2020 Regular Session

HOUSE BILL NO. 811

BY REPRESENTATIVE PIERRE

WORKERS COMPENSATION: Provides relative to independent medical examinations

1	AN ACT
2	To amend and reenact R.S. 23:1123 and 1317.1(A) and to repeal R.S. 23:1124.1, relative to
3	workers' compensation; to provide for additional medical opinions; to provide for the
4	duties of a workers' compensation judge; to provide for the selection and
5	appointment of physicians; to provide for the use of cumulative testimony; and to
6	provide for related matters.
7	Be it enacted by the Legislature of Louisiana:
8	Section 1. R.S. 23:1123 and 1317.1(A) are hereby amended and reenacted to read
9	as follows:
10	§1123. Disputes as to condition or capacity to work; additional medical opinion
11	regarding an examination under supervision of the secretary workers'
12	compensation judge
13	<u>A.(1)</u> If any dispute arises as to the condition of the employee, or the
14	employee's capacity to work, the assistant secretary workers' compensation judge,
15	upon application of any party, shall order an additional medical opinion regarding
16	an examination of the employee to be made by a medical practitioner physician, who
17	shall be selected and appointed by the assistant secretary workers' compensation
18	judge, when no disputed claim for compensation has been filed.
19	(2) After a disputed claim for compensation has been filed, a workers'
20	compensation judge may do either of the following:

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	(a) Upon application of any party, order an additional medical opinion
2	regarding the examination of the employee to be made by a physician selected and
3	appointed by the workers' compensation judge.
4	(b) On his own motion, order any employee appearing before him, to be
5	examined by other physicians.
6	(3) If both parties to the dispute agree on a choice of the physician to conduct
7	the additional medical examinations as provided in this Subsection, they may present
8	the choice to the workers' compensation judge who may appoint the chosen
9	physician.
10	B. The medical examiner physician, selected and appointed by the workers'
11	compensation judge, shall report his conclusions from the examination to the
12	assistant secretary workers' compensation judge and to the parties and such report
13	shall be prima facie evidence of the facts therein stated in any subsequent
14	proceedings under this Chapter.
15	C. Neither the claimant nor the respondent in a hearing before the workers'
16	compensation judge shall be permitted to introduce the testimony of more than two
17	physicians where the evidence of any additional physician would be cumulative
18	testimony.
19	* * *
20	§1317.1. Additional medical opinion regarding medical examinations
21	A. Any party wishing to request an additional medical opinion regarding a
22	medical examination of the claimant pursuant to R.S. 23:1123 and 1124.1 shall be
23	required to make its request at or prior to the pretrial conference the scheduling
24	conference. Requests for additional medical opinions regarding medical
25	examinations made after that time shall be denied except for good cause or if it is
26	found to be in the best interest of justice to order such examination.
27	* * *
28	Section 2. R.S. 23:1124.1 is hereby repealed in its entirety.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 811 Original	2020 Regular Session	Pierre
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Abstract: Provides relative to additional medical opinions in regards to an examination for workers' compensation claims.

<u>Present law</u> provides that if any dispute arises regarding the condition of the employee, or the employee's capacity to work, the assistant secretary, upon application of any party, shall order an additional medical opinion regarding an examination of the employee, which will be performed by a medical practitioner selected and appointed by the assistant secretary.

<u>Proposed law</u> provides that if any dispute arises regarding the condition of the employee, or the employee's capacity to work, the workers' compensation judge, upon application of any party, shall order an additional medical opinion regarding an examination of the employee, which will be performed by a physician who shall be selected and appointed by the workers' compensation judge, when no disputed claim for compensation has been filed.

<u>Proposed law</u> provides that after a disputed claim for compensation has been filed, a workers' compensation judge may:

- (1) Upon application of any party, order an additional medical opinion regarding the examination of the claimant to be made by a physician.
- (2) On his own motion, order any claimant appearing before him, to be examined by other physicians.

<u>Proposed law</u> provides that if both parties to the dispute agree on a choice of physician to conduct the additional medical opinions then they may present the choice to the workers' compensation judge who may then appoint a chosen physician.

<u>Present law</u> provides that the medical examiner shall report the conclusions from the examination to the assistant secretary and to the parties.

<u>Proposed law</u> changes <u>present law</u> by providing that the physician, selected and appointed by the workers' compensation judge, shall report the conclusions from the examination to the workers' compensation judge and to the parties.

Present law prohibits the use of cumulative testimony in a hearing before a hearing officer.

<u>Proposed law</u> repeals <u>present law</u> and provides that neither the claimant nor respondent in a hearing before the workers' compensation judge shall be permitted to introduce the testimony of more than two physicians when evidence of any additional physician would be cumulative testimony.

<u>Present law</u> provides that if a party wants to request an additional medical opinion regarding a medical examination pursuant to <u>present law</u>, the request must be made at or prior to the pretrial conference.

<u>Proposed law</u> changes <u>present law</u> by requiring the request be made at the scheduling conference.

(Amends R.S. 23:1123 and 1317.1(A); Repeals R.S. 23:1124.1)

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