

**STATE OF CALIFORNIA  
DEPARTMENT OF INDUSTRIAL RELATIONS  
DIVISION OF WORKERS' COMPENSATION**

**FINAL STATEMENT OF REASONS AND  
UPDATED INFORMATIVE DIGEST**

**Subject Matter of Regulations: Workers' Compensation – Predesignation of Personal Physician; Request for Change of Physician**

**TITLE 8, CALIFORNIA CODE OF REGULATIONS  
Sections 9780 et seq.**

The Administrative Director of the Division of Workers' Compensation, pursuant to the authority granted by Labor Code Sections 59, 133, 4603.5, and 5307.3, has adopted Article 5 of Chapter 4.5, Subchapter 1, of Title 8, California Code of Regulations, commencing with Section 9780:

Section 9780	Definitions.
Section 9780.1	Employee's Predesignation of Personal Physician.
Repeal Section 9780.2	Employer's Duty to Provide First Aid and Emergency Treatment.
Section 9781	Employee's Request for Change of Physician.
Section 9782	Notice to Employee of Right to Choose Physician.
Section 9783	DWC Form 9783 Predesignation of Personal Physician.
Section 9783.1	DWC Form 9783.1 Notice of Personal Chiropractor or Personal Acupuncturist.
Repeal Section 9784	Duties of the Employer.

**UPDATED INFORMATIVE DIGEST**

There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Regulatory Action.

**UPDATE OF INITIAL STATEMENT OF REASONS**

As authorized by Government Code §11346.9(d), the Administrative Director incorporates the Initial Statement of Reasons prepared in this matter. The purposes and rationales for the regulations as set forth in the Initial Statement of Reasons continue to apply.

**THE FOLLOWING NON-SUBSTANTIVE / CORRECTIONS WITHOUT REGULATORY EFFECT WERE MADE TO THE TEXT OF THE REGULATIONS AFTER THE CLOSE OF THE FINAL COMMENT PERIOD**

**1. Section 9780.1 Employee's Predesignation of Personal Physician.**

Two errors were corrected in subdivision (i). The word "Provided" was corrected to state "Provider." The words "that was made" were inserted into the second sentence to improve the syntax: "Upon provision of the documented agreement that was made prior to injury that meets the conditions of Labor Code section 4600(d), the employer or claims administrator shall authorize treatment with the employee's predesignated physician as set forth in subdivision (g)."

**2. Section 9783 DWC Form 9783 Predesignation of Personal Physician**

First, the designation of a D.O as a "doctor of osteopathy" is inaccurate. Therefore, this has been changed to reflect the correct designation of a D.O. to a "doctor of osteopathic medicine."

Second, an additional sentence has been added to the Predesignation of Personal Physician form in order to clarify the type of physician who is eligible to be predesignated by the employee. This added sentence is in the definition section of the regulations at 9780(g), however, placing this sentence in DWC Form 9783 as well will be a ready reference to remind the employee of the requirements of predesignation. Therefore, this portion of DWC Form 9783 reads as follows: the doctor is your regular physician who shall be either a physician who has limited his or her practice of medicine to general practice or who is a board-certified or board-eligible internist, pediatrician, obstetrician-gynecologist, or family practitioner, and has previously directed your medical treatment, and retains your medical records (the remainder of this section is the same).

**THE FOLLOWING NON-SUBSTANTIVE / CORRECTIONS WITHOUT REGULATORY EFFECT WERE MADE TO THE TEXT OF THE REGULATIONS AFTER REVIEW BY THE OFFICE OF ADMINISTRATIVE LAW**

The name of the article was corrected. Strike-out and underlining formatting was corrected. A cross-reference was corrected. Omitted words were added, minor wording changes were made for added clarity, and the references to "MPN" were changed to "Medical Provider Network." The noted effective date of the forms was changed from January to March.

## **UPDATE OF MATERIAL RELIED UPON**

No additional documents beyond those identified in the Initial Statement of Reasons were relied upon by the Administrative Director except that public comments received were taken into consideration when finalizing the regulations.

## **LOCAL MANDATES DETERMINATION**

- Local Mandate: None. The proposed regulations will not impose any new mandated programs or increased service levels on any local agency or school district.
- Cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None. Local agencies in their capacity as employers are required to provide medical care in the workers' compensation system. Predesignation of a personal physician is not a new feature. These regulations implement new statutory conditions that must be satisfied in order to designate a personal physician.
- Other nondiscretionary costs/savings imposed upon local agencies: None.

## **CONSIDERATION OF ALTERNATIVES**

The Division considered all comments submitted during the public comment periods, and made modifications based on those comments to the regulations as initially proposed. The Administrative Director has now determined that no alternatives proposed by the regulated public or otherwise considered by the Division of Workers' Compensation would be more effective in carrying out the purpose for which these regulations were proposed, nor would they be as effective as and less burdensome to affected private persons and businesses than the regulations that were adopted.

## **SUMMARY OF COMMENTS RECEIVED AND RESPONSES THERETO CONCERNING THE REGULATIONS ADOPTED**

The summaries and responses to comments of each organization or individual which were received during the 45 day comment period are contained in tab L of the rulemaking file and are incorporated by reference herein.

The public comment period was as follows:

Initial 45-day comment period on proposed regulations:

October 28, 2005 through December 15, 2005.

## **EARLY EFFECTIVE DATE REQUEST**

The Administrative Director requests that the regulations become effective upon filing with the Secretary of State. Good cause is as follows:

The amendments to Labor Code section 4600 made substantial changes to the rules pertaining to predesignation. Many predesignations made under the former law will no longer satisfy the new requirements; however, employees are not aware of the changes to the law. The proposed regulations clarify how the new rules will be interpreted and provide an optional predesignation form. It is important that all California workers know how to properly predesignate a personal physician. This information must be given to a worker as soon as possible because if the worker fails to properly predesignate a personal physician *prior* to injury, he or she will not be able to do so after the injury occurs. If an injured worker does not properly predesignate his or her personal physician, the employer will have the control over the employee's medical treatment for the first thirty days from the date the injury is reported. Alternatively, if the employee whose employer has a medical provider network fails to properly designate his or her personal physician, the employee will not be allowed to treat with his or her personal physician, but will instead be required to treat within the Medical Provider Network for the course of the injury. Also, use of the optional form will help prevent disputes regarding whether an employee has properly predesignated a personal physician.

By definition, an employee's personal physician knows the worker's medical history as well as personal history, may speak the same language, and is able to make medical decisions based on a prior history of treating the injured worker. By going to his or her personal physician for an industrial injury, that worker will not experience any delay in treatment that can occur when treating with a new physician who may have to spend time waiting for medical records, taking an extensive medical history, or ordering new medical tests of a patient the physician is seeing for the first time. Being able to be treated with one's personal physician has the positive effect of enhancing continuity of care and being treated in familiar surroundings may enhance recovery.

To date, the Division of Workers' Compensation has received complaints from employees who have been told that they have not properly predesignated or that they are not allowed to predesignate their personal physicians. Additionally, many employers and claims administrators have developed their own predesignation forms. Some of these forms have gone beyond the statutory language to require a predesignated physician to sign a form agreeing to be predesignated. Others have included onerous language which discourages a physician from participating as a predesignated physician (for example, one form has included "at will" language which the physician was reluctant to sign). This has the detrimental effect of impeding a worker's right to be treated for an industrial injury by his or her personal physician.

Employees, employers and claims administrators must be given guidance on how to properly predesignate a personal physician as soon as possible. Because of the strict time frames involved and the fact that the ability to predesignate is lost once an injury occurs, without proper guidance in the form of the predesignation regulations, the injured worker will lose his or her right to direct and be a partner in the treatment of their industrial injury. Consequently, it is important that the regulations go into effect as soon as possible (effective upon filing with the Secretary of State).