

RULEMAKING ADVISORY COMMITTEE MEETING

Oct. 16, 2017, 1 p.m.

Room F, Labor & Industries Building, Salem, Oregon

WORKERS' COMPENSATION DIVISION RULES

OAR 436-050, Employer/Insurer Coverage Responsibility, Worker Leasing

Committee members attending:

Arin Carmack	Cardinal Services
Kim Doster	TNT Management Resources
Jennifer Flood	Ombudsman for Injured Workers
Jaye Fraser	SAIF Corporation
Daniel Harris	National Association of Professional Employer Organizations
DeAnne Hoyt	SAIF Corporation
Sam Lambert	Mid Oregon Personnel Services Inc.
Ed Lenz	American Staffing Association
Melinda Majors	Cinder Staffing
Ramona Mathany	American Admin, Inc.
Kristen McConnell	NW Staffing Resources
Andrea McHenry	Insperity
Jade McNallan	TRUEBLUE
Shawn Miller	Miller Public Affairs
Jay Morgan	ESAC
Barb Reich	Asante

Agency staff attending:

Angie Blake
Cara Filsinger
Chris Clark
Daneka Karma
Fred Bruyns
Lorrie Baker
Lou Savage
Roger McComas
Tasha Chapman

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RULEMAKING ADVISORY COMMITTEE MEETING

October 16, 2017, 1:00 p.m.

Room F, 350 Winter Street NE, Salem, Oregon

WORKERS' COMPENSATION DIVISION RULES

OAR 436-050-0400 to 0480, Worker Leasing

The proceedings in the above-entitled matter were held in Salem, Oregon, on the 16th day of October, 2017, before Fred Bruyns, Administrative Rules Coordinator for the Workers' Compensation Division.

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DISCUSSION AMONG PARTIES

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TRANSCRIPT OF PROCEEDINGS

1
2
3 0:00: And with that in mind, there's a transcript of our September 22
4 meeting up on our website now. And I encourage you all to look at that. It's--it takes
5 a couple of weeks, so we'll have this one up again after our transcription service
6 types it up for us.

7 But thank you all very much for coming. Those of you who don't know
8 me, my name is Fred Bruyns. I coordinate rulemaking for the Workers'
9 Compensation Division. I appreciate you taking the time to come down here on this
10 really kind of nice Oregon day. I think both meetings have been on sunny days,
11 which means you think our weather is always that way if you're from out of town or
12 out of the area.

13 But anyway, there are additional handouts at the back of the room.
14 Some documents submitted as advice. And so I'd encourage you to pick up one of
15 those if you haven't already. They're also up on our website except one. Arin
16 Carmack of Cardinal Services brought a letter today. And there's only a few copies,
17 but we--I'll post it to our website. Might even be able to get it up this afternoon, but
18 definitely get it up on our website soon.

19 And with that, I think most of you are not new to the advisory
20 committee process, but I do want to assure you that it's very informal. It's a
21 conversation, really, and our chance to learn as much as possible from you about
22 what potential rulemaking rule changes could mean for you and the people that you
23 represent. And we certainly want to find out also about any fiscal impacts that--
24 potential changes. And I emphasize potential because we're really early in the
25 process yet. We haven't formally proposed anything. That would come later. And

1 that would be subject to a public hearing. So this is kind of our first shot at all the
2 issues. And it's really the best time to shape what actually goes into the proposed
3 rules so we can get it as close as possible when we go to hearing.

4 So if you're on the telephone with us, please keep in mind we'll pick up
5 any background noises in your office, even keyboarding sometimes, so please be
6 aware of that, and you may want to selectively use the keyboarding. However, we
7 really want you to fully participate. So please, if you're on the phone, if you're not
8 just-- You may listen, of course, and not participate, but I encourage to participate in
9 any way you like. So just speak up. You don't have the advantage of seeing who
10 have--might have their hand up here and we'll certainly take your information as
11 soon as you have something to give to us.

12 With that, I have introduced myself. I'd like to begin with the folks on
13 the telephone and have you introduce yourselves to the rest of the committee.

14 2:54: Thanks, Fred. Jay Morgan with...

15 2:55: Ed Lenz with American...

16 2:58: Okay. Well, let's let Jay come in first. Hello, Jay.

17 3:02: Hey, Fred. Jay Morgan with ESAC.

18 3:05: Okay. Welcome.

19 3:09: Hi. This is Ed Lenz at the American Staffing Association.

20 3:12: Welcome, Ed.

21 3:15: Thank you.

22 3:17: Anyone else?

23 3:18: Kim Doster.

24 3:19: Hi, there. Yes. This is Barb Reich with Asante in Southern

25 Oregon.

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3:23: Welcome, Barb. And someone else is trying to come in.
3:27: And Kim Doster with TNT Management Resources.
3:30: Welcome, Kim.
3:31: Can she repeat that? Who?
3:33: Kim Doster.
3:33: With?
3:34: Oh. Who...
3:35: TNT.
3:36: Are you with TNT?
3:38: Yes.
3:39: Okay.
3:39: Yes.
3:39: Thanks.
3:40: Okay. Welcome, Kim. Anyone else? Okay. Hearing no one,
we'll...
3:49: Okay. I'm Chris Clark. I'm a policy analyst for the division.
3:53: Angie Blake, compliance specialist, worker leasing.
3:55: Lorrie Baker, compliance specialist, worker leasing.
3:58: Sam Lambert, Mid Oregon Personnel Services.
4:01: I'm Jade McNallan, sitting in for Morgan from TrueBlue, Inc.
4:05: Shawn Miller. I represent TrueBlue.
4:08: Jennifer Flood, Ombudsman for Injured Workers, DCBS.
4:11: Arin Carmack, Cardinal Services.
4:14: Cara Filsinger, Workers' Compensation Division.
4:16: Adam Breitenstein, Workers' Compensation Division.

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4:18: Tasha Chapman, research analyst for the Department.

4:21: Ramona Mathany with American Admin and All Star Labor and Staffing.

4:25: Kristen McConnell with Northwest Staffing Resources.

4:29: Melinda Majors with Cinder Staffing.

4:30: Jaye Fraser, SAIF Corporation.

4:33: DeAnne Hoyt, SAIF Corporation.

4:34: Roger McComas, Workers' Compensation Division.

4:37: Daniel Harris with the National Association of Professional Employer Organizations.

4:41: Again, welcome to everyone. And with that, I'm going to turn the--kind of the conduct of the meeting over to Chris. And he'll know where we left off and where he wants to go from there.

4:52: Great. Thanks, Fred. Thank you again, everybody, for coming. We really do appreciate how much interest we've had in this rulemaking, and all the good conversation we had last time. I think for the agenda for today, we're going to pick up where we left off, like Fred mentioned. And then we'll have time for any other issues that stakeholders would like to bring to present, or any other discussion on issues that we didn't talk at the last--talk about at the last meeting.

So to start with, we left off--we actually skipped ahead, but we're on Page 9 of the agenda for issue 1060. And the issue is that the rule, OAR 436, Division 50, Rule 440 does not clearly describe the process for rejecting an incomplete worker leasing license. So under the rule, Section 2, each person applying for initial license or renewal as a worker leasing company must submit a completed Form 2466, as well as additional required documentation.

1 Section (4) of the rule provides that the director will review complete
2 applications. And section (6)(j) provides that the director may refuse to issue or
3 renew a license when an applicant has failed to provide documents the director has
4 requested.

5 So while it is clear that a failure to provide documentation required by
6 436-050-0440 is sufficient to refuse to approve an application, the division is
7 considering alternatives to clarify the process in rule. So one alternative is to adopt
8 provisions describing the review process similar to those found in other rules.

9 And I guess we just like--would like feedback. A little of this is
10 housekeeping that we're just clarifying that we will only review complete applications
11 and making the clarification that we may refuse to issue or renew a license for failure
12 to provide a complete application. And I guess we'd like to know how helpful it
13 would be to have more description of the process in the rule than is currently there.
14 So if anybody has thoughts.

15 7:05: Just a question.

16 7:07: Sure.

17 7:07: So if a company submits an application and it's incomplete for
18 whatever reason, is there a time to cure whatever deficiencies are in the application?

19 7:19: I'll defer to the specialist on that.

20 7:21: Yeah. We like them to send in their renewals 90 days ahead of
21 time.

22 7:27: Right.

23 7:28: And we start submitting them reminders.

24 7:31: Okay.

25 7:31: So there are about three months.

1 7:34: But assuming that the application is complete for whatever
2 reason, do you let them know--

3 7:39: Yes.

4 7:39: --what's missing and give them time to...

5 7:42: Yes.

6 7:42: Okay.

7 7:43: Ideally within 14 days.

8 7:44: Okay. All right. Thanks.

9 7:45: Uh-huh.

10 7:54: All right. Okay. Well, this is mostly housekeeping and kind of an
11 internal thing. So we'll do that. And then yeah, we do appreciate you asking some
12 of the process stuff that's not necessarily spelled out in the rules, but it's good stuff
13 to talk about.

14 Okay. So moving to the next issue, 1061, this issue is that worker
15 leasing contracts do not always adequately establish an employment relationship
16 between the worker leasing company and leased workers. So this came up
17 because while reviewing worker leasing records, the division identified several
18 worker leasing contracts that contained phrases limiting the worker leasing
19 company's obligations as an employer, or stating that the worker leasing company
20 was not the employer of the leased workers. The division has concerns that by
21 including this language, the worker leasing contract did not adequately establish a
22 leasing relationship between the worker leasing company and the client under ORS
23 656.850.

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Hearings Division

24 S to ensure that the worker leasing contracts are consistent with
25 Oregon law, the division is considering requiring a sample leasing contract to be

1 included with the initial application for license.

2 So this would be a new requirement. We do know that some other
3 states have rules about what the worker leasing agreement must include. We--our
4 alternative right now is just asking for the license to be submitted to us so we can
5 review it. But if anybody has suggestions or can share their experiences in other
6 states, we would be--we'd welcome to hear it.

7 9:33: Can you tell us what--how are you limiting the-- That's the part
8 I'm not understanding. How are--

9 9:40: Yeah.

10 9:40: --you seeking to limit...

11 9:43: So I think we got a worker leasing agreement that basically said,
12 you know, the worker leasing company is not the employer of the leased workers,
13 which is problematic for us--

14 9:54: Right.

15 9:54: --for a lot of ways because depending on who's providing the
16 coverage, they are fulfilling the role as a subject--

17 10:01: Right.

18 10:01: --employer.

19 10:03: I'm not sure how many other states--I'm just speaking from a
20 PEO perspective, how many states require submission of an application. But I am
21 concerned, you know, for our companies, their CSAs, their agreements are very
22 proprietary. And I know they would be concerned with, you know, just having that
23 information available to a competitor.

24 So in Oregon, if they would submit their CSAs, would those documents
25 be protected as confidential?

1 10:43: It depends. So unfortunately, it was all records in the state--all
2 records that the state has are basically subject to the public records law. So we
3 can't--

4 10:54: Right.

5 10:54: --guarantee that we wouldn't have to disclose them. There are
6 definitely exemptions for trade secrets, information that's submitted to us in
7 confidence, but we can't guarantee that something will fall under that exemption, or
8 even if it does, that we will not disclose it if the public interest requires us to do so.
9 So...

10 11:15: If there were trade secrets, and I'm sure there are trade secrets
11 in the -- We would have to have them redacted before we sent them out, which is a
12 fairly expensive process. It sometimes involves the Department of Justice
13 involvement in doing that redaction so that we have experts actually doing it, so...

14 11:34: You go ahead.

15 11:35: Have you considered some type of required language? Just a
16 basic statement, that you have to have this in your customer service agreement that
17 the worker leasing company is the employer of record or the co-employer may be a
18 better term. Just to make it easier instead of having the division go through and
19 review whether or not this one actually meets the compliance standards or not.

20 12:01: Yeah. So that is something, while kind of reviewing other
21 state's laws, we saw that that is a common practice. I think we're open, you know,
22 to the alternative in considering it. I'm seeing some heads shaking, that that might
23 be a preferred alternative.

24 12:17: I suppose the other thing would be provisions that shouldn't be
25 in the agreement. We periodically get agreements, because we do ask for copies of

1 the agreement to make sure there's not something in there that messes with our
2 relationship as the insurer. We occasionally see things that are problematic in the
3 agreement. So it would be nice if the initial agreement, the licensing process would
4 mean we say, "And oh, by the way, you can't charge for the coverage," you know, so
5 some of those kinds of things.

6 12:58: Did you have any other specific examples? I'm not sure...

7 13:01: I could get you some if you'd like.

8 13:02: Okay. Yeah. That would be great.

9 13:03: So because, yeah, we do see things. And sometimes it's not
10 clear of who's responsible for what in the agreement, you know, the--where there's
11 not a clear request from the employer to the PEO to handle certain things and it
12 gets--it can get a little confusing sometimes.

13 13:23: Yeah. Great. Any other thoughts on that topic?

14 13:36: I think required language or barred language makes a lot more
15 sense than having to create a situation where you have to go over all of our
16 agreements essentially with a fine-tooth comb. That could become problematic
17 moving forward, is that could sprawl outside of the original intended direction. But
18 giving us rules to play by I think is something we can all accept.

19 14:15: Go ahead.

20 14:15: Yeah. Great. So yeah, so I think we'll continue looking into
21 what other states are doing and try to make something that's--make a decision that's
22 consistent with that and maybe, yeah, it's--if this is a more recent direction, we'll
23 definitely look at it.

24 Okay. Great. So we actually did--we talked about the changes in the
25 next issue, 1360. I'm sorry for moving through these kind of quickly. I do know

1 there were some other issues that people want to talk about, though.

2 This next one is also pretty noncontroversial, and we think everybody
3 will like it. But so Issue 1361, which is on Page 12, is that we currently require--so
4 supplemental material for renewal application to be provided at least 45 days before
5 the expiration of the current license.

6 Kind of after internal discussions, we think that we can process
7 everything in 30 days, so we are considering extending the time. So yeah, so we
8 will change the due date for supplemental material for renewal applications to 30
9 days before the expiration date instead of 45.

10 Does anybody have thoughts about that?

11 15:51: What happens to employers or to the client if you don't approve
12 the application?

13 16:02: To the employer or to the client?

14 16:04: The client. And well, because they're our employer, so--but if
15 you had an application renewal and you decide not to renew it, because I was
16 looking at the 45 days to give you time, and then for the client to find--potentially find
17 new insurance. That was my only--

18 16:29: Oh, I see.

19 16:30: --thought.

20 16:30: I see what you're saying. You know...

21 16:33: Well, there's two different issues there. One is coverage and
22 one is whether the company is leasing without a license. So you know, the--and
23 whether the client is using an unlicensed leasing company, both of which would be
24 violations, so--but that doesn't change the comp case. I mean, just because there's
25 a-- I mean, even if the PEO were not a licensed PEO and they have a client,

1 they're--if there were a claim, they'd still be on the hook for coverage. It's just that
2 they might additionally be on the hook for a violation of leasing without a license, or
3 the client would be on the hook for using an unlicensed leasing company. So we--
4 those are two different issues that we would be addressing, you know, separately.
5 So I don't think that's really what this 45 days is--it wouldn't--it's more just about a
6 renew--you know, a license renew--when someone renews their license, they have
7 45 days. Once we tell them, "Okay, you've got some corrections to make on your
8 application and you've got 45 days to fix it," we're saying, you know, probably 30
9 days is fine. I think it's fairly invisible to most PEOs anyway that we even track that
10 date. But it's the date we track, you know, is potentially a violation.

11 17:56: Yeah. And I'm assuming if we do find a major error, we would
12 continue working to try to remedy that until the--

13 18:01: Correct.

14 18:01: --expiration date, so...

15 18:02: Correct.

16 18:03: This just gives us a little more teeth to get the information we
17 need.

18 Any other thoughts on that issue? Great. So I did--I'll make--I made a
19 note that we will check again, too, to see if there is any potential impact on timelines
20 there, but okay.

21 So the next issue on Page 12 is 1362. And the issue is just a review of
22 OAR 436-050-0440(6), and Rule 460(1), to ensure that the reasons for denial of
23 application are consistent with reasons for suspension or revocation of a license.

24 So Rule 440(6) provides a list of reasons for which the director may
25 refuse to approve or renew a worker leasing license. Rule 460(1) provides a list of

1 reasons for which the director may suspend or revoke an existing worker leasing
2 license. A lot of the items in the two rules overlap, but they're not entirely consistent.
3 There's an example here. So a lot of them are overlap, but not all of the issues that
4 are--are not specifically listed in Rule 440, even though these items are required
5 doing the application process. So that's specifically suspend or revoke for
6 insolvency or not paying taxes.

7 So we are just considering adding a subsection to provide that the
8 director may refuse to issue or renew a license if the person has been the subject of
9 any civil or criminal action involving bankruptcy, liens, default, or insolvency, or failed
10 to comply with state or federal tax laws in Rule 440. And in 460, just adding that any
11 of the reasons listed under Rule 440 is also reason for suspension or revocation.

12 So again, pretty in the weeds, but just making some clarifications
13 there. And I think all of this is probably within our current authority, so we're really
14 just making things--trying to make our expectations more clear.

15 All right. Seeing head nods, but no thoughts or objections? Okay.

16 So this next issue, number 1306, is that we've received input that the
17 current requirement for a leasing company to maintain records as an--at an Oregon
18 location may be overly restrictive.

19 So Rule 455 requires every licensed worker leasing company to give
20 notice to the director of one Oregon location where Oregon leasing records are kept and
21 made available for review by the director. Some stakeholders, including NAPEO, have
22 commented that this requirement is overly restrictive.

23 There's a little discussion. Part of the reason why we have that rule in
24 place is because it is more difficult for us to get access to records when they are not
25 in an Oregon location. We have some concerns about limitations, but we have ways

1 to compel records to be provided to us. So we do think this is a--we are considering
2 this as an option to relaxing the in-state requirement.

3 Does anybody have any thoughts or...

4 22:11: No. The only comment that I have is that that is also a
5 requirement for insurance companies.

6 22:17: Yes.

7 22:18: And it seems to me that in essence, we're talking about an
8 insured type arrangement and that it should be consistent.

9 22:31: Okay. So you think that because of the nature of the worker
10 leasing business and transacting Workers' Compensation coverage, that it would--it
11 is reasonable for them to be subject to the same requirements.

12 22:42: Well, because really, and if the records are--even if by rule, you
13 require them to be available, you still limit your ability to use the judicial process to
14 go get them, so that's just...

15 23:01: We have also had comments from stakeholders on the insurer
16 side about, you know,--

17 23:06: About the...

18 23:06: --the in-state requirement. Yeah. So...

19 23:09: So this is sort of, you know, when I said--you know, just let our
20 membership know that you guys were looking for feedback, this is probably the
21 number two issue that we got. And I think it's partially because, again, Oregon is an
22 outlier as this sort of requirement is concerned. I think the states that would have
23 such a requirement were states that, you know, created or enacted their--you know,
24 their PEO laws years ago.

25 I know Nevada had such a requirement where they would have--you

1 know, there was sort of an in-state for records. And that was changed via a
2 statutory process a couple years ago. And I know you guys are doing your due
3 diligence on other states. But I think there may be other ways--and I'm not Oregon--
4 an expert on Oregon law by any means. But I think there may be other ways of
5 compelling this information without having folks who are not in-state, having them,
6 you know, have something physically located within the state.

7 24:23: Yeah. So one of the--I think it's one of the current
8 requirements, but we do require worker leasing companies to be registered in the
9 state and have a registered agent so we can always serve penalty orders to that
10 registered agent.

11 Did you have a...

12 24:47: Well, I'm just thinking it kind of makes it easier to do business if
13 you're not from--leasing company. I mean, it just doesn't seem like it's that easy to
14 do business in other states as it is here. So I don't know that we
15 want to make that any easier. I mean, I don't--it really is true. I mean, we've applied
16 for licenses in like 10 different states, and it's difficult to do so. And so most states
17 want audited financials, we don't need those for a leasing license here, which is
18 wonderful because of the cost. So you know, it's like \$10,000 or \$12,000 to get that
19 done just to apply for the license. I'm really thankful we don't do that here. And I
20 just don't really want to make it easier for an Indiana PEO to do business here on a
21 couple small accounts that they happen to pick up, because Indiana doesn't make it
22 easy for us to do that there.

23 25:44: So you're saying unless there's a level playing field, you're not
24 really interested in...

25 25:47: Yeah. I mean, but also, I'm an Oregon owned and operated

1 PEO, so of course I'm going to say that. But some...

2 25:54: It would figure.

3 25:56: You know, I don't know. I just think that's something to take
4 into consideration, when you take a look at what the other states do with their
5 leasing licenses.

6 26:09: Is there anybody from a PEO in the room that would not have--
7 that would operate in Oregon without an Oregon office or location and...

8 26:19: That's in the room?

9 26:20: That's in the room, yeah.

10 26:22: Oh, no.

11 26:26: That's in the room...

12 26:27: I will say from a regulatory standpoint, just in terms of level
13 playing field, it's--one of the places where I find leasing without a license is people
14 that, you know, it's--you know, PEOs that are national PEOs, they're coming into our
15 state regardless of whether they license. I prefer--my--from where I stood, I
16 preferred to license them. I preferred that they come clean and then go ahead and
17 notify me and license so that I can at least hold them to follow the other
18 requirements of the state. They're doing it anyway and they see that it's a huge
19 obstacle, and so they come in under the radar.

20 And what I often hear is, well, we can't legitimately license because we
21 don't have a brick and mortar here. So there's a regulatory concern that I have for
22 allowing...

23 27:17: Can you fine them for that?

24 27:19: Sure. But I mean, you have to find them first. I'm just saying.

25 Lots of different ways.

1 27:27: I just can't imagine someone doing it without a license. That
2 seems crazy to me...okay.

3 27:38: Well, I suppose the other--to the point of out-of-state PEO, it's
4 not that out-of-state PEOs are bad, necessarily. But an out-of-state PEO that
5 doesn't have much business here, then you run into the other questions of, do they
6 really know enough about Oregon, and especially Workers' Comp? Do they know
7 enough about it to really be--you know, to have a license? But like, I'm getting your
8 point about we don't want them not to coming to get licensed, because then you
9 have the opportunity to teach.

10 28:10: Right.

11 28:12: Because there...

12 28:15: We're picking up some keyboarding on the telephone. I would
13 encourage you to mute your phone if you're going to...

14 28:19: My apologies.

15 28:20: That's okay. That's okay.

16 28:27: I just wanted to comment that Oregon's requirements aren't
17 overly burdensome to get a license. And there's others like, Montana, I think, is the
18 state where you have to have \$100,000 bond or \$100,000 in some type of escrow
19 account or something like that. So ours seem very reasonable, the bar to become a
20 worker leasing company. From an industry standpoint, I don't want to lower that bar
21 at all.

22 29:06: So I don't know if this in-state requirement is a bar lowering
23 because I don't know how many other states have that. I just think it's a little bit
24 burdensome. I don't know if anyone is going to stop doing business here because of
25 that. But I mean, if you're talking about Oregon being on a limb, this is one of the

1 issues that the state is completely out on a limb about.

2 29:44: All right. So I guess we will continue to have some internal
3 discussion about this and kind of weigh anybody's input.

4 We did want to make clear, if we do move forward with this, we'll
5 probably include provisions that any expenses associated with out-of-state audits or
6 monitoring are the responsibility of the worker leasing company. And we might look
7 at the different mechanisms for if this would be a flat exemption or if it would be
8 something that people would have to apply for, similar to what we offered as self-
9 insurance companies that are supplemented...

10 30:16: So would that include a provision that an insurer who's insuring
11 a business would just...

12 30:26: Yeah.

13 30:26: It doesn't--you know, because we do ensure PEOs.

14 30:33: Yeah. So...

15 30:34: That's--you know, I mean, that--PEO audits for an insurance
16 company--

17 30:37: Uh-huh.

18 30:38: --are a challenge anyway.

19 30:40: Okay. Yeah.

20 30:42: So that would be...

21 30:44: Help me--tell me a little bit more about your concern because I
22 need to make sure...

23 30:49: Well, if the PEO is out of state,--

24 30:51: Uh-huh.

25 30:51: --and is looking for insurance for Oregon employers and you

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have to go audit,--

30:57: Uh-huh.

30:58: --and the records aren't here, then we have to travel out of state--

31:02: Uh-huh.

31:02: --to do the audit, to do our compliance audits.

31:05: Uh-huh. And that's--is that what you--so you're saying you don't do that now? You actually find the records in the state?

31:11: Yeah.

31:11: Okay.

31:16: Supposed to be.

31:17: I know they're supposed to be here. That doesn't mean they are. So yeah. Okay. Well, that's good to know at least.

31:22: Yeah. So I mean, you know that SAIF does have some statutory power to compel records. I don't know how often you use that or what you do, it's in there, but I think--I don't know if we would be able to make that same insurance for private carriers.

31:37: Right. And I think...

31:38: Yeah.

31:38: And I think the point, though, is that it is an additional burden.

31:42: Yeah.

31:43: And for PEOs who are looking for insurance, that can be a challenge and the customers--they're customers and we're happy to have them. But I can remember--you know, I remember a time where-- It's been a long time since we've been around the table--

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32:03: Yeah.

32:03: --to talk about this industry, a long time. But I remember a time where the industry--there were some growing pains. So...

32:15: Can you tie it maybe just to the limited worker leasing licenses that we were talking about?

32:22: That may be possible. I mean, that's also something we're considering, but that would be...

32:27: Both sides of that, maybe.

32:31: I think the other--oh, I'm making a note of that, to consider that as well. Just a second here. The other thing I wanted to throw out that I hear in pushback to this a lot, because of course I hear pushback to this all the time, probably every week, I'm having the same conversation. So I hear a lot of--you know, a lot of pushback.

One of the things I do hear, and kind of just from industry folks, is the concern about moving confidential records, you know, like the payroll records which are now electronic. So kind of what's the point of housing them with--basically what they do is, you know, hire somebody, or they put it with a--a lot of times they'll put with a client who's located in the state or they may hire an attorney that's located in the state. But there's lots of things people do to try and get that. You know, they don't actually open a brick and mortar location. That's just not what's done. So they're looking for a place for those records. So if we're actually saying they need to physically be there, they have some concerns about taking those records, which, you know, are confidential records and putting them elsewhere, other than where there are secure storages, which is at their--generally speaking, at their headquarters. So that's...

1 33:45: At their headquarters, yeah. Well, you know...

2 33:49: Well, in the--you know, in a secure location, yeah, I mean,
3 electronically.

4 34:04: Does anybody else have thoughts?

5 34:08: And those records can be stored at a server anywhere. Just
6 because there's headquarters office doesn't mean that's actually where they're
7 electronically stored, either.

8 34:15: Uh-huh.

9 34:15: And so I don't know that...

10 34:17: But if they don't have a server in Oregon, I think that's what the
11 issue is, then they have to figure out where the server is in Oregon. But you're
12 saying it wouldn't matter, it's easy to send them.

13 34:25: A lot of-- I mean, if you don't have a hosted technology provider
14 and you don't have a server...

15 34:30: Or Cloud-based.

16 34:31: I was going to say it could be in the Cloud.

17 34:33: So it doesn't--it's not really a...

18 34:34: Uh-huh.

19 34:35: Can you see the--you can see where somebody might be
20 concerned that they've got--then they've got records here and they've got records
21 here, that might be stretching, but you might feel a little uncomfortable that they've
22 got stuff here and stuff-- So I don't know where Lorrie's records are, oh, because
23 they're in Oregon and we're in Idaho or whatever. I have an interest in this, so I
24 know...

25 34:59: Right. Right.

1 35:00: From an HR perspective, that might get a little funky, right, like
2 where I've got records all over the place, then, and it's just hard to track or hard to
3 know. And I can control these or I can control what I posted or what's on my--but I
4 don't necessarily what you--know what you do with those records.

5 35:21: Thanks, you guys, for...

6 35:23: You know, I think the truth of the matter is is that that rule was
7 put into place when most things were on paper.

8 35:29: Right. And that we know.

9 35:31: Yes.

10 35:37: I mean, we needed file cabinets and...

11 35:52: Well, thank you. Thank you, everyone, for that discussion. I
12 think, yeah, that's part of the reason why we have these meetings because it seems
13 there's a lot of issues there that we hadn't fully fleshed out, so we'll definitely...

14 36:04: Chris...

15 36:05: Yeah.

16 36:05: One more thing. If you decide that you don't need to keep the
17 records in Oregon, which is probably a reasonable thing, perhaps there should be
18 some tie, however, to the license. So if there's a request for the records and they're
19 not forthcoming, that that could be a reason to terminate the license or something
20 like that.

21 36:30: That was eventually going to be--

22 36:31: Yeah.

23 36:31: --one of my suggestions. If someone is complying with the
24 order to--you know, to show proof of records, then maybe that should be tied to their
25 license--

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36:41: Uh-huh.

36:42: --renewal or...

36:43: Which I think it already--I mean, I think we already have that authority to--yeah. Right.

36:47: Yeah.

36:48: That's the one piece I don't look at.

36:50: And it's the director's request. But we can maybe look at-- And I know for self-insured worker leasing companies, they also have a requirement to submit statistical information saying CCI. So I mean, there are these other requirements, and all of those are tied to the license and continued qualifications. So we can maybe look because yeah, we do know it's not just us that needs those records.

37:20: Okay.

37:21: Okay. All right. Well, we do have some housekeeping issues that I'll go through very quickly. If anybody has thoughts, feel free to stop me while I'm going through them. And then I will open the floor to any other issues you want to discuss. Are you aware, do we have any other standing issues that we need to...

37:41: No standing ones. I think there was...

37:42: Okay.

37:42: You know, there's some that if--we can also revisit issues--

37:44: Yeah.

37:45: --that maybe you have additional thoughts on from last time. And then like Chris said, brand new things that we hadn't thought to put on the agenda. I'd like to talk about them while we have the opportunity.

38:00: So for housekeeping, we have issue 1329, which is just

1 removing the reference to other tax reporting numbers in 436-050-0410. This is just
2 to discourage--further discourage submission of individual tax ID numbers which are
3 confidential and we do not want submitted to us.

4 38:23: Do you think that will work?

5 38:25: No, but we at least don't want to be asking for something that
6 we don't want, so we still--I don't think...

7 38:33: We still get them.

8 38:34: Yeah.

9 38:32: So...

10 38:36: Yeah.

11 38:37: We'd rather not, but...

12 38:41: Yeah. There's a lot of liability that goes along with collecting
13 Social Security numbers.

14 The second, 1359, is moving the recordkeeping and reporting
15 requirements for--this is specifically about companies that provide both leased and
16 temporary workers, maintaining records of which workers are leased and which
17 workers are temporary. So we're going to move that requirement to the
18 recordkeeping requirements rule and just maintain that. If the person does not
19 follow that rule, they will--all workers will be considered leased workers in the rule.
20 So we're just moving something. We're not adding a new requirement there.

21 We are making a change in Rule 440, Subsection (1)(a), to account for
22 public bodies who may be worker leasing companies, or who at least may provide
23 workers by contract and for a fee on a non-temporary basis. So we will amend
24 Subsection (1)(a) to provide that an applicant must be registered and authorized to
25 do business in this state under ORS Chapters 58, 60, 62, 63, 65, 67, 70, and 648, or

1 be a municipal corporation as defined in ORS 297.405. This is very--this is the
2 same language that we use for self-insured employers, so...

3 Issue 1363, worker leasing suspensions. The rule states that when a
4 suspension expires, the worker leasing company or controlling person may petition
5 the director to resume its worker leasing company activities. But the suspension can
6 last for up to two years. And it's a two-year license, we think it--in many cases, the
7 license will have already expired. So we just want to clean up the rule language to
8 describe basically if a person's license as expired during the term of suspension that
9 they can reapply, or I guess apply for a renewal. We'll work on what exactly that
10 language is.

11 And the last is just a clarification under Rules 470 and 480. I think 470
12 explains that both the client and the employer are subject to the monitoring and
13 auditing rule. But that clarification is not as distinct in the civil penalty rule, so we are
14 going to clarify that both worker leasing companies and clients are employers for the
15 purposes of Rule 480, if they fail to meet the requirements of subject to the penalties
16 for failure to meet the requirements of the monitoring and auditing rule.

17 And that is it for our issues. So yeah. I will now open the floor to
18 anybody that has something they want to discuss.

19 41:52: First, Fred, I don't know if it's appropriate or not, but I wanted to
20 go back and cover the limited license and the notice to director of lease
21 arrangement termination. Is it appropriate to go over something that happened in
22 the first meeting?

23 42:05: Yeah.

24 42:06: Okay. Great. I wasn't here. Company picnic. So I had to go
25 do that that Friday.

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42:11: What's the issue number?

42:12: So the first one, 1328, limited license or I think it's called a *de minimis* type situation. And so I wanted to say that Cardinal, from the industry standpoint, not that I'm representing the industry, but from our point of view for the industry, we oppose this idea. Equating another state's registration, not even licensing, it's registration, they're not going to be equivalent. We just talked about that briefly, about some different ones. And some other states may have registration, like California, but it's only for the permanent. So equating the two, I don't think, is a good idea. Fifty employees is a lot of employees on there. And that could be limiting-- If you have 50 employees or workers and if they're being classified as 8810 clerical and they're not paying taxes on it, that gives the industry a black eye on that.

And then 1330 is the other one I wanted to touch base on. Notice--it says on here, "Notice to director of lease arrangement termination." And the idea is that if--it's my understanding--and I listened to the 164 minutes on the recording for session one. My understanding is if a PEO, professional employer, worker leasing company, whatever you want to call it, the idea is that we said, "Hey, this company is in default. They're not paying us. We should be able to cancel the Workers' Comp right away." From a public policy standpoint, I think that's a terrible idea. SAIF Corporation, you--if we don't pay our Workers' Comp bill, you've still got to give us 30 days. That shouldn't be any different for us. We should bear that same burden of responsibility as other places.

And so I'm just--I pointed out a little earlier that I didn't want the bar to drop on regulation of worker leasing companies or professional employers. And I think it's very important that we have regulation of this. Back about 20 years ago,

1 the state of Oregon wanted to get rid of Alice's position. And I don't know if anybody
2 here remembers Alice Barghini, but--

3 44:15: Yes.

4 44:16: --she was the regulator for leasing companies. And we said,
5 well, hey, we want more regulation, and we came as an industry, and we said--the
6 state said, well, we don't have enough money to keep her, so okay, increase our
7 leasing--or licensing fee on that. Great, kept her and then stepped out the riff-raff.
8 So I'd just like to keep things working here. I'd like to not make any changes just in
9 general. Thank you.

10 44:42: So maybe we can go through those one by one, yeah, to see if
11 anybody else has thoughts. So we can start with the termination. Lorrie, it looked
12 like you had a...

13 44:52: I'm sorry, I had a little--you went a little fast for me. I think I
14 was--

15 44:56 : Oh, sorry.

16 44:57: --trying to track the--where I--I was trying to look in my notes to
17 see where we were on the first one. I had a question for you about the *de minimis*
18 license, and I hear you saying your position is that doesn't sound like a great idea to
19 you. One of the things you said was 50 employees sounds like a lot, which I agree.
20 I'm wondering if you would--if the exposure matters to you. I'm just--and same for
21 other people. I know we did talk about this already, but--so in other words, if it was a
22 PEO with one client and less than five employees in the state, is that--do you still
23 stand on that I don't-- I'm just curious what people think.

24 45:39: Yeah. Where's that number, though? I mean, is it 5? Is it 25?
25 Is it 50?

1 45:43: Well, I mean, there's a big difference between 5 and 25 and 50.

2 So I'd say--

3 45:46: Yeah.

4 45:46: --let's talk about it just to be--I would never have considered--
5 you know, the 50 is too many. I think we talked about it at the last meeting. Other
6 states do that. I would agree, that's too many. But I'm interested in input about five
7 let's say five clients. Or less than, you know, five employees, or something along
8 those lines. Or is it a zero-- Is your, you know, objection overall or...

9 46:10: So the preference would be closer to zero, the better.

10 46:12: Uh-huh.

11 46:13: And I'm not sure if I can come up with an exact number, but
12 five doesn't scare me.

13 46:18: Uh-huh.

14 46:19: Fifty employees certainly scares me.

15 46:20: Okay. Uh-huh.

16 46:22: I'm curious about--

17 46:23: Yeah.

18 46:23: --others, too.

19 46:24: I was just going to say, so after our last meeting, we did kind of
20 start looking on. We got some feedback that there may be limited value in having
21 such a low threshold as five from some stakeholders. So we looked at our data, and
22 based on kind of a current snapshot, I think it was about 29 percent of PEOs
23 operating in the state have five or fewer worksite employees. So that's still a pretty
24 big footprint even though it's a relatively low threshold. So that's--I just wanted to
25 throw that out there so you can get a size. I think when we went up to 50, it was

1 around--I don't want to misspeak, but I think about three quarters of PEOs had 50 or
2 fewer, so--so yeah. So we do have a lot of relatively small PEOs in the state of
3 Oregon.

4 47:15: Were you guys discussing having a lower fee for registration
5 per limited companies, *de minimis* type situations?

6 47:23: That was definitely one of the alternatives that we were
7 discussing. We, of course, are statutorily obligated to set these at an amount that
8 covers the expenses of the program. So one of the things we're looking at is if
9 offering a reduced fee would require us to basically raise the fees for everybody
10 else. I think at this point, we are currently--the program is currently operating at a
11 little bit of a deficit. And using some surplus that we've posted in previous years, so
12 we don't know how much of a loss in revenue we could sustain and keep the
13 program sustainable. So that's definitely one of the things that we're considering
14 while we're looking at this. And we may--we have looked at a few other states that
15 offer a simplified application process but don't offer a reduced fee. Yeah. We've
16 looked at some other options to kind of minimize that. I don't know. To offer the
17 benefit of what the *de minimis* registration gives the PEOs without necessarily
18 causing us to incur a large loss in revenue, which--yeah.

19 48:33: Can I change my answer to zero?

20 48:39: Maybe this will be a good time to let you know, and I already
21 mentioned it in my email that I sent out late this morning, but Daniel Harris sent in a
22 spreadsheet, although now it's a PDF. I saved it and it's posted to our website. And
23 I think there are some extra copies still at the back of the room, unless everyone
24 picked them up already. But it basically breaks it down by state and it shows which
25 states allow limited licenses. Wasn't that it?

1 49:01: Right. It's a bunch of information. And I'm sorry that the Excel
2 was so--I'm not a--I'm a Excel novice and that's even putting it pretty high. Yeah.
3 So it's a representation of which states A, offer some sort of PEO licensing or
4 registration, which among those states offer some sort of limited license, how much
5 they may charge for that limited license, how many people that they--you know, the
6 maximum number of worksite employees. So it's a bunch of information.

7 49:34: Yeah.

8 49:35: Yeah.

9 49:37: I've got it all set up in the chart already.

10 49:39: Sure. I...

11 49:40: We do appreciate it.

12 49:41: And NAPEO doesn't put that together. We rely on an outside
13 company that sort of puts all that sort of information together. But this--again, I
14 mentioned, you know, we--again, took our own survey of our members, and we
15 represent about 85 percent of the industry, and this was their number one concern. I
16 almost feel like this is that game where they do like the number one and number
17 two. But that was their number one concern, limited--the limited licensure that--or
18 the lack thereof. And you know, as we discussed, at our last meeting, this is a
19 recognition of, you know, out-of-state PEOs who may have just a salesperson or
20 two, and sort of not having to sever that relationship that they have with their PEOs.

21 It's not intended--and this sort of across the country, it's not intended,
22 you know, for someone who's coming into the state and looking to set up shop. It's
23 just the opposite. It's just someone who's trying to help out. One of the current
24 clients who just, for some reason, they have a salesperson or some--you know, just
25 a tiny footprint in the state of Oregon.

1 50:51: And Daniel, I don't know if you can speak to this or not, but is
2 the objection to the cost, the additional work to do a license, or a combination of
3 both? Do you know?

4 51:03: I don't know if it's a cost thing. I think it's just the licensing
5 process is probably just a bit burdensome, too.

6 51:10: Okay.

7 51:14: I'm just going to--this is not really my issue per se, other than I
8 always worry about the worker. And we've got one or two people in the state, and I
9 start worrying that people aren't going to be taken care of the way they should
10 because people coming in don't know how it works in Oregon. And if there's
11 anything I've learned in the last 23, 24 years of doing this, Oregon does things a little
12 bit differently. And congratulations to the Oregon Workers' Comp Division for its
13 recent award with the IABC for the great work that you all are doing here. But that
14 means that we do things a little bit differently. So that would be my--it's like, if you
15 can't bother to license and you're going to cover a couple of people here, I don't
16 know, I just--that's what I worry about.

17 52:12: I don't think it's an issue of deny--you know, wanting to bother
18 with a license. If we're talking about national PEOs, they may have folks in 50
19 different states. And they're usually certainly licensed--I mean, since most states
20 are licensed, they're registered with a license in their home state. And you know, I'm
21 just speaking for the PEO industry because I know there are a lot of staffing
22 companies in here. But you know, our industry's calling card is having knowledge in
23 every state's, you know, requirements and laws. So I don't think you're talking about
24 cases where-- Andrea is an actual PEO, so she can probably speak better to this.
25 But I don't think we're talking about a situation where a PEO is going into an area

1 and looking to flout the laws in a particular state. It's--you know, again, this is about
2 a PEO being able to serve its client in a state where it's--you know, it's not domicile.

3 And by the way, I haven't heard of any other states where a limited
4 license is allowed, where there have been those sorts of issues or any issues, quite
5 frankly. And not that I know everything, but you know, we're in a position to sort of
6 hear about things like that from folks like you that have their issues.

7 53:45: Just out of curiosity, how many states do have a limited
8 license?

9 53:49: I think about 20 out of 40.

10 53:53: That's a lot. And what's the threshold?

11 54:00: It's all different.

12 54:02: Okay.

13 54:02: Yeah. So NAPEO's model has some requirements and then
14 the threshold is 50. Some states do 40. I've seen some states do 20. It's in this
15 document that I provided. But it's just--it's all over the map.

16 54:14: Okay.

17 54:14: Okay.

18 54:22: Sorry. One other question for you, Daniel. Where--do you
19 know where that 50 comes from or the 40, or is there any--do you know whether
20 there's any rationale for why--

21 54:30: We made it up.

22 54:31: --a certain number-- If you don't know, you don't know. But
23 I'm...

24 54:34: I don't know. I don't know.

25 54:34: I'm guessing there must be some thought that went into that.

1 I'm just kind of curious. No? Okay.

2 54:42: I don't know. Sorry.

3 54:53: Any other thoughts on that? Do you want to get a yea or nay?

4 Oh, go ahead.

5 54:58: I have a quick--it's just a--is this currently one way or the other,
6 more states or less states or...

7 55:03: It's--you know, most states sort of tackle this in their statute,
8 and they don't really revisit it unless there's--yeah, we're bringing it up. Since, you
9 know, a lot of what you guys are allowed to do is in the rulemaking process, we
10 thought it would be a good idea to bring it up now. But it's--it hasn't been revisited.
11 But you know, for the stakes that are not--that don't have any sort of statutory
12 recognition for PEOs and we're looking to provide that recognition, this is something
13 we've put in just about--and it's always at 50 unless-- I mean, it's up for negotiation.
14 But I would say the states that have done so in the past few years, they all have
15 provided for some sort of limited licensure.

16 55:46: Thank you.

17 55:47: Yep.

18 55:53: Anybody else have anything to add on limited licenses? Okay.

19 Well, we're still-- What's that?

20 56:07: I was just going to say, the other issue that...

21 56:07: Yeah. Yeah.

22 56:08: I just wanted to get back to that too.

23 56:11: Oh, sure. Yeah. Well, I was just going to say yeah, we're still
24 definitely taking a close look at this, and we'll be--yeah, I'm trying to make a final
25 decision, but I don't think we're there yet. Okay. Yeah. But to go back to the

1 termination issue, is that...

2 56:31: Yeah. I think that I--I think--I apologize, Arin. I think I need you
3 to be more--help me--point me to where we are because I'm--I think I'm having a
4 hard time finding...

5 56:42: I have it down as 1330.

6 56:45: Is there a page number?

7 56:47: I think it goes right into...

8 56:49: Page 25.

9 56:50: Twenty-five? Thank you. Okay. So I just want to get it back in
10 my head so that I-- I apologize for that. I think it went too fast and I was still
11 contemplating whether or not-- Okay.

12 57:01: And I'm not sure--

13 57:01: Okay.

14 57:02: --where I got that from from here, now that I'm looking at-- I
15 think I was looking at a previous agenda or some of the notes. But that if the client
16 defaults, then we wouldn't have to provide a 30-day notice.

17 57:16: We--so we got some--we did get that feedback, and I'm not
18 sure if that was one of...

19 57:25: Yeah. We recommended but--

20 57:25: Yeah.

21 57:25: --I don't think we discussed it in all that--

22 57:28: Yeah.

23 57:28: --much detail, if you know what I mean.

24 57:30: We did--there are some--kind of just the way the coverage lays
25 out, we internally kind of feel like the notice of termination is required to terminate

1 the obligation. And nonpayment of, I guess, fees are--is not sufficient in itself to do
2 that. I think there's a still a little lack of clarity of what happens when the relationship
3 between the worker leasing company and the client employer ends. I'm not sure
4 that that's ever been tested or not. So we may try to do some clarification there. We
5 are also trying to do some clarification in the rules that if a client employer gets their
6 own coverage and doesn't inform the PEO until the 30-day, you know, window is
7 kind of already in, that we still need the notification, but we're trying to clarify the
8 process for how that termination ends and the effective date.

9 There's a little bit different rules, or the stat sheets have a little bit
10 different process for insurers. And some updates were made to the statute after the
11 worker leasing rules were put in place. So they used to be more similar, now they're
12 different. We may actually do some amendments there to-- I can't remember who it
13 was at the last meeting that they said some--they have a--kind of an effective date
14 and a known date, and regulatory activity starts from the known date. So if we have
15 a 30-day requirement for notice, it would be 30 days from the date that the worker
16 leasing company has knowledge of--that the coverage will terminate. So I think we
17 want to put in some of that language.

18 And then another side issue that I wanted to bring up at this meeting
19 about this issue is that we are also considering making the use of the termination
20 form mandatory instead of an optional form. So we're really just kind of trying to
21 make this process more clean-cut. But there's always a notice provided that the
22 effective date may differ depending on the situation that--depending on whether the
23 client obtains their own coverage or not within that 30-day period, and that any
24 regulatory actions on us will be based on the date the worker leasing company
25 knows that the coverage is being terminated. So if they generated 30 days from the

1 date of their notice, the client generates it, it's 30 days from the day they know that
2 the coverage isn't being...

3 60:12: And so the notice would go to the WCB?

4 60:17: The--so it would go to the division, the client, and their insurer.
5 And I think that's what's already required.

6 60:25: Okay.

7 60:26: We're just going to clarify the timelines a little bit. And I think
8 the...

9 60:42: And--let me...

10 60:42: Oh.

11 60:42: I'm sorry.

12 60:43: Sorry.

13 60:44: So you said something about a form. And so you know, we
14 already provide notice to the client clearly on some level. But the form is to be used
15 to the WCB. Is that the premise? Okay.

16 60:59: Yeah. Is that...

17 61:02: Yeah. I mean--well, yeah, and you use that now.

18 61:06: Uh-huh.

19 61:06: And most--very few don't use the form already, so it's really just
20 putting it in rule what already happens. But and--but you could use a different notice
21 for your client. A lot of people just use this notice, this form, this termination form as
22 their notice to the client. But PEOs could have a different form for the client.

23 61:28: Gotcha. Thank you.

24 61:36: We should make that clear, though.

25 61:37: Yeah.

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61:38: Yeah. That was my question.

61:39: Because you're going to need to because you may have some communication that is different than what our form would have,--

61:43: Right.

61:44: --wherever you're coming from.

61:44: And I'm not certain if we use the form or not,--

61:47: Right.

61:47: --I know we have all this communication and so...

1:29: To your client, that might look different than the...

1:30: Exactly.

1:30: I understand. Okay. Thank you for kind of calling that out. And I'll make sure that's contemplated as we're typing this up.

1:38: So Chris, you were talking about coverage for your client.

1:43: Uh-huh. Yeah. So...

1:46: The notice is a 30-day provision statute, so...

1:52: When--for the worker leasing company to-- Oh, right. Yeah. So what does the statute say exactly?

2:06: It's in subsection 5.

2:09: Yeah. So a notice of termination shall state the effective date and hour of the termination. The termination shall be effective not less than 30 days after the notice is received by the director.

So again, I think part of what we're talking about is--so for insurance companies, when they provide coverage, there's some differentiation between a termination and a cancellation. So basically, if the insurer is terminating their obligation to provide coverage, they're subject to one set of--

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2:44: Right.

2:44: --rules. If the--I guess the insured is--decides they want to go out and get their own coverage, there's a different set of rules.

2:53: And there's still...

2:53: Yeah.

2:53: A 30 day...

2:55: A 30 day...

2:55: There's still--

2:55: Okay.

2:55: --a 30-day obligation to provide notice by the...

2:59: Yeah.

2:59: By the insured unless the insured and the insurer decide otherwise.

3:05: Yeah.

3:06: Right. There is a statute, just a general insurance statute, that allows insurers to terminate coverage 10 days after for failure to pay.

3:21: Yeah.

3:22: But I don't think the--I think this statute would trump that 10-day notice. I think Arin was talking about, you know, changing the notice provision. At least that was what I thought I heard you--

3:36: Yeah.

3:36: --talking about.

3:37: That's what I objected to.

3:38: Yeah.

3:38: Okay.

1 3:40: And that's not all I'm saying. It took me a long time to get here.
2 Sorry.
3 3:43: No, no.
4 3:43: I think that the statute requires the 30-day notice.
5 3:47: Right. We can't do that by statute. That's right.
6 3:49: And we...
7 3:49: Okay.
8 3:50: Yeah.
9 3:51: Unless the statute changed, we can't...
10 3:52: Yes. You have to change the statute.
11 3:52: Yeah. That's right. So that's why the 10 days wouldn't work.
12 3:56: Right.
13 3:57: Unless the statute changed.
14 3:58: Yeah. Okay. Well, thanks for pointing that out, Jaye. We'll look
15 again.
16 4:05: It's been a long time since I've looked--
17 4:06: Yeah.
18 4:06: --through this.
19 4:13: Okay. Yeah. Well, we'll continue kind of working on that. I
20 mean...
21 4:16: I do think the other question--and you've answered it really
22 briefly, and it's an issue that we have as an insurance company when we're just
23 talking about regular insured, but where a client would go out and get another--get
24 other coverage without notifying either their insurer or their PEO.
25 4:34: Yeah.

1 4:34: And that's--I mean, that is something that we need to make
2 some fixes on because there's also a provision in there that talks about--in the
3 statute that says when there's proof of coverage filed by a second insurer,--

4 4:50: Yeah.

5 4:50: --that that trumps the previous already filed for the coverage,
6 so...

7 4:57: Right. Yeah.

8 4:58: That's where three is here. It's kind of, you know, basically
9 stating what is already, you're right, in the--

10 5:04: Yeah.

11 5:04: --basic insurance statute that says a new policy trumps the old
12 policy. And once the client files their own coverage, they're kind of on the hook.
13 And we, you know, did want to kind of call that out specific to the companies. Yeah.
14 So that--there was no question that that's how it works. The PEO--that makes sense
15 to the PEOs. Yeah. You get to know that all too well.

16 5:30: All too well.

17 5:36: I do have kind of a question about this because I always wonder
18 about it since there's other PEO people here. When someone terminates that 30-
19 day notice-- Well, let's say we terminate them for failure to pay. So give all the
20 proper notices to everyone, we have 30 days to go. And the client no longer reports
21 payroll because they didn't pay the prior, so they're not going to report again.

22 5:58: Are we on the hook for paying that premium to our insurer?
23 Ours is SAIF. So would be on the hook for paying that? So the interesting thing is,
24 how would you even know what that is if they're not reporting to you what it is? Do
25 you know what I'm asking?

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6:15: Not exactly.

6:17: It's just one of those things that always bothers me. We've never really been stuck for it. We've had claims in that 30 day, we had to do that, but we haven't had a way to go back and get what the premium would have been.

6:29: The contractual agreement.

6:31: Yes. That's all that was in the--that's why we brought that up because, you know, we're on the hook for the claim--

6:38: Yeah.

6:40: --in which we're not seeking premiums for.

6:42: Right.

6:42: Yeah. It's really great to accept a claim--

6:44: Yeah.

6:44: --because you think that they're in your system and they were in your system because they forgot to tell you they got other coverage.

6:50: Uh-huh.

6:51: And then...

6:54: Uh-huh.

6:54: Well, I'm kind of--

6:55: Well, that's all.

6:55: --thinking more where they don't have other coverage.

6:57: Uh-huh. Right.

6:58: Yeah.

6:58: Right.

6:59: So they just can't pay you.

7:01: You say we can't do business with you anymore.

1 7:03: Too bad, so sad.
2 7:04: Yeah, that's the...
3 7:05: That's the one that is more--
4 7:05: Yeah.
5 7:07: --concerning to me because if they have other coverage, I don't
6 care.
7 7:12: Unless you can have...
8 7:14: Yeah. I mean, we usually don't have to beat the claim if they
9 have other coverage. It gets sorted out somehow or another. We don't know all
10 the -- so we don't know where we would need it. But I am curious what happens if
11 you get to the point where you're to separate with them. So you're saying it would
12 just be in the provision of our contract?
13 7:33: Contractually. But I mean, if they don't have the money to close
14 down or don't have a personal guarantee, then it's just--
15 7:40: Yeah.
16 7:41: --a matter of underwriting.
17 7:42: Properly.
18 7:43: Yeah. Underwriting properly and just accepting that there's a
19 certain amount of risk.
20 7:48: Right.
21 7:50: I mean, that's just non-legal. That's, I think, where it lies.
22 7:55: That's kind of how we've done it so far. Or we do have a
23 personal guarantee, but I was just curious.
24 8:01: I'm curious if there are other PEOs that do it any differently.
25 8:03: Well, someone else had figured out how to--

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8:05: Yeah.

8:05: --get rid of that risk.

8:15: Yeah. Any other thoughts?

8:20: So that addressed your--

8:20: Yeah.

8:22: -- issue, Arin, right? Yeah.

8:22: Thank you.

8:23: Okay.

8:25: Yeah. So yeah. We will--we'll take another look and make sure we're not getting out of kilter with statute by making these changes. And I think we're more trying to, one, clarify that we always need the notice, and that notice needs to be sent out in these different situations, but we're trying to make a little bit more rational outcome where we can. So we'll continue working on that. Okay.

Any other issues?

8:59: Issue 1228, Temporary Worker Distinguished from Leased Worker, the default leasing rule. You may have mentioned that a minute ago. This was part of your discussion last time. I don't want to go over a bunch of stuff that you guys have already got into, because I wasn't here, but-- I kind of have a problem with the idea that if you don't have an end date ahead of time and you fail to clerically dot every I and cross every T, that all of a sudden, you could be in jeopardy of some pretty big penalties because of a clerical error. I don't believe that was ever the intent of the law or really the way it was drafted. I was just wondering if there had been a determination on a change, maybe something as simple as contractually or historically showing that this is a temporary or seasonal, or most likely temp-to-hire situation.

1 Really, a seasonal and a temp-to-hire, where we run into it the most
2 where, you know, you've got 90 days on the payroll, you have your end date. But in
3 Oregon, if I get that person who's not doing a good enough job for the client, they
4 don't roll them over at the expected end date and I don't do a good job of keeping
5 records and go in there and write in their file, "Oh, by the way, they extended it for
6 another two weeks," I'm technically violating the rules now. And so that's a problem
7 for us. That's a lot of extra recordkeeping.

8 There are some provisions in the rules now such as being able to
9 demonstrate that this is part of the normal hiring process. I think it can really be
10 simplified a lot as one of the few--well, there are probably more than not in here that
11 operate on both sides of the line. We are PEO and we are a staffing company. And
12 so we have a lot of clients that are on both sides of the fence. We have one client
13 that's actually on both sides of the fence. And so some of these rules have gotten to
14 be pretty tight specifically in that arena. Just wondering if that had been addressed
15 last time and cleaned up at all.

16 11:01: Thank you. Yeah. So one way that we were thinking about
17 doing this is he's providing a 30-day window where these short-term placements,
18 you know, have to get all this documentation in place for every single one. And that
19 would kind of transfer some of the responsibility for making the determination to the
20 compliance specialists themselves so that they could kind of take a look at it and
21 make an objective finding on whether this is actually...

22 11:30: Well, that makes sense on the short-term temp,

23 11:32: Yeah.

24 11:33: --when we're talking about seasonal stuff. We have one client
25 in particular that this year brought on 25, 30 people. They normally run two to three

1 months. We have that expected end date. This year, they ran an extra two months
2 because there was that much extra demand for that specific product. Every year,
3 they hire up and they lay off. There's no expectation of rolling over and becoming
4 part of the client's regular workforce.

5 But if our administrative people had not gone in and changed the
6 effective end date in the file, I'd be out of compliance 25 times. That's a problem.
7 And so for your seasonal workforce, as well as your temp-to-hire, like I said, you get
8 to the end of that 90 days, if that's what it is, that's their expected rollover date. This
9 person has been tardy. You know, they work hard when they're here, but we're just
10 not sure. We're going to leave them on your payroll for another month, month and a
11 half, see how it goes, and then maybe roll them over. That's still part of the
12 demonstrated hiring practice of that company, but now I'm in violation of the law. Or
13 at least the rules, not the law. So that's the stuff that we're really battling right now,
14 that's creating a lot of paperwork headaches on our side of the table that--and it
15 doesn't benefit anyone. You know, it doesn't clear anything up for anybody. We can
16 demonstrate that it's part of the normal hiring process. We do it all the time. But if
17 we don't write that end date down right now, that's the way you guys are looking at
18 it, we're out of compliance.

19 13:00: I'm going to...

20 13:00: So one of the things that-- I'm happy to revisit this because I
21 think it is a contentious issue that I really am interested in as much input as possible
22 for, but temp folks in the room, it's more on the temp side than the PEO side, but--so
23 I'm happy to discuss it again. I know what I had heard last time was definitely 30
24 days wouldn't have got us there. None would be--you know, no documentation
25 would be the ideal.

1 I had heard a possibility of 90 days. Several people said at least 90. I
2 guess I would push back a little bit on the idea that it doesn't help anyone, because it
3 does help on the claim side to have more clarity around, you know, whether
4 someone is a temp or a leased worker. And it may look clear to you, but from a
5 regulatory standpoint, what we do have are a lot of temporary companies who wade
6 into leasing without getting a license. And then when we come knocking on the
7 door, there's a claim suddenly that, you know, that becomes an issue where they go,
8 oh, no, no, that's a leased worker, not a temp worker or whatever. And here, you
9 know, so that--hence the idea about contemporaneous documentation and sort of
10 projecting forward, so...

11 14:24: But if you have a contract that stipulates that it's part of the
12 normal hiring process, isn't that all you need?

13 14:31: It makes a difference for the insurer because there's a
14 difference between--as Lorrie was saying, it makes a difference on the plane, where
15 it lands, but it makes a difference on whose policy it ends up, or the staffing
16 company, the claim is different than if it's a leasing company. So it's just--it's--
17 because if you send somebody out as a temporary worker, then that person goes
18 out and comes back, they're your employee. Whereas if it's a leased person, they
19 go out and you've got that experience, actually go to the individual employer.

20 15:08: Right. No. That's not what I'm talking about. We have a lot of
21 situations that are temporary that area actually temp-to-hire or seasonal.

22 15:15: Right.

23 15:16: Where in a seasonal, yes, they go out and they come back.
24 And many times, that can be up to eight months.

25 15:20: Uh-huh.

1 15:20: Okay. So the 90 days doesn't come close. But I understand
2 the subpolicy piece versus the regular policy.

3 15:28: And for us, we need to know.

4 15:29: Yeah, of course. Of course.

5 15:30: And what's more, we have those who come up and go, "Oh, no,
6 no, no." And it's like, well, wait a minute.

7 15:37: Have they waded into leased territory only because we haven't
8 met the requirements of putting the date down and putting the-- Right? I mean, part
9 of the law reads that if you are not very specific that you're a temp, then you're
10 automatically a leased employee. So we waded into this leased--

11 15:58: Yeah. I...

12 15:58: --pool only because we haven't put a date down there.

13 16:00: Right.

14 16:01: We're in the same boat. We...

15 16:02: It kind of seems like you're punishing the guys that are
16 following the rules instead of the people that are breaking the rules. Those of us that
17 are following the rules have a-- I mean, well, and really, it's disproportionate for
18 smaller companies like ours. If you're a large corporation, you have compliance
19 officers on board to make sure that you're staying on--staying alive.

20 16:20: Uh-huh.

21 16:20: Okay. We have 12 people--

22 16:22: Right.

23 16:23: --working for us. So for me to add a full-time compliance
24 officer, I mean, you're talking about a massive hit. Okay. So for the small guy trying
25 to compete with the big guy, these rules disproportionately hurt us. That's what I'm

1 getting at. And it really doesn't offer protection. If you're paying payroll, you're
2 covering Workers' Comp, or those Workers' Comp numbers are being reported by
3 someone. So if that's not happening, you definitely have somebody to go after, but I
4 don't see how having an end date in the file has anything to do with that.

5 16:55: One of the things that we talked about in the last meeting was
6 really the language in the statute, right, about how--really separating it out. And
7 there was a pretty big conversation around not pooling them all together and not just
8 automatically falling into that lease category if you don't do these things.

9 17:15: Uh-huh.

10 17:15: And so but it--if I remember right, please jump in, but the--but
11 that was something that you were maybe hoping that I think Ed, who's on the phone,
12 would maybe kind of spearhead, or there would be some folks that would--could
13 take that. Is that correct? That really changed...

14 17:31: Yeah. I think-- This is Ed Lenz. I think--of course, we
15 submitted a paper which has maybe an overly ambitious objective in--at least in the
16 context of this current--these current hearings and meetings and discussion. We're
17 actually looking forward to, you know, potentially addressing the questions that have
18 been raised regarding temp to permanent seasonal and just, you know, who's who
19 in the zoo with a much more comprehensive revisiting of the definitions and the
20 criteria used to distinguish between the two types of business. If we can get that
21 right and do it the right way, I think it could help solve most of the issues that--you
22 know, that are of concern here.

23 18:26: Thanks, Ed. And just a reminder that the American Staffing
24 Association advice, it's either unless there's--all the copies in the back table are
25 gone, they're still there or it's on our website, so I would encourage you to have a

1 look at that.

2 18:42: Thank you, Fred.

3 18:44: I think Kristen had a comment. Did you want to...

4 18:46: I have a question. I was still--we don't do leasing at all and
5 Northwest Staffing. That's--we're strictly temporary and temp-to-hire. The--it came
6 out at the meeting about a year ago that the temp-to-hire policy and how that the
7 client, our customer, has to have something in the language that says this is how
8 they typically hire or a common way for them to hire, which may not always be the
9 case. It might be the one-time deal. They might be a 10-person company and it's a
10 one-time deal. And then if you don't have that language, that now you're in the pool
11 of leasing--

12 19:20: Uh-huh.

13 19:20: --which that seems--

14 19:22: Uh-huh.

15 19:23: --very unclear us. So I don't--I'm not sure, Sam where--what
16 your position is. But you mentioned that you have that in your agreements right now
17 with all your clients that they do...

18 19:34: The agreement is clearing up with us that it shows that this--it
19 can easily demonstrate that it's a part of the hiring process. So even if it's the first
20 time we've worked with them and we only have one person working there--which we
21 all have a lot of small clients, right? But maybe they have a handful of employees
22 and yeah, they had somebody go out on maternity leave or they just--they're
23 growing now, they need a new person at the front desk. We can, with our contract,
24 demonstrate this is the service that we are providing for you. It is part of the hiring
25 process. This employee has an expectation of being rolled over onto your payroll.

1 Or in a seasonal aspect, this employee has no expectation of ever being rolled over
2 onto your payroll. In both of those cases--or in neither of those cases are we dealing
3 with leasing.

4 I mean, when you look at what leasing is versus what our industry is,
5 what's the purpose of the industry? Okay. We're part of the hiring process on the
6 staffing side of the table. Leasing is there for payroll, human resources, back office
7 support, benefits administration, those kinds of things. Hiring people is part of the
8 job when you're on-rolling people, but that's not the purpose of the leasing or PEO
9 organization. The purpose of staffing company has to do with hiring. So we're
10 dealing with two different animals and I think we're approaching it from the wrong
11 side of the table.

12 20:56: I was just going to say, so just to kind of separate this
13 conversation a little bit because there are two different slices to--there's more than
14 two different slices--

15 21:03: Yeah.

16 21:04: --for temp, but you know, there's temp--there's just temps that
17 are out and back temps, and then temp-to-hire, which really isn't temp, it's temp-to-
18 hire. There's a potential expectation of--

19 21:17: Long-term employment.

20 21:19: --permanent employment. Right. So really, two different kinds
21 of placements. And so I want to make sure that we're not conflating those two
22 issues.

23 21:24: No.

24 21:25: With regard to the temp-to-hire, which is the discussion that
25 you were mentioning, I do want to point out that one of the things that we're

1 proposing, because we recognize this as an issue, to hopefully get at that is on
2 Page--the very top of Page 8 where we're seeing in our rule that rather than-- And
3 again, we're a little constrained by a statute. But you know, we can't change the
4 statute at this point. But given the way the statute is written, what we have proposed
5 in the rule is to say that the client's pre-established probationary period may be
6 established by the service agreement between the carriers. So that's kind of what
7 you're saying.

8 22:08: Uh-huh. That's what--yeah.

9 22:09: And we are in agreement there that we think that that--you
10 know, we have to think about it a little bit more,--

11 22:14: Uh-huh.

12 22:14: --but that is what we're thinking, too, is for the pre-established
13 probationary period, it doesn't--you know, the rule as it stands now would re--
14 actually require the client to have a pre-established probationary period, and as
15 Kristen, and Ramona has mentioned that to me as well, has pointed out it's not
16 always the case. But if in your contract with your client, you clearly are doing a
17 temp-to-hire, it seems to me that gets at the same question.

18 22:39: Right. And I think...

19 22:40: But we are looking at that.

20 22:41: It may be only temp-to-hire because we're not always temp-to-
21 hire.

22 22:43: Well, you might, at the end of the day...

23 22:44: Morph into that.

24 22:45: But your decision--but that's the point, though, is your decision
25 would be, you know, this is a temp-to-hire. Who knows whether they end up hiring?

1 You may--you know, we don't know what's going to happen at the other end, but
2 you've got a contract that sets that out versus I'm just placing this person out for
3 maternity leave.

4 23:02: I think those two vices, though, are pretty overly simplified.

5 23:05: Yeah.

6 23:05: Because there's a whole lot of area in between there.

7 23:07: Yeah.

8 23:09: There's--I thought they were only going to be temp, but they're
9 a rock star and now I have--I want to keep them.

10 23:13: Uh-huh.

11 23:14: Or I am going to temp-to-hire them after 90 days, but they were
12 late a few times, to use your example, Sam. They were late a few times and now I
13 want to try them for another month or two--and to see if I want to. And so those two
14 vices are super overly simplified.

15 23:28: Uh-huh.

16 23:28: Well, we know...

17 23:29: We do have to cover what might happen.

18 23:31: Right.

19 23:31: The different services that we provide versus for placement,
20 that's not unreasonable.

21 23:36: Yeah. And with the growing use of the contingent workforce,
22 this is going to become a bigger and bigger issue for tracking. And that's why I think
23 having your--essentially your service agreement stipulating the nature of your
24 business. And unless there's something that's way outside of your service
25 agreement,--

1 23:50: Uh-huh.

2 23:50: --it makes pretty good sense. I think that that kind of fixes the
3 issue. The problem we're having is if I don't change a date in someone's employee
4 file, because I got a phone call at 5 after 5:00 last night, I come in this morning and I
5 forget to change that file, and you guys come in and take a look, what was it you
6 said? If one guy's out, they're all out? Everybody falls into leasing. Yeah. That's a
7 really, really bad deal.

8 24:17: Uh-huh.

9 24:18: I mean, that's doomsday for some of the smaller temporary
10 agencies out there. That's bad. It's unfair.

11 24:25: Yeah. And you're absolutely right. There's really no need to
12 do it that way. I think you were getting right on the point a moment ago when you
13 were pointing out that the salient distinction between staffing companies and PEOs
14 is the source of the worker. You hire your people as a staffing company from the
15 general labor market. And then you assign them as needed to the client. For
16 whatever period of time is actually, in our view, not really particularly relevant to the
17 issue. But the--whereas in contrast, the PEO assumes again, as you said a moment
18 ago, assumes responsibility for the client's existing workforce in whatever proportion.
19 Most state PEO laws have some sort of a rule that addresses the percentage of the
20 workforce that the PEO workers make up. And all that could be addressed, I think
21 probably needs to have a statutory amendment we haven't really talked about and
22 maybe this isn't the time to do it.

23 But if we were to focus more on the source of the worker and the
24 portion of the client workforce that those workers make up, I think we would
25 eliminate a lot of this confusion and complexity, and it certainly would eliminate the

1 need to examine the temporary job status of every single person.

2 26:00: Agreed.

3 26:01: But again, that may be a topic for another day and another
4 time, and we offered to work with a--with the department to--along with NAPEO to
5 craft a legislative proposal that might make sense for everybody and that would
6 simplify life for all concerned, including the folks who have to enforce these rules.

7 26:27: I just--I need a little clarity because I don't--I thought that we
8 had to have a client, within the client's hiring practices that had to say this is how we
9 hire people as temp to hire, that you wanted us to have that.

10 26:41: Yeah.

11 26:41: Right?

12 26:42: Yeah. That's one of the things we're trying to fix.

13 26:45: Good. I hope it is.

14 26:46: Yes.

15 26:46: Because it doesn't--it just doesn't make sense because they
16 might have 10 employees. They might hire their production staff, which is 8 of those
17 employees one way, and then they're looking for a new accountant, so they don't--
18 really just won't trust that they're going to hire this accountant, so they do a temp-to-
19 hire on that accountant because they're just nervous--

20 27:04: Right.

21 27:05: --about how to go. And then I think Sam is totally right,
22 because you get to the end of the 90 days and they really want the person, but
23 there's a couple red flags. They're not sure. They want to go a little longer. We
24 don't have the administrative problem with the changing of the end dates that I know
25 of. I check those all the time in-house on our stuff. But we do have people make

1 changes on a regular basis. And certainly, that's not the hiring practice of the
2 company, because it's just a one-week position that they want to hire that way.

3 27:35: Uh-huh.

4 27:36: And they might only be temp-to-hire in that accounting role, and
5 they never temp-to-hire another one. And then the other thing that comes up just 9
6 times out of 10 for us with our production staff is it is so hard to find employees right
7 now all over the state, but particularly Portland, it's just very difficult to find people to
8 work for \$12 an hour in production force. And so you send out--you have 70
9 employees--

10 28:01: Right.

11 28:01: --and they're out there for a week because they have a big job
12 and they find that 10 of them are just absolutely amazing, and oh, they want to temp-
13 to-hire that 10. Well, they've just switched. So that's where I'm confused on how my
14 contract is supposed to--

15 28:13: Okay.

16 28:13: --see that because my contract is purely temp for the contract,
17 which is I send you my 70 people, we're temporary, sending these people to you for
18 a week, two weeks, whatever you want to pick, they do it all. Then all of a sudden,
19 10 of those people become temp-to-hire.

20 28:28: Uh-huh.

21 28:28: Do I go back to the customer and have them sign a whole new
22 contract that says you can temp-to-hire these 10 people which...

23 28:35: No, no. What do you do? I mean, that's what I--I'm kind of
24 curious what...

25 28:39: It just doesn't work like that. Well, I learned how to do it years

1 ago when Alice was telling me how to do it. She had...

2 28:45: Well, I mean, what you do...

3 28:47: Honestly, her way was different, so I'll tell you how I do it.

4 28:50: Uh-huh.

5 28:50: I'm probably going to get in trouble right now, but--or there are
6 people in here that are getting me in trouble.

7 28:56: If you want to go.

8 28:59: I have a temporary staffing agreement which we call a service
9 order confirmation, and it says--it's a one-page agreement, and it basically says
10 we're sending our people out to use temporary workers for, you know, these
11 different class codes, and this is what the pay rate's going to be, this is what the bill
12 rate's going to be. And we send them out and if they love them and they want to
13 temp-to-hire somebody, then we move to temp-to-hire. In our system, we put it as a
14 temp-to-hire. Start date here, end date here. We inform the employee that they are
15 in the track to actually be hired on in the company, which is awesome. And the
16 majority of our business is now temp-to-hire. So about 85 percent of our people we
17 send out get temp-to-hired, which is awesome, and--because you want to get people
18 jobs. We're not really just doing it for temp. We want to get people jobs. So they
19 just move to the temp-to-hire status. We keep the same contract the whole way
20 through. We ask the customer...

21 29:57: But you've documented that temp-to-hire status--

22 29:59: Right.

23 30:00: --just to be clear here. Right?

24 30:01: Yeah.

25 30:01: Okay. So...

1 30:02: And at the point that they tell us this is a rock star, we want the
2 person to go temp-to-hire, we have now called the employee and said, "Hey, they
3 think you're great. They want you to go temp-to-hire. You're going to start now in
4 that track and then 520 hours or 480 or whatever we negotiated, you're going to be
5 hired on if you meet all the barriers that they want you to meet. But we don't change
6 our agreement.

7 30:25: But okay. So let's...

8 30:26: But you have documentation. Right?

9 30:28: But sometimes it happens...

10 30:29: Well, it happens all internally.

11 30:31: It could happen at night, though, like...

12 30:31: So if you come in my office and we pull up the...

13 30:34: There's nothing in the rules that says you have to have a
14 contract and says you have to have documentation. And I know what we advise our
15 insurance clients in this situation is just to make sure that they have gotten
16 documentation. I don't think the form of the documentation is necessarily--I'll argue
17 it for you--is--it's not the form. It is the information document. So the beginning, the
18 end, what's happening. The contract was just a way to comply with what the rules
19 say.

20 31:06: Yeah. And they...

21 31:08: Well, the contract is-- See, that's not right, though.

22 31:10: Well, I was going to say, what we're specifically talking about,
23 though, is temp-to-hire. And there's a trick to temp-to-hire because in the statute, it
24 says the client--

25 31:20: Uh-huh.

1 31:21: --needs to have a pre-established probationary period.
2 31:23: Right.
3 31:24: And so...
4 31:25: Because it doesn't...
5 31:28: No, it doesn't.
6 31:28: Okay.
7 31:28: One of the thing--the contract--
8 31:29: Yes.
9 31:29: --comes from...
10 31:30: I...
11 31:31: The contract comes from feedback from stakeholders--
12 31:34: Yes.
13 31:35: --we don't--the client may not have it, but we always write it into
14 our contracts, so why don't we use that? That's where that came from, so you know.
15 So what we've got now--let me just read what we've got now because I want you
16 guys to think about this. It says, "The client employer's pre-established probationary
17 period," which is required by statute so we can't change that, "may be established by
18 the service agreement between the temporary provider and the client." So that's a
19 maybe. So we're saying that's one way to do it.
20 32:04: Okay.
21 32:05: Yeah. So that's kind of where we were coming from was trying
22 to help solve that problem--
23 32:09: Yeah.
24 32:09: --in a way that might work a little bit better for you guys. And
25 I'm totally open to other suggestions. That's just kind of what we came up with with

1 feedback.

2 32:17: I get it, but I want to know what you want by my contract. So
3 like just in my example, I've got people out there, temporary workers. Someone
4 comes back and says, give me these people as temp-to-hire.

5 32:27: Uh-huh.

6 32:27: Do I go back and sign another contract that says now they're
7 temp-to-hire?

8 32:30: I think you would need to in this case, because again, there's
9 this--for specifically for temp-to-hire, you know, there is this requirement, so...

10 32:38: Your temporary contract...

11 32:38: They can't--it's just not reasonable to do a contract for every
12 person. You have to...

13 32:44: We have--Workers' Comp any given week. And if--I mean,
14 there's just no way you can keep doing...

15 32:49: Could your contracts be more inclusive, though?

16 32:51: Yeah. Your temporary contract--

17 32:53: It's like 800 people.

18 32:52: --would be your temp-to-hire agreement.

19 32:54: It could--we could provide all of these services.

20 32:57: Yeah.

21 32:58: We could agree to that, like where our...

22 33:00: Yeah. We have a general agreement.

23 33:01: A general agreement, these are the things that we can do.

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24 33:03: Yeah. Mine's general, too.

25 33:06: Yeah.

1 33:06: So one point of clarific-- I don't think we're asking for a new
2 contract to be signed for every worker that's placed in the temp-to-worker program.
3 We need documentation that each worker is temp-to-hire status. But we're saying
4 that evidence of what establishes the program, you know, the pre-established
5 probationary program can be established by the agreement between the staffing
6 company and the client. So we're saying that's evidence enough for us that you
7 have a temp-to-hire program that the agreement is, but we need each worker that is
8 temp-to-hire to be designated as such.

9 33:46: But so what is that? So in a case where you have an employee
10 that's placed on a particular assignment, and six months later, they--the client, they
11 say, "We think we're going to need this person for about four to six months." So
12 we'll enter that into our system. And then after six months, they call and they say,
13 "They're great. We're going to hire them," there are no additional terms to satisfy
14 with us. They've passed all their hours. So at no point during that period of time did
15 they call and say, "Hey, we are transitioning this to a temp-to-hire." So they've
16 remained in our...

17 34:14: But it never was a temp-to-hire, so that's a...

18 34:15: And then they're hiring them.

19 34:16: Right. But that just went from a temporary employee to a
20 permanent employee. There was no temp-to-hire in that scenario.

21 34:23: But not at the 90-day, okay.

22 34:26: And if that initial placement was, you know, for a valid
23 temporary placement, then that documentation is fine.

24 34:33: Yeah. And there's nothing stopping the client from hiring
25 somebody as well. That's a different question.

1 34:40: Okay.

2 34:43: None of this is easy, you guys. I know--

3 34:44: Yeah.

4 34:44: --it's frustrating.

5 34:46: Well, no. Actually, you just made it easier when you just said

6 that.

7 34:48: Okay.

8 34:49: Because we could literally keep all our people temp.

9 34:51: Right.

10 34:51: Well, I mean, I think they legitimately have to be temp. They do

11 have to fit that statute,--

12 34:56: Yes.

13 34:56: --so I don't want...

14 34:57: Yeah.

15 34:59: We have PEO, too, so it's easy for us to make people PEO.

16 We want them to be PEO that are PEO because--

17 35:05: Right.

18 35:05: --it's so much easier. But yeah, I think...

19 35:09: Yeah. It's not the--where--I think where the regulator--where

20 this came up and this predates me, but I know that they put--there's a few people in

21 the room that probably were sitting in these meetings, but what was happening is

22 that, you know, temporary companies were moving into leasing. And then they were

23 saying after the fact, "Well, it's actually temp-to-hire."

24 35:31: Oh, yeah.

25 35:32: And so that's where the regs came from, the regs came from to

1 begin with was to try and get at, well, okay, so how do you--you know, where's your
2 documentation to establish that this is not a leased worker, this is a temp-to-hire
3 worker? And trying to make more clear what that is. And so of course, you know, it
4 has home consequences that we're struggling with now, so we're trying to kind of--

5 35:53: Would it be easier to...

6 35:53: --continue to tweak, I guess.

7 35:55: Would it be easier to define leasing and say everything else is
8 temporary? And I think that's what the original--

9 36:00: Statute.

10 36:00: --statute called for.

11 36:02: The statute does it the other way around, so they're just
12 following the statute. But I do have a question more for Sam's problem.

13 36:09: Uh-huh.

14 36:10: It seems to me that the director has a lot of discretion. And it
15 seems like where you've got a--what really is a clerical error, someone forgets and
16 maybe--because I'm one of those people who would do that. You know, take the
17 call and write it down on the scrap paper and then--

18 36:32: Uh-huh.

19 36:32: --the next morning, get busy, and two weeks later go, "Oh,
20 shoot, I forgot to put this in the system." So that where you--if you have--if you can
21 see as the regulator the intent and the process, and that one little mistake like that
22 wouldn't just throw everything out the door, I don't know how you'd write that kind of
23 a rule, but...

24 36:53: Yeah. Well, I mean, something like that may be as simple as
25 changing a--you know, it will--they will be considered a worker leasing company, so

1 they may be considered a worker leasing company, and that would...

2 37:05: That's probably too soft, but...

3 37:07: Yeah. Yeah. I mean,--

4 37:09: Right. Just put some...

5 37:09: --that's just off the top of my head. Yeah.

6 37:10: Put something in there about if it's--that blah, blah, blah.

7 37:14: I think you have to get rid of the default that if one person is

8 found to be outside the lines, that everybody else gets thrown in the bucket. I mean,

9 that doesn't make any sense. That rule doesn't help anyone that I can see anyway.

10 I don't know that...

11 37:30: Yeah. And that's--but that's a rule, we don't--that's part of the

12 statute.

13 37:35: Yes.

14 37:35: Do you know what I mean? Like...

15 37:36: Yeah. No, I do.

16 37:39: Yeah. So part of the discussion we had last time was kind of--

17 you know, we are limited in what we can do with this rulemaking process, but we are

18 open to continued discussion about other things. But you know, we are a creature of

19 statute, so we really have to do what the legislature says.

20 And yeah, and I think we can continue to look at where we do have

21 discretion. And I think in those cases where it's one worker, it--you know, one

22 person, the documentation wasn't right. We do have some ability to...

23 38:20: Do the statutes--

24 38:19: To make...

25 38:21: --call for an end date?

1 38:22: It's--I think it calls for the duration--
2 38:24: Yeah.
3 38:25: --of the placement.
4 38:27: Expected, correctly, if I'm not mistaken, expected duration.
5 There's a big difference between expected duration and documented--
6 38:39: Start to end date.
7 38:39: --end date.
8 38:44: It's just that the expectation that the position or positions will be
9 terminated--
10 38:48: There you go.
11 38:49: --upon completion of the special situation.
12 38:58: I have a--Chris, I have a question.
13 39:00: Uh-huh. Yeah.
14 39:01: Not to belabor this. And this isn't necessarily a PEO issue. But
15 I'm just thinking, the last time we met, we discussed on Page 3, Issue Number 1371,
16 of amending the worker leasing rule and the company's definition at least in the--
17 39:15: Uh-huh.
18 39:15: --rule, the PEO or other person. So you'd be inserting PEO.
19 Would that sort of take care of the problem of making everyone else sort of comply
20 with a lot of these issues? Or do you not think it would change some of the, you
21 know, discussions we're having right now?
22 39:31: Well, I know...
23 39:32: In other words,--
24 39:32: Yeah.
25 39:33: --we discussed, you know, at the outset of the last meeting that

1 the department sees worker leasing at least as PEOs, right, not temp staffing? If
2 you made this change subsequently to actually identify PEOs, that I--you see what
3 I'm getting at, with sort of the necessity of having--besides the statute, what's the
4 necessity of having 30 days and--if you're just only wanting to regulate PEOs?

5 40:03: Yeah. I don't think the changes we can make would really
6 amend the underlying definition of--you know, so basically, the rule change we're
7 saying would say then a PEO also means a person who provides workers by
8 contract, and for--to work for a client, but does not include a person who provides
9 workers to a client on a temporary basis. So because that's kind of the--

10 40:27: Right.

11 40:27: --the definition we're looking at, we still need people who
12 provide workers to a client on a temporary basis to document and prove that they
13 are. We may have some discretion on how that documentation looks, and that's
14 something we can certainly look more at.

15 40:42: Well, I think that's what we--

16 40:43: Yeah.

17 40:43: --were trying to do was make them give us a little bit--

18 40:46: Yeah.

19 40:46: --of wiggle room--

20 40:46: Yeah. And I commend--

21 40:46: --in our rule.

22 40:47: --what you're trying to do--

23 40:48: Yeah.

24 40:48: Yeah.

25 40:48: --because I mean, I was excited to come over for the meeting

1 today, when I saw the proposed language.

2 40:51: Uh-huh.

3 40:52: I think you guys are going a great direction. But I think it can
4 be boiled down and made much more simple, if you look at what you're doing. Like I
5 said, that end date, it's a pretty simple thing. And when you look at the statute, it
6 doesn't mention an end date. And I think that that's a lot. And it doesn't sound like
7 much. It sounds like a very simple thing. But when you have a rule or a statute that
8 says if we screw up one time, everybody all of a sudden gets thrown in this bucket,
9 and then you make the--you expand your ability to screw up, sooner or later,
10 somebody's going to do that. You're laying landmines for people. And I think we all
11 want to deal with playing in the same sandbox really well together, and we're
12 creating a situation where people are going to make mistakes and you're tying your
13 own hands on how you handle it. So like I said, get rid of the end date, and that
14 deals with a lot of it.

15 41:43: Okay.

16 42:03: Yeah. And the rule requires--it just says it has to indicate the
17 duration of work. So...

18 42:10: Yeah.

19 42:10: Yeah. It doesn't--yeah. We'll keep looking at it. I...

20 42:14: Okay.

21 42:15: Because I think that's a very valid argument and especially if
22 it's within reason, you know,--

23 42:20: Yeah.

24 42:20: --if it's a week after. I mean, I think we do also need records to
25 be up to date and correct. I mean, we--if we--if there's a plan...

1 42:27: Without having to pay people.
2 42:28: Right.
3 42:28: You know, so--
4 42:29: Yeah. Yeah.
5 42:29: --we're keeping--
6 42:30: Right.
7 42:30: --records.
8 42:30: Yeah.
9 42:31: But we're talking about a hypothetical date that may or may not
10 come.
11 42:35: Sure.
12 42:35: You know.
13 42:35: Yeah.
14 42:35: And to have that be a violation is, in my opinion, unreasonable.
15 42:40: Okay. Does anybody have thoughts on that? Did you have
16 your hand up?
17 42:47: I do have a question.
18 42:47: Yeah.
19 42:47: I don't know if it's in the statute or not. But how long are you
20 allowed to have a temporary worker?
21 42:52: I don't think there's any sort of limitation.
22 42:57: There's not.
23 42:57: Yeah.
24 42:58: No.
25 42:59: There's not a...

1 43:00: As long as they are supplementing the regular workforce and
2 they're...

3 43:03: It has to go with the agreement. Right?

4 43:04: There's...

5 43:04: It's not just a duration. It's one of those...

6 43:06: Right.

7 43:07: Yeah.

8 43:08: And those get a little...

9 43:09: Right. Which could be--I mean, you know, long-term projects,
10 like I see that in high tech a lot where they'll hire somebody for a year and they're,
11 you know, writing code for a project that lasts a year, and that's a project that lasts a
12 year. It's still a temporary employee. There's no expectation of becoming the
13 regular workforce. They're there for that particular reason. And that would
14 legitimately be a temporary place. And we do have those, you know.

15 43:36: And so another change that we're making here, too, is that we
16 recognize that this list of special situations is not exhaustive, and especially with the
17 changing nature of work relationships, and like you said, contingent workers.

18 43:48: Yeah.

19 43:48: We understand that there may be other special situations, but
20 we need them to be consistent with kind of the spirit of what the statute intended.

21 43:59: And I think the source of the employee--of course, that's
22 probably going to have to be a statutory change, but the source of the employee
23 could be a big part of that. PEOs, generally they'll assist with the hiring process
24 review, but they're not generally sourcing and placing people to work for another
25 company.

1 44:15: Now, is it appropriate for me to ask a few questions about that?
2 Because as a regulator, see, I see that all the time. And again, I'm--we're looking at
3 temporary companies who let their temporary employees basically--they did place
4 them. So the source is not the relevant issue for me. As a regulator, I see them
5 sourced by the temporary company. The temporary company placed them, and
6 then the employer said, "Hey, I kind of like this arrangement and we're just going to
7 keep continuing to renew that, and renew that, and renew that."

8 44:45: Yeah.

9 44:45: It is their regular workforce. It is a leased employee. And so as
10 a regulator, I kind of what wonder how I would do that analysis myself. I'm just not
11 sure.

12 45:00: Are you saying that this...

13 45:01: Are you saying that that's one person or that's their whole
14 workforce?

15 45:04: Yeah. A lot of times, it is a smaller employer. That is where I'll
16 see it. So you know, it's going to be they've got--

17 45:09: It's going to be...

18 45:10: --a temp, maybe, you know, a couple people, one person, two
19 people. And then, you know, two years later, they're still there. No special project.
20 That's just their regular workforce. That's a leased worker. And they just moved into
21 being a PEO.

22 45:26: So are you just saying like how temporary agencies payroll
23 people, where they just keep the person? Someone brings their workforce to them
24 and they keep those people going-- No, you're saying a temporary employee that
25 just becomes really permanent at that time...

1 45:40: Yeah. Just like--we kind of like that. That kind of works.

2 45:42: Yeah. Temporary for four years.

3 45:43: Yeah. Yeah.

4 45:44: A small employer that has one or two people.

5 45:46: Uh-huh.

6 45:47: And payroll.

7 45:49: Why wouldn't you just move them to your PEO side?

8 45:51: Well, if you don't have a PEO side.

9 45:53: Why don't you just have regulations for staffing companies and
10 make them get licenses?

11 45:59: That's the part where we go after the guys that are playing by
12 the rules instead of the rule-breakers.

13 46:06: Well, yeah. Well, isn't that kind of-- I mean, that does sound
14 like from a regulatory standpoint that that's not what they're doing. There's a lot of
15 companies, though, that are falling outside of those areas where we're providing
16 someone for a longer period, or we don't necessarily know the whole duration, or
17 they change to a temp to hire, or that aren't so obvious. That example that you
18 stated is pretty obvious. And it would be from a regulatory standpoint, it seems like
19 you would say, "Gosh, ma'am, you're operating in a lease environment."

20 46:34: Right. But what I'm--well, what I'm talking about is if you built
21 that into the definition, that wouldn't quite work for me definitionally, because that
22 would actually capture something that I wouldn't want them to capture. But anyway,
23 you know...

24 46:49: Yeah. I think on the point that was being made about the
25 source of the workers not necessarily being the key issue,--

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46:57: Yes. Uh-huh.

46:58: --I think it is a problem with the existing statutory language where the tenure of the worker becomes the focus. In fact, I think what we really need to do or what we would urge the legislature to do is to rethink what the fundamental purpose of the worker leasing rules was in the first place. If you go back into the history of this, it had really nothing very much to do with the duration of the employment relationship between the employer and the worker, that was--it--that was sort of a byproduct of the problem. The problem was the shifting of one company's workers to the payroll of another for a nefarious purpose. And that--it was that workforce shifting to avoid either Workers' Comp premium payments or the proper payment. Or in the case of unemployment insurance, avoiding the proper payment of whatever the UI experience rate was. It was the mod swapping problem that was the original issue.

Now, I mean, you know, regulators in the statute can--you know, can decide to do whatever they want. But the--I think it would be helpful to refocus on what the actual intent of the law is because if you focus solely on tenure and you ignore source of worker, then you would treat, for example, a company cafeteria run by Marriott as a worker leasing arrangement. And there would be no--there would no--be no real purpose in doing that. I don't think you'd interpret it that way currently. But the problem with the current statutory definition of leasing is it--it is so broad, it encompasses literally any service business on the planet, irrespective of what the original policy purpose was.

49:10: Thanks, Ed. Thanks, Fred.

49:12: Could I--Ed's point? Not just with Workers' Comp and mods and just changing the SUI rates, but also if you look at it from a public policy

1 standpoint where you have temporary employees aren't getting health insurance
2 benefits or other things, I see that that's where some companies will want to try to do
3 that type of situation to carve those out and not provide that kind of--well, a new
4 management carve-out option for especially health insurance.

5 49:43: Well, the Affordable Care Act, you know, in fact, has largely
6 addressed that. Who knows where that's going? But at the moment, an employer
7 has to offer health coverage or pay a tax assessment. There's no legal requirement,
8 federal or state, anywhere, that compels an employer to offer health insurance. The
9 Affordable Care Act doesn't do that. It's a play or pay arrangement. So but if you're
10 concerned about whether a company is paying or providing benefits that it has
11 promised to pay and hasn't, well, that's a completely separate issue, I think, from
12 what the purpose of the worker leasing rules, at least historically, have been.

13 50:32: And I said I don't want to belabor the point, but you could have
14 a situation where the employer has five employees and has health insurance. Okay.
15 Then you--a temporary provider provides five employees, and that health insurance
16 doesn't follow or--doesn't follow the temp employees. Same thing with a 401(k)
17 plan. Those are defined based upon the worker leasing arrangement on that. It's a
18 very transparent process. The number of employees that are under that do not--it
19 doesn't follow the same way the ERISA requirements. So from a public policy
20 standpoint, I think that's going to be an issue as well.

21 51:12: Yeah. Well, we can certainly discuss that. I'm not quite sure I
22 followed that. But you were breaking up a little bit, unfortunately, because I'm on
23 this conference line, so I didn't quite--I missed a couple of words in your hypothetical
24 example.

25 51:33: Would you like me to repeat that or get close to the

1 microphone?

2 51:36: Well, yeah. I mean, if you wouldn't mind, I do want to
3 understand, you know, your point of view on it. So if you...

4 51:42: Yeah.

5 51:42: If you could--

6 51:42: Arin...

7 51:43: --just go back over that quickly.

8 51:45: Arin's going to come up a little closer to the phone.

9 51:48: Okay. Great. Thank you.

10 51:50: Okay. Okay. What I was referring to is I've had situations
11 where a business will have five employees, and they want to not offer health
12 insurance to all their employees. So they could come and say, "Hey, Cardinal, why
13 don't you have--or have these new five employees that we want to hire, treat them
14 as temps." The health insurance won't follow. The 401(k) won't follow with the
15 match on there and other benefits. That's one concern that if we don't--that they
16 should be combined. They really shouldn't be separated out.

17 52:25: Well, I agree with you. I mean, but the--I mean, the good news
18 about that is that congress addressed that very specific issue in 1982, and the tax
19 reform law of that year in the section of the code that deals with employee leasing.
20 And that was really what led to--it was that exact practice that you're describing, and
21 the fact that it was originally a device largely used by physician practices that had
22 rank-and-file clerical and nursing staff that they did not want to offer a full pension
23 benefit to, for example, or health insurance, so they simply shifted those people over
24 to the payroll, nominally shifted them to the payroll of a leasing firm. That's what
25 they were called at the time. And then the leasing firm would lease those people

1 back. They continued to work just as before with the doctor. Nothing else had
2 changed except presto, change-o, they were no longer arguably the employees of
3 the doctor. Well, the federal statute in section, you know, 414 and the tax code
4 changed that. You--the doctor now has to include leased employees for purposes of
5 discrimination testing rules. So you're quite right. That's a problem. And it shouldn't
6 happen. And that should be addressed, but I don't think that was the-- I mean, and
7 that was--at least that was part of the rationale for the--for all of these employee
8 leasing regulations at the state level. Not so much on health insurance, that--
9 because that's a federal issue. But the state regulators were concerned about it
10 from the standpoint of Workers' Compensation and unemployment insurance.

11 So we agree. I mean, that--the use of a third-party, of another entity to
12 shift payroll to to avoid certain benefit obligations, or statutory obligations such as
13 unemployment insurance and Workers' Comp, is precisely what should not happen,
14 and that's--and those arrangements should not be used for that purpose.

15 And--but I think with the inordinate focus on the tenure of the worker
16 rather than the source and the--and whether the employees being shifted now, I'm
17 talking about Workers' Comp now, it's true you can shift--you can affect your
18 Workers' Comp rates by shifting a relatively small number of high-risk people. And
19 it's hard to get at that. I understand there are certain issues. But if, in fact, the
20 employees have been recruited from the labor market and are on the payroll of the
21 staffing firm and are not coming over from some other employer that's had a
22 problem with their work comp rates, there's very little of a policy question, or the
23 staffing firm recruits them, they source them, they take them from the labor market.
24 They put them on their own payroll, and then they do all the tax withholding. Any
25 statutory benefits that are the obligation of employers, they will, and should assume.

1 But the current definition in Oregon doesn't allow you to take that into account.

2 We were the ones that crafted those examples of temporary work,
3 other than the temp-to-perm one. That's, I guess, one of those cases where Oregon
4 invented another example. And it's nothing wrong with the example. But I think the
5 focus on tenure has just gotten everybody focused on making these case-by-case
6 decisions about who's temporary and who's not. And as the other gentleman
7 pointed out, that is just a formula for confusion and unnecessary paperwork in our
8 view, and penalties if you get it wrong.

9 So we certainly appreciate where the department is coming from.
10 Given the statutory framework you have, you don't have that much to work with, you
11 can't--you can only do so much. But we would like to work with you, and we've got
12 some time because the legislature is not going to be addressing any new legislation
13 next year, is our understanding. So we've got time to think about whether there
14 might be a better way to do it. And with your input and approval, maybe we can
15 make life easier for everybody and still get at your policy objectives, which are
16 important ones.

17 57:30: Thanks, Ed.

18 57:33: Thank you. I appreciate the opportunity to talk about it. I wish I
19 could be there and see all of you, and then--and see whether the eyebrows were
20 going up and the heads were shaking either up or down or the other way. But I
21 can't. So we'll have to do that another time.

22 57:53: Well, if I can translate, Ed, there was no--I didn't see any
23 skepticism around the table, necessarily. I can just clarify that next year, there is a
24 session--Oregon has a short session on even-numbered years, and typically that's
25 pretty limited in terms of legislation, new legislation. But 2019...

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58:09: Okay.

58:10: 2019 is the next long session, the full session.

58:14: I see. Well, thanks for that clarification. You know, we'll be, as I mentioned, getting together with our folks there who are--staffing firms in Oregon, folks that are also in the PEO business. NAPEO certainly has expressed interest in looking at it. So we look forward to working with you on it and see if we can come up with something that makes sense.

58:44: Well, I just wanted to check in, see how everybody's doing on time. We have about an hour left. So we can either take a break, or are there other issues that people--do you want to discuss?

59:00: Well, this is Ed again. It's 6:00 o'clock here and I'm--I've got to be home for dinner, otherwise my wife will yell at me. So I think I'm going to sign off. I'll--Daniel and I have been in touch, and the folks from TrueBlue, they can fill me in. Or maybe, Fred, I could give you a call if anything exciting happens in the next hour or so. But I will sign off. And again, I appreciate the opportunity to chat with you and make our submission to you.

59:27: Okay. Thanks. Thanks for being here, Ed, and--

59:31: Thanks. Thank you.

59:31: --we'll talk again.

59:32: Thanks, Fred. All right. Bye-bye.

59:39: All right. Well, see, I'm not getting a strong indication. I don't want to make people come take a break and come back if we're about ready to conclude, but we're certainly scheduled for another hour. So can we get a--maybe a hand raise if you're--if you want to come back or-- Okay. Well, I guess...

60:08: Hey, just real quick.

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60:09: Yeah.

60:10: Sorry, everybody. When do you expect to have proposed amendments to the rule?

60:19: That's a good question. Do you--Fred, do you happen to remember what our--

60:21: Well...

60:21: --projected timeline is?

60:23: I think we were hoping to have rules all completed and effective by next April 1,--

60:28: Right.

60:28: --which would mean we have to propose rules, you know, probably in either December or January--

60:35: Okay.

60:35: --for a hearing the following month. It always--there has to be some time for people to--

60:40: That's good. Right.

60:40: --look at the proposed rules and come to a hearing. We'll always hold a hearing. So the proposed rules would probably be published, file published in either December or January, if we stay on that particular track. However, there's nothing driving the process that means we have to have it done by--

60:57: Okay.

60:57: --a particular time. So if we need a little extra time, we'll take it.

61:02: Well, thanks again for the opportunity to comment on the rules.

I appreciate it.

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61:06: Appreciate your input.

61:10: Thanks again for making the trip. That's...

61:12: My pleasure. Okay. Well...

61:20: Well, thank you very much for coming. And if you have additional thoughts, just like we said last time, additional thoughts on any of the agenda items or anything else, just--you probably all have my email in your inboxes, so just send me an email and provide advice that way. You can also pick up the telephone and call. And if need be, if it's over my head, I'll make sure that I get you in touch with the experts.

So with that, have a safe trip home. And we just really, really appreciate your time and your expertise, really.

61:53: Thanks, Fred.

61:54: Thank you.

61:55: Thank you.

61:56: All right. It was nice meeting you.

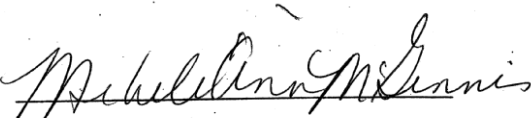
61:57: Nice meeting you, too.

61:59: And goodbye to you if you're still on the phone with us as well.

(WHEREUPON, the proceedings were adjourned.)

CERTIFICATE

I hereby certify that the foregoing proceeding hearing held before Administrative Rules Coordinator Bruyns was transcribed from the recorded audio on 10/16/17 and that I attest that this transcript is a true and accurate record of the proceeding to the best of my ability.


Court Reporter