



The Monthly Update of Texas Healthcare News

TEXAS HEALTH LAW NEWSBRIEF



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WELCOME TO THE TEXAS HEALTH LAW NEWSBRIEF

The Texas Health Law Newsbrief is a monthly e-mail summary of what has recently transpired – or is about to – in Texas Health Law. The Newsbrief was developed by Martin, Disiere, Jefferson & Wisdom, L.L.P. to help healthcare providers, insurers, and employers keep apprised of significant health law news in Texas. The Newsbrief is designed to truly be “news you can use” in a short and easy to digest format.

Each month you will receive your personal copy of the Newsbrief e-mailed directly to you. Because we know your time is valuable, we will focus on the most pertinent, useful, and influential health law issues of the day to keep you abreast of the latest developments on a timely basis.

The Texas Health Law Newsbrief will be sent by e-mail free of charge to anyone who wishes to receive it as a service to the Texas healthcare industry. If you wish to receive the Newsbrief, please send your name and e-mail address to healthlaw@mdjwlaw.com. We hope you enjoy this first issue and we welcome your feedback.

ANNUAL CORPORATE STATEMENTS DUE BY JUNE 30TH

Texas corporations, including professional associations, are required to file an annual statement with the Secretary of State of Texas in June of each year. The deadline to file the annual statement for Texas corporations this year is June 30, 2008. Failure to file the annual statement when due could result in the corporation’s status being changed to delinquent and ultimately involuntary dissolution. The forms and filing instructions are available online at www.sos.state.tx.us. You may delay, but time will not – so file your statement before the deadline.

TDI FINES INSURANCE COMPANY FOR INAPPROPRIATE DISCOUNTS.

Health Insurers and Physicians should be aware that the Texas Department of Insurance (TDI) is probing into whether discounts to out-of-network claims are appropriate. This is illustrated by the TDI’s recent \$8,000 fine of Great-West Life & Annuity Insurance Company for inappropriate physician discounts on claims. Great-West Life, which was recently purchased by CIGNA, was acting as a silent PPO on the claims at issue. The TDI order says the company violated the state insurance code because it applied discounts to out-of-network claims when it was not contractually allowed to, or was not given authority to access discount information, or did not notify physicians before taking the discounts. A TDI investigator said that the agency began its probe into silent PPOs after receiving numerous complaints from physicians in Texas. Further evidence that Health Insurers and Physicians should be mindful of this issue is the apparent growing trend of enforcement as TDI previously fined Unicare Life & Health Insurance

Company, Humana, and Metropolitan Life for improperly applying network discounts to providers. Clearly health insurers and providers are now on notice of TDI's probe into these matters.

TEXAS FRANCHISE TAX DEADLINE EXTENDED

Many physicians and other businesses in Texas are filing state franchise tax returns for the first time in 2008. Texas Comptroller Susan Combs recently issued an extension for Texas businesses to file the return. The extension provides that businesses that could not meet the May 15, 2008 deadline to pay this new business tax now have an additional 30 days to file their returns or request an extension. Prior to this extension, businesses that did not file the return by May 15th would have been assessed a 5% penalty. Physicians and other businesses who have not already filed their state franchise tax return or extension should make this a priority to avoid the penalties.

TEXAS FRANCHISE TAX RULES REVISED

On May 13, 2008, the Texas Comptroller's office released a revised interpretation of Tax Code §171.1011(n)(2), regarding the calculation of total revenue, which applies to health care providers and health care institutions. The revised definitions and formula provided by the Texas Comptroller explain how to calculate the cost of uncompensated care for purposes of the Texas Franchise Tax. Healthcare entities in Texas should confirm their state franchise tax return complies with these revised rules.

FAST-TRACK PROCEDURE FOR MINOR VIOLATIONS IMPLEMENTED BY TEXAS MEDICAL BOARD

A new *fast-track* enforcement procedure was recently adopted by the Texas Medical Board. In theory the new process will allow physicians facing discipline for relatively minor administrative violations to resolve the matter quickly versus the typical lengthy investigation. Administrative violations punishable only by a fine, with no other allegation, will be eligible for *fast-track* consideration. These generally will include:

1. Failing to file a change of address with the Texas Medical Board.
2. Failing to provide medical records in a timely fashion.
3. Failing to obtain required continuing medical education.
4. Failing to sign a death certificate in a timely manner.
5. Other administrative violations punishable only by a fine.

Alleged violations arising from inadequate patient care or unprofessional conduct are not eligible for *fast-track* consideration. Doctors who choose to participate in the *fast-track* system may agree to administrative charges and a fine to resolve matters. This new process should save both physicians and the Texas Medical Board time and resources on matters that historically never warranted a full investigation.

Disclaimer: This Newsletter provides information about legal issues designed to help readers with their own legal needs. Although we go to great length to make sure our information is accurate and useful, reading this Newsletter is not a substitute for consultation with an attorney. Persons or companies with legal issues or questions should consult an attorney of their choice for specific advice regarding their individual situations.

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