

WAC 263-12-020 Appearances of parties before the board. (1) **Who may appear?** Any party to any appeal may appear before the board at any conference or hearing held in such appeal, either on the party's own behalf or by a representative as described in subsections (3) and (4) of this section.

(2) **Who must obtain approval prior to representing a party?** A person who is disbarred, resigns in lieu of discipline, or is presently suspended from the practice of law in any jurisdiction, or has previously been denied admission to the bar in any jurisdiction for reasons other than failure to pass a bar examination, shall not represent a party without the prior approval of the board. A written petition for approval shall be filed 60 calendar days prior to any event for which the person seeks to appear as a representative. The board may deny any petition that fails to demonstrate competence, moral character, or fitness.

(3) **Who may represent a party?**

(a) A worker or beneficiary may be represented by:

(i) An attorney at law with membership in good standing in the Washington state bar association or a paralegal supervised by an attorney at law with membership in good standing in the Washington state bar association.

(ii) An attorney at law with membership in good standing in the highest court of any other state or the District of Columbia.

(iii) A lay representative so long as the person does not charge a fee, is not otherwise compensated for the representation except as provided in (a)(iv) of this subsection, and files a declaration or affidavit with the board certifying compliance with this rule. The industrial appeals judge may alternatively permit this certification to be made under oath and reflected in a transcript or report of proceeding.

(iv) A lay representative employed by the worker's labor union whose duties include handling industrial insurance matters for the union, provided the person files a declaration or affidavit with the board certifying this status. The industrial appeals judge may alternatively permit this certification to be made under oath and reflected in a transcript or report of proceeding.

(v) Any lay representative seeking to represent a worker or beneficiary who has not provided the certification required under (a)(iii) and (iv) of this subsection will be excluded from serving as a worker's or beneficiary's representative.

(b) An employer or retrospective rating group may be represented by:

(i) An attorney at law with membership in good standing in the Washington state bar association or a paralegal supervised by an attorney at law with membership in good standing in the Washington state bar association.

(ii) An attorney at law with membership in good standing in the highest court of any other state or the District of Columbia.

(iii) A lay representative who is a corporate officer or an employee of the employer or retrospective rating group.

(iv) A firm that contracts with the employer or retrospective rating group to handle matters pertaining to industrial insurance.

(c) The department of labor and industries may be represented by:

(i) An attorney employed as assistant attorney general or appointed as a special assistant attorney general.

(ii) A paralegal supervised by an assistant attorney general or special assistant attorney general.

(iii) An employee of the department of labor and industries designated by the director, or his or her designee, in a claim resolution settlement agreement under RCW 51.04.063.

(d) A licensed legal intern may represent any party consistent with Washington state admission to practice rule 9(e).

(4) Appeals under the Washington Industrial Safety and Health Act.

(a) In an appeal by an employee or employee representative under the Washington Industrial Safety and Health Act, the cited employer may enter an appearance as prescribed in subsection (7) of this section and will be deemed a party to the appeal.

(b) In an appeal by an employer, under the Washington Industrial Safety and Health Act, an employee or employee representative may enter an appearance as prescribed in subsection (7) of this section and will be deemed a party to the appeal.

(c) A lay representative appearing on behalf of an employee or an employee representative in an appeal under the Washington Industrial Safety and Health Act is not subject to the compensation restrictions of subsection (3) of this section.

(5) May a self-represented party be accompanied by another person? Where the party appears representing himself or herself, he or she may be accompanied, both at conference and at hearing, by a lay person of his or her choosing who shall be permitted to accompany the party into the conference or hearing room and with whom he or she can confer during such procedures. If the lay person is also a witness to the proceeding, the industrial appeals judge may exclude the lay person from the proceeding as provided by Evidence Rule 615.

(6) Assistance by the industrial appeals judge. Although the industrial appeals judge may not advocate for either party, all parties who appear either at conferences or hearings are entitled to the assistance of the industrial appeals judge presiding over the proceeding. Such assistance shall be given in a fair and impartial manner consistent with the industrial appeals judge's responsibilities to the end that all parties are informed of the procedure to be followed and the issues involved in the proceedings. Any party who appears representing himself or herself shall be advised by the industrial appeals judge of the burden of proof required to establish a right to the relief being sought.

(7) How to make an appearance.

(a) Appearance by employer representative. Within 14 days of receipt of an order granting appeal, any representative of an employer or retrospective rating group must file a written notice of appearance that includes the name, address, and telephone number of the individual who will appear.

(b) Appearances by a worker or beneficiary representative shall be made either by:

(i) Filing a written notice of appearance with the board containing the name of the party to be represented, and the name and address of the representative; or by

(ii) Appearing at the time and place of a conference or hearing on the appeal, and notifying the industrial appeals judge of the party to be represented, and the name and address of the representative.

(8) Notice to other parties.

(a) The appearing party shall furnish copies of every written notice of appearance to all other parties or their representatives of record at the time the original notice is filed with the board.

(b) The board will serve all of its notices and orders on each representative and each party represented. Service upon the representative shall constitute service upon the party. Where more than one individual associated with a firm, or organization, including the office of the attorney general, has made an appearance, service under this subsection shall be satisfied by serving the individual who filed the notice of appeal, or who last filed a written notice of appearance or, if no notice of appeal or written notice of appearance has been filed on behalf of the party, the individual who last appeared at any proceeding concerning the appeal.

(9) **Withdrawal or substitution of representatives.** An attorney or other representative withdrawing from a case shall immediately notify the board and all parties of record in writing. The notice of withdrawal shall comply with the rules applicable to notices of withdrawal filed with the superior court in civil cases. Withdrawal is subject to approval by the industrial appeals judge or the chief legal officer. Any substitution of an attorney or representative shall be accomplished by written notification to the board and to all parties of record together with the written consent of the prior attorney or representative. If such consent cannot be obtained, a written statement of the reason therefor shall be supplied.

(10) **Conduct.** All persons appearing as counsel or representatives in proceedings before the board or before its industrial appeals judges shall conform to the standards of ethical conduct required of attorneys before the courts of the state of Washington.

(a) Industrial appeals judge. If any such person does not conform to such standard, the industrial appeals judge presiding over the appeal, at his or her discretion and depending on all the circumstances, may take any of the following actions:

(i) Admonish or reprimand such person.

(ii) Exclude such person from further participation or adjourn the proceeding.

(iii) Certify the facts to the appropriate superior court for contempt proceedings as provided in RCW 51.52.100.

(iv) Report the matter to the board.

(b) The board. In its discretion, either upon referral by an industrial appeals judge as stated above or on its own motion, after information comes to light that establishes to the board a question regarding a person's ethical conduct and fitness to practice before the board, and after notice and hearing, the board may take appropriate disciplinary action including, but not limited to:

(i) A letter of reprimand.

(ii) Refusal to permit such person to appear in a representative capacity in any proceeding before the board or its industrial appeals judges.

(iii) Certification of the record to the superior court for contempt proceedings as provided in RCW 51.52.100. If the circumstances require, the board may take action as described above prior to notice and hearing if the conduct or fitness of the person appearing before the board requires immediate action in order to preserve the orderly disposition of the appeal(s).

(c) Proceedings. If any person in proceedings before the board disobeys or resists any lawful order or process, or misbehaves during a hearing or so near the place thereof as to obstruct the same, or neglects to produce, after having been ordered so to do, any pertinent book, paper or document, or refuses to appear after having been subpoenaed, or upon appearing refuses to take oath as a witness, or after

having the oath refuses to be examined according to law, the industrial appeals judge may, at his or her discretion and depending on all the circumstances:

(i) Admonish or reprimand such person.

(ii) Exclude such person from further participation or adjourn the proceeding.

(iii) Certify the facts to the appropriate superior court for contempt proceedings as provided in RCW 51.52.100.

(iv) Report the matter to the board for action consistent with (b) of this subsection.

[Statutory Authority: RCW 51.52.020. WSR 22-14-024, § 263-12-020, filed 6/24/22, effective 7/25/22; WSR 21-15-042, § 263-12-020, filed 7/14/21, effective 8/14/21; WSR 16-24-054, § 263-12-020, filed 12/2/16, effective 1/2/17; WSR 14-24-105, § 263-12-020, filed 12/2/14, effective 1/2/15; WSR 10-14-061, § 263-12-020, filed 6/30/10, effective 7/31/10; WSR 04-16-009, § 263-12-020, filed 7/22/04, effective 8/22/04; WSR 00-23-021, § 263-12-020, filed 11/7/00, effective 12/8/00; WSR 98-20-109, § 263-12-020, filed 10/7/98, effective 11/7/98; WSR 91-13-038, § 263-12-020, filed 6/14/91, effective 7/15/91. Statutory Authority: RCW 51.41.060(4) and 51.52.020. WSR 83-01-001 (Order 12), § 263-12-020, filed 12/2/82. Statutory Authority: RCW 51.52.020. WSR 82-03-031 (Order 11), § 263-12-020, filed 1/18/82; Order 7, § 263-12-020, filed 4/4/75; Order 6, § 263-12-020, filed 9/29/72; Order 4, § 263-12-020, filed 6/9/72; General Order 2, § 3.1, filed 6/12/63; General Order 1, filed 3/23/60; General Order 3, § 3.1(b), Subsection (2), filed 10/29/65.]