



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-4905/P2  
MED&MIM:kjf/cdc/skw/cjs

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

1       **AN ACT** *to repeal* 102.01 (2) (ad), 102.01 (2) (ar), 227.43 (1) (bm), 227.43 (2) (am),  
2           227.43 (3) (bm) and 227.43 (4) (bm); *to renumber and amend* 102.17 (4) and  
3           102.58; *to amend* 20.445 (1) (ra), 20.445 (1) (sm), 40.65 (2) (a), 40.65 (2) (b) 3.,  
4           40.65 (2) (b) 4., 46.275 (4m), 46.277 (3r), 46.281 (1k), 46.2897 (3), 46.995 (3),  
5           102.01 (2) (dm), 102.04 (1) (b) 1., 102.04 (1) (b) 2., 102.04 (2m), 102.04 (2r) (b),  
6           102.07 (8) (c), 102.11 (1) (am) 1., 102.12, 102.13 (1) (c), 102.13 (1) (d) 2., 102.13  
7           (1) (d) 3., 102.13 (1) (f), 102.13 (2) (a), 102.13 (3), 102.13 (4), 102.13 (5), 102.14  
8           (title), 102.14 (1), 102.14 (2), 102.15 (1), 102.15 (2), 102.16 (1m) (a), 102.16 (1m)  
9           (b), 102.16 (1m) (c), 102.16 (2) (a), 102.16 (2) (b), 102.16 (2m) (a), 102.16 (2m)  
10          (b), 102.16 (4), 102.17 (1) (a) 1., 102.17 (1) (a) 2., 102.17 (1) (a) 3., 102.17 (1) (a)  
11          4., 102.17 (1) (b), 102.17 (1) (c) 1., 102.17 (1) (d) 1., 102.17 (1) (d) 2., 102.17 (1)  
12          (d) 3., 102.17 (1) (d) 4., 102.17 (1) (e), 102.17 (1) (f) 1., 102.17 (1) (g), 102.17 (1)  
13          (h), 102.17 (2), 102.17 (2m), 102.17 (2s), 102.17 (7) (b), 102.17 (7) (c), 102.17 (8),  
14          102.175 (2), 102.175 (3) (c), 102.18 (1) (b) 1., 102.18 (1) (b) 2., 102.18 (1) (b) 3.,  
15          102.18 (1) (bg) 1., 102.18 (1) (bg) 2., 102.18 (1) (bg) 3., 102.18 (1) (bp), 102.18 (1)

1 (bw), 102.18 (1) (c), 102.18 (1) (e), 102.18 (3), 102.18 (4) (c) 3., 102.18 (4) (d),  
2 102.18 (5), 102.18 (6), 102.195, 102.22 (1), 102.22 (2), 102.23 (2), 102.23 (3),  
3 102.23 (5), 102.24 (2), 102.25 (1), 102.26 (2), 102.26 (3) (b) 1., 102.26 (3) (b) 3.,  
4 102.26 (4), 102.27 (2) (b), 102.28 (3) (c), 102.28 (4) (c), 102.29 (1) (b) (intro.),  
5 102.29 (1) (c), 102.29 (1) (d), 102.29 (6m) (a) 3., 102.30 (7) (a), 102.315 (1) (c),  
6 102.315 (2), 102.32 (1m) (intro.), 102.32 (1m) (a), 102.32 (1m) (c), 102.32 (1m)  
7 (d), 102.32 (5), 102.32 (6m), 102.32 (7), 102.33 (1), 102.33 (2) (a), 102.33 (2) (b)  
8 (intro.), 102.33 (2) (b) 1., 102.33 (2) (b) 2., 102.33 (2) (b) 4., 102.33 (2) (c), 102.33  
9 (2) (d) 2., 102.35 (3), 102.42 (1), 102.42 (1m), 102.42 (6), 102.42 (8), 102.425 (4m)  
10 (a), 102.425 (4m) (b), 102.43 (5) (b), 102.44 (2), 102.44 (6) (b), 102.475 (6), 102.48  
11 (1), 102.48 (2), 102.48 (3), 102.49 (3), 102.49 (5) (b), 102.49 (5) (c), 102.49 (5) (e),  
12 102.49 (6), 102.51 (3), 102.51 (4), 102.51 (6), 102.55 (3), 102.555 (12) (a), 102.56  
13 (1), 102.56 (2), 102.565 (1), 102.565 (2), 102.565 (3), 102.61 (1g) (c), 102.61 (1m)  
14 (c), 102.61 (2), 102.62, 102.64 (1), 102.64 (2), 102.65 (3), 102.66 (1), 102.75 (1),  
15 102.75 (1m), 102.80 (1) (d), 102.81 (4) (b) (intro.), 102.81 (4) (b) 2., 102.81 (5) and  
16 102.82 (1); **to repeal and recreate** 102.16 (1) and 102.18 (2); and **to create**  
17 20.445 (1) (rc), 102.04 (2g), 102.13 (2) (am), 102.17 (9), 102.29 (6m) (a) 1m.,  
18 102.315 (2e), 102.315 (2m), 102.315 (2s), 102.33 (2) (b) 7., 102.42 (1p), 102.44  
19 (7), 102.49 (5) (cm), 102.81 (4) (c) and 146.82 (2) (a) 3m. of the statutes; **relating**  
20 **to:** various changes to the worker's compensation law and making an  
21 appropriation.

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***Analysis by the Legislative Reference Bureau***

This bill makes various changes to the worker's compensation law, as administered by the Department of Workforce Development and the Division of Hearings and Appeals in the Department of Administration (DHA).

**PAYMENT OF BENEFITS; OTHER PAYMENTS*****Liability for public safety officers***

This bill makes changes to the conditions of liability for worker's compensation benefits for a law enforcement officer or a fire fighter (public safety officer) who is diagnosed with post-traumatic stress disorder.

The bill provides that if a public safety officer is diagnosed with post-traumatic stress disorder by a licensed psychiatrist or psychologist and the mental injury that resulted in that diagnosis is not accompanied by a physical injury, that public safety officer can bring a claim for worker's compensation benefits if the conditions of liability are proven by a preponderance of the evidence and the mental injury is not the result of a good-faith employment action by the person's employer. Under the bill, such an injured public safety employee is not required to demonstrate a diagnosis based on unusual stress of greater dimensions than the day-to-day emotional strain and tension experienced by all employees as required under *School District No. 1 v. DILHR*, 62 Wis. 2d 370, 215 N.W.2d 373 (1974).

The bill also limits liability for treatment for a mental injury that is compensable under the bill's provisions to no more than 32 weeks after the injury is first reported.

***Payments in cases of injuries resulting in death***

Current law provides that, in each case of an injury resulting in death leaving no person dependent for support or leaving one or more persons partially dependent for support, the employer or insurer must pay into the work injury supplemental benefit fund (WISBF) the amount of the death benefit otherwise payable. This bill does the following:

1. Allows such amounts due to be paid in advance of when they would otherwise be due, including as a single, lump-sum payment. If an employer or insurer makes an advance or lump-sum payment, the bill requires DWD to give the employer or the insurer an interest credit, computed as otherwise provided under current law. Current law requires, in the case of a death leaving no dependents, that the payments be made in five equal annual installments.

2. Provides that, in the case of a violation of an employer policy against drug or alcohol use that is causal to an employee's injury resulting in death who leaves no person dependent for support or leaving one or more persons partially dependent for support, no payment is required to be made to WISBF. Current law provides that, in the case of such a violation, then neither the employee nor the employee's dependents may receive any compensation under the worker's compensation law for that injury, other than costs for treating the injury, but does not exempt the employer or insurer from the payment to WISBF.

***Payment of proceeds of claims against third parties***

Current law provides that when an employee sustains a work injury or dies as a result of a work injury and the employee, the employee's personal representative, or other person entitled to bring action maintains an action in tort against a third party for the injury or death, the proceeds of the claim are to be divided pursuant to a formula detailed under current law. Under that formula, after deducting the reasonable cost of collection, one-third of the remainder is in all cases to be paid to

the injured employee, personal representative, or other person entitled. Current law also provides that if an injured employee or dependent receives compensation from the employee's employer or a third party in such an action and the employee received payments from DWD due to the employer being an uninsured employer, the employee or dependent must reimburse DWD for the full amount up to the amount recovered from the third party.

This bill modifies the latter provision such that if an injured employee or dependent receives compensation from the employee's employer or a third party in such an action and the employee received payments from DWD due to the employer being an uninsured employer, the employee or dependent must reimburse DWD in accordance with the formula described above.

#### **COVERAGE; LIABILITY**

##### ***Leased employees***

Under current law, employee leasing companies are generally liable for injuries to their leased employees under the worker's compensation law. This bill provides that a client of an employee leasing company may instead assume the liability for leased employees under an employee leasing agreement. The bill also provides that if a client terminates or otherwise does not provide worker's compensation insurance coverage for the leased employees, the employee leasing company is liable for injuries to those leased employees under the worker's compensation law.

##### ***Employers subject to worker's compensation law***

Under current law, every person who usually employs three or more employees for services performed in this state is subject to the worker's compensation law. This bill provides that every person who at any time employs three or more employees for services performed in this state is subject to the worker's compensation law and specifies that a person becomes subject to that law on the day on which the person employs three or more employees for services performed in this state.

##### ***Statute of limitations***

This bill clarifies that for worker's compensation claims the statute of limitations applies to an individual's employer, the employer's insurance company, and any other named party.

##### ***Long-term care providers; clarification***

The bill makes clarifications regarding individuals who perform services for persons receiving long-term care benefits under certain long-term care programs and who do not otherwise have worker's compensation coverage for those services to confirm that they are considered to be employees, for worker's compensation purposes, of the entities providing financial management services for the persons receiving the benefits.

#### **PROGRAM ADMINISTRATION**

##### ***Authority to conduct hearings***

Under current law, DWD performs various administrative and adjudicatory functions relating to worker's compensation, except that the adjudicatory functions of DWD relating to disputed worker's compensation claims are performed by DHA.

This bill transfers the adjudicatory functions of DHA relating to disputed worker's compensation claims to DWD.

***Confidential records; disclosure to certain agencies***

Under current law, subject to a number of exceptions, certain records of DWD, DHA, or the Labor and Industry Review Commission that reveal information about injured employees are confidential and not subject to disclosure under the public records law or a subpoena. The bill creates another exception for records requested by the Department of Health Services, a county department of social services, or a county department of human services, if the request is limited to the name and address of the employee who is the subject of the record, the name and address of the employee's employer, and any financial information about that employee contained in the record.

***Disclosure of records***

This bill requires a health care provider to furnish to the representative or agent of a worker's compensation insurer a complete billing statement for treatment of an injury for which an employee claims compensation upon request. The bill provides that a health care provider may not charge for the copy of the billing statement and that if the provider does not comply with the request within 30 days, the insurer is not liable to the provider for payment for the services that were billed on the requested statement.

This bill also conforms state law to the exemption from federal medical privacy laws for administration of worker's compensation claims. The federal privacy regulations allow a health care provider to disclose without authorization from the patient protected health information as authorized by and to the extent necessary to comply with worker's compensation laws.

***Other changes***

The bill makes various other changes regarding the administration of the worker's compensation law, including 1) adjustments to appropriations and position authority; and 2) changes regarding the financing of the worker's compensation program, including creating a separate appropriation to pay for certain reimbursements for supplemental benefit payments.

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

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

- 1           **SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert  
2           the following amounts for the purposes indicated:

**2019-20           2020-21**

**20.445 Workforce development, department of**

(1) WORKFORCE DEVELOPMENT

(rc) Worker's compensation opera-  
tions fund; supplemental bene-  
fits

SEG A 5,000,000 5,000,000

**SECTION 2.** 20.445 (1) (ra) of the statutes is amended to read:

20.445 (1) (ra) *Worker's compensation operations fund; administration.* From the worker's compensation operations fund, the amounts in the schedule for the administration of the worker's compensation program by the department, for assistance to the department of justice in investigating and prosecuting fraudulent activity related to worker's compensation, for transfer to the uninsured employers fund under s. 102.81 (1) (c), and for transfer to the appropriation accounts under par. (rp) and s. 20.427 (1) (ra). All moneys received under ss. 102.28 (2) (b) and 102.75 (1) shall be credited to this appropriation account. From this appropriation, an amount not to exceed \$5,000 may be expended each fiscal year for payment of expenses for travel and research by the council on worker's compensation, an amount not to exceed \$500,000 may be transferred in each fiscal year to the uninsured employers fund under s. 102.81 (1) (c), the amount in the schedule under par. (rp) shall be transferred to the appropriation account under par. (rp), and the amount in the schedule under s. 20.427 (1) (ra) shall be transferred to the appropriation account under s. 20.427 (1) (ra).

**SECTION 3.** 20.445 (1) (rc) of the statutes is created to read:

20.445 (1) (rc) *Worker's compensation operations fund; supplemental benefits.*  
From the worker's compensation operations fund, the amounts in the schedule for

1 providing reimbursement to insurance carriers paying supplemental benefits under  
2 s. 102.44 (1) (c). All moneys received under s. 102.75 (1g) shall be credited to this  
3 appropriation account.

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

5 20.445 (1) (sm) *Uninsured employers fund; payments.* From the uninsured  
6 employers fund, ~~a sum sufficient to make~~ all moneys received from sources identified  
7 under s. 102.80 (1m) for the purpose of making the payments under s. 102.81 (1) and  
8 to obtain reinsurance under s. 102.81 (2). No moneys may be expended or  
9 encumbered under this paragraph until the first day of the first July beginning after  
10 the day that the secretary of workforce development files the certificate under s.  
11 102.80 (3) (a).

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

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

1 industry review commission or in proceedings in the courts. The department of  
2 workforce development may promulgate rules needed to administer this paragraph.

3 **SECTION 6.** 40.65 (2) (b) 3. of the statutes is amended to read:

4 40.65 **(2)** (b) 3. The department shall determine whether or not the applicant  
5 is eligible for benefits under this section on the basis of the evidence in subd. 2. An  
6 applicant may appeal a determination under this subdivision to the ~~division of~~  
7 ~~hearings and appeals in the department of administration~~ department of workforce  
8 development.

9 **SECTION 7.** 40.65 (2) (b) 4. of the statutes is amended to read:

10 40.65 **(2)** (b) 4. In hearing an appeal under subd. 3., the ~~division of hearings and~~  
11 ~~appeals in the department of administration~~ department of workforce development  
12 shall follow the procedures under ss. 102.16 to 102.26.

13 **SECTION 8.** 46.275 (4m) of the statutes is amended to read:

14 46.275 **(4m)** WORKER'S COMPENSATION COVERAGE. An individual who is  
15 performing services for a person receiving long-term care benefits under this section  
16 on a self-directed basis and who does not otherwise have worker's compensation  
17 coverage for those services is considered, for purposes of worker's compensation  
18 coverage, to be an employee of the entity that is providing financial management  
19 services for that person.

20 **SECTION 9.** 46.277 (3r) of the statutes is amended to read:

21 46.277 **(3r)** WORKER'S COMPENSATION COVERAGE. An individual who is  
22 performing services for a person receiving long-term care benefits under this section  
23 on a self-directed basis and who does not otherwise have worker's compensation  
24 coverage for those services is considered, for purposes of worker's compensation



1 coverage, to be an employee of the entity that is providing financial management  
2 services for that person.

3 **SECTION 10.** 46.281 (1k) of the statutes is amended to read:

4 46.281 (1k) WORKER'S COMPENSATION COVERAGE. An individual who is  
5 performing services for a person receiving the Family Care benefit, or benefits under  
6 Family Care Partnership, on a self-directed basis and who does not otherwise have  
7 worker's compensation coverage for those services is considered, for purposes of  
8 worker's compensation coverage, to be an employee of the entity that is providing  
9 financial management services for that person.

10 **SECTION 11.** 46.2897 (3) of the statutes is amended to read:

11 46.2897 (3) WORKER'S COMPENSATION COVERAGE. An individual who is  
12 performing services for a person participating in the self-directed services option  
13 and who does not otherwise have worker's compensation coverage for those services  
14 is considered, for purposes of worker's compensation coverage, to be an employee of  
15 the entity that is providing financial management services for that person.

16 **SECTION 12.** 46.995 (3) of the statutes is amended to read:

17 46.995 (3) An individual who is performing services for a person receiving  
18 long-term care benefits under any children's long-term support waiver program on  
19 a self-directed basis and who does not otherwise have worker's compensation  
20 coverage for those services is considered, for purposes of worker's compensation  
21 coverage, to be an employee of the entity that is providing financial management  
22 services for that person.

23 **SECTION 13.** 102.01 (2) (ad) of the statutes is repealed.

24 **SECTION 14.** 102.01 (2) (ar) of the statutes is repealed.

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

1           102.01 (2) (dm) "Order" means any decision, rule, regulation, direction,  
2 requirement, or standard of the department ~~or the division~~, or any other  
3 determination arrived at or decision made by the department ~~or the division~~.

4           **SECTION 16.** 102.04 (1) (b) 1. of the statutes is amended to read:

5           102.04 (1) (b) 1. Every person who ~~usually~~ at any time employs 3 or more  
6 employees for services performed in this state, whether in one or more trades,  
7 businesses, professions, or occupations, and whether in one or more locations. A  
8 person who employs 3 or more employees for services performed in this state becomes  
9 subject to this chapter on the day on which the person employs 3 or more such  
10 employees.

11          **SECTION 17.** 102.04 (1) (b) 2. of the statutes is amended to read:

12          102.04 (1) (b) 2. Every person who usually employs less ~~fewer~~ than 3  
13 employees, provided the person has paid wages of \$500 or more in any calendar  
14 quarter for services performed in this state. Such ~~employer~~ a person shall become  
15 subject to this chapter on the 10th day of the month next succeeding such quarter.

16          **SECTION 18.** 102.04 (2g) of the statutes is created to read:

17          102.04 (2g) Liability under s. 102.03 with respect to a leased employee, as  
18 defined in s. 102.315 (1) (g), shall be determined as provided in s. 102.315 (2) or (2m)  
19 (c), whichever is applicable.

20          **SECTION 19.** 102.04 (2m) of the statutes is amended to read:

21          102.04 (2m) ~~A~~ Except as otherwise provided in an employee leasing agreement  
22 that meets the requirements of s. 102.315 (2m), a temporary help agency is the  
23 employer of an employee whom the temporary help agency has placed with or leased  
24 to another employer that compensates the temporary help agency for the employee's  
25 services. ~~A~~ Except as provided in s. 102.315 (2m) (c), a temporary help agency is

1 liable under s. 102.03 for all compensation and other payments payable under this  
2 chapter to or with respect to that employee, including any payments required under  
3 s. 102.16 (3), 102.18 (1) (b) 3. or (bp), 102.22 (1), 102.35 (3), 102.57, or 102.60. Except  
4 as permitted under s. 102.29, a temporary help agency may not seek or receive  
5 reimbursement from another employer for any payments made as a result of that  
6 liability.

7 **SECTION 20.** 102.04 (2r) (b) of the statutes is amended to read:

8 102.04 (2r) (b) The franchisor has been found by the department ~~or the division~~  
9 to have exercised a type or degree of control over the franchisee or the franchisee's  
10 employees that is not customarily exercised by a franchisor for the purpose of  
11 protecting the franchisor's trademarks and brand.

12 **SECTION 21.** 102.07 (8) (c) of the statutes is amended to read:

13 102.07 (8) (c) The ~~division~~ department may not admit in evidence any state or  
14 federal law, regulation, or document granting operating authority, or a license when  
15 determining whether an independent contractor meets the conditions specified in  
16 par. (b) 1. or 3.

17 **SECTION 22.** 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 ~~or the division~~ determines appropriate, in the same subunit of an office,  
23 department, independent agency, authority, institution, association, society, or other  
24 body in state government.

25 **SECTION 23.** 102.12 of the statutes is amended to read:

1           **102.12 Notice of injury, exception, laches.** No claim for compensation may  
2 be maintained unless, within 30 days after the occurrence of the injury or within 30  
3 days after the employee knew or ought to have known the nature of his or her  
4 disability and its relation to the employment, actual notice was received by the  
5 employer or by an officer, manager or designated representative of an employer. If  
6 no representative has been designated by posters placed in one or more conspicuous  
7 places where notices to employees are customarily posted, then notice received by  
8 any superior is sufficient. Absence of notice does not bar recovery if it is found that  
9 the employer was not misled by that absence. Regardless of whether notice was  
10 received, if no payment of compensation, other than medical treatment or burial  
11 expense, is made, and if no application is filed with the department within 2 years  
12 after the date of the injury or death or the date the employee or his or her dependent  
13 knew or ought to have known the nature of the disability and its relation to the  
14 employment, the right to compensation for the injury or death is barred, except that  
15 the right to compensation is not barred if the employer knew or should have known,  
16 within the 2-year period, that the employee had sustained the injury on which the  
17 claim is based. Issuance of notice of a hearing on the motion of the department or  
18 the division has the same effect for the purposes of this section as the filing of an  
19 application. This section does not affect any claim barred under s. 102.17 (4).

20           **SECTION 24.** 102.13 (1) (c) of the statutes is amended to read:

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

1 ~~division~~, or an examiner, or in any way obstructs the examination, the employee's  
2 right to the weekly indemnity that accrues and becomes payable during the period  
3 of that refusal or obstruction, is barred, except as provided in sub. (4).

4 **SECTION 25.** 102.13 (1) (d) 2. of the statutes is amended to read:

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

10 **SECTION 26.** 102.13 (1) (d) 3. of the statutes is amended to read:

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

18 **SECTION 27.** 102.13 (1) (f) of the statutes is amended to read:

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

22 **SECTION 28.** 102.13 (2) (a) of the statutes is amended to read:

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

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

9 **SECTION 29.** 102.13 (2) (am) of the statutes is created to read:

10 102.13 (2) (am) Notwithstanding s. 51.30, within 30 days after receiving a  
11 request by a representative or agent of a worker's compensation insurer, a physician,  
12 chiropractor, podiatrist, psychologist, dentist, physician assistant, advanced  
13 practice nurse prescriber, hospital, or other health care provider shall furnish to the  
14 representative or agent a complete copy of a billing statement regarding an injury  
15 for which an employee claims compensation. The physician, chiropractor, podiatrist,  
16 psychologist, dentist, physician assistant, advanced practice nurse prescriber,  
17 hospital, or other health care provider shall provide the billing statement upon the  
18 standard billing form required by the federal health care financing administration  
19 and may not charge for providing the statement. If a person does not timely comply  
20 with a request made pursuant to this paragraph, the worker's compensation insurer  
21 is not liable for any services provided that were billed on the requested billing  
22 statement.

23 **SECTION 30.** 102.13 (3) of the statutes is amended to read:

24 102.13 (3) If 2 or more physicians, chiropractors, psychologists, dentists, or  
25 podiatrists disagree as to the extent of an injured employee's temporary disability,

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

12 **SECTION 31.** 102.13 (4) of the statutes is amended to read:

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

1 to a physical examination in the area where the employee's treatment practitioner  
2 is located.

3 **SECTION 32.** 102.13 (5) of the statutes is amended to read:

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

13 **SECTION 33.** 102.14 (title) of the statutes is amended to read:

14 **102.14 (title) Jurisdiction, powers, and duties of department and**  
15 **division; advisory committee council.**

16 **SECTION 34.** 102.14 (1) of the statutes is amended to read:

17 102.14 (1) Except as otherwise provided, this chapter shall be administered by  
18 the department ~~and the division~~.

19 **SECTION 35.** 102.14 (2) of the statutes is amended to read:

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



1 meeting of the council with the members of the senate and assembly committees on  
2 labor to review and discuss matters of legislative concern arising under this chapter.

3 **SECTION 36.** 102.15 (1) of the statutes is amended to read:

4 102.15 (1) Subject to this chapter, the ~~division~~ department may ~~adopt its own~~  
5 promulgate rules of procedure ~~and may change the same from time to time.~~

6 **SECTION 37.** 102.15 (2) of the statutes is amended to read:

7 102.15 (2) The ~~division~~ department may provide by rule the conditions under  
8 which transcripts of testimony and proceedings shall be furnished.

9 **SECTION 38.** 102.16 (1) of the statutes is repealed and recreated to read:

10 102.16 (1) Any controversy concerning compensation or a violation of sub. (3),  
11 including a controversy in which the state may be a party, shall be submitted to the  
12 department in the manner and with the effect provided in this chapter. Every  
13 compromise of any claim for compensation may be reviewed and set aside, modified,  
14 or confirmed by the department within one year after the date on which the  
15 compromise is filed with the department, the date on which an award has been  
16 entered based on the compromise, or the date on which an application for the  
17 department to take any of those actions is filed with the department. Unless the  
18 word "compromise" appears in a stipulation of settlement, the settlement shall not  
19 be considered a compromise, and further claim is not barred except as provided in  
20 s. 102.17 (4) regardless of whether an award is made. The employer, insurer or  
21 dependent under s. 102.51 (5) shall have equal rights with the employee to have a  
22 compromise or any other stipulation of settlement reviewed under this subsection.  
23 Upon petition filed with the department under this subsection, the department may  
24 set aside the award or otherwise determine the rights of the parties.

25 **SECTION 39.** 102.16 (1m) (a) of the statutes is amended 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 employee by a health service provider, but disputes the reasonableness of the fee  
5 charged by the health service provider, the department ~~or the division~~ may include  
6 in its order confirming the compromise or stipulation a determination made by the  
7 department under sub. (2) as to the reasonableness of the fee or, if such a  
8 determination has not yet been made, the department ~~or the division~~ may notify, or  
9 direct the insurer or self-insured employer to notify, the health service provider  
10 under sub. (2) (b) that the reasonableness of the fee is in dispute. The department  
11 ~~or the division~~ shall deny payment of a health service fee that the department  
12 determines under sub. (2) to be unreasonable. A health service provider and an  
13 insurer or self-insured employer that are parties to a fee dispute under this  
14 paragraph are bound by the department's determination under sub. (2) on the  
15 reasonableness of the disputed fee, unless that determination is set aside, reversed,  
16 or modified by the department under sub. (2) (f) or is set aside on judicial review as  
17 provided in sub. (2) (f).

18           **SECTION 40.** 102.16 (1m) (b) of the statutes is amended to read:

19           102.16 **(1m)** (b) If an insurer or self-insured employer concedes by compromise  
20 under sub. (1) or stipulation under s. 102.18 (1) (a) that the insurer or self-insured  
21 employer is liable under this chapter for any treatment provided to an injured  
22 employee by a health service provider, but disputes the necessity of the treatment,  
23 the department ~~or the division~~ may include in its order confirming the compromise  
24 or stipulation a determination made by the department under sub. (2m) as to the  
25 necessity of the treatment or, if such a determination has not yet been made, the

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

18 **SECTION 41.** 102.16 (1m) (c) of the statutes is amended to read:

19 102.16 **(1m)** (c) If an insurer or self-insured employer concedes by compromise  
20 under sub. (1) or stipulation under s. 102.18 (1) (a) that the insurer or self-insured  
21 employer is liable under this chapter for the cost of a prescription drug dispensed  
22 under s. 102.425 (2) for outpatient use by an injured employee, but disputes the  
23 reasonableness of the amount charged for the prescription drug, the department ~~or~~  
24 ~~the division~~ may include in its order confirming the compromise or stipulation a  
25 determination made by the department under s. 102.425 (4m) as to the

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

14           **SECTION 42.** 102.16 (2) (a) of the statutes is amended to read:

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

1 service provider may submit any fee dispute to the department, regardless of the  
2 amount in controversy. The department shall deny payment of a health service fee  
3 that the department determines under this subsection to be unreasonable.

4 **SECTION 43.** 102.16 (2) (b) of the statutes is amended to read:

5 102.16 (2) (b) An insurer or self-insured employer that disputes the  
6 reasonableness of a fee charged by a health service provider or the department ~~or the~~  
7 ~~division~~ under sub. (1m) (a) or s. 102.18 (1) (bg) 1. shall provide reasonable written  
8 notice to the health service provider that the fee is being disputed. After receiving  
9 reasonable written notice under this paragraph or under sub. (1m) (a) or s. 102.18  
10 (1) (bg) 1. that a health service fee is being disputed, a health service provider may  
11 not collect the disputed fee from, or bring an action for collection of the disputed fee  
12 against, the employee who received the services for which the fee was charged.

13 **SECTION 44.** 102.16 (2m) (a) of the statutes is amended to read:

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

1 controversy. The department shall deny payment for any treatment that the  
2 department determines under this subsection to be unnecessary.

3 **SECTION 45.** 102.16 (2m) (b) of the statutes is amended to read:

4 102.16 **(2m)** (b) An insurer or self-insured employer that disputes the  
5 necessity of treatment provided by a health service provider or the department ~~or the~~  
6 ~~division~~ under sub. (1m) (b) or s. 102.18 (1) (bg) 2. shall provide reasonable written  
7 notice to the health service provider that the necessity of that treatment is being  
8 disputed. After receiving reasonable written notice under this paragraph or under  
9 sub. (1m) (b) or s. 102.18 (1) (bg) 2. that the necessity of treatment is being disputed,  
10 a health service provider may not collect a fee for that disputed treatment from, or  
11 bring an action for collection of the fee for that disputed treatment against, the  
12 employee who received the treatment.

13 **SECTION 46.** 102.16 (4) of the statutes is amended to read:

14 102.16 **(4)** The department ~~and the division have~~ has jurisdiction to pass on any  
15 question arising out of sub. (3) and to order the employer to reimburse an employee  
16 or other person for any sum deducted from wages or paid by him or her in violation  
17 of that subsection. In addition to the penalty provided in s. 102.85 (1), any employer  
18 violating sub. (3) shall be liable to an injured employee for the reasonable value of  
19 the necessary services rendered to that employee under any arrangement made in  
20 violation of sub. (3) without regard to that employee's actual disbursements for those  
21 services.

22 **SECTION 47.** 102.17 (1) (a) 1. of the statutes is amended to read:

23 102.17 **(1)** (a) 1. Upon the filing with the department by any party in interest  
24 of any application in writing stating the general nature of any claim as to which any  
25 dispute or controversy may have arisen, the department shall mail a copy of the

1 application to all other parties in interest, and the insurance carrier shall be  
2 considered a party in interest. The department ~~or the division~~ may bring in  
3 additional parties by service of a copy of the application.

4 **SECTION 48.** 102.17 (1) (a) 2. of the statutes is amended to read:

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

15 **SECTION 49.** 102.17 (1) (a) 3. of the statutes is amended to read:

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

21 **SECTION 50.** 102.17 (1) (a) 4. of the statutes is amended to read:

22 102.17 (1) (a) 4. The hearing may be adjourned in the discretion of the ~~division~~  
23 department, and hearings may be held at such places as the ~~division~~ department  
24 designates, within or without the state. The ~~division~~ department may also arrange  
25 to have hearings held by the commission, officer, or tribunal having authority to hear

1 cases arising under the worker's compensation law of any other state, of the District  
2 of Columbia, or of any territory of the United States, with the testimony and  
3 proceedings at any such hearing to be reported to the ~~division~~ department and to be  
4 made part of the record in the case. Any evidence so taken shall be subject to rebuttal  
5 upon final hearing before the ~~division~~ department.

6 **SECTION 51.** 102.17 (1) (b) of the statutes is amended to read:

7 102.17 (1) (b) In any dispute or controversy pending before the ~~division~~  
8 department, the ~~division~~ department may direct the parties to appear before an  
9 examiner for a conference to consider the clarification of issues, the joining of  
10 additional parties, the necessity or desirability of amendments to the pleadings, the  
11 obtaining of admissions of fact or of documents, records, reports, and bills that may  
12 avoid unnecessary proof, and such other matters as may aid in disposition of the  
13 dispute or controversy. After that conference the ~~division~~ department may issue an  
14 order requiring disclosure or exchange of any information or written material that  
15 the ~~division~~ department considers material to the timely and orderly disposition of  
16 the dispute or controversy. If a party fails to disclose or exchange that information  
17 within the time stated in the order, the ~~division~~ department may issue an order  
18 dismissing the claim without prejudice or excluding evidence or testimony relating  
19 to the information or written material. The ~~division~~ department shall provide each  
20 party with a copy of any order issued under this paragraph.

21 **SECTION 52.** 102.17 (1) (c) 1. of the statutes is amended to read:

22 102.17 (1) (c) 1. Any party shall have the right to be present at any hearing,  
23 in person or by attorney or any other agent, and to present such testimony as may  
24 be pertinent to the controversy before the ~~division~~ department. No person, firm, or  
25 corporation, other than an attorney at law who is licensed to practice law in the state,



1 may appear on behalf of any party in interest before the ~~division~~ department or any  
2 member or employee of the ~~division~~ department assigned to conduct any hearing,  
3 investigation, or inquiry relative to a claim for compensation or benefits under this  
4 chapter, unless the person is 18 years of age or older, does not have an arrest or  
5 conviction record, subject to ss. 111.321, 111.322 and 111.335, is otherwise qualified,  
6 and has obtained from the department a license with authorization to appear in  
7 matters or proceedings before the ~~division~~ department. Except as provided under  
8 pars. (cm), (cr), and (ct), the license shall be issued by the department under rules  
9 promulgated by the department. The department shall maintain in its office a  
10 current list of persons to whom licenses have been issued.

11 **SECTION 53.** 102.17 (1) (d) 1. of the statutes is amended to read:

12 102.17 (1) (d) 1. The contents of certified medical and surgical reports by  
13 physicians, podiatrists, surgeons, dentists, psychologists, physician assistants,  
14 advanced practice nurse prescribers, and chiropractors licensed in and practicing in  
15 this state, and of certified reports by experts concerning loss of earning capacity  
16 under s. 102.44 (2) and (3), presented by a party for compensation constitute prima  
17 facie evidence as to the matter contained in those reports, subject to any rules and  
18 limitations the ~~division~~ department prescribes. Certified reports of physicians,  
19 podiatrists, surgeons, dentists, psychologists, physician assistants, advanced  
20 practice nurse prescribers, and chiropractors, wherever licensed and practicing, who  
21 have examined or treated the claimant, and of experts, if the practitioner or expert  
22 consents to being subjected to cross-examination, also constitute prima facie  
23 evidence as to the matter contained in those reports. Certified reports of physicians,  
24 podiatrists, surgeons, psychologists, and chiropractors are admissible as evidence of  
25 the diagnosis, necessity of the treatment, and cause and extent of the disability.

1 Certified reports by doctors of dentistry, physician assistants, and advanced practice  
2 nurse prescribers are admissible as evidence of the diagnosis and necessity of  
3 treatment but not of the cause and extent of disability. Any physician, podiatrist,  
4 surgeon, dentist, psychologist, chiropractor, physician assistant, advanced practice  
5 nurse prescriber, or expert who knowingly makes a false statement of fact or opinion  
6 in a certified report may be fined or imprisoned, or both, under s. 943.395.

7 **SECTION 54.** 102.17 (1) (d) 2. of the statutes is amended to read:

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

16 **SECTION 55.** 102.17 (1) (d) 3. of the statutes is amended to read:

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

25 **SECTION 56.** 102.17 (1) (d) 4. of the statutes is amended to read:

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

4           **SECTION 57.** 102.17 (1) (e) of the statutes is amended to read:

5           102.17 (1) (e) The ~~division~~ department may, with or without notice to any party,  
6 cause testimony to be taken, an inspection of the premises where the injury occurred  
7 to be made, or the time books and payrolls of the employer to be examined by any  
8 examiner, and may direct any employee claiming compensation to be examined by  
9 a physician, chiropractor, psychologist, dentist, or podiatrist. The testimony so  
10 taken, and the results of any such inspection or examination, shall be reported to the  
11 ~~division~~ department for its consideration upon final hearing. All ex parte testimony  
12 taken by the ~~division~~ department shall be reduced to writing, and any party shall  
13 have opportunity to rebut that testimony on final hearing.

14           **SECTION 58.** 102.17 (1) (f) 1. of the statutes is amended to read:

15           102.17 (1) (f) 1. Beyond reach of the subpoena of the ~~division~~ department.

16           **SECTION 59.** 102.17 (1) (g) of the statutes is amended to read:

17           102.17 (1) (g) Whenever the testimony presented at any hearing indicates a  
18 dispute or creates a doubt as to the extent or cause of disability or death, the ~~division~~  
19 department may direct that the injured employee be examined, that an autopsy be  
20 performed, or that an opinion be obtained without examination or autopsy, by or from  
21 an impartial, competent physician, chiropractor, dentist, psychologist or podiatrist  
22 designated by the ~~division~~ department who is not under contract with or regularly  
23 employed by a compensation insurance carrier or self-insured employer. The  
24 expense of the examination, autopsy, or opinion shall be paid by the employer or, if  
25 the employee claims compensation under s. 102.81, from the uninsured employers

1 fund. The report of the examination, autopsy, or opinion shall be transmitted in  
2 writing to the ~~division~~ department and a copy of the report shall be furnished by the  
3 ~~division~~ department to each party, who shall have an opportunity to rebut the report  
4 on further hearing.

5 **SECTION 60.** 102.17 (1) (h) of the statutes is amended to read:

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

14 **SECTION 61.** 102.17 (2) of the statutes is amended to read:

15 102.17 (2) If the ~~division~~ department has reason to believe that the payment  
16 of compensation has not been made, the ~~division~~ department may on its own motion  
17 give notice to the parties, in the manner provided for the service of an application,  
18 of a time and place when a hearing will be held for the purpose of determining the  
19 facts. The notice shall contain a statement of the matter to be considered. All  
20 provisions of this chapter governing proceedings on an application shall apply,  
21 insofar as applicable, to a proceeding under this subsection. When the ~~division~~  
22 department schedules a hearing on its own motion, the ~~division~~ department does not  
23 become a party in interest and is not required to appear at the hearing.

24 **SECTION 62.** 102.17 (2m) of the statutes is amended to read:

1           102.17 **(2m)** ~~The division or any~~ Any party, including the department, may  
2           require any person to produce books, papers, and records at the hearing by personal  
3           service of a subpoena upon the person along with a tender of witness fees as provided  
4           in ss. 814.67 and 885.06. Except as provided in sub. (2s), the subpoena shall be on  
5           a form provided by the ~~division~~ department and shall give the name and address of  
6           the party requesting the subpoena.

7           **SECTION 63.** 102.17 (2s) of the statutes is amended to read:

8           102.17 **(2s)** A party's attorney of record may issue a subpoena to compel the  
9           attendance of a witness or the production of evidence. A subpoena issued by an  
10          attorney must be in substantially the same form as provided in s. 805.07 (4) and must  
11          be served in the manner provided in s. 805.07 (5). The attorney shall, at the time of  
12          issuance, send a copy of the subpoena to the hearing examiner or other  
13          representative of the ~~division~~ department responsible for conducting the proceeding.

14          **SECTION 64.** 102.17 (4) of the statutes is renumbered 102.17 (4) (a) and  
15          amended to read:

16          102.17 **(4)** (a) Except as provided in this subsection and s. 102.555 (12) (b), in  
17          the case of occupational disease, the right of an employee, the employee's legal  
18          representative, ~~or a dependent,~~ the employee's employer or the employer's insurance  
19          company, or other named party to proceed under this section shall not extend beyond  
20          12 years after the date of the injury or death or after the date that compensation,  
21          other than for treatment or burial expenses, was last paid, or would have been last  
22          payable if no advancement were made, whichever date is latest, and in the case of  
23          traumatic injury, that right shall not extend beyond 6 years after that date.

24          **(b)** In the case of occupational disease; a traumatic injury resulting in the loss  
25          or total impairment of a hand or any part of the rest of the arm proximal to the hand

1 or of a foot or any part of the rest of the leg proximal to the foot, any loss of vision,  
2 or any permanent brain injury; or a traumatic injury causing the need for an  
3 artificial spinal disc or a total or partial knee or hip replacement, there shall be no  
4 statute of limitations, except that benefits or treatment expense for an occupational  
5 disease becoming due 12 years after the date of injury or death or last payment of  
6 compensation, other than for treatment or burial expenses, shall be paid from the  
7 work injury supplemental benefit fund under s. 102.65 and in the manner provided  
8 in s. 102.66 and benefits or treatment expense for such a traumatic injury becoming  
9 due 6 years after that date shall be paid from that fund and in that manner if the date  
10 of injury or death or last payment of compensation, other than for treatment or burial  
11 expenses, is before April 1, 2006.

12 (c) Payment of wages by the employer during disability or absence from work  
13 to obtain treatment shall be considered payment of compensation for the purpose of  
14 this section if the employer knew of the employee's condition and its alleged relation  
15 to the employment.

16 **SECTION 65.** 102.17 (7) (b) of the statutes is amended to read:

17 102.17 (7) (b) Except as provided in par. (c), the ~~division~~ department 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 ~~division~~ department 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 ~~division~~ department 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 ~~division~~ department 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 66.** 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 ~~division~~ department 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 67.** 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 ~~division~~ department 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 ~~division~~ department 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 ~~division~~  
21 department and serve on all parties at least 15 days before the date of the hearing  
22 an itemized statement of the medical expenses and incidental compensation under  
23 s. 102.42 claimed by the injured employee, unless the ~~division~~ department is satisfied  
24 that there is good cause for the failure to file and serve the itemized statement.

25 **SECTION 68.** 102.17 (9) of the statutes is created to read:

1           102.17 (9) (a) In this subsection:

2           1. “Fire fighter” means any person employed on a full-time basis by the state  
3 or any political subdivision as a member or officer of a fire department, including the  
4 first class cities and state fire marshal and deputies.

5           2. “Post-traumatic stress disorder” means that condition, as described in the  
6 5th edition of the Diagnostic and Statistical Manual of Mental Disorders by the  
7 American Psychiatric Association.

8           (b) In the case of a mental injury that is not accompanied by a physical injury  
9 and that results in a diagnosis of post-traumatic stress disorder in a law enforcement  
10 officer, as defined in s. 23.33 (1) (ig), or a fire fighter, the claim for compensation for  
11 the mental injury, in order to be compensable under this chapter, is subject to all of  
12 the following:

13           1. The mental injury must satisfy all of the following conditions:

14           a. The diagnosis of post-traumatic stress disorder is made by a licensed  
15 psychiatrist or psychologist.

16           b. The conditions of liability under s. 102.03 (1) are proven by the  
17 preponderance of the evidence.

18           2. The mental injury may not be a result of any of the following actions taken  
19 in good faith by the employer:

20           a. A disciplinary action.

21           b. A work evaluation.

22           c. A job transfer.

23           d. A layoff.

24           e. A demotion.

25           f. A termination.



1           3. The diagnosis does not need to be based on unusual stress of greater  
2 dimensions than the day-to-day emotional strain and tension experienced by  
3 similarly situated employees.

4           **SECTION 69.** 102.175 (2) of the statutes is amended to read:

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

13           **SECTION 70.** 102.175 (3) (c) of the statutes is amended to read:

14           102.175 (3) (c) Upon request of the department, ~~the division~~, the employer, or  
15 the employer's worker's compensation insurer, an injured employee who claims  
16 compensation for an injury causing permanent disability shall disclose all previous  
17 findings of permanent disability or other impairments that are relevant to that  
18 injury.

19           **SECTION 71.** 102.18 (1) (b) 1. of the statutes is amended to read:

20           102.18 (1) (b) 1. Within 90 days after the final hearing and close of the record,  
21 the ~~division~~ department shall make and file its findings upon the ultimate facts  
22 involved in the controversy, and its order, which shall state the ~~division's~~  
23 department's determination as to the rights of the parties. Pending the final  
24 determination of any controversy before it, the ~~division~~ department, after any

1 hearing, may, in its discretion, make interlocutory findings, orders, and awards,  
2 which may be enforced in the same manner as final awards.

3 **SECTION 72.** 102.18 (1) (b) 2. of the statutes is amended to read:

4 102.18 (1) (b) 2. The ~~division~~ department may include in any interlocutory or  
5 final award or order an order directing the employer or insurer to pay for any future  
6 treatment that may be necessary to cure and relieve the employee from the effects  
7 of the injury or to pay for a future course of instruction or other rehabilitation  
8 training services provided under a rehabilitation training program developed under  
9 s. 102.61 (1) or (1m).

10 **SECTION 73.** 102.18 (1) (b) 3. of the statutes is amended to read:

11 102.18 (1) (b) 3. If the ~~division~~ department finds that the employer or insurer  
12 has not paid any amount that the employer or insurer was directed to pay in any  
13 interlocutory order or award and that the nonpayment was not in good faith, the  
14 ~~division~~ department may include in its final award a penalty not exceeding 25  
15 percent of each amount that was not paid as directed.

16 **SECTION 74.** 102.18 (1) (bg) 1. of the statutes is amended to read:

17 102.18 (1) (bg) 1. If the ~~division~~ department finds under par. (b) that an insurer  
18 or self-insured employer is liable under this chapter for any health services provided  
19 to an injured employee by a health service provider, but that the reasonableness of  
20 the fee charged by the health service provider is in dispute, the ~~division~~ department  
21 may include in its order under par. (b) a determination made by the department  
22 under s. 102.16 (2) as to the reasonableness of the fee or, if such a determination has  
23 not yet been made, the ~~division~~ department may notify, or direct the insurer or  
24 self-insured employer to notify, the health service provider under s. 102.16 (2) (b)  
25 that the reasonableness of the fee is in dispute.

1           **SECTION 75.** 102.18 (1) (bg) 2. of the statutes is amended to read:

2           102.18 (1) (bg) 2. If the ~~division~~ department finds under par. (b) that an  
3           employer or insurance carrier is liable under this chapter for any treatment provided  
4           to an injured employee by a health service provider, but that the necessity of the  
5           treatment is in dispute, the ~~division~~ department may include in its order under par.  
6           (b) a determination made by the department under s. 102.16 (2m) as to the necessity  
7           of the treatment or, if such a determination has not yet been made, the ~~division~~  
8           department may notify, or direct the employer or insurance carrier to notify, the  
9           health service provider under s. 102.16 (2m) (b) that the necessity of the treatment  
10          is in dispute.

11          **SECTION 76.** 102.18 (1) (bg) 3. of the statutes is amended to read:

12          102.18 (1) (bg) 3. If the ~~division~~ department finds under par. (b) that an insurer  
13          or self-insured employer is liable under this chapter for the cost of a prescription  
14          drug dispensed under s. 102.425 (2) for outpatient use by an injured employee, but  
15          that the reasonableness of the amount charged for that prescription drug is in  
16          dispute, the ~~division~~ department may include in its order under par. (b) a  
17          determination made by the department under s. 102.425 (4m) as to the  
18          reasonableness of the prescription drug charge or, if such a determination has not  
19          yet been made, the ~~division~~ department may notify, or direct the insurer or  
20          self-insured employer to notify, the pharmacist or practitioner dispensing the  
21          prescription drug under s. 102.425 (4m) (b) that the reasonableness of the  
22          prescription drug charge is in dispute.

23          **SECTION 77.** 102.18 (1) (bp) of the statutes is amended to read:

24          102.18 (1) (bp) If the ~~division~~ department determines that the employer or  
25          insurance carrier suspended, terminated, or failed to make payments or failed to

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

15 **SECTION 78.** 102.18 (1) (bw) of the statutes is amended to read:

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

23 **SECTION 79.** 102.18 (1) (c) of the statutes is amended to read:

24 102.18 (1) (c) If 2 or more examiners have conducted a formal hearing on a claim  
25 and are unable to agree on the order or award to be issued, the decision shall be the

1 decision of the majority. If the examiners are equally divided on the decision, the  
2 ~~division~~ department may appoint an additional examiner who shall review the  
3 record and consult with the other examiners concerning their impressions of the  
4 credibility of the evidence. Findings of fact and an order or award may then be issued  
5 by a majority of the examiners.

6 **SECTION 80.** 102.18 (1) (e) of the statutes is amended to read:

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

14 **SECTION 81.** 102.18 (2) of the statutes is repealed and recreated to read:

15 102.18 (2) The department shall have and maintain on its staff such examiners  
16 as are necessary to hear and decide claims and to assist in the effective  
17 administration of this chapter. Those examiners shall be attorneys and may be  
18 designated as administrative law judges. Those examiners may make findings and  
19 orders and may approve, review, set aside, modify, or confirm stipulations of  
20 settlement or compromises of claims for compensation.

21 **SECTION 82.** 102.18 (3) of the statutes is amended to read:

22 102.18 (3) A party in interest may petition the commission for review of an  
23 examiner's decision awarding or denying compensation if the department, ~~the~~  
24 ~~division~~, or the commission receives the petition within 21 days after the department  
25 ~~or the division~~ mailed a copy of the examiner's findings and order to the last-known

1 addresses of the parties in interest. The commission shall dismiss a petition that is  
2 not filed within those 21 days unless the petitioner shows that the petition was filed  
3 late for a reason that was beyond the petitioner's control. If no petition is filed within  
4 those 21 days, the findings or order shall be considered final unless set aside,  
5 reversed, or modified by the examiner within that time. If the findings or order are  
6 set aside by the examiner, the status shall be the same as prior to ~~the setting aside~~  
7 of the findings or order that were set aside. If the findings or order are reversed or  
8 modified by the examiner, the time for filing a petition commences on the date on  
9 which notice of the reversal or modification is mailed to the last-known addresses  
10 of the parties in interest. The commission shall either affirm, reverse, set aside, or  
11 modify the findings or order, in whole or in part, or direct the taking of additional  
12 evidence. The commission's action shall be based on a review of the evidence  
13 submitted.

14 **SECTION 83.** 102.18 (4) (c) 3. of the statutes is amended to read:

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

17 **SECTION 84.** 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 ~~or the division~~ for consideration and approval or rejection under s.  
23 102.16 (1). Presentation of a compromise does not affect the period in which to  
24 commence an action for judicial review.

25 **SECTION 85.** 102.18 (5) of the statutes is amended to read:

1           102.18 (5) If it appears to the ~~division~~ department that a mistake may have  
2           been made as to cause of injury in the findings, order, or award upon an alleged injury  
3           based on accident, when in fact the employee was suffering from an occupational  
4           disease, within 3 years after the date of the findings, order, or award the ~~division~~  
5           department may, upon its own motion, with or without hearing, set aside the  
6           findings, order or award, or the ~~division~~ department may take that action upon  
7           application made within those 3 years. After an opportunity for hearing, the ~~division~~  
8           department may, if in fact the employee is suffering from disease arising out of the  
9           employment, make new findings, and a new order or award, or the ~~division~~  
10          department may reinstate the previous findings, order, or award.

11           **SECTION 86.** 102.18 (6) of the statutes is amended to read:

12          102.18 (6) In case of disease arising out of employment, the ~~division~~  
13          department may from time to time review its findings, order, or award, and make  
14          new findings, or a new order or award, based on the facts regarding disability or  
15          otherwise as those facts may appear at the time of the review. This subsection shall  
16          not affect the application of the limitation in s. 102.17 (4).

17           **SECTION 87.** 102.195 of the statutes is amended to read:

18          **102.195 Employees confined in institutions; payment of benefits.** In  
19          case an employee is adjudged mentally ill or incompetent or convicted of a felony, and  
20          is confined in a public institution and has wholly dependent upon the employee for  
21          support a person whose dependency is determined as if the employee were deceased,  
22          compensation payable during the period of the employee's confinement may be paid  
23          to the employee and the employee's dependents in such manner, for such time, and  
24          in such amount as the department ~~or division~~ by order provides.

25           **SECTION 88.** 102.22 (1) of the statutes is amended to read:

1           102.22 (1) If the employer or his or her insurer inexcusably delays in making  
2 the first payment that is due an injured employee for more than 30 days after the date  
3 on which the employee leaves work as a result of an injury and if the amount due is  
4 \$500 or more, the payments as to which the delay is found shall be increased by 10  
5 percent. If the employer or his or her insurer inexcusably delays in making the first  
6 payment that is due an injured employee for more than 14 days after the date on  
7 which the employee leaves work as a result of an injury, the payments as to which  
8 the delay is found may be increased by 10 percent. If the employer or his or her  
9 insurer inexcusably delays for any length of time in making any other payment that  
10 is due an injured employee, the payments as to which the delay is found may be  
11 increased by 10 percent. If the delay is chargeable to the employer and not to the  
12 insurer, s. 102.62 applies and the relative liability of the parties shall be fixed and  
13 discharged as provided in that section. The department ~~or the division~~ may also  
14 order the employer or insurance carrier to reimburse the employee for any finance  
15 charges, collection charges, or interest that the employee paid as a result of the  
16 inexcusable delay by the employer or insurance carrier.

17           **SECTION 89.** 102.22 (2) of the statutes is amended to read:

18           102.22 (2) If any sum that the department ~~or the division~~ orders to be paid is  
19 not paid when due, that sum shall bear interest at the rate of 10 percent per year.  
20 The state is liable for interest on awards issued against it under this chapter. The  
21 department ~~or the division~~ has jurisdiction to issue an award for payment of interest  
22 under this subsection at any time within one year after the date of its order or, if the  
23 order is appealed, within one year after final court determination. Interest awarded  
24 under this subsection becomes due from the date the examiner's order becomes final  
25 or from the date of a decision by the commission, whichever is later.



1           **SECTION 90.** 102.23 (2) of the statutes is amended to read:

2           102.23 (2) Upon the trial of an action for review of an order or award, the court  
3 shall disregard any irregularity or error of the commission, ~~or the~~ the department,  
4 ~~or the division~~ unless it is made to affirmatively appear that the plaintiff was  
5 damaged by that irregularity or error.

6           **SECTION 91.** 102.23 (3) of the statutes is amended to read:

7           102.23 (3) The record in any case shall be transmitted to the department ~~or the~~  
8 ~~division~~ within 5 days after expiration of the time for appeal from the order or  
9 judgment of the court, unless an appeal is taken from that order or judgment.

10          **SECTION 92.** 102.23 (5) of the statutes is amended to read:

11          102.23 (5) When an action for review involves only the question of liability as  
12 between the employer and one or more insurance companies or as between several  
13 insurance companies, a party that has been ordered by the department, ~~the division,~~  
14 the commission, or a court to pay compensation is not relieved from paying  
15 compensation as ordered.

16          **SECTION 93.** 102.24 (2) of the statutes is amended to read:

17          102.24 (2) After the commencement of an action to review any order or award  
18 of the commission, the parties may have the record remanded by the court for such  
19 time and under such condition as the parties may provide, for the purpose of having  
20 the department ~~or the division~~ act upon the question of approving or disapproving  
21 any settlement or compromise that the parties may desire to have so approved. If  
22 approved, the action shall be at an end and judgment may be entered upon the  
23 approval as upon an award. If not approved, the department ~~or the division~~ shall  
24 immediately return the record to the circuit court and the action shall proceed as if  
25 no remand had been made.

1           **SECTION 94.** 102.25 (1) of the statutes is amended to read:

2           102.25 (1) Any party aggrieved by a judgment entered upon the review of any  
3 order or award may appeal the judgment within the period specified in s. 808.04 (1).  
4 A trial court may not require the commission or any party to the action to execute,  
5 serve, or file an undertaking under s. 808.07 or to serve, or secure approval of, a  
6 transcript of the notes of the stenographic reporter or the tape of the recording  
7 machine. The state is a party aggrieved under this subsection if a judgment is  
8 entered upon the review confirming any order or award against the state. At any  
9 time before the case is set down for hearing in the court of appeals or the supreme  
10 court, the parties may have the record remanded by the court to the department ~~or~~  
11 ~~the division~~ in the same manner and for the same purposes as provided for  
12 remanding from the circuit court to the department ~~or the division~~ under s. 102.24  
13 (2).

14           **SECTION 95.** 102.26 (2) of the statutes is amended to read:

15           102.26 (2) Unless previously authorized by the department ~~or the division~~, no  
16 fee may be charged or received for the enforcement or collection of any claim for  
17 compensation nor may any contract for that enforcement or collection be enforceable  
18 when that fee, inclusive of all taxable attorney fees paid or agreed to be paid for that  
19 enforcement or collection, exceeds 20 percent of the amount at which the claim is  
20 compromised or of the amount awarded, adjudged, or collected, except that in cases  
21 of admitted liability in which there is no dispute as to the amount of compensation  
22 due and in which no hearing or appeal is necessary, the fee charged may not exceed  
23 10 percent, but not to exceed \$250, of the amount at which the claim is compromised  
24 or of the amount awarded, adjudged, or collected. The limitation as to fees shall  
25 apply to the combined charges of attorneys, solicitors, representatives, and adjusters

1 who knowingly combine their efforts toward the enforcement or collection of any  
2 compensation claim.

3 **SECTION 96.** 102.26 (3) (b) 1. of the statutes is amended to read:

4 102.26 (3) (b) 1. Subject to sub. (2), upon application of any interested party,  
5 the department ~~or the division~~ may fix the fee of the claimant's attorney or  
6 representative and provide in the award for that fee to be paid directly to the attorney  
7 or representative.

8 **SECTION 97.** 102.26 (3) (b) 3. of the statutes is amended to read:

9 102.26 (3) (b) 3. The claimant may request the insurer or self-insured employer  
10 to pay any compensation that is due the claimant by depositing the payment directly  
11 into an account maintained by the claimant at a financial institution. If the insurer  
12 or self-insured employer agrees to the request, the insurer or self-insured employer  
13 may deposit the payment by direct deposit, electronic funds transfer, or any other  
14 money transfer technique approved by the department ~~or the division~~. The claimant  
15 may revoke a request under this subdivision at any time by providing appropriate  
16 written notice to the insurer or self-insured employer.

17 **SECTION 98.** 102.26 (4) of the statutes is amended to read:

18 102.26 (4) Any attorney or other person who charges or receives any fee in  
19 violation of this section may be required to forfeit double the amount retained by the  
20 attorney or other person, which forfeiture shall be collected by the state in an action  
21 in debt upon complaint of the department ~~or the division~~. Out of the sum recovered  
22 the court shall direct payment to the injured party of the amount of the overcharge.

23 **SECTION 99.** 102.27 (2) (b) of the statutes is amended to read:

24 102.27 (2) (b) If a governmental unit provides public assistance under ch. 49  
25 to pay medical costs or living expenses related to a claim under this chapter and if

1 the governmental unit has given the parties to the claim written notice stating that  
2 the governmental unit provided the assistance and the cost of that assistance, the  
3 department ~~or the division~~ shall order the employer or insurance carrier owing  
4 compensation to reimburse that governmental unit for the amount of assistance the  
5 governmental unit provided or two-thirds of the amount of the award or payment  
6 remaining after deduction of attorney fees and any other fees or costs chargeable  
7 under ch. 102, whichever is less. The department shall comply with this paragraph  
8 when making payments under s. 102.81.

9 **SECTION 100.** 102.28 (3) (c) of the statutes is amended to read:

10 102.28 (3) (c) An employee who has signed a waiver under par. (a) 1. and an  
11 affidavit under par. (a) 2., who sustains an injury that, but for that waiver, the  
12 employer would be liable for under s. 102.03, who at the time of the injury was a  
13 member of a religious sect whose authorized representative has filed an affidavit  
14 under par. (a) 3. and an agreement under par. (a) 4., and who as a result of the injury  
15 becomes dependent on the religious sect for financial and medical assistance, or the  
16 employee's dependent, may request a hearing under s. 102.17 (1) to determine if the  
17 religious sect has provided the employee and his or her dependents with a standard  
18 of living and medical treatment that are reasonable when compared to the general  
19 standard of living and medical treatment for members of the religious sect. If, after  
20 hearing, the ~~division~~ department determines that the religious sect has not provided  
21 that standard of living or medical treatment, or both, the ~~division~~ department may  
22 order the religious sect to provide alternative benefits to that employee or his or her  
23 dependent, or both, in an amount that is reasonable under the circumstances, but  
24 not in excess of the benefits that the employee or dependent could have received  
25 under this chapter but for the waiver under par. (a) 1.

1           **SECTION 101.** 102.28 (4) (c) of the statutes is amended to read:

2           102.28 (4) (c) After a hearing under par. (b), or without a hearing if one is not  
3 requested, the ~~division~~ department may issue an order to an employer to cease  
4 operations on a finding that the employer is an uninsured employer. ~~If no hearing~~  
5 ~~is requested, the department may issue such an order.~~

6           **SECTION 102.** 102.29 (1) (b) (intro.) of the statutes is amended to read:

7           102.29 (1) (b) (intro.) If a party entitled to notice cannot be found, the  
8 department shall become the agent of that party for the giving of a notice as required  
9 in par. (a) and the notice, when given to the department, shall include an affidavit  
10 setting forth the facts, including the steps taken to locate that party. Each party shall  
11 have an equal voice in the prosecution of the claim, and any disputes arising shall  
12 be passed upon by the court before whom the case is pending, and if no action is  
13 pending, then by a court of record or by the department ~~or the division~~. If notice is  
14 given as provided in par. (a), the liability of the tort-feasor shall be determined as  
15 to all parties having a right to make claim and, irrespective of whether or not all  
16 parties join in prosecuting the claim, the proceeds of the claim shall be divided as  
17 follows:

18           **SECTION 103.** 102.29 (1) (c) of the statutes is amended to read:

19           102.29 (1) (c) If both the employee or the employee's personal representative  
20 or other person entitled to bring action, and the employer, compensation insurer, or  
21 department, join in the pressing of said claim and are represented by counsel, the  
22 attorney fees allowed as a part of the costs of collection shall be, unless otherwise  
23 agreed upon, divided between the attorneys for those parties as directed by the court  
24 or by the department ~~or the division~~.

25           **SECTION 104.** 102.29 (1) (d) of the statutes is amended to read:

**SECTION 104**

1           102.29 (1) (d) A settlement of a 3rd-party claim shall be void unless the  
2 settlement and the distribution of the proceeds of the settlement are approved by the  
3 court before whom the action is pending or, if no action is pending, then by a court  
4 of record or by the department ~~or the division~~.

5           **SECTION 105.** 102.29 (6m) (a) 1m. of the statutes is created to read:

6           102.29 (6m) (a) 1m. The employee leasing company that employs the leased  
7 employee.

8           **SECTION 106.** 102.29 (6m) (a) 3. of the statutes is amended to read:

9           102.29 (6m) (a) 3. Any employee of the client, the employee leasing company  
10 that employs the leased employee, or of ~~that other~~ an employee leasing company  
11 described in subd. 2., unless the leased employee who has the right to make a claim  
12 for compensation would have a right under s. 102.03 (2) to bring an action against  
13 the employee of the client, the employee leasing company that employs the leased  
14 employee, or the leased employee of the ~~other~~ employee leasing company described  
15 in subd. 2., if the employees and leased employees were coemployees.

16           **SECTION 107.** 102.30 (7) (a) of the statutes is amended to read:

17           102.30 (7) (a) The department ~~or the division~~ may order direct reimbursement  
18 out of the proceeds payable under this chapter for payments made under a  
19 nonindustrial insurance policy covering the same disability and expenses  
20 compensable under s. 102.42 when the claimant consents or when it is established  
21 that the payments under the nonindustrial insurance policy were improper. No  
22 attorney fee is due with respect to that reimbursement.

23           **SECTION 108.** 102.315 (1) (c) of the statutes is amended to read:

24           102.315 (1) (c) "Divided workforce" means a workforce in which some of the  
25 employees of a client are leased employees and some of the employees of the client

1 are not leased employees, but does not include a workforce with respect to a client  
2 that has elected to provide insurance coverage for leased employees under sub. (2m).

3 **SECTION 109.** 102.315 (2) of the statutes is amended to read:

4 102.315 (2) EMPLOYEE LEASING COMPANY LIABLE. An Except as otherwise  
5 provided in an employee leasing agreement that meets the requirements of sub.  
6 (2m), an employee leasing company is liable under s. 102.03 for all compensation  
7 payable under this chapter to a leased employee, including any payments required  
8 under s. 102.16 (3), 102.18 (1) (b) 3. or (bp), 102.22 (1), 102.35 (3), 102.57, or 102.60.  
9 If a client that makes an election under sub. (2m) (a) terminates the election, fails  
10 to provide the required coverage, or allows coverage to lapse, the employee leasing  
11 company is liable under s. 102.03 as set forth in this subsection. Except as permitted  
12 allowed under s. 102.29, an employee leasing company may not seek or receive  
13 reimbursement from another employer for any payments made as a result of that  
14 liability. An employee leasing company is not liable under s. 102.03 for any  
15 compensation payable under this chapter to an employee of a client who is not a  
16 leased employee.

17 **SECTION 110.** 102.315 (2e) of the statutes is created to read:

18 102.315 (2e) TERMINATION OF EMPLOYEE LEASING AGREEMENT. If an employee  
19 leasing company terminates an employee leasing agreement with a client that has  
20 made an election under sub. (2m) (a), the company shall provide notice of the  
21 termination of an employee leasing agreement to the department and the client, on  
22 a form prescribed by the department, at least 30 days before the termination of the  
23 employee leasing agreement. The notice provided under this subsection must  
24 contain all of the following information:

1 (a) The name, mailing address, and federal employer identification number of  
2 the employee leasing company.

3 (b) The name, mailing address, and federal employer identification number of  
4 the client.

5 (c) The effective date of the termination of the employee leasing agreement.

6 (d) The signatures of the authorized representatives of the client and the  
7 employee leasing company.

8 **SECTION 111.** 102.315 (2m) of the statutes is created to read:

9 102.315 (2m) CLIENT ELECTION TO PROVIDE INSURANCE COVERAGE. (a) A client  
10 may elect to provide insurance coverage under this chapter for leased employees.  
11 Such an election must be provided in an employee leasing agreement, and the leased  
12 employees must be insured in the voluntary market and not under a mandatory  
13 risk-sharing plan under s. 619.01.

14 (b) The client shall provide notice of an election or termination of an election  
15 under par. (a) to the department and the employee leasing company on a form  
16 prescribed by the department at least 30 days before the effective date of the election  
17 or termination of the election. The notice provided under this subsection must  
18 contain all of the following information:

19 1. The name, mailing address, and federal employer identification number of  
20 the client.

21 2. The name, mailing address, and federal employer identification number of  
22 the employee leasing company.

23 3. The effective date of the employee leasing agreement.

24 4. The signatures of the authorized representatives of the client and the  
25 employee leasing company.



1 (c) A client that elects to provide insurance coverage under par. (a) is liable  
2 under s. 102.03 for all compensation payable to a leased employee, including any  
3 payments required under s. 102.16 (3), 102.18 (1) (b) 3. or (bp), 102.22 (1), 102.35 (3),  
4 102.57, or 102.60.

5 (d) If a client makes an election under par. (a), the employee leasing company  
6 shall include the client's federal employer identification number on any reports to the  
7 department for the purposes of administering the worker's compensation program  
8 or the unemployment insurance program under ch. 108.

9 (e) The experience rating under the standards and criteria under ss. 626.11 and  
10 626.12 remain with a client that makes an election under par. (a).

11 **SECTION 112.** 102.315 (2s) of the statutes is created to read:

12 102.315 (2s) CLAIM REPORTING. Any claim filed under this chapter for a leased  
13 employee shall include the client's federal employer identification number.

14 **SECTION 113.** 102.32 (1m) (intro.) of the statutes is amended to read:

15 102.32 (1m) (intro.) In any case in which compensation payments for an injury  
16 have extended or will extend over 6 months or more after the date of the injury or in  
17 any case in which death benefits are payable, any party in interest may, in the  
18 discretion of the department ~~or the division~~, be discharged from, or compelled to  
19 guarantee, future compensation payments by doing any of the following:

20 **SECTION 114.** 102.32 (1m) (a) of the statutes is amended to read:

21 102.32 (1m) (a) Depositing the present value of the total unpaid compensation  
22 upon a 5 percent interest discount basis with a credit union, savings bank, savings  
23 and loan association, bank, or trust company designated by the department ~~or the~~  
24 ~~division~~.

25 **SECTION 115.** 102.32 (1m) (c) of the statutes is amended to read:

1           102.32 **(1m)** (c) Making payment in gross upon a 5 percent interest discount  
2 basis to be approved by the department ~~or the division~~.

3           **SECTION 116.** 102.32 (1m) (d) of the statutes is amended to read:

4           102.32 **(1m)** (d) In cases in which the time for making payments or the amounts  
5 of payments cannot be definitely determined, furnishing a bond, or other security,  
6 satisfactory to the department ~~or the division~~ for the payment of compensation as  
7 may be due or become due. The acceptance of the bond, or other security, and the form  
8 and sufficiency of the bond or other security, shall be subject to the approval of the  
9 department ~~or the division~~. If the employer or insurer is unable or fails to  
10 immediately procure the bond, the employer or insurer, in lieu of procuring the bond,  
11 shall deposit with a credit union, savings bank, savings and loan association, bank,  
12 or trust company designated by the department ~~or the division~~ the maximum  
13 amount that may reasonably become payable in those cases, to be determined by the  
14 department ~~or the division~~ at amounts consistent with the extent of the injuries and  
15 the law. The bonds and deposits may be reduced only to satisfy claims and may be  
16 withdrawn only after the claims which they are to guarantee are fully satisfied or  
17 liquidated under par. (a), (b), or (c).

18           **SECTION 117.** 102.32 (5) of the statutes is amended to read:

19           102.32 **(5)** Any insured employer may, in the discretion of the department ~~or~~  
20 ~~the division~~, compel the insurer to discharge, or to guarantee payment of, the  
21 employer's liabilities in any case described in sub. (1m) and by that discharge or  
22 guarantee release the employer from liability for compensation in that case, except  
23 that if for any reason a bond furnished or deposit made under sub. (1m) (d) does not  
24 fully protect the beneficiary of the bond or deposit, the compensation insurer or  
25 insured employer, as the case may be, shall still be liable to that beneficiary.

1           **SECTION 118.** 102.32 (6m) of the statutes is amended to read:

2           102.32 **(6m)** The department ~~or the division~~ may direct an advance on a  
3 payment of unaccrued compensation for permanent disability or death benefits if the  
4 department ~~or the division~~ determines that the advance payment is in the best  
5 interest of the injured employee or the employee's dependents. In directing the  
6 advance, the department ~~or the division~~ shall give the employer or the employer's  
7 insurer an interest credit against its liability. The credit shall be computed at 5  
8 percent. An injured employee or dependent may receive no more than 3 advance  
9 payments per calendar year.

10           **SECTION 119.** 102.32 (7) of the statutes is amended to read:

11           102.32 **(7)** No lump sum settlement shall be allowed in any case of permanent  
12 total disability upon an estimated life expectancy, except upon consent of all parties,  
13 after hearing and finding by the ~~division~~ department that the interests of the injured  
14 employee will be conserved by the lump sum settlement.

15           **SECTION 120.** 102.33 (1) of the statutes is amended to read:

16           102.33 **(1)** The department ~~and the division~~ shall print and furnish free to any  
17 employer or employee any blank forms that are necessary to facilitate efficient  
18 administration of this chapter. The department ~~and the division~~ shall keep any  
19 record books or records that are necessary for the proper and efficient administration  
20 of this chapter.

21           **SECTION 121.** 102.33 (2) (a) of the statutes is amended to read:

22           102.33 **(2)** (a) Except as provided in pars. (b) and (c), the records of the  
23 department, ~~the division,~~ and the commission, related to the administration of this  
24 chapter are subject to inspection and copying under s. 19.35 (1).

25           **SECTION 122.** 102.33 (2) (b) (intro.) of the statutes is amended to read:

1           102.33 (2) (b) (intro.) Except as provided in this paragraph and par. (d), a record  
2 maintained by the department, ~~the division,~~ or the commission that reveals the  
3 identity of an employee who claims worker's compensation benefits, the nature of the  
4 employee's claimed injury, the employee's past or present medical condition, the  
5 extent of the employee's disability, or the amount, type, or duration of benefits paid  
6 to the employee and a record maintained by the department that reveals any  
7 financial information provided to the department by a self-insured employer or by  
8 an applicant for exemption under s. 102.28 (2) (b) are confidential and not open to  
9 public inspection or copying under s. 19.35 (1). The department, ~~the division,~~ or the  
10 commission may deny a request made under s. 19.35 (1) or, subject to s. 102.17 (2m)  
11 and (2s), refuse to honor a subpoena issued by an attorney of record in a civil or  
12 criminal action or special proceeding to inspect and copy a record that is confidential  
13 under this paragraph, unless one of the following applies:

14           **SECTION 123.** 102.33 (2) (b) 1. of the statutes is amended to read:

15           102.33 (2) (b) 1. The requester is the employee who is the subject of the record  
16 or an attorney or authorized agent of that employee. An attorney or authorized agent  
17 of an employee who is the subject of a record shall provide a written authorization  
18 for inspection and copying from the employee if requested by the department, ~~the~~  
19 ~~division,~~ or the commission.

20           **SECTION 124.** 102.33 (2) (b) 2. of the statutes is amended to read:

21           102.33 (2) (b) 2. The record that is requested contains confidential information  
22 concerning a worker's compensation claim and the requester is an insurance carrier  
23 or employer that is a party to any worker's compensation claim involving the same  
24 employee or an attorney or authorized agent of that insurance carrier or employer,  
25 except that the department, ~~the division,~~ or the commission is not required to do a

1 random search of its records and may require the requester to provide the  
2 approximate date of the injury and any other relevant information that would assist  
3 the department,~~the division~~, or the commission in finding the record requested. An  
4 attorney or authorized agent of an insurance carrier or employer that is a party to  
5 an employee's worker's compensation claim shall provide a written authorization for  
6 inspection and copying from the insurance carrier or employer if requested by the  
7 department,~~the division~~, or the commission.

8 **SECTION 125.** 102.33 (2) (b) 4. of the statutes is amended to read:

9 102.33 **(2)** (b) 4. A court of competent jurisdiction in this state orders the  
10 department,~~the division~~, or the commission to release the record.

11 **SECTION 126.** 102.33 (2) (b) 7. of the statutes is created to read:

12 102.33 **(2)** (b) 7. The requester is the department of health services, a county  
13 department of social services under s. 46.215 or 46.22, or a county department of  
14 human services under s. 46.23, and the request is limited to the name and address  
15 of the employee who is the subject of the record, the name and address of the  
16 employee's employer, and any financial information about that employee contained  
17 in the record.

18 **SECTION 127.** 102.33 (2) (c) of the statutes is amended to read:

19 102.33 **(2)** (c) A record maintained by the department,~~the division~~, or the  
20 commission that contains employer or insurer information obtained from the  
21 Wisconsin compensation rating bureau under s. 102.31 (8) or 626.32 (1) (a) is  
22 confidential and not open to public inspection or copying under s. 19.35 (1) unless the  
23 Wisconsin compensation rating bureau authorizes public inspection or copying of  
24 that information.

25 **SECTION 128.** 102.33 (2) (d) 2. of the statutes is amended to read:

1           102.33 (2) (d) 2. The department, ~~the division,~~ or the commission may release  
2 information that is confidential under par. (b) to a government unit, an institution  
3 of higher education, or a nonprofit research organization for purposes of research and  
4 may release information that is confidential under par. (c) to those persons for that  
5 purpose if the Wisconsin compensation rating bureau authorizes that release. A  
6 government unit, institution of higher education, or nonprofit research organization  
7 may not permit inspection or disclosure of any information released to it under this  
8 subdivision that is confidential under par. (b) unless the department, ~~the division,~~  
9 or the commission authorizes that inspection or disclosure and may not permit  
10 inspection or disclosure of any information released to it under this subdivision that  
11 is confidential under par. (c) unless the department, ~~the division,~~ or the commission,  
12 and the Wisconsin compensation rating bureau, authorize the inspection or  
13 disclosure. A government unit, institution of higher education, or nonprofit research  
14 organization that obtains any confidential information under this subdivision for  
15 purposes of research shall provide the results of that research free of charge to the  
16 person that released or authorized the release of that information.

17           **SECTION 129.** 102.35 (3) of the statutes is amended to read:

18           102.35 (3) Any employer who without reasonable cause refuses to rehire an  
19 employee who is injured in the course of employment, when suitable employment is  
20 available within the employee's physical and mental limitations, upon order of the  
21 department ~~or the division,~~ has exclusive liability to pay to the employee, in addition  
22 to other benefits, the wages lost during the period of such refusal, not exceeding one  
23 year's wages. In determining the availability of suitable employment the  
24 continuance in business of the employer shall be considered and any written rules

1 promulgated by the employer with respect to seniority or the provisions of any  
2 collective bargaining agreement with respect to seniority shall govern.

3 **SECTION 130.** 102.42 (1) of the statutes is amended to read:

4 102.42 (1) TREATMENT OF EMPLOYEE. ~~The~~ Subject to the limitations under sub.  
5 (1p), the employer shall supply such medical, surgical, chiropractic, psychological,  
6 podiatric, dental, and hospital treatment, medicines, medical and surgical supplies,  
7 crutches, artificial members, appliances, and training in the use of artificial  
8 members and appliances, or, at the option of the employee, Christian Science  
9 treatment in lieu of medical treatment, medicines, and medical supplies, as may be  
10 reasonably required to cure and relieve from the effects of the injury, and to attain  
11 efficient use of artificial members and appliances, and in case of the employer's  
12 neglect or refusal seasonably to do so, or in emergency until it is practicable for the  
13 employee to give notice of injury, the employer shall be liable for the reasonable  
14 expense incurred by or on behalf of the employee in providing such treatment,  
15 medicines, supplies, and training. When the employer has knowledge of the injury  
16 and the necessity for treatment, the employer's failure to tender the necessary  
17 treatment, medicines, supplies, and training constitutes such neglect or refusal. The  
18 employer shall also be liable for reasonable expense incurred by the employee for  
19 necessary treatment to cure and relieve the employee from the effects of occupational  
20 disease prior to the time that the employee knew or should have known the nature  
21 of his or her disability and its relation to employment, and as to such treatment subs.  
22 (2) and (3) shall not apply. The obligation to furnish such treatment and appliances  
23 shall continue as required to prevent further deterioration in the condition of the  
24 employee or to maintain the existing status of such condition whether or not healing  
25 is completed.

**SECTION 131**

1           **SECTION 131.** 102.42 (1m) of the statutes is amended to read:

2           102.42 **(1m)** LIABILITY FOR UNNECESSARY TREATMENT. If an employee who has  
3 sustained a compensable injury undertakes in good faith invasive treatment that is  
4 generally medically acceptable, but that is unnecessary, the employer shall pay  
5 disability indemnity for all disability incurred as a result of that treatment. An  
6 employer is not liable for disability indemnity for any disability incurred as a result  
7 of any unnecessary treatment undertaken in good faith that is noninvasive or not  
8 medically acceptable. This subsection applies to all findings that an employee has  
9 sustained a compensable injury, whether the finding results from a hearing, the  
10 default of a party, or a compromise or stipulation confirmed by the department ~~or the~~  
11 ~~division.~~

12           **SECTION 132.** 102.42 (1p) of the statutes is created to read:

13           102.42 **(1p)** LIABILITY FOR TREATMENT OF CERTAIN MENTAL INJURIES. The employer  
14 of an employee whose injury is a mental injury that is compensable under s. 102.17  
15 (9) is liable for the employee's treatment of the mental injury for no more than 32  
16 weeks after the injury is first reported.

17           **SECTION 133.** 102.42 (6) of the statutes is amended to read:

18           102.42 **(6)** TREATMENT REJECTED BY EMPLOYEE. Unless the employee has elected  
19 Christian Science treatment in lieu of medical, surgical, dental, or hospital  
20 treatment, no compensation shall be payable for the death or disability of an  
21 employee, if the death is caused, or insofar as the disability may be aggravated,  
22 caused, or continued by an unreasonable refusal or neglect to submit to or follow any  
23 competent and reasonable medical, surgical, or dental treatment or, in the case of  
24 tuberculosis, by refusal or neglect to submit to or follow hospital or medical  
25 treatment when found by the department ~~or the division~~ to be necessary. The right



1 to compensation accruing during a period of refusal or neglect to submit to or follow  
2 hospital or medical treatment when found by the department ~~or the division~~ to be  
3 necessary in the case of tuberculosis shall be barred, irrespective of whether  
4 disability was aggravated, caused, or continued by that refusal or neglect.

5 **SECTION 134.** 102.42 (8) of the statutes is amended to read:

6 102.42 (8) AWARD TO STATE EMPLOYEE. Whenever the department ~~or the division~~  
7 makes an award on behalf of a state employee, the department ~~or the division~~ shall  
8 file duplicate copies of the award with the subunit of the department of  
9 administration responsible for risk management. Upon receipt of the copies of the  
10 award, the department of administration shall promptly issue a voucher in payment  
11 of the award from the proper appropriation under s. 20.865 (1) (fm), (kr) or (ur), and  
12 shall transmit one copy of the voucher and the award to the officer, department, or  
13 agency by whom the affected employee is employed.

14 **SECTION 135.** 102.425 (4m) (a) of the statutes is amended to read:

15 102.425 (4m) (a) The department has jurisdiction under this subsection, ~~the~~  
16 ~~department and the division have jurisdiction under s. and ss. 102.16 (1m) (c), and~~  
17 ~~the division has jurisdiction under s. 102.17~~ to resolve a dispute between a  
18 pharmacist or practitioner and an employer or insurer over the reasonableness of the  
19 amount charged for a prescription drug dispensed under sub. (2) for outpatient use  
20 by an injured employee who claims benefits under this chapter.

21 **SECTION 136.** 102.425 (4m) (b) of the statutes is amended to read:

22 102.425 (4m) (b) An employer or insurer that disputes the reasonableness of  
23 the amount charged for a prescription drug dispensed under sub. (2) for outpatient  
24 use by an injured employee or the department ~~or division~~ under sub. (4) (b) or s.  
25 102.16 (1m) (c) or 102.18 (1) (bg) 3. shall provide, within 30 days after receiving a

**SECTION 136**

1 completed bill for the prescription drug, reasonable written notice to the pharmacist  
2 or practitioner that the charge is being disputed. After receiving reasonable written  
3 notice under this paragraph or under sub. (4) (b) or s. 102.16 (1m) (c) or 102.18 (1)  
4 (bg) 3. that a prescription drug charge is being disputed, a pharmacist or practitioner  
5 may not collect the disputed charge from, or bring an action for collection of the  
6 disputed charge against, the employee who received the prescription drug.

7 **SECTION 137.** 102.43 (5) (b) of the statutes is amended to read:

8 102.43 (5) (b) Except as provided in s. 102.61 (1g), temporary disability shall  
9 also include such period as the employee may be receiving instruction under s. 102.61  
10 (1) or (1m). Temporary disability on account of receiving instruction under s. 102.61  
11 (1) or (1m), and not otherwise resulting from the injury, shall not be in excess of 80  
12 weeks. That 80-week limitation does not apply to temporary disability benefits  
13 under this section, the cost of tuition, fees, books, travel, or maintenance under s.  
14 102.61 (1), or the cost of private rehabilitation counseling or rehabilitative training  
15 under s. 102.61 (1m) if the department ~~or the division~~ determines that additional  
16 training is warranted. The necessity for additional training as authorized by the  
17 department ~~or the division~~ for any employee shall be subject to periodic review and  
18 reevaluation.

19 **SECTION 138.** 102.44 (2) of the statutes is amended to read:

20 102.44 (2) In case of permanent total disability, aggregate indemnity shall be  
21 weekly indemnity for the period that the employee may live. Total impairment for  
22 industrial use of both eyes, the loss of both arms at or near the shoulder, the loss of  
23 both legs at or near the hip, or the loss of one arm at the shoulder and one leg at the  
24 hip constitutes permanent total disability. This enumeration is not exclusive, but in  
25 other cases the ~~division~~ department shall find the facts.

1           **SECTION 139.** 102.44 (6) (b) of the statutes is amended to read:

2           102.44 **(6)** (b) If during the period set forth in s. 102.17 (4) the employment  
3 relationship is terminated by the employer at the time of the injury or by the  
4 employee because his or her physical or mental limitations prevent his or her  
5 continuing in such employment, or if during that period a wage loss of 15 percent or  
6 more occurs, the ~~division~~ department may reopen any award and make a  
7 redetermination taking into account loss of earning capacity.

8           **SECTION 140.** 102.44 (7) of the statutes is created to read:

9           102.44 **(7)** In the case of an employee whose injury is a mental injury that is  
10 compensable under s. 102.17 (9), the period of disability may not exceed 32 weeks  
11 after the injury is first reported.

12           **SECTION 141.** 102.475 (6) of the statutes is amended to read:

13           102.475 **(6)** ~~PROOF.~~ In administering this section the department ~~or the division~~  
14 may require reasonable proof of birth, marriage, domestic partnership under ch. 770,  
15 relationship, or dependency.

16           **SECTION 142.** 102.48 (1) of the statutes is amended to read:

17           102.48 **(1)** An unestranged surviving parent or parents to whose support the  
18 deceased has contributed less than \$500 in the 52 weeks next preceding the injury  
19 causing death shall receive a death benefit of \$6,500. If the parents are not living  
20 together, the department ~~or the division~~ shall divide this sum in such proportion as  
21 the department ~~or division~~ considers to be just, considering their ages and other facts  
22 bearing on dependency.

23           **SECTION 143.** 102.48 (2) of the statutes is amended to read:

24           102.48 **(2)** In all other cases the death benefit shall be such sum as the  
25 department ~~or the division~~ determines to represent fairly and justly the aid to

1 support which the dependent might reasonably have anticipated from the deceased  
2 employee but for the injury. To establish anticipation of support and dependency, it  
3 shall not be essential that the deceased employee made any contribution to support.  
4 The aggregate benefits in that case shall not exceed twice the average annual  
5 earnings of the deceased or 4 times the contributions of the deceased to the support  
6 of his or her dependents during the year immediately preceding the deceased  
7 employee's death, whichever amount is the greater. In no event shall the aggregate  
8 benefits in that case exceed the amount that would accrue to a person who is solely  
9 and wholly dependent. When there is more than one partial dependent the weekly  
10 benefit shall be apportioned according to their relative dependency. The term  
11 "support" as used in ss. 102.42 to 102.63 shall include contributions to the capital  
12 fund of the dependents for their necessary comfort.

13 **SECTION 144.** 102.48 (3) of the statutes is amended to read:

14 102.48 (3) Except as otherwise provided, a death benefit, other than burial  
15 expenses, shall be paid in weekly installments corresponding in amount to  
16 two-thirds of the weekly earnings of the employee, until otherwise ordered by the  
17 department ~~or the division~~.

18 **SECTION 145.** 102.49 (3) of the statutes is amended to read:

19 102.49 (3) If the employee leaves a spouse or domestic partner under ch. 770  
20 wholly dependent and also a child by a former marriage, domestic partnership under  
21 ch. 770, or adoption, likewise wholly dependent, aggregate benefits shall be the same  
22 in amount as if the child were the child of the surviving spouse or partner, and the  
23 entire benefit shall be apportioned to the dependents in the amounts that the  
24 department ~~or the division~~ determines to be just, considering the ages of the  
25 dependents and other factors bearing on dependency. The benefit awarded to the

1 surviving spouse or partner shall not exceed 4 times the average annual earnings of  
2 the deceased employee.

3 **SECTION 146.** 102.49 (5) (b) of the statutes is amended to read:

4 102.49 (5) (b) In addition to the payment required under par. (a), in each case  
5 of injury resulting in death leaving no person dependent for support, the employer  
6 or insurer shall, except as provided in s. 102.58 (2), pay into the state treasury the  
7 amount of the death benefit otherwise payable, minus any payment made under s.  
8 102.48 (1). The payment under this paragraph shall, except as provided in par. (cm),  
9 be made in 5 equal annual installments, with the first installment due as of the date  
10 of death.

11 **SECTION 147.** 102.49 (5) (c) of the statutes is amended to read:

12 102.49 (5) (c) In addition to the payment required under par. (a), in each case  
13 of injury resulting in death, leaving one or more persons partially dependent for  
14 support, the employer or insurer shall, except as provided in s. 102.58 (2), pay into  
15 the state treasury an amount which, when added to the sums paid or to be paid on  
16 account of partial dependency and under s. 102.48 (1), shall equal the death benefit  
17 payable to a person wholly dependent.

18 **SECTION 148.** 102.49 (5) (cm) of the statutes is created to read:

19 102.49 (5) (cm) The employer or insurer may make advance payments of  
20 amounts owed under par. (b) or (c), up to and including a lump sum payment of the  
21 entire amount owed. If an employer or insurer makes an advance payment, the  
22 department shall give the employer or the insurer an interest credit against its  
23 liability for payments made in excess of that required under par. (b) or (c). The credit  
24 shall be computed at 5 percent.

25 **SECTION 149.** 102.49 (5) (e) of the statutes is amended to read:

1           102.49 (5) (e) The adjustments in liability provided in ss. 102.57, 102.58 (1),  
2 and 102.60 do not apply to payments made under this section.

3           **SECTION 150.** 102.49 (6) of the statutes is amended to read:

4           102.49 (6) The department ~~or the division~~ may award the additional benefits  
5 payable under this section to the surviving parent of the child, to the child's guardian,  
6 or to such other person, bank, or trust company for the child's use as may be found  
7 best calculated to conserve the interests of the child. If the child dies while benefits  
8 are still payable, there shall be paid the reasonable expense for burial, not exceeding  
9 \$1,500.

10          **SECTION 151.** 102.51 (3) of the statutes is amended to read:

11          102.51 (3) DIVISION AMONG DEPENDENTS. If there is more than one person wholly  
12 or partially dependent on a deceased employee, the death benefit shall be divided  
13 between those dependents in such proportion as the department ~~or the division~~  
14 determines to be just, considering their ages and other facts bearing on their  
15 dependency.

16          **SECTION 152.** 102.51 (4) of the statutes is amended to read:

17          102.51 (4) DEPENDENCY AS OF THE DATE OF DEATH. Questions as to who is a  
18 dependent and the extent of his or her dependency shall be determined as of the date  
19 of the death of the employee, and the dependent's right to any death benefit becomes  
20 fixed at that time, regardless of any subsequent change in conditions. The death  
21 benefit shall be directly recoverable by and payable to the dependents entitled to the  
22 death benefit or their legal guardians or trustees. In case of the death of a dependent  
23 whose right to a death benefit has become fixed, so much of the benefit as is unpaid  
24 is payable to the dependent's personal representatives in gross, unless the  
25 department ~~or the division~~ determines that the unpaid benefit shall be reassigned

1 under sub. (6) and paid to any other dependent who is physically or mentally  
2 incapacitated or a minor. For purposes of this subsection, a child of the employee who  
3 is born after the death of the employee is considered to be a dependent as of the date  
4 of death.

5 **SECTION 153.** 102.51 (6) of the statutes is amended to read:

6 102.51 (6) DIVISION AMONG DEPENDENTS. Benefits accruing to a minor dependent  
7 child may be awarded to either parent in the discretion of the department ~~or the~~  
8 ~~division~~. Notwithstanding sub. (1), the department ~~or the division~~ may reassign the  
9 death benefit as between a surviving spouse or a domestic partner under ch. 770 and  
10 any children specified in sub. (1) and s. 102.49 in accordance with their respective  
11 needs for the death benefit.

12 **SECTION 154.** 102.55 (3) of the statutes is amended to read:

13 102.55 (3) For all other injuries to the members of the body or its faculties that  
14 are specified in the schedule under s. 102.52 resulting in permanent disability,  
15 though the member is not actually severed or the faculty is not totally lost,  
16 compensation shall bear such relation to the compensation named in the schedule  
17 as the disability bears to the disability named in the schedule. Indemnity in those  
18 cases shall be determined by allowing weekly indemnity during the healing period  
19 resulting from the injury and the percentage of permanent disability resulting after  
20 the healing period as found by the department ~~or the division~~.

21 **SECTION 155.** 102.555 (12) (a) of the statutes is amended to read:

22 102.555 (12) (a) An employer, or the department, ~~or the division~~ is not liable  
23 for the expense of any examination or test for hearing loss, any evaluation of such  
24 an exam or test, any medical treatment for improving or restoring hearing, or any

1 hearing aid to relieve the effect of hearing loss unless it is determined that  
2 compensation for occupational deafness is payable under sub. (3), (4), or (11).

3 **SECTION 156.** 102.56 (1) of the statutes is amended to read:

4 102.56 (1) Subject to sub. (2), if an employee is so permanently disfigured as  
5 to occasion potential wage loss due to the disfigurement, the department ~~or the~~  
6 ~~division~~ may allow such sum as the department ~~or the division~~ considers just as  
7 compensation for the disfigurement, not exceeding the employee's average annual  
8 earnings. In determining the potential for wage loss due to the disfigurement and  
9 the sum awarded, the department ~~or the division~~ shall take into account the age,  
10 education, training, and previous experience and earnings of the employee, the  
11 employee's present occupation and earnings, and likelihood of future suitable  
12 occupational change. Consideration for disfigurement allowance is confined to those  
13 areas of the body that are exposed in the normal course of employment. The  
14 department ~~or the division~~ shall also take into account the appearance of the  
15 disfigurement, its location, and the likelihood of its exposure in occupations for which  
16 the employee is suited.

17 **SECTION 157.** 102.56 (2) of the statutes is amended to read:

18 102.56 (2) If an employee who claims compensation under sub. (1) returns to  
19 work for the employer who employed the employee at the time of the injury, or is  
20 offered employment with that employer, at the same or a higher wage, the  
21 department ~~or the division~~ may not allow that compensation unless the employee  
22 suffers an actual wage loss due to the disfigurement.

23 **SECTION 158.** 102.565 (1) of the statutes is amended to read:

24 102.565 (1) When, as a result of exposure in the course of employment over a  
25 period of time to toxic or hazardous substances or conditions, an employee



1 performing work that is subject to this chapter develops any clinically observable  
2 abnormality or condition that, on competent medical opinion, predisposes or renders  
3 the employee in any manner differentially susceptible to disability to such an extent  
4 that it is inadvisable for the employee to continue employment involving that  
5 exposure, is discharged from or ceases to continue the employment, and suffers wage  
6 loss by reason of that discharge from, or cessation of, employment, the department  
7 ~~or the division~~ may allow such sum as the department ~~or the division~~ considers just  
8 as compensation for that wage loss, not exceeding \$13,000. If a nondisabling  
9 condition may also be caused by toxic or hazardous exposure not related to  
10 employment and if the employee has a history of that exposure, compensation as  
11 provided under this section or any other remedy for loss of earning capacity shall not  
12 be allowed. If the employee is discharged from employment prior to a finding by the  
13 department ~~or the division~~ that it is inadvisable for the employee to continue in that  
14 employment and if it is reasonably probable that continued exposure would result  
15 in disability, the liability of the employer who discharges the employee is primary,  
16 and the liability of the employer's insurer is secondary, under the same procedure  
17 and to the same effect as provided by s. 102.62.

18 **SECTION 159.** 102.565 (2) of the statutes is amended to read:

19 102.565 (2) Upon application of any employer or employee, the department ~~or~~  
20 ~~the division~~ may direct any employee of the employer or an employee who, in the  
21 course of his or her employment, has been exposed to toxic or hazardous substances  
22 or conditions to submit to examination by one or more physicians appointed by the  
23 department ~~or the division~~ to determine whether the employee has developed any  
24 abnormality or condition under sub. (1), and the degree of that abnormality or  
25 condition. The cost of the medical examination shall be borne by the person making

1 application. The physician conducting the examination shall submit the results of  
2 the examination to the department ~~or the division~~, which shall submit copies of the  
3 reports to the employer and employee, who shall have an opportunity to rebut the  
4 reports if a request to submit a rebuttal is made to the department ~~or the division~~  
5 within 10 days after the department ~~or the division~~ mails the report to the parties.  
6 The department ~~or the division~~ shall make its findings as to whether it is inadvisable  
7 for the employee to continue in his or her employment.

8 **SECTION 160.** 102.565 (3) of the statutes is amended to read:

9 102.565 (3) If, after direction by the commission, ~~or~~ any member of the  
10 commission, the department, ~~the division~~, or an examiner, an employee refuses to  
11 submit to an examination or in any way obstructs the examination, the employee's  
12 right to compensation under this section shall be barred.

13 **SECTION 161.** 102.58 of the statutes is renumbered 102.58 (1) and amended to  
14 read:

15 102.58 (1) If injury is caused by the failure of the employee to use safety devices  
16 that are provided in accordance with any statute, rule, or order of the department  
17 of safety and professional services and that are adequately maintained, and the use  
18 of which is reasonably enforced by the employer, or if injury results from the  
19 employee's failure to obey any reasonable rule adopted and reasonably enforced by  
20 the employer for the safety of the employee and of which the employee has notice, the  
21 compensation and death benefit provided in this chapter shall be reduced by 15  
22 percent, but the total reduction may not exceed \$15,000.

23 **(2)** If an employee violates the employer's policy concerning employee drug or  
24 alcohol use and is injured, and if that violation is causal to the employee's injury, no  
25 compensation or death benefits shall be payable to the injured employee or a

1 dependent of the injured employee and no payment under s. 102.49 (5) (b) or (c) shall  
2 be payable. Nothing in this section subsection shall reduce or eliminate an  
3 employer's liability for incidental compensation under s. 102.42 (1) to (8) or drug  
4 treatment under s. 102.425.

5 **SECTION 162.** 102.61 (1g) (c) of the statutes is amended to read:

6 102.61 (1g) (c) On receiving notice that he or she is eligible to receive vocational  
7 rehabilitation services under 29 USC 701 to 797a, an employee shall provide the  
8 employer with a written report from a physician, chiropractor, psychologist, or  
9 podiatrist stating the employee's permanent work restrictions. Within 60 days after  
10 receiving that report, the employer shall provide to the employee in writing an offer  
11 of suitable employment, a statement that the employer has no suitable employment  
12 for the employee, or a report from a physician, chiropractor, psychologist, or  
13 podiatrist showing that the permanent work restrictions provided by the employee's  
14 practitioner are in dispute and documentation showing that the difference in work  
15 restrictions would materially affect either the employer's ability to provide suitable  
16 employment or a vocational rehabilitation counselor's ability to recommend a  
17 rehabilitative training program. If the employer and employee cannot resolve the  
18 dispute within 30 days after the employee receives the employer's report and  
19 documentation, the employer or employee may request a hearing before the ~~division~~  
20 department to determine the employee's work restrictions. Within 30 days after the  
21 ~~division~~ department determines the employee's work restrictions, the employer shall  
22 provide to the employee in writing an offer of suitable employment or a statement  
23 that the employer has no suitable employment for the employee.

24 **SECTION 163.** 102.61 (1m) (c) of the statutes is amended to read:

**SECTION 163**

1           102.61 (1m) (c) The employer or insurance carrier shall pay the reasonable cost  
2 of any services provided for an employee by a private rehabilitation counselor under  
3 par. (a) and, subject to the conditions and limitations specified in sub. (1r) (a) to (c)  
4 and by rule, if the private rehabilitation counselor determines that rehabilitative  
5 training is necessary, the reasonable cost of the rehabilitative training program  
6 recommended by that counselor, including the cost of tuition, fees, books,  
7 maintenance, and travel at the same rate as is provided for state officers and  
8 employees under s. 20.916 (8). Notwithstanding that the department ~~or the division~~  
9 may authorize under s. 102.43 (5) (b) a rehabilitative training program that lasts  
10 longer than 80 weeks, a rehabilitative training program that lasts 80 weeks or less  
11 is presumed to be reasonable.

12           **SECTION 164.** 102.61 (2) of the statutes is amended to read:

13           102.61 (2) The ~~division~~ department, the commission, and the courts shall  
14 determine the rights and liabilities of the parties under this section in like manner  
15 and with like effect as the ~~division~~ department, the commission, and the courts  
16 determine other issues under this chapter. A determination under this subsection  
17 may include a determination based on the evidence regarding the cost or scope of the  
18 services provided by a private rehabilitation counselor under sub. (1m) (a) or the cost  
19 or reasonableness of a rehabilitative training program developed under sub. (1m) (a).

20           **SECTION 165.** 102.62 of the statutes is amended to read:

21           **102.62 Primary and secondary liability; unchangeable.** In case of  
22 liability under s. 102.57 or 102.60, the liability of the employer shall be primary and  
23 the liability of the insurance carrier shall be secondary. If proceedings are had before  
24 the ~~division~~ department for the recovery of that liability, the ~~division~~ department  
25 shall set forth in its award the amount and order of liability as provided in this

1 section. Execution shall not be issued against the insurance carrier to satisfy any  
2 judgment covering that liability until execution has first been issued against the  
3 employer and has been returned unsatisfied as to any part of that liability. Any  
4 provision in any insurance policy undertaking to guarantee primary liability or to  
5 avoid secondary liability for a liability under s. 102.57 or 102.60 is void. If the  
6 employer has been adjudged bankrupt or has made an assignment for the benefit of  
7 creditors, if the employer, other than an individual, has gone out of business or has  
8 been dissolved, or if the employer is a corporation and its charter has been forfeited  
9 or revoked, the insurer shall be liable for the payment of that liability without  
10 judgment or execution against the employer, but without altering the primary  
11 liability of the employer.

12 **SECTION 166.** 102.64 (1) of the statutes is amended to read:

13 102.64 (1) Upon request of the department of administration, a representative  
14 of the department of justice shall represent the state in cases involving payment into  
15 or out of the state treasury under s. 20.865 (1) (fm), (kr), or (ur) or 102.29. The  
16 department of justice, after giving notice to the department of administration, may  
17 compromise the amount of those payments but such compromises shall be subject to  
18 review by the department ~~or the division~~. If the spouse or domestic partner under  
19 ch. 770 of the deceased employee compromises his or her claim for a primary death  
20 benefit, the claim of the children of the employee under s. 102.49 shall be  
21 compromised on the same proportional basis, subject to approval by the department  
22 ~~or the division~~. If the persons entitled to compensation on the basis of total  
23 dependency under s. 102.51 (1) compromise their claim, payments under s. 102.49  
24 (5) (a) shall be compromised on the same proportional basis.

25 **SECTION 167.** 102.64 (2) of the statutes is amended to read:

1           102.64 (2) Upon request of the department of administration, the attorney  
2 general shall appear on behalf of the state in proceedings upon claims for  
3 compensation against the state. Except as provided in s. 102.65 (3), the department  
4 of justice shall represent the interests of the state in proceedings under s. 102.44 (1),  
5 102.49, 102.59, 102.60, or 102.66. The department of justice may compromise claims  
6 in those proceedings, but the compromises are subject to review by the department  
7 ~~or the division~~. Costs incurred by the department of justice in prosecuting or  
8 defending any claim for payment into or out of the work injury supplemental benefit  
9 fund under s. 102.65, including expert witness and witness fees but not including  
10 attorney fees or attorney travel expenses for services performed under this  
11 subsection, shall be paid from the work injury supplemental benefit fund.

12           **SECTION 168.** 102.65 (3) of the statutes is amended to read:

13           102.65 (3) The department of workforce development may retain the  
14 department of administration to process, investigate, and pay claims under ss.  
15 102.44 (1), 102.49, 102.59, and 102.66. If retained by the department of workforce  
16 development, the department of administration may compromise a claim processed  
17 by that department, but a compromise made by that department is subject to review  
18 by the department of workforce development ~~or the division~~. The department of  
19 workforce development shall pay for the services retained under this subsection from  
20 the appropriation account under s. 20.445 (1) (t).

21           **SECTION 169.** 102.66 (1) of the statutes is amended to read:

22           102.66 (1) Subject to any certificate filed under s. 102.65 (4), if there is an  
23 otherwise meritorious claim for occupational disease, or for a traumatic injury  
24 described in s. 102.17 (4) in which the date of injury or death or last payment of  
25 compensation, other than for treatment or burial expenses, is before April 1, 2006,

1 and if the claim is barred solely by the statute of limitations under s. 102.17 (4), the  
2 department ~~or the division~~ may, in lieu of worker's compensation benefits, direct  
3 payment from the work injury supplemental benefit fund under s. 102.65 of such  
4 compensation and such medical expenses as would otherwise be due, based on the  
5 date of injury, to or on behalf of the injured employee. The benefits shall be  
6 supplemental, to the extent of compensation liability, to any disability or medical  
7 benefits payable from any group insurance policy whose premium is paid in whole  
8 or in part by any employer, or under any federal insurance or benefit program  
9 providing disability or medical benefits. Death benefits payable under any such  
10 group policy do not limit the benefits payable under this section.

11 **SECTION 170.** 102.75 (1) of the statutes is amended to read:

12 102.75 (1) The department shall assess upon and collect from each licensed  
13 worker's compensation insurance carrier and from each employer exempted under  
14 s. 102.28 (2) (b) or (bm) from the duty to carry insurance under s. 102.28 (2) (a) the  
15 proportion of total costs and expenses incurred by the council on worker's  
16 compensation for travel and research and by the department, ~~the division~~, and the  
17 commission in the administration of this chapter for the current fiscal year, plus any  
18 deficiencies in collections and anticipated costs from the previous fiscal year, that the  
19 total indemnity paid or payable under this chapter by each such carrier and exempt  
20 employer in worker's compensation cases initially closed during the preceding  
21 calendar year, other than for increased, double, or treble compensation, bore to the  
22 total indemnity paid in cases closed the previous calendar year under this chapter  
23 by all carriers and exempt employers, other than for increased, double, or treble  
24 compensation. The council on worker's compensation, ~~the division~~, and the

1 commission shall annually certify any costs and expenses for worker's compensation  
2 activities to the department at such time as the secretary requires.

3 **SECTION 171.** 102.75 (1m) of the statutes is amended to read:

4 102.75 **(1m)** The moneys collected under subs. (1) and (1g) and under ss. 102.28  
5 (2) and 102.31 (7), together with all accrued interest, shall constitute a separate  
6 nonlapsible fund designated as the worker's compensation operations fund. Moneys  
7 in the fund may be expended only as provided in ss. 20.427 (1) (ra) and 20.445 (1) (ra),  
8 (rb), (rc), and (rp) and may not be used for any other purpose of the state.

9 **SECTION 172.** 102.80 (1) (d) of the statutes is amended to read:

10 102.80 **(1)** (d) Amounts collected from employees or dependents of employees  
11 under s. 102.81 (4) (b) and (c).

12 **SECTION 173.** 102.81 (4) (b) (intro.) of the statutes is amended to read:

13 102.81 **(4)** (b) (intro.) If the employee or dependent receives compensation from  
14 the employee's employer ~~or a 3rd party liable under s. 102.29~~, pay to the department  
15 the lesser of the following:

16 **SECTION 174.** 102.81 (4) (b) 2. of the statutes is amended to read:

17 102.81 **(4)** (b) 2. The amount after attorney fees and costs that the employee  
18 or dependent received from the employer ~~or 3rd party~~.

19 **SECTION 175.** 102.81 (4) (c) of the statutes is created to read:

20 102.81 **(4)** (c) If the employee or dependent receives compensation from a 3rd  
21 party that is liable under s. 102.29, pay to the department the proceeds as specified  
22 under s. 102.29 (1) (b).

23 **SECTION 176.** 102.81 (5) of the statutes is amended to read:

24 102.81 **(5)** The department of justice may bring an action to collect ~~the a~~  
25 payment under sub. (4) (b) or (c).



1           **SECTION 177.** 102.82 (1) of the statutes is amended to read:

2           102.82 (1) Except as provided in sub. (2) (ar), an uninsured employer shall  
3 reimburse the department for any payment made under s. 102.81 (1) to or on behalf  
4 of an employee of the uninsured employer or to an employee's dependents and for any  
5 expenses paid by the department in administering the claim of the employee or  
6 dependents, less amounts repaid by the employee or dependents under s. 102.81 (4)  
7 (b) or (c). The reimbursement owed under this subsection is due within 30 days after  
8 the date on which the department notifies the uninsured employer that the  
9 reimbursement is owed. Interest shall accrue on amounts not paid when due at the  
10 rate of 1 percent per month.

11           **SECTION 178.** 146.82 (2) (a) 3m. of the statutes is created to read:

12           146.82 (2) (a) 3m. To the extent the records are necessary to process, adjudicate,  
13 or review claims under the worker's compensation system or to comply with ch. 102.

14           **SECTION 179.** 227.43 (1) (bm) of the statutes is repealed.

15           **SECTION 180.** 227.43 (2) (am) of the statutes is repealed.

16           **SECTION 181.** 227.43 (3) (bm) of the statutes is repealed.

17           **SECTION 182.** 227.43 (4) (bm) of the statutes is repealed.

18           **SECTION 183. Nonstatutory provisions.**

19           (1) WORKER'S COMPENSATION INSURANCE; RATE APPROVAL; NOTICE. The  
20 commissioner of insurance shall submit to the legislative reference bureau for  
21 publication in the Wisconsin Administrative Register a notice of the effective date  
22 of new rates for worker's compensation insurance first approved by the  
23 commissioner after the effective date of this subsection.

24           (2) TRANSFER OF WORKER'S COMPENSATION ADJUDICATORY FUNCTIONS.

1           (a) *Assets and liabilities.* On the effective date of this paragraph, the assets and  
2 liabilities of the division of hearings and appeals in the department of administration  
3 that are primarily related to worker's compensation matters, as determined by the  
4 secretary of administration, shall become the assets and liabilities of the department  
5 of workforce development.

6           (b) *Positions and employees.* On the effective date of this paragraph, all  
7 positions and all incumbent employees holding those positions in the division of  
8 hearings and appeals in the department of administration performing duties that  
9 are primarily related to worker's compensation matters, as determined by the  
10 secretary of administration, are transferred to the department of workforce  
11 development.

12           (c) *Employee status.* Employees transferred under par. (b) have all the rights  
13 and the same status under ch. 230 in the department of workforce development that  
14 they enjoyed in the division of hearings and appeals in the department of  
15 administration immediately before the transfer. Notwithstanding s. 230.28 (4), no  
16 employee so transferred who has attained permanent status in class is required to  
17 serve a probationary period.

18           (d) *Tangible personal property.* On the effective date of this paragraph, all  
19 tangible personal property, including records, of the the division of hearings and  
20 appeals in the department of administration that is primarily related to worker's  
21 compensation matters, as determined by the secretary of administration, is  
22 transferred to the department of workforce development.

23           (e) *Pending matters.* Any worker's compensation matter pending with the  
24 division of hearings and appeals in the department of administration on the effective  
25 date of this paragraph, as determined by the secretary of administration, is

1 transferred to the department of workforce development. All materials submitted  
2 to or actions taken by the division of hearings and appeals in the department of  
3 administration with respect to the pending matter are considered as having been  
4 submitted to or taken by the department of workforce development.

5 (f) *Contracts.* All contracts entered into by the division of hearings and appeals  
6 in the department of administration in effect on the effective date of this paragraph  
7 that are primarily related to worker's compensation matters, as determined by the  
8 secretary of administration, remain in effect and are transferred to the department  
9 of workforce development. The department of workforce development shall carry out  
10 any obligations under those contracts unless modified or rescinded by the  
11 department of workforce development to the extent allowed under the contract.

12 (g) *Rules and orders.* All rules promulgated by the division of hearings and  
13 appeals in the department of administration in effect on the effective date of this  
14 paragraph that are primarily related to worker's compensation matters, as  
15 determined by the secretary of administration, remain in effect until their specified  
16 expiration dates or until amended or repealed by the department of workforce  
17 development. All orders issued by the division of hearings and appeals in the  
18 department of administration in effect on the effective date of this paragraph that  
19 are primarily related to worker's compensation matters, as determined by the  
20 secretary of administration, remain in effect until their specified expiration dates or  
21 until modified or rescinded by the department of workforce development.

22 (3) POSITION TRANSFER. The authorized FTE positions for the department of  
23 workforce development are increased by 36.5 SEG positions to be funded from the  
24 appropriation under s. 20.445 (1) (ra), for performing duties related to conducting  
25 hearings under ch. 102.

**SECTION 184. Fiscal changes.**

(1) On the effective date of this subsection, there is transferred from the appropriation account under s. 20.445 (1) (t) to the appropriation account under s. 20.445 (1) (rc) the unencumbered balance of the amount collected under s. 102.75 (1g).

(2) In the schedule under s. 20.005 (3) for the appropriation to the department of workforce development under s. 20.445 (1) (ra), the dollar amount for fiscal year 2020-21 is increased by \$275,000 to provide funding for previously authorized positions providing services for the worker's compensation division.

(3) In the schedule under s. 20.005 (3) for the appropriation to the division of hearings and appeals in the department of administration under s. 20.505 (4) (kp), the dollar amount for fiscal year 2020-21 is decreased by \$4,800,000 to decrease the authorized positions for the division by 36.5 PR positions performing duties related to conducting hearings under ch. 102.

(4) In the schedule under s. 20.005 (3) for the appropriation to the department of workforce development under s. 20.445 (1) (ra), the dollar amount for fiscal year 2020-21 is increased by \$9,000 to increase the authorized FTE positions for the department by 0.2 SEG position for the performance of services for the worker's compensation division.

**SECTION 185. Initial applicability.**

(1) The treatment of ss. 102.80 (1) (d), 102.81 (4) (b) (intro.) and 2. and (c) and (5), and 102.82 (1) first applies to actions filed under s. 102.29 on the effective date of this subsection.

(2) The treatment of ss. 102.17 (9), 102.42 (1) and (1p), and 102.44 (7) first applies to injuries reported on the effective date of rate changes for worker's

1 compensation insurance approved by the commissioner of insurance under s. 626.13  
2 after the effective date of this subsection.

3 **SECTION 186. Effective dates.** This act takes effect on the day after  
4 publication, except as follows:

5 (1) The treatment of ss. 40.65 (2) (a) and (b) 3. and 4., 102.01 (2) (ad), (ar), and  
6 (dm), 102.04 (2r) (b), 102.07 (8) (c), 102.11 (1) (am) 1., 102.12, 102.13 (1) (c), (d) 2., and  
7 3., and (f), (2) (a), (3), (4), and (5), 102.14 (title), (1), and (2), 102.15 (1) and (2), 102.16  
8 (1), (1m) (a), (b), and (c), (2) (a) and (b), (2m) (a) and (b), and (4), 102.17 (1) (a) 1., 2.,  
9 3., and 4., (b), (c) 1., (d) 1., 2., 3., and 4., (e), (f) 1., (g), and (h), (2), (2m), (2s), (7) (b)  
10 and (c), and (8), 102.175 (2) and (3) (c), 102.18 (1) (b) 1., 2., and 3., (bg) 1., 2., and 3.,  
11 (bp), (bw), (c), and (e), (2), (3), (4) (c) 3. and (d), (5), and (6), 102.195, 102.22 (1) and  
12 (2), 102.23 (2), (3), and (5), 102.24 (2), 102.25 (1), 102.26 (2), (3) (b) 1. and 3., and (4),  
13 102.27 (2) (b), 102.28 (3) (c) and (4) (c), 102.29 (1) (b) (intro.), (c), and (d), 102.30 (7)  
14 (a), 102.32 (1m) (intro.), (a), and (c), and (d), (5), (6m), and (7), 102.33 (1) and (2) (a),  
15 (b) (intro.), 1., 2., and 4., (c), and (d) 2., 102.35 (3), 102.42 (1m), (6), and (8), 102.425  
16 (4m) (a) and (b), 102.43 (5) (b), 102.44 (2) and (6) (b), 102.475 (6), 102.48 (1), (2), and  
17 (3), 102.49 (3) and (6), 102.51 (3), (4), and (6), 102.55 (3), 102.555 (12) (a), 102.56 (1)  
18 and (2), 102.565 (1), (2), and (3), 102.61 (1g) (c), (1m) (c), and (2), 102.62, 102.64 (1)  
19 and (2), 102.65 (3), 102.66 (1), 102.75 (1), and 227.43 (1) (bm), (2) (am), (3) (bm), and  
20 (4) (bm) and SECTIONS 183 (2) (a), (d), (e), (f), and (g) and 184 (3) take effect on July  
21 1, 2020.

22 (2) SECTION 183 (2) (b) and (c) and (3) of this act takes effect on July 5, 2020.

23 (END)