

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

WORKERS' COMPENSATION. STATUTORY AMENDMENT. Entitles workers injured "because of" their employment to receive medical treatment ordered from an unlimited number of licensed medical practitioners as chosen by the worker and without regard to the nature or location of practitioner. Eliminates need for preapproval of treatment provided that worker gives employer written notice of injury and employer does not file documents contesting liability. Eliminates employers' right to challenge treatment, pharmaceuticals, or diagnostic evaluations. Provides for payment of services within 60 days and in accordance with established schedule of charges. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: Increased annual state and local government costs—potentially in the mid-hundreds of millions of dollars—for workers' compensation benefits for their employees. (07-0002.)

To the Honorable Secretary of State of California:

We, the undersigned, registered, qualified voters of California, residents of _____ County (or City and County), hereby propose amendments to the Labor Code, relating to Workers' Compensation and Insurance, Medical and Hospital Treatment, and petition the Secretary of State to submit the same to the voters of California for their adoption or rejection at the next succeeding general election or at any special statewide election held prior to that general election or otherwise provided by law. The proposed statutory amendments read as follows:

This initiative amends the Labor Code, Division 4, Part 2, Chapter 2, Article 2 by adding the following language:

Section 1. Statement of Principles of Interpretation:

- a. The People of the State of California declare that the working population of this State are important to this State because it is from them that the majority of the State's tax revenue is obtained, and it is because of the working population that this State is able to construct its buildings and build its roads and monuments, and it is because of the working population that there is food, natural resources, and manufactured goods available to the public for its use. It is because of the working population of this State that the public is able to obtain goods and services that support the health and well being of each of the citizens of this State. Because of all of these benefits that the people of this State receive from those people who perform the work necessary to obtain these goods and services, the People of the State of California hereby declare that the most valuable asset of this State is its working population.
- b. Because of the importance of the working population to the State's economy, it is important to the State of California that when a worker is injured because of his or her employment that worker should receive prompt and effective medical treatment through the State's workers' compensation system which is designed and intended to return the injured worker back to work in the most effective and timely manner possible.
- c. The People of the State of California recognize that each worker is an individual whose need for medical treatment may not be the same as another worker's, and that the determination of appropriate medical care is best left in the hands of a medical practitioner licensed by the State of California who is familiar with the specific injured worker and is familiar with how the specific injured worker's ability to work has been affected by the injury.
- d. The People of the State of California declare that medical treatment that is quickly delivered is more effective in resolving the effects of an injury than medical treatment that is delayed, and that the delivery of prompt medical treatment is facilitated by the treating physician's being confident that timely payment for services and expenses incurred in providing medical treatment shall be forthcoming.

e. As a result of being licensed by the State of California, the People of the State of California declare that a licensed medical practitioner has been determined by the State of California to be a competent deliverer of medical treatment, and that any question of the medical practitioner's competency is an issue that should be addressed by the appropriate licensing authority as opposed to being an issue that causes any delay of medical treatment in the workers' compensation system. Therefore, a medical practitioner who has been licensed by the State of California to provide medical treatment shall be considered to be delivering reasonable and necessary medical treatment for work injuries in the workers' compensation system. This declaration shall not apply or be used for any purpose in any litigation initiated in the Superior Court of this State because of an allegation of medical malpractice.

f. By passage of this initiative, the People of the State of California establish a new system for providing medical care to injured workers. Any laws inconsistent with this initiative are annulled forthwith, and will have no further force or effect.

Section 2. Any worker injured because of his employment is entitled to receive, and shall receive medical treatment at the expense of his employer or his employer's workers' compensation carrier provided by a medical practitioner licensed by the State of California which is chosen by the worker without limit as to number of practitioners selected, location of the practitioner or specialty of the practitioner. Said treatment shall not be subject to a requirement for any authorization issued prior to the treatment so long as the worker or a representative of the worker has provided the employer with written notice that the worker has sustained an injury because of the worker's employment, and the employer has not filed any documents with the State contesting liability for the injury.

Section 3. Any medical practitioner licensed by the State of California to provide medical treatment within this State shall receive prompt payment for services provided to any worker meeting the qualifications of Section 2 of this initiative. Prompt payment shall be considered to be made so long as it is made within a period of time of no less than 60 days from the date a bill for services and expenses is mailed to the employer or the employer's workers' compensation carrier together with a brief description of the medical treatment provided, and a declaration by the medical practitioner under penalty of perjury that the medical treatment is believed by the practitioner to be reasonable and necessary to cure and/or relieve the injured worker from the effects of the industrial injury.

Section 4. Any bill for pharmaceuticals or diagnostic evaluations prescribed by a licensed medical practitioner shall be paid in the same manner as the bill of a medical practitioner so long as the bill is submitted together with the medical practitioner's prescription and the relevant and applicable declaration of the medical practitioner described in Section 3. Pharmaceuticals may be dispensed by the treating medical practitioner.

Section 5. Payment of any bill provided by a medical practitioner shall be considered adequate and sufficient if the payment is consistent with a schedule of reasonable medical charges established by the Administrative Director of the Department of Industrial Relations. Said schedule shall be adopted and reviewed for adequacy by the Administrative Director each fiscal year with notice and opportunity for comment provided to the public. Should the Administrative Director fail to establish a schedule of reasonable medical charges or fail to review the schedule of reasonable medical charges on an annual basis, the medical practitioner's bill shall be paid in accordance with the practitioner's usual and customary charges for the treatment provided for so long as a schedule of reasonable medical charges is not established or properly reviewed as required herein.

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