

CHAPTER 149: MEMORANDUM OF UNDERSTANDING WITH SOAH

28 TAC §§149.1, 149.2, 149.3, 149.4, 149.5, 149.6, 149.7, 149.8, 149.9, and 149.10

1. INTRODUCTION.

The Texas Department of Insurance, Division of Workers' Compensation (Division) adopts the repeal of §149.1, concerning Definitions; §149.2, concerning General Statement; §149.3, concerning Referral of Contested Cases to SOAH; §149.4, concerning Notice of Hearing; §149.5, concerning Hearings; §149.6, concerning Confidentiality of Records; §149.7, concerning Action Upon Withdrawal of Decision; §149.8, concerning Final Orders in Accordance with the Act, §§411.049, 413.031, 413.055, and 415.034; §149.9, concerning Proposals for Decision in Accordance with the Act, §§402.072, 407.046 and 408.0231; and §149.10, concerning Custody of the Hearing Record.

The repeals of §§149.1 - 149.10 are adopted without changes to the proposed text as published in the March 28, 2014, issue of the *Texas Register* (39 TexReg 2251). There was not a request for a public hearing submitted to the Division. The public comment period closed on April 28, 2014, and the Division received no written comments.

In conjunction with this adoption, the Division is adopting amended §§148.1, 148.2, 148.6 - 148.8, 148.10, 148.11, 148.13 - 148.17, and 148.19 - 148.23 and new §§148.3 - 148.5 and 148.24 concerning Hearings Conducted by the State Office of Administrative Hearings, also published in this issue of the *Texas Register*.

2. REASONED JUSTIFICATION.

The repeal of §§149.1 - 149.5 and 149.7 - 149.10 is necessary because the memorandum of understanding with the State Office of Administrative Hearings is no longer required to be adopted by rule under Labor Code §402.073(a). The repeal of §149.6 is necessary to incorporate the requirements into adopted new 28 Texas Administrative Code (TAC) §148.24, concerning Confidentiality of Records.

3. SUMMARY OF COMMENTS AND AGENCY RESPONSES.

None.

4. NAMES OF THOSE COMMENTING FOR AND AGAINST THE SECTIONS.

None.

5. STATUTORY AUTHORITY.

The repeal is adopted under Labor Code §§402.00111, 402.061, and 402.073.

Labor Code §402.00111 provides that the Commissioner of Worker's Compensation shall exercise all executive authority, including rule-making authority, under Title 5, Labor Code.

Labor Code §402.061 provides that the Commissioner of Workers' Compensation shall adopt rules as necessary for the implementation and enforcement of the Texas Workers' Compensation Act.

Labor Code §402.073 requires the Commissioner of Workers' Compensation and the Chief Administrative Law Judge of the State Office of Administrative Hearings to adopt a memorandum of understanding governing administrative procedure for law hearings under the Act conducted by SOAH in the manner provided for a contested case hearing under the APA, but does not require it to be adopted by rule.

6. TEXT.

§149.1. *Definitions.*

§149.2. *General Statement.*

§149.3. *Referral of Contested Case to SOAH.*

§149.4. *Notice of Hearing.*

§149.5. *Hearings.*

§149.6. *Confidentiality of Records.*

§149.7. *Action Upon Withdrawal of Decision.*

§149.8. *Final Orders in Accordance with the Act §§411.049, 413.031, 413.055, and 415.034.*

§149.9 *Proposals for Decision in Accordance with the Act, §§402.072, 407.046, and 408.0231.*

§149.10. *Custody of the Hearing Record.*

10. CERTIFICATION.

This agency hereby certifies that the repeals, as adopted, have been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued at Austin Texas, on _____, 2014.

X

Dirk Johnson
General Counsel
Texas Department of Insurance,
Division of Workers' Compensation

IT IS THEREFORE THE ORDER of the Commissioner of Workers' Compensation that the repeal of §149.1, concerning Definitions; §149.2, concerning General Statement; §149.3, concerning Referral of Contested Case to SOAH; §149.4, concerning Notice of Hearing; §149.5, concerning Hearings; §149.6, concerning Confidentiality of Records; §149.7, concerning Action Upon Withdrawal of Decision; §149.8, concerning Final Orders in Accordance with the Act, §§411.049, 413.031, 413.055, and 415.034; §149.9, concerning Proposals for Decision in Accordance with the Act, §§402.072, 407.046, and 408.0231; and §149.10, concerning Custody of the Hearing Record is adopted.

AND IT IS SO ORDERED.

X

ROD BORDELON
COMMISSIONER OF WORKERS' COMPENSATION

ATTEST:

X

Dirk Johnson
General Counsel

COMMISSIONER ORDER NO