

## HOUSE BILL No. 2619

By Committee on Commerce, Labor and Economic Development

2-11

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1 AN ACT concerning workers' compensation; pertaining to the selection of  
2 the examining health care provider; amending K.S.A. 2013 Supp. 44-  
3 515 and repealing the existing section.  
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5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2013 Supp. 44-515 is hereby amended to read as  
7 follows: 44-515. (a) After an employee sustains an injury, the employee  
8 shall, upon request of the employer, submit to an examination at any  
9 reasonable time and place by any one or more reputable health care  
10 providers, selected by the ~~employer~~ *employee*, and shall so submit to an  
11 examination thereafter at intervals during the pendency of such employee's  
12 claim for compensation, upon the request of the employer, but the  
13 employee shall not be required to submit to an examination oftener than  
14 twice in any one month, unless required to do so in accordance with such  
15 orders as may be made by the director. All benefits shall be suspended to  
16 an employee who refuses to submit to such examination or examinations  
17 until such time as the employee complies with the employer's request. The  
18 suspension of benefits shall occur even if the employer is under  
19 preliminary order to provide such benefits. Any employee so submitting to  
20 an examination or such employee's authorized representative shall upon  
21 written request be entitled to receive and shall have delivered to such  
22 employee a copy of the health care provider's report of such examination  
23 within a reasonable amount of time after such examination, which report  
24 shall be identical to the report submitted to the employer. If the employee  
25 is notified to submit to an examination before any health care provider in  
26 any town or city other than the residence of the employee at the time that  
27 the employee received an injury, the employee shall not be required to  
28 submit to an examination until such employee has been furnished with  
29 sufficient funds to pay for transportation to and from the place of  
30 examination at the rate prescribed for compensation of state officers and  
31 employees under K.S.A. 75-3203a, and amendments thereto, for each mile  
32 actually and necessarily traveled to and from the place of examination, any  
33 turnpike or other tolls and any parking fees actually and necessarily  
34 incurred, and in addition the sum of \$15 per day for each full day that the  
35 employee was required to be away from such employee's residence to  
36 defray such employee's board and lodging and living expenses. The

1 employee shall not be liable for any fees or charge of any health care  
2 provider selected by the employer for making any examination of the  
3 employee. The employer or the insurance carrier of the employer of any  
4 employee making claim for compensation under the workers  
5 compensation act shall be entitled to a copy of the report of any health care  
6 provider who has examined or treated the employee in regard to such  
7 claim upon written request to the employee or the employee's attorney  
8 within a reasonable amount of time after such examination or treatment,  
9 which report shall be identical to the report submitted to the employee or  
10 the employee's attorney.

11 (b) If the ~~employee~~ employer requests, such ~~employee~~ employer shall  
12 be entitled to have health care providers of such ~~employee's employer's~~  
13 own selection present at the time to participate in such examination.

14 (c) Unless a report is furnished as provided in subsection (a) and  
15 unless there is a reasonable opportunity thereafter for the health care  
16 providers selected by the ~~employee~~ employer to participate in the  
17 examination in the presence of the health care providers selected by the  
18 ~~employer~~ employee, the health care providers selected by the employer or  
19 employee shall not be permitted afterwards to give evidence of the  
20 condition of the employee at the time such examination was made.

21 (d) Except as provided in this section, there shall be no  
22 disqualification or privilege preventing the furnishing of reports by or the  
23 testimony of any health care provider who actually makes an examination  
24 or treats an injured employee, prior to or after an injury.

25 (e) Any health care provider's opinion, whether the provider is a  
26 treating health care provider or is an examining health care provider,  
27 regarding a claimant's need for medical treatment, inability to work,  
28 prognosis, diagnosis and disability rating shall be considered and given  
29 appropriate weight by the trier of fact together with consideration of all  
30 other evidence.

31 Sec. 2. K.S.A. 2013 Supp. 44-515 is hereby repealed.

32 Sec. 3. This act shall take effect and be in force from and after its  
33 publication in the statute book.