
HOUSE BILL 2336

State of Washington

69th Legislature

2026 Regular Session

By Representatives Abbarno, Schmidt, and Graham

Prefiled 01/08/26. Read first time 01/12/26. Referred to Committee on Labor & Workplace Standards.

1 AN ACT Relating to facilitating the use of a department of labor
2 and industries-approved, application-based, third-party recording
3 platform to record independent medical exams; reenacting and amending
4 RCW 51.36.070; and providing an effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 51.36.070 and 2023 c 171 s 12 and 2023 c 166 s 1 are
7 each reenacted and amended to read as follows:

8 (1)(a) Whenever the department or the self-insurer deems it
9 necessary in order to (i) make a decision regarding claim allowance
10 or reopening, (ii) resolve a new medical issue, an appeal, or case
11 progress, or (iii) evaluate the worker's permanent disability or work
12 restriction, a worker shall submit to examination by a physician or
13 physicians selected by the department, with the rendition of a report
14 to the person ordering the examination, the attending provider, and
15 the injured worker.

16 (b) The examination must be at a place reasonably convenient to
17 the injured worker, or alternatively utilize telemedicine if the
18 department determines telemedicine is appropriate for the
19 examination. For purposes of this subsection, "reasonably convenient"
20 means at a place where residents in the injured worker's community
21 would normally travel to seek medical care for the same specialty as

1 the examiner. The department must address in rule how to accommodate
2 the injured worker if no approved medical examiner in the specialty
3 needed is available in that community.

4 (2) The department or self-insurer shall provide the physician
5 performing an examination with all relevant medical records from the
6 worker's claim file. The director, in his or her discretion, may
7 charge the cost of such examination or examinations to the self-
8 insurer or to the medical aid fund as the case may be. The cost of
9 said examination shall include payment to the worker of reasonable
10 expenses connected therewith.

11 (3) For purposes of this section, "examination" means a physical
12 or mental examination by a medical care provider licensed to practice
13 medicine, osteopathy, podiatry, chiropractic, dentistry, or
14 psychiatry at the request of the department or self-insured employer.

15 (4) (a) ~~((The worker has the right to record the audio, video, or
16 both, of all examinations ordered under this section, RCW 51.32.110,
17 or by the board of industrial insurance appeals.))~~ An injured worker
18 has the right to record the audio, the video, or both, of all
19 examinations authorized under this section, RCW 51.32.110, or by the
20 board of industrial insurance appeals. Any recording must be
21 conducted exclusively through a department-approved, application-
22 based, third-party recording platform as provided in (c) of this
23 subsection. Independent recording by any person is prohibited.

24 (b) ~~((The worker or the worker's representative must provide
25 notice to the entity scheduling the examination that the examination
26 will be recorded no less than seven calendar days before the date of
27 the examination. The department must adopt rules to define the
28 notification process.))~~ The worker or the worker's representative
29 must provide notice to the entity scheduling the examination that the
30 examination will be audio, video, or audio and video recorded no
31 less than seven calendar days before the date of the examination.

32 (c) ~~((The worker is responsible for paying the costs of
33 recording.))~~ The department-approved, application-based, third-party
34 recording platform must be used for all video, audio, or audio and
35 video recordings of examinations under this section. The platform
36 must allow either the worker or, at the request of the worker, the
37 examining provider to initiate the recording; ensure accurate,
38 continuous video and audio capture; operate without interfering with
39 the examination; and automatically upload the video to the third-
40 party recording vendor's secure digital storage system.

1 (d) ~~((Upon request, the worker must provide one copy of the~~
2 ~~recording to the department or self-insured employer within 14 days~~
3 ~~of receiving the request, but in no case prior to the issuance of a~~
4 ~~written report of the examination.))~~ All recordings made under this
5 subsection must be stored only on the secure digital server of the
6 third-party recording vendor. No worker, worker's representative,
7 self-insurer, or medical provider may retain, download, duplicate, or
8 store a local copy of a video recording, except as authorized by
9 rule.

10 (e) ~~((The worker must take reasonable steps to ensure the~~
11 ~~recording equipment does not interfere with the examination. The~~
12 ~~worker may not hold the recording equipment while the examination is~~
13 ~~occurring.))~~ Recordings made under this subsection are confidential
14 and not open to public inspection as provided under RCW 51.28.070 and
15 may not be released, except in accordance with rules adopted by the
16 department.

17 (f) ~~((The worker may not materially alter the recording. Benefits~~
18 ~~received as a result of any material alteration of the recording by~~
19 ~~the worker or done on the worker's behalf may be subject to repayment~~
20 ~~pursuant to RCW 51.32.240.))~~ Upon request by the injured worker, the
21 worker's representative, the self-insurer, employer, the employer's
22 representative, a medical provider involved in the claim, or the
23 examining provider, the third-party recording vendor shall provide
24 secure access to the recording in accordance with rules adopted by
25 the department.

26 (g) ~~((The worker may not post the recording to social media.))~~ No
27 person may alter, duplicate, privately store, distribute, or publicly
28 post in any manner, or to any platform any recording made under this
29 subsection (4). A violation of this subsection (4) by the worker or
30 done on the worker's behalf may constitute grounds for repayment and
31 penalties under RCW 51.32.240. Any person who violates this
32 subsection is subject to a civil penalty of \$1,000.

33 (h) ~~((Recordings made under this subsection are deemed~~
34 ~~confidential pursuant to RCW 51.28.070.))~~ The costs associated with
35 the recording platform and retention of recordings must be treated as
36 part of the costs of the claim.

37 (i) The worker has the right to have one person(~~(, who is at~~
38 ~~least the age of majority and who is))~~ of the worker's choosing(~~(,))~~)
39 to be present to observe all examinations ordered under this section,
40 RCW 51.32.110, or by the board of industrial insurance appeals. The

1 observer must be (~~unobtrusive and not~~) at least 18 years of age and
2 may not obstruct or interfere with the examination. The observer may
3 not be the worker's legal representative, an employee of the legal
4 representative, the worker's attending provider, or an employee of
5 the worker's attending provider.

6 (j) The third-party recording vendor shall ensure that the
7 recording platform meets minimum cybersecurity standards including
8 encryption, multifactor authentication, and state information
9 technology requirements.

10 (k) Any recordings must be retained on the third-party recording
11 vendor's platform for the life of the claim and no fewer than 10
12 years after final closure or litigation. The department shall adopt
13 rules for storage, transfers, and protection of the recordings in the
14 event of a change in third-party recording vendor.

15 (5) This section applies prospectively to all claims regardless
16 of the date of injury.

17 NEW SECTION. Sec. 2. This act takes effect July 1, 2027.

--- END ---