

~~Texas Department of Insurance~~
~~Division of Workers' Compensation~~



**Division of Workers'
Compensation**

Medical Quality Review

Process

Effective ~~May 1, 2014~~: Month day, 2023

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Medical Quality Review ~~Procedure~~ Process

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Section ~~I~~: 1: General Statement and Overview

The Texas Department of Insurance, Division of Workers' Compensation (~~TDI~~DWC) is required ~~by Texas Labor Code §413.002~~ to “monitor health care providers, insurance carriers, independent review organizations, and workers' compensation claimants who receive medical services to ensure ~~the compliance of these persons~~they all comply with rules adopted by the commissioner relating to health care, ~~including. (Texas Labor Code Section 413.002). This includes~~ medical policies and fee guidelines.” ~~The TDI. DWC monitors these system participants' compliance through the medical quality review process.~~

DWC will manage the medical quality review process in a manner that is fair, open, and transparent to all workers' compensation system participants to the extent consistent with state confidentiality laws, ~~and. DWC will also~~ provide the subject of a review the opportunity to participate ~~throughout~~during the medical quality review process.

The medical quality review process is a medical case review initiated ~~from either on the basis of a~~ written complaint, ~~which may include an internal referral, a plan-based audit, or monitoring~~ resulting that results from a consent order ~~in accordance with. (28 Texas Administrative Code (TAC) §Section 180.68. For the purposes of this process, all). . All~~ medical case reviews conducted as part of the medical quality review process will be known as medical quality reviews. ~~The TDI-~~ DWC's Medical Advisor~~medical advisor~~ oversees the medical quality review process conducted by the Medical Quality Review Panel (MQRP). ~~The MQRP follows the criteria under Labor Code Section 413.05115.~~

The MQRP ~~is comprised of Experts~~comprises arbiters and ~~Arbiters. The Experts' and Arbiters' full~~ responsibilities are further defined in Section II. experts. Experts prepare reports to ~~aid the TDI help~~ DWC ~~both to monitor compliance with the Texas Workers' Compensation (Act) and TDI Labor Code~~ and DWC rules ~~and to. These reports also help DWC~~ ensure that injured employees in the workers' compensation system receive medically necessary and appropriate health care that is timely and cost-effective and facilitates functional recovery and appropriate return-to-work outcomes. ~~The Arbiters represent the Medical Advisor~~medical advisor in ~~Informal Settlement Conferences~~informal settlement conferences (ISCs). ~~At the conclusion end of an ISC, the~~ Arbiters~~arbiters~~ recommend appropriate action~~actions~~ to the ~~Medical Advisor~~medical advisor.

~~Subject to the Texas Labor Code §413.05115, this document describes the process that the TDI-DWC will employ to monitor the quality of medical services provided by system participants within the Texas workers' compensation system.~~

Section ~~II~~: 2: Roles and Responsibilities

A. Medical Advisor

~~Pursuant to Texas Labor Code §413.0511, the TDI-DWC~~ employs or contracts with a Medical Advisor~~medical advisor~~ who is a doctor as defined ~~by the Texas in~~ Labor Code Section 401.011.

(Labor Code ~~§401.011~~, Section 413.0511). The ~~Medical Advisor~~ medical advisor:

- Assists with DWC's efforts to ~~implement~~carry out provisions of the ~~Act~~Labor Code related to health care for injured employees, ~~ensures the,~~
- Ensures quality ~~of~~ health care is provided in the workers' compensation system, ~~and recommends,~~
- Recommends sanctions when indicated.

The ~~Medical Advisor~~medical advisor also provides feedback and makes recommendations to ~~the TDI-DWC~~ throughduring the medical quality review process ~~with the assistance of the MQRP.~~

~~B.~~ **Associate Medical Advisor**

~~The Associate Medical Advisor(s) works under the direction of the Medical Advisor and assists the Medical Advisor in performing the Medical Advisor's duties under the Act.~~

~~C.B.~~ **Health Care Quality Review (HCQR) Staff**

HCQR staff ~~is comprised of~~comprises a ~~director,~~nurse ~~investigators,~~investigator and administrative staff who assist in ~~the implementation of the TDI-DWC's~~ medical quality review process. ~~The director and administrative staff of HCQR provide the Medical Advisor and Associate Medical Advisor(s) with administrative support.~~

The nurse investigator initiates the evaluation of complaints ~~regarding on~~ professional medical services, ~~delivery of health care,~~ or the quality of a health care practitioner's opinion, recommendation, or reports ~~as set forth in~~ under 28 TAC §Section 180.68. ~~The~~ As part of the evaluation, the nurse investigator may ~~seek~~get assistance from ~~an Associate Medical Advisor as part of the evaluation~~MQRP members when ~~making~~the nurse investigator makes a recommendation of disposition for a complaint. During the medical quality review process, the nurse investigator serves as the point of contact for the ~~Experts and the subject. The Medical Advisor, Associate Medical Advisor(s), and HCQR staff are referred to collectively as the "Office of the Medical Advisor" (OMA) for purposes of this document.~~experts and the subject of a complaint and medical quality reviews.

HCQR's director and administrative staff provide the medical advisor with administrative support. The medical advisor and HCQR staff are referred to collectively as the Office of the Medical Advisor (OMA).

~~D.C.~~ **Quality Assurance Committee (QAC)**

The ~~Medical Advisor~~medical advisor appoints a QAC. The QAC ~~is comprised of~~comprises an ~~Associate Medical Advisor~~arbiter, a ~~TDI-DWC Executive Deputy Commissioner~~deputy commissioner, and a ~~TDI-DWC Enforcement management representative~~manager. The ~~Associate Medical Advisor~~ chairs the QAC. If the Associate Medical Advisor is unablemedical advisor appoints an arbiter to chair for any reason, the ~~Medical Advisor~~ may appoint an Arbiter to chair a QACthe QAC meeting in accordance withunder 28 TAC §Section 180.62(g).

The QAC provides a level of quality assurance when a nurse investigator ~~makes a recommendation to close~~recommends closing a written complaint subject to the medical quality review process. ~~This QAC~~The QAC's oversight ensures that actions are appropriate, consistent, and fair to system participants. The QAC will regularly meet ~~on a regular basis~~ and recommend to the ~~Medical Advisor~~medical advisor whether to close a complaint ~~should be closed~~ or continue with the medical quality review process.

E.D. Medical Quality Review Panel (MQRP)

~~Texas Labor Code §413.0512(a) requires the Medical Advisor to~~The medical advisor must "establish a medical quality review panel of health care providers to assist the ~~Medical Advisor~~medical advisor in performing the duties required under §Section 413.0511." (Labor Code Section 413.0512(a)). The medical advisor establishes the MQRP ~~pursuant to Texas under~~ Labor Code §Sections 413.0512 and §413.05122 and 28 TAC Chapter 180, Subchapter C. ~~The professional services that~~ MQRP members provide to the ~~Medical Advisor~~medical advisor are listed under 28 TAC §Section 180.62.

F.E. Quality Assurance Panel (QAP)

~~Texas Labor Code §413.05121(a) requires the Medical Advisor to~~The medical advisor must establish the members of the QAP or "~~Arbiters.~~"arbiters." (Labor Code Section 413.05121(a)). The medical advisor establishes the QAP ~~pursuant to Texas under~~ Labor Code §Section 413.05122 and 28 TAC Chapter 180, Subchapter C. The professional services ~~Arbiters~~arbiters may provide to the ~~Medical Advisor~~medical advisor are listed under 28 TAC §Section 180.62(g).

The ~~Medical Advisor~~medical advisor appoints ~~Arbiters~~arbiters based on their medical expertise, specialty backgrounds, and their experience in utilization review and quality assurance. Arbiters are also ~~selected~~appointed to ensure that the QAP is comprised of health care practitioners from diverse health care backgrounds. ~~Arbiters may serve on the panel for a period of two~~10 years, and ~~may be appointed~~the medical advisor may appoint them for additional terms ~~at the Medical Advisor's discretion.~~ ~~The Medical Advisor may appoint an MQRP member to be an Arbiter on a case-by case basis if a qualified Arbiter is not currently available to sit on an ISC. Arbiters meetings will be held at least twice a year. The Arbiter meeting is presided over by the Medical Advisor.~~

The medical advisor may appoint an MQRP member to be an arbiter on a case-by-case basis if a qualified arbiter is not available to sit on an ISC. Arbiters meetings are held at least twice a year. The medical advisor presides over arbiter meetings.

Arbiters do not routinely prepare reports. ~~However,~~ but the ~~Medical Advisor~~medical advisor may appoint an ~~Arbiter~~arbiter to prepare ~~reports.~~one. In these situations, the ~~Arbiter~~arbiter would be ineligible ~~from sitting to sit~~ on the ~~informal settlement conference~~ISC for the subject the ~~Arbiter~~arbiter reviewed.

Section III: 3: Complaint Process

1. All complaints, which may include internal referrals, must be in writing and may not be anonymous ~~in accordance with (Labor Code Section 402.023(d) and 28 TAC §Section 180.2- Complaints may be filed in).~~ There are several ways ~~pursuant to file complaints.~~ (28 TAC §Section 180.2(b)-).
2. ~~TDI~~ DWC's ~~System Monitoring Audits~~ and ~~Oversight (SMO) Investigations (A&I)~~ section logs all complaints into ~~the our~~ standard ~~TDI~~ Texas Department of Insurance (TDI) database for tracking purposes.
3. ~~SMO will refer OMA~~ ~~A&I refers~~ all complaints subject to the medical quality review process ~~as defined in under~~ 28 TAC § Section 180.68 ~~to OMA.~~
4. ~~The~~ OMA provides ~~an acknowledgment letter to~~ the complainant and ~~a notification letter to~~ the subject ~~with an acknowledgment letter at the time a of the~~ complaint ~~is received from SMO.~~
5. ~~A~~ ~~To determine whether a potential violation has occurred, a~~ nurse investigator evaluates each complaint ~~regarding on~~ professional medical services; ~~delivery of health care;~~ or the quality of a health care practitioner's opinion, recommendation, or report ~~to determine whether a potential violation has occurred.~~
6. A nurse investigator may request and ~~obtain additional~~ ~~get more~~ information as necessary from the:
 - a) ~~complainant;~~
 - b) ~~subject; or~~
 - ~~other~~ Complainant.
 - Subject.
 - e) • Other relevant persons.
7. ~~Upon completion of an investigation, When~~ a nurse investigator ~~completes an investigation on a complaint, they~~ will recommend to the Quality Assurance Committee QAC (see Section VII) one of Section 7) the following actions ~~on a complaint:~~
 - a) • Close the complaint without a medical quality review;
 - b) ~~Open a medical quality review;~~
 - i) • If the medical advisor approves the recommendation is approved by QAC, the nurse investigator will ~~notify send written notice to the~~ subject of the complaint ~~with a written notice and the give them an~~ opportunity to provide ~~the~~ OMA with any information the subject believes is relevant and that OMA should be considered by the OMA in the consider when it further investigation of investigates the complaint (see Section V); and/or Section 5).
 - e) ~~Refer to the Medical Advisor~~ medical advisor for a possible referral to:
 - i) ~~the~~ appropriate medical licensing board (~~see Section VII); or~~
 - ii) • ~~TDI~~ DWC Enforcement (see Section VII)-Section 7).

At any time during the complaint investigation process, a nurse investigator may consult with an

~~Associate Medical Advisor-MQRP member~~ or any ~~TDI-DWC staff member~~ to ~~assist in~~ help the determination of ~~investigator determine~~ whether a violation of the ~~Act, TDI-Labor Code, DWC rule(s), rules,~~ or other applicable statutes has occurred. If the complaint involves an active dispute, the nurse investigator may consult with ~~TDI-DWC/DWC's~~ Medical Dispute Resolution staff to determine the appropriate action for the complaint.

Subjects of a complaint may provide ~~the~~ OMA with any information ~~the subject believes they believe~~ is relevant to the investigation. ~~All~~ OMA will consider all documentation or information ~~provided by~~ the subject ~~provides~~ during the complaint investigation ~~will be considered by the OMA.~~

Section ~~IV~~4: Plan-Based Audit Process

1. The ~~Medical Advisor will recommend~~ medical advisor recommends categories of health care and other services ~~for inclusion to include~~ in an annual audit plan. ~~The~~ OMA ~~will obtain gets~~ system ~~participant~~ participants' input for categories ~~that should be included to include~~ in the annual audit plan. Categories ~~for consideration of inclusion in the annual audit plan~~ may include, but are not limited to:
 - ~~unusually~~ Unusually high or ~~unusually~~ low utilization of medical services inconsistent with adopted treatment guidelines or other evidence-based medicine;_;
 - ~~high~~ High-cost medical services ~~exceeding that exceed the~~ Texas workers' compensation ~~systems~~ system's average cost for same or similar services;_;
 - ~~quality~~ Quality and timeliness of decisions made by designated doctors, independent review organizations, insurance carriers, required medical examiners, peer review doctors, and utilization review agents;_;
 - ~~accurate~~ Accurate diagnosis of injured employees; ~~and~~;
 - ~~appropriate~~ Appropriate return-to-work outcomes.
2. The ~~Medical Advisor~~ medical advisor submits the recommended annual audit plan to the ~~Commissioner~~ commissioner of ~~Workers' Compensation (Commissioner workers' compensation (commissioner))~~ for review and approval.
3. ~~Upon approval by~~ When the ~~Commissioner, commissioner approves~~ the ~~approved~~ annual audit plan, the plan is posted on the TDI website.
4. For each individual plan-based audit within the approved annual audit plan, the ~~Medical Advisor~~ medical advisor and ~~the~~ TDI-DWC staff define the scope, ~~and~~ selection criteria, ~~and individual program area responsibilities for a plan-based audit. The~~ OMA will ~~obtain~~ ask for stakeholder input for each individual plan-based audit within the approved annual audit plan. Each individual plan-based audit proposal ~~shall specify will lay out~~ the ~~program area(s) responsibilities for all relevant steps and included~~ discuss specific procedures for each step, including, but ~~is not limited to~~ ~~the following~~:
 - ~~inclusion and exclusion criteria;~~

- ~~service~~Criteria to include or exclude.
 - Service time frame to ~~be audited;~~audit.
 - ~~sample~~Sample size; and,
 - ~~subject~~Subject and case file selection;.
5. The ~~Medical Advisor~~medical advisor submits an individual plan-based audit proposal to the ~~Commissioner~~commissioner for approval.
 6. ~~Upon approval by~~When the ~~Commissioner;~~commissioner approves the ~~approved~~individual plan-based audit, the audit is posted on the TDI website.
 7. ~~The~~OMA maintains a file ~~with the documentation supporting of~~ the approved individual plan-based audit ~~to include~~that includes:
 - ~~scope~~Scope, selection criteria, and program areas' responsibilities;.
 - ~~inclusion and exclusion criteria;~~
 - serviceCriteria to include or exclude.
 - Service time frame to ~~be audited;~~audit.
 - ~~sample~~Sample size;.
 - ~~subject~~Subject and case file selection;.
 - auditAudit questions for the ~~Experts;~~ andexperts.
 - Experts to be assigned to perform the medical quality reviews.
 8. ~~The~~OMA coordinates with the program ~~area(s) staff~~areas designated in the approved individual plan-based audit to select the review subjects and individual case files ~~to be reviewed (see Section V).~~for review (see Section 5).

Section V: ~~4~~5: Process for Initiating a Medical Quality Review

A. ~~Notification to~~Notify the Subject

1. ~~When a subject is selected for a medical quality review, the~~OMA sends a notification letter to ~~the health care provider or other system participant chosen for a~~subjects of medical quality ~~review.~~reviews.. The ~~notification~~letter informs the subject ~~of~~about the review and ~~the basis upon which the review~~why it was initiated (~~i.e. for example, a~~ complaint, monitoring, or an audit).
2. The ~~notification~~ letter contains a list of injured employees who received health care services from the subject and ~~requires~~instructs the subject to provide ~~the~~OMA with all relevant records pertaining to the ~~treatment(s)~~treatments or ~~service(s)~~services the subject provided to the injured employees for ~~the~~their compensable injury.

- For complaint-based reviews:
 - ~~The OMA will provide~~provides a summary of the complaint and ~~will request~~asks the subject to provide records with a completed affidavit and an explanation for any information relevant to each complaint included in the review, if not previously requested and provided under Section 3.
 - ~~The notification letter requests the subject to complete an enclosed business record affidavit and provide the completed affidavit along with the records and explanation of each case.~~
 - The ~~notification~~ letter ~~includes a specified~~specifies an amount of time to provide the ~~requested~~ information—not to exceed 30 calendar days.
- For audit-based and monitoring-based reviews:
 - ~~The OMA will provide notification and sends a letter with~~ an overview of the audit and ~~request~~instructs the subject to provide ~~appropriate~~ medical records.
 - The ~~notification~~ letter ~~requests~~instructs the subject to complete an enclosed business record affidavit and provide the completed affidavit ~~along with the requested~~ records.
 - The ~~notification~~ letter ~~includes a specified~~specifies an amount of time to provide the ~~requested~~ information—not to exceed 30 calendar days.
 - The subject of the audit ~~will be provided~~has an opportunity to respond to the ~~Experts' experts'~~ findings if there is a recommendation to refer the subject to ~~TD~~DWC Enforcement (see ~~Section VI~~).Section 6).

~~Subjects~~DWC encourages subjects of a medical quality review process ~~are encouraged to~~ communicate with ~~the OMA regarding~~about the medical quality review. ~~Subjects may provide the OMA with any information the subject believes they believe~~ is relevant to the medical quality review. ~~All OMA will consider all~~ documentation or information ~~provided by~~ the subject provides during the medical quality review ~~will be considered by the OMA.~~

B. Request ~~for~~ Records from Other Parties

1. ~~The OMA may request relevant records and other information from non-subject parties,~~ such as insurance carriers or other health care providers.
2. Information ~~obtained~~ from non-subject parties will be reviewed and considered during the ~~course of the~~ medical quality review process.
3. The request for records letter will ~~require~~instruct the non-~~subject(s)~~subjects to complete an enclosed business record affidavit and provide ~~the completed affidavit along~~it with the requested medical records.
4. The letter will ~~include a specified~~specify an amount of time to provide the requested

information ~~—~~not to exceed 30 calendar days.

C. ~~Case Preparation~~**Prepare and Tracking**~~Track Case~~

1. For audit-based reviews, the nurse investigator verifies in writing that subjects and case files ~~were~~**are** selected ~~in accordance with~~**based on** the approved plan-based audit.
2. ~~Upon the OMA's receipt of~~**When OMA receives** the requested medical records and other information from the subject and non-subject parties, ~~the~~ OMA sorts, organizes, and Bates stamps all documents and information for each individual case before ~~presenting~~**forwarding** the cases to a nurse investigator.
3. The nurse investigator verifies and approves the Bates-~~stamped~~ records and information for each case.
4. The nurse investigator prepares and organizes the case file for ~~Expert~~**expert** selection and assignment. Case files ~~are comprised~~**comprise** of medical documents ~~that OMA~~ requested and received for each injured employee, the complaint if applicable, and any information ~~provided by~~ the subject **provided**.

If ~~requested~~**the subject or non-subjects do not timely provide the** records or information ~~are not provided or are not provided timely, the~~**that** OMA ~~will issue~~**requested, OMA issues** a ~~Commissioner's Order pursuant to~~**commissioner's order under** 28 TAC ~~§~~**Section** 102.9 that requires the subject or non-subject to produce the requested information. If the subject or non-subject fails to comply with the order, ~~the~~ OMA ~~will refer~~**refers** the violation ~~as an internal referral to~~**SMO for processing as** ~~DWC's Compliance and Investigations program area to process~~ a new complaint.

~~Tracking~~**OMA will use the HCQR database to track** information ~~regarding~~**on** the initiation of the medical quality review, receipt of requested records and documentation, and all other key steps in the medical quality review process ~~will be recorded by HCQR staff in the HCQR database.~~

D. ~~Assignment of~~**Assign** Experts

1. The nurse investigator selects an ~~Expert~~**expert** to perform a medical quality review ~~in accordance with Texas~~**under** Labor Code ~~§§~~**Sections** 408.0043, 408.0044, or 408.0045 and 28 TAC ~~§§~~**Sections** 180.1 and 180.22.
2. In cases where no ~~Expert~~**expert** meets the requirements described **in 1.** above for a specific medical quality review, the ~~Medical Advisor~~**medical advisor** may **either**:
 - ~~contact~~**Contact the** appropriate medical licensing ~~boards~~**board** or other entities ~~in an effort to~~ contract with a qualified individual; ~~or,~~
 - ~~contract~~**Contract** with a health care practitioner who ~~possesses~~**has** the professional ~~requirements for conducting~~**skills required to conduct** the medical quality review. The qualified individual's contract is subject to the same approval process for ~~Expert~~**experts**.

3. The nurse investigator verifies that no known conflicts of interest ~~pursuant to~~ under 28 TAC §Section 180.72 exist between the ~~Expert~~expert and the subject or individual case files before ~~making~~assigning an ~~assignment~~expert.
4. The selected ~~Expert~~expert should accept the assignment only after verifying that no known conflicts of interest with the subject or individual case files exist ~~pursuant to~~ under 28 TAC §Section 180.72. ~~The OMA forwards the case files to~~ be addressed by the assigned ~~Expert with the expert and specifies a~~ deadline for ~~when the~~the expert to complete their medical quality review ~~should be completed by that Expert~~.
5. The ~~Expert~~expert may ~~request~~ask the nurse investigator to ~~obtain~~get or provide any other information that the ~~Expert~~expert believes is relevant and necessary ~~in order~~ to conduct the medical quality review.
6. ~~Upon completion of~~When the expert completes the medical quality review, the ~~Expert~~expert provides the nurse investigator with an Expert Report that includes recommendations ~~regarding~~on whether the ~~Expert believes~~ any further action is warranted.

Section ~~VI:~~6: Expert Recommendation Process

A medical quality review is assigned to an initial ~~Expert~~expert to determine if a possible violation of the ~~Act, TDI Labor Code, DWC~~ rules, or other applicable statutes has occurred. The initial ~~Expert's~~expert's opinion may recommend ~~closure of~~closing the medical quality review, subject to the approval of the ~~Medical Advisor~~medical advisor. However, if the initial ~~Expert~~expert determines that a possible violation of the ~~Act, TDI Labor Code, DWC~~ rules, or other applicable statutes has occurred, ~~then~~ at least one other concurring ~~Expert~~expert opinion is needed to move the review forward in the medical quality review process.

1. If the first ~~Expert~~expert recommends closing the medical quality review with no action, ~~the first Expert that expert~~ completes an Expert Report with the findings and recommended action. ~~The first Expert forwards the Expert Report and sends the report~~ to the nurse investigator.
2. If the first ~~Expert~~expert determines that a violation to the ~~Act, TDI Labor Code, DWC~~ rules, or other applicable statutes has occurred, ~~then~~ the nurse investigator selects a second ~~Expert~~expert to conduct an additional medical quality review.
 - The ~~Nurse Investigator~~nurse investigator provides the second ~~Expert with~~expert all information ~~regarding~~about the medical quality review that ~~was~~the nurse investigator provided to the first ~~Expert~~expert, plus the Expert Report and recommendations from the first ~~Expert~~expert.
 - The second ~~Expert~~expert may discuss the medical quality review with the first ~~Expert~~expert.
 - If the medical quality review involves more than one case file, and the first ~~Expert~~expert ~~determines~~expert determined that certain individual case files violated the ~~Act, TDI-~~

- ~~Labor Code, DWC rule, or other applicable statutes or rules, while others did not violate the Act, TDI-DWC rule, rules, or other applicable statutes or rules, only those case files in which the first Expert has expert recommended proceeding to proceed with possible enforcement further action due to noncompliance will be forwarded to a second Expert expert.~~
3. The second ~~Expert expert~~ completes the ~~2nd Second~~ Expert Report with ~~the~~ findings and recommended ~~action actions~~.
 - If the second ~~Expert expert~~ agrees with the first ~~Expert expert~~, the second ~~Expert expert~~ completes a statement of agreement.
 - If the second ~~Expert expert~~ agrees in part and disagrees in part with ~~the~~ first ~~Expert expert~~, the second ~~Expert expert~~ summarizes the reasons for agreement and disagreement in a ~~2nd Second~~ Expert Report.
 - If the second ~~Expert expert~~ does not agree with ~~the~~ first ~~Expert expert~~, and differences cannot be resolved, the second ~~Expert expert~~ completes a brief ~~2nd Second~~ Expert Report stating the areas of disagreement. -The medical quality review is then referred to a third ~~Expert expert~~.
 4. The third ~~Expert expert~~ gets all ~~the~~ information the two previous ~~Expert experts~~ received, plus both ~~Experts' experts' reports, and then formulates. The third expert drafts~~ a decision, agreeing with one or the other ~~expert~~. The two ~~Experts in agreement experts that agree~~ negotiate the wording of the final Expert Report. The ~~expert who the third expert agreed with completes the Expert Report is completed by the Expert with whom the third Expert agrees and is submitted submits it~~ to the nurse investigator. The ~~Experts' experts'~~ final recommendation may include ~~cases to:~~
 - ~~close Close~~ with no action; ~~or,~~
 - ~~proceed Proceed~~ with ~~possible enforcement further~~ action ~~due to noncompliance~~.
 5. For complaint-based reviews that result in a recommendation to proceed with ~~possible enforcement further~~ action ~~due to noncompliance~~, the ~~completed Expert Report with preliminary Expert Report findings~~ is sent to the subject ~~stipulating of the complaint to give them~~ an opportunity to respond.
 - A cover letter to the Expert Report ~~will provide provides~~ the subject with information on how to submit a written response to the Expert Report.
 - The subject will be allowed 15 calendar days to provide a written response, which ~~will be considered in formulating the medical advisor will consider when drafting~~ a recommended action.
 - The subject's written response is ~~forwarded sent~~ to the ~~Medical Advisor medical advisor~~ who will determine whether the ~~preliminary Expert Report is sufficient to constitute a final report, or whether the~~ response should be provided to ~~Expert the experts~~ for further review.

- The ~~final Expert report shall be considered by~~ medical advisor will consider the ~~Medical Advisor for his or her recommended Expert Report, subject's written response, experts' review of the subject's written response, and then recommend an~~ action, which may include cases to:
 - ~~o~~ close Close the review with no action; ~~or,~~
 - ~~o~~ proceed Proceed with ~~possible enforcement further~~ action due to noncompliance.

6. For audit-based and monitoring-based reviews that result in a recommendation to proceed with ~~possible enforcement further~~ action due to noncompliance, the ~~completed~~ Expert Report with preliminary Expert Report findings is sent to the subject ~~stipulating to give them~~ an opportunity to respond.

- A cover letter to the Expert Report ~~will provide~~ provides the subject with information on how to submit a written response to the Expert Report.
- The subject will be allowed 15 calendar days to provide a written response, which ~~will be considered in formulating~~ the medical advisor will consider when drafting a recommended action.
- The subject's written response is ~~forwarded~~ sent to the ~~Expert~~ experts who recommended ~~enforcement~~ proceed with further action ~~for re-consideration of~~ due to noncompliance to reconsider their initial recommendation.
- The written response may result in a change of the ~~Experts'~~ experts' initial recommendation to ~~refer subject to TDI Enforcement~~ proceed with further action due to noncompliance.
- The ~~Expert~~ experts may recommend closing the medical quality review with no further action.
- If the written response does not change the initial recommendation, the Expert Report is ~~forwarded~~ sent to the ~~Medical Advisor~~ medical advisor for ~~his or her~~ a recommended action, which may include cases to:
 - ~~o~~ close Close with no action; ~~or,~~
 - ~~o~~ proceed Proceed with ~~possible enforcement further~~ action due to noncompliance.

~~Any~~ The medical advisor must consider any response ~~received~~ from the subject ~~shall be considered by the Medical Advisor, who,~~ The medical advisor may request further input from the ~~Associate Medical Advisor, Arbitrator, Expert, TDI arbitrator, expert,~~ DWC attorney, nurse investigator, and any other TDI-DWC staff member, as the Medical Advisor deems necessary.

An ~~Expert~~ expert may recommend ~~to expand~~ expanding the scope of a review ~~independent of~~ separately from a decision to close a medical quality review with no further action or ~~to~~ refer the subject to ~~TDI~~ DWC Enforcement (see ~~Section VII~~ Section 7). A recommendation to

expand the scope of a review must be in writing, ~~and this.~~ This initiates a separate complaint that starts the process from the beginning ~~as defined in Section III.~~ (see Section 3).

Section VII: ~~7:~~ Medical Advisor's Recommendation

~~A. Quality Assurance Committee~~

A. QAC

1. The HCQR director ~~of HCQR~~ provides ~~a list of complaints~~ to the chair of the QAC a list of complaints that ~~have been recommended for closure by~~ the nurse investigator recommends closing.
2. ~~The chair of the QAC~~ OMA creates an agenda and schedules a meeting for the QAC to convene.
3. The nurse investigator ~~provides~~ gives a ~~brief~~ summary of the ~~complaint~~ complaints to the QAC.
4. If a majority of the QAC recommends ~~proceeding with an investigation of~~ investigating a complaint, then the nurse investigator will be directed to open a medical quality review ~~(see Section III).~~ subject to the medical advisor's approval (see Section 3).
5. If a majority of the QAC agrees with the nurse investigator's recommendation to close a complaint, ~~then~~ the nurse investigator sends the recommendation ~~is forwarded~~ to the ~~Medical Advisor~~ medical advisor.
6. The final QAC recommendation ~~shall~~ must be in writing.
7. The ~~Medical Advisor~~ medical advisor considers the QAC's ~~recommendation(s) in formulating a recommendations for~~ final recommendation for TDI-DWC disposition action of a complaint.
8. In ~~formulating~~ considering the final recommendation, the ~~Medical Advisor~~ medical advisor may consult with a ~~TDI-DWC~~ attorney, nurse investigator, and any other ~~TDI-DWC~~ staff member, ~~as the Medical Advisor deems necessary.~~ Final recommendations. The final recommendation may include:
 - ~~close~~ Close the complaint without a medical quality review ~~(this. This may include an education letter);~~
 - ~~proceed~~ Proceed through the medical quality review process;
 - ~~refer~~ Refer the subject to the appropriate medical licensing board; ~~or,~~
 - ~~expand~~ Expand the scope of investigation.
9. The final recommendation ~~shall~~ must be in writing on the disposition form.
10. ~~The OMA issues a Disposition Letter at~~ At the ~~conclusion~~ end of ~~the~~ OMA's complaint investigation, OMA issues a closure letter to the:

- ~~complainant;~~ and
- ~~subject if the complaint is being closed.~~

~~11.10.~~ The issuance of the a disposition letter to the subject. This action closes the complaint.

B. MQRP Expert Opinions

1. The ~~Medical Advisor~~medical advisor considers the ~~Expert's recommendation(s)~~experts' recommendations and any previous ~~TDI~~DWC violations on the subject ~~in formulating~~when drafting a final recommendation for ~~TDI-DWC~~final disposition action of a medical quality review.
2. ~~In formulating~~When drafting the final recommendation, the ~~Medical Advisor~~medical advisor may consult with a ~~TDI~~DWC attorney, nurse investigator, and any other ~~TDI~~DWC staff member, ~~as the Medical Advisor deems necessary.~~ Recommendations may include:
 - ~~close~~Close the medical quality review with no further action ~~(this. This~~ may include an education letter);
 - ~~refer~~Refer the case to ~~enforcement;~~DWC Enforcement.
 - ~~refer~~Refer the subject to the appropriate medical licensing board; ~~or.~~
 - ~~expand~~Expand the scope of investigation.
3. The final recommendation ~~shall~~must be in writing on the disposition form.
4. ~~The OMA issues to the subject a disposition letter and final report that include the Medical Advisor's recommendation.~~
5. ~~4. The issuance of, which includes the disposition letter and final report to the subject medical advisor's recommendation. This action~~ closes the medical quality review.

~~C. Referrals to TDI Enforcement~~

~~1.C. When the Medical Advisor recommends the referral to TDI/DWC Enforcement, the OMA prepares a referral memorandum that includes:~~

1. When the medical advisor recommends a DWC Enforcement referral, OMA prepares a memo that includes:
 - a. ~~The Medical Advisor's~~medical advisor's recommendation for action on the findings of a complaint or a review; ~~and.~~
 - b. ~~An electronic file containing all medical records~~ undersent with an affidavit, the Expert ~~report~~Report, the subject's response, and any information ~~pertinent~~relevant to the complaint or review.
2. ~~The Medical Advisor's approved~~After the medical advisor approves the referral memo, OMA enters the referral memorandum is sent to SMO for entry into the SMO Enforcement referralTDI database and ~~updated in the TDI database for tracking purposes.~~

~~3.2. SMO shall forward~~sends the referral ~~memorandum and electronic file~~ to ~~TDI~~DWC Enforcement.

~~4.3. TDI~~DWC Enforcement ~~will assign~~assigns a case number and an attorney to the case.

~~5.4. If the Medical Advisor~~medical advisor or ~~TDI~~DWC Enforcement determines or suspects that fraud has occurred, ~~then TDI~~DWC Enforcement submits a referral to ~~TDI~~DWC's Fraud unit ~~for~~to further ~~investigation~~investigate. DWC Enforcement maintains a copy of the referral ~~is maintained by TDI Enforcement~~.

D. Informal Settlement Conference (ISC)

1. ~~The purpose for an~~An ISC ~~is to offer~~offers the subject of a medical quality review an opportunity to ~~participate in discussing~~discuss the enforcement case with one or two arbiters as representatives of the ~~Medical Advisor~~medical advisor. An ISC may be conducted ~~with the following Medical Advisor representatives:~~virtually.
 - a. ~~Two Arbiters;~~
 - b. ~~An Arbiter and an Associate Medical Advisor; or~~
 - c. ~~One Arbiter.~~
2. ~~Arbiters are selected in accordance with Texas~~The medical advisor selects arbiters under Labor Code ~~§§Sections~~ 408.0043, 408.0044, or 408.0045 and 28 TAC ~~§§Sections~~ 180.1 and 180.22.
3. ~~The~~ Arbiters must not have any known conflicts of interest with the subject or individual case files ~~or and must not have the~~ appearance of impropriety. ~~For each case, Arbiters~~arbiters must attest in writing that no known conflicts of interest exist, and ~~that~~ they are not aware of any appearance of impropriety.
4. An attorney from ~~the TDI-DWC Office of General Counsel will preside~~Legal Services presides over the ISC. ~~The attorney:~~
 - a. ~~The designated General Counsel representative will provide~~Provides legal advice to the ~~Medical Advisor~~medical advisor's representatives.
 - b. ~~The designated General Counsel representative will~~Will not engage in ex-parte ~~contact~~communications with ~~TDI~~DWC Enforcement or the subject ~~prior to~~before the ISC.
5. ~~An attorney from TDI~~A DWC Enforcement ~~will state~~attorney states the experts' findings ~~of the Experts~~ and ~~present~~presents sanction recommendations at the ISC.
6. The subject may ~~be represented at the ISC by~~have legal counsel represent them at the ISC.
7. ~~The~~At the ISC, the subject has the opportunity ~~at the ISC~~ to show ~~compliance~~they complied with applicable laws and ~~to~~ present any evidence or information ~~that the subject believe~~they believe is relevant to the case.
8. At the ~~conclusion~~end of the ISC, the ~~Medical Advisor~~medical advisor's representatives will recommend appropriate action to the ~~Medical Advisor and the subject of the medical quality~~

~~review~~ medical advisor.

- a. ~~• TDI-DWC~~ Enforcement will send a consent order with the ~~Medical Advisor's~~ medical advisor's final recommendation to the subject ~~for signature to sign~~ within 15 calendar days from the ISC.
- b. ~~• If the subject agrees with the consent order, then they will sign~~ the consent order ~~is signed and returned~~ return it to ~~TDI-DWC~~ Enforcement.
- c. ~~• The DWC Enforcement submits the~~ signed consent order ~~is submitted~~ to the ~~Commissioner~~ commissioner for approval.
9. ~~• If the TDI-DWC and subject cannot~~ does not agree ~~on a resolution to with~~ the ~~enforcement case consent order~~, the ~~Medical Advisor~~ medical advisor will make the final recommendation for further enforcement proceedings at the State Office of Administrative Hearings ~~(SOAH).~~

~~10.9.~~ The TDI-DWC may close a case with no further action after holding an ISC.

E. Referrals to Appropriate Medical Licensing Boards

1. The ~~Medical Advisor will comply~~ medical advisor complies with ~~Texas~~-Labor Code ~~§§~~ Sections 413.0514 and 413.0515.
2. ~~A~~ The medical advisor may make a referral ~~or report~~ to a licensing agency ~~may be~~ in addition to any other action ~~taken by the TDI-DWC~~ takes on the subject of a review or complaint.
3. ~~The~~ OMA prepares a referral letter that includes:
 - a. ~~• the Medical Advisor's~~ The medical advisor's reason for the referral; ~~and,~~
 - b. ~~• an~~ An electronic file containing all medical records ~~under~~ sent with an affidavit, Expert ~~report~~ Report, the subject's response, and any information ~~pertinent~~ relevant to the review.
4. The ~~Medical Advisor~~ medical advisor signs the referral letter.
5. ~~The Medical Advisor will provide the~~ OMA sends referral to the ~~designated General Counsel~~ representative for transmittal to the licensing agency.

~~The TDI-DWC has entered into a Memorandum of Understanding with both the Texas Medical Board (TMB) and the Texas Board of Chiropractic Examiners (TBCE) in order to facilitate the exchange of information required by Texas Labor Code §413.0514 and §413.0515. Pursuant to these agreements, the TDI-DWC reports information to these agencies on a monthly basis and at other times determined appropriate by the TDI-DWC. The TDI-DWC will identify in its information sharing with these agencies those cases where the TDI-DWC believes further investigation by the other agency is warranted. Pursuant to these agreements, the TDI-DWC will report or refer on an emergency basis those system participants whose continued practice may constitute a continuing or imminent threat to the public welfare.~~

F. Expanding the Scope of Investigation

1. The scope of investigations cannot be expanded as part of the same investigation, ~~but~~. The scope can be expanded by submitting a new complaint ~~in accordance with Section III~~. (see Section 3).
2. The complaint is sent to ~~TDI~~-DWC to enter it into ~~TDI~~TDI's database ~~as a complaint~~.
3. The process begins as a separate formal complaint as ~~defined~~described in ~~Section III~~Section 3.
4. ~~The complainant~~If an MQRP member submits a complaint under Section 3, the MQRP member is recused from ~~the review of such system participant if participating in the complaint is recommended for~~ medical quality review process for that complaint.

Section VIII: ~~8~~ 8: Post-Enforcement Monitoring Process

When a consent order requires further monitoring of a subject, OMA will conduct a medical quality review ~~in accordance with~~under the terms of the order. ~~The medical quality~~This review will be conducted in the same ~~manner~~way as the medical quality review process ~~except where inconsistent with the terms of the, unless otherwise indicated in the consent~~ order. ~~The~~-OMA will coordinate with ~~TDI~~DWC Enforcement on the results of the ~~monitoring~~ review and provide ~~TDI~~DWC Enforcement with recommendations on any appropriate action.

1. The ~~Medical Advisor~~medical advisor and ~~TDI~~DWC Enforcement agree on a monitoring plan for ~~at the~~ subject of a medical quality review.
2. The subject agrees to a monitoring plan through a consent order.
3. The ~~Commissioner~~commissioner approves the consent order.
4. ~~TDI~~DWC Enforcement ~~shall provide the~~provides OMA with ~~Commissioner's orders~~a commissioner's order that ~~require a system participant to be~~requires the subject to be monitored further ~~monitoring~~.
5. ~~The~~-OMA coordinates with ~~TDI~~DWC Enforcement to select the individual case files to be reviewed (see ~~Section V~~Section 5).

Section IX: ~~9~~ 9: Other Administrative Functions

A. Confidentiality

~~Pursuant to Texas Labor Code §402.092 and §413.0513, any~~Any information collected, assembled, or maintained by or on behalf of ~~the TDI~~-DWC ~~regarding~~for a medical quality review constitutes a confidential investigation file. (Labor Code Sections 402.092 and 413.0513). Confidential information includes, but is not limited to, ~~complaints~~:

- Complaints filed with ~~the TDI~~-DWC, ~~medical~~.

- Medical records ~~and any~~.
- Any information that identifies review subjects or injured employees.

Information and documents collected, assembled, or maintained during ~~the course of~~ a medical quality review or investigation of a complaint ~~shall~~must not be disclosed within ~~the TDI-DWC~~ except as appropriate and consistent with DWC's statutory duties of ~~TDI-DWC for~~ oversight and monitoring. -All reports and related documents are ~~considered~~ confidential under ~~Texas~~-Labor Code ~~§§Sections~~ 402.092 and 413.0513.

B. Reporting

~~The~~ OMA ~~staff will be~~is responsible for updating actions, events, and ~~status~~statuses for each medical quality review ~~on~~in the HCQR database. -Standard reports ~~will be made~~are available in this system and can be reproduced as needed to respond to requests on individual medical quality reviews.

~~The~~ OMA ~~will coordinate~~coordinates with ~~TDI-DWC~~ Enforcement to monitor the status of each enforcement case that resulted from a medical quality review. -The ~~Medical Advisor~~medical advisor will provide the ~~Expert~~experts and ~~Arbiters~~arbiters with a status on the number and types of final dispositions of enforcement cases ~~originating that started~~ from a medical quality ~~reviews~~review.

C. Program Monitoring and Compliance

~~At least on an annual basis, an independent review process in consultation with TDI-DWC Internal Audit program area~~ OMA ~~will be implemented~~conduct quality assurance audits monthly to ~~ensure~~ adherence to comply with the medical quality review process. -~~Any~~ OMA ~~will document and report any deviations~~ will be documented and reported to in the ~~Commissioner~~. ~~This process to the commissioner~~.

Program monitoring will also be used to identify and recommend medical quality review process improvements ~~to the process~~ and increase accountability and transparency.

Section ~~X~~-10: Approvals

This Medical Quality Review Process is respectfully submitted by:

~~David G. Davis~~ **Submitted by:**

Graves Owen, M.D. Date:
Medical Advisor

This Medical Quality Review Process is respectfully approved by:

~~Rod Bordelon~~ — **Approved by:**

Jeff Nelson Date:
Commissioner
TDI, Division of Workers' Compensation