



Texas Department of Insurance

Division of Workers' Compensation

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Memorandum

To: Workers' Compensation System Participants

From: Dr. Bill Defoyd, Director for Designated Doctor Oversight and Outreach

Date: December 16, 2013

RE: Analysis Provided to Designated Doctors Pursuant to Texas Labor Code §408.0041(c) and 28 Texas Administrative Code §127.10(a)(2)

The Division of Workers' Compensation (DWC) reminds workers' compensation system participants that pursuant to Texas Labor Code §409.0041 and 28 Texas Administrative Code (TAC) §127.10, only the injured employee's treating doctor and the insurance carrier may send the designated doctor an analysis. This analysis may only cover the injured employee's:

1. medical condition;
2. functional abilities; and
3. return-to-work opportunities.

The analysis may also include supporting information such as videotaped activities of the injured employee, as well as marked copies of the medical records.

It has come to the DWC's attention that some of the analyses provided to designated doctors contain impermissible legal arguments and directives. In some cases, these improper analyses misstate DWC rules and requirements regarding the designated doctor's evaluation. Any impermissible analysis provided to the designated doctor, whether drafted by the insurance carrier, the treating doctor, or their agents constitutes improper communication with the designated doctor and may result in an enforcement action.

System participants should also note that the DWC recently sent [the attached communication](#) to designated doctors to reiterate the statutory and rule requirements [Texas Labor Code §408.0041(a)(1) and §408.123(a) and 28 TAC §130.1(b)(4) & (c)(3)].