

§207. Medical examinations of employees; acceptance of treatment or employment rehabilitation

An employee being treated by a health care provider of the employee's own choice shall, after an injury and at all reasonable times during the continuance of disability if so requested by the employer, submit to an examination by a physician, surgeon or chiropractor authorized to practice as such under the laws of this State, to be selected and paid by the employer. The physician, surgeon or chiropractor must have an active practice of treating patients. For purposes of this section, "active practice" may be demonstrated by having active clinical privileges at a hospital. A physician or surgeon must be certified in the field of practice that treats the type of injury complained of by the employee. Certification must be by a board recognized by the American Board of Medical Specialties or the American Osteopathic Association or their successor organizations. A chiropractor licensed by the Board of Chiropractic Licensure who has an active practice of treating patients may provide a 2nd opinion when the initial opinion was given by a chiropractor. Once an employer selects a health care provider to examine an employee, the employer may not request that the employee be examined by more than one other health care provider, other than an independent medical examiner appointed pursuant to section 312, without prior approval from the employee or an administrative law judge. This provision does not limit an employer's right to request that the employee be examined by a specialist upon referral by the health care provider. Once the employee is examined by the specialist, the employer may not request that the employee be examined by a different specialist in the same specialty, other than an independent medical examiner appointed pursuant to section 312, without prior approval from the employee or the board. The employee has the right to have a physician, surgeon or chiropractor of the employee's own selection present at such an examination, whose costs are paid by the employer. The employer shall give the employee notice of this right at the time the employer requests an examination. [PL 2015, c. 297, §7 (AMD).]

The health care provider examining an employee under this section shall, prior to commencing the examination, advise the employee fully of all records, documents and other communications that the health care provider has available in conducting the examination. The health care provider shall also advise the employee and the employee's health care provider of the scope and purpose of the requested examination and all persons with whom the health care provider has communicated in preparation for the examination. Simultaneously with providing an oral or written report to the employer, the health care provider shall provide the same information to the employee and, if requested by the employee, to the employee's health care provider. [PL 2001, c. 278, §2 (NEW).]

Nothing in this Act may be construed to require an employee who in good faith relies on treatment by prayer or spiritual means, in accordance with the tenets and practice of a recognized church or religious denomination, by a duly accredited practitioner of those healing methods, to undergo any medical or surgical treatment. Such an employee or the employee's dependents may not be deprived of any compensation payments to which the employee would be entitled if medical or surgical treatments were employed. [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

If any employee refuses or neglects to submit to any reasonable examination provided for in this Act, or in any way obstructs any such examination, or if the employee declines a service that the employer is required to provide under this Act, then such employee's rights to compensation are forfeited during the period of the infractions if the board finds that there is adequate cause to do so. [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

SECTION HISTORY

PL 1991, c. 885, §A8 (NEW). PL 1991, c. 885, §§A9-11 (AFF). PL 1999, c. 365, §1 (AMD). PL 2001, c. 278, §§1,2 (AMD). PL 2015, c. 297, §7 (AMD).

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