



# Oregon

Kate Brown, Governor

## Workers' Compensation Board

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January 15, 2016

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Re: Attorney Fee Advisory Committee

Advisory Committee Members:

Thank you for agreeing to participate on the Board's advisory committee, which will be reviewing several concepts regarding the Board's Division 015 (Attorney Fee) administrative rules, as well as assist in the Board's biennial review of all attorney fee schedules under ORS 656.388(4). ALJ Mills will be the facilitator for this committee.

At its November 17, 2015 meeting, the Members discussed the following concepts:

- (1) a possible amendment of the Board's rule regarding factors for consideration in the determination of a reasonable assessed attorney fee (OAR 438-015-0010(4)) to include the time devoted by a claimant's attorney's legal assistants and to incorporate the contingent nature of the practice of workers' compensation law as set forth in ORS 656.388(5);
- (2) adopting an administrative rule, which would implement a voluntary process to bifurcate the determination of a reasonable assessed attorney fee from the merits of the case;
- (3) amending OAR 438-015-0082(2), which provides that an assessed fee award must be paid within 30 days after the litigation order becomes final; and
- (4) reviewing the "thresholds/soft caps" for "out-of-compensation" attorney fees prescribed in OAR 438-015-0025, OAR 438-015-0040, OAR 438-015-0050, OAR 438-015-0052, OAR 438-015-0055, OAR 438-015-0080 and OAR 438-015-0095.



Advisory Committee Members  
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After conducting their deliberations, the Members agreed to establish an advisory committee to consider the aforementioned matters and to issue a report advising the Members concerning possible rulemaking.

To assist the Committee in that review, copies of the following materials are enclosed with your copy of this letter:

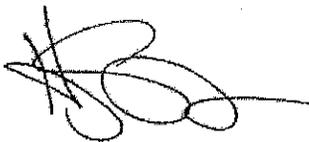
1. A June 23, 2015 letter from Julene Quinn (which addresses "Concept 2");
2. A July 6, 2015 letter from Chris Moore (which addresses "Concept 1");
3. A October 30, 2015 letter from Ted Heus (which addresses "Concept 1");
4. November 5, 2015 and October 26, 2015 memos from WCB staff (which address "Concept 2"); and
5. A November 29, 2015 letter from Julene Quinn (which addresses "Concept 1").

Your mission is to conduct a review of these materials and offer advice regarding these concepts. In addition, you are asked to provide advice on the fiscal impact to the workers' compensation system resulting from any possible rule changes. Should you need further information in accomplishing your task, please let me know.

The committee's report, which is requested by April 22, 2016, should include, but is not limited to, the committee's consensus (or majority and minority opinions) regarding any advice/comments concerning any rule-related concepts (specific rule language is not required), as well as any potential fiscal impact from such rule changes. Thereafter, the Members will promptly schedule a meeting to discuss the committee's report and proceed with any necessary rulemaking actions.

It is anticipated that at least two committee meetings will be held. Karen Burton is assisting me in coordinating the committee's meetings and will be contacting you to schedule the meetings. Should you have any logistical questions, please contact Karen at 503-934-0123 or via email at karen.burton@oregon.gov. Thanks again for your willingness to contribute to this important project.

Sincerely,



Holly J. Somers  
Board Chair

HLS:RCP:kb  
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Enclosures  
cc: Board Members