

December 17, 2019

Constance L. Wold, Board Chair
Workers' Compensation Board
2601 25th St. SE, Suite 150
Salem, OR 97302

Dear Board Members:

Thank you for your diligent work on the attorneys' fees related issues brought before the Board. We represent a group of employers and insurers who care deeply about the health of Oregon's Workers' Compensation system and seek to strengthen, not weaken, it. We support the right for injured workers to have counsel and representation. We recognize the importance of the issues raised by the Board and the access to justice concerns that arise with them. We can come to agreement on some of the proposals, while we have serious concerns that prevent us from being able to support others.

First and foremost, we support the collection of data to better understand the system, particularly collecting information on the number of attorneys practicing in this field. This would help us to identify issues in this field and whether we are making progress in solving problems. Without this data, it is difficult to know what is going on in the system and whether changes help us achieve our common goals.

We can agree to the statement of fees from the defense counsel, assuming certain limitations. One such limitation is that these statements be limited to the actual litigation of the case, and not include the investigative phase. Also, that these include both defense and claimants' side.

That said, we have concerns about some of the draft rule language. We do not agree that the multiplier is a fair way to adjust the wages of claimants' attorneys. It creates a perverse incentive for attorneys to encourage litigation for their clients, including in instances where this would not be in the best interest of their clients. Such increased litigation is not beneficial to the overall workers' compensation system.

We were involved in the negotiations around HB 3022 in the 2019 Legislative Session with OTLA and are hopeful that we can work together again with OTLA in future discussions around these issues, as well as others that may arise before the Board in the future. In discussing these issues, we would move forward in good faith in looking at any option that any party puts on the table.

We know that there will be witnesses coming before you that will amplify these suggestions and concerns. We thank you for your time and consideration of our concerns.

