



Medical Cost and Quality Trends in the Texas Workers' Comp System

A **KEY CONCERN** facing the Texas workers' compensation system is the cost and the quality of medical care provided to injured workers. In attempts to resolve these concerns, several legislative committees in both the Senate and the House have recently held hearings to examine the issue and explore possible solutions for the upcoming 79th legislative session scheduled to begin in January 2005. At the request of these legislative committees, TDI's newly formed Workers' Compensation Research Group, comprised of researchers from the former Research and Oversight Council on Workers' Compensation (ROC), have compiled and presented research findings related to:

- workers' compensation medical cost trends in Texas;
- the various medical cost drivers in the system; and
- the overall quality of medical care provided to injured workers in Texas.

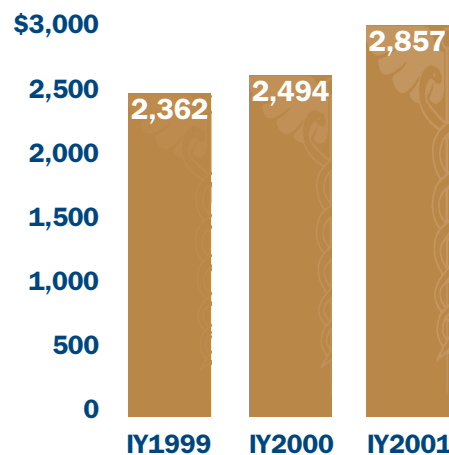
To better understand medical cost and utilization of care trends in Texas, TDI researchers analyzed medical data collected and maintained by the Texas Workers' Compensation Commission (TWCC). Findings used in the legislative presentations were calculated for injury years 1999–2001 at twelve months post-injury to ensure that all claims included in the analysis have the same claim maturity.

The data show that the average medical cost per claim in Texas has increased approximately 21 percent from injury year 1999 to injury year 2001, one-year post injury (see Figure 1). However, it is important to note that these average medical cost numbers do not include pharmacy costs because TWCC does not currently collect pharmacy data. After analyzing pharmacy data from certain state workers' compensation insurance carriers, TDI researchers estimate that true total

medical costs may actually be 6–8 percent higher.

As Table 1 shows low back soft tissue injuries (including low back sprains and strains) account for the highest percentage of medical

Figure 1
Average Workers' Compensation Medical Cost Per Claim Injury Years 1999–2001, One-Year Post Injury



Source: Texas Department of Insurance, Workers' Compensation Research Group, 2004.
Note: Average medical costs per claim do not include pharmacy costs.

costs in the system. Additionally, the data indicate that Texas' injury patterns have remained relatively stable over time, and therefore medical cost increases cannot be attributed to changes in the types of injuries sustained by Texas workers.

TDI's analysis of TWCC medical data further shows that a relatively small percentage of individual health care providers account for a majority of medical costs in the workers' compensation system. For example, looking at non-hospital medical costs for injury year 2000, 50 percent of these costs can be accounted for by only 2.3 percent (or approximately 1,700) of health care providers who billed for workers' compensation medical services during this time period. *See page 8*



InSideInSight

Windstorm Codes	6
Business Development	7
Unauthorized Scheme	11
Disciplinary Actions	12



Commissioner'sInSight

By **Jose Montemayor**,
Texas Insurance Commissioner

The Truth About Insurance Reform

SPECIAL INTEREST GROUPS are traveling around the state creating an incorrect perception of the homeowners' insurance market. Senate Bill 14, historic insurance reform enacted in June 2003, greatly expanded the authority of the Commissioner of Insurance to regulate homeowners' insurance rates. I am exercising this authority to ensure every homeowner pays a fair rate for insurance. Here is what is really happening in the homeowners insurance market.

In August 2003, I ordered 32 companies to reduce homeowners' insurance rates anywhere from 0 to 31 percent, depending on the company. Those reductions totaled \$510 million for Texas homeowners. The majority of the companies agreed to implement the reductions immediately. Homeowners are seeing these reductions when their current policy comes up for renewal as a credit on next year's policy.

Eight companies were ordered to implement the reductions in two phases, with the first phase implemented immediately and the second phase in 2004. The reason for the phased reductions was to avoid protracted litigation being used as a stall tactic to delay the rate relief I ordered. The full reductions, however, are still in force, with interest on the deferred amounts.

Two companies, State Farm and Farmers, challenged my orders in court. I am confident that the state can argue a solid case in defense of the rate reduction orders. Once the litigation is resolved, one way or another, State Farm and Farmers policyholders will also see rate relief with interest, dating back to September 2003, when the reductions were first ordered.

The special interest groups are saying Texas homeowners pay far more than what the rest of the nation pays for homeowners insurance. However, no context is provided for that statement. The reason Texans have historically paid higher premiums is our weather. Wind and hail losses account for 84 percent of the difference in premiums paid by Texans and those paid around the U.S. The average wind and hail losses per policy in Texas are more than three-and-a-half times greater than those in the rest of the country.

So what is driving the myth that people are not protected, and that the reforms have failed? Industry and "consumer" groups often do a great disservice to consumers in their public messages. The so-called "consumer groups" are winning the battle of the media, waging a campaign to generate headlines and editorials to solidify the public perception that insurance and all its players are evil. Unfortunately, these groups favor splashy headlines over truth, and their assertions are intellectually dishonest. The insurance industry has done little to expose these myths.

As the regulator, it is not my job to explain the industry's actions. The insurance industry must do a better job of informing consumers about market conditions. Right now, public expectation is being formed by self-serving press releases coming from a handful of people and channeled through the media. The industry must lose its herd mentality, telling people it is losing money, and instead start telling policyholders when it will realistically become more competitive. Then it must stick to that commitment.

Continued on page 5

TDInSight

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By necessity, summaries of proposed and adopted rules cannot explain their full complexity. Readers interested in complete information about administrative rules should consult the versions published in the Texas Register.

To the best of the staff's ability, information presented in this newsletter is correct as of the publication date, but scheduled dates and proposed rules and amendments may change as the adoption process goes forward.

Texas Committee on Insurance Fraud Holds Second Meeting

THE TEXAS COMMITTEE on Insurance Fraud, comprised of representatives from all areas of the insurance industry, law enforcement and national antifraud organizations, held its second organizational meeting on April 20, 2004, at the Texas Department of Insurance. Chairs of each of the various working groups reported on their activities since the kick-off meeting in January.

Several ideas for combating fraud were presented, including enhancing statutes related

to fraud enforcement, expanding the use of special prosecutors, and increasing publicity efforts to publicize successful fraud prosecution. An op-ed piece was developed and distributed to Texas newspapers on the issue of insurance fraud, and an awareness video is in the works. The legislative working group will be drafting anti-fraud legislation in time for the next session in 2005, incorporating ideas and language developed in the individual working groups. ☺

InBrief



Agents' Corner

Licensing Division makes strides to improve its customer interface

THE AUTOMATED PROCESSES that the Licensing Division has implemented in concert with the National Insurance Producer Registry (NIPR), the National Association of Insurance Commissioners (NAIC) and outside vendors such as SIRCON.COM and TexasOnline, has allowed the division to become increasingly efficient and effective in licensing.

The Licensing Division is celebrating a number of significant performance achievements that have occurred over the past two years by implementing new automated and electronic processing. Among the successes:

- 1 Using the online Electronic Nonresident Licensing process through the National Insurance Producer Registry now results in a 3 day processing time instead of 9 days. Texas agents can obtain a nonresident license in other states by accessing the NIPR website at www.licenseregistry.com.
- 2 The Data Management Section of the Licensing Division processed 44,271 Letters of Certification or Clearance Letters in Fiscal Year 2002 in an average of 4.0 days. In FY 2003, the section processed 50,783 in an average of 2.8 days. About half of the requests for letters of certification are now handled electronically. Agents can request a letter of certification through an outside vendor, SIRCON at: www.sircon.com.

- 3 Increased utilization of the electronic processing of appointments and termination of appointments has allowed the two staff persons assigned to this task to improve the division's processing time from an average of 5.2 days in FY 2002 to only 2.3 days in FY 2003. The website utilized for this is: www.licenseregistry.com.

- 4 The nine employees in the Customer Service Section and the automated Interactive Voice Response system successfully answered 91% of the 176,442 calls that were received in Fiscal Year 2003. The main Licensing phone number (512-322-3503) utilizes an Interactive Voice Response System (IVR) which provides processing dates and specific license status information.

- 5 The department has improved average renewal processing time from 2.8 days to 2.0 days. This 2 day average is the same for both online and offline renewals. The offline processing is equally successful because the renewal form sent to licensees contains optical character recognition (OCR) coding which allows the form to be electronically read during processing. Agents, adjusters or agencies can electronically renew their licenses via a link to TexasOnline from our website: www.tdi.state.tx.us. ☺

Insurance Agency Accepts Fine, Reaches Settlement In Unlicensed Workers' Comp Case

THE TEXAS DEPARTMENT OF INSURANCE (TDI) recently imposed a \$250,000 fine against a Houston insurance agency that marketed and sold workers' compensation insurance policies in violation of state insurance rules. The disciplinary action was filed against Brown & Brown Insurance Services of Texas, Inc., which signed a consent order and agreed to a settlement.

In violation of insurance rules, Brown & Brown communicated quotes, issued certificates, and collected premium for unlicensed entities and individuals. In addition, Brown & Brown acted as an agent for an authorized insurance company before being appointed by the company to serve as an agent. Brown & Brown has agreed to cease these practices, compensate any injured workers for valid unpaid claims for benefits covered under the insurance policies in question, and pay the administrative fine. In addition and as part of the agreement, Brown & Brown will file regular reports documenting any written or verbal complaints and the amounts paid on each valid workplace injury claim.

Brown & Brown cooperated with TDI during the investigation. In addition, Brown & Brown directly incurred payments, costs and expenses well in excess of any fees or commissions earned as a result of the alleged conduct. Neither Brown & Brown nor TDI is aware of any injured worker with a valid workers' compensation claim (who will accept workers' compensation benefits) who has not been compensated.

"The rules regarding the licensing of insurance companies and the appointments of agents are in place to protect consumers, in this case workers who are injured on the job," said Texas Insurance Commissioner Jose Montemayor. "We are pleased that Brown & Brown recognized the gravity of the violations and agreed to the disciplinary action."

"We take very seriously the mandate given to us by the legislature to regulate insurance company practices," Montemayor said. "We expect our licensees to abide by all of our rules and regulations for the protection of Texas consumers." 🗳️

Commissioner Cuts Title Insurance Rates by 6.5 Percent

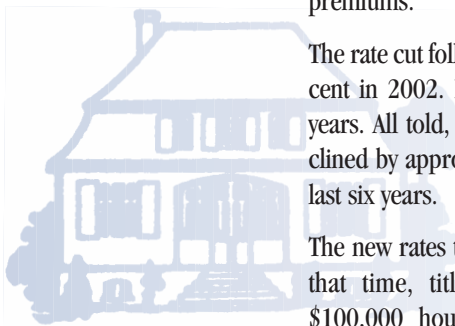
COMMISSIONER Jose Montemayor reduced Texas title insurance rates by 6.5 percent, an action that should save real estate purchasers, including home buyers, an estimated \$80 million per year in premiums.

The rate cut follows a rate reduction of 6 percent in 2002. Rate rulings occur every two years. All told, title insurance rates have declined by approximately 15 percent over the last six years.

The new rates take effect on July 1, 2004. At that time, title insurance for a sample \$100,000 house would be approximately \$871, compared to the \$1,023 that title insurance cost in 1998.

Title insurance is purchased in real estate transactions to protect the buyer and lender in the event that the title is ever challenged. Unlike most Texas insurance rates, title rates are set by the Commissioner of Insurance and the same rate must be charged by all title companies. Rates are determined through actuarial analysis by the Texas Department of Insurance, taking into consideration expenses, profit targets and loss history.

"Profits have been strong in the last few years and consumers deserve a break on their title rates," Montemayor said. "However, the new rate will still allow for continued profit in the title industry." 🗳️



Groups Join Forces to Tackle Problem of Uninsured

Innovative Solutions Explored

ON MAY 11, 2004 the Texas Department of Insurance (TDI) held a day-long forum to address an issue troubling policymakers in Texas and around the country: the increasingly large number of people without health insurance. More than 100 representatives from the health care industry, insurance companies, state agencies, and legislative offices gathered to discuss the causes of the problem and, more importantly, explore possible solutions.

A key part of the forum included real-time polling of participants to gather their opinions on various aspects of the uninsured issue. A number of innovative options were explored by the group, including:

- Providing governmental assistance to small businesses that need help affording health insurance;
- Allowing local government entities (county, municipal governments) to “buy-in” to the state employees health insurance program;
- Creating a state-wide prescription drug purchasing pool for small employers in order to provide more affordable drug coverage for small groups; and
- Including information on health insurance as a required part of the high school senior curriculum.

The polling data will be analyzed by TDI to identify solutions that key system participants

would support. “There is no magic bullet to solve the problem of Texans without health coverage,” said Texas Insurance Commissioner Jose Montemayor. “We need coordinated effort from all the major players, and this forum is a huge step in that direction.”

The stakeholder forum is the latest initiative of “Working Together for a Healthy Texas,” the ongoing effort that began more than three years ago with a Federal State Planning Grant awarded to TDI to study the reasons many Texans lack health insurance and to develop options for expanding coverage. Several of the ideas developed through the study have been implemented, including legislation permitting health cooperatives and consumer choice plans passed by the 78th Texas Legislature in 2003.

A wide array of stakeholders were represented at the forum, including the Texas Association of Health Plans, Texas Association of Health and Life Underwriters, Texas Association of Business, Texas Hospital Association, Texas Medical Association, Office of Public Insurance Counsel, and various state agencies and legislative staff.

TDI will issue a report this summer summarizing findings from the polling and small-group discussions. A follow-up forum is being considered for next fall. 🌟



Insurance Reform... from page 2

We will soon approach the one-year mark since I ordered companies to lower their rates for homeowners insurance. This is the logical point at which we would look back and measure the impact, as well as assess the competitive levels of the market going forward. If the market does not show signs of stronger competition, I will take whatever additional action is necessary.

I am committed to ensuring that every Texas homeowner pays a rate that is fair and just-

fied. The reforms we have implemented are working and have already shown up in the premiums of many Texas homeowners. It is simply common sense to give reforms of this magnitude more than a few months before passing final judgment. Any analysis that states homeowners insurance reform is not working is simply wrong. 🌟

TDI's Windstorm Inspection Team Begins Massive Education Campaign

TDI's WINDSTORM INSPECTION DIVISION has oversight responsibility over licensed engineers appointed by the Commissioner to conduct windstorm inspections in Texas coastal counties. Along with that oversight, the Division also serves as an information resource for engineers, inspectors and builders. That information component will become an even greater focus for the Windstorm Inspection Team in the months ahead. The Division is initiating a massive outreach campaign to educate builders, inspectors and engineers about the details of the *International Residential Code* (IRC) and the *International Building Code* (IBC), the new standards for construction in Texas coastal communities.

TDI Deputy Commissioner of the Inspections Division, Alexis Dick, says for the past few months the Division has been working on the best way to convey the details of the new standards to the building industry. What they've developed is a multi-pronged approach that includes community meetings in the 14 first tier coastal counties, one-on-one meetings with the state's most proficient inspectors, as well as meetings with those who specifically request additional information.

Along with these presentations about the codes and specific Texas revisions, much of the education will take place on construction sites. The on-site visits will allow engineers to ask questions and learn what TDI expects from the inspectors, before oversight on the latest building standards kicks into high gear.

"It's going to be a hands on process," said TDI's Chief Engineer, Sam Nelson. "We're going to be up on the roof, providing as much education as we can, from design, all the way down to nail placement on items such as attachment of roof decking and fastening of asphalt shingles to the roof deck." Nelson and others from the Inspection Division have already visited several work sites this spring as part of a pilot project to help develop the curriculum.

What they saw on the various construction sites, Nelson said, ran the gamut from very good to very poor. "The IRC codes are out there and available to the engineers and builders, but providing someone with a written text of the rules is a very different animal from actually demonstrating what's expected of everyone at the site—from the engineer who designed the plans to the laborer driving the nails."

While there is some anxiety that comes with implementing a more stringent building standard, Dick says her office is getting positive feedback from the construction industry. "They are a little nervous, but they're also excited about having some clear, consistent expectations. We're going out there to educate. I think everyone understands there is going to be a learning curve."

The IRC code is performance based for construction of homes in areas where wind speeds are 110 mph and greater, and far less prescriptive than previous building standards adopted by TDI. That requires engineers to consider wind pressure and wind borne debris impact standards at every stage of construction. Inspectors work from the roof down to the foundation, trying to ensure a continuous load path and attachment strength. The emphasis is on roof coverings which are often a key to how much damage a structure sustains during a windstorm. Another focus is construction elements such as exterior openings (doors, windows, garage doors and skylights) and exterior coverings such as siding, exterior cladding items with direct exposure to wind forces. Anything that could create space for wind to breach the main structure must be fortified.

Anyone planning to build or renovate any structure along the Texas coast and seeking to secure windstorm and hail coverage from the Texas Windstorm Insurance Association, must have a windstorm inspection and a certificate of compliance from TDI. The inspections must be conducted by a TDI inspector

Continued on page 7



Up to Code!

TDI Commits to Business Development with New Liaison

Texas Wide Open for Business

ENCOURAGING new insurers to enter the Texas market has always been a goal of the agency, but there is also a growing recognition that the success of the state's economy in general is a powerful force in fostering a healthy insurance industry. Conversely, insurers and the availability of insurance products can be a deciding factor in whether a new business decides to come to Texas or whether an existing business moves forward with an expansion.

The recognition of the interdependency of insurers and the business community at large was part of the thinking that brought Donna Reynolds to TDI. Reynolds will serve as the agency's Business Development Specialist in the Commissioner's Administration program. As Business Development Specialist, Reynolds will help coordinate the agency's efforts to encourage participation in the Texas insurance market by interested companies and to facilitate development of new business opportunities for regulated entities already here.

Along with being a contact point and resource for insurers and businesses with insurance related questions, Reynolds says another focus for her will be "community building," encouraging insurers to become even more involved in the areas they serve. "Many of our companies are already doing great local projects, and we want to encourage and support what they are doing. But if we can develop some new public-private partnerships we might be able to come up with innovative solutions that could yield benefits for

everyone involved; such as encouraging companies to expand or relocate their operations to strategic areas. Having these companies act as business anchors could produce a ripple-effect, resulting in new investments and a better quality of life for many communities across the state."

Reynolds says her mission at TDI is similar to that of an economic development team for a chamber of commerce and she will be working closely with the Governor's Economic Development staff, state and local chambers, and the Council of Governments. "We want to make sure that insurance companies are part of the collaborative effort to build the Texas economy. Insurers are a strong ally to the Texas chambers, business associations and their local communities."

Before coming to TDI, Reynolds served as Chief of Staff for State Representative Corbin Van Arsdale. Prior to her legislative service she served as the Vice President of Employer Relations and Governmental Affairs with the Texas Association of Business and Chambers of Commerce and has extensive public service management experience with the United States Senate, Office of the Governor and the Texas State Treasury. In addition, she has over 10 years of private sector managerial experience including work in Economic Development & International Trade for the Dallas Chamber of Commerce and as Vice President/Real Estate Officer for Southwestern Life Insurance Company. ☺



Donna Reynolds, TDI's new Business Development Specialist

Windstorm Inspections... *from page 6*

or an engineer appointed by the Commissioner of Insurance. June through November is hurricane season. Forecasters predict there could be as many as 14 named Atlantic storms this year, eight of those hurricanes. Experts also estimate the Texas Gulf Coast has a 40% chance of being hit by a hurricane this season.

If you need additional information regarding windstorm inspections visit the TDI website at www.tdi.state.tx.us or call 1-800-248-6032. ☺



Cost Drivers Identified

Previous studies by the ROC and recent studies by the Workers' Compensation Research Institute (WCRI) and the National Council on Compensation Insurance (NCCI) identified the primary medical cost driver in the Texas workers' compensation system to be overutilization of medical services. In particular, the ROC studies highlighted three areas of medical services that are frequently overutilized in Texas: physical medicine services (which in-

Quality of Medical Care

A key question in the debate over medical cost containment is whether high costs translate to high quality of care. To examine this question, in 2002 the TDI Research Group's predecessor, the ROC, conducted a survey of 970 workers with low back, neck and shoulder soft tissue injuries in Texas. The survey focused on various quality of care indicators, including, but not limited to:

- The selection of the injured worker's first non-emergency doctor (also known as the treating doctor);
- The injured worker's satisfaction with the medical care provided, including how the worker's selection of doctor impacted satisfaction levels; and
- The return-to-work outcomes associated with injured workers in Texas.

Table 1 Distribution of Total Workers' Compensation Medical Costs by Injury Type
Injury Years 1999–2001, One-Year Post Injury

INJURY TYPE	1999	2000	2001
Ankle & Foot Soft Tissue	1.9%	1.9%	2.0%
Hand & Wrist Nerve Compression	3.8%	3.9%	3.9%
Hand & Wrist Superficial Trauma	3.0%	2.9%	2.9%
Hand & Wrist Soft Tissue	2.8%	2.8%	3.4%
Knee Internal Derangement	4.6%	4.5%	4.6%
Low Back Nerve Compression	7.0%	7.3%	7.6%
Low Back Soft Tissue	15.8%	16.4%	16.0%
Multiple Soft Tissue	1.8%	1.8%	1.9%
Neck Soft Tissue	7.0%	7.0%	7.2%
Shoulder Soft Tissue	7.1%	7.9%	8.5%
Other Injuries	45.2%	43.8%	42.0%

Source: Texas Department of Insurance, Workers' Compensation Research Group, 2004.

clude services that are often associated with physical therapy), surgery and diagnostic testing.

During House and Senate interim committee meetings in March, April and May 2004, TDI researchers presented updated physical medicine and diagnostic testing utilization trends for injury years 1999–2001, one-year post injury. Specifically, findings show that increases in Texas workers' compensation medical costs match closely with increases both the amount and intensity of many physical medicine services (such as aquatic therapy, therapeutic exercises and group therapeutic activities, see Table 2) and certain diagnostic tests (such as nerve conduction studies). Later this summer, TDI plans to present surgery utilization trends to the legislature.

About half of the injured workers surveyed said they chose their treating doctor on their own, about a third chose a treating doctor recommended by their employer or insurance carrier and the remaining 15 percent chose their treating doctor using advice from family members, friends, coworkers or referrals from a family doctor or union.

Overall, a high percentage of injured workers (approximately 84 percent) said that they were satisfied with the quality of their care. Not surprisingly, injured workers who chose their own treating doctor were generally more satisfied with their medical care than workers who chose a doctor recommended by their employer or carrier. However, it is important to note that regardless of choice, injured workers' overall medical care satisfaction levels remained high.

Unfortunately, the study found that high medical costs have not translated into better return-to-work outcomes for Texas injured workers. Approximately one-third of the injured workers surveyed were not currently employed almost two years after their injury and 15 percent never went back to work after their injury. It should be noted that these are injured workers with soft tissue injuries and not the severe types of injuries that result in permanent disability. 🔄

Average Number of Physical Medicine Treatments Per Injured Worker

Table 2

Injury Years 1999–2001, One-Year Post Injury

TYPE OF PHYSICAL MEDICINE SERVICE	1999	2000	2001	% CHANGE 1999–2001
Therapeutic Exercises	21	23	28	33.3%
Manipulation	22	24	26	18.2%
Aquatic Therapy	22	27	34	54.5%
Chronic Pain Management	78	92	89	14.1%
Work Hardening	90	98	95	5.6%
Work Conditioning	44	46	48	9.1%
Neuromuscular Re-education	12	13	15	25.0%
Therapeutic Activities–Group	11	16	16	45.5%
Therapeutic Activities–One on One	11	11	13	18.2%
Unlisted Procedures	12	21	15	25.0%

Source: Texas Department of Insurance, Workers' Compensation Research Group, 2004.

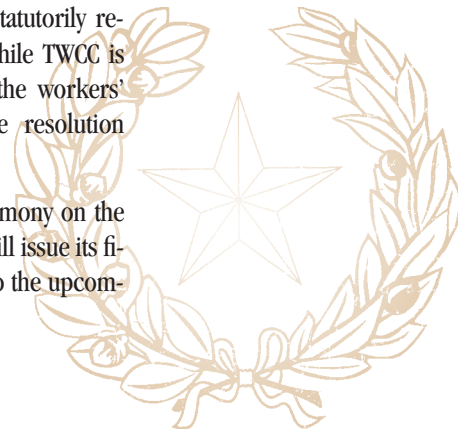
Sunset Report Issued for Texas Workers' Compensation Commission

THE TEXAS Workers' Compensation Commission (TWCC) is scheduled for Sunset review in 2005. The Sunset Advisory Commission, charged by the Legislature to conduct periodic assessments of each state agency's need to exist, issued its staff report on TWCC in April 2004.

The Sunset report makes a number of recommendations to improve agency operations at TWCC, two of which involve the Texas Department of Insurance (TDI). Under Issue 1 in the report, Sunset recommends that the workers' compensation research function, formerly provided by the Research and Oversight Council (ROC) and now by TDI through its Workers' Compensation Research Group, be transferred to the newly created Texas Workers' Compensation Research Council administratively attached to TWCC. In order to maintain its independence, Sunset recommends that the research function should report directly to TWCC, but also receive budgetary and staffing direction from its own board of directors. This board would be comprised of TWCC commissioners, public members appointed by the governor, and the TDI commissioner or designee.

Under Issue 5 in the report, Sunset recommends that TWCC and TDI develop a memorandum of understanding (MOU) to improve the regulation and oversight of Independent Review Organizations (IROs) in the workers' compensation system. IROs are neutral third-party organizations comprised of doctors who resolve HMO and workers' compensation medical disputes. TDI is statutorily responsible for certifying IROs while TWCC is responsible for administering the workers' compensation medical dispute resolution process.

Sunset has received public testimony on the report recommendations and will issue its final report in September prior to the upcoming 79th Texas Legislature. 🌟





Health Rules

APA Proposal

Health Group Cooperatives 28 TAC 26.401–26.413

- ▶ The Texas Department of Insurance is proposing new rules to implement Senate Bill 10 (78th Regular Legislative Session) concerning the establishment of health group cooperatives. The measure allows employers to form cooperatives for the purpose of purchasing group health coverage. The proposed rules would establish the standards by which carriers provide coverage to such a cooperative.

SB 10 is designed to help address the need of small employers to find affordable health coverage for their employees. Along with allowing employers to form health group cooperatives, the measure also provides greater flexibility in the plans that may be written through cooperatives. The plans are not subject to state mandated benefits and carriers providing coverage through a health group cooperative are not subject to a premium or retaliatory tax for two years for any previously uninsured employees or dependents.

Cooperatives must include a minimum of 10 employers, and all coverage issued through the cooperative must be issued through a licensed insurance agent. A carrier may provide coverage to only one cooperative in any county, unless the carrier is providing coverage in an expanded service area.

This proposal replaces a proposal that was published on January 9, 2004. That proposal has been withdrawn.

*Publication: May 7, 2004
Earliest adoption: June 6, 2004
Additional information: 512 463-6326*

APA Proposal

Electronic Health Care Transactions 28 TAC 21.3701

- ▶ The Texas Department of Insurance is proposing new rules concerning waiver of electronic filing requirements. The new section is necessary to implement the provisions of Senate Bill (SB) 418, passed during the 78th Regular Session. SB 418 requires that carriers that implement an electronic filing requirement for their contracted physicians and providers include a process by which the provider may seek a waiver of the requirement.

The proposed rule identifies the criteria that must be used by a carrier in considering a physician's or provider's request for a waiver. The proposed section addresses the statutory opportunity for appellate review by the Commissioner by providing a procedure for appeal to the Deputy Commissioner of the HMO Division and ultimately to the Senior Associate Commissioner of Life, Health and Licensing in the event that a carrier does not grant a waiver or imposes restrictions, conditions or limitations on a waiver.

The proposed rules will create a set of standards by which a physician's or provider's request for waiver of electronic filing requirements may be fairly assessed and determined, along with a procedure by which appeals from waiver determinations will be rendered.

*Publication: May 7, 2004
Earliest adoption: June 6, 2004
Additional information: 512 463-6326*

APA Proposal

Reporting Requirements for Pharmacy Claims 28 TAC §21.2821

- ▶ The Texas Department of Insurance proposes amendments concerning reporting requirements for pharmacy claims. The proposed amendments are necessary to implement the provisions of Senate Bill (SB) 418, 78th Regular Legislative Session, by ensuring that the department receives complete and accurate information concerning all types of health care claims subject to prompt pay.

The department originally adopted reporting rules on September 9, 2003, and subsequently informed carriers by bulletin that rules specific to reporting of pharmacy claims would be proposed at a later date. Section 21.2821 generally imposes reporting requirements on carriers subject to prompt pay rules, and the proposed amendments are necessary to address how those reporting rules apply to electronically submitted, affirmatively adjudicated pharmacy claims.

The amendments are proposed under the *Insurance Code* Article 3.70-3C §3I(k), and §§843.342(k) and 36.001. Article 3.70-3C §3I(k) and §843.342(k) require the department to assess an insurer's or HMO's prompt pay compliance in processing submitted clean claims and grants the department the authority to issue an administrative penalty if violations involve the processing of more than two percent of submitted clean claims. Section 36.001 allows the Commissioner of Insurance to adopt any rules necessary and appropriate to implement the powers and duties of the Texas Department of Insurance under the *Insurance Code* and other laws of this state.

Publication: May 7, 2004


Earliest Adoption: June 6, 2004

Additional information: 512-463-6326 

Seven Charged with Unauthorized Health Insurance Fraud Scheme

ON JUNE 1, 2004, the Travis County District Attorney's office announced the indictment of seven people in connection with an insurance fraud scheme involving bogus health insurance products. Three of the defendants are from Texas: Donald Smith and Rhonda Porter, both of Plano, and Scott Rutherford of Houston. The other defendants are based in New Jersey and Pennsylvania.

The defendants utilized phony companies, associations, and unions to claim that the products were ERISA plans and therefore not subject to state regulation. A variety of company and association names were involved in the scheme, including Employers Mutual LLC, American Benefit Society, Privilege Care, Inc., Professional Industrial Trade Workers Union (PITWU), and International Union Industrial and Independent Workers (IUIIW). Insurance agents were enlisted to sell the products. People who bought the products, including many small businesses, found themselves uninsured when it was time to file a claim.

The indictments are the result of investigative work by the Fraud Unit and Legal Division of the Texas Department of Insurance, and are being prosecuted by the Travis County District Attorney's office. Unauthorized insurance is a third degree felony punishable by two to ten years in prison and a fine of up to \$10,000. 

NAME	CITY	ACTION TAKEN	VIOLATION	ORDER	DATE
Aetna U.S. Healthcare, Inc.	Dallas	\$50,000 fine	Alleged failure to provide expedited appeals to providers and hospitalized enrollees; Alleged failure to utilize acceptable screening criteria; Alleged failure to pay for emergency services	040298	3/31/04
Aidala, Paul Anthony	San Angelo	Probated suspension of General Life, Accident, Health and HMO License	Felony conviction	040202	3/4/04
Burchard Abstract Corporation	Gonzales	\$12,000 fine	Failed to file timely escrow audit reports and statistical reports	040299	3/31/04
Capps, Kevin Ray	Denton	Adjuster Property and Casualty License revoked	Misappropriated or converted money belonging to an insurer or insured	040268	3/23/04
Clark, Lareba Renee	Houston	Limited Lines License denied	Engaged in fraudulent or dishonest acts or practices; Felony conviction	040280	3/25/04
Continental General Insurance Company	Omaha NE	\$5,000 fine	Allegedly implemented rate increases without the Department's review and knowledge; Alleged failure to timely respond to requests for information from TDI	040287	3/29/04
Crum & Forster Indemnity Company	Morristown	\$3,000 fine	Failed to timely file required experience rating data	040300	3/31/04
Davis, Ginger Gayle	Frisco	\$2,500 fine	Acted in the capacity of escrow officer without being licensed by TDI	040290	3/29/04
EmpheSys Insurance Company	Louisville KY	\$25,000 fine	Failed to provide catastrophic care and basic coverage benefit plans to small employers	040204	3/4/04
Ferguson, Eric Tyrone	San Antonio	Life Insurance Not Exceeding \$15,000 License application denied	Engaged in fraudulent or dishonest acts or practices; Made a material misrepresentation on a license application	040214	3/4/04
Forrest, Laurie Jeanne	Onalaska	\$300 fine	Failed to comply with continuing education requirements	040206	3/4/04
Garza, Sylvia Magdalina	Kenedy	General Life, Accident, Health and HMO License revoked	Engaged in fraudulent or dishonest acts or practices; Made a material misrepresentation on a license application	040156	2/18/04
General American Life Insurance Company	St. Louis MO	\$800 fine	Taught a continuing education course with an expired certificate	040269	3/23/04
Goad, Jerry Lee	Austin	\$5,000 fine plus restitution; Cease and Desist; General Life, Accident, Health and HMO License revoked	Acted as an agent for unauthorized entities; Engaged in fraudulent or dishonest acts or practices	040264	3/22/04
Gueringer, Thomas Edward	San Antonio	\$1,000 fine	Failed to comply with continuing education requirements	040205	3/4/04
Hahaj, Jim Mitchell	Spokane WA	General Lines Property and Casualty License revoked	Felony conviction involving moral turpitude; Failed to notify TDI of administrative actions taken by other state insurance regulators	040233	3/10/04
Harris, Rosemarie Miranda	San Antonio	General Property and Casualty License revoked	Obtained a license by fraud or misrepresentation; Misappropriated or converted money belonging to an insurer or insured	040155	2/18/04
Hatherly, Melinda	Corpus Christi	General Life, Accident, Health and HMO License revoked	Made a material misrepresentation on a license application; Acted as an agent for unauthorized entities	040095	1/29/04

MARCH

	NAME	CITY	ACTION TAKEN	VIOLATION	ORDER	DATE
	Hinojos, Pablo	Arlington	\$750 fine	Failed to comply with continuing education requirements	040270	3/23/04
	Johnson, Jo Lynn	Royse City	General Lines Property and Casualty License Revoked	Failed to comply with an order issued by the Commissioner of Insurance	040234	3/10/04
	Koch, Gregory	Plano	\$2,500 fine	Acted as an agent for unauthorized entities	040260	3/22/04
	Little, Darlene J.	Dallas	Adjuster's License application denied	Engaged in fraudulent or dishonest acts or practices; Felony conviction	040278	3/25/04
	Magellan Behavioral Health	Columbia MD	\$20,000 fine	Alleged failure to comply with UR	040207	3/4/04
	Muforsi, Ngwa	Irving	\$500 fine	Failed to comply with continuing education requirements	040208	3/4/04
	Ramos-Armedariz, Leticia H. dba Tejas Insurance Agency	Mesquite	\$4,000 fine plus restitution; Probated suspension of General Life, Accident, Health and HMO License	Misappropriated or converted money belonging to an insurer or insured; Engaged in fraudulent or dishonest acts or practices	040203	3/4/04
	Reeves, Lisa K.	Lindale	Insurance Service Representative License revoked	Engaged in fraudulent or dishonest acts or practices; Misappropriated or converted money belonging to an insurer or insured	040279	3/25/04
	Reeves, Teresa Selman	Burleson	Probated suspension of General Life, Accident, Health and HMO License	Felony conviction	040211	3/4/04
	Romo, Richard	Rockwall	\$3,000 fine subject to a dollar-for-dollar reduction by restitution to \$500	Acted as an agent for unauthorized entities	040275	3/25/04
	Rutherford, Scott David	Houston	\$300,000 fine plus restitution; Cease and Desist; General Life, Accident, Health and HMO License revoked	Acted as an agent for unauthorized entities; Violated emergency Cease and Desist Order; Engaged in fraudulent or dishonest acts or practices	040195	3/1/04
	Schwartz, Wayne Norman	Austin	\$1,250 fine	Failed to notify TDI of an administrative action taken against him by a U.S. financial regulator	040232	3/10/04
	Shand Morahan & Company, Inc.	Deerfield IL	\$2,900 fine	Allegedly taught a continuing education course with an expired certificate	040261	3/22/04
	SkilStaf, Inc.	Alexander City AL	Cease and Desist	Unauthorized insurance	040301	3/31/04
	Starry-Alsup, Erin Marie	San Antonio	Insurance Service Representative License application Denied	Engaged in fraudulent or dishonest acts or practices; Attempted to obtain a license by fraud or misrepresentation	040213	3/4/04
	TIG Indemnity Company	Irving	\$15,000 fine	Failed to provide adequate loss control information and services	040209	3/4/04
	TIG Insurance Company	Irving	\$15,000 fine	Failed to provide adequate loss control information and services	040210	3/4/04
	United States Fire Insurance Company	Morristown NJ	\$2,000 fine	Failed to timely file required experience rating data	040262	3/22/04
	Wisely, Carolyn	New Caney	\$5,000 fine	Acted as an agent for unauthorized entities	040212	3/4/04
	Young, Rodney Gene dba Standard Insurance Agency	Hurst	\$10,000 fine	Allegedly acted as an agent for unauthorized entities; Allegedly engaged in unfair and deceptive acts or practices	040271	3/23/04

Continued on page 14

NAME	CITY	ACTION TAKEN	VIOLATION	ORDER	DATE
American Travelers Assurance Company	West Des Moines IA	\$5,000 fine	Issued a group health care policy that was not filed or approved by TDI	040380	4/20/04
Arnold, Robert W.	League City	\$750 fine	Made a material misrepresentation on a license application	040308	3/31/04
Ballard, Novelice	Littlefield	\$2,000 fine subject to a dollar-for-dollar reduction by restitution to \$1,000	Acted as an agent for unauthorized entities	040424	4/30/04
Britt, Galen W.	New Braunfels	General Life, Accident and Health License denied	Engaged in fraudulent or dishonest acts or practices	040288	3/29/04
Cantu, Ruben Luhna	San Antonio	Probated suspension of General Life, Accident, Health and HMO License and General Property and Casualty License	Engaged in fraudulent or dishonest acts or practices	040309	3/31/04
Contractors Bonding and Insurance Company	Seattle WA	\$2,500 fine	Failed to file required withdrawal plan	040347	4/15/04
Del Aguila, Gustavo Augustin	Dallas	County Mutual License and Limited Lines License revoked	Misappropriated or converted money belonging to an insurer or insured; Engaged in fraudulent or dishonest acts or practices	040346	4/14/04
Edwards, Larry	Houston	General Life, Accident and Health License revoked; Adjuster License-All Lines application denied	Failed to comply with continuing education requirements; Attempted to obtain a license by fraud or misrepresentation	040263	3/22/04
Gorman, Steven Samuel	San Jose CA	Cease and Desist the unauthorized business of insurance	Alleged unauthorized insurance	040371	4/20/04
Gruppuso, Vito	Cedar Knolls NJ	General Property and Casualty License revoked	Misappropriated or converted money belonging to an insurer or insured; Engaged in fraudulent or dishonest acts or practices	040323	4/5/04
Hall, Patrick	Houston	General Life, Accident, and Health License revoked	Acted as an agent for unauthorized entities; Engaged in fraudulent or dishonest acts	040398	4/22/04
Hedges, Heather	Austin	County Mutual License application denied	Engaged in fraudulent or dishonest acts or practices; Felony conviction	040289	3/29/04
Holt, Roger Franklin, Jr.	Spring	\$15,000 fine subject to a dollar-for-dollar reduction by restitution to \$5,000	Acted as an agent for unauthorized entities; Failed to respond to a TDI inquiry	040383	4/20/04
IUNHCAMP Health & Welfare Fund	West Hills CA	\$500,000 fine; Cease and Desist the unauthorized business of insurance	Unauthorized insurance	040372	4/20/04
Jordan, Ezra LeVern	The Woodlands	\$4,500 fine plus restitution	Acted as an agent for unauthorized entities	040345	4/14/04
Kapala, Eugene Valentine	Houston	\$5,000 fine subject to a dollar-for-dollar reduction by restitution to \$1,500	Acted as an agent for unauthorized entities	040384	4/20/04
Muse, Paul	Houston	\$10,000 fine plus restitution; Cease and Desist; General Life, Accident, and Health License revoked	Acted as an agent for unauthorized entities; Engaged in fraudulent or dishonest acts	040303	3/31/04
Osornio, Javier	Harlingen	General Life, Accident, and Health License revoked	Misappropriated or converted money belonging to an insurer or insured; Materially misrepresented terms and conditions of an insurance policy	040397	4/22/04

APRIL

NAME	CITY	ACTION TAKEN	VIOLATION	ORDER	DATE
Owens, Michael Todd	Houston	General Life, Accident, and Health License and General Property and Casualty License revoked	Engaged in fraudulent or dishonest acts or practices; Misappropriated or converted money belonging to an insurer or insured	040385	4/20/04
Ramon, Michelle	Killeen	General Life, Accident and Health License application denied	Engaged in fraudulent or dishonest acts or practices; Made a material misrepresentation on a license application	040333	4/9/04
Reunion Title	Dallas	\$15,000 fine	Employed an unlicensed person as an escrow officer	040312	3/31/04
Roberts, James	Weatherford	\$2,500 fine subject to a dollar-for-dollar reduction by restitution to \$1,500	Acted as an agent for unauthorized entities	040394	4/22/04
Salazar, Hector Rangel	Irving	General Property and Casualty License application denied	Made a material misrepresentation on a license application; Attempted to obtain a license by fraud or misrepresentation; Felony conviction	040322	4/5/04
Samaniego, Victor R.	San Angelo	General Life, Accident and Health License and the General Property and Casualty License revoked	Felony conviction; Failed to notify TDI of felony conviction	040305	3/31/04
Schwab, Robert	Plano	\$15,000 fine plus restitution; Cease and Desist; General Life, Accident and Health License revoked	Acted as an agent for unauthorized entities	040302	3/31/04
Shackelford, Duwane Charles	Houston	General Life, Accident and Health License revoked	Failed to comply with Commissioner's Order	040386	4/20/04
Smith, Donna L.	Houston	Probated suspension of General Property and Casualty License, \$3,000 fine	Engaged in fraudulent or dishonest acts or practices; Misappropriated or converted money belonging to an insurer or insured	040382	4/20/04
Wittenberg, Marc Stephan	Dallas	\$17,000 fine subject to a dollar-for-dollar reduction by restitution to \$1,000	Acted as an agent for unauthorized entities	040396	4/22/04

InLicensing

NEW COMPANIES

COMPANY NAME	LOCATION	DATE LICENSED
Avisis Third Party Administrators, Inc.-TPA	Phoenix AZ	3/16/04
Employee Benefit Services, Inc.-TPA	Shreveport LA	3/16/04
P5 E.Health Services, Inc.-TPA	Reno NV	3/16/04
Texas Community Solutions, Inc.-TPA	Austin	3/16/04
Endurance Reinsurance Corporation of America	White Plains NY	3/18/04
Direct General Insurance Company	Aiken SC	3/23/04
Usauto Insurance Company, Inc.	Nashville TN	3/31/04
Advanced Benefit Resources Corp.-TPA	Dover DE	4/13/04
Block Vision, Inc.-TPA	Livingston NJ	4/13/04
VantisLife Insurance Company	East Hartford CT	4/14/04
Association Member Benefits Advisors, Ltd.-TPA	Austin	4/27/04
Decare Dental Health International, Llc-TPA	Eagan MN	4/27/04
MHM Resources, Inc.-TPA	Cleveland OH	4/27/04
NovaSys Health, L.L.C.-TPA	Little Rock AR	4/27/04
Peterman Partners, Ltd, dba Century Healthcare-TPA	Irving	4/27/04

Continued on back page.

InLicensing

NAME CHANGES

COMPANY NAME	LOCATION	CHANGED TO	DATE LICENSED
Mid-State Surety Corporation	Grosse Pointe Farms MI	The Guarantee Company of North America USA	3/2/04
Odyssey Reinsurance Corporation	Wilmington DE	Clearwater Insurance Company	3/10/04
Employee Benefit Claims of Wisconsin, Inc.-TPA	Glendale WI	Employee Benefit Consultants, Inc., <i>dba</i> EBC Mid-America, Inc., Milwaukee, WI	3/16/04
State National Specialty Insurance Company	Fort Worth	National Specialty Insurance Company	3/16/04
Gerling NCM Credit Insurance, Inc.	Baltimore MD	Atradius Trade Credit Insurance, Inc.	3/19/04
General & Cologne Life Re of America	Stamford CT	General Re Life Corporation	3/31/04
Housing Authority Property Insurance, Inc.	South Burlington VT	Housing Authority Property Insurance, A Mutual Company	3/31/04
Progressive American Life Insurance Company	Mayfield Village OH	Principal Health Insurance Company, Des Moines, Iowa (Chart Amend)	3/31/04
First Community Insurance Company	Katonah NY	Fidelity National Property and Casualty Insurance, Inc.	4/8/04
Podiatry Insurance Company of America (Risk Retention Group), A Mutual Company	Springfield IL	Podiatry Insurance Company of America, A Mutual Company	4/14/04
Ge Auto & Home Assurance Company	Fort Washington PA	AIG Preferred Insurance Company	4/15/04
Ge Indemnity Insurance Company	Fort Washington PA	AIG Indemnity Insurance Company	4/15/04
Fidelity National Property and Casualty Insurance, Inc.	Katonah NY	Fidelity National Property and Casualty Insurance Company, New York, NY	4/27/04



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