



National Association  
of Professional Employer Organizations

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*Electronic Delivery*

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Worker's Compensation Division  
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Salem, OR 97309  
[Fred.h.bruyns@oregon.gov](mailto:Fred.h.bruyns@oregon.gov)

**Re: Comments on Proposed Amendments to Worker Leasing Rules**

Dear Mr. Bruyns:

On behalf of the National Association of Professional Employer Organizations (NAPEO), I would like to express our appreciation for the opportunity to provide comments on the proposed amendments to the worker leasing rules. NAPEO has participated throughout this rulemaking process and we have welcomed the opportunity to engage with Department staff throughout the process.

NAPEO is the largest trade association for professional employer organizations (PEOs),<sup>1</sup> which provide comprehensive HR solutions for small and mid-sized businesses. NAPEO represents approximately 300 PEO member companies that provide services to over 156,000 businesses employing more than 2.7 million workers nationwide. In Oregon, our industry's footprint includes over 60 members who report doing business in the state and approximately \$500 million in worksite wages.

PEOs generally provide payroll, benefits, regulatory compliance assistance, and other HR services to their small business clients (referred to herein as "client employers"). Client employers have 10-15 workers on average.

***NAPEO and its members support the proposed rules and believe many of the amendments would accomplish the Department's goal of streamlining its worker leasing requirements to better align Oregon with standards found in other states.*** From the beginning of this process the Department requested industry feedback as it considered making changes to the existing rules. We appreciated the opportunity to be heard and feel the Department took that feedback into consideration throughout the drafting process. The addition of a limited license along with the removal of the requirement to keep

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<sup>1</sup> In Oregon, PEOs are licensed as "worker leasing companies."

worker leasing records in state will help to align Oregon with other states that regulate the PEO industry, provide practical regulation of the industry, and continue to uphold the integrity of the workers' compensation system in Oregon.

**SPECIFIC CONCERNS WITH THE PROPOSED RULE WITH RESPECT TO NOTICE OF TERMINATION PROVISIONS AND COMMISSIONER AUTHORITY**

The industry does have concerns about some of the provisions contained within the proposed rules. Proposed section 436-180-0110(3) would require a worker leasing company to provide written notice prior to the termination of a client's workers' compensation coverage. It is apparent the Department is concerned about the possibility of a PEO unilaterally terminating the insurance coverage. However, there are instances where the client employer terminates the coverage – without providing notice to the PEO – making it impossible for the PEO to provide advanced notice of policy termination. In a PEO relationship it is not rare for a client to cancel workers' compensation coverage without the PEO's knowledge. While we understand and share the Department's concern of ensuring worksite employees enjoy the benefits and protection of continuous workers' compensation coverage, the requirement may be untenable in some situations.

Proposed rule section 436-180-160(2)(b) states “a show-cause hearing may be held at any time the director finds that a worker leasing company has failed to comply with its obligations under a leasing contract or that it failed to comply with the rules or orders of the director.” Though we believe the director has the ability to evaluate a PEO's conduct in relation to compliance with the rules and orders of the director, we do not believe it is in the best position to evaluate a PEO's leasing contract with its client. We strongly believe such evaluation is best left to the contracting parties or to a court of law. If it is not the intent of the director to pursue such a review of a PEO's contract, then clarifying language would be helpful.

**RECOMMENDATIONS**

As noted above, requiring PEOs to provide advance notice any time workers' compensation is terminated will not be possible in all circumstances. We believe a better result would be achieved by following one of the following examples from states that currently regulate the industry. For example, a PEO doing business in Alabama is required to provide the state and clients notice within 10 days of receiving notice of cancellation of workers' compensation coverage<sup>2</sup>. Similar 10-day notice requirements exist in North Carolina<sup>3</sup>, South Carolina<sup>4</sup> and Tennessee<sup>5</sup>.

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<sup>2</sup> Section 25-14-9(f)(6)(d)

<sup>3</sup> N.C. Gen. Stat. §58-89A

<sup>4</sup> S.C. Code Ann. §40-68-110(D)

<sup>5</sup> Tenn. Code Ann. § 62-43-110(a)(2)

We thank you for your consideration of our comments and recommendations on the proposed rule for worker leasing companies. We also appreciate your willingness to work with the industry throughout this process and we look forward to working with you moving forward. Should you have any questions with respect to the issues discussed herein, please contact me at (503) 612-1541 or Daniel Harris of NAPEO at (703) 739-8173.

Sincerely,

A handwritten signature in black ink, appearing to read "Anne E. Donovan". The signature is fluid and cursive, with a long horizontal flourish at the end.

Anne Donovan  
Chair, NAPEO's Oregon Leadership Council  
President, Xenium HR  
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