

2024 Regular Session

HOUSE BILL NO. 618

BY REPRESENTATIVES BEAULLIEU, MIKE JOHNSON, HORTON, 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, 1301, and 1306, relative to workers' compensation; to
3 provide for the right to reasonable access to medical information in workers'
4 compensation claims through medical records release authorizations; to provide to
5 the reporting of accidents; to provide for technical corrections; and to provide for
6 related matters.

7 Be it enacted by the Legislature of Louisiana:

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

10 §1127. Release of medical records and information

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

15 B. In accordance with the policy set forth in Subsection A of this Section and
16 notwithstanding the provisions of Code of Evidence Article 510 or any other law to
17 the contrary, an employee shall, within ten business days of receiving a request for
18 such from an employer or an employer's representative, sign and return an

1 authorization to release medical records on a form established by the office of
2 workers' compensation administration.

3 (1) Failure to comply with this Subsection shall result in suspension of all
4 benefits pursuant to this Chapter until either of the following occurs:

5 (a) The employee complies with the request to sign and return the release.

6 (b) The workers' compensation judge, following an expedited hearing,
7 renders a decision determining there is good cause for the employee's refusal to
8 comply.

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

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

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

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

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

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

23 (e) The employer's workers' compensation insurer or its agent or
24 representative.

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

28 ~~E.D.~~(1) Consistent with the policy of ~~reasonable access to medical~~
29 ~~information for all parties~~ set forth in Subsection A of this Section and

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

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

20 (3) In addition to any other duty or responsibility provided by law, a case
21 manager or vocational rehabilitation counselor who is a party to a verbal
22 communication with the ~~health-care~~ healthcare provider regarding an employee, as
23 authorized by Paragraph (1) of this Subsection, shall, within five working days of the
24 communication, mail a written summary of the communication and any work
25 restrictions or modifications required for the employee's reasonable return to
26 employment to the employee, his representative, and the ~~health-care~~ healthcare
27 provider. The summary shall be mailed by certified mail, return receipt requested,
28 to the employee or his representative, or by electronic mail if the employee or his
29 representative consents in writing to such method of transmission. It shall include

1 a narration of any diagnosis or opinion given or discussed, any conclusions reached
2 concerning the vocational rehabilitation plan, any return to work opportunities
3 discussed consistent with the vocational rehabilitation plan, and the medical
4 evaluation of the ~~health care~~ healthcare provider.

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

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

21 * * *

22 §1301. Notice as prerequisite to institution of proceedings

23 A. ~~No proceeding under this Chapter for compensation shall be maintained~~
24 ~~unless notice~~ Notice of the injury ~~has been~~ shall be given to the employer ~~within~~ as
25 soon as possible but no later than thirty days after the date of the injury or death.
26 This notice ~~may~~ shall be given or made by any person claiming to be entitled to
27 compensation or by anyone on his behalf.

28 B. Failure to provide notice as required by this Section shall do both of the
29 following:

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

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

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

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

13 C.D. All information and records pursuant to this Section shall be
14 confidential and privileged, shall not be public records, and shall not be subject to
15 subpoena. However, nothing in this Section shall prevent the use of such
16 information or records for the compilation of statistical data wherein the identity of
17 the individual or employer is not disclosed.

18 E. Submission of the information required pursuant to this Section shall not
19 be deemed an admission of the occurrence or compensability of the alleged injury
20 or death.

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 Original

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, an employee shall, within 10 business days after receiving a request from an employer or the employer's representative, sign and return an authorization to release medical records on a form established by the office of workers' compensation administration.

Proposed law provides that the failure to comply shall result in the suspension of all benefits due until:

- (a) The employee complies with the request to sign and return the release; or
- (b) The workers' compensation judge, following an expedited hearing, renders a decision determining there is good cause for the employee's refusal to comply.

Proposed law provides that in the absence of good cause for the employee's refusal, following the expedited hearing, the workers' compensation judge shall order the employee to sign and return the release, and shall further require the employee to reimburse all costs and attorneys fees incurred by or on behalf of the employer as a result of the refusal.

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 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 as soon as possible but 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 failure to provide notice as required by this Section shall:

- (1) Result in a rebuttable 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 employer has demonstrated actual knowledge of the injury or death by paying medical, indemnity, or death benefits to or on behalf of the employee or his dependents.

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, which he must pay to the office of workers' compensation.

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 or compensability of the alleged injury or death.

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