

SECOND REGULAR SESSION

HOUSE BILL NO. 1902

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FLOOK.

Read 1st time February 28, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

5276L.011

AN ACT

To repeal section 287.140, RSMo, and to enact in lieu thereof one new section relating to workers' compensation law, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 287.140, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 287.140, to read as follows:

287.140. 1. In addition to all other compensation paid to the employee under this section, the employee shall receive and the employer shall provide such medical, surgical, chiropractic, and hospital treatment, including nursing, custodial, ambulance and medicines, as may reasonably be required after the injury or disability, to cure and relieve from the effects of the injury. If the employee desires, he shall have the right to select his own physician, surgeon, or other such requirement at his own expense. Where the requirements are furnished by a public hospital or other institution, payment therefor shall be made to the proper authorities. Regardless of whether the health care provider is selected by the employer or is selected by the employee at the employee's expense, the health care provider shall have the affirmative duty to communicate fully with the employee regarding the nature of the employee's injury and recommended treatment exclusive of any evaluation for a permanent disability rating. Failure to perform such duty to communicate shall constitute a disciplinary violation by the provider subject to the provisions of chapter 620, RSMo. When an employee is required to submit to medical examinations or necessary medical treatment at a place outside of the local or metropolitan area from the employee's principal place of employment, the employer or its insurer

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 shall advance or reimburse the employee for all necessary and reasonable expenses; except that
17 an injured employee who resides outside the state of Missouri and who is employed by an
18 employer located in Missouri shall have the option of selecting the location of services provided
19 in this section either at a location within one hundred miles of the injured employee's residence,
20 place of injury or place of hire by the employer. The choice of provider within the location
21 selected shall continue to be made by the employer. In case of a medical examination if a dispute
22 arises as to what expenses shall be paid by the employer, the matter shall be presented to the
23 legal advisor, the administrative law judge or the commission, who shall set the sum to be paid
24 and same shall be paid by the employer prior to the medical examination. In no event, however,
25 shall the employer or its insurer be required to pay transportation costs for a greater distance than
26 two hundred fifty miles each way from place of treatment.

27 2. If it be shown to the division or the commission that the requirements are being
28 furnished in such manner that there is reasonable ground for believing that the life, health, or
29 recovery of the employee is endangered thereby, the division or the commission may order a
30 change in the physician, surgeon, hospital or other requirement.

31 3. All fees and charges under this chapter shall be fair and reasonable, shall be subject
32 to regulation by the division or the commission, or the board of rehabilitation in rehabilitation
33 cases. A health care provider shall not charge a fee for treatment and care which is governed by
34 the provisions of this chapter greater than the usual and customary fee the provider receives for
35 the same treatment or service when the payor for such treatment or service is a private individual
36 or a private health insurance carrier. The division or the commission, or the board of
37 rehabilitation in rehabilitation cases, shall also have jurisdiction to hear and determine all
38 disputes as to such charges. A health care provider is bound by the determination upon the
39 reasonableness of health care bills.

40 4. The division shall, by regulation, establish methods to resolve disputes concerning the
41 reasonableness of medical charges, services, or aids. This regulation shall govern resolution of
42 disputes between employers and medical providers over fees charged, whether or not paid, and
43 shall be in lieu of any other administrative procedure under this chapter. The employee shall not
44 be a party to a dispute over medical charges, nor shall the employee's recovery in any way be
45 jeopardized because of such dispute.

46 5. No compensation shall be payable for the death or disability of an employee, if and
47 insofar as the death or disability may be caused, continued or aggravated by any unreasonable
48 refusal to submit to any medical or surgical treatment or operation, the risk of which is, in the
49 opinion of the division or the commission, inconsiderable in view of the seriousness of the
50 injury. If the employee dies as a result of an operation made necessary by the injury, the death
51 shall be deemed to be caused by the injury.

52 6. The testimony of any physician or chiropractic physician who treated the employee
53 shall be admissible in evidence in any proceedings for compensation under this chapter, subject
54 to all of the provisions of section 287.210.

55 7. Every hospital or other person furnishing the employee with medical aid shall permit
56 its record to be copied by and shall furnish full information to the division or the commission,
57 the employer, the employee or his dependents and any other party to any proceedings for
58 compensation under this chapter, and certified copies of the records shall be admissible in
59 evidence in any such proceedings.

60 8. The employer may be required by the division or the commission to furnish an injured
61 employee with artificial legs, arms, hands, surgical orthopedic joints, or eyes, or braces, as
62 needed, for life whenever the division or the commission shall find that the injured employee
63 may be partially or wholly relieved of the effects of a permanent injury by the use thereof. The
64 director of the division shall establish a procedure whereby a claim for compensation may be
65 reactivated after settlement of such claim is completed. The claim shall be reactivated only after
66 the claimant can show good cause for the reactivation of this claim and the claim shall be made
67 only for the payment of medical procedures involving life-threatening surgical procedures or if
68 the claimant requires the use of a new, or the modification, alteration or exchange of an existing,
69 prosthetic device. For the purpose of this subsection, "life threatening" shall mean a situation
70 or condition which, if not treated immediately, will likely result in the death of the injured
71 worker.

72 9. Nothing in this chapter shall prevent an employee being provided treatment for his
73 injuries by prayer or spiritual means if the employer does not object to the treatment.

74 10. The employer shall have the right to select the licensed treating physician, surgeon,
75 chiropractic physician, or other health care provider; provided, however, that such physicians,
76 surgeons or other health care providers shall offer only those services authorized within the scope
77 of their licenses. For the purpose of this subsection, subsection 2 of section 287.030 shall not
78 apply.

79 11. Any physician or other health care provider who orders, directs or refers a patient for
80 treatment, testing, therapy or rehabilitation at any institution or facility shall, at or prior to the
81 time of the referral, disclose in writing if such health care provider, any of his partners or his
82 employer has a financial interest in the institution or facility to which the patient is being
83 referred, to the following:

84 (1) The patient;

85 (2) The employer of the patient with workers' compensation liability for the injury or
86 disease being treated;

87 (3) The workers' compensation insurer of such employer; and

88 (4) The workers' compensation adjusting company for such insurer.

89 12. Violation of subsection 11 of this section is a class A misdemeanor.

90 13. (1) No hospital, physician or other health care provider, other than a hospital,
91 physician or health care provider selected by the employee at his own expense pursuant to
92 subsection 1 of this section, shall bill or attempt to collect any fee or any portion of a fee for
93 services rendered to an employee due to a work-related injury or report to any credit reporting
94 agency any failure of the employee to make such payment, when an injury covered by this
95 chapter has occurred and such hospital, physician or health care provider has received actual
96 notice given in writing by the employee, the employer or the employer's insurer. Actual notice
97 shall be deemed received by the hospital, physician or health care provider five days after
98 mailing by certified mail by the employer or insurer to the hospital, physician or health care
99 provider.

100 (2) The notice shall include:

101 (a) The name of the employer;

102 (b) The name of the insurer, if known;

103 (c) The name of the employee receiving the services;

104 (d) The general nature of the injury, if known; and

105 (e) Where a claim has been filed, the claim number, if known.

106 (3) When an injury is found to be noncompensable under this chapter, the hospital,
107 physician or other health care provider shall be entitled to pursue the employee for any unpaid
108 portion of the fee or other charges for authorized services provided to the employee. Any
109 applicable statute of limitations for an action for such fees or other charges shall be tolled from
110 the time notice is given to the division by a hospital, physician or other health care provider
111 pursuant to subdivision (6) of this subsection, until a determination of noncompensability in
112 regard to the injury which is the basis of such services is made, or in the event there is an appeal
113 to the labor and industrial relations commission, until a decision is rendered by that commission.

114 (4) If a hospital, physician or other health care provider or a debt collector on behalf of
115 such hospital, physician or other health care provider pursues any action to collect from an
116 employee after such notice is properly given, the employee shall have a cause of action against
117 the hospital, physician or other health care provider for actual damages sustained plus up to one
118 thousand dollars in additional damages, costs and reasonable attorney's fees.

119 (5) If an employer or insurer fails to make payment for authorized services provided to
120 the employee by a hospital, physician or other health care provider pursuant to this chapter, the
121 hospital, physician or other health care provider may proceed pursuant to subsection 4 of this
122 section with a dispute against the employer or insurer for any fees or other charges for services
123 provided.

124 (6) A hospital, physician or other health care provider whose services have been
125 authorized in advance by the employer or insurer may give notice to the division of any claim
126 for fees or other charges for services provided for a work-related injury that is covered by this
127 chapter, with copies of the notice to the employee, employer and the employer's insurer. Where
128 such notice has been filed, the administrative law judge may order direct payment from the
129 proceeds of any settlement or award to the hospital, physician or other health care provider for
130 such fees as are determined by the division. The notice shall be on a form prescribed by the
131 division.

132 [14. The employer may allow or require an employee to use any of the employee's
133 accumulated paid leave, personal leave, or medical or sick leave to attend to medical treatment,
134 physical rehabilitation, or medical evaluations during work time. The intent of this subsection
135 is to specifically supercede and abrogate any case law that contradicts the express language of
136 this section.]

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