

EXHIBIT A

OAR 438-007-0020

Subpoenas; Witness Fees

- (1) Whenever a party has requested a hearing, a subpoena may be issued to compel:
 - (a) Attendance and testimony at a hearing; or
 - (b) The production of documentary or physical evidence under a witness' control at or before a hearing.
- (2) Subpoenas may be issued by an Administrative Law Judge or the attorney of record of a party. Upon request, the Hearings Division shall provide blank subpoenas.
- (3) Subpoenas issued on behalf of a party may be served by the party or the party's representative. Service may be made in person or by certified mail or other mail that provides for a receipt signed by the recipient.
- (4) Subpoenas shall be served far enough in advance of an appearance to allow the witness or party a reasonable time to comply with the subpoena or to file an objection.
- (5) Witness fees and mileage shall be provided at the time the subpoena is served, in the amount provided for in civil actions.
- (6) "Individually identifiable health information," as defined in ORCP 55(H)(1)(a), may be obtained through a subpoena under the following procedures:
 - (a) At the time a subpoena for individually identifiable health information is issued, the party issuing the subpoena must serve a copy of the subpoena to the party or the attorney for the party whose individually identifiable health information is being subpoenaed. Such service shall be as provided in section (3) above.
 - (b) The subpoena shall provide notice to the person or the person's attorney, if represented, whose individually identifiable health information is being subpoenaed of the extent of the information being sought, and shall describe the procedure for submitting a timely objection to the disclosure of such information. The subpoena shall include the following in prominent or boldface type:

"IF YOU OPPOSE THE DISCLOSURE OF THE INFORMATION INCLUDED IN THIS SUBPOENA, YOU MUST FILE A WRITTEN OBJECTION, WITH THE WORKERS' COMPENSATION BOARD, 2601 25TH STREET SE, SUITE 150, SALEM OREGON 97302-1280. YOUR OBJECTION MUST BE FILED WITHIN [SEVEN (7)] **TEN (10)** CALENDAR DAYS OF THE MAILING DATE OF THIS NOTICE, AND MUST STATE THAT YOU OBJECT TO THE RELEASE OF THE INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION, THE BASIS FOR YOUR OBJECTION, YOUR ADDRESS, AND THE DATE OF YOUR INJURY IF YOU KNOW THE DATE. A COPY OF YOUR LETTER MUST ALSO BE PROVIDED SIMULTANEOUSLY TO THE RECIPIENT OF THE SUBPOENA, AS WELL AS TO THE PARTY ISSUING THE SUBPOENA. IF YOU HAVE QUESTIONS YOU MAY CALL THE WORKERS' COMPENSATION BOARD AT (503) 378-3308 OR TOLL-FREE AT 1-877-311-8061, OR THE OMBUDSMAN FOR INJURED WORKERS TOLL-FREE AT 1-800-927-1271.

“THE CUSTODIAN OF THE RECORDS SHALL PROVIDE THE RECORDS IN THE MANNER PRESCRIBED. THE RECORDS SHALL BE PROVIDED NO SOONER THAN 14 DAYS AFTER ISSUANCE OF THIS SUBPOENA, BUT NOT LATER THAN 21 DAYS AFTER ISSUANCE.

“RECIPIENT: IF YOU RECEIVE A TIMELY OBJECTION FROM THE PARTY (OR THE PARTY’S ATTORNEY) WHOSE INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION IS BEING SUBPOENAED, THE RECIPIENT SHALL COMPLY WITH THE SUBPOENA BY MAILING THE INFORMATION SOUGHT TO THE WORKERS’ COMPENSATION BOARD, AT 2601 25TH STREET SE, SUITE 150, SALEM OREGON 97302-1280.”

- (c) The subpoena must also contain the following certification: “I certify that I mailed a copy of this subpoena to the person or the person’s attorney, if represented at address on date by certified mail return receipt requested.”
- (d) “File,” as used in this section, has the same meaning as OAR 438-005-0046.
- (e) If the person whose individually identifiable health information is being subpoenaed does not timely object or waives any objection, the recipient of the subpoena shall comply with the subpoena.
- (f) If the recipient of the subpoena receives a timely objection from the party whose individually identifiable health information is being subpoenaed, the recipient shall comply with the subpoena by mailing the information sought to the Workers’ Compensation Board, at 2601 25TH STREET SE, SUITE 150, SALEM OREGON 97302-1280.
- (g) If the person whose individually identifiable health information is being subpoenaed timely objects, an expedited pre-hearing conference will be conducted under the provisions of ORS 656.283.
- (h) A party who receives information under this section is required to disclose that information under OAR 438-007-0015.

Statutory/Other Authority: ORS 656.726(5)

Statutes/Other Implemented: ORS 656.283(7), 656.724(4), 656.726(2)(c)