



WORKERS' COMPENSATION ANNUAL REPORT

2024

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Message from the Executive Director

Welcome to the 2024 Texas Workers' Compensation Market Report. ICT prepares this report to provide our members with an overview of Texas's workers' compensation landscape.

The Texas workers' compensation market continues to thrive, supported by a balanced regulatory framework, favorable outcomes for injured employees, competitive rates for businesses, and a strong network of healthcare providers and related services. Together, these factors make Texas one of the leading workers' comp markets in the nation.

Key Takeaways:

- Texas ranks as the 4th largest workers' comp market in the U.S.
- The Texas market is stable and continues to experience growth year over year.
- Workers' comp remains the only consistently profitable line in Texas.
- It stands as the top performer in the property and casualty sector nationwide.

We appreciate your ICT membership and your commitment to making the Texas workers' compensation system work in the best interest of all involved. We look forward to continuing to support you and advocate on your behalf.

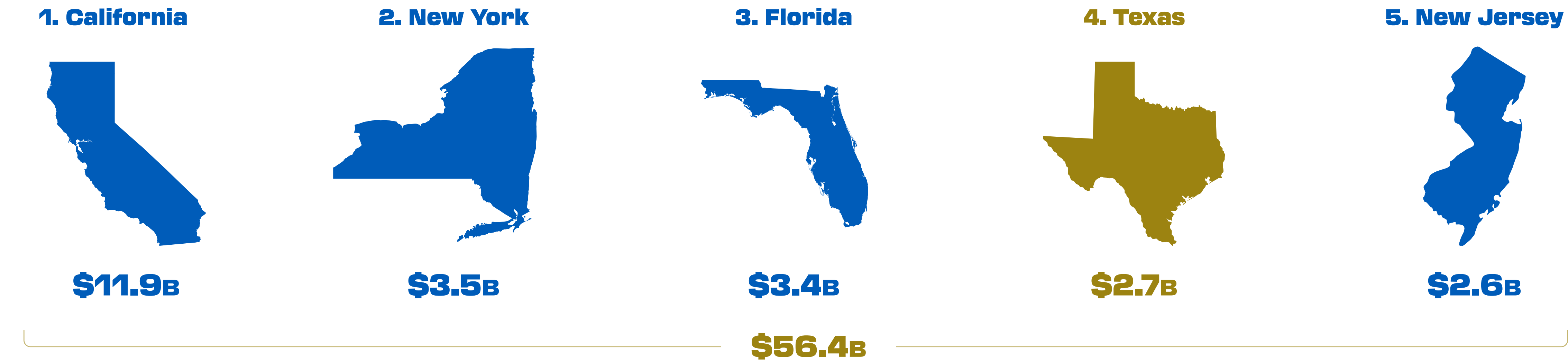
I also want to thank the ICT team for their contributions in creating this report. A special note of appreciation goes to Angie Cervantes, ICT's manager of government and legislative affairs, for her expertise in handling DWC issues and keeping our members updated.



Albert Betts
Executive Director,
Insurance Council of Texas

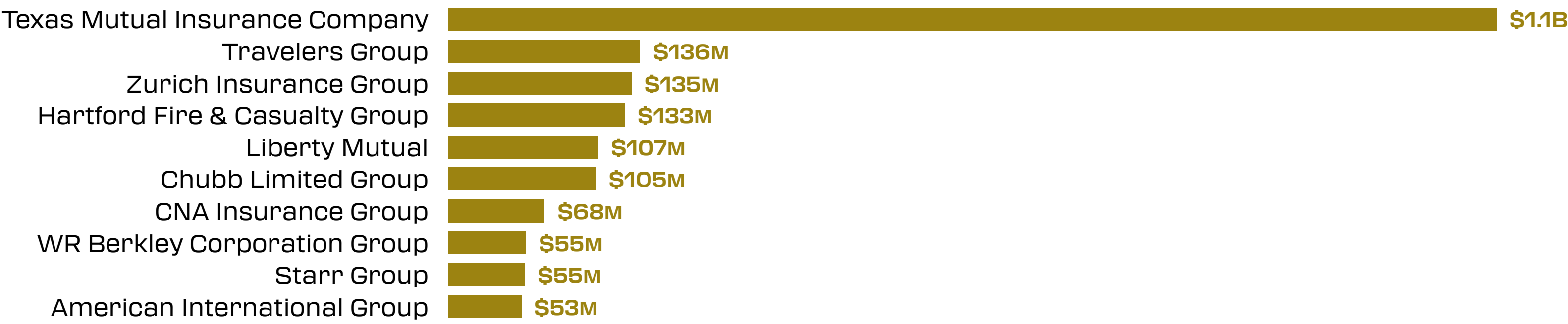
Texas Market Overview

In 2023 Texas workers' compensation direct written premium totaled **\$2.7 billion**. Texas was **4.8%** of the U.S. workers' compensation market (**which totaled \$56.4 billion**).



There were 304 companies (91 groups) that had voluntary direct premiums written for workers' compensation in 2023, compared to 302 companies (91 groups) in 2022.

2023 Top 10 Workers Compensation Groups by Premiums Written (Voluntary Market)

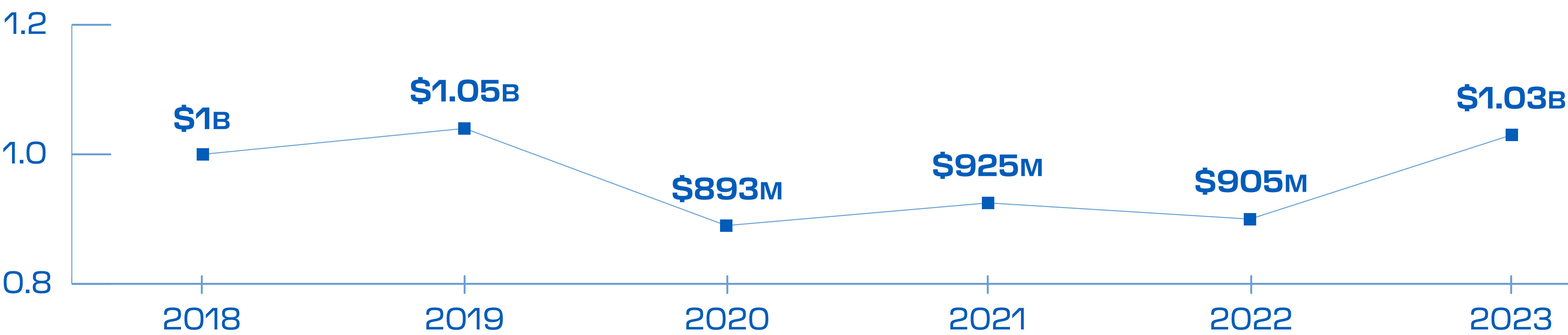


Key Insights

- In 2023, there was a **3.72% increase** in direct written premiums from 2022.
- The top 10 groups in Texas wrote **73.56% of the market**.
- Texas Mutual had **41.24%** of the market (an increase of 2.97% from 2022)

* TDI 2023 Annual Market Conditions Report reported \$2.626 billion in premium for the workers compensation voluntary market.

Workers' Compensation Losses



In 2023, workers' compensation insurers paid **direct losses of \$1.03 billion.**

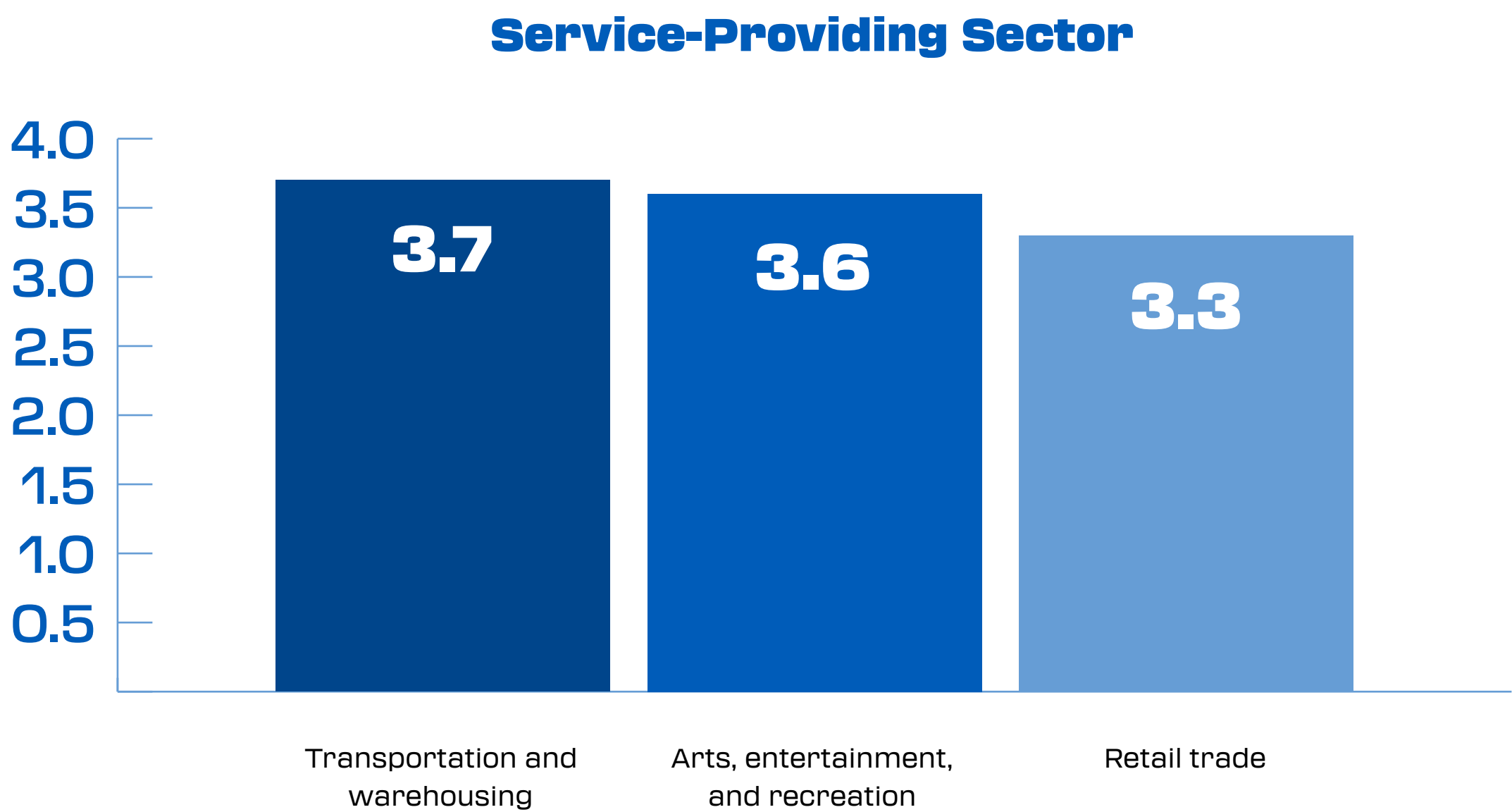
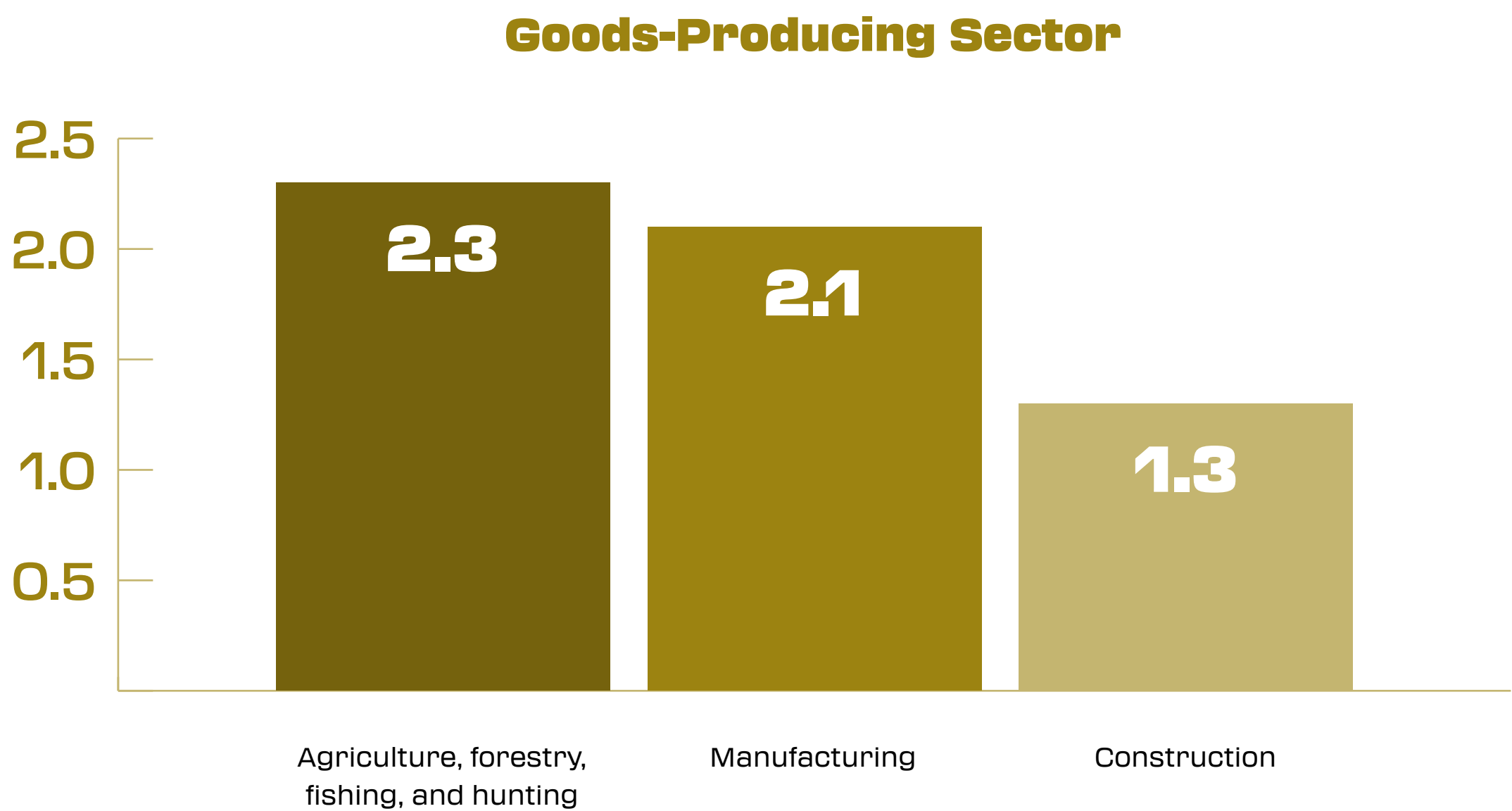
Key Insights

- In 2023 there was a net underwriting profit of **\$348.4 billion** in the workers' compensation voluntary market in Texas.
- Direct losses in 2023 increased by **14.28%** (from \$905 million to \$1.03 billion).
- The 2023 loss ratio was **39.38%**.

Texas Workplace Injuries

According to the 2022 Survey of Occupational Injuries and Illnesses (SOII), Texas private industry employers reported **178,800 total recordable nonfatal cases**. This reflects an incidence rate of **1.9 cases per 100 full-time equivalent workers**, the lowest rate in the past decade. By comparison, the **national incidence rate stands at 2.7 cases per 100 workers**.

2022 Top 3 Private Industry Sectors by Rates of Total Recordable Nonfatal Cases



Texas Workplace Fatal Occupational Injuries

In 2022, there were 578 fatal occupational injuries in Texas, 45 more than 2021 (533) - an 8% increase and 109 more than 2020 (469) - a 19% increase. The incident rate of fatalities in Texas was 4.3 per 100,000 full-time employees in 2022.

Key Takeaways by Industry

- The transportation and warehousing industry (public and private sector) had the highest number of fatalities with 184 incidents.
- The construction industry had an **increase in the number of fatalities in 2022 (141) up from 2021 (127)** incidents, representing 24% of all fatalities in Texas.
- Fatalities in just the private sector of the transportation and warehousing industry **decreased from 2021 (138) to 128** and accounted for 22% of all fatalities in Texas.



Key Takeaways by Occupation

- The occupation with the **highest number of fatalities was driver/sales workers and truck drivers**. Except for 2020, incidents among drivers/sales workers and truck drivers had trended upwards since 2017 and increased from 147 in 2021 to 153 in 2022, representing 27% of all incidents.
- Among the goods-producing industries in the private sector, the **construction industry continues to have the highest number of fatalities** with 140 in 2022.
 - **Natural resources and mining increased 50% from 2021** (40) to 61 and account for 11% of fatalities in 2022 and is seven higher than 2020 (54). Forty-one of the 61 fatalities were in the mining/oil and gas related industries, and they accounted for 73% of all mining industry fatalities.
 - Among the service-providing industries in the private sector, **transportation and warehousing had the highest number of incidents at 128**, a decrease of 10 fatalities from 2021 (138). Within transportation and warehousing, truck transportation accounted for 17% of all private sector fatalities with 89 fatalities, down 16 from 2021 (105).

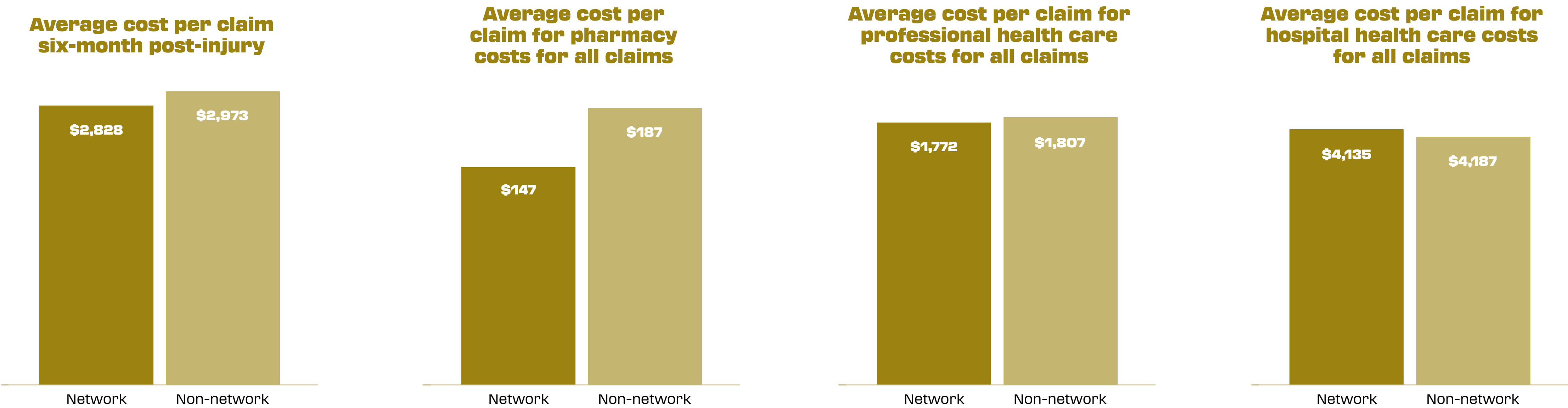
Networks at a Glance

There are 26 networks covering 254 Texas counties that are certified to provide workers' compensation health care services as of July 1, 2024.

Network vs. Non-network Comparisons

Health care costs

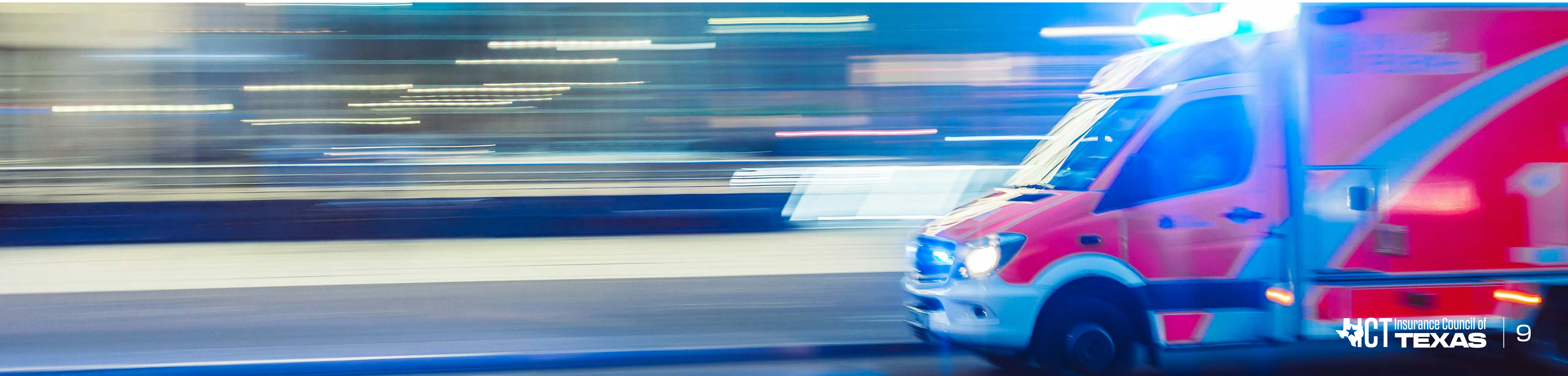
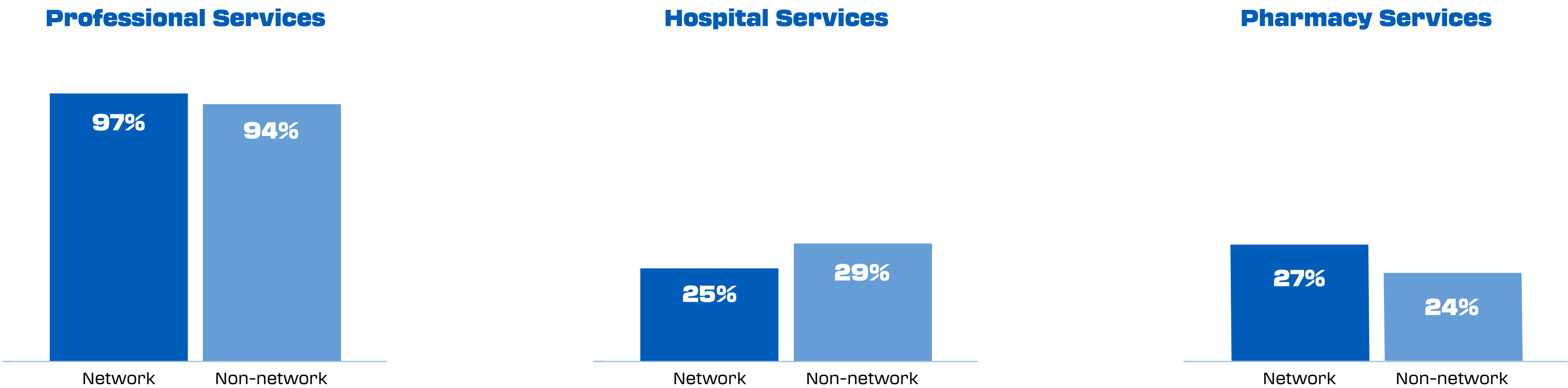
Network claims typically have lower overall healthcare costs than non-network claims at six and twelve months, with reduced professional and pharmacy expenses but higher hospital costs, though some networks do have higher overall costs than non-networks.



Source for the networks at a glance content is [DWC's 2024 Workers' Compensation Networks Report Card Results](#).

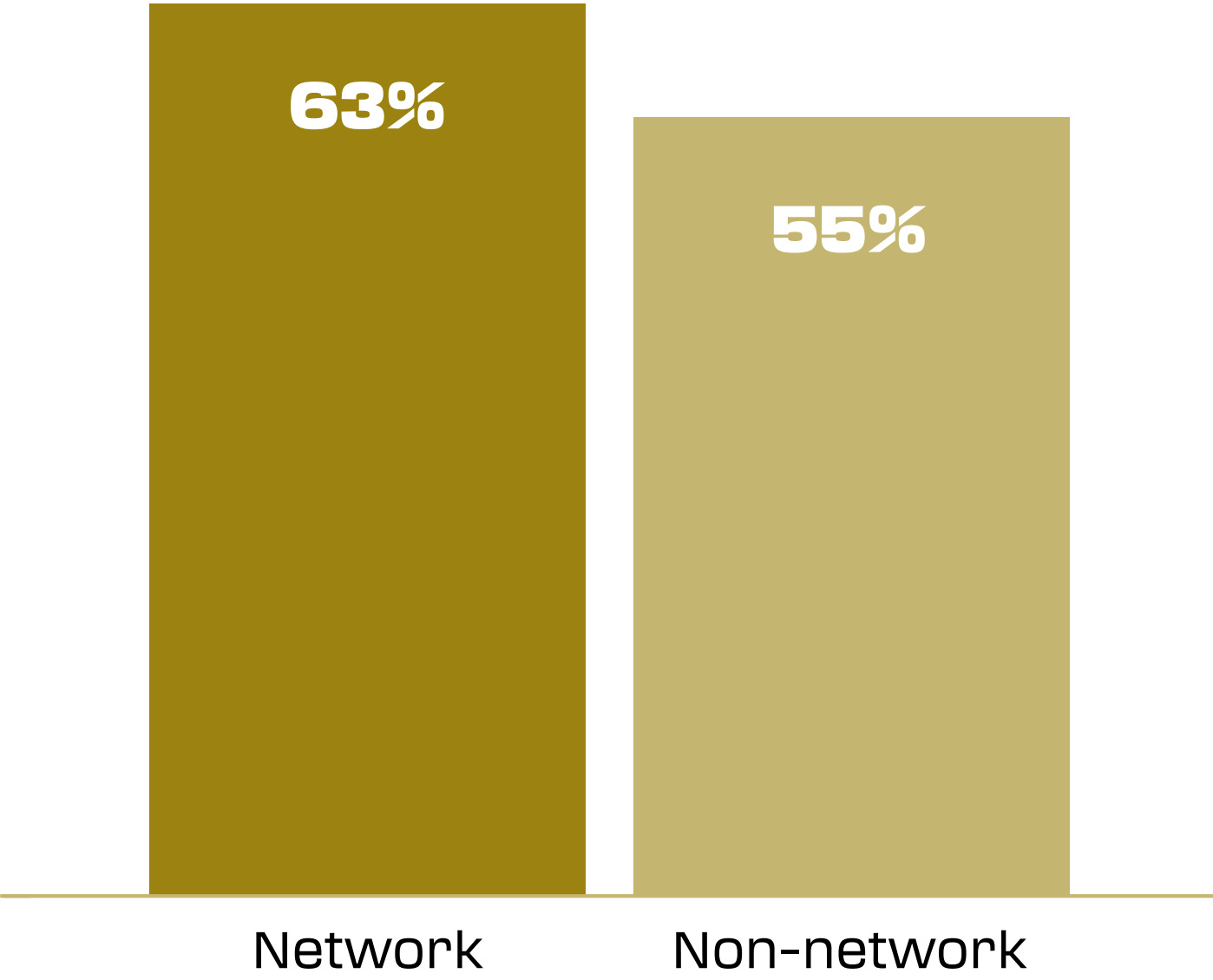
Utilization of Health Care

A higher percentage of network claims received professional services, while non-network claims had a greater share of hospital and pharmacy services



Employee Satisfaction with Care

Injured employees with network claims reported higher satisfaction with their health care, treating doctors, and agreement with their doctors, with about two-thirds stating their work-related care was the same or better than their usual medical care.



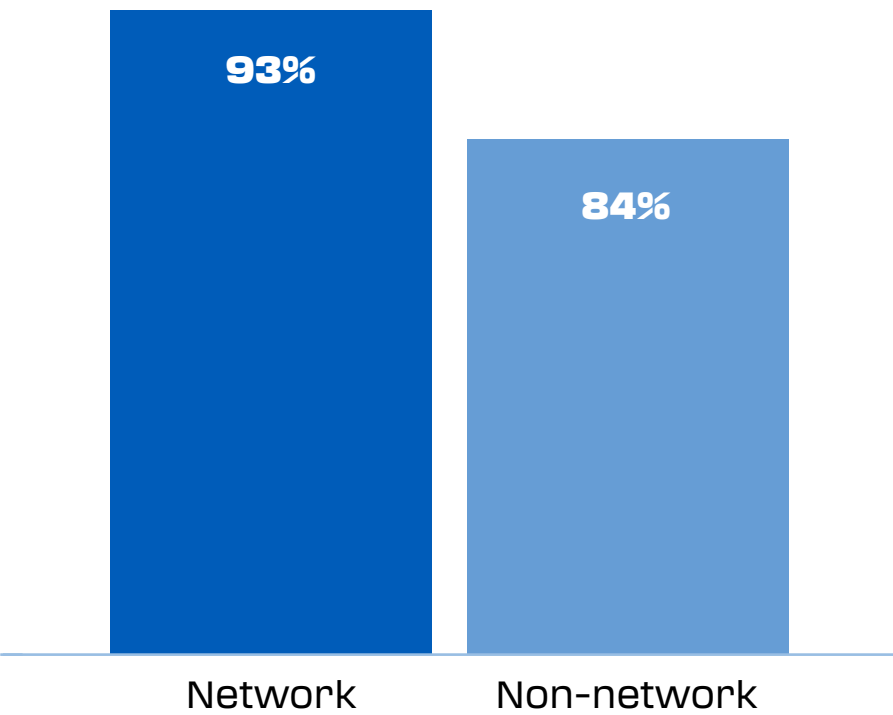
Employee Access to Care

Networks generally provided non-emergency care more quickly after an injury, with a higher percentage of injured employees reporting no issues in accessing needed medical care and receiving care promptly compared to non-network claims.



Return to work outcomes

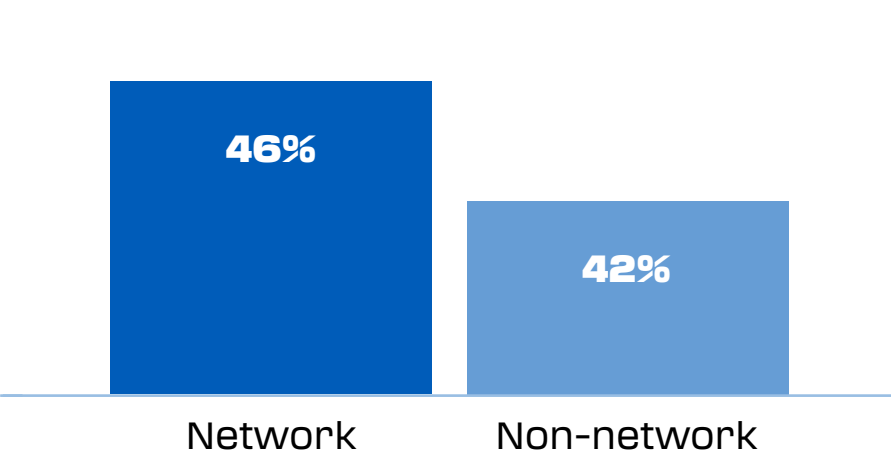
Network claims had higher return-to-work rates than non-network claims.



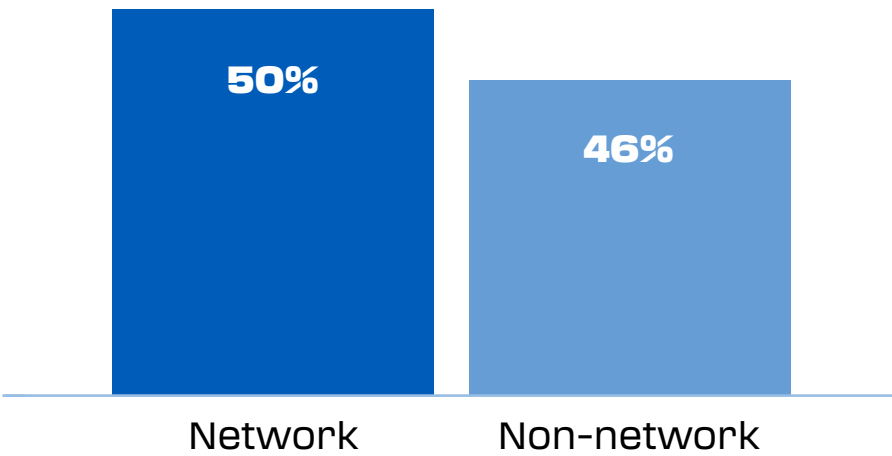
Return to work outcomes

Health-related outcomes

Most network claims had higher physical and mental functioning scores than non-network claims.



Physical functioning scores



Mental functioning scores

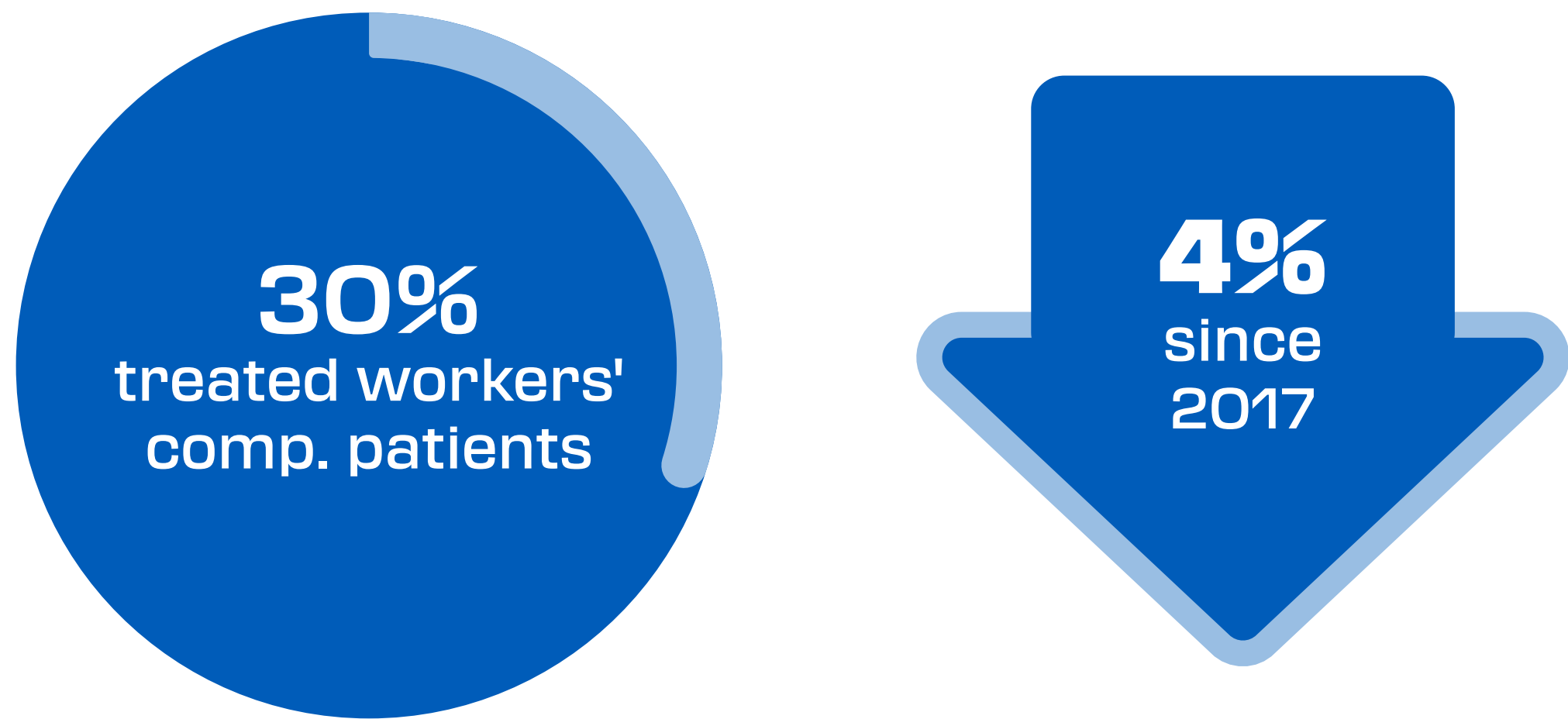


Access to Care

Participation Rates of Physicians

In 2022, **30%** of the 58,711 active physicians in Texas, or 17,659 doctors, treated workers' compensation patients.

The number of participating physicians has decreased **4%** since 2017.

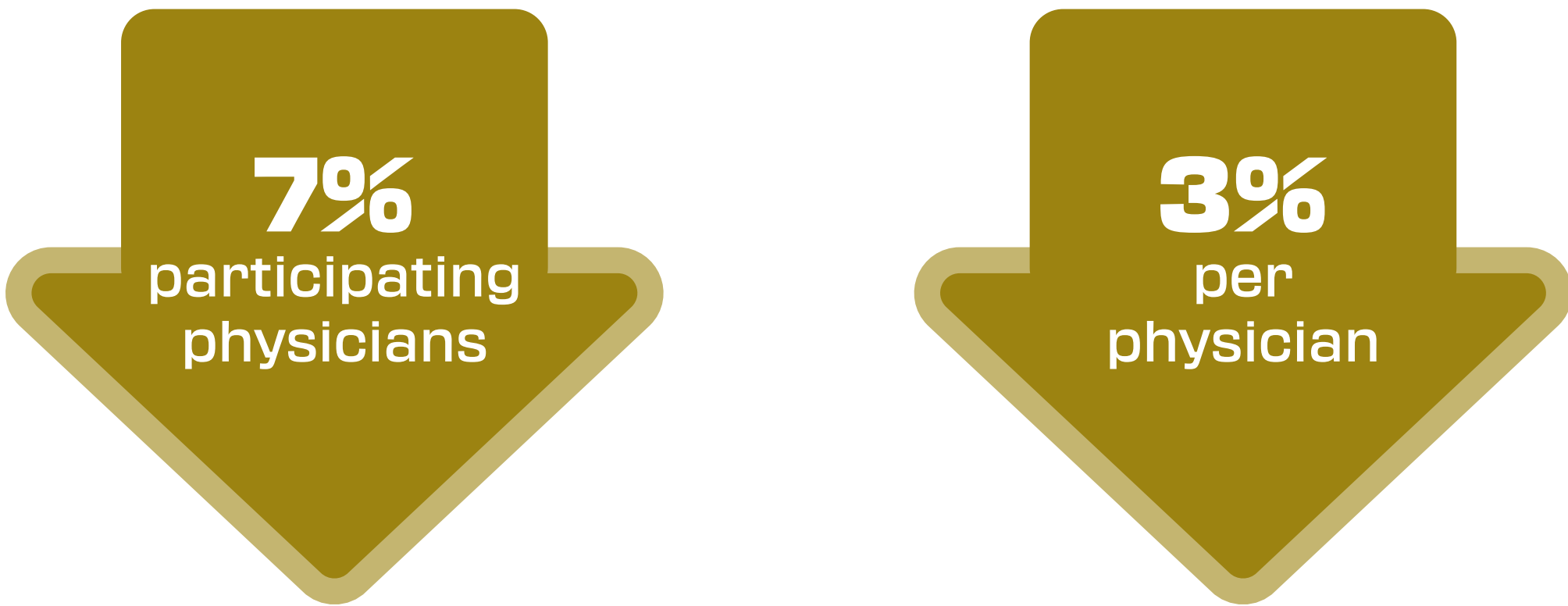


A decreasing physician participation rate does not necessarily mean worsening access to care in workers' compensation; it may reflect a growing presence of other healthcare providers, such as physician assistants (PAs) and advanced practice registered nurses (APRNs).

Claims Per Physician

The average number of workers' compensation claims handled by each participating physician dropped by **7%**, from 14.8 claims per physician in 2017 to 13.7 in 2022.

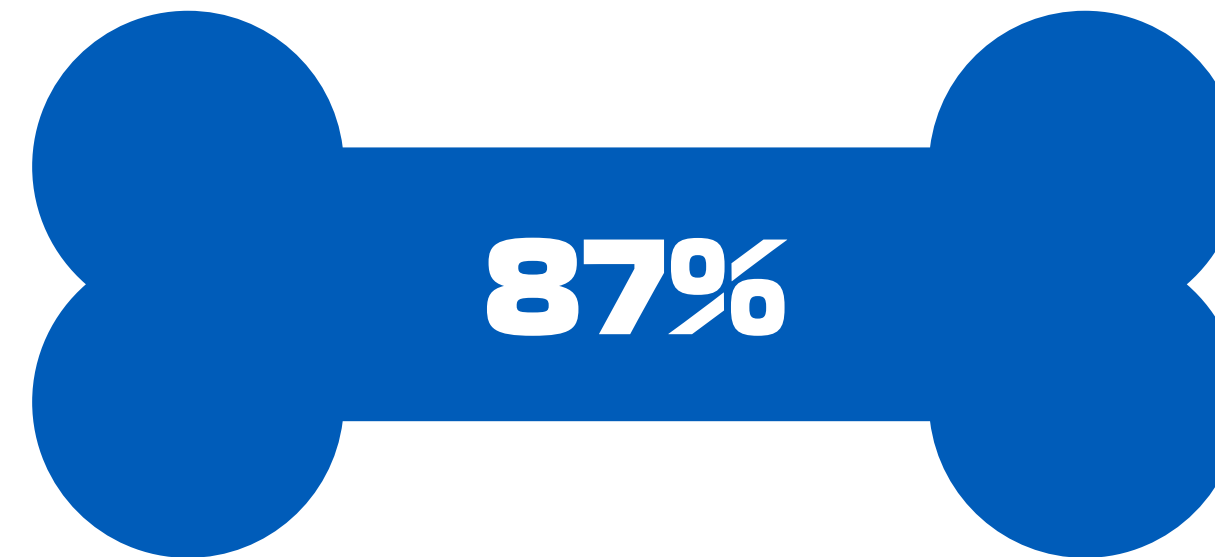
The average number of new workers' compensation claims per physician fell by **3%**, from 12.6 claims in 2017 to 12.2 in 2022.



The decrease in the number of claims per participating physician does not necessarily signal worsening access to care, as the total number of workers' compensation claims per physician dropped by 10% from 2017 to 2022, likely influenced by the Coronavirus Disease 2019 (COVID-19).

Physician Retention

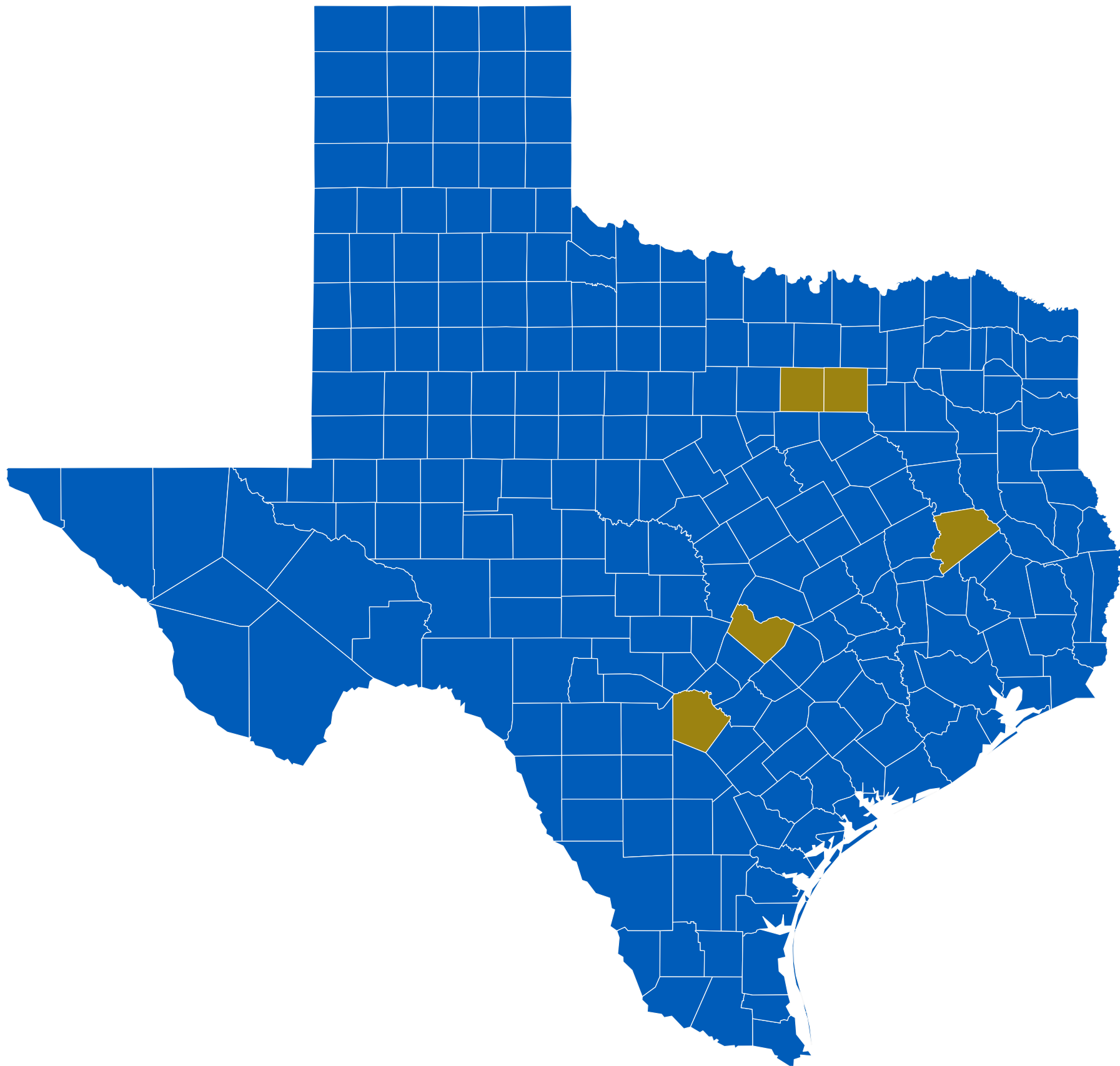
- Overall, the workers' compensation physician retention rate remained high and relatively stable, at 79% in 2017 and **76%** in 2022.
- Orthopedic surgeons and emergency medicine specialists had the highest retention rates, consistently above **87%** each year.
- Retention rates for primary care, other surgical specialties, and other fields (such as physical medicine & rehabilitation, cardiology, neurology, hospitalists, and ophthalmology) were generally lower, ranging from **65% to 77%**.



Access to Care by Medical Geographical Area

In 2022, **74%** of workers' compensation participating physicians in Texas were located in the five largest metro areas (Houston, Dallas, San Antonio, Austin, and Fort Worth).

74%



Timeliness of Care

- In injury year 2022, about 82% of claims involved injured employees receiving initial non-emergency care within **seven days or less**, a slight decrease from 84% in 2017.
- In 2022, employees who were treated by primary care, emergency medicine, or occupational/physical medicine specialists for non-emergency care began treatment, on average, **within five to seven days after the injury**.
- Injured employees who waited eight days or more to receive non-emergency medical treatment had 27% higher median medical costs (\$798) compared to those treated within seven days (\$629).
- In 2022, among the five large metro areas, **Dallas had the most delayed claims at 5,187**, and the highest percentage of delays at 19%.



Designated Doctors in the Workers Compensation System

Recent legislative reforms and Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) initiatives have significantly streamlined the process for becoming a treating doctor or designated doctor (DD) within the workers' compensation system. Competitive reimbursement rates ranging from 200% to 250% of Medicare have made workers' compensation an attractive revenue opportunity for medical professionals.

Key changes include:



Elimination of the Approved Doctors List: The previous requirement for treating, referral, or consulting doctors to register, train, and test has been removed, simplifying the entry process.



New Rules on Billing and Reimbursement: Effective June 1, 2024, new DWC rules are in place to enhance billing and reimbursement for specific services, including DD exams, required medical exams, work status reports, and evaluations related to maximum medical improvement and impairment ratings.



Increased Number of DDs: As of May 2024, the number of DDs has risen to 306, up from 226 in April 2023, reflecting positive growth and the impact of new regulations.

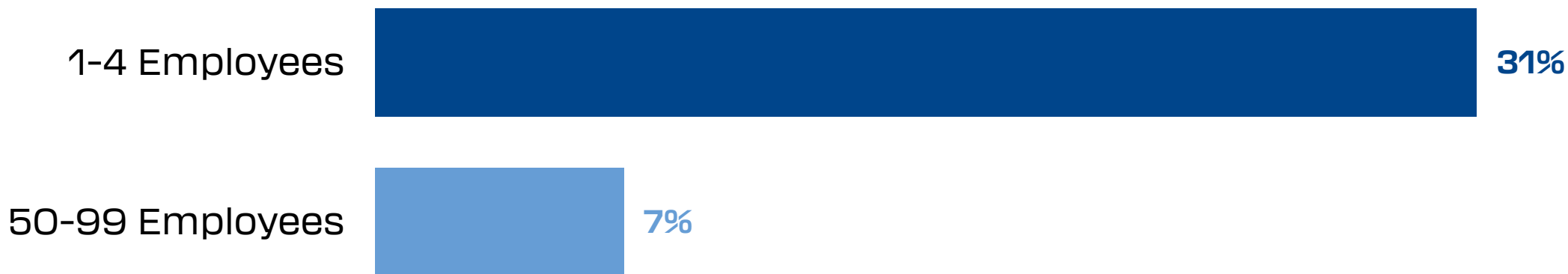


Subscriber Issues

In 2022, **75%** of Texas private sector employers were subscribers and **83%** of Texas employees were employed by subscribers.

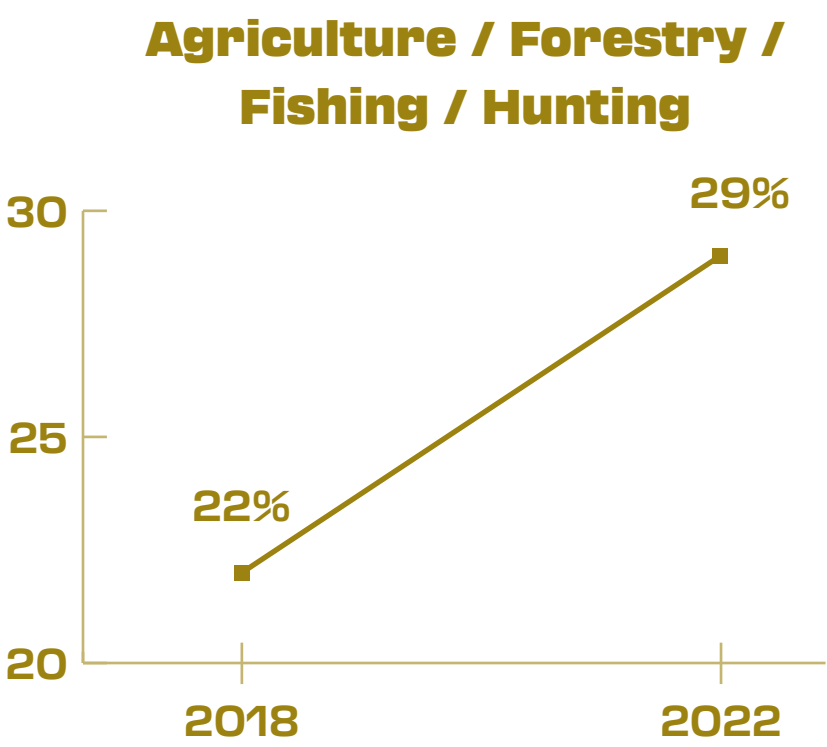
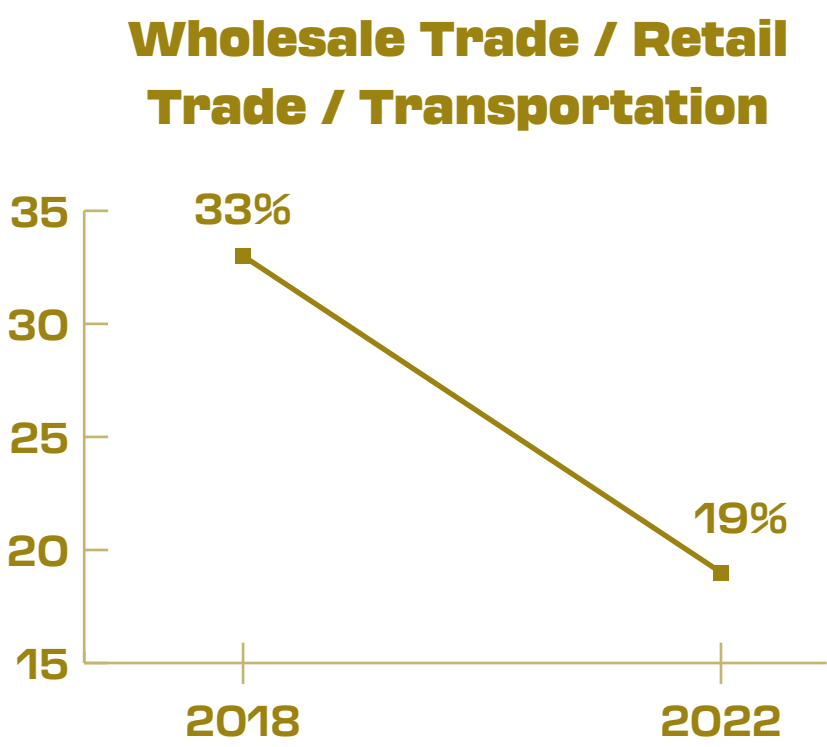
Non-subscriber Key Takeaways Based on Employer Size

- Small employers (1-4 people) have the largest percentage of **non-subscribers at 31%**. This percentage has been decreasing since 1995 when it was 55%.
- Employers with 50-99 employees had the least percentage of **non-subscribers in 2022 at 7%**.



Non-subscriber Key Takeaways Based on Industry Type

- Most industry groups saw a downward trend in non-subscriber rates.
- Mining/Utilities/Construction continued to have one of the lowest non-subscription rates among all industries, at **16%** in 2022.
- When comparing 2018 to 2022, Wholesale Trade/Retail Trade/Transportation had the largest reduction in the percentage of non-subscribers **from 33% to 19%**.
- Agriculture/Forestry/Fishing/Hunting had the largest increase in non-subscriber rates, **from 22% in 2018 to 29% in 2022**.

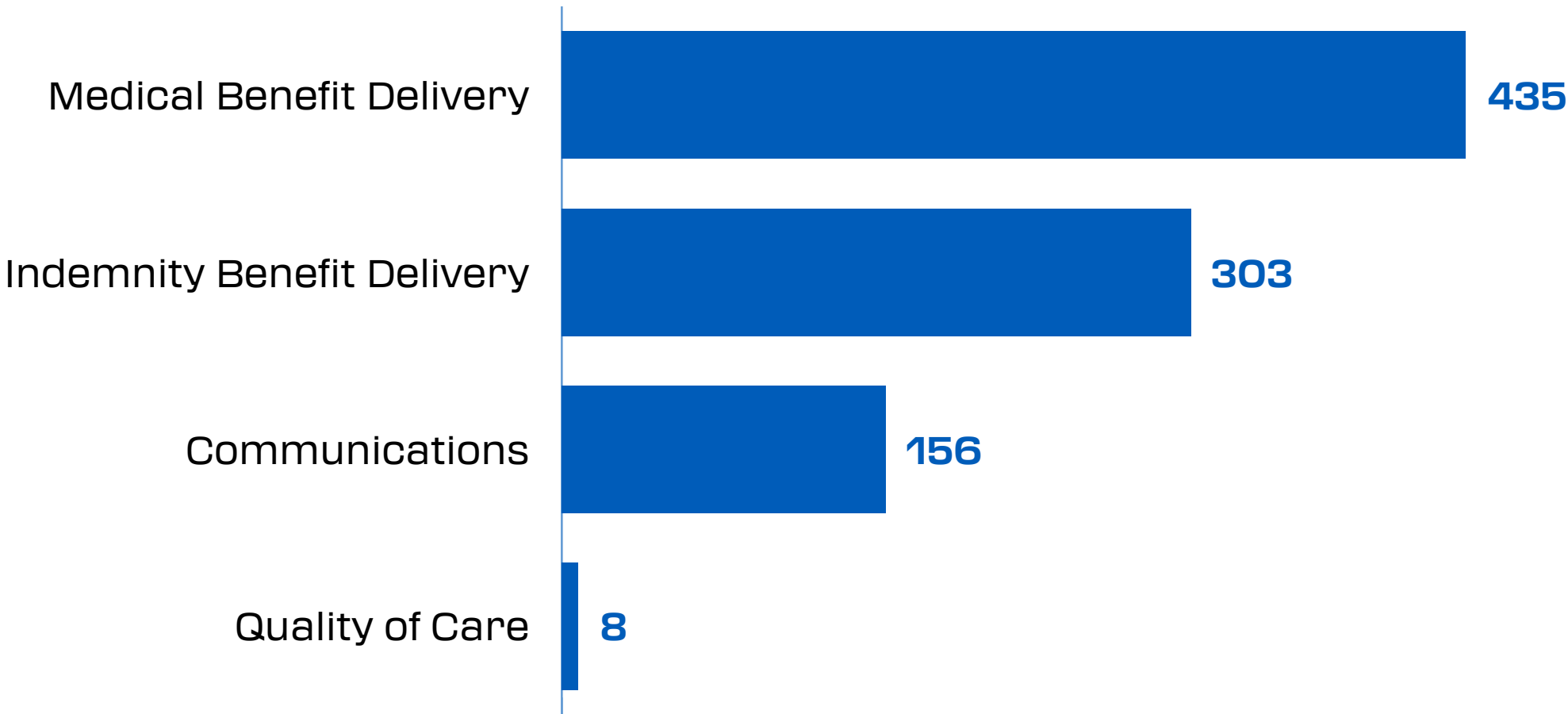


Enforcement & Compliance

2023 Insurance Carrier Complaints

- DWC received 2,145 complaints
- 902 confirmed closed (a 60% increase), with the majority falling into the medical benefit delivery category
- 1,034 were not confirmed
- 4 are being monitored by DWC

Categories with the Largest Number of Complaints



Fraud (fiscal year 2023)

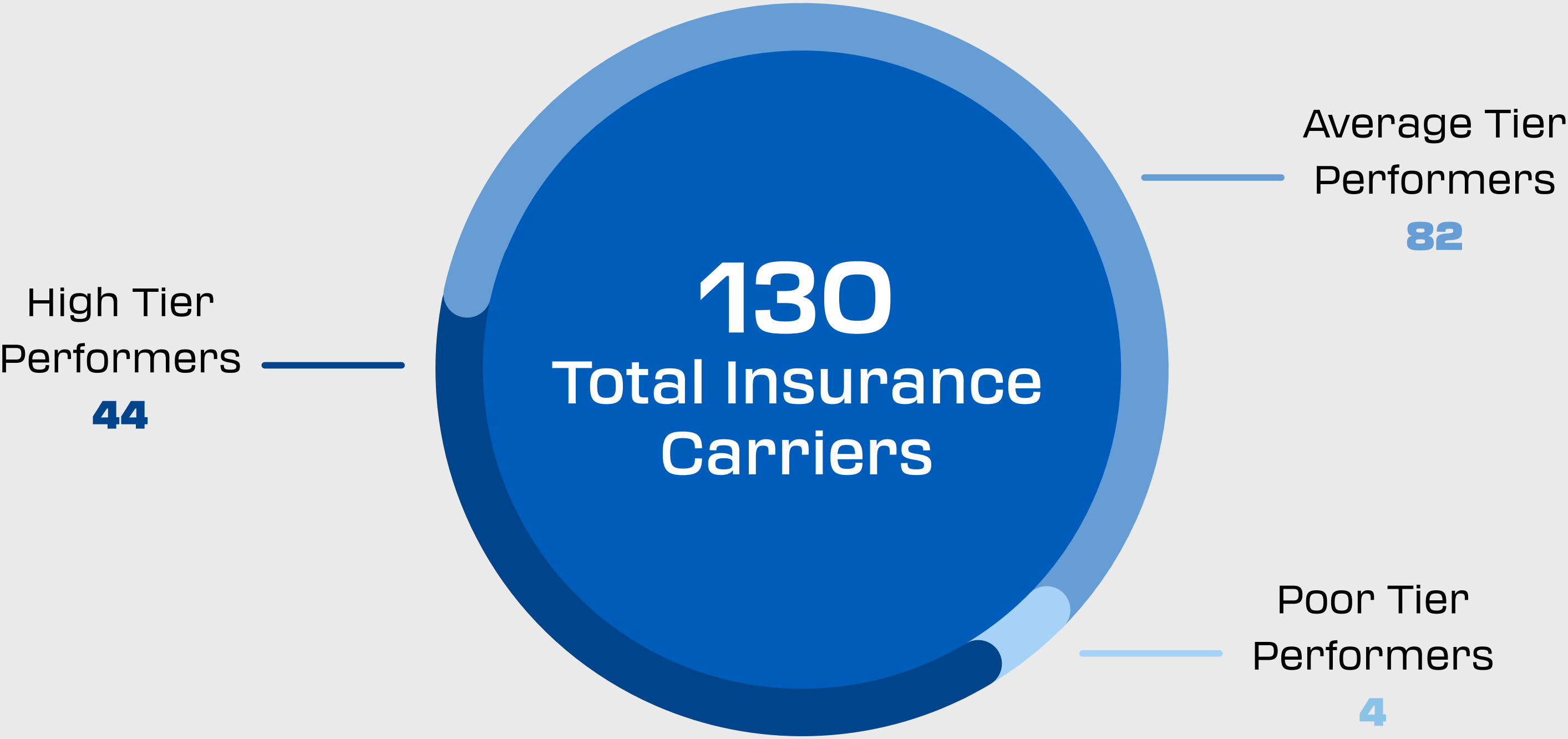
- **1,451 fraud reports** received
- **54 cases** opened for investigation
- **4 cases** referred for prosecution
- **6 convictions**

Performance Based Oversight (PBO) Assessments

Insurance carriers are assessed on even years, while health care providers are assessed on odd years.

There are five measures for the 2024 assessment, which will be used to score and place insurance carriers into regulatory tiers

- 1 Timely payment of initial temporary income benefits by the insurance carrier - weight of 50
- 2 Timely reporting of initial payment (IP) data to DWC via Texas Claim EDI Release 3.1.4.
Note: This measure will not be factored into the tier placement
- 3 Timely processing of initial medical bills by the insurance carrier - weight of 30
- 4 Timely processing of requests for reconsideration of medical bills by the insurance carrier - weight of 10
- 5 Timely reporting of medical data to DWC via Texas Medical State Reporting Release 1.0 - weight of 10



Overall Results

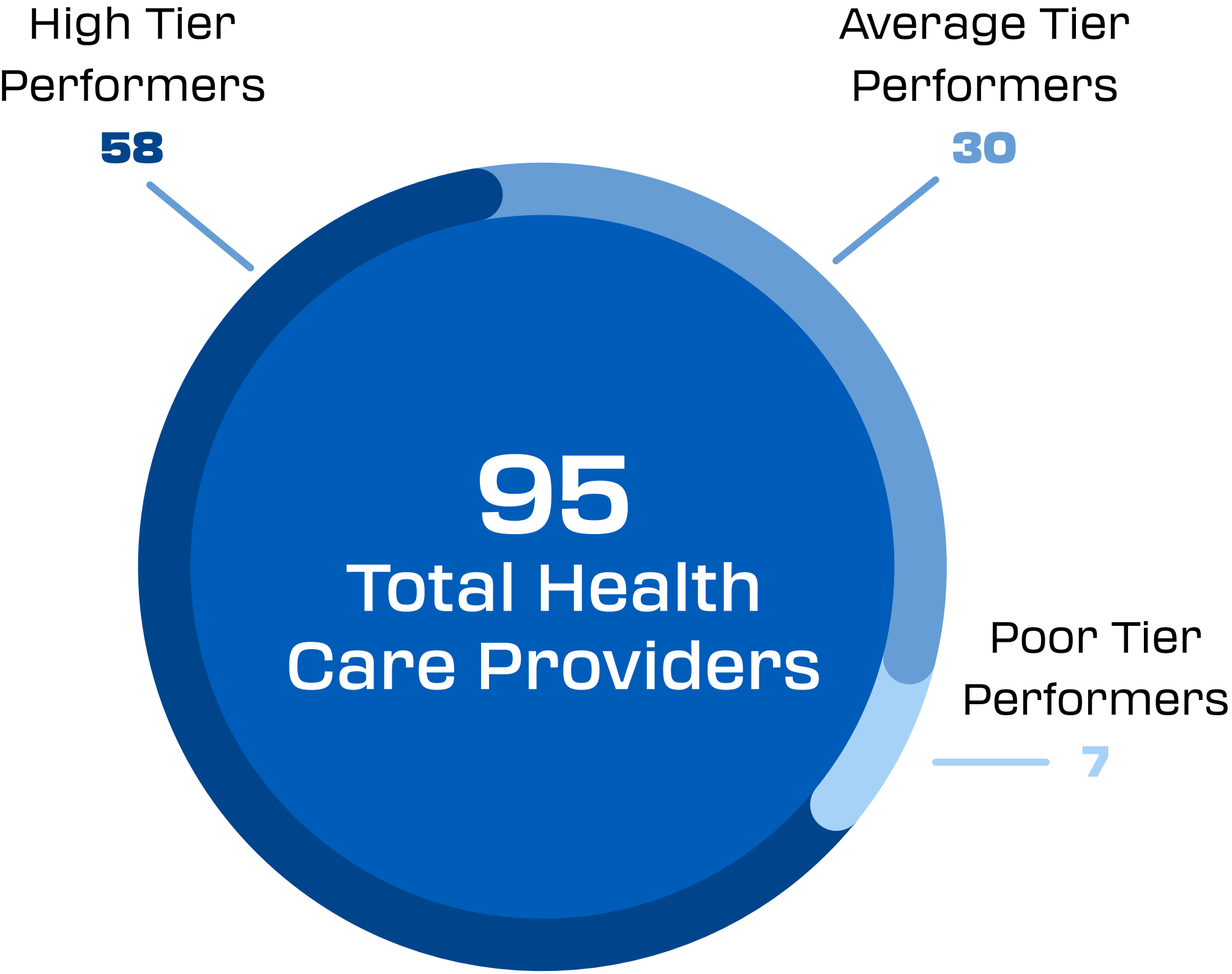
Total Insurance Carriers- 130

- High tier performers - 44
- Average tier performers - 82
- Poor tier performers - 4

2023 Health Care Provider PBO Results

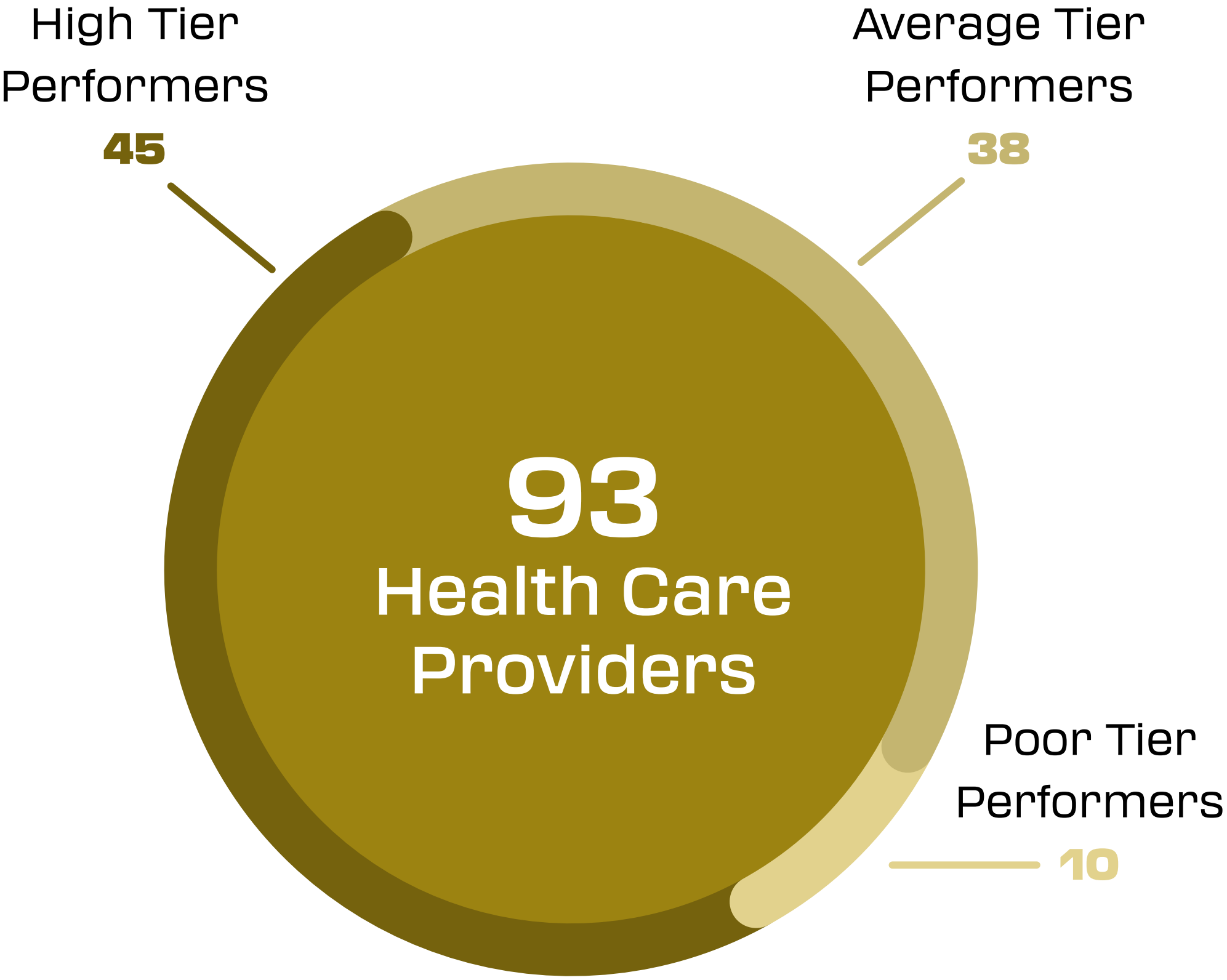
Results for DWC Form-069

Report of Medical Evaluation Category



Results for DWC Form-073

Work Status Report Measure





Audits

59 audits were completed by DWC's Audits and Investigations team in FY 2023 (through August 31, 2023).

2024 Compliance and Investigations Audit Plan

Goals for audit for fiscal year ending Aug. 31, 2024:

- Timely and accurate **benefit delivery**
- Timely **medical reimbursement**
- Timely and accurate **reporting of electronic data** to DWC

Audit Scope & Methodology

- Accuracy of Lifetime Income/Death Benefit Payments and Claims Data - DWC will draw the sample data from claims for injuries that occurred between September 1, 2016, and April 30, 2023.
- The Timely Processing Medical Bills, Timely Reporting Medical Bill Data, and Accuracy of Medical Bill Data - DWC will draw the sample data from billing lines submitted to DWC during the period of September 1, 2023, through November 30, 2023, or December 1, 2023, through February 29, 2024, depending on the date of the audit initiation.
- Timely Paying Initial Temporary Income Benefits (TIB) Payment, Timely Reporting Initial Payment Data, and Accuracy of Initial Payment Data- DWC will draw the sample data from claims where an insurance carrier issued an initial TIB payment during the period of either January 1, 2023, through March 31, 2023, or April 1, 2023, through June 30, 2023, depending on the date of the audit initiation.

DWC's Research and Evaluation Group (REG) 2024 Agenda

The research projects for 2024 are:

- Completion and publication of the 17th Edition of the Workers' Compensation Health Care Network Report Card (required under Insurance Code §1305.502(a)- (d) and Labor Code §405.0025(b)).
- An update of the 2022 biennial study to estimate employer participation in the Texas workers' compensation system.
- An update of key workers' compensation system trends to meet the requirements for the DWC Biennial Report required under Labor Code §402.066, including medical costs and utilization of care, return-to-work rates for injured employees, access to care for injured employees, and medical dispute resolution trends.
- Income benefit adequacy in the Texas workers' compensation system.
- An update of medical costs and utilization in the Texas workers' compensation system.





Workers' Compensation System Issues

Emergence of Dual Benefit Systems for First Responders and Other Workers

In recent years, statutory changes have created presumptive coverage for first responders for a variety of health conditions, including certain cancers. While this does not directly impact private insurers and their policyholders, it presents financial challenges for public entities, requires the TDI-DWC to apply dual sets of laws, and in some cases, requires the expedited handling of the dispute resolution process by the DWC. The question is: at what point might employees outside the public sector demand similar protections for injuries and benefits? If they do, what are the cost and claims management implications for private employers?

Changing Technology

Workers' compensation, like other lines of insurance, is increasingly leveraging technology to create more efficient claims processes, improve fraud detection, and enhance interaction with policyholders and injured workers. These innovations include automated claims processes, medical management and cost containment tools, telemedicine, fraud detection systems, and, where applicable, wearable technology.

Maintaining a Skilled and Adaptable Workforce

The insurance industry faces a significant wave of retirements in the coming years, making it critical to find, recruit, and attract top talent to a career in workers' compensation. Equally important is the challenge of retaining employees by providing work experiences and environments that meet worker expectations. This may include remote work policies, useful technological solutions and innovations for job functions, job training to enhance key skills, comprehensive benefits programs, and competitive salaries.

Legal & Litigation

Motor Carrier for Purposes of State or Federal Worker's Compensation Law

JNM Express, LLC v. Lozano, 688 S.W.3d 327 (Tex. 2024)

The Texas Supreme Court remanded the case to the court of appeals to determine whether the expansive definitions in the federal regulations or the definitions from the Texas Pattern Jury Charge (and the right-of-control test used in Texas workers' compensation law) apply to a motor carrier.

In this case, a truck driver was involved in an accident while on the job and suffered significant injuries. He sued the motor carrier and others, alleging that he had been driving in violation of federal hours-of-service regulations on the trip that led to the accident. He claimed he had alerted his boss to the issue but was asked to make the trip anyway and felt pressured to drive.

The defendants argued that the driver was not the companies' employee and that the trial court had improperly defined "employer" and "employee" in the jury charge by using the definitions from the Federal Motor Carrier Safety Regulations, rather than the state common-law definitions. The Supreme Court found that the federal regulations' expansive definitions specifically apply to causes of action filed by members of the public, not by employees.

The court explained that removing the distinctions between common-law employees and independent contractors protects the public by expanding the duty of motor carriers. However, the question remains whether this expansion of duty applies to actions filed by workers in tort claims and workers' compensation cases. The court directed the court of appeals to determine whether the definition of "employee" should retain the independent contractor distinction.



Legal & Litigation

Common Law Marriage and Entitlement to Death Benefits

City of Euless v. Danylyk, 05-22-00898-CV (Tex. App. Dec. 12, 2023)

The appellate court found that an intent to marry in the future, as evidenced by the couple celebrating with a proposal ceremony, does not negate the existence of a present common law marriage. The court pointed to evidence such as the couple being introduced as "The Hofers," receiving invitations as "The Hofers," testimony from the decedent's father that the couple conducted themselves as husband and wife, and testimony from the attorney ad litem for the Probate Court that everyone she interviewed stated the couple held themselves out as married.

The issue centers on the sufficiency of evidence to establish a common law marriage, as well as the instructions necessary to ensure the jury adheres to established case law regarding the statutory elements. This case is significant due to its implications for death benefit eligibility, particularly in relation to what has historically been considered proof of a common law marriage under Texas law.

The Insurance Council of Texas (ICT) has filed an amicus brief with the Texas Supreme Court, supporting the City of Euless' request for the Court to grant review, reverse the court of appeals' judgment, and render judgment in favor of the city.

General Contractor Status as an Employer

Gemini Ins. Co. v. Indem. Ins. Co. of N. Am., No. 23-20026 (5th Cir. 2024)

The federal court held that an employer does not lose its status as an employer simply because another employer took control over the details of the work at the job site. As a result, the decedent was considered an employee of both the general contractor and the subcontractor for the purposes of both workers' compensation and employer liability under an OCIP endorsement that expanded the definition of an employee.

Regulatory Activities

Rule Adoptions

Expedited Benefits for Members of the Texas Military Force (HB 90)

DWC adopted amendments to several sections of the Texas Administrative Code concerning medical disputes for workers' compensation claims, following House Bill 90 from the 88th Legislature. These amendments clarify coverage for authorized travel by Texas military forces, require expedited claims and dispute processes for their medical benefits, and include updates to the agency's address and other nonsubstantive editorial changes to improve clarity. Effective December 28, 2023.

DWC Adopts Amendments to Accident Prevention Services Rule

DWC adopted amendments to 28 TAC Chapter 166, effective July 2024, to simplify submission requirements for insurance companies' accident prevention services (APS) and reduce unnecessary reporting burdens. These changes ensure compliance with Texas Labor Code Section 411.065, while allowing DWC to maintain its authority to inspect companies as needed.

DWC Adopts Death Benefits Rules

DWC adopted amendments to 28 TAC Section 122.100 and added new Section 124.8, effective December 11, 2023, to implement HB 2314, allowing beneficiaries to file death benefit claims with DWC or an insurance carrier and clarifying filing requirements, including electronic submissions. The changes also require insurance carriers to send plain-language notices about potential death benefits to DWC and address minor issues to improve clarity and consistency.

Regulatory Activities

Rule Adoptions

DWC Adopts Changes to Gifts, Grants, and Donations Rule

DWC has updated 28 TAC Section 102.2 to modernize its rules on accepting gifts, grants, and donations. The new amendments clarify that DWC can accept these contributions in line with applicable laws and require that donations of \$500 or more be disclosed on their website for at least five years. Effective July 11, 2024.

DWC Adopts Changes to Dispute Resolution Rule

DWC has amended 28 TAC Chapter 147 to streamline the dispute resolution process for agreements and settlements. The updates consolidate and simplify sections, eliminate outdated content, and remove specific penalty references now covered by other codes. The amendments also include updates to citations and language for clarity. Effective July 15, 2024.

Regulatory Activities

NCCI Adoptions

Item 02-TX-2023 — Revisions to NCCI's Basic Manual for Texas for Classifications and Table of Classifications by Hazard Group

TDI has adopted NCCI *Item 02-TX-2023*, revising the Basic Manual for Texas by aligning Texas classifications with multistate phraseologies, correcting the hazard group for class code 2361, and removing references to class code 9521. Changes will be effective for new and renewal policies starting July 1, 2024, and TDI received no comments on the filing.

Item R-1422 — Revisions to the Retrospective Rating Plan Manual Rule Related to the Tax Multiplier

TDI adopted NCCI *Item R-1422*, updating the Retrospective Rating Plan Manual to align with NCCI's new approach of providing a formula instead of specific tax multipliers in the Tax and Assessment Directory. The revisions, which apply to new and renewal voluntary policies effective January 1, 2024, reflect this change and ensure consistency with the updated Tax and Assessment Directory (TAAD).

Item B-1449 — Revisions to Basic Manual Rules Related to Service Charges and Automatic Gratuities

TDI has adopted NCCI *Item B-1449*, which revises Basic Manual rules to include service charges and automatic gratuities in payroll calculations. This change aligns with IRS guidelines that treat these charges as taxable wages, clarifying a gap where such fees were previously excluded. No comments were received during the review period. The changes in Item-B1449 apply to new and renewal policies that are effective on or after January 1, 2024. Read the full adoption order [here](#).

Regulatory Activities

NCCI Adoptions

Item B-1448 — Revisions to Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions

TDI has adopted NCCI *Item B-1448*, updating Basic Manual rules on payroll inclusions and exclusions, effective January 1, 2024. The revisions address challenges in payroll calculations related to employee benefits and expense allowances, clarifying how to handle items like stock option contributions and retroactive wages.

Adopted Forms

DWC Adopts Revised DWC Form-052

DWC has adopted a revised DWC Form-052, effective June 30, 2024, for applying for Supplemental Income Benefits (SIBs). The updated form enhances user-friendliness and clarifies work search requirements. It is available on the TDI website and can be used immediately, with the previous version accepted until August 31, 2024.

DWC Updates Forms for Accident Prevention Services Compliance

In line with the July 1, 2024 amendments to 28 TAC Chapter 166 regarding accident prevention services, DWC has revised the DWC Form-105 (Accident Prevention Services Worksheet) and DWC Form-109 (Accident Prevention Services Annual Report) to meet the new submission requirements for insurance companies.

 Texas Department Of Insurance
Division of Workers' Compensation
7551 Metro Center Drive, Suite 100
Austin, TX 78744-1646
(800) 252-7031 • www.tdi.texas.gov

Submit to:
Workers' Compensation Insurance
listed in Section IV of this form

REQUEST FOR REIMBURSEMENT OF PAYMENT MADE BY HEALTH CARE INSURER

I. DATE AND TYPE OF REQUEST

1. Date of Request

2. Check ONLY one box to indicate the Texas Labor Code Section(s) that apply to this request:
a. ☐ §409.009 b. ☐ §409.0091 c. ☐ both §409.009 and §409.0091

If b. or c. is checked in Box 2 above, provide the following information:

3. TDI-DWC Data Match Date (mm/dd/yyyy)

4. TDI-DWC Data Match File Name

II. HEALTH CARE INSURER INFORMATION

5. Health Care Insurer Name

6. Federal Employer ID Number

7. Address (Street or PO Box, City State Zip)

8. Point of Contact Name

9. Point of Contact Phone Number

10. Point of Contact Fax Number

11. Point of Contact E-mail Address

III. HEALTH CARE INSURER ASSIGNEE OR AUTHORIZED REPRESENTATIVE INFORMATION (if applicable)

12. Assignee/Authorized Representative Name

13. Federal Employer ID Number

14. Address (Street or PO Box, City State Zip)

15. Point of Contact Name

16. Point of Contact Phone Number

17. Point of Contact Fax Number

18. Point of Contact E-mail Address

IV. WORKERS' COMPENSATION INSURANCE CARRIER INFORMATION

19. Workers Compensation Insurance Carrier Name

20. Address (Street or PO Box, City State Zip)

21. Point of Contact Name (if known)

22. Point of Contact Phone Number

23. Point of Contact Fax Number

24. Point of Contact E-mail Address

25. Patient / Injured Employee Name

26. TDI-DWC Claim Number

27. Date of Injury

28. Patient / Injured Employee SSN

NOTE: With few exceptions, upon your request, you are entitled to be informed about information TDI-DWC collects about you; receive and review the information (Government Code, §§552.021 and 552.023); and have TDI-DWC correct information that is incorrect (Government Code, §559.004).

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Insurance Council of
TEXAS

2024 Workers' Compensation Report

insurancecouncil.org

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