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To: Texas Workers' Compensation System Participants

From: Kara Mace, Deputy Commissioner for Legal Services

Date: April 10, 2023

RE: Adopted Amendments to 28 TAC Chapter 127, Designated Doctor Procedures and Requirements, and 28 TAC Section 180.23, Division-Required Training for Doctors

To improve the designated doctor program, the Texas Department of Insurance, Division of Workers' Compensation (DWC) adopted two rules: amendments to 28 Texas Administrative Code (TAC) Chapter 127, Designated Doctor Procedures and Requirements, and amendments to 28 TAC Section 180.23.

The rules concern how the designated doctor program operates. They are necessary to maintain and increase participation in the designated doctor program and to allow better access to certain types of specialized examinations. Neither rule concerns billing or reimbursement. Repealed Section 127.110 has been incorporated into amended Section 127.100. The amendments and repeal implement Texas Labor Code Sections 408.0041, 408.023, and 408.1225, which direct DWC on the operation of the designated doctor program.

The rules, including the updated designated doctor certification testing requirements in Section 127.100(a)(3) will be effective on April 30, 2023. However, two sections have specific effective dates:

- For designated doctor examinations on or after June 5, 2023, Section 127.10 states that a designated doctor may provide multiple certifications of maximum medical improvement and impairment ratings only when DWC directs.
- For designated doctor examination assignments made on or after June 5, 2023, Section 127.130 updates qualification standards for designated doctor examinations.

In response to a public comment, DWC revised Section 127.130(f) by adding a reference to the designated doctor's duty in Section 127.200(a)(12) to notify DWC if continuing to participate on a claim would exceed their scope of practice, to note that DWC's assignment of a designated doctor examination does not alter the scope of practice authorized by the designated doctor's professional license, and to make editorial adjustments for readability.

DWC is also considering updates to three forms that relate to the rules:

- DWC Form-032, *Request for designated doctor examination.*
- DWC Form-067, *Designated doctor certification application.*
- DWC Form-068, *Designated doctor examination data report.*

The adoption orders will be published in the April 21, 2023, issue of the *Texas Register* and will be available at [www.sos.state.tx.us/texreg/index.shtml](http://www.sos.state.tx.us/texreg/index.shtml). The adoption orders and forms are also on the TDI website at [www.tdi.texas.gov/wc/rules/2023rules.html](http://www.tdi.texas.gov/wc/rules/2023rules.html).