

Client Bulletin – California Legislative Bill Analysis and Update

For the past 25 years, MEDEX has committed to keeping its finger on the pulse of Workers' Compensation developments that may impact our clients' Workers' Compensation programs, including monitoring upcoming legislation, regulatory changes, industry trends, and identifying the strategic opportunities they present for optimal risk management and cost efficiency.

We're getting in touch today to share information about two counterproductive California bills, analyze what we know about the potential impacts, and update you on what MEDEX is doing to quash these regressive legislative efforts.

As you may know, the California legislature could be considering two new bills, which, if passed, will have substantial and detrimental consequences for the Workers' Compensation programs of employers and payers in the state. **These bills would essentially undo the stabilizing Workers' Compensation reforms of the past several decades**, including the HCO and MPN programs and managed care strategies (such as medical bill review and utilization review) essential to controlling claims.

AB 1465

Assembly Bill 1465 (AB 1465), authored by Assemblymembers Eloise Reyes and Lorena Gonzalez, ostensibly exists to improve injured worker access to medical treatment. The bill would require the DWC to establish a statewide medical provider network called the California MPN (CAMPN), which would allow any physician who meets the law's minimum criteria to join the network. All injured workers would be given the choice to treat within their employer's network *or* the CAMPN.

MEDEX stands in strong opposition to AB 1465 because it would severely undermine the quality of Workers' Compensation treatment by sidelining the experienced provider quality control of employer MPNs. The state's CAMPN would allow nearly any provider, except those who have been suspended by the Administrative Director or who are not in good standing with the Medical Board, to treat injured workers. This includes providers who are known across the system for providing poor quality care, writing reports that create friction in legal proceedings, engaging in questionable billing practices, and other habits that have resulted in their exclusion from effective MPNs. AB 1465 would undo the sustained pressure on providers to successfully and efficiently meet the needs of the complex Workers' Compensation system, exposing injured workers to inappropriate and substandard treatment, administrative friction, delay, and other chaos that the carefully cultivated employer MPNs have rooted out over time by excluding unsuitable providers.

In addition, the California Workers' Compensation Institute (CWCI) has just completed an Impact Analysis on AB 1465 demonstrating that the bill's provisions "would have both known and unintended consequences that limit its ability to achieve [greater access to treatment]." The study shows that an arbitrary increase in the sheer number of physicians is unlikely to increase quality of care or MPN utilization and access beyond that achieved with the approximately 90 percent of Workers' Compensation provider services currently delivered by employer MPNs.

It also shows that the costs of new DWC infrastructure to build and maintain the CAMPN would amount to \$15-65 million per year and will increase the cost of treatment by \$286 million per year by negating existing contractual pricing models. The CWCI's analysis concludes that the combined initial cost estimate of \$314+ million per year is unlikely to improve access to Workers' Compensation care *and* will likely lead to increases in other known cost drivers in the system.

THE TOTAL SOLUTION TO RISING WORKERS' COMPENSATION COSTS



AB 399 – “Medical Provider Network Transparency Act of 2021”

Assembly Bill 399 (AB 399), authored by Assemblymember Rudy Salas, at length alleges that MPNs limit access to care by denying providers the ability to update their locations and denying all stakeholders the ability to determine the MPN covering an injured worker, that contracted discounts to OMFS have driven down the quality of care, and that IBR should be expanded to avoid liens. The bill would expand the entitlements of Workers' Compensation providers by imposing additional restrictions, penalties, and fees on employers, carriers, insurers, claims administrators, MPNs, utilization review organizations, and other stakeholders who violate its provisions.

MEDEX opposes AB 399 because it seeks to address issues in the system created by uncooperative providers by allowing those providers to weaken the checks and balances of the Workers' Compensation reforms. AB 399 wrests fine-tuned control over medical treatment away from employers, MPNs, UROs, and claims administrators and places it with providers in ways that damage the efficacy of exclusive networks, utilization review, preferred non-physician services vendors, and imposes penalties, fees, reimbursements, and other clear costs on employers, carriers, and administrators. AB 399 would incentivize and reward provider behavior that tends toward fraud, inefficiency, overtreatment, improper billing, and other costly tactics while imposing additional costs, administrative burdens, legal risks, inefficiencies, unnecessary adversarial interactions, and other severe detriments on both the DWC and on employers, claims administrators, payers, MPNs, and other stakeholders.

MEDEX Joins Forces with Other Industry Leaders to Oppose Regressive Workers' Compensation Bills

MEDEX Chief Legal Counsel, Don Balzano, who has testified before the Senate Industrial Relations Committee and the Assembly Insurance Committee on numerous occasions, and our well-regarded lobbyist, Lori Kammerer, have been active in leading the charge against AB 1465 and AB 399. We have held meetings with the offices of Assemblymembers Salas and Reyes, authors of the two problematic bills. In addition, we have met with the office of the Chair of the Assembly Insurance Committee, Tom Daly, and with Clair Wendt, Principal Consultant of that Committee, which has oversight of Workers' Compensation bills.

MEDEX was also a participant and signatory to CWCI's Letter of Opposition to AB 1465 (attached).

Bill Status

AB 399 was introduced on February 3, 2021 and referred to the Assembly Committee on Insurance. Because of vocal opposition by MEDEX and other stakeholders, AB 399's author has agreed to make it a two-year bill. It will not have a hearing this year.

AB 1465 was introduced in late February 2021 and has been referred to the Assembly Committee on Insurance. The bill was amended on April 15, 2021 to require that MPNs provide their provider listings retroactive back to January 1, 2021. The Chair of the Committee has not decided whether he will add this bill to his hearing scheduled on April 29, 2021. If the bill is not heard on the 29th, the author may decide to make AB 1465 a two-year bill.

Additional Resources

We will continue to deploy our decades of experience in Workers' Compensation and influential expertise in the legislative process to defend our hard-fought Workers' Compensation reforms from the threat of these and similar bills in the coming legislative sessions.

We have included the following resources for your reference. [Click the paperclip icon to open each attachment:](#)

- *Bill text of AB 399*
- *Bill text of AB 1465* 
- *CWCI Letter of Opposition to AB 1465, to which MEDEX was a signatory*
- *CWCI Impact Analysis of AB 1465 (released April 13, 2021)*
- *Letter of Opposition from the American Property Casualty Insurance Association, California Chamber of Commerce, California Coalition on Workers' Compensation, et al.*

We encourage you to reach out to us if you have any questions, comments, or suggestions that we might incorporate into our efforts to fight AB 399, AB 1465, and other similarly regressive bills that endanger the progress we stakeholders have made to stabilize the Workers' Compensation system in California.

You can reach Don Balzano, MEDEX Chief Legal Counsel, at dbalzano@medexhco.com and at (949) 221-1700 x212. You can learn more about MEDEX's offerings, expertise, and risk reduction philosophy at our website: www.medexhco.com or by contacting any of our team members serving your program.

We appreciate your continued partnership and look forward to updating you on successfully defeating these bills.