

SENATE BILL REPORT

SB 6154

AS OF JANUARY 24, 1994

Brief Description: Limiting ex parte contact with physicians or medical providers regarding industrial insurance matters.

SPONSORS: Senators Prentice, Sutherland, McAuliffe and Vognild

SENATE COMMITTEE ON LABOR & COMMERCE

Staff: Dave Cheal (786-7576)

Hearing Dates: January 25, 1994

BACKGROUND:

In most appeals to the Board of Industrial Insurance Appeals, medical issues and testimony are critical. For various economic and strategic reasons, employer and department attorneys have pursued the right to have informal conferences with the treating physician of the injured worker. Injured workers through their attorneys have resisted this practice.

The state Supreme Court has prohibited contact with plaintiff's treating physician by defense attorneys in personal injury actions without the plaintiff's attorney present, holding that the rules of civil procedure prohibit this practice and require notice and opportunity to be present be extended to plaintiff's attorney. The state Supreme Court has refused to extend this rule to appeals before the Board of Industrial Insurance Appeals.

SUMMARY:

Attorneys for the Department of Labor and Industries, self-insured employers or other employers are prohibited from having contact with the injured worker's treating physician or other physician or medical provider who has consulted on the case at the request of the worker, unless the contact is conducted under the applicable civil rules of discovery. The prohibition is limited to matters relating to issues being appealed and subject to the jurisdiction of the board. The prohibition does not apply to a written request for medical records, if the worker or worker's representative is provided five days' prior written notice of the request and the request is submitted at least 60 days before the first scheduled hearing. These time periods may be adjusted by the board for good cause shown.

Medical records obtained other than through the civil rules of discovery must be made part of the record and available to an injured worker upon request.

Contact with a physician retained by the department or employer to evaluate a worker is not affected.

Appropriation: none

Revenue: none

Fiscal Note: requested