

**2015 DRAFTING REQUEST**

**Bill**

Received: **11/12/2014** Received By: **gmalaise**  
Wanted: **As time permits** Same as LRB:  
For: **Administration-Budget 6-8219** By/Representing: **Kirschbaum**  
May Contact: Drafter: **gmalaise**  
Subject: **Employ Priv - worker's comp** Addl. Drafters:  
Extra Copies: **MED**

Submit via email: **YES**  
Requester's email:  
Carbon copy (CC) to: **sbostatlanguage@webapps.wi.gov**

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**Pre Topic:**

DOA:.....Kirschbaum, BB0209 -

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**Topic:**

Transfer of Worker's Compensation Division functions to OCI and DHA

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 11/28/2014	kfollett 12/9/2014		_____			
/P1	gmalaise 1/21/2015		rschluet 12/10/2014	_____	mbarman 12/10/2014		State
/P2	gmalaise 1/28/2015	csicilia 1/28/2015	jmurphy 1/29/2015	_____	mbarman 1/23/2015		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P3				_____	mbarman		State
				_____	1/29/2015		

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<END>

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/P1	gmalaise 1/21/2015		rschluet 12/10/2014		mbarman 12/10/2014		State
/P2		kfollett 1/22/2015	rschluet 1/23/2015		mbarman 1/23/2015		State

*Handwritten signatures and dates:*  
 gm 1/28 gm + RS 1/29

FE Sent For:

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/P1		1/P2/GF 1/22 rschluet 12/10/2014		_____	mbarman 12/10/2014		State

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Transfer of Worker's Compensation Division functions to OCI and DHA


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/?	gmalaise 11/28/2014	kfollett 12/9	1P1KF 12/9	 12/10/14	38		

FE Sent For:

<END>

## Malaise, Gordon

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**From:** Hanaman, Cathlene  
**Sent:** Tuesday, November 11, 2014 9:27 AM  
**To:** Malaise, Gordon; Duchek, Michael  
**Subject:** FW: Statutory Language Drafting Request - BB0209

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**From:** Bryan.Kirschbaum@wisconsin.gov [mailto:Bryan.Kirschbaum@wisconsin.gov]  
**Sent:** Tuesday, November 11, 2014 9:02 AM  
**To:** Hanaman, Cathlene  
**Cc:** Hynek, Sara - DOA; Kirschbaum, Bryan W - DOA; Connor, Christopher B - DOA  
**Subject:** Statutory Language Drafting Request - BB0209

Biennial Budget: 2015-17

DOA Tracking Code: BB0209

Topic: Transfer Worker's Compensation Functions to Office of Commissioner of Insurance (OCI)

SBO Team: EWD

SBO Analyst: Kirschbaum, Bryan  
Phone: 608-266-8219  
E-mail: [Bryan.Kirschbaum@wisconsin.gov](mailto:Bryan.Kirschbaum@wisconsin.gov)

Agency Acronym: DWD

Agency Number: 445

Priority: Medium

Intent:

Transfer administrative functions of Worker's Compensation Division of the Department of Workforce Development (DWD) to the Office of the Commissioner of Insurance (OCI) and the adjudicative functions associated with Worker's Compensation Division to the Department of Administration's Division of Hearings and Appeals.

Attachments: False

Please send completed drafts to [SBOSTatlanguage@webapps.wi.gov](mailto:SBOSTatlanguage@webapps.wi.gov)



State of Wisconsin  
2015 - 2016 LEGISLATURE



LRB-0610/?  
GMM. *bc* (PI)

*SN 11/28*  
*DNOTE*

DOA:.....Kirschbaum, BB0209 — Transfer of Worker's Compensation  
Division functions to OCI and DHA

**FOR 2015-2017 BUDGET — NOT READY FOR INTRODUCTION**

*Sec aff'd ✓*

*12/11*

*Don & Gen*

1 AN ACT ...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**EMPLOYMENT**

Under current law, DWD performs certain administrative functions relating to worker's compensation. Those administrative functions include enforcement of the requirement that employers are insured for their worker's compensation liability; granting exemptions from that duty to insure to self-insured employers; administering the self-insured employers fund, from which DWD pays benefits to the injured employees of insolvent self-insured employers; administering the uninsured employers fund, from which DWD pays benefits to the injured employees of uninsured employers; and administering the work injury supplemental benefits fund, from which DWD pays supplemental benefits to certain injured employees with permanent total disability. This bill transfers the administrative functions of DWD relating to worker's compensation to OCI.

X Under current law, DWD performs certain <sup>adjudicating</sup> ~~relating to~~ adjudicatory functions relating to worker's compensation. Those adjudicatory functions include adjudicating disputed worker's compensation claims, adjudicating disputes over the reasonableness of fees charged for health services provided to an injured employee and of the amount charged for prescription drugs dispensed to an injured employee, and disputes over the necessity of treatment provided to an injured employee. This bill transfers the adjudicatory functions of DWD relating to worker's compensation to the Division of Hearings and Appeals in DOA.



For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

4

1 SECTION 1. 15.227 (4) of the statutes is renumbered 15.737 (4) and amended  
2 to read:

3 15.737 (4) COUNCIL ON WORKER'S COMPENSATION. There is created in the  
4 ~~department of workforce development~~ office of the commissioner of insurance a  
5 council on worker's compensation appointed by the secretary of workforce  
6 ~~development~~ commissioner of insurance to consist of a designated employee of the  
7 ~~department of workforce development~~ office of the commissioner of insurance as  
8 chairperson, 5 representatives of employers, and 5 representatives of employees.  
9 The ~~secretary of workforce development~~ commissioner of insurance shall also  
10 appoint 3 representatives of insurers authorized to do worker's compensation  
11 insurance business in this state as nonvoting members of the council.

History: 1971 c. 271; 1975 c. 147 s. 54; 1975 c. 404, 405; 1977 c. 17, 29, 325; 1979 c. 102, 189; 1979 c. 221 ss. 45, 46m; 1981 c. 237, 341; 1983 a. 122, 388; 1985 a. 332; 1987 a. 27, 399; 1989 a. 31, 64; 1991 a. 39, 269, 295; 1993 a. 126, 399; 1995 a. 27 ss. 152 to 165, 9126 (19), 9130 (4); 1995 a. 225; 1997 a. 3, 27, 39; 1999 a. 9, 14; 2001 a. 37; 2009 a. 291.

12 SECTION 2. 15.227 (11) of the statutes is renumbered 15.737 (11) and amended  
13 to read:

14 15.737 (11) SELF-INSURERS COUNCIL. There is created in the ~~department of~~  
15 ~~workforce development~~ office of the commissioner of insurance a self-insurers  
16 council consisting of 5 members appointed by the secretary of workforce development  
17 ~~commissioner of insurance~~ for 3-year terms.

History: 1971 c. 271; 1975 c. 147 s. 54; 1975 c. 404, 405; 1977 c. 17, 29, 325; 1979 c. 102, 189; 1979 c. 221 ss. 45, 46m; 1981 c. 237, 341; 1983 a. 122, 388; 1985 a. 332; 1987 a. 27, 399; 1989 a. 31, 64; 1991 a. 39, 269, 295; 1993 a. 126, 399; 1995 a. 27 ss. 152 to 165, 9126 (19), 9130 (4); 1995 a. 225; 1997 a. 3, 27, 39; 1999 a. 9, 14; 2001 a. 37; 2009 a. 291.

18 SECTION 3. 15.737 (title) of the statutes is created to read:

(title) explain  
15.737 Same; councils.

19

1           **SECTION 4.** 16.865 (4) of the statutes is amended to read:

2           16.865 (4) Manage the state employees' worker's compensation program and  
3           the statewide self-funded programs to protect the state from losses of and damage  
4           to state property and liability and, if retained by the department of workforce  
5           development office of the commissioner of insurance under s. 102.65 (3), process,  
6           investigate, and pay claims under ss. 102.44 (1), 102.49, 102.59, and 102.66 as  
7           provided in s. 102.65 (3).

**History:** 1973 c. 333; 1975 c. 81, 189, 422; 1977 c. 29; 1977 c. 196 s. 130 (3); 1979 c. 34, 221; 1981 c. 20; 1985 a. 29; 1987 a. 399; 1989 a. 125; 1991 a. 39; 1993 a. 16; 1995 a. 27; 2001 a. 16; 2003 a. 33; 2005 a. 74, 335; 2007 a. 20, 97; 2009 a. 28; 2011 a. 7, 10, 183, 229; 2013 a. 20, 165.

8           **SECTION 5.** 20.145 (6) (title) of the statutes is created to read:

9           20.145 (6) (title) WORKER'S COMPENSATION ADMINISTRATION.

      \*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

10          **SECTION 6.** 20.145 (6) (ga) of the statutes is created to read:

11          20.145 (6) (ga) *Auxiliary services.* All moneys received from fees collected  
12          under s. 102.16 (2m) (d) for the delivery of services under s. 102.16 (2m) (f).

      \*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

13          **SECTION 7.** 20.445 (1) (aa) of the statutes is renumbered 20.145 (6) (aa).

      \*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

14          **SECTION 8.** 20.445 (1) (ga) of the statutes is amended to read:

15          20.445 (1) (ga) *Auxiliary services.* All moneys received from fees collected  
16          under ss. ~~102.16 (2m) (d)~~, 103.005 (15) and 106.09 (7) for the delivery of services  
17          under ss. ~~102.16 (2m) (f)~~, 103.005 (15) and 106.09 and ch. 108.

**History:** 1971 c. 125 ss. 156, 522 (1); 1971 c. 211, 215; 1971 c. 228 s. 44; 1971 c. 259; 1973 c. 90, 180, 243, 333; 1975 c. 39, 147, 224, 274, 344; 1975 c. 404 ss. 3, 10 (1); 1975 c. 405 ss. 3, 11 (1); 1977 c. 29, 48, 203, 418; 1979 c. 34 ss. 512 to 522, 2102 (25) (a); 1979 c. 189, 221, 309; 1979 c. 329 s. 25 (1); 1979 c. 350 ss. 3, 27 (6); 1979 c. 353, 355; 1981 c. 20, 36, 92, 93, 317, 325, 364; 1983 a. 8; 1983 a. 27 ss. 411 to 425; 1983 a. 98 ss. 1, 31; 1983 a. 192, 384, 388, 410; 1985 a. 17, 29, 153, 313, 332; 1987 a. 27; 1987 a. 38 ss. 2 to 4, 136; 1987 a. 399, 403; 1989 a. 31, 44, 64, 77, 254, 284, 359; 1991 a. 39 ss. 372c, 545r, 545t, 545v, 547, 548, 548g, 548m, 549, 549b, 549g, 549p; 1991 a. 85, 89, 269, 315; 1993 a. 16, 126, 243, 437, 491; 1995 a. 27 ss. 772mm, 772nn, 776p to 778b, 778L, 778n, 778q, 778v, 778z to 780m, 781m to 782p, 782u, 841, 842, 849, 850, 854, 855, 858c, 873 to 876, 878, 880, 890 to 896, 962 to 1014c, 9126 (19); 9130 (4); 1995 a. 113 s. 2t; 1995 a. 117, 201, 216, 225, 289; 1995 a. 404 ss. 4, 6 to 8, 10 to 17; 1997 a. 3; 1997 a. 27 ss. 610 to 642m, 722; 1997 a. 35, 38, 39, 105, 112, 191, 235, 236, 237, 252; 1999 a. 9 ss. 270, 458 to 478; 1999 a. 15, 32; 2001 a. 16, 35, 43, 104, 109; 2003 a. 33, 197; 2005 a. 25, 86, 172; 2005 a. 443 s. 265; 2007 a. 20, 59; 2009 a. 28, 180; 2011 a. 32, 123, 183, 198; 2013 a. 9, 20; 2013 a. 36 ss. 6p to 7, 236m; 2013 a. 57, 139.

1 SECTION 9. 20.445 (1) (p) of the statutes is renumbered 20.145 (6) (p) and  
2 amended to read:

3 20.145 (6) (p) *Worker's compensation; federal moneys.* All federal moneys  
4 received for the worker's compensation activities of the department office, to be used  
5 for those purposes.

History: 1971 c. 125 ss. 156, 522 (1); 1971 c. 211, 215; 1971 c. 228 s. 44; 1971 c. 259; 1973 c. 90, 180, 243, 333; 1975 c. 39, 147, 224, 274, 344; 1975 c. 404 ss. 3, 10 (1); 1975 c. 405 ss. 3, 11 (1); 1977 c. 29, 48, 203, 418; 1979 c. 34 ss. 512 to 522, 2102 (25) (a); 1979 c. 189, 221, 309; 1979 c. 329 s. 25 (1); 1979 c. 350 ss. 3, 27 (6); 1979 c. 353, 355; 1981 c. 20, 36, 92, 93, 317, 325, 364; 1983 a. 8; 1983 a. 27 ss. 411 to 425; 1983 a. 98 ss. 1, 31; 1983 a. 192, 384, 388, 410; 1985 a. 17, 29, 153, 313, 332; 1987 a. 27; 1987 a. 38 ss. 2 to 4, 136; 1987 a. 399, 403; 1989 a. 31, 44, 64, 77, 254, 284, 359; 1991 a. 39 ss. 372c, 545r, 545t, 545v, 547, 548, 548g, 548m, 549, 549b, 549g, 549p; 1991 a. 85, 89, 269, 315; 1993 a. 16, 126, 243, 437, 491; 1995 a. 27 ss. 772mm, 772mn, 776p to 778b, 778L, 778n, 778q, 778v, 778z to 780m, 781m to 782p, 782u, 841, 842, 849, 850, 854, 855, 858c, 873 to 876, 878, 880, 890 to 896, 962 to 1014c, 9126 (19), 9130 (4); 1995 a. 113 s. 2; 1995 a. 117, 201, 216, 225, 289; 1995 a. 404 ss. 4, 6 to 8, 10 to 17; 1997 a. 3; 1997 a. 27 ss. 610 to 642m, 722; 1997 a. 35, 38, 39, 105, 112, 191, 235, 236, 237, 252; 1999 a. 9 ss. 270, 458 to 478; 1999 a. 15, 32; 2001 a. 16, 35, 43, 104, 109; 2003 a. 33, 197; 2005 a. 25, 86, 172; 2005 a. 443 s. 265; 2007 a. 20, 59; 2009 a. 28, 180; 2011 a. 32, 123, 183, 198; 2013 a. 9, 20; 2013 a. 36 ss. 6p to 7, 236m; 2013 a. 57, 139.

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

6 SECTION 10. 20.445 (1) (ra) of the statutes is renumbered 20.145 (6) (ra) and  
7 amended to read:

8 20.145 (6) (ra) *Worker's compensation operations fund; administration.* From  
9 the worker's compensation operations fund, the amounts in the schedule for the  
10 administration of the worker's compensation program by the department office and

11 for transfer to the appropriation accounts under par. (rp) and sub. (2) (ra) s. 20.505

12 (4) (ra). All moneys received under ss. 102.28 (2) (b) and 102.75 shall be credited to  
13 this appropriation account. From this appropriation, an amount not to exceed \$5,000

14 may be expended each fiscal year for payment of expenses for travel and research by  
15 the council on worker's compensation, the amount in the schedule under par. (rp)

16 shall be transferred to the appropriation account under par. (rp), and the amount in

17 the schedule under sub. (2) (ra) s. 20.505 (4) (ra) shall be transferred to the

18 appropriation account under sub. (2) (ra) s. 20.505 (4) (ra).

History: 1971 c. 125 ss. 156, 522 (1); 1971 c. 211, 215; 1971 c. 228 s. 44; 1971 c. 259; 1973 c. 90, 180, 243, 333; 1975 c. 39, 147, 224, 274, 344; 1975 c. 404 ss. 3, 10 (1); 1975 c. 405 ss. 3, 11 (1); 1977 c. 29, 48, 203, 418; 1979 c. 34 ss. 512 to 522, 2102 (25) (a); 1979 c. 189, 221, 309; 1979 c. 329 s. 25 (1); 1979 c. 350 ss. 3, 27 (6); 1979 c. 353, 355; 1981 c. 20, 36, 92, 93, 317, 325, 364; 1983 a. 8; 1983 a. 27 ss. 411 to 425; 1983 a. 98 ss. 1, 31; 1983 a. 192, 384, 388, 410; 1985 a. 17, 29, 153, 313, 332; 1987 a. 27; 1987 a. 38 ss. 2 to 4, 136; 1987 a. 399, 403; 1989 a. 31, 44, 64, 77, 254, 284, 359; 1991 a. 39 ss. 372c, 545r, 545t, 545v, 547, 548, 548g, 548m, 549, 549b, 549g, 549p; 1991 a. 85, 89, 269, 315; 1993 a. 16, 126, 243, 437, 491; 1995 a. 27 ss. 772mm, 772mn, 776p to 778b, 778L, 778n, 778q, 778v, 778z to 780m, 781m to 782p, 782u, 841, 842, 849, 850, 854, 855, 858c, 873 to 876, 878, 880, 890 to 896, 962 to 1014c, 9126 (19), 9130 (4); 1995 a. 113 s. 2; 1995 a. 117, 201, 216, 225, 289; 1995 a. 404 ss. 4, 6 to 8, 10 to 17; 1997 a. 3; 1997 a. 27 ss. 610 to 642m, 722; 1997 a. 35, 38, 39, 105, 112, 191, 235, 236, 237, 252; 1999 a. 9 ss. 270, 458 to 478; 1999 a. 15, 32; 2001 a. 16, 35, 43, 104, 109; 2003 a. 33, 197; 2005 a. 25, 86, 172; 2005 a. 443 s. 265; 2007 a. 20, 59; 2009 a. 28, 180; 2011 a. 32, 123, 183, 198; 2013 a. 9, 20; 2013 a. 36 ss. 6p to 7, 236m; 2013 a. 57, 139.

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

1           **SECTION 11.** 20.445 (1) (rb) of the statutes is renumbered 20.145 (6) (rb).

      \*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

2           **SECTION 12.** 20.445 (1) (rp) of the statutes is renumbered 20.145 (6) (rp).

      \*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

3           **SECTION 13.** 20.445 (1) (s) of the statutes is renumbered 20.145 (6) (s).

      \*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

4           **SECTION 14.** 20.445 (1) (sm) of the statutes is renumbered 20.145 (6) (sm) and

5 amended to read:

6           20.145 (6) (sm) *Uninsured employers fund; payments.* From the uninsured  
7 employers fund, a sum sufficient to make the payments under s. 102.81 (1) and to  
8 obtain reinsurance under s. 102.81 (2). No moneys may be expended or encumbered  
9 under this paragraph until the first day of the first July beginning after the day that  
10 the ~~secretary of workforce development~~ commissioner of insurance files the  
11 certificate under s. 102.80 (3) (a).

**History:** 1971 c. 125 ss. 156, 522 (1); 1971 c. 211, 215; 1971 c. 228 s. 44; 1971 c. 259; 1973 c. 90, 180, 243, 333; 1975 c. 39, 147, 224, 274, 344; 1975 c. 404 ss. 3, 10 (1); 1975 c. 405 ss. 3, 11 (1); 1977 c. 29, 48, 203, 418; 1979 c. 34 ss. 512 to 522, 2102 (25) (a); 1979 c. 189, 221, 309; 1979 c. 329 s. 25 (1); 1979 c. 350 ss. 3, 27 (6); 1979 c. 353, 355; 1981 c. 20, 36, 92, 93, 317, 325, 364; 1983 a. 8; 1983 a. 27 ss. 411 to 425; 1983 a. 98 ss. 1, 31; 1983 a. 192, 384, 388, 410; 1985 a. 17, 29, 153, 313, 332; 1987 a. 27; 1987 a. 38 ss. 2 to 4, 136; 1987 a. 399, 403; 1989 a. 31, 44, 64, 77, 254, 284, 359; 1991 a. 39 ss. 372c, 545r, 545t, 545v, 547, 548, 548g, 548m, 549, 549b, 549g, 549p; 1991 a. 85, 89, 269, 315; 1993 a. 16, 126, 243, 437, 491; 1995 a. 27 ss. 772mm, 772mn, 776p to 778b, 778L, 778n, 778q, 778v, 778z to 780m, 781m to 782p, 782u, 841, 842, 849, 850, 854, 855, 858c, 873 to 876, 878, 880, 890 to 896, 962 to 1014c, 9126 (19), 9130 (4); 1995 a. 113 s. 2t; 1995 a. 117, 201, 216, 225, 289; 1995 a. 404 ss. 4, 6 to 8, 10 to 17; 1997 a. 3; 1997 a. 27 ss. 610 to 642m, 722; 1997 a. 35, 38, 39, 105, 112, 191, 235, 236, 237, 252; 1999 a. 9 ss. 270, 458 to 478; 1999 a. 15, 32; 2001 a. 16, 35, 43, 104, 109; 2003 a. 33, 197; 2005 a. 25, 86, 172; 2005 a. 443 s. 265; 2007 a. 20, 59; 2009 a. 28, 180; 2011 a. 32, 123, 183, 198; 2013 a. 9, 20; 2013 a. 36 ss. 6p to 7, 236m; 2013 a. 57, 139.

      \*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

12           **SECTION 15.** 20.445 (1) (t) of the statutes is renumbered 20.145 (6) (t).

      \*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

13           **SECTION 16.** 20.445 (2) (ra) of the statutes is renumbered 20.505 (4) (ra) and

14 amended to read:

15           20.505 (4) (ra) *Worker's compensation operations fund; worker's compensation*  
16 *activities.* From the worker's compensation operations fund, the amounts in the  
17 schedule for the worker's compensation activities of the ~~labor and industry review~~

1 ~~commission~~ division of hearings and appeals. All moneys transferred from the  
2 appropriation account under sub. (1) ~~(ra)~~ s. 20.145 (6) ~~(ra)~~ shall be credited to this  
3 appropriation account.

**History:** 1971 c. 125 ss. 156, 522 (1); 1971 c. 211, 215; 1971 c. 228 s. 44; 1971 c. 259; 1973 c. 90, 180, 243, 333; 1975 c. 39, 147, 224, 274, 344; 1975 c. 404 ss. 3, 10 (1); 1975 c. 405 ss. 3, 11 (1); 1977 c. 29, 48, 203, 418; 1979 c. 34 ss. 512 to 522, 2102 (25) (a); 1979 c. 189, 221, 309; 1979 c. 329 s. 25 (1); 1979 c. 350 ss. 3, 27 (6); 1979 c. 353, 355; 1981 c. 20, 36, 92, 93, 317, 325, 364; 1983 a. 8; 1983 a. 27 ss. 411 to 425; 1983 a. 98 ss. 1, 31; 1983 a. 192, 384, 388, 410; 1985 a. 17, 29, 153, 313, 332; 1987 a. 27; 1987 a. 38 ss. 2 to 4, 136; 1987 a. 399, 403; 1989 a. 31, 44, 64, 77, 254, 284, 359; 1991 a. 39 ss. 372c, 545r, 545t, 545v, 547, 548, 548g, 548m, 549, 549b, 549g, 549p; 1991 a. 85, 89, 269, 315; 1993 a. 16, 126, 243, 437, 491; 1995 a. 27 ss. 772mm, 772mn, 776p to 778b, 778L, 778n, 778q, 778v, 778z to 780m, 781m to 782p, 782u, 841, 842, 849, 850, 854, 855, 858c, 873 to 876, 878, 880, 890 to 896, 962 to 1014c, 9126 (19), 9130 (4); 1995 a. 113 s. 2t; 1995 a. 117, 201, 216, 225, 289; 1995 a. 404 ss. 4, 6 to 8, 10 to 17; 1997 a. 3; 1997 a. 27 ss. 610 to 642m, 722; 1997 a. 35, 38, 39, 105, 112, 191, 235, 236, 237, 252; 1999 a. 9 ss. 270, 458 to 478; 1999 a. 15, 32; 2001 a. 16, 35, 43, 104, 109; 2003 a. 33, 197; 2005 a. 25, 86, 172; 2005 a. 443 s. 265; 2007 a. 20, 59; 2009 a. 28, 180; 2011 a. 32, 123, 183, 198; 2013 a. 9, 20; 2013 a. 36 ss. 6p to 7, 236m; 2013 a. 57, 139.

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

4 SECTION 17. 40.63 (6) of the statutes is amended to read:

5 40.63 (6) Any person entitled to payments under this section who may  
6 otherwise be entitled to payments under s. 66.191, 1981 stats., may file with the  
7 department and the ~~department of workforce development~~ office of the commissioner  
8 of insurance a written election to waive payments due under this section and accept  
9 in lieu of the payments under this section payments as may be payable under s.  
10 66.191, 1981 stats., but no person may receive payments under both s. 66.191, 1981  
11 stats., and this section. However any person otherwise entitled to payments under  
12 this section may receive the payments, without waiver of any rights under s. 66.191,  
13 1981 stats., during any period as may be required for a determination of the person's  
14 rights under s. 66.191, 1981 stats. Upon the final adjudication of the person's rights  
15 under s. 66.191, 1981 stats., if waiver is filed under this section, the person shall  
16 immediately cease to be entitled to payments under this section and the system shall  
17 be reimbursed from the award made under s. 66.191, 1981 stats., for all payments  
18 made under this section.

**History:** 1981 c. 96, 386; 1983 a. 141 s. 20; 1983 a. 191 s. 6; 1983 a. 290; 1985 a. 11; 1985 a. 182 s. 57; 1987 a. 303, 372; 1989 a. 13, 166; 1991 a. 39, 152; 1995 a. 27 s. 9130 (4); 1997 a. 3, 69; 1999 a. 9.

19 SECTION 18. 40.65 (2) (a) of the statutes is amended to read:

20 40.65 (2) (a) This paragraph applies to participants who first apply for benefits  
21 before May 3, 1988. Any person desiring a benefit under this section must apply to

1 the ~~department of workforce development~~ office of the commissioner of insurance,  
2 which ~~department~~ office shall determine whether the applicant is eligible to receive  
3 the benefit and the participant's monthly salary. Appeals from the eligibility decision  
4 shall follow the procedures under ss. 102.16 to 102.26. If it is determined that an  
5 applicant is eligible, the ~~department of workforce development~~ office of the  
6 commissioner of insurance shall notify the department of employee trust funds and  
7 shall certify the applicant's monthly salary. If at the time of application for benefits  
8 an applicant is still employed in any capacity by the employer in whose employ the  
9 disabling injury occurred or disease was contracted, that continued employment  
10 shall not affect that applicant's right to have his or her eligibility to receive those  
11 benefits determined in proceedings before the ~~department of workforce development~~  
12 division of hearings and appeals in the department of administration or the labor and  
13 industry review commission or in proceedings in the courts. The ~~department of~~  
14 ~~workforce development~~ office of the commissioner of insurance may promulgate  
15 rules needed to administer this paragraph.

History: 1981 c. 278; 1983 a. 9; 1983 a. 141 s. 20; 1983 a. 191 s. 6; 1983 a. 255; 1985 a. 332 s. 251 (1); 1987 a. 363; 1989 a. 240, 357; 1995 a. 27 s. 9130 (4); 1997 a. 3, 39, 173, 237; 2007 a. 131; 2009 a. 28.

16 **SECTION 19.** 40.65 (2) (b) 3. of the statutes is amended to read:

17 40.65 (2) (b) 3. The department shall determine whether or not the applicant  
18 is eligible for benefits under this section on the basis of the evidence in subd. 2. An  
19 applicant may appeal a determination under this subdivision to the ~~department of~~  
20 ~~workforce development~~ division of hearings and appeals in the department of  
21 administration.

History: 1981 c. 278; 1983 a. 9; 1983 a. 141 s. 20; 1983 a. 191 s. 6; 1983 a. 255; 1985 a. 332 s. 251 (1); 1987 a. 363; 1989 a. 240, 357; 1995 a. 27 s. 9130 (4); 1997 a. 3, 39, 173, 237; 2007 a. 131; 2009 a. 28.

22 **SECTION 20.** 40.65 (2) (b) 4. of the statutes is amended to read:

1           40.65 (2) (b) 4. In hearing an appeal under subd. 3., the ~~department of~~  
2           ~~workforce development~~ division of hearings and appeals in the department of  
3           administration shall follow the procedures under ss. 102.16 to 102.26.

**History:** 1981 c. 278; 1983 a. 9; 1983 a. 141 s. 20; 1983 a. 191 s. 6; 1983 a. 255; 1985 a. 332 s. 251 (1); 1987 a. 363; 1989 a. 240, 357; 1995 a. 27 s. 9130 (4); 1997 a. 3, 39, 173, 237; 2007 a. 131; 2009 a. 28.

4           **SECTION 21.** 73.0301 (1) (d) 3m. of the statutes is amended to read:

5           73.0301 (1) (d) 3m. A license or certificate issued by the department of  
6           workforce development under s. ~~102.17 (1) (e)~~, 103.275 (2) (b), 103.34 (3) (c), 103.91  
7           (1), 103.92 (3), 104.07 (1) or (2), or 105.13 (1).

**History:** 1997 a. 237 ss. 301, 307, 532; 1999 a. 9, 31, 32, 186; 2001 a. 56; 2005 a. 25; 2007 a. 1; 2007 a. 20 ss. 2155 to 2158, 9121 (6) (a); 2007 a. 130, 196; 2009 a. 2, 3, 185, 344, 405; 2011 a. 32; 2013 a. 20, 36; 2013 a. 173 s. 33; 2013 a. 357.

8           **SECTION 22.** 73.0301 (1) (d) 3p. of the statutes is created to read:

9           73.0301 (1) (d) 3p. A license issued by the division of hearings and appeals in  
10           the department of administration under s. 102.17 (1) (c).

11           **SECTION 23.** 102.01 (2) (a) of the statutes is renumbered 102.01 (2) (af).

12           **SECTION 24.** 102.01 (2) (ad) of the statutes is created to read:

13           102.01 (2) (ad) "Administrator" means the administrator of the division of  
14           hearings and appeals in the department of administration.

15           **SECTION 25.** 102.01 (2) (ag) of the statutes is amended to read:

16           102.01 (2) (ag) "Commissioner" means ~~a member of the commission~~ the  
17           commissioner of insurance.

**History:** 1975 c. 147 ss. 7 to 13, 54; 1975 c. 200; 1979 c. 89, 278; 1981 c. 92; 1983 a. 98, 189; 1985 a. 83; 1987 a. 179; 1989 a. 64; 1995 a. 27 ss. 3737 to 3741, 9130 (4); 1995 a. 117, 417; 1997 a. 3; 1999 a. 9, 14; 2001 a. 37; 2003 a. 139; 2007 a. 20.

18           **SECTION 26.** 102.01 (2) (ap) of the statutes is repealed.

19           **SECTION 27.** 102.01 (2) (ar) of the statutes is created to read:

20           102.01 (2) (ar) "Division" means the division of hearings and appeals in the  
21           department of administration.

22           **SECTION 28.** 102.01 (2) (bm) of the statutes is amended to read:

1           102.01 (2) (bm) "General order" means ~~such order as~~ an order that applies  
 2 generally throughout the state to all persons, employments, places of employment,  
 3 or public buildings, or to all persons, employments or, places of employment, or public  
 4 buildings of a class under the jurisdiction of the department office. All other orders  
 5 of the department office shall be considered special orders.

History: 1975 c. 147 ss. 7 to 13, 54; 1975 c. 200; 1979 c. 89, 278; 1981 c. 92; 1983 a. 98, 189; 1985 a. 83; 1987 a. 179; 1989 a. 64; 1995 a. 27 ss. 3737 to 3741, 9130 (4); 1995 a. 117, 417; 1997 a. 3; 1999 a. 9, 14; 2001 a. 37; 2003 a. 139; 2007 a. 20.

6           **SECTION 29.** 102.01 (2) (dg) of the statutes is created to read:

7           102.01 (2) (dg) "Office" means the office of the commissioner.

8           **SECTION 30.** 102.01 (2) (dm) of the statutes is amended to read:

9           102.01 (2) (dm) "Order" means any decision, rule, regulation, direction,  
 10 requirement, or standard of the department office, or any other determination  
 11 arrived at or decision made by the department office.

History: 1975 c. 147 ss. 7 to 13, 54; 1975 c. 200; 1979 c. 89, 278; 1981 c. 92; 1983 a. 98, 189; 1985 a. 83; 1987 a. 179; 1989 a. 64; 1995 a. 27 ss. 3737 to 3741, 9130 (4); 1995 a. 117, 417; 1997 a. 3; 1999 a. 9, 14; 2001 a. 37; 2003 a. 139; 2007 a. 20.

12           **SECTION 31.** 102.01 (2) (em) of the statutes is repealed.

13           **SECTION 32.** 102.05 (1) of the statutes is amended to read:

14           102.05 (1) An employer who has had no employee at any time within a  
 15 continuous period of 2 years shall be ~~deemed~~ considered to have effected withdrawal,  
 16 which shall be effective on the last day of ~~such~~ that period. An employer who has not  
 17 usually employed 3 employees and who has not paid wages of at least \$500 for  
 18 employment in this state in every calendar quarter in a calendar year may file a  
 19 withdrawal notice with the department office, which withdrawal shall take effect 30  
 20 days after the date of ~~such~~ that filing or at such later date as is specified in the notice.  
 21 If an employer who is subject to this chapter only because the employer elected to  
 22 become subject to this chapter under sub. (2) cancels or terminates his or her contract  
 23 for the insurance of compensation under this chapter, that employer is deemed



1 considered to have effected withdrawal, which shall be effective on the day after the  
2 contract is canceled or terminated.

History: 1983 a. 98 s. 31; 1993 a. 81, 492; 1999 a. 14.

3 **SECTION 33.** 102.05 (3) of the statutes is amended to read:

4 102.05 (3) ~~Any~~ If a person engaged in farming who has become subject to this  
5 chapter has not employed 6 or more employees, as defined in s. 102.07 (5), on 20 or  
6 more days during the current or previous calendar year, the person may withdraw  
7 by filing with the ~~department~~ office a notice of withdrawal, ~~if the person has not~~  
8 ~~employed 6 or more employees as defined by s. 102.07 (5) on 20 or more days during~~  
9 ~~the current or previous calendar year.~~ Such ~~which~~ withdrawal shall be effective take  
10 effect 30 days after the date of receipt of the notice by the ~~department,~~ office or at such  
11 later date as is specified in the notice. ~~Such~~ A person who withdraws under this  
12 subsection may again become subject to this chapter as provided by in s. 102.04 (1)  
13 (c) and (e).

History: 1983 a. 98 s. 31; 1993 a. 81, 492; 1999 a. 14.

14 **SECTION 34.** 102.06 of the statutes is amended to read:

15 **102.06 Joint liability of employer and contractor.** An employer shall be  
16 liable for compensation to an employee of a contractor or subcontractor under the  
17 employer who is not subject to this chapter, or who has not complied with the  
18 conditions of s. 102.28 (2) in any case ~~where such~~ in which the employer would have  
19 been liable for compensation if ~~such~~ the employee had been working directly for the  
20 employer, including ~~also~~ work in the erection, alteration, repair, or demolition of  
21 improvements or of fixtures upon premises of ~~such~~ the employer ~~which~~ that are used  
22 or to be used in the operations of ~~such~~ the employer. The contractor or subcontractor,  
23 if subject to this chapter, shall also be liable for ~~such~~ that compensation, but the  
24 employee shall not recover compensation for the same injury from more than one

- 11 -  
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party. ~~The~~ An employer who becomes liable for who and pays ~~such~~ that compensation  
may recover the same amount of compensation paid from ~~such~~ that contractor, or  
subcontractor, or from any other employer for whom the employee was working at  
the time of the injury, if ~~such~~ that contractor, subcontractor, or other employer was  
an employer, as defined in s. 102.04. This section does not apply to injuries occurring  
on or after the first day of the first July beginning after the day that on which the  
secretary commissioner files the certificate under s. 102.80 (3) (a), except that if the  
secretary commissioner files the certificate under s. 102.80 (3) (ag) this section does  
apply to claims for compensation filed on or after the date specified in that certificate.

History: 1975 c. 147 s. 54; 1975 c. 199; 1989 a. 64; 1995 a. 117.

10

**SECTION 35.** 102.07 (1) (a) of the statutes is amended to read:

11

102.07 (1) (a) Every person, including all officials, in the service of the state,  
or of any municipality ~~therein~~ in this state, whether elected or under any  
appointment, or contract of hire, express or implied, and whether a resident of this  
state or employed or injured within or without the state. The state ~~and~~ or any  
municipality may require a bond from a contractor to protect the state or  
municipality against compensation to employees of ~~such~~ the contractor or employees  
of a subcontractor under the contractor. This paragraph does not apply beginning  
on the first day of the first July beginning after the day that on which the secretary  
commissioner files the certificate under s. 102.80 (3) (a), except that if the secretary  
commissioner files the certificate under s. 102.80 (3) (ag) this paragraph does apply  
to claims for compensation filed on or after the date specified in that certificate.

History: 1975 c. 147 s. 54; 1975 c. 224; 1977 c. 29; 1979 c. 278; 1981 c. 325; 1983 a. 27, 98; 1985 a. 29, 83, 135; 1985 a. 150 s. 4; 1985 a. 176, 332; 1987 a. 63; 1989 a. 31, 64, 359; 1993 a. 16, 81, 112, 399; 1995 a. 24, 77, 96, 117, 225, 281, 289, 417; 1997 a. 35, 38, 118; 1999 a. 14, 162; 2001 a. 37; 2005 a. 96; 2007 a. 130; 2009 a. 28, 42, 288; 2011 a. 123; 2013 a. 20.

22

**SECTION 36.** 102.07 (1) (b) of the statutes is amended to read:

1           102.07 (1) (b) Every person, including all officials, in the service of the state,  
2           or of any municipality ~~therein~~ in this state, whether elected or under any  
3           appointment, or contract of hire, express or implied, and whether a resident of this  
4           state or employed or injured within or without the state. This paragraph first applies  
5           on the first day of the first July beginning after the day that on which the secretary  
6           commissioner files the certificate under s. 102.80 (3) (a), except that if the secretary  
7           commissioner files the certificate under s. 102.80 (3) (ag) this paragraph does apply  
8           to claims for compensation filed on or after the date specified in that certificate.

**History:** 1975 c. 147 s. 54; 1975 c. 224; 1977 c. 29; 1979 c. 278; 1981 c. 325; 1983 a. 27, 98; 1985 a. 29, 83, 135; 1985 a. 150 s. 4; 1985 a. 176, 332; 1987 a. 63; 1989 a. 31, 64, 359; 1993 a. 16, 81, 112, 399; 1995 a. 24, 77, 96, 117, 225, 281, 289, 417; 1997 a. 35, 38, 118; 1999 a. 14, 162; 2001 a. 37; 2005 a. 96; 2007 a. 130; 2009 a. 28, 42, 288; 2011 a. 123; 2013 a. 20.

9           **SECTION 37.** 102.07 (7) (b) of the statutes is amended to read:

10           102.07 (7) (b) The ~~department~~ office may issue an order under s. 102.31 (1) (b)  
11           permitting the county within which a volunteer fire company or fire department  
12           organized under ch. 213, a legally organized rescue squad, an ambulance service  
13           provider, as defined in s. 256.01 (3), or a legally organized diving team is organized  
14           to assume full liability for the compensation provided under this chapter of all  
15           volunteer members of that company, department, squad, provider or team.

16           ~~Cross-reference: Cross-reference: Cross-reference: See also s. DWD 80.30, Wis. adm. code. Cross-reference:~~

**History:** 1975 c. 147 s. 54; 1975 c. 224; 1977 c. 29; 1979 c. 278; 1981 c. 325; 1983 a. 27, 98; 1985 a. 29, 83, 135; 1985 a. 150 s. 4; 1985 a. 176, 332; 1987 a. 63; 1989 a. 31, 64, 359; 1993 a. 16, 81, 112, 399; 1995 a. 24, 77, 96, 117, 225, 281, 289, 417; 1997 a. 35, 38, 118; 1999 a. 14, 162; 2001 a. 37; 2005 a. 96; 2007 a. 130; 2009 a. 28, 42, 288; 2011 a. 123; 2013 a. 20.

17           **SECTION 38.** 102.07 (8) (c) of the statutes is amended to read:

18           102.07 (8) (c) The ~~department~~ office may not admit in evidence any state or  
19           federal ~~laws, regulations, documents~~ law, regulation, or document granting  
20           operating authority, or ~~licenses~~ license when determining whether an independent  
21           contractor meets the conditions specified in par. (b) 1. or 3.

**History:** 1975 c. 147 s. 54; 1975 c. 224; 1977 c. 29; 1979 c. 278; 1981 c. 325; 1983 a. 27, 98; 1985 a. 29, 83, 135; 1985 a. 150 s. 4; 1985 a. 176, 332; 1987 a. 63; 1989 a. 31, 64, 359; 1993 a. 16, 81, 112, 399; 1995 a. 24, 77, 96, 117, 225, 281, 289, 417; 1997 a. 35, 38, 118; 1999 a. 14, 162; 2001 a. 37; 2005 a. 96; 2007 a. 130; 2009 a. 28, 42, 288; 2011 a. 123; 2013 a. 20.

22           **SECTION 39.** 102.07 (11) of the statutes is amended to read:

1           102.07 (11) The department office may by rule prescribe classes of volunteer  
2 workers who may, at the election of the person for whom the service is being  
3 performed, be deemed considered to be employees for the purposes of this chapter.  
4 Election shall be by endorsement upon ~~the~~ that person's worker's compensation  
5 insurance policy with written notice to the department office. In the case of an  
6 employer that is exempt from insuring liability, election shall be by written notice to  
7 the department office. The department office shall by rule prescribe the means and  
8 manner in which notice of election by the employer is to be provided to the volunteer  
9 workers.

**History:** 1975 c. 147 s. 54; 1975 c. 224; 1977 c. 29; 1979 c. 278; 1981 c. 325; 1983 a. 27, 98; 1985 a. 29, 83, 135; 1985 a. 150 s. 4; 1985 a. 176, 332; 1987 a. 63; 1989 a. 31, 64, 359; 1993 a. 16, 81, 112, 399; 1995 a. 24, 77, 96, 117, 225, 281, 289, 417; 1997 a. 35, 38, 118; 1999 a. 14, 162; 2001 a. 37; 2005 a. 96; 2007 a. 130; 2009 a. 28, 42, 288; 2011 a. 123; 2013 a. 20.

10           **SECTION 40.** 102.076 (2) of the statutes is amended to read:

11           102.076 (2) If a corporation has not more than 10 stockholders, not more than  
12 2 officers, and no other employees and is not otherwise required under this chapter  
13 to have a policy of worker's compensation insurance, an officer of that corporation  
14 who elects not to be subject to this chapter shall file a notice of that election with the  
15 department office on a form approved by the department office. The election is  
16 effective until the officer rescinds ~~it~~ the election by notifying the department office  
17 in writing.

**History:** 1985 a. 83; 1987 a. 115, 179; 1989 a. 64; 1991 a. 85; 1997 a. 38.

18           **SECTION 41.** 102.077 (1) of the statutes is amended to read:

19           102.077 (1) A school district or a private school, as defined in s. 115.001 (3r),  
20 may elect to name as its employee for purposes of this chapter a student described  
21 in s. 102.07 (12m) by an endorsement on its policy of worker's compensation  
22 insurance or, if the school district or private school is exempt from the duty to insure  
23 under s. 102.28 (2), by filing a declaration with the department office in the manner

1 provided in s. 102.31 (2) (a) naming the student as an employee of the school district  
2 or private school for purposes of this chapter. A declaration under this subsection  
3 shall list the name of the student to be covered under this chapter, the name and  
4 address of the employer that is providing the work training or work experience for  
5 that student, and the title, if any, of the work training, work experience, or work  
6 study program in which the student is participating.

History: 1995 a. 117; 1997 a. 38; 1999 a. 14; 2001 a. 37.

7 **SECTION 42.** 102.077 (2) of the statutes is amended to read:

8 102.077 (2) A school district or private school may revoke a declaration under  
9 sub. (1) by providing written notice to the ~~department~~ office in the manner provided  
10 in s. 102.31 (2) (a), the student, and the employer who is providing the work training  
11 or work experience for that student. A revocation under this subsection is effective  
12 30 days after the ~~department~~ office receives notice of that revocation.

History: 1981 c. 20; 1995 a. 27 s. 9130 (4); 1997 a. 3.

13 **SECTION 43.** 102.08 of the statutes is amended to read:

14 **102.08 Administration for state employees.** The department of  
15 administration has responsibility for the timely delivery of benefits payable under  
16 this chapter to employees of the state and their dependents and other functions of  
17 the state as an employer under this chapter. The department of administration may  
18 ~~delegate this authority~~ that responsibility to employing departments and agencies  
19 and require such reports as it ~~deems~~ considers necessary to accomplish this purpose.  
20 The department of administration or its delegated authorities shall file with the  
21 ~~department of workforce development~~ office the reports that are required of all  
22 employers. The ~~department of workforce development~~ office shall monitor the  
23 delivery of benefits payable under this chapter to state employees and their  
24 dependents and shall consult with and advise the department of administration in

1 the manner and at the times necessary to ensure prompt and proper delivery of those  
2 benefits.

History: 1995 a. 117; 1997 a. 38; 1999 a. 14; 2001 a. 37.

3 **SECTION 44.** 102.11 (1) (am) 1. of the statutes is amended to read:

4 102.11 (1) (am) 1. The employee is a member of a class of employees that does  
5 the same type of work at the same location and, in the case of an employee in the  
6 service of the state, is employed in the same office, department, independent agency,  
7 authority, institution, association, society, or other body in state government or, if the  
8 department office determines appropriate, in the same subunit of an office,  
9 department, independent agency, authority, institution, association, society, or other  
10 body in state government.

INSERT  
15-10  
↓

11 **SECTION 45.** 102.125 of the statutes is amended to read:

12 **102.125 Fraudulent claims reporting and investigation.** If an insurer or  
13 self-insured employer has evidence that a claim is false or fraudulent in violation of  
14 s. 943.395 and if the insurer or self-insured employer is satisfied that reporting the  
15 claim to the department office will not impede its ability to defend the claim, the  
16 insurer or self-insured employer shall report the claim to the department office. The  
17 department office may require an insurer or self-insured employer to investigate an  
18 allegedly false or fraudulent claim and may provide the insurer or self-insured  
19 employer with any records of the department office relating to that claim. An insurer  
20 or self-insured employer that investigates a claim under this section shall report on  
21 the results of that investigation to the department office. If based on the  
22 investigation the department office has a reasonable basis to believe that a violation  
23 of s. 943.395 has occurred, the department office shall refer the results of the

1 investigation to the district attorney of the county in which the alleged violation  
2 occurred for prosecution.

**History:** 1993 a. 81; 2001 a. 37.

**History:** 1971 c. 148; 1973 c. 150; 1975 c. 147; 1977 c. 195; 1979 c. 278; 1981 c. 92; 1983 a. 98; 1985 a. 83; 1987 a. 179; 1989 a. 64; 1991 a. 85; 1993 a. 81, 492; 1995 a. 117; 1997 a. 38, 253; 2001 a. 37, 107; 2005 a. 172; 2007 a. 185; 2009 a. 206; 2011 a. 123, 183, 257; 2013 a. 165.

3 **SECTION 46.** 102.13 (1) (c) of the statutes is amended to read:

4 102.13 (1) (c) So long as the employee, after a written request of the employer  
5 or insurer ~~which~~ that complies with par. (b), refuses to submit to or in any way  
6 obstructs the examination, the employee’s right to begin or maintain any proceeding  
7 for the collection of compensation is suspended, except as provided in sub. (4). If the  
8 employee refuses to submit to the examination after direction by the ~~department~~  
9 division or an examiner, or in any way obstructs the examination, the employee’s  
10 right to the weekly indemnity ~~which~~ that accrues and becomes payable during the  
11 period of that refusal or obstruction, is barred, except as provided in sub. (4).

**History:** 1973 c. 272, 282; 1975 c. 147; 1977 c. 29; 1979 c. 102 s. 236 (3); 1979 c. 278; 1981 c. 92; 1983 a. 98, 279; 1985 a. 83; 1987 a. 179; 1989 a. 64, 359; 1991 a. 85; 1993 a. 81; 1997 a. 38; 2003 a. 144; 2005 a. 172; 2011 a. 183.

12 **SECTION 47.** 102.13 (1) (d) 2. of the statutes is amended to read:

13 102.13 (1) (d) 2. Any physician, chiropractor, psychologist, dentist, physician  
14 assistant, advanced practice nurse prescriber, or podiatrist who attended a worker’s  
15 compensation claimant for any condition or complaint reasonably related to the  
16 condition for which the claimant claims compensation may be required to testify  
17 before the ~~department~~ division when the ~~department~~ division so directs.

**History:** 1973 c. 272, 282; 1975 c. 147; 1977 c. 29; 1979 c. 102 s. 236 (3); 1979 c. 278; 1981 c. 92; 1983 a. 98, 279; 1985 a. 83; 1987 a. 179; 1989 a. 64, 359; 1991 a. 85; 1993 a. 81; 1997 a. 38; 2003 a. 144; 2005 a. 172; 2011 a. 183.

18 **SECTION 48.** 102.13 (1) (d) 3. of the statutes is amended to read:

19 102.13 (1) (d) 3. Notwithstanding any statutory provisions except par. (e), any  
20 physician, chiropractor, psychologist, dentist, physician assistant, advanced  
21 practice nurse prescriber, or podiatrist attending a worker’s compensation claimant  
22 for any condition or complaint reasonably related to the condition for which the  
23 claimant claims compensation may furnish to the employee, employer, worker’s

1 compensation insurer, ~~or the department~~ <sup>✓</sup> the office, or the division <sup>✓</sup> information and  
2 reports relative to a compensation claim. <sup>✓</sup>

**History:** 1973 c. 272, 282; 1975 c. 147; 1977 c. 29; 1979 c. 102 s. 236 (3); 1979 c. 278; 1981 c. 92; 1983 a. 98, 279; 1985 a. 83; 1987 a. 179; 1989 a. 64, 359; 1991 a. 85; 1993 a. 81; 1997 a. 38; 2003 a. 144; 2005 a. 172; 2011 a. 183.

3 **SECTION 49.** 102.13 (1) (f) of the statutes is amended to read:

4 102.13 (1) (f) If an employee claims compensation under s. 102.81 (1), the  
5 ~~department~~ <sup>✓</sup> office <sup>✓</sup> may require the employee to submit to physical or vocational  
6 examinations under this subsection.

**History:** 1973 c. 272, 282; 1975 c. 147; 1977 c. 29; 1979 c. 102 s. 236 (3); 1979 c. 278; 1981 c. 92; 1983 a. 98, 279; 1985 a. 83; 1987 a. 179; 1989 a. 64, 359; 1991 a. 85; 1993 a. 81; 1997 a. 38; 2003 a. 144; 2005 a. 172; 2011 a. 183.

7 **SECTION 50.** 102.13 (2) (a) of the statutes is amended to read:

8 102.13 (2) (a) An employee who reports an injury alleged to be work-related  
9 or who files an application for hearing waives any physician-patient,  
10 psychologist-patient or chiropractor-patient privilege with respect to any condition  
11 or complaint reasonably related to the condition for which the employee claims  
12 compensation. Notwithstanding ss. 51.30 and 146.82 and any other law, any  
13 physician, chiropractor, psychologist, dentist, podiatrist, physician assistant,  
14 advanced practice nurse prescriber, hospital, or health care provider shall, within a  
15 reasonable time after written request by the employee, employer, worker's  
16 compensation insurer, ~~or department~~ <sup>✓</sup> office, or division, <sup>✓</sup> or its representative, provide  
17 that person with any information or written material reasonably related to any  
18 injury for which the employee claims compensation. <sup>✓</sup>

**History:** 1973 c. 272, 282; 1975 c. 147; 1977 c. 29; 1979 c. 102 s. 236 (3); 1979 c. 278; 1981 c. 92; 1983 a. 98, 279; 1985 a. 83; 1987 a. 179; 1989 a. 64, 359; 1991 a. 85; 1993 a. 81; 1997 a. 38; 2003 a. 144; 2005 a. 172; 2011 a. 183.

19 **SECTION 51.** 102.13 (2) (c) of the statutes is amended to read:

20 102.13 (2) (c) Except as provided in this paragraph, if an injured employee has  
21 a period of temporary disability that exceeds 3 weeks or a permanent disability, if the  
22 injured employee has undergone surgery to treat his or her injury, other than surgery  
23 to correct a hernia, or if the injured employee sustained an eye injury requiring



**SECTION 51**

1 medical treatment on 3 or more occasions off the employer's premises, the  
2 ~~department~~ office may by rule require the insurer or self-insured employer to submit  
3 to the ~~department~~ office a final report of the employee's treating practitioner. The  
4 ~~department~~ office may not require an insurer or self-insured employer to submit to  
5 the ~~department~~ office a final report of an employee's treating practitioner when the  
6 insurer or self-insured employer denies the employee's claim for compensation and  
7 the employee does not contest that denial. A treating practitioner may charge a  
8 reasonable fee for the completion of the final report, but may not require prepayment  
9 of that fee. An insurer or self-insured employer that disputes the reasonableness of  
10 a fee charged for the completion of a treatment practitioner's final report may submit  
11 that dispute to the ~~department~~ division for resolution under s. 102.16 (2).

History: 1973 c. 272, 282; 1975 c. 147; 1977 c. 29; 1979 c. 102 s. 236 (3); 1979 c. 278; 1981 c. 92; 1983 a. 98, 279; 1985 a. 83; 1987 a. 179; 1989 a. 64, 359; 1991 a. 85; 1993 a. 81; 1997 a. 38; 2003 a. 144; 2005 a. 172; 2011 a. 183.

12 **SECTION 52.** 102.13 (3) of the statutes is amended to read:

13 102.13 (3) If 2 or more physicians, chiropractors, psychologists, dentists or  
14 podiatrists disagree as to the extent of an injured employee's temporary disability,  
15 the end of an employee's healing period, an employee's ability to return to work at  
16 suitable available employment, or the necessity for further treatment or for a  
17 particular type of treatment, the ~~department~~ division may appoint another  
18 physician, chiropractor, psychologist, dentist or podiatrist to examine the employee  
19 and render an opinion as soon as possible. The ~~department~~ division shall promptly  
20 notify the parties of this appointment. If the employee has not returned to work,  
21 payment for temporary disability shall continue until the ~~department~~ division  
22 receives the opinion. The employer or its insurance carrier or both shall pay for the  
23 examination and opinion. The employer or insurance carrier or both shall receive

1 appropriate credit for any overpayment to the employee determined by the  
2 ~~department~~ division after receipt of the opinion.

**History:** 1973 c. 272, 282; 1975 c. 147; 1977 c. 29; 1979 c. 102 s. 236 (3); 1979 c. 278; 1981 c. 92; 1983 a. 98, 279; 1985 a. 83; 1987 a. 179; 1989 a. 64, 359; 1991 a. 85; 1993 a. 81; 1997 a. 38; 2003 a. 144; 2005 a. 172; 2011 a. 183.

3 **SECTION 53.** 102.13 (4) of the statutes is amended to read:

4 102.13 (4) The ~~rights of employees~~ right of an employee to begin or maintain  
5 proceedings for the collection of compensation and to receive weekly indemnities  
6 which ~~that~~ accrue and become payable shall not be suspended or barred under sub.  
7 (1) when ~~an~~ the employee refuses to submit to a physical examination, upon the  
8 request of the employer or worker's compensation insurer or at the direction of the  
9 ~~department~~ division or an examiner, ~~which that~~ would require the employee to travel  
10 a distance of 100 miles or more from his or her place of residence, unless the employee  
11 has claimed compensation for treatment from a practitioner whose office is located  
12 100 miles or more from the employee's place of residence or the ~~department~~ division  
13 or examiner determines that any other circumstances warrant the examination. If  
14 the employee has claimed compensation for treatment from a practitioner whose  
15 office is located 100 miles or more from the employee's place of residence, the  
16 employer or insurer may request, or the ~~department~~ division or an examiner may  
17 direct, the employee to submit to a physical examination in the area where the  
18 employee's treatment practitioner is located.

**History:** 1973 c. 272, 282; 1975 c. 147; 1977 c. 29; 1979 c. 102 s. 236 (3); 1979 c. 278; 1981 c. 92; 1983 a. 98, 279; 1985 a. 83; 1987 a. 179; 1989 a. 64, 359; 1991 a. 85; 1993 a. 81; 1997 a. 38; 2003 a. 144; 2005 a. 172; 2011 a. 183.

19 **SECTION 54.** 102.13 (5) of the statutes is amended to read:

20 102.13 (5) The ~~department~~ division may refuse to receive testimony as to  
21 conditions determined from an autopsy if it appears that the party offering the  
22 testimony had procured the autopsy and had failed to make reasonable effort to  
23 notify at least one party in adverse interest or the ~~department~~ division at least 12

1 hours before the autopsy of the time and place it at which the autopsy would be  
2 performed, or that the autopsy was performed by or at the direction of the coroner  
3 or medical examiner or at the direction of the district attorney for purposes not  
4 authorized by under ch. 979. The ~~department~~ division may withhold findings until  
5 an autopsy is held in accordance with its directions.

History: 1973 c. 272, 282; 1975 c. 147; 1977 c. 29; 1979 c. 102 s. 236 (3); 1979 c. 278; 1981 c. 92; 1983 a. 98, 279; 1985 a. 83; 1987 a. 179; 1989 a. 64, 359; 1991 a. 85; 1993 a. 81; 1997 a. 38; 2003 a. 144; 2005 a. 172; 2011 a. 183.

6 **SECTION 55.** 102.14 (title) of the statutes is amended to read:

7 **102.14 (title) Jurisdiction of ~~department~~ office; advisory committee.**

History: 1975 c. 147 s. 54; 1979 c. 278.

8 **SECTION 56.** 102.14 (1) of the statutes is amended to read:

9 102.14 (1) This Except as otherwise provided, this chapter shall be  
10 administered by the ~~department~~ office.

History: 1975 c. 147 s. 54; 1979 c. 278.

11 **SECTION 57.** 102.14 (2) of the statutes is amended to read:

12 102.14 (2) The council on worker's compensation shall advise the ~~department~~  
13 office in carrying out the purposes of this chapter. ~~Such council,~~ shall submit its  
14 recommendations with respect to amendments to this chapter to each regular  
15 session of the legislature, and shall report its views upon any pending bill relating  
16 to this chapter to the proper legislative committee. At the request of the chairpersons  
17 of the senate and assembly committees on labor, the ~~department~~ office shall schedule  
18 a meeting of the council with the members of the senate and assembly committees  
19 on labor to review and discuss matters of legislative concern arising under this  
20 chapter.

History: 1975 c. 147 s. 54; 1979 c. 278.

21 **SECTION 58.** 102.15 (1) of the statutes is amended to read:

1           102.15 (1) Subject to this chapter, the department division may adopt its own  
2 rules of procedure and may change the same from time to time.

3 History: 1977 c. 418; 1989 a. 64.

**SECTION 59.** 102.15 (2) of the statutes is amended to read:

4           102.15 (2) The department division may provide by rule the conditions under  
5 which transcripts of testimony and proceedings shall be furnished.

6 History: 1977 c. 418; 1989 a. 64.

**SECTION 60.** 102.16 (1) of the statutes is amended to read:

7           102.16 (1) Any controversy concerning compensation or a violation of sub. (3),  
8 including ~~controversies~~ a controversy in which the state may be a party, shall be  
9 submitted to the department office under s. 102.17 (1) (a) 1. and processed by the  
10 division in the manner and with the effect provided in this chapter. Every  
11 ~~compromise of any claim for compensation may be reviewed and set aside, modified~~  
12 ~~or confirmed by the department within~~ Within one year ~~from~~ after the date ~~the on~~  
13 which a compromise of any claim for compensation is filed with the department, or  
14 ~~from~~ division or the date on which an award has been entered, ~~based thereon, or the~~  
15 ~~department may take that action~~ based on a compromise, the division, on its own  
16 motion or upon application made within one year that period, may review and set  
17 aside, modify, or confirm the compromise. Unless the word “compromise” appears  
18 in a stipulation of settlement, the settlement shall not be ~~deemed~~ considered a  
19 compromise, and further claim is not barred except as provided in s. 102.17 (4)  
20 regardless of whether an award is made. The employer, insurer, or dependent under  
21 s. 102.51 (5) shall have equal rights with the employee to have ~~review of a~~  
22 compromise or any other stipulation of settlement reviewed under this subsection.

1 Upon petition filed with the department division, the department division may set  
2 aside the award or otherwise determine the rights of the parties.

3 ~~Cross-reference: Cross-reference: Cross-reference: See also s. DWD 80.03, Wis. adm. code. Cross-reference:~~

~~History: 1975 c. 147, 200; 1977 c. 195; 1981 c. 92, 314; 1983 a. 98; 1985 a. 83; 1989 a. 64; 1991 a. 85; 1993 a. 81; 1995 a. 117; 1997 a. 38; 1999 a. 14, 185; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 206; 2011 a. 183.~~

4 **SECTION 61.** 102.16 (1m) (a) of the statutes is amended to read:

5 102.16 (1m) (a) If an insurer or self-insured employer concedes by compromise  
6 under sub. (1) or stipulation under s. 102.18 (1) (a) that the insurer or self-insured  
7 employer is liable under this chapter for any health services provided to an injured  
8 employee by a health service provider, but disputes the reasonableness of the fee  
9 charged by the health service provider, the department division may include in its  
10 order confirming the compromise or stipulation a determination as to the  
11 reasonableness of the fee or the department division may notify, or direct the insurer  
12 or self-insured employer to notify, the health service provider under sub. (2) (b) that  
13 the reasonableness of the fee is in dispute. The department division shall deny  
14 payment of a health service fee that the department division determines under this  
15 paragraph to be unreasonable. A health service provider and an insurer or  
16 self-insured employer that are parties to a fee dispute under this paragraph are  
17 bound by the department's division's determination under this paragraph on the  
18 reasonableness of the disputed fee, unless that determination is set aside, reversed,  
19 or modified by the department division under sub. (2) (f) or is set aside on judicial  
20 review as provided in sub. (2) (f).

~~History: 1975 c. 147, 200; 1977 c. 195; 1981 c. 92, 314; 1983 a. 98; 1985 a. 83; 1989 a. 64; 1991 a. 85; 1993 a. 81; 1995 a. 117; 1997 a. 38; 1999 a. 14, 185; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 206; 2011 a. 183.~~

21 **SECTION 62.** 102.16 (1m) (b) of the statutes is amended to read:

22 102.16 (1m) (b) If an insurer or self-insured employer concedes by compromise  
23 under sub. (1) or stipulation under s. 102.18 (1) (a) that the insurer or self-insured  
24 employer is liable under this chapter for any treatment provided to an injured

1 employee by a health service provider, but disputes the necessity of the treatment,  
2 the ~~department~~ division may include in its order confirming the compromise or  
3 stipulation a determination as to the necessity of the treatment or the ~~department~~  
4 division may notify, or direct the insurer or self-insured employer to notify, the  
5 health service provider under sub. (2m) (b) that the necessity of the treatment is in  
6 dispute. Before determining under this paragraph the necessity of treatment  
7 provided to an injured employee, the ~~department~~ division may, but is not required  
8 to, obtain the opinion of an expert selected by the ~~department~~ division who is  
9 qualified as provided in sub. (2m) (c). The standards promulgated under sub. (2m)  
10 (g) shall be applied by an expert and by the ~~department~~ division in rendering an  
11 opinion as to, and in determining, necessity of treatment under this paragraph. In  
12 cases in which no standards promulgated under sub. (2m) (g) apply, the ~~department~~  
13 division shall find the facts regarding necessity of treatment. The ~~department~~  
14 division shall deny payment for any treatment that the ~~department~~ division  
15 determines under this paragraph to be unnecessary. A health service provider and  
16 an insurer or self-insured employer that are parties to a dispute under this  
17 paragraph over the necessity of treatment are bound by the ~~department's~~ division's  
18 determination under this paragraph on the necessity of the disputed treatment,  
19 unless that determination is set aside, reversed, or modified by the ~~department~~  
20 division under sub. (2m) (e) or is set aside on judicial review as provided in sub. (2m)  
21 (e).

**History:** 1975 c. 147, 200; 1977 c. 195; 1981 c. 92, 314; 1983 a. 98; 1985 a. 83; 1989 a. 64; 1991 a. 85; 1993 a. 81; 1995 a. 117; 1997 a. 38; 1999 a. 14, 185; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 206; 2011 a. 183.

22 **SECTION 63.** 102.16 (1m) (c) of the statutes is amended to read:

23 102.16 (1m) (c) If an insurer or self-insured employer concedes by compromise  
24 under sub. (1) or stipulation under s. 102.18 (1) (a) that the insurer or self-insured

1 employer is liable under this chapter for the cost of a prescription drug dispensed  
2 under s. 102.425 (2) for outpatient use by an injured employee, but disputes the  
3 reasonableness of the amount charged for the prescription drug, the department  
4 division may include in its order confirming the compromise or stipulation a  
5 determination as to the reasonableness of the prescription drug charge or the  
6 department division may notify, or direct the insurer or self-insured employer to  
7 notify, the pharmacist or practitioner dispensing the prescription drug under s.  
8 102.425 (4m) (b) that the reasonableness of the prescription drug charge is in  
9 dispute. The department division shall deny payment of a prescription drug charge  
10 that the department division determines under this paragraph to be unreasonable.  
11 A pharmacist or practitioner and an insurer or self-insured employer that are  
12 parties to a dispute under this paragraph over the reasonableness of a prescription  
13 drug charge are bound by the department's division's determination under this  
14 paragraph on the reasonableness of the disputed prescription drug charge, unless  
15 that determination is set aside, reversed, or modified by the department division  
16 under s. 102.425 (4m) (e) or is set aside on judicial review as provided in s. 102.425  
17 (4m) (e).

History: 1975 c. 147, 200; 1977 c. 195; 1981 c. 92, 314; 1983 a. 98; 1985 a. 83; 1989 a. 64; 1991 a. 85; 1993 a. 81; 1995 a. 117; 1997 a. 38; 1999 a. 14, 185; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 206; 2011 a. 183.

18 **SECTION 64.** 102.16 (2) (a) of the statutes is amended to read:

19 102.16 (2) (a) Except as provided in this paragraph, the department division  
20 has jurisdiction under this subsection, sub. (1m) (a), and s. 102.17 to resolve a dispute  
21 between a health service provider and an insurer or self-insured employer over the  
22 reasonableness of a fee charged by the health service provider for health services  
23 provided to an injured employee who claims benefits under this chapter. A health  
24 service provider may not submit a fee dispute to the department division under this

1 subsection before all treatment by the health service provider of the employee's  
2 injury has ended if the amount in controversy, whether based on a single charge or  
3 a combination of charges for one or more days of service, is less than \$25. After all  
4 treatment by a health service provider of an employee's injury has ended, the health  
5 service provider may submit any fee dispute to the ~~department~~ division, regardless  
6 of the amount in controversy. The ~~department~~ division shall deny payment of a  
7 health service fee that the ~~department~~ division determines under this subsection to  
8 be unreasonable.

**History:** 1975 c. 147, 200; 1977 c. 195; 1981 c. 92, 314; 1983 a. 98; 1985 a. 83; 1989 a. 64; 1991 a. 85; 1993 a. 81; 1995 a. 117; 1997 a. 38; 1999 a. 14, 185; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 206; 2011 a. 183.

9 **SECTION 65.** 102.16 (2) (am) of the statutes is amended to read:

10 102.16 (2) (am) A health service provider and an insurer or self-insured  
11 employer that are parties to a fee dispute under this subsection are bound by the  
12 ~~department's~~ division's determination under this subsection on the reasonableness  
13 of the disputed fee, unless that determination is set aside on judicial review as  
14 provided in par. (f).

**History:** 1975 c. 147, 200; 1977 c. 195; 1981 c. 92, 314; 1983 a. 98; 1985 a. 83; 1989 a. 64; 1991 a. 85; 1993 a. 81; 1995 a. 117; 1997 a. 38; 1999 a. 14, 185; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 206; 2011 a. 183.

15 **SECTION 66.** 102.16 (2) (b) of the statutes is amended to read:

16 102.16 (2) (b) An insurer or self-insured employer that disputes the  
17 reasonableness of a fee charged by a health service provider or the ~~department~~  
18 division under sub. (1m) (a) or s. 102.18 (1) (bg) 1. shall provide reasonable written  
19 notice to the health service provider that the fee is being disputed. After receiving  
20 reasonable written notice under this paragraph or under sub. (1m) (a) or s. 102.18  
21 (1) (bg) 1. that a health service fee is being disputed, a health service provider may



1 not collect the disputed fee from, or bring an action for collection of the disputed fee  
2 against, the employee who received the services for which the fee was charged.

**History:** 1975 c. 147, 200; 1977 c. 195; 1981 c. 92, 314; 1983 a. 98; 1985 a. 83; 1989 a. 64; 1991 a. 85; 1993 a. 81; 1995 a. 117; 1997 a. 38; 1999 a. 14, 185; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 206; 2011 a. 183.

3 **SECTION 67.** 102.16 (2) (c) of the statutes is amended to read:

4 102.16 (2) (c) After a fee dispute is submitted to the ~~department~~ division, the  
5 insurer or self-insured employer that is a party to the dispute shall provide to the  
6 ~~department~~ division information on that fee and information on fees charged by  
7 other health service providers for comparable services. The insurer or self-insured  
8 employer shall obtain the information on comparable fees from a database that is  
9 certified by the ~~department~~ division under par. (h). Except as provided in par. (e) 1.,  
10 if the insurer or self-insured employer does not provide the information required  
11 under this paragraph, the ~~department~~ division shall determine that the disputed fee  
12 is reasonable and order that it be paid. If the insurer or self-insured employer  
13 provides the information required under this paragraph, the ~~department~~ division  
14 shall use that information to determine the reasonableness of the disputed fee.

**History:** 1975 c. 147, 200; 1977 c. 195; 1981 c. 92, 314; 1983 a. 98; 1985 a. 83; 1989 a. 64; 1991 a. 85; 1993 a. 81; 1995 a. 117; 1997 a. 38; 1999 a. 14, 185; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 206; 2011 a. 183.

15 **SECTION 68.** 102.16 (2) (d) of the statutes is amended to read:

16 102.16 (2) (d) The ~~department~~ division shall analyze the information provided  
17 to the ~~department~~ division under par. (c) according to the criteria provided in this  
18 paragraph to determine the reasonableness of the disputed fee. Except as provided  
19 in 2011 Wisconsin Act 183, section 30 (2) (b), the ~~department~~ division shall determine  
20 that a disputed fee is reasonable and order that the disputed fee be paid if that fee  
21 is at or below the mean fee for the health service procedure for which the disputed  
22 fee was charged, plus 1.2 standard deviations from that mean, as shown by data from  
23 a database that is certified by the ~~department~~ division under par. (h). Except as

1 provided in 2011 Wisconsin Act 183, section 30 (2) (b), the department division shall  
2 determine that a disputed fee is unreasonable and order that a reasonable fee be paid  
3 if the disputed fee is above the mean fee for the health service procedure for which  
4 the disputed fee was charged, plus 1.2 standard deviations from that mean, as shown  
5 by data from a database that is certified by the department division under par. (h),  
6 unless the health service provider proves to the satisfaction of the department  
7 division that a higher fee is justified because the service provided in the disputed case  
8 was more difficult or more complicated to provide than in the usual case.

**History:** 1975 c. 147, 200; 1977 c. 195; 1981 c. 92, 314; 1983 a. 98; 1985 a. 83; 1989 a. 64; 1991 a. 85; 1993 a. 81; 1995 a. 117; 1997 a. 38; 1999 a. 14, 185; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 206; 2011 a. 183.

9 **SECTION 69.** 102.16 (2) (e) 1. of the statutes is amended to read:

10 102.16 (2) (e) 1. Subject to subd. 2., if an insurer or self-insured employer that  
11 disputes the reasonableness of a fee charged by a health service provider cannot  
12 provide information on fees charged by other health service providers for comparable  
13 services because the database to which the insurer or self-insured employer  
14 subscribes is not able to provide accurate information for the health service  
15 procedure at issue, the department division may use any other information that the  
16 department division considers to be reliable and relevant to the disputed fee to  
17 determine the reasonableness of the disputed fee.

**History:** 1975 c. 147, 200; 1977 c. 195; 1981 c. 92, 314; 1983 a. 98; 1985 a. 83; 1989 a. 64; 1991 a. 85; 1993 a. 81; 1995 a. 117; 1997 a. 38; 1999 a. 14, 185; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 206; 2011 a. 183.

18 **SECTION 70.** 102.16 (2) (e) 2. of the statutes is amended to read:

19 102.16 (2) (e) 2. Notwithstanding subd. 1., the department division may use  
20 only a hospital radiology database that has been certified by the department division  
21 under par. (h) to determine the reasonableness of a hospital fee for radiology services.

**History:** 1975 c. 147, 200; 1977 c. 195; 1981 c. 92, 314; 1983 a. 98; 1985 a. 83; 1989 a. 64; 1991 a. 85; 1993 a. 81; 1995 a. 117; 1997 a. 38; 1999 a. 14, 185; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 206; 2011 a. 183.

22 **SECTION 71.** 102.16 (2) (f) of the statutes is amended to read:

1           102.16 (2) (f) Within 30 days after a determination under this subsection, the  
2 department division may set aside, reverse, or modify the determination for any  
3 reason that the department division considers sufficient. Within 60 days after a  
4 determination under this subsection, the department division may set aside,  
5 reverse, or modify the determination on grounds of mistake. A health service  
6 provider, insurer, or self-insured employer that is aggrieved by a determination of  
7 the department division under this subsection may seek judicial review of that  
8 determination in the same manner that compensation claims are reviewed under s.  
9 102.23.

History: 1975 c. 147, 200; 1977 c. 195; 1981 c. 92, 314; 1983 a. 98; 1985 a. 83; 1989 a. 64; 1991 a. 85; 1993 a. 81; 1995 a. 117; 1997 a. 38; 1999 a. 14, 185; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 206; 2011 a. 183.

10           **SECTION 72.** 102.16 (2) (h) of the statutes is amended to read:

11           102.16 (2) (h) The department division shall promulgate rules establishing  
12 procedures and requirements for the fee dispute resolution process under this  
13 subsection, including rules specifying the standards that health service fee  
14 databases must meet for certification under this paragraph. Using those standards,  
15 the department division shall certify databases of the health service fees that various  
16 health service providers charge. In certifying databases under this paragraph, the  
17 department division shall certify at least one database of hospital fees for radiology  
18 services, including diagnostic and interventional radiology, diagnostic ultrasound,  
19 and nuclear medicine.

Cross-reference: Cross-reference: Cross-reference: See also s. DWD 80.72, Wis. adm. code. Cross-reference:

History: 1975 c. 147, 200; 1977 c. 195; 1981 c. 92, 314; 1983 a. 98; 1985 a. 83; 1989 a. 64; 1991 a. 85; 1993 a. 81; 1995 a. 117; 1997 a. 38; 1999 a. 14, 185; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 206; 2011 a. 183.

21           **SECTION 73.** 102.16 (2m) (a) of the statutes is amended to read:

22           102.16 (2m) (a) Except as provided in this paragraph, the department division  
23 has jurisdiction under this subsection, sub. (1m) (b), and s. 102.17 to resolve a dispute  
24 between a health service provider and an insurer or self-insured employer over the

1 necessity of treatment provided for an injured employee who claims benefits under  
2 this chapter. A health service provider may not submit a dispute over necessity of  
3 treatment to the department division under this subsection before all treatment by  
4 the health service provider of the employee's injury has ended if the amount in  
5 controversy, whether based on a single charge or a combination of charges for one or  
6 more days of service, is less than \$25. After all treatment by a health service provider  
7 of an employee's injury has ended, the health service provider may submit any  
8 dispute over necessity of treatment to the department division, regardless of the  
9 amount in controversy. The department division shall deny payment for any  
10 treatment that the department division determines under this subsection to be  
11 unnecessary.

**History:** 1975 c. 147, 200; 1977 c. 195; 1981 c. 92, 314; 1983 a. 98; 1985 a. 83; 1989 a. 64; 1991 a. 85; 1993 a. 81; 1995 a. 117; 1997 a. 38; 1999 a. 14, 185; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 206; 2011 a. 183.

12 **SECTION 74.** 102.16 (2m) (am) of the statutes is amended to read:

13 102.16 (2m) (am) A health service provider and an insurer or self-insured  
14 employer that are parties to a dispute under this subsection over the necessity of  
15 treatment are bound by the department's division's determination under this  
16 subsection on the necessity of the disputed treatment, unless that determination is  
17 set aside on judicial review as provided in par. (e).

**History:** 1975 c. 147, 200; 1977 c. 195; 1981 c. 92, 314; 1983 a. 98; 1985 a. 83; 1989 a. 64; 1991 a. 85; 1993 a. 81; 1995 a. 117; 1997 a. 38; 1999 a. 14, 185; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 206; 2011 a. 183.

18 **SECTION 75.** 102.16 (2m) (b) of the statutes is amended to read:

19 102.16 (2m) (b) An insurer or self-insured employer that disputes the  
20 necessity of treatment provided by a health service provider or the department  
21 division under sub. (1m) (b) or s. 102.18 (1) (bg) 2. shall provide reasonable written  
22 notice to the health service provider that the necessity of that treatment is being  
23 disputed. After receiving reasonable written notice under this paragraph or under

1 sub. (1m) (b) or s. 102.18 (1) (bg) 2. that the necessity of treatment is being disputed,  
2 a health service provider may not collect a fee for that disputed treatment from, or  
3 bring an action for collection of the fee for that disputed treatment against, the  
4 employee who received the treatment.

**History:** 1975 c. 147, 200; 1977 c. 195; 1981 c. 92, 314; 1983 a. 98; 1985 a. 83; 1989 a. 64; 1991 a. 85; 1993 a. 81; 1995 a. 117; 1997 a. 38; 1999 a. 14, 185; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 206; 2011 a. 183.

5 **SECTION 76.** 102.16 (2m) (c) of the statutes is amended to read:

6 102.16 (2m) (c) Before determining under this subsection the necessity of  
7 treatment provided for an injured employee who claims benefits under this chapter,  
8 the ~~department~~ division shall obtain a written opinion on the necessity of the  
9 treatment in dispute from an expert selected by the ~~department~~ division. To qualify  
10 as an expert, a person must be licensed to practice the same health care profession  
11 as the individual health service provider whose treatment is under review and must  
12 either be performing services for an impartial health care services review  
13 organization or be a member of an independent panel of experts established by the  
14 ~~department~~ division under par. (f). The standards promulgated under par. (g) shall  
15 be applied by an expert and by the ~~department~~ division in rendering an opinion as  
16 to, and in determining, necessity of treatment under this paragraph. In cases in  
17 which no standards promulgated under sub. (2m) (g) apply, the ~~department~~ division  
18 shall find the facts regarding necessity of treatment. The ~~department~~ division shall  
19 adopt the written opinion of the expert as the ~~department's~~ division's determination  
20 on the issues covered in the written opinion, unless the health service provider or the  
21 insurer or self-insured employer present clear and convincing written evidence that  
22 the expert's opinion is in error.

**History:** 1975 c. 147, 200; 1977 c. 195; 1981 c. 92, 314; 1983 a. 98; 1985 a. 83; 1989 a. 64; 1991 a. 85; 1993 a. 81; 1995 a. 117; 1997 a. 38; 1999 a. 14, 185; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 206; 2011 a. 183.

23 **SECTION 77.** 102.16 (2m) (d) of the statutes is amended to read:

1           102.16 (2m) (d) The department division may charge a party to a dispute over  
2           the necessity of treatment provided for an injured employee who claims benefits  
3           under this chapter for the full cost of obtaining the written opinion of the expert  
4           under par. (c). The department division shall charge the insurer or self-insured  
5           employer for the full cost of obtaining the written opinion of the expert for the first  
6           dispute that a particular individual health service provider is involved in, unless the  
7           department division determines that the individual health service provider's  
8           position in the dispute is frivolous or based on fraudulent representations. In a  
9           subsequent dispute involving the same individual health service provider, the  
10          department division shall charge the losing party to the dispute for the full cost of  
11          obtaining the written opinion of the expert.

History: 1975 c. 147, 200; 1977 c. 195; 1981 c. 92, 314; 1983 a. 98; 1985 a. 83; 1989 a. 64; 1991 a. 85; 1993 a. 81; 1995 a. 117; 1997 a. 38; 1999 a. 14, 185; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 206; 2011 a. 183.

12          **SECTION 78.** 102.16 (2m) (e) of the statutes is amended to read:

13          102.16 (2m) (e) Within 30 days after a determination under this subsection, the  
14          department division may set aside, reverse, or modify the determination for any  
15          reason that the department division considers sufficient. Within 60 days after a  
16          determination under this subsection, the department division may set aside,  
17          reverse, or modify the determination on grounds of mistake. A health service  
18          provider, insurer, or self-insured employer that is aggrieved by a determination of  
19          the department division under this subsection may seek judicial review of that  
20          determination in the same manner that compensation claims are reviewed under s.  
21          102.23.

History: 1975 c. 147, 200; 1977 c. 195; 1981 c. 92, 314; 1983 a. 98; 1985 a. 83; 1989 a. 64; 1991 a. 85; 1993 a. 81; 1995 a. 117; 1997 a. 38; 1999 a. 14, 185; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 206; 2011 a. 183.

22          **SECTION 79.** 102.16 (2m) (f) of the statutes is amended to read:

1           102.16 (2m) (f) The ~~department~~ division may contract with an impartial health  
 2           care services review organization to provide the expert opinions required under par.  
 3           (c), or establish a panel of experts to provide those opinions, or both. If the  
 4           ~~department~~ division establishes a panel of experts to provide the expert opinions  
 5           required under par. (c), the ~~department~~ division may pay the members of that panel  
 6           a reasonable fee, plus actual and necessary expenses, for their services.

History: 1975 c. 147, 200; 1977 c. 195; 1981 c. 92, 314; 1983 a. 98; 1985 a. 83; 1989 a. 64; 1991 a. 85; 1993 a. 81; 1995 a. 117; 1997 a. 38; 1999 a. 14, 185; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 206; 2011 a. 183.

7           **SECTION 80.** 102.16 (2m) (g) of the statutes is amended to read:

8           102.16 (2m) (g) The ~~department~~ division shall promulgate rules establishing  
 9           procedures and requirements for the necessity of treatment dispute resolution  
 10          process under this subsection, including rules setting the fees under par. (f) and rules  
 11          establishing standards for determining the necessity of treatment provided to an  
 12          injured employee. Before the ~~department~~ division may amend the rules establishing  
 13          those standards, the ~~department~~ division shall establish an advisory committee  
 14          under s. 227.13 composed of health care providers providing treatment under s.  
 15          102.42 to advise the ~~department~~ division and the council on worker's compensation  
 16          on amending those rules.

Insert  
32-17

Cross-reference: Cross-reference: Cross-reference: See also s. DWD 80.73 and ch. DWD 81, Wis. adm. code. Cross-reference:  
 History: 1975 c. 147, 200; 1977 c. 195; 1981 c. 92, 314; 1983 a. 98; 1985 a. 83; 1989 a. 64; 1991 a. 85; 1993 a. 81; 1995 a. 117; 1997 a. 38; 1999 a. 14, 185; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 206; 2011 a. 183.

18          **SECTION 81.** 102.17 (1) (a) 1. of the statutes is amended to read:

19          102.17 (1) (a) 1. Upon the filing with the ~~department~~ office by any party in  
 20          interest of any application in writing stating the general nature of any claim as to  
 21          which any dispute or controversy may have arisen, the ~~department~~ office shall mail  
 22          a copy of the application to all other parties in interest and to the administrator, and  
 23          the insurance carrier and the office shall be considered ~~a party~~ parties in interest.

1       The ~~department~~ office or the division may bring in additional parties by service of  
2       a copy of the application.

History: 1971 c. 148; 1971 c. 213 s. 5; 1973 c. 150, 282; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1975 c. 147 ss. 20, 54; 1975 c. 199, 200; 1977 c. 29, 195, 273; 1979 c. 278; 1981 c. 92, 314; 1981 c. 317 s. 2202; 1981 c. 380; 1981 c. 391 s. 211; 1985 a. 83; 1989 a. 64, 139, 359; 1991 a. 85; 1993 a. 81, 492; 1995 a. 27, 117; 1997 a. 38, 191, 237; 1999 a. 9; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 180, 206; 2011 a. 183; 2013 a. 36.

3       **SECTION 82.** 102.17 (1) (a) 2. of the statutes is amended to read:

4           102.17 (1) (a) 2. Subject to subd. 3., the ~~department~~ division shall cause notice  
5       of hearing on the application to be given to each interested party, by service of that  
6       notice on the interested party personally or by mailing a copy of that notice to the  
7       interested party's last-known address at least 10 days before the hearing. If a party  
8       in interest is located without this state, and has no post-office address within this  
9       state, the copy of the application and copies of all notices shall be filed with the  
10      department of financial institutions and shall also be sent by registered or certified  
11      mail to the last-known post-office address of the party. Such filing and mailing shall  
12      constitute sufficient service, with the same effect as if served upon a party located  
13      within this state.

History: 1971 c. 148; 1971 c. 213 s. 5; 1973 c. 150, 282; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1975 c. 147 ss. 20, 54; 1975 c. 199, 200; 1977 c. 29, 195, 273; 1979 c. 278; 1981 c. 92, 314; 1981 c. 317 s. 2202; 1981 c. 380; 1981 c. 391 s. 211; 1985 a. 83; 1989 a. 64, 139, 359; 1991 a. 85; 1993 a. 81, 492; 1995 a. 27, 117; 1997 a. 38, 191, 237; 1999 a. 9; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 180, 206; 2011 a. 183; 2013 a. 36.

14      **SECTION 83.** 102.17 (1) (a) 3. of the statutes is amended to read:

15           102.17 (1) (a) 3. If a party in interest claims that the employer or insurer has  
16      acted with malice or bad faith, as described in s. 102.18 (1) (b) or (bp), that party shall  
17      provide written notice stating with reasonable specificity the basis for the claim to  
18      the employer, the insurer, the office, and the ~~department~~ division before the  
19      ~~department~~ division schedules a hearing on the claim of malice or bad faith.

History: 1971 c. 148; 1971 c. 213 s. 5; 1973 c. 150, 282; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1975 c. 147 ss. 20, 54; 1975 c. 199, 200; 1977 c. 29, 195, 273; 1979 c. 278; 1981 c. 92, 314; 1981 c. 317 s. 2202; 1981 c. 380; 1981 c. 391 s. 211; 1985 a. 83; 1989 a. 64, 139, 359; 1991 a. 85; 1993 a. 81, 492; 1995 a. 27, 117; 1997 a. 38, 191, 237; 1999 a. 9; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 180, 206; 2011 a. 183; 2013 a. 36.

20      **SECTION 84.** 102.17 (1) (a) 4. of the statutes is amended to read:

21           102.17 (1) (a) 4. The hearing may be adjourned in the discretion of the  
22      ~~department~~ division, and hearings may be held at such places as the ~~department~~



1 division designates, within or without the state. The department division may also  
2 arrange to have hearings held by the commission, officer, or tribunal having  
3 authority to hear cases arising under the worker's compensation law of any other  
4 state, of the District of Columbia, or of any territory of the United States, with the  
5 testimony and proceedings at any such hearing to be reported to the department  
6 division and to be made part of the record in the case. Any evidence so taken shall  
7 be subject to rebuttal upon final hearing before the department division.

**History:** 1971 c. 148; 1971 c. 213 s. 5; 1973 c. 150, 282; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1975 c. 147 ss. 20, 54; 1975 c. 199, 200; 1977 c. 29, 195, 273; 1979 c. 278; 1981 c. 92, 314; 1981 c. 317 s. 2202; 1981 c. 380; 1981 c. 391 s. 211; 1985 a. 83; 1989 a. 64, 139, 359; 1991 a. 85; 1993 a. 81, 492; 1995 a. 27, 117; 1997 a. 38, 191, 237; 1999 a. 9; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 180, 206; 2011 a. 183; 2013 a. 36.

8 **SECTION 85.** 102.17 (1) (b) of the statutes is amended to read:

9 102.17 (1) (b) In any dispute or controversy pending before the department  
10 division, the department division may direct the parties to appear before an  
11 examiner for a conference to consider the clarification of issues, the joining of  
12 additional parties, the necessity or desirability of amendments to the pleadings, the  
13 obtaining of admissions of fact or of documents, records, reports, and bills ~~which~~ that  
14 may avoid unnecessary proof, and such other matters as may aid in disposition of the  
15 dispute or controversy. After ~~this~~ that conference the department division may issue  
16 an order requiring disclosure or exchange of any information or written material  
17 ~~which it~~ that the division considers material to the timely and orderly disposition of  
18 the dispute or controversy. If a party fails to disclose or exchange that information  
19 within the time stated in the order, the department division may issue an order  
20 dismissing the claim without prejudice or excluding evidence or testimony relating  
21 to the information or written material. The department division shall provide each  
22 party with a copy of any order issued under this paragraph.

**History:** 1971 c. 148; 1971 c. 213 s. 5; 1973 c. 150, 282; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1975 c. 147 ss. 20, 54; 1975 c. 199, 200; 1977 c. 29, 195, 273; 1979 c. 278; 1981 c. 92, 314; 1981 c. 317 s. 2202; 1981 c. 380; 1981 c. 391 s. 211; 1985 a. 83; 1989 a. 64, 139, 359; 1991 a. 85; 1993 a. 81, 492; 1995 a. 27, 117; 1997 a. 38, 191, 237; 1999 a. 9; 2001 a. 37; 2003 a. 144; 2005 a. 172; 2007 a. 185; 2009 a. 180, 206; 2011 a. 183; 2013 a. 36.