

# California Workers' Compensation Interpreters Association



May 16, 2015

Destie Overpeck  
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State of California  
Department of Industrial Relations  
Division of Workers' Compensation  
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**TO: DWC FORUM ON THE INTERPRETER FEE SCHEDULE**  
**FROM: California Workers' Compensation Interpreters Association**  
**RE: Comments Regarding the DWC's Draft Interpreter Fee Schedule Regulations**

Dear Ms. Overpeck,

We have carefully read the April 27, 2015 proposed Interpreter Fee Schedule. Please consider the following topics and discussion.

**Certification:** The draft proposal fails to include **California State Certified Medical Interpreters** as providers. There are 269 medical interpreters listed on the State Personnel Board/CalHR Interpreter Listing (<http://jobs.spb.ca.gov/InterpreterListing>)

The proposal is contrary to discussions with the DIR during the drafting of SB 863. We advocated that the DIR not only uphold medical certification, but to also reinstate it. As a result, the DIR designated the National Board of Medical Certified Interpreters (NBCMI) and the Certification Commission for Healthcare Interpreters (CCHI) as testing bodies in order to bring more certified interpreters into the system.

Given the access to these testing bodies, the DIR should implement procedures to assure interpreter competence, and not create the proposed provisional certification. Given the lack of testing and training, provisionally certified interpreters likely will not meet the same level of competency and are not bound by the same ethical standards as certified interpreters thereby diminishing the quality of medical treatment and access to other benefits for the injured worker.

The proposal for creating provisionally certified interpreters does not assure competence. Claims administrators, lawyers, and doctors are not necessarily competent to assess another individual's interpreting skills. The proposal improperly imposes a burden on doctors, lawyers and hearing officers to "provisionally certify" interpreters. To assume that an individual, who is not an expert in language or interpreting, has the capability to determine whether an individual meets the qualifications to be an interpreter is as ludicrous as saying that interpreters will be able to "determine sufficient skills" of civil engineers or attorneys, just because they work with them.

The proposal creates an improper cost incentive for the claims administrator. Based on other information in the draft proposal, "provisionally certifying" an interpreter is likely to be a price-driven, and not a quality-driven, decision. When decisions are made this way, professional interpreters are driven out of the field causing further prejudice to the Limited English Proficient (LEP) injured worker.

The proposal fails to include procedural safeguards. There is no mechanism to ensure that the claims administrator (who has an inherent conflict of interest) will actually and in good faith call three certified interpreters prior to sending a "provisionally certified" interpreter. Do those three have to service the county in which the event will be taking place, or can they be located anywhere in the state of California? We believe that there must be a method to assure that the list of all certified interpreters is exhausted before claims can resort to a "provisional certified" interpreter.

The proposal encourages awarding interpreter services to out-of state-agencies, which provide bundled services and drive down the amount the individual interpreter receives in compensation.

Further, we also object to the use of the word *certified* in conjunction with the term *provisionally*. It is a clear misrepresentation of fact intended to create a false veneer of legitimacy for someone who has met none of the requirements of a professional.

Instead, we recommend that the DIR look to the Certification Commission for Healthcare Interpreters (CCHI) Registry of Candidates<sup>1</sup> as a source of provisionally qualified interpreters. These individuals meet established prerequisites and CCHI has offered to make this registry available to the State of California to identify/verify the status of *provisionally qualified* interpreters and those on the path to certification.

The pre-requisites are:

- a) Provide proof of having passed the ACTFL Oral Exams (American Council on the Teaching of Foreign Languages) with a score of **Advanced Mid Level** (follow this link [www.languageTesting.com](http://www.languageTesting.com)) - both the OPI (telephonic) and OPIc (computer recording) are acceptable.
- b) Provide proof of having taken an International Medical Interpreter Association (IMIA) **approved interpreter training 40-60 hour course** (<http://www.imiaweb.org/education/trainingnotices.asp>)

This would ensure a minimum level of competency in order to assure the protection of the injured worker's civil rights.<sup>2</sup> It would also protect California from a second version of *Lau v. Nichols*, this time in the medical interpreting field. This was the landmark case brought against the State of California ushering in the language access component of Title VI of the Civil Rights Act. (see <http://www.languagepolicy.net/archives/lau.htm>).

Finally, we categorically oppose the use of individuals other than certified or registered interpreters in any legal setting, because it would jeopardize the LEP injured worker's equal access to due process under the law.

**Fee Schedule:** The amounts proposed in the draft are not only well below current rates, but also fail to take into consideration the skills, education and level of expertise required by the interpreting profession. The proposed fee schedule also does not consider the amount of inflation since the fees were established twenty-one years ago,<sup>3</sup> nor does it reflect the scarcity of interpreters when compared to other providers in the system. The fees appear to make no provision for Language Service Providers.

Further, the fees proposed in the draft fail to consider the actuarial data. We presented the *CWCLA Fee Schedule Proposal* in

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<sup>1</sup> Refer to the attachment dated May 12, 2015 from CCHI to the CWCLA Board of Directors

<sup>2</sup> Refer to attachment *Provisionally Qualified Interpreter Recommendation*

<sup>3</sup> Refer to attachment *Cost of Living Calculation*

Feb 2014, and while we insist that regulation is an abridgment of our economic liberty, we stand by our recommendations. Most importantly, we believe that setting the fee for non accredited interpreters at 50% less than fees for certified interpreters, together with granting the power to approve usage of non-accredited interpreters with no oversight and allowing the claims administrators alone to schedule the interpreter, will result in unaccredited interpreters replacing certified ones. This is regressive and would forfeit the gains secured over the last 15-20 years towards providing a professional, skilled, work force, whose purpose is to help the LEP injured worker gain equal access.

The DWC commissioned its own actuarial firm, the Berkeley Research Group (BRG), to recommend a fee schedule, which it did. However, the DWC ignored the recommendations of its chosen contractor and proposed a much lower remuneration amount without any credible authority, other than some other fee schedules that BRG determined to be inappropriate. This unethical conduct has garnered nearly 200 pages of outraged comments on the DWC Forum from not only worker's compensation interpreters but also other professional interpreter associations, such as NAJIT, AIJIC, CWA as well as national medical certifying entities. Advocates for injured workers, such as attorneys, physicians, Voters Injured at Work, CAAA, CSIMS, have also expressed their concerns and opposition to such arbitrary fees. Said fees are clearly discriminatory towards Spanish language interpreters because those fees considerably below those of other languages and have also generated much criticism. This fee proposal will jeopardize injured workers' access to quality interpretation and is counter to the Legislature's mandate in SB 863.

Further, CWCA presented a Fee Schedule proposal in February of 2014, which closely resembles BRG's recommendations. Moreover, we vehemently oppose the imposition of a one-hour minimum, the requirement that physicians verify interpreter time spent and disagree with the abolition of travel time and mileage allowances.

Finally, the DIR should not rely on unsupported claims and opinions by non-interpreters. Accusations such as those by Hilary D. Saltzman and Guadalupe Barragan that interpreters line their pockets with cash by doing 5 to 15 hearings in a half-day show a total lack of understanding and are a misrepresentation of the profession. It is impossible, both physically and mentally, for a single interpreter to perform that many hearings. Language Service Providers (LSPs) may have several clients, requiring them to schedule several interpreters to service the hearings at a particular WCAB and each interpreter must be paid for the half-day commitment. These comments falsely assume that the carrier pays on time in full without requiring significant administrative time to follow up by telephone, by letter and by additional litigation. Interpreters do not receive a "financial windfall".

In addition, doctors and attorneys are not limited to the number of clients they service in a given time frame and they bill for the work their associates perform. Auto mechanics also have minimum fees and service several autos at the same time. There is no cap on the earnings that other workers' compensation provider businesses generate. Why should there be a cap imposed on interpreters' earnings? Wanting to relegate interpreters to wage earners, instead of considering them as professionals and business owners, is discriminatory and out of touch with the nature of the work, but also reflects a complete disregard for the expertise and effort put into becoming an accredited professional. The WCAB relies on professional certified interpreters to facilitate the business of the court.

**Travel time and mileage allowance:** The proposal does not compensate for mileage and travel time. Given the distances required to get from one appointment to another, in this state where the automobile is essential, to not provide for mileage and travel time, together with the low fees proposed, will significantly reduce the number of certified and otherwise qualified interpreters who will accept assignments in many geographical areas of the state. Many injured workers live in rural areas, which requires travel by urban based interpreters in order to provide services, often involving distances of well over 30 miles one way. The interpreters bear the burden of travel that no other professional service providers share. Therefore interpreters must be allowed compensation for travel time and mileage after 10 miles. Attorneys are allowed to charge their clients (insurance companies) travel time and so should interpreters. Parking fees and toll road expenses should also be reimbursable.

**Interpreters as lien claimants.** Classifying interpreters as lien claimants creates litigation and adds to the costs of doing business and administering the claim and unnecessarily burdens the WCAB. This was BRG's recommendation as well. The DIR should require timely payment for all interpreter services without having reimbursement hinge on the compensability of the case, i.e. MPN status, post-termination claims, whether injury is found etc. Otherwise, the DIR will find itself with an exodus of interpreters, leaving the LEP injured workers at the mercy of the biased, cost-conscious carriers whose sole aim is to spend as little as possible in curing or relieving the injured worker of his injury. This will contribute to the demise of an entire profession that provides all workers entering the Workers' Compensation system equal access to benefits.

**Interpreter control:** The existing trend, since SB 899, has been to hand over complete control of all workers' compensation claims to the large insurance companies. We believe that permitting the claims administrators to determine who gets an interpreter (as well as the qualifications thereof) and when, is a colossal mistake. Our state is currently fraught with discriminatory undertones that marginalize LEPs from all kinds of government services. To permit the claims administrator control over the selection of the interpreter for all events, will inevitably lead to a violation of the injured workers' rights under Title VI of the Civil Rights Act of 1964 and the Standards on Culturally and Linguistically Appropriate Services (CLAS), which mandate that language access services be effective, understandable, and comparable to services received by non-LEP persons.

**MPN's:** The proposal allows for interpreters to form a part of a carrier's MPN under Ancillary Services. This provision is premature, as there is no mechanism in place for interpreters or LSP's to even apply for inclusion.

Further, the interpreting community has increasingly experienced the encroachment of large out-of-state conglomerates designated as "preferred vendors" who routinely use unqualified *individuals* to provide services, while certified **interpreters** are sent home. Or, interpreter services are objected to on the grounds that the interpreter is not part of their "preferred network" or "MPN." The carrier frequently fails to send someone to interpret for the injured worker, leaving the task to the local LSPs, who then provide services to assist doctor and patient. Then, the insurance company denies payment for legitimate requested and completed language services that was necessitated by their own failure to arrange said service as would be their obligation under the proposed MPN structure. This non-payment then triggers a vicious cycle of non-reimbursement for services rendered, which culminate in the litigious lien process, which costs the state and the interpreter dollars and ultimately the LEP proper assistance. Or more common still, the carrier's preferred provider will send an unqualified "interpreter" instead of a certified interpreter.

The injured worker must be the one to choose the interpreter, as per LC 4600 (g), which was ushered in by SB 863.

Thank you.

Respectfully submitted,

Issues, Plans & Objectives Committee  
California Workers' Compensation Interpreters Association

**Enclosures:**

CWCIA's Recommendation on Defining Provisionally Qualified Interpreters dated 5/16/15 [attachment 1]

CCHI's Certification Process and National Registry of Certified Interpreters letter dated 5/12/15 to CWCIA's board of directors [attachment 2]

CCHI's comment addressed to the DIR dated 5/14/15, "Fees and Requirements for Interpreter Services" [attachment 3]

San Francisco Chronicle article dated 4/26/15, titled "Medical interpreters in short supply as health coverage grows" [attachment 4]

CWCIA's "Comments Regarding the DWC's Draft Interpreter Fee Schedule Regulations" dated 5/16/15 –**this document**–[attachment 5]

CWCIA's Cost of Living Calculation dated 5/3/15 [attachment 6]

CWCIA's Revisions to the DWC's Draft Interpreter Fee Schedule Regulations [attachment 7]

**CWCIA's Revisions to the DWC's Draft Interpreter Fee Schedule Regulations  
California Code of Regulations, title 8, sections 9930 et seq.**

9930(a)	<p><b>“Certified interpreter for hearings and depositions”</b> means an individual who performs interpreter services at a hearing, as defined in section 9930(f), or a deposition, who is listed on the State Personnel Board webpage at <a href="http://jobs.spb.ca.gov/Interpreterlisting">http://jobs.spb.ca.gov/Interpreterlisting</a> or the California Courts webpage at <a href="http://courts.ca.gov/programs-interpreters.htm">http://courts.ca.gov/programs-interpreters.htm</a></p>	<p><b>“Certified interpreter for hearings and depositions”</b> means an individual who performs interpreter services at a hearing, as defined in section 9930(f), <u>for preparation of the deponent prior to their deposition, as defined in section 9934(a)(4)(A), or a deposition, the reading of a deposition transcript to the deponent prior to signing, as defined in section 9934(a)(4)(B), or the reading and interpretation of settlement documents and job analyses, as defined in section 9934(a)(8),</u> who is listed on the State Personnel Board webpage at <a href="http://jobs.spb.ca.gov/Interpreterlisting">http://jobs.spb.ca.gov/Interpreterlisting</a> or the California Courts webpage at <a href="http://courts.ca.gov/programs-interpreters.htm">http://courts.ca.gov/programs-interpreters.htm</a> or the United States Courts webpage <a href="http://www.uscourts.gov/FederalCourts/UnderstandingtheFederalCourts/DistrictCourts/CourtInterpreters.aspx">http://www.uscourts.gov/FederalCourts/UnderstandingtheFederalCourts/DistrictCourts/CourtInterpreters.aspx</a></p>	<p>We recommend the proposed language as follows:</p> <ul style="list-style-type: none"> <li>• based on the existing events identified under CCR §9795.3(a)(4)(i-iii), and therefore recommend adding the following events: <ul style="list-style-type: none"> <li>-Preparation of the deponent immediately prior to their deposition, as provided in section 9934(a)(4)(A)</li> <li>-The reading of a deposition transcript to the deponent prior to signing, as provided in section 9934(a)(4)(B)</li> <li>-The reading and interpretation of settlement documents and job analyses as provided in section CCR §9795.3(a)(7)</li> </ul> </li> </ul> <p>Note: in 2013, interpreters as lien claimants were found entitled to fees for the reading C&amp;R documents at applicant attorney’s offices (see <i>Guitron</i>)</p> <ul style="list-style-type: none"> <li>•To increase the pool of certified interpreters, we recommend adding federal certified interpreters found on the United States Courts webpage <a href="http://www.uscourts.gov/FederalCourts/UnderstandingtheFederalCourts/DistrictCourts/CourtInterpreters.aspx">http://www.uscourts.gov/FederalCourts/UnderstandingtheFederalCourts/DistrictCourts/CourtInterpreters.aspx</a></li> </ul>	<p>[emphasis added Cal Code Reg(s) §9795.3(a)(4)(i-iii) and §9795.3(a)(7) under <i>Jose Guitron v. Santa Fe Extruders; State Compensation Insurance Fund, (2011), ADJ163338, 76 Cal. Comp. Cases 228</i> pg 17, lines 21-28 and <i>Osuna v. SunView (2005) 2005 Cal. Wrk. Comp. P.D. LEXIS 21 (Appeals Board panel decision)</i>]</p>
9930(b)	<p>(b) <b>“Certified interpreter for medical treatment appointments and medical-legal exams”</b>, means an individual who:</p> <p>(1) Has a valid and current Certification Commission for Healthcare Interpreters (CCHI) certification/credential and which specifies the</p>	<p><b>“Certified interpreter for medical treatment appointments and medical-legal exams,”</b> means an individual who:</p>	<p>Based on the existing authorities under Government Code §11435.30 and §11435.35, the certified medical interpreters on the SPB/Cal HR webpage have been determined to meet the</p>	<p>[emphasis added Gov. Code(s) §11435.30, §11435.35, §11435.40]</p>

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<p>9930(b)</p>	<p>language of the exam, if certifications/credentials from CCHI so indicate.                  (2) Has a valid and current National Board of Certification for Medical Interpreters (National Board) certification/credential and which specifies the language of the exam, if certifications/credentials from the National Board so indicate; or                  (3) Is a certified interpreter for hearings and depositions.</p>	<p><u>(1) Has a valid and current State Personnel Board (SPB/CalHR) certification/credential and which specifies the language of the exam if certifications/credentials SPB/CalHR so indicate. (per Government Code §11435.35 (a))</u></p> <p><del>(1)</del> <u>(2) Has a valid and current Certification Commission for Healthcare Interpreters (CCHI) certification/credential and which specifies the language of the exam, if certifications/credentials from CCHI so indicate. (per Government Code §11435.35 (c) )</u></p> <p><del>(2)</del> <u>(3) Has a valid and current National Board of Certification for Medical Interpreters (National Board) certification/credential and which specifies the language of the exam, if certifications/credentials from the National Board so indicate; or (per Government Code §11435.35 (c) )</u></p> <p><del>(3)</del> <u>(4) Is a certified interpreter for hearings and depositions. (per Government Code §11435.35 (b))</u></p>	<p>minimum standards for interpreting skills and linguistic abilities in languages designated pursuant to §11435.40. Furthermore, the DWC’s Interpreter Certification FAQ has provided the SPB webpage as a qualified source for certified interpreter services at medical treatment appointment or medical- legal exam. Leaving out an entire group of certified medical interpreters is contrary to SB 863’s intention of increasing numbers of certified interpreters (by identifying national certifying bodies) and requiring that interpreters be certified in order for reimbursement. Leaving California Medical Certified Interpreters (SPB/CalHR) out further diminishes the pool of certified interpreters, allowing for provisionally certified interpreters to be used instead. This will result in certified interpreters moving out of worker’s comp and rendering certification unnecessary.</p>	
<p>9930(h)</p>	<p>(h) <b>“Medical Treatment Appointment”</b> means an appointment with a physician, physician’s assistant, nurse practitioner, physical therapist, optometrist, psychologist, chiropractor, acupuncturist, mental health therapist, clinical social worker, marriage and family therapist, or any other medical practitioner licensed by California state law and providing treatment to reasonably cure or relieve the injured worker from the effects of their, injury within the</p>	<p>(h) <b>“Medical Treatment Appointment”</b> means an <u>appointment for any health care provider necessary to cure or relieve the injured worker from the effects of their injury.</u></p>	<p>We recommend the list of medical treatment appointments comply with the requirements of Labor Code §4600. For example, the proposed draft language did not include the following medical professionals as identified under the Business &amp; Professions Codes (B&amp;P): a</p>	<p>[emphasis added                  Labor Code §4600;                  Government Code §11435.20; for                  Medical Lab Technician</p>

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9930(h)	scope of their practice as defined by law. Medical treatment appointment shall also include any other form of therapy, treatment, or healing practice agreed upon voluntarily in writing between the employee and the employer.		medical lab technician (B&P §1260.1), an occupational therapist (B&P §2570), and a nurse (B&P §2725-2742).	under Business & Professions Code §1260.1; for Occupational Practitioner Act under Business & Professions Code §2570; for Nurse under Business & Professions Code §2725-2742; <i>Jose Guitron v. Santa Fe Extruders; State Compensation Insurance Fund, (2011), ADJ163338, 76 Cal. Comp. Cases 228]</i>
9930(j)	(j) <b>“Provisionally certified interpreter for hearings and depositions”</b> means an individual who a hearing officer has determined is qualified to perform interpreter services at a hearing or deposition, who has met all the requirements set forth in section 9931.	<b>NONE</b> <b>Strike language 9930(j) in its entirety.</b>	We oppose allowing “provisionally qualified interpreters” at hearings, depositions and related events, because the supply of Federal, Court, Administrative Hearing Certified interpreters is sufficient to meet existing demand and are all qualified to provide services in these settings.	[emphasis added Cal Code Reg §9795.1.5]
9930(k)	(k) <b>“Provisionally certified interpreter for medical treatment appointments and medical-legal exams”</b> means an individual who a physician has determined is qualified to perform interpreter services at a	<b>(k) “Provisionally certified qualified interpreter for medical treatment appointments and medical-legal exams”</b> means an	We oppose allowing “provisionally qualified interpreters” at medical-legal exams the supply of Federal,	[emphasis added Labor Code §5811]

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9930(k)	medical treatment appointment or medical-legal exam, who has met all the requirements set forth in section 9932.	<p><del>individual who a physician has determined</del> <b>is listed on the SPB/CalHr or other governmental agency holding a list of Provisionally Qualified Interpreters</b> <b>** is qualified to perform interpreter services at a medical treatment appointment or medical-legal exam, who has met all the requirements set forth in section 9932.</b></p> <p><b>** see definition of Provisionally Qualified Interpreter under Proposed Language 9930 (m) of this document and the addendum "CWCIA's Provisional Verified Interpreter Recommendation)</b></p>	Court, Administrative Hearing, and Medical Certified interpreters is sufficient to meet the demand to provide services at medical-legal exams. There are more types of certified interpreters available to interpret at medical-legal exams. Where supply does not meet the demand for certified medical interpreters is the area of medical treatment appointments.	
9930(l)	(l) <b>"Qualified interpreter"</b> means a language interpreter who provides interpreter services to an injured worker who does not proficiently speak or understand the English language and is one of the following: (i) a certified interpreter for hearings and depositions; or (ii) a provisionally certified interpreter for hearings and depositions; or (iii) a certified interpreter for medical treatment appointments and medical-legal exams, or (iv) a provisionally certified interpreter for medical treatment appointments and medical legal-exams.	<p><u>(l) <b>"Qualified interpreter"</b> means a language interpreter who provides interpreter services to an injured worker who does not proficiently speak or understand the English language and is one of the following:</u></p> <p><u>(i) a certified interpreter for hearings and depositions; <del>or (ii) a provisionally certified interpreter for hearings and depositions;</del> or (iii) (ii) a certified interpreter for medical treatment appointments and medical-legal exams, or (iv) (iii) a provisionally certified qualified interpreter for medical treatment appointments and medical-legal exams.</u></p>	Persons without expertise or qualifications in determining the language proficiency or ability for an individual to accurately and impartially serve as an interpreter should not be placed in the position to provisionally qualify for legal and medical-legal events.	
9930(m)	NOT IN THE DIR DRAFT	<p><b>New Language:</b></p> <p><b>"Provisionally qualified interpreter"</b> means a language interpreter who provides interpreter services to an injured worker who does not</p>	The necessity for a new definition of "Provisionally qualified interpreter" is based on the fact that we already know that the national medical certifying bodies can be relied upon to provide certified	Please refer to the detailed explanation attached titled <b>"CWCIA's Recommendation on</b>

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9930(m)		<p>proficiently speak or understand the English language and <u>who appears on the CCHI National Certified Interpreter Registry listed as having Candidate and CHI Candidate status</u> (see CCHI’s letter dated 5/12/15).</p>	<p>interpreters. CCHI currently has prerequisites in place that “provisionally qualify” candidates and maintain a registry of such individuals who have met basic certification criteria as indicated on the letter from CCHI addressed to the CWCIA’s board of directors dated 5/12/15. CCHI has offered to make available a “Candidate” status to the registry, which can be used by the state of California to identify/verify the status of “provisionally qualified” interpreters and those on the path to certification.</p> <p>For more information about the CoreCHI™ certification accreditation, please visit <a href="http://www.cchicertification.org/news/corechi-ncca-accrediation">http://www.cchicertification.org/news/corechi-ncca-accrediation</a>.</p>	<p><b><u>Defining Provisionally Qualified Interpreters<sup>i</sup></u></b> [9930(m)]</p> <p><b>Also, see CCHI’s Certification Process and National Registry of Certified Interpreters letter dated 5/12/15 to CWCIA’s board of directors<sup>ii</sup>; and CCHI’s comment addressed to the DIR dated 5/14/15, “Fees and Requirements for Interpreter Services”<sup>iii</sup>; and Certification accreditation at the website <a href="http://www.cchicertification.org/news/corechi-ncca-accrediation">http://www.cchicertification.org/news/corechi-ncca-accrediation</a>]</b></p>
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9930(n)	NOT IN THE DIR DRAFT	<p><b>New Language:</b></p> <p><b>“Interpreter for Languages of Lesser Diffusion (LLD),”</b>  <u>means an individual who performs interpreter services for an injured worker who does not proficiently speak or understand the English language at any Workers’ Compensation event requiring the presence of an interpreter. This interpreter has passed CCHI’s CoreCHI.</u></p>	<p>Languages of Lesser Diffusion (LLD) is a widespread term used to identify languages which are less common. Certification does not yet exist for these languages. For more information about the CoreCHI™ certification accreditation, please visit <a href="http://www.cchicertification.org/news/corechi-ncca-accrediation">http://www.cchicertification.org/news/corechi-ncca-accrediation</a>.</p>	<p>[emphasis added</p> <p><b>This national standard is the CoreCHI™ certification,</b> accredited by NCCA (National Commission for Certifying Agencies) on par with core certifications in other professions.</p> <p>The CoreCHI certification allows us to shift the conversations from “When will an oral performance CHI™ exam be developed in language X?” to “Let’s ensure that all interpreters working in health care receive the CoreCHI certification.”; and Certification accreditation</p>
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9930(n)				at the website <a href="http://www.cclicertification.org/news/core-chi-ncca-accrediation">http://www.cclicertification.org/news/core-chi-ncca-accrediation</a> ]
9931	<b>“Requirements to Perform Interpreter Services as a Provisionally Certified Interpreter for Hearings and Depositions.”</b>	<b>Strike language 9931 in its entirety.</b>	Allowing Provisionally Qualified Interpreters to be utilized for Hearings and Depositions under the current definition (allowing laypersons to determine the ability of an individual to interpret) is simply unconscionable and unnecessary. To allow an individual whose interpreting competency and language proficiency is left up to the decision of a layperson, to interpret at hearings and depositions where the witness is under oath is an extremely dangerous proposition. Importantly, inaccurate interpretation of the injured worker's mechanism of injury, a body part, or explanation of pain levels, symptoms and complaints by unqualified interpreters could result in jeopardizing their rights to benefits, increased litigation or exposure to a wrongful charge of fraud, delayed resolution of the case, increased costs to employers, and possible decreased benefits to injured workers of California. The preservation of the Limited English Proficient (LEP) injured worker's appropriate access to true and accurate interpretation,	[emphasis added Labor Code(s) §5710, §5811(b); Executive Order 13166 (2000); Cal Health and Safety Code §1367.04; <u>State Personnel Board webpage at <a href="http://jobs.spb.ca.gov/Interpreterlisting">http://jobs.spb.ca.gov/Interpreterlisting</a> or the California Courts webpage at <a href="http://courts.ca.gov/programs-interpreters.htm">http://courts.ca.gov/programs-interpreters.htm</a> or the United States Courts webpage <a 915="" 947="" 968"="" 988="" data-label="Page-Footer" href="http://www.uscourts.gov/FederalCourts/Understandingthe&lt;/a&gt;&lt;/u&gt;&lt;/td&gt; &lt;/tr&gt; &lt;/table&gt; &lt;/div&gt; &lt;div data-bbox=">Page 7 of 35</a></u>

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<p>9931</p>	<p><b>“Requirements to Perform Interpreter Services as a Provisionally Certified Interpreter for Hearings and Depositions.”</b></p>		<p>as provided by certified interpreters, became an entitlement under Executive Order 13166 (2000) and Cal Health and Safety Code §1367.04. Therefore, we recommend that in order to increase the pool of certified interpreters, the DIR add Federal Certified Interpreters found under the United States Courts webpage. According to the current statewide list of SPB/CalHR certified interpreters, there are 384 Administrative Hearing Certified interpreters. The California Courts list 1855 Court Certified interpreters. Therefore, the entire list of certified interpreters servicing the county in which the event is scheduled must be exhausted, period. This is an existing demand made by Workers’ Compensation Appeals Board Judges.</p>	<p><a href="#">FederalCourts/DistrictCourts/CourtInterpreters.aspx</a></p>
<p>9932</p>	<p><b>“Requirements to Perform Interpreter Services as a Provisionally Certified Interpreter for Medical Treatment Appointments and Medical-Legal Exams.”</b></p> <p><u>An individual must have met all of the following requirements to perform interpreter services as a provisionally certified interpreter for medical treatment appointments and medical-legal exams:</u></p> <p><u>(a) For interpreters in one of the languages designated pursuant to Government Code section 11435.40, including, but not limited to, Spanish, Tagalog, Arabic, Cantonese, Japanese, Korean, Portuguese, or Vietnamese, all of the following</u></p>	<p>“Requirements to Perform Interpreter Services as a Provisionally <del>Certified</del> <b>Qualified</b> Interpreter for Medical Treatment Appointments <del>and Medical-Legal Exams.</del>”</p> <p><u>An individual must have met all of the following requirements to perform interpreter services as a provisionally <del>certified</del> <b>qualified</b> interpreter for medical treatment appointments <del>and medical-legal exams:</del></u></p>	<p>Allowing Provisionally Qualified Interpreters to be utilized for Medical-Legal exams is simply unconscionable. According to a recent article published by the San Francisco Chronicle dated 4/26/15, titled <i>Medical Interpreters In Short Supply as Health Coverage Grows</i>, “a 2010 report by the UC Berkeley School of Public Health and National Health Law Program examined 1,373 malpractice claims and found 35 cases in which death,</p>	<p>[emphasis added Government Code §11435.55(b); Labor Code(s) §4600(g) §4610, 5811(b); §5401, §5402; Cal Code Regs. §9793(b); <b>San Francisco</b></p>

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<p>9932</p>	<p><u>conditions must be met:</u></p> <p><u>(1) A certified interpreter for medical treatment appointments or medical-legal exams cannot be present, as set forth in subsection (c), to provide services in a language that has been designated pursuant to Government Code section 11435.40; and</u></p> <p><u>(2) The physician determines the interpreter present has sufficient skill to be provisionally qualified to interpret in the required language and notes in the record of the medical evaluation or treatment that a provisionally qualified interpreter is being used; and</u></p> <p><u>(3) The claims administrator has given prior consent to the interpreter who provides the services.</u></p> <p><u>b) For interpreters of languages other than one of those designated pursuant to section 11435.40 of the Government Code, all of the following conditions must be met:</u></p> <p><u>(2) The physician determines the interpreter present has sufficient skill to be provisionally qualified to interpret in the required language and notes in the record of the medical evaluation or treatment that a provisionally qualified interpreter is being used.</u></p> <p><u>(c), “Cannot be present” as used in this section means that the party, claims administrator, or individual responsible for providing the interpreter service is unable to obtain the services of a certified interpreter for the particular event, after contacting at least three certified interpreters who are certified for the event in question, and in the language required. Excluded from the requirements of this subsection is the situation of a first medical treatment appointment after injury where delay to obtain a certified interpreter might pose an imminent and serious threat</u></p>	<p><u>(a) For interpreters in one of the languages designated pursuant to Government Code section 11435.40, including, but not limited to, Spanish, Tagalog, Arabic, Cantonese, Japanese, Korean, Portuguese, or Vietnamese, all of the following conditions must be met:</u></p> <p><u>(1) A certified interpreter for medical treatment appointments <del>or medical-legal exams</del> cannot be present, as set forth in subsection (c), to provide services in a language that has been designated pursuant to Government Code section 11435.40; and</u></p> <p><u>(2) The physician <del>determines the interpreter present has sufficient skill to be provisionally qualified to interpret</del> <del>may use another interpreter</del> in the required language, <del>who appears on CCHI Listing of Medical Interpreters with the CoreCHI designation</del> and notes in the record of the medical evaluation or treatment that a provisionally qualified interpreter is being used; <del>and</del></u></p> <p><u>(3) <del>In cases where the claims administrator has accepted complete liability,</del> <del>the claims administrator has given prior consent to the interpreter who provides the services.</del></u></p> <p><u>(b) ) For interpreters of languages other than one of those designated pursuant to section 11435.40 of the Government Code, all of the</u></p>	<p>dismemberment, brain damage, and other cases of severe medical harm were traced to inadequate medical interpreting.” The inaccurate interpretation of a mechanism of injury, body part, and explanation of pain could cause imminent bodily harm or a serious threat to the injured worker and subject any physician to a malpractice claim. Further, permitting a person not sufficiently qualified to transfer meaning, who is still in the training stages towards becoming an interpreter to interpret at the highly important Medical-Legal examinations threatens to violate the injured worker’s right to equal access of language assistance under Title VI of the Civil Rights Act of 1964, the Executive Order 13166 (2000), and Cal Health and Safety Code §1367.04. Since a physician is not qualified in determining the language proficiency or ability, CWCIA recommends that (i) the existing Government Code §11435.55(b) be replaced with the new requirements under 9932(a)(2) &amp; (b)(2) and that (ii) the DWC refer to the list of CCHI Medical Interpreters who have earned the CoreCHI designation or the Judicial Council Registered Interpreter Listing (for languages of lesser diffusion (LLD) [http://www.courts.ca.gov/3796.</p>	<p><b>Chronicle article dated 4/26/15, titled “Medical interpreters in short supply as health coverage grows”<sup>iv</sup>; Title VI of the Civil Rights Act of 1964; Executive Order 13166 (2000); Cal Health and Safety Code §1367.04; State Personnel Board webpage at <a href="http://jobs.spb.ca.gov/Interpreting">http://jobs.spb.ca.gov/Interpreting</a> or the registry for National Board of Certification for Medical Interpreters webpage at <a href="http://www.certifiedmedicalinterpreters.org/registry">http://www.certifiedmedicalinterpreters.org/registry</a> or the registry for Certification Commission For Healthcare</b></p>
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9932	to the injured worker's health.”	<p><u>following conditions must be met:</u></p> <p>(2) <del>The physician determines the interpreter present has sufficient skill to be provisionally qualified to interpret</del> <u>may use another interpreter in the required language, who appears on CCHI Listing of Medical Interpreters with the CoreCHI designation or the Judicial Council Registered Interpreter Listing (for languages of lesser diffusion (LLD) and notes in the record of the medical evaluation or treatment that a provisionally qualified interpreter is being used; and</u></p> <p>(c), <u>“Cannot be present” as used in this section means that the injured worker, claims administrator, or individual responsible for providing the interpreter service is unable to obtain the services of a certified interpreter for the particular event, after contacting at least three certified all of the interpreters as identified in 9930(a)&amp;(b) and listed on SPB/CalHR, California Courts, United States Courts, CCHI, and NBCMI webpages as provided under 9944 who are certified for the event in question, within a geographic area of 50 miles of the scheduled event in question, and in the language required. These efforts must be proven by providing a signed statement under penalty of perjury verifying the contacted names of certified interpreters and listing the dates, times, methods of communication, and the interpreters’</u></p>	<p>htm].</p> <p>For purposes of subdivision (a)(3), where claims administrators have not accepted complete liability of a claim under Labor Code §3600 and in accordance with CCR §9793(b), prior consent for a provisionally qualified interpreter should not be required as it inhibits the injured worker's rights to benefits under Labor Code §5401 &amp; §5402. The right to an interpreter is a benefit to the injured worker and the injured worker should have the first choice of making that selection. The language “cannot be present” should be further developed to take into consideration events where there is a sufficient supply of federal, court, administrative hearing, and medical certified interpreters to meet the demand for these types of events. According to the current statewide list of SPB/CalHR certified interpreters, there are 384 Administrative Hearing Certified interpreters and 269 Medical Certified interpreters. The registry for NBCMI list 350 Medical Certified interpreters in California. The registry for CCHI list 332 Medical Certified interpreters in California. The California Courts list 1855 Court Certified interpreters. Therefore, the entire list of certified interpreters servicing the county</p>	<p>Interpreters webpage at <a href="https://cchi.learningbuilder.com/Account/Login?ReturnUrl=%2f">https://cchi.learningbuilder.com/Account/Login?ReturnUrl=%2f</a> or <u>or the California Courts webpage at <a href="http://courts.ca.gov/programs-interpreters.htm">http://courts.ca.gov/programs-interpreters.htm</a> or Judicial Council Registered Interpreter Listing at <a href="http://www.courts.ca.gov/3796.htm">http://www.courts.ca.gov/3796.htm</a> or the United States Courts webpage <a href="http://www.uscourts.gov/FederalCourts/UnderstandingtheFederalCourts/DistrictCourts/CourtInterpreters.aspx">http://www.uscourts.gov/FederalCourts/UnderstandingtheFederalCourts/DistrictCourts/CourtInterpreters.aspx</a>]</u></p>
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<p>9932</p>		<p><u>responses.</u> Excluded from the requirements of this subsection is the situation of a first medical treatment appointment after injury where delay to obtain a certified interpreter might pose an imminent and serious threat to the injured worker’s health, provided that the interpreter services are provided in accordance under Title VI of the Civil Rights Act of 1964, Executive Order 13166 (2000), and Cal Health and Safety Code §1367.04.</p>	<p>in which the event is scheduled must be exhausted, period. This is an existing demand made by Worker’s Compensation Appeals Board Judges. There are sufficient numbers of Federal, Court, Administrative and Medical certified interpreters to satisfy the need at medical-legal exams. We oppose allowing provisionally qualified interpreters, even those under the NEW DEFINITION of said individuals as proposed by CWCIA (see above-9930(k) &amp; 9930(m)) Furthermore, the draft language is in conflict with the existing provisions for responsible party and for entitlement to non-restricted interpreter services as provided under LC §4600(g) that are not subject to requirements in 9932(a)(3).</p>	
<p>9933 (b)(2)</p>	<p><b>“Requirements and Restrictions On Performing Interpreter Services As a Non-certified or Non-Provisionally Certified Interpreter for Medical Treatment Appointments”</b></p> <p>(b) All of the following are required in order for an individual to perform services as a non-certified or non-provisionally certified interpreter for medical treatment appointments:</p> <p>(2) The physician determines the interpreter present has sufficient skill to interpret in the required language, and notes in the record of the medical evaluation or treatment that a non-certified or non-provisionally certified interpreter for medical treatment appointments is being used.</p>	<p><u>(b) All of the following are required in order for an individual to perform services as a non-certified or non-provisionally certified <del>certified</del> qualified interpreter for medical treatment appointments:</u></p> <p><u>(2) The physician <del>determines the interpreter present has sufficient skill to interpret</del> <del>provisionally may use another interpreter</del> in the required language, who appears on CCHI Listing of Medical Interpreters with the CoreCHI designation or the Judicial Council Registered Interpreter Listing (for languages of lesser diffusion (LLD) and notes in</u></p>	<p>CWCIA recommends that the existing Government Code §11435.55(b) be replaced with the definition under 9930(i) and new requirements under 9931(b)(2)(C), 9932(a)(2) &amp; (b)(2), and 9933(b)(2). If an interpreter certified under Government Code §11435.35 cannot be present at medical treatment appointments, and since there is no pathway to certification for languages of lesser diffusion as of yet, we recommend the DWC refer to the list of CCHI Medical Interpreters who have earned the</p>	<p>[emphasis added Government Code(s) §11435.55(b), §68561, §68562; Judicial Council Registered Interpreter Listing (for languages of lesser diffusion) http://www.courts.ca.gov/37</p>

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9933 (b)(2)		<u>the record of the medical evaluation or treatment that a non-certified or non-provisionally certified qualified interpreter for medical treatment appointments is being used.</u>	CoreCHI designation or for judicial settings, the Judicial Council Registered Interpreter Listing [http://www.courts.ca.gov/3796.htm]. Those wanting to practice as interpreters in all languages must possess basic minimum aptitudes similar to the qualifications and guidelines adopted by the Judicial Council as set forth in Gov. Code §68561 & §68562.	96.htm]
9934 (a)(3)	(a)(3) A comprehensive medical-legal evaluation as defined in subdivision (c) of Section 9793, a follow-up medical-legal evaluation as defined in subdivision (g) of Section 9793, or a supplemental medical-legal evaluation as defined in subdivision (m) of Section 9793; provided, however, that payment for interpreter's fees by the claims administrator shall not be required under this paragraph unless the medical report to which the services apply is compensable in accordance with Article 5.6. Nothing in this paragraph, however, shall be construed to relieve the party who retains an interpreter from liability to pay the interpreter's fees in the event the claims administrator is not liable.	<u>(a)(3) A comprehensive medical-legal evaluation as defined in subdivision (c) of Section 9793, a follow-up medical-legal evaluation as defined in subdivision (g) of Section 9793, or a supplemental medical-legal evaluation as defined in subdivision (m) of Section 9793, or an evaluation with a vocational expert as provided under Section 10606.5 and in compliance with Labor Code §4628; provided, however, that the payment for interpreter's fees by the claims administrator shall not be required in accordance with Labor Code §4620(a). under this paragraph unless the medical report to which the services apply is compensable in accordance with Article 5.6. Nothing in this paragraph, however, shall be construed to relieve the party who retains an interpreter from liability to pay the interpreter's fees in the event the claims administrator is not liable.</u>	Interpreter services should NOT rise and fall with the outcome of the injured worker's case, whether medical reports or vocational expert's written reports are found to be compensable or not based on Labor Code §4620(a) or CCR §10606.5. These expenses are for the purpose of proving or disproving a contested claim, or for substantial evidence at trial. It is manifestly unfair that the reimbursement for interpreter services be tied to the opinion of the physician or the weight of evidence for the opinion of the vocational expert, something that interpreters have no control over. In all other areas where interpreter services are required to protect the Limited English Proficient (LEP) individual's civil rights and comply with Standards on Culturally and Linguistically Appropriate Services (CLAS) Standards, the interpreter is paid for services	[emphasis added Labor Code(s) §4620(a); §4628; Cal. Code Regs. §10606, §10606.5]

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9934 (a)(3)			rendered, regardless of any other factors or outcomes. Therefore, this language should be revised and consistent with the existing language in Labor Code §4620(a) and CCR §10606.5. The lack of consistency in the regulations creates an abundance of litigation.	
9935(a)	(a) At hearings, depositions, and for preparation of the deponent immediately prior to their deposition, it is the responsibility of the party requesting the presence of the witness or deponent at the hearing or deposition to select and arrange for the presence of a qualified interpreter.	<u>(a) At hearings, for preparation of the deponent immediately prior to their deposition, depositions, and for preparation of the deponent immediately prior to their deposition, the reading of a deposition transcript to the deponent prior to signing, or the reading and interpretation of settlement documents and job analyses, it is the responsibility of the any party requesting the presence producing of the a witness or deponent at the hearing or deposition aforementioned events to select and arrange for the presence of a qualified certified interpreter in accordance with 9930(a) and Labor Code §5811.</u>	Based on the existing events identified under CCR §9795.3(a)(4)(i-iii) and LC §5710, we recommend adding the following events for language consistency, as defined in 9930(a): -Preparation of the deponent immediately prior to their deposition, as provided in section 9934(a)(4)(A) -The reading of a deposition transcript to the deponent prior to signing, as provided in section 9934(a)(4)(B) -The reading and interpretation of settlement documents and job analyses as provided in section CCR §9795.3(a)(7) Note: in 2013, interpreter's as lien claimants were found entitled to fees for the reading C&R documents at applicant attorney's offices (see <i>Guitron</i> ). Also, based on the existing statutory provision that properly protects the witness or deponent under Cal Code of Civil Procedure §2034, the injured worker should be the responsible party producing a competent and non-hostile interpreter. Thus, the	[emphasis added Cal Code Regs. §9795.3 (a)(4)(i-iii), and §9795.3(a)(7) under <i>Jose Guitron v. Santa Fe Extruders; State Compensation Insurance Fund, (2011), ADJ163338, 76 Cal. Comp. Cases 228 pg 17, lines 21-28 and Osuna v. SunView (2005) 2005 Cal. Wrk. Comp. P.D. LEXIS 21 (Appeals Board panel decision); Cal Code of Civil Procedure §2034; Labor Code(s)</i>

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9935(a)			draft language is in conflict with the existing provision for responsible party as provided under Labor Code §5811(b).	§5710, §5811(b)]
9935(b)	(b) At medical treatment appointments and medical-legal exams the claims administrator is responsible for arranging for the presence of the interpreter.	<u>(b) At medical treatment appointments and medical-legal exams the claims administrator injured worker or his/her representative shall have the right to arrange for the presence of the interpreter and the obligation to notify the claims administrator of the selected interpreter as soon as reasonably possible. is responsible for arranging for the presence of the interpreter. The injured worker may waive his/her right to select an interpreter after the claims administrator has provided a hard copy list of certified interpreters from the DWC website or a list of the website addresses of certified interpreters as set forth under 9944.</u>	The right to an interpreter is a benefit to the injured worker and the injured worker should have the first choice of making that selection. Giving the authority to a claims administrator results in an inherent conflict of interest. The primary responsibility of the claims adjuster is to the policyholder and under any denied, delayed or contested claim, the arrangement for the presence of the interpreter will be denied, which violates the injured worker's rights under Labor Code §4600(g). Further, even on accepted claims, the current prevailing practice is for the claims administrator to allow interpreters to provide services, only to later deny payment stating that authorization was not granted. Authorization is never granted, the claims administrators, citing instead that they have "preferred vendors" who conveniently, fail to show up for assignments, leave other interpreters to provide services and get caught up in this endless spiral. Claims adjusters are overloaded as is, and to add finding an interpreter to provide services will compound the issue. Language Service Providers already perform this function very well. Ignorance of	[emphasis added Labor Code(s) §4600(g), §5811(b), §5401, §3550(d) (1-9) and §3551]

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9935(b)			<p>Language Access laws and misguided beliefs about the interpreting profession results in the claim adjuster neglecting to arrange for a certified interpreter or to providing a non qualified "interpreter" jeopardizing the quality of communication for cost-containment purpose. Therefore, injured workers should remain responsible for exercising their inherent rights to request the presence of an interpreter under Labor Code §4600(g). This ensures equal access to a qualified interpreter for each appointment because these interpreters are not required to meet the requirements of Labor Code §4600(f). The injured worker has firsthand knowledge of any claim of injury and based on the requirements of notice of rights of the employee as outlined in Labor Code §3550 &amp; §3551, the injured worker should be aware of their right to interpreter. The employer or claims administrator must provide them a hard copy list of certified interpreters from the DWC website or a list of the website addresses of certified interpreters as set forth under 9944 to ensure that the injured worker's rights are protected. Thus the draft language is in conflict with the existing provision for responsible party as provided under Labor Code §4600(g).</p>	
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9935(c)	<p>(c) At medical treatment appointments, the following rules shall apply:</p> <p>(1) If interpreter services are ancillary services provided under the employer's Medical Provider Network, the injured worker may select either an interpreter services provider listed or if interpreters are individually listed, the interpreter to be used, and must notify the claims administrator in sufficient time to make arrangements to provide for the presence of the interpreter.</p> <p>(2) If interpreter services are an ancillary service of the employer's Medical Provider Network but there are no interpreters that proficiently speak or understand the language spoken by the injured worker, the injured worker may select any interpreter who meets the qualifications of this section, and is responsible for notifying the claims administrator in sufficient time to make arrangements to provide for the presence of the interpreter.</p> <p>(3) If interpreter services are not an ancillary service of the employer's Medical Provider Network, or if the treating physician is not within a Medical Provider Network, the injured worker may select any interpreter who meets the qualifications of this section, and is responsible for notifying the claims administrator in sufficient time to make arrangements to provide for the presence of the interpreter.</p>	<p><u>We anticipate the DWC's draft language in 9935(c) will cause problematic issues, thus please see the next column under Explanation of Revision for reasons.</u></p>	<p>If a carrier wishes to add interpreters to ancillary services of their MPN, then the list must contain every certified interpreter appearing on the SPB/CalHR, CCHI, NBCMI, Court and Federal lists as required under CCR §9767.3(c)(3). To leave any certified interpreter off the list would result in an unsustainable unavailability of certified interpreters, leading to increased miscommunication, driving certified interpreters from the industry and jeopardizing the injured worker's rights to equal access afforded under the law.</p>	<p>[emphasis added Cal Code Regs. §9767.3(c)(3)]</p>
9936(b)	<p>(b) It shall be the obligation of the party or individual needing interpreter services to communicate the need for an interpreter to the claims administrator as soon as the need becomes known.</p>	<p><u>(b) It shall be the obligation of the party or individual needing interpreter services to <b>indicate the need for an interpreter at time of injury on the claim form (DWC 1), as outlined under Labor Code §5401, or submit a signed statement by the injured worker to the claims administrator</b> as soon as the need becomes known.</u></p>	<p>This can be accomplished by making changes to the DWC-1 (First Report of Injury) form. Add a section that explains the injured worker's right to an interpreter of his or her selection from the list of certified interpreters under 9944 Interpreter Directories.</p>	<p>[emphasis added Labor Code §5401, Cal Code of Regs. §10139]</p>

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<p>9937</p>	<p><b>“Fee Schedule for Interpreters at Hearings and Depositions.”</b></p> <p>(a) The reasonable maximum fees payable for interpreter services at administrative hearings and depositions, apart from any mutual agreement as set forth in subsection (e), are as follows:</p> <p>(1) Certified interpreters for hearings and depositions, who meet the terms and conditions of that definition, as set forth in section 9930(a), shall be paid the complete half-day rate as set forth in this section, for any portion of a half-day of interpreter services, as defined in section 9930(e), and the complete full-day rate for any portion of a full-day of interpreter services, as defined in section 9930(d).</p> <p>(A) For Spanish language certified interpreter for hearings and depositions: \$210 for each half-day of service and \$388 for each full-day of service.</p> <p>(B) For a certified interpreter for hearings and depositions in all languages other than Spanish: \$240 for each half-day of service, and \$418 for each full-day of service.</p> <p>(b) Provisionally certified interpreters for hearings and depositions, who meet the terms and conditions of that definition, as set forth in sections 9930(j) and 9931, shall be paid the complete half-day rate as set forth in this section, for any portion of a half-day of interpreter services, as defined in section 9930(e), and the complete full-day rate for any portion of a full-day of interpreter services, as defined in section 9930(d).</p> <p>(1) For Spanish language provisionally certified interpreters for hearings and depositions: \$103 for each half-day of service and \$187 for each full-day of service.</p>	<p><u>We anticipate the DWC's draft language in 9937 will result in discrimination, impair access to interpreting services, and reduce an adequate supply of certified interpreters , thus please see CWCIA's "Comments Regarding the DIR's Draft Interpreter Fee Schedule Regulations" dated 5/16/15.</u><sup>v</sup></p>	<p>The proposed rate for WCAB hearings and depositions <b>is not</b> in line with existing fees. The fees proposed are taking us back to those that were in existence 15 to 20 yrs ago. We suggest consulting document, “CWCIA Fee Schedule Proposal” dated February 5, 2014 for the recommended fees. This document was presented to Hon. Christine Baker, Director, Department of Industrial Relations, Hon. Destie Overpeck, Administrative Director, Division of Workers’ Compensation, Hon. Lachlan Taylor, Executive Officer, Commission on Health and Safety and Workers’ Comp, and Hon. Katherine Zalewski, Chief Counsel, Department of Industrial Relations. Furthermore, judicial notice is requested of <a href="http://www.dir.ca.gov/iwc/minimumwagehistory.htm">http://www.dir.ca.gov/iwc/minimumwagehistory.htm</a> that provides a cost of living calculation from 1988-2016 We are opposed to the language under 9937(b) (1) &amp; (2) and 9937 (d) for reasons as set forth under 9930(j) and 9931.</p> <p>We would like to remind the DIR that during our January 24, 2014 meeting, we all acknowledged that the supply of certified and otherwise qualified interpreters is very limited. The supply is particularly acute for</p>	<p>Please refer to consulting document “CWCIA Fee Schedule Proposal” dated February 5, 2014 that was previously presented; and judicial notice is requested of <a href="http://www.dir.ca.gov/iwc/minimumwagehistory.htm">http://www.dir.ca.gov/iwc/minimumwagehistory.htm</a> that provides a cost of living calculation from 1988-2016<sup>vi</sup></p>
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9937	<p>(2) For provisionally certified interpreter for hearings and depositions in all languages other than Spanish: \$133 for each half-day of service and \$217 for each full-day of service.</p> <p>(c) Interpreter services provided by interpreters described in this section, which exceed 8 hours during a full-day shall be paid the pro-rata hourly, full-day rate, calculated for the category of interpreter used, as set forth in subsections (a) and (b) of this section, for each hour, or portion thereof, of service over 8 hours. An interpreter shall not be paid more than one hour of pro-rata hourly, full-day rate, for each hour worked beyond 8 hours in a full-day.</p> <p>(d) The fees set forth in this section shall be presumed reasonable for services provided by provisionally certified interpreters only if efforts to obtain a certified interpreter are documented and submitted to the claims administrator with the bill for services. Efforts to obtain a certified interpreter shall also be disclosed in any document based in whole or in part on information obtained through a provisionally certified interpreter.</p> <p>(e) Nothing in this section precludes an agreement for payment of interpreter services, made between the interpreter or agency for interpreting services and the claims administrator, regardless of whether or not such payment is less than, or exceeds, the fees set forth in this section.</p> <p>(f) Unless the person, party, or claims administrator responsible for providing for the interpreter notifies the interpreter of a cancellation at least 24 hours prior to the time the service is to be provided, the interpreter shall be paid no less than the interpreter's minimum one-half day fee as set forth in this section. It shall be the obligation of the injured worker to make every reasonable attempt to notify the claims administrator in sufficient time of any need to cancel</p>		<p>all languages other than Spanish, and for this reason, we understand your primary focus is to establish a dollar value fee schedule for Spanish language interpreters while maintaining the market rate fee schedule that has worked so well for the past 20 years for all other languages.</p>	
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9937	the services of an interpreter.			
9938	<p><b>“Fee Schedule for Interpreters at Medical Treatment Appointments and Medical-Legal Exams.”</b></p> <p>(a) The reasonable maximum fees for interpreter services provided at medical treatment appointments and medical-legal exams, apart from any mutual agreement as set forth in subsection (c), are:</p> <p>(1) For Spanish language certified interpreters for medical treatment appointments and medical-legal exams: \$52.50 per hour.</p> <p>(2) For certified language interpreters for medical treatment appointments and medical-legal exams interpreters in all languages other than Spanish: \$82.50 per hour.</p> <p>(3) For Spanish language provisionally certified interpreters for medical treatment appointments and medical-legal exams: \$25.75 per hour.</p> <p>(4) For provisionally certified medical treatment appointments and medical-legal exams interpreters in all languages other than Spanish: \$33.25 per hour.</p> <p>(b) The fees set forth in this section shall be presumed reasonable for services provided by provisionally certified interpreters only if efforts to obtain a certified interpreter have been documented and submitted to the claims administrator with the bill for services. Efforts to obtain a certified interpreter shall also be disclosed in any document based in whole or in part on information obtained through a provisionally certified interpreter.</p> <p>(c) Nothing in this section precludes an agreement for payment of interpreter services, made between a qualified interpreter or agency for interpreting services and the claims administrator, regardless of</p>	<p><u>We anticipate the DWC’s draft language in 9938 will result in discrimination, impair access to interpreting services, and reduce an adequate supply of certified interpreters , thus please see CWCIA’s “Comments Regarding the DIR’s Draft Interpreter Fee Schedule Regulations” dated 5/16/15.</u></p>	<p>The proposed rate for medical treatment and med-legals <b>is not</b> in line with existing fees. The fees proposed are taking us back to those that were in existence 15 to 20 yrs ago. We suggest consulting document, “CWCIA Fee Schedule Proposal” presented to the DIR in February 5, 2014 for the recommended fees. Furthermore, judicial notice is requested of <a href="http://www.dir.ca.gov/iwc/minimumwagehistory.htm">http://www.dir.ca.gov/iwc/minimumwagehistory.htm</a> that provides a cost of living calculation from 1988-2016. We are opposed to the language under 9938(a) (3) &amp; (4) for reasons as set forth under 9930(k) and 9932. We would like to remind the DIR that during our January 24, 2014 meeting, we all acknowledged that the supply of certified and otherwise qualified interpreters is very limited. The supply is particularly acute for all languages other than Spanish, and for this reason, we understand your primary focus is to establish a dollar value fee schedule for Spanish language interpreters while maintaining the market rate fee schedule that has worked so well for the past 20 years for all other languages.</p>	<p>Please refer to consulting document “CWCIA Fee Schedule Proposal” dated February 5, 2014 that was previously presented; and judicial notice is requested of <a href="http://www.dir.ca.gov/iwc/minimumwagehistory.htm">http://www.dir.ca.gov/iwc/minimumwagehistory.htm</a> that provides a cost of living calculation from 1988-2016</p>

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9938	<p>whether or not such payment is less than, or exceeds, the fees set forth in this section.</p> <p>(d) A non-certified or non-provisionally certified interpreter for medical treatment appointments, who meets all the terms and conditions set forth in sections 9930(i) and 9933, who provides interpreter services in a language other than Spanish, Tagalog, Arabic, Cantonese, Japanese, Korean, Portuguese, Vietnamese or other languages included in Government Code section 11435.40, shall be paid an hourly rate of \$33.25 per hour.</p>			
9939(a)	<p>(a) A qualified interpreter at medical treatment appointments and medical-legal exams, who meets the billing requirements for payment of section 9941, shall be entitled to be paid for a minimum of two hours for each medical-legal exam conducted. For the same medical-legal exam exceeding two hours, the interpreter shall be paid an additional amount, pro rata, in fifteen (15) minute increments.</p>	<p><u>(a) A qualified interpreter at medical treatment appointments and medical-legal exams, who meets the billing requirements for payment of section 9941, shall be entitled to be paid for a minimum of two hours for each <del>medical treatment appointment and</del> medical-legal exam conducted. For the same <del>medical treatment appointment and</del> medical-legal exam exceeding two hours, the interpreter shall be paid an additional amount, pro rata, in fifteen (15) minute increments.</u></p>	<p>Based on the existing authorities under Government Code §11435.20, include medical treatment appointment and medical-legal exam for consistency because this Government Code does not bifurcate “any” medical examination. Therefore, the language assistance requirement and billing requirement for payments should not be bifurcated.</p>	<p>[emphasis added Government Code §11435.20]</p>
9939(b)	<p>(b) A qualified interpreter at medical treatment appointments, who meets the billing requirements for payment of section 9941, shall be entitled to be paid a minimum of one hour for each medical treatment appointment conducted. For the same medical treatment appointment exceeding one hour, the interpreter shall be paid an additional amount, pro-rata, in fifteen (15) minute increments.</p>	<p><u>(b) A qualified interpreter at medical treatment appointments, who meets the billing requirements for payment of section 9941, shall be entitled to be paid a minimum of <del>one hour</del> <b>two hours</b> for each medical treatment appointment conducted. For the same medical treatment appointment exceeding <del>one hour</del> <b>two hours</b>, the interpreter shall be paid an additional amount, pro-rata, in fifteen (15) minute increments.</u></p>	<p>Note that while there is a difference in the <i>definition</i> of a medical treatment appointment and medical-legal examination, the duty of the interpreter, as defined under Labor Code §5811(b)(2), remains the same: <u>to transfer meaning between doctor and patient.</u> The time the injured worker spends at the provider’s office for a treatment appointment is frequently just as long, if not</p>	<p>[emphasis added Government Code §11435.20; Labor Code §5811(b)(2); and for the following types of physician services: Primary</p>

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9939(b)			longer, than the time it takes the provider to examine the patient for a med-legal evaluation. The industry standard of a 2 hour minimum must be preserved so that the interpreter remains available during the entire duration of the appointment, regardless of the provider's face-to-face time with the patient.	Treating Physician and Secondary Physician Evaluation, Consultation PR2 and Narrative Reports for medical treatment appointments, and Psychological Evaluation Reports for medical treatment appointments.]
9939 (d)	(d) A non-certified or non-provisionally certified interpreter for medical treatment appointments shall only be paid the hourly fee set forth in section 9938(d), and is not entitled to any minimum time period fee.	(d) A non-certified or non-provisionally certified interpreter for medical treatment appointments shall only be paid <b>at the 2 hour minimum.</b> <del>the hourly fee set forth in section 9938(d), and is not entitled to any minimum time period fee.</del>	Government Code §11435.40 does not entitle the DWC to impose a minimum time period on fees for interpreter services. Limiting the minimum to one hour for non-certified and non-provisionally qualified individuals interpreting at medical treatment appointments is illogical. In fact, one would argue that an unqualified interpreter would require MORE time to attempt the interpretation of a message that a professional could deliver. Not permitting a minimum time period fee as proposed threatens the injured worker's equal access in violation of Title VI of the Civil Rights Act of 1964. Also, this subsection is in direct conflict with the Opinion on Decision	[emphasis added <i>Jose Guitron v. Santa Fe Extruders; State Compensation Insurance Fund, (2011), ADJ163338, 76 Cal. Comp. Cases 228</i> pg 25, lines 1-3 and pg 26, lines 3-6; Title VI of the Civil Rights Act of 1964; Government Code(s) §11435.20, §11435.40,

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<p>9939 (d)</p>			<p>pursuant to the en banc of <i>Jose Guitron v. Santa Fe Extruders (2011)</i>, as it opined “...a sufficient incentive for interpreters to provide services during medical treatment, and injured workers would, therefore, be deprived of this necessary adjunct to medical treatment.” The <i>Guitron</i> case, further opined, “None of the statutory or regulatory provisions relating to interpreter fees limits or in any way distinguishes compensation for Spanish interpretation services, from interpreter services for other languages, and there is no need or justification to create such a distinction with regard to interpreter services for medical treatment.”</p>	<p>and §68560(e): “The Legislature recognizes that the number of non-English-speaking persons in California is increasing, and recognizes the need to provide equal justice under the law to all California citizens and residents and to provide for their special needs in their relations with the judicial and administrative law system. This administrative law system oversees the equal protection of injured worker’s access for interpreter services at medical treatment appointments.]</p>
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9939 (e)	Existing language in CCR §9795.3(b)(3)(i)&(ii) should be retained regarding mileage and travel time.	<p>Existing language in CCR §9795.3(b)(3)(i)&amp;(ii):</p> <p>(b) The following fees for interpreter services provided by a certified or provisionally <del>qualified</del> <del>certified</del> interpreter shall be presumed to be reasonable:</p> <p>(3) <del>The fee in paragraph (1) or (2) shall include, w</del>When requested and adequately documented by the interpreter, payment for mileage and travel time where reasonable and necessary to provide the service, and where the distance between <del>where</del> the interpreter <del>'s</del> <del>commences his/her</del> <del>place of business</del> <del>day</del> and the place where the service was rendered is over <del>25</del> <b>10</b> miles. Travel time is not deemed reasonable and necessary <b>only when the employer has established that</b> <del>where</del> a qualified interpreter listed in the master listing for the county where the service is to be provided <del>can be present</del> <b>was available</b> to provide the service without the necessity of excessive travel.</p> <p>(i) Mileage shall be paid at the minimum rate adopted by the Director of the Department of Personnel Administration pursuant to <u>Section 19820 of the Government Code</u> for non-represented (excluded) employees at Title <u>2, CCR § 599.631(a)</u>.</p> <p>(ii) Travel time shall be paid at <del>the a</del> rate <b>equal to one-half of the</b></p>	<p>Mileage and travel time has always been a reimbursable cost and we request it to be reinstated as provided under CCR §9795.3(b)(3)(i)&amp;(ii). Further, based on the duty of an impartial interpreter under LC 5811(b)(2) and necessity for , (i) where reasonable and necessary to provide interpreting services, and (ii) if an interpreter's place of business and the place where the service was rendered is over 10 miles, then the interpreter should be paid the mileage rate pursuant to Government Code §19820 plus bridge tolls, parking fees and travel time. Further, field case managers are routinely reimbursed by the claims administrator for their travel time at one-half of their usual billing rate. An interpreter's availability is heavily dependent on time. If the time spent travelling for appointments is exhausted beyond 10 miles without equitable consideration to road conditions, then interpreters would likely refuse cases thus having an adverse effect on language access to the injured worker.</p>	[emphasis added Cal Code Regs. §9795.3(b)(3)(i)&(ii) Labor Code §5811(b)(2); Government Code §19820]
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9939 (e)	Existing language in CCR §9795.3(b)(3)(i)&(ii) should be retained regarding mileage and travel time.	<p><del>interpreter rate quarter hour increments. of \$ 5.00 per quarter hour or portion thereof.</del></p> <p><del>(iii) Actual bridge toll &amp; parking fees shall be deemed reimbursable.</del></p>		
9940	<p>(a) For interpreters, other than non-certified or non-provisionally certified interpreters for medical treatment appointments, the following cancellation fees shall apply:</p> <p>(1) Unless the person, party, or claims administrator responsible for providing for an interpreter at a medical-legal exam notifies the interpreter of a cancellation at least 24 hours prior to the time the service is to be provided, the interpreter shall be entitled to be paid no less the equivalent of two hours of compensation for each such exam cancelled.</p> <p>(2) Unless the person, party, or claims administrator responsible for providing for an interpreter at a medical treatment exam notifies the interpreter of a cancellation at least 24 hours prior to the time the service is to be provided, the interpreter shall be entitled to be paid no less the equivalent of one hour of compensation for each such exam cancelled.</p> <p>(b) A non-certified or non-provisionally certified interpreter for medical treatment appointments is not entitled to any cancellation fee.</p>	<p><del>Replace with existing language in CCR §9795.3(c).</del></p> <p><del>(a) For interpreters, other than non-certified or non-provisionally certified <b>qualified</b> interpreters for <b>medical treatment appointments and medical-legal exams</b>, the following <b>cancellation fees shall apply:</b></del></p> <p><del>(1) Unless <b>notified of a cancellation at least 24 hours prior to the time the services are to be provided</b> <del>the person, party, or claims administrator responsible for providing for an interpreter at a medical treatment appointment and medical-legal exam notifies the interpreter of a cancellation at least 24 hours prior to the time the service is to be provided</del>, the interpreter shall be entitled to be paid no less <b>than</b> the equivalent of two hours of compensation for each such exam cancelled.</del></p>	<p>Currently, CCR §9793.3(c) provides that the interpreter shall be paid no less than the minimum payment of two hours for a cancellation at least 24 hours prior to the time of service. This subsection is in direct conflict with the Opinion on Decision pursuant to the en banc of <i>Jose Guitron v. Santa Fe Extruders (2011)</i>, as it opined "...a sufficient incentive for interpreters to provide services during medical treatment, and injured workers would, therefore, be deprived of this necessary adjunct to medical treatment." Often times, an event is cancelled and the interpreter is not notified after the interpreter has made themselves available for the appointment. Furthermore, we are opposed to the language under 9940 (a)(2) for reasons previously stated in this section and now duplicative to the modifications found on 9940 (a)(1); and opposed to 9940(b) for reasons as set forth 9939(d).</p>	<p>[emphasis added Cal Code of Regs. §9793.3(c); <i>Jose Guitron v. Santa Fe Extruders; State Compensation Insurance Fund, (2011), ADJ163338, 76 Cal. Comp. Cases 228 pg 25, lines 1-3]</i></p>

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9941(a)	<p>(a) Every bill submitted to the claims administrator shall include an itemization of services provided and the charge for each service. The bill must contain all of the following information in order to qualify the interpreter for payment of interpreter services:</p> <p><u>(3) The claim number.</u></p> <p><u>(5) The category of interpreter service provided:</u></p> <p><u>(B) Provisionally certified interpreter for administrative hearings and depositions;</u></p> <p>(D) Provisionally certified interpreter for medical treatment appointments and medical-legal exams;</p> <p>(8) Identifying the specific qualifying event being billed, that is, an administrative hearing, deposition, medical-legal exam, or medical treatment appointment.</p> <p>(9) Time spent providing interpreting services at the qualifying event. For hearings and depositions this shall be indicated in one-half day or full-day increments as set forth in section 9937; for medical treatment appointments and medical-legal exams, in hours and minutes, beyond the minimum time to be billed as provided in section 9938.</p>	<p><u>(a) Every bill submitted to the claims administrator shall include an itemization of services provided and the charge for each service. The bill must contain all of the following information in order to qualify the interpreter for payment of interpreter services:</u></p> <p><u>(3) The claim number <b>when it is readily available.</b></u></p> <p><u>(5) The category of interpreter service provided:</u></p> <p><del><u>(B) Provisionally certified interpreter for administrative hearings and depositions;</u></del></p> <p><del><u>(D) Provisionally certified-qualified interpreter for medical treatment appointments and medical-legal exams;</u></del></p> <p><u>(8) Identifying the specific qualifying event being billed, that is, an administrative hearing, <b>preparation of the deponent prior to their deposition, deposition, the reading of a deposition transcript to the deponent prior to signing, the reading and interpretation of settlement documents and Job Analyses, medical-legal exam, or medical treatment appointment.</b></u></p> <p><u>(9) Time spent providing interpreting services at the qualifying event. For hearings, <b>preparations of the deponent prior to their deposition, and depositions, the reading of a deposition transcript to the deponent prior to signing, and the reading and interpretation of settlement documents and Job Analyses</b> this shall be indicated in one-half day or full-day increments as set forth in</u></p>	<p>(i) Often times, a claim number is not readily available at the time the billing for interpreter services are ready to be submitted. Thus, we recommend that subsection (a)(3) be revised to reflect those situations.</p> <p>(ii) We recommend that the subsections of (a)(5)(B) &amp; (D) be stricken because provisionally certified interpreters should not be allowed at administrative hearings, depositions along with other events as identified under existing CCR §9795.3(a)(4)(i-iii) and provided under proposed language 9930(a), and medical-legal exams as explained under 9930(j) &amp; 9931, and 9930(k) &amp; 9932, respectively. Section (a)(5)(d) should only list medical treatment appointments.</p> <p>(iii) We recommend the proposed language for 9941(a)(8) &amp; 9941(a)(9) as follows:</p> <ul style="list-style-type: none"> <li>• based on the existing events identified under CCR §9795.3(a)(4)(i-iii), and therefore recommend adding the following events: <ul style="list-style-type: none"> <li>-Preparation of the deponent immediately prior to their deposition, as provided in section 9934(a)(4)(A)</li> <li>-The reading of a deposition transcript to the deponent prior to signing, as provided in section 9934(a)(4)(B)</li> <li>-The reading and interpretation of settlement documents and job</li> </ul> </li> </ul>	<p>[emphasis added Cal Code Regs. §9795.3(a)(4)(i-iii) and §9795.3(a)(7) under <i>Jose Guitron v. Santa Fe Extruders; State Compensation Insurance Fund, (2011), ADJ163338, 76 Cal. Comp. Cases 228</i> pg 17, lines 21-28 and <i>Osuna v. SunView (2005) 2005 Cal. Wrk. Comp. P.D. LEXIS 21 (Appeals Board panel decision)</i>]</p>
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9941(a)		<u>section 9937; for medical treatment appointments and medical-legal exams, in hours and minutes, beyond the minimum time to be billed as provided in section 9938.</u>	analyses as provided in section CCR §9795.3(a)(7) Note: in 2013, interpreter's as lien claimants were found entitled to fees for the reading C&R documents at applicant attorney's offices (see <i>Guitron</i> )	
9941(b)	(b) All interpreters who provide interpreter services at medical-legal exams shall include with the bill, a signed statement from the examining physician verifying time spent providing interpreter services beyond two hours.	<u>(b) All interpreters who provide interpreter services at medical treatment appointments and medical-legal exams shall include with the bill, a signed statement from the examining physician injured worker and interpreter verifying time spent providing interpreter services beyond two hours.</u>	(i) For consistency with proposed language and reasons as set forth under the explanation of revision for 9939(a), the same existing authority under Government Code §11435.20 should apply to this subsection because the code does not make any distinction of "any" medical examination. Therefore, the language assistance requirement and billing requirement for payments should not be bifurcated. (ii) Based on the injured worker's requirement for interpreting service under Labor Code §4600(g), a <u>signed statement from the injured worker and interpreter verifying time spent beyond two hours should be sufficient.</u> (iii) The duties of an interpreter, as defined under Labor Code §5811(b)(2), at medical treatment appointments and medical-legal exams extends to, but not limited to the following: to accurately and impartially translate oral communications and transliterate written materials of the taking of history and job analyses, filling out forms and questionnaires, sight	[emphasis added Government Code §11435.20; Labor Code(s) §4600(g), §5811(b)(2); Cal Code Regs. §9785]

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9941(b)			<p>translating written documents, taking vitals, physical examination by physician, explanation of treatment plan &amp; medication instructions. The preservation of the aforementioned duties of an interpreter at these events, and for purposes further explained under 9939(b), these events demand a 2-hour minimum. (iv) Physicians customarily rely upon face to face time only for their billing procedures and do not account for all the extended and prolonged time an injured worker requires at any medical appointment. When an LEP injured worker treats with the PTP, often the complexities of the case require additional time spent with the interpreter not only face-to-face with the physician, but also taking of history and job analyses, filling out forms and questionnaires, sight translating written documents, taking vitals, communicating instructions on taking medications, etc. v) Requiring a physician to account for the time spent by the interpreter beyond 2 hours falls outside his/her purview, as they are often not privy to actual duration of the interpreters scope of work. Also, the aforementioned factors may inhibit them from signing any statement verifying interpreter time spent since that is not</p>	
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9941(b)			<p>identified as part of the physician's duties outlined in CCR §9785.</p> <p>(vi) Further, this situation should not preclude payment of services to interpreter or invalidate time spent with applicant.</p>	
9941(c)	(c) All interpreters at medical treatment appointments shall include with the bill, a signed statement from the treating physician verifying time spent providing interpreter services beyond one hour.	<b>Strike language 9941(c) in its entirety.</b>	For consistency with proposed language and reasons as set forth under the explanation of revision for 9939(b) and 9941(b), this section is unnecessary because the same 2-hour duration should apply to these events under subsection 9941(b).	[emphasis added Government Code §11435.20; Labor Code §5811(b)(2), §4600(g); Cal Code Regs. §9785]
9941(d)	<u>(d) Proof of certification may be requested by the claims administrator and shall be provided by the certified interpreter for the purposes of hearings and depositions if the interpreter is not listed on the State Personnel Board webpage at <a href="http://jobs.spb.ca.gov/Interpreterlisting">http://jobs.spb.ca.gov/Interpreterlisting</a> or the California Courts webpage at <a href="http://courts.ca.gov/programs-interpreters.htm">http://courts.ca.gov/programs-interpreters.htm</a>.</u>	<u>(d) Proof of certification may be requested by the claims administrator and shall be provided by the certified interpreter for the purposes of hearings and depositions if the interpreter is not listed on the State Personnel Board webpage at <a href="http://jobs.spb.ca.gov/Interpreterlisting">http://jobs.spb.ca.gov/Interpreterlisting</a> or the California Courts webpage at <a href="http://courts.ca.gov/programs-interpreters.htm">http://courts.ca.gov/programs-interpreters.htm</a>. <b>or the United States Courts webpage at <a href="http://www.uscourts.gov/FederalCourts/UnderstandingtheFederalCourts/DistrictCourts/CourtInterpreters.aspx">http://www.uscourts.gov/FederalCourts/UnderstandingtheFederalCourts/DistrictCourts/CourtInterpreters.aspx</a></b></u>	This language should be revised and consistent with the reasons provided under 9930(a) and as listed in the revision of 9944(a).	
9941(e)	(e) Proof of certification may be requested by the claims administrator and shall be provided by the certified interpreter for the purposes of medical treatment appointments and medical-legal exams if the interpreter is not listed in the CCHI or National Board website directory.	<u>(e) Proof of certification may be requested by the claims administrator and shall be provided by the certified interpreter for the purposes of medical treatment appointments and medical-legal exams if the interpreter is not listed in the <b>SPB/CalHR</b>, CCHI or National Board website directory.</u>	This language should be revised and consistent with the reasons provided under 9930(b) and as listed in the revision of 9944(b).	

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9942	<p><b><u>HEARINGS AND DEPOSITIONS:</u></b></p> <p><u>HDI - 3: Interpretation at a Workers' Compensation Appeals Board Hearing by a provisionally certified interpreter for hearings and depositions. - Language: Spanish</u></p> <p><u>HDI - 4: Interpretation at a Workers' Compensation Appeals Board Hearing by a provisionally certified interpreter for hearings and depositions. - Language: Other Than Spanish</u></p> <p><u>HDI - 7: Interpretation at a setting similar to a Workers' Compensation Appeals Board Hearing, as determined by the Administrative Director by a provisionally certified interpreter for hearings and depositions. - Language: Spanish</u></p> <p><u>HDI - 8: Interpretation at a setting similar to a Workers' Compensation Appeals Board Hearing, as determined by the Administrative Director by a provisionally certified interpreter for hearings and depositions. - Language: Other Than Spanish</u></p> <p><u>HDI-11: Interpretation at an arbitration or I &amp; A conference by a provisionally certified interpreter for hearings and depositions. - Language: Spanish</u></p> <p><u>HDI-12: Interpretation at an arbitration or I &amp; A conference by a provisionally certified interpreter for hearings and depositions. - Language: Other Than Spanish</u></p> <p><u>HDI-15: Interpretation at a deposition of an injured worker or witness, other than a physician, by a provisionally certified interpreter for hearings and depositions. - Language: Spanish</u></p>	<p><b>Strike language Code(s): HDI-3, HDI-4, HDI-7, HDI-11, HDI-15, HDI-19 in its entirety. Amend section with new codes regarding interpretation in accordance with revised section 9930(a), (m) &amp; (n) and those events defined under 9934(a)(4)(A).</b></p> <p><del><u>HDI - 3: Interpretation at a Workers' Compensation Appeals Board Hearing by a provisionally certified interpreter for hearings and depositions. - Language: Spanish</u></del></p> <p><del><u>HDI - 4: Interpretation at a Workers' Compensation Appeals Board Hearing by a provisionally certified interpreter for hearings and depositions. - Language: Other Than Spanish</u></del></p> <p><del><u>HDI - 7: Interpretation at a setting similar to a Workers' Compensation Appeals Board Hearing, as determined by the Administrative Director by a provisionally certified interpreter for hearings and depositions. - Language: Spanish</u></del></p> <p><del><u>HDI - 8: Interpretation at a setting similar to a Workers' Compensation Appeals Board Hearing, as determined by the Administrative Director by a provisionally certified interpreter for hearings and depositions. - Language: Other Than Spanish</u></del></p>	<p>This language should be revised and consistent with the reasons provided under 9930(a), (j), (m) &amp; (n), 9931 and those events the DWC listed in 9934(a)(4)(A).</p>	
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9942	<p><b><u>HEARINGS AND DEPOSITIONS:</u></b></p> <p><u>HDI-16: Interpretation at a deposition of an injured worker or witness, other than a physician, by a provisionally certified interpreter for hearings and depositions. - Language: Other Than Spanish</u></p> <p><u>HDI-19: Interpretation at a deposition of a physician, by a provisionally certified interpreter for hearings and depositions. - Language: Spanish</u></p> <p><u>HDI-20: Interpretation at a deposition of a physician, by a provisionally certified interpreter for hearings and depositions. - Language: Other Than Spanish</u></p>	<p><u>HDI 11: Interpretation at an arbitration or I &amp; A conference by a provisionally certified interpreter for hearings and depositions.— Language: Spanish</u></p> <p><u>HDI 12: Interpretation at an arbitration or I &amp; A conference by a provisionally certified interpreter for hearings and depositions.— Language: Other Than Spanish</u></p> <p><u>HDI 15: Interpretation at a deposition of an injured worker or witness, other than a physician, by a provisionally certified interpreter for hearings and depositions.— Language: Spanish</u></p> <p><u>HDI 16: Interpretation at a deposition of an injured worker or witness, other than a physician, by a provisionally certified interpreter for hearings and depositions.</u></p> <p><u>HDI 19: Interpretation at a deposition of a physician, by a provisionally certified interpreter for hearings and depositions.— Language: Spanish</u></p> <p><u>HDI 20: Interpretation at a deposition of a physician, by a provisionally certified interpreter for hearings and depositions.— Language: Other Than Spanish</u></p>		
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**CWCIA's Revisions to the DWC's Draft Interpreter Fee Schedule Regulations  
California Code of Regulations, title 8, sections 9930 et seq.**

9942	<p><b><u>HEARINGS AND DEPOSITIONS:</u></b></p> <p>HDI – 21: NOT IN THE DIR DRAFT</p> <p>HDI – 22: NOT IN THE DIR DRAFT</p> <p>HDI – 23: NOT IN THE DIR DRAFT</p> <p>HDI – 24: NOT IN THE DIR DRAFT</p> <p>HDI – 25: NOT IN THE DIR DRAFT</p> <p>HDI – 26: NOT IN THE DIR DRAFT</p>	<p>New Language:</p> <p><u>HDI-21: Interpretation for the preparation of the deponent prior to their deposition, by a certified interpreter for hearings and depositions.- Language: Spanish</u></p> <p><u>HDI-22: Interpretation for the preparation of the deponent prior to their deposition, by a certified interpreter for hearings and depositions. - Language: Other Than Spanish</u></p> <p><u>HDI-23: Interpretation for the preparation of the deponent prior to their deposition, by a non-certified, non-provisionally qualified interpreter for hearings and depositions. - Languages other than those in Gov. Code section 11435.40</u></p> <p><u>HDI-24: Interpretation at the reading of a deposition transcript to the deponent prior to signing, by a certified interpreter for hearings and depositions. .- Language: Spanish</u></p> <p><u>HDI-25: Interpretation at the reading of a deposition transcript to the deponent prior to signing, by a certified interpreter for hearings and depositions. - Language: Other Than Spanish</u></p> <p><u>HDI-26: Interpretation at the reading of a deposition transcript to the deponent prior to signing, by a non-certified, non-</u></p>		
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**CWCIA's Revisions to the DWC's Draft Interpreter Fee Schedule Regulations  
California Code of Regulations, title 8, sections 9930 et seq.**

9942	<p><b><u>HEARINGS AND DEPOSITIONS:</u></b></p> <p>HDI – 27: NOT IN THE DIR DRAFT</p> <p>HDI – 28: NOT IN THE DIR DRAFT</p> <p>HDI – 29: NOT IN THE DIR DRAFT</p>	<p><u>provisionally qualified interpreter for hearings and depositions. - Languages other than those in Gov. Code section 11435.40</u></p> <p><u>HDI-27: Interpretation at the readings of settlement documents and Job Analyses, by a certified interpreter for hearings and depositions. - Language: Spanish</u></p> <p><u>HDI-28: Interpretation at the readings of settlement documents and Job Analyses, by a certified interpreter for hearings and depositions. - Language: Other Than Spanish</u></p> <p><u>HDI-29: Interpretation at the readings of settlement documents and Job Analyses, by a non-certified, non-provisionally qualified interpreter for hearings and depositions. - Languages other than those in Gov. Code section 11435.40</u></p>		
9942	<p><b><u>MEDICAL TREATMENT APPOINTMENT:</u></b></p> <p><u>MTI – 3: Interpretation at a medical treatment appointment by a provisionally certified interpreter for medical treatment appointments and medical-legal exams. - Language: Spanish</u></p> <p><u>MTI – 4: Interpretation at a medical treatment appointment by a provisionally certified interpreter for medical treatment appointments and medical-legal exams. - Language: Other Than Spanish</u></p>	<p>Amend code(s): MTI-3, MTI-4, and MTI-5 in accordance with revised section 9930(b), (k), (m) &amp; (n) and requirements under 9932 and 9933(b)(2).</p> <p><u>MTI – 3: Interpretation at a medical treatment appointment by a provisionally <del>certified</del> qualified interpreter for medical treatment appointments and medical-legal exams. - Language: Spanish</u></p> <p><u>MTI – 4: Interpretation at a medical treatment appointment by a</u></p>	<p>This language should be revised and consistent with the reasons provided under 9930(b), (k), (m) &amp; (n), 9932 and 9933(b)(2).</p>	

**CWCIA's Revisions to the DWC's Draft Interpreter Fee Schedule Regulations  
California Code of Regulations, title 8, sections 9930 et seq.**

9942	<p><b><u>MEDICAL TREATMENT APPOINTMENT:</u></b></p> <p><u>MTI – 5: Interpretation at a medical treatment appointment by a non-certified, non- provisionally certified interpreter for medical treatment appointments and medical-legal exams. - Languages other than those in Gov. Code section 11435.40</u></p>	<p>provisionally <del>certified</del> <b>qualified</b> interpreter for medical treatment appointments and medical-legal exams. - Language: Other Than Spanish</p> <p>MTI – 5: Interpretation at a medical treatment appointment by a non-certified, non- provisionally <del>certified</del> <b>qualified</b> interpreter for medical treatment appointments and medical-legal exams. - Languages other than those in Gov. Code section 11435.40</p>		
9942	<p><b><u>MEDICAL-LEGAL EXAM:</u></b></p> <p>MLI -3: Interpretation at a medical-legal exam, a comprehensive medical-legal evaluation, or supplemental medical-legal evaluation, or an examination by the physician to which an injured worker submits at the request of the claims administrator, the administrative director, or the appeals board, by a provisionally certified interpreter for medical treatment appointments and medical-legal exams. - Language: Spanish</p> <p>MLI – 4: Interpretation at a medical-legal exam, a comprehensive medical-legal evaluation, or supplemental medical-legal evaluation, or an examination by the physician to which an injured worker submits at the request of the claims administrator, the administrative director, or the appeals board, by a provisionally certified interpreter for medical treatment appointments and medical-legal exams. - Language: Other Than Spanish</p>	<p><del>Strike language Code(s): MLI-3 and MLI-4 in its entirety. Amend section in accordance with revised section 9930(b), (k), (m) &amp; (n) and requirements under 9932 &amp; 9933(b)(2).</del></p> <p><del><u>MLI – 3: Interpretation at a medical-legal exam, a comprehensive medical legal evaluation, or supplemental medical legal evaluation, or an examination by the physician to which an injured worker submits at the request of the claims administrator, the administrative director, or the appeals board, by a provisionally certified interpreter for medical treatment appointments and medical legal exams. – Language: Spanish</u></del></p> <p><del><u>MLI – 4: Interpretation at a medical-legal exam, a comprehensive medical legal evaluation, or supplemental medical legal evaluation, or an examination by the physician to which an injured worker submits at the request of the claims</u></del></p>	<p>This language should be revised and consistent with the reasons provided under 9930(b), (k), (m) &amp; (n), 9932 and 9933(b)(2).</p>	

**CWCIA's Revisions to the DWC's Draft Interpreter Fee Schedule Regulations  
California Code of Regulations, title 8, sections 9930 et seq.**

9942	<p><b><u>MEDICAL-LEGAL EXAM:</u></b></p> <p>MLI – 5: NOT IN THE DIR DRAFT</p>	<p><del>administrator, the administrative director, or the appeals board, by a provisionally certified interpreter for medical treatment appointments and medical legal exams. – Language: Other Than Spanish</del></p> <p>New Language:</p> <p><u>MLI – 5: Interpretation at a medical-legal exam, a comprehensive medical-legal evaluation, or supplemental medical-legal evaluation, or an examination by the physician to which an injured worker submits at the request of the claims administrator, the administrative director, or the appeals board, by a non-certified, non- provisionally qualified interpreter for medical treatment appointments and medical-legal exams. - Languages other than those in Gov. Code section §11435.40</u></p>		
9943	<p><b>“Time for Payment; Effective Date.”</b></p> <p>9943(d) - NOT IN THE DIR DRAFT</p>	<p>New Language:</p> <p><u>(d) Any bill for interpreter services which constitutes an administrative hearing, for preparation of the deponent prior to their deposition, deposition, and the reading of the deposition transcript under Labor Code §5710 and §5811 shall be paid or contested by the claims administrator under the timeframes and procedures set forth in CCR §9795.4(a) and (b).</u></p>	<p>The existing regulatory provision of CCR §9795.4 provides the time for payment on all expenses for interpreter services. We request clarification and consistency for time of payment and effective date on events identified under 9930(a).</p>	<p>[emphasis added Labor Code(s) §5710, §5811; Cal Code Regs. §9795.4]</p>
9944	<p>(a) Interpreters certified for the purposes of hearings and depositions in accordance with sections 9930(a) are listed at the following websites: <a href="http://jobs.spb.ca.gov/InterpreterListing/">http://jobs.spb.ca.gov/InterpreterListing/</a> and</p>	<p><u>(a) Interpreters certified for the purposes of hearings and depositions in accordance with sections 9930(a) are listed at the following websites:</u></p>	<p>This language should be revised and consistent with the reasons provided under 9930(a) and (b).</p>	<p>[emphasis added Cal Code Regs. §9795.3(a)(4)]</p>

**CWCIA's Revisions to the DWC's Draft Interpreter Fee Schedule Regulations  
California Code of Regulations, title 8, sections 9930 et seq.**

9944	<p><a href="http://www.courts.ca.gov/programs-interpreters.htm">http://www.courts.ca.gov/programs-interpreters.htm</a>. (b) Certified interpreters for the purposes of medical treatment appointments and medical legal exams who meet the qualifications of section 9930(b) are listed in the registry for Certification Commission for Healthcare Interpreters (CCHI) or National Board of Certification for Medical Interpreters (National Board) at the following websites: <a href="https://cchi.learningbuilder.com/Account/Login?ReturnUrl=%2f">https://cchi.learningbuilder.com/Account/Login?ReturnUrl=%2f</a> or <a href="http://www.certifiedmedicalinterpreters.org/registry">http://www.certifiedmedicalinterpreters.org/registry</a>.</p>	<p><a href="http://jobs.spb.ca.gov/InterpreterListing/">http://jobs.spb.ca.gov/InterpreterListing/</a> and <a href="http://www.courts.ca.gov/programs-interpreters.htm">http://www.courts.ca.gov/programs-interpreters.htm</a>. and <a href="http://www.uscourts.gov/FederalCourts/UnderstandingtheFederalCourts/DistrictCourts/CourtInterpreters.aspx">http://www.uscourts.gov/FederalCourts/UnderstandingtheFederalCourts/DistrictCourts/CourtInterpreters.aspx</a> (b) Certified interpreters for the purposes of medical treatment appointments and medical legal exams who meet the qualifications of section 9930(b) are listed in the registry for <b>State Personnel Board (Cal HR)</b> or Certification Commission for Healthcare Interpreters (CCHI) or National Board of Certification for Medical Interpreters (National Board) at the following websites: <a href="http://jobs.spb.ca.gov/InterpreterListing/">http://jobs.spb.ca.gov/InterpreterListing/</a> <a href="https://cchi.learningbuilder.com/Account/Login?ReturnUrl=%2f">https://cchi.learningbuilder.com/Account/Login?ReturnUrl=%2f</a> or <a href="http://www.certifiedmedicalinterpreters.org/registry">http://www.certifiedmedicalinterpreters.org/registry</a>.</p>		<p>(i-iii) and §9795.3(a)(7) under <i>Jose Gutiron v. Santa Fe Extruders; State Compensation Insurance Fund</i>, (2011), ADJ163338, 76 Cal. Comp. Cases 228 pg 17, lines 21-28 and <i>Osuna v. SunView</i> (2005) 2005 Cal. Wrk. Comp. P.D. LEXIS 21 (Appeals Board panel decision); Government Code(s) §11435.30, §11435.35, §11435.40]</p>
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Referenced Attachments:

- <sup>i</sup> CWCIA's *Provisionally Qualified Interpreter Recommendation* dated 5/16/15 [attachment 1]  
<sup>ii</sup> CCHI's Certification Process and National Registry of Certified Interpreters letter dated 5/12/15 to CWCIA's board of directors [attachment 2]  
<sup>iii</sup> CCHI's comment addressed to the DIR dated 5/14/15, "Fees and Requirements for Interpreter Services" [attachment 3]  
<sup>iv</sup> San Francisco Chronicle article dated 4/26/15, titled "Medical interpreters in short supply as health coverage grows" [attachment 4]  
<sup>v</sup> CWCIA's *Comments Regarding the DWC's Draft Interpreter Fee Schedule Regulations* dated 5/16/15 [attachment 5]  
<sup>vi</sup> CWCIA's *Cost of Living Calculation* dated 5/3/15 [attachment 6]

### **CWCIA's Recommendation on Definition of "Provisionally Qualified" Interpreter**

Permitting a non-language professional, such as a physician, hearing officer or claims administrator, to determine that an individual meets the qualifications to be an interpreter is of great concern.

That notion, in addition to the requirement to contact only three certified interpreters prior to provisionally "certifying" *anyone* to provide interpreting services, and the extremely low fees proposed, will likely lead the selection of the interpreter to be a price-driven decision, not a quality-driven decision.

Further, after having identified two national medical interpreter certification entities (CCHI and NBCMI) to increase the number of certified interpreters (as intended by SB 863), for the DIR/DWC to allow a lay person to "provisionally certify" threatens to drive certified interpreters out of the field, thus having the opposite effect. This would leave the injured worker and the Workers' Compensation system with an inferior quality of interpreters. It would open a Pandora's box of issues, not the least of which is a violation of Title VI of the Civil Rights Act and the Standards on Culturally and Linguistically Appropriate Services (CLAS), which mandate that language access services be effective, understandable, and comparable to services received by non-LEP (Limited English Proficient) persons.

CWCIA recommends that the DIR/DWC look to the Commission for Certification of Healthcare Interpreters (CCHI) to provide a legitimate list of truly *provisionally qualified* interpreters: people who have satisfied the basic requirements needed to become accredited interpreters.

Please refer to CCHI's document sent to the DIR Comment Forum dated May 14, 2015, and to CCHI's letter to the CWCIA Board of Directors dated May 12, 2015.

CWCIA supports the viable option as presented by CCHI.



Lorena Ortiz Schneider  
 c/o CWCIA Board  
 23441 Golden Springs Drive #109  
 Diamond Bar, CA 91765

May 12, 2015

Delivered via email

**RE: CCHI's Certification Process and National Registry of Certified Interpreters**

Dear Lorena and CWCIA Board members,

I'm writing to provide you an overview of CCHI's existing certification process that may be beneficial for the State of California Workers' Compensation Division to utilize in order to resolve the issue of "provisionally qualified" interpreters.

**CCHI offers two national certifications** available to healthcare interpreters of **any** language:

- **The CoreCHI™ (Core Certification Healthcare Interpreter™) certification**, a full certification at the core professional level which is available to interpreters of any language unless a language-specific oral examination exists for that language. (For more information about the CoreCHI™ certification and its accreditation by the National Commission for Certifying Agencies, please go to <http://www.cchicertification.org/corechi-exam/corechi-exam> and <http://www.cchicertification.org/news/corechi-ncca-accreditation>.)
- **The CHI™ (Certified Healthcare Interpreter™) language-specific performance certification**, currently offered in three languages: **Spanish, Arabic and Mandarin**. (More information at <http://www.cchicertification.org/chi-exam/chi-exam>).

**CCHI's certification process** allows interpreters of any language to achieve certification (at the level available to them) within 6-18 months and consists of the following steps:

1. Any interpreter, who submits an application and meets CCHI's eligibility criteria (<http://www.cchicertification.org/eligibility-criteria/eligibility-criteria>), becomes a Candidate and has 6 months to take the CoreCHI™ examination.
2. After a Candidate passes the CoreCHI™ examination, they become certified at the CoreCHI™ level, unless their language is Spanish, Arabic or Mandarin. If a Candidate fails the CoreCHI™ exam, they can re-take it up to 3 times within one year.
3. Spanish, Arabic or Mandarin interpreters, after passing the CoreCHI™ exam, become CHI™ candidates and have 12 months to take the oral performance CHI™ exam. Upon passing the CHI™ exam, the CHI™ candidate is awarded the corresponding language-specific certification. If a CHI™ candidate fails the CHI™ exam, they can re-take it up to 3 times within one year.

CCHI currently lists its CoreCHI™ and CHI™ certificants and CHI™ candidates in the online national Certified Interpreter Registry at <https://cchi.learningbuilder.com>, which can be searched by name,

language, certification status, city and state. We can add the "Candidate" status to the Registry if needed. This Registry can be utilized by the state of California to identify/verify certified interpreters.

I hope CCHI's existing process could be utilized as a potential way to resolve the issue of lack of certified interpreters. Since it may allow to consider CCHI's Candidate and CHI™ Candidates as "provisionally qualified" until they pass the corresponding certification exam or lose this status upon failing the exams.

Let me know if you have any further questions.

Sincerely,

A handwritten signature in cursive script that reads "Natalya Mytareva".

Natalya Mytareva  
CCHI Managing Director

Cc: Alejandro Maldonado, CCHI Chair



Department of Industrial Relations  
 Division of Workers' Compensation  
 1515 Clay Street, 18th floor  
 Oakland, CA 94162  
[DWCForums@dir.ca.gov](mailto:DWCForums@dir.ca.gov)

May 14, 2015

Delivered via email

**RE: Fees and Requirements for Interpreter Services**

Members of California DWC,

As chair of the Certification Commission for Healthcare Interpreters (CCHI), I want to offer our comments on the proposed regulations governing interpreter services for workers compensation cases. We greatly appreciate the recognition by the Department and Division of the validity and credibility of CCHI's examination by its inclusion in the regulations.

CCHI's sole mission is to develop and administer a national, valid, credible and vendor-neutral certification program for healthcare interpreters. Currently, we have over 1,800 certified interpreters nation-wide, with 395 of them in the state of California and 195 more California candidates in the process of obtaining their certification.

CCHI offers two national certifications available to healthcare interpreters of any language:

- *The CoreCHI™ (Core Certification Healthcare Interpreter™)* certification, a full certification at the core professional level which is available to interpreters of *any* language unless a language-specific oral examination exists for that language. CCHI is the only entity in the U.S. offering the core-level certification that is valid and credible. CCHI received accreditation for this certification by the National Commission for Certifying Agencies (NCCA) in June of 2014. (For more information about the CoreCHI™ certification accreditation, please go to <http://www.cchicertification.org/news/corechi-ncca-accreditation>.)
- *The CHI™ (Certified Healthcare Interpreter™)* language-specific performance certification, currently offered in three languages: *Spanish, Arabic and Mandarin*. This certification was accredited by NCCA in June of 2012.

CCHI's Commissioners strongly believe that the proposed definition of a "Provisionally certified interpreter for medical treatment appointments and medical-legal exams" which allows a lay person – in this case a physician – who has no qualifications to make an assessment of a bilingual individual's interpreting skills, undermines the profession. Letting physicians assess competency could also violate Title VI of the Civil Rights Act because physicians have no way of

assessing the skills and competencies, and thus could allow an incompetent person to interpret. Allowing an incompetent person to interpret could lead to errors and cause harm to the patient as well as to misinforming the provider and/or insurer. Should DWC endorse such a procedure, this could put DWC at risk/liability.

CCHI proposes, as a possible solution, utilization of its existing certification process to resolve the issue of lack of certified interpreters. CCHI's process may allow consideration of Candidates and CHI™ Candidates as "provisionally *qualified* for medical treatment appointments and medical-legal exams" until they pass the corresponding certification exam(s) or lose this status upon failing the exams.

CCHI's certification process allows interpreters of any language to achieve certification (at the level available to them) within 6-18 months and consists of the following steps:

1. Any interpreter, who submits an application and meets CCHI's eligibility criteria, becomes a Candidate and has 6 months to take the CoreCHI™ examination.
2. After a Candidate passes the CoreCHI™ examination, they become certified at the CoreCHI™ level, unless their language is Spanish, Arabic or Mandarin. If a Candidate fails the CoreCHI™ exam, they can re-take it up to 3 times within one year.
3. Spanish, Arabic or Mandarin interpreters, after passing the CoreCHI™ exam, become CHI™ candidates and have 12 months to take the oral performance CHI™ exam. Upon passing the CHI™ exam, the candidate is awarded the corresponding language-specific certification. If a CHI™ candidate fails the CHI™ exam, they can re-take it up to 3 times within one year.

CCHI lists its CoreCHI™ and CHI™ certificants and CHI™ candidates in the online national Certified Interpreter Registry at <https://cchi.learningbuilder.com>, which can be searched by name, language, certification status, city and state. We can add the "Candidate" status to the Registry if needed. This Registry can be utilized by the state of California to identify/verify the status of certified interpreters and those on the path to certification.

If you have any additional questions about CCHI's work or mission, please contact me. I look forward to working with DWC and ensuring that DWC and California offer the highest caliber certification program to healthcare interpreters statewide.

Sincerely,



Alejandro Maldonado

CCHI Chair

[amaldonado@cchicertification.org](mailto:amaldonado@cchicertification.org)

Cc: CCHI Commissioners

[iga@mediaworkers.org](mailto:iga@mediaworkers.org)



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## HEALTH

# Medical interpreters in short supply as health coverage grows

By John M. Gonzales, CHCF Center for Health Reporting |

April 26, 2015 | Updated: April 26, 2015 11:23pm



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Photo: Lea Suzuki, The Chronicle

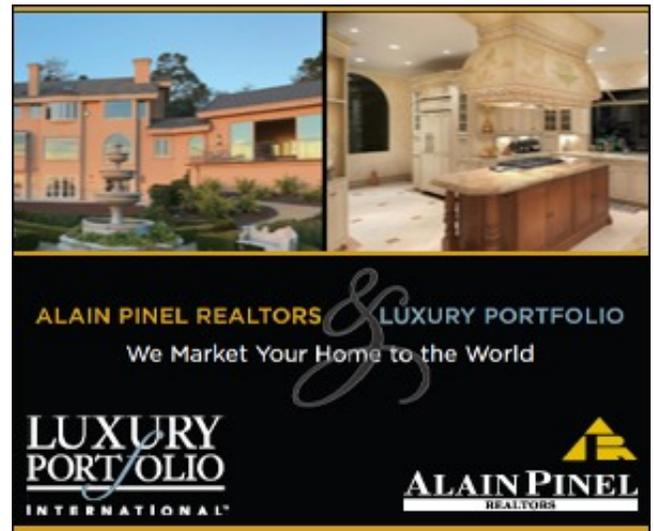


## IMAGE 15 OF 15

Siu Williams (right), certified medical interpreter, interprets for Stanford surgeon Dr. Monica Dua (background top), Stanford surgeon, during an appointment with patient Son Van Vo (background bottom) at Stanford Medical Center on Thursday, January 29, 2014 in Stanford, Calif. Williams' certification is in Vietnamese.

Vietnamese interpreter Siu Williams and her fellow linguists are in such demand at Stanford Hospital that the sprawling campus has become like a trampoline and the hallways like treadmills.

“We bounce from one building to another building. Sometimes at the main hospital, we run,” said Williams, describing a typical day helping a blur of limited-English-speaking patients at the medical center communicate with health care providers. “At the end of the shift, I don’t need to go to the fitness club.”



When it comes to one of California’s most overlooked medical needs Williams is essential — and perilously rare.

She is among only 738 certified medical interpreters in the state just when federal health reform has extended coverage to 1.7 million Californians with limited English skills.

Overall, 6.8 million Californians — 20 percent of the state’s potential patient population — aren’t proficient in English, according to the 2010 census.

Both federal and state law make access to a medical interpreter the right of all patients who need one, just like the courts must offer an interpreter to a witness or defendant in need. But unlike the uniform qualifications required to become a court interpreter, California law doesn’t say how qualified medical interpreters must be.

### **Certified vs. noncertified**

Certified interpreters are the only medical linguists in California who have been tested by one of two independent bodies, the Certification Commission for Healthcare Interpreters or the National Board of Certification for Medical Interpreters. The shortage of certified interpreters has health care providers scrambling to use creative methods to comply with language access laws. They include the routine use of noncertified interpreters, which critics say amounts to using linguistic second stringers.



“This is one of the most important medical issues confronting California,” said John Pérez, a member of the UC Board of Regents who as California Assembly speaker

proposed laws in 2013 and 2014 that would have bolstered the number of certified interpreters. “We have so many different languages spoken, and we don’t have the medical interpreting depth to address the need.”

And when separating certified interpreters by language usage, the disparities become startling.

Spanish speakers with limited English number 4.6 million in California, according to the census, and they are relatively fortunate to share 594 certified medical interpreters.

Vietnamese speakers with limited English skills, numbering 282,000 statewide, must make do with nine certified interpreters, including Williams.

For the Philippine Tagalog-speaking community, which includes about 228,000 limited English speakers, there is only one certified medical interpreter in the state. And there is only one for the Hmong-speaking community which includes 35,000 with limited English skills.

### **Inadequate interpretation**

A 2010 report by the UC Berkeley School of Public Health and National Health Law Program examined 1,373 malpractice claims and found 35 cases in which death, dismemberment, brain damage, and other cases of severe medical harm were traced to inadequate medical interpreting.

The cases, compiled over four years, involved multiple languages, and patients of all ages.

In one case, involving a 9-year-old girl, the report found that emergency room doctors neither “provided competent oral interpreters, nor translation of important written” consent forms in

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prescribing the drug Reglan for what was diagnosed as stomach flu.



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The drug is not recommended for pediatric use, but the girl's Vietnamese-speaking parents were not informed of the risks in their native language. The doctors also used the child herself and her 16-year-old brother as ad-hoc interpreters, relying on them to inform the parents about side effects that would require them to immediately return to the hospital.

The girl died from a heart attack brought on by an adverse reaction to the drug, the report said.

Report editor Mara Youdelman, senior attorney at the National Health Law Program and a commissioner on the interpreters certification commission, said she believes such cases are “vastly underreported.”

### **Poor, immigrants hit hard**

Many of those impacted by poor interpreting are undocumented immigrants who do not want to call attention to themselves, or legal immigrants unaware of their language rights at the hospital, she said. Or, they are low-income patients overwhelmed with navigating the health care safety net.

“It’s an uphill battle to identify these cases,” Youdelman said.

Hanh Nguyen, 65, a kidney patient, and her son Xuong Luu, 35, who often interprets for her during treatment, have experienced the consequences of having too few medical interpreters.





Nguyen recently visited Stanford Hospital for a kidney transplant consultation and received assistance from Williams, the certified Vietnamese interpreter.

But at the DaVita dialysis clinic in San Jose, where Nguyen has received treatment three times a week for nearly a year, there is a drop off in interpreting quality and access, Nguyen's son said.

Frequent communication between caregivers and patients is critical during dialysis, a life-sustaining treatment that is especially exhausting for older patients like Nguyen.

Nguyen must provide caregivers detailed feedback on how she feels during the hours-long sessions in order for them to determine how often she needs treatment and if her body is reacting safely to the drugs involved. And caregivers must be able to communicate clearly with Nguyen about what she must do between sessions, including adhering to strict dietary rules.

### **'I feel neglected'**

"They set me up and wander off somewhere else, and there are so many times where I am not feeling well," Nguyen said in Vietnamese that was translated by her son. "I feel neglected."

DaVita dietitian Linda Huie said she used a Vietnamese-speaking administrative assistant from a nearby center to interpret Nguyen's initial consultation and said she recalled using

a noncertified telephone interpreter “a handful of times.”

Justin Forbis, a spokesman for DaVita, the largest dialysis chain in the country, confirmed Huie’s account. He said Nguyen, who has hepatitis, must be placed in an isolation area, and regularly using a speakerphone there for telephone interpreting “could cause echos.”

“It is a requirement that we are able to speak to patients in a language that they understand,” Forbis said in an e-mail. “How the translation is provided is not regulated, however, so that means translation can come from teammates who speak the language, family members of the patients or, if those options aren’t available, phone translation.”

With so few certified interpreters, health providers routinely turn to noncertified interpreters, tested and trained in weeks, often with no previous medical background.

The largest such provider, CyraCom of Tucson, is at the other end of the Blue Phone, a language service standby at California hospitals, and the service DaVita used occasionally for Nguyen. The patented landline features two blue-colored receivers for doctor and patient, and a company interpreter on the line.

### **Stretched thin**

“They are not certified. They are qualified,” CyraCom spokeswoman Regina Little said in defense of the company’s linguists. “What that means is they have three weeks, or 120 hours of personal training.”

Leon Vang, the state’s only certified Hmong interpreter, said he could not imagine meeting the linguistic, cultural and medical complexities of his job with such modest training. He has seven years experience in the field, and uses videoconferencing to interpret for patients when he can’t be where they are.

“In mental health, there is no word in Hmong for bi-polar. I have to explain the entire medical concept,” said Vang, 34, who works in Orange County for Language Access Network, which requires its interpreters to be certified.

“If it’s a car accident with 10 ER providers around the patient, all speaking at once, and the patient is too injured to speak, I’ve had to interpret instructions from the doctor for the patient to wiggle his finger if he can hear them.”

Vang said when he leaves his shift, there are still cases left to take. “Obviously, I can’t take them all, but I do all I can,” he said.

Facing such demand, some larger providers have tried innovative methods to fill the void.

### **Attempts to fill the void**

Kaiser Permanente, for example, trains their bilingual medical professionals to act as interpreters during intake and other situations. Kaiser does not require these employees to be certified, but does require them to pass an internal exam.

Kaiser has also established “module” primary care and OBGYN clinics in which everyone, from the receptionist to the nurse to the physician, is bilingual and has taken the Kaiser test in a target language.

The company, nevertheless, keeps a cadre of independently certified interpreters in-house for its most serious medical cases.

Don Schinske, executive director of the California Healthcare Interpreting Association, a nonprofit that has lobbied for uniform certification in medical interpreting, applauded Kaiser’s efforts, but pointed out they still fall short of a uniform standard.

“It’s a mishmash out there, no question,” Schinske said. “A lot of health systems race to find the lowest possible cost solution.”

Certified interpreters told stories of having to clarify misunderstandings at various hospitals that originated from a patient’s interaction with a noncertified interpreter. If the medical stakes weren’t so high, some could make for comedy skits.

Williams, the Stanford interpreter, said one phone interpreter once told a doctor that an elderly patient was suffering from ongoing “hand pains.” The woman was actually

complaining of head pains. Another certified Vietnamese interpreter said a noncertified counterpart told a woman to experiment with a “nipple” when her newborn cried. The doctor actually had said pacifier.

Pérez, who has termed out of the Legislature, pushed through bills in 2013 and September 2014 that would have tapped health reform funds to certify interpreters who worked with Medi-Cal patients, and increase the numbers of interpreters statewide.

### **Governor vetoes funds**

After fronting \$200,000 in startup funds, the state ultimately would have received \$270 million in Affordable Care Act funds to implement the certification program. Interpreters would have been required to pass a national certifying exam and a state test.

Gov. Jerry Brown vetoed the bills both times, saying the state already had its hands full with the larger implementation of health reform.

Pérez’s successor as Assembly speaker, Toni Atkins, D-San Diego, introduced more modest legislation in February that would require the state to seek federal funds to establish a uniform certification for interpreters.

The goal is to provide “reliable access to language interpretation for Medi-Cal beneficiaries who are limited English proficient,” Atkins’ bill says.

Pérez said that with Atkins’ bill, California would come out ahead.

“Besides the human costs of poor medical outcomes ... there is a financial cost every time poor interpreting creates over-treatment,” he said. “Quality health care often gets lost in translation.”

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# Medical Interpreters- Siu Williams' backstory

from [San Francisco Chronicle](#) **PLUS**



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**COST OF LIVING CALCULATION FROM 1988-2016**  
**Provided by CWCIA**

Even California minimum wage earners who on January 1, 1996 earned \$4.25 now earn \$9.00 per hour more than doubled [Judicial Notice is requested of:

<http://www.dir.ca.gov/iwc/minimumwagehistory.htm>.]

Taking this theory to the 1996 rate of \$90.00 that equates to \$190.62.

<b>effective date</b>	<b>new minimum wage</b>	<b>old minimum wage</b>	<b>amount of increase</b>	<b>percentage of increase over previous wage</b>
<b>January 1, 2016</b>	\$10.00	\$9.00	\$1.00	11.1 percent
<b>July 1, 2014</b>	\$9.00	\$8.00	\$1.00	12.5 percent
January 1, 2008	\$8.00	\$7.50	\$0.50	6.7 percent
January 1, 2007	\$7.50	\$6.75	\$0.75	11.1 percent
January 1, 2002	\$6.75	\$6.25	\$0.50	8.00 percent
January 1, 2001	\$6.25	\$5.75	\$0.50	8.70 percent
March 1, 1998	\$5.75	\$5.15	\$0.60	11.65 percent
September 1, 1997	\$5.15	\$5.00	\$0.15	3.00 percent
March 1, 1997	\$5.00	\$4.75	\$0.25	5.26 percent
October 1, 1996	\$4.75	\$4.25	\$0.50	11.76 percent
July 1, 1988	\$4.25	\$3.35	\$0.90	26.87 percent

$\$90.00 \times 11.76\% = \$10.58$	$\$90.00 + \$10.58 = \$100.58$
$\$100.58 \times 5.26\% = \$5.29$	$\$100.58 + \$5.29 = \$105.87$
$\$105.87 \times 3.00\% = \$3.18$	$\$105.87 + \$3.18 = \$109.05$
$\$109.05 \times 11.65\% = \$12.70$	$\$109.05 + \$12.70 = \$121.75$
$\$121.75 \times 8.70\% = \$10.59$	$\$121.75 + \$10.59 = \$132.34$
$\$132.34 \times 8.00\% = \$10.59$	$\$132.34 + \$10.59 = \$142.93$
$\$142.93 \times 11.1\% = \$15.87$	$\$142.93 + \$15.87 = \$158.80$
$\$158.80 \times 6.7\% = \$10.64$	$\$158.80 + \$10.64 = \$169.44$
$\$169.44 \times 12.5\% = \$21.18$	$\$169.44 + \$21.18 = \$190.62$