

2024 Regular Session

HOUSE BILL NO. 618

BY REPRESENTATIVES BEAULLIEU, HORTON, MIKE JOHNSON, MCFARLAND,  
AND MELERINE

WORKERS COMPENSATION: Provides relative to accident reporting and access to  
medical records and information related to claims

1 AN ACT

2 To amend and reenact R.S. 23:1127, 1201.1(A)(introductory paragraph) and (K)(8)(b)(i) and  
3 (c), 1301, and 1306 and to enact R.S. 23:1201.1(K)(8)(a)(x) and (xi), relative to  
4 workers' compensation; to provide for the right to reasonable access to medical  
5 information in workers' compensation claims through medical records release  
6 authorizations; to provide to the reporting of accidents; to provide for technical  
7 corrections; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 23:1127, 1201.1(A)(introductory paragraph) and (K)(8)(b)(i) and (c),  
10 1301, and 1306 are hereby amended and reenacted and R.S. 23:1201.1(K)(8)(a)(x) and (xi)  
11 are hereby enacted to read as follows:

12 §1127. Release of medical records and information

13 A. It is the policy for the efficient administration of the workers'  
14 compensation system that there be reasonable access to medical information for all  
15 parties to coordinate and manage the care for the injured worker and to facilitate his  
16 return to work.

17 B. In accordance with the policy set forth in Subsection A of this Section and  
18 notwithstanding the provisions of Code of Evidence Article 510 or any other law to  
19 the contrary, the employer or the employer's representative may request that the  
20 employee sign and return a medical records release authorization on a form to be

1 promulgated, in accordance with the Administrative Procedure Act, by the assistant  
2 secretary. The form shall include a notice in ten-point boldface block lettering font,  
3 advising the employee that failure to sign and return the form required in accordance  
4 with this Section may result in suspension of benefits.

5 (1) The employer or the employer's representative shall provide the medical  
6 records release authorization form to the employee, either in person, by certified  
7 mail, or by any other commercial courier.

8 (2) If the employee fails or refuses to sign the form as required by this  
9 Section, the employer or payor may suspend benefits due pursuant to this Chapter  
10 until the employee complies with this Section. Suspension of benefits by the  
11 employer or payor shall be made in accordance with R.S. 23:1201.1(A)(4) and (5).

12 (3) Any suspension of benefits provided for in this Section shall be lifted  
13 upon the employee's compliance, at which time any accrued benefits due pursuant  
14 to this Chapter shall be paid retroactive to the date of suspension, without interest,  
15 costs, or fees.

16 (4) Notwithstanding any other law to the contrary, nothing shall preclude the  
17 exchange of medical records release authorizations by any other method allowed by  
18 law.

19 C.(1) In any claim for compensation, a ~~health care~~ healthcare provider who  
20 has at any time treated the employee related to the compensation claim shall release  
21 any requested medical information and records relative to the employee's injury, to  
22 any of the following persons:

23 (a) The employee, his agent, or his representative.

24 (b) A licensed and approved vocational rehabilitation counselor assigned to  
25 the employee's claim.

26 (c) Another ~~health care~~ healthcare provider examining the employee.

27 (d) The employer, his agent, or his representative.

28 (e) The employer's workers' compensation insurer or its agent or  
29 representative.

1 (2) Any information relative to any other treatment or condition shall be  
2 available to the employer or his workers' compensation insurer by subpoena or  
3 through a written release by the claimant.

4 ~~€. D.(1)~~ Consistent with the policy ~~of reasonable access to medical~~  
5 ~~information for all parties~~ set forth in Subsection A of this Section and  
6 notwithstanding the provisions of Article 510 of the Louisiana Code of Evidence or  
7 any other law to the contrary, a ~~health-care~~ healthcare provider, without the necessity  
8 of a subpoena or other discovery device, shall verbally discuss medical information  
9 regarding the injured employee with another ~~health-care~~ healthcare provider  
10 examining the employee, a case manager, or a vocational rehabilitation counselor  
11 assigned to provide rehabilitation for that injured worker. No ~~health-care~~ healthcare  
12 provider or his employee or agent shall be held civilly or criminally liable for  
13 disclosure of the medical information conveyed pursuant to this Section. This  
14 Paragraph shall not apply to examinations conducted by medical examiners  
15 appointed by the assistant secretary pursuant to R.S. 23:1123.

16 (2) In any verbal communication or personal conference between the  
17 vocational rehabilitation counselor and any ~~health-care~~ healthcare provider, for the  
18 purpose of providing rehabilitation services, the employee or his agent or  
19 representative shall cooperate in scheduling a reasonable date and time for such  
20 communication or conference and the employee or his agent or representative shall  
21 be given fifteen days notice of any such communication or conference, and shall be  
22 given the opportunity to attend or participate in the communication or conference.  
23 Irrespective of the number of persons attending the conference, the ~~health-care~~  
24 healthcare provider shall only charge a reasonable single fee.

25 (3) In addition to any other duty or responsibility provided by law, a case  
26 manager or vocational rehabilitation counselor who is a party to a verbal  
27 communication with the ~~health-care~~ healthcare provider regarding an employee, as  
28 authorized by Paragraph (1) of this Subsection, shall, within five working days of the  
29 communication, mail a written summary of the communication and any work

1 restrictions or modifications required for the employee's reasonable return to  
 2 employment to the employee, his representative, and the ~~health care~~ healthcare  
 3 provider. The summary shall be mailed by certified mail, return receipt requested,  
 4 to the employee or his representative, or by electronic mail if the employee or his  
 5 representative consents in writing to such method of transmission. It shall include  
 6 a narration of any diagnosis or opinion given or discussed, any conclusions reached  
 7 concerning the vocational rehabilitation plan, any return to work opportunities  
 8 discussed consistent with the vocational rehabilitation plan, and the medical  
 9 evaluation of the ~~health care~~ healthcare provider.

10 (4) Any medical information released in writing shall be furnished to the  
 11 employee at no cost to him simultaneously with it being furnished to the employer,  
 12 its insurer, agent, or representative. Any such records or information furnished to  
 13 the employer or insurer or any other party pursuant to this Section shall be held  
 14 confidential by them and the employer or insurer or any other party shall be liable  
 15 to the employee for any actual damages sustained by him as a result of a breach of  
 16 this confidence up to a maximum of one thousand dollars, plus all reasonable  
 17 attorney fees necessary to recover such damages. An exception to this breach of  
 18 confidentiality shall be any introduction or use of such information in a court of law,  
 19 or before the Office of Workers' Compensation Administration or the Louisiana  
 20 Workers' Compensation Second Injury Board.

21 ~~D.~~ E. Nothing in this Section shall be construed to authorize any case  
 22 manager, vocational rehabilitation counselor assigned to provide rehabilitation  
 23 services for the injured employee, or agent of the employer who is not treating the  
 24 injured employee for his injuries to attend the injured employee's medical  
 25 examinations.

26 \* \* \*

27 §1201.1. Controversion of compensation and medical benefits

28 A. Upon the first payment of compensation or upon any modification,  
 29 suspension, termination, or controversion of compensation or medical benefits for

1 any reason, including but not limited to issues of medical causation, compensability  
2 of the claim, or issues arising out of R.S. 23:1121, 1127, 1124, 1208, and 1226, the  
3 employer or payor who has been notified of the claim, shall do all of the following:

4 \* \* \*

5 K.

6 \* \* \*

7 (8)(a) Upon motion of either party, whether or not the employer or payor is  
8 entitled to a preliminary determination, the workers' compensation judge's ruling in  
9 a hearing shall be conducted as an expedited summary proceeding and shall be  
10 considered an order of the court and not requiring a further trial on the merits, if it  
11 concerns any of the following matters:

12 \* \* \*

13 (x) The employee seeks to have a suspension of benefits for failure to  
14 comply with R.S. 23:1127 lifted.

15 (xi) The employer or payor seeks to compel the employee to sign the medical  
16 records release authorization form as provided for in R.S. 23:1127.

17 (b)(i) The workers' compensation judge shall set the expedited summary  
18 proceeding hearing date pursuant to Items (a)(iii), (iv), ~~and (v)~~, and (xi) of this  
19 Paragraph within three days of receiving the employer's motion for the expedited  
20 hearing. The hearing shall be held not less than ten nor more than thirty days after  
21 the motion has been filed.

22 \* \* \*

23 (c) The workers' compensation judge shall order the employee to sign the  
24 choice of physician form, enforce the employee's submission to the medical  
25 examination, or provide the LWC-1020 or LWC-1025 form, or sign the medical  
26 records release authorization form as applicable unless the employee can show good  
27 cause for his refusal.

28 \* \* \*

1 §1301. Notice as prerequisite to institution of proceedings

2 ~~A. No proceeding under this Chapter for compensation shall be maintained~~  
3 ~~unless notice~~ Notice of the injury has been shall be given to the employer ~~within no~~  
4 later than thirty days after the date of the injury or death. This notice ~~may~~ shall be  
5 given or made by any person claiming to be entitled to compensation or by anyone  
6 on his behalf.

7 B. If notice is provided to the employer more than thirty days after the  
8 injury, it shall do both of the following:

9 (1) Result in a rebuttable presumption that the injury or death did not arise  
10 out of or occur in the course of the employment.

11 (2) Bar any claim by the employee for penalties or attorney fees based on the  
12 denial of benefits pending a judicial determination of compensability.

13 C. Notwithstanding Subsection B of this Section, the notice provided for in  
14 Subsection A of this Section shall not be required when the employee or his  
15 dependent proves by clear and convincing evidence either of the following:

16 (1) The employer had actual knowledge of the alleged injury within thirty  
17 days after the date of the injury or death.

18 (2) The employee or dependent was unable to provide the required notice  
19 due to circumstances outside of his control.

20 \* \* \*

21 §1306. Employer reports

22 A. Within ten days of receiving the notice required as provided for in R.S.  
23 23:1301 or actual knowledge of injury resulting in death or in lost time in excess of  
24 ~~one week after the injury~~ the injury or death pursuant to R.S. 23:1301(B), the  
25 employer shall send a report to the insurer or administrator of the employer's  
26 workers' compensation claims, if any, on a form prescribed by the assistant secretary,  
27 providing the following information:

28 (1) The name, address, and business of the employer.

1 (2) The name, Social Security number, street, mailing address, telephone  
2 number, and occupation of the employee.

3 (3) The cause and nature of the injury or death.

4 (4) The date, time, and the particular locality where the injury or death  
5 occurred.

6 (5) The wages, as defined in R.S. 23:1021, the worker was earning at the  
7 time of the injury.

8 B. In the absence of good cause, failure to submit the report required  
9 pursuant to Subsection A of this Section shall subject the employer to a penalty of  
10 five hundred dollars per report. Such penalty shall be assessed by the Department  
11 of Insurance against only the employer and paid by the employer to the department.

12 ~~(B)~~ C.(1)(a) The insurer or the administrator of the employer's workers'  
13 compensation claims, upon receipt of the ~~first report of injury~~ report required  
14 pursuant to Subsection A of this Section, shall submit the data in electronic data  
15 interchange or EDI format to the office of workers' compensation administration at  
16 a frequency to be determined by the assistant secretary.

17 (b) For the purposes of this Subsection, electronic data interchange or EDI  
18 format shall be based on the International Association of Industrial Accident Boards  
19 and Commissions (IAIABC) standards.

20 (2)(a) Submissions after December 31, 2012, may be in the EDI format.  
21 Submissions after December 31, 2013, shall be in the EDI format.

22 (b) Any new EDI format developed by the IAIABC shall be adopted for use  
23 at the discretion of the assistant secretary.

24 ~~C.~~ D. All information and records pursuant to this Section shall be  
25 confidential and privileged, shall not be public records, and shall not be subject to  
26 subpoena. However, nothing in this Section shall prevent the use of such  
27 information or records for the compilation of statistical data wherein the identity of  
28 the individual or employer is not disclosed.

1           E. Submission of the information required pursuant to this Section shall not  
 2           be deemed an admission of the occurrence of the alleged work accident or  
 3           compensability of the alleged injury or death.

4           Section 2. The medical record release authorization form required as enacted by  
 5           Section 1 of this Act shall be promulgated in accordance with the Administrative Procedure  
 6           Act no later than January 1, 2025.

#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 618 Reengrossed

2024 Regular Session

Beaulieu

**Abstract:** Provides relative to accident reporting and access to medical records and information related to claims.

Present law provides that it is the policy for the efficient administration of the workers' compensation system that there be reasonable access to medical information for all parties to coordinate and manage the care for the injured worker and to facilitate his return to work.

Proposed law retains present law.

Proposed law provides that in accordance with the provisions of proposed law and present law, the employer or the employer's representative may request that the employee sign and return a medical records release authorization on a form to be promulgated by the office of workers' compensation.

Proposed law requires the employer or the employer's representative to provide the medical records release authorization form to the employee, either in person, by certified mail, or any other commercial courier.

Proposed law provides that if the employee fails or refuses to sign the form, the employer or payer may suspend benefits until the employee complies.

Present law provides that in any claim for compensation, a healthcare provider who has at any time treated the employee related to the compensation claim shall release any requested medical information and records relative to the employee's injury to specified persons provided for in present law.

Proposed law retains present law.

Present law allows a healthcare provider to verbally discuss medical information regarding the injured employee with another healthcare provider, a case manager, or a vocational rehabilitation counsel without the need for a subpoena or other discovery devices.

Proposed law retains present law.

Present law requires any medical information released in writing to be sent to the employee at no cost to him. Present law further requires that any medical information or records that are released to an employer or insurer or any other party be held confidential and holds them



liable for any damages up to \$1,000 sustained to the employee as a result of a breach of this confidence.

Proposed law retains present law.

Present law provides a list of matters that upon motion of either party, whether or not the employer or payer is entitled to a preliminary determination, the workers' compensation judge's ruling in a hearing shall be conducted as an expedited summary proceeding and shall be considered an order of the court and not requiring a further trial on the merits.

Proposed law adds to that list two additional provisions for when the employee seeks to have a suspension of benefits for failure to comply with present law (R.S. 23:1127) lifted. Proposed law otherwise retains present law.

Present law provides that the workers' compensation judge shall order the employee to sign the choice of physician form, enforce the employee's submission to the medical exam, or provide the L.C.-1020 or L.C.-1025 form as applicable, unless the employee can show good cause for his refusal.

Proposed law adds that the judge can order the employee to sign the medical records release authorization form to present law. Proposed law otherwise retains present law.

Present law requires the notice of injury to be given to an employer within 30 days after the date of the injury or death. Present law allows the notice to be given or made by any person claiming to be entitled to compensation or by anyone on his behalf.

Proposed law instead requires that the notice be given no later than 30 days and requires the person or anyone on his behalf claiming to be entitled to compensation to give notice to the employer. Proposed law otherwise retains present law.

Proposed law provides that if notice is provided to the employer more than 30 days after the injury, it shall do both of the following:

- (1) Result in a rebuttal presumption that the injury or death did not arise out of or occur in the course of the employment; and
- (2) Bar any claim by the employee for penalties or attorney fees based on the denial of benefits pending a judicial determination of compensability.

Proposed law provides that the provisions of present law and proposed law are not required when the employee or his dependent proves by clear and convincing evidence either of the following:

- (1) The employer had actual knowledge of the alleged injury within 30 days after the date of the injury or death.
- (2) The employee or dependent was unable to provide the required notice due to circumstances outside of his control.

Present law requires an employer, within ten days of actual knowledge of the injury or death, to send a report to the insurer, if any, on a form prescribed by the assistant secretary.

Proposed law instead requires an employer, within ten days of receiving the notice required by present law (R.S. 23:1301), the injury or death pursuant to present law (R.S. 23:1301(B)), the employer shall send a report to the insurer or administrator of the employer's workers' compensation claims.

Proposed law provides that in the absence of good cause, failure to submit the report required shall subject the employer to a penalty of \$500 per report. Proposed law further provides that the penalty shall be assessed by the Dept. of Insurance against the employer and shall be paid by the employer to the department.

Present law requires all information and records collected pursuant to provisions of present law (R.S. 23:1306(A)) be considered confidential and privileged and not be subjected to public records and subpoena. Present law also allows the usage of such information or records for the compilation of statistical data, as long as the identity of the individual or employer is not disclosed.

Proposed law retains present law.

Proposed law provides the submission of the information required by proposed law (R.S. 23:1306(E)) shall not be deemed an admission of the occurrence of the alleged work accident or compensability of the alleged injury or death.

Proposed law provides that the medical record release authorization form shall be promulgated no later than Jan. 1, 2025.

(Amends R.S. 23:1127, 1201.1(A)(intro.)(para.) and (K)(8)(b)(i) and (c), 1301, and 1306; Adds R.S. 23:1201.1(K)(8)(a)(x) and (xi))

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Labor and Industrial Relations to the original bill:

1. Amend the provisions of proposed law concerning the medical release authorization form and provide the procedure for submitting the authorization form.
2. Add and amend provisions of present law to include certain claims arising out of present law.
3. Add a provision concerning when an expedited summary proceeding can be conducted.
4. Provide for instances when notice is given 30 days after the work accident.
5. Provide for when the notice provided for in proposed law is not required.
6. Make technical and title corrections.

#### The House Floor Amendments to the engrossed bill:

1. Clarify that the assistant secretary of the office of workers' compensation shall promulgate the form for the medical records release authorization.
2. Provide notification requirements for the medical records release authorization.
3. Provide that failure to return the form may result in a suspension of benefits.
4. Add an additional provision concerning when an expedited summary proceeding can be conducted.
5. Require notice to be given to the employer 30 days after the injury occurred.

6. Provide that notice does not need to be given to the employer, if the employer had knowledge of the alleged injury, within 30 days after the injury or death occurred.
7. Require, in the absence of good cause, a penalty and the mechanism for how the penalty is assessed and paid for the failure to submit an employer report provided for in present law (R.S.23:1306).
8. Make technical changes.