

# Supplemental Information

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**Designated Doctor Qualification Chart**  
**For Use On or After December 6, 2018**  
**(28 Texas Administrative Code (TAC) §127.130)**

**Board Certification is NOT required for the following injuries and diagnoses. Cases are assigned based on license type.**

| <b>Injuries and Diagnoses</b>  | <b>License Type</b> |
|--|---------------------|
| Hand/Upper Extremities   | MD, DO, DC          |
| Lower Extremities (NO feet)  | MD, DO, DC          |
| Spine and Musculoskeletal Structures of the Torso  | MD, DO, DC          |
| Feet (including toes and heel)   | MD, DO, DC, DPM     |
| Teeth and Jaw (including temporomandibular joint)  | MD, DO, DDS         |
| Eyes (including adnexal structures)  | MD, DO, OD          |
| Mental and Behavioral Disorders  | MD, DO              |
| Other Body Areas or Systems<br>(including, but not limited to<br>internal systems; ear, nose, and<br>throat; head and face; skin; cuts to skin involving<br>underlying structures; non-musculoskeletal structures<br>of the torso; hernia; respiratory; endocrine;<br>hematopoietic; and urologic) | MD, DO              |

**Board Certification by ABMS (MDs) or AOABOS (DOs) is required for the following diagnoses:**

| <b>Diagnosis</b>  | <b>ABMS (MDs)</b>  | <b>AOABOS (DOs)</b>   |
|---|--|---|
| Traumatic brain injury<br>(including concussion and post-<br>concussion syndrome)   | Neurological Surgery<br>Neurology<br>PM&R <sup>1</sup><br>Psychiatry                             | Neurological Surgery<br>Neurology<br>PM&R<br>Psychiatry   |
| Spinal cord injuries (including<br>spinal fracture with<br>documented neurological<br>deficit or cauda equine<br>syndrome)                                    | Neurological Surgery<br>Neurology<br>PM&R<br>Orthopedic Surgery<br>Occupational Medicine         | Neurological Surgery<br>Neurology<br>PM&R<br>Orthopedic Surgery<br>Preventive Medicine<br>/Occupational or /Occupational-<br>Environmental Medicine   |
| Severe burns, including<br>chemical burns (deep partial or<br>full thickness burns, aka 2 <sup>nd</sup> , 3 <sup>rd</sup><br>or 4 <sup>th</sup> degree burns) | Dermatology<br>PM&R<br>Plastic Surgery<br>Orthopedic Surgery<br>Surgery<br>Occupational Medicine | Dermatology<br>PM&R<br>Plastic and Reconstructive<br>Surgery<br>Orthopedic Surgery<br>Surgery (general)<br>Preventive Medicine<br>/Occupational or /Occupational-<br>Environmental Medicine |

<sup>1</sup> Physical Medicine and Rehabilitation

| <b>Diagnosis</b>  | <b>ABMS (MDs)</b>  | <b>AOABOS (DOs)</b>  |
|---|--|--|
| Complex Regional Pain Syndrome (Reflex Sympathetic Dystrophy)   | Neurological Surgery<br>Neurology<br>Orthopedic Surgery<br>Plastic Surgery<br>Anesthesiology (pain <sup>2</sup> )<br>Occupational Medicine<br>PM&R | Neurological Surgery<br>Neurology<br>Orthopedic Surgery<br>Plastic Surgery<br>Anesthesiology (pain)<br>Preventive Medicine<br>/Occupational or /Occupational-Environmental Medicine<br>PM&R                              |
| Multiple fractures, joint dislocation and pelvis or hip fracture  | Emergency Medicine<br>Orthopedic Surgery<br>Plastic Surgery<br>PM&R<br>Occupational Medicine   | Emergency Medicine<br>Orthopedic Surgery<br>Plastic Surgery<br>PM&R<br>Preventive Medicine<br>/Occupational or /Occupational-Environmental Medicine  |
| Complicated infectious diseases requiring hospitalization or prolonged intravenous antibiotics, including blood borne pathogens | Internal Medicine<br>Occupational Medicine   | Internal Medicine<br>Preventive Medicine<br>/Occupational or /Occupational-Environmental Medicine  |
| Chemical exposure, excluding chemical burns   | Internal Medicine<br>Emergency Medicine<br>Occupational Medicine   | Internal Medicine<br>Emergency Medicine<br>Preventive Medicine<br>/Occupational or /Occupational-Environmental Medicine  |
| Heart or cardiovascular conditions  | Internal Medicine<br>Emergency Medicine<br>Occupational Medicine<br>Thoracic and Cardiac Surgery<br>Family Medicine                                | Internal Medicine<br>Emergency Medicine<br>Preventive Medicine<br>/Occupational or /Occupational-Environmental Medicine<br>Thoracic and cardiovascular surgery<br>Family Practice and Osteopathic Manipulative Treatment |

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<sup>2</sup> Subspecialty or certificate of a designated doctor's qualifications in pain medicine/management

## **Designated Doctor Disqualifying Associations (28 Texas Administrative Code (TAC) §127.140)**

A disqualifying association is any association that may reasonably be perceived as having potential to influence the conduct or decision of a designated doctor. Disqualifying associations may include but are not limited to:

- Receipt of income, compensation or payment of any kind not related to health care provided by the designated doctor;
- Shared investment or ownership interest;
- Contracts/agreements that provide incentives (referral fees) or payments based on volume or value, and waiver of beneficiary coinsurance and deductible amounts;
- Contracts/agreements for space or equipment rentals, personnel services, management contracts, referral services, billing services agents, document management or storage services or warranties, or any other services related to the management or operation of the doctor's practice;
- Personal or family relationships;
- A contract with the same workers' compensation health care network (Texas Insurance Code Chapter 1305) or a contract with the same political subdivision health plan (Texas Labor Code (TLC) Chapter 504) that is responsible for providing medical benefits to the injured employee;
- Any other financial arrangement that would require disclosure under the TLC or Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) rules, the Insurance Code or TDI rules; or
- Any other association with the injured employee, employer or insurance carrier that may give the appearance of preventing the designated doctor from rendering an unbiased opinion.

Effective January 1, 2013, a designated doctor *shall* have a disqualifying association relevant to an examination or claim if an *agent* of the designated doctor has a disqualifying association as defined by this rule. For purposes of all applicable laws and TDI-DWC rules, any person with whom a designated doctor contracts or permits to perform designated doctor administrative duties on behalf of the designated doctor qualifies as the designated doctor's agent as defined by 28 TAC §180.1.

A designated doctor ***shall not*** perform an exam if that designated doctor has a disqualifying association. If a designated doctor learns of a disqualifying association, the designated doctor must notify the TDI-DWC within two (2) working days of learning of the disqualifying association. Performing an examination with a disqualifying association is an administrative violation.

Insurance Carriers shall notify the TDI-DWC of any disqualifying associations between the designated doctor and injured employee because of network or political subdivision affiliations within five (5) days of receiving the TDI-DWC order for the designated doctor examination.

If TDI-DWC determines that a designated doctor with a disqualifying association performed an examination, all reports by that designated doctor as a result of that exam shall be stripped of their presumptive weight.

Parties can dispute selection of a designated doctor for a particular exam or the presumptive weight of a designated doctor report based on a disqualifying association but must do so through TDI-DWC dispute resolution processes.

## **Designated Doctor Medical Examination Requirements (28 Texas Administrative Code (TAC) §127.10 and §127.200)**

Rules pertaining to the medical examination conducted by a designated doctor became effective September 1, 2012. Designated doctors are now required to perform designated doctor examinations in a facility currently used and properly equipped for medical examinations or other similar health care services that ensure

- Safety;
- Privacy; and
- Accessibility

For:

- Injured employees;
- Injured employees medical records; and
- Other records containing confidential claim information

The designated doctor is required to be **physically present** in the same room as the injured employee for the designated doctor examination or any other health care service provided to the injured employee except for referrals to another health care provider under 28 Texas Administrative Code §127.10(c). This requirement primarily applies when the designated doctor uses an ancillary health care provider to perform range of motion, strength, or sensory testing in relation to an impairment rating.

When appropriate to the issue(s) addressed by the requested medical examination, the designated doctor shall apply the following required publications:

- The American Medical Association *Guides to the Evaluation of Permanent Impairment, Fourth Edition*
- Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC)-adopted return-to-work guidelines, *MDGuidelines™*.

The designated doctor shall also consider treatment guidelines that have been adopted by the TDI-DWC, *Official Disability Guidelines*, and other evidence-based medicine.

When conducting the medical examination of the injured employee, the designated doctor is required to maintain a professional and courteous demeanor, including explaining the purpose of a designated doctor examination to the injured employee at the beginning of the examination. All reports and documents produced by the designated doctor are required to be written using appropriate, non-inflammatory language.

If a designated doctor's continued participation on a claim would require the designated doctor to exceed the scope of practice as authorized by the doctor's license, the designated doctor is required to notify TDI-DWC so another designated doctor can be assigned to the claim.

Designated doctors shall NOT perform the examinations or services on a claim to which the doctor has already been assigned as a designated doctor:

- Required medical examinations;
- Utilization reviews; and
- Peer reviews

A designated doctor is required to perform any additional testing or make necessary consultation referrals (when not qualified) to resolve the issue(s) in question. Additional consultation and testing referrals by a designated doctor are not subject to preauthorization and cannot be denied retrospectively based on medical necessity, extent or compensability. When a testing or consultation referral is ordered, the designated doctor has 15 working days to complete and submit the designated doctor report. If the testing or consultation referral cannot be completed within the 15 working day time period, the designated doctor can request approval from TDI-DWC for additional time to complete the report. If an injured employee does not attend the additional testing or consultation referral, the designated doctor shall make notes in the report and complete the report based on medical examination of the injured employee, records and other available information available to the designated doctor.



## **Designated Doctor Medical Records Requirements (28 Texas Administrative Code (TAC) §127.10(a) and §127.200)**

Effective September 1, 2012, the treating doctor and insurance carrier must provide all required medical records (including analyses) to the designated doctor and follow up to ensure that all required records are received by the designated doctor no later than 3 working days prior to the scheduled exam. The designated doctor can receive injured employee's confidential medical records and other records to assist in dispute resolution without a signed release from the injured employee.

If the designated doctor does not have the records 3 days prior to the scheduled exam, the designated doctor SHALL:

- Report the violation to the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) local field office.
- **NOT conduct the examination until all records are received.**

TDI-DWC will take necessary actions to ensure the designated doctor receives the medical records.

The designated doctor is required to review records received from the treating doctor, insurance carrier, TDI-DWC and any medical records provided by the injured employee **BEFORE** examining an injured employee.

The designated doctor is responsible for the retention of medical records related to the medical examination. The retention requirement for medical records related to a designated doctor examination is a minimum of 5 years or longer if required by the designated doctors licensing board. The medical records can be destroyed only after the designated doctor determines that the information is no longer needed **AND** the record retention period has expired.

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## **Designated Doctor Minimum Narrative Report Requirements (28 Texas Administrative Code (TAC) §127.220)**

Designated doctor narrative reports must, at a minimum:

- Identify the questions the Texas Department of Insurance, Division of Workers' Compensation ordered the designated doctor to address *and*:
  - Provide a clearly defined answer to ordered question(s);
  - Not answer question(s) not ordered to be addressed; and
  - Sufficiently explain how the designated doctor determined the answer(s) within a reasonable degree of medical probability.
- Include general information regarding the identity of:
  - Designated doctor;
  - Injured employee;
  - Employer;
  - Treating doctor; and
  - Insurance carrier.
- Summarize additional testing conducted or referrals made including:
  - Identity of referral health care provider;
  - Types of tests conducted or referrals made and dates the tests or referral examination(s) occurred; and
  - Explain why testing/referral was necessary to resolve a question at issue in the examination.
- State the date of the examination and address where the examination took place.
- List specific medical records or other documents the designated doctor reviewed including dates of those documents and which, if any, were provided by the injured employee.
- Include a narrative description of and documentation of the time the designated doctor began and completed the following:
  - Taking the medical history;
  - Physically examining the injured employee; and
  - Engaging in medical decision making.
- Be signed by the designated doctor who performed the exam.
- Include a statement of no known disqualifying association.
- Include a certification of date the report was sent to all required recipients and in the required manner; and
- Indicate the report was reviewed and approved in final form by the designated doctor.

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*(The form below is suggested for use, but not required)*

Date:   Date

To:       Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC)  
Fax number: 512-804-4121

From:   Designated Doctor Name  
          Designated Doctor Agent Name (if any)  
          Phone Number  
          Fax Number

Re:       Injured Employee Name  
          DWC Claim #  
          Date of Injury

**Designated Doctor's Notice of Exam Change or Request for Approval**

- ☐ 1. A scheduling conflict exists and the exam has been rescheduled to \_\_\_\_\_.  
Provide description of scheduling conflict below. 28 Texas Administrative Code (TAC) §127.5(i)(j)(k)
- ☐ 2. A scheduling conflict exists and the exam cannot be rescheduled within 21 days of the originally scheduled exam. Provide description of scheduling conflict below. 28 TAC §127.5(i)(j)(k)
- ☐ 3. The injured employee failed to attend a rescheduled exam. 28 TAC §127.5(i)(j)(k)
- ☐ 4. Designated doctor is not available to perform the exam because of a disqualifying association. Provide nature of disqualifying association below. 28 TAC §127.140
- ☐ 5. The insurance carrier/treating doctor failed to provide the required medical records at least 3 working days prior to the exam. Notice to designated doctor: The exam must be rescheduled if the records are not received within 1 working day of the exam. 28 TAC §127.10(a)(3)
- ☐ 6. **Request for Approval** to change the exam address indicated on the order. Provide the proposed exam address, date and time of exam (if changed), and good cause for the change below. 28 TAC §127.5(c)
- ☐ 7. **Request for Approval** of additional time to complete testing or referral exam and designated doctor's report. Provide either (a) the name and specialty of referral doctor or (b) type of testing ordered; and the date of the exam or testing. 28 TAC §127.10(c)
- ☐ 8. Other. Provide sufficient explanation/description below.

**Provide a full and complete explanation of the notification or request made to the TDI-DWC.**

Please note the designated doctor cannot take action on a request made until a determination is made by the TDI-DWC.

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**Fax to (512) 804-4121**

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## Designated Doctor Administrative Violations

### **(28 Texas Administrative Code (TAC) §127.10(a) and §127.210)**

The Commissioner may revoke or suspend a designated doctor's certification as a designated doctor or otherwise sanction a designated doctor for noncompliance with 28 Texas Administrative Code (TAC) §127 for any of the following:

- 4 refusals within a 90-day period to accept or perform an offered or ordered appointment for which the designated doctor is qualified;
- 4 consecutive refusals to perform, within the required timeframes, a Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) ordered appointment for which the designated doctor is qualified;
- Any refusal to accept or perform a TDI-DWC offered or ordered appointment that relates to a claim on which the doctor previously performed an examination;
- Misrepresentation or omission of pertinent facts in medical evaluation and narrative reports;
- Submitting unnecessary referrals to other health care providers;
- Ordering or performing unnecessary testing of an injured employee as part of the designated doctor examination;
- Submission of inaccurate or inappropriate reports due to insufficient medical history or physical examination and analysis of medical records;
- Submission of designated doctor reports that fail to include all elements of 28 TAC §§127.10, 127.220 and other TDI-DWC rules;
- Failure to timely respond to a request for clarification from TDI-DWC regarding the examination or any other information requested by TDI-DWC;
- Failure to successfully complete the training and testing requirements of 28 TAC §127.110;
- Self-referring, including referring to a health care provider with whom the designated doctor has a disqualifying association, for treatment or becoming the treating doctor for the medical condition evaluated by the designated doctor;
- Behaving in an assaultive or abusive manner toward the injured employee; TDI-DWC or other system participants;
- Failing to maintain the confidentiality of patient medical and claim file information;
- Performing a designated doctor examination which the designated doctor was not ordered by TDI-DWC to perform; and
- Other violations of applicable statutes or rules while serving as a designated doctor.

Designated doctors are liable for all administrative violations committed by their agents on their behalf. The process for notification and appeal of a sanction is governed by 28 TAC §180.27, and any suspension, revocation or other sanctions will remain in effect pending appeal.

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# DWC Contact Information

## **Designated Doctor Operations – Outreach Planning and Coordination:**

- Questions concerning registration for certification courses and optional trainings

Telephone: (512) 804-4685

Email: [opc@tdi.texas.gov](mailto:opc@tdi.texas.gov)

## **Designated Doctor Education:**

- Designated doctor certification course and optional training content
- Designated doctor testing
- Designated doctor education outreach

Telephone: (512) 804-4765

Fax: (512) 804-4769

Email: [DesDoc.Education@tdi.texas.gov](mailto:DesDoc.Education@tdi.texas.gov)

## **Designated Doctor Certification and Recertification:**

- Designated doctor application/reapplication process
- Designated doctor deferral requests
- Designated doctor voluntary surrender requests
- Verify designated doctor certification dates and MMI/IR authorization dates

Telephone: (512) 804-4766

Fax: (512) 804-4207

Email: [OMA@tdi.texas.gov](mailto:OMA@tdi.texas.gov) (questions only, not forms)

## **Designated Doctor Examination Coordination:**

- Scheduling & rescheduling of designated doctor examinations (fax only)
- Request for redesignation (fax only)
- Request to change an exam location (fax only)
- Injured Employee no show notification (fax only)
- Request for additional time to complete a DD report (fax or email)

Telephone: (800) 252-7031

Fax: (512) 804-4121

Email: [DDScheduler@tdi.texas.gov](mailto:DDScheduler@tdi.texas.gov)

Email: [DDRecords@tdi.texas.gov](mailto:DDRecords@tdi.texas.gov)

## **TXCOMP Assistance**

- Assistance with TxComp User ID and/or password

Telephone: (800) 252-7031 option 5

Email: [txcomphelp@tdi.texas.gov](mailto:txcomphelp@tdi.texas.gov)

**CompConnection for Health Care Providers:**

- Billing and reimbursement
- Medical fee dispute resolution process

Telephone: (800) 252-7031 ext. 3  
Telephone: (512) 804-4000 ext. 3 (Austin area)  
Email: [MedBen@tdi.texas.gov](mailto:MedBen@tdi.texas.gov)

**Claims and Customer Services:**

- Claims administration assistance
- Medical records not received
- Requests for extension of time to submit reports

Telephone: (800) 252-7031  
Email: [ddrecords@tdi.texas.gov](mailto:ddrecords@tdi.texas.gov)

**Hearings**

- Letters of Clarification

Telephone: (512) 804-4010  
Fax: (512) 804-4005 (Requests and Responses)

- Presiding Officer Directives

Telephone: (512) 804-4005 (Questions only)  
Fax: (512) 804-4011

**Medical fee dispute resolution**

Telephone: (512) 804-4812  
E-mail: [mdrinquiry@tdi.texas.gov](mailto:mdrinquiry@tdi.texas.gov)

**Office of Injured Employee Counsel:**

Telephone: (866) 393-6432  
Email: [OIECInbox@oiec.state.gov](mailto:OIECInbox@oiec.state.gov)

**Workers' Compensation Health Care Networks**

E-mail: [WCNET@tdi.texas.gov](mailto:WCNET@tdi.texas.gov)

**Independent Review Organizations (IROs)**

E-mail: [URAGrp@tdi.texas.gov](mailto:URAGrp@tdi.texas.gov)

**Insurance coverage or verification**

E-mail: [workerscompcustomerservices@tdi.texas.gov](mailto:workerscompcustomerservices@tdi.texas.gov)

**Texas Department of Insurance – Complaints**

Visit <http://www.tdi.texas.gov/consumer/complfrm.html> for complaint submission options

## Appeals Panel Decisions (APDs) for Designated Doctors

As of July 12, 2018

| APD#  | Subject                           | Relevancy   |
|---|-----------------------------------|---|
| <a href="#">130191</a><br><a href="#">150224</a>                            | Maximum Medical Improvement (MMI) | The Medical Disability Guidelines (MDG) cannot be used alone, without considering the injured employee's (IE) physical examination and medical records, in determining an IE's date of MMI.   |
| <a href="#">040313-s</a><br><a href="#">040998-s</a>                        | MMI/Impairment Rating (IR)        | An IR assignment shall be based on the injured employee's condition as of the MMI date, considering the medical records and the certifying examination. 28 Texas Administrative Code (TAC) §130.1(c)(3). That rule has been interpreted to mean that the IR shall be based on the condition as of the MMI date and is not to be based on subsequent changes, including surgery.   |
| <a href="#">030091-s</a><br><a href="#">142524</a>                          | Radiculopathy                     | The AMA Guides indicate that to find radiculopathy, doctors must look to see if there is a loss of relevant reflexes or unilateral atrophy with greater than a 2 centimeter decrease in circumference compared with the unaffected side [see APD 072220-s, below, for clarification that, in order to have significant signs of radiculopathy based on atrophy, the measured unilateral atrophy is 2 centimeters or more, not greater than 2 centimeters] |
| <a href="#">040924</a> , <a href="#">091039</a> ,<br><a href="#">111710</a> | Radiculopathy                     | Loss of relevant reflexes is a decrease or an absence. The AMA Guides do not require a total loss of reflexes to qualify for an IR of radiculopathy.  |
| <a href="#">072220-s</a>  | Radiculopathy                     | The AP clarified that to receive a rating for radiculopathy the IE must have significant signs of radiculopathy, such as loss of relevant reflex(es), or measured unilateral atrophy of 2 centimeters or more above or below the knee, compared to measurements on the contralateral side at the same location, and the atrophy or loss of relevant reflexes must be spine-injury-related.  |
| <a href="#">051456</a><br><a href="#">080375</a>                            | Radiculopathy                     | The significant clinical signs of radiculopathy may be verified by electrodiagnostic testing; however, electrodiagnostic testing indicating radiculopathy is insufficient by itself to assign impairment for radiculopathy in the absence of significant signs of radiculopathy (loss of relevant reflexes or unilateral atrophy).  |
| <a href="#">022509-s</a>  | Spine                             | In the event the evaluating doctor must choose between two or more DRE categories that may apply, the ROM Model may be used in conjunction with the DRE Model as a "differentiator" to make that choice.  |
| <a href="#">032336-s</a>  | Spine                             | The evaluating doctor may not merely choose an IR that is between the IRs provided for in the DRE categories.   |
| <a href="#">030288-s</a>  | Spine                             | If none of the categories of the DRE Model are applicable the evaluating doctor may use the ROM Model for assigning the IR. The doctor's report must have a specific explanation why the DRE Model could not be used. A comment that the evaluator merely prefers "to use the Model that he or she feels is most appropriate" is insufficient justification for using the ROM rather than the DRE Model."   |

| <b>APD#</b>  | <b>Subject</b>   | <b>Relevancy</b>  |
|--|--|---|
| <a href="#"><u>051306-s</u></a>                                  | Spine Cervical, Thoracic Lumbar                                      | In using the DRE Model, the doctor should select the region primarily involved and rate that region. If the injury is primarily to the cervical spine the rating would be for cervicothoracic spine impairment; if the injury was primarily to the thoracic spine the rating would be for thoracolumbar spine impairment; and if the injury is primarily to the lumbar spine the rating would be for lumbosacral spine impairment. If more than one spine region is impaired, the doctor determines the impairment of the other regions and combines the regional impairments using the CVC to express the total spine impairment.  |
| <a href="#"><u>080966-s</u></a>                                  | Spine Guarding   | Table 71, AMA Guides, p. 109, lists DRE Impairment Category Differentiators. The Guarding portion of Table 71 states “muscle guarding or spasm or nonuniform loss of ROM.” By placing the word “or” between guarding, spasm and nonuniform loss of ROM, those terms are in the disjunctive. The AP held that guarding can be used as a differentiator if guarding or spasm or nonuniform loss of ROM is present or has been documented by a physician, not that all three items of guarding, spasm and non-uniform loss of ROM must be present or documented by a physician before it can be used as a differentiator.  |
| <a href="#"><u>022504-s</u></a>                                  | Upper Extremity (wrist radial/ulnar deviation) Range of Motion (ROM) | Where a conflict exists between the general directions and the figures in the AMA Guides, the general directions control. The general directions for rating radial and ulnar deviation provide that the measurements be rounded to the nearest 10 degrees. Because the general directions control, the measurements for radial and ulnar deviation should be rounded to the nearest 10 degrees, not 5 degrees as provided in Figure 29.   |
| <a href="#"><u>151158-s</u></a><br><a href="#"><u>160851</u></a> | Resection Arthroplasty of the Distal Clavicle                        | The language contained on page 3/58 is ambiguous, whereas the language on page 3/62 provides more clear instruction regarding the rating of arthroplasty procedures. Therefore, a distal clavicle resection arthroplasty that was received as treatment for the compensable injury results in 10% upper extremity impairment under Table 27 on page 3/37, which is then combined with ROM impairment, if any, as provided by the AMA Guides. The AP has previously held that impairment for a distal clavicle resection that was received as treatment for the compensable injury results in 10% UE impairment under Table 27 of the AMA Guides, which is then combined with ROM impairment, if any, as provided by the AMA Guides. |
| <a href="#"><u>061569-s</u></a>                                  | Upper Extremity  | Upper extremity impairments for a limb are combined using the Combined Value Chart (CVC) to determine the total upper extremity impairment and then the total upper extremity impairment is converted to a whole person impairment.   |
| <a href="#"><u>150931</u></a>                                    | Upper Extremity- Both Arms   | If both limbs involved, calculate the whole person impairment for each separately and combine the percent using the CVC.  |

| <b>APD#</b>  | <b>Subject</b>                           | <b>Relevancy</b>  |
|--|--|---|
| <a href="#">120897</a><br><a href="#">132413</a>   | Upper Extremity Contralateral Comparison | There is no provision in the AMA Guides which require or prohibit using the contralateral side as a comparison and it is in the discretion of the certifying doctor to do so or not.  |
| <a href="#">052243-s</a>                           | Upper Extremity RSD/CRPS                 | Impairment secondary to causalgia and RSD is derived as set forth on page 3/56 of the AMA Guides "Causalgia and RSD", not from Table 17 "Impairment of Upper Extremity Due to Peripheral Vascular Disease" on page 57 of the AMA Guides.  |
| <a href="#">110741</a><br><a href="#">132734</a>   | Lower Extremity ROM                      | There are no specific directions in the AMA Guides which prohibit addressing loss of motion in the different directions of motions or vectors of motion in assessing impairment for a single joint. Section 3.2e does not require that a certifying doctor must only use the most severe impairment for an individual direction of motion within the same table.  |
| <a href="#">101481</a>                             | Lower Extremity Peripheral Nerve Loss    | The AMA Guides on page 3/88 state that all estimates listed in Table 68 are for complete motor or sensory loss of the named peripheral nerves and that partial motor loss should be estimated on the basis of strength testing.   |
| <a href="#">111720</a>                             | Lower Extremity Amputation               | A lower extremity impairment based on gait derangement for an extremity cannot exceed the impairment estimate for amputation of the extremity, which would be 40% whole person impairment.  |
| <a href="#">072253-s</a><br><a href="#">130849</a> | Hernia                                   | To assess an impairment for a hernia-related injury under Table 7 "Classes of Hernia-related Impairment", page 10/247 of the AMA Guides, there must be a palpable defect in the supporting structures of the abdominal wall.  |
| <a href="#">071599-s</a>                           | Skin/Peripheral Nerve                    | Impairment for a skin disorder under Chapter 13 of the AMA Guides may be combined with peripheral nerve impairment under Chapter 4 using the CVC to determine total impairment.   |
| <a href="#">031168</a>                             | Skin                                     | Impairment for a skin disorder under Chapter 13 may be combined with impairment for loss of ROM under Chapter 3 using the CVC to determine total impairment.  |
| <a href="#">060949</a>                             | Vision Loss                              | The AP stated that the AMA Guides require that all five steps be followed even if only one eye is injured. Subsection 8.4 page 217 lists the steps in determining impairment of the visual system and whole person. Step 1 is to determine the percentage loss of central vision for each eye combining the losses of near and distance vision. Step 2 is to determine loss of visual field for each eye. Step 3 is loss of ocular motility. Step 4, after "determining the level of impairment of each eye, use Table 7 (page 219) to determine visual system impairment." Step 5 is to convert the visual system impairment to a whole person IR. |
| <a href="#">042912-s</a>                           | Syncope                                  | Syncope is rated for impairment under Table 22 entitled "Impairments Related to Syncope or Transient Loss of Awareness" on page 4/152 of the AMA Guides, and not under Table 5 on page 4/143.   |
| <a href="#">051277</a><br><a href="#">961699</a>   | Mental and Behavioral Disorders          | Although Chapter 14 of the AMA Guides does not provide impairment percentages in the Table entitled "Classifications of Impairments Due to Mental and Behavioral Disorders", the certifying doctor may consider Chapter 4 relating to the Nervous System to calculate the impairment percentage for mental and behavioral disorders from Chapter 14. Chapter 4  |

| APD#   | Subject   | Relevancy   |
|--|---|---|
|  |   | at page 142 of the AMA Guides, the first column, provides that the criteria for evaluating the emotional and behavioral impairments in Table 3 of Chapter 4 relate to the criteria for mental and behavioral impairments in Chapter 14.   |
| <a href="#">030622</a><br><a href="#">961699</a> | Mental and Behavioral Disorders                                   | An IR for a mental or behavioral disorder must be supported by objective clinical or laboratory findings. The mental or behavioral disorder must be permanent to be rated for impairment.   |
| <a href="#">002967</a>                           | Aggravation   | A claimed injury that causes additional damage or harm to the physical structure of the body. May include any naturally resulting disease or infection. Can include an enhancement, acceleration or worsening or an underlying condition.   |
| <a href="#">120311-s</a>                         | Extent of Injury  | Differential diagnosis is not required to establish expert medical causation evidence.  |
| <a href="#">141797</a>                           | Extent of Injury  | Designated doctors must address all disputed injuries listed by the requestor when assessing extent of injury.  |
| <a href="#">090692-s</a>                         | IR Adjustments  | Adjustments to IR for effects of treatment or lack of treatment.  |
| <a href="#">121131-s</a>                         | Lifetime Income Benefits (LIBs)- Imbecility or Incurable Insanity | Discusses the concept beyond Texas Labor Code § 408.161(a)(6) and strictly legal definitions and looks to case law. The AP cited case law that contained instructive language on the definition of incurable insanity or imbecility. The AP noted that case law stated a worker's mental illness is "insanity" if he or she suffers severe social dysfunction and a worker's intellectual impairment is "imbecility" if he or she suffers severe cognitive dysfunction, and that social or cognitive dysfunction is "severe" if it affects the quality of the worker's personal, non-vocational life in significant activity comparably to the loss of two members or sight of both eyes, and is incurable if it is unlikely that normal functioning can be restored. |
| <a href="#">070063-s</a>                         | LIBs  | The AP cited prior APDs and case law rejecting the argument that because the IE had a spinal injury, the only way the IE could prove entitlement to LIBs was to show permanent and complete paralysis of his legs under Section 408.161(a)(5). The AP cited to case law that had approved entitlement to LIBs based on the total and permanent loss of use of the legs and/or feet, as total loss of use is defined in <i>Travelers Insurance Co. v. Seabolt</i> , 361 S.W.2d 204 (Tex. 1962), where the injury was to the spine. Also, the AP cited case law that had rejected the argument that the standards applied to loss of use under the prior law should not apply to cases decided under the 1989 Act.  |
| <a href="#">043168</a><br><a href="#">110267</a> | Compensable Injury  | The doctor evaluating permanent impairment must consider the entire compensable injury.   |

DISCLAIMER: This list of APD decisions is provided as a quick reference guide, which does not constitute a substitute for review of the relevant APD in its entirety.

## Appeals Panel Decision Manual - Acronyms

| Acronym | Phrase  |
|---------|---|
| Act     | Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001        |
| AIDS    | Acquired Immune Deficiency Syndrome                                   |
| AMA     | American Medical Association  |
| AP      | Appeals Panel   |
| APA     | Administrative Procedure Act  |
| APD     | AP Decision   |
| AWW     | Average Weekly Wage   |
| BRC     | Benefit Review Conference   |
| BRO     | Benefit Review Officer  |
| BCTS    | Bilateral Carpal Tunnel Syndrome                                      |
| BFOE    | Bona Fide Offer of Employment   |
| CAD     | Coronary Artery Disease   |
| CE      | Claim Employer  |
| CCH     | Contested Case Hearing  |
| CPR     | Cardio Pulmonary Resuscitation  |
| CRPS    | Complex Regional Pain Syndrome, was RSD, Reflex Sympathetic Dystrophy |
| CTS     | Carpal Tunnel Syndrome  |

|                |  |
|----------------|--|
| CVC            | Combined Values Chart  |
| D&O            | Decision and Order (Hearing Officer's)   |
| DARS           | Department of Assistive and Rehabilitative Services formerly (TRC)   |
| DB             | Death Benefits   |
| DD             | Designated Doctor  |
| Department     | Texas Department of Insurance (TDI)  |
| Division       | Division of Workers' Compensation (DWC)  |
| DOI            | Date of Injury   |
| DRE            | Diagnosed-Related Estimates  |
| DSM III R 1    | Diagnostic and Statistical Manual of Mental Disorders (3rd edition ? revised)  |
| DW             | Deceased Worker  |
| DWC-52         | Application for Supplemental Income Benefits   |
| ER             | Emergency Room   |
| FCE            | Functional Capacity Evaluation   |
| FMLA           | Federal Medical Leave Act  |
| FO             | Field Office   |
| Guides 3rd Ed. | Guides to the Evaluation of Permanent Impairment, third edition, second printing, dated February 1989, published by the American Medical Association |
| Guides 4th Ed. | AMA Guides (1st, 2nd, 3rd, or 4th printing, including corrections and changes as issued by the AMA prior to May 16, 2000), fourth edition            |
| HCN            | Health Care Network  |



|       |  |
|-------|--|
| HD    | Hearings Division                              |
| HNP   | Herniated Nucleus Pulposus                     |
| HO    | Hearing Officer                                |
| IC    | Insurance Carrier                              |
| IIBs  | Impairment Income Benefits                     |
| IPE   | Individualized Plan for Employment             |
| IR    | Impairment Rating                              |
| IRO   | Independent Review Organization                |
| IW    | Injured Worker                                 |
| LIBs  | Lifetime Income Benefits                       |
| LHWCA | Longshore and Harbor Workers' Compensation Act |
| LMSI  | Loss of Motion Segment Integrity               |
| LOC   | Letter of Clarification                        |
| MDA   | Medical Disability Advisor                     |
| MDR   | Medical Dispute Resolution                     |
| MMI   | Maximum Medical Improvement                    |
| MRD   | Medical Review Division                        |
| MVA   | Motor Vehicle Accident                         |
| OAo   | Official Action Officer                        |

|      |   |
|------|---|
| ODG  | Official Disability Guidelines  |
| PIP  | Personal Injury Protection  |
| PT   | Physical Therapist  |
| PTSD | Post Traumatic Stress Disorder  |
| ROM  | Range of Motion   |
| ROMM | Range of Motion Model   |
| RME  | Required Medical Examination  |
| RSD  | Reflex Sympathetic Dystrophy-now CRPS-Complex Regional Pain Syndrome                  |
| SS   | Spinal Surgery  |
| SIBs | Supplemental Income Benefits  |
| SIF  | Subsequent Injury Fund  |
| TD   | Treating Doctor   |
| TIBs | Temporary Income Benefits   |
| TRC  | Texas Rehabilitation Commission (Department of Assistive and Rehabilitative Services) |
| TWC  | Texas Workforce Commission  |
| TWCC | Texas Workers' Compensation Commission  |
| URA  | Utilization Review Agent  |
| VRP  | Vocational Rehabilitation Program   |

# Designated Doctor Certification

## DD Certification (28 TAC §127.100)

In order to serve as a DD, a doctor must

- Submit certificates of successful completion of DWC required training and testing on the duties of a DD under the Act of Rules, including demonstrated proficient knowledge of currently adopted edition of the *AMA Guides to the Evaluation of Permanent Impairment* and DWC adopted treatment and return-to-work guidelines
- Submit a **COMPLETE** application ([DWC Form-067](#))
- Be licensed in Texas
- Maintain an active practice (routine office hours of at least 20 hours per week/ 40 weeks per year for the treatment of patients) for **at least 3 years after licensure during their career**
- Own or subscribe to the currently adopted edition of the *AMA Guides* (4<sup>th</sup> Edition) and all return-to-work and treatment guidelines adopted by DWC

Approval certifies a doctor for a 2-year term

- Includes effective and expiration dates
- Includes examination qualification criteria (under new [28 TAC §127.130](#)) that DWC has assigned to DD based on requisite licensure and board certification

Doctors shall be denied certification for

- Failing to submit required information
- Failure to submit a correct/complete application
- Failure to disclose orders and/or practice restrictions, reprimands, etc.
- Relevant practice/certification restriction, or other related issue (including DWC)
- Other activities that warrant denial of application

## DD Recertification (28 TAC §127.110)

- A DD previously admitted to the DD list must renew by submitting verification that they have completed all DWC required training and passed all DWC required testing within the past 12 months
- Own or subscribe to the currently adopted edition (4<sup>th</sup> Edition) of the AMA Guides and all return-to-work and treatment guidelines adopted by DWC
- Submit a COMPLETE application ([DWC Form-067](#))
- **Must submit required training and testing certificates along with a complete DWC Form-067 at least 45 days in advance of expiration date**
- DWC will not assign new exams to a DD during the **45 days** prior to expiration of the DD's certification if required recertification information is not received
- DD may still provide services on previously assigned claims
- 30-day grace period for recertification after expiration

Doctors can be denied recertification for:

- Failing to submit required information and
- Failing to update initial application
  - **Changes to any information submitted on application must be submitted to DWC within 10 working days**
  - **Update information including disclosure of any orders, etc.**
- Orders and/or practice restrictions received from state licensing board, certification authority or other state/federal agencies (including DWC) constitutes a basis for denial
- A reprimand or fine paid to a state licensing board or state agency
- Requesting unnecessary referral examinations or testing or failing to comply with financial disclosure requirements when requesting referrals or ordering testing
- Other activities that warrant denial of recertification application, including but not limited to
  - Quality of DD's past reports
  - DD's history of complaints
  - Excess requests for deferral from the DDL
  - Pattern of overturned reports by DWC or court
  - Demonstrated lack of ability to apply or properly consider AMA Guides or DWC adopted return-to-work and treatment guidelines
  - Demonstrated lack of ability to consistently perform DD exams in a timely manner
  - Demonstrated failure to identify disqualifying associations
  - Demonstrated lack of ability to ensure confidentiality of employee medical records or claim information
  - Any other grounds allowing DWC to sanction a health care provider under the Texas Workers' Compensation Act or DWC Rules

## Designated Doctor Duties and Responsibilities

### (28 Texas Administrative Code (TAC) §127.200)

#### All Designated Doctors shall:

- Perform designated doctor examinations in a facility currently used and properly equipped for medical examinations that ensures safety, privacy, and accessibility injured employees, injured employees' medical records and other records containing confidential claim information.
- Ensure the confidentiality of medical records, analyses, and forms provided to or generated by the designated doctor.
- Ensure destruction of these medical records after retention expires and DD determines information is no longer needed.
- Ensure all agreements with those permitted to perform DD administrative duties (including billing and scheduling duties) on behalf of DD:
  - Are in writing and signed by DD and contracting person
  - Define administrative duties that may be performed on behalf of DD.
- Require person with whom DD contracts to comply with all confidentiality provisions of Texas Labor Code and all other applicable laws.
- Comply with [28 TAC Chapter 133](#) medical billing and payment requirements.
- Do not constitute improper inducements under [TLC §415.036](#) and [28 TAC §180.25](#).
- Are made available to DWC upon request.
- Notify DWC in writing and in advance if DD voluntarily decides to defer DD's availability to receive offers of examinations for personal or other reasons and specify durations of and reason for deferral.
- Notify DWC in writing and in advance if DD no longer wishes to practice as DD before *DD's current certification expires*.
  - A DD who no longer wished to practice as a DD, before DD's current certification expires, must expressly surrender DD's certification in a signed, Written statement to DWC.
- Be **physically present** in same room as injured employee for DD examination or any other health care service provided to injured employee that is NOT referred to another health care provider under [28 TAC § 127.10\(c\)](#).
- Apply the appropriate edition of the American Medical Association guides to the Evaluation of Permanent Impairment and division-adopted return-to-work guidelines.
- Provide DWC with updated information within 10 working days of change in any of information provided to DWC on doctor's application for certification or recertification as a DD.

## Designated Doctor Duties and Responsibilities

### (28 Texas Administrative Code (TAC) §127.200)

- Maintain a professional and courteous demeanor when performing duties of a DD, including:
  - Explaining purpose of DD examination to injured employee at beginning of examination.
  - Using non-inflammatory, appropriate language in all reports and documents produced by DD.
- File a complaint
  - Online: <http://www.tdi.texas.gov/consumer/complfrm.html>
  - By fax: 512-490-1030
  - By email: [DWC-CRCSIntakeunit@tdi.texas.gov](mailto:DWC-CRCSIntakeunit@tdi.texas.gov)
  - By mail:

Texas Department of Insurance  
Division of Workers' Compensation  
7551 Metro Center Dr., Suite 100, MS-603  
Austin, TX 78744
- Respond timely to all DWC inquiries regarding appointments, clarification, documents and all other inquiries.
- Notify DWC if a DD's continued participation on a claim would require DD to exceed the scope of practice authorized by doctor's license.
- **Not perform** required medical examinations, utilization review, peer reviews, or *on a claim to which a DD has already been assigned as DD*.
- Consent to and cooperate during any on-site visits by DWC pursuant to 28 TAC §180.4 to ensure DD compliance with the Act and applicable DWC rules. \* *DWC will notify DD in advance or at time of specific duties being investigated at time of visit.*
- Identify themselves at beginning of every DD examination, cooperate with all DWC audits and quality reviews, and comply with all applicable laws and rules.
- Bill and receive payment for DD examinations in accordance with 28 TAC Chapters 133 and 134.
- Comply with all accommodation requirements of Title II of the Americans with Disabilities Act (ADA).
  - When DD receives request for accommodation, they should make every effort to provide accommodation.
  - If not able to provide accommodation, injured employee should be instructed to contact local DWC field office prior to performing examination.

## **Extent of Injury Analysis Section of a Designated Doctor Report**

In addition to the basic requirements of a designated doctor narrative report in 28 TAC Rule 127.220, a narrative on extent of injury may include the following information:

### **I. Injury in Question (Box 36C of the DWC Form-032)**

***State injuries in question as listed in Box 36C, and define and describe each injury in medical terms.***

**Note:** Extent of Injury is a specific question as to a specific injury as listed in Box 36C. Failure to use the exact terms as listed in Box 36C to refer to the injury may result in a letter of clarification, or a report not being adopted. If there are other medical terms used in the report to refer to the injury in question as listed in Box 36C, explain or clarify that to the reader by stating these terms are synonyms, one is inclusive of the other, etc. If there are injuries that can be grouped together as the same, or part of the same medical process, explain such grouping.

### **II. Accident/Incident (Mechanism of Injury)**

**Describe the accident/incident (mechanism of injury). Include any account described and who gave it. (i.e. Claimant told me during the exam, or treating doctor describes in the notes on 1/1/2018.)**

### **III. Clinical Findings and Timeline in Support of Causation Analysis**

***Provide the relevant findings contained in the medical records, history and physical exam. Where applicable, detail symptom onset relative to the timeline of the medical history.***

In your review and detail of the above, pay particular attention to the following in relation to the injury in question (Box 36C):

- a. Did the injury in question exist prior to the work-related accident or incident (mechanism of injury)?
- b. Was the injury in question present during the physical examination?

### **IV. Analysis of Clinical Findings and Timeline**

***Provide an analysis based on the findings from Sections II and III above, and any other relevant supporting factors to explain the basis for the opinion regarding the injury in question (Box 36C).***

Pay particular attention to the following in relation to the causation analysis for the injury in question (Box 36C), and explain all that are applicable:

- a. Consider whether the timeline of symptom onset was consistent with the work-related injury, including relevant medical records prior to the injury, proximate to the time of injury, as well as post-injury treatment and testing.
- b. Is this type of work-related accident/incident (mechanism of injury) consistent or inconsistent with the injury in question?

If evidence-based medicine is available, then explain how it supports that the work-related accident/ incident (mechanism of injury) caused or did not cause the injury in question (Box 36C).

### **V. Medical/Legal Causation Opinion Statement**

#### **SAMPLE CONCLUSION TEXT**

"Based on the above referenced reasons, it is my medical opinion, based upon my education, training, and experience, and within reasonable medical probability that (the work-related accident/incident/ mechanism of injury) caused or did not cause the injury in question (Box 36C). I find that the compensable injury of (mm/dd/yyyy) was/ was not a substantial factor in bringing about the additional claimed injury or condition (Box 36C), and without it, the additional injury or condition (Box 36C) would not have occurred. Specifically, it does or does not extend to include (Box 36C)."

**\*\*DWC does not require use of this form, and additionally, this form is not applicable in all cases. DDs must adhere to all applicable rules regarding reporting requirements and this form is neither a substitute nor an addendum to those requirements. This form is an example of expert causation analysis where extent of injury is an issue, and is not a comment on whether expert testimony is required to establish causation as to this, or any other specific injury. Whether expert testimony is required to establish causation for an injury is a determination that is made at the hearings level on a case by case basis.**

## **DWC Sample without EBM for Extent of Injury Analysis Section of DD Report**

### **I. Injury in Question**

A lateral malleolus fracture is a fracture of the distal fibula, also referred to synonymously in the medical records as \_\_\_\_\_.

### **II. Accident/Injury(Mechanism of Injury)**

As stated in the E.R. records, the injured employee stepped off a curb while at work in the Metro Center Parking Lot on March 15, 2017. According to the injured employee's account, which was given shortly after the accident and further explained to me during the exam, he "missed the ground" and twisted his ankle, falling on his right side.

### **III. Clinical Findings, Timeline and Literature in Support of Causation Analysis**

There is no reference in the medical records, and the injured employee specifically denies ever having had any injury or any treatment to the right ankle prior to the accident on March 15, 2017.

X-rays on March 15, 2017, clearly documented an acute fracture of the right lateral malleolus. Subsequent x-rays dated December 17, 2017, demonstrate a healed fracture of the right lateral malleolus. Although an unhealed fracture is not present upon my exam, both my exam and the medical records indicate a prior unhealed fracture of the right lateral malleolus was present immediately after the fall on March 15, 2017. That fracture resolved/ healed prior to my exam of the injured employee.

Based on the E.R. records, the injured employee was seen at the emergency room shortly after his fall and diagnosed with a fracture of his right hip. The right hip fracture is not the injury question. The injured employee also complained at the emergency room of sudden and severe pain in his right ankle upon falling. Within an hour of the injury, the injured employee had significant swelling and bruising of his right ankle, and the ankle was tender to the touch. It is an unknown if the employee was able to bear weight on the ankle, as his hip fracture prevented him from walking. The symptoms of the fracture of the right lateral malleolus appeared immediately following the injury, which is when you would expect to see such symptoms appear if a sprain or fracture did exist as a result of the fall. X-rays taken within two hours of the injury revealed a fracture on the lower part of the right lateral malleolus.

### **IV. Analysis of Clinical Findings and Timeline:**

Based on the findings that the injured employee had significant swelling and bruising of his right ankle, the symptoms of the fracture of the right lateral malleolus appeared immediately following the injury, and x-rays taken within two hours of the injury revealed a fracture on the lower part of the right lateral malleolus, I conclude that the timing of the fracture of the right lateral malleolus is consistent with the fall on March 15,

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2017. The proximity in time of the symptom onset and positive films indicating a fracture to the right lateral malleolus indicate that the fall on March 15, 2017 caused the fracture of the right lateral malleolus.

As previously stated, the lack of any medical documentation, and the specific denial by the injured employee, support that there was no fracture to the right lateral malleolus prior to the fall on March 15, 2017. This lends further support to my opinion that the fall was the cause of the injury in question, because had the injury in question been present prior to the fall on March 15, 2017, it is reasonable that there would be medical records evidencing a fracture of the right lateral malleolus and treatment for same that pre-date March 15, 2017.

Further, the mechanism of injury—falling off a curb and twisting his ankle—is consistent with the fracture of the right lateral malleolus. Twisting the ankle while falling and putting weight on the joint from the height of a curb caused torquing forces to the injured employee’s right ankle joint, which stressed and exceeded the strength of the joint structures of his right ankle and produced the fracture of the right lateral malleolus.

**V. Medical/Legal Causation Opinion Statement**

For the above referenced reasons; the relevant clinical and exam findings, the relevant medical history, the symptom timeline, and the mechanism of injury as described above, it is my medical opinion, based upon my education, training, and experience, and within reasonable medical probability that stepping off of the curb and twisting the right ankle caused the fracture of the right lateral malleolus. I find that the mechanism of injury of March 15, 2017 was a substantial factor in bringing about the fracture of the right lateral malleolus, and without it, the fracture of the right lateral malleolus would not have occurred. Specifically, the compensable injury extends to and includes the fracture of the right lateral malleolus.

## Extent of Injury Analysis Section of a Designated Doctor Report

In addition to the basic requirements of a designated doctor narrative report in 28 TAC Rule 127.220, a narrative on extent of injury may include the following information:

### **I. Injury in Question (Box 36C of the DWC Form-032)**

| <i>Considerations</i>  | <i>DWC Sample Report Language<br/>(Example without EBM)</i>  |
|--|--|
| <p><b><i>State injuries in question as listed in Box 36C, and define and describe each injury in medical terms.</i></b></p> <p><u>Note:</u> Extent of Injury is a specific question as to a specific injury as listed in Box 36C. Failure to use the exact terms as listed in Box 36C to refer to the injury may result in a letter of clarification, or a report not being adopted. If there are other medical terms used in the report to refer to the injury in question as listed in Box 36C, explain or clarify that to the reader by stating these terms are synonyms, one is inclusive of the other, etc. If there are injuries that can be grouped together as the same, or part of the same medical process, explain such grouping.</p> | <p>A lateral malleolus fracture is a fracture of the distal fibula, also referred to synonymously in the medical records as _____.</p> |

### **II. Accident/Incident (Mechanism of Injury)**

| <i>Considerations</i>   | <i>DWC Sample Report Language<br/>(Example without EBM)</i>  |
|---|--|
| <p><b><i>Describe the accident/incident (mechanism of injury). Include any account described and who gave it. (i.e. Claimant told me during the exam, or treating doctor describes in the notes on 1/1/2018.)</i></b></p> | <p>As stated in the E.R. records, the injured employee stepped off a curb while at work in the Metro Center Parking Lot on March 15, 2017. According to the injured employee's account, which was given shortly after the accident and further explained to me during the exam, he "missed the ground" and twisted his ankle, falling on his right side.</p> |

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### III. Clinical Findings and Timeline in Support of Causation Analysis

| <i>Considerations</i>   | <i>DWC Sample Report Language<br/>(Example without EBM)</i>   |
|---|---|
| <p><b><i>Provide the relevant findings contained in the medical records, history and physical exam. Where applicable, detail symptom onset relative to the timeline of the medical history.</i></b></p> <p>In your review and detail of the above, pay particular attention to the following in relation to the injury in question (Box 36C):</p> <ol style="list-style-type: none"> <li>Did the injury in question exist prior to the work-related accident or incident (mechanism of injury)?</li> <li>Was the injury in question present during the physical examination?</li> </ol> | <p>There is no reference in the medical records, and the injured employee specifically denies ever having had any injury or any treatment to the right ankle prior to the accident on March 15, 2017.</p> <p>X-rays on March 15, 2017, clearly documented an acute fracture of the right lateral malleolus. Subsequent x-rays dated December 17, 2017, demonstrate a healed fracture of the right lateral malleolus. Although an unhealed fracture is not present upon my exam, both my exam and the medical records indicate a prior unhealed fracture of the right lateral malleolus was present immediately after the fall on March 15, 2017. That fracture resolved/healed prior to my exam of the injured employee.</p> <p>Based on the E.R. records, the injured employee was seen at the emergency room shortly after his fall and diagnosed with a fracture of his right hip. The right hip fracture is not the injury in question. The injured employee also complained at the emergency room of sudden and severe pain in his right ankle upon falling. Within an hour of the injury, the injured employee had significant swelling and bruising of his right ankle, and the ankle was tender to the touch. It is an unknown if the employee was able to bear weight on the ankle, as his hip fracture prevented him from walking. The symptoms of the fracture of the right lateral malleolus appeared immediately following the injury, which is when you would expect to see such symptoms appear if a sprain or fracture did exist as a result of the fall. X-rays taken within two hours of the injury revealed a fracture on the lower part of the right lateral malleolus.</p> |

### IV. Analysis of Clinical Findings and Timeline

| <i>Considerations</i>   | <i>DWC Sample Report Language<br/>(Example without EBM)</i>   |
|---|---|
| <p><b><i>Provide an analysis based on the findings from Sections II and III above, and any other relevant supporting factors to explain the basis for the opinion regarding the injury in question (Box 36C).</i></b></p> | <p>Based on the findings that the injured employee had significant swelling and bruising of his right ankle, the symptoms of the fracture of the right lateral malleolus appeared immediately following the injury, and x-rays taken within</p> |

\*\*DWC does not require use of this form, and additionally, that this form is not applicable in all cases. DDs must adhere to all applicable rules regarding reporting requirements and this form is neither a substitute nor an addendum to those requirements. This form is an example of expert causation analysis where extent of injury is an issue, and is not a comment on whether expert testimony is required to establish causation as to this, or any other specific injury. Whether expert testimony is required to establish causation for an injury is a determination that is made at the hearings level on a case by case basis.

|  |  |
|--|--|
| <p>Pay particular attention to the following in relation to the causation analysis for the injury in question (Box 36C), and explain all that are applicable:</p> <ol style="list-style-type: none"> <li>Consider whether the timeline of symptom onset was consistent with the work-related injury, including relevant medical records prior to the injury, proximate to the time of injury, as well as post-injury treatment and testing.</li> <li>Is this type of work-related accident/incident (mechanism of injury) consistent or inconsistent with the injury in question?</li> <li>If evidence-based medicine is applicable, then explain how it supports that the work-related accident/incident (mechanism of injury) caused or did not cause the injury in question (Box 36C).</li> </ol> | <p>two hours of the injury revealed a fracture on the lower part of the right lateral malleolus, I conclude that the timing of the fracture of the right lateral malleolus is consistent with the fall on March 15, 2017. The proximity in time of the symptom onset and positive films indicating a fracture to the right lateral malleolus indicate that the fall on March 15, 2017 caused the fracture of the right lateral malleolus.</p> <p>As previously stated, the lack of any medical documentation, and the specific denial by the injured employee, support that there was no fracture to the right lateral malleolus prior to the fall on March 15, 2017. This lends further support to my opinion that the fall was the cause of the injury in question, because had the injury in question been present prior to the fall on March 15, 2017, it is reasonable that there would be medical records evidencing a fracture of the right lateral malleolus and treatment for same that pre-date March 15, 2017.</p> <p>Further, the mechanism of injury—falling off a curb and twisting his ankle—is consistent with the fracture of the right lateral malleolus. Twisting the ankle while falling and putting weight on the joint from the height of a curb caused torquing forces to the injured employee’s right ankle joint, which stressed and exceeded the strength of the joint structures of his right ankle and produced the fracture of the right lateral malleolus.</p> |
|--|--|

## **v. Medical/Legal Causation Opinion Statement**

|  |  |
|--|--|
| <b>Considerations</b>  | <b>DWC Sample Report Language (Example without EBM)</b>  |
| <p><b>SAMPLE CONCLUSION TEXT</b></p> <p>“Based on the above referenced reasons, it is my medical opinion, based upon my education, training, and experience, and within reasonable medical probability that (the work-related accident/incident/ mechanism of injury) caused or did not cause the injury in question (Box 36C). I find that the compensable injury of (mm/dd/yyyy) was/ was not a substantial factor in bringing about the additional claimed injury or condition (Box 36C), and without it, the additional injury or condition (Box 36C) would not have occurred. Specifically, it does or does not extend to include (Box 36C).”</p> | <p>For the above referenced reasons; the relevant clinical and exam findings, the relevant medical history, the symptom timeline, and the mechanism of injury as described above, it is my medical opinion, based upon my education, training, and experience, and within reasonable medical probability that stepping off of the curb and twisting the right ankle caused the fracture of the right lateral malleolus. I find that the mechanism of injury of March 15, 2017 was a substantial factor in bringing about the fracture of the right lateral malleolus, and without it, the fracture of the right lateral malleolus would not have occurred. Specifically, the compensable injury extends to and includes the fracture of the right lateral malleolus.</p> |

**\*\*DWC does not require use of this form, and additionally, that this form is not applicable in all cases. DDs must adhere to all applicable rules regarding reporting requirements and this form is neither a substitute nor an addendum to those requirements. This form is an example of expert causation analysis where extent of injury is an issue, and is not a comment on whether expert testimony is required to establish causation as to this, or any other specific injury. Whether expert testimony is required to establish causation for an injury is a determination that is made at the hearings level on a case by case basis.**

## Some Resources for Obtaining Evidence

1. *Official Disability Guidelines (ODG)* – “Causality” or “Causation” tab in relevant Procedure Summary
2. *Reed Group Disability Guidelines (MDGuidelines or Medical Disability Guidelines)* "Risk and Causation" tab for relevant condition.
3. *AMA Guides to the Evaluation of Disease and Injury Causation* by Melhorn, Talmage, Ackerman and Hyman 2<sup>nd</sup> Edition, 2013
4. Medline/PubMed: <http://medlineplus.gov/>
5. TRIP: Turning Research Into Practice: <http://www.tripdatabase.com/index.html>
6. Guidelines.gov: <http://guidelines.gov>
7. Medscape: <http://www.medscape.com/>
8. eMedicine /Medscape: <http://emedicine.medscape.com/>
9. Wheeless' Textbook of Orthopedics Online: <http://www.wheelessonline.com/>
10. JAMA: <http://jama.jamanetwork.com/journal.aspx>
11. Spine: <http://www.spinejournal.com>
12. The Spine Journal (NASS): <http://www.thespinejournalonline.com/>
13. Journal of Bone and Joint Surgery: <http://jbjs.org/>
14. Journal of Orthopedic Research: <http://www.ors.org/journal-of-orthopaedic-research/>
15. Annals of Internal Medicine: <http://www.annals.org/>
16. American College of Radiology: <http://www.acr.org/>
17. British Journal of Medicine: <http://www.bmj.com/>
18. Lancet: <http://www.thelancet.com/>
19. Centre for Evidenced Based Medicine: <http://www.cebm.net/index.aspx?o=1011>
20. Journal of Manipulative and Physiological Therapeutics: <http://www.jmptonline.org/>
21. Journal of Family Practice: <http://www.ifponline.com/>

## Library Resources

You may want to consider working with a reference librarian to help you obtain relevant evidence. Here's a list of some library resources in Texas:

<http://nnlm.gov/scr/outreach/texas.html>

### Resource Libraries

Resource Libraries are major health sciences libraries selected by the NN/LM SCR on the basis of the quality and size of collections or uniqueness of materials in their collections which add significantly to the resources of the region.

- [Houston Academy of Medicine-Texas Medical Center Library](#)
- [Texas A&M University Medical Sciences Library](#)
- [Texas Tech University Health Sciences Center, Libraries of the Health Sciences](#)
- [University of North Texas Health Science Center, Gibson D. Lewis Library](#)
- [University of Texas Health Science Center at San Antonio Library](#)
- [University of Texas M.D. Anderson Cancer Center Research Medical Library](#)
- [University of Texas Medical Branch Moody Medical Library](#)
- [University of Texas Southwestern Medical Center Library](#)

### Also:

- Texas Medical Association [http://www.texmed.org/Ask\\_A\\_Librarian.aspx](http://www.texmed.org/Ask_A_Librarian.aspx)

Also see “How to order articles” handout about the **National Library of Medicine’s Loansome Doc** (<https://docline.gov/loansome/login.cfm>) ordering system, which allows users to order full-text copies of articles found in PubMed/MEDLINE® from a medical library (local fees and delivery methods can vary).



## Ordering Articles

After registering for Loansome Doc, use the PubMed **Order** option under the **Send to** menu after conducting a search.

1. Click the check box next to each citation you want to order. You can move to other pages within your results to select additional citations.
2. From the **Send to** drop-down menu (It is located on the right and above the search results), select **Order**.

Send to: ☒

### Choose Destination

- ☐ File    ☐ Clipboard  
☐ Collections    ☐ E-mail  
☒ Order

3. After being transferred to Loansome Doc, enter e-mail and password from the registration process.
4. Click 'Proceed to Delivery Options' button.
5. Review Delivery Options and check the Copyright Compliance box.
6. Click the 'Continue' button.
7. Review order, then click 'Send Order'.
8. Your order will be sent to the library you selected, which will fill your request and send the article once it is available.

## Free Articles

Free copies of available articles may be obtained in a number of ways without using Loansome Doc:

### • Free From PubMed Central

When searching PubMed, you can limit your search to the database subset, *PubMed Central*, a free digital archive of full-text journal articles maintained by the United States National Institutes of Health.

 Limits Activated: PubMed Central

[Change](#) [Remove](#)

### • Free from the Publisher

On the right side of the search results screen, there is a Filter your results box. This box indicates the full-text article is available free-of-charge, generally from the publisher's website.

#### Filter your results:

[All \(10206\)](#)

[Review \(1211\)](#)

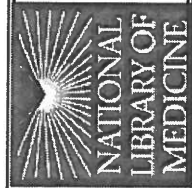
[Free Full Text \(1101\)](#)

## For More Information

Contact the National Network of Libraries of Medicine (NN/LM), at 800-338-7657 or visit <http://nmlm.gov/>. You will be provided information about libraries in your area with which you may establish an account for the Loansome Doc service. Network members may also be found at: <http://nmlm.gov/members/>.

In Canada, contact the Canada Institute for Scientific and Technical Information (CISTI) at 1-800-668-1222 for information about libraries in your area.

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# Loansome Doc®

**The National Library of Medicine's Loansome Doc** (<https://docline.gov/loansome/login.cfm>) ordering system allows users to order full-text copies of articles found in PubMed/MEDLINE® from a medical library (local fees and delivery methods can vary). It is free to register for Loansome Doc and you can order articles from a list of citations retrieved in PubMed.

Registering for Loansome Doc is easy. If you don't have a Loansome Doc account, visit the Loansome Doc page and click on "Sign Up!" to get started.

Don't have a Loansome Doc account?  
**Sign up!**

## Registering for a Loansome Doc Account

Follow these steps to register:

- ⇒ **Select your library.** Search for a library by geographic region to process your article requests.
- ⇒ **Contact the library.** You must contact the library to establish an agreement prior to selecting the library.
- ⇒ **Agree to the terms of use.**
- ⇒ **Enter your contact information,** password, and default ordering preferences.
- ⇒ **Verify your information.**

## Find a Library to Serve You

Over 1,000 libraries provide Loansome Doc services and over 300 libraries provide service to members of the public. Finding a library that meets your needs is the next step.

Select a Country and State/Province of residence from the drop-down menus. Click the "Search for Libraries" button.

Find a Library

Identify your country of residence in order to locate libraries that serve that country.

Country of Residence \*  
United States

State/Province

☐ Show only libraries that serve the general public

Search for Libraries

Deselect if you are affiliated with a library or if you are an unaffiliated health professional.

## Select a Library

Based on the Country and State you enter, Loansome Doc will display a selection of libraries that provide services.

LoansomeDoc

Register for a Loansome Doc Account

Intro Find Library Select Lib.

Select a Library

Choose a library from the list below by comparing delivery methods, price, location, and services listed. If you don't see a library located in Maryland that you wish to use, you may run a new search to find libraries located in a different State, U.S. Territory or Canadian Province.

Only show institutions that provide documents to [Affiliated Users]

43 libraries located in Maryland. Showing page 1 of 2. (click the arrow to sort results by that column.) < PREVIOUS NEXT >

Library

City

Delivery Method

Web Service

Notes

Agency for Healthcare Research and Quality Resources Center  
540 Glanville Road Room 1000  
Rockville, Maryland  
20850-8649

Rockville

E-mail (PDF), Fax, Mail, Pickup

Affiliated users

Services provided to AHRQ staff, active AHRQ contractors/grantees, and AHRQ agency staff numbers ONLY.

Phone: 1-901-427-1280 or 1-800-427-1282  
Fax: 301-427-1282  
Email: [rene.mcclough@ahrq.hhs.gov](mailto:rene.mcclough@ahrq.hhs.gov)

Allegany College of Maryland  
Library-Interlibrary Loan  
Department  
12401 Wilkesboro Road, SE  
Cumberland, Maryland  
21502-2596

Cumberland

Fax, Mail, Pickup

Affiliated users

Will serve Affiliated Hps and Affiliated Students only for LD Services

## Contact a Library

After selecting a library, contact the librarian to confirm your registration with the institution.

Select a category from the user identification options to let the library know who you are.

## Terms of Use

Review the terms of use for Loansome Doc. The terms of use include a statement of the terms and conditions for use of a product from the National Library of Medicine; the Privacy Policy which governs the use of Loansome Doc; a warning of Copyright compliance; an acknowledgement of the policies, procedures, and fees associated with ordering from the library you have selected.

## My Information

The e-mail address and password will become your log-in for future use of the Loansome Doc system.

Personal information such as name, address, phone and fax numbers will be used to both deliver articles and to create an account with the library and allow for billing.

You may specify a default delivery method and maximum cost to use for future requests. These preferences can be changed each time you enter the system and submit a request.

## Verify

Verify the submitted information.





# TEXAS DEPARTMENT OF INSURANCE

## Division of Workers' Compensation (MS-603)

7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645

(512) 804-4010 | F: (512) 804-4011 | (800) 252-7031 | TDI.texas.gov | @TexasTDI

### Presiding Officer's Directive to Order Designated Doctor Exam

#### I. Injured Employee Information

|   |                |                  |              |
|---|----------------|------------------|--------------|
| Employee Name   |                | Employee Address |              |
| Exam Type<br><input checked="" type="checkbox"/> Initial <input type="checkbox"/> Re-Exam   | DWC #          | Sequence<br>-    | Employee SSN |
| Date of Birth   | Date of Injury | Telephone Number |              |
| Does the claim involve medical benefits provided through a Certified Workers' Compensation Health Care Network or a political subdivision pursuant to 504.053(b)(2) of the Texas Labor Code, relating to directly contracting with health care providers or contracting through a health benefits pool? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No<br>If Yes, name of network or health care plan: |                |                  |              |

#### II. Other Contact Information

|  |                |              |              |            |
|--|----------------|--------------|--------------|------------|
|  |                | Phone Number | Ext.         | Fax Number |
| Employee Representative or Assistant (OIEC) Name |                |              |              |            |
| Insurance Carrier/Adjuster Name                  |                |              |              |            |
| Insurance Carrier Rep Present at Hearing         |                |              |              |            |
| Treating Doctor Name                             | License Number | License Type | Phone Number |            |

#### III. Reason for Exam (See Page 2, Section V. regarding Presiding Officer's Specific Instructions for Examination)

| Reason (check all that apply)  | Additional Information  |
|--|---|
| <input type="checkbox"/> A. Maximum Medical Improvement                      | Statutory MMI Date (if any): (mm/dd/yyyy)   |
| <input type="checkbox"/> B. Impairment Rating                                | MMI Date (Only if Box A of this section is Not Checked): (mm/dd/yyyy)   |
| <input type="checkbox"/> C. Extent of Injury                                 | Specific information should be included in Section V of this directive (page 2)   |
| <input type="checkbox"/> D. Disability – Direct Result                       | Period to be assessed: From: to (mm/dd/yyyy) <input type="checkbox"/> Present<br>Ending date cannot be a future date. Check "present", if no specific ending date.  |
| <input type="checkbox"/> E. Return to Work                                   | Period to be assessed: From: to (mm/dd/yyyy) <input type="checkbox"/> Present   |
| <input type="checkbox"/> F. Return to Work<br>(Supplemental Income Benefits) | Period to be assessed: From: to (mm/dd/yyyy) <input type="checkbox"/> Present<br>Is the above qualifying period applicable to the 9th quarter (or a subsequent quarter) of supplemental income benefits? <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> G. Other similar issues                             | Specific information should be included in Section V of this directive (page 2)   |

#### IV. Body Areas/Diagnoses to be Assessed by the Designated Doctor

If re-examination, should a new Designated Doctor be assigned? ☐ Yes ☐ No Current DD

|  |  |
|--|--|
| <input type="checkbox"/> Spine and Musculoskeletal Structures of Torso | <input type="checkbox"/> Spinal Cord Injury  |
| <input type="checkbox"/> Upper Extremities                             | <input type="checkbox"/> Severe Burns (including chemical burns)                       |
| <input type="checkbox"/> Lower Extremities (excluding feet)            | <input type="checkbox"/> Multiple Fractures, Joint Dislocation, Hip or Pelvis Fracture |
| <input type="checkbox"/> Feet  | <input type="checkbox"/> Infectious Diseases (complicated)                             |
| <input type="checkbox"/> Teeth and Jaw                                 | <input type="checkbox"/> Complex Regional Pain Syndrome                                |
| <input type="checkbox"/> Eyes  | <input type="checkbox"/> Chemical Exposure   |
| <input type="checkbox"/> Other Body Areas/Systems                      | <input type="checkbox"/> Heart or Cardiovascular Condition                             |
| <input type="checkbox"/> Traumatic Brain Injury                        | <input type="checkbox"/> Mental and Behavioral Disorders                               |

|               |       |     |              |               |                |
|---------------|-------|-----|--------------|---------------|----------------|
| Employee Name | DWC # | Seq | Employee SSN | Date of Birth | Date of Injury |
|---------------|-------|-----|--------------|---------------|----------------|

**V. Presiding Officer's Specific Instructions for Examination**

|                                  |           |      |
|----------------------------------|-----------|------|
| Presiding Officer (Printed Name) | Signature | Date |
|----------------------------------|-----------|------|

# Additional Resources for Obtaining Evidence

| Resource   | Type  | Version                        | Website   |
|--|---|--------------------------------|---|
| Medline/PubMed   | Database bibliographic  | FREE - Unfiltered              | <a href="http://medlineplus.gov/">http://medlineplus.gov/</a>   |
| Guidelines.gov   | Website   | FREE                           | <a href="http://guidelines.gov">http://guidelines.gov</a>   |
| TRIP: Turning Research Into Practice                       | Website/ Database Oxford  | FREE - Pre-filtered            | <a href="http://www.tripdatabase.com/index.html">http://www.tripdatabase.com/index.html</a>                                   |
| Evidence based Medicine (BMJ)                              | Journal Website   | Subscription Print/Electronic  |   |
| Annals of Internal Medicine                                | Journal   | Subscription Print/ Electronic | <a href="http://www.annals.org">http://www.annals.org</a>   |
| JAMA   | Journal   | Subscription Print/ Electronic |   |
| British Journal of Medicine                                | Journal   | Subscription Print/ Electronic |   |
| Lancet   | Journal   | Subscription Print/ Electronic |   |
| Journal of Family Practice (JFP)                           | Journal;<br>*POEMS *PURLS<br>*Applied Evidence<br>*Answers to Common Clinical Questions | Suscription Print/ Electronic  | <a href="http://www.jfponline.com">http://www.jfponline.com</a>   |
| Bandolier  | Website   | FREE - Pre-filtered            | <a href="http://www.jr2.ox.ac.uk/Bandolier/">http://www.jr2.ox.ac.uk/Bandolier/</a>   |
| Spine  | Journal   | Subscription Print/ Electronic | <a href="http://www.spinejournal.com">http://www.spinejournal.com</a>   |
| Journal of Bone and Joint Surgery (American)               | Journal   | Subscription Print/ Electronic |   |
| American Journal of Sports Medicine                        | Journal   | Subscription Print/ Electronic |   |
| Rheumatology   | Website   |                                | <a href="http://www.rheumatology.org/publications/primarycare/">http://www.rheumatology.org/publications/primarycare/</a>     |
| Journal of Orthopaedic and Sports Physical Therapy (JOSPT) | Journal   | Subscription Print/ Electronic |   |
| Journal of Clinical Outcomes and Management                | Journal   | Subscription Print/ Electronic |   |
| PEDro Physical Therapy website                             | Website Database  | FREE - Filtered                | <a href="http://www.pedro.org.au/">http://www.pedro.org.au/</a>   |
| Index to the Chiropractic Literature                       | Database: Bibliographic   | FREE - Unfiltered              | <a href="http://www.chiroindex.org/">http://www.chiroindex.org/</a>   |
| Journal of Manipulative and Physical Therapy (JMPT)        | Journal   | Electronic/Print               | <a href="http://www.journals.elsevierhealth.com/periodicals/ymmt">http://www.journals.elsevierhealth.com/periodicals/ymmt</a> |
| Journal of Clinical Outcomes and Management                | Journal   | Subscription Print/ Electronic |   |
| Centre for Evidence-based Medicine                         | Website   | FREE                           | <a href="http://www.cebm.net/index.aspx?o=1011">http://www.cebm.net/index.aspx?o=1011</a>                                     |