



## ADVISORY NO. 522

### TOPIC: DESIGNATED DOCTOR PROPOSED RULE CHANGES

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On March 4, 2022, TDI-DWC issued notice of a proposal to amend 28 TAC Chapter 127, Designated Doctor Procedures and Requirements, and 28 TAC 180.23. The DWC is proposing to reduce administrative burdens and make improvements to the training and testing requirements; DD qualifications; DD certification and renewals; and multiple certifications.

To implement these amendments, DWC must adopt rules. DWC hosted stakeholder meetings late last year to discuss the issues and to get feedback from system participants.

Comments on the proposed amendments are due to the DWC by 5:00 p.m. CST on Monday, April 4, 2022 and may be emailed to [RuleComments@tdi.texas.gov](mailto:RuleComments@tdi.texas.gov) or mailed/delivered to Legal Services, MC-LS, Texas Department of Insurance, Division of Workers' Compensation, P.O. Box 12050, Austin, Texas 78711.

Highlights of the proposed changes are provided here:

- Add taglines to subsections in order to identify and navigate subsections more easily
- Delete requirement to list “all injuries determined to be compensable by the division or court” from DWC-32 (Box 38)
- Clarify that when Claimant is in an HCN, doctors to which the DD makes referrals for testing do not have to be in the same HCN as the claimant
- Change to specify that only DWC may direct a DD to provide multiple certifications of MMI and IR - DD will no longer provide multiple certifications when request includes MMI, IR and extent of injury for the same exam
- Abolish DWC-68 as no longer necessary
- Doctors who passed the certification test after May 13, 2013, no longer required to retest every two years
- DWC may require a designated doctor to complete additional certification testing to demonstrate proficient knowledge on the specific duties of a designated doctor under the Labor Code and division rules. Examples of circumstances that may require additional certification testing include, but are not limited to, changes in the duties of a designated doctor, updates to the guidelines, and legislative changes
- Clarifies that if a DD fails to complete training or testing required in their approval letter may be grounds for revoking or suspending a certification
- DWC may approve a DD certification, but restrict some or all appointments until the DD completes more training or testing

- DD who is denied certification or renewal can request informal hearing, present evidence, and request reconsideration by DWC
- Expands list of doctors who would be qualified to examine injured employees with traumatic brain injuries (TBI), including concussion and post-concussion syndrome, to include doctors with board certifications in orthopaedic surgery, dermatology, surgery (general), emergency medicine, internal medicine, preventive medicine/occupational/environmental medicine, plastic and reconstructive surgery, anesthesiology with certificate of added qualifications in pain management/pain medicine, thoracic and cardiovascular surgery, family practice/family medicine, and osteopathic manipulative treatment.
- Clarifies that a DD failing to attend examination with Claimant or not complying with rescheduling requirements may be grounds for revoking or suspending a certification.

If adopted, the effective date of changes will be twenty (20) days after rule adoption.

You will note that potential changes related to DD billing and reimbursement are not included in these amendments. DWC held a stakeholder meeting on March 10, 2022 to discuss specific possible changes to the billing methodology for DD exams and possible changes to DD exam reimbursement rates, under Chapters 133 and 134. Goals identified by DWC were to:

- Facilitate timely, accurate billing and reimbursement
- Decrease reimbursement conflicts and medical fee disputes
- Set fees that recognize work required
- Apply annual fee update methodology.

Many doctors currently on the DD list attended, and provided comments. It is anticipated DWC will hold future hearings before specific rule amendments are made.

We will continue to monitor and report on the changes being implemented to the DD rules by DWC. Please feel free to reach out to FOL with any questions or comments.