
SECOND SUBSTITUTE SENATE BILL 5797

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 01/29/2002.

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 51.36.010, 51.36.060, 51.36.110, 51.48.060, and 51.52.010; reenacting
6 and amending RCW 51.32.090; and adding a new section to chapter 51.36
7 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 2001 c 231 s 1 are each amended to read
18 as follows:

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

28 (2) 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. The notice must specify the worker's right to
32 receive health services from a physician or a licensed advanced
33 registered nurse practitioner of the worker's choice under RCW
34 51.36.010, including chiropractic services under RCW 51.36.015, and
35 must list the types of providers authorized to provide these services.

1 **Sec. 4.** RCW 51.28.020 and 2001 c 231 s 2 are each amended to read
2 as follows:

3 (1)(a) Where a worker is entitled to compensation under this title
4 he or she shall file with the department or his or her self-insured
5 employer, as the case may be, his or her application for such, together
6 with the certificate of the physician or licensed advanced registered
7 nurse practitioner who attended him or her. An application form
8 developed by the department shall include a notice specifying the
9 worker's right to receive health services from a physician or licensed
10 advanced registered nurse practitioner of the worker's choice under RCW
11 51.36.010, including chiropractic services under RCW 51.36.015, and
12 listing the types of providers authorized to provide these services.

13 (b) The physician or licensed advanced registered nurse
14 practitioner who attended the injured worker shall inform the injured
15 worker of his or her rights under this title and lend all necessary
16 assistance in making this application for compensation and such proof
17 of other matters as required by the rules of the department without
18 charge to the worker. The department shall provide physicians with a
19 manual which outlines the procedures to be followed in applications for
20 compensation involving occupational diseases, and which describes
21 claimants' rights and responsibilities related to occupational disease
22 claims.

23 (2) If application for compensation is made to a self-insured
24 employer, he or she shall forthwith send a copy of the application to
25 the department.

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

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

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

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

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

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

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

8 (f) Such other pertinent information as the department may
9 prescribe by regulation.

10 (2) Failure or refusal to file the report required by subsection
11 (1) shall subject the offending employer to a penalty determined by the
12 director but not to exceed two hundred fifty dollars for each offense,
13 to be collected in a civil action in the name of the department and
14 paid into the supplemental pension fund.

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

17 Where death results from injury the parties entitled to
18 compensation under this title, or someone in their behalf, shall make
19 application for the same to the department or self-insurer as the case
20 may be, which application must be accompanied with proof of death and
21 proof of relationship showing the parties to be entitled to
22 compensation under this title, certificates of attending physician or
23 licensed advanced registered nurse practitioner, if any, and such proof
24 as required by the rules of the department.

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

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

31 Claims for occupational disease or infection to be valid and
32 compensable must be filed within two years following the date the
33 worker had written notice from a physician or a licensed advanced
34 registered nurse practitioner: (1) Of the existence of his or her
35 occupational disease, and (2) that a claim for disability benefits may
36 be filed. The notice shall also contain a statement that the worker
37 has two years from the date of the notice to file a claim. The

1 physician or licensed advanced registered nurse practitioner shall file
2 the notice with the department. The department shall send a copy to
3 the worker and to the self-insurer if the worker's employer is self-
4 insured. However, a claim is valid if it is filed within two years
5 from the date of death of the worker suffering from an occupational
6 disease.

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

9 (1) One purpose of this title is to restore the injured worker as
10 nearly as possible to the condition of self-support as an able-bodied
11 worker. Benefits for permanent disability shall be determined under
12 the director's supervision, except as otherwise authorized in
13 subsection (9) of this section, only after the injured worker's
14 condition becomes fixed.

15 (2) All determinations of permanent disabilities shall be made by
16 the department, except as otherwise authorized in subsection (9) of
17 this section. Either the worker, employer, or self-insurer may make a
18 request or the inquiry may be initiated by the director or, as
19 authorized in subsection (9) of this section, by the self-insurer on
20 the director or the self-insurer's own motion. Determinations shall be
21 required in every instance where permanent disability is likely to be
22 present. All medical reports and other pertinent information in the
23 possession of or under the control of the employer or, if the self-
24 insurer has made a request to the department, in the possession of or
25 under the control of the self-insurer shall be forwarded to the
26 director with the request.

27 (3) A request for determination of permanent disability shall be
28 examined by the department or, if authorized in subsection (9) of this
29 section, the self-insurer, and the department shall issue an order in
30 accordance with RCW 51.52.050 or, in the case of a self-insured
31 employer, the self-insurer may: (a) Enter a written order,
32 communicated to the worker and the department self-insurance section in
33 accordance with subsection (9) of this section, or (b) request the
34 department to issue an order in accordance with RCW 51.52.050.

35 (4) The department or, in cases authorized in subsection (9) of
36 this section, the self-insurer may require that the worker present
37 himself or herself for a special medical examination by a physician or
38 physicians selected by the department, and the department or, in cases

1 authorized in subsection (9) of this section, the self-insurer may
2 require that the worker present himself or herself for a personal
3 interview. The costs of the examination or interview, including
4 payment of any reasonable travel expenses, shall be paid by the
5 department or self-insurer, as the case may be.

6 (5) The director may establish a medical bureau within the
7 department to perform medical examinations under this section.
8 Physicians hired or retained for this purpose shall be grounded in
9 industrial medicine and in the assessment of industrial physical
10 impairment. Self-insurers shall bear a proportionate share of the cost
11 of the medical bureau in a manner to be determined by the department.

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

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

31 (b) All determinations of permanent disability for claims accepted
32 under this subsection (7) by self-insurers shall be made by the self-
33 insured section of the department under subsections (1) through (4) of
34 this section.

35 (c) Upon closure of a claim under (a) of this subsection, the self-
36 insurer shall enter a written order, communicated to the worker and the
37 department self-insurance section, which contains the following
38 statement clearly set forth in bold face type: "This order constitutes
39 notification that your claim is being closed with medical benefits and

1 temporary disability compensation only as provided, and with the
2 condition you have returned to work with the self-insured employer. If
3 for any reason you disagree with the conditions or duration of your
4 return to work or the medical benefits or the temporary disability
5 compensation that has been provided, you must protest in writing to the
6 department of labor and industries, self-insurance section, within
7 sixty days of the date you received this order."

8 (8)(a) If a claim (i) is accepted by a self-insurer after June 30,
9 1990, and before August 1, 1997, (ii) involves only medical treatment,
10 (iii) does not involve payment of temporary disability compensation
11 under RCW 51.32.090, and (iv) at the time medical treatment is
12 concluded does not involve permanent disability, the claim may be
13 closed by the self-insurer, subject to reporting of claims to the
14 department in a manner prescribed by department rules adopted under
15 chapter 34.05 RCW. Upon closure of a claim, the self-insurer shall
16 enter a written order, communicated to the worker, which contains the
17 following statement clearly set forth in bold-face type: "This order
18 constitutes notification that your claim is being closed with medical
19 benefits only, as provided. If for any reason you disagree with this
20 closure, you must protest in writing to the Department of Labor and
21 Industries, Olympia, within 60 days of the date you received this
22 order. The department will then review your claim and enter a further
23 determinative order."

24 (b) All determinations of permanent disability for claims accepted
25 under this subsection (8) by self-insurers shall be made by the self-
26 insured section of the department under subsections (1) through (4) of
27 this section.

28 (9)(a) If a claim: (i) Is accepted by a self-insurer after July
29 31, 1997; (ii)(A) involves only medical treatment, or medical treatment
30 and the payment of temporary disability compensation under RCW
31 51.32.090, and a determination of permanent partial disability, if
32 applicable, has been made by the self-insurer as authorized in this
33 subsection; or (B) involves only the payment of temporary disability
34 compensation under RCW 51.32.090 and a determination of permanent
35 partial disability, if applicable, has been made by the self-insurer as
36 authorized in this subsection; (iii) is one with respect to which the
37 department has not intervened under subsection (6) of this section; and
38 (iv) concerns an injured worker who has returned to work with the self-
39 insured employer of record, whether at the worker's previous job or at

1 a job that has comparable wages and benefits, the claim may be closed
2 by the self-insurer, subject to reporting of claims to the department
3 in a manner prescribed by department rules adopted under chapter 34.05
4 RCW.

5 (b) If a physician or licensed advanced registered nurse
6 practitioner submits a report to the self-insurer that concludes that
7 the worker's condition is fixed and stable and supports payment of a
8 permanent partial disability award, and if within fourteen days from
9 the date the self-insurer mailed the report to the attending or
10 treating physician or licensed advanced registered nurse practitioner,
11 the worker's attending or treating physician or licensed advanced
12 registered nurse practitioner disagrees in writing that the worker's
13 condition is fixed and stable, the self-insurer must get a supplemental
14 medical opinion from a provider on the department's approved examiner's
15 list before closing the claim. In the alternative, the self-insurer
16 may forward the claim to the department, which must review the claim
17 and enter a final order as provided for in RCW 51.52.050.

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

33 (d) All determinations of permanent partial disability for claims
34 accepted by self-insurers under this subsection (9) may be made by the
35 self-insurer or the self-insurer may request a determination by the
36 self-insured section of the department. All determinations shall be
37 made under subsections (1) through (4) of this section.

38 (10) If the department receives a protest of an order issued by a
39 self-insurer under subsections (7) through (9) of this section, the

1 self-insurer's closure order must be held in abeyance. The department
2 shall review the claim closure action and enter a further determinative
3 order as provided for in RCW 51.52.050. If no protest is timely filed,
4 the closing order issued by the self-insurer shall become final and
5 shall have the same force and effect as a department order that has
6 become final under RCW 51.52.050.

7 (11) If within two years of claim closure under subsections (7)
8 through (9) of this section, the department determines that the self-
9 insurer has made payment of benefits because of clerical error, mistake
10 of identity, or innocent misrepresentation or the department discovers
11 a violation of the conditions of claim closure, the department may
12 require the self-insurer to correct the benefits paid or payable. This
13 subsection (11) does not limit in any way the application of RCW
14 51.32.240.

15 (12) For the purposes of this section, "comparable wages and
16 benefits" means wages and benefits that are at least ninety-five
17 percent of the wages and benefits received by the worker at the time of
18 injury.

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

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

24 (2) Any compensation payable under this section for children not in
25 the custody of the injured worker as of the date of injury shall be
26 payable only to such person as actually is providing the support for
27 such child or children pursuant to the order of a court of record
28 providing for support of such child or children.

29 (3)(a) As soon as recovery is so complete that the present earning
30 power of the worker, at any kind of work, is restored to that existing
31 at the time of the occurrence of the injury, the payments shall cease.
32 If and so long as the present earning power is only partially restored,
33 the payments shall:

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

37 (ii) For claims for injuries occurring on or after May 7, 1993,
38 equal eighty percent of the actual difference between the worker's

1 present wages and earning power at the time of injury, but: (A) The
2 total of these payments and the worker's present wages may not exceed
3 one hundred fifty percent of the average monthly wage in the state as
4 computed under RCW 51.08.018; (B) the payments may not exceed one
5 hundred percent of the entitlement as computed under subsection (1) of
6 this section; and (C) the payments may not be less than the worker
7 would have received if (a)(i) of this subsection had been applicable to
8 the worker's claim.

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

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

37 (b) Once the worker returns to work under the terms of this
38 subsection (4), he or she shall not be assigned by the employer to work
39 other than the available work described without the worker's written

1 consent, or without prior review and approval by the worker's physician
2 or licensed advanced registered nurse practitioner.

3 (c) If the worker returns to work under this subsection (4), any
4 employee health and welfare benefits that the worker was receiving at
5 the time of injury shall continue or be resumed at the level provided
6 at the time of injury. Such benefits shall not be continued or resumed
7 if to do so is inconsistent with the terms of the benefit program, or
8 with the terms of the collective bargaining agreement currently in
9 force.

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

13 (5) No worker shall receive compensation for or during the day on
14 which injury was received or the three days following the same, unless
15 his or her disability shall continue for a period of fourteen
16 consecutive calendar days from date of injury: PROVIDED, That attempts
17 to return to work in the first fourteen days following the injury shall
18 not serve to break the continuity of the period of disability if the
19 disability continues fourteen days after the injury occurs.

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

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

| 29 | AFTER | PERCENTAGE |
|----|---------------|------------|
| 30 | June 30, 1993 | 105% |
| 31 | June 30, 1994 | 110% |
| 32 | June 30, 1995 | 115% |
| 33 | June 30, 1996 | 120% |

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

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

3 (1) One of the primary purposes of this title is to enable the
4 injured worker to become employable at gainful employment. To this
5 end, the department or self-insurers shall utilize the services of
6 individuals and organizations, public or private, whose experience,
7 training, and interests in vocational rehabilitation and retraining
8 qualify them to lend expert assistance to the supervisor of industrial
9 insurance in such programs of vocational rehabilitation as may be
10 reasonable to make the worker employable consistent with his or her
11 physical and mental status. Where, after evaluation and recommendation
12 by such individuals or organizations and prior to final evaluation of
13 the worker's permanent disability and in the sole opinion of the
14 supervisor or supervisor's designee, whether or not medical treatment
15 has been concluded, vocational rehabilitation is both necessary and
16 likely to enable the injured worker to become employable at gainful
17 employment, the supervisor or supervisor's designee may, in his or her
18 sole discretion, pay or, if the employer is a self-insurer, direct the
19 self-insurer to pay the cost as provided in subsection (3) of this
20 section.

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

- 25 (a) Return to the previous job with the same employer;
- 26 (b) Modification of the previous job with the same employer
27 including transitional return to work;
- 28 (c) A new job with the same employer in keeping with any
29 limitations or restrictions;
- 30 (d) Modification of a new job with the same employer including
31 transitional return to work;
- 32 (e) Modification of the previous job with a new employer;
- 33 (f) A new job with a new employer or self-employment based upon
34 transferable skills;
- 35 (g) Modification of a new job with a new employer;
- 36 (h) A new job with a new employer or self-employment involving on-
37 the-job training;
- 38 (i) Short-term retraining and job placement.

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

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

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

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

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

36 (4) In addition to the vocational rehabilitation expenditures
37 provided for under subsection (3) of this section, an additional five
38 thousand dollars may, upon authorization of the supervisor or the
39 supervisor's designee, be expended for: (a) Accommodations for an

1 injured worker that are medically necessary for the worker to
2 participate in an approved retraining plan; and (b) accommodations
3 necessary to perform the essential functions of an occupation in which
4 an injured worker is seeking employment, consistent with the retraining
5 plan or the recommendations of a vocational evaluation. The injured
6 worker's attending physician or licensed advanced registered nurse
7 practitioner must verify the necessity of the modifications or
8 accommodations. The total expenditures authorized in this subsection
9 and the expenditures authorized under RCW 51.32.250 shall not exceed
10 five thousand dollars.

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

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

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

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

32 **Sec. 11.** RCW 51.36.010 and 1986 c 58 s 6 are each amended to read
33 as follows:

34 Upon the occurrence of any injury to a worker entitled to
35 compensation under the provisions of this title, he or she shall
36 receive proper and necessary medical and surgical services at the hands
37 of a physician or licensed advanced registered nurse practitioner of
38 his or her own choice, if conveniently located, and proper and

1 necessary hospital care and services during the period of his or her
2 disability from such injury, but the same shall be limited in point of
3 duration as follows:

4 In the case of permanent partial disability, not to extend beyond
5 the date when compensation shall be awarded him or her, except when the
6 worker returned to work before permanent partial disability award is
7 made, in such case not to extend beyond the time when monthly
8 allowances to him or her shall cease; in case of temporary disability
9 not to extend beyond the time when monthly allowances to him or her
10 shall cease: PROVIDED, That after any injured worker has returned to
11 his or her work his or her medical and surgical treatment may be
12 continued if, and so long as, such continuation is deemed necessary by
13 the supervisor of industrial insurance to be necessary to his or her
14 more complete recovery; in case of a permanent total disability not to
15 extend beyond the date on which a lump sum settlement is made with him
16 or her or he or she is placed upon the permanent pension roll:
17 PROVIDED, HOWEVER, That the supervisor of industrial insurance, solely
18 in his or her discretion, may authorize continued medical and surgical
19 treatment for conditions previously accepted by the department when
20 such medical and surgical treatment is deemed necessary by the
21 supervisor of industrial insurance to protect such worker's life or
22 provide for the administration of medical and therapeutic measures
23 including payment of prescription medications, but not including those
24 controlled substances currently scheduled by the state board of
25 pharmacy as Schedule I, II, III, or IV substances under chapter 69.50
26 RCW, which are necessary to alleviate continuing pain which results
27 from the industrial injury. In order to authorize such continued
28 treatment the written order of the supervisor of industrial insurance
29 issued in advance of the continuation shall be necessary.

30 The supervisor of industrial insurance, the supervisor's designee,
31 or a self-insurer, in his or her sole discretion, may authorize
32 inoculation or other immunological treatment in cases in which a work-
33 related activity has resulted in probable exposure of the worker to a
34 potential infectious occupational disease. Authorization of such
35 treatment does not bind the department or self-insurer in any
36 adjudication of a claim by the same worker or the worker's beneficiary
37 for an occupational disease.

1 **Sec. 12.** RCW 51.36.060 and 1991 c 89 s 3 are each amended to read
2 as follows:

3 Physicians or licensed advanced registered nurse practitioners
4 examining or attending injured workers under this title shall comply
5 with rules and regulations adopted by the director, and shall make such
6 reports as may be requested by the department or self-insurer upon the
7 condition or treatment of any such worker, or upon any other matters
8 concerning such workers in their care. Except under RCW 49.17.210 and
9 49.17.250, all medical information in the possession or control of any
10 person and relevant to the particular injury in the opinion of the
11 department pertaining to any worker whose injury or occupational
12 disease is the basis of a claim under this title shall be made
13 available at any stage of the proceedings to the employer, the
14 claimant's representative, and the department upon request, and no
15 person shall incur any legal liability by reason of releasing such
16 information.

17 **Sec. 13.** RCW 51.36.110 and 1994 c 154 s 312 are each amended to
18 read as follows:

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

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

1 liability for breach of any confidential relationships between the
2 provider and the patient: AND PROVIDED FURTHER, That the director or
3 the director's authorized representative shall destroy all copies of
4 patient medical records in their possession upon completion of the
5 audit, investigation, or proceedings;

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

9 (3) Terminate or suspend eligibility to participate as a provider
10 of services furnished to industrially injured workers pursuant to Title
11 51 RCW.

12 **Sec. 14.** RCW 51.48.060 and 1985 c 347 s 6 are each amended to read
13 as follows:

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

23 **Sec. 15.** RCW 51.52.010 and 1999 c 149 s 1 are each amended to read
24 as follows:

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

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

1 NEW SECTION. **Sec. 16.** 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. 17.** 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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