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STATE OF CALIFORNIA  
DEPARTMENT OF INDUSTRIAL RELATIONS  
DIVISION OF WORKERS' COMPENSATION

PUBLIC HEARING

Tuesday, March 19, 2013  
Elihu Harris State Office Building  
1515 Clay Street  
Oakland, California

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1 PUBLIC HEARING

2 OAKLAND, CALIFORNIA

3 TUESDAY, MARCH 19, 2013 - 10:00 A.M.

4 \* \* \* \* \*

5 MS. OVERPECK: Good morning, and thank you for coming  
6 today. My name is Destie Overpeck. I'm the Acting  
7 Administrative Director. This is a public hearing for the  
8 supplemental job displacement benefit voucher regulations and  
9 the interpreters' certification regulations. As you probably  
10 know, the emergency regulations for these two subject areas are  
11 currently in effect and have been since January 1, 2013. They  
12 will remain in effect until -- for six months; or if we go  
13 through this process and adopt our permanent regulations, as  
14 soon as that happens, the permanent regulations will be in  
15 effect. The public hearings are part of the process to  
16 complete the rule making action and to develop the permanent  
17 regulations.

18 We have copies of the proposed regulations up here at  
19 the front desk. We also have our sign-in sheets. We have them  
20 separate for the interpreter regulations and the voucher  
21 regulations. Please sign them both if you're interested in  
22 both of them, and check separately if you're going to speak for  
23 either one or both of them. That way, we can keep our rule  
24 making binders clear for who's interested in which sets of  
25 regulations.

1           The proposed supplemental job displacement benefit  
2 voucher regulations amend the current regulations and add some  
3 new regulations to reflect the SB 863 changes.

4           The interpreters' certification regulations include a  
5 definition for interpreters to be qualified for the purposes of  
6 medical treatment appointments. The interpreter regulations do  
7 not yet include changes to the fee schedule. DWC has  
8 contracted with Berkeley Research Group to provide a study to  
9 set forth recommendations regarding the fee schedule so that we  
10 can develop fees that will reflect fair market values that are  
11 reasonable and simple and transparent. After that study is  
12 completed, we will then start drafting regulations on the fee  
13 schedule part.

14           I'd like to introduce my fellow DWC employees. This  
15 is George Parisotto. He is our Acting Chief Counsel. Next is  
16 Carol Finuliar and Karen Pak, both of whom have been working on  
17 the voucher regulations. This is Maureen Gray, who is our  
18 Regulations Coordinator. When you -- oh, and our two court  
19 reporters, who are Erlinda Busby and Lori Carson.

20           When you come up to testify, please give your card to  
21 the court reporters. Everything we say today is being taken  
22 down by the court reporters; and if you have written testimony,  
23 please hand it in to Maureen Gray, who is our Regulations  
24 Coordinator.

25           Also, when you start to testify, please say your name,

1 spell your name, and say if you are representing a particular  
2 group.

3 I'm going to start today with the supplemental job  
4 displacement benefit regulations because it looks like we have  
5 less people signed up to speak. When we go through that list  
6 and make sure that nobody else wants to speak on that section,  
7 we will then move over to the interpreters; and then at the end  
8 of that, we'll come back and we'll kind of go back and forth  
9 until we're sure that nobody has come in who didn't get a  
10 chance to speak.

11 Based on our audience size, I don't think we're going  
12 to go beyond lunch time. Written comments will be accepted  
13 until 5:00 p.m. today, and you can bring them to the 17th floor  
14 DWC upstairs.

15 The purpose of this hearing is to receive comments on  
16 the regulations. All comments, both the oral comments and the  
17 written comments, will be considered by us and have equal  
18 weight. Also, please try and restrict your subject -- your  
19 testimony to the subject of the regulations. Those of us here  
20 will not be entering into discussion about the regulations. We  
21 can give clarification; but, basically, the purpose is for us  
22 to listen to you and take down what you have to say on  
23 comments.

24 Okay. So I think we are ready to begin; and, as I  
25 said, I'm going to start with supplemental job displacement.

1 The first person I note on my list is Jeremy Merz.

2 JEREMY MERZ

3 MR. MERZ: Hello. I'm Jeremy Merz on behalf of the  
4 California Chamber of Commerce. My name is J-E-R-E-M-Y, and  
5 last name is M-E-R-Z. Thank you for the opportunity to submit  
6 comments on the supplemental job displacement voucher.

7 In general, the California Chamber of Commerce  
8 supports the direction taken by the Division. They're in the  
9 spirit of SB 863, which reduce the friction with this benefit  
10 and hopefully reduce cost. We submitted a coalition letter  
11 that addresses some suggestions we do have. I'm just going to  
12 highlight a couple today.

13 The first one is with the job offer itself. Right  
14 now, under the regs, we're required to submit or give a job  
15 offer to an injured worker even if that injured worker has lost  
16 no time. We think that that will increase some of the friction  
17 and costs in the system. We think in cases where there are  
18 [sic] no lost time, that a job offer shouldn't be required.

19 We also have issue with physician reports,  
20 specifically the Physician's Return to Work and Voucher Report.  
21 These are often incomplete when they're submitted. Yet, they  
22 are the catalyst to start the 60 day process. If the employers  
23 don't have the critical information needed, then they can't  
24 make the decision of whether they can accommodate an injured  
25 worker. So we would just ask to define the start of the 60

1 days as a complete report and define that report as when the  
2 injured worker's condition is permanent and stationary or  
3 reached maximum medical improvement, that the injured worker  
4 suffered some permanent partial disability, and that the  
5 permanent restrictions are set out explicitly in the report.

6 And then, finally, the voucher expiration date has a  
7 variety of different ways it's phrased throughout these regs;  
8 and so we'd ask for consistent definition to reduce litigation  
9 in challenging the expiration date.

10 With that, that concludes my comments today, and I  
11 thank you.

12 MS. OVERPECK: Thank you.

13 Debbie Freeman.

14 DEBBIE FREEMAN

15 MS. FREEMAN: My name is Debbie Freeman, D-E-B-B-I-E,  
16 Freeman, F-R-E-E-M-A-N.

17 I am a return to work coordinator, and my main role is  
18 to encourage employers to take their injured workers back to  
19 work, and that I help the insurance company prepare all the  
20 forms to document those offers of regular, modified, and  
21 alternative work. So I'm here to talk about the forms in  
22 particular because I use the forms every single day of my life,  
23 and I've actually tested the new ones after 1/1/13. I already  
24 submitted my comments online this morning. Therefore, I'm not  
25 going to read everything on the four pages; but there's a

1 couple of issues on each form or process that I think is really  
2 important that I just wanted to point out today that you have  
3 it in writing with you guys. I'm a little nervous because I've  
4 never testified before.

5           Okay. So the first one is the Notice of Offer of  
6 Modified Work for the 1/1/04 to 12/31/12 dates of injuries.  
7 There's one box where we have to enter the date job starts, and  
8 right now it is a date field. And I would like to recommend  
9 that it may be a text field because sometimes employers could  
10 offer a position absent somebody quitting, termination, or what  
11 have you; and I would like to have a "see an attached  
12 explanation" of why we're not putting the start date and this  
13 is why. Right now, how I get around it is I'm leaving that  
14 space blank; and then I attach an addendum explaining what the  
15 offer is. The actual job title's on the form. There's more  
16 character lines on the form; but for some reason, EAMS won't  
17 let you type in more than 20 or 25 characters. Sometimes  
18 people have job titles that are too long, and you can't put the  
19 whole thing in there. So if we can make the characters go all  
20 the way to the end of a line on all of the forms, that would be  
21 great. Right now we have to abbreviate.

22           Okay. The Notice of Offer of Regular Work, the 10118,  
23 for 1/1/04 to 12/31/12 dates of injuries, the same thing on the  
24 other offer -- I would like to have the start date to be a text  
25 field so we can write things other than a date in there. This

1 form, for whatever reason, never entered the preparer's name,  
2 signature, and the date for the person preparing it like I do.  
3 So the 10133.53 form has a spot for that. Your 10118 form has  
4 never had a spot for that, and I would like to see that on  
5 there so I know who's actually signing it, dating it, and  
6 actually mailing it out to the injured workers.

7 MS. OVERPECK: Could you talk just a little slower please?

8 MS. FREEMAN: Sorry.

9 MS. OVERPECK: You guys got that? Okay. They're good.

10 MS. FREEMAN: Again, I put page numbers for everything on  
11 my four page thing that I did online for you guys.

12 Okay. The next one -- the Supplemental  
13 Nontransferable Training Voucher form, the 1133.57 form --

14 MS. OVERPECK: They're writing down everything you say, so  
15 you need to be a little slower.

16 MS. FREEMAN: Okay. Supplemental Nontransferable Training  
17 Voucher form is the 10133.57, I believe. This form does not  
18 have a Proof of Service currently; and now that we have to put  
19 the Statute of Limitations on the first page of the form, I  
20 think it's really important that we put a Proof of Service  
21 attached to it so that the carrier can prove that they sent it  
22 out on "XYZ" date so that they can enforce the two year, five  
23 year rule, depending on what the claim is. I have a big issue  
24 with the Proof of Service that you have on the new forms, which  
25 I'll get into. Right now, I encourage every carrier to send

1 out a Proof of Service with every Notice of Offer of Regular  
2 Work, Modified Work, and this form because it's not in the  
3 form.

4           Okay. On page three of the Supplemental  
5 Nontransferable Training Voucher form, I would like to see  
6 added the dispute paragraph. So the new form for the post  
7 1/1/13 files has really nice paragraphs explaining to the  
8 injured workers what their rights are on the SJDB. I would  
9 like to see some of those copy and pasted and put on this form,  
10 which I put in detail writing in what I submitted. So, for  
11 example, I think it's good to put the dispute process for the  
12 injured worker so that they know here's the link, here's what I  
13 do, and most importantly --

14           MS. OVERPECK: Please slow down.

15           MS. FREEMAN: -- what address to send it to. I recently  
16 had to do a position statement for dispute resolution, and  
17 there was nowhere on your state website what address -- who it  
18 goes to. So if I can't figure it out by calling you guys, the  
19 poor injured worker is not going to be able to figure it out.  
20 So I think that it's really important that that's on there.

21                   Second one is I think you guys should add the  
22 information and assistance paragraph on this form as well.

23                   And, lastly, on this form, you guys now have a fact  
24 list for SJDB on your website, which I think is very good; and  
25 I think for injured workers it would be nice if you put a

1 sentence about the facts and the link, and I think it would  
2 really help injured workers understand when they're getting  
3 this four page document what the heck does it mean. So I think  
4 that would be really good.

5 Okay. The next form, Request for Dispute Resolution,  
6 is the 10133.55; and this is used for all dates of injuries.  
7 This is a biggie, and maybe I missed it; but I don't think so.  
8 The prior rules and regs that were in force in '08 had rules  
9 and regs for the dispute process. I looked at the rules and  
10 regs this morning. I think you guys left them out. I don't  
11 see any rules and regs for the dispute process anywhere in the  
12 rules and regs; so that needs to be added, a whole new section.  
13 And if you could add the address where the form is supposed to  
14 be sent to, add that to your website, that would be great.

15 Okay. The Description of Employee's Job Duties, which  
16 could be used for all dates of injury -- that new form is a  
17 10133.33 form. This form has not been turned on yet to be  
18 fillable PDF files, so I can't even test it to see if anything  
19 is wrong with it. So somebody needs to turn it on at your  
20 company so we can use it and see how it works. I feel that the  
21 job description form is not detailed enough; and, most  
22 importantly, with the Physician's Return to Work form, they  
23 don't even match up. So the doctor is looking at one form and  
24 trying to fill out the other. Nothing matches up, and I think  
25 they need to match up and be more detailed; and I did hand in a

1 sample job description for that.

2 I'm almost done. The Notice of Offer of Regular,  
3 Modified, or Alternative Work -- that is the new 10133.35 form.  
4 It is for post 1/1/13 date of injuries. I do not like having  
5 one form for regular offers and one form for modified and  
6 alternative. I really think it's going to confuse injured  
7 workers, especially if the carriers don't fill it out right;  
8 and you have things on the form like don't use this page if  
9 it's a regular work offer, yet there's things on there that you  
10 need to document the regular work offer. So I really think it  
11 should be two forms, as much as you guys probably don't want to  
12 do that.

13 Proof of Service -- this is my one big beef with all  
14 of your new EAMS forms. The Proof of Service on the one page  
15 had the big block to put like my name and address because I'm  
16 sending it by Proof of Service, plenty of room. Then two  
17 sections down, you have one line to prove who you're sending it  
18 to by Proof of Service. There's no way you can list an injured  
19 worker and their address, an employer and their address and --  
20 God forbid an attorney being on there -- applicant and defense  
21 and their address. The line is so small you can't even put the  
22 whole four addresses and names on there. So how I'm getting  
23 around it right now -- because I've actually worked with the  
24 file -- I'm actually putting "See Proof of Service", their  
25 names, and attach my own Proof of Service because we're

1 supposed to prove under penalty of perjury who we're mailing it  
2 to; and you can't do it with the form the way it is right now.

3           The Supplemental Job Displacement Nontransferable  
4 Voucher form, or 10133.32 -- this is the new form for post  
5 1/1/13 date of injuries. It is not opened up for us as a  
6 fillable PDF document. I tried playing with it this morning to  
7 test it. I still can't test it, so I can't tell you if there's  
8 anything wrong with it; but it's not usable for anybody to use  
9 right now. I think on that form, like I mentioned on the other  
10 one -- because we put a tab to the SJDB facts for the injured  
11 workers, the sentence with the link. I think that would really  
12 help injured workers understand what it is they're being told  
13 they can use it for. I think putting the dispute paragraph on  
14 there with a link would be helpful to the injured workers if  
15 they needed to file a dispute, as well as what address, where  
16 to send it to, and, of course, a Proof of Service, which I've  
17 already gone over.

18           Last one before I get to the rules and regs -- the  
19 Physician's Return to Work and Voucher Report, 10133.36, for  
20 post 1/1/13 dates of injuries. I really don't like this form.  
21 It's got a lot of -- it doesn't match the job description.  
22 It's technically supposed to be a physician's return to work  
23 report. Voucher report really has nothing to do with the  
24 doctor. I mean we're supposed to be able to get this form and  
25 send it to the injured worker and the employer to try to get

1 them back to work. I don't like the voucher report name on  
2 there; and as the gentleman before me just mentioned, look how  
3 long it took for doctors to get the PR-4 filled out. It took  
4 them years to figure out how to fill out the PR-4. It's going  
5 to take them years to get the 10133.36 form filled out; and how  
6 I read the rules and regs, technically the process does not  
7 start until you get that form and there's one percent or more  
8 PD in it. So these files or these carriers could be open for a  
9 long time trying to resolve this issue because they can't  
10 settle the voucher anymore. I don't know what else to say  
11 about that, or maybe I'll think of something else; but if  
12 you're going to keep the form, at least make it the same as the  
13 job description so the doctor can look at them both and be able  
14 to go back and forth and check off the boxes. And the other  
15 two don't mesh at all. They don't mesh at all.

16 Okay. The rules and regulations -- there's nothing in  
17 the section, and I'm not an expert in this area; so I didn't  
18 propose any rules and regs. A lot of injured workers quit.  
19 They voluntarily leave, or they retire; and it's not the  
20 employer's fault that they quit or they retire. And, yet,  
21 we're still having to make an offer in writing to avoid paying  
22 them the voucher. So how I'm getting around it with my  
23 carriers and employers that I work with is I put an addendum in  
24 saying "absent voluntary termination of this date or  
25 resignation, this position would have been available"; and then

1 we're actually mailing out a whole packet to prove what is  
2 being offered just so that they don't have to be offered a  
3 voucher just for simply quitting. It would be nice if there  
4 was a paragraph with this population of files for that subject  
5 matter.

6 Also, I already mentioned the dispute process. I  
7 didn't see it. There's no rules and regs. They left it out of  
8 the whole thing.

9 And then, lastly, as the gentleman before me had  
10 mentioned, how I'm looking at the rules and regs and stuff, as  
11 well as the City of Sebastopol v. WCAB. Technically, no lost  
12 time claims should have to have any of these forms as a  
13 mandatory form; so I would like to see some kind of language  
14 put in there where there's absolutely no lost time, PD or not.  
15 When there's absolutely no lost time at all, maybe we shouldn't  
16 be doing this process. I can see a lot of employers having to  
17 pay out six grand for a voucher on this population of files as  
18 a law. That's going to increase costs out through the roof.

19 That's it.

20 MS. OVERPECK: Thank you, Debbie.

21 David Rockwell.

22 DAVID ROCKWELL

23 MR. ROCKWELL: Hello. Sorry. I don't have a card. My  
24 name is David Rockwell. I'm here speaking on behalf of the  
25 California Applicants' Attorneys Association. Yesterday I

1 submitted our four pages of suggested changes and comments on  
2 regulations through email. I hope you got those, but we'll  
3 make sure.

4           So I just want to touch on a couple of things that I  
5 think are most important for the people who are writing these  
6 regulations. Those deal with the computer purchases and the  
7 miscellaneous expense payments that are requested. First, I  
8 have a problem with the computer purchase, requiring an injured  
9 worker to put out up to \$1,000 to purchase a computer him- or  
10 herself. I think that violates the constitutional guarantee of  
11 a compensation system without encumbrance. It also really  
12 eliminates a lot of people in my practice who have lost their  
13 jobs, are out of work, have no resources.

14           I have -- one of our clients is a woman named Tracy  
15 who is an emergency medical technician who lost her job and is  
16 living at home with her two children, one of whom is autistic.  
17 Excuse me. She lost her home. She was evicted from her home.  
18 She's living at her parents' home now, and her only source of  
19 income -- because she's out of permanent disability and has run  
20 out of SDI -- is the Social Security benefits that her autistic  
21 nine-year-old receives. This woman has no way of getting a  
22 computer if that's what's necessary to help her regain her  
23 skills because she does not have that money to put out.

24           In addition, we would ask that time limits be put on  
25 the reimbursement for the computer. We also think that a

1 system could be set up so that an injured worker could go to a  
2 retail dealer for computers, obtain an invoice. That can be  
3 the basis for payment by the carrier without a need for the  
4 employee to put money out of her purse. We also think there  
5 should be a time limit on reimbursement for, or payment for, a  
6 computer, as well as for the miscellaneous expenses. It's good  
7 that you have that form in there, but there's nothing telling  
8 the carrier or the employer when that has to be paid. Again,  
9 we suggest 20 days, and this is based on my experience over  
10 time trying to get insurance companies to abide by simple rules  
11 and make payments in a timely basis.

12 I had to go to an expedited hearing yesterday after  
13 filing a sanction and also filing penalty petitions in order to  
14 get mileage of over \$600 payable to somebody who had first  
15 requested it back in September last year. We had had monthly  
16 requests to pay the same mileage. I filed a penalty petition  
17 three months ago. They still didn't pay. We finally went to a  
18 hearing yesterday, and they had paid Friday. Without some  
19 language in there detailing when the payments must be made,  
20 these would just be ignored; and we think that's important.

21 Finally, regarding the form and the new changes for  
22 the form regarding the form 10133.35, the old form 10118  
23 recognized that it was a valid reason for turning down an offer  
24 in line with the statute, that is 4658.1(f), that the work  
25 should be on the same shift. 10118, the previous form, did

1 recognize that in its -- the body of it. You can check. I'm  
2 not accepting this because it's a different shift. That has  
3 disappeared from the form 10133.35, although the statute hasn't  
4 changed. The language in the regulations still requires that,  
5 but it should be made more clear.

6 Finally, we, again, reiterate comments we made in  
7 terms of the previous emergency regulations, again, because we  
8 think they're so important -- about the importance of not being  
9 able to have a voucher for retraining even if the employee is  
10 not lawfully entitled to reemployment. The purpose is it  
11 eliminates any incentive for employers to hire the old workers.  
12 The employer has less of an incentive to provide a safe work  
13 environment for its workers, both documented and undocumented.  
14 Labor Code Section 1171.5 reiterates the important goal of not  
15 denying benefits to workers who are undocumented; and that is  
16 an important public policy, especially in this state, and we  
17 feel it's important to be recognized throughout this process.

18 Anyway, those are our comments; and thank you very  
19 much.

20 MS. OVERPECK: Okay. I was going to check the latest  
21 sign-in sheet. Jeffrey Katz?

22 UNIDENTIFIED MEMBER OF THE AUDIENCE: I'm speaking on the  
23 interpreter part.

24 MS. OVERPECK: Oh, okay. Peggy Sugerman.

25

1 PEGGY SUGARMAN

2 MS. SUGERMAN: Good morning. My name is Peggy Sugarman.  
3 I'm the Director of Workers' Compensation for the City and  
4 County of San Francisco. We cover over 29,000 employees.

5 I just have a few comments, actually, couple of small  
6 ones, and then a little bit more meaty one.

7 First of all, the proposed 10133.31, which is the  
8 requirement to issue Supplemental Job Displacement  
9 Nontransferable Voucher for injuries occurring on or after  
10 1/1/2013, and section 10133.34, which is the offer of work for  
11 injuries occurring on or after January 1st, 2013, really do  
12 contain duplicative requirements regarding the time frames on  
13 receipt of the Physician's Return to Work Report, the  
14 qualifying requirements for a job offer, and entitlement to the  
15 vouchers. An offer can't be made, so what we're suggesting is  
16 that you merge these sections so it provides claims adjusters  
17 and the claims administrators with one process to kind of  
18 complete this offer and entitlement issue so that you don't  
19 have to look in two different places to figure out what the  
20 time frames are, things like that.

21 These same two sections -- I think that they should be  
22 consistent with the statutory language in 4658.7, a small  
23 change, which we recommend that you add that where an employer  
24 is not able to make a qualified offer of employment within 60  
25 days of receipt of the first report received from either the

1 primary treating doctor, the AME, or the QME. And while we  
2 think this is going to cause some problems, that's really what  
3 the statute says; and the regulations leave out that its  
4 receipt of the time frame triggers from receipt of the first  
5 report, so it should be consistent with the statute to create  
6 some clarity.

7           And there's going to be multiple avenues of dispute  
8 over the worker's entitlement or medical status, that the  
9 statute is clear on that point.

10           So I want to talk about the dispute process a little  
11 bit. The proposed regulations retain the process for the  
12 parties to resolve the dispute about the vouchers --  
13 entitlement to vouchers, the appropriateness of the job, what  
14 the Administrative Director's office does; so this is an  
15 administrative system. When you examine the statute, there's  
16 no mandate to have an administrative system at all to resolve  
17 these issues. This is something that's kind of created out of  
18 your broad authority under the prior supplemental job  
19 displacement benefit and the current one. In the current new  
20 section, the language specifically requires the Administrative  
21 Director to adopt regulations for the administration of the  
22 section, including, but not limited to, the adoption of  
23 regulations governing the time matter and content of the notice  
24 of rights and the mandatory attachment to a medical report to  
25 inform the employer of the employee's work capacity.

1           So given the substantial challenges that the  
2 Administrative Director has today to do other things, we're  
3 wondering why you would want to retain what really is an  
4 artifact of the old former 139.5 rehabilitation statute, where  
5 you had an administrative dispute resolution process that was  
6 specifically mandated and supported by the statute, where the  
7 force in effect at the time of the termination of the old  
8 Rehabilitation Unit actually was required and was then  
9 appealable to the Workers' Compensation Appeals Board if  
10 disputed. Here you sort of retain this administrative process  
11 really without a mandate to do so. You have plenty to do. We  
12 think it should be simply eliminated. Most of these disputes  
13 get resolved in front of a Judge, anyway, under current  
14 practice; and I think it's confusing to have two different  
15 avenues to resolve these for unrepresented workers who have  
16 disputes about this. That's kind of why we have I and A  
17 Officers who can help get the issue before a Judge if there's a  
18 dispute. We think that's the proper avenue to resolve these.

19           Lastly, again, at the time you create a new  
20 administrative process, the employers receive an assessment for  
21 that. The City of San Francisco has paid about two and a half  
22 million dollars this year for the DIR assessments; so, again,  
23 anything that you can do to reduce your administrative burden  
24 would be appreciated.

25           Thank you for your time.

1 MS. OVERPECK: Thank you, Peggy.

2 So I don't have anyone else signed up on the sheets in  
3 front of me, but please come on up if you would like to make a  
4 comment.

5 JASON SCHMELZER

6 MR. SCHMELZER: Okay. Thank you. I'm not even sure I  
7 know how to spell my name, so we'll try. Jason Schmelzer with  
8 the California Coalition on Workers' Compensation. It's Jason,  
9 J-A-S-O-N, Schmelzer, S-C-H-M-E-L-Z-E-R.

10 Excuse me. I want to reiterate a few points, first  
11 maybe just echo the comments of the Cal Chamber; and the two  
12 specific points are in situations where you have an injured  
13 worker that's either having lost time or returned to work. The  
14 employer has this requirement that you send them the job offer  
15 to do something along those lines. It just seems like the  
16 situation would warrant no action. And by kind of pivoting  
17 away from that and requiring some action, all it does is really  
18 increase the administrative complexity of the system; and it's  
19 just kind of unnecessary. So we would just prefer you not do  
20 that.

21 Secondly, it would just be the receipt of the  
22 report. I would like some clarification that the report be  
23 complete. A lot of the time you get a report that says one or  
24 two things, but it doesn't have the five pieces of information  
25 that you need to actually process the request. So we prefer

1 that there be some indicator of what a complete report is so  
2 the 60 day time frame doesn't pass while the employer is trying  
3 to figure out all of the necessary details.

4 So with that, those are the only two comments I have.  
5 Thank you.

6 MS. OVERPECK: Thank you. Okay. Is there anyone else who  
7 wants to make a comment at this time on the supplemental job  
8 displacement benefit voucher regulations? All right. Seeing  
9 no one -- and I will come back to this at the end in case  
10 somebody else comes or you think of something new.

11 Let's move on to the interpreter certification  
12 regulations. And so I don't forget, let's start with Jeffrey  
13 Katz.

14 JEFFREY KATZ

15 MR. KATZ: Good morning. My name is Jeffrey Katz, and I  
16 have an interpreting company in the Bay Area, and I am also a  
17 chiropractor and Qualified Medical Evaluator here in the State  
18 of California. We have been watching the regulations come  
19 through today about some of the new regulations which I hadn't  
20 seen before which clarified a couple of things while I was  
21 sitting there. But the last regulation of the State of  
22 requiring whether a person will be considered certified or  
23 qualified, the statements state that it would -- may be -- I  
24 have it right here. I know if you change that reasonably from  
25 "may" to "shall," that was a big change I saw to take place,

1 which I guess has clarified that one comment in there.

2           The concern I have, though, right now, regarding  
3 interpreters and a lot of the interpreting agencies is that we  
4 have interpreters working for us for many, many years who have  
5 a great amount of experience working in all types of medical  
6 settings that prove themselves to be extremely effective in  
7 helping an injured worker, and they have gone through training,  
8 you know, with the ACEBO Interpreting Program and studying the  
9 standards for interpreting by the California Healthcare  
10 Interpreters Association.

11           The big concern we have right now is this transition  
12 period that's going to take place. Obviously, from the sheet  
13 of paper I've got today, you've announced that we will bill to  
14 distinguish or determine that a person is qualified to  
15 interpret at a medical appointment setting by going to a  
16 website. Now, I can tell you that when we first -- when we  
17 first found out of the regulations at the beginning of the  
18 year, we put an ad in -- throughout all of Northern California  
19 for an interpreter with a certificate, and we got one response.  
20 The big concern we  
21 have -- we have lots of interpreters throughout the State of  
22 California who are very well trained, and in order for them to  
23 get certified -- and we're still not clear on this -- they  
24 would have to take some type of certificate program.

25           The shortest that we found online will take six

1 months, full-time, to get this. And in that period of time, we  
2 don't know what we're going to be able to do for interpreters  
3 in all these medical settings, at MRI centers, surgical  
4 centers, chiropractic offices, pain management offices. So my  
5 concern to you is what we do through our transition period.  
6 How do we handle the lack of certified interpreters for medical  
7 settings?

8           And for us to use a certified interpreter that we  
9 normally use at the DWC or at depositions or at transcript  
10 reviews, their prices are up to \$50 an hour, two-hour minimum.  
11 And we don't know what our, you know, fee schedule is going to  
12 be for medical settings. And I don't think any interpreting  
13 agencies -- we have to depend upon certified interpreters to do  
14 this through this period of time while people get certified for  
15 medical appointments. We won't be able to handle all the need  
16 for interpretations. That's a big concern, is this transition  
17 period.

18           And the concern is that there is going to be hundreds  
19 of interpreters who have been working in medical settings for  
20 years and years and years that are without jobs, right away.  
21 And these people will not be able to say: Oh, I will just quit  
22 my job for six months or a year to go to city college and take  
23 an interpreting class so I can get a certificate. They cannot  
24 financially do that. That's my concern about this transition  
25 period. Thank you.

1 MS. OVERPECK: Thank you.

2 Iris Van Hemert.

3 IRIS VAN HEMERT

4 MS. VAN HEMERT: Correct. Good morning.

5 Good morning. My name is Iris Van Hemert. I-R-I-S.  
6 Last name, V-A-N. Separate word, H-E-M-E-R-T. I am an  
7 interpreter. I'm certified by the State of California. I'm  
8 certified as a medical interpreter, administrative hearings  
9 interpreter, and I also have a court interpreter certification  
10 through the National Center for State Courts, otherwise known  
11 as a consortium, which is now accepted in California.

12 This is really exciting to me to have these changes,  
13 what feels like to finally take place. Overall, I want to  
14 complement at least the group that was involved in putting this  
15 together. I see some really, really good things here. I want  
16 to say I'm really pleased to see the addition of the  
17 confidentiality clause that's emerged for interpreters. I  
18 think to actually have that specific designation is really  
19 important, to include that as part of the criteria, not just  
20 for the certified interpreters but also for the qualified  
21 interpreters. Equally important.

22 This brings me to a concern in terms of under that  
23 particular clause. A current trend that we interpreters have  
24 seen is that carriers/insurance companies contract with  
25 vendors, their own vendors. They call them "vendors." And

1 these are generally out-of-state companies that provide  
2 interpreter services.

3           A concern is oftentimes these companies don't  
4 understand California rules and regulations, so what happens is  
5 you'll have, unbeknownst to some of the parties, two  
6 interpreters show up. And, again, I'm speaking at the medical  
7 setting, two interpreters show up -- someone perhaps contacted  
8 by an applicant's attorney -- to provide services for a client  
9 at a medical appointment. And the second interpreter will show  
10 up, apparently called by these vendors and, in turn, contacted  
11 by claims. And my personal experience, I have found myself in  
12 that situation, and oftentimes, more often than not, a  
13 non-certified interpreter has appeared, and the non-certified  
14 is elected over the certified interpreter because there is a  
15 contract with the vendor.

16           Going back to the confidentiality and the connection,  
17 oftentimes these out-of-state companies will require their  
18 interpreter, who is usually non-certified, to provide a report  
19 of the event. They are asked to provide details. What was  
20 discussed? Who were present? Who was the doctor? What were  
21 their recommendations? Was the patient released back to work?  
22 This is a clear violation to the now clause for  
23 confidentiality. It is strictly incumbent on the interpreter  
24 not to disclose these confidential -- this confidential  
25 information.

1           And going back to -- I applaud that this particular  
2 clause is finally in here, and I hope it gets communicated to  
3 claims, in particular, because they do tend to contract with  
4 these -- these vendors.

5           Going back to what's the criteria for a qualified  
6 interpreter, I'm glad also to see an absolute distinction  
7 between certified versus a qualified. The only concerns I see  
8 is what the tool is going to be to determine that a particular  
9 person has met the criteria.

10           It says here a documented and demonstrated  
11 proficiency. I like to use the word "mastery." I think it  
12 just elevates the quality of the work just a little bit more.  
13 Knowledge in healthcare terminology. I -- I agree with that  
14 absolutely. Interpreter ethics, again, absolutely important.

15           But going back to how is that measured, it indicates  
16 here that there will be a list maintained by the AD. I believe  
17 it says it will be maintained for the span of about a year. So  
18 a question is, then: What happens after that year? Is there  
19 an expectation that that qualified interpreter become certified  
20 within that year? Is there a fee that goes with that to  
21 maintain on the list? There is a recertification fee that's  
22 annual for each certification that the interpreter holds. Will  
23 something like that take place? How do the -- how do the --  
24 how will medical staff, i.e., doctors know to distinguish  
25 between a certified and non-certified? Is there a separate

1 designation on the PR-2? Et cetera.

2           If there is going to be a list, is it going to be  
3 neces- -- for qualified, going back to the non-certified  
4 qualified, if there is going to be an online list available  
5 that we can avail ourselves of, will prior authorization be  
6 necessary, or can when we submit billing to the carriers, will  
7 we reference that this is where this interpreter came from?  
8 Because, again, going back to the language in the changes, it  
9 indicates that the carrier isn't liable for payment if the  
10 interpreter was non-certified.

11           So if -- if that is my understanding, it sounds  
12 somewhat of a contradiction. So I -- I would ask that that be  
13 cleaned up or clarified some. There is, again, going back to  
14 unless the carrier/claims consents to it beforehand, it will be  
15 acceptable. But if there is a list, is that really  
16 necessary?

17           Let's see. I'm a big advocate of getting trained, and  
18 so to have this requirement, I understand that it's going to be  
19 time-consuming for any potential future interpreter. I have to  
20 say, it is absolutely worth the investment. This is a  
21 fabulous, fabulous job that I have, and my colleagues share in  
22 their enthusiasm for this profession. And to see that -- to  
23 see it get the recognition in -- in this light is actually  
24 really a positive thing.

25           So with just those few concerns, I really want to

1 applaud the effort to really clean this up, and so I thank you  
2 for that. So those are my comments. Thank you.

3 MS. OVERPECK: Thank you.

4 Rod Olguin.

5 ROD OLGUIN

6 MR. OLGUIN: Good morning. My name is Rod Olguin, R-O-D.  
7 Last name, O-L-G-U-I-N. I'm a State certified interpreter, and  
8 I'm also an administrative certified interpreter. I am the  
9 vice- -- past vice-president of the California Workers'  
10 Compensation Interpreters Association, and last, but not least,  
11 I'm also the CEO for ABC Interpreting, an interpreting agency  
12 in Fresno.

13 I would like to thank you for this opportunity to --  
14 to address our concerns regarding the effects of these new  
15 regulations we will have not only on our profession but also in  
16 our livelihoods.

17 One of the provisions brought forth by SBA 863 states  
18 that an employer should not require -- be required to pay the  
19 services of an interpreter who is provisionally certified  
20 unless the employer consents in advance to the selection of the  
21 individual who provides the interpreter service.

22 As an interpreting agency owner whose business is  
23 located in the Central San Joaquin Valley where there are a  
24 total of five -- five medical certified interpreters for  
25 Tulare, Fresno and Madera Counties, combined, I have been in

1 situations in which I had to request pre-authorization from the  
2 Claims Administration to use a provisionally-certified  
3 interpreter. This request is made via fax, with an  
4 accompanying Proof of Service. Normally, the requests are sent  
5 out three to four weeks prior to the scheduled medical  
6 appointment.

7           When it comes to a medical provider, the Claims  
8 Administrator has five days to respond to the request for  
9 authorization for treatment. My question would be: How much  
10 time does a Claims Administrator have to respond to requests  
11 for the use of a provisionally-certified interpreter? I think  
12 something should be spelled in the regs giving a time frame for  
13 them to respond as well.

14           Referring back again to the same section that states  
15 that an employer should not be required to pay for the services  
16 of an interpreter who is provisionally certified unless the  
17 employer consents in advance to the selection of the individual  
18 who provides the interpreting service, in this context of  
19 pre-authorization, as they call it, if the interpreter is --  
20 that is to provide the interpreting service on a medical  
21 treatment appointment is a certified interpreter, do we need  
22 authorization?

23           Also, is pre-authorization from the Claims  
24 Administration required when the interpreting service that is  
25 going to be provided in connection with a QME or an AME

1 appointment if the interpreter that is going to provide the  
2 service is certified? That is not clear to me, and I thought  
3 that it would only be required to ask for that  
4 pre-authorization if it was involving a non-certified  
5 interpreter. I just wanted to get more clarification.

6 As my colleague mentioned previously, often I've been  
7 retained by the injured worker's attorney to translate for his  
8 client on a QME appointment. In many occasions, a second  
9 certified interpreter shows up at the same appointment where he  
10 or she has been retained by the Claims Administrator.

11 California Labor Code Section 5811(b)(1) reads: "It  
12 should be the responsibility of any party producing a witness  
13 requiring an interpreter to arrange for the presence of a  
14 qualified interpreter." Similarly, in the Instructions Page of  
15 the State of California Division of Workers' Compensation  
16 Appeals Board Declaration of Readiness to Proceed, in Item 4,  
17 it states that: "The party requiring an interpreter must  
18 arrange for the presence of an interpreter, except" -- and I  
19 repeat -- "except that the defendants must arrange for the  
20 presence of the interpreter if the injured worker is not  
21 represented by an attorney." The pretense here is that a long  
22 as an injured worker is represented by counsel, the  
23 responsibility lies with the attorney to make the arrangements  
24 of an interpreter.

25 I would respectfully ask that you consider including

1 such language with the proposed changes to the regulations in  
2 order to avoid the unnecessary cost to the Claims Administrator  
3 from having to pay for two interpreters.

4 I would also like to address something that I read in  
5 the internet posting regarding the new regulations under the  
6 heading Background to Regulatory Proceedings regarding Senate  
7 Bill SB 863. The section in question indicates that it will  
8 be -- it will amend the Labor Code to state that if an injured  
9 worker cannot effectively communicate with his or her treating  
10 physician because he or she cannot proficiently speak or  
11 understand the English language, the injured worker is entitled  
12 to the services of a qualified interpreter during a medical  
13 treatment appointment. This section indicates that -- and I  
14 quote: A qualified interpreter is distinguished from a  
15 certified interpreter, and the qualified interpreter is  
16 required to meet any requirements set forth in regulations  
17 adopted by the AD that are substantially similar to the  
18 requirements set forth in Section 1367.04 of the Health and  
19 Safety Code.

20 This leads me to understand that the regulations  
21 adopted by the Administrative Director to deem an interpreter  
22 qualified are, quote, substantially similar to the requirements  
23 set forth in Section 1367.04 of the Health and Safety Code.  
24 I'm not sure if any of the panel here has read Section 1367.04  
25 of the Health and Safety Code. I have.

1           But I would like to -- before I discuss this section,  
2 I would ask you to allow me to make a brief comparison between  
3 a translator and an interpreter. The translator is referred as  
4 someone who takes written text in the source language and  
5 converts it into written text in the target language. The  
6 translator does not deal with the spoken word. The written  
7 translation is done normally at a desk from a computer. The  
8 translator normally has access to a plethora of dictionaries,  
9 work vance, technical reference books as well as on the  
10 internet to help him or her in the translation of the document.  
11 Time is not of an essence in the sense that the translator has  
12 time to research the term, if necessary, before making the  
13 translation.

14           On the other hand, the interpreter deals with the oral  
15 component of the dialogue between two or more parties while the  
16 interpreter interpreting from the source language to the target  
17 language in either the consecutive or simultaneous form. The  
18 interpreter has to rely for the most part solely on the  
19 knowledge that has been stored in the brain. There is no  
20 reference book or database easily accessible at the time the  
21 interpretation is being done, whether it be in the simultaneous  
22 or consecutive mode.

23           When the interpretation is being done in open court or  
24 a medical appointment, the interpreting from the language --  
25 the interpreting from one language to the other must be

1 instantaneous. I hope that you will agree that the skills  
2 required for a translator are different from those that are  
3 required for an interpreter. I would also hope that you would  
4 understand that for the purpose of providing interpreting  
5 services to an injured worker who cannot effectively  
6 communicate with his or her treating physician because he or  
7 she cannot proficiently speak or understand the English  
8 language, an interpreter is needed, not a translator.

9           Now we can move to Section 1367.04 of the Health and  
10 Safety Code. I would represent to you that this section deals  
11 with the written translation of documents. More specifically,  
12 the translation of what I quote, "vital documents," and not  
13 with a sentence with the word interpreting. Under a total word  
14 count of 1,123 words in the Health and Safety Code section,  
15 "translation of documents" appears 12 times. The words  
16 "written translation" appears three times. On the other hand,  
17 the word "interpreter" appears twice, and the word  
18 "interpreting," which is basically what an interpreter does,  
19 does not appear at all.

20           And that's -- if the Administrative Director is basing  
21 the requirements for a qualified interpreter on what is set  
22 forth in Section 1367.04 of the Health and Safety Code, I think  
23 a re-assessment should be noted. Thank you.

24           MS. OVERPECK: Thank you.

25           MS. GRAY: Destie, I need to change the tape.



1 interpreting fields. She actually provides language access  
2 consulting services to hospitals and clinics throughout  
3 California, and she is a co-author of CHIA's Organizational  
4 Assessment Tool for Linguistic Access, so it is used to help  
5 hospitals improve their language access program. And this is  
6 what they have to say about the proposed regulations.

7           There is still a generalized lack of knowledge about  
8 the nature of the work that interpreters do and why  
9 interpreting and translation are professional activities  
10 requiring formal education, credentialing and ongoing  
11 continuing education. Many equate the ability to speak two  
12 languages with the ability to orally interpret or do written  
13 translation. As a result, all across the United States,  
14 thousands of people who have some degree of fluency in two  
15 languages are pressed into servants as interpreters and  
16 translators when they lack the skills to provide clear,  
17 accurate and complete communication between those who need to  
18 overcome the language gap.

19           Being bilingual or having advanced language  
20 proficiency is a prerequisite to becoming an interpreter or a  
21 translator, not the final step. Interpreting, itself, requires  
22 the ability to transfer meaning between languages accurately  
23 and completely within a timespan of regular conversation and in  
24 a way that those listening can easily understand.

25           Interpreters must also have a solid command of the

1 subject matter they are interpreting about. Professional  
2 interpreters receive formal training to develop the advanced  
3 memory analysis and rendition speaking skills necessary to  
4 facilitate communication between people who don't speak the  
5 same language. Many professional interpreting associations and  
6 State polar organizations have defined the skillset including  
7 ASTM International and the Government Interagency Language  
8 Roundtable. The consequences to using untrained interpreters  
9 in medical settings can be dire where communicating information  
10 accurately is a matter of life and death on a daily basis.

11 Multiple studies show the relationship between poor  
12 healthcare outcomes causing medical errors and increased  
13 litigation when professional interpreters are not used. The  
14 combination of high demand and low supply often increases the  
15 pressure to use unqualified and undertrained bilingual  
16 individuals to provide interpreting services. In areas where  
17 State and local government are seeking to reduce costs during  
18 tight fiscal times, this pressure can be compounded by  
19 uninformed litigation decreasing requirements for professional  
20 interpreters working in public or healthcare settings.

21 Because of the life and death nature of healthcare  
22 services, federal and State governments have prioritized  
23 legislation that ensures access to qualified and competent  
24 language services in medical settings. Healthcare interpreting  
25 now has accepted national professional ethics and standards of

1 conduct to accredited national certification programs  
2 increasing academic and vocational training pathways to acquire  
3 basic training at a growing number of trained and experienced  
4 training practitioners, i.e., Certification Commission of  
5 Healthcare Interpreters and National Board of Certification for  
6 Medical Interpreters.

7           In the meantime, there is a substantial agreement in  
8 the field nationally as to what constitutes a qualified and  
9 competent healthcare interpreter. At minimum, the professional  
10 healthcare interpreter possesses knowledge of and competency in  
11 the following areas: Proficiency, formal training education,  
12 continuing education, interpreting skills, healthcare  
13 interpreting protocols, professional ethics and standards,  
14 healthcare knowledge, cultural competency, and cultural  
15 brokering. The National Council on Interpreting in Healthcare,  
16 better known as NCIHC, released national standards for  
17 healthcare interpreter training programs in 2011.

18 I actually have a copy of that I'd like to present to the -- to  
19 your office later in the day. I can take it to your office or  
20 leave it behind, so this way you can reference that to the  
21 education training.

22           MS. OVERPECK: If you have it with you, you can leave it.

23           MS. MANRIQUEZ: Oh, perfect. Perfect. Okay. Great.

24           The document presents standards for the formal  
25 preparation of bilingual or multilingual individuals who wish

1 to enter the healthcare interpreting profession. Both national  
2 -- I'm sorry -- the NCIHC training standards require that the  
3 educational and training programs cover the same areas that I  
4 just mentioned before. It can be tempting to rely on the help  
5 of bilingual employees or individuals; however, without the  
6 proper training and credentialing, the risk to the patient, the  
7 healthcare provider and the untrained bilingual individual is  
8 unacceptably high. Fortunately, the profession is developing  
9 rapidly, and it is increasingly easy to locate and hire  
10 trained, tested and competent professional medical  
11 interpreters.

12 Thank you. That's on behalf of InterpretAmerica.

13 Now, on behalf of CWCIA, first of all, just to give  
14 you an introduction who CWCIA is, for those who don't know who  
15 we are, we were formed by a group of certified and qualified  
16 interpreters and interpreting agencies, our intent upon proving  
17 the professional and economic environment in which we practice  
18 our regulated profession. That is both our mission statement  
19 and our reason for being. In this capacity, the community of  
20 interpreters, including but not limited to the California State  
21 certified interpreters of the court, administrative and  
22 medical, have serious issues with the DWC's current proposed  
23 language for amending Sections 9795.1, 9795.3, and establishing  
24 Section 9795.5. We, at CWCIA, find the State's definition of a  
25 qualified interpreter for purposes of medical treatment

1 appointments to be vague, ambiguous, highly contradictory and  
2 incomplete.

3           Based on the California State Personnel Board's  
4 Bilingual Services Program General Information dated 5/2/05 and  
5 a report from the Personnel Resources and Innovations Division  
6 dated April of 2001, we anticipate that the DIR and DWC will  
7 consider to hold the same level of standards for the  
8 interpreting profession, and I do have that available to  
9 provide to you. The below the st- -- I mean -- I'm sorry. I'm  
10 reading off my script here.

11           My question here, in closing, on behalf of CWCIA is  
12 how will the DWC ensure adoption of the same standards for  
13 interpreters in connection with medical examinations being that  
14 a standard has already been established in California by  
15 statutes and regs by the Department of Managed Healthcare, as  
16 my colleague referenced, Health and Safety Code Section 1367.04  
17 and Section 28 of CCR 1300.67.04, and this is the question: If  
18 DWC establishes an alternative standard for access to  
19 interpreters, it may be sustaining a standard that is  
20 inconsistent with the standard for the delivery of healthcare  
21 in California and the US. To establish an alternative standard  
22 is to suggest that injured workers are not entitled to the same  
23 standard of healthcare according to Medicare, Medi-Cal  
24 beneficiaries or beneficiaries of any of the State's health  
25 plans.

1 Thank you for allowing me to speak.

2 MS. OVERPECK: Thank you.

3 Veronica Perez.

4 VERONICA PEREZ

5 MS. PEREZ: Good morning, Panel. My name is Veronica  
6 Perez, and that is spelled V-E-R-O-N-I-C-A. P-E-R-E-Z is the  
7 last name. And I am also with the California Workers' Comp  
8 Interpreters Association. And the concerns that I'm posing,  
9 I'm posing in a question form. I'm not expecting you to be  
10 able to answer or clarify them, but it's just to post to you in  
11 the event that you haven't taken these questions into  
12 consideration.

13 With regard to the definition of a qualified  
14 interpreter in medical treatment appointments, it specifies the  
15 standards promulgated by the California Healthcare Interpreting  
16 Association or the National Council on Interpreting and  
17 Healthcare. Evidence of these criteria shall be established by  
18 a certificate of completion of the medical or healthcare  
19 interpreter certification program issued by a California  
20 educational or vocational institution. Being that we feel the  
21 definition is very vague and ambiguous, we call to question as  
22 to what are the actual criteria for education and training  
23 along with the actual requirements of documentation to  
24 demonstrate that an interpreter is actually qualified.

25 Also, what are the actual programs that will -- that

1 -- what are the actual programs that are being accepted by the  
2 DIR or the DWC? Who are the State's approved vendors of the  
3 actual programs that meet this requirement? In other words,  
4 educational schools or training centers? Will the qualified  
5 interpreter be mandated to actively attend courses at a  
6 university level, institution or other reputable interpreter  
7 instruction programs while performing work as a qualified  
8 interpreter? In other words, an externship or an internship?  
9 What is actually meant by certificate of completion? In other  
10 words, do you mean academic diploma, degree, credentials,  
11 title, competence of tests, et cetera?

12           And is there a minimum requirement of training hours  
13 or content to define a certificate of completion? Will a  
14 qualified interpreter be tested? If so, by whom and when? How  
15 will the qualified interpreter prove their proficiency of  
16 actually  
17 inter- -- of actual interpreting skills? Who will the  
18 qualified -- oh, is -- is showing a certificate of completion  
19 issued by the DIR or DWC accepted school and/or program --  
20 programs considered a maximum or a minimum requirement to be  
21 deemed a certified or qualified interpreter?

22           How will the DIR or the DWC identify a qualified  
23 interpreter? Will the qualified interpreter be assigned a  
24 number or an alphanumeric sequence? Will the qualified  
25 interpreter be given a badge similar to the ones that the

1 certified interpreters possess?

2 And that is, in closing, of our concerns. Thank you.

3 MS. OVERPECK: Joyce Altman.

4 JOYCE ALTMAN

5 MS. ALTMAN: Good morning. I'm Joyce Altman, J-O-Y-C-E,  
6 A-L-T-M-A-N. I'm a court certified interpreter and also run a  
7 business, an interpreting agency. I too as well have -- I am  
8 here today on behalf of CWCIA and have -- I'd like the  
9 opportunity to continue on with some of our issues. Some  
10 questions we have to ponder.

11 Will the State's Emergency and Proposed Regulatory  
12 text of the definition of a qualified interpreter be deleted  
13 after the State has reinstated testing for administrative and  
14 medical interpreters? Would that definition language be  
15 re-amended based on the contingency that it would only be  
16 applicable to languages other than those designated pursuant to  
17 Section 11435.40 of the Government Code? If there is no  
18 amendment or deletion of the definition once reinstatement of  
19 the test occurs, then what would be the purpose of testing  
20 under provisions of SB 863?

21 Will the definition of qualified interpreter for  
22 purposes of medical treatment eventually be equivalent to that  
23 of a certified medical interpreter? How will this emergency  
24 and proposed regulatory definition be regulated? That is to  
25 say, who will be responsible for the oversight of the

1 qualifications and capacities of a qualified interpreter?

2 Will the qualified interpreter be mandated to pay the  
3 State a fee as to -- and also as to be listed on the proposed  
4 interpreter directories, which is Section 70- -- I'm sorry --  
5 9795.5 similar to the protocol requiring State certified  
6 interpreters that we must pay annual renewal fees?

7 Will the qualified interpreter be mandated to comply  
8 within a certain time frame to take a medical interpreter test  
9 as a criteria to being listed on the qualified interpreter  
10 directory? If there is no such time frame to take a medical  
11 interpreter test, if it doesn't exist, then does the qualified  
12 interpreter's qualification automatically become null and void  
13 by an expiration date?

14 Will the qualified interpreter be able to renew their  
15 qualifications and be relisted on the qualified interpreter  
16 directory after a year? If so, how many renewals will be  
17 allowed before it is deemed that the qualified interpreter is  
18 no longer qualified?

19 If no renewals are allowed, then explain why and  
20 provide how a qualified interpreter can renew under  
21 circumstance if a qualified interpreter cannot become a cert-  
22 -- become certified after a certain number of attempts or  
23 tries, then this item is moot.

24 If qualified interpreters stay on a qualified list  
25 indefinitely, then there wouldn't be any incentive for them to

1 eventually become certified.

2 And lastly, I have a -- I believe I left one with you  
3 last time at one of the hearings, a -- an undated report on  
4 certified interpreter stats. I broke it down for court,  
5 administrative and medical. There are tens of thousands of  
6 assignments in workers' comp alone that take place every day,  
7 and some counties have one or two certified interpreters.  
8 Los Angeles I believe at the current time has 101.

9 So the gentleman that spoke earlier, yes, we need to  
10 get people certified and qualified, but it also has -- it's a  
11 very high -- it's a university-level skill that has the  
12 requirement of knowledge to be able to go in and do the job  
13 correctly.

14 So I would ask that I could -- may I leave this with  
15 you today? Thank you.

16 MS. OVERPECK: Thank you.

17 Robert Duran.

18 ROBERT DURAN

19 MR. DURAN: Good morning. Robert Duran, D-U-R-A-N.  
20 Excuse my handwriting. I too am a member of the California  
21 Workers' Comp Interpreters Association, and I'm a member of the  
22 IPO Committee.

23 My colleagues have voiced a lot of the same concerns I  
24 have already, but some of the issues I have is primarily the  
25 regulation of these newly qualified interpreters. Our concerns

1 are there is no mechanism in place that would help identify  
2 these qualified interpreters. Like Ms. Perez said or Ms.  
3 Altman said, there is no requirement of wearing an ID badge  
4 like the certified interpreters who are in court wear at this  
5 time whenever they are up interpreting.

6 Can a medical provider refuse an interpreter who is  
7 not qualified, the regulations saying you have to be a  
8 certified or qualified interpreter? An interpreter walks in  
9 and says: Hi. I'm your interpreter. Can the doctor say:  
10 Where is your ID badge? And if that person doesn't have it,  
11 what's the consequence?

12 A lot of times we've mentioned out-of-state vendors  
13 that are in California providing interpreters. They are hiring  
14 people with zero, "nada" qualifications. I had an experience  
15 where one showed up at an assignment and couldn't even  
16 translate the word "pain" to the injured worker. There are  
17 many other instances like that. These people -- you qualify an  
18 interpreter under this program, that person says: Hay, now I  
19 can qualify or get somebody else, and the scale goes down and  
20 down and down, and the end result is you are dumbing down a  
21 profession because you're not able to regulate, and there is  
22 nothing that I can see that enforces the regulation.

23 So interpreting agencies need -- agencies or  
24 interpreting agencies -- those words need to be included in  
25 9795.3 as re- -- enforceable events because this way you can

1 assure that that agency located in the State of California,  
2 whether it be Los Angeles, Fresno, or Bakersfield, where I am,  
3 that would say: I will find you a qualified interpreter. I  
4 won't find somebody that's a cousin or second cousin that's  
5 bilingual to go and to do an assignment.

6           And that, folks, is what's happening. The  
7 out-of-state agencies are contracting people who are then  
8 subcontracting people and in some cases subcontracting.  
9 Subcontracting with no regulation at all. Like Mr. Olguin  
10 said, you can have a certified interpreter show up at the  
11 appointment with an interpreter sent by a vendor from the  
12 carrier. The provider calls and says: Okay. Who do I use?  
13 Use our vendor who has zero qualifications. It's mandated.  
14 Use the certified interpreter. The certified interpreter shows  
15 up. That's the person who should be doing it and doing the  
16 assignment.

17           Also, the party requesting the services of the  
18 interpreter should be the person making that determination as  
19 to who the interpreter is going to be, that -- whether it be  
20 the applicant's attorney, he's looking out for who? He's  
21 looking out for his client. The injured worker. And we're  
22 here for one thing: The injured worker. You're going to do  
23 what you're going to do, but it's important that the  
24 regulations be made to make it clear that you do need  
25 identification of the person that's going to be used as an

1 interpreter.

2           And that's about what I have. Everybody else has  
3 covered everything else. But, again, certification, to me, is  
4 more important than qualification. The State of California has  
5 a system for certifying interpreters. They stopped testing.  
6 Okay. But I believe the regulations say that a State of  
7 California interpreter shall be used, not a State of Wisconsin  
8 interpreter or wherever, a State of California interpreter.  
9 And that's all we need, and that's what we want. We want  
10 regulation and enforcement. Thank you.

11           MS. OVERPECK: Thank you.

12           Holly Mikkelson.

13           MS. MANRIQUEZ: Hello again. I'd like to introduce  
14 Ms. Mikkelson. Holly Mikkelson is a State and federally  
15 certified court interpreter and is accredited by the American  
16 Translators Association. She has been a consultant to court  
17 interpreter regulatory and training entities such as the  
18 California Judicial Council and the National Center for State  
19 Courts and has published extensively on court and community  
20 interpreting. She has also consulted on many private entities  
21 on interpreter testing and training. She is a member of the  
22 American Translators Association, National Association of  
23 Judiciary Translators and Interpreters, and the Conference of  
24 Interpreter Trainers. She has spoken at conferences and  
25 presented workshops throughout the Country and all over the

1 world. She is a professor of 35 years and director of the  
2 International Interpreter Resource Center, known as IIRC, at  
3 the Monterey Institute of International Studies, the premier  
4 international graduate school whose flagship program is the  
5 graduate school of translation and interpretation. She is also  
6 co-author of Fundamentals of Court Interpretation, Theory,  
7 Policy and Practice, and the author of ACEBO interpreter  
8 training materials.

9 MS. OVERPECK: Thank you.

10 HOLLY MIKKELSON

11 MS. MIKKELSON: Thank you for that introduction. As she  
12 said, I am -- I have a number of different hats in the  
13 profession. But today I'm here speaking on behalf of the  
14 California Workers' Comp Interpreters Association.

15 MS. OVERPECK: Could I just ask you to state and spell  
16 your name, please.

17 MS. MIKKELSON: Yes. It's H-O-L-L-Y, M-I-K-K-E-L-S-O-N.

18 First, I would like to call attention to what I hope  
19 is a typographical error that I noticed in the Notice of  
20 Rulemaking which gave rise to this hearing today. At the  
21 bottom of Page 3, discussing Labor Code Section 5811(b)(2), it  
22 says: "A new sentence describes the duties of an interpreter."  
23 It states, quote, "The duty of an interpreter is to accurately  
24 and impartially translate oral communications and transliterate  
25 written materials, and not to act as an agent or advocate. An

1 interrupter shall not disclose," and so on. I'm hoping that  
2 this typographical error of "interrupter" instead of  
3 "interpreter" is something that is only in the announcement and  
4 not in the law itself.

5           This is not the first time I've seen this error, and,  
6 unfortunately, it reflects the unfamiliarity with our  
7 profession, that it's so widespread, and it reflects an  
8 inherent mistrust of interpreters. So I would urge you to fix  
9 that typographical error and be mindful that interpreters are  
10 not interrupters.

11           Also in your Notice of Rulemaking, on Page 6, when you  
12 talk about Consideration of Alternatives, it says "no  
13 reasonable alternative considered or that has otherwise been  
14 identified and brought to the Acting Administrative Director's  
15 attention would be more effective in carrying out the purpose  
16 for which the actions are proposed."

17           And I would like to call your attention to some  
18 alternatives that do indeed exist and would meet the purposes  
19 at no additional expense to the DWC. The definition of a  
20 qualified interpreter already exists in nationally recognized  
21 standards. And even though your language in the legislation is  
22 a valiant attempt to designate the different qualities that are  
23 characteristic of interpreters, it is vague, and it does omit  
24 one very glaring thing, and that is the ability to interpret,  
25 message transfer accurately from one language to another.

1           So I would urge you to consider that existing national  
2 standards, first of all, those adopted by the American Society  
3 of Testing and Materials, better known as ASTM, which is a  
4 national standard-setting body for everything in the world,  
5 practically every business and service, every industry in the  
6 US economy uses standards adopted by the ASTM, and ASTM  
7 Standard F, as in Frank, 2089-01 specifically defines what a  
8 qualified interpreter is under Section 8. And even more  
9 specifically than that, it describes a healthcare interpreter  
10 under  
11 Section 11.2.3. These standards are available from the website  
12 of ASTM, and I would add, parenthetically, that we've been  
13 using the terms "medical interpreter" and "healthcare  
14 interpreter" interchangeably, and they are, indeed,  
15 interchangeable.

16           The previous California exam that purported to be a  
17 test for medical interpreters was really for medical-legal  
18 interpreting, and it dealt with many of the issues that  
19 workers' compensation is concerned about, but it was not  
20 oriented towards treating patients. It was oriented towards  
21 medical evaluations. And now that you want to incorporate  
22 interpreters who work at treatment appointments, I think it's  
23 appropriate to adopt the national standards in healthcare, in  
24 general, because these are interpreters who do communicate  
25 directly between a healthcare provider and a patient.

1           The other national standard that I would like to call  
2 your attention to is the Interagency Language Roundtable, ILR.  
3 This is a government body. It's actually a coalition of  
4 different government agencies that use languages in the course  
5 of their business, whatever their business may be. And many  
6 years ago, this organization formed so that they could adopt  
7 standards originally of language proficiency so that government  
8 agencies would know if they had employees providing language  
9 services whether they were proficient in those languages, and  
10 they have long-standing, widely-adopted standards of language  
11 proficiency.

12           There is a scale, and there are also specifications  
13 saying for this type of task you would want someone with, say,  
14 a 3 on the ILR Scale level of proficiency in the language, and  
15 those all are very clearly defined. More recently, the ILR has  
16 adopted specific scales for proficiency in interpreting and in  
17 translating. And between those two for language proficiency  
18 and for interpreting and translating proficiency, I think that  
19 the WC would -- the Department of Workers' Comp would be able  
20 to find all of the definitions it needs to write into the  
21 legislation and simply would be able to site those two  
22 nationally-recognized instruments. The ASTM standard and the  
23 ILR Scale.

24           There also are existing exams. They don't have to be  
25 reproduced in California. The ASTM standards and the ILR Scale

1 of proficiency talk about the end-product. What an interpreter  
2 needs to have to be qualified to render services. But they  
3 don't mention how someone knows whether that interpreter has  
4 those qualifications. How do you measure the qualities of an  
5 individual to know whether they meet those criteria?

6 The way you measure it is to have an exam. Exams are  
7 extremely complicated things, very expensive things to develop.  
8 One reason why the administrative hearing and medical-legal  
9 examinations have been discontinued in California. But there  
10 are two national bodies: One is the Certification Commission  
11 for Healthcare Interpreters, CCHI, and the other is the  
12 National Board of Certification for Medical Interpreters,  
13 NBCMI.

14 They have been in existence for several years now, and  
15 throughout the Country, there are 592 interpreters who possess  
16 certification from CCHI in either Spanish, Mandarin or Arabic.  
17 And, in addition, there are 190 interpreters of other languages  
18 who have qualified for the credential known as Associate  
19 Healthcare Interpreter. They have passed a test of their  
20 English proficiency and their knowledge of the Code of Ethics  
21 for medical interpreters and medical terminology, specific  
22 subject -- specific matters that interpreters need to have a  
23 command of. They have been tested in all those. The one thing  
24 they have not been tested in is their interpreting proficiency  
25 between English and another languages because tests have not

1    been developed yet in their languages.

2                   The other organization, the National Board for  
3    Certification of Medical Interpreters, has over 500 certified  
4    interpreters. They have an exam in Russian, and they also have  
5    one in Spanish, and they are close to rolling out their exams  
6    in Mandarin, Cantonese, Korean and Vietnamese. And I would  
7    point out that these are all languages that are mandated under  
8    Section 11435.40 of the Government Code. They are languages of  
9    great need in California.

10                  So, once again, why should the DWC reinvent the wheel  
11    and try to develop its own test when these  
12    nationally-recognized instruments exist. I would also caution  
13    you to look at the history of court interpreter certification  
14    in California. Beginning in 1978 -- and I was around then -- I  
15    took the first exams that were administered to interpreters in  
16    California. There were tests that were developed by people who  
17    really didn't understand interpreting, did not have any  
18    knowledge of the profession. They did not consult with people  
19    who were professional interpreters. And they developed a test  
20    just figuring out by instinct what made sense that would be --  
21    should be on a test to see if someone is qualified to  
22    interpret. The test was fairly easy to pass. It did not have  
23    any other requirements beyond passing the test once. There was  
24    no continuing education requirement. There was no oversight.  
25    No one knew what people were doing out in the field once they

1 passed this relatively easy test.

2 In the '90s, a San Jose Mercury News series on the  
3 quality of these certified interpreters drew a lot of  
4 attention, and, in fact, it got the attention of the Chief  
5 Justice of the Supreme Court who was scandalized by the  
6 evidence that these certified interpreters were not really  
7 qualified and were providing inferior services. So he  
8 appointed a task force which ultimately ended up tightening the  
9 standards and being much more clear in identifying who was  
10 qualified to interpret in court proceedings.

11 So we do have now Government Code Section 11435.40 and  
12 a number of other amendments that have been made over the years  
13 to the Government Code and others that do clearly identify the  
14 qualifications of legal interpreters.

15 So I would urge you to avoid the mistakes that were  
16 made originally in the court interpreter certification program  
17 by paying attention to the detailed specifications that already  
18 exist to determine who is qualified to interpret in a certain  
19 setting and apply where relevant to the medical treatment  
20 setting.

21 I think that, as I mentioned at the beginning of my  
22 presentation, there is a lot of ignorance about interpreting as  
23 a profession. But, in fact, it has been a recognized  
24 professional endeavor since the early Twentieth Century, and  
25 there have been schools with academic degree programs in

1 interpreting, like the one I teach at, the Monterey Institute  
2 of International Studies, which has a masters degree in  
3 interpreting, among other things. And that has -- over the  
4 years, the existence of these academic degree programs has  
5 enhanced the prestige of the profession internationally.

6           Unfortunately, that prestige has not trickled down to  
7 the local level. But a profession, as opposed to an  
8 occupation, or something that someone simply does to make  
9 money, has a number of characteristics. One of them is that  
10 there is a recognized body of knowledge. And these standards  
11 we're talking about for medical interpreters are a recognized  
12 body of knowledge. And there are accredited institutions that  
13 award degrees attesting to the fact that someone has mastered  
14 that recognized body of knowledge.

15           And there are exams that also prove proficiency in the  
16 areas that have been identified. Professions also tend to be  
17 -- and you can think about the medical profession and legal  
18 profession and so on -- they tend to be in positions of public  
19 trust. They perform very important services. And the public,  
20 not knowing the specialization that they have, has to go by  
21 their credentials and trust that they are competent.

22           So a profession also has a Code of Ethics to make sure  
23 that practitioners are acting ethically in consistently with  
24 the professional standards. And there is a sense of  
25 collegiality. The practitioners of the profession have a sense

1 of identity. That is who they are, rather than this is what I  
2 do for a living. This is my job right now. Professionals have  
3 a sense that I am, in my case, an interpreter. This is part of  
4 my personality. And, as such, I am someone who is constantly  
5 learning more things about language, about interpreting, about  
6 the settings that I work in, and the specialized knowledge that  
7 I need to have.

8 So another hallmark of a recognized profession is that  
9 it has a continuing education requirement. And in other  
10 settings, interpreters do have continuing education  
11 requirements.

12 So that concludes my remarks. I hope that this has  
13 given you a sense of the fact that there are many existing  
14 standards and ways of measuring interpreter competency that  
15 would help you identify qualified interpreters to work in  
16 medical treatment appointments. Thank you very much.

17 MS. OVERPECK: Okay. Thank you.

18 Luis Echeverry.

19 LUIS ECHEVERRY

20 MR. ECHEVERRY: Good morning. My name is Luis Echeverry,  
21 L-U-I-S Echeverry, E-C-H-E-V-E-R-R-Y. I'm a California court  
22 certified interpreter and an administrative hearing  
23 interpreter, and I also own an interpreting agency here in  
24 California.

25 I really want to address the schedule -- the rate

1 schedule. I understand that's not being spoken about. A  
2 couple items that are, I think, a lot of importance here. You  
3 have some language that make it so that for medical  
4 appointments you can have qualified interpreters. You're not  
5 distinguishing other appointments where certified interpreters  
6 are needed, such as IME's, QME's, PQME's, reevaluations, etc.  
7 These type of appointments do require certified interpreters,  
8 according to Code. The problem is when you establish language  
9 here that a qualified interpreter can be used for medical  
10 appointments, and we submit our bills to the carriers, they  
11 seem to dump everything all into the same basket. They don't  
12 distinguish between QME's and a medical appointment or  
13 treatment. Just want to be sure that the Code is clear on  
14 that.

15           The other thing I want to talk about is the  
16 definitions that you have on section 9795.1. You define a half  
17 day for depositions as being three and a half hours. Well,  
18 when we send interpreters to do deposition work, they don't  
19 follow the same schedule that the court has. Most depositions  
20 start around 10:00 in the morning. They tend to last anywhere  
21 between two and three hours. So if you send an interpreter  
22 out, and you're basing half day fee based on three and a half  
23 hours, that interpreter, according to that definition, will  
24 have to stay there all the way up until 1:30 in the afternoon  
25 and still be paid only half a day. The reality is that

1 afternoon depositions start somewhere around one to 2:00 in the  
2 afternoon. If an interpreter gets out of a deposition around  
3 one, 1:30, he needs to travel from one location to the other to  
4 do another deposition. He needs to take a meal break, and it's  
5 literally impossible for an interpreter to make both settings.  
6 By making this definition half day three and a half hours,  
7 you're making it very difficult for interpreters to be  
8 compensated for what should be a full day fee because they  
9 could not -- they could only do one deposition in the morning  
10 and could not do another one in the afternoon. So you need to  
11 be clear on that. Most interpreters here in California --  
12 certified interpreters -- I want to say most interpreters. I'm  
13 talking about most court certified interpreters. Lately, since  
14 there is no more testing for administrative hearing certified  
15 interpreters, the agencies such as mine are forced to use court  
16 certified interpreters. These court certified interpreters  
17 are -- they base their rate based on three hours -- a three  
18 hour job, a three hour deposition; and defining a half day as  
19 three and a half hours makes it very difficult to hire decent  
20 interpreters.

21 That's all. Thank you.

22 MS. OVERPECK: Thank you.

23 Carlos Garcia.

24 CARLOS GARCIA

25 MR. GARCIA: Thank you, Ms. Overpeck. My name is Carlos

1 Garcia. I am here representing the International Medical  
2 Interpreters Association, and I'm the California chapter chair.  
3 I'm also the Executive Director of the National Board of  
4 Certification for Medical Interpreters, and it is for those  
5 certified literal interpreters and nationally certified medical  
6 interpreters that I appear here today speaking on their behalf.

7 I will start with how you described -- how you  
8 detailed what a qualified interpreter is. I noted that you  
9 added conduct, ethics, confidentiality, things that were not  
10 there before; and I think it's a great foundation to work on  
11 and to build on, but I would also like to see if you could  
12 recognize the nationally certified medical interpreters that  
13 are in the state of California. They right now account for  
14 about 200 interpreters. Currently, there are 283 California  
15 certified medical interpreters. If you were to add -- to  
16 recognize those 200 interpreters that are nationally certified,  
17 you will increase by 66 percent the amount of certified  
18 interpreters that are available; and that would increase the  
19 pool of certified interpreters in the state. Just to give you  
20 some numbers -- and Professor Mikkelson talked about that -- I  
21 have updated numbers on that. Currently, those 200  
22 interpreters that are in the state of California are certified  
23 for Spanish; but the National Board just rolled out Russian --  
24 the Russian exam. The Mandarin oral exam came out two weeks  
25 ago; and the Cantonese oral exam came out yesterday. Those

1 exams are now available for candidates throughout the state to  
2 take them. The National Board has 56 oral exam sites  
3 throughout the United States. Four of them are here in  
4 California -- north, south, and in the middle, as well.

5 I would also like to add that, yes, nationally --  
6 National Board has 650 certified interpreters. Of those 650,  
7 100 are in California. The certification commission has  
8 another 100, so that accounts for 200 interpreters.

9 So just to finish and to wrap up, I would -- you know,  
10 there is that definition of being qualified and certified  
11 interpreter. Why would a patient deserve lesser quality of  
12 treatment? Why would we say that you only have the right to a  
13 qualified interpreter depending on the type of assignment that  
14 the interpreter is sent to? So I would say that since  
15 certification testing is now available -- it wasn't, you know,  
16 because the State stopped certifying in 2008 -- I would say  
17 that only certified medical interpreters be allowed to  
18 interpret in health care settings in the workers' compensation  
19 system to safeguard patients' safety but also to safeguard the  
20 validity of those determinations that are done, the  
21 adjudications that are done by the Judges.

22 That is all I have to say. Thank you very much.

23 MS. OVERPECK: Thank you.

24 (Proceedings were off the record while Ms. Gray changed  
25 the cassette tapes being used to record this hearing.)

1 MS. OVERPECK: Renee Ennabe.

2 RENEE ENNABE

3 MS. ENNABE: Good morning. My name is Renee Ennabe,  
4 R-E-N-E-E. Ennabe is spelled E-N-N-A-B-E. And I must begin by  
5 saying that I am very nervous. I'm likely to be very nervous,  
6 not a bit nervous. At first I was nervous because I had to  
7 speak in front of all of you, and I'm not used to that. I'm  
8 used to interpreting, but right now I am nervous because I am  
9 going to be a voice for a lot of my colleagues that stayed  
10 behind in Southern California. And I just texted all of them  
11 before I came in the room because I saw that poster; and now  
12 I'm seeing the hearing today, and I sent them a picture. And  
13 then they all sent me good vibes and everything, and I was  
14 just, like, oh, my goodness.

15 I'm so scared now because I am going to be their  
16 voice, actually; and I am here to tell you more than anything a  
17 personal story -- my personal story. I became certified. I'm  
18 a medical certified interpreter. I became certified in 2002,  
19 and I was inspired by a friend. First of all, I had the need  
20 to work. I had been a stay-at-home mom. I raised four  
21 children, and I had the need to work when my husband's business  
22 took a fall; and I was inspired by a friend of mine that is a  
23 very good interpreter. And she motivated me to go to school,  
24 and I did; and I worked on my language skills, and I learned  
25 about the interpreting profession. I was very lucky because,

1 at that time, State Personnel Board had C.P.S., Cooperative  
2 Personnel Services, administering the test. And it was a very  
3 rigorous test, although I prepared and I went to school for it;  
4 and a lot of my friends that I met in school would study  
5 together in the evenings before we took the test. When I went  
6 to do the test, I found it extremely hard; and I was afraid I  
7 wasn't going to pass. Needless to say, I was very ecstatic  
8 when I received the notice that I had passed the written test.  
9 Then I prepared for the oral exam, and I was so happy that I  
10 said I have to give something back. Even though I was in a  
11 very hard financial situation, I promised that I would donate  
12 my first two months of income to a cause, and I did because I  
13 found the test so rigorous that I said I need to give back  
14 because I passed it. Not because I didn't prepare -- I did  
15 prepare; and since then, I have been preparing day in and day  
16 out to be the best I can be in the interpreting profession.

17 I'm speaking for all my friends that couldn't make it  
18 to the hearing today, and I can relate to what Iris said about  
19 being dismissed from appointments because somebody that was  
20 contracted through a vendor out of state had to stay, instead  
21 of one of us as certified interpreters. It happens to them day  
22 in and day out. It happens to me; and I feel really, really  
23 bad that all of these moneys are really out of state. I mean  
24 they're coming -- they're not staying here in California.

25 So I hope that our interpreters continue to have work

1 here and that the profession is seen as such, as a profession.  
2 Because we do. As a matter of fact, Holly's books -- I have  
3 them. I have her CD's, preparing to take the court exam; and,  
4 now, you know, we always strive to do the best we can in  
5 medical settings, and we become -- we have become very -- not  
6 only -- I'm so sorry -- not only in becoming better in our  
7 language skills but also our impartiality and our ethics. We  
8 try our very best, and I hope that somehow the State will  
9 reinstate a certification program that has the same or higher  
10 standards than C.P.S. had for our test, and that's all.

11 Thank you.

12 MS. OVERPECK: Thank you.

13 Andres Marquez.

14 UNIDENTIFIED MEMBER OF THE AUDIENCE: Is that my name?

15 MS. OVERPECK: Could be.

16 UNIDENTIFIED MEMBER OF THE AUDIENCE: All right. Excuse  
17 me for my handwriting. I apologize.

18 MS. OVERPECK: Sorry to have ruined your name.

19 ANDRES MARQUEZ

20 MR. MARQUEZ: My name is Andres Marquez, A-N-D-R-E-S,  
21 M-A-R-Q-U-E-Z. Hello to all of you at the Board and to all my  
22 colleagues and everybody that's here. I'm really thrilled to  
23 be amongst such a grand audience, and I've been hearing a lot  
24 about the profession and a lot of the concerns; and I've also  
25 been concerned about the profession lately. You know, I see it

1 as maybe it could be in peril, especially after I read the  
2 original proposal. I just had a chance to see the latest  
3 changes, and I'm also at odds about what a qualified  
4 interpreter -- how it's going to be defined. Who's going to  
5 define it? What parameters are going to be used? What  
6 standards? Who is going to define these standards?

7           Personally, I was certified in 2004 as a state  
8 certified interpreter by the S.P.B., State Personnel Board. I  
9 thought it was a very, very challenging test; and I've been  
10 certified since then and paying my dues, and some of my  
11 colleagues mentioned are these qualified interpreters. Are  
12 they going to be on the list? Are they going to be paying the  
13 dues like we all do? So there needs to be some sort of a  
14 standard, something defined in a more detailed way of who,  
15 what, when, where exactly is going to be doing all the  
16 certification of the qualification of the interpreters.

17           I understand that the State Personnel Board doesn't  
18 have a certification program anymore or at least for medical  
19 and administrative. They used to give out tests. I don't  
20 remember when, how long ago they stopped; but that has created  
21 a problem -- the fact that these -- that this State Personnel  
22 Board hasn't been giving these tests. Now, the problem lies in  
23 the fact that there's very -- there's a small amount of medical  
24 interpreters. I understand Mr. Katz, his concerns about not  
25 being able to find enough state certified interpreters; and

1 there's a need for it. Now, the reasons why State Personnel  
2 Board stopped, I have no idea; but some sort of entity similar  
3 to the State Personnel Board could maybe take upon the task of  
4 doing that and maybe solving some of these issues that are  
5 present due to the lack of medically certified interpreters.

6 I have a small business in Sacramento, also, that I've  
7 been struggling to produce of lately because there's been many,  
8 many issues; and one of them is using -- sometimes having to  
9 use court certified interpreters to go to med-legal  
10 appointments where the doctor absolutely requires a certified  
11 interpreter. And in Sacramento there might be maybe five total  
12 or six medically certified interpreters, of which maybe four  
13 will not return a call. So I mean your left with very little  
14 options, and to use administrative and court certified  
15 interpreters is not an option because you have to pay them more  
16 than whatever you're going to recover at the end of the day.

17 In terms of the situation where sometimes there's two  
18 or even three interpreters showing up to the same appointment,  
19 my gosh, what a waste of money. It's a big waste of money, but  
20 nobody seems to care. I've been interpreting for, I don't  
21 know, 15 years plus. I have been seeing this, and it gets  
22 worse. It's gotten worse. Believe me. Sometimes I'll show up  
23 to an appointment. It was set up by the lawyer, the  
24 applicant's attorney; so that's the person who, by law, sets up  
25 the interpreter. All of a sudden, two interpreters -- two

1 other interpreters show up. One was sent out by some  
2 out-of-state entity that was assigned by the carrier, and then  
3 that entity -- somehow, since they have so many workers, there  
4 was a miscommunication; and they set up two different  
5 interpreters to come in to show up. So there's three  
6 interpreters that are being paid at the tune of, I don't know,  
7 maybe \$100 each; so that's \$300 right here right off the top,  
8 and it will get paid because these out-of-state companies do  
9 pay the fees. So I see a lot of waste. So somehow if there  
10 can be some coordination, some wording where who sends who,  
11 that would save in the hundreds of thousands, over years  
12 millions of dollars.

13           Also, sometimes some of these interpreters are not  
14 certified, okay? So -- and since these are sent by the  
15 vendors, then they get the priority. So who would you rather  
16 have stay there -- a medically certified interpreter or the  
17 noncertified, supposedly qualified. By who? Who knows? I've  
18 been hearing about a lot of agencies. I've heard, "Oh, I've  
19 been certified by so and so, by this, by that, by mom and pop,  
20 by Bubba's Interpreting." You know, I mean, really, it's  
21 gotten out of hand. There needs to be some sort of standard.

22           So sometimes no interpreter will show up. I've had  
23 situations where we've called a doctor's office. "Oh, hi.  
24 Applicant's attorney referred us this patient, and we're going  
25 to interpret for them. Oh, no, we're using -- we called such

1 and such agency. We called." They're using their own vendors.  
2 These carriers have contracts out. Okay. Fine. Next thing  
3 you know, they're calling us up. "Hey, there's no interpreter.  
4 But wait a minute. You said that the carrier was going to send  
5 an interpreter. Well, they never showed up, and this person's  
6 waiting here." So you have -- you either have -- sometimes you  
7 have too many; and sometimes you have none. So if there can be  
8 a way of correcting that problem, that would save a lot of  
9 grief and a lot of, you know, wasted time.

10           Also, what I've seen is big interpreting companies  
11 that are just caring about their bottom line. And, basically,  
12 what this has created is a race to the bottom really; and by  
13 that, I mean they're just sending anybody out to these really  
14 important AME's, QME's, the med-legal appointments without a  
15 certification. And they use the excuse, okay, nobody was  
16 available, which sometimes it's true; but how do you know? An  
17 agency can say, "Well, nobody was available. We just sent so  
18 and so." So there's that. There's that issue.

19           And, you know, this goes along with what one of my  
20 colleagues was saying earlier -- the dumbing down and the  
21 watering down of the profession; and I hope that by voicing my  
22 concerns, the panel is going to take into consideration some of  
23 the things I've said.

24           And something I left out was sometimes the carriers --  
25 somebody said that they've put all these appointments into one

1 basket, you know. There's no differentiation whether it's a  
2 med-legal or just a regular appointment; and so you get  
3 compensated for the same services even though, let's say, you  
4 use a certified interpreter that normally charges about twice  
5 or three times as much as a qualified interpreter. And so --  
6 but my question is these same carriers know how much these  
7 appointments are worth because they're already paying out of  
8 state agencies the money that they used to pay the certified  
9 interpreters out here in California, regardless. So, anyhow, I  
10 know it sounded a little bit confusing; but, bottom line, these  
11 carriers are paying out of state for something maybe sometimes  
12 twice as much -- the fees that they actually pay you when you  
13 send the bill.

14           So there seems to be like a preference for the big  
15 fish; and then the small fish like me and some of the other  
16 agencies -- then they get left out paying higher fees and  
17 recovering only partial. All right?

18           But, anyhow, bottom line is if -- back to the  
19 qualified part. I just want to finish up with this part. We  
20 need a little bit more stricter definition and maybe an  
21 institution here in California -- an institution that can give  
22 out these tests and certify and bring back the medically  
23 certified program. That would take care of a lot of issues.

24           All right. I think I'm done. Thank you very much.  
25 Appreciate your time.

1 MS. OVERPECK: So I think we're almost done. Even though  
2 it's after twelve, I'm going to keep going so that we can  
3 complete and then be done. I've called all the written down  
4 names, but is there anyone else who would like to speak on the  
5 interpreter -- oh, there's a number of people. Okay.

6 LUPE MANRIQUEZ

7 MS. MANRIQUEZ: Thank you very much, and good afternoon.  
8 I am a Southern California --

9 MS. OVERPECK: Oh, and your name, please?

10 MS. MANRIQUEZ: Oh, I'm sorry. Yes, Lupe Manriquez,  
11 L-U-P-E, Manriquez, M-A-N-R-I-Q-U-E-Z. I'm also a certified  
12 medical interpreter from Southern California. I've been  
13 interpreting for over 20 years and have had many years of  
14 experience, and I think there's something that is very  
15 important. As an interpreter, this is, for most of us --  
16 having been in it for such a long time, it's definitely a  
17 profession because we go out there, and we do it with so much  
18 passion. We go out there having to wait years and years and  
19 years to get paid -- five years, ten years. That is what is  
20 called a profession. That is, unfortunately, not recognized.  
21 We're not being appreciated or respected; whereas,  
22 unfortunately, now that qualified interpreters want to come  
23 into the business, they're looking at it as an occupation. All  
24 they care is, "Let me have that job. Let me go out there, and  
25 let me get paid," but they don't take the time to understand

1 we're out there for the injured worker. We have to understand  
2 we clone ourselves to the patients. We've got to understand  
3 their medical needs, having to know how to fill out the forms  
4 -- we're talking over 30 pages of forms -- having to understand  
5 and be able to translate every medical term, and not just  
6 someone that came off the street.

7 I've sat in a room where there was an interpreter that  
8 was qualified. She had to use Spanglish, half of her words in  
9 English; and I couldn't stand it any longer. I said, "My  
10 gosh." I kept my mouth shut until I finally heard the doctor's  
11 complaint at the end, "Please don't let that woman come back in  
12 the room because she's not interpreting from English to  
13 Spanish. She is working English to English because she could  
14 not even interpret."

15 And those are the things that we recognize that  
16 sometimes interpreters out there -- it's not a job. It's our  
17 calling, and we're going there whether we go to court -- I've  
18 been in court. I've been in medicals. Whether we do psyches,  
19 whether we're working with an internist or an ortho, having to  
20 know all the body areas, having to be able to define and be  
21 able to say when the necessity is of someone that their  
22 internal or their psyche or whatever the problems are needed to  
23 address, we have to be able to change the monotone, be able to  
24 translate from consecutive to simultaneous. Being able to  
25 interject at the moment when we're asked as an interpreter,

1 "Okay, madam interpreter, I need you to do this," we're there.  
2 We don't stop to think. We just do. We are -- we clone  
3 ourselves.

4 We're little machines. That's what we are, and I  
5 think that's what we have to recognize to raise the scale of  
6 our profession so that there is justification to be able to  
7 stand up there, be proud to say our colleagues, our educators,  
8 our professors -- they've done their job because they allowed  
9 us to be here today so that we can also be out there and be the  
10 eyes of all future interpreters.

11 Thank you.

12 MS. OVERPECK: Okay. This gentleman?

13 VICTOR FRIDMAN

14 MR. FRIDMAN: My name's Victor Fridman. I'm a certified  
15 interpreter in administrative hearings.

16 We are greatly concerned about this newly certified by  
17 out of state agencies for medical appointments only. They are  
18 going to be used by insurance companies for legal meds,  
19 depositions, hearings. These new certifications don't meet the  
20 higher standard required in legal matters.

21 So the proper certification must be enforced. There  
22 is no enforcement right now. When we go to AME's and QME's,  
23 the doctor's office washes their hands. They don't -- they  
24 just ask -- sometimes only a few really enforce the  
25 certification requirement. Otherwise, we already heard here

1 how we met in their offices with other interpreters that are  
2 certified; and the doctors will kick out the one who is  
3 certified to take the one that the insurance pays because they  
4 say, "I'm paid by insurance. Let's take the one the insurance  
5 pays." If not, they say, "I have nothing to do with it. It's  
6 your problem." No, I think that the doctor is -- it's his AME.  
7 He has to be responsible that the correct certification is  
8 enforced. Otherwise, it's unfair to the injured worker. He's  
9 denied of his right to have a competent interpreter, a  
10 certified interpreter.

11 Also, at depositions, they should be enforced by the  
12 court reporters. The court reporters are officers of the  
13 court. They make you take use of the sworn statement. So they  
14 should require to present -- not only to say they are certified  
15 and to provide their names, but to provide identification.  
16 They should provide their ID -- their identification they are  
17 properly certified.

18 At hearings at the Boards, this should be enforced by  
19 the Judges. If you're there, you should show your credential.  
20 You should show it to the Judge if the Judge is not familiar  
21 with you; and Judges, court reporters, and at doctors' offices,  
22 they should be trained to differentiate the different  
23 certifications and not to be shown something like the one of  
24 the National Board of Medical Interpretations. They are only  
25 for medical appointments; but they come with the same number

1 that we have demonstrated at hearings, and I mean it's not  
2 coincidence. It's a six digit number. It starts with a number  
3 100, the first three; and they come with the same -- they start  
4 six digits. They start with the number 100. I don't know if  
5 you call it fraud or what to call it, but this has to stop.  
6 The doctors, court reporters, and Judges should know, should  
7 have a picture of what are the right certifications that should  
8 apply. It's incredible that in the legal system,  
9 administrative court, nobody is checking it out. Nobody is  
10 protecting us. That's the meaning of our profession.

11           What is going to happen now to those of us who have  
12 administrative hearing certifications? They don't give it  
13 anymore. What happens? I think I propose that we should be  
14 "grandaddied" as court interpreters like everybody else. We  
15 have the same training; and, actually, we have all the  
16 experience in administrative hearing language, which people who  
17 study for court interpreters -- they understand.

18           Another issue of great concern is that we learn that  
19 we will not have the right to charge our market rate; and there  
20 will be a fee schedule for interpreters, everybody the same.  
21 That to start with is -- I can't believe that in the State of  
22 California, in the United States, we can't have a free  
23 enterprise. We cannot be free agents. The one who is better  
24 and everybody wants should charge more than the one who just  
25 passed the test and still has to learn the trade. It's

1    incredible.  It's incredible.  I came after living in the  
2    military dictatorship because I wanted to live in a free  
3    society in free enterprise; and now this is little by little --  
4    what we are living here is this is starting to look more like  
5    where I lived in Argentina.  We don't have someone fighting by  
6    force, but this is an economic dictatorship; and I can smell  
7    it.  You can see it everywhere.  We're -- suddenly the big  
8    insurance companies -- they decide what everybody else is going  
9    to earn; and, you know, I'm amazed that this is happening under  
10   the administration of Governor Brown.  Everybody in California  
11   is voting Brown, is voting Democrats so these things don't  
12   happen; and it is happening.  And this -- little by little, we  
13   are losing our right to free enterprise.

14           And now we are having these agencies coming from  
15   Florida and from out of state.  You think that someone from  
16   Florida can manage what is going on with interpreters here?  
17   Here the local agencies -- and I can't talk because I'm not an  
18   agency.  I work with all of them.  I work for everybody, and I  
19   work independently; but they don't know what they are doing.  
20   Here I call an agency, and they tell me, "I need you here now,"  
21   and I tell them where I am.  They know the problems that I have  
22   to get there.  They know how much it will take.  They know what  
23   a trip costs.  You think that someone in Tampa can know that?  
24   No, they are a mess.  I get calls all the time to go to places  
25   that are hundreds of miles away.  They don't know what they are

1 doing.

2           So we're very concerned about the fee schedule that is  
3 going to be too low, denying the living wage. To deny the  
4 living wage to interpreters -- this -- what is going to happen  
5 will -- is that we are not going to keep in this profession  
6 anymore. We are -- we have invested time, education, and we --  
7 if we don't get a living salary, we are going to move on. I'm  
8 already planning -- I already have two offers to work as  
9 paralegal for attorneys in workers' comp because we have all  
10 this experience. If it's not going to be paid, we have other  
11 sources where we can make our living better and this -- this  
12 will offend the injured workers' right to navigate the complex  
13 legal systems of workers' comp because that's the issue.  
14 You're denying the workers to have a competent interpreter  
15 if -- this is such a difficult system, complicated system --  
16 workers' comp -- to navigate if you know English. Imagine when  
17 you don't speak English.

18           And this is not welfare for the injured workers. The  
19 Hispanic injured workers -- our economy -- California economy  
20 depends on these hard labor workers doing it for the cheapest  
21 rates. We depend on them, and they get injured more than  
22 anybody else because I mean they're in the field doing the  
23 toughest jobs. And then when they get injured -- "Well, try to  
24 understand. We'll hire the busboy at the local taqueria to  
25 translate for you." No, the injured worker -- he's being

1 denied his right to navigate through the system; and the ones  
2 we know here are the few who can access an attorney.

3           When sometimes they call me to go into the country to  
4 a ranch or somewhere far away, they send me -- the agency -- to  
5 explain the C and R to the injured worker. Couple of times  
6 they wanted to beat me up when I started reading the document.  
7 They didn't know -- they are being fooled over and over and  
8 misguided about their rights. They don't know they have a  
9 right to an attorney. They don't know they have a right to go  
10 and see the Judge.

11           Just ten days ago, I went into a house where the  
12 representative of the insurance company was telling the woman  
13 who was showing her hands all swollen after surgery -- she  
14 couldn't move her hands -- that if she wanted to argue about  
15 it, she had to sign the C and R so she could go and see the  
16 Judge. And they were going to let her know that day to see the  
17 Judge; and so she would come along, and she would have the  
18 chance to see the Judge.

19           This is happening -- this is most of the injured  
20 Spanish workers. They don't know what the court is. They  
21 don't know they can go to an Information and Assistance  
22 Officer. They don't know they can get a list of attorneys.  
23 They don't know they can go and talk to the Judge before they  
24 sign something. They don't know what their rights is. So  
25 Judges should not be approving C and R's just sent by mail,

1 through the mail by insurance companies. Every injured worker  
2 in workers' comp who does not have an attorney should at least  
3 have once the chance to go in front of the Judge, and the Judge  
4 should talk to the injured worker to be sure that he knows what  
5 his rights are because they are being -- they literally lie to  
6 them -- misguided about their rights; and those are most of  
7 them. Only a few actually end up with representation.

8           So we are concerned that if the fee schedule that is  
9 going to be set -- if it should be high enough to have a living  
10 salary because what they are talking about -- we are afraid  
11 that it's going to be set according to the Superior Court fee  
12 schedule; and that fee schedule was originally established by  
13 the court to make interpreters employees. So those  
14 interpreters who were hired as employees -- they said, "Well,  
15 I'll make this money. It's not a high salary. I make less  
16 money; but I'll have for sure 40 hours a week, a full-time  
17 job." And they get benefits. They get paid vacations. They  
18 get health insurance. They go always to the same place. They  
19 can move and live near the court where they work. They get 50  
20 percent of their Social Security -- half of them -- paid by  
21 their employers. And they have other benefits like if they  
22 lose their job, they get unemployment insurance. If they get  
23 injured, they get disability insurance. We don't.

24           MS. OVERPECK: I'm sorry, but I'm going to just interrupt  
25 you. We don't have a proposed fee schedule yet. So if you

1 could limit your comments to the regulations that are proposed?

2 MR. FRIDMAN: Very good.

3 MS. OVERPECK: Thank you.

4 MR. FRIDMAN: Okay. Can I talk about other problems of  
5 the interpreters like the cancellations -- that we are very  
6 damaged by the cancellations?

7 MS. OVERPECK: That will be part of the -- that would be  
8 more connected to the fee schedule part. This is really more  
9 about the definitions that were set forth.

10 MR. FRIDMAN: Okay. Then that's all.

11 MS. VAN HEMERT: May I re-approach?

12 MS. OVERPECK: Hang on one second. Was there anybody else  
13 on interpreters who hasn't spoken yet?

14 (Several members of the audience raise their hands.)

15 MS. OVERPECK: Okay. We'll get to everyone, I promise.

16 So go ahead.

17 DEBORA MARCHEESKY

18 MS. MARCHEESKY: Hi. My name is Debora Marcheesky,  
19 D-E-B-O-R-A. Marcheesky, M-A-R-C-H-E-E-S-K-Y. I've been a  
20 federal interpreter for 18 years. Before that, I was the fifth  
21 medical interpreter. There's many of you out here. And, yeah,  
22 it is a dilemma that California is broke, and so we don't have  
23 the administrative or the medical given out again, and so  
24 people are at a loss because we don't have enough interpreters.  
25 And it's causing a strife between the people that are old guard

1 with the new guard. And when I came in to workers' comp from  
2 the federal court or the criminal courts, for me, it was a  
3 relaxing time because I didn't have to translate for criminals  
4 and rapists and so forth. So we do take it as a vocation.

5 But as Professor Mikkelson -- and I see that she has  
6 left, and she is one of the masters of the profession, we all  
7 have had to come a long way to learn the jargon, the  
8 specificity of every one of our fields.

9 I used to be a biologist, so naturally medical  
10 interpreting was very simple. There's somebody else who is  
11 also a biologist. There is a physicist. People that have been  
12 in business; people that are teachers; people that are  
13 statisticians. We all come from other professions. We not  
14 only come to interpret because we know two languages. We all  
15 know how to drive; it doesn't make us mechanics. We are  
16 actually experts in the language. And the more we know, the  
17 better we do our job.

18 And the continued education, which is required for  
19 court certified interpreters, is expensive. We have to travel.  
20 We have to pay for our hotels. And so this whole discussion, I  
21 know, is not exactly about the fee schedule, but where  
22 Mr. Fridman alluded to the fact of a living wage and allowing  
23 for the market rate to still be there is not only because we  
24 don't have any of the benefits as employees, as we would have  
25 if we worked in Superior Court or Federal Court, it's also

1 because of the geographical differences for interpreters. It's  
2 not the same to survive in Ukiah, or to survive in San  
3 Francisco or Oakland, which is one of the top ten rental --  
4 highest rental places in the US right now.

5           And excesses have been and continue to occur with  
6 billing practices on interpreting services. We are aware of  
7 that, as Mr. Fridman mentioned. It's a small community. We  
8 know each other. We know who's nice, who's good, who's loyal,  
9 who's ethical, and so forth. So we trust those people. We  
10 like to work together. We resent interpreters coming in and  
11 not knowing what they're doing just because they have not had  
12 the training or the expertise or the certification.

13           But the bottom line, and what Mr. Fridman was alluding  
14 to, is also -- there is one particular agency in Florida, and I  
15 will name it. It's called Optimal. And they have websites  
16 where people bid each other and underbid each other to get the  
17 job. And when they want to call, they have to be on the phone  
18 for half an hour till somebody in India answers that call.  
19 They don't know what's going on about anything. Either the  
20 interpreter doesn't understand the person, and the person -- so  
21 how much money do you have to have to set up a calling center  
22 in India so that they can set up the interpreter in California  
23 to go to see any of the doctors downtown or come to the Board  
24 or any of those things?

25           I know most of the attorneys. I know most of the

1 judges. I've known them from the times that they were either  
2 applicant's attorneys or defense attorneys. I'm the oldest one  
3 around. So it doesn't make me old. It just makes me  
4 experienced.

5 And the bottom line here is that we are not dealing  
6 with an issue of the economics of the State. We're dealing  
7 with the private moneys of insurance companies.

8 I have an office, and so I pay my workers' comp dues,  
9 and I have not been given a cut on those. So I think that, as  
10 Professor Mikkelson said in another context, maybe, but why fix  
11 something that's not broken.

12 The \$90, as Mr. Fridman noticed, and he's younger or  
13 maybe not around as long, but that was how much we used to make  
14 in Superior Court. We had to go out into the streets, stop all  
15 the proceedings, so that they would listen to us to go to 100,  
16 110, 120, 135, 147, and so forth, because when you walk into  
17 Superior Court or Federal Court, it is: Madam Interpreter, can  
18 I tell you what the case is about? Let me tell you this.  
19 Because they know, and they're aware that without that  
20 interpreter, nothing is happening. Nothing is happening.

21 And if it does happen, and we get Paquito out of the  
22 taqueria, and you want to have somebody from Southeast Asia,  
23 somebody from the African countries, I -- we had to get a Guam  
24 interpreter for yesterday, Monday. There's probably one in the  
25 whole Bay Area, and we had -- it took us four or five days to

1 get a Guam interpreter.

2           So leaving the market rate open so that we don't have  
3 to fall into all these categories of exceptions for  
4 geographical issues and language issues and expertise issues,  
5 not everybody can do the same job the same way. It's not every  
6 doctor or every attorney or every mechanic or every plumber  
7 that knows how to do the same job the same way. So it's not  
8 only the expertise. We all know that we have to grow with the  
9 profession. In any profession, we have to grow, and the more  
10 we're at it, and the happier with that every party is, because  
11 we not only -- as the other person said, clone with the patient  
12 or the applicant, it's -- I don't understand it as cloning. I  
13 understand that there is meaning, and I have to get that  
14 meaning through, however complex, however shy, or however  
15 complicated, you have to make those two worlds meet, and that  
16 is an extraordinary ability to have.

17           So I salute all my colleagues that are brave enough to  
18 be here today and that are pushing forward for this. But,  
19 really, vendors out in Florida coming in and saying -- how do  
20 you become a vendor? That's what we all want to know. You  
21 know, we have all tried to become vendors. It doesn't happen.  
22 We happen to work with the City of Oakland or the City of  
23 San Francisco, or certain law offices that, you know, have been  
24 happy with our services because: Hay, yesterday, we had to get  
25 a Laotian for a deposition, civil. Oh, how many minutes does

1 that take? It's not easy. It's not easy.

2 So when the workers' comp schedule is determined, it  
3 should not be thinking about the status of the economy in  
4 California. It should be having to deal with the insurance  
5 companies, which are private companies, and we all love them,  
6 but, yes, we provide the service. We expect to be paid. And  
7 we have to do it by lien. Well, we'll deal with the liens, and  
8 we'll come and argue and argue, and that's how it's been done.

9 But we are interpreters. We're not attorneys. We  
10 don't have anybody lobbying for us. We don't have self-insured  
11 big lobbyists in Sacramento, you know, pushing for us. So  
12 those are things that have to be taken greatly into account  
13 because we really want to keep at this profession, but we want  
14 to be also respected. We're not a nuisance walking around the  
15 quarters thinking that: Oh, you're making too much money. No.  
16 We just happen to be good at what we do, and that's why we  
17 generally are around, and you all know us. But it's because  
18 we've been at it for a long time, and we really are proud of  
19 what we do.

20 So thank you to everyone, and those are my comments.  
21 Thank you.

22 MS. OVERPECK: Any other interpreters who have not yet  
23 made a comment?

24 Okay. Oh, okay.

25

1 BILL POSADA

2 MR. POSADA: I'll make this brief. My name is Bill  
3 Posada, B-I-L-L. Posada, P-O-S-A-D-A. I'm here because I'm  
4 concerned about this definition of qualified interpreter. Many  
5 of our colleagues have basically brought it up. But I think if  
6 I can put this in perspective to you guys, you guys would be  
7 interested why this is so important to us: I estimate that 80  
8 percent of all interpretations that are going out into the  
9 field today are done by qualified interpreters. So it's huge.  
10 It's huge. It's a huge field. It's huge for the agency.

11 And, by the way, I'm an agency owner. Okay. So for  
12 these purposes, I think on the description we have here, it's  
13 very vague, and it's difficult to fulfill. I'll give you a  
14 good example. An insurance company tells you: Bill, prove to  
15 me that this is a qualified interpreter? It's very difficult  
16 for me to do that based on this criteria.

17 So basically while criteria is good and talks about  
18 some very important functions like ethics, I think we clean  
19 this thing up in a way that may be clearer to all of us. So  
20 let me make this suggestion to you: I think that a qualified  
21 interpreter should be an individual -- an individual that has  
22 completed an interpreting course through a California  
23 institution or a vocational institution. Black and white.  
24 They either passed the course, or they didn't. We either have  
25 a certificate, or we don't. But then we are putting pretty

1 broad and clear in that respect. Okay. That's the only  
2 comments I have.

3 MS. OVERPECK: Okay. Thank you.

4 MR. POSADA: Thank you.

5 MS. OVERPECK: Okay. State your name again.

6 IRIS VAN HEMERT

7 MS. VAN HEMERT: Thank you. Iris Van Hemert again. Again  
8 going back to the definitions, I knew I'd left something out.  
9 Under 9795.3, fees for interpreter services, specifically,  
10 Paragraph 3, I'll read it. A comprehensive medical-legal  
11 evaluation as defined in Subdivision C of Section 9793, a  
12 follow-up medical-legal evaluation as defined in Subdivision F  
13 of Section 9793, or a supplemental medical-legal evaluation as  
14 defined in Subdivision K of Section 9793, provided, however,  
15 that payment for interpreter's fees by the Claims Administrator  
16 shall not be required under this paragraph unless the medical  
17 report to which the services applied is compensable in  
18 accordance with Article 5.6. Nothing in this paragraph,  
19 however, shall be construed to relieve the party who retains an  
20 interpreter from liability to pay the interpreter's fees in the  
21 event the Claims Administrator is not liable.

22 Oftentimes, an injured worker at the AME for which an  
23 interpreter was required, the doctor may find no injury or no  
24 industrial injury, and then claims will take that as saying:  
25 Well, we're not going to pay for those interpreter services

1 because it was a take nothing. There was no injury.

2 Now, if but for the interpreter, none of this would  
3 have been found out or information would have been gathered by  
4 the medical-legal evaluator. So to restrict payment to the  
5 interpreter only because the medical evaluator found no injury  
6 is really depriving the interpreter of their professional  
7 services and their time, especially since the interpreter was  
8 required in order to convey any and all information from the  
9 doctor to the patient or the injured worker and vice versa.

10 So I had a concern there. In regards to Paragraph 6  
11 of the same section, A conference held by an Information and  
12 Assistance Officer pursuant to Chapter 2.5 of Part 4 of  
13 Division 4 of the Labor Code to assist in resolving a dispute  
14 between an injured employee and a Claims Administrator. As  
15 someone whose practice is almost exclusively at the WCAB, I am  
16 oftentimes approached by the I and A Officer informally saying:  
17 I have an applicant or an injured worker who is not represented  
18 in my office. Can you help me? A bill will be submitted to  
19 the carrier. The carrier will reply saying: I didn't ask for  
20 that appointment. I'm not paying you.

21 So how do we -- how do we clear that up? Is that  
22 nonrepresented injured worker entitled to the services of an  
23 interpreter under that specific setting when not calendared or  
24 when not specifically has set an appointment with the I and A  
25 Officer for a resolution, as the language here says, "in a

1 dispute." So those were the two additional concerns I wanted  
2 to bring up to the Panel. Thank you.

3 MS. OVERPECK: Thank you.

4 MS. PALACIO: Right here.

5 MARIA PALACIO

6 MS. PALACIO: Good morning. My name is Maria Palacio,  
7 M-A-R-I-A, P- as in Paul, -A-L-A-C-I-O. I wanted to sit  
8 through it all and hear what everyone else had to say. Pretty  
9 much everything -- most of everything has been covered. I was  
10 really happy to hear Debora, Holly. I think the comments there  
11 were very well supported, and I hope that attention will be  
12 given to that.

13 I have been an administrative hearing interpreter  
14 since 1993, and as you can hear in I think all of us who are  
15 very passionate about our work, we love our work. And -- I  
16 mean, it's -- you go to jobs, a medical appointment, or  
17 hearings, and you feel: Okay. You know you're needed. You  
18 make a difference.

19 However, with these change of laws, now, I'm going --  
20 because I also have an office and an interpreting company, and  
21 with all these changes, I'm going through everything that's  
22 old, and I am dumbfounded with the amount of Board appearances  
23 that haven't paid. I go to a Board appearance. Everything  
24 happens. Everybody's present. All parties. And the defense  
25 attorney still objects to the interpreter. Why the judge

1 accepts it, I don't know.

2 I'm here to ask for -- and really just pay attention  
3 to enforcement of, please, of everything new that's being  
4 written into the code. It's not being enforced. It's -- as  
5 much as we'd like to believe it's not, and what one judge will  
6 say, another one will say something different. You have  
7 contradicting at one location. You hear -- you know, and then  
8 there's so many training sessions going on now. So we've  
9 been -- we all take turns. We go to different seminars, and  
10 they say completely different things, and there has to be a  
11 standard and also to be enforced.

12 I think that -- that's it in a nutshell. Again, I'm  
13 -- I really love what I do. I -- I'm still excited to do -- to  
14 wake up every day and do my work. But, unfortunately, I'm  
15 spending more time in the office, so get me out of the office.  
16 I want to go interpret some more. Thank you.

17 MS. OVERPECK: Thank you.

18 JEFFREY KATZ

19 MR. KATZ: Thank you for letting me come up again.  
20 Jeffrey Katz, J-E-F-F-R-E-Y, K-A-T-Z. I forgot the last time.  
21 Because you called on me first, I wasn't ready.

22 I've been listening to the fee schedule situation, and  
23 I want to comment on it. I wasn't real- -- I didn't realize we  
24 were going to talk about that today. But I would like the  
25 people here to understand that you're hearing from two

1 different types of business people here. You're hearing from  
2 individual interpreters that work for themselves, and like  
3 Victor said before, also work for agencies. And they have  
4 different business laws. We all have the same frustrations  
5 getting paid. But when it comes to reimbursement, a lot of  
6 times people look at interpreters and say: Oh, you charge so  
7 much money for an interpretation. They say: Well, how are you  
8 paying an interpreter? They don't realize the cost of doing  
9 business as an individual interpreter, which is less than also  
10 an agency, because I would tell you that every day this week I  
11 send an interpreter to some doctor's office, and the patient  
12 doesn't show up. I have to pay that interpreter, and we can't  
13 bill the insurance company. This happens all the time.

14 I have days where I have an interpreter -- I have a  
15 request from an orthopedic surgeon for two interpretations in  
16 the morning, two in the afternoon, send the patient -- send the  
17 interpreter there, no one shows up. This happens all the time.  
18 That's on the one side. So people don't realize that we're  
19 constantly paying for interpreters out there, and we're not  
20 getting any payment for it.

21 Okay. The second situation is then trying to extract  
22 the money from the insurance company. I'm going to tell you  
23 that 75 percent of my bills that go out never get a response.  
24 Okay. We have to send out a second bill, and maybe we'll get a  
25 response from half the people at that time, and that response

1 will be a denial for a number of different reasons, which means  
2 the claims adjuster does not understand the law as it was prior  
3 to 863. They say: Oh, you're not in the MPN. The treat- --  
4 the interpretation wasn't authorized. There is no  
5 authorization for an interpreter. There is no MPN. Okay. Or  
6 the doctor's treatment wasn't authorized. This happens all the  
7 time.

8           So what do we do? We pay a lot of money out there,  
9 and we get a lot of accounts receivables. Then we take it to  
10 the next step. So the insurance company doesn't pay us. I'll  
11 give you an example today. I have to pay a lien rep today a  
12 hundred dollars to go down to the San Diego Board, to show up.  
13 We have to pay a \$150 activation fee. Now, why do we have to  
14 do this? Because we did an interpretation -- two  
15 interpretations for a psychologist in Southern California.  
16 They didn't pay us. They didn't respond. We got a -- no --  
17 we put a -- a -- we go on EAMS, and we get a notification that  
18 a lien conference is coming up. We find out the case is C and  
19 R'd. We call the psychologist up and say: Hey, what happened?  
20 They say, I don't know. We got paid. So we call up the claims  
21 adjuster three, four, five times. Fax them. No response. So  
22 I have a \$450 bill. I paid a lien rep \$100. I pay an  
23 activation fee, which I'm not getting paid back on that, unless  
24 it goes to trial and we win because -- and we get more than  
25 what we demanded from the insurance company.

1           So it's a losing competition for us. So this is the  
2 cost of doing business for us. The other situation we're  
3 seeing as of the beginning of this year is that we have less  
4 than a \$200 bill, and we try to settle the payment. We call  
5 the claims adjuster up. They say: We're not talking to you.  
6 Zenith is doing this right now. Zurich is doing this right  
7 now. We're not talking to you until you file an activation  
8 fee, and we want proof.

9           Now, I have a \$200 bill. I'm going to pay \$150 for an  
10 activation fee, which I know I'm not getting back. I already  
11 paid my interpreter. We spent all of this money billing them,  
12 calling them. Then I have the lien rep, I have to pay 20  
13 percent of whatever we recover. So when it comes to  
14 interpreting, you know, the way the bill is set up with  
15 activation fees for interpreters is absolutely outrageous.

16           So when it comes to reimbursement, you know, if  
17 anything, our rate should go up, because insurance companies  
18 are playing this game with us now. And I've been consulting  
19 with several work comp attorneys on how to deal with this.  
20 Now, we are threatening them with sanctions. If they do not  
21 respond to us, and they make us file an activation fee, we're  
22 going to threaten them with a \$2,500 sanction. We don't get  
23 paid that. DWC gets paid that. The only thing we could get  
24 paid for is a little extra time and energy that was spent.

25           So when it comes to interpreting for, like, one

1 interpretation, we've got to bill them out -- well, first, if  
2 it's a no show, they don't show. Then we bill the insurance  
3 company, and they don't respond, right? And then we've got to  
4 bill them again and bill them again. Then we've got to pay an  
5 activation fee, and then we have to pay a lien rep to go, you  
6 know, represent us, pay them 20 percent of recovery. This is a  
7 dead situation for us.

8           And I talked to other agency owners here, and they  
9 will tell you if we don't have a good amount of a decent fee,  
10 and if we don't have some type of threat against the insurance  
11 company that they are not going to pay -- that they don't pay  
12 us, and don't have to go down the lien road, you know, we're  
13 going to stop doing interpreting. Period. At least not for a  
14 patient that's a one-time visit. It's impossible for us.  
15 There's no way we can do it. Okay. That's my feelings about,  
16 you know, the fee schedule. We have to have a strong fee  
17 schedule.

18           And the fact of the matter is that, you know, if the  
19 insurance company makes us pay an activation fee, and then when  
20 we send the lien rep there, and we have a \$200 bill, and they  
21 settle it for a hundred dollars, we still lost money. So what  
22 is the insurance company's motivation to settle with us? There  
23 is none. Correct?

24           THE AUDIENCE: Correct. Yes.

25           MR. KATZ: That's regarding the fee schedule. I just want

1 to talk about, you know, what is really going on in a number of  
2 interpretations that are taking place in California. After  
3 listening to a bunch of people here talk about the  
4 certification program, we're all very concerned about it. And  
5 when I hear that this is going to bring in 200 more  
6 interpreters for medical treatment. Now, I don't know if the  
7 DWC has any idea how many medical treatment interpretations  
8 take place every week. I was talking -- I don't know exactly,  
9 but I know agencies in Southern California that do a thousand  
10 interpretations in medical offices a week. That's just one  
11 agency I know.

12 I know multidisciplinary clinics that do 3- to 500  
13 interpretations a week in one office. And I asked one agency  
14 out here: How many medical treatment interpretations do you  
15 think take place in California in the work comp system each  
16 week, and she responded: 10,000. And I don't know if the DWC  
17 has any idea how many medical interpretations are going on. So  
18 when we talk about getting an extra 100 or 200 interpreters  
19 come in, there is no way that's going to cover these injured  
20 workers. And these injured workers are going to be showing up  
21 at orthopedic offices at -- you know, at San Francisco General,  
22 with no interpreters there and then they get just horrible  
23 care. I happen to see that in my office all the time right  
24 now.

25 But when it comes to certified interpreters, if I call

1 Victor up and say: Hey, well if I have, you know, a job in a  
2 law office, that works out. Okay. Or calls me up and says:  
3 Hey, I need someone Friday for the Board. I call Victor up.  
4 He's not going to be able to find one. I won't be able to find  
5 one certified interpreter that's available for Friday. And now  
6 we're talking about moving them to the medical treatment world.  
7 That's impossible.

8 So, you know, I think the DWC really needs to get some  
9 clarity on just how many interpretations are going on in the  
10 State of California right now in the work comp system. I know  
11 there are thousands in Northern California, and Southern  
12 California is a whole other ballgame. Okay.

13 That pretty much is everything. Thank you.

14 MS. GREY: I have to change the tape.

15 MS. OVERPECK: Okay. And I can do this with that not on.  
16 So could you just raise your hand if you have another comment  
17 on any of the regulations so we get a sense for how many more?

18 (Members of the audience raise their hand.)

19 MS. OVERPECK: So it looks like just three more people.

20 It's five to 1:00. Are you guys okay if we keep  
21 going, or should we take a break?

22 UNIDENTIFIED MEMBER OF THE AUDIENCE: Mine's going to take  
23 one minute.

24 UNIDENTIFIED MEMBER OF THE AUDIENCE: Mine's going to take  
25 two minutes.

1 MS. OVERPECK: You know, I'm just thinking why don't we  
2 take a ten-minute break because we've all been sitting up here  
3 for three hours. It might be nice just to have a short break,  
4 and so we'll come back at -- it's 12:55 right now. Five past  
5 -- I'm sorry -- ten past 1:00. Okay.

6 (Break taken at 12:55 p.m., and proceedings resumed at  
7 1:10 p.m.)

8 MS. OVERPECK: Okay. So we just took a break. It is now  
9 1:10. We're going to go back on the record, and would the next  
10 commenter please come up?

11 YOLANDA DURAN

12 MS. DURAN: Thank you. It's going to be a minute, maybe a  
13 minute and a half. I promise. Thank you.

14 Good afternoon. My name is Yolanda Duran. I'm a  
15 state certified medical interpreter in Kern County. I'm the  
16 only certified interpreter -- medically certified interpreter  
17 in the County, and my name is Yolanda, Y-O-L-A-N-D-A, Duran,  
18 D-U-R-A-N; and I'm just going to speak on the meaning of  
19 "qualified" that really concerns me. I'm out in the trenches.  
20 I do medicals. I do med-legals, but I do a lot of medicals. I  
21 have personally heard an interpreter tell a patient -- and I  
22 have to preface this by telling you you have a tremendous job  
23 ahead of you in getting some of these things -- guidelines put  
24 into position because I've heard this from an interpreter. I  
25 will tell you later what the doctor said outside the office.

1 I've also heard an interpreter tell a patient when the doctor  
2 said a torn ligament -- excuse me -- a torn rotator cuff,  
3 telling him that he has a problem with his lumbar, which a  
4 rotator cuff is a shoulder injury as opposed to a lumbar disc  
5 injury.

6 One of the things that some of my colleagues touched  
7 on was checking for -- excuse me -- making sure that a  
8 certified interpreter is used on a med-legal. And, actually, I  
9 believe that certified interpreters should be used all the time  
10 in any medical situation; but I think that if there was some  
11 way to enforce the fact that maybe the doctor's office would  
12 ask to see the badges -- which now in Kern County, I have seen  
13 that lately where they want to know -- they want to see your  
14 badge, and I think that's a positive move.

15 And the very last thing, as my colleagues said  
16 previously, currently there are many out-of-state agencies  
17 providing qualified interpreters to do work in Kern County  
18 also. The problem being that the qualified interpreters are  
19 getting so much work from these -- these agencies that what  
20 they're doing is they're opening up their own little business;  
21 and they're subcontracting their work. And they're going to  
22 the colleges and posting signs saying that -- how would you  
23 like to translate, and they pay them a minimal amount; and  
24 they're getting away with it, and these people have no business  
25 being interpreters. They don't -- the two that approached me

1 if I had any work available for them -- they couldn't speak  
2 English very well; and they couldn't speak Spanish very well.

3 So this is a real potential problem because it is  
4 happening now. I can attest to it, and it's going to be very  
5 difficult; or actually there should be some guidelines put in  
6 place where the qualified interpreters need to make sure that  
7 the interpreters that they're using are also going to be  
8 qualified.

9 Thank you so much for your time.

10 MS. OVERPECK: Thank you.

11 Sir?

12 CARLOS GARCIA

13 MR. GARCIA: Thank you. Hello again. Carlos Garcia. I  
14 just wanted to address something that somebody said about there  
15 only being 200 interpreters in the State of California; and,  
16 yes, there are only 200 interpreters that are certified  
17 nationally in the State of California. The reason for that is  
18 even though both certification exams have been testing for  
19 three years -- the reason for that is there is no active  
20 recognition for the national credential in the State. So a lot  
21 of the interpreters are on the fence just wondering what to do;  
22 so they're waiting for the State to say, "Yes, we do recognize  
23 it," or, "No, we don't, " but we hope you won't do that. So  
24 that is the reason why they're doing it.

25 Now those 200 interpreters are only for Spanish. Now

1 Mandarin, Russian, and Cantonese languages are available. That  
2 will increase dramatically the amount of certified interpreters  
3 in the state. After these exams, Japanese and Korean are also  
4 rolling out before May; so we're going to have more languages  
5 available for oral exam. So it is very important that the oral  
6 performance of the interpreter be tested, not just knowledge.  
7 The reason that makes -- the written knowledge exam -- it  
8 includes ethics, conduct, privacy, the privacy rule, Title 6 of  
9 the Civil Rights Act. It also takes into consideration the  
10 G.S. standards, the I.M.I.A. standards and the federal mandates  
11 that are included in the other linguistically appropriate  
12 services and health care.

13           Like I said, there -- somebody else was very --  
14 somebody here -- I don't know her name. She was very  
15 passionate about being an interpreter and the work that she  
16 did; and I feel the same way that you do, as well. A lot of  
17 interpreters feel the same way too.

18           Just to give you the testimony of something that  
19 happened, I supervise testing for the west coast for the  
20 National Board. The testing center in Los Angeles -- near Los  
21 Angeles in Irvine, California, was down for a while; and so  
22 interpreters were so anxious to get certified that they were  
23 flying up here to San Francisco, Millbrae, where is the testing  
24 site, just to get tested. So they flew there in the morning,  
25 took the test mid-afternoon, went back to their city in the

1 evening. One of them stayed a whole weekend and did some  
2 sightseeing around the city, and it's great. That's how  
3 passionate, that's how anxious interpreters are to get  
4 certified.

5 As long as there is no recognition from the State,  
6 they still won't do anything about it. They will remain on the  
7 fence; and they will still be wondering, "Should I take this  
8 exam now, or should I wait until the State says something?" So  
9 once the State does that, I know that a lot of interpreters are  
10 going to get certified.

11 Currently on the National Board, there are 3,000  
12 interpreters that are registered. There are -- going through  
13 the interim recommendations, certificates, all that, taking a  
14 written exam; but they don't take the final step, which is to  
15 take the oral exam, because in some case -- actually, most  
16 case, it is not recognized yet. The State of Oregon already  
17 recognizes national certification. The State of New York does  
18 that also; and Texas is considering it. I think that  
19 California should lead the pack in this. Well, we can't lead  
20 the pack but our pioneer spirit that we've had for so long --  
21 other states are taking lead on this.

22 So I urge you on behalf of all the injured workers  
23 just to recognize national certification. It is valid. It is  
24 reliable. It is nationally accredited, so there are no  
25 questions about the qualifications or the competency of the

1 interpreters that have those certifications.

2 Thank you.

3 MS. OVERPECK: Thank you.

4 Yes?

5 MARINA HERRERA

6 MS. HERRERA: Good afternoon. I'm Marina Herrera,  
7 M-A-R-I-N-A, H-E-R-R-E-R-A. I'm a state certified interpreter,  
8 both medical and administrative. I've been certified for  
9 around 25 years of interpreting.

10 I just wanted to bring back two topics that have  
11 already been addressed today. One is to follow Mr. Garcia on  
12 the national accreditation. I have, myself, while I have been  
13 doing interpreting assignments, got into the situation in which  
14 I have arrived, and a national certified interpreter has  
15 arrived. This person, doubtless, is accredited. They have a  
16 credential to show. However, in the past, when I used to  
17 interpret before the National Board came along, it was always  
18 understood that the credentials are trumped depending on what  
19 area you're translating. For example, if you are in an  
20 administrative hearing and you come to the Board, two  
21 interpreters show up, and you have a medical interpreter and  
22 you have an administrative interpreter, the administrative  
23 interpreter would be the one who would proceed. In certain  
24 instances in depositions that can happen. Medical interpreters  
25 who are certified do show up to depositions. If an

1 administrative interpreter is there, the administrative  
2 interpreter should be the one to proceed to do the  
3 interpretation.

4 I have had national certified interpreters tell me  
5 that because their certification is national, it has more  
6 weight than the state certification. The doctors have looked  
7 at them and have said, "That makes a lot of sense to me," and I  
8 have been dismissed. I have called the party that has given me  
9 the assignment. They have, in turn, called the other party;  
10 and they have said that makes a lot of sense. The national  
11 certification should prevail.

12 I, as a certified interpreter who respects the  
13 profession, have absolutely no problem with more people getting  
14 certified. I respect and I know several national certified  
15 interpreters. Some of them -- they, frankly, have trained more  
16 than people who have passed the test. They really undergo --  
17 some of them undergo rigorous training. Some of them go to  
18 Arizona and study for one or two weeks in a very intensive  
19 course, but I think what you need to take into account is that  
20 the regulations have to have a definition as to what should  
21 occur or how the parties should proceed when they encounter  
22 these situations.

23 It is terribly unpleasant for the interpreters when  
24 they say, "But if I don't stay, I'm not going to get paid  
25 because that is what the party who sent me told me." And they

1 said, "What do you mean?" And this lady said, "If it is not  
2 proven in the doctor's report that I was the interpreter who  
3 stayed, the agency who sent me told me I will not get paid."  
4 Now, that doesn't make sense to me having worked in this field  
5 for so long because, as the interpreters, we're usually not  
6 privy to the medical documents; and quite often we don't even  
7 know whether the doctor puts down the name or the certification  
8 number of the interpreter. They should, but they don't. Quite  
9 often I ask the doctors. I say, "Doctor, would you mind  
10 stating who I am and that I was present here and putting my  
11 name on the report?" Some of them are not interested at all  
12 because some doctors still see us as someone that they have to  
13 put up with. They don't see us necessarily as their friend or  
14 their helper.

15           And when I get to the assignments and the injured  
16 worker tells me, "Who do you work for?" I always say, "I work  
17 for you. I am your ears. I am your mouth, and I am here to  
18 make sure that you know absolutely everything that is happening  
19 around you during this proceeding."

20           So I would please urge you to take into account when  
21 you do the final drafting some sort of language in which it is  
22 clarified that if we're going to be administrative and medical  
23 interpreters recognized by the State of California, if we pay  
24 our dues as is required so we are able to be on the listing,  
25 something similar should be done for the national certified

1 interpreters if that is the type of organization that you're  
2 going to be accepting as the ones who will be qualified or  
3 certified interpreters for medical appointments.

4           And not to make this too long, but I did want to bring  
5 to your attention that on the regulations, per se, where they  
6 say where the interpreters are acceptable, when you look at  
7 where it talks about the Appeals Board hearing, I think it's  
8 33 -- no, 35 -- 9795.335. It talks about Appeals Board hearing  
9 or arbitration; and I think that something very important was  
10 left out, which is the reading -- the interpreting, reading,  
11 and signing of C and R documents. We get called constantly to  
12 go to the attorneys' offices because the parties have agreed  
13 that this case is going to settle without the need of a formal  
14 WCAB hearing. Quite often, the attorneys will get these faxed  
15 or e-mailed to them by claims adjusters who are out of state.  
16 So they call us to come in, and we do the interpretation.  
17 Basically, this should be done by an uninterested party. The  
18 injured worker has the right to have a party who doesn't work  
19 for their attorney and, therefore, has no interest or is in no  
20 way biased. So we show up. We are billing two-hour minimum;  
21 and I, myself, personally -- and I think that many of my  
22 colleagues here will attest that we're getting denials saying  
23 this is cost of the applicant's attorney doing business, so  
24 your payments are not approved; or our bills are being subject  
25 to U.R. review, and so we're getting denials that say "code not

1 acceptable", "is not part of the C.P.T.", and things like that.  
2 So I would please -- I request that you take into consideration  
3 adding outside of the Appeals Board hearing the reading and  
4 interpreting of Stipulations or Compromise and Release  
5 documents.

6           And then, lastly, I have a message from -- I could  
7 give you the names; but at last count I had 39 colleagues who  
8 told me that they could not be present here today, not because  
9 they didn't want to but because they could not afford to take  
10 the day off without working. Lots of my colleagues came from  
11 Southern California. It is a hardship not to be working right  
12 now. I should be getting ready to go to a WCAB hearing, and I  
13 gave it up because I feel that this is really important that  
14 you listen to the fact that when you establish our  
15 reimbursement rate, this is how we earn our living. Many of  
16 us, yes, we have -- some of them are not even interpreters; but  
17 when you take -- when you start thinking that you're going to  
18 reimburse us \$45 an hour, for example, and you don't take into  
19 account the fact that I drove an hour to get to the assignment  
20 -- quite often I have to drive an hour back. I'm paying my  
21 self-employment taxes. I am having to pay my own medical  
22 insurance. I have no vacation. My kids always say, "Mom, why  
23 don't you ever take a long vacation?" I said, "Well, when we  
24 take a long vacation, we don't make any money."

25           Yes, it's my choice. I love my profession. I have

1 been doing it for a long time, and I'm not planning to change  
2 any in the near future; but at the same time, I think that you  
3 have to take into account that's how we work. So please do  
4 take that into account when you make your final decisions  
5 because I understand about the surveys that you mentioned, but  
6 none of the interpreters have been contacted. The working  
7 interpreters have not had any input yet, so I'm hoping that  
8 somehow -- they have listings. They have our phone numbers.  
9 When we get certified, we have to give them our address. We  
10 have to give them our numbers. They can talk to us, and we can  
11 tell them how -- what it is like for us; and I think that's  
12 really, really important to take into account in this survey.

13 Thank you for your time.

14 MS. OVERPECK: Thank you.

15 Are there any others?

16 RENEE ENNABE

17 MS. ENNABE: Thank you for a second opportunity.

18 MS. OVERPECK: Will you say your name again?

19 MS. ENNABE: Renee Ennabe, R-E-N-E-E, E-N-N-A-B-E; and I  
20 am going to touch base on the topic of I.M.I.A., the  
21 certification program -- the national certification program.  
22 Yes, they are doing AME and QME appointments. I was just on  
23 one on Friday where an AME was taking place and a national  
24 certified interpreter was doing the assignment. I think you  
25 should know that because the test I took, as I said earlier,

1 was very rigorous; and I know a lot of friends that have taken  
2 the I.M.I.A. exam. What I get is that it's very easy; and if  
3 you were to consider that, I would ask you to go back to the  
4 other data that you have as far as the test that I took and see  
5 the passing rate and the amount of people that took the test  
6 back when C.P.S. was administering the tests. And I don't know  
7 how long it took to certify 200 interpreters; but if you maybe  
8 check one versus the other, and you weigh in on the standards  
9 for interpreting, it would be great because I know my  
10 colleagues -- one of the things that they wanted me to talk  
11 about was that the I.M.I.A. exam -- a lot of national  
12 interpreters -- they're taking over our AME's and QME's and  
13 doing them. I always thought that the DWC would -- was a  
14 separate thing than, say, health care interpreting. So if  
15 whatever entity you decide is going to administer the test, I  
16 would ask you that you place high standards on that just like  
17 ours.

18 Thank you.

19 MS. OVERPECK: Thank you.

20 ILEANA DE LA TORRE

21 MS. DE LA TORRE: Hello. Thank you for your time. My  
22 name is Ileana de la Torre. That's spelled I-L-E-A-N-A. De la  
23 Torre is three words -- D-E, L-A, T-O-R-R-E.

24 So I am, basically, compared to many of the people  
25 that have spoken here, fairly new into the profession. I've

1 been doing medical interpreting for almost two years. But in  
2 that time, I went through the City College of San Francisco's  
3 program for medical interpreting or health care interpreting;  
4 and I've taken the written and am about to take the oral exam  
5 for the national certification. So what I want to bring in is,  
6 apart from everything that's been said -- is the perspective of  
7 a newcomer into the profession and the fact that there isn't at  
8 this moment any other way of proving my qualifications for  
9 medical and interpreting in the health care, particularly  
10 workers' comp, area. I don't know of any other -- and I have  
11 looked and asked around a lot -- of any other way of proving  
12 presently that I am qualified.

13 I'm a person who has a strong legal background because  
14 I was a banker for many years. I've also been a teacher and  
15 bilingual teacher. I feel very confident of my abilities to be  
16 a good interpreter.

17 So I think that it's important for you to take into  
18 account that there -- being that there is a need for bilingual  
19 interpreters because of the number of incidents. I mean we  
20 know that the majority of manual workers in this country are  
21 foreigners, and many of them are doing the kind of jobs that  
22 they're doing because they don't know English. It's obvious  
23 that there's going to be always a very big need for  
24 interpreting in the health care interpretation for industrial  
25 injury.



1 review something like that? That would be something to, you  
2 know, put on the table if you were to grant the same stature to  
3 that national certification as to the state certification  
4 because I would -- I would feel like my profession was  
5 undermined if that test was of a lower level, so just something  
6 to talk about that.

7 In terms of the -- what Mr. Katz had talked about,  
8 their reimbursement and the lien fees that have to be paid now  
9 for some of these appointments -- a lot of times the bill is  
10 sent. The insurance carrier pays an amount that they pulled  
11 out of thin air, and you're left high and dry with an extra  
12 bill to pay, the services for the interpreter that went, plus  
13 the lien fee; and you never know if you're going to get the  
14 money back until you go to trial. So it creates a lot of  
15 traffic through the courts to be able to recover sometimes  
16 maybe a hundred, \$200, which is something that could be easily  
17 recovered if you were one of the big vendors, which the  
18 insurance companies have no problem paying higher fees to the  
19 big companies; but on the other hand, to the smaller companies,  
20 they deny or they underpay us.

21 And last but not least, I heard something about a  
22 40-hour certification program or qualification program.  
23 Somebody was mentioning that, and I'd be interested in knowing  
24 more about that because it just boggles my mind that somebody  
25 could get certified in 40 hours.

1           Also, a very important point somebody brought up was  
2 the State has our information of all the state certified  
3 interpreters. It would be interesting, you know, to see what  
4 kind of opinion the whole community of interpreters that have  
5 been doing this for so many years and so passionate about it  
6 -- and we can see the passion coming through today -- it would  
7 be nice -- it would be a good source of opinion to maybe do a  
8 survey amongst all the state certified interpreters in terms of  
9 the final draft of these new resolutions. That way, maybe our  
10 voice could be heard in many different ways of many  
11 interpreters that may be -- I know many that are wanting to  
12 come from Sacramento but were unable because they're at the  
13 Board, depositions, and so forth. So that's a good source of input  
14 for the panel and for whoever is going to draft the last  
15 resolutions. You know, maybe send a survey out with any  
16 inquiries that you might have -- out to the state certified via  
17 email. All our emails are -- at least every time I check on  
18 the State Personnel Board, all the information is there. It's  
19 available, and I'm sure all of us would more than gladly put in  
20 our time to answer some questions that would strengthen our  
21 profession.

22           Thank you.

23           MS. OVERPECK: Thank you. Anybody else? Okay. There are  
24 no hands raised, so I'm going to close the public hearing for  
25 interpreters.

1           Let me just make sure for the supplemental job  
2 displacement voucher. Is there anyone else here who wanted to  
3 say anything else on those? So let's close that public  
4 hearing, as well.

5           Let me just remind you that if you brought anything,  
6 any written comments, you can give them right now to Maureen,  
7 who's up here in the front. You have until 5:00 tonight if you  
8 want to email us something or bring it by, and we're up on the  
9 17th floor.

10           What we will do next is go back through all of the  
11 comments that we received both orally and in writing. We will  
12 take a look at the last proposed draft of regulations. We most  
13 likely will make changes to that draft. They will be --  
14 there'll be a 15 day notice period, and everybody who signed up  
15 on the sign-in sheets will receive an email.

16           If you also, by any chance, signed up for the  
17 Newslines that we send out, there will also be a Newline  
18 announcing that the next draft is available; and there'll be a  
19 15 day period for you to send in written comments. We don't do  
20 oral comments again.

21           When we do get around to doing the fee schedule, we  
22 will also send out a notification of that; so you will all be  
23 able to be aware of it and have an opportunity to give formal  
24 comments on that section.

25           We really appreciate your time coming here and telling

1 us. We learn a lot. It's really important for us because we  
2 are not out there doing this, so thank you very much for coming  
3 down and talking to us today.

4 (Whereupon, the hearing was concluded at 1:40 p.m.)

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R E P O R T E R ' S C E R T I F I C A T E

I, Lori Carson, Official Hearing Reporter for the State of California, Department of Industrial Relations, Division of Workers' Compensation, do hereby certify that:  
Official Hearing Reporter Erlinda Busby and I stenographically reported the public hearing identified on the cover page of this transcript and, with the aid of backup audio recording, transcribed the proceeding via computer aided transcription, to create this full, true, and correct transcript of the proceedings.

Lori A. Carson  
Official Hearing Reporter  
Workers' Compensation Appeals Board

Date:  
Santa Rosa, California