

2022 Workers' Compensation Advisory Council recommendations

This bill adopts the recommendations made by the Workers' Compensation Advisory Council on February 1, 2022, related to: licensure of certain Medical Services Review Board members; correcting misspellings of the Minnesota insurance guaranty association; filing location of certain workers' compensation documents; and reviving and reenacting the workers' compensation COVID-19 presumption through Jan. 13, 2023.

Article 1, Section 1. Medical Services Review Board membership. Amends Minnesota Statutes, § 176.103, subdivision 3, to require health care provider members of the MSRB to maintain a license to furnish medical or health services under their specific designation throughout their appointment to the Board. Effective for appointments made after the date of final enactment.

Article 1, Sections 2 and 3. Cleanup references to Minnesota insurance guaranty association. Amends Minnesota Statutes 2021 Supplement, section 176.231, subdivision 9a, and Minnesota Statutes 2021 Supplement, section 176.2612, subdivision 3, to update references to the Minnesota insurance guaranty association by correcting the spelling in previous references in the statute. Effective the day following final enactment.

Article 2, Sections 1 to 12. Filing location amendments. Amends various sections of the statute to make clear that certain workers' compensation documents should be filed with the Office of Administrative Hearings (OAH) and not the Commissioner of Labor and Industry. It also clarifies when OAH or a compensation judge has authority during workers' compensation litigation, rather than the commissioner. Specifically, the amendments:

- **Sections 1 and 2:** Amend Minn. Stat. § 176.106, subdivision 7, and Minn. Stat. § 176.291 to clarify that a request for a formal hearing under § 176.106, subdivision 7, and a claim petition under § 176.291 should be filed with OAH.
- **Sections 3 and 4.** Amend Minn. Stat. § 176.295, subdivisions 1 and 2, to require a petitioner, employee, or employee's dependent that cannot serve a claim petition on an employer that is a nonresident or foreign corporation to file an affidavit with the Chief Administrative Law Judge (ALJ) at OAH stating that they were unable to effectuate service. The language also clarifies that a complaint can be brought in district court and must state that a petition has been filed with OAH and include the affidavit of inability to effectuate service.
- **Sections 5 and 6.** Amend Minn. Stat. § 176.305, subdivisions 1 and 4, to clarify that a claim petition should be filed with OAH and that a compensation judge may take actions related to striking a case from the active trial calendar.
- **Sections 7 and 8.** Amend Minn. Stat. § 176.321, subdivisions 2 and 3, to indicate that information on an adverse examination as part of an answer to a petition under section 176.321 must be shared with OAH prior to the examination, and that OAH has the authority to grant an extension to file an answer.
- **Sections 9 and 10.** Amend Minn. Stat. §§ 176.331 and 176.341, subdivision 1, to clarify that OAH sets a hearing when an answer is not filed under § 176.331 or once a petition is filed under § 176.341.
- **Section 11.** Amends Minn. Stat. § 176.391 to provide that only a compensation judge, and not the commissioner, has the power to make an independent investigation of facts alleged in a petition or answer.
- **Section 12.** Amends Minn. Stat. § 176.421, subdivision 4, to clarify that a notice of appeal should be filed with the Chief ALJ, and a copy with the commissioner, pursuant to § 176.285. It removes unnecessary language regarding filing by facsimile.

Article 2, Section 13. Repealer. Repeals Minn. Stat. § 176.305, subdivision 2, because the petition and answer, as noted through other changes, is filed with OAH directly. Effective the day following final enactment.

Article 3, Section 1. COVID-19 Presumption. Revives and reenacts the workers' compensation COVID-19 presumption statute (Minn. Stat. § 176.011, subd. 15 (f)), effective the day of enactment of the section, with a sunset date of 11:59 p.m. on January 13, 2023.