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DEPARTMENT OF LABOR AND EMPLOYMENT

DIVISION OF WORKERS' COMPENSATION
MEDICAL SERVICES DELIVERY SECTION
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UPDATE RE: WORKERS' COMP LEGISLATION

Dear Level II Physician:

In May this office sent out a communication concerning the latest round of legislation passed by the statehouse this spring. Especially noted was Senate Bill 10-011, which included a section concerning restrictions on communications between treating physicians and workers' comp insurers/employers. This section is effective "upon passage." A section in the same Bill, Senate Bill 011, concerning DIMEs is effective on July 1. A Rulemaking hearing relating to that process is being held on June 21.

Please note that the Governor signed Senate Bill 011 on May 27. The language in the Bill states:

"A treating physician shall not communicate with the employer or insurer of an injured worker regarding that injured worker unless: (I) The injured worker is present for the communication; or (II) The treating physician makes an accurate written record of the communication, containing all relevant and material information that was communicated, and provides the injured worker access to the writing in the same manner as medical records disclosures as required by Director rules."

This will be codified in the statute at section 8-43-404(5)(c).

At the present time and until or unless further clarification or information is released, the Division recommends that, at minimum, physicians make a written record of their communications with the employer or insurer (anything concerning the medical status of the patient/claimant), and maintain those records in the patient's chart. The injured worker therefore has access to those writings in the same manner in which they are currently entitled to have access to their own medical records. The Division does not interpret this new language to imply that all oral communications between a physician and the insurer or employer are prohibited, but rather that a written record of such communications should be made and/or the claimant must be present.

Thank you. Should you have further questions, please contact the undersigned.

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