Table of Contents

CHAPTER 1. HISTORY OF THE VIRGINIA WORKERS' COMPENSATION ACT

§ 1:1 Introduction

CHAPTER 2. THE VIRGINIA WORKERS' COMPENSATION COMMISSION

§ 2:1 Commission members
§ 2:2 Duties and powers of the Commission
§ 2:3 Duties and powers of deputy commissioners and bailiffs
§ 2:4 Offices, meetings, travel, salary, and expenses of the Commission
§ 2:5 Commission organization

CHAPTER 3. EXCLUSIVITY OF THE ACT

§ 3:1 Employee's right to recover for compensable injuries
§ 3:2 Employer failure to comply with Workers' Compensation Act
§ 3:3 Negligent injury that is not considered an accident

CHAPTER 4. THE EMPLOYER

§ 4:1 Introduction
§ 4:2 "Employer" defined
§ 4:3 The employer/employee relationship
§ 4:4 Required number of employees
§ 4:5 Partnerships
§ 4:6 Independent contractors
§ 4:7 Same trade, business, or occupation
§ 4:8 Farmers
§ 4:9 Foreign countries
§ 4:10 Volunteer organizations
§ 4:11 Statutory employers
§ 4:12 Statutory employer test

CHAPTER 5. THE EMPLOYEE

§ 5:1 Employee definition
§ 5:2 Contract for hire
§ 5:3 Sole proprietors
§ 5:4 Unauthorized helpers
§ 5:5 Family members

§ 5:6 Trainees
§ 5:7 Corporate officers
§ 5:8 Prisoners
§ 5:9 Loaned employees
§ 5:10 Joint employees
§ 5:11 Casual employees
§ 5:12 Independent contractors
§ 5:13 Employees of independent contractors

CHAPTER 6. INJURY BY ACCIDENT

§ 6:1 The injury
§ 6:2 Gradual/cumulative injuries
§ 6:3 Exposure
§ 6:4 Psychological injury
§ 6:5 Aggravation of preexisting conditions
§ 6:6 Compensable consequences

CHAPTER 7. BY ACCIDENT

§ 7:1 Identifiable incident
§ 7:2 Negligent acts
§ 7:3 Foreign injuries

CHAPTER 8. ARISING OUT OF

§ 8:1 Actual risk v. positional risk
§ 8:2 Voluntary actions
§ 8:3 Horseplay
§ 8:4 Assault
§ 8:5 Sexual assault
§ 8:6 Suicide
§ 8:7 Stairs
§ 8:8 Ladders
§ 8:9 Slip and falls
§ 8:10 Unexplained/idiopathic falls
§ 8:11 Lifting/carrying
§ 8:12 Bending/standing/reaching
§ 8:13 Acts of God
§ 8:14 Cell phone use

CHAPTER 9. IN THE COURSE OF

§ 9:1 Coming and going
§ 9:2 Parking lots
§ 9:3 Before/after work
§ 9:4 Lunch breaks/personal comfort

§ 9:5 Employer-sponsored events
§ 9:6 Personal mission

CHAPTER 10. MULTIPLE INJURIES

§ 10:1 Multiple injuries/same employer
§ 10:2 Multiple injuries/different employers

CHAPTER 11. DEATH PRESUMPTION

§ 11:1 Death must arise out of employment

CHAPTER 12. OCCUPATIONAL DISEASE

§ 12:1 Occupational disease generally
§ 12:2 Communication of diagnosis
§ 12:3 Notice to the employer
§ 12:4 Injurious exposure
§ 12:5 Presumptions
§ 12:6 Rebutting the presumption
§ 12:7 Statute of limitations
§ 12:8 Waiver
§ 12:9 Ordinary disease of life

CHAPTER 13. THE ACCEPTED CLAIM

§ 13:1 Notice
§ 13:2 Purpose of notice
§ 13:3 Form of notice
§ 13:4 Notice to statutory employer
§ 13:5 Failure to give notice

CHAPTER 14. PANEL OF PHYSICIANS

§ 14:1 Employer required to furnish panel of physicians
§ 14:2 Defective panel
§ 14:3 No "Good Faith" exception to panel requirement
§ 14:4 Unjustifiable refusal to seek treatment with panel physician

CHAPTER 15. EMPLOYER'S ACCIDENT REPORT

§ 15:1 Employer's accident report generally
§ 15:2 First report filing procedures and regulations
§ 15:3 Consequences of failure to report

CHAPTER 16. CLAIM FOR BENEFITS

§ 16:1 Claim for benefits generally

§ 16:2 COVID-19
§ 16:3 Statute of limitations
§ 16:4 Tolling the statute of limitations
§ 16:5 Estoppel—Statute of limitations
§ 16:6 Imposition—Statute of limitations
§ 16:7 De facto awards
§ 16:8 Definition of filed
§ 16:9 What constitutes a claim
§ 16:10 Concurrent jurisdiction

CHAPTER 17. AVERAGE WEEKLY WAGE

§ 17:1 Average weekly wage generally
§ 17:2 Computing the average weekly wage
§ 17:3 Date of determination—Average weekly wage
§ 17:4 Included in the average weekly wage
§ 17:5 Excluded from the average weekly wage
§ 17:6 Changing the average weekly wage

CHAPTER 18. AGREEMENT TO PAY BENEFITS

§ 18:1 Agreement to pay benefits generally
§ 18:2 Failure to file agreement forms

CHAPTER 19. AWARD ORDER

§ 19:1 Award order generally
§ 19:2 Hearing awards
§ 19:3 Review of award
§ 19:4 Finality of award
§ 19:5 Interest on an appealed award
§ 19:6 Enforcement of awards
§ 19:7 Penalty for late payment
§ 19:8 Assessment of attorney's fees under § 65.2-713

CHAPTER 20. MEDICAL TREATMENT

§ 20:1 Medical treatment generally
§ 20:2 Panel of physicians
§ 20:3 Physician/patient privilege
§ 20:4 Medical management
§ 20:5 Reasonable, necessary, and causally related medical treatment
§ 20:6 Refusal of medical treatment
§ 20:7 Independent medical exams
§ 20:8 Change in treating physician

§ 20:9 Peer review
§ 20:10 Purpose of peer review
§ 20:11 The peer review committee
§ 20:12 Requests for peer review
§ 20:13 Notice to the defending party
§ 20:14 Informal hearing procedure
§ 20:15 Decision of the peer review committee
§ 20:16 Appeal of the decision of the peer review committee
§ 20:17 Immunity of committee members
§ 20:18 Privilege of committee's communications
§ 20:19 Medical fee schedule—In general
§ 20:20 —Application and exclusion
§ 20:21 —Regulation and disputes
§ 20:22 —Six medical communities
§ 20:23 Medical fee schedules—Payment and denials
§ 20:24 Home modification
§ 20:25 Balance billing the claimant
§ 20:26 Medical records
§ 20:27 Attorney's fees under § 65.2-714(B)

CHAPTER 21. VOCATIONAL REHABILITATION

§ 21:1 Vocational rehabilitation generally
§ 21:2 Vocational rehabilitation guidelines
§ 21:3 Failure to cooperate
§ 21:4 Curing a refusal to cooperate with vocational rehabilitation
§ 21:5 Job placement
§ 21:6 Retraining
§ 21:7 Initial meeting with vocational rehabilitation counselor
§ 21:8 Transportation and other costs for vocational rehabilitation
§ 21:9 Vocational rehabilitation and undocumented workers

CHAPTER 22. CHANGE IN CONDITION

§ 22:1 Change in condition generally
§ 22:2 Employee's claim of change in condition
§ 22:3 The employer's change in condition application
§ 22:4 Time requirement for filing change in condition
§ 22:5 Time for response to employer's application
§ 22:6 Unreported change in condition and the uninsured employer's fund

CHAPTER 23. AGREEMENT TO TERMINATE BENEFITS

§ 23:1 Generally

CHAPTER 24. TEMPORARY TOTAL DISABILITY BENEFITS (TTD)

§ 24:1 Temporary total disability benefits generally
§ 24:2 Total disability benefits limit of weeks
§ 24:3 Benefits exempt from creditors' claims
§ 24:4 Cost of living adjustment

CHAPTER 25. TEMPORARY PARTIAL DISABILITY BENEFITS (TPD)

§ 25:1 Temporary partial disability benefits generally
§ 25:2 Lawful employment requirement
§ 25:3 Suspension of benefits based on employee incarceration

CHAPTER 26. PERMANENT PARTIAL DISABILITY BENEFITS (PPD)

§ 26:1 Permanent partial disability benefits generally
§ 26:2 PPD benefits between 1991–1997
§ 26:3 Disfigurement and PPD
§ 26:4 Computing the PPD benefit
§ 26:5 PPD statute of limitations

CHAPTER 27. PERMANENT TOTAL DISABILITY BENEFITS (PTD)

§ 27:1 Permanent total disability benefits generally
§ 27:2 Timely filing of a permanent and total disability claim

CHAPTER 28. DEATH BENEFITS

§ 28:1 Death benefits generally
§ 28:2 Dependents
§ 28:3 Time for filing for death benefits
§ 28:4 Death benefits and cost of living adjustments
§ 28:5 Unrelated death and benefits

CHAPTER 29. THE CONTESTED CLAIM

§ 29:1 Employer's defense—Willful misconduct
§ 29:2 Rebutting the employer's willful misconduct defense
§ 29:3 Notice of a willful misconduct defense

§ 29:4 Employer's defense of intoxication or use of a nonprescribed controlled substance
§ 29:5 20-day order
§ 29:6 An employer's defense—Light duty and marketing
§ 29:7 Docketing the employer's application
§ 29:8 The expedited hearing
§ 29:9 The employer's application—Refusal of selective employment
§ 29:10 Curing a refusal of selective employment
§ 29:11 Time frame for curing a refusal of selective employment
§ 29:12 Discovery
§ 29:13 Motion to compel
§ 29:14 Sanctions for failure to timely respond to discovery
§ 29:15 The hearing
§ 29:16 Types of hearings
§ 29:17 Evidentiary hearings
§ 29:18 Continuances
§ 29:19 Hearsay
§ 29:20 Stipulations at hearing
§ 29:21 Dismissal of a claim
§ 29:22 Nonsuit
§ 29:23 After-discovered evidence
§ 29:24 Hearing decisions
§ 29:25 Interlocutory request for review
§ 29:26 Request for review
§ 29:27 Appeal to the Court of Appeals of Virginia
§ 29:28 Appeal to the Supreme Court of Virginia

CHAPTER 30. MEDIATION

§ 30:1 Mediation generally

CHAPTER 31. SETTLEMENTS

§ 31:1 Settlements generally
§ 31:2 Submitting settlement documents
§ 31:3 Blanket releases in compromise settlements
§ 31:4 Extending the time of the compromise settlement
§ 31:5 Vacating a settlement
§ 31:6 Attorney's fee in settlements
§ 31:7 Penalties in settlements
§ 31:8 Compromise settlements and Medicare
§ 31:9 Prorating settlement proceeds for social security disability

CHAPTER 32. THIRD PARTY SETTLEMENTS AND WORKERS' COMPENSATION

§ 32:1 Workers' Compensation claim and tort claim

CHAPTER 33. PRACTICAL PRACTICE POINTS AND FORMS

§ 33:1 Practical practice points and forms generally
§ 33:2 The intake
§ 33:3 Rejecting the intake
§ 33:4 The sign-up packet
§ 33:5 Letter of representation and filing the claim
§ 33:6 Initial letter to the client
§ 33:7 Handling the claim
§ 33:8 Closing the file
§ 33:9 Practice style

APPENDICES

Appendix A. Sample Forms
Appendix B. More Sample Forms
Appendix C. Workers Compensation Statutes
Appendix D. Workers Compensation Commission Rules

Table of Laws and Rules

Table of Cases

Index