



RE: Wisconsin Statute 102.07 (12) – Workers Compensation Coverage for Students Participating in Practicums

During the May 2, 2006 DMI presents “Students in Practicum, and Related Workers’ Compensation and Liability Issues” a question regarding the interpretation of Wisconsin Statute 102.07 (12) – Workers Compensation Coverage for Students Participating in Practicums was posed.

The circumstances under which the question was asked were as follows:

The Curriculum of a college culinary program includes students preparing meals that are then served and sold to members of the public. The college charges the outside parties and individuals consuming the meals a fee. Likewise, the auto repair curriculum of a college offers brake repair services to the public at large. Individuals receiving the auto service are charged a fee for the repair work.

The fees charged in both situations are only sufficient to cover the college’s costs for providing the services. In other words, the college does not make a profit as the result of the fees charged.

The presented question asked whether the amount of the charges, or the fact that the college did not make a profit as the result of offering the services, impacted the interpretation of a workers’ compensation statute written specifically for technical colleges and their students. Simply put, if a college collects a fee, which does not include a profit margin, for a service in which a student, as part of the curriculum/practicum, is injured while providing the service, is the student the college’s employee for the purposes of workers compensation benefits?

Wis. Statute 102.07 (12) reads as follows:

“A student in a technical college district while, as part of a training program, he or she is engaged in performing services for which a school organized in Wisconsin Statute chapter 38 collects a fee or is engaged in producing a product sold by such a school is an employee of that school.”

The interpretation of the word, “fee”, was in question.

Attorney Jim O’Malley, Bureau Director for the Workers’ Compensation Division of the Department of Workforce Development was contacted and presented the question as described above.

Mr. O’Malley advised first that there is little case law on the interpretation of this statute. Even so, Mr. O’Malley opined that charging *any* fee for a service provided and/or supported by students as part of a college curriculum does trigger the statute under consideration. As such, with respect to the application of this statute, it is not relevant that the collected fee only covers the college’s costs.

If a fee is collected by the college, the college would appear to have a workers’ compensation obligation to a student injured while participating in a curriculum-related service.

If you have any questions please contact the DMI office at (262) 268-6954.