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AB 1293 NEEDS LABOR PARTICIPATION

BY: SCOTT A. O'MARA

The California Constitution has set forth that the worker in California who sustains a job-related injury may have entitlement to special benefits. The most significant benefit is the medical care to cure or relieve the effects of the injury as stated in the California Constitution Article 14 Section 4.

The access to this medical care is also set forth in the Labor Code and can be dependent upon a physician's report that grants, denies or limits the medical care.

For the California worker there is implementation of changes and access to medical care that occur pursuant to Senate Bill 899. This legislation was effective as of April 19, 2004, and since that time there have been numerous concerns and challenges as to the usage of this system of Senate Bill 899.

The current system can utilize a Qualified Medical Evaluator (QME) to make medical determination as to the need for the medical care and whether it will cure or relieve the effects of the injury. The QME's are doctors that are randomly selected by the state from the panel list that they have. A panel of three doctors will be provided based upon the medical specialty and proximity to the worker's residence. The QME's are selected by either the injured workers participation or the injured workers attorney, and/or the employer and their selection process.

The QME doctor reviews medical records, evaluates the injured worker, and then within thirty days of this evaluation they are to provide a report to the injured worker, and the parties, whether that be the injured worker's attorney, and/or the defendant. This could be an insurance company, city, county, state or self insured. The worker and the other parties can dispute the findings of the QME's report. There is a process they must go through to challenge the determination as to the adequacy, or lack thereof.

The workers' compensation system can also create major challenges to obtain medical care. The workers' compensation system has challenges with the medical providers to understand the system and respond in a timely manner with depth and knowledge to justify the acceptance, denial or limitations on medical care.

The California Legislation has placed the direction and control of the workers' compensation system on the Administrator Director of the Division of Workers' Compensation. The Administrator Director of the Division of Workers' Compensation has established, and is currently establishing, rules and regulations that do not go through the legislative vetting process. These rules and regulations are directed as to what care is granted or what care is denied, and the methodology of determination for same.

On October 3, 2025, Governor Newsom approved Assembly Bill 1293. This mandates that the Administrator Director of the Division of Workers' Compensation will develop a template for the QME's report (i.e., the template to be utilized by the QME). This legislation of having a format for the QME's is such that if the reports do not meet the parameters set forth by the Administrator Director of the Division of Workers' Compensation, it

may be subject to challenge and overturn any determination made by the QME. Again, it is noted that the QME is not the treater, but a doctor who has examined the medical reports and examine the patient and the patient's perspective as to their subjective complaints. The Template that will be mandated pursuant to Labor Code §4062.4 is one that needs to be closely reviewed. It should be noted that Assembly Bill 1293 has been reviewed by the legislative counsel. The review of AB 1293 SHOWS SUPPORTERS, it does not list any opposition. The supporters are entities such as Acclamation Insurance Management Services, Allied Managed Care, California Association Self Insured groups, California Joint Powers Authorities, California Attraction and Park Association, California Chamber of Commerce, California Collation of Workers' Compensation, California Joint Powers Insurance Authority, Food Producers, California Restaurant Association, California State Association Counties, Rural County Representative of California, Rural County Representatives of California Self Insured Schools, and Creator of Coachella Valley in Urban Counties of California.

This is a strong indicator that the employer groups are recognizing that Administrator Director of the Division of Workers' Compensation participation will be a strong factor in the control of medical care to lower costs.

The labor groups must view and monitor the California workers' compensation medical care access, and participate and provide information to the Administrator Director of the Division of Workers' Compensation to ensure that any and all changes that are made relative to the determination of medical care and other factors that may evolve such as time lost from work, the ability to return to work, inability to return to work, and need for medical care to cure or relieve the effects of the injury are equitable and not slanted to deny or limit medical care. It is important that the Administrator Director of the Division of Workers' Compensation is comporting with the law that if the injured worker has a job related injury, that they are entitled to medical care to cure or relieve the effects of the injury and balance this finding with the containment and control that employers, insurance companies and self insurers seek to impose to minimize the cost of medical care. Therefore, labor committees, labor associations and unions must present information to the Administrator Director of the Division of Workers' Compensation as to the need for medical care to cure or relieve the effects of the injuries and ensure that the systems utilized are fair, equitable and protect the injured worker.



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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.*

