



1997 SENATE BILL 323

October 15, 1997 - Introduced by Senators PLACHE and ZIEN, cosponsored by Representatives VRAKAS and VANDER LOOP. Referred to Committee on Labor, Transportation and Financial Institutions.

1 **AN ACT to amend** 20.445 (3) (jb), 102.07 (8) (b) 2., 102.07 (12m), 102.076 (1),
2 102.077 (3), 102.11 (1) (intro.), 102.11 (1) (d), 102.13 (1) (a), 102.13 (1) (b) (intro.),
3 102.13 (1) (b) 1., 102.13 (1) (b) 3., 102.13 (1) (b) 4., 102.13 (1) (d) 1., 102.13 (1)
4 (d) 2., 102.13 (1) (d) 3., 102.13 (1) (d) 4., 102.13 (2) (a), 102.13 (2) (b), 102.13 (3),
5 102.16 (2) (a), 102.16 (2) (b), 102.16 (2) (d), 102.16 (2) (f), 102.16 (2m) (a), 102.16
6 (2m) (b), 102.16 (2m) (e), 102.16 (3), 102.17 (1) (e), 102.17 (1) (g), 102.28 (3) (a)
7 (intro.), 102.28 (3) (a) 4., 102.28 (3) (b) 4., 102.28 (3) (c), 102.28 (3) (d), 102.29
8 (3), 102.29 (8), 102.29 (9), 102.42 (2) (a), 102.42 (6), 102.82 (1) and 102.83 (8);
9 **to repeal and recreate** 102.42 (2) (a); and **to create** 49.124 (1m) (d), 102.04
10 (2m), 102.16 (1m), 102.18 (1) (bg) and 102.29 (8r) of the statutes; **relating to:**
11 various changes to the worker's compensation law.

Analysis by the Legislative Reference Bureau

This bill makes various changes relating to worker's compensation, as administered by the department of workforce development (DWD), as follows:

General coverage

Current law defines a "temporary help agency" as an employer who places its employes with or leases its employes to another employer who controls the employe's work activities and compensates the temporary help agency for the employe's services, regardless of the duration of the services. Under current law, no employe of a temporary help agency who makes a claim for worker's compensation against the

temporary help agency may make a claim or maintain an action in tort against any employer who compensates the temporary help agency for the employe's services.

This bill specifies that for purposes of worker's compensation a temporary help agency is the employer of an employe whom the temporary help agency has placed with or leased to another employer that compensates the temporary help agency for the employe's services, that a temporary help agency is liable for all worker's compensation payable to that employe and that a temporary help agency may not seek or receive reimbursement from another employer for any payments made as a result of that liability.

Under current law, in general, every person who usually employs 3 or more employes and every person who usually employs less than 3 employes, but who has paid wages of \$500 or more in any calendar quarter for services performed in this state is subject to the worker's compensation law. Current law, however, permits not more than 2 officers of a corporation having not more than 10 stockholders to elect not to be subject to the worker's compensation law. Currently, the election is made by an endorsement on the policy of worker's compensation insurance issued to the corporation naming each officer who has so elected and is effective for the period of the policy. This bill permits an officer of such a corporation that has been issued a policy of worker's compensation insurance to elect not to be subject to the worker's compensation law and not to be covered under the policy at any time during the period of the policy. The bill also provides that such an election may not be reversed during the period of the policy.

Under current law, subject to certain exceptions, every employer must pay worker's compensation to an employe who sustains an injury while performing services growing out of an incidental to his or her employment. Current law, however, permits DWD to exempt an employer from the duty to pay worker's compensation to certain employes who belong to a religious sect whose tenets or teachings oppose accepting the benefits of any public or private insurance that pays benefits in the event of death, disability, old age or retirement or that makes payments towards the cost of medical care, for example, the Amish. Under current law, an employer applying for this exemption must submit certain information to DWD including proof of the financial ability of the religious sect to provide financial and medical assistance to an injured employe who belongs to the religious sect.

This bill eliminates the requirement that a religious sect establish proof of its financial ability to provide that assistance.

Current law defines certain persons as "employes" for purposes of coverage under the worker's compensation law. Currently, an independent contractor is, for purposes of the worker's compensation law, an employe of any employer that is subject to the worker's compensation law for whom the independent contractor is performing services in the course of the employer's trade, business, profession or occupation at the time of the injury, except that an independent contract is not an employe of an employer for whom the independent contractor performs work or services if the independent contractor meets certain conditions. One of those conditions is that the independent contractor holds or has applied for a federal employer identification number. This bill changes that condition so that an

independent contractor is not an employe if the independent contractor holds or has applied for an employer identification number with the federal internal revenue service or has filed business or self-employment income tax returns with the federal internal revenue service based on the independent contractor's work or services in the previous year.

Currently, a student of a public school or a private school, while he or she is engaged in performing services as part of a school work training, work experience or work study program, who is not on the payroll of an employer that is providing the work training or work experience or who is not otherwise receiving compensation on which a worker's compensation carrier could assess premiums on that employer, is an employe of a school district or private school that elects to name the student as an employe for purposes of worker's compensation coverage. Also, under current law, a student who is named as an employe of a school district or private school for purposes of worker's compensation coverage and who makes a claim for worker's compensation against his or her school district or private school may not also make a claim for worker's compensation or maintain an action in tort against the employer that provided the work training or work experience from which the claim arose. Currently, these provisions do not apply to injuries occurring after December 31, 1997. This bill extends that expiration date to December 31, 1999.

Similarly, under current law, a participant in a work experience component of a job opportunities and basic skills (JOBS) program under the aid to families with dependent children (AFDC) program who, under the JOBS program, is considered to be an employe of the agency administering the JOBS program or who, under the JOBS program, is provided worker's compensation coverage by the person administering the community work experience component of the JOBS program, and who makes a claim for worker's compensation against that agency or person may not also make a claim for worker's compensation or maintain an action in tort against the employer that provided the work experience from which the claim arose. Currently, this provision does not apply to injuries occurring after December 31, 1997. This bill extends that expiration date to February 28, 1998, as the AFDC program no longer applies in this state beginning on March 1, 1998.

The bill also extends similar coverage to a participant in the food stamp employment and training (FSET) program. Specifically, under the bill, a participant in a FSET program administered by DWD or a Wisconsin works agency is an employe of DWD for the Wisconsin works agency for purposes of worker's compensation coverage, except to the extent that the person for whom the participant is performing work provides that coverage. Also under the bill, a participant in a FSET program who is provided worker's compensation coverage by DWD or a Wisconsin works agency and who makes a claim for worker's compensation may not also make a claim for worker's compensation or maintain an action in tort against the employer who provided the employment and training from which the claim arose.

Examinations and treatment

Under current law, whenever an employe claims worker's compensation, the employe must, on the request of his or her employer or the employer's worker's compensation carrier, submit to reasonable examinations by physicians,

chiropractors, psychologists or podiatrists (practitioners) provided and paid for by the employer or insurer. Currently, an employe is entitled to have a practitioner provided by himself or herself present at the examination and to request and receive a copy of all reports of the examination. Also, under current law, any practitioner who is present at an employe's examination may be required to testify as to the results of the examination and any practitioner who attends a worker's compensation claimant for any condition or complaint that is reasonably related to the condition for which the claimant claims compensation may be required to testify before DWD. In addition, under current law, any practitioner who attends a worker's compensation claimant for any condition or complaint that is reasonably related to the condition for which the claimant claims compensation may, notwithstanding the confidentiality of medical and mental health records, furnish information and reports relative to the claim to the employe, employer, worker's compensation insurer or DWD and, notwithstanding that confidentiality, shall, within a reasonable time after written request and upon payment of the actual cost of preparation and postage, provide that person with any information or written material that is reasonably related to the claim. Moreover, under current law, if 2 or more practitioners disagree as to the extent of an injured employe's temporary disability, the end of the employer's healing period, the employe's ability to return to work or the necessity for further treatment or for a particular type of treatment, DWD may appoint another practitioner to examine the employe and render an opinion. Finally, under current law, if the testimony presented at a hearing indicates a dispute or creates a doubt as to the extent or cause of an employe's disability or death, DWD may direct that the injured employe be examined or that an autopsy be performed, or that an opinion be obtained, by an impartial, competent practitioner.

This bill includes dentists among the practitioners to which the provisions of current law relating to examination and treatment of an injured employe apply. The bill also eliminates the requirement that an employe must request a copy of the report of his or her examination in order to receive it and instead entitles the employe to receive a copy of such a report immediately upon receipt of the report by the employer or worker's compensation insurer.

Under current law, subject to certain exceptions, when an employer has notice of an employe's injury and its relationship to the employe's employment, the employer must offer to the employe his or her choice of any practitioner licensed to practice in this state and practicing in this state for treatment of the injury. Currently, an employe may choose a practitioner not licensed in this state only with the agreement of the employer or worker's compensation insurer. Recently, the Supreme Court, in *UFE, Inc. v. LIRC*, 201 Wis. 2d 274 (1986), held, however, that an employer or worker's compensation insurer is liable for treatment provided by an out-of-state practitioner if the treatment is provided on the referral of an in-state practitioner and not by choice of the injured employe.

This bill reverses the *UFE* holding. Under the bill, until January 1, 2000, an employer or worker's compensation insurer is not liable for treatment provided by an out-of-state practitioner on referral from an in-state practitioner unless the employer or insurer agrees to be liable for that treatment. The bill also requires an

employer to offer to an injured employe his or her choice of any dentist licensed to practice and practicing in this state for treatment of the employe's injury.

Hearings and procedures

Current law provides a procedure, separate from the procedure provided for resolving a disputed claim for worker's compensation, under which DWD has jurisdiction to resolve a dispute between a health service provider and an insurer or self-insured employer over the reasonableness of any health service fee charged by the health service provider for services provided to an injured employe who claims worker's compensation benefits or over the necessity of any treatment provided to an injured employe who claims worker's compensation benefits. Under that procedure, DWD must deny payment of a fee that DWD determines to be unreasonable or payment for any treatment that DWD determines to be unnecessary and the health service provider and insurer or self-insurer that are parties to the dispute are bound by that determination unless the determination is set aside on judicial review. Under the procedure, an insurer or self-insurer that disputes the reasonableness of a fee charged by a health service provider or the necessity of any treatment provided by a health service provider must provide reasonable notice to the health service provider that the fee or the necessity of the treatment is in dispute and, after receiving that notice, the health service provider may not collect the fee from, or bring a collection action against, the employe who received the services or treatment that is the subject of the dispute.

This bill permits DWD to resolve a fee dispute or a necessity of treatment dispute not only under the specific procedure provided for resolving those types of disputes, but also under the general procedure under which DWD resolves a disputed claim for worker's compensation. Specifically, if after a hearing on a disputed claim for worker's compensation, DWD finds that an insurer or self-insured employer is liable for any health services or treatment provided to an injured employe by a health service provider, but that the reasonableness of the fee for those services or the necessity of that treatment is in dispute, DWD may include in its order a determination as to the reasonableness of the fee or the necessity of the treatment or DWD may notify, or direct the insurer or self-insured employer to notify, the health service provider under the fee dispute or necessity of treatment dispute procedure that the reasonableness of the fee or the necessity of the treatment is in dispute. Similarly, if an insurer or self-insured employer concedes under a compromise agreement or stipulation that the insurer or self-insured employer is liable for any health services or treatment provided to an injured employe by a health service provider, but disputes the reasonableness of the fee for those services or the necessity of that treatment, DWD may include in its order confirming the compromise agreement or stipulation a determination as to the reasonableness of the fee or the necessity of the treatment or DWD may notify, or direct the insurer or self-insured employer to notify, the health service provider under the fee dispute or necessity of treatment dispute procedure that the reasonableness of the fee or the necessity of the treatment is in dispute. Under the bill, DWD must deny payment of a fee that DWD determines after a hearing or on confirming a compromise agreement or stipulation to be unreasonable or payment for any treatment that

DWD determines after a hearing or on confirming a compromise agreement or stipulation to be unnecessary and the health service provider and insurer or self-insured employer are bound by that determination unless the determination is set aside, reversed or modified by DWD or by the labor and industry review commission (LIRC) or is set aside on judicial review. Under the bill, after receiving notice from DWD or from an insurer or self-insured employer that the reasonableness of a fee or the necessity of any treatment is in dispute, the health service provider may not collect the fee from, or bring a collection action against, the employe who received the services or treatment that is the subject of the dispute.

Under current law, DWD retains jurisdiction for 21 days after the date on which a copy of a hearing examiner's order is mailed to the parties to a disputed claim for worker's compensation to set aside, reverse or modify that order. Similarly, under current law, LIRC retains jurisdiction for 28 days after the date on which a decision of LIRC is mailed to the parties to a disputed claim for worker's compensation to set aside the decision for further consideration. This bill permits DWD to retain jurisdiction for 30 days after a determination of DWD under the fee dispute or necessity of treatment dispute procedure is made to set aside, reverse or modify that determination.

Uninsured employers

Under current law, if an employer is not insured or self-insured as required by the worker's compensation law, the employer is liable to DWD for certain payments which are deposited in the uninsured employers fund and used by DWD to pay benefits to the injured employes of uninsured employers. Currently, if DWD pays benefits to an injured employe of an uninsured employer, the uninsured employer must reimburse DWD in the amount of benefits paid, less any amounts that the employe repays to DWD from any compensation recovered by the employe from the employer or a 3rd party. This bill requires an uninsured employer to reimburse DWD for any benefits paid to an employe of the uninsured employer within 30 days after the date on which DWD notifies the uninsured employer that the reimbursement is owed. Under the bill, interest on amounts not paid when due accrues at the rate of 1% per month.

Under current law, if an uninsured employer fails to pay an amount owed to DWD and no appeal or other proceeding for review is pending and the time for taking an appeal has expired, DWD may issue a warrant to the clerk of circuit court of any county in the state and the clerk of circuit court must docket the warrant, which gives the warrant the effect of a final judgment. Currently, if an uninsured employer that is a corporation is unable to pay the amounts specified in a warrant, an officer or director of the corporation may be found personally liable for that payment. This bill extends to the members and managers of an uninsured employer that is a limited liability company and that is unable to pay the amount specified in a warrant issued by DWD personal liability for that payment.

Compensation amounts

The bill sets the average weekly earnings and maximum compensation rates for permanent partial disability for injuries occurring on or after January 1, 1998, and on or after January 1, 1999, but before January 1, 2000. For injuries occurring

during calendar year 1998, the average weekly earnings are not more than \$268.50, resulting in a maximum compensation rate of \$179. For injuries occurring during calendar year 1999, the average weekly earnings are not more than \$276, resulting in a maximum compensation rate of \$184.

The bill also sets the average weekly earnings and maximum compensation rates for temporary disability, permanent total disability and death benefits for injuries occurring on or after January 1, 1998, and on or after January 1, 1999. For injuries occurring during calendar year 1998, the average weekly earnings are not more than \$784.50, resulting in a maximum compensation rate of \$523. For injuries occurring on or after January 1, 1999, the average weekly earnings are not more than \$807, resulting in a maximum compensation rate of \$538.

Under current law, within those limits, the average weekly earnings of an injured employe may not be less than the actual average weekly earnings of the injured employe for the 4 calendar quarters before the employe's injury within which the employe has been employed in the business, in the kind of employment and for the employer for whom the employe worked when injured. This bill changes the period in which an injured employe's average weekly earnings are calculated to the 52 calendar weeks before the employe's injury.

For further information see the *state and local* 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.** 20.445 (3) (jb) of the statutes is amended to read:

2 20.445 (3) (jb) *Fees for administrative services.* All moneys received from fees
3 charged for providing state mailings, special computer services, training programs,
4 worker's compensation coverage for persons participating in employment and
5 training programs under ch. 49, printed materials and publications relating to
6 economic support, for the purpose of providing state mailings, special computer
7 services, training programs, worker's compensation coverage for persons
8 participating in employment and training programs under ch. 49, printed materials
9 and publications relating to economic support.

10 **SECTION 2.** 49.124 (1m) (d) of the statutes is created to read:

1 49.124 **(1m)** (d) A participant in an employment and training program under
2 this section administered by the department is an employe of the department for
3 purposes of worker's compensation coverage, except to the extent that the person for
4 whom the participant is performing work provides worker's compensation coverage.
5 A participant in an employment and training program under this section
6 administered by a Wisconsin works agency is an employe of the Wisconsin works
7 agency for purposes of worker's compensation coverage, except to the extent that the
8 person for whom the participant is performing work provides worker's compensation
9 coverage.

10 **SECTION 3.** 102.04 (2m) of the statutes is created to read:

11 102.04 **(2m)** A temporary help agency is the employer of an employe whom the
12 temporary help agency has placed with or leased to another employer that
13 compensates the temporary help agency for the employe's services. A temporary help
14 agency is liable under s. 102.03 for all compensation payable under this chapter to
15 that employe, including any payments required under s. 102.16 (3), 102.18 (1) (b) or
16 (bp), 102.22 (1), 102.35 (3), 102.57 or 102.60. Except as permitted under s. 102.29,
17 a temporary help agency may not seek or receive reimbursement from another
18 employer for any payments made as a result of that liability.

19 **SECTION 4.** 102.07 (8) (b) 2. of the statutes is amended to read:

20 102.07 **(8)** (b) 2. Holds or has applied for a federal employer identification
21 number with the federal internal revenue service or has filed business or
22 self-employment income tax returns with the federal internal revenue service based
23 on that work or service in the previous year.

24 **SECTION 5.** 102.07 (12m) of the statutes is amended to read:

1 102.07 (**12m**) A student of a public school, as described in s. 115.01 (1), or a
2 private school, as defined in s. 115.001 (3r), while he or she is engaged in performing
3 services as part of a school work training, work experience or work study program,
4 and who is not on the payroll of an employer that is providing the work training or
5 work experience or who is not otherwise receiving compensation on which a worker's
6 compensation carrier could assess premiums on that employer, is an employe of a
7 school district or private school that elects under s. 102.077 to name the student as
8 its employe. This subsection does not apply after December 31, 1997 1999.

9 **SECTION 6.** 102.076 (1) of the statutes is amended to read:

10 102.076 (**1**) Not more than 2 officers of a corporation having not more than 10
11 stockholders may elect not to be subject to this chapter. If the corporation has been
12 issued a policy of worker's compensation insurance, an officer of the corporation may
13 elect not to be subject to this chapter and not to be covered under the policy at any
14 time during the period of the policy. Except as provided in sub. (2), the election shall
15 be made by an endorsement, on the policy of worker's compensation insurance issued
16 to that corporation, naming each officer who has so elected. The election is effective
17 for the period of the policy and may not be reversed during the period of the policy.
18 An officer who so elects is an employe for the purpose of determining whether the
19 corporation is an employer under s. 102.04 (1) (b).

20 **SECTION 7.** 102.077 (3) of the statutes is amended to read:

21 102.077 (**3**) This section does not apply after December 31, 1997 1999.

22 **SECTION 8.** 102.11 (1) (intro.) of the statutes is amended to read:

23 102.11 (**1**) (intro.) The average weekly earnings for temporary disability,
24 permanent total disability or death benefits for injury in each calendar year on or
25 after January 1, 1982, shall be not less than \$30 nor more than the wage rate which

1 results in a maximum compensation rate of 100% of the state's average weekly
2 earnings as determined under s. 108.05 as of June 30 of the previous year, except that
3 the average weekly earnings for temporary disability, permanent total disability or
4 death benefits for injuries occurring on or after January 1, ~~1996~~ 1998, and before
5 January 1, ~~1997~~ 1999, shall be not more than ~~\$741~~ \$784.50, resulting in a maximum
6 compensation rate of ~~\$494~~ \$523, and the average weekly earnings for temporary
7 disability, permanent total disability or death benefits for injuries occurring on or
8 after January 1, ~~1997~~ 1999, and before January 1, ~~1998~~ 2000, shall be not more than
9 ~~\$763.50~~ \$807, resulting in a maximum compensation rate of ~~\$509~~ \$538. The average
10 weekly earnings for permanent partial disability shall be not less than \$30 and, for
11 permanent partial disability for injuries occurring on or after January 1, ~~1996~~ 1998,
12 and before January 1, 1999, not more than ~~\$253.50~~ \$268.50, resulting in a maximum
13 compensation rate of ~~\$169~~ \$179, and, for permanent partial disability for injuries
14 occurring on or after January 1, ~~1997~~ 1999, not more than ~~\$261~~ \$276, resulting in
15 a maximum compensation rate of ~~\$174~~ \$184. Between such limits the average
16 weekly earnings shall be determined as follows:

17 **SECTION 9.** 102.11 (1) (d) of the statutes is amended to read:

18 102.11 (1) (d) Except in situations where par. (b) applies, average weekly
19 earnings shall in no case be less than actual average weekly earnings of the employe
20 for the ~~4 calendar quarters~~ 52 calendar weeks before his or her injury within which
21 the employe has been employed in the business, in the kind of employment and for
22 the employer for whom the employe worked when injured. Calendar weeks within
23 which no work was performed shall not be considered under this paragraph. This
24 paragraph applies only if the employe has worked within a total of at least 6 calendar
25 weeks during the ~~4 calendar quarters~~ 52 calendar weeks before his or her injury in

1 the business, in the kind of employment and for the employer for whom the employe
2 worked when injured. For purposes of this section, earnings for part-time services
3 performed for a labor organization pursuant to a collective bargaining agreement
4 between the employer and that labor organization shall be considered as part of the
5 total earnings in the preceding ~~4 calendar quarters~~ 52 calendar weeks, whether
6 payment is made by the labor organization or the employer.

7 **SECTION 10.** 102.13 (1) (a) of the statutes is amended to read:

8 102.13 (1) (a) Except as provided in sub. (4), whenever compensation is claimed
9 by an employe, the employe shall, upon the written request of the employe's employer
10 or worker's compensation insurer, submit to reasonable examinations by physicians,
11 chiropractors, psychologists, dentists or podiatrists provided and paid for by the
12 employer or insurer. No employe who submits to an examination under this
13 paragraph is a patient of the examining physician, chiropractor, psychologist,
14 dentist or podiatrist for any purpose other than for the purpose of bringing an action
15 under ch. 655, unless the employe specifically requests treatment from that
16 physician, chiropractor, psychologist, dentist or podiatrist.

17 **SECTION 11.** 102.13 (1) (b) (intro.) of the statutes is amended to read:

18 102.13 (1) (b) (intro.) An employer or insurer who requests that an employe
19 submit to reasonable examination under par. (a) or (am) shall tender to the employe,
20 before the examination, all necessary expenses including transportation expenses.
21 The employe is entitled to have a physician, chiropractor, psychologist, dentist or
22 podiatrist provided by himself or herself present at the examination and to request
23 and receive a copy of all reports of the examination that are prepared by the
24 examining physician, chiropractor, psychologist, podiatrist, dentist or vocational
25 expert immediately upon receipt of those reports by the employer or worker's

1 compensation insurer. The employe is also entitled to have a translator provided by
2 himself or herself present at the examination if the employe has difficulty speaking
3 or understanding the English language. The employer's or insurer's written request
4 for examination shall notify the employe of all of the following:

5 **SECTION 12.** 102.13 (1) (b) 1. of the statutes is amended to read:

6 102.13 (1) (b) 1. The proposed date, time and place of the examination and the
7 identity and area of specialization of the examining physician, chiropractor,
8 psychologist, dentist, podiatrist or vocational expert.

9 **SECTION 13.** 102.13 (1) (b) 3. of the statutes is amended to read:

10 102.13 (1) (b) 3. The employe's right to have his or her physician, chiropractor,
11 psychologist, dentist or podiatrist present at the examination.

12 **SECTION 14.** 102.13 (1) (b) 4. of the statutes is amended to read:

13 102.13 (1) (b) 4. The employe's right to ~~request and~~ receive a copy of all reports
14 of the examination that are prepared by the examining physician, chiropractor,
15 psychologist, dentist, podiatrist or vocational expert immediately upon receipt of
16 these reports by the employer or worker's compensation insurer.

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

18 102.13 (1) (d) 1. Any physician, chiropractor, psychologist, dentist, podiatrist
19 or vocational expert who is present at any examination under par. (a) or (am) may
20 be required to testify as to the results thereof.

21 **SECTION 16.** 102.13 (1) (d) 2. of the statutes is amended to read:

22 102.13 (1) (d) 2. Any physician, chiropractor, psychologist, dentist or podiatrist
23 who attended a worker's compensation claimant for any condition or complaint
24 reasonably related to the condition for which the claimant claims compensation may
25 be required to testify before the department when it so directs.

1 **SECTION 17.** 102.13 (1) (d) 3. of the statutes is amended to read:

2 102.13 (1) (d) 3. Notwithstanding any statutory provisions except par. (e), any
3 physician, chiropractor, psychologist, dentist or podiatrist attending a worker's
4 compensation claimant for any condition or complaint reasonably related to the
5 condition for which the claimant claims compensation may furnish to the employe,
6 employer, worker's compensation insurer, or the department information and
7 reports relative to a compensation claim.

8 **SECTION 18.** 102.13 (1) (d) 4. of the statutes is amended to read:

9 102.13 (1) (d) 4. The testimony of any physician, chiropractor, psychologist,
10 dentist or podiatrist who is licensed to practice where he or she resides or practices
11 in any state and the testimony of any vocational expert may be received in evidence
12 in compensation proceedings.

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

14 102.13 (2) (a) An employe who reports an injury alleged to be work-related or
15 files an application for hearing waives any physician-patient, psychologist-patient
16 or chiropractor-patient privilege with respect to any condition or complaint
17 reasonably related to the condition for which the employe claims compensation.
18 Notwithstanding ss. 51.30 and 146.82 and any other law, any physician,
19 chiropractor, psychologist, dentist, podiatrist, hospital or health care provider shall,
20 within a reasonable time after written request by the employe, employer, worker's
21 compensation insurer or department or its representative, provide that person with
22 any information or written material reasonably related to any injury for which the
23 employe claims compensation.

24 **SECTION 20.** 102.13 (2) (b) of the statutes is amended to read:

1 102.13 (2) (b) A physician, chiropractor, podiatrist, psychologist, dentist,
2 hospital or health service provider shall furnish a legible, certified duplicate of the
3 written material requested under par. (a) upon payment of the actual costs of
4 preparing the certified duplicate, not to exceed the greater of 45 cents per page or
5 \$7.50 per request, plus the actual costs of postage. Any person who refuses to provide
6 certified duplicates of written material in the person's custody that is requested
7 under par. (a) shall be liable for reasonable and necessary costs and, notwithstanding
8 s. 814.04 (1), reasonable attorney fees incurred in enforcing the requester's right to
9 the duplicates under par. (a).

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

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

24 **SECTION 22.** 102.16 (1m) of the statutes is created to read:

1 102.16 **(1m)** (a) 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 any health services provided to an injured
4 employe by a health service provider, but disputes the reasonableness of the fee
5 charged by the health service provider, the department may include in its order
6 confirming the compromise or stipulation a determination as to the reasonableness
7 of the fee or the department may notify, or direct the insurer or self-insured employer
8 to notify, the health service provider under sub. (2) (b) that the reasonableness of the
9 fee is in dispute.

10 (b) If an insurer or self-insured employer concedes by compromise under sub.
11 (1) or stipulation under s. 102.18 (1) (a) that the insurer or self-insured employer is
12 liable under this chapter for any treatment provided to an injured employe by a
13 health service provider, but disputes the necessity of the treatment, the department
14 may include in its order confirming the compromise or stipulation a determination
15 as to the necessity of the treatment or the department may notify, or direct the
16 insurer or self-insured employer to notify, the health service provider under sub.
17 (2m) (b) that the necessity of the treatment is in dispute.

18 **SECTION 23.** 102.16 (2) (a) of the statutes is amended to read:

19 102.16 **(2)** (a) The department has jurisdiction under this subsection, sub. (1m)
20 (a) and s. 102.17 to resolve a dispute between a health service provider and an insurer
21 or self-insured employer over the reasonableness of a fee charged by the health
22 service provider for health services provided to an injured employe who claims
23 benefits under this chapter. The department shall deny payment of a health service
24 fee that the department determines under this subsection, sub. (1m) (a) or s. 102.18
25 (1) (b) to be unreasonable. A health service provider and an insurer or self-insured

1 employer that are parties to a fee dispute under this subsection are bound by the
2 department's determination under this subsection on the reasonableness of the
3 disputed fee, unless that determination is set aside on judicial review ~~under par. (f)~~
4 as provided in par. (f). A health service provider and an insurer or self-insured
5 employer that are parties to a fee dispute under sub. (1m) (a) are bound by the
6 department's determination under sub. (1m) (a) on the reasonableness of the
7 disputed fee, unless that determination is set aside or modified by the department
8 under sub. (1). An insurer or self-insured employer that is a party to a fee dispute
9 under s. 102.17 and a health service provider are bound by the department's
10 determination under s. 102.18 (1) (b) on the reasonableness of the disputed fee,
11 unless that determination is set aside, reversed or modified by the department under
12 s. 102.18 (3) or by the commission under s. 102.18 (3) or (4) or is set aside on judicial
13 review under s. 102.23.

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

15 102.16 (2) (b) An insurer or self-insured employer that disputes the
16 reasonableness of a fee charged by a health service provider or the department under
17 sub. (1m) (a) or s. 102.18 (1) (bg) 1. shall provide reasonable notice to the health
18 service provider that the fee is being disputed. After receiving reasonable notice
19 under this paragraph or under sub. (1m) (a) or s. 102.18 (1) (bg) 1. that a health
20 service fee is being disputed, a health service provider may not collect the disputed
21 fee from, or bring an action for collection of the disputed fee against, the employee who
22 received the services for which the fee was charged.

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

24 102.16 (2) (d) For fee disputes that are submitted to the department before
25 July 1, 1998 2000, the department shall analyze the information provided to the

1 department under par. (c) according to the criteria provided in this paragraph to
2 determine the reasonableness of the disputed fee. The department shall determine
3 that a disputed fee is reasonable and order that the disputed fee be paid if that fee
4 is at or below the mean fee for the health service procedure for which the disputed
5 fee was charged, plus 1.5 standard deviations from that mean, as shown by data from
6 a data base that is certified by the department under par. (h). The department shall
7 determine that a disputed fee is unreasonable and order that a reasonable fee be paid
8 if the disputed fee is above the mean fee for the health service procedure for which
9 the disputed fee was charged, plus 1.5 standard deviations from that mean, as shown
10 by data from a data base that is certified by the department under par. (h), unless
11 the health service provider proves to the satisfaction of the department that a higher
12 fee is justified because the service provided in the disputed case was more difficult
13 or more complicated to provide than in the usual case.

14 **SECTION 26.** 102.16 (2) (f) of the statutes is amended to read:

15 102.16 (2) (f) The department may set aside, reverse or modify a determination
16 under this subsection within 30 days after the date of the determination. A health
17 service provider, insurer or self-insured employer that is aggrieved by a
18 determination of the department under this subsection may seek judicial review of
19 that determination in the same manner that compensation claims are reviewed
20 under s. 102.23.

21 **SECTION 27.** 102.16 (2m) (a) of the statutes is amended to read:

22 102.16 (2m) (a) The department has jurisdiction under this subsection, sub.
23 (1m) (b) and s. 102.17 to resolve a dispute between a health service provider and an
24 insurer or self-insured employer over the necessity of treatment provided for an
25 injured employe who claims benefits under this chapter. The department shall deny

1 payment for any treatment that the department determines under this subsection,
2 sub. (1m) (b) or s. 102.18 (1) (b) to be unnecessary. A health service provider and an
3 insurer or self-insured employer that are parties to a dispute under this subsection
4 over the necessity of treatment are bound by the department's determination under
5 this subsection on the necessity of that treatment, unless that determination is set
6 aside on judicial review ~~under par. (e)~~ as provided in par. (e). A health service
7 provider and an insurer or self-insured employer that are parties to a dispute under
8 sub. (1m) (b) over the necessity of treatment are bound by the department's
9 determination under sub. (1m) (b) on the necessity of that treatment, unless that
10 determination is set aside or modified by the department under sub. (1). An insurer
11 or self-insured employer that is a party to a dispute under s. 102.17 over the
12 necessity of treatment and a health service provider are bound by the department's
13 determination under s. 102.18 (1) (b) on the necessity of that treatment, unless that
14 determination is set aside, reversed or modified by the department under s. 102.18
15 (3) or by the commission under s. 102.18 (3) or (4) or is set aside on judicial review
16 under s. 102.23.

17 **SECTION 28.** 102.16 (2m) (b) of the statutes is amended to read:

18 102.16 **(2m)** (b) An insurer or self-insured employer that disputes the
19 necessity of treatment provided by a health service provider or the department under
20 sub. (1m) (b) or s. 102.18 (1) (bg) 2. shall provide reasonable notice to the health
21 service provider that the necessity of that treatment is being disputed. After
22 receiving reasonable notice under this paragraph or under sub. (1m) (b) or s. 102.18
23 (1) (bg) 2. that the necessity of treatment is being disputed, a health service provider
24 may not collect a fee for that disputed treatment from, or bring an action for collection

1 of the fee for that disputed treatment against, the employe who received the
2 treatment.

3 **SECTION 29.** 102.16 (2m) (e) of the statutes is amended to read:

4 102.16 **(2m)** (e) The department may set aside, reverse or modify a
5 determination under this subsection within 30 days after the date of the
6 determination. A health service provider, insurer or self-insured employer that is
7 aggrieved by a determination of the department under this subsection may seek
8 judicial review of that determination in the same manner that compensation claims
9 are reviewed under s. 102.23.

10 **SECTION 30.** 102.16 (3) of the statutes is amended to read:

11 102.16 **(3)** No employer subject to this chapter may solicit, receive or collect any
12 money from an employe or any other person or make any deduction from their wages,
13 either directly or indirectly, for the purpose of discharging any liability under this
14 chapter or recovering premiums paid on a contract described under s. 102.31 (1) (a);
15 nor may any such employer sell to an employe or other person, or solicit or require
16 the employe or other person to purchase, medical, chiropractic, podiatric,
17 psychological, dental or hospital tickets or contracts for medical, surgical, hospital
18 or other health care treatment which is required to be furnished by that employer.

19 **SECTION 31.** 102.17 (1) (e) of the statutes is amended to read:

20 102.17 **(1)** (e) The department may, with or without notice to either party, cause
21 testimony to be taken, or an inspection of the premises where the injury occurred to
22 be made, or the time books and payrolls of the employer to be examined by any
23 examiner, and may direct any employe claiming compensation to be examined by a
24 physician, chiropractor, psychologist, dentist or podiatrist. The testimony so taken,
25 and the results of any such inspection or examination, shall be reported to the

1 department for its consideration upon final hearing. All ex parte testimony taken
2 by the department shall be reduced to writing and either party shall have
3 opportunity to rebut such testimony on final hearing.

4 **SECTION 32.** 102.17 (1) (g) of the statutes is amended to read:

5 102.17 (1) (g) Whenever the testimony presented at any hearing indicates a
6 dispute, or is such as to create doubt as to the extent or cause of disability or death,
7 the department may direct that the injured employe be examined or autopsy be
8 performed, or an opinion of a physician, chiropractor, dentist, psychologist or
9 podiatrist be obtained without examination or autopsy, by an impartial, competent
10 physician, chiropractor, dentist, psychologist or podiatrist designated by the
11 department who is not under contract with or regularly employed by a compensation
12 insurance carrier or self-insured employer. The expense of such examination shall
13 be paid by the employer or, if the employe claims compensation under s. 102.81, from
14 the uninsured employers fund. The report of such examination shall be transmitted
15 in writing to the department and a copy thereof shall be furnished by the department
16 to each party, who shall have an opportunity to rebut such report on further hearing.

17 **SECTION 33.** 102.18 (1) (bg) of the statutes is created to read:

18 102.18 (1) (bg) 1. If the department finds under par. (b) that an insurer or
19 self-insured employer is liable under this chapter for any health services provided
20 to an injured employe by a health service provider, but that the reasonableness of the
21 fee charged by the health service provider is in dispute, the department may include
22 in its order under par. (b) a determination as to the reasonableness of the fee or the
23 department may notify, or direct the insurer or self-insured employer to notify, the
24 health service provider under s. 102.16 (2) (b) that the reasonableness of the fee is
25 in dispute.

1 2. If the department finds under par. (b) that an employer or insurance carrier
2 is liable under this chapter for any treatment provided to an injured employe by a
3 health service provider, but that the necessity of the treatment is in dispute, the
4 department may include in its order under par. (b) a determination as to the
5 necessity of the treatment or the department may notify, or direct the employer or
6 insurance carrier to notify, the health service provider under s. 102.16 (2m) (b) that
7 the necessity of the treatment is in dispute.

8 **SECTION 34.** 102.28 (3) (a) (intro.) of the statutes is amended to read:

9 102.28 (3) (a) (intro.) An employer may file with the department an application
10 for exemption from the duty to pay compensation under this chapter with respect to
11 any employe who signs the waiver described in subd. 1. and the affidavit described
12 in subd. 2. if an authorized representative of the religious sect to which the employe
13 belongs signs the affidavit specified in subd. 3. and signs the agreement and provides
14 the proof of financial ability described in subd. 4. An application for exemption under
15 this paragraph shall include all of the following:

16 **SECTION 35.** 102.28 (3) (a) 4. of the statutes is amended to read:

17 102.28 (3) (a) 4. An agreement signed by an authorized representative of the
18 religious sect to which the employe belongs to provide the financial and medical
19 assistance described in subd. 3. to the employe and to the employe's dependents if the
20 employe sustains an injury which, but for the waiver under subd. 1., the employer
21 would be liable for under s. 102.03, and proof of the financial ability of the religious
22 sect to provide that financial and medical assistance which the religious sect may
23 establish by maintaining, in an amount determined by the department, a surety
24 bond issued by a company authorized to do business in this state, an irrevocable

1 ~~letter of credit from a financial institution, as defined in s. 705.01 (3), or some other~~
2 ~~financial commitment approved by the department.~~

3 **SECTION 36.** 102.28 (3) (b) 4. of the statutes is amended to read:

4 102.28 (3) (b) 4. The religious sect to which the employe belongs has agreed to
5 provide the financial and medical assistance described in subd. 3. to the employe and
6 to the dependents of the employe if the employe sustains an injury that, but for the
7 waiver under par. (a) 1., the employer would be liable for under s. 102.03 ~~and that~~
8 ~~the religious sect has the financial ability to provide that financial and medical~~
9 ~~assistance.~~

10 **SECTION 37.** 102.28 (3) (c) of the statutes is amended to read:

11 102.28 (3) (c) An employe who has signed a waiver under par. (a) 1. and an
12 affidavit under par. (a) 2., who sustains an injury that, but for that waiver, the
13 employer would be liable for under s. 102.03, who at the time of the injury was a
14 member of a religious sect whose authorized representative has filed an affidavit
15 under par. (a) 3. and an agreement ~~and proof of financial responsibility~~ under par.
16 (a) 4. and who as a result of the injury becomes dependent on the religious sect for
17 financial and medical assistance, or the employe's dependent, may request a hearing
18 under s. 102.17 (1) to determine if the religious sect has provided the employe and
19 his or her dependents with a standard of living and medical treatment that are
20 reasonable when compared to the general standard of living and medical treatment
21 for members of the religious sect. If, after hearing, the department determines that
22 the religious sect has not provided that standard of living or medical treatment, or
23 both, the department may order the religious sect to provide alternative benefits to
24 that employe or his or her dependent, or both, in an amount that is reasonable under
25 the circumstances, but not in excess of the benefits that the employe or dependent

1 could have received under this chapter but for the waiver under par. (a) 1. ~~If the~~
2 ~~religious sect does not provide the alternative benefits as ordered by the department,~~
3 ~~the department may use the financial commitment under par. (a) 4. to pay the~~
4 ~~alternative benefits ordered, including any penalties that may be appropriate.~~

5 **SECTION 38.** 102.28 (3) (d) of the statutes is amended to read:

6 102.28 (3) (d) The department shall provide a form for the application for
7 exemption of an employer under par. (a) (intro.), the waiver and affidavit of an
8 employe under par. (a) 1. and 2., the affidavit of a religious sect under par. (a) 3. and
9 the agreement ~~and proof of financial responsibility~~ of a religious sect under par. (a)
10 4. A properly completed form is prima facie evidence of satisfaction of the conditions
11 under par. (b) as to the matter contained in the form.

12 **SECTION 39.** 102.29 (3) of the statutes is amended to read:

13 102.29 (3) Nothing in this chapter shall prevent an employe from taking the
14 compensation he or she may be entitled to under it and also maintaining a civil action
15 against any physician, chiropractor, psychologist, dentist or podiatrist for
16 malpractice.

17 **SECTION 40.** 102.29 (8) of the statutes is amended to read:

18 102.29 (8) No student of a public school, as described in s. 115.01 (1), or a private
19 school, as defined in s. 115.001 (3r), who is named under s. 102.077 as an employe
20 of the school district or private school for purposes of this chapter and who makes a
21 claim for compensation under this chapter may make a claim or maintain an action
22 in tort against the employer that provided the work training or work experience from
23 which the claim arose. This subsection does not apply to injuries occurring after
24 December 31, ~~1997~~ 1999.

25 **SECTION 41.** 102.29 (8r) of the statutes is created to read:

1 102.29 (**8r**) No participant in a food stamp employment and training program
2 under s. 49.124 (1m) who, under s. 49.124 (1m) (d), is provided worker's
3 compensation coverage by the department or by a Wisconsin works agency, as
4 defined in s. 49.001 (9), and who makes a claim for compensation under this chapter
5 may make a claim or maintain an action in tort against the employer who provided
6 the employment and training from which the claim arose.

7 **SECTION 42.** 102.29 (9) of the statutes is amended to read:

8 102.29 (**9**) No participant in a work experience component of a job opportunities
9 and basic skills program who, under s. 49.193 (6) (a), is considered to be an employe
10 of the agency administering that program, or who, under s. 49.193 (6) (a), is provided
11 worker's compensation coverage by the person administering the work experience
12 component, and who makes a claim for compensation under this chapter may make
13 a claim or maintain an action in tort against the employer who provided the work
14 experience from which the claim arose. This subsection does not apply to injuries
15 occurring after ~~December 31, 1997~~ February 28, 1998.

16 **SECTION 43.** 102.42 (2) (a) of the statutes is amended to read:

17 102.42 (**2**) (a) Where the employer has notice of an injury and its relationship
18 to the employment the employer shall offer to the injured employe his or her choice
19 of any physician, chiropractor, psychologist, dentist or podiatrist licensed to practice
20 and practicing in this state for treatment of the injury. By mutual agreement, the
21 employe may have the choice of any qualified practitioner not licensed in this state.
22 In case of emergency, the employer may arrange for treatment without tendering a
23 choice. After the emergency has passed the employe shall be given his or her choice
24 of attending practitioner at the earliest opportunity. The employe has the right to
25 a 2nd choice of attending practitioner on notice to the employer or its insurance

1 carrier. Any further choice shall be by mutual agreement. Partners and clinics are
2 deemed to be one practitioner. Treatment by a practitioner licensed to practice and
3 practicing in this state on referral from another practitioner is deemed to be
4 treatment by one practitioner. Except by mutual agreement, an employer or
5 worker's compensation insurer is not liable for treatment provided by a practitioner
6 not licensed to practice and practicing in this state on referral from another
7 practitioner.

8 **SECTION 44.** 102.42 (2) (a) of the statutes, as affected by 1997 Wisconsin Act
9 (this act), is repealed and recreated to read:

10 102.42 (2) (a) Where the employer has notice of an injury and its relationship
11 to the employment the employer shall offer to the injured employe his or her choice
12 of any physician, chiropractor, psychologist, dentist or podiatrist licensed to practice
13 and practicing in this state for treatment of the injury. By mutual agreement, the
14 employe may have the choice of any qualified practitioner not licensed in this state.
15 In case of emergency, the employer may arrange for treatment without tendering a
16 choice. After the emergency has passed the employe shall be given his or her choice
17 of attending practitioner at the earliest opportunity. The employe has the right to
18 a 2nd choice of attending practitioner on notice to the employer or its insurance
19 carrier. Any further choice shall be by mutual agreement. Partners and clinics are
20 deemed to be one practitioner. Treatment by a practitioner on referral from another
21 practitioner is deemed to be treatment by one practitioner.

22 **SECTION 45.** 102.42 (6) of the statutes is amended to read:

23 102.42 (6) TREATMENT REJECTED BY EMPLOYE. Unless the employe shall have
24 elected Christian Science treatment in lieu of medical, surgical, dental, hospital or
25 sanatorium treatment, no compensation shall be payable for the death or disability

1 of an employe, if the death be caused, or insofar as the disability may be aggravated,
2 caused or continued (a) by an unreasonable refusal or neglect to submit to or follow
3 any competent and reasonable medical ~~or~~, surgical or dental treatment, (b) or, in the
4 case of tuberculosis, by refusal or neglect to submit to or follow hospital or
5 sanatorium treatment when found by the department to be necessary. The right to
6 compensation accruing during a period of refusal or neglect ~~under (b) to submit to~~
7 or follow hospital or sanatorium treatment when found by the department to be
8 necessary in the case of tuberculosis shall be barred, irrespective of whether
9 disability was aggravated, caused or continued thereby.

10 **SECTION 46.** 102.82 (1) of the statutes is amended to read:

11 102.82 (1) An uninsured employer shall reimburse the department for any
12 payment made under s. 102.81 (1) to an employe of the uninsured employer or to an
13 employe's dependents, less amounts repaid by the employe or dependents under s.
14 102.81 (4) (b). The reimbursement owed under this subsection is due within 30 days
15 after the date on which the department notifies the uninsured employer that the
16 reimbursement is owed. Interest shall accrue on amounts not paid when due at the
17 rate of 1% per month.

18 **SECTION 47.** 102.83 (8) of the statutes is amended to read:

19 102.83 (8) Any officer or director of an uninsured employer that is a corporation
20 and any member or manager of an uninsured employer that is a limited liability
21 company may be found individually and jointly and severally liable for the payments,
22 interest, costs and other fees specified in a warrant under this section if after proper
23 proceedings for the collection of those amounts from the corporation or limited
24 liability company, as provided in this section, the corporation or limited liability
25 company is unable to pay those amounts to the department. The personal liability

1 of the officers and directors of a corporation or of the members and managers of a
2 limited liability company as provided in this subsection survives dissolution,
3 reorganization, bankruptcy, receivership, assignment for the benefit of creditors,
4 judicially confirmed extension or composition, or any analogous situation of the
5 corporation or limited liability company and shall be set forth in a determination or
6 decision issued under s. 102.82.

7 **SECTION 48. Initial applicability.**

8 (1) TEMPORARY HELP AGENCIES. The treatment of section 102.04 (2m) of the
9 statutes first applies to reimbursement sought or received by a temporary help
10 agency, as defined in section 102.01 (2) (f) of the statutes, on the effective date of this
11 subsection, notwithstanding that the reimbursement is of a payment made before
12 the effective date of this subsection.

13 (2) ELECTIONS BY CORPORATE OFFICERS. The treatment of section 102.076 (1) of
14 the statutes first applies to elections under that subsection that are in effect on the
15 effective date of this subsection.

16 (3) COMPUTATIONS OF EARNINGS. The treatment of section 102.11 (1) (d) of the
17 statutes first applies to injuries or deaths occurring on the effective date of this
18 subsection.

19 (4) FEE AND NECESSITY OF TREATMENT DISPUTES.

20 (a) The treatment of sections 102.16 (1m) and 102.18 (1) (bg) of the statutes first
21 applies to orders under section 102.16 (1) and 102.18 (1) (b) of the statutes issued on
22 the effective date of this paragraph.

23 (b) The treatment of section 102.16 (2) (f) and (2m) (e) of the statutes first
24 applies to determinations under section 102.16 (2) and (2m) of the statutes made 30
25 days before the effective date of this paragraph.

1 (5) OUT-OF-STATE TREATMENT.

2 (a) The amendment of section 102.42 (2) (a) of the statutes first applies to
3 referrals made to a practitioner not licensed and practicing in this state on referral
4 by another practitioner on the effective date of this paragraph.

5 (b) The repeal and recreation of section 102.42 (2) (a) of the statutes first applies
6 to referrals made to a practitioner by another practitioner on the effective date of this
7 paragraph.

8 (6) UNINSURED EMPLOYERS.

9 (a) The treatment of section 102.82 (1) of the statutes first applies to
10 reimbursements of which the department of workforce development provides notice
11 on the effective date of this paragraph.

12 (b) The treatment of section 102.83 (8) of the statutes first applies to the
13 members and managers of a limited liability company that is unable to pay an
14 amount owed to the uninsured employers fund on the effective date of this
15 paragraph.

16 **SECTION 49. Effective dates.** This act takes effect on January 1, 1998, or on
17 the day after publication whichever is later, except as follows:

18 (1) OUT-OF-STATE TREATMENT. The repeal and recreation of section 102.42 (2) (a)
19 of the statutes and SECTION 48 (5) (b) this act take effect on January 1, 2000.

20 (END)