

**SENATE BILL No. 172**

By Committee on Ways and Means

2-13

1 AN ACT concerning workers compensation; relating to costs of treatment  
2 by an injured employee's healthcare provider; amending K.S.A. 2018  
3 Supp. 44-510h and repealing the existing section.  
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2018 Supp. 44-510h is hereby amended to read as  
7 follows: 44-510h. (a) It shall be the duty of the employer to provide the  
8 services of a healthcare provider, and ~~such the~~ medical, surgical and  
9 hospital treatment, including nursing, medicines, medical and surgical  
10 supplies, ambulance, crutches, apparatus and transportation to and from  
11 the home of the injured employee to a place outside the community in  
12 which ~~such the~~ employee resides, and within ~~such the~~ community if the  
13 director, in the director's discretion, so orders, including transportation  
14 expenses computed in accordance with ~~subsection (a)~~ of K.S.A. 44-515(a),  
15 and amendments thereto, as may be reasonably necessary to cure and  
16 relieve the employee from the effects of the injury.

17 (b) (1) If the director finds, upon application of an injured employee,  
18 that the services of the healthcare provider furnished as provided in  
19 subsection (a) and rendered on behalf of the injured employee are not  
20 satisfactory, the director may authorize the appointment of some other  
21 healthcare provider. In any such case, the employer shall submit the names  
22 of two healthcare providers who, if possible given the availability of local  
23 healthcare providers, are not associated in practice together. The injured  
24 employee may select one from the list who shall be the authorized treating  
25 healthcare provider. If the injured employee is unable to obtain satisfactory  
26 services from any of the healthcare providers submitted by the employer  
27 under this paragraph, either party or both parties may request the director  
28 to select a treating healthcare provider.

29 (2) Without application or approval, an employee may consult a  
30 healthcare provider of the employee's choice for the purpose of  
31 examination, diagnosis or treatment, but the employer shall only be liable  
32 for the fees and charges of ~~such the~~ healthcare provider up to a total  
33 amount of ~~\$500~~ \$2,000. The amount allowed for ~~such the~~ examination,  
34 diagnosis or treatment shall not be used to obtain a functional impairment  
35 rating. Any medical opinion obtained in violation of this prohibition shall  
36 not be admissible in any claim proceedings under the workers

1 compensation act.

2 (c) An injured employee whose injury or disability has been  
3 established under the workers compensation act may rely, if done in good  
4 faith, solely or partially on treatment by prayer or spiritual means in  
5 accordance with the tenets of practice of a church or religious  
6 denomination without suffering a loss of benefits subject to the following  
7 conditions:

8 (1) The employer or the employer's insurance carrier agrees thereto in  
9 writing either before or after the injury;

10 (2) the employee submits to all physical examinations required by the  
11 workers compensation act;

12 (3) the cost of such treatment shall be paid by the employee unless  
13 the employer or insurance carrier agrees to make such payment;

14 (4) the injured employee shall be entitled only to benefits that would  
15 reasonably have been expected had such employee undergone medical or  
16 surgical treatment; and

17 (5) the employer or insurance carrier that made an agreement under  
18 paragraph (1) or (3) ~~of this subsection~~ may withdraw from the agreement  
19 on 10 days' written notice.

20 (d) In any employment to which the workers compensation act  
21 applies, the employer shall be liable to each employee who is employed as  
22 a duly authorized law enforcement officer, firefighter, driver of an  
23 ambulance as defined in ~~subsection (b) of~~ K.S.A. 65-6112, and  
24 amendments thereto, an ambulance attendant as defined in ~~subsection (d)~~  
25 ~~of~~ K.S.A. 65-6112, and amendments thereto, or a member of a regional  
26 emergency medical response team as provided in K.S.A. 48-928, and  
27 amendments thereto, including any person who is serving on a volunteer  
28 basis in such capacity, for all reasonable and necessary preventive medical  
29 care and treatment for hepatitis to which ~~such the~~ employee is exposed  
30 under circumstances arising out of and in the course of employment.

31 (e) It is presumed that the employer's obligation to provide the  
32 services of a healthcare provider, and ~~such the~~ medical, surgical and  
33 hospital treatment, including nursing, medicines, medical and surgical  
34 supplies, ambulance, crutches, apparatus and transportation to and from  
35 the home of the injured employee to a place outside the community in  
36 which ~~such the~~ employee resides, and within ~~such the~~ community if the  
37 director, in the director's discretion, so orders, including transportation  
38 expenses computed in accordance with ~~subsection (a) of~~ K.S.A. 44-515(a),  
39 and amendments thereto, shall terminate upon the employee reaching  
40 maximum medical improvement. ~~Such~~ The presumption may be overcome  
41 with medical evidence that it is more probably true than not that additional  
42 medical treatment will be necessary after ~~such the time as that~~ the  
43 employee reaches maximum medical improvement. The term "medical

1 treatment" as used in this subsection—(e) means only that treatment  
2 provided or prescribed by a licensed healthcare provider and shall not  
3 include home exercise programs or over-the-counter medications.

4 Sec. 2. K.S.A. 2018 Supp. 44-510h is hereby repealed.

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