

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
WORKERS' COMPENSATION APPEALS BOARD

INITIAL STATEMENT OF REASONS

**Subject Matter of Proposed Regulations:
Rules of Practice and Procedure of the Workers' Compensation Appeals Board**

BACKGROUND:

The Workers' Compensation Appeals Board (WCAB) proposes to amend its Rules of Practice and Procedure (Rules) effective January 1, 2015.¹ These proposed amendments are being initiated pursuant to the WCAB's rulemaking power under Labor Code sections 5307(a), 133, 5309 and 5708,² subject to the procedural requirements of section 5307.4. This Initial Statement of Reasons and accompanying Notice of Proposed Rulemaking have been prepared to comply with the procedural requirements of section 5307.4 and for the convenience of the regulated public to assist it in analyzing and commenting on this largely non-APA rulemaking process.³

Assembly Bill (AB) 1426 eliminated the position of Court Administrator (Stats. 2011, ch. 639, § 1) and further provided:

"All regulations adopted by the court administrator shall remain in effect unless amended or repealed by either the Workers' Compensation Appeals Board or the Administrative Director of the Division of Workers' Compensation. Regulations of the court administrator that have been adopted pursuant to Sections 5307, 5500.3, or subdivision (a) of Section 5502 shall be deemed to be regulations of the Workers' Compensation Appeals Board. All other regulations of the court administrator shall be deemed to be regulations of the Administrative Director of the Division of Workers' Compensation." (*Id.* § 17.)

The primary purpose of this rulemaking is to move or repeal the Rules of the Court Administrator that were adopted pursuant to sections 5307, 5500.3 or 5502(a) into Title 8, Division 1, Chapter 4.5, Subchapter 2, which contains the WCAB's Rules. We will repeal Court Administrator Rules 10213, 10241, 10246, 10253, 10256, and 10294. In addition, we will renumber (and, to a limited extent, amend) Court Administrator Rules 10227, 10230, 10233, 10236, 10240, 10243, 10244, 10250, 10251, 10252, 10254, 10260, 10272, 10275, 10280, 10281, 10295, and 10296.

Additionally, we will amend WCAB Rules 10397, 10561, 10593, 10750, 10751, 10753, 10754, 10755, 10770, 10770.1 and 10845 to omit references to the Court Administrator and/or correct the numbering of cross-referenced regulations. We will also amend WCAB Rules 10740 and 10957.1. We will repeal WCAB Rules 10561.5 and 10958.

¹ The WCAB rules are found in Cal. Code Regs., Title 8, Chapter 4.5, Subchapter 2, section 10300 et seq.

² All further statutory references are to the Labor Code unless otherwise specified.

³ Under Government Code section 11351, the WCAB is not subject to Article 5 (Gov. Code, § 11346 et seq.), Article 6 (*id.* § 11349 et seq.), Article 7 (*id.* § 11349.7 et seq.), or Article 8 (*id.* § 11350 et seq.) of the rulemaking provisions of the Administrative Procedures Act (APA), with the sole exception that section 11346.4(a)(5) [publication in the California Regulatory Notice Register] does apply to the WCAB.

The following Court Administrator Rules will be renumbered as WCAB Rules, as outlined in Tables 1 and 2 below:

TABLE 1

Section Number	Title	Renumbered
10227	Place of Filing Documents After Initial Application or Case Opening Document	10390
10230	Time of Filing Documents	10392
10233	Filing of Medical Reports, Medical-Legal Reports, and Various Records	10393
10236	Filing of Copies of Documents	10391
10240	Appearances required	10563, 10563.1
10243	Continuances	10548
10244	Appearances in Settled Cases	10549
10250	Declaration of Readiness to Proceed	10414
10251	Objection to Declaration of Readiness to Proceed	10416
10252	Expedited Hearing Calendar	10552
10254	Priority Conference Calendar	10555
10260	Assignment of Consolidated Cases	10592
10272	Sealing Documents	10754
10275	Recording of Trial Level Proceedings	10760
10280	Walk-Through Documents	10417
10281	Emergency Petition for Stay	10470
10295	Mandatory Arbitration	10995
10296	Voluntary Arbitration	10996

TABLE 2

Renumbered	Title	Current Section
10390	Place of Filing Documents After Initial Application or Case Opening Document	10227
10391	Filing of Copies of Documents	10236
10392	Time of Filing Documents	10230
10393	Filing of Medical Reports, Medical-Legal Reports, and Various Records	10233
10414	Declaration of Readiness to Proceed	10250
10416	Objection to Declaration of Readiness to Proceed	10251
10417	Walk-Through Documents	10280
10470	Emergency Petition for Stay	10281
10548	Continuances	10243
10549	Appearances in Settled Cases	10244
10552	Expedited Hearing Calendar	10252

10555	Priority Conference Calendar	10254
10563, 10563.1	Appearances required	10240
10592	Assignment of Consolidated Cases	10260
10754	Sealing Documents	10272
10760	Recording of Trial Level Proceedings	10275
10995	Mandatory Arbitration	10295
10996	Voluntary Arbitration	10296

1. Section Repealed: 10213. Ex Parte and Prohibited Communication.

Statement of Specific Purpose and Reasons for Repeal of Section 10213

WCAB Rule 10324, “Ex Parte Communications,” already includes the content of Court Administrator Rule 10213. It also includes additional content and is a more comprehensive rule.

Specific Technologies or Equipment

The proposed repeal of this rule does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

The WCAB has identified no alternative that would be either more effective, or equally effective and less burdensome than the proposed repeal.

Effect on Small Businesses

The proposed repeal of this rule will not have a significant effect on small businesses.

Economic Impact on California Business Enterprises and Individuals

The proposed repeal of this rule will not have a significant economic impact on California business enterprises and individuals.

2. Section Repealed and Renumbered: 10227. Place of Filing Documents After Initial Application or Case Opening Document.

Court Administrator Rule 10227 will become WCAB Rule 10390 with amendments for clarity and to reference the electronic adjudication management system (EAMS).

3. Section Repealed and Renumbered: 10230. Time of Filing Documents.

Court Administrator Rule 10230 will become WCAB Rule 10392 with an amendment to reference the EAMS and the time a document is deemed filed electronically pursuant to Administrative Director (AD) Rule 10206.3.

4. Section Repealed and Renumbered: 10233. Filing of Medical Reports, Medical-Legal Reports, and Various Records.

Court Administrator Rule 10233 will become WCAB Rule 10393 without change in language except correction of a cross-reference to a former Court Administrator rule.

5. Section Repealed and Renumbered: 10236. Filing of Copies of Documents.

Court Administrator Rule 10236 will become WCAB Rule 10391, except that section 10391 will be retitled “Filing of Documentary Evidence” and amended for clarity.

6. Section Repealed and Renumbered with new language: 10240. Appearances Required.

Statement of Specific Purpose and Reasons for Repeal and Renumbering

Court Administrator Rule 10240 will become WCAB Rules 10563 and 10563.1. The subject of Rule 10240 is appearances required of parties and lien claimants. For clarity, we will adopt Rule 10563 addressing appearances required of parties to the case-in-chief and section 10563.1 addressing other appearances required. See the discussions under Rules 10563 and 10563.1 for further details.

Specific Technologies or Equipment

The proposed repeal and renumbering of this rule with new language does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

The WCAB has identified no alternative that would be either more effective, or equally effective and less burdensome than the proposed repeal and renumbering.

Effect on Small Businesses

The proposed repeal and renumbering of this rule will not have a significant effect on small businesses.

Economic Impact on California Business Enterprises and Individuals

The proposed repeal and renumbering of this rule will not have a significant economic impact on California business enterprises and individuals.

7. Section Repealed: 10241. Failure to Appear.

Statement of Specific Purpose and Reasons for Repeal of Section 10241

WCAB Rule 10562 already includes the content of Court Administrator Rule 10241. It also includes additional content and is a more comprehensive rule.

Specific Technologies or Equipment

The proposed repeal of this rule does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

The WCAB has identified no alternative that would be either more effective, or equally effective and less burdensome than the proposed repeal.

Effect on Small Businesses

The proposed repeal of this rule will not have a significant effect on small businesses.

Economic Impact on California Business Enterprises and Individuals

The proposed repeal of this rule will not have a significant economic impact on California business enterprises and individuals.

8. Section Renumbered: 10243. Continuances.

Court Administrator Rule 10243 will become WCAB Rule 10548 without change in language.

9. Section Renumbered: 10244. Appearances in Settled Cases.

Court Administrator Rule 10244 will become WCAB Rule 10549 without change in language.

10. Section Repealed: 10246. Electronically Filed Decisions, Findings, Awards and Orders.

Statement of Specific Purpose and Reasons for Repeal of Section 10246

WCAB Rule 10785 already includes the content of Court Administrator Rule 10246. It also includes additional content and is a more comprehensive rule.

Specific Technologies or Equipment

The proposed repeal of this rule does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

The WCAB has identified no alternative that would be either more effective, or equally effective and less burdensome than the proposed repeal.

Effect on Small Businesses

The proposed repeal of this rule will not have a significant effect on small businesses.

Economic Impact on California Business Enterprises and Individuals

The proposed repeal of this rule will not have a significant economic impact on California business enterprises and individuals.

11. Section Renumbered: 10250. Declaration of Readiness to Proceed.

Court Administrator Rule 10250 will become WCAB Rule 10414 without change in language.

12. Section Renumbered: 10251. Objection to Declaration of Readiness to Proceed.

Court Administrator Rule 10251 will become WCAB Rule 10416 without change in language.

13. Section Repealed and Renumbered with New Language: 10252. Expedited Hearing Calendar.

Statement of Specific Purpose and Reasons for Repeal and Renumbering

Court Administrator Rule 10252 will become WCAB Rule 10552 with amendments to reflect additional grounds for requesting an expedited hearing added to Labor Code section 5502 by Senate Bill (SB) 863. (Stats. 2012, ch. 363, § 80.)⁴ We will also eliminate the word “priority” in the phrase “expedited priority hearing” in subsection (a) to avoid confusion between expedited hearings and priority conferences.

⁴ Since SB 863, Labor Code section 5502 has been further amended by the Legislature. (See Stats. 2013, ch. 76, § 144 [AB] 383; Stats. 2014, ch. 71, § 112 [SB 1304]; Stats. 2014, ch. 156, § 1 [AB 1746].)

Specific Technologies or Equipment

The proposed repeal and renumbering of this rule with new language does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

The WCAB has identified no alternative that would be either more effective, or equally effective and less burdensome than the proposed repeal and renumbering.

Effect on Small Businesses

The proposed repeal and renumbering of this rule will not have a significant effect on small businesses.

Economic Impact on California Business Enterprises and Individuals

The proposed repeal and renumbering of this rule will not have a significant economic impact on California business enterprises and individuals.

14. Section Repealed: 10253. Settlement Conference Calendar.

Statement of Specific Purpose and Reasons for Repeal of Section 10253

WCAB Rule 10353 already includes the content of Court Administrator Rule 10253.

Specific Technologies or Equipment

The proposed repeal of this rule does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

The WCAB has identified no alternative that would be either more effective, or equally effective and less burdensome than the proposed repeal.

Effect on Small Businesses

The proposed repeal of this rule will not have a significant effect on small businesses.

Economic Impact on California Business Enterprises and Individuals

The proposed repeal of this rule will not have a significant economic impact on California business enterprises and individuals.

15. Section Repealed and Renumbered with New Language: 10254. Priority Conference Calendar.

Statement of Specific Purpose and Reasons for Repeal and Renumbering

Court Administrator Rule 10254 will become WCAB Rule 10555 with amendments to reflect additional grounds for requesting a priority conference added to Labor Code section 5502 by AB 1746. (Stats. 2014, ch. 156, § 1).

Specific Technologies or Equipment

The proposed repeal and renumbering of this rule does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

The WCAB has identified no alternative that would be either more effective, or equally effective and less burdensome than the proposed repeal and renumbering.

Effect on Small Businesses

The proposed repeal and renumbering of this rule will not have a significant effect on small businesses.

Economic Impact on California Business Enterprises and Individuals

The proposed repeal and renumbering of this rule will not have a significant economic impact on California business enterprises and individuals.

16. Section Repealed: 10256. Setting the Case.

Statement of Specific Purpose and Reasons for Repeal of Section 10256

WCAB Rules 10560 and 10420 already include the content of Court Administrator Rule 10256.

Specific Technologies or Equipment

The proposed repeal of this rule does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

The WCAB has identified no alternative that would be either more effective, or equally effective and less burdensome than the proposed repeal.

Effect on Small Businesses

The proposed repeal of this rule will not have a significant effect on small businesses.

Economic Impact on California Business Enterprises and Individuals

The proposed repeal of this rule will not have a significant economic impact on California business enterprises and individuals.

17. Section Repealed and Renumbered: 10260. Assignment of Consolidated Cases.

Court Administrator Rule 10260 will become WCAB Rule 10592 without change in language.

18. Section Repealed and Renumbered: 10272. Sealing Documents.

Section 10754 currently provides that "Medical reports and other records contained in the adjudication case files of the Workers' Compensation Appeals Board shall be sealed only in accordance with the provisions of section 10272." We will amend section 10754 to replace it with the content of section 10272.

19. Section Repealed and Renumbered: 10275. Recording of Trial Level Proceedings.

Court Administrator Rule 10275 will become WCAB Rule 10760 without change in language.

20. Section Repealed and Renumbered: 10280. Walk-Through Documents.

Court Administrator Rule 10280 will become WCAB Rule 10417 without change in language except elimination of references to vocational rehabilitation attorney's fees.

21. Section Repealed and Renumbered: 10281. Emergency Petition for Stay.

Court Administrator Rule 10281 will become WCAB Rule 10470 without change in language.

22. Section Repealed: 10294. Petition Appealing Determination of Return to Work Reimbursement.

Statement of Specific Purpose and Reasons for Repeal of Section 10294

Court Administrator Rule 10294 provides an appeal process for an eligible employer to appeal the Administrative Director's notice under AD Rule 10119. Section 10119 was repealed June 27, 2011. Therefore, this section is superfluous.

Specific Technologies or Equipment

The proposed repeal of this rule does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

The WCAB has identified no alternative that would be either more effective, or equally effective and less burdensome than the proposed repeal.

Effect on Small Businesses

The proposed repeal of this rule will not have a significant effect on small businesses.

Economic Impact on California Business Enterprises and Individuals

The proposed repeal of this rule will not have a significant economic impact on California business enterprises and individuals.

23. Section Repealed and Renumbered: 10295. Mandatory Arbitration.

Court Administrator Rule 10295 will become WCAB Rule 10995 without change in language.

24. Section Repealed and Renumbered: 10296. Voluntary Arbitration.

Court Administrator Rule 10296 will become WCAB Rule 10996 without change in language except renumbering of cross-referenced sections.

25. Section Adopted: 10390. Place of Filing Documents After Initial Application or Case Opening Document.

Proposed WCAB Rule 10390 is former Court Administrator Rule 10227 with phrases reordered for clarity and to reference EAMS.

26. Section Adopted: 10391. Filing of Documentary Evidence.

Proposed WCAB Rule 10391 is former Court Administrator Rule 10236 with amendments a new title for clarity. We propose amending subsection a to include a reference to AD rule 10205.10

27. Section Adopted: 10392. Time of Filing Documents.

Proposed WCAB Rule 10392 is former Court Administrator Rule 10230 with amendments to reference the EAMS and the time a document is deemed filed electronically pursuant to AD Rule 10206.3.

28. Section Adopted: 10393. Filing of Medical Reports, Medical-Legal Reports, and Various Records.

Proposed WCAB Rule 10393 is former Court Administrator Rule 10233 without change in language except correction of a cross-reference to a former Court Administrator rule.

29. Section Amended: 10397. Restrictions on the Rejection for Filing of Documents Subject to a Statute of Limitations or a Jurisdictional Time Limitation.

Statement of Specific Purpose and Reasons for Amendment of Section 10397

AB 1426 (Stats. 2011, ch. 639, § 1) eliminated the position of Court Administrator. The proposed amendments remove references to Court Administrator and replace them with references to Administrative Director.

Specific Technologies or Equipment

The proposed amendments of this rule do not mandate the use of specific technologies or equipment.

Consideration of Alternatives

The WCAB has identified no alternative that would be either more effective, or equally effective and less burdensome than the proposed amendments.

Effect on Small Businesses

The proposed amendments of this rule will not have a significant effect on small businesses.

Economic Impact on California Business Enterprises and Individuals

The proposed amendments of this rule will not have a significant economic impact on California business enterprises and individuals.

30. Section Adopted: 10414. Declaration of Readiness to Proceed.

Proposed WCAB Rule 10414 is former Court Administrator Rule 10250 without change in language.

31. Section Adopted: 10416. Objection to Declaration of Readiness to Proceed.

Proposed WCAB Rule 10416 is former Court Administrator Rule 10251 without change in language.

32. Section Adopted: 10417. Walk-Through Documents.

Proposed WCAB Rule 10417 is former Court Administrator Rule 10280 without change in language except elimination of references to vocational rehabilitation attorney's fees.

33. Section Renumbered: 10470. Emergency Petition for Stay.

Proposed WCAB Rule 10470 is former Court Administrator Rule 10281 without change in language.

34. Section Adopted: 10548. Continuances.

Proposed WCAB Rule 10548 is former Court Administrator Rule 10243 without change in language.

35. Section Adopted: 10549. Appearances in Settled Cases.

Proposed WCAB Rule 10549 is former Court Administrator Rule 10244 without change in language.

36. Section Adopted: 10552. Expedited Hearing Calendar.

Statement of Specific Purpose and Reasons for Adoption of Section 10552

WCAB Rule 10552 is former Court Administrator Rule 10252 with amendments to reflect additional grounds for requesting an expedited hearing added to Labor Code section 5502 by SB 863. (Stats. 2012, ch. 363, § 80). We will also eliminate the word “priority” in the phrase “expedited priority hearing” in subsection (a) to avoid confusion between expedited hearings and priority conferences, which are addressed in Rule 10555.

Specific Technologies or Equipment

The proposed adoption of this rule does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

The WCAB has identified no alternative that would be either more effective, or equally effective and less burdensome than the proposed adoption.

Effect on Small Businesses

The proposed repeal of this rule will not have a significant effect on small businesses.

Economic Impact on California Business Enterprises and Individuals

The proposed adoption of this rule will not have a significant economic impact on California business enterprises and individuals.

37. Section Adopted: 10555. Priority Conference Calendar.

Statement of Specific Purpose and Reasons for Adoption

Proposed WCAB Rule 10555 is former Court Administrator Rule 10254 with amendments to reflect additional grounds for requesting a priority conference added to Labor Code section 5502 by AB 1746. (Stats. 2014, ch. 156, § 1.) AB 1746 allows a priority conference to be requested in cases in which the employee is or was employed by an illegally uninsured employer and the disputed issues are employment or injury.

Specific Technologies or Equipment

The proposed adoption of this rule does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

The WCAB has identified no alternative that would be either more effective, or equally effective and less burdensome than the proposed adoption.

Effect on Small Businesses

The proposed repeal of this rule will not have a significant effect on small businesses.

Economic Impact on California Business Enterprises and Individuals

The proposed adoption of this rule will not have a significant economic impact on California business enterprises and individuals.

38. Section Amended: 10561. Sanctions.

Statement of Specific Purpose and Reasons for Amendment of Section 10561

AB 1426 (Stats. 2011, ch. 639, § 1) eliminated the position of Court Administrator. The proposed amendments remove references to the regulations of the Court Administrator.

Specific Technologies or Equipment

The proposed amendments of this rule do not mandate the use of specific technologies or equipment.

Consideration of Alternatives

The WCAB has identified no alternative that would be either more effective, or equally effective and less burdensome than the proposed amendments.

Effect on Small Businesses

The proposed amendments of this rule will not have a significant effect on small businesses.

Economic Impact on California Business Enterprises and Individuals

The proposed amendments of this rule will not have a significant economic impact on California business enterprises and individuals.

39. Section Repealed: 10561.5. Compliance with Rules of the Court Administrator.

Statement of Specific Purpose and Reasons for Repeal of Section 10561.5

AB 1426 (Stats. 2011, ch. 639, § 1) eliminated the position of Court Administrator.

Specific Technologies or Equipment

The proposed repeal of this rule does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

The WCAB has identified no alternative that would be either more effective, or equally effective and less burdensome than the proposed repeal.

Effect on Small Businesses

The proposed repeal of this rule will not have a significant effect on small businesses.

Economic Impact on California Business Enterprises and Individuals

The proposed repeal of this rule will not have a significant economic impact on California business enterprises and individuals.

40. Section Adopted: 10563. Appearances Required of Parties to Case-in-Chief

Proposed WCAB Rule 10563 is based on former Court Administrator Rule 10240 which addressed appearances required of both parties and lien claimants. Proposed WCAB Rule 10563 contains the substance of the portion of former Court Administrator Rule 10240 that related to appearances required by parties.

41. Section Adopted: 10563.1. Other Appearances Required

Proposed WCAB Rule 10563.1 is based on Court Administrator Rule 10240, which addressed appearances required of both parties and lien claimants. Proposed Rule 10563.1 contains the substance of the portion of Court Administrator Rule 10240 that related to appearances required by lien claimants. Among other things, it requires that lien claimants with liens (plus, now, claims of costs) totaling \$25,000 or more must appear in person or by attorney or representative at all mandatory settlement conferences (MSCs) and trials in the case in chief, except expedited hearings, and to have immediate and full settlement authority available by phone if the lien claimant is not personally appearing. It also requires that lien claimants with liens (plus, now, claims of costs) totaling less than \$25,000 to have immediate and full settlement authority available by phone. In addition, proposed WCAB Rule 10563.1 will require that (1) a medical-legal provider involved in a medical-legal dispute not subject to independent bill review and (2) an interpreter filing a petition for costs must comply with the provisions of Rule 10563.1, as well as Rules 10770(h) and 10770.1 relating to appearances at lien conferences and lien trials.

Former Rule 10240 was in conflict with section 10770.1 to the extent it implied that a lien claimant may not be required to appear at a lien conference. Rule 10563.1 does not include the language that conflicted with Rule 10770.1.

42. Section Adopted: 10592. Assignment of Consolidated Cases.

Proposed WCAB Rule 10592 is former Court Administrator Rule 10260 without change in language.

43. Section Amended: 10593. Testimony of Judicial or Quasi-Judicial Officers of the Workers' Compensation Appeals Board or of the Division of Workers' Compensation.

Statement of Specific Purpose and Reasons for Amendment of Section 10593

AB 1426 (Stats. 2011, ch. 639, § 1) eliminated the position of Court Administrator. The proposed amendments remove references to Court Administrator and add a reference to the Director of Industrial Relations. Labor Code section 139.48 established a return-to-work program, which is administered by the Director. To the extent the Director or his or her designee acts in a judicial or quasi-judicial capacity in relation to this fund, the Director or designee should not be required to offer testimony regarding judicial or quasi-judicial acts.

Specific Technologies or Equipment

The proposed amendments of this rule do not mandate the use of specific technologies or equipment.

Consideration of Alternatives

The WCAB has identified no alternative that would be either more effective, or equally effective and less burdensome than the proposed amendments.

Effect on Small Businesses

The proposed amendments of this rule will not have a significant effect on small businesses.

Economic Impact on California Business Enterprises and Individuals

The proposed amendments of this rule will not have a significant economic impact on California business enterprises and individuals.

44. Section Amended: 10740. Transcripts.

Statement of Specific Purpose and Reasons for Amendment of Section 10740

The proposed amendments would delete requirements that duplicate or may conflict with Rule 9990.

Specific Technologies or Equipment

The proposed amendments of this rule do not mandate the use of specific technologies or equipment.

Consideration of Alternatives

The WCAB has identified no alternative that would be either more effective, or equally effective and less burdensome than the proposed amendments.

Effect on Small Businesses

The proposed amendments of this rule will not have a significant effect on small businesses.

Economic Impact on California Business Enterprises and Individuals

The proposed amendments of this rule will not have a significant economic impact on California business enterprises and individuals.

45. Section Amended: 10750. Record of Proceedings.

Statement of Specific Purpose and Reasons for Amendment of Section 10750

The proposed amendments would add a reference to the adjudication file and eliminate a reference to “declarations of readiness to proceed” in subsection (a). A declaration of readiness to proceed is a pleading. Therefore, there is no need to reference both a declaration of readiness to proceed and a pleading.

Specific Technologies or Equipment

The proposed amendments of this rule do not mandate the use of specific technologies or equipment.

Consideration of Alternatives

The WCAB has identified no alternative that would be either more effective, or equally effective and less burdensome than the proposed amendments.

Effect on Small Businesses

The proposed amendments of this rule will not have a significant effect on small businesses.

Economic Impact on California Business Enterprises and Individuals

The proposed amendments of this rule will not have a significant economic impact on California business enterprises and individuals.

46. Section Amended: 10751. Adjudication File.

Statement of Specific Purpose and Reasons for Amendment of Section 10751

AB 1426 (Stats. 2011, ch. 639, § 1) eliminated the position of Court Administrator. The proposed amendments remove references to Court Administrator. The proposed amendments would remove references to the Rules of the Court Administrator. The proposed amendments would reorganize for clarity, delete language that duplicates language in other rules, and add language to clarify that lodged documents are part of the adjudication file.

Specific Technologies or Equipment

The proposed amendments of this rule do not mandate the use of specific technologies or equipment.

Consideration of Alternatives

The WCAB has identified no alternative that would be either more effective, or equally effective and less burdensome than the proposed amendments.

Effect on Small Businesses

The proposed amendments of this rule will not have a significant effect on small businesses.

Economic Impact on California Business Enterprises and Individuals

The proposed amendments of this rule will not have a significant economic impact on California business enterprises and individuals.

47. Section Amended: 10753. Inspection of Files.

Statement of Specific Purpose and Reasons for Amendment of Section 10753

The proposed amendments would renumber cross-referenced sections.

48. Section Amended: 10754. Sealing Documents.

Statement of Specific Purpose and Reasons for Amendment of Section 10754

Section 10754 currently provides that "Medical reports and other records contained in the adjudication case files of the Workers' Compensation Appeals Board shall be sealed only in accordance with the provisions of section 10272." We will amend section 10754 to replace it with the content of section 10272. We will also retitle Section 10754 "Sealing Documents" (instead of "Sealed Documents" for clarity.

Specific Technologies or Equipment

The proposed amendments of this rule do not mandate the use of specific technologies or equipment.

Consideration of Alternatives

The WCAB has identified no alternative that would be either more effective, or equally effective and less burdensome than the proposed amendments.

Effect on Small Businesses

The proposed amendments of this rule will not have a significant effect on small businesses.

Economic Impact on California Business Enterprises and Individuals

The proposed amendments of this rule will not have a significant economic impact on California business enterprises and individuals.

49. Section Amended: 10755. Destruction of Records.

Statement of Specific Purpose and Reasons for Amendment of Section 10755

The proposed amendments would renumber cross-referenced sections.

50. Section Adopted: 10760. Recording of Trial Level Proceedings.

Proposed WCAB Rule 10760 is former Court Administrator Rule 10275 without change in language.

51. Section Amended: 10770. Filing and Service of Lien Claims.

Statement of Specific Purpose and Reasons for Amendment of Section 10770

The proposed amendments would renumber cross-referenced sections.

52. Section Amended: 10770.1. Lien Conferences and Lien Trials.

Statement of Specific Purpose and Reasons for Amendment of Section 10770.1

The proposed amendments would renumber cross-referenced sections.

53. Section Amended: 10845. General Requirements for Petitions for Reconsideration, Removal, and Disqualification, and for Answers and Other Documents.

Statement of Specific Purpose and Reasons for Amendment of Section 10845

The proposed amendments would renumber cross-referenced sections.

54. Section Amended: 10957.1. Petition Appealing Independent Medical Review Determination of the Administrative Director.

Statement of Specific Purpose and Reasons for Amendment of Section 10957.1

The proposed amendments to this rule would replace two erroneous references to Independent Bill Review (IBR) with the correct references to Independent Medical Review (IMR). Also, in subdivision (c), it would change the length of time within which a petition may be filed from 20 days after the service of an IMR determination to 30 days after service of an IMR determination. This change will cause Rule 10957.1(c) to be in conformity with the time limitation found in Labor Code section 4610.5(h)(1).

Specific Technologies or Equipment

The proposed amendments of this rule do not mandate the use of specific technologies or equipment.

Consideration of Alternatives

The WCAB has identified no alternative that would be either more effective, or equally effective and less burdensome than the proposed amendments.

Effect on Small Businesses

The proposed amendments of this rule will not have a significant effect on small businesses.

Economic Impact on California Business Enterprises and Individuals

The proposed amendments of this rule will not have a significant economic impact on California business enterprises and individuals.

55. Section Repealed: 10958. Hearing and Burden of Proof.

Statement of Specific Purpose and Reasons for Repeal of Section 10958

Section 10958 concerns the burden of proof for proceedings under section 10955, entitled “Rehabilitation Appeals.” However, section 10955 was repealed effective November 17, 2008. Therefore, section 10958 is superfluous.

Specific Technologies or Equipment

The proposed repeal of this rule does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

The WCAB has identified no alternative that would be either more effective, or equally effective and less burdensome than the proposed repeal.

Effect on Small Businesses

The proposed repeal of this rule will not have a significant effect on small businesses.

Economic Impact on California Business Enterprises and Individuals

The proposed repeal of this rule will not have a significant economic impact on California business enterprises and individuals.

56. Section Adopted: 10995. Mandatory Arbitration.

Proposed WCAB Rule 10995 is former Court Administrator Rule 10295 without change in language.

57. Section Adopted: 10996. Voluntary Arbitration.

Proposed WCAB Rule 10996 is former Court Administrator Rule 10296 without change in language except renumbering of cross-referenced sections.