



# **INTERNATIONAL ASSOCIATION OF DRILLING CONTRACTORS**

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## **TEXAS WORKERS COMPENSATION REFORM PROPOSALS 26 August 2004**

IADC is a trade association representing the interests of drilling contractors, onshore and offshore, operating worldwide. We greatly appreciate the opportunity to address this joint meeting of the Texas Senate Select Interim Committee on Workers' Compensation and the House Committee on Business and Industry. Our members are concerned with the rising cost of Workers' Compensation to their companies. This is of greatest concern when one realizes that the benefits paid to truly injured workers do not reflect the same increase.

To address this issue our members suggest that the Committees:

1. Workers' Compensation fraud causes increased costs while hurting the truly injured individuals. With this in mind it is suggested that the committees revisit House Bill #328 from the last session. This bill would revise the fraud prevention provisions to allow a prospective employer to request an applicant for employment provide injury, disability or other medical condition information that directly relates to a bona fide occupational qualification. A prospective employee's failure to truthfully answer such medical inquiry, if hired, subjects the employee to the forfeiture of benefits if the medical condition for which the claim for benefits is made is causally related to a medical condition, disability, or injury that was not disclosed. A prospective employer who receives information under this provision regarding a prior injury of an applicant for employment is not liable in a suit for damages solely because the prospective employer relied on the information in deciding not to hire the applicant.
2. The labor code should also be revised to allow the prospective employer to submit an inquiry to the TWCC for injury information and if the applicant has made an injury claim in the preceding five (5) years, the commission shall release the date and description of each injury to the prospective employer. Moreover, such inquiry is not an unlawful employment practice.
3. The medical fee schedule needs flexibility. Many states (Louisiana as an example) allow the employer or its insurer to voluntarily pay above the fee schedule. The fee schedule becomes the minimum allowable payment. Such flexibility will allow the injured employee more optimized care by bringing more specialist physicians into the system.
4. Expedite the Designated Doctor (DD) process. Currently, the program takes too long to schedule appointments and is too rigid. Also, the employer or their licensed representative should be allowed to provide information directly

to the Designate Doctor, provided the same information is provided to the employee or their designated representative.

5. Due to the mobility of the work force in the oil and gas drilling industry it is critical that the TWCC amend the Approved Doctors List (ADL) procedures to allow a physician to fax a simple form to TWCC. This should be allowed even on the date of treatment. Out of state physicians should not be required to be on the Approved Doctors List.
6. An employer that employs a Texas State licensed adjuster should not be required to utilize a Third Party Administrator (TPA) to adjust claims.
7. Full and final settlements, including future medical, should be encouraged. Such a process should require TWCC approval to protect the interests of the injured employee.

IADC and our members thank you for your time.