

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 4524
By: Bhojani et al. (Hall)
Business & Commerce
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

With respect to workers' compensation benefits, an impairment rating is a percentage estimate of the amount of normal use that an individual's injured body parts have lost. Under current law, a medical examination to assign an impairment rating may not be conducted remotely.

In light of the COVID-19 pandemic in which many patients were unable to physically attend doctors' appointments and given the additional costs associated with these in-person visits, it has been suggested that Texans should have the option to obtain a medical examination to certify their maximum medical improvement or assign to them an impairment rating using telehealth services or telemedicine medical services.

C.S.H.B. 4524:

- Amends the Labor Code to authorize a medical examination conducted to certify an employee's maximum medical improvement, or assign an impairment rating for purposes of workers' compensation benefits, to be performed using telehealth services or telemedicine medical services.
- Requires a health care professional to be physically present in the room in which the employee is located to assist the certifying doctor in conducting the examination and administering any necessary testing.

Talking Points:

- This bill would bring impairment ratings in line with other health services currently aided by telemedicine.
- The bill would assist many people who are unable to leave their homes in seeking impairment ratings.

Committee Substitute:

- Strikes the word professional and replaces it with practitioner. This creates greater clarity in the workers' compensation system and is already a defined term in the Workers' Compensation Act, Labor Code 401.011(21).
- Requires that the injured employee agrees to the examination being conducted using telehealth or telemedicine services. Currently, most all other telehealth/telemedicine services are optional for patients to choose if they would like to see their doctor this way. This change brings this in line with other telehealth/telemedicine services.
- Delays the effective date to March, 2024. This was requested by TDI to have greater time for implementation.

C.S.H.B. 4524 amends current law relating to conducting certain medical examinations using telemedicine under the workers' compensation system.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of worker's compensation in SECTION 1 (Section 408.0041, Labor Code) and SECTION 2 (Section 408.1231, Labor Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 408.0041, Labor Code, by adding Subsection (d-1), as follows:

(d-1) Defines "telehealth services" and "telemedicine medical services." Authorizes the commissioner of workers' compensation (commissioner) to order an examination under Section 480.0041 (Designated Doctor Examination) to be conducted using telehealth services or telemedicine medical services if the commissioner determines conducting the examination in that manner is necessary to ensure access to a timely examination by a qualified doctor and the employee consents to the use of telehealth services or telemedicine medical services in conducting the examination. Requires a health care practitioner to be physically present in the room in which the employee is located to assist in conducting the examination and administering any necessary testing during an examination conducted using telehealth services or telemedicine medical services under this subsection. Authorizes the commissioner to adopt rules related to examinations performed using telehealth services or telemedicine medical services under this subsection.

SECTION 2. Amends Subchapter G, Chapter 408, Labor Code, by adding Section 408.1231, as follows:

Sec. 408.1231. CONDUCTING CERTAIN MEDICAL EXAMINATIONS USING TELEHEALTH SERVICES OR TELEMEDICINE MEDICAL SERVICES. (a) Defines "telehealth services" and "telemedicine medical services."

(b) Authorizes the employee's treating doctor or another doctor authorized by the division of workers' compensation to certify maximum medical improvement or assign an impairment rating under Section 408.123 (Certification of Maximum Medical Improvement; Evaluation of Impairment Rating) to certify maximum medical improvement or assign an impairment rating during a medical examination performed by the doctor using telehealth services or telemedicine medical services if:

(1) the employee consents to the use of telehealth services or telemedicine medical services in conducting the examinations; and

(2) either:

(A) the examination is of a musculoskeletal injury or diagnosis involving:

(i) the hand or upper extremities;

(ii) the foot, including toes and heel; or

(iii) the spine and musculoskeletal structures of the torso;
or

(B) the commissioner determines there is good cause to conduct the examination using telehealth services or telemedicine medical services.

(c) Requires a health care practitioner, during an examination conducted using telehealth services or telemedicine medical services under Subsection (b), to be physically present in the room in which the employee is located to assist in conducting the examination and administering any necessary testing unless a doctor:

(1) determined that the employee is not at maximum medical improvement; or

(2) certified maximum medical improvement during an examination and based on the examination concluded there was no possibility of impairment.

(d) Requires the commissioner to adopt rules necessary to implement this section.

SECTION 3. Makes application of Section 408.0041, Labor Code, as amended by this Act and Section 408.1231, Labor Code, as added by this Act, prospective.

SECTION 4. Effective date: March 1, 2024.