

## ALEC EXPOSED

"ALEC" has long been a secretive collaboration between Big Business and "conservative" politicians. Behind closed doors, they ghostwrite "model" bills to be introduced in state capitols across the country. This agenda-underwritten by global corporations-- includes major tax loopholes for big industries and the super rich, proposals to offshore U.S. jobs and gut minimum wage, and efforts to weaken public health, safety, and environmental protections. Although many of these bills have become law, until now, their origin has been largely unknown. With **ALEC EXPOSED**, the Center for Media and Democracy hopes more Americans will study the bills to understand the depth and breadth of how big corporations are changing the legal rules and undermining democracy across the nation.

**DID YOU KNOW?** Corporations VOTED to adopt this. Through ALEC, global companies work as "equals" in "unison" with politicians to write laws to govern your life. Big Business has "a VOICE and a VOTE," according to newly exposed documents. **DO YOU?**

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### Workers' Compensation Medical Records Disclosure Act

Did you know that global corporation Kraft Foods was the corporate co-chair in 2011?

#### Summary

Current legislative proposals to protect the privacy of individually identifiable financial and medical information severely restrict, or do not sufficiently address, the rights of employers in workers' compensation, and other employee entitlement, claim cases. While the cognizant of the overwhelming public demand for medical and financial record privacy, there is an inherent need for employers to have access to all relevant information, including medical information, regarding these claims in order to: (1) ensure prompt, and accurate, claims processing procedures; (2) provide safety programs to mitigate recurring injuries that are similar in nature; (3) alleviate the possibility of fraudulent claims; and (4) ensure that they have the ability to prepare an adequate claims defense. Without employer oversight of carriers, and the ability to defend themselves against claims, it is likely that the premium pricing structure will result in increases in the cost of workers' compensation insurance and other employee entitlements. This bill would allow employer access to all relevant information pertaining only to injuries sustained on the job and would not allow employer access to other non-claims related information.

Both employers who purchase their workers' compensation insurance from carriers and those who are self-insured need information for auditing or claims-review purposes. Some proposed regulations and legislation prevent this basic information from the medical provider to the carrier, 3rd party administrator, and subsequently to the employer, from occurring. This legislation would also aid in the prevention of claimant fraud, especially "malingering fraud" which occurs when the claimant receives a legitimate injury but continues to collect monies by either falsely reporting the occurrence of another injury, or claiming that the payment for the initial injury has not occurred. Currently, workers' compensation fraud is the highest in the properly/casualty insurance sector, with some studies estimating the fraud level in claims may be as high as twenty-five percent, at an annual cost of over \$5 billion dollars.

#### Model Legislation

**Section 1. {Title.}** This Act shall be known and may be cited as the Workers' Compensation Medical Records Disclosure Act.

**Section 2. {Definitions}** For purposes of this Act, "Relevant medical information" to be disclosed to the employer in a workers' compensation or employee entitlement claim cases shall be defined as information:

- (1) regarding the nature of injury for which a benefit is claimed;
- (2) pertaining to diagnosis, costs, and the nature of treatment of the injury which benefits are claimed;
- (3) regarding the injury for which a benefit is claimed that is necessary for the employer to have in order to modify the employee's work duties, to make other reasonable accommodations for the employee's return to work, to institute hazard prevention programs, and to evaluate the employee's eligibility for other employee benefits.
- (4) that is necessary for the employer to defend itself in adjudicated cases.

**Section 3.** Employers' shall be allowed access to all relevant medical information, without the express authorization or consent, of the employee in all cases in which an employee files a claim under employer provided workers' compensation insurance or any other employer provided entitlement. The insurance carriers or administrator shall provide and discuss relevant documents of the claim file that shall affect the employer's premium with the employer, and shall supply copies of the documents that affect the premium.

**Section 4.** The right of employers provided in this Act shall not extend to medical information that is not directly related to employee workers' compensation or other employee entitlement claim cases.

**Section 5.** Nothing in this act shall allow employers to disclose to any other persons or entities any of the relevant information that has been disclosed to the employer under the provision of Section 3, without the consent of the injured employee who has filed the workers' compensation or other employee benefit, claim.

## ALEC's Corporate Board --in recent past or present

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- PhRMA
- Kraft Foods, Inc.
- Coca-Cola Co.
- Pfizer Inc.
- Reed Elsevier, Inc.
- DIAGEO
- Peabody Energy
- Intuit, Inc.
- Koch Industries, Inc.
- ExxonMobil
- Verizon
- Reynolds American Inc.
- Wal-Mart Stores, Inc.
- Salt River Project
- Altria Client Services, Inc.
- American Bail Coalition
- State Farm Insurance

For more on these corporations, search at [www.SourceWatch.org](http://www.SourceWatch.org).

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**About Us and ALEC EXPOSED.** The Center for Media and Democracy reports on corporate spin and government propaganda. We are located in Madison, Wisconsin, and publish [www.PRWatch.org](http://www.PRWatch.org), [www.SourceWatch.org](http://www.SourceWatch.org), and now [www.ALECexposed.org](http://www.ALECexposed.org). For more information contact: [editor@prwatch.org](mailto:editor@prwatch.org) or 608-260-9713.

Center for Media and  
Democracy's quick summary

This bill extends the "rights of employers" in worker's compensation cases. In particular, it allows employers access to the employee's personal medical records, even without the consent of the employee, raising concerns for medical privacy.