

CBA LPRC POSITION REQUEST FORM

The CBA Workers' Compensation Section Law position request is as follows:

- 1) Proposed legislative or regulatory concept:

An act to assure the prompt delivery of medical records in workers' compensation cases.

- 2) A plain language explanation and rationale for advancing this position:

Parties to workers' compensation cases have experienced a growing problem in obtaining medical records in a reasonable timeframe, which in turn, has caused delays in payment of benefits and authorization of medical treatment. The proposed legislation confers WCC jurisdiction over health care providers and their vendors for purposes of imposing fines, etc. for failure to furnish medical records within 30 days.

- 3) Is draft regulation, legislation or proposed bill included?

Yes. See attached.

- 4) What is the date of any legislative hearing, if known?

None.

- 5) Was this position previously approved by the CBA? If so, when does/did it expire?

No.

- 6) Is the CBA section or committee seeking to join a previously approved CBA section or committee position?

No.

- 7) Potential or actual CBA opposition from another CBA section or committee?

None anticipated.

- 8) Strength of section position (including process and results of section vote taken on issue):

An electronic poll of the executive committee will close on Dec. 2nd at noon. Based on the November 17th executive committee meeting, we anticipate at least 2/3 support of this bill, but we will have the exact numbers at the time of the LPRC meeting on December 3rd.

- 9) Fiscal impact (on the state):

None. The bill excludes the state from fines, etc.

An act to assure prompt delivery of medical records in workers' compensation cases

Sec. 31-294f shall be amended to add a new section as follows:

Sec. 31-294f. Medical examination of injured employee. Medical reports. (a) An injured employee shall submit himself to examination by a reputable practicing physician or surgeon, at any time while claiming or receiving compensation, upon the reasonable request of the employer or at the direction of the commissioner. The examination shall be performed to determine the nature of the injury and the incapacity resulting from the injury. The physician or surgeon shall be selected by the employer from an approved list of physicians and surgeons prepared by the chairman of the Workers' Compensation Commission and shall be paid by the employer. At any examination requested by the employer or directed by the commissioner under this section, the injured employee shall be allowed to have in attendance any reputable practicing physician or surgeon that the employee obtains and pays for himself. The employee shall submit to all other physical examinations as required by this chapter. The refusal of an injured employee to submit himself to a reasonable examination under this section shall suspend his right to compensation during such refusal.

(b) All medical reports concerning any injury of an employee sustained in the course of his employment shall be furnished within thirty days after the completion of the reports, at the same time and in the same manner, to the employer and the employee or his attorney.

(c) Records of medical treatment or services (hereinafter "medical records") for a claimant in a workers' compensation claim must be provided within thirty days of receipt by any medical provider, including hospitals and ambulance services, of a request for such medical records accompanied by a signed medical authorization of the claimant. Medical records include all records of treatment or services, including records concerning conditions of health not directly related to the condition at issue in said workers' compensation claim, and including wellness visits or physical examinations. Receipt of such request shall be deemed to have been received within five days of the sending of such request by United States Postal Service mail or within one day of the sending of such request by facsimile transmission or by electronic transmission (hereinafter "email") to the appropriate email address, subject to clear and convincing proof to the contrary by the medical provider. Failure timely to provide such records shall result in a mandatory penalty of \$25 per day, payable to the requester of such records, until such records are received. If such mandatory penalty is not paid voluntarily within thirty days following the untimely provision of said records, the workers' compensation administrative law judge has jurisdiction to impose and shall impose a mandatory penalty of \$100 per day on such provider of medical treatment or services for each day beyond thirty days during which the records of medical treatment or services have not been provided, payable to the requester of such records, and shall award attorneys' fees to said requester if said requester employs an attorney to request said records or to facilitate the imposition of said penalties. Where, however, the medical provider has contracted with a third party to provide upon request copies of the records of said medical provider, the third-party provider of medical records which fails to provide copies of the requested medical records within 30 days shall be liable for a mandatory penalty of \$50.00 per day, payable to the requester of such records, until such records are

received. If such mandatory penalty is not paid voluntarily within thirty days following the untimely provision of said records by such third-party provider of medical records, the workers' compensation administrative law judge has jurisdiction to impose and shall impose a mandatory penalty of \$150 per day on such provider of medical records for each day beyond thirty days during which the records of medical treatment or services have not been provided, payable to the requester of such records, and shall award attorneys' fees to said requester if said requester employs an attorney to request said records or to facilitate the imposition of said penalties. The contract between the provider of medical services and the third-party provider of medical records shall acknowledge and reflect the contingent liability of the third-party provider of medical records for such penalties; and if such contract does not so provide, it shall be deemed so to provide as a matter of law. Where such medical records are provided electronically, such medical providers or third-party records providers may charge five cents per page for the provision of such records. Requests for narrative reports concerning causation, work capacity and extent of disability are excluded from the time and penalty requirements of this subsection. Medical providers who are employed by the State of Connecticut or are employed by the United States government, and the University of Connecticut Health Center are not subject the penalties provided by this section.