

Accompanying the sixth recommendation of the Division of Industrial Accidents (House, No. 118). Commerce and Labor.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Nine.

AN ACT TO CREATE A WORKER'S COMPENSATION REHABILITATION OFFICE WITHIN THE DIVISION OF INDUSTRIAL ACCIDENTS, AND TO ENLARGE THE REHABILITATION PROVISIONS OF THE WORKER'S COMPENSATION ACT.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 23 of the General Laws is hereby
2 amended by striking out Section 24, as most recently amended by
3 Chapter 801, #60, of the Acts of 1961, and inserting in place thereof
4 the following section:

5 *Section 24.* One of the primary purposes of the workmen's com-
6 pensation act shall be the restoration of the injured employee to
7 gainful employment. To this end there is hereby created a work-
8 men's compensation rehabilitation office within the division of
9 industrial accidents which shall be composed of specialists in medi-
10 cal and vocational rehabilitation to be appointed by the chairman
11 and who shall be under the supervision of a director. Said office
12 shall perform such functions of the division in relation to the
13 administration and enforcement of the provisions of chapter one
14 hundred and fifty-two relating to rehabilitation as the chairman
15 may from time to time determine.

16 There shall be in the division an industrial accident rehabilita-
17 tion board, consisting of the chairman of the industrial accident
18 board and the commissioner of the massachusetts rehabilitation
19 commission or their authorized representatives as members ex
20 officio, and five members to be appointed by the governor, with
21 the advice and consent of the council, for a term of six years, of

22 whom one shall be a registered physician, one a representative of
23 organized labor, one an employer, one a representative of a casu-
24 alty insurance company and one a person who has undergone a
25 rehabilitation program. The governor shall designate the chairman
26 of said rehabilitation board. The governor may, with the advice
27 and consent of the council, fill any vacancy on the board.

28 Each member of the rehabilitation board shall serve until his
29 successor is appointed and qualified. Each member of said board,
30 except the members *ex officio*s, shall receive fifty dollars for each
31 day or portion thereof spent at meetings of the board; provided,
32 that the total sum paid to any member shall not exceed twenty-five
33 hundred dollars in any fiscal year. Said board shall meet as often as
34 it deems necessary in order to perform its duties, and its members
35 shall receive their traveling and other expenses necessarily incurred
36 in the performance of their duties. The chairman of the industrial
37 accident board shall provide suitable quarters for the rehabilita-
38 tion board, and such clerical, secretarial, administrative or other
39 service and assistance as may be necessary. Said offices and the
40 incumbents thereof shall not be subject to chapter thirty-one or the
41 rules made thereunder.

42 The rehabilitation board may make orders in accordance with
43 the provisions of chapter one hundred fifty-two and shall function
44 as an advisory council on the status of the rehabilitation of the
45 industrially injured and shall make periodic recommendations to
46 the chairman of the industrial accident board. The director and the
47 rehabilitation board shall cooperate on a reciprocal basis with the
48 vocational rehabilitation sections of the massachusetts rehabilita-
49 tion commission and the massachusetts commission for the blind.

1 SECTION 2. Chapter 152 of the General Laws is hereby
2 amended by striking out Section 30A as most recently amended by
3 Chapter 602, #14 of the Acts of 1956 and inserting in place thereof
4 the following section:

5 *Section 30A.* An employee who has suffered an injury covered
6 by chapter one hundred fifty-two shall be entitled to prompt
7 medical rehabilitation services. When, as a result of the injury, he is

8 unable to perform work for which he has previous training or
9 experience, he shall be entitled to such vocational rehabilitation
10 services, including job modification, retraining and job placement,
11 as may be reasonably necessary to restore him to suitable employ-
12 ment. If such services are not voluntarily offered or accepted, the
13 director, on his own motion, or upon the application of the
14 employee or insurer, after affording the parties an opportunity to
15 be heard, may refer the employee to a qualified physician or facility
16 or agency for evaluation of the practicability of, need for, and kind
17 of service, treatment or training necessary and appropriate to ren-
18 der him fit for a gainful occupation. The reasonable cost of such an
19 evaluation procedure shall be borne by the insurer. Upon receipt of
20 such report, and after affording the parties an opportunity to be
21 heard, the rehabilitation board may order that the services and
22 treatment or service it may deem necessary, be provided at the
23 expense of the insurer. Appeals from the orders of the rehabilita-
24 tion board shall be heard in accordance with the provisions of
25 section 30B.

26 The rehabilitation board established under section twenty-four
27 of chapter twenty-three shall continually study the problems of
28 rehabilitation. The director in consultation with the rehabilitation
29 board shall examine such rehabilitation facilities, both private and
30 public, and establish a list of such physicians as are available to
31 render competent rehabilitation services for seriously injured
32 industrial workers. Rehabilitation facilities shall include medical,
33 surgical, hospital, prostheses and physical restoration services. No
34 facility shall be considered as qualified unless it is established to
35 provide rehabilitation services for persons suffering from some
36 specialized or general type of disablement within the field of indus-
37 trial injury and unless such facility is operated under the supervi-
38 sion of physicians qualified to render rehabilitation services, is
39 staffed with trained and qualified technicians and has received a
40 certificate of qualifications from said commission. No physician
41 shall be considered as qualified unless he has had experience for a
42 reasonable term of years in a qualified rehabilitation facility or as
43 qualified for a special rehabilitation procedure because he holds a
44 certification by an American Board of Specialty.

1 SECTION 3. Chapter 152 is further amended by striking out
2 Section 30B as most recently amended by Chapter 773 of the Acts
3 of 1971, and inserting in place thereof the following section:

4 *Section 30B.* The rehabilitation board created by chapter
5 twenty-three section twenty-four shall designate to act as impartial
6 rehabilitation examiners physicians who are specially qualified
7 and experienced in special means and methods of rehabilitation.
8 The chairman of the industrial accident board shall appoint such
9 physicians as are so designated by the rehabilitation board to serve
10 as impartial rehabilitation examiners and to assist the division and
11 the board in cases which may require rehabilitation services. A
12 reasonable fee shall be allowed to the impartial rehabilitation
13 examiner by the division. The fee for this service shall be a reason-
14 able amount set by the division and the insurer shall remit payment
15 directly to the impartial rehabilitation examiner promptly upon
16 receipt of the approved bill.

17 The division and the rehabilitation board or any member thereof
18 may refer to an impartial rehabilitation examiner any employee
19 entitled to compensation under the provisions of this chapter for
20 recommendation of the need and kind of rehabilitation treatment
21 or services required by him. The report of the impartial rehabilita-
22 tion examiner shall be admissible as evidence in any proceeding
23 before the division or member thereof, provided, that the employee
24 and the insurer have reasonably been furnished with copies
25 thereof.

26 An insurer or self-insurer shall furnish rehabilitation services by
27 a rehabilitation facility or a physician who, in the opinion of the
28 board, is qualified to render rehabilitation services, and shall also
29 furnish vocational services to any injured worker eligible for or
30 receiving compensation under the provisions of the chapter who is
31 determined to be fit and eligible for vocational rehabilitation by the
32 massachusetts rehabilitation commission, established by section
33 seventy-four of chapter six; provided, that any dispute concerning
34 liability or payments for such vocational rehabilitation by said
35 insurer or self-insurer shall be decided by the industrial accident
36 board after a hearing before a member thereof at which both the
37 employee and the massachusetts rehabilitation commission,

38 whether or not it has paid for rehabilitation services, shall be
39 parties and the attorney general shall, if requested by the massa-
40 chusetts rehabilitation commission, represent said commission in
41 any matter relating thereto. The decision of the member shall be
42 filed in accordance with section eight and unless a claim for review
43 is filed within the period prescribed in section eight, the decision,
44 including any order to the insurer or self-insurer to reimburse a
45 party, shall be enforceable under section eleven. Fees for rehabili-
46 tation services shall be the reasonable and necessary cost of such
47 services; expenses for the rehabilitation of the injured employee
48 shall include travel, board and room when necessary, subject to the
49 approval of the division, and shall be paid for by the insurer.

1 SECTION 4. Chapter 152 of the General Laws is hereby further
2 amended by striking out Section 30C as inserted by #2 of Chapter
3 767 of the Acts of 1950, and inserting in place thereof the following
4 section:

5 *Section 30C.* Refusal to accept rehabilitation services pursuant
6 to an order of the rehabilitation board shall cause the director to
7 notify the division which shall thereupon assign the case for confer-
8 ence by a member thereof, such member shall make such inquiries
9 and investigations as he deems necessary and shall have the power
10 to suspend or reduce the compensation otherwise payable under
11 section thirty-four of chapter one hundred fifty-two.

1 SECTION 5. Chapter 152 of the General Laws is hereby further
2 amended by inserting after Section 30C the following section: —

3 *Section 30D.* Every insurer or self-insurer shall furnish to the
4 workmen's compensation rehabilitation office, established by sec-
5 tion twenty-four of chapter twenty-three, the name and address of
6 every person who has been receiving from such insurer or self-
7 insurer compensation under the provisions of chapter one hundred
8 and fifty-two for a period of three months. Such information shall
9 be confidential and for the exclusive use of said office and the
10 rehabilitation board in the discharge of its duties, and shall not be
11 open to the public, notwithstanding the provisions of section ten of
12 chapter sixty-six or other provisions of law; provided, that nothing
13 herein shall be construed to prevent the board from publishing

14 such information in statistical form without disclosing the identity
15 of the applicant involved. Whoever, except with the authority of
16 the board or pursuant to its rules and regulations, or as otherwise
17 required or authorized by law, shall disclose such information shall
18 be punished by a fine of not more than one hundred dollars or by
19 imprisonment for not more than six months, or both.

