



# LAW1199.COM NEWSLETTER™

2018 ★ ISSUE #9

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## **MANY PENDING LEGISLATIVE AND JUDICIAL DECISIONS WILL IMPACT CALIFORNIA INJURED WORKERS AND THEIR FAMILIES**

**By Scott O'Mara**

This newsletter presents a review of pending legislative changes to correct inadequacies in the California Workers' Compensation system, and discusses a pending Supreme Court decision regarding the degree of accountability of Utilization Review doctors.

**Law1199.com Newsletter 2017 Issue #12** first discusses a bill which at that time was soon to be introduced by Assemblyman Tom Daly — a legislative proposal which ultimately became Assembly Bill 1749 — to provide protection to safety members engaging in activities to protect society as a whole outside their normal jurisdiction, either in-state or out-of-state.

**Law1199.com Newsletter 2018 Issue #1** discusses AB 1749 in greater detail and emphasizes the necessity of this legislation to provide an umbrella of protection to officers and their family members when officers are injured or killed while protecting our society. Currently, this legislation — which was sponsored by PORAC — has gone for a third reading by the Senate.

The next review of pending legislation was done in **Law1199.com Newsletter 2018 Issue #2**, which discusses the unique exposures which safety workers have to carcinogens which lead to the development of cancer, as well as to blood-borne infectious diseases and tuberculosis. In those cases where safety workers die from these exposures, the statute of limitations for surviving family members to file an application for death benefits was extended in 2015 (through Labor Code §5406.7) from 240 weeks to 420 weeks from the date of injury to protect such families when the safety worker's death does not occur within the 240-week limitation. However, if no action is taken, the extension to 420 weeks will sunset as of January 1, 2019. Therefore, PORAC-sponsored Senate Bill 1086, currently pending, seeks to amend Labor Code §5406.7 to delete the sunset provision.

**Law1199.com Newsletter 2018 Issue #5** reviews a case — *King v. CompPartners, Inc.* — which is currently pending a Supreme Court decision. This case involves a Utilization Review doctor who engaged in egregious behavior which resulted in substantial injury to an injured worker, Mr. King, when the medication on which he was depending was cut off abruptly by the UR doctor without any weaning period and

without any awareness as to how the sudden cessation of this medication would affect Mr. King. Oral argument was heard on May 29, 2018, and the Court has 90 days – until August 29, 2018 – to render its decision.

The *King* decision, if made in favor of Mr. King, will set a precedent and provide protection for other injured workers and their families by holding UR doctors accountable for their determinations, thereby requiring them to make appropriate evaluations regarding the medical needs of the injured workers whose cases they review. Currently, no such accountability exists, and UR doctors can engage without impunity in a “catch and release” approach, briefly reviewing an injured worker’s records before releasing the case with a quick determination which is not a substantial medical opinion, and without any recognition of the potential impact of same.

Another pending legislative proposal – Senate Bill 899 – is reviewed and discussed in **Law1199.com Newsletter 2018 Issue #6**. On July 3, 2018, this bill went to its third reading by the Assembly. SB 899 aims to eliminate discrimination against California injured workers based on their hereditary or genetic background. Certain types of diseases can be more or less prominent in certain groups because of the nature of their skin pigmentation. Using this genetic factor to determine the compensation to be received by an injured worker is clearly discriminatory. The passage of SB 899 would eliminate that type of discrimination.

*(For your reference and review, I have enclosed all the newsletters identified above.)*



## **LAW1199.COM NEWSLETTER™**

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**NOTICE:** *Making a false or fraudulent Workers’ Compensation claim is a felony subject to up to 5 years in prison or a fine of up to \$50,000 or double the value of the fraud, whichever is greater, or by both imprisonment and fine.*

