



Further Interpretation of Resolution 04-1-01 Regarding the Unauthorized Practice of Law

Additional issues have been raised regarding the issue of proper conduct of non-lawyers in Industrial Commission hearings. The purpose of this memorandum is to address some of those issues.

1. Can evidence which violates the Industrial Commission's UPL Policy be excluded from consideration?

No. There is no provision to exclude evidence simply on the bases of a possible violation of the UPL guidelines. If a concern is raised whether certain activity is inappropriate, that issue should be forwarded to Administration to determine whether further action is necessary.

2. Can a non-lawyer waive proper notice of hearing or waive the right to appeal on behalf of a party?

No. While a non-lawyer may act as the messenger of the decision to waive the rights of the party, a non-lawyer cannot independently make that determination or advise a party on the ramifications of that waiver.

3. May a non-lawyer contact a witness or other individual to obtain evidence which may be submitted at hearing?

It depends on the circumstances. If the contact or interview is for the purpose of conducting a post-injury investigation to determine whether a claim should be certified/pursued or whether any other safety ramifications are implicated, then that discussion is proper. However, if the discussion or questions are related to obtaining evidence in anticipation of a hearing in a contested claims matter, then that activity is not permitted.