



2024 SPRING WORKSHOP

#### LEGISLATIVE UPDATE

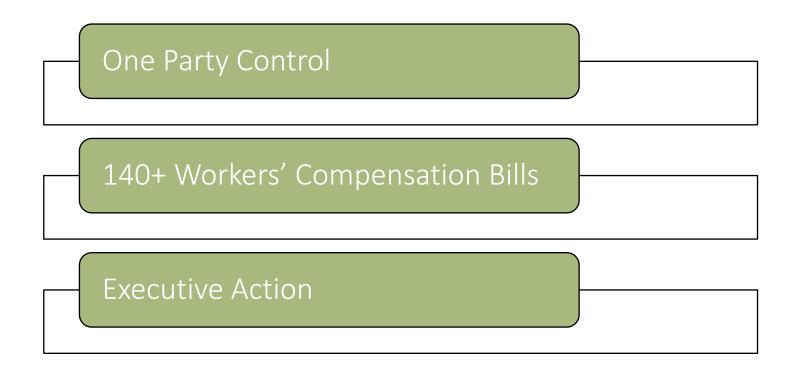
Annette Malpica
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## Agenda



2024 NYS Legislature



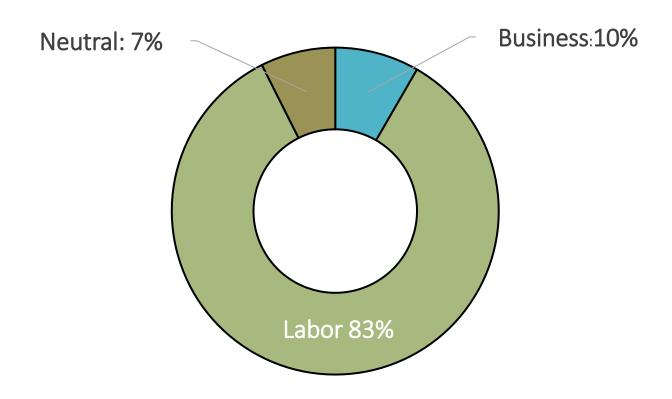


## 2024-25 Executive Budget



2024 Legislative Session

# 2023 Pending Workers' Comp Bills - Labor Bills Dramatically Transform the WC Landscape



### Pharmacy Network - A.1219-A/S.1974-A

#### Amends WCL § 13 to Allow for the Use of Non-Network Pharmacies

Status – Passed Senate on 3/20/24; Passed Assembly on 5/30/24

Allows workers' compensation claimants to use any pharmacy when the following are present:

- Carrier refuses to provide payment or authorization for approved medication;
- Carrier fails to reauthorize medication by:
  - o failing to respond to a reauthorization request;
- Medical reports have not been filed for reauthorization or the filed medical report contains a defect;
- Medication has been previously reauthorized, but the carrier denies reauthorization based upon the treatment guidelines;
- IME denies reauthorization or MMI has been reached; and
- Case in process of settlement

### PT & OT Assistants – A.1204-A/S.9462-A

## Amends WCL§13-b to Allow Physical Therapy Assistants and Occupational Therapy Assistants to Render Treatment

Status – Passed Assembly 5/23/24; Passed Senate 6/4/24

Authorizes treatment of workers' compensation injuries by an occupational therapy assistant and a physical therapy assistant under the supervision of authorized PT and OT

Directs certain records to be retained

## Mental Stress – A.5745/S.6635

#### Amends WCL § 10 to Eliminate Case Law Requirement For Mental Stress Injuries

Status – Passed Senate 4/14/24; Passed Assembly 6/5/24

Expands WCL § 10 first responder carve-out for mental stress injuries to include all employees and eliminates the requirement that the stress stems from a work emergency

- Greater Than Similarly Situated Worker in the Normal Work Environment
- "Extraordinary" Work-Related Stress vs. "Ordinary" Work-Related Stress
- Eliminates the requirement that the work stress occurred during a work emergency

## Access to Treatment (Pre-Authorization) – A.6832-A/S.6929

Amends WCL§13-a(5) to Raise the Limit for Treatment Requiring Pre-authorization

Status – Passed Senate 6/5/24; Passed Assembly 6/7/24

Allows for treatment costing less than \$1,500 to be done without prior approval

- More clearly defines the list of "pre-authorized procedures" as a floor on treatment as opposed to its current state as a ceiling;
- Allows non-network providers of testing to be compensated at the provider network rate negotiated by the carrier.

### 2024 Legislative Session: Notable Legislation



## Notable Legislation – Passed One House

Bill Number(s)	Status	Impact
A.8957 S.8323	Passed Senate 5/23/24 Ref'd to Labor in A.	Communication With Claimant's Medical Providers – WCL § 13-a Allows for the communication between claimant's attorney and medical providers without disclosure to carrier
A.8950 S.8344	Passed Senate 5/16/24 Ref'd to Labor in A.	Redefines A Carrier's Credit Against PPD Payments – WCL § 15(3)(w) Credit for payments in excess of 130 weeks benefits <u>paid</u> as opposed to payments made in excess of 130 weeks post DoA
A.4617-A S.3117-A	Passed Senate 4/9/24 Ref'd to Labor in A.	Lyme Disease and Other Tick-Borne Illnesses – WCL § 3(2) Lyme Disease as Occupational Disease.
A.6108-A S.1027-B	Passed Senate 3/12/24 Ref'd to Labor in A.	Employment Discrimination in PFL - WCL § 120 Request for reinstatement not necessary to file a complaint for unlawful discriminatory practice
S-6651	Passed Senate 4/16/24 Delivered to A.	Massage Therapy - WCL § 13-b Allows licensed massage therapists to treat claimants upon prescription or referral from authorized provider
A.10561 S.9840	Passed Senate 6/7/24 Delivered to A.	Increase Short Term Disability Benefits - WCL § 200 Progressive increase to Disability Benefits (up to 67% of AWW capped at 60% SAWW)

## **Notable Legislation**

Bill Number	Impact
A.3300	Compensation for Loss of a Fetus - WCL § 15(3)(m-1) Compensation for the loss of a fetus is 312 weeks
A.8408-A A.9804 S.8544-A	Reopening of COVID-19 Death Claims - WCL § 3-a One year window to file time-barred, or reopen previously denied, COVID-19 death claims
A.9106-A S.8452-A	Board Issued Stop Work Orders - WCL § 142-a Allows the Board to issues stop work orders for coverage violations

## Major Reform Revisited

Bill Number	Impact
A.391 S.1799	Permanent Total Disability – WCL § 15 Redefines what constitutes permanent total disability.
A.6707	Temporary Total Disability – WCL § 15 Redefines what constitutes temporary total disability.
A.294 S.1798	Extreme Hardship – WCL § 35 Broadly Defines Extreme Hardship. Lowers LWEC 50%.
A.6192-A S.6074-A	Removes Attachment to the Labor Market as a Defense – WCL § 15  No LMA argument pending classification
A.8988-A S.8445-A	Mandatory Hearings in All Cases - WCL § 20 Requires a hearing to be held on every claim within 60 days of Indexing

## THANK YOU!

#### Annette Malpica

Vice President – Director of Claims & Legal Counsel Lovell Safety Management Co., LLC

Paul M. Zaragoza Chief, Workers' Compensation Division NYC Law Department

"The law, changed and changeable on slight provocation, loses its sanctity and authority."

Calvin Coolidge