

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Amend the Laws Governing the Determination of Permanent Impairment under the Maine Workers' Compensation Act of 1992

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 39-A MRSA §153, sub-§8, ¶A, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

A. In order to reduce litigation and establish more certainty and uniformity in the rating of permanent impairment, the board shall establish by rule a schedule for determining the existence and degree of permanent impairment based upon medically or scientifically demonstrable findings. The schedule must be based on ~~generally accepted medical standards for determining impairment and may incorporate all or part of any one or more generally accepted schedules used for that purpose, such as the American Medical Association's "Guides to the Evaluation of Permanent Impairment." Pending the adoption of a permanent schedule, "Guides to the Evaluation of Permanent Impairment," 3rd4th edition, copyright 19901993, by the American Medical Association, is the temporary schedule and must be used for the purposes of this subsection~~except as otherwise provided in this paragraph.

(1) A determination of permanent impairment of the spine must be based on a medical opinion formulated using the "diagnosis related estimate" model and may not be based on a medical opinion formulated using the "range of motion" model.

(2) A determination of permanent impairment may not include an assessment of permanent impairment based on behavioral, emotional or psychiatric conditions.

Sec. 2. 39-A MRSA §312, sub-§7, as amended by PL 2005, c. 24, §2, is further amended to read:

7. Weight. The board shall adopt the medical findings of the independent medical examiner unless there is clear and convincing evidence to the contrary in the record that does not support the medical findings, except that the medical findings of the independent medical examiner regarding the extent of permanent impairment must be adopted by the board. Contrary evidence does not include medical evidence not considered by the independent medical examiner. The board shall state in writing the reasons for not accepting the medical findings of the independent medical examiner.

SUMMARY

This bill amends the law governing the determination of permanent impairment for workers' compensation purposes as follows:

1. It specifies that the schedule adopted by the Workers' Compensation Board for determining the existence and degree of permanent impairment based upon medically or scientifically demonstrable findings must be based on the American Medical Association's "Guides to the Evaluation of Permanent Impairment," 4th edition;

2. It requires that a determination of permanent impairment of the spine must be based on a medical opinion formulated using the "diagnosis related estimate" model and may not be based on a medical opinion formulated using the "range of motion" model;

3. It specifies that a determination of permanent impairment may not include an assessment of permanent impairment based on behavioral, emotional or psychiatric conditions; and

4. It requires that the medical findings of the independent medical examiner regarding the extent of permanent impairment must be adopted by the board.