

STANDARDS OF CONDUCT

Resolution R18-1-05

Standards of Conduct of Non-Attorneys before the Commission and the Bureau

September 26, 2018

WHEREAS, pursuant to the Ohio Industrial Commission's power to promulgate policy as set forth in R.C. 4121.03; and

WHEREAS, the Commission recognizes that, over time, administrative resolutions are modified; and

WHEREAS, the Commission desire to correct now-current Resolutions to reflect those changes; and

WHEREAS, Ohio Adm.Code 4121-2-01(A)(1) establishing rules for representatives; and

WHEREAS, Ohio Adm.Code 4121-2-01(A)(4) provides that representatives shall abide by the Commission's rules; and

WHEREAS, Ohio Adm.Code 4121-2-01(A)(5) provides that representatives before the commission shall act in accordance with the Ohio Rules of Professional Conduct; and

WHEREAS, pursuant to R.C. 4121.03(E)(1), the Commission is responsible for establishing the overall adjudicatory policy under Ohio Revised Code Chapters 4121, 4123, 4127 and 4131; and

WHEREAS, the Commission adopted Resolutions R04-1-01 and R04-1-03 pertaining to standards of conduct for non-attorneys before the Commission; and

WHEREAS, the Commission desires to simplify and clarify resolutions by combining Resolutions R04-1-01 and R04-1-03.

THEREFORE BE IT RESOLVED that the following standards shall be established for conduct before the Commission and the Bureau:

A. The following activities shall be permitted before the Industrial Commission or the Bureau of Workers'

Compensation, to the extent performed by third-party administrators, by union representatives until permanent guidelines are provided by the Ohio Supreme Court, or employees of an employer:

1. Investigation, or assistance to injured workers and employers in investigating, the facts with respect to any claim, including discussing the facts and their relationship to the claim with employers, witnesses, and others, preparing and securing statements, and preparing and obtaining reports regarding the facts;
2. Assistance to injured workers and employers in the administration of a claim and the filing of claims and appeals, without making any legal determination respecting such claims or appeals, before the administrator of the Bureau of Workers' Compensation and/or the Industrial Commission of Ohio;
3. Attendance at any hearing before the Industrial Commission for the purposes of recording and reporting any action taken at such hearing, reporting the factual results of any claim investigation, apprising the hearing officer or officers of documents or parts thereof that are in the file or that are missing from the file, including medical reports, filing documents, requesting a postponement or continuance of the hearing, and discussing matters within the independent knowledge of the representative, subject to all the limitations as set forth below;

4. Completion and submission of any and all records and reports with the Bureau of Workers' Compensation or the Industrial Commission of Ohio regarding injured workers and employers, including, but not limited to, any and all forms promulgated and adopted by the Industrial Commission and the Bureau of Workers' Compensation, either written, verbal or electronically produced;
 5. Completion and submission of records and reports dealing with job classifications pertinent to premium rates and other Bureau of Workers' Compensation premium programs;
 6. Completion and submission of any and all reports or forms concerning, but not limited to, premiums, payroll rate adjustment protests, settlements, and handicap reimbursement requests before the Bureau of Workers' Compensation or the Industrial Commission;
 7. Filing protests within the Bureau of Workers' Compensation to the Adjudicating Committee, the Self-Insured Review Panel, the Self-Insuring Employers Evaluation Board, or the Administrator, or his designee, as permitted by statute, and representation before any of these bodies, subject to the limitations set forth below;
 8. Preparation of reports to employers dealing with the status of risks, status of reserves and actuarial analysis thereof;
 9. Advise employers or injured workers to seek legal representation.
- B. In recognition that no person may practice law in Ohio who has not been admitted to the Bar by the Supreme Court of Ohio, and further recognizing that the practice of law is defined by the Ohio Supreme Court, non-lawyers may not properly perform the following functions before the Industrial Commission or the Bureau of Workers' Compensation:
1. Examine or cross-examine the claimant or any witness, directly or indirectly;
 2. Cite, file or interpret statutory or administrative provisions, administrative rulings or case law;
 3. Make and give legal interpretations with respect to testimony, affidavits, medical evidence in the form of reports or testimony, or file any brief, memorandum, reconsideration or other pleading beyond the forms actually provided by the Commission or the Bureau;
 4. Comment upon or give opinions with respect to the evidence, credibility of witnesses, the nature and weight of the evidence, or the legal significance of the contents of the claims file;
 5. Provide legal advice to injured workers and employers;
 6. Give or render legal opinions, or cite case law or statutes to injured workers and employers before, at or after the time when claims are initially certified or denied certification as valid claims by the employer upon the presentation of claim applications by employees;
 7. Provide stand-alone representation at hearing by charging a fee specifically associated with such hearing representation without providing other services.

BE IT FURTHER RESOLVED that Resolutions R04-1-01 and R04-1-03 are hereby rescinded.