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DATE: May 24, 2006

TO: Fred Bruyns  
Rules Coordinator-Policy Section  
DCBS-Workers' Compensation Division

FROM: Linda Barno, Co-Chair  
OSIA Legislative Committee

RE: Proposed Oregon Administrative Rules – Written Testimony:  
Division 010, Medical Services and Treatment Guidelines  
Division 060, Claims Administration

This letter is being presented on behalf of the Oregon Self-Insured Association. Please accept this as written testimony of the above captioned rules. We appreciate the opportunity to provide our input. OSIA concurs with the proposed changes, with the following exceptions and recommended additions which are noted in bold type and italicized:

#### **Division 010**

##### **OAR 436-010-0230(6)**

Language was removed that physician's can only supply an initial 10-day supply of prescriptions. OSIA objects to this change.

There is no demonstrated need for the change in this rule. Beyond the notion "if it is not broken, don't fix it", OSIA feels that there could far reaching problems concerning patient safety, patient choice and cost impact on the employer/insurer.

- We are concerned that this practice would negate the beneficial practice of the "double check" system employed by pharmacists.
- The physician's office carry on a limited number of drugs in which to treat patients, perhaps limiting the best drug for the condition.

**EXHIBIT**  
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- The insurer/employer loses the ability for medical savings because there is no competition for the best price for any drug. There is no limit to mark-up by the physician

#### **OAR 436-010-0265 (13) (B)**

Remove line item **“In addition, providers must attend any other mandatory training as determined by the director”**. This is to broad a statement that falls outside SB311. If changes are recommended to the three hour initial training, the process should be as it is now, through advisory committees and rulemaking.

#### **OAR 436-010-0265(13)(A)(B)(I) & (II)**

The goal with SB311 was to provide training to the medical practitioners as to their role and expectations when performing an independent medical examination. We applaud those that have stepped forward to provide this training. It goes without saying that the easier it is to distribute the information to the medical practitioners, the better it will be for the Employers and the Injured Workers of Oregon. This will also be helpful in allowing a larger group of medical practitioners to participate, particularly in the less populated areas of Oregon. New practitioners that are willing to provide their expertise in an independent medical examination would also to have immediate access to this training.

Therefore, we suggest language in the draft rule that refers to “attend” training be changed to “participate” in training. We also feel that a signed statement certifying that they have viewed the DVD would be sufficient to comply with SB311.

Occasionally the need for a specialists outside the more readily used practices of occupational, orthopedic, neurological occur will necessitate the use of an physician that may be asked on only an occasional basis in a complex claim. These types of physicians typically are out of state physicians, cardiologists, podiatrists, dentists, ophthalmologists. OSIA believes that physicians, who rarely perform IME's, are out-of-state providers, or come from highly specialized fields of practice should be able to receive certification and be placed temporarily on the director's approved IME list.

OSIA does not believe that using the term “exception” is applicable within this rule. OSIA requests the deletion of (i) and (ii) and the rule be rewritten to use the term “temporary”. We ask that the Director be allowed to “temporarily” place certain physicians on the list of certified physicians once they have met certain reduced training requirements. OSIA also believes that a physician signed statement confirming they have received and will abide by the ABIME code of conduct is sufficient.

We also suggest the department adopt language that allows claims examiners to petition the Director for "temporary certification". The Director should be required to accept or deny such petitions within 5 working days of the request.

**OAR 436-010-0265(16)(A)**

OSIA recommends that the use of a date stamp on the receipt of surveys.. This will clarify if the survey was completed prior to or post IME results. The collection of this information will provide clarification as to whether the data represents the IME process or the effect of the IME on the claims process.

Thank you for your consideration of this testimony. Feel free to call me at (503) 323-2812.

Linda Barno  
OSIA Legislative Co-Chair