



State of Wisconsin  
2015 - 2016 LEGISLATURE

(IN 1128)

DRAFT

P3

LRB-0610/BA

GMM:kjfrs

RMR

Stays

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

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

do NOT go

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.

Under current law, DWD performs certain 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 (reasonableness of fees), and adjudicating disputes over the necessity of treatment provided to an injured employee (necessity of treatment). This bill transfers the adjudicatory

functions of DWD relating to disputed worker's compensation claims to the Division of Hearings and Appeals in DOA (DHA) and the adjudicatory functions of DWD relating to the reasonableness of fees and the necessity of treatment to OCI. The bill also permits DHA to record testimony by electronic means rather than by a stenographer and to provide notices by electronic delivery in addition to providing notices by mail.

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

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

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.

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.

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

1           **15.737** (title) **Same; councils.**

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

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

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

10          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.

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

12          20.145 (6) (ga) *Auxiliary services.* All moneys received from fees collected  
13 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.

14          **SECTION 7.** 20.145 (6) (gb) of the statutes is created to read:

15          20.145 (6) (gb) *Local agreements.* All moneys received through contracts or  
16 financial agreements for provision of worker's compensation services to local units  
17 of government or local organizations, for the purpose of providing those services.

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

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

19          20.145 (6) (ka) *Interagency and intra-agency agreements.* All moneys received  
20 through contracts or financial agreements from other state agencies for the provision  
21 of worker's compensation services to those state agencies and all moneys received by

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the office from the office for the provision of those services to the office, ~~except moneys~~

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~~appropriated under par. (kc),~~ for the purpose of providing those services.

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

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~~SECTION 9. 20.145 (6) (kc) of the statutes is created to read:~~

4

~~20.145 (6) (kc) *Administrative services.* The amounts in the schedule for administrative and support services for worker's compensation programs administered by the office. All moneys received by the office from the office as payment for administrative and support services for those programs shall be credited to this appropriation account.~~

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

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SECTION 10. 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.

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SECTION 11. 20.445 (1) (ga) of the statutes is amended to read:

11

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

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SECTION 12. 20.445 (1) (p) of the statutes is renumbered 20.145 (6) (p) and amended to read:

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16

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

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

19

~~SECTION 13. 20.445 (1) (ra) of the statutes is renumbered 20.145 (6) (ra) and amended to read:~~

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1 ~~20.145 (6) (ra) *Worker's compensation operations fund; administration.* From~~  
 2 ~~the worker's compensation operations fund, the amounts in the schedule for the~~  
 3 ~~administration of the worker's compensation program by the department office and~~  
 4 ~~for transfer to the appropriation accounts under par. (rp) and sub. (2) (ra). All moneys~~  
 5 ~~received under ss. 102.28 (2) (b) and 102.75 shall be credited to this appropriation~~  
 6 ~~account. From this appropriation, an amount not to exceed \$5,000 may be expended~~  
 7 ~~each fiscal year for payment of expenses for travel and research by the council on~~  
 8 ~~worker's compensation, the amount in the schedule under par. (rp) shall be~~  
 9 ~~transferred to the appropriation account under par. (rp), and the amount in the~~  
 10 ~~schedule under sub. (2) (ra) shall be transferred to the appropriation account under~~  
 11 ~~sub. (2) (ra).~~

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

13 **SECTION 14.** 20.445 (1) (rb) of the statutes is renumbered 20.145 (6) (rb).

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

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

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

17 **SECTION 16.** 20.445 (1) (s) of the statutes is renumbered 20.145 (6) (s).

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

19 **SECTION 17.** 20.445 (1) (sm) of the statutes is renumbered 20.145 (6) (sm) and  
 20 amended to read:

20.145 (6) (sm) *Uninsured employers fund; payments.* From the uninsured  
 employers fund, a sum sufficient to make the payments under s. 102.81 (1) and to  
 obtain reinsurance under s. 102.81 (2). No moneys may be expended or encumbered  
 under this paragraph until the first day of the first July beginning after the day that

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1 the ~~secretary of workforce development~~ commissioner of insurance files the  
2 certificate under s. 102.80 (3) (a).

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

3 **SECTION 18.** 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.

4 ~~**SECTION 19.** 20.505 (4) (kp) of the statutes is amended to read:~~

~~5 20.505 (4) (kp) *Hearings and appeals fees.* The amounts in the schedule for  
6 hearings and appeals services to the office of the commissioner of insurance under  
7 s. 227.43 (1) (bm), the department of health services under s. 227.43 (1) (bu), the  
8 department of children and families under s. 227.43 (1) (by), the department of public  
9 instruction under s. 227.43 (1) (bd), and to all agencies under s. 227.43 (1m). All  
10 moneys received from the fees charged under s. 227.43 (3) (bm), (br), (c), (d), and (e)  
11 shall be credited to this appropriation account.~~

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12 **SECTION 20.** 40.63 (6) of the statutes is amended to read:

13 40.63 (6) Any person entitled to payments under this section who may  
14 otherwise be entitled to payments under s. 66.191, 1981 stats., may file with the  
15 department and the ~~department of workforce development~~ office of the commissioner  
16 of insurance a written election to waive payments due under this section and accept  
17 in lieu of the payments under this section payments as may be payable under s.  
18 66.191, 1981 stats., but no person may receive payments under both s. 66.191, 1981  
19 stats., and this section. However any person otherwise entitled to payments under  
20 this section may receive the payments, without waiver of any rights under s. 66.191,  
21 1981 stats., during any period as may be required for a determination of the person's  
22 rights under s. 66.191, 1981 stats. Upon the final adjudication of the person's rights

1 under s. 66.191, 1981 stats., if waiver is filed under this section, the person shall  
2 immediately cease to be entitled to payments under this section and the system shall  
3 be reimbursed from the award made under s. 66.191, 1981 stats., for all payments  
4 made under this section.

5 **SECTION 21.** 40.65 (2) (a) of the statutes is amended to read:

6 40.65 (2) (a) This paragraph applies to participants who first apply for benefits  
7 before May 3, 1988. Any person desiring a benefit under this section must apply to  
8 ~~the department of workforce development~~ office of the commissioner of insurance,  
9 which department office shall determine whether the applicant is eligible to receive  
10 the benefit and the participant's monthly salary. Appeals from the eligibility decision  
11 shall follow the procedures under ss. 102.16 to 102.26. If it is determined that an  
12 applicant is eligible, the ~~department of workforce development~~ office of the  
13 commissioner of insurance shall notify the department of ~~employee trust funds~~ and  
14 shall certify the applicant's monthly salary. If at the time of application for benefits  
15 an applicant is still employed in any capacity by the employer in whose employ the  
16 disabling injury occurred or disease was contracted, that continued employment  
17 shall not affect that applicant's right to have his or her eligibility to receive those  
18 benefits determined in proceedings before the ~~department of workforce development~~  
19 division of hearings and appeals in the department of administration or the labor and  
20 industry review commission or in proceedings in the courts. The ~~department of~~  
21 ~~workforce development~~ office of the commissioner of insurance may promulgate  
22 rules needed to administer this paragraph.

23 **SECTION 22.** 40.65 (2) (b) 3. of the statutes is amended to read:

24 40.65 (2) (b) 3. The department shall determine whether or not the applicant  
25 is eligible for benefits under this section on the basis of the evidence in subd. 2. An

1 applicant may appeal a determination under this subdivision to the ~~department of~~  
2 ~~workforce development~~ division of hearings and appeals in the department of  
3 administration.

4 SECTION 23. 40.65 (2) (b) 4. of the statutes is amended to read:

5 40.65 (2) (b) 4. In hearing an appeal under subd. 3., the ~~department of~~  
6 ~~workforce development~~ division of hearings and appeals in the department of  
7 administration shall follow the procedures under ss. 102.16 to 102.26.

8 SECTION 24. 49.857 (1) (d) 8. of the statutes is amended to read:

9 49.857 (1) (d) 8. A license issued under s. ~~102.17 (1) (e)~~, 104.07 or 105.05.

10 SECTION 25. 49.857 (1) (d) 20. of the statutes is amended to read:

11 49.857 (1) (d) 20. A license issued under s. 102.17 (1) (c), 628.04, 628.92 (1),  
12 632.69 (2), or 633.14 or a temporary license issued under s. 628.09.

13 SECTION 26. 73.0301 (1) (d) 3m. of the statutes is amended to read:

14 73.0301 (1) (d) 3m. A license or certificate issued by the department of  
15 workforce development under s. ~~102.17 (1) (e)~~, 103.275 (2) (b), 103.34 (3) (c), 103.91  
16 (1), 103.92 (3), 104.07 (1) or (2), or 105.13 (1).

17 SECTION 27. 73.0301 (1) (d) 12. of the statutes is amended to read:

18 73.0301 (1) (d) 12. A license issued under s. 102.17 (1) (c), 628.04, 628.92 (1),  
19 632.69 (2), or 633.14, a registration under s. 628.92 (2), or a temporary license issued  
20 under s. 628.09.

21 SECTION 28. 102.01 (2) (a) of the statutes is renumbered 102.01 (2) (af).

22 SECTION 29. 102.01 (2) (ad) of the statutes is created to read:

23 102.01 (2) (ad) “Administrator” means the administrator of the division of  
24 hearings and appeals in the department of administration.

25 SECTION 30. 102.01 (2) (ag) of the statutes is amended to read:



1           102.01 (2) (ag) “Commissioner” means ~~a member of the commission~~ the  
2 commissioner of insurance.

3           **SECTION 31.** 102.01 (2) (ap) of the statutes is repealed.

4           **SECTION 32.** 102.01 (2) (ar) of the statutes is created to read:

5           102.01 (2) (ar) “Division” means the division of hearings and appeals in the  
6 department of administration.

7           **SECTION 33.** 102.01 (2) (bm) of the statutes is amended to read:

8           102.01 (2) (bm) “General order” means ~~such order as~~ an order that applies  
9 generally throughout the state to all persons, employments, places of employment,  
10 or public buildings, or to all persons, employments ~~or~~, places of employment, or public  
11 buildings of a class under the jurisdiction of the ~~department~~ office. All other orders  
12 of the ~~department~~ office shall be considered special orders.

13           **SECTION 34.** 102.01 (2) (dg) of the statutes is created to read:

14           102.01 (2) (dg) “Office” means the office of the commissioner.

15           **SECTION 35.** 102.01 (2) (dm) of the statutes is amended to read:

16           102.01 (2) (dm) “Order” means any decision, rule, regulation, direction,  
17 requirement, or standard of the ~~department~~ office, or any other determination  
18 arrived at or decision made by the ~~department~~ office.

19           **SECTION 36.** 102.01 (2) (em) of the statutes is repealed.

20           **SECTION 37.** 102.05 (1) of the statutes is amended to read:

21           102.05 (1) An employer who has had no employee at any time within a  
22 continuous period of 2 years shall be ~~deemed~~ considered to have effected withdrawal,  
23 which shall be effective on the last day of ~~such~~ that period. An employer who has not  
24 usually employed 3 employees and who has not paid wages of at least \$500 for  
25 employment in this state in every calendar quarter in a calendar year may file a

1 withdrawal notice with the ~~department~~ office, which withdrawal shall take effect 30  
2 days after the date of ~~such~~ that filing or at such later date as is specified in the notice.  
3 If an employer who is subject to this chapter only because the employer elected to  
4 become subject to this chapter under sub. (2) cancels or terminates his or her contract  
5 for the insurance of compensation under this chapter, that employer is deemed  
6 considered to have effected withdrawal, which shall be effective on the day after the  
7 contract is canceled or terminated.

8 **SECTION 38.** 102.05 (3) of the statutes is amended to read:

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

19 **SECTION 39.** 102.06 of the statutes is amended to read:

20 **102.06 Joint liability of employer and contractor.** An employer shall be  
21 liable for compensation to an employee of a contractor or subcontractor under the  
22 employer who is not subject to this chapter, or who has not complied with the  
23 conditions of s. 102.28 (2) in any case ~~where such~~ in which the employer would have  
24 been liable for compensation if ~~such~~ the employee had been working directly for the  
25 employer, including also work in the erection, alteration, repair, or demolition of

1 improvements or of fixtures upon premises of ~~such the~~ employer ~~which that~~ are used  
2 or to be used in the operations of ~~such the~~ employer. The contractor or subcontractor,  
3 if subject to this chapter, shall also be liable for ~~such that~~ compensation, but the  
4 employee shall not recover compensation for the same injury from more than one  
5 party. ~~The~~ An employer who becomes liable for and who pays ~~such that~~ compensation  
6 may recover the same amount of compensation paid from ~~such that~~ contractor, or  
7 subcontractor, or from any other employer for whom the employee was working at  
8 the time of the injury, if ~~such that~~ contractor, subcontractor, or other employer was  
9 an employer, as defined in s. 102.04. This section does not apply to injuries occurring  
10 on or after the first day of the first July beginning after the day ~~that~~ on which the  
11 secretary commissioner files the certificate under s. 102.80 (3) (a), except that if the  
12 secretary commissioner files the certificate under s. 102.80 (3) (ag) this section does  
13 apply to claims for compensation filed on or after the date specified in that certificate.

14 **SECTION 40.** 102.07 (1) (a) of the statutes is amended to read:

15 102.07 (1) (a) Every person, including all officials, in the service of the state,  
16 or of any municipality ~~therein~~ in this state, whether elected or under any  
17 appointment, or contract of hire, express or implied, and whether a resident of this  
18 state or employed or injured within or without the state. The state ~~and~~ or any  
19 municipality may require a bond from a contractor to protect the state or  
20 municipality against compensation to employees of ~~such the~~ contractor or employees  
21 of a subcontractor under the contractor. This paragraph does not apply beginning  
22 on the first day of the first July beginning after the day ~~that~~ on which the secretary  
23 commissioner files the certificate under s. 102.80 (3) (a), except that if the secretary  
24 commissioner files the certificate under s. 102.80 (3) (ag) this paragraph does apply  
25 to claims for compensation filed on or after the date specified in that certificate.

1           **SECTION 41.** 102.07 (1) (b) of the statutes is amended to read:

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

10           **SECTION 42.** 102.07 (7) (b) of the statutes is amended to read:

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

17           **SECTION 43.** 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.

22           **SECTION 44.** 102.07 (11) of the statutes is amended to read:

23           102.07 (11) The ~~department~~ office may by rule prescribe classes of volunteer  
24 workers who may, at the election of the person for whom the service is being  
25 performed, be deemed considered to be employees for the purposes of this chapter.

1 Election shall be by endorsement upon ~~the~~ that person's worker's compensation  
2 insurance policy with written notice to the department office. In the case of an  
3 employer that is exempt from insuring liability, election shall be by written notice to  
4 the department office. The department office shall by rule prescribe the means and  
5 manner in which notice of election by the employer is to be provided to the volunteer  
6 workers.

7 **SECTION 45.** 102.076 (2) of the statutes is amended to read:

8 102.076 (2) If a corporation has not more than 10 stockholders, not more than  
9 2 officers, and no other employees and is not otherwise required under this chapter  
10 to have a policy of worker's compensation insurance, an officer of that corporation  
11 who elects not to be subject to this chapter shall file a notice of that election with the  
12 department office on a form approved by the department office. The election is  
13 effective until the officer rescinds it the election by notifying the department office  
14 in writing.

15 ~~**SECTION 46.** 102.077 (1) of the statutes is amended to read:~~

16 ~~102.077 (1) A school district or a private school, as defined in s. 115.001 (3r),~~  
17 ~~may elect to name as its employee for purposes of this chapter a student described~~  
18 ~~in s. 102.07 (12m) by an endorsement on its policy of worker's compensation~~  
19 ~~insurance or, if the school district or private school is exempt from the duty to insure~~  
20 ~~under s. 102.28 (2), by filing a declaration with the department office in the manner~~  
21 ~~provided in s. 102.31 (2) (a) naming the student as an employee of the school district~~  
22 ~~or private school for purposes of this chapter. A declaration under this subsection~~  
23 ~~shall list the name of the student to be covered under this chapter, the name and~~  
24 ~~address of the employer that is providing the work training or work experience for~~

1 ~~that student, and the title, if any, of the work training, work experience, or work~~  
2 ~~study program in which the student is participating.~~

3 **SECTION 47.** 102.077 (2) of the statutes is amended to read:

4 102.077 (2) A school district or private school may revoke a declaration under  
5 sub. (1) by providing written notice to the department office in the manner provided  
6 in s. 102.31 (2) (a), ~~the student, and the employer who is providing the work training~~  
7 ~~or work experience for that student. A revocation under this subsection is effective~~  
8 ~~30 days after the department office receives notice of that revocation.~~

9 **SECTION 48.** 102.08 of the statutes is amended to read:

10 **102.08 Administration for state employees.** The department of  
11 administration has responsibility for the timely delivery of benefits payable under  
12 this chapter to employees of the state and their dependents and other functions of  
13 the state as an employer under this chapter. The department of administration may  
14 delegate ~~this authority~~ that responsibility to employing departments and agencies  
15 and require such reports as it ~~deems~~ considers necessary to accomplish this purpose.  
16 The department of administration or its delegated authorities shall file with the  
17 ~~department of workforce development office~~ the reports that are required of all  
18 employers. The ~~department of workforce development office~~ shall monitor the  
19 delivery of benefits payable under this chapter to state employees and their  
20 dependents and shall consult with and advise the department of administration in  
21 the manner and at the times necessary to ensure prompt and proper delivery of those  
22 benefits.

23 **SECTION 49.** 102.11 (1) (am) 1. of the statutes is amended to read:

24 102.11 (1) (am) 1. The employee is a member of a class of employees that does  
25 the same type of work at the same location and, in the case of an employee in the

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1 service of the state, is employed in the same office, department, independent agency,  
2 authority, institution, association, society, or other body in state government or, if the  
3 ~~department office~~ determines appropriate, in the same subunit of an office,  
4 department, independent agency, authority, institution, association, society, or other  
5 body in state government.

6 **SECTION 50.** 102.12 of the statutes is amended to read:

7 **102.12 Notice of injury, exception, laches.** No claim for compensation may  
8 be maintained unless, within 30 days after the occurrence of the injury or within 30  
9 days after the employee knew or ought to have known the nature of his or her  
10 disability and its relation to the employment, actual notice was received by the  
11 employer or by an officer, manager, or designated representative of an employer. If  
12 no representative has been designated by posters placed in one or more conspicuous  
13 places where notices to employees are customarily posted, then notice received by  
14 any superior is sufficient. Absence of notice does not bar recovery if it is found that  
15 the employer was not misled ~~thereby by that absence~~. Regardless of whether notice  
16 was received, if no payment of compensation, other than medical treatment or burial  
17 expense, is made, ~~and~~ and if no application is filed with the ~~department office~~ within  
18 2 years ~~from~~ after the date of the injury or death, ~~or from~~ or the date the employee  
19 or his or her dependent knew or ought to have known the nature of the disability and  
20 its relation to the employment, the right to compensation ~~therefor~~ for the injury or  
21 death is barred, except that the right to compensation is not barred if the employer  
22 knew or should have known, within the 2-year period, that the employee had  
23 sustained the injury on which the claim is based. Issuance of notice of a hearing on  
24 the ~~department's~~ division's own motion has the same effect for the purposes of this

1 section as the filing of an application. This section does not affect any claim barred  
2 under s. 102.17 (4).

3 **SECTION 51.** 102.125 of the statutes is amended to read:

4 **102.125 Fraudulent claims reporting and investigation.** If an insurer or  
5 self-insured employer has evidence that a claim is false or fraudulent in violation of  
6 s. 943.395 and if the insurer or self-insured employer is satisfied that reporting the  
7 claim to the ~~department~~ office will not impede its ability to defend the claim, the  
8 insurer or self-insured employer shall report the claim to the ~~department~~ office. The  
9 ~~department~~ office may require an insurer or self-insured employer to investigate an  
10 allegedly false or fraudulent claim and may provide the insurer or self-insured  
11 employer with any records of the ~~department~~ office relating to that claim. An insurer  
12 or self-insured employer that investigates a claim under this section shall report on  
13 the results of that investigation to the ~~department~~ office. If based on the  
14 investigation the ~~department~~ office has a reasonable basis to believe that a violation  
15 of s. 943.395 has occurred, the ~~department~~ office shall refer the results of the  
16 investigation to the district attorney of the county in which the alleged violation  
17 occurred for prosecution.

18 **SECTION 52.** 102.13 (1) (c) of the statutes is amended to read:

19 102.13 (1) (c) So long as the employee, after a written request of the employer  
20 or insurer ~~which~~ that complies with par. (b), refuses to submit to or in any way  
21 obstructs the examination, the employee's right to begin or maintain any proceeding  
22 for the collection of compensation is suspended, except as provided in sub. (4). If the  
23 employee refuses to submit to the examination after direction by the ~~department~~  
24 division or an examiner, or in any way obstructs the examination, the employee's



1 right to the weekly indemnity ~~which~~ that accrues and becomes payable during the  
2 period of that refusal or obstruction, is barred, except as provided in sub. (4).

3 **SECTION 53.** 102.13 (1) (d) 2. of the statutes is amended to read:

4 102.13 (1) (d) 2. Any physician, chiropractor, psychologist, dentist, physician  
5 assistant, advanced practice nurse prescriber, or podiatrist who attended a worker's  
6 compensation claimant for any condition or complaint reasonably related to the  
7 condition for which the claimant claims compensation may be required to testify  
8 before the ~~department~~ division when the ~~department~~ division so directs.

9 **SECTION 54.** 102.13 (1) (d) 3. of the statutes is amended to read:

10 102.13 (1) (d) 3. Notwithstanding any statutory provisions except par. (e), any  
11 physician, chiropractor, psychologist, dentist, physician assistant, advanced  
12 practice nurse prescriber, or podiatrist attending a worker's compensation claimant  
13 for any condition or complaint reasonably related to the condition for which the  
14 claimant claims compensation may furnish to the employee, employer, worker's  
15 compensation insurer, ~~or the department~~ the office, or the division information and  
16 reports relative to a compensation claim.

17 **SECTION 55.** 102.13 (1) (f) of the statutes is amended to read:

18 102.13 (1) (f) If an employee claims compensation under s. 102.81 (1), the  
19 ~~department~~ office may require the employee to submit to physical or vocational  
20 examinations under this subsection.

21 **SECTION 56.** 102.13 (2) (a) of the statutes is amended to read:

22 102.13 (2) (a) An employee who reports an injury alleged to be work-related  
23 or who files an application for hearing waives any physician-patient,  
24 psychologist-patient or chiropractor-patient privilege with respect to any condition  
25 or complaint reasonably related to the condition for which the employee claims

1 compensation. Notwithstanding ss. 51.30 and 146.82 and any other law, any  
2 physician, chiropractor, psychologist, dentist, podiatrist, physician assistant,  
3 advanced practice nurse prescriber, hospital, or health care provider shall, within a  
4 reasonable time after written request by the employee, employer, worker's  
5 compensation insurer, ~~or department office, or division,~~ or its representative, provide  
6 that person with any information or written material reasonably related to any  
7 injury for which the employee claims compensation.

8 **SECTION 57.** 102.13 (2) (c) of the statutes is amended to read:

9 102.13 (2) (c) Except as provided in this paragraph, if an injured employee has  
10 a period of temporary disability that exceeds 3 weeks or a permanent disability, if the  
11 injured employee has undergone surgery to treat his or her injury, other than surgery  
12 to correct a hernia, or if the injured employee sustained an eye injury requiring  
13 medical treatment on 3 or more occasions off the employer's premises, the  
14 ~~department office~~ may by rule require the insurer or self-insured employer to submit  
15 to the ~~department office~~ a final report of the employee's treating practitioner. The  
16 ~~department office~~ may not require an insurer or self-insured employer to submit to  
17 the ~~department office~~ a final report of an employee's treating practitioner when the  
18 insurer or self-insured employer denies the employee's claim for compensation and  
19 the employee does not contest that denial. A treating practitioner may charge a  
20 reasonable fee for the completion of the final report, but may not require prepayment  
21 of that fee. An insurer or self-insured employer that disputes the reasonableness of  
22 a fee charged for the completion of a treatment practitioner's final report may submit  
23 that dispute to the ~~department office~~ for resolution under s. 102.16 (2).

24 **SECTION 58.** 102.13 (3) of the statutes is amended to read:

1           102.13 (3) If 2 or more physicians, chiropractors, psychologists, dentists or  
2           podiatrists disagree as to the extent of an injured employee's temporary disability,  
3           the end of an employee's healing period, an employee's ability to return to work at  
4           suitable available employment, or the necessity for further treatment or for a  
5           particular type of treatment, the ~~department~~ division may appoint another  
6           physician, chiropractor, psychologist, dentist or podiatrist to examine the employee  
7           and render an opinion as soon as possible. The ~~department~~ division shall promptly  
8           notify the parties of this appointment. If the employee has not returned to work,  
9           payment for temporary disability shall continue until the ~~department~~ division  
10          receives the opinion. The employer or its insurance carrier or both shall pay for the  
11          examination and opinion. The employer or insurance carrier or both shall receive  
12          appropriate credit for any overpayment to the employee determined by the  
13          ~~department~~ division after receipt of the opinion.

14           **SECTION 59.** 102.13 (4) of the statutes is amended to read:

15           102.13 (4) ~~The rights of employees~~ right of an employee to begin or maintain  
16          proceedings for the collection of compensation and to receive weekly indemnities  
17          ~~which that~~ accrue and become payable shall not be suspended or barred under sub.  
18          (1) when ~~an~~ the employee refuses to submit to a physical examination, upon the  
19          request of the employer or worker's compensation insurer or at the direction of the  
20          ~~department~~ division or an examiner, ~~which that~~ would require the employee to travel  
21          a distance of 100 miles or more from his or her place of residence, unless the employee  
22          has claimed compensation for treatment from a practitioner whose office is located  
23          100 miles or more from the employee's place of residence or the ~~department~~ division  
24          or examiner determines that any other circumstances warrant the examination. If  
25          the employee has claimed compensation for treatment from a practitioner whose

1 office is located 100 miles or more from the employee's place of residence, the  
2 employer or insurer may request, or the department division or an examiner may  
3 direct, the employee to submit to a physical examination in the area where the  
4 employee's treatment practitioner is located.

5 **SECTION 60.** 102.13 (5) of the statutes is amended to read:

6 102.13 (5) The department division may refuse to receive testimony as to  
7 conditions determined from an autopsy if it appears that the party offering the  
8 testimony had procured the autopsy and had failed to make reasonable effort to  
9 notify at least one party in adverse interest or the department division at least 12  
10 hours before the autopsy of the time and place ~~at which the autopsy~~ would be  
11 performed, or that the autopsy was performed by or at the direction of the coroner  
12 or medical examiner or at the direction of the district attorney for purposes not  
13 authorized by under ch. 979. The department division may withhold findings until  
14 an autopsy is held in accordance with its directions.

15 **SECTION 61.** 102.14 (title) of the statutes is amended to read:

16 **102.14 (title) Jurisdiction of department office; advisory committee.**

17 **SECTION 62.** 102.14 (1) of the statutes is amended to read:

18 102.14 (1) This Except as otherwise provided, this chapter shall be  
19 administered by the department office.

20 **SECTION 63.** 102.14 (2) of the statutes is amended to read:

21 102.14 (2) The council on worker's compensation shall advise the department  
22 office in carrying out the purposes of this chapter. ~~Such council,~~ shall submit its  
23 recommendations with respect to amendments to this chapter to each regular  
24 session of the legislature, and shall report its views upon any pending bill relating  
25 to this chapter to the proper legislative committee. At the request of the chairpersons

1 of the senate and assembly committees on labor, the ~~department~~ office shall schedule  
2 a meeting of the council with the members of the senate and assembly committees  
3 on labor to review and discuss matters of legislative concern arising under this  
4 chapter.

5 **SECTION 64.** 102.15 (1) of the statutes is amended to read:

6 102.15 (1) Subject to this chapter, the ~~department~~ division may adopt its own  
7 rules of procedure and may change the same from time to time.

8 **SECTION 65.** 102.15 (2) of the statutes is amended to read:

9 102.15 (2) The ~~department~~ division may provide by rule the conditions under  
10 which transcripts or electronic recordings of testimony and proceedings shall be  
11 furnished.

12 **SECTION 66.** 102.15 (3) of the statutes is amended to read:

13 102.15 (3) All testimony at any hearing held under this chapter shall be ~~taken~~  
14 ~~down by a stenographic reporter, except that in case of an emergency, as determined~~  
15 ~~by recorded by electronic means. That testimony need not be transcribed, unless the~~  
16 ~~examiner conducting the hearing, testimony may be recorded by a recording machine~~  
17 orders otherwise. The division shall furnish a copy of an electronic recording made  
18 under this subsection or a transcript ordered under this subsection to the parties  
19 upon payment of any fee required by the division by rule.

20 **SECTION 67.** 102.16 (1) of the statutes is amended to read:

21 102.16 (1) Any controversy concerning compensation or a violation of sub. (3),  
22 including ~~controversies~~ a controversy in which the state may be a party, shall be  
23 submitted to the ~~department~~ division in the manner and with the effect provided in  
24 this chapter. ~~Every compromise of any claim for compensation may be reviewed and~~  
25 ~~set aside, modified or confirmed by the department within~~ Within one year from after

1 the date ~~the~~ on which a compromise of any claim for compensation is filed with the  
2 department, ~~or from~~ division or the date on which an award has been entered, ~~based~~  
3 ~~thereon, or the department may take that action~~ based on a compromise, the  
4 division, on its own motion or upon application made within one year that period,  
5 may review and set aside, modify, or confirm the compromise. Unless the word  
6 “compromise” appears in a stipulation of settlement, the settlement shall not be  
7 deemed considered a compromise, and further claim is not barred except as provided  
8 in s. 102.17 (4) regardless of whether an award is made. The employer, insurer, or  
9 dependent under s. 102.51 (5) shall have equal rights with the employee to have  
10 ~~review of a compromise or any other stipulation of settlement~~ reviewed under this  
11 subsection. Upon petition filed with the ~~department~~ division, the ~~department~~  
12 division may set aside the award or otherwise determine the rights of the parties.

13 **SECTION 68.** 102.16 (1m) (a) of the statutes is amended to read:

14 102.16 (1m) (a) If an insurer or self-insured employer concedes by compromise  
15 under sub. (1) or stipulation under s. 102.18 (1) (a) that the insurer or self-insured  
16 employer is liable under this chapter for any health services provided to an injured  
17 employee by a health service provider, but disputes the reasonableness of the fee  
18 charged by the health service provider, the ~~department~~ division may include in its  
19 order confirming the compromise or stipulation a determination made by the office  
20 under sub. (2) as to the reasonableness of the fee or ~~the department, if such a~~  
21 determination has not yet been made, the division may notify, or direct the insurer  
22 or self-insured employer to notify, the health service provider under sub. (2) (b) that  
23 the reasonableness of the fee is in dispute. ~~The department shall deny payment of~~  
24 ~~a health service fee that the department determines under this paragraph to be~~  
25 ~~unreasonable. A health service provider and an insurer or self-insured employer~~

1 ~~that are parties to a fee dispute under this paragraph are bound by the department's~~  
2 ~~determination under this paragraph on the reasonableness of the disputed fee,~~  
3 ~~unless that determination is set aside, reversed, or modified by the department~~  
4 ~~under sub. (2) (f) or is set aside on judicial review as provided in sub. (2) (f).~~

5 **SECTION 69.** 102.16 (1m) (b) of the statutes is amended to read:

6 102.16 (1m) (b) If an insurer or self-insured employer concedes by compromise  
7 under sub. (1) or stipulation under s. 102.18 (1) (a) that the insurer or self-insured  
8 employer is liable under this chapter for any treatment provided to an injured  
9 employee by a health service provider, but disputes the necessity of the treatment,  
10 the department division may include in its order confirming the compromise or  
11 stipulation a determination made by the office under sub. (2m) as to the necessity of  
12 the treatment or ~~the department, if such a determination has not yet been made, the~~  
13 division may notify, or direct the insurer or self-insured employer to notify, the  
14 health service provider under sub. (2m) (b) that the necessity of the treatment is in  
15 dispute. ~~Before determining under this paragraph the necessity of treatment~~  
16 ~~provided to an injured employee, the department may, but is not required to, obtain~~  
17 ~~the opinion of an expert selected by the department who is qualified as provided in~~  
18 ~~sub. (2m) (e). The standards promulgated under sub. (2m) (g) shall be applied by an~~  
19 ~~expert and by the department in rendering an opinion as to, and in determining,~~  
20 ~~necessity of treatment under this paragraph. In cases in which no standards~~  
21 ~~promulgated under sub. (2m) (g) apply, the department shall find the facts regarding~~  
22 ~~necessity of treatment. The department shall deny payment for any treatment that~~  
23 ~~the department determines under this paragraph to be unnecessary. A health~~  
24 ~~service provider and an insurer or self-insured employer that are parties to a dispute~~  
25 ~~under this paragraph over the necessity of treatment are bound by the department's~~

1 ~~determination under this paragraph on the necessity of the disputed treatment,~~  
2 ~~unless that determination is set aside, reversed, or modified by the department~~  
3 ~~under sub. (2m) (e) or is set aside on judicial review as provided in sub. (2m) (e).~~

4 **SECTION 70.** 102.16 (1m) (c) of the statutes is amended to read:

5 102.16 (1m) (c) 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 the cost of a prescription drug dispensed  
8 under s. 102.425 (2) for outpatient use by an injured employee, but disputes the  
9 reasonableness of the amount charged for the prescription drug, the department  
10 division may include in its order confirming the compromise or stipulation a  
11 determination made by the office under s. 102.425 (4m) as to the reasonableness of  
12 the prescription drug charge or the department, if such a determination has not yet  
13 been made, the division may notify, or direct the insurer or self-insured employer to  
14 notify, the pharmacist or practitioner dispensing the prescription drug under s.  
15 102.425 (4m) (b) that the reasonableness of the prescription drug charge is in  
16 dispute. ~~The department shall deny payment of a prescription drug charge that the~~  
17 ~~department determines under this paragraph to be unreasonable. A pharmacist or~~  
18 ~~practitioner and an insurer or self-insured employer that are parties to a dispute~~  
19 ~~under this paragraph over the reasonableness of a prescription drug charge are~~  
20 ~~bound by the department's determination under this paragraph on the~~  
21 ~~reasonableness of the disputed prescription drug charge, unless that determination~~  
22 ~~is set aside, reversed, or modified by the department under s. 102.425 (4m) (e) or is~~  
23 ~~set aside on judicial review as provided in s. 102.425 (4m) (e).~~

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



1           102.16 (2) (a) Except as provided in this paragraph, the ~~department~~ office has  
2 jurisdiction ~~under this subsection, sub. (1m) (a), and s. 102.17~~ to resolve a dispute  
3 between a health service provider and an insurer or self-insured employer over the  
4 reasonableness of a fee charged by the health service provider for health services  
5 provided to an injured employee who claims benefits under this chapter. A health  
6 service provider may not submit a fee dispute to the ~~department~~ office under this  
7 subsection before all treatment by the health service provider of the employee's  
8 injury has ended if the amount in controversy, whether based on a single charge or  
9 a combination of charges for one or more days of service, is less than \$25. After all  
10 treatment by a health service provider of an employee's injury has ended, the health  
11 service provider may submit any fee dispute to the ~~department~~ office, regardless of  
12 the amount in controversy. The ~~department~~ office shall deny payment of a health  
13 service fee that the ~~department~~ office determines under this subsection to be  
14 unreasonable.

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

16           102.16 (2) (am) A health service provider and an insurer or self-insured  
17 employer that are parties to a fee dispute under this subsection are bound by the  
18 ~~department's~~ office's determination under this subsection on the reasonableness of  
19 the disputed fee, unless that determination is set aside on judicial review as provided  
20 in par. (f).

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

22           102.16 (2) (b) An insurer or self-insured employer that disputes the  
23 reasonableness of a fee charged by a health service provider or the ~~department~~ office  
24 under sub. (1m) (a) or s. 102.18 (1) (bg) 1. shall provide reasonable written notice to  
25 the health service provider that the fee is being disputed. After receiving reasonable

1 written notice under this paragraph or under sub. (1m) (a) or s. 102.18 (1) (bg) 1. that  
2 a health service fee is being disputed, a health service provider may not collect the  
3 disputed fee from, or bring an action for collection of the disputed fee against, the  
4 employee who received the services for which the fee was charged.

5 **SECTION 74.** 102.16 (2) (c) of the statutes is amended to read:

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

17 **SECTION 75.** 102.16 (2) (d) of the statutes is amended to read:

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

1 provided in 2011 Wisconsin Act 183, section 30 (2) (b), the department office 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 office under par. (h),  
6 unless the health service provider proves to the satisfaction of the department office  
7 that a higher fee is justified because the service provided in the disputed case was  
8 more difficult or more complicated to provide than in the usual case.

9 **SECTION 76.** 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 office may use any other information that the  
16 department office considers to be reliable and relevant to the disputed fee to  
17 determine the reasonableness of the disputed fee.

18 **SECTION 77.** 102.16 (2) (e) 2. of the statutes is amended to read:

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

22 **SECTION 78.** 102.16 (2) (f) of the statutes is amended to read:

23 102.16 (2) (f) Within 30 days after a determination under this subsection, the  
24 department office may set aside, reverse, or modify the determination for any reason  
25 that the department office considers sufficient. Within 60 days after a determination

1 under this subsection, the ~~department~~ office may set aside, reverse, or modify the  
2 determination on grounds of mistake. A health service provider, insurer, or  
3 self-insured employer that is aggrieved by a determination of the ~~department~~ office  
4 under this subsection may seek judicial review of that determination in the same  
5 manner that compensation claims are reviewed under s. 102.23.

6 **SECTION 79.** 102.16 (2) (h) of the statutes is amended to read:

7 102.16 (2) (h) The ~~department~~ office shall promulgate rules establishing  
8 procedures and requirements for the fee dispute resolution process under this  
9 subsection, including rules specifying the standards that health service fee  
10 databases must meet for certification under this paragraph. Using those standards,  
11 the ~~department~~ office shall certify databases of the health service fees that various  
12 health service providers charge. In certifying databases under this paragraph, the  
13 ~~department~~ office shall certify at least one database of hospital fees for radiology  
14 services, including diagnostic and interventional radiology, diagnostic ultrasound,  
15 and nuclear medicine.

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

17 102.16 (2m) (a) Except as provided in this paragraph, the ~~department~~ office  
18 has jurisdiction ~~under this subsection, sub. (1m) (b), and s. 102.17~~ to resolve a dispute  
19 between a health service provider and an insurer or self-insured employer over the  
20 necessity of treatment provided for an injured employee who claims benefits under  
21 this chapter. A health service provider may not submit a dispute over necessity of  
22 treatment to the ~~department~~ office under this subsection before all treatment by the  
23 health service provider of the employee's injury has ended if the amount in  
24 controversy, whether based on a single charge or a combination of charges for one or  
25 more days of service, is less than \$25. After all treatment by a health service provider

1 of an employee's injury has ended, the health service provider may submit any  
2 dispute over necessity of treatment to the ~~department~~ office, regardless of the  
3 amount in controversy. The ~~department~~ office shall deny payment for any treatment  
4 that the ~~department~~ office determines under this subsection to be unnecessary.

5 **SECTION 81.** 102.16 (2m) (am) of the statutes is amended to read:

6 102.16 (2m) (am) A health service provider and an insurer or self-insured  
7 employer that are parties to a dispute under this subsection over the necessity of  
8 treatment are bound by the ~~department's~~ office's determination under this  
9 subsection on the necessity of the disputed treatment, unless that determination is  
10 set aside on judicial review as provided in par. (e).

11 **SECTION 82.** 102.16 (2m) (b) of the statutes is amended to read:

12 102.16 (2m) (b) An insurer or self-insured employer that disputes the  
13 necessity of treatment provided by a health service provider or the ~~department~~  
14 division under sub. (1m) (b) or s. 102.18 (1) (bg) 2. shall provide reasonable written  
15 notice to the health service provider that the necessity of that treatment is being  
16 disputed. After receiving reasonable written notice under this paragraph or under  
17 sub. (1m) (b) or s. 102.18 (1) (bg) 2. that the necessity of treatment is being disputed,  
18 a health service provider may not collect a fee for that disputed treatment from, or  
19 bring an action for collection of the fee for that disputed treatment against, the  
20 employee who received the treatment.

21 **SECTION 83.** 102.16 (2m) (c) of the statutes is amended to read:

22 102.16 (2m) (c) Before determining under this subsection the necessity of  
23 treatment provided for an injured employee who claims benefits under this chapter,  
24 the ~~department~~ office shall obtain a written opinion on the necessity of the treatment  
25 in dispute from an expert selected by the ~~department~~ office. To qualify as an expert,

1 a person must be licensed to practice the same health care profession as the  
2 individual health service provider whose treatment is under review and must either  
3 be performing services for an impartial health care services review organization or  
4 be a member of an independent panel of experts established by the department office  
5 under par. (f). The standards promulgated under par. (g) shall be applied by an  
6 expert and by the department office in rendering an opinion as to, and in  
7 determining, necessity of treatment under this paragraph. In cases in which no  
8 standards promulgated under sub. (2m) (g) apply, the department office shall find  
9 the facts regarding necessity of treatment. The department office shall adopt the  
10 written opinion of the expert as the department's office's determination on the issues  
11 covered in the written opinion, unless the health service provider or the insurer or  
12 self-insured employer present clear and convincing written evidence that the  
13 expert's opinion is in error.

14 **SECTION 84.** 102.16 (2m) (d) of the statutes is amended to read:

15 102.16 (2m) (d) The department office may charge a party to a dispute over the  
16 necessity of treatment provided for an injured employee who claims benefits under  
17 this chapter for the full cost of obtaining the written opinion of the expert under par.  
18 (c). The department office shall charge the insurer or self-insured employer for the  
19 full cost of obtaining the written opinion of the expert for the first dispute that a  
20 particular individual health service provider is involved in, unless the department  
21 office determines that the individual health service provider's position in the dispute  
22 is frivolous or based on fraudulent representations. In a subsequent dispute  
23 involving the same individual health service provider, the department office shall  
24 charge the losing party to the dispute for the full cost of obtaining the written opinion  
25 of the expert.

1           **SECTION 85.** 102.16 (2m) (e) of the statutes is amended to read:

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

10           **SECTION 86.** 102.16 (2m) (f) of the statutes is amended to read:

11           102.16 (2m) (f) The ~~department~~ office may contract with an impartial health  
12 care services review organization to provide the expert opinions required under par.  
13 (c), or establish a panel of experts to provide those opinions, or both. If the  
14 ~~department~~ office establishes a panel of experts to provide the expert opinions  
15 required under par. (c), the ~~department~~ office may pay the members of that panel a  
16 reasonable fee, plus actual and necessary expenses, for their services.

17           **SECTION 87.** 102.16 (2m) (g) of the statutes is amended to read:

18           102.16 (2m) (g) The ~~department~~ office shall promulgate rules establishing  
19 procedures and requirements for the necessity of treatment dispute resolution  
20 process under this subsection, including rules setting the fees under par. (f) and rules  
21 establishing standards for determining the necessity of treatment provided to an  
22 injured employee. Before the ~~department~~ office may amend the rules establishing  
23 those standards, the ~~department~~ office shall establish an advisory committee under  
24 s. 227.13 composed of health care providers providing treatment under s. 102.42 to

1 advise the ~~department office~~ and the council on worker's compensation on amending  
2 those rules.

3 SECTION 88. 102.16 (4) of the statutes is amended to read:

4 102.16 (4) The ~~department~~ division has jurisdiction to pass on any question  
5 arising out of sub. (3) and has jurisdiction to order the employer to reimburse an  
6 employee or other person for any sum deducted from wages or paid by him or her in  
7 violation of that subsection. In addition to the penalty provided in s. 102.85 (1), any  
8 employer violating sub. (3) shall be liable to an injured employee for the reasonable  
9 value of the necessary services rendered to that employee pursuant to under any  
10 arrangement made in violation of sub. (3) without regard to that employee's actual  
11 disbursements for ~~the same~~ those services.

12 SECTION 89. 102.17 (1) (a) 1. of the statutes is amended to read:

13 102.17 (1) (a) 1. Upon the filing with the ~~department~~ division by any party in  
14 interest of any application in writing stating the general nature of any claim as to  
15 which any dispute or controversy may have arisen, the ~~department~~ division shall  
16 electronically deliver or mail a copy of the application to all other parties in interest,  
17 and the insurance carrier shall be considered a party in interest. The ~~department~~  
18 division may bring in additional parties by service of a copy of the application.

19 ~~SECTION 90. 102.17 (1) (a) 2. of the statutes is amended to read:~~

20 ~~102.17 (1) (a) 2. Subject to subd. 3., the ~~department~~ division shall cause notice~~  
21 ~~of hearing on the application to be given to each interested party, by service of that~~  
22 ~~notice on the interested party personally, by electronically delivering a copy of that~~  
23 ~~notice to interested party, or by mailing a copy of that notice to the interested party's~~  
24 ~~last-known address at least 10 days before the hearing. If a party in interest is~~  
25 ~~located without this state, and has no post-office address within this state, the copy~~



~~and professional standards~~

1 of the application and copies of all notices shall be filed with the department of  
 2 financial institutions and shall also be sent by registered or certified mail to the  
 3 last-known post-office address of the party. Such filing and mailing shall constitute  
 4 sufficient service, with the same effect as if served upon a party located within this  
 5 state.

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6 SECTION 91. 102.17 (1) (a) 3. of the statutes is amended to read:

7 102.17 (1) (a) 3. If a party in interest claims that the employer or insurer has  
 8 acted with malice or bad faith, as described in s. 102.18 (1) (b) or (bp), that party shall  
 9 provide written notice stating with reasonable specificity the basis for the claim to  
 10 the employer, the insurer, the office, and the ~~department~~ division before the  
 11 ~~department~~ division schedules a hearing on the claim of malice or bad faith.

12 SECTION 92. 102.17 (1) (a) 4. of the statutes is amended to read:

13 102.17 (1) (a) 4. The hearing may be adjourned in the discretion of the  
 14 ~~department~~ division, and hearings may be held at such places as the ~~department~~  
 15 division designates, within or without the state. The ~~department~~ division may also  
 16 arrange to have hearings held by the commission, officer, or tribunal having  
 17 authority to hear cases arising under the worker's compensation law of any other  
 18 state, of the District of Columbia, or of any territory of the United States, with the  
 19 testimony and proceedings at any such hearing to be reported to the ~~department~~  
 20 division and to be made part of the record in the case. Any evidence so taken shall  
 21 be subject to rebuttal upon final hearing before the ~~department~~ division.

22 SECTION 93. 102.17 (1) (b) of the statutes is amended to read:

23 102.17 (1) (b) In any dispute or controversy pending before the ~~department~~  
 24 division, the ~~department~~ division may direct the parties to appear before an  
 25 examiner for a conference to consider the clarification of issues, the joining of

1 additional parties, the necessity or desirability of amendments to the pleadings, the  
2 obtaining of admissions of fact or of documents, records, reports, and bills ~~which~~ that  
3 may avoid unnecessary proof, and such other matters as may aid in disposition of the  
4 dispute or controversy. After ~~this~~ that conference the ~~department~~ division may issue  
5 an order requiring disclosure or exchange of any information or written material  
6 ~~which it~~ that the division considers material to the timely and orderly disposition of  
7 the dispute or controversy. If a party fails to disclose or exchange that information  
8 within the time stated in the order, the ~~department~~ division may issue an order  
9 dismissing the claim without prejudice or excluding evidence or testimony relating  
10 to the information or written material. The ~~department~~ division shall provide each  
11 party with a copy of any order issued under this paragraph.

12 **SECTION 94.** 102.17 (1) (c) of the statutes is renumbered 102.17 (1) (c) 1. and  
13 amended to read:

14 102.17 (1) (c) 1. Any party shall have the right to be present at any hearing,  
15 in person or by attorney or any other agent, and to present such testimony as may  
16 be pertinent to the controversy before the ~~department~~ division. No person, firm, or  
17 corporation, other than an attorney at law who is licensed to practice law in the state,  
18 may appear on behalf of any party in interest before the ~~department~~ division or any  
19 member or employee of the ~~department~~ division assigned to conduct any hearing,  
20 investigation, or inquiry relative to a claim for compensation or benefits under this  
21 chapter, unless the person is 18 years of age or older, does not have an arrest or  
22 conviction record, subject to ss. 111.321, 111.322 and 111.335, is otherwise qualified,  
23 and has obtained from the ~~department~~ office a license with authorization to appear  
24 in matters or proceedings before the ~~department~~ division. Except as provided under  
25 pars. (cm), (cr), and (ct), the license shall be issued by the ~~department~~ office under

1 rules promulgated by the department office. The department office shall maintain  
2 in its office a current list of persons to whom licenses have been issued.

3 2. Any license issued under subd. 1. may be suspended or revoked by the  
4 department office for fraud or serious misconduct on the part of an agent, any license  
5 may be denied, suspended, nonrenewed, or otherwise withheld by the department  
6 office for failure to pay court-ordered payments as provided in par. (cm) on the part  
7 of an agent, and any license may be denied or revoked if the department of revenue  
8 certifies under s. 73.0301 that the applicant or licensee is liable for delinquent taxes  
9 or if the department of workforce development determines under ~~par. (et)~~ s. 108.227  
10 that the applicant or licensee is liable for delinquent unemployment insurance  
11 contributions. Before suspending or revoking the license of the agent on the grounds  
12 of fraud or misconduct, the department office shall give notice in writing to the agent  
13 of the charges of fraud or misconduct and shall give the agent full opportunity to be  
14 heard in relation to those charges. In denying, suspending, restricting, refusing to  
15 renew, or otherwise withholding a license for failure to pay court-ordered payments  
16 as provided in par. (cm), the department office shall follow the procedure provided  
17 in a memorandum of understanding entered into under s. 49.857. ~~The license and~~  
18 ~~certificate of authority shall, unless~~

19 3. Unless otherwise suspended or revoked, a license issued under subd. 1. shall  
20 be in force from the date of issuance until the June 30 following the date of issuance  
21 and may be renewed by the department office from time to time, but each renewed  
22 license shall expire on the June 30 following the issuance of the renewed license.

23 **SECTION 95.** 102.17 (1) (cg) 1. of the statutes is amended to read:

24 102.17 (1) (cg) 1. Except as provided in subd. 2m., the department office shall  
25 require each applicant for a license under par. (c) who is an individual to provide the

1 ~~department office~~ with the applicant's social security number, and shall require each  
2 applicant for a license under par. (c) who is not an individual to provide the  
3 ~~department office~~ with the applicant's federal employer identification number, when  
4 initially applying for or applying to renew the license.

5 **SECTION 96.** 102.17 (1) (cg) 2. of the statutes is amended to read:

6 102.17 (1) (cg) 2. If an applicant who is an individual fails to provide the  
7 applicant's social security number to the ~~department office~~ or if an applicant who is  
8 not an individual fails to provide the applicant's federal employer identification  
9 number to the ~~department office~~, the ~~department office~~ may not issue or renew a  
10 license under par. (c) to or for the applicant unless the applicant is an individual who  
11 does not have a social security number and the applicant submits a statement made  
12 or subscribed under oath or affirmation as required under subd. 2m.

13 **SECTION 97.** 102.17 (1) (cg) 2m. of the statutes is amended to read:

14 102.17 (1) (cg) 2m. If an applicant who is an individual does not have a social  
15 security number, the applicant shall submit a statement made or subscribed under  
16 oath or affirmation to the ~~department office~~ that the applicant does not have a social  
17 security number. The form of the statement shall be prescribed by the ~~department~~  
18 office. A license issued in reliance upon a false statement submitted under this  
19 subdivision is invalid.

20 **SECTION 98.** 102.17 (1) (cg) 3. of the statutes is amended to read:

21 102.17 (1) (cg) 3. The ~~department of workforce development office~~ may not  
22 disclose any information received under subd. 1. to any person except to the  
23 department of revenue for the sole purpose of requesting certifications under s.  
24 73.0301, the department of workforce development for the sole purpose of requesting

1 certifications under s. 108.227, or the department of children and families for  
2 purposes of administering s. 49.22.

3 **SECTION 99.** 102.17 (1) (cm) of the statutes is amended to read:

4 102.17 (1) (cm) The ~~department of workforce development~~ office shall deny,  
5 suspend, restrict, refuse to renew, or otherwise withhold a license under par. (c) for  
6 failure of the applicant or agent to pay court-ordered payments of child or family  
7 support, maintenance, birth expenses, medical expenses, or other expenses related  
8 to the support of a child or former spouse or for failure of the applicant or agent to  
9 comply, after appropriate notice, with a subpoena or warrant issued by the  
10 department of children and families or a county child support agency under s. 59.53  
11 (5) and related to paternity or child support proceedings, as provided in a  
12 memorandum of understanding entered into under s. 49.857. Notwithstanding par.  
13 (c), an action taken under this paragraph is subject to review only as provided in the  
14 memorandum of understanding entered into under s. 49.857 and not as provided in  
15 ch. 227.

16 **SECTION 100.** 102.17 (1) (cr) of the statutes is amended to read:

17 102.17 (1) (cr) The ~~department~~ office shall deny an application for the issuance  
18 or renewal of a license under par. (c), or revoke such a license already issued, if the  
19 department of revenue certifies under s. 73.0301 that the applicant or licensee is  
20 liable for delinquent taxes. Notwithstanding par. (c), an action taken under this  
21 paragraph is subject to review only as provided under s. 73.0301 (5) and not as  
22 provided in ch. 227.

23 **SECTION 101.** 102.17 (1) (ct) of the statutes is repealed and recreated to read:

24 102.17 (1) (ct) The office shall deny an application for the issuance or renewal  
25 of a license under par. (c), or revoke such a license already issued, if the department

1 of workforce development certifies under s. 108.227 that the applicant or licensee is  
2 liable for delinquent unemployment insurance contributions. Notwithstanding par.  
3 (c), an action taken under this paragraph is subject to review only as provided under  
4 s. 108.227 (5) and not as provided in ch. 227.

5 **SECTION 102.** 102.17 (1) (d) 1. of the statutes is amended to read:

6 102.17 (1) (d) 1. The contents of certified medical and surgical reports by  
7 physicians, podiatrists, surgeons, dentists, psychologists, physician assistants,  
8 advanced practice nurse prescribers, and chiropractors licensed in and practicing in  
9 this state, and of certified reports by experts concerning loss of earning capacity  
10 under s. 102.44 (2) and (3), presented by a party for compensation constitute prima  
11 facie evidence as to the matter contained in those reports, subject to any rules and  
12 limitations the ~~department~~ division prescribes. Certified reports of physicians,  
13 podiatrists, surgeons, dentists, psychologists, physician assistants, advanced  
14 practice nurse prescribers, and chiropractors, wherever licensed and practicing, who  
15 have examined or treated the claimant, and of experts, if the practitioner or expert  
16 consents to being subjected to cross-examination, also constitute prima facie  
17 evidence as to the matter contained in those reports. Certified reports of physicians,  
18 podiatrists, surgeons, psychologists, and chiropractors are admissible as evidence of  
19 the diagnosis, necessity of the treatment, and cause and extent of the disability.  
20 Certified reports by doctors of dentistry, physician assistants, and advanced practice  
21 nurse prescribers are admissible as evidence of the diagnosis and necessity of  
22 treatment but not of the cause and extent of disability. Any physician, podiatrist,  
23 surgeon, dentist, psychologist, chiropractor, physician assistant, advanced practice  
24 nurse prescriber, or expert who knowingly makes a false statement of fact or opinion  
25 in such a certified report may be fined or imprisoned, or both, under s. 943.395.

1           **SECTION 103.** 102.17 (1) (d) 2. of the statutes is amended to read:

2           102.17 (1) (d) 2. The record of a hospital or sanatorium in this state that is  
3           satisfactory to the ~~department~~ division, established by certificate, affidavit, or  
4           testimony of the supervising officer of the hospital or sanatorium, any other person  
5           having charge of the record, or a physician, podiatrist, surgeon, dentist, psychologist,  
6           physician assistant, advanced practice nurse prescriber, or chiropractor to be the  
7           record of the patient in question, and made in the regular course of examination or  
8           treatment of the patient, constitutes prima facie evidence as to the matter contained  
9           in the record, to the extent that the record is otherwise competent and relevant.

10          **SECTION 104.** 102.17 (1) (d) 3. of the statutes is amended to read:

11          102.17 (1) (d) 3. The ~~department~~ division may, by rule, establish the  
12          qualifications of and the form used for certified reports submitted by experts who  
13          provide information concerning loss of earning capacity under s. 102.44 (2) and (3).  
14          The ~~department~~ division may not admit into evidence a certified report of a  
15          practitioner or other expert or a record of a hospital or sanatorium that was not filed  
16          with the ~~department~~ division and all parties in interest at least 15 days before the  
17          date of the hearing, unless the ~~department~~ division is satisfied that there is good  
18          cause for the failure to file the report.

19          **SECTION 105.** 102.17 (1) (d) 4. of the statutes is amended to read:

20          102.17 (1) (d) 4. A report or record described in subd. 1., 2., or 3. that is admitted  
21          or received into evidence by the ~~department~~ division constitutes substantial  
22          evidence under s. 102.23 (6) as to the matter contained in the report or record.

23          **SECTION 106.** 102.17 (1) (e) of the statutes is amended to read:

24          102.17 (1) (e) The ~~department~~ division may, with or without notice to any party,  
25          cause testimony to be taken, an inspection of the premises where the injury occurred

1 to be made, or the time books and payrolls of the employer to be examined by any  
2 examiner, and may direct any employee claiming compensation to be examined by  
3 a physician, chiropractor, psychologist, dentist, or podiatrist. The testimony so  
4 taken, and the results of any such inspection or examination, shall be reported to the  
5 ~~department~~ division for its consideration upon final hearing. All ex parte testimony  
6 taken by the ~~department~~ division shall be reduced to writing, and any party shall  
7 have opportunity to rebut that testimony on final hearing.

8 **SECTION 107.** 102.17 (1) (f) of the statutes is amended to read:

9 102.17 (1) (f) Sections 804.05 and 804.07 shall not apply to proceedings under  
10 this chapter, except as to a witness who is any of the following:

11 1. ~~Who is beyond~~ Beyond reach of the subpoena of the ~~department; or~~ division.

12 2. ~~Who is about~~ About to go out of the state, not intending to return in time for  
13 the ~~hearing; or~~ hearing.

14 3. ~~Who is so~~ So sick, infirm, or aged as to make it probable that the witness will  
15 not be able to attend the ~~hearing; or~~ hearing.

16 4. ~~Who is a~~ A member of the legislature, if any committee of the ~~same or~~  
17 legislature or of the house of which the witness is a member, is in session, provided  
18 and the witness waives his or her privilege.

19 **SECTION 108.** 102.17 (1) (g) of the statutes is amended to read:

20 102.17 (1) (g) Whenever the testimony presented at any hearing indicates a  
21 dispute or creates a doubt as to the extent or cause of disability or death, the  
22 ~~department~~ division may direct that the injured employee be examined, that an  
23 autopsy be performed, or that an opinion be obtained without examination or  
24 autopsy, by or from an impartial, competent physician, chiropractor, dentist,  
25 psychologist or podiatrist designated by the ~~department~~ division who is not under



1 contract with or regularly employed by a compensation insurance carrier or  
2 self-insured employer. The expense of the examination, autopsy, or opinion shall be  
3 paid by the employer or, if the employee claims compensation under s. 102.81, from  
4 the uninsured employers fund. The report of the examination, autopsy, or opinion  
5 shall be transmitted in writing to the ~~department~~ division and a copy of the report  
6 shall be furnished by the ~~department~~ division to each party, who shall have an  
7 opportunity to rebut ~~such~~ the report on further hearing.

8 **SECTION 109.** 102.17 (1) (h) of the statutes is amended to read:

9 102.17 (1) (h) The contents of certified reports of investigation, made by  
10 industrial safety specialists who are employed, contracted, or otherwise secured by  
11 the ~~department~~ division and who are available for cross-examination, if served upon  
12 the parties 15 days prior to hearing, shall constitute prima facie evidence as to  
13 matter contained in those reports. A report described in this paragraph that is  
14 admitted or received into evidence by the ~~department~~ division constitutes  
15 substantial evidence under s. 102.23 (6) as to the matter contained in the report.

16 **SECTION 110.** 102.17 (2) of the statutes is amended to read:

17 102.17 (2) If the ~~department shall have~~ division has reason to believe that the  
18 payment of compensation has not been made, ~~it~~ the division may on its own motion  
19 give notice to the parties, in the manner provided for the service of an application,  
20 of a time and place when a hearing will be held for the purpose of determining the  
21 facts. ~~Such~~ The notice shall contain a statement of the matter to be considered.  
22 ~~Thereafter all other~~ All provisions of this chapter governing proceedings on an  
23 application shall ~~attach~~ apply, insofar as ~~the same may be applicable, to a proceeding~~  
24 under this subsection. When the ~~department~~ division schedules a hearing on its own

1 motion, the ~~department~~ division does not become a party in interest and is not  
2 required to appear at the hearing.

3 **SECTION 111.** 102.17 (2m) of the statutes is amended to read:

4 102.17 (2m) ~~Any~~ The division or any party, including the ~~department~~ office,  
5 may require any person to produce books, papers, and records at the hearing by  
6 personal service of a subpoena upon the person along with a tender of witness fees  
7 as provided in ss. 814.67 and 885.06. Except as provided in sub. (2s), the subpoena  
8 shall be on a form provided by the ~~department~~ division and shall give the name and  
9 address of the party requesting the subpoena.

10 **SECTION 112.** 102.17 (2s) of the statutes is amended to read:

11 102.17 (2s) A party's attorney of record may issue a subpoena to compel the  
12 attendance of a witness or the production of evidence. A subpoena issued by an  
13 attorney must be in substantially the same form as provided in s. 805.07 (4) and must  
14 be served in the manner provided in s. 805.07 (5). The attorney shall, at the time of  
15 issuance, send a copy of the subpoena to the ~~appeal tribunal~~ hearing examiner or  
16 other representative of the ~~department~~ division responsible for conducting the  
17 proceeding.

18 **SECTION 113.** 102.17 (7) (b) of the statutes is amended to read:

19 102.17 (7) (b) Except as provided in par. (c), the ~~department~~ division shall  
20 exclude from evidence testimony or certified reports from expert witnesses under  
21 par. (a) offered by the party that raises the issue of loss of earning capacity if that  
22 party failed to notify the ~~department~~ division and the other parties of interest, at  
23 least 60 days before the date of the hearing, of the party's intent to provide the  
24 testimony or reports and of the names of the expert witnesses involved. Except as  
25 provided in par. (c), the ~~department~~ division shall exclude from evidence testimony

1 or certified reports from expert witnesses under par. (a) offered by a party of interest  
2 in response to the party that raises the issue of loss of earning capacity if the  
3 responding party failed to notify the ~~department~~ division and the other parties of  
4 interest, at least 45 days before the date of the hearing, of the party's intent to provide  
5 the testimony or reports and of the names of the expert witnesses involved.

6 **SECTION 114.** 102.17 (7) (c) of the statutes is amended to read:

7 102.17 (7) (c) Notwithstanding the notice deadlines provided in par. (b), the  
8 ~~department~~ division may receive in evidence testimony or certified reports from  
9 expert witnesses under par. (a) when the applicable notice deadline under par. (b) is  
10 not met if good cause is shown for the delay in providing the notice required under  
11 par. (b) and if no party is prejudiced by the delay.

12 **SECTION 115.** 102.17 (8) of the statutes is amended to read:

13 102.17 (8) Unless otherwise agreed to by all parties, an injured employee shall  
14 file with the ~~department~~ division and serve on all parties at least 15 days before the  
15 date of the hearing an itemized statement of all medical expenses and incidental  
16 compensation under s. 102.42 claimed by the injured employee. The itemized  
17 statement shall include, if applicable, information relating to any travel expenses  
18 incurred by the injured employee in obtaining treatment including the injured  
19 employee's destination, number of trips, round trip mileage, and meal and lodging  
20 expenses. The ~~department~~ division may not admit into evidence any information  
21 relating to medical expenses and incidental compensation under s. 102.42 claimed  
22 by an injured employee if the injured employee failed to file with the ~~department~~  
23 division and serve on all parties at least 15 days before the date of the hearing an  
24 itemized statement of the medical expenses and incidental compensation under s.

1 102.42 claimed by the injured employee, unless the ~~department~~ division is satisfied  
2 that there is good cause for the failure to file and serve the itemized statement.

3 **SECTION 116.** 102.175 (2) of the statutes is amended to read:

4 102.175 (2) If after a hearing or a prehearing conference the ~~department~~  
5 division determines that an injured employee is entitled to compensation but that  
6 there remains in dispute only the issue of which of 2 or more parties is liable for that  
7 compensation, the ~~department~~ division may order one or more parties to pay  
8 compensation in an amount, time, and manner as determined by the ~~department~~  
9 division. If the ~~department~~ division later determines that another party is liable for  
10 compensation, the ~~department~~ division shall order that other party to reimburse any  
11 party that was ordered to pay compensation under this subsection.

12 **SECTION 117.** 102.18 (1) (b) of the statutes is amended to read:

13 102.18 (1) (b) Within 90 days after the final hearing and close of the record, the  
14 ~~department~~ division shall make and file its findings upon the ultimate facts involved  
15 in the controversy, and its order, which shall state ~~its~~ the division's determination as  
16 to the rights of the parties. Pending the final determination of any controversy before  
17 it, the ~~department may in its discretion~~ division, after any hearing, may, in its  
18 discretion, make interlocutory findings, orders, and awards, which may be enforced  
19 in the same manner as final awards. The ~~department~~ division may include in any  
20 interlocutory or final award or order an order directing the employer or insurer to pay  
21 for any future treatment that may be necessary to cure and relieve the employee from  
22 the effects of the injury. If the ~~department~~ division finds that the employer or insurer  
23 has not paid any amount that the employer or insurer was directed to pay in any  
24 interlocutory order or award and that the nonpayment was not in good faith, the  
25 ~~department~~ division may include in its final award a penalty not exceeding ~~25%~~ 25

1 percent of each amount that was not paid as directed. When there is a finding that  
2 the employee is in fact suffering from an occupational disease caused by the  
3 employment of the employer against whom the application is filed, a final award  
4 dismissing the application upon the ground that the applicant has suffered no  
5 disability from the disease shall not bar any claim the employee may thereafter have  
6 for disability sustained after the date of the award.

7 **SECTION 118.** 102.18 (1) (bg) 1. of the statutes is amended to read:

8 102.18 (1) (bg) 1. If the ~~department~~ division finds under par. (b) that an insurer  
9 or self-insured employer is liable under this chapter for any health services provided  
10 to an injured employee by a health service provider, but that the reasonableness of  
11 the fee charged by the health service provider is in dispute, the ~~department~~ division  
12 may include in its order under par. (b) a determination made by the office under s.  
13 102.16 (2) as to the reasonableness of the fee or ~~the department, if such a~~  
14 determination has not yet been made, the division may notify, or direct the insurer  
15 or self-insured employer to notify, the health service provider under s. 102.16 (2) (b)  
16 that the reasonableness of the fee is in dispute. ~~The department shall deny payment~~  
17 ~~of a health service fee that the department determines under this subdivision to be~~  
18 ~~unreasonable. An insurer or self-insured employer and a health service provider~~  
19 ~~that are parties to a fee dispute under this subdivision are bound by the department's~~  
20 ~~determination under this subdivision on the reasonableness of the disputed fee,~~  
21 ~~unless that determination is set aside, reversed, or modified by the department~~  
22 ~~under sub. (3) or by the commission under sub. (3) or (4) or is set aside on judicial~~  
23 ~~review under s. 102.23.~~

24 **SECTION 119.** 102.18 (1) (bg) 2. of the statutes is amended to read:

1           102.18 (1) (bg) 2. If the ~~department~~ division finds under par. (b) that an  
2           employer or insurance carrier is liable under this chapter for any treatment provided  
3           to an injured employee by a health service provider, but that the necessity of the  
4           treatment is in dispute, the ~~department~~ division may include in its order under par.  
5           (b) a determination made by the office under s. 102.16 (2m) as to the necessity of the  
6           treatment or ~~the department, if such a determination has not yet been made, the~~  
7           division may notify, or direct the employer or insurance carrier to notify, the health  
8           service provider under s. 102.16 (2m) (b) that the necessity of the treatment is in  
9           dispute. ~~Before determining under this subdivision the necessity of treatment~~  
10          ~~provided to an injured employee, the department may, but is not required to, obtain~~  
11          ~~the opinion of an expert selected by the department who is qualified as provided in~~  
12          ~~s. 102.16 (2m) (c). The standards promulgated under s. 102.16 (2m) (g) shall be~~  
13          ~~applied by an expert in rendering an opinion as to, and in determining, necessity of~~  
14          ~~treatment under this subdivision. In cases in which no standards promulgated~~  
15          ~~under s. 102.16 (2m) (g) apply, the department shall find the facts regarding~~  
16          ~~necessity of treatment. The department shall deny payment for any treatment that~~  
17          ~~the department determines under this subdivision to be unnecessary. An insurer or~~  
18          ~~self-insured employer and a health service provider that are parties to a dispute~~  
19          ~~under this subdivision over the necessity of treatment are bound by the department's~~  
20          ~~determination under this subdivision on the necessity of the disputed treatment,~~  
21          ~~unless that determination is set aside, reversed, or modified by the department~~  
22          ~~division under sub. (3) or by the commission under sub. (3) or (4) or is set aside on~~  
23          ~~judicial review under s. 102.23.~~

24           **SECTION 120.** 102.18 (1) (bg) 3. of the statutes is amended to read:

1           102.18 (1) (bg) 3. If the ~~department~~ division finds under par. (b) that an insurer  
2           or self-insured employer is liable under this chapter for the cost of a prescription  
3           drug dispensed under s. 102.425 (2) for outpatient use by an injured employee, but  
4           that the reasonableness of the amount charged for that prescription drug is in  
5           dispute, the ~~department~~ division may include in its order under par. (b) a  
6           determination made by the office under s. 102.425 (4m) as to the reasonableness of  
7           the prescription drug charge or ~~the department, if such a determination has not yet~~  
8           been made, the division may notify, or direct the insurer or self-insured employer to  
9           notify, the pharmacist or practitioner dispensing the prescription drug under s.  
10          102.425 (4m) (b) that the reasonableness of the prescription drug charge is in  
11          dispute. ~~The department shall deny payment of a prescription drug charge that the~~  
12          ~~department determines under this subdivision to be unreasonable. An insurer or~~  
13          ~~self-insured employer and a pharmacist or practitioner that are parties to a dispute~~  
14          ~~under this subdivision over the reasonableness of a prescription drug charge are~~  
15          ~~bound by the department's determination under par. (b) on the reasonableness of the~~  
16          ~~disputed prescription drug charge, unless that determination is set aside, reversed,~~  
17          ~~or modified by the department under sub. (3) or by the commission under sub. (3) or~~  
18          ~~(4) or is set aside on judicial review under s. 102.23.~~

19           **SECTION 121.** 102.18 (1) (bp) of the statutes is amended to read:

20           102.18 (1) (bp) If the ~~department~~ division determines that the employer or  
21           insurance carrier suspended, terminated, or failed to make payments or failed to  
22           report an injury as a result of malice or bad faith, the ~~department~~ division may  
23           include a penalty in an award to an employee for each event or occurrence of malice  
24           or bad faith. ~~This~~ That penalty is the exclusive remedy against an employer or  
25           insurance carrier for malice or bad faith. ~~If this~~ the penalty is imposed for an event

1 or occurrence of malice or bad faith that causes a payment that is due an injured  
2 employee to be delayed in violation of s. 102.22 (1) or overdue in violation of s. 628.46  
3 (1), the department division may not also order an increased payment under s.  
4 102.22 (1) or the payment of interest under s. 628.46 (1). The department division  
5 may award an amount that ~~it~~ the division considers just, not to exceed the lesser of  
6 200 percent of total compensation due or \$30,000 for each event or occurrence of  
7 malice or bad faith. The ~~department~~ division may assess the penalty against the  
8 employer, the insurance carrier, or both. Neither the employer nor the insurance  
9 carrier is liable to reimburse the other for the penalty amount. The department  
10 division may, by rule, define actions ~~which~~ that demonstrate malice or bad faith.

11 **SECTION 122.** 102.18 (1) (bw) of the statutes is amended to read:

12 102.18 (1) (bw) If an insurer, a self-insured employer, or, if applicable, the  
13 uninsured employers fund pays compensation to an employee in excess of its liability  
14 and another insurer is liable for all or part of the excess payment, the department  
15 division may order the insurer ~~or self-insured employer~~ that is liable for that excess  
16 payment to reimburse the insurer or self-insured employer that made the excess  
17 payment or, if applicable, the uninsured employers fund.

18 **SECTION 123.** 102.18 (1) (c) of the statutes is amended to read:

19 102.18 (1) (c) If 2 or more examiners have conducted a formal hearing on a claim  
20 and are unable to agree on the order or award to be issued, the decision shall be the  
21 decision of the majority. If the examiners are equally divided on the decision, the  
22 department division may appoint an additional examiner who shall review the  
23 record and consult with the other examiners concerning their ~~personal~~ impressions  
24 of the credibility of the evidence. Findings of fact and an order or award may then  
25 be issued by a majority of the examiners.



1           **SECTION 124.** 102.18 (1) (e) of the statutes is amended to read:

2           102.18 (1) (e) Except as provided in s. 102.21, if the ~~department~~ division orders  
3 a party to pay an award of compensation, the party shall pay the award no later than  
4 21 days after the date on which the order is electronically delivered to the party or  
5 mailed to the last-known address of the party, unless the party files a petition for  
6 review under sub. (3). This paragraph applies to all awards of compensation ordered  
7 by the ~~department~~ division, whether the award results from a hearing, the default  
8 of a party, or a compromise or stipulation confirmed by the ~~department~~ division.

9           **SECTION 125.** 102.18 (2) of the statutes is amended to read:

10          102.18 (2) The ~~department~~ division shall have and maintain on its staff such  
11 examiners as are necessary to hear and decide disputed claims and to assist in the  
12 effective ~~administration of adjudication of disputes under~~ this chapter. These Those  
13 examiners shall be attorneys and may be designated as administrative law judges.  
14 ~~These Those~~ examiners may make findings and orders, and may approve, review, set  
15 aside, modify, or confirm stipulations of settlement or compromises of claims for  
16 compensation.

17          **SECTION 126.** 102.18 (3) of the statutes is amended to read:

18          102.18 (3) A party in interest may petition the commission for review of an  
19 examiner's decision awarding or denying compensation if the ~~department~~ division  
20 or commission receives the petition within 21 days after the ~~department~~ division  
21 electronically delivered a copy of the examiner's findings and order to the parties in  
22 interest or mailed a copy of the examiner's findings and order to the party's  
23 last-known address addresses of the parties in interest. The commission shall  
24 dismiss a petition ~~which~~ that is not timely filed unless the petitioner shows probable  
25 good cause that the reason for failure to timely file was beyond the petitioner's

1 control. If no petition is filed within 21 days ~~from~~ after the date ~~that~~ on which a copy  
2 of the findings or order of the examiner is electronically delivered to the parties in  
3 interest or mailed to the last-known address addresses of the parties in interest, the  
4 findings or order shall be considered final unless set aside, reversed, or modified by  
5 the examiner within that time. If the findings or order are set aside by the examiner,  
6 the status shall be the same as prior to the setting aside of the findings or order set  
7 aside. If the findings or order are reversed or modified by the examiner, the time for  
8 filing a petition commences ~~with~~ on the date ~~that~~ on which notice of reversal or  
9 modification is electronically delivered to the parties in interest or mailed to the  
10 last-known address addresses of the parties in interest. The commission shall either  
11 affirm, reverse, set aside, or modify the findings or order, in whole or in part, or direct  
12 the taking of additional evidence. ~~This~~ The commission's action shall be based on a  
13 review of the evidence submitted.

14 **SECTION 127.** 102.18 (4) (b) of the statutes is amended to read:

15 102.18 (4) (b) Within 28 days after a decision of the commission is electronically  
16 delivered to each party in interest or mailed to the last-known address of each party  
17 in interest, the commission may, on its own motion, set aside the decision for further  
18 consideration.

19 **SECTION 128.** 102.18 (4) (c) 3. of the statutes is amended to read:

20 102.18 (4) (c) 3. Remand the case to the ~~department~~ division for further  
21 proceedings.

22 **SECTION 129.** 102.18 (4) (d) of the statutes is amended to read:

23 102.18 (4) (d) While a petition for review by the commission is pending or after  
24 entry of an order or award by the commission, but before commencement of an action  
25 for judicial review or expiration of the period in which to commence an action for