

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).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

Lien claims must be filed electronically on a form approved by the WCAB. (Lab. Code, § 4903.05(a); Cal. Code Regs., tit. 8, §10770(b)(1)(A).) Senate Bill (SB) 1160 (Stats. 2016, ch. 868) amended Labor Code section 4903.05 to require section 4903(b) lien claimants to file an original bill and a declaration that includes information regarding the type of services provided by the lien claimant. To effectuate these legislative changes, we propose amending rule 10770 and adopting rule 10770.7.

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

Statement of Specific Purpose and Reasons for Amendment of Section 10770

SB 1160 requires that lien claimants file original bills in addition to itemized vouchers together with their liens. We propose amending and renumbering section 10770 to remove language that prohibits lien claimants from filing itemized vouchers and to clarify that, consistent with the statute, itemized vouchers shall be filed by lien claimants.

Specific Technologies or Equipment

The proposed amendments to 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.

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.

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.

2. Section Adopted: 10770.7. Requirement For Liens Filed Before January 1, 2017

Statement of Specific Purpose and Reasons for Adoption of Section 10770.7

SB 1160 amended Labor Code section 4903.05 to require 4903(b) lien claimants to file a declaration that includes information regarding the type of services provided by the lien claimant. Lien claims must be filed electronically on a form approved by the WCAB. (Lab. Code, § 4903.05(a); Cal. Code Regs., tit. 8, §10770(b)(1)(A).) Beginning January 1, 2017, the lien form will be amended to include the statutorily required declaration. This will enable data collection regarding the types of services provided by lien claimants in the electronic adjudication management system (EAMS). As amended by SB 1160, Labor Code section 4903.05 requires 4903(b) lien claimants who filed liens prior to January 1, 2017 to file the same declaration on or before July 1, 2017. We propose requiring lien claimants who are required to file the declaration to file an electronic form that contains the same declaration and fulfills the same data reporting requirements as the new lien form. This will promote consistent data collection and provide ease of use for the community.

Specific Technologies or Equipment

Lien claimants are mandated by statute and other rules to file all documents electronically using EAMS. This rule does not change that mandate.

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.