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SB-899 Workers' compensation. (2017-2018)

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ENROLLED AUGUST 23, 2018
PASSED IN SENATE AUGUST 21, 2018
PASSED IN ASSEMBLY AUGUST 20, 2018
AMENDED IN ASSEMBLY JULY 02, 2018
AMENDED IN ASSEMBLY JUNE 19, 2018
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CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

SENATE BILL

NO. 899

Introduced by Senator Pan

January 16, 2018

An act to amend Section 4663 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

SB 899, Pan. Workers' compensation.

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 his or her employment.

Existing law makes an employer liable only for the percentage of permanent disability directly caused by the injury arising out of and occurring in the course of employment. Existing law also requires that apportionment of permanent disability be based on causation, and requires the physician to determine the approximate percentage of the permanent disability that was caused by the direct result of injury arising out of and occurring in the course of employment and the approximate percentage of the permanent disability that was caused by other factors both before and subsequent to the industrial injury, including prior industrial injuries. Existing law requires a physician who prepares a report addressing the issue of permanent disability due to a claimed industrial injury to address in that report the issue of causation of the permanent disability.

This bill would prohibit a physician from using race, gender, or national origin in determining the percentage of permanent disability that was caused by other factors before and subsequent to the industrial injury.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 4663 of the Labor Code is amended to read:

4663. (a) Apportionment of permanent disability shall be based on causation.

(b) A physician who prepares a report addressing the issue of permanent disability due to a claimed industrial injury shall address in that report the issue of causation of the permanent disability.

(c) In order for a physician's report to be considered complete on the issue of permanent disability, the report shall include an apportionment determination. A physician shall make an apportionment determination by finding the approximate percentage of the permanent disability that was caused by the direct result of injury arising out of and occurring in the course of employment and the approximate percentage of the permanent disability that was caused by other factors both before and subsequent to the industrial injury, including prior industrial injuries, but excluding race, gender, and national origin. If the physician is unable to include an apportionment determination in his or her report, the physician shall state the specific reasons why the physician could not make a determination of the effect of that prior condition on the permanent disability arising from the injury. The physician shall then consult with other physicians or refer the employee to another physician from whom the employee is authorized to seek treatment or evaluation in accordance with this division in order to make the final determination.

(d) An employee who claims an industrial injury shall, upon request, disclose all previous permanent disabilities or physical impairments.

(e) Subdivisions (a), (b), and (c) do not apply to injuries or illnesses covered under Sections 3212, 3212.1, 3212.2, 3212.3, 3212.4, 3212.5, 3212.6, 3212.7, 3212.8, 3212.85, 3212.9, 3212.10, 3212.11, 3212.12, 3213, and 3213.2.