

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Sherri M. Connelly,	:	
Petitioner	:	
	:	
v.	:	No. 513 C.D. 2025
	:	
Keystone Home Health Service	:	Submitted: July 24, 2026
(Workers' Compensation Appeal	:	
Board),	:	
Respondent	:	

BEFORE: HONORABLE PATRICIA A. McCULLOUGH, Judge
HONORABLE CHRISTINE FIZZANO CANNON, Judge
HONORABLE MATTHEW S. WOLF, Judge

OPINION

BY JUDGE McCULLOUGH

FILED: August 31, 2026

Sherri M. Connelly (Claimant) petitions for review of the March 25, 2025 opinion and order of the Workers' Compensation Appeal Board (Board), which affirmed the June 27, 2024 amended decision and order of a Workers' Compensation Judge (WCJ). Through that order, the WCJ granted the modification petition of Keystone Home Health Service (Employer) and modified Claimant's indemnity benefits from total to partial disability pursuant to an impairment rating evaluation (IRE) conducted on May 3, 2023.¹

In her petition for review, Claimant does not challenge the WCJ's findings or application of the pertinent provisions of the Workers' Compensation Act (Act).²

¹ The WCJ first granted the modification petition by a decision and order circulated on June 20, 2024. The WCJ thereafter issued, on June 27, 2024, an amended decision and order that added an award of counsel fees and otherwise reaffirmed the WCJ's original decision.

² Act of June 2, 1915, P.L. 736, *as amended*, 77 P.S. §§ 1-1041.4, 2501-2710.

Instead, Claimant challenges as unconstitutional Act 111 of 2018 (Act 111),³ which added Section 306(a.3) to the Act. Claimant argues that (1) retroactive application of Act 111 to injuries occurring prior to its enactment is unconstitutional; (2) Act 111 violates the nondelegation doctrine; and (3) the consideration and passage of Act 111 violated article III, section 4 of the Pennsylvania Constitution because it was not considered on three different days in each House of the General Assembly.⁴

Upon review, we affirm.

I. Act 111

We begin with a summary of Act 111. On September 18, 2015, this Court decided *Protz v. Workers' Compensation Appeal Board (Derry Area School District)*, 124 A.3d 406 (Pa. Cmwlth. 2015) (*Protz I*), *affirmed in part and reversed in part*, 161 A.3d 827 (Pa. 2017) (*Protz II*), therein pertinently holding that Section 306(a.2)⁵ of the

³ Act of October 24, 2018, P.L. 714, No. 111.

⁴ Pa. Const. art. III, § 4 (“Every bill shall be considered on three different days in each House.”).

⁵ Former Section 306(a.2), added by the Act of June 24, 1996, P.L. 350, No. 57, *formerly* 77 P.S. § 511.2. Section 306(a.2) provided, in pertinent part, as follows:

(1) When an employee has received total disability compensation pursuant to clause (a) for a period of [104] weeks . . . the employee shall be required to submit to a medical examination . . . to determine the degree of impairment due to the compensable injury, if any The degree of impairment shall be determined based upon an evaluation by a physician . . . pursuant to the most recent edition of the American Medical Association “Guides to the Evaluation of Permanent Impairment [(AMA Guides)].”

(2) If such determination results in an impairment rating that meets a threshold impairment rating that is equal to or greater than [50%] . . . the employee shall be presumed to be totally disabled and shall continue to receive total disability compensation benefits. . . . If such determination results in an impairment rating less than [50%]

(Footnote continued on next page...)

Act violated the non-delegation doctrine⁶ and, accordingly, was unconstitutional. In *Protz II*, the Pennsylvania Supreme Court affirmed that holding, concluding that the General Assembly, in authorizing the application of future versions of the AMA Guides without review, had unconstitutionally delegated its lawmaking authority. 161 A.3d at 840-41.

On October 24, 2018, in response to *Protz II*, the General Assembly passed Act 111, which replaced former Section 306(a.2) of the Act with Section 306(a.3). Section 306(a.3) reads, in relevant part, as follows:

(1) When an employee has received total disability compensation pursuant to clause (a) for a period of one hundred four weeks . . . the employee shall be required to submit to a medical examination . . . to determine the degree of impairment due to the compensable injury, if any. The degree of impairment shall be determined based upon an evaluation by a physician . . . pursuant to the [Sixth Edition, second printing of the AMA Guides (AMA Guides, Sixth Edition)].

(2) If such determination results in an impairment rating that meets a threshold impairment rating that is equal to or greater than [35%] . . . , the employee shall be presumed to be totally disabled and shall continue to receive total disability compensation benefits If such determination results in an impairment rating less than [35%] impairment . . . , the

impairment . . . the employee shall then receive partial disability benefits under class (b)

Former 77 P.S. § 511.2(1)-(2).

⁶ Pa. Const. art. II, § 1 (“The legislative power of this Commonwealth shall be vested in a General Assembly, which shall consist of a Senate and a House of Representatives.”); *Protz II*, 161 A.3d at 833 (“At the heart of the non-delegation doctrine, which we have described as a ‘natural corollary’ to the text of Article II, Section 1, is the tenet that the General Assembly cannot delegate to any other branch of government or to any other body or authority the power to make law.”) (some internal quotations and citations omitted).

employee shall then receive partial disability benefits under clause (b)

77 P.S. § 511.3. Section 3 of Act 111 further provides, in pertinent part:

(1) For the purposes of determining whether an employee shall submit to a medical examination to determine the degree of impairment and whether an employee has received total disability compensation for the period of 104 weeks under [S]ection 306(a.3)(1) of the [A]ct, an insurer shall be given credit for weeks of total disability compensation paid prior to the effective date of this paragraph. This section shall not be construed to alter the requirements of [S]ection 306(a.3) of the [A]ct.

(2) For the purposes of determining the total number of weeks of partial disability compensation payable under [S]ection 306(a.3)(7) of the [A]ct, an insurer shall be given credit for weeks of partial disability compensation paid prior to the effective date of this paragraph.

77 P.S. § 511.3, Historical and Statutory Notes.

II. Background and Procedural History

The pertinent facts underlying this matter are undisputed, and we summarize them as pertinently found by the WCJ:

1. On September 20, 2000, [] Employer issued an [a]mended [n]otice of [c]ompensation [p]ayable (Amended []NCP[]), which accepted [] Claimant's January 6, 1994 work injury as compensable. The Amended NCP unilaterally described [] Claimant's work injury as "tenosynovitis left wrist sprain/strain." The description of injury also noted that the injury should include brachial plexus neuralgia and [s]tage [o]ne [r]eflex [s]ympathetic [d]ystrophy as per the September 1, 2000 [WCJ's] [o]rder. . . .

2. By [d]ecision and [o]rder circulated on September 1, 2000, [WCJ] John Liebau amended the [n]otice of [c]ompensation [p]ayable issued March 22, 1994[,] to include [b]rachial [p]lexus [n]euralgia and [s]tage [o]ne [r]eflex [s]ympathetic [d]ystrophy as injuries sustained in

connection with the work-related injury of January 6, 1994. [] Claimant's workers' compensation benefits were also reinstated retroactive to the date that supersedeas was granted on January 25, 1999.

3. After [] Claimant's receipt of 104 weeks of temporary total disability (TTD) benefits, [] Employer submitted a Request for Designation of a Physician to Perform an Impairment Rating Evaluation to the Bureau of Workers' Compensation [(Bureau)] on March 1, 2023. On March 3, 2023, the Bureau designated David Weiss, D.O. as the [IRE] physician.

4. Dr. Weiss saw [] Claimant for an [IRE] on May 3, 2023. At that time, [Dr. Weiss] opined that [] Claimant had a [five percent] whole[-]person impairment rating.

5. [] Employer submitted the deposition testimony of [Dr. Weiss] [Dr. Weiss'] deposition testimony is summarized as follows:

a. Dr. Weiss is Board[]certified in orthopedic surgery, and he is licensed to practice medicine in the Commonwealth of Pennsylvania. Dr. Weiss is certified by the [] Bureau [] to perform impairment ratings in the Commonwealth. Dr. Weiss was one of ten physicians appointed in Pennsylvania to help compose the new IRE guidelines after [*Protz II*] invalidated the prior IRE provisions. Dr. Weiss has an active clinical practice.

b. Dr. Weiss was assigned by the Commonwealth to perform an IRE of [] Claimant. He performed an IRE of [] Claimant pursuant to the [AMA Guides, Sixth Edition] on May 3, 2023. . . .

c. [Dr. Weiss] consulted the AMA Guides[, Sixth Edition] and determined that the [complex regional pain syndrome (]CRPS[)] table did not adequately represent the extent of [] Claimant's work injury. As a result, he consulted peripheral nerves ratings, and in particular, the Semmes Weinstein monofilament testing, which provided a higher rating and corrective diagnosis.

d. [] Dr. Weiss opined that the Claimant was at [maximum medical improvement (MMI)]. . . .

....

g. After consulting the AMA Guides[, Sixth Edition]] to perform the impairment rating for each of Claimant's work-related diagnoses and impairments, [Dr. Weiss] determined and opined that [] Claimant's impairment rating for all left upper extremity injuries was [eight percent], which corresponded to a whole[-] person impairment rating of [five percent].

....

....

9. In the instant matter, there was no dispute that [] Claimant had received over [104] weeks of benefits prior to the IRE on May 3, 2023; there was no dispute regarding the qualifications of Dr. Weiss; there was no dispute that Dr. Weiss calculated the Claimant's whole[-]person impairment rating per the [AMA Guides, Sixth Edition]; and there was no medical evidence submitted in opposition to the accuracy of Dr. Weiss's calculations utilizing the [] AMA Guides, [Sixth Edition,] which yielded a whole-person impairment rating of [five percent].

10. During the litigation of this matter . . . , Claimant's counsel argued the following: the IRE provisions set forth in Section 306(a.3) of [the Act] do not apply to injuries occurring before June 24, 1996, when IREs were first introduced into the [Act] . . . ; [and] that the IRE provisions of the Act are unconstitutional;

....

13. [The WCJ] finds that the instant matter is analogous to the matter of [*City of Pittsburgh v. Dobbs (Workers' Compensation Appeal Board)* (Pa. Cmwlth., No. 1431 C.D. 2021, filed January 27, 2023), *allowance of appeal denied*, 305 A.3d 546 (Pa. 2023) (Table)]. As such, Act 111 is applicable to the instant matter.

14. Based on the credible evidence of record, [the WCJ] finds that the IRE was a valid one, and that [] Claimant's

workers' compensation benefits should be modified from [TTD] to partial disability status as of May 3, 2023.

....

17. In her discretion, [the WCJ] declines to award an attorney fee over and above [] Claimant's benefits in this matter[.]

(WCJ Decision, 6/20/2024, Findings of Fact (FOF) 1-5, 9-10, 13-14, 17.) The WCJ granted Employer's modification petition and modified Claimant's indemnity benefits from TTD to partial disability as of May 3, 2023. (WCJ Decision, at 9.) On June 27, 2024, with the agreement of the parties, the WCJ issued the Amended Decision awarding Claimant's counsel a 20 percent attorney fee and otherwise reaffirming the original decision in total. (Amended Decision, 6/27/2024, at 3.)

Claimant appealed to the Board, again arguing that retroactive application of Act 111's IRE provisions to Claimant's injury and benefits is unconstitutional. (Board Op. at 2.) The Board affirmed. As to Claimant's argument that Act 111 could not be applied retroactively to benefits for injuries existing prior to Act 111's enactment, the Board disagreed, citing to this Court's decisions in *Rose Corporation v. Workers' Compensation Appeal Board (Espada)*, 238 A.3d 551 (Pa. Cmwlth. 2020), *Pierson v. Workers' Compensation Appeal Board (Consol Pennsylvania Coal Co., LLC)*, 252 A.3d 1169 (Pa. Cmwlth. 2021), *allowance of appeal denied*, 261 A.3d 378 (Pa. 2021), *Hutchinson v. Annville Township (Workers' Compensation Appeal Board)*, 260 A.3d 360 (Pa. Cmwlth. 2021), and *DiPaolo v. UPMC Magee Women's Hospital (Workers' Compensation Appeal Board)*, 278 A.3d 430 (Pa. Cmwlth. 2022), *allowance of appeal denied*, 290 A.3d 237 (Pa. 2023) (Table). The Board concluded:

[W]e conclude that Claimant's argument regarding the application of Act 111 has already been addressed and rejected by Commonwealth Court. Act 111 applies to claimants injured prior to its effective date, and it is not unconstitutional to do so, as long as the IRE does not pre-

date Act 111. Here, Claimant's IRE was performed in 2023, which is after Act 111's October 24, 2018, effective date.

(Board Op., 3/25/25, at 4.)

Claimant also argued before the Board that application of the entire IRE process to her benefits was impermissible because her injury predated the effective date of Act 57, which expressly limited its application to injuries sustained after June 24, 1996. (Board Op., at 4). The Board disagreed, finding our unreported decision in *Dobbs* to be directly on point and persuasive. Because, in *Dobbs*, this Court held that Act 111 applies to all injuries occurring prior to its enactment, including injuries occurring prior to June 24, 1996, the Board concluded that Act 111 applied to Claimant's injuries and benefits. *Id.* at 5.

Claimant further argued before the Board that Act 111 violated the non-delegation doctrine. Relying on this Court's decision in *Pennsylvania AFL-CIO v. Commonwealth*, 219 A.3d 306 (Pa. Cmwlth. 2019), *affirmed*, (Pa., No. 88 MAP 2019, filed August 18, 2020), the Board disagreed, concluding that, "[a]lthough Claimant is critical of using the AMA Guides to establish impairment ratings, the legislature adopted a specific edition of the AMA Guides as its own standard and we cannot second-guess that decision." (Board Op., at 6.)

Claimant lastly argued before the Board that Act 111 is procedurally defective and void *ab initio* because it "was not considered as a bill on three different days in each House of the General Assembly as required by [Article III, Section 4 of] the Pennsylvania Constitution." *Id.* The Board again rejected Claimant's argument, noting that the legislative history of Act 111 (designated as H.B. 1840) indicated that the bill was considered on three separate days each by the Pennsylvania House of Representatives and the Pennsylvania Senate. *Id.* at 6-7. Although, as Claimant pointed out, the bill's Printer Number (PN) changed to reflect certain amendments, the bill number remained constant and appeared for consideration three times in the House

and three times in the Senate. *Id.*⁷ Having rejected all of Claimant’s arguments, the Board unanimously affirmed the WCJ’s Amended Decision. *Id.* at 17.

Claimant now petitions for review in this Court.

III. Issues Presented⁸

Claimant presents three issues for our review: (1) whether Act 111 violates the nondelegation doctrine; (2) whether Act 111’s retroactive application to Claimant’s injury and benefits is unconstitutional; and (3) whether Act 111 is procedurally defective pursuant to Article III, Section 4 of the Pennsylvania Constitution.⁹

⁷ Claimant challenged before the Board certain aspects of the WCJ’s findings and contended that Employer did not carry its burden of proof in support of its modification petition. The Board rejected each of those arguments, concluding that the WCJ’s granting of the modification petition was supported by substantial evidence provided by Employer, chiefly via Dr. Weiss’s opinions. (Board Op., at 7-16.) Claimant has abandoned those arguments in this Court.

⁸ Our review in workers’ compensation matters is limited to determining whether the WCJ’s findings of fact are supported by substantial evidence, “whether an error of law was committed[,] or whether constitutional rights were violated.” *DiLaqua v. City of Philadelphia Fire Department (Workers’ Compensation Appeal Board)*, 268 A.3d 1, 4 n.5 (Pa. Cmwlth. 2021) (quotation and citation omitted). Over questions of law, however, we exercise *de novo*, plenary review. *City of Philadelphia Fire Department v. Workers’ Compensation Appeal Board (Sladek)*, 195 A.3d 197, 207 (Pa. 2018).

⁹ Claimant’s brief is not a model of clarity. The Summary of the Argument section stops midsentence, and the statement of issues does not precisely match the issues identified in either the petition for review or the argument section of the brief. (Claimant’s Br. at 4, 12, 13-23; Petition for Review, ¶ 8.) Nevertheless, because the issues actually briefed were preserved before the Board and are sufficiently analyzed here to permit our review, we will not find waiver. See Pa.R.A.P. 1513(d)(5) and comment; *Kurpiewski v. Workers’ Compensation Appeal Board (Caretti, Inc.)*, 202 A.3d 870, 885 n.12 (Pa. Cmwlth. 2019); *Burda v. Pennsylvania Judicial Conduct Board*, 175 A.3d 1138, 1139 n.2 (Pa. Cmwlth. 2017).

IV. Discussion

A. Non-delegation Doctrine and Retroactivity

Claimant argues, as she did before the Board, that Act 111 violates the nondelegation doctrine because it does not fully address the concerns identified by the Pennsylvania Supreme Court regarding former Section 306(a.2) of the Act. Claimant specifically takes issue with the General Assembly's designation of a particular version of the AMA Guides to be used for IRE evaluations, which version is not updated and may become outdated or obsolete. (Claimant's Br. at 13-20.) Claimant also contends that Act 111 may not be applied retroactively to affect the workers' compensation benefits of any claimant who was injured prior to Act 111's date of enactment. Claimant insists that Act 111 does not contain any express language signifying the General Assembly's intent that it apply retroactively. *Id.* at 21-22.¹⁰

As we have concluded on multiple prior occasions, both of Claimant's arguments in this regard are without merit.

In *Pierson v. Workers' Compensation Appeal Board (Consol Pennsylvania Coal Co.)*, 252 A.3d 1169 (Pa. Cmwlth. 2021), the claimant sustained a work-related injury on August 13, 2014. The employer acknowledged the injury via notice of compensation payable, and the claimant received TTD benefits. 252 A.3d at 1171-72. On December 21, 2018, the employer filed a modification petition pursuant to the newly-enacted Section 306(a.3) seeking to modify the claimant's benefits from TTD to partial disability based on an IRE performed on December 19, 2018. *Id.* at

¹⁰ Claimant has abandoned in this Court the argument that the entire IRE process added to the Act in 1996 does not apply here because Claimant's work injury pre-dates the enactment of Act 57. (Claimant's Br. at 21-22.) Even if Claimant had not abandoned this issue, however, we would hold that retroactive application of Act 111 to pre-Act 57 injuries is not constitutionally infirm. *See Dobbs*, slip op. at 7-10; Section 414(a) of the Commonwealth Court's Internal Operating Procedures, 210 Pa. Code § 69.414(a) (unreported decisions of this Court issued after January 15, 2008, may be cited for their persuasive value).

1172. The claimant ultimately challenged in this Court the constitutionality of Section 306(a.3), arguing pertinently that (1) Section 306(a.3) is unconstitutional “on its face,” and (2) Section 306(a.3) cannot be applied retroactively to claims that originated (*i.e.*, have an injury date) prior to October 24, 2018. *Id.* at 1174-76.

We rejected the claimant’s arguments, relying chiefly on our prior decisions in *Pennsylvania AFL-CIO* and *Rose Corporation*. We quote our reasoning in *Pierson* at length:

In [*Pennsylvania AFL-CIO*], we determined [that] Act 111 was not an unconstitutional delegation of legislative authority, as the prior IRE provision of the Act was determined to be. Specifically, we stated:

[t]he non-delegation doctrine does not prohibit the General Assembly from “adopting as its own a particular set of standards which already are in existence at the time of adoption.” That is what the General Assembly did here – it adopted the [AMA Guides, Sixth Edition], which PA AFL-CIO admits was in existence when Section 306(a.3) was enacted, “as its own.” When such an adoption occurs, the General Assembly is exercising its legislative and policy making authority by deciding that it is those particular standards that will become the law of this Commonwealth. It is not delegating its authority to legislate. The General Assembly made a policy decision regarding the standards that will apply to IREs in the Commonwealth going forward.

[*Pennsylvania*] *AFL-CIO*, 219 A.3d at 316 (quoting, in part, *Protz II*, 161 A.3d at 838) (emphasis omitted). Our opinion in *Pennsylvania AFL-CIO* was affirmed by a brief *per curiam* order of our Supreme Court. . . . Although we acknowledge that the determination in *Pennsylvania AFL-CIO* was relative to whether Act 111 was an unconstitutional delegation of legislative authority, it was nevertheless a test

of [the] [] assertion that Act 111 is unconstitutional “on its face,” and the consensus was that it is not. . . .

In addition, and in regard to the issue of the retroactive application of the 104-week and credit provisions of Act 111, we first address [the] [] contention that *Protz II* rendered former Section 306(a.2) of the Act void *ab initio*

[] In [*Warren v. Folk*, 886 A.2d 305 (Pa. Super. 2005)], the Pennsylvania Superior Court explained that it, and our Supreme Court, had considered the issue of retroactivity in terms of whether the statute in question affects vested rights and determined that

[w]here no vested right or contractual obligation is involved, an act is not retroactively construed when applied to a condition existing on its effective date even though the condition results from events prior to that date. . . . A “vested right” is one that “so completely and definitely belongs to a person that it cannot be impaired or taken away without the person’s consent.”

While [the] [c]laimant, here, argues that he has a right to benefits as calculated at the time of injury, there are reasonable expectations under the Act that benefits may change. We acknowledge that a claimant retains a certain right to benefits until such time as he is found to be ineligible for them. However, claimants, such as the one in the matter before us, did not automatically lose anything by the enactment of Act 111. Act 111 simply provided employers with the means to change a claimant’s disability status from total to partial by providing the requisite medical evidence that the claimant has a whole[-]body impairment of less than 35%, after receiving 104 weeks of TTD benefits.

As this Court opined in *Rose Corporation*, the General Assembly made it clear in [Section 3 of] Act 111 that weeks of TTD and partial disability by an employer/insurer prior to the enactment of Act 111 count as credit against an employer’s new obligations under Act 111. In *Rose Corporation*, we said, in reference to Act 111:

The plain language of Section 3 establishes a mechanism by which employers/insurers may receive credit for weeks of compensation previously paid. First, Section 3(1) provides that an employer/insurer “shall be given credit for weeks of total disability compensation paid prior to the effective date of this paragraph” for purposes of determining whether the 104 weeks of total disability had been paid. This 104 weeks is important because, under both the former and current IRE provisions, a claimant need not attend an IRE until after the claimant receives 104 weeks of total compensation. 77 P.S. § 511.3(1); *former* 77 P.S. § 511.2(1). *See* Section 3(1) of Act 111. Therefore, pursuant to Section 3(1), an employer/insurer will receive credit towards this 104 weeks for any weeks of total disability benefits that were previously paid prior to Act 111’s enactment. Second, an employer/insurer will be given credit for any weeks of partial disability compensation paid prior to enactment of Act 111 “for the purposes of determining the total number of weeks of partial disability compensation payable under Section 306(a.3)(7) of the [] Act.” Section 3(2) of Act 111. In short, any weeks of partial disability previously paid will count towards the 500-week cap on such benefits.

[*Rose Corporation*], 238 A.3d at 561-62. [W]e also added: “Through the use of very careful and specific language, the General Assembly provided employers/insurers with credit for the weeks of compensation, whether total or partial in nature, previously paid.” [*Id.*] at 562.

....

[The] [c]laimant, herein [] argues that the General Assembly cannot take away his “vested rights” and that it did not explicitly express an intent to apply the provisions of Act 111 in any sort of a retroactive fashion. As we noted above, [the] [c]laimant’s “vested rights” have not been abrogated by Act

111. Further, we believe it is clear that the General Assembly intended for the 104-week and credit weeks provisions of Act 111 to be given retroactive effect, where, as we noted in *Rose Corporation*, it stated in plain language it was doing so. Thus, [the c]laimant does not prevail in his arguments relative to the constitutionality of Act 111, and we see no reason to disturb the Board's [o]rder affirming the WCJ.

Id. at 1178-80. *See also* *DiPaolo*, 278 A.3d at 432-38; *Dunetz v. Charles H. Sacks D.M.D., P.C. (Workers' Compensation Appeal Board)*, 304 A.3d 134, 142-43 (Pa. Cmwlth. 2023); *Gonzalez v. Guizzetti Farms, Inc. (Workers' Compensation Appeal Board)*, 297 A.3d 854, 859-60 (Pa. Cmwlth. 2023).

Claimant invites this Court to revisit the same nondelegation and retroactivity arguments that we soundly rejected in both *Pierson* and *Pennsylvania AFL-CIO*. This Court has reaffirmed and refused to revisit our holding in *Pierson* in dozens of unreported decisions issued since 2022. *See Dixon v. City of Philadelphia (Workers' Compensation Appeal Board)* (Pa. Cmwlth., No. 1000 C.D. 2022, filed June 7, 2024), slip op. at 5-7 (citing cases). We again decline to do so here and conclude that Claimant's arguments in this respect warrant no relief.

B. Days of Consideration in the General Assembly

Claimant lastly argues, as she did before the Board,¹¹ that Act 111 is procedurally defective under Article III, Section 4 of the Pennsylvania Constitution because the bill underlying Act 111 was considered on only two days in each house after having undergone amendments and PN reassignments. (Claimant's Br. at 22-23.) We disagree.

¹¹ Claimant has briefed this issue in this Court, and we therefore address it. We note, however, that Claimant's brief is lacking in citations to pertinent authority, *see* Claimant's Br. at 22-23, and Employer did not brief this issue at all. We remind counsel (1) of the responsibility to include pertinent citations to authority for each issue, *see* Pa.R.A.P. 2119(a), and (2) that we ordinarily would assume that unchallenged matters in a petitioner's brief are acceptable to the respondent. *See* Pa.R.A.P. 2112.

Article III, Section 4 of the Pennsylvania Constitution requires that every bill “be considered on three different days in each House” of the General Assembly.

Pa. Const. art. III, § 4. Article III, Section 4 serves the critical purpose of ensuring an open and deliberative legislative process in which all legislators are given a full opportunity to scrutinize a bill and offer changes which they may deem necessary, and to also make certain that, during this process, every member of the public has the opportunity to make his or her views known to their representatives and senators on all provisions of a bill before its final passage.

Washington v. Department of Public Welfare, 188 A.3d 1135, 1148 (Pa. 2018). Our Supreme Court has explained the requirements of Article III, Section 4 as follows:

[W]e view this obligation as a mandate that the substantive contents of a bill — *i.e.*, the specific language or other means by which the bill will change or supplement the Commonwealth’s existing laws—be considered on three different days, so that every legislator and all members of the public are fully apprised of how the laws of Pennsylvania will be altered by the bill. Therefore, the dispositive constitutional question is whether each House considered on three separate days a version of [a challenged bill] which contained the same substantive provisions enacted into law . . .

[I]n assessing a claim that the procedure used to pass a bill violated Article III, Section 4, we have traditionally employed a “germaneness” test which affords due regard for the necessity of preserving flexibility in the legislative crafting process, while maintaining the strength of the safeguards for the regularity and transparency of this process afforded by Article III, Section 4.

This test requires examination of the original subject of the bill and then a determination of whether the amendments to the bill added during the legislative process are germane to and do not change the general subject of the bill. The subject of a bill’s original provisions and subsequent amendments

must, of course, be ascertained from the language of both. Consequently, only when amendments are germane to the bill's original subject will consideration of the original bill by each House on a particular day count towards the requirements of Article III, Section 4. Such a requirement allows for ordinary amendments to a bill that do not change its original subject, but prevents legislation of a different subject matter being added to a bill late in the legislative process and then passed without the three days' consideration by each House mandated by Article III, Section 4.

Amendments are germane to the original general subject matter of a bill if both the subject of the amendments and the subject of the original contents of the bill have a nexus to a common purpose. In other words, the subject of the amendments and the subject of the original bill language must constitute a unifying scheme to accomplish a single purpose. In making this determination, a reviewing court may hypothesize a reasonably broad unifying subject; however, such a hypothetical subject cannot be unduly expansive, lest the purpose of the constitutional provision be defeated.

Id. at 1150, 1151-52 (internal citations, quotations, and footnotes omitted). “[L]egislation enjoys a presumption of constitutionality, which extends to the manner in which it is passed. A statute is, therefore, presumed valid, and it will not be found unconstitutional unless it clearly, palpably, and plainly violates the Constitution. . . . [T]he burden of proof . . . to meet this standard is high, and any doubts will be resolved in favor of . . . the statute’s constitutionality.” *Id.* at 1149.

In *Washington*, the bill at issue was introduced in the House of Representatives as a three-page bill containing two proposed provisions setting eligibility criteria for individuals receiving public assistance. *Id.* at 1139-40. After the bill was considered on 3 occasions by the House, it was introduced into the Senate, where it remained unchanged for 13 months. *Id.* at 1140. In the meantime, the entirety

of the bill was appended to a separate piece of legislation and signed into law as Act 22 of 2011. *Id.* Approximately one year later, the Senate Health and Welfare Committee reassigned the bill’s PN, removed all of its prior language (already enacted as part of Act 22), inserted a variety of new provisions making substantial changes to the Public Welfare Code, and changed the bill’s title. *Id.* at 1140-41. After the bill again entered committee and resurfaced with new provisions making additional changes to the Public Welfare Code, the version of the bill considered and passed by the Senate was 27 pages long and contained none of its original language. *Id.* at 1141-42. The House thereafter considered the newly-revised bill a single time and passed it one day after receiving it from the Senate. *Id.* at 1142.

The Pennsylvania Supreme Court concluded that the amendments to the bill, which had replaced entirely its original language, were “not germane as a matter of law.” *Id.* at 1153. Accordingly, this “new bill” had to be considered afresh on three occasions by each House of the General Assembly. Because the House of Representatives reviewed the new bill only one time, Article III, Section 4 was not satisfied. *Id.* at 1154.

Here, the Board provided the following analysis on this question:

The legislative history of Act 111 is a matter of public record, [available] at www.legis.state.pa.us,^[12] and we take judicial notice of it. Act 111 was designated as H.B. 1840, PN 2513 in October 2017. On June 4, 2018, H.B. 1840, PN 3595 was reported as amended and was considered for the first time by the House [of Representatives]. On June 21, 2018, H.B. 1840, PN 3802 received a second consideration with amendments. On June 22, 2018, H.B. 1840, PN 3802 received a third consideration and final passage by the House. On October 2, 2018, [] H.B. 1840, PN 4147 was reported as amended and was considered for the first time

¹² More specifically, Act 111’s legislative history as H.B. 1840 is available at <https://www.palegis.us/legislation/bills/2017/hb1840> (last visited August 31, 2026).

by the Senate. On October 3, 2018, H.B. 1840, PN 4147 received a second consideration by the Senate. On October 16, 2018, there was a motion to revert to prior Printer's Number 3802. On October 17, 2018, H.B. 1840, PN 3802 received a third consideration and final passage by the Senate.

Claimant asserts that the legislative history does not reflect three separate days of consideration of the same bill before each separate House of the General Assembly, as it was assigned a new bill number of PN 3802. However, Claimant is mistaken about the bill number. The bill that passed was H.B. 1840, and it was considered on three separate days by the House and on three separate days by the Senate. The [PN] changed to reflect various amendments to the bill, but the bill was always H.B. 1840. Therefore, we reject this constitutional challenge

(Board Op. at 6-7) (footnotes omitted).

Our review of Act 111's legislative history reveals that the Board's analysis is correct. Contrary to Claimant's assertions that H.B. 1840 received a new *bill* number, in fact only new PNs were assigned when the bill was amended in each House. The bill number, H.B. 1840, remained constant. Thus, as serially amended, H.B. 1840 was considered on three occasions each by the House (June 4, 21, and 22, 2018) and Senate (October 2, 3, and 17, 2018). *See* H.B. 1840, 201st Gen. Assemb., Reg. Sess. (Pa. 2017-2018).

Going further, we also note that Claimant has not argued that the original purpose, subject matter, or substantive provisions of H.B. 1840 changed with the minor amendments made by the House of Representatives and Senate. *See* Pa. Const. art. III, § 1 (“[N]o bill shall be altered or amended, on its passage through either House, as to change its original purpose.”); Pa. Const. art. III, § 3 (“No bill shall be passed containing more than one subject”). Nor has our review of the amendments to H.B. 1840 revealed any such changes. Instead, the amendments made in the House

after its first consideration of H.B. 1840 (1) changed the threshold whole-body impairment rating from 35 to 50 percent, (2) modified slightly Sections 307(7)¹³ and 314(b)¹⁴ of the Act, and (3) added Section 3(3) of Act 111 to require the Pennsylvania Compensation Rating Bureau to calculate the savings achieved through the passage of Section 306(a.3). *See* H.B. 1840, PNs 3595, 3802 (House Amendments). In the Senate, minor amendments were proposed to modify the language referencing the AMA Guides, Sixth Edition and to delete Section 3 of Act 111. Neither of those proposed changes ultimately were adopted by the Senate, which passed the same version of H.B. 1840, PN 3802 that was passed by the House. *See* Amendments to H.B. 1840, PNs 4147, 3802 (Senate).

We therefore conclude that the minor amendments to H.B. 1840 in both the House and Senate were germane to the bill's original subject, which was, generally speaking, to modify the Act's IRE process to comport with *Protz II*.¹⁵ The amendments are readily distinguishable from those in *Washington*, which changed wholesale the subject and language of the challenged bill. Here, only minor changes to H.B. 1840's

¹³ 77 P.S. § 562, *as amended*.

¹⁴ 77 P.S. § 651(b), *as amended*.

¹⁵ The title of H.B. 1840 changed only a single time prior to its passage by the House. The amendment is highlighted in bold typeface below:

AN ACT Amending the act of June 2, 1915 (P.L.736, No.338), entitled "An act defining the liability of an employer to pay damages for injuries received by an employe in the course of employment; establishing an elective schedule of compensation; providing procedure for the determination of liability and compensation thereunder; and prescribing penalties," in liability and compensation, further providing for schedule of compensation, **for computation of benefits** and for physical examination or expert interview.

H.B. 1840, PN 3802 (House Amendments), *available at* <https://www.palegis.us/legislation/bills/2017/hb1840> (last visited August 31, 2026).

language were proposed and passed, and the substantive provisions of the final version were considered on three occasions by each House. For that reason, we agree with the Board that Act 111’s passage did not violate Article III, Section 4 of the Pennsylvania Constitution. *See In re: Proposed Annexation of Wilkinsburg by the City of Pittsburgh*, 298 A.3d 562, 572 (Pa. Cmwlth. 2023) (*en banc*) (the passage of Act 41 of 2022¹⁶ did not violate Article III, Section 4 because an amendment added during Senate consideration “shared a nexus with the original bill when both related to the common purpose of accuracy in county assessments”).

V. Conclusion

Having concluded that none of Claimant’s issues in this Court warrant relief, we affirm the Board’s order.

PATRICIA A. McCULLOUGH, Judge

¹⁶ Act of July 7, 2022, P.L. 455, No. 41, 53 Pa.C.S. §§ 711-729. Act 41 governs municipal boundary changes and clarifications and repealed the 1903 Annexation Law, Act of April 28, 1903, P.L. 332, *as amended*, formerly 53 P.S. §§ 171-176.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Sherri M. Connelly,	:	
Petitioner	:	
	:	
v.	:	No. 513 C.D. 2025
	:	
Keystone Home Health Service	:	
(Workers' Compensation Appeal	:	
Board),	:	
Respondent	:	

ORDER

AND NOW, this 31st day of August, 2026, the March 25, 2025 order of the Workers' Compensation Appeal Board is hereby AFFIRMED.

PATRICIA A. McCULLOUGH, Judge