



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-0610/P3
GMM:kjf:jm

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

FOR 2015-2017 BUDGET -- NOT READY FOR INTRODUCTION

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.

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

1 the office from the office for the provision of those services to the office, for the
2 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.

3 **SECTION 9.** 20.445 (1) (aa) of the statutes is renumbered 20.145 (6) (aa).

4 **SECTION 10.** 20.445 (1) (ga) of the statutes is amended to read:

5 20.445 (1) (ga) *Auxiliary services.* All moneys received from fees collected
6 under ss. ~~102.16 (2m) (d)~~, 103.005 (15) and 106.09 (7) for the delivery of services
7 under ss. ~~102.16 (2m) (f)~~, 103.005 (15) and 106.09 and ch. 108.

8 **SECTION 11.** 20.445 (1) (p) of the statutes is renumbered 20.145 (6) (p) and
9 amended to read:

10 20.145 (6) (p) *Worker's compensation; federal moneys.* All federal moneys
11 received for the worker's compensation activities of the ~~department~~ office, to be used
12 for those purposes.

13 **SECTION 12.** 20.445 (1) (ra) of the statutes, as affected by 2015 Wisconsin Act
14 (this act), is renumbered 20.145 (6) (ra) and amended to read:

15 20.145 (6) (ra) *Worker's compensation operations fund; administration.* From
16 the worker's compensation operations fund, the amounts in the schedule for the
17 administration of the worker's compensation program by the ~~department~~ office, for
18 transfer to the uninsured employers fund under s. 102.81 (1) (c), and for transfer to
19 the appropriation accounts under par. (rp) and ~~sub. s. 20.445~~ (2) (ra). All moneys
20 received under ss. 102.28 (2) (b) and 102.75 shall be credited to this appropriation
21 account. From this appropriation, an amount not to exceed \$5,000 may be expended
22 each fiscal year for payment of expenses for travel and research by the council on
23 worker's compensation, an amount not to exceed \$500,000 may be transferred in

1 each fiscal year to the uninsured employers fund under s. 102.81 (1) (c), the amount
2 in the schedule under par. (rp) shall be transferred to the appropriation account
3 under par. (rp), and the amount in the schedule under sub. (2) (ra) shall be
4 transferred to the appropriation account under sub. (2) (ra).

****NOTE: This is reconciled s.20.445 (1) (ra). This SECTION has been affected by
drafts with the following LRB numbers: -0452/1 and -0610/P2.

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

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

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

8 **SECTION 16.** 20.445 (1) (sm) of the statutes is renumbered 20.145 (6) (sm) and
9 amended to read:

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

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

17 **SECTION 18.** 20.445 (2) (ra) of the statutes is amended to read:

18 20.445 (2) (ra) *Worker's compensation operations fund; worker's compensation*
19 *activities.* From the worker's compensation operations fund, the amounts in the
20 schedule for the worker's compensation activities of the labor and industry review
21 commission. All moneys transferred from the appropriation account under sub. (1)
22 s. 20.145 (6) (ra) shall be credited to this appropriation account.

23 **SECTION 19.** 40.63 (6) of the statutes is amended to read:

1 40.63 (6) Any person entitled to payments under this section who may
2 otherwise be entitled to payments under s. 66.191, 1981 stats., may file with the
3 department and the ~~department of workforce development~~ office of the commissioner
4 of insurance a written election to waive payments due under this section and accept
5 in lieu of the payments under this section payments as may be payable under s.
6 66.191, 1981 stats., but no person may receive payments under both s. 66.191, 1981
7 stats., and this section. However any person otherwise entitled to payments under
8 this section may receive the payments, without waiver of any rights under s. 66.191,
9 1981 stats., during any period as may be required for a determination of the person's
10 rights under s. 66.191, 1981 stats. Upon the final adjudication of the person's rights
11 under s. 66.191, 1981 stats., if waiver is filed under this section, the person shall
12 immediately cease to be entitled to payments under this section and the system shall
13 be reimbursed from the award made under s. 66.191, 1981 stats., for all payments
14 made under this section.

15 **SECTION 20.** 40.65 (2) (a) of the statutes is amended to read:

16 40.65 (2) (a) This paragraph applies to participants who first apply for benefits
17 before May 3, 1988. Any person desiring a benefit under this section must apply to
18 the ~~department of workforce development~~ office of the commissioner of insurance,
19 which ~~department~~ office shall determine whether the applicant is eligible to receive
20 the benefit and the participant's monthly salary. Appeals from the eligibility decision
21 shall follow the procedures under ss. 102.16 to 102.26. If it is determined that an
22 applicant is eligible, the ~~department of workforce development~~ office of the
23 commissioner of insurance shall notify the department of employee trust funds and
24 shall certify the applicant's monthly salary. If at the time of application for benefits
25 an applicant is still employed in any capacity by the employer in whose employ the

1 disabling injury occurred or disease was contracted, that continued employment
2 shall not affect that applicant's right to have his or her eligibility to receive those
3 benefits determined in proceedings before the ~~department of workforce development~~
4 division of hearings and appeals in the department of administration or the labor and
5 industry review commission or in proceedings in the courts. The ~~department of~~
6 ~~workforce development~~ office of the commissioner of insurance may promulgate
7 rules needed to administer this paragraph.

8 **SECTION 21.** 40.65 (2) (b) 3. of the statutes is amended to read:

9 40.65 (2) (b) 3. The department shall determine whether or not the applicant
10 is eligible for benefits under this section on the basis of the evidence in subd. 2. An
11 applicant may appeal a determination under this subdivision to the ~~department of~~
12 ~~workforce development~~ division of hearings and appeals in the department of
13 administration.

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

15 40.65 (2) (b) 4. In hearing an appeal under subd. 3., the ~~department of~~
16 ~~workforce development~~ division of hearings and appeals in the department of
17 administration shall follow the procedures under ss. 102.16 to 102.26.

18 **SECTION 23.** 49.857 (1) (d) 8. of the statutes is amended to read:

19 49.857 (1) (d) 8. A license issued under s. ~~102.17 (1) (e)~~, 104.07 or 105.05.

20 **SECTION 24.** 49.857 (1) (d) 20. of the statutes is amended to read:

21 49.857 (1) (d) 20. A license issued under s. 102.17 (1) (c), 628.04, 628.92 (1),
22 632.69 (2), or 633.14 or a temporary license issued under s. 628.09.

23 **SECTION 25.** 73.0301 (1) (d) 3m. of the statutes is amended to read:

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

4 **SECTION 26.** 73.0301 (1) (d) 12. of the statutes is amended to read:

5 73.0301 (1) (d) 12. A license issued under s. 102.17 (1) (c), 628.04, 628.92 (1),
6 632.69 (2), or 633.14, a registration under s. 628.92 (2), or a temporary license issued
7 under s. 628.09.

8 **SECTION 27.** 102.01 (2) (a) of the statutes is renumbered 102.01 (2) (af).

9 **SECTION 28.** 102.01 (2) (ad) of the statutes is created to read:

10 102.01 (2) (ad) “Administrator” means the administrator of the division of
11 hearings and appeals in the department of administration.

12 **SECTION 29.** 102.01 (2) (ag) of the statutes is amended to read:

13 102.01 (2) (ag) “Commissioner” means ~~a member of the commission~~ the
14 commissioner of insurance.

15 **SECTION 30.** 102.01 (2) (ap) of the statutes is repealed.

16 **SECTION 31.** 102.01 (2) (ar) of the statutes is created to read:

17 102.01 (2) (ar) “Division” means the division of hearings and appeals in the
18 department of administration.

19 **SECTION 32.** 102.01 (2) (bm) of the statutes is amended to read:

20 102.01 (2) (bm) “General order” means ~~such order as~~ an order that applies
21 generally throughout the state to all persons, employments, places of employment,
22 or public buildings, or to all persons, employments ~~or~~, places of employment, or public
23 buildings of a class under the jurisdiction of the department office. All other orders
24 of the department office shall be considered special orders.

25 **SECTION 33.** 102.01 (2) (dg) of the statutes is created to read:

1 102.01 (2) (dg) “Office” means the office of the commissioner.

2 SECTION 34. 102.01 (2) (dm) of the statutes is amended to read:

3 102.01 (2) (dm) “Order” means any decision, rule, regulation, direction,
4 requirement, or standard of the department office, or any other determination
5 arrived at or decision made by the department office.

6 SECTION 35. 102.01 (2) (em) of the statutes is repealed.

7 SECTION 36. 102.05 (1) of the statutes is amended to read:

8 102.05 (1) An employer who has had no employee at any time within a
9 continuous period of 2 years shall be ~~deemed~~ considered to have effected withdrawal,
10 which shall be effective on the last day of ~~such~~ that period. An employer who has not
11 usually employed 3 employees and who has not paid wages of at least \$500 for
12 employment in this state in every calendar quarter in a calendar year may file a
13 withdrawal notice with the department office, which withdrawal shall take effect 30
14 days after the date of ~~such~~ that filing or at such later date as is specified in the notice.
15 If an employer who is subject to this chapter only because the employer elected to
16 become subject to this chapter under sub. (2) cancels or terminates his or her contract
17 for the insurance of compensation under this chapter, that employer is ~~deemed~~
18 considered to have effected withdrawal, which shall be effective on the day after the
19 contract is canceled or terminated.

20 SECTION 37. 102.05 (3) of the statutes is amended to read:

21 102.05 (3) ~~Any~~ If a person engaged in farming who has become subject to this
22 chapter has not employed 6 or more employees, as defined in s. 102.07 (5), on 20 or
23 more days during the current or previous calendar year, the person may withdraw
24 by filing with the department office a notice of withdrawal, ~~if the person has not~~
25 ~~employed 6 or more employees as defined by s. 102.07 (5) on 20 or more days during~~

1 ~~the current or previous calendar year. Such which withdrawal shall be effective take~~
2 ~~effect 30 days after the date of receipt of the notice by the ~~department, office~~ or at such~~
3 ~~later date as is specified in the notice. Such A person who withdraws under this~~
4 ~~subsection may again become subject to this chapter as provided by in s. 102.04 (1)~~
5 ~~(c) and (e).~~

6 **SECTION 38.** 102.06 of the statutes is amended to read:

7 **102.06 Joint liability of employer and contractor.** An employer shall be
8 liable for compensation to an employee of a contractor or subcontractor under the
9 employer who is not subject to this chapter, or who has not complied with the
10 conditions of s. 102.28 (2) in any case ~~where such~~ in which the employer would have
11 been liable for compensation if ~~such~~ the employee had been working directly for the
12 employer, including also work in the erection, alteration, repair, or demolition of
13 improvements or of fixtures upon premises of ~~such~~ the employer ~~which~~ that are used
14 or to be used in the operations of ~~such~~ the employer. The contractor or subcontractor,
15 if subject to this chapter, shall also be liable for ~~such~~ that compensation, but the
16 employee shall not recover compensation for the same injury from more than one
17 party. ~~The~~ An employer who becomes liable for and who pays ~~such~~ that compensation
18 may recover the same amount of compensation paid from ~~such~~ that contractor, or
19 subcontractor, or from any other employer for whom the employee was working at
20 the time of the injury, if ~~such~~ that contractor, subcontractor, or other employer was
21 an employer, as defined in s. 102.04. This section does not apply to injuries occurring
22 on or after the first day of the first July beginning after the day ~~that~~ on which the
23 secretary commissioner files the certificate under s. 102.80 (3) (a), except that if the
24 secretary commissioner files the certificate under s. 102.80 (3) (ag) this section does
25 apply to claims for compensation filed on or after the date specified in that certificate.

1 **SECTION 39.** 102.07 (1) (a) of the statutes is amended to read:

2 102.07 (1) (a) 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. The state ~~and~~ or any
6 municipality may require a bond from a contractor to protect the state or
7 municipality against compensation to employees of ~~such~~ the contractor or employees
8 of a subcontractor under the contractor. This paragraph does not apply beginning
9 on the first day of the first July beginning after the day ~~that~~ on which the ~~secretary~~
10 commissioner files the certificate under s. 102.80 (3) (a), except that if the ~~secretary~~
11 commissioner files the certificate under s. 102.80 (3) (ag) this paragraph does apply
12 to claims for compensation filed on or after the date specified in that certificate.

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

14 102.07 (1) (b) Every person, including all officials, in the service of the state,
15 or of any municipality ~~therein~~ in this state, whether elected or under any
16 appointment, or contract of hire, express or implied, and whether a resident of this
17 state or employed or injured within or without the state. This paragraph first applies
18 on the first day of the first July beginning after the day ~~that~~ on which the ~~secretary~~
19 commissioner files the certificate under s. 102.80 (3) (a), except that if the ~~secretary~~
20 commissioner files the certificate under s. 102.80 (3) (ag) this paragraph does apply
21 to claims for compensation filed on or after the date specified in that certificate.

22 **SECTION 41.** 102.07 (7) (b) of the statutes is amended to read:

23 102.07 (7) (b) The ~~department~~ office may issue an order under s. 102.31 (1) (b)
24 permitting the county within which a volunteer fire company or fire department
25 organized under ch. 213, a legally organized rescue squad, an ambulance service

1 provider, as defined in s. 256.01 (3), or a legally organized diving team is organized
2 to assume full liability for the compensation provided under this chapter of all
3 volunteer members of that company, department, squad, provider or team.

4 **SECTION 42.** 102.07 (8) (c) of the statutes is amended to read:

5 102.07 (8) (c) The ~~department~~ office may not admit in evidence any state or
6 federal laws, ~~regulations, documents~~ law, regulation, or document granting
7 operating authority, or licenses license when determining whether an independent
8 contractor meets the conditions specified in par. (b) 1. or 3.

9 **SECTION 43.** 102.07 (11) of the statutes is amended to read:

10 102.07 (11) The ~~department~~ office may by rule prescribe classes of volunteer
11 workers who may, at the election of the person for whom the service is being
12 performed, be ~~deemed~~ considered to be employees for the purposes of this chapter.
13 Election shall be by endorsement upon ~~the~~ that person's worker's compensation
14 insurance policy with written notice to the ~~department~~ office. In the case of an
15 employer that is exempt from insuring liability, election shall be by written notice to
16 the ~~department~~ office. The ~~department~~ office shall by rule prescribe the means and
17 manner in which notice of election by the employer is to be provided to the volunteer
18 workers.

19 **SECTION 44.** 102.076 (2) of the statutes is amended to read:

20 102.076 (2) If a corporation has not more than 10 stockholders, not more than
21 2 officers, and no other employees and is not otherwise required under this chapter
22 to have a policy of worker's compensation insurance, an officer of that corporation
23 who elects not to be subject to this chapter shall file a notice of that election with the
24 ~~department~~ office on a form approved by the ~~department~~ office. The election is

1 effective until the officer rescinds it the election by notifying the ~~department~~ office
2 in writing.

3 **SECTION 45.** 102.077 (1) of the statutes, as affected by 2015 Wisconsin Act
4 (this act), is amended to read:

5 102.077 (1) A school district, private school, or institution of higher education
6 may elect to name as its employee for purposes of this chapter a student described
7 in s. 102.07 (12m) (b) by an endorsement on its policy of worker's compensation
8 insurance or, if the school district, private school, or institution of higher education
9 is exempt from the duty to insure under s. 102.28 (2) (a), by filing a declaration with
10 the ~~department~~ office in the manner provided in s. 102.31 (2) (a) naming the student
11 as an employee of the school district, private school, or institution of higher education
12 for purposes of this chapter. A declaration under this subsection shall list the name
13 of the student to be covered under this chapter, the name and address of the employer
14 that is providing the work training or work experience for that student, and the title,
15 if any, of the work training, work experience, or work study program in which the
16 student is participating.

****NOTE: This is reconciled s. 102.077 (1). This SECTION has been affected by drafts
with the following LRB numbers: -0610/P2 and LRB-0921/P1.

17 **SECTION 46.** 102.077 (2) of the statutes, as affected by 2015 Wisconsin Act
18 (this act), is amended to read:

19 102.077 (2) A school district, private school, or institution of higher education
20 may revoke a declaration under sub. (1) by providing written notice to the
21 ~~department~~ office in the manner provided in s. 102.31 (2) (a), the student, and the
22 employer who is providing the work training or work experience for that student.

1 A revocation under this subsection is effective 30 days after the ~~department office~~
2 receives notice of that revocation.

****NOTE: This is reconciled s.102.077 (2). This SECTION has been affected by drafts
with the following LRB numbers: –0610/P2 and LRB–0921/P1.

3 SECTION 47. 102.08 of the statutes is amended to read:

4 102.08 Administration for state employees. The department of
5 administration has responsibility for the timely delivery of benefits payable under
6 this chapter to employees of the state and their dependents and other functions of
7 the state as an employer under this chapter. The department of administration may
8 delegate ~~this authority~~ that responsibility to employing departments and agencies
9 and require such reports as it ~~deems~~ considers necessary to accomplish this purpose.
10 The department of administration or its delegated authorities shall file with the
11 ~~department of workforce development office~~ office the reports that are required of all
12 employers. The ~~department of workforce development office~~ office shall monitor the
13 delivery of benefits payable under this chapter to state employees and their
14 dependents and shall consult with and advise the department of administration in
15 the manner and at the times necessary to ensure prompt and proper delivery of those
16 benefits.

17 SECTION 48. 102.11 (1) (am) 1. of the statutes is amended to read:

18 102.11 (1) (am) 1. The employee is a member of a class of employees that does
19 the same type of work at the same location and, in the case of an employee in the
20 service of the state, is employed in the same office, department, independent agency,
21 authority, institution, association, society, or other body in state government or, if the
22 ~~department office~~ office determines appropriate, in the same subunit of an office,

1 department, independent agency, authority, institution, association, society, or other
2 body in state government.

3 **SECTION 49.** 102.12 of the statutes is amended to read:

4 **102.12 Notice of injury, exception, laches.** No claim for compensation may
5 be maintained unless, within 30 days after the occurrence of the injury or within 30
6 days after the employee knew or ought to have known the nature of his or her
7 disability and its relation to the employment, actual notice was received by the
8 employer or by an officer, manager, or designated representative of an employer. If
9 no representative has been designated by posters placed in one or more conspicuous
10 places where notices to employees are customarily posted, then notice received by
11 any superior is sufficient. Absence of notice does not bar recovery if it is found that
12 the employer was not misled ~~thereby~~ by that absence. Regardless of whether notice
13 was received, if no payment of compensation, other than medical treatment or burial
14 expense, is made, ~~and~~ and if no application is filed with the ~~department~~ office within
15 2 years ~~from~~ after the date of the injury or death, ~~or from~~ or the date the employee
16 or his or her dependent knew or ought to have known the nature of the disability and
17 its relation to the employment, the right to compensation ~~therefor~~ for the injury or
18 death is barred, except that the right to compensation is not barred if the employer
19 knew or should have known, within the 2-year period, that the employee had
20 sustained the injury on which the claim is based. Issuance of notice of a hearing on
21 the ~~department's~~ division's own motion has the same effect for the purposes of this
22 section as the filing of an application. This section does not affect any claim barred
23 under s. 102.17 (4).

24 **SECTION 50.** 102.125 of the statutes is amended to read:

1 **102.125 Fraudulent claims reporting and investigation.** If an insurer or
2 self-insured employer has evidence that a claim is false or fraudulent in violation of
3 s. 943.395 and if the insurer or self-insured employer is satisfied that reporting the
4 claim to the department office will not impede its ability to defend the claim, the
5 insurer or self-insured employer shall report the claim to the department office. The
6 department office may require an insurer or self-insured employer to investigate an
7 allegedly false or fraudulent claim and may provide the insurer or self-insured
8 employer with any records of the department office relating to that claim. An insurer
9 or self-insured employer that investigates a claim under this section shall report on
10 the results of that investigation to the department office. If based on the
11 investigation the department office has a reasonable basis to believe that a violation
12 of s. 943.395 has occurred, the department office shall refer the results of the
13 investigation to the district attorney of the county in which the alleged violation
14 occurred for prosecution.

15 **SECTION 51.** 102.13 (1) (c) of the statutes is amended to read:

16 102.13 (1) (c) So long as the employee, after a written request of the employer
17 or insurer ~~which~~ that complies with par. (b), refuses to submit to or in any way
18 obstructs the examination, the employee's right to begin or maintain any proceeding
19 for the collection of compensation is suspended, except as provided in sub. (4). If the
20 employee refuses to submit to the examination after direction by the department
21 division or an examiner, or in any way obstructs the examination, the employee's
22 right to the weekly indemnity ~~which~~ that accrues and becomes payable during the
23 period of that refusal or obstruction, is barred, except as provided in sub. (4).

24 **SECTION 52.** 102.13 (1) (d) 2. of the statutes is amended to read:

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

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

7 102.13 (1) (d) 3. Notwithstanding any statutory provisions except par. (e), any
8 physician, chiropractor, psychologist, dentist, physician assistant, advanced
9 practice nurse prescriber, or podiatrist attending a worker's compensation claimant
10 for any condition or complaint reasonably related to the condition for which the
11 claimant claims compensation may furnish to the employee, employer, worker's
12 compensation insurer, ~~or the department~~ the office, or the division information and
13 reports relative to a compensation claim.

14 **SECTION 54.** 102.13 (1) (f) of the statutes is amended to read:

15 102.13 (1) (f) If an employee claims compensation under s. 102.81 (1), the
16 ~~department~~ office may require the employee to submit to physical or vocational
17 examinations under this subsection.

18 **SECTION 55.** 102.13 (2) (a) of the statutes is amended to read:

19 102.13 (2) (a) An employee who reports an injury alleged to be work-related
20 or who files an application for hearing waives any physician-patient,
21 psychologist-patient or chiropractor-patient privilege with respect to any condition
22 or complaint reasonably related to the condition for which the employee claims
23 compensation. Notwithstanding ss. 51.30 and 146.82 and any other law, any
24 physician, chiropractor, psychologist, dentist, podiatrist, physician assistant,
25 advanced practice nurse prescriber, hospital, or health care provider shall, within a

1 reasonable time after written request by the employee, employer, worker's
2 compensation insurer, ~~or department office, or division,~~ or its representative, provide
3 that person with any information or written material reasonably related to any
4 injury for which the employee claims compensation.

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

6 102.13 (2) (c) Except as provided in this paragraph, if an injured employee has
7 a period of temporary disability that exceeds 3 weeks or a permanent disability, if the
8 injured employee has undergone surgery to treat his or her injury, other than surgery
9 to correct a hernia, or if the injured employee sustained an eye injury requiring
10 medical treatment on 3 or more occasions off the employer's premises, the
11 ~~department office~~ may by rule require the insurer or self-insured employer to submit
12 to the ~~department office~~ a final report of the employee's treating practitioner. The
13 ~~department office~~ may not require an insurer or self-insured employer to submit to
14 the ~~department office~~ a final report of an employee's treating practitioner when the
15 insurer or self-insured employer denies the employee's claim for compensation and
16 the employee does not contest that denial. A treating practitioner may charge a
17 reasonable fee for the completion of the final report, but may not require prepayment
18 of that fee. An insurer or self-insured employer that disputes the reasonableness of
19 a fee charged for the completion of a treatment practitioner's final report may submit
20 that dispute to the ~~department office~~ for resolution under s. 102.16 (2).

21 **SECTION 57.** 102.13 (3) of the statutes is amended to read:

22 102.13 (3) If 2 or more physicians, chiropractors, psychologists, dentists or
23 podiatrists disagree as to the extent of an injured employee's temporary disability,
24 the end of an employee's healing period, an employee's ability to return to work at
25 suitable available employment, or the necessity for further treatment or for a

1 particular type of treatment, the department division may appoint another
2 physician, chiropractor, psychologist, dentist or podiatrist to examine the employee
3 and render an opinion as soon as possible. The department division shall promptly
4 notify the parties of this appointment. If the employee has not returned to work,
5 payment for temporary disability shall continue until the department division
6 receives the opinion. The employer or its insurance carrier or both shall pay for the
7 examination and opinion. The employer or insurance carrier or both shall receive
8 appropriate credit for any overpayment to the employee determined by the
9 department division after receipt of the opinion.

10 **SECTION 58.** 102.13 (4) of the statutes is amended to read:

11 102.13 (4) ~~The rights of employees~~ right of an employee to begin or maintain
12 proceedings for the collection of compensation and to receive weekly indemnities
13 ~~which that~~ accrue and become payable shall not be suspended or barred under sub.
14 (1) when ~~an~~ the employee refuses to submit to a physical examination, upon the
15 request of the employer or worker's compensation insurer or at the direction of the
16 department division or an examiner, ~~which that~~ would require the employee to travel
17 a distance of 100 miles or more from his or her place of residence, unless the employee
18 has claimed compensation for treatment from a practitioner whose office is located
19 100 miles or more from the employee's place of residence or the department division
20 or examiner determines that any other circumstances warrant the examination. If
21 the employee has claimed compensation for treatment from a practitioner whose
22 office is located 100 miles or more from the employee's place of residence, the
23 employer or insurer may request, or the department division or an examiner may
24 direct, the employee to submit to a physical examination in the area where the
25 employee's treatment practitioner is located.

1 **SECTION 59.** 102.13 (5) of the statutes is amended to read:

2 102.13 (5) The department division may refuse to receive testimony as to
3 conditions determined from an autopsy if it appears that the party offering the
4 testimony had procured the autopsy and had failed to make reasonable effort to
5 notify at least one party in adverse interest or the department division at least 12
6 hours before the autopsy of the time and place ~~it~~ at which the autopsy would be
7 performed, or that the autopsy was performed by or at the direction of the coroner
8 or medical examiner or at the direction of the district attorney for purposes not
9 authorized by under ch. 979. The department division may withhold findings until
10 an autopsy is held in accordance with its directions.

11 **SECTION 60.** 102.14 (title) of the statutes is amended to read:

12 **102.14 (title) Jurisdiction of department office; advisory committee.**

13 **SECTION 61.** 102.14 (1) of the statutes is amended to read:

14 102.14 (1) This Except as otherwise provided, this chapter shall be
15 administered by the department office.

16 **SECTION 62.** 102.14 (2) of the statutes is amended to read:

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

1 **SECTION 63.** 102.15 (1) of the statutes is amended to read:

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

4 **SECTION 64.** 102.15 (2) of the statutes is amended to read:

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

8 **SECTION 65.** 102.15 (3) of the statutes is amended to read:

9 102.15 (3) All testimony at any hearing held under this chapter shall be ~~taken~~
10 ~~down by a stenographic reporter, except that in case of an emergency, as determined~~
11 ~~by recorded by electronic means. That testimony need not be transcribed, unless the~~
12 ~~examiner conducting the hearing, testimony may be recorded by a recording machine~~
13 orders otherwise. The division shall furnish a copy of an electronic recording made
14 under this subsection or a transcript ordered under this subsection to the parties
15 upon payment of any fee required by the division by rule.

16 **SECTION 66.** 102.16 (1) of the statutes is amended to read:

17 102.16 (1) Any controversy concerning compensation or a violation of sub. (3),
18 including ~~controversies~~ a controversy in which the state may be a party, shall be
19 submitted to the department division in the manner and with the effect provided in
20 this chapter. ~~Every compromise of any claim for compensation may be reviewed and~~
21 ~~set aside, modified or confirmed by the department within~~ Within one year ~~from after~~
22 ~~the date the~~ on which a compromise of any claim for compensation is filed with the
23 ~~department, or from division or the date on which~~ an award has been entered, ~~based~~
24 ~~thereon, or the department may take that action~~ based on a compromise, the
25 division, on its own motion or upon application made within one year that period,

1 may review and set aside, modify, or confirm the compromise. Unless the word
2 “compromise” appears in a stipulation of settlement, the settlement shall not be
3 deemed considered a compromise, and further claim is not barred except as provided
4 in s. 102.17 (4) regardless of whether an award is made. The employer, insurer, or
5 dependent under s. 102.51 (5) shall have equal rights with the employee to have
6 review of a compromise or any other stipulation of settlement reviewed under this
7 subsection. Upon petition filed with the ~~department~~ division, the ~~department~~
8 division may set aside the award or otherwise determine the rights of the parties.

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

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

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

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

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

1 102.16 (1m) (c) If an insurer or self-insured employer concedes by compromise
2 under sub. (1) or stipulation under s. 102.18 (1) (a) that the insurer or self-insured
3 employer is liable under this chapter for the cost of a prescription drug dispensed
4 under s. 102.425 (2) for outpatient use by an injured employee, but disputes the
5 reasonableness of the amount charged for the prescription drug, the department
6 division may include in its order confirming the compromise or stipulation a
7 determination made by the office under s. 102.425 (4m) as to the reasonableness of
8 the prescription drug charge or ~~the department, if such a determination has not yet~~
9 ~~been made, the division~~ may notify, or direct the insurer or self-insured employer to
10 notify, the pharmacist or practitioner dispensing the prescription drug under s.
11 102.425 (4m) (b) that the reasonableness of the prescription drug charge is in
12 dispute. ~~The department shall deny payment of a prescription drug charge that the~~
13 ~~department determines under this paragraph to be unreasonable. A pharmacist or~~
14 ~~practitioner and an insurer or self-insured employer that are parties to a dispute~~
15 ~~under this paragraph over the reasonableness of a prescription drug charge are~~
16 ~~bound by the department's determination under this paragraph on the~~
17 ~~reasonableness of the disputed prescription drug charge, unless that determination~~
18 ~~is set aside, reversed, or modified by the department under s. 102.425 (4m) (e) or is~~
19 ~~set aside on judicial review as provided in s. 102.425 (4m) (e).~~

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

21 102.16 (2) (a) Except as provided in this paragraph, the department office has
22 jurisdiction ~~under this subsection, sub. (1m) (a), and s. 102.17~~ to resolve a dispute
23 between a health service provider and an insurer or self-insured employer over the
24 reasonableness of a fee charged by the health service provider for health services
25 provided to an injured employee who claims benefits under this chapter. A health

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

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

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

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

17 102.16 (2) (b) An insurer or self-insured employer that disputes the
18 reasonableness of a fee charged by a health service provider or the ~~department~~ office
19 under sub. (1m) (a) or s. 102.18 (1) (bg) 1. shall provide reasonable written notice to
20 the health service provider that the fee is being disputed. After receiving reasonable
21 written notice under this paragraph or under sub. (1m) (a) or s. 102.18 (1) (bg) 1. that
22 a health service fee is being disputed, a health service provider may not collect the
23 disputed fee from, or bring an action for collection of the disputed fee against, the
24 employee who received the services for which the fee was charged.

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

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

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

13 102.16 (2) (d) The department office shall analyze the information provided to
14 the department office under par. (c) according to the criteria provided in this
15 paragraph to determine the reasonableness of the disputed fee. Except as provided
16 in 2011 Wisconsin Act 183, section 30 (2) (b), the department office shall determine
17 that a disputed fee is reasonable and order that the disputed fee be paid if that fee
18 is at or below the mean fee for the health service procedure for which the disputed
19 fee was charged, plus 1.2 standard deviations from that mean, as shown by data from
20 a database that is certified by the department office under par. (h). Except as
21 provided in 2011 Wisconsin Act 183, section 30 (2) (b), the department office shall
22 determine that a disputed fee is unreasonable and order that a reasonable fee be paid
23 if the disputed fee is above the mean fee for the health service procedure for which
24 the disputed fee was charged, plus 1.2 standard deviations from that mean, as shown
25 by data from a database that is certified by the department office under par. (h),

1 unless the health service provider proves to the satisfaction of the ~~department~~ office
2 that a higher fee is justified because the service provided in the disputed case was
3 more difficult or more complicated to provide than in the usual case.

4 **SECTION 75.** 102.16 (2) (e) 1. of the statutes is amended to read:

5 102.16 (2) (e) 1. Subject to subd. 2., if an insurer or self-insured employer that
6 disputes the reasonableness of a fee charged by a health service provider cannot
7 provide information on fees charged by other health service providers for comparable
8 services because the database to which the insurer or self-insured employer
9 subscribes is not able to provide accurate information for the health service
10 procedure at issue, the ~~department~~ office may use any other information that the
11 ~~department~~ office considers to be reliable and relevant to the disputed fee to
12 determine the reasonableness of the disputed fee.

13 **SECTION 76.** 102.16 (2) (e) 2. of the statutes is amended to read:

14 102.16 (2) (e) 2. Notwithstanding subd. 1., the ~~department~~ office may use only
15 a hospital radiology database that has been certified by the ~~department~~ office under
16 par. (h) to determine the reasonableness of a hospital fee for radiology services.

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

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

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

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

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

12 102.16 (2m) (a) Except as provided in this paragraph, the ~~department~~ office
13 has jurisdiction ~~under this subsection, sub. (1m) (b), and s. 102.17~~ to resolve a dispute
14 between a health service provider and an insurer or self-insured employer over the
15 necessity of treatment provided for an injured employee who claims benefits under
16 this chapter. A health service provider may not submit a dispute over necessity of
17 treatment to the ~~department~~ office under this subsection before all treatment by the
18 health service provider of the employee's injury has ended if the amount in
19 controversy, whether based on a single charge or a combination of charges for one or
20 more days of service, is less than \$25. After all treatment by a health service provider
21 of an employee's injury has ended, the health service provider may submit any
22 dispute over necessity of treatment to the ~~department~~ office, regardless of the
23 amount in controversy. The ~~department~~ office shall deny payment for any treatment
24 that the ~~department~~ office determines under this subsection to be unnecessary.

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

1 102.16 **(2m)** (am) A health service provider and an insurer or self-insured
2 employer that are parties to a dispute under this subsection over the necessity of
3 treatment are bound by the department's office's determination under this
4 subsection on the necessity of the disputed treatment, unless that determination is
5 set aside on judicial review as provided in par. (e).

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

7 102.16 **(2m)** (b) An insurer or self-insured employer that disputes the
8 necessity of treatment provided by a health service provider or the department
9 division under sub. (1m) (b) or s. 102.18 (1) (bg) 2. shall provide reasonable written
10 notice to the health service provider that the necessity of that treatment is being
11 disputed. After receiving reasonable written notice under this paragraph or under
12 sub. (1m) (b) or s. 102.18 (1) (bg) 2. that the necessity of treatment is being disputed,
13 a health service provider may not collect a fee for that disputed treatment from, or
14 bring an action for collection of the fee for that disputed treatment against, the
15 employee who received the treatment.

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

17 102.16 **(2m)** (c) Before determining under this subsection the necessity of
18 treatment provided for an injured employee who claims benefits under this chapter,
19 the ~~department~~ office shall obtain a written opinion on the necessity of the treatment
20 in dispute from an expert selected by the ~~department~~ office. To qualify as an expert,
21 a person must be licensed to practice the same health care profession as the
22 individual health service provider whose treatment is under review and must either
23 be performing services for an impartial health care services review organization or
24 be a member of an independent panel of experts established by the ~~department~~ office
25 under par. (f). The standards promulgated under par. (g) shall be applied by an

1 expert and by the ~~department~~ office in rendering an opinion as to, and in
2 determining, necessity of treatment under this paragraph. In cases in which no
3 standards promulgated under sub. (2m) (g) apply, the ~~department~~ office shall find
4 the facts regarding necessity of treatment. The ~~department~~ office shall adopt the
5 written opinion of the expert as the ~~department's~~ office's determination on the issues
6 covered in the written opinion, unless the health service provider or the insurer or
7 self-insured employer present clear and convincing written evidence that the
8 expert's opinion is in error.

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

10 102.16 (2m) (d) The ~~department~~ office may charge a party to a dispute over the
11 necessity of treatment provided for an injured employee who claims benefits under
12 this chapter for the full cost of obtaining the written opinion of the expert under par.
13 (c). The ~~department~~ office shall charge the insurer or self-insured employer for the
14 full cost of obtaining the written opinion of the expert for the first dispute that a
15 particular individual health service provider is involved in, unless the ~~department~~
16 office determines that the individual health service provider's position in the dispute
17 is frivolous or based on fraudulent representations. In a subsequent dispute
18 involving the same individual health service provider, the ~~department~~ office shall
19 charge the losing party to the dispute for the full cost of obtaining the written opinion
20 of the expert.

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

22 102.16 (2m) (e) Within 30 days after a determination under this subsection, the
23 ~~department~~ office may set aside, reverse, or modify the determination for any reason
24 that the ~~department~~ office considers sufficient. Within 60 days after a determination
25 under this subsection, the ~~department~~ office may set aside, reverse, or modify the

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

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

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

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

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

22 **SECTION 87.** 102.16 (4) of the statutes is amended to read:

23 102.16 (4) The department division has jurisdiction to pass on any question
24 arising out of sub. (3) and has jurisdiction to order the employer to reimburse an
25 employee or other person for any sum deducted from wages or paid by him or her in

1 violation of that subsection. In addition to the penalty provided in s. 102.85 (1), any
2 employer violating sub. (3) shall be liable to an injured employee for the reasonable
3 value of the necessary services rendered to that employee pursuant to under any
4 arrangement made in violation of sub. (3) without regard to that employee's actual
5 disbursements for ~~the same~~ those services.

6 **SECTION 88.** 102.17 (1) (a) 1. of the statutes is amended to read:

7 102.17 (1) (a) 1. Upon the filing with the ~~department~~ division by any party in
8 interest of any application in writing stating the general nature of any claim as to
9 which any dispute or controversy may have arisen, the ~~department~~ division shall
10 electronically deliver or mail a copy of the application to all other parties in interest,
11 and the insurance carrier shall be considered a party in interest. The ~~department~~
12 division may bring in additional parties by service of a copy of the application.

13 **SECTION 89.** 102.17 (1) (a) 2. of the statutes is amended to read:

14 102.17 (1) (a) 2. Subject to subd. 3., the ~~department~~ division shall cause notice
15 of hearing on the application to be given to each interested party, by service of that
16 notice on the interested party personally, by electronically delivering a copy of that
17 notice to the interested party, or by mailing a copy of that notice to the interested
18 party's last-known address at least 10 days before the hearing. If a party in interest
19 is located without this state, and has no post-office address within this state, the
20 copy of the application and copies of all notices shall be filed with the department
21 of financial institutions and professional standards and shall also be sent by
22 registered or certified mail to the last-known post-office address of the party. Such
23 filing and mailing shall constitute sufficient service, with the same effect as if served
24 upon a party located within this state.

****NOTE: This is reconciled s.102.17 (1) (a) 2. This SECTION has been affected by drafts with the following LRB numbers: -0610/P2 and LRB-0807/P5.

1 **SECTION 90.** 102.17 (1) (a) 3. of the statutes is amended to read:

2 102.17 (1) (a) 3. If a party in interest claims that the employer or insurer has
3 acted with malice or bad faith, as described in s. 102.18 (1) (b) or (bp), that party shall
4 provide written notice stating with reasonable specificity the basis for the claim to
5 the employer, the insurer, the office, and the department division before the
6 department division schedules a hearing on the claim of malice or bad faith.

7 **SECTION 91.** 102.17 (1) (a) 4. of the statutes is amended to read:

8 102.17 (1) (a) 4. The hearing may be adjourned in the discretion of the
9 department division, and hearings may be held at such places as the department
10 division designates, within or without the state. The department division may also
11 arrange to have hearings held by the commission, officer, or tribunal having
12 authority to hear cases arising under the worker's compensation law of any other
13 state, of the District of Columbia, or of any territory of the United States, with the
14 testimony and proceedings at any such hearing to be reported to the department
15 division and to be made part of the record in the case. Any evidence so taken shall
16 be subject to rebuttal upon final hearing before the department division.

17 **SECTION 92.** 102.17 (1) (b) of the statutes is amended to read:

18 102.17 (1) (b) In any dispute or controversy pending before the department
19 division, the department division may direct the parties to appear before an
20 examiner for a conference to consider the clarification of issues, the joining of
21 additional parties, the necessity or desirability of amendments to the pleadings, the
22 obtaining of admissions of fact or of documents, records, reports, and bills ~~which~~ that
23 may avoid unnecessary proof, and such other matters as may aid in disposition of the

1 dispute or controversy. After ~~this~~ that conference the ~~department~~ division may issue
2 an order requiring disclosure or exchange of any information or written material
3 ~~which it~~ that the division considers material to the timely and orderly disposition of
4 the dispute or controversy. If a party fails to disclose or exchange that information
5 within the time stated in the order, the ~~department~~ division may issue an order
6 dismissing the claim without prejudice or excluding evidence or testimony relating
7 to the information or written material. The ~~department~~ division shall provide each
8 party with a copy of any order issued under this paragraph.

9 **SECTION 93.** 102.17 (1) (c) of the statutes is renumbered 102.17 (1) (c) 1. and
10 amended to read:

11 102.17 (1) (c) 1. Any party shall have the right to be present at any hearing,
12 in person or by attorney or any other agent, and to present such testimony as may
13 be pertinent to the controversy before the ~~department~~ division. No person, firm, or
14 corporation, other than an attorney at law who is licensed to practice law in the state,
15 may appear on behalf of any party in interest before the ~~department~~ division or any
16 member or employee of the ~~department~~ division assigned to conduct any hearing,
17 investigation, or inquiry relative to a claim for compensation or benefits under this
18 chapter, unless the person is 18 years of age or older, does not have an arrest or
19 conviction record, subject to ss. 111.321, 111.322 and 111.335, is otherwise qualified,
20 and has obtained from the ~~department~~ office a license with authorization to appear
21 in matters or proceedings before the ~~department~~ division. Except as provided under
22 pars. (cm), (cr), and (ct), the license shall be issued by the ~~department~~ office under
23 rules promulgated by the ~~department~~ office. The ~~department~~ office shall maintain
24 in its office a current list of persons to whom licenses have been issued.

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

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

21 **SECTION 94.** 102.17 (1) (cg) 1. of the statutes is amended to read:

22 102.17 (1) (cg) 1. Except as provided in subd. 2m., the ~~department~~ office shall
23 require each applicant for a license under par. (c) who is an individual to provide the
24 ~~department~~ office with the applicant's social security number, and shall require each
25 applicant for a license under par. (c) who is not an individual to provide the

1 department office with the applicant's federal employer identification number, when
2 initially applying for or applying to renew the license.

3 **SECTION 95.** 102.17 (1) (cg) 2. of the statutes is amended to read:

4 102.17 (1) (cg) 2. If an applicant who is an individual fails to provide the
5 applicant's social security number to the department office or if an applicant who is
6 not an individual fails to provide the applicant's federal employer identification
7 number to the department office, the department office may not issue or renew a
8 license under par. (c) to or for the applicant unless the applicant is an individual who
9 does not have a social security number and the applicant submits a statement made
10 or subscribed under oath or affirmation as required under subd. 2m.

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

12 102.17 (1) (cg) 2m. If an applicant who is an individual does not have a social
13 security number, the applicant shall submit a statement made or subscribed under
14 oath or affirmation to the department office that the applicant does not have a social
15 security number. The form of the statement shall be prescribed by the department
16 office. A license issued in reliance upon a false statement submitted under this
17 subdivision is invalid.

18 **SECTION 97.** 102.17 (1) (cg) 3. of the statutes is amended to read:

19 102.17 (1) (cg) 3. The ~~department of workforce development~~ office may not
20 disclose any information received under subd. 1. to any person except to the
21 department of revenue for the sole purpose of requesting certifications under s.
22 73.0301, the department of workforce development for the sole purpose of requesting
23 certifications under s. 108.227, or the department of children and families for
24 purposes of administering s. 49.22.

25 **SECTION 98.** 102.17 (1) (cm) of the statutes is amended to read:

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

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

14 102.17 (1) (cr) ~~The department~~ office shall deny an application for the issuance
15 or renewal of a license under par. (c), or revoke such a license already issued, if the
16 department of revenue certifies under s. 73.0301 that the applicant or licensee is
17 liable for delinquent taxes. Notwithstanding par. (c), an action taken under this
18 paragraph is subject to review only as provided under s. 73.0301 (5) and not as
19 provided in ch. 227.

20 **SECTION 100.** 102.17 (1) (ct) of the statutes is repealed and recreated to read:

21 102.17 (1) (ct) The office shall deny an application for the issuance or renewal
22 of a license under par. (c), or revoke such a license already issued, if the department
23 of workforce development certifies under s. 108.227 that the applicant or licensee is
24 liable for delinquent unemployment insurance contributions. Notwithstanding par.

1 (c), an action taken under this paragraph is subject to review only as provided under
2 s. 108.227 (5) and not as provided in ch. 227.

3 **SECTION 101.** 102.17 (1) (d) 1. of the statutes is amended to read:

4 102.17 (1) (d) 1. The contents of certified medical and surgical reports by
5 physicians, podiatrists, surgeons, dentists, psychologists, physician assistants,
6 advanced practice nurse prescribers, and chiropractors licensed in and practicing in
7 this state, and of certified reports by experts concerning loss of earning capacity
8 under s. 102.44 (2) and (3), presented by a party for compensation constitute prima
9 facie evidence as to the matter contained in those reports, subject to any rules and
10 limitations the department division prescribes. Certified reports of physicians,
11 podiatrists, surgeons, dentists, psychologists, physician assistants, advanced
12 practice nurse prescribers, and chiropractors, wherever licensed and practicing, who
13 have examined or treated the claimant, and of experts, if the practitioner or expert
14 consents to being subjected to cross-examination, also constitute prima facie
15 evidence as to the matter contained in those reports. Certified reports of physicians,
16 podiatrists, surgeons, psychologists, and chiropractors are admissible as evidence of
17 the diagnosis, necessity of the treatment, and cause and extent of the disability.
18 Certified reports by doctors of dentistry, physician assistants, and advanced practice
19 nurse prescribers are admissible as evidence of the diagnosis and necessity of
20 treatment but not of the cause and extent of disability. Any physician, podiatrist,
21 surgeon, dentist, psychologist, chiropractor, physician assistant, advanced practice
22 nurse prescriber, or expert who knowingly makes a false statement of fact or opinion
23 in such a certified report may be fined or imprisoned, or both, under s. 943.395.

24 **SECTION 102.** 102.17 (1) (d) 2. of the statutes is amended to read:

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

9 **SECTION 103.** 102.17 (1) (d) 3. of the statutes is amended to read:

10 102.17 (1) (d) 3. The department division may, by rule, establish the
11 qualifications of and the form used for certified reports submitted by experts who
12 provide information concerning loss of earning capacity under s. 102.44 (2) and (3).
13 The department division may not admit into evidence a certified report of a
14 practitioner or other expert or a record of a hospital or sanatorium that was not filed
15 with the department division and all parties in interest at least 15 days before the
16 date of the hearing, unless the department division is satisfied that there is good
17 cause for the failure to file the report.

18 **SECTION 104.** 102.17 (1) (d) 4. of the statutes is amended to read:

19 102.17 (1) (d) 4. A report or record described in subd. 1., 2., or 3. that is admitted
20 or received into evidence by the department division constitutes substantial
21 evidence under s. 102.23 (6) as to the matter contained in the report or record.

22 **SECTION 105.** 102.17 (1) (e) of the statutes is amended to read:

23 102.17 (1) (e) The department division may, with or without notice to any party,
24 cause testimony to be taken, an inspection of the premises where the injury occurred
25 to be made, or the time books and payrolls of the employer to be examined by any

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

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

8 102.17 (1) (f) Sections 804.05 and 804.07 shall not apply to proceedings under
9 this chapter, except as to a witness who is any of the following:

- 10 1. ~~Who is beyond~~ Beyond reach of the subpoena of the ~~department; or~~ division.
- 11 2. ~~Who is about~~ About to go out of the state, not intending to return in time for
12 the ~~hearing; or~~ hearing.
- 13 3. ~~Who is so~~ So sick, infirm, or aged as to make it probable that the witness will
14 not be able to attend the ~~hearing; or~~ hearing.
- 15 4. ~~Who is a~~ A member of the legislature, if any committee of the ~~same or~~
16 legislature or of the house of which the witness is a member, is in session, ~~provided~~
17 and the witness waives his or her privilege.

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

19 102.17 (1) (g) Whenever the testimony presented at any hearing indicates a
20 dispute or creates a doubt as to the extent or cause of disability or death, the
21 ~~department~~ division may direct that the injured employee be examined, that an
22 autopsy be performed, or that an opinion be obtained without examination or
23 autopsy, by or from an impartial, competent physician, chiropractor, dentist,
24 psychologist or podiatrist designated by the ~~department~~ division who is not under
25 contract with or regularly employed by a compensation insurance carrier or

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

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

8 102.17 (1) (h) The contents of certified reports of investigation, made by
9 industrial safety specialists who are employed, contracted, or otherwise secured by
10 the ~~department~~ division and who are available for cross-examination, if served upon
11 the parties 15 days prior to hearing, shall constitute prima facie evidence as to
12 matter contained in those reports. A report described in this paragraph that is
13 admitted or received into evidence by the ~~department~~ division constitutes
14 substantial evidence under s. 102.23 (6) as to the matter contained in the report.

15 **SECTION 109.** 102.17 (2) of the statutes is amended to read:

16 102.17 (2) If the ~~department shall have~~ division has reason to believe that the
17 payment of compensation has not been made, ~~it~~ the division may on its own motion
18 give notice to the parties, in the manner provided for the service of an application,
19 of a time and place when a hearing will be held for the purpose of determining the
20 facts. ~~Such~~ The notice shall contain a statement of the matter to be considered.
21 ~~Thereafter all other~~ All provisions of this chapter governing proceedings on an
22 application shall ~~attach~~ apply, insofar as ~~the same may be~~ applicable, to a proceeding
23 under this subsection. When the ~~department~~ division schedules a hearing on its own
24 motion, the ~~department~~ division does not become a party in interest and is not
25 required to appear at the hearing.

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

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

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

9 102.17 (2s) A party's attorney of record may issue a subpoena to compel the
10 attendance of a witness or the production of evidence. A subpoena issued by an
11 attorney must be in substantially the same form as provided in s. 805.07 (4) and must
12 be served in the manner provided in s. 805.07 (5). The attorney shall, at the time of
13 issuance, send a copy of the subpoena to the ~~appeal tribunal~~ hearing examiner or
14 other representative of the ~~department~~ division responsible for conducting the
15 proceeding.

16 **SECTION 112.** 102.17 (7) (b) of the statutes is amended to read:

17 102.17 (7) (b) Except as provided in par. (c), the ~~department~~ division shall
18 exclude from evidence testimony or certified reports from expert witnesses under
19 par. (a) offered by the party that raises the issue of loss of earning capacity if that
20 party failed to notify the ~~department~~ division and the other parties of interest, at
21 least 60 days before the date of the hearing, of the party's intent to provide the
22 testimony or reports and of the names of the expert witnesses involved. Except as
23 provided in par. (c), the ~~department~~ division shall exclude from evidence testimony
24 or certified reports from expert witnesses under par. (a) offered by a party of interest
25 in response to the party that raises the issue of loss of earning capacity if the

1 responding party failed to notify the ~~department~~ division and the other parties of
2 interest, at least 45 days before the date of the hearing, of the party's intent to provide
3 the testimony or reports and of the names of the expert witnesses involved.

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

5 102.17 (7) (c) Notwithstanding the notice deadlines provided in par. (b), the
6 ~~department~~ division may receive in evidence testimony or certified reports from
7 expert witnesses under par. (a) when the applicable notice deadline under par. (b) is
8 not met if good cause is shown for the delay in providing the notice required under
9 par. (b) and if no party is prejudiced by the delay.

10 **SECTION 114.** 102.17 (8) of the statutes is amended to read:

11 102.17 (8) Unless otherwise agreed to by all parties, an injured employee shall
12 file with the ~~department~~ division and serve on all parties at least 15 days before the
13 date of the hearing an itemized statement of all medical expenses and incidental
14 compensation under s. 102.42 claimed by the injured employee. The itemized
15 statement shall include, if applicable, information relating to any travel expenses
16 incurred by the injured employee in obtaining treatment including the injured
17 employee's destination, number of trips, round trip mileage, and meal and lodging
18 expenses. The ~~department~~ division may not admit into evidence any information
19 relating to medical expenses and incidental compensation under s. 102.42 claimed
20 by an injured employee if the injured employee failed to file with the ~~department~~
21 division and serve on all parties at least 15 days before the date of the hearing an
22 itemized statement of the medical expenses and incidental compensation under s.
23 102.42 claimed by the injured employee, unless the ~~department~~ division is satisfied
24 that there is good cause for the failure to file and serve the itemized statement.

25 **SECTION 115.** 102.175 (2) of the statutes is amended to read:

1 102.175 (2) If after a hearing or a prehearing conference the ~~department~~
2 division determines that an injured employee is entitled to compensation but that
3 there remains in dispute only the issue of which of 2 or more parties is liable for that
4 compensation, the ~~department~~ division may order one or more parties to pay
5 compensation in an amount, time, and manner as determined by the ~~department~~
6 division. If the ~~department~~ division later determines that another party is liable for
7 compensation, the ~~department~~ division shall order that other party to reimburse any
8 party that was ordered to pay compensation under this subsection.

9 **SECTION 116.** 102.18 (1) (b) of the statutes is amended to read:

10 102.18 (1) (b) Within 90 days after the final hearing and close of the record, the
11 ~~department~~ division shall make and file its findings upon the ultimate facts involved
12 in the controversy, and its order, which shall state ~~its~~ the division's determination as
13 to the rights of the parties. Pending the final determination of any controversy before
14 it, the ~~department may in its discretion~~ division, after any hearing, may, in its
15 discretion, make interlocutory findings, orders, and awards, which may be enforced
16 in the same manner as final awards. The ~~department~~ division may include in any
17 interlocutory or final award or order an order directing the employer or insurer to pay
18 for any future treatment that may be necessary to cure and relieve the employee from
19 the effects of the injury. If the ~~department~~ division finds that the employer or insurer
20 has not paid any amount that the employer or insurer was directed to pay in any
21 interlocutory order or award and that the nonpayment was not in good faith, the
22 ~~department~~ division may include in its final award a penalty not exceeding ~~25%~~ 25
23 percent of each amount that was not paid as directed. When there is a finding that
24 the employee is in fact suffering from an occupational disease caused by the
25 employment of the employer against whom the application is filed, a final award

1 dismissing the application upon the ground that the applicant has suffered no
2 disability from the disease shall not bar any claim the employee may thereafter have
3 for disability sustained after the date of the award.

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

5 102.18 (1) (bg) 1. If the ~~department~~ division finds under par. (b) that an insurer
6 or self-insured employer is liable under this chapter for any health services provided
7 to an injured employee by a health service provider, but that the reasonableness of
8 the fee charged by the health service provider is in dispute, the ~~department~~ division
9 may include in its order under par. (b) a determination made by the office under s.
10 102.16 (2) as to the reasonableness of the fee or ~~the department, if such a~~
11 determination has not yet been made, the division may notify, or direct the insurer
12 or self-insured employer to notify, the health service provider under s. 102.16 (2) (b)
13 that the reasonableness of the fee is in dispute. ~~The department shall deny payment~~
14 ~~of a health service fee that the department determines under this subdivision to be~~
15 ~~unreasonable. An insurer or self-insured employer and a health service provider~~
16 ~~that are parties to a fee dispute under this subdivision are bound by the department's~~
17 ~~determination under this subdivision on the reasonableness of the disputed fee,~~
18 ~~unless that determination is set aside, reversed, or modified by the department~~
19 ~~under sub. (3) or by the commission under sub. (3) or (4) or is set aside on judicial~~
20 ~~review under s. 102.23.~~

21 **SECTION 118.** 102.18 (1) (bg) 2. of the statutes is amended to read:

22 102.18 (1) (bg) 2. If the ~~department~~ division finds under par. (b) that an
23 employer or insurance carrier is liable under this chapter for any treatment provided
24 to an injured employee by a health service provider, but that the necessity of the
25 treatment is in dispute, the ~~department~~ division may include in its order under par.

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

20 **SECTION 119.** 102.18 (1) (bg) 3. of the statutes is amended to read:

21 102.18 (1) (bg) 3. If the ~~department~~ division finds under par. (b) that an insurer
22 or self-insured employer is liable under this chapter for the cost of a prescription
23 drug dispensed under s. 102.425 (2) for outpatient use by an injured employee, but
24 that the reasonableness of the amount charged for that prescription drug is in
25 dispute, the department division may include in its order under par. (b) a

1 determination made by the office under s. 102.425 (4m) as to the reasonableness of
2 the prescription drug charge or ~~the department, if such a determination has not yet~~
3 ~~been made, the division~~ may notify, or direct the insurer or self-insured employer to
4 notify, the pharmacist or practitioner dispensing the prescription drug under s.
5 102.425 (4m) (b) that the reasonableness of the prescription drug charge is in
6 dispute. ~~The department shall deny payment of a prescription drug charge that the~~
7 ~~department determines under this subdivision to be unreasonable. An insurer or~~
8 ~~self-insured employer and a pharmacist or practitioner that are parties to a dispute~~
9 ~~under this subdivision over the reasonableness of a prescription drug charge are~~
10 ~~bound by the department's determination under par. (b) on the reasonableness of the~~
11 ~~disputed prescription drug charge, unless that determination is set aside, reversed,~~
12 ~~or modified by the department under sub. (3) or by the commission under sub. (3) or~~
13 ~~(4) or is set aside on judicial review under s. 102.23.~~

14 **SECTION 120.** 102.18 (1) (bp) of the statutes is amended to read:

15 102.18 (1) (bp) If the ~~department~~ division determines that the employer or
16 insurance carrier suspended, terminated, or failed to make payments or failed to
17 report an injury as a result of malice or bad faith, the ~~department~~ division may
18 include a penalty in an award to an employee for each event or occurrence of malice
19 or bad faith. ~~This~~ That penalty is the exclusive remedy against an employer or
20 insurance carrier for malice or bad faith. ~~If this~~ the penalty is imposed for an event
21 or occurrence of malice or bad faith that causes a payment that is due an injured
22 employee to be delayed in violation of s. 102.22 (1) or overdue in violation of s. 628.46
23 (1), the ~~department~~ division may not also order an increased payment under s.
24 102.22 (1) or the payment of interest under s. 628.46 (1). The ~~department~~ division
25 may award an amount that it the division considers just, not to exceed the lesser of

1 200 percent of total compensation due or \$30,000 for each event or occurrence of
2 malice or bad faith. The ~~department~~ division may assess the penalty against the
3 employer, the insurance carrier, or both. Neither the employer nor the insurance
4 carrier is liable to reimburse the other for the penalty amount. The ~~department~~
5 division may, by rule, define actions ~~which~~ that demonstrate malice or bad faith.

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

7 102.18 (1) (bw) If an insurer, a self-insured employer, or, if applicable, the
8 uninsured employers fund pays compensation to an employee in excess of its liability
9 and another insurer is liable for all or part of the excess payment, the ~~department~~
10 division may order the insurer ~~or self-insured employer~~ that is liable for that excess
11 payment to reimburse the insurer or self-insured employer that made the excess
12 payment or, if applicable, the uninsured employers fund.

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

14 102.18 (1) (c) If 2 or more examiners have conducted a formal hearing on a claim
15 and are unable to agree on the order or award to be issued, the decision shall be the
16 decision of the majority. If the examiners are equally divided on the decision, the
17 ~~department~~ division may appoint an additional examiner who shall review the
18 record and consult with the other examiners concerning their ~~personal~~ impressions
19 of the credibility of the evidence. Findings of fact and an order or award may then
20 be issued by a majority of the examiners.

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

22 102.18 (1) (e) Except as provided in s. 102.21, if the ~~department~~ division orders
23 a party to pay an award of compensation, the party shall pay the award no later than
24 21 days after the date on which the order is electronically delivered to the party or
25 mailed to the last-known address of the party, unless the party files a petition for

1 review under sub. (3). This paragraph applies to all awards of compensation ordered
2 by the department division, whether the award results from a hearing, the default
3 of a party, or a compromise or stipulation confirmed by the department division.

4 **SECTION 124.** 102.18 (2) of the statutes is amended to read:

5 102.18 (2) The department division shall have and maintain on its staff such
6 examiners as are necessary to hear and decide disputed claims and to assist in the
7 effective ~~administration of~~ adjudication of disputes under this chapter. ~~These~~ Those
8 examiners shall be attorneys and may be designated as administrative law judges.
9 ~~These~~ Those examiners may make findings and orders, and may approve, review, set
10 aside, modify, or confirm stipulations of settlement or compromises of claims for
11 compensation.

12 **SECTION 125.** 102.18 (3) of the statutes is amended to read:

13 102.18 (3) A party in interest may petition the commission for review of an
14 examiner's decision awarding or denying compensation if the department division
15 or commission receives the petition within 21 days after the department division
16 electronically delivered a copy of the examiner's findings and order to the parties in
17 interest or mailed a copy of the examiner's findings and order to the party's
18 last-known address addresses of the parties in interest. The commission shall
19 dismiss a petition ~~which~~ that is not timely filed unless the petitioner shows probable
20 good cause that the reason for failure to timely file was beyond the petitioner's
21 control. If no petition is filed within 21 days ~~from~~ after the date ~~that~~ on which a copy
22 of the findings or order of the examiner is electronically delivered to the parties in
23 interest or mailed to the last-known address addresses of the parties in interest, the
24 findings or order shall be considered final unless set aside, reversed, or modified by
25 the examiner within that time. If the findings or order are set aside by the examiner,

1 the status shall be the same as prior to the setting aside of the findings or order set
2 aside. If the findings or order are reversed or modified by the examiner, the time for
3 filing a petition commences ~~with~~ on the date ~~that~~ on which notice of reversal or
4 modification is electronically delivered to the parties in interest or mailed to the
5 last-known ~~address~~ addresses of the parties in interest. The commission shall either
6 affirm, reverse, set aside, or modify the findings or order, in whole or in part, or direct
7 the taking of additional evidence. ~~This~~ The commission's action shall be based on a
8 review of the evidence submitted.

9 **SECTION 126.** 102.18 (4) (b) of the statutes is amended to read:

10 102.18 (4) (b) Within 28 days after a decision of the commission is electronically
11 delivered to each party in interest or mailed to the last-known address of each party
12 in interest, the commission may, on its own motion, set aside the decision for further
13 consideration.

14 **SECTION 127.** 102.18 (4) (c) 3. of the statutes is amended to read:

15 102.18 (4) (c) 3. Remand the case to the ~~department~~ division for further
16 proceedings.

17 **SECTION 128.** 102.18 (4) (d) of the statutes is amended to read:

18 102.18 (4) (d) While a petition for review by the commission is pending or after
19 entry of an order or award by the commission, but before commencement of an action
20 for judicial review or expiration of the period in which to commence an action for
21 judicial review, the commission shall remand any compromise presented to it to the
22 ~~department~~ division for consideration and approval or rejection pursuant to under
23 s. 102.16 (1). Presentation of a compromise does not affect the period in which to
24 commence an action for judicial review.

25 **SECTION 129.** 102.18 (5) of the statutes is amended to read: