

# SENATE BILL 217

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CF 4r0847

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By: **Senator Klausmeier**

Introduced and read first time: January 16, 2014

Assigned to: Finance

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## A BILL ENTITLED

AN ACT concerning

### **Workers' Compensation – Payment for Controlled Dangerous Substances Prescribed by Physicians – Limitations**

FOR the purpose of prohibiting employers or their insurers, except under certain circumstances, from being required to pay under workers' compensation law for a controlled dangerous substance that is prescribed by a physician for certain covered employees; defining a certain term; and generally relating to payment under workers' compensation law for controlled dangerous substances prescribed by physicians for covered employees.

BY repealing and reenacting, with amendments,  
Article – Labor and Employment  
Section 9–660  
Annotated Code of Maryland  
(2008 Replacement Volume and 2013 Supplement)

BY adding to  
Article – Labor and Employment  
Section 9–660.1  
Annotated Code of Maryland  
(2008 Replacement Volume and 2013 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

### **Article – Labor and Employment**

9–660.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(a) In addition to the compensation provided under this subtitle **AND EXCEPT AS PROVIDED IN § 9-660.1 OF THIS SUBTITLE**, if a covered employee has suffered an accidental personal injury, compensable hernia, or occupational disease the employer or its insurer promptly shall provide to the covered employee, as the Commission may require:

- (1) medical, surgical, or other attendance or treatment;
- (2) hospital and nursing services;
- (3) medicine;
- (4) crutches and other apparatus; and
- (5) artificial arms, feet, hands, and legs and other prosthetic appliances.

(b) The employer or its insurer shall provide the medical services and treatment required under subsection (a) of this section for the period required by the nature of the accidental personal injury, compensable hernia, or occupational disease.

(c) Except as provided in § 9-736(b) and (c) of this title, any award or order of the Commission under this section may not be construed to:

- (1) reopen any case; or
- (2) allow any previous award to be changed.

#### **9-660.1.**

**(A) IN THIS SECTION, "CONTROLLED DANGEROUS SUBSTANCE" MEANS A SUBSTANCE LISTED IN SCHEDULE II OR SCHEDULE III UNDER § 5-403 OR § 5-404 OF THE CRIMINAL LAW ARTICLE.**

**(B) AN EMPLOYER OR ITS INSURER MAY NOT BE REQUIRED TO PAY UNDER § 9-660 OF THIS SUBTITLE FOR A CONTROLLED DANGEROUS SUBSTANCE THAT IS PRESCRIBED BY A PHYSICIAN FOR A COVERED EMPLOYEE WHO HAS SUFFERED AN ACCIDENTAL PERSONAL INJURY, COMPENSABLE HERNIA, OR OCCUPATIONAL DISEASE UNLESS:**

**(1) THE PHYSICIAN RECEIVED PREAUTHORIZATION FROM THE EMPLOYER OR ITS INSURER BEFORE PRESCRIBING THE CONTROLLED DANGEROUS SUBSTANCE;**

**(2) THE PHYSICIAN AND THE COVERED EMPLOYEE ENTERED INTO A CONTROLLED DANGEROUS SUBSTANCE MANAGEMENT PLAN THAT DESCRIBES:**

**(I) THE LIMITATIONS OF THE USE OF A CONTROLLED DANGEROUS SUBSTANCE IN CONTROLLING THE COVERED EMPLOYEE'S PAIN;**

**(II) THE POSSIBLE SIDE EFFECTS OF LONG-TERM USE OF A CONTROLLED DANGEROUS SUBSTANCE;**

**(III) THE RISKS OF DEPENDENCY ON A CONTROLLED DANGEROUS SUBSTANCE;**

**(IV) THE IMPORTANCE OF THERAPY AND OTHER ACTIVITIES TO RELIEVE THE COVERED EMPLOYEE'S PAIN;**

**(V) THE PHYSICIAN'S OBLIGATION TO DOCUMENT CLINICALLY SIGNIFICANT IMPROVEMENT IN FUNCTION AND CONTROL OF PAIN AS A CONDITION OF THE PHYSICIAN'S CONTINUING TO PRESCRIBE A CONTROLLED DANGEROUS SUBSTANCE; AND**

**(VI) THE COVERED EMPLOYEE'S RESPONSIBILITY TO FULLY DISCLOSE ALL SUBSTANCES BEING TAKEN BY THE COVERED EMPLOYEE;**

**(3) THE PHYSICIAN PROVIDES TO THE EMPLOYER OR ITS INSURER:**

**(I) DOCUMENTATION OF THE COVERED EMPLOYEE'S PHYSICAL FUNCTION AND PAIN INTENSITY AT EACH VISIT AS MEASURED USING VALIDATED INSTRUMENTS;**

**(II) DOCUMENTATION OF THE DAILY DOSE OF ALL CONTROLLED DANGEROUS SUBSTANCES THAT THE PHYSICIAN HAS PRESCRIBED FOR THE COVERED EMPLOYEE; AND**

**(III) IF TREATMENT FOR CHRONIC PAIN BY USE OF A CONTROLLED DANGEROUS SUBSTANCE CONTINUES FOR MORE THAN 90 DAYS, A WRITTEN REPORT THAT CONTAINS:**

**1. A TREATMENT PLAN WITH TIME-LIMITED GOALS FOR ELIMINATING THE USE OF CONTROLLED DANGEROUS SUBSTANCES IF CLINICALLY SIGNIFICANT IMPROVEMENTS IN FUNCTION AND CONTROL OF PAIN, AS MEASURED BY USING VALIDATED INSTRUMENTS, HAS NOT BEEN DOCUMENTED;**

**2. A CONSIDERATION OF RELEVANT PRIOR MEDICAL HISTORY, INCLUDING A HISTORY OF ABUSE OF ILLICIT DRUGS, ALCOHOL, TOBACCO, OR OTHER SUBSTANCES; AND**

**3. A CONSIDERATION OF THE COVERED EMPLOYEE'S RELEVANT PSYCHIATRIC HISTORY, INCLUDING WHETHER THE COVERED EMPLOYEE HAS BEEN DIAGNOSED AS HAVING OR SUFFERS FROM AN AFFECTIVE DISORDER OR PERSONALITY DISORDER; AND**

**(4) THE COVERED EMPLOYEE TAKES A URINE DRUG TEST ADMINISTERED BY THE PHYSICIAN AT LEAST EVERY 30 DAYS WHILE THE COVERED EMPLOYEE IS BEING PRESCRIBED A CONTROLLED DANGEROUS SUBSTANCE BY THE PHYSICIAN.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.