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BOARD NEWS

ALJ Kirk Spangler to Retire September 1, 2025

It is with a heavy heart that the Workers' Compensation Board (WCB) announces ALJ Kirk Spangler's retirement as of September 1, 2025. ALJ Spangler began working at WCB as a staff attorney in 1987, and became an ALJ in 1990. He is always steadfast in his efforts to help parties mediate their cases to reach a non-adversarial resolution, and the Board is grateful for the work he does. ALJ Spangler's retirement is well-earned and well-deserved, and he will be sorely missed. More information to come on plans to celebrate his next chapter.

CASE NOTES

EVIDENCE: Declining to Issue Subpoenas Was Not an Abuse of Discretion

Anush Forouhar, 77 Van Natta 145 (2025). The Board upheld an Administrative Law Judge's (ALJ) order that: (1) declined to issue subpoenas for phone and text message records; and (2) upheld the self-insured employer's denial of the claimant's injury claim. Reviewing the ALJ's order for abuse of discretion, the Board cited ORS 656.283(6), stating that an ALJ is not bound by common law or statutory rules of evidence and may conduct a hearing in any manner that will achieve substantial justice. In this particular case, the Board upheld the ALJ's decision not to issue subpoenas for phone and text message records that were not relevant to the medical causation issue before the ALJ and the Board. See *Diana L. Flanders*, 64 Van Natta 313, 314 (2012).

Turning to compensability, the Board held that the record lacked a persuasive medical expert opinion to establish that the work event was a material contributing cause of the claimant's disability or need for treatment. ORS 656.005(7)(a); ORS 656.266(1). Accordingly, the Board affirmed the ALJ's order upholding the self-insured employer's denial.

OCCUPATIONAL DISEASE: Employment Conditions Were the Major Contributing Cause of Condition Based on Physician's Persuasive Opinion

Donna M. Ruland, 77 Van Natta 132 (2025). The Board held that the claimant's occupational disease claim for a left shoulder condition was compensable based on persuasive medical evidence. The Board found that the opinion supporting compensability was well explained and considered the claimant's particular circumstances. Conversely, the Board found that the contrary opinions were inconsistent and based on an inaccurate history and

understanding of the claimant's work activities. *Denny Shannon*, 76 Van Natta 20, 26 (2024); *Miller v. Granite Constr. Co.*, 28 Or App 473, 476 (1977).

A dissenting opinion found the physician's opinion supporting compensability insufficiently persuasive. Additionally, the dissent would not have discounted the physicians' opinions that did not support compensability. Rather, based on the independent medical exam findings and two other physicians' concurrence with them, the dissent would have reversed that portion of the ALJ's order that set aside the employer's denial.

REMANDING: Board Lacked Authority to Review Order that Was Not Final

Jennifer Davis, 77 Van Natta 154 (2025). The Board held that an ALJ's interim order that deferred further proceedings pending receipt of a medical arbiter report was not a final order because it did not dispose of a claim so that no further action was required. See *Price v. SAIF*, 296 Or 311, 315 (1984); *Christopher R. Norris*, 54 Van Natta 2013, 2014 (2002). Because jurisdiction remained with the ALJ, the Board remanded the matter to the Hearings Division and dismissed the claimant's request for review.

APPELLATE DECISIONS

No Board-related decisions issued from the appellate courts in March.