

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 SENATE BILL 773

By: Sykes

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6 AS INTRODUCED

7 An Act relating to workers' compensation
8 administrative hearings; amending Section 72, Chapter
9 208, O.S.L. 2013 (85A O.S. Supp. 2014, Section 72),
10 which relates to conduct of hearing or inquiry;
11 requiring certain recording of certain hearings and
evidence; authorizing reporting of certain hearings
and evidence; authorizing Commission to set certain
fee; establishing exception to certain rulemaking
procedures; and providing an effective date.

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14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. AMENDATORY Section 72, Chapter 208, O.S.L.
16 2013 (85A O.S. Supp. 2014, Section 72), is amended to read as
17 follows:

18 Section 72. A. Conduct of Hearing or Inquiry.

19 1. In making an investigation or inquiry or conducting a
20 hearing, the administrative law judges and the Commission shall not
21 be bound by technical or statutory rules of evidence or by technical
22 or formal rules of procedure, except as provided by this act. The
23 administrative law judges and the Commission may make such
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1 investigation or inquiry, or conduct the hearing, in a manner as
2 shall best ascertain the rights of the parties.

3 2. Declarations of a deceased employee concerning the injury
4 may be received in evidence and may, if corroborated by other
5 evidence, be sufficient to establish the injury.

6 3. When deciding any issue, administrative law judges and the
7 Commission shall determine, on the basis of the record as a whole,
8 whether the party having the burden of proof on the issue has
9 established the proof by a preponderance of evidence.

10 4. Administrative law judges are required to make specific, on-
11 the-record findings of ultimate facts responsive to the issues
12 shaped by the evidence as well as conclusions of law on which its
13 judgment is to be rested.

14 B. Hearings to be Public - Records.

15 1. a. Hearings before the Commission shall be open to the
16 public and shall be electronically recorded or, at the
17 Commission's discretion, may be stenographically
18 reported by a court reporter provided by the
19 Commission at the expense of the parties at a fee set
20 by the Commission, which may be established without
21 complying with the rulemaking procedures of the
22 Administrative Procedures Act. ~~The Commission is~~
23 authorized to contract for the reporting of the
24 hearings.

1 b. The Commission shall, by rule, provide for the
2 preparation of a record of all hearings and other
3 proceedings before it.

4 2. The Commission shall not be required to stenographically
5 report or prepare a record of joint petition hearings. The
6 administrative law judge or legal advisor shall record the hearing
7 at no cost to the parties.

8 C. Introduction of Evidence.

9 1. All oral evidence or documentary evidence shall be presented
10 to the designated representative of the Commission at the initial
11 hearing on a controverted claim. The oral evidence shall be
12 electronically recorded or, at the Commission's discretion, may be
13 stenographically reported by a court reporter provided by the
14 Commission at the expense of the parties at a fee set by the
15 Commission, which may be established without complying with the
16 rulemaking procedures of the Administrative Procedures Act. Each
17 party shall present all evidence at the initial hearing. Further
18 hearings for the purpose of introducing additional evidence shall be
19 granted only at the discretion of the hearing officer or Commission.
20 A request for a hearing for the introduction of additional evidence
21 shall show the substance of the evidence desired to be presented.

22 2. a. Any party proposing to introduce medical reports or
23 testimony of physicians at the hearing of a
24 controverted claim shall, as a condition precedent to

1 the right to do so, furnish to the opposing party and
2 to the Commission copies of the written reports of the
3 physicians of their findings and opinions at least
4 seven (7) days before the date of the hearing. If no
5 written reports are available to a party, the party
6 shall notify in writing the opposing party and the
7 Commission of the name and address of the physicians
8 proposed to be used as witnesses and the substance of
9 their testimony at least seven (7) days before the
10 hearing.

11 b. If the opposing party desires to cross-examine the
12 physician, he or she should notify the party who
13 submits a medical report to him or her as soon as
14 practicable, in order that he or she may make every
15 effort to have the physician present for the hearing.

16 3. A party failing to observe the requirements of this
17 subsection may not be allowed to introduce medical reports or
18 testimony of physicians at a hearing, except in the discretion of
19 the hearing officer or the Commission.

20 4. The time periods may be waived by the consent of the
21 parties.

22 D. Expert testimony shall not be allowed unless it satisfies
23 the requirements of Federal Rule of Evidence 702 with annotations
24 and amendments.

SECTION 2. This act shall become effective November 1, 2015.

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