

## **BILL ANALYSIS**

C.S.H.B. 4524  
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Business & Industry  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Stakeholders have observed that medical costs and time savings can be achieved in the workers' compensation system by providing statutory authority to remotely conduct medical examinations to assign an impairment rating—a percentage estimate of normal use that an individual's injured body parts have lost. In the wake of the COVID-19 pandemic, during which many patients were unable to physically attend doctors' appointments and were subjected to additional costs associated with these in-person visits, it has been suggested that Texans should have the option to obtain a workers' compensation medical examination using telehealth services or telemedicine medical services. C.S.H.B. 4524 seeks to provide this option.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of workers' compensation in SECTIONS 1 and 2 of this bill.

### **ANALYSIS**

C.S.H.B. 4524 amends the Labor Code to authorize the commissioner of workers' compensation to order a medical examination to resolve any question about an employee's compensable injury for the purpose of workers' compensation benefits to be conducted using telehealth services or telemedicine medical services if the commissioner determines conducting the examination in that manner is necessary to ensure access to a timely examination by a qualified doctor. The bill requires a health care professional to be physically present in the room in which the employee is located to assist in conducting the examination and administering any necessary testing. The bill authorizes the commissioner to adopt rules related to such examinations performed using telehealth or telemedicine medical services under this provision.

C.S.H.B. 4524 authorizes the employee's treating doctor or another doctor authorized by the Texas Department of Insurance division of workers' compensation to certify maximum medical improvement or assign an impairment rating to do so during a medical examination performed by the doctor using telehealth services or telemedicine medical services if, as follows:

- the examination is of a musculoskeletal injury or diagnosis involving:
  - the hand or upper extremities;
  - the foot, including toes and heel; or
  - the spine and musculoskeletal structures of the torso; or
- the commissioner determines there is good cause to conduct the examination using telehealth or telemedicine medical services.

C.S.H.B. 4524 requires a health care professional to be physically present in the room in which the employee is located during an examination conducted using telehealth or telemedicine medical services to assign an impairment rating or certify maximum medical improvement to assist in conducting the examination and administering any necessary testing, unless a doctor determined that the employee is not at maximum medical improvement or a doctor certified maximum medical improvement during an examination and concluded there was no possibility of impairment based on the examination. The bill requires the commissioner to adopt rules necessary to implement the use of telehealth or telemedicine medical services for conducting examinations to certify maximum medical improvement or assign an impairment rating.

C.S.H.B. 4524 applies only to a medical examination to resolve any question about an employee's compensable injury by the designated doctor and a medical examination to certify an employee's maximum medical improvement or assign an impairment rating that are conducted on or after the bill's effective date.

### **EFFECTIVE DATE**

January 1, 2024.

### **COMPARISON OF INTRODUCED AND SUBSTITUTE**

While C.S.H.B. 4524 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute provides that the bill takes effect on January 1, 2024, but the introduced provided a September 1, 2023, effective date for the bill.

Whereas both the introduced and substitute authorize an examination to certify an employee's maximum medical improvement or assign an employee's impairment rating to be conducted using telehealth or telemedicine medical services, the substitute changes the provisions as set out in the introduced as follows:

- the substitute clarifies that the examination is authorized to be conducted by the employee's treating doctor or another doctor authorized by the division of workers' compensation to certify maximum medical improvement or assign an impairment rating, whereas the introduced did not clarify that;
- the substitute includes the following conditions on that authority that were absent from the introduced:
  - a condition that the examination is of certain musculoskeletal injuries or diagnoses; or
  - a condition authorizing certification if the commissioner determines that there is good cause to conduct the examination using those services;
- the substitute does not include a provision of the introduced that provided for the definition of health care professional for purposes of the requirement that such a professional be physically present in the room in which the employee is located to assist the certifying doctor;
- the substitute includes as a circumstance under which a health care professional is not required to be physically present in the room with the employee during an examination for certification that a doctor has determined that the employee is not at maximum medical improvement, which the introduced did not include; and
- the substitute includes a requirement absent from the introduced for the commissioner of workers' compensation to adopt rules necessary to implement the use of telehealth or telemedicine medical services for conducting the examination for such certification.

The substitute includes a provision and its related applicability provision, both of which are not in the introduced, that, respectively:

- authorizes the commissioner of workers' compensation to order an examination to resolve any question about an employee's compensable injury for the purpose of workers' compensation benefits to be conducted using telehealth services or telemedicine medical services if the commissioner determines conducting such an examination is necessary to ensure access to a timely examination by a qualified doctor, and authorizes the commissioner to adopt rules related to such examinations performed under this provision; and
- provides that the foregoing provision is applicable to such an examination conducted on or after the bill's effective date.