

**STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF WORKERS' COMPENSATION**

**NOTICE OF PROPOSED EVIDENCE-BASED UPDATES TO THE MEDICAL
TREATMENT UTILIZATION SCHEDULE**

NOTICE IS HEREBY GIVEN that the Acting Administrative Director of the Division of Workers' Compensation (hereinafter "Administrative Director"), pursuant to the authority vested in him by Labor Code section 5307.27, subdivision (a), proposes evidence-based updates to the Medical Treatment Utilization Schedule (MTUS) contained in Article 5.5.2 of Chapter 4.5, Subchapter 1, Division 1, of Title 8, California Code of Regulations, sections 9792.20, 9792.22, 9792.23, *et seq.*, and 9792.24, *et seq.* These proposed evidence-based updates to the MTUS incorporate by reference the most recent American College of Occupational and Environmental Medicine's (ACOEM) treatment guidelines into the General Approaches, Clinical Topics, and Special Topics sections of the MTUS. As a direct result of these evidence-based updates, a website address is added to obtain the updated ACOEM practice guidelines and a few amendments are made in the introductory language of the General Approaches, Clinical Topics, and Special Topics sections to match the contents of the updated guidelines.

PROPOSED EVIDENCE-BASED UPDATES TO THE MTUS

The Department of Industrial Relations, Division of Workers' Compensation, proposes evidence-based updates to the following sections of the MTUS, contained in Article 5.5.2 of Chapter 4.5, Subchapter 1, Division 1, of Title 8, California Code of Regulations:

§ 9792.20	Medical Treatment Utilization Schedule - Definitions
§ 9792.22	General Approaches
§ 9792.23	Clinical Topics
§ 9792.23.1	Cervical and Thoracic Spine Disorders Guideline
§ 9792.23.2	Shoulder Disorders Guideline
§ 9792.23.3	Elbow Disorders Guideline
§ 9792.23.4	Hand, Wrist, and Forearm Disorders Guideline
§ 9792.23.5	Low Back Disorders Guideline
§ 9792.23.6	Knee Disorders Guideline
§ 9792.23.7	Ankle and Foot Disorders Guideline
§ 9792.23.8	Stress Related Conditions
§ 9792.23.9	Eye Disorders Guideline
§ 9792.23.10	Hip and Groin Guideline
§ 9792.23.11	Occupational/Work-Related Asthma Medical Treatment Guideline
§ 9792.23.12	Occupational Interstitial Lung Disease Guideline
§ 9792.24.1	Acupuncture Medical Treatment Guidelines

- § 9792.24.2 Chronic Pain Guideline
- § 9792.24.3 Postsurgical Treatment Guidelines
- § 9792.24.4 Opioids Treatment Guideline

AUTHORITY AND REFERENCE

The Administrative Director is undertaking these evidence-based updates to the MTUS pursuant to the authority vested in him by Labor Code section 5307.27, subdivision (a). Reference is to Labor Code sections 4600, 4604.5, 5307.3, 5307.4, and 5307.27.

EXEMPTION FROM ADMINISTRATIVE PROCEDURE ACT

Pursuant to Labor Code section 5307.27, subdivision (a), the amendment of these regulations is exempt from Labor Code sections 5307.3 and 5307.4 and the rulemaking provisions of the Administrative Procedure Act (APA) (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

INFORMATIVE DIGEST/POLICY OVERVIEW/STATEMENT OF REASONS

Labor Code section 5307.27 requires the Administrative Director to adopt the MTUS that incorporates evidence-based, peer-reviewed, and nationally-recognized standards of care of all treatment procedures and modalities commonly performed in workers' compensation cases. Labor Code section 4604.5 states, "the recommended guidelines set forth in the medical treatment utilization schedule...shall be presumptively correct on the issue of extent and scope of medical treatment." This presumption is rebuttable and may be controverted by a preponderance of scientific medical evidence establishing that a variance from the guidelines is reasonably required to cure or relieve the injured worker from the effects of his or her industrial injury.

The Administrative Director established and adopted the MTUS on June 15, 2007. The MTUS was subsequently amended over the years, under the rulemaking provisions of the APA and currently consists of sections 9792.20 through 9792.26, Title 8 of the California Code of Regulations. However, most of the MTUS treatment guidelines have not been updated since the MTUS was established in 2007, when ACOEM guidelines initially published in 2004 were incorporated by reference.

Senate Bill 1160 (Statutes 2016, Chapter 868) amended Labor Code section 5307.27, subdivision (a), authorizing evidence-based updates to the MTUS by an Administrative Director order exempt from Labor Code sections 5307.3 and 5307.4, and the rulemaking provisions of the APA. This amendment to Labor Code section 5307.27, subdivision (a), was made to ensure medical treatment is based on the latest scientific research and to ensure that outdated guidelines in the MTUS are replaced by up-to-date treatment guidelines.

The MTUS is the primary source to determine the standard of care in California's workers' compensation system. Recommendations found in the MTUS guidelines are presumptively

correct on the issue of extent and scope of medical treatment. Although the MTUS' presumption of correctness may be rebutted by a preponderance of scientific medical evidence, it is important that the treatment recommendations found in the MTUS accurately represent the current standard of medical care. MTUS treatment guidelines that comprehensively incorporate recommendations supported by the best available, up-to-date scientific studies provide guidance for new medical treatments, drugs or diagnostic tools and instill confidence that the standard of care is accurately represented. On the other hand, if the guidelines are outdated, the recommendations will likely be subject to frequent attempts to rebut the presumption of correctness, resulting in delayed delivery of medical care to injured workers and an increase in frictional costs to treating physicians and employers.

There have been many new scientific and medical developments since the MTUS was initially adopted in 2007. Because most of the treatment guidelines have not been updated since 2007, these new scientific and medical developments have not been incorporated into the MTUS. The MTUS must be able to keep up with the evolving nature of scientific evidence to ensure that its recommendations accurately represent current standards of care. Thus, the primary policy objective of this action is to update the MTUS' medical treatment guidelines so that its recommendations accurately represent current evidence-based standards of care.

In addition, Assembly Bill 1124 (Statutes 2015, Chapter 525) requires the adoption of an evidence-based workers' compensation drug formulary as part of the MTUS. In a separate rulemaking, the Administrative Director is using the updated ACOEM guidelines as the basis for the evidence-based drug formulary. This decision was made for a number of reasons. First, although the MTUS' current structure is based on multiple source guidelines, most of the guidelines in the MTUS are already based on ACOEM. Second, restructuring the MTUS to a single source guideline set lessens the administrative burdens because the treatment recommendations in the guidelines will be internally consistent and providers and payers would only need to reference one guideline set. Third and most importantly, the methods used to develop the ACOEM guidelines are rigorous, transparent, and evidence-based. Therefore, these evidence-based updates to the MTUS proposed in this Notice incorporate the most recent ACOEM recommendations which will also be reflected in DWC's separate drug formulary regulations.

Accordingly, this Administrative Director order makes evidence-based updates to the MTUS by replacing outdated guidelines with the most recent ACOEM treatment guidelines supported by the latest scientific research. Updates to the current codified MTUS are shown in strikethrough to indicate deletions and underscore to show additions.

The proposed evidence-based updates to the MTUS to implement Labor Code section 5307.27 are as follows:

Section 9792.20. Definitions

This section sets forth necessary definitions. The definition for "ACOEM" is being amended to include the new web address (<http://go.reedgroup.com/mtus>) to obtain the updated American

College of Occupational and Environmental Medicine's Occupational Medicine's Practice Guidelines (ACOEM).

Section 9792.22. General Approaches

This section contains guidelines addressing the foundations of occupational medicine practice. The address and website to obtain ACOEM guidelines is being deleted because the updated guidelines can now be obtained by going to <http://go.reedgroup.com/mtus> as already indicated in the amendment made to the definition of "ACOEM" in Section 9792.29. In addition, the updated ACOEM guideline entitled Initial Approaches to Treatment Guideline (ACOEM June 30, 2017) is replacing the Initial Approaches to Treatment Guideline (ACOEM Practice Guidelines, 2nd Edition 2004). This section is being amended to update the MTUS' medical treatment guidelines so that its recommendations represent current evidence-based standards of care.

Section 9792.23. Clinical Topics

This section contains guidelines for body part or condition-specific injuries or conditions. This section is being amended because the scope of the updated ACOEM guidelines are broader than the guidelines they are replacing. The updated ACOEM guidelines not only address the initial management and subsequent treatment of presenting complaints, but also address chronic pain conditions, acupuncture treatments, and postsurgical treatments specific to the body part or condition specific injuries or conditions.

Section 9792.23.1. Cervical and Thoracic Spine Disorders Guideline.

This section contains the guideline for treatment and evaluation of the neck and upper back region. The section title is being amended because the updated ACOEM guideline is entitled Cervical and Thoracic Spine Disorders Guideline and is replacing the ACOEM Neck and Upper Back Complaints guideline. This section is being amended to update the MTUS' medical treatment guidelines so that recommendations pertaining to the neck and upper back region represent current evidence-based standards of care.

Section 9792.23.2. Shoulder Disorders Guideline.

This section contains the guideline for treatment and evaluation of the shoulders. The section title is being amended because the updated ACOEM guideline is entitled Shoulder Disorders Guideline and is replacing the ACOEM Shoulder Complaints guideline. This section is being amended to update the MTUS' medical treatment guidelines so that recommendations pertaining to the shoulders represent current evidence-based standards of care.

Section 9792.23.3. Elbow Disorders Guideline.

This section contains the guideline for treatment and evaluation of the elbows. The section title is being amended because the updated ACOEM guideline is entitled Elbow Disorders Guideline and is replacing the ACOEM Elbow Disorders Chapter. This section is being amended to update

the MTUS' medical treatment guidelines so that recommendations pertaining to the elbows represent current evidence-based standards of care.

Section 9792.23.4. Hand, Wrist, and Forearm Disorders Guideline.

This section contains the guideline for treatment and evaluation of the hand, wrist, and forearms. The section title is being amended because the updated ACOEM guideline is entitled Hand, Wrist, and Forearm Disorders Guideline and is replacing the ACOEM Forearm, Wrist, and Hand Complaints Chapter. This section is being amended to update the MTUS' medical treatment guidelines so that recommendations pertaining to the hand, wrist, and forearms represent current evidence-based standards of care.

Section 9792.23.5. Low Back Disorders Guideline.

This section contains the guideline for treatment and evaluation of the low back. The section title is being amended because the updated ACOEM guideline is entitled Low Back Disorders Guideline and is replacing the ACOEM Low Back Complaints guideline. This section is being amended to update the MTUS' medical treatment guidelines so that recommendations pertaining to the low back represent current evidence-based standards of care.

Section 9792.23.6. Knee Disorders Guideline.

This section contains the guideline for treatment and evaluation of the knees. The section title is being amended because the updated ACOEM guideline is entitled Knee Disorders Guideline and is replacing the ACOEM Knee Complaints Chapter. This section is being amended to update the MTUS' medical treatment guidelines so that recommendations pertaining to the knees represent current evidence-based standards of care.

Section 9792.23.7. Ankle and Foot Disorders Guideline.

This section contains the guideline for treatment and evaluation of the ankles and feet. The section title is being amended because the updated ACOEM guideline is entitled Ankle and Foot Disorders Guideline and is replacing the ACOEM Ankle and Foot Complaints Chapter. This section is being amended to update the MTUS' medical treatment guidelines so that recommendations pertaining to the ankles and feet represent current evidence-based standards of care.

Section 9792.23.8. Stress Related Conditions.

This section contains the guideline for treatment and evaluation of stress related conditions. The updated ACOEM guideline entitled Chronic Pain Guideline is replacing the ACOEM Stress Related Conditions for psychological treatment and evaluation related to chronic pain.

If the injured worker's psychological condition, injury or condition is unrelated to chronic pain, then medical care and evaluation will be in accordance with other medical treatment guidelines

or peer-reviewed studies found by applying the Medical Evidence Search Sequence set forth in section 9792.21.1. This section is being amended to update the MTUS' medical treatment guidelines so that recommendations pertaining to psychological injuries or conditions related to chronic pain represent current evidence-based standards of care.

Section 9792.23.9. Eye Disorders Guideline.

This section contains the guideline for treatment and evaluation of the eyes. The section title is being amended because the updated ACOEM guideline is entitled Eye Disorders Guideline and is replacing the ACOEM Eye Chapter. This section is being amended to update the MTUS' medical treatment guidelines so that recommendations pertaining to the eyes represent current evidence-based standards of care.

Section 9792.23.10. Hip and Groin Guideline.

This section contains the guideline for treatment and evaluation of the hip and groin. This section is being added because the scope of the updated ACOEM Practice Guidelines is broader than the previous edition and now includes recommendations representing current evidence-based standards of care for hip and groin-related injuries and conditions.

Section 9792.23.11. Occupational/Work-Related Asthma Medical Treatment Guideline.

This section contains the guideline for treatment and evaluation of occupational/work-related asthma. This section is being added because the scope of the updated ACOEM Practice Guidelines is broader than the previous edition and now includes recommendations representing current evidence-based standards of care for occupational/work-related asthma.

Section 9792.23.12. Occupational Interstitial Lung Disease Guideline.

This section contains the guideline for treatment and evaluation of occupational interstitial lung disease. This section is being added because the scope of the updated ACOEM Practice Guidelines is broader than the previous edition and now includes recommendations representing current evidence-based standards of care for occupational interstitial lung disease.

§ 9792.24.1. Acupuncture Medical Treatment Guidelines.

This section contained the old guideline for acupuncture treatment and evaluation. Subdivisions (a)(1) through (e) are being deleted because guidance for acupuncture treatment and evaluation are now contained in the updated Clinical Topics guidelines, and/or Chronic Pain Guideline and/or Opioid Guideline.

§ 9792.24.2. Chronic Pain Guideline.

This section contains the guideline for the treatment and evaluation of patients who have chronic pain as defined in section 9792.20. The section title is being amended because the updated

ACOEM guideline is entitled Chronic Pain Guideline and replacing the Chronic Pain Treatment Guidelines. This guideline addresses a general approach to patients with chronic pain and the psychological and behavioral aspects of chronic pain, and addresses a few specific chronic pain disorders (e.g., complex regional pain syndrome, fibromyalgia, neuropathic pain) that are not found in the Clinical Topics guidelines. This section is being amended to update the MTUS' medical treatment guidelines so that recommendations pertaining to patients who have chronic pain represent current evidence-based standards of care.

§ 9792.24.3. Postsurgical Treatment Guidelines.

This section contains the old guideline for postsurgical treatment and evaluation. Subdivisions (a) through (d) are being deleted because guidance for postsurgical treatment and evaluation are contained in the updated Clinical Topics guidelines, and/or Chronic Pain Guideline, and/or Opioid Guideline.

§ 9792.24.4. Opioids Treatment Guideline.

This section contains the guideline for treatment and evaluation on the use of opioids for working age adults who have acute, subacute, chronic or post-operative pain. The section title is being amended because the updated ACOEM guideline is entitled Opioids Treatment Guideline and is replacing the Opioids Treatment Guidelines. This section is being amended to update the MTUS' medical treatment guidelines so that recommendations pertaining to the use of opioids represent current evidence-based standards of care.

TIME AND PLACE OF PUBLIC HEARING

A public hearing has been scheduled to permit all interested persons the opportunity to present statements or arguments, oral or in writing, with respect to the proposed evidence-based updates to the MTUS, on the following date:

Date: September 6, 2017

Time: 10:00 a.m. to 5:00 p.m., or until conclusion of business

Place: Elihu Harris State Office Building - Auditorium

1515 Clay Street

Oakland, CA 94612

The State Office Building and its Auditorium are accessible to persons with mobility impairments. Alternate formats, assistive listening systems, sign language interpreters, or other type of reasonable accommodation to facilitate effective communication for persons with disabilities, are available upon request. Please contact the Statewide Disability Accommodation Coordinator, Maureen Gray, at 1-866-681-1459 (toll free), or through the California Relay Service by dialing 711 or 1-800-735-2929 (TTY/English) or 1-800-855-3000 (TTY/Spanish) as soon as possible to request assistance.

Please note that public comment will begin promptly at 10:00 A.M. and will conclude when

the last speaker has finished his or her presentation or 5:00 P.M., whichever is earlier. If public comment concludes before the noon recess, no afternoon session will be held.

The Administrative Director requests, but does not require, that any persons who make oral comments at the hearing also provide a written copy of their comments. Equal weight will be accorded to oral comments and written materials.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed evidence-based updates to the MTUS to the Department of Industrial Relations, Division of Workers' Compensation. The written comment period closes at 5:00 P.M., on September 6, 2017. The Division of Workers' Compensation will only consider comments received at the Department of Industrial Relations, Division of Workers' Compensation by that time. Equal weight will be accorded to oral comments presented at the hearing and written materials.

Submit written comments concerning the proposed regulations prior to the close of the public comment period to the DWC contact person:

Maureen Gray
Regulations Coordinator
Department of Industrial Relations
P.O. Box 420603
San Francisco, CA 94142

Written comments may be submitted via facsimile transmission (FAX), addressed to the above-named contact person at (510) 286-0687. Written comments may also be sent electronically (via e-mail) using the following e-mail address: dwcrules@dir.ca.gov.

Unless submitted prior to or at the public hearing, Ms. Gray must receive all written comments no later than 5:00 P.M., on September 6, 2017.

CONTACT PERSON

Inquiries concerning this action, such as requests to be added to the mailing list or requests for copies of the text of the proposed regulations may be directed to the contact person:

Maureen Gray
Regulations Coordinator
Department of Industrial Relations
Division of Workers' Compensation
P.O. Box 420603
San Francisco, CA 94612
E-mail: mgray@dir.ca.gov

Telephone: (510) 286-7100

CONTACT PERSON

In the event the contact person is unavailable, inquiries may be directed to:

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P.O. Box 420603
San Francisco, CA 94142
Email: jcortes@dir.ca.gov
Telephone: (510) 286-7100