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1 PUBLIC HEARING

2 OAKLAND, CALIFORNIA

3 THURSDAY, OCTOBER 9, 2009

4 --o0o--

5 CHIEF COUNSEL OVERPECK: Good morning, everyone. I
6 think we'll go ahead and get started. My name is Destie
7 Overpeck. I'm the Chief Counsel for the Division of
8 Workers' Compensation.

9 This is Yu-Yee Wu, who's the attorney who has been
10 responsible for drafting this set of regulations. Our court
11 reporters are Rex Holt and Pam Hafner; and Maureen Gray is
12 our Regulations Coordinator.

13 So, hopefully, you all notice that we have a sign-in
14 sheet at the front. Please be sure and sign in that you are
15 here; and if you want to speak, please check the box "yes"
16 so that we are sure to call you.

17 Today's hearing is on the proposed regulations
18 regarding the Medical Provider Network; the DWC-1, which is
19 the employee information and workers' compensation claim
20 form; and the Notice of Potential Eligibility, which is also
21 called the NOPE. The amendments are to Sections 9767.3,
22 9767.6, 9767.8, 9767.12, 9767.16, 9880, 9881, 9881.1, and
23 10139, all in the California Code of Regulations, Title 8
24 and we also do have copies of the proposed regulations and
25 the notice and the initial statement of reasons up here at

1 the front.

2 The intention of the proposed regulations is to
3 streamline the existing Medical Provider Network
4 notification process, primarily by shortening the required
5 notices, allowing flexibility in distribution of notices,
6 and by reducing the filings with the Division. We also hope
7 to clarify the filing requirements and update the workers'
8 compensation poster, the initial employee's notice, and the
9 workers' compensation claim form to reflect both the changes
10 and the benefits that have occurred in the last few years
11 and the new changes to the MPN information.

12 So, today's hearing will continue as long there are
13 people present. So far we only have two speakers so I
14 actually don't think it's going to go on for too long.
15 However, any written comments that you would like to submit
16 may be made today as long as you get them in by 5 o'clock.
17 You can hand them to Maureen today, or you can fax them to
18 us or e-mail them to us, and we will be sure to include them
19 in our rule-making review.

20 The purpose of this hearing is to receive comments on
21 the regulations. All of your comments, both oral and
22 written, will be considered in determining whether to adopt
23 the regulations or to make any additional revisions to the
24 proposed amendments. Please restrict your comments to the
25 subject of the regulations or any suggestions that you have

1 for changing them. We won't be asking you any questions
2 unless we just need to clarify something.

3 So, when you come up to give your testimony, please be
4 sure to give your card to the court reporter, state your
5 name and who you are testifying on behalf of. And I think
6 we can get started.

7 So, the first person we have marked down as a speaker
8 is Mark Gerlach, and the podium is right here.

9 **MARK GERLACH**

10 MARK GERLACH: No card. Thank you. Thank you. My
11 name is Mark Gerlach, G-e-r-l-a-c-h. I represent the
12 California Applicants' Attorneys Association. With me is
13 Mark Gearheart, G-e-a-r-h-e-a-r-t. Mark is a member of the
14 Board of Directors of the association and will be providing
15 some testimony on -- he's also a practicing attorney here in
16 the area and will be providing some testimony on how MPNs
17 actually affect injured workers and how these regulations
18 impact that process.

19 I'd just like to start out with a little background
20 here. When I -- one of the first areas where I dealt with
21 the Division was back in the '90s when the Division was
22 having hearings regarding notices that were being sent out
23 and the number of notices, and the industry was complaining
24 about the burden on them with all the notices and all the
25 information that had to go out.

1 A task force was formed. That task force was in
2 existence for three to five years. The end result of that
3 task force was that we actually had more notices. And I
4 point this out as a background issue. The lesson to be
5 learned from this is that, even though that was a task force
6 that was composed mainly of insurers and third-party
7 administrators, the task force came to the conclusion that
8 we needed more notices. The reason is because notices are
9 critically important to injured workers.

10 Injured workers, when they come into the system, know
11 nothing about the system generally. The notices that they
12 are provided give them their only sense of where they
13 belong, what their rights are, what their duties are, what
14 their responsibilities are in the workers' compensation
15 system. Getting those notices, having them be complete,
16 provide them the information they need, be provided on a
17 timely basis is critically important in getting through the
18 system.

19 A second point to raise here is, even within the MPN
20 statutory rules that are set up, we have requirements within
21 them to be providing information to injured workers. For
22 example, there is a requirement that they be provided with
23 information regarding continuity of care policies of the
24 insurance company. Again it's critically important for the
25 injured worker to be able to understand what his or her

1 rights are and receive that notice on a timely basis. And
2 we believe that there are some problems with these
3 regulations with that regard, and I'd like Mark to talk a
4 little bit about how the MPN regulations impact actual
5 injured workers in cases.

6 **MARK GEARHEART**

7 MARK GEARHEART: Thank you. My name is
8 Mark Gearheart. I'm an attorney who represents injured
9 employees and represents workers in the workers' comp system
10 for 29 years now, and it's from that perspective that I'm
11 speaking to you. Our association has submitted written
12 comments, and I'm not going to reiterate those. I know they
13 are in the record.

14 But regarding the shortening of the notice -- pardon
15 me -- from 30 to 14 days about implementation of an MPN, the
16 problem with that -- or one problem with that is we can't do
17 what we need to do in terms of continuity of care, within
18 14 days. If an injured worker gets a notice that we've got
19 a new MPN and it's going into effect in 14 days and they
20 want to stay with their current prior MPN doctor, what has
21 to happen is there has to be communication with the doctor's
22 office. We need to object to the change of care. We need
23 to communicate to the doctor and ask for a report asking
24 whether this patient falls within one of the statutory or
25 regulatory provisions to stay with their treating

1 physician -- serious chronic conditions, recent surgery,
2 et cetera. We have to get the report from the doctor's
3 office, and if any of you have dealt with getting reports
4 from doctors' offices know that 14 days is pretty
5 unrealistic. And then we have to communicate that
6 information to the carrier or the MPN administrator and
7 speak with them about it.

8 And in the meantime, the worker is in limbo as to who
9 their treater is. The old treater may not want to treat
10 them until that's resolved, and 30 days is a very tight
11 timeline to do what you need to do when there is a change in
12 MPNs. And 14 days just is so unworkable, it's going to
13 create a lot of confusion, and a lot of people who are just
14 caught between different MPNs, caught trying to get the
15 information they need, and I think it will just create a lot
16 of problems for the patient, for the injured employee, the
17 consumer.

18 Another problem I want to mention is the limitations
19 in the notices, and this is mentioned in our letter. But
20 the abbreviated notice doesn't really give the full
21 information, and I agree with Mark Gerlach. That's
22 critical. Folks don't know what their rights are, and these
23 are the only notices they get. And I don't see any reason
24 to abbreviate the notices further. The cost of sending a
25 notice as it exists versus shortening it is essentially the

1 same.

2 I think that the proposal about Spanish and English
3 may be problematic. The current regulation is really simple
4 and easy to follow. You send a notice in English and you
5 send it in Spanish. You either did it or you didn't. It's
6 very easy to comply. It's very easy to figure out if there
7 was compliance.

8 The proposed regulations indicate that the language
9 should be whichever is most appropriate to the employee. As
10 a representative of injured workers for many years, I can
11 tell you that's a really complicated question. I'm not sure
12 how the carriers or the MPNs are going to know, and I think
13 it's going to create litigation.

14 I have clients who have Hispanic surnames who frankly
15 aren't literate in Spanish or English; and the way these
16 notices get interpreted is their kid, who's in grade school
17 in Contra Costa County and can read some English, interprets
18 it to them. So is Spanish or English the most appropriate
19 language for that worker and how is the carrier going to
20 know; and if they send the notice in Spanish, is it invalid.
21 What's the most appropriate notice for somebody whose
22 primary language is Vietnamese. I just think we're
23 substituting complexity for simplicity and creating
24 litigation with that change.

25 And the last of these things I wanted to comment on

1 relates to the suggestion that these MPN lists that tell us
2 who's in the MPN and who's not be regularly updated. And I
3 think that's okay as far as it goes, but I don't know what
4 "regular" means. And I think to understand the problem, you
5 need to know that these MPN lists are rarely up to date.
6 The adjusters don't know who's in their MPN. The doctors
7 don't know what MPN they are in. We spend inordinate
8 amounts of time trying to track this information down.

9 I'd like to share with you a short letter dated
10 September 9 that was written by an attorney, Michael
11 Richter, R-i-c-h-t-e-r, who practices in San Jose
12 representing injured workers. I have his permission and his
13 client's permission to read this you to, but it relates
14 directly to this topic. I think it illustrates part of the
15 problem.

16 He writes a letter to the defense lawyer and says:
17 "Pursuant to our September 8, 2009, telephone conversation
18 in which you advised me that your assistant had not yet been
19 able to call Dr. Schendel, I called Dr. Schendel's office.
20 The number your client has on its MPN list is a number for
21 Children's Hospital. I had to go find Dr. Schendel's phone
22 number. When I finally did find it, I called it, and
23 Dr. Schendel does not do workers' compensation.

24 "I think that your client is in bad faith by providing
25 all these names of doctors who do not do workers'

1 compensation on their MPN list. It is almost as if some
2 individual in upper or middle management took names out of a
3 phone book, threw them on the MPN list, and said 'prove to
4 the WCAB that we did not research these doctors carefully.'

5 "The fact that neither of the [] surgeons that your
6 client has on their MPN list does workers' compensation, or
7 even considers doing workers' compensation, suggests to me
8 that your client [is in violation of the regulations]. Your
9 client has wasted a great deal of [our] time."

10 And he goes on to say how unhappy he is about the
11 waste of time and that he expects them to authorize
12 treatment with the physician he's suggested.

13 This isn't an isolated problem. This goes on all over
14 the state every day. I had a case last week where my
15 client's treating doctor, through the MPN, who was
16 occupational medicine, said he's got a serious spine
17 problem. He needs a neurologist to treat it, and he was
18 seen by a neurosurgeon on referral because there was a
19 question as to whether surgery would help. And the
20 neurosurgeon said it's not a surgical condition, this is in
21 the field of neurology. He needs a neurologist to treat it.

22 So I went to the MPN list to find a neurologist for my
23 client. The first four neurologists on the list we called
24 refused to take any workers' comp patients. They had no
25 interest in seeing this man. He still doesn't have a

1 neurologist. We're still trying to find someone.

2 I think it's unfortunate that the thrust of these
3 regulations seems to be to relax the requirements on the
4 insurance industry instead of to protect the consumer and
5 the patient. I would suggest that what really ought to be
6 done, instead of relaxing the insurance companies'
7 requirements here, is there should be random audits of MPNs
8 for compliance. If you do that, you'll find that most of
9 them don't comply most of the time. If they don't comply,
10 their license should be yanked.

11 People aren't able to get treatment. We don't even
12 know who's in the MPN. I spent hours trying to find out how
13 to access the MPN list, and then it's wrong. It's
14 outrageous. And the effect of that on injured workers is
15 they don't get treatment. The effect on carriers is they
16 save a lot of money. They should be required to have an
17 up-to-date list on the web, updated immediately whenever
18 they change a doctor. They are going to say, "Oh, that's
19 really hard. We can't do that. Oh, it's too expensive."

20 Well, they must have an up-to-date list somewhere.
21 Why can't it be on the web. Why can't it be published so
22 everyone in the public can access it immediately. Why the
23 big secret. Why are we playing a shell game. It's to deny
24 workers treatment.

25 So I would urge you to consider that when you look at

1 these regulations. Thank you.

2 CHIEF COUNSEL OVERPECK: Will you give us a copy of
3 your letter for the record?

4 MARK GEARHEART: Sure.

5 CHIEF COUNSEL OVERPECK: Thank you.

6 MARK GEARHEART: Sure, to the reporter.

7 CHIEF COUNSEL OVERPECK: So I know a few additional
8 people have entered the room. First of all, I want to make
9 sure you do sign in so that we have you for our rule making
10 record. And if either of you, or any of you, would like to
11 make a comment, please approach the podium. No?

12 So what we're going to do is -- oh, good. Please.

13 THOMAS BARNES: I can make a comment.

14 CHIEF COUNSEL OVERPECK: You have to come up here
15 though.

16 THOMAS BARNES: I know. I have to get my business
17 card out.

18 PAM HAFNER: Thank you very much.

19 **THOMAS BARNES**

20 THOMAS BARNES: Good morning. I'm Tom Barnes. I'm
21 vice president of Managed Care Products for Gallagher
22 Bassett Services. I am based out of our home office, which
23 is in Itasca, Illinois.

24 Most of you know Gallagher Bassett is a third-party
25 administrator in California, as well as 50 other states.

1 One of my roles for the company is that I am actually
2 responsible for all of our certified network implementations
3 across the nation, so not just California but Texas,
4 West Virginia, Florida, and I can go on and on and on
5 besides that.

6 I did want to make some comments on the regulations.
7 I think Mark and Mark both brought up some good comments and
8 a couple things. The one thing about the shortening of the
9 notice, California is the only state with certified networks
10 that has such an extended notice requirement. For example,
11 Texas Healthcare Networks, which pattern themselves after
12 California, have agreed notification to the injured worker
13 is much more heavier than California. But the notice
14 requirements are -- do not have the 30 days. It can be
15 five days or less, and we have not had any problems with the
16 healthcare networks in Texas whatsoever. They do have -- I
17 don't want to say caveat. But they have a requirement
18 that -- the notification process in Texas is that the
19 employer must follow the same consistent process of
20 notifying their employees. I think it's a valid thing to
21 have for any state that has a certified network.

22 As I listened to both Mark and Mark's concerns, they
23 talk about the notification process to employees, if it's
24 not handled properly by the employer, then misinformation
25 can, in fact, go out there and the employee does not know

1 what they need to do. For the roughly 125 MPNs which my
2 organization has in California, we have not had one single
3 formal complaint from the DWC to date since Senate Bill 899
4 passed as far as when MPNs went into effect, as you well
5 know, back in January 2005. And it gets back down to the
6 notification process and do it right consistently and
7 concise, giving the information that the employees need, not
8 a handbook of things which will actually confuse the
9 employees.

10 I think Mark has a valid statement in terms of the
11 language requirement, English and Spanish, because what
12 happens if you have an English-speaking employee and they
13 receive a Spanish-speaking notice, I mean that can be
14 confusing, and I think that requirement actually should stay
15 in place. Texas is a state where, if the population for the
16 employers for any other language exceeds 10 percent or more,
17 they require the other translation, and Vietnamese being one
18 of them and Houston is a very heavily populated area for
19 Vietnamese. So that could be something that could be
20 considered, I mean, to be given out.

21 At our company we provide the notice, of course, for
22 our employers. We train our employers in how to give
23 notices, and we also give those notices at the time of
24 injury.

25 I do have to disagree, at least with the networks that

1 I have under my realm of control, if you want to say that,
2 or supervision, as far as the network lists being outdated,
3 in the notices provided to our employers to give their
4 employees, the employees have different options. They can
5 ask for a list from their MPN contact, be that the employer
6 or the adjuster. They are given a toll-free number in our
7 notices and are also given an Internet site. And I know
8 from our networks that our Internet sites are updated daily.
9 We do find sometimes that providers aren't aware of which
10 networks they're in. We do get those types of inquiries.
11 They say, "I belong to the Focus network. I should be in
12 First Health." And those type of inquiries are clarified
13 for the employers -- excuse me -- for the providers so they
14 know which network they are actually in. And we really
15 don't have issues with that.

16 But, if you have a toll-free number and it goes to the
17 network, the network should know if their lists are updated,
18 which they are updated anyway every day, you should be able
19 to find a provider. The simplest way to find a provider is
20 via a toll-free number. And so, anyway, we do give those
21 multiple options out there.

22 There was some discussion on -- at least some
23 testimony about the shortening of the notice and the
24 continuity of care policy, and again I think Mark and
25 Mark -- Marks -- excuse me. I think that giving notices out

1 to the employee, it's important that the employee gets
2 access to the care that they actually need. We've made it a
3 practice in our organization that, while the notice comes
4 out, whether it's 30 days or whether it's 14 days, we don't
5 begin the continuity-of-care policy to transfer, if there is
6 any, until the actual MPN is effective. So the employee
7 does have the advanced notice. What we're finding, at least
8 in our networks, is that many of the providers are in both
9 networks, the previous network and the new one. In most
10 cases, at least for us, we find that the employee's care is
11 not interrupted. And we do look at, I guess, the four
12 criteria that we have in California where you can't transfer
13 the claim, then we make sure we retire the case until the
14 condition is bypassed and gets to the next stop.

15 I found it was interesting, the comment that if you
16 audit these networks that you're going to find they are
17 all -- like they're wrong and you'll find most providers not
18 in there and so forth. I don't have Mark's experience. I
19 don't know what networks he's dealing with. I do think that
20 is an assumption. I think we should deal with facts, and
21 then there are cases where the networks are outdated or
22 notices are done wrong by employers and so forth. Those
23 things should be addressed. Most certainly, again, the
24 access to care of the injured worker I think is the most
25 important.

1 Not commented on, at least from the previous
2 testimony, is the MPN cessation and change notices, and the
3 DWC knows that I have buried your department with tons of
4 these things, and those are very confusing to the injured
5 worker. In fact, there is an additional level that goes to
6 the injured worker because you get the MPN notice that says
7 here is who your MPN is, here's how you find providers, what
8 happens when you get injured on the job versus emergency
9 care, what is continuity of care, what is transfer of care,
10 who do I call for questions -- that's all in the notice.

11 But in the cessation and change notices, then you go
12 beyond that, you're saying, well, on this date, you're in
13 the MPN. That date you're not. And then you have your
14 transfer of care here. It gets very confusing, an
15 additional layer for the injured worker confused even more
16 so. Now they have two notices in English and Spanish for
17 their MPN notice and then you have another two notices in
18 English and Spanish of cessation of change, which one do I
19 look at. I think that additional layer needs to be removed.
20 And even the advanced requirement that the employer must
21 notify the DWC 45 days in advance before they change their
22 carrier because they aren't going to change their MPNs is an
23 additional burden for many of the employers. Many employers
24 in how they work with their brokers, whoever is their risk
25 managers and so forth, they don't discern -- sometimes

1 determine their insurance coverage until the night before,
2 and I'm talking at renewal. If we had it where we would
3 know where a particular client, whoever that is, is going to
4 change a carrier at 45 days, I'd have the notices out to the
5 DWC the next day. But the real world doesn't work that way.

6 Again, the important thing is not all these additional
7 layers of information tossed at the injured worker to
8 confuse them. Keep it as simple as it is, make sure they
9 know how to access care and keep that care and make sure
10 that as we're handling our claims we notify the applicant
11 attorney, we notify also the defense attorney, to make sure
12 that the employee does get the care that they actually need.

13 I guess that's -- for our book of business in
14 California, I referenced the amount of networks we actually
15 handle. We have well over 500 customers in California, and
16 some of them are very, very large national names. Some are
17 captive organizations and so forth. We want to make sure
18 that it works well for our employers and also the injured
19 workers, and I see in the room some of the other
20 organizations I've worked with and they strive to do the
21 same thing. So I think overall regulations, the changes are
22 good. That's it.

23 CHIEF COUNSEL OVERPECK: Thank you. Would anybody
24 else like to testify at this time?

25 DONALD BALZANO: Might as well. I was just going to

1 turn this in. Hi.

2 PAM HAFNER: Thank you.

3 DONALD BALZANO

4 DONALD BALZANO: I might as well read this out loud.

5 I'm Don Balzano from Balzano & Associates. I'm legal
6 counsel for Medex Healthcare. I'm also representing
7 Network HCO and some specific employers -- Grimmway Farms,
8 Wal-Mart stores, Best Buy, Goodwill Industries, and the
9 California Truckers Safety Association. We administer MPNs
10 for approximately 400,000 California employees. A couple
11 comments on the previous comments.

12 Mark made a good comment about two things -- the
13 updating of MPN lists and English and Spanish. I would be
14 remiss if I would ever counsel my employers not to send
15 things in English and Spanish. So no matter what the
16 regulations say, that's going to happen. We have our
17 notices also translated in 11 other different languages and,
18 of course, we use those periodically.

19 As far as people not being available in the network,
20 it may be the case that some MPNs don't update their network
21 properly. I know it's the case that many do. Ours we do
22 twice a month. But one of the problems is once you contract
23 with a physician who states they'll do workers' compensation
24 then they quit. You don't know they quit until somebody
25 shows up wanting care.

1 Every two years we do credentialing, and they are
2 credentialed as a physician, but if somebody decides not to
3 take comp, and unfortunately a lot of people are getting out
4 of the business, we're not going to know that until people
5 show up there.

6 We reviewed the proposed changes to 9767.12, agree
7 wholeheartedly with the differentiation between the original
8 notice, the initial notice, and the notice at the time of
9 injury. It is certainly at the latter time that the covered
10 employee is far more inclined to read the notice and pay
11 attention to it -- they've got a work comp injury -- and ask
12 any questions they might have regarding that injury. If I
13 receive something right now about a work comp injury, I'm
14 trashing it. I don't ever expect to have that happen. If I
15 have an injury, I'm reading every word and maybe getting
16 help to figure out what it says.

17 One concern though that's arisen is the elimination of
18 the specific language in Section A regarding the end quotes,
19 existing employee transfers under the MPN, whichever is
20 appropriate. There are many occasions at the boards where
21 employers must rely on this specific language. It obviates
22 unnecessary dispute by counsel regarding the propriety of
23 transferring an individual covered employee into the MPN,
24 even though it certainly could be argued that the existing
25 language that you left in, the 14 days prior to the

1 implementation, could certainly apply to the implementation
2 for that specific covered employee.

3 As you know, the validity of the MPN programs is an
4 increasingly litigated issue at the boards and with *Knight*
5 *versus WCAB* being utilized in attempts to quash employer
6 medical control, sometimes successful, sometimes not. If
7 employees with existing injuries can't be transferred into
8 the MPN, then any proven failure in either of the notices or
9 the new posting could result in the employer losing medical
10 control for the total life of the claim. These types of
11 cases demand the ability of the employer to cure any
12 deficiencies and transfer that employee into the MPN
13 subject, of course, to the exceptions that are enumerated
14 in 9767.9, which continue to exist. I don't think there are
15 any changes to that one. No.

16 The language that exists there now is lucid and
17 clearly comprehensible, and it eliminates unnecessary
18 litigation as to the meaning of, quote, implementation when
19 such covered employees with existing injuries are to be
20 transferred into the MPN. And we also still want to allow
21 the employee to make the determination whether they wish to
22 make that transfer or not at anytime, certainly not just
23 when the MPN comes into existence or when they are hired.
24 There are many cases, many reasons, why you should not
25 transfer somebody in. Some of the litigated claims and some

1 of the people are being treated well, why transfer them into
2 the MPN. But that has to be a call made later on.

3 In addition, as of December 31, there were, from one
4 HCO alone, approximately 220 employers representing
5 70,000 employees who had contracted with HCOs and also have
6 approved MPNs which can be utilized after the cessation of
7 the statutory limitation of medical control for the HCOs.

8 That's the comment I wanted to make about that
9 specific language, and that's it.

10 CHIEF COUNSEL OVERPECK: Thank you.

11 DONALD BALZANO: Thank you.

12 CHIEF COUNSEL OVERPECK: Is there anybody else who
13 would like to testify?

14 (No response.)

15 CHIEF COUNSEL OVERPECK: What I think we'll do is go
16 off the record for the next ten to 15 minutes and see if
17 anyone else shows up who does want to say anything on the
18 record; and if no one does, then we'll finish at that time.
19 So let's go off the record for now.

20 (Pause in proceedings from 10:37 a.m. to 10:55 a.m.)

21 CHIEF COUNSEL OVERPECK: All right. Let's go back on
22 the record.

23 Thank you for waiting. And did anybody either decide
24 to speak or join us who would like to make an oral comment?

25 All right. Not hearing any response, I'm now going to

1 close this part of the hearing. I'd like to remind you that
2 if you have any comments that you would like to submit in
3 writing, please feel free to turn them into us right now or
4 bring them up to the 17th floor or fax them or e-mail them
5 to us. And thank you very much for your comments and for
6 attending today.

7 (The proceeding ended at 10:56 a.m.)

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CERTIFICATE OF WCAB OFFICIAL REPORTER

I, REX HOLT, hereby certify that I am a Workers' Compensation Appeals Board Official Reporter and that I reported verbatim in shorthand writing the following proceeding completely and correctly to the best of my ability:

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

PUBLIC HEARING

THURSDAY, OCTOBER 8, 2009

I further certify that I have caused said shorthand writing to be transcribed into typewriting and that the foregoing pages constitute an accurate and complete transcription of my shorthand writing for the date indicated.

DATED: TUESDAY, OCTOBER 20, 2009

REX HOLT
WCAB OFFICIAL REPORTER