

AMENDED IN ASSEMBLY AUGUST 5, 2013

AMENDED IN SENATE MAY 2, 2013

AMENDED IN SENATE APRIL 1, 2013

**SENATE BILL**

**No. 375**

---

---

**Introduced by Committee on Labor and Industrial Relations  
(Senators ~~Lieu~~ *Monning* (Chair), Leno, Padilla, Wyland, and  
Yee)**

February 20, 2013

---

---

An act to amend Section ~~4903.6~~ *11435.35* of the Government Code, and to amend Sections 139.2, 139.5, 4061, 4610.5, 4903.4, and 4903.6 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

SB 375, as amended, Committee on Labor and Industrial Relations. ~~Workers' compensation: liens: compensation.~~

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing workers' compensation law ~~authorizes the Workers' Compensation Appeals Board to determine and allow specified expenses as liens against any sum to be paid as compensation~~ *establishes requirements that govern, among other things, the certification of medical examination interpreters, dispute resolution processes for medical and billing disputes, and the allowance of liens against any sum to be paid as compensation.*

~~This bill would correct an erroneous cross-reference with regard to whether or not a lien claimant is entitled to medical information, as~~

~~defined~~ erroneous cross-references and make technical, clarifying, and conforming changes with respect to these provisions.

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. Section 11435.35 of the Government Code is  
 2 amended to read:

3 11435.35. (a) The State Personnel Board shall establish,  
 4 maintain, administer, and publish annually, an updated list of  
 5 certified medical examination interpreters it has determined meet  
 6 the minimum standards in interpreting skills and linguistic abilities  
 7 in languages designated pursuant to Section 11435.40.

8 (b) Court interpreters certified pursuant to Section 68562 and  
 9 administrative hearing interpreters certified pursuant to Section  
 10 11435.30 shall be deemed certified for purposes of this section.

11 (c) (1) In addition to the certification procedure provided  
 12 pursuant to subdivision (a), the Administrative Director of the  
 13 Division of Workers' Compensation may establish, maintain,  
 14 administer, and publish annually an updated list of certified medical  
 15 examination interpreters who, based on testing by an independent  
 16 organization designated by the administrative director, have been  
 17 determined to meet the minimum standards in interpreting skills  
 18 and linguistic abilities in languages designated pursuant to Section  
 19 11435.40, for purposes of medical examinations conducted  
 20 pursuant to proceedings of the Workers' Compensation Appeals  
 21 Board, and medical examinations conducted pursuant to Division  
 22 4 (commencing with Section 3200) of the Labor Code. The  
 23 independent testing organization shall have no financial interest  
 24 in the training of interpreters or in the employment of interpreters  
 25 for ~~administrative hearings~~ medical examinations.

26 (2) (A) A fee, as determined by the administrative director,  
 27 shall be collected from each interpreter seeking certification. The  
 28 fee shall not exceed the reasonable regulatory costs of  
 29 administering the testing and certification program and of  
 30 publishing the list of certified medical examination interpreters on  
 31 the Division of Workers' Compensation's Internet Web site.

32 (B) The Legislature finds and declares that the services  
 33 described in this section are of such a special and unique nature

1 that they may be contracted out pursuant to paragraph (3) of  
2 subdivision (b) of Section 19130. The Legislature further finds  
3 and declares that the services described in this section are a new  
4 state function pursuant to paragraph (2) of subdivision (b) of  
5 Section 19130.

6 *SEC. 2. Section 139.2 of the Labor Code is amended to read:*

7 139.2. (a) The administrative director shall appoint qualified  
8 medical evaluators in each of the respective specialties as required  
9 for the evaluation of medical-legal issues. The appointments shall  
10 be for two-year terms.

11 (b) The administrative director shall appoint or reappoint as a  
12 qualified medical evaluator a physician, as defined in Section  
13 3209.3, who is licensed to practice in this state and who  
14 demonstrates that he or she meets the requirements in paragraphs  
15 (1), (2), (6), and (7), and, if the physician is a medical doctor,  
16 doctor of osteopathy, doctor of chiropractic, or a psychologist, that  
17 he or she also meets the applicable requirements in paragraph (3),  
18 (4), or (5).

19 (1) Prior to his or her appointment as a qualified medical  
20 evaluator, passes an examination written and administered by the  
21 administrative director for the purpose of demonstrating  
22 competence in evaluating medical-legal issues in the workers'  
23 compensation system. Physicians shall not be required to pass an  
24 additional examination as a condition of reappointment. A  
25 physician seeking appointment as a qualified medical evaluator  
26 on or after January 1, 2001, shall also complete prior to  
27 appointment, a course on disability evaluation report writing  
28 approved by the administrative director. The administrative director  
29 shall specify the curriculum to be covered by disability evaluation  
30 report writing courses, which shall include, but is not limited to,  
31 12 or more hours of instruction.

32 (2) Devotes at least one-third of total practice time to providing  
33 direct medical treatment, or has served as an agreed medical  
34 evaluator on eight or more occasions in the 12 months prior to  
35 applying to be appointed as a qualified medical evaluator.

36 (3) Is a medical doctor or doctor of osteopathy and meets one  
37 of the following requirements:

38 (A) Is board certified in a specialty by a board recognized by  
39 the administrative director and either the Medical Board of  
40 California or the Osteopathic Medical Board of California.

1 (B) Has successfully completed a residency training program  
2 accredited by the American College of Graduate Medical Education  
3 or the osteopathic equivalent.

4 (C) Was an active qualified medical evaluator on June 30, 2000.

5 (D) Has qualifications that the administrative director and either  
6 the Medical Board of California or the Osteopathic Medical Board  
7 of California, as appropriate, both deem to be equivalent to board  
8 certification in a specialty.

9 (4) Is a doctor of chiropractic and has been certified in California  
10 workers' compensation evaluation by a provider recognized by  
11 the administrative director. The certification program shall include  
12 instruction on disability evaluation report writing that meets the  
13 standards set forth in paragraph (1).

14 (5) Is a psychologist and meets one of the following  
15 requirements:

16 (A) Is board certified in clinical psychology by a board  
17 recognized by the administrative director.

18 (B) Holds a doctoral degree in psychology, or a doctoral degree  
19 deemed equivalent for licensure by the Board of Psychology  
20 pursuant to Section 2914 of the Business and Professions Code,  
21 from a university or professional school recognized by the  
22 administrative director and has not less than five years'  
23 postdoctoral experience in the diagnosis and treatment of emotional  
24 and mental disorders.

25 (C) Has not less than five years' postdoctoral experience in the  
26 diagnosis and treatment of emotional and mental disorders, and  
27 has served as an agreed medical evaluator on eight or more  
28 occasions prior to January 1, 1990.

29 (6) Does not have a conflict of interest as determined under the  
30 regulations adopted by the administrative director pursuant to  
31 subdivision (o).

32 (7) Meets any additional medical or professional standards  
33 adopted pursuant to paragraph (6) of subdivision (j).

34 (c) The administrative director shall adopt standards for  
35 appointment of physicians who are retired or who hold teaching  
36 positions who are exceptionally well qualified to serve as a  
37 qualified medical evaluator even though they do not otherwise  
38 qualify under paragraph (2) of subdivision (b). In no event shall a  
39 physician whose full-time practice is limited to the forensic

1 evaluation of disability be appointed as a qualified medical  
2 evaluator under this subdivision.

3 (d) The qualified medical evaluator, upon request, shall be  
4 reappointed if he or she meets the qualifications of subdivision (b)  
5 and meets all of the following criteria:

6 (1) Is in compliance with all applicable regulations and  
7 evaluation guidelines adopted by the administrative director.

8 (2) Has not had more than five of his or her evaluations that  
9 were considered by a workers' compensation administrative law  
10 judge at a contested hearing rejected by the workers' compensation  
11 administrative law judge or the appeals board pursuant to this  
12 section during the most recent two-year period during which the  
13 physician served as a qualified medical evaluator. If the workers'  
14 compensation administrative law judge or the appeals board rejects  
15 the qualified medical evaluator's report on the basis that it fails to  
16 meet the minimum standards for those reports established by the  
17 administrative director or the appeals board, the workers'  
18 compensation administrative law judge or the appeals board, as  
19 the case may be, shall make a specific finding to that effect, and  
20 shall give notice to the medical evaluator and to the administrative  
21 director. Any rejection shall not be counted as one of the five  
22 qualifying rejections until the specific finding has become final  
23 and time for appeal has expired.

24 (3) Has completed within the previous 24 months at least 12  
25 hours of continuing education in impairment evaluation or workers'  
26 compensation-related medical dispute evaluation approved by the  
27 administrative director.

28 (4) Has not been terminated, suspended, placed on probation,  
29 or otherwise disciplined by the administrative director during his  
30 or her most recent term as a qualified medical evaluator.

31 If the evaluator does not meet any one of these criteria, the  
32 administrative director may in his or her discretion reappoint or  
33 deny reappointment according to regulations adopted by the  
34 administrative director. In no event may a physician who does not  
35 currently meet the requirements for initial appointment or who has  
36 been terminated under subdivision (e) because his or her license  
37 has been revoked or terminated by the licensing authority be  
38 reappointed.

39 (e) The administrative director may, in his or her discretion,  
40 suspend or terminate a qualified medical evaluator during his or

1 her term of appointment without a hearing as provided under  
2 subdivision (k) or (l) whenever either of the following conditions  
3 occurs:

4 (1) The evaluator's license to practice in California has been  
5 suspended by the relevant licensing authority so as to preclude  
6 practice, or has been revoked or terminated by the licensing  
7 authority.

8 (2) The evaluator has failed to timely pay the fee required by  
9 the administrative director pursuant to subdivision (n).

10 (f) The administrative director shall furnish a physician, upon  
11 request, with a written statement of its reasons for termination of,  
12 or for denying appointment or reappointment as, a qualified  
13 medical evaluator. Upon receipt of a specific response to the  
14 statement of reasons, the administrative director shall review his  
15 or her decision not to appoint or reappoint the physician or to  
16 terminate the physician and shall notify the physician of its final  
17 decision within 60 days after receipt of the physician's response.

18 (g) The administrative director shall establish agreements with  
19 qualified medical evaluators to assure the expeditious evaluation  
20 of cases assigned to them for comprehensive medical evaluations.

21 (h) (1) When requested by an employee or employer pursuant  
22 to Section 4062.1, the medical director appointed pursuant to  
23 Section 122 shall assign three-member panels of qualified medical  
24 evaluators within five working days after receiving a request for  
25 a panel. Preference in assigning panels shall be given to cases in  
26 which the employee is not represented. If a panel is not assigned  
27 within 20 working days, the employee shall have the right to obtain  
28 a medical evaluation from any qualified medical evaluator of his  
29 or her choice within a reasonable geographic area. The medical  
30 director shall use a random selection method for assigning panels  
31 of qualified medical evaluators. The medical director shall select  
32 evaluators who are specialists of the type requested by the  
33 employee. The medical director shall advise the employee that he  
34 or she should consult with his or her treating physician prior to  
35 deciding which type of specialist to request.

36 (2) The administrative director shall promulgate a form that  
37 shall notify the employee of the physicians selected for his or her  
38 panel after a request has been made pursuant to Section 4062.1 or  
39 4062.2. The form shall include, for each physician on the panel,  
40 the physician's name, address, telephone number, specialty, number

1 of years in practice, and a brief description of his or her education  
2 and training, and shall advise the employee that he or she is entitled  
3 to receive transportation expenses and temporary disability for  
4 each day necessary for the examination. The form shall also state  
5 in a clear and conspicuous location and type: “You have the right  
6 to consult with an information and assistance officer at no cost to  
7 you prior to selecting the doctor to prepare your evaluation, or you  
8 may consult with an attorney. If your claim eventually goes to  
9 court, the workers’ compensation administrative law judge will  
10 consider the evaluation prepared by the doctor you select to decide  
11 your claim.”

12 (3) When compiling the list of evaluators from which to select  
13 randomly, the medical director shall include all qualified medical  
14 evaluators who meet all of the following criteria:

15 (A) He or she does not have a conflict of interest in the case, as  
16 defined by regulations adopted pursuant to subdivision (o).

17 (B) He or she is certified by the administrative director to  
18 evaluate in an appropriate specialty and at locations within the  
19 general geographic area of the employee’s residence. An evaluator  
20 shall not conduct qualified medical evaluations at more than 10  
21 locations.

22 (C) He or she has not been suspended or terminated as a  
23 qualified medical evaluator for failure to pay the fee required by  
24 the administrative director pursuant to subdivision (n) or for any  
25 other reason.

26 (4) When the medical director determines that an employee has  
27 requested an evaluation by a type of specialist that is appropriate  
28 for the employee’s injury, but there are not enough qualified  
29 medical evaluators of that type within the general geographic area  
30 of the employee’s residence to establish a three-member panel,  
31 the medical director shall include sufficient qualified medical  
32 evaluators from other geographic areas and the employer shall pay  
33 all necessary travel costs incurred in the event the employee selects  
34 an evaluator from another geographic area.

35 (i) The medical director appointed pursuant to Section 122 shall  
36 continuously review the quality of comprehensive medical  
37 evaluations and reports prepared by agreed and qualified medical  
38 evaluators and the timeliness with which evaluation reports are  
39 prepared and submitted. The review shall include, but not be  
40 limited to, a review of a random sample of reports submitted to

1 the division, and a review of all reports alleged to be inaccurate  
 2 or incomplete by a party to a case for which the evaluation was  
 3 prepared. The medical director shall submit to the administrative  
 4 director an annual report summarizing the results of the continuous  
 5 review of medical evaluations and reports prepared by agreed and  
 6 qualified medical evaluators and make recommendations for the  
 7 improvement of the system of medical evaluations and  
 8 determinations.

9 (j) After public hearing pursuant to Section 5307.3, the  
 10 administrative director shall adopt regulations concerning the  
 11 following issues:

12 (1) (A) Standards governing the timeframes within which  
 13 medical evaluations shall be prepared and submitted by agreed  
 14 and qualified medical evaluators. Except as provided in this  
 15 subdivision, the timeframe for initial medical evaluations to be  
 16 prepared and submitted shall be no more than 30 days after the  
 17 evaluator has seen the employee or otherwise commenced the  
 18 medical evaluation procedure. The administrative director shall  
 19 develop regulations governing the provision of extensions of the  
 20 30-day period in both of the following cases:

21 (i) When the evaluator has not received test results or consulting  
 22 physician's evaluations in time to meet the 30-day deadline.

23 (ii) To extend the 30-day period by not more than 15 days when  
 24 the failure to meet the 30-day deadline was for good cause.

25 (B) For purposes of subparagraph (A), "good cause" means any  
 26 of the following:

27 (i) Medical emergencies of the evaluator or evaluator's family.

28 (ii) Death in the evaluator's family.

29 (iii) Natural disasters or other community catastrophes that  
 30 interrupt the operation of the evaluator's business.

31 (C) The administrative director shall develop timeframes  
 32 governing availability of qualified medical evaluators for  
 33 unrepresented employees under ~~Sections 4061 and 4062~~ *Section*  
 34 *4062.1*. These timeframes shall give the employee the right to the  
 35 addition of a new evaluator to his or her panel, selected at random,  
 36 for each evaluator not available to see the employee within a  
 37 specified period of time, but shall also permit the employee to  
 38 waive this right for a specified period of time thereafter.

39 (2) Procedures to be followed by all physicians in evaluating  
 40 the existence and extent of permanent impairment and limitations

1 resulting from an injury in a manner consistent with ~~Section 4660~~  
2 *Sections 4660 and 4660.1*.

3 (3) Procedures governing the determination of any disputed  
4 medical treatment issues in a manner consistent with Section  
5 5307.27.

6 (4) Procedures to be used in determining the compensability of  
7 psychiatric injury. The procedures shall be in accordance with  
8 Section 3208.3 and shall require that the diagnosis of a mental  
9 disorder be expressed using the terminology and criteria of the  
10 American Psychiatric Association's Diagnostic and Statistical  
11 Manual of Mental Disorders, Third Edition-Revised, or the  
12 terminology and diagnostic criteria of other psychiatric diagnostic  
13 manuals generally approved and accepted nationally by  
14 practitioners in the field of psychiatric medicine.

15 (5) Guidelines for the range of time normally required to perform  
16 the following:

17 (A) A medical-legal evaluation that has not been defined and  
18 valued pursuant to Section 5307.6. The guidelines shall establish  
19 minimum times for patient contact in the conduct of the  
20 evaluations, and shall be consistent with regulations adopted  
21 pursuant to Section 5307.6.

22 (B) Any treatment procedures that have not been defined and  
23 valued pursuant to Section 5307.1.

24 (C) Any other evaluation procedure requested by the Insurance  
25 Commissioner, or deemed appropriate by the administrative  
26 director.

27 (6) Any additional medical or professional standards that a  
28 medical evaluator shall meet as a condition of appointment,  
29 reappointment, or maintenance in the status of a medical evaluator.

30 (k) Except as provided in this subdivision, the administrative  
31 director may, in his or her discretion, suspend or terminate the  
32 privilege of a physician to serve as a qualified medical evaluator  
33 if the administrative director, after hearing pursuant to subdivision  
34 (l), determines, based on substantial evidence, that a qualified  
35 medical evaluator:

36 (1) Has violated any material statutory or administrative duty.

37 (2) Has failed to follow the medical procedures or qualifications  
38 established pursuant to paragraph (2), (3), (4), or (5) of subdivision  
39 (j).

- 1 (3) Has failed to comply with the timeframe standards
- 2 established pursuant to subdivision (j).
- 3 (4) Has failed to meet the requirements of subdivision (b) or
- 4 (c).
- 5 (5) Has prepared medical-legal evaluations that fail to meet the
- 6 minimum standards for those reports established by the
- 7 administrative director or the appeals board.
- 8 (6) Has made material misrepresentations or false statements
- 9 in an application for appointment or reappointment as a qualified
- 10 medical evaluator.
- 11 No hearing shall be required prior to the suspension or
- 12 termination of a physician's privilege to serve as a qualified
- 13 medical evaluator when the physician has done either of the
- 14 following:
  - 15 (A) Failed to timely pay the fee required pursuant to subdivision
  - 16 (n).
  - 17 (B) Had his or her license to practice in California suspended
  - 18 by the relevant licensing authority so as to preclude practice, or
  - 19 had the license revoked or terminated by the licensing authority.
  - 20 (l) The administrative director shall cite the qualified medical
  - 21 evaluator for a violation listed in subdivision (k) and shall set a
  - 22 hearing on the alleged violation within 30 days of service of the
  - 23 citation on the qualified medical evaluator. In addition to the
  - 24 authority to terminate or suspend the qualified medical evaluator
  - 25 upon finding a violation listed in subdivision (k), the administrative
  - 26 director may, in his or her discretion, place a qualified medical
  - 27 evaluator on probation subject to appropriate conditions, including
  - 28 ordering continuing education or training. The administrative
  - 29 director shall report to the appropriate licensing board the name
  - 30 of any qualified medical evaluator who is disciplined pursuant to
  - 31 this subdivision.
  - 32 (m) The administrative director shall terminate from the list of
  - 33 medical evaluators any physician where licensure has been
  - 34 terminated by the relevant licensing board, or who has been
  - 35 convicted of a misdemeanor or felony related to the conduct of his
  - 36 or her medical practice, or of a crime of moral turpitude. The
  - 37 administrative director shall suspend or terminate as a medical
  - 38 evaluator any physician who has been suspended or placed on
  - 39 probation by the relevant licensing board. If a physician is
  - 40 suspended or terminated as a qualified medical evaluator under

1 this subdivision, a report prepared by the physician that is not  
2 complete, signed, and furnished to one or more of the parties prior  
3 to the date of conviction or action of the licensing board, whichever  
4 is earlier, shall not be admissible in any proceeding before the  
5 appeals board nor shall there be any liability for payment for the  
6 report and any expense incurred by the physician in connection  
7 with the report.

8 (n) Each qualified medical evaluator shall pay a fee, as  
9 determined by the administrative director, for appointment or  
10 reappointment. These fees shall be based on a sliding scale as  
11 established by the administrative director. All revenues from fees  
12 paid under this subdivision shall be deposited into the Workers'  
13 Compensation Administration Revolving Fund and are available  
14 for expenditure upon appropriation by the Legislature, and shall  
15 not be used by any other department or agency or for any purpose  
16 other than administration of the programs the Division of Workers'  
17 Compensation related to the provision of medical treatment to  
18 injured employees.

19 (o) An evaluator may not request or accept any compensation  
20 or other thing of value from any source that does or could create  
21 a conflict with his or her duties as an evaluator under this code.  
22 The administrative director, after consultation with the Commission  
23 on Health and Safety and Workers' Compensation, shall adopt  
24 regulations to implement this subdivision.

25 *SEC. 3. Section 139.5 of the Labor Code is amended to read:*

26 139.5. (a) (1) The administrative director shall contract with  
27 one or more independent medical review organizations and one  
28 or more independent bill review organizations to conduct reviews  
29 pursuant to Article 2 (commencing with Section 4600) of Chapter  
30 2 of Part 2 of Division 4. The independent review organizations  
31 shall be independent of any workers' compensation insurer or  
32 workers' compensation claims administrator doing business in this  
33 state. The administrative director may establish additional  
34 requirements, including conflict-of-interest standards, consistent  
35 with the purposes of Article 2 (commencing with Section 4600)  
36 of Chapter 2 of Part 2 of Division 4, that an organization shall be  
37 required to meet in order to qualify as an independent review  
38 organization and to assist the division in carrying out its  
39 responsibilities.

1 (2) To enable the independent review program to go into effect  
2 for injuries occurring on or after January 1, 2013, and until the  
3 administrative director establishes contracts as otherwise specified  
4 by this section, independent review organizations under contract  
5 with the Department of Managed Health Care pursuant to Section  
6 1374.32 of the Health and Safety Code may be designated by the  
7 administrative director to conduct reviews pursuant to Article 2  
8 (commencing with Section 4600) of Chapter 2 of Part 2 of Division  
9 4. The administrative director may use an interagency agreement  
10 to implement the independent review process beginning January  
11 1, 2013. The administrative director may initially contract directly  
12 with the same organizations that are under contract with the  
13 Department of Managed Health Care on substantially the same  
14 terms without competitive bidding until January 1, 2015.

15 (b) (1) The independent medical review organizations and the  
16 medical professionals retained to conduct reviews shall be deemed  
17 to be consultants for purposes of this section.

18 (2) There shall be no monetary liability on the part of, and no  
19 cause of action shall arise against, any consultant on account of  
20 any communication by that consultant to the administrative director  
21 or any other officer, employee, agent, contractor, or consultant of  
22 the Division of Workers' Compensation, or on account of any  
23 communication by that consultant to any person when that  
24 communication is required by the terms of a contract with the  
25 administrative director pursuant to this section and the consultant  
26 does all of the following:

27 (A) Acts without malice.

28 (B) Makes a reasonable effort to determine the facts of the  
29 matter communicated.

30 (C) Acts with a reasonable belief that the communication is  
31 warranted by the facts actually known to the consultant after a  
32 reasonable effort to determine the facts.

33 (3) The immunities afforded by this section shall not affect the  
34 availability of any other privilege or immunity which may be  
35 afforded by law. Nothing in this section shall be construed to alter  
36 the laws regarding the confidentiality of medical records.

37 (c) (1) An organization contracted to perform independent  
38 medical review or independent bill review shall be required to  
39 employ a medical director who shall be responsible for advising  
40 the contractor on clinical issues. The medical director shall be a

1 physician and surgeon licensed by the Medical Board of California  
2 or the California Osteopathic Medical Board.

3 (2) The independent review organization, any experts it  
4 designates to conduct a review, or any officer, director, or employee  
5 of the independent review organization shall not have any material  
6 professional, familial, or financial affiliation, as determined by the  
7 administrative director, with any of the following:

8 (A) The employer, insurer or claims administrator, or utilization  
9 review organization.

10 (B) Any officer, director, employee of the employer, or insurer  
11 or claims administrator.

12 (C) A physician, the physician's medical group, the physician's  
13 independent practice association, or other provider involved in the  
14 medical treatment in dispute.

15 (D) The facility or institution at which either the proposed health  
16 care service, or the alternative service, if any, recommended by  
17 the employer, would be provided.

18 (E) The development or manufacture of the principal drug,  
19 device, procedure, or other therapy proposed by the employee  
20 whose treatment is under review, or the alternative therapy, if any,  
21 recommended by the employer.

22 (F) The employee or the employee's immediate family, or the  
23 employee's attorney.

24 (d) The independent review organizations shall meet all of the  
25 following requirements:

26 (1) The organization shall not be an affiliate or a subsidiary of,  
27 nor in any way be owned or controlled by, a workers' compensation  
28 insurer, claims administrator, or a trade association of workers'  
29 compensation insurers or claims administrators. A board member,  
30 director, officer, or employee of the independent review  
31 organization shall not serve as a board member, director, or  
32 employee of a workers' compensation insurer or claims  
33 administrator. A board member, director, or officer of a workers'  
34 compensation insurer or claims administrator or a trade association  
35 of workers' compensation insurers or claims administrators shall  
36 not serve as a board member, director, officer, or employee of an  
37 independent review organization.

38 (2) The organization shall submit to the division the following  
39 information upon initial application to contract under this section

1 and, except as otherwise provided, annually thereafter upon any  
2 change to any of the following information:

3 (A) The names of all stockholders and owners of more than 5  
4 percent of any stock or options, if a publicly held organization.

5 (B) The names of all holders of bonds or notes in excess of one  
6 hundred thousand dollars (\$100,000), if any.

7 (C) The names of all corporations and organizations that the  
8 independent review organization controls or is affiliated with, and  
9 the nature and extent of any ownership or control, including the  
10 affiliated organization's type of business.

11 (D) The names and biographical sketches of all directors,  
12 officers, and executives of the independent review organization,  
13 as well as a statement regarding any past or present relationships  
14 the directors, officers, and executives may have with any employer,  
15 workers' compensation insurer, claims administrator, medical  
16 provider network, managed care organization, provider group, or  
17 board or committee of an employer, workers' compensation insurer,  
18 claims administrator, medical provider network, managed care  
19 organization, or provider group.

20 (E) (i) The percentage of revenue the independent review  
21 organization receives from expert reviews, including, but not  
22 limited to, external medical reviews, quality assurance reviews,  
23 utilization reviews, and bill reviews.

24 (ii) The names of any workers' compensation insurer, claims  
25 administrator, or provider group for which the independent review  
26 organization provides review services, including, but not limited  
27 to, utilization review, bill review, quality assurance review, and  
28 external medical review. Any change in this information shall be  
29 reported to the department within five business days of the change.

30 (F) A description of the review process, including, but not  
31 limited to, the method of selecting expert reviewers and matching  
32 the expert reviewers to specific cases.

33 (G) A description of the system the independent medical review  
34 organization uses to identify and recruit medical professionals to  
35 review treatment and treatment recommendation decisions, the  
36 number of medical professionals credentialed, and the types of  
37 cases and areas of expertise that the medical professionals are  
38 credentialed to review.

1 (H) A description of how the independent review organization  
2 ensures compliance with the conflict-of-interest requirements of  
3 this section.

4 (3) The organization shall demonstrate that it has a quality  
5 assurance mechanism in place that does all of the following:

6 (A) Ensures that any medical professionals retained are  
7 appropriately credentialed and privileged.

8 (B) Ensures that the reviews provided by the medical  
9 professionals or bill reviewers are timely, clear, and credible, and  
10 that reviews are monitored for quality on an ongoing basis.

11 (C) Ensures that the method of selecting medical professionals  
12 for individual cases achieves a fair and impartial panel of medical  
13 professionals who are qualified to render recommendations  
14 regarding the clinical conditions and the medical necessity of  
15 treatments or therapies in question.

16 (D) Ensures the confidentiality of medical records and the  
17 review materials, consistent with the requirements of this section  
18 and applicable state and federal law.

19 (E) Ensures the independence of the medical professionals or  
20 bill reviewers retained to perform the reviews through  
21 conflict-of-interest policies and prohibitions, and ensures adequate  
22 screening for conflicts of interest, pursuant to paragraph (5).

23 (4) Medical professionals selected by independent medical  
24 review organizations to review medical treatment decisions shall  
25 be licensed physicians, as defined by Section 3209.3, in good  
26 standing, who meet the following minimum requirements:

27 (A) The physician shall be a clinician knowledgeable in the  
28 treatment of the employee's medical condition, knowledgeable  
29 about the proposed treatment, and familiar with guidelines and  
30 protocols in the area of treatment under review.

31 (B) Notwithstanding any other provision of law, the physician  
32 shall hold a nonrestricted license in any state of the United States,  
33 and for physicians and surgeons holding an M.D. or D.O. degree,  
34 a current certification by a recognized American medical specialty  
35 board in the area or areas appropriate to the condition or treatment  
36 under review. The independent medical review organization shall  
37 give preference to the use of a physician licensed in California as  
38 the reviewer.

39 (C) The physician shall have no history of disciplinary action  
40 or sanctions, including, but not limited to, loss of staff privileges

1 or participation restrictions, taken or pending by any hospital,  
2 government, or regulatory body.

3 (D) Commencing January 1, 2014, the physician shall not hold  
4 an appointment as a qualified medical evaluator pursuant to Section  
5 ~~139.32~~ 139.2.

6 (5) Neither the expert reviewer, nor the independent review  
7 organization, shall have any material professional, material familial,  
8 or material financial affiliation with any of the following:

9 (A) The employer, workers’ compensation insurer or claims  
10 administrator, or a medical provider network of the insurer or  
11 claims administrator, except that an academic medical center under  
12 contract to the insurer or claims administrator to provide services  
13 to employees may qualify as an independent medical review  
14 organization provided it will not provide the service and provided  
15 the center is not the developer or manufacturer of the proposed  
16 treatment.

17 (B) Any officer, director, or management employee of the  
18 employer or workers’ compensation insurer or claims administrator.

19 (C) The physician, the physician’s medical group, or the  
20 independent practice association (IPA) proposing the treatment.

21 (D) The institution at which the treatment would be provided.

22 (E) The development or manufacture of the treatment proposed  
23 for the employee whose condition is under review.

24 (F) The employee or the employee’s immediate family.

25 (6) For purposes of this subdivision, the following terms shall  
26 have the following meanings:

27 (A) “Material familial affiliation” means any relationship as a  
28 spouse, child, parent, sibling, spouse’s parent, or child’s spouse.

29 (B) “Material financial affiliation” means any financial interest  
30 of more than 5 percent of total annual revenue or total annual  
31 income of an independent review organization or individual to  
32 which this subdivision applies. “Material financial affiliation” does  
33 not include payment by the employer to the independent review  
34 organization for the services required by the administrative  
35 director’s contract with the independent review organization, nor  
36 does “material financial affiliation” include an expert’s  
37 participation as a contracting medical provider where the expert  
38 is affiliated with an academic medical center or a National Cancer  
39 Institute-designated clinical cancer research center.

1 (C) “Material professional affiliation” means any  
2 physician-patient relationship, any partnership or employment  
3 relationship, a shareholder or similar ownership interest in a  
4 professional corporation, or any independent contractor  
5 arrangement that constitutes a material financial affiliation with  
6 any expert or any officer or director of the independent review  
7 organization. “Material professional affiliation” does not include  
8 affiliations that are limited to staff privileges at a health facility.

9 (e) The division shall provide, upon the request of any interested  
10 person, a copy of all nonproprietary information, as determined  
11 by the administrative director, filed with it by an independent  
12 review organization under contract pursuant to this section. The  
13 division may charge a fee to the interested person for copying the  
14 requested information.

15 (f) The Legislature finds and declares that the services described  
16 in this section are of such a special and unique nature that they  
17 must be contracted out pursuant to paragraph (3) of subdivision  
18 (b) of Section 19130 of the Government Code. The Legislature  
19 further finds and declares that the services described in this section  
20 are a new state function pursuant to paragraph (2) of subdivision  
21 (b) of Section 19130 of the Government Code.

22 *SEC. 4. Section 4061 of the Labor Code is amended to read:*

23 4061. This section shall not apply to the employee’s dispute  
24 of a utilization review decision under Section 4610, nor to the  
25 employee’s dispute of the medical provider network treating  
26 physician’s diagnosis or treatment recommendations under Sections  
27 4616.3 and 4616.4.

28 (a) Together with the last payment of temporary disability  
29 indemnity, the employer shall, in a form prescribed by the  
30 administrative director pursuant to Section 138.4, provide the  
31 employee one of the following:

32 (1) Notice either that no permanent disability indemnity will be  
33 paid because the employer alleges the employee has no permanent  
34 impairment or limitations resulting from the injury or notice of the  
35 amount of permanent disability indemnity determined by the  
36 employer to be payable. If the employer determines permanent  
37 disability indemnity is payable, the employer shall advise the  
38 employee of the amount determined payable and the basis on which  
39 the determination was made, whether there is need for future

1 medical care, and whether an indemnity payment will be deferred  
2 pursuant to paragraph (2) of subdivision (b) of Section 4650.

3 (2) Notice that permanent disability indemnity may be or is  
4 payable, but that the amount cannot be determined because the  
5 employee's medical condition is not yet permanent and stationary.  
6 The notice shall advise the employee that his or her medical  
7 condition will be monitored until it is permanent and stationary,  
8 at which time the necessary evaluation will be performed to  
9 determine the existence and extent of permanent impairment and  
10 limitations for the purpose of rating permanent disability and to  
11 determine whether there will be the need for future medical care,  
12 or at which time the employer will advise the employee of the  
13 amount of permanent disability indemnity the employer has  
14 determined to be payable.

15 (b) If either the employee or employer objects to a medical  
16 determination made by the treating physician concerning the  
17 existence or extent of permanent impairment and limitations or  
18 the need for future medical care, and the employee is represented  
19 by an attorney, a medical evaluation to determine permanent  
20 disability shall be obtained as provided in Section 4062.2.

21 (c) If either the employee or employer objects to a medical  
22 determination made by the treating physician concerning the  
23 existence or extent of permanent impairment and limitations or  
24 the need for future medical care, and if the employee is not  
25 represented by an attorney, the employer shall immediately provide  
26 the employee with a form prescribed by the medical director with  
27 which to request assignment of a panel of three qualified medical  
28 evaluators. Either party may request a comprehensive medical  
29 evaluation to determine permanent disability or the need for future  
30 medical care, and the evaluation shall be obtained only by the  
31 procedure provided in Section 4062.1.

32 (d) (1) Within 30 days of receipt of a report from a qualified  
33 medical evaluator who has evaluated an unrepresented employee,  
34 the unrepresented employee or the employer may each request one  
35 supplemental report seeking correction of factual errors in the  
36 report. Any of these requests shall be made in writing. A request  
37 made by the employer shall be provided to the employee, and a  
38 request made by the employee shall be provided to the employer,  
39 insurance carrier, or claims administrator at the time the request  
40 is sent to the evaluator. A request for correction that is made by

1 the employer shall also inform the employee of the availability of  
2 information and assistance officers to assist him or her in  
3 responding to the request, if necessary.

4 (2) The permanent disability rating procedure set forth in  
5 subdivision (e) shall not be invoked by the unrepresented employee  
6 or the employer when a request for correction pursuant to paragraph  
7 (1) is pending.

8 (e) The qualified medical evaluator who has evaluated an  
9 unrepresented employee shall serve the comprehensive medical  
10 evaluation and the summary form on the employee, employer, and  
11 the administrative director. The unrepresented employee or the  
12 employer may submit the treating physician's evaluation for the  
13 calculation of a permanent disability rating. Within 20 days of  
14 receipt of the comprehensive medical evaluation, the administrative  
15 director shall calculate the permanent disability rating according  
16 to Section 4660 or 4660.1, *as applicable*, and serve the rating on  
17 the employee and employer.

18 (f) Any comprehensive medical evaluation concerning an  
19 unrepresented employee which indicates that part or all of an  
20 employee's permanent impairment or limitations may be subject  
21 to apportionment pursuant to Sections 4663 and 4664 shall first  
22 be submitted by the administrative director to a workers'  
23 compensation judge who may refer the report back to the qualified  
24 medical evaluator for correction or clarification if the judge  
25 determines the proposed apportionment is inconsistent with the  
26 law.

27 (g) Within 30 days of receipt of the rating, if the employee is  
28 unrepresented, the employee or employer may request that the  
29 administrative director reconsider the recommended rating or  
30 obtain additional information from the treating physician or medical  
31 evaluator to address issues not addressed or not completely  
32 addressed in the original comprehensive medical evaluation or not  
33 prepared in accord with the procedures promulgated under  
34 paragraph (2) or (3) of subdivision (j) of Section 139.2. This  
35 request shall be in writing, shall specify the reasons the rating  
36 should be reconsidered, and shall be served on the other party. If  
37 the administrative director finds the comprehensive medical  
38 evaluation is not complete or not in compliance with the required  
39 procedures, the administrative director shall return the report to  
40 the treating physician or qualified medical evaluator for appropriate

1 action as the administrative director instructs. Upon receipt of the  
2 treating physician's or qualified medical evaluator's final  
3 comprehensive medical evaluation and summary form, the  
4 administrative director shall recalculate the permanent disability  
5 rating according to Section 4660 or 4660.1, as applicable, and  
6 serve the rating, the comprehensive medical evaluation, and the  
7 summary form on the employee and employer.

8 (h) (1) If a comprehensive medical evaluation from the treating  
9 physician or an agreed medical evaluator or a qualified medical  
10 evaluator selected from a three-member panel resolves any issue  
11 so as to require an employer to provide compensation, the employer  
12 shall commence the payment of compensation, except as provided  
13 pursuant to paragraph (2) of subdivision (b) of Section 4650, or  
14 promptly commence proceedings before the appeals board to  
15 resolve the dispute.

16 (2) If the employee and employer agree to a stipulated findings  
17 and award as provided under Section 5702 or to compromise and  
18 release the claim under Chapter 2 (commencing with Section 5000)  
19 of Part 3, or if the employee wishes to commute the award under  
20 Chapter 3 (commencing with Section 5100) of Part 3, the appeals  
21 board shall first determine whether the agreement or commutation  
22 is in the best interests of the employee and whether the proper  
23 procedures have been followed in determining the permanent  
24 disability rating. The administrative director shall promulgate a  
25 form to notify the employee, at the time of service of any rating  
26 under this section, of the options specified in this subdivision, the  
27 potential advantages and disadvantages of each option, and the  
28 procedure for disputing the rating.

29 (i) No issue relating to a dispute over the existence or extent of  
30 permanent impairment and limitations resulting from the injury  
31 may be the subject of a declaration of readiness to proceed unless  
32 there has first been a medical evaluation by a treating physician  
33 and by either an agreed or qualified medical evaluator. With the  
34 exception of an evaluation or evaluations prepared by the treating  
35 physician or physicians, no evaluation of permanent impairment  
36 and limitations resulting from the injury shall be obtained, except  
37 in accordance with Section 4062.1 or 4062.2. Evaluations obtained  
38 in violation of this prohibition shall not be admissible in any  
39 proceeding before the appeals board.

40 SEC. 5. Section 4610.5 of the Labor Code is amended to read:

1 4610.5. (a) This section applies to the following disputes:

2 (1) Any dispute over a utilization review decision regarding  
3 treatment for an injury occurring on or after January 1, 2013.

4 (2) Any dispute over a utilization review decision if the decision  
5 is communicated to the requesting physician on or after July 1,  
6 2013, regardless of the date of injury.

7 (b) A dispute described in subdivision (a) shall be resolved only  
8 in accordance with this section.

9 (c) For purposes of this section and Section 4610.6, the  
10 following definitions apply:

11 (1) “Disputed medical treatment” means medical treatment that  
12 has been modified, delayed, or denied by a utilization review  
13 decision.

14 (2) “Medically necessary” and “medical necessity” mean  
15 medical treatment that is reasonably required to cure or relieve the  
16 injured employee of the effects of his or her injury and based on  
17 the following standards, which shall be applied in the order listed,  
18 allowing reliance on a lower ranked standard only if every higher  
19 ranked standard is inapplicable to the employee’s medical  
20 condition:

21 (A) The guidelines adopted by the administrative director  
22 pursuant to Section 5307.27.

23 (B) Peer-reviewed scientific and medical evidence regarding  
24 the effectiveness of the disputed service.

25 (C) Nationally recognized professional standards.

26 (D) Expert opinion.

27 (E) Generally accepted standards of medical practice.

28 (F) Treatments that are likely to provide a benefit to a patient  
29 for conditions for which other treatments are not clinically  
30 efficacious.

31 (3) “Utilization review decision” means a decision pursuant to  
32 Section 4610 to modify, delay, or deny, based in whole or in part  
33 on medical necessity to cure or relieve, a treatment  
34 recommendation or recommendations by a physician prior to,  
35 retrospectively, or concurrent with the provision of medical  
36 treatment services pursuant to Section 4600 or subdivision (c) of  
37 Section 5402.

38 (4) Unless otherwise indicated by context, “employer” means  
39 the employer, the insurer of an insured employer, a claims

1 administrator, or a utilization review organization, or other entity  
2 acting on behalf of any of them.

3 (d) If a utilization review decision denies, modifies, or delays  
4 a treatment recommendation, the employee may request an  
5 independent medical review as provided by this section.

6 (e) A utilization review decision may be reviewed or appealed  
7 only by independent medical review pursuant to this section.  
8 Neither the employee nor the employer shall have any liability for  
9 medical treatment furnished without the authorization of the  
10 employer if the treatment is delayed, modified, or denied by a  
11 utilization review decision unless the utilization review decision  
12 is overturned by independent medical review in accordance with  
13 this section.

14 (f) As part of its notification to the employee regarding an initial  
15 utilization review decision that denies, modifies, or delays a  
16 treatment recommendation, the employer shall provide the  
17 employee with

18 a one-page form prescribed by the administrative director, and  
19 an addressed envelope, which the employee may return to the  
20 administrative director or the administrative director's designee  
21 to initiate an independent medical review. The employer shall  
22 include on the form any information required by the administrative  
23 director to facilitate the completion of the independent medical  
24 review. The form shall also include all of the following:

25 (1) Notice that the utilization review decision is final unless the  
26 employee requests independent medical review.

27 (2) A statement indicating the employee's consent to obtain any  
28 necessary medical records from the employer or insurer and from  
29 any medical provider the employee may have consulted on the  
30 matter, to be signed by the employee.

31 (3) Notice of the employee's right to provide information or  
32 documentation, either directly or through the employee's physician,  
33 regarding the following:

34 (A) The treating physician's recommendation indicating that  
35 the disputed medical treatment is medically necessary for the  
36 employee's medical condition.

37 (B) Medical information or justification that a disputed medical  
38 treatment, on an urgent care or emergency basis, was medically  
39 necessary for the employee's medical condition.

1 (C) Reasonable information supporting the employee’s position  
2 that the disputed medical treatment is or was medically necessary  
3 for the employee’s medical condition, including all information  
4 provided to the employee by the employer or by the treating  
5 physician, still in the employee’s possession, concerning the  
6 employer’s or the physician’s decision regarding the disputed  
7 medical treatment, as well as any additional material that the  
8 employee believes is relevant.

9 (g) The independent medical review process may be terminated  
10 at any time upon the employer’s written authorization of the  
11 disputed medical treatment.

12 (h) (1) The employee may submit a request for independent  
13 medical review to the division no later than 30 days after the  
14 service of the utilization review decision to the employee.

15 (2) If at the time of a utilization review decision the employer  
16 is also disputing liability for the treatment for any reason besides  
17 medical necessity, the time for the employee to submit a request  
18 for independent medical review to the administrative director or  
19 administrative director’s designee is extended to 30 days after  
20 service of a notice to the employee showing that the other dispute  
21 of liability has been resolved.

22 (3) If the employer fails to comply with subdivision-~~(e)~~ (f) at  
23 the time of notification of its utilization review decision, the time  
24 limitations for the employee to submit a request for independent  
25 medical review shall not begin to run until the employer provides  
26 the required notice to the employee.

27 (4) A provider of emergency medical treatment when the  
28 employee faced an imminent and serious threat to his or her health,  
29 including, but not limited to, the potential loss of life, limb, or  
30 other major bodily function, may submit a request for independent  
31 medical review on its own behalf. A request submitted by a  
32 provider pursuant to this paragraph shall be submitted to the  
33 administrative director or administrative director’s designee within  
34 the time limitations applicable for an employee to submit a request  
35 for independent medical review.

36 (i) An employer shall not engage in any conduct that has the  
37 effect of delaying the independent review process. Engaging in  
38 that conduct or failure of the ~~plan~~ employer to promptly comply  
39 with this section is a violation of this section and, in addition to  
40 any other fines, penalties, and other remedies available to the

1 administrative director, the employer shall be subject to an  
2 administrative penalty in an amount determined pursuant to  
3 regulations to be adopted by the administrative director, not to  
4 exceed five thousand dollars (\$5,000) for each day that proper  
5 notification to the employee is delayed. The administrative  
6 penalties shall be paid to the Workers' Compensation  
7 Administration Revolving Fund.

8 (j) For purposes of this section, an employee may designate a  
9 parent, guardian, conservator, relative, or other designee of the  
10 employee as an agent to act on his or her behalf. A designation of  
11 an agent executed prior to the utilization review decision shall not  
12 be valid. The requesting physician may join with or otherwise  
13 assist the employee in seeking an independent medical review,  
14 and may advocate on behalf of the employee.

15 (k) The administrative director or his or her designee shall  
16 expeditiously review requests and immediately notify the employee  
17 and the employer in writing as to whether the request for an  
18 independent medical review has been approved, in whole or in  
19 part, and, if not approved, the reasons therefor. If there appears to  
20 be any medical necessity issue, the dispute shall be resolved  
21 pursuant to an independent medical review, except that, unless the  
22 employer agrees that the case is eligible for independent medical  
23 review, a request for independent medical review shall be deferred  
24 if at the time of a utilization review decision the employer is also  
25 disputing liability for the treatment for any reason besides medical  
26 necessity.

27 (l) Upon notice from the administrative director that an  
28 independent review organization has been assigned, the employer  
29 shall provide to the independent medical review organization all  
30 of the following documents within 10 days of notice of assignment:

31 (1) A copy of all of the employee's medical records in the  
32 possession of the employer or under the control of the employer  
33 relevant to each of the following:

- 34 (A) The employee's current medical condition.  
35 (B) The medical treatment being provided by the employer.  
36 (C) The disputed medical treatment requested by the employee.  
37 (2) A copy of all information provided to the employee by the  
38 employer concerning employer and provider decisions regarding  
39 the disputed treatment.

1 (3) A copy of any materials the employee or the employee's  
2 provider submitted to the employer in support of the employee's  
3 request for the disputed treatment.

4 (4) A copy of any other relevant documents or information used  
5 by the employer or its utilization review organization in  
6 determining whether the disputed treatment should have been  
7 provided, and any statements by the employer or its utilization  
8 review organization explaining the reasons for the decision to  
9 deny, modify, or delay the recommended treatment on the basis  
10 of medical necessity. The employer shall concurrently provide a  
11 copy of the documents required by this paragraph to the employee  
12 and the requesting physician, except that documents previously  
13 provided to the employee or physician need not be provided again  
14 if a list of those documents is provided.

15 (m) Any newly developed or discovered relevant medical  
16 records in the possession of the employer after the initial documents  
17 are provided to the independent medical review organization shall  
18 be forwarded immediately to the independent medical review  
19 organization. The employer shall concurrently provide a copy of  
20 medical records required by this subdivision to the employee or  
21 the employee's treating physician, unless the offer of medical  
22 records is declined or otherwise prohibited by law. The  
23 confidentiality of medical records shall be maintained pursuant to  
24 applicable state and federal laws.

25 (n) If there is an imminent and serious threat to the health of  
26 the employee, as specified in subdivision (c) of Section 1374.33  
27 of the Health and Safety Code, all necessary information and  
28 documents required by subdivision (l) shall be delivered to the  
29 independent medical review organization within 24 hours of  
30 approval of the request for review.

31 (o) The employer shall promptly issue a notification to the  
32 employee, after submitting all of the required material to the  
33 independent medical review organization, that lists documents  
34 submitted and includes copies of material not previously provided  
35 to the employee or the employee's designee.

36 *SEC. 6. Section 4903.4 of the Labor Code is amended to read:*

37 4903.4. (a) If a dispute arises concerning a lien for expenses  
38 incurred by or on behalf of the injured employee as provided by  
39 Article 2 (commencing with Section 4600) of Chapter 2 of Part 2,  
40 the appeals board may resolve the dispute in a separate proceeding,

1 which may include binding arbitration upon agreement of the  
2 employer, lien claimant, and the employee, if the employee remains  
3 a party to the dispute, according to the rules of practice and  
4 procedure.

5 (b) If the dispute is heard at a separate proceeding it shall be  
6 calendared for hearing or hearings as determined by the appeals  
7 board based upon the resources available to the appeals board and  
8 other considerations as the appeals board deems appropriate and  
9 shall not be subject to Section ~~5501~~ 5501.5.

10 ~~SECTION 4.~~

11 *SEC. 7.* Section 4903.6 of the Labor Code is amended to read:

12 4903.6. (a) Except as necessary to meet the requirements of  
13 Section 4903.5, a lien claim or application for adjudication shall  
14 not be filed or served under subdivision (b) of Section 4903 until  
15 both of the following have occurred:

16 (1) Sixty days have elapsed after the date of acceptance or  
17 rejection of liability for the claim, or expiration of the time  
18 provided for investigation of liability pursuant to subdivision (b)  
19 of Section 5402, whichever date is earlier.

20 (2) Either of the following:

21 (A) The time provided for payment of medical treatment bills  
22 pursuant to Section 4603.2 has expired and, if the employer  
23 objected to the amount of the bill, the reasonable fee has been  
24 determined pursuant to Section 4603.6, and, if authorization for  
25 the medical treatment has been disputed pursuant to Section 4610,  
26 the medical necessity of the medical treatment has been determined  
27 pursuant to Sections 4610.5 and 4610.6.

28 (B) The time provided for payment of medical-legal expenses  
29 pursuant to Section 4622 has expired and, if the employer objected  
30 to the amount of the bill, the reasonable fee has been determined  
31 pursuant to Section 4603.6.

32 (b) All lien claimants under Section 4903 shall notify the  
33 employer and the employer's representative, if any, and the  
34 employee and his or her representative, if any, and the appeals  
35 board within five working days of obtaining, changing, or  
36 discharging representation by an attorney or nonattorney  
37 representative. The notice shall set forth the legal name, address,  
38 and telephone number of the attorney or nonattorney representative.

39 (c) A declaration of readiness to proceed shall not be filed for  
40 a lien under subdivision (b) of Section 4903 until the underlying

1 case has been resolved or where the applicant chooses not to  
2 proceed with his or her case.

3 (d) With the exception of a lien for services provided by a  
4 physician as defined in Section 3209.3, a lien claimant shall not  
5 be entitled to any medical information, as defined in subdivision  
6 (g) of Section 56.05 of the Civil Code, about an injured worker  
7 without prior written approval of the appeals board. Any order  
8 authorizing disclosure of medical information to a lien claimant  
9 other than a physician shall specify the information to be provided  
10 to the lien claimant and include a finding that the information is  
11 relevant to the proof of the matter for which the information is  
12 sought. The appeals board shall adopt reasonable regulations to  
13 ensure compliance with this section, and shall take any further  
14 steps as may be necessary to enforce the regulations, including,  
15 but not limited to, impositions of sanctions pursuant to Section  
16 5813.

17 (e) The prohibitions of this section shall not apply to lien claims,  
18 applications for adjudication, or declarations of readiness to  
19 proceed filed by or on behalf of the employee, or to the filings by  
20 or on behalf of the employer.

O