

Title 8, California Code of Regulations
Chapter 4.5
Subchapter 1
Administrative Director – Administrative Rules
Article 5
Trasfer of Medical Treatment

Section 9785. Reporting Duties of the Primary Treating Physician.

- (a) For the purposes of this section, the following definitions apply:
- (1) The "primary treating physician" is the physician who is primarily responsible for managing the care of an injured employee, and who has examined the employee at least once for the purpose of rendering or prescribing treatment and has monitored the effect of the treatment thereafter. The primary treating physician is the physician selected by the employer or the employee pursuant to Article 2 (commencing with section 4600) of Chapter 2 of Part 2 of Division 4 of the Labor Code, or under the contract or procedures applicable to a Health Care Organization certified under section 4600.5 of the Labor Code.
 - (2) A "secondary physician" is any physician other than the primary treating physician who examines or provides treatment to the ~~injured~~ employee, but is not primarily responsible for continuing management of the care of the ~~injured~~ employee.
 - (3) "Claims administrator" is a self-administered insurer providing security for the payment of compensation required by Divisions 4 and 4.5 of the Labor Code, a self-administered self-insured employer, or a third-party administrator for a self-insured employer, insurer, legally uninsured employer, or joint powers authority.
 - (4) "Medical determination" means, for the purpose of this section, a decision made by the primary treating physician regarding any and all medical issues necessary to determine the employee's eligibility for compensation. Such issues include but are not limited to the scope and extent of an employee's continuing medical treatment, the point in time at which the employee has reached permanent and stationary status, and the necessity for future medical treatment.
 - (5) "Released from care" means a determination by the primary treating physician that the employee's condition has reached a permanent and stationary status with no need for continuing or future medical treatment.
 - (6) "Continuing medical treatment" is presently planned treatment that is reasonably required to cure or relieve the employee from the effects of the injury.

- (7) “Future medical treatment” is treatment which is not presently planned to cure or relieve the employee from the effects of the injury, but may be required or anticipated at some time in the future.
- (8) “Permanent and stationary status” is the point in time, determined by the primary treating physician, when the employee has reached maximum medical improvement or his or her condition has been stationary for a reasonable period of time.
- (b)(1) An employee shall have no more than one primary treating physician at a time.
- (2) An employee may designate a new primary treating physician of his or her choice pursuant to Labor Code §§ 4600 or 4600.3 provided the primary treating physician has determined that there is a need for:
- (A) continuing treatment; or
- (B) future medical treatment. The employee may designate a new primary treating physician to render future medical treatment either prior to or at the time such treatment becomes necessary.
- (3) If the employee disputes a medical determination made by the primary treating physician, including a determination that the employee should be released from care, the dispute shall be resolved under the applicable procedures set forth at Labor Code §§ 4061 and 4062. No other primary treating physician shall be designated by the employee unless and until the dispute is resolved.
- (4) If the claims administrator disputes a medical determination made by the primary treating physician, the dispute shall be resolved under the applicable procedures set forth at Labor Code §§ 4061 and 4062. During the course of such procedures, and provided the primary treating physician has determined that there is a need for continuing or future treatment, the employee may designate a new primary treating physician of his or her choice pursuant to Labor Code §§ 4600 or 4600.3 to render treatment.
- ~~(b) There shall be no more than one primary treating physician at a time. Where the primary treating physician discharges the employee from further treatment and there is a dispute concerning the need for continuing treatment, no other primary treating physician shall be identified unless and until the dispute is resolved. If it is determined that there is no further need for continuing treatment, then the physician who discharged the employee shall remain the primary treating physician. If it is determined that there is further need for continuing treatment, a new primary treating physician may be selected.~~
- (c) The primary treating physician, or a physician designated by the primary treating physician, shall make reports to the claims administrator as required in this section. A primary treating physician has fulfilled his or her reporting duties under this section by sending one copy of a required report to the claims administrator, and one copy to the

employee. However, if the employee is known to be represented, the employee's copy shall be sent to the employee's attorney. However, a A claims administrator may designate any person or entity to be the recipient of the its copy of the required report.

- (d) The primary treating physician shall render opinions on all medical issues necessary to determine the employee's eligibility for compensation in the manner prescribed in ~~subsections~~ subdivisions (e), (f) and (g) of this section. The primary treating physician may transmit reports to the claims administrator and to the employee or, if the employee is known to be represented, to the employee's attorney by mail or FAX or by any other means satisfactory to the claims administrator, employee or employee's attorney, including electronic transmission.
- (e)(1) Within 5 working days following initial examination, a primary treating physician shall submit a written report to the claims administrator on the form entitled "Doctor's First Report of Occupational Injury or Illness," Form DLSR 5021. Emergency and urgent care physicians shall also submit a Form DLSR 5021 to the claims administrator following the initial visit to the treatment facility. On line 24 of the Doctor's First Report, or on the reverse side of the form, the physician shall (A) list methods, frequency, and duration of planned treatment(s), (B) specify planned consultations or referrals, surgery or hospitalization and (C) specify the type, frequency and duration of planned physical medicine services (e.g., physical therapy, manipulation, acupuncture).
- (2) Each new primary treating physician shall submit a Form DLSR 5021 following the initial examination in accordance with subdivision (e)(1).
- (3) Secondary physicians, physical therapists, and other health care providers to whom the ~~injured~~ employee is referred shall report to the primary treating physician in the manner required by the primary treating physician.
- (4) The primary treating physician shall be responsible for obtaining all of the reports of secondary physicians and shall promptly incorporate, or comment upon, the findings and opinions of the other physicians in the primary treating physician's report and submit all of the reports to the claims administrator, and to the employee, or if the employee is known to be represented, to the employee's attorney.
- (f) A primary treating physician shall promptly report to the claims administrator and to the employee, or if the employee is known to be represented, to the employee's attorney when any one or more of the following occurs:
 - (1) The employee's condition undergoes a previously unexpected significant change;
 - (2) There is any significant change in the treatment plan reported, including, but not limited to, (A) an extension of duration or frequency of treatment, (B) a new need for hospitalization or surgery, (C) a new need for referral to or consultation by another physician, (D) a change in methods of treatment or in required physical medicine

services, or (E) a need for rental or purchase of durable medical equipment or orthotic devices;

- (3) The employee's condition permits return to modified or regular work;
- (4) The employee's condition requires him or her to leave work, or requires changes in work restrictions or modifications;
- (5) The employee is released from care ~~discharged~~;
- (6) The primary treating physician concludes that the employee's permanent disability precludes, or is likely to preclude, the employee from engaging in the employee's usual occupation or the occupation in which the employee was engaged at the time of the injury, as required pursuant to Labor Code Section 4636(b);
- (7) The ~~claims administrator~~ ~~employer~~ reasonably requests appropriate additional ~~appropriate~~ information that is necessary to administer the claim. "Necessary" information is that which directly affects the provision of compensation benefits as defined in Labor Code Section 3207.
- (8) When continuing ~~ongoing~~ treatment is provided, a progress report shall be made no later than forty-five days from the last report of any type under this section even if no event described in paragraphs (1) to (7) has occurred. If an examination has occurred, the report shall be signed and transmitted within 20 days of the examination.

Except for a response to a request for information made pursuant to subdivision (f)(7), rReports required under this subdivision shall be submitted on the "Primary Treating Physician's Progress Report" form (Form PR-2) contained in Section 9785.2, or in the form of a narrative report. If a narrative report is used, it must be entitled "Primary Treating Physician's Progress Report" in bold-faced type, must indicate clearly the reason the report is being submitted, and must contain the same information using the same subject headings in the same order as Form PR-2. A response to a request for information made pursuant to subdivision (f)(7) may be made in letter format. A narrative report and a letter format response to a request for information must contain the same declaration under penalty of perjury that is set forth in the Form PR-2: "I declare under penalty of perjury that this report is true and correct to the best of my knowledge and that I have not violated Labor Code § 139.3."

By mutual agreement between the physician and the claims administrator, the physician may make reports in any manner and form.

- (g) When the primary treating physician determines that the employee's condition is permanent and stationary, the physician shall promptly report any findings concerning the existence and extent of permanent impairment and limitations and any need for continuing and/or future medical care resulting from the injury. The information may be

submitted on the "Primary Treating Physician's Permanent and Stationary Report" form (Form PR-3) contained in Section 9785.3, or using the instructions on the form entitled "Treating Physician's Determination of Medical Issues Form," Form IMC 81556, or in such other manner as provides all the information required by Title 8, California Code of Regulations, Section 10606. Qualified Medical Evaluators and Agreed Medical Evaluators may not use Form PR-3 to report medical-legal evaluations.

- (h) Any controversies concerning this section shall be resolved pursuant to Labor Code Section 4603 or 4604, whichever is appropriate.
- (i) Claims administrators shall reimburse primary treating physicians for their reports submitted pursuant to this section as required by the Official Medical Fee Schedule.

Note: Authority Cited: Sections 139.5, 4061.5, 4603.2, 4603.5 and 5307.3, Labor Code.
Reference: Sections 4061, 4061.5, 4062, 4600, 4600.3, 4603.2 and 4636, Labor Code.

[Section 9785.2 PRIMARY TREATING PHYSICIAN'S PROGRESS REPORT \(PR-2\)](#)

[Section 9785.3 PRIMARY TREATING PHYSICIAN'S PERMANENT AND STATIONARY REPORT \(PR-3\)](#)

Section 9786. Petition for Change of Primary Treating Physician.

- (a) A claims administrator desiring a change of primary treating physician pursuant to Labor Code Section 4603 shall file with the Administrative Director a petition, verified under penalty of perjury, on the "Petition for Change of Primary Treating Physician" form (DWC-Form 280 (Part A)) contained in Section 9786.1.

The petition shall be accompanied by supportive documentary evidence relevant to the specific allegations raised. A proof of service by mail declaration shall be attached to the petition indicating that (1) the completed petition (Part A), (2) the supportive documentary evidence and (3) a blank copy of the "Response to Petition for Change of Primary Treating Physician", (DWC-Form 280 (Part B)), were served on the employee or, the employee's attorney, and the employee's current primary treating physician.

- (b) Good cause to grant the petition shall be clearly shown by verified statement of facts, and, where appropriate, supportive documentary evidence. Good cause includes, but is not limited to any of the following:
 - (1) The primary treating physician has failed to comply with Section 9785, subdivisions (e), (f) (1-7), or (g) subdivision (e) or (f)(1-7) of Section 9785 by not timely submitting a required report or submitting a report which is inadequate due to material omissions or deficiencies;
 - (2) The primary treating physician has failed to comply with subdivision (f)(8) of Section 9785 by failing to submit timely or complete progress reports on two or more occasions;

within the 12-month period immediately preceding the filing of the petition;

- (3) A clear showing that the current treatment is not consistent with the treatment plan submitted pursuant to Section 9785, subdivisions (e) or (f) ~~(2)~~ ;
 - (4) A clear showing that the primary treating physician or facility is not within a reasonable geographic area as determined by Section 9780(e).
 - (5) A clear showing that the primary treating physician has a possible conflict of interest, including but not limited to a familial, financial or employment relationship with the employee, which has a significant potential for interfering with the physician's ability to engage in objective and impartial medical decision making.
- (c)(1) Where good cause is based on inadequate reporting under subdivisions (b)(1) or (b)(2), the petition must show, by documentation and verified statement, that the claims administrator notified the primary treating physician or facility in writing of the complete requirements of Section 9785 prior to the physician's failure to properly report.
- (2) Good cause shall not include a showing that current treatment is inappropriate or that there is no present need for medical treatment to cure or relieve from the effects of the injury or illness. The claims administrator's contention that current treatment is inappropriate, or that the employee is no longer in need of medical treatment to cure or relieve from the effects of the injury or illness should be directed to the Workers' Compensation Appeals Board, not the Administrative Director, in support of a Petition for Change of Primary Treating Physician.
- (3) Where an allegation of good cause is based upon failure to timely issue the "Doctor's First Report of Occupational Injury or Illness," Form DLSR 5021, within 5 working days of the initial examination pursuant to Section 9785(e)(1) or (e)(2), the petition setting forth such allegation shall be filed within 90 days of the initial examination.
- (4) The failure to verify a letter response to a request for information made pursuant to Section 9785(f)(7), failure to verify a narrative report submitted pursuant to Section 9785(f)(8), or failure of the narrative report to conform to the format requirements of Section 9785(f)(8) shall not constitute good cause to grant the petition unless the claims administrator submits documentation showing that the physician was notified of the deficiency in the verification or reporting format and allowed a reasonable time to correct the deficiency.
- (d) The employee, his or her attorney, and/or the primary treating physician may file with the Administrative Director a response to said petition, provided the response is verified under penalty of perjury and is filed and served on the claims administrator and all other parties no later than 20 days after service of the petition. The response may be accompanied by supportive documentary evidence relevant to the specific allegations raised in the petition. The response may be filed using the "Response to Petition for Change of Primary Treating Physician" form (DWC-Form 280 (Part B)) contained in

Section 9786.1. Where the petition was served by mail, the time for filing a response shall be extended pursuant to the provisions of Code of Civil Procedure Section 1013. Unless good cause is shown, no other document will be considered by the Administrative Director except for the petition, the response, and supportive documentary evidence.

- (e) The Administrative Director shall, within 45 days of the receipt of the petition, either:
 - (1) Dismiss the petition, without prejudice, for failure to meet the procedural requirements of this Section;
 - (2) Deny the petition pursuant to a finding that there is no good cause to require the employee to select a primary treating physician from the panel of physicians provided in the petition;
 - (3) Grant the petition and issue an order requiring the employee to select a physician from the panel of physicians provided in the petition, pursuant to a finding that good cause exists therefor;
 - (4) Refer the matter to the Workers' Compensation Appeals Board for hearing and determination by a Workers' Compensation Administrative Law Judge of such factual determinations as may be requested by the Administrative Director; or
 - (5) Issue a Notice of Intention to Grant the petition and an order requiring the submission of additional documents or information.
- (f) The claims administrator's liability to pay for medical treatment by the primary treating physician shall continue until an order of the Administrative Director issues granting the petition.
- (g) The Administrative Director may extend the time specified in subdivision (e) within which to act upon the claims administrator's petition for a period of 30 days and may order a party to submit additional documents or information.
- (h) ~~Amendments to subdivision (b) filed in 1993 shall apply only where the initial examination occurred on or after October 1, 1993. Subdivision (b) as it existed prior to the effective date of these amendments shall remain in force where the initial examination occurred prior to October 1, 1993.~~

Note: Authority Cited: Sections 133, 139.5, 4603, 4603.2, 4603.5 and 5307.3, Labor Code.
Reference: Sections 4600, 4603, and 4603.2, Labor Code.

Section 9787. Appeal from Administrative Director's Order Granting or Denying Petition for Change of Primary Treating Physician

Any order denying or granting the claims administrator's petition whether issued with or without hearing, shall be final and binding upon the parties unless within ~~30~~ 20 days from service thereof the aggrieved party petitions the Workers' Compensation Appeals Board for relief in the manner prescribed by Section 10950 of the Board's Rules of Practice and Procedure.

Note: Authority Cited: Sections 133, 139.5, 4603, 4603.2, 4603.5 and 5307.3, Labor Code.
Reference: Sections, 4600, 4603, and 4603.2, Labor Code.