

5224.0220 DOCTORS OF MEDICINE; PART-TIME SERVICES FOR INDUSTRIAL FIRMS.

Subpart 1. **Definition.** Doctors are persons whose work requires licensure pursuant to Minnesota Statutes, section 147.02.

Subp. 2. **Independent contractor.** Doctors who, in addition to their private practices, enter into arrangements with industrial firms to examine and treat the firm's employees on a part-time basis, are independent contractors if all of the following criteria are met.

A. The firm is interested in securing a medical service rather than the personal service of the doctor and an employment relationship is not contemplated under the terms of the agreement between the parties. The doctor, in effect, accepts the firm as an additional client in the doctor's private practice.

B. The doctor has the right to leave the firm's premises during working hours if an emergency arises in private practice.

C. The doctor has the right to send a substitute to perform the services.

D. The doctor does not have the right to terminate the relationship on short notice.

E. Direct supervision and control over the services were not contemplated by the parties to the agreement.

Subp. 3. **Employees.** Doctors described in subpart 1 are employees if all of the following criteria are substantially met.

A. The doctor's services are materially integrated into the operating organization of the firm.

B. The doctor performs services of a substantial nature for the firm on a regular and continuing basis.

C. The doctor is subject to supervision and control by the firm to the extent necessary to require compliance with its general policies and procedures.

D. The doctor is accorded the rights and privileges that the firm extends to its employees generally.

Subp. 4. **Definition of factors.** This subpart explains the factors listed in subpart 3.

A. Materially integrated is determined by factors such as:

(1) the payment of a salary or fixed rate of pay as compared to remuneration on a fee basis;

(2) a contract term indicating a mutual intention to create an employer and employee relationship;

(3) the firm engages the services of a substitute in the event of the doctor's absence;

(4) the remuneration is reported as wages for social security purposes; and

(5) the doctor, for income tax purposes, reported the remuneration as wages.

B. Regular and continuing basis means agreement to a schedule of definite and fixed hours of service and the requirement to follow the schedule without substantial deviation.

C. Compliance with policies and procedures exists where the methods, routines, and procedures followed by the doctor are subject to supervision. The supervision may be of varying degree and nature, for example, supervision exercised by a medical director may include somewhat detailed control over the physician's medical routines where the supervision exercised by a hospital administrator may lay less emphasis on this aspect. However, the factor of compliance is met where the physician is required to follow the employer's rules regarding the physician's methods of operation generally, including the obligation to treat assigned patients, the report the physician must submit, the priorities the physician must follow both medically and administratively, and the standards the physician must maintain regarding equipment and cleanliness.

D. Rights and privileges include vacation and sick leave with pay, holiday pay, severance pay, and pension and insurance plans.

Statutory Authority: *MS s 176.041; 176.83*

History: *10 SR 1852*

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