

**State of California
Office of Administrative Law**

In re:
Division of Workers' Compensation

Regulatory Action:

Title 08, California Code of Regulations

Adopt sections: 9792.24.4

Amend sections: 9792.23, 9792.24.2

Repeal sections:

NOTICE OF APPROVAL OF REGULATORY
ACTION

Government Code Section 11349.3

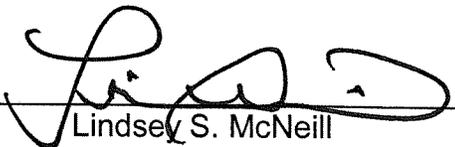
OAL Matter Number: 2016-0615-03

OAL Matter Type: Regular (S)

This rulemaking action by the Division of Workers' Compensation amends sections 9792.23 and 9792.24.2 and adopts section 9792.24.4 in title 8 of the California Code of Regulations to update the Chronic Pain Medical Treatment Guidelines and adopt Opioid Treatment Guidelines, which are incorporated by reference into the Medical Treatment Utilization Schedule.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 7/28/2016.

Date: July 28, 2016


Lindsey S. McNeill
Attorney

For: Debra M. Cornez
Director

Original: George Parisotto
Copy: John Cortes

REGULAR

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2015-0707-03	REGULATORY ACTION NUMBER 2016-0615-038	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

2016 JUN 15 A 10:59
OFFICE OF ADMINISTRATIVE LAW

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

JUL 28 2016

3:21 PM

NOTICE	REGULATIONS
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AGENCY WITH RULEMAKING AUTHORITY Division of Workers' Compensation Department of Industrial Relations - Division of Workers' Compensation	AGENCY FILE NUMBER (if any) LM per agency request 7/28/16
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A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Workers' Compensation - Medical Treatment Utilization Schedule	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) Z-2014-0505-01 / ^{LM} 2009-0506-01 (continued)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	
ADOPT 9792.24.4	LM per agency request 7/28/16
AMEND 9792.23(b)(1) and 9792.24.2	LM per agency request 7/28/16
TITLE(S) 8 cm request	REPEAL LM per agency request 7/28/16

3. TYPE OF FILING	
<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)
	<input type="checkbox"/> File & Print
	<input type="checkbox"/> Other (Specify) _____
	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
	<input type="checkbox"/> Print Only

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)	
December 4, 2015 - December 19, 2015	LM per agency request 7/28/16

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)	
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input checked="" type="checkbox"/> Effective on filing with Secretary of State
	<input type="checkbox"/> \$100 Changes Without Regulatory Effect
	<input type="checkbox"/> Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY	
<input checked="" type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission
<input type="checkbox"/> Other (Specify) _____	<input type="checkbox"/> State Fire Marshal

7. CONTACT PERSON John G. Cortes	TELEPHONE NUMBER (510) 286-0519	FAX NUMBER (Optional) (510) 286-0687	E-MAIL ADDRESS (Optional) jcortes@dir.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 6-13-2016
TYPED NAME AND TITLE OF SIGNATORY George Parisotto, Acting Administrative Director	

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ENDORSED APPROVED

JUL 28 2016

Office of Administrative Law

TITLE 8. INDUSTRIAL RELATIONS
DIVISION 1. DEPARTMENT OF INDUSTRIAL RELATIONS
CHAPTER 4.5. DIVISION OF WORKERS' COMPENSATION
SUBCHAPTER 1. ADMINISTRATIVE DIRECTOR -- ADMINISTRATIVE RULES
ARTICLE 5.5.2 MEDICAL TREATMENT UTILIZATION SCHEDULE

§ 9792.23. Clinical Topics

(a) [No change]

(b) For all conditions or injuries not addressed in the MTUS, the authorized treatment and diagnostic services in the initial management and subsequent treatment for presenting complaints shall be in accordance with other scientifically and evidence-based medical treatment guidelines that are nationally recognized by the medical community pursuant to section 9792.21(d)(1).

(1) In providing treatment using other guidelines pursuant to subdivision (b) above and in the absence of any cure for the patient who continues to have pain that persists beyond the anticipated time of healing lasting three or more months from the initial onset of pain, the chronic pain medical treatment guidelines in section 9792.24.2 shall apply and supersede any applicable chronic pain guideline in accordance with section 9792.23(b).

(2) [No change]

Authority cited: Sections 133, 4603.5, 5307.3 and 5307.27, Labor Code.

Reference: Sections 77.5, 4600, 4604.5 and 5307.27, Labor Code.

§ 9792.24.2. Chronic Pain Medical Treatment Guidelines

(July 2016)

(a) The Chronic Pain Medical Treatment Guidelines ~~(May, 2009)~~ (July 2016) ~~[insert effective date of regulations]~~, consisting of two parts, are adopted and incorporated by reference into the MTUS. Part 1 is entitled Introduction. Part 2 is entitled Pain Interventions and Treatments – the “Official Disability Guidelines (ODG) Treatment in Workers’ Compensation – Pain (Chronic)” consisting of an edited version from the Official Disability Guidelines published on April 6, 2015, which the Division of Workers’ Compensation has adapted with permission from the publisher. These guidelines replace Chapter 6 of the ACOEM Practice Guidelines, 2nd Edition (2004). Where the clinical topic sections of the MTUS in the series of sections commencing with 9792.23.1 et seq., make reference to Chapter 6 or when there is a reference to the “pain chapter,” or “pain assessment,” the chronic pain medical treatment guidelines will apply instead of Chapter 6. A copy of the ~~eChronic pPain mMedical tTreatment gGuidelines~~ may be obtained from the

LM
per agency
request
7/28/16

Medical Unit, Division of Workers' Compensation, P.O. Box 71010, Oakland, CA 94612-1486, or from the DWC web site at <http://www.dwc.ca.gov>.

(b) ~~The eChronic pPain mMedical tTreatment gGuidelines apply when the patient has chronic pain as determined by following the clinical topics as defined in section 9792.20.~~

(c) When a patient is diagnosed with has chronic pain and the treatment for the condition is covered in the eClinical tTopics sections of the MTUS but is not addressed in the ~~eChronic pPain mMedical tTreatment gGuidelines~~, the eClinical tTopics section applies to that treatment.

(d) When a patient has chronic pain and the treatment is addressed in both the ~~eChronic pPain mMedical tTreatment gGuidelines~~ and the specific guideline found in the eClinical tTopics section of the MTUS or if the treatment is only addressed in the Chronic Pain Medical Treatment Guidelines, then the ~~eChronic pPain mMedical tTreatment gGuidelines~~ shall apply.

~~(e) Appendix D Chronic Pain Medical Treatment Guidelines Division of Workers' Compensation and Official Disability Guidelines References (May, 2009) is incorporated by reference into the MTUS as supplemental part of the Chronic Pain Medical Treatment Guidelines. A copy of Appendix D may be obtained from the Medical Unit, Division of Workers' Compensation, P.O. Box 71010, Oakland, CA 94612-1486, or from the DWC web site at <http://www.dwc.ca.gov>.~~

Authority cited: Sections 133, 4603.5, 5307.3 and 5307.27, Labor Code.

Reference: Sections 77.5, 4600, 4604.5 and 5307.27, Labor Code.

§ 9792.24.4. Opioids Treatment Guidelines

(July 2016)

(a) ~~The Opioids Treatment Guidelines~~ ^(July 2016) ~~insert effective date of regulations~~ consisting of two parts, is entitled "The Guideline for the Use of Opioids to Treat Work-Related Injuries," and is adopted and incorporated by reference into the MTUS. Part 1 contains the executive summary, abbreviated treatment protocols, background information, complete recommendations, and appendices with useful tools for clinicians. Part 2 contains supplemental information consisting of a discussion of the medical evidence supporting the recommendations and a summary of recommendations from other guidelines that were reviewed. These guidelines replace the existing parts of the MTUS that refer to opioid use. A copy of the Opioids Treatment Guidelines may be obtained from the Medical Unit, Division of Workers' Compensation, P.O. Box 71010, Oakland, CA 94612-1486, or from the DWC web site at <http://www.dwc.ca.gov>.

(b) The Opioids Treatment Guidelines describe the appropriate use of opioid medications as part of an overall multidisciplinary treatment regimen for acute,

LM
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7/28/16

sub-acute, post-operative, and chronic non-cancer pain. These guidelines apply when the use of opioid medications is being considered as part of the treatment regimen.

Authority: Sections 133, 4603.5, 5307.3, and 5307.27, Labor Code.
Reference: Sections 77.5, 4600, 4604.5, and 5307.27, Labor Code.