

Texas Department of Insurance
Division of Workers'
Compensation

Designated Doctor Performance Review Procedure

As of March 6, 2019

1.0 Purpose and Overview

Texas Labor Code §413.002 requires the Texas Department of Insurance, Division of Workers' Compensation (DWC) to evaluate the quality and timeliness of decisions made by designated doctors (DDs). Further, Texas Labor Code §408.1225 states that the commissioner may take action as necessary to (1) restrict the participation of a DD; (2) deny renewal of a DD's certification; or (3) revoke a DD's certification under Texas Labor Code §413.044 based upon active monitoring of the DD.

The purpose of the **Designated Doctor Performance Review Procedure** is to establish a fair and transparent process for reviewing the quality of a DD's work product to assist the Medical Quality Review Panel (MQRP) doctors and DD Recertification Review Committee when considering applicants for recertification. The process will be administered in a manner that is fair, open, and transparent to all workers' compensation system participants to the extent consistent with state confidentiality laws. The results of the review process will also help DWC improve the quality of training and testing by identifying areas for improvement in the DD program.

DWC may conduct a review of a DD's work product four months prior to the expiration of their current DD certification in anticipation of the application for recertification. DDs who have reached the threshold on any single review factor, as listed in Section 4 of this document, in the prior 20 months of their certification period will be included in the review. An Office of the Medical Advisor (OMA) nurse examiner and an MQRP doctor examiner will perform a review of five randomly selected DD reports for examinations conducted during the DD's current certification period. The results of the review will be incorporated into the DD's certification file for consideration during the recertification process.

Letters of DD recertification approval issued from OMA may contain educational information for the DD regarding areas for improvement identified in a performance review.

2.0 Scope

This procedure applies to doctors on the DD list with previous experience as a DD whose applications for certification or recertification are received on or after September 1, 2018. Reviews conducted under this procedure are for DD certification and recertification, and per 28 Texas Administrative Code (TAC) §180.68(a), are not subject to the medical quality review process.

3.0 Roles and Responsibilities

- 3.1 **DD Recertification Review Committee**, comprised of the DWC Medical Advisor, the DWC General Counsel, and the Deputy Commissioner for Business Process, or their designees, review applications recommended for denial by the MQRP doctor reviewing the application.
- 3.2 **Information Management Services (IMS)** generates monthly reports and random samples of DD exams based on performance factor thresholds approved by the Commissioner of Workers' Compensation.
- 3.3 **OMA Nurse Examiner** reviews DD work product (forms, narrative reports, and letters of clarification, etc.) for compliance with statute and DWC rules.
- 3.4 **MQRP Doctor Examiner** reviews the sufficiency of explanations in DD work product (forms, narrative reports, and letters of clarification, etc.).
 - MQRP doctors who conduct a performance review under this procedure may not be assigned to review a recertification application for the same DD.

- Performance reviews of a chiropractor’s work product will be conducted by a doctor of chiropractic (D.C.) with experience as a DD.
 - Performance reviews of a medical doctor (M.D.) or doctor of osteopathy’s (D.O.) work product will be conducted by a M.D. or D.O. with experience as a DD.
- 3.5 **DWC Medical Advisor** recommends the performance factors, thresholds, and the methodology used to identify DDs for performance reviews to the Commissioner of Workers’ Compensation for approval.
- 3.6 **Director of Health Care Business Management** is responsible for oversight of the DD Performance Review process.
- 3.7 **Commissioner of Workers’ Compensation** approves the performance factors, thresholds, and methodology used to identify DDs for performance reviews.

4.0 Performance Factors and Thresholds Prompting a DD Performance Review

Performance Factors

The performance factors listed below indicate that further review of a DD’s work product (forms, narrative reports, responses to letters of clarification, etc.) is warranted for DWC to consider a recertification application:

Closed complaints with a letter of education - Complaints investigated by Compliance and Investigations or OMA, where the doctor is serving in a role as a DD, and a letter of education is issued to the DD.

Closed complaints with warning letters issued from Compliance and Investigations - Complaints investigated by Compliance and Investigations or OMA, where the doctor is serving in a role as a DD, and the complaint is confirmed, and a warning letter is issued to the DD.

Complaints referred for a medical quality review or referred directly to Enforcement - Complaints investigated by Compliance and Investigations or OMA, where the doctor is serving in a role as a DD, and the complaint is referred for a medical quality review under DWC’s medical quality review process.

Consent orders issued - Instances where a DD agrees to a consent order or receives a default judgment from the State Office of Administrative Hearings related to a violation of the Texas Labor Code or DWC rules related to DD services.

Letters of clarification approved by DWC for response - Instances where a DWC presiding officer has approved a request for a letter of clarification regarding a DD’s report.

Medical quality reviews with outcomes other than “closed with no further action” - Medical quality review of a DD, conducted under DWC’s medical quality review process, where the outcome of the review is “referral to Enforcement” or “refer subject to the appropriate medical licensing board.”

Presiding officer directives (PODs) issued for re-examination - Directive issued by a DWC

presiding officer to order an injured employee to attend another DD examination to gain information needed to resolve an indemnity dispute.

Reports not adopted at a contested case hearing - The DD report was not adopted at a contested case hearing and DWC notifies the DD regarding the reasons for not adopting the report.

Thresholds

DWC reviewed data associated with the following performance factors for the previous two years and set thresholds based upon significant numerical breaks in the frequency of each factor. DWC also considered the resources needed to conduct the potential volume of reviews when setting each threshold.

Performance Factors and Thresholds	
Performance Factor	Threshold for Review
Complaints closed with letter of education	2% or more of exams conducted in the certification period
Complaints closed with warning letters issued from Compliance & Investigations	3% or more of exams conducted in the certification period
Complaints referred for a medical quality review or referred directly to Enforcement	11% or more of exams conducted in the certification period
Consent orders issued	One or more in the certification period
Letters of clarification approved by DWC for response	11% or more of exams conducted in the certification period
Medical quality reviews with outcomes other than “closed with no further action”	One or more in the certification period
Presiding officer directives (PODs) issued for re-examination	6% or more of exams conducted in the certification period
Reports not adopted at a contested case hearing	Four or more in the certification period

5.0 Procedure

- 5.1 IMS generates a listing of DDs four months prior to their certification expiration where the DD has met at least one performance factor threshold in the previous 20 months. IMS also provides a random sample of up to five exams conducted by the DD during the current certification period.
- 5.2 The **Director of Health Care Business Management** assigns an OMA nurse examiner and MQRP doctor examiner to each DD performance review and ensures that reviews are completed prior to the DD's certification expiration date.
- 5.3 The **OMA Nurse Examiner:**
 - 5.3.1 compiles all documents associated with the DD exams in the random samples, including:
 - the initiating DWC Form-032, *Request for Designated Doctor Examination or Presiding Officer's Directive (POD) to Order a Designated Doctor Examination*;
 - DWC examination orders, orders to reschedule, or amended examination orders;
 - DD appointment response sheet;
 - the doctor's narrative report and associated forms, DWC Form(s)-069, *Report of Medical Evaluation*, DWC Form-068, *Designated Doctor Examination Data Report*, or DWC Form(s)-073 *Work Status Reports*; and
 - approved letters of clarification and responses.
 - 5.3.2 evaluates the forms and reports in accordance with 28 TAC §§127.10 and 127.220 for report standards that apply to all types of examinations, 28 TAC §130.1 for specific requirements for examinations involving the determination of maximum medical improvement and impairment rating, and 28 TAC §129.5 for work status reports required for return-to-work exams; and
 - 5.3.3 provides the completed evaluation and all review documentation to the MQRP doctor examiner.
- 5.4 The **MQRP Doctor Examiner:**
 - 5.4.1 evaluates the sufficiency of descriptions and explanations on the forms and reports; and
 - 5.4.2 provides the completed review and associated documentation to the director of Health Care Business Management.
- 5.5 The **Director of Health Care Business Management** ensures the DD performance review worksheet and documentation is saved in the DD's certification file pending the receipt of the application for certification or recertification for consideration during the DD recertification process.
- 5.6 The **DD Recertification Review Committee** considers the results of the review of the DD's application for recertification when recommended for denial. The DD recertification committee may review five randomly selected reports on any DD applying for recertification, regardless of whether the DD met the threshold for review, if the committee believes additional information is needed regarding the DD's performance.