

AMENDED IN SENATE SEPTEMBER 5, 2007

AMENDED IN ASSEMBLY MAY 1, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1073

Introduced by Assembly Member Nava

February 23, 2007

An act to amend Section 4604.5 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1073, as amended, Nava. Workers' compensation: medical treatment utilization schedule.

Existing law establishes a workers' compensation system to compensate an employee for injuries sustained in the course of his or her employment. Existing law requires that the Administrative Director of the Division of Workers' Compensation, on or before January 1, 2004, adopt, after public hearings, a medical treatment utilization schedule, as specified. Existing law provides that, notwithstanding the medical treatment utilization schedule or guidelines set forth in the American College of Occupational and Environmental Medicine's Occupational Medicine Practice Guidelines, for injuries occurring on and after January 1, 2004, an employee shall be entitled to no more than 24 chiropractic, 24 occupational therapy, and 24 physical therapy visits per industrial injury, but specifies that this limit shall not apply when an employer authorizes, in writing, additional visits to a health care practitioner for physical medicine services.

This bill would also prohibit the limit on the number of chiropractic, occupational therapy, and physical therapy visits from applying to visits

for postsurgical physical medicine and *postsurgical* rehabilitative services, *as provided*.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4604.5 of the Labor Code is amended to
2 read:

3 4604.5. (a) Upon adoption by the administrative director of a
4 medical treatment utilization schedule pursuant to Section 5307.27,
5 the recommended guidelines set forth in the schedule shall be
6 presumptively correct on the issue of extent and scope of medical
7 treatment. The presumption is rebuttable and may be controverted
8 by a preponderance of the scientific medical evidence establishing
9 that a variance from the guidelines is reasonably required to cure
10 or relieve the injured worker from the effects of his or her injury.
11 The presumption created is one affecting the burden of proof.

12 (b) The recommended guidelines set forth in the schedule
13 adopted pursuant to subdivision (a) shall reflect practices that are
14 evidence and scientifically based, nationally recognized, and peer
15 reviewed. The guidelines shall be designed to assist providers by
16 offering an analytical framework for the evaluation and treatment
17 of injured workers, and shall constitute care in accordance with
18 Section 4600 for all injured workers diagnosed with industrial
19 conditions.

20 (c) Three months after the publication date of the updated
21 American College of Occupational and Environmental Medicine's
22 Occupational Medicine Practice Guidelines, and continuing until
23 the effective date of a medical treatment utilization schedule,
24 pursuant to Section 5307.27, the recommended guidelines set forth
25 in the American College of Occupational and Environmental
26 Medicine's Occupational Medicine Practice Guidelines shall be
27 presumptively correct on the issue of extent and scope of medical
28 treatment, regardless of date of injury. The presumption is
29 rebuttable and may be controverted by a preponderance of the
30 evidence establishing that a variance from the guidelines is
31 reasonably required to cure and relieve the employee from the
32 effects of his or her injury, in accordance with Section 4600. The
33 presumption created is one affecting the burden of proof.

1 (d) (1) Notwithstanding the medical treatment utilization
2 schedule or the guidelines set forth in the American College of
3 Occupational and Environmental Medicine's Occupational
4 Medicine Practice Guidelines, for injuries occurring on and after
5 January 1, 2004, an employee shall be entitled to no more than 24
6 chiropractic, 24 occupational therapy, and 24 physical therapy
7 visits per industrial injury.

8 (2) Paragraph (1) shall not apply when an employer authorizes,
9 in writing, additional visits to a health care practitioner for physical
10 medicine services.

11 (3) Paragraph (1) shall not apply to visits for postsurgical
12 ~~physical medicine and rehabilitation services~~; *physical medicine*
13 *and postsurgical rehabilitation services provided in compliance*
14 *with a postsurgical treatment utilization schedule established by*
15 *the administrative director pursuant to Section 5307.27.*

16 (e) For all injuries not covered by the American College of
17 Occupational and Environmental Medicine's Occupational
18 Medicine Practice Guidelines or official utilization schedule after
19 adoption pursuant to Section 5307.27, authorized treatment shall
20 be in accordance with other evidence based medical treatment
21 guidelines generally recognized by the national medical community
22 and that are scientifically based.