

# STATE OF NEW YORK - WORKERS' COMPENSATION BOARD

CHECK ONE

NOTICE OF RETAINER AND APPEARANCE

NOTICE OF SUBSTITUTION AND APPEARANCE

NOTICE OF RETAINER AND APPEARANCE - ADDITIONAL ATTORNEY

(For substitutions, item C MUST also be completed.)

WCB Case No.		Social Security No.	Date of Accident, Illness or Injury	
Name			Address	
CLAIMANT				
EMPLOYER*				
CARRIER				
ATTORNEY OR REPRESENTATIVE				
Representative's ID No., if any	Telephone No. of Atty/Rep.	*If claim is made under the Volunteer Firefighters' Benefit Law or the Volunteer Ambulance Workers' Benefit Law, show as EMPLOYER the liable political subdivision and enter "X" here: →	VFBL	
R-			VAWBL	

**A. CLAIMANT COMPLETE THIS SECTION**

**CHECK ONE:**

Please take notice that I have retained the above-named firm/individual to represent me in all proceedings concerning my claim.

Please take notice that I have retained the above-named firm/individual to represent me in my appeal to the Supreme Court, Appellate Division, Third Department, or the Court of Appeals.

Please take notice that in place of \_\_\_\_\_ I have retained the above-named to represent and appear for me in all proceedings concerning my claim.

My claim is under the  Workers' Compensation Law  Volunteer Firefighters' Benefit Law  Volunteer Ambulance Workers' Benefit Law  
 Disability Benefits Law  Section 120/241 WCL - Discharge or Discrimination Complaint

I hereby authorize the above-named attorney/representative to request and obtain copies of any necessary medical records connected with the Workers' Compensation Board (WCB) case indicated above. In addition, I consent to the transmittal of all medical reports in this case from my health provider(s) to my attorney/representative. I understand and agree that a licensed representative may appear on my behalf at the request of my attorney.

In addition to the case folder for this claim, I authorize the above-named attorney/representative to access (check ONE):

All of my workers' compensation case files maintained by the NYS WCB.

The following workers' compensation case file(s) maintained by the NYS WCB (list by number): \_\_\_\_\_

No other access permitted.

Claimant's Signature \_\_\_\_\_ Date \_\_\_\_\_

**B. ATTORNEY/REPRESENTATIVE COMPLETE THIS SECTION**

I agree to represent the above-named claimant in compliance with the aforementioned Law and Rules and Regulations promulgated thereunder and hereby notice my retention in the above case. All notices, decisions and other documents are to be sent to the undersigned unless otherwise indicated below. It is understood that the only fees to be paid in this case are those fixed by the WC Law Judge, the Board, the Conciliator or designated employee of the Chair.

**I am (CHECK ONE):**

An Attorney at Law  A Licensed Representative with Fee--License No. \_\_\_\_\_  A Licensed Representative without Fee--License No. \_\_\_\_\_

Signature of Attorney/Representative \_\_\_\_\_ Date \_\_\_\_\_

**ATTORNEY OR REPRESENTATIVE WHO IS TO APPEAR, IF OTHER THAN YOURSELF**

Name \_\_\_\_\_ Address \_\_\_\_\_ Tel.No. \_\_\_\_\_ will appear in this case. All notices, decisions and other documents should be sent to (him, her or them). Fees, if any should be made payable to:

Name \_\_\_\_\_ Address \_\_\_\_\_ Tel. No. \_\_\_\_\_

**C. FOR SUBSTITUTION ONLY - ATTORNEY/REPRESENTATIVE COMPLETE THIS SECTION**

A copy of this notice of substitution was served on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, on \_\_\_\_\_

Name of Former Attorney or Representative \_\_\_\_\_ Address \_\_\_\_\_

**D. REQUEST AND NOTICE TO HEALTH PROVIDER**

Pursuant to Section 13(f) of the Workers' Compensation Law, please transmit copies of all your medical reports to me as the claimant's representative.

Signature of Attorney or Representative appearing for claimant \_\_\_\_\_

**Please Note: A photocopy of this notice shall be deemed as effective as an original.**

**NOTICE TO ATTORNEY OR REPRESENTATIVE:**

1. This form may be used by an **original, substituted or additional** attorney or representative. Check appropriate box on top of form.
2. Send a copy of this form to **all** of the claimant's health providers.

**RULES AND PROCEDURE OF THE WORKERS' COMPENSATION BOARD**  
**12NYCRR 300.17 Notices of Retainer, Appearance and Substitution, and Fees of Claimant's Attorney or Licensed Representative**

In the representation of a claimant before the board or a Workers' Compensation Law Judge in any case:

- (a) An attorney or licensed representative shall file a notice of retainer and appearance, and, when appropriate, a notice of substitution, on forms prescribed by the chair, immediately upon being retained. The attorney or licensed representative shall also transmit a copy of such notice to the insurance carrier, self-insured or other representative of the employer at the time of filing.
- (b) An attorney or licensed representative, substituted by a former attorney or licensed representative, shall immediately upon being retained serve the former attorney or licensed representative with a copy of the notice of substitution.
- (c) No fee shall be approved or fixed, in accordance with subdivision (f) of this section, for the services of any such attorney or licensed representative with fee who has failed or neglected to serve and file the required notice of retainer and appearance or the required notice of substitution.
- (d) (1) An attorney or licensed representative shall file an application upon a form OC-400.1 in each instance where a fee is requested pursuant to Sections 24 and 24-a of the Workers' Compensation Law, except that where the fee requested is not more than \$450, the attorney and licensed representative may, in lieu of such written application, make an oral statement on the record as to the services rendered and the time spent for the performance of such services. Notwithstanding the foregoing, the board may require a written application on Form OC-400.1 for a fee of \$450 or less. Any form OC-400.1 filed shall be accurately completed.  
  
(2) All fees awarded at a hearing are to be made in the presence of the claimant, except that the Workers' Compensation Law Judge may, in his or her discretion, waive this requirement if the amount of fee requested is not more than \$450, provided that the attorney or licensed representative makes a statement on the record as to the services rendered and the time spent for the performance of such services.  
  
(3) In any case where the claimant is not present and the amount of the fee requested is more than \$450, the claimant must be advised of the amount requested by the attorney or licensed representative 10 days in advance of the awarding of a fee. Proof of service by mail or otherwise on the copy of form OC-400.1 filed with the board, may be accepted as evidence that the claimant has been so advised.
- (e) Whenever a fee is requested in excess of \$450 for services rendered in conciliation, administrative determination, agreement pursuant to section 32 of the Workers' Compensation Law or conference calendar processing, the request is to be made upon form OC-400.1 in each instance where a fee is requested. The claimant must be advised of the amount requested, the service rendered and the time spent for the performance of the services by the attorney or licensed representative 10 days prior to the awarding of a fee. Proof of service by mail or otherwise on the copy of form OC-400.1 filed with the board, may be acceptable as evidence that the claimant has been so advised. Fees awarded in conciliation, administrative determination, agreement pursuant to section 32 of the Workers' Compensation Law or conference calendar processing, may be approved by a conciliator or designee of the Chair.
- (f) Whenever an award is made to a claimant who is represented by an attorney or licensed representative with fee, and a fee is requested, the board in such case shall approve a fee in an amount commensurate with the services rendered and having due regard to the financial status of the claimant and whether the attorney or licensed representative engaged in dilatory tactics or failed to comply in a timely manner with board rules. In no case shall the fee be based solely on the amount of the award.
- (g) Whenever an attorney or licensed representative is notified, by notice of substitution or otherwise, that the claimant has terminated his or her retainer, the attorney or licensed representative, in each instance where a fee is requested for services rendered for which no previous fee has been approved, shall file an application for such final fee forthwith on form OC-400.1, and serve a copy upon the claimant. The claimant must be advised of the amount requested, the service rendered and the time spent for the performance of the services by the attorney or licensed representative, 10 days prior to the awarding of a fee. Proof of service by mail or otherwise on the copy of form OC-400.1 filed with the board, may be acceptable as evidence that claimant has been so advised. Where the fee requested is not more than \$450 the attorney or licensed representative may make an oral statement on the record as to the services rendered and the time spent for the performance of such services, at the first hearing held following notice to such attorney or licensed representative that the retainer has been terminated.
- (h) No fee shall be awarded to a claimant's attorney or licensed representative unless the attorney or licensed representative has complied with the requirements of this section.

It is unlawful to disclose individually identifiable information from Workers' Compensation Board records to any person who is not otherwise lawfully authorized to obtain these records. Any person who knowingly and willfully obtains workers' compensation records which contain individually identifiable information under false pretenses or otherwise violates Workers' Compensation Law Section 110-a shall be guilty of a Class A misdemeanor and shall be subject upon conviction to a fine of not more than one thousand dollars.