

**Medical Quality Review Process Revision**

**Comparison of existing text to draft text (not redlined for ease of reading)**

**The notes column identifies substantive changes in the rule text. Other style and editorial changes are not included in the notes column.**

<b>Section 1: General Statement and Overview</b>		
<b>Current text</b>	<b>Draft text</b>	<b>Notes</b>
<p>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 those persons with rules adopted by the commissioner relating to health care, including medical policies and fee guidelines.” The TDI-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 provide the subject of a review the opportunity to participate throughout the medical quality review process.</p>	<p>The Texas Department of Insurance, Division of Workers’ Compensation (DWC) is required to monitor health care providers, insurance carriers, independent review organizations, and workers’ compensation claimants who receive medical services to ensure they all comply with rules adopted by the commissioner relating to health care. (Texas Labor Code Section 413.002). This includes medical policies and fee guidelines. DWC monitors these system participants’ compliance through the medical quality review process.</p> <p>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. DWC will also provide the subject of a review the opportunity to participate during the medical quality review process.</p>	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>
<p>The medical quality review process is medical case review initiated from either a written complaint, which may include an internal referral, a plan-based audit, or monitoring resulting from a consent order in accordance with 28 Texas Administrative Code (TAC) §180.68. For the purposes of this process, 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 oversees the medical quality review process conducted by the Medical Quality Review Panel (MQRP).</p>	<p>The medical quality review process is a medical case review initiated on the basis of a complaint, plan-based audit, or monitoring that results from a consent order. (28 Texas Administrative Code (TAC) Section 180.68). All medical case reviews conducted as part of the medical quality review process will be known as medical quality reviews. DWC’s 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.</p>	<ul style="list-style-type: none"> <li>• Remove “written”</li> <li>• Add Labor Code cite</li> <li>• Editorial changes</li> </ul>
<p>The MQRP is comprised of Experts and Arbiters. The Experts’ and Arbiters’ full responsibilities are further defined in Section II. Experts prepare reports to aid</p>	<p>The MQRP comprises arbiters and experts. Experts prepare reports to help DWC monitor compliance with the Labor Code and DWC rules. These reports also</p>	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>

<b>Section 1: General Statement and Overview</b>		
<b>Current text</b>	<b>Draft text</b>	<b>Notes</b>
<p>the TDI-DWC both to monitor compliance with the Texas Workers' Compensation (Act) and TDI-DWC rules and to help 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 in Informal Settlement Conferences (ISCs). At the conclusion of an ISC, the Arbiters recommend appropriate action to the Medical Advisor.</p>	<p>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. Arbiters represent the medical advisor in informal settlement conferences (ISCs). At the end of an ISC, arbiters recommend appropriate actions to the medical advisor.</p>	
<p>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.</p>		<ul style="list-style-type: none"> <li>• Moved Labor Code reference two paragraphs up</li> </ul>

<b>Section 2: Roles and Responsibilities</b>		
<b>Current text</b>	<b>Draft text</b>	<b>Notes</b>
<p><b>A. Medical Advisor</b> Pursuant to Texas Labor Code §413.0511, the TDI-DWC employs or contracts with a Medical Advisor who is a doctor as defined by the Texas Labor Code §401.011. The Medical Advisor assists in the TDIDWC’s efforts to implement provisions of the Act related to health care for injured employees, ensures the quality of health care provided in the workers’ compensation system, and recommends sanctions when indicated. The Medical Advisor provides feedback and recommendations to the TDI-DWC through the medical quality review process with the assistance of the MQRP.</p>	<p><b>A. Medical Advisor</b> DWC employs or contracts with a medical advisor who is a doctor as defined in Labor Code Section 401.011. (Labor Code Section 413.0511). The medical advisor:</p> <ul style="list-style-type: none"> <li>• Assists with DWC’s efforts to carry out provisions of the Labor Code related to health care for injured employees.</li> <li>• Ensures quality health care is provided in the workers’ compensation system.</li> <li>• Recommends sanctions when indicated.</li> </ul> <p>The medical advisor also provides feedback and makes recommendations to DWC during the medical quality review process.</p>	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>
<p><b>B. Associate Medical Advisor</b> 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.</p>		<ul style="list-style-type: none"> <li>• Deleted as we no longer have an associate medical advisor and haven’t since 2019.</li> </ul>
<p><b>C. Health Care Quality Review (HCQR)</b> HCQR staff is comprised of a director, nurse investigators, 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.</p> <p>The nurse investigator initiates the evaluation of complaints regarding professional medical services, delivery of health care, or the quality of a health care practitioner’s opinion, recommendation or reports as set forth in 28 TAC §180.68. The nurse investigator may seek assistance from an Associate Medical</p>	<p><b>B. Health Care Quality Review (HCQR) Staff</b> HCQR staff comprises a nurse investigator and administrative staff who assist in DWC’s medical quality review process.</p> <p>The nurse investigator initiates the evaluation of complaints on professional medical services; delivery of health care; or the quality of a health care practitioner’s opinion, recommendation, or reports under 28 TAC Section 180.68. As part of the evaluation, the nurse investigator may get assistance from MQRP members when the nurse investigator makes a recommendation of disposition for a complaint. During the medical quality review process, the nurse</p>	<ul style="list-style-type: none"> <li>• Editorial changes</li> <li>• Removed associate medical advisor</li> </ul>

<b>Section 2: Roles and Responsibilities</b>		
<b>Current text</b>	<b>Draft text</b>	<b>Notes</b>
<p>Advisor as part of the evaluation when making 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.</p>	<p>investigator serves as the point of contact for the experts and the subject of a complaint and medical quality reviews.</p> <p>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).</p>	
<p><b>D. Quality Assurance Committee (QAC)</b>  The Medical Advisor appoints a QAC. The QAC is comprised of an Associate Medical Advisor, a TDI-DWC Executive Deputy Commissioner and a TDI Enforcement management representative. The Associate Medical Advisor chairs the QAC. If the Associate Medical Advisor is unable to chair for any reason, the Medical Advisor may appoint an Arbiter to chair a QAC meeting in accordance with 28 TAC §180.62(g).</p> <p>The QAC provides a level of quality assurance when a nurse investigator makes a recommendation to close a written complaint subject to the medical quality review process, open a medical quality review, or refer to the Medical Advisor for possible referral to enforcement or the appropriate licensing board. This QAC oversight ensures that actions are appropriate, consistent, and fair to system participants. The QAC will meet on a regular basis and recommend to the Medical Advisor whether a complaint should be closed or continue with the medical quality review process.</p>	<p><b>C. Quality Assurance Committee (QAC)</b>  The medical advisor appoints a QAC. The QAC comprises an arbiter, a DWC deputy commissioner, and a DWC Enforcement manager. The medical advisor appoints an arbiter to chair the QAC meeting under 28 TAC Section 180.62(g).</p> <p>The QAC provides a level of quality assurance when a nurse investigator recommends closing a written complaint subject to the medical quality review process. The QAC's oversight ensures that actions are appropriate, consistent, and fair to system participants. The QAC will regularly meet and recommend to the medical advisor whether to close a complaint or continue with the medical quality review process.</p>	<ul style="list-style-type: none"> <li>Removed associate medical advisor</li> </ul>
<p><b>E. Medical Quality Review Panel (MQRP)</b>  Texas Labor Code §413.0512(a) requires the Medical Advisor to "establish a medical quality review panel of health care providers to assist the Medical Advisor in performing the duties required under §413.0511." The medical advisor</p>	<p><b>D. Medical Quality Review Panel (MQRP)</b>  The medical advisor must "establish a medical quality review panel of health care providers to assist the medical advisor in performing the duties required under Section 413.0511." (Labor Code Section 413.0512(a)). The medical advisor</p>	<ul style="list-style-type: none"> <li>Editorial changes</li> </ul>

<b>Section 2: Roles and Responsibilities</b>		
<b>Current text</b>	<b>Draft text</b>	<b>Notes</b>
establishes the MQRP pursuant to Texas Labor Code §413.0512 and §413.05122 and 28 TAC Chapter 180, Subchapter C. The professional services MQRP members provide to the Medical Advisor are listed under 28 TAC §180.62.	establishes the MQRP 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 are listed under 28 TAC Section 180.62.	
<p><b>F. Quality Assurance Panel (QAP)</b>  Texas Labor Code §413.05121(a) requires the Medical Advisor to establish the members of the QAP or “Arbiters.” The medical advisor establishes the QAP pursuant to Texas Labor Code §413.05122 and 28 TAC Chapter 180, Subchapter C. The professional services Arbiters may provide to the Medical Advisor are listed under 28 TAC §180.62(g).</p> <p>The Medical Advisor appoints Arbiters based on their medical expertise, specialty backgrounds, and their experience in utilization review and quality assurance. Arbiters are also selected 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 years and may be appointed 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. Arbiter meetings will be held at least twice a year. The Arbiter meeting is presided over by the Medical Advisor.</p> <p>Arbiters do not routinely prepare reports. However, the Medical Advisor may appoint an Arbiter to prepare reports. In these situations the Arbiter would be ineligible from sitting on the informal settlement conference for the subject the Arbiter reviewed.</p>	<p><b>E. Quality Assurance Panel (QAP)</b>  The medical advisor must establish the members of the QAP or “arbiters.” (Labor Code Section 413.05121(a)). The medical advisor establishes the QAP under Labor Code Section 413.05122 and 28 TAC Chapter 180, Subchapter C. The professional services arbiters may provide to the medical advisor are listed under 28 TAC Section 180.62(g).</p> <p>The medical advisor appoints arbiters based on their medical expertise, specialty backgrounds, and their experience in utilization review and quality assurance. Arbiters are also 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 10 years, and the medical advisor may appoint them for additional terms.</p> <p>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. Arbiter meetings are held at least twice a year. The medical advisor presides over arbiter meetings.</p> <p>Arbiters do not routinely prepare reports, but the medical advisor may appoint an arbiter to prepare one. In these situations, the arbiter would be ineligible to sit on the ISC for the subject the arbiter reviewed.</p>	<ul style="list-style-type: none"> <li>• Editorial changes</li> <li>• Changed appointment timeframe from 2 to 10 years per recent 180.62 amendments.</li> </ul>

<b>Section 3: Complaint Process</b>		
<b>Current text</b>	<b>Draft text</b>	<b>Notes</b>
1. All complaints, which may include internal referrals, must be in writing and may not be anonymous in accordance with 28 TAC §180.2. Complaints may be filed in several ways pursuant to 28 TAC §180.2(b).	1. All complaints, which may include internal referrals, must be in writing and may not be anonymous. (Labor Code Section 402.023(d) and 28 TAC Section 180.2). There are several ways to file complaints. (28 TAC Section 180.2(b)).	• Editorial changes
2. TDI-DWC's System Monitoring and Oversight (SMO) section logs all complaints into the standard TDI database for tracking purposes.	2. DWC's Audits and Investigations (A&I) section logs all complaints into our standard Texas Department of Insurance (TDI) database for tracking purposes.	• Program name change from SMO to A&I
3. SMO will refer OMA all complaints subject to the medical quality review process as defined in 28 TAC §180.68.	3. A&I refers all complaints subject to the medical quality review process under 28 TAC Section 180.68 to OMA.	• Program name change
4. The OMA provides the complainant and the subject with an acknowledgment letter at the time a complaint is received from SMO.	4. OMA provides an acknowledgment letter to the complainant and a notification letter to the subject of the complaint.	• Distinguished letter type issued to complainant and subject
5. A nurse investigator evaluates each complaint regarding 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.	5. To determine whether a potential violation has occurred, a nurse investigator evaluates each complaint on professional medical services; delivery of health care; or the quality of a health care practitioner's opinion, recommendation, or report.	• Editorial changes
6. A nurse investigator may request and obtain additional information as necessary from the: a) complainant; b) subject; or c) other relevant persons.	6. A nurse investigator may request and get more information as necessary from the: • Complainant. • Subject. • Other relevant persons.	• Editorial changes
7. Upon completion of an investigation, a nurse investigator will recommend to the Quality Assurance Committee (see Section VII) one of the following actions on a complaint: a) Close the complaint without a medical quality review);	7. When a nurse investigator completes an investigation on a complaint, they will recommend to the QAC (see Section 7) the following actions: • Close the complaint without a medical quality review.	• Editorial changes

<b>Section 3: Complaint Process</b>		
<b>Current text</b>	<b>Draft text</b>	<b>Notes</b>
<p>b) Open a medical quality review;</p> <p>i) If recommendation is approved by QAC, the nurse investigator will notify subject of the complaint with a written notice and the opportunity to provide the OMA with any information the subject believes is relevant and should be considered by the OMA in the further investigation of the complaint (see Section V); and/or</p> <p>c) Refer to the Medical Advisor for a possible referral to:</p> <p>i) appropriate medical licensing board (see Section VII); or</p> <p>ii) TDI Enforcement (see Section VII).</p>	<ul style="list-style-type: none"> <li>• Open a medical quality review. If the medical advisor approves the recommendation, the nurse investigator will send written notice to the subject of the complaint and give them an opportunity to provide OMA with any information the subject believes is relevant and that OMA should consider when it further investigates the complaint (see Section 5).</li> <li>• Refer to the medical advisor for a possible referral to the appropriate medical licensing board or DWC Enforcement (see Section 7).</li> </ul>	
<p>At any time during the complaint investigation process, a nurse investigator may consult with an Associate Medical Advisor or any TDI-DWC staff member to assist in the determination of whether a violation of the Act, TDI-DWC rule(s), or other applicable statutes has occurred. If the complaint involves an active dispute, the nurse investigator may consult with TDI-DWC Medical Dispute Resolution staff to determine the appropriate action for the complaint.</p>	<p>At any time during the complaint investigation process, a nurse investigator may consult with an MGRP member or any DWC staff to help the investigator determine whether a violation of the Labor Code, DWC rules, or other applicable statutes has occurred. If the complaint involves an active dispute, the nurse investigator may consult with DWC’s Medical Dispute Resolution staff to determine the appropriate action for the complaint.</p>	<ul style="list-style-type: none"> <li>• <b>Removed associate medical advisor</b></li> </ul>
<p>Subjects of a complaint may provide the OMA with any information the subject believes is relevant to the investigation. All documentation or information provided by the subject during the complaint investigation will be considered by the OMA.</p>	<p>Subjects of a complaint may provide OMA with any information they believe is relevant to the investigation. OMA will consider all documentation or information the subject provides during the complaint investigation.</p>	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>

<b>Section 4: Plan-Based Audit Process</b>		
<b>Current text</b>	<b>Draft text</b>	<b>Notes</b>
<p>1. The Medical Advisor will recommend categories of health care and other services for inclusion in an annual audit plan. The OMA will obtain system participant input for categories that should be included in the annual audit plan. Categories for consideration of inclusion in the annual audit plan may include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• unusually high or unusually low utilization of medical services inconsistent with adopted treatment guidelines or other evidence-based medicine;</li> <li>• high cost medical services exceeding Texas workers' compensation system average cost for same or similar services;</li> <li>• quality and timeliness of decisions made by designated doctors, independent review organizations, insurance carriers, required medical examiners, peer review doctors and utilization review agents;</li> <li>• accurate diagnosis of injured employees; and</li> <li>• appropriate return-to-work outcomes.</li> </ul>	<p>1. The medical advisor recommends categories of health care and other services to include in an annual audit plan. OMA gets system participants' input for categories to include in the annual audit plan. Categories may include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Unusually high or low utilization of medical services inconsistent with adopted treatment guidelines or other evidence-based medicine.</li> <li>• High-cost medical services that exceed the Texas workers' compensation system's average cost for same or similar services.</li> <li>• Quality and timeliness of decisions made by designated doctors, independent review organizations, insurance carriers, required medical examiners, peer review doctors, and utilization review agents.</li> <li>• Accurate diagnosis of injured employees.</li> <li>• Appropriate return-to-work outcomes.</li> </ul>	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>
<p>2. The Medical Advisor submits the recommended annual audit plan to the Commissioner of Workers' Compensation (Commissioner) for review and approval.</p>	<p>2. The medical advisor submits the recommended annual audit plan to the commissioner of workers' compensation (commissioner) for review and approval.</p>	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>
<p>3. Upon approval by the Commissioner, the approved annual audit plan is posted on the TDI website.</p>	<p>3. When the commissioner approves the annual audit plan, the plan is posted on the TDI website.</p>	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>
<p>4. For each individual plan-based audit within the approved annual audit plan, the Medical Advisor and the TDI-DWC staff define the scope, selection criteria, and individual program area responsibilities for a plan-based audit. The OMA will obtain stakeholder input for each individual plan-based audit within the approved annual audit plan. Each individual plan-based audit proposal shall specify the program area(s) responsibilities for all relevant</p>	<p>4. For each individual plan-based audit within the approved annual audit plan, the medical advisor and DWC staff define the scope and selection criteria. OMA will ask for stakeholder input for each individual plan-based audit within the approved annual audit plan. Each individual plan-based audit proposal will lay out the steps and discuss specific procedures for each step including, but not limited to:</p>	<ul style="list-style-type: none"> <li>• Deleted program area(s) responsibilities</li> </ul>



<b>Section 4: Plan-Based Audit Process</b>		
<b>Current text</b>	<b>Draft text</b>	<b>Notes</b>
<p>steps and include specific procedures for each step, including but is not limited to the following:</p> <ul style="list-style-type: none"> <li>• inclusion and exclusion criteria;</li> <li>• service time frame to be audited;</li> <li>• sample size; and</li> <li>• subject and case file selection;</li> </ul>	<ul style="list-style-type: none"> <li>• Criteria to include or exclude.</li> <li>• Service time frame to audit.</li> <li>• Sample size.</li> <li>• Subject and case file selection.</li> </ul>	
5. The Medical Advisor submits an individual plan-based audit proposal to the Commissioner for approval.	5. The medical advisor submits an individual plan-based audit proposal to the commissioner for approval.	• Editorial changes
6. Upon approval by the Commissioner, the approved individual plan-based audit is posted on the TDI website.	6. When the commissioner approves the individual plan-based audit, the audit is posted on the TDI website.	• Editorial changes
7. The OMA maintains a file with the documentation supporting the approved individual plan-based audit to include: <ul style="list-style-type: none"> <li>• scope, selection criteria, and program areas' responsibilities;</li> <li>• inclusion and exclusion criteria;</li> <li>• service time frame to be audited;</li> <li>• sample size;</li> <li>• subject and case file selection;</li> <li>• audit questions for the Experts; and</li> <li>• Experts to be assigned to perform the medical quality reviews.</li> </ul>	7. OMA maintains a file of the approved individual plan-based audit that includes: <ul style="list-style-type: none"> <li>• Scope, selection criteria, and program areas' responsibilities.</li> <li>• Criteria to include or exclude.</li> <li>• Service time frame to audit.</li> <li>• Sample size.</li> <li>• Subject and case file selection.</li> <li>• Audit questions for the experts.</li> <li>• Experts to be assigned to perform the medical quality reviews.</li> </ul>	• Editorial changes
8. The OMA coordinates with the program area(s) staff designated in the approved individual plan-based audit to select the review subjects and individual case files to be reviewed (see Section V).	8. OMA coordinates with the program areas designated in the approved individual plan-based audit to select the review subjects and individual case files for review (see Section 5).	• Editorial changes

<b>Section 5: Process for Initiating a Medical Quality Review</b>		
<b>Current text</b>	<b>Draft text</b>	<b>Notes</b>
<b>A. Notification to Subject</b>	<b>A. Notify the Subject</b>	• Editorial changes
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 medical quality review. The notification letter informs the subject of the review and the basis upon which the review was initiated (i.e. complaint, monitoring, or audit).	1. OMA sends a notification letter to subjects of medical quality reviews. The letter informs the subject about the review and why it was initiated (for example, a complaint, monitoring, or an audit).	• Editorial changes
2. The notification letter contains a list of injured employees who received health care services from the subject and requires the subject to provide the OMA with all relevant records pertaining to the treatment(s) or service(s) provided to the injured employees for the compensable injury.	2. The letter contains a list of injured employees who received health care services from the subject and instructs the subject to provide OMA with all relevant records pertaining to the treatments or services the subject provided to the injured employees for their compensable injury.	• Editorial changes
a. For complaint based reviews: <ul style="list-style-type: none"> <li>i. The OMA will provide a summary of the complaint and will request the subject to provide records and an explanation for each complaint included in the review.</li> <li>ii. 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.</li> <li>iii. The notification letter includes a specified amount of time to provide the requested information not to exceed 30 calendar days.</li> </ul>	<ul style="list-style-type: none"> <li>• For complaint-based reviews: <ul style="list-style-type: none"> <li>○ OMA provides a summary of the complaint and asks the subject to provide records with a completed affidavit and any information relevant to each complaint included in the review, if not previously requested and provided under Section 3.</li> <li>○ The letter specifies an amount of time to provide the information— not to exceed 30 calendar days.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Editorial changes</li> <li>• Clarified that OMA asks for documents if not previously requested and provided</li> <li>• Deleted unnecessary text</li> </ul>
b. For audit-based and monitoring-based reviews: <ul style="list-style-type: none"> <li>i. The OMA will provide notification and an overview of the audit and request the subject to provide appropriate medical records.</li> <li>ii. The notification letter requests the subject to complete an enclosed business record affidavit and provide the completed affidavit along with the requested records.</li> </ul>	<ul style="list-style-type: none"> <li>• For audit-based and monitoring-based reviews: <ul style="list-style-type: none"> <li>○ OMA sends a letter with an overview of the audit and instructs the subject to provide medical records.</li> <li>○ The letter instructs the subject to complete an enclosed business record affidavit and provide the completed affidavit with the records.</li> </ul> </li> </ul>	• Editorial changes

<b>Section 5: Process for Initiating a Medical Quality Review</b>		
<b>Current text</b>	<b>Draft text</b>	<b>Notes</b>
<ul style="list-style-type: none"> <li>iii. The notification letter includes a specified amount of time to provide the requested information not to exceed 30 calendar days.</li> <li>iv. The subject of the audit will be provided an opportunity to respond to the Experts' findings if there is a recommendation to refer the subject to TDI Enforcement (see Section VI).</li> </ul>	<ul style="list-style-type: none"> <li>○ The letter specifies an amount of time to provide the information—not to exceed 30 calendar days.</li> <li>○ The subject of the audit has an opportunity to respond to the experts' findings if there is a recommendation to refer the subject to DWC Enforcement (see Section 6).</li> </ul>	
<p>Subjects of a medical quality review process are encouraged to communicate with the OMA regarding the medical quality review. Subjects may provide the OMA with any information the subject believes is relevant to the medical quality review. All documentation or information provided by the subject during the medical quality review will be considered by the OMA.</p>	<p>DWC encourages subjects of a medical quality review process to communicate with OMA about the medical quality review. Subjects may provide OMA with any information they believe is relevant to the medical quality review. OMA will consider all documentation or information the subject provides during the medical quality review.</p>	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>
<b>B. Request for Records from Other Parties</b>	<b>B. Request Records from Other Parties</b>	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>
<ul style="list-style-type: none"> <li>• The OMA may request relevant records and other information from non-subject parties such as insurance carriers or other health care providers.</li> <li>• Information obtained from non-subject parties will be reviewed and considered during the course of the medical quality review process.</li> <li>• The request for records letter will require the non-subject(s) to complete an enclosed business record affidavit and provide the completed affidavit along with the requested medical records.</li> <li>• The letter will include a specified amount of time to provide the requested information not to exceed 30 calendar days.</li> </ul>	<ol style="list-style-type: none"> <li>1. OMA may request relevant records and other information from non-subject parties, such as insurance carriers or other health care providers.</li> <li>2. Information from non-subject parties will be reviewed and considered during the medical quality review process.</li> <li>3. The request for records letter will instruct the non-subjects to complete an enclosed business record affidavit and provide it with the requested medical records.</li> <li>4. The letter will specify an amount of time to provide the requested information—not to exceed 30 calendar days.</li> </ol>	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>
<b>C. Case Preparation and Tracking</b>	<b>C. Prepare and Track Case</b>	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>
<ol style="list-style-type: none"> <li>1. For audit-based reviews, the nurse investigator verifies in writing that subjects and case files were selected in accordance with the approved plan-based audit.</li> </ol>	<ol style="list-style-type: none"> <li>1. For audit-based reviews, the nurse investigator verifies in writing that subjects and case files are selected based on the approved plan-based audit.</li> </ol>	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>

<b>Section 5: Process for Initiating a Medical Quality Review</b>		
<b>Current text</b>	<b>Draft text</b>	<b>Notes</b>
2. Upon the OMA's receipt of 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 the cases to a nurse investigator.	2. When OMA receives the requested medical records and other information from the subject and non-subject parties, OMA sorts, organizes, and Bates stamps all documents and information for each individual case before forwarding the cases to a nurse investigator.	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>
3. The nurse investigator verifies and approves the Bates stamped records and information for each case.	3. The nurse investigator verifies and approves the Bates-stamped records and information for each case.	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>
4. The nurse investigator prepares and organizes the case file for Expert selection and assignment. Case files are comprised of medical documents requested and received for each injured employee, the complaint if applicable, and any information provided by the subject.	4. The nurse investigator prepares and organizes the case file for expert selection and assignment. Case files comprise of medical documents that OMA requested and received for each injured employee, the complaint if applicable, and any information the subject provided.	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>
If requested records or information are not provided or are not provided timely, the OMA will issue a Commissioner's Order pursuant to 28 TAC §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 the violation as an internal referral to SMO for processing as a new complaint.	If the subject or non-subjects do not timely provide the records or information that OMA requested, OMA issues a 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, OMA refers the violation to DWC's Compliance and Investigations program area to process a new complaint.	<ul style="list-style-type: none"> <li>• Editorial changes</li> <li>• Program name change</li> </ul>
Tracking information regarding 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.	OMA will use the HCQR database to track information 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.	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>
<b>D. Assignment of Experts</b>	<b>D. Assign Experts</b>	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>
1. The nurse investigator selects an Expert to perform a medical quality review in accordance with Texas Labor Code §§408.0043, 408.0044, or 408.0045 and 28 TAC §§180.1 and 180.22.	1. The nurse investigator selects an expert to perform a medical quality review under Labor Code Sections 408.0043, 408.0044, or 408.0045 and 28 TAC Sections 180.1 and 180.22.	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>

<b>Section 5: Process for Initiating a Medical Quality Review</b>		
<b>Current text</b>	<b>Draft text</b>	<b>Notes</b>
<p>2. In cases where no Expert meets the requirements described above for a specific medical quality review, the Medical Advisor may:</p> <p>a. contact appropriate medical licensing boards or other entities in an effort to contract with a qualified individual; or</p> <p>b. contract with a health care practitioner who possesses the professional requirements for conducting the medical quality review. The qualified individual's contract is subject to the same approval process for Experts.</p>	<p>2. In cases where no expert meets the requirements described in 1. above for a specific medical quality review, the medical advisor may either:</p> <ul style="list-style-type: none"> <li>• Contact the appropriate medical licensing board or other entities to contract with a qualified individual.</li> <li>• Contract with a health care practitioner who has the professional skills required to conduct the medical quality review. The qualified individual's contract is subject to the same approval process for experts.</li> </ul>	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>
<p>3. The nurse investigator verifies that no known conflicts of interest pursuant to 28 TAC §180.72 exist between the Expert and the subject or individual case files before making an assignment.</p>	<p>3. The nurse investigator verifies that no known conflicts of interest under 28 TAC Section 180.72 exist between the expert and the subject or individual case files before assigning an expert.</p>	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>
<p>4. The selected Expert should accept the assignment only after verifying that no known conflicts of interest with the subject or individual case files exist pursuant to 28 TAC §180.72. The OMA forwards the case files to be addressed by the assigned Expert with the deadline for when the medical quality review should be completed by that Expert.</p>	<p>4. The selected expert should accept the assignment only after verifying that no known conflicts of interest with the subject or individual case files exist under 28 TAC Section 180.72. OMA forwards the case files to the assigned expert and specifies a deadline for the expert to complete their medical quality review.</p>	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>
<p>5. The Expert may request the nurse investigator to obtain or provide any other information that the Expert believes is relevant and necessary in order to conduct the medical quality review.</p>	<p>5. The expert may ask the nurse investigator to get or provide any other information that the expert believes is relevant and necessary to conduct the medical quality review.</p>	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>
<p>6. Upon completion of the medical quality review, the Expert provides the nurse investigator with an Expert Report that includes recommendations regarding whether the Expert believes any further action is warranted.</p>	<p>6. When the expert completes the medical quality review, the expert provides the nurse investigator with an Expert Report that includes recommendations on whether the any further action is warranted.</p>	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>

<b>Section 6: Expert Recommendation Process</b>		
<b>Current text</b>	<b>Draft text</b>	<b>Notes</b>
A medical quality review is assigned to an initial Expert to determine if a possible violation of the Act, TDI-DWC rule, or other applicable statutes has occurred. The initial Expert's opinion may recommend closure of the medical quality review, subject to the approval of the Medical Advisor. However, if the initial Expert determines that a possible violation of the Act, TDI-DWC rule, or other applicable statutes has occurred, then at least one other concurring Expert opinion is needed to move the review forward in the medical quality review process.	A medical quality review is assigned to an initial expert to determine if a possible violation of the Labor Code, DWC rules, or other applicable statutes has occurred. The initial expert's opinion may recommend closing the medical quality review, subject to the approval of the medical advisor. However, if the initial expert determines that a possible violation of the Labor Code, DWC rules, or other applicable statutes has occurred, at least one other concurring expert opinion is needed to move the review forward in the medical quality review process.	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>
1. If the first Expert recommends closing the medical quality review with no action, the first Expert completes an Expert Report with the findings and recommended action. The first Expert forwards the Expert Report to the nurse investigator.	1. If the first expert recommends closing the medical quality review with no action, that expert completes an Expert Report with the findings and recommended action and sends the report to the nurse investigator.	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>
2. If the first Expert determines that a violation to the Act, TDI-DWC rule, or other applicable statutes has occurred, then the nurse investigator selects a second Expert to conduct an additional medical quality review.	2. If the first expert determines that a violation to the Labor Code, DWC rules, or other applicable statutes has occurred, the nurse investigator selects a second expert to conduct an additional medical quality review.	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>
<p>a. The Nurse Investigator provides the second Expert with all information regarding the medical quality review that was provided to the first Expert, plus the Expert Report and recommendations from the first Expert.</p> <p>b. The second Expert may discuss the medical quality review with the first Expert.</p> <p>c. If the medical quality review involves more than one case file and the first Expert determines that certain individual case files violated the Act, TDI-DWC rule, or other applicable statutes or rules, while others did not violate the Act, TDI-DWC rule, or other applicable statutes or rules, only those</p>	<ul style="list-style-type: none"> <li>• The nurse investigator provides the second expert all information about the medical quality review that the nurse investigator provided to the first expert, plus the Expert Report and recommendations from the first expert.</li> <li>• The second expert may discuss the medical quality review with the first expert.</li> <li>• If the medical quality review involves more than one case file, and the first expert determined that certain individual case files violated the Labor Code, DWC rules, or other applicable statutes or rules, only those</li> </ul>	<ul style="list-style-type: none"> <li>• Editorial changes</li> <li>• Clarified actions experts can recommend to the medical advisor.</li> </ul>

<b>Section 6: Expert Recommendation Process</b>		
<b>Current text</b>	<b>Draft text</b>	<b>Notes</b>
case files in which the first Expert has recommended proceeding with possible enforcement action will be forwarded to a second Expert.	case files the first expert recommended to proceed with further action due to noncompliance will be forwarded to a second expert.	
3. The second Expert completes the 2nd Expert Report with the findings and recommended action.	3. The second expert completes the Second Expert Report with findings and recommended actions.	• Editorial changes
<p>a. If the second Expert agrees with the first Expert, the second Expert completes a statement of agreement.</p> <p>b. If the second Expert agrees in part and disagrees in part with first Expert, the second Expert summarizes the reasons for agreement and disagreement in a 2nd Expert Report.</p> <p>c. If the second Expert does not agree with first Expert and differences cannot be resolved, the second Expert completes a brief 2nd Expert Report stating the areas of disagreement. The medical quality review is then referred to a third Expert.</p>	<ul style="list-style-type: none"> <li>• If the second expert agrees with the first expert, the second expert completes a statement of agreement.</li> <li>• If the second expert agrees in part and disagrees in part with the first expert, the second expert summarizes the reasons for agreement and disagreement in a Second Expert Report.</li> <li>• If the second expert does not agree with the first expert, and differences cannot be resolved, the second expert completes a brief Second Expert Report stating the areas of disagreement. The medical quality review is then referred to a third expert.</li> </ul>	• Editorial changes
4. The third Expert gets all information the two previous Experts received, plus both Experts' reports, and then formulates a decision, agreeing with one or the other. The two Experts in agreement negotiate the wording of the final Expert Report. The Expert Report is completed by the Expert with whom the third Expert agrees and is submitted to the nurse investigator. The Experts' final recommendation may include:	4. The third expert gets all the information the two previous experts received, plus both experts' reports. The third expert drafts a decision, agreeing with one or the other expert. The two experts that agree negotiate the wording of the final Expert Report. The expert who the third expert agreed with completes the Expert Report and submits it to the nurse investigator. The experts' final recommendation may include cases to:	• Editorial changes
<p>a. close with no action; or</p> <p>b. proceed with possible enforcement action.</p>	<ul style="list-style-type: none"> <li>• Close with no action.</li> <li>• Proceed with further action due to noncompliance.</li> </ul>	• Clarified actions experts can recommend to the medical advisor.
5. For complaint-based reviews that result in a recommendation to proceed with possible enforcement action, the completed preliminary Expert Report is sent to the subject stipulating an opportunity to respond.	5. For complaint-based reviews that result in a recommendation to proceed with further action due to noncompliance, the Expert Report with preliminary	• Clarified name of the expert report that

Section 6: Expert Recommendation Process		
Current text	Draft text	Notes
	findings is sent to the subject of the complaint to give them an opportunity to respond.	<p>provides the preliminary findings</p> <ul style="list-style-type: none"> <li>Clarified actions experts can recommend to the medical advisor.</li> </ul>
<p>a. A cover letter to the Expert Report will provide the subject with information on how to submit a written response to the Expert Report.</p> <p>b. The subject will be allowed 15 calendar days to provide a written response, which will be considered in formulating a recommended action.</p> <p>c. The subject’s written response is forwarded to the 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 Experts for further review.</p> <p>d. The final Expert report shall be considered by the Medical Advisor for his or her recommended action, which may include:</p> <ol style="list-style-type: none"> <li>close with no action; or</li> <li>proceed with possible enforcement action.</li> </ol>	<ul style="list-style-type: none"> <li>A cover letter to the Expert Report provides the subject with information on how to submit a written response to the Expert Report.</li> <li>The subject will be allowed 15 calendar days to provide a written response, which the medical advisor will consider when drafting a recommended action.</li> <li>The subject’s written response is sent to the medical advisor who will determine whether the response should be provided to the experts for further review.</li> <li>The medical advisor will consider the Expert Report, subject’s written response, experts’ review of the subject’s written response, and then recommend an action, which may include cases to: <ul style="list-style-type: none"> <li>Close the review with no action.</li> <li>Proceed with further action due to noncompliance.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Clarified name of the expert report that provides the preliminary findings</li> <li>Clarified actions experts can recommend to the medical advisor.</li> </ul>
6. For audit-based and monitoring-based reviews that result in a recommendation to proceed with possible enforcement action, the completed preliminary Expert Report is sent to the subject stipulating an opportunity to respond.	6. For audit-based and monitoring-based reviews that result in a recommendation to proceed with further action due to noncompliance, the Expert Report with preliminary findings is sent to the subject to give them an opportunity to respond.	<ul style="list-style-type: none"> <li>Clarified name of the expert report that provides the preliminary findings</li> <li>Clarified actions experts can recommend to the medical advisor.</li> </ul>



Section 6: Expert Recommendation Process		
Current text	Draft text	Notes
<p>a. A cover letter to the Expert Report will provide the subject with information on how to submit a written response to the Expert Report.</p> <p>b. The subject will be allowed 15 calendar days to provide a written response, which will be considered in formulating a recommended action.</p> <p>c. The subject's written response is forwarded to the Experts who recommended enforcement action for re-consideration of their initial recommendation.</p> <p>d. The written response may result in a change of the Experts' initial recommendation to refer subject to TDI Enforcement.</p> <p>e. The Experts may recommend closing the medical quality review with no further action.</p> <p>f. If the written response does not change the initial recommendation, the Expert Report is forwarded to the Medical Advisor for his or her recommended action, which may include:</p> <p>i. close with no action; or</p> <p>ii. proceed with possible enforcement action.</p>	<ul style="list-style-type: none"> <li>• A cover letter to the Expert Report provides the subject with information on how to submit a written response to the Expert Report.</li> <li>• The subject will be allowed 15 calendar days to provide a written response, which the medical advisor will consider when drafting a recommended action.</li> <li>• The subject's written response is sent to the experts who recommended proceed with further action due to noncompliance to reconsider their initial recommendation.</li> <li>• The written response may result in a change of the experts' initial recommendation to proceed with further action due to noncompliance.</li> <li>• The experts may recommend closing the medical quality review with no further action.</li> <li>• If the written response does not change the initial recommendation, the Expert Report is sent to the medical advisor for a recommended action, which may include cases to: <ul style="list-style-type: none"> <li>○ Close with no action.</li> <li>○ Proceed with further action due to noncompliance.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Editorial edits</li> <li>• Clarified actions experts can recommend to the medical advisor.</li> </ul>
<p>Any response received from the subject shall be considered by the Medical Advisor, who may request further input from the Associate Medical Advisor, Arbiter, Expert, TDI-DWC attorney, nurse investigator, and any other TDI-DWC staff member, as the Medical Advisor deems necessary.</p>	<p>The medical advisor must consider any response from the subject. The medical advisor may request further input from the arbiter, expert, DWC attorney, nurse investigator, and any other DWC staff.</p>	<ul style="list-style-type: none"> <li>• Removed associate medical advisor</li> </ul>
<p>An Expert may recommend to expand the scope of a review independent of a decision to close a medical quality review with no further action or to refer the subject to TDI Enforcement (see Section VII). A recommendation to expand the scope of a review must be in writing, and this initiates a separate complaint that starts the process from the beginning as defined in Section III.</p>	<p>An expert may recommend expanding the scope of a review separately from a decision to close a medical quality review with no further action or refer the subject to DWC Enforcement (see Section 7). A recommendation to expand the scope of a review must be in writing. This initiates a separate complaint that starts the process from the beginning (see Section 3).</p>	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>

<b>Section 7: Medical Advisor's Recommendation</b>		
<b>Current text</b>	<b>Draft text</b>	<b>Notes</b>
<b>A. Quality Assurance Committee</b>	<b>A. QAC</b>	• Editorial changes
1. The director of HCQR provides a list of complaints to the chair of the QAC that have been recommended for closure by the nurse investigator.	1. The HCQR director provides to the chair of the QAC a list of complaints that the nurse investigator recommends closing.	• Editorial changes
2. The chair of the QAC creates an agenda and schedules a meeting for the QAC to convene.	2. OMA creates an agenda and schedules a meeting for the QAC to convene.	• Clarified person who creates the agenda and schedules meeting.
3. The nurse investigator provides a brief summary of the complaint to the QAC.	3. The nurse investigator gives a summary of the complaints to the QAC.	• Editorial changes
4. If a majority of the QAC recommends proceeding with an investigation of a complaint, then the nurse investigator will be directed to open a medical quality review (see Section III).	4. If a majority of the QAC recommends investigating a complaint, then the nurse investigator will be directed to open a medical quality review subject to the medical advisor's approval (see Section 3).	• Editorial changes
5. If a majority of the QAC agrees with the nurse investigator's recommendation to close a complaint, then the recommendation is forwarded to the Medical Advisor.	5. If a majority of the QAC agrees with the nurse investigator's recommendation to close a complaint, the nurse investigator sends the recommendation to the medical advisor.	• Editorial changes
6. The final QAC recommendation shall be in writing.	6. The final QAC recommendation must be in writing.	• Editorial changes
7. The Medical Advisor considers the QAC's recommendation(s) in formulating a final recommendation for TDI-DWC disposition action of a complaint.	7. The medical advisor considers the QAC's recommendations for final disposition action of a complaint.	• Editorial changes
8. In formulating the final recommendation, the 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 may include: a. close the complaint without a medical quality review (this may include an education letter); b. proceed through the medical quality review process;	8. In considering the final recommendation, the medical advisor may consult with a DWC attorney, nurse investigator, and any other DWC staff. The final recommendation may include: • Close the complaint without a medical quality review. This may include an education letter. • Proceed through the medical quality review process. • Refer the subject to the appropriate medical licensing board.	• Editorial changes

<b>Section 7: Medical Advisor's Recommendation</b>		
<b>Current text</b>	<b>Draft text</b>	<b>Notes</b>
c. refer subject to the appropriate medical licensing board; or d. expand the scope of investigation.	<ul style="list-style-type: none"> <li>Expand the scope of investigation.</li> </ul>	
9. The final recommendation shall be in writing on the disposition form.	9. The final recommendation must be in writing on the disposition form.	• Editorial changes
10. The OMA issues a Disposition Letter at the conclusion of the OMA's complaint investigation to the: a. complainant; and b. subject if the complaint is being closed.	10. At the end of OMA's complaint investigation, OMA issues a closure letter to the complainant and a disposition letter to the subject. <b>This action closes the complaint.</b>	• Distinguished letter type issued to complainant and subject
11. The issuance of the disposition letter closes the complaint.		• Editorial changes, see 10 above as highlighted
<b>B. MQRP Expert Opinions</b>	<b>B. MQRP Expert Opinions</b>	• No change
1. The Medical Advisor considers the Expert's recommendation(s) and any previous TDI-DWC violations on the subject in formulating a final recommendation for TDI-DWC disposition action of a medical quality review.	1. The medical advisor considers the experts' recommendations and any previous DWC violations on the subject when drafting a final recommendation for final disposition action of a medical quality review.	• Editorial changes
2. In formulating the final recommendation, the 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: a. close the medical quality review with no further action (this may include an education letter); b. refer the case to enforcement; c. refer subject to the appropriate medical licensing board; or d. expand the scope of investigation.	2. When drafting the final recommendation, the medical advisor may consult with a DWC attorney, nurse investigator, and any other DWC staff member. Recommendations may include: <ul style="list-style-type: none"> <li>Close the medical quality review with no further action. This may include an education letter.</li> <li>Refer the case to DWC Enforcement.</li> <li>Refer the subject to the appropriate medical licensing board.</li> <li>Expand the scope of investigation.</li> </ul>	• Editorial changes
3. The final recommendation shall be in writing on the disposition form.	3. The final recommendation must be in writing on the disposition form.	• Editorial changes

<b>Section 7: Medical Advisor's Recommendation</b>		
<b>Current text</b>	<b>Draft text</b>	<b>Notes</b>
4. The OMA issues a disposition letter and final report that include the Medical Advisor's recommendation.	4. OMA issues to the subject a disposition letter and final report, which includes the medical advisor's recommendation. <b>This action closes the medical quality review.</b>	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>
5. The issuance of the disposition letter and final report to the subject closes the medical quality review.		<ul style="list-style-type: none"> <li>• Editorial changes, see 4 above as highlighted</li> </ul>
<b>C. Referrals to TDI Enforcement</b>	<b>C. Referrals to DWC Enforcement</b>	<ul style="list-style-type: none"> <li>• Program name change</li> </ul>
1. When the Medical Advisor recommends the referral to TDI Enforcement, the OMA prepares a referral memorandum that includes: <ul style="list-style-type: none"> <li>a. The Medical Advisor's recommendation for action on the findings of a complaint or a review; and</li> <li>b. An electronic file containing all medical records under affidavit, the Expert report, the subject's response, and any information pertinent to the complaint or review.</li> </ul>	1. When the medical advisor recommends a DWC Enforcement referral, OMA prepares a memo that includes: <ul style="list-style-type: none"> <li>• The medical advisor's recommendation for action on the findings of a complaint or a review.</li> <li>• An electronic file containing all medical records sent with an affidavit, the Expert Report, the subject's response, and any information relevant to the complaint or review.</li> </ul>	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>
2. The Medical Advisor's approved referral memorandum is sent to SMO for entry into the SMO Enforcement referral database and updated in the TDI database for tracking purposes.	2. After the medical advisor approves the referral memo, OMA enters the referral into the TDI database and sends the referral to DWC Enforcement.	<ul style="list-style-type: none"> <li>• Editorial changes</li> <li>• Changed program name that takes action</li> </ul>
3. SMO shall forward the referral memorandum and electronic file to TDI Enforcement.		<ul style="list-style-type: none"> <li>• Deleted text, unnecessary</li> </ul>
4. TDI Enforcement will assign a case number and an attorney to the case.	3. DWC Enforcement assigns a case number and an attorney to the case.	<ul style="list-style-type: none"> <li>• Program name change</li> </ul>
5. If the Medical Advisor or TDI Enforcement determines or suspects that fraud has occurred, then TDI Enforcement submits a referral to TDI Fraud unit for further investigation. A copy of the referral is maintained by TDI Enforcement.	4. If the medical advisor or DWC Enforcement determines or suspects that fraud has occurred, DWC Enforcement submits a referral to DWC's Fraud unit to further investigate. DWC Enforcement maintains a copy of the referral.	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>

<b>Section 7: Medical Advisor’s Recommendation</b>		
<b>Current text</b>	<b>Draft text</b>	<b>Notes</b>
<b>D. Informal Settlement Conference (ISC)</b>	<b>D. Informal Settlement Conference (ISC)</b>	<ul style="list-style-type: none"> <li>• No change</li> </ul>
1. The purpose for an ISC is to offer the subject of a medical quality review an opportunity to participate in discussing the case with representatives of the Medical Advisor. An ISC may be conducted with at least one qualified arbiter. A second arbiter or the Associate Medical Advisor may be assigned to conduct an ISC with the qualified arbiter.	1. An ISC offers the subject of a medical quality review an opportunity to discuss the enforcement case with one or two arbiters as representatives of the medical advisor. An ISC may be conducted virtually.	<ul style="list-style-type: none"> <li>• <b>Removed associate medical advisor</b></li> <li>• <b>Specified ISCs may be conducted virtually</b></li> </ul>
2. Arbiters are selected in accordance with Texas Labor Code §§408.0043, 408.0044, or 408.0045 and 28 TAC §§180.1 and 180.22.	2. 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.	<ul style="list-style-type: none"> <li>• <b>Clarified person that takes action</b></li> </ul>
3. The Arbiters must not have any known conflicts of interest with the subject or individual case files or appearance of impropriety. For each case, Arbiters must attest in writing that no known conflicts of interest exist and that they are not aware of any appearance of impropriety.	3. Arbiters must not have any known conflicts of interest with the subject or individual case files and must not have the appearance of impropriety. For each case, arbiters must attest in writing that no known conflicts of interest exist, and they are not aware of any appearance of impropriety.	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>
4. An attorney from the TDI-DWC Office of General Counsel will preside over the ISC. a. The designated General Counsel representative will provide legal advice to the Medical Advisor representatives. b. The designated General Counsel representative will not engage in ex-parte contact with TDI Enforcement or the subject prior to the ISC.	4. An attorney from DWC Legal Services presides over the ISC. The attorney: <ul style="list-style-type: none"> <li>• Provides legal advice to the medical advisor’s representatives.</li> <li>• Will not engage in ex parte communications with DWC Enforcement or the subject before the ISC.</li> </ul>	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>
5. An attorney from TDI Enforcement will state the findings of the Experts and present sanction recommendations at the ISC.	5. A DWC Enforcement attorney states the experts’ findings and presents sanction recommendations at the ISC.	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>
6. The subject may be represented at the ISC by legal counsel.	6. The subject may have legal counsel represent them at the ISC.	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>
7. The subject has the opportunity at the ISC to show compliance with applicable laws and to present any evidence or information that the subject believes is relevant to the case.	7. At the ISC, the subject has the opportunity to show they complied with applicable laws and present any evidence or information they believe is relevant to the case.	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>

<b>Section 7: Medical Advisor's Recommendation</b>		
<b>Current text</b>	<b>Draft text</b>	<b>Notes</b>
<p>8. At the conclusion of the ISC, the Medical Advisor representatives will recommend appropriate action to the Medical Advisor and the subject of the medical quality review.</p> <p>a. TDI Enforcement will send a consent order with the Medical Advisor's final recommendation to the subject for signature within 15 calendar days from the ISC.</p> <p>b. If the subject agrees with the consent order, then the consent order is signed and returned to TDI Enforcement.</p> <p>c. The signed consent order is submitted to the Commissioner for approval.</p>	<p>8. At the end of the ISC, the medical advisor's representatives will recommend appropriate action to the medical advisor.</p> <ul style="list-style-type: none"> <li>• DWC Enforcement will send a consent order with the medical advisor's final recommendation to the subject to sign within 15 calendar days from the ISC.</li> <li>• If the subject agrees with the consent order, they will sign the consent order and return it to DWC Enforcement.</li> <li>• DWC Enforcement submits the signed consent order to the commissioner for approval.</li> <li>• If the subject does not agree with the consent order, the medical advisor will make the final recommendation for further enforcement proceedings at the State Office of Administrative Hearings.</li> </ul>	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>
<p>9. If the TDI-DWC and subject cannot agree on a resolution to the enforcement case, the Medical Advisor will make the final recommendation for further enforcement proceedings at State Office of Administrative Hearings (SOAH).</p>		<ul style="list-style-type: none"> <li>• Editorial changes based on last highlighted bullet above</li> </ul>
<p>10. The TDI-DWC may close a case with no further action after holding an ISC.</p>	<p>9. DWC may close a case with no further action after holding an ISC.</p>	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>
<p><b>E. Referrals to Appropriate Medical Licensing Boards</b></p>	<p><b>E. Referrals to Appropriate Medical Licensing Boards</b></p>	<ul style="list-style-type: none"> <li>• No changes</li> </ul>
<p>1. The Medical Advisor will comply with Texas Labor Code §§413.0514 and 413.0515.</p>	<p>1. The medical advisor complies with Labor Code Sections 413.0514 and 413.0515.</p>	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>
<p>2. A referral or report to a licensing agency may be in addition to any other action taken by the TDI-DWC on the subject of a review or complaint.</p>	<p>2. The medical advisor may make a referral to a licensing agency in addition to any other action DWC takes on the subject of a review or complaint.</p>	<ul style="list-style-type: none"> <li>• Editorial changes</li> <li>• Deleted language for an action taken by another DWC program</li> </ul>
<p>3. The OMA prepares a referral letter that includes:</p>	<p>3. OMA prepares a referral letter that includes:</p>	<ul style="list-style-type: none"> <li>• Editorial changes</li> </ul>

<b>Section 7: Medical Advisor’s Recommendation</b>		
<b>Current text</b>	<b>Draft text</b>	<b>Notes</b>
a. the Medical Advisor’s reason for referral; and b. an electronic file containing all medical records under affidavit, Expert report, the subject’s response, and any information pertinent to the review.	<ul style="list-style-type: none"> <li>The medical advisor’s reason for the referral.</li> <li>An electronic file containing all medical records sent with an affidavit, Expert Report, the subject’s response, and any information relevant to the review.</li> </ul>	
4. The Medical Advisor signs the referral letter.	4. The medical advisor signs the referral letter.	• Editorial changes
5. The Medical Advisor will provide the referral to the designated General Counsel representative for transmittal to the agency.	5. OMA sends referral to the licensing agency.	• Clarified who takes the action
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.		• Deleted text, unnecessary as action taken by another DWC program
<b>F. Expanding the Scope of Investigation</b>	<b>F. Expanding the Scope of Investigation</b>	• No change
1. The scope of investigations cannot be expanded as part of the same investigation, but can be expanded by submitting a new complaint in accordance with Section III.	1. The scope of investigations cannot be expanded as part of the same investigation. The scope can be expanded by submitting a new complaint (see Section 3).	• Editorial changes
2. The complaint is sent to TDI-DWC to enter into TDI database as a complaint.	2. The complaint is sent to DWC to enter it into TDI’s database.	• Editorial changes
3. The process begins as a separate formal complaint as defined in Section III.	3. The process begins as a separate formal complaint as described in Section 3.	• Editorial changes

<b>Section 7: Medical Advisor's Recommendation</b>		
<b>Current text</b>	<b>Draft text</b>	<b>Notes</b>
4. The complainant is recused from the review of such system participant if the complaint is recommended for medical quality review.	4. If an MQRP member submits a complaint under Section 3, the MQRP member is recused from participating in the medical quality review process for that complaint.	<ul style="list-style-type: none"> <li>• Clarified actor that must be recused</li> </ul>



<b>Section 8: Post-Enforcement Monitoring Process</b>		
<b>Current text</b>	<b>Draft text</b>	<b>Notes</b>
When a consent order requires further monitoring of a subject, OMA will conduct a medical quality review in accordance with the terms of the order. The medical quality review will be conducted in the same manner as the medical quality review process except where inconsistent with the terms of the order. The OMA will coordinate with TDI Enforcement on the results of the monitoring review and provide TDI Enforcement with recommendations on any appropriate action.	When a consent order requires further monitoring of a subject, OMA will conduct a medical quality review under the terms of the order. This review will be conducted in the same way as the medical quality review process, unless otherwise indicated in the consent order. OMA will coordinate with DWC Enforcement on the results of the review and provide DWC Enforcement with recommendations on any appropriate action.	• Editorial changes
1. The Medical Advisor and TDI Enforcement agree on a monitoring plan for a subject of a medical quality review.	1. The medical advisor and DWC Enforcement agree on a monitoring plan for the subject of a medical quality review.	• Editorial changes
2. The subject agrees to a monitoring plan through a consent order.	2. The subject agrees to a monitoring plan through a consent order.	• No changes
3. The Commissioner approves the consent order.	3. The commissioner approves the consent order.	• Editorial changes
4. TDI Enforcement shall provide the OMA with Commissioner's orders that require a system participant to be subject to further monitoring.	4. DWC Enforcement provides OMA with a commissioner's order that requires the subject to be monitored further.	• Editorial changes
5. The OMA coordinates with TDI Enforcement to select the individual case files to be reviewed (see Section V).	5. OMA coordinates with DWC Enforcement to select the individual case files to be reviewed (see Section 5).	• Editorial changes

<b>Section 9: Other Administrative Functions</b>		
<b>Current text</b>	<b>Draft text</b>	<b>Notes</b>
<b>A. Confidentiality</b>	<b>A. Confidentiality</b>	• No changes
Pursuant to Texas Labor Code §402.092 and §413.0513, any information collected, assembled, or maintained by or on behalf of the TDI-DWC regarding a medical quality review constitutes a confidential investigation file. Confidential information includes, but is not limited to, complaints filed with the TDI-DWC, medical records and 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 not be disclosed within the TDI-DWC except as appropriate and consistent with statutory duties of TDI-DWC for oversight and monitoring. All reports and related documents are considered confidential under Texas Labor Code §§402.092 and 413.0513.	Any information collected, assembled, or maintained by or on behalf of DWC 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: <ul style="list-style-type: none"> <li>• Complaints filed with DWC.</li> <li>• Medical records.</li> <li>• Any information that identifies review subjects or injured employees.</li> </ul> Information and documents collected, assembled, or maintained during a medical quality review or investigation of a complaint must not be disclosed within DWC except as appropriate and consistent with DWC’s statutory duties of oversight and monitoring. All reports and related documents are confidential under Labor Code Sections 402.092 and 413.0513.	• Editorial changes
<b>B. Reporting</b>	<b>B. Reporting</b>	• No changes
The OMA staff will be responsible for updating actions, events, and status for each medical quality review on the HCQR database. Standard reports will be made available in this system and can be reproduced as needed to respond to requests on individual medical quality reviews.	OMA is responsible for updating actions, events, and statuses for each medical quality review in the HCQR database. Standard reports are available in this system and can be reproduced as needed to respond to requests on individual medical quality reviews.	• Editorial changes
The OMA will coordinate with TDI Enforcement to monitor the status of each enforcement case that resulted from a medical quality review. The Medical Advisor will provide the Experts and Arbiters with status on the number and types of final dispositions of enforcement cases originating from medical quality reviews.	OMA coordinates with DWC Enforcement to monitor the status of each enforcement case that resulted from a medical quality review. The medical advisor will provide the experts and arbiters with a status on the number and types of final dispositions of enforcement cases that started from a medical quality review.	• Editorial changes
<b>C. Program Monitoring and Compliance</b>	<b>C. Program Monitoring and Compliance</b>	• No changes

<b>Section 9: Other Administrative Functions</b>		
<b>Current text</b>	<b>Informal draft text</b>	<b>Notes</b>
At least on an annual basis, an independent review process in consultation with TDI-DWC Internal Audit program area will be implemented to ensure adherence to the medical quality review process. Any deviations will be documented and reported to the Commissioner. This process will also be used to recommend improvements to the process and increase accountability and transparency.	<p>OMA will conduct quality assurance audits monthly to comply with the medical quality review process. OMA will document and report any deviations in the process to the commissioner.</p> <p>Program monitoring will also be used to identify and recommend medical quality review process improvements and increase accountability and transparency.</p>	<ul style="list-style-type: none"> <li>• Changed steps taken by program</li> </ul>