

EXHIBIT "A"

**CHAPTER 436
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
WORKERS' COMPENSATION DIVISION
DIVISION 35**

DISABILITY RATING STANDARDS

Temporary Rule Promulgation For Individual Claims

436-035-0500 (1) This rule applies to the rating of permanent disability under Chapter 656 in individual cases pursuant to ORS 656.726(3)(f)(C) which requires the director to stay the reconsideration proceeding and adopt temporary rules in cases where the director finds that the worker's impairment is not adequately addressed in the disability standards.

(2) Temporary rules promulgated pursuant to ORS 656.726(3)(f)(C) will be incorporated by reference to the Workers' Compensation Division claim file number and will be applicable solely to the rating of that claim. The temporary rule will be effective upon filing with the Secretary of State and elapse 180 days thereafter in accordance with ORS 183.335(6)(a).

(3) Notice of adoption of temporary rules will be given by mailing a copy of the temporary rule to the affected parties and to others as provided in OAR 436-001-0000(2).

A55-1299 This worker has experienced a loss of walking ability due to a chainsaw laceration of the right knee. The standards do not address this worker's limitations as a result of this injury. The worker is limited to 2 hours or less walking in an 8 hour period. As a result of this impairment, the worker is entitled to a value of 10% of the knee. This value may be combined with other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. A55-1299.

A68-5802 This worker has experienced a loss of standing and walking ability due to a comminuted fracture of the right tibial plateau. The standards do not address this worker's limitations as a result of this injury. The worker is limited to 2 hours or less standing and walking in an 8 hour period. As a result of this impairment, the worker is entitled to a value of 15% of the knee. This value may be combined with other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. A68-5802.

B75-0788 This worker's loss of strength is due to pain as result of an abnormality in the ulnar aspect of the wrist. The rules currently value loss of strength based on either nerve injury, loss of muscle tissue, or disruption of a musculotendinous unit. This worker's strength loss is similar to when the nerve supplying that muscle or muscle group is impaired. As a result of the impairment from strength loss, this worker is entitled to 9% for the left forearm. This impairment is combined with any other impairment ratable under the current rules. Notwithstanding OAR 436-035-0003, this rule applies to only WCD file no. B75-0788.

C72-7919 This worker's loss of strength is due to tendinitis secondary to overuse syndrome of both upper extremities. The rules currently value loss of strength based on either nerve injury, loss of muscle tissue, or disruption of a musculotendinous unit. We find the loss of function analogous to a disruption of a musculotendinous unit. In this case, the strength shall be valued as if the nerve supplying that musculotendinous unit was impaired. As a result of the disability from strength loss, this worker is entitled to 6% impairment of the radial nerve for each arm. This disability shall be combined with other

CHAPTER 436
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
WORKERS' COMPENSATION DIVISION

impairment values for each arm which are ratable under the current rules. Notwithstanding, OAR 436-035-0003, this rule applies only to WCD file no. C72-7919.

E47-5755 This worker has neurological jaw and head pain requiring pain medication to perform the activities of daily living including the normal jaw activities of chewing and talking. The resulting disability is similar to episodic neurological disorders which impose similar restrictions. Therefore, as a result of this loss of function, this worker is entitled to a value of 10% for the jaw and head pain disorder. This value may be combined with other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. E47-5755.

F72-6107 This worker has experienced a significant and unusual transverse rotator cuff tear resulting in a loss of strength due to pain/discomfort. The current Standards provide for loss strength when there is nerve damage, loss of muscle tissue, or disruption of a musculotendinous unit. The Director finds the worker is entitled to value for loss of strength as if the nerve supplying the muscle or muscle groups were impaired. As a result of this impairment, the worker is entitled to a value of 6% for loss of strength in the right shoulder. This value may be combined with other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. F72-6107.

G52-8324 This worker has experienced a loss of standing and walking ability due to bilateral knee injuries and sequelae. The standards do not address this worker's limitations as a result of this injury. The worker is limited to 2 hours or less standing and walking in an 8 hour period. As a result of this impairment, the worker is entitled to a value of 15% of the left knee and a value of 10% of the right knee. These values may be combined with other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. G52-8324.

A72-7487 This worker's loss of strength is due to a sensitivity secondary to scarring as result of partial thickness skin burns. The rules currently value loss of strength based on either nerve injury, loss of muscle tissue, or disruption of a musculotendinous unit. The scarring has resulted in a loss of function similar to what would be experienced by a disruption of a musculotendinous unit. The strength shall be valued as if the nerve supplying that muscle or muscle group was impaired. As a result of the impairment from strength loss, this worker is entitled to 9% of the right wrist/forearm. This impairment is combined with any other impairment ratable under the current rules. Notwithstanding OAR 436-035-0003, this rule applies to only WCD file no. A72-7487.

B67-2012 The worker has a radial deviation of the PIP joint of the right middle finger resulting in disability. The current Standards do not address this disability. In this case, the 15 degree radial deviation of the PIP joint of the right middle finger as a proportion of the whole finger will receive an impairment value of 14%. This impairment is combined with any other impairment ratable under the current rules. Notwithstanding OAR 436-035-0003, this rule applies to only WCD file no. B67-2012.

B75-5795 This worker's loss of strength is due to fracture deformity of the second metacarpal of the right hand. The rules currently value loss of strength based on either nerve injury, loss of muscle tissue, or disruption of a musculotendinous unit. In this case, the loss of function may be compared to a disruption of a musculotendinous unit. As a result of the disability from strength loss, this worker is entitled to 9% impairment of the median nerve for the right hand/forearm. This disability shall be combined with other impairment values for the right hand/forearm which are ratable under the current rules. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. B75-5795.

G55-8472 At the time of claim closure, the rules did not address the chondromalacia condition. This worker was diagnosed with universal Grade 2-3 chondromalacia and degenerative joint disease (arthritis). Effective June 1, 1992, a standard was adopted to address the rating of chondromalacia. The Director therefore adopts application of OAR 436-035-0230 (13) to address this worker's impairment

CHAPTER 436
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
WORKERS' COMPENSATION DIVISION

resulting from chondromalacia. This value may be combined with any other ratable impairment for the left knee. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. G55-8472.

H77-3065 This worker has experienced head trauma which has resulted in the episodic ocular traumatic headaches resulting in sudden visual loss. The rules allow for valuing episodic neurological disorders imposing similar restrictions. Therefore, as a result of this loss of function, this worker is entitled to a value of 30% for ocular migraine. This value may be combined with other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD File No. H77-3065.

C77-9244 This worker has loss of articular cartilage in the weight-bearing area of the medial femoral condyle of the right. The loss of the articular cartilage has resulted in loss of use or function of the right knee similar to that of Grade IV chondromalacia. The Director finds a value of 5% to address this worker's disability resulting from loss articular cartilage in the weight-bearing medial femoral condyle with resultant loss of use. This value may be combined with any other ratable impairment for the right knee. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. C77-9244.

F74-8492 This worker experienced a loss of walking ability due to the articular cartilage defect of the knee. The standards do not address the worker's walking limitations. As a result of this impairment, the worker is entitled to a value of 10% of the knee. This value may be combined with other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. F74-8492.

G72-5640 This worker's loss of strength is due to atrophy of the quadriceps muscle of the left leg. The rules currently value loss of strength based on either nerve damage, loss of muscle, or disruption of musculotendinous unit. Atrophy is loss of muscle or loss of muscle tissue. As a result of the disability from atrophy resulting in strength loss, this worker's disability is ratable under the current Standards. See (Temp) OAR 436-35-007 (16) Admin. Order 95-060 and OAR 436-35-230 (9)(10). The loss of strength shall be combined with other impairment values for the left knee/leg which are ratable under the current rules. Notwithstanding, OAR 436-035-0003, this rule applies only to WCD file No. G72-5640.

I59-0763 This worker has experienced a loss of standing and walking ability due to a compensable right knee injury. The standards do not address this worker's limitations as a result of this injury. The worker is limited to 2 hours or less standing and walking in an 8 hour period. As a result of this impairment, this worker is entitled to a value of 15% of the knee. This value may be combined with other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. I59-0763.

A79-2845 This worker is afflicted with focal dystonia manifested by loss of coordination of the fingers of the left hand while playing the viola. The standards do not address this worker's disability. As a result of this disability, the worker is entitled to a value of 14% for the left arm. These values may be combined with other applicable impairment values. Notwithstanding OAR 436-35-003, this rule applies only to WCD file no. A79-2845.

B78-6344 This worker's loss of grip strength is due to irritation and/or inflammation of the origin of the common extensor tendon at the lateral epicondyle of the left elbow. The rules currently value loss of strength based on either nerve damage, loss of muscle tissue, or disruption of a musculotendinous unit. The inflammatory changes in the musculotendinous unit results in a similar loss of function as disruption of the musculotendinous unit. The strength shall be valued as if the nerve supplying the muscle group was impaired. As a result of the impairment from strength loss, this worker is entitled to 10% of the forearm. This impairment is combined with

CHAPTER 436
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
WORKERS' COMPENSATION DIVISION

any other impairment ratable under the current rules. Notwithstanding OAR 436-35-003, this rule applies only to WCD file No. B78-6344.

D67-0149 This worker has experienced a valgus deformity in the ankle joint following a fracture which has affected function. The current rules do not address valgus deformity in relation to the ankle. Therefore, in this case the valgus deformity shall be valued as 17% of the lower leg (ankle). This value is combined with any other ratable impairment findings. Notwithstanding OAR 436-35-003, this rule applies only to WCD file no. D67-0149.

D75-7661 As a result of the accepted laceration of the right index finger, this worker has lateral deviation and rotational deformities of the finger. The standards do not address these deformities and the resulting loss of function and use. The impairment value of right index finger for the lateral deviation is 20% and for the rotational deformity is 20%. These values shall be combined with any other applicable impairment values for the right index finger. Notwithstanding OAR 436-35-003, this rule applies only to WCD file No. D75-7661.

F72-4844 As a result of the accepted lacerations to the fingers of the right hand, this worker developed cold intolerance due to interference in the sympathetic nervous system following finger surgery. The standards do not address this disability. The impairment value for the cold intolerance is 35% of the right hand. These values shall be combined with any other applicable impairment values for the right hand. Notwithstanding OAR 436-35-003, this rule applies only to WCD file No. F72-4844.

H75-1172 As a result of the accepted crush injury to the right hand, this worker has lateral deviation and rotational deformities of the right ring finger. The standards do not address these deformities and resulting loss of function and use. The impairment value of the ring finger for the lateral deviation is 7% and for the rotational deformity is 28%. These values shall be combined with any other applicable impairment values for the right ring finger. Notwithstanding OAR 436-35-003, this rule applies only to WCD file No. H75-1172.

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Stat Impltd: ORS 656.268(6); ORS 656.726(3)(f)(C)

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