

No. \_\_\_\_\_

**Official Order  
of the  
Commissioner of Insurance  
of the  
State of Texas  
Austin, Texas**

**Date:**

**Subject Considered:**

**The Research Agenda for the Workers' Compensation Research and Evaluation Group at the Texas Department of Insurance**

**General remarks and official action taken:**

On this day came on for consideration by the Commissioner of Insurance (Commissioner), the proposal for the FY 2010 Annual Research Agenda for the Workers' Compensation Research and Evaluation Group (REG) at the Texas Department of Insurance (Department). House Bill 7 (79<sup>th</sup> Legislature, Regular Session, 2005) included the enactment of new Labor Code §405.0026, which requires the Commissioner to adopt an annual research agenda for the REG. It also requires the REG to publish the proposed research agenda in the *Texas Register* and requires the Commissioner to accept public comments and to hold a public hearing on the proposed research agenda if requested by interested persons.

In November 2009, the REG distributed a draft of the proposed FY 2010 Research Agenda to legislative offices, the Division of Workers' Compensation, and stakeholder groups for their review and input prior to the proposal of the FY 2010 Research Agenda in the Texas Register and on the agency's website.

The proposed FY 2010 Research Agenda was published for comment on the Department's website and in the February 5, 2010 issue of the *Texas Register*. The Department received formal comments from three stakeholder groups, but no requests for public hearings.

**Comment:**

A commenter recommends that the REG consider an analysis of injured employees' access to medical care provided by specialists in non-network claims. The commenter states that anecdotal evidence seems to suggest that injured employees who require specialist care often encounter significant difficulty in finding providers willing to provide appropriate care in the workers' compensation system. The commenter recognizes that the sixth topic on the proposed research agenda analyzes injured employee access to care, but further suggests that the proposed analysis have a special focus on access to medical care by specialists in non-network claims. The commenter supported the other research agenda items as proposed.

**Agency Response:**

The Department appreciates the comments and suggestions. The sixth research agenda project contemplated examination of access to medical care issues within the workers' compensation system, including access to medical specialists. The purpose of this study is to examine whether access to medical care has changed in the system as a whole over time. Since many of the years analyzed as part of the study pre-date the implementation of certified health care networks, and since the number of injured employees treated in certified health care networks in more recent years make up less than 20 percent of all injured employees with new claims, the results of the current study will be highly reflective of the non-network injured employee population. The REG also points out that general comparisons of access to care issues for network and non-network claims are also incorporated as part of the annual workers' compensation network report card published each September.

**Comment:**

A commenter suggests that the REG incorporate the methodology used in the Research and Oversight Council on Workers' Compensation's (ROC's) 2001 article, *Striking the Balance: An Analysis of the Cost and Quality of Medical Care in the Texas Workers' Compensation System*, for analyses of cost, quality, and access to care measures. The commenter points out that the 2001 results showed that workers' compensation medical costs in Texas were substantially higher than in eight states with similar systems; and were also higher than in non-workers' compensation group health medical costs in Texas. Additionally,

the commenter notes that the 2001 ROC study showed that Texas return-to-work rates were equally lacking and that the key cost driver in the system was over-utilization of particular types of health care services. Lastly, the commenter notes that the 2001 ROC study established benchmarks that subsequent studies could use to measure system trends.

**Agency Response:**

The Department appreciates the comments and suggestions. The ROC's 2001 *Striking the Balance: An Analysis of the Cost and Quality of Medical Care in the Texas Workers' Compensation System* report, was commissioned by HB 3697 (76<sup>th</sup> Legislature, 1999) and was supported with statutorily-authorized funding and considerable resources. The administrative data sources utilized in that study included eight states other than Texas, four large multi-state employers, and a large group health insurance carrier in Texas covering the State of Texas Employees' Retirement System. In addition to the administrative data, the study collected survey data from a random, stratified sample of injured employees in Texas and the comparison states. The ROC was able to obtain this multi-state and group health data via the selection of a contractor who served as the primary investigator on this study and was selected through a competitive bidding process.

While a repeat of that study would be cost prohibitive this fiscal year, other REG projects have used similar methods and measures found in the 2001 ROC study

in more recent projects. For example, the annual workers' compensation network report card reports annual medical costs, utilization, access to care, satisfaction and return-to-work results for network and non-network claims, with particular focus on the medical service groups identified in the 2001 study as being consistently over-utilized in Texas. Additionally, the first biennial report published by the REG in December 2008 on the impact of the 2005 legislative reforms, *Setting the Standard: An Analysis of the Impact of the 2005 Legislative Reforms on the Texas Workers' Compensation System*, utilized many of the same methodologies and injury groupings found in the ROC's 2001 study to compare medical costs, utilization, access to care, satisfaction with care, return-to-work outcomes and functional outcomes pre-and post-implementation of HB 7 in 2005. The REG is scheduled to produce another biennial report on the impact of HB 7 in December 2010.

In addition, the 2009 REG report, *Impacts of the Adoption of the 2007 Official Disability Guideline (ODG) Treatment Guidelines on Medical Utilization and Costs*, examines, among other key issues, recent medical costs and utilization trends in the workers' compensation system. Finally, the REG produces regular updates on return-to-work trends in Texas using wage data procured from the Texas Workforce Commission, and a 2010 update is included in the current research agenda.

**Comment:**

A commenter supports the adoption of the proposed 2010 workers' compensation research agenda and further recommends that the REG consider a future study of pharmaceutical utilization in the Texas workers' compensation system. The commenter points out that available data show pharmaceutical utilization rates that are cause for concern. The commenter suggests that the study should identify the 50 most frequently used drugs prescribed to injured employees in the state of Texas for legacy and current claims. The commenter also recommends that a future study compare prescription and utilization patterns in Texas with the utilization recommendations outlined in the ODG treatment guidelines.

**Agency Response:**

The Department appreciates the comment and suggestions. The REG considers pharmaceutical consumption in the Texas workers' compensation system an important issue for continued research. The 2007 Pharmaceutical Descriptive Analysis by REG reported utilization patterns in support of the ongoing development of a closed drug formulary. Although the REG does not have the resources available to address another update of this study in FY 2010, the REG will consider updating this study when developing future research agendas.

**FY 2010 Research Agenda for the Workers' Compensation Research and  
Evaluation Group at the Texas Department of Insurance**

1. Completion and publication of the fourth edition of Workers' Compensation Health Care Network Report Card (required under Insurance Code §1305.502 and Labor Code §405.0025).
2. An analysis of the impact of certified workers' compensation health care networks on the cost and quality of medical care provided to injured workers, including a comparison of medical care provided prior to and after the implementation of networks, as well as a comparison of medical care provided to injured workers in and outside of networks (required by Labor Code §405.0025(c)); report due on December 1, 2010.
3. An update of the 2008 study to estimate employer participation in the Texas workers' compensation system (required by Insurance Code §2053.012(a) and Labor Code §405.0025); report due on December 1, 2010.
4. Continuing examination of the frequency of employers and workers' compensation claims participating in certified health care delivery networks.
5. An annual update of return-to-work outcomes for injured workers using data from the Texas Workforce Commission, which will include an examination of the characteristics associated with injured workers and employers who could benefit most from return-to-work outreach and coordination efforts (Sunset Advisory Commission Management Recommendation.)

6. An analysis of injured worker access to medical care provided under the workers' compensation system, including an initial analysis of access to medical care through Department-certified workers' compensation health care networks.

7. An analysis of income replacement rates for injured workers receiving temporary income benefits (TIBs), impairment income benefits (IIBs), supplemental income benefits (SIBS), and lifetime income benefits (LIBS), and related issues cited in the Senate Interim Charges to the 81<sup>st</sup> Legislature (State Affairs, charge No.10, page 20), which can be found at <http://www.senate.state.tx.us/assets/pdf/SenateInterimCharges81.pdf>.

IT IS THEREFORE THE ORDER of the Commissioner of Insurance that the FY 2010 Annual Research Agenda for the Workers' Compensation Research and Evaluation Group at the Texas Department of Insurance, as specified herein, is hereby approved and adopted, effective immediately.

AND IT IS SO ORDERED.

TEXAS DEPARTMENT OF INSURANCE

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MIKE GEESLIN

COMMISSIONER OF INSURANCE

RECOMMENDED BY:

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DC Campbell  
Director  
Workers' Compensation Research and Evaluation Group

Attest:

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Gene C. Jarmon  
General Counsel and Chief Clerk  
Texas Department of Insurance

Commissioner's Order No. \_\_\_\_\_