
DIGEST

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HB 618 Reengrossed

2024 Regular Session

Beaullieu

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.