

2010 Annual Report

Texas Department of Insurance



Texas Department of Insurance

Office of the Commissioner, Mail Code 113-1C

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November 19, 2010

The Honorable Rick Perry, Governor
The Honorable David Dewhurst, Lieutenant Governor
The Honorable Joe Straus, Speaker of the House

Dear Governors and Speaker:

I am pleased to submit the Annual Report of the Texas Department of Insurance for Fiscal Year 2010, in compliance with Texas Insurance Code Chapter 32, Section 32.021.

Copies of this report will be filed simultaneously with the State Auditor, Legislative Budget Board, Comptroller of Public Accounts, Legislative Reference Library and State Library. Copies of this report will be provided to insurance commissioners in other states, as well as selected members of the Texas Legislature or upon request. This report is also available on TDI's Web site at <http://www.tdi.state.tx.us/reports/annual.html>.

As in 2009, TDI's Annual Financial Report—formerly published as Part V of the agency's Annual Report—is published under separate cover for Fiscal Year 2010.

If you have questions about the contents of this report or affairs of the Texas Department of Insurance, I will be happy to respond.

A handwritten signature in black ink that reads "Mike Geeslin". The signature is written in a cursive style with a horizontal line underneath the name.

Mike Geeslin, *Commissioner of Insurance*



135th Annual Report

to the Governor & Legislature

**For Fiscal Year 2010
ending August 31, 2010**

Mike Geeslin,
Commissioner of Insurance

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Agency Vision

The Texas Department of Insurance envisions a financially stable and fair marketplace and an effective and efficient workers' compensation system.

Agency Mission

The Texas Department of Insurance mission is to protect insurance consumers by:

- regulating the insurance industry fairly and diligently
- promoting a stable and competitive market
- providing information that makes a difference.

Agency Regulatory Approach

The Texas Department of Insurance will exemplify friendly, courteous, ethical, and professional behavior in all areas of performance by:

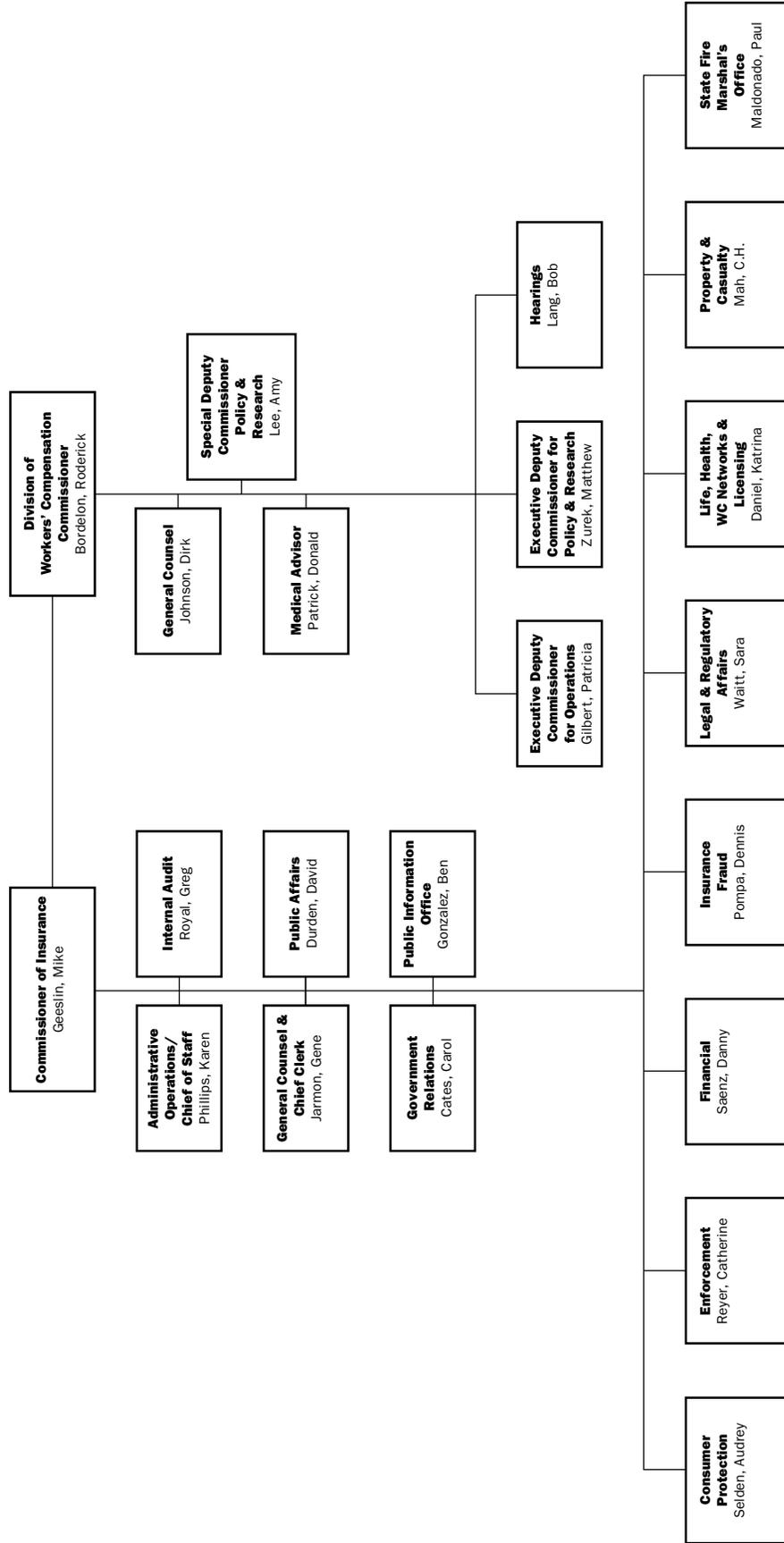
- providing the best value in services to the people of Texas
- applying the laws and the agency policies fairly and consistently throughout the state
- communicating openly and providing timely and accurate information to the public we serve, and to all our fellow employees, and
- communicating internally and externally, evaluating changes in conditions to maintain a consistent agency mission.

Explanatory Note

References to statutes and insurance-related legislation: Unless otherwise noted, statutory references, including citations of articles, refer to the Texas Insurance Code. SB refers to a Senate bill and HB refers to a House bill. Bill references are to those enacted by the 81st Texas Legislature (2009) unless otherwise indicated.

Agency Organization Chart

September 30, 2010



Part I Report of Program Activities

This section of the Texas Department of Insurance's *135th Annual Report* gives a brief summary of major activity of agency programs and divisions during Fiscal Year 2010. This report reflects the agency structure as it existed on August 31, 2010.

issued by the

Texas Department of Insurance

Preface

Federal Health Reform

The Patient Protection and Affordable Care Act (PPACA), and related Health Care and Education Reconciliation Act, were signed into law in March 2010 and represent significant market reform requirements for group and individual health insurance policies. All commercial insurance plans in Texas (including both fully insured and self-funded ERISA plans excluded from state regulation) are affected by these requirements. Fully insured plans that are subject to TDI regulation must file with the Department health benefit plan amendments or policy revisions in order to comply with the federal benefit requirements.

In planning to implement the new federal law, TDI has focused on immediate requirements to ensure the Texas insurance market is not disrupted. The effort has included close collaboration with the insurance industry, the Texas Health and Human Services Commission and other state agencies, the U.S. Department of Health and Human Services and the National Association of Insurance Commissioners. TDI is currently working with insurers to develop expedited processes for reviewing forms reflecting market reforms. Also, current information about the impact in Texas of the federal health insurance law changes is posted on a Federal Health Care Reform Resource Page on the agency website.

Federal Financial Reform

On July 1, 2010, the president signed the Dodd-Frank Wall Street Reform and Consumer Protection Act (Act), which represents the most significant legislative changes to financial supervision since the 1930s. The sweeping new federal laws will impact a wide-range of U.S. financial industries, such as banking, securities, derivatives, and other commercial enterprises, including the insurance industry. One over-arching purpose was to provide for the resolution, or dissolution, of companies deemed “too big to fail”. While the greatest impact from the Act may be felt by the largest, most complex financial institutions, the Act may impact financial institutions of virtually any size. The ultimate impact will not be realized until after a series of required federal regulations are enacted; it has been estimated that more than 200 new federal regulations will be required to implement the Act. Although relatively few insurance companies have failed during the recent economic downturn, the Act expressly impacts insurance companies and the regulation of insurance. Among its provisions is the creation of the new Federal Insurance Office (FIO), which is charged with monitoring the insurance industry and providing insurance information to Congress. The FIO is empowered to negotiate international compacts and agreements involving insurance and could preempt state laws and regulations that conflicts with these compacts and agreements.

Homeowners Insurance

FY 2010 was a mild year in terms of Texas weather, a stark contrast to the previous fiscal year that saw Hurricane Ike make landfall on Galveston Island. Yearly comparison data from the National Association of Insurance Commissioners (NAIC), released in December 2009 and reflecting state-wide average premiums from two years previous, showed Texas overtaken by Florida and Louisiana in highest average premium (all policy forms combined), despite the fact that Texas data includes its wind risk while Florida’s does not. Nevertheless, Texas along with the other Gulf Coast states continues to experience an upward pressure on homeowners rates, a result of the unusual hurricane activity of 2004-2005 and exacerbated by Hurricanes Dolly and Ike in 2008 and a severe storm season in the spring of 2009. Currently homeowners rates in Texas are 5.1% higher than they were at the time of the 2003 market reforms, though it bears noting that rate increases in Texas are far below the pace of increases in other states (and other Gulf coast states in particular).

In November 2009, the Commissioner ordered State Farm Lloyds to refund approximately \$310 million in refunds and interest, after rehearing the original 2003 rate reduction order that was remanded by the Third Court of Appeals in 2008. State Farm Lloyds has appealed the Order to Travis County District Court, and all refunds are “stayed” until final adjudication of the appeal. In June 2010 TDI

issued a consent order with Hartford over excessive rates; the resulting rate decrease and refunds amounted to approximately \$38 million savings to policyholders.

Auto Insurance

The personal auto market continues to be competitive with new entrants, new products, and moderate rate increases in FY 2010. The TexasSure auto insurance verification program, launched in 2008, continues to match liability policies to personal passenger vehicles at an accuracy rate of over 99%. While there has been a slight decline in the number of uninsured vehicles since beginning the program (24.28% of Texas registered vehicles could not be matched to an insurance policy in 2008, down to 21.65% in June 2010), it is too early to tell if the reduction is a result of the data verification program. In June, TexasSure entered a new phase in which letters were mailed to individuals with Texas registered vehicles that appear to be uninsured. The letters provided the vehicle registration information on file and specific guidance on how to resolve the issue.

Workers' Compensation

Extensive reforms passed in 2005, including creation of the Division of Workers' Compensation as part of TDI, have been implemented. System improvements can be seen in a number of measures. Premium rates have declined significantly (-40.2% from 9/1/2003 to 1/1/2010). Injury rates are down 16% since 2004 (well below the national average) and claims are down 22% since 2004 despite a growing Texas workforce. Medical costs, a driving force behind the 2005 reforms, are lower compared to 2001. More employers are opting into the system; the nonsubscription rate has dropped from 37% in 2006 to 33% in 2008, the lowest rate since 1993. Return-to-work results have improved and disputes have declined (indemnity disputes have dropped by 50% compared to 2005). Workers' Compensation Health Care Networks, a new program introduced in the reforms, now cover 249 of the state's 254 counties; 30 networks have been certified as of May 2010.

Insurance in Texas: By the Numbers

Homeowners Insurance

Number of Companies*	113
Number of Groups	58
Number of New Companies**	6
Policies in Force (2009)	
Homeowners	4,152,283
Dwelling	659,910
Tenants	772,478
2009 Written Premium	\$5,621,726,939

Top Writers

	2009	
	WRITTEN PREMIUM	SHARE
State Farm IL Group	1,627,358,973	28.95%
Zurich Ins Group (includes Farmers)	761,633,987	13.55%
Allstate Ins Group	734,130,098	13.06%
United Services Automobile Asn Group	448,829,257	7.98%
Travelers Group	276,751,850	4.92%
Liberty Mutual Ins Co Group	250,519,823	4.46%
Nationwide Corp Group	230,307,496	4.10%
Texas Farm Bureau Mutual Group	162,040,031	2.88%
Chubb & Son Inc Group	112,396,381	2.00%
Hartford Fire & Casualty Group	108,180,152	1.92%

Personal Auto

Number of Companies*	190
Number of Groups	65
Number of New Companies**	5
Vehicles in Force (Liability)	15,159,551
2009 Written Premium	\$13,190,809,107

Top Writers

	2009	MARKET
	WRITTEN PREMIUM	SHARE
State Farm IL Group	2,658,836,398	20.16%
Zurich Ins Group (includes Farmers)	1,760,440,994	13.35%
Allstate Ins Group	1,549,116,849	11.74%
Progressive Group	1,043,200,242	7.91%
Berkshire-Hathaway Group	890,215,601	6.75%
United Services Automobile Asn Group	840,175,009	6.37%
Nationwide Corp Group	461,029,248	3.50%
Liberty Mutual Ins Co Group	367,689,980	2.79%
Titus Group	335,458,831	2.54%
Home State Ins Group	312,228,392	2.37%

Health Insurance

Number of Companies*	489
Number of Groups	184
Number of New Companies**	6
Texas Population estimate	24,657,000
Texans with Health Insurance	18,224,000
Uninsured population	6,433,000
2009 Written Premium	\$34,858,633,921

Top Writers

	2009	MARKET
	WRITTEN PREMIUM	SHARE
Health Care Service Corp Group (includes Bluecross & Blueshield of Texas)	6,811,002,359	19.54%
United Health Group	6,146,255,477	17.63%
Aetna Group	2,681,806,045	7.69%
Humana Inc Group	2,532,708,762	7.27%
Amerigroup Group	1,301,685,144	3.73%
Centene Corp Group	1,247,688,203	3.58%
Universal American Fin Corp Group	954,204,430	2.74%
Cigna Health Group	712,009,335	2.04%
Newquest Group	666,207,218	1.91%
Wellpoint Inc Group	649,879,204	1.86%

Note: Written Premium may include amounts received for coverage offered through Medicare and Medicaid programs.

Life Insurance

Number of Companies*	475
Number of Groups	178
Number of New Companies**	1
2009 Written Premium	\$8,866,086,982

Top Writers

	2009	MARKET
	WRITTEN PREMIUM	SHARE
Metropolitan Group	748,131,462	8.44%
New York Life Group	445,032,587	5.02%
Northwestern Mutual Group	403,663,053	4.55%
Prudential of America Group	394,771,561	4.45%
Lincoln National Group	372,289,287	4.20%
American International Group	312,032,937	3.52%
State Farm IL Group	293,318,260	3.31%
John Hancock Group	274,193,539	3.09%
Aegon US Holding Group	272,272,261	3.07%
Mass Mutual LIC Group	241,032,587	2.72%

Annuities		Top Writers		2009	MARKE
				WRITTEN PREMIUM	SHARE
Number of Companies*	312	Metropolitan Group		1,286,178,939	6.52%
Number of Groups	126	John Hancock Group		1,266,241,885	6.42%
Number of New Companies**	2	American International Group		1,191,522,275	6.04%
2009 Written Premium	19,735,746,676	ING America Ins Holding Group		1,160,584,991	5.88%
		Prudential of AM Group		1,073,644,158	5.44%
		Aegon US Holding Group		869,616,820	4.41%
		Lincoln National Group		839,565,849	4.25%
		Jackson National Group		792,246,426	4.01%
		Hartford Fire & Casualty Group		715,962,969	3.63%
		College Retirement		698,424,696	3.54%

* Number of companies with positive premiums for indicated line of insurance.

** Number of new companies licensed in the prior year

Commissioner's Office

THE COMMISSIONER OF INSURANCE, appointed by the Governor with the advice and consent of the Senate, is the agency's chief executive and administrative officer.

As the agency's chief administrator, the Commissioner oversees agency regulatory functions, establishes agency operating procedures and enforces state insurance laws. Enforcement includes disciplinary and legal actions against violators.

As part of his regulatory duties, the Commissioner issues presumptive rates for credit life and credit disability insurance. He also reviews and regulates all residential property rates and can order reductions when appropriate. The Commissioner also promulgates rates for title insurance and Texas Automobile Insurance Plan Association (TAIPA) coverages. The Texas Windstorm Insurance Association (TWIA) must submit its proposed rates for the Commissioner's approval.

The Commissioner reviews rates submitted to TDI under "file-and-use" provisions for such lines as boiler and machinery, business owners, commercial multi-peril, credit and involuntary unemployment, crime, fire and allied lines, commercial general liability, glass, miscellaneous liability, mortgage guaranty, medical malpractice, other professional liability and commercial umbrella.

The Commissioner adopts rules, implements new laws and addresses problems in regulating companies and agents. In addition, the Commissioner appoints individuals to advisory boards and committees and oversees their operation.

In FY 2010, the Commissioner's Office included the Chief of Staff and five activities.

Chief of Staff oversees the Administrative Operations Division, which includes the agency's financial services, information technology services, human resources, purchasing and contract administration and staff services. The Chief of Staff also coordinates executive communications and assists the agency ombudsman and ethics advisor in matters not requiring the Commissioner's action.

General Counsel/Chief Clerk serves as the Commissioner's legal adviser on both contested and non-contested cases and assists in developing rules, setting rates and handling various appeals to the Commissioner, including appeals from decisions of Boards and Associations supervised by the Commissioner. In addition, the office coordinates matters involving contested case proceedings, policy issues, and rule-making; performs legal research; certifies rules for the agency; approves all bulletins issued by the agency and the Commissioner; and maintains records of proceedings involving the Commissioner and Commissioner actions. The office also handles hearings-related duties including coordinating hearing notices and scheduling hearings with the State Office of Administrative Hearings (SOAH), along with providing a court reporter when required.

Internal Audit supports the agency's overall mission by providing independent, objective assurance and consulting activities designed to add value and improve the agency's operations. Internal Audit helps the agency accomplish its goals and objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, controls, and governance throughout TDI.

Government Relations serves as TDI's liaison with the Legislature and other governmental entities. Major responsibilities include helping the Commissioner of Insurance and the Commissioner of Workers' Compensation develop legislative recommendations for improving insurance regulation in Texas; reporting information regarding TDI activities and the insurance market to the Legislature; coordinating and tracking agency-wide responses to legislative and constituent inquiries, including responding to inquiries related to workers' compensation or coordinating responses with the Division of Workers' Compensation (DWC); monitoring, tracking and analyzing legislation affecting the agency; updating agency staff on the status of legislation; selecting, training, and coordinating the availability and presence of appropriate agency staff for resource testimony before various legislative committees; overseeing implementation of legislation; compiling and indexing all insurance, workers' compensation, and other agency-related legislation for inclusion on TDI's website; distributing

requested information to legislators, committees, and other governmental entities; and researching and reviewing possible appointments to various boards and committees required to assist the Department, which includes on-going monitoring of such appointments.

Public Information Office serves as the agency's primary contact with the news media. The office also responds to information requests from consumers, the insurance industry and other regulators and government agencies. Major communication responsibilities include:

- Researching, writing, editing and distributing news releases announcing agency actions; conducting and coordinating interviews with the news media; assisting the Commissioner in drafting articles and consumer columns for various publications; and responding to information requests from the media.
- Managing content of TDI's websites, with assistance from Information Services and other divisions.
- Coordinating electronic mail among TDI, other state insurance departments and the National Association of Insurance Commissioners (NAIC), and coordinating general information e-mails via TDI's website.
- Coordinating the writing and editing of the Annual Report to the Governor and Legislature.
- Writing and editing the agency's regulatory newsletter (TDInSight).
- Designing, illustrating and producing agency publications and related print materials.
- Writing and overseeing production of radio and television public service announcements and advising agency programs on public awareness campaigns.
- Producing the agency's Bulletin Board@TDINet, an in-house electronic bulletin board for TDI information.
- Preparing information and fact sheets for speeches and helping edit various agency reports and documents.

Highlights

In FY 2010, the Commissioner's Office:

General Counsel/Chief Clerk

- Reviewed, briefed and advised the Commissioner of Insurance on 35 contested cases heard by SOAH, and 10 hearings and public meetings conducted by the Commissioner. Also reviewed, briefed and advised the Commissioner on other rate matters including title insurance, the TWIA interim filing requesting modification of the annual commercial rate filing, and TWIA manual rates.
- Briefed and advised the Commissioner on 97 appeals of TWIA decisions. (Note: there was a higher volume of TWIA appeals due to Hurricane Ike in 2008.)
- Provided legal and technical review in connection with the adoption of eight new Texas Administrative Code (TAC) rules, the repeal of five TAC rules, and the amendment of sixteen TAC rules, including the adoption of one TAC rule adopted on an emergency basis.
- Provided legal and technical review in connection with the adoption of two manual rule proposals under Article 5.96, Chapter 2151 of the Texas Insurance Code. Two proposals to adopt new or amended manual rules were pending at the end of FY 2010.
- Reviewed and advised the Commissioner regarding orders in connection with agents and insurers, including 155 Consent orders, 77 Default orders, 122 Contested, and 4 Cease and Desist orders; also reviewed and advised the Commissioner on 29 appointment or reappointment orders and 4 TDI Activity orders
- Continued work on streamlining the agency's internal rulemaking process.
- Continued work on updating and revising portions of TDI's database of Commissioner orders and bulletins. The database now includes 47 years of Commissioner of Insurance orders and the former State Board of Insurance Board orders.
- Maintained the Commissioner's agendas, bulletins, TAC and manual rules posted on the agency website.
- Approved and processed 51 Commissioner's bulletins.
- Maintained and prepared for archiving all contested-case hearing files (Official Administrative Record) and all other administrative hearing files of the Commissioner of Insurance or his delegate, as well as assisted the Office of the Attorney General in related appeals filed with the District Court.
- Briefed and advised the Commissioner and TDI staff in hearings concerning rules and other regulatory matters.

Internal Audit

- Conducted seven financial or performance related audits. In addition, four other financial/performance-related audits were ongoing at fiscal year-end.
- Conducted one information system audit project.
- Conducted two follow-ups with management on outstanding recommendations from prior audits. These were reported in our Annual Report in October and mid-year in March to the Commissioners.
- Conducted one follow-up audit of the Special Deputy Receiver department.
- Conducted three advisory projects resulting in final reports to the Commissioners and agency management.
- Conducted one investigation as authorized under Section §2102.003 (3) (E) of the Government Code.
- Assisted the agency with a review of the Texas Windstorm Insurance Association by multiple TDI programs under Financial Examination's Authority.
- Served in an advisory or monitoring role on five other agency-wide project committee teams.
- Served as TDI's liaison to external auditors on three State Auditor's Office (SAO) projects that were completed by fiscal year-end.
- Served as TDI's liaison to external auditors on one SAO project still ongoing at fiscal year-end.
- Served as TDI's liaison to external auditors on one Federal audit of a grant to the State Fire Marshal Office.
- Participated on external quality assurance reviews of two state agencies.
- The Internal Audit Director serves on TDI's Fraud Panel, which receives and determines appropriate handling of internal fraud-related allegations.
- Two audit staff were involved in the local Institute of Internal Auditor's Chapter. One serving as the president and one as the VP of Continuing Education.
- The Internal Audit Director served as Vice-Chair of the State Agency Internal Audit Forum.

Government Relations

- Assisted the Commissioner of Insurance and the Commissioner of Workers' Compensation in preparing for and presenting information on interim charges as developed by the Texas State leadership and heard by various interim committees, such as Senate Business and Commerce, Senate State Affairs, House Insurance, House Business and Industry, and several select committees considering issues related to federal healthcare reform and emergency preparedness.
- Worked with the Sunset Advisory Commission and provided resource information for the Commission's hearing on its staff recommendations and the Commission's decision hearing on both TDI's special purpose review and DWC's full review. Assisted the Commissioner of Insurance and the Commissioner of Workers' Compensation in Sunset hearing preparation and post-hearing follow-up.
- Participated in the agency project to coordinate and respond to the implementation of the federal healthcare reform passed by the U.S. Congress in March, 2010, including informing and updating the legislature of the scope of the Department's activities and assisting as necessary with legislative inquiries and interim hearings.
- Continued during the interim to track, coordinate, and report to the Legislature the implementation activities of the 222 insurance-related bills passed during the 81st Legislative Session (2009), 217 of which became law, resulting in approximately 207 implementation items for the TDI and the DWC.
- Published and updated bill implementation information on the agency's website.
- Worked with bill authors and sponsors of legislation and kept them advised of implementation developments, including stakeholder and working group meetings in the development of rules.
- Monitored and attended meetings of various boards and committees, including legislative interim committees, for the Commissioner of Insurance and the Commissioner of Workers' Compensation.
- Coordinated and prepared presentations by the Commissioner of Insurance, the Commissioner of Workers' Compensation, and agency staff for interim and regular session legislative committees charged with studying insurance- and workers' compensation-related issues.
- Continued to maintain a consumer liaison for insurance inquiries.
- Assisted TDI staff with appointment and re-appointment of members to advisory committees and boards, including: the appointment of a new Board of Directors of the Texas Windstorm Insurance Association as set forth in HB 4409, 81st Legislative Session; continued monitoring of the Utilization Review Advisory Committee and several committees that assist the State Fire

Marshal's Office; and the coordination of several appointments to the guaranty funds as set forth in statute.

- Monitored the continuing implementation of Senate Bill (SB) 1670, 79th Legislature, Regular Session, among various implementing agencies and working group members. SB 1670 added Subchapter N to Chapter 601 of the Transportation Code, which requires TDI, in consultation with the Texas Department of Public Safety (DPS), the Texas Department of Transportation (TxDOT), and the Texas Department of Information Resources (DIR) to establish a program for verification of whether owners of motor vehicles have established financial responsibility. The program, now known as TexasSure, was made available to all law enforcement agencies statewide on October 1, 2008. The program continues to provide information on the insurance status of motorists and has made additional steps in identifying and notifying uninsured motorists of information in the database that cannot be matched or verified.
- Continued monitoring and updating the implementation of SB 611, 80th Legislature, Regular Session, which required TDI, in conjunction with the Office of Public Insurance Counsel to establish and maintain a single internet website that provides information to enable consumers to make informed decisions relating to the purchase of residential property insurance and personal automobile insurance. The website was launched on August 28, 2008 as www.helpinsure.com, which allows consumers to view sample homeowners or auto insurance rates from the top 25 insurer groups, based on a personal profile submitted by the consumer. The service is free to use and no confidential information is required to be submitted. In addition to cost estimates, the website also provides financial ratings, complaint ratios, and recent rate changes for each insurance company listed. Summaries and explanations of what each policy covers, as well as available discounts, are also provided. A new feature called "Market Connection" was added in 2009-2010 that assists consumers, businesses and professionals find insurance by helping them connect with agents and companies that offer coverage.
- Assisted TDI staff with continued implementation of the Healthy Texas Program as established by SB 78, 81st Legislative Session, through which small employer health insurance would be offered to eligible persons.

Public Information Office

- Published four issues of TDInSight in FY 2010. TDInSight provides industry stakeholders and policymakers with timely information on key issues and regulatory actions, in a readable, visually interesting format.
- Produced six issues of the employee newsletter Bulletin Board as an electronic publication on the TDI intranet.
- Wrote and coordinated dissemination of 53 press releases to statewide Texas media in FY 2010.
- Provided presentation assistance for the Commissioner at 16 events statewide during the fiscal year.
- Responded to 318 media calls and interview requests.
- Continued to provide daily news clipping service, monitoring all major Texas newspapers for insurance-related news.
- Graphics department continued to design and produce all agency newsletters, brochures, booklets, fliers, posters, and stationery. In addition to print-based materials, graphics staff also designed web enterable forms and optimal web images for the TDI website.
- TDI's web team worked on a complete redesign of TDI intranet and internet websites through FY 2010, completed in early FY 2011.
- Completed new web resource pages for Kids and Military personnel.
- Continued to distribute e-mail updates to close to 4,000 TDI eNews subscribers.
- Provided live and archived Internet audio of public hearings/meetings.
- Continued work with Web Team members throughout the agency to improve website accessibility.

Figure 1 Summary of Activity: Commissioner’s Office

	FY 2007	FY 2008	FY 2009	FY 2010
Commissioner’s Hearings/Meetings	25	13	15	10
Commissioner’s Orders*	1,225	1,221	1,050	1,139

* Commissioner’s Orders in FY 2010 included 357 disciplinary orders (including contested, consent, Cease & Desist and default orders) and other matters regarding TWIA appeals, 32 TAC rules, 3 Manual orders, 612 company and financial activities orders, 32 orders for temporary acting commissioner, 13 delegation orders for routine actions, 4 TDI Activity actions, 13 Appointment or Reappointment orders, and 40 other orders regarding rate filings, disapproval of rates, motions for rehearing, and Supervision.

Figure 2 Commissioner’s Contested Cases by Type

	FY 2007	FY 2008	FY 2009	FY 2010
Total Hearings Conducted for Commissioner*	90	50	153	132
Disciplinary†	55	29	21	19
License Applications	19	14	11	16
Appeals/Other‡	16	9	121	97

* Total number of actual hearings conducted for the Commissioner by the State Office of Administrative Hearings (SOAH). The count excludes prehearing conferences and additional days of extended hearings.

† Includes State Fire Marshal Office

‡ Appeals/Other includes appeals of actions taken by the Texas Windstorm Insurance Association (TWIA) and the Texas FAIR Plan Association (TFPA).

Legal & Regulatory Affairs

LEGAL & REGULATORY AFFAIRS counsels the agency on all matters, including operations, personnel, contracts, open records, and policymaking. The program interprets statutes; drafts rules, opinions, orders, and bulletins; and assists the Financial Program with financial and receivership matters.

As the agency continues to look for ways to improve efficiencies and to integrate the Division of Workers' Compensation (DWC) with the other parts of TDI, the Workers' Compensation Counsel, previously DWC Legal Services, became a section within Legal & Regulatory Affairs in November 2008. The division now has four sections: Agency Counsel, Financial Counsel, Policy Development Counsel, and Workers' Compensation Counsel. The major activities of each section follow.

Agency Counsel provides legal services to the Commissioner of Insurance, the Commissioner of Workers' Compensation, and agency staff. These services include:

- interpreting statutes, rules, and case law
- preparing, drafting, and/or reviewing commissioner's orders for appointments to advisory committees
- advising the agency on applicable state and federal employment laws
- preparing, drafting, and/or reviewing for approval agency bid documents, contracts, and memoranda of understanding and related documents
- assisting with contract administration for agency contracts
- advising the agency on applicable state procurement laws
- overseeing the agency's open records process, which includes advising on requests for information received by TDI, processing billing for open records requests, and providing training on the Public Information Act and the Open Records Tracking System
- preparing, drafting, and/or reviewing agency information sharing agreements and confidentiality agreements
- drafting rules for the Administrative Operations Division
- preparing, drafting, and/or reviewing TDI's policies and procedures manuals
- drafting potential legislation
- issuing legal opinions
- managing the library serving the agency.

Financial Counsel provides legal services to the Financial Program and other agency programs. The section generally works on specific company transactions or problems. Services include:

- interpreting statutes, rules, and case law
- drafting and reviewing orders
- commenting on bills proposed by the Legislature related to insurer financial condition
- advising on issues concerning company licensing, financial examinations, market conduct examinations, financial monitoring, and holding company transactions, as well as supervisions, conservatorships, and other issues related to oversight of troubled companies, including title agencies
- handling denials of applications for Certificates of Authority, Form A applications to acquire control of a company, holding company transactions, and other transactions that require TDI approval
- drafting rules, bulletins, and potential legislation
- drafting receivership pleadings and coordinating with the Office of Attorney General
- representing the receiver before the district court and the receivership special master
- assisting in the establishment of maintenance tax and assessments rates.

Policy Development Counsel provides legal services to TDI's Life, Health, and Licensing; Property and Casualty; Consumer Protection, and State Fire Marshal programs. The section assists in setting policy for all licensees, rather than specific companies. Assistance provided includes:

- interpreting statutes, rules, and case law
- drafting rules, bulletins, orders, and potential legislation

- issuing legal opinions
- responding to legislative and stakeholder inquiries
- reviewing agency publications for legal accuracy
- commenting on insurance-related bills proposed by the Legislature.

Workers' Compensation Counsel provides legal support for TDI-DWC. This includes:

- interpreting statutes, rules, and case law
- drafting rules, bulletins, and potential legislation
- drafting and reviewing of DWC contracts, memoranda of understanding, memoranda of agreement, and related documents for review by Agency Counsel Section
- advising on requests for information received by DWC pursuant to the Public Information Act and other laws in coordination with the Agency Counsel Section.

General Management coordinates delivery of legal services to the agency and continuing legal education training classes for agency attorneys. This area also serves as the agency's liaison to the National Association of Insurance Commissioners (NAIC). This function involves coordinating coverage of various committee meetings and communicating the agency's position on issues.

Highlights

In FY 2010, Legal & Regulatory Affairs:

- Sponsored the Legal In-House Training Seminar and coordinated Continuing Legal Education (CLE) training classes for agency attorneys.
- Updated the TDI-DWC rules related to monitoring and enforcement to implement the provisions of HB 7, 79th Legislature, Regular Session, 2005; and HB 34, HB 1003, HB 1006, and HB 2004, 80th Legislature, Regular Session, 2007.
- Amended rules to address statutory amendments to Labor Code §408.182 enacted by HB 1058 that changed the definition of "eligible parent", provided a "good cause" standard for an eligible parents' failure to timely file a claim and provides that total payment of death benefits to all eligible parents may not exceed 104 weeks.
- Reviewed and/or prepared 315 contracts or agreements for the agency.
- Processed 756 citations and 213 subpoenas.
- Published Agency Counsel Open Records Newsletter (ACORN).
- Assisted with implementing federal health reform, including assisting with preparing and reviewing FAQ lists and other agency publications, reviewing the TIC for conflicts with new federal laws and drafting suggestions for legislative changes, and preparing responses to inquiries from consumers.
- Worked extensively with the Texas Public Finance Authority to develop and propose rules related to funding Texas Windstorm Insurance Association (TWIA) excess losses and operating expenses through public securities as required by HB 4409.
- Assisted U.S. Government Accountability Office with drafting of a survey on life settlement regulatory authority for state regulators.
- Participated in meetings of the Department of Banking's Insurance Funded Prepaid Funeral Advisory Committee established by the Finance Code §154.208.

Figure 3 Summary of Activity: Legal & Regulatory Affairs

	FY 2009	FY 2010
Cases received	191	154
Cases closed	148	153
Open records requests received	13,409	12,192
Open records requests completed	13,522	12,263
AG referrals for opinions	58	141

Enforcement

THE ENFORCEMENT DIVISION investigates allegations of illegal activities by insurance agents, companies, HMOs, and other entities (both licensed and unlicensed) engaged in the business of insurance, and by system participants subject to Workers' Compensation enforcement and monitoring activities. Enforcement attorneys bring disciplinary actions that may result in:

- cease and desist orders,
- license application denials,
- license revocations and suspensions,
- limitations on practice within the workers' compensation system,
- probation/monitoring/reporting,
- administrative penalties,
- restitution to harmed consumers, or
- any combination of these remedies.

Enforcement also brings actions against companies for excessive rates, and participates in hearings to set title insurance rates. The relief sought in these cases may include rate reductions and refunds of excessive premiums paid.

Enforcement refers cases to the Fraud Unit for criminal prosecution and can assist prosecutors in criminal cases. Enforcement works with the Office of the Attorney General (OAG) on appeals of disciplinary actions and on enforcement actions conducted by the OAG's Consumer Protection Division.

Enforcement's Compliance Intake Unit (CIU) provides data and file management and public assistance telephone support to the program. CIU also receives, reviews, and analyzes all complaints referred to the Enforcement Division to identify practices that require further investigation by Enforcement and/or other areas of TDI.

Highlights

In FY 2010, Enforcement:

- Ordered \$328,500,270 in restitution for consumers and assessed \$9,941,596.22 in administrative penalties, fines and forfeitures. Cases contributing to these assessed amounts include the following:
 - Insurance Company of the State of Pennsylvania agreed to pay a \$175,000 penalty for failure to comply with Medical Dispute Resolution and Contested Case Hearing Orders, failure to pay for preauthorized services, failure to timely and accurately pay medical bills and income benefits, and other violations of the Texas Labor Code.
 - New Hampshire Insurance Company agreed to pay a \$175,000 penalty for failure to comply with Division Orders, failure to pay for preauthorized services, failure to timely and accurately pay medical bills and income benefits, and other violations of the Texas Labor Code.
 - TDI revoked the license held by Bruce Hammonds, who was ordered to pay restitution in the amount of \$1,111,323.43 for securities fraud.
 - TDI revoked the license held by Chao Hsi, who was ordered to pay \$91,892 in restitution for misappropriated (stolen) premiums and \$200,000 in property damage (caused by Hurricane Ike) not covered by insurance that was paid for.
 - Mercy Health Plans of Missouri, Inc. agreed to pay a \$150,000 administrative penalty for failure to pay clean claims in a timely manner. Mercy was approved to withdraw from writing HMO small and large employer group insurance in Texas and surrendered its HMO certificate as of November 1, 2009.
 - The Mega Life and Health Insurance Company and an affiliated company, Mid-West National Life Insurance Company, agreed to pay a combined \$600,000 administrative penalty for failure to pay clean claims in a timely manner and for failure to properly provide certain mandated coverages to its insureds.

- American Home Assurance Company, Travel Guard Group, Inc., and National Union Fire Insurance Company of Pittsburgh, Pa. were ordered to pay an administrative penalty of \$650,000 to be paid jointly for various violations of the Texas Insurance Code including use of travel insurance policy forms without filing the forms with TDI, paying a commission or consideration to an unlicensed individual, and performing the acts of a managing general agent without holding the required license.
 - Underwriters MGA, Inc. and Ramon A. Villarreal were ordered to pay \$7,474 to TDI for examination expenses, and pay \$400,000.00 in administrative penalties to be offset dollar for dollar by payment of restitution for performing the acts of an agent without the proper authority, engaging in fraudulent or dishonest practices, various violations found during a market conduct examination, and for failure to pay examination expenses. The order also revoked all licenses held by Underwriters MGA and Ramon A. Villarreal.
 - State Farm Lloyds (SFL) was ordered to pay approximately \$310 million in refunds to policyholders through a rehearing pursuant to the Third Court of Appeals ruling from a case that originated in September 2003. An appeal of this order by SFL was filed and is currently pending.
 - Southern Title Insurance Corporation (STIC) was ordered to pay \$2.5 million for improperly licensing and facilitating numerous agents who engaged in fraudulent closings. The administrative penalty was conditioned upon compliance with the Order. The Order also requires STIC to pay \$500,000 in restitution to certain parties harmed as a result of its conduct. STIC has withdrawn from doing business in the State of Texas.
- Other major cases for Enforcement in FY 2010 include the following:
 - Staff concluded activity in approximately 16 cases involving conversion of premiums intended to purchase wind insurance prior to Hurricane Ike. The sanctions imposed ranged from revocation with an order to pay restitution to warning letters advising the subject of requirements for placing wind insurance.
 - Enforcement represented TDI at a hearing at the State Office of Administrative Hearings (SOAH) against the Texas Windstorm Insurance Association (TWIA) for failure to appropriately adjust claims following Hurricane Ike. A Proposal for Decision in the case is pending.
 - Enforcement took action against six agents who acted on behalf of National Foundation of America (NFOA), which was issuing unauthorized charitable gift annuities to Texas residents. According to TDI records, NFOA has never held a certificate of authority to engage in the business of life, accident and/or health insurance in Texas. Administrative penalties were imposed against those agents who had disgorged commissions to the NFOA receiver. The other agents were required to negotiate disgorgement terms with the receiver and pay an administrative penalty.
 - Default revocation orders were entered against two agents, not otherwise associated with one another, who submitted premium finance agreements on fictitious insureds and obtained over \$1.2 million from premium finance companies.
 - A Cease & Desist order issued to Retirement Value, LLC et al for gross misrepresentation of life settlements.
 - A Cease & Desist order issued to AGAP, et al for unauthorized bonded life settlements.
 - TDI continues to combat the effects of discrimination; however, the investigation against race-based pricing is drawing to a close. To date, the Department has entered into 25 consent order agreements, providing relief for 211,000 Texas policies & provided refunds or other value in the amount of \$17 million. The Department has assessed \$814,000 in fines against the companies involved. The Department is negotiating settlements in the completed company exams and expects to finalize disciplinary actions by mid-2011.
 - Military Sales - Texas Insurance Commissioner Mike Geeslin and Georgia Insurance Commissioner John Oxendine co-chair the NAIC Military Sales Working Group. The Group was formed to ensure states' compliance with the Military Personnel Financial Services Protection Act (Public Law 109-290) signed into law on September 29, 2006. Several members of Enforcement staff were appointed to the Working Group, whose charge is to analyze and address the problems of abusive and misleading sales practices and the sale of inappropriate life insurance products to members of the US Armed Forces. The Working Group drafted the NAIC Military Sales Practices Model Regulation, which was unanimously adopted by the NAIC Executive Committee on June 4, 2007. Texas adopted the Model Regulation on August 15, 2007 to be effective January 1, 2008. Currently, the Enforcement Division has active investigations of three life insurers who sell to this market.

Figure 4 Summary of Activity

	FY 2006	FY 2007	FY 2008	FY 2009	FY2010
Cases received	1,239	814	1,031	1,393	1,547
Cases closed	1,119	819	776	1,283	1,605
License revocations	89	90	76	116	97
License denials	26	24	29	30	26
License suspensions/ suspensions of writing*	19	41	18	16	6
Cease and desist orders	16	14	12	9	18
Monetary forfeitures/ restitution orders†	248	285	223	211	230
Forfeitures/assessments/ Restitution	\$25,393,582	\$34,647,832	\$51,050,935	\$26,166,080	\$338,441,866

* This includes actions against financially hazardous companies under Article 1.32, Texas Insurance Code and license suspensions with probation.

† This number includes Commissioner and State Fire Marshal orders.

Insurance Fraud Unit

THE INSURANCE FRAUD UNIT protects the public from economic harm by investigating allegations of criminal insurance fraud. The unit's responsibilities include receiving and reviewing reports of fraud, initiating inquiries, and conducting investigations when TDI has reason to suspect insurance fraud has occurred (Texas Insurance Code Chapter 701). In addition, the unit actively seeks criminal indictments, makes arrests, and assists in prosecutions to deter insurance fraud in Texas.

The unit maintains a toll-free Insurance Fraud Hotline and an online fraud reporting system on the TDI website. Investigations may occur inside or outside of Texas and typically involve one of the following types of fraud:

Claim fraud committed by consumers or providers against insurance companies, including:

- staged accidents/paper accidents
- fake burglary and auto theft claims
- arson for profit
- claims for medical services not provided or inflated
- personal injury schemes
- exaggerated/padded claims
- organized fraud schemes
- workers' compensation claimant and/or provider fraud

Deceptive agent practices including:

- issuing fictitious policies
- conversion of premium payments
- insurance application fraud

Insurance company officers and directors fraudulent activities including:

- false financial statements to TDI
- misuse of company funds

Unauthorized insurance schemes including:

- insurance products not authorized by the TDI
- individuals not licensed to do the business of insurance in Texas
- fraudulent group/individual health plans

Workers' Compensation Premium Fraud

Mortgage Fraud

- fraud by escrow officers, title insurance agents & title insurance companies

The Fraud Unit is comprised of four investigative sections with commissioned peace officers and civilian investigators, an administrative section, and an intake section. Unit management includes the Associate Commissioner/Chief Investigator and three section managers. Additionally, the Fraud Unit has two attorneys on staff, the Fraud Counsel and the Special Prosecutor. The Fraud Counsel provides legal advice and investigative support to the unit. The Special Prosecutor, through a cooperative agreement with the Dallas County District Attorney's Office, is appointed as an assistant district attorney to prosecute cases referred by the Fraud Unit.

Highlights

In FY 2010, the Insurance Fraud Unit:

- Hosted the 12th Annual Fraud Conference in February 2010 with 282 fraud investigators from state government, law enforcement and the insurance industry in attendance.
- Made 18 public presentations on insurance fraud.
- Fraud Unit investigators made 857 liaison contacts with law enforcement throughout the state.
- Participated in statewide task forces in several metropolitan areas.
- Participated in the Texas Committee on Insurance Fraud to address insurance fraud on a united front with industry, law enforcement, other state agencies, legislators and citizen advocate groups.

Figure 5 Summary of Activity FY 2010: Insurance Fraud Unit

Reports of Fraud Received	11,823
Cases Opened	524
Persons Referred to Prosecutors	207
Criminal Indictments	168
Criminal Convictions	86
Assessments (Fines & Penalties)	\$37,556
Restitution Ordered	\$3,540,855
Arrests by Fraud Unit Peace Officers*	18

* *This figure represents only arrests executed directly by Fraud Unit Peace Officers or in which Fraud Unit Peace Officers participated.*

Financial

The Financial Program serves as the solvency guardian of the Texas insurance industry. It enforces solvency standards for insurance companies and related entities through their entire life-cycle, including initial formation and licensure, subsequent surveillance activities, and implementing regulatory interventions if needed. The Financial Program's goal is to protect consumers by detecting financial and other concerns promptly and taking action to mitigate problems caused by troubled insurers. Financial seeks to rehabilitate companies that fall short of solvency standards, and through a court-sanctioned receivership process, liquidates the few companies that are not able to be rehabilitated.

Financial monitors the solvency and market conduct of over 1,900 licensed risk-bearing insurance companies and related entities; this number exceeds 2,200 carriers when carriers with other forms of registration/eligibility are included. Annual statements filed by insurers and HMOs for calendar year 2009 reflected \$102 billion in Texas premiums and \$77 billion in claim payments to Texas claimants. These companies reported aggregate assets of \$6.4 trillion, liabilities of \$5.5 trillion and capital and surplus of \$903 billion.

The Financial Program consists of the following divisions:

The **Company Licensing & Registration Division** licenses insurance companies, HMOs and other carriers that desire to enter the Texas market. The division also registers other types of entities such as surplus lines insurers, risk retention groups, and purchasing groups. Company Licensing maintains company charter files and processes various transactions, such as mergers, withdrawals and dissolutions. Other functions include processing statutory deposits of licensed companies and certain agencies and maintaining TDI's database of licensed and registered companies.

The **Financial Analysis Division** determines the financial condition of insurance companies, HMOs and other carriers by reviewing annual and interim financial statements, CPA audit reports, examination reports, reinsurance arrangements, SEC filings, and other information. Financial Analysis initiates recommendations for solvency interventions, such as supervision, conservation and receivership. The division reviews changes of control, mergers, affiliated transactions and holding company registration statements of companies domiciled and commercially domiciled in Texas. It reviews all applications for HMO admission and expansion applications, as well as other HMO agreements.

The **Financial Examination Division** performs examinations of insurance carriers, HMOs, managing general agents, and other entities. Examinations are performed on-site at the company locations, which are typically in Texas, but may occur anywhere in United States. These examinations may last from a few days to several months. Examinations evaluate a company's financial condition and compliance with statutory requirements, including treatment of policyholders. Examiners initiate referrals for regulatory interventions when concerns about carrier solvency are uncovered. Regional offices are maintained in Dallas, Houston, and San Antonio to hold down travel expenses and provide localized oversight of the function.

The **Actuarial Division** performs actuarial examinations of insurance companies, HMOs and other entities in conjunction with the Financial Examination Division. Actuarial examinations focus on the adequacy of the reserves held by a carrier to support policyholder obligations. Actuarial periodically updates the Texas reserve requirements by promulgating rules and strives for uniformity of reserve requirements on a national basis by working through the National Association of Insurance Commissioners (NAIC) and the American Academy of Actuaries. Actuarial staff also review actuarial opinions and provide actuarial support to other divisions as needed. While primarily providing input on solvency matters, the division may also address issues relating to insurance policy values, as well as consumer disclosures and equity.

The Rehabilitation and Liquidation Oversight Division (RLO) exercises oversight of troubled companies, Special Deputy Receivers (SDRs), and guaranty associations. RLO has statutory authority to exercise administrative or civil remedies when an insurer is operating in a manner that is hazardous to policyholders. The administrative and court-ordered interventions authorized by Texas state statute include, but are not limited to:

- The ability to order an insurer to take corrective action
- The ability to take regulatory intervention actions, such as placing a financially troubled insurer in supervision or conservation
- The ability to place a troubled insurer in court-ordered receivership for rehabilitation or liquidation

The Rehabilitation Program goal is to protect company assets for the benefit of policyholders and the guaranty funds, and to facilitate strategies that allow for effective troubled company rehabilitation.

The goals of Liquidation Oversight, which is an allocated program, are (1) to oversee the SDRs and monitor contract compliance to assure maximum asset distribution to claimants; (2) to administer low asset receiverships in house; (3) to monitor the state's guaranty associations' operations, including the processing of covered claims; and (4) to administer closed receiverships.

Highlights

In FY 2010, the Financial Program:

Company Licensing

- Implemented an imaging system for back-end electronic storage/retrieval of documents.
- Continued on-going efforts to provide regulatory guidance (webpage checklists and forms) in order to facilitate compliance by regulated entities with regulatory requirements.
- Continued to receive high ratings on customer survey forms. The average rating for the last two years was 4.47, where "5" is superior/extremely satisfied, and "4" is very good/very satisfied.

Financial Analysis

- Continued to closely monitor evolving developments in the financial and credit markets and their impact on insurance companies that operate in Texas.
- Served as a national leader in monitoring and coordinating state and federal regulators' efforts directed at the American International Group (AIG).
- Began implementing a new risk-focused surveillance process to enhance the efficiency and better identify insurers that pose significant financial concerns.
- Co-chaired the national Group Solvency Issues Working Group of the NAIC, which evaluates regulatory actions involving multi-state and multi-national insurance groups.

Financial Examinations

- Participated in 12 coordinated examinations with other states to increase the efficiency and effectiveness of the examination process.
- Implemented a new risk-focused examinations process to enhance the efficiency of all examinations started in 2010 and to better identify insurers that generate financial concerns.
- Participated as a lead state in a market conduct examination of a large, national insurance company that resulted in \$10 million in restitution to harmed consumers across the nation.

Actuarial

- Participated in the NAIC Life and Health Actuarial Task Force efforts to develop principle-based reserves (PBR) requirements for life and annuity products, including development of a valuation manual containing reserve requirements and changes to the Model Standard Valuation Law to allow for PBR and the valuation manual. These efforts are expected to eliminate certain redundant reserves and benefit consumers through greater availability and lower costs, as well as provide other efficiencies benefiting all stakeholders.
- Participated in several TDI groups working to implement Federal Health Reform and followed NAIC developments on minimum loss ratio requirements and related reporting requirements.

Rehabilitation and Liquidation Oversight Division

- Oversaw net asset recoveries of approximately \$92.8 million through the receivership process and payments of over \$61.2 million to policyholders and/or guaranty associations.
- Re-opened two closed receivership estates for purposes of collecting additional reinsurance recoveries in order to make future distributions of approximately \$38.8 million.
- Released three companies from regulatory interventions as rehabilitated, and continued to monitor several other companies that are winding down their financial affairs without impacting the guaranty associations or taxpayers.
- Monitored the Special Deputy Receivers for adherence to Historically Underutilized Businesses (HUB) subcontracting procedures, and reported approximately \$1.8 million in payments to HUB certified vendors.

Figure 6 Number of Company Licenses Under Commissioner’s Jurisdiction Fiscal Years 2006-2010

License Type	2006	FY 2007	FY 2008	FY 2009	FY2010
Insurance Companies	1,909	1,891	1,885	1,863	1,858
Health Maintenance Organizations	52	54	54	55	52
Premium Finance Companies	270	264	250	257	194
Continuing Care Retirement Communities	24	25	29	29	29
Third Party Administrators	747	730	748	770	782
Total	3,002	2,964	2,966	2,974	*2,915

Note: Does not include 110 foreign risk-retention groups 196 foreign surplus lines carriers.

Figure 7 Texas Policyholder Premiums, Claim Payments Calendar Years 2005–2009

CALENDAR YEAR	PREMIUMS	CLAIM PAYMENTS	PAYMENTS AS A % OF PREMIUM
2005	\$78.7 billion	\$55.3 billion	70.3%
2006	87.3 billion	61.9 billion	70.9%
2007	99.2 billion	64.1 billion	64.6%
2008	101.9 billion	74.5 billion	73.1%
2009	101.8 billion	76.6 billion	75.2%

Figure 8 Total Capital/Surplus of Insurance Companies Operating in Texas Calendar Years 2005-2009

CALENDAR YEAR	TOTAL CAPITAL/SURPLUS
2005	\$747.1 billion
2006	812.6 billion
2007	867.6 billion
2008	806.2 billion
2009	903.0 billion

**Figure 9 Number of Financial Analysis Reviews
Fiscal Years 2006–2010**

FISCAL YEAR	NUMBER OF REVIEWS
2006	1,891
2007	1,900
2008	1,881
2009	1,855
2010	1,750

**Figure 10 Number of Holding Company Transactions
Processed Fiscal Years 2006–2010**

FISCAL YEAR	NUMBER OF TRANSACTIONS
2006	804
2007	843
2008	806
2009	884
2010	894

**Figure 11 Number of Financial and Market Conduct
Examinations Fiscal Years 2006–2010**

FISCAL YEAR	NUMBER OF EXAMINATIONS
2006	157
2007	146
2008	153
2009	153
2010	129

**Figure 12 Number of Actuarial Examinations Performed
Fiscal Years 2006–2010**

FISCAL YEAR	NUMBER OF EXAMS
2006	79
2007	78
2008	77
2009	78
2010	73

**Figure 13 Texas Guaranty Association Assessments
Calendar Years 2005–2009**

CALENDAR YEAR	LIFE & HEALTH	PROPERTY & CASUALTY	TITLE	TSIG	TOTAL
2005	22,493,470	0	0		22,493,470
2006	0	50,000,000	0	0	50,000,000
2007	12,500,005	0	0	100,000	12,600,005
2008	0	0	0	100,000	100,000
2009	34,998,506	0	0	100,000	35,998,506

Property and Casualty

PROPERTY AND CASUALTY monitors a wide range of property and casualty insurance lines from auto to workers' compensation; reviews form and rate filings; explores ways of cutting insurance costs by providing consumers with ways to prevent and mitigate losses; reviews and analyzes statistical data; and prepares reports on insurance rates and markets to assist policymakers and consumers with insurance-related decisions. Property and Casualty consists of a General Management section and six divisions.

General Management Section provides program-wide management and operational support, including strategic and budget planning; responses to legislative requests; research assistance, including Geographic Information System (GIS) mapping and demographic analysis; project management; and administrative support including report and presentation preparation for the program and agency. Additionally, General Management oversees the implementation and operation of TexasSure Vehicle Insurance Verification, the Motor Vehicle Financial Responsibility Verification Program required by Texas Transportation Code §601.452.

Personal and Commercial Lines Division consists of the Personal Lines Section and the Commercial Property/Casualty Section, and is responsible for the regulation of various lines of insurance including automobile, homeowners, commercial property, and general liability. The division performs the following major activities:

- Reviews individual insurer filings of forms, endorsements, and rules for compliance with statutory and/or rule requirements and verifies that they do not contain provisions, titles, or headings that are unjust, encourage misrepresentation, are deceptive, or violate public policy.
- Drafts administrative rules as necessary to implement legislation or to address statutory as well as market concerns related to property and casualty lines of insurance.
- Oversees the Plan of Operation, manual rules, forms, and endorsements of the Texas Windstorm Insurance Association (TWIA), the Texas Fair Access to Insurance Requirements (FAIR) Plan Association, the Texas Medical Liability Insurance Underwriting Association (JUA), and the Texas Automobile Insurance Plan Association (TAIPA).
- Processes inquiries from agents, consumers, legislators, insurers and other regulatory entities and resolves complaints as necessary to ensure consumers and businesses are being treated fairly on insurance related matters, and that insurers and agents are complying with statutes, administrative rules and policy provisions.
- Assists consumers in finding various types of property and casualty insurance via the HelpInsure.com Market Connection website.
- Works closely with the Property & Casualty Actuarial Division to monitor the marketplace and propose changes due to changing public needs, including establishing market assistance programs.

Inspections Division performs the following major activities: inspects and certifies construction in the Designated Catastrophe Area along the Texas Gulf Coast in accordance with the TDI Building Code for Windstorm Resistant Construction; drafts and presents proposed rules affecting property and casualty insurance and the TWIA Plan of Operation (building code); provides oversight of Texas licensed engineers appointed as qualified windstorm inspectors; provides oversight of established commercial fire rates by outside entities; ensures loss control compliance of insurers; administers the amusement ride safety program; assists the state fire marshal's office with establishment of public protection classifications by outside entities; and conducts windstorm inspections for compliance with building codes.

The Inspections Division consists of four sections: Commercial Property Oversight Inspections, Windstorm Inspections, Engineering Services, and Loss Control.

Title Division regulates policy forms and rates for title insurance and oversees licensing and financial examination of title agents. The Title Division consists of two sections:

Title Insurance Section oversees licensing of title agents, direct operations, and escrow officers; responds to consumer complaints and inquiries; and assists with rule and rate hearings.

Title Examinations Section conducts comprehensive, limited scope, and restricted compliance audits of title agents licensed in Texas. Title Examinations is an allocated area—all of the expenses are reimbursed by the Texas Title Insurance Guaranty Association (TTIGA)..

Workers' Compensation Classification/Premium Calculation Division regulates insurance companies licensed to write workers' compensation insurance in Texas. The division performs the following major activities: assists employers, agents and insurance companies in determining the proper workers' compensation classification for policyholders; responds to verbal and written inquiries pertaining to workers' compensation insurance; resolves complaints; oversees the calculation of experience modifiers; reviews workers' compensation policies to ensure that insurers have issued the policies and calculated the premium in accordance with the rules and statutes governing Texas workers' compensation; reviews endorsement and form filings that require prior approval from the Commissioner of Insurance pursuant to Texas Insurance Code, Chapter 2052; reviews the plan of operations and issues a certification for groups formed pursuant to Texas Insurance Code, Chapter 2055; administers loss incentive programs; and participates in reviewing the rules, classifications, endorsements and forms contained in the Texas Basic Manual of Rules, Classifications and Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance.

This division is composed of the Classification Section, the WC Oversight Section and General Management.

Property and Casualty Actuarial Division provides actuarial review of rate and rating plan filings to ensure rates and premiums are just, fair, reasonable, adequate, not confiscatory, not excessive and not unfairly discriminatory for the risks to which they apply; reviews credit models for compliance with Texas Insurance Code, Chapter 559; conducts in-depth analyses of the Texas insurance market; performs special studies to assist the agency and policy makers; assures that file and use rates meet the applicable rate standards; makes recommendations on prior-approval rate filings; and calculates workers' compensation classification relativities and rating values.

Data Services Division provides data analysis; collects information through statistical plans, special calls and surveys; produces data compilations, including data for use by the Property and Casualty Actuarial Division for review of rate filings; collects and maintains statistical data; produces statistical reports for the Legislature, the agency, the public and the insurance industry; oversees TDI's workers' compensation, residential property, private passenger automobile and commercial lines designated statistical data collection agents; collects data via the Title Statistical Plan; and manages the collection of and assists in the review of underwriting guidelines.

Highlights

In FY 2010, Property and Casualty highlights include:

- In November 2009, the Commissioner ordered State Farm Lloyds (SFL) to pay refunds with interest to policyholders insured with SFL from September 2003 through July 2008. The total amount of the refund, plus interest, is \$310 million. This order is the result of a re-hearing stemming from the original rate reduction order that was first issued in 2003, but remanded by the Third Court of Appeals in 2008 to TDI for further proceedings due to its finding that a portion of the underlying law enacted in 2003 was unconstitutional. State Farm has appealed this order so payment of all refunds and interest is stayed until final resolution by the courts.
- In February 2010, TDI initiated and participated in a meeting with appointed engineers facilitated by the University of Texas Center for Public Policy Dispute Resolution. In an effort to improve communications with appointed engineers, the Department contracted with UTCPDR to facilitate a discussion with appointed engineers concerning issues with the oversight process. The Department obtained beneficial suggestions from the group which has resulted in the formation of additional working groups to address critical issues.
- Beginning in February 2010, TDI Windstorm and Engineering staff worked with the Texas Department of Housing and Community Affairs on structures being constructed in the Designated Catastrophe Area using federal funds as a result of damage from previous hurricanes. Staff worked with the builders and engineers in the windstorm program in providing plan review and

field inspections to ensure that the federally funded homes were being built to windstorm codes and that the structures were eligible for windstorm certification after completion.

- In March 2010, TDI published State Farm Lloyd's (SFL) July 2009 and March 2010 rate filings, along with supporting information, on TDI's website. In addition, information about the impact on premiums for State Farm policyholders was also published on the website. SFL filed a lawsuit in the Travis County District Court seeking an order declaring that certain information is confidential and not subject to public disclosure. By a temporary order of the court, TDI is prohibited from posting this information pending further proceedings which are scheduled for January 2011.
- In May 2010, staff participated in a compliance conference presented by TDI for insurance company representatives and other industry professionals that was designed to provide participants with a better understanding of TDI's regulatory requirements. Topics presented by Property and Casualty staff included an overview of rate and form filing requirements for personal and commercial lines of insurance.
- In June 2010, the Commissioner ordered the Property and Casualty Insurance Company of Hartford to reduce its rates by 10% and Hartford Lloyd's Insurance Company to reduce its rates by 3.1%. Both companies were required to provide refunds, with interest, for overcharges to policyholders.
- Staff participated in biennial rate and rule hearings resulting in the adoption of 47 rule and form revisions for Title insurance.
- Staff participated in the implementation of the Market Connection feature of Helpinsure.com. Market Connection is designed to connect consumers seeking insurance coverage with agents and companies. Market Connection enhanced the existing Helpinsure.com website by adding personal automobile and various commercial lines of insurance to the company and agent/agency (agent) lists and consumer questionnaire functions.
- Staff continued implementation of HB 4409 (81st Legislature), by drafting rules relating to TWIA funding and hosting a new board member orientation for TWIA.
- Staff from various areas of the P&C program participated in reviews of TWIA's Hurricane Ike claims handling processes.
- TexasSure Vehicle Insurance Verification successfully completed its second full year of operation. TexasSure is used by all 254 county Tax Assessor-Collector offices and is available to law enforcement agencies statewide. The average number of insurance verification queries to the system in FY 2010 was 4.5 million per month. In conjunction with the Texas Department of Public Safety, Texas Division of Motor Vehicles, and the Department of Information Resources, the Department implemented the next phase of TexasSure, which involves sending notices to the owners of registered vehicles that appear to be uninsured.

Figure 14 Rate and Form Filings Completed

TYPE OF INSURANCE	FY 2009 FORMS	FY 2009 RATES	FY 2009 TOTAL	FY 2010 FORMS	FY 2010 RATES	FY 2010 TOTAL
Personal Liability/Umbrella	64	36	100	90	60	150
Bond and Misc. Lines	601	321	922	487	417	904
Commercial Automobile	978	542	1,520	764	473	1,237
General Liability	2,816	790	3,606	2,220	936	3,156
Homeowners	310	301	611	351	287	638
Interline Filing	490	44	534	232	56	288
Inland Marine	617	195	812	479	274	753
Identity Theft	3	3	6	11	2	13
Intake Unit	3	0	3	2	0	2
Commercial Multi-Peril	3,547	769	4,316	3,291	993	4,284
Personal Automobile	562	652	1,214	505	664	1,169
Personal Casualty	11	6	17	14	6	20
Professional Liability	693	98	791	713	364	1,077
Commercial Property	1,238	358	1,596	856	451	1,307
Workers' Compensation	227	658	885	266	196	462
Total	12,160	4,773	16,933	10,281	5,179	15,460

Figure 15 Summary of Complaints Closed

	FY 2009	FY 2010
Professional Liability	11	4
General Liability	4	10
Bond, Miscellaneous Casualty	17	25
Commercial Property	7	4
Commercial Multi-Peril	5	2
Commercial Automobile	1	2
Inland Marine	0	1
Homeowners	270	423
Personal Auto	0	1
Title	261	209
Workers' Compensation	40	27

Figure 16 Summary of Title Insurance Activity

	FY 2009	FY 2010
Annual Escrow Audits Reviewed	657	608
Field Examinations/Audits Conducted	367	322
Rates, Rules and Policy Forms	8	47
Licenses Issued (includes renewals)	5,062	5,758
Licenses Cancelled	2,680	1,977

Figure 17 Number of Agents/Licenses Under Commissioner's Jurisdiction (Title Insurance)

Agents/Licenses	FY 2009	FY 2010
Title Agents	598	582
Title Agent Licenses	1,631	1,631
Direct Operations	14	11
Direct Operation Licenses	14	11
Escrow Officers	5,961	5,667
Escrow Officer Licenses	6,921	6,680
Underwriters	31 (23 active)	29 (21 active)
Escrow Accounts	\$240 Billion	\$146 Billion

Figure 18 Summary of Activity: Commercial Property Oversight Inspections

	FY 2009	FY 2010
Property Inspections Conducted	1,199	1,200
Residential/Special Inspections	2	3
VIP Licenses/Certificates Issued	189	138

Figure 19 Summary of Activity: Windstorm Operations

	FY 2009	FY 2010
Applications	77,499	38,688
Inspections	*39,988	**11,223
Certificates of Compliance	66,831	39,226
Windstorm Fees Received	\$6,335	\$8,320

* This is a combined total of both TDI (14,981) and TWIA (25,007) inspections.

** This is a combined total of both TDI (8,410) and TWIA (2,813) inspections.

Figure 20 Summary of Activity: Engineering Services

	FY 2009	FY 2010
Building Code Interpretations	5,902	3,701
Product Evaluations	2,100	1,460

Figure 21 Summary of Activity: Loss Control

	FY 2009	FY 2010
Total Evaluations Completed	208	202
Companies Rated Adequate	204	201
Companies Rated Less Than Adequate	1	1
Companies Evaluated for Licensure	10	11
Loss Control Representative Applications Reviewed	129	168
Field Safety Representatives with a Specialty in Hospitals	8	5

Figure 22 Summary of Activity: Amusement Ride Safety and Insurance Act

	FY 2009	FY 2010
Policies Reviewed	443	436
Inspection Certificates Approved	2,405	2,683
Injuries	78	54
Owners Under Compliance Monitoring	559	635

Figure 23 Summary of Activity: Workers' Compensation Classification/Premium Calculation Division (formerly the Workers' Compensation Division)

	FY 2009	FY 2010
Experience Rating Modifiers Reviewed	624	469
Responses to Written CIS Inquiries (Non Complaints)	1,379	1,433
Groups Certified	70	70

Figure 24 Other Statistical Reports Collected

	FY 2009	FY 2010
Title insurance agents	634	615
Title insurance underwriters	21	21

Life, Health and Licensing Program (LHL)

The Life, Health and Licensing (LHL) program consists of a General Management section, the Healthy Texas Program and four divisions: Filing and Operations, Licensing, Life/Health (L/H), and Health and Workers' Compensation Network Certification and Quality Assurance (HWCN). LHL regulates a wide range of insurance products, and related coverages offered by insurance companies. LHL also licenses insurance agents, adjusters, workers' compensation health care networks, provider representatives and brokers, utilization review agents (URAs), independent review organizations (IROs) and handles the registration of Discount Health Care Operators. In addition, LHL resolves Health Maintenance Organization (HMO) complaints, conducts quality of care examinations of HMOs, conducts examinations of IROs, and accepts applications for certification of workers' compensation health care networks. LHL participated in the biennial Life, Health & Licensing Compliance Conference.

LHL assisted with the implementation process on 47 adopted bills, including the following:

- HB 1342 Relating to adoption of certain information technology
- HB 1888 Relating to standards required for certain rankings of physicians by health benefit plans
- HB 1919 Relating to the maturity date of certain annuities
- HB 2256 Relating to requirements for contracts between physicians, hospitals, and health benefit plans
- HB 4290 Relating to retrospective utilization review and utilization review to determine the experimental or investigational nature of a health care service
- HB 4341 Relating to the regulation of discount health care programs by the Texas Department of Insurance; providing penalties
- HB 4519 Relating to standards for independent review organizations
- SB 78 Relating to promoting awareness and education about the purchase and availability of health coverage
- SB 963 Relating to rates for long-term care insurance premiums
- SB 1771 Relating to the availability and continuation of certain health benefit plan coverage.

General Management Section (GM)

General Management, led by a Senior Associate Commissioner, provides management and operational direction for the program. Staff respond to appropriations requests, monitor the LHL budget and handle ad hoc special projects.

GM provides technical assistance to other programs in the Department, as well as to the Texas Health and Human Services Commission (HHSC), Texas Department of State Health Services (DSHS), Office of Attorney General (OAG), the Texas Health Insurance Pool (THIP), the Texas Health Reinsurance System (THRS), and the federal Centers for Medicare and Medicaid Services (CMS) of the United States Department of Health and Human Services. LHL also serves on the following advisory committees, boards and councils: Academy for Health Services Research and Health Policy (AHSRHP), Bleeding Disorder, Workgroup for Electronic Data Interchange Board of Directions, Department of Banking and Funeral Commission, Telemedicine Advisory Committee Meeting, Early Childhood Intervention Advisory Committee, Health Resources and Services Administration (HRSA), HHSC Diabetes Council Outcomes and Standards Subcommittee, HHSC Interagency Council for Genetics Services, HHSC Texas Brain Injury Council, Interstate Insurance Product Regulation commission (IIPRC) – Product Standards Committee, Memorandum of Understanding (MOU) meeting with the Department of Banking and Funeral Commission, National Association of Insurance Commissioners (NAIC) – Producer Licensing Working Group (PLWG), NAIC – System for Electronic Rate and Form Filings (SERFF) Product Steering Committee, NAIC – Standards Working Group, NAIC – Uniform Producer Licensing Initiatives Subgroup, Siron Users Group, State Coverage Initiatives (SCI), Texas Health Care Policy Council and Texas State Disaster Coalition.

GM and LHL staff are working on Network Adequacy rules for preferred provider plans directly related to Preferred Provider Organization (PPO) Network Adequacy. GM facilitates the meetings of the Technical Advisory Committee on Claims Processing (TACCP). Originally created to address issues of timely payment of claims by insurers, the TACCP has seen considerable improvement in claims processing, and has shifted its focus to broader policy issues affecting providers and insurers. TACCP reviewed network adequacy issues and submitted a report to the Legislature August 2010.

GM staff are taking the lead role in the agency's implementation of new federal health reform laws and regulation enacted in March 2010. Under their guidance, many TDI staff are actively involved in an agency wide planning process to ensure a smooth transition for the Texas insurance market and consumers affected by requirements of federal health reform (FHR). In addition, a number of HHSC, THIP and Office of Public Insurance Counsel (OPIC) staff are actively involved in the planning process and coordinate FHR activities in the most efficient way possible. Many challenges have been identified in the implementation process, and each agencies' staff are involved in determining solutions as early as possible.

Healthy Texas Program staff oversee the Program's daily operations and administer its premium stabilization fund. Healthy Texas staff are responsible for conducting outreach and education sessions as well as collecting enrollment and some claims data from the Healthy Texas carriers.

GM staff participated in the following activities:

- Oversaw TDI's Legislative Implementation Plan for LHL.
- Represented TDI at THIP and THRS board meetings and worked with THIP and THRS on issues as they arose.
- Worked extensively with the Consumer Protection and Enforcement Programs on significant complaints and investigations.
- Assisted the Consumer Protection Program on disaster relief efforts related to hurricanes.
- Administered the three-share premium assistance grant program.
- Distributed the initial SB 1731 Reimbursement Rate Data Call in November, and expect to receive this data by mid-January. Data call expected to be completed by mid-February.
- Assisted with the 2010 Survey of Data Mining & Pattern Recognition Practices & Technologies, as part of the interim study required by SB 1, Rider 19.
- GM has completed or in the process of completing the following data calls and surveys in CY 2010:
 - 2010 Chemotherapy Survey (SB 1143 interim study)
 - 2010 Pharmacy Benefit Manager (PBM) Survey (HB 4402/SB 704 interim study)
 - 2010 PBM Survey for Insurance Carriers and HMOs (HB 4402/SB 704 interim study)
 - 2010 PBM Survey for Physicians (HB 4402/SB 704 interim study)
 - Figure 48 (small employer experience)
 - CCP Figure 2 (consumer choice experience)
 - 2007-2009 Group Accident and Health Insurance Survey
 - 2007-2009 Group HMO Survey
 - 2010 Mandated Benefits Data Call
 - Quarterly Consumer Information Data Call (3rd & 4th Quarter 2010)
 - Quarterly Provider Claims Data Call–SB 418/HB 610 (All 4 quarters)

Life/Health Division

Life/Health (L/H) Division reviews and processes policies and/or contracts and related forms (certificates, applications, endorsements, riders, etc) pertaining to life, annuity, accident and health, non-profit prepaid legal, credit life, and credit accident and health and rates for credit life, credit accident and health, Medicare supplement, Medicare SELECT, long-term care, THIP, small employer changes in rating methodology, and individual accident and health, to ensure compliance with state and federal statutes and regulations. The division's health product rate review functions will be expanded under federal health reform, and a federal grant has been awarded to TDI to facilitate this process. The division also reviews contractual forms related to viatical and life settlements, and collects data pertaining to viatical and life settlements, long-term care, Medicare supplement, credit life, credit accident and health and the employer market. It consists of the following sections:

- Accident and Health Section
- Life, Annuity and Credit Section
- Actuarial Section

- Filings Support and Open Records Team
- Technical Team

Other Life/Health activities:

- Received and completed in FY10 - 18,481 forms consisting of policies, contracts, related forms, rates, certifications, applications for registrations, risk assuming applications, rating methodologies and reports as appropriate for life, annuity, various accident and health products, nonprofit prepaid legal, credit life, credit accident and health, viatical and life settlement, accident and health small and large employer, long-term care, life illustration and Medicare supplement.
- Received and completed 12 filings, representing 42 forms, under the Multi-State Review (MSR) through ongoing meetings and conference calls with Florida, California, Georgia and Nevada departments of insurance staff.
- Received and completed 4,070 filings, representing 12,135 forms, through SERFF.
- Processed 600 Viatical/Life Settlement Annual Reports for existing viatical/life settlement provider, provider representatives and brokers.
- Responded to numerous legislative, consumer, and agent inquiries and inquiries related to private purchasing cooperatives.
- Assisted in the update of registered private purchasing cooperatives.
- Updated checklists on TDI's website to comply with new legislation.
- Participated in the Agent Licensing Exam Focus Group.
- Participated in THIP Board meetings.
- Participated in discussions with the HHSC and DADS in the implementation of the Long-Term Care Partnership program in Texas.
- Assisted Health and Human Services Commission with the preparation of the Long-term Care report to the Legislature .
- Participated in the Long Term Care Partnership Technical Assistance calls.
- Participated with HHSC on Long Term Care Partnership outreach.
- Deputy Commissioner (DC) chaired, and staff participated in, conference calls and meetings of the NAIC Product Standards Working Group.
- Participated in the development of life, annuity, disability and long-term care standards for the Interstate Insurance Product Regulation Commission (IIPRC).
- DC and staff participated in the following NAIC Working Groups: Senior Issues, Long-Term Care, Speed to Market and Operational Efficiencies.
- Participated in Recommendation Committee Meetings (RECO).
- Assisted Financial in the review of withdrawal plans submitted by companies.
- Participated in the Breast Cancer Legal Advocacy presentation.
- Assisted Consumer Protection with the preparation of the Medicare Supplement rate guide.
- Assisted Consumer Protection with data collection for the individual market rate guide.
- Participated in the update of Mandated Benefits/Coverages/Offers chart.
- Responded to numerous legislative, consumer and agent inquires/complaints related to rating issues.
- Participated in the PPACA Actuarial Subgroup of the NAIC Accident and Health Working Group (AHWG) conference calls relating to premium rate review and rebating under federal health reform.
- Participated in the NAIC Health Reform Solvency Impact (E) Subgroup conference calls relating to medical loss ratio (MLR) reporting.
- Prepared comments submitted to HHS relating to the MLR and Premium Rate Review sections of the federal health reform legislation.
- Completed various surveys to NAIC regarding MLR and Premium Rate Review issues relating to the new federal health reform legislation.
- Submitted an application on behalf of the state of Texas, to HHS requesting federal grant funds to perform the premium rate review requirements of the new federal health reform legislation.

HWCN Division

Health and Workers' Compensation Network Certification & Quality Assurance (HWCN) Division conducts quality of care examinations to regulate Health Maintenance Organizations (HMOs), and compliance examinations to certify and regulate Independent Review Organizations (IROs) and Workers' Compensation Networks (WCNets) and Utilization Review Agents (URAs);. HWCN

investigates complaints against these licensed entities, and reviews HMO and URA form filings. It consists of the following sections:

- Intake
- Complaints
- Examinations
- IRO Assignment
- Form Filings

Other HWCN activities:

- Conducted 16 HMO quality of care examinations.
- Conducted 3 IRO compliance examinations.
- Conducted 9 WCNet compliance examinations.
- Completed 3,569 IRO case reviews.
- Certified/Registered 196 URAs.
- Certified 44 IROs.
- Certified 1 Worker's Compensation (WC) health care network.
- Approved 12 service area expansions for WC health care networks.
- Assisted HHSC with operation of the CHIP and Medicaid Programs.
- Participated in WC Working Group meetings.
- Initiated the Pharmacy Outreach effort.
- Represented the Commissioner on the Interagency Council on Genetic Services.
- Represented TDI on the Traumatic Brain Injury Advisory Council.
- Represented TDI on the Diabetic Advisory Council.
- Conducted the URA Advisory Committee in partnership with the Division of Workers' Compensation.
- Participated on various Patient Protection and Affordable Care Act committees and rule revisions.
- Participated in the development of various bulletins.
- Participated in the development of multiple rules.

Licensing Division

Licensing Division oversees the licensing and regulation of insurance agents, adjusters, Public Insurance Adjusters (PIAs), risk managers, life insurance counselors, reinsurance intermediaries, and persons involved in selling insurance products in travel agencies, self-service storage facilities, retail establishments and rental car companies. The Licensing Division also handles the registration of Discount Health Care Operators. It is comprised of the following sections:

- Applications Section
- Customer Service Section
- Renewals, Appointments and Continuing Education Section
- Administrative Review and Data Management Section

Other Licensing activities:

- Performed an internal Performance Process Audit for the Applications Section of Licensing allowing management to effectively monitor the quality and quantity of staff performance in processing agent and adjuster applications.
- Continues to remain efficient in the average processing time of completion within 15 days for over 800,000 filings received each year.
- Successfully issued a continuing education compliance system RFP and entered into a contract with a vendor. Implemented the new electronic roster reporting continuing education monitoring system on February 17, 2009 which allows the Department to compel, monitor, and enforce 100 percent compliance of agent and adjuster continuing education requirements. This system will replace the current system of random audits of approximately one percent of licensees.
- Developed and implemented an automatic fine tracking process for maintenance of the continuing education fines charged to and collected from licensees who fail to complete continuing education requirements. The in-house collection of the statutorily permissible automatic fines by the Licensing Division reduces the workload on the Enforcement Program and compels enforcement of minor violations which are not of a sufficient dollar amount to justify invoking the time of an Enforcement investigator and attorney.
- Developed and implemented an administrative probated licensing process in the Licensing Division. The new probated licensing process in the Licensing Division reduces the workload on

the Enforcement Program allowing an administrative resolution for applicants with a minor or remote criminal history who are clear candidates for a probated license and can reasonably be handled without requiring the time of an Enforcement investigator and attorney. Deputy Commissioner (DC) testified on the behalf of the Department in agent application and revocation hearings serving as experts in the licensing laws, rules and procedures.

- DC served as an Advisory Board Member of the Securities and Insurance Licensing Association, which serves over 1,800 members from the insurance industry who are involved in the licensing of insurance agents and adjusters.

Filing and Operations Division

Filing and Operations Division receives all industry rule, rate and policy form filings and conducts an initial screening of the filings for compliance with basic filing requirements. The division is also responsible for planning operations for the program. It consists of the following sections:

- Life/Health and HMO Intake Section
- Property & Casualty Intake Section
- Document Management Section
- Operations Section

Other Filing and Operations activities:

- Received 19,884 Life/Health rate and form filings.
- Received 1,804 HMO rate and form filings.
- Processed 4,149 Exempt Life/Health rate and form filings.
- Received 15,488 Property and Casualty rate and form filings.
- Processed 175 Property and Casualty rate and form filings.
- Processed \$377,250 in filing fees for Life and Health rate and form filings.
- Processed \$74,350 in filing fees for HMO rate and form filings.
- Processed \$45,200 in filing fees for form filings from SERFF.
- Scanned 814,074 images for Property and Casualty Program.
- Scanned 173,657 images for Life/Health and HWCN Divisions.
- Scanned 57,282 images for DWC.
- Scanned 602 non-VisiFLOW images.
- Represented Texas on the NAIC Product Steering Committee and Working Groups.
- Organized the Life, Health and Licensing and Property & Casualty Compliance Conferences.

Highlights

LHL completed and/or assisted with the following in 2010:

SB 1731 (80th Texas Legislature):

- The Texas Department of Insurance drafted proposed rules to implement Section 8 of SB 1731, enacted by the 80th Legislature, Regular Session. SB 1731 requires the Department to collect data concerning health benefit plan reimbursement rates in a uniform format, and disseminate this information on an aggregate basis by geographical region.
- The initial reporting date for the submission of the required data is 60 days from the effective date of the proposed rule, and the initial data call will capture claims payments from January 1, 2010, to June 30, 2010. Subsequent data calls will be due annually on September 1, and they will capture claims payments from January 1 to June 30 of the applicable calendar year.

SB 78 (81st Texas Legislature):

- Adopted rules for the Healthy Texas program, which will provide affordable coverage for small employers.
- Issued an RFP for required actuarial services and an RFP for participating insurance carriers for the program.
- Planned statewide outreach and education sessions to begin in the fall and continue through year end.
- Contracted with Celtic Insurance and United Healthcare through a competitive procurement process to be participating carriers for the Healthy Texas program.
- Published a request for application for 3-Share programs to participate in Healthy Texas.
- Anticipated enrollment in the program to begin early fall.

81st Legislature activity:

Adopted nine rules to implement new legislation from the 81st Legislature as well as from earlier sessions, including:

- Health Group Cooperatives / Autism (effective 10/4/2009)
- Consumer Choice Health Benefit Plans / Autism (effective 10/4/2009)
- Utilization Review Agents / Advisory Committee (effective 11/8/2009)
- Noninsurance Benefits and Features (effective 1/4/2010)
- Medicare-related Product Certification, Small Employer Health Benefit Plan Specialty Certification, Annuity Certification, and Continuing Education Courses (effective 2/21/2010)
- Healthy Texas Program (effective 3/16/2010)
- Recognition of National Certifying Organizations for Noninvasive Screening of Cardiovascular Disease (effective 5/7/2010)
- Evaluation of Network Physicians and Providers (effective 5/17/2010)
- Notice of Liability for Premium Payment (effective 6/13/2010)

Drafted the following Commissioner's Bulletins:

- B-0037-09, September 25, 2009, Standard Proof of Insurance for Motorcycle Accident Coverage
- B-0040-09, September 28, 2009, Pandemic Influenza Preparedness
- B-0042-09, October 1, 2009, Call for Reports Regarding Provider Claims Processing and Related Functions
- B-0044-09, November 3, 2009, Legislation Enacted – 81st Legislative Session
- B-0045-09, October 16, 2009, Credit Data Call– 2006, 2007, 2008
- B-0003-10, January 7, 2010, Discretionary Clauses in Life, Accident, and Health Insurance Policy Forms
- B-0004-10, January 11, 2010, Call for Reports Regarding Provider Claims Processing and Related Functions
- B-0011-10, March 25, 2010, Call for reports regarding business practices and plans regarding acquired policies for viatical and life settlement providers conducting viatical or life settlement business in Texas
- B-0014-10, April 13, 2010, Call for Reports Regarding Provider Claims Processing
- B-0027-10, July 1, 2010, Call for Reports Regarding Provider Claims Processing
- B-0029-10, July 22, 2010, PPACA Implementation, Form Filings
- B-0033-10 – August 24, 2010, Credit Data Call - 2009

**Figure 25: Summary of Activity: Filing & Operations
Division (Property & Casualty Intake Section) Filings Received/Processed**

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Lines Rate Filings					
Auto Home (Personal Liability & Personal Umbrella)	37	41	64	40	42
Personal Automobile	545	541	769	602	676
Personal Property	207	302	236	268	297
PC (Other Personal Lines)*	-	-	2	See Note	See Note
Total	789	884	1,071	910	1,015
Commercial Lines Rate Filings					
Bond, Burglary, Title	330	412	401	251	372
Commercial Automobile	554	638	774	489	524
Commercial Property	801	383	343	319	372
General Liability	965	1,101	743	830	926
Identity Theft	3	3	2	1	2
Inland Marine**	See Note	179	178	160	277
Interline	57	12	18	45	61
Multi-Peril	811	731	708	699	892
PC (Other Commercial Lines)*	-	-	0	5	5
Professional Liability	138	169	197	217	202
Workers' Compensation	424	407	594	471	412
Total	4,083	4,068	3,958	3,487	4,045
Policy Form, Endorsement and Rule Filings					
Auto Home (Personal Liability and Personal Umbrella)57	86	111	67	88	
Personal Automobile	383	447	697	540	498
Personal Property	228	316	342	310	345
PC (Other Personal Lines)*	-	-	2	See Note	See Note
Bond, Burglary, Title	794	642	691	593	500
Commercial Automobile	1,119	645	1,002	925	798
Commercial Property	2,047	1,114	1,062	1,171	877
General Liability	2,991	1,957	3,258	2,759	2,410
Identity Theft	-	-	3	1	13
Inland Marine**	See Note	531	772	586	498
Intake Unit	6	0	0	3	2
Interline	215	155	444	483	220
Multi-Peril	3,348	2,428	3,507	3,238	3,235
PC (Other Commercial Lines)*	-	-	0	9	14
Professional Liability	372	369	599	764	661
Workers' Compensation	295	154	399	187	269
Total	11,862	8,849	12,889	12,806	10,428
Total P & C Filings Received	16,734	13,801	17,918*	17,203*	15,488
Intake Unit Filings Processed	189	131	114	197	175

* Total Includes 14,687 SERFF Filings. (FY 08 total includes 14,300 SERFF filings.)

** Effective 09/02/2008, PC Category was added. It will have its own totals.

*** Effective 09/03/2009, PC Category shows combined totals.

Figure 26: Number of Licenses, Certificates and Registrations Under Commissioner's Jurisdiction

LICENSE TYPE	FY 2006	FY 2007	FY 2008	FY 2009	FY2010
Agents (1)	273,502	289,813	306,036	319,640	327,411
Adjusters	66,244	72,012	72,061	80,919	85,735
Full-Time Home Office Salaried Employees	1,259	1,256	1,041	496*	501
Specialty - Credit	2,908	2,993	3,013	3,021	2,897
Specialty - Travel	721	812	896	1,000	1,072
Specialty – Rental Car Company	68	64	65	66	58
Specialty - Self Service Storage Facility	74	83	94	127	147
Specialty – Telecommunication Equipment Vendor	13	12	11	12	18
Life Counselors	273	372	429	485	523
Public Insurance Adjusters	167	205	234	762	850
Risk Managers	1,098	1,123	1,114	1,133	1,135
Re-insurance Intermediary	1,503	1,473	909	1,245	1,155
Premium Finance Companies	323	325	271	N/A	N/A
Third-Party Administrators	747	730	748	N/A	N/A
Grand Total of Lines Regulated	348,900	371,273	386,922	408,906	421,502

1 An agent may hold more than one type of license; these statistics do not represent numbers of individual agents.

* Reduced number reflects trend in industry of moving away from the use of the Full-Time Home Office Salaried Employee registration in lieu of a Property and Casualty license. Carriers are finding it is better to have their sales staff acquire a Property Casualty license so that reciprocal licenses can be obtained in other states and the employees/agents can be utilized to handle multiple states.

Figure 27: Summary of Activity: Licensing Division

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Total Filings Processed by Licensing Division	734,141	744,844	781,659	875,772	887,616
Telephone Inquiries Answered*	149,198	132,170	138,877	152,024	139,290

* Licensing uses an Interactive Voice Response (IVR) to improve the Division's ability to respond to calls from companies, agents and the public. The IVR is 24-hour, non-stop source of licensing information.

Figure 28: Summary of Agents License Statistics

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Issued	68,693	62,748	63,642	72,828	63,545
Renewed	101,767	98,820	118,739	116,022	134,064
Total Appointment Transactions	515,260	508,048	511,754	604,158	603,763
Total Current Agents & Adjusters Licenses	339,913	360,975	378,333	401,321	413,996
Other Licenses	8,897	9,243	7,572	7,585	7,506
Grand Total of Licenses Regulated	348,900	371,273	386,922	408,906	421,502

Figure 29: Numbers and Types of Agents Licenses

	FY 2006	FY 2007	FY 2008	FY 2009	FY2010
County Mutual	3,481	3,320	3,263	3,424	3,696
General Lines - Life, Accident, Health and HMO	158,373	167,501	172,461	174,328	175,441
General Lines - Property and Casualty	95,298	102,759	105,326	105,391	106,502
Life Only Agent*			5,913	13,340	17,747
Personal Lines Agent*			2,987	6,142	7,847
Insurance Service Representative	1,832	1,654	1,568	1,467	1,325
Life not to Exceed \$15,000	973	944	915	861	831
Limited Lines	5,876	5,441	5,024	4,672	4,576
Managing General Agent	1,596	1,625	1,583	1,598	1,598
Pre-Need	2,376	2,331	2,328	2,625	2,607
Surplus Lines	3,697	4,238	4,670	5,017	5,250

* Licenses added beginning FY08.

Figure 30 Summary of Activity: Life/Health Filings

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Filed	27,184	25,855	26,234	24,831	19,884
Accepted	26,591	25,156	25,600	23,858	18,732
Approved	9,432	7,596	9,081	8,161	6,642
Disapproved	1,977	2,497	2,455	2,993	1,800
Exempt	7,559	7,353	5,625	4,898	4,149

Figure 31: Summary of Activity: Health Maintenance Organization Filings

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Actual Performance	1,577	1,763	1,423	1,438	1,760

Figure 32: Summary of Activity: Utilization Review Filings

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Applications Received	12	19	20	5	18
Registered Utilization Review Agents Approved	1	2	2	0	1
Certified Utilization Review Agents Approved	11	7	14	9	12
Certified URAs Renewed	78	85	79	75	77

**Figure 33 Summary of Activity: HMO Complaints
Number of complaints against HMOs resolved**

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Actual Performance	1,329	872	905	668	620

Figure 34 Number of HMO quality assurance examinations conducted

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Actual Performance	22	18	16	23	28

Figure 35 Summary of Activity: HWCN Inquiries

	FY 2006	FY 2007	FY 2008	FY 2009	FY2010
Inquiries Received	169	608	479	607	681
Inquiries Completed	171	585	469	591	687

Figure 36 Summary of Activity: IRO Applications

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
IRO Applications Received	8	8	7	10	6
IRO Applications Approved	6	10	7	9	6
IRO Renewals Approved	10	16	27	35	42

Consumer Protection

CONSUMER PROTECTION (CP) assists Texans by helping resolve insurance complaints; providing insurance information to the public through a Consumer Help Line, publications and the Internet; and reviewing insurance advertising.

The Consumer Protection Program consists of five activities:

Complaints Resolution reviews consumer disputes with insurance companies, agents and other regulated entities. Insurance specialists examine complaints for violations of Texas law and rules and recommend enforcement action when appropriate. Each year, TDI's intervention results in millions of dollars of additional claims payments and premium refunds to consumers. CP's Complaints Resolution section handles complaints involving home, auto, life, annuities, and health insurance.

Information Assistance responds to calls to the agency's toll-free Consumer Help Line, 1-800-252-3439. Staff answer questions regarding insurance; provide information about companies and agents, including license status and complaint histories; and help consumers file insurance-related complaints. Information Assistance also maintains TDI.info, an information database that helps ensure accurate and consistent responses to consumer questions. The section helps non-English speakers through its bilingual Spanish-speaking staff and use of Language Line interpreter services.

Public Education develops and distributes information to help consumers learn more about insurance and to shop wisely for the insurance products they need. Consumers may order publications by calling a toll-free automated telephone line, 1-800-599-SHOP (7467). Public Education also coordinates the agency's Speakers Bureau and conducts outreach at community events. In partnership with other state and federal agencies, Public Education operates the federally funded Health Information, Counseling and Advocacy Program (HICAP), which provides training to volunteers who assist older Texans in their local communities.

Advertising reviews industry marketing materials to evaluate compliance with statutes and rules governing solicitation and trade practices. Those materials include brochures; phone and sales scripts; agent presentations; newspaper, magazine, radio and TV ads; form letters; illustrations; and web pages. Significant violations are referred to TDI's Enforcement Division for possible enforcement action.

Special Work Assignments Team (SWAT) enhances CP's business processes by developing means of improving efficiency and effectiveness. SWAT coordinates the program's business planning activities and oversees production of program information published on the agency's website.

Highlights

In FY 2010, Consumer Protection:

Assisted Texans impacted by natural disasters:

- Continued to help consumers with insurance issues related to Hurricane Ike. Through the end of fiscal year 2010, CP had closed nearly 6,000 Hurricane Ike complaints and inquiries and had helped return more than \$41.5 million to consumers. Along with other TDI programs, CP staff participated in on-site reviews of Ike claims handling practices by the Texas Windstorm Insurance Association.
- Helped consumers with questions and insurance concerns following Hurricane Alex in late summer 2010.

Protected consumers through complaint resolution and advertising reviews:

- Returned nearly \$40 million to consumers in additional claim payments and refunds as a result of complaints resolution.
- Helped resolve more than 21,000 consumer complaints.
- Reviewed more than 6,100 insurance advertisements to ensure compliance with state laws and TDI rules.

Provided information to consumers

- Responded to more than 641,000 consumer inquiries, including nearly 191,000 calls to the Consumer Help Line.
- Maintained TexasHealthOptions.com, which provides information to help Texans find health coverage, including lists of agents and companies offering various types of health plans; and Helpinsure.com, a comprehensive web resource to help Texans shop for auto and residential property insurance.
- Conducted 668 Speakers Bureau presentations throughout Texas on insurance issues.
- Distributed more than 5.6 million publications, including 1.9 million rate guides. Rate guides provide information to help Texans save money on their insurance. TDI publishes rate guides for automobile, homeowners, Medicare supplement, long-term care, and workers' compensation insurance and small employer health benefit plans.

Participated in key agency initiatives:

- Along with other TDI programs, helped implement provisions of the Patient Protection and Affordable Care Act, the federal health care reform (FHR) bill. CP staff served on the FHR Tactical Oversight Team, which coordinated the agency's overall implementation process, and on each of the FHR workgroups. CP also maintained the FHR Resource Page on the TDI website, which provides general information about health reform, an implementation timeline, and frequently asked questions.
- Led the TDI Excellence Program, a strategic planning and projects initiative. The program's projects for 2010 included a study of data mining and pattern recognition practices and technologies; a paper examining key policy questions for lawmakers and regulators regarding long-term care insurance; enhancements to TDI's military outreach activities; and further development of the TDI Academy, a collaborative effort between TDI, the insurance industry and Texas colleges and universities to provide enhanced insurance education.
- Planned and conducted the annual TDI Symposium, which educates agency executives on state and national trends in demography, the economy, insurance and financial regulation, technology, and management and leadership.

Facilitated partnerships and cooperative programs:

- Participated, along with other TDI programs, in a Memorandum of Understanding with the Centers for Medicare and Medicaid Services to investigate violations of Medicare Advantage and Medicare prescription drug plan marketing rules. CP staff also assisted seniors who were victims of fraudulent or misleading marketing of Medicare products.
- Initiated or continued partnerships to promote TDI services and enhance outreach activities, including partnerships with:
 - The Children's Hospital of Austin, the Seton Healthcare Network, the City of Austin and the Travis County Health and Human Services Department to provide information to parents of uninsured children and to people utilizing services provided at mobile health clinics.
 - County tax assessor-collector offices statewide to distribute rate guides and other insurance information.
 - The Texas Department of Aging and Disability Services, the Texas Legal Services Center, and local Area Agencies on Aging statewide to assist older Texans and to offer training to benefits counselors in local communities.
 - Chiropractor and pharmacy groups to distribute information to their members about claims filing and the complaint process.
 - The Texas Division of Emergency Management and representatives of the insurance industry in the Texas State Disaster Coalition, which facilitates coordinated responses to disasters.

Figure 37 Total Number of Complaint Cases Closed, FYs 06–10

YEAR	CASES CLOSED
2006	24,122
2007	21,676
2008	20,375
2009	25,014
2010	21,066

Figure 38 Dollars Returned to Consumers, FYs 06–10

YEAR	AMOUNT RETURNED
2006	\$62.2 million
2007	33.5 million
2008	31.9 million
2009	74.6 million
2010	40.0 million

State Fire Marshal's Office

THE STATE FIRE MARSHAL'S OFFICE (SFMO) develops and promotes methods of preventing and reducing fire losses. This responsibility is carried out through fire cause and origin investigations, building inspections, code enforcement, the regulation of fire service industries, and the development and promotion of fire prevention programs. In collaboration with private sector entities, the regulated fire service industry, the Texas fire service, local and state agencies, and the public, the SFMO seeks to create communities well prepared to protect themselves against fire. The SFMO consists of three divisions:

- Fire Prevention and Outreach Services
- Field Services
- Fire Industry Licensing Services and Investigations

Fire Prevention and Outreach Services Division

- Texas Fire Incident Reporting System (TEXFIRS) collects data reported from fire departments and summarizes the reported data each year in the SFMO's annual publication entitled Fires in Texas.
- Community Based Partnerships assist in establishing, implementing, and maintaining community based fire prevention education programs, including the Juvenile Firesetter Intervention Program, the Fire Safety House, and "Have an Exit Strategy" campaign.

Field Services Division

- Fire Safety Inspection Services conducts fire safety inspections of state buildings, health care facilities, and prisons. This division also conducts fire safety inspections of all state-supported institutions of higher education. Inspections are conducted on a routine basis or in response to a request or complaint. Upon receipt of a complaint or where mandated for licensing, inspections of private facilities and buildings are conducted throughout the state.
- Fire/Arson Investigations staff conducts fire cause and origin investigations throughout the state and provide assistance to local officials with arson or related criminal investigations when appropriate.
- Canine Teams consist of a handler, who is a certified fire investigator, and a canine that has been certified and trained to detect hydrocarbons. The canines' keen sense of smell helps them identify areas for evidence collection at fire scenes.
- Forensic Arson Laboratory provides accelerant testing services and analysis of fire scene debris to law enforcement and public safety organizations. The lab is accredited by the American Society of Crime Laboratories Directors.
- Public Protection Classification (PPC) Survey and Grading Oversight assists local fire departments and the communities they serve, with PPC surveys and the Insurance Services Office (ISO) Fire Suppression Rating Schedule. Through the authority of the Commissioner of Insurance, the State Fire Marshal is responsible for approving or disapproving proposed PPC ratings for communities.

Fire Industry Licensing Services and Investigations Division

- Licensing Administration issues registrations, licenses and permits to those working in the fire alarm, extinguisher, sprinkler, and fireworks industries.
- Licensing Investigations staff responds to complaints concerning the illegal, improper, and unsafe installation of fire alarm, extinguisher, and sprinkler systems by licensed entities. The Division provides daily assistance to local fire marshals and building officials with respect to code interpretation issues. They also inspect fireworks retail and storage sites to ensure compliance with adopted laws.
- Fire Standard Compliant (FSC) Cigarette Program ensures that only FSC cigarettes are sold in the state, as of January 1, 2010. This program registers manufacturers and distributors, obtains requisite certifications and test data to ensure compliance with the law, in addition to the periodic inspection of distribution centers and retail outlets.

In addition, the SFMO is statutorily responsible for the investigation of firefighter fatalities occur-

ring in connection with a firefighting incident in this state. Chapter 417.0075, Texas Government Code, requires the State Fire Marshal's Office to investigate the circumstances surrounding the death of a firefighter, including the cause and origin of the fire, the condition of the structure, and the suppression operation. The purpose of the investigation is to determine the factors that may have contributed to the death of the firefighter. An annual report is submitted to the legislature.

Highlights

SFMO highlights in FY 2010 include the following:

Administration:

- Re-election of State Fire Marshal Paul Maldonado to the National Association of State Fire Marshals' Board of Directors.
- Continued communication with staff via a bi-weekly newsletter.
- Memorandum of Understanding (MOU) between the SFMO, SORM (State Office of Risk Management), and TFC (Texas Facilities Commission), pertaining to agency responsibility for fire protection of state owned buildings under the charge and control of TFC, was approved and signed.
- SFMO Directors hosted a conference call/meeting for all SFMO employees to discuss and answer any questions regarding the possible five percent budget reductions.
- The SFMO, at the request of the Forensic Science Commission (FSC), was asked to comment on the 1991 fire investigation report used in the criminal arson case against Cameron Todd Willingham.

Fire Prevention and Outreach Services Division:

- Submitted an application for the 2009 FEMA Assistance to Firefighters grant in order to sustain and expand the 2008 Have an Exit Strategy (HAES) program to public universities across Texas. The 2009 grant was not funded but SFMO was encouraged to re-apply in 2010.
- Began implementation of the FEMA Assistance to Firefighters – Fire Prevention and Safety Grant in the amount of \$566,500. The Have an Exit Strategy (HAES) program was provided to all 52 public university campuses in Texas. The HAES program will also help universities meet the requirements of Texas SB 1138, relating to risk management programs for members and advisors of student organizations at public and private postsecondary educational institutions to provide at least one risk management program per academic year, and U.S. House Bill 4137, Higher Education Campus Fire Safety Standards and Measures. Haveanexitstrategy.com was also revamped, as part of the grant, and is hosted on TDI servers.
- Hosted the 11th Annual Fire Marshal's Conference in Austin, with more than 220 state, county, and municipal fire marshals and firefighters in attendance. The conference provided continuing education topics for attendees, including common enforcement issues, code interpretations, emerging fire prevention models, and liability and funding issues. The conference increases cooperation and coordination among fire marshals statewide.
- Sponsored six Juvenile Fire setter Intervention classes throughout the state.
- Assisted in implementing Risk Watch, a multi-hazard education and awareness curriculum for children from pre-kindergarten to eighth grade, and correlated it to new Texas Essential Knowledge and Skills (TEKS) requirements, for schools in Texas.
- Expanded the development of a statewide network of fire and life safety educators in response to the Sunset Advisory Commission's recommendation directing the SFMO to "work with local communities to help build capacity to more effectively assess and implement local fire prevention efforts."
- Produced a series of web pages dedicated to public fire and life safety educators. These pages were created to serve as a central resource clearinghouse for information and materials.
- Teamed with the National Fire Protection Association (NFPA) for Fire Prevention Week 2009 – October 4-10 – to urge everyone in Texas to "Stay Fire Smart! Don't Get Burned." The 2009 campaign focused on ways to keep homes fire safe and prevent painful burns.
- Coordinated and participated in classes at the TEEX Annual Municipal Fire School. The State Fire Marshal attended the week long training to observe content and recommend improvements for future curricula. The SFMO PPC Oversight Officer assisted with incorporating content related to the ISO process in the training.
- Continued the "We're out to Alarm Texas" campaign in partnership with the Insurance Council of Texas and fire departments around the state. Through this program, smoke alarms are pro-

vided to fire departments to install, free of charge, to the needy and elderly upon request. In 2009, six Texas cities received a total of 1,100 smoke alarms.

- Collaborated with the staff from the Bob Bullock Texas State History Museum to provide a special fire prevention day at the Museum on July 3, 2010. Patrons were able to view a side-by-side burn demonstration, as well as visit fire prevention and life safety exhibits. Exhibitors included the Shriners Burn Hospital, Shriners clowns and face painters, Fire Team USA, NFPA, Travis County Fire Marshal's Office, Harris County Fire Marshal's Office, Texas Forest Service, Urban Fire Protection, Burnet Fire Department, Pearland Fire Department, and the SFMO. Approximately 800 people visited the fire safety exhibit and approximately 200 people witnessed the side-by-side burn.
- Developed a proposal, along with other TDI divisions, on the use of social media as a means of providing information to different publics.
- TEXFIRS received 1,435,953 fire and non-fire incident reports for 2009 incidents from 1,037 fire departments.
- During the 2010 fiscal year, TEXFIRS staff handled 5,832,239 incoming incidents for various years' data. Staff works with reporting departments to correct any validation errors and help them resubmit their corrected incidents.

Field Services Division:

- Completed a series of state-owned building inspections to assess conditions and take necessary action to secure fire safety to protect state employees, visitors, and resources in buildings under the purview of the Texas Facilities Commission, as required by Chapter 417.081, Texas Government Code.
- Assisted the Texas Department of Public Safety (DPS), which closed two DPS Training Academy dormitories after inspections by the SFMO noted numerous severe fire and life safety deficiencies. Improvements to the buildings include the installation of fire alarm and sprinkler system, all stairwells are being enclosed and a fire suppression system is being installed in the cafeteria.
- Contracted with a fire protection engineer to develop a state building risk assessment (a provision of the Sunset Report), which will help the SFMO prioritize inspections of state facilities.
- Inspected approximately 100 school districts after questions were brought up in regard to life safety conditions in public school facilities and in particular those in communities or rural areas without adopted codes.
- Provided presentations of fire safety issues to approximately 300 school officials at the 2010 Texas Association of School Boards annual conference held in Austin, Texas.
- Submitted an application for the 2010 Paul Coverdell Forensic Science Improvement Grant for \$282,000 to update arson lab equipment.
- Published the Firefighter Fatality investigation report regarding the deaths of a fire captain and a firefighter.
- Began investigation of the firefighter fatality of a fire captain in Wharton County.
- Provided PPC Oversight assistance to local communities through on-site visits, phone calls, and responses to emails. Processed new PPC rating submissions by ISO for approval prior to the use of the ratings in Texas communities.
- Met with ISO and State Fire Chiefs Association representatives on numerous occasions to review and discuss proposed changes to the grading system used to establish community property protection classifications.
- Continued communication with the Texas Forensic Science Commission in its investigation of a 1991 fire investigation report.

Fire Industry Licensing Services and Investigations Division:

- Reorganized the duties and activities associated with the Licensing Program. Managerial responsibilities for the Licensing Program have been reassigned.
- Implemented a new license for fire sprinkler system inspectors requiring the verification by examination of the inspector's knowledge and experience, ensuring that these fire protection systems are inspected by qualified individuals.
- Fire Standard Compliant Cigarette program went into effect January 1, 2010, after which, only cigarettes certified as compliant with a specified national standard for self extinguishment can be sold. One major manufacturer and two wholesalers were found in violation and they were referred to the Attorney General's Office. A settlement is pending.

- Provided occupational licensing administration by issuing 13,410 licenses, registrations and permits to the fire alarm, extinguisher, sprinkler and fireworks industries, an increase of over 7.9% from last year, resulting in over \$2.4 million in revenue.
- Issued 62 Fire Marshal Orders relating to enforcement of fire extinguisher, alarm, sprinkler, and fireworks safety, generating over \$164,850 in fines and penalties and ordering firms to return and correct their services at no cost to the property owners.
- Worked with the Texas State Board of Plumbing Examiners, as required by SB 1410, to develop rules for “multipurpose residential fire protection sprinkler specialist.”
- SFMO Licensing staff continues to work with Sircon to convert the current Licensing Access Database to Sircon.

Figure 39 Summary of Activity: Fire Marshal’s Office

	FY 2009	FY 2010
Fire investigations completed	513	527
Reported structure value of fires investigated	\$759,218,730	\$698,970,308
Percent of SFMO fire investigations found to be incendiary	46%	45%
Number of suspects referred for prosecution	124	111
Percent of referred suspects indicted	61%	82%
Conviction rate of indicted suspects	72%	59%
Samples analyzed in arson laboratory	2,776	2,644
Companies and personnel licensed for Fireworks, Extinguisher, Alarm and Sprinklers	12,352	13,410
Investigations/inspections of complaints against Fire protection equipment/ fireworks industries	1,085	968
Buildings inspected/re-inspected for fire safety hazards	4,662	6,000
Number of children participating in a Fire Safety House demonstration	10,714	14,997
Number of individuals attending fire prevention and fire safety presentations coordinated by the SFMO*	19,204	20,577
Number of communities or community partners accepting an SFMO fire prevention program or initiative	42	81

* Note: The number of individuals attending fire prevention and fire safety presentations coordinated by the SFMO is inclusive of the number of children participating in a fire Safety House demonstration.

Administrative Operations

ADMINISTRATIVE OPERATIONS is headed by the agency's Chief of Staff. It performs the agency's internal financial functions and provides operational support ranging from computer and database services to professional development and training. It also provides administrative support to the Office of Injured Employee Counsel (OIEC) and monitors TDI's compliance with oversight requirements set for state agencies by the Legislature. The program consists of six activities.

Financial Services, led by the Chief Financial Officer, maintains the agency's financial records, prepares supporting documents required for a proper audit trail, establishes internal financial controls to detect errors and irregularities, prepares the agency's annual financial report and develops and recommends rates for maintenance taxes and assessments. The division manages budget and planning functions, including the preparation of the agency's Legislative Appropriations Request (LAR), Strategic Plan, annual operating budget, and performance measure reports. In addition, the division monitors expenditures, develops projections to help programs stay within budget, monitors performance against targets in the General Appropriations Act and Request for Legislative Appropriations, conducts business planning and disaster recovery activities, and monitors compliance with certain Article IX provisions of the General Appropriations Act.

Staff Services manages all facility-related services, including space planning and management, security, employee parking, asset inventory and warehousing. The division is also responsible for maintaining the agency's records retention schedule and administering the agency's Safety and Risk Management Program. Finally, Staff Services handles, tracks, and delivers all mail, coordinates a courier service, and operates the agency's copy center.

Purchasing and Contract Administration is responsible for procuring all goods and services for the agency and managing the agency's Historically Underutilized Business (HUB) and Contract Management Programs. The division's primary goals are to meet the needs of its customers by ensuring that they receive the right product or service, at the right price, at the right time and to ensure that agency staff and contractors adhere to contract requirements.

Information Technology Services (ITS) under the direction of the agency's Information Resource Manager (IRM), provides automation and computer support for all agency programs and activities and for OIEC. The primary goals of ITS are to ensure that automation applications and technology are of good quality, are maintainable and available, and meet agency and state standards. ITS supports agency programs by providing advice and assistance in applying technological solutions to business problems; building and maintaining applications or purchasing applications and systems to meet agency needs; monitoring emerging technologies and support issues, including legislative directives and mandates; working to manage agency data efficiently and effectively, including establishing appropriate access; supplying appropriate and timely technical training to employees; planning and implementing agency-wide information technology projects; managing access to agency hardware, software, and telecommunications resources; and providing Help Desk, desktop, and telecommunication technical service on request from agency staff.

Human Resources (HR) provides service and support to the agency and to OIEC regarding personnel matters, employee benefits, compensation and professional development. The division monitors and ensures compliance with state and federal employment laws, including compliance with various anti-discrimination laws, such as the Civil Rights Act of 1964, the Family Medical Leave Act (FMLA) and the American's with Disabilities Amendments Act (ADA). HR reviews and implements legislation and updates agency policies to reflect new rules, regulations and legislation; conducts workforce planning and reporting as an integral part of the agency strategic plan; and provides guidance to address employee disciplinary issues. This division oversees the administration of the agency's employee assistance program and Survey of Employee Engagement, which measures employee satisfaction and morale. It also administers the selection and hiring process; processes payroll and leave accounting; maintains employment records—personnel, benefit, FMLA, ADA and Workers' Compensation; and administers employee benefits. Human Resources is also responsible for providing a variety

of training, including new employee orientation, business writing, presentation skills, management training, conflict resolution, and a comprehensive technical insurance training program.

Employee Ombudsman and Ethics Advisor gives employees an outlet to discuss their concerns and problems in private. The ombudsman also is charged with helping encourage positive communication between agency managers and employees, helping resolve workplace complaints, grievances or disputes and helping agency employees with ethics questions.

Highlights

In FY 2010, Administrative Operations:

Financial Services

- Developed and produced the agency's 2011 Operating Budget.
- Prepared and submitted the 2011-2015 Strategic Plan and 2012-2013 Legislative Appropriation Request to the Legislative Budget Board and Governor's Office of Budget and Planning.
- Prepared the FY 2009 Annual Financial Report, Binding Encumbrance and Accounts Payable, and the Non-Tax Collected Revenue reports on behalf of TDI and OIEC.
- Streamlined budget structure to align goals with new agency mission and more clearly articulate agency functions and services.
- Developed rates for maintenance taxes, examination/overhead assessment and premium finance assessment.
- Prepared TDI's Homeland Security Implementation Plan, completed a Federal Emergency Management Agency (FEMA) survey on disaster response and preparedness, and provided disaster response and cost information to the House Select Committee on Emergency Preparedness.
- Provided administrative support to OIEC, such as bill paying, processing travel reimbursements, and development of FY 2010 operating budget.
- Provided monitoring and oversight of the agency's and OIEC's expenditures by strategy, object of expense and organizational structure.
- Monitored monthly performance measures, improved processes for timely preparation of the internal performance measure report, and reported quarterly performance to the Legislative Budget Board.
- Coordinated self-audits and reviewed performance measure calculation methodologies to improve internal controls.
- Monitored progress of programs' FY 2010-2011 business plan projects and coordinated agency involvement on projects affecting multiple program areas.
- Published TDI's FY2010 Customer Service Report.
- Developed TDI's Workforce Plan and published it in the agency's 2011-2015 Strategic Plan.
- Maintained and tested the viability of agency and program disaster recovery plans.
- Cooperated with TDI's Internal Audit Division on four audits that assessed program controls and reporting of performance measures.
- In cooperation with the Comptroller of Public Accounts, planned, tested and migrated to the Integrated Statewide Administrative System (ISAS) to replace the existing accounting and purchasing systems.

Staff Services

- Handled 1,293,639 pieces of agency mail and processed 1,843,776 workers' compensation claim related documents for carrier representatives.
- Microfilmed 269,216 documents and stored 2,341 cubic feet of records through the Texas State Library for record retention.
- Processed 1,599 work orders through the Texas Facilities Commission (TFC) and the Metro Center lessor.
- Coordinated 22 building improvement projects and modular furniture installations and renovations in the Hobby Building.
- Facilitated the safety program that resulted in 7 of 14 program areas achieving accident/injury free status in FY2010.
- Negotiated four branch office lease renewals.

Purchasing and Contract Administration

- Processed 3,014 purchase requisitions and 3,021 purchase orders.
- Posted 24 procurement opportunities on the Electronic State Business Daily.
- Tracked and administered 547 contracts.

- Hosted purchasing and contract administration related training sessions and webinars for staff and customers.
- Offered online purchasing & procurement card training videos for purchasing liaisons and procurement card holders.
- Participated in the planning, testing, and migration of the new integrated accounting and purchasing system (ISAS).
- Provided continued staff development including two internal Administrative Operations workshops/training related to customer service.
- Enhanced Purchasing's intranet site by reorganizing the content to be more user-friendly
- Continued to publish the quarterly newsletter Purchasing Focus for agency purchase requisitioners and liaisons.
- Drafted a Risk Assessment Plan for agency purchases.
- Achieved 24.9 % HUB participation during the first six months of FY 2010.
- Attended seven HUB forums.
- Sponsored HUB presentations for Senior Managers.
- Established one new HUB mentor-protégé relationship.
- Established a data base to track good faith effort.

Information Technology Services

- Continued to partner with Team for Texas in the transformation of TDI's servers to the state data centers.
- Initiated an enterprise-wide project to provide an integrated, web-enabled, and vendor supported approach to managing, processing, and tracking critical information on insurance companies, agencies, and individual producers. The system will provide a more efficient and integrated computing environment, eliminate duplicate data entry and duplicate agency databases, and eliminate several of the agency's in-house developed legacy systems thereby reducing maintenance costs.
- Enhanced TDI's public-facing HelpInsure application to create a flexible system that allows companies and agents to maintain lines of insurance they are currently marketing, as well as to allow companies and agents to search for consumers seeking insurance coverage. Also, the system was expanded to include Personal, Commercial or Life, Health and Accident lines of insurance.
- Enhanced the Division of Workers' Compensation applications to stabilize and expand the functions of TXCOMP, the workers' compensation claims and coverage tracking application.
- Automated the Division of Workers' Compensation Official Action letters to enable staff to send approved or denied notices to participating parties. Existing letters were modified to fit the standard envelopes utilized by the State data centers, eliminating costs associated with customized envelopes.
- Expanded electronic workflow and document storage and retrieval system capabilities for Financial and Life, Health and Licensing divisions to allow for more efficient storage and retrieval of documents and decrease turn-around time of documents for open records requests.

In addition to the major initiatives described above, ITS also:

- Reinforced information security at TDI by:
 - Replacing the agency's firewall appliance and upgrading the agency's web filtering appliance.
 - Cooperating with the Department of Information Resources to allow controlled penetration testing of TDI's network to assess security levels. The results demonstrated that TDI's network has effective controls in place.
 - Providing information security training classes for new employees and teleworkers, and refresher training courses for current agency staff.
 - Providing informational articles and material to agency staff regarding recommended security practices and employee responsibilities.
 - Deployed 330 laptop computers, 350 desktop computers, and 400 monitors as part of the agency's Hardware and Software Obsolescence Plan.
- Supported agency staff and external customers by responding to 19,143 Help Desk calls. This included providing technology support for staff who moved within the agency or who needed assistance as a result of weather, building condition problems, or emergency situations.
- Upgraded the agency's office automation software to Microsoft Office 2007 and the agency's web browser to Internet Explorer 8.
- Provided instructor-led automation training classes.
- Supported TDI's ongoing movement to web-based data and forms.

Human Resources

- Processed and tracked 1,813 personnel actions including merit raises, promotions, new hires, transfers, and separations of employment. In addition to this number, 343 personnel actions were processed for OIEC.
- Met 100% of all payroll reporting deadlines.
- Processed 4,337 job applications.
- Answered 35,285 switchboard calls.
- Delivered 497.5 hours of traditional classroom training and provided 161.5 hours of training on-line. Training included new employee orientation and courses on teambuilding, communication, customer service, defensive driving, insurance training and management training.
- Delivered 12 wellness events.
- Approved additional programs' telecommuting plans which increased overall participation in the program.
- Contributed information to the agency's Strategic Plan and Workforce planning activities.
- Participated in salary surveys for the National Association of Insurance Commissioners (NAIC) and the State Auditor's Office (SAO).
- Established a Wellness Council to promote the statewide wellness goals.
- Administered the University of Texas, Survey of Employee Engagement in late January 2010 which had a response rate of 82 percent. Most 2010 scores were the highest in TDI's 14-year survey history.
- Provided training in the areas of ADA, Title II, for Division of Workers' Compensation staff and Pandemic Preparedness training (September 2009) for the whole agency. Pandemic training is currently offered to all new employees in orientations.

Employee Ombudsman and Ethics Advisor

- Addressed a wide variety of personnel issues and concerns through coaching and counseling of agency employees.
- Continued presenting mandatory sexual harassment /discrimination course to all agency employees.
- Created and presented a variety of workshops to agency employees regarding a variety of topics, including Dealing With Difficult People, Managing Workplace Stress, Conflict Management and a collection of core course work pertaining to management training.
- Responded to requests to provide training courses for other state agencies.

Figure 40 Comparison of Maintenance Tax Rates FY 2002–FY 2009

Type	max legal rate	FY03	FY04	FY05	FY06	FY 07	FY 08	FY 09	FY 10
Motor Vehicle	0.2	0.053	0.035	0.036	0.062	0.058	0.070	0.063	0.061
Fire	1.25	0.330	0.188	0.184	0.291	0.236	0.280	0.237	0.320
Workers' Compensation	0.6	0.051	0.030	0.027	0.051	0.059	0.069	0.072	0.096
Casualty	0.4	0.180	0.091	0.073	0.119	0.117	0.129	0.112	0.140
Title	1.0	0.073	0.045	0.037	0.107	0.100	0.127	0.115	0.266
Life, Accident and Health	0.04	0.040	0.026	0.026	0.040	0.040	0.040	0.040	0.040
Third-Party Administrators	1.0	0.265	0.150	0.125	0.149	0.110	0.149	0.104	0.072
*HMO Multi-Service	\$2.00	\$1.32	\$0.89	\$1.02	\$1.53	\$1.23	\$1.23	\$1.08	\$1.32
*HMO Single Service	\$2.00	\$0.44	\$0.30	\$0.34	\$0.51	\$0.41	\$0.41	\$0.36	\$0.44
*HMO Limited Service	\$2.00	\$0.44	\$0.30	\$0.34	\$0.51	\$0.41	\$0.41	\$0.36	\$0.44
Prepaid Legal	1.000	0.022	0.022	0.022	0.044	0.036	0.042	0.036	0.042
Workers' Compensation Evaluation	0.1	0.00	0.00	0.00	0.00	0.00	0.00	0.009	0.012
Division of Workers' Comp.	N/A	.01125	.9200	1.051	1.051	1.128	1.003	1.232	1.455

* HMO rates reflect an amount per enrollee. Other rates are given as a percentage.

Division of Workers' Compensation (TDI-DWC)

The primary duties of TDI-DWC are to regulate and administer the business of workers' compensation in Texas; and ensure that the Texas Workers' Compensation Act, Texas Labor Code, and other laws regarding workers' compensation are implemented and enforced. The basic goals of the Texas workers' compensation system are:

- Each employee shall be treated with dignity and respect when injured on the job;
- Each injured employee shall have access to a fair and accessible dispute resolution process;
- Each injured employee shall have access to prompt, high-quality medical care within the framework established by the Texas Labor Code; and
- Each injured employee shall receive services to facilitate the employee's return to employment as soon as it is considered safe and appropriate by the employee's health care provider.

Governor Rick Perry appointed Rod Bordelon as Commissioner of Workers' Compensation and he assumed those duties in September 2008. His appointment was confirmed by the Senate during the 2009 Legislative Session. Since his appointment, Commissioner Bordelon has made several changes to the organization of TDI-DWC to enhance the agency's operations. In October 2008, Commissioner Bordelon and Insurance Commissioner Geeslin agreed to consolidate their enforcement staff, resulting in five enforcement teams, one of which is located at TDI-DWC. In addition, the Commissioners consolidated their legal staff and created the Workers' Compensation Counsel. The Workers' Compensation Enforcement team operates under the direction of the Commissioner of Workers' Compensation and the TDI Associate Commissioner for Enforcement. Workers' Compensation Counsel operates under the direction of the Commissioner of Workers' Compensation and the TDI Senior Associate Commissioner for Legal and Regulatory Affairs. Commissioner Bordelon has also added a Special Deputy Commissioner for Policy and Research who provides guidance and directs the rulemaking process that implements legislative changes.

The Commissioner of Workers' Compensation makes recommendations to the Legislature regarding changes to state workers' compensation laws and serves as a member of the Texas Certified Self-Insurer Guaranty Association. The Commissioner of Workers' Compensation has the authority to approve Certificates of Authority to Self-Insure for workers' compensation claims for certain eligible employers with employees in Texas.

TDI-DWC consists of a Commissioner's Administration area and three major programs: Operations, Hearings, and Health Care Management and System Monitoring. The Commissioner's Administration includes the Office of the General Counsel and the Medical Advisor, along with the Special Deputy Commissioner for Policy and Research. The General Counsel advises the Commissioner of Workers' Compensation on legal matters affecting TDI-DWC, reviews litigation, and coordinates legal analysis of policy issues. The Division's Medical Advisor monitors the quality of health care in the workers' compensation system by conducting reviews of health care providers and other system participants. The Medical Advisor also recommends to the Commissioner of Workers' Compensation rules and policies regarding medical care and medical delivery systems and determines which doctors meet the qualifications to serve as Designated Doctors.

Operations

The Executive Deputy Commissioner for Operations provides operational support in the areas of Operations Support, Self-Insurance Regulation, Field Operations, and Records Management and Support for TDI-DWC.

Operations Support enhances the mission of TDI-DWC through the efforts of four specialized areas: Business Process Improvement, Communications, Automation and Project Management, and Technical Support.

- **Business Process Improvement** supports the mission of TDI-DWC by finding process-oriented solutions to streamline and increase the effectiveness of service delivery. This area also provides coordination for TDI-DWC performance measures and budget functions.

- **Communications** provides support for TDI-DWC internal and external written communications, web-based information, forms management, and translation services. The Communications program coordinates communication with system participants regarding general or specifically targeted information on an appropriate level using a variety of delivery methods specifically tailored to the message.
- **Automation and Project Management** provides automated solutions to specific informational storage and retrieval needs of TDI-DWC.
- **Technical Support** oversees the management of electronic data that is reported to TDI-DWC by system participants and provides support for successful Electronic Data Interchange (EDI) processing.

Self-Insurance Regulation administers the certified self-insurance program for individual private employers with operations and employees in Texas. Self-Insurance Regulation receives and processes applications from private employers that request to self-insure their workers' compensation liabilities in Texas and monitors certified self-insurers that withdraw from the program. As part of the certification process, Self-Insurance Regulation evaluates an applicant's financial strength and liquidity; calculates and accepts security deposits; reviews claims administration plans and excess insurance; conducts safety program plan inspections; performs on-site benefit delivery examinations as needed; and oversees the billing of required self-insurance regulatory fees and workers' compensation maintenance taxes. Approval as a Certified Self-Insurer affords the applicant company protection under the Texas Workers' Compensation Act.

Field Operations delivers customer assistance and claims service in twenty-four field offices located throughout the state as well as through centralized functions in the Austin headquarters. Field office staff assist system participants by:

- Providing information about the Texas workers' compensation system;
- Providing injured employees with a single point of contact at TDI-DWC for claims assistance and return-to-work information;
- Setting/docketing official proceedings and providing local venues for conducting Benefit Review Conferences and Contested Case Hearings;
- Processing official actions such as requests for change of treating doctors, requests for Required Medical Examinations, Supplemental Income Benefit first quarter entitlement determinations, and requests for Designated Doctor Examinations; and
- Conducting quarterly seminars on workers' compensation topics.

Injured employees and other system participants who need information and assistance can contact field offices via a toll-free telephone number that routes calls to the local field offices.

Records Management and Support maintains records associated with injured employee claim files and insurance coverage information. The section:

- Stores and maintains injured employee claim files and employer insurance coverage files according to TDI-DWC records retention schedule and established quality standards;
- Provides information pertaining to injured employees or coverage files to internal and external customers;
- Receives and updates claims information from source documents;
- Processes claims information received from EDI transactions and provides EDI customer service to insurance carriers/trading partners; and
- Receives and processes required forms (DWC Form-005 and DWC Form-007) submitted by employers that do not have workers' compensation coverage (i.e., non-subscribers).

Hearings

The Deputy Commissioner for Hearings oversees various dispute resolution processes. Hearings provides a dispute resolution process to resolve indemnity disputes as well as handle appeals of certain medical necessity and fee disputes between injured employees or their beneficiaries, insurance carriers, sub-claimants, employers and health care providers. It is the goal of TDI-DWC to resolve disputed issues at the lowest level of dispute resolution, thereby ensuring prompt medical care and payment of workers' compensation income benefits to injured employees and prompt payment of medical fees to health care providers.

Hearings provides indemnity dispute resolution for benefit disputes regarding compensability or eligibility for, or the amount of, income, death, or burial benefits. The multi-tiered administrative

system for indemnity benefit dispute resolution consists of Benefit Review Conferences (BRC), Contested Case Hearings (CCH), and Appeals Panel reviews.

BRCs and CCHs are held at TDI-DWC field offices throughout the state, and Appeals Panel reviews are conducted at TDI-DWC headquarters in Austin. If a party disagrees with the Appeals Panel decision, the decision may be appealed to a court of law. Review by the court of TDI-DWC dispute resolution decisions is on a modified de novo basis.

In addition to resolving indemnity disputes on individual claims, Hearings also conducts Medical Contested Case Hearings (MCCH) as an appeal process for resolving certain medical fee disputes and medical necessity disputes (i.e., appeal of an Independent Review Organization or IRO decision) for non-network claims. Texas Labor Code, Section 413.031 allows a party to appeal all IRO decisions regarding prospective (i.e., pre-authorization) or concurrent denials of medical necessity by requesting an MCCH. Additionally, a party may appeal medical decisions to an MCCH if the amount of the dispute does not exceed \$2,000 for medical fee disputes and \$3,000 for retrospective medical necessity disputes. All other retrospective medical necessity and medical fee dispute appeals for non-network claims are handled by the State Office of Administrative Hearings (SOAH). Parties dissatisfied with a CCH or SOAH hearing officer's decision may appeal to a court of law. Review by the court is based on substantial evidence.

Per Insurance Code, Chapter 1305, the appeal process for health care provided in certified health care networks is different than the appeal process for non-network health care. Fee disputes between network health care providers and insurance carriers are resolved contractually and appeals are handled internally by the networks. Parties who remain dissatisfied with the results of IRO decisions regarding network claims (prospective, concurrent and retrospective medical necessity denials) may appeal those decisions directly to court under a de novo standard of review.

Health Care Management and System Monitoring

The Executive Deputy Commissioner for Health Care Management and System Monitoring provides guidance and support in the areas of Health Care Policy and Implementation, Health Care Business Management, System Monitoring and Oversight, Outreach and Workplace Safety, and Return-to-Work.

Health Care Policy and Implementation researches and analyzes economic factors and treatment protocols that form the basis for advising the Commissioner of Workers' Compensation regarding development of medical rules and fee, treatment, and return-to-work guidelines. This program area's primary purpose through rule and guideline development is to help ensure the quality and appropriateness of health care and injury-specific treatment while also achieving effective medical cost containment and encouraging the prompt and appropriate return to work of injured employees. In developing or revising these rules and guidelines, Health Care Policy and Implementation may seek input from system stakeholders and system participants.

Health Care Business Management provides support and regulates and facilitates activities in the areas of Information Management, Health Care Quality Review, and Medical Fee Dispute Resolution (MFDR).

- **Information Management** maintains the processes for retrieval of the data into useable formats for various reports based on requests from internal and external customers.
- **Health Care Quality Review** supports the functional operation of the Medical Advisor and 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.
- **Medical Fee Dispute Resolution** processes and resolves disputes related primarily to the reimbursement of non-network health care services. MFDR staff are the point of intake for all requests, calls, and documentation regarding non-network medical fee disputes as well as auditing and resolving medical fee disputes.

System Monitoring and Oversight is responsible for monitoring system compliance by analyzing system data, identifying non-compliance, making referrals to Enforcement, and administering the Performance-Based Oversight (PBO) program.

- **Monitoring and Analysis** oversees the PBO program, reviews internal data for compliance issues, and makes outreach calls to system participants regarding compliance and potential compliance issues.
- **Complaint Resolution** intervenes in complaints, resulting in thousands of dollars of additional claims payments to system participants each year.
- **Audits and Investigations** conducts audits on system participants who are deemed poor performers as a result of PBO assessments and investigates and prepares cases for enforcement action.

Outreach and Workplace Safety combines two formerly separate program areas.

- **Outreach** provides internal and external training on medical benefits as well as outreach efforts to encourage non-participating health care providers to become involved in the Texas workers' compensation system, and coordinates speaking engagements. Outreach also coordinates TDI-DWC educational and safety conferences and provides services to external customers through Comp Connection for Health Care Providers, an educational outreach program that provides a toll-free telephone number and e-mail address for health care providers to make inquiries about workers' compensation rules, policies and procedures, including questions about billing and dispute resolution.
- **Workplace Safety** provides Texas employers and employees with health and safety resources and services to prevent occupational injuries and illnesses through the following activities: Federal Data Collection, Occupational Safety and Health Consultation (OSHCON), and Safety Training and Inspections. Services administered by Workplace Safety include:
 - **Federal Data Collection Program** collects, analyzes, and distributes occupational injury, illness, and fatality information for the state of Texas. Data collection programs include the Bureau of Labor Statistics (BLS) Survey of Occupational Injuries and Illnesses, the BLS Census of Fatal Occupational Injuries, and the annual Occupational Safety and Health Administration (OSHA) Data Initiative. These collection programs are funded in part or wholly through grants from BLS and OSHA. This program also analyzes workers' compensation claims data to determine causes of injury and illness.
 - **Occupational Safety and Health Consultation (OSHCON) Program** provides free assistance to employers with 250 or fewer employees on site and no more than 500 nationwide in high-hazard industries to help them understand and comply with federal OSHA safety regulations. Limited assistance is available to larger employers. The program is largely funded by a grant from OSHA, but is non-regulatory in nature. The program also maintains a free safety and health training video/DVD loan library which houses over 7,200 safety training materials.
 - **Safety Training and Inspections** consists of four programs that administer its services.
 - Safety Training Program** educates employees and employers across the state about safe and healthy work practices through on-site company training, regional seminars, an annual statewide safety conference, safety and health publications, and other forms of outreach.
 - Accident Prevention Services Program** inspects insurance companies that write workers' compensation in Texas to ensure that they are providing required accident prevention services to their policyholders.
 - Rejected Risk (RR) Program** works with companies needing safety and health assistance as identified by the Texas Mutual Insurance Company. Inspections of these employers are conducted to confirm implementation of effective accident prevention plans.
 - Safety Violations Hotline** is a tool for Texans to report violations of occupational safety and health laws. This 24-hour, bilingual, toll-free hotline (800-452-9595) can be used by anyone wishing to report suspected violations.

Return-to-Work provides internal and external training on return-to-work and administers the Return-to-Work Program for Small Employers, including the intake and processing of applications for reimbursement for workplace modifications that facilitate an employee's return to work. In addition, Return-to-Work maintains a list of private providers of vocational rehabilitation as a resource for insurance carriers and injured employees.

In addition to the TDI-DWC major program areas discussed above, the following agency programs provide essential services to TDI-DWC.

Workers' Compensation Counsel provides services to TDI-DWC in the areas of rulemaking, open records, and specific legal issue support to the program areas. Workers' Compensation Counsel

operates under the direction of the Commissioner of Workers' Compensation through the TDI Senior Associate Commissioner for Legal and Regulatory Affairs.

Enforcement investigates alleged violations of the Texas Labor Code and agency rules, issues notices of violation, and pursues enforcement actions according to priorities set by the Commissioner of Workers' Compensation. The Workers' Compensation Enforcement team operates under the direction of the Commissioner of Workers' Compensation through the TDI Associate Commissioner for Enforcement.

Workers' Compensation Research and Evaluation Group (REG) conducts research projects on system-wide issues such as medical costs and utilization and care trends in Texas, return-to-work outcomes for injured Texas workers and employer participation in the Texas workers' compensation system. The REG also presents findings and provides testimony for various legislative committees and produces an annual report card for certified workers' compensation health care networks and political subdivisions. In December 2008, the REG was attached organizationally to TDI-DWC. The Director of the REG now reports to the Special Deputy Commissioner for Policy and Research; however, the Commissioner of Insurance still reviews and adopts the REG's annual research agenda in accordance with Section 405.0026, Labor Code.

Highlights

Major workers' compensation legislation passed by the 81st Texas Legislature (2009).

HB 1058

Extends death benefits to non-dependent parents who do not receive burial benefits, and clarifies that a failure to file a claim for death benefits in the time required bars the claim unless "good cause" exists for the failure to file a claim under this section. Previously, the standard for failing to file for these benefits within the statutory timeframe required a "compelling reason." Effective September 1, 2009.

HB 2547

Allows a treating doctor to request job description information from an injured employee's employer and requires the Commissioner of Workers' Compensation to prescribe a form to be used to identify the scope and functions the worker performed prior to the injury as well as a contact person for the employer. Effective September 1, 2009.

HB 3625

Changes the timeframe for an insurance carrier to respond to a request for preauthorization from three calendar days to three working days. Applies to a request for preauthorization that occurs on or after September 1, 2009.

HB 4290

Makes conforming changes to the definition of "retrospective review" in the Labor Code and Chapter 1305, Insurance Code. Clarifies that an IRO may review disputes regarding retrospective medical necessity denials for group health plans the same way that IROs review these disputes currently for workers' compensation. Also clarifies that IROs may review issues relating to whether a health care procedure is "investigational" or "experimental" in nature. Effective September 1, 2009.

HB 4545

Changes the timeframe for a party to dispute a decision by TDI-DWC's Appeals Panel to district court from 40 days to essentially 50 days from the date the decision was filed with the TDI-DWC. The actual language in the bill requires a request for judicial review to be filed no later than 45 days from the date the decision was mailed by the TDI-DWC to the parties. However, additional language deems the decision to be mailed no later than 5 days from the date the decision was filed with the TDI-DWC, giving a party up to 50 days, rather than 40 days to seek judicial review. Applies to a request for judicial review that occurs on or after September 1, 2009.

SB 1814

Contains several provisions relating to return-to-work reimbursements for Texas employers and return-to-work coordination services, including:

- Makes permanent a pilot program that was created by HB 7, 79th Legislature, Regular Session, 2005, that allowed small employers to be reimbursed up to \$2,500 annually for making workplace modifications to help return an injured employee to work. SB 1814 increases those reimbursements to up to \$5,000 annually and allows the Commissioner of Workers' Compensation to ex-

tend these reimbursements to other categories of employers and authorize advances as needed.

- Clarifies an insurance carrier's statutory responsibility to provide return-to-work coordination services on an ongoing basis when an employer's injured employee begins to lose time away from work, and requires insurance carriers to notify their policyholders regarding the availability of the TDI-DWC employer return-to-work reimbursement program. Effective immediately upon signature of the Governor on June 19, 2009.

HB 673

Contains several provisions relating to the operations of the Office of Injured Employee Counsel (OIEC):

- Allows OIEC staff to refuse to provide services or to terminate services to injured employees who are abusive or violent or threaten an employee of OIEC.
- Clarifies OIEC's authority to assist injured employees before TDI-DWC or SOAH in administrative dispute proceedings and in enforcement actions against injured employees.
- Authorizes the OIEC Public Counsel to adopt, after consultation with the Commissioner of Workers' Compensation, the injured workers' rights and responsibilities, which will continue to be distributed by TDI-DWC.
- Clarifies OIEC's access to confidential information for the performance of statutory duties. It restricts OIEC's access to TDI-DWC investigation files and any other information which injured employees would otherwise not be entitled to obtain on their own while assisting injured employees in an enforcement action against the injured employee. Effective September 1, 2009.

Rulemaking

- Death Benefits: Amended rules to address statutory amendments to Labor Code §408.182 enacted by HB 1058, 81st Texas Legislature (2009) that changes the definition of "eligible parent", provides a "good cause" standard for an eligible parent's failure to timely file a claim and specifies that total payment of death benefits to all eligible parents may not exceed 104 weeks. Adopted February 26, 2010 (28 Texas Administrative Code (TAC) §§122.100, 132.6, 132.11 and Texas Labor Code §408.182), effective date March 22, 2010.
- Injured Employee Rights and Responsibilities: Amended rule to address statutory amendments enacted by HB 673, 81st Texas Legislature (2009) that authorizes the OIEC to adopt the notice of injured employee rights and responsibilities. Adopted February 26, 2010 (28 TAC §120.2 and Texas Labor Code §404.109), effective March 22, 2010.
- Return-to-Work Reimbursement: Amended rules make the return-to-work "pilot" a permanent program pursuant to SB 1814, 81st Texas Legislature (2009). Adopted April 5, 2010 (28 TAC §§137.42, 137.44, 137.46 and 137.49 and Texas Labor Code §413.022), effective April 25, 2010.
- Subsequent Injury Fund: Administrative changes to implement SB 1169, 80th Texas Legislature (2007). Addresses the issue of reimbursement to workers' compensation insurance carriers if a Designated Doctor opinion is reversed and for death benefits based on multiple employments. Adopted December 17, 2009 (28 TAC §§ 116.11 and 116.12 and Texas Labor Code §408.0041(f-1) and §408.043(g)), effective date January 7, 2010.
- Appeals Panel: Rule changes to implement HB 7, 79th Texas Legislature, Regular Session (2005) and HB 4545, 81st Texas Legislature (2009) which relate to the timeline for filing a judicial review of a panel decision. Extends the time for issuing an Appeals Panel decision by 15 days. Extends the time for filing an appeal to 45 days after an Appeals Panel decision is mailed to the party. Adopted November 19, 2009 (28 TAC §§143.2 –143.5 and Texas Labor Code §§410.201, 410.203, 410.204 and 410.252), effective date December 24, 2009.
- Benefit Review Conference: Addresses HB 7, 79th Texas Legislature, Regular Session (2005) provisions by providing guidelines regarding the type of information a requesting party needs to provide to TDI-DWC and the documented efforts the parties need to make to resolve the disputed issues before a BRC request is submitted to TDI-DWC. Adopted August 6, 2010 with an effective date of October 1, 2010. (28 TAC §§141.1, 141.2, 141.4 and 141.7 and Texas Labor Code §410.007).
- Repeal of Hazardous Employer and Drug Free Workplace Program: This rule action removed rules related to programs for which statutory authority was repealed by HB 7, 79th Texas Legislature, Regular Session (2005). Adopted October 1, 2009 (28 TAC §§169.1, 169.2, 164.1-164.18 and Texas Labor Code Chapter 411, Subchapter D and Subchapter G), effective date November 20, 2009).
- Pharmacy Closed Formulary: The Pharmacy closed formulary rule implements the requirements

of HB 7, 79th Texas Legislature, Regular Session (2005). The proposed rule was posted in the *Texas Register* for formal comment on July 16, 2010 and a public hearing was held on August 16, 2010. (28 TAC §§134.500, 134.506-134.511, 133.306 and Texas Labor Code §408.028(b)).

- **Monitoring and Enforcement:** Updates TDI-DWC rules to implement the provisions of HB 7, 79th Texas Legislature, Regular Session (2005); and HB 34, HB 1003, HB 1006, and HB 2004, 80th Texas Legislature (2007). Eliminates the Approved Doctors List and related licensing requirements for doctors treating injured workers to implement HB 7 and other subsequent legislation. The rule was posted in the *Texas Register* for formal comment on August, 23, 2010 and updates many corresponding enforcement rules. (28 TAC §§180.1-180.3, 180.5, 180.8, 180.10, 180.20, 180.22, 180.24-180.30. Repealed §§180.6, 180.7, 180.10-180.18, and 180.20-180.26. Texas Labor Code §§401.011, 401.021, 402.001, 402.00128, 402.023, 402.0235, 402.061, 402.072, 402.075, 408.021, 408.023, 408.0231, 408.0041, 408.0043-408.0046, 408.0231, 408.1225, 413.002, 413.011, 413.017, 413.021-413.022, 413.0035-413.0036, 413.041, 413.0512, 413.052, 414.002-005, 414.007, 415.001-415.0036, and 504.053).
- **Electronic Medical Billing (eBill):** These rules will be proposed in order to more fully implement the provisions of HB 7, 79th Texas Legislature, Regular Session (2005). The rules would provide for paper medical billing, medical documentation, and electronic medical billing requirements. Amended rules will also reference HIPPA standards adopted by the Secretary of the Department of Health and Human Services. Stakeholder (work group) committee met April 15 and May 10, 2010 for input on the informal working draft. (28 TAC §§133.2, 133.10, 133.210, 133.500-133.502, 134.120 and Texas Labor Code §413.011).
- **Designated Doctor Requests and General Procedures:** Rule amendments to address revisions to Designated Doctor requests and procedures. The rule was posted in the *Texas Register* for formal comment on July 16, 2010 and a public hearing was held on August 17, 2010. (28 TAC §§126.7, 127.1, 127.5, 127.10, 127.15, 127.20, and 127.25 and Texas Labor Code §408.0041).
- **Designated Doctor Testing, Training and Other Issues:** Rule amendments will address revisions to doctor training requirements regarding maximum medical improvement (MMI), impairment ratings (IR), and Designated Doctor training. Rules will also address Americans with Disabilities (ADA) requirements. (28 TAC §§180.21, 180.23 and Texas Labor Code §408.1225).
- **Medical State Reporting:** Repeal existing rule and add new rules to include data element requirements for medical data interchange to the TDI-DWC. (28 TAC New §§ 134.800, 134.801, 134.803-134.807, amended 134.802 and Texas Labor Code §413.007 and §413.008).
- **Case Management:** Addresses HB 7, 79th Texas Legislature, Regular Session (2005) and SB 1814, 81st Texas Legislature (2009), provisions by establishing criteria for what constitutes “appropriate licensure and/or certification” for case managers dealing with non-network claims. (28 TAC §137.5 and Texas Labor Code §401.011(5-a) and §413.021).
- **American Medical Association (AMA) *Guides to the Evaluation of Permanent Impairment*:** The rule is being reviewed to gather information regarding the impact of the 4th, 5th and 6th editions of the American Medical Association (AMA) *Guides to the Evaluation of Permanent Impairment* on the Texas Workers’ Compensation system. (28 TAC §130.1 and Texas Labor Code §408.124).
- **Pharmacy Fee Guideline:** In accordance with HB 7, 79th Texas Legislature, Regular Session (2005) changes, this rule will address reimbursement rates for pharmaceuticals. (28 TAC §134.503 and Texas Labor Code §408.028(f)).

Joint TDI/TDI-DWC Rulemaking Projects

- **Independent Review Organization (IRO):** Implements HB 4519, 81st Texas Legislature, which amends the Insurance Code to require the Insurance Commissioner to adopt standards and rules that impose certain restrictions and prohibitions on independent review organizations. Amends 28 TAC Chapter 12 to reflect legislative changes and updates procedural functions.
- **Utilization Review Agent (URA):** Implements HB 4290, 81st Texas Legislature, which amends the Insurance Code and Labor Code relating to retrospective utilization review and utilization review to determine the experimental or investigational nature of a health care service. Amends 28 TAC §19 et. seq. for both group health and workers’ compensation sections. Developed in part with assistance from the URA Advisory Committee.

Quality Medical Care

- **New Medical Advisor, Dr. Donald Patrick,** joined the Division of Workers’ Compensation in July 2010.

- A Request for Qualification was posted to seek qualified individuals interested in providing professional services as members of the Medical Quality Review Panel under a contract with TDI.
- Communicated with medical associations and local societies to recruit treating and referral doctors, and resolve health care provider issues.
- Completed 100 quality of care reviews based on complaints or audits of health care providers, Designated Doctors, peer review doctors, IRO doctors, utilization review agents, and insurance carriers.

Medical Fee Dispute Resolution (MFDR)

- Provided education on rules and statutes to both the requesters and respondents involved in fee disputes. MFDR provides fee dispute resolution services to health care providers, insurance carriers, injured employees, and sub-claimants who are in dispute over the reimbursement for compensable and medically necessary non-network health care already provided. This type of low-level dispute resolution resulted in requester withdrawal in nearly 40% of disputes closed.
- Audit staff worked with other program areas such as Health and Workers' Compensation Networks (HWCN), Hearings, and System Monitoring and Oversight to refer disputes received in MFDR that have unresolved medical necessity, compensability, and certified health care network issues. Education provided to system participants has significantly decreased the number of referrals to other program areas.
- MFDR started to work with System Monitoring and Oversight in February 2009 to assist in the review of inappropriate denials and to provide complainants with education on the dispute resolution process, as appropriate. MFDR has assisted with over 100 complaints.

Hearings

- Continued to update the *Appeals Panel Decision Manual* with current legal precedents. The manual is posted on the TDI-DWC website.
- Published the *Medical Contested Case Hearing Precedent Manual* for TDI-DWC hearing officers and system participants.
- Improved docketing practices, resulting in BRCs and CCHs being scheduled in less time than provided by rule and statute.
- Processed over 1,300 medical fee disputes that also have compensability/liability issues. These disputes were referred to Hearings from MFDR.
- A new joint Hearings/Field Office process for approving Letters of Clarification improved performance in timely filing of Decisions and Orders.
- Developed rules for benefit review conference and Appeals Panel processes.
- Established a new process for handling expedited proceedings.

Audit, Complaints and Compliance

- Handled more than 6,000 complaints, resulting in the return of over \$850,000 to system participants.
- Issued more than 775 warning letters to system participants and referred more than 600 violations to TDI's Enforcement Division.
- Concentrated compliance efforts based on the following priorities established by the Commissioner of Workers' Compensation:
 - Failure to comply with Commissioner's Orders;
 - Failure to respond to TDI-DWC inquiries;
 - Failure to respond to data calls;
 - Failure to provide an IRO with all the documentation the carrier used in making a determination to be reviewed by that IRO;
 - Failure of Designated Doctors to comply with requisite statutory and regulatory duties;
 - Cases involving the provision of unreasonable health care or substandard care to injured employees and the inappropriate denial of health care by insurance carriers; and
 - Improper denial of claims.
- Completed 70 Performance Reviews (Audits) on health care providers and insurance carriers.
- Conducted quarterly insurance carrier meetings to discuss emergent and ongoing compliance concerns.
- Sent over 1,000 letters to potential non-subscribing employers that failed to file the DWC Form-005, *Employer's Notice of No Coverage or Termination of Coverage*, inquiring about their coverage status. As a result, 198 non-subscribing employers came into compliance and filed the required form.

- Sent over 700 letters to non-subscribing employers that had not filed the DWC Form-007, *Non-Covered Employers Report of Occupational Injury and Illness*, inquiring about whether they had reportable occupational injuries or illnesses. As a result, 255 non-subscribing employers came into compliance and filed the required form.

Performance-Based Oversight (PBO)

- Held stakeholder meetings between January and May 2010 to receive input on the PBO assessments.
- Revised PBO procedures to perform insurance carrier assessments during even-numbered years and health care provider assessments during odd-numbered years.
- In June 2010, notified selected health care providers of the 2011 PBO assessment.
- In July 2010, initiated the insurance carrier assessment.

External Communications and Outreach

- Held four Workers' Compensation Educational Conferences:
 - September 14-16, 2009 - Austin
 - October 26-28, 2009 - Dallas
 - July 26-28, 2010 - Austin
 - August 2- 4, 2010 - Dallas
- Conducted 33 basic workers' compensation educational events and seminars in partnership with several Small Business Development Centers, businesses and other organizations. Training geared toward either medical office staff or employers was provided to 1,063 people at these events.
- Provided updates to medical associations regarding rule development, public information announcements, and notification of training and other events. The goal is to keep health care providers in the system by providing prompt resolution of questions about such subjects as billing and reimbursement.
- Through the Comp Connection for Health Care Providers help line, provided answers and resources for over 5,563 questions or issues related to billing, fee disputes, compensability, extent of injury, pre-authorization, fee guidelines, denials, workers' compensation rules, policies, and compliance. Also provided answers to 1,309 questions received via e-mail.
- Engaged in outreach to 72 health care provider practices and groups to explore successful business practices and barriers to participation in the workers' compensation system. During these outreach activities, consultation, onsite training or web meetings were provided to assist the providers in understanding their role and working successfully in the workers' compensation system.
- Provided training to 664 doctors during four Approved Designated Doctor and Impairment Rating courses.
- TDI-DWC field offices and the central office hosted 72 Brown Bag seminars for stakeholders. These seminars covered topics such as: Building a Workers' Compensation Compliance Strategy; Title II: Americans with Disabilities Act and Comp Connection for Health Care Providers; and TDI-DWC and OIEC: Who We Are and What We Do. The seminars were attended by a total of 812 people.
- Provided customer assistance to 270,315 system participants through the virtual call center.
- Provided customer assistance to 35,123 injured employees through their Single Point of Contact in the field offices.
- Provided face-to-face customer service to 11,174 injured employees as walk-in customers at 24 field office locations across the state.

Workplace Safety

- Conducted 2,432 OSHCON consultations with employers.
- Audited 23 insurance groups representing 140 insurance companies for compliance with provision of required loss control services. Conducted onsite safety visits with 257 policyholders during the course of these audits.
- Processed 66 cases through the Safety Violations Hotline, eliminating 175 safety and health hazards in workplaces.
- Provided safety and health educational products and services to 41,054 employers and 101,017 employees, including:
 - Nine Regional Safety Summits across the state that provided information to target industries on preventing the leading types of non-fatal occupational injuries (sprain and strain), the lead-

- ing causes of fatal injuries (transportation-related incidents), OSHA recordkeeping, and accident investigation;
- Eight OSHA 10-Hour Construction Seminars in either English or Spanish; and
- The 14th Annual Health and Safety Conference, the Texas Safety Summit, in May 2010 in Austin.
- Upgraded the Resource Center Library by adding thousands of new and frequently used titles in DVD format to augment the VHS collection. Over 7,200 audiovisual safety training materials are now available for Texas employers and employees to check out for free.
- Maintained an online library of safety and health publications, which were accessed from the web site 2,218,618 times.
- Published CY 2008 non-fatal occupational injury and illness incidence rates and CY 2009 preliminary fatality data for Texas through the Bureau of Labor Statistics (BLS) data collection programs.
- Received recognition from the BLS for internal data refinement processes, which will be used by BLS as a model for other states.
- Received national recognition from OSHA for overall performance and data quality during the 2008 OSHA Data Initiative data collection completed in FY 2010.
- OSHCON staff participated in a roundtable discussion and exhibited at the first National Action Summit for Latino Worker Health & Safety in Houston, which was co-sponsored by OSHA and the National Institute for Occupational Safety and Health (NIOSH) in partnership with the National Institute of Environmental Health Sciences.
- The OSHA Region VI office recognized several OSHCON staff at the Annual Onsite Conference in April 2010 for outstanding work with the Safety and Health Achievement Recognition Program (SHARP) and involvement in the development of the new OSHA Information System (OIS).
- The OSHCON Program continued to participate in several regional oil and gas safety networks.

Return-to-Work (RTW)

- Changes made to expand the Return-to-Work Reimbursement Program by SB 1814 (81st Texas Legislature, 2009) increased the maximum amount reimbursable from \$2,500 to \$5,000.
- Received four employer applications for reimbursement from the RTW Reimbursement Program (one employer applied for two reimbursements, one employer withdrew the application, and one employer did not meet the eligibility requirements). The eligible employer received reimbursements in the amount of \$1,098.
- Continued to distribute the brochure titled *Working Works*, which contains information about the value of injured employees' early and medically appropriate return-to-work. It also includes contact information for the Department of Assistive and Rehabilitative Services (DARS), the Texas Workforce Commission, OIEC, 2-1-1 Texas, and TDI-DWC. The brochure is available in English and Spanish.
- Distributed 11,876 copies of the RTW guide for employers entitled *Making Return-to-Work Work for Your Business and Your Employees*. The guides were distributed to employers at RTW speaking engagements and as a follow-up to small employers receiving OSHCON consultations. The guide and other RTW information on the TDI-DWC web site were accessed 85,287 times. Fifty-seven RTW presentations were made to employers, reaching approximately 6,300 people.
- RTW continued to be a featured item on the agenda for all Texas Business Conferences sponsored by Texas Workforce Commission locations across Texas.
- Assisted DARS liaison in the development of workers' compensation training materials for DARS staff.
- Conducted internal training for field office managers regarding the RTW Reimbursement Program and the new DWC Form-074.
- Conducted RTW training at the Texas Safety Summit and 2010 Workers' Compensation Educational Conferences.

Self-Insurance Regulation

- Certified Self-Insurers (CSI) account for 16.86% of the market share based on total written premium for workers' compensation in Texas.
- As of August 31, 2010, there were 43 active Certified Self-Insurers covering 218 companies that employ 275,050 employees.

- Security deposits total \$608,105,691 (includes both active and withdrawn companies) and consist of \$259,100,000 in Letters of Credit, \$275,865,691 in Surety Bonds, \$11,140,000 in cash, and \$62,000,000 in negotiable securities.
- There are fifty-one withdrawn Certified Self-Insurers which includes two impaired employers and one non-renewal. All of these companies continue to be monitored by TDI-DWC.
- During fiscal year 2010, there were two companies that withdrew from the self-insurance program, and there were no new additions.
- During four quarterly Texas Certified Self-Insurer Guaranty Association public meetings, Self-Insurance Regulation presented the following items to the Board for action: one Initial Application (to be effective September 14, 2010), one Withdrawal Plan, 47 Renewal Applications, 49 Status Reports on Withdrawn CSIs, and eight Requests for Security Deposit Reduction.
- As of August 31, 2010, \$1,362,805 in regulatory fees have been collected along with \$2,056,854 in maintenance taxes, \$16,126 in research maintenance taxes and a \$1,000 initial application fee, totaling \$3,436,785.
- Twenty-nine on-site safety program inspections were completed and approved.
- One on-site Reserve Examination was conducted on a Certified Self-Insurer.

Field Operations

- Processed requests for approximately:
 - 55,800 Designated Doctor examinations
 - 25,000 BRCs
 - 15,600 required medical examinations
 - 15,000 change of treating doctor
- Automated production of three high-volume official action determinations and the tracking system for the selection of Designated Doctors, allowing for better documentation and easier management of process and work production.

Workers' Compensation Research and Evaluation Group

- Completed four research projects and posted results to the TDI website:
 - Annual return-to-work rates using employee wage data obtained from the Texas Workforce Commission
 - Preliminary Analysis of the Impact of the ODG Treatment Guidelines
 - First Access to Medical Care study
 - Third Network Report Card
- Presented current research findings to the TDI-DWC Educational conferences in Austin and Dallas.
- Presented current research findings to the TDI-DWC quarterly insurance carrier public meetings.
- Presented current research findings to the Texas Medical Association; insurance carriers; and labor union representatives.
- Presented third Network Report Card results to six networks.
- Collaborated with TDI-DWC on planning and methods for designated doctor/AMA guide projects.
- Provided data/statistical support for TDI-DWC pharmaceutical reviews, insurance carrier audits and testimony at legislative hearings.
- Provided data/statistical support for TDI-DWC (Business and Industry Committee/ Judiciary and Civil Jurisprudence, and the Senate State Affairs committee).
- Measured the participation of employers in workers' compensation networks.
- Completed two network data calls and two injured workers' surveys in support of the fourth network report card.
- Worked with Property and Casualty staff to determine feasibility of estimating any Entergy Decision savings.
- Worked with TDI-DWC on Medical State Reporting rule.

Workers' Compensation Health Care Networks

- There were 30 certified workers' compensation health care networks as of August 31, 2010.
- Networks are available in 249 (out of 254) counties in the state.
- Network report cards were completed by the WCREG in September 2007, 2008, and 2009. The report card results are available on the TDI website.

- Quality of care examinations by the Health and Workers' Compensation Network Certification and Quality Assurance (HWCN) program area began in January 2008, and will continue on an ongoing basis.
- Section 504.053, Labor Code allows political subdivisions the option to use certified health care networks, provide health care as non-network claims, or choose to directly contract with health care providers. As of August 31, 2010 TDI has identified several political subdivisions/intergovernmental risk pools (approximately eight) that have chosen to directly contract with health care providers.

Process Improvement

- Conducted Records Review Project with program areas which will serve as a basis to update the TDI-DWC records retention schedule and document paper flow through TDI-DWC.
- Worked with Health Care Quality Management, Enforcement and System Monitoring and Oversight to refine tracking processes for health care quality reviews and TDI-DWC enforcement outcomes.
- Created and implemented a scheduling and rotation tracking database for the Designated Doctor Scheduling section.
- Created an Operations Support Section that consolidated several important operational functions, including customer maintenance of TDI-DWC's enterprise-wide TXCOMP and COMPASS claims systems, internal and external communications development and routing, business process improvement activities and automation development and planning.
- Initiated a review of Designated Doctor examination locations to ensure that locations for injured employee examinations are clean, safe and accessible.
- Implemented a Customer Satisfaction Program to solicit feedback from external customers regarding the quality of services provided by TDI-DWC staff.
- Completed design documents and began programming of various sub-modules of the TDI-DWC Legacy System Rewrite, including Old Law Claims Management, Attorney Fee Processing System and online submission of the DWC Form-005 Employer's Notice of No Coverage or Termination of Coverage for non-subscribers.

Sunset Review

TDI-DWC is currently under Sunset review. The Sunset Advisory Commission met in July of 2010 and adopted the following recommendations to present to the 2011 Legislature.

Issue 1: The Division's Complicated Dispute Resolution Process Often Fails to Provide a Quicker, More Accessible Alternative to the Courts.

- 1.1 Require parties to a dispute to prove preparedness as a prerequisite to a Benefit Review Conference.
- 1.2 Require parties to a non-network medical fee dispute to attempt a low-level mediation, through a Benefit Review Conference, before appealing to the Contested Case Hearing level.
- 1.3 Establish an administrative appeal mechanism for network medical necessity disputes.
- 1.4 Resolve medical disputes by holding all medical necessity hearings before the Division and all fee dispute hearings before SOAH.
- 1.5 Authorize the Division's Appeals Panel to issue written affirmations in limited circumstances.
- 1.8 The Division should require a review of all Contested Case Hearing decisions to ensure consistency amongst field office staff.

Issue 2: The Division's Medical Quality Review Process Needs Improvement to Ensure Thorough and Fair Oversight of Workers' Compensation Medical Care.

- 2.1 Require the Division to develop guidelines to strengthen the medical quality review process criteria to further improve the medical quality review process.
- 2.2 Establish the Quality Assurance Panel (QAP) in statute.
- 2.3 Improve the medical quality review process by clarifying the QAP's involvement.
- 2.4 Require the Division to develop additional qualification and training requirements for Medical Quality Review Panel (MQRP) members.
- 2.5 Require the Division to work with health licensing boards to expand the pool of MQRP members.

Issue 3: The Division Cannot Always Take Timely and Efficient Enforcement Actions to Protect Workers' Compensation System Participants.

- 3.1 Clarify that the Division can conduct announced and unannounced inspections.
- 3.2 Authorize DWC to refuse to renew Designated Doctor certifications.
- 3.3 Authorize the Commissioner to issue emergency cease-and-desist orders.
- 3.4 Specify that the judicial review standard for appeals of DWC enforcement cases is substantial evidence.
- 3.5 Authorize the Commissioner to make final decisions on enforcement cases involving monetary penalties.
- 3.6 Remove outdated and confusing enforcement provisions in the Labor Code.

Issue 4: The Division's Oversight of Designated Doctors Does Not Effectively Ensure Meaningful Use of Expert Medical Opinions in Dispute Resolution.

- 4.1 Require the Commissioner to develop qualification requirements for Designated Doctors.
- 4.2 Direct the Commissioner to adopt rules requiring Designated Doctors remain with case assignments, unless otherwise authorized.

Issue 5: The Division's Responsibility for Making Some Individual Claims Decisions Conflicts with Its Oversight and Dispute Resolution Duties.

- 5.1 Transfer the responsibility for certain claims decisions from DWC to insurance carriers.
- 5.2 Direct DWC to require insurance carriers to make decisions on certain individual claims.

Issue 6: Employers Outside the Workers' Compensation System Are Failing to Report Information the Legislature Needs to Evaluate the Health of the System.

- 6.1 The Division should closely coordinate with other state agencies to include non-subscription reporting requirements in their print and electronic publications.

Issue 7: Texas Has a Continuing Need for the Division of Workers' Compensation.

- 7.1 Continue the Division of Workers' Compensation for 6 years and retain the agency's separate Sunset date.
- 7.2 Require the Division to develop standard procedures for documenting complaints and for tracking and analyzing complaint data.

The Texas Department of Insurance Division Of Workers' Compensation

September 30, 2010

