
By: **Delegate Wood**
Introduced and read first time: February 24, 2004
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation - Standards of Care - Accessibility and Schedule of**
3 **Treatment**

4 FOR the purpose of requiring the Workers' Compensation Commission to evaluate, on
5 an annual basis, injured workers' access to health care and to include certain
6 information in a certain report; requiring the Commission, by a certain date, to
7 adopt regulations setting a certain treatment schedule; providing that a certain
8 treatment schedule shall be presumptively correct as to the extent and scope of
9 medical treatment; providing that a certain presumption is rebuttable and may
10 be overcome under certain conditions; requiring the Commission, with the
11 assistance of certain other professional organizations, to conduct a certain
12 review and evaluation by a certain date and every three years thereafter;
13 requiring the Commission to make appropriate revisions to a certain treatment
14 schedule; authorizing a health care provider to negotiate with an employer or its
15 insurer for the payment of health care services provided; and generally relating
16 to standards of care and workers' compensation law.

17 BY repealing and reenacting, with amendments,
18 Article - Labor and Employment
19 Section 9-312 and 9-663
20 Annotated Code of Maryland
21 (1999 Replacement Volume and 2003 Supplement)

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

24 **Article - Labor and Employment**

25 9-312.

26 (a) (1) As soon as practicable after the end of the fiscal year, the Chairman
27 of the Commission shall submit an annual report to the Governor.

28 (2) The annual report shall include:

- 1 (i) any suggestions to improve the administration of this title;
- 2 (ii) a detailed statement of receipts and disbursements of the
3 Commission; and
- 4 (iii) statistical analyses of:
- 5 1. the costs of workers' compensation;
- 6 2. experiences; and
- 7 3. industrial injuries.

8 (b) Whenever the Commission determines there is probable cause to believe
9 that, during the immediately preceding 1-year period, there has been an excessive
10 number or a high rate of industrial injuries associated with an employer or industry,
11 the Commission shall report the determination to the Commissioner of Labor and
12 Industry.

13 (C) (1) ON AN ANNUAL BASIS, THE COMMISSION SHALL EVALUATE INJURED
14 WORKERS' ACCESS TO HEALTH CARE.

15 (2) AT A MINIMUM, THE COMMISSION SHALL INCLUDE IN THE ANNUAL
16 REPORT REQUIRED UNDER PARAGRAPH (A)(1) OF THIS SECTION:

17 (I) ITS FINDINGS AS TO WHETHER THERE IS ADEQUATE ACCESS
18 TO QUALITY HEALTH CARE AND PRODUCTS FOR INJURED WORKERS;

19 (II) A REVIEW OF THE INFORMATION CONSIDERED BY THE
20 COMMISSION TO ARRIVE AT ITS FINDINGS; AND

21 (III) ANY RECOMMENDATIONS FOR LEGISLATIVE ACTION TO
22 REMOVE ANY IDENTIFIED BARRIERS TO ACCESS TO HEALTH CARE FOR INJURED
23 WORKERS.

24 9-663.

25 (a) (1) The Commission shall adopt regulations setting standards for the
26 assessment of fines under § 9-664 of this Part IX of this subtitle.

27 (2) The Commission may adopt regulations about:

28 (i) the provision of medicine and medical, nursing, and hospital
29 services to a covered employee;

30 (ii) payment for the medicine and services; and

31 (iii) the exercise by the Chairman of the Commission of the powers
32 granted under § 9-662 of this subtitle.

1 (b) (1) The Commission may regulate fees and other charges for medical
2 services or treatment under this subtitle.

3 (2) Each fee or other charge for medical service or treatment under this
4 subtitle is limited to the amount that prevails in the same community for similar
5 treatment of an injured individual with a standard of living that is comparable to that
6 of the covered employee.

7 (3) At least once every 2 years, the Commission shall:

8 (i) review its guide of medical and surgical fees for completeness
9 and reasonableness; and

10 (ii) make appropriate revisions to the guide of medical and surgical
11 fees.

12 (4) NOTWITHSTANDING PARAGRAPHS (1) AND (2) OF THIS SUBSECTION,
13 A HEALTH CARE PROVIDER MAY NEGOTIATE WITH AN EMPLOYER OR ITS INSURER
14 FOR PAYMENT OF WORKERS' COMPENSATION HEALTH CARE SERVICES PROVIDED BY
15 THE PROVIDER.

16 (C) (1) ON OR BEFORE JULY 1, 2005, THE COMMISSION SHALL ADOPT
17 REGULATIONS SETTING A SCHEDULE OF MEDICAL TREATMENT UTILIZATION
18 STANDARDS THAT SHALL ADDRESS, AT A MINIMUM, THE FREQUENCY, DURATION,
19 INTENSITY, AND APPROPRIATENESS OF TREATMENT PROCEDURES AND MODALITIES
20 COMMONLY PERFORMED IN WORKERS' COMPENSATION CASES.

21 (2) THE SCHEDULE OF MEDICAL TREATMENT UTILIZATION STANDARDS
22 ADOPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE PRESUMPTIVELY
23 CORRECT AS TO THE EXTENT AND SCOPE OF MEDICAL TREATMENT.

24 (3) A PRESUMPTION UNDER PARAGRAPH (2) OF THIS SUBSECTION IS
25 REBUTTABLE AND MAY BE OVERCOME BY A PREPONDERANCE OF THE EVIDENCE
26 ESTABLISHING THAT A VARIANCE FROM THE SCHEDULE IS REASONABLY REQUIRED
27 TO CURE AND RELIEVE A COVERED EMPLOYEE FROM THE EFFECTS OF AN INJURY.

28 (D) (1) AS SOON AFTER THE BEGINNING OF THE 2005 FISCAL YEAR AS
29 PRACTICABLE, AND AT LEAST EVERY 3 YEARS THEREAFTER, THE COMMISSION, WITH
30 THE ASSISTANCE OF THE MEDICAL AND CHIRURGICAL FACULTY OF MARYLAND AND
31 THE MARYLAND ORTHOPAEDIC ASSOCIATION, SHALL CONDUCT A REVIEW AND
32 EVALUATION OF EVIDENCE-BASED, PEER-REVIEWED, NATIONALLY RECOGNIZED
33 STANDARDS OF CARE.

34 (2) AT A MINIMUM, THE REVIEW REQUIRED UNDER PARAGRAPH (1) OF
35 THIS SUBSECTION SHALL INCLUDE AN EVALUATION OF MEDICAL REVIEW
36 STANDARDS:

37 (I) IN OTHER STATES;

38 (II) AT THE FEDERAL LEVEL; AND

1 (III) IN A VARIETY OF MEDICAL BENEFIT SYSTEMS.

2 (3) BASED ON EACH REVIEW AND EVALUATION CONDUCTED UNDER
3 PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSION SHALL MAKE APPROPRIATE
4 REVISIONS TO THE SCHEDULE OF MEDICAL TREATMENT UTILIZATION STANDARDS
5 DESCRIBED IN SUBSECTION (C)(1) OF THIS SECTION.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 June 1, 2004.