
SENATE BILL 5797

State of Washington

57th Legislature

2001 Regular Session

By Senators Prentice, Deccio, Fairley, Thibaudeau and Costa

Read first time 02/02/2001. Referred to Committee on Health & Long-Term Care.

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; and reenacting and amending RCW 51.32.090.

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

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

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

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

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

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

1 adopted rules, regulations, established fee schedules, and practices of
2 the director and may reject any bill or item thereof incurred in
3 violation of the principles laid down in this section or the rules,
4 regulations, or the established fee schedules and rules and regulations
5 adopted under it.

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

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

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

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

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

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

32 Where a worker is entitled to compensation under this title he or
33 she shall file with the department or his or her self-insuring
34 employer, as the case may be, his or her application for such, together
35 with the certificate of the physician or advanced registered nurse
36 practitioner who attended him or her, and it shall be the duty of the

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

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

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

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

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

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

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

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

32 (f) Such other pertinent information as the department may
33 prescribe by regulation.

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

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

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

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

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

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

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

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

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

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

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

31 (5) The director may establish a medical bureau within the
32 department to perform medical examinations under this section.
33 Physicians hired or retained for this purpose shall be grounded in
34 industrial medicine and in the assessment of industrial physical
35 impairment. Self-insurers shall bear a proportionate share of the cost
36 of the medical bureau in a manner to be determined by the department.

37 (6) Where a dispute arises from the handling of any claim before
38 the condition of the injured worker becomes fixed, the worker,
39 employer, or self-insurer may request the department to resolve the

1 dispute or the director may initiate an inquiry on his or her own
2 motion. In these cases, the department shall proceed as provided in
3 this section and an order shall issue in accordance with RCW 51.52.050.

4 (7)(a) If a claim (i) is accepted by a self-insurer after June 30,
5 1986, and before August 1, 1997, (ii) involves only medical treatment
6 and the payment of temporary disability compensation under RCW
7 51.32.090 or only the payment of temporary disability compensation
8 under RCW 51.32.090, (iii) at the time medical treatment is concluded
9 does not involve permanent disability, (iv) is one with respect to
10 which the department has not intervened under subsection (6) of this
11 section, and (v) the injured worker has returned to work with the self-
12 insured employer of record, whether at the worker's previous job or at
13 a job that has comparable wages and benefits, the claim may be closed
14 by the self-insurer, subject to reporting of claims to the department
15 in a manner prescribed by department rules adopted under chapter 34.05
16 RCW.

17 (b) All determinations of permanent disability for claims accepted
18 under this subsection (7) by self-insurers shall be made by the self-
19 insured section of the department under subsections (1) through (4) of
20 this section.

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

33 (8)(a) If a claim (i) is accepted by a self-insurer after June 30,
34 1990, and before August 1, 1997, (ii) involves only medical treatment,
35 (iii) does not involve payment of temporary disability compensation
36 under RCW 51.32.090, and (iv) at the time medical treatment is
37 concluded does not involve permanent disability, the claim may be
38 closed by the self-insurer, subject to reporting of claims to the
39 department in a manner prescribed by department rules adopted under

1 chapter 34.05 RCW. Upon closure of a claim, the self-insurer shall
2 enter a written order, communicated to the worker, which contains the
3 following statement clearly set forth in bold-face type: "This order
4 constitutes notification that your claim is being closed with medical
5 benefits only, as provided. If for any reason you disagree with this
6 closure, you must protest in writing to the Department of Labor and
7 Industries, Olympia, within 60 days of the date you received this
8 order. The department will then review your claim and enter a further
9 determinative order."

10 (b) All determinations of permanent disability for claims accepted
11 under this subsection (8) by self-insurers shall be made by the self-
12 insured section of the department under subsections (1) through (4) of
13 this section.

14 (9)(a) If a claim: (i) Is accepted by a self-insurer after July
15 31, 1997; (ii)(A) involves only medical treatment, or medical treatment
16 and the payment of temporary disability compensation under RCW
17 51.32.090, and a determination of permanent partial disability, if
18 applicable, has been made by the self-insurer as authorized in this
19 subsection; or (B) involves only the payment of temporary disability
20 compensation under RCW 51.32.090 and a determination of permanent
21 partial disability, if applicable, has been made by the self-insurer as
22 authorized in this subsection; (iii) is one with respect to which the
23 department has not intervened under subsection (6) of this section; and
24 (iv) concerns an injured worker who has returned to work with the self-
25 insured employer of record, whether at the worker's previous job or at
26 a job that has comparable wages and benefits, the claim may be closed
27 by the self-insurer, subject to reporting of claims to the department
28 in a manner prescribed by department rules adopted under chapter 34.05
29 RCW.

30 (b) If a physician or advanced registered nurse practitioner
31 submits a report to the self-insurer that concludes that the worker's
32 condition is fixed and stable and supports payment of a permanent
33 partial disability award, and if within fourteen days from the date the
34 self-insurer mailed the report to the attending or treating physician
35 or advanced registered nurse practitioner, the worker's attending or
36 treating physician or advanced registered nurse practitioner disagrees
37 in writing that the worker's condition is fixed and stable, the self-
38 insurer must get a supplemental medical opinion from a provider on the
39 department's approved examiner's list before closing the claim. In the

1 alternative, the self-insurer may forward the claim to the department,
2 which must review the claim and enter a final order as provided for in
3 RCW 51.52.050.

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

19 (d) All determinations of permanent partial disability for claims
20 accepted by self-insurers under this subsection (9) may be made by the
21 self-insurer or the self-insurer may request a determination by the
22 self-insured section of the department. All determinations shall be
23 made under subsections (1) through (4) of this section.

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

32 (11) If within two years of claim closure under subsections (7)
33 through (9) of this section, the department determines that the self-
34 insurer has made payment of benefits because of clerical error, mistake
35 of identity, or innocent misrepresentation or the department discovers
36 a violation of the conditions of claim closure, the department may
37 require the self-insurer to correct the benefits paid or payable. This
38 subsection (11) does not limit in any way the application of RCW
39 51.32.240.

1 (12) For the purposes of this section, "comparable wages and
2 benefits" means wages and benefits that are at least ninety-five
3 percent of the wages and benefits received by the worker at the time of
4 injury.

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

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

10 (2) Any compensation payable under this section for children not in
11 the custody of the injured worker as of the date of injury shall be
12 payable only to such person as actually is providing the support for
13 such child or children pursuant to the order of a court of record
14 providing for support of such child or children.

15 (3)(a) As soon as recovery is so complete that the present earning
16 power of the worker, at any kind of work, is restored to that existing
17 at the time of the occurrence of the injury, the payments shall cease.
18 If and so long as the present earning power is only partially restored,
19 the payments shall:

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

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

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

35 (4)(a) Whenever the employer of injury requests that a worker who
36 is entitled to temporary total disability under this chapter be
37 certified by a physician or advanced registered nurse practitioner as
38 able to perform available work other than his or her usual work, the

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

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

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

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

37 (5) No worker shall receive compensation for or during the day on
38 which injury was received or the three days following the same, unless
39 his or her disability shall continue for a period of fourteen

1 consecutive calendar days from date of injury: PROVIDED, That attempts
2 to return to work in the first fourteen days following the injury shall
3 not serve to break the continuity of the period of disability if the
4 disability continues fourteen days after the injury occurs.

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

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

14	AFTER	PERCENTAGE
15	June 30, 1993	105%
16	June 30, 1994	110%
17	June 30, 1995	115%
18	June 30, 1996	120%

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

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

24 (1) One of the primary purposes of this title is to enable the
25 injured worker to become employable at gainful employment. To this
26 end, the department or self-insurers shall utilize the services of
27 individuals and organizations, public or private, whose experience,
28 training, and interests in vocational rehabilitation and retraining
29 qualify them to lend expert assistance to the supervisor of industrial
30 insurance in such programs of vocational rehabilitation as may be
31 reasonable to make the worker employable consistent with his or her
32 physical and mental status. Where, after evaluation and recommendation
33 by such individuals or organizations and prior to final evaluation of
34 the worker's permanent disability and in the sole opinion of the
35 supervisor or supervisor's designee, whether or not medical treatment
36 has been concluded, vocational rehabilitation is both necessary and
37 likely to enable the injured worker to become employable at gainful

1 employment, the supervisor or supervisor's designee may, in his or her
2 sole discretion, pay or, if the employer is a self-insurer, direct the
3 self-insurer to pay the cost as provided in subsection (3) of this
4 section.

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

9 (a) Return to the previous job with the same employer;

10 (b) Modification of the previous job with the same employer
11 including transitional return to work;

12 (c) A new job with the same employer in keeping with any
13 limitations or restrictions;

14 (d) Modification of a new job with the same employer including
15 transitional return to work;

16 (e) Modification of the previous job with a new employer;

17 (f) A new job with a new employer or self-employment based upon
18 transferable skills;

19 (g) Modification of a new job with a new employer;

20 (h) A new job with a new employer or self-employment involving on-
21 the-job training;

22 (i) Short-term retraining and job placement.

23 (3)(a) Except as provided in (b) of this subsection, costs for
24 vocational rehabilitation benefits allowed by the supervisor or
25 supervisor's designee under subsection (1) of this section may include
26 the cost of books, tuition, fees, supplies, equipment, transportation,
27 child or dependent care, and other necessary expenses for any such
28 worker in an amount not to exceed three thousand dollars in any fifty-
29 two week period except as authorized by RCW 51.60.060, and the cost of
30 continuing the temporary total disability compensation under RCW
31 51.32.090 while the worker is actively and successfully undergoing a
32 formal program of vocational rehabilitation.

33 (b) Beginning with vocational rehabilitation plans approved on or
34 after July 1, 1999, costs for vocational rehabilitation benefits
35 allowed by the supervisor or supervisor's designee under subsection (1)
36 of this section may include the cost of books, tuition, fees, supplies,
37 equipment, child or dependent care, and other necessary expenses for
38 any such worker in an amount not to exceed four thousand dollars in any
39 fifty-two week period except as authorized by RCW 51.60.060, and the

1 cost of transportation and continuing the temporary total disability
2 compensation under RCW 51.32.090 while the worker is actively and
3 successfully undergoing a formal program of vocational rehabilitation.

4 (c) The expenses allowed under (a) or (b) of this subsection may
5 include training fees for on-the-job training and the cost of
6 furnishing tools and other equipment necessary for self-employment or
7 reemployment. However, compensation or payment of retraining with job
8 placement expenses under (a) or (b) of this subsection may not be
9 authorized for a period of more than fifty-two weeks, except that such
10 period may, in the sole discretion of the supervisor after his or her
11 review, be extended for an additional fifty-two weeks or portion
12 thereof by written order of the supervisor.

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

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

19 (4) In addition to the vocational rehabilitation expenditures
20 provided for under subsection (3) of this section, an additional five
21 thousand dollars may, upon authorization of the supervisor or the
22 supervisor's designee, be expended for: (a) Accommodations for an
23 injured worker that are medically necessary for the worker to
24 participate in an approved retraining plan; and (b) accommodations
25 necessary to perform the essential functions of an occupation in which
26 an injured worker is seeking employment, consistent with the retraining
27 plan or the recommendations of a vocational evaluation. The injured
28 worker's attending physician or advanced registered nurse practitioner
29 must verify the necessity of the modifications or accommodations. The
30 total expenditures authorized in this subsection and the expenditures
31 authorized under RCW 51.32.250 shall not exceed five thousand dollars.

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

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

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

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

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

16 (1) The department shall develop standards for the conduct of
17 special medical examinations by physicians licensed under chapter 18.57
18 or 18.71 RCW or advanced registered nurse practitioners licensed under
19 chapter 18.79 RCW to determine permanent disabilities, including, but
20 not limited to:

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

22 (b) The criteria for conducting the examinations, including
23 guidelines for the appropriate treatment of injured workers during the
24 examination; and

25 (c) The content of examination reports.

26 (2) Within the appropriate scope of practice, chiropractors
27 licensed under chapter 18.25 RCW may conduct special medical
28 examinations to determine permanent disabilities in consultation with
29 physicians licensed under chapter 18.57 or 18.71 RCW. The department,
30 in its discretion, may request that a special medical examination be
31 conducted by a single chiropractor if the department determines that
32 the sole issues involved in the examination are within the scope of
33 practice under chapter 18.25 RCW. However, nothing in this section
34 authorizes the use as evidence before the board of a chiropractor's
35 determination of the extent of a worker's permanent disability if the
36 determination is not requested by the department.

37 (3) The department shall investigate the amount of examination fees
38 received by persons conducting special medical examinations to

1 determine permanent disabilities, including total compensation received
2 for examinations of department and self-insured claimants, and
3 establish compensation guidelines and compensation reporting criteria.

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

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

11 Upon the occurrence of any injury to a worker entitled to
12 compensation under the provisions of this title, he or she shall
13 receive proper and necessary medical and surgical services at the hands
14 of a physician or advanced registered nurse practitioner of his or her
15 own choice, if conveniently located, and proper and necessary hospital
16 care and services during the period of his or her disability from such
17 injury, but the same shall be limited in point of duration as follows:

18 In the case of permanent partial disability, not to extend beyond
19 the date when compensation shall be awarded him or her, except when the
20 worker returned to work before permanent partial disability award is
21 made, in such case not to extend beyond the time when monthly
22 allowances to him or her shall cease; in case of temporary disability
23 not to extend beyond the time when monthly allowances to him or her
24 shall cease: PROVIDED, That after any injured worker has returned to
25 his or her work his or her medical and surgical treatment may be
26 continued if, and so long as, such continuation is deemed necessary by
27 the supervisor of industrial insurance to be necessary to his or her
28 more complete recovery; in case of a permanent total disability not to
29 extend beyond the date on which a lump sum settlement is made with him
30 or her or he or she is placed upon the permanent pension roll:
31 PROVIDED, HOWEVER, That the supervisor of industrial insurance, solely
32 in his or her discretion, may authorize continued medical and surgical
33 treatment for conditions previously accepted by the department when
34 such medical and surgical treatment is deemed necessary by the
35 supervisor of industrial insurance to protect such worker's life or
36 provide for the administration of medical and therapeutic measures
37 including payment of prescription medications, but not including those
38 controlled substances currently scheduled by the state board of

1 pharmacy as Schedule I, II, III, or IV substances under chapter 69.50
2 RCW, which are necessary to alleviate continuing pain which results
3 from the industrial injury. In order to authorize such continued
4 treatment the written order of the supervisor of industrial insurance
5 issued in advance of the continuation shall be necessary.

6 The supervisor of industrial insurance, the supervisor's designee,
7 or a self-insurer, in his or her sole discretion, may authorize
8 inoculation or other immunological treatment in cases in which a work-
9 related activity has resulted in probable exposure of the worker to a
10 potential infectious occupational disease. Authorization of such
11 treatment does not bind the department or self-insurer in any
12 adjudication of a claim by the same worker or the worker's beneficiary
13 for an occupational disease.

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

16 Physicians or advanced registered nurse practitioners examining or
17 attending injured workers under this title shall comply with rules and
18 regulations adopted by the director, and shall make such reports as may
19 be requested by the department or self-insurer upon the condition or
20 treatment of any such worker, or upon any other matters concerning such
21 workers in their care. Except under RCW 49.17.210 and 49.17.250, all
22 medical information in the possession or control of any person and
23 relevant to the particular injury in the opinion of the department
24 pertaining to any worker whose injury or occupational disease is the
25 basis of a claim under this title shall be made available at any stage
26 of the proceedings to the employer, the claimant's representative, and
27 the department upon request, and no person shall incur any legal
28 liability by reason of releasing such information.

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

31 Whenever the director or the self-insurer deems it necessary in
32 order to resolve any medical issue, a worker shall submit to
33 examination by a physician, an advanced registered nurse practitioner,
34 or physicians selected by the director, with the rendition of a report
35 to the person ordering the examination. The director, in his or her
36 discretion, may charge the cost of such examination or examinations to
37 the self-insurer or to the medical aid fund as the case may be. The

1 cost of said examination shall include payment to the worker of
2 reasonable expenses connected therewith.

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

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

7 (1) Conduct audits and investigations of providers of medical,
8 chiropractic, dental, vocational, and other health services furnished
9 to industrially injured workers pursuant to Title 51 RCW. In the
10 conduct of such audits or investigations, the director or the
11 director's authorized representatives may examine all records, or
12 portions thereof, including patient records, for which services were
13 rendered by a health services provider and reimbursed by the
14 department, notwithstanding the provisions of any other statute which
15 may make or purport to make such records privileged or confidential:
16 PROVIDED, That no original patient records shall be removed from the
17 premises of the health services provider, and that the disclosure of
18 any records or information obtained under authority of this section by
19 the department of labor and industries is prohibited and constitutes a
20 violation of RCW 42.52.050, unless such disclosure is directly
21 connected to the official duties of the department: AND PROVIDED
22 FURTHER, That the disclosure of patient information as required under
23 this section shall not subject any physician, advanced registered nurse
24 practitioner, or other health services provider to any liability for
25 breach of any confidential relationships between the provider and the
26 patient: AND PROVIDED FURTHER, That the director or the director's
27 authorized representative shall destroy all copies of patient medical
28 records in their possession upon completion of the audit,
29 investigation, or proceedings;

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

33 (3) Terminate or suspend eligibility to participate as a provider
34 of services furnished to industrially injured workers pursuant to Title
35 51 RCW.

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

1 Any physician or advanced registered nurse practitioner who fails,
2 neglects or refuses to file a report with the director, as required by
3 this title, within five days of the date of treatment, showing the
4 condition of the injured worker at the time of treatment, a description
5 of the treatment given, and an estimate of the probable duration of the
6 injury, or who fails or refuses to render all necessary assistance to
7 the injured worker, as required by this title, shall be subject to a
8 civil penalty determined by the director but not to exceed two hundred
9 fifty dollars.

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

12 There shall be a "board of industrial insurance appeals,"
13 hereinafter called the "board," consisting of three members appointed
14 by the governor, with the advice and consent of the senate, as
15 hereinafter provided. One shall be a representative of the public and
16 a lawyer, appointed from a mutually agreed to list of not less than
17 three active members of the Washington state bar association, submitted
18 to the governor by the two organizations defined below, and such member
19 shall be the chairperson of said board. The second member shall be a
20 representative of the majority of workers engaged in employment under
21 this title and selected from a list of not less than three names
22 submitted to the governor by an organization, statewide in scope, which
23 through its affiliates embraces a cross section and a majority of the
24 organized labor of the state. The third member shall be a
25 representative of employers under this title, and appointed from a list
26 of at least three names submitted to the governor by a recognized
27 statewide organization of employers, representing a majority of
28 employers. The initial terms of office of the members of the board
29 shall be for six, four, and two years respectively. Thereafter all
30 terms shall be for a period of six years. Each member of the board
31 shall be eligible for reappointment and shall hold office until his or
32 her successor is appointed and qualified. In the event of a vacancy
33 the governor is authorized to appoint a successor to fill the unexpired
34 term of his or her predecessor. All appointments to the board shall be
35 made in conformity with the foregoing plan. In the event a board
36 member becomes incapacitated in excess of thirty days either due to his
37 or her illness or that of an immediate family member as determined by
38 a request for family leave or as certified by the affected member's

1 treating physician or advanced registered nurse practitioner, the
2 governor shall appoint an acting member to serve pro tem. Such an
3 appointment shall be made in conformity with the foregoing plan, except
4 that the list of candidates shall be submitted to the governor not more
5 than fifteen days after the affected organizations are notified of the
6 incapacity and the governor shall make the appointment within fifteen
7 days after the list is submitted. The temporary member shall serve
8 until such time as the affected member is able to reassume his or her
9 duties by returning from requested family leave or as determined by the
10 treating physician or advanced registered nurse practitioner or until
11 the affected member's term expires, whichever occurs first. Whenever
12 the workload of the board and its orderly and expeditious disposition
13 shall necessitate, the governor may appoint two additional pro-tem
14 members in addition to the regular members. Such appointments shall be
15 for a definite period of time, and shall be made from lists submitted
16 respectively by labor and industry as in the case of regular members.
17 One pro-tem member shall be a representative of labor and one shall be
18 a representative of industry. Members shall devote their entire time
19 to the duties of the board and shall receive for their services a
20 salary as fixed by the governor in accordance with the provisions of
21 RCW 43.03.040 which shall be in addition to travel expenses in
22 accordance with RCW 43.03.050 and 43.03.060 as now existing or
23 hereafter amended. Headquarters for the board shall be located in
24 Olympia. The board shall adopt a seal which shall be judicially
25 recognized.

26 NEW SECTION. **Sec. 18.** If any provision of this act or its
27 application to any person or circumstance is held invalid, the
28 remainder of the act or the application of the provision to other
29 persons or circumstances is not affected.

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