

STATE OF MINNESOTA
REHABILITATION REVIEW PANEL AND
MEDICAL SERVICES REVIEW BOARD

In the Matter of

The Adoption of the Proposed
Joint Rules of Practice of
the Workers' Compensation
Rehabilitation Review Panel
and the Medical Services
Review Board, Parts
5217.0300 to 5217.1000

STATEMENT OF NEED
AND REASONABLENESS

I. INTRODUCTION AND STATUTORY AUTHORITY

In 1987, the Minnesota Legislature amended Minnesota Statutes sections 176.102 and 176.103, which pertain to the Rehabilitation Review Panel and the Medical Services Review Board. The amendments limited the Panel's authority to deciding appeals from orders of the Commissioner of Labor and Industry (hereinafter "Commissioner") regarding certification of qualified rehabilitation consultants (hereinafter "QRCs") and to discipline of QRCs and vendors. The Medical Services Review Board's authority was limited as enumerated in Minn. Stat. § 176.103. Both the Panel and the Board retained advisory functions as well. As a result of the amendments, the rules previously in place became obsolete and have since been repealed. The rules currently proposed are procedural rules made necessary by the revised authority of the Panel and the Board. The statutory authority for these joint rules of practice is Minn. Stat. §§ 176.102, subd. 3b and 176.103, subd. 3c.

II. STATEMENT OF NEED

As described above, the statutory authority of the Panel and Board has changed since these bodies were created and currently, both are functioning without procedural rules to guide parties involved in disciplinary actions. These procedural rules are necessary to provide notice to parties involved in cases before the Panel and Board of timelines and requirements. In addition, the procedural rules are necessary to ensure that the Panel and Board are consistent in handling the cases that come before them.

III. SMALL BUSINESS CONSIDERATION

The Panel and Board have considered the methods enumerated in Minn. Stat. § 14.115, subd. 2 of reducing the

impact of rules on small businesses. The procedural rules for the Panel and Board have been drafted to provide due process for parties while allowing the Panel and Board to perform their duties efficiently and within statutory deadlines. The impact of the rules on small businesses is negligible and cannot be reduced by revision of the rules.

IV. STATEMENT OF REASONABLENESS

5217.300 Definitions

Subparts 1-9 These definitions are reasonable because they provide consistency throughout the rules and clearly define which Commissioner, Board, Department and Panel are referenced in the text of the rules.

Subparts 10 and 11: The definitions of "Quorum" and "Voting Members" establish how many members of the Panel or Board must be present for business to be conducted. A majority of the Panel or Board is reasonable for a quorum because requiring more than half of the members to be present ensures that a small contingent within the Panel or Board will not be able to take action independently to the detriment of the goals of the Panel or Board as a whole. "Voting Members" is defined in the rule to clarify how Panel and Board positions will be temporarily filled if a member is absent, when there is a short term vacancy or when a member has been disqualified. It is reasonable that Board alternates fill vacant positions on the Board as they arrive for the meeting because the alternates are physicians who do not have definite, predictable schedules, and who are unable to attend all meetings on time. It is reasonable that Panel alternates fill vacant positions according to their classification because each alternate is appointed to represent a certain point of view within the rehabilitation field.

5217.0400 Action

This section describes how the Panel and Board will conduct their business. It is reasonable to require the majority vote of the Panel or Board members present rather than the majority vote of the entire Panel or Board because it expedites the decision-making process and requiring a quorum of a majority already ensures broad participation.

5217.0500 Officers

This section indicates the term of the chairperson and vice-chairperson and how the Panel and Board shall appoint members to those positions. The month of May was chosen for election of officers so that the election does not conflict with holidays and members of the Panel or Board will be present for the election. This section also indicates that a member may be elected to serve as a chairperson in the absence of the chairperson and vice-chairperson. It is necessary to provide a mechanism for appointing a temporary replacement for the Panel or Board chairperson so that the activities of the Panel and Board can be continued in spite of the absence of the chair and vice-chair.

5217.0600 Meetings

This section is necessary because of the obligation of the Panel and Board to give the public notice of meetings providing for the formal scheduling of meetings helps to ensure that meetings schedules are clearly established. This section also gives the Panel and Board the option of scheduling additional meetings. Additional meetings may be necessary to fulfill their statutory obligations.

5217.0700 Disqualification of Board or Panel Member

This section is reasonable because it is occasionally necessary for a member to disqualify himself or herself if that member feels that he or she cannot render a fair decision. Voluntary withdrawal is the most expeditious way to ensure that no member participates in making a decision where that member may have a conflict of interest. This section also provides for a mechanism for disqualification of a member if requested by a party. It is reasonable that the issue of whether a member should be disqualified be decided by the Board or Panel because a group decision helps to ensure that the evidence of a conflict of interest is objectively weighed.

5217.0800 Contested Cases

This section is reasonable because it is in accordance with Minn. Stat. § 14.61. The timelines were chosen because the Panel and Board have only 90 days from receipt

of the administrative law judge's report in which to render a decision and the Panel and Board generally meet only once per month. The deadlines afford parties sufficient time to prepare, serve, and file briefs and replies. The number of copies of documents to be filed with the Panel and Board was determined by the total number of members and alternates on the Panel and Board. The times that are allowed for oral argument and rebuttal assure due process while permitting expeditious completion of the decision-making process.

5217.0900 Settlement Agreements

This section indicates how the Panel and Board shall execute settlement agreements. It is necessary for the chairperson to have the authority to execute settlement agreements as a representative of the Panel or Board so that the process of approval or disapproval can be completed. The method of approval of settlement agreements is consistent with the Panel and Board's procedure for conducting all other business.

5217.1000 Findings and Order

This section is reasonable because it is pursuant to Minn. Stat. § 14.62, which contains requirements for findings and orders in contested cases. It is reasonable to require that appeals be filed directly with the Panel or Board because the Panel and Board have the responsibility of initiating contested case proceedings.

V. CONCLUSION

Based on the foregoing, Minn. Rules pts. 5217.0300-.1000 are needed and reasonable.

Dated: 10/11, 1990

Joseph J. Xweeney
Chairperson, Rehabilitation
Review Panel

Dated: 10/17, 1990

Jan A. Wey
Chairperson, Medical
Services Review Board