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SENATE BILL NO. 168

Offered January 8, 2020

Prefiled December 20, 2019

A BILL to amend and reenact §§ 9.1-404 and 9.1-405 of the Code of Virginia, relating to Line of Duty Act; requiring Virginia licensed health practitioners to conduct medical reviews.

Patrons—DeSteph, Chase and Morrissey

Referred to Committee on the Judiciary

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-404 and 9.1-405 of the Code of Virginia are amended and reenacted as follows:

§ 9.1-404. Order of the Virginia Retirement System.

A. 1. The Virginia Retirement System shall make an eligibility determination within 45 days of receiving all necessary information for determining eligibility for a claim filed under § 9.1-403. The Virginia Retirement System may use a medical board pursuant to § 51.1-124.23 in determining eligibility. If benefits under this chapter are due, VRS shall notify the nonparticipating employer, which shall provide the benefits within 15 days of such notice, or VRS shall pay the benefits from the Fund on behalf of the participating employer within 15 days of the determination, as applicable. The payments shall be retroactive to the first date that the disabled person was no longer eligible for health insurance coverage subsidized by his employer.

2. Two years after an individual has been determined to be a disabled person, VRS may require the disabled person to renew the determination through a process established by VRS. If a disabled person refuses to submit to the determination renewal process described in this subdivision, then benefits under this chapter shall cease for the individual, any eligible dependents, and an eligible spouse until the individual complies. If such individual does not comply within six months from the date of the initial request for a renewed determination, then benefits under this chapter shall permanently cease for the individual, any eligible dependents, and an eligible spouse. If VRS issues a renewed determination that an individual is no longer a disabled person, then benefits under this chapter shall permanently cease for the individual, any eligible dependents, and an eligible spouse. If VRS issues a renewed determination that an individual remains a disabled person, then VRS may require the disabled person to renew the determination five years after such renewed determination through a process established by VRS. The Virginia Retirement System may require the disabled person to renew the determination at any time if VRS has information indicating that the person may no longer be disabled.

3. For any medical review conducted for the purpose of making an eligibility determination pursuant to this section, VRS shall require such examination to be conducted by a licensed health practitioner. For purposes of this section, "licensed health practitioner" means a person licensed to practice medicine or osteopathic medicine pursuant to the provisions of Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1, a person licensed to practice nursing pursuant to the provisions of Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1, or a person licensed to practice psychology pursuant to the provisions of Chapter 36 (§ 54.1-3600 et seq.) of Title 54.1.

B. The Virginia Retirement System shall be reimbursed for all reasonable costs incurred and associated, directly and indirectly, in performing the duties pursuant to this chapter (i) from the Line of Duty Death and Health Benefits Trust Fund for costs related to disabled persons, deceased persons, eligible dependents, and eligible spouses on behalf of participating employers and (ii) from a nonparticipating employer for premiums and costs related to disabled persons, deceased persons, eligible dependents, and eligible spouses for which the nonparticipating employer is responsible.

C. The Virginia Retirement System may develop policies and procedures necessary to carry out the provisions of this chapter.

§ 9.1-405. Appeal from decision of Virginia Retirement System.

Any beneficiary, disabled person or eligible spouse or eligible dependent of a deceased or disabled person aggrieved by the decision of VRS may appeal the decision through a process established by VRS. Any such process may utilize a medical board as described in § 51.1-124.23*, provided that for any medical review conducted pursuant to the provisions of this chapter, each member of such medical board shall be a licensed health practitioner, as defined in § 9.1-404*. An employer may submit information related to the claim and may participate in any informal fact-finding proceeding that is included in such process established by VRS. Upon completion of the appeal process, the final determination issued by VRS shall constitute a case decision as defined in § 2.2-4001. Any beneficiary, disabled person, or eligible spouse or eligible dependent of a deceased or disabled person aggrieved by,

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and claiming the unlawfulness of, such case decision shall have a right to seek judicial review thereof in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act. The employer shall not have a right to seek such judicial review.

2. That the provisions of this act shall become effective on July 1, 2021.