

SENATE BILL NO. 119

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - FIRST SESSION

BY SENATOR KIEHL

Introduced: 5/1/19

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act authorizing employers and employees to mediate disputed workers'**
2 **compensation claims and negotiate collective bargaining agreements that require**
3 **arbitration of disputed workers' compensation claims by the division of workers'**
4 **compensation; allowing collective bargaining agreements to supersede provisions of the**
5 **Alaska Workers' Compensation Act; and providing for an effective date."**

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * **Section 1.** AS 23.30.110 is amended by adding a new subsection to read:

8 (i) If the employee and the employer disagree with respect to the issues
9 relating to a claim under this chapter, the employee and the employer and their
10 respective representatives and agents may resolve the disagreement by mediation,
11 subject to the following:

12 (1) mediation under this section

13 (A) is intended to facilitate resolution of a disputed claim, but

1 the mediator does not have the power to compel a resolution;

2 (B) shall be conducted by a hearing officer or other employee
3 of the division of workers' compensation;

4 (C) shall be conducted informally as one or more in-person or
5 telephonic conferences, as determined by the mediator;

6 (D) shall be confidential; and

7 (E) may not be recorded;

8 (2) notwithstanding AS 23.30.135, evidence of efforts to resolve
9 disputed claims and conduct or statements made during mediation may not be used as
10 evidence at a hearing under this chapter;

11 (3) after the first conference, either party may withdraw;

12 (4) if the mediator determines that further mediation efforts would not
13 be sufficiently productive, the mediator shall terminate mediation and notify the board
14 that mediation efforts have failed;

15 (5) if the mediation resolves the disagreement, the mediator may assist
16 the employer and the employee in preparing a memorandum of agreement for filing
17 with the board or approval by the board under AS 23.30.012;

18 (6) the expense of the mediation may not be assessed against the
19 participants.

20 * **Sec. 2.** AS 23.30 is amended by adding a new section to read:

21 **Sec. 23.30.285. Collective bargaining agreements.** (a) A collective
22 bargaining agreement negotiated between an employer or a group of employers and an
23 organization that represents employees may

24 (1) establish a process for resolving disputes under this chapter through
25 mediation or arbitration, or both; a process established under this paragraph must
26 provide that

27 (A) the parties must agree before a particular dispute may be
28 submitted to mediation;

29 (B) if mediation fails, the parties shall submit the dispute to
30 arbitration under AS 09.43.300 - 09.43.595;

31 (C) notwithstanding AS 09.43.300 - 09.43.595, the mediation

1 or arbitration be conducted by a hearing officer or other employee of the
2 division of workers' compensation;

3 (D) the mediation or arbitration govern the dispute resolution
4 process under this chapter;

5 (E) the dispute resolution process result in findings of fact,
6 award, and a final order or decision by the arbitrator; the award, order, or
7 decision of the arbitrator has the same force and effect as a finding of fact,
8 award, order, or decision of a hearing officer under AS 23.30.005;

9 (2) identify health care providers who are the exclusive source of
10 medical treatment provided under this chapter; in this paragraph, "health care
11 provider" has the meaning given in AS 09.55.560;

12 (3) identify independent medical evaluators who are the exclusive
13 source of medical evaluations authorized under this chapter;

14 (4) identify vocational rehabilitation specialists who are the exclusive
15 source of vocational rehabilitation services regulated under this chapter;

16 (5) establish a joint safety committee with representatives from the
17 employer and the labor organization; and

18 (6) establish a program for light-duty employment or employment that
19 is modified according to limitations or restrictions imposed by a physician or
20 chiropractor.

21 (b) A collective bargaining agreement or a process under (a) of this section
22 may not diminish a benefit under this chapter.

23 (c) Competing physicians may meet and communicate to negotiate
24 collectively with a party to a collective bargaining agreement in the same manner as
25 competing physicians may meet and communicate with a health benefit plan
26 concerning contract terms and conditions under AS 23.50.020 relating to the identity
27 of the health care providers who are the exclusive source of medical treatment under
28 (a)(2) of this section.

29 (d) In this section, "organization" has the meaning given in AS 23.40.250.

30 * **Sec. 3.** This Act takes effect July 1, 2019.