

AMENDED IN ASSEMBLY MARCH 24, 2025

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL

No. 1293

Introduced by Assembly Member Wallis

February 21, 2025

An act to amend Section ~~4452~~ of 4062.3 of, and to add Section 4062.4 to, the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1293, as amended, Wallis. Workers'—~~compensation.~~
compensation: qualified medical evaluators.

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries arising out of and in the course of their employment. Existing law establishes procedures for the resolution of disputes regarding the compensability of an injury, including the use of a qualified medical evaluator (QME) to perform a comprehensive medical-legal evaluation to address all contested medical issues arising from all injuries reported in a claim. Existing law requires all communications with a panel QME before a medical evaluation to be in writing served on the opposing party 20 days in advance of the evaluation, and any subsequent communication with the QME to be in writing and served on the opposing party when the communication is sent to the QME.

This bill would require, for medical-legal evaluations with a date of service on or after January 1, 2027, the administrative director to develop and make available a joint medical evaluation request form to be used by all parties in communicating with a panel qualified medical evaluator in advance of an evaluation obtained pursuant to the above

provisions. The bill would require the administrative director to develop and make available a template QME report form, which will include all necessary statutory and regulatory requirements for a complete QME report that constitutes substantial evidence. The bill would require the Division of Workers' Compensation to adopt regulations to implement these provisions by January 1, 2027.

~~Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of employment. Existing law sets forth methods for computing average annual earnings and minimums and maximum values in disability cases.~~

~~This bill would make a technical, nonsubstantive change to a those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4062.3 of the Labor Code is amended to
2 read:
3 4062.3. (a) Any party may provide to the qualified medical
4 evaluator selected from a panel any of the following information:
5 (1) Records prepared or maintained by the employee's treating
6 physician or physicians.
7 (2) Medical and nonmedical records relevant to determination
8 of the medical issue.
9 (b) Information that a party proposes to provide to the qualified
10 medical evaluator selected from a panel shall be served on the
11 opposing party 20 days before the information is provided to the
12 evaluator. If the opposing party objects to consideration of
13 nonmedical records within 10 days thereafter, the records shall
14 not be provided to the evaluator. Either party may use discovery
15 to establish the accuracy or authenticity of nonmedical records
16 prior to the evaluation.
17 (c) If an agreed medical evaluator is selected, as part of their
18 agreement on an evaluator, the parties shall agree on what
19 information is to be provided to the agreed medical evaluator.
20 (d) In any formal medical evaluation, the agreed or qualified
21 medical evaluator shall identify the following:

1 (1) All information received from the parties.

2 (2) All information reviewed in preparation of the report.

3 (3) All information relied upon in the formulation of ~~his or her~~
4 *their* opinion.

5 (e) All communications with a qualified medical evaluator
6 selected from a panel before a medical evaluation shall be in
7 writing and shall be served on the opposing party 20 days in
8 advance of the evaluation. Any subsequent communication with
9 the medical evaluator shall be in writing and shall be served on
10 the opposing party when sent to the medical evaluator.

11 (f) Communications with an agreed medical evaluator shall be
12 in writing, and shall be served on the opposing party when sent to
13 the agreed medical evaluator. Oral or written communications with
14 physician staff or, as applicable, with the agreed medical evaluator,
15 relative to nonsubstantial matters such as the scheduling of
16 appointments, missed appointments, the furnishing of records and
17 reports, and the availability of the report, do not constitute ex parte
18 communication in violation of this section unless the appeals board
19 has made a specific finding of an impermissible ex parte
20 communication.

21 (g) Ex parte communication with an agreed medical evaluator
22 or a qualified medical evaluator selected from a panel is prohibited.
23 If a party communicates with the agreed medical evaluator or the
24 qualified medical evaluator in violation of subdivision (e), the
25 aggrieved party may elect to terminate the medical evaluation and
26 seek a new evaluation from another qualified medical evaluator
27 to be selected according to Section 4062.1 or 4062.2, as applicable,
28 or proceed with the initial evaluation.

29 (h) The party making the communication prohibited by this
30 section shall be subject to being charged with contempt before the
31 appeals board and shall be liable for the costs incurred by the
32 aggrieved party as a result of the prohibited communication,
33 including the cost of the medical evaluation, additional discovery
34 costs, and attorney's fees for related discovery.

35 (i) Subdivisions (e) and (g) shall not apply to oral or written
36 communications by the employee or, if the employee is deceased,
37 the employee's dependent, in the course of the examination or at
38 the request of the evaluator in connection with the examination.

39 (j) Upon completing a determination of the disputed medical
40 issue, the medical evaluator shall summarize the medical findings

1 on a form prescribed by the administrative director and shall serve
2 the formal medical evaluation and the summary form on the
3 employee and the employer. The medical evaluation shall address
4 all contested medical issues arising from all injuries reported on
5 one or more claim forms prior to the date of the employee's initial
6 appointment with the medical evaluator.

7 (k) If, after a medical evaluation is prepared, the employer or
8 the employee subsequently objects to any new medical issue, the
9 parties, to the extent possible, shall utilize the same medical
10 evaluator who prepared the previous evaluation to resolve the
11 medical dispute.

12 (l) No disputed medical issue specified in subdivision (a) may
13 be the subject of declaration of readiness to proceed unless there
14 has first been an evaluation by the treating physician or an agreed
15 or qualified medical evaluator.

16 (m) *For medical-legal evaluation dates of service occurring on*
17 *or after January 1, 2027, the parties shall communicate with and*
18 *provide information to the panel qualified medical evaluator in*
19 *the manner prescribed by the administrative director pursuant to*
20 *Section 4062.4.*

21 *SEC. 2. Section 4062.4 is added to the Labor Code, to read:*

22 4062.4. (a) *The administrative director shall develop and make*
23 *available a template qualified medical evaluator (QME) report*
24 *form, which shall include all necessary statutory and regulatory*
25 *requirements for a complete report that constitutes substantial*
26 *evidence.*

27 (b) *The administrative director shall develop and make available*
28 *a joint medical evaluation request form to be used by all parties*
29 *in communicating with a panel qualified medical evaluator in*
30 *advance of an evaluation obtained pursuant to Section 4062.1 or*
31 *4062.2.*

32 (c) *The administrative director shall establish a method for*
33 *evaluating the quality of QME reporting pursuant to Sections 4060,*
34 *4061, and 4062, which shall include, but not be limited to,*
35 *collection of final orders by the Workers' Compensation Appeals*
36 *Board or a workers' compensation administrative law judge that*
37 *a QME report is incomplete or insubstantial evidence on the issue*
38 *of permanent disability or apportionment, or both.*

39 (d) *The Division of Workers' Compensation, acting in*
40 *accordance with the Administrative Procedure Act (Chapter 3.5*

1 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
2 *2 of the Government Code), shall adopt regulations to implement*
3 *this chapter with an effective date of no later than January 1, 2027.*

4 SECTION 1. ~~Section 4452 of the Labor Code is amended to~~
5 ~~read:~~

6 ~~4452. Four times the average annual earnings shall be taken~~
7 ~~at not less than four thousand eight hundred dollars and sixty-four~~
8 ~~cents (\$4,800.64) nor more than fifteen thousand two hundred~~
9 ~~dollars and sixty-four cents (\$15,200.64) in disability cases, and~~
10 ~~in death cases shall be taken at not less than the minimum nor more~~
11 ~~than the maximum limits as provided in Section 4702.~~