

TDI-DWC

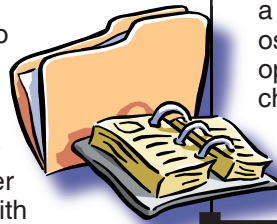
Fast Facts

Financial Disclosure



What is the purpose of financial disclosure?

Prior to passage of House Bill 2600, the only providers who were required to disclose their financial interests in other providers to whom they made referrals were those who had a 5% or greater interest. HB 2600 mandated an expansion of financial disclosure to reduce the likelihood of medically unnecessary referrals and to allow a determination of whether certain kinds of financial arrangements are connected with higher claim costs in Texas.



What are the disclosure requirements?

As a result of HB 2600, each doctor who wishes to participate in workers' compensation in any capacity is required to disclose to the Division the identity of any health care provider in which:

- the **doctor** has a financial interest;
- an **immediate family member** of the doctor has a financial interest; or
- the **health care provider** that employs the doctor has a financial interest [Tex. Lab. Code §413.041(a)].

What is the deadline to provide this information?

Beginning September 1, 2003, a **health care practitioner** who fails to disclose a financial interest and either had actual knowledge of the financial interest or acted in reckless disregard or deliberate ignorance as to the existence of the financial interest is subject to a penalty of forfeiture of the right to reimbursement for any services rendered on the claim during the period of non-compliance [Rule 180.24(c)].

When do I submit financial disclosure?

A doctor who is not in a workers' compensation network must submit financial disclosure to the Division, which can be done online at: <https://txcomp.tdi.state.tx.us/twccprovidersolution/homehtml>. Doctors are required to update their financial disclosure within 30 days of any change.

Do all providers submit financial disclosure?

Health care practitioners who are not doctors and doctors who are not on the ADL must submit financial disclosure if referring an injured worker to a health care provider in which the practitioner has a financial interest. This submission must be made no later than 30 days after the date the health care practitioner made the initial referral unless the disclosure was previously made [Rule 180.24(b)(1)].

Important Definitions

Doctor -

a doctor of medicine, osteopathic medicine, optometry, dentistry, podiatry, or chiropractic who is licensed and authorized to practice [Tex. Lab. Code §401.011(17)]

Immediate family member-

- Husband or wife;
- Birth or adoptive parent, child, or sibling;
- Stepparent, stepchild, stepbrother, or stepsister;
- Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law;
- Grandparent or grandchild; and
- Spouse of a grandparent or grandchild [Rule 180.24(a)(3)]

Health care provider -

a health care facility or health care practitioner [Tex. Lab. Code §401.011(22)]

Health care practitioner -

an individual who is licensed to provide or render and provides or renders health care or a non-licensed individual who provides or renders health care under the direction or supervision of a doctor [Tex. Lab. Code §401.011(21)]

Health care facility -

a hospital, emergency clinic, outpatient clinic, or other facility providing health care [Tex. Lab. Code §401.011(20)]



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What are some examples of financial disclosure?

These examples also apply to other health care practitioners if they make referrals to the health care providers in which there is an interest.

- If a doctor has a 3% interest in an imaging center, the doctor must report the amount and nature of the interest and the identity of the imaging center.
- If a doctor is employed by a company that owns a physical therapy clinic, the doctor must report the employer's interest (amount and nature) and the identity of the clinic.
- If a doctor's daughter has a compensation arrangement with a work hardening clinic (even if through employment), the doctor must report the daughter's compensation arrangement.

Because the definitions that apply to financial interests are so broad, and because referrals to providers in which a practitioner has a financial interest are not prohibited, but only require reporting, a good rule of thumb is that, when in doubt, disclose the relationship.

The Division's website will contain all financial disclosure enforcement orders [Tex. Lab. Code §413.041(d)].

What is financial interest?

Financial Interest

- an interest of a health care practitioner, including an interest of the health care provider who employs the health care practitioner, or an interest of an immediate family member of the health care practitioner, which constitutes a direct or indirect ownership or investment interest in a health care provider, or
- a direct or indirect compensation arrangement between the health care practitioner, the health care provider who employs the referring health care practitioner, or an immediate family member of the health care practitioner and a health care provider [Rule 180.24(a)(2)].

A compensation arrangement is any arrangement involving any remuneration between a health care practitioner (or a member of a health care practitioner's immediate family) and a health care provider [Rule 180.24(a)(1)]. Remuneration is any payment or other benefit made directly or indirectly, overtly or covertly, in cash or in kind, including, but not limited to, forgiveness of debt [Rule 180.1(17)].

Are state requirements similar to federal requirements?

The Texas Workers' Compensation Act requires that financial disclosure be regulated in line with federal standards. Therefore, Rule 180.24, "Financial Disclosure," closely tracks the language of the Federal Stark law (found in the United States Code at Title 42, Chapter 7, Subchapter XVIII, Section 1395nn, online at www.access.gpo.gov/uscode/uscmmain.html).

There are two important differences between the federal standards and the provisions of the Act relating to financial disclosure.

1. The Act does not prohibit "self-referrals," i.e., the practice of a health care practitioner referring an injured worker to another health care provider in whom he or she has a financial interest. Rather, the Act and Rules only require the disclosure of information that will assist the Division in evaluating such self-referrals.
2. The exceptions that allow self-referrals under the Stark law are not exceptions to the Act's requirement to disclose the interest. The interest must be disclosed even if the Stark law does not prohibit the referral.

Resources

- ▲ Many resources, including the Act, proposed and adopted rules, and forms, are available on the DWC website at www.tdi.state.tx.us.
- ▲ The Texas Workers' Compensation Act or Division Rules can also be purchased by calling the DWC Publications Department at (512) 804-4245 or by printing and mailing the order form under the "Publications Price List" heading on the DWC website at www.tdi.state.tx.us/wc/information/pubpricelist.html.
- ▲ For more information about DWC medical benefits laws, processes, rules, and forms call DWC's Customer Services at (512) 804-4800 and select option 5.