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NOTICE TO EMPLOYEES — INJURIES CAUSED BY WORK

BY: SCOTT A. O'MARA

The California Labor Code §3550 mandates that the employer shall post information to all the California employees notices as to the rights and benefits that the injured worker has if they have an injury or become ill because of the job in a conspicuous location that is frequented by the employees.

Recently covered in the *LAW1199 2024, Issue #5*, there was review of the new law AB1870 that states that the employer is to notify by the posting that the worker may consult a licensed attorney to advise you of your rights under workers' compensation laws. In most instances the attorney fees will be paid from your "recovery."

The notice that the state has created which is called *Notice to Employees—Injuries Caused By Work*, is information that covers the types of injuries that have occurred, and do occur, in the work situation such as a specific injury or a cumulative trauma injury. The notice also educates the worker of the medical care which incorporates the doctor visits, hospital care, physical therapy, laboratory test, x-rays, medications, possible medical equipment and travel. In that document where it talks about medical care there is a very strong statement; "you should never see a bill".

That outlines that the employer is responsible for the cost of the medical care. The medical care initially is emergency care, such as if you need immediate medical help. The medical care can be hospitalization, ambulance, and fire or police departments providing assistance to you. You need to report your injury immediately to your supervisor, or the employer. The notice sets forth the information for the worker and states "don't delay". It indicates that there are time limits, and if you wait too long you may lose your rights to benefits. It also states your employer is required to provide you the claim form within one working day after learning about your injury. Within one working day after you file your claim

form, your employer or claims administrator must authorize the provision of all treatment, up to ten thousand dollars, consistent with the applicable treatment guidelines, for your alleged injury until the claim is accepted or rejected.

The notice that is posted also states your primary treating physician is the one that has the primary responsibility for treating of your injury. It outlines the opportunity for predesignation of your personal physician or a medical group. If you do not do that designation and the employer has a medical provider network group or healthcare organization you then will be placed into those facilities for care.

A major change that occurred recently that is discussed in the *2024, Issue #5*, is the mandate that the Notice To Employees – Injuries Caused By Work states; “you may consult a licensed attorney to advise you of your rights under workers’ compensation laws, and in most instances attorney fees will be paid from your recovery”.

The Notice to the Employees—Injuries Caused by Work, is also a good training point for the Associations and/or Unions to train new workers, new members and go back and reeducate the current members as to their ability to receive care to cure or relieve the effects of the injury. The timeliness of reporting the injury is a major issue.

As stated before, the benefits under workers’ compensation is the medical care to cure or relieve the effects of the injury. The second is temporary disability, or in certain law enforcement groups, benefits pursuant to Labor Code §4850 or §4800.5 if you lose wages while recovering. It states:

In the notice to the employee that is posted the temporary disability benefits (§4800.5 and §4850) may not be paid for more than 104 weeks within five years from the date of injury with some very minor exceptions.

The permanent disability is that recovery that you receive if the job-related injury causes permanent loss of physical or mental function that is measureable by a doctor. There are job displacement benefits if the injury is on after 01/01/2004 and the employer does not offer you a regular modified or alternate work.

At the bottom of the Notice to the Employees—Injuries Caused by Work that is required to be posted, there is also a very significant statement that informs the worker. Pursuant to Labor Code §132(a) it states:

Discrimination. It is illegal for your employer to punish or fire you for having a work injury or illness, for filing a claim, or testifying in another person's workers' compensation case. If proven, you may receive lost wages, job reinstatement, increased benefits, and costs and expenses up to limits set by the state.

The violation of Labor Code §132(a) continues and if the employer, supervisor or other individual engages in this conduct, is made aware that it is illegal to do this, they then can re-evaluate and use a different template so they are not discriminating against the worker.

Again, the information and the Notice to the Employees—Injuries Caused by Work, is something that needs to be not just posted, but classes offered by the Employees Association or Union to the members that goes into greater depth and detail. The changes that have occurred regarding the notice and consulting a licensed attorney are significant. More importantly, is the workers ability to recognize that the predesignation of a doctor prior to the job-related injury and using the proper form, this allows them to go to a group or doctor that is outside of the realm of control of the employer's medical group.



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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.*

