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SENATE BILL NO. 345

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Commerce and Labor
on February 1, 2016)

(Patron Prior to Substitute—Senator Lewis)

A BILL to amend and reenact § 65.2-603 of the Code of Virginia, relating to workers' compensation; employer's duty when employee incapable of work.

Be it enacted by the General Assembly of Virginia:

1. That § 65.2-603 of the Code of Virginia is amended and reenacted as follows:

§ 65.2-603. Duty to furnish medical attention, etc., and vocational rehabilitation; effect of refusal of employee to accept.

A. Pursuant to this section:

1. As long as necessary after an accident, the employer shall furnish or cause to be furnished, free of charge to the injured employee, a physician chosen by the injured employee from a panel of at least three physicians selected by the employer and such other necessary medical attention. Where such accident results in the amputation or loss of use of an arm, hand, leg, or foot or the enucleation of an eye or the loss of any natural teeth or loss of hearing, the employer shall furnish prosthetic or orthotic appliances, as well as wheelchairs, walkers, canes, or crutches, proper fitting and maintenance thereof, and training in the use thereof, as the nature of the injury may require.

In awards entered for incapacity for work, under this title, upon determination by the treating physician and the Commission that the same is medically necessary, the Commission may require:

a. Require that the employer either (i) furnish and maintain ~~(i)~~ modifications to or equipment for the employee's automobile or (ii) if there is a loss of function to either or both feet, legs, hands or arms and if the Commission determines that modifications to or equipment for the employee's automobile pursuant to clause (i) are not technically feasible, will not render the automobile operable by the employee, or will cost more than is available for such purpose after payment for any items provided under subdivision b, order that the balance of funds available under the aggregate cap of \$42,000 be applied towards the purchase by the employee of a suitable automobile or to furnish or maintain modifications to such automobile; and

b. Require that the employer furnish and maintain bedside lifts, adjustable beds, and modification of the employee's principal home consisting of ramps, handrails, or any appliances prescribed by the treating physician and doorway alterations; ~~provided that the~~

The aggregate cost of all such items and modifications required to be furnished pursuant to ~~clauses~~ ~~(i)~~ subdivisions a and ~~(ii)~~ b on account of any one accident shall not exceed \$42,000.

The employee shall accept the attending physician, unless otherwise ordered by the Commission, and in addition, such surgical and hospital service and supplies as may be deemed necessary by the attending physician or the Commission.

2. The employer shall repair, if repairable, or replace dentures, artificial limbs, or other prosthetic or orthotic devices damaged in an accident otherwise compensable under workers' compensation, and furnish proper fitting thereof.

3. The employer shall also furnish or cause to be furnished, at the direction of the Commission, reasonable and necessary vocational rehabilitation services; however, the employer shall not be required to furnish, or cause to be furnished, services under this subdivision to any injured employee not eligible for lawful employment.

Vocational rehabilitation services may include vocational evaluation, counseling, job coaching, job development, job placement, on-the-job training, education, and retraining. Those vocational rehabilitation services that involve the exercise of professional judgment as defined in § 54.1-3510 shall be provided by a certified rehabilitation provider pursuant to Article 2 (§ 54.1-3510 et seq.) of Chapter 35 of Title 54.1 or by a person licensed by the Boards of Counseling; Medicine; Nursing; Optometry; Psychology; or Social Work or, in accordance with subsection B of § 54.1-3513, by a person certified by the Commission on Rehabilitation Counselor Certification (CRCC) as a certified rehabilitation counselor (CRC) or a person certified by the Commission on Certification of Work Adjustment and Vocational Evaluation Specialists (CCWAVES) as a Certified Vocational Evaluation Specialist (CVE).

In the event a dispute arises, any party may request a hearing and seek the approval of the Commission for the proposed services. Such services shall take into account the employee's preinjury job and wage classifications; his age, aptitude, and level of education; the likelihood of success in the new vocation; and the relative costs and benefits to be derived from such services.

B. The unjustified refusal of the employee to accept such medical service or vocational rehabilitation services when provided by the employer shall bar the employee from further compensation until such

60 refusal ceases and no compensation shall at any time be paid for the period of suspension unless, in the
61 opinion of the Commission, the circumstances justified the refusal. In any such case the Commission
62 may order a change in the medical or hospital service or vocational rehabilitation services.

63 C. If in an emergency or on account of the employer's failure to provide the medical care during the
64 period herein specified, or for other good reasons, a physician other than provided by the employer is
65 called to treat the injured employee, during such period, the reasonable cost of such service shall be paid
66 by the employer if ordered so to do by the Commission.

67 D. As used in this section and in § 65.2-604, the terms "medical attention," "medical service,"
68 "medical care," and "medical report" shall be deemed to include chiropractic service or treatment and,
69 where appropriate, a chiropractic treatment report.

70 E. Whenever an employer furnishes an employee the names of three physicians pursuant to this
71 section, and the employer also assumes all or part of the cost of providing health care coverage for the
72 employee as a self-insured or under a group health insurance policy, health services plan or health care
73 plan, upon the request of an employee, the employer shall also inform the employee whether each
74 physician named is eligible to receive payment under the employee's health care coverage provided by
75 the employer.

76 F. If the injured employee has an injury which may be treated within the scope of practice for a
77 chiropractor, then the employer or insurer may include chiropractors on the panel provided the injured
78 employee.