



## TDI's Division of Workers' Compensation Launched

SEPTEMBER 1, 2005, the effective date of House Bill 7 (79th Legislature, regular session), marked the first day of TDI's new Division of Workers' Compensation (Division). On that date the Texas Workers' Compensation Commission (TWCC) was officially abolished with TWCC powers, duties, policies, procedures, decisions, and rules transferred to the Division. Certain workers' compensation functions related to the ombudsman program are transferred to the newly created Office of Injured Employee Counsel (OIEC). The effective date for the OIEC is also September 1, 2005, with the transfer of functions effective March 1, 2006.

### Betts Named Workers' Comp Commissioner

ON SEPTEMBER 1, 2005, Governor Rick Perry named Albert Betts Jr. as commissioner of the Division of Workers' Compensation, for a term to expire February 1, 2007. Betts brings a wealth of workers' compensation experience to his job as commissioner. "It is an honor and a privilege to be selected to serve as the first Commissioner for Workers' Compensation in Texas. The Division has been given a very important task to implement the House Bill 7 reforms to the workers' compensation system. I look forward to working with Commissioner Geeslin, Division and Department staff, the Office of Injured Employee Counsel, and workers' compensation system participants in making this effort a success." Prior to his work at TDI, Betts was general counsel for the State Office of Risk Management, assistant general counsel for the Texas Workers' Compensation Commission and assistant attorney general for the Office of the Attorney General. Before the appointment Betts served at TDI as chief of staff and senior associate commissioner of operations.

Transition teams from both TWCC and TDI worked diligently all summer to prepare for the changeover and make the necessary internal adjustments to keep the external interruptions to a minimum. Services to system participants will continue. The Division and the OIEC will operate from the former TWCC location and all address and phone numbers will remain the same.

### Rules Process Begins

Now that HB 7 is law, one of the tasks from the Legislation is the rule development. To begin the process, the Transition Team distributed a list of rule topics and solicited stakeholder input for prioritizing rule proposals over the next fiscal year. As a starting point for the creation of the rule development plan, staff has tentatively assigned the highest rulemaking priority to the following categories of rules:

- rules relating to the transition of TWCC to the new TDI Division of Workers' Compensation;
- rules that are required by statute and must be adopted by a specific statutory timeframe;
- rules that relate to the provision of medical care in and outside of certified networks (i.e., rules that need to be adopted to reduce conflict and confusion for system participants)

### Bulletins Issued to Clarify Immediate Concerns

To provide important guidance to workers' compensation system participants in advance of the new rules, the TDI/TWCC Transition Team drafted several bulletins relating to the implementation of HB 7. The bulletins were issued under TDI authority and are available on the web at [www.tdi.state.tx.us/wc/transition/twcc.html](http://www.tdi.state.tx.us/wc/transition/twcc.html). Key aspects of some of the bulletins are summarized below: *continued on page 3*

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# Insurance Legislative Round-Up

## **TDI Tracked more than 200 Bills Enacted by the 79th Texas Legislature**

THE TEXAS LEGISLATURE passed and Governor Rick Perry signed, or allowed to become law, more than 211 bills that will require amending the Texas Insurance Code (or otherwise affecting) insurance providers, regulators and consumers. Arguably the most critical in the short term for TDI was House Bill 7, by Representative Burt Solomons and Senator Todd Staples, which abolished the Texas Workers' Compensation Commission and transferred the majority of its duties and functions to TDI.

The newly created Division of Workers' Compensation at TDI began executing those duties September 1. In addition, HB 7 creates a new state agency, the Office of Injured Employee Counsel (OIEC), and allows for the creation of provider networks for workers' compensation in an effort to ensure injured workers receive high quality medical care and control costs by pre-negotiating fees for medical services.

The reform bill is meant to address specific problems in the Texas workers' comp system, including high medical costs and poor return-to-work outcomes. TDI is committed to achieving the objective of the Legislation and making the transition as smooth as possible and minimizing disruptions.

While House Bill 7 is one of the agency's top priorities, there were literally hundreds of other bills that TDI staff tracked which may affect the \$79-billion dollar Texas insurance industry. Many of the enacted bills incorporated recommendations offered by TDI in our Biennial report to the Texas Legislature and TDI staff acted as an informational resource to legislators as requested.

This article summarizes some of the enacted legislation. Summaries are grouped alphabetically by subject headline, from Auto to Workers' Compensation and begin with the bill number, and the primary author. Those interested in additional details are encouraged to view the full text of each bill, along with legislative histories, analysis and fiscal impacts at the Texas Legislature's website at: <http://www.capitol.state.tx.us/>. See Legislative Review page 7.

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Contact **TDInSight** at:

Texas Department of Insurance  
**TDInSight** /MC-113-1A  
P.O.Box 149104  
Austin, TX 78714-9104

**512 463-6425**  
**512 463-6461** fax

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**TDInSight**, MC-113-1A,  
P.O.Box 149104  
Austin, TX 78714-9104

The staff that prepares this newsletter has no role in proposing, drafting, editing, or approving TDI rules or policies or interpreting statutes. **TDInSight** should not be construed to represent the policy, endorsement or opinion of the Commissioner of Insurance or the Texas Department of Insurance.

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.

# TDI's Division of Workers' Compensation

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## Transfer of powers, duties, policies, procedures, decisions and rules

Bulletin B-0033-05 specified that the Division will promulgate, amend, and repeal rules as appropriate to reflect the changes made to the workers' compensation system in HB 7. Because rulemaking will not be completed until after September 1, 2005, the effective date of the bill, the bulletin states that existing workers' compensation rules remain in effect unless the rules conflict with statutory provisions of HB 7. In that case, HB 7 changes take precedence over any conflicting provisions in workers' compensation rules. In addition, the statute allows the Division to promulgate some rules on an emergency basis, with shortened comment periods.

## Regulatory Oversight and Enforcement Authority

Bulletin B-0034-05 clarifies the Division's regulatory oversight and enforcement authority as proscribed by HB 7. Changes effective September 1, 2005 include:

- The Division is not required to prove "willful or intentional" conduct in order to assess an administrative penalty;
- The current classification system for administrative penalties is eliminated and the Commissioner of Workers' Compensation is authorized to assess administrative penalties up to a maximum of \$25,000 per day per occurrence;
- A penalty schedule is no longer required by rule and the penalty calculator will be removed from the Division's website;
- An insurance carrier commits an administrative violation if that insurance carrier makes a statement denying all future medical care for a compensable injury.
- Civil and administrative penalties are authorized for knowingly using the Division's name and logo, the name and initials of TDI, or any combination of the words "Texas" and "Workers' Compensation" by a person offering or performing workers' compensation services in the state;

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## TDI Holds Stakeholder Meeting for Workers' Comp Networks

**O**n July 12, 2005, TDI held a public meeting to receive input from stakeholders on the new workers' compensation provider networks authorized by House Bill 7. Over 200 people attended from all areas of the workers' compensation system. Audrey Selden, TDI's head of Consumer Protection, facilitated the discussion.

The hearing began with an overview of the new networks presented by Margaret Lazaretti, Deputy Commissioner of the HMO Division and Kevin Brady, Deputy Commissioner of Financial. TDI will be responsible for certifying networks and will develop rules that cover contracting, network requirements, network operations, utilization review and retrospective review, and complaints. From a financial standpoint, a network will be required to file a yearly financial statement that demonstrates that it is economically viable.

The primary purpose of the meeting was to hear from stakeholders, record comments and questions, and incorporate stakeholder concerns in the rulemaking process. Many of the

speakers represented health care providers who were concerned about whether networks would impose additional administrative burdens to participate in the workers' compensation system. Others expressed concerns about some types of providers being excluded from network participation, and possible confusion if each network developed its own credentialing process and treatment guidelines. Many participants also noted that a key decision in the rulemaking process would be the definition of where a worker lives, because that designation determines whether the worker is in or out of the network.

The proposed rules are published in the *Texas Register*. TDI must adopt the rules by December 1, 2005.

An audio archive is available on TDI's website at: <http://www.tdi.state.tx.us/commish/audio2.html#twcc>.





# TDI Proposes Workers' Comp Network Rules

**T**HE TEXAS DEPARTMENT OF INSURANCE is proposing new rules needed to implement Article 4 of House Bill 7, (79th Legislature) the Workers' Compensation Health Care Network Act. The legislation directs the Commissioner of Insurance to adopt rules as necessary to implement the Act no later than December 1, 2005. The measure also directs the TDI to begin accepting applications from networks seeking certification beginning January 1, 2006.

## Provisions of HB 7

The Act authorizes insurance companies, certified self-insurers and self-insured groups and governmental entities that self-insure, either individually or collectively, to establish or contract with certified networks for the delivery of health care services to injured employees.

Under the Act, if the employer elects workers' compensation network coverage, the employer's injured employees who receive coverage and who live within the network's service area must obtain medical treatment within the network, except under certain specified circumstances. Injured employees who live within the service area of a network and who are being treated by a non-network provider for an injury that occurred before the employer's insurance carrier established or contracted with a network, must select a network treating doctor, except under certain specified circumstances.

The Act outlines standards for the certification, administration, evaluation, and enforcement of the delivery of health care services to injured employees by the networks. The proposed new rules establish standards and requirements applicable to networks, insurance carriers, other persons, and third parties operating under the Act. The proposed standards and requirements relate to network certification; contracting; notice; plain language; selection of a treating doctor; dispute resolution related to whether an employee lives within the network service area; network operations; utilization review; retrospective review; and complaints.

## Goals of Networks

In this proposal, the department was guided by the 79th Legislature's expressed intent and direction that the workers' compensation health care network system resemble group health insurance plans as closely as possible. For this reason, many of the proposed sections mirror the provisions for HMOs and group health insurance plans.

The proposed rules reflect TDI's efforts to address concerns necessary to implement the Act at this time. The department recognizes that additional rulemaking may be necessary in the future to address ongoing concerns that have been or will be raised as networks become certified and operational.

The public benefits anticipated as a result of the proposed sections will be a workers' compensation health care network system that provides injured employees cost effective, prompt, and high quality medical care; facilitates injured employees' return to work as soon as it is considered safe and appropriate; and provides a fair and accessible complaint resolution process.

The full text of the proposed rules can be accessed online at: <http://www.tdi.state.tx.us/rules/parules.html>.

## Comments Requested

Public comment on the proposed rules must be submitted to TDI no later than 5:00 p.m. on October 3, 2005. The department will consider the adoption of the proposed network rules in a public hearing scheduled for Thursday, October 6, 2005, at 9:30 a.m. in E1 Level, Room E1.004 of the State Capitol Building, Capitol Extension Auditorium, 1400 N. Congress, Austin, Texas. The public hearing may be continued through October 7, 2005, if necessary.

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Systems, Accident Prevention Services, and the Rejected Risk Program are being transferred to the TDI's Division of Workers' Compensation on September 1, 2005. The Division will provide OSHCON consultations, as well as make available training, reference materials, and research to assist employers with their health and safety programs and encourage them to maintain safe and healthy work places as required by statute.

## Preauthorization and Concurrent Review Requirements

Bulletin B-0039-05 clarifies that existing rules regarding preauthorization and concurrent review remain in effect until new preauthorization and concurrent review rules are adopted by the Commissioner of Workers' Compensation. HB 7 added physical and occupational therapy to the list of health care treatments and services requiring preauthorization or concurrent review that the Commissioner of Workers' Compensation must specify by rule, but existing rules remain in effect until that time.

## Dispute Resolution Requirements

Bulletin B-0040-05 provides guidance concerning procedural changes to dispute resolution requirements mandated by HB 7. Among the changes, HB 7 directs the Division to:

- publish a list of information most useful in helping resolve income benefit disputes;
- require parties requesting a Benefit Review

Conference (BRC) to document efforts to resolve the dispute informally;

- allow BRCs to be conducted by telephone with injured employee's agreement;
- allow a Benefit Review Officer to schedule an additional BRC if any available information pertinent to the issue was not produced at the initial BRC, and a second BRC has not already been conducted on the issue;
- require that a Benefit Review Officer write a report listing unresolved issues at the conclusion of a BRC;
- specify that the Division's Appeals Panel will consist of a single panel composed of three administrative law judges;
- require the Division's Appeals Panel to issue and maintain a precedent manual composed of precedent-establishing decisions;
- no longer require that the Appeals Panel issue a written decision in cases where the Appeals Panel affirms the decision of the Contested Case Hearing (CCH) Hearing Officer (though written decisions will continue to be required for cases where the Hearing Officer's decision is being reversed and rendered or reversed and remanded);
- specify that for an appeal filed on or after September 1, 2005, the Appeals Panel shall issue a written decision not later than 45 days after the date on which the written response to the request for appeals is filed with the Division.

## Commissioner's Bulletin orders flexibility for consumers whose credit history may be impacted by Hurricane Katrina



**T**EXAS INSURANCE COMMISSIONER MIKE GEESLIN has issued a bulletin to all insurance companies writing property and casualty insurance in Texas reminding them that if they use credit information in underwriting or when considering new business, they should make an exception for consumers who may have suffered financial losses due to Hurricane Katrina and circumstances outside of their control.

## Senate Bill 14 History

Legislation passed during the 78th Legislative session allowed insurers to continue using credit information in underwriting and when considering whether or not to write coverage,

with a number of consumer protections. Among those protections, insurers must provide reasonable exceptions to the insurer's rates, rating classifications, or underwriting rules for a consumer whose credit information has been directly influenced by a catastrophic illness or injury, by the death of a spouse, child, or parent, by temporary loss of employment, by divorce, or by identity theft upon written request from an applicant for insurance coverage or an insured. In such a case, the insurer may consider only credit information not affected by the event or shall assign a neutral credit score. Section 5 of Article 21.49-2U also allows an insurer to grant

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## **HB 1572 by Taylor** **(Effective on September 1, 2005)**

HB 1572 provides an insurer paying benefits under personal injury protection coverage the right of subrogation and a claim against an at-fault driver under certain conditions. Previously, a driver involved in an accident had a right to subrogation against the at-fault driver and the insurer of the at-fault driver. The legislation extends that right to the insurer of the driver who was not at-fault.

## **HB 2437 by Haggerty** **(Effective immediately)**

HB 2437 provides additional rate filing flexibility for certain insurers writing nonstandard automobile insurance. An insurer that along with its affiliates issues personal automobile liability insurance policies below 101 percent of the minimum limits of liability as required by the financial responsibility laws of this state is subject to the same filing requirements as a county mutual writing at non standard rates.

## **HB 3300 by Thompson** **(Effective immediately)**

HB 3300 allows insurers to reinstate an auto policy, with a gap in coverage, but without the necessity of securing a new application and any applicable rejections of coverage. Previously if a policy was cancelled because of failure to pay on time, coverage could only be restored by the issuance of a new policy or reinstatement of the policy with no lapse in coverage.

## **SB 1670 by Staples** **(Effective on September 1, 2005)**

SB 1670 establishes a motor vehicle financial responsibility verification program to verify compliance with the *Motor Vehicle Safety Responsibility Act*. SB 1670 requires TDI, in conjunction with the Texas Department of Transportation, the Department of Public Safety and the Department of Information Resources,

to develop and establish a program to verify whether car owners have established financial responsibility. SB 1670 also requires insurers writing auto liability coverage to provide data necessary for the system to TDI.



## **HB 2157 by Smithee** **(Effective immediately)**

HB 2157 adopts the draft *NAIC Insurer Receivership Model Act*, revises the current law governing the liquidation, rehabilitation reorganization or conservation of an insurer. The new law contains procedures that are designed to protect the interest of policyholders, claimants, and creditors by improving the efficiency of insurance receiverships.

## **HB 2883 by Smithee** **(Effective on September 1, 2005)**

HB 2883 amends Article 21.28-D of the Insurance Code, the *Life, Accident, Health, and Hospital Service Insurance Guaranty Association Act*. HB 2883 enhances the portability of guaranty association protection, increases the guaranty association's assessment capacity from 1% to 2%, allows the association to capture assessment capacity that will be required for future obligations by "authorizing" an assessment that may be called at a later date to meet the timing of the underlying policy obligations and reduces the period that assessment payments can be offset against an insurer's premium tax obligations from 10 years to 5 years.

## **SB 449 by Wentworth** **(Effective on September 1, 2005)**

SB 449 allows a mutual life insurance company to convert to a mutual holding company, allowing it to issue stock and attract additional capital as necessary to ensure the financial viability of the company for its policyholders. This conversion occurs by the original mutual insurance company becoming a stock insurance company that is wholly owned by the mutual holding company.



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### **SB 1283 by Armbrister (Effective on September 1, 2005)**

SB 1283 amends the *Insurance Holding Company System Regulatory Act* contained in Chapter 823 of the Insurance Code, by removing the exemption for insurance holding company systems owned by five or fewer individuals. The change restores the broad applicability of the Act that existed until 1995.

### **SB 1284 by Armbrister (Effective on September 1, 2005)**

SB 1284 provides that health maintenance organizations (HMOs) are subject to the *Insurance Holding Company Act* and the *Merger Act*. The bill allows the Commissioner of insurance to adopt rules as necessary to apply the laws to HMOs, health care plans and EOCs.

### **SB 1564 by Janek (Effective on November 1, 2006)**

SB 1564 repeals the current requirement for a \$50,000 surety bond as a condition of licensure for surplus lines agents in this state. This puts Texas agents on the same footing as certain non resident agents who are not required to post a bond.

### **SB 1591 by Carona (Effective on September 1, 2005)**

SB 1591 gives TDI greater ability to rely on certified public accountant (CPA) audits of insurers by amending the Insurance Code to require CPAs to consider the procedures illustrated in the *NAIC Examiner's Handbook* while performing insurer audits. SB 1591 further ensures the independence of an auditor who is examining an insurer's financial reports and guards against conflicts of interest by amending the Insurance Code to specifically prohibit indemnification agreements between the auditor and the insurer for matters arising from the audit.

### **SB 1592 by Carona (Effective on September 1, 2005)**

Relating to special deposits required of certain insurers. SB 1592 permits the Commissioner to require an insurer to make a deposit of cash and securities with the Comptroller, if the Commissioner determines that a number of

conditions exist that may be hazardous to the insurer's policyholders, enrollees, creditors or the general public. These conditions include the financial or operating conditions of the insurer, the kinds and nature of the risks insured, the insurer's investments and agreements with respect to guaranty and surety.



### **HB 2388 by Thompson (Effective on September 1, 2005)**

HB 2388 encourages prompt reporting of fraud, enhances the confidentiality of information and materials obtained during investigations and ensures that insurers have an appropriate level of immunity. The bill enhances reporting by requiring an insurer to report suspected insurance fraud to TDI within 30 days after the discovery, or suspicion, of the fraud. The bill also allows for an insurer to request the commissioner to conduct an investigation of insurance fraud before the insurer completes its investigation.

### **SB 781 by Fraser (Effective immediately)**

Relating to the prosecution of certain acts that constitute the unauthorized business of insurance. SB 781 enhances prosecutors' ability to prosecute and punish unauthorized insurers and agents. SB 781 adds language stating that the attorney representing the state is required to prove that defendants of fraudulent insurance cases were intentional, knowing or reckless in their actions.



### **HB 765 by Menendez (Effective on September 1, 2005)**

HB 765 requires an insurer issuing a group policy to provide to each employee a notice that explains the policy limits and expenses under





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the policy. It requires insurers to include, among other information provided to the policyholder for delivery to each employee or member of the insured group, the annual deductibles, annual and lifetime policy limits, and maximum out-of-pocket expenses. It also requires a notice that informs the employee, or member, of the availability of and premiums for a rider or separate insurance policy that would provide additional coverage.

### **HB 1030 by Taylor (Effective on September 1, 2005)**

HB 1030 amends the existing statute to clarify that health insurers may offer PPO plans with varying coinsurance levels and other cost-sharing provisions. The bill also states that the insured's coinsurance for services rendered by out-of-network providers may not exceed 50 percent of the total covered amount.

### **HB 2810 by Hochberg (Effective on September 1, 2005)**

HB 2810 prohibits a health benefit plan issuer from using an applicant's previous denial of health insurance as an underwriting factor.

### **HB 2390 by Harper-Brown (Effective immediately)**

HB 2390 amends the Texas Education Code to permit private, educational institutions to form a benefits consortium to establish a self funded employee welfare benefit plan. Such a plan would be subject to the *Employee Retirement Income Security Act of 1974 (ERISA)*. The benefits consortium membership would be limited to private educational institutions and would be for a minimum of three years.

### **SB 50 by Nelson (Effective on September 1, 2005)**

SB 50 requires an insurer or health maintenance organization (HMO) to include in a contract with a provider, upon request of the provider, a provision prohibiting the insurer or HMO, or its clearinghouse, from refusing to process or pay an electronically submitted clean claim, because the claim is submitted together with, or in a batch, with a claim that is not a clean claim. SB 50 authorizes the Commissioner of Insurance to

issue a cease and desist order against or impose sanctions on an insurer or HMO that violates this section or a contract provision adopted under this section.

### **SB 155 by Shapiro (Effective immediately)**

SB 155 allows a health benefit plan issuer to be deemed in compliance with state statutory and regulatory requirements if the health benefit plan issuer has been accredited by a national accreditation organization and that organization's accreditation requirements are the same as or substantially similar to the state statutory or regulatory requirements.

### **SB 805 by Averitt (Effective on September 1, 2005)**

SB 805 clarifies that participation in a health group cooperative by a health insurance carrier is voluntary and provides that health group cooperatives may be composed of small employers or large employers, but not both. SB 805 also provides that cooperatives composed of small employers that have not opted to restrict membership shall be treated as a single small employer for premium rates and as a single large employer for all other purposes including for issuance and renewal of coverage. SB 805 also amends the status governing the operation of the Texas Health Reinsurance System. The amendments prohibit an insurer from redoing additional lines to the System if the board determines that the expected loss from the system exceed the total assessments at a rate of 10 percent of total premiums earned for the preceding calendar year.

### **SB 809 by Averitt (Effective on November 1, 2006)**

SB 809 adds cost saving measures to the statutes governing the *Texas Health Insurance Risk Pool*, (pool) provides that assessments to fund the pool will be based on the number of lives covered by each insurance company, and adds subrogation rights for the pool. Additionally, SB 809 requires a joint interim committee to study the deficit resulting from net loss to the pool and to recommend a method or formula for recouping any deficit.



**HB 363 by Hegar  
(Effective on September 1, 2005)**

HB 363 prohibits insurers from using a customer inquiry as a basis for declination when deciding to issue or not to issue an insurance policy to an applicant for insurance. “Customer inquiry” means a telephone call or other communication made to an insurer that does not result in an investigation or claim and that is in regard to the general terms or conditions of, or coverage offered under, an insurance policy.

**HB 2761 by Taylor  
(Effective immediately)**

HB 2761 prohibits a broker from requiring a borrower to purchase homeowners insurance or other residential property insurance in an amount that exceeds the replacement value of the dwelling. HB 276 also provides that a lender may not include the fair market value of the land in the replacement value of the dwelling or contents.



**HB 526 by Berman  
(Effective immediately)**

HB 526 removes the limits that are placed on coverage amounts for group life insurance policy or certificate purchasers. Previously a purchaser of a group life insurance policy or certificate in Texas could not purchase life insurance in an amount that exceeded \$250,000 or seven times the employee’s annual compensation whichever is greater of life insurance. HB 526 also provides that the amount of insurance on debtor’s life may not exceed the amount of the debtor’s indebtedness.

**HB 1571 by Taylor  
(Effective immediately)**

HB 1571 allows premiums for a group life

insurance policy to be paid wholly from funds contributed by the insured employees. The bill makes available group life insurance to employees of an employer that makes no contribution of funds to pay the premium, but permits the employees to have the advantage of the group life insurance.

**SB 88 by Averitt  
(Effective on September 1, 2005)**

SB 88 changes the minimum number of employees a business must have to qualify for group life insurance to two. Previously, Texas law prohibited insurance carriers from issuing a group life insurance policy that covers less than 10 employees.



**HB 2645 by Nixon  
(Effective on September 1, 2005)**

HB 2645 clarifies the timing of when an expert report is due on a medical malpractice case. It was the intent of HB 4 (78th Legislature, Regular Session, 2003) that the report be triggered by the filing of the lawsuit.

**HB 2678 by Smithee  
(Effective on September 1, 2005)**

HB 2678 prohibits an insurer selling healthcare professional liability insurance from considering whether, or to the extent to which, a physician or healthcare provider provides services to Medicaid or CHIP recipients when making a decision regarding coverage. The bill eliminates a requirement that a finding must be made that a reasonable degree of competition does not exist before a rate can be held to be excessive.

The bill prohibits an insurer from considering a lawsuit filed against a physician when setting or reducing a claims free discount if the lawsuit was dismissed before trial and no payment was made to the claimant under a settlement agreement.



**HB 2565 by Eiland**

**(Effective on September 1, 2005)**

HB 2565 amends the Insurance Code to make county mutual insurance companies, farm mutual insurance companies, Lloyds plans, or reciprocal exchanges writing under Chapter 5, Subchapter B, expressly subject to the requirements of Article 5.20, which prohibits an insurer, agent, and broker from giving or allowing rebates. The bill also excludes certain promotional and educational activities from being defined as rebates or for title insurance agents and companies.

**HB 2613 by Eiland | Seaman | Taylor**  
**(Effective on September 1, 2005)**

HB 2613 amends the Insurance Code to provide for Texas to join with other states and become a member of the Interstate Insurance Product Regulation Commission.

The Compact is an agreement among member states to create, implement and refine a streamlined system of insurance product regulation. The compact applies to the writing of life insurance, annuities, disability income and long-term care insurance. The Compact becomes operational when 26 states or states representing 40 percent of the premium volume for the designated lines enter into the Compact.

**HB 2614 by Eiland**

**(Effective on September 1, 2005)**

HB 2614 enhances consistent regulation of all insurance companies by expressly making Lloyds companies and reciprocal exchanges subject to information requests from the TDI under Section 38.001, Insurance Code. That section requires insurers to respond to reasonable TDI inquiries within 10 days of receipt.

**HB 2870 by Smithee**

**(Effective on September 1, 2005)**

Relating to the regulation of rates and forms used to write guaranty bonds. HB 2870 adds guaranty bonds to the lines of insurance subject to Article 5.13-2, Insurance Code.

**HB 2872 by Smithee**

**(Effective on September 1, 2005)**

HB 2872 amends Article 5.13-2 of the Insurance Code, to include multi-peril insurance as a line of insurance subject to regulation under the article, and repeals Article 5.81 of the Insurance Code. The Act applies only to a multi-peril insurance policy that is delivered, issued for delivery, or renewed on or after January 1, 2006.

**HB 2941 by Eiland**

**(Effective on September 1, 2005)**

HB 2941 provides that if an agent, or any affiliate of an agent, receives compensation from a customer for the placement or renewal of an insurance product, other than a service fee, the agent is prohibited from accepting or receiving any compensation from an insurer or other third party for that placement or renewal unless the agent has obtained an acknowledgement from the customer and provided description of the method and factors used to compute the compensation, before the customer's purchase of insurance. The bill also requires TDI to conduct a study regarding commissions paid by the Texas Health Insurance Risk Pool.

**SB 14 (1) by Jackson, Mike**

**(Effective on September 1, 2005)**

SB 14 relates to disapproval by the Commissioner of Insurance of certain property and casualty insurance rates. If the Commissioner requires an insurer to refund the excessive or unfairly discriminatory portion of a premium on personal automobile or residential property insurance, the amount of the refund must include interest on the amount. The rate of interest to be assessed is the lesser of 18 percent or the sum of six percent and the prime rate. The period for refund and interest begins on the date the department notifies the insurer that the filed rate is excessive or unfairly discriminatory. An insurer is also prohibited from claiming a premium tax credit if they are not in compliance with this section.

Section 2 of SB 14 clarifies that the rating territory 15 percent limitation for rating differentials within a subdivided county only applies to personal auto and residential property.

Section 3 of SB 14 specifies how TDI will perform its market conduct oversight functions, based on the NAIC/NCOIL model act.

SB 14 also specifies the types of claims that can not be considered for purposes of determining optional premium discounts and surcharges for residential property; including losses by natural causes that were filed and not paid and water damage claims that have been properly remediated and inspected.

It permits an insurer to assess a surcharge if the insured has filed one or more claims in the preceding three policy years. It also requires that the surcharge be based on sound actuarial principles.



**HB 532 by Howard  
(Effective on September 1, 2005)**

HB 532 reinstates title insurance companies that pay a premium tax in Texas as eligible for the Certified Capital Company (CAPCO) investment program.

**HB 885 by Seaman  
(Effective immediately)**

HB 885 sets the statutory premium reserve at 18.5 cents per thousand of net retained liability for business written or assumed on or after January 1, 2005 for any domestic title insurer by issuing an order rather than having to go to the legislature each time a change is required. The bill also enables the commissioner of insurance to adjust the statutory premium reserves for any domestic title insurer.



**HB 1891 by Eiland  
(Effective on September 1, 2005)**

HB 1891 removes the exemption for an industrial fire county mutual company writing exclusively industrial fire insurance policies if it is

affiliated with other insurers as part of a holding company group. Removal of the exemption means such companies are included in the definition of insurer for purposes of the *Texas Windstorm Insurance Association Act*.

**HB 2298 by Smithee  
(Effective immediately)**

HB 2298 repeals Section 8E, Article 21.49 of the Insurance Code, eliminating certain rate roll-backs for insurance premium rates for windstorm. That section responded to a specific change in building codes applicable to structures built in designated catastrophe areas namely, the *Building Code for Windstorm Resistant Construction* adopted in 1997. Since 1997, the Texas Department of Insurance has adopted the *International Residential Code*, which is a new building code, as the standard for windstorm construction.



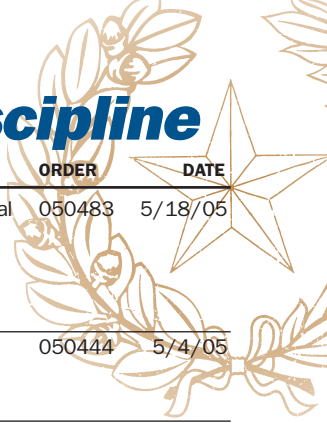
**HB 7 by Solomons | Giddings | Hamric |  
Dunnam (Effective on September 1, 2005)**

HB 7 abolishes the *Texas Workers' Compensation Commission*, establishes the *Office of Injured Employee Counsel*, and transfers the powers and duties of the Texas Workers' Compensation Commission to the *Division of Workers' Compensation* (DWC) at TDI and to the new *Office of Injured Employee Counsel*. HB 7 also requires the creation of provider networks in an effort to control medical costs in the workers' comp system.

**HB 1353 by Cook, Robby  
(Effective on September 1, 2005)**

HB 1353 incorporates the unanimous recommendations of the *Texas Group Self-Insurance Guaranty Association Advisory Committee* and creates the *Texas Self-Insurance Group Guaranty Fund*. The fund will be governed by a board provided for in the bill and be responsible for ensuring the payment of workers' compensation benefits in the event a self-insured group becomes insolvent.





NAME	CITY	VIOLATION	ACTION TAKEN	ORDER	DATE
Alvarez, Gabriel	San Antonio	Misappropriated or converted money belonging to an insurer or insured; Engaged in fraudulent or dishonest acts or practices	Restitution of \$10,270; General Property and Casualty License and General Life Accident and Health License revoked	050483	5/18/05
Barnett McNair Hall, L.L.P.	Dallas	Taught a continuing education course with an expired certificate	\$1,500 fine	050444	5/4/05
Bennett, Sherrill	Round Rock	Engaged in fraudulent or dishonest acts or practices; Deferred adjudication for a felony offense	Limited Lines License application denied	050582	6/28/05
Boiles, Jadey Wayne	Watauga	Misappropriated or converted money belonging to an insurer or insured; Engaged in fraudulent or dishonest acts or practices	\$7,098 in restitution; General Property and Casualty License and County Mutual License revoked	050538	6/16/05
Brandon, David Michael	Irving	Felony conviction involving moral turpitude; Misappropriated or converted money belonging to an insurer or insured	General Life, Accident, and Health License revoked	050435	5/3/05
Bushong, Edmond Bruce	Dallas	Failed to comply with Commissioner's order	General Life, Accident and Health License revoked	050424	4/29/05
Byerly, Traudney Latrelle	Jasper	Failed to comply with Commissioner's order	General Life, Accident and Health License revoked	050423	4/29/05
Carr, Lana Watson	Arlington	Engaged in fraudulent or dishonest practices; Engaged in criminal conduct; Made a material misrepresentation on a license application	Escrow Officer's License application denied	050540	6/16/05
Carson, Kevin Kit	Royse City	Misappropriated or converted money belonging to an insurer or insured; Engaged in fraudulent or dishonest acts or practices	\$3,000 fine; Must complete 8 hours of continuing education in ethics	050587	6/29/05
Chapman, John Carlton	Arlington	Failed to comply with continuing education requirements	\$750 fine	050431	5/3/05
Coleman, David De Murr	Tomball	Failed to comply with continuing education requirements	\$525 fine; Must complete 16 hours of continuing education	050443	5/4/05
Coleman, Valdis Lydell	Dallas	Engaged in fraudulent or dishonest acts or practices; Misdemeanor offense of theft	\$3000 fine; Adjuster Property and Casualty License revoked	050446	5/4/05
Crowder, Bonnie Mae	Garland	Misappropriated or converted money belonging to an insurer or insured; Engaged in fraudulent or dishonest acts or practices	General Property and Casualty License and General Life, Accident and Health License revoked	050460	5/6/05
Davis, Phil Wyman	Lamesa	Engaged in fraudulent or dishonest acts; Felony conviction involving moral turpitude	General Life, Accident and Health License revoked	050416	4/28/05
Denton, Brenda G.	Odessa	Failed to comply with continuing education requirements	\$1,500 fine: Must complete 22 hours of continuing education	050425	5/2/05
Gaites, Trent Peter	Oakwood, GA	Conducted unauthorized business of insurance	\$24,000 fine	050448	5/6/05
Gonzalez, Nora	Mission	Engaged in fraudulent or dishonest acts or practices	General Property and Casualty License revoked	050434	5/3/05



# InDiscipline

NAME	CITY	VIOLATION	ACTION TAKEN	ORDER	DATE
Gorman, David King	Arlington	Failed to comply with continuing education requirements	\$1,500 fine; Must complete 30 hours of continuing education	050495	5/26/05
Grand Title Company, LLC	Rockwall	Made a material misrepresentation on a license application; Failed to submit guaranty fees; Failed to maintain an office in the county in which it is duly licensed	\$15,000 fine; Cease and Desist order	050595	6/29/05
Hamoudi, Manaf	Edinburg	Knowingly, willfully, fraudulently or with gross negligence filed inspection reports with false, fictitious or fraudulent statements; Failed to comply with TDI inspection requirements	Appointment as a Qualified Inspector for the Department's Property and Casualty Division Windstorm Inspection Program is revoked	050481	5/18/05
Hendricks, Gaylan Kay	Arlington	Engaged in unfair marketing of Medicare supplement policies	\$19,500 fine	050497	5/26/05
Insurance Placement Services, Inc.	Bloomington, IL	Failed to timely submit renewal application	\$7,500 fine; Complete 10 hours of continuing education	050596	6/29/05
Jackson, Leslie Lamone	Arlington	Misappropriated or converted money belonging to an insurer or insured; Materially misrepresented terms and conditions of an insurance policy; Engaged in unfair and deceptive acts or practices; Improperly paid commissions to an unlicensed individual for services as an insurance agent	Limited Lines License revoked; \$12,902 restitution	050584	6/28/05
Jones, Jimmy Marvin	Huntsville	Felony offense involving moral turpitude	Two year probation of General Property and Casualty License and General Lines Life, Accident, Health and HMO License	050475	5/17/05
Laurence, Larry Denny	Point Richmond, CA	Failed to notify TDI of an administrative action taken by another state insurance regulator	\$5,000 fine	050482	5/18/05
Lynn County Abstract & Title, Inc.	Tahoka	Failed to timely file required annual escrow audit reports	\$10,000 fine	050445	5/4/05
Martin, Christopher Chad	Denton	Felony conviction	General Life, Accident and Health License denied	050583	6/28/05
Mayi, Lorraine A.	Austin	Failed to comply with continuing education requirements	\$1,500 fine; Must complete 30 hours of continuing education	050496	5/26/05
McPeters, Jeffrey L.	Richardson	Failed to comply with continuing education requirements	\$500 fine	050432	5/3/05
Mejia, Rudy	Houston	Misappropriated or converted money belonging to an insurer or insured; Engaged in fraudulent or dishonest acts or practices	Limited Lines License revoked	050489	5/20/05
Morgan, Dean Farrell	Grapevine	Misappropriated or converted money belonging to an insurer or insured; Engaged in fraudulent or dishonest acts or practices	General Life, Accident, and Health License and General Property and Casualty License revoked	050474	5/17/05

NAME	CITY	VIOLATION	ACTION TAKEN	ORDER	DATE
Reyna, Soyla	Houston	Failed to comply with continuing education requirements	\$1,000 fine; Complete 30 hours continuing education	050527	6/15/05
Welty, Carla Denise	Cedar Park	Failed to comply with continuing education requirements	One year suspension of Adjuster Property and Casualty License	050433	5/3/05

## InLicensing

### New Companies

COMPANY NAME	LOCATION	LINE	DATE LICENSED
Insura Property and Casualty Insurance Company	Bedford Park, IL	Property & Casualty	5/4/05
Achieve Financial Services - TPA	Tyler	Third Party Administrator	5/11/05
Hammerman & Gainer, Inc. - TPA	Austin	Third Party Administrator	5/11/05
HF Administrative Services, Inc. - TPA	New York, NY	Third Party Administrator	5/16/05
Loya Preferred Insurance Company	El Paso	Property & Casualty	5/18/05
CBG Services Corporation - TPA	Austin	Third Party Administrator	5/20/05
Integrity Administrators, Inc. - TPA	Las Vegas, NV	Third Party Administrator	5/20/05
Intermediary Insurance Services, Inc. - TPA	San Francisco, CA	Third Party Administrator	5/20/05
Catholic Knights	Milwaukee, WI	Fraternal	5/26/05
AMCOMP Preferred Insurance Company	North Palm Beach, FL	Property & Casualty	6/10/05
Lyndon Southern Insurance Company	Marksville, LA	Property & Casualty	6/16/05
Employers Compensation Insurance Company	Glendale, CA	Property & Casualty	6/17/05
Autoone Insurance Company	Melville, NY	Property & Casualty	6/20/05
Molina Healthcare of Texas, Inc. - HMO	Fort Worth	HMO	6/22/05
Destiny Management Company, LLC - TPA Integrated Benefit Management Services, LLC,	Bethesda, MD	Third Party Administrator	6/24/05
DBA Wellnet Healthcare Administrators, LLC - TPA	Gladstone, OR	Third Party Administrator	6/24/05
Universal Insurance Company of Texas	San Antonio	Property & Casualty	6/28/05
Mercantile Trust of Texas, The Texas Alliance of Energy Producers Workers	Irving	Workers Compensation Self Insurance Groups	6/29/05
Compensation Self Insured Group Trust	Wichita Falls	Workers Compensation Self Insurance Groups	6/29/05

### Name Changes

COMPANY NAME	LOCATION	LINE	DATE OF CHANGE
CDC IXIS Financial Guaranty North America, Inc.	New York, NY	CIFG Assurance North America, Inc.	5/23/05
TIG Premier Insurance Company Seguros Tepeyac, S.A.	Martinez, CA	Fairmont Premier Insurance Company	5/24/05
Compania Mexicana de Seguros Generales	Mexico City, MX	Mapfre Tereyac, S.A., Huixquilucan, Mexico	6/10/05
New England Benefit Companies, Inc. - TPA	Warwick, RI	National Employee Benefit Companies, INC., DBA New England Benefit Companies, INC.	6/24/05
Usable Corporation - TPA	Little Rock, AR	Added DBA Usable Administrators	6/24/05
Balboa Lloyds Insurance Company	Plano, TX	Newport E&S Insurance Company, CVT from Lloyds to Stock P & C	6/30/05



## Commissioner's Bulletin orders flexibility for consumers' whose credit history may be impacted by Hurricane Katrina *continued from page 6*

### The Department urges insurers to avoid placing additional burdens on victims of the storm.

an exception to an applicant for insurance coverage or an insured for an extraordinary event not specifically listed in Section 5.

#### Hurricane Katrina

According to the bulletin, in the wake of the devastation caused by Hurricane Katrina, the relocation of hurricane victims and other personal hardships sustained by residents of the Gulf Coast, the Texas Department of Insurance has determined that it is appropriate to remind insurers of their obligations pursuant to Section 5 of Article 21.49-2U of the Texas Insurance Code. These obligations apply to the writing of personal insurance in this state, including the writing of personal insurance for Texas residents affected by the hurricane or hurricane victims who relocate to Texas and seek insurance.

The Commissioner's Bulletin dated September 2, 2005 was directed to all insurance companies, corporations, exchanges, mutuals, reciprocals, associations, Lloyds, or other insur-

ers writing property and casualty insurance in the state of Texas and to other agents and representatives and the public generally.

By naming Hurricane Katrina as an "extraordinary event" not to be considered in credit scoring, the Department urges insurers to avoid placing additional burdens on victims of the storm and encourages insurers to accept verbal requests in lieu of written statements as stated in Article 21.49-2U.

Article 21.49-2U applies to personal insurance which includes personal automobile, residential property, residential fire and allied lines insurance policies; or a noncommercial insurance policy covering a boat, personal watercraft, snowmobile, or recreational vehicle.

### Coming up in the next issue...

- **Assisting The Victims of Hurricane Rita and Hurricane Katrina** TDI reaches out, administratively and through volunteer efforts.
- **Small Business Health Fairs** Exploring opportunities available for health insurance for small businesses.
- **TDInsight Online Survey** Polling Subscribers about their use of TDI's Newsletter. <https://wwwapps.tdi.state.tx.us/inter/perlroot/commish/tin/tinlogin.cgi>



#### Texas Department of Insurance

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