

**Testimony before Senate Judiciary Committee
In support of SB 371
On behalf of the Oregon State Bar Workers Compensation Section
February 17, 2015**

Senator Prozanski, members of the Committee:

My name is Michael Orlando. I am an attorney in Lake Oswego, and I am here today as a representative of the Workers Compensation section of the Oregon State Bar in support of SB 371.

Oregon State Bar

The Oregon State Bar (OSB) is a public corporation and an instrumentality of the court with over 14,000 active members. The mission of the Oregon State Bar is to serve justice by promoting respect for the rule of law, by improving the quality of legal services, and by increasing access to justice. Among its core values are fairness and diversity. The Oregon State Bar licenses and disciplines lawyers and performs other functions to benefit the public: including lawyer referral services, modest means and veterans programs, and legal education for attorneys and members of the public.

Workers Compensation Section

The Workers Compensation Section of the Oregon State Bar was originally formed in 1978, and today is made of up of over 350 attorneys who represent both employers and employees throughout Oregon. Our members represent a wide variety of clients from eastern Oregon to Hood River, to the Portland metro area and down the Willamette Valley. The Executive Committee of the Workers Compensation Section supports SB 371.

SB 371, which comes from the Access to Justice subcommittee of the section, makes two changes to chapter ORS chapter 656. The proposed changes will provide notice to potential beneficiaries and increase the time to seek reconsideration of closure and will expressly require the payment of deposition interpreter services by an insurer or self-insured employer.

Closure Notice

In 2010, the Oregon Court of Appeals decision in a worker's compensation case, *SAIF v. Wild*, 237 Or App 454 (2010), highlighted what the section considered a deficiency in the notice/procedural requirements for claim closures, including permanent disability determinations. Currently, under ORS 656.268(5)(a), insurers and self-insured employers are not required to mail copies of a closure notice to any statutory beneficiary of a deceased worker. As a result, beneficiaries generally do not become aware of their right to appeal the closure notice unless they are informed of that right through either a representative of

the deceased worker's estate or the worker's former attorney. In addition, any appeal of a notice must still be filed within 60 days of the date of closure notice.

The amendments proposed by the section would provide that, if the worker is deceased at the time of the closure notice, the insurer or self-insured employer may mail copies of the closure notice to any known/potential beneficiaries. In addition, the amendment establishes two tiers of appeal rights:

- (1) Those beneficiaries who were mailed copies of the closure notice have 60 days in which to appeal the notice, and
- (2) Those beneficiaries who were not mailed copies of the closure notice have one year in which to appeal the notice.

The amendments provide that statutory beneficiaries have the right to request reconsideration of closure notices or to purpose reconsideration that was requested by the worker prior to his or her death.

Interpreter Services

Under ORS 656.268(6)(a)(A), an injured worker is allowed to submit a deposition to the reconsideration record in order to provide information related to the worker's condition at the time of the claim closure. The statute expressly requires that the insurer or self-insured employer pay the fee of the court reporters and costs for the original transcript and its copies.

The proposed changes to the statute would ensure that an insurer or self-insured employer would pay for deposition interpreter services for a non-English speaking claimant as well.

On behalf of the Workers Compensation Section of the Oregon State Bar, I thank the committee for its consideration and urge the passage of SB 371.