

CHAPTER 5217
DEPARTMENT OF LABOR AND INDUSTRY
MEDICAL AND REHABILITATION; REVIEWS

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5217.0260 [Repealed, 14 SR 1969]

5217.0270 [Repealed, 14 SR 1969]

5217.0280 [Repealed, 14 SR 1969]

5217.0300 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 5217.0300 to 5217.1000, the terms defined in this part have the meanings given them.

Subp. 2. **Board.** "Board" means the Medical Services Review Board created by Minnesota Statutes, section 176.103, subdivision 3.

Subp. 3. **Chair.** "Chair" means the member selected by the board or panel to accomplish or delegate the administrative tasks of the board or panel and to take action as directed. The chair shall preside at board or panel meetings, correspond on behalf of the board or panel, and act as the board or panel liaison with the Department of Labor and Industry regarding board or panel functions.

Subp. 4. [Repealed, 37 SR 1807]

Subp. 5. **Department.** "Department" means the Department of Labor and Industry.

Subp. 6. **Executive secretary.** "Executive secretary" means the person assigned to the board or panel by the department to communicate with the parties concerning the procedural aspects of cases and to receive documents filed by the parties.

Subp. 7. **Panel.** "Panel" means the rehabilitation review panel created by Minnesota Statutes, section 176.102, subdivision 3.

Subp. 8. **Party.** "Party" means each person named as a party in the notice of hearing or later intervening as a party.

Subp. 9. **Person.** "Person" means an individual, business entity, or governmental unit.

Subp. 10. **Quorum.** "Quorum" means a majority of the regular members appointed to the board under Minnesota Statutes, section 176.103, subdivision 3, or the panel under Minnesota Statutes, section 176.102, subdivision 3. An alternate is counted in determining whether a quorum exists if the alternate is replacing a member who is unavailable.

Subp. 10a. **Vice-chair.** "Vice-chair" means the member selected by the board or panel to assume the duties of the chair in the chair's absence.

Subp. 11. **Voting members.** "Voting members" means:

A. a member of the board or panel who is physically present at the meeting and who has not been disqualified; or

B. an alternate who has filled a vacancy or an absence.

Board or panel alternates shall fill vacancies or absences for members as they appear for the meeting. The chair shall decide which alternates will serve as members if there is a controversy. Alternates shall fill vacancies according to their statutory classification.

Statutory Authority: *MS s 176.102; 176.103*

History: *15 SR 1877; 37 SR 1807*

5217.0400 ACTION.

No business shall be conducted without a quorum. The vote of a majority of the voting members present, so long as there is a quorum, is necessary for the board or panel to take any action.

Statutory Authority: *MS s 176.102; 176.103*

History: *15 SR 1877*

5217.0500 OFFICERS.

At the first meeting after the last day of July of each year, the voting members shall elect from among their numbers persons to serve as chair and vice-chair. Persons elected shall take office at the first meeting following their election or through the duration of the meeting at which their successors are elected. Officers may be reelected. In the event of

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the absence of the chair and vice-chair the members may elect a member to have the same authority as the chair.

Statutory Authority: *MS s 176.102; 176.103*

History: *15 SR 1877; 37 SR 1807*

5217.0600 MEETINGS.

The board or panel shall schedule regular meetings on a quarterly basis. Regular meetings may be canceled for lack of a quorum or with the approval of the chair, but the board or panel shall hold at least one regular meeting every 12 months. Special, emergency, and continued meetings may be held in addition to regular meetings as provided in Minnesota Statutes, section 13D.04.

Statutory Authority: *MS s 176.102; 176.103*

History: *15 SR 1877; 37 SR 1807*

5217.0610 WORK GROUP.

The board or panel may appoint a work group consisting of less than a quorum of voting members to address issues specified by the board or panel. The work group shall report its recommendations to the board or panel.

Statutory Authority: *MS s 176.102; 176.103*

History: *37 SR 1807*

5217.0700 DISQUALIFICATION OF BOARD OR PANEL MEMBER.

Any member of the board or panel shall voluntarily disqualify himself or herself and withdraw from any case in which the member cannot accord a fair and impartial hearing or consideration. At least ten days before the hearing, at which the board or panel votes to render a final decision, any party may request the disqualification of any board or panel member by filing an affidavit which states with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. The affidavit shall be filed with the executive secretary of the board or panel. If a party requests that a member be disqualified, the disqualification issue shall be determined by majority vote of the other members present even if the other members do not constitute a quorum.

Statutory Authority: *MS s 176.102; 176.103*

History: *15 SR 1877*

5217.0800 CONTESTED CASES.

Subpart 1. **Written exceptions.** The parties may file written exceptions to the administrative law judge's report with the executive secretary of the board or panel no later than 20 calendar days after service and filing of the administrative law judge's report.

Written exceptions shall be accompanied by an affidavit stating that service of a copy of the written exceptions has been made upon all other parties to the action. In matters before the board, one clean copy suitable for imaging and 21 copies of written exceptions and arguments shall be filed with the executive secretary of the board; in matters before the panel, one clean copy suitable for imaging and 15 copies shall be filed with the executive secretary of the panel.

Subp. 2. **Reply written exceptions.** The parties may file reply written exceptions with the executive secretary of the board or panel within ten days after service and filing of the written exceptions. Reply written exceptions shall address only issues outlined in the opposing party's written exceptions and arguments. In matters before the board, one clean copy suitable for imaging and 21 copies with proof of service listing all other parties shall be filed with the executive secretary of the board; in matters before the panel, one clean copy suitable for imaging and 15 copies with proof of service listing all other parties shall be filed with the executive secretary of the panel.

Subp. 3. **Oral arguments.** The board or panel shall schedule oral argument. The board or panel shall notify the parties by first class mail as to the date set for oral argument at least 14 calendar days in advance.

Each party shall be allotted ten minutes for oral argument to the board or panel and five minutes for rebuttal argument. Any party may waive oral argument.

Subp. 4. **Representation.** A party may appear before the board or panel in person or through a representative. A representative of a party need not be an attorney. A nonattorney representative must not engage in the unauthorized practice of law as defined in Minnesota Statutes, section 481.02. If the panel or board is notified that the party will be represented, all documents required to be served on the party will also be served on the party's representative.

Statutory Authority: *MS s 176.102; 176.103*

History: *15 SR 1877; L 1998 c 294 s 7*

5217.0900 SETTLEMENT AGREEMENTS.

Approval or disapproval of proposed settlement agreements that come before the board or panel shall be by affirmative vote of at least a majority of voting members present so long as there is a quorum. The chair shall execute approved settlement agreements on behalf of the board or panel.

Statutory Authority: *MS s 176.102; 176.103*

History: *15 SR 1877*

5217.1000 DECISION AND ORDER AND APPEALS.

Every decision and order in a contested case shall be in writing, shall be by a majority of voting members present so long as there is a quorum, and shall contain a statement of findings of fact, conclusions of law, and an order of the board or panel. Parties to the proceedings and Office of Administrative Hearings shall be served in person or by first class mail with a copy of the findings and order.

Final decisions of the board or panel in a contested case may be appealed to the Workers' Compensation Court of Appeals pursuant to the procedures in Minnesota Statutes, section 176.421, except that all appeals shall be filed through the executive secretary of the board or panel.

Statutory Authority: *MS s 176.102; 176.103*

History: *15 SR 1877*