
HOUSE BILL 2227

State of Washington 53rd Legislature 1994 Regular Session

By Representatives Heavey, G. Cole, King, Conway and Campbell

Read first time 01/11/94. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to ex parte contact with physicians or medical
2 providers regarding industrial insurance matters; amending RCW
3 51.04.050 and 51.36.060; and adding a new section to chapter 51.52 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 51.04.050 and 1961 c 23 s 51.04.050 are each amended
6 to read as follows:

7 Except under section 3 of this act, in all hearings, actions or
8 proceedings before the department or the board of industrial insurance
9 appeals, or before any court on appeal from the board, any physician
10 having theretofore examined or treated the claimant may be required to
11 testify fully regarding such examination or treatment, and shall not be
12 exempt from so testifying by reason of the relation of physician to
13 patient.

14 **Sec. 2.** RCW 51.36.060 and 1991 c 89 s 3 are each amended to read
15 as follows:

16 Physicians examining or attending injured workers under this title
17 shall comply with rules and regulations adopted by the director, and
18 shall make such reports as may be requested by the department or self-

1 insurer upon the condition or treatment of any such worker, or upon any
2 other matters concerning such workers in their care. Except under RCW
3 49.17.210 ((and)), 49.17.250, and section 3 of this act, all medical
4 information in the possession or control of any person and relevant to
5 the particular injury in the opinion of the department pertaining to
6 any worker whose injury or occupational disease is the basis of a claim
7 under this title shall be made available at any stage of the
8 proceedings to the employer, the claimant's representative, and the
9 department upon request, and no person shall incur any legal liability
10 by reason of releasing such information.

11 NEW SECTION. **Sec. 3.** A new section is added to chapter 51.52 RCW
12 to read as follows:

13 Upon appeal of a worker's claim to the board of industrial
14 insurance appeals, ex parte contact between a representative of the
15 department, self-insured employer, or employer and a worker's treating
16 physician or a physician or other medical provider who has consulted on
17 the case at the request of the worker, the worker's representative, or
18 the worker's treating or consulting medical provider is prohibited on
19 matters relating to the specific issues appealed and subject to the
20 jurisdiction of the board unless prior notice of the contact is
21 provided to the worker or the worker's representative and the contact
22 is conducted under the applicable civil rules of discovery. Contact
23 with the treating or consulting physician or medical provider limited
24 solely to a written request for medical records under RCW 51.36.060,
25 need not be conducted under applicable procedural civil rules of
26 discovery if the worker or the worker's representative is provided five
27 days' prior written notice of the request and notice of the request is
28 submitted at least sixty days before the first scheduled hearing or
29 before any discovery cut-off date, whichever is earlier. The board may
30 adjust this time period for good cause. The worker or worker's
31 representative may, if appropriate, challenge the scope of the request
32 for medical records or raise other substantive civil rule discovery
33 issues.

34 Upon request, the information or medical records must be made
35 available for inspection and copying by the worker or the worker's
36 representative. Material received by a self-insured employer or its
37 representative under this section must be deemed part of the file for
38 the purposes of RCW 51.14.120. This section does not preclude ex parte

- 1 contact with a physician retained by the department or employer to
- 2 evaluate a worker.

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