

AMENDED IN SENATE AUGUST 28, 2006  
AMENDED IN ASSEMBLY MARCH 29, 2006  
CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2068**

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**Introduced by Assembly Member Nava Members Nava and Lieber**

February 16, 2006

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An act to amend Section 4600 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2068, as amended, Nava. Workers' compensation: designation of physician.

~~Existing~~

(1) *Existing* workers' compensation law generally requires employers to secure the payment of workers' compensation, including medical treatment, for injuries incurred by their employees that arise out of, or in the course of, employment.

Existing law, until April 30, 2007, provides an employee with the right to be treated by his or her personal physician from the date of injury if specified conditions are met, including a requirement that the physician agrees to be predesignated. Existing law limits the maximum percentage of employees who are covered by this provision of law that may be predesignated in the state to 7%.

This bill, *until December 31, 2009*, would provide that a personal physician ~~includes a corporation, partnership, or association of licensed doctors of medicine or osteopathy, and would require the physician to agree to be the primary treating physician~~ *a medical group that meets specified requirements*. This bill would also delete

the April 30, 2007, repeal date and the limit on the maximum percentage of employees that may be predesignated.

(2) *This bill would incorporate additional changes in Section 4600 of the Labor Code contained in AB 2287, with the changes in each bill to become operative only if that section is amended by each bill, and if this bill is enacted after AB 2287.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares, based on  
2 published research, that the results of medical treatment by  
3 physicians who have previously cared for the employee prior to  
4 the injury are comparable to the results of medical treatment by  
5 physicians chosen by employers or insurers, and that the right of  
6 an employee to designate a personal physician should not be  
7 permitted to expire on April 30, 2007.

8 SEC. 2. Section 4600 of the Labor Code is amended to read:  
9 4600. (a) Medical, surgical, chiropractic, acupuncture, and  
10 hospital treatment, including nursing, medicines, medical and  
11 surgical supplies, crutches, and apparatuses, including orthotic  
12 and prosthetic devices and services, that is reasonably required to  
13 cure or relieve the injured worker from the effects of his or her  
14 injury shall be provided by the employer. In the case of his or her  
15 neglect or refusal reasonably to do so, the employer is liable for  
16 the reasonable expense incurred by or on behalf of the employee  
17 in providing treatment.

18 (b) As used in this division and notwithstanding any other  
19 provision of law, medical treatment that is reasonably required to  
20 cure or relieve the injured worker from the effects of his or her  
21 injury means treatment that is based upon the guidelines adopted  
22 by the administrative director pursuant to Section 5307.27 or,  
23 prior to the adoption of those guidelines, the updated American  
24 College of Occupational and Environmental Medicine's  
25 Occupational Medicine Practice Guidelines.

26 (c) Unless the employer or the employer's insurer has  
27 established a medical provider network as provided for in Section  
28 4616, after 30 days from the date the injury is reported, the  
29 employee may be treated by a physician of his or her own choice

1 or at a facility of his or her own choice within a reasonable  
2 geographic area.

3 (d) (1) If an employee has notified his or her employer in  
4 writing prior to the date of injury that he or she has a personal  
5 physician, the employee shall have the right to be treated by that  
6 physician from the date of injury if either of the following  
7 conditions exist:

8 (A) The employer provides nonoccupational group health  
9 coverage in a health care service plan, licensed pursuant to  
10 Chapter 2.2 (commencing with Section 1340) of Division 2 of  
11 the Health and Safety Code.

12 (B) The employer provides nonoccupational health coverage  
13 in a group health plan or a group health insurance policy as  
14 described in Section 4616.7.

15 (2) For purposes of paragraph (1), a personal physician shall  
16 meet all of the following conditions:

17 (A) The physician is the employee's regular physician and  
18 surgeon, licensed pursuant to Chapter 5 (commencing with  
19 Section 2000) of Division 2 of the Business and Professions  
20 Code.

21 (B) The physician is the employee's primary care physician  
22 and has previously directed the medical treatment of the  
23 employee, and who retains the employee's medical records,  
24 including his or her medical history. "Personal physician"  
25 ~~includes a corporation, partnership, or association of licensed~~  
26 ~~doctors of medicine or osteopathy.~~ *includes a medical group, if*  
27 *the medical group is a single corporation or partnership*  
28 *composed of licensed doctors of medicine or osteopathy, which*  
29 *operates an integrated multispecialty medical group providing*  
30 *comprehensive medical services predominantly for*  
31 *nonoccupational illnesses and injuries.*

32 ~~(C) The physician agrees to be the primary treating physician~~  
33 ~~for the industrial injury. This agreement may be evidenced by the~~  
34 ~~timely submission of reports required of the primary treating~~  
35 ~~physician pursuant to regulations adopted by the administrative~~  
36 ~~director.~~

37 *(C) The physician agrees to be predesignated.*

38 (3) If the employer provides nonoccupational health care  
39 pursuant to Chapter 2.2 (commencing with Section 1340) of  
40 Division 2 of the Health and Safety Code, and the employer is

1 notified pursuant to paragraph (1), all medical treatment,  
 2 utilization review of medical treatment, access to medical  
 3 treatment, and other medical treatment issues shall be governed  
 4 by Chapter 2.2 (commencing with Section 1340) of Division 2 of  
 5 the Health and Safety Code. Disputes regarding the provision of  
 6 medical treatment shall be resolved pursuant to Article 5.55  
 7 (commencing with Section 1374.30) of Chapter 2.2 of Division 2  
 8 of the Health and Safety Code.

9 (4) If the employer provides nonoccupational health care, as  
 10 described in Section 4616.7, all medical treatment, utilization  
 11 review of medical treatment, access to medical treatment, and  
 12 other medical treatment issues shall be governed by the  
 13 applicable provisions of the Insurance Code.

14 (5) The insurer may require prior authorization of any  
 15 nonemergency treatment or diagnostic service and may conduct  
 16 reasonably necessary utilization review pursuant to Section 4610.

17 ~~(6) If any court finds that any portion of this subdivision is~~  
 18 ~~invalid or in violation of any state or federal law, then this~~  
 19 ~~subdivision shall be inoperative.~~

20 *(6) An employee shall be entitled to all medically appropriate*  
 21 *referrals by the personal physician to other physicians or*  
 22 *medical providers within the nonoccupational health care plan.*  
 23 *An employee shall be entitled to treatment by physicians or other*  
 24 *medical providers outside of the nonoccupational health care*  
 25 *plan pursuant to standards established in Article 5 (commencing*  
 26 *with Section 1367) of Chapter 2.2 of Division 2 of the Health and*  
 27 *Safety Code.*

28 (7) The division shall conduct an evaluation of this program  
 29 and present its findings to the Governor and the Legislature on or  
 30 before ~~March 1, 2006~~ *December 31, 2008*.

31 *(8) This subdivision shall remain in effect only until December*  
 32 *31, 2009, and as of that date is repealed, unless a later enacted*  
 33 *statute that is enacted before December 31, 2009, deletes or*  
 34 *extends that date.*

35 (e) (1) When at the request of the employer, the employer's  
 36 insurer, the administrative director, the appeals board, or a  
 37 workers' compensation administrative law judge, the employee  
 38 submits to examination by a physician, he or she shall be entitled  
 39 to receive, in addition to all other benefits herein provided, all  
 40 reasonable expenses of transportation, meals, and lodging

1 incident to reporting for the examination, together with one day  
2 of temporary disability indemnity for each day of wages lost in  
3 submitting to the examination.

4 (2) Regardless of the date of injury, “reasonable expenses of  
5 transportation” includes mileage fees from the employee’s home  
6 to the place of the examination and back at the rate of twenty-one  
7 cents (\$0.21) a mile or the mileage rate adopted by the Director  
8 of the Department of Personnel Administration pursuant to  
9 Section 19820 of the Government Code, whichever is higher,  
10 plus any bridge tolls. The mileage and tolls shall be paid to the  
11 employee at the time he or she is given notification of the time  
12 and place of the examination.

13 (f) When at the request of the employer, the employer’s  
14 insurer, the administrative director, the appeals board, or a  
15 workers’ compensation administrative law judge, an employee  
16 submits to examination by a physician and the employee does not  
17 proficiently speak or understand the English language, he or she  
18 shall be entitled to the services of a qualified interpreter in  
19 accordance with conditions and a fee schedule prescribed by the  
20 administrative director. These services shall be provided by the  
21 employer. For purposes of this section, “qualified interpreter”  
22 means a language interpreter certified, or deemed certified,  
23 pursuant to Article 8 (commencing with Section 11435.05) of  
24 Chapter 4.5 of Part 1 of Division 3 of Title 2 of, or Section 68566  
25 of, the Government Code.

26 *SEC. 2.5. Section 4600 of the Labor Code is amended to*  
27 *read:*

28 4600. (a) Medical, surgical, chiropractic, acupuncture, and  
29 hospital treatment, including nursing, medicines, medical and  
30 surgical supplies, crutches, and apparatus, including orthotic and  
31 prosthetic devices and services, that is reasonably required to  
32 cure or relieve the injured worker from the effects of his or her  
33 injury shall be provided by the employer. In the case of his or her  
34 neglect or refusal reasonably to do so, the employer is liable for  
35 the reasonable expense incurred by or on behalf of the employee  
36 in providing treatment.

37 (b) As used in this division and notwithstanding any other  
38 provision of law, medical treatment that is reasonably required to  
39 cure or relieve the injured worker from the effects of his or her  
40 injury means treatment that is based upon the guidelines adopted

1 by the administrative director pursuant to Section 5307.27 or,  
2 prior to the adoption of those guidelines, the updated American  
3 College of Occupational and Environmental Medicine’s  
4 Occupational Medicine Practice Guidelines.

5 (c) *As used in this division and notwithstanding any other*  
6 *provision of law, acupuncture treatment that is reasonably*  
7 *required to relieve the injured worker from the effects of his or*  
8 *her injury means treatment that is based upon the guidelines*  
9 *adopted by the administrative director pursuant to Section*  
10 *5307.27 or, prior to the adoption of those guidelines, as set forth*  
11 *in the “Acupuncture and Electroacupuncture: Evidence-Based*  
12 *Treatment Guidelines-August 2004” published by the Council of*  
13 *Acupuncture and Oriental Medicine Associations and the*  
14 *Foundation for Acupuncture Research, and which shall include*  
15 *any subsequent updates of those guidelines, or other guidelines.*  
16 *Nothing in this section shall prohibit the administrative director*  
17 *from adopting treatment guidelines for acupuncture if those*  
18 *guidelines are at least as comprehensive as the “Acupuncture*  
19 *and Electroacupuncture: Evidence-Based Treatment*  
20 *Guidelines-August 2004.”*

21 (d) Unless the employer or the employer’s insurer has  
22 established a medical provider network as provided for in Section  
23 4616, after 30 days from the date the injury is reported, the  
24 employee may be treated by a physician of his or her own choice  
25 or at a facility of his or her own choice within a reasonable  
26 geographic area.

27 (e)

28 (e) (1) If an employee has notified his or her employer in  
29 writing prior to the date of injury that he or she has a personal  
30 physician, the employee shall have the right to be treated by that  
31 physician from the date of injury if either of the following  
32 conditions exist:

33 (A) The employer provides nonoccupational group health  
34 coverage in a health care service plan, licensed pursuant to  
35 Chapter 2.2 (commencing with Section 1340) of Division 2 of  
36 the Health and Safety Code.

37 (B) The employer provides nonoccupational health coverage  
38 in a group health plan or a group health insurance policy as  
39 described in Section 4616.7.

1 (2) For purposes of paragraph (1), a personal physician shall  
2 meet all of the following conditions:

3 (A) The physician is the employee's regular physician and  
4 surgeon, licensed pursuant to Chapter 5 (commencing with  
5 Section 2000) of Division 2 of the Business and Professions  
6 Code.

7 (B) The physician is the employee's primary care physician  
8 and has previously directed the medical treatment of the  
9 employee, and who retains the employee's medical records,  
10 including his or her medical history. *"Personal physician"*  
11 *includes a medical group, if the medical group is a single*  
12 *corporation or partnership composed of licensed doctors of*  
13 *medicine or osteopathy, which operates an integrated*  
14 *multispecialty medical group providing comprehensive medical*  
15 *services predominantly for nonoccupational illnesses and*  
16 *injuries.*

17 (C) The physician agrees to be predesignated.

18 (3) If the employer provides nonoccupational health care  
19 pursuant to Chapter 2.2 (commencing with Section 1340) of  
20 Division 2 of the Health and Safety Code, and the employer is  
21 notified pursuant to paragraph (1), all medical treatment,  
22 utilization review of medical treatment, access to medical  
23 treatment, and other medical treatment issues shall be governed  
24 by Chapter 2.2 (commencing with Section 1340) of Division 2 of  
25 the Health and Safety Code. Disputes regarding the provision of  
26 medical treatment shall be resolved pursuant to Article 5.55  
27 (commencing with Section 1374.30) of Chapter 2.2 of Division 2  
28 of the Health and Safety Code.

29 (4) If the employer provides nonoccupational health care, as  
30 described in Section 4616.7, all medical treatment, utilization  
31 review of medical treatment, access to medical treatment, and  
32 other medical treatment issues shall be governed by the  
33 applicable provisions of the Insurance Code.

34 (5) The insurer may require prior authorization of any  
35 nonemergency treatment or diagnostic service and may conduct  
36 reasonably necessary utilization review pursuant to Section 4610.

37 ~~(6) The maximum percentage of all employees who are~~  
38 ~~covered under paragraph (1) that may be predesignated at any~~  
39 ~~time in the state is 7 percent. An employee shall be entitled to all~~  
40 ~~medically appropriate referrals by the personal physician to~~

1 *other physicians or medical providers within the*  
2 *nonoccupational health care plan. An employee shall be entitled*  
3 *to treatment by physicians or other medical providers outside of*  
4 *the nonoccupational health care plan pursuant to standards*  
5 *established in Article 5 (commencing with Section 1367) of*  
6 *Chapter 2.2 of Division 2 of the Health and Safety Code.*

7 ~~(7) If any court finds that any portion of this subdivision is~~  
8 ~~invalid or in violation of any state or federal law, then this~~  
9 ~~subdivision shall be inoperative.~~

10 (8)

11 (7) The division shall conduct an evaluation of this program  
12 and present its findings to the Governor and the Legislature on or  
13 before ~~March 1, 2006~~ *December 31, 2008.*

14 ~~(9) This subdivision shall remain in effect only until April 30,~~  
15 ~~2007, and as of that date is repealed, unless a later enacted~~  
16 ~~statute, that is enacted before April 30, 2007, deletes or extends~~  
17 ~~that date.~~

18 (8) *This subdivision shall remain in effect only until December*  
19 *31, 2009, and as of that date is repealed, unless a later enacted*  
20 *statute, that is enacted before December 31, 2009, deletes or*  
21 *extends that date.*

22 (e)

23 (f) (1) When at the request of the employer, the employer's  
24 insurer, the administrative director, the appeals board, or a  
25 workers' compensation administrative law judge, the employee  
26 submits to examination by a physician, he or she shall be entitled  
27 to receive, in addition to all other benefits herein provided, all  
28 reasonable expenses of transportation, meals, and lodging  
29 incident to reporting for the examination, together with one day  
30 of temporary disability indemnity for each day of wages lost in  
31 submitting to the examination.

32 (2) Regardless of the date of injury, "reasonable expenses of  
33 transportation" includes mileage fees from the employee's home  
34 to the place of the examination and back at the rate of twenty-one  
35 cents (\$0.21) a mile or the mileage rate adopted by the Director  
36 of the Department of Personnel Administration pursuant to  
37 Section 19820 of the Government Code, whichever is higher,  
38 plus any bridge tolls. The mileage and tolls shall be paid to the  
39 employee at the time he or she is given notification of the time  
40 and place of the examination.

1 (f)

2 (g) When at the request of the employer, the employer's  
3 insurer, the administrative director, the appeals board, or a  
4 workers' compensation administrative law judge, an employee  
5 submits to examination by a physician and the employee does not  
6 proficiently speak or understand the English language, he or she  
7 shall be entitled to the services of a qualified interpreter in  
8 accordance with conditions and a fee schedule prescribed by the  
9 administrative director. These services shall be provided by the  
10 employer. For purposes of this section, "qualified interpreter"  
11 means a language interpreter certified, or deemed certified,  
12 pursuant to Article 8 (commencing with Section 11435.05) of  
13 Chapter 4.5 of Part 1 of Division 3 of Title 2 of, or Section 68566  
14 of, the Government Code.

15 *SEC. 3. Section 2.5 of this bill incorporates amendments to*  
16 *Section 4600 of the Labor Code proposed by both this bill and*  
17 *AB 2287. It shall only become operative if (1) both bills are*  
18 *enacted and become effective on or before January 1, 2007, (2)*  
19 *each bill amends Section 4600 of the Labor Code, and (3) this*  
20 *bill is enacted after AB 2287, in which case Section 2 of this bill*  
21 *shall not become operative.*

O