

CHAPTER 1112

S.B. No. 1154

AN ACT

relating to the authority of the Industrial Accident Board to bar certain persons from practicing before that board.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 4, Article 8307, Revised Statutes, is amended to read as follows:

Sec. 4. RULES: PHYSICAL EXAMINATION; SUSPENSION OF COMPENSATION; PROCEDURE AND POWERS. (a) The Board may make rules not inconsistent with this law for carrying out and enforcing its provisions, and may require any employee claiming to have sustained injury to submit himself for examination before such Board or someone acting under its authority at some reasonable time and place within the State, and as often as may be reasonably ordered by the Board to a physician or physicians, a chiropractor or chiropractors authorized to practice under the laws of this State. If the employee or the association requests, he or it shall be entitled to have a physician or physicians, chiropractor or chiropractors of his or its own selection present to participate in such examination. Refusal of the employee to submit to such examination shall deprive him of his right to compensation during the continuance of such refusal. When a right to compensation is thus suspended no compensation shall be payable in respect to the period of suspension. If any employee shall persist in insanitary or injurious practices which tend to either imperil or retard his recovery, or shall refuse to submit to such medical or surgical treatment, chiropractic service or other remedial treatment recognized by the State, as is reasonably essential to promote his recovery, the board may in its discretion order or direct the association to reduce or suspend the compensation of any such injured employee. No compensation shall be reduced or suspended under the terms of this Section without reasonable notice to the employee and an opportunity to be heard.

(b) When authorized by the Board, the Association shall have the privilege of having any injured employee examined by a physician or physicians, chiropractor or chiropractors of its own selection, at reasonable times, at a place or places suitable to the condition of the injured employee and convenient and accessible to him. The Association shall pay for such examination and the reasonable expense incident to the injured employee in submitting thereto. The injured employee shall have the privilege to have a physician or chiropractor of his own selection present to participate in such examination. Provided, when such examination is directed by the Board at the request of the Association, the Association shall pay the fee of the physician or chiropractor selected by the employee, such fee to be fixed by the Board.

(c) Process and procedure shall be as summary as may be under this law. The Board or any member thereof shall have the power to subpoena witnesses, administer oaths, inquire into matters of fact, examine such parts of the books and records of the parties to a proceeding as relate to questions in dispute, punish for contempt in the same manner and to the same extent as a District Court may do, ~~and to bar persons guilty of unethical or fraudulent conduct from practicing before the Board~~. All rulings and decisions of the board relating to disputed claims shall be upon questions of fact and in accord with the provisions of this law.

(d) *After a hearing before the Board, the Board may bar a person determined to be guilty of unethical or fraudulent conduct from practicing before the Board. The Board shall provide the person with written notice of the hearing at least 10 days before the date on which the hearing is scheduled. The Board shall conduct the hearing in the manner provided for a contested case hearing under Section 13, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).*

(e) *A person who is aggrieved by a final decision of the Board under Subsection (d) of this section is entitled to judicial review of the Board decision by trial de novo. The person may appeal the Board decision by filing a petition in a district court of Travis County, Texas, or in the county of the aggrieved person's residence, not later than the 30th day after the date on which the final decision of the Board is entered. A copy of the petition must be served on the Board.*

(f) *The Board by rule may require the person to pay the cost of preparation of an original or certified copy of Board records required to be transmitted to the reviewing court. A charge under this section is considered a court cost and may be assessed by the court as provided by the Texas Rules of Civil Procedure.*

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on May 11, 1987, by the following vote: Yeas 27, Nays 0. Passed the House on May 29, 1987, by the following vote: Yeas 147, Nays 0, one present not voting.

Approved June 19, 1987.

Effective June 19, 1987.