

**BEFORE THE DIRECTOR OF THE
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
OF THE STATE OF OREGON**

PUBLIC RULEMAKING HEARING

In the Matter of the Amendment of OAR: 436-009, Oregon Medical Fee and Payment Rules 436-010, Medical Services)))	TRANSCRIPT OF TESTIMONY
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The proposed amendment to the rules was announced in the Secretary of State’s Oregon Bulletin dated Feb. 1, 2017. On Feb. 16, 2017, a public rulemaking hearing was held as announced at 10 a.m. in Room F of the Labor and Industries Building, 350 Winter Street NE, Salem, Oregon. Fred Bruyns, from the Workers’ Compensation Division, acted as hearing officer. The record will be held open for written comment through Feb. 22, 2017.

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TRANSCRIPT OF PROCEEDINGS

Hearing officer:

Good morning and welcome. This is a public rulemaking hearing.

My name is Fred Bruyns, and I’ll be the presiding officer for the hearing. The time is 10 a.m. on Thursday, February 16, 2017. We are in Room F of the Labor & Industries Building, 350 Winter St. NE, in Salem, Oregon. We are making an audio recording of today’s hearing.

If you wish to present oral testimony today, please sign in on the “Testimony Sign-In Sheet” (on the table by the entrance). If you plan to testify over the telephone, I will sign in for you. Is there anyone on the telephone who would like to testify this morning? Okay, let me know later if you change your mind. We’ll be open for one-half hour for testimony at a minimum. We also have the testimony received to date on the back table. We only have two exhibits back there, but you are welcome to pick up a copy and have a look.

The Department of Consumer & Business Services, Workers’ Compensation Division proposes to amend chapter 436 of the Oregon Administrative Rules, specifically:

Division 9, Oregon Medical Fee and Payment, and division 10, Medical Services

Transcript of public rulemaking hearing
Feb. 16, 2017

The department has summarized the proposed rule changes in the Notice of Proposed Rulemaking Hearing. This hearing notice, a Statement of Need and Fiscal Impact, and proposed rules with marked changes, are on the table by the entrance.

The Workers' Compensation Division: filed the Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact with the Oregon Secretary of State on Jan. 12, 2017; mailed the Notice and Statement to its postal and electronic mailing lists; notified Oregon legislators as required by ORS chapter 183; and posted public notice and the proposed rules to its website.

The Oregon Secretary of State published the hearing notice in its *Oregon Bulletin* dated Feb. 1, 2017.

This hearing gives the public the opportunity to provide comment about the proposed rules. In addition, the division will accept written comment through and including Feb. 22, 2017, and will make no decisions until all of the testimony is considered.

We are ready to receive testimony. If you are reading from written testimony and give the agency a copy of that testimony, we will add it to the rulemaking record. Kate, or someone, could you bring up the roster, in the back? I don't know if anyone signed up to testify, or not.

Kate Hall:

No, we don't have anybody.

Hearing officer:

Okay, you can leave it back there. That's fine, in case someone comes in. Thanks so much.

Is there anyone here who would like to provide testimony this morning? Is there anyone on the telephone who would like to provide testimony? Okay, for the record, no one wishes to testify at this time.

It is our policy to hold the hearing open for a minimum of one-half hour, in case someone arrives late and would like to testify. So, in a moment, I'll recess the hearing, and then we'll resume the hearing if anyone arrives to testify.

So, again, for the record; again, you may submit testimony in any written form, whether hard copy or electronic. I encourage you to submit your testimony by email or as attachments to email. However, you may also use fax, USPS mail, courier, or you may hand deliver testimony to Workers' Compensation Division Central Reception on the second floor of this building. On the table by the entrance are business cards that include my contact information. I will acknowledge all testimony received.

This hearing is recessed at 10:04 a.m.

[Hearing resumed at: 10:25]

Hearing officer:

Okay, we're back on the record. So, Carl Wilmsen, would you go ahead and testify?

Carl Wilmsen:

Yes, I would like to say that it's really important for there to be certified interpreters at medical exams. The proposed rule keeps the old rule in place, meaning that the person who is seeking the medical exam, the patient, can choose the interpreter. But this is not a good situation because, we find at the Northwest Forest Worker Center is, the workers, when they're injured on the job, and forest workers as you know have very high rates of job-related injuries, they are told to lie on the way to the hospital and say they were cutting firewood at home, that it was not a job-related injury, and then when they get to the hospital, their supervisor is typically the interpreter for them. So when the supervisor has advised them to lie about it being job related injury, they're not getting a truthful and adequate interpretation at the medical exam. So we feel very strongly that the final rule should include a requirement that there be certified interpreters at all medical exams.

Another reason is that for people who come in, if they choose their children, for example, to be the interpreter, the child may not know medical terminology, and may not be able to provide adequate interpretation either.

A third reason is that if the worker comes in and is given the choice, who do you want to interpret, and their supervisor is standing right there, the chances are that they are going to feel pressured to select their supervisor as opposed to someone else.

So, again, we feel very strongly that there needs to be a rule in place requiring certified interpreters at medical exams. Thank you very much.

Hearing officer:

Thank you, Carl. I just have a quick question for you. You mentioned that workers are told to lie on their way to the hospital or, I guess, to wherever they are getting treated. Is something that you have reported or folks have reported to the Workers' Compensation Division as a violation of the law?

Carl Wilmsen:

We have spoken with people at the Ombudsman's office a couple of times about this.

Hearing officer:

Okay. Yeah, I would encourage you to report any instance of that. I understand workers are under quite a bit of pressure, but that's not a grey area. That's a clear violation. Is that the conclusion of your testimony, Carl?

Carl Wilmsen:

Yes.

Hearing officer:

Okay. Well then thank you very much for joining us this morning.

Carl Wilmsen:

Thank you.

Hearing officer:

Thank you.

Is there anyone else who would like to testify? Okay, hearing nothing, I'm going to go ahead and actually close the hearing. We are very close to our half hour, and I will remain in the room in case we do need to reconvene the hearing. But, I want to thank you for joining us. You have until the 22nd of February to submit any written testimony that you'd like to provide. And, you can send that to us pretty much any way – by fax, U.S. Mail, courier, you can hand deliver to central reception on the second floor of this building, the Labor & Industries Building. And, if you do send testimony to me in writing, I will acknowledge that testimony, so you won't have to wonder whether we've really received it.

The hearing is adjourned at 10:29. Thank you very much for joining us this morning.

Transcribed from a digital audio recording by Fred Bruyns, Feb. 16, 2017.