

California Workers' Compensation Institute

BULLETIN

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Amid growing concern about the misclassification and under reporting of work injuries and illnesses -- including first aid cases -- the California Department of Insurance (CDI) has issued a notice to remind employers, physicians and insurers about required reporting procedures.

Labor Code §6409(a) requires any physician who treats an injured worker to complete a "Doctor's First Report of Injury" and file it with the workers' compensation claims administrator (or the employer if self-insured) within five days of the initial exam. Unlike the Employers' First Report (Form 5020) and the Employee Claim Form (DWC-1), which have first aid exemptions, **physicians must complete a Doctor's First Report and file it with the claim administrator for every work injury and illness they treat -- even first aid cases where the employee does not lose time from work.** (If pesticide poisoning is diagnosed or suspected, the physician must also send a copy of the report to the Division of Labor Statistics and Research, and call or fax a copy of the report to the local health officer within 24 hours, then include a signed affidavit certifying that the report was filed with the local health officer when they file the copy with the claims administrator.) After receiving a Doctor's First Report, a claims administrator or self-insured employer has five days to file it with the Division of Labor Statistics and Research.

The physician reporting requirements apply to medical doctors (M.D.s), osteopaths (D.O.s), psychologists, acupuncturists, optometrists, dentists, podiatrists, and chiropractors. Failure to file a timely doctor's report may result in a civil penalty. Nevertheless, the CDI and the Department of Industrial Relations note that some employers have cut improper deals with physicians, allowing the employer to dictate how injuries or illnesses are classified and reported by the medical provider. Some employers have improperly requested that the physician send the Doctor's First Report to them, but not to the claims administrator, even when an injury clearly is beyond first aid. According to the CDI Fraud Division, such deals are typically marketed to employers as a way to reduce or minimize increases in workers' compensation premiums, but they may result in criminal violations, both for premium fraud and fraudulent denial of workers' compensation benefits to injured workers.

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