410.151(b), Labor Code, to make a conforming change.

SECTION 3.171. Amends Section 410.153, Labor Code, to make a conforming change.

SECTION 3.172. Amends Section 410.154, Labor Code, to make a conforming change.

SECTION 3.173. Amends Section 410.155, Labor Code, to make conforming changes.

SECTION 3.174. Amends Section 410.157, Labor Code, to make a conforming change.

SECTION 3.175. Amends Section 410.158(a), Labor Code, to make a conforming change.

SECTION 3.176. Amends Section 410.159, Labor Code, to make a conforming change.

SECTION 3.177. Amends Section 310.160, Labor Code, to make a conforming change.

SECTION 3.178. Amends Section 410.161, Labor Code, to make a conforming change.

SECTION 3.179. Amends Sections 410.168(d) and (e), Labor Code, to make conforming changes.

SECTION 3.180. Amends Section 410.203(d), Labor Code, to make a conforming change.

SECTION 3.181. Amends Section 410.204(b), Labor Code, to make a conforming change.

SECTION 3.182. Amends Section 410.206, Labor Code, to make a conforming change.

SECTION 3.183. Amends Section 410.207, Labor Code, to make a conforming change.

SECTION 3.184. Amends Section 410.208, Labor Code, to make conforming changes.

SECTION 3.185. Amends Section 410.209, Labor Code, to make a conforming change.

SECTION 3.186. Amends Section 410.253, Labor Code, to make conforming changes.

SECTION 3.187. Amends Section 410. 254, Labor Code, to make conforming changes.

SECTION 3.188. Amends the heading to Section 410.258, Labor Code, to make a conforming change.

SECTION 3.189. Amends Sections 410.258(a), (b), (c), (d), and (e), Labor Code, to make conforming changes.

SECTION 3.190. Amends Section 410.301(a), Labor Code, to make a conforming change.

SECTION 3.191. Amends Section 410.302, Labor Code, to make a conforming change.

SECTION 3.192. Amends Section 410.304, Labor Code, to make conforming changes.

SECTION 3.193. Amends Sections 410.306(b) and (c), Labor Code, to provide that all facts and evidence the department's record contains are admissible to the extent allowed under the Texas Rules of Evidence, rather than the Texas Rules of Civil Evidence. Makes conforming changes.

SECTION 3.194. Amends Sections 410.307(a) and (d), Labor Code, to make conforming changes.

SECTION 3.195. Amends Section 410.308(a), Labor Code, to make conforming changes.

SECTION 3.196. Amends Section 411.001(1), Labor Code, to make a conforming change.

SECTION 3.197. Amends Section 411.013, Labor Code, to make a conforming change.

SECTION 3.198. Amends Section 411.032, Labor Code, to make conforming changes.

SECTION 3.199. Amends Section 411.035, Labor Code, to make a conforming change.

SECTION 3.200. Amends Section 411.0415, Labor Code, to make conforming changes.

SECTION 3.201. Amends Section 411.042(b), Labor Code, to make a conforming change.

SECTION 3.202. Amends Section 411.043(b), Labor Code, to make a conforming change.

SECTION 3.203. Amends Section 411.045(a), Labor Code, to make a conforming change.

SECTION 3.204. Amends Section 411.048, Labor Code, to make conforming changes.

SECTION 3.205. Amends Section 411.049(a), Labor Code, to make a conforming change.

SECTION 3.206. Amends Section 411.050, Labor Code, to make a conforming change.

SECTION 3.207. Amends Section 411.062, Labor Code, to make conforming changes.

SECTION 3.208. Amends Section 411.064(c), Labor Code, to make conforming changes.

SECTION 3.209. Amends Section 411.065(b), Labor Code, to make a conforming change.

SECTION 3.210. Amends the heading to Section 411.067, Labor code, to make a conforming change.

SECTION 3.211. Amends Section 411.067(a), Labor Code, to make a conforming change.

SECTION 3.212. Amends Section 411.081(b), Labor Code, to make a conforming change.

SECTION 3.213. Amends Section 411.092, Labor Code, to make a conforming change.

SECTION 3.214. Amends Section 411.104(b), Labor Code, to make a conforming change.

SECTION 3.215. Amends Section 411.105, Labor Code, to make conforming changes.

SECTION 3.216. Amends Section 411.106, Labor Code, to make conforming changes.

SECTION 3.217. Amends Section 411.107, Labor Code, to make conforming changes.

SECTION 3.218. Amends Section 411.108, Labor Code, to make conforming changes.

SECTION 3.219. Amends Sections 412.041(g), (i), and (l), Labor Code, to make conforming changes.

SECTION 3.220. Amends Section 413.001, Labor Code, to make a conforming change.

SECTION 3.221. Amends Section 413.002, Labor Code, to require the division of medical review (division) to monitor independent review organizations to ensure compliance with rules adopted by the commissioner relating to health care. Requires the division to evaluate the quality and timeliness of decisions made under Section 408.0041 (Designated Doctor



Examination), 408.122 (Selection of Doctor), or 413.003 (Authority to Contract). Makes conforming changes.

SECTION 3.222. Amends Section 413.003, Labor Code, to make a conforming change.

SECTION 3.223. Amends Section 413.004, Labor Code, to make a conforming change.

SECTION 3.224. Amends Sections 413.005(a), (b), and (d), to make conforming changes.

SECTION 3.225. Amends Section 413.006, Labor Code, to make conforming changes.

SECTION 3.226. Amends Sections 413.007(a) and (c), Labor Code, to make conforming changes.

SECTION 3.227. Amends Sections 413.008(a) and (b), Labor Code, to make conforming changes.

SECTION 3.228. Amends Section 413.011, Labor Code, to require the department to adopt the most current reimbursement methodologies, models, and values or weights used by the federal Centers for Medicare & Medicaid Services, rather than Health Care Financing Administration. Deletes existing text related to national treatment guidelines and the commission's authority to establish guidelines and policies. Makes conforming and nonsubstantive changes.

SECTION 3.229. Amends Section 413.013, Labor Code, to make conforming changes.

SECTION 3.230. Amends Sections 413.014(b)-(e), Labor Code, to make conforming changes.

SECTION 3.231. Amends Section 413.0141, Labor Code, to make conforming changes.

SECTION 3.232. Amends Section 413.015(b), Labor Code, to make conforming changes.

SECTION 3.233. Amends Section 413.016(b), Labor Code, to make a conforming change.

SECTION 3.234. Amends Section 413.017, Labor Code, to make conforming changes.

SECTION 3.235. Amends Sections 413.018(a), (c), (d), and (e), Labor Code, to make conforming changes.

SECTION 3.236. Amends Section 413.020, Labor Code, to make conforming changes.

SECTION 3.237. Amends Sections 413.021(a), (d), and (e), Labor Code, to make conforming and nonsubstantive changes.

SECTION 3.238. Amends Subchapter B, Chapter 413, Labor Code, by adding Section 413.022, as follows:

Sec. 413.022. RETURN-TO-WORK PILOT PROGRAM FOR SMALL EMPLOYERS; FUND. (a) Defines "account" and "eligible employer."

(b) Requires the commissioner, by rule, to establish a return-to-work pilot program designed to promote the early and sustained return to work of an injured employee who sustains a compensable injury.

(c) Requires the pilot program to reimburse an eligible employer from the workers' compensation return to work account (account) for expenses incurred by the employer to make workplace modifications necessary to accommodate an injured employee's return to modified or alternative work. Sets forth limitations for expenses and reimbursements.

(d) Sets forth guidelines for the appropriate management of the account.

(e) Provides that an employer who wilfully applies for or receives reimbursement from the account under this section knowing that the employer is not an eligible employer commits a Class B administrative violation.

(f) Provides that this section may be implemented only to the extent funds are available, notwithstanding Subsections (a)-(e).

(g) Provides that this section expires September 1, 2009.

SECTION 3.239. Amends Sections 413.031(a), (b), (c), (d), (e-1), (f)-(h), (k), and (m), Labor Code, to delete some existing text regarding reviews of medical services and medical necessity. Makes conforming changes.

SECTION 3.240. Amends Sections 413.041(a), (b), and (d), Labor Code, to make conforming changes.

SECTION 3.241. Amends Section 413.044, Labor Code, to authorize the commissioner to impose sanctions against a person who commits certain violations or is out of compliance with rules adopted by the commissioner relating to the quality of decisions made under Section 408.0041 (Designated Doctor Examination) or Section 408.122 (Eligibility for Impairment Income Benefits; Designated Doctor). Provides that sanctions under this section may include certain penalties. Makes conforming and nonsubstantive changes.

SECTION 3.242. Amends Sections 413.051(a)-(d), Labor Code, to make conforming changes.

SECTION 3.243. Amends Section 413.0511, Labor Code, to require the department-employed or department-contracted medical advisor to make recommendations regarding the adoption of rules and policies to monitor the quality and timeliness of decisions made by designated doctors and independent review organizations, and the imposition of sanctions regarding those decisions. Makes conforming and nonsubstantive changes.

SECTION 3.244. Amends Section 413.0512(c), Labor Code, to require the medical quality review panel to recommend to the medical advisor appropriate action regarding doctors, other health care providers, insurance carriers, utilization review agents, and independent review organizations. Makes a nonsubstantive change.

SECTION 3.245. Amends Section 413.0513, Labor Code, to make conforming changes.

SECTION 3.246. Amends Section 413.0514, Labor Code, to make conforming changes.

SECTION 3.247. Amends Section 413.0515, Labor Code, to make conforming changes.

SECTION 3.248. Amends Section 413.052, Labor Code, to make a conforming change.

SECTION 3.249. Amends Section 413.053, Labor Code, to make a conforming change.

SECTION 3.250. Amends Section 413.054(a), Labor Code, to provide that certain persons who perform services for the department have the same immunity from liability as the commissioner under Section 402.011 (Civil Liability of the Commissioner), rather than Section 402.010. Makes conforming changes.

SECTION 3.251. Amends Sections 413.055(a) and (b), Labor Code, to make conforming changes.

SECTION 3.252. Amends Section 414.002(a), Labor Code, to make a conforming change.

SECTION 3.253. Amends Section 414.003, Labor Code, to make conforming changes.

SECTION 3.254. Amends Section 414.005, Labor Code, to make a conforming change.

SECTION 3.255. Amends Section 415.001, Labor Code, to provide that a representative of an employee or legal beneficiary commits an administrative violation if, regardless of the person's mental state, the person commits certain offenses. Deletes text specifying a person's intentionality. Makes conforming changes.

SECTION 3.256. Amends Section 415.002, Labor Code, to provide that an insurance carrier or its representative commits an administrative violation if, regardless of the person's mental state, that person adjusts a workers' compensation claim in a manner contrary to license requirements for an insurance adjuster, including the requirements of Chapter 4101 (Insurance Adjusters), Insurance Code, rather than Chapter 407, Acts of the 63rd Legislature, Regular Session, 1973 (Article 21.07-4, V.T.C.S.), or the rules of the commissioner of insurance. Makes conforming changes.

SECTION 3.257. Amends Section 415.003, Labor Code, to make conforming changes.

SECTION 3.258. Amends Sections 415.0035(a), (b), (e), and (f), Labor Code, to make conforming changes.

SECTION 3.259. Amends Section 415.007(a), Labor Code, to make a conforming change.

SECTION 3.260. Amends Section 415.008(e), Labor Code, to make a conforming change.

SECTION 3.261. Amends Section 415.009(a), Labor Code, to make a conforming change.

SECTION 3.262. Amends Section 415.010(a), Labor Code, to make conforming changes.

SECTION 3.263. Amends Sections 415.021(a), (b), and (c), Labor Code, to make conforming changes.

SECTION 3.264. Amends Section 415.023(b), Labor Code, to make conforming changes.

SECTION 3.265. Amends Section 415.024, Labor Code, to make a conforming change.

SECTION 3.266. Amends Section 415.032(b), Labor Code, to make a conforming change.

SECTION 3.267. Amends Section 415.033, Labor Code, to make a conforming change.

SECTION 3.268. Amends Section 415.034(a), Labor Code, to make a conforming change.

SECTION 3.269. Amends Sections 415.035(b) and (d), Labor Code, to make conforming changes.

SECTION 3.270. Amends Section 416.001, Labor Code, to make a conforming change.

SECTION 3.271. Amends Sections 417.001(c) and (d), Labor Code, to make conforming changes.

SECTION 3.272. Amends Section 417.003(b), Labor Code, to make a conforming change.

SECTION 3.273. Amends Section 501.001(1), Labor Code, to make conforming changes.

SECTION 3.274. Amends Section 501.026(d), Labor Code, to make a conforming change.

SECTION 3.275. Amends Section 501.050(a), Labor Code, to make conforming changes.

SECTION 3.276. Amends Section 502.001(1), Labor Code, to make conforming changes.

SECTION 3.277. Amends Section 502.041, Labor Code, as follows:

Sec. 502.041. EXHAUSTION OF ANNUAL AND SICK LEAVE. (a) Authorizes an employee to elect to use accrued sick leave before receiving income benefits. Provides

that an employee who elects to use sick leave is not entitled to income benefits under this chapter until the employee has exhausted the employee's accrued sick leave. Deletes existing text authorizing an institution to allow an injured employee to remain on the payroll.

(b) Authorizes an employee to elect to use all or any number of weeks of accrued annual leave after the employee's accrued sick leave is exhausted. Provides that an employee who elects to use annual leave is not entitled to income benefits under this chapter until the employee has exhausted the employee's accrued sick leave. Deletes existing text related to an injured employee that remains on the payroll.

SECTION 3.278. Amends the heading to Section 502.063, Labor Code, to make a conforming change.

SECTION 3.279. Amends Sections 502.063(a) and (c), Labor Code, to make conforming changes.

SECTION 3.280. Amends Section 502.065(a), Labor Code, to make a conforming change.

SECTION 3.281. Amends Sections 502.066(a) and (e), Labor Code, to make conforming changes.

SECTION 3.282. Amends Section 502.067(a), Labor Code, to make a conforming change.

SECTION 3.283. Amends Section 502.068, Labor Code, to make conforming changes.

SECTION 3.284. Amends Section 502.069(a), Labor Code, to make conforming changes.

SECTION 3.285. Amends Section 503.001, Labor Code, by amending Subdivision (1) to make conforming changes by defining "commissioner" and by adding Subdivision (1-a), to define "department."

SECTION 3.286. Amends Section 503.041, Labor Code, as follows:

Sec. 503.041. EXHAUSTION OF ANNUAL AND SICK LEAVE. (a) Authorizes an employee to elect to use accrued sick leave before receiving income benefits. Provides that an employee who elects to use sick leave is not entitled to income benefits under this chapter until the employee has exhausted the employee's accrued sick leave. Deletes existing text authorizing an institution to allow an injured employee to remain on the payroll.

(b) Authorizes an employee to elect to use all or any number of weeks of accrued annual leave after the employee's accrued sick leave is exhausted. Provides that an employee who elects to use annual leave is not entitled to income benefits under this chapter until the elected number of weeks of leave have been exhausted. Deletes existing text related to an injured employee that remains on the payroll.

SECTION 3.287. Amends the heading to Section 503.063, Labor Code, to make a conforming change.

SECTION 3.288. Amends Sections 503.063(a) and (c), Labor Code, to make conforming changes.

SECTION 3.289. Amends Section 503.065(a), Labor Code, to make a conforming change.

SECTION 3.290. Amends Sections 503.066(a) and (e), Labor Code, to make conforming changes.

SECTION 3.291. Amends Section 503.067(a), Labor Code, to make a conforming change.

SECTION 3.292. Amends Section 503.068, Labor Code, to make conforming changes.

SECTION 3.293. Amends Section 503.069(a), Labor Code, to make conforming changes.

SECTION 3.294. Amends Section 503.070(a), Labor Code, to make conforming changes.

SECTION 3.295. Amends Section 504.001(1), Labor Code, to make a conforming change.

SECTION 3.296. Amends the heading to Section 504.018, Labor Code, to make a conforming change.

SECTION 3.297. Amends Section 504.018(a), Labor Code, to make a conforming change.

SECTION 3.298. Amends the heading to Section 505.053, Labor Code, to make a conforming change.

SECTION 3.299. Amends Sections 505.053(a) and (c), Labor Code, to make conforming changes.

SECTION 3.300. Amends Section 505.054(d), Labor Code, to make conforming changes.

SECTION 3.301. Amends Section 505.055, Labor Code, to make conforming changes.

SECTION 3.302. Amends Sections 505.056(a) and (d), Labor Code, to make conforming changes.

SECTION 3.303. Amends Section 505.057(a), Labor Code, to make a conforming change.

SECTION 3.304. Amends Section 505.058, Labor Code, to make conforming changes.

SECTION 3.305. Amends Section 505.059(a), Labor Code, to make conforming changes.

#### ARTICLE 4. PROVISION OF WORKERS' COMPENSATION MEDICAL BENEFITS THROUGH PROVIDER NETWORKS

SECTION 4.01. Amends the heading to Subtitle D, Title 8, Insurance Code, as effective April 1, 2005, to read as follows:

##### SUBTITLE D. PROVIDER PLANS

SECTION 4.02. Amends Subtitle D, Title 8, Insurance Code, as effective April 1, 2005, by adding Chapter 1305, as follows:

#### CHAPTER 1305. WORKERS' COMPENSATION HEALTH CARE NETWORKS

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1305.001. **SHORT TITLE.** Authorizes this chapter to be cited as the Workers' Compensation Health Care Network Act.

Sec. 1305.002. **PURPOSE.** Sets forth the purpose of this chapter.

Sec. 1305.003. **LIMITATIONS ON APPLICABILITY.** (a) Provides that this chapter does not affect the authority of the Texas Department of Workers' Compensation to exercise the powers granted to that agency under Title 5 (Workers' Compensation), Labor Code, that do not conflict with this chapter.

(b) Provides that, in the event of a conflict between Title 5, Labor Code, and this chapter, this chapter prevails.

Sec. 1305.004. DEFINITIONS. (a) Defines "adverse determination," "affiliate," "capitation," "complainant," "complaint," "credentialing," "emergency," "employee," "fee dispute," "health care facility," "health care provider," "provider," "independent review," "independent review organization," "life-threatening," "medical emergency," "medical records," "mental health emergency," "network," "workers' compensation health care network," "nurse," "person," "preauthorization," "quality improvement program," "retrospective review," "rural area," "screening criteria," "service area," "Texas Workers' Compensation Act," "transfer of risk," "utilization review," "utilization review agent," and "utilization review plan."

(b) Provides that certain terms have the meanings assigned by Section 401.011 (General Definitions), Labor Code.

Sec. 1305.005. PARTICIPATION IN NETWORK; NOTICE OF NETWORK REQUIREMENTS. (a) Authorizes an employer that elects to provide workers' compensation insurance coverage under the Texas Workers' Compensation Act to receive workers' compensation health care services for the employer's injured employees through a workers' compensation health care network.

(b) Authorizes an insurance carrier to establish or contract with networks certified under this chapter to provide health care services under the Texas Workers' Compensation Act. Sets forth requirements for obtaining medical treatment within the network.

(c) Requires the insurance carrier to provide to the employer, and to ensure that the employer provides to the employer's employees, notice of network requirements, including all information required by Section 1305.451 (Employee Information; Responsibilities of Employee). Requires the carrier to require the employer to take certain steps to ensure the employees are knowledgeable of network requirements.

(d) Requires the insurance carrier to ensure that an employer provides network requirements to each employee hired not later than the third day after the date of hire.

(e) Requires the insurance carrier to require the employer to notify an injured employee of the network requirements at the time the employer receives actual or constructive notice of an injury.

(f) Provides that an injured employee is not required to comply with the network requirements until the employee receives the notice under Subsection (c) or (d).

(g) Authorizes the commissioner of insurance (commissioner) to adopt rules as necessary to implement this section.

Sec. 1305.006. INSURANCE CARRIER LIABILITY FOR OUT-OF-NETWORK HEALTH CARE. Provides that an insurance carrier that establishes or contracts with a network is not liable for all or part of the cost of a health care service, other than emergency services, if the employee obtains the health care service, without network approval, from certain providers.

Sec. 1305.007. RULES. Authorizes the commissioner to adopt rules as necessary to implement this chapter.

[Reserves Sections 1305.008-1305.050 for expansion.]

## SUBCHAPTER B. CERTIFICATION

Sec. 1305.051. **CERTIFICATION REQUIRED.** (a) Prohibits a person from organizing or operating a workers' compensation health care network in this state unless the person holds a certificate issued under this chapter and rules adopted by the commissioner.

(b) Prohibits a person, including a provider, from performing any act of a workers' compensation health care network except in accordance with the specific authorization of this chapter or rules adopted by the commissioner.

(c) Authorizes a health maintenance organization regulated under Chapter 843 (Health Maintenance Organizations) or an organization of physicians and providers that operates as a preferred provider under Chapter 1301 (Preferred Provider Benefit Plans) to be certified as a workers' compensation health care network if that entity meets the requirements and rules adopted by the commissioner.

Sec. 1305.052. **CERTIFICATE APPLICATION.** (a) Requires a person who seeks to operate as a workers' compensation health care network to apply to the department for a certificate to organize and operate as a network.

(b) Sets forth requirements for a certificate applicant.

Sec. 1305.053. **CONTENTS OF APPLICATION.** (a) Sets forth certain elements that must be included in each certificate application.

(b) Provides that compensation arrangements are confidential and are not subject to disclosure under Chapter 552 (Public Information), Government Code.

Sec. 1305.054. **ACTION ON APPLICATION; RENEWAL OF CERTIFICATION.** (a) Requires the commissioner to approve or disapprove an application for certification as a network not later than the 60th day after the date the completed application is received by the department. Sets forth requirements for an application to be considered complete.

(b) Authorizes the commissioner to request additional information derived from an on-site quality-of-care examination.

(c) Requires the department to notify the applicant of any deficiencies in the application and authorizes the department to allow the applicant to request additional time to revise the application. Authorizes the commissioner to grant or deny requests for additional time.

(d) Sets forth procedures for disapproving an application and requesting a hearing to contest disapproval by the commissioner.

(e) Provides that a certificate issued under this subchapter is valid for the period set by commissioner rule. Requires the commissioner, by rule, to establish renewal requirements for a certificate.

Sec.1305.055. **USE OF CERTAIN INSURANCE TERMS BY NETWORK PROHIBITED.** Provides that a network is not an insurer and prohibits a network from using certain words in its name, contracts, or informational literature.

Sec. 1305.056. **RESTRAINT OF TRADE; APPLICATION OF CERTAIN LAWS.** (a) Provides that a network that contracts with a provider or providers practicing individually or as a group is not, because of the contract or arrangement, considered to have entered into a conspiracy in restraint of trade in violation of Chapter 15 (Monopolies, Trusts, and Conspiracies in Restraint of Trade), Business & Commerce Code.

(b) Provides that, notwithstanding any other law, a person who contracts under this chapter with one or more providers in the process of conducting activities that are permitted by law but that do not require a certificate of

authority or other authorization under this code is not, because of the contract, considered to have entered into a conspiracy in restraint of trade in violation of Chapter 15, Business & Commerce Code.

(c) Provides that a network is subject to Articles 21.28 (Liquidation, Rehabilitation, Reorganization or Conservation of Insurers) and 21.28-A (Insurer Delinquencies and Prevention of Insurer Delinquencies; Supervision of Insurers and Proceedings, Conservatorships, Liquidations--Additional and Alternate Provisions) and is considered an insurer or insurance company, as applicable, for purposes of those laws.

Sec. 1305.057. MINUTES; BOOKS AND RECORDS. (a) Requires a network's governing body to specify, in the minutes of a meeting of the governing body, each officer who is responsible for the handling of the funds of the network.

(b) Authorizes a network to maintain the documents specified by this subsection outside this state if the network complies with Section 803.003 (Authority to Locate Out of State) and commissioner rules. Provides that this subsection applies to certain documents.

(c) Requires the network to make available, at the network's principal office in this state, all documents and materials required for an examination for an employee for the compensable injury for which the provider provided treatment.

[Reserves Sections 1305.058-1305.100 for expansion.]

#### SUBCHAPTER C. GENERAL POWERS AND DUTIES OF WORKER'S COMPENSATION HEALTH CARE NETWORKS

Sec. 1305.101. PROVIDING OR ARRANGING FOR HEALTH CARE. (a) Requires a network to provide or arrange for health care services only through providers or provider groups that are under contract with or are employed by the network, except for emergencies and out-of-network referrals.

(b) Prohibits a network provider who has treated an employee from serving as a designated doctor or performing a required medical examination for that employee for the compensable injury for which the provider provided treatment.

Sec. 1305.102. MANAGEMENT CONTRACTS. (a) Prohibits a network from entering into a contract with another entity for management services unless the proposed contract is first filed with the department and approved by the commissioner.

(b) Requires the commissioner to approve or disapprove the contract within a certain time period.

(c) Sets forth requirements for contract content.

(d) Requires the management contractor proposing to contract to provide to the commissioner information sufficient to allow the commissioner to determine the competence, fitness, or reputation of each of the contractor's officers and directors.

(e) Requires the commissioner to disapprove the proposed contract if the commissioner determines that the contract authorizes a person who is not sufficiently trustworthy, competent, experienced, and free from conflict of interest to manage the network.

(f) Prohibits the commissioner from approving a proposed management contract unless the management contractor has in force in the management



contractor's own name a fidelity bond on the contractor's officers and employees in the amount of at least \$250,000, as prescribed by the commissioner.

(g) Provides that the fidelity bond must be issued by an insurer authorized to engage in business in this state and must be filed with the department. Authorizes a management contractor to obtain a fidelity bond procured by a surplus lines agent under Chapter 981 (Surplus Lines Insurance), if the commissioner determines that a fidelity bond is not available from an insurer authorized to engage in business in the state.

(h) Provides that the fidelity bond must obligate the surety to pay any loss of money or other property damage that the network sustains because of an act of fraud or dishonesty by an employee or officer of the management contractor during the period that the management contract is in effect.

(i) Sets forth requirements for depositing with the comptroller cash or readily marketable liquid securities in lieu of a fidelity bond.

(j) Prohibits a management contract approved by the commissioner from being assigned to any other entity.

(k) Provides that a management contract filed with the department is confidential and is not subject to disclosure as public information under Chapter 552 (Public Information), Government Code.

Sec. 1305.103. TREATING DOCTOR; REFERRALS. (a) Requires a network to determine the specialty or specialties of doctors who are authorized to serve as treating doctors.

(b) Requires an employee, for each injury, to select a treating doctor from the list of all treating doctors.

(c) Sets forth guidelines for an employee being treated by a non-network provider for an injury that occurred before the employer's insurance carrier contracted with the network.

(d) Requires each network, by contract, to require treating doctors to provide, at a minimum, the functions and services for injured employees described by this section.

(e) Requires a treating doctor to provide health care to the employee for the employee's compensable injury and to make referrals to other network providers, or request referrals to out-of-network providers if medically necessary services are not available within the network. Sets forth guidelines for out-of-network referrals. Provides that if the network denies the referral request, the employee may appeal the decision through the network's complaint process under Subchapter G (Complaint Resolution).

(f) Requires the treating doctor to participate in the medical case management process as required by the network, including participation in return-to-work planning.

Sec. 1305.104. SELECTION OF TREATING DOCTOR. Sets forth guidelines for an employee's initial choice of a treating doctor and subsequent choices for alternate treating doctors in the event that an employee is dissatisfied with the initial choice.

Sec. 1305.105. TELEPHONE ACCESS. (a) Requires each network to have appropriate personnel reasonably available through a toll-free telephone service to discuss an employee's care and to allow response to requests for information.

(b) Requires a network to have a telephone system capable of responding to incoming calls during other than normal business hours. Requires the network to respond to those calls not later than two business days after the date the call was received or the details necessary to respond were received by the network from the caller.

[Reserves Sections 1305.106-1305.150 for expansion.]

#### SUBCHAPTER D. CONTRACTING PROVISIONS

Sec. 1305.151. NETWORK CONTRACTS WITH PROVIDERS. (a) Requires a network to enter into a written contract with each provider or group of providers that participates in the network and provides that the contract is not public information under Chapter 552, Government Code.

(b) Provides that, if a network determines it has contracted with a sufficient number of qualified health care providers, it is not required to accept other applications for participation in the network.

(c) Provides that provider contracts and subcontracts must include, at minimum, certain provisions.

(d) Provides that continued care must be requested by a provider and that a dispute involving continuity of care is subject to the dispute resolution process under Subchapter G (Complaint Resolution).

(e) Prohibits an insurance carrier and a network from using any financial incentive or making a payment to a health care provider that acts directly or indirectly as an inducement to limit medically necessary services.

Sec. 1305.152. PROVIDER REIMBURSEMENT. Provides guidelines and requirements for reimbursement for in-network and out-of-network providers.

Sec. 1305.153. NETWORK-CARRIER CONTRACTS. (a) Authorizes a network to provide services to employees only through confidential, written contract with an insurance carrier, except for emergencies and out-of-network referrals.

(b) Authorizes a carrier and a network to negotiate the functions to be provided by the network, except that the network is required meet the requirements set forth by this chapter.

(c) Provides that a network's contract with a carrier must include certain provisions.

(d) Prohibits an insurance carrier and a network from using any financial incentive or making payments to a health care provider that acts directly or indirectly as an inducement to limit medically necessary services.

Sec. 1305.154. TRANSFER OF RISK; REQUIRED CONTRACTUAL PROVISIONS.

(a) Provides that, in addition to the provisions required under Section 1305.153 (Network-Carrier Contracts), an insurance carrier that transfers risk to a network must include certain provisions in the network-carrier contract.

(b) Requires an insurance carrier to provide certain information, at a minimum and on at least a monthly basis, to each network with which it has a contract.

(c) Provides that a network is not precluded from receiving on request additional nonproprietary information regarding a bill described under Subsection (b).

Sec. 1305.155. COMPLIANCE REQUIREMENTS. (a) Requires an insurance carrier that becomes aware of any information that indicates that a network or any third party to which the network delegates a function is not operating in accordance with the contract to take certain actions to rectify the situation.

(b) Requires a network to respond to a request from a carrier under Subsection (a) in writing not later than the 30th day after the date the request is received.

(c) Requires the carrier to cooperate with the network to correct any failure by the network to comply with any regulatory requirement of the department.

(d) Requires the commissioner to examine the matters contained in a notice or complaint as well as any other matter relating to the financial solvency of the network or the network's ability to meet its responsibilities in connection with any function performed by the network or delegated to the network by the carrier.

(e) Requires the department to report to the network and the carrier the results of the examination and any action the department deems necessary to ensure that the carrier meets its responsibilities. Prohibits the department from reporting to the carrier any information not relevant to the monitoring plan.

(f) Requires the network and the carrier to respond to the department's report and submit a corrective plan to the department not later than the 30th day after the date of receipt of the report.

(g) Authorizes the commissioner to order a carrier to take any action the commissioner determines is necessary to ensure that the carrier can provide all health care services under a workers' compensation insurance policy.

[Reserves Sections 1305.156-1305.200 for expansion.]

#### SUBCHAPTER E. PROVISION OF SERVICES BY NETWORK; QUALITY IMPROVEMENT PROGRAM

Sec. 1305.201. NETWORK ORGANIZATION; SERVICE AREAS. (a) and (b) Provides that the chief executive officer, operations officer, or governing body of a network is responsible for certain management duties.

(c) Requires each network to have a medical director, who must be an occupational medicine specialist or employ or contract with an occupational medicine specialist, and who must be licensed to practice medicine. Requires the medical director to meet certain standards.

(d) Requires the network to establish one or more service areas within this state. Provides that the network must fulfill certain criteria for each defined service area.

Sec. 1305.202. ACCESSIBILITY AND AVAILABILITY REQUIREMENTS. (a) Provides that all services specified by this section must be provided by a provider who holds an appropriate license, unless the provider is exempt from license requirements.

(b) Requires the network to ensure that the network's provider panel includes an adequate number of treating doctors and specialists that are available and accessible to employees 24 hours a day, seven days a week, within the network's service area. Provides that an adequate number of the treating doctors and specialists must have admitting privileges at one or more network hospitals located within the network's service area to ensure that any necessary hospital admissions are made.

- (c) Requires the network to provide for necessary hospital services by contracting with general, special, and psychiatric hospitals that are available and accessible 24 hours a day, seven days a week within the network's service area.
- (d) Provides that emergency care must be available and accessible 24 hours a day, seven days a week without restrictions as to where the services are rendered.
- (e) Requires a network to arrange for services to be accessible to employees on a timely basis on request, except for emergencies.
- (f) Requires each network to provide that network services are sufficiently accessible and available to both rural and nonrural areas. Provides that, for portions of the service area in which the network identifies noncompliance with this subsection, the network must file an access plan with the department.
- (g) Requires the network to submit an access plan, as required by commissioner rules, to the department for approval at least 30 days before implementation of the plan if any health care service or a network provider is not available to an employee within the specified distance for certain reasons.
- (h) Authorizes the network to make arrangements with providers outside the service area to enable employees to receive a higher level of skill or specialty than the level available within the network service area.
- (i) Prohibits the network from being required to expand services outside the network's service area to accommodate employees who reside outside the service area.

Sec. 1305.203. QUALITY OF CARE REQUIREMENTS. (a) Requires a network to develop and maintain an ongoing quality improvement program (program). Provides that the program must include return-to-work and medical case management programs.

- (b) Provides that the network's governing body is ultimately responsible for the program. Requires the governing body to perform certain management duties related to the program.
- (c) Requires the quality improvement committee(s) to evaluate the overall effectiveness of the program as determined by commissioner rule.
- (d) Provides that the program must be continuous and comprehensive and must address both the quality of clinical care and the quality of services. Requires the network to dedicate adequate resources to the program.
- (e) Requires the network to develop a written description of the program that outlines the organizational structure and functional responsibilities of the program and the frequency of committee meetings.
- (f) Requires the network to develop an annual quality improvement work plan designed to reflect the type of services and the populations served by the network.
- (g) Requires the network to prepare an annual written report to the department on the program that includes certain features.
- (h) Requires each network to implement a documented process for the selection and retention of contracted providers, in accordance with rules adopted by the commissioner.

(i) Provides that the program must provide for a peer review action procedure for providers, as described by Section 151.002 (Definitions), Occupations Code.

(j) Requires the network to have a medical case management program with certified case managers that are required to work with treating doctors, referral providers, and employers to facilitate cost-effective care and employee return-to-work.

Sec. 1305.204. **GUIDELINES AND PROTOCOLS.** Requires each network to adopt certain treatment guidelines, return-to-work guidelines, and individual treatment protocols. Authorizes a network to adopt another treatment guideline or protocol if a nationally recognized treatment guideline or protocol is not available, as long as it is scientifically valid and outcome-based.

[Reserves Sections 1305.205-1305.250 for expansion.]

#### SUBCHAPTER F. UTILIZATION REVIEW; RETROSPECTIVE REVIEW

Sec. 1305.251. **REQUIREMENTS FOR PERFORMANCE OF UTILIZATION REVIEW BY NETWORK.** Provides that, as a condition of certification, each network must perform utilization review and retrospective review in accordance with this subchapter and commissioner rules.

Sec. 1305.252. **GENERAL STANDARDS FOR UTILIZATION REVIEW; SCREENING CRITERIA.** (a) Requires a network to use a utilization review plan that must be reviewed and approved by a physician and conducted in accordance with standards developed with input from appropriate providers.

(b) Provides that the utilization review plan must include certain provisions.

(c) Requires each network to use written medically acceptable screening criteria and review procedures that are established and periodically evaluated and updated according to currently accepted medical or health care practices. Provides that the screening criteria may be used only to determine whether to approve the requested treatment and must meet certain standards.

(d) Requires the utilization review plan to provide that denials of care be referred to an appropriate doctor to determine whether health care is medically reasonable and necessary.

(e) Provides that the written screening criteria and review procedures must be available for review and inspection as determined necessary by the commissioner or the commissioner's designated representative but that any information obtained under the authority of this subchapter is confidential and is not subject to disclosure under Chapter 552 (Public Information), Government Code.

Sec. 1305.253. **UTILIZATION REVIEW PERSONNEL.** (a) Provides that personnel employed by or under contract with a network to perform utilization review must be appropriately trained, qualified, and, if applicable, licensed. Provides that personnel who obtain information regarding an injured employee's specific medical condition must be qualified to provide the service requested by the provider. Prohibits this subsection from being interpreted to require personnel who perform only clerical or administrative tasks to have the qualifications prescribed by this subsection.

(b) Prohibits a network from permitting or providing compensation to a network employee or agent, condition employment or an employee or agent evaluation, or setting the network's employee or agent performance standards based, in a manner inconsistent with the requirements of this subchapter, on certain factors.

(c) Provides that utilization review conducted by a network must be under the direction of a doctor licensed to practice medicine who may be employed by or under contract to the network.

Sec. 1305.254. NOTICE OF NETWORK DETERMINATIONS; PREAUTHORIZATION REQUIREMENTS. Requires each network to notify the employee or the employee's representative, if any, and the requesting provider of a determination made in a utilization review or retrospective review. Requires notification of an adverse determination by the network to include certain details. Requires the network to issue and transmit a determination indicating whether the proposed health care services are preauthorized upon receipt of a preauthorization request from a provider. Sets forth the timeline for the issuance and transmission of certain determinations for preauthorization.

Sec. 1305.255. RECONSIDERATION OF ADVERSE DETERMINATION. Requires each network to maintain and make available a written description of the network's reconsideration procedures involving an adverse determination. Provides that the reconsideration procedures must be reasonable and must include certain provisions. Provides that the reconsideration procedures must include a method for expedited reconsideration and that an employee with a life-threatening situation is entitled to an immediate review of an adverse determination.

Sec. 1305.256. INDEPENDENT REVIEW OF ADVERSE DETERMINATION. Sets forth guidelines and procedures for reconsideration of an adverse determination by an independent review organization.

[Reserves Sections 1305.257-1305.300 for expansion.]

#### SUBCHAPTER G. COMPLAINT RESOLUTION

Sec. 1305.301. COMPLAINT SYSTEM REQUIRED. (a) Requires each network to implement and maintain a complaint system that provides reasonable procedures to resolve an oral or written complaint.

(b) Authorizes the network to require a complainant to file the complaint not later than the 90th day after the date of the event or occurrence that is the basis for the complaint.

(c) Provides that the complaint system must include a process for the notice and appeal of a complaint.

(d) Authorizes the commissioner to adopt rules as necessary to implement this section.

Sec. 1305.302. COMPLAINT INITIATION AND INITIAL RESPONSE; DEADLINES FOR RESPONSE AND RESOLUTION. Sets forth a timeline for the appropriate investigation and resolution of a complaint.

Sec. 1305.303. RECORD OF COMPLAINTS. (a) Requires each network to maintain a complaint and appeal log regarding each complaint that must be classified in a certain manner.

(b) Requires each network to maintain a record of and documentation on each complaint, complaint proceeding, and action taken on the complaint until the third anniversary of the date the complaint was received.

(c) Provides that a complainant is entitled to a copy of the network's record regarding the complaint and any proceeding relating to that complaint.

(d) Authorizes the department, during any investigation or examination of a network, to review documentation maintained under this subchapter regarding a complaint and action taken on the complaint.

Sec. 1305.304. RETALIATORY ACTION PROHIBITED. Prohibits a network from engaging in any retaliatory action against an employer or employee because the employer or employee or a person acting on their behalf has filed a complaint against the network.

Sec. 1305.305. POSTING OF INFORMATION ON COMPLAINT PROCESS REQUIRED. (a) Provides that a contract between a network and a provider must require the provider to post, in the provider's office, a notice to injured employees on the process for resolving complaints with the network.

(b) Requires the department's toll-free telephone number for filing a complaint be included on the notice required under Subsection (a).

[Reserves Sections 1305.306-1305.350 for expansion]

#### SUBCHAPTER H. SOLVENCY REQUIREMENTS

Sec. 1305.351. NETWORK RESERVE REQUIREMENTS. (a) Requires each network to establish and maintain reserves adequate for any liabilities and risks assumed by the network, as computed in accordance with generally accepted accounting and actuarial principles relating to the liabilities and risks reserved, including incurred but not reported obligations relating to providing benefits or services.

(b) Requires the required reserves under this section to be secured by, and may only consist of, legal tender of the United States or investments authorized under Article 2.10 (Investment of Funds in Excess of Minimum Capital and Minimum Surplus).

Sec. 1305.352. ANNUAL AUDIT. (a) Requires each network to have an annual audit conducted by an independent certified public accountant and to file the audited financial report with the department on or before April 1 of each year.

(b) Sets forth certain requirements and standards an accountant must meet for the purposes of this section.

(c) Sets forth requirements for certain elements that must be included in the audited financial report.

(d) Requires each network to provide to the department the written report of significant deficiencies required and prepared in accordance with the Professional Standards of the American Institute of Certified Public Accountants not later than the 60th day after the date the audited report is filed. Requires the network to provide a description of any remedial actions taken or proposed to correct significant deficiencies, if those actions are not already described in the accountant's report.

Sec. 1305.353. COLLATERAL REQUIREMENTS FOR CARRIERS THAT TRANSFER RISK. (a) Requires an insurance carrier whose contract with a network transfers risk to the network to maintain collateral as security for the credit risk of the network. Provides that contracts between carriers and networks that involve a transfer of risk must contain specific provisions related to the required collateral. Prohibits the collateral held by the carrier from being less than the greater of 50 percent of all obligations and liabilities or three months of consideration under the contract with the network.

(b) Authorizes a carrier-network contract to provide that the collateral required may be subject to a straight-line phase-in period not to exceed three years. Authorizes the contract to specify that the carrier may hold back a

percentage of the periodic consideration otherwise owed so that the collateral may accrete to 100 percent by the end of the third year.

[Reserves Sections 1305.354-1305.400 for expansion.]

#### SUBCHAPTER I. EXAMINATIONS

Sec. 1305.401. EXAMINATION OF NETWORK. (a) Authorizes the commissioner or the commissioner's designated representative to review the operations of a network as often as the commissioner considers necessary. Authorizes the review to include on-site visits to the network's premises.

(b) Requires the network to make available to the department all records relating to the network's operations during on-site visits.

Sec. 1305.402. EXAMINATION OF PROVIDER OR THIRD PARTY. Requires each provider, provider group, or third party with which the network has contracted to provide health care services or any other services delegated to the network by an insurance carrier to make available for examination by the department that portion of the books and records of the provider, provider group, or third party that is relevant to the relationship with the network.

[Reserves Sections 1305.403-1305.450 for expansion.]

#### SUBCHAPTER J. EMPLOYEE INFORMATION AND RESPONSIBILITIES

Sec. 1305.451. EMPLOYEE INFORMATION; RESPONSIBILITIES OF EMPLOYEE. (a) Requires an insurance carrier that contracts with a network to provide to employers, and ensure that the employer provides to its employees, an accurate written description of the terms and conditions for obtaining health care within the network's service area.

(b) Requires that the written description of network services be in English, Spanish, and any additional language common to an employer's employees and must include certain information.

(c) Prohibits the network and the network's representatives and agents from causing or knowingly permitting the use or distribution to employees of information that is untrue or misleading.

(d) Requires a network that contracts with an insurance carrier to provide all the information necessary to allow the carrier to comply with this section.

[Reserves Sections 1305.452-1305.500 for expansion.]

#### SUBCHAPTER K. EVALUATION OF NETWORKS; CONSUMER REPORT CARD

Sec. 1305.501. EVALUATION OF NETWORKS. (a) Requires the department, in accordance with the research duties assigned to the department under Chapter 405 (Workers' Compensation Research), Labor Code, to objectively evaluate all networks under this chapter and report its findings to certain officials not later than September 1 of each even-numbered year. Sets forth evaluation requirements for information to be included in the report.

Sec. 1305.502. CONSUMER REPORT CARDS. (a) Requires the department to issue annual consumer report cards that identify and compare the networks certified by the department.

(b) Requires the department to ensure that consumer report cards issued by the department are accessible to the public on the department's Internet website and available to any person on request. Authorizes the commissioner,



by rule, to set a reasonable fee to obtain a paper copy of consumer report cards.

Sec. 1305.503. CONFIDENTIALITY REQUIREMENTS. (a) Provides that, as necessary to implement this subchapter, the department is entitled to information that is otherwise confidential under any law of this state, including the Texas Workers' Compensation Act.

(b) Provides that confidential information provided to or obtained by the department under this section remains confidential and is not subject to disclosure under Chapter 552 (Public Information), Government Code. Prohibits the department from releasing certain information.

(c) Provides that information that is in the possession of the department and that relates to an individual injured employee or doctor, and any compilation, report, or analysis produced from the information that identifies an individual injured employee or doctor, is not subject to discovery, subpoena, or other means of legal compulsion for release to any person or admissible in any civil, administrative, or criminal proceeding.

[Reserves Sections 1305.504-1305.550 for expansion.]

#### SUBCHAPTER L. DISCIPLINARY ACTIONS

Sec. 1305.551. DETERMINATION OF VIOLATION; NOTICE. (a) Requires the commissioner or designated representative to notify a network, insurance carrier, person, or third party that is in violation of this chapter of the alleged violation and authorizes the commissioner to compel the production of any documents or other information as necessary to determine whether the violation occurred.

(b) Authorizes the commissioner's designated representative to initiate the proceedings under this section.

(c) Provides that a proceeding under this chapter is a contested case under Chapter 2001 (Administrative Procedures), Government Code.

Sec. 1305.552. DISCIPLINARY ACTIONS. Authorizes the commissioner to take certain disciplinary actions if the commissioner determines that a network, insurance carrier, or other person or third party has violated or is in violation of this chapter or commissioner rule.

#### ARTICLE 5. RATES AND UNDERWRITING REQUIREMENTS.

SECTION 5.01. Amends Section 1(4), Article 5.55, Insurance Code, to redefine "rate."

SECTION 5.02. Amends Sections 2(b) and (d), Article 5.55, Insurance Code, to require an insurer to consider the effect of individual risk variations based on loss or experience considerations in setting rates. Prohibits rates established under this article from being excessive, inadequate, or unfairly discriminatory for the risks to which they apply. Makes nonsubstantive changes.

SECTION 5.03. Amends Section 3, Article 5.55, Insurance Code, by adding Subsections (e)-(h), as follows:

(e) Requires the commissioner, not later than December 1 of each even-numbered year, to report to certain officials regarding the impact that legislation enacted during the regular session of the 79th Legislature reforming the workers' compensation system of this state has had on the affordability and availability of workers' compensation insurance for the employers of this state. Provides that the report must include certain information.

(f) Sets forth guidelines for commissioner recommendations if the commissioner determines that the workers' compensation rate filings or premium levels analyzed by the department do not appropriately reflect the savings associated with the reforms described by Subsection (e).

(g) Requires each insurer to submit, at the request of the department, all data and other information considered necessary by the commissioner to generate the report required under Subsection (e). Provides that failure by an insurer to submit the data and information in a timely fashion constitutes grounds for an administrative violation on the insurer.

(h) Provides that a workers' compensation rate filing made by an insurer with the department on or after January 1, 2007, must include a certification that the filing reflects the savings realized from the workers' compensation reforms described by Subsection (e). Requires the department to make a certification filed under this subsection available to the public on the department's Internet website.

SECTION 5.04. Amends Section 6(b), Article 5.55, Insurance Code, to delete existing text relating to the affect of a disapproval order on a policy.

SECTION 5.05. Amends Section 7, Article 5.55, Insurance Code, as follows:

(b) Authorizes the commissioner, after notice and the opportunity for a hearing, to take certain actions if a policy is issued and the commissioner subsequently disapproves of the rate or filing that governs the premium charged on the policy. Deletes existing text relating to an insurer that consistently overcharges or undercharges. Makes a conforming change.

SECTION 5.06. Amends Subchapter D, Chapter 5, Insurance Code, by adding Article 5.55A, as follows:

Art. 5.55A. UNDERWRITING GUIDELINES.

Sec. 1. DEFINITIONS. Defines "insurer" and "underwriting guideline."

Sec. 2. UNDERWRITING GUIDELINES. Requires each underwriting guideline used by an insurer in writing workers' compensation insurance to be sound, actuarially justified, or otherwise substantially commensurate with the contemplated risk. Prohibits an underwriting guideline from being unfairly discriminatory.

Sec. 3. ENFORCEMENT. Authorizes this article to be enforced in the manner provided by Section 38.003(g) (Underwriting Guidelines for Other Lines; Confidentiality).

#### ARTICLE 6. REPEALER

SECTION 6.001. Repealers:

(1) Sections 402.025 (Audit), 402.063 (Appointment of Executive Director), and 402.070 (Annual Report), Labor Code.

(2) Section 408.004(g), Labor Code (Required Medical Examinations; Administrative Violation).

(3) Sections 408.0221 (Regional Healthcare Delivery Networks; Advisory Committee), 408.0222 (Participation in Regional Network; Selection of Doctor Within Regional Network; Benefit Incentives), and 408.0223 (Insurance Carrier Networks), Labor Code.

(4) Section 505.001(1) (Definition of Commissioner), Labor Code.

## ARTICLE 7. TRANSITION; EFFECTIVE DATE

SECTION 7.001. EFFECT OF CHANGE IN DESIGNATION. Provides that the change in designation of the Texas Workers' Compensation Commission to the Texas Department of Worker's Compensation does not affect anything done by the Texas Workers' Compensation Commission before the change in designation by this Act.

SECTION 7.002. ABOLITION OF TEXAS WORKERS' COMPENSATION COMMISSION.

(a) Provides that the Texas Workers' Compensation Commission is abolished on the effective date of this Act and that the term of a person serving on this commission will expire on the date the commissioner of workers' compensation is appointed.

(b) Provides that all appropriations made by the legislature for the use and benefit of the Texas Workers' Compensation Commission are available for the use and benefit of the Texas Department of Workers' Compensation.

SECTION 7.003. COMMISSIONER. Requires the governor to appoint the commissioner of workers' compensation not later than September 30, 2005.

SECTION 7.004. ELECTRONIC BILLING RULES. Requires the commissioner of the Texas Department of Workers' Compensation to adopt rules under Section 408.0251 (Electronic Billing Requirements), Labor Code, not later than January 1, 2006.

SECTION 7.005. ACCRUAL OF RIGHT TO INCOME BENEFITS. Makes application of Section 408.082(c), Labor Code, as amended by this Act, prospective.

SECTION 7.006. ELIGIBILITY FOR PILOT PROGRAM. Makes application of Section 413.022, Labor Code, as added by this Act, prospective to January 1, 2006.

SECTION 7.007. REPORTS. (a) Requires the commissioner of the Texas Department of Workers' Compensation, not later than October 1, 2006, to report to certain officials regarding the implementation of Section 408.1225, Labor Code, as added by this Act.

(b) Requires the commissioner of the Texas Department of Workers' Compensation, not later than October 1, 2008, to report to certain officials regarding the implementation of the pilot program established by Section 413.022, Labor Code, as added by this Act, and the results of the pilot program. Requires the report to include any recommendations regarding the continuation of the pilot program.

(c) Requires the commissioner of insurance to submit the initial report required under Section 3(e), Article 5.55, Insurance Code, as added by this Act, not later than December 1, 2006.

(d) Requires the commissioner of insurance to submit to certain officials the first report under Section 1305.501(a), Insurance Code, as added by this Act, not later than September 1, 2008.

SECTION 7.008. IMPLEMENTATION OF PROVIDER NETWORKS. (a) Requires the commissioner of insurance and the commissioner of the Texas Department of Workers' Compensation to adopt rules as necessary to implement Chapter 1305, Insurance Code, as added by this Act, not later than December 1, 2005.

(b) Authorizes an insurance carrier to begin to offer workers' compensation medical benefits through a network under Chapter 1305, Insurance Code, on certification of the network by the commissioner of insurance.

SECTION 7.009. CONSUMER REPORT CARD. Requires the Texas Department of Insurance to issue the first annual workers' compensation report card not later than the first anniversary of the date on which that department certifies the first workers' compensation health care network.

SECTION 7.010. APPLICATION TO MEDICAL BENEFITS. (a) Provides that Article 4 of this Act applies to a claim for workers' compensation medical benefits based on a compensable injury incurred by an employee whose employer elects to provide workers' compensation insurance coverage if the insurance carrier of the employer enters into a contract to provide workers' compensation medical benefits through a network certified under Chapter 1305 (Workers' Compensation Healthcare Networks), Insurance Code, as added by this Act.

(b) Provides that a claim for workers' compensation medical benefits based on a compensable injury that occurs on or after the effective date of a contract described by Subsection (a) of this section is subject to the provisions of Chapter 1305, Insurance Code, as added by this Act.

(c) Provides that, notwithstanding Subsection (a), an injured employee who receives workers' compensation medical benefits based on a compensable injury that occurs before the effective date of this Act is subject to the provisions of Chapter 1305, Insurance Code, and must receive treatment through a network health care provider if the insurer liable for the payment of the benefits on that claim elects to use a workers' compensation health care network to provide medical benefits and the claimant resides in a network service area. Requires the insurer to notify affected injured employees in writing of the election.

SECTION 7.011. EFFECTIVE DATE. Effective date: September 1, 2005.