

Assessment of Public Comment

The Board received approximately five unique written comments on the proposed addition of 12 NYCRR Part 323, in addition to five copies of a form letter.

The form letter, from various acupuncturists, supported the proposal, specifically the process for acupuncturists becoming authorized under the Workers' Compensation Law and the licensing and certification requirements.

The Board received a comment from an association, and another from an individual, supporting the proposal.

The Board also received a comment from an individual supporting the addition of acupuncturists to the providers that can be authorized, but thought that chiropractors should be able to directly refer to physical therapy. The text of the regulation addresses the process for applying to become authorized. The medical providers that may refer for physical therapy are listed in the statute, and therefore may not be amended by regulation. Accordingly, no change has been made to the regulation as a result of this comment.

The Board received two comments from individuals generally supporting the proposal, but also expressing an opinion that other types of providers should have been included. The list of medical providers who may become authorized to treat injured workers is contained in section thirteen-b of the Workers' Compensation Law. The regulation describes the process for becoming authorized. The regulation may not amend the statute to add to the types of providers that may become authorized.

The Chair has made the following clarifying changes to the regulation:

- adding "in the format prescribed by the Chair" to the second sentence in (b)
- adding this sentence to (b): "On or after January 1, 2020, newly authorized acupuncturists, nurse practitioners, occupational therapists, physical therapists, physician assistants or licensed clinical social workers may treat injured workers and bill for their services."
- explicitly adding prior authorizations to section (c);
- replacing "reregistration" with "renewal" of authorization;
- adding "state-wide board, if applicable" and state-wide review board" to (e)(2) to account for review by the state Osteopathic board; and
- clarifying that the renewal authorizations must be completed within 30 days of a provider's New York State license renewal.