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

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26 requirements; deleting a provision relating to the
27 calculation of time periods for payment of benefits;
28 conforming provisions; creating s. 440.1915, F.S.;
29 requiring claimants to sign an attestation before
30 engaging the services of an attorney related to a
31 workers' compensation claim; providing requirements;
32 amending s. 440.192, F.S.; revising conditions under
33 which the Office of the Judges of Compensation Claims
34 must dismiss petitions for benefits; revising
35 requirements for such petitions; requiring a good
36 faith effort to resolve a dispute; requiring dismissal
37 of a petition for failure to make such good faith
38 effort; authorizing sanctions and attorney fees for
39 failure to make a good faith effort to resolve a
40 dispute; revising construction relating to dismissals
41 of petitions or portions thereof; requiring judges of
42 compensation claims to enter orders on certain motions
43 to dismiss within specified timeframes; revising a
44 restriction on awarding attorney fees; amending s.
45 440.25, F.S.; requiring the filing of a verified
46 statement detailing a claimant's attorney hours before
47 pretrial and final hearings; extending the timeframe
48 in which attorney fees attach; amending s. 440.34,
49 F.S.; revising provisions relating to awarding
50 attorney fees; providing that retainer agreements do

51 not require approval by a judge of compensation claims
52 but are required to be filed with the Office of the
53 Judges of Compensation Claims; conforming a cross-
54 reference; extending the timeframe in which attorney
55 fees attach; authorizing a judge of compensation
56 claims to depart from the attorney fees schedule under
57 certain circumstances; requiring a judge to consider
58 certain factors when awarding attorney fees that
59 depart from such schedule; defining terms; limiting
60 the amount of such fee; amending s. 440.345, F.S.;
61 providing requirements for a carrier's report;
62 amending s. 440.491, F.S.; specifying that training
63 and education benefits provided to a claimant are not
64 in addition to the maximum number of weeks in which a
65 claimant may receive temporary benefits; amending s.
66 627.211, F.S.; authorizing a member of or subscriber
67 to a rating organization to depart from the rates set
68 by such organization under certain circumstances;
69 providing requirements for such departure; providing
70 an effective date.
71
72 Be It Enacted by the Legislature of the State of Florida:
73
74 Section 1. Subsection (40) of section 440.02, Florida
75 Statutes, is amended to read:

76 440.02 Definitions.—When used in this chapter, unless the
77 context clearly requires otherwise, the following terms shall
78 have the following meanings:
79 (40) "Specificity" means information on the petition for
80 benefits sufficient to put the employer or carrier on notice of
81 the exact statutory classification and outstanding time period
82 for each requested benefit, the specific amount of each
83 requested benefit, the calculation used for computing the
84 specific amount of each requested benefit, ~~of benefits being~~
85 ~~requested~~ and ~~includes~~ a detailed explanation of any benefits
86 received that should be increased, decreased, changed, or
87 otherwise modified. If the petition is for medical benefits, the
88 information must ~~shall~~ include specific details as to why such
89 benefits are being requested, why such benefits are medically
90 necessary, and why current treatment, if any, is not sufficient.
91 Any petition requesting alternate or other medical care,
92 including, but not limited to, petitions requesting psychiatric
93 or psychological treatment, must specifically identify the
94 physician, as defined in s. 440.13(1), who is recommending such
95 treatment. A copy of a report from such physician making the
96 recommendation for alternate or other medical care must ~~shall~~
97 also be attached to the petition. A judge of compensation claims
98 may ~~shall~~ not order such treatment if a physician is not
99 recommending such treatment.
100 Section 2. Paragraph (c) of subsection (3) of section

101 440.105, Florida Statutes, is amended to read:
102 440.105 Prohibited activities; reports; penalties;
103 limitations.—
104 (3) Whoever violates any provision of this subsection
105 commits a misdemeanor of the first degree, punishable as
106 provided in s. 775.082 or s. 775.083.
107 (c) Except for an attorney retained by or for an injured
108 worker receiving a fee or other consideration from or on behalf
109 of an injured worker, it is unlawful for any ~~attorney or other~~
110 person, in his or her individual capacity or in his or her
111 capacity as a public or private employee, or for any firm,
112 corporation, partnership, or association to receive any fee or
113 other consideration or any gratuity from a person on account of
114 services rendered for a person in connection with any
115 proceedings arising under this chapter, unless such fee,
116 consideration, or gratuity is approved by a judge of
117 compensation claims or by the Deputy Chief Judge of Compensation
118 Claims.
119 Section 3. Paragraphs (d) and (i) of subsection (3) and
120 subsection (12) of section 440.13, Florida Statutes, are amended
121 to read:
122 440.13 Medical services and supplies; penalty for
123 violations; limitations.—
124 (3) PROVIDER ELIGIBILITY; AUTHORIZATION.—
125 (d) By telephone or in writing, a carrier must authorize

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126 or deny ~~respond, by telephone or in writing, to~~ a request for
127 authorization from an authorized health care provider, or inform
128 the provider of material deficiencies that prevent authorization
129 or denial, by the close of the third business day after receipt
130 of the request. A carrier who fails to respond to a written
131 request for authorization for referral for medical treatment by
132 the close of the third business day after receipt of the request
133 consents to the medical necessity for such treatment. All such
134 requests must be made to the carrier. Notice to the employer
135 ~~carrier~~ does not include notice to the carrier ~~employer~~.
136 (i) Notwithstanding paragraph (d), a claim for specialist
137 consultations, surgical operations, physiotherapeutic or
138 occupational therapy procedures, X-ray examinations, or special
139 diagnostic laboratory tests that cost more than $1,000 and other
140 specialty services that the department identifies by rule is not
141 valid and reimbursable unless the services have been expressly
142 authorized by the carrier, unless the carrier has failed to
143 authorize or deny, or inform the provider of material
144 deficiencies that prevent authorization or denial, ~~respond~~
145 within 10 days after ~~to~~ a written request for authorization, or
146 unless emergency care is required. The insurer shall authorize
147 such consultation or procedure unless the health care provider
148 or facility is not authorized, unless such treatment is not in
149 accordance with practice parameters and protocols of treatment
150 established in this chapter, or unless a judge of compensation

151 claims has determined that the consultation or procedure is not
152 medically necessary, not in accordance with the practice
153 parameters and protocols of treatment established in this
154 chapter, or otherwise not compensable under this chapter.
155 Authorization of a treatment plan does not constitute express
156 authorization for purposes of this section, except to the extent
157 the carrier provides otherwise in its authorization procedures.
158 This paragraph does not limit the carrier's obligation to
159 identify and disallow overutilization or billing errors.
160 (12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM
161 REIMBURSEMENT ALLOWANCES.—
162 (a)1. A three-member panel is created, consisting of the
163 Chief Financial Officer, or the Chief Financial Officer's
164 designee, and two members to be appointed by the Governor,
165 subject to confirmation by the Senate, one member who, on
166 account of present or previous vocation, employment, or
167 affiliation, shall be classified as a representative of
168 employers, the other member who, on account of previous
169 vocation, employment, or affiliation, shall be classified as a
170 representative of employees.
171 2. Annually, the panel shall adopt ~~determine~~ statewide
172 schedules of maximum reimbursement allowances for medically
173 necessary treatment, care, and attendance provided by
174 physicians, hospitals, ambulatory surgical centers, work-
175 hardening programs, pain programs, and durable medical

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176 equipment. ~~The maximum reimbursement allowances for inpatient~~
177 ~~hospital care shall be based on a schedule of per diem rates, to~~
178 ~~be approved by the three-member panel no later than March 1,~~
179 ~~1994, to be used in conjunction with a precertification manual~~
180 ~~as determined by the department, including maximum hours in~~
181 ~~which an outpatient may remain in observation status, which~~
182 ~~shall not exceed 23 hours. All compensable charges for hospital~~
183 ~~outpatient care shall be reimbursed at 75 percent of usual and~~
184 ~~customary charges, except as otherwise provided by this~~
185 ~~subsection. Annually, the three-member panel shall adopt~~
186 ~~schedules of maximum reimbursement allowances for physicians,~~
187 ~~hospital inpatient care, hospital outpatient care, ambulatory~~
188 ~~surgical centers, work-hardening programs, and pain programs. An~~
189 ~~individual physician, hospital, ambulatory surgical center, pain~~
190 ~~program, or work-hardening program shall be reimbursed either~~
191 ~~the agreed-upon contract price or the maximum reimbursement~~
192 ~~allowance in the appropriate schedule.~~
193 (b) Except as provided in this subsection, the schedules
194 of maximum reimbursement allowances adopted by the panel must be
195 based upon the reimbursement methodologies provided in this
196 subsection. However, the panel may adopt a reimbursement
197 methodology for compensable medical care for which a
198 reimbursement methodology is not provided in this subsection.
199 Reimbursements shall be made based upon adopted schedules of
200 maximum reimbursement allowances. ~~It is the intent of the~~

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201 ~~Legislature to increase the schedule of maximum reimbursement~~
202 ~~allowances for selected physicians effective January 1, 2004,~~
203 ~~and to pay for the increases through reductions in payments to~~
204 ~~hospitals. Revisions developed pursuant to this subsection are~~
205 ~~limited to the following:~~
206 1. Payments for outpatient physical, occupational, and
207 speech therapy provided by hospitals shall be reimbursed at
208 ~~reduced to~~ the schedule of maximum reimbursement allowances for
209 these services that ~~which~~ applies to nonhospital providers.
210 2. Payments for scheduled outpatient nonemergency
211 radiological and clinical laboratory services that are not
212 provided in conjunction with a surgical procedure shall be
213 reimbursed at ~~reduced to~~ the schedule of maximum reimbursement
214 allowances for these services that ~~which~~ applies to nonhospital
215 providers.
216 3.a. Reimbursement for scheduled outpatient surgery in a
217 hospital or ambulatory surgical center shall be 160 percent of
218 the fee or rate established by the Medicare outpatient
219 prospective payment system, except as otherwise provided by this
220 subsection.
221 b. Reimbursement for scheduled outpatient surgery in a
222 hospital or ambulatory surgical center that does not have a fee
223 or rate under the Medicare outpatient prospective payment system
224 shall be 60 percent of the statewide average charge for that
225 service derived from the division's database of billed hospital

226 or ambulatory surgical center charges, as applicable, over a
227 consecutive 18-month period within the 36 months before the
228 adoption of the schedule, as designated by the panel, if at
229 least 50 bills for the billed service are contained in the
230 database during the 18-month period. Services related to
231 scheduled outpatient surgery in a hospital or ambulatory
232 surgical center which do not have a fee or rate under the
233 Medicare outpatient prospective payment system and do not have a
234 statewide average charge shall be reimbursed at 60 percent of
235 the facility's actual billed charge ~~Outpatient reimbursement for~~
236 ~~scheduled surgeries shall be reduced from 75 percent of charges~~
237 ~~to 60 percent of charges~~.
238 4.a. Reimbursement for nonscheduled hospital outpatient
239 care shall be 200 percent of the fee or rate established by the
240 Medicare outpatient prospective payment system, except as
241 otherwise provided by this subsection.
242 b. Reimbursement for nonscheduled hospital outpatient
243 surgical services that do not have a fee or rate under the
244 Medicare outpatient prospective payment system shall be 75
245 percent of the statewide average charge for that service derived
246 from the division's database of billed hospital charges over a
247 consecutive 18-month period within the 36 months before the
248 adoption of the schedule, as designated by the panel, if at
249 least 50 bills for the billed service are contained in the
250 database during the 18-month period. Nonscheduled hospital

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251 outpatient surgical services that do not have a fee or rate
252 under the Medicare outpatient prospective payment system and do
253 not have a statewide average charge shall be reimbursed at 75
254 percent of the hospital's actual billed charge.
255 5. Maximum reimbursement for a physician licensed under
256 chapter 458 or chapter 459 shall be at ~~increased to~~ 110 percent
257 of the reimbursement allowed by Medicare, using appropriate
258 codes and modifiers or the medical reimbursement level adopted
259 by the ~~three-member~~ panel as of January 1, 2003, whichever is
260 greater.
261 6.~~5.~~ Maximum reimbursement for surgical procedures shall
262 be at ~~increased to~~ 140 percent of the reimbursement allowed by
263 Medicare or the medical reimbursement level adopted by the
264 ~~three-member~~ panel as of January 1, 2003, whichever is greater.
265 7. Maximum reimbursement for inpatient hospital care shall
266 be based on a schedule of per diem rates, subject to a stop-loss
267 amount, approved by the panel to be used in conjunction with a
268 precertification manual as determined by the department,
269 including maximum hours in which an outpatient may remain in
270 observation status, which reimbursement may not exceed 23 hours
271 of observation, regardless of whether more than 23 hours of
272 observation occurred.
273 8. Maximum reimbursement for a physician, hospital,
274 ambulatory surgical center, work-hardening program, pain-
275 management program, or durable medical equipment provider shall

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

301 requirements of this paragraph, a dispensing practitioner may
302 not possess a prescription medication unless payment has been
303 made by the practitioner, the practitioner's professional
304 practice, or the practitioner's practice management company or
305 employer to the supplying manufacturer, wholesaler, distributor,
306 or drug repackager within 60 days after such practitioner takes
307 possession of such medication.
308 (d) Reimbursement for all fees and other charges for such
309 treatment, care, and attendance, including treatment, care, and
310 attendance provided by any hospital or other health care
311 provider, ambulatory surgical center, work-hardening program, or
312 pain program, must not exceed the amounts provided by the
313 ~~uniform~~ schedule of maximum reimbursement allowances as
314 determined by the panel or as otherwise provided in this
315 section. This subsection also applies to independent medical
316 examinations performed by health care providers under this
317 chapter. In determining the ~~uniform~~ schedule, the panel shall
318 first approve the data which it finds representative of
319 prevailing charges in the state for similar treatment, care, and
320 attendance of injured persons. Each health care provider, health
321 care facility, ambulatory surgical center, work-hardening
322 program, or pain program receiving workers' compensation
323 payments shall maintain records verifying their usual charges.
324 In establishing the ~~uniform~~ schedule of maximum reimbursement
325 allowances, the panel must consider:

326 1. The levels of reimbursement for similar treatment,
327 care, and attendance made by other health care programs or
328 third~~-~~party providers;
329 2. The impact upon cost to employers for providing a level
330 of reimbursement for treatment, care, and attendance which will
331 ensure the availability of treatment, care, and attendance
332 required by injured workers;
333 3. The financial impact of the reimbursement allowances
334 upon health care providers and health care facilities, including
335 trauma centers as defined in s. 395.4001, and its effect upon
336 their ability to make available to injured workers such
337 medically necessary remedial treatment, care, and attendance.
338 The ~~uniform~~ schedule of maximum reimbursement allowances must be
339 reasonable, must promote health care cost containment and
340 efficiency with respect to the workers' compensation health care
341 delivery system, and must be sufficient to ensure availability
342 of such medically necessary remedial treatment, care, and
343 attendance to injured workers; and
344 4. The most recent average maximum allowable rate of
345 increase for hospitals determined by the Health Care Board under
346 chapter 408.
347 (e) In addition to establishing the ~~uniform~~ schedule of
348 maximum reimbursement allowances, the panel shall:
349 1. Take testimony, receive records, and collect data to
350 evaluate the adequacy of the workers' compensation fee schedule,

351 nationally recognized fee schedules and alternative methods of
352 reimbursement to health care providers and health care
353 facilities for inpatient and outpatient treatment and care.
354 2. Survey health care providers and health care facilities
355 to determine the availability and accessibility of workers'
356 compensation health care delivery systems for injured workers.
357 3. Survey carriers to determine the estimated impact on
358 carrier costs and workers' compensation premium rates by
359 implementing changes to the carrier reimbursement schedule or
360 implementing alternative reimbursement methods.
361 4. Submit recommendations on or before January 15, 2017,
362 and biennially thereafter, to the President of the Senate and
363 the Speaker of the House of Representatives on methods to
364 improve the workers' compensation health care delivery system.
365 <u>(f)</u> The department, as requested, shall provide data to
366 the panel, including, but not limited to, utilization trends in
367 the workers' compensation health care delivery system. The
368 department shall provide the panel with an annual report
369 regarding the resolution of medical reimbursement disputes and
370 ~~any~~ actions pursuant to subsection (8). The department shall
371 provide administrative support and service to the panel to the
372 extent requested by the panel. ~~For prescription medication~~
373 ~~purchased under the requirements of this subsection, a~~
374 ~~dispensing practitioner shall not possess such medication unless~~
375 ~~payment has been made by the practitioner, the practitioner's~~

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376 ~~professional practice, or the practitioner's practice management~~
377 ~~company or employer to the supplying manufacturer, wholesaler,~~
378 ~~distributor, or drug repackager within 60 days of the dispensing~~
379 ~~practitioner taking possession of that medication.~~
380 Section 4. Paragraph (a) of subsection (2), paragraph (d)
381 of subsection (3), paragraphs (a) and (e) of subsection (4), and
382 subsection (6) of section 440.15, Florida Statutes, are amended,
383 and subsection (13) is added to that section, to read:
384 440.15 Compensation for disability.—Compensation for
385 disability shall be paid to the employee, subject to the limits
386 provided in s. 440.12(2), as follows:
387 (2) TEMPORARY TOTAL DISABILITY.—
388 (a) Subject to subparagraph (3)(d)3. and subsections
389 ~~subsection~~ (7) and (13), in case of disability total in
390 character but temporary in quality, 66 2/3 or 66.67 percent of
391 the average weekly wages shall be paid to the employee during
392 the continuance thereof, ~~not to exceed 104 weeks~~ except as
393 provided in this subsection and~~,~~ s. 440.12(1)~~, and s. 440.14(3)~~.
394 Once the employee reaches the maximum number of weeks allowed,
395 or the employee reaches overall ~~the date of~~ maximum medical
396 improvement, whichever occurs earlier, temporary disability
397 benefits shall cease and the injured worker's permanent
398 impairment shall be determined. If the employee reaches the
399 maximum number of weeks allowed, but has not reached overall
400 maximum medical improvement, benefits shall be provided pursuant

401 to subparagraph (3)(d)3.
402 (3) PERMANENT IMPAIRMENT BENEFITS.—
403 (d) After the employee has been certified by a doctor as
404 having reached maximum medical improvement or 6 weeks before the
405 expiration of temporary benefits, whichever occurs earlier, the
406 certifying doctor shall evaluate the condition of the employee
407 and assign an impairment rating, using the impairment schedule
408 referred to in paragraph (b). If the certification and
409 evaluation are performed by a doctor other than the employee's
410 treating doctor, the certification and evaluation must be
411 submitted to the treating doctor, the employee, and the carrier
412 within 10 days after the evaluation. The treating doctor must
413 indicate to the carrier agreement or disagreement with the other
414 doctor's certification and evaluation.
415 1. The certifying doctor shall issue a written report to
416 the employee and the carrier certifying that maximum medical
417 improvement has been reached, stating the impairment rating to
418 the body as a whole, and providing any other information
419 required by the department by rule. The carrier shall establish
420 an overall maximum medical improvement date and permanent
421 impairment rating, based upon all such reports.
422 2. Within 14 days after the carrier's knowledge of each
423 maximum medical improvement date and impairment rating to the
424 body as a whole upon which the carrier is paying benefits, the
425 carrier shall report such maximum medical improvement date and,

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426 when determined, the overall maximum medical improvement date
427 and associated impairment rating to the department in a format
428 as set forth in department rule. If the employee has not been
429 certified as having reached overall maximum medical improvement
430 before the expiration of 254 ~~98~~ weeks after the date temporary
431 disability benefits begin to accrue, the carrier shall notify
432 the treating doctor of the requirements of this section.
433 3. If an employee receiving benefits under subsection (2)
434 has not reached overall maximum medical improvement before
435 receiving the maximum number of weeks of temporary disability
436 benefits, the maximum number of weeks are extended for up to an
437 additional 26 weeks. If the employee has not reached overall
438 maximum medical improvement after receiving the additional weeks
439 allowed under this subparagraph, a judge of compensation claims,
440 upon petition, must determine the employee's current eligibility
441 for benefits under this subsection and subsection (1).
442 4. If an employee receiving benefits under subsection (4)
443 has not reached overall maximum medical improvement before
444 receiving the maximum number of weeks of temporary disability
445 benefits, the employee shall receive benefits under this
446 subsection in accordance with the greatest single impairment
447 rating assigned to the employee. Impairment benefits received
448 under this subparagraph shall be credited against indemnity
449 benefits subsequently due to the employee.
450 (4) TEMPORARY PARTIAL DISABILITY.—

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

476 and (13), such benefits shall be paid during the continuance of
477 such disability, ~~not to exceed a period of 104 weeks,~~ as
478 provided by this subsection and subsection (2). ~~Once the injured~~
479 ~~employee reaches the maximum number of weeks, temporary~~
480 ~~disability benefits cease and the injured worker's permanent~~
481 ~~impairment must be determined.~~ If the employee is terminated
482 from postinjury employment based on the employee's misconduct,
483 temporary partial disability benefits are not payable as
484 provided for in this section. The department shall by rule
485 specify forms and procedures governing the method and time for
486 payment of temporary disability benefits for dates of accidents
487 before January 1, 1994, and for dates of accidents on or after
488 January 1, 1994.
489 (6) EMPLOYEE REFUSES EMPLOYMENT.—If an injured employee
490 refuses employment suitable to the capacity thereof, offered to
491 or procured therefor, such employee shall not be entitled to any
492 compensation at any time during the continuance of such refusal
493 unless at any time in the opinion of the judge of compensation
494 claims such refusal is justifiable. ~~Time periods for the payment~~
495 ~~of benefits in accordance with this section shall be counted in~~
496 ~~determining the limitation of benefits as provided for in~~
497 ~~paragraphs (2)(a), (3)(c), and (4)(b).~~
498 (13) MAXIMUM BENEFITS ALLOWED.-The total number of weeks
499 of benefits received by an employee for temporary total
500 disability payable pursuant to subsection (2), temporary partial

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501 disability payable pursuant to subsection (4), and temporary
502 total disability payable pursuant to s. 440.491 may not exceed
503 260 weeks, except as provided in subparagraph (3)(d)3.
504 Section 5. Section 440.1915, Florida Statutes, is created
505 to read:
506 440.1915 Notice regarding payment of attorney fees.—An
507 injured employee or any other party making a claim for benefits
508 under this chapter through an attorney shall provide his or her
509 personal signature attesting that he or she has reviewed,
510 understands, and acknowledges the following statement, which
511 must be in at least 14-point bold type, before engaging an
512 attorney for services related to a petition for benefits under
513 s. 440.192 or s. 440.25: "THE WORKERS' COMPENSATION LAW REQUIRES
514 YOU TO PAY YOUR OWN ATTORNEY FEES. YOUR EMPLOYER AND/OR ITS
515 INSURANCE CARRIER ARE NOT REQUIRED TO PAY YOUR ATTORNEY FEES,
516 EXCEPT IN CERTAIN CIRCUMSTANCES. EVEN THEN, YOU MAY BE
517 RESPONSIBLE FOR PAYING ATTORNEY FEES IN ADDITION TO ANY AMOUNT
518 YOUR EMPLOYER OR ITS CARRIER MAY BE REQUIRED TO PAY, DEPENDING
519 ON THE DETAILS OF YOUR AGREEMENT WITH YOUR ATTORNEY OR
520 REPRESENTATIVE. CAREFULLY READ AND MAKE SURE YOU UNDERSTAND ANY
521 AGREEMENT OR RETAINER FOR REPRESENTATION BEFORE YOU SIGN IT." If
522 the injured employee or other party does not sign or refuses to
523 sign the document attesting that he or she has reviewed,
524 understands, and acknowledges the statement, the injured
525 employee or other party making a claim for benefits under this

526 chapter shall be prohibited from proceeding with a petition for
527 benefits under s. 440.192 or s. 440.25, except pro se, until
528 such signature is obtained.
529 Section 6. Subsections (2), (4), (5), and (7) of section
530 440.192, Florida Statutes, are amended to read:
531 440.192 Procedure for resolving benefit disputes.—
532 (2) Upon receipt, the Office of the Judges of Compensation
533 Claims shall review each petition and shall dismiss each
534 petition or any portion of such a petition that does not on its
535 face meet the requirements of this section and the definition of
536 specificity under s. 440.02, and specifically identify or
537 itemize the following:
538 (a) The name, address, and telephone number, and social
539 security number of the employee.
540 (b) The name, address, and telephone number of the
541 employer.
542 (c) A detailed description of the injury and cause of the
543 injury, including the Florida county or, if outside of Florida,
544 the state location of the occurrence and the date or dates of
545 the accident.
546 (d) A detailed description of the employee's job, work
547 responsibilities, and work the employee was performing when the
548 injury occurred.
549 (e) The specific time period for which compensation and
550 the specific classification of compensation were not timely

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551 provided.
552 (f) The specific date of maximum medical improvement,
553 character of disability, and specific statement of all benefits
554 or compensation that the employee is seeking. A claim for
555 permanent benefits must include the specific date of maximum
556 medical improvement and the specific date that such permanent
557 benefits are claimed to begin.
558 (g) All specific travel costs to which the employee
559 believes she or he is entitled, including dates of travel and
560 purpose of travel, means of transportation, and mileage and
561 including the date the request for mileage was filed with the
562 carrier and a copy of the request filed with the carrier.
563 (h) A specific listing of all medical charges alleged
564 unpaid, including the name and address of the medical provider,
565 the amounts due, and the specific dates of treatment.
566 (i) The type or nature of treatment care or attendance
567 sought and the justification for such treatment. If the employee
568 is under the care of a physician for an injury identified under
569 paragraph (c), a copy of the physician's request, authorization,
570 or recommendation for treatment, care, or attendance must
571 accompany the petition.
572 (j) The specific amount of compensation claimed and the
573 methodology used to calculate the average weekly wage, if the
574 average weekly wage calculated by the employer or carrier is
575 disputed; otherwise, the average weekly wage and corresponding

576 compensation calculated by the employer or carrier are presumed
577 to be accurate.
578 (k) ~~(j)~~ A specific explanation of any other disputed issue
579 that a judge of compensation claims will be called to rule upon.
580 (l) The signed attestation required pursuant to s.
581 440.1915.
582 (m) Evidence of a good faith attempt to resolve the
583 dispute pursuant to subsection (4).
584
585 The dismissal of any petition or portion of such a petition
586 under this subsection ~~section~~ is without prejudice and does not
587 require a hearing.
588 (4) Before filing a petition, the claimant or, if the
589 claimant is represented by counsel, the claimant's attorney must
590 make a good faith effort to resolve the dispute. The petition
591 must include evidence that a certification by the claimant or,
592 if the claimant is represented by counsel, the claimant's
593 attorney~~,~~ stating that the claimant~~,~~ or the claimant's attorney
594 ~~if the claimant is represented by counsel,~~ has made a good faith
595 effort to resolve the dispute and that the claimant or the
596 claimant's attorney was unable to resolve the dispute with the
597 carrier or employer, if self-insured. If the petition is not
598 dismissed under subsection (2), the judge of compensation claims
599 must review the evidence required under this subsection and
600 determine, in her or his independent discretion, whether a good

601 faith effort to resolve the dispute was made by the claimant or
602 the claimant's attorney. Upon a determination that the claimant
603 or the claimant's attorney has not made a good faith effort to
604 resolve the dispute, the judge of compensation claims must
605 dismiss the petition and may impose sanctions to ensure
606 compliance with this subsection, which may include an order to
607 pay to the other party or parties the amount of the reasonable
608 expenses incurred because of the filing of the petition,
609 including attorney fees, not to exceed $150 per hour, based on
610 the number of necessary hours related to the determination that
611 the claimant or, if the claimant is represented by counsel, the
612 claimant's attorney has not made a good faith effort to resolve
613 the dispute.
614 (5)(a) All motions to dismiss must state with
615 particularity the basis for the motion. The judge of
616 compensation claims shall enter an order upon such motions
617 without hearing, unless good cause for hearing is shown.
618 Dismissal of any petition or portion of a petition under this
619 subsection is without prejudice.
620 (b) Upon motion that a petition or portion of a petition
621 be dismissed for lack of specificity, a judge of compensation
622 claims shall enter an order on the motion, unless stipulated in
623 writing by the parties, within 10 days after the motion is filed
624 or, if good cause for hearing is shown, within 20 days after
625 hearing on the motion. When any petition or portion of a

626 petition is dismissed for lack of specificity under this
627 subsection, the claimant must be allowed 20 days after the date
628 of the order of dismissal in which to file an amended petition.
629 Any grounds for dismissal for lack of specificity under this
630 section which are not asserted within 30 days after receipt of
631 the petition for benefits are thereby waived.
632 (7) Notwithstanding ~~the provisions of~~ s. 440.34, a judge
633 of compensation claims may not award <u>attorney</u> ~~attorney's~~ fees
634 payable by the <u>employer or</u> carrier for services expended or
635 costs incurred <u>before</u> ~~prior to~~ the filing of a petition ~~that~~
636 ~~does not meet the requirements of this section~~.
637 Section 7. Paragraphs (a), (c), (h), and (j) of subsection
638 (4) of section 440.25, Florida Statutes, are amended to read:
639 440.25 Procedures for mediation and hearings.—
640 (4)
641 (a) If the parties fail to agree to written submission of
642 pretrial stipulations, the judge of compensation claims shall
643 conduct a live pretrial hearing. The judge of compensation
644 claims shall give the interested parties at least 14 days'
645 advance notice of the pretrial hearing by mail or by electronic
646 means approved by the Deputy Chief Judge. <u>At least 5 days before</u>
647 <u>the pretrial hearing, the claimant's attorney must file with the</u>
648 <u>judge of compensation claims, and serve on all interested</u>
649 <u>parties, a statement verified pursuant to s. 92.525 detailing</u>
650 <u>his or her hours to date, which specifically allocates the hours</u>

651 by each benefit claimed, and accounting for hours relating to
652 multiple benefits in a manner that apportions such hours by
653 percentage, in whole numbers, to each benefit.
654 (c) The judge of compensation claims shall give the
655 interested parties at least 14 days' advance notice of the final
656 hearing, served upon the interested parties by mail or by
657 electronic means approved by the Deputy Chief Judge. At least 5
658 days before the final hearing, the claimant's attorney must file
659 with the judge of compensation claims, and serve on all
660 interested parties, a statement verified pursuant to s. 92.525
661 detailing his or her hours to date, which specifically allocates
662 the hours by each benefit claimed, and accounting for hours
663 relating to multiple benefits in a manner that apportions such
664 hours by percentage, in whole numbers, to each benefit.
665 (h) To further expedite dispute resolution and to enhance
666 the self-executing features of the system, those petitions filed
667 in accordance with s. 440.192 that involve a claim for benefits
668 of $5,000 or less shall, in the absence of compelling evidence
669 to the contrary, be presumed to be appropriate for expedited
670 resolution under this paragraph; and any other claim filed in
671 accordance with s. 440.192, upon the written agreement of both
672 parties and application by either party, may similarly be
673 resolved under this paragraph. A claim in a petition of $5,000
674 or less for medical benefits only or a petition for
675 reimbursement for mileage for medical purposes shall, in the

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676 absence of compelling evidence to the contrary, be resolved
677 through the expedited dispute resolution process provided in
678 this paragraph. For purposes of expedited resolution pursuant to
679 this paragraph, the Deputy Chief Judge shall make provision by
680 rule or order for expedited and limited discovery and expedited
681 docketing in such cases. At least 15 days prior to hearing, the
682 parties shall exchange and file with the judge of compensation
683 claims a pretrial outline of all issues, defenses, and
684 witnesses, including a statement verified pursuant to s. 92.525
685 detailing his or her hours to date, which specifically allocates
686 the hours by each benefit claimed, and accounting for hours
687 relating to multiple benefits in a manner that apportions such
688 hours by percentage, in whole numbers, to each benefit, on a
689 form adopted by the Deputy Chief Judge; provided, in no event
690 shall such hearing be held without 15 days' written notice to
691 all parties. No pretrial hearing shall be held and no mediation
692 scheduled unless requested by a party. The judge of compensation
693 claims shall limit all argument and presentation of evidence at
694 the hearing to a maximum of 30 minutes, and such hearings shall
695 not exceed 30 minutes in length. Neither party shall be required
696 to be represented by counsel. The employer or carrier may be
697 represented by an adjuster or other qualified representative.
698 The employer or carrier and any witness may appear at such
699 hearing by telephone. The rules of evidence shall be liberally
700 construed in favor of allowing introduction of evidence.

701 (j) A judge of compensation claims may not award interest
702 on unpaid medical bills and the amount of such bills may not be
703 used to calculate the amount of interest awarded. Regardless of
704 the date benefits were initially requested, attorney ~~attorney's~~
705 fees do not attach under this subsection until 45 ~~30~~ days after
706 the date the carrier ~~or self-insured employer~~ receives the
707 petition.
708 Section 8. Section 440.34, Florida Statutes, is amended to
709 read:
710 440.34 Attorney ~~Attorney's~~ fees; costs.—
711 (1) A judge of compensation claims may award attorney fees
712 payable to the claimant pursuant to this section to be paid by
713 the employer or carrier. An employer or carrier may not pay a
714 fee, gratuity, or other consideration ~~may not be paid~~ for a
715 claimant in connection with any proceedings arising under this
716 chapter, unless approved by the judge of compensation claims or
717 court having jurisdiction over such proceedings. Attorney fees
718 awarded ~~Any attorney's fee approved~~ by a judge of compensation
719 claims for benefits secured on behalf of a claimant must equal
720 ~~to~~ 20 percent of the first $5,000 of the amount of the benefits
721 secured, 15 percent of the next $5,000 of the amount of the
722 benefits secured, 10 percent of the remaining amount of the
723 benefits secured to be provided during the first 10 years after
724 the date the claim is filed, and 5 percent of the benefits
725 secured after 10 years. A ~~The judge of compensation claims shall~~

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726 ~~not approve a compensation order, a joint stipulation for lump-~~
727 ~~sum settlement, a stipulation or agreement between a claimant~~
728 ~~and his or her attorney, or any other agreement related to~~
729 ~~benefits under this chapter which provides for an attorney's fee~~
730 ~~in excess of the amount permitted by this section. The judge of~~
731 ~~compensation claims is not required to approve any~~ retainer
732 agreement between the claimant and his or her attorney <u>is not</u>
733 <u>subject to approval by a judge of compensation claims but must</u>
734 <u>be filed with the Office of the Judges of Compensation Claims.</u>
735 <u>Attorney fees are a lien upon compensation payable to the</u>
736 <u>claimant, notwithstanding s. 440.22. A retainer agreement may</u>
737 <u>not place any portion of the employee's compensation into an</u>
738 <u>escrow account until benefits are secured</u>. ~~The retainer~~
739 ~~agreement as to fees and costs may not be for compensation in~~
740 ~~excess of the amount allowed under this subsection or subsection~~
741 ~~(7).~~
742 (2) In awarding a claimant's <u>attorney fees</u> ~~attorney's fee~~,
743 <u>a</u> ~~the~~ judge of compensation claims <u>must</u> ~~shall~~ consider only
744 those benefits secured by the attorney. ~~An~~ Attorney ~~is not~~
745 ~~entitled to attorney's~~ fees <u>are not due</u> for representation in
746 any issue that was ripe, due, and owing and that reasonably
747 could have been addressed, but was not addressed, during the
748 pendency of other issues for the same injury <u>or on claimant</u>
749 <u>attorney hours reasonably related to a benefit upon which the</u>
750 <u>claimant did not prevail</u>. The amount, statutory basis, and type

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751 of benefits obtained through legal representation shall be
752 listed on all attorney ~~attorney's~~ fees awarded by a ~~the~~ judge of
753 compensation claims. For purposes of this section, the term
754 "benefits secured" does not include future medical benefits to
755 be provided ~~on any date~~ more than 5 years after the date the
756 petition ~~claim~~ is filed. In the event an offer to settle an
757 issue pending before a judge of compensation claims, including
758 attorney ~~attorney's~~ fees ~~as provided for in this section~~, is
759 communicated in writing to the claimant or the claimant's
760 attorney at least 30 days before ~~prior to~~ the trial date on such
761 issue, for purposes of calculating the amount of attorney
762 ~~attorney's~~ fees to be taxed against the employer or carrier, the
763 term "benefits secured" includes ~~shall be deemed to include~~ only
764 that amount awarded to the claimant above the amount specified
765 in the offer to settle. If multiple issues are pending before a
766 ~~the~~ judge of compensation claims, said offer of settlement must
767 ~~shall~~ address each issue pending and ~~shall~~ state explicitly
768 whether or not the offer on each issue is severable. The written
769 offer must ~~shall~~ also unequivocally state whether or not it
770 includes medical witness fees and expenses and all other costs
771 associated with the claim.
772 (3) If a ~~any~~ party prevails ~~should prevail~~ in ~~any~~
773 proceedings before a judge of compensation claims or court,
774 there shall be taxed against the nonprevailing party the
775 reasonable costs of such proceedings, not to include attorney

776 ~~attorney's~~ fees. A claimant is responsible for the payment of
777 her or his own attorney ~~attorney's~~ fees, except that a claimant
778 is entitled to recover attorney fees ~~an attorney's fee~~ in an
779 amount equal to the amount provided for in subsection (1),
780 subsection (5), or subsection (6) ~~(7)~~ from a carrier or
781 employer:
782 (a) Against whom she or he successfully asserts a petition
783 for medical benefits only, if the claimant has not filed or is
784 not entitled to file at such time a claim for disability,
785 permanent impairment, ~~wage-loss,~~ or death benefits, arising out
786 of the same accident;
787 (b) In a ~~any~~ case in which the employer or carrier files a
788 response to petition denying benefits with the Office of the
789 Judges of Compensation Claims and the injured person has
790 employed an attorney in the successful prosecution of the
791 petition;
792 (c) In a proceeding in which a carrier or employer denies
793 that an accident occurred for which compensation benefits are
794 payable, and the claimant prevails on the issue of
795 compensability; or
796 (d) In cases in which ~~where~~ the claimant successfully
797 prevails in proceedings filed under s. 440.24 or s. 440.28.
798
799 Regardless of the date benefits were initially requested,
800 attorney ~~attorney's~~ fees do ~~shall~~ not attach under this

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801 subsection until 45 ~~30~~ days after the date the carrier or
802 employer~~, if self-insured,~~ receives the petition.
803 ~~(4) In such cases in which the claimant is responsible for~~
804 ~~the payment of her or his own attorney's fees, such fees are a~~
805 ~~lien upon compensation payable to the claimant, notwithstanding~~
806 ~~s. 440.22.~~
807 (4)~~(5)~~ If ~~any~~ proceedings are had for review of a ~~any~~
808 claim, award, or compensation order before any court, the court
809 may, in its discretion, award the injured employee or dependent
810 attorney fees ~~an attorney's fee~~ to be paid by the employer or
811 carrier~~, in its discretion, which shall be paid~~ as the court may
812 direct.
813 (5)(a) As used in this subsection, the term:
814 1. "Attorney hours" means the number of hours necessary
815 for the claimant's attorney to obtain the benefits secured as
816 determined by a judge of compensation claims. The term does not
817 include the volume of hours expended by the claimant's attorney
818 which were devoted to claimed benefits upon which the claimant
819 did not prevail.
820 2. "Customary fee" means the average hourly rate that an
821 attorney for an employer or carrier customarily charges in the
822 same locality for similar legal services in defense of claims
823 under this chapter as determined by a judge of compensation
824 claims.
825 3. "Departure fee" means the amount of attorney fees

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826 calculated by a judge of compensation claims in place of the fee
827 allowed under subsection (1) when attorney fees are due under
828 this section.
829 (b) A departure fee under this subsection is in place of,
830 not in addition to, the amount allowed under subsection (1) or
831 subsection (6).
832 (c) Upon a petition, a judge of compensation claims may
833 depart from the attorney fees amount set forth in subsection (1)
834 upon a finding that the attorney fees provided for in that
835 subsection are less than 40 percent or greater than 125 percent
836 of the customary fee when the amount allowed under subsection
837 (1) is converted to an hourly rate by dividing that amount by
838 the attorney hours necessary to obtain the benefits secured.
839 (d) When resolving a petition for a departure fee under
840 this subsection, a judge of compensation claims must:
841 1. Determine the number of attorney hours and make
842 specific detailed findings specifically allocating the attorney
843 hours to each benefit claimed, which must account for hours
844 relating to multiple benefits in a manner that, in the
845 independent discretion of the judge of compensation claims,
846 apportions such hours by percentage, in whole numbers, to each
847 benefit claimed;
848 2. Specify the number of hours claimed by the claimant's
849 attorney that, in the independent discretion of the judge of

850 compensation claims, reasonably relate to benefits upon which
851 the claimant did not prevail; and
852 3. Reduce the number of attorney hours if he or she
853 determines, in her or his independent discretion, that the
854 number of attorney hours are excessive.
855 (e) A judge of compensation claims may determine the
856 locality and is not limited to an average hourly rate or number
857 of attorney hours pled by a party, but may not exceed the amount
858 or hours pled by the claimant's attorney, and may rely on
859 evidence or take notice of credible data, including attorney fee
860 data on file with the office of the judges of compensation
861 claims or the Florida Bar.
862 (f) If a departure is permitted pursuant to paragraph (c),
863 a judge of compensation claims must consider the following
864 factors when departing from the amount set forth in subsection
865 (1):
866 1. Whether the departure fee sought by the claimant's
867 attorney is excessive.
868 2. The time and labor reasonably required, the novelty and
869 difficulty of the questions involved, and the skill required to
870 properly perform the legal services as established by evidence
871 or as independently determined by the judge of compensation
872 claims.
873 3. The customary fee.
874 4. Whether the total fee available under this section in

875 relation to the amount involved in the controversy is excessive.
876 5. Whether the total fee available under this section in
877 relation to the amount of benefits secured is excessive.
878 6. The time limits imposed by the circumstances.
879 7. The contingency or certainty of a claimant's attorney
880 fee, taking into account any retainer agreement filed under this
881 section.
882 8. The volume of hours expended by the claimant's attorney
883 that were devoted to issues upon which the claimant did not
884 prevail.
885 9. Whether the departure fee sought by the claimant's
886 attorney shocks the conscience as excessive.
887 (g) Based on the considerations of the factors in
888 paragraph (f), a judge of compensation claims shall determine
889 the hourly rate used to compute the departure fee awarded under
890 this subsection, in $1 increments, which may not exceed $150 per
891 hour. A judge of compensation claims is not limited to an hourly
892 rate pled by a party.
893 (h) Using the hourly rate determined under paragraph (g)
894 and number of attorney hours determined under paragraph (d), a
895 judge of compensation claims must determine the amount of the
896 departure fee under this subsection by multiplying the hourly
897 rate by the number of attorney hours. The claimant is
898 responsible for attorney fees pursuant to his or her retainer
899 agreement that exceed the departure fee.

900 <u>(i) The employer or carrier may contest the departure fee</u>
901 <u>amount awarded under this section within 20 calendar days after</u>
902 <u>the entry of the departure fee award. Upon the filing of a</u>
903 <u>request by the employer or carrier, the departure fee award must</u>
904 <u>be vacated and reviewed de novo upon the existing record by a</u>
905 <u>judge of compensation claims in another district as assigned by</u>
906 <u>the Deputy Chief Judge of Compensation Claims if the number of</u>
907 <u>attorney hours determined by the presiding judge of compensation</u>
908 <u>claims under paragraph (d) exceeds 125 percent of the number of</u>
909 <u>hours the employer's or carrier's attorney attests were devoted</u>
910 <u>by him or her to the defense of the benefits secured. The</u>
911 <u>reviewing judge of compensation claims must issue an order</u>
912 <u>determining the amount of the departure fee under this paragraph</u>
913 <u>making all determinations and findings required under this</u>
914 <u>subsection. The judge of compensation claims must issue the</u>
915 <u>order within 30 calendar days after receiving the assignment.</u>
916 <u>This paragraph does not apply to cases settled under s.</u>
917 <u>440.20(11) or if a stipulation has been filed resolving the</u>
918 <u>claimant's attorney fees.</u>
919 (6) ~~A judge of compensation claims may not enter an order~~
920 ~~approving the contents of a retainer agreement that permits~~
921 ~~placing any portion of the employee's compensation into an~~
922 ~~escrow account until benefits have been secured.~~
923 ~~(7)~~ If an <u>attorney</u> ~~attorney's~~ fee is owed under paragraph
924 (3)(a), <u>a</u> ~~the~~ judge of compensation claims may approve an

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925 alternative attorney ~~attorney's~~ fee not to exceed $1,500 ~~only~~
926 ~~once per accident~~, based on a maximum hourly rate of $150 per
927 hour, if the judge of compensation claims expressly finds that
928 the attorney ~~attorney's~~ fee amount provided for in subsection
929 (1), based on benefits secured, results in an effective hourly
930 rate of less than $150 per hour ~~fails to fairly compensate the~~
931 ~~attorney~~ for disputed medical-only claims as provided in
932 paragraph (3)(a) ~~and the circumstances of the particular case~~
933 ~~warrant such action~~. The attorney fees under this subsection are
934 in place of, not in addition to, any attorney fees available
935 under this section.
936 Section 9. Section 440.345, Florida Statutes, is amended
937 to read:
938 440.345 Reporting of attorney ~~attorney's~~ fees.—All fees
939 paid to attorneys for services rendered under this chapter shall
940 be reported to the Office of the Judges of Compensation Claims
941 as the Division of Administrative Hearings requires by rule. A
942 carrier must specify in its report the total amount of attorney
943 fees paid for and the total number of attorney hours spent on
944 services related to the defense of petitions, and the total
945 amount of attorney fees paid for services unrelated to the
946 defense of petitions.
947 Section 10. Paragraph (b) of subsection (6) of section
948 440.491, Florida Statutes, is amended to read:
949 440.491 Reemployment of injured workers; rehabilitation.—

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950 (6) TRAINING AND EDUCATION.—
951 (b) When an employee who has attained maximum medical
952 improvement is unable to earn at least 80 percent of the
953 compensation rate and requires training and education to obtain
954 suitable gainful employment, the employer or carrier shall pay
955 the employee additional training and education temporary total
956 compensation benefits while the employee receives such training
957 and education for a period not to exceed 26 weeks, which period
958 may be extended for an additional 26 weeks or less, if such
959 extended period is determined to be necessary and proper by a
960 judge of compensation claims. The benefits provided under this
961 paragraph are ~~shall~~ not ~~be~~ in addition to the maximum number of
962 ~~104~~ weeks as specified in s. 440.15(2). However, a carrier or
963 employer is not precluded from voluntarily paying additional
964 temporary total disability compensation beyond that period. If
965 an employee requires temporary residence at or near a facility
966 or an institution providing training and education which is
967 located more than 50 miles away from the employee's customary
968 residence, the reasonable cost of board, lodging, or travel must
969 be borne by the department from the Workers' Compensation
970 Administration Trust Fund established by s. 440.50. An employee
971 who refuses to accept training and education that is recommended
972 by the vocational evaluator and considered necessary by the
973 department will forfeit any additional training and education
974 benefits and any additional compensation ~~payment for lost wages~~

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975 under this chapter. The carrier shall notify the injured
976 employee of the availability of training and education benefits
977 as specified in this chapter. The Department of Financial
978 Services shall include information regarding the eligibility for
979 training and education benefits in informational materials
980 specified in ss. 440.207 and 440.40.
981 Section 11. Subsection (1) of section 627.211, Florida
982 Statutes, is amended, and subsection (7) is added to that
983 section, to read:
984 627.211 Deviations and departures; workers' compensation
985 and employer's liability insurances.—
986 (1) Except as provided in subsection (7), every member or
987 subscriber to a rating organization shall, as to workers'
988 compensation or employer's liability insurance, adhere to the
989 filings made on its behalf by such organization; except that any
990 such insurer may make written application to the office for
991 permission to file a uniform percentage decrease or increase to
992 be applied to the premiums produced by the rating system so
993 filed for a kind of insurance, for a class of insurance which is
994 found by the office to be a proper rating unit for the
995 application of such uniform percentage decrease or increase, or
996 for a subdivision of workers' compensation or employer's
997 liability insurance:
998 (a) Comprised of a group of manual classifications which
999 is treated as a separate unit for ratemaking purposes; or

1000 (b) For which separate expense provisions are included in
1001 the filings of the rating organization.
1002
1003 Such application shall specify the basis for the modification
1004 and shall be accompanied by the data upon which the applicant
1005 relies. A copy of the application and data shall be sent
1006 simultaneously to the rating organization.
1007 (7) Without approval of the office, a member or subscriber
1008 to a rating organization may depart from the filings made on its
1009 behalf by a rating organization for a period of 12 months by a
1010 uniform decrease of up to 5 percent to be applied uniformly to
1011 the premiums resulting from the approved rates for the policy
1012 period. The member or subscriber must file an informational
1013 departure statement with the office within 30 days after initial
1014 use of such departure specifying the percentage of the departure
1015 from the approved rates and an explanation of how the departure
1016 will be applied. If the departure is to be applied over a
1017 subsequent 12-month period, the member or subscriber must file a
1018 supplemental informational departure statement pursuant to this
1019 subsection at least 30 days before the end of the current
1020 period. If the office determines that a departure violates the
1021 applicable principles for ratemaking under ss. 627.062 and
1022 627.072, would result in predatory pricing, or imperils the
1023 financial condition of the member or subscriber, the office must
1024 issue an order specifying its findings and stating the time

1025 period within which the departure expires, which must be within
1026 a reasonable time period after the order is issued. The order
1027 does not affect an insurance contract or policy made or issued
1028 before the departure expiration period set forth in the order.
1029 Section 12. This act shall take effect July 1, 2018.