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**Commerce & Labor Committee**

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**HB 2980**

**Brief Description:** Prohibiting ex parte contacts with medical providers during industrial insurance appeals.

**Sponsors:** Representatives Williams, Conway, Moeller and Hasegawa.

**Brief Summary of Bill**

- Limits ex parte contact with medical providers after an appeal is filed in an industrial insurance case.

**Hearing Date:** 2/1/08

**Staff:** Joan Elgee (786-7106).

**Background:**

Under the Industrial Insurance Act (Act), providers examining or attending injured workers must make reports requested by the Department of Labor and Industries (Department) or self-insured employer about the condition or treatment of an injured worker or about any other matters concerning an injured worker in their care. All medical information in the possession or control of any person relevant to a particular injury must be made available at any stage of proceedings to the employer, the worker's representative, and to the Department. The Act states that no person shall incur any legal liability for releasing this medical information.

The Act also provides that in all proceedings before the Department, the Board of Industrial Insurance Appeals (Board), or before any court, providers may be required to testify regarding examination or treatment and are not exempt from testifying based on the doctor-patient relationship.

When the Director of the Department or a self-insured employer deems it necessary to resolve a medical issue, an injured worker must submit to an examination by a physician selected by the Director. These examinations are known as independent medical examinations, or "IMEs."

Parties aggrieved by an order of the Department may appeal to the Board.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Summary of Bill:**

After the filing of an appeal in an industrial insurance claim, the Department and the employer, and their representatives, are generally prohibited from ex parte contact with any medical provider who examined or treated the claimant at the request of the claimant or treating medical provider to discuss the facts or issues on appeal without written authorization from the claimant or his or her representative. Similarly, after the filing of an appeal, a claimant and representative for the claimant are generally prohibited from ex parte contact with any independent medical provider without written authorization by the Department or self-insured employer or their representative. Any written authorization must be given after the appeal is filed and expires in 90 days.

Without a written authorization, communication must be:

- in writing, sent contemporaneously to all parties with a notice to the provider in bold type that any response must be in writing;
- in person, by telephone, or by video conference, at a mutually agreed to time and date, with the claimant or their representative, or the Department, self-insured employer and representatives, as the case may be, given the opportunity to fully participate; or
- by deposition.

The restrictions on ex parte contact do not apply in some situations. Written authorization is not required if the claimant or the Department or self-insured employer fails to identify or confirm the medical provider as a witness. With respect to the Department, the restriction does not apply if the Department is making a decision on whether to modify, reverse, or change an order or hold an order in abeyance.

The restrictions on ex parte contact apply only to issues set forth in a notice of appeal.

**Rules Authority:** The bill does not address the rule-making powers of an agency.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.