

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2313/P1dn  
PJK:wlj:jf

February 24, 1999

1. I am a little unclear about these independent reviewers. Will they always be individuals? How would a particular independent reviewer be chosen by a person (or by the person's health benefit plan) who wants an independent review?

2. How do you want to structure the payments to the independent reviewers? Do you want the fees paid directly to independent reviewers (as drafted) so that there is no appropriation? Do you want OCI to pay each independent reviewer so that the fees get paid to OCI and there *is* an appropriation? I provided for payment of a fee by a health benefit plan involved in a review. I assume that this fee must be substantial enough to be an incentive for individuals to want to be certified as independent reviewers. Are these fees (\$50 of which may be refunded) the only compensation for an independent reviewer? Will the possibility of refunding \$50 act as an incentive for the reviewer to decide in favor of the health benefit plan?

3. You wanted a decision of an independent reviewer to be admissible in court. I'm not sure why it wouldn't be. Did you want to allow the decision to be reviewed in court without the independent reviewer having to come and testify in person? If a matter that has been independently reviewed goes to court, is the court addressing the decision of the independent reviewer or the original decision of the health benefit plan? Is the decision of the independent reviewer binding on the health benefit plan? See how s. 632.83 (3) (c) is drafted. I made the decision subject to judicial review and binding unless judicial review is requested. The court would be reviewing the decision of the independent reviewer, so the decision would not only be admissible, it would be the issue. Is this okay?

4. I wasn't clear about how you wanted to structure the certification of independent reviewers. Do you want them to be affirmatively recertified each year (as drafted) or do you want them to always be certified once certified (as insurance agents are, except that they are licensed) unless the commissioner revokes or suspends certification? I assumed that you wanted the commissioner to be able to revoke or suspend certification. If so, do you want to specify grounds for doing so? The grounds could also be added to the rules that the commissioner must promulgate.

5. Is six months enough time to promulgate rules and, in addition, certify enough independent reviewers to make the process operational?

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