

No. **2018-5583**

**Official Order
of the
Texas Commissioner of Insurance**

Date: July 23, 2018

Subject Considered:

**National Council on Compensation Insurance Filing *Item E-1405*
Amendments to Experience Rating Plan Manual Rules, and Forms Manual of Workers
Compensation and Employers Liability Insurance**

NUNC PRO TUNC ORDER

The Texas Department of Insurance considered amendments to correct a typographical error in the page header on pages 2 and 3 in Commissioner's Order No. 2018-5568. Commissioner's Order No. 2018-5568 incorrectly referenced "*NCCI Item 01-TX-2017*" instead of "*NCCI Item E-1405*."

Commissioner's Order No. 2018-5568 amended the National Council on Compensation Insurance (NCCI) manuals, as proposed in *Item E-1405—Revisions to Experience Rating Plan Manual Rules and the Notification of Change in Ownership Endorsement* (TDI ECase No. 15090, SERFF Tracking Nos. NCCI-131304706 and NCCI-131304708, December 14, 2017).

TDI orders that Commissioner's Order No. 2018-5568 be amended nunc pro tunc as of the date of the entry to add the correct reference, "*NCCI Item E-1405*" in the respective page headers. The text of the order remains the same, and reads as follows:

The Texas Department of Insurance considered amendments to the National Council on Compensation Insurance (NCCI) manuals, proposed in *Item E-1405—Revisions to Experience Rating Plan Manual Rules and the Notification of Change in Ownership Endorsement* (TDI ECase No. 15090; SERFF Tracking Nos. NCCI-131304706 and NCCI-131304708; December 14, 2017).

After considering the filing, TDI adopts the following findings of fact and conclusions of law.

Findings of Fact

1. NCCI filed *Item E-1405* on December 14, 2017, using the procedure adopted in Commissioner's Order No. 3142 for revisions to NCCI's workers' compensation manuals.

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2. *Item E-1405* is a national and state-specific filing. For Texas, *Item E-1405* amends the *Experience Rating Plan Manual* as follows:
 - a. Rule 3-E-1 – adds a reference to NCCI's *Experience Rating (ER) Split Data Reporting Guide*.
 - b. Rule 3-A – updates the title of the Notification of Change in Ownership Endorsement and adds language stating that the reporting requirement applies regardless of whether an experience rating modification is currently applied.
 - c. Rule 3-E-3-a – revises the recalculation and application requirements related to changes in ownership and combinability status.
 - d. Rule 4-E – adds a note clarifying that decreases in experience rating modifications due to a change in ownership and combinability status are applied retroactively to the date of the change.
3. *Item E-1405* also amends the Notification of Change in Ownership Endorsement in the *Forms Manual* by adding:
 - a. the 90-day reporting requirement language to the title; and
 - b. language stating that the reporting requirement applies regardless of whether the policyholder is currently experience rated.
4. *Item E-1405* includes various formatting and grammatical changes.
5. The TDI chief clerk has had copies of the full text of the filing and all related exhibits since the filing date.
6. The filing and all related exhibits are incorporated by reference into this order.
7. On March 22, 2018, TDI published notice of the filing on the TDI website at www.tdi.texas.gov/rules/2017/nccimanual.html and distributed notice of the filing to electronic news subscribers.
8. TDI did not receive comments or hearing requests regarding the filing by the April 23, 2018, deadline.
9. The changes in *Item E-1405* apply to new and renewal workers' compensation policies effective on and after January 1, 2019.

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Conclusions of Law

1. TDI has jurisdiction over this matter under Insurance Code Article 5.96 and §§2051.002, 2051.201, 2052.002, 2053.002, 2053.011, 2053.051, 2053.053, and 36.001.
2. Commissioner's Order No. 3142, dated March 21, 2014, established a procedure for the Commissioner to consider changes to NCCI's manuals:
 - a) NCCI makes a filing;
 - b) TDI publishes notice of the filing on the TDI website and distributes notice of the filing to subscribers to TDI's electronic news, with at least a 30-day period for interested persons to submit comments or request a hearing; and
 - c) the Commissioner issues an order approving the filing, approving the filing with changes, or rejecting the filing.
3. TDI gave proper and timely notice in compliance with Commissioner's Order No. 3142.
4. The amendments to the NCCI manual are reasonable and consistent with Texas workers' compensation statutes and rules.
5. Applying the changes in *Item E-1405* to new and renewal workers' compensation policies effective on and after January 1, 2019, is reasonable.

TDI approves NCCI's filing, *Item E-1405— Revisions to Experience Rating Plan Manual Rules and the Notification of Change in Ownership Endorsement* for new and renewal workers' compensation policies effective on and after January 1, 2019.

/s/ Kent C. Sullivan

Kent C. Sullivan

Commissioner of Insurance