

DESIGNATED DOCTOR

UPDATE

Volume 1.2011

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From the Commissioner of Workers' Compensation

As many of you know, we have worked diligently over the past few years to improve processes associated with our Designated Doctor program. In an effort to further strengthen and consolidate our monitoring and outreach to designated doctors in the Texas workers' compensation system, we have created a new section called Designated Doctor Outreach and Oversight. Effective November 1, 2010 the section began coordinating all designated doctor functions: training, testing, credentialing, designated doctor exam processing and our outreach efforts to designated doctors.

The consolidation of these agency functions in one section will increase the consistency of our regulation and assistance to designated doctors. In addition to creating the new section we are implementing several other initiatives including: piloting an injured employee survey to evaluate designated doctor examinations; inspections of designated doctor examination sites; and, publication of this newsletter, *The Designated Doctor Update*.

Erika Copeland will provide leadership for the new section. Erika has 13 years experience in workers' compensation as a hearing officer and recently as Operations Counsel. Prior to beginning with the Texas Workers' Compensation Commission in May of 1997, Erika was a private practice attorney in Abilene, Texas. Erika has a Bachelor's Degree in Economics from Texas Tech University and a Doctor of Jurisprudence from Texas Tech University School of Law.

All Texas workers' compensation system participants share the mutual goals of promoting safe and healthy workplaces, ensuring the delivery of high-quality medical care, and returning injured employees to work. I hope that these and other agency initiatives will facilitate a greater collaboration between Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) and our designated doctors in achieving these goals.

Rod Bordelon
Commissioner of Workers' Compensation

Commissioner of Workers' Compensation Adopts New Designated Doctor Rules

On December 6, 2010, Commissioner of Workers' Compensation Rod Bordelon adopted the repeal of 28 Texas Administrative Code (TAC) §126.7 regarding Designated Doctor Examinations: Requests and General Procedures and new §§127.1 - 127.25 regarding Designated Doctor Scheduling and Examinations. The adoption was published in the December 17, 2010 issue of the Texas Register and may be viewed on the Texas Secretary of State website at <http://www.sos.state.tx.us/texreg/index.shtml> and the Texas Department of Insurance website at <http://www.tdi.texas.gov/wc/rules/adopted/index.html>.

The adopted rules are effective February 1, 2011 and:

- comply with amendments to Texas Labor Code §408.0041 (House Bill 7, 79th Legislature, Regular Session, effective September 1, 2005);
- improve the quality and availability of designated doctor examinations;
- clarify and improve the TDI-DWC's designated doctor administrative procedures;
- facilitate a more efficient designated doctor scheduling and examination process; and
- allow Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) to require designated doctors to remain appointed to a claim so long as that doctor is still qualified to examine the injured employee.

Other changes facilitated by the rule adoption that affect the designated doctor process, include changes to the requirements of requestors; rights and responsibilities of parties; doctor designation and order; responsibilities of the doctor regarding timeframes and reporting; and letters of clarification.

The DWC Form-032, *Request for Designated Doctor Examination*, has been revised to conform with the newly adopted rules. The revised form is available on the TDI website at <http://www.tdi.texas.gov/forms/form20.html> and must be used for all requests on or after February 1, 2011.

To assist with implementation of the adopted rules, the TDI-DWC field offices are hosting brown bag educational sessions entitled *New Designated Doctor Rules and Return to Work*. For more details on the brown bag educational sessions, visit the TDI-DWC Events and Training Calendar at <http://www.tdi.texas.gov/wc/events/index.html>.

For more information on the adopted rules and designated doctor process, visit the TDI website at <http://www.tdi.texas.gov/wc/dd/index.html> or call the telephone help line, *Comp Connection for Health Care Providers*, 1-800-372-7713 (512-804-4000 in the Austin area).

New DWC Form-032, Request for Designated Doctor Examination: Roadmap to a Complete Designated Doctor Report (For use on or after February 1, 2011)

The Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) has revised the DWC Form-032, *Request for Designated Doctor Examination*. Workers' compensation system participants seeking a designated doctor examination for an injured employee must use this form to request an examination order from the TDI-DWC.

Along with a thorough physical examination and comprehensive review of the medical records provided, receipt and review of the DWC Form-032, is essential to the performance of a quality designated doctor examination. The DWC Form-032 provides the doctor with key information about the injured employee and the workers' compensation claim; and sets out in detail the reason for the examination

and the specific questions the doctor is expected to answer.

The form has been revised to comply with recently adopted new rules 28 Texas Administrative Code §§127.1, 127.5, 127.15, 127.20, and 127.25, concerning Designated Doctor Scheduling and Examinations. The adopted rule was published in the December 17, 2010 issue of the Texas Register. All system participants must use the new form on or after February 1, 2011. Previous versions of the form will not be accepted after this date.

The DWC Form-032 is available for download in English and Spanish from the TDI website at <http://www.tdi.texas.gov/forms/form20.html>.

For additional information regarding the DWC Form-032, contact desdoc.education@tdi.texas.gov

TDI-DWC Field Offices Host Educational Sessions (Brown Bags) on New Designated Doctor Rules

The Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) field offices are hosting brown bag educational sessions entitled *New Designated Doctor Rules and Return to Work*.

The brown bag educational sessions are for all workers' compensation participants including: designated doctors, health care providers, employees and employee organizations, employers, insurance carriers, claim adjusters, case managers and attorneys.

The free sessions will provide information on the new designated doctor rules, effective February 1, 2011,

which clarify designated doctor regulation and require qualified designated doctors to remain appointed throughout a workers' compensation claim. The sessions also provide information on successfully returning injured employees to work after a work-related injury or occupational illness. Attendees are welcome to bring a lunch to the session.

For more details on the brown bag educational sessions, visit the TDI-DWC Events and Training Calendar at <http://www.tdi.texas.gov/wc/events/index.html>.

New DWC Form-069, Report of Medical Evaluation: For Impairment or Maximum Medical Improvement (For use on or after March 1, 2011)

The Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) has revised the DWC Form-069, *Report of Medical Evaluation*. Designated doctors must use this form when evaluating permanent impairment or maximum medical improvement of an injured employee. In addition, treating doctors may agree or disagree with the designated doctors' findings on this form.

The DWC Form-069 and associated narratives must be filed with the TDI-DWC and sent to the insurance carrier, injured employee, employee's representative, if any, and the treating doctor.

The revisions to DWC Form-069 are intended to provide more clarity and harmony with 28 Texas Administrative Code §130.1 regarding Certification of Maximum Medical Improvement and Evaluation of Permanent Impairment. All system participants must use the new form on or after March 1, 2011. Also effective on or after March 1, 2011, system participants are required to file the DWC Form-069 and associated narratives with the TDI-DWC by faxing them to 512-490-1047.

Meet the TDI-DWC Medical Advisors

In accordance with the Texas Labor Code the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) employs a medical advisor who must be a licensed and practicing doctor of medicine, osteopathic medicine, optometry, dentistry, podiatry or chiropractic to advise the TDI-DWC regarding the adoption of rules and policies. The Medical Advisor also reviews complaints on quality of care received through the Complaint Resolution section, field offices, and Office of Injured Employee Counsel and serves as chair of the Medical Quality Review Panel (MQRP). The MQRP reviews the actions of doctors, other health care providers, insurance carriers, utilization review agents, and independent review organizations in the workers' compensation system.

TDI-DWC has a medical advisor and associate medical advisors appointed by the Commissioner of Workers' Compensation.

Donald Patrick, MD, JD joined the TDI-DWC as Medical Advisor in July 2010. Dr. Patrick served as the Executive Director of the Texas Medical Board until August 2008. Prior to this position, Dr. Patrick practiced neurosurgery in Austin from 1969 to 2001. Currently he is a Diplomate of the American Board of Neurological Surgery and a member of the Austin EMS Advisory Committee, the Texas A&M Kingsville

Foundation Board and Board of Managers for Central Health (formerly the Travis County Healthcare District). In addition to his distinguished medical career, Dr. Patrick also earned a JD from the University of Texas, School of Law in 1996 and is licensed to practice law in the State of Texas.

Edwin R. Buster III, MD joined the TDI-DWC as an Associate Medical Advisor in September 2010. Since 1970, Dr. Buster has been in private practice at Capital Neurosurgical Association in Austin. Currently he is a Diplomate of the American Board of Neurological Surgery and a Medical Consultant to the Texas Medical Board. He is also a member of American Medical Association, Travis County Medical Society, Texas Association of Neurological Surgeons, American Association of Neurological Surgeons and Austin Neurological Society.

William Defoyd, MA, DC joined the TDI-DWC as an Associate Medical Advisor in December 2008. He is a board certified chiropractic orthopedist, and a certified McKenzie practitioner. He was the former managing partner and Director of the Rehabilitation Department for the Spine and Rehabilitation Center, a multidisciplinary group formed in Austin, Texas in 1994. Dr. Defoyd also served on the Executive Council/Quality Assurance Panel for the TDI-DWC's Medical Quality Review Panel from 2002 - 2008.

Elements of a Quality Designated Doctor Exam by Bill Defoyd, MA, DC

Designated doctors should refer to the following practice tips to ensure they provide a quality designated doctor exam.

1. Review the medical records prior to the exam; list the records reviewed in your narrative report.
2. Explain the purpose of the exam to the patient prior to the exam.
3. Perform the exam in a clean, accessible site with appropriate medical equipment and staff.
4. Take a focused medical history, after review of the medical records, and document this in your narrative report.
5. Perform a physical examination of the relevant body parts and document the specific findings in your narrative report.
6. Answer the questions posed in the DWC Form-32 with a clear rationale explaining your answer. "Show your work" so that someone reading your answers will understand how you came to this conclusion/response. For example, provide a rationale for your MMI certification and date, based on the medical records, the employee's medical history, physical examination and evidence based guidelines, where applicable.
7. Complete and submit your paperwork on time.

Comp Connection for Health Care Providers

The Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) maintains a telephone help line, *Comp Connection for Health Care Providers*, 1-800-372-7713 (512-804-4000 in the Austin area), to provide one-on-one assistance to the health care provider community who serve injured employees. Designated



doctors can use *Comp Connection for Health Care Providers* to obtain practical information on issues such as billing and reimbursement; workers' compensation forms; licensing and certification requirements and monitoring, compliance and enforcement.

One of TDI-DWC's goals is to recruit, retain and encourage health care provider participation in the workers' compensation system. *Comp Connection for Health Care Providers* will help the agency achieve this goal by assisting health care providers, including designated doctors, in the workers' compensation system.

TDI-DWC Centralizes Processing of Designated Doctor Reports and Narratives

Beginning March 1, 2011, designated doctors must fax all completed designated doctor reports and associated narratives attachments, including the DWC Form-069, Report of Medical Evaluation, and DWC Form-073, *Work Status Report*, to the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) at 512-490-1047. Do not send these reports and narratives to TDI-DWC field offices or other agency fax numbers. On or after March 1, 2011, the TDI-DWC is requiring all

health care providers to use the new DWC Form-069. The completed forms must be submitted to the TDI-DWC at the fax number listed above.

Designated doctors are also reminded that recently adopted rules require that they complete a DWC-Form-073 when evaluating an injured employee's ability to return to work. These completed forms must be submitted to the TDI-DWC as a part of the designated doctor report at the fax number listed above.

TDI-DWC Offers Compliance Training for Doctors on January 20

The Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) is offering treating doctors, designated doctors and their medical office managers training entitled *Workers' Compensation Compliance Training for Doctors* on Thursday, January 20, 2011.

The training will provide attendees with practical information to assist in the understanding of and compliance with Texas laws, TDI-DWC rules and processes for providing medical treatment to injured employees. This training will enable attendees to effectively participate in the Texas workers' compensation system. The training will provide information on the following topics:

- overview of the workers' compensation system;
- TDI-DWC forms for doctors and their importance;
- regulatory oversight;
- medical fee dispute resolution;
- enforcement of workers' compensation laws, rules and processes;
- medical office management;
- treatment guidelines and preauthorization; and
- designated doctor roles and responsibilities.

The free training sessions will be held from 8:45 a.m. to 5 p.m. in the Tippy Foster Room at the TDI-DWC

Central Office, 7551 Metro Center Drive, Suite 100 in Austin [<http://www.tdi.texas.gov/webinfo/tdidwc.html>]. Information relevant to all doctors will be presented from 8:45 a.m. to 2:30 p.m. Additional information specific to designated doctors will be presented from 2:30 p.m. to 5 p.m. To register, visit the TDI website at <http://www.tdi.texas.gov/wc/hcprovider/comptrain.html> for online registration or call Janice Pousson at 512-804-4685. For additional information about the content of this course, contact Susan Miller at 512-804-4688 or Susan.Miller@tdi.texas.gov.

2011 Designated Doctor Training (Offered by AADEP)

January 6-7, 2011 (Thursday-Friday)
JW Marriott Hill Country, San Antonio, Texas
February 19-20, 2011 (Saturday-Sunday)
Hilton Anatole, Dallas, Texas
April 30-May 1, 2011 (Saturday-Sunday)
Hotel Palacio del Rio San Antonio, Texas
June 11-12, 2011 (Saturday-Sunday)
Location TBD, Houston, Texas

**For more information or to register
visit www.aadep.org**

Importance of Managing TXCOMP Profile

The Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) rule 28 Texas Administrative Code 180.21(l) requires designated doctors to provide updated contact information to the TDI-DWC within 30 days of any changes. However, the TDI-DWC recommends that designated doctors make changes as soon as possible. Designated doctors promptly updating their TXCOMP Provider System (TXCOMP) profile with contact information and information on locations where they have agreed to conduct designated doctor examinations ensures that they are assigned examinations based upon their availability. In addition, updating a TXCOMP profile facilitates communication from the TDI-DWC regarding scheduling and other important issues.

Having accurate TXCOMP profile information is important. After approving a request for designated doctor examination, TDI-DWC assigns a designated doctor to perform the examination based upon this information. In order for the designated doctor to receive the appointment, their contact information

and information on locations where they have agreed to conduct designated doctor examinations must be correct and current in TXCOMP. Failure to accept appointments can lead to enforcement referral for a possible violation.

If this information is incorrect it could result in the designated doctor not receiving appointments or receiving appointments for locations they no longer service. For example, if a health care provider fails to remove a location they no longer service.

In addition to updating profile information in TXCOMP, designated doctors must notify TDI-DWC by faxing written notice to 512-804-4121 when vacation, illness or other circumstances render them unavailable to accept appointments. Upon notification, the time frame of the designated doctor's deferral will be entered into their TXCOMP profile so they will not be assigned appointments during that time.

For assistance with TXCOMP technical or access questions, call toll free to the TXCOMP Help Desk at 1-888-489-2667.

BRIEFS SECTIONS

Location, Location, Location: Designated Doctor Examination Sites

Since the fall of 2009, the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) has visited 256 randomly selected Designated Doctor Examination sites.

While most examination sites were viewed as acceptable, the TDI-DWC did identify some areas of concern.

- Inadequate or misleading designated doctor examination location address information in the designated doctor's TXCOMP profile.
- Inadequate address and suite number signage at the examination site.
- Inappropriate use of an examination location by a designated doctor in the Texas workers' compensation system, (Examples: inappropriate facility type, improper equipment or a lack of ADA compliance).

- Unsecure handling of injured employee confidential medical records.
- Insufficient injured employee privacy during examination.

Doctors whose examination sites were viewed as unacceptable were contacted and the identified deficiencies have been corrected.

All designated doctors must ensure that the above concerns are addressed at their examination sites. Designated doctors also need to ensure their TXCOMP profile is current at all times.

The TDI-DWC will resume visiting Designated Doctor Examination sites in early 2011. In addition to randomly selected examination sites, the agency may also visit examination sites in connection with complaints received by TDI-DWC.

Enforcement and Compliance

The Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) posts compliance and enforcement actions taken against health care providers, including designated doctors, on the agency website at <http://www.tdi.texas.gov/wc/hcprovider/status.html>.

Potential sanctions range from monetary penalties to practice restrictions, removal as a designated doctor and referral to the Texas Medical Board and other licensure entities for review. Doctors are encouraged to review the

compliance and enforcement postings for insight and guidance.

Designated doctors who contract with administrative service companies to handle their scheduling and other administrative functions should be aware that the ultimate responsibility for compliance with the Texas Workers' Compensation Act and TDI-DWC Rules lies with the doctor and not the administrative service company.

Designated Doctors Can Now Select Up to 50 Appointment Locations in TXCOMP

In July 2010, the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) modified the TXCOMP Provider System (TXCOMP) to allow designated doctors to specify up to 50 locations where they conduct designated doctor examinations. Formerly, designated doctors were limited to receiving appointments at only 20 locations.

Doctors should be aware of the new designated doctor rules, effective February 1, 2011, whereby the TDI-DWC may require a designated doctor to remain appointed throughout a claim as long as that doctor is still qualified to examine the injured employee. Designated doctors should be sure to select locations in which they intend to perform designated doctor examinations over the entire life of a claim in each location they specify.

TDI-DWC Offers Online Designated Doctor Selection and Appointment Reports

The Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) provides designated doctor selection and appointment reports based on the number of designated doctor requests and license types available in each county.

The online query tool allows workers' compensation system participants to select report options to view

specific designated doctor appointment summaries. To access the data, visit the TDI website at <http://www.tdi.texas.gov/wc/dd/index.html> under "Run Reports For Numbers of Designated Doctors and Appointments by County and Date".

Scheduling of TDI-DWC Ordered Examinations

When the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) determines that an additional examination of an injured employee is necessary for a designated doctor to adequately respond to an approved Letter of Clarification, they will order the examination and coordinate setting the examination appointment.

The TDI-DWC Designated Doctor Scheduling section will issue and send to the designated doctor a copy of the *Order for Designated Doctor Examination*. The doctor will also receive an *Examination Coordination Sheet* from the TDI-DWC, which will include information on the injured employee; date range within which the examination must occur; and examination location. The designated

doctor must perform the examination at the previous examination location, or a location approved by the TDI-DWC in cases where the original examination location is no longer available.

After setting the appointment, the designated doctor should complete the *Examination Coordination Sheet* and fax it to the TDI-DWC at 512-490-1049 within three business days. After receipt of the Examination Coordination Sheet, the TDI-DWC will then issue a *Commissioner Order for Scheduled Designated Doctor Examination* to the injured employee and all other parties advising them of the appointment date and time, and their responsibilities related to the examination.

TDI-DWC Conducts Pilot Program to Survey Injured Employees after Designated Doctor Examinations

To obtain injured employee input on the designated doctor process, the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) has begun surveying injured employees following designated doctor examinations.

The survey, which is mailed to injured employees immediately following their designated doctor examination, solicits responses regarding injured employee's perception of their recent examination. The survey includes questions regarding the examination location, American Disabilities Act compliance and cleanliness of the examination site. The survey also

has questions regarding the physical examination, including how long the doctor was with the injured employee, whether the doctor explained the purpose of the examination and if the doctor was courteous. In addition, the survey offers the injured employee the opportunity to request a telephone call from the TDI-DWC staff to further discuss the examination.

Designated doctors selected for the pilot program receive advance notice that the injured employees attending designated doctor examinations will receive a survey. The pilot program will be expanded to include more designated doctors in early 2011.

Designated Doctor Examination Statistics for Fiscal Year 2004 through Fiscal Year 2010

Table 1 - Incidents or Injuries By Fiscal Year, Based Upon Date of Injury

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
"Reportable" Injury/Incident Records Created ^{1,2}	116,756	113,161	109,248	99,704	92,640

¹"Reportable": Injuries with at least one day of lost time, occupational disease, or fatality.

²Incidents or Injuries By Fiscal Year, Based Upon Date of Injury - TDI-DWC continually updates these numbers, based upon claim information submitted by insurance carriers.

Table 2 - Number of Indemnity Disputes by Fiscal Year

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Indemnity Disputes ³	35,674	31,055	26,954	25,410	24,606

³Includes only one instance of each request for indemnity dispute resolution (regardless of level, BRC, CCH, or Appeal).

Table 3 - Total Designated Doctors in the WC System By Fiscal Year and License Type

License Type of Designated Doctor	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Doctor of Medicine (MD)	752	763	822	868	852
Doctor of Osteopathy (DO)	103	106	111	122	115
Doctor of Chiropractics (DC)	662	390	316	264	227
Other*	9	7	6	7	6
Total Designated Doctors	1,526	1,266	1,255	1,261	1,200
New Designated Doctors Appointed	166	187	199	188	110

Table 4 - Total Designated Doctor Appointments Scheduled By Fiscal Year and License Type

License Type of Designated Doctor	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Doctor of Medicine (MD)	41,576	48,109	46,013	39,950	38,278
Doctor of Osteopathy (DO)	7,758	8,604	7,301	6,786	5,979
Doctor of Chiropractics (DC)	1,838	1,629	1,671	1,175	907
Other*	377	189	113	251	221
Total Appointments	51,549	58,531	55,098	48,162	45,385

*Other includes Acupuncturists, Doctors of Podiatry, and Doctors of Dentistry.

Source: Texas Department of Insurance, Division of Workers' Compensation, 2011.