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SUBCHAPTER G. Workers' Compensation Insurance **Division 4. Texas Detailed Claim Information Statistical Plan** **28 TAC §5.6601**

1. INTRODUCTION. The Commissioner of Insurance (Commissioner) adopts new Division 4, §5.6601, concerning the Texas Detailed Claim Information Statistical Plan. Section 5.6601 adopts by reference the *Texas Detailed Claim Information Statistical Plan, 2010 Edition* (2010 Statistical Plan), effective September 1, 2010, for insurance companies writing workers' compensation insurance in Texas. The section is adopted with nonsubstantive changes to the proposed text published in the April 30, 2010 issue of the *Texas Register* (34 TexReg 3422).

2. REASONED JUSTIFICATION. The new section and the 2010 Statistical Plan are necessary to provide needed clarification regarding the reporting requirements of certain data fields, eliminate unnecessary and noncritical data elements, add necessary data elements, and to adopt by reference the 2010 Statistical Plan. The 2010 Statistical Plan specifies the detailed claim information (DCI) data that must be submitted to the Department of Insurance (Department) or its statistical agent relating to workers' compensation and employers' liability claims. The 2010 Statistical Plan will not apply to employers certified to self-insure under the Labor Code, Chapter 407, employers who participate in self-insurance groups under the Labor Code, Chapter 407A, and governmental entities, because they are not insurance companies authorized to engage in the business of workers' compensation insurance under the Insurance Code, Chapter 2051, or defined as insurance companies under the Insurance Code, §2053.001(2).

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The Insurance Code §2053.101 authorizes the Commissioner to establish a statistical plan and the Insurance Code §2053.151 requires that the statistical plan be established by rule. This section applies to workers' compensation insurance and includes employers' liability insurance. Whenever the term "workers' compensation" is used in this adoption, the term includes and applies to employers' liability insurance.

Currently, insurance companies writing workers' compensation insurance in Texas must use the statistical plan adopted effective January 1, 1991, and last amended effective January 1, 1997 (1997 Statistical Plan). The 1997 Statistical Plan was adopted under the procedures outlined in Article 5.96 of the Insurance Code. Subsequent changes in the industry, as well as the desire to more closely align the Texas DCI reporting requirements with the DCI reporting requirements of other states, create the need to update the 1997 Statistical Plan. Pursuant to the Insurance Code §2053.151, as amended by Senate Bill (SB) 471, 80th Legislature, Regular Session, effective September 1, 2007, the Commissioner has determined that the update should be adopted by rule under the Administrative Procedure Act, Government Code Chapter 2001, rather than under the Insurance Code Article 5.96. The updated reporting requirements in the 2010 Statistical Plan shall apply to all claims with a Reported to Insurer Date of September 2010 and thereafter. All claims with a Reported to Insurer Date prior to September 2010 shall use the reporting requirements set out in the 1997 Statistical Plan, and those claims shall continue to be reported using the 1997 Statistical Plan up to and including reports due April 30, 2014. The rule text in §5.6601(j)(2) was

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changed from “April, 2014” in the proposal to “April 30, 2014” in this order to clarify that reports due through April 30, 2014 are included.

The 2010 Statistical Plan has been designed to gather information to meet Texas-specific requirements. These requirements differ from those in other states, many of which use a DCI plan created by the National Council on Compensation Insurance, Inc. (NCCI). The NCCI DCI plan is also being updated at this time. The 2010 Statistical Plan is not required to be uniform with the NCCI DCI plan. However, minimizing differences in the plans can promote efficiencies in the Department’s comparison and evaluation of products and costs of products for insurance companies that report in multiple states. The NCCI also serves as the Department’s statistical agent for the collection of Texas DCI data. Thus, the Department has worked with the NCCI so that the 2010 Statistical Plan utilizes most of the same DCI data elements used by the NCCI plan and reduces the number of Texas-specific data elements from the 1997 Statistical Plan from sixteen to six. Providing a more uniform collection of DCI data across states will allow Texas data to be more easily compared with similar data from other states for research purposes by the Department, the Department’s designated statistical agent, and the industry in general.

Conforming DCI data collection across states will improve efficiency for workers’ compensation insurance companies that operate in Texas and other NCCI DCI plan states. It will allow them to consolidate reporting efforts for those states, to more easily monitor their data submissions, and reduce the need for these insurance companies to

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maintain multiple systems for maintaining and reporting DCI data. These efficiencies could impact compliance costs favorably.

The 2010 Statistical Plan eliminates 29 unnecessary data elements required under the NCCI DCI plan and the 1997 Statistical Plan. Nine of these elements are specific to the 1997 Statistical Plan. Thirteen new data elements were added to both the 2010 Statistical Plan and the NCCI's DCI plan. A 14th data element was added to the NCCI DCI plan, but was not included in the 2010 Statistical Plan because it was not consistent with Texas statutory workers' compensation requirements. The 13 new data elements (none of which are Texas-specific) include (1) type of benefit covered by lump sum settlement - impairment income benefits only in Texas; (2) extraordinary loss event indicator; (3) impairment percentage basis code; (4) loss conditions - type of claim, type of loss, type of recovery; (5) previous carrier code; (6) previous claim number; (7) previous policy effective date; (8) previous policy number; (9) previous reported to insurer date; (10) recovery reimbursement code; (11) replacement type code; (12) return to work rate of pay indicator; and (13) total paid medical amount. Additionally, both the NCCI DCI plan and 2010 Statistical Plan modify seven existing data elements, none of which are specific to Texas, including: (1) benefit amount paid (excludes lump-sum settlements); (2) benefit type code (excludes lump-sum settlements); (3) birth year (excludes month and day); (4) hire year (excludes month and day); (5) lump-sum settlement amount (separated from benefit amount paid); (6) record type code (eliminated CIC and revision codes); and (7) report type (to valuation level code).

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Further, the 2010 Statistical Plan will gather comprehensive data for all indemnity claims with a loss value greater than zero. This change is consistent with the NCCI's DCI plan. Under the 1997 Statistical Plan, only claims with incurred losses of \$5,000 or greater were required to be reported. This change will provide enhanced opportunities for research and monitoring of claims below \$5,000, as well as more accurate pricing of statutory and regulatory changes affecting those claims.

The six Texas-specific data elements that are in the 1997 Statistical Plan and that remain in the 2010 Statistical Plan include: (1) Employer Federal Employer Identification Number (FEIN); (2) Employee Social Security Number (SSN); (3) Hospital Costs Amount Paid; (4) Total Payments to Physicians; (5) Date of First Payment; and (6) ZIP Code of Injury Site. The Commissioner has determined that collecting employee SSN and employer FEIN data elements are essential to associate the DCI data with other Division of Workers' Compensation claims data, which enhances the usability of DCI data for research and compliance tracking purposes. Likewise, it is essential to keep certain fields for research purposes, including analyzing claims by geographic region (ZIP Code of injury site). Additionally, the Commissioner has determined that the 2010 Statistical Plan should continue to collect hospital and physician payments broken out for each claim valuation level in the 2010 Statistical Plan, because similar data for these claims by valuation level is not available from other data sources. Further, the Commissioner has determined that collection of the Date of First Payment provides necessary information to the Division of Workers' Compensation for certain benefit types. This data is useful for compliance monitoring and/or for

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conducting the performance based oversight reviews the Division of Workers' compensation is required to conduct for insurance companies.

Originally, the Department had contemplated continuing the requirement that insurance companies report the Employer Standard Industrial Classification (SIC) code as a Texas-specific data element, but as a result of a comment received on the proposed 2010 Statistical Plan, the Department has determined that reporting of the SIC industrial classification code is no longer necessary. The commenter asserted that the federal government is moving away from the use of the SIC codes for employer identification purposes, and requested to have the requirement for inclusion of the SIC code either altered or removed. Previously, the Department had required the code in order to associate new data with old. While the Department has determined that it still has a business need to analyze DCI data by industry classifications, it recognizes that since the last update to the DCI Statistical Plan in 1997, the insurance industry has now transitioned to a new industrial classification system- the North American Industrial Classification System (NAICS), which replaced the older SIC classification system. The Department discussed the possibility of substituting the SIC code with the NAICS code with NCCI and determined that substituting these fields would result in additional programming for both insurance carriers and NCCI, and that this additional programming would postpone the implementation of the Texas DCI Statistical Plan. Consequently, the Department has removed the SIC code field from the Texas DCI Statistical Plan. Using the employer's FEIN, the Department has determined that it can use the Texas DCI data to coordinate with other databases, such as the Division of

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Workers' Compensation claims database, to obtain the NAICS industry classification code associated with an individual claim.

Additionally, the new section clarifies that the Texas uniform insurance policy prescribed by the Commissioner under the Insurance Code §2052.002 provides both workers' compensation insurance coverage and employers' liability insurance coverage. Reporting requirements for both coverages are addressed in the 2010 Statistical Plan.

Finally, because the type and nature of workers' compensation insurance losses are not related to the volume of claims processed by an insurance company, the 2010 Statistical Plan applies to all insurance companies. The new section does not reduce or eliminate the 2010 Statistical Plan reporting requirement for insurance companies whose workers' compensation business falls below a specific minimum premium volume. Such an exclusion or exemption from reporting under the 2010 Statistical Plan could result in a distortion of the DCI data, which would minimize its usefulness for research and/or compliance monitoring purposes. The 1997 Statistical Plan covers all insurance companies writing workers' compensation insurance in Texas. The 2010 Statistical Plan will continue to apply to the same insurance companies that are currently reporting DCI data under the 1997 Statistical Plan. The 2010 Statistical Plan reporting requirements do not apply to employers certified to self-insure under the Labor Code Chapter 407; employers who participate in self-insurance groups under the Labor Code Chapter 407A; and governmental entities, because they are not authorized to engage in the business of workers' compensation insurance under the Insurance Code

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Chapter 2051 or defined as insurance companies under the Insurance Code, §2053.001(2).

Nonsubstantive changes were made to §5.6601(c) to capitalize the first letter of the first word of definitions of terms used in the section to conform to current agency style. None of the changes made to the proposed text materially alter issues raised in the proposal, introduce new subject matter, or affect persons other than those previously on notice.

3. HOW THE SECTION WILL FUNCTION. The new section functions as follows. Section 5.6601(a) sets forth the applicability of the new section. Section 5.6601(a)(1) provides that the section applies to workers' compensation insurance and includes employers' liability insurance. It further provides that whenever the term "workers' compensation" is used in the section, the term includes and applies to employers' liability insurance. Section 5.6601(a)(2) provides that the section applies to each insurance company authorized to write workers' compensation insurance in the State of Texas as that term is defined in the Insurance Code, §2053.001(2). Section 5.6601(a)(2) further specifies that each insurance company is required to report to the Commissioner, or the Commissioner's designated statistical agent, information prescribed by the Commissioner under the Insurance Code, §2053.151, for each workers' compensation insurance claim.

Section 5.6601(b) sets forth the purpose of the new section. Section 5.6601(b)(1) specifies that the purpose of the section is to prescribe the reporting

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requirements for the information and data to be submitted to the Commissioner, or the Commissioner's designated statistical agent, concerning workers' compensation claims pursuant to §2053.151 of the Insurance Code, to ensure that the data collection methodology will yield data necessary for research and medical cost containment efforts. Though employers' liability claims and coverage are not specifically mentioned in §2053.151 of the Insurance Code, employers' liability coverage is part of the workers' compensation policy prescribed by the Commissioner, and must be included in the DCI Statistical Plan reporting requirements. Section 5.6601(b)(2) specifies that the purpose of the section is also to adopt by reference the *Texas Detailed Claim Information Statistical Plan, 2010 Edition*.

Section 5.6601(c) provides definitions for the purposes of the section and the Statistical Plan. Section 5.6601(c)(1) provides that "centrally located" means located in a place with ready access to the insurance company's claims files and detailed claims information. Section 5.6601(c)(2) provides that the terms "insurance company, insurance carrier, insurer, and carrier" have the same meaning as the term "insurance company" which is defined in the Insurance Code, §2053.001(2). Section 5.6601(c)(3) provides that "Jurisdiction state" means the state responsible for the claim. Section 5.6601(c)(4) provides that the term "Statistical Plan" means the *Texas Detailed Claim Information Statistical Plan, 2010 Edition* adopted by reference pursuant to the new section.

Under §5.6601(d), the *Texas Detailed Claim Information Statistical Plan, 2010 Edition* is adopted by the Commissioner by reference, effective September 1, 2010.

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Section 5.6601(d) also specifies that the 2010 Statistical Plan includes the rules, requirements, and examples for reporting detailed claim information for claims with a Reported to Insurer Date of September 1, 2010 and later and provides reporting instructions, a data dictionary, and claim selection and sampling methodologies.

Section 5.6601(e) provides that the 2010 Statistical Plan is published by the Department and is available from the Data Services Division, Mail Code 105-5D, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104 or the Department's website at www.tdi.state.tx.us.

Section 5.6601(f) sets out the reporting requirements. Section 5.6601(f)(1) provides that the 2010 Statistical Plan specifies the requirements for reporting claims data, including (i) criteria for determining which claims to report; (ii) data elements and record layouts for the information that must be reported on each claim; (iii) standards and procedures for categorizing insurance and medical benefits required to be reported on each claim; (iv) information to be used for determining the specific loss valuation levels for each claim, which requires it to be reported; and (v) instructions regarding how and when to report required data on claims.

Section 5.6601(f)(2) requires each insurance company to comply with the reporting requirements of the 2010 Statistical Plan pursuant to the Insurance Code §2053.151. Section 5.6601(f)(2) further requires each insurance company to submit required information and data on each claim to the Commissioner, or the Commissioner's designated statistical agent, no later than three months after the loss valuation dates specified in the 2010 Statistical Plan.

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Section 5.6601(g) sets out which claims are required to be reported. It specifies that a claim's eligibility for reporting is based on an incurred indemnity loss value greater than zero. It further specifies that even if no income benefit payments have been made, but reserves have been set on the claim in anticipation of payment, the claim is still eligible to be reported. Section 5.6601(g) requires the following claims to be reported: (i) death claims; (ii) lifetime income benefit claims (i.e., permanent total disability claims); (iii) other open indemnity claims; and (iv) closed claims selected in accordance with the sampling method outlined in the 2010 Statistical Plan adopted under the new section.

Section 5.6601(h) sets out which claims are excluded from reporting. It specifies that the following claims are not required to be reported: (i) claims where the jurisdiction state is not Texas; (ii) claims in which income benefits have not yet accrued or been paid (i.e., medical only claims); (iii) losses paid to another insurance company because of reinsurance assumed by the reporting insurance company; and (iv) claims that involve benefits payable under federal workers' compensation laws.

Section 5.6601(i) mandates that each insurance company must designate one individual as the carrier coordinator for claims reporting within its organization and provide the coordinator's contact information, including the coordinator's name, working title, mailing address, e-mail address, and telephone number, to the Commissioner, or the Commissioner's designated statistical agent. Section 5.6601(i)(1) requires that the designated carrier coordinator must: (i) be a centrally-located employee of the insurance company who has responsibility for claims, statistical, or data management;

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(ii) receive and appropriately disperse data reporting information received from the Commissioner, or the Commissioner's designated statistical agent; and (iii) serve as central compliance control for data reporting under the 2010 Statistical Plan.

Section 5.6601(i)(2) further requires that an insurance company authorized to write workers' compensation insurance in this state as of the effective date of §5.6601 must provide the coordinator's contact information required by §5.6601(i) to the Commissioner, or the Commissioner's designated statistical agent, no later than September 1, 2010. Section 5.6601(i)(2) also provides that, except as otherwise provided by §5.6601(i), an insurance company that obtains a certificate of authority to write workers' compensation insurance in this state after September 1, 2010, must provide the coordinator's contact information required by §5.6601(i) to the Commissioner, or the Commissioner's designated statistical agent, no later than the 30th day after the insurance company's certificate of authority becomes effective.

Section 5.6601(i)(3) mandates that an insurance company must report any changes to the designated carrier coordinator's contact information to the Commissioner, or the Commissioner's designated statistical agent, not later than 30 days after the effective date of the change.

Section 5.6601(j) sets forth the effective dates of the section and Statistical Plan. Section 5.6601(j)(1) provides that the section is effective on September 1, 2010. Section 5.6601(j)(2) mandates that claims with a Reported to Insurer Date of September 1, 2010, and later must be reported in accordance with the Statistical Plan. It further mandates that claims with a Reported to Insurer Date prior to September 1, 2010, must

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be reported in accordance with the 1997 Statistical Plan (Texas Detailed Claim Information Statistical Plan, effective January 1, 1997).

The 2010 Statistical Plan and 1997 Statistical Plan have been submitted to the Secretary of State with this filing and are also available from the Department website at www.tdi.state.tx.us or the Department's Data Services Division, Mail Code 105-5D, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104.

4. STATUTORY AUTHORITY. The new section and 2010 Statistical Plan are adopted pursuant to the Insurance Code, §§2053.001, 2053.101, 2053.151, and 36.001. Section 2053.001(2) defines "insurance company" as a person authorized to engage in the business of workers' compensation insurance in this state, including: (A) the Texas Mutual Insurance Company; (B) a Lloyd's plan under Chapter 941; and (C) a reciprocal and interinsurance exchange under Chapter 942. Section 2053.101 authorizes the Commissioner to develop and periodically modify reasonable statistical plans for workers' compensation insurance to be used by each insurance company in recording and reporting the insurance company's loss experience and other data required by the Department. Section 2053.151(a) requires the Commissioner to prescribe by rule the information that must be reported on each workers' compensation claim. Section 2053.151(b) requires the Commissioner to establish standards and procedures for categorizing insurance and medical benefits required to be reported on each workers' compensation claim to ensure that the data collection methodology will yield data

necessary for research and medical cost containment efforts. Section 2053.151(c) further requires the Commissioner to establish by rule reporting requirements for insurance companies regarding workers' compensation claims. Section 2053.151(c) also provides that the Commissioner may reduce or eliminate reporting requirements for insurance companies whose workers' compensation insurance business falls below a specific minimum premium volume established by the Commissioner by rule. Section 36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of the Texas Department of Insurance under the Insurance Code and other laws of this state.

5. SUMMARY OF COMMENTS. The Department received several comments:

(1) Texas Unique Data Reporting Elements

Comment: A commenter stated that although they supported the reduction of unique Texas data reporting elements from 16 to seven, the Department and NCCI should continue to look at ways to eliminate Texas unique data elements so that Texas claims data reporting can be consistent with national standards. The commenter asserted that this would reduce the reporting burdens on carriers and provide better information when comparing the Texas market with the national market and other jurisdictions.

Agency Response: The Department appreciates the commenter's support for the reduction of the number of unique Texas data reporting requirements in the proposed 2010 DCI Statistical Plan. The Department made every effort to reduce

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the number of required data elements by identifying unnecessary and noncritical data elements, and considered system participants' costs by not adding any new Texas specific required data elements. Moreover, in response to this comment, the Department removed the Texas specific SIC code requirement, thereby reducing the number of Texas specific data elements to six. The required Texas specific data elements that remain are essential to enhance the usability of the DCI data and to enable the agency to meet its regulatory requirements and business needs which include statutorily required research and compliance monitoring activities.

(2) Claimant Information Elements

Comment: The Department received a comment that, although the need for complete and accurate information is well established, the risks to injured workers with the transmission of Social Security identification numbers may be significant. The commenter requested that the Department and NCCI look into the feasibility of eliminating or reducing the number of times that sensitive identification information is transmitted that may create financial risks for injured workers, employers and carriers. The commenter believed that Texas is unique in requiring the reporting of injured workers' Social Security numbers as a result of the need to associate carrier reported DCI data with DWC data. The commenter suggested that DWC look for ways to eliminate this unique reporting requirement.

Agency Response: The Department agrees with the commenter's concern regarding the confidentiality of Social Security numbers, but has not made a

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change as a result of the comment. Precautions are always taken when confidential information is being handled and that the reporting of injured employees' identifying information, including social security numbers, is consistent with other agency data reporting requirements. Currently, injured employees' social security numbers are being reported to the Department as part of the current DCI Statistical Plan as well as to the Division by various methods. At this time no viable alternative to properly associate DCI data with other Department or Division databases has been identified. In addition to coordinating DCI-DWC data, the SSN is also the key field to coordinate required data from external agencies such as the Department of Assistive and Rehabilitative Services (DARS) and the Texas Workforce Commission (TWC). As a result, the Department has determined that collecting this information remains the most effective method to associate DCI data with other Department or Division data without generating new data reporting requirements, such as requiring the reporting of a Division-assigned claim number. Also, the Department notes that in order to meet the statutory research and compliance monitoring requirements that are unique for Texas, it must be able to obtain required data to meet those business needs.

(3) Employer Information Elements

Comment: The Department received a comment regarding the information employers are required to submit under the 2010 Statistical Plan. Currently, the Department requires Texas carriers to use the employer North American Industrial Classification System (NAICS) code (as opposed to Standardized Industrial

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Classification or SIC code) for the electronic filing of Employer First Report of Injury or Illness (DWC-1) and Supplemental Report of Injury (DWC-6). Consequently the NAICS codes are already in the Texas claim systems for potential claim data reporting. However, the proposed rule requires the carrier to submit the federal employer identification number (FEIN) and SIC code for claims data reporting instead of the NAICS code, which, the commenter claimed, requires extra data retrieval and work. In addition, the commenter asserted that the federal government is moving away from the use of the SIC codes for employer identification purposes, and requested that Texas carriers be allowed to report detailed claim information for employers using the NAICS codes rather than the FEIN and SIC codes. In addition, the commenter did not understand why Texas requires employers to submit the ZIP code of the injury site.

Agency Response: The Department agrees that the NAICS codes, as opposed to SIC codes, are currently being used for other workers' compensation claims reporting with the Department and the Division. The Department discussed the possibility of substituting the SIC code with the NAICS code with NCCI and determined that substituting these fields would result in additional programming for both insurance carriers and NCCI and that this additional programming may postpone the implementation of the Texas DCI Statistical Plan. Consequently, the Department agrees with the comment and will remove the SIC code field from the Texas DCI Statistical Plan. However, the Department clarifies that it still has a business need to analyze Texas DCI claim data by industry and geographic region and declines to eliminate the employer FEIN and zip code of injury site fields in the Texas DCI

Statistical Plan. Specifically, the Department has determined that collecting the employer's FEIN is necessary in order to enable proper association of information between the databases available to the Department and the Division as well as databases from TWC and DARS. Using the employer's FEIN, the Department can coordinate the Texas DCI data with that in other databases to obtain the NAICS code associated with an individual claim. Additionally, the Department clarifies that the zip code of injury site field is the only field available in the Texas DCI data to assign a claim to a geographic region.

(4) Hospital Costs, Physician Payments, and Date of First Payment

Comment: The Department received a comment that the rule's requirement that employers report hospital costs, physician payments, and the date of first payment is unnecessary because Texas carriers already report this data electronically to DWC. The commenter asserted that any legal or technology barriers between NCCI and DWC should be resolved to allow for NCCI access to this information without requiring separate reporting by Texas carriers that is not necessary in other jurisdictions.

Agency Response: The Department disagrees. Reporting of DCI data and reporting of medical billing and payment data to the Division is not collected in the same manner, nor is it collected at the same time. Reporting to DCI is done at different valuation points (i.e., 6 months, 18 months, etc) post-injury on a per claim basis while reporting to the Division is done on a transaction level per claim (i.e., each medical bill

processed by an insurance carrier). As a result, data regarding payments on individual claims, such as hospital costs, physician payments and date of first payment collected by either system cannot be easily replicated in the other system because of the differences in the timeframes for data reporting, making each system and its information unique.

(5) Application to All Texas Workers' Compensation Carriers

Comment: The commenter acknowledged that Insurance Code §2051.001 makes the DCI statistical plan applicable to all insurance carriers authorized to write workers' compensation insurance in the state of Texas. However, the commenter was concerned about the burden on small carriers who currently write very few policies in Texas, and requested that as part of the Department's Sunset process, the Department analyze whether or not there is a legitimate need to impose this burden on small carriers. If not, then the commenter suggested that statutory changes should be recommended in the Sunset process to put Texas back in line with other jurisdictions, and that Texas should only require DCI reporting from carriers that meet the minimum participation thresholds set by NCCI.

Agency Response: The Department disagrees. The requirement that the 2010 Statistical Plan apply to all Texas workers' compensation carriers is consistent between the previous DCI statistical plans. All insurance companies licensed to write workers' compensation in Texas are currently required to report DCI data under the 1997 Statistical Plan and this requirement is continued under this adopted rule. Further,

such an exclusion or exemption from reporting under the 2010 Statistical Plan could result in a distortion of the DCI data, which would minimize its usefulness for statutorily required research and/or compliance monitoring purposes. The Department disagrees that Texas DCI reporting requirements should meet the minimum participation thresholds required by NCCI and notes that premium exceptions are also not imposed on other Texas Department of Insurance, Division of Workers' Compensation data reporting requirements relating to claim-level information.

(6) Adoption and Implementation Schedule

Comment: The Department received a comment that because there are changes in the NCCI national data reporting elements in addition to the changes in the NCCI Texas data reporting elements, Texas testing and implementation should take place after the national testing and implementation since Texas carriers have to report the national data in addition to the Texas unique data elements. This would facilitate efficient implementation nationally and locally.

Agency Response: The Department disagrees. The Department's designated statistical agent for the collection of DCI data, NCCI, has reported that the insurance company members who worked with NCCI to revise DCI data reporting requirements at the national level supported the concurrent implementation of both new NCCI DCI and Texas DCI programs and that these insurance companies also supported a coordinated 2014 ceasing of the current NCCI DCI and Texas DCI programs. The designs of the new NCCI DCI and Texas DCI programs were developed

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as one integrated system — with both programs sharing a common record layout of 500 bytes, and an additional 100 bytes built in for the Texas DCI unique requirements. Consequently, NCCI reports that many insurance companies have already begun building one data reporting system with a single 600 byte record layout and have begun programming the requirements for the new NCCI DCI and Texas DCI programs simultaneously.

NCCI also reports that coordinating the implementation of the NCCI DCI and the Texas DCI changes also makes it easier for insurance companies to report its data, as both NCCI DCI and Texas DCI claims can be reported in the same file submission. NCCI will edit this file for all states, including Texas, treating it as one submission. Also, the editing results will be provided together, and insurance carriers will use NCCI's online tool for all states, including Texas. Finally, if the implementation dates were staggered, insurance carriers would have to maintain the current Texas DCI program for a longer period. With the adopted approach, all reporting for the current DCI programs will cease at the same time on April 30, 2014, so those systems can be shut down simultaneously. This also provides cost advantages in shutting down both old NCCI DCI and Texas DCI systems together. The Department also notes that NCCI has communicated the proposed changes to the NCCI DCI and Texas DCI programs in its circulars and during the January 2010 NCCI Data Educational Program in order to make the insurance industry affected by these proposed changes aware of the upcoming changes.

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6. NAMES OF THOSE COMMENTING FOR AND AGAINST THE SECTION.

For: None

For with changes: Property Casualty Insurers Association of America

Against: None

7. TEXT.

§5.6601. Texas Detailed Claim Information Statistical Plan.

(a) Applicability.

(1) This section applies to workers' compensation insurance and includes employers' liability insurance. Whenever the term "workers' compensation" is used in this section, the term includes and applies to employers' liability insurance.

(2) This section applies to each insurance company authorized to write workers' compensation insurance in the State of Texas as specified in the Insurance Code §2053.001(2). Each insurance company is required to report to the commissioner, or the commissioner's designated statistical agent, information prescribed by the commissioner under the Insurance Code §2053.151 for each workers' compensation insurance claim.

(b) Purpose. The purpose of this section is to:

(1) prescribe the reporting requirements for the information and data to be submitted to the commissioner, or the commissioner's designated statistical agent, concerning workers' compensation claims pursuant to the Insurance Code §2053.151 to

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ensure that the data collection methodology will yield data necessary for research and medical cost containment efforts; and

(2) adopt by reference the *Texas Detailed Claim Information Statistical Plan, 2010 Edition*.

(c) Definitions. The following words and terms when used in this division shall have the following meanings unless the context clearly indicates otherwise:

(1) Centrally-located--Located in a place with ready access to the insurance company's claims files and detailed claims information.

(2) Insurance company, insurance carrier, insurer, and carrier--Has the same meaning as "Insurance company" as defined by the Insurance Code §2053.001(2).

(3) Jurisdiction state--The state responsible for the claim.

(4) Statistical Plan--The *Texas Detailed Claim Information Statistical Plan, 2010 Edition* adopted by reference pursuant to this section.

(d) Adoption by Reference. The commissioner adopts by reference the *Texas Detailed Claim Information Statistical Plan, 2010 Edition*. The Statistical Plan includes the rules, requirements, and examples for reporting detailed claim information for claims with a Reported to Insurer Date of September 1, 2010 and later and provides reporting instructions, a data dictionary, and claim selection and sampling methodologies.

(e) Statistical Plan Availability. The Statistical Plan is published by the Texas Department of Insurance and is available from the Data Services Division, Mail Code

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(f) Reporting Requirements.

(1) The Statistical Plan specifies the requirements for reporting claims data, including:

- (A) criteria for determining which claims to report;
- (B) data elements and record layouts for the information that must be reported on each claim;
- (C) standards and procedures for categorizing insurance and medical benefits required to be reported on each claim;
- (D) information to be used for determining the specific loss valuation levels for each claim, which requires it to be reported; and
- (E) instructions regarding how and when to report required data on claims.

(2) Each insurance company is required to comply with the reporting requirements of the Statistical Plan pursuant to the Insurance Code §2053.151. Each insurance company must submit required information and data on each claim to the commissioner, or the commissioner's designated statistical agent, no later than three months after the loss valuation dates specified in the Statistical Plan.

(g) Claims Required to be Reported. A claim's eligibility for reporting is based on an incurred indemnity loss value greater than zero. Even if no income benefit payments have been made, but reserves have been set on the claim in anticipation of

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payment, the claim is still eligible to be reported. The following claims must be reported:

- (1) death claims;
- (2) lifetime income benefit claims (i.e., permanent total disability claims);
- (3) other open indemnity claims; and
- (4) closed claims selected in accordance with the sampling method

outlined in the Statistical Plan adopted under this section.

(h) Claims Excluded from Reporting. The following claims are not required to be reported:

- (1) claims where the jurisdiction state is not Texas;
- (2) claims in which income benefits have not yet accrued or been paid (i.e., medical only claims);
- (3) losses paid to another insurance company because of reinsurance assumed by the reporting insurance company; and
- (4) claims that involve benefits payable under federal workers' compensation laws.

(i) Designated Carrier Coordinator. Each insurance company must designate one individual as the coordinator for claims reporting within its organization and provide the coordinator's contact information, including the coordinator's name, working title, mailing address, e-mail address, and telephone number, to the commissioner, or the commissioner's designated statistical agent.

- (1) The designated carrier coordinator must:

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(A) be a centrally-located employee of the insurance company who has responsibility for claims, statistical, or data management;

(B) receive and appropriately disperse data reporting information received from the commissioner, or the commissioner's designated statistical agent; and

(C) serve as central compliance control for data reporting under the Statistical Plan.

(2) An insurance company authorized to write workers' compensation insurance in this state as of the effective date of this section must provide the coordinator's contact information required by this subsection to the commissioner, or the commissioner's designated statistical agent, no later than September 1, 2010. Except as otherwise provided by this subsection, an insurance company that obtains a certificate of authority to write workers' compensation insurance in this state after September 1, 2010, must provide the coordinator's contact information required by this subsection to the commissioner, or the commissioner's designated statistical agent, no later than the 30th day after the insurance company's certificate of authority becomes effective.

(3) An insurance company must report any changes to the designated insurance company coordinator's contact information to the commissioner, or the commissioner's designated statistical agent, not later than 30 days after the effective date of the change.

(j) Effective Date.

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TITLE 28. INSURANCE
Part I. Texas Department of Insurance
Chapter 5. Property and Casualty Insurance

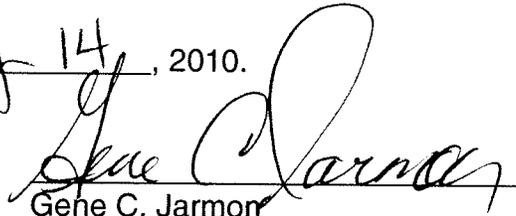
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(1) This section is effective on September 1, 2010.

(2) Claims with a Reported to Insurer Date of September 1, 2010 and later must be reported in accordance with the Statistical Plan. Claims with a Reported to Insurer Date prior to September 1, 2010 must be reported in accordance with the *Texas Detailed Claim Information Statistical Plan* effective January 1, 1997 up to and including reports due April 30, 2014.

CERTIFICATION. This agency hereby certifies that the new section has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued at Austin, Texas, on July 14, 2010.


Gene C. Jarmor
General Counsel and Chief Clerk

IT IS THEREFORE THE ORDER of the Commissioner of Insurance that new Division 4, §5.6601 specified herein, concerning the Texas Detailed Claim Information Statistical Plan, 2010 Edition, is adopted to be effective on September 1, 2010.

AND IT IS SO ORDERED.


MIKE GEESLIN
COMMISSIONER OF INSURANCE

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TITLE 28. INSURANCE
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ATTEST:



Gene C. Jarmon
General Counsel and Chief Clerk

COMMISSIONER'S ORDER NO. **10-0660**
JUL 14 2010