

Misty Bergenstock, Endeavor Psychiatry, February 25, 2026

Response to proposed Amendment to rule 0280 regarding closing exams.

In the current proposed rules, Majoris is requesting the rules be changed to allow for NPs, PAs and Naturopaths to complete closing exams.

We oppose the proposed rule permitting Managed Care Organizations (MCOs) to authorize PAs, NPs, and NDs to perform workers' compensation closing examinations.

Closing examinations are not routine clinical encounters. They determine medically stationary status, permanent impairment, and statutory benefit entitlement, with real world, significant, and lasting consequences for the worker. Because they directly affect workers' legal rights, they require heightened standards of neutrality and reliability.

Closing exams are adjudicatory in nature: They function as essentially forensic evaluations that determine statutory benefits. Lowering evidentiary standards at this stage undermines procedural fairness.

The MCO-only limitation is arbitrary: If non-physician clinicians are qualified to perform closing exams, there is no rational basis to restrict that authority to MCO claims. If non-physician clinicians are not qualified, allowing it only within MCO structures, where cost-containment incentives are strongest, is especially concerning.

Structural conflict of interest: MCOs operate within insurer-aligned systems. Expanding closure authority within that framework risks eroding neutrality in disability determinations.

Increased downstream litigation: Any short-term efficiency gains are likely to be offset by increased reconsiderations, IMEs, and hearings due to disputes over impairment findings.

Two-tiered claim system: The rule creates different standards for claim closure depending solely on claim pathway, undermining uniformity in Oregon's workers' compensation system.

Irreversibility of harm: Once a claim is closed with a potentially reduced impairment finding, the burden shifts to the worker to challenge it. This increases the likelihood that inaccurate impairment determinations will become practically final due to procedural burden, economic pressure, and time-sensitive medical findings. The proposal prioritizes administrative efficiency and cost containment over adjudicatory integrity.

Closing examinations determine statutory rights and should remain subject to the highest standards of independence and reliability. For these reasons, the rule should be rejected. If not rejected, meaningful guardrails, like including mandatory physician concurrence and independent oversight, are essential to protect fairness and system stability.