SUMMARY OF 2007 STATUTORY REFORMS TO WORKERS COMPENSATION STATUTE

- Required the Insurance Department to create an advisory committee that would "evaluate the workers' compensation system in the State of Delaware, identify systemic cost drivers and provide objective information to guide policy formulation." The law also required the Insurance Department to report annually to the Governor and General Assembly the progress of data collection efforts and information obtained from the analysis of the data collected.

- Created a Health Care Advisory Panel (HCAP), which proposed a medical payment system later incorporated by the Department of Labor into a regulation. The system was required to establish payment rates, instructions, guidelines, and payment guides and policies regarding application of the payment system.

- The initial permissible fees under the system set up by HCAP allowed fees of 90% of the 75th percentile of actual charges by providers at the time the system was initially set up in a given zip code. Yearly increases after that would correspondent to the overall consumer price index (not the rate of medical inflation). When the system did not set a fee in this way, the allowed charge was simply 85% of the actual charge.

- The system separated out ambulatory surgical treatment centers, anesthesia and related services, dental and related services, hospital care, and professional services. Non-emergency room hospital services and ambulatory surgical centers were to be reimbursed at 85% of actual 2006 charges (with an annual CPI inflation adjustment). HCAP was assigned to develop fee schedules for lab and pharmaceuticals that would result in a 15% cost savings from 2006 charges.

- HCAP was also assigned by the new law to develop practice guidelines for the most common workplace injuries. Services provided by certified medical professionals to injured workers would be presumed reasonable if they conformed to these guidelines.

- Created a certification process for workers treating workers comp recipients. Other than an initial office visit, any treatment by a non-certified doctor of a workers comp. recipient would need to be pre-authorized by the employer or insurance company.

- Assigned HCAP to develop standardized forms for employers to use in reporting initial injuries and forms for health care professionals to use in describing an injured employee's injuries and work capabilities on a regular basis. Employers are also required to promptly provide to health care providers lists of modified-duty jobs for injured employees.

- Created a utilization review process for employers or insurers who wished to challenge compliance with treatment guidelines, charges, or other components of the workers

compensation medical care system. However, the decisions of utilization review entities can be reviewed and reversed by the Industrial Accident Board.

- Specified the information and format required in billings from medical providers treating workers compensation patients, and required payment within 30 days of uncontested bills that complied with the required format.

- Revised the section of the code relating to contractors, subcontractors, and independent contractors to make it more difficult for entities to avoid the requirements of covering employees. Also clarified the provisions of the Code relating to employers' obligations to provide workers compensation coverage for their employees.

- Required greater disclosure by attorneys representing workers compensation claimants of the work performed in exchange for fees, and placed restrictions on the ability of attorneys representing claimants to deduct fees from workers compensation checks being issued to a claimant.

- Created a system of non-binding mediation for disputed workers compensation claims that otherwise would be heard by the Industrial Accident Board.

- Allowed employers/insurers to make "payments without prejudice" to injured workers so that workers would not need to wait until the final disposition of disputed claims to receive compensation or treatment. The legislation also provided for coordination of payment between workers compensation employers/insurers and other health insurance entities covering the same injured worker, and created procedures to ensure treatment when payment liability was disputed.

- Provided for suspension of workers compensation benefits for incarcerated persons.

- Created formalized procedures for the Department of Insurance and IAB to deal with allegations of insurance fraud in workers compensation proceedings.

- Created standards for the IAB to use in assessing petitions for benefit commutations, to ensure that applicants had appropriate net recoveries.