



## TEXAS DEPARTMENT OF INSURANCE

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# memo

To: Workers' Compensation System Participants

From: Emily McCoy, Director, Office of Workers' Compensation Counsel

Date: February 21, 2018

RE: Informal Posting: Amended 28 TAC § 180.26, regarding criteria for imposing, recommending and determining sanctions; other remedies, and amended §180.8, regarding notices of violation; notices of hearing; default judgments

The Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) is accepting comments on an informal working draft of amended 28 Texas Administrative Code (TAC) §180.26 and §180.8, available at [www.tdi.texas.gov/wc/rules/drafts.html](http://www.tdi.texas.gov/wc/rules/drafts.html). The informal working draft was posted on the TDI-DWC website on February 21, 2018, and the comment period closes on March 7, 2018 at 5 p.m. Central time.

The purpose of the informal working draft is to update 28 TAC §§180.26 and §180.8. These updates are in compliance to Texas Labor Code §415.021 that Senate Bill 1895 amended in the 85<sup>th</sup> Texas Legislative Session. The statute requires that TDI-DWC consider two additional factors, whether the administrative violation has negative impact on the delivery of benefits to an injured employee and the history of compliance with electronic data interchange requirements, when assessing an administrative penalty. Texas Labor Code §415.021 also requires TDI-DWC to adopt rules to communicate to the person of the administrative penalty the relevant statute or rule violated, the conduct that gave rise to the violation, and the factors considered in determining the penalty.

The informal working draft is not a formal rule proposal and comments received will not be treated as formal public comments for the purposes of the Administrative Procedure Act. There will be an opportunity to formally comment once the rule is proposed and published in the *Texas Register*. Informal comments may be submitted by email to [InformalRuleComments@tdi.texas.gov](mailto:InformalRuleComments@tdi.texas.gov) or by mail or delivery to:

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