



RISK★TEX

INTERAGENCY COMMUNICATION FROM THE STATE OFFICE of RISK MANAGEMENT ★ JULY 2003



TIP OF THE QUARTER

The Texas Workers' Compensation Commission has changed one of the codes used on the TWCC-1S (Employer's First Report of Injury or Illness) form.

Effective July 1, 2003, the North American Industrial Classification System Codes (NAICS codes) will be reported in field 45 on the TWCC-1S in lieu of the Standard Industrial Classification Codes (SIC codes).

Agencies can find their appropriate code by going to www.marketplace.state.tx.us/naics/.

The TWCC-1S form posted on the SORM website has been updated to allow for the NAICS codes.

The form can be accessed from the SORM website, www.sorm.state.tx.us, by clicking on the "Publications/Forms" button. Then click on "Forms" and "Workers' compensation forms."

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Historic Session

By Lucinda Saxon

The 78th Legislative Session of the Texas Legislature is one that will go down in the history books. The Legislature was faced with a budget shortfall, the need to overhaul public school finance, tort reform, and government organization. A government re-organization bill was attempted and failed, although the Texas Legislature is back in Austin attempting to pass the re-organization bill again.

The Legislature was faced with several workers' compensation issues during the session, which included issues such as alternative dispute resolution, the sharing of information by the Texas Workers' Compensation Commission



(TWCC) with other regulatory agencies, and the establishment of insurance carrier networks for use by injured employees.

On May 12, the Legislature saw an interesting turn of events when 53 Texas House Democrats failed to answer roll call. The Democrats had staged a "walk out" in protest of the congressional redistricting bill that was on its way to the House floor, and the House was unable to meet without a quorum. The walk out occurred only four days before the deadline to hear and pass bills, and left a substantial amount of bills pending without final action.

(See "Many," page 10)

Why we focus on 'cause'

By Curt L. Krill

For a safety program to function effectively, two essential risk management approaches must be implemented as a matter of routine.

The first is to be proactive. This means identifying potential losses in advance and putting programs or procedures in place to prevent unwanted incidents. Examples of proactive risk management include conducting training with personnel, providing employees with Personal Protective Equipment (PPE), establishing a thor-

ough inspection schedule, and conforming industrial operations to regulatory guidelines.

The second essential risk management approach is to be reactive. This means when an unwanted event (or loss) occurs, efforts must be made to identify the cause so appropriate steps can be taken to prevent a similar recurrence. Of course, being reactive is the less desirable of the two approaches (prevention is always the goal). However, we all realize that neither

(See "Be specific," page 8)

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Employee Spotlight: Roger Beck

Editor's Note: This Employee Spotlight is an introduction to Roger Beck, a risk management specialist in the Risk Assessment and Loss Prevention division.

I was born in Iowa and raised as a service brat for the early years of my life. In high school I played all sports and was fortunate to play quarterback on a team that was undefeated for four years. I went on to play college football in Nebraska. I graduated with a degree in Education from Dana College in Blair, Neb., and later earned a master's degree in business administration from Pepperdine University in Malibu, Calif.

I joined the U.S. Air Force during the Vietnam conflict and served two tours in Vietnam. During that time I flew 210 combat missions in fighter aircraft, to include 80 in North Vietnam. Military decorations include the Distinguished Flying Cross with oak leaf cluster, the Air Medal with 13 oak leaf clusters, and the Vietnamese Cross of Gallantry. Our Commander in

the 405th Tactical Fighter Wing was Col. Chuck Yager, the most distinguished leader I have ever worked for. Our family had tours in Europe, Asia, and Alaska. I had jobs flying in the F-111 as a flying safety officer and culmi-



Roger Beck

nated my military career with the rank of Lt. Col. serving as the deputy base commander at Elmendorf Air Force Base in Alaska. I met my wife, Marjory, early in my military career and she gladly traveled around the world with me. We moved 13 times in 28 years. We have four children, all living in Texas, along with six grandchildren.

My hobbies include team roping, golf, hunting, and fishing. Our family includes two Labrador retrievers who keep me company during the fun times.

I have worked as a risk management specialist with the Texas

Workers' Compensation Commission and SORM since 1992 and have seen many changes to the manner in which we deal with state agencies, all for the better of the State. Our original efforts were more of an audit of the agencies, but this has changed into a more consultative and cooperative method of working with the agencies to assist them in developing their risk management programs.

During the past few years, I have coordinated SORM's program for the visits to the Texas Department of Criminal Justice facilities. These prison units present one of the most challenging problems when working to reduce injuries and claims. We have seen many of our recommendations incorporated into the risk management programs of these prison units.

I know that with the many dedicated professionals and the strong leadership in our agency, SORM will be able to handle the many new challenges that are currently being presented, especially with the newly reorganized state government structure.

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SORM-200 Report

Closing claims is now an option

By Sally Becker

State agencies are required to prepare an annual report to the State Office of Risk Management, (Texas Labor Code, Chapter 412, Section 412.053). One part of the report requires agencies to disclose all property and casualty (non workers' compensation) losses. The FY '02 report was submitted electronically for the first time. This annual report is due by Oct. 30.

In February 2003, the Online Property and Casualty Claims Reporting portion of the annual report was available to enter losses as they happened in lieu of waiting until the end of the fiscal year. The benefits of this "report-as-it-happens" capability are to enable the agencies to enter and update claims as needed, assist agency risk managers and SORM's risk management specialists to identify areas requiring immediate and/or special attention, and best of all, no more last minute gathering and reporting loss information at the end of the fiscal year, when agencies have so many reports due. Another benefit of this Online Property and Casualty Claims Reporting System is that data is kept from year to year. The FY '02 SORM-200 was the launching of a historic claims data system.

What kind of claims should be reported? Virtually, any event, where damages to persons or property, may cause or have potential to cause a financial loss to the agency, excluding employee injuries (workers' compensation). Injuries or damages do not have to be covered by an insurance policy (insured or uninsured); automobile accidents do not have to involve agency-owned vehicles (owned, non-owned, or hired); agency-owned vehicle damage should be reported under automobile physical damage (third-party vehicle

damage is reported under automobile liability – property damage); property includes theft/vandalism of personal property (not "missing" property); right to sue notices from EEOC or the Department of Human Rights (employment practices type), injuries to volunteers (accident type); injury or damage resulting from release of hazardous materials (environmental liability type); or an injury to the public within/on state owned/managed facilities or premises (slip and falls). More detailed information is available on the Help screens within the Online Property and Casualty Claims Reporting System.

One feature of the system was not available until now – closing losses previously reported as open. Not only can you enter new claims as they happen, you can close any open claims entered for FY '02 SORM-200 reporting.

Go to www.sorm.state.tx.us/sorm/pages/SORMLogin.html, log on using the same User ID and password assigned to you for entering the FY '02 SORM-200 data. If you do not remember or do not have a User ID or password, please contact Jennifer Whitwell at 512-936-1574 or jennifer.whitwell@sorm.state.tx.us.

Choose the correct agency, and then click on Online Property and Casualty Claims Reporting System. You are now at a point to do several things: enter a new claim; edit a previously entered claim; close a claim through the edit feature; or delete a claim.

To enter a new claim:

- click on Enter claim;
- select a Type of loss;
- select either open or closed;
- enter all information (* means a required field);
- click the save button; and,
- if you want to enter another claim, pick the type of loss

and repeat the above steps.

To edit a claim:

- click on Review/Edit/Close a claim;
- locate the claim you want to review or edit and click on the edit button;
- review and edit information;
- click the save button; and,
- you should receive the message: Record updated successfully.

To close a claim:

- click on Review/Edit/Close a claim;
- locate the claim you want to close and click on the edit button;
- click on the close button at the bottom of screen;
- update the information (date closed, settlement type, amount, and deductible);
- click on the save button; and,
- you should receive the message: Record updated successfully.

To delete a claim:

- click on Delete Claims;
- select the claims you want to delete (you can select more than one);
- click on the delete button at the bottom of the screen;
- you will be asked if you are sure you want to delete;
- select Okay if you want to delete; and,
- you should receive the message: Record deleted successfully.

All open claims from the FY '02 SORM-200 can be edited or closed as well as any new claims entered for FY '03 SORM-200. If you have questions or for a list of reported claims, open and closed, contact Sally Becker at 512-936-1573 or sally.becker@sorm.state.tx.us.

Sally Becker is a risk management specialist in the Risk Assessment and Loss Prevention division.

Don't be puzzled by safety

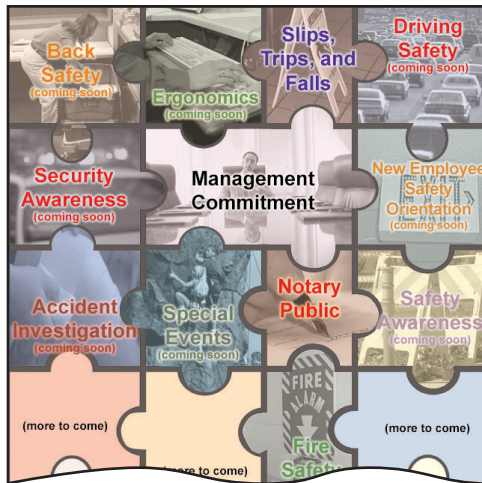
By Sam Lawrence

SORM introduces a new online tool for helping solve the sometimes puzzling issues of safety. The new Safety Puzzle web page aids State of Texas agencies with information and important links related to everyday safety topics.

The first stage of the puzzle, which was unveiled this month, includes three sections:

- slips, trips, and falls;
- management commitment; and,
- notary public.

The puzzle, which can be found on the “Events & Training” page on the SORM website, is under construction, but SORM wanted to make the information available as soon as each section was ready. More sections are under development and will be added to the puzzle when completed. Look for additions in the areas of:



- back safety;
- ergonomics;
- driving safety;
- security awareness;
- safety awareness
- and more.

Many of the sections will include an area to download slideshows, handouts, and brochures for use in

Go to the “Events & Training” page on the SORM website to find the new Safety Puzzle.

agency safety presentations. These features will be added to the sections at a later date. Also in the planning stages is creating online courses on certain topics included in the puzzle. SORM looks forward to providing this interactive training, allowing agency safety personnel to receive

necessary training without having to travel to Austin.

SORM wants the new Safety Puzzle to be where agencies turn for the latest safety information.

Sam Lawrence in an information specialist in the Agency Outreach and Training division.

Testing center open to agencies

By Sam Lawrence

State employees interested in earning certifications in the areas of risk management and workers' compensation can now take their mandatory tests via the Internet at SORM.

SORM has been designated a computer-based testing center for the American Institute for CPCU and Insurance Institute of America (AICPCU and IIA). SORM's testing center is open to employees at covered state agencies free of charge.

Those interested must register for the exam and pay the associated fees to the testing company before arriving at the SORM testing center. The testing center is small and can only handle one person at a time; so make sure you sign up early for a testing

time at SORM. When you register for a test, you are given a one-month time frame to take the test. The next testing dates for most AICPCU and IIA test are Aug. 15-Sept. 15 and Nov. 15-Dec. 15.

SORM's testing center is authorized for all AICPCU and IIA tests. Some of the most popular tests taken at SORM include:

- Associate in Risk Management (ARM) 54, 55, 56;
- Associate in Claims (AIC) 33, 34, 35, 36; and,
- Chartered Property Casualty Underwriter (CPCU) 510, 520, 530, 540, 551, 552, 553, 555, 556, 557, 560.

Test takers should allow 2½- 3½

hours for the test and computer tutorial – the time varies, depending on the test. Instant test results are given for the ARM and AIC exams. Results for the CPCU essay exams are mailed within one month.

For information about the exams and certifications, go to the AICPCU and IIA's website at www.aicpcu.org. To reserve a time slot with the SORM testing center, contact Audrea Spakes at audrea.spakes@sorm.state.tx.us or (512) 936-1564.

Sam Lawrence in an information specialist in the Agency Outreach and Training division.

Report insurance purchases to SORM

By Jeff Cox

Chapter 412.051 of the Labor Code, titled “Duties of State Agencies; Insurance Reporting Requirements,” requires state agencies to report intended insurance purchases to SORM, not later than 30 days prior to the scheduled date of purchase. To comply with this statute, SORM adopted TAC rule 252.307 which requires client agencies to complete and submit form SORM-201 prior to purchasing insurance or bonds. The SORM-201 can be found on our website, www.sorm.state.tx.us under “Publications/Forms,” “Insurance,” “Insurance Program Forms.”

When accessing the form on our website, there are two formats available, MSWord and PDF. The MSWord format allows the user to electronically type in the blanks before printing or saving. The PDF format only allows the user to view or print the form for completion by hand at a later time. After completion, the form should be sent to the Bonds & Insurance section of SORM by E-mail, interoffice mail, fax, or post office.

The SORM-201 is a multi-function form, so some areas are more appropriate than others for certain requests. The first section of the form identifies “what” a client state agency is requesting. Each option specifies the number of days prior to purchase the form is needed and what sections of the form should be completed. The most recent list of sponsored and prohibited insurance policies is posted on our website under “Publications/Forms,” “Insurance,” “Lines of Insurance Considered.”

Section A, titled *General Information*, gathers information about the agency. The contact person’s phone number, fax number,

and E-mail address are needed. In addition, the type of insurance/bond and the reason for the purchase are also required. The reason for purchase is very important in this section and usually falls into one of three categories: (1) statutory/regulatory requirement; (2) contractual requirement; or (3) unusual or unique risk/hazard/exposure. If the request is due to the first or second category, the agency must provide reference to, and a copy of, the statutory/regulatory document or contract. If the request is due to the third category, then it is vital for the agency to fully explain the need to purchase by thoroughly completing Section B of this form.

Section B, titled *Purpose and Intent*, asks “why” the agency is purchasing the insurance or bond. The purpose of this section is to collect details about exposures and perils unique to the agency’s operations.

Exposures are situations, practices, or conditions that might lead to a loss, and may be controllable or uncontrollable, i.e. leasing or owning real property, custody or ownership of business personal property/inventory, servicing clients, operating automobiles, handling money, employing workers, product liability/performance, etc.

Perils are simply the specific cause(s) of loss, i.e. fire, lightning, flood, tornado, theft, burglary, automobile accident, machinery breakdown, terrorism, etc.

The likelihood of a loss occurring refers to the chances of a loss happening. When answering this question, factors such as location, internal controls/loss prevention measures, and nature of the business should be taken in consideration. For example, the occurrence of an earthquake happening in Texas is almost nil while this same peril in California

might be definite due to the location. The likelihood of a theft or misappropriation of money by an employee of a bank might be higher than that of an employee of a public school due to the nature of business. On the other hand, due to the internal controls and loss prevention procedures at the bank, the chance of loss might be lower than that of the school.

Maximum probable or possible loss refers to the monetary damages that an agency might incur if a loss were to happen. These questions are more appropriate for damage to real or personal property, not liability issues, and helps to ensure policy limits are adequate to cover a loss. As always, internal controls and loss prevention procedures should be considered when establishing answers to these questions. Take for example a business that handles incoming money from customers of \$30,000 a month and is interested in an Employee Dishonesty (Crime) Policy. Procedures at the business dictate that one person or department accepts the money, another reconciles the account daily, and a third deposits the money at the bank daily. Although \$30,000 passes through the agency monthly, the maximum possible loss would be the daily amount deposited. With internal controls and loss prevention measures of separating duties and daily deposits, the business has reduced the potential severity of a loss.

How will this policy protect these exposures helps to ensure the policy or bond will provide the necessary coverage for the exposures and perils identified. Not only should the direct loss be considered, but also indirect aspects of the loss such as defense costs and continuing operations while repairs are being completed.

(See “SORM-201,” page 7)



Are you breathing quality air at work?

By Joe Deering

All of us face a variety of risks to our health as we go about our day-to-day lives. Driving in cars, flying in planes, engaging in recreational activities, and being exposed to environmental pollutants, all pose varying degrees of risk. Some risks are simply unavoidable. Some we choose to accept because to do otherwise would restrict our ability to lead our lives the way we want. Furthermore, some risks we might decide to avoid if we had the opportunity to make informed choices. Indoor pollution is one risk that we can do something about. First, let's discuss specific indoor air quality problems that have been identified or better defined over the past few years.

There is scientific evidence that indicates the air within residential dwellings and commercial facilities can be more seriously polluted than the outside air, even in the largest and most industrialized cities. Occupants of a building can experience symptoms that do not fit the pattern of any particular illness and are difficult to trace to any specific source, but seem to be linked to time spent in a building. No specific illness or causes can be identified and the complaints may be localized in a particular room or zone, or may be widespread throughout the building.

Building occupants complain of symptoms associated with acute discomfort. These symptoms include headaches; eye, nose, and throat irritation; a dry cough; dry or itchy skin; fatigue; and sensitivity to odors. No clinically defined disease or specific chemical or biological contaminant can be determined as the cause of the symptoms. In some instances, the complainants feel relief soon after leaving the building. Problems may arise because of improperly designed or maintained heating, ventilating, and air conditioning (HVAC) systems and because of odors emitted from office equipment, furniture, supplies, and operations in the building.

Three major reasons for poor indoor air quality in office buildings are the presence of indoor pollution sources; poorly designed, maintained, or operated ventilation systems; and uses of buildings that were unanticipated or poorly planned for when the building was originally designed or recently reconfigured.

Sources of indoor air pollution can be the outdoor air that enters a building and motor vehicle exhausts, plumbing vents, and building exhausts that can enter the building through poorly located air intake vents, windows, and other openings. Combustion byproducts can also enter a building from a nearby

garage. Contaminants from indoor sources include adhesives, upholstery, carpeting, copy machines, manufactured wood products, cleaning agents, and pesticides that may emit volatile organic compounds. Pollen, bacteria, viruses, and molds are other contaminants that can breed in stagnant water that has accumulated in humidifiers, drain pans, and ducts or where water has collected on ceiling tiles, insulation, or carpet.

Mechanical ventilation systems are designed and operated not only to heat and cool the air but also draw in and circulate outdoor air. Problems may arise when efforts are made to save on energy costs. New buildings are tightly sealed and modern ventilation systems no longer bring in adequate amounts of outdoor air, but now recycle a large portion of inside air. Often, fresh air may not reach the worker. Inadequate ventilation also occurs if the air supply return vents within each room are blocked or placed in such a way that the outdoor air does not reach the building occupants. Improperly located outdoor air intake vents may bring in air contaminated with automobile and truck exhaust, boiler emissions, or fumes from Dumpsters, or air vented from restrooms.

(See "Many factors," page 7)

Many factors affect air quality

(Continued from page 6)

Buildings or sections of a building originally designed for one purpose may be converted for other uses, or modernized. For example, use of flexible office partitions in large open spaces can interfere with the originally designed air distribution patterns by restricting air circulation and resulting in an inadequate supply of air. Energy costs in older buildings are reduced by adding insulation, caulking, and weatherstripping. Windows are made airtight, and outside air dampers are closed. Whether a building is old or new, the same recirculated air is breathed again and again by the people working in these buildings.

Solutions are available which address the aforementioned indoor air quality problems and include the combinations of the following measures.

- Increasing ventilation rates and air distribution are often cost-effective means of reducing indoor pollutant levels. At a minimum, heating, ventilating, and air conditioning (HVAC) systems should be

designed to meet ventilation standards in local building codes. Make sure that the system is operated and maintained to ensure that the design ventilation rates are attained.

- Removal or modification of the pollutant source is the most effective approach to solving a known source of an indoor air quality problem when this solution is practicable. Ways to do this include: routine maintenance of HVAC systems; replacing water-stained ceiling tiles and carpets; venting contaminant source emissions to the outdoors; using and storing paints, solvents, pesticides, and adhesives in closed containers in well-ventilated areas; using the above mentioned pollutant sources in periods of low or no occupancy; and allowing time for building materials in new or remodeled areas to off-gas pollutants before occupancy.
- Air cleaning has some limita-

tions, but can be a useful addition to source control and ventilation. Air filters are only effective at removing some, but not all, sources of indoor air pollution.

- Education and communication are important parts of any air quality management program.

Indoor air quality has a wide-ranging impact upon the occupants of a building, the systems and equipment within a building, and the building itself. The quality of indoor air can have significant health, comfort, productivity, and financial impacts upon occupants and building operations. When everyone associated with the building, from occupants to maintenance, fully understands the issues and communicates with each other, they can work more effectively together to prevent and solve problems associated with indoor air quality.

Joe Deering is a risk management specialist in the Risk Assessment and Loss Prevention division.

SORM-201 available on website

(Continued from page 5)

Section C, titled *Previous Coverage*, asks for general information about what the agency has done in the previous years. To better assist agencies in the decision process, SORM ask agencies to provide a copy of the previous year's policy along with the SORM-201.

Section D, titled *Loss Prevention/Controls*, inquires about loss prevention measures and controls the agency has in place to prevent or reduce losses from occurring. A bond or insurance policy cannot stop

a loss from happening; it only assists in financially replacing or paying for damages. Overall, it is better to avoid the damage in the first place through loss prevention and internal controls.

Section E, titled *Procurement*, is simply a question as to how the agency intends to procure the bond or insurance.

Section F, titled *Miscellaneous*, should be answered depending on what was selected in the first selection.

The bottom section is designated for SORM's use. After reviewing the

information provided, SORM will determine if the insurance/bond is necessary to protect the interest of the state or is economically advantageous to the state. Upon determination, the SORM-201 will be returned to the designated contact person in Section A with the appropriate box marked, comments if applicable, and a decision date.

Jeff Cox is a risk management specialist in the Risk Assessment and Loss Prevention division.

Be specific about cause of accident

(Continued from page 1)

people nor organizations are ever perfect. Unanticipated breakdowns will occur even in organizations with the most comprehensive safety practices and policies. When that happens, it is essential to identify where the failure occurred.

On the surface it may seem like a simple exercise. An accident has occurred in the workplace and its cause must be determined. In most cases, however, accidents are the result of multiple underlying causes, each of which must be identified and corrected to prevent a recurrence. Because of this, investigators must develop the habit of asking many questions.

Safety and insurance industry experts suggest that the causes of accidents can be grouped into five general categories – task, material, environment, personnel, and management. An accident investigation can reveal a chain of interrelated factors that may originate in several of the named categories, all contributing to and resulting in the event. Each of these categories will focus upon specific factors. Some examples include:

1. Task relates to the actual work being performed and aspects such as tools, procedures, and safety devices.
2. Material addresses equipment/machines, raw materials, hazardous substances, and related PPE.
3. Environment is concerned with weather conditions, temperature, housekeeping, noise, or adequate lighting.
4. Personnel questions the worker's experience, training, physical capability, or physical/mental health.
5. Management focuses upon the legal responsibilities of maintaining a safe workplace with issues like the existence of written rules and procedures, enforcement of rules

Accident causes

Agencies should conduct in-depth and effective accident investigations to determine the cause in order to prevent similar events from occurring in the future.

and procedures, conducting employee training, correction of previously identified hazards, preventative maintenance, and inspections.

The Texas Workers' Compensation Commission requires accident/injury information to be submitted on a form that has small boxes and very little space for elaborately detailed descriptions. In fact, whatever information is submitted must be transferred to an electronic database utilizing numerical codes that correspond to a previously selected list of injury causes. This database is then utilized to prepare reports that are used to definitively reveal, among other things, the underlying causes of Texas' workplace injuries. Unfortunately, the numerically coded reference list used to build the database does not include many of the factors listed earlier in the essential categories. For example, there are no codes to identify injury causes such as insufficient training, improper procedure, inadequate preventative maintenance, or providing workers with incorrect PPE. As a result, the person entering the data must fit the given information into an existing numerical category that frequently reveals less than accurate information when the database is queried. As a result, the term "other" may appear in the database as a cause but obviously reveals nothing about the incident.

For risk managers, safety directors, claims coordinators, and additional duty safety officers across the State,

don't let this bureaucratic shortcoming prevent in-depth and effective accident investigations from continuing in your facility. It remains essential that accurate identification of accident/injury causes be completed so similar events can be prevented in your workplace. When an employee is injured in a fall, do not list the cause as a fall but look to find the reason the person fell (a loose rug? a broken tile? a reported, but unfixed, hazard? an aggressive act?). Preventative measures will be much more effective when the investigation process specifically identifies the true cause or causes of an accident.

Do not begin an investigation with any preconceived notions and always maintain objectivity throughout the process. Its purpose is to find the cause of the accident, not to assign blame for its occurrence. Investigators who play the blame game will find that, over time, this ultimately leads to a lack of openness and cooperation. Co-workers and employees will become evasive or untruthful if they realize accident investigations are routinely conducted to find scapegoats or initiate disciplinary procedures. The "human error" accident cause is rarely correctable and is frequently the mere tip of an iceberg encompassing experience shortfalls, training inadequacies, and the like (i.e., management errors).

And finally, never assign the terms sprain or strain as injury causes. This is physically impossible, exposes the investigators as being less than thorough in their duties, and does not identify a factor or failure that can be corrected. If this short article achieves nothing else, please help improve the claims database by eliminating the words sprain and strain from your cause of injury classifications.

Curt L. Krill is a risk management specialist in the Risk Assessment and Loss Prevention division.

ScripNet eases pharmacy trips

By Jennifer Ruedas

Across the nation, rising health care costs and quality care are major concerns. In our effort to improve services and ensure quality health care is provided for our injured workers, SORM provides a Prescription Drug Service. This service is provided through ScripNet, a preferred provider organization (PPO) that has a network of more than 40,000 pharmacies nationally. ScripNet specializes in pharmacy benefit management and is devoted to containing the rising cost of health care delivery.

Injured workers covered by SORM are provided immediate access to a nearby pharmacy that also provides network discounts on medications. ScripNet uses an "online pharmacy connection" that virtually eliminates the flow of paper from pharmacy to payor (SORM). When combining the savings on medications and the online network of providers, the approximate savings is \$500,000 annually. A recent report shows that 4,714 injured workers employed by the State of Texas utilized this program in the past year.

When workers are injured and are provided prescriptions for medications related to the compensable injury, they take prescriptions to a network pharmacy in their area. The pharmacy then

enters the information into an online database system and transmits it to ScripNet. ScripNet will then verify the information regarding the injury with SORM and the prescription will be filled when the following criteria is met:

- the claim is not denied;
- the medication is related to the compensable injury;
- the medication is medically necessary to treat the compensable injury; and,
- the medication is on the formulary.

The formulary consists of medications that are identified as medically necessary and related to a specific injury. By using this formulary you can be assured that only those drugs that are appropriate for your workers' compensation injuries are dispensed. Once it is determined that there is an active workers' compensation claim for the injured worker, the prescription will be filled. Within a few days the injured worker will receive his or her personal Pharmaceutical Care Card and instructions on how to use the card from ScripNet. The card contains the patient's name, Social Security number, and date of original claim or injury.

ScripNet also provides a 24-hour help line at (888) 880-8562, which is

printed on the back of each card. When an injured worker presents a ScripNet card to the pharmacy, it identifies the individual patient as a ScripNet preferred workers' compensation claimant for all prescription refills, with the first one free and without incident.

Prior to the recent change in the Workers' Compensation Act regarding



initial prescription fills, workers' compensation claimants often had to pay for their first prescription, then wait to be

reimbursed by SORM. However, when SORM initially began using ScripNet, ScripNet as part of their program already offered first filled prescriptions to SORM employees requiring very little change for SORM when the new rules took effect.

For more information regarding ScripNet and its network of pharmacies in your area, you can visit its web site at www.scripnet.com or visit SORM's web site at www.sorm.state.tx.us and click on the "What's New" button.

Jennifer Ruedas is a supervisor in the Claims Operations division.

What's in store for FY '04?

SORM trainers are busy putting together the course calendar for FY 2004. Look for the course information on the SORM website in August.



STATE OFFICE of RISK MANAGEMENT

Emergency Response Protocols

SORM's Emergency Response Protocols are intended to provide a step-by-step process for agencies to use in responding to various emergency situations. Go to www.sorm.state.tx.us/Emergency/Emergency.htm to get the latest information.

Many workers' comp bills passed

(Continued from page 1)

Below are various bills that passed during the 78th Legislative Session and several bills that did not pass, but may come up either in a special session or the next regular session in 2005.

Workers' Compensation Legislation

HB 4 by Rep. Nixon (R-Houston) - relating to the reform of certain procedures and remedies in civil actions. This bill limits a workers' compensation insurer's subrogation interest to the amount of the total benefits paid or assumed by the insurer to the employee, minus the amount by which the court reduces the judgement based on the percentage of responsibility determined by the judge hearing the case, attributable to the employer.

HB 145 by Rep. Solomons (R-Carrollton) - relating to workers' compensation dispute resolution. HB 145 provides TWCC with the authority to file a lawsuit to enforce an interlocutory order, final order, or decision when a party refuses or fails to comply the order or decision. The legislation also entitles TWCC to attorney fees and costs for prosecution and collection.

HB 833 by Rep. Hochberg (D-Houston) - relating to certain pharmaceutical services for an injured employee receiving workers' compensation medical benefits. This bill allows injured workers to pay the difference between the cost of name brand drugs and generic or over-the-counter drugs prescribed by the employee's treating doctor. Employees are not able to be reimbursed for out of pocket expenses for paying the difference.

This bill also requires TWCC to study the pharmacy fees paid by private health insurance, medicaid, self

paying, and workers' compensation. TWCC is then required to adopt a rule with methodology for a pharmacy fee guideline.

HB 2198 by Rep. Solomons (R-Carrollton) - relating to the certification of maximum medical improvement and the impairment rating assigned to an employee in a claim for workers' compensation benefits. This bill addresses the Fulton court decision by making the first valid assignment of an impairment rating to an employee final if the certification of medical maximum improvement and/or the assigned impairment rating is not disputed within 90 days. HB 2198 does make allowances for dispute after the 90 day time limit if there is: significant error on the part of the certifying doctor; a clear misdiagnosis or a previously undiagnosed medical condition; prior improper or inadequate treatment of the injury; or other compelling circumstances as established by TWCC rule.

HB 2199 by Rep. Solomons (R-Carrollton) - relating to the right of an insurance carrier to contest the compensability of an injury in a workers' compensation case. This bill addresses the Downs decision by extending the time for an insurer to begin payments or notify the injured worker and TWCC of the insurer's refusal to pay from seven to 15 days. It also clarifies that an insurer who fails to provide notice within the allotted time frame does not waive the right to contest compensability, but rather commits an administrative violation. The bill provides a graduated monetary fine for non-compliance.

HB 3168 by Rep. Giddings (D-Dallas) - relating to the determination of workers' compensation benefits and the resolution regarding those benefits. This bill allows

TWCC authority to provide an alternate dispute resolution process for medical services costing less than the cost of a medical necessity review by an independent review organization. Cost for this would be paid by the non-prevailing party. This bill also includes language from HB 2198 regarding the finality of maximum medical improvement.

SB 1572 by Sen. Carona (R-Dallas) - relating to workers' compensation treatment guidelines and protocols. It allows TWCC to adopt individual treatment protocols that must be scientifically valid and outcome based.

SB 1574 by Sen. Carona (R-Dallas) - relating to the administration and regulation of the state's workers compensation insurance system. The bill states that a person who serves on the medical quality review panel (MQRP) is immune from suit and civil liability for an act performed, or a recommendation made, within the scope of the person's actions as a member of the MQRP. If a civil action were to arise against a member of the panel, the person is entitled to the same protections afforded a TWCC member.

The bill also provides that TWCC, the State Board of Medical Examiners, and the Texas Board of Chiropractor Examiners are able to share confidential information to which access is otherwise prohibited.

In addition, SB 1574 places a cap on the state average weekly wage for FY 2004 and 2005. The average weekly wage for FY 2004 has been set at \$537. For FY 2005 the average weekly wage has been set at \$539.

SB 1804 by Sen. Harris (R-Arlington) - relating to certain health care treatment plans and pharmaceutical services and to medical necessity

(See "Bills," page 11)

Bills focus on risk management

(Continued from page 10)

ty reviews. This bill adds language to the Labor Code stating that TWCC may not prohibit an insurance carrier and health care provider from voluntarily discussing pharmaceutical services, either prospectively or concurrently, and may not prohibit an insurance carrier from certifying or agreeing to pay for health care consistent with those agreements.

This bill does make an insurer liable for health care treatment and treatment plans and pharmaceutical services that are voluntarily pre-authorized and prohibits insurers from disputing the certified or pre-authorized health care treatment and treatment plans and pharmaceutical services at a later date.

The bill requires an independent review organization (IRO) that is performing a review of medical necessity to consider TWCC's health care reimbursement policies and guidelines, if those policies and guidelines are raised by one of the parties to the dispute.

The bill provides that, if the independent review organization's decision is contrary to TWCC's policies or guidelines, the IRO must indicate in the decision the specific basis for its divergency in the review of medical necessity. The IROs are not prohibited from considering and applying the payment policies in any dispute, regardless of whether those policies are raised as an issue in the dispute.

Risk Management Bills

HB 1230 by Rep. Elkins (R-Houston) - relating to risk management services for employees of community supervision and corrections departments (CSCDs). This clarifies that the CSCDs are able to use SORM's risk management services.

SB 599 by West (R-Dallas) -

The magic date

Monday, Sept. 1, 2003
(91st day following final adjournment)
is the date that bills without specific effective dates (that could not be effective immediately) become law.

Relating to investigation, testing, technical assistance, and certain other matters related to indoor air quality in State buildings. This requires SORM's training division to hold an indoor air quality seminar once each year for all State agencies.

Human Resources Legislation/ Agency Operation Legislation

HB 3208 by Rep. Heflin (R-Houston) - relating to the temporary provision of lump sum payments to certain retiring members of the Employees Retirement System. This bill allows State employees eligible to retire between Aug. 31, 2003, and Sept. 1, 2005, to take a lump sum payment, in addition to their retirement, of 25 percent of their annual salary.

The annual salary associated with the retiree's position will be automatically reduced by 35 percent. Ultimately this reduces SORM's salary base. The agency is responsible for paying the lump sum of 25 percent to the employee and returning another 10 percent to General Revenue.

HB 3442 by Rep. Pickett (D-El Paso) - relating to statutory authority to reduce appropriations made by the Legislature to certain governmental entities. There is a provision in HB 3442 requiring the management-to-staff ratio be 1:8 by March 2004; 1:9 by August 2005; 1:10 by August 2006; and 1:11 by August 2007.

Legislation Introduced but DID NOT PASS

HB 3000 by Rep. Capelo (D-Corpus Christi) - relating to the reimbursement under the workers' compensation system for certain surgical assistants. This bill would have required TWCC to set a medical fee guideline for surgical assistants that are not currently covered.

HB 3285 by Rep. Martinez Fischer (D-San Antonio) - relating to the establishment of fee guidelines by TWCC. This bill would have established the conversion factors for the new medical fee guideline. The conversion factors proposed were higher than the 125 percent of Medicare currently adopted.

SB 1414 by Sen. Deuell (D-Greenville) - Relating to certain diseases or illnesses suffered by certain emergency first responders. The intent of this legislation was to provide compensation for fire fighters, police officers, and all emergency personnel if they were exposed to hazardous chemicals, smallpox, tuberculosis, etc. Although this bill did not catch the attention of most carriers until the end of session, the fiscal impact to the State could have been significant.

Insurance Carrier Networks and the Healthcare Network Advisory Committee - Several bills were filed creating carrier-directed, mandatory networks with negotiated fee guidelines and standards. However, discussions broke down between carriers and the medical community. The legislation did not pass, but look for a revival of similar language in the next session.

Lucinda Saxon is SORM's governmental liaison.

Driver inattention is costly

By Roger Beck

The State of Texas could save on the \$3.8 million it spends on automobile collision workers' compensation costs if drivers paid more attention behind the wheel, according to state and national statistics.

Automobile collision costs for state employees in SORM's workers' compensation program totaled \$3,868,026 for FY 2002 and through June 1 of FY 2003. This dollar figure, which includes medical and indemnity costs, is a result of 527 automobile collisions. The largest category of claims, 403, resulted from collisions or sideswipes with another vehicle. Collisions with fixed objects account for 19 of the claims. Rollovers account for 30 of the claims.

Automobile insurance carrier statistics show that distracted drivers are a leading cause of most automobile collisions. Distraction when driving can be attributed to several factors. Some of these include cellular phone operations, spilled coffee, a dropped object on the floor, fiddling with a radio or climate control system, or, believe it or not, reading a newspaper, shaving, or applying makeup.

An Indiana University study of "Precrash factors involved in traffic accidents" identified driver inattention as the leading cause of automobile accidents. Mark Edwards, direc-



Drivers who talk on cell phones are four times more likely to be involved in an auto accident, according to a study.

tor of traffic safety at the American Automobile Association, states, "Research tells us that somewhere between 25-50 percent of all motor vehicle crashes in this country really have driver distraction as their root cause."

A study by the New England Journal of Medicine found that drivers who talk on a cell phone are four times more likely to be in an accident than drivers who don't. Newer cell phones address some of the problems. Recent developments in cell phone technology include voice-activated dialing, built-in phones, headsets, and speaker phones can all help drivers concentrate on the roadway.

The Cellular Telecommunications Industry Association has created some cell phone safety tips.

- Get to know your phone's features such as speed dial and redial.
- Use hands-free devices such as an earpiece.

- Do not look up phone numbers while driving.
- Place calls when you are not moving or before pulling into traffic.
- Position your phone within easy reach.
- Suspend calls during heavy traffic or hazardous weather conditions.
- Hang up in tricky traffic situations.

The National Highway Traffic Safety Administration advises motorists not to try to change lanes on the freeway while you're putting sugar in your coffee or hunting for a radio station, and not to argue with your spouse or kids as you dodge through rush-hour traffic. Aggressive driving combined with a distracted driver can quickly escalate into a lethal situation.

Roger Beck is a risk management specialist in the Risk Assessment and Loss Prevention division.

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