

2024 Regular Session

SENATE BILL NO. 324

BY SENATOR REESE

WORKERS' COMPENSATION. Provides relative to accident reporting and access to medical records and information related to claims. (8/1/24)

1 AN ACT

2 To amend and reenact R.S. 23:1127, 1301, and 1306, relative to workers' compensation; to  
3 provide relative to access to medical information in workers' compensation claims;  
4 to establish deadlines; to provide relative to the reporting of injury or death; to  
5 provide for penalties; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 23:1127, 1301, and 1306, are hereby amended and reenacted to read  
8 as follows:

9 §1127. Release of medical records and information

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

14 B. Consistent with the policy of reasonable access to medical information  
15 for all parties set forth in Subsection A of this Section, and notwithstanding the  
16 provisions of Louisiana Code of Evidence Article 510 or any other law to the  
17 contrary, the employee shall, within ten business days of receiving a request for

1 medical information from the employer or its agent or representative, sign and  
2 return an authorization to release medical records on a form promulgated by  
3 the office of workers' compensation.

4 (1) Failure to comply with this Subsection shall result in suspension of  
5 all benefits due under this Chapter until either:

6 (a) the employee complies with the request to sign and return the form.

7 (b) Following an expedited hearing, the workers' compensation judge has  
8 rendered a decision determining that there is good cause for the employee's  
9 refusal to comply. For the purposes of this Section, good cause may be  
10 established if the employee proves that he is not required to comply, or that he  
11 was prevented from complying due to circumstances outside his control.

12 (2) In the absence of good cause for the employee's refusal, following the  
13 expedited hearing provided for in Paragraph B(1) of this Section, the workers'  
14 compensation judge shall order the employee to sign and return the release, and  
15 shall further require the employee to reimburse all costs and attorney fees  
16 incurred by or on behalf of the employer as a result of the refusal.

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

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

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

24 (c) Another health care provider examining the employee.

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

26 (e) The employer's workers' compensation insurer or its agent or  
27 representative.

28 (2) Any information relative to any other treatment or condition shall be  
29 available to the employer or his workers' compensation insurer by subpoena or

1 through a written release by the claimant.

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

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

23 (3) In addition to any other duty or responsibility provided by law, a case  
24 manager or vocational rehabilitation counselor who is a party to a verbal  
25 communication with the health care provider regarding an employee, as authorized  
26 by Paragraph (1) of this Subsection, shall, within five working days of the  
27 communication, mail a written summary of the communication and any work  
28 restrictions or modifications required for the employee's reasonable return to  
29 employment to the employee, his representative, and the health care provider. The

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

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

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

23 \* \* \*

24 §1301. Notice as prerequisite to institution of proceedings

25 ~~A. No proceeding under this Chapter for compensation shall be maintained~~  
 26 ~~unless notice~~ **Notice** of the injury ~~has been~~ **shall be** given to the employer **as soon**  
 27 **as possible but not more than** ~~within~~ thirty days after the date of the injury or  
 28 death. This notice ~~may~~ **shall** be given or made by any person claiming to be entitled  
 29 to compensation or by anyone on his behalf.

1 **B. If the person claiming to be entitled to compensation, or his**  
2 **representative, fails to provide notice as required by this Section both of the**  
3 **following shall apply:**

4 **(1) There shall be a rebuttable presumption that the injury or death did**  
5 **not arise out of or occur in the course and scope of the employment.**

6 **(2) The failure shall bar any claim by the employee for penalties or**  
7 **attorney fees based on the denial of benefits pending a judicial determination**  
8 **of compensability.**

9 **C. Notwithstanding any provisions of law to the contrary, notice under**  
10 **Subsection A of this Section shall not be required when the employer has**  
11 **demonstrated actual knowledge of the injury or death by paying medical,**  
12 **indemnity, or death benefits to or on behalf of the employee or his dependents**  
13 **under this Chapter.**

14 \* \* \*

15 §1306. Employer reports

16 A. Within ten days of **receiving the notice required under R.S. 23:1301 or**  
17 ~~actual knowledge of injury resulting in death or in lost time in excess of one week~~  
18 ~~after the injury,~~ **the injury or death pursuant to R.S. 23:1301(B),** the employer  
19 shall send a report to the insurer **or administrator of the employer's workers'**  
20 **compensation claims,** if any, on a form prescribed by the assistant secretary,  
21 providing the following information:

- 22 (1) The name, address, and business of the employer.
- 23 (2) The name, Social Security number, street, mailing address, telephone  
24 number, and occupation of the employee.
- 25 (3) The cause and nature of the injury or death.
- 26 (4) The date, time, and the particular locality where the injury or death  
27 occurred.
- 28 (5) The wages, as defined in R.S. 23:1021, the worker was earning at the time  
29 of the injury.

1                    **B. In the absence of good cause, failure to submit the report required**  
 2                    **under Subsection A of this Section shall subject the employer to a penalty of five**  
 3                    **hundred dollars per report, to be paid to the office of workers' compensation**  
 4                    **administration. Such penalty shall be assessed against and paid by the employer**  
 5                    **only.**

6                    ~~BC.~~(1)(a) The insurer or the administrator of the employer's workers'  
 7                    compensation claims, upon receipt of the ~~first report of injury~~ **the report required**  
 8                    **under Subsection A of this Section**, shall submit the data in electronic data  
 9                    interchange or EDI format to the office of workers' compensation administration at  
 10                    a frequency to be determined by the assistant secretary.

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

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

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

18                    ~~ED.~~ All information and records pursuant to this Section shall be confidential  
 19                    and privileged, shall not be public records, and shall not be subject to subpoena.  
 20                    However, nothing in this Section shall prevent the use of such information or records  
 21                    for the compilation of statistical data wherein the identity of the individual or  
 22                    employer is not disclosed.

23                    **E. Submission of the information required under this Section shall not**  
 24                    **be deemed an admission of the occurrence or compensability of the alleged**  
 25                    **injury or death.**

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The original instrument and the following digest, which constitutes no part  
 of the legislative instrument, were prepared by Yoursheka D. Butler.

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to the employee or his agent, the rehabilitation counselor, another health care provider, the employer or his agent, or the workers' compensation insurer for the purpose of coordinated care for the employee.

Proposed law retains present law.

Proposed law requires the employee to sign and return an authorization form to release medical records within 10 business days to the employer. Proposed law further provides that an employee who fails to timely sign and return the authorization form will have his benefits suspended until he is in compliance.

Present law provides that notice of the injury must be given to the employer within 30 days.

Proposed law retains present law and provides that there is a rebuttable presumption that the injury or death did not arise out of or occur in the course of the employment if notice of the death or injury is not provided within 30 days.

Present law requires that within 10 days of an injury resulting in death or lost time in excess of one week, the employer must send a report to the insurer with the name, address, and business of the employer, the name, social security number, street, mailing address, telephone number, and occupation of the employee, the cause and nature of the injury or death, the date, time, and where the injury or death occurred, and the wages the worker was earning at the time of the injury.

Proposed law deletes present law requiring an employer who receives notice or has actual knowledge of injury resulting in death or in lost time in excess of one week after the injury to send a report to the insurer.

Proposed law otherwise retains present law.

Proposed law provides that in absence of good cause shown, employers must pay \$500 to the office of workers' compensation administration if they fail to timely submit the report.

Proposed law provides that submission of the information required under present law and proposed law will not be deemed an admission of the occurrence or compensability of the alleged injury or death.

Effective August 1, 2024.

(Amends R.S. 23:1127, 1301, and 1306)