

nurses, licensed to practice their profession in this state, and hospitals licensed under chapter 135B, may, by complying with the provisions of this chapter and without regard to other statutory provisions, enter into contracts with each other for the purpose of protecting themselves by insurance against loss by reason of actions at law on account of their alleged error, mistake, negligence, or carelessness in the treatment and care of patients, including the performance of surgical operations, or in the prescribing and dispensing of drugs and medicines, or for loss by reason of damages in other respects, and to reimburse any member in case of such loss.

Sec. 20. Section 519A.2, subsection 3, Code 1995, is amended to read as follows:

3. "Licensed health care provider" means and includes a physician and surgeon, osteopath, osteopathic physician and surgeon, dentist, ~~pediatrist~~ podiatric physician, optometrist, pharmacist, chiropractor or nurse licensed pursuant to chapter 147, and a hospital licensed pursuant to chapter 135B.

Sec. 21. Section 614.1, subsection 9, Code 1995, is amended to read as follows:

9. MALPRACTICE. Those founded on injuries to the person or wrongful death against any physician and surgeon, osteopath, osteopathic physician and surgeon, dentist, ~~pediatrist~~ podiatric physician, optometrist, pharmacist, chiropractor, or nurse, licensed under chapter 147, or a hospital licensed under chapter 135B, arising out of patient care, within two years after the date on which the claimant knew, or through the use of reasonable diligence should have known, or received notice in writing of the existence of, the injury or death for which damages are sought in the action, whichever of the dates occurs first, but in no event shall any action be brought more than six years after the date on which occurred the act or omission or occurrence alleged in the action to have been the cause of the injury or death unless a foreign object unintentionally left in the body caused the injury or death.

Approved April 27, 1995

CHAPTER 109

UNEMPLOYMENT COMPENSATION – OVERPAYMENT AND WAGE CREDIT LIABILITY TRANSFER PROVISIONS

S.F. 155

AN ACT relating to employment services by eliminating wage credit liability transfers and allowing all employers relief from charges when an unemployment compensation overpayment is made and providing an applicability date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 96.3, subsection 7, unnumbered paragraph 2, Code 1995, is amended to read as follows:

If the division determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Sec. 2. Section 96.5, subsection 1, paragraph a, Code 1995, is amended to read as follows:

a. ~~The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and that the individual remained continuously in said new employment for not less than six weeks and the individual performed services in the new employment. Wages earned with the employer that the individual has left shall, for the purpose of computing and charging benefits, be deemed wages earned from the employer with whom the individual accepted other employment and benefits shall be charged to the employer with whom the individual accepted other employment. The division shall advise the chargeable employer of the name and address of the former employer, the period covered, and the extent of benefits which may be charged to the account of the chargeable employer. In those cases where the new employment is in another state, no employer's account shall be charged with benefits so paid except that employers who are required by law or by their election to reimburse the fund for benefits paid shall be charged with benefits under this paragraph. In those cases where the individual left employment in good faith for the sole purpose of accepting better employment, which the individual did accept and such employment is terminated by the employer, or the individual is laid off after one week but prior to the expiration of six weeks, the individual, provided the individual is otherwise eligible under this chapter, shall be eligible for benefits and such benefits shall not be charged to any employer's account. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.~~

Sec. 3. Section 96.6, subsection 2, Code 1995, is amended to read as follows:

2. INITIAL DETERMINATION. A representative designated by the commissioner shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5. However, the claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h", and subsection 10. Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with ~~it~~ the decision. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Sec. 4. Section 96.7, subsection 2, paragraph a, subparagraph (2), unnumbered paragraph 3, Code 1995, is amended to read as follows:

An employer's account shall not be charged with benefits paid to an individual who left the work of the employer voluntarily without good cause attributable to the employer or to an individual who was discharged for misconduct in connection with the individual's employment, or to an individual who failed without good cause, either to apply for available, suitable work or to accept suitable work with that employer, but shall be charged to the

~~account of the next succeeding employer with whom the individual requalified for benefits as determined respectively under section 96.5, subsection 1, paragraph "g" and section 96.5, subsection 2, paragraph "a" unemployment compensation fund. However, the succeeding employer's account shall first be charged with benefits paid to the individual due to wage credits earned by the individual while employed by the succeeding employer. After exhausting those wage credits, the succeeding employer's account shall not be charged with ten weeks of benefits paid to the individual due to wage credits earned by the individual from a previous employer, but rather the unemployment compensation fund shall be charged. After exhausting the ten weeks of noncharging, the succeeding employer's account shall again be charged with the benefits paid. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.~~

Sec. 5. Section 96.7, subsection 2, paragraph a, subparagraph (2), unnumbered paragraph 4, Code 1995, is amended by striking the unnumbered paragraph.

Sec. 6. APPLICABILITY DATE. This Act applies to all decisions concerning claims for benefits issued on or after July 2, 1995.

Approved April 27, 1995

CHAPTER 110

RECORDING OF INTERGOVERNMENTAL AGREEMENTS

S.F. 176

AN ACT relating to the filing of intergovernmental agreements for the joint exercise of governmental powers in certain counties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 28E.8, Code 1995, is amended to read as follows:

28E.8 FILING AND RECORDING.

Before entry into force, an agreement made pursuant to this chapter shall be filed with the secretary of state and recorded with the county recorder. In counties in which the office of county recorder is abolished, the agreement shall be recorded with the county auditor.

Approved April 27, 1995