

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), 1301, and 1306 and
3 to enact R.S. 23:1201.1(K)(8)(a)(x), relative to workers' compensation; to provide
4 for the right to reasonable access to medical information in workers' compensation
5 claims through medical records release authorizations; to provide to the reporting of
6 accidents; to provide for technical corrections; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

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

11 §1127. Release of medical records and information

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

16 B. In accordance with the policy set forth in Subsection A of this Section and
17 notwithstanding the provisions of Code of Evidence Article 510 or any other law to
18 the contrary, the employer or the employer's representative may request that the
19 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 office of
2 workers' compensation.

3 (1) The employer or the employer's representative shall mail the request to
4 the employee's last known mailing address.

5 (2) Within ten business days of mailing the request, the employee shall sign
6 the medical records release authorization as requested and return it to the employer
7 or the employer's representative as directed in the request.

8 (3) If the employee fails to sign and return the medical records release
9 authorization as required by this Subsection, the employer may suspend payment of
10 any benefits due pursuant to this Chapter. In the event benefits are suspended in
11 accordance with this Subsection, the employer or the employer's representative shall
12 prepare a "Notice of Modification, Suspension, Termination, or Controversion Form
13 1002" as provided for in R.S. 23:1201.1.

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

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

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

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

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

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

27 (e) The employer's workers' compensation insurer or its agent or
28 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 ~~C. 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 * * *

16 §1301. Notice as prerequisite to institution of proceedings

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

22 B. If notice is provided to the employer more than thirty days after the work
23 accident, it shall do both of the following:

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

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

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

4 (1) The employer had actual knowledge of the alleged work accident within
5 thirty days after the date of the injury or death.

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

8 * * *

9 §1306. Employer reports

10 A. Within ten days of receiving the notice required as provided for in R.S.
11 23:1301 or actual knowledge of injury resulting in death or in lost time in excess of
12 one week after the injury the injury or death pursuant to R.S. 23:1301(B), the
13 employer shall send a report to the insurer or administrator of the employer's
14 workers' compensation claims, if any, on a form prescribed by the assistant secretary,
15 providing the following information:

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

24 B. In the absence of good cause, failure to submit the report required
25 pursuant to Subsection A of this Section shall subject the employer to a penalty of
26 five hundred dollars per report. Such penalty shall be assessed against the employer
27 only and paid to the office of workers' compensation administration.

28 ~~(B)~~ C.(1)(a) The insurer or the administrator of the employer's workers'
29 compensation claims, upon receipt of the ~~first report of injury~~ report required

1 pursuant to Subsection A of this Section, shall submit the data in electronic data
2 interchange or EDI format to the office of workers' compensation administration at
3 a frequency to be determined by the assistant secretary.

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

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

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

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

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

19 Section 2. The medical record release authorization form required as enacted by
20 Section 1 of this Act shall be promulgated in accordance with the Administrative Procedure
21 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 Engrossed

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 mail the request to the employee's last known mailing address.

Proposed law requires the employee, within 10 business days of mailing the request, to sign the medical records release authorization as requested and return it to the employer or the employer's representative as directed in the request.

Proposed law provides that if the employee fails to sign and return the medical records release authorization, the employer may suspend payment of any benefits. Proposed law further provides that if benefits are suspended then the employer or the employer's representative shall prepare the necessary form as provided for in present law (R.S. 23:1201.1).

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 payor 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 a provision 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 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 if notice is provided to the employer more than 30 days after the work accident, it shall do both of the following:

- (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 employee or his dependent proves by clear and convincing evidence either of the following:

- (1) The employer had actual knowledge of the alleged work accident 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, 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 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.), 1301, and 1306; Adds R.S. 23:1201.1(K)(8)(a)(x))

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 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.