

No._____

**Official Order
of the
Commissioner of Insurance
of the
State of Texas
Austin, Texas**

Date:

Subject Considered:

The FY 2011 Annual Research Agenda for the Workers' Compensation Research and Evaluation Group at the Texas Department of Insurance

General remarks and official action taken:

On this day came on for consideration by the Commissioner of Insurance (Commissioner), a proposal for the FY 2011 Annual Research Agenda for the Workers' Compensation Research and Evaluation Group (REG) at the Texas Department of Insurance (Department). House Bill 7 (79th Legislature, Regular Session, 2005) included the enactment of new Labor Code §405.0026, which requires the Commissioner to adopt an annual research agenda for the REG. It also requires the REG to publish the proposed research agenda in the *Texas Register* for the Commissioner's review and approval, and requires the Commissioner to accept public comments and to hold a public hearing on the proposed research agenda if requested by interested persons.

In November 2010, the REG distributed a draft of the proposed FY 2011 Research Agenda to legislative offices, the Division of Workers' Compensation, and stakeholder groups for their review and input prior to the proposal of the FY 2011 Research Agenda in the Texas Register and on the agency's website.

The proposed FY 2011 Research Agenda was published for comment on the Department's website and in the January 21, 2011 issue of the *Texas Register*. The Department received formal comments from three stakeholder groups, but no requests for a public hearing.

The Commissioner delegated the acceptance and review of the public comments to Department staff.

Comment:

A commenter noted, in support of the project to analyze pharmaceutical trends in the Texas workers' compensation system, that both the Centers for Disease Control and the federal Drug Enforcement Agency acknowledge that the long-term use of prescription narcotics has become a major national health issue. The commenter noted that long-term prescription drug use may be even more prevalent in the Texas workers' compensation system than in other states' systems, due to the comparatively large number of prescriptions and pills issued per claim in Texas.

Agency Response:

The Department appreciates the supportive comments and acknowledges that in the Workers' Compensation Research Institute (WCRI) pharmaceutical study, *Prescription Benchmarks for Texas* (March 2010), which compared the average utilization of the nine most commonly prescribed drugs in Texas with the 16-state median, the results show that injured workers in Texas with greater than seven days' lost time received more prescriptions and pills in 2007 than injured workers in the other 16 states in the analysis.

Comment:

A commenter noted that the proposed REG study on pharmaceutical trends in Texas could benefit from utilizing key methodologies used in similar studies by the National Council on Compensation Insurance (NCCI) and the Workers' Compensation Research Institute (WCRI). The commenter further suggested that the REG study could correlate those measures with return to work and health outcomes for injured workers in Texas.

Agency Response:

The Department appreciates the comments and suggestions. The Department also notes that the proposed study will focus on Texas data, and will therefore not have the multistate comparisons as reported in the NCCI and WCRI studies. However, the Department does recognize the value of key methodologies used

by the WCRI and the NCCI and will consider the suitability of those methods for the completion of Project #5 during FY 2011.

Comment:

A commenter suggested analyzing pharmaceutical utilization practices for the proposed REG study on pharmaceutical trends in Texas. The suggested analysis includes the following data sets:

- Percentage of claims in which narcotics are prescribed at the first office visit;
- Percentage of claims in which more than one narcotic prescription is filled within first three months;
- Percentage of claims in which narcotic medication continues to be taken more than six months after the date of injury;
- Percentage of nonsurgical claims in which narcotic medication is prescribed at the first office visit, multiple times within three months of injury, or more than six months after date of injury;
- Return-to-work and health outcomes for workers on narcotic medication compared to the median return-to-work outcomes for workers, in general;
- Percentage of claims in which there are multiple drugs prescribed;
- Return-to-work and health outcomes for claims in which multiple drugs are prescribed more than three months after the injury;
- Percentage of claims in which an "N" drug (*Official Disability Guidelines Appendix A*) was prescribed; and

- Number of legacy claims in which workers continue to fill prescriptions for “N” drugs that were written prior to the effective date of the adopted closed formulary, September 1, 2011.

Agency Response:

The Department appreciates the suggestions and agrees that these proposed measures relate to pharmaceutical utilization in the Texas workers' compensation system. The REG will give serious consideration to each of the above suggestions, as well as suggestions made by the Department's Division of Workers' Compensation when developing the research plan for this project. The suggestions addressed by the proposed project will be determined by resources and data availability during FY 2011. It should be noted that, given the need to complete this research project in FY 2011, the last suggestion regarding the number of legacy claims in which workers continue to fill prescriptions for “N” drugs that were written prior to September 1, 2011 will need to be addressed by future research projects.

FY 2011 Research Agenda for the Workers' Compensation Research and Evaluation Group at the Texas Department of Insurance

1. Completion and publication of the fifth edition of Workers' Compensation Health Care Network Report Card (required under Insurance Code §1305.502 and Labor Code §405.0025).

2. Continuing examination of the frequency of employers and workers' compensation claims participating in certified health care delivery networks.
3. An annual update of return-to-work outcomes for injured workers using data from the Texas Workforce Commission, including an examination of the characteristics associated with injured workers and employers who could benefit most from return-to-work outreach and coordination efforts.
4. A study of the trends in the Texas employers' costs to participate in the workers' compensation system, including a cost-benefit analysis for the employers' decision to participate in the workers' compensation system and an evaluation of the cost efficiencies in the benefit delivery and underwriting processes.
5. An analysis of pharmaceutical trends in the Texas workers' compensation system, including prescription patterns, utilization and cost, durations, and post-injury outcomes.

In addition to the above, the REG anticipates conducting additional projects as requested in support of the 82nd Legislature, Regular Session, 2011.

IT IS THEREFORE THE ORDER of the Commissioner of Insurance that the FY 2011 Annual Research Agenda for the Workers' Compensation Research and Evaluation Group at the Texas Department of Insurance, as specified herein, is hereby approved and adopted, effective immediately.

AND IT IS SO ORDERED.

TEXAS DEPARTMENT OF INSURANCE

MIKE GEESLIN
COMMISSIONER OF INSURANCE

RECOMMENDED BY:

DC Campbell
Director
Workers' Compensation Research and Evaluation Group

Attest:

Gene C. Jarmon
General Counsel and Chief Clerk
Texas Department of Insurance

Commissioner's Order No. _____