



Oregon

Exhibit

Kate Brown, Governor

“1”

Department of Consumer and Business Services
Workers' Compensation Division
350 Winter St. NE
P.O. Box 14480
Salem, OR 97309-0405
1-800-452-0288, 503-947-7810
www.wcd.oregon.gov

July 13, 2016

Proposed Changes to Workers' Compensation Rules

Training, certification, and employment of claims examiners

The Workers' Compensation Division proposes changes to:

- OAR 436-055, Certification of Claims Examiners

Please review the attached documents for more information about proposed changes and possible fiscal impacts.

The department welcomes public comment on proposed changes and has scheduled a public hearing.

When is the hearing? Aug. 23, 2016, 9 a.m.

Where is the hearing? Labor & Industries Building, Room F
350 Winter Street NE
Salem, Oregon 97301

How can I make a comment? Come to the hearing and speak, send written comments, or do both. Send written comments to:
Email – fred.h.bruyns@oregon.gov
Fred Bruyns, rules coordinator
Workers' Compensation Division
350 Winter Street NE (for courier or in-person delivery)
PO Box 14480, Salem, OR 97309-0405
Fax – 503-947-7514

The closing date for written comments is Aug. 29, 2016.

How can I get copies of the proposed rules?

On the Workers' Compensation Division's website –
<http://wcd.oregon.gov/laws/Pages/proposed-rules.aspx>.

Or call 503-947-7717 to get free paper copies

Questions? Contact Fred Bruyns, 503-947-7717.

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Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
A Statement of Need and Fiscal Impact accompanies this form

FILED 7-13-16 10:04 AM ARCHIVES DIVISION SECRETARY OF STATE

Department of Consumer and Business Services, Workers' Compensation Division Agency and Division	436 Administrative Rules Chapter Number
Fred Bruyns Rules Coordinator	(503) 947-7717 Telephone
Department of Consumer and Business Services, Workers' Compensation Division, PO Box 14480, Salem, OR 97309-0405 Address	

RULE CAPTION

Training, certification, and employment of claims examiners

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

Hearing Date	Time	Location	Hearings Officer
8-23-16	9:00 a.m.	Rm F Labor & Industries Bldg, 350 Winter St. NE, Salem, OR	Fred Bruyns

RULEMAKING ACTION

Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

AMEND:

436-055-0003, 436-055-0005, 436-055-0008, 436-055-0070, 436-055-0085, 436-055-0100, 436-055-0110

REPEAL:

436-055-0001, 436-055-0002

RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

AMEND AND RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

Statutory Authority:

ORS 656.726, 656.780

Other Authority:

Statutes Implemented:

ORS 656.780

RULE SUMMARY

The public may also listen to the hearing or testify by telephone:

Dial-in number is 1-213-787-0529; Access code is 9221262#.

Proposed amendments to OAR 436-055, "Certification of Claims Examiners" include:

- Repeal of obsolete or redundant rules, and deletion of obsolete, redundant, or erroneous rule text;
- Revision and reorganization, including consolidation, of rules to enhance clarity, ease of reading, and consistency;
- Revision of definitions, including the definition of "process claims";
- Clarification of the insurer's responsibilities related to renewal of claims examiner certification;
- Reduction of the required number of training hours related to interactions with independent medical examination providers for renewal of claims examiner certification from three hours to one hour;
- Increase in the required number of training hours related to rules, statutes, and case law for renewal of claims examiner certification from four hours to six hours;
- Addition of some record-keeping requirements currently published on an agency website;
- Insertion of rule wording, inadvertently deleted during previous rulemaking, while removing obsolete elements;
- Clarification of an insurer's responsibility to issue certificates, acknowledge certifications from other insurers, and verify documentation that requirements have been met;
- Clarification of the roles and qualifications of a claims examiner trainee and a temporary claims examiner;
- Allowing a person who has not been certified for more than one year to be hired as a trainee;

- Allowing a person whose certification has lapsed for one year or less to renew certification if training requirements have been met; and
- Clarification that nothing in the rules precludes an insurer from providing additional training.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

08-29-2016 Close of Business	Fred Bruyns	fred.h.bruyns@oregon.gov
Last Day (<i>m/d/yyyy</i>) and Time for public comment	Rules Coordinator Name	Email Address

*The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation.

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing accompanies this form.

FILED
7-13-16 10:04 AM
ARCHIVES DIVISION
SECRETARY OF STATE

Department of Consumer and Business Services, Workers' Compensation Division
Agency and Division

436
Administrative Rules Chapter Number

Training, certification, and employment of claims examiners

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amendment of: OAR 436-055, Certification of Claims Examiners

Statutory Authority:

ORS 656.726, 656.780

Other Authority:

Statutes Implemented:

ORS 656.780

Need for the Rule(s):

This rulemaking was begun in response to a petition for rulemaking under ORS 183.390 and OAR 137-001-0070, and the agency is proposing rule changes consistent with the petition. In addition, these rules have not been thoroughly reviewed in the past ten years, and this is an opportunity to make some corrections and to improve clarity, ease of reading, and consistency.

Documents Relied Upon, and where they are available:

Petition for rulemaking ' advisory committee meeting records and written advice. These documents are available for public inspection. Please contact Fred Bruyns, 503-947-7717, fred.h.bruyns@oregon.gov.

Fiscal and Economic Impact:

The agency projects that proposed rule changes will have no positive or negative fiscal impacts on the agency. Possible economic effects on other state agencies, units of local government, and the public are described below under "Statement of Cost of Compliance."

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

The agency projects that none of the proposed rule changes will significantly increase costs for state agencies, units of local government, or the public. The proposed changes should clarify and improve the efficiency of certification procedures, and the overall fiscal impact of the changes may therefore be slightly positive.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule:

The parties most affected by the proposed rule changes are certified claims examiners, people who wish to become certified claims examiners, and the insurers, self-insured employers, and service companies that employ claims examiners. Insurers and self-insured employers are not small businesses as defined in ORS 183.310. Approximately five service companies are small businesses.

The agency does not have reliable data, but is aware of at least two small businesses that provide training to prospective claims examiners, as well as continuing education for current claims examiners.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

The agency projects no increased costs for small businesses for reporting, recordkeeping, or other administrative activities required for compliance, including costs for professional services.

c. Equipment, supplies, labor and increased administration required for compliance:

The agency projects no increased costs for small businesses for equipment, supplies, labor, or increased administration required for compliance.

How were small businesses involved in the development of this rule?

Small business owners participated on the rulemaking advisory committee.

**Administrative Rule Advisory Committee consulted?: Yes
If not, why?:**

08-29-2016 Close of Business	Fred Bruyns	fred.h.bruyns@oregon.gov
Last Day (m/d/yyyy) and Time for public comment	Printed Name	Email Address

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
WORKERS' COMPENSATION DIVISION



**Certification of Claims Examiners
Oregon Administrative Rules
Chapter 436, Division 055**

Proposed

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NOTE: Revisions are marked as follows:

Deleted text has a "strike-through" style, as in ~~Deleted~~

Added text is underlined, as in Added

Historical rules are available for each division of chapter 436 – see:
<http://wcd.oregon.gov/laws/Pages/current-rules.aspx>.

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**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
WORKERS' COMPENSATION DIVISION
Proposed CERTIFICATION OF CLAIMS EXAMINERS**

**OREGON ADMINISTRATIVE RULES
CHAPTER 436, DIVISION 055**

436-055-0001 Authority for Rules

~~These rules are promulgated under the director's authority pursuant to ORS 656.726 and 656.780.~~

Statutory authority: ORS 656.726(3)(a); ~~and~~ ORS 656.780(1)
Hist: Amended 7/14/94 as WCD Admin. Order 94-054, eff. 9/1/94

436-055-0002 Purpose of Rules

~~The purpose of these rules is to establish standards for the certification of workers' compensation claims examiners pursuant to ORS Chapter 656.~~

Statutory authority: ORS 656.780(1)
Hist: Amended 12/21/99 As WCD Admin. Order 99-063, eff. 01/01/00

436-055-0003 Applicability and Purpose of Rules**(1) Applicability.**

These rules apply to the certification of all workers' compensation claims examiners on or after the effective date of these rules.

(2) Purpose.

The purpose of these rules is to establish standards for the certification of workers' compensation claims examiners under ORS chapter 656.

~~(2) The certification of any workers' compensation claims examiner valid on December 31, 1999 shall continue without expiration until December 31, 2000. However, this provision does not shorten any two year certification period.~~

~~(3) Any claims examiner certified on October 22, 1999, with a renewal date between October 23, 1999 and December 31, 1999, may present records to the insurer for renewal. The claims examiner's certification period shall be renewed for two years upon verification that the certified claims examiner met the continuing education requirements under the rules in effect on the date renewal was due, however no course taken after October 22, 1999 needs to be certified.~~

(4) Director's discretion.

~~Applicable to this chapter, t~~The director may waive any procedural rule as justice requires, unless otherwise obligated by statute, ~~in the director's discretion waive any procedural rules as justice so requires.~~

Statutory authority: ORS 656.726; ORS 656.780
Statutes implemented: ORS 656.780
Hist: Amended 12/21/99 As WCD Admin. Order 99-063, eff. 01/01/00

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
WORKERS' COMPENSATION DIVISION
Proposed **CERTIFICATION OF CLAIMS EXAMINERS**

436-055-0005 Definitions

Except where the context requires otherwise, ~~these rules are governed by the following definitions~~ under ORS 656.005 and the following apply to OAR 436-055-0008 to 436-055-0110:

(1) **“Claims examiner”** means anyone who has primary responsibility for decision making or benefit determination in a claim.

~~This includes those who decide compensability of new claims or aggravations, calculate benefits, authorize payments, or who represent employers by direct contact with the department or Board. This definition does not include attorneys representing employers before the department or Board, or those who primarily perform clerical functions.~~

(2) **“Claims Examiner Trainee”** means a person hired by an insurance company, self-insured employer or third party administrator to decide compensability of new claims or aggravations, calculate benefits, or authorize payments, who works under the direct supervision of a certified claims examiner.

(3) **“Director”** means the director of the Department of Consumer and Business Services or the director’s designee.

(4) **“Hearings Division”** means the Hearings Division of the Workers’ Compensation Board.

(5) **“Insurer”** means the State Accident Insurance Fund Corporation; an insurer authorized under ORS chapter 731 to transact workers’ compensation insurance in this state ; an assigned claims agent selected by the director under ORS 656.054; an employer certified under ORS 656.430 that meets the qualifications of a self-insured employer under ORS 656.407; or a ~~third party administrator~~ service company who processes claims for an insurer or self-insured employer under the conditions prescribed in ORS 731.475(3) and ORS 656.455(1).

(6) **“Party”** means a claimant for compensation, the employer of the worker at the time of injury, the insurer of the employer, or the insurer’s service company, if any. ~~includes anyone listed in ORS 656.005(21) and a third party administrator.~~

(7) **“Process ~~c~~Claims”** means the determination of compensability and management of workers’ compensation claims. ~~receipt, review and payment of compensation for workers’ claims.~~

(8) **“Temporary Claims Examiner”** means a person with at least two years of prior claims processing experience hired by an insurance company, self-insured employer or service company to decide compensability of new claims or aggravations, calculate benefits, or authorize payments in Oregon workers’ compensation claims, who works under the direct supervision of a certified claims examiner.

(9) **“Third party administrator”** means a service company who processes claims for an insurer or self-insurer under the conditions prescribed in ORS 731.475(3) and ORS 656.455(1).

Statutory authority: ORS 656.726(3)(a)

Statutes implemented: [ORS 656.780](#)

Hist: Amended 12/21/99 As WCD Admin. Order 99-063, eff. 01/01/00

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
WORKERS' COMPENSATION DIVISION
Proposed CERTIFICATION OF CLAIMS EXAMINERS**

436-055-0008 Administrative Review and Contested Cases

(1) Requests for hearings on sanctions and civil penalties.

Any party that disagrees with a proposed order, or proposed assessment of civil penalty ~~of~~ issued by the director ~~issued under ORS 656.745~~ these rules, may request a hearing by the Hearings Division of the Workers' Compensation Board in accordance with ~~under~~ ORS 656.740. To request a hearing, the party must:

(a) Mail or deliver a written request to ~~The request for hearing must be mailed or delivered to the Administrator of the Workers' Compensation Division by the aggrieved person within 60 days after~~ of the mailing ~~date of the proposed order or assessment;~~ and

(b) Specify, in the request, the grounds upon which ~~reasons why the party disagrees with~~ the proposed order or assessment ~~is contested.~~

~~(2) Under ORS 656.704(2), any party that disagrees with an action or order of the director under these rules, other than as described in section (1), may request a hearing by filing a hearing request as provided in OAR 436-001-0019 within 60 days of the mailing date of the order or notice of action. OAR 436-001 applies to the hearing.~~

(2) Requests for administrative review.

~~Any person~~ party that disagrees ~~that disagrees with an action taken under these rules by another person, except as described in sections (1) and (2), may request administrative review of the action by the director.~~ To request administrative review, the party must: as follows:

~~(a) The request for administrative review must be m~~ Mailed or deliver a written request for review ~~ed to the Administrator of the Workers' Compensation Division within 90 days of the action;~~ and ~~The request must s~~

(b) Specify, in the request, the grounds upon which ~~reasons why the party disagrees with the action,~~ is contested.

~~(b) The review will be conducted by the director.~~

~~(c) The director will review the relevant information submitted by all parties.~~

~~(d) The director will issue an administrative order that specifies whether the determination constitutes a final order or whether an aggrieved party may request a hearing under section (2).~~

(3) Requests for hearing on any other action or order of the director.

Any party that disagrees with an action or order of the director, except as described in section (1) of this rule, may request a hearing by filing a hearing request as provided in OAR 436-001-0019 within 60 days of the mailing date of the order or notice of action. OAR 436-001 applies to the hearing.

Statutory authority: ~~ORS 656.735(5) through (7); ORS 656.704; ORS 656.745(4); ORS 656.726; ORS 656.745 (4)~~
Statutes implemented: ORS 656.726; ORS 656.740; ORS 656.726
History: Amended 6/15/06 as WCD Admin. Order 06-055, eff. 7/1/06

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
WORKERS' COMPENSATION DIVISION
Proposed CERTIFICATION OF CLAIMS EXAMINERS**

436-055-0070 Certification of Claims Examiners**(1) Claims Examiner Test.**

To become an Oregon certified claims examiner, an individual must complete Claims examiners shall be certified by the insurer upon satisfactory completion of a test examination that demonstrates the individual's competency in claims processing activities, subject to the following:

(a) The test must include questions that which demonstrate the individual's; the individual's:

(aA) Familiarity Familiarity with the workers' compensation statutes ORS chapter 656;

(bB) Ability Ability to navigate the administrative rules found in this chapter OAR chapter 436;

(cC) Ability to Capability to perform claim processing activities; and

(dD) Understanding of all of the components Understanding of activities related to interactions with independent medical examination providers that includes all the components in in OAR 436-055-0085(12-); and

(b) (2) Any The person individual taking an examination may use a copy of ORS Chapter 656 and the Oregon Administrative Rules AR Chapter 436 during the examination;:-

(3) A passing score on an examination shall be 80 percent or greater.

(4) Any examination completed through dishonest or fraudulent means shall be considered invalid.

(2) Initial certification.

An insurer may certify an individual as an Oregon certified claims examiner upon the individual's satisfactory completion of the test under section (1) of this rule. (5) The Certification ion will be for a three year period. The certification date shall be remain in effect for three years from the date of the test examination. As used in this section, "satisfactory completion" means:

(a) The individual received a score of at least 80 percent on the test; and

(b) The test was not completed through dishonest or fraudulent means;

(63) Renewal of certification.

An insurer may renew a claims examiner's Ccertification upon verification that the claims examiner has completed 24 hours of training within the past three years. The 24 hours of training shall be renewed at any time during the certification period by providing verification of completion of 24 hours of training during the current certification period must include:

(a) At least , to include at least:

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
WORKERS' COMPENSATION DIVISION
Proposed **CERTIFICATION OF CLAIMS EXAMINERS**

(a) ~~Four hours~~ six hours of training on the workers' compensation statutes ORS chapter 656, administrative rules OAR chapter 436, and relevant case law since the last certification; and

(b) At least ~~For renewals on or after January 1, 2007, three~~ one hours of training related to interactions with independent medical examination providers that has been approved that under covers all the components in OAR 436-055-0085(1)(2); and-

(c) Additional training that covers any of the following subjects: The three hours of training may be completed in increments.

(7) Training may be provided in the form of a seminar, workshop, association meeting, forum, correspondence, video or similar course. It may include any of the following subjects:

(a) Medical case management including, but not be limited to, medical terminology, basic human anatomy and the interpreting-interpretation of medical reports.

(b) Communication skills including, but not be limited to, courses in ethics, mediation, negotiation and ~~dealing with angry people~~ conflict management; or-

(c) Instruction dealing specifically with the processing of Oregon workers' compensation claims processing skills relevant to Oregon workers' compensation claims.

(4) Expired certification.

An insurer may renew a claims examiner's certification that expired within the past 12 months if they meet the requirements of section (3) of this rule. An insurer may recertify a claims examiner who has not held current certification in the past 12 months under section (2) of this rule.

(5) Acknowledgement of certification.

If the individual provides the insurer with sufficient documentation to verify that they have met the requirements for initial certification or renewal the insurer may:

(a) Acknowledge the current certification issued by another insurer; or

(b) Certify the individual under section (2) of this rule.

Statutory authority: ORS 656.726, ORS 656.780

Statutes implemented: ORS 656.780(+)

History: Amended 6/15/06 as WCD Admin. Order 06-055, eff. 7/1/06

436-055-0085 Training for Interactions with Independent Medical Examination Providers

(1) Director approval of training curricula.

Any training ~~provided under OAR 436-055-0070 or OAR 436-055-0100(4)~~ relating to interactions with independent medical examination providers interaction must ~~first~~ follow a curriculum that has been be approved by the director.

(2) ~~To be approved, a training c~~ Curriculum a for initial certification must include at least some of ~~operate~~ the following components:

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
WORKERS' COMPENSATION DIVISION
Proposed **CERTIFICATION OF CLAIMS EXAMINERS**

- (~~a~~) Appropriate and ethical communication with independent medical examination providers;
- (~~b~~) Insurers' rights and responsibilities;
- (~~c~~) Injured workers' rights and responsibilities;
- (~~d~~) Independent medical examination providers' standards of conduct requirement;
- (~~e~~) IME complaint process and investigations by WCD; and
- (~~f~~) ~~Training specific to~~ The requirements of ORS 656.325 and OAR 436-010.

(3) ~~To be approved, a training curriculum for renewal of certification must incorporate some or all of the components in (2).~~

(42) Request for approval.

Any person may develop a training curriculum and ~~receive request approval by~~ from the director under this section ~~by submitting an application in a format prescribed by the director.~~

(a) ~~The application request for approval~~ must be made in writing, and must:

(A) ~~Describe the~~ how the training content that meets the criteria relates to the components in section (12) of this rule; and

(B) ~~Specify, in the request, the~~ total number of training hours to be provided ~~for that topic.~~

(b) The director will accept or deny the request and notify the person of the decision within 30 days of the receipt of the request.

(A) If the request is accepted, t

(5) ~~The director's approval curriculum will remain in effect~~ be approved until either the content or number of hours of training change, at which time. ~~At that time, the person a new request for approval must be submitted~~ will be required to resubmit an application that meets the requirements of sections (2) and (4) or (3) and (4) of this rule.

(6) ~~The division will review an application and notify the applicant of the results within 30 days of receipt of the application. The division will reject incomplete applications.~~

(7B) If the request for approval ~~If an application is rejected or disapproved~~ denied, the director will notify the applicant person ~~will be notified of the reasons for denial~~. The person may ~~application may be resubmitted when the reasons for the rejection or disapproval~~ denial ~~have been corrected~~ addressed.

(83) Registry of approved curricula.

The director will maintain a registry of approved training curricula.

Statutory authority: ORS 656.726

Statutes Implemented: ORS 656.780(4)

History: Amended 6/15/06 as WCD Admin. Order 06-055, eff. 7/1/06

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
WORKERS' COMPENSATION DIVISION
Proposed **CERTIFICATION OF CLAIMS EXAMINERS**

436-055-0100 Insurer Duties**(1) Insurer's responsibility to employ certified or qualified examiners.**

An insurer shall may only employ Oregon certified claims examiners to process claims. An Oregon certified claims examiner must have primary responsibility for all claims processing activities related to a claim, including but not limited to, determining the compensability of a claim, calculating benefits, and authorizing payments to workers.

~~who are certified or that qualify as a claims examiner trainee or a temporary claims examiner.~~ **(2) Claims examiner trainees and temporary claims examiners.**

Notwithstanding section (1) an insurer may employ a claims examiner trainee, or a temporary claims examiner to assist with claims processing activities if the claims examiner trainee or temporary claims examiner works under the direct supervision of a certified claims examiner. Claims examiner trainees and temporary claims examiners may not represent the insurer in communications with the director or the Workers' Compensation Board.

(a) A "claims examiner trainee" is an individual hired by an insurer to assist with claims processing activities that has no previous experience as an Oregon certified claims examiner, or who did not have current Oregon claims examiner certification in the 12 months before the date of hire. An individual may only work as a claims examiner trainee for up to 12 months in any five-year period. must work under the direct supervision of a certified claims examiner, and may work for up to 12 months in this status. An individual is limited to one 12-month period as a claims examiner trainee.

(b) A "temporary claims examiner" is an individual hired by an insurer to assist with claims processing activities with at least two years of prior experience as an Oregon certified claims examiner. A temporary claims examiner must have at least two years prior claims processing experience and work under the direct supervision of a certified claims examiner. An individual may only work as a temporary claims examiner for up to 90 days in any 12-month period. as a temporary claims examiner.

(3) Responsibility for training.

The insurer must ensure that training required under these rules, including training related to interactions with independent medical examination providers, is provided for any claims examiners it employs. No provision of these rules is intended to prevent an insurer from providing training to its employees beyond the requirements of these rules.

(24) Records.

The insurer must keep records sufficient to verify the certification and training of Insurers shall maintain a list of all certified claims examiners, temporary claims examiners, and claims examiner trainees who are employed by the insurer or who to process claims for the insurer.

(a) The records must include:

(A) The names of all certified claims examiners, claims examiner trainees and temporary claims examiners, and keep records sufficient to verify their certification

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
WORKERS' COMPENSATION DIVISION
Proposed **CERTIFICATION OF CLAIMS EXAMINERS**

~~and training currently employed by the insurer; The list and records shall be subject to inspection by the director.~~

(B) The names of the certified claims examiner supervising any claims examiner trainee or temporary claims examiners currently employed by the insurer;

(C) The date of certification and date of expiration of certification for all certified claims examiners;

(D) The dates of employment of any temporary claims examiner who has been employed by the insurer within the past 24 months;

(E) The dates of employment of any claims examiner trainee who has been employed by the insurer within the past five years;

(F) Documentation of any qualified trainings completed by certified claims examiners during the most recent period of certification, including:

(i) The name(s) of the instructor(s) providing the training;

(ii) The syllabi;

(iii) The date(s) of training; and

(iv) The number of training hours completed for each component under OAR 436-055-0070(3); and

(G) Documentation provided to the insurer to support any acknowledgment of an initial certification or renewal issued by another insurer.

(b) Upon the director's request, the insurer must make the records available for inspection or review. ~~The director may require submission of such lists and records in lieu of on-site inspection.~~

~~(3) Insurers may issue an initial certification or renewal for any individual pursuant to the standards set in OAR 436-055-0070.~~

~~(4) Insurers must ensure that training related to interactions with independent medical examination providers is provided for certified claims examiners in their employ.~~

~~(5) Insurers shall not misrepresent any information to a worker, employer or the director related to the certifications of its employees.~~

(c) (6) The insurer must provide a claims examiner with a complete copy of all records verifying the most recent certification and any subsequent training completed by the claims examiner ~~Within~~ within 14 days of the termination of the claims examiner's employment, or upon receipt of a written request.

~~of a certified claims examiner, an insurer shall provide the certified claims examiner a complete copy of all records verifying the most recent acknowledgement of certification and any subsequent training.~~

(d) (7) The insurer shall ~~must~~ retain records used to ~~verifying~~ the certification and renewal of any ~~certified~~ certified claims examiners it employs ~~who are employed by the insurer or~~

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
WORKERS' COMPENSATION DIVISION
Proposed CERTIFICATION OF CLAIMS EXAMINERS**

~~who process claims for the insurer for six years from its~~ the date of the most recent ~~acknowledgement of current certification~~ or renewal.

(5) Civil Penalties.

An insurer that fails to comply with the requirements of this rule, or misrepresents information related to the certification of any of its employees to a worker, employer or the director may be subject to a civil penalty under OAR 436-055-0110.

Statutory authority: ORS 656.726, ORS 656.780

Statutes implemented: ORS 656.780(1) ~~and (2)~~

History: Amended 12/5/05 as WCD Admin. Order 05-076, eff. 1/1/06

436-055-0110 Assessment of Civil Penalties

(1) Penalties for failure to comply with statutes, rules and orders.

~~Under ORS 656.745~~ The director may assess a civil penalty against an insurer ~~which~~ that fails to comply with these rules under ORS 656.745.

(2) Penalties for failure to comply with ORS 656.780.

~~Under ORS 656.780~~ The director may assess a civil penalty against an insurer that fails to maintain or produce certification and training records, or that employs anyone other than a certified ~~workers' compensation~~ claims examiner to process ~~workers' compensation~~ claims.

(3) Penalty amounts.

~~The~~ No insurer shall be civil penalty will exceed ~~subject to a penalty of not more than \$2000~~ per for each violation or \$10,000 in aggregate for all violations within a three-month period. Each violation, or each day a violation continues, ~~shall~~ will be considered a separate violation.

Statutory authority: ORS 656.726; ORS 656.780

Statutes implemented: ~~ORS 656.447(1)(a); ORS 656.745(2)(b); ORS 656.780(3)~~

History: Amended 6/15/06 as WCD Admin. Order 06-055, eff. 7/1/06