

LEGISLATIVE BILL 1010

Approved by the Governor April 8, 1998

Introduced by Abboud, 12; Dierks, 40; Hilgert, 7; Preister, 5; Schimek, 27; Schrock, 38

AN ACT relating to workers' compensation; to amend sections 48-120, 48-120.02, 48-151, and 48-173, Reissue Revised Statutes of Nebraska, and section 48-115, Revised Statutes Supplement, 1997; to change provisions relating to medical issues; to redefine terms; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 48-115, Revised Statutes Supplement, 1997, is amended to read:

48-115. The terms employee and worker are used interchangeably and have the same meaning throughout the Nebraska Workers' Compensation Act. Such terms include the plural and all ages and both sexes and shall be construed to mean:

(1) Every person in the service of the state or of any governmental agency created by it, including the Nebraska National Guard and members of the military forces of the State of Nebraska, under any appointment or contract of hire, expressed or implied, oral or written. For the purposes of the Nebraska Workers' Compensation Act, (a) volunteer firefighters of any fire department of any rural or suburban fire protection district, city, or village, which fire department is regularly organized under the laws of the State of Nebraska, shall be deemed employees of such rural or suburban fire protection district, city, or village while in the performance of their duties as members of such department and shall be considered as having entered and as acting in the regular course of their employment when traveling from any place from which they have been called to active duty to a fire station or other place where firefighting equipment that their company or unit is to use is located or to any emergency that the volunteer firefighters may be officially called to participate in, (b) members of such volunteer fire department, before they are entitled to benefits under the Nebraska Workers' Compensation Act, shall be recommended by the chief of the fire department for membership therein to the board of directors, the mayor and city commission, the mayor and council, or the chairperson and board of trustees, as the case may be, and upon confirmation shall be deemed employees of the rural or suburban fire protection district, city, or village, (c) members of such fire department after confirmation to membership may be removed by a majority vote of such board of directors, commission, council, or board and thereafter shall not be considered employees of such rural or suburban fire protection district, city, or village, (d) firefighters of any fire department of any rural or suburban fire protection district, city, or village shall be considered as acting in the performance and within the scope of their duties in fighting fire or saving property or life outside of the corporate limits of their respective districts, cities, or villages, but only if directed to do so by the chief of the fire department or some person authorized to act for such chief, (e) any members of the Nebraska Emergency Management Agency, any city, village, county, or interjurisdictional emergency management organization, or any state emergency response team, which agency, organization, or team is regularly organized under the laws of the State of Nebraska, shall be deemed employees of such agency, organization, or team while in the performance of their duties as members of such agency, organization, or team, (f) any person fulfilling conditions of probation, or community service as defined in section 29-2277, pursuant to any order of any court of this state who shall be working for a governmental body, or agency as defined in section 29-2277, pursuant to any condition of probation, or community service as defined in section 29-2277, shall be deemed an employee of the governmental body or agency for the purposes of the Nebraska Workers' Compensation Act, (g) volunteer ambulance drivers and attendants and out-of-hospital emergency care providers who are members of an emergency medical service for any county, city, or village or any combination of such county, city, or village under the authority of section 13-303 shall be deemed employees of the county, city, or village or combination thereof while in the performance of their duties as ambulance drivers or attendants or out-of-hospital emergency care providers and shall be considered as having entered into and as acting in the regular course of their employment when traveling from any place from which they have been called to active duty to a hospital or other place where the ambulance they are to use

is located or to any emergency in which the volunteer ambulance drivers or attendants or out-of-hospital emergency care providers may be officially called to participate, but such volunteer ambulance drivers or attendants or out-of-hospital emergency care providers shall be considered as acting in the performance and within the scope of their duties outside of the corporate limits of their respective county, city, or village only if officially directed to do so, (h) before such volunteer ambulance drivers or attendants or out-of-hospital emergency care providers shall be entitled to benefits under the Nebraska Workers' Compensation Act, they shall be confirmed to perform such duties by the county board or the governing body of the city or village or combination thereof, as the case may be, and upon such confirmation shall be deemed employees of the county, city, or village or combination thereof and may be removed by majority vote of such county board or governing body of the city or village, (i) members of a law enforcement reserve force appointed in accordance with section 81-1438 shall be deemed employees of the county or city for which they were appointed, and (j) any offender committed to the Department of Correctional Services who is employed pursuant to section 81-1827 shall be deemed an employee of the Department of Correctional Services solely for purposes of the Nebraska Workers' Compensation Act; and

(2) Every person in the service of an employer who is engaged in any trade, occupation, business, or profession as described in section 48-106 under any contract of hire, expressed or implied, oral or written, including aliens and also including minors, who for the purpose of making election of remedies under the Nebraska Workers' Compensation Act shall have the same power of contracting and electing as adult employees.

As used in subdivisions (1) and (2) of this section, the terms employee and worker shall not be construed to include any person whose employment is not in the usual course of the trade, business, profession, or occupation of his or her employer.

If an employee subject to the Nebraska Workers' Compensation Act suffers an injury on account of which he or she or, in the event of his or her death, his or her dependents would otherwise have been entitled to the benefits provided by such act, the employee or, in the event of his or her death, his or her dependents shall be entitled to the benefits provided under such act, if the injury or injury resulting in death occurred within this state, or if at the time of such injury (a) the employment was principally localized within this state, (b) the employer was performing work within this state, or (c) the contract of hire was made within this state.

(3) (a) Except as provided in subdivision (3)(b) of this section, every executive officer of a corporation elected or appointed under the provisions or authority of the charter, articles of incorporation, or bylaws of such corporation shall be an employee of such corporation under the Nebraska Workers' Compensation Act, except that an executive officer of a Nebraska corporation who owns twenty-five percent or more of the common stock of such corporation may waive his or her right to coverage. Such waiver shall be in writing and filed with the secretary of the corporation and the Nebraska Workers' Compensation Court. Such waiver, as prescribed by the compensation court, shall include a statement in substantially the following form: Notice. I am aware that health and accident insurance policies frequently exclude coverage for personal injuries caused by accident or occupational disease arising out of and in the course of employment. Before waiving my rights to coverage under the Nebraska Workers' Compensation Act, I certify that I have carefully examined the terms of my health and accident coverage. Such waiver shall become effective from the date of receipt by the compensation court and shall remain in effect until the waiver is terminated by the officer in writing and filed with the secretary of the corporation and the compensation court. The termination of the corporate executive officer's waiver shall be effective upon receipt of the termination by the compensation court. It shall not be permissible to terminate a waiver prior to one year after the waiver has become effective.

(b) An executive officer of a Nebraska nonprofit corporation who receives annual compensation of one thousand dollars or less from the nonprofit corporation shall not be construed to be an employee of such nonprofit corporation under the Nebraska Workers' Compensation Act unless such executive officer elects to bring himself or herself within the provisions of the Nebraska Workers' Compensation Act. Such election shall be in writing and filed with the secretary of the nonprofit corporation and shall remain in effect until the election is terminated, in writing, by the officer and the termination is filed with the secretary of the nonprofit corporation.

(4) Each individual employer, partner, limited liability company member, or self-employed person who is actually engaged in the individual employer's, partnership's, limited liability company's, or self-employed

person's business on a substantially full-time basis may elect to bring himself or herself within the provisions of the Nebraska Workers' Compensation Act, if he or she (a) files with his or her current workers' compensation insurer written notice of election to have the same rights as an employee only for purposes of workers' compensation insurance coverage acquired by and for such individual employer, partner, limited liability company member, or self-employed person or (b) gives notice of such election and such insurer collects a premium for such coverage acquired by and for such individual employer, partner, limited liability company member, or self-employed person. This election shall be effective from the date of receipt by the insurer for the current policy and subsequent policies issued by such insurer until such time as such employer, partner, limited liability company member, or self-employed person files a written statement withdrawing such election with the current workers' compensation insurer or until such coverage by such insurer is terminated, whichever occurs first. When so included, the individual employer, partner, limited liability company member, or self-employed person shall have the same rights as an employee only with respect to the benefits provided under the Nebraska Workers' Compensation Act. If any individual employer, partner, limited liability company member, or self-employed person who is actually engaged in the individual employer's, partnership's, limited liability company's, or self-employed person's business on a substantially full-time basis has not elected to bring himself or herself within the provisions of the Nebraska Workers' Compensation Act pursuant to this subdivision and any health, accident, or other insurance policy issued to or renewed by such person after July 10, 1984, contains an exclusion of coverage, if the insured is otherwise entitled to workers' compensation coverage, such exclusion shall be null and void as to such person.

(5) An individual lessor of a commercial motor vehicle leased to a motor carrier and driven by such individual lessor, may elect to bring himself or herself within the provisions of the Nebraska Workers' Compensation Act if he or she agrees in writing with the motor carrier to have the same rights as an employee only for purposes of workers' compensation coverage maintained by the motor carrier. For an election under this subdivision, the motor carrier's principal place of business must be in this state and the motor carrier must be authorized to self-insure liability under the Nebraska Workers' Compensation Act. Such an election shall (a) be effective from the date of such written agreement until such agreement is terminated, (b) be enforceable against such self-insured motor carrier in the same manner and to the same extent as claims arising under the Nebraska Workers' Compensation Act by employees of such self-insured motor carrier, and (c) not be deemed to be a contract of insurance for purposes of Chapter 44. Section 48-111 shall apply to the individual lessor and the self-insured motor carrier with respect to personal injury or death caused to such individual lessor by accident or occupational disease arising out of and in the course of performing services for such self-insured motor carrier in connection with such lease while such election is effective.

Sec. 2. Section 48-120, Reissue Revised Statutes of Nebraska, is amended to read:

48-120. (1) The employer shall be liable for all reasonable medical, surgical, and hospital services, including plastic surgery or reconstructive surgery but not cosmetic surgery when the injury has caused disfigurement, appliances, supplies, prosthetic devices, and medicines as and when needed, which are required by the nature of the injury and which will relieve pain or promote and hasten the employee's restoration to health and employment, and shall include damage to or destruction of artificial members, dental appliances, teeth, hearing aids, and eyeglasses. but, in the case of dental appliances, hearing aids, or eyeglasses, only if such damage or destruction resulted from an accident which also caused personal injury entitling the employee to compensation therefor for disability or treatment, subject to the approval of and regulation by the Nebraska Workers' Compensation Court, not to exceed the regular charge made for such service in similar cases.

The compensation court may establish schedules of maximum fees for such services. If the compensation court establishes such a schedule, it shall publish and furnish such schedule to the public. The compensation court shall review such schedule at least biennially and adopt appropriate changes when necessary. The compensation court may contract with any person, firm, corporation, organization, or government agency to secure adequate data to establish such fees. The provider or supplier of such services shall not collect or attempt to collect from any employer, insurer, government, or injured employee or dependent or the estate of any injured or deceased employee any amount in excess of the maximum fee established by the

compensation court for any such service. The compensation court shall establish and charge a fee to recover the cost of published fee schedules. Notwithstanding any other provision of this section, the compensation court may exclude from the application of such schedules those services performed under a managed care plan certified pursuant to section 48-120.02.

(2) (a) The employee shall have the right to select a physician who has maintained the employee's medical records prior to an injury and has a documented history of treatment with the employee prior to an injury or a physician who has maintained the medical records of an immediate family member of the employee prior to an injury and has a documented history of treatment with an immediate family member of the employee prior to an injury. For purposes of this subsection, immediate family member shall mean the employee's spouse, children, parents, stepchildren, and stepparents. The employer shall notify the employee following an injury of such right of selection in a form and manner and within a timeframe established by the compensation court. If the employer fails to notify the employee of such right of selection or fails to notify the employee of such right of selection in a form and manner and within a timeframe established by the compensation court, then the employee shall have the right to select a physician. If the employee fails to exercise such right of selection in a form and manner and within a timeframe established by the compensation court following notice by the employer pursuant to this subsection, then the employer shall have the right to select the physician. The employee or employer may not change the initial selection of physician made pursuant to this subsection unless such change is agreed to by the employee and employer or is ordered by the compensation court pursuant to subsection (6) of this section. If compensability is denied by the insurer, risk management pool, or self-insured employer, (i) the employee shall have the right to select a physician and shall not be made to enter a managed care plan and (ii) the employer shall be liable for medical, surgical, and hospital services subsequently found to be compensable. If the employer has exercised the right to select a physician pursuant to this subsection and if the compensation court subsequently orders reasonable medical services previously refused to be furnished to the employee by the physician selected by the employer, the compensation court shall allow the employee to select another physician to furnish further medical services. If the employee selects a physician located in a community not the home or place of work of the employee and a physician is available in the local community or in a closer community, no travel expenses shall be required to be paid by the employer or his or her insurer.

(b) In cases of injury requiring dismemberment or injuries involving major surgical operation, the employee may designate to his or her employer the physician or surgeon to perform the operation.

(c) If the injured employee unreasonably refuses or neglects to avail himself or herself of medical or surgical treatment furnished by the employer, except as herein and otherwise provided, the employer shall not be liable for an aggravation of such injury due to such refusal and neglect and the compensation court or judge thereof may suspend, reduce, or limit the compensation otherwise payable under the Nebraska Workers' Compensation Act.

(d) If, due to the nature of the injury or its occurrence away from the employer's place of business, the employee or the employer is unable to select a physician using the procedures provided by this subsection, the selection requirements of this subsection shall not apply as long as the inability to make a selection persists.

(e) The physician selected may arrange for any consultation, referral, or extraordinary or other specialized medical services as the nature of the injury shall require.

(f) The employer shall not be responsible for medical services furnished or ordered by any physician or other person selected by the employee in disregard of this section. Except as otherwise provided by the Nebraska Workers' Compensation Act, the employer shall not be liable for medical, surgical, or hospital services or medicines if the employee refuses to allow them to be furnished by the employer.

(3) No claim for such medical treatment shall be valid and enforceable unless, within fourteen days following the first treatment, the physician giving such treatment furnishes the employer and the Nebraska Workers' Compensation Court a report of such injury and treatment on a form prescribed by the compensation court. The compensation court may excuse the failure to furnish such report within fourteen days when it finds it to be in the interest of justice to do so.

(4) All physicians and other providers of medical services attending injured employees shall comply with all the rules and regulations adopted and promulgated by the Nebraska Workers' Compensation Court and shall make such

reports as may be required by it at any time and at such times as required by it upon the condition or treatment of any injured employee or upon any other matters concerning cases in which they are employed. Generally, all medical and hospital information relevant to the particular injury shall, on demand, be made available to the employer, the employee, the carrier, and the compensation court. The party requesting such medical and hospital information shall pay the cost thereof. No such relevant information developed in connection with treatment or examination for which compensation is sought shall be considered a privileged communication for purposes of a workers' compensation claim. When a physician or other provider of medical services willfully fails to make any report required of him or her under this section, the compensation court may order the forfeiture of his or her right to all or part of payment due for services rendered in connection with the particular case.

(5) Whenever the Nebraska Workers' Compensation Court deems it necessary, in order to assist it in resolving any issue of medical fact or opinion, it shall cause the employee to be examined by a physician or physicians selected by the compensation court and obtain from such physician or physicians a report upon the condition or matter which is the subject of inquiry. The compensation court may charge the cost of such examination to the carrier. The cost of such examination shall include the payment to the employee of all necessary and reasonable expenses incident to such examination, such as transportation and loss of wages.

(6) The Nebraska Workers' Compensation Court shall have the authority to determine the necessity, character, and sufficiency of any medical services furnished or to be furnished and shall have authority to order a change of physician, hospital, rehabilitation facility, or other medical services when it deems such change is desirable or necessary. Any dispute regarding medical, surgical, or hospital services furnished or to be furnished under this section may be submitted by the parties, the supplier of such service, or the compensation court on its own motion for informal dispute resolution by a staff member of the compensation court or an outside mediator pursuant to section 48-168. In addition, any party may submit such a dispute for a medical finding by an independent medical examiner pursuant to section 48-134.01. Issues submitted for informal dispute resolution or for a medical finding by an independent medical examiner may include, but are not limited to, the reasonableness and necessity of any medical treatment previously provided or to be provided to the injured employee. The compensation court may adopt and promulgate rules and regulations regarding informal dispute resolution or the submission of disputes to an independent medical examiner that are considered necessary to effectuate the purposes of this section.

(7) For the purpose of this section, physician shall mean any person licensed to practice medicine and surgery, osteopathic medicine, chiropractic, podiatry, or dentistry.

(8) The Nebraska Workers' Compensation Court shall order the employer to make payment directly to the supplier of any services provided for in this section or reimbursement to anyone who has made any payment to the supplier for services provided in this section. No such supplier or payor may be made or become a party to any action before the compensation court.

(9) Notwithstanding any other provision of this section, an insurer, a risk management pool, or a self-insured employer may contract for medical, surgical, hospital, and rehabilitation services to be provided through a managed care plan certified pursuant to section 48-120.02. Once liability for medical, surgical, and hospital services has been accepted or determined, the employer may require that employees subject to the contract shall receive medical, surgical, and hospital services in the manner prescribed in the contract, except that an employee may receive services from a physician selected by the employee pursuant to subsection (2) of this section if the physician so selected agrees to refer the employee to the managed care plan for any other treatment that the employee may require and if the physician so selected agrees to comply with all the rules, terms, and conditions of the managed care plan. If compensability is denied by the insurer, risk management pool, or self-insured employer, the employee may leave the managed care plan and the employer shall be liable for medical, surgical, and hospital services previously provided. The insurer, risk management pool, or self-insured employer shall give notice to employees subject to the contract of eligible service providers and such other information regarding the contract and manner of receiving medical, surgical, and hospital services under the managed care plan as the compensation court may prescribe.

Sec. 3. Section 48-120.02, Reissue Revised Statutes of Nebraska, is amended to read:

48-120.02. (1) Any person or entity may make written application to

the Nebraska Workers' Compensation Court to have a plan certified that provides management of quality treatment to injured employees for injuries and diseases compensable under the Nebraska Workers' Compensation Act. Any such person or entity having a relationship with a workers' compensation insurer or any such person or entity having a relationship with an employer for which a plan is being proposed for its own employees shall make full disclosure of such relationship to the compensation court under rules and regulations to be adopted and promulgated by the compensation court. Each application for certification shall be accompanied by a reasonable fee prescribed by the compensation court. A plan may be certified to provide services in a limited geographic area. A certificate is valid for the period the compensation court prescribes unless revoked or suspended. Application for certification shall be made in the form and manner and shall set forth information regarding the proposed plan for providing services as the compensation court may prescribe. The information shall include, but not be limited to:

(a) A list of the names of all providers of medical, surgical, and hospital services under the managed care plan, together with appropriate evidence of compliance with any licensing or certification requirements for those providers to practice in this state; and

(b) A description of the places and manner of providing services under the plan.

(2) The compensation court shall certify a managed care plan if the compensation court finds that the plan:

(a) Proposes to provide quality services that meet uniform treatment standards which may be prescribed by the compensation court and all medical, surgical, and hospital services that may be required by the Nebraska Workers' Compensation Act in a manner that is timely, effective, and convenient for the employee;

(b) Is reasonably geographically convenient to employees it serves;

(c) Provides appropriate financial incentives to reduce service costs and utilization without sacrificing the quality of service;

(d) Provides adequate methods of peer review, utilization review, and dispute resolution to prevent inappropriate, excessive, or not medically necessary treatment and excludes participation in the plan by those individuals who violate treatment standards;

(e) Provides a procedure for the resolution of medical disputes;

(f) Provides aggressive case management for injured employees and provides a program for early return to work and cooperative efforts by the employees, the employer, and the managed care plan to promote workplace health and safety consultative and other services;

(g) Provides a timely and accurate method of reporting to the compensation court necessary information regarding medical, surgical, and hospital service cost and utilization to enable the compensation court to determine the effectiveness of the plan;

(h) Authorizes employees to receive medical, surgical, and hospital services from a physician who is not a member of the managed care plan if such physician has been selected by the employee pursuant to subsection (2) of section 48-120 and if such physician agrees to refer the employee to the managed care plan for any other treatment that the employee may require and agrees to comply with all the rules, terms, and conditions of the managed care plan;

(i) Authorizes necessary emergency medical treatment for an injury which is provided by a provider of medical, surgical, and hospital services who is not a part of the managed care plan;

(j) Does not discriminate against or exclude from participation in the plan any category of providers of medical, surgical, or hospital services and includes an adequate number of each category of providers of medical, surgical, and hospital services to give employees convenient geographic accessibility to all categories of providers and adequate flexibility to choose providers of medical, surgical, and hospital services from among those who provide services under the plan;

(k) Provides an employee the right to change medical, surgical, or hospital service providers under the plan at least once; and

(l) Complies with any other requirement the compensation court determines is necessary to provide quality medical, surgical, and hospital services to injured employees.

The compensation court may accept findings, licenses, or certifications of other state agencies as satisfactory evidence of compliance with a particular requirement of this subsection.

(3) An employee shall exhaust the dispute resolution procedure of the certified managed care plan prior to filing a petition or otherwise seeking relief from the compensation court on an issue related to managed

care. If an employee has exhausted the dispute resolution procedure of the managed care plan, the employee may seek a medical finding by an independent medical examiner pursuant to section 48-134.01. No petition may be filed with the compensation court pursuant to section 48-173 regarding solely on the issue of the reasonableness and necessity of medical treatment unless a medical finding on such issue has been rendered by an independent medical examiner pursuant to section 48-134.01. If the compensation court subsequently orders reasonable medical services previously refused to be furnished to the employee by a physician who is a member of the managed care plan, the compensation court shall allow the employee to select another physician to furnish further medical services if the physician so selected complies with all rules, terms, and conditions of the managed care plan and refers the employee to the managed care plan for any other treatment that the employee may require.

(4) The compensation court may refuse to certify or may revoke or suspend the certification of a managed care plan that unfairly restricts direct access within the managed care plan to any category of provider of medical, surgical, or hospital services. Direct access within the managed care plan is unfairly restricted if direct access is denied and the treatment or service sought is within the scope of practice of the profession to which direct access is sought and is appropriate under the standards of treatment adopted by the managed care plan or, in instances where the compensation court has adopted standards of treatment, the standards adopted by the compensation court.

(5) The compensation court may refuse to certify or may revoke or suspend the certification of a managed care plan if the compensation court finds that the plan for providing medical, surgical, and hospital services fails to meet the requirements of this section or service under the plan is not being provided in accordance with the terms of a certified plan.

(6) The compensation court may adopt and promulgate rules and regulations necessary to implement this section.

Sec. 4. Section 48-151, Reissue Revised Statutes of Nebraska, is amended to read:

48-151. Throughout the Nebraska Workers' Compensation Act, the following words and phrases shall be considered to have the following meaning, respectively, unless the context clearly indicates a different meaning in the construction used:

(1) The term physician shall include surgeon and in either case shall mean one legally authorized licensed to practice his or her profession within the State of Nebraska and who is in good standing in his or her profession at the time;

(2) The word accident shall be construed to mean an unexpected or unforeseen injury happening suddenly and violently, with or without human fault, and producing at the time objective symptoms of an injury. The claimant shall have a burden of proof to establish by a preponderance of the evidence that such unexpected or unforeseen injury was in fact caused by the employment. There shall be no presumption from the mere occurrence of such unexpected or unforeseen injury that the injury was in fact caused by the employment;

(3) The term occupational disease shall mean only a disease which is due to causes and conditions which are characteristic of and peculiar to a particular trade, occupation, process, or employment and shall exclude all ordinary diseases of life to which the general public is exposed;

(4) The terms injury and personal injuries shall mean only violence to the physical structure of the body and such disease or infection as naturally results therefrom. The terms shall include disablement resulting from occupational disease arising out of and in the course of the employment in which the employee was engaged and which was contracted in such employment. The terms shall include an aggravation of a preexisting occupational disease, the employer being liable only for the degree of aggravation of the preexisting occupational disease. The terms shall not be construed to include disability or death due to natural causes but occurring while the employee is at work, nor to mean an injury, disability, or death that is the result of a natural progression of any preexisting condition;

(5) Death, when mentioned as a basis for the right to compensation, shall mean only death resulting from such violence and its resultant effects or from occupational disease;

(6) Without otherwise affecting either the meaning or the interpretation of the abridged clause, personal injuries arising out of and in the course of employment, it is hereby declared not to cover workers except while engaged in, on, or about the premises where their duties are being performed or where their service requires their presence as a part of such

service at the time of the injury and during the hours of service as such workers, and not to cover workers who on their own initiative leave their line of duty or hours of employment for purposes of their own. Property maintained by an employer shall be considered the premises of such employer for purposes of determining whether the injury arose out of employment;

(7) Willful negligence shall consist of (a) a deliberate act, (b) such conduct as evidences reckless indifference to safety, or (c) intoxication at the time of the injury, such intoxication being without the consent, knowledge, or acquiescence of the employer or the employer's agent;

(8) Intoxication shall include, but not be limited to, being under the influence of a controlled substance not prescribed by a physician; and

(9) Whenever in the Nebraska Workers' Compensation Act the singular is used, the plural shall be included; when the masculine gender is used, the feminine shall be included.

Sec. 5. Section 48-173, Reissue Revised Statutes of Nebraska, is amended to read:

48-173. Procedure before the Nebraska Workers' Compensation Court shall be as follows: In all cases involving a dispute with reference to workers' compensation, either party at interest, without cost, either in person or by attorney, may file with the compensation court a petition setting forth the names and places of residence of the parties and the facts relating to the employment at the time of the injury for which compensation is claimed, the injury in its extent and character, the amount of wages being received at the time of the injury, the knowledge of or notice to the employer of the occurrence of such injury, and such other facts as may be considered necessary for the information of the compensation court, and also stating the matter or matters in dispute and the contention of the petitioner with reference thereto.

No petition may be filed with the compensation court regarding solely on the issue of reasonableness and necessity of medical treatment unless a medical finding on such issue has been rendered by an independent medical examiner pursuant to section 48-134.01.

Sec. 6. Original sections 48-120, 48-120.02, 48-151, and 48-173, Reissue Revised Statutes of Nebraska, and section 48-115, Revised Statutes Supplement, 1997, are repealed.