

1 Department of Labor and Industry

2

3 Adopted Permanent Rules Relating to Joint Rules of Practice of  
4 the Medical Services Review Board and the Rehabilitation Review  
5 Panel

6

7 Rules as Adopted

8 5217.0300 DEFINITIONS.

9 Subpart 1. **Scope.** For the purposes of parts 5217.0300 to  
10 5217.1000, the terms defined in this part have the meanings  
11 given them.

12 Subp. 2. **Board.** "Board" means the Medical Services Review  
13 Board created by Minnesota Statutes, section 176.103,  
14 subdivision 3.

15 Subp. 3. **Chair.** "Chair" means the member selected by the  
16 board or panel to accomplish or delegate the administrative  
17 tasks of the board or panel and to take action as directed.

18 Subp. 4. **Commissioner.** "Commissioner" means the  
19 commissioner of the Department of Labor and Industry.

20 Subp. 5. **Department.** "Department" means the Department of  
21 Labor and Industry.

22 Subp. 6. **Executive secretary.** "Executive secretary" means  
23 the person assigned to the board or panel by the department to  
24 communicate with the parties concerning the procedural aspects  
25 of cases and to receive documents filed by the parties.

26 Subp. 7. **Panel.** "Panel" means the rehabilitation review  
27 panel created by Minnesota Statutes, section 176.102,  
28 subdivision 3.

29 Subp. 8. **Party.** "Party" means each person named as a  
30 party in the notice of hearing or later intervening as a party.

31 Subp. 9. **Person.** "Person" means an individual, business  
32 entity, or governmental unit.

33 Subp. 10. **Quorum.** "Quorum" means a majority of the total  
34 voting members.

35 Subp. 11. **Voting members.** "Voting members" means:

1           A. a member of the board or panel who is physically  
2 present at the meeting and who has not been disqualified; or

3           B. an alternate who has filled a vacancy or an  
4 absence.

5           Board alternates shall fill vacancies or absences for  
6 members as they appear for the meeting. The chair shall decide  
7 which alternates will serve as members if there is a  
8 controversy. Alternates shall fill vacancies according to their  
9 statutory classification.

10 5217.0400 ACTION.

11           No business shall be conducted without a quorum. The vote  
12 of a majority of the voting members present, so long as there is  
13 a quorum, is necessary for the board or panel to take any action.

14 5217.0500 OFFICERS.

15           At the first meeting after the last day of April of each  
16 year, the voting members shall elect from among their numbers  
17 persons to serve as chair and vice-chair. Persons elected shall  
18 take office at the first meeting following their election or  
19 through the duration of the meeting at which their successors  
20 are elected. Officers may be reelected. In the event of the  
21 absence of the chair and vice-chair the members may elect a  
22 member to have the same authority as the chair.

23 5217.0600 MEETINGS.

24           The board or panel shall schedule monthly meetings.  
25 Additional meetings may be scheduled by a majority vote at a  
26 monthly meeting.

27 5217.0700 DISQUALIFICATION OF BOARD OR PANEL MEMBER.

28           Any member of the board or panel shall voluntarily  
29 disqualify himself or herself and withdraw from any case in  
30 which the member cannot accord a fair and impartial hearing or  
31 consideration. At least ten days before the hearing, at which  
32 the board or panel votes to render a final decision, any party  
33 may request the disqualification of any board or panel member by  
34 filing an affidavit which states with particularity the grounds

1 upon which it is claimed that a fair and impartial hearing  
2 cannot be accorded. The affidavit shall be filed with the  
3 executive secretary of the board or panel. If a party requests  
4 that a member be disqualified, the disqualification issue shall  
5 be determined by majority vote of the other members present even  
6 if the other members do not constitute a quorum.

7 5217.0800 CONTESTED CASES.

8 Subpart 1. **Written exceptions.** The parties may file  
9 written exceptions to the administrative law judge's report with  
10 the executive secretary of the board or panel no later than 20  
11 calendar days after service and filing of the administrative law  
12 judge's report.

13 Written exceptions shall be accompanied by an affidavit  
14 stating that service of a copy of the written exceptions has  
15 been made upon all other parties to the action. In matters  
16 before the board, the original and 21 copies of written  
17 exceptions and arguments shall be filed with the executive  
18 secretary of the board; in matters before the panel, the  
19 original and 15 copies shall be filed with the executive  
20 secretary of the panel.

21 Subp. 2. **Reply written exceptions.** The parties may file  
22 reply written exceptions with the executive secretary of the  
23 board or panel within ten days after service and filing of the  
24 written exceptions. Reply written exceptions shall address only  
25 issues outlined in the opposing party's written exceptions and  
26 arguments. In matters before the board, the original and 21  
27 copies with proof of service listing all other parties shall be  
28 filed with the executive secretary of the board; in matters  
29 before the panel, the original and 15 copies with proof of  
30 service listing all other parties shall be filed with the  
31 executive secretary of the panel.

32 Subp. 3. **Oral arguments.** The board or panel shall  
33 schedule oral argument ~~in-addition-to-written-exceptions~~. The  
34 board or panel shall notify the parties by first class mail as  
35 to the date set for oral argument at least 14 calendar days in

1 advance.

2 Each party shall be allotted ten minutes for oral argument  
3 to the board or panel and five minutes for rebuttal argument.

4 Any party may waive oral argument.

5 Subp. 4. **Representation.** A party may appear before the  
6 board or panel in person or through a representative. A  
7 representative of a party need not be an attorney. A  
8 nonattorney representative must not engage in the unauthorized  
9 practice of law as defined in Minnesota Statutes, section  
10 481.02. If the panel or board is notified that the party will  
11 be represented, all documents required to be served on the party  
12 will also be served on the party's representative.

13 5217.0900 SETTLEMENT AGREEMENTS.

14 Approval or disapproval of proposed settlement agreements  
15 that come before the board or panel shall be by affirmative vote  
16 of at least a majority of voting members present so long as  
17 there is a quorum. The chair shall execute approved settlement  
18 agreements on behalf of the board or panel.

19 5217.1000 DECISION AND ORDER AND APPEALS.

20 Every decision and order in a contested case shall be in  
21 writing, shall be by a majority of voting members present so  
22 long as there is a quorum, and shall contain a statement of  
23 findings of fact, conclusions of law, and an order of the board  
24 or panel. Parties to the proceedings and Office of  
25 Administrative Hearings shall be served in person or by first  
26 class mail with a copy of the findings and order.

27 Final decisions of the board or panel in a contested case  
28 may be appealed to the Workers' Compensation Court of Appeals  
29 pursuant to the procedures in Minnesota Statutes, section  
30 176.421, except that all appeals shall be filed through the  
31 executive secretary of the board or panel.