



TEXAS BUSINESS REPORT

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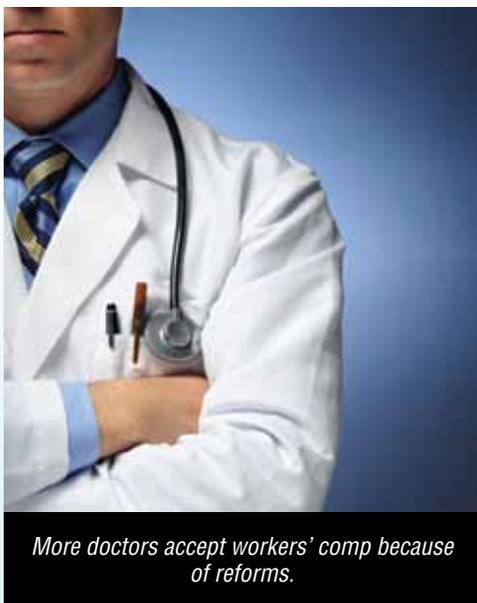
Workers' Comp Reforms Show TAB Value *Workers' Comp Rates Drop 49% Since 2005.*

HB 7, the key workers' compensation legislation that passed in 2005 has meant a dramatic drop in workers' compensation insurance rates. TAB led the fight to ensure that bill became law. TAB President and CEO Bill Hammond said that the recent news illustrates that the goals to improve the quality of care and reduce costs are working.

"Brokering a balanced bill that provided injured workers with better care while giving financial relief to employers who were facing eye-popping premiums was our main goal," said Hammond. Countless hours were spent in meetings and at committee hearings to get this deal done. Once the deal was done, the Division of Workers' Compensation had the arduous task of implementing all of the new rules created by the legislation. The final rule was finally put in place last year. This is the kind of work TAB does every day for Texas employers."

The Texas Department of Insurance recorded an average premium of \$1.38 per \$100 of payroll for employers opting to purchase workers' compensation insurance in 2010, a 49 percent decrease since 2004 when the average premium was \$2.70 per \$100 of payroll. In 2004, Texas had the 12th highest premiums in the nation; in 2010 Texas had dropped to 38th highest in the nation.

"This is good news for Texas business and it shows that the positive results envisioned by Governor Perry and the Legislature in House Bill 7 and other legislation have been realized," said Commissioner of Workers' Compensation Rod Bordelon. "Lower costs and more predictable regulations have clearly benefitted all participants, including employers, workers and doctors."



More doctors accept workers' comp because of reforms.

WORKFORCE Q&A

Can we impose a premium surcharge on tobacco users who enroll in our health plan?

(see page 2)

UPCOMING EVENTS

*TAB Higher Education Conference:
"Leaders and Laggards"*

*November 27th
10:00 a.m. - 2:00 p.m.*

*Hilton Austin
500 East 4th Street
Austin, TX 78701*

Join the Texas Association of Business for an update on higher education in Texas featuring statewide experts.

Register at www.txbiz.org

TAB MISSION

To make the Texas business climate the best in the world.

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WORKFORCE Q&A



Timothy G. Verrall,
Ogletree, Deakins, Smoak &
Stewart, P.C.

Can we impose a premium surcharge on tobacco users who enroll in our health plan?

The short answer is *yes* – premium surcharges for tobacco users (including both employees and their dependents) are permissible, but there are some rules that employers must abide by.

Premium surcharges and wellness incentives are regulated by nondiscrimination rules under the Health Insurance Portability and Accountability Act of 1996 or “HIPAA.” Where a penalty is imposed if employees don’t achieve a specific outcome, the HIPAA rules are stricter than for “participation-only” programs.

To qualify, a “standards-based” program like a tobacco premium surcharge must satisfy the following requirements:

- ★ The premium surcharge cannot exceed 20% of the annual costs of coverage (including both the employer’s and employee’s share). This amount will increase to 30% in 2014.
- ★ Employees must have an annual opportunity to avoid the surcharge. “One and done” policies are not permitted.
- ★ All similarly-situated employees must be given an opportunity to avoid the surcharge.
- ★ Reasonable alternative standards for avoiding the surcharge must be made available upon request if the employee cannot stop using tobacco products as a result of a medical condition or on the advice of a medical professional. Employers can require evidence of this status before offering up an alternative.

Typically, employers ask employees to certify their status as tobacco users (or not) on an annual basis during the open enrollment process; for new hires, the certification can be provided as part of initial enrollment. Generally, there is nothing that would preclude an employer from disciplining an employee who misrepresents his/her status to avoid a surcharge, although such potential penalties should be clearly explained in employee handbooks, plan documents, plan enrollment materials and other documentation supplied to employees.

Although employers don’t have a completely free hand to design wellness incentives or penalties, most find that the HIPAA requirements for standards-based wellness programs can be effectively managed to provide meaningful incentives for employees and their dependents to adopt healthier lifestyles which, in turn, holds the promise of lower health plan utilization and costs and more employee productivity.

Employment Relations questions?

**Don't forget to call TAB's Employment Relations Hotline
for your next HR Question
1.800.856.6721, ext. 164 or E-mail smcgee@txbiz.org**

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November 2012

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The Serious Higher Education Challenge

Colleges also have to be second high schools.

Some scary numbers that have just been released from the National Bureau of Economic Research that show exactly how far we need to go to graduate college-ready students from our high schools.

For example, half of all undergraduates will take one or more remedial courses. Remedial coursework is one of the largest interventions to help underprepared college students, costing \$7 billion annually.

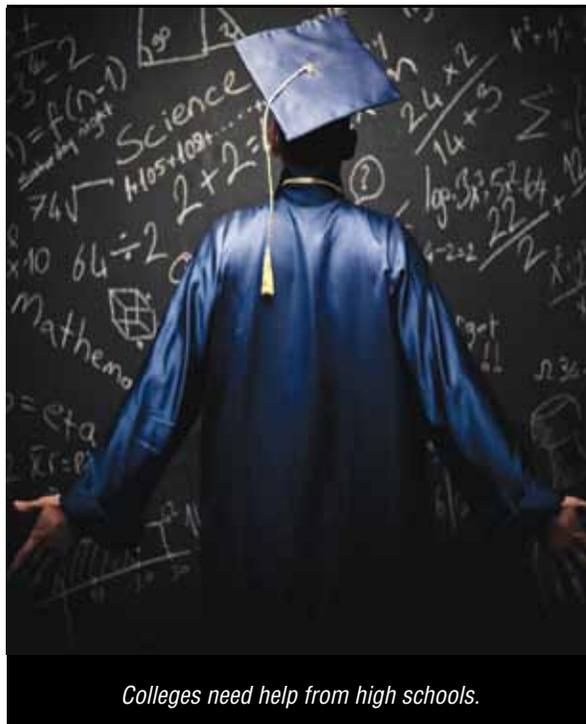
“This is a huge waste of money for students and their families,” said TAB President and CEO Bill Hammond. “Students have to take these courses to catch up, but they don’t get credit for them. This is a big reason that some students give up and drop out of college. We need students with more degrees and certificates and fewer reasons to drop out.”

Students not being prepared for college courses in high school are part of the problem; another is a system of short tests many colleges use to determine if a student needs remedial courses in the first place. In some instances, students have been placed in those courses by mistake. The system needs to be fixed because it is a waste of time and resources for both the student and the institution of higher education.

“The bottom line is we need to reduce the number of students taking remedial courses, no matter the reason they are taking them,” said Hammond. “First and foremost we must increase the rigor of high school courses and ensure through

accountability that our students are learning what they must learn. That is the first step toward increasing the number of students who graduate career and college ready.”

This and other subjects will be discussed at the Third Texas Association of Business Higher Education Conference to be held on Nov. 27. at the Hilton Austin. “Over the last two years, I believe this conference has helped lead to an understanding of the goals of higher education in Texas,” said Hammond. “We have the leaders in their field in Texas discussing the major issues facing higher education, and this year will be no different.”



Colleges need help from high schools.

This year the Conference also will feature a keynote address from former U.S. Secretary of Education Margaret Spellings. Spellings also will be featured with other leaders and TAB President and CEO Bill Hammond at a news conference on the challenges facing higher education preceding the conference.

Workers' Comp Reforms

continued from page one

“This is one of the best examples I have ever seen of our hard work at the Capitol paying off,” said Hammond. “There are many other examples, too, like our long support for lawsuit reform that has brought sanity to our court system in Texas and improved access to doctors through medical malpractice lawsuit reform. If anyone was on the fence about the positive impact TAB is having on the business community and business climate in Texas, I would point to this as a primary example of the kind of job we are doing.”

The 49 percent decrease was noted in a study recently released by the State of Oregon, which lists Texas as the most improved state in its rankings for workers' compensation expense. Commissioner Bordelon said lower system costs are resulting from improvements in workplace safety and the adoption of evidence-based treatment guidelines for doctors treating workers. That was a major component of the 2005 reform legislation. Bordelon also noted a reduction in workplace injuries and increase in the number of doctors treating patients, as well as improved medical treatment with better return-to-work outcomes.

House Bill 7 in 2005 set up a new system of provider networks to improve both the quality and access of care for people injured on the job. Both of those things have happened in the years since the law went into effect, also leading to lower premiums.

MEMBER PROFILE

Motion Computing – Serious Mobility Solutions for Serious Professionals

Motion Computing, based in Austin, was founded in 2001 by a group of technology industry veterans driven by the promising future of mobile computing. Just a year later, Motion's first tablet PC was unveiled on stage in concert with Microsoft's release of Windows XP Tablet Edition. While its mobility solutions have evolved over the past decade, the company's core focus has remained the same: delivering enterprise-focused mobile technology solutions that solve real-world business challenges.

Designed for mobile professionals across target vertical markets including construction, field service and health care, Motion's solutions help mobile workers maximize workflow productivity. Just recently, San Antonio-based SpawGlass Construction highlighted how Motion helps it take powerful building information modeling (BIM) into the field. Most recently, during the construction of the multi-million dollar, two-phase Student Activity Center/Liberal Arts Building at the University of Texas (UT) campus, SpawGlass used the solution to substantially improve project performance.

SpawGlass and Motion were recently recognized at the Annual Constructech Vision Awards for the innovative solution that is providing an entirely new way to manage construction projects. "Being recognized for implementing new mobility technologies at the jobsite is an honor," said Joel Stone, SpawGlass CEO. "We have saved countless hours managing time sensitive projects, which allows us to work more efficiently and ultimately provide added benefit to our clients."

You can also see a Motion Tablet PC as part of Austin's popular music scene. The "Kings of Texas Swing", Asleep at the Wheel, rely on mobility to ensure premium audio quality for all members of its audience. Sound Technician Jim Finney can access and navigate his software applications from the balconies to the front-of-house and the very back wall. According to Finney, he

is able to find a happy medium where everyone in the audience can hear at a comfortable level. A workflow that was not possible before due to the limitations of stationary equipment.

Motion Founder David Altounian gives some credit to the Texas business environment for its success. By supporting business growth, Austin's technology community is thriving, which helps companies like Motion hire the talent needed to stay innovative and

competitive. Additionally, for Motion and many other small to mid-size businesses in Texas, knowing they are being represented at a national level offers peace of mind.

"TAB has done an outstanding job in nurturing a business environment that has helped Motion grow to become a leader in mobility solutions," said Altounian. "Motion is proud to be affiliated with an organization that not only represents the interests of local businesses but also those of many of Motion's customers across an array of industries."

With a marquis customer base, solid partner network and foundation built in an entrepreneurial community with a talented workforce, Motion is continually focused on delivering new solutions that further impact mobile workflows.

TAB President and CEO Bill Hammond noted, "Motion exemplifies the entrepreneurial spirit of Texas. It is companies like these that grow Texas' economy and make our association stronger. We appreciate their membership and take seriously their trust in us to be their advocate in Austin and Washington."

"TAB has done an outstanding job in nurturing a business environment that has helped Motion grow to become a leader in mobility solutions."

*- David Altounian,
Founder
Motion Computing*



Motion's J34 tablet used for health care services.

Job Descriptions Rule Killed

TAB leads the fight against proposed rule.

On Sept. 28, the Texas Workforce Commission proposed a new rule that would have required all employers to create and maintain job descriptions for anyone who performed services for that employer for the last four years. That would have included independent contractors who did work for your business. After a grassroots effort led by TAB, the rule was pulled from the Texas Register.

“We think the rule would have caused a tremendous burden on employers, not only a time burden but a financial one as well,” said TAB President and CEO Bill Hammond. “This would have required employers to keep on file job descriptions, the names, addresses, telephone numbers, dates of birth, Social Security numbers and dates and times that an independent

contractor performed work for four years. That is simply too much information for too long a time. There was no need for this new rule, and we are pleased with the outcome.”



Grassroots effort leads to rules demise.

The rule was buried in a section regarding Child Labor Laws, although the rule pertained to employees of all ages. TAB is concerned that such a dramatic change could have easily gone undetected, and without input from the employer community.

“A dramatic change that would affect thousands of businesses should have stakeholder input,” said Hammond. “I want to thank the Texas Workforce Commission for listening to our concerns. This kind of change is one that should be vetted during the legislative process.”

QUOTES

“The business community feels so strongly, we are willing to offer a specific solution.”

– TAB President and CEO Bill Hammond in the *Austin American-Statesman* talking about new investment in infrastructure.

“Today in Texas, only about 65 percent of ninth-graders graduate in four years and of those that graduate, only about 25 percent are career and college ready.”

– Hammond in the *San Antonio Express-News* defending school accountability.

“They would like to give (employees) the money to go shop the exchange. It kind of depends on what the policy looks like.”

– TAB’s Governmental Affairs Manager Kandice Sanaie in the *Mc Allen Monitor*, talking about health care uncertainty.



Texas Association of Business Annual Conference

“Building Blocks For A Better Texas”

AT&T Conference Center
1900 University Avenue • Austin, Texas 78705
January 30–31, 2013

The Texas Association of Business has invited influential state policy makers, legislators, industry experts and thought leaders to share their business insights on the most critical issues for Texas—

Transportation
Water
Education

Also discover the latest in health care, workers’ comp and environmental issues
Keynote presentations offering updates on the legislative session, state affairs, and how the Texas business community will maintain its incredible business climate and create a

Sustainable future

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Conference dinner event with keynote speaker

To register go to www.txbiz.org, click on Annual Conference.



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Talk **About** Business



Bill Hammond, TAB President

A Clear Grade For Schools

Right now the Texas Education Agency is deciding how our schools and school districts should be graded. I think that we need a more straight forward approach.

Every six weeks our students get a report card that is easy to read and understand. Everyone knows what an A means and everyone knows what an F means. Why shouldn't schools be graded once a year using the same A-F system?

The evidence is mounting that the most effective way to communicate how a school is doing in preparing students for the world after high school is a simple A-F system. This system is easily understandable by everyone since, at one time or another, we've all been graded using the same system.

Texas wouldn't be the first state to adopt such a system. There are at least 10 states using this system now. The first was Florida.

Former Florida Governor Jeb Bush, who championed this grading system, said that the A-F system has made the public schools in Florida better because it rewards improvement. Even moving from an F to a D would

be an improvement with some kind of reward attached.

Former Florida Education Commissioner Eric Smith strongly believes in the system, too. He told an Oklahoma newspaper that Oklahoma's decision to become one of the latest states to adopt the A-F system should be praised, because it will have a profound impact in classrooms across that state.

This kind of grading system could be a tremendous catalyst for increased academic performance here in Texas. The current Texas grading system is hard to understand, even by educators. It's overly complicated and can mask the true performance, or lack of performance, by our schools.

There are some in Texas who advocate for a simple pass or fail system. Either a school is "acceptable" or "unacceptable." Such a system would let schools escape with mediocre performance hidden in the overbroad "acceptable" grade. If a school is "acceptable" what does that really mean? It's comparable to your child knowing all that they had to do was the minimum to make straight A's. There would be no incentive to work

hard to improve, and the value of that A would be greatly diminished. We want better for our children and for our schools.

If Texas is going to maintain its competitive economic edge well into the future, and increase the number of career and college ready high school graduates, we not only need a strong accountability system to test what students know, we also need an effective way to grade the schools on whether their students are learning what they need to know.

Unless we are able to dramatically increase the percentage of students graduating post-secondary ready, Texas will no longer be able to compete for the jobs necessary to maintain our strong business climate and economy. We will all suffer if that happens.

I believe that the best way to achieve this dramatic improvement is to maintain a strong accountability system that tests students and grades schools using an A-F system, and to ensure that schools that are making D's or F's get extra help to improve. We need to give parents and students more choices if a school consistently fails with no sign of improvement.