

TITLE 8. INDUSTRIAL RELATIONS
DIVISION 1. DEPARTMENT OF INDUSTRIAL RELATIONS
CHAPTER 4.5. DIVISION OF WORKERS' COMPENSATION
SUBCHAPTER 1. ADMINISTRATIVE DIRECTOR -- ADMINISTRATIVE
RULES

ARTICLE 5. TRANSFER OF MEDICAL TREATMENT

ARTICLE 5.

**Transfer of Medical Treatment Predesignation of Personal Physician;
Request for Change of Physician;**

Section 9780. Definitions.

As used in this Article:

~~(a) "Employer" includes insurers as defined in Division 4 of the Labor Code, and any person performing the duties of an employer under Division 4, Part 2, Chapter 2, Article 2 of the Labor Code, or this Article;~~

(a) "Emergency health care services" means health care services for a medical condition manifesting itself by acute symptoms of sufficient severity such that the absence of immediate medical attention could reasonably be expected to place the patient's health in serious jeopardy.

~~(b) "Employee" includes an attorney or other representative authorized by the employee to exercise any right under Division 4, Part 2, Chapter 2, Article 2 of the Labor Code, or this Article.~~

(b) "Claims Administrator" means 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, a self-administered joint powers authority, a self-administered legally uninsured, or a third-party claims administrator for a self-insured employer, insurer, legally uninsured employer, or joint powers authority.

~~(e) "Physician" has the meaning defined in Labor Code section 3209.3;~~

(c) ~~(d)~~ "Facility" means a hospital, clinic or other institution capable of providing the medical, surgical, chiropractic or hospital treatment which is reasonably required to cure or relieve the employee from the effects of the injury.

(d) ~~(f)~~ "First aid" is any one-time treatment, and any a follow-up visit for the purpose of observation of minor scratches, cuts, burns, splinters, etc., which do not ordinarily require medical care. Such one-time treatment, and follow-up visit

for the purpose of observation, is considered first aid, even though provided by a physician or registered professional personnel.

(e) "Nonoccupational group health coverage" means coverage for nonoccupational health care that the employer makes available to the employee, including, but not limited to, a Taft Hartley or Employee Retirement Income Security Act (ERISA) trust, or a health plan negotiated between a union or employee's association and the employer or employer's association.

(f) ~~(h)~~ "Personal physician" means a doctor of medicine, or a doctor of osteopathy, who prior to the injury has directed the medical treatment of the employee and who retains the employee's medical records and medical history. "Personal physician" includes a corporation, partnership or association of such doctors of medicine or osteopathy. (1) the employee's regular physician and surgeon, licensed pursuant to Chapter 5 (commencing with section 2000) of Division 2 of the Business and Professions Code, (2) who has been the employee's primary care physician, and has previously directed the medical treatment of the employee, and (3) who retains the employee's medical records, including the employee's medical history.

(g) "Emergency treatment" is that medical treatment reasonably required by an injured employee immediately following an industrial injury or illness, which, if delayed, could decrease the likelihood of maximum recovery.

(g) "Primary Care Physician" means a physician who has the responsibility for providing initial and primary care to patients, for maintaining the continuity of patient care, and for initiating referral for specialist care. A primary care physician 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.

(h) ~~(e)~~ "Reasonable geographic area" within the context of Labor Code section 4600 shall be determined by giving consideration to:

- (1) The employee's ~~domicile~~ place of residence, place of employment and place where the injury occurred; and
- (2) The availability of physicians in the fields of practice, and facilities offering treatment reasonably required to cure or relieve the employee from the effects of the injury;
- (3) The employee's medical history;
- (4) The employee's primary language.

(i) "Employee selected physician" includes personal physician and physician or facility selected by the employee more than 30 days from the date the injury is reported.

Authority: Sections 59, ~~124, 127, 133, and 138.2, 138.3, 138.4, 139, 139.5, 139.6, 4600, 4601, 4602, 4603, 4603.2, 4603.5, 5307.3, 5402, 5450, 5451, 5452, 5453, 5454, and 5455,~~ Labor Code.

Reference: ~~Chapters 442, 709, and 1172, Statutes of 1977; Chapter 1017, Statutes of 1976; Chapters 1099 and 1259, Statutes of 1975; Section 4600, Labor Code.~~

Section 9780.1. Employee's Predesignation ~~Employee Selection of Personal Physician~~ .

~~If an employee wishes to be treated by a "personal physician" selected pursuant to Labor Code Section 4600, the employee shall notify his employer in writing. The notice need not be in any particular form, and may be in a form reasonably required by the employer and shall advise the employer of the name and address of such personal physician. Nothing in this Article shall prohibit an employer from permitting an injured employee to be treated by a physician of the employee's choice.~~

(a) An employee may be treated for an industrial injury in accordance with section 4600 of the Labor Code by a personal physician that the employee predesignates prior to the industrial injury if the following three conditions are met:

- (1) Notice of the predesignation of a personal physician is in writing, and is provided to the employer prior to the industrial injury for which treatment by the personal physician is sought. The notice shall include the personal physician's name and business address. The employee may use the optional predesignation form (DWC Form 9783) in section 9783 for this purpose.
- (2) The employer provides: (i) nonoccupational group health coverage in a health care service plan, licensed pursuant to Chapter 2.2 (commencing with section 1340) of Division 2 of the Health and Safety Code, or (ii) nonoccupational health coverage in a group health plan or a group health insurance policy as described in section 4616.7. The employer's provision of health coverage as defined herein is sufficient to meet this requirement, regardless of whether the employee accepts or participates in this health coverage.
- (3) The employee's personal physician agrees to be predesignated prior to the injury. The personal physician may sign the optional predesignation form (DWC Form 9783) in section 9783 as documentation of such agreement. The physician may authorize a designated employee of the physician to sign the optional predesignation form on his or her behalf. If the personal physician or the designated employee of the physician does not sign a predesignation form, there must be other documentation that the physician agrees to be predesignated prior to the injury in order to satisfy this requirement.

(b) If an employee has predesignated a personal physician prior to the effective date of these regulations, such predesignation shall be considered valid if the conditions in subdivision (a) have been met.

(c) Where an employer or an employer's insurer has a Medical Provider Network pursuant to section 4616 of the Labor Code, an employee's predesignation which has been made in accordance with this section shall be valid and the employee shall not be subject to the Medical Provider Network.

(d) Where an employee has made a valid predesignation pursuant to this section, and where the employer or employer's insurer has a Medical Provider Network, any referral to another physician for other treatment need not be within the Medical Provider Network.

(e) An employer who qualifies under (a)(2) of this section shall notify its employees of all of the requirements of this section and provide its employees with an optional form for predesignating a personal physician, in accordance with section 9880. The employer may use the predesignation form (DWC Form 9783) in section 9783 for this purpose.

(f) Unless the employee agrees, neither the employer nor the claims administrator shall contact the predesignated personal physician to confirm predesignation status or contact the personal physician regarding the employee's medical information or medical history prior to the personal physician's commencement of treatment for an industrial injury.-

(g) Where the employer has been notified of an employee's predesignation of a personal physician in accordance with this section and where the employer becomes liable for an employee's medical treatment, the claims administrator shall:

- (1) authorize the predesignated physician to provide all medical treatment reasonably required to cure or relieve the injured employee from the effects of his or her injury;
- (2) furnish the name and address of the person to whom billing for treatment should be sent;
- (3) where there has been treatment of an injury prior to commencement of treatment by the predesignated physician, arrange for the delivery to the predesignated physician of all medical information relating to the claim, all X-rays, the results of all laboratory studies done in relation to the injured employee's treatment; and
- (4) provide the physician with (1) the fax number, if available, to be used to request authorization of treatment plans; (2) the complete requirements of section 9785; and (3) the forms set forth in sections 9785.2 and 9785.4. In

lieu of providing the materials required in paragraphs (2) and (3), the claims administrator may refer the physician to the Division of Workers' Compensation's website where the applicable information and forms can be found at http://www.dir.ca.gov/DWC/dwc_home_page.htm.

(h) Notwithstanding subdivision (f), the employer shall provide first aid and appropriate emergency health care services reasonably required by the nature of the injury or illness. Thereafter, if further medical treatment is reasonably required to cure or relieve the injured employee from the effects of his or her injury, the claims administrator shall authorize treatment with the employee's predesignated personal physician in accordance with subdivision (g).

(i) If documentation of a physician's agreement to be predesignated has not been provided to the employer as of the time of injury, treatment shall be provided in accordance with Labor Code section 4600, or Labor Code section 4616, if the employer or insurer has established a Medical Provided Network, as though no predesignation had occurred. Upon provision of the documented agreement 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).

Authority: Sections 124, 127, 59, 133, and 138.2, 138.3, 138.4, 139, 139.5, 139.6, 4600, 4601, 4602, 4603, 4603.2, 4603.5, 5307.3, 5450, 5451, 5452, 5453, 5454, and 5455, Labor Code.

Reference: Chapters 442, 709, and 1172, Statutes of 1977; Chapter 1017, Statutes of 1976.—Sections 3551, 4600, and 4616, Labor Code.

~~Section 9780.2. Employer's Duty to Provide First Aid and Emergency Treatment~~

~~Where an employee has notified his or her employer in writing prior to the date of injury that he or she wishes to be treated by a personal physician pursuant to Labor Code section 4600, and section 9780.1 of this Article, the employer shall continue to have the duty to provide first aid treatment, and appropriate emergency treatment reasonably required by the nature of the injury or illness. Thereafter, if further medical treatment is reasonably necessary, the employee may be treated by his or her personal physician at the expense of the employer.~~

~~Authority cited: Sections 124, 127, 133, 138.2, 138.3, 138.4, 139, 139.5, 139.6, 4600, 4601, 4602, 4603, 4603.2, 4603.5, 5307.3, 5450, 5451, 5452, 5453, 5454, and 5455, Labor Code. Reference: Chapters 442, 709, and 1172, Statutes of 1977; Chapter 1017, Statutes of 1976.~~

Section 9781. Employee's Request for Change of Physician.

An employee's request for change of physician pursuant to section 4601 of the Labor Code need not be in writing. The employer shall respond thereto promptly,

~~and in the manner best calculated to reach the employee, and in no event later than 5 working days from receipt of said request. Except where the employee is permitted to select his or her own physician or facility to provide medical treatment, the employer shall advise the employee of the name and address of the alternative physician, or chiropractor if requested, the date and time of an initial scheduled appointment, and any other pertinent information. The employer may confirm its response in writing.~~

(a) This section shall not apply to self-insured and insured employers who offer a Medical Provider Network pursuant to section 4616 of the Labor Code.

(b) Pursuant to section 4601 of the Labor Code, and notwithstanding the 30 day time period specified in subdivision (c), the employee may request a one time change of physician at any time.

- (1) An employee's request for change of physician pursuant to this subdivision need not be in writing. The claims administrator shall respond to the employee in the manner best calculated to inform the employee, and in no event later than 5 working days from receipt of said request, the claims administrator shall provide the employee an alternative physician, or if the employee so requests, a chiropractor or acupuncturist.
- (2) Notwithstanding subdivision (a) of section 9780.1, if an employee requesting a change of physician pursuant to this subdivision has notified his or her employer in writing prior to the date of injury that he or she has either a personal chiropractor or a personal acupuncturist, and where the employee so requests, the alternative physician tendered by the claims administrator to the employee shall be the employee's personal chiropractor or personal acupuncturist as defined in subdivisions (b) and (c), respectively, of Labor Code section 4601. The notification to the employer must include the name and business address of the chiropractor or acupuncturist. The employer shall notify its employees of the requirements of this subdivision and provide its employees with an optional form for notification of a personal chiropractor or acupuncturist, in accordance with section 9880. DWC Form 9783.1 in section 9783.1 may be used for this purpose.
- (3) Except where the employee is permitted to select a personal chiropractor or acupuncturist as defined in subdivisions (b) and (c), respectively, of Labor Code section 4601, the claims administrator shall advise the employee of the name and address of the alternative physician, or chiropractor or acupuncturist if requested, the date and time of an initial scheduled appointment, and any other pertinent information.

(c) Pursuant to section 4600, after 30 days from the date the injury is reported, the employee shall have the right to be treated by a physician or at a facility of his or her own choice within a reasonable geographic area.

- (1) The employee shall notify the claims administrator of the name and address of the physician or facility selected pursuant to this subdivision. However, this notice requirement will be deemed to be satisfied if the selected physician or facility gives notice to the claims administrator of the commencement of treatment or if the claims administrator receives this information promptly from any source.
- (2) If so requested by the selected physician or facility, the employee shall sign a release permitting the selected physician or facility to report to the claims administrator as required by section 9785.

(d) When the claims administrator is notified of the name and address of an employee-selected physician or facility pursuant to subdivision (c), or of a personal chiropractor or acupuncturist pursuant to paragraph (2) of subdivision (b), the claims administrator shall:

- (1) authorize such physician or facility or personal chiropractor or acupuncturist to provide all medical treatment reasonably required pursuant to section 4600 of the Labor Code;
- (2) furnish the name and address of the person to whom billing for treatment should be sent;
- (3) arrange for the delivery to the selected physician or facility of all medical information relating to the claim, all X-rays and the results of all laboratory studies done in relation to the injured employee's treatment; and
- (4) provide the physician with (1) the fax number, if available, to be used to request authorization of treatment plans; (2) the complete requirements of section 9785; and (3) the forms set forth in sections 9785.2 and 9785.4. In lieu of providing the materials required in paragraphs (2) and (3), the claims administrator may refer the physician to the Division of Workers' Compensation's website where the applicable information and forms can be found at http://www.dir.ca.gov/DWC/dwc_home_page.htm.

Authority: Sections 127, 133, ~~138.2, 138.3, 139.5, 139.6, 4603.2,~~ and 4603.5, 5307.1, 5307.3, 5450-5455, Labor Code.

Reference: Sections 3551, 4600, and 4601, Labor Code.

Section 9782. Notice to Employee of Right to Choose Physician.

(a) Except for an employer who has established a MPN, or an employer whose insurer has established a MPN, Every employer shall advise his its employees in writing of their an employee's right (1) to request a change of treating physician if the original treating physician is selected initially by the employer-pursuant to Labor Code section 4601; , and (2) to be treated by a physician of his or her own choice 30 days after reporting an injury pursuant to subdivision (c) of Labor Code

~~4600.; and to direct initial medical treatment, other than appropriate emergency or first aid treatment, by designating a personal physician and notifying the employer in writing of his or her choice prior to the injury. This duty may be satisfied by incorporating such advice in a notice, if posted in a conspicuous manner at all places of employment, or by any other regularly used means of communicating information to employees.~~

(b) Every employer shall advise its employees in writing of an employee's right to predesignate a personal physician pursuant to subdivision (d) of Labor Code section 4600, and section 9780.1.

(c) The notices required by this section shall be provided in accordance with section 9880 and posted in accordance with section 9881.

Authority: ~~Sections 124, 127, 133, and 138.2, 138.3, 138.4, 139, 139.5, 139.6, 4600, 4601, 4602, 4603, 4603.2, 4603.5, 5307.3, 5450, 5451, 5452, 5453, 5454, and 5455, Labor Code.~~

Reference: ~~Chapters 442, 709, and 1172, Statutes of 1977; Chapter 1017, Statutes of 1976. Sections 3550, 3551, 4600, 4601, and 4616, Labor Code.~~

Section 9783. ~~Duties of the Employee~~ DWC Form 9783 Predesignation of Personal Physician.

[Form.]

~~Upon selecting a treating physician or facility pursuant to Labor Code section 4600 30 days after reporting the injury, the employee shall immediately notify the employer of the name and address of the physician or facility selected. The employee shall not be penalized for failure to so notify the employer if the selected physician or facility promptly gives notice to the employer of the commencement of treatment or if the employer receives this information promptly from any source.~~

~~If so requested by the selected physician or facility, the employee shall sign a release permitting the selected physician or facility to report to the employer as required by these rules.~~

~~Authority: Sections 124, 127, 133, 138.2, 138.3, 138.4, 139, 139.5, 139.6, 4600, 4601, 4602, 4603, 4603.2, 4603.5, 5307.3, 5450, 5451, 5452, 5453, 5454, and 5455, Labor Code.~~

~~Reference: Chapters 442, 709, and 1172, Statutes of 1977; Chapter 1017, Statutes of 1976.~~

Authority: Sections 133, 4603.5, and 5307.3, Labor Code.

Reference: Section 4600, Labor Code.

PREDESIGNATION OF PERSONAL PHYSICIAN

In the event you sustain an injury or illness related to your employment, you may be treated for such injury or illness by your personal medical doctor (M.D.) or doctor of osteopathy (D.O.) if:

- your employer offers group health coverage;
- the doctor is your regular physician, has previously directed your medical treatment, and retains your medical records;
- prior to the injury your doctor agrees to treat you for work injuries or illnesses;
- prior to the injury you provided your employer the following in writing: (1) notice that you want your personal doctor to treat you for a work-related injury or illness, and (2) your personal doctor's name and business address.

You may use this form to notify your employer if you wish to have your personal medical doctor or a doctor of osteopathy treat you for a work-related injury or illness and the above requirements are met.

NOTICE OF PREDESIGNATION OF PERSONAL PHYSICIAN

Employee: Complete this section.

To: _____ (name of employer) If I have a work-related injury or illness, I choose to be treated by:

(name of doctor)(M.D., D.O.)

(street address, city, state, ZIP)

(telephone number)

Employee Name (please print):

Employee's Address:

Employee's
Signature _____

Date: _____

Physician: I agree to this Predesignation:

Signature: _____

Date: _____

(Physician or Designated Employee of the Physician)

The physician is not required to sign this form, however, if the physician or designated employee of the physician does not sign, other documentation of the physician's agreement to be predesignated will be required pursuant to Title 8, California Code of Regulations, section 9780.1(a)(3).

Title 8, California Code of Regulations, section 9783.
(Optional DWC Form 9783-Effective date January 2006)

9783.1. DWC Form 9783.1 Notice of Personal Chiropractor or Personal Acupuncturist.

[Form.]

Authority: Sections 133, 4603.5, and 5307.3, Labor Code.

Reference: Sections 4600, and 4601, Labor Code.

**NOTICE OF PERSONAL CHIROPRACTOR OR PERSONAL
ACUPUNCTURIST**

If your employer or your employer's insurer does not have a Medical Provider Network, you may be able to change your treating physician to your personal chiropractor or acupuncturist following a work-related injury or illness. In order to be eligible to make this change, you must give your employer the name and business address of a personal chiropractor or acupuncturist in writing prior to the injury or illness. Your claims administrator generally has the right to select your treating physician within the first 30 days after your employer knows of your injury or illness. After your claims administrator has initiated your treatment with another doctor during this period, you may then, upon request, have your treatment transferred to your personal chiropractor or acupuncturist.

You may use this form to notify your employer of your personal chiropractor or acupuncturist.

Your Chiropractor or Acupuncturist's Information:

(name of chiropractor or acupuncturist)

(street address, city, state, zip code)

(telephone number)

Employee Name (please print):

Employee's Address:

Employee's
Signature

Date:

Title 8, California Code of Regulations, section 9783.1.
(DWC Form 9783.1-Effective date January 2006)

Section 9784. Duties of the Employer.

~~In addition to the duty of the employer to give notice pursuant to sections 9782 or 9880, upon being notified of the name and address of the employee selected physician or facility, the employer, after treatment has commenced, shall promptly authorize such physician or facility to provide all medical treatment reasonably required to cure or relieve the employee from the effects of the industrial injury, furnish the name and address of the person to whom billing for treatment should be sent, and provide such other information as is required by this Article.~~

~~The employer shall also arrange for the delivery to the selected physician or facility of all medical information relating to the claim, all X rays and the results of all laboratory studies done in relation to the injured employee's treatment.~~

~~If the employee selected physician or facility fails to provide adequate medical reports pursuant to section 9785, the employer shall promptly notify said physician or facility of the requirements of section 9785.~~

~~Authority: Sections 124, 127, 133, 138.2, 138.3, 138.4, 139, 139.5, 139.6, 4600, 4601, 4602, 4603, 4603.2, 4603.5, 5307.3, 5450, 5451, 5452, 5453, 5454, and 5455, Labor Code.~~

~~Reference: Chapters 442, 709, and 1172, Statutes of 1977; Chapter 1017, Statutes of 1976.~~

[The remainder of Article 5 is unchanged.]