

1 **CHAPTER 180. MONITORING AND ENFORCEMENT**
2 **28 TAC §180.1**

3
4 **§180.1. Definitions.**

5 The following words and terms, when used in this chapter, will [~~shall~~] have the following
6 meanings:

7 (1) Act--The Texas Workers' Compensation Act, Labor Code, Title 5, Subtitle A.

8 (2) Administrative violation--A violation, failure to comply with, or refusal to comply
9 with the Act, or a rule, order or decision of the commissioner. This term is synonymous
10 with the terms "violation" or "violate."

11 (3) Agent--A person ~~with~~ whom a system participant uses [~~utilizes~~] or contracts with
12 for the purpose of providing claims service or fulfilling duties under the Labor Code Title
13 5 and rules. The system participant who uses [~~utilizes~~] or contracts with the agent may
14 also be responsible for the administrative violations of that agent.

15 (4) Appropriate credentials--The certification(s), education, training, and experience
16 to provide the health care that an injured employee is receiving or is requesting to
17 receive. A physician who performs a peer review, utilization review, or independent
18 review of health care services requested, ordered, provided, or to be provided by a
19 physician, must be of the same or similar specialty as the physician who requested,
20 ordered, provided, or will provide the health care service. A dentist must meet the
21 requirements of Texas Labor Code §408.0044. A chiropractor must meet the
22 requirements of Texas Labor Code §408.0045.

23 (5) Commissioner--The commissioner of workers' compensation.

24 (6) Complaint--A written submission to the division alleging a violation of the Act or
25 rules by a system participant.

1 (7) Compliance Audit (also Performance Review)--An official examination of
2 compliance with one or more duties under the Act and rules. A compliance audit does
3 not include monitoring or review activities involving the Medical Advisor or the Medical
4 Quality Review Panel.

5 (8) Conviction or convicted--

6 (A) A system participant is considered to have been convicted when:

7 (i) a judgment of conviction has been entered against the system
8 participant in a federal, state, or local court;

9 (ii) the system participant has been found guilty in a federal, state, or local
10 court;

11 (iii) the system participant has entered a plea of guilty or nolo contendere
12 (no contest) that has been accepted by a federal, state, or local court;

13 (iv) the system participant has entered a first offender or other program
14 and judgment of conviction has been withheld; or

15 (v) the system participant has received probation or community
16 supervision, including deferred adjudication.

17 (B) A conviction is still a conviction until and unless overturned on appeal even if:

18 (i) it is stayed, deferred, or probated;

19 (ii) an appeal is pending; or

20 (iii) the system participant has been discharged from probation or
21 community supervision, including deferred adjudication.

22 (9) Department--Texas Department of Insurance.

23 (10) Division--Texas Department of Insurance, Division of Workers' Compensation.

24 (11) Emergency--As defined in §133.2 of this title (relating to Definitions). This
25 definition does not apply to "emergency" as used in the term "ex parte emergency cease

1 and desist orders.”

2 (12) Frivolous--That which does not have a basis in fact or is not warranted by existing
3 law or a good faith argument for the extension, modification, or reversal of existing law.

4 (13) Frivolous complaint--A complaint that does not have a basis in fact or is not
5 warranted by existing law or a good faith argument for the extension, modification, or
6 reversal of existing law.

7 (14) Immediate post-injury medical care--That health care provided on the date that
8 the injured employee first seeks medical attention for the workers' compensation injury.

9 (15) Notice of Violation (NOV)--A notice issued to a system participant by the division
10 when the division has found that the system participant has committed an administrative
11 violation and the division seeks to impose a sanction in accordance with Labor Code, Title
12 5 or division rules.

13 (16) Peer Review--An administrative review by a health care provider performed at the
14 insurance carrier's request without a physical examination of the injured employee.

15 (17) Remuneration--Any payment or other benefit made directly or indirectly, overtly
16 or covertly, in cash or in kind, including, but not limited to, forgiveness of debt.

17 (18) Rules--The division's rules adopted under Labor Code, Title 5.

18 (19) Sanction--A penalty or other punitive action or remedy imposed by the
19 commissioner on an insurance carrier, representative, injured employee, employer, or
20 health care provider, or any other person regulated by the division under the Act, for an
21 administrative violation.

22 (20) SOAH--The State Office of Administrative Hearings.

23 (21) System Participant--A person or their agent subject to the Act or a rule, order, or
24 decision of the commissioner.