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**SUBSTITUTE SENATE BILL 5797**

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**State of Washington 57th Legislature**

**2002 Regular Session**

**By** Senate Committee on Health & Long-Term Care (originally sponsored by Senators Prentice, Deccio, Fairley, Thibaudeau and Costa)

Read first time 03/05/2001. Referred to Committee on .

1 AN ACT Relating to authorizing advanced registered nurse  
2 practitioners to examine, diagnose, and treat injured workers covered  
3 by industrial insurance; amending RCW 51.04.030, 51.04.050, 51.28.010,  
4 51.28.020, 51.28.025, 51.28.030, 51.28.055, 51.32.055, 51.32.095,  
5 51.32.112, 51.36.010, 51.36.060, 51.36.070, 51.36.110, 51.48.060, and  
6 51.52.010; reenacting and amending RCW 51.32.090; and adding a new  
7 section to chapter 51.36 RCW.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9 **Sec. 1.** RCW 51.04.030 and 1998 c 230 s 1 are each amended to read  
10 as follows:

11 (1) The director shall supervise the providing of prompt and  
12 efficient care and treatment, including care provided by physician  
13 assistants governed by the provisions of chapters 18.57A and 18.71A  
14 RCW, acting under a supervising physician, (~~and~~) including  
15 chiropractic care, and including care provided by licensed advanced  
16 registered nurse practitioners, to workers injured during the course of  
17 their employment at the least cost consistent with promptness and  
18 efficiency, without discrimination or favoritism, and with as great  
19 uniformity as the various and diverse surrounding circumstances and

1 locations of industries will permit and to that end shall, from time to  
2 time, establish and adopt and supervise the administration of printed  
3 forms, rules, regulations, and practices for the furnishing of such  
4 care and treatment: PROVIDED, That the medical coverage decisions of  
5 the department do not constitute a "rule" as used in RCW 34.05.010(16),  
6 nor are such decisions subject to the rule-making provisions of chapter  
7 34.05 RCW except that criteria for establishing medical coverage  
8 decisions shall be adopted by rule after consultation with the workers'  
9 compensation advisory committee established in RCW 51.04.110: PROVIDED  
10 FURTHER, That the department may recommend to an injured worker  
11 particular health care services and providers where specialized  
12 treatment is indicated or where cost effective payment levels or rates  
13 are obtained by the department: AND PROVIDED FURTHER, That the  
14 department may enter into contracts for goods and services including,  
15 but not limited to, durable medical equipment so long as statewide  
16 access to quality service is maintained for injured workers.

17 (2) The director shall, in consultation with interested persons,  
18 establish and, in his or her discretion, periodically change as may be  
19 necessary, and make available a fee schedule of the maximum charges to  
20 be made by any physician, surgeon, chiropractor, hospital, druggist,  
21 licensed advanced registered nurse practitioner, physicians' assistants  
22 as defined in chapters 18.57A and 18.71A RCW, acting under a  
23 supervising physician or other agency or person rendering services to  
24 injured workers. The department shall coordinate with other state  
25 purchasers of health care services to establish as much consistency and  
26 uniformity in billing and coding practices as possible, taking into  
27 account the unique requirements and differences between programs. No  
28 service covered under this title, including services provided to  
29 injured workers, whether aliens or other injured workers, who are not  
30 residing in the United States at the time of receiving the services,  
31 shall be charged or paid at a rate or rates exceeding those specified  
32 in such fee schedule, and no contract providing for greater fees shall  
33 be valid as to the excess. The establishment of such a schedule,  
34 exclusive of conversion factors, does not constitute "agency action" as  
35 used in RCW 34.05.010(3), nor does such a fee schedule constitute a  
36 "rule" as used in RCW 34.05.010(16).

37 (3) The director or self-insurer, as the case may be, shall make a  
38 record of the commencement of every disability and the termination  
39 thereof and, when bills are rendered for the care and treatment of

1 injured workers, shall approve and pay those which conform to the  
2 adopted rules, regulations, established fee schedules, and practices of  
3 the director and may reject any bill or item thereof incurred in  
4 violation of the principles laid down in this section or the rules,  
5 regulations, or the established fee schedules and rules and regulations  
6 adopted under it.

7       **Sec. 2.** RCW 51.04.050 and 1961 c 23 s 51.04.050 are each amended  
8 to read as follows:

9       In all hearings, actions or proceedings before the department or  
10 the board of industrial insurance appeals, or before any court on  
11 appeal from the board, any physician or licensed advanced registered  
12 nurse practitioner having theretofore examined or treated the claimant  
13 may be required to testify fully regarding such examination or  
14 treatment, and shall not be exempt from so testifying by reason of the  
15 relation of the physician or licensed advanced registered nurse  
16 practitioner to patient.

17       **Sec. 3.** RCW 51.28.010 and 1977 ex.s. c 350 s 32 are each amended  
18 to read as follows:

19       Whenever any accident occurs to any worker it shall be the duty of  
20 such worker or someone in his or her behalf to forthwith report such  
21 accident to his or her employer, superintendent or foreman or forewoman  
22 in charge of the work, and of the employer to at once report such  
23 accident and the injury resulting therefrom to the department pursuant  
24 to RCW 51.28.025, as now or hereafter amended, where the worker has  
25 received treatment from a physician or a licensed advanced registered  
26 nurse practitioner, has been hospitalized, disabled from work, or has  
27 died as the apparent result of such accident and injury.

28       Upon receipt of such notice of accident, the department shall  
29 immediately forward to the worker or his or her beneficiaries or  
30 dependents notification, in nontechnical language, of their rights  
31 under this title.

32       **Sec. 4.** RCW 51.28.020 and 1984 c 159 s 3 are each amended to read  
33 as follows:

34       Where a worker is entitled to compensation under this title he or  
35 she shall file with the department or his or her self-insuring  
36 employer, as the case may be, his or her application for such, together

1 with the certificate of the physician or licensed advanced registered  
2 nurse practitioner who attended him or her, and it shall be the duty of  
3 the physician or licensed advanced registered nurse practitioner to  
4 inform the injured worker of his or her rights under this title and to  
5 lend all necessary assistance in making this application for  
6 compensation and such proof of other matters as required by the rules  
7 of the department without charge to the worker. The department shall  
8 provide physicians with a manual which outlines the procedures to be  
9 followed in applications for compensation involving occupational  
10 diseases, and which describes claimants' rights and responsibilities  
11 related to occupational disease claims. If application for  
12 compensation is made to a self-insuring employer, he or she shall  
13 forthwith send a copy thereof to the department.

14 **Sec. 5.** RCW 51.28.025 and 1987 c 185 s 32 are each amended to read  
15 as follows:

16 (1) Whenever an employer has notice or knowledge of an injury or  
17 occupational disease sustained by any worker in his or her employment  
18 who has received treatment from a physician or a licensed advanced  
19 registered nurse practitioner, has been hospitalized, disabled from  
20 work or has died as the apparent result of such injury or occupational  
21 disease, the employer shall immediately report the same to the  
22 department on forms prescribed by it. The report shall include:

23 (a) The name, address, and business of the employer;

24 (b) The name, address, and occupation of the worker;

25 (c) The date, time, cause, and nature of the injury or occupational  
26 disease;

27 (d) Whether the injury or occupational disease arose in the course  
28 of the injured worker's employment;

29 (e) All available information pertaining to the nature of the  
30 injury or occupational disease including but not limited to any visible  
31 signs, any complaints of the worker, any time lost from work, and the  
32 observable effect on the worker's bodily functions, so far as is known;  
33 and

34 (f) Such other pertinent information as the department may  
35 prescribe by regulation.

36 (2) Failure or refusal to file the report required by subsection  
37 (1) shall subject the offending employer to a penalty determined by the  
38 director but not to exceed two hundred fifty dollars for each offense,

1 to be collected in a civil action in the name of the department and  
2 paid into the supplemental pension fund.

3 **Sec. 6.** RCW 51.28.030 and 1972 ex.s. c 43 s 17 are each amended to  
4 read as follows:

5 Where death results from injury the parties entitled to  
6 compensation under this title, or someone in their behalf, shall make  
7 application for the same to the department or self-insurer as the case  
8 may be, which application must be accompanied with proof of death and  
9 proof of relationship showing the parties to be entitled to  
10 compensation under this title, certificates of attending physician or  
11 licensed advanced registered nurse practitioner, if any, and such proof  
12 as required by the rules of the department.

13 Upon receipt of notice of accident under RCW 51.28.010, the  
14 director shall immediately forward to the party or parties required to  
15 make application for compensation under this section, notification, in  
16 nontechnical language, of their rights under this title.

17 **Sec. 7.** RCW 51.28.055 and 1984 c 159 s 2 are each amended to read  
18 as follows:

19 Claims for occupational disease or infection to be valid and  
20 compensable must be filed within two years following the date the  
21 worker had written notice from a physician or a licensed advanced  
22 registered nurse practitioner: (1) Of the existence of his or her  
23 occupational disease, and (2) that a claim for disability benefits may  
24 be filed. The notice shall also contain a statement that the worker  
25 has two years from the date of the notice to file a claim. The  
26 physician or licensed advanced registered nurse practitioner shall file  
27 the notice with the department. The department shall send a copy to  
28 the worker and to the self-insurer if the worker's employer is self-  
29 insured. However, a claim is valid if it is filed within two years  
30 from the date of death of the worker suffering from an occupational  
31 disease.

32 **Sec. 8.** RCW 51.32.055 and 1997 c 416 s 1 are each amended to read  
33 as follows:

34 (1) One purpose of this title is to restore the injured worker as  
35 nearly as possible to the condition of self-support as an able-bodied  
36 worker. Benefits for permanent disability shall be determined under

1 the director's supervision, except as otherwise authorized in  
2 subsection (9) of this section, only after the injured worker's  
3 condition becomes fixed.

4 (2) All determinations of permanent disabilities shall be made by  
5 the department, except as otherwise authorized in subsection (9) of  
6 this section. Either the worker, employer, or self-insurer may make a  
7 request or the inquiry may be initiated by the director or, as  
8 authorized in subsection (9) of this section, by the self-insurer on  
9 the director or the self-insurer's own motion. Determinations shall be  
10 required in every instance where permanent disability is likely to be  
11 present. All medical reports and other pertinent information in the  
12 possession of or under the control of the employer or, if the self-  
13 insurer has made a request to the department, in the possession of or  
14 under the control of the self-insurer shall be forwarded to the  
15 director with the request.

16 (3) A request for determination of permanent disability shall be  
17 examined by the department or, if authorized in subsection (9) of this  
18 section, the self-insurer, and the department shall issue an order in  
19 accordance with RCW 51.52.050 or, in the case of a self-insured  
20 employer, the self-insurer may: (a) Enter a written order,  
21 communicated to the worker and the department self-insurance section in  
22 accordance with subsection (9) of this section, or (b) request the  
23 department to issue an order in accordance with RCW 51.52.050.

24 (4) The department or, in cases authorized in subsection (9) of  
25 this section, the self-insurer may require that the worker present  
26 himself or herself for a special medical examination by a physician, a  
27 licensed advanced registered nurse practitioner for matters within his  
28 or her scope of practice, or physicians selected by the department, and  
29 the department or, in cases authorized in subsection (9) of this  
30 section, the self-insurer may require that the worker present himself  
31 or herself for a personal interview. The costs of the examination or  
32 interview, including payment of any reasonable travel expenses, shall  
33 be paid by the department or self-insurer, as the case may be.

34 (5) The director may establish a medical bureau within the  
35 department to perform medical examinations under this section.  
36 Physicians or licensed advanced registered nurse practitioners hired or  
37 retained for this purpose shall be grounded in industrial medicine and  
38 in the assessment of industrial physical impairment. Self-insurers

1 shall bear a proportionate share of the cost of the medical bureau in  
2 a manner to be determined by the department.

3 (6) Where a dispute arises from the handling of any claim before  
4 the condition of the injured worker becomes fixed, the worker,  
5 employer, or self-insurer may request the department to resolve the  
6 dispute or the director may initiate an inquiry on his or her own  
7 motion. In these cases, the department shall proceed as provided in  
8 this section and an order shall issue in accordance with RCW 51.52.050.

9 (7)(a) If a claim (i) is accepted by a self-insurer after June 30,  
10 1986, and before August 1, 1997, (ii) involves only medical treatment  
11 and the payment of temporary disability compensation under RCW  
12 51.32.090 or only the payment of temporary disability compensation  
13 under RCW 51.32.090, (iii) at the time medical treatment is concluded  
14 does not involve permanent disability, (iv) is one with respect to  
15 which the department has not intervened under subsection (6) of this  
16 section, and (v) the injured worker has returned to work with the self-  
17 insured employer of record, whether at the worker's previous job or at  
18 a job that has comparable wages and benefits, the claim may be closed  
19 by the self-insurer, subject to reporting of claims to the department  
20 in a manner prescribed by department rules adopted under chapter 34.05  
21 RCW.

22 (b) All determinations of permanent disability for claims accepted  
23 under this subsection (7) by self-insurers shall be made by the self-  
24 insured section of the department under subsections (1) through (4) of  
25 this section.

26 (c) Upon closure of a claim under (a) of this subsection, the self-  
27 insurer shall enter a written order, communicated to the worker and the  
28 department self-insurance section, which contains the following  
29 statement clearly set forth in bold face type: "This order constitutes  
30 notification that your claim is being closed with medical benefits and  
31 temporary disability compensation only as provided, and with the  
32 condition you have returned to work with the self-insured employer. If  
33 for any reason you disagree with the conditions or duration of your  
34 return to work or the medical benefits or the temporary disability  
35 compensation that has been provided, you must protest in writing to the  
36 department of labor and industries, self-insurance section, within  
37 sixty days of the date you received this order."

38 (8)(a) If a claim (i) is accepted by a self-insurer after June 30,  
39 1990, and before August 1, 1997, (ii) involves only medical treatment,

1 (iii) does not involve payment of temporary disability compensation  
2 under RCW 51.32.090, and (iv) at the time medical treatment is  
3 concluded does not involve permanent disability, the claim may be  
4 closed by the self-insurer, subject to reporting of claims to the  
5 department in a manner prescribed by department rules adopted under  
6 chapter 34.05 RCW. Upon closure of a claim, the self-insurer shall  
7 enter a written order, communicated to the worker, which contains the  
8 following statement clearly set forth in bold-face type: "This order  
9 constitutes notification that your claim is being closed with medical  
10 benefits only, as provided. If for any reason you disagree with this  
11 closure, you must protest in writing to the Department of Labor and  
12 Industries, Olympia, within 60 days of the date you received this  
13 order. The department will then review your claim and enter a further  
14 determinative order."

15 (b) All determinations of permanent disability for claims accepted  
16 under this subsection (8) by self-insurers shall be made by the self-  
17 insured section of the department under subsections (1) through (4) of  
18 this section.

19 (9)(a) If a claim: (i) Is accepted by a self-insurer after July  
20 31, 1997; (ii)(A) involves only medical treatment, or medical treatment  
21 and the payment of temporary disability compensation under RCW  
22 51.32.090, and a determination of permanent partial disability, if  
23 applicable, has been made by the self-insurer as authorized in this  
24 subsection; or (B) involves only the payment of temporary disability  
25 compensation under RCW 51.32.090 and a determination of permanent  
26 partial disability, if applicable, has been made by the self-insurer as  
27 authorized in this subsection; (iii) is one with respect to which the  
28 department has not intervened under subsection (6) of this section; and  
29 (iv) concerns an injured worker who has returned to work with the self-  
30 insured employer of record, whether at the worker's previous job or at  
31 a job that has comparable wages and benefits, the claim may be closed  
32 by the self-insurer, subject to reporting of claims to the department  
33 in a manner prescribed by department rules adopted under chapter 34.05  
34 RCW.

35 (b) If a physician or licensed advanced registered nurse  
36 practitioner submits a report to the self-insurer that concludes that  
37 the worker's condition is fixed and stable and supports payment of a  
38 permanent partial disability award, and if within fourteen days from  
39 the date the self-insurer mailed the report to the attending or



1 treating physician or licensed advanced registered nurse practitioner,  
2 the worker's attending or treating physician or licensed advanced  
3 registered nurse practitioner disagrees in writing that the worker's  
4 condition is fixed and stable, the self-insurer must get a supplemental  
5 medical opinion from a provider on the department's approved examiner's  
6 list before closing the claim. In the alternative, the self-insurer  
7 may forward the claim to the department, which must review the claim  
8 and enter a final order as provided for in RCW 51.52.050.

9 (c) Upon closure of a claim under this subsection (9), the self-  
10 insurer shall enter a written order, communicated to the worker and the  
11 department self-insurance section, which contains the following  
12 statement clearly set forth in bold-face type: "This order constitutes  
13 notification that your claim is being closed with such medical benefits  
14 and temporary disability compensation as provided to date and with such  
15 award for permanent partial disability, if any, as set forth below, and  
16 with the condition that you have returned to work with the self-insured  
17 employer. If for any reason you disagree with the conditions or  
18 duration of your return to work or the medical benefits, temporary  
19 disability compensation provided, or permanent partial disability that  
20 has been awarded, you must protest in writing to the Department of  
21 Labor and Industries, Self-Insurance Section, within sixty days of the  
22 date you received this order. If you do not protest this order to the  
23 department, this order will become final."

24 (d) All determinations of permanent partial disability for claims  
25 accepted by self-insurers under this subsection (9) may be made by the  
26 self-insurer or the self-insurer may request a determination by the  
27 self-insured section of the department. All determinations shall be  
28 made under subsections (1) through (4) of this section.

29 (10) If the department receives a protest of an order issued by a  
30 self-insurer under subsections (7) through (9) of this section, the  
31 self-insurer's closure order must be held in abeyance. The department  
32 shall review the claim closure action and enter a further determinative  
33 order as provided for in RCW 51.52.050. If no protest is timely filed,  
34 the closing order issued by the self-insurer shall become final and  
35 shall have the same force and effect as a department order that has  
36 become final under RCW 51.52.050.

37 (11) If within two years of claim closure under subsections (7)  
38 through (9) of this section, the department determines that the self-  
39 insurer has made payment of benefits because of clerical error, mistake

1 of identity, or innocent misrepresentation or the department discovers  
2 a violation of the conditions of claim closure, the department may  
3 require the self-insurer to correct the benefits paid or payable. This  
4 subsection (11) does not limit in any way the application of RCW  
5 51.32.240.

6 (12) For the purposes of this section, "comparable wages and  
7 benefits" means wages and benefits that are at least ninety-five  
8 percent of the wages and benefits received by the worker at the time of  
9 injury.

10 **Sec. 9.** RCW 51.32.090 and 1993 c 521 s 3, 1993 c 299 s 1, and 1993  
11 c 271 s 1 are each reenacted and amended to read as follows:

12 (1) When the total disability is only temporary, the schedule of  
13 payments contained in RCW 51.32.060 (1) and (2) shall apply, so long as  
14 the total disability continues.

15 (2) Any compensation payable under this section for children not in  
16 the custody of the injured worker as of the date of injury shall be  
17 payable only to such person as actually is providing the support for  
18 such child or children pursuant to the order of a court of record  
19 providing for support of such child or children.

20 (3)(a) As soon as recovery is so complete that the present earning  
21 power of the worker, at any kind of work, is restored to that existing  
22 at the time of the occurrence of the injury, the payments shall cease.  
23 If and so long as the present earning power is only partially restored,  
24 the payments shall:

25 (i) For claims for injuries that occurred before May 7, 1993,  
26 continue in the proportion which the new earning power shall bear to  
27 the old; or

28 (ii) For claims for injuries occurring on or after May 7, 1993,  
29 equal eighty percent of the actual difference between the worker's  
30 present wages and earning power at the time of injury, but: (A) The  
31 total of these payments and the worker's present wages may not exceed  
32 one hundred fifty percent of the average monthly wage in the state as  
33 computed under RCW 51.08.018; (B) the payments may not exceed one  
34 hundred percent of the entitlement as computed under subsection (1) of  
35 this section; and (C) the payments may not be less than the worker  
36 would have received if (a)(i) of this subsection had been applicable to  
37 the worker's claim.

1 (b) No compensation shall be payable under this subsection (3)  
2 unless the loss of earning power shall exceed five percent.

3 (4)(a) Whenever the employer of injury requests that a worker who  
4 is entitled to temporary total disability under this chapter be  
5 certified by a physician or licensed advanced registered nurse  
6 practitioner as able to perform available work other than his or her  
7 usual work, the employer shall furnish to the physician or licensed  
8 advanced registered nurse practitioner, with a copy to the worker, a  
9 statement describing the work available with the employer of injury in  
10 terms that will enable the physician or licensed advanced registered  
11 nurse practitioner to relate the physical activities of the job to the  
12 worker's disability. The physician or licensed advanced registered  
13 nurse practitioner shall then determine whether the worker is  
14 physically able to perform the work described. The worker's temporary  
15 total disability payments shall continue until the worker is released  
16 by his or her physician or licensed advanced registered nurse  
17 practitioner for the work, and begins the work with the employer of  
18 injury. If the work thereafter comes to an end before the worker's  
19 recovery is sufficient in the judgment of his or her physician or  
20 licensed advanced registered nurse practitioner to permit him or her to  
21 return to his or her usual job, or to perform other available work  
22 offered by the employer of injury, the worker's temporary total  
23 disability payments shall be resumed. Should the available work  
24 described, once undertaken by the worker, impede his or her recovery to  
25 the extent that in the judgment of his or her physician or licensed  
26 advanced registered nurse practitioner he or she should not continue to  
27 work, the worker's temporary total disability payments shall be resumed  
28 when the worker ceases such work.

29 (b) Once the worker returns to work under the terms of this  
30 subsection (4), he or she shall not be assigned by the employer to work  
31 other than the available work described without the worker's written  
32 consent, or without prior review and approval by the worker's physician  
33 or licensed advanced registered nurse practitioner.

34 (c) If the worker returns to work under this subsection (4), any  
35 employee health and welfare benefits that the worker was receiving at  
36 the time of injury shall continue or be resumed at the level provided  
37 at the time of injury. Such benefits shall not be continued or resumed  
38 if to do so is inconsistent with the terms of the benefit program, or

1 with the terms of the collective bargaining agreement currently in  
2 force.

3 (d) In the event of any dispute as to the worker's ability to  
4 perform the available work offered by the employer, the department  
5 shall make the final determination.

6 (5) No worker shall receive compensation for or during the day on  
7 which injury was received or the three days following the same, unless  
8 his or her disability shall continue for a period of fourteen  
9 consecutive calendar days from date of injury: PROVIDED, That attempts  
10 to return to work in the first fourteen days following the injury shall  
11 not serve to break the continuity of the period of disability if the  
12 disability continues fourteen days after the injury occurs.

13 (6) Should a worker suffer a temporary total disability and should  
14 his or her employer at the time of the injury continue to pay him or  
15 her the wages which he or she was earning at the time of such injury,  
16 such injured worker shall not receive any payment provided in  
17 subsection (1) of this section during the period his or her employer  
18 shall so pay such wages.

19 (7) In no event shall the monthly payments provided in this section  
20 exceed the applicable percentage of the average monthly wage in the  
21 state as computed under the provisions of RCW 51.08.018 as follows:

22	AFTER	PERCENTAGE
23	June 30, 1993	105%
24	June 30, 1994	110%
25	June 30, 1995	115%
26	June 30, 1996	120%

27 (8) If the supervisor of industrial insurance determines that the  
28 worker is voluntarily retired and is no longer attached to the work  
29 force, benefits shall not be paid under this section.

30 **Sec. 10.** RCW 51.32.095 and 1999 c 110 s 1 are each amended to read  
31 as follows:

32 (1) One of the primary purposes of this title is to enable the  
33 injured worker to become employable at gainful employment. To this  
34 end, the department or self-insurers shall utilize the services of  
35 individuals and organizations, public or private, whose experience,  
36 training, and interests in vocational rehabilitation and retraining  
37 qualify them to lend expert assistance to the supervisor of industrial

1 insurance in such programs of vocational rehabilitation as may be  
2 reasonable to make the worker employable consistent with his or her  
3 physical and mental status. Where, after evaluation and recommendation  
4 by such individuals or organizations and prior to final evaluation of  
5 the worker's permanent disability and in the sole opinion of the  
6 supervisor or supervisor's designee, whether or not medical treatment  
7 has been concluded, vocational rehabilitation is both necessary and  
8 likely to enable the injured worker to become employable at gainful  
9 employment, the supervisor or supervisor's designee may, in his or her  
10 sole discretion, pay or, if the employer is a self-insurer, direct the  
11 self-insurer to pay the cost as provided in subsection (3) of this  
12 section.

13 (2) When in the sole discretion of the supervisor or the  
14 supervisor's designee vocational rehabilitation is both necessary and  
15 likely to make the worker employable at gainful employment, then the  
16 following order of priorities shall be used:

- 17 (a) Return to the previous job with the same employer;
- 18 (b) Modification of the previous job with the same employer  
19 including transitional return to work;
- 20 (c) A new job with the same employer in keeping with any  
21 limitations or restrictions;
- 22 (d) Modification of a new job with the same employer including  
23 transitional return to work;
- 24 (e) Modification of the previous job with a new employer;
- 25 (f) A new job with a new employer or self-employment based upon  
26 transferable skills;
- 27 (g) Modification of a new job with a new employer;
- 28 (h) A new job with a new employer or self-employment involving on-  
29 the-job training;
- 30 (i) Short-term retraining and job placement.

31 (3)(a) Except as provided in (b) of this subsection, costs for  
32 vocational rehabilitation benefits allowed by the supervisor or  
33 supervisor's designee under subsection (1) of this section may include  
34 the cost of books, tuition, fees, supplies, equipment, transportation,  
35 child or dependent care, and other necessary expenses for any such  
36 worker in an amount not to exceed three thousand dollars in any fifty-  
37 two week period except as authorized by RCW 51.60.060, and the cost of  
38 continuing the temporary total disability compensation under RCW

1 51.32.090 while the worker is actively and successfully undergoing a  
2 formal program of vocational rehabilitation.

3 (b) Beginning with vocational rehabilitation plans approved on or  
4 after July 1, 1999, costs for vocational rehabilitation benefits  
5 allowed by the supervisor or supervisor's designee under subsection (1)  
6 of this section may include the cost of books, tuition, fees, supplies,  
7 equipment, child or dependent care, and other necessary expenses for  
8 any such worker in an amount not to exceed four thousand dollars in any  
9 fifty-two week period except as authorized by RCW 51.60.060, and the  
10 cost of transportation and continuing the temporary total disability  
11 compensation under RCW 51.32.090 while the worker is actively and  
12 successfully undergoing a formal program of vocational rehabilitation.

13 (c) The expenses allowed under (a) or (b) of this subsection may  
14 include training fees for on-the-job training and the cost of  
15 furnishing tools and other equipment necessary for self-employment or  
16 reemployment. However, compensation or payment of retraining with job  
17 placement expenses under (a) or (b) of this subsection may not be  
18 authorized for a period of more than fifty-two weeks, except that such  
19 period may, in the sole discretion of the supervisor after his or her  
20 review, be extended for an additional fifty-two weeks or portion  
21 thereof by written order of the supervisor.

22 (d) In cases where the worker is required to reside away from his  
23 or her customary residence, the reasonable cost of board and lodging  
24 shall also be paid.

25 (e) Costs paid under this subsection shall be chargeable to the  
26 employer's cost experience or shall be paid by the self-insurer as the  
27 case may be.

28 (4) In addition to the vocational rehabilitation expenditures  
29 provided for under subsection (3) of this section, an additional five  
30 thousand dollars may, upon authorization of the supervisor or the  
31 supervisor's designee, be expended for: (a) Accommodations for an  
32 injured worker that are medically necessary for the worker to  
33 participate in an approved retraining plan; and (b) accommodations  
34 necessary to perform the essential functions of an occupation in which  
35 an injured worker is seeking employment, consistent with the retraining  
36 plan or the recommendations of a vocational evaluation. The injured  
37 worker's attending physician or licensed advanced registered nurse  
38 practitioner must verify the necessity of the modifications or  
39 accommodations. The total expenditures authorized in this subsection

1 and the expenditures authorized under RCW 51.32.250 shall not exceed  
2 five thousand dollars.

3 (5) The department shall establish criteria to monitor the quality  
4 and effectiveness of rehabilitation services provided by the  
5 individuals and organizations used under subsection (1) of this  
6 section. The state fund shall make referrals for vocational  
7 rehabilitation services based on these performance criteria.

8 (6) The department shall engage in, where feasible and cost-  
9 effective, a cooperative program with the state employment security  
10 department to provide job placement services under this section.

11 (7) The benefits in this section shall be provided for the injured  
12 workers of self-insured employers. Self-insurers shall report both  
13 benefits provided and benefits denied under this section in the manner  
14 prescribed by the department by rule adopted under chapter 34.05 RCW.  
15 The director may, in his or her sole discretion and upon his or her own  
16 initiative or at any time that a dispute arises under this section,  
17 promptly make such inquiries as circumstances require and take such  
18 other action as he or she considers will properly determine the matter  
19 and protect the rights of the parties.

20 (8) Except as otherwise provided in this section, the benefits  
21 provided for in this section are available to any otherwise eligible  
22 worker regardless of the date of industrial injury. However, claims  
23 shall not be reopened solely for vocational rehabilitation purposes.

24 **Sec. 11.** RCW 51.32.112 and 1993 c 515 s 4 are each amended to read  
25 as follows:

26 (1) The department shall develop standards for the conduct of  
27 special medical examinations by physicians licensed under chapter 18.57  
28 or 18.71 RCW or advanced registered nurse practitioners licensed under  
29 chapter 18.79 RCW to determine permanent disabilities, including, but  
30 not limited to:

31 (a) The qualifications of persons conducting the examinations;

32 (b) The criteria for conducting the examinations, including  
33 guidelines for the appropriate treatment of injured workers during the  
34 examination; and

35 (c) The content of examination reports.

36 (2) Within the appropriate scope of practice, chiropractors  
37 licensed under chapter 18.25 RCW may conduct special medical  
38 examinations to determine permanent disabilities in consultation with

1 physicians licensed under chapter 18.57 or 18.71 RCW. The department,  
2 in its discretion, may request that a special medical examination be  
3 conducted by a single chiropractor if the department determines that  
4 the sole issues involved in the examination are within the scope of  
5 practice under chapter 18.25 RCW. However, nothing in this section  
6 authorizes the use as evidence before the board of a chiropractor's  
7 determination of the extent of a worker's permanent disability if the  
8 determination is not requested by the department.

9 (3) The department shall investigate the amount of examination fees  
10 received by persons conducting special medical examinations to  
11 determine permanent disabilities, including total compensation received  
12 for examinations of department and self-insured claimants, and  
13 establish compensation guidelines and compensation reporting criteria.

14 (4) The department shall investigate the level of compliance of  
15 self-insurers with the requirement of full reporting of claims  
16 information to the department, particularly with respect to medical  
17 examinations, and develop effective enforcement procedures or  
18 recommendations for legislation if needed.

19 **Sec. 12.** RCW 51.36.010 and 1986 c 58 s 6 are each amended to read  
20 as follows:

21 Upon the occurrence of any injury to a worker entitled to  
22 compensation under the provisions of this title, he or she shall  
23 receive proper and necessary medical and surgical services at the hands  
24 of a physician or licensed advanced registered nurse practitioner of  
25 his or her own choice, if conveniently located, and proper and  
26 necessary hospital care and services during the period of his or her  
27 disability from such injury, but the same shall be limited in point of  
28 duration as follows:

29 In the case of permanent partial disability, not to extend beyond  
30 the date when compensation shall be awarded him or her, except when the  
31 worker returned to work before permanent partial disability award is  
32 made, in such case not to extend beyond the time when monthly  
33 allowances to him or her shall cease; in case of temporary disability  
34 not to extend beyond the time when monthly allowances to him or her  
35 shall cease: PROVIDED, That after any injured worker has returned to  
36 his or her work his or her medical and surgical treatment may be  
37 continued if, and so long as, such continuation is deemed necessary by  
38 the supervisor of industrial insurance to be necessary to his or her



1 more complete recovery; in case of a permanent total disability not to  
2 extend beyond the date on which a lump sum settlement is made with him  
3 or her or he or she is placed upon the permanent pension roll:  
4 PROVIDED, HOWEVER, That the supervisor of industrial insurance, solely  
5 in his or her discretion, may authorize continued medical and surgical  
6 treatment for conditions previously accepted by the department when  
7 such medical and surgical treatment is deemed necessary by the  
8 supervisor of industrial insurance to protect such worker's life or  
9 provide for the administration of medical and therapeutic measures  
10 including payment of prescription medications, but not including those  
11 controlled substances currently scheduled by the state board of  
12 pharmacy as Schedule I, II, III, or IV substances under chapter 69.50  
13 RCW, which are necessary to alleviate continuing pain which results  
14 from the industrial injury. In order to authorize such continued  
15 treatment the written order of the supervisor of industrial insurance  
16 issued in advance of the continuation shall be necessary.

17 The supervisor of industrial insurance, the supervisor's designee,  
18 or a self-insurer, in his or her sole discretion, may authorize  
19 inoculation or other immunological treatment in cases in which a work-  
20 related activity has resulted in probable exposure of the worker to a  
21 potential infectious occupational disease. Authorization of such  
22 treatment does not bind the department or self-insurer in any  
23 adjudication of a claim by the same worker or the worker's beneficiary  
24 for an occupational disease.

25 **Sec. 13.** RCW 51.36.060 and 1991 c 89 s 3 are each amended to read  
26 as follows:

27 Physicians or licensed advanced registered nurse practitioners  
28 examining or attending injured workers under this title shall comply  
29 with rules and regulations adopted by the director, and shall make such  
30 reports as may be requested by the department or self-insurer upon the  
31 condition or treatment of any such worker, or upon any other matters  
32 concerning such workers in their care. Except under RCW 49.17.210 and  
33 49.17.250, all medical information in the possession or control of any  
34 person and relevant to the particular injury in the opinion of the  
35 department pertaining to any worker whose injury or occupational  
36 disease is the basis of a claim under this title shall be made  
37 available at any stage of the proceedings to the employer, the  
38 claimant's representative, and the department upon request, and no

1 person shall incur any legal liability by reason of releasing such  
2 information.

3 **Sec. 14.** RCW 51.36.070 and 1977 ex.s. c 350 s 60 are each amended  
4 to read as follows:

5 Whenever the director or the self-insurer deems it necessary in  
6 order to resolve any medical issue, a worker shall submit to  
7 examination by a physician, a licensed advanced registered nurse  
8 practitioner, or physicians selected by the director, with the  
9 rendition of a report to the person ordering the examination. The  
10 director, in his or her discretion, may charge the cost of such  
11 examination or examinations to the self-insurer or to the medical aid  
12 fund as the case may be. The cost of said examination shall include  
13 payment to the worker of reasonable expenses connected therewith.

14 **Sec. 15.** RCW 51.36.110 and 1994 c 154 s 312 are each amended to  
15 read as follows:

16 The director of the department of labor and industries or the  
17 director's authorized representative shall have the authority to:

18 (1) Conduct audits and investigations of providers of medical,  
19 chiropractic, dental, vocational, and other health services furnished  
20 to industrially injured workers pursuant to Title 51 RCW. In the  
21 conduct of such audits or investigations, the director or the  
22 director's authorized representatives may examine all records, or  
23 portions thereof, including patient records, for which services were  
24 rendered by a health services provider and reimbursed by the  
25 department, notwithstanding the provisions of any other statute which  
26 may make or purport to make such records privileged or confidential:  
27 PROVIDED, That no original patient records shall be removed from the  
28 premises of the health services provider, and that the disclosure of  
29 any records or information obtained under authority of this section by  
30 the department of labor and industries is prohibited and constitutes a  
31 violation of RCW 42.52.050, unless such disclosure is directly  
32 connected to the official duties of the department: AND PROVIDED  
33 FURTHER, That the disclosure of patient information as required under  
34 this section shall not subject any physician, licensed advanced  
35 registered nurse practitioner, or other health services provider to any  
36 liability for breach of any confidential relationships between the  
37 provider and the patient: AND PROVIDED FURTHER, That the director or

1 the director's authorized representative shall destroy all copies of  
2 patient medical records in their possession upon completion of the  
3 audit, investigation, or proceedings;

4 (2) Approve or deny applications to participate as a provider of  
5 services furnished to industrially injured workers pursuant to Title 51  
6 RCW; and

7 (3) Terminate or suspend eligibility to participate as a provider  
8 of services furnished to industrially injured workers pursuant to Title  
9 51 RCW.

10 **Sec. 16.** RCW 51.48.060 and 1985 c 347 s 6 are each amended to read  
11 as follows:

12 Any physician or licensed advanced registered nurse practitioner  
13 who fails, neglects or refuses to file a report with the director, as  
14 required by this title, within five days of the date of treatment,  
15 showing the condition of the injured worker at the time of treatment,  
16 a description of the treatment given, and an estimate of the probable  
17 duration of the injury, or who fails or refuses to render all necessary  
18 assistance to the injured worker, as required by this title, shall be  
19 subject to a civil penalty determined by the director but not to exceed  
20 two hundred fifty dollars.

21 **Sec. 17.** RCW 51.52.010 and 1999 c 149 s 1 are each amended to read  
22 as follows:

23 There shall be a "board of industrial insurance appeals,"  
24 hereinafter called the "board," consisting of three members appointed  
25 by the governor, with the advice and consent of the senate, as  
26 hereinafter provided. One shall be a representative of the public and  
27 a lawyer, appointed from a mutually agreed to list of not less than  
28 three active members of the Washington state bar association, submitted  
29 to the governor by the two organizations defined below, and such member  
30 shall be the chairperson of said board. The second member shall be a  
31 representative of the majority of workers engaged in employment under  
32 this title and selected from a list of not less than three names  
33 submitted to the governor by an organization, statewide in scope, which  
34 through its affiliates embraces a cross section and a majority of the  
35 organized labor of the state. The third member shall be a  
36 representative of employers under this title, and appointed from a list  
37 of at least three names submitted to the governor by a recognized

1 statewide organization of employers, representing a majority of  
2 employers. The initial terms of office of the members of the board  
3 shall be for six, four, and two years respectively. Thereafter all  
4 terms shall be for a period of six years. Each member of the board  
5 shall be eligible for reappointment and shall hold office until his or  
6 her successor is appointed and qualified. In the event of a vacancy  
7 the governor is authorized to appoint a successor to fill the unexpired  
8 term of his or her predecessor. All appointments to the board shall be  
9 made in conformity with the foregoing plan. In the event a board  
10 member becomes incapacitated in excess of thirty days either due to his  
11 or her illness or that of an immediate family member as determined by  
12 a request for family leave or as certified by the affected member's  
13 treating physician or licensed advanced registered nurse practitioner,  
14 the governor shall appoint an acting member to serve pro tem. Such an  
15 appointment shall be made in conformity with the foregoing plan, except  
16 that the list of candidates shall be submitted to the governor not more  
17 than fifteen days after the affected organizations are notified of the  
18 incapacity and the governor shall make the appointment within fifteen  
19 days after the list is submitted. The temporary member shall serve  
20 until such time as the affected member is able to reassume his or her  
21 duties by returning from requested family leave or as determined by the  
22 treating physician or licensed advanced registered nurse practitioner  
23 or until the affected member's term expires, whichever occurs first.  
24 Whenever the workload of the board and its orderly and expeditious  
25 disposition shall necessitate, the governor may appoint two additional  
26 pro-tem members in addition to the regular members. Such appointments  
27 shall be for a definite period of time, and shall be made from lists  
28 submitted respectively by labor and industry as in the case of regular  
29 members. One pro-tem member shall be a representative of labor and one  
30 shall be a representative of industry. Members shall devote their  
31 entire time to the duties of the board and shall receive for their  
32 services a salary as fixed by the governor in accordance with the  
33 provisions of RCW 43.03.040 which shall be in addition to travel  
34 expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing  
35 or hereafter amended. Headquarters for the board shall be located in  
36 Olympia. The board shall adopt a seal which shall be judicially  
37 recognized.

1        NEW SECTION.    **Sec. 18.**    A new section is added to chapter 51.36 RCW  
2 to read as follows:

3        Licensed advanced registered nurse practitioners are recognized as  
4 independent practitioners and, subject to the provisions of this title,  
5 the health services available to an injured worker under RCW 51.36.010  
6 include health services provided by licensed advanced registered nurse  
7 practitioners within their scope of practice.

8        NEW SECTION.    **Sec. 19.**    If any provision of this act or its  
9 application to any person or circumstance is held invalid, the  
10 remainder of the act or the application of the provision to other  
11 persons or circumstances is not affected.

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