

Amy Rich- Division of Workers' Compensation

Workers' Compensation News and Resources for Success

Amy Rich is a health care policy communications specialist for the Texas Department of Insurance, Division of Workers' Compensation (DWC), Health Care Provider and Return to Work Outreach team. She began her career at DWC in 2000 as a medical dispute resolution officer and has served in other roles such as project manager, reimbursement administrator, associate director of Medical Review, and as the director of Medical Dispute Resolution.

Prior to DWC, Rich spent 15 years as a leader in patient finance, medical billing, and patient access at Seton Healthcare System, St. David's (HCA) Healthcare System, and several physician medical practices, including a large orthopedic clinic. She is also a published author with articles in the National Association of Healthcare Access Management Journal and a former speaker at the National Association of Healthcare Access Management and Ingenix national conferences. She received a bachelor of science in health care administration from Texas State University and attended graduate classes towards a Master of Business Administration from St. Edwards University



Workers' Compensation Essential Topics

T-Bones Presentation
Amy Rich
DWC Outreach and Education
2023



Disclaimer

This presentation is for educational purposes only and provides general information. It is not a substitute for a full review of statutes and rules.

System participants are responsible for knowing and complying with the applicable sections of the Texas Insurance Code, Texas Labor Code and Texas Administrative Code.

Any opinions that the speakers express are personal, and do not constitute or reflect any statement of policy by the Texas Department of Insurance, Division of Workers' Compensation (DWC).

Overview

- Legislative and case law update
- Recent rule changes
- Upcoming rule changes
- Opportunities to participate in workers' compensation
- Intake and treating the compensable injury
- DWC resources and educational opportunities



Legislative and Case Law Update

Key bills affecting workers' compensation

SB 1122 – ensures that designated doctor and other similar exams that health care providers conduct in the workers' compensation system are not subject to a sales and use tax.

Key bills affecting workers' compensation

HB 2468 – makes changes to lifetime income benefits eligibility standards:

- traumatic brain injury;
- expands third degree burns; and
- changes for first responders LIBs relating to employment capabilities and expedited dispute resolution proceedings.

Workers' Compensation Topics for Next Legislative Session 2025

- Extent of injury
- First responder issues
- Scope of practice
- Telemedicine
- Virtual contested case hearings

Update on Recent Workers' Compensation Case Law

Network requirements and emergency care case:

Texas Mutual Ins. Co. v. Hand & Wrist of Houston, PA.
Cause No. D-1-GN-22-004975 Travis County District
Court Issue:

When out-of-network health care provider's initial treatment is "emergency care," triggering a payment obligation under Texas Insurance Code § 1305.006(1), does follow-up or continuing care for the same underlying condition also constitute "emergency care" for purposes of the out-of-network payment exception?



Recent Rule Changes

Required Certification Testing

Designated doctors and other certifying doctors are only required to have passed the required certification test at least once since May 13, 2013.

- No longer required to take the certification test every two years, unless specifically asked by DWC.



Continued Certification Training

DDs and other certifying doctors must still take required certification training every two years.

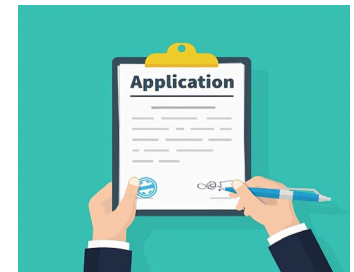
- DDs must continue to reapply for certification using the DWC Form-067, *Designated doctor certification application*.
- Other certifying doctors must submit documentation that they have taken the training every two years.



Designated Doctor Certification Application

DDs must still apply for a renewal every two years. A DD must:

- have a completed DD certification application on file with the DWC 45 days prior to expiration.
- complete all DWC related trainings within 12 months of the date of the application;



Revised Qualification Standards for Designated Doctor Examinations

- Changes are found in 28 TAC Sec. 127.130, Qualification Standards for Designated Doctor Examinations.
- Qualification revisions apply to exams ordered on or after June 5, 2023.

Designated Doctor Exam Types Impacted

Exam Types	General Changes
<p>Traumatic brain injury (TBI) →</p> <ul style="list-style-type: none">• Spinal cord injuries →• Multiple fractures →	<ul style="list-style-type: none">• Added several physician board specialties for TBIs.• Only physicians with certain board specialties for spinal cord injuries.• Expanded qualifications for simple fractures.

Important Dates

On or after April 30, 2023, DDs and other certifying doctors that pass or have previously passed the certification test **on or after May 13, 2013**, are no longer required to retest every two years when they renew their certification.

On or after June 5, 2023, a DD will only provide multiple certifications of MMI and IRs when DWC directs.

On or after June 5, 2023, exam orders will use the new qualification standards for exams.

Important Dates

On or after June 5, 2023, requesters must use the new DWC Form-032 Request for DD examination, with a 30-day grace period.

On or after June 5, 2023, DDs must begin using the new DWC Forms 32 and 68.



Future Rule Revision Proposals

Designated Doctor and Other Certifying Doctor Fees Being Revised

- Rules found in Chapter 134 and 133 are being revised to simplify billing and adjust fees for maximum medical improvement, impairment rating exams and other similar services.
- Three informal drafts with billing examples have been published, beginning in August of 2022 through June of 2023.
- Formal proposal expected soon.

Designated Doctor and Other Certifying Doctor Fees Being Revised

- Adjusts the fees once by applying the Medicare Economic Index (MEI) percentage adjustment factor for the period 2009-2024.
- Adjusts the fees annually on January 1 (after that initial adjustment) by applying the MEI percentage adjustment factor in Section 134.203(c)(2).
- Rounds the fees to whole dollars.
- Creates a \$100 missed appointment fee.



Opportunities to Participate in Workers' Compensation System

Workers' Compensation Doctor Roles

Treating, referral or consulting doctor:

- Create a TXComp profile and disclose financial interests.
- Join workers' compensation certified health care networks, the standardized application form found on DWC website, as well as a list of networks and contact information.
- Reimbursement for non-network is 191% of Medicare rates for in office procedures and 240% for surgery in a facility (professional fees).

Workers' Compensation Doctor Roles

Designated Doctor or Certifying Doctors:

- May be a treating/referral/consultant doctor also.
- Must have passed the certifying doctor test at least once since May of 2013.
- Training every two years.
- Fees are being revised.

Workers' Compensation Doctor Roles

Medical Quality Review Panel expert:

- Serve as a medical expert for DWC's Office of Medical Advisor.
- MQRP needs more orthopedics doctors, especially ortho spine.
- MQRP members are used on an as needed basis and are paid for the time spent on reviews and reports.



Intake and Treating the Compensable Injury

Intake/Registration

Ask the patient if the treatment they are seeking due to a work-related injury.

- Ask all patients this question and get their response in writing.
- It may help to ask this question more than once and expressed differently.
ex: Where did this injury occur? Were you working at the time of the injury?

Intake/Registration

Ask the patient if they have any outstanding disputes on compensability, extent of injury or liability (CEL) issues (PLN01 or PLN11)?*

*Insurance carrier is required to send notice of any benefit disputes (PLN01 or PLN11) directly to the injured employee (claimant). Ask for a copy.

Intake/Registration

Ask the referring doctor if they are aware of any disputes on CEL? If yes, ask:

- What conditions have been disputed and ask for copy of the PLN01 or PLN11.
- Do they have medical bills denied for this reason? If yes, have they pursued dispute resolution and what was the outcome?
- If there is a dispute over CEL, will they help with causation information?

Intake/Registration

Ask the insurance adjuster if there are any outstanding CEL disputes on the claim? If yes:

- Ask for a copy of the outstanding PLN01 or PLN11 (to review the conditions/dx being disputed).
- Insurance carrier is not required to send the PLN01 or PLN11 to the health care provider, except in these cases:
 - network claims, and
 - during the preauthorization process.

What is next after a dispute for CEL?

- Insurance carrier's EOB or PLN01 or PLN11 is not final adjudication.
- Final adjudication is a final decision or order issued by DWC that is no longer subject to appeal by either party.
- Obtained through the DWC benefit dispute resolution process (BRC/CCH).

What is next after a denial for CEL?

Do not file for Medical Fee Dispute Resolution (DWC Form-060) this is not a dispute over reimbursement (fees).

Do:

- Develop a position statement, with any necessary causation or relatedness information.
- Attempt to resolve the issue with the injured employee and insurance carrier by requesting reconsideration (document this effort).

28 TAC Rule 133.250, *Reconsideration for Payment of Medical Bills*

Causation Analysis Resources

- “Explaining the Compensable Injury” video and slideshow by DWC’s orthopedic surgeon.
- Sample treating doctor report.
- Summary of best practices for preparing analyses.
- Resources for obtaining evidence.

tdi.texas.gov/wc/hcprovider/causation.html

Doctor's Role in Providing Reasonable and Necessary Health Care

28 Texas Administrative Code (TAC) Sec. 137.100, Treatment Guidelines (non-network) requires health care providers to provide treatment according to:

Official Disability Guidelines (ODG) – Treatment in Workers' Compensation

(excluding the return-to-work pathways) © 2019 ODG by MCG

760-753-9992

800-488-5548

www.mcg.com/odg

Network claims – refer to network treatment guidelines
28 TAC Sec. 10.83, Guidelines and Protocols

Doctor's Role in Return-to-Work (RTW)

28 TAC Sec. 137.10, Return to Work Guidelines requires health care providers to use DWC's adopted RTW guidelines for the evaluation of expected or average RTW time frames

MDGuidelines

www.mdguidelines.com

Phone: 800-442-4519

Doctor's Role in Return-to-Work

- Establish RTW or stay at work (SAW) expectations with the injured employee, beginning with the first visit, and discuss often.
- Communicate regularly with referral and ancillary health care providers about the injured employee's care and RTW expectations.
- Incorporate working into your treatment plan.
- Complete the Work Status Report DWC Form 073 and provide explanation if taken off work completely.



DWC Resources and Educational Opportunities

DWC Fast Facts for Resolving Denials for CEL

Health care provider training and resources

As part of its mission, the Division of Workers' Compensation (DWC) strives to educate and inform health care providers how to effectively work within the system and provide high quality medical care that encourages and facilitates the injured employee's safe return to employment.

This page offers information and resources for health care providers to help them understand their roles and responsibilities in the Texas workers' compensation system.

✉ [Sign up to get health care provider news by email.](#)

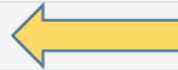


[Become a Texas workers' compensation health care provider ▶](#)

[Verify an employer's workers' compensation coverage ▶](#)

[Medical and facility fee guidelines and information ▶](#)

[Get help with medical bill denials and preauthorization requests ▼](#)



- [Fee dispute resolution](#)
- [Medical necessity dispute resolution](#)
- [Benefit dispute resolution \(compensability, extent of injury/relatedness or liability\)](#)
- [Disputes vs. complaints fast facts](#)



DWC Resources

DD certification and renewal:

- Application process
- Deferral requests
- Voluntary surrender requests
- Verify DD certification dates and MMI/IR authorization dates

Telephone: (512) 804-4766

Fax: (512) 804-4207

Email: OMA@tdi.texas.gov (questions only, not forms)

DWC Resources

DD examination coordination:

- Scheduling and rescheduling of DD examinations (TxComp or fax)
- Request for redesignation (fax only)
- Request to change an exam location (TxComp or fax)
- Injured employee no show notification (fax only)
- Request for additional time to complete report (TxComp or fax)

Telephone: (800) 252-7033
Fax: (512) 804-4121
Email: DDScheduler@tdi.texas.gov
Email: DDRecords@tdi.texas.gov

DWC Resources

DD education:

- Required certification course and optional training content
- Required testing
- Education outreach

Telephone: (512) 804-4765

Fax: (512) 804-4769

Email: DesDoc.education@tdi.texas.gov

DWC Resources

DWC Designated Doctor webpage

Found under Workers' Compensation A-Z, "D" for
Designated Doctor

<https://www.tdi.texas.gov//wc/dd/index.html>

2023 Educational Opportunities

13 on-demand recorded training courses offered on the DWC Health Care Provider page.

tdi.texas.gov/wc/hcprovider/index.html

Keep an eye out for more live webinar trainings to be posted to DWC calendar.

Annual DWC conference offered each summer.

DWC Health Care Provider Quarterly Meetings

Contact Us

Call CompConnection

800-252-7031 option 3

Email: Compconnection@tdi.texas.gov



Thank You

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