

Statement of CM Schade, MD, PhD
Fix TWCC Founding Member
Senate Select Interim Committee on Workers' Compensation
March 25, 2004

Senators - good afternoon.

We are here today because injured workers' access to quality medical care has reached a crisis point in Texas. Fix TWCC is a coalition of workers, patients, businesses, physicians and others concerned about our workers' compensation system.

Currently, the Texas Workers' Compensation Commission relies on a maze of burdensome paperwork, "deny and stall" handling of workers' compensation claims and cumbersome reimbursement guidelines and other rules.

As a result, patients are experiencing a critical lack of access to quality medical treatment provided without significant delay in the patient's own community.

Our workers' compensation system should operate in an open, accessible manner that informs patients of their rights, treats patients, employers, and physicians fairly, and provides accountability for all parties involved.

Our Mission

The workers' compensation system in Texas is broken, and it must be fixed. The primary mission of Fix TWCC is to put a human face on the workers compensation crisis in Texas. Texas must stand up for our injured workers, the businesses who employ them and the health care professionals who treat them.

Proposed Reforms

I am suggesting the following reforms:

1. Make workers compensation insurance **MANDATORY FOR ALL EMPLOYERS** in the state of Texas. This will have the effect of spreading out the risk over all workers. This will also save the state hundreds of millions of dollars in uninsured care. Currently the system is being abused by many high-risk employers who have no workers compensation insurance so when their workers are injured the state and federal governments pick up the bill.

2. **RECLASSIFY WORK COMP INJURY.** We need a 2-tier system because all injuries are not equal in their severity and required treatment. The current workers compensation system is very expensive. Giving employers a second option of an “accidental work comp insurance plan” where an on-the-job injury requires the occurrence of an accident could reduce cost and ensure accountability by providing for employer deductibles and co-pays very similar to indemnity insurance plans. Thus a two-tier system would give employers an option between: A) an all inclusive plan like the current program or B) an accident-only plan. This would make mandatory workers compensation affordable for all employers.
3. Workers need to be able to **SETTLE THEIR LIFETIME MEDICAL** for a lump sum. This would allow them to get their medical care, pay off their debts, and motivate them to return to work.
4. The **MEDICAL FEE GUIDELINE NEEDS TO BE REVISED** in accordance with the legislative mandates. Both the 1996 and the 2002 medical fee guidelines are being challenged in the court system. The 1996 medical fee guideline has been argued as being invalid before the Texas Supreme Court and the 2002 medical fee guideline has been argued as being invalid before the 3rd Court of Appeals (both decisions are pending). The use of multiple conversion factors as recommended by Milliman USA in Nevada, for example, would put the workers comp fee schedule on an equal footing with commercial insurance plans.
5. The workers compensation system needs to institute **ELECTRONIC BILLING**. The federal government has mandated electronic billing for Medicare, and it works. Electronic billing coupled with electronic payments is cost effective. Documentation of the injured workers care can be handled electronically by fax reports to the employer.
6. Eliminate the **FOX GUARDING THE HEN HOUSE**. Currently insurance companies are paying exorbitant fees to physicians to do Independent Medical Reviews (IMEs). This has corrupted the system! Let’s face it, it just looks bad when an “insurance doctor” gets paid six million dollars in three years for writing reports for the insurance company that employs him. We have a current Designated Doctor system and if the disputes were handled by the Designated Doctors in accordance with Medical Treatment Guidelines as mandated by the legislature, then the system would be a fair and equitable system.
7. **SUNSET THE TWCC** and move workers compensation to the Texas Department of Insurance. TWCC has repeatedly failed to follow the legislative intent. Insurance company profits have skyrocketed while payments to patients and physicians have fallen. Transferring the workers compensation function to TDI will provide a uniform playing field for all. We further recommend that work comp insurance rates be approved by TDI.

Senator Staples and committee members, we appreciate the opportunity to share our ideas and look forward to being a part of the ongoing process of reforming TWCC to ensure that workers' compensation insurance becomes a better value for employers and insurers, and a better deal for physicians and workers.

Thank you for your time today.

C. M. Schade, MD, Ph.D., a Dallas Fort Worth metroplex pain medicine physician, is a founding member of FIX TWCC. Dr. Schade has been practicing pain medicine in Texas for 25 years. He has taken care of hundreds of injured workers.

Dr. Schade is the immediate past president of the Texas Pain Society. The Texas Pain Society advocates for improvements in pain medicine, physician reimbursement, and promotes educational programs.

Dr. Schade is a TMA delegate and represents the Texas Pain Society on the TMA Interspecialty Society Committee and the TMA TWCC Task Force.

Dr. Schade is a founder and the president of Patient Advocates of Texas (PAT). PAT has filed multiple lawsuits against TWCC on behalf of injured workers, businesses, and physicians. PAT's allegation of TWCC's illegal delegation of authority to insurance companies was upheld by the third court of appeals and was argued before the Texas Supreme Court in November of 2003. A Supreme Court ruling is expected in the near future.