

**STATE OF CALIFORNIA  
DEPARTMENT OF INDUSTRIAL RELATIONS  
DIVISION OF WORKERS' COMPENSATION**

**FINAL STATEMENT OF REASONS**

**Workers' Compensation: Medical Treatment Utilization Schedule**

**TITLE 8, CALIFORNIA CODE OF REGULATIONS,  
SECTIONS 9792.20 – 9792.26**

The Acting Administrative Director of the Division of Workers' Compensation (hereinafter "Acting Administrative Director") pursuant to the authority vested in her by Labor Code Sections 59, 133, 4600, 4604.5, 5307.3 and 5307.27, has amended and adopted the following regulations:

Amend Section 9792.20	Medical Treatment Utilization Schedule - Definitions
Amend Section 9792.21	Medical Treatment Utilization Schedule
Adopt Section 9792.21.1	Medical Evidence Search Sequence
Amend Section 9792.23	Clinical Topics
Amend Section 9792.24.1	Acupuncture Medical Treatment Guidelines
Amend Section 9792.24.3	Postsurgical Treatment Guidelines
Amend Section 9792.25	Quality and Strength of Evidence – Definitions
Adopt Section 9792.25.1	MTUS Methodology for Evaluating Medical Evidence
Amend Section 9792.26	Medical Evidence Evaluation Advisory Committee

**REQUEST AND GOOD CAUSE FOR EFFECTIVE DATE UPON FILING WITH THE SECRETARY OF STATE**

The proposed regulations explain and clarify the scientific process by which evidence-based clinical decisions are made for injured workers. Although the current regulations provide an outline for the process by which clinical decisions are made and also provide a methodology adopted from ACOEM to rank the strength of evidence, it lacks clarity and details to ensure treating physicians and reviewing physicians are consistently applying the scientific process by which evidence-based clinical decisions are made for injured workers. Accordingly, it is important and necessary that these regulations are effective upon filing with the Secretary of State so that there is clarity and consistency for the public.

The proposed regulations clarify the role of the MTUS by providing an explanation that the MTUS is based on the principals of evidence-based medicine. Evidence-based medicine requires the evaluation of medical evidence by applying a transparent, systematic methodology to evaluate the quality and strength of evidence used to support recommendations for a medical condition or injury. Once this systematic evaluation is applied, the best available evidence is then integrated with individual clinical expertise and the patient's values to guide clinical decision

making. The current regulations provide no explanation of the principals of evidence-based medicine. To understand the MTUS requires a basic understanding of the principals of evidence-based medicine because medical evidence must be evaluated whenever there are competing recommendations. Once the systematic methodology is applied to determine which recommendation is supported by the best available medical evidence, then clinical decisions can be properly guided. This clarification is provided for in the proposed regulations which will improve the delivery of patient care.

The proposed regulations also clarify that the recommended guidelines set forth in the MTUS shall be the primary source of guidance for treating physicians and reviewing physicians. The recommended guidelines set forth in the MTUS are presumed correct on the issue of extent and scope of medical treatment. They were carefully selected by the DWC because they provide a framework for the most effective treatment for work-related injuries or conditions. The proposed regulations then clearly state that there are two limited situations that may warrant treatment based on recommendations found outside of the MTUS. First, if a medical condition or injury is not addressed by the MTUS and second, if the MTUS' presumption of correctness is successfully rebutted. The current regulations are not specific. The current regulations state treatment shall not be denied on the sole basis that the condition or injury is not addressed by the MTUS and, in another section, states the MTUS is presumed correct and that it may be controverted by a preponderance of scientific medical evidence. The proposed regulations simplify and clarify by stating in one section that the MTUS shall be the primary source of guidance for medical care and then concisely stating the two limited situations that may warrant treatment based on recommendations found outside of the MTUS. This clarification is important to ensure consistency in the way treating physicians and reviewing physicians apply the scientific process by which evidence-based clinical decisions are made for injured workers.

The proposed regulations provide a medical evidence search sequence for purposes of efficiency and consistency. The need to search for medical evidence is implied in the MTUS statutes. For example, Labor Code section 4604.5(d) states, "treatment not covered by the MTUS shall be in accordance with other evidenced-based medical treatment guidelines that are recognized generally by the national medical community." The current regulations provide no guidance to physicians in how to conduct a medical evidence search. To physicians, conducting a medical evidence search usually means conducting a thorough and comprehensive medical literature search of all the current medical literature on a given condition or injury. However, this would be time consuming and expensive and would not be a feasible requirement for busy physician's in the worker's compensation arena. The proposed regulations set forth an abridged medical evidence search sequence for purposes of efficiency and consistency and provide needed guidance for physicians when searching for medical evidence for the evaluation and treatment of injured workers.

In addition, the proposed regulations provide treating physicians, Utilization Review physicians and Independent Medical Review physicians clear and specific guidance when citing a guideline or study that is used to determine the reasonableness and necessity of a requested treatment. The current regulations provide no guidance in what, when or how citations must be made. The proposed regulations make it clear what, when and how citations must be made in the Request

for Authorization, Utilization Review Decision and/or Independent Medical Review Decision. This will ensure that proper and timely medical treatment is provided to injured workers.

Finally, the proposed regulations provide a transparent, systematic methodology to evaluate medical evidence, called the MTUS Methodology for Evaluating Medical Evidence. If there are competing recommendations, then the MTUS Methodology for Evaluating Medical Evidence shall be applied by either the Utilization Review physician or the Independent Medical Review physician. The current regulations contain ACOEM's strength of evidence rating methodology. However, it is being replaced because the MTUS Methodology for Evaluating Medical Evidence allows for this evaluation of a wider variety of medical evidence. ACOEM's strength of evidence rating methodology is limited because it only provides a process to evaluate recommendations supported by randomized controlled trials. The proposed regulation allows reviewing physicians to evaluate a broader range of medical evidence to determine which recommendation is supported by the best available medical evidence.

The benefits of an expedited effective date of the proposed MTUS regulations will outweigh any negative effect that may occur. The proposed regulations explain and clarify the scientific process by which evidence-based clinical decisions are made for injured workers. This will result in improved medical outcomes, and the clarity in the process will reduce the frictional costs (litigation) in the provision of medical care to injured workers.

## **UPDATE OF INITIAL STATEMENT OF REASONS AND INFORMATIVE DIGEST**

As authorized by Government Code section 11346.9(d), the Acting Administrative Director hereby incorporates by reference the entire the Initial Statement of Reasons prepared in this matter. Unless a specific basis is stated below for any modification to the regulations as initially proposed, the necessity for the amendments to existing regulations and for the adoption of new regulations as set forth in the Initial Statement of Reasons continues to apply to the regulations as now adopted.

All modifications from the initially proposed text of the regulations are summarized below.

### **Section 9792.20. - Medical Treatment Utilization Schedule – Definitions**

- This section is re-lettered in its entirety to accommodate deletions to two terms, “American College of Occupational and Environmental Medicine (ACOEM)”, and “MEDLINE”.
- Subdivision (a) the definition of “American College of Occupational and Environmental Medicine (ACOEM)” is deleted as unnecessary and duplicative because the definition provided for the acronym “ACOEM” sufficiently defines the American College of Occupational and Environmental Medicine.
- Subdivision (a) is re-lettered from (b) and the definition of “ACOEM Practice Guidelines” is amended to delete the phrase “Practice Guideline” because the acronym is used in the regulations without the phrase “Practice Guideline” attached to it. The phrase “published by

the Reed Group containing evidenced-based medical treatment guidelines for conditions commonly associated with the workplace” is added for clarity. The phrase “2<sup>nd</sup> Edition (2004)” is deleted as unnecessary because the sections in which ACOEM have been incorporated by reference into our regulations, are sufficiently cited in sections 9792.22(a), 9792.23.1(a), 9792.23.2(a), 9792.23.3(a), 9792.23.4(a), 9792.23.5(a), 9792.23.6(a), 9792.23.7(a), 9792.23.8(a), and 9792.23.9(a). The phrase “A copy” is deleted and replaced with “ACOEM guidelines” for specificity and clarity.

- Subdivision (b) is re-lettered from (c) and the definition of “Chronic pain” is amended to delete the phrase “any pain that persists beyond the anticipated time of healing” and add the phrase “pain lasting three or more months from the initial onset of pain” to provide a more specific definition consistent with the use of the term in other treatment guidelines.
- Subdivision (g) is re-lettered from (h) and the definition of “Medical treatment guidelines” is amended to delete the phrase “revised within the last five years” from the beginning of the definition and add the phrase “reviewed and updated within the last five years” at the end of the definition to clarify that medical treatment guidelines are to be reviewed and updated within the last five years not necessarily the written recommendations.
- Subdivision (i) the definition of “MEDLINE” is deleted because it is no longer used in the regulations.

#### **Section 9792.21. – Medical Treatment Utilization Schedule**

- The title of the section is amended to delete the phrase “Medical Literature Search Sequence” so that the section focuses on just the “Medical Treatment Utilization Schedule”. The initial intent of the proposed amendments to this section was to clarify the role of the MTUS and to describe the two limited situations that may warrant treatment based on recommendations found outside of the MTUS. The 45-day comment period version of this section covered too many topics and, as a result, was muddled and confusing to members of the public. To clarify, this section was re-organized.
- Subdivision (b) is amended to delete the sentence “The MTUS provides a framework for the most effective treatment of work-related illness or injury to achieve functional improvement, return-to-work, and disability prevention” and is replaced with language taken from subdivisions (c) and (d) to explain the MTUS is based on the principals of Evidenced-Based Medicine (EBM) and that it requires the evaluation of medical evidence by applying an explicit systematic methodology to determine the quality and strength of evidence used to support the recommendation for a medical condition or injury. The best available evidence is then used to guide clinical decision making.
- Subdivision (c) is amended to delete the language that has been moved to subdivision (b) and is replaced with the clarification that the recommended guidelines set forth in the MTUS are presumptively correct on the issue of extent and scope of medical treatment and “constitutes the standard for the provision of medical care in accordance with Labor Code section 4600 because it provides a framework for the most effective treatment of work-related illness or

injury to achieve functional improvement, return-to-work, and disability prevention. The MTUS shall be the primary source of guidance for treating physicians and physician reviewers for the evaluation and treatment of injured workers.”

- Subdivision (d) is amended to delete the language that has been moved to subdivisions (a) and (b) for reorganizational purposes to improve the flow and structure of the regulations. The sentences “Treatment shall not be denied on the sole basis that the condition or injury is not addressed by the MTUS. There are two limited situations that may warrant treatment based on recommendations found outside of the MTUS” are added to simplify and strengthen the regulations.
- Subdivision (d)(1) is added to describe the first limited situation that may warrant treatment based on recommendations found outside of the MTUS it states, “First, if a medical condition or injury is not addressed by the MTUS, medical care shall be in accordance with other medical treatment guidelines or peer-reviewed studies found by applying the Medical Evidence Search Sequence set forth in section 9792.21.1.”
- Subdivision (d)(2) is added to describe the second limited situation that may warrant treatment based on recommendations found outside of the MTUS it states, “Second, if the MTUS’ presumption of correctness is successfully challenged.” An explanation is provided to make clear the recommended guidelines set forth in the MTUS are presumptively correct on the issue of extent and scope of medical treatment, but the presumption is rebuttable and may be controverted by a preponderance of scientific medical evidence establishing that a variance from the schedule is reasonably required to cure or relieve the injured worker from the effects of his or her injury. Since the presumption created is one affecting the burden of proof, if the treating physician seeks treatment outside of the MTUS standard, then he or she bears the burden of rebutting the MTUS’ presumption of correctness.
- Subdivisions (e), (f), (g), (h), (i), (j), and (k) are deleted to clarify and simplify this section.

#### **Section 9792.21.1. – Medical Evidence Search Sequence**

- This section is added which adopts most of the language from the former section 9792.21, subdivisions (e), (f), (g), (h), (i), (j), and (k). Section 9792.21 was divided into two sections to distinguish the overview discussion of the MTUS from the process of finding medical evidence which is the topic of this new section.
- Subdivision (a) requires treating physicians and medical reviewers to conduct a medical evidence search in the sequence set forth in this section when finding medical evidence for the evaluation and treatment of injured workers.
- Subdivision (a)(1) requires a search of the current MTUS to find a recommendation applicable to the injured worker’s medical condition or injury.
- Subdivision (a)(2) sets forth the two limited situations when treatment can be based on recommendations found outside of the MTUS. First, if a medical condition or injury is not

addressed by the MTUS. Second, if the MTUS' presumption of correctness is being challenged. If these two limited situations exist then:

- Subdivision (a)(2)(A) - (C) sets forth the search sequence for finding medical evidence outside of the MTUS if the two limited situations described in the previous subdivision exists. If the MTUS does not contain the best available evidence applicable to the injured worker's medical condition or injury, then a physician should begin the search outside of the MTUS by searching the most current version of either ACOEM or ODG, then to the most current version of other evidenced-based medical treatment guidelines, and then finally, to current studies that are scientifically-based, peer-reviewed, and published in journals that are nationally recognized by the medical community.
- Subdivision (b) sets forth the requirements for treating physicians, Utilization Review physicians and Independent Medical Review physicians after they have conducted the medical evidence search in the sequence specified above.
- Subdivision (b)(1)(A) suggests if the medical condition or injury is not addressed by the MTUS, treating physician's may provide in the Request for Authorization (RFA) or in an attachment to the RFA a citation to the guideline or study containing the recommendation he or she believes guides the reasonableness and necessity of the requested treatment that is applicable to the injured worker's medical condition or injury.
- Subdivisions (b)(1)(A)1. - (b)(1)(A)2. sets forth the requirement that the citation provided by the treating physician shall be the primary source relied upon which the treating physician believes contains the recommendation that guides the reasonableness and necessity of the requested treatment that is applicable to the injured worker's medical condition or injury. If the treating physician provides more than one citation, then a narrative shall be included by the treating physician in the RFA or in an attachment to the RFA explaining how each guideline or study cited provides additional information that guides the reasonableness and necessity of the requested treatment that is applicable to the injured worker's medical condition or injury but is not addressed by the primary source cited.
- Subdivision (b)(1)(B) requires if the medical condition or injury is addressed by the MTUS but the treating physician is attempting to rebut the MTUS' presumption of correctness, then the treating physician shall provide in the Request for Authorization (RFA) or in an attachment to the RFA the following: a clear and concise statement that the MTUS' presumption of correctness is being challenged; a citation to the guideline or study containing the recommendation he or she believes guides the reasonableness and necessity of the treatment request that is applicable to the injured worker's medical condition or injury; and a copy of the entire study or the relevant sections of the guideline containing the recommendation he or she believes guides the reasonableness and necessity of the requested treatment that is applicable to the injured worker's medical condition or injury.
- Subdivisions (b)(1)(B)1. and (b)(1)(B)2. set forth the requirement that the citation and copy of the study or copy of the relevant sections of the guideline provided by the treating physician shall be the primary source relied upon which the treating physician believes

contains the recommendation that guides the reasonableness and necessity of the requested treatment that is applicable to the injured worker's medical condition or injury. If the treating physician provides more than one citation, then a copy of the additional study(ies) or copy of the relevant sections of the guideline(s) along with a narrative shall be included by the treating physician in the RFA or in an attachment to the RFA explaining how each guideline or study cited provides additional information that guides the reasonableness and necessity of the requested treatment that is applicable to the injured worker's medical condition or injury but is not addressed by the primary source cited.

- Subdivision (b)(2)(A) sets forth the requirement that if the RFA is being modified, delayed or denied, then the Utilization Review physician shall provide in the Utilization Review decision, in addition to the requirements set forth in section 9792.9.1(e), a citation to the guideline or study containing the recommendation he or she believes guides the reasonableness and necessity of the requested treatment that is applicable to the injured worker's medical condition or injury.
- Subdivisions (b)(2)(A)1. - (b)(2)(A)2. sets forth the requirement that the citation provided by the Utilization Review physician shall be the primary source relied upon which the he or she believes contains the recommendation that guides the reasonableness and necessity of the requested treatment that is applicable to the injured worker's medical condition or injury. If the Utilization Review physician provides more than one citation, then a narrative shall be included by the reviewing physician in the Utilization Review decision explaining how each guideline or study cited provides additional information that guides the reasonableness and necessity of the requested treatment that is applicable to the injured worker's medical condition or injury but is not addressed by the primary source cited.
- Subdivision (b)(3)(A) sets forth the requirement that if the Utilization Review Decision delays, denies, or modifies an injured worker's request for treatment and review of that decision is requested through Independent Medical Review, then the Independent Medical Review physician shall provide in the Independent Medical Review decision, in addition to the requirements set forth in section 9792.10.6(d), a citation to the guideline or study containing the recommendation he or she believes guides the reasonableness and necessity of the requested treatment that is applicable to the injured worker's medical condition or injury.
- Subdivisions (b)(3)(A)1. - (b)(3)(A)2. sets forth the requirement that the citation provided by the Independent Medical Review physician shall be the primary source relied upon which he or she believes contains the recommendation that guides the reasonableness and necessity of the requested treatment that is applicable to the injured worker's medical condition or injury. If the Independent Medical Review physician provides more than one citation, then a narrative shall be included by the reviewing physician in the Independent Medical Review decision explaining how each guideline or study cited provides additional information that guides the reasonableness and necessity of the requested treatment that is applicable to the injured worker's medical condition or injury but is not addressed by the primary source cited.
- Subdivision (c) requires the MTUS Methodology for Evaluating Medical Evidence set forth in section 9792.25.1 be applied by the reviewing physician if different guidelines or studies

containing recommendations that are at variance with one another were cited by the treating physician and/or the Utilization Review physician and/or the Independent Medical Review physician to determine which recommendation is supported by the best available evidence.

- Subdivision (d) provides the required citation format by the treating physician, Utilization Review physician and Independent Medical Review decision when providing the citation to the guideline or study containing the recommendation he or she believes guides the reasonableness and necessity of the requested treatment that is applicable to the injured worker's medical condition or injury. Included are citation format requirements when citing the MTUS, other medical treatment guidelines, and a peer-reviewed study.
- Subdivision (e) is added to make clear employers and their representatives, at their discretion, may approve medical treatment beyond what is covered in the MTUS or supported by the best available medical evidence in order to account for medical circumstances warranting an exception.

### **Section 9792.23 – Clinical Topics**

- Subdivision (b) is amended to provide the correct citation from Section 9792.25(b) to 9792.21(d)(1) due to the changes made as a result of this rulemaking.

### **Section 9792.24.1 – Acupuncture Medical Treatment Guidelines**

- Subdivision (d) is amended to provide the correct citation from Section 9792.20(f) to 9792.20(e) due to the changes made as a result of this rulemaking.

### **Section 9792.24.3 – Postsurgical Treatment Guidelines**

- Subdivision (d)(1) is amended to provide the correct citation from Section 9792.25(b) to 9792.21(d)(1) due to the changes made as a result of this rulemaking.

### **Section 9792.25 – Quality and Strength of Evidence - Definitions**

- The section heading is amended to add the phrase “Quality and” before the phrase “Strength of Evidence – Definitions” to clarify the terms being defined relate to the evaluation of medical evidence which involves a process to determine the quality and strength of evidence.
- Subdivision (a)(1) is amended to add “the Administrative Director adopts and incorporates by reference the Appraisal of Guidelines for Research & Evaluation II (AGREE II) Instrument, May 2009 into the MTUS” from the [www.agreetrust.org](http://www.agreetrust.org) website. The phrase “The AGREE II Instrument can be found in” is deleted and replaced with “A copy of the Appraisal of Guidelines for Research & Evaluation II (AGREE II) Instrument, May 2009 version may be obtained from the Medical Unit, Division of Workers’ Compensation, P.O. Box 71010, Oakland, CA 94612-1468 or from the DWC web site at <http://www.dwc.ca.gov>.”

### **Section 9792.25.1 – MTUS Methodology for Evaluating Medical Evidence**



- The section heading is amended to delete the phrases “Strength of Evidence”, “the Quality of” and “used to Support a Recommendation; MTUS Hierarchy of Evidence for Different Clinical Questions” and replaced with a succinct heading “MTUS Methodology for Evaluating Medical Evidence” for simplicity and clarity.
- Subdivision (a) is amended to delete the language “To evaluate the quality of evidence used to support a recommendation found in a medical treatment guideline or in a study published in the medical or scientific literature, the MTUS Hierarchy of Evidence for Different Clinical Questions as set forth in section 9792.25.1(b) shall be applied as follows:” and replaced with “When competing recommendations are cited to guide medical care, Utilization Review and Independent Medical Review physicians shall apply the MTUS Methodology for Evaluating Medical Evidence to evaluate the quality and strength of evidence used to support the recommendations that are at variance with one another. The MTUS Methodology for Evaluating Medical Evidence provides a process to evaluate studies, not guidelines. Therefore, the reviewing physician shall evaluate the underlying study or studies used to support a recommendation found in a guideline. Medical care shall be in accordance with the recommendation supported by the best available evidence. The MTUS Methodology for Evaluating Medical Evidence shall be applied as follows:” These revisions were made to clarify and make specific reviewing physicians will apply the MTUS Methodology for Evaluating Medical Evidence when there are competing recommendations.
- Subdivision (a)(1) is amended to delete the language used and move most of it to Subdivision (a)(2) and replace it with “The reviewing physician shall determine if different guidelines or studies were cited to guide the injured worker’s medical care by the treating physician, the Utilization Review physician and/or the Independent Medical Review physician that contain recommendations that are at variance with one another” to provide a clear description of the first step when applying the MTUS Methodology for Evaluating Medical Evidence.
- Subdivision (a)(2) is amended to adopt most of the language that was previously in Subdivision (a)(1) to provide a description of the second step when applying the MTUS Methodology for Evaluating Medical Evidence. Reviewing physicians shall evaluate the quality of evidence by determining if the studies used to support the recommendations are applicable to the injured worker and his or her medical condition or injury if different guidelines or studies were cited to guide the injured worker’s medical care containing recommendations that are at variance with one another. Applicability refers to the extent to which the individual patients, subjects, settings, interventions, and outcome measures of studies used to support a recommendation are similar to the worker and his or her medical condition or injury. A recommendation supported by inapplicable studies should not be used and reviewing physicians shall provide an explanation of their rationale in the Utilization Review or Independent Medical Review decision if they conclude a recommendation is supported by studies inapplicable to the worker and his or her medical condition or injury.
- Subdivision (a)(2)(A) is added to make clear that “The evaluation of medical evidence can end after this step if a citation to a guideline or a study contains a recommendation supported by inapplicable studies and the other citation contains a recommendation that is supported by studies applicable to the injured worker’s medical condition or injury.”

- Subdivision (a)(3) is amended to adopt most of the language that was previously in Subdivision (a)(2) to provide a description of the third step when applying the MTUS Methodology for Evaluating Medical Evidence. Reviewing physicians shall continue to evaluate the quality of evidence if the guidelines or studies cited contain recommendations supported by studies applicable to the worker and his or her medical condition or injury by determining what factors, if any bias may have had in the studies used to support the recommendations. Reviewing physicians shall evaluate the quality of evidence by determining what factors, if any bias may have had in the studies used to support the recommendations. Factors to consider include, but are not limited to, vested interests such as financial interests, academic interests, industry influence, and the methodological safeguards to protect against biases related to the generation of the randomization sequence, concealment of allocation, blinding, selective outcome reporting, early stopping, intention to treat, and confounding bias. A recommendation supported by studies determined to be of poor quality due to the presence of bias should not be used and reviewing physicians shall provide an explanation of their rationale in the Utilization Review or Independent Medical Review decision if they conclude a recommendation is supported by studies determined to be of poor quality due to the presence of bias.
- Subdivision (a)(3)(A) is added to make clear that “The evaluation of medical evidence can end after this step if a citation to a guideline or a study contains a recommendation supported by studies determined to be of poor quality due to the presence of bias and the other citation contains a recommendation that is supported by studies determined to be of good quality due to the absence of bias.”
- Subdivision (a)(4) is added to describe the fourth step when applying the MTUS Methodology for Evaluating Medical Evidence. Reviewing physicians shall determine the strength of evidence used to support the differing recommendations by applying the Hierarchy of Evidence for Different Clinical Questions set forth in section 9792.25.1(b).
- Subdivision (a)(4)(A) is amended to adopt most of the language that was previously in Subdivision (a)(3) to provide instructions on the steps to applying the Hierarchy of Evidence for Different Clinical Questions. The phrase “one of the following categories” replaces the phrase “categorized as follows” for clarity and specificity. The rest of this subdivision has been re-lettered and re-numbered but substantively remains the same.
- Subdivision (a)(4)(B) is re-lettered and re-numbered from (a)(4). The rest of this subdivision has been re-lettered and re-numbered but substantively remains the same.
- Subdivision (a)(4)(C) is re-lettered and re-numbered from (a)(5). The phrase “in the Utilization Review or Independent Medical Review decisions” is added to (a)(4)(C)1. to clarify where the levels of evidence shall be documented.

### **Section 9792.26. – Medical Evidence Evaluation Advisory Committee**

- Subdivision (e) is amended to add “May 2009” where applicable to specify the Appraisal of Guideline for Research & Evaluation II (AGREE II) version used by MEEAC is the May

2009 version. The phrase “and can be” is deleted and replaced with the word “was” to indicate the AGREE II, May 2009 version was found in the following website: [www.agreetrust.org](http://www.agreetrust.org). The phrase “A copy of the AGREE II Instrument, May 2009 version 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>” to clarify with the interested public where a copy may be obtained.

- Subdivision (e)(1) is amended to delete the word “original” and add the phrase “May 2009 version” to clarify which AGREE II instrument is used by MEEAC.
- Subdivision (g) is amended to delete “strength of evidence m” and replace it with “MTUS Methodology for Evaluating Medical Evidence”. The reference to section 9792.25.1 replaces the incorrect reference to section 9792.25.2.

**THE FOLLOWING ADDITIONAL NON-SUBSTANTIVE/CORRECTIONS WITHOUT REGULATORY EFFECT WERE MADE TO THE TEXT OF THE REGULATIONS AFTER THE CLOSE OF THE FINAL COMMENT PERIOD**

**Section 9792.21. – Medical Treatment Utilization Schedule**

- Subdivision 9792.21(c) is amended to add “The MTUS is intended to assist in the provision of medical treatment by helping those who make decisions regarding the medical treatment of injured workers understand what treatment has been proven effective in providing the best medical outcomes to those workers” to provide additional clarifying information to members of the public. This addition does not materially alter the requirements, rights, responsibilities, conditions or prescriptions contained in the text of the proposed regulations because it serves the sole purpose of clarifying the MTUS’ intended role and is, therefore, only informative in nature and non-regulatory.

**Section 9792.21.1. – Medical Evidence Search Sequence**

- Subdivision 9792.21.1(b)(3)(A) is amended to move the apostrophe to correctly spell the word “worker’s” instead of “workers’” to correct a typographical error.

**LOCAL MANDATES DETERMINATION**

- Local Mandate: None. The proposed regulations will not impose any new mandated programs or increased service levels on any local agency or school district. The proposed amendments do not apply to any local agency or school district.
- Cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None. The proposed amendments do not apply to any local agency or school district.

- Other nondiscretionary costs/savings imposed upon local agencies: None. The proposed amendments do not apply to any local agency or school district.

## **CONSIDERATION OF ALTERNATIVES**

The Division considered all comments submitted during the public comment periods, and made modifications based on those comments to the regulations as initially proposed. The Acting Administrative Director has now determined that no alternatives proposed by the regulated public or otherwise considered by the Division of Workers' Compensation would be more effective in carrying out the purpose for which these regulations were proposed, nor would they be as effective and less burdensome to affected private persons and businesses than the regulations that were adopted or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

## **SUMMARY OF COMMENTS RECEIVED AND RESPONSES THERETO CONCERNING THE REGULATIONS ADOPTED**

The comments of each organization or individual are addressed in the following charts. The public comment period was as follows:

### **Initial 45-day comment period on proposed regulations:**

May 16, 2014 - July 1, 2014

### **First 15-day comment period on modifications to proposed text:**

August 15, 2014 - August 30, 2014

### **Second 15-day comment period on modifications to proposed text:**

November 24, 2014 - December 9, 2014

### **Third 15-day comment period on modifications to proposed text:**

December 29, 2014 - January 13, 2015