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WORKERS' COMPENSATION LAW and COVID VACCINES

Did you know that the Minnesota Workers' Compensation statute contains a provision specific to vaccines? If you didn't know, you are not alone. According to the definition of personal injury (Minn. Stat. § 176.011, Subd. 16), an injury or disease resulting from a vaccine arises out of the course and scope of employment and is covered by workers' compensation - *if* the terms of the statute are met.

The vaccine must be in response to a declaration by the Secretary of the United States Department of Health and Human Services under the Public Health Service Act to address an actual or potential health risk related to the employee's employment. As of the present, a public health emergency has been declared by the United States Department of Health and Human Services. That declaration was renewed effective January 21, 2021 by the Department. The declaration states that the public health emergency has existed since January 27, 2020 and continues.

This subdivision is rarely raised, and may require interpretation. For one, the health risk described must be related to the employee's employment.

It is also important to note that the statutory provision only applies to an injury or disease that results from the vaccine. Medical causation issues may remain – to determine whether there was an actual injury in the first place, and whether the employee's condition was caused by the vaccine.

In short, an injury or disease caused by a COVID vaccine may be payable under workers' compensation, depending on a number of factors, and it may not be dependent on whether the vaccine was mandatory for the employee, which raises additional workers' compensation questions to be analyzed.

We raise this provision so that it is made aware to you - not that we expect frequent injury or serious disease to arise from vaccines. To date, COVID vaccines have been found safe and effective. But if such a situation arises, it is good to know the law. Please reach out to us with questions.

As always, we welcome your calls and emails.

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