



# New York State Correctional Officers & Police Benevolent Association, Inc.

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October 20, 2017

Dear Members of the NYS Workers' Compensation Board:

Please accept the following comments in response to the proposed regulations and guidelines having to do with impairment guidelines and schedule loss of use awards.

NYSCOPBA's approximately 22,000 active members work in a variety of settings: as correctional officers and sergeants in state correctional facilities; as security hospital treatment assistants in forensic psychiatric centers; and safety and security officers who work as front-line security in state office buildings, to name a few. These are often dangerous, physically demanding jobs, and NYSCOPBA members are all too frequently injured while working to keep New Yorkers safe.

The workers' compensation system cannot turn back the clock and erase an individual's on-the-job injury entirely—all it can do is fairly compensate those who are hurt at work. While there is no amount of money that can ever make an employee with permanent impairment physically whole, injured workers should not face excessive financial hardship due to an on-the-job injury.

NYSCOPBA has grave concerns that the proposed guidelines and regulations will hurt workers' compensation claimants, adding insult to literal injury.

We are not doctors; other stakeholders are better situated to comment on the specific technical changes to the proposed guidelines. However, we do represent thousands of state employees who are injured at work during the course of their careers, and we therefore have significant concerns about our members' schedule loss of use awards being drastically reduced or eliminated under this proposal.

The legislative mandate called for updated guidelines that took into account advances in medical technology. However, the proposed guidelines give no explanation of how medical advances were incorporated. Moreover, as workers' compensation practitioners have pointed out, schedule loss of use awards already took medical advances into account—better medicine results in better outcomes, which in turn result in lower schedule loss of use awards.

Concerns were raised at the Assembly Labor Committee Hearing on the proposed guidelines and elsewhere that the Board overstepped its legislative mandate by making such drastic changes to the guidelines without an explanation of the medical advances considered and by making changes to the Independent Medical Examination process. At the public hearing, members of the Assembly expressed concern that the changes were actually made to cut costs and reduce awards for injured workers. We share those concerns.

From our vantage point, these proposed guidelines and changes to the regulations seem to be no more than an attack on workers. In many cases the proposed guidelines will diminish or eliminate schedule loss of use awards, with no medical justification given. The proposed regulations would limit employees' ability to access an Independent Medical Examination, but no such limit was placed on insurance companies. The regulations threaten employees with reduction or loss of benefits if they do not "cooperate . . . at all times" with insurance company doctors. And these changes were all developed through a process that leaves much to be desired in terms of transparency. As the AFL-CIO indicated at the public hearing on the proposed guidelines, they were consulted, but their opportunity to present input was extremely limited, and they did not see their input reflected in the final version of the proposal.

Based on these concerns, we urge you to rescind the current proposals, seek meaningful input from stakeholders through a transparent process, and address the legislative mandate without doing so on the backs of injured workers.

Sincerely,

A handwritten signature in black ink that reads "Michael B. Powers". The signature is written in a cursive, flowing style.

Michael B. Powers  
President