1.1 **Department of Labor and Industry**

1.2 **Proposed Permanent Rules Relating to Workers' Compensation Treatment with**
1.3 **Spinal Cord Stimulators and Intrathecal Drug Delivery Systems**

1.4 **5221.6200 LOW BACK PAIN.**

1.5 [For text of subps 1 to 5, see M.R.]

1.6 Subp. 6. **Surgery, including decompression procedures and arthrodesis.** Surgery
1.7 may only be performed if it also meets the specific parameters specified in subparts 11
1.8 to 13 and part 5221.6500. The health care provider must provide prior notification of
1.9 nonemergency inpatient surgery according to part 5221.6050, subpart 9.

1.10 A. In order to optimize the beneficial effect of surgery, postoperative therapy
1.11 with active and passive treatment modalities may be provided, even if these modalities had
1.12 been used in the preoperative treatment of the condition. In the postoperative period the
1.13 maximum treatment duration with passive treatment modalities in a clinical setting from
1.14 the initiation of the first passive modality used, except bedrest or bracing, is as follows:

1.15 (1) eight weeks following lumbar decompression or implantation of a
1.16 ~~dorsal column stimulator or morphine pump~~ spinal cord stimulator or intrathecal drug
1.17 delivery system; or

1.18 (2) 12 weeks following arthrodesis.

1.19 B. Repeat surgery must also meet the parameters of subparts 11 to 13 and part
1.20 5221.6500, and is not indicated unless the need for the repeat surgery is confirmed by a
1.21 second opinion obtained before surgery, if a second opinion is requested by the insurer.

1.22 C. ~~The following surgical therapies~~ Spinal cord stimulators have very limited
1.23 application and ~~require a second opinion that confirms that the treatment is indicated and~~
1.24 ~~within the parameters listed, and a personality or psychosocial evaluation that indicates~~

2.1 ~~that the patient is likely to benefit from the treatment~~ are indicated only if the conditions
2.2 of subitems (1), (2), and (3) are satisfied.

2.3 (1) ~~Dorsal column stimulator is indicated for a patient who has neuropathic~~
2.4 ~~pain, and is not a candidate for any other surgical therapy, and has had a favorable~~
2.5 ~~response to a trial screening period.~~ The treating health care provider determines that a
2.6 trial screening period of a spinal cord stimulator is indicated because the patient:

2.7 (a) has intractable pain;

2.8 (b) is not a candidate for another surgical therapy; and

2.9 (c) has no untreatable major psychological or psychiatric comorbidity
2.10 that would prevent the patient from benefiting from this treatment. The treating health care
2.11 provider shall refer the patient for a consultation by a psychologist or psychiatrist to assess
2.12 the patient for psychological or psychiatric comorbidities. If an untreated comorbidity
2.13 is diagnosed, reassessment for treatment with a spinal cord stimulator is indicated if
2.14 the psychologist or psychiatrist determines that the comorbidity no longer prevents the
2.15 patient from benefitting from the treatment.

2.16 (2) ~~Morphine pump is indicated for a patient who has somatic pain, and~~
2.17 ~~is not a candidate for any other surgical therapy, and has had a favorable response to a~~
2.18 ~~trial screening period.~~ Before the trial screening is conducted, a second opinion, from a
2.19 provider outside of the treating provider's practice, must confirm that all the conditions of
2.20 subitem (1) are satisfied and the patient has no contraindications to a spinal cord stimulator.

2.21 (3) Long-term use of a spinal cord stimulator is indicated if the treating
2.22 health care provider documents that there has been at least a 50 percent improvement in
2.23 pain during a trial screening period of at least three days, compared to the patient's pain
2.24 level immediately preceding the trial screening period.

3.1 D. Intrathecal drug delivery systems have very limited application and are
3.2 indicated only if the conditions of subitems (1), (2), and (3) are satisfied.

3.3 (1) The treating health care provider determines that a trial screening
3.4 period of intrathecal drug delivery systems is indicated because the patient:

3.5 (a) has intractable pain;

3.6 (b) is not a candidate for another surgical therapy; and

3.7 (c) has no untreatable major psychological or psychiatric comorbidity
3.8 that would prevent the patient from benefiting from this treatment. The treating health
3.9 care provider shall refer the patient for a consultation by a psychologist or psychiatrist
3.10 to assess the patient for psychological or psychiatric comorbidities. If an untreated
3.11 comorbidity is diagnosed, reassessment for treatment with an intrathecal drug delivery
3.12 system is indicated if the psychologist or psychiatrist determines that the comorbidity no
3.13 longer prevents the patient from benefitting from the treatment.

3.14 (2) Before the trial screening is conducted, a second opinion, from a
3.15 provider outside of the treating provider's practice, must confirm that all the conditions of
3.16 subitem (1) are satisfied and the patient has no contraindications to an intrathecal drug
3.17 delivery system.

3.18 (3) Long-term use of an intrathecal drug delivery system is indicated if
3.19 the treating health care provider documents that there has been at least a 50 percent
3.20 improvement in pain during a trial screening period of at least 24 hours, compared to the
3.21 patient's pain level immediately preceding the trial screening period.

3.22 [For text of subps 7 to 13, see M.R.]

3.23 **5221.6205 NECK PAIN.**

3.24 [For text of subps 1 to 5, see M.R.]

4.1 Subp. 6. **Surgery, including decompression procedures and arthrodesis.** Surgery
4.2 may only be performed if it meets the specific parameters of subparts 11 to 14 and part
4.3 5221.6500. The health care provider must provide prior notification for nonemergency
4.4 inpatient surgery according to part 5221.6050, subpart 9.

4.5 A. In order to optimize the beneficial effect of surgery, postoperative therapy
4.6 with active and passive treatment modalities may be provided, even if these modalities had
4.7 been used in the preoperative treatment of the condition. In the postoperative period the
4.8 maximum treatment duration with passive treatment modalities in a clinical setting from
4.9 the initiation of the first passive modality used, except bedrest or bracing, is as follows:

4.10 (1) eight weeks following decompression or implantation of a ~~dorsal column~~
4.11 ~~stimulator or morphine pump~~ spinal cord stimulator or intrathecal drug delivery system; or

4.12 (2) 12 weeks following arthrodesis.

4.13 B. Repeat surgery must also meet the parameters of subparts 11 to 14 and part
4.14 5221.6500 and is not indicated unless the need for the repeat surgery is confirmed by a
4.15 second opinion obtained before surgery, if requested by the insurer.

4.16 C. ~~The following surgical therapies~~ Spinal cord stimulators have very limited
4.17 application and ~~require a second opinion which confirms that the treatment is indicated~~
4.18 ~~and within the parameters listed, and a personality or psychosocial evaluation indicates~~
4.19 ~~that the patient is likely to benefit from the treatment~~ are indicated only if the conditions
4.20 of subitems (1), (2), and (3) are satisfied.

4.21 (1) ~~Dorsal column stimulator is indicated for a patient who has neuropathic~~
4.22 ~~pain, is not a candidate for any other invasive therapy, and has had a favorable response to~~
4.23 ~~a trial screening period.~~ The treating health care provider determines that a trial screening
4.24 period of a spinal cord stimulator is indicated because the patient:

4.25 (a) has intractable pain;

5.1 (b) is not a candidate for another surgical therapy; and

5.2 (c) has no untreatable major psychological or psychiatric comorbidity
5.3 that would prevent the patient from benefiting from this treatment. The treating health care
5.4 provider shall refer the patient for a consultation by a psychologist or psychiatrist to assess
5.5 the patient for psychological or psychiatric comorbidities. If an untreated comorbidity
5.6 is diagnosed, reassessment for treatment with a spinal cord stimulator is indicated if
5.7 the psychologist or psychiatrist determines that the comorbidity no longer prevents the
5.8 patient from benefitting from the treatment.

5.9 (2) ~~Morphine pump is indicated for a patient who has somatic pain, is~~
5.10 ~~not a candidate for any other invasive therapy, and has had a favorable response to a~~
5.11 ~~trial screening period.~~ Before the trial screening is conducted, a second opinion, from a
5.12 provider outside of the treating provider's practice, must confirm that all the conditions of
5.13 subitem (1) are satisfied and the patient has no contraindications to a spinal cord stimulator.

5.14 (3) Long-term use of a spinal cord stimulator is indicated if the treating
5.15 health care provider documents that there has been at least a 50 percent improvement in
5.16 pain during a trial screening period of at least three days, compared to the patient's pain
5.17 level immediately preceding the trial screening period.

5.18 D. Intrathecal drug delivery systems have very limited application and are
5.19 indicated only if the conditions of subitems (1), (2), and (3) are satisfied.

5.20 (1) The treating health care provider determines that a trial screening
5.21 period of an intrathecal drug delivery system is indicated because the patient:

5.22 (a) has intractable pain;

5.23 (b) is not a candidate for another surgical therapy; and

5.24 (c) has no untreatable major psychological or psychiatric comorbidity
5.25 that would prevent the patient from benefiting from this treatment. The treating health

6.1 care provider shall refer the patient for a consultation by a psychologist or psychiatrist
6.2 to assess the patient for psychological or psychiatric comorbidities. If an untreated
6.3 comorbidity is diagnosed, reassessment for treatment with an intrathecal drug delivery
6.4 system is indicated if the psychologist or psychiatrist determines that the comorbidity no
6.5 longer prevents the patient from benefitting from the treatment.

6.6 (2) Before the trial screening is conducted, a second opinion, from a
6.7 provider outside of the treating provider's practice, must confirm that all the conditions of
6.8 subitem (1) are satisfied and the patient has no contraindications to an intrathecal drug
6.9 delivery system.

6.10 (3) Long-term use of an intrathecal drug delivery system is indicated if
6.11 the treating health care provider documents that there has been at least a 50 percent
6.12 improvement in pain during a trial screening period of at least 24 hours, compared to the
6.13 patient's pain level immediately preceding the trial screening period.

6.14 [For text of subps 7 to 14, see M.R.]

6.15 **5221.6210 THORACIC BACK PAIN.**

6.16 [For text of subps 1 to 5, see M.R.]

6.17 Subp. 6. **Surgery, including decompression procedures.** Surgery may only be
6.18 performed if it meets the specific parameters of subparts 11 to 13 and part 5221.6500. The
6.19 health care provider must provide prior notification of nonemergency inpatient surgery
6.20 according to part 5221.6050, subpart 9.

6.21 A. In order to optimize the beneficial effect of surgery, postoperative therapy
6.22 with active and passive treatment modalities may be provided, even if these modalities had
6.23 been used in the preoperative treatment of the condition. In the postoperative period the
6.24 maximum treatment duration with passive treatment modalities in a clinical setting from
6.25 the initiation of the first passive modality used, except bedrest or bracing, is as follows:

7.1 (1) eight weeks following decompression or implantation of a ~~dorsal column~~
7.2 ~~stimulator or morphine pump~~ spinal cord stimulator or intrathecal drug delivery system; or

7.3 (2) 12 weeks following arthrodesis.

7.4 B. Repeat surgery must also meet the parameters of subparts 11 to 13 and part
7.5 5221.6500 and is not indicated unless the need for the repeat surgery is confirmed by a
7.6 second opinion obtained before surgery, if a second opinion is requested by the insurer.

7.7 C. ~~The surgical therapies in subitems (1) and (2)~~ Spinal cord stimulators have
7.8 very limited application ~~and require a second opinion which confirms that the treatment is~~
7.9 ~~indicated and within the parameters listed, and a personality or psychosocial evaluation~~
7.10 ~~which indicates that the patient is likely to benefit from the treatment~~ and are indicated
7.11 only if the conditions of subitems (1), (2), and (3) are satisfied.

7.12 (1) ~~Dorsal column stimulator is indicated for a patient who has neuropathic~~
7.13 ~~pain, and is not a candidate for any other invasive therapy, and has had a favorable~~
7.14 ~~response to a trial screening period.~~ The treating health care provider determines that a
7.15 trial screening period of a spinal cord stimulator is indicated because the patient:

7.16 (a) has intractable pain;

7.17 (b) is not a candidate for another surgical therapy; and

7.18 (c) has no untreatable major psychological or psychiatric comorbidity
7.19 that would prevent the patient from benefiting from this treatment. The treating health care
7.20 provider shall refer the patient for a consultation by a psychologist or psychiatrist to assess
7.21 the patient for psychological or psychiatric comorbidities. If an untreated comorbidity
7.22 is diagnosed, reassessment for treatment with a spinal cord stimulator is indicated if
7.23 the psychologist or psychiatrist determines that the comorbidity no longer prevents the
7.24 patient from benefitting from the treatment.

8.1 (2) ~~Morphine pump is indicated for a patient who has somatic pain, and~~
8.2 ~~is not a candidate for any other invasive therapy, and has had a favorable response to a~~
8.3 ~~trial screening period.~~ Before the trial screening is conducted, a second opinion, from a
8.4 provider outside of the treating provider's practice, must confirm that all the conditions of
8.5 subitem (1) are satisfied and the patient has no contraindications to a spinal cord stimulator.

8.6 (3) Long-term use of a spinal cord stimulator is indicated if the treating
8.7 health care provider documents that there has been at least a 50 percent improvement in
8.8 pain during a trial screening period of at least three days, compared to the patient's pain
8.9 level immediately preceding the trial screening period.

8.10 D. Intrathecal drug delivery systems have very limited application and are
8.11 indicated only if the conditions of subitems (1), (2), and (3) are satisfied.

8.12 (1) The treating health care provider determines that a trial screening
8.13 period of an intrathecal drug delivery system is indicated because the patient:

8.14 (a) has intractable pain;

8.15 (b) is not a candidate for another surgical therapy; and

8.16 (c) has no untreatable major psychological or psychiatric comorbidity
8.17 that would prevent the patient from benefiting from this treatment. The treating health
8.18 care provider shall refer the patient for a consultation by a psychologist or psychiatrist
8.19 to assess the patient for psychological or psychiatric comorbidities. If an untreated
8.20 comorbidity is diagnosed, reassessment for treatment with an intrathecal drug delivery
8.21 system is indicated if the psychologist or psychiatrist determines that the comorbidity no
8.22 longer prevents the patient from benefitting from the treatment.

8.23 (2) Before the trial screening is conducted, a second opinion, from a
8.24 provider outside of the treating provider's practice, must confirm that all the conditions of

9.1 subitem (1) are satisfied and the patient has no contraindications to an intrathecal drug
9.2 delivery system.

9.3 (3) Long-term use of an intrathecal drug delivery system is indicated if
9.4 the treating health care provider documents that there has been at least a 50 percent
9.5 improvement in pain during a trial screening period of at least 24 hours, compared to the
9.6 patient's pain level immediately preceding the trial screening period.

9.7 [For text of subps 7 to 13, see M.R.]

9.8 **5221.6305 COMPLEX REGIONAL PAIN SYNDROME (CRPS); REFLEX**
9.9 **SYMPATHETIC DYSTROPHY; AND CAUSALGIA OF THE UPPER AND**
9.10 **LOWER EXTREMITIES.**

9.11 [For text of subps 1 and 2, see M.R.]

9.12 Subp. 3. **Surgery.**

9.13 A. Surgical sympathectomy may only be performed in patients who had a
9.14 sustained but incomplete improvement with sympathetic blocks by injection.

9.15 B. ~~Dorsal column stimulator or morphine pump may be indicated for a patient~~
9.16 ~~with neuropathic pain unresponsive to all other treatment modalities who is not a candidate~~
9.17 ~~for any other therapy and has had a favorable response to a trial screening period. Use~~
9.18 ~~of these devices is indicated only if a second opinion confirms that this treatment is~~
9.19 ~~indicated, and a personality or psychosocial evaluation indicates that the patient is likely~~
9.20 ~~to benefit from this treatment.~~ Spinal cord stimulators have very limited application and
9.21 are indicated only if the conditions of subitems (1), (2), and (3) are satisfied.

9.22 (1) The treating health care provider determines that a trial screening
9.23 period of a spinal cord stimulator is indicated because the patient:

9.24 (a) has intractable pain;

9.25 (b) is not a candidate for another surgical therapy; and

10.1 (c) has no untreatable major psychological or psychiatric comorbidity
10.2 that would prevent the patient from benefitting from this treatment. The treating health
10.3 care provider shall refer the patient for a consultation by a psychologist or psychiatrist
10.4 to assess the patient for psychological or psychiatric comorbidities. If an untreated
10.5 comorbidity is diagnosed, reassessment for treatment with a spinal cord stimulator is
10.6 indicated if the psychologist or psychiatrist determines that the comorbidity no longer
10.7 prevents the patient from benefitting from the treatment.

10.8 (2) Before the trial screening is conducted, a second opinion, from a
10.9 provider outside of the treating provider's practice, must confirm that all the conditions of
10.10 subitem (1) are satisfied and the patient has no contraindications to a spinal cord stimulator.

10.11 (3) Long-term use of a spinal cord stimulator is indicated if the treating
10.12 health care provider documents that there has been at least a 50 percent improvement in
10.13 pain during a trial screening period of at least three days, compared to the patient's pain
10.14 level immediately preceding the trial screening period.

10.15 C. Intrathecal drug delivery systems have very limited application and are
10.16 indicated only if the conditions of subitems (1), (2), and (3) are satisfied.

10.17 (1) The treating health care provider determines that a trial screening
10.18 period of an intrathecal drug delivery system is indicated because the patient:

10.19 (a) has intractable pain;

10.20 (b) is not a candidate for another surgical therapy; and

10.21 (c) has no untreatable major psychological or psychiatric comorbidity
10.22 that would prevent the patient from benefitting from this treatment. The treating health
10.23 care provider shall refer the patient for a consultation by a psychologist or psychiatrist
10.24 to assess the patient for psychological or psychiatric comorbidities. If an untreated
10.25 comorbidity is diagnosed, reassessment for treatment with an intrathecal drug delivery

11.1 system is indicated if the psychologist or psychiatrist determines that the comorbidity no
11.2 longer prevents the patient from benefitting from the treatment.

11.3 (2) Before the trial screening is conducted, a second opinion, from a
11.4 provider outside of the treating provider's practice, must confirm that all the conditions of
11.5 subitem (1) are satisfied and the patient has no contraindications to an intrathecal drug
11.6 delivery system.

11.7 (3) Long-term use of an intrathecal drug delivery system is indicated if
11.8 the treating health care provider documents that there has been at least a 50 percent
11.9 improvement in pain during a trial screening period of at least 24 hours, compared to the
11.10 patient's pain level immediately preceding the trial screening period.

11.11 [For text of subp 4, see M.R.]

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Workers' Compensation Treatment with Spinal Cord Stimulators and Intrathecal Drug Delivery Systems

AGENCY: Department of Labor and Industry

MINNESOTA RULES: Chapter 5221

The attached rules are approved for
publication in the State Register

Sheree Speer

Sheree Speer
Senior Assistant Revisor