

ALASKA STATE LEGISLATURE

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North to the Future

Senator Cathy Giessel

Senate District N

Sectional Analysis (Version R)

Senate Bill 112 Workers Compensation Reform

Section 1: Amends AS 17.30.200(b), relating to the controlled substance prescription database, to require practitioners who prescribe a controlled substance subject to AS 23.30.096 to submit certain information.

Section 2: Amends AS 17.30.200(d), relating to the controlled substance prescription database, to allow a licensed practitioner access to the database for the purpose of reporting under AS 23.30.096.

Section 3: Amends AS 23.05.067(e), to state that the legislature may appropriate annual service fees and penalties collected to the office of administrative hearings.

Section 4: Amends AS 23.10.620 by adding a new subsection to allow an employer to require an employee to undergo drug testing if the employee has been prescribed a controlled substance under AS 23.30.096.

Section 5: Amends AS 23.30.001 regarding legislative intent relating to workers' compensation.

Section 6: Amends AS 23.30.005(a) relating to the composition of the Alaska Workers' Compensation Board.

Section 7: Amends AS 23.30.005(b) to provide that the commissioner may designate hearing officers to serve as chairs of panels for hearing settlement agreements under AS 23.30.012 or claims arising under AS 23.30.015 or 23.30.247 and that the hearings may be telephonic and do not need to be in the judicial district where the injury occurred.

Section 8: Amends AS 23.30.005(c) to remove requirement that the governor appoint members of hearing panels.

Section 9: Amends AS 23.30.005(e) to provide that a member of one judicial district may serve on any hearing panel.

Section 10: Amends AS 23.30.005(g) to require that claims and petitions be heard by the office of administrative hearings on a rotating basis under AS 44.62.

Section 11: Amends AS 23.30.005(h) to require the department to adopt regulations, except on matters over which AS 44.62 controls. Makes conforming changes relating to the role of the office of administrative hearings.

Sections 12-16: Make conforming changes relating to the role of the office of administrative hearings.

Section 17: Repeals and reenacts AS 23.30.010(a) to provide that a compensable injury must be established using relevant objective medical evidence and must be the major contributing cause of any resulting condition, disability, or need for medical treatment. Provides that subjective complaints must be confirmed by physical examination or diagnostic testing.

Section 18: Amends AS 23.10.010 by adding new subsections relating to proving an injury arising out of and in the course of employment.

Sections 19-23: Make conforming changes relating to the role of the office of administrative hearings.

Section 24: Repeals and reenacts AS 23.30.041 relating to rehabilitation and reemployment benefits of injured workers and establishes a reemployment voucher program.

Section 25: Makes conforming changes relating to the role of the office of administrative hearings.

Section 26: Amends AS 23.30.095(a) to require that the employer furnish medical treatment in accordance with evidence-based treatment guidelines. Allows employer or insurer to request a third party to conduct a utilization review for treatment recommended outside of the evidence-based treatment guidelines. Provides that if medical treatment is

recommended two years after the date of injury, the employee may not be afforded the presumption of compensability but that the injured will have a right to review by the office of administrative hearings. Allows the employer to designate a different attending physician. Restricts medical treatment allowed after an additional two years of continued treatment to certain devices, prescriptions, and services.

Sections 27-32: Make conforming changes relating to the role of the office of administrative hearings, eliminates board authority to adopt treatment frequency standards, allows suspension of compensation for refusal of appropriate diagnostic tests, requires, in certain circumstances, submission to examination by a mental health provider, and requires palliative care after medical stability to be consistent with evidence-based treatment guidelines.

Section 33: Amends AS 23.30.095 by adding new subsections relating to payment for durable medical equipment, prosthetics, orthotics or supplies and prescription drugs.

Section 34: Amends AS 23.30 by adding AS 23.30.096 relating to prescribing or dispensing controlled substances to employees.

Section 35: Amends AS 23.30.097(d) to state that payment for medical treatment is not due immediately or on demand, it is due within 30 days after the employer receives the provider's bill and a completed report.

Section 36: Amends AS 23.30.097(g) to add that an employer shall reimburse an employee's prescription charges within 30 days after the employer receives the employee's request for reimbursement.

Sections 37-39: Make conforming changes relating to the role of the office of administrative hearings, replaces the term disability, and removes exceptions for disclosure of a record to certain physicians and to the board or commissioner.

Section 40: Amends AS 23.30.108 relating to prehearings, discovery, and protective orders to require those requests and hearings be conducted by the office of administrative hearings.

Section 41: Amends AS 23.30.110(a) to require that claims or petitions for relief on all matters, except those under AS 23.30.012 and 23.30.247, be filed with the office or administrative hearings.

Sections 42-47: Make conforming changes relating to the role of the office of administrative hearings.

Section 48: Amends AS 23.30.120(a) to require that an employee establish a preliminary link between employment and resulting condition, disability, or need for medical treatment through objective relevant medical evidence before being afforded the presumptions listed in that subsection.

Section 49: Makes conforming changes relating to the role of the office of administrative hearings.

Section 50: Amends AS 23.30.120 by adding new subsections relating to establishing the preliminary link and presumption under AS 23.30.120(a).

Section 51: Makes conforming changes relating to the role of the office of administrative hearings.

Section 52: Amends AS 23.30.122 by adding new subsections relating to medical expert and lay testimony.

Sections 53-62: Make conforming changes relating to the role of the office of administrative hearings.

Section 63: Repeals and reenacts AS 23.30.145 governing the award and payment of attorney fees.

Section 64: Makes conforming changes relating to the role of the office of administrative hearings.

Section 65: Amends AS 23.30.155(j) to allow 20 percent of unpaid installments to be withheld when the only benefit remaining is a lump-sum payment of permanent partial impairment benefits or upon approval of the office of administrative hearings.

Section 66: Amends AS 23.30.155(m) to repeal the \$1,000 civil penalty when an annual report is incomplete when filed.

Sections 67-68: Make conforming changes relating to the role of the office of administrative hearings.

Section 69: Amends AS 23.30.180 to provide that permanent total disability claims will be paid until the employee begins receiving social security, pension, or other retirement benefits.

Section 70: Amends AS 23.30.185 to provide that temporary total disability claims may not be paid for more than an aggregate total of 104 weeks for each claim.

Section 71: Amends AS 23.30.190 by adding a new subsection to provide that an employee who returns to work for the same employer in a position that pays a wage equal to or greater than that paid at the time of injury is not eligible to receive permanent partial impairment benefits.

Sections 72-74: Make conforming changes relating to the role of the office of administrative hearings.

Section 75: Amends AS 23.30.230(a) to provide a definition of “independent contractor.”

Section 76-77: Make conforming changes relating to the role of the office of administrative hearings.

Sections 78-80: Amend the definitions of "arising out of and in the course of employment" and "attending physician" and adds the definition of "office of administrative hearings.”

Section 81: Amends AS 44.64.030(a) to add AS 23.30 to list of statutes that the office of administrative hearings has jurisdiction over.

Section 82: Repeals AS 23.30.005(f) (relating to a quorum for a hearing panel), 23.30.095(b) (relating to the designation of a physician), 23.30.095(i) (making interference with selection of a physician or improper influence of a medical opinion a misdemeanor), 23.30.095(k) (relating to a second independent medical evaluation), 23.30.110(g) (relating to submission to a physical examination), 23.30.135(a) (relating to procedure before the board), 23.30.155(h) (relating to the board's authority), 23.30.224(b), (e), and (f) (relating to coordination of benefits and employer's liability for payment under AS 23.30.041(k) (also repealed)).

Section 83: Adds an applicability provision that states that secs. 6-82 of the Act apply to claims for injuries filed on or after the effective dates of those sections.

Section 84: Adds a transition provision relating to the transition of claims from the Alaska Workers’ Compensation Board to the office of administrative hearings.

Section 85: Adds a transition provision allowing the Department of Labor and Workforce Development and the office of administrative hearings to adopt regulations necessary to implement the changes made by the Act.

Section 86: Provides for an immediate effective date for sec. 85.

Section 87: Section 1 of this Act takes effect of the effective date of Sec. 38, ch. 2, SSSLA 2017.