

**STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
Division of Workers' Compensation**

NOTICE OF MODIFICATION TO TEXT OF PROPOSED REGULATIONS

Workers' Compensation: Medical Treatment Utilization Schedule

**TITLE 8, CALIFORNIA CODE OF REGULATIONS,
SECTIONS 9792.20 – 9792.26**

NOTICE IS HEREBY GIVEN, that the Acting Administrative Director of the Division of Workers' Compensation (hereinafter "Acting Administrative Director") pursuant to the authority vested in her by Labor Code Sections 59, 133, 4600, 4604.5, 5307.3 and 5307.27, proposes to adopt or modify the text of the following proposed regulations:

Amend Section 9792.20	Medical Treatment Utilization Schedule - Definitions
Amend Section 9792.21	Medical Treatment Utilization Schedule
Adopt Section 9792.21.1	Medical Evidence Search Sequence
Amend Section 9792.23	Clinical Topics
Amend Section 9792.24.1	Acupuncture Medical Treatment Guidelines
Amend Section 9792.24.3	Postsurgical Treatment Guidelines
Amend Section 9792.25	Quality and Strength of Evidence – Definitions
Adopt Section 9792.25.1	MTUS Methodology for Evaluating Medical Evidence
Amend Section 9792.26	Medical Evidence Evaluation Advisory Committee

**PRESENTATION OF WRITTEN COMMENTS AND DEADLINE FOR SUBMISSION
OF WRITTEN COMMENTS**

Members of the public are invited to present written comments regarding these proposed modifications. **Only comments directly concerning the proposed modifications to the text of the regulations will be considered and responded to in the Final Statement of Reasons.**

Written comments should be addressed to:

Maureen Gray
Regulations Coordinator
Department of Industrial Relations
P.O. Box 420603
San Francisco, CA 94612

The Division's contact person must receive all written comments concerning the proposed modifications to the regulations no later than 5:00 p.m. on January 13, 2015. 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.

Due to the inherent risks of non-delivery by facsimile transmission, the Acting Administrative Director suggests, but does not require, that a copy of any comments transmitted by facsimile transmission also be submitted by regular mail.

Comments sent to other e-mail addresses or facsimile numbers will not be accepted. Comments sent by e-mail or facsimile are subject to the deadline set forth above for written comments.

AVAILABILITY OF TEXT OF REGULATIONS AND RULEMAKING FILE

Copies of the original text and modified text with modifications clearly indicated, and the entire rulemaking file, are currently available for inspection at the Department of Industrial Relations, Division of Workers' Compensation, 1515 Clay Street, 17th Floor, Oakland, California 94612, between 9:00 A.M. and 4:30 P.M., Monday through Friday. Please contact the Division's regulations coordinator, Ms. Maureen Gray, at (510) 286-7100 to arrange to inspect the rulemaking file.

FORMAT OF PROPOSED MODIFICATIONS

Proposed Text Noticed for 45-Day Comment Period:

The proposed text was indicated by underlining, thus: added language. Deletions are indicated by strikeout, thus: ~~deleted language~~.

Proposed Text Noticed for 15-Day Comment Period on Modified Text:

The proposed text was indicated by italics and underlining, thus: *added language*. Deletions are indicated by italics and strikeout, thus: ~~*deleted language*~~.

Proposed Text Noticed for 2nd 15-Day Comment Period on Modified Text:

The proposed text was indicated by bold and underlining, thus: **added language**. Deletions are indicated by bold and strikeout, thus: ~~**deleted language**~~.

Proposed Text Noticed for 3rd 15-Day Comment Period on Modified Text:

The proposed text was indicated by bold and double underlining, thus: **added language**. Deletions are indicated by bold and double strikeout, thus: ~~**deleted language**~~.

SUMMARY OF PROPOSED CHANGES

Proposed Amendments to Section 9792.21.1 – Medical Evidence Search Sequence

- Subdivision (b)(1)(A) is re-organized to move the phrase “if the medical condition or injury is not addressed by the MTUS” and add “then the treating physician” to the beginning of the subdivision for clarity.
- Subdivision (b)(1)(B) is amended to set forth the following additional requirements that shall be provided by the treating physician if he or she is attempting to rebut the MTUS’ presumption of correctness: “a clear and concise statement that the MTUS’ presumption of correctness is being challenged” “and a copy of the entire study or the relevant sections of the guideline” containing the recommendation he or she believes guides the reasonableness and necessity of the requested treatment that is applicable to the injured worker’s medical condition or injury. In addition, subdivision (b)(1)(B) is re-organized to move the phrase “if the medical condition or injury is addressed by the MTUS but the treating physician is attempting to rebut the MTUS’ presumption of correctness” and add “then the treating physician” to the beginning of the subdivision for clarity.
- Subdivision (b)(1)(B)1. is amended to add the phrase “and copy of the study or copy of the relevant sections of the guideline” to make clear that treating physicians shall provide this if he or she is attempting to rebut the MTUS’ presumption of correctness.
- Subdivision (b)(1)(B)2. is amended to add the phrase “a copy of the additional study(ies) or copy of the additional relevant sections of the guideline(s) along with” to make clear that treating physicians shall provide this if he or she is attempting to rebut the MTUS’ presumption of correctness and has provided more than one citation.
- Subdivision (b)(2)(A) is re-organized to move the phrase “if the RFA is being modified, delayed or denied” and add “then the Utilization Review physician” to the beginning of the subdivision for clarity.
- Subdivision (b)(3)(A) is amended to add the phrase “If the Utilization Review Decision delays, denies or modifies an injured workers’ request for treatment and review of that decision is requested through Independent Medical Review, then the Independent Medical Review physician” to the beginning of the subdivision for clarity.

Proposed Amendments to Section 9792.25.1 – MTUS Methodology for Evaluating Medical Evidence

- Subdivision (a) is amended to add the phrase “When competing recommendations are cited to guide medical care” to clarify when Utilization Review and Independent Medical Review physicians are required to apply the MTUS Methodology for Evaluating Medical Evidence. The phrase “To evaluate the quality and strength of evidence used to support the recommendations that are at variance with one another” is moved to describe what reviewing physicians are doing when they apply the MTUS Methodology for Evaluating Medical Evidence. Finally, the phrase “The MTUS Methodology for Evaluating Medical Evidence” is added to clarify the name of the process used to evaluated studies, not guidelines.