



GHOST DOCTORS AND THEIR ROLE AS A JUDGE

JUSTICE

The California Constitution (Article 14, Section 4) sets forth the workers' compensation system and LC §4600 is to provide for a complete medical treatment system to cure or relieve the effects of the worker's injuries. This treatment shall be provided by the employer.

CHECKS & BALANCE

The workers compensation system had a Checks and Balance System which was lost by Senate Bill 899. This System was to protect the worker's rights to obtain medical care to cure or relieve the effects of the worker's injuries.

The workers' compensation system was drastically damaged by SB899 signed into law by Governor Schwarzenegger on 4/19/2004.

However, important elements of the law remained after SB899:

- a) The workers' compensation Judges are independent of all parties and are subject to review of their findings.
- b) The judges are objective and separated from the employer and employee. No payments are made to them by either party. The judges have a code of judicial ethics and are required to be licensed by the California State Bar and have good standing.

If the injured worker or employer has issues with the medical treatment needed to cure or relieve the job related injury, the worker had the right to present evidence to the independent judge on that issue.

This basic right has been severely limited and removed by SB863, signed into law by Governor Brown in 2012. SB863 replaced independent judges with an IMR process where "Ghost doctors" now make crucial decisions regarding denied medical care, instead of independent judges. The IMR doctors (Ghost doctors) are not required to provide any significant information as to the status of their medical license. The IMR doctors (Ghost doctors) never actually sees or examines the injured worker.

Medical doctors who practice in California and who provide medical care to the injured worker are required to be holding a California license and be in good standing. The Medical Board of California provides information as to the physicians' profile, types of license and standing regarding that license, whether their license has been cancelled or suspended. The IMR doctors (Ghost doctors) do not have this standard of disclosure.

This information as to the licensing status of the treating doctor is a necessity for the determination as to the value of their medical opinion. Additional is the review of the information/evidence that is examined by the treating doctor and the basis for their findings as to what medical care is needed or not needed to cure or relieve the effects of the injury. There is a high standard for examination of the information/evidence that has been reviewed by the Treating doctor and the basis for determination as to what additional medical care is needed or not need to cure or relieve the effects of the injury. The IMR doctor (Ghost doctors) are not subject to review regarding the medical information reviewed and granting or denying medical care. The checks and balance should be placed on the IMR doctor (Ghost doctors). The IMR doctor (Ghost doctors) is paid for by the employer or the insurance company. Judges are not paid for by the employer, insurance company or the employee. The parties need to be aware of the IMR doctor's (Ghost doctors) medical license and current status of same, whether there are limitations on the license, a suspension of the license, or if it has been removed. This is a significant element of the Checks and Balances. The parties need to know what the medical evidence that is used by the IMR doctor (Ghost doctors), whether it be testing or other materials and what their reliance was upon for the finding, denying, limiting or granting medical care. Note that the IMR doctor (Ghost doctors) never sees or examines the injured worker and does not make a full disclosure as to the medical documents and records examined.

ACCOUNTABILITY

The current UR/IMR system does not have accountability because of lack of information and the removal of an independent workers' compensation judge. The IMR doctor (Ghost doctors), has been put in the place of the workers' compensation judge. The use of UR/IMR (Ghost doctor) system was not seen at the time of implementation as a veil of secrecy or a substantial problem. However, this UR/IMR system has discouraged some California licensed doctors from continuing to provide medical care to cure or relieve the effects of the injury because of the opinions of the IMR doctor (Ghost doctors) is not subject to transparency, and because the system creates additional obligations on the treating doctors to justify their medical care. In addition there are many times where there is a disparity between the treating physicians' expertise in a particular area of medicine that is lacking in UR/IMR doctor's (Ghost doctor's) education or areas of specialty. Therefore, there is a lack of substantial evidence regarding the reliability of UR/IMR doctor (Ghost doctors) opinion. This lack of expertise and/or evidence cannot be presented to an independent judge, again, because of the legislative enactment of SB863. There is a view that the changing the current IMR (Ghost doctor) system is going to

further discourage the real treating doctors from providing treatment. This is a misunderstanding.

The modification proposed (www.law1199.com Newsletter 2019, Issue #3) will allow the treating doctor a greater opportunity to provide the proper treatment to cure or relieve the effects of the injury with fewer encumbrances placed upon them based upon an alleged medical opinion of the UR/IMR (Ghost doctor). The medical opinions of the UR/IMR (Ghost doctors) are not subject to checks and balance and are not objective because of the lack of physical examination by an IMR doctor. In addition the UR/IMR doctors are paid by the employer.

EQUALITY

The modifications required will provide more equality. The judges are not paid for by the employer such as the IMR (Ghost doctors) are. All parties are aware that the IMR doctor is a Ghost and not required to be licensed in California and is not subject to checks and balances as to what the substantial evidence is used for his/her opinion. The opinions of the Treating doctor, UR doctor or the IMR (Ghost doctors) must be subject to review by and an independent judge not an IMR doctor who acts in the role of a judge.



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NOTICE: *Making a false or fraudulent Workers' Compensation claim is a felony subject to up to 5 years in prison or a fine of up to \$50,000 or double the value of the fraud, whichever is greater, or by both imprisonment and fine.*

