

HOUSE LABOR AND HUMAN RESOURCES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 430

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

AN ACT

RELATING TO WORKERS' COMPENSATION; PROVIDING FOR EVALUATION OF
NEW EDITIONS OF GUIDES; CREATING AN ADVISORY COMMITTEE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 52-1-24 NMSA 1978 (being Laws 1987,
Chapter 235, Section 10, as amended) is amended to read:

"52-1-24. IMPAIRMENT--DEFINITION.--As used in the
Workers' Compensation Act:

A. "impairment" means an anatomical or functional
abnormality existing after the date of maximum medical
improvement as determined by a medically or scientifically
demonstrable finding and based upon ~~[the most recent edition~~
~~of]~~ the American medical association's ~~[guide]~~ guides to the
evaluation of permanent impairment or comparable publications
of the American medical association as approved by the director

.193256.2

underscored material = new
[bracketed material] = delete

1 of the workers' compensation administration pursuant to Section
2 2 of this 2013 act. Impairment includes physical impairment,
3 primary mental impairment and secondary mental impairment;

4 B. "primary mental impairment" means a mental
5 illness arising from an accidental injury arising out of and in
6 the course of employment when the accidental injury involves no
7 physical injury and consists of a psychologically traumatic
8 event that is generally outside of a worker's usual experience
9 and would evoke significant symptoms of distress in a worker in
10 similar circumstances, but is not an event in connection with
11 disciplinary, corrective or job evaluation action or cessation
12 of the worker's employment; and

13 C. "secondary mental impairment" means a mental
14 illness resulting from a physical impairment caused by an
15 accidental injury arising out of and in the course of
16 employment."

17 SECTION 2. A new section of the Workers' Compensation Act
18 is enacted to read:

19 "[NEW MATERIAL] EVALUATION OF GUIDES--ADVISORY COMMITTEE.--

20 A. An advisory committee, the members of which
21 shall be chosen by the director of the workers' compensation
22 administration, shall review all new editions of the American
23 medical association's guides to the evaluation of permanent
24 impairment and make recommendations to the director regarding
25 whether to adopt the new edition for use in workers'

.193256.2

1 compensation cases before the administration. The director
2 shall consider the recommendations of the advisory committee in
3 deciding whether to adopt the new edition for use in workers'
4 compensation cases before the administration. The director is
5 not bound by the recommendations of the advisory committee.
6 The director shall make a decision whether to adopt the new
7 edition for use in workers' compensation cases before the
8 administration within sixty days of receiving the
9 recommendations from the advisory committee. Until the
10 director adopts the new edition of the American medical
11 association's guides to the evaluation of permanent impairment
12 and has set an effective date for the use of the new edition,
13 the previously approved edition of the American medical
14 association's guides to the evaluation of permanent impairment
15 shall remain in effect.

16 B. The advisory committee established pursuant to
17 Subsection A of this section shall include at least the
18 following persons:

- 19 (1) two doctors licensed in New Mexico who
20 regularly treat injured workers and have experience using
21 guides published by the American medical association;
22 (2) a representative of employers;
23 (3) a representative of workers' compensation
24 insurers;
25 (4) a representative of workers' unions;

.193256.2

1 (5) an attorney who regularly represents
2 employers or workers' compensation insurers before the
3 administration; and

4 (6) an attorney who regularly represents
5 workers before the administration."

6 SECTION 3. EFFECTIVE DATE.--The effective date of the
7 provisions of this act is July 1, 2013.

8 - 4 -

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

underscored material = new
~~[bracketed material] = delete~~