

1 Hazardous Substance Injury Compensation Board

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3 Adopted Permanent Rules Relating to Board Operation Procedure

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5 Rules as Adopted

6

CHAPTER 7190

7

HAZARDOUS SUBSTANCE INJURY COMPENSATION BOARD

8

PROCEDURES

9 7190.0001 DEFINITIONS.

10 Subpart 1. Scope. The terms used in this chapter have the
11 meanings given them in Minnesota Statutes, chapter 115B and in
12 this part.

13 Subp. 2. Board. "Board" means the Hazardous Substance
14 Injury Compensation Board created by Minnesota Statutes, section
15 115B.27, subdivision 1.

16 Subp. 3. Days. "Days" means calendar days.

17 Subp. 4. Director. "Director" means the executive
18 director of the Hazardous Substance Injury Compensation Board.

19 Subp. 5. Professional member. "Professional member" means
20 the attorney, physician, or health professional member of the
21 board.

22

BOARD

23 7190.0002 OFFICERS AND DUTIES.

24 Subpart 1. Officers. At the regular meeting in July, the
25 members shall elect a chair and vice-chair. Each officer shall
26 serve a term of one year. The vice-chair shall discharge the
27 duties of the chair during the absence or disability of the
28 chair.

29 Subp. 2. Vacancies. Upon a vacancy in the office of chair
30 of the board, the vice-chair shall become the chair until the
31 election of new officers at the regular meeting in July. Upon a
32 vacancy in the office of vice-chair, a special election shall be
33 held at the next regular meeting, for a term to end with the
34 election of new officers at the regular meeting in July.

35 Subp. 3. Removal. The chair or vice-chair may be removed

1 from office by the affirmative vote of the majority of members.

2 Subp. 4. **Execution of documents.** Contracts and other
3 documents approved by the board pursuant to law shall be
4 executed on the board's behalf by the chair. The chair may
5 delegate to the director authority to execute documents approved
6 by the board. Any delegation shall be filed with the Secretary
7 of State.

8 7190.0003 BOARD MEETINGS.

9 Subpart 1. **Regular meetings.** The board shall meet monthly
10 at a date, place, and time set by the board. The chair may
11 direct that any regular meeting be canceled, postponed, or
12 advanced.

13 Subp. 2. **Special meetings.** The chair may call a special
14 meeting of the board when the chair deems it necessary. The
15 chair shall call a special meeting when two board members
16 request it.

17 Subp. 3. **Quorum.** A majority of members of the board shall
18 constitute a quorum, and a quorum must be present for the
19 transaction of business.

20 Subp. 4. **Presiding officer.** The chair shall preside at
21 board meetings and shall determine the limits of time and the
22 relevancy of discussion or debate on any matter before the
23 board. If both the chair and vice-chair are absent, the members
24 present shall elect a presiding officer to serve for that
25 meeting or until the chair or vice-chair arrives.

26 Subp. 5. **Voting.** A majority vote of the entire board is
27 necessary to make any decision. All members present shall vote
28 or abstain on every matter presented for decision.

29 Subp. 6. **Public participation at meetings.** Meetings of
30 the board shall be open to the public, except during the time
31 protected information is to be discussed. Participation by
32 persons other than members of the board and its staff and
33 attorney shall be at the request of the board or with prior
34 authorization from the chair or director.

35 Subp. 7. **Parliamentary procedure.** Except as specifically

1 provided in this chapter, Robert's Rules of Order shall govern
2 any question of parliamentary procedure that may arise at any
3 meeting of the board.

4 Subp. 8. Record of meetings. The board shall keep full
5 and accurate minutes of meetings, including a record of votes of
6 individual members.

7 7190.0004 CONFLICT OF INTEREST.

8 A member of the board who has a direct and substantial
9 financial or employment interest relating to any matter before
10 the board shall make known this interest and refrain from
11 participating in or voting upon the matter. If nonparticipation
12 by board members results in the loss of a quorum, the entire
13 board shall select from among themselves a majority of members
14 whose interests are least likely to affect their impartiality or
15 judgment, and these members shall vote upon the matter before
16 the board.

17 CLAIM APPLICATION

18 7190.0005 REPRESENTATION.

19 A claimant may authorize a representative to complete the
20 application for compensation and represent the claimant in all
21 communication and proceedings involving the board. The
22 representative may be an attorney or other individual which the
23 claimant has authorized in writing to the board to act in that
24 capacity. The board will notify the claimant and the claimant's
25 representative of actions pertaining to a claim.

26 7190.0006 APPLICATION FOR COMPENSATION.

27 A claimant must apply for compensation within the time
28 limits established by Minnesota Statutes, section 115B.30,
29 subdivision 3. The application must be on a form supplied by
30 the board, containing substantially the following:

31 A. the name, address, telephone number, social
32 security number, and age of the claimant;

33 B. the name, address, and telephone number of the
34 claimant's employer if the claimant is seeking compensation for

1 personal injury or claiming hardship;

2 C. the name, address, telephone number, and
3 relationship to the claimant of any representative;

4 D. the identity of the hazardous substances to which
5 the claimant was exposed;

6 E. a description of the property damage or personal
7 injury;

8 F. the date the claimant discovered the property
9 damage or the personal injury;

10 G. the date the claimant discovered the connection
11 between the injury or property damage and the exposure to
12 hazardous substances and an explanation of how the connection
13 was discovered;

14 H. the name, address, and phone number of any medical
15 practitioner who examined the claimant regarding the personal
16 injury;

17 I. in the case of death as a personal injury, the
18 cause of death on the death certificate and the report of an
19 autopsy if performed;

20 J. the identity of any government agency or official
21 that the claimant contacted concerning the presence of hazardous
22 substances;

23 K. the identity, if the claimant knows, of the source
24 of the hazardous substances related to the exposure, including
25 the location of the source and the person responsible for the
26 release;

27 L. the duration and location of the exposure to the
28 substances;

29 M. the amount of compensation the claimant seeks from
30 the board for the property damage or personal injury including
31 losses for medical expenses, lost wages, or income and lost
32 household labor;

33 N. the amount of reimbursement the claimant has
34 received for losses and identification of the sources of
35 reimbursement;

36 O. a description of actions the claimant has taken if

1 any to recover compensation from the person responsible for the
2 release of the hazardous substance;

3 P. a statement signed by the claimant, certifying
4 under oath the accuracy and completeness of the information
5 provided;

6 Q. an authorization signed by the claimant for access
7 to medical and financial records if the compensation requested
8 is for personal injury or hardship; and

9 R. other relevant information the board or director
10 deems essential to a determination on the application.

11 7190.0007 CLAIM ACCEPTANCE.

12 Subpart 1. **Claim acceptance.** A claim shall begin when the
13 director accepts for filing an application for compensation.
14 The director shall accept for filing an application that the
15 director determines is from an eligible person, and cites injury
16 or damage described as eligible for compensation in Minnesota
17 Statutes, chapter 115B.

18 Subp. 2. **Refusal to accept.** If the director determines
19 that the application is ineligible, the director will forward
20 the application to a professional board member. The board
21 member will review the application and the director's
22 determination and render a written decision on the eligibility
23 of the application within 14 days. If the board member
24 determines the application is ineligible, the director will
25 notify the applicant in writing of the refusal to accept the
26 application for filing and the reasons for finding it
27 ineligible. The director shall report at the regular meeting of
28 the board on the number of applications determined since the
29 previous meeting to be ineligible and the reasons for
30 ineligibility.

31 Subp. 3. **Refiling an application.** An applicant may not
32 appeal a determination of ineligibility but may submit another
33 application if that application contains new information
34 relevant to determining eligibility.

35 7190.0008 CLAIM REVIEW.

1 Subpart 1. Director's review. The director shall review a
2 claim to assure the claimant has provided the information
3 required by part 7190.0006.

4 Subp. 2. Claims with required information. If the
5 director determines the claim contains the required information,
6 the director will notify the claimant in writing that the claim
7 has been accepted for filing, and will forward the claim with
8 recommendations for investigation to the chair.

9 Subp. 3. Claims lacking required information. If the
10 director determines the claim lacks required information, the
11 director will provide the claimant written notice describing the
12 required information, the time limits for providing the
13 information, and the consequences of not providing the required
14 information.

15 Subp. 4. Extensions of time for providing required
16 information. If a claimant cannot provide the required
17 information within the designated time limits, the claimant may
18 request from the board an extension of time. The request must
19 be made as soon as reasonably practicable and be in writing. It
20 must give the reasons the extension is needed and the date the
21 information will be provided. The director may approve a
22 request for extension of time. If the director determines a
23 request for extension of time should be denied, the director
24 will submit the request and the director's determination to a
25 professional board member. The board member will issue a
26 written decision to grant or deny the extension. The director
27 will notify the claimant in writing of the decision to grant or
28 deny as soon as practicable after the claimant makes the request.

29 7190.0009 CLAIM ACCESS.

30 During the time a claim is pending before the board, the
31 application, supporting documents, and information gathered by
32 the board shall be available only to members of the board, the
33 board's staff, attorney, and authorized consultants. Claim data
34 in summary form or other form that does not identify the
35 claimant may be distributed. The final decision of the board

1 shall be available to the public.

2 7190.0010 CLAIM AMENDMENT.

3 A claimant must promptly notify the board in writing upon
4 learning of additional personal injury or property damage
5 potentially related to a pending claim. The board will
6 determine whether to permit an amendment of the pending claim.

7 7190.0011 CLAIM CONSOLIDATION.

8 The chair may consolidate two or more related claims if:

- 9 A. the claims arise from the same release; or
10 B. the claims present substantially the same issues;
11 and
12 C. the consolidation would not prejudice the rights
13 of any claimant; and
14 D. the consolidation is administratively practical.

15 7190.0012 CLAIM DISMISSAL.

16 The board may dismiss a claim when:

- 17 A. the claimant refuses to supply requested
18 information, including undergoing mental or physical examination;
19 B. the claimant receives an award from the
20 responsible person;
21 C. the claimant has falsified or withheld information
22 relevant to the claim; or
23 D. the claimant refuses to appear before the board
24 when ordered.

25 7190.0013 EMERGENCY COMPENSATION.

26 A claimant may submit a written request to the board for
27 emergency compensation for expenses related to a pending claim.
28 The board must respond to the request within 30 days. The board
29 shall determine whether to grant emergency compensation as
30 described in Minnesota Statutes, section 115B.28, subdivision 2,
31 clause (3), using the following criteria:

- 32 A. the failure to receive the emergency compensation
33 may create a life-threatening or other seriously disruptive
34 situation such as loss of critical medical care, loss of

1 residence, or loss of other basic necessities; and

2 B. the emergency compensation is not likely to be
3 provided by other sources of assistance available to the
4 claimant.

5 The board may award emergency compensation only to the
6 extent necessary to meet immediate expenses.

7 7190.0014 CLAIM INVESTIGATION.

8 Board members other than the member assigned to the
9 investigation shall not discuss with the claimant outside a
10 board meeting the status of the investigation.

11 7190.0015 CLAIM DETERMINATION.

12 Subpart 1. **Challenge of preliminary decision.** A board
13 member or claimant who challenges a preliminary decision on a
14 claim must indicate in writing what findings are disputed.
15 Within 14 days after the board receives notice of the challenge
16 the claimant shall be notified of the date of a special meeting
17 of the board at which the claimant shall appear. No later than
18 five days preceding the special meeting the claimant shall
19 provide the board with a list of written material that the
20 claimant will supply at the meeting and the names and addresses
21 of the witnesses that the claimant has asked to speak at the
22 meeting.

23 Subp. 2. **Claimant appearance.** The member who wrote the
24 preliminary decision shall not preside at the meeting. The
25 claimant and any witnesses at the special meeting shall speak
26 under oath.

27 Subp. 3. **Claimant review of protected information.** Within
28 30 days of receiving the final decision of the board, a claimant
29 may request to review protected information relevant to the
30 final determination of the claim. The claimant must agree in
31 writing to maintain the confidentiality of such information
32 under Minnesota Statutes, section 115B.35.

33 7190.0016 REOPENING A CLAIM.

34 Within a reasonable time, not to exceed six years from the

1 final determination of a claim, the board by majority vote may
2 reopen the investigation of a claim upon the presentation of new
3 material evidence which with reasonable diligence could not have
4 been found and produced at the time of the claim determination.

5 7190.0017 PAYMENT OF COMPENSATION.

6 Subpart 1. **Claimant payment.** Payment of all compensation
7 shall be directly to the claimant.

8 Subp. 2. **Subrogation.** An offer of compensation from the
9 board shall be subject to the claimant assigning to the board
10 the claimant's rights to recover losses from other sources. The
11 claimant shall agree to cooperate fully with the board in any
12 subrogation action brought by the board.

13 Subp. 3. **Acceptance deadline.** A claimant must accept or
14 reject in writing an offer of compensation from the board within
15 30 days of receiving the offer. If the board receives no
16 response from the claimant, the board shall consider the offer
17 rejected.