

Introduced 3/5/18
Public Hearing 3/19/18
Council Action 6/4/18
Executive Action 6/18/18
Effective Date 8/8/18

County Council of Howard County, Maryland

2018 Legislative Session

Legislative Day No. 3

Bill No. 14-2018

Introduced by: The Chairperson at the request of the County Executive

AN ACT allowing for the dismissal of classified employees in certain instances; and generally relating to Human Resources provisions in the County Code.

Introduced and read first time March 5, 2018. Ordered posted and hearing scheduled.

By order

Jessica Feldmark
Jessica Feldmark, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on March 19, 2018.

Tabled 4/2/18
Extended & tabled 5/7/18

By order

Jessica Feldmark
Jessica Feldmark, Administrator

This Bill was read the third time on June 4, 2018 and Passed , Passed with amendments ✓, Failed .

By order

Jessica Feldmark
Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 7th day of June, 2018 at 5 a.m./p.m.

By order

Jessica Feldmark
Jessica Feldmark, Administrator

Approved/Vetoed by the County Executive June 8, 2018

Allan H. Kittleman
Allan H. Kittleman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment

1 **Section 1. Be It Enacted** by the County Council of Howard County, Maryland, that the Howard
2 County Code is amended as follows:

- 3 1. *By amending Section 1.115 “Dismissal and Discipline of employees in the classified service”*
4
5 2. *By adding Subsection (d) and Subsection (e) to Section 1.119 “Non-Disciplinary Separations*
6 *other than dismissal”*

7
8 **Title 1. Human Resources.**

9 **Subtitle 1. Human Resources Administration.**

10 **Part II. Merit System.**

11
12 **Section 1.115. PERFORMANCE-RELATED DISMISSAL, Dismissal FOR CAUSE, and Discipline of**
13 **employees in the classified service.**

14 (a) *Dismissal from the Classified Service for Unsatisfactory Performance.* An appointing
15 authority may dismiss a classified employee if:

- 16 (1) The employee's work performance is unsatisfactory;
17 (2) In accordance with procedures in the employee manual, the appointing authority has
18 issued a written warning to the employee;
19 (3) After receiving the warning, the employee has an opportunity to meet the performance
20 standards for the position; and
21 (4) The employee's performance continues to be unsatisfactory.

22 (b) *Immediate Dismissal for Cause.* An appointing authority may immediately dismiss a
23 classified employee if the employee engages in conduct within the following categories:

- 24 (1) Dishonesty, including misuse of money or property, theft, or making false statements;
25 (2) Insubordination, including failure or refusal to follow legitimate or lawful directions or
26 orders;
27 (3) Violation of County policy, including any policy to which an employee is made subject
28 as a corollary of employment;
29 (4) Misconduct, including negligence, tardiness, unauthorized absence, illegal activities,
30 conviction of a felony or crime of moral turpitude, or any behavior which endangers
31 other employees or County property; or
32 (5) Accepting for personal use any fee, gift, or other thing of value in connection with or
33 during the course of County employment if given to the employee by any person with the

1 hope or expectation of receiving a favor or better treatment than that accorded to other
2 persons, and other conduct that violates the County's ethics law.

3 (c) *Discipline in Lieu of Dismissal*. In lieu of dismissal, an appointing authority may take any or
4 all of the following disciplinary actions against a classified employee:

- 5 (1) Give the employee a written reprimand;
- 6 (2) With the approval of the Personnel Officer, demote the employee to a lower pay grade or
7 to a reduced level of pay in the same grade;
- 8 (3) Direct the suspension of the employee's accrual of annual or personal leave for a period
9 not to exceed one year; or
- 10 (4) Suspend the employee without pay.

11
12 **Section 1.119. - ~~Non-Disciplinary~~ NON-DISCIPLINARY Separations [[other than dismissal]].**

13 (D) *DISMISSAL FOR INABILITY TO PERFORM ESSENTIAL FUNCTIONS*. EXCEPT AS PROVIDED IN
14 SUBSECTION (E) OF THIS ~~SUBSECTION~~ SECTION, AN APPOINTING AUTHORITY MAY DISMISS A
15 CLASSIFIED EMPLOYEE IF:

16 (1) A ~~PHYSICIAN OR MENTAL HEALTH PROVIDER~~ HEALTH CARE PROVIDER HAS DETERMINED
17 THAT THE EMPLOYEE IS NOT PHYSICALLY OR MENTALLY ABLE OF PERFORMING THE
18 ESSENTIAL DUTIES OF THE EMPLOYEE'S POSITION; FOR THE PURPOSES OF THIS SECTION,
19 HEALTH CARE PROVIDER MEANS A LICENSED DOCTOR OF MEDICINE OR OSTEOPATHY WHO
20 IS AUTHORIZED TO PRACTICE MEDICINE OR SURGERY AS WELL AS LICENSED PODIATRISTS,
21 DENTISTS, CLINICAL PSYCHOLOGISTS, CLINICAL SOCIAL WORKERS AND OPTOMETRISTS;

22 (2) THE COUNTY HAS DETERMINED THAT THERE ARE NO REASONABLE ACCOMMODATIONS,
23 INCLUDING OTHER AVAILABLE VACANT POSITIONS FOR WHICH THE EMPLOYEE WOULD
24 QUALIFY; AND

25 (3) THE EMPLOYEE HAS BEEN GIVEN THE OPPORTUNITY TO PURSUE RETIREMENT OR DISABILITY
26 OPTIONS WHICH MAY BE AVAILABLE TO THE EMPLOYEE.

27 (E) *OPTION FOR SECOND ~~OPINION ON~~ EVALUATION OF INABILITY TO PERFORM ESSENTIAL FUNCTIONS*.
28 ~~BEFORE AN~~

29 (1) BEFORE AN EMPLOYEE IS DISMISSED UNDER SUBSECTION (D) OF THIS SECTION, THE
30 EMPLOYEE MAY OBTAIN A SECOND ~~MEDICAL OPINION ON~~ EVALUATION BY A HEALTH CARE
31 PROVIDER OF THE EMPLOYEE'S ABILITY TO PERFORM THE ESSENTIAL DUTIES OF THE

1 EMPLOYEE'S POSITION. IF THE SECOND OPINION EVALUATION FINDS THAT THE EMPLOYEE
2 HAS THE ABILITY TO PERFORM THE ESSENTIAL DUTIES, THE COUNTY MAY OBTAIN A THIRD
3 MEDICAL OPINION, FROM AN INDEPENDENT SOURCE, AND THE COUNTY SHALL RELY ON THE
4 THIRD OPINION IN ITS DETERMINATION UNDER THIS SECTION. ACCEPT THE SECOND
5 EVALUATION OR THE COUNTY MAY SEEK A THIRD EVALUATION IN ACCORDANCE WITH
6 SUBSECTION (F) OF THIS SECTION.

7
8 (2) THE COUNTY SHALL PAY FOR ALL COSTS INCURRED FOR THE SECOND EVALUATION IF:

9 (I) THE COST OF THE SECOND EVALUATION IS NOT COVERED BY THE
10 EMPLOYEE'S HEALTH INSURANCE; AND

11 (II) THE EMPLOYEE DEMONSTRATES THAT THE EMPLOYEE CANNOT AFFORD THE
12 COST OF THE SECOND EVALUATION.

13
14 (F) THIRD EVALUATION. IF THE COUNTY DETERMINES THAT A THIRD EVALUATION IS NECESSARY,
15 THE COUNTY SHALL OBTAIN A THIRD EVALUATION FROM AN INDEPENDENT, BOARD CERTIFIED
16 HEALTH CARE PROVIDER:

17 (1) WHO SHALL BE MUTUALLY AGREED TO BY THE EMPLOYEE AND THE COUNTY;

18 (2) WHOSE COSTS SHALL BE PAID BY THE COUNTY; AND

19 (3) WHOSE OPINION SHALL BE BINDING ON THE PARTIES.

20 (G) EMPLOYEES COVERED BY COLLECTIVE BARGAINING AGREEMENTS. A DISMISSAL UNDER
21 THIS SECTION IS SUBJECT TO THE GRIEVANCE PROCEDURE FOR A TERMINATION UNDER AN
22 APPLICABLE COLLECTIVE BARGAINING AGREEMENT OR THE APPEAL PROCESS PROVIDED IN
23 SECTION 1.500 OF THE HOWARD COUNTY CODE AND THE APPEALS SECTION OF THE HOWARD
24 COUNTY EMPLOYEE MANUAL, AS APPLICABLE.

25 (H) EMPLOYEES NOT COVERED BY COLLECTIVE BARGAINING AGREEMENTS. A DISMISSAL UNDER THIS
26 SECTION IS SUBJECT TO THE APPEAL PROCESS PROVIDED IN SECTION 1.500 OF THE HOWARD

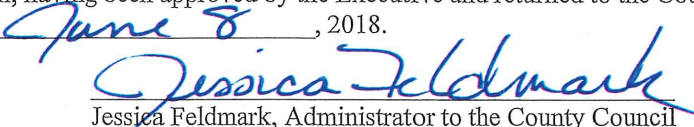
1 COUNTY CODE AND THE APPEALS SECTION OF THE HOWARD COUNTY EMPLOYEE MANUAL, AS
2 APPLICABLE.

3

4 *Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland that*
5 *this Act shall become effective 61 days after its enactment.*

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on
June 8, 2018.


Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 2018.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____, 2018.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 2018.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on _____, 2018.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____, 2018.

Jessica Feldmark, Administrator to the County Council

Amendment 1 to Council Bill No. 14-2018

BY: The Chairperson at the
request of the County Executive

Legislative Day No. 4
Date: April 2, 2018

Amendment No. 1

(This amendment corrects how the current law is reflected and makes a technical correction.)

- 1 On page 3, in line 12, strike “Non-Disciplinary” and substitute “NON-DISCIPLINARY”.
- 2
- 3 On page 3, in line 14, strike the second “SUBSECTION” and substitute “SECTION”.

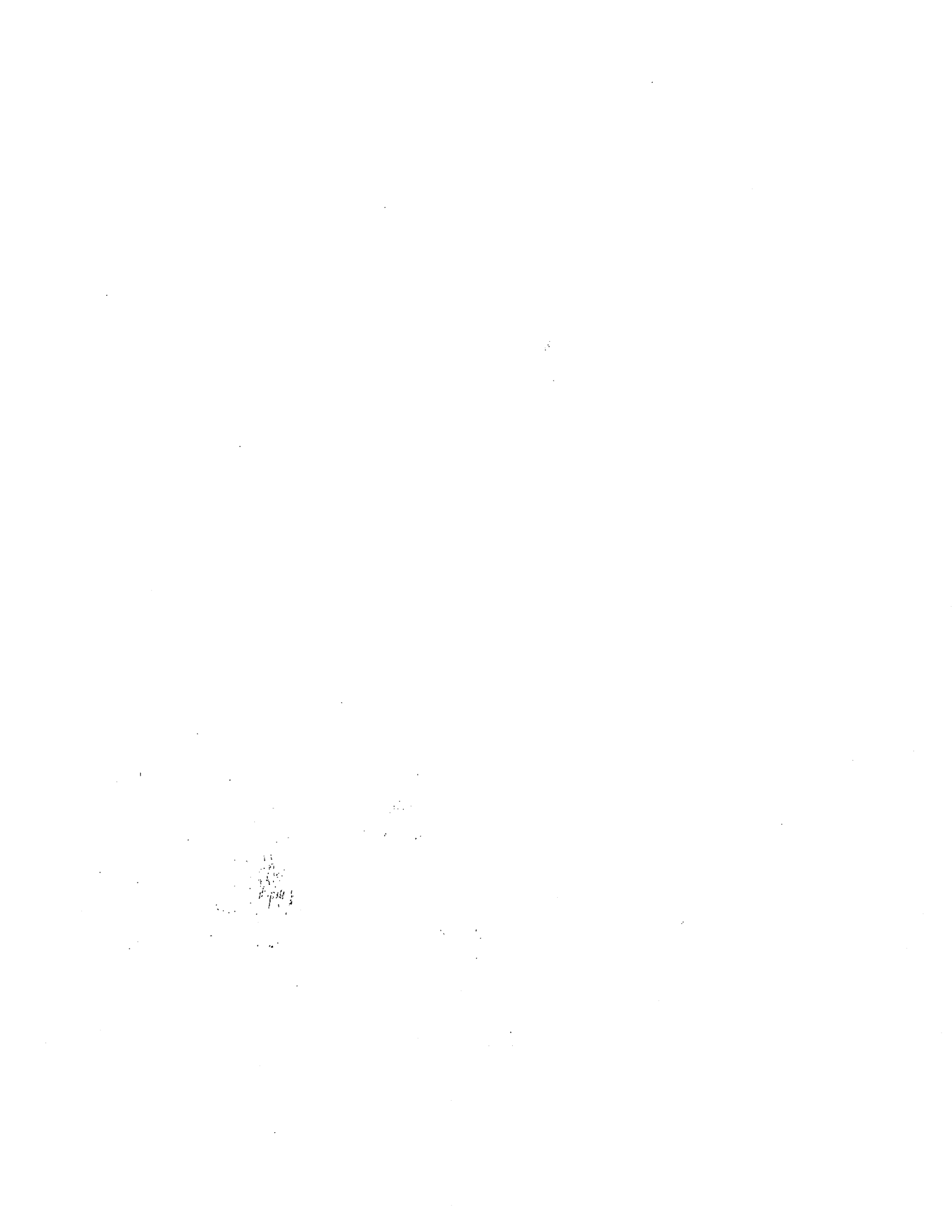
ADOPTED

6/4/18

FAILED

SIGNATURE

Jessica Feldman



Amendment 5 to Council Bill 14-2018

BY: Greg Fox

Legislative Day No: 5

Date: May 7, 2018

Amendment No. 5

1 *(This amendment proposes changes to the bill to specify who may provide a medical evaluation*
2 *and proposes parameters for a third medical evaluation).*

3
4
5
6 On page 3, in line 16, strike “PHYSICIAN OR MENTAL HEALTH PROVIDER” and substitute
7 “HEALTH CARE PROVIDER”.

8
9 On the same page, in line 18, strike the semi-colon, and substitute the following:

10 “. FOR THE PURPOSES OF THIS SECTION, HEALTH CARE PROVIDER MEANS A
11 LICENSED DOCTOR OF MEDICINE OR OSTEOPATHY WHO IS AUTHORIZED TO
12 PRACTICE MEDICINE OR SURGERY AS WELL AS LICENSED PODIATRISTS, DENTISTS,
13 CLINICAL PSYCHOLOGISTS, CLINICAL SOCIAL WORKERS AND OPTOMETRISTS;”.

14
15 On the same page, in line 24, strike “OPINION ON” and substitute “EVALUATION OF”. Also,
16 in the same line, strike “BEFORE AN”.

17
18 On the same page, in line 25, before “EMPLOYEE”, insert “(1) BEFORE AN”.

19
20 On the same page, in line 26, strike “MEDICAL OPINION ON” and substitute “EVALUATION
21 BY A HEALTH CARE PROVIDER OF”.

22
23 On the same page, in line 27, strike “OPINION” and substitute “EVALUATION”.

24

1 On the same page Starting on page 3, in line 28, strike "OBTAIN A THIRD MEDIAL OPINION,
2 FROM AN INDEPENDENT SOURCE, AND THE COUNTY SHALL RELY ON THE THIRD
3 OPINION IN ITS DETERMINATION UNDER THIS SECTION." and substitute the following:

4 "ACCEPT THE SECOND EVALUATION OR THE COUNTY MAY SEEK A THIRD
5 EVALUATION IN ACCORDANCE WITH SUBSECTION (F) OF THIS SECTION.

6
7 (2) THE COUNTY SHALL PAY FOR ALL COSTS INCURRED FOR THE SECOND
8 EVALUATION IF:

9 (I) THE COST OF THE SECOND EVALUATION IS NOT COVERED BY THE
10 EMPLOYEE'S HEALTH INSURANCE; AND

11 (II) THE EMPLOYEE DEMONSTRATES THAT THE EMPLOYEE CANNOT
12 AFFORD THE COST OF THE SECOND EVALUATION.

13
14 (F) THIRD EVALUATION. IF THE COUNTY DETERMINES THAT A THIRD EVALUATION IS
15 NECESSARY, THE COUNTY SHALL OBTAIN A THIRD EVALUATION FROM AN
16 INDEPENDENT, BOARD CERTIFIED HEALTH CARE PROVIDER:

17 (1) WHO SHALL BE MUTUALLY AGREED TO BY THE EMPLOYEE AND THE
18 COUNTY;

19 (2) WHOSE COSTS SHALL BE PAID BY THE COUNTY; AND

20 (3) WHOSE OPINION SHALL BE BINDING ON THE PARTIES."

21 On page 3, in line 31, insert:

22 "(G) EMPLOYEES COVERED BY COLLECTIVE BARGAINING AGREEMENTS. A DISMISSAL UNDER
23 THIS SECTION IS SUBJECT TO THE GRIEVANCE PROCEDURE FOR A TERMINATION UNDER AN
24 APPLICABLE COLLECTIVE BARGAINING AGREEMENT OR THE APPEAL PROCESS PROVIDED IN
25 SECTION 1.500 OF THE HOWARD COUNTY CODE AND THE APPEALS SECTION OF THE
26 HOWARD COUNTY EMPLOYEE MANUAL, AS APPLICABLE.

27 (H) EMPLOYEES NOT COVERED BY COLLECTIVE BARGAINING AGREEMENTS. A DISMISSAL
28 UNDER THIS SECTION IS SUBJECT TO THE APPEAL PROCESS PROVIDED IN SECTION 1.500 OF
29 THE HOWARD COUNTY CODE AND THE APPEALS SECTION OF THE HOWARD COUNTY

ADOPTED as amended 6/4/18
FAILED _____
SIGNATURE Jessica Feldmark

Amendment 3 to Amendment 5 to Council Bill No. 14 - 2018

BY: Greg Fox

Legislative Day No. 8
Date: 6/4/18

Amendment No. 3

(This is a technical amendment which clarifies that the instruction will make changes to the bill starting on page 3.)

1 On page 2, in line 1, strike "On the same page" and substitute "Starting on page 3".

ADOPTED

6/4/18

FAILED

SIGNATURE

Jessica Feldmark

Amendment 4 to Amendment 5 to Council Bill No. 14-2018

BY: Greg Fox

Legislative Day 8

Date: June 4, 2018

Amendment No. 4 to Amendment 5

(This amendment references appeal provisions in the Howard County Code.)

1 On page 2, in line 21, insert:

2 "On page 3, in line 31, insert:

3 "(G) EMPLOYEES COVERED BY COLLECTIVE BARGAINING AGREEMENTS. A DISMISSAL UNDER THIS
4 SECTION IS SUBJECT TO THE GRIEVANCE PROCEDURE FOR A TERMINATION UNDER AN APPLICABLE
5 COLLECTIVE BARGAINING AGREEMENT OR THE APPEAL PROCESS PROVIDED IN SECTION 1.500 OF
6 THE HOWARD COUNTY CODE AND THE APPEALS SECTION OF THE HOWARD COUNTY EMPLOYEE
7 MANUAL, AS APPLICABLE.

8 (H) EMPLOYEES NOT COVERED BY COLLECTIVE BARGAINING AGREEMENTS. A DISMISSAL UNDER THIS
9 SECTION IS SUBJECT TO THE APPEAL PROCESS PROVIDED IN SECTION 1.500 OF THE HOWARD
10 COUNTY CODE AND THE APPEALS SECTION OF THE HOWARD COUNTY EMPLOYEE MANUAL, AS
11 APPLICABLE."."

ADOPTED 6/4/18
FAILED _____
SIGNATURE Jessica Eldmark

Amendment 2 to Council Bill No. 14-2018

BY: Calvin Ball
Jennifer Terrasa

Legislative Day No. 5

Date: May 7, 2018

Amendment No. 2

(This amendment requires the opinion of a physician, requires a third opinion from a specified kind of provider in certain instances, and requires that non-disciplinary separations be subject to the grievance procedure for a termination under an applicable collective bargaining agreement.)

On page 3:

- in line 16, strike “OR MENTAL HEALTH PROVIDER”;
- in line 17, strike “OF PERFORMING” and substitute “TO PERFORM”;
- in line 28, after “DUTIES” insert “AND THE COUNTY CHOOSES TO CONTEST THE SECOND OPINION”
- also in line 28, strike “MAY” and substitute “SHALL”;
- in line 29, strike “SOURCE” and substitute” PHYSICIAN WHO IS BOARD CERTIFIED IN OCCUPATIONAL MEDICINE OR THE APPLICABLE MEDICAL SPECIALTY”; and
- in line 31, insert:
“(F) EMPLOYEES COVERED BY COLLECTIVE BARGAINING AGREEMENTS. A DISMISSAL UNDER THIS SECTION SHALL BE SUBJECT TO THE GRIEVANCE PROCEDURE FOR A TERMINATION UNDER AN APPLICABLE COLLECTIVE BARGAINING AGREEMENT.”

ADOPTED _____

FAILED not introduced

SIGNATURE Jessica Feldman

Amendment 3 to Council Bill No. 14-2018

BY: The Chairperson at the
request of the County Executive

Legislative Day 5
Date: May 7, 2018

Amendment No. 3

(This amendment clarifies when a third opinion will be obtained, clarifies that the third medical opinion shall be mutually agreed to by the parties, and provides that costs shall be paid by the County.)

1 On page 3, strike lines 24 through 30, inclusive and substitute:

2 “(E) OPTION FOR SECOND OPINION ON INABILITY TO PERFORM ESSENTIAL FUNCTIONS. BEFORE AN
3 EMPLOYEE IS DISMISSED UNDER SUBSECTION (D) OF THIS SECTION, THE EMPLOYEE MAY OBTAIN A
4 SECOND MEDICAL OPINION ON THE EMPLOYEE’S ABILITY TO PERFORM THE ESSENTIAL DUTIES OF
5 THE EMPLOYEE’S POSITION. IF THE SECOND OPINION FINDS THAT THE EMPLOYEE HAS THE ABILITY
6 TO PERFORM THE ESSENTIAL DUTIES, THE COUNTY MAY ACCEPT THE SECOND OPINION OR THE
7 COUNTY MAY SEEK A THIRD OPINION IN ACCORDANCE WITH SUBSECTION (F) OF THIS SECTION.
8 (F) THIRD OPINION. IF THE COUNTY DETERMINES THAT A THIRD OPINION IS NECESSARY, THE
9 COUNTY SHALL OBTAIN A THIRD MEDICAL OPINION FROM AN INDEPENDENT, BOARD CERTIFIED
10 MEDICAL OR MENTAL HEALTH PROVIDER:

11 (1) WHO SHALL BE MUTUALLY AGREED TO BY THE EMPLOYEE AND THE COUNTY;

12 (2) WHOSE COSTS SHALL BE PAID BY THE COUNTY; AND

13 (3) WHOSE OPINION SHALL BE BINDING ON THE PARTIES.”.

ADOPTED _____

FAILED not introduced

SIGNATURE Shirley Feldman

Amendment 4 to Council Bill No. 14-2018

BY: Jon Weinstein

Legislative Day No. 5

Date: May 7, 2018

Amendment No. 4

(This amendment corrects terminology to use standard nomenclature, provides that the County shall pay the costs for medical evaluations in certain cases, and sets standards for who may provide a third evaluation.)

1 On page 3, in line 24, before "BEFORE" insert "(1)".

2 Also on page 3, in lines 24 and 26, in each instance, strike "OPINION ON" and substitute
3 "EVALUATION OF".

4 Also on page 3, in lines 27, 28, and 29, in each instance, strike "OPINION" and substitute
5 "EVALUATION".

6 Also on page 3, in line 29, strike "SOURCE" and substitute "INDEPENDENT PHYSICIAN WHO
7 IS BOARD CERTIFIED IN OCCUPATIONAL MEDICINE OR THE APPLICABLE MEDICAL SPECIALTY".

8 Also on page 3, in line 31, insert:

9 "(2) THE COUNTY SHALL PAY FOR ALL COSTS INCURRED FOR THE SECOND MEDICAL
10 EVALUATION IF:

11 (I) THE COST OF THE SECOND MEDICAL EVALUATION IS NOT COVERED BY THE
12 EMPLOYEE'S HEALTH INSURANCE; AND

13 (II) THE EMPLOYEE ATTESTS THAT THE EMPLOYEE CANNOT AFFORD THE COST OF
14 THE SECOND MEDICAL EVALUATION.

15 (3) THE COUNTY SHALL PAY ALL COSTS FOR THE THIRD MEDICAL EVALUATION."

ADOPTED _____

FAILED _____

SIGNATURE _____

not introduced
Jessica Edwards

Amendment 1 to Amendment 5 to Council Bill No. 14 - 2018

BY: Jennifer Terrasa

Legislative Day No. 8

Date: June 4, 2018

Amendment No. 1

(This amendment removes the definition for Health Care Provider.)

- 1 On page 1, strike lines 6 – 13, and substitute the following:
- 2 “On page 3, in line 16, strike “OR MENTAL HEALTH PROVIDER”.

ADOPTED

FAILED

SIGNATURE

~~not introduced~~
~~Jessica Feldman~~

Amendment 2 to Amendment 5 to Council Bill No. 14 - 2018

BY: Calvin Ball
Jennifer Terrasa

Legislative Day No. 8
Date: 6/4/18

Amendment No. 2

(This amendment clarifies that employees covered by collective bargaining agreements are subject to the grievance procedure.)

1 On page 2, in line 20, strike the closed quotation mark and the second period.

2

3 On the same page, immediately after line 21, insert the following:

4 (G) EMPLOYEES COVERED BY COLLECTIVE BARGAINING AGREEMENTS. A DISMISSAL UNDER
5 THIS SECTION SHALL BE SUBJECT TO THE GRIEVANCE PROCEDURE FOR A TERMINATION
6 UNDER AN APPLICABLE COLLECTIVE BARGAINING AGREEMENT.”.

7

~~ADOPTED~~
~~FAILED~~ *not introduced*
SIGNATURE *Jessica Feldman*

Amendment 5 to Council Bill 14-2018

BY: Greg Fox

Legislative Day No: 5

Date: May 7, 2018

Amendment No. 5

1 *(This amendment proposes changes to the bill to specify who may provide a medical evaluation*
2 *and proposes parameters for a third medical evaluation).*

3
4
5
6 On page 3, in line 16, strike “PHYSICIAN OR MENTAL HEALTH PROVIDER” and substitute
7 “HEALTH CARE PROVIDER”.

8
9 On the same page, in line 18, strike the semi-colon, and substitute the following:

10 “ . FOR THE PURPOSES OF THIS SECTION, HEALTH CARE PROVIDER MEANS A
11 LICENSED DOCTOR OF MEDICINE OR OSTEOPATHY WHO IS AUTHORIZED TO
12 PRACTICE MEDICINE OR SURGERY AS WELL AS LICENSED PODIATRISTS, DENTISTS,
13 CLINICAL PSYCHOLOGISTS, CLINICAL SOCIAL WORKERS AND OPTOMETRISTS;”.

14
15 On the same page, in line 24, strike “OPINION ON” and substitute “EVALUATION OF”. Also,
16 in the same line, strike “BEFORE AN”.

17
18 On the same page, in line 25, before “EMPLOYEE”, insert “(1) BEFORE AN”.

19
20 On the same page, in line 26, strike “MEDICAL OPINION ON” and substitute “EVALUATION
21 BY A HEALTH CARE PROVIDER OF”.

22
23 On the same page, in line 27, strike “OPINION” and substitute “EVALUATION”.

1 On the same page, in line 28, strike "OBTAIN A THIRD MEDIAL OPINION, FROM AN
2 INDEPENDENT SOURCE, AND THE COUNTY SHALL RELY ON THE THIRD OPINION IN ITS
3 DETERMINATION UNDER THIS SECTION." and substitute the following:

4 "ACCEPT THE SECOND EVALUATION OR THE COUNTY MAY SEEK A THIRD
5 EVALUATION IN ACCORDANCE WITH SUBSECTION (F) OF THIS SECTION.

6
7 (2) THE COUNTY SHALL PAY FOR ALL COSTS INCURRED FOR THE SECOND
8 EVALUATION IF:

9 (I) THE COST OF THE SECOND EVALUATION IS NOT COVERED BY THE
10 EMPLOYEE'S HEALTH INSURANCE; AND

11 (II) THE EMPLOYEE DEMONSTRATES THAT THE EMPLOYEE CANNOT
12 AFFORD THE COST OF THE SECOND EVALUATION.

13
14 (F) THIRD EVALUATION. IF THE COUNTY DETERMINES THAT A THIRD EVALUATION IS
15 NECESSARY, THE COUNTY SHALL OBTAIN A THIRD EVALUATION FROM AN
16 INDEPENDENT, BOARD CERTIFIED HEALTH CARE PROVIDER:

17 (1) WHO SHALL BE MUTUALLY AGREED TO BY THE EMPLOYEE AND THE
18 COUNTY;

19 (2) WHOSE COSTS SHALL BE PAID BY THE COUNTY; AND

20 (3) WHOSE OPINION SHALL BE BINDING ON THE PARTIES.".

21

1 hope or expectation of receiving a favor or better treatment than that accorded to other
2 persons, and other conduct that violates the County's ethics law.

3 (c) *Discipline in Lieu of Dismissal*. In lieu of dismissal, an appointing authority may take any or
4 all of the following disciplinary actions against a classified employee:

- 5 (1) Give the employee a written reprimand;
- 6 (2) With the approval of the Personnel Officer, demote the employee to a lower pay grade or
7 to a reduced level of pay in the same grade;
- 8 (3) Direct the suspension of the employee's accrual of annual or personal leave for a period
9 not to exceed one year; or
- 10 (4) Suspend the employee without pay.

11
12 **Section 1.119. - Non-Disciplinary Separations [[other than dismissal]].**

13 (D) *DISMISSAL FOR INABILITY TO PERFORM ESSENTIAL FUNCTIONS*. EXCEPT AS PROVIDED IN
14 SUBSECTION (E) OF THIS SUBSECTION, AN APPOINTING AUTHORITY MAY DISMISS A CLASSIFIED
15 EMPLOYEE IF:

- 16 (1) A PHYSICIAN OR MENTAL HEALTH PROVIDER HAS DETERMINED THAT THE EMPLOYEE IS NOT
17 PHYSICALLY OR MENTALLY ABLE OF PERFORMING THE ESSENTIAL DUTIES OF THE
18 EMPLOYEE'S POSITION;
- 19 (2) THE COUNTY HAS DETERMINED THAT THERE ARE NO REASONABLE ACCOMMODATIONS,
20 INCLUDING OTHER AVAILABLE VACANT POSITIONS FOR WHICH THE EMPLOYEE WOULD
21 QUALIFY; AND
- 22 (3) THE EMPLOYEE HAS BEEN GIVEN THE OPPORTUNITY TO PURSUE RETIREMENT OR DISABILITY
23 OPTIONS WHICH MAY BE AVAILABLE TO THE EMPLOYEE.

24 (E) *OPTION FOR SECOND OPINION ON INABILITY TO PERFORM ESSENTIAL FUNCTIONS*. BEFORE AN
25 EMPLOYEE IS DISMISSED UNDER SUBSECTION (D) OF THIS SECTION, THE EMPLOYEE MAY OBTAIN A
26 SECOND MEDICAL OPINION ON THE EMPLOYEE'S ABILITY TO PERFORM THE ESSENTIAL DUTIES OF
27 THE EMPLOYEE'S POSITION. IF THE SECOND OPINION FINDS THAT THE EMPLOYEE HAS THE ABILITY
28 TO PERFORM THE ESSENTIAL DUTIES, THE COUNTY MAY OBTAIN A THIRD MEDICAL OPINION, FROM
29 AN INDEPENDENT SOURCE, AND THE COUNTY SHALL RELY ON THE THIRD OPINION IN ITS
30 DETERMINATION UNDER THIS SECTION.

1 ***Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland that***
2 ***this Act shall become effective 61 days after its enactment.***

Amendment __1__ to Amendment 5 to Council Bill No. 14 - 2018

BY: Jennifer Terrasa

**Legislative Day No.
Date:**

Amendment No. 1

(This amendment removes the definition for Health Care Provider.)

- 1 On page 1, strike lines 6 – 13, and substitute the following:
- 2 “On page 3, in line 16, strike “OR MENTAL HEALTH PROVIDER”.

Amendment 2 to Amendment 5 to Council Bill No. 14 - 2018

BY: Calvin Ball
Jennifer Terrasa

Legislative Day No.
Date:

Amendment No. 2

(This amendment clarifies that employees covered by collective bargaining agreements are subject to the grievance procedure.)

1 On page 2, in line 20, strike the closed quotation mark and the second period.

2

3 On the same page, immediately after line 21, insert the following:

4 (G) EMPLOYEES COVERED BY COLLECTIVE BARGAINING AGREEMENTS. A DISMISSAL UNDER
5 THIS SECTION SHALL BE SUBJECT TO THE GRIEVANCE PROCEDURE FOR A TERMINATION
6 UNDER AN APPLICABLE COLLECTIVE BARGAINING AGREEMENT.”.

7

Amendment 3 to Amendment 5 to Council Bill No. 14 - 2018

BY: Greg Fox

Legislative Day No. 8
Date: 6/4/18

Amendment No. 3

(This is a technical amendment which clarifies that the instruction will make changes to the bill starting on page 3.)

- 1 On page 2, in line 1, strike "On the same page" and substitute "Starting on page 3".

Amendment 4 to Amendment 5 to Council Bill No. 14-2018

BY: Greg Fox

Legislative Day 8

Date: June 4, 2018

Amendment No. 4 to Amendment 5

(This amendment references appeal provisions in the Howard County Code.)

1 On page 2, in line 21, insert:

2 “On page 3, in line 31, insert:

3 “(G) EMPLOYEES COVERED BY COLLECTIVE BARGAINING AGREEMENTS. A DISMISSAL UNDER THIS
4 SECTION IS SUBJECT TO THE GRIEVANCE PROCEDURE FOR A TERMINATION UNDER AN APPLICABLE
5 COLLECTIVE BARGAINING AGREEMENT OR THE APPEAL PROCESS PROVIDED IN SECTION 1.500 OF
6 THE HOWARD COUNTY CODE AND THE APPEALS SECTION OF THE HOWARD COUNTY EMPLOYEE
7 MANUAL, AS APPLICABLE.

8 (H) EMPLOYEES NOT COVERED BY COLLECTIVE BARGAINING AGREEMENTS. A DISMISSAL UNDER THIS
9 SECTION IS SUBJECT TO THE APPEAL PROCESS PROVIDED IN SECTION 1.500 OF THE HOWARD
10 COUNTY CODE AND THE APPEALS SECTION OF THE HOWARD COUNTY EMPLOYEE MANUAL, AS
11 APPLICABLE.”.”.

Amendment 1 to Council Bill No. 14-2018

BY: The Chairperson at the
request of the County Executive

Legislative Day No. 4
Date: April 2, 2018

Amendment No. 1

(This amendment corrects how the current law is reflected and makes a technical correction.)

- 1 On page 3, in line 12, strike “Non-Disciplinary” and substitute “NON-DISCIPLINARY”.
- 2
- 3 On page 3, in line 14, strike the second “SUBSECTION” and substitute “SECTION”.

Amendment 2 to Council Bill No. 14-2018

BY: Calvin Ball
Jennifer Terrasa

Legislative Day No. 5

Date: May 7, 2018

Amendment No. 2

(This amendment requires the opinion of a physician, requires a third opinion from a specified kind of provider in certain instances, and requires that non-disciplinary separations be subject to the grievance procedure for a termination under an applicable collective bargaining agreement.)

1 On page 3:

- 2 • in line 16, strike “OR MENTAL HEALTH PROVIDER”;
- 3 • in line 17, strike “OF PERFORMING” and substitute “TO PERFORM”;
- 4 • in line 28, after “DUTIES” insert “AND THE COUNTY CHOOSES TO CONTEST THE
- 5 SECOND OPINION”
- 6 • also in line 28, strike “MAY” and substitute “SHALL”;
- 7 • in line 29, strike “SOURCE” and substitute” PHYSICIAN WHO IS BOARD CERTIFIED IN
- 8 OCCUPATIONAL MEDICINE OR THE APPLICABLE MEDICAL SPECIALTY”; and
- 9 • in line 31, insert:
- 10 “(F) EMPLOYEES COVERED BY COLLECTIVE BARGAINING AGREEMENTS. A DISMISSAL
- 11 UNDER THIS SECTION SHALL BE SUBJECT TO THE GRIEVANCE PROCEDURE FOR A
- 12 TERMINATION UNDER AN APPLICABLE COLLECTIVE BARGAINING AGREEMENT.”.
- 13

Amendment 3 to Council Bill No. 14-2018

BY: The Chairperson at the
request of the County Executive

Legislative Day 5
Date: May 7, 2018

Amendment No. 3

(This amendment clarifies when a third opinion will be obtained, clarifies that the third medical opinion shall be mutually agreed to by the parties, and provides that costs shall be paid by the County.)

1 On page 3, strike lines 24 through 30, inclusive and substitute:

- 2 “(E) OPTION FOR SECOND OPINION ON INABILITY TO PERFORM ESSENTIAL FUNCTIONS. BEFORE AN
3 EMPLOYEE IS DISMISSED UNDER SUBSECTION (D) OF THIS SECTION, THE EMPLOYEE MAY OBTAIN A
4 SECOND MEDICAL OPINION ON THE EMPLOYEE’S ABILITY TO PERFORM THE ESSENTIAL DUTIES OF
5 THE EMPLOYEE’S POSITION. IF THE SECOND OPINION FINDS THAT THE EMPLOYEE HAS THE ABILITY
6 TO PERFORM THE ESSENTIAL DUTIES, THE COUNTY MAY ACCEPT THE SECOND OPINION OR THE
7 COUNTY MAY SEEK A THIRD OPINION IN ACCORDANCE WITH SUBSECTION (F) OF THIS SECTION.
8 (F) THIRD OPINION. IF THE COUNTY DETERMINES THAT A THIRD OPINION IS NECESSARY, THE
9 COUNTY SHALL OBTAIN A THIRD MEDICAL OPINION FROM AN INDEPENDENT, BOARD CERTIFIED
10 MEDICAL OR MENTAL HEALTH PROVIDER:
11 (1) WHO SHALL BE MUTUALLY AGREED TO BY THE EMPLOYEE AND THE COUNTY;
12 (2) WHOSE COSTS SHALL BE PAID BY THE COUNTY; AND
13 (3) WHOSE OPINION SHALL BE BINDING ON THE PARTIES.”.

Amendment 4 to Council Bill No. 14-2018

BY: Jon Weinstein

Legislative Day No. 5

Date: May 7, 2018

Amendment No. 4

(This amendment corrects terminology to use standard nomenclature, provides that the County shall pay the costs for medical evaluations in certain cases, and sets standards for who may provide a third evaluation.)

1 On page 3, in line 24, before “BEFORE” insert “(1)”.

2 Also on page 3, in lines 24 and 26, in each instance, strike “OPINION ON” and substitute
3 “EVALUATION OF”.

4 Also on page 3, in lines 27, 28, and 29, in each instance, strike “OPINION” and substitute
5 “EVALUATION”.

6 Also on page 3, in line 29, strike “SOURCE” and substitute “INDEPENDENT PHYSICIAN WHO
7 IS BOARD CERTIFIED IN OCCUPATIONAL MEDICINE OR THE APPLICABLE MEDICAL SPECIALTY”.

8 Also on page 3, in line 31, insert:

9 “(2) THE COUNTY SHALL PAY FOR ALL COSTS INCURRED FOR THE SECOND MEDICAL
10 EVALUATION IF:

11 (I) THE COST OF THE SECOND MEDICAL EVALUATION IS NOT COVERED BY THE
12 EMPLOYEE’S HEALTH INSURANCE; AND

13 (II) THE EMPLOYEE ATTESTS THAT THE EMPLOYEE CANNOT AFFORD THE COST OF
14 THE SECOND MEDICAL EVALUATION.

15 (3) THE COUNTY SHALL PAY ALL COSTS FOR THE THIRD MEDICAL EVALUATION.”.

Amendment 5 to Council Bill 14-2018

BY: Greg Fox

Legislative Day No: 5

Date: May 7, 2018

Amendment No. 5

1 *(This amendment proposes changes to the bill to specify who may provide a medical evaluation*
2 *and proposes parameters for a third medical evaluation).*
3
4
5

6 On page 3, in line 16, strike “PHYSICIAN OR MENTAL HEALTH PROVIDER” and substitute
7 “HEALTH CARE PROVIDER”.
8

9 On the same page, in line 18, strike the semi-colon, and substitute the following:

10 “. FOR THE PURPOSES OF THIS SECTION, HEALTH CARE PROVIDER MEANS A
11 LICENSED DOCTOR OF MEDICINE OR OSTEOPATHY WHO IS AUTHORIZED TO
12 PRACTICE MEDICINE OR SURGERY AS WELL AS LICENSED PODIATRISTS, DENTISTS,
13 CLINICAL PSYCHOLOGISTS, CLINICAL SOCIAL WORKERS AND OPTOMETRISTS;”.
14

15 On the same page, in line 24, strike “OPINION ON” and substitute “EVALUATION OF”. Also,
16 in the same line, strike “BEFORE AN”.

17
18 On the same page, in line 25, before “EMPLOYEE”, insert “(1) BEFORE AN”.

19
20 On the same page, in line 26, strike “MEDICAL OPINION ON” and substitute “EVALUATION
21 BY A HEALTH CARE PROVIDER OF”.

22
23 On the same page, in line 27, strike “OPINION” and substitute “EVALUATION”.

1 On the same page, in line 28, strike "OBTAIN A THIRD MEDIAL OPINION, FROM AN
2 INDEPENDENT SOURCE, AND THE COUNTY SHALL RELY ON THE THIRD OPINION IN ITS
3 DETERMINATION UNDER THIS SECTION." and substitute the following:

4 "ACCEPT THE SECOND EVALUATION OR THE COUNTY MAY SEEK A THIRD
5 EVALUATION IN ACCORDANCE WITH SUBSECTION (F) OF THIS SECTION.

6
7 (2) THE COUNTY SHALL PAY FOR ALL COSTS INCURRED FOR THE SECOND
8 EVALUATION IF:

9 (I) THE COST OF THE SECOND EVALUATION IS NOT COVERED BY THE
10 EMPLOYEE'S HEALTH INSURANCE; AND

11 (II) THE EMPLOYEE DEMONSTRATES THAT THE EMPLOYEE CANNOT
12 AFFORD THE COST OF THE SECOND EVALUATION.

13
14 (F) THIRD EVALUATION. IF THE COUNTY DETERMINES THAT A THIRD EVALUATION IS
15 NECESSARY, THE COUNTY SHALL OBTAIN A THIRD EVALUATION FROM AN
16 INDEPENDENT, BOARD CERTIFIED HEALTH CARE PROVIDER:

17 (1) WHO SHALL BE MUTUALLY AGREED TO BY THE EMPLOYEE AND THE
18 COUNTY;

19 (2) WHOSE COSTS SHALL BE PAID BY THE COUNTY; AND

20 (3) WHOSE OPINION SHALL BE BINDING ON THE PARTIES."

21