

# **2008 Annual Report**

**Texas Department of Insurance**





## Texas Department of Insurance

Office of the Commissioner, Mail Code 113-1C  
333 Guadalupe • P.O. Box 149221, Austin, Texas 78714-9221  
512 463-6464 telephone • 512 475-2005 fax • [www.tdi.state.tx.us](http://www.tdi.state.tx.us)

November 20, 2008

The Honorable Rick Perry, *Governor*  
The Honorable David Dewhurst, *Lieutenant Governor*  
The Honorable Tom Craddick, *Speaker of the House*

Dear Governors and Speaker:

I am pleased to submit the Annual Report of the Texas Department of Insurance for Fiscal Year 2008, in compliance with Texas Insurance Code Chapter 32, Section 32.021.

Copies of this report will be filed simultaneously with the State Auditor, Legislative Budget Board, Comptroller of Public Accounts, Legislative Reference Library and State Library. Copies of this report will be provided to insurance commissioners in other states, as well as selected members of the Texas Legislature or upon request. This report is also available on TDI's Web site at <http://www.tdi.state.tx.us/reports/annual.html>.

As in 2007, TDI's Annual Financial Report—formerly published as Part V of the agency's Annual Report—is published under separate cover for Fiscal Year 2008.

If you have questions about the contents of this report or affairs of the Texas Department of Insurance, I will be happy to respond.

A handwritten signature in black ink that reads "Mike Geeslin".

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Mike Geeslin, *Commissioner of Insurance*



A large, stylized white number '9' is positioned on the right side of the page, partially overlapping a light blue rectangular area. The number is composed of thick, rounded strokes. The background of the entire page is a solid dark blue color.

# **133rd Annual Report**

to the Governor & Legislature

**For Fiscal Year 2008  
ending August 31, 2008**

**Mike Geeslin,**  
Commissioner of Insurance



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**Agency Vision**

The Texas Department of Insurance envisions a financially stable and fair marketplace and an effective and efficient workers' compensation system.

**Agency Mission**

The Texas Department of Insurance mission is to protect insurance consumers by:

- regulating the insurance industry fairly and diligently
- promoting a stable and competitive market
- providing information that makes a difference.

**Agency Regulatory Approach**

The Texas Department of Insurance will exemplify friendly, courteous, ethical, and professional behavior in all areas of performance by:

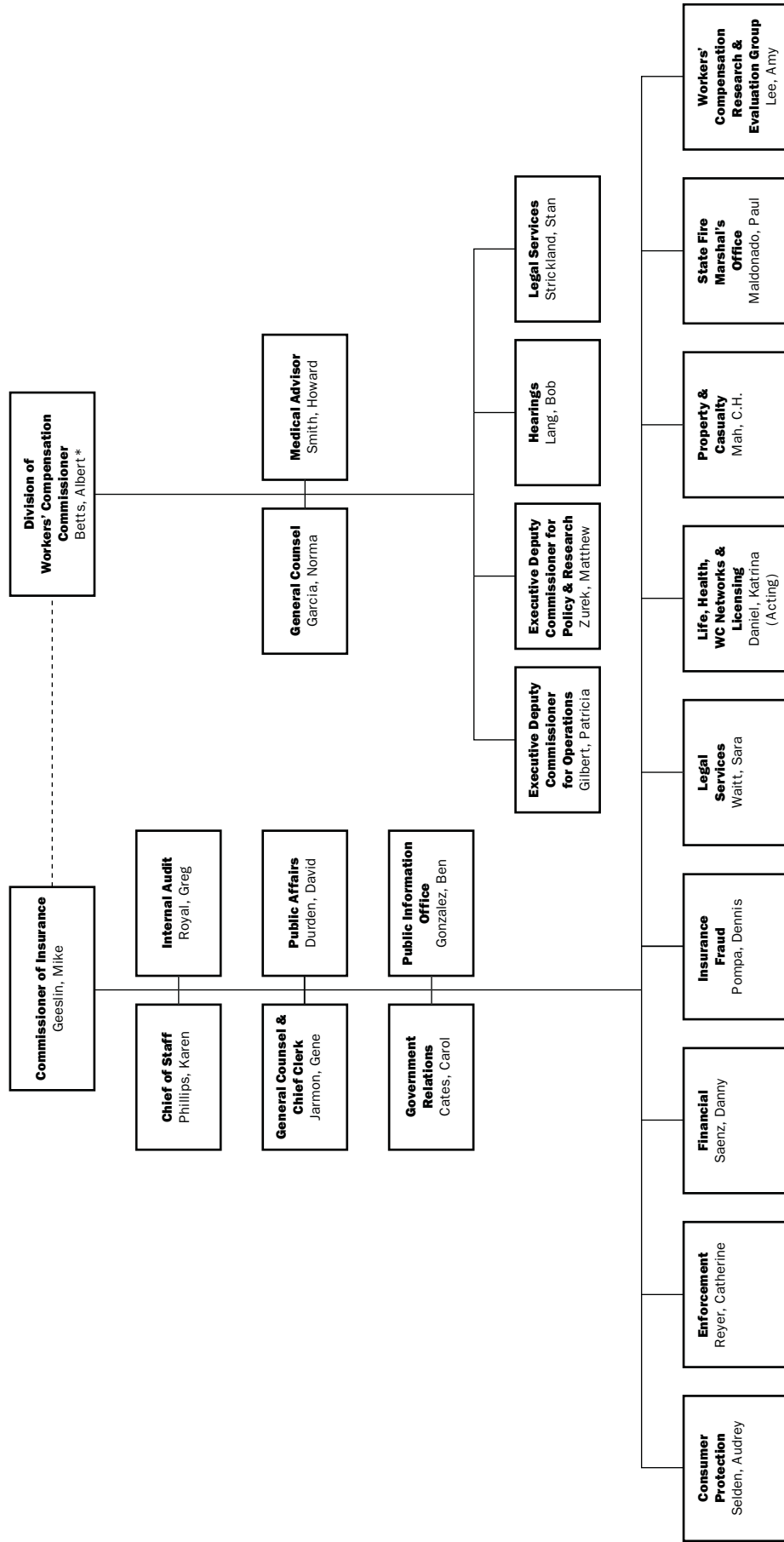
- providing the best value in services to the people of Texas
- applying the law and the agency policy fairly and consistently throughout the state
- communicating openly and providing timely and accurate information to the public we serve, and to all our fellow employees, and
- communicating internally and externally, we evaluate and adjust the course of the agency in response to changes in conditions.

**Explanatory Note**

References to statutes and insurance-related legislation: Unless otherwise noted, statutory references, including citations of articles, refer to the *Texas Insurance Code*. SB refers to a Senate bill and HB refers to a House bill. Bill references are to those enacted by the 80th Texas Legislature (2007) unless otherwise indicated.

# Agency Organization Chart

August 31, 2008



\* Albert Betts announced his resignation in June 2008. Governor Perry appointed Rod Bordelon as Commissioner of Workers' Compensation effective September 1, 2008.

# **Part I Report of Program Activities**

**This section of the Texas Department of Insurance's *133rd Annual Report* gives a brief summary of major activity of agency programs and divisions during Fiscal Year 2008. This report reflects the agency structure as it existed on August 31, 2008.**

*issued by the*

**Texas Department of Insurance**



## **Preface**

THE TEXAS DEPARTMENT OF INSURANCE (TDI) implemented several process improvements in Fiscal Year 2008, including a major redesign of its website. An above-average storm season also kept the agency busy, with spring storms causing severe flooding and Hurricane Dolly striking South Texas in July. Disaster response staff kept an eye on several named storms through the summer months into the fall, with Hurricane Ike hitting Texas squarely just two weeks after the end of the fiscal year documented in this report. Next year's annual report will detail TDI's response to this major event.

### **Homeowners**

Senate Bill 611 (80th Texas Legislature, 2007) directed TDI and the Office of Public Insurance Counsel (OPIC) to develop a single website that would help consumers make informed decisions about homeowners insurance. HelpInsure.com was launched in August, providing an interactive "portal" built upon a new sample rate query application that gives consumers rates, financial ratings, complaint ratios, and a wealth of other pertinent information from the top 25 carriers in the state.

In May, TDI published a special report on the state of the homeowners market in Texas. The market for homeowners insurance in Texas continues to be competitive across the state, with the exception of the coastal counties where rates and availability have been an increasing challenge since the major hurricane activity of 2005. Looking at the state as a whole, average annual homeowners premium has declined even as amount of coverage purchased has increased.

In May, TDI reached an agreement with Allstate Texas Lloyds in a legal battle going back to 2004. The agreement resulted in over \$71 million in refunds, credits, and rate reductions for Allstate policyholders.

### **Auto**

The Financial Responsibility Verification Program, a multi-agency initiative led by TDI, was successfully field-tested by Department of Public Safety troopers in the Austin area during July and August. The new program, dubbed TexasSure, is a database system for use by law enforcement to verify whether vehicles have valid auto liability insurance. An awareness campaign for TexasSure ran in selected Texas markets over the summer.

### **Life/Health**

TDI led a multi-state effort to resolve race-based pricing violations reaching back decades. A settlement was reached in November with Americo Life to provide additional benefits to policyholders of small face life policies who had been overcharged by 55 companies since acquired by Americo.

A TDI task force worked cooperatively with the federal Center for Medicare and Medicaid Services (CMS) to address abusive marketing practices in the sale of Medicare Advantage products to seniors. TDI issued an emergency order in November to prohibit the sale of Medicare Advantage products by temporary agents after a pattern of fraudulent sales activities came to light. Statewide consumer outreach efforts began during the 2008 enrollment period and are ongoing.

### **Workers' Compensation**

The Division of Workers' Compensation continued to develop rules implementing the workers' compensation reforms of 2005. In June, Albert Betts announced he was stepping down as Commissioner of Workers' Compensation. Governor Perry appointed Rod Bordelon, formerly director of the Office of Public Insurance Counsel, as Commissioner of Workers' Compensation effective September 1, 2008.

### **TDI Academy**

Groundwork was laid in FY 2008 for the TDI Academy, an initiative designed to cultivate a strong

network of insurance education in Texas. The Academy's goal is to foster programs that develop the next generation of insurance leaders, promote diversity among the insurance industry, and improve consumer education across all sectors of society. The first TDI Academy symposium was held in October 2008.

#### **Sunset Review**

After a comprehensive review of the agency, the Sunset Advisory Commission issued its recommendations in May. Sunset's recommendations addressed homeowners rate regulation, operations of the Texas Windstorm Insurance Association, registration of Preferred Provider Organizations, title agent examinations, building inspections by the State Fire Marshal's Office, and ultimately concluding that there was a continuing need for the agency to exist. TDI filed a response to Sunset's recommendations and public hearings were held in June. Sunset's recommendations to the Texas Legislature will be taken up in the 2009 session.



## Commissioner's Office

THE COMMISSIONER OF INSURANCE, appointed by the Governor with the advice and consent of the Senate, is the agency's chief executive and administrative officer.

As the agency's chief administrator, the Commissioner oversees agency regulatory functions, establishes agency operating procedures and enforces state insurance laws. Enforcement includes disciplinary and legal actions against violators, including issuing orders and assessing administrative penalties.

As part of his regulatory duties, the Commissioner issues presumptive rates for credit life and credit disability insurance. He also reviews and regulates all residential property rates and can order reductions when appropriate. The Commissioner also promulgates rates for title insurance and Texas Automobile Insurance Plan Association (TAIPA) coverages. The Texas Windstorm Insurance Association (TWIA) must submit its proposed rates to the Commissioner for approval.

The Commissioner reviews rates submitted to TDI under "file-and-use" provisions for such lines as boiler and machinery, business owners, commercial multi-peril, credit and involuntary unemployment, crime, fire and allied lines, commercial general liability, glass, miscellaneous liability, mortgage guaranty, medical malpractice, other professional liability and commercial umbrella.

The Commissioner adopts rules, issues enforcement orders, assesses administrative penalties, implements new laws, and addresses problems in regulating companies and agents. In addition, the Commissioner appoints individuals to advisory boards and committees and oversees their operation.

In FY 2008, the Commissioner's Office included the Chief of Staff and six activities.

**Chief of Staff** oversees the Administrative Operations Division, which includes the agency's financial services, information technology services, human resources, purchasing and contract administration and staff services. The Chief of Staff also coordinates executive communications and assists the agency ombudsman and ethics advisor in matters not requiring the Commissioner's action.

**General Counsel/Chief Clerk** serves as the Commissioner's legal adviser on both contested and non-contested cases and assists in developing rules, setting rates and handling various appeals to the Commissioner, including appeals from decisions of Boards and Associations supervised by the Commissioner. In addition, the office coordinates matters involving contested case proceedings including, coordinating hearing notices, scheduling of hearings with the State Office of Administrative Hearings (SOAH), along with providing a required court reporter, policy issues, and rule-making; performs legal research; certifies rules for the agency; approves all bulletins issued by the agency and the Commissioner; and maintains records of proceedings involving the Commissioner and Commissioner actions.

**Executive Services** provides executive support services to the Commissioner and staff.

**Internal Audit** supports management and the Commissioner of Insurance and the Commissioner of Workers' Compensation in achieving their goals and objectives. It accomplishes this by providing independent, objective analyses in order to improve the effectiveness of risk management, control and governance processes at TDI.

**Government Relations** serves as TDI's liaison with the Legislature and other governmental entities. Major responsibilities include helping the Commissioner of Insurance and the Commissioner of Workers' Compensation develop legislative recommendations for improving insurance regulation in Texas; reporting information regarding TDI activities and the insurance market to the Legislature; coordinating and tracking agency-wide responses to legislative and constituent inquiries, including responding to inquiries related to workers' compensation or coordinating responses with the Division of Workers' Compensation (DWC); monitoring, tracking and analyzing

ing legislation affecting the agency; updating agency staff on the status of legislation; selecting and coordinating the appearance of appropriate agency staff for resource testimony before various legislative committees; overseeing implementation of legislation; compiling and indexing all insurance and agency-related legislation for inclusion on TDI's website; distributing requested information to legislators, committees and other governmental entities; and researching and reviewing possible appointments to various boards and committees required to assist the Department, with on-going monitoring of such appointments.

**The Workers' Compensation Research and Evaluation Group** (Research Group) conducts research projects on system-wide issues such as medical costs and utilization and care trends in Texas, return-to-work outcomes for injured Texas workers and employer participation in the Texas workers' compensation system. The Research Group also presents findings and provides testimony for various legislative committees and produces an annual report card for certified workers' compensation health care networks and political subdivisions. Because of the importance of its efforts in implementing workers' compensation reform legislation, this group was made a stand-alone division in August 2006, reporting directly to the Commissioner.

**Public Information Office** serves as the agency's primary contact with the news media. The office also responds to information requests from consumers, the insurance industry and other regulators and government agencies. Major communication responsibilities include:

- Researching, writing, editing and distributing news releases announcing agency actions; conducting and coordinating interviews with the news media; assisting the Commissioner in drafting articles and consumer columns for various publications; and responding to information requests from the media.
- Managing content of TDI's websites, with assistance from Information Services and other divisions.
- Coordinating electronic mail among TDI, other state insurance departments and the National Association of Insurance Commissioners (NAIC), and coordinating general information e-mails via TDI's website.
- Coordinating the writing and editing of the Annual Report to the Governor and Legislature.
- Writing and editing the agency's regulatory newsletter (TDInSight).
- Designing, illustrating and producing agency publications and related print materials.
- Writing and overseeing production of radio and television public service announcements and advising agency programs on public awareness campaigns.
- Producing the agency's Bulletin Board@TDINet, an in-house electronic bulletin board for TDI information.
- Preparing information and fact sheets for speeches and helping edit various agency reports and documents.

## Highlights

In Fiscal Year 2008, the Commissioner's Office:

### General Counsel/Chief Clerk

- Reviewed, briefed and advised the Commissioner of Insurance on 50 contested cases heard by SOAH, and 13 hearings and public meetings conducted by the Commissioner. Also reviewed, briefed and advised the Commissioner on other rate matters including title insurance, the Texas Windstorm Insurance Association (TWIA) interim filing requesting modification of the annual commercial rate filing, and TWIA manual rates.
- Briefed and advised the Commissioner on seven appeals of TWIA decisions.
- Provided legal and technical review in connection with the adoption of 10 new Texas Administrative Code (TAC) rules, the repeal of 3 TAC rules, and the amendment of 14 TAC rules, including the adoption of one TAC rule adopted on an emergency basis. Nine proposed TAC rules were pending at the end of FY 2008.
- Provided legal and technical review in connection with the adoption of 10 manual rule proposals under Article 5.96, Chapter 2210, and Chapter 2151 of the Texas Insurance Code. Nine proposals to adopt new or amended manual rules were pending at the end of FY 2008.
- Reviewed and advised the Commissioner regarding orders in connection with agents and insurers, including 248 consent orders, 68 default orders, 29 contested, and 12 Cease and Desist orders; also reviewed and advised the Commissioner on 42 appointment or reappointment orders, 48 orders for Temporary Acting Commissioner, 10 TDI Activity orders (approval of TDI Manuals), and 6 Rate Matter orders.

- Continued work on streamlining the agency's internal rulemaking process.
- Continued work on updating and revising portions of TDI's database of Commissioner orders and bulletins. The database now includes 45 years of orders by insurance commissioners and the former State Board of Insurance.
- Maintained the Commissioner's agendas, bulletins, TAC and manual rules posted on the agency website.
- Approved and processed 66 Commissioner's bulletins.
- Maintained and prepared for archiving all contested-case hearing files (Official Administrative Record) and all other administrative hearing files of the Commissioner of Insurance or his delegate, as well as assisted the Office of the Attorney General in related appeals filed with the District Court.
- Briefed and advised the Commissioner and TDI staff in hearings concerning rules and other regulatory matters.

#### **Internal Audit**

- Conducted six financial or performance related audits. In addition, three other financial/performance-related audits were ongoing at fiscal year-end.
- Conducted two information system audit projects.
- Conducted two advisory projects resulting in final reports to the Commissioner and agency management.
- Conducted five investigations as authorized under Section 2102.003 (3) (E) of the Government Code.
- Served as TDI's liaison to external auditors on two State Auditor's Office (SAO) projects that were completed by fiscal year-end. In addition, Internal Audit served as TDI's liaison on one Comptroller audit completed by fiscal year-end and a federal program review and financial audit of the OSHCON program.
- The TDI Senior IT Auditor assisted the SAO, as a team member, in an audit of the data centers to be occupied by twenty-seven state agencies.
- The Internal Audit Director serves on TDI's Fraud Panel, which receives and determines appropriate handling of internal fraud-related allegations.
- The Internal Audit Director served on the agency Sunset Steering Committee as TDI prepared and went through the Sunset process.
- The Internal Audit Director lead a peer review of the Internal Audit Department at the Texas Guaranteed Student Loan Corporation.
- Audit staff served in an advisory or monitoring role on eight other agency-wide project committee teams.

#### **Government Relations**

- Participated in the development and publication of information regarding TDI's Self-Evaluation Report to the Sunset Advisory Commission and assisted with preparation for the Sunset hearings and post-hearing follow-up.
- Continued the coordination and reporting to the legislature of the implementation activities of the 187 insurance-related bills passed during the 80th Legislative Session (2007), which resulted in approximately 307 implementation items for TDI.
- Published bill implementation information on the agency's website.
- Worked with bill authors and sponsors of legislation and kept them advised of implementation developments.
- Monitored and attended meetings of various boards and committees, including legislative interim committees, for the Commissioner of Insurance and the Commissioner of Workers' Compensation.
- Coordinated and prepared presentations by the Commissioner of Insurance, the Commissioner of Workers' Compensation and/or TDI-DWC staff for interim legislative committees charged with studying insurance- and workers' compensation-related issues.
- Continued to maintain a consumer liaison for insurance inquiries.
- Assisted TDI staff with appointment and re-appointment of members to advisory committees and boards, including: the establishment and monitoring of the Technical Advisory Committee on Electronic Data Exchange pursuant to House Bill (HB) 522; the establishment and monitoring of an advisory committee on consumer access to health care information as required by Senate Bill (SB) 1731; and in cooperation with the Department of Health Services, a Bleeding Disorder Advisory Committee pursuant to SB 1566 (80th Texas Legislature, 2007).

- Monitored the continuing implementation of SB 1670, 79th Legislature, Regular Session. SB 1670 added Subchapter N to Chapter 601 of the Transportation Code, which requires TDI, in consultation with the Texas Department of Public Safety (DPS), the Texas Department of Transportation (TxDOT), and the Texas Department of Information Resources (DIR) to establish a program for verification of whether owners of motor vehicles have established financial responsibility. The program, known as the Financial Responsibility Verification Program (FRVP), moved toward completion of its pilot-testing phase with expected operation throughout Texas during the last quarter of 2008. Assistance was also provided in the public relations efforts for the program, which consisted of press conferences and media events and the development of a website: [www.texassure.com](http://www.texassure.com).
- Monitored the implementation of SB 611, 80th Legislature, Regular Session, which required TDI, in conjunction with the Office of Public Insurance Counsel to establish and maintain a single internet website that provides information to enable consumers to make informed decisions relating to the purchase of residential property insurance and personal automobile insurance. The website was launched on August 28, 2008 as [www.helpinsure.com](http://www.helpinsure.com), which allows consumers to view sample homeowners or auto insurance rates from the top 25 insurer groups, based on a personal profile submitted by the consumer. The service is free to use and no confidential information is required to be submitted. In addition to cost estimates, the website also provides financial ratings, complaint ratios, and recent rate changes for each insurance company listed. Summaries and explanations of what each policy covers, as well as available discounts, are also provided.
- Assisted staff of TDI and TDI-DWC with continuing implementation of HB 7, 79th Legislature, Regular Session, with special focus on rule development and coordination of information to stakeholders and legislators.
- Assisted TDI-DWC with implementation of bills from the 80th Legislative Session.
- Assisted the Commissioner of Insurance and the Commissioner of Workers' Compensation in developing legislative recommendations for improving insurance and workers' compensation regulation in Texas and compiling the information for reporting to the Legislature in the "Biennial Report of the Texas Department of Insurance to the 81st Legislature," to be published in the last quarter of 2008.

#### **Workers' Compensation Research and Evaluation Group**

- Completed eight research projects.
- Provided expert testimony at two legislative hearings.
- Assisted the Health and Workers' Compensation Network Certification and Quality Assurance Division with its outreach efforts to educate Texas employers on network issues.
- Measured the participation of employers and injured workers in workers' compensation networks.
- Updated estimates regarding the percentage of Texas employers and employees that are covered by workers' compensation insurance.
- Published the first workers' compensation network report card and began work on the second report due in September 2008.
- Assisted the Division of Workers' Compensation with the review of proposed rules; monitoring and validation of the Division's data collection activities; and assistance with the compilation of data for the Division's doctor monitoring activities and pharmacy formulary development.
- Assisted the State Office of Risk Management (SORM) with a legislatively required report on funding options to reduce the state's financial risk if a catastrophic incident occurred involving state employees.

#### **Public Information Office**

##### PIO

- Published five issues of TDInSight in FY 2008. TDInSight provides industry stakeholders and policymakers with timely information on key issues and regulatory actions, in a readable, visually interesting format.
- Produced three issues of the employee newsletter Bulletin Board as an electronic publication on the TDI intranet.
- Wrote and coordinated dissemination of 57 press releases to statewide Texas media in FY 2008.

- Provided presentation assistance for the Commissioner at 12 events statewide during the fiscal year.
- Responded to 484 media calls and interview requests.
- Participated in the Financial Responsibility Verification Program (FRVP) Awareness Campaign team along with PIO representatives from DPS, TxDOT, and DIR, with oversight over the creation and launch of the media campaign in June 2008.
- Continued to provide daily news clipping service, monitoring all major Texas newspapers for insurance-related news.

#### Graphics

- Designed and produced:
  - 16 newsletters for various TDI program areas,
  - 138 booklets or brochures,
  - 27 web enterable forms,
  - materials for five TDI conferences,
  - materials for special projects including TDI overview presentation for Sunset Commission staff, TDI Discussion Series, and TDI Mission Statement identity,
  - 28 stationery items,
  - five posters and banners,
  - eight advertisements for Consumer Protection and
  - 14 optimal web images for the TDI website.
- Coordinated all of the above print items with vendors for timely execution, finishing, quality control, and distribution

#### Web

- Provided a full redesign of TDI's agency website, one that is more user friendly and easier to navigate.
- Provided web site design work and support for expansion of the agency's Helpinsure website. That expansion included adding auto insurance information and a revamped interactive insurance rate comparison for homeowners, condominium owners and renters, as well as auto coverages.
- Distributed 39 e-mail updates to as many as 2,400 TDI eNews subscribers. The service first became operational in PIO in FY 2008.
- Provided live and archived Internet audio of seven public hearings in FY 2008.
- Created a separate enforcement action database for the Division of Workers' Compensation that can be displayed via the web separately or combined with other agency enforcement actions.
- Worked with Consumer Protection and Life, Health and Licensing to update and enhance TexasHealthOptions.com in FY 2008, providing more and better organized information and tools for helping Texans find health insurance coverage.
- Created additional automated website listings to reduce staff workload and organize information for the public.
- Reorganized sections of TDI's Intranet for employees, including the menu system, and started a new internal forms depository function that all areas of the agency will eventually use.
- Continued work with Web Team members throughout the agency to update and reduce website clutter and reorganize website structure as part of an ongoing effort to improve search results for TDI's online customers.

### Figure 1 Summary of Activity: Commissioner's Office

	FY 2005	FY 2006	FY 2007	FY 2008
Commissioner's Hearings/Meetings	20	31	25	13
Commissioner's Orders*	1,187	1,319	1,225	1,221

\* *Commissioner's Orders in FY 2008 included 357 disciplinary orders (including contested, consent, Cease & Desist and default orders), 25 TAC rules, 10 Manual orders, 676 company activities orders, 48 orders for temporary acting commissioner, 9 delegation orders for routine actions, 10 TDI Activity actions, 42 Appointment or Reappointment orders, and 47 other orders regarding rate filings, disapproval of rates, motions for rehearing, supervision and other matters regarding TWIA appeals.*

## Figure 2 Commissioner's Contested Cases by Type

	FY 2005	FY 2006	FY 2007	FY 2008
Total Hearings Conducted for Commissioner*	40	53	90	50
Disciplinary†	28	27	55	29
License Applications	9	13	19	14
Appeals/Other‡	3	13	16	9

\* Total number of actual hearings conducted for the Commissioner by the State Office of Administrative Hearings (SOAH). The count excludes prehearing conferences and additional days of extended hearings.

† Includes State Fire Marshal Office

‡ Appeals/Other includes appeals of actions taken by the Texas Windstorm Insurance Association (TWIA) and the Texas FAIR Plan Association (TFPA).

## Figure 3 Summary of Activity: Workers' Compensation Research Group

	FY 2007	FY 2008
Number of legislative hearings attended/provided testimony	7	2
Number of legislative/public information requests completed	231	260
Number of analyses completed	11	8

## Legal Services

LEGAL SERVICES counsels the agency on all matters, including operations, personnel, contracts, open records, and policymaking. The program interprets statutes; drafts rules, opinions, and bulletins; and assists the Financial Program with financial and receivership matters.

Legal Services has three sections, Agency Counsel, Financial Counsel, and Policy Development Counsel. The major activities of each section follow.

**Agency Counsel** provides legal services to the Commissioner of Insurance, the Commissioner of Workers' Compensation, and agency staff. These services include:

- advising the agency on applicable state and federal employment laws
- drafting bid documents and monitoring agency contracts
- overseeing the agency's open records process
- drafting rules for the Administrative Operations Division
- reviewing and revising TDI's policies and procedures manuals.

**Financial Counsel** provides legal services to the Financial Program and other agency programs. The section generally works on specific company transactions or problems. Services include:

- interpreting statutes, rules, and case law
- drafting and reviewing orders and rules
- assisting in the establishment of tax rates
- advising on company financial examination issues, administrative appeals, and other issues related to oversight of financially troubled companies
- drafting receivership pleadings and coordinating with the Office of the Texas Attorney General (OAG)
- representing the receiver before the district court-appointed receivership special master

**Policy Development Counsel** provides legal services to TDI's Life, Health, and Licensing; Property and Casualty; and Consumer Protection programs and to the Division of Workers' Compensation. The section assists in setting policy for all licensees, rather than specific companies. Assistance provided includes:

- interpreting statutes, rules, and case law
- drafting rules, bulletins, and potential legislation
- issuing legal opinions
- reviewing agency publications for legal accuracy
- commenting on insurance-related bills proposed by the Legislature.

General Management is the agency's liaison to the National Association of Insurance Commissioners. This function involves coordinating coverage of various committee meetings and communicating the agency's position on issues.

### Highlights

In Fiscal Year 2008, Legal Services:

- Finalized the adoption of the following rules:
  - New §1.602 Implements SB 611, 80th Legislature. Adopts a notice to be given by insurers to consumers regarding an Internet website maintained jointly by the Department and Office of Public Insurance Counsel to provide information to enable consumers to make informed decisions relating to the purchase of residential property insurance and personal automobile insurance.
  - Viatical & Life Settlement Rule Amendment. §§3.1701- 3.1717 Amendment of existing rule to reflect recent changes in the viatical and life settlement industry.
  - Advertising Rule HB 2251 and HB 2252. Implements HB 2251 passed by 80th Legislature regarding statutory guidelines for when an insurer internet site may be regulated as an insurance advertisement in this state. Also implements that portion of HB 2252 passed by 80th

Legislature regarding statutory guidelines for when an insurer may provide health-related services, health care information, and disclosure of availability of such noncontractual benefits.

- Proposed the following rules:
  - A rule implementing HB 472, passed during 80th legislative session relating to the regulation of third-party administrators with delegated duties in the workers' compensation system of this state; includes amendments requested by stakeholders that are needed for financial solvency regulation and requiring certain entities to provide fingerprints and comply with criminal history checks.
  - Qualified Long-Term Care Insurance Partnership. These rules provide for the implementation of a state long-term care partnership program in conjunction with the Health and Human Services Commission under the federal Deficit Reduction Act (DRA). The DRA allows for a dollar-for-dollar asset disregard and asset protection for purchasers of an approved long-term care partnership plan. The proposed rules adopt minimum standards for qualifying plans as approved plans and implement required training for insurance agents selling long-term care partnership plans.
- Provided legal advice and support on the contract and related agreements for the Financial Responsibility Verification Program.
- Responded to 13,504 open records requests within statutory deadlines and with a high degree of customer satisfaction.
- Referred 161 requests for public information to the Attorney General for opinions.
- Placed Memorial Service Life and Lincoln Memorial Life under supervision and then into receivership, along with a pre-need burial service contract seller. This action required coordinating with the Texas Department of Banking and other regulators nationwide, especially with the Missouri Department of Insurance, Attorney General, Texas Life Health IGA and National Organization of Life Health Guaranty Associations.
- Placed United Title of Texas under a Chapter 404 (Hazardous Financial Condition) order and then under conservatorship by consent after its parent company abandoned the agency; engineered the transfer of more than \$20 million in escrow funds to the appropriate underwriters and hundreds of open files so that closings could continue.

**Figure 4 Summary of Activity: Legal Services**

	<b>FY 2007</b>	<b>FY 2008</b>
Cases received	254	212
Cases closed	251	187
Open records requests received	13,829	13,504
Open records requests completed	13,658	13,603
Attorney General referrals for opinions	152	161



## Enforcement

ENFORCEMENT investigates allegations of illegal activities by insurance agents, insurance companies, HMOs, and other licensed entities and brings disciplinary actions that may result in:

- cease-and-desist orders
- license denials
- license revocations and suspensions
- monitored agent probations
- administrative penalties
- restitution

Enforcement refers cases to the Fraud Unit for criminal prosecution and assists appropriate prosecutors in criminal prosecutions. Enforcement works with the Office of the Attorney General (OAG) on appeals of disciplinary actions and on enforcement actions conducted by the OAG's Consumer Protection Division.

Enforcement's Compliance Intake Unit provides data and file management and public assistance telephone support to the program. The section also is responsible for analyzing and referring complaints and reports to the appropriate areas within TDI.

### Highlights

In Fiscal Year 2008, Enforcement:

- Ordered \$41,765,179 in restitution for consumers and assessed \$9,285,756 in administrative penalties, fines and forfeitures. Details regarding specific cases included:
  - United Healthcare Insurance Company, United Healthcare of Texas was ordered to pay a \$4.4 million fine for failing to promptly pay clean claims and for failing to properly maintain complaint logs.
  - Blue Cross and Blue Shield of Texas, A Division of Health Care Service Corporation was ordered to pay a \$250,000 fine with additional fine of \$3,900,000 subject to possible dollar-for-dollar reduction to zero by restitution paid for failing to make non-preferred benefits reasonably available to its insureds; and failing to maintain an accurate listing of its preferred providers.
  - Community First Health Plan and Mega Life and Health Insurance was ordered to pay \$300,000 and \$225,000 fines, respectively, for failing to pay clean claims in a timely manner.
  - Lyndal Ray Stocks was ordered to pay a \$1.5 million penalty for engaging in unauthorized business of insurance. Stocks sold "stop-loss coverage" to employers participating in United Employers Voluntary Employees Beneficiary Association and American Benefit Plans, an unauthorized health plan that TDI shut down in March 2002.
  - Capitol County Mutual Fire Insurance Company was issued a Consent Order imposing a \$150,000 administrative penalty subject to being increased to a \$300,000 payment of restitution, and an independent audit relating to the company's claims handling practices following Hurricane Rita.
  - The Continental Insurance Company, Transcontinental Insurance Company, National Fire Insurance Company of Hartford, Continental Casualty Company, Transportation Insurance Company, American Casualty Company of Reading, Pennsylvania, and Valley Forge Insurance Company were issued Consent Orders imposing a \$40,000 administrative penalty each for failing to timely and accurately file Closed Claim Reports, Aggregate Reports, and Reconciliation Forms.
  - An Emergency Cease and Desist order was issued against HR Trust, Ron Spain, Janice Acevedo and related entities for operating an unauthorized health insurer. The subjects were offering a purported self-funded, single employer health insurance plan to self-employed persons and small businesses.
  - Emergency Cease and Desist Order issued against Gary Garza for unauthorized acts in windstorm inspections.

- An Emergency Cease and Desist order was issued against Gary Derer, Lance Thayer, Kenneth Henning and HLM Assurance Group, LLC for misrepresentations and prohibited rebating and inducements. The subjects were offering free insurance to elderly Texans if they agreed to the purchase of large face value life insurance policies insuring their lives. While the insurance was represented as free, the insureds were actually personally liable for payment of the advanced premiums.
- William Fenoglio and Fenoglio Insurance Agency - Senior Solutions Center, Inc. licenses were revoked based upon William Fenoglio's fraudulent or dishonest acts and practices and misrepresentations in more than 40 loan arrangements with over 30 individuals, mainly elderly, in an amount totaling more than \$700,000.
- Enforcement secured consent revocation orders against James Vann and Merrell Williams based upon their fraudulent or dishonest conduct and misrepresentations to individuals who purchased bogus investment products through these agents.
- Mark Ginsberg consented to revocation of his license(s) based upon several instances of churning the annuities of elderly individuals and his sale of National Foundation of America (NFOA) unauthorized tax deductible annuities and charitable remainder trusts to elderly Texas residents.
- James Dee Forrest consented to revocation of his license(s) based upon his sale of annuities and life insurance to several individuals and his subsequent misappropriation of the annuity and life insurance funds.
- **Race-based Pricing.** TDI began its investigation into race-based pricing practices in June 2000. Originally, 186 companies were surveyed to determine if non-white policyholders had been charged more for small face amount life insurance policies than similarly situated white policyholders. Survey responses and targeted examinations revealed that race-based pricing did exist in the Texas marketplace, but had ceased in the early 1970s. The Department, in cooperation with sister agencies from other states, has negotiated multiple settlements as a result of these findings. Highlights from the last year include:
  - A major multi-state settlement with Americo Life, Inc.
  - The publication of a website to educate consumers about race-based pricing and assist affected policyholders and beneficiaries in the claims process.

The Department is still combating the effects of discrimination; however, the investigation against race-based pricing is drawing to a close. Only four examinations are still pending at this time and six examination reports will be completed in the next three months. Armed with this information, the Department will complete its investigation into the thirteen remaining companies by the end of 2008 and finalize any related disciplinary actions by mid-2009.

- **Military Sales.** Texas Commissioner Mike Geeslin and Georgia Commissioner John Oxendine co-chair the NAIC Military Sales Working Group. The Group was formed to ensure states' compliance with the Military Personnel Financial Services Protection Act (Public Law 109-290) signed into law on September 29, 2006. Several members of Enforcement staff were appointed to the working group whose charge is to analyze and address the problems of abusive and misleading sales practices and the sale of inappropriate life insurance products to members of the U.S. Armed Forces.
  - The working group, after consultation with the Secretary of Defense, conducted a study and submitted a report to the Senate Banking and House Financial Services Committees on March 28, 2007, on ways of improving the quality and sale of life insurance products sold to U.S. military installations.
  - The working group drafted the NAIC Military Sales Practices Model Regulation, which was unanimously adopted by the NAIC Executive Committee on June 4, 2007. Texas adopted the Model Regulation on August 15, 2007 to be effective January 1, 2008.
  - On September 29, 2007, the working group submitted a second Report to Congress outlining the progress the states have made in adopting the Model. To date, 42 jurisdictions have adopted the Model providing protection to over 92% of all active duty service members.

Currently, the Enforcement Division has active investigations of three life insurers who sell to this market.

## Figure 5 Summary of Activity

	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Cases received	1,007	1,001	1,239	814	1031
Cases closed	999	1,111	1,119	819	776
License revocations	95	88	89	90	76
License denials	43	32	26	24	29
License suspensions/ suspensions of writing*	32	20	19	41	18
Cease and desist orders	8	19	16	14	12
Monetary forfeitures/restitution orders†	251	281	248	285	223
Forfeitures/assessments/ Restitution	\$36,421,894	\$30,452,285	\$25,393,582	34,647,832	51,050,935

\* This includes actions against financially hazardous companies under Article 1.32, Texas Insurance Code and license suspensions with probation.

† This number includes Commissioner and State Fire Marshal orders.

## Insurance Fraud Unit

THE INSURANCE FRAUD UNIT protects the public from economic harm by investigating allegations of criminal insurance fraud. The unit's responsibilities include receiving and reviewing reports of fraud, initiating inquiries, and conducting investigations when TDI has reason to suspect insurance fraud (Texas Insurance Code, Chapter 701). In addition, the unit actively seeks criminal indictments, makes arrests, and assists in prosecutions to deter insurance fraud in Texas.

The Fraud Unit receives reports of suspected insurance fraud from insurers and the public. The unit maintains a toll-free Insurance Fraud Hotline and an online fraud reporting system on the TDI website. Investigations may occur inside or outside of Texas and typically involve one of the following types of fraud:

- claim fraud committed against an insurer
- fraud by TDI licensees against their company or the public
- insurance application fraud
- unauthorized business of insurance, including operating without proper authority or the sale of fraudulent insurance products, and
- workers' compensation, premium, claim and provider fraud.

The Fraud Unit reports to the Commissioner of Insurance annually on fraud trends and investigations involving substantial financial losses to consumers or insurance entities.

The Fraud Unit is comprised of four investigative sections with commissioned peace officers and civilian investigators, an administrative section and an intake section. Unit Management includes the Associate Commissioner and Chief Investigator and Fraud Counsel. By statute, the Chief Investigator supervises and directs all peace officers and coordinates and oversees all investigations conducted by the Fraud Unit. Each investigative section is staffed with a supervisor who assists investigators in developing cases for referral.

Additionally, the Fraud Unit has two attorneys on staff, the Fraud Counsel and the Special Prosecutor. The Fraud Counsel provides legal advice and investigative support to the unit and may serve as a special prosecutor to prosecute fraud in Texas counties. The Special Prosecutor, through a cooperative agreement with the Dallas County District Attorney's Office, is appointed as an assistant district attorney to prosecute cases referred by the Fraud Unit.

The Insurer Fraud Section investigates fraud schemes involving insurance companies, agents and other TDI licensees (including third party administrators, escrow and title insurance companies and agents), and eligible surplus lines insurers, as well as fraud schemes involving unlicensed insurance operations. Among these are entities falsely claiming exemption from regulation under the Federal Employee Retirement and Security Income Act (ERISA), including unlicensed Multiple Employer Welfare Associations (MEWAs). Investigators within the Insurer Fraud Section are also tasked with the responsibility for conducting investigations of major fraud allegations involving complex transactions and/or significant losses.

The Mortgage Fraud Section was established as part of the Texas Residential Mortgage Fraud Task Force, which was created under HB 716 in the 80th Texas legislative session. The Mortgage Fraud Section investigates allegations and reports of fraudulent activity by title insurance companies, title insurance agents, escrow officers and attorneys involved in the business of title insurance. Fraudulent activity can include, but is not limited to, diverting escrow funds to personal use and assisting others to defraud buyers, sellers, lenders and title insurance companies.

The Claimant and Provider Fraud Section investigates various claim fraud schemes, such as inflated claims, false claims for property loss, staged accident rings, fake burglary claims, staged slip-and-fall cases and other suspicious liability insurance claims. Investigators also examine reports of fraudulent billing by health care providers, as well as reports of unlicensed providers and fraud rings involving health insurance claimants, providers and attorneys.

Fraudulent billing may include instances of over-billing, double billing, or billing for procedures not performed. Investigators within the Claimant and Provider Fraud Section are also tasked with the responsibility for conducting investigations of major fraud allegations involving complex transactions and/or significant losses.

The Workers' Compensation Fraud Section investigates reports of suspected workers' compensation fraud involving claimants, providers and employers. Workers' compensation insurance fraud schemes may include a claimant receiving benefits while working at another full time job, malingering, or may include a provider over-billing for services or billing for treatments never rendered. It may also include an employer who misrepresents payroll or employee classifications in the procurement of workers' compensation insurance.

### **Fraud Unit History**

The 72nd Texas Legislature created the Insurance Fraud Unit in 1991. The Fraud Unit became active in January 1992. In 1995 the 74th Texas Legislature made significant changes to TDI's fraud enforcement authority when it authorized the Commissioner of Insurance to commission eligible fraud investigators as peace officers.

The Texas Commission on Law Enforcement, Officer Standards and Education licensed the Fraud Unit as a law enforcement agency, effective September 1, 1995. Law enforcement agency status, with commissioned peace officers, enhances TDI's anti-fraud efforts by giving the agency:

- access to law enforcement intelligence, including national and regional crime databases that only peace officers may legally receive;
- authority to make arrests and execute search warrants; and
- authority to take cases to grand juries and request and serve grand jury subpoenas.

On a national level, the Fraud Unit works with the Coalition Against Insurance Fraud, the National Insurance Crime Bureau, the National Association of Insurance Commissioners (NAIC), the National Health Care Anti-Fraud Association, the National White Collar Crime Center (NWCCC), and Regional Organized Crime Information Center (ROCIC). It also works with federal law enforcement agencies such as the FBI, IRS, U.S. Postal Service, and U.S. Attorneys.

Starting in 1997, the Fraud Unit began coordinating and conducting insurance fraud training to law enforcement, the insurance industry, and agency staff through an annual conference.

In 2005, the Fraud Unit instituted an outreach initiative to all law enforcement agencies in Texas, including prosecutors. The initiative includes training and investigative assistance on insurance fraud.

On March 1, 2006, the Commissioner for the Division of Workers' Compensation delegated the responsibility for investigating suspected fraudulent workers' compensation acts to the Fraud Unit.

September 1, 2008, TDI acquired funding for three additional full time equivalent positions to establish a mortgage fraud task force in accordance with HB 716.

### **Highlights**

In Fiscal Year 2008, the Insurance Fraud Unit:

- Renewed a memorandum of agreement with the Dallas County District Attorney's Office to continue the insurance fraud prosecutor initiative.
- Received and analyzed 9,939 suspected insurance fraud reports.
- Through enhanced relationships with statewide prosecutors, in addition to the efforts of the TDI Fraud Prosecutor, realized 116 convictions for insurance fraud with restitution, fines, and penalties ordered in excess of \$3.8 million.
- Hosted the 10th Annual Fraud Conference in January 2008 with 325 fraud investigators from state government, law enforcement and the insurance industry in attendance.
- Made 21 public presentations on insurance fraud.
- Fraud Unit investigators made 180 liaison contacts with law enforcement throughout the state.
- Participated in statewide task forces in several metropolitan areas.
- Participated in the Texas Committee on Insurance Fraud to address insurance fraud on a united front with industry, law enforcement, other state agencies, legislators and citizen advocate groups.

- Continued to respond to Governor Perry's Executive Order RP 36, relating to preventing, detecting and eliminating fraud, waste and abuse.
- Maintained a toll-free hotline for persons to report suspected insurance fraud.
- Provided assistance to the agency by utilizing the Fraud Unit's duty officer and toll-free hotline for the purpose of responding to reports of fraud, waste and abuse at TDI.
- All Fraud Unit attorneys and peace officers completed their legislatively mandated training requirements.

**Figure 6 Summary of Activity: Insurance Fraud Unit**

	<b>FY 2007</b>	<b>FY 2008</b>
Reports of Fraud	9,922	9,939
Cases Opened	400	379
Cases Referred to Prosecutors	188	195
Indictments	110	145
Convictions	81	116
Assessments (Fines & Penalties)/Restitution	\$13,458,201	\$3,782,316
Arrests by Fraud Unit Peace Officers*	4	13

\* *This figure represents only arrests executed directly by Fraud Unit Peace Officers or in which Fraud Unit Peace Officers participated.*

## Financial

THE FINANCIAL PROGRAM serves as the primary solvency guardian of the Texas insurance industry. The Program enforces solvency standards for insurance companies and related entities from their initial formation and licensure through subsequent surveillance activities to implementing regulatory interventions when appropriate. The Program's goal is to protect consumers by detecting financial or hazardous concerns and taking action promptly to mitigate problems caused by troubled insurers and/or prevent carrier insolvencies. Financial seeks to rehabilitate companies that fall short of solvency standards, and through a court-sanctioned receivership process, liquidates the few companies that are not able to be rehabilitated.

Financial monitors the solvency and market conduct of over 1,950 licensed risk-bearing insurance companies and related entities; this number exceeds 2,200 carriers when entities with other forms of registration/eligibility are included. Annual statements filed by insurers and HMOs for calendar year 2007 reflected \$99.2 billion in Texas premiums and \$64.1 billion in claim payments to Texas claimants. These companies reported aggregate assets of \$6.3 trillion, liabilities of \$5.5 trillion and capital and surplus of \$868 billion.

The Financial Program consists of the following divisions:

The **Company Licensing & Registration Division** licenses insurance companies that desire to enter the Texas market. The Division also processes license and registration applications received from other entities such as HMOs, surplus lines insurers, risk retention groups, and purchasing groups. The Division maintains company charter files and processes various transactions, including mergers, withdrawals and dissolutions. Other functions include processing statutory deposits of licensed companies and certain agencies, and maintaining TDI's database of licensed and registered companies.

The **Financial Analysis Division** determines the financial condition of insurance companies, HMOs and other entities by reviewing annual and interim financial statements, CPA audit reports, examination reports, reinsurance arrangements and SEC filings. The Division initiates recommendations for solvency interventions, when appropriate, such as supervision, conservation, and receivership. The Division also reviews changes of control, mergers, affiliated transactions and holding company registration statements of companies that are domiciled, or commercially domiciled, in Texas. The Division reviews all applications for HMO admission and expansion applications, as well as other HMO agreements.

The **Financial Examination Division** performs statutory examinations of a variety of entities, including insurance carriers, HMOs, premium finance companies, managing general agents, Multiple Employer Welfare Associations (MEWAs), and workers' compensation self-insurance groups. Examinations occur at company locations primarily in Texas but may also occur throughout the United States. These examinations may last from a few days to several months. The examination process evaluates a company's financial condition and compliance with statutory requirements, including treatment of policyholders. Examiners initiate referrals for regulatory action when serious violations and concerns about carrier solvency are uncovered. Regional offices are maintained in Dallas, Houston, and San Antonio to hold down travel expenses and provide localized oversight of the examination process.

The **Actuarial Division** performs actuarial examinations of insurance companies, HMOs and other entities. Actuarial examinations focus on the adequacy of a carrier's reserves that support policyholder obligations, which typically represent the largest liability for a carrier. Actuarial examinations are coordinated with financial examinations. Actuarial staff also review actuarial opinions, process certificates of valuations and provide actuarial analysis to other divisions as needed. While primarily providing input on solvency matters, the Division may also address issues relating to policy values, disclosures, and consumer equity.

The **Rehabilitation and Liquidation Oversight Division** administers three primary functions:

- Implementing regulatory interventions of financially troubled insurers;
- Overseeing the rehabilitation or liquidation of insurers in receivership; and
- Coordinating with the Texas guaranty associations, which are responsible for paying certain policyholder claims of impaired insurers.

The Division implements an array of administrative and judicial regulatory interventions. The administrative processes include administrative oversight, supervision, conservation, and orders entered under Chapter 404 of the Insurance Code. These actions permit TDI to determine the feasibility of rehabilitating an entity, while simultaneously preserving the entity's assets. The Division analyzes the financial condition of companies, reviews the adequacy of internal controls and operating procedures, and assists in the preparation of rehabilitation plans. If there is a viable corrective action plan to restore an insurance entity's financial condition, the Division will monitor the entity while that plan is implemented. If it is not possible to continue the entity as a going concern, the Division may take steps to wind down its operations, if possible.

If the interests of policyholders cannot be adequately protected by administrative remedies, the Division will take action to place the insurer into receivership. A receivership is a judicial proceeding, and may involve the rehabilitation or liquidation of the insurer. In either situation, the Commissioner is appointed as Receiver. The Receiver typically appoints a Special Deputy Receiver (SDR) who administers the receivership estate on behalf of the Receiver. SDRs are selected through a competitive bidding process. The Division continuously supervises the SDR and evaluates the SDRs' performance. A primary objective of this process is to maximize the distribution of assets from a receivership estate to claimants in a fair and equitable manner.

The Division also monitors the operations of the Texas guaranty associations, which handle policy claims of impaired insurers pursuant to their enabling statutes. Guaranty associations obtain funding for the payment of claims from receivership assets and/or assessments from the guaranty associations' member insurers. The Texas Property and Casualty Insurance Guaranty Association made no assessment to member insurers in CY 2007, and paid no refunds. The Texas Life, Accident, Health and Hospital Service Guaranty Association made a \$70,000 assessment to member insurers in CY 2007. The Title Insurance Guaranty Association made a \$1.3 million assessment to member insurers in CY 2007. The Texas Self Insurance Group Guaranty Fund made a \$100,000 assessment to member insurers in CY 2007.

### **Highlights**

In Fiscal Year 2008, the Financial Program:

#### **Company Licensing**

- Amended the Continuing Care Retirement Community (CCRC) rule to create flexibility for various business models.
- Assisted with the drafting of Third Party Administrator and Self-Insurance Group rule amendments to require more regulation over administrators.
- Assisted with the drafting of a workers' compensation network rule amendment to allow more efficient financial reporting requirements.
- Assumed the duties and responsibilities related to the registration of Viatical and Life Settlements.
- Amended rules to simplify the reporting process and standardize certain agent reporting requirements with those of other states. A single renewal date of July 1 was implemented for Agent Annual Reports for Purchasing Groups and Risk Retention Groups. This action was in line with the request from the industry to standardize reporting among states.

#### **Financial Analysis**

- Reviewed and approved \$1.4 billion of mergers and acquisitions of Texas insurers.
- Completed a survey of the Texas insurance industry to assess the industry's ability to withstand a hurricane generating \$8 billion in TWIA losses, including the impact of TWIA assessments upon industry and the state.
- Enhanced monitoring efforts to more quickly gauge and respond to the impact of the economic crisis upon the industry.



### Financial Examinations

- Drafted a rule amendment to implement SB 1263, which changed the regular interval between on-site statutory examinations from 3 years to 5 years to allow greater flexibility in utilizing staff resources.
- Served as the lead state for two large multi-state examinations that utilized new risk-focused examination procedures to enhance the efficiency and effectiveness of the examination process.
- Met key performance targets despite challenges attracting and retaining examination staff.
- Absorbed the transfer of new functions relating to licensing Third Party Administrators and premium finance companies.

### Actuarial

- Participated in examinations of several large domestic insurers that were based on the new risk-focused examination approach being implemented by Texas and other states.
- Participated in efforts to develop a principle-based reserving approach for life and annuity products, which included chairing an American Academy of Actuaries' team that submitted a valuation manual for regulatory consideration. The valuation manual includes principle-based reserve requirements and a process for uniform implementation across states. This reserving approach is expected to eliminate redundant reserves and benefit consumers through greater availability and lower costs. The process for uniform implementation is anticipated to provide efficiencies benefiting all stakeholders.
- Worked to develop updated underwriting factors for the calculation of P&C RBC requirements in efforts with the NAIC Property & Casualty Risk Based Capital Working Group. This was especially important as the factors had not been updated since the formula was instituted in the early 1990s.

### Rehabilitation and Liquidation Oversight Division

- Increased emphasis was placed on concluding regulatory interventions. Additionally, six insurance companies were placed in administrative rehabilitation. Five of the six companies were placed in receivership, and one was successfully rehabilitated for FY 2007.
- Oversaw net asset recoveries of \$30.6 million through the receivership process and payments of \$75 million to policyholders and/or guaranty associations.

### Figure 7 Number of Company Licenses Under Commissioner's Jurisdiction Fiscal Years 2004-2008

LICENSE TYPE	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Insurance Companies	1,920	1,912	1,909	1,891	1,885
Health Maintenance Organizations	50	55	52	54	54
Premium Finance Companies	274	293	270	264	250
Continuing Care Retirement Communities	21	23	24	25	29
Third Party Administrators	736	750	747	730	748
<b>Total</b>	<b>3,001</b>	<b>3,033</b>	<b>3,002</b>	<b>2,964</b>	<b>2,966</b>

Note: Does not include 107 foreign risk-retention groups or 183 foreign surplus lines carriers.

### Figure 8 Texas Policyholder Premiums, Claim Payments Calendar Years 2003-2007

CALENDAR YEAR	PREMIUMS	CLAIM PAYMENTS	PAYMENTS AS A % OF PREMIUM
2003	79.4 billion	49.8 billion	63.0%
2004	80.3 billion	47.0 billion	58.5%
2005	78.7 billion	55.3 billion	70.3%
2006	87.3 billion	61.9 billion	70.9%
2007	99.2 billion	64.1 billion	64.6%

**Figure 9 Total Capital/Surplus of Insurance Companies Operating in Texas Calendar Years 2003-2007**

CALENDAR YEAR	TOTAL CAPITAL/SURPLUS
2003	633.4 billion
2004	703.5 billion
2005	747.1 billion
2006	812.6 billion
2007	867.6 billion

**Figure 10 Number of Financial Analysis Reviews Fiscal Years 2004-2008**

FISCAL YEAR	NUMBER OF REVIEWS
2004	2,129
2005	2,032
2006	1,891
2007	1,900
2008	1,881

**Figure 11 Number of Holding Company Transactions Processed Fiscal Years 2004-2008**

FISCAL YEAR	NUMBER OF TRANSACTIONS
2004	732
2005	755
2006	804
2007	843
2008	806

**Figure 12 Number of Financial and Market Conduct Examinations Fiscal Years 2004-2008**

FISCAL YEAR	NUMBER OF EXAMINATIONS
2004	159
2005	160
2006	157
2007	146
2008	153

**Figure 13 Number of Actuarial Examinations Performed Fiscal Years 2004-2008**

FISCAL YEAR	NUMBER OF EXAMS
2004	80
2005	84
2006	79
2007	78
2008	77

**Figure 14 Texas Guaranty Association Assessments Calendar Years 2003-2007**

CALENDAR YEAR	LIFE & HEALTH	PROPERTY & CASUALTY	TITLE	TEXAS SELF INS. GROUP	TOTAL
2003	7,700,492	59,165,397	0		66,865,889
2004	1,726,797	30,274,649	0		32,001,446
2005	22,493,470	0	0		22,493,470
2006	0	50,000,000	0	0	50,000,000
2007	70,615	0	1,315,260	100,000	1,485,875

## Property and Casualty

PROPERTY AND CASUALTY monitors a wide range of property and casualty insurance lines from auto to workers' compensation; reviews form and rate filings; explores ways of cutting insurance costs by reducing losses; reviews and analyzes statistical data; and prepares reports on insurance rates and markets to assist policymakers and consumers with insurance-related decisions. Property and Casualty consists of a General Management section and six activities.

**General Management Section** provides program-wide management and operational support, including strategic and budget planning; responses to legislative requests; research assistance, including Geographic Information System (GIS) mapping and demographic analysis; project management; and administrative support, including report and presentation preparation for the program and agency. Additionally, General Management oversees the implementation of the Motor Vehicle Financial Responsibility Verification Program as required by Texas Transportation Code §601.452.

**Personal and Commercial Lines Division** consists of the Personal Lines Section and the Commercial Property/Casualty Section, and is responsible for the regulation of various lines of insurance including automobile, homeowners, commercial property, and general liability. The Division performs the following major activities:

- Reviews individual insurer filings of forms, endorsements, and rules for compliance with statutory and/or rule requirements and verifies that they do not contain provisions, titles, or headings that are unjust, encourage misrepresentation, are deceptive, or violate public policy;
- Drafts administrative rules as necessary to implement legislation or to address statutory concerns related to property and casualty lines of insurance;
- Oversees the Plan of Operation, manual rules, forms, and endorsements of the Texas Windstorm Insurance Association (TWIA), the Texas Fair Access to Insurance Requirements (FAIR) Plan Association, the Texas Medical Liability Insurance Underwriting Association (JUA), and the Texas Automobile Insurance Plan Association (TAIPA);
- Processes inquiries from agents, consumers, legislators, insurers and other regulatory entities and resolves complaints as necessary to ensure that consumers and businesses are being treated fairly on insurance related matters, and that insurers and agents are complying with statutes, administrative rules, and policy provisions;
- Assists consumers in finding homeowners insurance via the HelpInsure.com online bulletin board; and
- Works closely with the Property and Casualty Actuarial Division to monitor the marketplace and propose changes due to changing public needs, including establishing market assistance programs.

**Inspections Division** performs the following major activities: drafts and presents proposed rules affecting property and casualty insurance and the TWIA Plan of Operation (building code); represents TDI on the building code advisory committee as required by statute; provides oversight of established commercial fire rates by outside entities; ensures loss control compliance of insurers; administers the amusement ride safety program; assists the State Fire Marshal's Office with establishment of Public Protection Classifications by outside entities; and conducts windstorm inspections for compliance with building codes.

The Inspections Division consists of four sections: Commercial Property Oversight Inspections, Windstorm Inspections, Engineering Services, and Loss Control.

**Title Division** regulates policy forms and rates for title insurance and oversees licensing and financial examination of title agents. The Title Division consists of two sections:

**Title Insurance Section** oversees licensing of title agents, direct operations, and escrow officers; responds to consumer complaints and inquiries; and assists with rule and rate hearings.

**Title Examinations Section** conducts comprehensive, limited scope, and restricted compliance audits of title agents licensed in Texas. Title Examinations is an allocated area – all of the expenses are reimbursed by the Guaranty Association (GA).

**Workers' Compensation Classification/Premium Calculation Division** regulates insurance companies licensed to write workers' compensation insurance in Texas. The division performs the following major activities: assists employers, agents and insurance companies in determining the proper workers' compensation classification for policyholders; responds to verbal and written inquiries pertaining to workers' compensation insurance; resolves complaints; oversees the calculation of experience modifiers; reviews workers' compensation policies to ensure that insurers have issued the policies and calculated the premium in accordance with the rules and statutes governing Texas workers' compensation; reviews endorsement and form filings that require prior approval from the Commissioner of Insurance pursuant to Texas Insurance Code, Chapter 2052; reviews the plan of operations and issues a certification for groups formed pursuant to Texas Insurance Code, Chapter 2055; administers loss incentive programs; and participates in reviewing the rules, classifications, endorsements and forms contained in the Texas Basic Manual of Rules, Classifications and Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance.

This Division is composed of the Classification Section, the Workers' Compensation Oversight Section, and General Management.

**Property and Casualty Actuarial Division** provides actuarial review of rate and rating plan filings to ensure rates and premiums are just, fair, reasonable, adequate, not confiscatory, not excessive and not unfairly discriminatory for the risks to which they apply; reviews credit models for compliance with Texas Insurance Code, Chapter 559; conducts in-depth analyses of the Texas insurance market; performs special studies to assist the agency and policy makers; assures that file and use rates meet the applicable rating standards; makes recommendations on prior-approval rate filings; and calculates workers' compensation classification relativities and rating values.

**Data Services Division** provides data analysis; collects information through statistical plans, special calls and surveys; produces data compilations, including data for use by the Property and Casualty Actuarial Division for review of rate filings; collects and maintains statistical data; produces statistical reports for the Legislature, the agency, the public and the insurance industry; oversees TDI's workers' compensation, residential property, private passenger automobile and commercial lines designated statistical data collection agents; collects data via the Title Statistical Plan; and manages the collection and assists in the review of underwriting guidelines.

### Highlights

- To facilitate ongoing outreach for Amusement Ride Safety, compliance requirements, and regulatory enforcement, Loss Control notified municipal, county and state law enforcement offices of compliance requirements for the operation of amusement rides. A brochure and a TDI webpage were developed with amusement ride information, which includes requirements for operation, what the public should look for at a carnival or amusement park, how to report safety issues, and what constitutes an amusement ride. Future links will be added for public access to compliance information of individual amusement ride operations.
- In February 2008, a process was implemented to eliminate the issuance of Windstorm Certificates based on documents submitted by unauthorized individuals. This process requires Appointed Engineers to authenticate their submission of an Inspections Verification Form, WPI-2, on a monthly basis. Failure to do so results in a hold placed on any other Certifications and submission to Enforcement for suspension.
- In November 2007, the State Office of Administrative Hearings (SOAH) upheld the Commissioner's disapproval of State Farm Lloyds proposed 20.8% rate increase (which later was reduced to a 9.1% increase) as clearly excessive and unreasonable. SOAH found that, at most, a 3.6% increase would have been reasonable. State Farm Lloyds filed a 2.8% rate increase in March 2008, which was considered approved by the Department.
- In May 2008, the Commissioner reached an agreement with Allstate Texas Lloyd's (Allstate) to settle all outstanding litigation with respect to homeowners insurance. The agreement provided Texas Allstate policyholders with a total of approximately \$71,300,000 in refunds, credits and rate reductions.
- Personal and Commercial Lines staff continued to participate in the Operational Efficiencies Working Group of the NAIC Speed to Market Initiatives.
- Helpinsure.com was expanded in response to SB 611 (80th Texas Legislature) and was launched at the end of August 2008. The expanded Helpinsure.com allows consumers an opportunity to view sample homeowners and personal automobile insurance rates and coverage comparisons from the top 25 insurer groups by national premium volume. Other compa-

nies submitted data voluntarily. The website also provides financial ratings, complaint ratios, and recent rate changes for each insurance company listed. Prior to these enhancements, Helpinsure.com only included information on companies offering residential property insurance statewide as well as information relating to insurers writing commercial and residential property along the Texas coast.

- The Commissioner froze rates for real property title insurance and adopted rates and forms for newly authorized personal property title insurance.
- Staff participated in or made presentations to various consumer, charity, civic and trade groups on topics such as homeowners, renters, and automobile insurance, commercial insurance for business owners, disaster preparedness, and windstorm insurance.
- Staff participated in a compliance conference presented by TDI for insurance company representatives and other industry professionals that was designed to provide participants with a better understanding of TDI's regulatory requirements. Topics presented by Property and Casualty staff included an overview of rate and form filing requirements for personal and commercial lines of insurance.
- In conjunction with DPS, TxDOT and DIR, the Department completed development and testing of the Financial Responsibility Verification Program mandated by SB 1670 (79th Legislature, Regular Session). DPS conducted a 60-day field test of the program in the Austin area during June and July; statewide implementation of the program for law enforcement is scheduled for October 2008. TxDOT implemented the program in all 254 county Tax Assessor-Collector offices in May 2008. Additionally, the program was named TexasSure: Vehicle Insurance Verification and the four agencies conducted a statewide public awareness campaign throughout June 2008.

### Figure 15 Rate and Form Filings Completed

TYPE OF INSURANCE	FY 2007 FORMS	FY 2007 RATES	FY 2007 TOTAL	FY 2008 FORMS	FY 2008 RATES	FY 2008 TOTAL
Personal Liability/Umbrella	79	39	118	117	49	166
Bond and Misc. Lines	614	438	1,052	691	489	1,180
Commercial Automobile	661	628	1,289	897	838	1,735
General Liability	998	1,098	3,096	3,069	720	3,789
Homeowners	298	264	562	339	199	538
Interline Filing	153	51	204	406	18	424
Inland Marine	555	224	779	744	147	891
Identity Theft	6	1	7	1	4	5
Intake Unit	0	0	0	0	0	0
Commercial Multi-Peril	2,401	758	3,159	3,384	733	4,117
Personal Automobile	437	634	1,071	669	714	1,383
Personal Casualty*	0	0	0	1	0	1
Professional Liability	362	178	540	569	162	731
Commercial Property	1,150	483	1,633	983	381	1,364
Workers' Compensation	151	173	324	386	157	543
<b>Total</b>	<b>8,865</b>	<b>4,969</b>	<b>13,834</b>	<b>12,256</b>	<b>4,611</b>	<b>16,867</b>

\* Personal Casualty category code added August 2008.

### Figure 16 Summary of Complaints Closed

	FY 2007	FY 2008
Professional Liability	14	9
General Liability	11	8
Bond, Miscellaneous Casualty	24	10
Commercial Property	18	7
Commercial Multi-Peril	3	3
Commercial Automobile	1	0
Homeowners	388	301
Personal Auto	2	3
Title	367	344
Workers' Compensation	40	45

### Figure 17 Summary of Title Insurance Activity

	FY 2007	FY 2008
Annual Escrow Audits Reviewed	636	627
Field Examinations/Audits Conducted	255	254
Rates, Rules and Policy Forms	5	131
Licenses Issued (includes renewals)	6,053	6,592
Licenses Cancelled	2,275	2,448

### Figure 18 Number of Agents/Licenses Under Commissioner's Jurisdiction (Title Insurance)

Agents/Licenses	FY 2007	FY 2008
Title Agents	628	637
Title Agent Licenses	1,767	1,698
Direct Operations	17	17
Direct Operation Licenses	17	17
Escrow Officers	7,058	6,701
Escrow Officer Licenses	7,832	7,711
Underwriters	33 (24 active)	33 (24 active)
Escrow Accounts	\$243 Billion	\$251 Billion

### Figure 19 Summary of Activity: Commercial Property Oversight Inspections

	FY 2007	FY 2008
Property Inspections Conducted	1,199	1,175
Residential/Special Inspections	1	0
VIP Licenses/Certificates Issued	245	163

### Figure 20 Summary of Activity: Windstorm Operations

	FY 2007	FY 2008
Applications	42,774	30,856
Inspections	*11,885	11,038
Certificates of Compliance	42,374	31,212

\* This is a combined total of both TDI (11,369) and TWIA (516) inspections.

### Figure 21 Summary of Activity: Engineering Services

	FY 2007	FY 2008
Building Code Interpretations	2,224	2,135
Product Evaluations	1,225	1,331

### Figure 22 Summary of Activity: Loss Control

	FY 2007	FY 2008
Total Evaluations Completed	201	201
Companies Rated Adequate	201	201
Companies Rated Less Than Adequate	0	0
Companies Evaluated for Licensure	7	2
Loss Control Representative Applications Reviewed	126	203
Field Safety Representatives with a Specialty in Hospitals	12	11

### **Figure 23 Summary of Activity: Amusement Ride Safety and Insurance Act**

	<b>FY 2007</b>	<b>FY 2008</b>
Policies Reviewed	309	331
Inspection Certificates Approved	1,711	1,818
Injuries	137	128
Inspector Applications Approved	0	0
Owners Under Compliance Monitoring	407	413

### **Figure 24 Summary of Activity: Workers' Compensation Classification/Premium Calculation Division (formerly the Workers' Compensation Division)**

	<b>FY 2007</b>	<b>FY 2008</b>
Experience Rating Modifiers Reviewed	561	532
Responses to Written CIS Inquiries (Non Complaints)	1,233	1,267
Groups Certified	65	63

### **Figure 25 Other Statistical Reports Collected**

	<b>FY 2007</b>	<b>FY 2008</b>
Title insurance agents	618	629
Title insurance underwriters	23	23

## Life, Health and Licensing Program

LIFE, HEALTH, AND LICENSING (LHL) consists of a General Management section and four divisions: Filing and Operations, Licensing, Life/Health (L/H) and Health and Workers' Compensation Network Certification and Quality Assurance (HWCN). LHL regulates Health Maintenance Organizations (HMOs) and a wide range of life, annuity, accident and health insurance related coverages offered by insurance companies, including non-insurance products attached to life, annuity or accident and health products, nonprofit prepaid legal plans, and viatical and life settlement forms. LHL licenses insurance agents, adjusters, and public insurance adjusters (PIAs); utilization review agents (URAs) and independent review organizations (IROs); resolves HMO complaints and conducts quality of care examinations of HMOs; certifies workers' compensation (WC) health care networks; and assists other programs in the Department in addressing health coverage issues. In addition to developing regulatory policies, LHL works extensively with the legislature and provides support during the legislative session. The program also participates in advisory committees with other state and local governments, as well as pilot projects with state and federal governments and provides expert testimony on LHL related issues.

LHL's Primary responsibilities include:

- Regulating policy forms, evidences of coverage and related documents for life, accident and health insurance, annuity contracts, viatical and life settlements, and HMOs. Forms include, but are not limited to, small and large employer health benefit plans, consumer choice health benefit plans, long-term care insurance plans, health benefit plans offered to cooperatives and coalitions, credit life insurance, credit accident and health insurance, viatical and life settlements, annuities and nonprofit prepaid legal plans;
- Reviewing rate filings for credit life, credit accident and health, Medicare supplement, Medicare SELECT, long-term care, individual accident and health insurance, HMO coverage, small employer changes in methodology, Texas Health Insurance Risk Pool (THIRP), and cost savings associated with consumer choice health plans;
- Reviewing various life and annuities products for compliance with the Standard Nonforfeiture Law;
- Certifying WC health care networks;
- Investigating and resolving complaints related to HMOs and WC health care networks, IROs and URAs;
- Conducting quality of care examinations of HMOs and WC health care networks;
- Issuing new licenses and renewals to insurance agents, adjusters, PIAs, URAs and IROs;
- Auditing IRO and URA activities;
- Receiving and screening filings for property and casualty lines, as well as the coverages listed above;
- Assigning requests for independent review to IROs;
- Recording companies' appointments and terminations of insurance agents;
- Educating regulated entities and other interested parties on regulatory requirements through bulletins, the TDI website, compliance conferences, manuals, checklists, presentations and responding to inquiries;
- Implementing state and federal legislation through participation in rulemaking, review of form filings, stakeholder committees, and projects assisting consumers with choosing and using their insurance, as well as monitoring the extensive federal activities related to life insurance, health coverage and licensing;
- Regulating continuing education (CE) providers through registration of CE providers and courses; and
- Auditing CE providers' compliance with CE rules and insurance agents' and adjusters' compliance with statutory continuing education requirements; recommending or assessing penalties for noncompliance.



**General Management Section (GM)**, led by an Associate Commissioner (AC), provides management and operational direction for the program. The AC chairs the Technical Advisory Committee on Claims Processing (TACCP) and acts as the Provider Ombudsman. The AC is TDI's liaison on boards of the THIRP, Bleeding Disorders Advisory Council, Children's Health Insurance Program (CHIP), Early Childhood Intervention Advisory Committee, Telemedicine Advisory Committee Meeting and attends board meetings of the Texas Health Reinsurance System (THRS). The Director of Research and Analysis serves as the TDI liaison on the Texas Health Care Policy Council and the East Texas Rural Access Planning Advisory Committee and serves on the Board of Directors of the Workgroup for Electronic Data Interchange.

Staff assists with the LHL 2008 Compliance Conference, the development the LHL section of the TDI business plan, strategic plan, and annual report, responds to appropriations requests, monitors the LHL budget, and handles ad hoc special projects.

GM provides technical assistance to other programs in the Department, the Texas Health and Human Services Commission (HHSC), Texas Department of State Health Services (DSHS), Office of Attorney General (OAG), THIRP, THRS and the federal Centers for Medicare and Medicaid Services (CMS) of the United States Department of Health and Human Services. The AC serves on various NAIC working groups.

General Management collects and analyzes data related to the Texas health insurance market on an ongoing basis. Data and information is used to continually evaluate and monitor health insurance availability and affordability, trends and indicators within the Texas market and the impacts of these factors on Texas consumers and the industry. GM also reports on industry data as required by state and federal law and provides technical assistance to legislative interim and oversight committees and task forces. GM monitors federal requirements associated with the Health Insurance Portability and Availability Act (HIPAA) administrative simplification (electronic claims filing) requirements, the Medicare Prescription Drug Improvement, Modernization Act of 2003 and the Deficit Reduction Act of 2005. Additionally, GM's special project staff assists the AC in developing regulatory policies for all divisions in LHL, communicating with consumers and the regulated community and providing technical assistance to other state and federal agencies. GM Regulatory Matters staff track, analyze and coordinate TDI's comments on proposed legislation pertaining to LHL and coordinate TDI's rulemaking projects relating to health coverage. Regulatory Development staff informs industry and other interested parties of legislative and rule changes through bulletins or other means, draft rules to implement both state and federal legislation and respond to changes in the industry.

**Filing and Operations Division** is led by a Deputy Commissioner (DC) and consists of the following two sections:

**Property and Casualty (P&C) Intake Section.** This section receives all rule, rate, and policy form filings for P&C lines, including Workers' Compensation and conducts an initial screening of the filings for compliance with basic statutory filing requirements and rules. The paper filings are received via U.S. mail and electronic filings are received via the NAIC System for Electronic Rate and Form Filing (SERFF). During Fiscal Year 2008, P&C Intake received approximately 85 percent of the filings electronically. Staff enters all filing data into the Oracle tracking system and forwards the filings to the appropriate divisions for review and final action. Intake staff manages the P&C tracking database and serve as SERFF Administrator. Staff prepares various management reports and NAIC reports, and serves as liaison with Information Technology Staff (ITS) for the tracking system and SERFF issues and enhancements.

**Life/Health and HMO Intake Section.** This section receives all rate and policy form filings for life, annuity, individual/group accident and health, credit life, accident and health, HMO, nonprofit prepaid legal, viatical and life settlements and related products and conducts an initial screening of filings submitted for review for compliance with basic statutory and regulatory filing requirements. It also reviews exempt filings for compliance with the exemption rules. The majority of the filings are received via paper; however staff also receive electronic filings through SERFF and Multi-State Review (MSR) I-File system. As of September 1, 2008, the Life/Health Division accepts all product lines in SERFF. Paper filings will continue to be accepted. The MSR allows a company to submit a single filing to the states of California, Florida, Texas, Georgia, Nevada, Louisiana and District of Columbia for approval. Intake staff enter all filing data into the Oracle tracking system and forward the filings to the appropriate

divisions for review and final action. Intake staff serve as the SERFF Administrator. Staff prepares NAIC reports and serves as liaison with information technology staff for the tracking system and SERFF issues and enhancements.

The Filing and Operations Division also manages the following duties:

**Micrographics** staff produce electronic images of closed files for property and casualty, property and casualty actuarial, life, annuities, accident and health, credit, HMO, nonprofit prepaid legal, viatical and life settlements and related products, title agent license and title examination files, workers' compensation complaint files and the field inspections for P&C's Windstorm Section. Micrographics staff also serve as the liaison with building services to assist the divisions in making arrangements to destroy imaged files according to their retention schedules. Imaging staff also serve as liaison on program and agency imaging projects.

**Operations** staff is responsible for LHL program operations, including project management, forms management, records retention, strategic planning, Hobby Building disaster recovery planning, business planning, LHL 2008 Compliance Conference planning, and performance measures. Operations staff serve as the liaison between LHL divisions and Administrative Services on operations matters and represents LHL on the Agency Planning and Technology Team. The Deputy Commissioner serves as the Outreach and Education Coordinator for the Workers' Compensation Health Care Networks.

**Licensing Division**, led by a Deputy Commissioner, licenses and regulates insurance agents, adjusters, public insurance adjusters, risk managers, life insurance counselors, reinsurance intermediaries, and persons involved in selling insurance products in travel agencies, self-service storage facilities, retail establishments, and rental car companies. Staff develop and implement the Licensing section of the LHL business plan and assist with the LHL 2008 Compliance Conference. The division has five sections: Applications; Customer Assistance; Administrative Review and Data Management; and Renewals, Appointments and Continuing Education.

**Applications Section.** This section reviews and processes new license applications for agents and adjusters, oversees the agent criminal history review process, registers additional trade names and trade locations and records sponsors of subagents and insurance service representatives.

**Customer Assistance Section.** This section responds to inquiries and telephone calls from agents, companies and the public, including questions regarding licenses, appointment status, and general inquiries about the licensing process.

**Renewals, Appointments and Continuing Education Section.** This section reviews and processes renewals, records and cancels agent and subagent appointments, registers continuing education providers and courses, processes reciprocal agreements with other states, and oversees the training courses for agents and adjusters.

**Administrative Review and Data Management Section.** This section researches and reviews all applications with a criminal history, makes recommendations on issuance or denial of a license and recommends appropriate action on all non-routine agent applications, renewals and cancellations for cause. This section also produces certificates and other records regarding a license's status, cancels licenses when requested by the licensee, records address and name changes for all licensees, processes open record requests and manages the Division's filing system.

**Life/Health Division (L/H)**, led by a Deputy Commissioner, reviews and processes life, annuity, accident and health, nonprofit prepaid legal, credit life, credit accident and health policies, certificates, applications, endorsements, riders and rates for credit life, credit accident and health, Medicare supplement, Medicare SELECT, long-term care, small employer changes in rating, methodology, THIRP, HMO, small employers and individual accident and health, to ensure compliance with state and federal statutes and regulations. L/H staff also perform data calls for credit life and credit accident and health experience and expense data, which is used to develop presumptive rate recommendations for rule proposals. Staff review contractual forms related to viatical and life settlements. Staff develop and implement the L/H business plan, execute the Division's legislative implementation plan, respond to public inquiries, and provide technical training for Division staff. The DC chairs the NAIC Product Standards group and oversees the activities of the annuities, disability, long-term care and life teams. The working group is charged with developing standards for the Interstate Insurance Product Regulation Commission (IIPRC). L/H staff, including the DC, participate in the NAIC interstate conference calls and discussions, devel-

oping policy form standards for annuities, life, disability and long-term care. The DC also participates in the THIRP, IIPRC meetings and the following NAIC groups: Senior Issues Task Force, which is charged with addressing issues pertaining to Medicare Supplement, Medicare SELECT, Medicare Advantage and Medicare Part D; Long-Term Care Working Group, charged with reviewing and recommending changes to the NAIC model law and regulations; and the Operational Efficiencies Working Group, charged with developing process and electronic efficiencies to the form review process. L/H staff participated in the Attorney General's medical support Niños Sanos project and the LHL 2008 Compliance Conference. The DC and the Director of the Accident & Health Section are members of the Long-Term Care Partnership Steering Committee, a committee formed by staff from HHSC, Texas Department of Aging and Disability Services (DADS), Teacher Retirement System (TRS), Employee Retirement System (ERS), and Texas Workforce Commission (TWC).

The L/H Division consists of two sections: 1) Accident and Health and 2) Life, Annuity and Credit; and three teams: Technical, Actuarial, and Filings Support and Open Records.

**Accident and Health Section.** This section reviews and analyzes form filings for individual and group accident and health products, which include Medicare supplement, Medicare SELECT, long-term care, large and small employer groups, non-employer groups and combination life and accident and health products. The section coordinates the review of rate filings for accident and health, long-term care, Medicare supplement, Medicare SELECT, individual accident and health and small employer rating methodologies and reviews documents for Multiple Employer Welfare Arrangements, THIRP and CHIP. The section tracks small employer annual certifications and assists companies and other TDI staff in coordinating withdrawals from individual, large and small employer group markets and discontinuance of products in these markets. Staff coordinates with HHSC and DADS on issues related to accident and health products.

**Life, Annuity and Credit Section.** This section reviews and analyzes form filings for life, annuity, credit life, credit accident and health, nonprofit prepaid legal plans, viatical and life settlements and filings for name changes, assumptions, demutualizations, rehabilitations and mergers. The section also coordinates the review of rate filings for credit life and credit accident and health. Staff maintain communication with the Texas Funeral Service Commission and the Texas Department of Banking on issues related to life and annuity products used in the prepaid funeral market. Staff also review combination long-term care and annuity or life products. The section processes notifications from charitable organizations issuing charitable gift annuities, analyzes credit life and credit accident and health data call information and tracks certifications pertaining to forms subject to the life illustration rule.

**Actuarial Team.** This team reviews, analyzes and evaluates rate filings pertaining to certain individual accident and health, long-term care, Medicare supplement, Medicare SELECT, credit life, credit accident and health, small employer changes in rating methodology, THIRP and HMO coverage. The section also analyzes credit life and credit accident and health data call information in order to develop credit life and credit accident and health presumptive rates. In addition, staff review actuarial data pertaining to individual and group life, individual accident and health, long-term care, Medicare Supplement and Medicare SELECT coverage, changes to small employer rating methodologies, risk assuming applications for small employer carriers and HMO applications for certificate of authority and service area expansions. Staff review the THIRP's actuarial memorandum and premium rates as well as assist the Consumer Protection Program with the resolution of consumer inquiries and complaints regarding rating issues.

**Filings Support and Open Records Team.** This team prepares completed filings for permanent storage, responds to open records request and answers general information phone lines. During FY08 approximately 26,327 closed forms were handled by staff that carried out a series of closing processes to prepare the filings for imaging, resulting in approximately 331,676 scanned images. The permanent storage of L/H records support the Division's goal to audit 5 percent of all exempt filings, respond to document production requests and provides an accurate historical record of filings submitted to the Division spanning numerous years.

**Technical Team.** This team serves as the liaison between the L/H business process and Information Technology Services related support. It performs routine system and data analysis in support of the Division's regulatory functions and evaluates or develops automated tools that will enhance or make the reporting and regulation process more efficient. Work involves assisting in the development and maintenance of automated systems utilized by division staff,

reporting on performance measures and providing management reports for decision making. The team also establishes and implements unique, need-based, systems and tools to achieve program goals and objectives. Some of these tools include the development of web-based data collection and query generated web lists. Other non-routine duties include the development of ad-hoc queries based on the TDI Oracle and NAIC Oracle databases, as the need to provide L/H information arises.

In addition to the above duties, all sections of L/H assist in the development and implementation of rules, education of the insurance industry on regulatory requirements through bulletins, compliance conferences, manuals, checklists and presentations to trade groups. The L/H Division provides technical assistance to other Department staff regarding complaints, consumer publications, enforcement actions, market withdrawals, assumptions and name changes. L/H is often called upon to provide technical assistance to external entities including, but not limited to, the ERS, the TRS, the NAIC, the IIPRC, the Texas Department of Banking, DSHS, HHSC, THIRP, OAG and CMS.

**Health and Workers' Compensation Network (HWCN) Division** is led by a Deputy Commissioner. It regulates HMOs, and certifies and regulates URAs, IROs, and WC networks. The Division investigates complaints against these licensed entities, conducts quality of care examinations and reviews HMO, workers' compensation network and URA form filings. The Division accepts applications from WC health care networks, processing complaints and conducting examinations relating to these networks. Staff develop and implement the Division's business plan, compile and analyze data, execute the Division's legislative implementation plan and responds to public inquiries. Staff represent the Commissioner on the Interagency Council on Genetic Services and Traumatic Brain Injury Advisory Council. One manager and four team leaders supervise four functional areas that include Complaints, Certification and Compliance, IRO Assignments and Examinations. Staff develop and implement the HWCN section of the business plan. Staff members are cross-trained in all functions and perform multiple functions on a daily basis and one staff member is dedicated to special projects.

**Complaints.** This area includes investigation and resolution of complaints received concerning HMOs, URAs, IROs and WC networks. The processes and procedures are aligned with agency procedures, including utilizing the Department complaint database and the paperless workflow that is also used by the Consumer Protection Program and the Division of Workers' Compensation Complaint Resolution and Customer Service programs.

**Certification and Compliance.** This area reviews and analyzes form and other related filings for HMOs writing commercial, small and large employer coverage, WC network form filings, and performs scanning and data entry for complaints, WC network applications, URA filings, IRO filings, examinations, and IRO assignments. This functional area also certifies URAs to conduct business in Texas, registers insurers and HMOs to conduct utilization reviews, reviews URA form filings, issues renewals of URA certifications and registrations, reviews IRO applications for certification and renewals of those certificates, and reviews form filings required of IROs.

**IRO assignment.** This area processes requests for IRO assignments received from URAs, insurers and HMOs for health insurers, and in FY 2007 added assignment of IRO reviews for all workers' compensation insurers.

**Examinations.** This area performs examinations of HMOs and WC networks. Examinations of HMOs are routinely scheduled based on licensure date. The section has statutory authority to examine an HMO anytime in the first three years of operation and thereafter every three years. Should problems or issues be identified that cause concern, complaint examinations can be scheduled to determine compliance with applicable statutes and rules. Examinations of WC networks can be conducted at any time at the Commissioner's discretion. The Division conducted 16 HMO examinations in FY 2008.

In addition to the above, all HWCN staff assist in the development and implementation of rules, respond to open records requests, educate industry, provider and consumer groups through bulletins, compliance conferences, manuals, checklists, speaking engagements and provide technical assistance to other TDI staff regarding complaints, consumer publications, enforcement actions and withdrawals from HMO markets. The Division provides technical assistance to external entities such as ERS, DSHS, HHSC, OAG, the DADS, DSHS, the Texas Department of Criminal Justice, NAIC and CMS.

## Highlights

LHL accomplishments and highlights of Fiscal Year 2008:

Three-Share Premium Assistance Program:

- The General Appropriations Act (HB 1) of the 80th Texas Legislature directed TDI to develop a competitive grant program for local government entities interested in developing three-share premium assistance programs;
- The Department issued a Request for Proposal and awarded the grant to the Texas Communities Healthcare Coalition, which includes government organizations from El Paso, Dallas, Galveston, San Antonio, Houston, and central Texas; and
- The Department will work with the Coalition to develop a plan for expanding insurance coverage using the three-share concept.

House Bill 522:

- Staff organized meetings of the Technical Advisory Committee on Electronic Data Exchange (CEDE);
- Monitored related pilot projects conducted by various carriers; and
- Worked on the final report of the committee and draft rules for implementation of health insurance ID card and electronic eligibility verification standards.

Senate Bill 1731:

- The Department appointed and directed activities of the Advisory Committee on Health Network Adequacy created under SB 1731 to study issues related to the availability of certain in-network providers at in-network hospitals and subsequent balance-billing of consumers who receive care from non-network providers; and
- Met with various stakeholder groups and drafted rules related to the collection of data required under SB 1731 to improve consumer access to cost information for services covered under managed care benefit plans.

Developed the following rules adopted by the Commissioner:

- Licensing, registration, examination, and appointment fees, and continuing education requirements for the newly created personal lines property and casualty agent license and the life agent license;
- Consumer Notices for Life Insurance Policy and Annuity Contract Replacements;
- Submission of Clean Claims;
- Long-Term Care Partnership Training and Continuing Education;
- Health Group Cooperatives; and
- Fee for Examination of a Certified Workers' Compensation Health Care Network.

Developed the following proposed rules:

- Coverage for Acquired Brain Injury; and
- Standards for Long-Term Care Insurance Regulations, Non-Partnership and Partnership.

Drafted the following Commissioner's Bulletins:

- B-0036-07, September 4, 2007: Legislation Enacted - 80th Legislative Session;
- B-0037-07, September 24, 2007: Medicare Supplement Insurance Rate Guide;
- B-0041-07, October 17, 2007: Use of insurance agents as "agents or brokers of record" by local governments;
- B-0042-07, October 18, 2007: Call for Reports Regarding Provider Claims Processing and Related Functions;
- B-0043-07, October 22, 2007: Reduction in Fingerprint Processing Fee;
- B-0044-07, November 1, 2007: Marketing Misconduct Related to Certain Medicare Plans and Prescription Drug Plans;
- B-0048-07, November 16, 2007: Insurance Products Offered In Texas;
- B-0053-07, December 20, 2007: HB 1919 Autism Spectrum Disorder Mandate;
- B-0054-07, December 21, 2007: Suspicious Practices Targeting Senior Citizens;
- B-0001-08, January 9, 2008: 2007 Policy Count Exhibit;
- B-0002-08, January 14, 2008: Call for Reports Regarding Provider Claims Processing and Related Functions;
- B-0004-08, January 31, 2008: Health Insurance and Agent/Agency Provided Administrative Services – Rebating;

- B-0016-08, April 9, 2008: Call for Reports Regarding Provider Claims Processing and Related Functions;
- B-0034-08, July 10, 2008: Call for Reports Regarding Provider Claims Processing and Related Functions;
- B-0038-08, July 24, 2008: Hurricane Dolly - State of Emergency - Natural Disaster - Medical Equipment and Services for Disaster Victims or Evacuees;
- B-0039-08, July 24, 2008: Hurricane Dolly - An Extraordinary Event Claims Adjusting for Hurricane Victims or Evacuees;
- B-0040-08, July 24, 2008: Hurricane Dolly - State of Emergency - An Extraordinary Event - Out-of-Network Services Claim Filing Deadlines & Catastrophic Events; Preauthorized Health Care, Referrals, Notification of Hospital Admissions, Medical Necessity Reviews; and
- B-0042-08, July 24, 2008: Hurricane Dolly - State of Emergency - Natural Disaster - Prescription Medication Coverages for Disaster Victims or Evacuees.

#### **General Management Section**

- Provided testimony and information to legislative interim committees;
- Created and oversaw TDI's Legislative Implementation Plan for LHL;
- Maintained and updated electronic database of mandated benefit premium and claim experience for group and individual insurance and HMO plans;
- Collected and analyzed quarterly Providers' Claims Data Reports;
- Chaired quarterly TACCP meetings and drafted the 2008 TACCP Report to the Legislature;
- Received and processed 51 Figure 48 certifications detailing small employer plans, lives insured and premiums collected in 2007;
- Received and processed 51 Consumer Choice Plans Figure 2 reports detailing consumer choice plans, lives insured and premiums collected in 2007;
- Received and processed 20 Texas Group Accident and Health Insurance Surveys for 2006;
- Received and processed 16 Texas Group HMO Surveys for 2006;
- Received and processed 42 Mandated Benefits Data Calls for the October 1, 2006 - September 30, 2007 reporting period;
- Represented TDI at THIRP and THRS board meetings and worked with THIRP and THRS on issues as they arose;
- Appointed and directed activities of the Advisory Committee on Health Network Adequacy created under SB 1731;
- Assisted the Travis County District Attorney's Office in prosecuting unauthorized health insurance cases;
- Assisted the Consumer Protection Program on disaster relief efforts related to hurricanes; and
- Organized meetings of the HB 522 Committee on Electronic Data Exchange.

#### **Filing and Operations Division**

- Received 26,233 Life/Health rate and form filings;
- Received 1,351 HMO rate and form filings;
- Processed 5,625 Exempt Life/Health rate and form filings;
- Received 17,918 Property and Casualty rate and form filings;
- Processed 114 Property and Casualty rate and form filings;
- Processed \$426,550 in filing fees for Life and Health rate and form filings;
- Processed \$58,500 in filing fees for HMO rate and form filings;
- Processed \$73,588 in regulatory fees for Viatical Settlement filings;
- Processed \$12,250 in filing fees for form filings from SERFF;
- Processed \$1,850 in filing fees for Rejected form filings;
- Scanned 437,587 images for Property and Casualty Program;
- Scanned 376,150 images for Life/Health and HWCN Divisions;
- Scanned 69,773 images for DWC;
- Represented Texas on the NAIC Product Steering Committee and Working Groups;
- Coordinated the 2008 TDI Compliance Conference held June 23-25, 2008; and
- Coordinated the Worker's Compensation Health Care Network Employer and Provider Workshops held October 5 and 6, 2007, in Houston, Texas and July 26 and 27, 2008, in San Antonio, Texas.

### **Licensing Division**

- Consistently exceeded the target for completing 96 percent of agent license filings completed within 15 days for the TDI performance measure 1.1.2 outcome 2 - "Percent of agent license filings completed within 15 days";
- The Licensing Division continues to remain efficient in the average processing time for the over 700,000 filings received each year;
- Participated in developing, proposing and adopting the Long-Term Care Partnership Training and Continuing Education Rule effective August 5, 2008, which establishes the 8-hour training requirement and 4-hour continuing education requirement for agents selling long-term care partnership policies in Texas;
- DC served as a member of the NAIC Producer Licensing Working Group by attending meetings and conference calls;
- Participated in streamlining the electronic collection of fingerprints and processing of over 30,000 applicants per year beginning on January 1, 2007. In FY 2008, Licensing staff closely monitored the criminal history fingerprint process to improve the processing time and efficient matching of criminal history reports from the Department of Public Safety and the Federal Bureau of Investigation with the licensing applications. TDI is now able to submit 100 percent of fingerprints and obtain a state and national fingerprint criminal history on all applicants;
- Participated in drafting Commissioner's Bulletin B-0004-08 on rebating and responded to inquiries;
- Assisted with the transition of the Third-Party Administrator Licensing and Premium Finance Licensing and Examination to the Financial Program in May 2008;
- Testified on the behalf of the Department in agent application and revocation hearings serving as experts in the licensing laws, rules and procedures; and
- DC served as an Advisory Board Member of the Securities and Insurance Licensing Association, which serves over 800 members from the insurance industry who are involved in the licensing of insurance agents and adjusters.

### **Life/Health Division**

- Received and completed in FY 2008 24,063 policies, contracts, related forms, rates, certifications, applications for registrations, risk assuming applications, rating methodologies and reports as appropriate for life, annuity, various accident and health products, nonprofit prepaid legal, credit life, credit accident and health, viatical and life settlement, accident and health small and large employer, long-term care, life illustration and Medicare supplement;
- Received and completed 20 filings, representing 84 forms, under the Multi State Review through ongoing meetings and conference calls with Florida, California, Georgia and Nevada departments of insurance staff;
- Prepared to accept SERFF filings for all product lines effective September 3, 2008, including working with ITS testing the 2-way Application Programming Interface that updates SERFF with actions made in TDI's form/filing tracking system, the transfer of images of the form/filings into the Visi-Flow document retrieval system, creation of reports to ensure accuracy of the data transfer process, implementation of the Uniform Product Coding Matrix and training staff to review filings using the SERFF system;
- Received and completed 1,043 filings, representing 2,701 forms, through SERFF;
- Issued certificates of registration to 162 new viatical and/or life settlements providers, provider representatives or brokers and processed 535 Annual Reports for existing entities;
- Provided comments on proposed legislation;
- Responded to a Government Accountability Office survey regarding long-term care regulation;
- Responded to numerous legislative, consumer, and agent inquiries and inquiries related to private purchasing cooperatives;
- Assisted in the update of registered private purchasing cooperatives;
- Updated checklists on TDI's website to comply with new legislation;
- Participated in the Agent Licensing Exam Focus Group;
- Participated in THIRP Board meetings;
- Participated in discussions with the HHSC and DADS of implementation of the Long-Term Care Partnership program in Texas;
- Participated with HHSC, DADS, ERS, TRS and TWC in the development of the Long-Term Care educational, awareness and website development;

- DC chaired and participated in conference calls and meetings of the NAIC Standards Working Group;
- Participated in the development of life, annuity, disability and long-term care NAIC standards;
- DC participated in the following NAIC Working Groups: Senior Issues, Long-Term Care Working Group, Speed to Market and Operational Efficiencies;
- Provided insurance training to the Attorney General's employees assisting family members required to provide child medical support in connection with the Niños Sanos Grant project;
- Participated in IIPRC activities;
- Assisted the Consumer Protection Program on disaster relief efforts related to hurricanes;
- L/H Division staff initiated various stakeholder meetings on Long-Term Care;
- The DC participated in the long-term care hearing to implement SB 22;
- Served as members of the Advertising Workgroup;
- Participated in the Life, Health and Licensing Compliance Conference; and
- Participated in the development of various bulletins and rules.

#### **HWCN Division**

- Completed review of 1,423 HMO forms filings;
- Conducted 16 quality of care examinations of HMOs;
- Completed 905 complaints regarding HMOs;
- Completed 3,095 IRO case reviews;
- Certified/Registered 16 URAs;
- Renewed 79 URAs;
- Certified 7 IROs;
- Renewed 27 IROs;
- Certified 7 WC health care networks;
- Approved 16 service area expansions for WC health care networks;
- Assisted HHSC with operation of the CHIP and Medicaid Programs;
- Participated in TACCP meetings;
- Participated in WC Working Group meetings;
- Represented the Commissioner on the Interagency Council on Genetic Services;
- Represented TDI on the Traumatic Brain Injury Advisory Council;
- Participated in the development of various bulletins; and
- Participated in the development of various rules for health and workers' compensation.

### **Figure 26 Summary of Activity: Filing & Operations Division Filings Received/Processed**

	<b>FY 2007</b>	<b>FY 2008</b>
<b>Personal Lines Rate Filings</b>		
Auto Home (Personal Liability and Personal Umbrella)	41	64
Personal Automobile	541	769
Personal Property	302	236
PC (Other Personal Lines)***	See Note Below	2
<b>Total</b>	<b>884</b>	<b>1,071</b>
<b>Commercial Lines Rate Filings</b>		
Bond, Burglary, Title	412	401
Commercial Automobile	638	774
Commercial Property	383	343
General Liability	1,101	743
Identity Theft	3	2
Inland Marine**	179	178
Intake	0	0
Interline	45	18
Multi-Peril	731	708
PC (Other Commercial Lines)***	See Note Below	0
Professional Liability	169	197
Workers' Compensation	407	594
<b>Total</b>	<b>4,068</b>	<b>3,958</b>

\* Total Includes 7,431 SERFF Filings. (FY 07 total includes 7,402 SERFF filings.)

\*\* Effective 10/06/2006, Inland Marine Category was added. It has separate totals.

\*\*\* Effective 09/02/2008, PC Category was added. It has separate totals.



## Figure 26 Summary of Activity: Filing & Operations Division Filings Received/Processed (continued)

	FY 2007	FY 2008
<b>Policy Form, Endorsement and Rule Filings</b>		
Auto Home (Personal Liability and Personal Umbrella)	86	111
Personal Automobile	447	697
Personal Property	316	342
PC (Other Personal Lines)***	See Note Below	2
Bond, Burglary, Title	642	691
Commercial Automobile	645	1,002
Commercial Property	1,114	1,062
General Liability	1,957	3,258
Identity Theft	5	3
Inland Marine**	531	772
Intake Unit	0	0
Interline	155	444
Multi-Peril	2,428	3,507
PC (Other Commercial Lines)***	See Note Below	0
Professional Liability	369	599
Workers' Compensation	154	399
<b>Total</b>	<b>8,849</b>	<b>12,889</b>
<b>Total P &amp; C Filings Received</b>	<b>*13,801</b>	<b>*17,918</b>
Intake Unit Filings Processed	189	114

\* Total Includes 7,431 SERFF Filings. (FY 07 total includes 7,402 SERFF filings.)

\*\* Effective 10/06/2006, Inland Marine Category was added. It has separate totals.

\*\*\* Effective 09/02/2008, PC Category was added. It has separate totals.

## Figure 27 Number of Licenses, Certificates and Registrations Under Commissioner's Jurisdiction

LICENSE TYPE	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Agents (1)	246,923	259,743	273,502	289,813	306,036
Adjusters	44,498	54,810	66,244	72,012	72,061
Full-Time Home Office Salaried Employees	2,087	1,292	1,259	1,256	1,041
Specialty - Credit	2,792	2,888	2,908	2,993	3,013
Specialty - Travel	643	699	721	812	896
Specialty - Rental Car Company	73	72	68	64	65
Specialty - Self Service Storage Facility	60	74	74	83	94
Specialty - Telecommunication Equipment Vendor(2)	8	11	13	12	11
Life Counselors	179	235	273	372	429
Public Insurance Adjusters (3)	78	115	167	205	234
Risk Managers	1,091	1,100	1,098	1,123	1,114
Re-insurance Intermediary	1,446	1,441	1,503	1,473	909
Premium Finance Companies	328	293	323	325	271
Third-Party Administrators	736	750	747	730	748
<b>Grand Total of Lines Regulated</b>	<b>300,942</b>	<b>323,523</b>	<b>348,900</b>	<b>371,273</b>	<b>386,922</b>

1 An agent may hold more than one type of license; these statistics do not represent numbers of individual agents.

2 Specialty Telecommunication License created by the 77th Legislature.

3 Public Insurance Adjusters License created by the 78th Legislature.

## Figure 28 Summary of Activity: Licensing Division

	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Total Filings Processed by Licensing Division	699,971	747,271	734,141	744,844	781,659
Telephone Inquiries Answered*	133,581	128,784	149,198	132,170	138,877

\* Licensing uses an Interactive Voice Response (IVR) to improve the Division's ability to respond to calls from companies agents and the public. The IVR is 24-hour, non-stop source of licensing information.

## Figure 29 Summary of Agents License Statistics

	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Issued	56,636	58,059	68,693	62,748	63,642
Renewed	92,505	84,984	101,767	98,820	118,739
Total Appointment Transactions	503,347	496,117	515,260	508,048	511,754
Total Current Agents & Adjusters Licenses	291,499	314,668	339,913	360,975	378,333
Other Licenses	9,443	8,855	8,897	9,243	7,572
<b>Grand Total of Licenses Regulated</b>	<b>300,942</b>	<b>323,523</b>	<b>348,900</b>	<b>371,273</b>	<b>386,922</b>

### Figure 30 Numbers and Types of Agents Licenses

	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
County Mutual	3,694	3,462	3,481	3,320	3,263
General Lines - Life, Accident, Health and HMO	145,209	150,348	158,373	167,501	172,461
General Lines - Property and Casualty	76,646	87,684	95,298	102,759	105,326
Life Only Agent*					5,913
Personal Lines Agent*					2,987
Insurance Service Representative	2,368	2,069	1,832	1,654	1,568
Life not to Exceed \$15,000	1,230	1,026	973	944	915
Limited Lines	10,841	7,622	5,876	5,441	5,024
Managing General Agent	1,551	1,643	1,596	1,625	1,583
Pre-Need	2,584	2,504	2,376	2,331	2,328
Surplus Lines	2,800	3,385	3,697	4,238	4,670
<b>Total</b>	<b>246,923</b>	<b>259,743</b>	<b>273,502</b>	<b>289,813</b>	<b>306,036</b>

\* Licenses added beginning FY 2008

### Figure 31 Summary of Activity: Life/Health Filings

	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Filed	28,558	30,945	27,184	25,855	26,234
Accepted	27,079	29,914	26,591	25,156	25,600
Approved	9,438	9,655	9,432	7,596	9,081
Disapproved	2,574	2,993	1,977	2,497	2,455
Exempt	7,075	6,324	7,559	7,353	5,625

### Figure 32 Summary of Activity: Health Maintenance Organization Filings

	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Actual Performance	1,596	1,538	1,577	1,763	1,423
Annual Target	2,446	2,446	1,300	1,100	1,500
Percentage of Target	65.25%	62.88%	121.31%	160.27%	94.87%

### Figure 33 Summary of Activity: Utilization Review Filings

	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Applications Received	15	16	12	19	20
Registered Utilization Review Agents Approved	1	2	1	2	2
Certified Utilization Review Agents Approved	12	17	11	7	14
Certified URAs Renewed	103	81	78	85	79

### Figure 34 Summary of Activity: Number of Complaints Against HMOs Resolved

	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Actual Performance	3,620	2,422	1,329	872	905
Annual Target	7,000	7,000	2,240	2,240	1,000
Percentage of Target	51.71%	34.60%	59.33%	38.93%	90.50%

### Figure 35 Number of HMO Quality Assurance Examinations Conducted

	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Actual Performance	22	16	22	18	16
Annual Target	12	12	12	12	14
Percentage of Target	183.33%	133.33%	183.33%	150.00%	114.29%

### Figure 36 Summary of Activity: HWCN Inquiries

	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Inquiries Received	124	119	169	608	479
Inquiries Completed	124	117	171	585	469

### Figure 37 Summary of Activity: IRO Applications

	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
IRO Applications Received	4	4	8	8	7
IRO Applications Approved	3	3	6	10	7
IRO Renewals Approved	6	10	10	16	27

## Consumer Protection

CONSUMER PROTECTION (CP) assists Texans by helping resolve insurance complaints; providing insurance information to the public through a Consumer Help Line, publications and the Internet; and reviewing insurance advertising.

The Consumer Protection Program consists of five activities:

**Complaints Resolution** reviews consumer disputes with insurance companies, agents and other regulated insurance entities. Insurance specialists examine complaints for violations of the Texas Insurance Code and Texas Administrative Code and recommend enforcement action when appropriate. Each year, TDI's intervention in insurance complaints results in millions of dollars of additional claims payments and premium refunds to consumers. CP's Complaints Resolution staff handle complaints involving home, auto, life, annuities and health insurance.

**Information Assistance** responds to calls to the agency's toll-free Consumer Help Line, 1-800-252-3439. The Help Line is open from 8 a.m. to 5 p.m. Central time, Monday through Friday. Hours may be extended to assist consumers at night and on weekends following a disaster or a major change in the insurance market. Information Assistance staff answer questions regarding most lines of insurance; provide information about companies and agents, including license status and complaint histories; and help consumers file insurance-related complaints. Information Assistance also maintains and updates TDI.nfo, an electronic information database to ensure accurate and consistent responses to consumer questions. The section helps non-English speakers through its bilingual Spanish-speaking staff and use of Language Line interpreter services. Service for hearing- or speech-impaired consumers is provided through Relay Texas at 1-800-735-2989 (TDD/TTY).

**Public Education** develops and distributes information to increase consumers' understanding of insurance and to help consumers shop wisely for the insurance products they need. Publications are distributed at outreach events, by request and through the agency's website. Consumers may order complaint forms and publications 24 hours a day, seven days a week, by calling a toll-free automated telephone line, 1-800-599-SHOP (7467). Public Education also coordinates a Speakers Bureau that provides presentations for civic and community organizations, consumer groups and the insurance industry. In partnership with other state and federal agencies, Public Education operates the federally funded Health Information, Counseling and Advocacy Program (HICAP), which provides statewide training to volunteer benefits counselors who assist senior citizens in their local communities.

**Advertising** reviews industry marketing materials to evaluate compliance with statutes and rules governing solicitation and trade practices. Those materials include brochures, phone and sales scripts, agent presentations, newspaper, magazine, radio and TV ads, form letters, illustrations, Web pages and other materials. Significant violations are referred to TDI's Enforcement Division for possible enforcement action.

The **Special Work Assignments Team** (SWAT) enhances CP's business processes by developing means of improving efficiency and effectiveness. SWAT coordinates the program's business planning activities and oversees production of program information published on the agency's website.

### Highlights

In Fiscal Year 2008, CP:

- Assisted Texans impacted by natural disasters. CP coordinated the agency's response following Hurricanes Dolly and Gustav in summer 2008. In summer 2007, we assisted Texans in Cooke, Coryell, Denton, Grayson, Lampasas, and Tarrant counties following flooding in those areas, in Southeast Texas following Hurricane Humberto, and in south and north Texas following Tropical Storm Erin. TDI staff assisted consumers in the field, answered inquiries during extended hours via TDI's toll-free Consumer Help Line, developed Internet resource pages,

- resolved disaster-related insurance complaints, inspected property damage, conducted educational outreach events, and joined staff from state and federal agencies at the State Operations Center and Disaster Recovery Centers. CP also worked with the Texas State Disaster Coalition to ensure timely and efficient disaster response by government and the insurance industry.
- Completed a telecommuting pilot project to assess the feasibility of allowing TDI staff to work from home and to identify potential issues. The project was expanded to other TDI programs in FY 2008.
  - Returned nearly \$32 million to consumers in additional claims payments and refunds as a result of complaints resolution.
  - Responded to more than 649,000 consumer inquiries, including nearly 200,000 calls to the Consumer Help Line.
  - Conducted more than 875 Speakers Bureau presentations throughout Texas on insurance issues.
  - Distributed more than 4 million publications, including more than 1.2 million rate guides. Rate guides provide information to help Texans save money on their insurance. TDI publishes rate guides for automobile, homeowners, Medicare supplement, long-term care, small employer health benefit plans and workers' compensation insurance.
  - Launched Helpinsure.com, a comprehensive Web resource to help Texans shop for auto and residential property insurance. The expanded website was developed in conjunction with the Office of Public Insurance Counsel. In addition to sample rate estimates for various driver and homeowner profiles, the site has detailed policy coverage comparisons, company complaint indexes and financial ratings, and information about discounts and which companies use insurance credit scoring. Consumers can also find worksheets to help them compare companies and policies, shopping tips, publications and FAQs to learn more about insurance. Helpinsure.com is available in English and Spanish. The expanded website was mandated by SB 611 (80th Legislature).
  - Maintained TexasHealthOptions.com, which provides information to help Texans find health coverage, including lists of agents and companies offering various types of health plans.
  - Reviewed more than 6,100 insurance advertisements to ensure compliance with state laws and TDI rules.
  - Facilitated several working groups to distribute information and enhance industry regulation, including the Advertising Workgroup and Complaints Stakeholders Group.
  - Distributed Consumer Alerts on a variety of topics, including disaster preparedness, flood-damaged vehicles, Medicare Advantage fraud and identity theft, the expanded Helpinsure.com and insurance shopping tips, to consumer advocacy groups and other consumer organizations.
  - Maintained consumer information on TDI's Internet website. Items accessed most frequently were company profiles, publications, the online complaint form and the Internet Complaint Information System.
  - Initiated or continued partnerships with governmental agencies to promote TDI services and enhance outreach activities, including partnerships with:
    - The Centers for Medicare and Medicaid Services, to share information to help investigate and penalize fraudulent and misleading marketing of Medicare Advantage and Medicare prescription drug plans.
    - The Children's Hospital of Austin, the Seton Healthcare Network, the City of Austin and the Travis County Health and Human Services Department, to provide information to parents of uninsured children and to people utilizing services provided at mobile health clinics.
    - County tax assessor-collector offices statewide, to distribute rate guides and other insurance information.
    - The Texas Workforce Commission, to provide information about insurance to employers attending Texas Business Conferences across the state.
    - The Texas Department of Aging and Disability Services, the Texas Legal Services Center, and local Area Agencies on Aging statewide, to assist older Texans and to offer training to benefits counselors in local communities.
    - The Texas Apartment Association, to distribute Renters Insurance publications to residents of the association's member communities.
    - The Governor's Division of Emergency Management and representatives of the insurance industry in the Texas State Disaster Coalition, which facilitates coordinated responses to disasters.

### **Figure 38 Total Number of Complaint Cases Closed, FYs 04–08**

<b>Year</b>	<b>Cases Closed</b>
2004	29,505
2005	24,132
2006	24,122
2007	21,676
2008	20,375

### **Figure 39 Additional Claim Payments to Consumers, FYs 04–08**

<b>Year</b>	<b>Claim Payments</b>
2004	39.0 million
2005	37.6 million
2006	54.6 million
2007	31.3 million
2008	29.7 million

### **Figure 40 Restitutions/Refunds to Consumers, FYs 04–08**

<b>Year</b>	<b>Restitution or Refunds</b>
2004	1.2 million
2005	1.8 million
2006	1.6 million
2007	2.2 million
2008	2.2 million

## **State Fire Marshal's Office**

THE STATE FIRE MARSHAL'S OFFICE (SFMO) develops and promotes methods of preventing and reducing fire losses. This responsibility is carried out through fire cause and origin investigations, building inspections, code enforcement, the regulation of fire service industries, and the development and promotion of fire prevention programs. In collaboration with private sector entities, the regulated fire service industry, the Texas fire service, local and state agencies, and the public, the SFMO seeks to create communities well prepared to protect themselves against fire. The SFMO consists of three divisions:

### **Fire Prevention and Outreach Services Division**

- Texas Fire Incident Reporting System (TEXFIRS) collects data reported from fire departments and summarizes the reported data each year in the SFMO's annual publication entitled Fires in Texas.
- Community Based Partnerships assist in establishing, implementing, and maintaining community based fire prevention education programs, including the Juvenile Firesetter Intervention Program, the Fire Safety House, and "Have an Exit Strategy" campaign.
- Public Protection Classification (PPC) Survey and Grading Oversight assists local fire departments, upon request, with PPC surveys and the Insurance Services Office (ISO) Fire Suppression Rating Schedule. Through the authority of the Commissioner of Insurance, the State Fire Marshal is responsible for approving or disapproving proposed PPC ratings for communities.

### **Field Services Division**

- Fire Safety Inspection Services conduct fire safety inspections of public buildings, daycare centers, hotels and motels. This division also conducts a comprehensive, multi-year fire safety inspection of all Texas state-supported institutions of higher education. Published reports are available on the agency's website. Inspections are conducted based on need or in response to a request or complaint. Upon complaint, inspections of storage, handling and use of flammable liquids are conducted at retail service stations throughout the state.
- Fire/Arson Investigations staff investigate fire scenes, upon request, throughout the state and provide assistance to local law enforcement authorities. SFMO investigators travel to fire scenes and assist local officials with determining origin and cause, and with criminal investigations when appropriate.
- Canine Teams consist of a handler, who is a certified fire investigator, and a canine that has been certified and trained to detect hydrocarbons. The canines' keen sense of smell helps them identify areas for evidence collection at fire scenes.
- Forensic Arson Laboratory provides accelerant testing services and analysis of fire scene debris to law enforcement and public safety organizations. The lab is accredited by the American Society of Crime Laboratories Directors.
- Statewide arson hotline (1-877-434-7345) is maintained by the SFMO for reporting information about fires suspected to be arson. Through this hotline, rewards are funded and administered by the Texas Advisory Council on Arson (ATAC).

### **Fire Industry Licensing Services and Investigations Division**

- Licensing Administration issues registrations, licenses and permits to those working in the fire alarm, extinguisher, sprinkler, and fireworks industries.
- Investigations staff respond to complaints concerning the illegal, improper, and unsafe installation of fire alarm, extinguisher, and sprinkler systems by licensed entities. The Division provides daily assistance to local fire marshals and building officials with respect to code interpretation issues. They also inspect fireworks retail sites to ensure compliance with adopted laws.
- Fire Standard Compliant (FSC) Cigarette Program ensures that only FSC Cigarettes are imported into Texas, as of January 1, 2009, and that only FSC cigarettes are sold in the state, as of January 1, 2010. This program will register manufacturers and distributors, obtain requisite certifications, and test data to ensure compliance, in addition to the periodic inspection of distribution centers and retail outlets.

In addition, the SFMO is statutorily responsible for the investigation of firefighter fatalities occurring in connection with a firefighting incident in this state. Chapter 417.0075, Texas Government Code, requires the State Fire Marshal's Office to investigate the circumstances surrounding the death of a firefighter, including the cause and origin of the fire, the condition of the structure, and the suppression operation. The purpose of the investigation is to determine the factors that may have contributed to the death of the firefighter.

## Highlights

In Fiscal Year 2008, the State Fire Marshal's Office:

- Hosted the 9th Annual Fire Marshal's Conference in Austin, with more than 150 state, county, and municipal fire marshals and firefighters in attendance. The conference provided continuing education topics for attendees, including common enforcement issues, code interpretations, emerging fire prevention models, and liability and funding issues. The conference increases cooperation and coordination among fire marshals statewide.
- Continued development of the Fire Standard Compliant Cigarette Program in preparation for the implementation of phase one beginning January 1, 2009. Campaign ideas were proposed through a University of Texas Public Relations/Marketing/Advertising class competition project which assisted in the development of brochures highlighting the project's implementation and affect on the stakeholders. The program was announced to the public through speeches at conferences, booths at conventions, and television and news media.
- Provided occupational licensing administration by issuing 12,965 licenses, registrations and permits to the fire alarm, extinguisher, sprinkler and fireworks industries, an increase of over 11% from last year, resulting in \$2.3 million in revenue.
- Issued 41 Fire Marshal Orders relating to enforcement of fire extinguisher, alarm, sprinkler, and fireworks safety, generating over \$50,000 in fines and penalties and ordering firms to return and correct their services saving the end user over \$44,000.
- Worked with local fire officials to complete a two year program to replace old technology commercial kitchen hood fire extinguishing systems in Texas with equipment that meets the new UL 300 testing standard, as determined by nationally recognized testing laboratories.
- Inspected fireworks sales sites during the Cinco de Mayo holiday season, in accordance with legislation adopted by the 80th Texas Legislature. Fireworks sales are permitted within 100 miles of the Texas-Mexico border from May 1 to May 5.
- Led the on-scene fire cause investigation of the June 8, 2008 fire at the Governor's Mansion in a joint operation with the Texas Rangers and U. S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives. The SFMO determined the cause of the fire to be arson, and continues to participate in the ongoing criminal investigation with the Texas Rangers.
- Provided on-site coordination and recommendations for continued fire safety measures to be taken following the fire at the Governor's Mansion, including weekly pre-planning site visits with Austin Fire Department.
- Continued the on-site fire safety inspection project of university campuses by conducting initial inspections of university health care centers and hospitals.
- Sponsored the 4th Texas Biennial Juvenile Firesetter Intervention Conference in Austin and six other Juvenile Firesetter Intervention classes throughout the state.
- Assisted in implementing Risk Watch in 22 schools. Risk Watch is a multi-hazard education and awareness curriculum for children from pre-kindergarten to eighth grade.
- Led the development of a statewide network of fire and life safety educators to build local capacity for fire and life safety education and awareness.
- Provided PPC Oversight assistance to local communities through on-site visits, phone calls, and responses to emails. Processed new PPC rating submissions by the Insurance Services Office for approval prior to the use of the ratings in Texas communities.
- Issued a Fire Marshal Alert to encourage all firefighters to take the Seat Belt Pledge, part of a national campaign developed to remind firefighters to wear their seat belts whenever riding in a Fire Department vehicle. Texas leads the nation in participants signing the campaign pledge.
- Conducted a workshop, hosted by San Marcos Fire and Rescue, on the policy and procedures for the SFMO Firefighter Fatality (FFF) Investigation Program. The workshop, facilitated by Texas Engineering Extension Services (TEEX), was attended by members of the FFF Investigation Advisory Board, the Fire Chiefs Association, the State Firemen and Fire Marshals' Association, metropolitan fire departments (Austin, Dallas, El Paso, Ft. Worth, Houston, and San Antonio), Texas Fire Marshals Association, the Texas Forest Service, the Texas Firefighters Association, and the Texas Commission on Fire Protection. The training provided a forum for state and local authorities to discuss their roles in the investigation of firefighter fatalities.

- Completed a series of state-owned building inspections to assess conditions and take necessary action to secure fire safety to protect state employees, visitors, and resources in buildings under the purview of the Texas Facilities Commission, as required by Chapter 417.081, Texas Government Code.
- Established the University Advisory Committee, composed of fire safety officials, to strengthen the University Fire Safety Program. The committee meets regularly to discuss implementing and enforcing fire safety initiatives at universities across the state.
- Designated safe smoking practices as the theme for the 2008 Fire Prevention Week, with messages including “Chaperone Your Cigarette” and “Careless Smoking can be a Real Drag.” Smoking materials are the leading cause of fire deaths in the United States.
- Coordinated and participated in classes at the TEEEX Annual Municipal Fire School. The State Fire Marshal attended the week long training to observe content and recommend improvements for future curricula. The SFMO PPC Oversight Officer assisted with incorporating content related to the ISO process in the training.
- Partnered with the Shriners of North America, Austin Chapter, and the Central Texas Blood Center to host a blood drive, benefiting the Shriners’ Hospitals for Children and Burn Hospital in Galveston.
- Reviewed the Sunset Advisory Commission Staff Report for TDI and began implementation of processes to address recommendations.
- Processed reports of 1,417,753 fire and non-fire incidents to the Texas Fire Incident Reporting System (TEXFIRS) from 1,033 fire departments in 2007. TEXFIRS data is processed by calendar, rather than fiscal, year.
- Continued the “We’re out to Alarm Texas” campaign in partnership with the Insurance Council of Texas and fire departments around the state. Through this program, smoke alarms are provided to fire departments to install, free of charge, to the needy and elderly upon request. The campaign has been in place for four years, and in that time, a total of 4,200 smoke alarms have been delivered to eleven communities, and three lives have been saved as a direct result of the program. In FY 2008, 500 alarms were delivered to Lufkin County and 500 were delivered to Hidalgo County.
- Issued a Commissioner’s Bulletin related to fire safety requirements in foster homes in an effort to assist persons providing in-home foster care and fire inspection officials across the state. The SFMO continues to collaborate with the Department of Family and Protective Services, legislators, local fire officials, and foster home providers to seek cost effective means to ensure fire and life safety for foster home residents.
- Achieved an average customer satisfaction rating of 4.45, based on a 5.0 scale. SFMO customers group ratings of TDI improved in each category surveyed, and 91 percent of the respondents reported that they were either very satisfied or satisfied with the services provided by the SFMO.

**Figure 41 Summary of Activity: Fire Marshal’s Office**

	<b>FY 2007</b>	<b>FY 2008</b>
Fire investigations completed	519	510
Reported structure value of fires investigated	\$307,496,357	\$442,104,967
Percent of SFMO fire investigations found to be incendiary	40%	35%
Number of suspects referred for prosecution	150	111
Percent of referred suspects indicted	75%	78%
Conviction rate of indicted suspects	104%	59%
Samples analyzed in arson laboratory	2,685	3,093
Companies and personnel licensed for Fireworks, Extinguisher, Alarm and Sprinklers	11,651	12,965
Investigations/inspections of complaints against Fire protection equipment/fireworks industries	1,107	1,122
Buildings inspected/re-inspected for fire safety hazards	4,778	5,230
Number of children participating in a Fire Safety House demonstration	17,233	20,251
Number of individuals attending fire prevention and fire safety presentations coordinated by the SFMO*	21,027	24,154
Number of communities or community partners accepting an SFMO fire prevention program or initiative	69	29

\* Note: the number of individuals attending fire prevention and fire safety presentations coordinated by the SFMO is inclusive of the number of children participating in a Fire Safety House demonstrated.



## Administrative Operations

ADMINISTRATIVE OPERATIONS is headed by the agency's Chief of Staff. It performs the agency's internal financial functions and provides operational support ranging from computer and database services to professional development and training. It also provides administrative support to the Office of Injured Employee Counsel (OIEC) and monitors TDI's compliance with oversight requirements set for state agencies by the Legislature. The program consists of six activities.

**Financial Services**, led by the Chief Financial Officer, is comprised of the accounting, planning, and budgetary functions of the agency. The Division provides monitoring and oversight of the agency's financial records, provides supporting financial and planning documentation to oversight agencies, proposes rates for maintenance taxes and assessments, and maintains internal controls to ensure compliance and accuracy of financial reporting. Financial Service is responsible for preparing the Annual Financial Report, Legislative Appropriation Request (LAR), and Strategic Plan for the agency. Additionally, the Division monitors expenditures, collects revenues, maintains the agency's budget, provides oversight of performance measure targets, guides the agency's business planning, and ensures compliance of the provisions outlined in the General Appropriations Act.

**Staff Services** manages all facility-related services, including space planning and management, security, employee parking, asset inventory and warehousing. The Division is also responsible for maintaining the agency's records retention schedule and administering the agency's Safety and Risk Management Program. Finally, Staff Services handles, tracks, and delivers all mail, coordinates a courier service, and operates the agency's copy center.

**Purchasing and Contract Administration** is responsible for procuring all goods and services for the agency, managing the agency's Historically Underutilized Business (HUB) Program and administering contracts. The division's primary goal is to meet the needs of its customers by ensuring that they receive the right product or service, at the right price, at the right time.

**Information Technology Services** (ITS) under the direction of the agency's Information Resource Manager (IRM), provides automation and computer support for all agency programs and activities and for OIEC. The primary goals of ITS are to ensure that automation applications and technology are of good quality, are maintainable and available, and meet agency and state standards. ITS supports agency programs by providing advice and assistance in applying technological solutions to business problems; building and maintaining applications or purchasing applications and systems to meet agency needs; monitoring emerging technologies and support issues, including legislative directives and mandates; working to manage agency data efficiently and effectively, including establishing appropriate access; supplying appropriate and timely technical training to employees; planning and implementing agency-wide information technology projects; managing access to agency hardware, software, and telecommunications resources; and providing Help Desk, desktop, and telecommunication technical service on request from agency staff.

**Human Resources** provides service and support to the agency and OIEC regarding personnel matters, employee benefits, compensation and professional development. The Division monitors and ensures compliance with state and federal employment laws, including compliance with various anti-discrimination laws, such as the Civil Rights Act of 1964, the Family Medical Leave Act (FMLA) and the American's with Disabilities Act (ADA). It reviews and implements legislation and updates agency policies to reflect new rules, regulations and legislation; conducts workforce planning and reporting as an integral part of the agency strategic plan; and provides guidance to address employee disciplinary issues. This division oversees the administration of the Survey of Organizational Excellence, which measures employee satisfaction and morale, and the agency's employee assistance program. It also administers the selection and hiring process; processes payroll and leave accounting; maintains employment records—personnel, benefit, FMLA, ADA and

Workers' Compensation files; and administers employee benefits. Human Resources is also responsible for providing a variety of training, including new employee orientation, business writing, presentation skills, conflict resolution, and a comprehensive technical insurance training program.

**Employee Ombudsman and Ethics Advisor** gives employees an outlet to discuss their concerns and problems in private. The ombudsman also is charged with helping encourage positive communication between agency managers and employees, helping resolve workplace complaints, grievances or disputes and helping agency employees with ethics questions.

### **Highlights**

In Fiscal Year 2008, Administrative Operations:

#### **Financial Services**

- Coordinated and developed the agency's Self Evaluation Report (SER) for the Sunset Advisory Commission.
- Prepared and submitted the 2010-2011 Legislative Appropriations Request.
- Developed and produced the agency's FY 2009 Operating Budget.
- Prepared the FY 2007 Annual Financial Report, Binding Encumbrance and Accounts Payable, and the Non-Tax Collected Revenue reports on behalf of TDI and OIEC.
- Developed maintenance tax rates, examination/overhead assessment and premium finance assessment.
- Provided monitoring and oversight of agency expenditures by strategy, object of expense and organizational structure.
- Monitored monthly performance measures and provided quarterly performance measure reports to the Legislative Budget Board.
- Coordinated the development of TDI's FY 2009-2013 Strategic Plan.
- Maintained and tested the viability of agency and program disaster recovery plans.
- Published TDI's 2008 Customer Service Report.
- Coordinated and developed the 2008 Workforce Plan.
- Maintained a tracking system to monitor travel and to ensure compliance with travel caps as mandated in the General Appropriations Act.
- Provided financial services to OIEC such as bill paying, processing travel reimbursements, development of the FY 2009 operating budget and support in development of the 2010-2011 Legislative Appropriations Request.
- Cooperated with Comptroller of Public Accounts in conducting a favorable post-payment audit.

#### **Staff Services**

- Handled 1,308,682 pieces of agency mail and processed 1,883,799 workers' compensation claim-related documents for carrier representatives.
- Microfilmed 582,396 documents and stored 2,748 cubic feet of records through the Texas State Library for record retention.
- Processed 1,890 work orders through the Texas Facilities Commission (TFC) and the Metro Center Lessor.
- Coordinated 22 building improvement projects and modular furniture installations and renovations in the Hobby Building.
- Facilitated the safety program that resulted in six of 15 program areas achieving accident/injury free status in FY 2008 and a reduction of \$56,051 in Workers' Compensation claim expenses from FY 2007.
- Negotiated five branch office lease renewals.

#### **Purchasing and Contract Administration**

- Processed 3,311 purchase requests and 2,791 purchase orders.
- Posted 34 procurement opportunities on the Electronic State Business Daily.
- Tracked and administered 339 contracts.
- Attended four HUB forums.
- Sponsored two agency HUB forums.
- Achieved 25.7% HUB participation during the first six months of FY 2008.
- Eliminated employees' social security numbers from the purchasing system vendor database files.

- Hosted five purchasing and contract administration related training webinars.
- Established an online procurement manual for purchasing staff.
- Established electronic Quarterly Procurement Newsletter distributed to purchasing liaisons and requisitioners.

### **Information Technology Services**

- Prepared for transformation of TDI's server operations and high volume print and mail services to the state data centers.
- Launched a major upgrade to the HelpInsure.com Website to provide sample rate costs for Texas auto and homeowner insurance based on data provided by the site visitor.
- Adopted National Association of Insurance Commissioners (NAIC) standards for Speed to Market product reporting, which will enable TDI to use the Uniform Product Coding Matrix and will facilitate greater uniformity in the rate information that insurers submit to TDI. The Speed to Market initiative also imports information from the NAIC System for Electronic Rate and Form Filing database (SERFF) into TDI's imaging and workflow system and automatically transfers specific information from TDI to the NAIC SERFF application.
- Enhanced the Division of Workers' Compensation (DWC) applications to stabilize and expand the functions of TXCOMP, the workers' compensation claims and coverage tracking application. The enhancements enable the system to:
  - process data submitted by external Trading Partners by Electronic Data Interchange (EDI). This automation reduces data entry and manual processing, which will produce greater accuracy and faster processing and will result in cost reductions and enhanced data exchange options for the participants. EDI functions include e-billing, claim data reporting, claim payment reporting, and claim matching.
  - process scanned mail so that the scanned page images can be stored with claim data in TXCOMP.

In addition to the major initiatives described above, ITS also:

- Reinforced information security at TDI by:
  - updating antivirus, e-mail filtering, and firewall software.
  - cooperating with the Department of Information Resources to allow controlled penetration testing of TDI's network to assess security levels. The results demonstrated that TDI's network has effective controls in place.
  - providing information security training classes for new employees and providing refresher training courses for current agency staff.
  - providing informational articles and material to agency staff regarding recommended security practices and employee responsibilities.
  - reviewing application security assignments and consolidating user roles.
- Supported agency staff and external customers by responding to 21,453 Help Desk calls. This included providing technology support for staff who moved within the agency or who needed assistance as a result of weather, building condition problems, or emergency situations.
- Provided classroom-based automation training to 273 students.
- Upgraded the network at the DWC-Metro location to reduce complexity and enhance its capability.
- Deployed 312 desktop workstations and 465 monitors as part of the agency's Obsolescence Plan, and consolidated and upgraded the versions of software applications installed at TDI.
- Began replacement of telecommunications hardware and software for DWC at the Metro location and in the field offices. This project will bring all telecommunications systems to current releases, and will network the call queues in order to provide a faster response to any phone call.
- Implemented additional facets of a Secure Shell File Transfer Protocol (SFTP) solution to transmit confidential data securely to TDI from health care providers, insurance carriers and their representatives, and other state agencies and business partners.
- Provided technical assistance in support of TDI's pilot telecommuting project, which will broaden staff options for working remotely.
- Upgraded the agency's e-mail system and provided training demonstrations to agency staff.
- Modified the Complaint Inquiry System/Complaint Tracking System (CIS/CTS) to enable DWC Legal and Compliance staff to access CIS/CTS and investigate enforcement cases.

- Enhanced the online Attorney Fee application to enable its use by wider numbers of customers and to improve access to data.
- Enhanced Consumer Protection's VisiFLOW Audit Queue application functionality to enable automated sampling of the queue.
- Supported TDI's ongoing movement to web-based data and forms.
- Developed a Paperless Complaints application, which provides a back-end complaint scanning process for the Property and Casualty division.
- Upgraded the Title Escrow System to add data fields and facilitate queries on agent status.
- Modified the Workers' Compensation Stat Card Data Load process to accept data from the National Council on Compensation Insurance (NCCI).

### Human Resources

- Processed and tracked 2,021 personnel actions including merit raises, promotions, new hires, transfers, and separations of employment. In addition to this number, 311 personnel actions were processed for OIEC.
- Met 100% of all payroll reporting deadlines.
- Processed 7,744 job applications.
- Answered 59,488 switchboard calls.
- Delivered 1,078.5 hours of traditional classroom training and 173.75 hours of training provided online through video-streaming, video or CD-ROM. Training included new employee orientation and courses on teambuilding, communication, customer service, defensive driving, insurance training, and management training.
- Delivered nine wellness events.
- Provided assistance to the TDI Honors Program, allowing interns to work with TDI staff on special insurance-related projects.
- Continued monitoring of telecommuting pilot project and developed training and documents to implement telecommuting pilot in other areas of the agency.
- Assisted Strategic Plan and Workforce planning activities, including gathering statistical information and researching information in order to contribute information to agency strategic plan and workforce plan, specifically a succession planning initiative.
- Participated in audits with Comptroller's Office and TDI Internal Audit to review payroll, HRIS and workforce planning. Implemented audit recommendations.

### Employee Ombudsman and Ethics Advisor

- Continued presenting legislatively mandated sexual harassment/discrimination course to all agency employees. In the process, completed visits to every agency field office throughout the state.
- Addressed a wide variety of personnel issues and concerns through coaching and counseling of agency employees.
- Designed a new sexual harassment/discrimination course and began presenting it to agency employees headquartered in Austin.

**Figure 42 Comparison of Maintenance Tax Rates FYs 2001–2008**

TYPE	MAX	FY01	FY02	FY03	FY04	FY05	FY06	FY 07	FY 08
	LEGAL RATE								
Motor Vehicle	0.2	0.057	0.060	0.053	0.035	0.036	0.062	0.058	0.070
Fire	1.25	0.352	0.401	0.330	0.188	0.184	0.291	0.236	0.280
Workers' Compensation	0.6	0.060	.069	.051	.030	0.027	0.051	0.059	0.069
Casualty	0.4	0.186	0.210	0.180	0.091	0.073	0.119	0.117	0.129
Title	1.0	0.086	0.111	0.073	0.045	0.037	0.107	0.100	0.127
Life, Accident and Health	0.04	0.040	0.040	0.040	0.026	0.026	0.040	0.040	0.040
Third-Party Administrators	1.0	0.237	0.330	0.265	0.150	0.125	0.149	0.110	0.149
*HMO Multi-Service	\$2.00	\$1.11	\$1.10	\$1.32	\$0.89	\$1.02	\$1.53	\$1.23	\$1.23
*HMO Single Service	\$2.00	\$0.37	\$0.37	\$0.44	\$0.30	\$0.34	\$0.51	\$0.41	\$0.41
*HMO Limited Service	\$2.00	\$0.37	\$0.37	\$0.44	\$0.30	\$0.34	\$0.51	\$0.41	\$0.41
Prepaid Legal	1.000	0.020	0.030	0.022	0.022	0.022	0.044	0.036	0.042
Division of Workers' Comp.	N/A	1.67	1.51	.01125	.9200	1.051	1.051	1.128	1.003

\* HMO rates reflect an amount per enrollee. Other rates are given as a percentage.

## Division of Workers' Compensation

The Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) was established on September 1, 2005 when the former Texas Workers' Compensation Commission was abolished (HB 7, 79th Legislature, Regular Session, 2005). The primary duties of TDI-DWC are to regulate and administer the business of workers' compensation in Texas; and ensure that the Texas Workers' Compensation Act, Texas Labor Code, and other laws regarding workers' compensation are implemented and enforced. The basic goals of the Texas workers' compensation system are:

- Each employee shall be treated with dignity and respect when injured on the job;
- Each injured employee shall have access to a fair and accessible dispute resolution process;
- Each injured employee shall have access to prompt, high-quality medical care within the framework established by the Texas Labor Code; and
- Each injured employee shall receive services to facilitate the employee's return to employment as soon as it is considered safe and appropriate by the employee's health care provider.

The Commissioner of Workers' Compensation is appointed by the Governor, with the advice and consent of the Senate, to administer TDI-DWC. The Commissioner of Workers' Compensation oversees TDI-DWC regulatory functions and has the authority to adopt rules to implement and enforce the Texas Workers' Compensation Act and the Texas Labor Code. The Commissioner of Workers' Compensation may sanction parties up to and including preventing them from participating in the workers' compensation system. The Commissioner of Workers' Compensation makes recommendations to the Legislature regarding changes to state workers' compensation laws, appoints individuals to advisory committees and serves as a member of the Texas Certified Self-Insurer Guaranty Association. The Commissioner of Workers' Compensation has the authority to approve Certificates of Authority to Self Insure for workers' compensation claims for certain eligible employers with employees in Texas. TDI-DWC consists of a Commissioner's Administration area and five major programs: Operations, Legal Services, Hearings, Policy & Research, and the Office of the Medical Advisor. A General Counsel advises the Commissioner of Workers' Compensation on legal matters affecting TDI-DWC and may conduct public hearings, review litigation, provide support for compliance efforts, and coordinate policy issues.

### Operations

The Executive Deputy Commissioner for Operations provides division-wide operational support in the areas of Business Process Improvement, Customer Liaison, Self-Insurance Regulation, Field Operations, Records Management and Support, and Workplace Safety.

**Business Process Improvement** supports the mission of TDI-DWC by finding process-oriented solutions to streamline and increase the effectiveness of service delivery. This area also provides coordination for TDI-DWC performance measures, agency policy, and administrative support functions.

The **Customer Liaison** responds to inquiries and complaints brought to the Commissioner's attention by system participants.

**Self-Insurance Regulation** administers the certified self-insurance program for private employers with operations and employees in Texas. The Self-Insurance Regulation program receives and processes applications from private employers that request to self-insure their workers' compensation liabilities, and it monitors the withdrawn certified self-insurers. The program evaluates the applicant companies' financial strength and liquidity, calculates and accepts security deposits, reviews claims administration plans and excess insurance, conducts safety program plan inspections, performs on-site benefit delivery examinations as needed, and bills the self-insurance regulatory fee and maintenance taxes. Approval as a Certified Self-Insurer affords the applicant company protection under the Texas Workers' Compensation Act.

**Field Operations** delivers customer assistance and claims service in 24 field offices located throughout the state. Field offices assist system participants by:

- Providing information about the Texas workers' compensation system.
- Providing injured employees with a single point of contact at TWI-DWC for claims assistance and Return-to-Work information. Field Operations coordinates closely with the Office of Injured Employee Counsel (OIEC) to ensure that unrepresented injured employees receive assistance with claim disputes.
- Setting proceedings and providing local venues for conducting benefit review conferences and contested case hearings.
- Processing official actions such as requests for change of treating doctors, requests for required medical exams, supplemental income benefit first quarter entitlements, and requests for Designated Doctor exams.
- Field offices staff are also involved in community outreach and education, such as conducting Brown Bag seminars on workers' compensation topics.

System participants who need assistance may contact field offices via a toll-free telephone number that routes calls to the local field offices, or they may go to the field office for assistance in-person.

**Records Management and Support** maintains records associated with injured employee claim files and insurance coverage information. The section provides:

- Safe storage and maintenance of injured employee claim files and employer insurance coverage files according to the TDI-DWC Records Retention Schedule and established quality standards.
- Information pertaining to injured worker or coverage files to internal and external customers.
- Document claims processing services, including receiving, creating and updating claims information from source documents.
- Electronic Data Interchange (EDI) claims services, including processing claims information received from EDI transactions and providing customer service to insurance carriers/trading partners.
- Updating the insurance coverage database with information received from insurance carriers and employers, and provides customer service for public inquiries regarding employers' insurance coverage.

**Workplace Safety** provides Texas employers and employees with health and safety resources and services to prevent occupational injuries and illnesses through the activities of three main program areas: Federal Data Collection, Occupational Safety and Health Consultation (OSHCON), and Safety Training & Inspections. Services administered by Workplace Safety include:

- **Federal Data Collection Program**, which collects, analyzes, and distributes occupational injury, illness, and fatality information for the state of Texas. Data collection programs include the Bureau of Labor Statistics (BLS) Survey of Occupational Injuries and Illnesses, the BLS Census of Fatal Occupational Injuries, and the annual Occupational Safety and Health Administration (OSHA) Data Initiative. These collection programs are funded in part or wholly through grants from BLS and OSHA. This program also analyzes workers' compensation claims data to determine causes of injury and illness.
- **Occupational Safety and Health Consultation (OSHCON) Program**, which provides free assistance to smaller employers (employers with 250 or fewer employees on site and no more than 500 nationwide) in high-hazard industries to help them understand and comply with federal OSHA safety regulations. Limited assistance is available to larger employers. The program is largely funded by a grant from OSHA, but is non-regulatory in nature. The program also maintains a free safety and health training video/DVD loan library, which houses over 3,000 titles.
- **Safety Training & Inspections**
  - Safety Training and Outreach Program educates employees and employers across the state about safe and healthy work practices through on-site company training, regional seminars, an annual statewide safety conference, safety and health publications, and other forms of outreach.
  - Accident Prevention Services Program inspects insurance companies that write workers' compensation in Texas to ensure that they are providing required accident prevention and return-to-work coordination services to their policyholders.

- **Rejected Risk (RR)** Program works with companies needing safety and health assistance as identified by the Texas Mutual Insurance Company. Inspections of these employers are conducted to confirm implementation of effective accident prevention plans.
- **Approved Professional Source (APS)** Program monitors the requirement that individuals must be designated as an APS to provide safety consultations under the RR Program, or for application to become certified self-insured.
- **Safety Violations Hotline** is a tool for Texans to report violations of occupational safety and health laws. This 24-hour, bilingual, toll-free hotline (800-452-9595) can be used by anyone wishing to report suspected violations.

### **Legal Services**

The Deputy Commissioner for Legal Services oversees two sections, 1) Regulation and Policy Counsel and 2) Enforcement.

**Regulation and Policy Counsel** provides legal support for TDI-DWC. This includes:

- Advising TDI-DWC program staff and management regarding the interpretation and application of the Texas Workers' Compensation Act, TDI-DWC rules, policies and procedures, and other applicable laws.
- Assisting TDI-DWC program staff in all aspects of the rulemaking process (development, drafting, tracking, coordination, publication, and adoption).
- Drafting and reviewing TDI-DWC contracts, memoranda of understanding, memoranda of agreement, and related documents.
- Advising and providing legal assistance to TDI-DWC staff regarding requests for information pursuant to the Public Information Act and other laws.
- Administering the Subsequent Injury Fund, with responsibilities including:
  - Reimbursements to insurance carriers for benefits paid on a decision or order that is reversed or modified.
  - Reimbursements to insurance carriers for benefits paid to injured employees based on wages earned at other jobs held at time of injury.
  - Facilitating payment of lifetime income benefits to eligible injured employees.
  - Providing litigation support to the Office of the Attorney General in its representation of the TDI-DWC in court proceedings and providing recommendations to management regarding agency intervention in court proceedings.

**Enforcement** pursues violations of the Texas Workers' Compensation Act and TDI-DWC rules, such as preauthorization violations, timely payment of medical bills and income benefits, failure to comply with a Division Order, and timely filing of documents with TDI-DWC.

### **Hearings**

The Deputy Commissioner for Hearings oversees the various income benefit dispute resolution processes. Hearings staff includes Benefit Review Officers, Hearing Officers and proceedings support employees located both at the TDI-DWC Central Office in Austin and in the 24 field offices around the state. Hearings provides indemnity dispute resolution for benefit disputes regarding compensability or eligibility for, or the amount of, income, death, or burial benefits. The three-tier administrative system for indemnity benefit dispute resolution consists of a benefit review conference, benefit contested case hearing, and appeal to the Appeals Panel. Spinal surgery disputes also proceed through a benefit contested case hearing and appeal to the Appeals Panel. Benefit review conferences and contested case hearings are held at TDI-DWC field offices throughout the state. As of September 1, 2007, Hearings conducts medical contested case hearings as an appeal process for resolving certain medical fee disputes and medical necessity disputes. An appeal to a contested case hearing is allowed for retrospective medical necessity disputes where the amount billed does not exceed \$3,000, or for medical fee disputes in which the amount of reimbursement sought does not exceed \$2,000. Additionally, all prospective and concurrent medical necessity disputes may be appealed through the medical contested case hearing dispute process.

### **Policy & Research**

The Executive Deputy Commissioner for Policy & Research provides division-wide guidance and support in the areas of Health Care Policy and Implementation, Medical Fee Dispute Resolution (MFDR), System Monitoring & Oversight, Information Management Services and, Communications & Outreach.

**Health Care Policy & Implementation** monitors and regulates the delivery of medical benefits to control medical costs and to ensure that injured employees receive reasonable, necessary, and quality health care. This program also makes recommendations regarding fee guidelines and health care administration policies and procedures.

**Medical Fee Dispute Resolution** manages disputes related primarily to the reimbursement of a health care service provided. MFDR staff are the point of intake for all requests, calls, and documentation regarding medical fee disputes. MFDR manages the processing of fee disputes and supports the auditing staff in resolving medical fee disputes.

**System Monitoring & Oversight** is responsible for monitoring compliance of system participants, identifying non-compliance, and making referrals to the Enforcement program. The Complaint Resolution section processes complaints and reports of violations of the Texas Workers' Compensation Act and TDI-DWC rules, as well as complaints about quality of care. System Monitoring & Oversight is responsible for the Performance Based Oversight (PBO) program, which creates regulatory tiers assessing the performance of carriers and providers operating in the workers' compensation system.

**Information Management Services** oversees the management of electronic data that is reported to TDI-DWC by system participants and maintains the processes for retrieval of the data in a useable form for various reports based on requests from internal and external customers.

**Communications & Outreach** provides support for TDI-DWC internal and external written communications, web-based information, forms management, coordination of speaking engagements, and translation services. This program area also provides internal and external training on such subjects as Return-to-Work and Medical Benefits as well as outreach efforts to encourage more health care providers to become involved in the Texas workers' compensation system. The program area was formed in June 2008 to consolidate the areas that administered Health Care Provider Education and Training, Tracking and Reporting, Public Information, Calendars, Speakers Bureau, and Health Care Provider Outreach. The Communications & Outreach program provides TDI-DWC with the ability to communicate with system participants regarding general or specifically targeted information on an appropriate level using a variety of delivery methods specifically tailored to the message. Communications & Outreach also coordinates TDI-DWC educational and safety conferences.

The **Policy Advisor** provides guidance to TDI-DWC on matters of policy development and implementation. This area drives the rulemaking process that implements legislation, and it is available to advise and assist all other program areas on policy matters.

#### **Office of the Medical Advisor**

The Office of the Medical Advisor advises TDI-DWC regarding the adoption of rules and policies regarding medical care and medical delivery systems for injured employees in the workers' compensation system. The medical advisor monitors and regulates the delivery and review of medical benefits to ensure that injured employees receive reasonable, necessary and quality health care, reviews complaints on quality of care received through the Complaint Resolution section, and oversees operation of the Medical Quality Review Panel (MQRP). The MQRP reviews the actions of doctors, other health care providers, insurance carriers, utilization review agents, and independent review organizations in the workers' compensation system.

### **Highlights**

#### **Rulemaking**

- **Fee Guideline – Ambulatory Surgical Centers (ASC):** Modified 28 Texas Administrative Code (TAC) §134.402 to sustain the 2007 Medicare reimbursement system and methodology until Medicare's new reimbursement system for ASCs could be reasonably integrated into the Texas workers' compensation system (see Ambulatory Surgical Center Fee Guideline below). Adopted December 10, 2007, (Texas Labor Code §413.011), effective January 1, 2008.
- **Ambulatory Surgical Center Fee Guideline:** Amended rule adopts the most current Medicare reimbursement system and methodology. Minimal modification allows a Texas workers' compensation payment adjustment factor that is higher than Medicare's reimbursement rate for ASCs. Adopted August 8, 2008, and applicable September 1, 2008. (28 TAC §134.402 and Texas Labor Code §413.011), effective August 31, 2008.



- **Fee Guideline – Medical Fee Guidelines:** Maintains Medicare reimbursement structure, implements professional services reimbursement, implements division-specific conversion factors, and updates those conversion factors annually based on the Medicare economic index. Identifies underserved areas and provides for payment incentives. Adopted December 28, 2007, (28 TAC §§134.1, 133.2, 134.203, §134.204 and Texas Labor Code §413.011), effective March 1, 2008.
- **Fee Guideline – Outpatient Hospital Fee Guideline:** This first ever Outpatient Hospital Fee Guideline follows Medicare’s prospective payment system methodologies with minimal modifications. Establishes a reimbursement rate of 200% of Medicare, with an alternative reimbursement of 130% of Medicare plus the cost of implantables. Adopted December 28, 2007, (28 TAC §134.403 and Texas Labor Code §413.011), effective March 1, 2008.
- **Fee Guideline – Inpatient Hospital Fee Guideline:** Follows Medicare’s prospective payment system methodologies with minimal modifications. Establishes a reimbursement rate of 143% of Medicare, with an alternative reimbursement of 108% of Medicare plus the cost of implantables. Adopted December 28, 2007 (28 TAC §134.404 and Texas Labor Code §413.011), effective March 1, 2008.
- **Performance Based Oversight (PBO):** Establishes the requirements for the PBO program, including providing incentives for various compliance tiers and setting key regulatory goals. Adopted December 21, 2007, [28 TAC §180.19 and Texas Labor Code §402.075(a)], effective January 16, 2008.
- **Return-to-Work Pilot Program – Preauthorization Plan:** Amended rules to address the requirements of HB 886, 80th Legislature, Regular Session, 2007. The rules allow employers to receive preauthorization for expenditures made to safely accelerate the return of injured employees to work. Adopted January 18, 2008, (28 TAC §§137.41, 137.49 and Texas Labor Code §413.022), effective February 7, 2008.
- **Rights and Responsibilities:** Amended rule to implement the HB 7, 79th Legislature, Regular Session, 2005, provision regarding the requirement for the employer to provide the employee with a copy of Notice of Injured Employee Rights and Responsibilities in the Texas Workers’ Compensation System. Adopted September 24, 2007, (28 TAC §120.2, and Texas Labor Code §§404.109 & 409.005), effective October 15, 2007.
- **Medical Dispute Resolution:** Amended rules incorporate HB 724, 80th Legislature, Regular Session, 2007 requirements which changed the Medical Dispute Resolution process. The rule amendments incorporate an administrative-level hearing into the MDR process, after the MDR or IRO review, in an effort to resolve medical fee and medical necessity disputes prior to judicial review. Adopted May 2, 2008, (28 TAC §§ 133.305, 133.307, 133.308 and Texas Labor Code §§ 413.031, 413.0311), effective May 25, 2008.
- **Acute Care Inpatient Hospital Fee Guideline:** Repeal of 28 TAC §134.401 due to adoption of 28 TAC §134.404 (Hospital Facility Fee Guideline - Inpatient) on December 28, 2007. Adopted June 23, 2008, (Texas Labor Code §413.011), effective March 1, 2008.
- **Health Care Provider Billing Forms:** Amended rule allows the continued use of the DWC Form-066, Statement of Pharmacy Services. Adopted April 14, 2008, (28 TAC §133.100), effective May 1, 2008.
- **Informal and Voluntary Networks:** New rule to address requirements of HB 473, 80th Legislature, Regular Session, 2007, regarding notification and certification requirements for informal and voluntary workers’ compensation health care provider networks. Statute requires informal and voluntary networks to be in compliance effective September 1, 2007. Adopted July 7, 2008, (28 TAC §§133.2, 133.4, 133.5 and Texas Labor Code §§413.011, 413.0115), effective July 27, 2008.
- **Sub-claimant Refunds:** New rules to clarify billing and payment process between health care insurers and workers’ compensation insurance carriers. Adopted – August 28, 2008 (28 TAC §§ 140.6, 140.7, 140.8 and Texas Labor Code §§ 409.009, 409.0091), effective September 19, 2008.
- **Death & Burial Benefits:** Proposed amendments for rules to address HB 724, 80th Legislature, Regular Session, 2007, requirements to include death benefits for eligible parents, a new distribution calculation, and new timeframes. Public comment period closed September 2, 2008, (28 TAC §§122.100, 132.6, 132.9, 132.11 and Texas Labor Code §§408.182, 408.183). Anticipate adoption October 2008.

### **Return to Work (RTW)**

- Implemented vocational rehabilitation “early referral” letter whereby injured employees receive referrals to both Department of Assistive and Rehabilitative Services (DARS) and Texas Workforce Commission (TWC) prior to the end of 90 days of lost work time. The new referral letter, offering resources at DARS, TWC and the state’s 2-1-1 Texas assistance line was implemented in May 2008. With this new letter and referral method, TDI-DWC has increased its referrals from 5,000 to 20,000 annually.
- Worked with the Texas Health and Human Services Commission to distribute information about the state’s 2-1-1 Texas program to injured employees so they can seek assistance from community-based programs providing services not offered by the workers’ compensation system. TDI-DWC is also registered with the 2-1-1 Texas service as a resource for all Texans who may need information and assistance following a work-related injury.
- The Return-to-Work Pilot Program now provides small employers with the opportunity to seek and receive pre-approval for reimbursement for costs associated with making workplace modifications that allow injured employees to return to work (HB 886, 80th Legislature, Regular Session, 2007). The DWC Form-008, Return-to-Work Pilot Program for Small Employers, has been revised to include the preauthorization provision of the Small Employer Pilot Program. Thus far, TDI-DWC has received seven applications for reimbursement. Two of the applicants were eligible and received reimbursement.
- Distributed information regarding the new RTW Pilot Program preauthorization provisions to approximately 2,700 small employers. An additional 7,225 e-mails regarding this program were sent to other small Texas employers and 200 chambers of commerce around the state.
- Developed and distributed a brochure titled *Working Works*, which contains information about the value of injured employees’ early and medically appropriate return to work and contact information for DARS, TWC, OIEC, 2-1-1 Texas, and TDI-DWC. The brochure is available in English and Spanish.
- TDI-DWC Field Operations revised the follow-up call criteria to track referrals of injured employees to DARS. Field staff documented back-to-work status of injured employees contacted and confirmed contacts with DARS. Information provided by the injured employees will be used to work with DARS to improve communication with the injured employees and the referral process.
- Developed a RTW guide for employers entitled *Making Return-to-Work Work for Your Business and Your Employees*. Distributed the guide to employers at RTW speaking engagements. Follow-up letters were also sent to small employers receiving OSHCON consultations and by request.
- Worked collaboratively with TWC in developing a new referral letter. As a result of these discussions, TWC is now sharing regional employment data with TDI-DWC to assist in defining eligibility requirements for Supplemental Income Benefits by county.
- Forty-eight RTW presentations have been made to employers during FY 2008 reaching 4,990 people.
- Executed a Memorandum of Understanding with DARS in May 2008, to ensure the continued coordination of data exchange. TDI-DWC is developing a second memorandum, with an expected completion date of fall 2008, outlining data reporting requirements between the two agencies.
- Met with key DARS staff to discuss RTW training for DARS counselors. These counselors will be discussing RTW with injured employees who are referred to DARS by TDI-DWC. Training has started and should be complete by September 2008.
- Provided training to TDI-DWC field office staff on TWC resources in order to make more effective referrals for job search and other programs.

### **Medical Care**

- Adopted Inpatient, Outpatient, Ambulatory Surgical Center and Medical Fee Guidelines.
- Conducted an informal hearing with health care providers, ambulatory surgical centers and insurance carriers to solicit input regarding reimbursement rates for ASCs.
- Developed and implemented an outreach plan for the Medical and Hospital Fee Guidelines.
- Created a Health Care Policy Communications specialist position to facilitate effective working relationships with the medical community.
- Developed a Quality Review Plan for FY 2008 that includes a minimum of 18 Designated Doctor reviews, 12 peer reviewer reviews and 18 Independent Review Organization (IRO) reviews. The plan adds 12 reviews of the effects of long-term use of narcotics, which will be

based on pharmacy billing data prepared by TDI's Workers' Compensation Research and Evaluation Group (WCREG).

- WCREG issued a peer review data call in February 2008 to update the results of the 2006 peer review analysis and to monitor insurance carrier compliance with HB 1003 and HB 1006, 80th Legislature, Regular Session, 2007. The Office of the Medical Advisor will analyze the data to select review subjects for FY 2009 Peer Review Medical Quality Reviews.
- Reviewed quality of care complaints and performance of specific health care providers, including spine surgeons, and physical medicine providers as well as Designated Doctors, peer review doctors, IROs and insurance carriers. Completed reviews of 12 peer reviewers, 13 Designated Doctors, four spine surgeons and three physical medicine providers, one pain management provider, and three insurance carriers between September 1, 2007 and August 31, 2008.
- Reviewed 404 quality of care complaints. Forty-six resulted in closure with Letters of Concern between September 1, 2007 and August 31, 2008. The remaining complaints were closed with no further action required, other than being retained for monitoring purposes.
- Met with local medical associations to discuss workers' compensation options and update them on recent system changes.
- Formed a pharmacy formulary workgroup comprised of health care and pharmacy professionals to study closed formularies in other jurisdictions. The results of their work led to the development of a pharmacy study conducted by the University of Texas College of Pharmacy, which involved the review of 33 acute and 40 chronic cases of medication usage. The study compared the medication usage with formularies of several other states. This study will assist TDI-DWC in making an informed, evidence-based recommendation regarding a Texas workers' compensation closed pharmacy formulary.
- Completed the review of 90% of Designated Doctors' specialty matrices as they relate to the doctors' education, training, and experience to evaluate specific injuries.
- Completed final report on the study analyzing utilization of implantable devices [Texas Labor Code, 413.001(i)]. The report, issued in June 2008, provided basic descriptive information regarding frequency and types of claims that receive implantable devices, as well as the geographical location where implantable devices are most often used in medical care and the relative cost of those services across the state. The report provides baseline information for comparing the impact that the newly adopted fee guidelines may have on injured employees' access to implantable devices, and utilization costs of implantables in the future.
- Published criteria for selection for review including how the TDI-DWC medical advisor and Medical Quality Review Panel apply evidence-based medical standards including adopted fee, treatment, and RTW guidelines (Official Disability Guidelines and The Medical Disability Advisor) to their reviews.
- Completed the Voluntary Treatment Planning Pilot Project. The pilot project ended in May 2008, and the results indicate that voluntary treatment planning was not embraced by health care providers. System participants will require more education about all aspects of treatment planning to make it successful in the future. TDI-DWC is working on a plan to address these concerns. A summary report regarding the Treatment Planning Pilot Project will be published, when final, and it will be posted on the TDI-DWC website.
- Issued 16 solicitation letters to medical associations/organizations requesting recommendations for candidates for the Medical Quality Review Panel. No responses have been received to date and the Office of the Medical Advisor will follow up on the solicitation letters.

#### **Designated Doctor Selection Process Improvement**

- Developed an online Designated Doctor querying tool that provides information about the number of Designated Doctors and appointments requested in each Texas County. This tool increases the transparency of the Designated Doctor selection process by allowing system participants and interested parties to query the scheduling data to better understand the distribution of appointments throughout the state.
- Published Designated Doctor and Prescription Reimbursement fact sheets in English and Spanish for injured employees.
- Published *FastFacts* for health care providers on Designated Doctor topics:
  - *Doctor Selection and Criteria.*
  - *Distributing Appointment Request.*
  - *Appointment Coordination, Refusals, Cancellations, Rescheduling and Re-designations.*
- Developed a webpage dedicated to Designated Doctor resources.

- Provided training to staff in the TDI-DWC Designated Doctor section to ensure procedures are followed and customer service expectations are being met.
- Developed a procedure for monitoring Designated Doctors who refuse to accept appointments and, where appropriate, refer to compliance for review.
- Developed a procedure for referring doctors who fail to respond to a Letter of Clarification to the Office of the Medical Advisor.
- Revised the DWC Form-032, *Request for Designated Doctor*, to incorporate the expansion of the Designated Doctor's role in accordance with HB 7, 79th Legislature, Regular Session, 2005, and enhance utilization of the Designated Doctor process. The revision process included input from system participants (insurance carrier representatives, injured employee attorneys, Designated Doctors, OIEC, and the TDI-DWC Quality Monitoring and Enforcement Team).
- Revised policy and procedures for Designated Doctor selection and appointment scheduling.

#### **Medical Fee Dispute Resolution**

- Continued to hold low-level dispute resolution meetings and communication via telephone with parties to resolve disputes when possible. This resulted in closure of 940 disputes between September 1, 2007 and July 31, 2008. There are approximately 600 fee disputes where parties are discussing and attempting to resolve issues that may result in further withdrawals.
- Continued to transfer requests for medical fee dispute cases to the Hearings section when unresolved compensability or extent-of-injury dispute issues existed. These issues must be resolved prior to medical fee dispute. The Hearings section processed and closed 293 of these cases from September 1, 2007 to July 31, 2008.
- Reduced timeframes for Medical Fee Dispute Resolution (MFDR) by evaluating options for the processing and tracking of cases, and by revisiting internal processes. Processes were streamlined wherever possible and an increased effort was made in the area of system participant education.
- Implemented process for receiving and docketing appeals of MFDR decisions and IRO medical necessity decisions for contested case hearings within TDI-DWC and by SOAH.
- Reduced the backlog of medical fee disputes by approximately 2,500 cases in 2008. Increased communication with system participants has contributed to the decreased number of incoming disputes, the increase in withdrawals due to settlements outside of MFDR, and streamlining of current processes.

The November 6, 2007, "Final Judgment" issued by a Travis County District Judge prohibits the TDI-DWC from interpreting the "stop-loss" provision of the since-repealed Acute Care Inpatient Hospital Fee Guideline as requiring health care providers to prove "unusually extensive unusually costly" services. Therefore, providers must only meet the threshold amount of \$40,000 without regard to whether those services were "unusually extensive or unusually costly".

#### **Workers' Compensation Health Care Networks**

- There are 34 active certified workers' compensation provider networks as of August 1, 2008.
- Networks are available in 231 counties in the state as of August 1, 2008.
- Network report cards were completed by the TDI WCREG in September, 2007. The report card results are available on the TDI website at <http://www.tdi.state.tx.us>.
- Quality of care examinations by the program area of networks began in January 2008, and will continue through FY 2009. The networks are being selected for examination initially based on the number of injured employees being managed within the network.

#### **Compliance and Enforcement**

- Adopted the Performance Based Oversight (PBO) rule (28 TAC §180.19) on December 28, 2007.
- Posted enforcement actions and complaint statistics on the agency website at: <https://wwwapps.tdi.state.tx.us/inter/asproot/commish/da/dwcclips2008.asp> and <http://www.tdi.state.tx.us/wc/pbo/index.html#complaints>.
- Initiated 266 enforcement cases, which include a total of 406 violations.
- Developed a process for monitoring compliance for data submission.
- Conducted quarterly insurance carrier meetings to discuss emergent and ongoing compliance concerns.
- Focused audits primarily on the insurance carriers and health care providers identified as "poor performers" by the PBO tier system. TDI-DWC also initiated income benefit data accuracy audits.

- Concentrated enforcement actions on preauthorization, compliance with orders, and medical bill payments.
- Hosted stakeholder meetings February – May 2008 to discuss and obtain feedback on potential measures, and issued the 2009 PBO assessment plan. The plan includes revised assessment criteria and the insurance carriers and health care providers selected for review in 2009.
- Initiated analysis of non-subscribing Texas employers' compliance with reporting requirements and identification of Texas employers who are non-compliant. In July 2008, TDI-DWC issued 66 warning letters to employers who failed to file the DWC Form-005, *Employer's Notice of No Coverage or Termination of Coverage*, indicating they were non-subscribing employers. Also in July 2008, TDI-DWC issued educational letters to 150 non-subscribing employers regarding the filing of the DWC Form-007, *Non-Covered Employers Report of Occupational Injury and Illness*. In August 2008, TDI-DWC issued another 150 letters to potentially non-subscribing employers that failed to file the DWC Form-005, *Employer's Notice of No Coverage or Termination of Coverage*.
- Finalizing development of a monitoring and compliance plan for insurance carriers and health care providers. This plan will include monitoring the compliance status of entities that did not report eBilling status upon notification of waiver expiration, and a sample of health care providers from medical billing data. Enforcement action will be determined based on individual eBilling compliance status.
- Continued to review compliance with eBill requirements.

### **Hearings**

- Hosted quarterly attorney focus group meetings to solicit input from attorney system participants to improve processes for indemnity dispute resolution.
- Began conducting contested case hearings on appeal of medical dispute decisions and issuing opinions on September 1, 2008 as required by HB 724, 80th Legislature, Regular Session, 2007.
- Continue to update the Appeals Panel Decision Manual based on recent appeals court decisions and TDI-DWC Appeals Panel decisions that establish the current legal precedents the Appeals Panel will follow. The Appeals Panel Decision Manual is on the TDI-DWC website.
- Developing a precedent manual for TDI-DWC medical disputes for hearing officers and system participants to follow.
- Established processes and procedures for receiving, referring, and distributing medical disputes (required by HB 724) to be decided by a SOAH contested case hearing officer.
- Implemented a new training initiative for field office staff resulting in face-to-face delivery of monthly training courses. These courses are presented to field office staff by Benefit Review Officers on a variety of topics. Eighteen training modules are currently scheduled.

### **Self-Insurance Regulation**

- Certified qualified private employers to self-insure: Three initial and 45 renewals.
- Approved four companies to withdraw from Certified Self-Insurance.
- Performed on-site safety programs inspections of 27 employers at 39 locations.
- Certified Wal-Mart as Certified Self-Insurer in Texas. The certification of Wal-Mart brought the market share of Certified Self Insurance to 14.6% as of July, 2008.

### **Workplace Safety**

- Published CY 2006 Bureau of Labor Statistics (BLS) nonfatal occupational injury and illness incidence rates through the Survey of Occupational Injuries and Illnesses; exceeded grant requirements for data collection and survey response rates.
- Published CY 2007 BLS fatality data through the Census of Fatal Occupational Injuries.
- Met with public sector third party administrators (TPAs), including the State Office of Risk Management, Texas Municipal League, Texas Association of Counties, and Texas Association of School Boards to discuss public sector involvement in the 2008 BLS Survey of Occupational Injuries and Illnesses.
- Received national recognition from OSHA for the 2006 OSHA Data Initiative data collection for excellence in timelines, response rates, clean rates, and data quality. Texas scored 9.8 out of a possible score of 10 and received a Certificate of Achievement and Recognition Memo from OSHA.
- Participated on national OSHA workgroup to develop the new national data system for consultation programs and provided training to new consultation program systems administrators in other states on the existing data system. Received national recognition from OSHA for TDI-DWC's OSHCON employees' contributions to this workgroup.

- Received national recognition from OSHA for developing and delivering training curriculum on the practical use of OSHA's employer safety management assessment tool used in consultation programs across the country.
- Conducted 2,610 consultations, policyholder visits, and Rejected Risk inspections with employers from September 1, 2007 to July 31, 2008.
- Conducted seven Regional Safety Summits across the state to provide information to target industries on preventing the leading types of nonfatal occupational injuries (sprain and strain) and the leading causes of fatal injuries (transportation-related incidents).
- Hosted the 12th Annual Health and Safety Conference, the Texas Safety Summit in May, 2008, in Austin.
- Provided safety education products/services to 107,352 Texas employees and 7,485 Texas employers from September 1, 2007 to July 31, 2008.
- Deployed new safety and health webpages that categorize safety and health training and educational materials by target industry/occupation/demographic.

#### **Reduction of Administrative Burdens**

- Implemented a more secure electronic data exchange process between trading partners and TDI-DWC for Medical State Reporting and Health Plan Claim Matching.
- Implemented of a new Proof of Coverage (POC) Portal on the TDI website containing more up-to-date coverage information from National Council on Compensation Insurance, Inc. (NCCI).
- Developed and published new versions of the Texas Clean Claim and eBill Workers' Compensation Companion Guides. The new guides align with the national formats adopted under the Health Insurance Portability and Accountability Act (HIPAA) to ensure interoperability of systems and transactions.
- Held focus group and stakeholder meetings throughout the year to gather feedback and monitor implementation of the eBill processes.
- Implemented new automated systems for receipt, processing and delivery of Health Plan Claim Matches, reducing the manual notification and monitoring previously required by trading partners and TDI-DWC staff.
- Eliminated the Electronic Data Interchange (EDI) form EDI-02 and revised the form EDI-01 to allow a single form to be electronically submitted to notify TDI-DWC of trading partner/insurer relationships.
- Hosted focus group meetings in May and July, 2008, to discuss priorities for web-enabled forms, electronic processes, and receive input from stakeholders regarding automation priorities. Based on input received TWI-DWC is evaluating a web-enabled version of the DWC Form-032, Request for Designated Doctor.
- Implemented changes to the web-enabled Attorney Fee Processing System on TexasOnline in May 2008. Attorneys may now file applications for reimbursement of their fees on Supplemental Income Benefits claims online.

#### **Communication with System Participants**

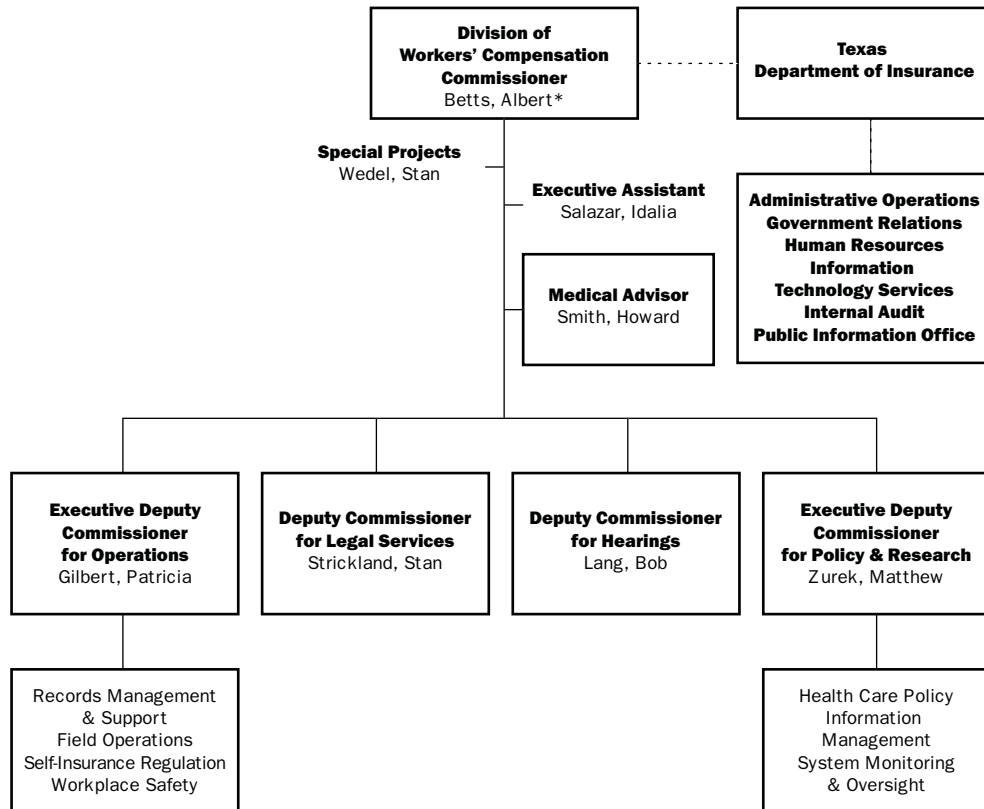
- Hosted Workers' Compensation Educational Conferences:
  - September 24-26, 2007 – Austin
  - October 24-26, 2007 - Dallas
  - April 28-30, 2008 – Austin
  - June 10-12, 2008 - Houston
- Promoted the establishment of an industry coalition to address workers' compensation eBill implementation issues through a new Strategic National Implementation Process group.
- Provided direction to stakeholders, employers, and other system participants regarding TDI-DWC subscriber and non-subscribers reporting requirements through memos, news articles, presentations and distribution of information through the TDI website and non-subscriber associations.
- Hosted 89 Brown Bag seminars in TDI-DWC field offices and the Central Office during FY 2008. These seminars covered topics such as: Compliance and Enforcement, Change of Treating Doctor, Workers' Compensation Health Care Networks, Designated Doctors, eBilling, and Medical Fee Guidelines. These seminars were attended by 2,368 people.
- Provided information at educational events and seminars that were held in partnership with several Small Business Development Centers.

- Received and provided assistance to 12,599 calls from injured employees to their Single Point of Contact in the field offices from September 1, 2007 to July 31, 2008.
- Redesigned website for enhanced customer service.
- Conducted six Workplace Safety training sessions in Spanish and English covering construction and school employee safety. The sessions were attended by 714 employees.
- Conducted Hospital and Medical Fee Guideline training in eight cities that were attended by 826 people.
- Held 48 RTW seminars attended by 4,990 employers. Received 3,500 requests for Employer RTW guides which were provided by mail.
- Initiated a provider outreach effort to reach doctors who no longer accept workers' compensation patients or who have never participated in the workers' compensation system. This provider outreach area:
  - Acts as a liaison to medical associations, health care providers, and medical office staff, creating a venue for continuous dialog regarding information that increases awareness on rule activity, and offers educational opportunities for health care providers and their staff through direct contact or speaking at conferences.
  - Contacts the providers by phone, letter, and in some cases site visits, who will not accept workers' compensation patients, will only take a limited number of patients with workers' compensation injuries, or who are new to the workers' compensation system to provide information regarding the positive changes made in the workers' compensation system and offer more educational materials, and ongoing assistance.
  - Answers inquiries and addresses concerns directly from health care providers and through the medical associations around the state; and assists in resolution of those conflicts and/or concerns.
- Began development of workplace safety seminars for public sector employees. Held the first seminars August, 2008, at TDI-DWC in Austin. The seminars covered workplace chemical management, emergency action plans, drug-free workplace, and safe lifting. These seminars were attended by 41 employees and 15 employers.

#### **Organizational Efficiency**

- Completed revisions of policy and procedures for two official actions (Change of Treating Doctor and Required Medical Examination and associated forms, checklists and flow charts). These revisions standardize the decision making process for official actions statewide providing more consistency in decisions.
- Improved internal processes for documentation and sharing of information between the Medical Fee Dispute Resolution, Hearings, and Field Operations program areas to provide better customer service through faster, more concise and accurate communication with system participants.
- Implemented a new service delivery model in cooperation with OIEC regarding injured employee dispute referrals between the two agencies. The implementation protocol includes training for employees of both agencies, and development of guidelines and an automated referral tracking system using GroupWise. OIEC and TDI-DWC representatives meet regularly to ensure communication and collaborate on issues of mutual concern.
- Implemented all recommendations from the 2007 internal audit of the Medical Fee Dispute Resolution program area. The focus of the internal audit was on effectiveness and efficiency of operations.
- Completed procurement of upgraded telephone system for all TDI-DWC field offices. Installation is scheduled for spring 2009.

**The Department of Insurance Division of Workers' Compensation**  
August 31, 2008



\* Albert Betts announced his resignation in June 2008. Governor Perry appointed Rod Bordelon as Commissioner of Workers' Compensation effective September 1, 2008.