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John A. Norwood
Counselor at Law

Erin Norwood
Publisher

Contributors

Brittany Trudeau
Ted Wait

[Contact Us](#)

info@nalobby.net

Capitol Place
915 L Street, Suite 1110
Sacramento, CA 95814

(916) 447-5053
(916) 447-7516 fax

[California Links](#)

[State Senate](#)

[State Assembly](#)

Bill to Provide Breast Cancer Survivors Workers Compensation Approved by Full Assembly, Unanimously

This week, Assembly Member Lorena Gonzalez-Fletcher (Dem-San Diego) bill, [AB 479](#), won Assembly approval. It makes women with work-related breast cancer eligible for workers' compensation. It is now pending referral to a jurisdictional committee of the Senate. The bill also prevents doctors from using child-bearing age as a factor in determining the workers' compensation award for a female employee whose work conditions caused breast cancer. The bill was approved by a 72-0 vote.

"It's crazy that women with job-related breast cancer have to jump through so many hoops just to receive the compensation they're rightly owed," Assembly Member Gonzalez-Fletcher said. "It's gender discrimination and it needs to be fixed. That's what this bill does."

Proponents argue AB 479 rectifies current workers' compensation practices that routinely run afoul of guidelines set forth by the American Medical Association (AMA). Under these guidelines, doctors are required to evaluate injured workers for all impairments that result from breast cancer and its treatment. In practice, however, many medical evaluations paint woefully incomplete pictures of the lifelong, disabling conditions that workers suffer as a result of breast cancer, the author explains. Workers must then go to court to rectify these incomplete and inaccurate evaluations.

In more detail, first, the bill clarifies the criteria within AMA guidelines that medical evaluators should take into consideration when calculating permanent disability ratings in cases of breast cancer. Second, the bill ensures child-bearing age cannot be used as a determining factor in calculating permanent disability ratings.

The Assembly Member maintains the measure provides simple fixes, which can help ensure all breast cancer survivors undergo a complete and thorough medical evaluation – despite their gender or age – and receive the compensation they rightly deserve.

Department of Insurance Asking for Additional Funds for Producer Licensing Enforcement Actions

**Department of
Insurance**

Secretary of State

**Official Legislative
Information**

The Department of Insurance (CDI) has submitted to the Legislature a request for additional funds for producer licensing enforcement actions. Specifically, it requests an increase in Special Fund expenditure authority of \$1.14 million in Fiscal Year 2018-2019 and \$1.09 million in FY 2019-2020 and ongoing to support six positions to address an increase in producer licensing enforcement cases.

According to CDI, over the last several years its legal unit has experienced an approximate 57% increase in the number of licensing cases being referred to it (FY 2017-2018 – FY 2013-2014). Despite the increase, the Legal Branch has not added any additional enforcement attorney positions to address the workload. While the current staff (29 positions) has previously absorbed the increased workload, it will be difficult to maintain this level of service based on the projected increases without a potential impact to consumers, CDI argues.

At the current rate of increased cases, the pending cases will continue to rise impeding the Department's ability to protect California consumers, CDI states.

Update on Current Labor Legislation Developments

The Chamber of Commerce Employment Coalition will be increasingly engaged as the flurry of bill introductions occurs closer to the introduction deadline of February 16. Getting close to this date, total bill introductions will be in the 2,500, of which there will most likely be a substantial number of labor bills. Following are the measures introduced so far.

[AB 1870](#) (Reyes, Dem-San Bernardino) Employment Sexual Harassment
Current law, the California Fair Employment and Housing Act, makes employment and housing practices unlawful, including discrimination against or harassment of employees and tenants, among others. Current law authorizes a person claiming to be aggrieved by an alleged unlawful practice to file a complaint with the Department of Fair Employment and Housing within one year from the date upon which the unlawful practice occurred. This bill extends the period to three years for which complaints alleging unlawful employment or housing practices may be filed with the Department.

[AB 1902](#) (Levine, Dem-Marin) Corporate Subcontracted Worker Wage Increase
AB 1902 attempts to increase wages for subcontracted workers employed by large corporations, but leaves blank for now designated percentage increases. The bill requires companies in California with a valuation of \$1 billion or greater to pay subcontracted employees wages that are tied to the Department of Housing and Community Development's income levels for the county in which they work.

[AB 1976](#) (Limón, Dem-Santa Barbara) Employee Lactation Accommodation
Existing law requires every employer to provide a reasonable amount of break time to accommodate an employee desiring to express breast milk for the employee's infant child and requires an employer to make reasonable efforts to provide the employee with the use of a room or other location, other than a toilet stall, in close proximity to the employee's work area for the employee to express milk in private. This bill requires an employer to make

reasonable efforts to provide an employee with use of a room or other location, other than a bathroom, for these purposes.

Select Committee on Healthcare Delivery Systems & Universal Coverage Announces Fourth & Fifth Hearings

Co-Chairs Assembly Members Jim Wood (Dem-Healdsburg) and Joaquin Arambula (Dem-Fresno), announced the fourth and fifth in a series of hearings of the Select Committee on Healthcare Delivery Systems and Universal Coverage to be held February 5 and February 7 at the Capitol. The February 5 hearing will discuss some of the challenges to making significant changes to Californian's healthcare system. There will be testimony from experts on local government tax allocations, accessing the Medicare Trust Fund, the Employment Retirement Income Security Act, and other federal law considerations.

The February 7 hearing will provide an opportunity for a number of organizations to present their plans for achieving universal health coverage, including Health Access California, California Physicians Alliance, and the California Nurses Association. Labor and business organizations are scheduled to present as well.

"The next two hearings will provide us an opportunity to dig into the implementation challenges that we face in adopting a universal healthcare system," said Co-Chair Arambula. "This committee's charge is to find workable solutions that will expand healthcare coverage and increase access to care." The Select Committee's actionable recommendations will be published in early spring, providing a roadmap to a healthcare system that is universal in nature, the Co-Chairs have advised

Of note are comments by the Nurses Association. "Don Nielsen, a spokesperson for the Nurses Association, said the group has 17 amendments to the bill ready to address the concerns but has never been allowed a hearing. "Our hands are tied," he said. "We can't do anything unless he releases the bill and assigns it to a policy committee. You've got to get the process going. He holds the key to the box in which our bill is locked."

An Additional Fire Bill Introduced This Week; Subject is Insurer Extended Replacement Cost Coverage

[AB 1875](#) (Wood, Dem-Healdsburg) requires insurers offer replacement cost for all coverages of 50%, and requires an insurer to offer extended replacement cost coverage of no less than 50% for Coverage A, B, C and D, when issuing or renewing a policy of residential property insurance and requires the insurer to disclose the premium costs for extended replacement cost coverage.

Insurers are taking an oppose unless amend position. Carriers want to narrow the bill to Coverage A and piggy back on earthquake offers so it is not necessary to produce more documents. Industry is also seeking every other year disclosure of premium costs.

Legislation Introduced in 2017 Needed to Be Considered Yesterday; Following Now No Longer Active

Health Insurance Legislation

[AB 989](#) (Cooper, Dem-Elk Grove) Health Savings Account Income Tax Deduction

The Personal Income Tax Law authorizes various deductions in computing income that is subject to tax under that law. This bill, for taxable years beginning on or after January 1, 2019, allows a deduction in computing adjusted gross income in connection with health savings accounts (HSA) in conformity with federal law. In general, the deduction would be an amount equal to the aggregate amount paid in cash during the taxable year by, or on behalf of, an eligible individual to a HSA of that individual. The author states that HSAs provide taxpayers considerable tax savings, but California law does not conform to federal HSA provisions. Therefore, taxpayers who deduct their contributions to HSAs for federal tax purposes cannot take a similar deduction in calculating their state tax obligations.

[AB 1140](#) (Obernolte, Rep-San Bernardino) Health Saving Account Federal Tax Conformity

As introduced, AB 1140 entitles individuals to a state tax deduction for contributions to a Health Savings Account in conformity with federal tax law. HSAs allow individuals to save tax-free dollars to pay for nearterm medical expenses and save for future longer-term costs. California is one of only three states that do not conform to federal tax law on HSA deductibility.

[SB 562](#) (Lara, Dem-Bell Gardens) Single Payer Government-Run Healthcare Mandate

Current law provides for the Medi-Cal program, which is administered by the Department of Healthcare Services, under which qualified low-income individuals receive healthcare services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. This bill, creates a program to mandate universal, government-run single payer healthcare coverage. This bill requires every person to use the government-run health system.

Drone Insurance Legislation

[SB 347](#) (Jackson, Dem-Santa Barbara) Drone Liability Insurance Requirement

This bill prohibits a person from operating a remote piloted aircraft in a number of manners and requires any person using or renting a remote piloted aircraft and every commercial operator of a remote piloted aircraft to maintain liability insurance or proof of financial responsibility. The author states that the interest of the bill is to protect privacy and public safety by prohibiting the flight of a drone in a manner that interferes with manned aircraft, violates federal law, endangers the life or property of another, poses a nuisance, invades privacy, or constitutes trespass under California law.

Arbitration & Legal Legislation

[AB 889](#) (Stone, Dem-Santa Clara) Civil Litigation Secrecy Agreement

Current law generally permits the parties to a civil action to include, as a condition to a settlement, a provision requiring that information about the settlement or the underlying dispute be kept confidential; however, existing law prohibits a confidential settlement agreement in a civil action with a factual foundation establishing a cause of action for civil damages for an act that may be prosecuted as a felony sex offense. Current law also establishes that violating this prohibition is grounds for professional discipline for an attorney, and it requires the State Bar of California to investigate and take appropriate action in any case brought to its attention. This bill instead authorizes, but does not require, the State Bar to investigate these cases of attorney misconduct.