AN ACT

Amending the act of June 2, 1915 (P.L.736, No.338), entitled, as reenacted and amended, "An act defining the liability of an 1 2 employer to pay damages for injuries received by an employe 3 4 in the course of employment; establishing an elective schedule of compensation; providing procedure for the determination of liability and compensation thereunder; and prescribing penalties," in liability and compensation, 5 6 7 further providing for prescription drugs and the treatment of 8 work-related injuries; and, in procedure, further providing 9 for peer review. 10 11 The General Assembly of the Commonwealth of Pennsylvania 12 hereby enacts as follows: 13 Section 1. Section 306(f.1)(3)(vi) of the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act, is 14 15 amended by adding a provision and paragraph (6) is amended by 16 adding a subclause to read: Section 306. The following schedule of compensation is 17 18 hereby established: * * * 19 20 (f.1) * * *

(3) * * *

21

- 1 (vi) * * *
- 2 (J) The department shall select a nationally recognized,
- 3 evidence-based prescription drug formulary appropriate for
- 4 resolving issues related to drugs prescribed for or related to
- 5 the treatment of work-related injuries, including, but not
- 6 limited to, the type, dosage and duration of prescriptions. The
- 7 <u>following shall apply:</u>
- 8 (I) Within thirty (30) days of the effective date of this
- 9 provision, the department shall solicit public comments
- 10 regarding the selection of a prescription drug formulary under
- 11 this provision. The public comment period shall be at least
- 12 thirty (30) days but not more than ninety (90) days. The
- 13 <u>department shall publish notice of the public comment period in</u>
- 14 <u>the Pennsylvania Bulletin.</u>
- 15 (II) Within thirty (30) days after close of the public
- 16 comment period under subprovision (I), the department shall
- 17 publish notice of its selection of a prescription drug formulary
- 18 in the Pennsylvania Bulletin. The prescription drug formulary
- 19 shall take effect thirty (30) days after the publication
- 20 <u>required</u> by this subprovision.
- 21 (III) The department shall ensure that the current
- 22 prescription drug formulary is available through its publicly
- 23 accessible Internet website for reference by physicians and the
- 24 general public.
- 25 (IV) The prescription of drugs that is not consistent with
- 26 or recommended by the prescription drug formulary selected by
- 27 the department shall not be considered reasonable and necessary
- 28 for the purposes of paragraph (6).
- 29 * * *
- 30 (6) Except in those cases in which a workers' compensation 2017D02807 2 -

- 1 judge asks for an opinion from peer review under section 420,
- 2 disputes as to reasonableness or necessity of treatment by a
- 3 health care provider shall be resolved in accordance with the
- 4 following provisions:
- 5 * * *
- 6 (v) The department shall approve only those utilization
- 7 <u>review organizations that it determines have obtained</u>
- 8 <u>certification as a utilization review entity under section 2151</u>
- 9 of the Insurance Company Law of 1921.
- 10 * * *
- 11 Section 2. Section 420 of the act is amended to read:
- 12 Section 420. (a) The board, the department or a workers'
- 13 compensation judge, if it or he deem it necessary, may, of its
- 14 or his own motion, either before, during, or after any hearing,
- 15 make or cause to be made an investigation of the facts set forth
- 16 in the petition or answer or facts pertinent in any injury under
- 17 this act. The board, department or workers' compensation judge
- 18 may appoint one or more impartial physicians or surgeons to
- 19 examine the injuries of the plaintiff and report thereon, or may
- 20 employ the services of such other experts as shall appear
- 21 necessary to ascertain the facts. The workers' compensation
- 22 judge when necessary or appropriate or upon request of a party
- 23 in order to rule on requests for review filed under section
- 24 306(f.1), or under other provisions of this act, may ask for an
- 25 opinion from peer review about the <u>reasonableness or</u> necessity
- 26 [or frequency] of treatment under section 306(f.1). The peer
- 27 review report or the peer report of any physician, surgeon, or
- 28 expert appointed by the department or by a workers' compensation
- 29 judge, including the report of a peer review organization, shall
- 30 be filed with the board or workers' compensation judge, as the

- 1 case may be, and shall be a part of the record and open to
- 2 inspection as such. The workers' compensation judge shall
- 3 consider the report as evidence but shall not be bound by such
- 4 report.
- 5 (b) The board or workers' compensation judge, as the case
- 6 may be, shall fix the compensation of such physicians, surgeons,
- 7 and experts, and other peer review organizations which, when so
- 8 fixed, shall be paid out of the Workmen's Compensation
- 9 Administration Fund.
- 10 (c) Peer review performed under this section and peer review
- 11 organizations used under this section shall comply with the
- 12 <u>requirements established under section 306(f.1)(6).</u>
- 13 Section 3. This act shall take effect in 60 days.