



BULLETIN

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As far as the California workers' compensation community is concerned, the 2017 legislative session ended with more a whimper than a bang this week, as Governor Brown signed only a handful of bills related to workers' compensation. Among those measures:

Physician Access to CURES (AB 40, Santiago): Amends Health and Safety Code §1165.1 to allow medical providers to use third-party software to access information about a patient's prescription drug history from the state's prescription drug monitoring program (CURES). Currently, providers can only access this information through the CURES website, but AB 40 will simplify the process by allowing them to link their systems directly to CURES, eliminating the need to log on to the website and perform a manual search.

Advocacy Services for Workers Injured by Terrorist Acts (AB 44, Reyes): Adds Labor Code §4600.05 to require employers to provide immediately available advocacy services for workers injured by acts of domestic terrorism. Advocates (nurse case managers) will be responsible for helping these injured workers obtain medical treatment and helping their medical providers obtain treatment authorizations and payments. The bill was introduced in response to medical treatment issues that arose on claims filed by workers following the December 2015 terrorist attack at the Inland Regional Center in San Bernardino.

Liens Filed by Suspended Providers (AB 1422, Daly): Amends Labor Code §§139.21, 4603.2, and 4615 to extend the automatic stay on liens filed by medical providers charged with criminal fraud so that it runs from the time the criminal charges are filed all the way through the suspension hearing. The bill closes a loophole in existing law that gave providers an opportunity to pursue liens for payment between the time they were convicted of fraud and the point at which they were suspended. AB 1422 further clarifies that these rules also apply to entities controlled by individuals charged with criminal fraud.

Drug Transparency (SB 17, Hernandez): Amends Health and Safety Code §§1385.045 and 127280, adds Health and Safety Code §1367.243 and Chapter 9 (commencing with §127675) to Part 2 of Division 107, repeals Health and Safety Code §127686, amends Insurance Code §10181.45, and adds Insurance Code §10123.205 to require pharmaceutical companies to notify health insurers and government health plans at least 60 days before scheduled prescription drug price hikes that would exceed 16 percent over a two-year period and to explain the reasons behind those increases.

Limits on Assistance to Immigration Enforcement Agents (SB 54, DeLeon): Adds Government Code §§7282 and 7282.5, adds Chapter 17.25 (commencing with §7284) to Division 7 of Title 1 of the Government Code, and repeals Health and Safety Code §11369 to require the state attorney general to draft model policies for state agencies, including the DWC, "limiting assistance with immigration enforcement to the fullest extent possible consistent with federal and state law." The model policies are to cover state buildings, including those used by the DIR, the DWC, and the WCAB. The bill requires the attorney general to adopt the model policies by October 1, 2018.

Workers' Comp Exemptions for Officers and Directors (SB 189, Bradford): Amends Labor Code §§3364, 3706.5, and 4156; amends, repeals, and adds LC §§3351 and 3352 to allow corporate officers and directors who own at least 10 percent of a business to opt out of workers' comp coverage for themselves if they sign a waiver stating that they are covered by a health insurance plan. The 10 percent threshold is a reduction from the 15 percent threshold established by AB 2883 in 2016. This bill also includes a conclusive presumption that a person who executes a waiver is not covered by workers' compensation.

New State Compensation Insurance Fund Executive Positions (SB 272, Mendoza): Amends Insurance Code §11785 to allow the State Compensation Insurance Fund Board to appoint a chief underwriter, chief information security officer, senior vice president of insurance services, executive vice president of corporate claims, executive vice president of strategic planning, and a pricing actuary. Each of these are executive positions, exempt from civil service protections.

Retaliation Complaint Investigations and Awards (SB 306, Hertzberg): Amends Labor Code §98.7 and adds Labor Code §§98.74, 1102.61, and 1102.62 to expand the Labor Commissioner's ability to investigate complaints by employees that their employer retaliated or discriminated against them in response to protected conduct (which may include filing or testifying on behalf of a coworker in a workers' compensation claim, reporting safety violations, etc.). SB 306 allows the Commissioner to initiate investigations of such claims without having to go to court to obtain an enforcement order, and to obtain an award for attorney's fees and costs when it successfully prosecutes a retaliation claim through the courts.

CIGA Reinsurance (SB 430, Senate Committee on Insurance): Amends Insurance Code §1063 to allow the California Insurance Guarantee Association (CIGA), upon the approval of the Insurance Commissioner, to purchase reinsurance for its workers' compensation fund from any reinsurer licensed in California. This removes the current restriction that has only allowed CIGA to purchase reinsurance from its member companies even though most reinsurers in the state are not CIGA members.

Emergency Room Physician Bills (SB 489, Bradford): Amends Labor Code §4610 to extend the deadline for emergency room physicians to submit their bills to workers' compensation claims administrators from 30 days to 180 days, for treatment provided under SB 1160's pass-through provisions for certain treatment provided during the first 30 days following injury.

Final versions of all bills signed in 2017, plus their legislative history and analyses, are available at leginfo.legislature.ca.gov/. To view a bill, enter the bill number under "Quick Bill Information" and click the "Go" button.

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