

## 1 HOUSE BILL NO. 358

2 INTRODUCED BY M. NOLAND

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING WORKERS' COMPENSATION LAWS PERTAINING TO  
5 MEDICAL RELEASE OR AUTHORIZATION; PERMITTING WORKERS' COMPENSATION INSURERS TO  
6 DENY LIABILITY OR TERMINATE PAYMENTS IF A CLAIMANT FAILS OR REFUSES TO SIGN A RELEASE;  
7 AMENDING SECTIONS 39-71-604 AND 39-71-609, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE  
8 DATE."

9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11

12 **Section 1.** Section 39-71-604, MCA, is amended to read:13 **"39-71-604. Application for compensation -- disclosure and communication without prior notice**

14 **of health care information.** (1) If a worker is entitled to benefits under this chapter, the worker shall file with the  
15 insurer all reasonable information needed by the insurer to determine compensability. It is the duty of the worker's  
16 attending physician to lend all necessary assistance in making application for compensation and proof of other  
17 matters that may be required by the rules of the department without charge to the worker. The filing of forms or  
18 other documentation by the attending physician does not constitute a claim for compensation.

19 (2) A signed claim for workers' compensation or occupational disease benefits authorizes disclosure to  
20 the workers' compensation insurer, as defined in 39-71-116, or to the agent of a workers' compensation insurer  
21 by the health care provider. The disclosure authorized by this subsection authorizes the physician or other health  
22 care provider to disclose or release only information relevant to the claimant's condition. Health care information  
23 relevant to the claimant's condition may include past history of the complaints of or the treatment of a condition  
24 that is similar to that presented in the claim, conditions for which benefits are subsequently claimed, other  
25 conditions related to the same body part, or conditions that may affect recovery. A release of information related  
26 to workers' compensation must be consistent with the provisions of this subsection. Authorization under this  
27 section is effective only as long as the claimant is claiming benefits. This subsection may not be construed to  
28 restrict the scope of discovery or disclosure of health care information, as allowed under the Montana Rules of  
29 Civil Procedure, by the workers' compensation court or as otherwise provided by law.

30 (3) A signed claim for workers' compensation or occupational disease benefits or a signed release

1 authorizes a workers' compensation insurer, as defined in 39-71-116, or the agent of the workers' compensation  
 2 insurer to communicate with a physician or other health care provider about relevant health care information, as  
 3 authorized in subsection (2), by telephone, letter, electronic communication, in person, or by other means, about  
 4 a claim and to receive from the physician or health care provider the information authorized in subsection (2)  
 5 without prior notice to the injured employee, to the employee's authorized representative or agent, or in the case  
 6 of death, to the employee's personal representative or any person with a right or claim to compensation for the  
 7 injury or death. Refusal or failure of the claimant to sign a medical release or authorization that complies with  
 8 Montana law is subject to 39-71-609(2).

9 (4) If death results from an injury, the parties entitled to compensation or someone in their behalf shall  
 10 file a claim with the insurer. The claim must be accompanied with proof of death and proof of relationship,  
 11 showing the parties entitled to compensation, certificate of the attending physician, if any, and such other proof  
 12 as may be required by the department."  
 13

14 **Section 2.** Section 39-71-609, MCA, is amended to read:

15 **"39-71-609. Denial of claim after payments made or termination of all benefits or reduction to**  
 16 **partial benefits by insurer -- 14-day notice required -- failure to sign medical release or authorization --**  
 17 **criteria for conversion of benefits.** (1) Except as provided in subsection ~~(2)~~ (3), if an insurer determines to deny  
 18 a claim on which payments have been made under 39-71-608 during a time of further investigation or, after a  
 19 claim has been accepted, terminates all biweekly compensation benefits, it may do so only after 14 days' written  
 20 notice to the claimant, the claimant's authorized representative, if any, and the department. For injuries occurring  
 21 prior to July 1, 1987, an insurer shall give 14 days' written notice to the claimant before reducing benefits from  
 22 total to partial. However, if an insurer has knowledge that a claimant has returned to work, compensation benefits  
 23 may be terminated as of the time the claimant returned to work.

24 (2) (a) If a claimant refuses or fails to sign a medical release or authorization that complies with Montana  
 25 law, an insurer may:

26 (i) deny liability if liability has not been accepted; or

27 (ii) terminate payment of all compensation benefits if liability has been accepted.

28 (b) The insurer is not under a duty to investigate the claimant's claim for compensation benefits after the  
 29 denial or termination in subsection (2)(a).

30 (c) If a claimant signs a medical release or authorization that complies with Montana law after refusing

1 or failing as specified in subsection (2)(a), the insurer shall:

2 (i) adjust the claimant's claim pursuant to Montana law; and

3 (ii) pay compensation benefits that are appropriate but were denied or terminated because the claimant

4 refused or failed to sign a medical release or authorization.

5 ~~(2)~~(3) Temporary total disability benefits may be terminated on the date that the worker has been  
6 released to return to work in some capacity. Unless the claimant is found, at maximum healing, to be without a  
7 permanent physical impairment from the injury, the insurer, prior to converting temporary total disability benefits  
8 or temporary partial disability benefits to permanent partial disability benefits:

9 (a) must have a physician's determination that the claimant has reached medical stability;

10 (b) must have a physician's determination of the claimant's physical restrictions resulting from the  
11 industrial injury;

12 (c) must have a physician's determination, based on the physician's knowledge of the claimant's job  
13 analysis prepared by a rehabilitation provider, that the claimant can return to work, with or without restrictions,  
14 on the job on which the claimant was injured or on another job for which the claimant is suited by age, education,  
15 work experience, and physical condition;

16 (d) shall give notice to the claimant of the insurer's receipt of the report of the physician's determinations  
17 required pursuant to subsections ~~(2)(a)~~ (3)(a) through ~~(2)(e)~~ (3)(c). The notice must be attached to a copy of the  
18 report."

19

20 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

21

- END -