Minnesota Department of Labor and Industry

Division of Safety and Workers' Compensation

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Proposed Amendment to Rules Governing Workers' Compensation; Permanent Partial Disability Schedule; *Minnesota Rules*, Chapter 5223

Introduction. The Department of Labor and Industry intends to adopt rules without a public hearing following the procedures in the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310, and the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28. You may submit written comments on the proposed rules and may also submit a written request that a hearing be held on the rules until November 18, 2009.

Agency Contact Person. You must submit comments or questions on the rules and written requests for a public hearing to the agency contact person. The agency contact person is: Carrie Rohling at the Department of Labor and Industry, 443 Lafayette Rd. N., St. Paul, MN 55155; telephone: 651-284-5006. TTY users may call the Department of Labor and Industry at (651) 297-4198.

Subject of Rules and Statutory Authority. The proposed rule amendments are to the workers' compensation permanent partial disability schedule, including: amendments to correct internal inconsistencies, gaps in coverage, omissions, confusing language, and technical errors; amendments to modify, clarify and update ratings in response to changes in medical diagnoses or conditions subject to rating; ratings for thoracic outlet syndrome; and a new manner of rating complex regional pain syndrome and cognate conditions. Some of the proposed amendments apply only to dates of injury on or after the effective date of the rules. All of the proposed amendments, including those that apply only to future dates of injury, may be further modified in response to public comment. The statutory authority to adopt the rules is *Minnesota Statutes*, sections 176.105. A copy of the proposed rules is published in the State Register and attached to this notice as mailed. The proposed rules are also available on the Department's rule docket web site at: http://www.dli.mn.gov/PDF/docket/5223_0310_0650PPDsched.pdf

Comments. You have until 4:30 p.m. on Wednesday, November 18, 2009, to submit written comment in support of or in opposition to the proposed rules and any part or subpart of the rules. Your comment must be in writing and the agency contact person must receive it by the due date. The Department encourages comment. Your comment should identify the portion of the proposed rules addressed and the reason for the comment. You are encouraged to propose any change desired. You must also make any comments about the legality of the proposed rules during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that the Department hold a hearing on the rules. Your request must be in writing and the agency contact person must receive it by 4:30 p.m. on November 18, 2009. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules that you object to or state that you oppose the entire set of rules. Any request that does not comply

with these requirements is not valid and the agency cannot count it when determining whether it must hold a public hearing. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

Withdrawal of Requests. If 25 or more persons submit a valid written request for a hearing, the Department will hold a public hearing unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

Alternative Format. Upon request, the Department can make this Notice available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, please contact the agency contact person at the address or telephone number listed above.

Modifications. The Department may modify the proposed rules as a result of public comment. The modifications must be supported by comments and information submitted to the agency, and the adopted rules may not be substantially different than these proposed rules, unless the agency follows the procedure under *Minnesota Rules*, part 1400.2110. If the proposed rules affect you in any way, the Department encourages you to participate in the rulemaking process.

Statement of Need and Reasonableness. The statement of need and reasonableness contains a summary of the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. It is now available from the agency contact person. You may review it or obtain copies for the cost of reproduction by contacting the agency contact person. The statement of need and reasonableness is also on the Department's rule docket web site at:
http://www.dli.mn.gov/PDF/docket/5223_0310_0650PPDsched.pdf

Lobbyist Registration. *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. You should direct questions about this requirement to the Campaign Finance and Public Disclosure Board at: Suite 190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone 651-296-5148 or 1-800-657-3889.

Adoption and Review of Rules. If no hearing is required, the agency may adopt the rules after the end of the comment period. The agency will then submit the rules and supporting documents to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the Department submits the rules to the office. If you want to be so notified, or want to receive a copy of the adopted rules, or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

October 7, 2009

Steve Sviggum
Commissioner