

SENATE BILL REPORT

SB 5195

As Reported By Senate Committee On:
Labor, Commerce & Financial Institutions, February 27, 2001

Title: An act relating to medical examinations under the industrial insurance system.

Brief Description: Changing medical examinations under the industrial insurance system.

Sponsors: Senators Prentice, Winsley, Kline, Gardner and Franklin.

Brief History:

Committee Activity: Labor, Commerce & Financial Institutions: 1/22/01, 2/27/01 [DPS, DNP].

SENATE COMMITTEE ON LABOR, COMMERCE & FINANCIAL INSTITUTIONS

Majority Report: That Substitute Senate Bill No. 5195 be substituted therefor, and the substitute bill do pass.

Signed by Senators Prentice, Chair; Gardner, Vice Chair; Fairley, Franklin, Patterson, Rasmussen, Regala and Winsley.

Minority Report: Do not pass.

Signed by Senator Benton.

Staff: Elizabeth Mitchell (786-7430)

Background: The Department of Labor and Industries or a self-insurer can require an injured worker who is seeking workers' compensation benefits to have a medical examination. These examinations are sometimes referred to as Independent Medical Examinations (IMEs). The department or a self-insurer typically requires an IME if additional medical evidence is needed to make a claim determination. The department or self-insurer contracts with health providers who perform these IMEs, and assigns a health provider to examine an injured worker. The department currently retains records of complaints against IME doctors for either two or three years depending on the type of complaint.

There is concern that persons who perform IMEs may not be appropriately qualified and that complaints against IME doctors are not retained long enough by the department.

Summary of Substitute Bill: New requirements of the department when it adopts rules regarding IME providers' qualifications, certification of reports, and criteria for removal from the department's list of approved providers are added.

The department must monitor the quality and objectivity of all exams ordered to determine workers' compensation benefits. The department must retain records of all complaints regarding IME doctors in the performance and reporting of exams for ten years. The access that workers and their representatives have to these complaints is specified.

Substitute Bill Compared to Original Bill: Provisions regarding department procedures for ordering and evaluating independent medical exams, including granting more weight to the opinion of an attending physician than other physicians, are eliminated. The department is directed to keep all records of complaints against independent medical exam providers for ten years. Worker and worker representative access to these records is specified. The requirement that an IME doctor is to sign a sworn statement that their exam report is truthful and accurate is eliminated. IME doctors are not required to be of the same field of specialty as the workers attending or treating physician; instead, to the extent possible, the qualifications of the examiner should match the clinical condition for which the worker is being treated. Psychologists are eliminated from the list of approved medical providers for IMEs.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Independent medical exams are very important since the department bases many decisions on these exams. Sometimes IME doctors lack the appropriate qualifications to perform these exams. At times workers are required to have multiple IMEs, and sometimes the IME process is a long one. The IME appeal process is sometimes long and costly, and workers have to hire doctors to testify on their behalf. There should be higher standards for IME doctor qualifications, workers should have greater choice of IME doctors, and a worker's attending physician should have more weight in the department's decision-making process.

Testimony Against: The department needs to have an objective standard to judge the validity of a worker's claim. If there are unqualified IME doctors, the department should address this problem. The requirement that the IME doctor be of the same specialty as the attending or treating physician will not make sense in some cases. The benefit of the doubt already goes to the injured worker, and the opinion of the attending physician is already given precedence.

Testified: Robby Stern, Washington State Labor Council (pro); Mike McKinney, Washington State Injured Workers Coalition (pro); Larry Herring (pro); Patrick Palace, Washington State Trial Lawyers Association (pro); Cliff Finch, Association of Washington Business (con); Betsy Reed, WSIA (con); Linda Maw, WSIA (con); Tom Kwieciak, BIAW (con); Doug Connell, Gary Franklin, Department of Labor and Industries (information).