

SHB 1068 - S COMM AMD
By Committee on Labor & Commerce

ADOPTED AS AMENDED 04/07/2023

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 51.36.070 and 2020 c 213 s 3 are each amended to
4 read as follows:

5 (1)(a) Whenever the department or the self-insurer deems it
6 necessary in order to (i) make a decision regarding claim allowance
7 or reopening, (ii) resolve a new medical issue, an appeal, or case
8 progress, or (iii) evaluate the worker's permanent disability or work
9 restriction, a worker shall submit to examination by a physician or
10 physicians selected by the department, with the rendition of a report
11 to the person ordering the examination, the attending physician, and
12 the injured worker.

13 (b) The examination must be at a place reasonably convenient to
14 the injured worker, or alternatively utilize telemedicine if the
15 department determines telemedicine is appropriate for the
16 examination. For purposes of this subsection, "reasonably convenient"
17 means at a place where residents in the injured worker's community
18 would normally travel to seek medical care for the same specialty as
19 the examiner. The department must address in rule how to accommodate
20 the injured worker if no approved medical examiner in the specialty
21 needed is available in that community.

22 (2) The department or self-insurer shall provide the physician
23 performing an examination with all relevant medical records from the
24 worker's claim file. The director, in his or her discretion, may
25 charge the cost of such examination or examinations to the self-
26 insurer or to the medical aid fund as the case may be. The cost of
27 said examination shall include payment to the worker of reasonable
28 expenses connected therewith.

29 (3) For purposes of this section, "examination" means a physical
30 or mental examination by a medical care provider licensed to practice
31 medicine, osteopathy, podiatry, chiropractic, dentistry, or

1 psychiatry at the request of the department or self-insured employer
2 (~~or by order of the board of industrial insurance appeals~~)).

3 (4)(a) The worker has the right to record the audio, video, or
4 both, of all examinations ordered under this section, RCW 51.32.110,
5 or by the board of industrial insurance appeals.

6 (b) The worker is responsible for paying the costs of recording.

7 (c) Upon request, the worker must provide one copy of the
8 recording to the department or self-insured employer within 14 days
9 of receiving the request, but in no case prior to the issuance of a
10 written report of the examination.

11 (d) The worker must take reasonable steps to ensure the recording
12 equipment does not interfere with the examination. The worker may not
13 hold the recording equipment while the examination is occurring.

14 (e) The worker may not materially alter the recording. Benefits
15 received as a result of any material alteration of the recording by
16 the worker or done on the worker's behalf may be subject to repayment
17 pursuant to RCW 51.32.240.

18 (f) The worker may not post the recording to social media.

19 (g) Recordings made under this subsection are deemed confidential
20 pursuant to RCW 51.28.070.

21 (h) The worker has the right to have one person, who is at least
22 the age of majority and who is of the worker's choosing, to be
23 present to observe all examinations ordered under this section, RCW
24 51.32.110, or by the board of industrial insurance appeals. The
25 observer must be unobtrusive and not interfere with the examination.
26 The observer may not be the worker's legal representative, an
27 employee of the legal representative, the worker's attending
28 provider, or an employee of the worker's attending provider.

29 (5) This section applies prospectively to all claims regardless
30 of the date of injury."

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31 On page 1, line 2 of the title, after "examinations;" strike the
32 remainder of the title and insert "and amending RCW 51.36.070."

EFFECT: Removes the prohibition on recording neuropsychological exams. Prohibits the worker from materially altering the recording or posting it to social media.

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