

Regular Session, 2012

HOUSE BILL NO. 621

BY REPRESENTATIVE ALFRED WILLIAMS

WORKERS COMPENSATION: Provides for parties authorized to procure and release medical records

1 AN ACT

2 To amend and reenact R.S. 23:1127(C)(1) and (4) and to enact R.S. 23:1127(B)(1)(f) and
3 (E), relative to the medical services section of the office of workers' compensation
4 administration; to provide for the release of employee medical records; and to
5 provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 23:1127(C)(1) and (4) are hereby amended and reenacted and R.S.
8 23:1127(B)(1)(f) and (E) are hereby enacted to read as follows:

9 §1127. Release of medical records and information

10 * * *

11 B.(1) In any claim for compensation, a health care provider who has at any
12 time treated the employee related to the compensation claim shall release any
13 requested medical information and records relative to the employee's injury, to any
14 of the following persons:

15 * * *

16 (f) The medical services section of the office of workers' compensation
17 administration.

18 * * *

19 C.(1) Consistent with the policy of reasonable access to medical information
20 for all parties and notwithstanding the provisions of Article 510 of the Louisiana

1 Code of Evidence or any other law to the contrary, a health care provider, without
 2 the necessity of a subpoena or other discovery device, shall verbally discuss medical
 3 information regarding the injured employee with another health care provider
 4 examining the employee, a case manager, the medical services section of the office
 5 of workers' compensation administration, or a vocational rehabilitation counselor
 6 assigned to provide rehabilitation for that injured worker. No health care provider
 7 or his employee or agent shall be held civilly or criminally liable for disclosure of
 8 the medical information conveyed pursuant to this Section. This Paragraph shall not
 9 apply to examinations conducted by medical examiners appointed by the director
 10 pursuant to R.S. 23:1123.

11 * * *

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

24 * * *

25 E. In the event reasonable medical services are requested by a health care
 26 provider chosen by the employee which are then timely denied by the employer in
 27 writing, a Form 1009 is filed by the employee or his health care provider, the
 28 medical services section of the office of workers' compensation administration shall

- 1 immediately order all medical records from all medical providers who have treated
2 the employee on an expedited basis, and assess the cost to the employer.
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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)]

Alfred Williams

HB No. 621

Abstract: Adds the medical services section of the office of workers' compensation administration (OWCA) to those parties who may obtain medical records and other information on the injured employee and provides for procedure for denials.

Present law provides that in any claim from compensation, a health care provider who has treated the injured employee shall release medical information to the employee, his agent or representative, the employee's vocational rehabilitation counselor, the employer, his agent or representative, and the employer's workers' compensation insurer or its agent or representative.

Proposed law adds the medical services section of OWCA to the list of parties in present law to whom the health care provider can release medical records.

Present law provides that a health care provider shall verbally discuss medical information regarding the injured employee with another health care provider examining the employee, a case manager, or a vocational rehabilitation counselor.

Proposed law adds the medical services section of OWCA to the list of parties in present law with whom the health care provider can verbally discuss medical information.

Present law provides that any medical records that are released in writing to the employer, its insurer, agent, or representative shall also be provided to the injured employee at no cost to him.

Proposed law provides that if any medical records are released in writing to the employer, its insurer, agent, representative, or to the medical services section of OWCA, they shall also be provided to the injured employee at no cost to him.

Present law provides that any records or information furnished to the employer or insurer, or any other party, shall be confidential and that any party who breaches confidentiality shall be liable to the employee for actual damages up to \$1,000 plus all reasonable attorney fees to recover such damages.

Proposed law retains present law and includes the medical services section of OWCA to the parties who are required to maintain confidentiality.

Present law provides that the use of the information in court or before OWCA or the La. Workers' Compensation Second Injury Board shall not be a breach of confidentiality.

Proposed law requires the medical services section of OWCA order the medical records of the injured employee on an expedited basis in the event of a timely written denial of medical treatment requested by the employee, and charge the cost to the employer.

(Amends R.S. 23:1127(C)(1) and (4); Adds R.S. 23:1127(B)(1)(f) and (E))