

SUBJECT: Frequency of required medical exams for workers' compensation benefits

COMMITTEE: Business and Industry — committee substitute recommended

VOTE: 8 ayes — Brimer, Rhodes, Corte, Dukes, Elkins, Giddings, Janek, Woolley
0 nays
1 absent — Solomons

WITNESSES: For — Pam Beachley, Business Insurance Consumers Association; James Giese, Foley's; Joe Hanson, Texas Association of Business and Chambers of Commerce
Against — None
On — June Karp, Research Oversight Council on Workers' Compensation

BACKGROUND : The Workers' Compensation Commission may require employees to submit to medical examinations to resolve questions about injuries, health care services rendered, and other issues. The commission may require an examination if requested by an insurance carrier. An insurer can request the commission to order an exam only if the employee has refused to comply voluntarily with an exam. Insurers may request that an employee be examined only once within any 180-day period.

DIGEST: CSHB 3161 would authorize the Workers' Compensation Commission to adopt rules requiring employees to submit to more than one medical examination in a 180-day period under specified circumstances. Permissible reasons would include determining whether the employee's condition had changed, if the diagnosis should be modified, or whether treatment should be extended to another body part or system.

An insurance carrier that unreasonably requested a medical examination would commit a Class B administrative violation, subject to monetary penalties of up to \$5,000.

This bill would take effect September 1, 1997, and would apply to injuries

incurred on or after that date.

**SUPPORTERS
SAY:**

CSHB 3161 would help workers' compensation insurers and employers more appropriately monitor the care and treatment of injured workers and thereby help to contain medical costs.

An examination once every six months cannot adequately monitor the medical condition of some injured workers whose conditions change or whose doctors significantly increase or modify ongoing treatments. For example, a worker with an injured shoulder may be required to undergo a medical examination after diagnosis by the treating physician so that the insurer can obtain a second medical opinion on the worker's condition. However, if the treating physician later changes the diagnosis from a shoulder injury to a back injury, or expands treatment in a manner inconsistent with the first diagnosis, the insurer must wait six months before it can request another mandatory exam.

Required medical examinations provide a check and balance mechanism to ensure doctors do not provide unnecessary services, either willfully or due to differing practice standards. Reducing unnecessary services reduces workers' compensation costs both to the state and to employers.

CSHB 3161 would effectively protect injured workers from harassing, unnecessary examinations with a three-pronged shield: (1) required examinations would be limited to specified circumstances, such as a change in the employee's condition; (2) the Texas Workers' Compensation Commission would have to approve the request for a required examination; and (3) any insurer unreasonably requesting a medical exam would be subject to a \$5,000 penalty.

**OPPONENTS
SAY:**

Injured workers would be vulnerable to harassment from insurers requiring frequent examinations under CSHB 3161. The circumstances under which additional exams could be required are too broadly written to provide any protection from such harassment; an insurer could easily use any of those broad explanations to justify its intrusions into the life of an injured employee.

NOTES:

The substitute added provisions regarding the effective date and corrected a

technical error in the filed version of the bill.

Rep. Giddings plans to offer two amendments to the bill: one would require the commission to establish a system to monitor requests to determine unreasonable requests are not being made; the other would limit the number of times an employee could be requested to undergo an examination.