

# Minnesota Department of Labor and Industry

## Workers' Compensation Division

### NOTICE OF INTENT TO ADOPT EXPEDITED RULES WITHOUT A PUBLIC HEARING

#### **Proposed Rules Amending General Treatment Parameters, *Minnesota Rules*, part 5221.6050 and Governing Treatment for Post-Traumatic Stress Disorder, *Minnesota Rules*, part 5221.6700; Revisor's ID Number RD4617**

**Introduction.** The Department of Labor and Industry (DLI) intends to adopt rules under the expedited rulemaking process following the rules of the Office of Administrative Hearings, *Minnesota Rules*, part 1400.2410, and the Administrative Procedure Act, *Minnesota Statutes*, section 14.389. You may submit written comments on the proposed expedited rules until December 12, 2019.

**Agency Contact Person.** Submit comments or questions on the rules to: Ethan Landy at the Department of Labor and Industry, 443 Lafayette Rd. N., St. Paul, MN 55155, phone (651) 284-5006, and email to [dli.rules@state.mn.us](mailto:dli.rules@state.mn.us).

**Statutory Authority.** The specific statutory authority to adopt the proposed rules for criteria for treatment of PTSD is in Minnesota Statutes, section 176.83, subd 5(b)(8). This section states that the commissioner "shall adopt the rules using the expedited rulemaking process in [Minnesota Statutes,] section 14.389, including subdivision 5...." Pursuant to Minnesota Statutes, section 176.83, subd. 5 (a), rules establishing standards and procedures for health care provider treatment are used to determine whether a provider of health care services is "performing procedures or providing services at a level or with a frequency that is excessive, unnecessary, or inappropriate under section 176.135, subdivision 1, based upon accepted medical standards for quality health care...."

A copy of the proposed rules is published in the State Register and attached to this notice as mailed. The proposed expedited rules may be viewed at [www.dli.mn.gov/about-department/rulemaking/rulemaking-docket-minnesota-rules-chapter-52216700-2019](http://www.dli.mn.gov/about-department/rulemaking/rulemaking-docket-minnesota-rules-chapter-52216700-2019).

**Subject of the Expedited Rules.** The proposed expedited rules are about treatment of post-traumatic stress disorder (PTSD) in Minnesota workers' compensation. Specifically, the proposed rules explain the scope of treatment for PTSD in Minnesota workers' compensation after it is diagnosed according to the requirements in Minnesota Statutes, section 176.011, subd. 15(d). The proposed rules outline what information should be included in a health care provider's initial evaluation for PTSD and a patient's established treatment plan. The proposed rules also describe the trauma-focused psychotherapy treatment modalities and medications that are indicated when treating for PTSD. Next, the proposed rules explain when a psychological assessment is indicated before a patient undergoes an additional period of psychotherapy treatment. Additionally, the proposed rules note when a payer should receive prior notification of treatment for PTSD and how a patient can change their treating health care provider. Finally, the proposed rules outline the information the treating health care provider needs to document in a

patient's medical record or other report during treatment. A payer's liability for treatment for PTSD that is excessive under the proposed rules, and according to Minnesota Rules, part 5221.6050, subpart 7, is limited unless otherwise determined by the commissioner or a compensation judge.

**Comments.** You have until 4:30 p.m. on Thursday, December 12, 2019, to submit written comment in support of or in opposition to the proposed expedited rules and any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comments are encouraged. Your comment should identify the portion of the proposed expedited rules addressed, the reason for the comment, and any change proposed. Any comments that you have on the legality of the proposed rules must also be made during this comment period.

**Request for Hearing.** In addition to submitting comments, you may also request that a hearing be held on the rules pursuant to Minnesota Statutes, section 14.389, subd. 5. You must make your request in writing and the agency contact person must receive it by 4:30 p.m. on Thursday, December 12, 2019. Your written request must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and DLI cannot count it for 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 100 or more persons submit a valid written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 100, DLI must give written notice of this to all persons who requested a hearing, explain the actions DLI took to effect the withdrawal, and ask for written comments on this action. If DLI is required to hold a public hearing, it will follow the procedures in *Minnesota Statutes*, section 14.131 to 14.20.


**Modifications.** DLI might modify the proposed expedited rules using either of two avenues: modifying the rules directly so long as the modifications do not make them substantially different as defined in *Minnesota Statutes*, section 14.05, subdivision 2, paragraphs (b) and (c); or adopting substantially different rules if DLI follows the procedure under *Minnesota Rules*, part 1400.2110. If the final rules are identical to the rules originally published in the State Register, DLI will publish a notice of adoption in the State Register. If the final rules are different from the rules originally published in the State Register, DLI must publish a copy of the changes in the State Register. If the proposed expedited rules affect you in any way, the agency encourages you to participate in the rulemaking process.

**Alternative Format.** Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. To make such a request, please contact the agency contact person at the address or telephone number listed above.

**Lobbyist Registration.** *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. You may direct questions regarding this requirement to the Campaign Finance and Public Disclosure Board at: Suite #190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone (651) 539-1180 or 1-800-657-3889.

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

10/31/2019  
Date

  
Nancy J. Leppink, Commissioner