



Texas Department of Insurance

Division of Workers' Compensation

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Memorandum

To: Workers' Compensation System Participants

From: Tracey Beaver, Director of the Office of Workers' Compensation Counsel

Date: July 14, 2014

Subject: Adoption: Amend 28 TAC §§148.1, 148.2, 148.6 – 148.8, 148.10, 148.11, 148.13 – 148.17, and 148.19 – 148.23; Adopt New 28 TAC §§148.3 – 148.5 and 148.24 Concerning Hearings Conducted by the State Office of Administrative Hearings (SOAH); Repeal 28 TAC §§148.3 – 148.5, 148.9, 148.12, 148.18, and Chapter 149, Concerning Memorandum of Understanding with SOAH

On July 7, 2014, the Commissioner of Workers' Compensation Rod Bordelon adopted amended 28 TAC §§148.1, 148.2, 148.6 – 148.8, 148.10, 148.11, 148.13 – 148.17, and 148.19 – 148.23, adopted new 28 TAC §§148.3 – 148.5 and 148.24 concerning Hearings Conducted by the State Office of Administrative Hearings, adopted the repeal of 28 TAC §§148.3 – 148.5, 148.9, 148.12, and 148.18, and adopted the repeal 28 TAC Chapter 149, concerning Memorandum of Understanding with SOAH.

The adoption was filed with the Office of the Secretary of State on July 7, 2014, for publication in the July 18, 2014 issue of the Texas Register and may be viewed on the Secretary of State website at <http://www.sos.state.tx.us/texreg/index.shtml> at that time. A courtesy copy of the adoption is currently available on the Texas Department of Insurance website at <http://www.tdi.texas.gov/wc/rules/adopted/index.html>.

The purpose of the amendments, repeals, and new sections of 28 TAC Chapter 148 is to implement House Bill 2605, 82nd Legislature, Regular Session, effective September 1, 2011, remove provisions that are no longer applicable to State Office of Administrative Hearings (SOAH) cases, add provisions for new types of cases, update citations, and revise the text for clarity. The repeal of §§148.3, 148.4, and 148.5 is necessary because the Division is adopting new §§148.3, 148.4, and 148.5 and the simultaneous repeal of a numbered section is necessary to adopt a new section with the same TAC number, as required by 1 TAC §91.32, concerning Rule Numbers. The repeal of §§148.9, 148.12, and 148.18 is necessary because the requirements already exist in Government Code §§2001.056, 2001.061, and 2001.060, and repeating the requirements in the rules would be redundant. Chapter 149 is proposed for repeal because the memorandum of understanding with SOAH is no longer required to be adopted by rule under Labor Code §402.073(a). The repeal of 28 TAC §149.6 is also necessary to incorporate the requirements into proposed new 28 TAC §148.24, concerning Confidentiality of Records.

The adopted amendments are effective August 7, 2014.