

An employee who has refused in good faith to perform assigned tasks and who has not been reassigned to other tasks by the employer shall, in addition to retaining a right to continued employment, receive pay for the tasks which would have been performed if (1) the employee requests the commissioner to inspect and determine the nature of the hazardous condition, and (2) the commissioner determines that the employee, by performing the assigned tasks, would have been placed in imminent danger of death or serious physical harm; or (3) the employee requests the commissioner to inspect and determine if a hazardous condition exists, and (4) the commissioner determines that the employer has failed to provide the training required under section 182.653, subdivision 4b, 4c, 4d, 4e, or 4f prior to the employee's initial assignment to a workplace where the employee may be routinely exposed to a hazardous substance or harmful physical agent and the employer has failed to provide the information required under section 182.653, subdivision 4b, 4c, 4d, 4e, or 4f after a request pursuant to section 182.654, subdivision 10 within a reasonable period of time, but not to exceed 24 hours, of the request.

Nothing in this subdivision shall give a technically qualified individual who elects to participate in the training required under section 182.653, subdivisions 4b, 4c, or 4f, the right to refuse to work as provided under this subdivision because his or her employer has failed to provide a training program required under those subdivisions.

Sec. 5. EFFECTIVE DATES.

The provisions of section 1 which provide that Minnesota Statutes, section 182.653, subdivision 4b, does not apply to any nonpublic school or any school district before January 1, 1985 shall be effective the day following enactment. All other provisions of this bill shall be effective August 1, 1984.

Approved April 23, 1984

CHAPTER 432 — S.F.No. 1477

An act relating to workers' compensation; clarifying the law concerning ridesharing; providing for miscellaneous changes in the workers' compensation process; amending Minnesota Statutes 1982, sections 176.135, by adding a subdivision; 176.231, subdivision 1; 176.241, subdivisions 1 and 3, and by adding subdivisions; 176.271, subdivision 2; 176.351, by adding a subdivision; Minnesota Statutes 1983 Supplement, sections 79.34, subdivision 1; 176.041, subdivision 1; 176.101, subdivisions 3a, 3b, 3e, 3g, 3i, 3j, 3l, 3m, 3o, 3q, 3r, and 3t; 176.102, subdivisions 3a and 9; 176.103, subdivision 3, and by adding a subdivision; 176.104, subdivisions 1 and 2; 176.129, subdivisions 3, 4, and by adding a subdivision; 176.135, subdivision 1; 176.136; 176.138; 176.183, subdivision 1; 176.221, subdivisions 1, 3, and by adding a subdivision; 176.231, subdivision 9; 176.241, subdivision 2; 176.242,

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subdivisions 1, 2, 6, and 8; 176.243, subdivision 3; 176.361; 176.421, subdivision 7; 176.442; 176.66, subdivisions 10 and 11; 176.83; 176.85, subdivision 1; proposing new law coded in Minnesota Statutes, chapter 176; repealing Minnesota Statutes 1982, sections 79.22, subdivision 2; and Minnesota Statutes 1983 Supplement, sections 147.02, subdivision 4; 176.051, subdivisions 2, 3, and 4; and 176.129, subdivision 5.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

ARTICLE 1

Section 1. INTENT.

The legislature finds that certain provisions enacted in 1983 relating to workers' compensation coverage of injuries or damages incurred while participating in ridesharing arrangements have created confusion among employers, employees, insurance carriers, and the public because of their ambiguous nature and their uncertain effect on the underlying premises of employer liability and workers' compensation law. The legislature also finds that the provisions have not had the intended effect of encouraging employers to promote ridesharing arrangements, but that they have had the opposite effect instead. While the provisions that were enacted were not intended to increase the scope of employer liability for travel by employees to and from work, it is feared that that interpretation may someday be given to the provisions. Therefore, the legislature seeks to clarify the meaning of those provisions and, by repealing them, to underscore its intent that the underlying law of employer liability and workers' compensation regarding employee travel to and from work is unaltered by the provisions enacted in 1983.

Sec. 2. Minnesota Statutes 1983 Supplement, section 79.34, subdivision 1, is amended to read:

Subdivision 1. A nonprofit association known as the workers' compensation reinsurance association is created, which may be incorporated under chapter 317 with all the powers of a corporation formed under that chapter, except that if the provisions of that chapter are inconsistent with sections 79.34 to 79.40 or any amendments thereto, sections 79.34 to 79.40 shall govern. Each insurer as defined by section 79.01, subdivision 2, shall as a condition of its authority to transact workers' compensation insurance in this state, be a member of the reinsurance association and shall be bound by the plan of operation of the reinsurance association; provided, that all affiliated insurers within a holding company system as defined in sections 60D.01 to 60D.13 shall be considered a single entity for purposes of the exercise of all rights and duties of membership in the reinsurance association. Each self-insurer approved pursuant to section 176.181 and each political subdivision which self-insures shall, as a condition of its authority to self-insure workers' compensation liability in this state, be a member of the reinsurance association and shall be bound by its plan of operation; provided, that (a) all affiliated companies within a holding company system, as determined by the commissioner in a manner consistent with the standards and definitions in sections 60D.01 to 60D.13, shall be considered a

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single entity for purposes of the exercise of all rights and duties of membership in the reinsurance association, and (b) all group self-insurers granted authority to self-insure pursuant to section 176.181 shall be considered a single entity for purposes of the exercise of all the rights and duties of membership in the reinsurance association. As a condition of its authority to self-insure workers' compensation liability, and for losses incurred on or after January 1, 1984, the state shall be a member of the reinsurance association and is bound by its plan of operation. The commissioner of labor and industry represents the state in the exercise of all the rights and duties of membership in the reinsurance association. The state treasurer shall pay the premium to the reinsurance association from the state compensation revolving fund upon warrants of the commissioner of labor and industry. For the purposes of this section "state" means the administrative branch of state government, the legislative branch, the judicial branch, the University of Minnesota, and any other entity whose workers' compensation liability is paid from the state revolving fund. The commissioner of finance may calculate, prorate, and charge a department or agency the portion of premiums paid to the reinsurance association for employees who are paid wholly or in part by federal funds, dedicated funds, or special revenue funds. The reinsurance association is not a state agency. Actions of the reinsurance association and its board of directors and actions of the commissioner of insurance with respect to the reinsurance association are not subject to chapters 13, 14, and 15. The reinsurance association is exempt from taxation under the laws of this state and all property owned by the association is exempt from taxation. The reinsurance association is not obligated to make any payments or pay any assessments to any funds or pools established pursuant to this chapter or chapter 176 or any other law.

Sec. 3. Minnesota Statutes 1983 Supplement, section 176.041, subdivision 1, is amended to read:

Subdivision 1. **EMPLOYMENTS EXCLUDED.** This chapter does not apply to a person employed by a common carrier by railroad engaged in interstate or foreign commerce and who is covered by the Federal Employers' Liability Act, United States Code, title 45, sections 51 to 60, or other comparable federal law; to a person employed by a family farm as defined by section 176.011, subdivision 11a, or the spouse, parent, and child, regardless of age, of a farmer-employer working for the farmer-employer; to a partner engaged in a farm operation or a partner engaged in a business and the spouse, parent, and child, regardless of age, of a partner in the farm operation or business; to an executive officer of a family farm corporation; to an executive officer of a closely held corporation referred to in section 176.012; to a spouse, parent, or child, regardless of age, of an executive officer of a family farm corporation as defined in section 500.24, subdivision 2, and employed by that family farm corporation; to a spouse, parent, or child, regardless of age, of an executive officer of a closely held corporation referred to in section 176.012; to another farmer or to a member of the other farmer's family exchanging work with the farmer-employer

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or family farm corporation operator in the same community; to a person whose employment at the time of the injury is casual and not in the usual course of the trade, business, profession, or occupation of the employer; persons who are independent contractors as defined by rules adopted by the commissioner pursuant to section 176.83 except that this exclusion does not apply to an employee of an independent contractor; nor does this chapter apply to an officer or a member of a veterans' organization whose employment relationship arises solely by virtue of attending meetings or conventions of the veterans' organization, unless the veterans' organization elects by resolution to provide coverage under this chapter for the officer or member.

Neither does the chapter apply to a person employed as a household worker in, for, or about a private home or household who earns less than \$500 in cash in a three-month period from a single private home or household provided that a household worker who has earned \$500 or more from the household worker's present employer in a three-month period within the previous year is covered by this chapter regardless of whether or not the household worker has earned \$500 in the present quarter.

This chapter does not apply to those persons employed by a corporation if those persons are related by blood or marriage, within the third degree of kindred according to the rules of civil law, to the officers of the corporation, and if the corporation files a written election with the commissioner to have those persons excluded from this chapter except that a written election is not required for a person who is otherwise excluded from this chapter by this section.

This chapter does not apply to a nonprofit association which does not pay more than \$500 in salary or wages in a year.

This chapter does not apply to persons covered under the Domestic Volunteer Service Act of 1973, as amended, 42 U.S.C. sections 5011, et. seq.

This chapter does not apply to employees injured while participating in a ridesharing arrangement as defined in section 169.01, subdivision 63, between the employee's residence and place of employment or terminus near the place of employment. This chapter does apply if the employer elects to assume liability coverage under this chapter for persons injured while participating in ridesharing arrangements as outlined in section 176.051, subdivision 3.

Sec. 4. **REPEALER.**

Minnesota Statutes 1983 Supplement, section 176.051, subdivisions 2, 3, and 4 are repealed.

Sec. 5. **EFFECTIVE DATE.**

Sections 1 to 4 are effective retroactively to June 10, 1983 except for the provision in section 3 regarding coverage of persons under 42 U.S.C., sections 5011, et seq., which is effective the day following final enactment.

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ARTICLE 2
MISCELLANEOUS CHANGES

Section 1. Minnesota Statutes 1983 Supplement, section 176.101, subdivision 3a, is amended to read:

Subd. 3a. **ECONOMIC RECOVERY COMPENSATION.** If an employee is not eligible for an impairment award pursuant to subdivision 3b, then the employee shall receive economic recovery compensation for a permanent partial disability pursuant to this subdivision. The compensation shall be 66-2/3 percent of the weekly wage at the time of injury subject to a maximum equal to the statewide average weekly wage. For permanent partial disability up to the percent of the whole body in the following schedule the compensation shall be paid for the proportion that the loss of function of the disabled part bears to the whole body multiplied by the number of weeks aligned with that percent.

Percent of disability	Weeks of compensation
0-25	600
26-30	640
31-35	680
36-40	720
41-45	760
46-50	800
51-55	880
56-60	960
61-65	1040
66-70	1120
71-100	1200

The percentage loss in all cases under this subdivision is determined according to the rules adopted by the commissioner pursuant to section 176.105, subdivision 4. This subdivision ~~shall apply~~ applies to a ~~permanent partial disability incurred an injury which occurs~~ on or after the adoption of those rules January 1, 1984.

Sec. 2. Minnesota Statutes 1983 Supplement, section 176.101, subdivision 3b, is amended to read:

Subd. 3b. **IMPAIRMENT COMPENSATION.** An employee who suffers a permanent partial disability due to a personal injury and receives impairment compensation under this section shall receive compensation in an amount as provided by this subdivision. For permanent partial disability up to the percent of the whole body shown in the following schedule the amount shall be equal to

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the proportion that the loss of function of the disabled part bears to the whole body multiplied by the amount aligned with that percent in the following schedule:

Percent of disability	Amount
0-25	\$ 75,000
26-30	80,000
31-35	85,000
36-40	90,000
41-45	95,000
46-50	100,000
51-55	120,000
56-60	140,000
61-65	160,000
66-70	180,000
71-75	200,000
76-80	240,000
81-85	280,000
86-90	320,000
91-95	360,000
96-100	400,000

For all cases under this subdivision the percentage loss of function of a part of the body is determined according to the rules adopted by the commissioner pursuant to section 176.105, subdivision 4. This subdivision ~~shall apply~~ applies to a permanent partial disability incurred an injury which occurs on or after ~~the adoption of those rules~~ January 1, 1984.

Sec. 3. Minnesota Statutes 1983 Supplement, section 176.101, subdivision 3e, is amended to read:

Subd. 3e. **END OF TEMPORARY TOTAL COMPENSATION.** (a) 90 days after an employee has reached maximum medical improvement or 90 days after the end of an approved retraining program, whichever is later, the employee's temporary total compensation shall cease. This cessation shall occur at an earlier date if otherwise provided by this chapter.

(b) If during at any time prior to the end of the 90-day period described in clause (a) the employee retires or the employer furnishes work to the employee that is consistent with an approved plan of rehabilitation or, if no plan has been

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approved, that the employee can do in his or her physical condition and that job produces an economic status as close as possible to that the employee would have enjoyed without the disability, or the employer procures this employment with another employer or the employee accepts this job with another employer, temporary total compensation shall cease and the employee shall, if appropriate, receive impairment compensation pursuant to subdivision 3b. This impairment compensation is in lieu of economic recovery compensation under subdivision 3a, and the employee shall not receive both economic recovery compensation and impairment compensation. Temporary total compensation and impairment compensation shall not be paid concurrently. Once temporary total compensation ceases no further temporary total compensation is payable except as specifically provided by this section.

(c) Upon receipt of a written medical report indicating that the employee has reached maximum medical improvement, the employer or insurer shall serve a copy of the report upon the employee and shall file a copy with the division. The beginning of the 90-day period shall commence on the day this report is served on the employee for the purpose of determining whether a job offer consistent with the requirements of this subdivision is made. A job offer may be made before the employee reaches maximum medical improvement.

(e) (d) The job which is offered or procured by the employer or accepted by the employee under clause (b) does not necessarily have to commence immediately but shall commence within a reasonable period after the end of the 90-day period described in clause (a). Temporary total compensation shall not cease under this subdivision until the job commences.

(d) (e) If the job offered under clause (a) is not the job the employee had at the time of injury it shall be offered in writing and shall state the nature of the job, the rate of pay, the physical requirements of the job, and any other information necessary to fully and completely inform the employee of the job duties and responsibilities.

The employee has 14 calendar days to accept or reject the job offer. If the employee does not respond within this period it is deemed a refusal of the offer. Where there is an administrative conference to determine suitability under section 176.242, the period begins to run on the date of the commissioner's decision.

(e) (f) Self-employment may be an appropriate job under this subdivision.

The commissioner shall monitor application of this subdivision and may adopt rules to assure its proper application.

Sec. 4. Minnesota Statutes 1983 Supplement, section 176.101, subdivision 3g, is amended to read:

Subd. 3g. **ACCEPTANCE OF JOB OFFER.** If the employee accepts a job offer described in subdivision 3e and the employee begins work at that job,

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although not necessarily within the 90-day period specified in that subdivision, the impairment compensation shall be paid in a lump sum 30 calendar days after the employee actually commences work if the employment has not been substantially interrupted by the injury for any part of the 30 days and the employee is still employed at that job at the end of the period.

Sec. 5. Minnesota Statutes 1983 Supplement, section 176.101, subdivision 3i, is amended to read:

Subd. 3i. **LAY OFF BECAUSE OF LACK OF WORK OR RELEASED FOR OTHER THAN SEASONAL CONDITIONS.** (a) If an employee accepts a job under subdivision 3e and begins work at that job and is subsequently unemployed at that job because of economic conditions, other than seasonal conditions, the employee shall receive monitoring period compensation pursuant to clause (b). In addition, the employer who was the employer at the time of the injury shall provide rehabilitation consultation by a qualified rehabilitation consultant if the employee remains unemployed for 45 calendar days. The commissioner may waive this rehabilitation consultation if the commissioner deems it appropriate. Further rehabilitation, if deemed appropriate, is governed by section 176.102.

(b) Upon the employee's initial return to work the monitoring period begins to run. If the employee is unemployed for the reason in clause (a), prior to the end of the monitoring period the employee shall receive monitoring period compensation. This compensation shall be paid for the lesser of (1) the weeks remaining in the monitoring period, or (2) the weeks equal to the monitoring period minus the impairment compensation paid to the employee. For purposes of this clause the impairment compensation shall be converted to weeks by dividing the impairment compensation received by the employee by the employee's compensation rate for temporary total disability at the time of the injury. No monitoring period compensation is payable if the unemployment occurs after the expiration of the monitoring period. Monitoring period compensation is payable at the same intervals and in the same amount as when temporary total compensation ceased.

(c) Compensation under this subdivision shall not be escalated pursuant to section 176.645.

~~(e)~~ (d) If the employee returns to work and is still receiving monitoring period compensation, this compensation shall cease. Any period remaining in the monitoring period upon this return to work shall be used to determine further benefits if the employee is again unemployed under clause (a).

(d) ~~(e)~~ Upon the employee's return to work pursuant to this section the insurer shall notify the employee of the length of the employee's monitoring period and shall notify the employee of the amount of impairment to be paid and the date of payment.

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Sec. 6. Minnesota Statutes 1983 Supplement, section 176.101, subdivision 3j, is amended to read:

Subd. 3j. **MEDICALLY UNABLE TO CONTINUE WORK.** (a) If the employee has started the job offered under subdivision 3e and is medically unable to continue at that job because of the ~~permanent partial disability injury~~, that employee shall receive temporary total compensation pursuant to clause (b). In addition, the employer who was the employer at the time of the injury shall provide rehabilitation consultation by a qualified rehabilitation consultant. Further rehabilitation, if deemed appropriate, is governed by section 176.102.

(b) Temporary total compensation shall be paid for up to 90 days after the employee has reached maximum medical improvement or 90 days after the end of an approved retraining plan, whichever is later. The temporary total compensation shall cease at any time within the 90-day period that the employee begins work meeting the requirements of subdivision 3e or 3f. If no job is offered to the employee by the end of this 90-day period, the employee shall receive economic recovery compensation pursuant to this section but reduced by the impairment compensation previously received by the employee for the same disability.

Sec. 7. Minnesota Statutes 1983 Supplement, section 176.101, subdivision 3l, is amended to read:

Subd. 3l. **FAILURE TO ACCEPT JOB OFFER.** If the employee has been offered a job under subdivision 3e and has refused the offer, the impairment compensation shall not be paid in a lump sum but shall be paid in the same interval and amount that temporary total compensation was initially paid. This compensation shall not be escalated pursuant to section 176.645. Temporary total compensation shall cease upon the employee's refusal to accept the job offered and no further or additional temporary total compensation is payable for that injury. The payment of the periodic impairment compensation shall cease when the amount the employee is eligible to receive under subdivision 3b is reached, after which time the employee shall not receive additional impairment compensation or any other compensation under this chapter unless the employee has a greater permanent partial disability than already compensated for.

Sec. 8. Minnesota Statutes 1983 Supplement, section 176.101, subdivision 3m, is amended to read:

Subd. 3m. **RETURN TO WORK AFTER REFUSAL OF JOB OFFER.** If the employee has refused the job offer under subdivision 3e and is receiving periodic impairment compensation and returns to work at another job, the employee shall receive the remaining impairment compensation due, in a lump sum, 30 days after return to work if the employment has not been substantially interrupted by the injury for any part of the 30 days and the employee is still employed at that job at the end of the period.

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Sec. 9. Minnesota Statutes 1983 Supplement, section 176.101, subdivision 3o, is amended to read:

Subd. 3o. **INABILITY TO RETURN TO WORK.** (a) An employee who is permanently totally disabled pursuant to subdivision 5 shall receive impairment compensation as determined pursuant to subdivision 3b. This compensation is payable in addition to permanent total compensation pursuant to subdivision 4 and is payable concurrently. In this case the impairment compensation shall be paid in the same intervals and amount as the permanent total compensation ~~is~~ was initially paid, and the impairment compensation shall cease when the amount due under subdivision 3b is reached. If this employee returns to work at any job during the period the impairment compensation is being paid, the remaining impairment compensation due shall be paid in a lump sum 30 days after the employee has returned to work and no further temporary total compensation shall be paid.

(b) If an employee is receiving periodic economic recovery compensation and is determined to be permanently totally disabled no offset shall be taken against future permanent total compensation for the compensation paid and no permanent total weekly compensation is payable for any period during which economic recovery compensation has already been paid. No further economic recovery compensation is payable even if the amount due the employee pursuant to subdivision 3a has not yet been reached.

(c) An employee who has received periodic economic recovery compensation and who meets the criteria under clause (b) of this subdivision shall receive impairment compensation pursuant to clause (a) of this subdivision even if the employee has previously received economic recovery compensation for that disability.

(d) Rehabilitation consultation pursuant to section 176.102 shall be provided to an employee who is permanently totally disabled.

Sec. 10. Minnesota Statutes 1983 Supplement, section 176.101, subdivision 3q, is amended to read:

Subd. 3q. **METHOD OF PAYMENT OF ECONOMIC RECOVERY COMPENSATION.** (a) Economic recovery compensation is payable at the same intervals and in the same amount as temporary total compensation was initially paid. If the employee returns to work and the economic recovery compensation is still being paid, the remaining economic recovery compensation due shall be paid in a lump sum 30 days after the employee has returned to work if the employment has not been substantially interrupted by the injury for any part of the 30 days and the employee is still employed at that job at the end of the period.

(b) Periodic economic recovery compensation paid to the employee shall not be adjusted pursuant to section 176.645.

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Sec. 11. Minnesota Statutes 1983 Supplement, section 176.101, subdivision 3r, is amended to read:

Subd. 3r. **PAYMENT OF COMPENSATION AT DEATH.** If an employee receiving economic recovery compensation or impairment compensation in periodic amounts dies during the period from causes unrelated to the injury, the compensation shall be paid in the following manner:

(a) If the deceased employee leaves a dependent surviving spouse and no dependent children, as defined by section 176.111, subdivision 1, the spouse shall receive the periodic economic recovery or impairment compensation that the deceased was receiving before the death. This compensation shall be paid for a period of up to ten years after the date of death at which time payments and future entitlement to it ceases.

(b) If the deceased employee leaves a dependent spouse and dependent children, as defined in section 176.111, subdivision 1, the periodic economic recovery or impairment compensation shall continue to be paid to the surviving spouse for up to ten years after the last child is no longer dependent after which time payments and future entitlement to the compensation ceases.

(c) If the deceased employee leaves a dependent child, as defined by section 176.111, and no dependent spouse, the periodic economic recovery or impairment compensation shall continue to be paid to the child until the child is no longer dependent or until the amount to which the employee was entitled to receive is exhausted, whichever is later.

(d) Payment of compensation under this subdivision shall cease prior to the end of the ten-year periods in this subdivision if the amount to which the employee is entitled to receive under subdivision 3, 3a, or 3b, is reached prior to the end of the ten-year period except as provided in clause (c). If the deceased employee is not survived by dependent children or a dependent spouse as defined in section 176.111, no further economic recovery compensation or impairment compensation is payable to any person ~~under this subdivision~~.

(d) (e) If the death results from the injury, the payment of economic recovery compensation or impairment compensation shall cease upon the death and in lieu thereof death benefits are payable pursuant to section 176.111.

Sec. 12. Minnesota Statutes 1983 Supplement, section 176.101, subdivision 3t, is amended to read:

Subd. 3t. **MINIMUM ECONOMIC RECOVERY COMPENSATION.**
(a) Economic recovery compensation pursuant to this section shall be at least 120 percent of the impairment compensation the employee would receive if that compensation were payable to the employee. The monitoring period shall be at least 120 percent of the weeks during which impairment compensation would be payable if paid weekly.

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(b) Where an employee who has suffered a personal injury for which temporary total compensation is payable but which produces no permanent partial disability and the employee is unable to return to his former employment for medical reasons attributable to the injury, the employee shall receive 26 weeks of economic recovery compensation if no job is offered within the time specified in and meeting the criteria of subdivision 3e. This paragraph shall not be used to determine monitoring period compensation under subdivision 3i and shall not be a minimum for determining the amount of compensation when an employee has suffered a permanent partial disability.

Sec. 13. Minnesota Statutes 1983 Supplement, section 176.102, subdivision 3a, is amended to read:

Subd. 3a. **REVIEW PANEL APPEALS.** Appeals to the review panel shall be heard before a panel of five members designated by the review panel. Each five-member panel shall consist of ~~two~~ at least one labor ~~members,~~ two member, at least one employer or insurer ~~members~~ member, and at least one member representing medicine, chiropractic, or rehabilitation. The number of labor members and employer or insurer members on the five-member panel shall be equal. The determination of the five-member panel shall be by a majority vote and shall represent the determination of the entire review panel and is not subject to review by the panel as a whole. When conducting a review of the commissioner's determination regarding any rehabilitation issue or plan the panel shall give the parties notice that the appeal will be heard. This notice shall be given at least ten working days prior to the hearing. The notice shall state that parties may be represented by counsel at the hearing. In conducting its review the panel shall permit an interested party to present relevant, competent, oral or written evidence and to cross-examine opposing evidence. Evidence presented is not limited to the evidence previously submitted to the commissioner. A record of the proceeding shall be made by the panel. Upon determination of the issue presented, the panel shall issue to the interested parties a written decision and order. The decision need not contain a recitation of the evidence presented at the hearing, but shall be limited to the panel's basis for the decision. The panel may adopt rules of procedure which may be joint rules with the medical services review board.

Sec. 14. Minnesota Statutes 1983 Supplement, section 176.102, subdivision 9, is amended to read:

Subd. 9. **PLAN, COSTS.** An employer is liable for the following rehabilitation expenses under this section:

- (a) Cost of rehabilitation evaluation and preparation of a plan;
- (b) Cost of all rehabilitation services and supplies necessary for implementation of the plan;

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(c) Reasonable cost of tuition, books ~~and~~, travel, and custodial daycare; and, in addition, reasonable costs of board, and lodging and eustodial daycare when rehabilitation requires residence away from the employee's customary residence;

(d) Reasonable costs of travel and custodial daycare during the job interview process;

(e) Reasonable cost for moving expenses of the employee and family if a job is found in a geographic area beyond reasonable commuting distance after a diligent search within the present community. Relocation shall not be paid more than once during any rehabilitation program, and relocation shall not be required if the new job is located within the same standard metropolitan statistical area as the employee's job at the time of injury. An employee shall not be required to relocate and a refusal to relocate shall not result in a suspension or termination of compensation under this chapter; and

(f) Any other expense agreed to be paid.

Sec. 15. Minnesota Statutes 1983 Supplement, section 176.103, subdivision 3, is amended to read:

Subd. 3. **MEDICAL SERVICES REVIEW BOARD; SELECTION; POWERS.** (a) There is created a medical services review board composed of the commissioner or the commissioner's designee as an ex officio member, two persons representing chiropractic, one person representing hospital administrators, and six ~~medical practitioners~~ physicians representing different specialties which the commissioner determines are the most frequently utilized by injured employees. The board shall also have one person representing employees, one person representing employers or insurers, and one person representing the general public. The members shall be appointed by the commissioner and shall be governed by section 15.0575. Terms of the board's members may be renewed. The board shall appoint from among its clinical members a clinical advisory subcommittee on clinical quality and a clinical advisory subcommittee on clinical cost containment. Each subcommittee shall consist of at least three members one of whom shall be a member who is not a chiropractor or licensed physician.

The clinical quality subcommittee shall review clinical results for adequacy and recommend to the commissioner scales for disabilities and apportionment.

The clinical cost containment subcommittee shall review and recommend to the commissioner rates for individual clinical procedures and aggregate costs. The subcommittees shall make regular reports to the board and the commissioner which shall evaluate the reports for the purpose of determining whether or not a particular health care provider continues to qualify for payment under chapter 176 or is subject to any other sanctions or penalties authorized under this section and to determine whether an employee has been off work longer than necessary.

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In evaluating the clinical consequences of the services provided to an employee by a clinical health care provider, the board shall consider the following factors in the priority listed:

- (1) the clinical effectiveness of the treatment;
- (2) the clinical cost of the treatment; and
- (3) the length of time of treatment.

In its consideration of these factors, the board shall utilize the information and recommendations developed by the subcommittees. In addition, the board shall utilize any other data developed by the subcommittees pursuant to the duties assigned to the subcommittees under this section.

After making a determination, the board shall submit its recommendation in writing to the commissioner. The board shall advise the commissioner on the adoption of rules regarding all aspects of medical care and services provided to injured employees.

(b) The board shall appoint three of its members to hear appeals from decisions of the commissioner regarding quality control and supervision of medical care; any other disputes regarding medical, surgical, and hospital care; decisions regarding the eligibility of medical providers to receive payments; or any other determinations of the commissioner pursuant to subdivision 2. The three-member panel shall be composed of one member who does not represent a health care specialty, one member who represents the same specialty as the specialty at issue or, if the same specialty is not available, one member whose specialty is as close as possible considering the board's composition, and one member representing a different specialty. The three-member panel shall conduct a hearing in the same manner, giving the same notice and following other procedures required of the rehabilitation review panel in section 176.102, subdivision 3a. A majority vote of the three-member panel constitutes the decision of the full board. This decision may be appealed to the workers' compensation court of appeals.

(c) In any situation where a conflict of interest prevents the appointment of a full three-member panel or in any other situation where the commissioner deems it necessary to resolve a conflict of interest, the commissioner may appoint a temporary substitute board member to serve until the situation creating the conflict of interest has been resolved.

(d) The board may adopt rules of procedure. The rules may be joint rules with the rehabilitation review panel.

Sec. 16. Minnesota Statutes 1983 Supplement, section 176.103, is amended by adding a subdivision to read:

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Subd. 4. ADVISORY COUNCIL. The commissioner shall appoint an advisory council to the medical services review board. The council shall consist of health professionals other than physicians or chiropractors who are involved in the clinical care of injured workers receiving compensation under this chapter, including but not limited to physical therapists, nurses, qualified rehabilitation consultants, psychologists, dentists, and vocational rehabilitation consultants. The terms, compensation, and removal of members, and the expiration date of the council is governed by section 15.059.

Sec. 17. Minnesota Statutes 1983 Supplement, section 176.104, subdivision 1, is amended to read:

Subdivision 1. **DISPUTE.** If there exists a dispute regarding whether an injury arose out of and in the course and scope of employment and an employee has been disabled for the requisite time under section 176.102, subdivision 4, prior to determination of liability, the employee shall be referred by the commissioner to the division of vocational rehabilitation which shall provide rehabilitation consultation if appropriate. The services provided by the division of vocational rehabilitation and the scope and term of the rehabilitation are governed by section 176.102 and rules adopted pursuant to that section. Rehabilitation costs and services under this subdivision shall be ~~approved, rejected, or modified~~ monitored by the commissioner.

Sec. 18. Minnesota Statutes 1983 Supplement, section 176.104, subdivision 2, is amended to read:

Subd. 2. **LIABILITY FOR PAST REHABILITATION.** If liability is determined after the employee has commenced rehabilitation under this section the liable party is responsible for the cost of rehabilitation provided ~~and approved by the commissioner.~~ Future rehabilitation after liability is established is governed by section 176.102.

Sec. 19. **[176.1041] CERTIFICATION FOR FEDERAL TAX CREDIT.**

Subdivision 1. CERTIFICATION PROGRAM. The division of vocational rehabilitation shall establish a program authorizing qualified rehabilitation consultants and approved vendors to refer an employee to the division for the sole purpose of federal targeted jobs tax credit eligibility determination. The division shall set forth the specific requirements, procedures and eligibility criteria for purposes of this section. The division shall not be required to certify an injured employee who does not meet the eligibility requirements set forth in the federal Rehabilitation Act of 1973, as amended.

Subd. 2. FEE. The division is authorized to collect a fee from the qualified rehabilitation consultant or approved vendor in the amount necessary to determine eligibility and to certify an employee for this program.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 20. Minnesota Statutes 1983 Supplement, section 176.129, subdivision 3, is amended to read:

Subd. 3. **PAYMENTS TO FUND, INJURY.** If an employee suffers a personal injury resulting in permanent partial disability, temporary total disability, temporary partial disability, permanent total disability, or death and the employee or the employee's dependents are entitled to compensation under sections 176.101 or 176.111 the employer shall pay to the commissioner a lump sum amount, without any interest deduction, equal to 20 percent of the total compensation payable. The rate under this subdivision shall ~~remain constant~~ be adjusted as provided under subdivision 4a and applies to injuries occurring after June 1, 1971, ~~and prior to January 1, 1984,~~ for payments made on or after January 1, 1984. This payment is to be credited to the special compensation fund and shall be in addition to any compensation payments made by the employer under this chapter. Payment shall be made as soon as the amount is determined and approved by the commissioner.

Sec. 21. Minnesota Statutes 1983 Supplement, section 176.129, subdivision 4, is amended to read:

Subd. 4. **TIME OF INJURY.** Subdivision 3 applies to all workers' compensation payments, exclusive of medical costs, paid under sections section 176.101, 176.102, or 176.111, or 176.135, for an injury or death occurring on or after June 1, 1971, ~~but before January 1, 1984.~~

Payments made for personal injuries that occurred prior to June 1, 1971, shall be assessed at the rate in effect on the date of occurrence.

Sec. 22. Minnesota Statutes 1983 Supplement, section 176.129, is amended by adding a subdivision to read:

Subd. 4a. **CONTRIBUTION RATE ADJUSTMENT.** In determining the rate of adjustment as provided by subdivision 3, the commissioner shall determine the revenues received less claims received for the preceding 12 months ending June 30, 1984, and each June 30 thereafter.

<u>If the result is:</u>	<u>the range of adjustment is:</u>
<u>over \$15,000,000</u>	<u>-10% to 0%</u>
<u>less than \$15,000,000 but more than \$10,000,000</u>	<u>-7% to +3%</u>
<u>less than \$10,000,000 but more than \$5,000,000</u>	<u>-5% to +5%</u>
<u>less than \$5,000,000 but more than \$0</u>	<u>-3% to +7%</u>
<u>\$0 but less than a \$5,000,000 deficit</u>	<u>0% to +10%</u>
<u>more than a \$5,000,000 deficit</u>	<u>+5% to +12%</u>

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The adjustment under this subdivision shall be used for assessments for calendar year 1984 and each year thereafter.

An amount assessed pursuant to this section is payable to the commissioner within 45 days of mailing notice of the amount due unless the commissioner orders otherwise.

Sec. 23. Minnesota Statutes 1983 Supplement, section 176.135, subdivision 1, is amended to read:

Subdivision 1. **MEDICAL, CHIROPRACTIC, PODIATRIC, SURGICAL, HOSPITAL.** The employer shall furnish any medical, chiropractic, podiatric, surgical and hospital treatment, including nursing, medicines, medical, chiropractic, podiatric, and surgical supplies, crutches and apparatus, including artificial members, or, at the option of the employee, if the employer has not filed notice as hereinafter provided, Christian Science treatment in lieu of medical treatment, chiropractic medicine and medical supplies, as may reasonably be required at the time of the injury and any time thereafter to cure and relieve from the effects of the injury. This treatment shall include treatments necessary to physical rehabilitation. The employer shall furnish replacement or repair for artificial members, glasses, or spectacles, artificial eyes, podiatric orthotics, dental bridge work, dentures or artificial teeth, hearing aids, canes, crutches or wheel chairs damaged by reason of an injury arising out of and in the course of the employment. In case of ~~his~~ the employer's inability or refusal seasonably to do so the employer is liable for the reasonable expense incurred by or on behalf of the employee in providing the same. The employer shall pay for the reasonable value of nursing services by a member of the employee's family in cases of permanent total disability. Orders of the commissioner ~~or with respect to this subdivision may be reviewed by the medical services review board pursuant to section 176.103.~~ Orders of the medical services review board with respect to this subdivision may be reviewed by the workers' compensation court of appeals on petition of an aggrieved party or pursuant to section 176.103. Orders of the court of appeals may be reviewed by writ of certiorari to the supreme court.

Sec. 24. Minnesota Statutes 1982, section 176.135, is amended by adding a subdivision to read:

Subd. 5. OCCUPATIONAL DISEASE MEDICAL ELIGIBILITY. Notwithstanding section 176.66, an employee who has contracted an occupational disease is eligible to receive compensation under this section even if the employee is not disabled from earning full wages at the work at which the employee was last employed.

Sec. 25. Minnesota Statutes 1983 Supplement, section 176.136, is amended to read:

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176.136 MEDICAL FEE REVIEW.

Subdivision 1. SCHEDULE. The commissioner shall by rule establish procedures for determining whether or not the charge for a health service is excessive. In order to accomplish this purpose, the commissioner shall consult with insurers, associations and organizations representing the medical and other providers of treatment services and other appropriate groups. The procedures established by the commissioner shall limit the charges allowable for medical, chiropractic, podiatric, surgical, hospital and other health care provider treatment or services, as defined and compensable under section 176.135, to the 75th percentile of usual and customary fees or charges based upon billings for each class of health care provider during all of the calendar year preceding the year in which the determination is made of the amount to be paid the health care provider for the billing. The procedures established by the commissioner for determining whether or not the charge for a health service is excessive shall be structured to encourage providers to develop and deliver services for rehabilitation of injured workers. The procedures shall incorporate the provisions of sections 144.701, 144.702, and 144.703 to the extent that the commissioner finds that these provisions effectively accomplish the intent of this section or are otherwise necessary to insure that quality hospital care is available to injured employees.

Subd. 2. EXCESSIVE FEES. If the ~~commissioner, medical services review board, the workers' compensation court of appeals or a district court payer~~ determines that the charge for a health service or medical service is excessive, no payment in excess of the reasonable charge for that service shall be made under this chapter nor may the provider collect or attempt to collect from the injured employee or any other insurer or government amounts in excess of the amount payable under this chapter unless the commissioner, medical services review board, or workers' compensation court of appeals determines otherwise.

Subd. 3. REPORT. The commissioner shall contract with a review organization as defined in section 145.61 for the purposes listed in section 145.61, subdivision 5, and report to the legislature ~~by January 15, 1983 and thereafter~~ on January 15 of every odd-numbered year, regarding the delivery of medical and health care services, including rehabilitation services, under the workers' compensation laws of this state.

The commissioner shall also conduct a study of the qualifications and background of rehabilitation consultants and vendors providing services under section 176.102 for the purpose of determining whether there are adequate professional standards provided, including safeguards to protect against conflicts of interest.

Subd. 4. TEMPORARY RULES. The commissioner shall adopt temporary rules in order to implement the provisions of this subdivision. Notwithstanding the provisions of section 14.14, subdivision 1, and any amendments, the

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temporary rules adopted by the commissioner pursuant to this subdivision may be extended for an additional 180 days if the procedures for adoption of a rule pursuant to sections 14.13 to 14.20 or 14.21 to 14.28, and other provisions of the administrative procedure act related to final agency action and rule adoption have not been concluded.

Any rules adopted by the commissioner of insurance pursuant to this section shall remain in effect but may be amended, modified, or repealed only by the commissioner of labor and industry.

Sec. 26. Minnesota Statutes 1983 Supplement, section 176.138, is amended to read:

176.138 MEDICAL DATA; ACCESS.

Notwithstanding any other state laws related to the privacy of medical data or any private agreements to the contrary, the release of medical data related to a current claim for compensation under this chapter to the employee, employer, or insurer who are parties to the claim, or to the department of labor and industry, shall not require prior approval of any party to the claim. Requests for pertinent data shall be made in writing to the person or organization that collected or currently possesses the data. The data shall be provided by the collector or possessor within seven working days of receiving the request. In all cases of a request for the data, except when it is the employee who is making the request, the employee shall be sent written notification of the request by the party requesting the data at the same time the request is made. This data shall be treated as private data by the party who requests or receives the data and the employee or the employee's attorney shall be provided with a copy of all data requested by the requester.

Medical data which is not directly related to a current injury or disability shall not be released without prior authorization of the employee.

The commissioner may impose a penalty of up to \$200 payable to the special compensation fund against a party who does not release the data in a timely manner. A party who does not treat this data as private pursuant to this section is guilty of a misdemeanor. This section applies only to written medical data which exists at the time the request is made.

Sec. 27. Minnesota Statutes 1983 Supplement, section 176.183, subdivision 1, is amended to read:

Subdivision 1. When any employee sustains an injury arising out of and in the course of employment while in the employ of an employer, other than the state or its political subdivisions, not insured or self-insured as provided for in this chapter, the employee or the employee's dependents shall nevertheless receive benefits as provided for in this chapter from the special compensation fund, and the commissioner has a cause of action against the employer for reimbursement

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for all moneys paid out or to be paid out, and, in the discretion of the court, as punitive damages an additional amount not exceeding 50 percent of all moneys paid out or to be paid out. As used in this subdivision, "employer" includes officers of corporations who have legal control, either individually or jointly with another or others, of the payment of wages. An action to recover the moneys shall be instituted unless the commissioner determines that no recovery is possible. All moneys recovered shall be deposited in the general fund. There shall be no payment from the special compensation fund if there is liability for the injury under the provisions of section 176.215, by an insurer or self-insurer.

Sec. 28. Minnesota Statutes 1983 Supplement, section 176.221, subdivision 1, is amended to read:

Subdivision 1. **COMMENCEMENT OF PAYMENT.** Within 14 days of notice to or knowledge by the employer of an injury compensable under this chapter the payment of temporary total compensation shall commence. Within 14 days of notice to or knowledge by an employer of a new period of temporary total disability which is caused by an old injury compensable under this chapter, the payment of temporary total compensation shall commence; provided that the employer or insurer may file for an extension with the commissioner within this 14-day period, in which case the compensation need not commence within the 14-day period but shall commence no later than 30 days from the date of the notice to or knowledge by the employer of the new period of disability. Commencement of payment by an employer or insurer does not waive any rights to any defense the employer may have ~~has~~ on any claim or incident either with respect to the compensability of the claim under chapter 176 or the amount of the compensation due. Where there are multiple employers, the first employer shall pay, unless it is shown that the injury has arisen out of employment with the second or subsequent employer. Liability for compensation under this chapter may be denied by the employer or insurer by giving the employee written notice of the denial of liability. If liability is denied for an injury which is required to be reported to the commissioner under section 176.231, subdivision 1, the denial of liability must be filed with the commissioner within 14 days after notice to or knowledge by the employer of an injury which is alleged to be compensable under this chapter. If the employer or insurer has commenced payment of compensation under this subdivision but determines within 30 days of notice to or knowledge by the employer of the injury that the disability is not a result of a personal injury, payment of compensation may be terminated upon the filing of a notice of denial of liability within 30 days of notice or knowledge. After the 30-day period, payment may be terminated only by the filing of a notice as provided under section 176.242. Upon the termination, payments made may be recovered by the employer if the commissioner or compensation judge finds that the employee's claim of work related disability was not made in good faith. A notice of denial of liability must state in detail specific reasons explaining why the claimed injury or occupational disease was determined not to be within the scope

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and course of employment and shall include the name and telephone number of the person making this determination.

Sec. 29. Minnesota Statutes 1983 Supplement, section 176.221, subdivision 3, is amended to read:

Subd. 3. **PAYMENTS TO SPECIAL COMPENSATION FUND PENALTY.** ~~Where an~~ If the employer or insurer fails to ~~does not~~ begin payment of compensation pursuant to subdivision 1, or to file a denial of liability within the 14-day period referred to in time limit prescribed under subdivision 1 or 8, it shall pay the commissioner may assess a penalty, payable to the special compensation fund an amount equal to the total, of up to 100 percent of the amount of compensation to which the employee is entitled because of the injury to receive up to the date compensation payment is made to the employee or the compensation to which the employee is entitled to receive up to the date the penalty is imposed, in addition to any other penalty otherwise provided by statute. This penalty may also be imposed on an employer or insurer who violates section 176.242 or 176.243 including, but not limited to, violating the commissioner's decision not to discontinue compensation.

Sec. 30. Minnesota Statutes 1983 Supplement, section 176.221, is amended by adding a subdivision to read:

Subd. 3a. **PENALTY.** In lieu of any other penalty under this section, the commissioner may assess a penalty of up to \$1,000 for each instance in which an employer or insurer does not pay benefits or file a notice of denial of liability within the time limits prescribed under this section.

Sec. 31. Minnesota Statutes 1982, section 176.231, subdivision 1, is amended to read:

Subdivision 1. **TIME LIMITATION.** Where death or serious injury occurs to an employee during the course of employment, the employer shall report the injury or death to the commissioner of labor and industry and insurer within 48 hours after its occurrence. Where any other injury occurs which wholly or partly incapacitates the employee from performing labor or service for more than three calendar days or longer, the employer shall report the injury to the commissioner of labor and industry and insurer on a form prescribed by the commissioner within 15 ten days from its occurrence. An insurer and self-insured employer shall report the injury to the commissioner no later than 14 days from its occurrence. ~~Where an injury has once been reported but subsequently death ensues, the employer shall report the death to the commissioner of labor and industry and insurer within 48 hours after he the employer receives notice of this fact.~~

Sec. 32. Minnesota Statutes 1983 Supplement, section 176.231, subdivision 9, is amended to read:

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Subd. 9. **USES WHICH MAY BE MADE OF REPORTS.** Reports filed with the commissioner under this section may be used in hearings held under this chapter, and for the purpose of state investigations and for statistics. These reports are available to the department of revenue for use in enforcing Minnesota income tax and property tax refund laws, and the information shall be protected as provided in section 290.61 or 290A.17.

The division or office of administrative hearings or workers' compensation court of appeals may permit ~~an attorney at law who represents an~~ the examination of its file by the employer, insurer, or an employee, or a dependent to examine its file in a compensation case if the attorney of a deceased employee or any person who furnishes written authorization to do so from the ~~attorney's client employer, insurer, employee, or dependent of a deceased employee.~~ Reports filed under this section and other information the commissioner has regarding injuries or deaths shall be made available to the workers' compensation reinsurance association for use by the association in carrying out its responsibilities under chapter 79.

Sec. 33. Minnesota Statutes 1982, section 176.241, subdivision 1, is amended to read:

Subdivision 1. **NECESSITY FOR NOTICE AND SHOWING; CONTENTS.** Subject to sections 176.242 and 176.243, where an employee claims that the right to compensation continues, the employer may not discontinue payment of compensation until ~~he~~ the employer provides the employee with notice in writing of his intention to do so, on a form prescribed by the commissioner, together with a statement of facts clearly indicating the reasons for the discontinuance. A copy of the notice shall be provided to the division by the employer.

The notice to the employee and the copy to the division shall state the date of intended discontinuance and the reason for the action. The notice to the employee and the copy to the division shall be accompanied by a statement of facts in support of the discontinuance of compensation payments and whatever medical reports are in the possession of the employer bearing on the physical condition of the employee at the time of the proposed discontinuance.

Sec. 34. Minnesota Statutes 1983 Supplement, section 176.241, subdivision 2, is amended to read:

Subd. 2. **CONTINUANCE OF EMPLOYER'S LIABILITY; SUSPENSION.** Except when the commissioner orders otherwise, until the copy of the notice and reports have been filed with the division, the liability of the employer to make payments of compensation continues.

When the division has received a copy of the notice of discontinuance, the statement of facts and available medical reports, the duty of the employer to pay compensation is suspended ~~pending an investigation, hearing, and determination~~

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of the matter by the division or compensation judge, except as provided in the following subdivisions and in sections 176.242 and 176.243.

Sec. 35. Minnesota Statutes 1982, section 176.241, subdivision 3, is amended to read:

Subd. 3. **COPY OF NOTICE TO EMPLOYEE, INVESTIGATION, HEARING.** When the employer has reason to believe compensation may be terminated within the requirements of this chapter, notice shall be given to the employee informing the employee of ~~his the~~ employee's right to object to the discontinuance pursuant to sections 176.242 and 176.243 and providing instructions as to how to contact the employer ~~or, insurer, and commissioner~~ regarding the discontinuance and the procedures related to initiation of a claim. ~~The commissioner shall make an investigation to determine whether the right to compensation has terminated. If it appears from the investigation that the right to compensation may not have terminated, the commissioner shall refer the matter to the chief hearing examiner in order that a hearing before a compensation judge may be scheduled, to determine the right of the employee, or his dependent, to further compensation.~~

~~The hearing shall be held within a reasonable time after the division has received the notice of discontinuance. The compensation judge shall give eight days notice of the hearing to interested parties.~~

Sec. 36. Minnesota Statutes 1982, section 176.241, is amended by adding a subdivision to read:

Subd. 3a. **OBJECTION TO DISCONTINUANCE.** If the employee is aggrieved by the commissioner's decision under section 176.242 or 176.243 or the employee has not timely proceeded under either of those sections, or the discontinuance is not governed by those sections, the employee may file an objection to discontinuance with the commissioner. The commissioner shall refer the matter to the chief hearing examiner in order that a hearing before a compensation judge may be scheduled to determine the right of the employee, or the employee's dependent, to further compensation.

The hearing shall be a de novo hearing and shall be held within a reasonable time after the chief hearing examiner has received the notice of the objection to discontinuance.

Sec. 37. Minnesota Statutes 1982, section 176.241, is amended by adding a subdivision to read:

Subd. 3b. **PETITION TO DISCONTINUE.** Pursuant to section 176.242, subdivision 5, an employer or insurer may file a petition to discontinue benefits with the commissioner. The commissioner shall refer the matter to the chief hearing examiner in order that a hearing on the petition be held before a compensation judge. This hearing shall be a de novo hearing. The employer or

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insurer shall continue payment of compensation until the filing of the decision of the compensation judge and thereafter as the compensation judge, court of appeals, or supreme court directs.

Sec. 38. Minnesota Statutes 1983 Supplement, section 176.242, subdivision 1, is amended to read:

Subdivision 1. **NOTICE OF DISCONTINUANCE; GROUNDS.** If an employer or insurer files a notice of intention to discontinue weekly payments of temporary total, temporary partial, or permanent total disability benefits, the employer or insurer shall serve a copy upon the commissioner and the employee including detailed reasons for the intended discontinuance.

Sec. 39. Minnesota Statutes 1983 Supplement, section 176.242, subdivision 2, is amended to read:

Subd. 2. **CONFERENCE, REQUEST.** (a) The employee has ten calendar days from the date the notice was ~~erved~~ filed with the commissioner to request that the commissioner schedule an administrative conference to determine the appropriateness of the proposed discontinuance. The employer or insurer may request an administrative conference under this section at any time whether or not a notice of intent to discontinue is filed. If a notice of intent to discontinue has been filed, the commissioner shall schedule an administrative conference ~~to be held~~ within ten calendar days after the commissioner receives timely notice of the ~~employee's or employer's~~ request for an administrative conference. If no notice of intent to discontinue has been filed and the employer or insurer has requested a conference, the commissioner shall schedule an administrative conference to be held within 30 calendar days after the commissioner receives the employer's or insurer's request for a conference.

(b) If the employee does not, in a timely manner, request that the commissioner schedule an administrative conference, or fails to appear, without good cause, at a scheduled conference, compensation may be discontinued, subject to the employee's right under section 176.241.

(c) An employee, ~~or employer,~~ or insurer may request a continuance of a scheduled administrative conference. If the commissioner determines that good cause exists for granting a continuance, the commissioner may grant the continuance which shall not exceed ten calendar days unless the parties agree to a longer continuance. ~~No more than one continuance shall be granted.~~ If the employee is granted a continuance, compensation need not be paid during the period of continuance but shall recommence upon the date of the conference unless the commissioner orders otherwise. If the employer or insurer is granted a continuance, compensation shall continue to be paid during the continuance. There is no limit to the number of continuances the commissioner may grant provided that the payment of compensation is subject to this clause during the continuance.

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(d) The purpose of an administrative conference is to determine whether reasonable grounds exist for a discontinuance.

Sec. 40. Minnesota Statutes 1983 Supplement, section 176.242, subdivision 6, is amended to read:

Subd. 6. **EFFECT OF DECISION, APPEAL REVIEW, TOLLING.**

(a) If an objection or a petition is filed under subdivision 5, the commissioner's administrative decision remains in effect and the parties obligations or rights to pay or receive compensation are governed by the commissioner's administrative decision, pending a determination by a compensation judge pursuant to section 176.241.

(b) If a party seeks a review of the commissioner's determination involving issues of maximum medical improvement or whether a job offer meets the criteria under section 176.101, subdivisions 3(e), 3(f), or 3(p), the 90-day period referred to in those subdivisions are tolled and commence on the date of filing of a final determination on the issue. For purposes of this subdivision, a "final determination" means a decision from which no appeal has been or may be taken.

Sec. 41. Minnesota Statutes 1983 Supplement, section 176.242, subdivision 8, is amended to read:

Subd. 8. **WHEN DISCONTINUANCE ALLOWED.** Compensation shall not be discontinued prior to an administrative conference except as provided under subdivision 2, clause (b), or if the commissioner determines pursuant to subdivision 3 that no administrative conference is necessary. The employer may discontinue compensation immediately without having an administrative conference if the discontinuance is because the employee has returned to work. If the commissioner has denied a requested discontinuance and a compensation judge later rules that the discontinuance was proper, payments made under the commissioner's order as provided under subdivision 4 shall be treated as an overpayment which the employer or insurer may recover from the employee subject to the provisions of section 176.179.

Sec. 42. Minnesota Statutes 1983 Supplement, section 176.243, subdivision 3, is amended to read:

Subd. 3. **EMPLOYEE REQUEST FOR ADMINISTRATIVE CONFERENCE.** If the employee objects to the action of the insurer regarding payment of compensation upon the cessation of work by the employee or regarding the payment of temporary partial disability benefits, the employee may request an administrative conference with the commissioner to resolve disputed issues. A request for an administrative conference shall be made within ten calendar days after service of the notice on the employee. If the employee requests an administrative conference the commissioner shall schedule a conference to be held within 14 calendar days after the commissioner receives the request.

Changes or additions are indicated by underline; deletions by ~~strikeout~~.

Sec. 43. Minnesota Statutes 1982, section 176.271, subdivision 2, is amended to read:

Subd. 2. Before a proceeding is initiated pursuant to subdivision 1 the party contemplating initiation of a proceeding shall notify the party against whom the proceeding will be directed including an employer who has an interest in the matter and shall state the relief that will be sought in the proceeding. If the party to whom the notice is directed does not respond to the satisfaction of the party supplying the notice within 15 days of the receipt of the notice a proceeding may be initiated pursuant to subdivision 1. This notification is not required in cases where compliance with this subdivision would result in the claim being barred by section 176.151 or other sections or a proceeding under section 176.103, 176.242 or 176.243 or other proceeding for which the commissioner determines this notice is not necessary.

Sec. 44. Minnesota Statutes 1982, section 176.351, is amended by adding a subdivision to read:

Subd. 2a. SUBPOENAS NOT PERMITTED. A member of the rehabilitation review panel or medical services board or an employee of the department who has conducted an administrative conference or hearing under section 176.102, 176.103, 176.135, 176.136, 176.242, or 176.243, shall not be subpoenaed to testify regarding the conference, hearing, or concerning a mediation session. A member of the rehabilitation review panel, medical services board, or an employee of the department may be required to answer written interrogatories limited to the following questions:

(a) Were all statutory and administrative procedural rules adhered to in reaching the decision?

(b) If the answer to question (a) is no, what deviations took place?

(c) Did the person making the decision consider all the information presented to him or her prior to rendering a decision?

(d) Did the person making the decision rely on information outside of the information presented at the conference or hearing in making the decision?

(e) If the answer to question (d) is yes, what other information was relied upon in making the decision?

In addition, for a hearing with a compensation judge and with the consent of the compensation judge, an employee of the department who conducted an administrative conference, hearing, or mediation session, may be requested to answer written interrogatories relating to statements made by a party at the prior proceeding. These interrogatories shall be limited to affirming or denying that specific statements were made by a party.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 45. Minnesota Statutes 1983 Supplement, section 176.361, is amended to read:

176.361 INTERVENTION.

Subdivision 1. RIGHT TO INTERVENE. A person who has an interest in any matter before the workers' compensation court of appeals, or commissioner, or compensation judge such that the person may either gain or lose by an order or decision may intervene in the proceeding by filing an application in writing stating the facts which show the interest. The commissioner is considered to have an interest and shall be permitted to intervene at the appellate level when a party relies in its claim or defense upon any statute or rule administered by the commissioner, or upon any rule, order, requirement, or agreement issued or made under the statute or rule.

The commissioner and may adopt rules, not inconsistent with this section to govern intervention. The workers' compensation court of appeals shall adopt rules to govern the procedure for intervention in matters before it.

If the department of public welfare or the department of economic security seeks to intervene in any matter before the division, a compensation judge or the workers' compensation court of appeals, a nonattorney employee of the department, acting at the direction of the staff of the attorney general, may prepare, sign, serve and file motions for intervention and related documents and appear at prehearing conferences. Any other interested party may intervene using a nonattorney. This activity shall not be considered to be the unauthorized practice of law.

Subd. 2. WRITTEN APPLICATION. A person desiring to intervene in a workers' compensation case as a party, including but not limited to a health care provider who has rendered services to an employee or an insurer who has paid benefits under section 176.191, shall submit a timely written application to intervene to the compensation or settlement judge to whom the case has been assigned. If the case has not yet been assigned, the application shall be made to the calendar judge if the case has been certified to the office, or to the division if the case has not been certified to the office.

(a) The application must be served on all parties either personally, by first class mail, or registered mail, return receipt requested. An application to intervene must be served and filed within 60 days after a person has received notice that a petition has been filed as provided in this section. An untimely motion is subject to denial under subdivision 7.

(b) In any other situation, timeliness will be determined by the judge in each case based on circumstances at the time of filing. The application must show how the moving party's legal rights, duties, or privileges may be determined or affected by the case; state the grounds and purposes for which intervention is

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sought; and indicate the moving party's statutory right to intervene. The application must be accompanied by the following, if applicable:

(1) an itemization of disability payments showing the period during which the payments were or are being made; the weekly or monthly rate of the payments; and the amount of reimbursement claimed;

(2) a summary of the medical or treatment payments, or rehabilitation services provided by the division of vocational rehabilitation, broken down by creditor, showing the total bill submitted, the period of treatment or rehabilitation covered by that bill, the amount of payment on that bill, and to whom the payment was made;

(3) copies of all medical or treatment bills on which some payment was made;

(4) copies of the work sheets or other information stating how the payments on medical or treatment bills were calculated;

(5) a copy of the relevant policy or contract provisions upon which the claim for reimbursement is based;

(6) a proposed order allowing intervention with sufficient copies to serve on all parties;

(7) the name and telephone number of the person representing the intervenor who has authority to reach a settlement of the issues in dispute;

(8) proof of service or copy of the registered mail receipt;

(9) at the option of the intervenor, a proposed stipulation which states that all of the payments for which reimbursement is claimed are related to the injury or condition in dispute in the case and that, if the petitioner is successful in proving the compensability of the claim, it is agreed that the sum be reimbursed to the intervenor; and

(10) if represented by an attorney, the name, address, telephone number, and Minnesota Supreme Court license number of the attorney.

Subd. 3. STIPULATION. If the person submitting the application for intervention has included a proposed stipulation, all parties shall either execute and return the signed stipulation to the intervenor who must file it with the division or judge or serve upon the intervenor and all other parties and file with the division specific and detailed objections to any payments made by the intervenor which are not conceded to be correct and related to the injury or condition the petitioner has asserted is compensable. If a party has not returned the signed stipulation or filed objections within 30 days of service of the application, the intervenor's right to reimbursement for the amount sought is deemed established provided that the petitioner's claim is determined to be compensable.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 4. ATTENDANCE BY INTERVENOR. Unless a stipulation has been signed and filed or the intervenor's right to reimbursement has otherwise been established, the intervenor shall attend all settlement or pretrial conferences and shall attend the regular hearing if ordered to do so by the compensation judge.

Subd. 5. ORDER. If an objection to intervention remains following settlement or pretrial conferences, the calendar judge shall rule on the intervention and the order is binding on the compensation judge to whom the case is assigned for hearing.

Subd. 6. PRESENTATION OF EVIDENCE BY INTERVENOR. Unless a stipulation has been signed and filed or the intervenor's right to reimbursement has otherwise been established, the intervenor shall present evidence in support of the claim at the hearing unless otherwise ordered by the compensation judge.

Subd. 7. EFFECTS OF NONCOMPLIANCE. Failure to comply with this section shall not result in a denial of the claim for reimbursement unless the compensation judge, commissioner, or settlement judge determines that the noncompliance has materially prejudiced the interests of the other parties.

Sec. 46. Minnesota Statutes 1983 Supplement, section 176.421, subdivision 7, is amended to read:

Subd. 7. RECORD OF PROCEEDINGS. At the division's own expense, the commissioner shall make a complete record of all proceedings before the commissioner and shall provide a stenographer or an audio magnetic recording device to make the record of the proceedings.

The commissioner shall furnish a transcript of these proceedings to any person who requests it and who pays a reasonable charge which shall be set by the commissioner. Upon a showing of cause, the commissioner may direct that a transcript be prepared without expense to the person requesting the transcript, in which case the cost of the transcript shall be paid by the division. Transcript fees received under this subdivision shall be paid to the workers' compensation division account in the state treasury and shall be annually appropriated to the division for the sole purpose of providing a record and transcripts as provided in this subdivision. This subdivision does not apply to any administrative conference or other proceeding before the commissioner which may be heard de novo in another proceeding including but not limited to proceedings under section 176.102, 176.103, 176.242, or 176.243.

Sec. 47. Minnesota Statutes 1983 Supplement, section 176.442, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

176.442 APPEALS FROM DECISIONS OF COMMISSIONER.

Except for a commissioner's decision which may be heard de novo in another proceeding including but not limited to a decision from an administrative conference under section 176.102, 176.103, 176.242, or 176.243, any decision or determination of the commissioner affecting a right, privilege, benefit, or duty which is imposed or conferred under this chapter is subject to review by the workers' compensation court of appeals. A person aggrieved by the determination may appeal to the workers' compensation court of appeals by filing a notice of appeal with the commissioner in the same manner and within the same time as if the appeal were from an order or decision of a compensation judge to the workers' compensation court of appeals.

Sec. 48. Minnesota Statutes 1983 Supplement, section 176.66, subdivision 10, is amended to read:

Subd. 10. MULTIPLE EMPLOYERS OR INSURERS; LIABILITY. The employer liable for the compensation for a personal injury under this chapter is the employer in whose employment the employee was last exposed in a significant way to the hazard of the occupational disease. In the event that the employer who is liable for the compensation had multiple insurers during the employee's term of employment, the insurer who was on the risk during the employee's last significant exposure to the hazard of the occupational disease is the liable party. If this last employer had coverage for workers' compensation liability from more than one insurer during the employment, the insurer on the risk during the last period during which the employee was last exposed to the hazard of the occupational disease shall pay benefits as provided under section 176.191, subdivision 1, whether or not this insurer was on risk during the last significant exposure. The party making payments under this section shall be reimbursed by the party who is subsequently determined to be liable for the occupational disease, including interest at a rate of 12 percent a year. For purposes of this section, a self-insured employer shall be considered to be an insurer and an employer. Where there is a dispute as to which employer is liable under this section, the employer in whose employment the employee is last exposed to the hazard of the occupational disease shall pay benefits pursuant to section 176.191, subdivision 1.

Sec. 49. Minnesota Statutes 1983 Supplement, section 176.66, subdivision 11, is amended to read:

Subd. 11. AMOUNT OF COMPENSATION. The compensation for an occupational disease is 66-2/3 percent of the employee's weekly wage on the date of injury subject to a maximum compensation equal to the maximum compensation in effect on the date of last exposure. The employee shall be ~~immediately~~ eligible for supplementary benefits notwithstanding the provisions of section 176.132, after four years have elapsed since the date of last significant exposure to the hazard of the occupational disease if that employee's weekly compensation

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rate is less than 65 percent of the statewide average weekly wage the current supplementary benefit rate.

Sec. 50. Minnesota Statutes 1983 Supplement, section 176.83, is amended to read:

176.83 RULES.

Subdivision 1. GENERALLY. In addition to any other section under this chapter giving the commissioner the authority to adopt rules, the commissioner may adopt, amend, or repeal rules to implement the provisions of this chapter. The rules include but are not limited to: the rules listed in this section.

(a) Subd. 2. REHABILITATION. Rules necessary to implement and administer section 176.102, including the establishment of qualifications necessary to be a qualified rehabilitation consultant and the requirements to be an approved registered vendor of rehabilitation services.

In this regard, the commissioner shall impose fees under section 16A.128 sufficient to cover the cost of approving, registering and monitoring qualified rehabilitation consultants and approved vendors of rehabilitation services. The rules may also provide for penalties to be imposed by the commissioner against insurers or self-insured employers who fail to provide rehabilitation consultation to employees pursuant to section 176.102.

These rules may also establish criteria for determining "reasonable moving expenses" under section 176.102.

The rules shall also establish criteria, guidelines, methods, or procedures to be met by an employer or insurer in providing the initial rehabilitation consultation required under this chapter which would permit the initial consultation to be provided by an individual other than a qualified rehabilitation consultant. In the absence of rules regarding an initial consultation this consultation shall be conducted pursuant to section 176.102₂.

(b) Subd. 3. CLINICAL CONSEQUENCES. Rules establishing standards for reviewing and evaluating the clinical consequences of services provided by qualified rehabilitation consultants, approved registered vendors of rehabilitation services, and services provided to an employee by health care providers₂.

(c) Subd. 4. EXCESSIVE CHARGES FOR MEDICAL SERVICES. Rules establishing standards and procedures for determining whether or not charges for health services or rehabilitation services rendered under this chapter are excessive. In this regard, the standards and procedures shall be structured to determine what is necessary to encourage providers of health services and rehabilitation services to develop and deliver services for the rehabilitation of injured employees.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

The procedures shall include standards for evaluating hospital care, other health care and rehabilitation services to insure that quality hospital, other health care, and rehabilitation is available and is provided to injured employees;

(4) Subd. 5. EXCESSIVE MEDICAL SERVICES. In consultation with the medical services review board or the rehabilitation review panel, rules establishing standards and procedures for determining whether a provider of health care services and rehabilitation services, including a provider of medical, chiropractic, podiatric, surgical, hospital or other services, is performing procedures or providing services at a level or with a frequency that is excessive, based upon accepted medical standards for quality health care and accepted rehabilitation standards.

If it is determined by the ~~commissioner~~ payer that the level, frequency or cost of a procedure or service of a provider is excessive according to the standards established by the rules, the provider shall not be paid for the excessive procedure, service, or cost by an insurer, self-insurer, or group self-insurer. ~~In addition,~~ and the provider shall not be reimbursed or attempt to collect reimbursement for the excessive procedure, service, or cost from any other source, including the employee, another insurer, the special compensation fund, or any government program unless the commissioner, medical services review board, or workers' compensation court of appeals determines at a hearing that the level, frequency, or cost was not excessive in which case the insurer, self-insurer, or group self-insurer shall make the payment deemed reasonable.

A health or rehabilitation provider who is determined by the commissioner to be consistently performing procedures or providing services at an excessive level or cost may be prohibited from receiving any further reimbursement for procedures or services provided under chapter 176. A prohibition imposed on a provider under this ~~clause subdivision~~ may be grounds for revocation or suspension of the provider's license or certificate of registration to provide health care or rehabilitation service in Minnesota by the appropriate licensing or certifying body.

The rules adopted under this ~~clause subdivision~~ shall require insurers, self-insurers, and group self-insurers to report medical and other data necessary to implement the procedures required by this clause;

(e) Subd. 6. CERTIFICATION OF MEDICAL PROVIDERS. Rules establishing procedures and standards for the certification of physicians, chiropractors, podiatrists, and other health care providers in order to assure the coordination of treatment, rehabilitation, and other services and requirements of chapter 176 for carrying out the purposes and intent of this chapter;

(f) Subd. 7. MISCELLANEOUS RULES. Rules necessary for implementing and administering the provisions of sections 176.131, 176.132, 176.134, sections 176.242 and 176.243; sections 176.251, 176.66 to 176.669, and rules

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regarding proper allocation of compensation under section 176.111. Under the rules adopted under section 176.111 a party may petition for a hearing before a compensation judge to determine the proper allocation. In this case the compensation judge may order a different allocation than prescribed by rule.

~~(g)~~ Subd. 8. CHANGE OF PROVIDER. Rules establishing standards or criteria under which a physician, podiatrist, or chiropractor is selected or under which a change of physician, podiatrist, or chiropractor is allowed under section 176.135, subdivision 2.

~~(h)~~ Subd. 9. INTERVENTION. Rules to govern the procedure for intervention pursuant to section 176.361.

~~(i)~~ Subd. 10. JOINT RULES. Joint rules with either or both the workers' compensation court of appeals and the chief hearing examiner which may be necessary in order to provide for the orderly processing of claims or petitions made or filed pursuant to chapter 176.

~~(j)~~ Subd. 11. SUITABLE GAINFUL EMPLOYMENT. Rules establishing criteria to be used by the division, compensation judge, and workers' compensation court of appeals to determine "suitable gainful employment" and "independent contractor."

Subd. 12. COMPENSATION JUDGE PROCEDURES. The chief hearing examiner shall adopt rules relating to procedures in matters pending before a compensation judge in the office of administrative hearings.

Subd. 13. CLAIMS ADJUSTER. The commissioner may adopt rules regarding requirements which must be met by individuals who are employed by insurers or self-insurers or claims servicing or adjusting agencies and who work as claims adjusters in the field of workers' compensation insurance.

Subd. 14. REHABILITATION CONSULTANT QUALIFICATIONS. The commissioner may adopt temporary rules establishing qualifications necessary to be a qualified rehabilitation consultant and penalties to be imposed against qualified rehabilitation consultants or approved vendors who violate this chapter or rules, including temporary rules, adopted under this chapter. In addition to the provisions of sections 14.29 to 14.36, at least one public hearing shall be held prior to the adoption of these temporary rules.

Subd. 15. FORMS. The commissioner may prescribe forms and other reporting procedures to be used by an employer, insurer, medical provider, qualified rehabilitation consultant, approved vendor of rehabilitation services, attorney, employee, or other person subject to the provisions of this chapter.

Sec. 51. Minnesota Statutes 1983 Supplement, section 176.85, subdivision 1, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. **APPEAL PROCEDURE.** If the commissioner has assessed a penalty against a party subject to this chapter and the party believes the penalty is not warranted, the party may request that a formal hearing be held on the matter. The request must be filed within 30 days of the date that the penalty assessment is served on the party. Upon receipt of a timely request for a hearing the commissioner shall refer the matter to the chief hearing examiner for assignment to a compensation judge or hearing examiner.

The chief hearing examiner shall keep a record of the proceeding and provide a record pursuant to section 176.421.

The decision of the compensation judge or hearing examiner shall be final and shall be binding and enforceable. The decision may be appealed to the workers' compensation court of appeals.

Sec. 52. ADMINISTRATIVE CONFERENCE SCHEDULING.

Notwithstanding anything to the contrary in section 176.242, subdivision 2, clause (a), an administrative conference pursuant to section 176.242 shall be scheduled within ten business days after the commissioner receives timely notice of the employee's request for a conference. This section applies to a conference which is requested on or after the effective date of this section and before November 1, 1984, after which time the provisions of section 176.242, subdivision 2, clause (a), apply.

Sec. 53. STUDY.

The requirement of Laws 1983, chapter 301, section 32, that the commissioner shall study the need for establishing criteria which would determine whether a workers' compensation claim is handled by the division's attorneys, referred for private action, or referred for arbitration or mediation and report to the legislature is removed.

Sec. 54. APPLICATION OF LAWS 1983, CHAPTER 290, SECTIONS 83, 84, 106, AND 107.

Laws 1983, chapter 290, section 83 applies to a proceeding conducted after June 30, 1983, whether or not the injury occurred prior to that date. Laws 1983, chapter 290, sections 84, 106, and 107 apply to proceedings conducted after September 30, 1983, whether or not the injury occurred prior to that date.

Sec. 55. REPEALER.

Minnesota Statutes 1982, sections 79.22, subdivision 2; and Minnesota Statutes 1983 Supplement, sections 147.02, subdivision 4; 176.129, subdivision 5; are repealed.

Sec. 56. EFFECTIVE DATE.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

The amendments in sections 1 to 12, 14, 17, 18, and 49 are not substantive in nature and are clarifications of legislative intent of Laws 1983, chapter 290, and apply to an injury occurring after December 31, 1983. The amendments in sections 26, 33 to 38, 41, 42, 46, and 47 are procedural in nature and are clarifications of Laws 1983, chapter 290, and apply to proceedings conducted after June 30, 1983, whether or not the injury occurred prior to that date. Failure to cite a specific section in this act as nonsubstantive or procedural shall not be construed by itself to mean that the section is a substantive change in the law. Section 24 applies to an injury for which a claim is pending or a claim made after the effective date of this act regardless of the date of injury. This act is effective the day following final enactment.

Approved April 23, 1984

CHAPTER 433 — S.F.No. 1398

An act relating to criminal justice; permitting misdemeanor arrests to be made at night in public places; altering release and detention procedures in certain cases; amending Minnesota Statutes 1982, section 629.72, subdivisions 1 and 3; and Minnesota Statutes 1983 Supplement, section 629.31.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1983 Supplement, section 629.31, is amended to read:

629.31 TIME OF ARREST.

If the offense charged is a felony or gross misdemeanor, arrest may be made on any day and at any time of the day or night; if it is a misdemeanor, arrest shall not be made on Sunday or between the hours of 9:00 10:00 p.m. and 9:00 8:00 a.m. on any other day unless upon the direction of the judge endorsed upon the warrant, or unless the person named in the warrant is found on a public highway or street.

Sec. 2. Minnesota Statutes 1982, section 629.72, subdivision 1, is amended to read:

Subdivision 1. **DETENTION IN LIEU OF CITATION; RELEASE.** Notwithstanding any other law or rule to the contrary, an arresting officer may not issue a citation in lieu of arrest and detention to an individual charged with assaulting his spouse or other individual with whom he resides.

Notwithstanding any other law or rule to the contrary, an individual who is arrested on a charge of assaulting his spouse or other person with whom he

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