



May 20, 2016

George Parisotto, Acting Administrative Director
Alan Hersch, Staff Counsel
State of California Department of Industrial Relations
Division of Workers' Compensation
1515 Clay Street, 17th Floor
Oakland, CA 94612

Dear Messrs.' Parisotto and Hersch,

On behalf of CWCIA and the undersigned organizations, we are writing to express our concern with the DIR/DWC's proposed definition of "provisionally certified interpreters" for hearings, depositions, medical-legal and medical treatment examinations.

In our opinion, allowing a hearing officer, a physician or a claims administrator to determine that an individual is qualified to perform interpreter services poses a significant threat to the operations of the Workers' Compensation system and to the civil rights of the limited English proficient (LEP) injured workers it serves.

It also places the undue burden of having to judge the competence of an individual, and assure that said person has met the qualifications to act as an interpreter, on doctors or attorneys, who are neither language nor interpreting experts.

We are also quite concerned about the great disservice that will be thrust upon these vulnerable minorities by unqualified and unprofessional interpreters as a result of the proposed definition.

Other government entities across the nation, including the Department of Justice, the Department of State and the Department of Defense, have long acknowledged the importance of using professional interpreters and remunerate them accordingly. The proposed definition of provisionally certified interpreters is accompanied by rates that dramatically undercut the current market fees that certified professionals command by up to 50%. This creates an improper cost incentive for the claims administrator, whose decision to "provisionally certify" an individual is likely to be price driven, not quality driven. When decisions are made this way, professional interpreters are driven out of the field, causing further prejudice to the LEP injured worker.

As an alternative to the proposed definition, CWCIA recommended in its May 2015 letter to the DIR/DWC, that it categorically oppose permitting individuals other than certified or registered interpreters in any legal setting. We also suggested that it look to the Registry of Candidates maintained by the Commission for the Certification of Health Care Interpreters (CCHI) as a source of provisionally certified medical interpreters. These individuals meet established prerequisites. CCHI has offered to make this Registry available to the State of California to identify the status of provisionally qualified interpreters. This would ensure a minimum level of competency in order to assure the protection of the injured worker's civil rights.

In addition, we would like to reiterate our recommendation of Dec. 15, 2015 that the DIR/DWC consider conforming to the ASTM F2089-15 Standard Practice for Language Interpreters. As

mentioned, The National Technology Transfer and Advancement Act (NTTAA) of 1996 encourages government agencies to follow agreed upon industry standards.

Interpreting is a cognitively demanding skill requiring mastery of both languages and specialized terminology, years of practical training as well as knowledge of and adherence to a code of ethics. Without professional training, a person speaking a second language, however well, may lack the ability to convey the message between two speakers accurately and completely, which is required for a clear record that guarantees a LEP injured worker due process under the law.

We urge you to place yourself in the shoes of a LEP injured worker, facing litigation or complex surgery, in a country where you don't speak the language. You would want to make sure critical information is being conveyed accurately not only for your health and well being but also to assure your civil rights are being upheld. Your life may depend on accurate, meaningful communication and in this country, Title VI of the Civil Rights act of 1964 guarantees it.

We hope the DIR/DWC will carefully weigh the risks represented by the proposed definition of "provisionally certified interpreter," and the two-tiered fee schedule, and work towards incorporating the above recommendations.

Respectfully submitted on behalf of the following organizations:

California Workers' Compensation Interpreters Association (www.cwcia.com)

American Translators Association (www.atanet.org)

Association of Independent Judicial Interpreters of California (www.aijic.org)

Association of Language Companies (www.alcus.org)

California Federation of Interpreters (www.calinterpreters.org)

Certification Commission for HealthCare Interpreters (www.cchicertification.org)

Cross Cultural Communications (www.cultureandlanguage.net)

Health Care Interpreter Network • HCIN(www.hcin.org)

InterpretAmerica (www.interpretamerica.com)

Interpreters United Local 1672 Washington State

(<http://interpretersunited.wfse.org/index.cfm?forcedesktop=yes>)

Joint National Committee for Languages • JNCL-NCLIS (www.languagepolicy.org)

National Association of Judiciary Interpreters and Translators (www.najit.org)

National Council on Interpreting in Health Care (www.ncihc.org)

Oregon Society of Translators & Interpreters (www.ostiweb.org)

cc: Christine Baker, Director – Division of Industrial Relations
Senator Tony Mendoza, Chair – Senate Labor and Industrial Relations Committee