

SENATE BILL 2761

By Bell

AN ACT to amend Tennessee Code Annotated, Title 50,
Chapter 6, relative to workers' compensation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 50-6-102, is amended by inserting the following as a new appropriately designated subdivision:

() "Treating healthcare provider" means the licensed healthcare provider who is primarily responsible for treating an employee who suffers an injury; and who is a physician, surgeon, chiropractor, advanced practice registered nurse, or physician assistant;

SECTION 2. Tennessee Code Annotated, Section 50-6-102(14)(D), is amended by deleting "physician" and substituting instead "treating healthcare provider".

SECTION 3. Tennessee Code Annotated, Section 50-6-102(14)(E), is amended by deleting "treating physician" and substituting instead "treating healthcare provider", and by deleting "panel of physicians" and substituting instead "panel of healthcare providers".

SECTION 4. Tennessee Code Annotated, Section 50-6-102(19), is amended by deleting "or chiropractors" and substituting instead "chiropractors, advanced practice registered nurses, or physician assistants".

SECTION 5. Tennessee Code Annotated, Section 50-6-118(a)(12), is amended by deleting "physicians" and substituting instead "healthcare providers".

SECTION 6. Tennessee Code Annotated, Section 50-6-124(j)(3)(B), is amended by deleting "treating physician" and substituting instead "treating healthcare provider".

SECTION 7. Tennessee Code Annotated, Section 50-6-204(a)(1)(A), is amended by deleting "attending physician" and substituting instead "treating healthcare provider".

SECTION 8. Tennessee Code Annotated, Section 50-6-204(a)(2)(A), is amended by deleting "physician" wherever it appears and substituting instead "healthcare provider".

SECTION 9. Tennessee Code Annotated, Section 50-6-204(a)(3), is amended by deleting the subdivision and substituting instead the following:

(3)

(A)

(i)

(a) The injured employee shall accept the medical benefits afforded under this section; provided, that in any case when the employee has suffered an injury and expressed a need for medical care, the employer designates a group of three (3) or more reputable physicians, surgeons, chiropractors, advanced practice registered nurses, physician assistants, or specialty practice groups not associated in practice together, if available in the injured employee's community or, if not so available, in accordance with subdivision (a)(3)(B), from which the injured employee shall select one (1) to be the treating healthcare provider.

(b) As used in this subdivision (a)(3)(A), "specialty groups not associated in practice together" means at least one (1) physician, surgeon, chiropractor, advanced practice registered nurse, or physician assistant, not associated in practice with another physician, surgeon, chiropractor, advanced practice registered nurse, or physician assistant who is on the list or panel provided to an employee pursuant to this section.

(ii) When necessary, the treating healthcare provider selected in accordance with this subdivision (a)(3)(A) shall make referrals to a

specialist physician, surgeon, or chiropractor and immediately notify the employer. The employer is deemed to have accepted the referral, unless the employer, within three (3) business days, provides the employee a panel of three (3) or more independent reputable physicians, surgeons, chiropractors, or specialty practice groups. In this case, the employee may choose a specialist physician, surgeon, chiropractor, or specialty practice group to provide treatment from the panel provided by the employer.

(iii) The liability of the employer for the services provided to the employee is limited to the maximum allowable fees established in the applicable medical fee schedule adopted pursuant to this section.

(iv) The bureau may waive subdivision (a)(3)(A)(iii) when necessary to provide treatment for an injured employee.

(B)

(i) If three (3) or more reputable physicians, surgeons, chiropractors, advanced practice registered nurses, physician assistants, or specialty practice groups not associated in practice together, are not available in the employee's community of residence, then the employer shall provide a list of three (3) reputable physicians, surgeons, chiropractors, advanced practice registered nurses, physician assistants, or specialty practice groups not associated in practice together, that are within a one-hundred-twenty-five-mile radius of the employee's community of residence.

(ii) As used in this subdivision (a)(3)(B), "specialty groups not associated in practice together" means at least one (1) physician,

surgeon, chiropractor, advanced practice registered nurse, or physician assistant, not associated in practice with another physician, surgeon, chiropractor, advanced practice registered nurse, or physician assistant who is on the list or panel provided to an employee pursuant to this section.

(C) If the treating healthcare provider refers the injured employee, then the employee may have a second opinion on the issue of surgery and diagnosis from a healthcare provider from a panel of two (2) healthcare providers practicing in the same specialty as the healthcare provider who recommends the surgery. If the employer has provided a panel of specialists pursuant to subdivision (a)(3)(A)(i), then the employee may choose one (1) of the two (2) remaining specialists to provide a second opinion on the issue of surgery and diagnosis. The employee's decision to obtain a second opinion does not alter the previous selection of the treating healthcare provider.

(D)

(i) The employer shall provide an applicable panel of healthcare providers to the employee in writing on a form prescribed by the bureau. The employee shall select a healthcare provider from the panel, sign and date the completed form, and return the form to the employer. The employer shall provide a copy of the completed form:

- (a) To the employee;
- (b) In the employer records; and
- (c) Upon request, to the bureau.

(ii) If the employee is presented with the healthcare provider selection form but fails to sign the completed form and return it to the

employer, then the employee's receipt of treatment from any healthcare provider provided in the panel after the date the panel is provided constitutes acceptance of the panel and selection of the healthcare provider from whom the employee received treatment as the treating healthcare provider.

(E) If the treating healthcare provider refers the employee to a specialist physician, surgeon, chiropractor, or specialty practice group, then the specialist physician, surgeon, or chiropractor to which the employee is referred, or selected by the employee from a panel provided by the employer, becomes the treating healthcare provider until treatment by the specialist physician, surgeon, or chiropractor concludes and the employee is referred back to the treating healthcare provider selected by the employee from the initial panel provided by the employer under subdivision (a)(3)(A).

(F) If an employee changes the employee's community of residence after selection of a healthcare provider under this subsection (a), then the employer shall provide the employee, upon written request, a new panel of reputable healthcare providers, as provided in subdivision (a)(3)(A), from which the injured employee shall select one (1) to be the treating healthcare provider.

(G) If any physician, surgeon, chiropractor, advanced practice registered nurse, or physician assistant or specialty practice group included on a panel provided to an employee under this subsection (a) declines to accept the employee as a patient for the purpose of providing treatment to the employee for the employee's workers' compensation injury, then the employee may either select a healthcare provider from the remaining healthcare providers included on the initial panel provided to the employee pursuant to subdivision (a)(3)(A) or

request that the employer provide an additional choice of a physician, surgeon, chiropractor, advanced practice registered nurse, physician assistant, or specialty practice group to replace the healthcare provider who refused to accept the injured employee as a patient for the purpose of treating the employee's workers' compensation injury.

(H) Any treatment recommended by a healthcare provider selected pursuant to this subsection (a) or by referral, if applicable, is presumed to be medically necessary for treatment of the injured employee.

(I) Following the adoption of treatment guidelines pursuant to § 50-6-124, the presumption of medical necessity for treatment recommended by a healthcare provider selected pursuant to this subsection (a) or by referral, if applicable, is rebuttable only by clear and convincing evidence demonstrating that the recommended treatment substantially deviates from, or presents an unreasonable interpretation of, the treatment guidelines.

SECTION 10. Tennessee Code Annotated, Section 50-6-204(d)(1), is amended by deleting the subdivision and substituting instead the following:

The injured employee must submit to an examination by the employer's physician at all reasonable times if requested to do so by the employer, but the employee has the right to have the employee's own healthcare provider present at the examination, in which case the employee is liable for the employee's healthcare provider's services.

SECTION 11. Tennessee Code Annotated, Section 50-6-204(d)(5), is amended by deleting "physician" and substituting instead "healthcare provider".

SECTION 12. Tennessee Code Annotated, Section 50-6-204(f), is amended by deleting "physician" wherever it appears and substituting instead "healthcare provider".

SECTION 13. Tennessee Code Annotated, Section 50-6-204(h), is amended by deleting "physicians" and substituting instead "healthcare providers".

SECTION 14. Tennessee Code Annotated, Section 50-6-204(i)(1), is amended by deleting "physicians and surgeons" and substituting instead the following:

physicians, chiropractors, advanced practice registered nurses, physician assistants, and surgeons

SECTION 15. Tennessee Code Annotated, Section 50-6-204(j)(1), is amended by deleting "physician" wherever it appears and substituting instead "healthcare provider".

SECTION 16. Tennessee Code Annotated, Section 50-6-204(j)(2), is amended by deleting "treating physician" and substituting instead "treating healthcare provider".

SECTION 17. Tennessee Code Annotated, Section 50-6-204(j)(4)(C), is amended by deleting "physician" wherever it appears and substituting instead "healthcare provider", and by deleting "physician's" and substituting instead "healthcare provider's".

SECTION 18. Tennessee Code Annotated, Section 50-6-204(k), is amended by deleting "physician or chiropractor" wherever it appears and substituting instead "healthcare provider", and by deleting "physician's or chiropractor's" and substituting instead "healthcare provider's".

SECTION 19. Tennessee Code Annotated, Section 50-6-207(1)(E), is amended by deleting "physician" and substituting instead "healthcare provider".

SECTION 20. Tennessee Code Annotated, Section 50-6-226(a)(4), is amended by deleting "physicians" and substituting instead "healthcare providers".

SECTION 21. Tennessee Code Annotated, Section 50-6-226(c), is amended by deleting "treating physician" and substituting instead "treating healthcare provider", and by deleting "any physician" and substituting instead "a healthcare provider".

SECTION 22. Tennessee Code Annotated, Section 50-6-235, is amended by deleting "physician" wherever it appears and substituting instead "healthcare provider", and by deleting "physician's" wherever it appears and substituting "healthcare provider's".

SECTION 23. Tennessee Code Annotated, Section 50-6-242, is amended by deleting "physician" wherever it appears and substituting instead "healthcare provider", and by deleting "physician's" and substituting instead "healthcare provider's".

SECTION 24. This act shall take effect on July 1, 2020, the public welfare requiring it.