

WORKMEN'S COMPENSATION LAW:  
WORKMEN'S COMPENSATION,  
DIVISION OF:  
INDUSTRIAL COMMISSION:  
RECORDS:

Section 287.380 RSMo. Cum. Supp. permits the Division of Workmen's Compensation and the Industrial Commission to disclose records in their discretion to persons other than parties of the compensation proceedings.

OPINION NO. 270

August 16, 1966

Honorable Richard J. Rabbitt  
Representative 8th District  
4366 Maryland Avenue  
St. Louis, Missouri



Dear Representative Rabbitt:

Your letter of April 8, 1966, requesting an opinion is as follows:

"I refer to Chapter 287.380, Subsection 3, of the Missouri Workmen's Compensation Law, and my question is:

In this subsection does the restriction, placed on the disclosure to 'persons other than the parties to compensation proceedings and their attorneys. . . ' (except by order of the Commission, etc.), limit the release of the information in a Division of Workmen's Compensation file, without the consent of the injured employee, to parties interested in the particular injury for which the particular file is made, or does it allow anyone who is interested in any proceeding, Compensation or otherwise, to have access to these files without a prior order of the Commission?"

Section 287.380 RSMo. Cum. Supp. 1965, requires employers to make certain reports to the Division of Workmen's Compensation and provides for the assembly of certain other information in the file of an employee who has an accident resulting in personal injury. Paragraph 3 of this section then provides:

"3. No information obtained under the provisions of this section shall be disclosed to persons other than the parties to compensation proceedings and their attorneys,

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except by order of the division or the commission, or at a hearing of compensation proceeding, but such information may be used by the division of the commission for statistical purposes."

It is to be noted that this paragraph provides that no information obtained under the provisions of this section shall be disclosed other than to the parties to the compensation proceedings and their attorneys except by order of the Division or the Commission. It is at once apparent that there may be facts and information contained in the file that are not obtained under the provisions of this section.

This section places no restriction on parties or their attorneys using the information in a particular case in another compensation proceeding. It then provides that the information contained in the file which was obtained under the provisions of this section shall be disclosed only upon the "order of the division or the commission." All of these files are kept under the supervision of the Director of the Division of Workmen's Compensation.

We are informed that the present administrative practice of the Division is that when a request for information comes into the office it is referred to the Director. If the Director is satisfied that the inquirer has a legitimate interest in obtaining the information then the Director in his discretion permits the requested information in the files to be disclosed. The Director and his counsel have taken the administrative position that this Section authorizes the Director, in his discretion, to permit persons other than the parties or their attorneys to the compensation proceedings, opportunity to examine the file. Written orders of the Director for such permission have not been deemed necessary.

We agree that the administrative interpretation is supported by the law with the sole exception that the statute requires a written order of the Division or the Commission.

Commissions, Boards, and Administrative bodies in general should keep written records of all matters coming to their attention. 73 C.J.S., Page 316, states the rule:

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"In the interests of orderly procedure and certainty as to the proceedings of administrative bodies and action taken, such bodies should, as far as practical, have written records or minutes of all proceedings before them of action taken by them. Such bodies ordinarily speak only through their records."

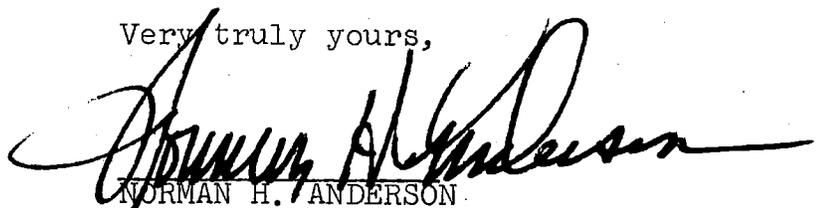
The language of this statute in our view vests in the Division or the Commission the discretion to determine whether information contained in the files and obtained under the provisions of this section should be disclosed to persons other than parties to the proceedings and their attorneys. The only limitation that is apparent to this broad authority would be an abuse of that discretion. Whether or not this discretion has been abused would be dependent upon all the facts of a particular case.

#### CONCLUSION

Section 287.380 RSMo. Cum. Supp. 1965, permits the Division of Workmen's Compensation and the Industrial Commission to disclose records not obtained under the provisions of this section and to disclose information obtained under the provisions of this section in their discretion to persons other than parties to the compensation proceedings and their attorneys upon written order by the Division or the Commission provided they do not abuse that discretion.

The foregoing opinion which I hereby approve was prepared by my assistant O. Hampton Stevens.

Very truly yours,

  
NORMAN H. ANDERSON  
Attorney General