



# RISK★TEX

INTERAGENCY COMMUNICATION FROM THE STATE OFFICE of RISK MANAGEMENT ★ APRIL 2002



## SORM TIP OF THE DAY

Some 47 percent of the workforce has experienced episodes of fatigue in the past three months, according to an article in the December 1998 issue of *Employee Benefit News*. Fatigue diminishes higher-order thinking, judgment, and situational awareness.

Here are some steps an employer can take to minimize and prevent worker fatigue:

- Ensure that indoor air quality is good. Air should be fresh and cool – warm, unclean air makes employees sleepy.
- Educate employees about the importance of work/life balance.
- Ensure that the work environment is ergonomically correct.
- If employees have worked extremely long hours, reward them with a day off; or let them come in late or leave early one day. – *National Safety Council*

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## TWCC rule changes

By Darrell W. Anderson

During the last legislative session, several bills were passed that affected workers’ compensation.

The bill with the most impact was House Bill 2600. This bill contains several time lines with staggered dates of implementation. The Texas Workers’ Compensation Commission has begun to initiate these changes, and has issued several advisories and adopted new rules concerning these changes. The following is a brief description of selected advisories and/or rules that have come into play since Sept. 1.

- Advisory 2001-08: Maximum Medical Improvement and the 4th

edition

This advisory requires the use of the 4th edition of the American Medical Association guidelines for all certifying exams conducted on or after Oct. 15, 2001.

- Advisory 2001-12: TWCC-32 request for designated doctor

A designated doctor may now be requested at any time during a claim to address maximum medical improvement and impairment rating. An exam cannot be conducted more than once in a 60-day period. The designated doctor no longer has to hold the same licensure as the treating doctor.

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## SORM explores agency insurance coverage

By Sally Becker

Wondering what SORM has planned regarding the review and purchase of insurance coverage on behalf of state agencies? Well, let me bring you up to date.

The first insurance coverage we are exploring is Directors’ & Officers’ (D & O) Liability coverage. This policy provides coverage for the members of agencies, commissions or boards, and the executive management staff for claims arising out of their “wrongful acts.”

Since state agencies do not have the same liability exposures as private corporations, can invoke sovereign immunity for many exposures, and have monetary limits on others, they do not “fit” the mold for an off-the-shelf D & O policy. Therefore, SORM has requested that the insurers design a policy that takes all these factors into consideration and propose a policy that will “fit” these unique factors. Employment Practice coverage is included in the request,

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# Other coverages planned for future

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as this is an area where state agencies have exposures similar to the private sector. The proposals are due May 1, with an anticipated effective date of Sept. 1.

As far as future coverages are concerned, we will be examining Special Event coverage for agency facility users or agency use of non-owned facilities; Employee Dishonesty coverage; Property Insurance; and a Rolling Owner Controlled Insurance Program (ROCIP) for major construction projects. In order to obtain the most advantageous coverage with the best

terms and conditions at the least expensive premium, I will need your agency's assistance in gathering the necessary underwriting information. The key to procuring the best insurance terms is by providing as detailed information as possible. When a line of business has been chosen, risk managers will be receiving a questionnaire asking for pertinent information. Your completion of this questionnaire with accurate information will be vital for procuring an insurance program that will be beneficial to everyone.

SORM is in the midst of drafting the rules implementing HB 1203.

The rules will describe the procedures and requirements of the state agencies to procure and report agency-purchased insurance, of the approval process for surety bond purchases, the exemption from notary bonds for state employees, and insurer reporting of insurance sales to state agencies. The rules must be adopted by Dec. 1. Be sure to keep a look out for information in future *Risk-Tex* issues regarding the status of these rules.

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*Sally Becker is a SORM Risk Management Specialist who focuses on insurance purchases.*

# Rules affect workers' compensation

(Continued from page 1)

- Advisory 2001-13: New TWCC-69 form

This advisory explained the new TWCC-69 form. The new form is required for all exams conducted on or after March 1, 2002.

- Advisory 2002-01: Required Medical Exam process – New TWCC-22

A new form and procedure for requesting a Required Medical Exam (RME) was explained in this advisory. NOTE: An RME cannot be requested to obtain MMI and/or impairment, unless the purpose of the exam is to dispute a designated doctor's findings.

- Rule 134.600: Preauthorization

Several changes have been made to the types of medical services that do or do not require preauthorization. The two most notable changes deal with spinal surgery and physical therapy.

All initial requests for spinal surgery submitted after Jan. 1, 2002, now require preauthorization. The second surgical opinion process has been retracted. (The old rules still

apply to any request made prior to Jan. 1, 2002.)

As of Jan. 1, 2002, physical therapy no longer requires preauthorization. These services are limited to "reasonable and necessary" and are subject to a retrospective utilization review by the carrier.

TWCC also adopted several new rules regarding the Medical Dispute Resolution (MDR) process. Rules 133.305, 133.307, and 133.308 were adopted Dec. 13, 2001. The MDR process will continue to evolve as the rules make their impact.

HB 2600 will continue to affect

the workers' compensation system, and additional advisories and rules will be issued. Each agency should monitor these changes and review the proposed rules that could impact their business process. TWCC posts this information on its website at [www.twcc.state.tx.us](http://www.twcc.state.tx.us).

SORM claims personnel are also available to discuss any claims concerns that arise. We can be contacted at (512) 475-1440 or via E-mail.

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*Darrell W. Anderson is a SORM Claims Operations Supervisor who oversees claims adjusters.*

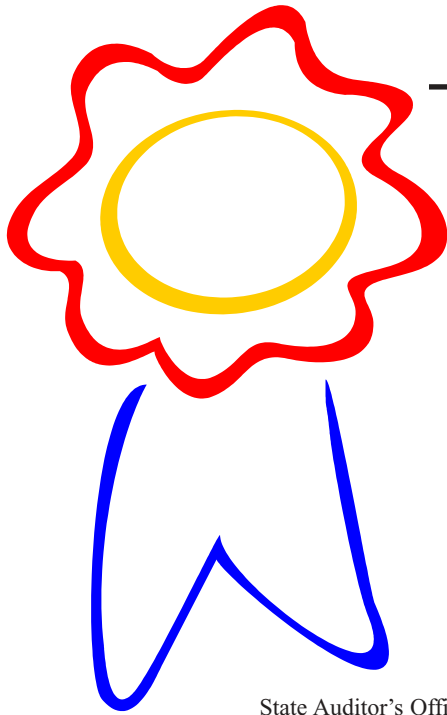
## On-line training available

SORM's Agency Outreach and Training division now offers on-line training for Texas state agency claims adjusters.

SORM trainers have developed eight on-line courses. Each course offers up to 2 continuing education credit hours.

The on-line, self-study modules can be accessed from the SORM

website, [www.sorm.state.tx.us](http://www.sorm.state.tx.us). Click on the "Events & Training" button, and then click on the link for "Adjuster Continuing Education Courses." A password is needed to enter this area of the website. Contact Audrea Spakes at (512) 936-1564 or [audrea.spakes@sorm.state.tx.us](mailto:audrea.spakes@sorm.state.tx.us) for your password.



# Texas State Agencies Safety Awards

SORM recognizes agencies that have effectively reduced their number of injuries. The Gold Award recipients can compete for the Texas State Agency Safety Excellence Award. The FY 2001 Safety Award results are listed below.

Eleven **Gold Awards** for reduction in injury frequency rate (IFR) of 50 percent or more when compared to the average of the previous five years.

State Auditor's Office • MHMR-Central Office • Health and Human Services Commission  
School for the Blind and Visually Impaired • North Texas State Hospital • Texas Senate  
Richmond State School • State Office of Administrative Hearings • School for the Deaf  
Texas Animal Health Commission • Texas Department of Economic Development



Fifteen **Silver Awards** for reduction in IFR of 30 percent to 50 percent when compared to the average of the previous five years.

Office of the Governor • Texas Education Agency • Teacher Retirement System  
University of North Texas • Texas Commission for the Blind • Texas Legislative Council  
Texas Southern University • State Library and Archives Commission • Waco Center for Youth  
University of Houston-Downtown • Water Development Board • Rusk State Hospital  
Texas Department of Insurance • El Paso State Center • Stephen F. Austin State University



Nineteen **Bronze Awards** for reduction in IFR of 10 percent to 30 percent when compared to the average of the previous five years.

Secretary of State • Sul Ross State University • Office of the Attorney General  
Lamar State College at Orange • Department of Protective and Regulatory Services  
Department of Housing and Community Affairs • Texas Workforce Commission  
Sam Houston State University • Texas Rehabilitation Commission • University of Houston-Clear Lake  
MHMR-System • Alcoholic Beverage Commission • Southwest Texas State University  
Terrell State Hospital • Texas Lottery Commission • Austin State Hospital  
Texas State Technical College-System • Texas Department of Health • Midwestern State University



In addition, 35 agencies received the **Sustained Safety Performance Award** for small agencies that have no reported injuries for three or more years.

**Congratulations to all the winners!**

You can reach SORM at (512) 475-1440 or (877) 445-0006.  
Visit our website at [www.sorm.state.tx.us](http://www.sorm.state.tx.us).

*Address Correction Requested*

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## Agencies must forward child support orders

**By Jonathan D. Bow**

It's all about the children. Texas family law was changed in the last legislative session to speed up withholding of child support from workers' compensation benefits. HB 1365 amended §158.206 of the Texas Family Code to require that an employer of an injured worker, who has been served with an order or writ to withhold income for child support, must send a copy of that order to the workers' compensation carrier when the claim is filed to shorten the period when the children may be without support.

Under Texas law, a parent may be required to pay support for his/her children by a court order. The parent's employer has to deduct and remit the court-ordered support from the parent's pay each payday, begin-

ning the next pay period after the order is received.

Workers' compensation benefits are subject to withholding in the same manner as salary, but they are not withheld until the carrier is given notice of the withholding order.

Parents are required to send their child support to the child support registry themselves if the withholding has not been put in place, but parents often get behind in their child support payments when the order is not delivered to the employer or carrier immediately.

There is often a lapse of several weeks to several months when a parent changes employers or starts receiving comp benefits before the order is delivered, leaving children without the support they need. The

parent who has custody of the children may not even know that the withholding order needs to be sent to a new employer or carrier until the support quits arriving.

Under the new law, the burden of notifying the carrier falls on the employer, who is already complying with the order. Withholding support should pass seamlessly from the employer to the carrier, eliminating delays.

To ensure that children keep getting their support, claims coordinators must check with their Human Resources staff at the time the injury is reported and provide a copy of the withholding order to SORM with the TWCC-1S.

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*Jonathan D. Bow is SORM's General Counsel.*

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