176.351 TESTIMONIAL POWERS.

Subdivision 1. Oaths. The compensation judge to whom a petition has been assigned for hearing shall administer an oath to each witness. The commissioner may also administer an oath when required in the performance of duties.

Subd. 2. Subpoenas. Acting with or without the written request of an interested party, the commissioner or compensation judge before whom a hearing is held may issue a subpoena for the attendance of a witness or the production of such books, papers, records and documents as are material in the cause and are designated in the subpoena. The commissioner may also issue a subpoena for the attendance of a witness or the production of such books, papers, records, and documents as are material in the cause pending and are designated in the subpoena.

Subd. 2a. Subpoenas not permitted of decision-makers. A member of the rehabilitation review panel or Medical Services Board or an employee of the department who has conducted an administrative or settlement conference or hearing under section 176.106 or 176.239, or who has certified or has declined to certify a dispute under section 176.081, subdivision 1, paragraph (c), shall not be subpoenaed to testify regarding the conference, hearing, dispute certification, or concerning a mediation session. A member of the rehabilitation review panel, Medical Services Board, or an employee of the department may be required to answer written interrogatories limited to the following questions:

(a) Were all statutory and administrative procedural rules adhered to in reaching the decision?
(b) If the answer to question (a) is no, what deviations took place?
(c) Did the person making the decision consider all the information presented prior to rendering a decision?
(d) Did the person making the decision rely on information outside of the information presented at the conference or hearing in making the decision?
(e) If the answer to question (d) is yes, what other information was relied upon in making the decision?

In addition, for a hearing with a compensation judge and with the consent of the compensation judge, an employee of the department who conducted an administrative conference, hearing, or mediation session, may be requested to answer written interrogatories relating to statements
Proposed amendments prohibiting subpoenas of DLI employees, unless DLI is a party

Revised draft for discussion at the WCAC meeting on Feb. 24, 2021

made by a party at the prior proceeding. These interrogatories shall be limited to affirming or
denying that specific statements were made by a party.

Subp. 2b. Subpoenas not permitted of department employees who provide assistance

The commissioner and any employee of the department shall not be subject to a subpoena
for purposes of providing expert testimony or describing the nature of assistance or advice
provided under this chapter. This prohibition does not apply to: testimony of a department
employee in a workers’ compensation enforcement proceeding brought by the
commissioner; or a dispute in which the commissioner or the special compensation fund is a
party; or a qualified rehabilitation consultant, qualified rehabilitation consultant intern, or
job placement coordinator employed in DLI’s vocational rehabilitation unit established
under section 176.104, who has provided rehabilitation, job placement, or job development
services under a rehabilitation plan for an employee with a workers’ compensation claim.

Effective Date: This section is effective the day following final enactment.

Statutes related to subpoena proposal

326B.075 COMMISSIONER NOT SUBJECT TO SUBPOENA. The commissioner shall not be subject to
subpoena for purposes of providing expert testimony, except in an enforcement proceeding brought by
the commissioner. "Commissioner" means the commissioner of labor and industry or a duly designated
representative of the commissioner who is either an employee of the Department of Labor and Industry
or a person working under contract with the department.

176.261 EMPLOYEE OF COMMISSIONER OF DEPARTMENT OF LABOR AND INDUSTRY MAY ACT FOR
AND ADVISE A PARTY TO A PROCEEDING.

When requested by an employer or an employee or an employee’s dependent, the commissioner of the
Department of Labor and Industry may designate one or more of the division employees to advise that
party of rights under this chapter, and as far as possible to assist in adjusting differences between the
parties. The person so designated may appear in person in any proceedings under this chapter as the
representative or adviser of the party. In such case, the party need not be represented by an attorney at
law.

Prior to advising an employee or employer to seek assistance outside of the department, the
department must refer employers and employees seeking advice or requesting assistance in resolving a
dispute to an attorney or other technical, paraprofessional, or professional Workers’ Compensation
Division employee, whichever is appropriate.

The department must make efforts to settle problems of employees and employers by contacting third
parties, including attorneys, insurers, and health care providers, on behalf of employers and employees
and using the department’s persuasion to settle issues quickly and cooperatively. The obligation to make
efforts to settle problems exists whether or not a formal claim has been filed with the department.
Proposed amendments prohibiting subpoenas of DLI employees, unless DLI is a party
Revised draft for discussion at the WCAC meeting on Feb. 24, 2021

182.659, subd. 8. Protection from subpoena; data.
Neither the commissioner nor any employee of the department, including those employees of the
Department of Health providing services to the Department of Labor and Industry, pursuant to section
182.67, subdivision 1, is subject to subpoena for purposes of inquiry into any occupational safety and
health inspection except in enforcement proceedings brought under this chapter. Data that identify
individuals who provide data to the department as part of an investigation conducted under this chapter
shall be private.