

HOUSE BILL No. 2617

By Committee on Commerce, Labor and Economic Development

2-4

1 AN ACT concerning workers compensation; relating to ~~the~~ **compensation**
2 **disallowances for substance abuse testing; eligibility for certain**
3 **disability compensation;** medical administrator; electronic filing for
4 administrative hearings; **records disclosure;** amending K.S.A. 44-534
5 and 44-536a and K.S.A. 2015 Supp. **44-501, 44-510e, 44-510i and 44-**
6 **550b** and repealing the existing sections.

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 **Section 1. K.S.A. 2015 Supp. 44-501 is hereby amended to read as**
10 **follows: 44-501. (a) (1) Compensation for an injury shall be disallowed**
11 **if such injury to the employee results from:**

12 **(A) The employee's deliberate intention to cause such injury;**

13 **(B) the employee's willful failure to use a guard or protection**
14 **against accident or injury which is required pursuant to any statute and**
15 **provided for the employee;**

16 **(C) the employee's willful failure to use a reasonable and proper**
17 **guard and protection voluntarily furnished the employee by the**
18 **employer;**

19 **(D) the employee's reckless violation of their employer's workplace**
20 **safety rules or regulations; or**

21 **(E) the employee's voluntary participation in fighting or horseplay**
22 **with a co-employee for any reason, work related or otherwise.**

23 **(2) Subparagraphs (B) and (C) of paragraph (1) of Subsection (a)(1)**
24 **(B) and (C) shall not apply when it was reasonable under the totality of**
25 **the circumstances to not use such equipment, or if the employer**
26 **approved the work engaged in at the time of an accident or injury to be**
27 **performed without such equipment.**

28 **(b) (1) (A) The employer shall not be liable under the workers**
29 **compensation act where the injury, disability or death was contributed to**
30 **by the employee's use or consumption of alcohol or any drugs,**
31 **chemicals or any other compounds or substances, including, but not**
32 **limited to, any drugs or medications which are available to the public**
33 **without a prescription from a health care provider, prescription drugs or**
34 **medications, any form or type of narcotic drugs, marijuana, stimulants,**

1 *depressants or hallucinogens.*

2 *(B) In the case of drugs or medications which are available to the*
3 *public without a prescription from a health care provider and*
4 *prescription drugs or medications, compensation shall not be denied if*
5 *the employee can show that such drugs or medications were being taken*
6 *or used in therapeutic doses and there have been no prior incidences of*
7 *the employee's impairment on the job as the result of the use of such*
8 *drugs or medications within the previous 24 months.*

9 *(C) It shall be conclusively presumed that the employee was*
10 *impaired due to alcohol or drugs if it is shown that, at the time of the*
11 *injury, the employee had an alcohol concentration of .04 or more, or a*
12 *GCMS confirmatory test by quantitative analysis showing a*
13 *concentration at or above the levels shown on the following chart for the*
14 *drugs of abuse listed:*

	<i>Confirmatory test cutoff levels (ng/ml)</i>
15	
16	
17	
18 <i>Marijuana metabolite¹</i>	<i>15</i>
19 <i>Cocaine metabolite²</i>	<i>150</i>
20 <i>Opiates:</i>	
21 <i>Morphine</i>	<i>2000</i>
22 <i>Codeine</i>	<i>2000</i>
23 <i>6-Acetylmorphine⁴</i>	<i>10 ng/ml</i>
24 <i>Phencyclidine</i>	<i>25</i>
25 <i>Amphetamines:</i>	
26 <i>Amphetamine</i>	<i>500</i>
27 <i>Methamphetamine³</i>	<i>500</i>

28 ¹ *Delta-9-tetrahydrocannabinol-9-carboxylic acid.*

29 ² *Benzoylcegonine.*

30 ³ *Specimen must also contain amphetamine at a concentration greater*
31 *than or equal to 200 ng/ml.*

32 ⁴ *Test for 6-AM when morphine concentration exceeds 2,000 ng/ml.*

33 *(D) If it is shown that the employee was impaired pursuant to*
34 *subsection (b)(1)(C) at the time of the injury, there shall be a rebuttable*
35 *presumption that the accident, injury, disability or death was contributed*
36 *to by such impairment. The employee may overcome the presumption of*
37 *contribution by clear and convincing evidence.*

38 *(E) An employee's refusal to submit to a chemical test at the request*
39 *of the employer shall result in the forfeiture of benefits under the*
40 *workers compensation act if the employer had sufficient cause to suspect*
41 *the use of alcohol or drugs by the claimant or if the employer's policy*
42 *clearly authorizes post-injury testing.*

43 *(2) The results of a chemical test shall be admissible evidence to*

1 *prove impairment if the employer establishes that the testing was done*
2 *under any of the following circumstances:*

3 *(A) As a result of an employer mandated drug testing policy, in*
4 *place in writing prior to the date of accident or injury, requiring any*
5 *worker to submit to testing for drugs or alcohol;*

6 *(B) during an autopsy or in the normal course of medical treatment*
7 *for reasons related to the health and welfare of the injured worker and*
8 *not at the direction of the employer;*

9 *(C) the worker, prior to the date and time of the accident or injury,*
10 *gave written consent to the employer that the worker would voluntarily*
11 *submit to a chemical test for drugs or alcohol following any accident or*
12 *injury;*

13 *(D) the worker voluntarily agrees to submit to a chemical test for*
14 *drugs or alcohol following any accident or injury; or*

15 *(E) as a result of federal or state law or a federal or state rule or*
16 *regulation having the force and effect of law requiring a post-injury*
17 *testing program and such required program was properly implemented*
18 *at the time of testing.*

19 *(3) Notwithstanding subsection (b)(2), the results of a chemical test*
20 *performed on a sample collected by an employer shall not be admissible*
21 *evidence to prove impairment unless the following conditions are met:*

22 *(A) The test sample was collected within a reasonable time*
23 *following the accident or injury;*

24 *(B) the collecting and labeling of the test sample was performed by*
25 *or under the supervision of a licensed health care professional;*

26 *(C) the test was performed by a laboratory approved by the United*
27 *States department of health and human services or licensed by the*
28 *department of health and environment, except that a blood sample may*
29 *be tested for alcohol content by a laboratory commonly used for that*
30 *purpose by state law enforcement agencies;*

31 *(D) the test was confirmed by gas chromatography-mass*
32 *spectroscopy or other comparably reliable analytical method, except that*
33 *no such confirmation is required for a blood alcohol sample; and*

34 *(E) the foundation evidence must establish, beyond a reasonable*
35 *doubt, that the test results were from the sample taken from the*
36 *employee; and*

37 ~~*(F) a split sample sufficient for testing shall be retained and made*~~
38 ~~*available to the employee within 48 hours of a positive test.*~~

39 *(4) In addition to the requirements set forth in paragraph (3), a split*
40 *sample sufficient for testing shall be retained and made available to the*
41 *employee within 48 hours of a positive test if the employer, using a facility*
42 *on the employer's premises, collects the sample that is the subject of the*
43 *chemical test.*

1 (c) (1) *Except as provided in paragraph (2), compensation shall not*
2 *be paid in case of coronary or coronary artery disease or*
3 *cerebrovascular injury unless it is shown that the exertion of the work*
4 *necessary to precipitate the disability was more than the employee's*
5 *usual work in the course of the employee's regular employment.*

6 (2) *For events occurring on or after July 1, 2014, in the case of a*
7 *firefighter as defined by K.S.A. 40-1709(b)(1), and amendments thereto,*
8 *or a law enforcement officer as defined by K.S.A. 74-5602, and*
9 *amendments thereto, coronary or coronary artery disease or*
10 *cerebrovascular injury shall be compensable if:*

11 (A) *The injury can be identified as caused by a specific event*
12 *occurring in the course and scope of employment;*

13 (B) *the coronary or cerebrovascular injury occurred within 24*
14 *hours of the specific event; and*

15 (C) *the specific event was the prevailing factor in causing the*
16 *coronary or coronary artery disease or cerebrovascular injury.*

17 (d) *Except as provided in the workers compensation act, no*
18 *construction design professional who is retained to perform professional*
19 *services on a construction project or any employee of a construction*
20 *design professional who is assisting or representing the construction*
21 *design professional in the performance of professional services on the*
22 *site of the construction project, shall be liable for any injury resulting*
23 *from the employer's failure to comply with safety standards on the*
24 *construction project for which compensation is recoverable under the*
25 *workers compensation act, unless responsibility for safety practices is*
26 *specifically assumed by contract. The immunity provided by this*
27 *subsection to any construction design professional shall not apply to the*
28 *negligent preparation of design plans or specifications.*

29 (e) *An award of compensation for permanent partial impairment,*
30 *work disability, or permanent total disability shall be reduced by the*
31 *amount of functional impairment determined to be preexisting. Any*
32 *such reduction shall not apply to temporary total disability, nor shall it*
33 *apply to compensation for medical treatment.*

34 (1) *Where workers compensation benefits have previously been*
35 *awarded through settlement or judicial or administrative determination*
36 *in Kansas, the percentage basis of the prior settlement or award shall*
37 *conclusively establish the amount of functional impairment determined*
38 *to be preexisting. Where workers compensation benefits have not*
39 *previously been awarded through settlement or judicial or administrative*
40 *determination in Kansas, the amount of preexisting functional*
41 *impairment shall be established by competent evidence.*

42 (2) *In all cases, the applicable reduction shall be calculated as*
43 *follows:*

1 (A) *If the preexisting impairment is the result of injury sustained*
2 *while working for the employer against whom workers compensation*
3 *benefits are currently being sought, any award of compensation shall be*
4 *reduced by the current dollar value attributable under the workers*
5 *compensation act to the percentage of functional impairment determined*
6 *to be preexisting. The "current dollar value" shall be calculated by*
7 *multiplying the percentage of preexisting impairment by the*
8 *compensation rate in effect on the date of the accident or injury against*
9 *which the reduction will be applied.*

10 (B) *In all other cases, the employer against whom benefits are*
11 *currently being sought shall be entitled to a credit for the percentage of*
12 *preexisting impairment.*

13 (f) *If the employee receives, whether periodically or by lump sum,*
14 *retirement benefits under the federal social security act or retirement*
15 *benefits from any other retirement system, program, policy or plan*
16 *which is provided by the employer against which the claim is being*
17 *made, any compensation benefit payments which the employee is eligible*
18 *to receive under the workers compensation act for such claim shall be*
19 *reduced by the weekly equivalent amount of the total amount of all such*
20 *retirement benefits, less any portion of any such retirement benefit,*
21 *other than retirement benefits under the federal social security act, that*
22 *is attributable to payments or contributions made by the employee, but in*
23 *no event shall the workers compensation benefit be less than the workers*
24 *compensation benefit payable for the employee's percentage of*
25 *functional impairment. Where the employee elects to take retirement*
26 *benefits in a lump sum, the lump sum payment shall be amortized at the*
27 *rate of 4% per year over the employee's life expectancy to determine the*
28 *weekly equivalent value of the benefits.*

29 Sec. 2. *K.S.A. 2015 Supp. 44-510e is hereby amended to read as*
30 *follows: 44-510e. (a) In case of whole body injury resulting in temporary*
31 *or permanent partial general disability not covered by the schedule in*
32 *K.S.A. 44-510d, and amendments thereto, the employee shall receive*
33 *weekly compensation as determined in this subsection during the period*
34 *of temporary or permanent partial general disability not exceeding a*
35 *maximum of 415 weeks.*

36 (1) *Weekly compensation for temporary partial general disability*
37 *shall be 66²/₃% of the difference between the average weekly wage that*
38 *the employee was earning prior to the date of injury and the amount the*
39 *employee is actually earning after such injury in any type of*
40 *employment. In no case shall such weekly compensation exceed the*
41 *maximum as provided for in K.S.A. 44-510c, and amendments thereto.*

42 (2) (A) *Permanent partial general disability exists when the*
43 *employee is disabled in a manner which is partial in character and*

1 *permanent in quality and which is not covered by the schedule in K.S.A.*
2 *44-510d, and amendments thereto. Compensation for permanent partial*
3 *general disability shall also be paid as provided in this section where an*
4 *injury results in:*

5 *(i) The loss of or loss of use of a shoulder, arm, forearm or hand of*
6 *one upper extremity, combined with the loss of or loss of use of a*
7 *shoulder, arm, forearm or hand of the other upper extremity;*

8 *(ii) the loss of or loss of use of a leg, lower leg or foot of one lower*
9 *extremity, combined with the loss of or loss of use of a leg, lower leg or*
10 *foot of the other lower extremity; or*

11 *(iii) the loss of or loss of use of both eyes.*

12 *(B) The extent of permanent partial general disability shall be the*
13 *percentage of functional impairment the employee sustained on account*
14 *of the injury as established by competent medical evidence and based on*
15 *the fourth edition of the American medical association guides to the*
16 *evaluation of permanent impairment, if the impairment is contained*
17 *therein, until January 1, 2015, but for injuries occurring on and after*
18 *January 1, 2015, based on the sixth edition of the American medical*
19 *association guides to the evaluation of permanent impairment, if the*
20 *impairment is contained therein.*

21 *(C) An employee may be eligible to receive permanent partial*
22 *general disability compensation in excess of the percentage of functional*
23 *impairment ("work disability") if:*

24 *(i) The percentage of functional impairment determined to be*
25 *caused solely by the injury exceeds 7½% to the body as a whole or the*
26 *overall functional impairment is equal to or exceeds 10% to the body as a*
27 *whole in cases where there is preexisting functional impairment; and or*

28 *(ii) in cases where there is a preexisting functional impairment, the*
29 *combined impairment for the current injury and the preexisting*
30 *impairment must be equal to or greater than 10% whole person*
31 *impairment; and*

32 *(iii) the employee sustained a post-injury wage loss, as defined in*
33 *subsection ~~(a)(2)(E)~~ of K.S.A. 44-510e(a)(2)(E), and amendments*
34 *thereto, of at least 10% which is directly attributable to the work injury*
35 *and not to other causes or factors.*

36 *In such cases, the extent of work disability is determined by*
37 *averaging together the percentage of post-injury task loss demonstrated*
38 *by the employee to be caused by the injury and the percentage of post-*
39 *injury wage loss demonstrated by the employee to be caused by the*
40 *injury.*

41 *(D) "Task loss" shall mean the percentage to which the employee,*
42 *in the opinion of a licensed physician, has lost the ability to perform the*
43 *work tasks that the employee performed in any substantial gainful*

1 *employment during the five-year period preceding the injury. The*
2 *permanent restrictions imposed by a licensed physician as a result of the*
3 *work injury shall be used to determine those work tasks which the*
4 *employee has lost the ability to perform. If the employee has preexisting*
5 *permanent restrictions, any work tasks which the employee would have*
6 *been deemed to have lost the ability to perform, had a task loss analysis*
7 *been completed prior to the injury at issue, shall be excluded for the*
8 *purposes of calculating the task loss which is directly attributable to the*
9 *current injury.*

10 *(E) "Wage loss" shall mean the difference between the average*
11 *weekly wage the employee was earning at the time of the injury and the*
12 *average weekly wage the employee is capable of earning after the injury.*
13 *The capability of a worker to earn post-injury wages shall be established*
14 *based upon a consideration of all factors, including, but not limited to,*
15 *the injured worker's age, physical capabilities, education and training,*
16 *prior experience, and availability of jobs in the open labor market. The*
17 *administrative law judge shall impute an appropriate post-injury average*
18 *weekly wage based on such factors. Where the employee is engaged in*
19 *post-injury employment for wages, there shall be a rebuttable*
20 *presumption that the average weekly wage an injured worker is actually*
21 *earning constitutes the post-injury average weekly wage that the*
22 *employee is capable of earning. The presumption may be overcome by*
23 *competent evidence.*

24 *(i) To establish post-injury wage loss, the employee must have the*
25 *legal capacity to enter into a valid contract of employment. Wage loss*
26 *caused by voluntary resignation or termination for cause shall in no way*
27 *be construed to be caused by the injury.*

28 *(ii) The actual or projected weekly value of any employer-paid*
29 *fringe benefits are to be included as part of the worker's post-injury*
30 *average weekly wage and shall be added to the wage imputed by the*
31 *administrative law judge pursuant to K.S.A. 44-510e(a)(2)(E), and*
32 *amendments thereto.*

33 *(iii) The injured worker's refusal of accommodated employment*
34 *within the worker's medical restrictions as established by the authorized*
35 *treating physician and at a wage equal to 90% or more of the pre-injury*
36 *average weekly wage shall result in a rebuttable presumption of no wage*
37 *loss.*

38 *(F) The amount of compensation for whole body injury under this*
39 *section shall be determined by multiplying the payment rate by the weeks*
40 *payable. As used in this section: (1) The payment rate shall be the lesser*
41 *of: (A) The amount determined by multiplying the average weekly wage*
42 *of the worker prior to such injury by 66²/₃%; or (B) the maximum*
43 *provided in K.S.A. 44-510c, and amendments thereto; (2) weeks payable*

1 shall be determined as follows: (A) Determine the weeks of temporary
2 compensation paid by adding the amounts of temporary total and
3 temporary partial disability compensation paid and dividing the sum by
4 the payment rate above; (B) subtract from 415 weeks the total number of
5 weeks of temporary compensation paid as determined in (F)(2)(A),
6 excluding the first 15 such weeks; and (3) multiply the number of weeks
7 as determined in (F)(2)(B) by the percentage of functional impairment
8 pursuant to subsection (a)(2)(B) or the percentage of work disability
9 pursuant to subsection (a)(2)(C), whichever is applicable.

10 (3) When an injured worker is eligible to receive an award of work
11 disability, compensation is limited to the value of the work disability as
12 calculated above. In no case shall functional impairment and work
13 disability be awarded together.

14 The resulting award shall be paid for the number of disability weeks
15 at the payment rate until fully paid or modified. In any case of
16 permanent partial disability under this section, the employee shall be
17 paid compensation for not to exceed 415 weeks following the date of
18 such injury. If there is an award of permanent disability as a result of
19 the compensable injury, there shall be a presumption that disability
20 existed immediately after such injury. Under no circumstances shall the
21 period of permanent partial disability run concurrently with the period
22 of temporary total or temporary partial disability.

23 (b) If an employee has sustained an injury for which compensation
24 is being paid, and the employee's death is caused by other and
25 independent causes, any payment of compensation already due the
26 employee at the time of death and then unpaid shall be paid to the
27 employee's dependents directly or to the employee's legal representatives
28 if the employee left no dependent, but the liability of the employer for the
29 payments of compensation not yet due at the time of the death of such
30 employee shall cease and be abrogated by the employee's death.

31 (c) The total amount of compensation that may be allowed or
32 awarded an injured employee for all injuries received in any one
33 accident shall in no event exceed the compensation which would be
34 payable under the workers compensation act for 100% permanent total
35 disability resulting from such accident.

36 (d) Where a minor employee or a minor employee's dependents are
37 entitled to compensation under the workers compensation act, such
38 compensation shall be exclusive of all other remedies or causes of action
39 for such injury or death, and no claim or cause of action against the
40 employer shall inure or accrue to or exist in favor of the parent or
41 parents of such minor employee on account of any damage resulting to
42 such parent or parents on account of the loss of earnings or loss of
43 service of such minor employee.

1 *(e) In any case of injury to or death of an employee, where the*
2 *employee or the employee's dependents are entitled to compensation*
3 *under the workers compensation act, such compensation shall be*
4 *exclusive of all other remedies or causes of action for such injury or*
5 *death, and no claim or action shall inure, accrue to or exist in favor of*
6 *the surviving spouse or any relative or next of kin of such employee*
7 *against such employer on account of any damage resulting to such*
8 *surviving spouse or any relative or next of kin on account of the loss of*
9 *earnings, services, or society of such employee or on any other account*
10 *resulting from or growing out of the injury or death of such employee.*

11 ~~Section 1.~~ *Sec. 3.* K.S.A. 2015 Supp. 44-510i is hereby amended to
12 read as follows: 44-510i. (a) *Subject to the approval of the secretary,* the
13 director shall *contract with or* appoint, ~~subject to the approval of the~~
14 ~~secretary,~~ a specialist in health services delivery, who shall be referred to
15 as the medical administrator. The medical administrator, ~~if appointed,~~ shall
16 be a person licensed to practice medicine and surgery in this state and shall
17 **be a person licensed to practice medicine and surgery in this state and,**
18 **if appointed, shall be** in the unclassified service under the Kansas civil
19 service act.

20 (b) The medical administrator, subject to the direction of the director,
21 shall have the duty of overseeing the providing of health care services to
22 employees in accordance with the provisions of the workers compensation
23 act, including, but not limited to:

24 (1) Preparing, with the assistance of the advisory panel, the fee
25 schedule for health care services as set forth in this section;

26 (2) developing, with the assistance of the advisory panel, the
27 utilization review program for health care services as set forth in this
28 section;

29 (3) developing a system for collecting and analyzing data on
30 expenditures for health care services by each type of provider under the
31 workers compensation act; and

32 (4) carrying out such other duties as may be delegated or directed by
33 the director or secretary.

34 (c) The director shall prepare and adopt rules and regulations which
35 establish a schedule of maximum fees for medical, surgical, hospital,
36 dental, nursing, vocational rehabilitation or any other treatment or services
37 provided or ordered by health care providers and rendered to employees
38 under the workers compensation act and procedures for appeals and
39 review of disputed charges or services rendered by health care providers
40 under this section;

41 (1) The schedule of maximum fees shall be reasonable, shall promote
42 health care cost containment and efficiency with respect to the workers
43 compensation health care delivery system, and shall be sufficient to ensure

1 availability of such reasonably necessary treatment, care and attendance to
2 each injured employee to cure and relieve the employee from the effects of
3 the injury. The schedule shall include provisions and review procedures for
4 exceptional cases involving extraordinary medical procedures or
5 circumstances and shall include costs and charges for medical records and
6 testimony.

7 (2) In every case, all fees, transportation costs, charges under this
8 section and all costs and charges for medical records and testimony shall
9 be subject to approval by the director and shall be limited to such as are
10 fair, reasonable and necessary. The schedule of maximum fees shall be
11 revised as necessary at least every two years by the director to assure that
12 the schedule is current, reasonable and fair.

13 (3) Any contract or any billing or charge which any health care
14 provider, vocational rehabilitation service provider, hospital, person or
15 institution enters into with or makes to any patient for services rendered in
16 connection with injuries covered by the workers compensation act or the
17 fee schedule adopted under this section, which is or may be in excess of or
18 not in accordance with such act or fee schedule, is unlawful, void and
19 unenforceable as a debt.

20 (d) There is hereby created an advisory panel to assist the director in
21 establishing a schedule of maximum fees as required by this section. The
22 panel shall consist of the commissioner of insurance and 11 members
23 appointed as follows: One person shall be appointed by the Kansas
24 medical society; one member shall be appointed by the Kansas association
25 of osteopathic medicine; one member shall be appointed by the Kansas
26 hospital association; one member shall be appointed by the Kansas
27 chiropractic association; one member shall be appointed by the Kansas
28 physical therapy association, one member shall be appointed by the
29 Kansas occupational therapy association and five members shall be
30 appointed by the secretary. Of the members appointed by the secretary,
31 two shall be representatives of employers recommended to the secretary
32 by the Kansas chamber of commerce and industry; two shall be
33 representatives of employees recommended to the secretary by the Kansas
34 AFL-CIO; and one shall be a representative of providers of vocational
35 rehabilitation services pursuant to K.S.A. 44-510g, and amendments
36 thereto. Each appointed member shall be appointed for a term of office of
37 two years which shall commence on July 1 of the year of appointment.
38 Members of the advisory panel attending meetings of the advisory panel,
39 or attending a subcommittee of the advisory panel authorized by the
40 advisory panel, shall be paid subsistence allowances, mileage and other
41 expenses as provided in K.S.A. 75-3223, and amendments thereto.

42 (e) All fees and other charges paid for such treatment, care and
43 attendance, including treatment, care and attendance provided by any

1 health care provider, hospital or other entity providing health care services,
2 shall not exceed the amounts prescribed by the schedule of maximum fees
3 established under this section or the amounts authorized pursuant to the
4 provisions and review procedures prescribed by the schedule for
5 exceptional cases. With the exception of the rules and regulations
6 established for the payment of selected hospital inpatient services under
7 the diagnosis related group prospective payment system, a health care
8 provider, hospital or other entity providing health care services shall be
9 paid either such health care provider, hospital or other entity's usual and
10 customary charge for the treatment, care and attendance or the maximum
11 fees as set forth in the schedule, whichever is less. In reviewing and
12 approving the schedule of maximum fees, the director shall consider the
13 following:

14 (1) The levels of fees for similar treatment, care and attendance
15 imposed by other health care programs or third-party payors in the locality
16 in which such treatment or services are rendered;

17 (2) the impact upon cost to employers for providing a level of fees for
18 treatment, care and attendance which will ensure the availability of
19 treatment, care and attendance required for injured employees;

20 (3) the potential change in workers compensation insurance
21 premiums or costs attributable to the level of treatment, care and
22 attendance provided; and

23 (4) the financial impact of the schedule of maximum fees upon health
24 care providers and health care facilities and its effect upon their ability to
25 make available to employees such reasonably necessary treatment, care
26 and attendance to each injured employee to cure and relieve the employee
27 from the effects of the injury.

28 Sec. 2. ~~4.~~ K.S.A. 44-534 is hereby amended to read as follows: 44-
29 534. (a) Whenever the employer, worker, Kansas workers compensation
30 fund or insurance carrier cannot agree upon the worker's right to
31 compensation under the workers compensation act or upon any issue in
32 regard to workers compensation benefits due the injured worker
33 thereunder, the employer, worker, Kansas worker's compensation fund or
34 insurance carrier may apply in writing to the director for a determination
35 of the benefits or compensation due or claimed to be due. The application
36 shall be *filed* in the form prescribed by the rules and regulations of the
37 director, *including requirements for electronic filing*, and *the application*
38 shall set forth the substantial and material facts in relation to the claim.
39 Whenever an application is filed under this section, the matter shall be
40 assigned to an administrative law judge. The director shall forthwith mail a
41 certified copy of the application to the adverse party. The administrative
42 law judge shall proceed, upon due and reasonable notice to the parties,
43 which shall not be less than 20 days, to hear all evidence in relation thereto

1 and to make findings concerning the amount of compensation, if any due
2 to the worker.

3 (b) No proceeding for compensation shall be maintained under the
4 workers compensation act unless an application for a hearing is on file in
5 the office of the director within three years of the date of the accident or
6 within two years of the date of the last payment of compensation,
7 whichever is later.

8 (c) **After implementation of rules and regulations by the director, if**
9 *the workers compensation electronic filing system is inaccessible on the*
10 *last day for filing, then the time for filing shall be extended to the first*
11 *accessible day that is not a Saturday, Sunday or legal holiday. As used in*
12 *this subsection:*

13 (1) "Last day" means:

14 (A) *For electronic or facsimile filing, at midnight in the division's*
15 *time zone on the final day for filing; and*

16 (B) *for filing by other means, at 5 p.m. in the division's time zone on*
17 *the final day for filing; and*

18 (2) "legal holiday" means *any day declared a holiday by the*
19 *president of the United States, the congress of the United States or the*
20 *legislature of this state, or any day observed as a holiday by order of the*
21 *governor. A half holiday shall be treated as other days and not as a*
22 *holiday.*

23 Sec. ~~3~~ 5. K.S.A. 44-536a is hereby amended to read as follows: 44-
24 536a. (a) Every pleading, motion and other ~~paper~~ document provided for
25 by the workers compensation act of any party, who is represented by an
26 attorney, shall be signed by at least one attorney of record in the attorney's
27 individual name, and the attorney's address ~~and~~, telephone number, fax
28 number, email address and supreme court registration number shall be
29 stated. *Signature by electronic means, when utilizing the workers*
30 *compensation electronic filing system, satisfies the requirements for*
31 *signing.* A pleading, motion or other ~~paper~~ document provided for by the
32 workers compensation act of any party who is not represented by an
33 attorney shall be signed by the party *in writing or electronically, when*
34 *utilizing the workers compensation electronic filing system, and shall state*
35 *the party's name, address, telephone number, fax number and email*
36 *address, if applicable.*

37 (b) Except when otherwise specifically provided by rule and
38 regulation of the director, pleadings need not be verified or accompanied
39 by an affidavit. The signature of a person constitutes a certificate by the
40 person; (1) That the person has read the pleadings; (2) that to the best of
41 the person's knowledge, information and belief formed after reasonable
42 inquiry, the pleading is well grounded in fact and is warranted by existing
43 law or a good faith argument for the extension, modification or reversal of

1 existing law; and (3) that the pleading is not imposed for any improper
2 purpose, such as to harass or to cause unnecessary delay or needless
3 increase in the cost of resolving disputed claims for benefits.

4 (c) If any pleading, motion or other ~~paper~~ *document* provided for by
5 the workers compensation act is not signed, such pleading, motion or other
6 ~~paper~~ *document* shall not be accepted and shall be void unless it is signed
7 promptly after the omission is called to the attention of the pleader or
8 movant.

9 (d) If a pleading, motion or other ~~paper~~ *document* provided for by the
10 workers compensation act is signed in violation of this section, the
11 administrative law judge, director or board, upon motion or upon its own
12 initiative upon notice and after opportunity to be heard, shall impose upon
13 the person who signed such pleading or a represented party, or both, an
14 appropriate sanction, which may include an order to pay to the other party
15 or parties the amount of the reasonable expenses incurred because of the
16 filing of the pleading, motion or other ~~paper~~ *document*, including
17 reasonable attorney fees.

18 *Sec. 6. K.S.A. 2015 Supp. 44-550b is hereby amended to read as*
19 *follows: 44-550b. (a) All records provided to be maintained under K.S.A.*
20 *44-550, and amendments thereto, and notwithstanding the provisions of*
21 *K.S.A. 45-215 et seq., and amendments thereto, shall be open to public*
22 *inspection, except:*

23 *(1) Records relating to financial information submitted by an*
24 *employer to qualify as a self-insurer pursuant to K.S.A 44-532, and*
25 *amendments thereto;*

26 *(2) records which relate to utilization review or peer review*
27 *conducted pursuant to K.S.A. 44-510j, and amendments thereto, shall*
28 *not be disclosed except to the health care provider and as otherwise*
29 *specifically provided by the workers compensation act;*

30 *(3) records relating to private premises safety inspections;*

31 *(4) medical records, forms collected pursuant to ~~subsection (b) of~~*
32 *K.S.A. 44-567(b), and amendments thereto, accident reports maintained*
33 *under K.S.A. 44-550, and amendments thereto, and social security*
34 *numbers pertaining to an individual which shall not be disclosed except:*

35 *(A) Upon order of a court of competent jurisdiction;*

36 *(B) to the employer, its insurance carrier or its representative, from*
37 *whom a worker seeks workers compensation benefits;*

38 *(C) to the division of workers compensation for its own purposes;*

39 *(D) to federal or state governmental agencies for purposes of fraud*
40 *and abuse investigations and child support enforcement, except that such*
41 *disclosure shall not then be open to public inspection;*

42 *(E) to an employer in connection with any application for*
43 *employment to an employer, its insurance carrier or representatives*

1 *providing: (i) A conditional offer of employment has been made; and (ii)*
2 *the request for records includes a signed release by the individual,*
3 *identifies the job conditionally offered by the employer and is submitted*
4 *in writing, either by mail or electronic means. Requests relating to an*
5 *individual under this subsection shall be considered a record to be*
6 *maintained and open to public inspection under K.S.A. 44-550, and*
7 *amendments thereto, except social security numbers;*

8 *(F) to the workers compensation fund for its own purposes; and*

9 *(G) to the worker upon written release by the worker.*

10 *(b) This section shall be part of and supplemental to the workers*
11 *compensation act.*

12 Sec. ~~4~~ 7. K.S.A. 44-534 and 44-536a and K.S.A. 2015 Supp. **44-501,**
13 **44-510e,** 44-510i **and 44-550b** are hereby repealed.

14 Sec. ~~5~~ 8. This act shall take effect and be in force from and after its
15 publication in the statute book.