

Occupational Orthopedics

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fax

To: **John L. Shilts**
Fax Number: 15039477581

From: **Occupational Orthopedics**
Fax Number: 503-885-7771
Business Phone:
Home Phone:

Pages: 4
Date/Time: 5/25/2006 8:48:46 AM
Subject: Chapter 436 OAR

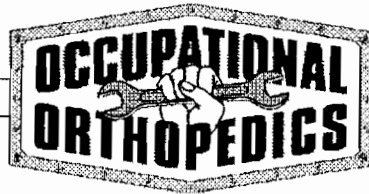
Dr. Di Paola has asked that I fax this letter to you. If you have any questions, please contact our office.

Thank you.
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EXHIBIT

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Office: 503.885.7770



Fax: 503.885.7771

John Di Paola, M.D.
Board Certified in Orthopedic Surgery

May 22, 2006

Mr. John L. Shilts
Administrator Workers' Compensation Division
350 Winter Street, N.E.
Room 27
Salem, Oregon 97301-3879

RE: Written testimony on OAR Chapter 436

Dear Mr. Shilts and Mr. Bruyns:

I appreciated the opportunity to testify today regarding changes in Chapter 436.

I wish to make several additional comments in response to other testimony.

We heard from several executives of large pharmacies in today's testimony. They recited their business plans and the processes that they have put in place to provide medications to the general public.

I have great respect for their knowledge and efforts, but they do not share the perspective occupational physicians in the state of Oregon who are in the examining room with patients each day. We observe how well the business plans and processes that are put in place are functioning in providing reliable state-of-the-art treatment for injured workers.

The gentleman from Rite-Aid pharmacies spoke of a system in which a huge database was available to the pharmacist in Rite-Aid stores to know whether patients have received other medications from other vendors. In a discussion with this gentleman after the meeting, he indicated that the system that Rite-Aid has in place is so expensive it is uncertain whether regional pharmacies such as Fred Meyer and Safeway have the capability to have such a system in place. He indicated that it is definitely not possible for small business pharmacists to have access to such a system.

The occupational specialists see polypharmacy occurring ongoing in our state. Therefore, whatever systems are in place are not effective in removing polypharmacy abuses.

The gentleman from Safeway indicated that his understanding of my description of a patient who required a total knee was due to some pre-existing cause or long-standing medical problem. I hope it was clear to all on the committee that this was due to the fact that the man had a low-grade postsurgical infection which required a simple oral antibiotic costing less than twenty dollars to resolve. He was unable to obtain this antibiotic from the pharmacy, ended up with a devastating infection in his knee, requiring hospitalization for many days where he underwent three or four surgical procedures in order to control the infection. He was placed on intravenous antibiotics for weeks, has attended innumerable physical therapy visits, undergone two additional surgeries, worn braces, become addicted to narcotics, only to have a chronically painful and dysfunctional knee requiring ongoing pain management with a physiatrist. At some point in the near future, this man in his late 40s will require a total knee replacement. The risks of performing a total knee replacement in a previously infected knee are higher than those of elective surgery in patients who have degenerative arthritis. The pharmacy system did not work well for this gentleman. The opportunity for his treating physician to hand him a bottle of antibiotics in the clinic would have very likely averted the entire scenario I just described.

There is much concern about the impact of this simple rule change. I do not believe the concern is physician stake holders (those committed to an effective workers' compensation system) who demonstrate their responsibility in this area under the current rule. The intent of the change is to create a level playing field for reimbursement. Most payers are reimbursing physicians under the current rule. The change eliminates ambiguity so that all Oregon workers can be offered the highest level of service and safety for the most commonly prescribed generic medicines.

The current wording results in some workers having to jump through unnecessary hoops to get their medicines because physicians cannot provide services without reimbursement.

The fear is problem prescribers will utilize this rule to institute bad behavior. The fact is they will behave badly whether they are able to prescribe the medicines out of their office or send patients to a pharmacy. Their approach to all patients make them problem prescribers across all areas of medicine. These behaviors are not confined to their

activities within the workers' compensation system.

I believe the concern regarding this rule change is highly inflated and I have been unable to find any documentation that such a rule will result in the financial or clinical impacts to which persons testified today. Most of this appears to be speculation based upon what people imagine the worst-case scenario to be.

The reality is that a limited number of physicians who confine their practices to the care of workers have been providing a limited variety of generic medicines to their patients as a service. There have been no abuses that I am aware of. They still send patients to pharmacies for other medicines and for refills if it is the most convenient option for the patient. There have been no reports of any pharmacies, large or small who have been significantly impacted by this rule in it's current form nor will they be by the clarification of the rule.

I urge you to allow the physician stakeholders in Oregon the opportunity to prove that they can continue to effectively manage this aspect of treatment for all workers.

Thank you for your time and consideration of these issues.

Sincerely,

John Di Paola, M.D.

Signed electronically by: John D. Di Paola, M.D. - 5700

D: 05/24/06 T: 22:37

John D. Di Paola, M.D.

Orthopedic Surgeon

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D: 05/22/2006 09:26:00 PM T: 05/23/2006

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