

5224.0210 PROFESSIONAL PERSONS.

Subpart 1. **Definition.** A professional is a person in an occupation that requires education equivalent to college graduation or beyond and involves compliance with professional and statutory licensing or registration standards before the individual can practice. The professional field includes architects, attorneys, certified public accountants, and engineers.

Subp. 2. **Independent contractor.** A professional is an independent contractor when all of the following criteria are substantially met.

- A. The professional sets up his or her own business office.
- B. The professional hires and directs assistants or helpers.
- C. The professional pays all expenses in connection with the business.
- D. The professional offers services to the public.
- E. The professional works at hours of his or her own choice.
- F. The professional is dependent for a livelihood upon the amount of time, energy, and ingenuity applied to the work.

Subp. 3. **Employee.** A professional is an employee if all of the following criteria are substantially met.

- A. The professional subordinates activities to the interests of the employer by working under conditions that make the professional's services an integral part of another's business.
- B. The professional works when and where a firm dictates.
- C. The professional is furnished an office and office facilities, and business expenses are met by the firm.
- D. The professional is paid a fixed salary determined on a weekly, monthly, annual, or similar basis.
- E. The professional's services are subject to supervision and review.
- F. The professional cannot hire a substitute or helper.
- G. The professional may be discharged at will and has the right to terminate the relationship at any time without liability.
- H. The professional incurs no expenses nor make any investment.
- I. The relationship is continuing.

Statutory Authority: *MS s 176.041; 176.83*

History: *10 SR 1852*

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