

AMENDED IN ASSEMBLY APRIL 10, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2543

Introduced by Assembly Member Brewer

February 24, 2000

An act to amend Section 3762 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2543, as amended, Brewer. Workers' compensation: medical information.

Existing law prohibits, with certain exceptions, the disclosure to an employer of medical information about an employee who has filed a workers' compensation claim. Existing law for self-insured employers permits medical information about an employee who has filed a workers' compensation claim to be disclosed to those employees and agents specified by a self-insured employer to administer the employer's workers' compensation claims.

~~This bill would also permit disclosure of medical information about an employee who has filed a workers' compensation claim to be disclosed to those employees and agents specified by a self-insured employer to administer the employer's workers' compensation self-insurance program or to settle workers' compensation claims for the employer~~
repeal the existing exception that permits disclosure of the diagnosis of an injured worker's injury for which workers' compensation is claimed if the information would affect the

employer's premium. The bill would permit medical information about an employee who has filed a workers' compensation claim to be disclosed to an employer if the employee authorizes the release, or the employer faces an uninsured liability or the potential of an uninsured liability. The bill would permit an employer to request that the medical information of all employees that file workers' compensation claims be communicated to the positions or agents identified as responsible to the employer for various services, programs, or duties. The bill would make a declaratory statement regarding the relationship of the law as it would be amended by this bill and existing provisions of law relating to the use and disclosure of medical information by employers.

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 3762 of the Labor Code is
2 amended to read:

3 3762. (a) Except as provided in subdivisions (b) and
4 (c), the insurer shall discuss all elements of the claim file
5 that affect the employer's premium with the employer,
6 and shall supply copies of the documents that affect the
7 premium at the employer's expense during reasonable
8 business hours.

9 (b) The right provided by this section shall not extend
10 to any document that the insurer is prohibited from
11 disclosing to the employer under the attorney-client
12 privilege, any other applicable privilege, or statutory
13 prohibition upon disclosure, or under Section 1877.4 of
14 the Insurance Code.

15 (c) An insurer, third-party administrator retained by
16 a self-insured employer pursuant to Section 3702.1 to
17 administer the employer's workers' compensation claims,
18 and those employees and agents specified by a
19 self-insured employer to administer the employer's
20 workers' compensation claims, ~~or to administer the~~
21 ~~employer's workers' compensation self-insurance~~
22 ~~program, or to settle workers' compensation claims for~~



1 ~~the employer,~~ are prohibited from disclosing or causing
2 to be disclosed to an employer, any medical information,
3 as defined in subdivision ~~(b)~~ (f) of Section 56.05 of the
4 Civil Code, about an employee who has filed a workers'
5 compensation claim, except as follows:

6 ~~(1) If the diagnosis of the injury for which workers'~~
7 ~~compensation is claimed would affect the employer's~~
8 ~~premium, then an insurer may disclose that diagnosis~~
9 ~~pursuant to subdivision (a).~~

10 ~~(2)~~
11 *(1) If the employee authorizes a release to the*
12 *employer of the medical information.*

13 *(2) If the employer faces an uninsured liability or the*
14 *potential of an uninsured liability.*

15 *(3) Medical information regarding the injury for*
16 *which workers' compensation is claimed that is necessary*
17 *for the employer to have in order for the employer to*
18 *modify the employee's work duties.*

19 *(d) Notwithstanding subdivision (c), an employer*
20 *may request that medical information from all workers'*
21 *compensation claims filed against the employer be*
22 *communicated to the positions or agents identified as*
23 *responsible to the employer for any of the following:*

24 *(1) Providing medical services.*

25 *(2) Administering injury prevention and safety*
26 *programs.*

27 *(3) Performing statutory reporting requirements*
28 *under this division and any other provision of law.*

29 *(4) Overseeing the performance of the employer's*
30 *insurer.*

31 *(5) When the employer is self-insured, overseeing the*
32 *performance of the third-party administrator or the*
33 *employer's designated claims administrator.*

34 *(6) Approving the settlement of claims.*

35 *(7) Assisting the employer, administrator, or insurer in*
36 *the investigation of claims or the administration of*
37 *benefits.*

38 *(e) Nothing in this section shall be construed to affect*
39 *the rights and duties of an employer pursuant to Chapter*



1 3 (*commencing with Section 56.20*) of *Part 2.6* of *Division*
2 *1* of the *Civil Code*.

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