



ELAYNE VALDEZ V. WAREHOUSE DEMO SERVICES, (2011) (en banc) 76 Cal. Comp.Cases _____

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After granting reconsideration of its prior decision, the Board in an en banc decision affirmed its prior holding and upheld its decision that, where unauthorized treatment is obtained for an industrial injury outside a validly established and properly noticed medical provider network (MPN), the resulting non-MPN treatment reports are inadmissible and may not be relied upon to award benefits.

The Board went on to hold that their decision is applicable only where unauthorized industrial injury treatment reports are obtained outside a validly established MPN and this did not preclude the admissibility of any other medical reports or records. Disputes concerning permanent disability, including apportionment, are to still be determined under the procedures set forth in sections 4061 and 4062 with medical-legal reports outside the MPN. These non-MPN reports are still admissible.

The majority disagreed with a concurring and dissenting opinion filed by Commissioner Caplane that their decision effectively deprives injured workers from receiving compensation by making non-MPN medical reports inadmissible. They held that it was the applicants who chose to disregard a validly established and properly noticed MPN, despite the many options to change treating physicians and to challenge diagnosis or treatment recommendations within the MPN, who had removed themselves from the benefits provided by the Labor Code.

The matter was remanded to the trial level for the parties to litigate the issues of validity of the MPN and whether the applicant received proper notices.