

HOUSE BILL NO. 33
INTRODUCED BY PAVLOVICH

IN THE HOUSE

DECEMBER 30, 1988	INTRODUCED AND REFERRED TO COMMITTEE ON HUMAN SERVICES & AGING.
JANUARY 2, 1989	FIRST READING.
JANUARY 10, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 11, 1989	PRINTING REPORT.
JANUARY 12, 1989	SECOND READING, DO PASS AS AMENDED. STATEMENT OF INTENT ADOPTED.
JANUARY 13, 1989	ENGROSSING REPORT.
JANUARY 14, 1989	THIRD READING, PASSED. AYES, 91; NOES, 4.
	TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 16, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY.
	FIRST READING.
MARCH 2, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 3, 1989	SECOND READING, CONCURRED IN.
MARCH 6, 1989	THIRD READING, CONCURRED IN. AYES, 47; NOES, 3.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 8, 1989

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

MARCH 9, 1989

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 33
2 INTRODUCED BY PAVLOVICH
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A WORKERS'
5 COMPENSATION IMPAIRMENT EVALUATOR TO BE A CHIROPRACTOR IF
6 THE CLAIMANT'S TREATING PHYSICIAN IS A CHIROPRACTOR; AND
7 AMENDING SECTIONS 37-12-201 AND 39-71-711, MCA."
8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
10 **Section 1.** Section 37-12-201, MCA, is amended to read:
11 "37-12-201. Organization of board -- meetings --
12 powers and duties. (1) The board shall elect annually a
13 president, vice-president, and secretary-treasurer from its
14 membership.
15 (2) The board shall hold a regular meeting each year
16 at Helena and shall hold special meetings at times and
17 places as a majority of the board designates. A majority of
18 the board constitutes a quorum.
19 (3) The board shall:
20 (a) administer oaths, take affidavits, summon
21 witnesses, and take testimony as to matters coming within
22 the scope of the board;
23 (b) adopt a seal which shall be affixed to licenses
24 issued;
25 (c) make a schedule of minimum educational

1 requirements, which are without prejudice, partiality, or
2 discrimination, as to the different schools of chiropractic;
3 (d) adopt rules necessary for the implementation,
4 administration, continuation, and enforcement of this
5 chapter. The rules must address but are not limited to
6 license applications, form and display of license, license
7 examination format, criteria for and grading of
8 examinations, and disciplinary standards for licensees;
9 (e) investigate complaints;
10 (f) make determinations of the qualifications of
11 applicants under this chapter;
12 (g) administer the examination for licensure under
13 this chapter;
14 (h) collect fees and charges prescribed in this
15 chapter; and
16 (i) issue, suspend, or revoke licenses under the
17 conditions prescribed in this chapter; and
18 (j) certify that a chiropractor who meets the
19 standards that the board by rule adopts is a qualified
20 evaluator for purposes of 39-71-711.
21 (4) The department shall keep a record of the
22 proceedings of the board, which shall at all times be open
23 to public inspection."
24 **Section 2.** Section 39-71-711, MCA, is amended to read:
25 "39-71-711. Impairment evaluation -- ratings. (1) An

1 impairment rating:

2 (a) is a purely medical determination and must be
3 determined by an impairment evaluator after a claimant has
4 reached maximum healing;

5 (b) must be based on the current edition of the Guides
6 to Evaluation of Permanent Impairment published by the
7 American Medical Association; and

8 (c) must be expressed as a percentage of the whole
9 person.

10 (2) A claimant or insurer, or both, may obtain an
11 impairment rating from a physician of the party's choice. If
12 the claimant and insurer cannot agree upon the rating, the
13 procedure in subsection (3) must be followed.

14 (3) (a) Upon request of the claimant or insurer, the
15 division shall direct the claimant to an evaluator for a
16 rating. The evaluator shall:

17 (i) evaluate the claimant to determine the degree of
18 impairment, if any, that exists due to the injury; and

19 (ii) submit a report to the division, the claimant, and
20 the insurer.

21 (b) Unless the following procedure is followed, the
22 insurer shall begin paying the impairment award, if any,
23 within 30 days of the evaluator's mailing of the report:

24 (i) Either the claimant or the insurer, within 15 days
25 after the date of mailing of the report by the first

1 evaluator, may request that the claimant be evaluated by a
2 second evaluator. If a second evaluation is requested, the
3 division shall direct the claimant to a second evaluator,
4 who shall determine the degree of impairment, if any, that
5 exists due to the injury.

6 (ii) The reports of both examinations must be submitted
7 to a third evaluator, who may also examine the claimant or
8 seek other consultation. The three evaluators shall consult
9 with one another, and then the third evaluator shall submit
10 a final report to the division, the claimant, and the
11 insurer. The final report must state the degree of
12 impairment, if any, that exists due to the injury.

13 (iii) Unless either party disputes the rating in the
14 final report as provided in subsection (6), the insurer
15 shall begin paying the impairment award, if any, within 45
16 days of the date of mailing of the report by the third
17 evaluator.

18 (4) The division shall appoint impairment evaluators
19 to render ratings under subsection (1). The division shall
20 adopt rules that set forth the qualifications of evaluators
21 and the locations of examinations. An evaluator must be a
22 physician licensed under Title 37, chapter 3, except that if
23 the claimant's treating physician is a chiropractic
24 physician, the evaluator must be a chiropractic physician
25 licensed under Title 37, chapter 12, and must be certified

1 as an evaluator under that chapter. The division may seek
2 nominations from the board of medical examiners for
3 evaluators licensed under Title 37, chapter 3, and from the
4 board of chiropractors for evaluators licensed under Title
5 37, chapter 12.

6 (5) The cost of impairment evaluations is assessed to
7 the insurer, except that the cost of an evaluation under
8 subsection (3)(b)(i) or (3)(b)(ii) is assessed to the
9 requesting party.

10 (6) A party may dispute a final impairment rating
11 rendered under subsection (3)(b)(ii) by filing a petition
12 with the workers' compensation court within 15 days of the
13 evaluator's mailing of the report. Disputes over impairment
14 ratings are not subject to 39-71-605 or to mandatory
15 mediation.

16 (7) An impairment rating rendered under subsection (3)
17 is presumed correct. This presumption is rebuttable."

18 **Section 3. Extension of authority.** Any existing
19 authority to make rules on the subject of the provisions of
20 [this act] is extended to the provisions of [this act].

-End-

APPROVED BY COMM. ON
HUMAN SERVICES AND AGING

HOUSE BILL NO. 33

INTRODUCED BY PAVLOVICH

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING ALLOWING A WORKERS' COMPENSATION IMPAIRMENT EVALUATOR TO BE A CHIROPRACTOR-IF--THE--CLAIMANT'S--TREATING--PHYSICIAN--IS--A CHIROPRACTOR DOCTOR OF CHIROPRACTIC; AND AMENDING SECTIONS 37-12-201 AND 39-71-711, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 37-12-201, MCA, is amended to read:

"37-12-201. Organization of board -- meetings -- powers and duties. (1) The board shall elect annually a president, vice-president, and secretary-treasurer from its membership.

(2) The board shall hold a regular meeting each year at Helena and shall hold special meetings at times and places as a majority of the board designates. A majority of the board constitutes a quorum.

(3) The board shall:

(a) administer oaths, take affidavits, summon witnesses, and take testimony as to matters coming within the scope of the board;

(b) adopt a seal which shall be affixed to licenses issued;

(c) make a schedule of minimum educational requirements, which are without prejudice, partiality, or discrimination, as to the different schools of chiropractic;

(d) adopt rules necessary for the implementation, administration, continuation, and enforcement of this chapter. The rules must address but are not limited to license applications, form and display of license, license examination format, criteria for and grading of examinations, and disciplinary standards for licensees;

(e) investigate complaints;

(f) make determinations of the qualifications of applicants under this chapter;

(g) administer the examination for licensure under this chapter;

(h) collect fees and charges prescribed in this chapter; and

(i) issue, suspend, or revoke licenses under the conditions prescribed in this chapter; and

(j) certify that a chiropractor DOCTOR OF CHIROPRACTIC who meets the standards that the board by rule adopts is a qualified evaluator for purposes of 39-71-711.

(4) The department shall keep a record of the proceedings of the board, which shall at all times be open to public inspection."

Section 2. Section 39-71-711, MCA, is amended to read:

1 "39-71-711. Impairment evaluation -- ratings. (1) An
2 impairment rating:

3 (a) is a purely medical determination and must be
4 determined by an impairment evaluator after a claimant has
5 reached maximum healing;

6 (b) must be based on the current edition of the Guides
7 to Evaluation of Permanent Impairment published by the
8 American Medical Association; and

9 (c) must be expressed as a percentage of the whole
10 person.

11 (2) A claimant or insurer, or both, may obtain an
12 impairment rating from ~~a--physician~~ AN EVALUATOR of the
13 party's choice. If the claimant and insurer cannot agree
14 upon the rating, the procedure in subsection (3) must be
15 followed.

16 (3) (a) Upon request of the claimant or insurer, the
17 division shall direct the claimant to an evaluator for a
18 rating. The evaluator shall:

19 (i) evaluate the claimant to determine the degree of
20 impairment, if any, that exists due to the injury; and

21 (ii) submit a report to the division, the claimant, and
22 the insurer.

23 (b) Unless the following procedure is followed, the
24 insurer shall begin paying the impairment award, if any,
25 within 30 days of the evaluator's mailing of the report:

1 (i) Either the claimant or the insurer, within 15 days
2 after the date of mailing of the report by the first
3 evaluator, may request that the claimant be evaluated by a
4 second evaluator. If a second evaluation is requested, the
5 division shall direct the claimant to a second evaluator,
6 who shall determine the degree of impairment, if any, that
7 exists due to the injury.

8 (ii) The reports of both examinations must be submitted
9 to a third evaluator, who may also examine the claimant or
10 seek other consultation. The three evaluators shall consult
11 with one another, and then the third evaluator shall submit
12 a final report to the division, the claimant, and the
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14 impairment, if any, that exists due to the injury.

15 (iii) Unless either party disputes the rating in the
16 final report as provided in subsection (6), the insurer
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19 evaluator.

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21 to render ratings under subsection (1). The division shall
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23 and the locations of examinations. An evaluator must be a
24 physician licensed under Title 37, chapter 3, ~~except that if~~
25 ~~the--claimant's--treating--physician--is--a--entrepreneurial~~

~~physician, the evaluator must be a chiropractic physician OR~~
A DOCTOR OF CHIROPRACTIC licensed under Title 37, chapter
~~12,--and. IF THE EVALUATOR IS A DOCTOR OF CHIROPRACTIC, HE~~
~~must be certified as an evaluator under that chapter 12.~~ The
division may seek nominations from the board of medical
examiners for evaluators licensed under Title 37, chapter 3,
and from the board of chiropractors for evaluators licensed
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(5) The cost of impairment evaluations is assessed to
the insurer, except that the cost of an evaluation under
subsection (3)(b)(i) or (3)(b)(ii) is assessed to the
requesting party.

(6) A party may dispute a final impairment rating
rendered under subsection (3)(b)(ii) by filing a petition
with the workers' compensation court within 15 days of the
evaluator's mailing of the report. Disputes over impairment
ratings are not subject to 39-71-605 or to mandatory
mediation.

(7) An impairment rating rendered under subsection (3)
is presumed correct. This presumption is rebuttable."

NEW SECTION. Section 3. Extension of authority. Any
existing authority to make rules on the subject of the
provisions of [this act] is extended to the provisions of
[this act].

-End-

STATEMENT OF INTENT

HOUSE BILL 33

1
2
3
4 This bill authorizes the board of chiropractors to
5 adopt a rule for the certification of impairment evaluators
6 within their profession. The board should consider the
7 applicant's experience in treating industrial accidents and
8 any academic training he may have in using the impairment
9 rating guides recognized by the division of workers'
10 compensation.

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5 WORKERS' COMPENSATION IMPAIRMENT EVALUATOR TO BE A
6 ~~CHIROPRACTOR-IF--THE--CLAIMANT'S--TREATING--PHYSICIAN--IS--A~~
7 CHIROPRACTOR DOCTOR OF CHIROPRACTIC; AND AMENDING SECTIONS
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12 applicants under this chapter;

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14 this chapter;

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20 who meets the standards that the board by rule adopts is a
21 qualified evaluator for purposes of 39-71-711.

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23 and the locations of examinations. An evaluator must be a
24 physician licensed under Title 37, chapter 3, ~~except that if~~
25 the--claimant's--treating--physician--is--a--chiropractic

1 ~~physician, the evaluator must be a chiropractic physician OR~~
 2 A DOCTOR OF CHIROPRACTIC licensed under Title 37, chapter
 3 12--and. IF THE EVALUATOR IS A DOCTOR OF CHIROPRACTIC, HE
 4 must be certified as an evaluator under that chapter 12. The
 5 division may seek nominations from the board of medical
 6 examiners for evaluators licensed under Title 37, chapter 3,
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 10 the insurer, except that the cost of an evaluation under
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 15 with the workers' compensation court within 15 days of the
 16 evaluator's mailing of the report. Disputes over impairment
 17 ratings are not subject to 39-71-605 or to mandatory
 18 mediation.

19 (7) An impairment rating rendered under subsection (3)
 20 is presumed correct. This presumption is rebuttable."

21 NEW SECTION. Section 3. Extension of authority. Any
 22 existing authority to make rules on the subject of the
 23 provisions of [this act] is extended to the provisions of
 24 [this act].

-End-

SENATE STANDING COMMITTEE REPORT

March 2, 1989

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety, having had under consideration HB 33 (third reading copy -- blue), respectfully report that HB 33 be amended and as so amended be concurred in:

Sponsor: Pavolich (Lynch)

1. Title, line 7.

Following: "CHIROPRACTOR"

Strike: "DOCTOR OF CHIROPRACTIC"

Insert: "CHIROPRACTOR IF THE CLAIMANT'S TREATING PHYSICIAN IS A CHIROPRACTOR"

2. Page 2, line 19.

Following: "chiropractor"

Strike: "DOCTOR OF CHIROPRACTIC"

Insert: "chiropractor"

3. Page 3, lines 12 and 13.

Following: "physician"

Strike: "AN EVALUATOR of the party's choice"

Insert: "a medical doctor or from a chiropractor if the claimant's treating physician is a chiropractor"

4. Page 5, lines 1 through 4.

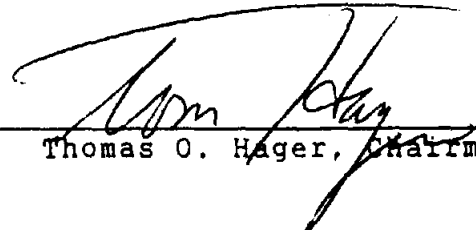
Following: "physician" on line 1

Strike: remainder of line 1 through "be" line 4

Insert: "except if the claimant's treating physician is a chiropractor, the evaluator may be a chiropractor who is"

AND AS AMENDED BE CONCURRED IN

Signed: _____


Thomas O. Hager, Chairman

SENATE

SCRHB033.302

HOUSE BILL NO. 33

INTRODUCED BY PAVLOVICH

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING ALLOWING A
WORKERS' COMPENSATION IMPAIRMENT EVALUATOR TO BE A
CHIROPRACTOR-IF--THE--CLAIMANT'S--TREATING--PHYSICIAN--IS--A
CHIROPRACTOR DOCTOR--OF--CHIROPRACTIC CHIROPRACTOR IF THE
CLAIMANT'S TREATING PHYSICIAN IS A CHIROPRACTOR; AND
AMENDING SECTIONS 37-12-201 AND 39-71-711, MCA."

STATEMENT OF INTENT

This bill authorizes the board of chiropractors to adopt a rule for the certification of impairment evaluators within their profession. The board should consider the applicant's experience in treating industrial accidents and any academic training he may have in using the impairment rating guides recognized by the division of workers' compensation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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(c) must be expressed as a percentage of the whole person.

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procedure in subsection (3) must be followed.

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7 to render ratings under subsection (1). The division shall
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9 and the locations of examinations. An evaluator must be a
10 physician licensed under Title 37, chapter 3, ~~except that if~~
11 ~~the claimant's treating physician is a chiropractic~~
12 ~~physician, the evaluator must be a chiropractic physician OR~~
13 ~~A--DOCTOR--OF--CHIROPRACTIC licensed under Title 37, chapter~~
14 ~~12, and, if the evaluator is a doctor of chiropractic, he~~
15 ~~must be~~ EXCEPT IF THE CLAIMANT'S TREATING PHYSICIAN IS A
16 CHIROPRACTOR, THE EVALUATOR MAY BE A CHIROPRACTOR WHO IS
17 certified as an evaluator under ~~that~~ chapter 12. The
18 division may seek nominations from the board of medical
19 examiners for evaluators licensed under Title 37, chapter 3,
20 and from the board of chiropractors for evaluators licensed
21 under Title 37, chapter 12.

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23 the insurer, except that the cost of an evaluation under
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25 requesting party.

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2 rendered under subsection (3)(b)(ii) by filing a petition
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10 existing authority to make rules on the subject of the
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-End-