



## MEMORANDUM

March 17, 2022

**To:** Board Members, Board Legal Staff, Oregon Workers' Compensation Interested Parties

**From:** Robert Pardington, Managing Attorney

**Subject:** Adoption of Changes to WCB's Administrative Rules Regarding Nonbinary Gender Pronouns

At their March 15, 2022 public meeting, the Members considered several minor changes (now known as "statutory minor corrections") regarding the use of "nonbinary" gender pronouns in the Board's OAR 438 rules. *See* ORS 183.335(7). At their public meeting, the Members approved these changes and directed the staff to take the appropriate actions to implement these changes.

Accordingly, consistent with the Members' directive, on March 15, 2022, the changes were submitted on the Secretary of State website, pursuant to its rules and procedures for "corrections" to administrative rules. These changes have been confirmed by the Secretary of State's office, and will appear as "corrected" in future online versions of the Board's OAR 438 rules (*e.g.* on the Secretary of State's website and on the Board's external website).

For ease of reference, these rule changes are listed below.

1) Adoption/Definitions

OAR 438-005-0040(6) – Deleted "his/her"

OAR 438-005-0046(4)(d) – Deleted "his/her" and replaced with "their"

2) Procedures Prior to Hearing

OAR 438-006-0050 – Deleted "his or her"

OAR 438-006-0055 – Deleted "his or her"

OAR 438-006-0065(4) - Deleted “his or her”  
OAR 438-006-0065(5) - Deleted first “his/her” and replaced with “their”;  
Deleted second “his/her”  
OAR 438-006-0078(5) – Deleted “his/her”  
OAR 438-006-0078(6) – Deleted “his/her”  
OAR 438-006-0078(6)(a) – Deleted “his/her”  
OAR 438-006-0095(1) – Deleted “himself or herself” and replaced with  
“themselves”  
OAR 438-006-0095(2) – Deleted “himself or herself” and replaced with  
“themselves”  
OAR 438-006-0095(4) – Deleted first “himself or herself” and replaced with  
“themselves”; Deleted second “himself or herself” and replaced with  
“themselves”  
OAR 438-006-0095(5) – Deleted first “himself or herself” and replaced with  
“themselves”; Deleted second “himself or herself” and replaced with  
“themselves”  
OAR 438-006-0095(6) – Deleted first “his/her” and replaced with “their”;  
Deleted second “his/her” and replaced with “the”; Deleted third “his/her”  
and replaced with “the”  
OAR 438-006-0110 – Deleted “his/her”  
OAR 438-006-0115(4) – Deleted “his/her” and replaced with “their”

3) Evidence

OAR 438-007-0005(2) – Deleted “herself or himself” and replaced with  
“themselves”  
OAR 438-007-0016 – Deleted “his or her” and replaced with “their”  
OAR 438-007-0018(5) – Deleted “his or her” and replaced with “their”  
OAR 438-007-0025(1) – Deleted “his or her” and replaced with “the”

4) Compromise and Settlement

OAR 438-009-0015(1) and (3) – Deleted “his or her”

5) Board Review

OAR 438-011-0023 – Deleted “he or she has” and replaced with “there is”

6) Expedited Claim Service

OAR 438-013-0035(1) – Deleted “himself or herself” and replaced with  
“themselves”

7) Interpreters

OAR 438-020-0005 -- Deleted “he/she presides” and replaced with “they preside”

8) Rules of Practice and Procedure/Crime Victims Act

OAR 438-082-0040(7)(b) – Deleted “his or her” and replaced with “their”

9) Rules of Practice and Procedure/Contested Cases Under Oregon Safe Employment Act

A) OAR 438-085-0631- Deleted “his or her” and replaced with “their”

B) OAR 438-085-0718 – Deleted “his or her”

C) OAR 438-085-0750(1) – Deleted “he or she considers” and replaced with “they consider”

D) OAR 438-085-0750(2) – Deleted “himself or herself” and replaced with “themselves”

E) OAR 438-085-0750(3) – Deleted “his or her” and replaced with “their”