

AMENDED IN SENATE JULY 14, 2015

AMENDED IN SENATE JULY 8, 2015

AMENDED IN ASSEMBLY JUNE 1, 2015

AMENDED IN ASSEMBLY APRIL 14, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1124**

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**Introduced by Assembly Member Perea**

February 27, 2015

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An act to add Sections 5307.28 and 5307.29 to the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1124, as amended, Perea. Workers' compensation: prescription medication formulary.

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 employment. The administrative director is authorized to adopt, amend, or repeal, after public hearings, any rules and regulations that are reasonably necessary to enforce the state workers' compensation provisions, except when that power is specifically reserved to the Workers' Compensation Appeals Board.

This bill would require the administrative director to, on or before January 1, 2017, establish a ~~formulary~~ *medical evidence-based workers' compensation drug formulary* for medications prescribed in the workers' compensation ~~system~~ *system*, to be effective commencing July 1, 2017. The bill requires the administrative director to revise the formulary

before its effective date, to adopt appropriate changes, as specified, and to publish any revisions on the Internet Web site of the Division of Workers' Compensation. The bill would require the administrative director to convene a Workers' Compensation Formulary Advisory Committee to assist in the development of the formulary, and would require the committee to study and make recommendations, as specified, on the development of a workers' compensation formulary in California.

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

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

1 SECTION 1. Section 5307.28 is added to the Labor Code, to  
 2 read:  
 3 5307.28. (a) On or before January 1, 2017, the administrative  
 4 director shall establish a *medical evidence-based workers'*  
 5 *compensation drug* formulary for medications prescribed in the  
 6 workers' compensation ~~system~~ *system*, to be effective commencing  
 7 July 1, 2017.  
 8 (b) The formulary shall be revised to adopt appropriate changes  
 9 no later than 60 days after the administrative director receives  
 10 recommendations from the Workers' Compensation Formulary  
 11 Advisory Committee and determines that evidence-based revisions  
 12 are warranted. The administrative director shall determine the  
 13 effective date of the changes, and shall issue an order, exempt from  
 14 Sections 5307.3 and ~~5307.4~~, 5307.4 and the rulemaking provisions  
 15 of the Administrative Procedure Act (Chapter 3.5 (commencing  
 16 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
 17 Government Code), informing the public of the changes and their  
 18 effective date. All orders issued pursuant to this subdivision shall  
 19 be published on the Internet Web site of the Division of Workers'  
 20 Compensation.  
 21 SEC. 2. Section 5307.29 is added to the Labor Code, to read:  
 22 5307.29. (a) The administrative director shall convene a  
 23 Workers' Compensation Formulary Advisory Committee to assist  
 24 in the development of a formulary pursuant to Section 5307.28.  
 25 The committee shall be composed of members appointed by the  
 26 director and shall include, but not be limited to, health care  
 27 providers, insurers, employers, pharmacists, attorneys who

1 represent applicants, an appointee of the Speaker of the Assembly,  
2 and an appointee of the Senate Rules Committee.

3 (b) The committee shall study and make recommendations on  
4 the development of a workers' compensation formulary in  
5 California.

6 (c) The committee shall convene on a quarterly basis and provide  
7 its recommendations to the administrative director on or before  
8 December 31, 2016.

9 ~~(d) The formulary established pursuant to Section 5307.28~~  
10 ~~recommendations developed pursuant to subdivision (c) shall~~  
11 ensure all of the following:

12 (1) Injured worker access to appropriate opioids, *including those*  
13 *with abuse-deterrent properties*, other pain management  
14 prescriptions, and off-label prescription drugs, when medically  
15 necessary.

16 (2) A gradual detoxification plan for a worker receiving  
17 potentially addictive prescription drug treatment.

18 (3) Timely formulary updates that minimize delays involved in  
19 adding new drugs to the formulary.

20 ~~(4) Injured worker access to nonformulary medication when~~  
21 ~~the only formulary medication available for a worker's covered~~  
22 ~~condition is one that the worker cannot tolerate or that is not~~  
23 ~~clinically effective for the worker, or when a provider determines~~  
24 ~~the medication needed by the worker should include abuse deterrent~~  
25 ~~properties. Exceptions to formulary medications as noted in this~~  
26 ~~section shall not be required absent a trial period and issuance of~~  
27 ~~a medical finding by the injured worker's provider outlining the~~  
28 ~~medical basis for the conclusion that the worker cannot tolerate~~  
29 ~~the formulary medication.~~