



RISK★TEX

INTERAGENCY COMMUNICATION FROM THE STATE OFFICE of RISK MANAGEMENT ★ APRIL 2011



BE READY FOR THE HEAT

The warmer weather of Spring is here, which means the hot days of Summer are just around the corner. Now is the time to start scheduling “Heat Stroke and Heat-Related Illness” training for your employees who work outside.

This course covers the impact of heat-related illness, both to businesses and the individual employees, why it happens, and how to recognize the symptoms and treat the condition. View the course description at www.sorm.state.tx.us/Training/Courses/CrseList05.php#HSHRI.

The “Heat Stroke and Heat-Related Illness” class is offered by request. This class is free to State of Texas agencies covered by SORM and designed for risk managers, supervisors, and employees at all levels. To schedule a training class, please contact Steve Shearman at steve.shearman@sorm.state.tx.us.

BOARD MEMBERS

- Stephanie E. Simmons,
Chair
- Lloyd M. Garland, M.D.
- John W. Youngblood
- Rosemary A. Gammon
- Tomás “Tommy” Gonzalez

Slips, trips, falls common at work

By Sam Arant and Aaron Parker

A worker is five times more likely to suffer serious injuries due to a slip, trip, or fall than to be seriously injured in a work-related vehicular accident, according to a national study.

Five percent of serious work-related injuries occur in vehicular accidents compared to 25 percent of work-related slip, trip, or fall accidents, at an estimated cost of \$12

billion each year, reports the 2010 Liberty Mutual Workplace Safety Index, which compiles national statistics to identify the most serious workplace injuries.

According to the U.S. Department of Labor, 15 percent of all accidental deaths and 17 percent of all disabling work injuries are the result of slips, trips, and falls.

(See “Overview,” page 6)

This is the first in a series of articles about slips, trips, and falls.



Stephanie Simmons



John Youngblood

New leaders 4 appointed to SORM Board

Gov. Rick Perry recently appointed Rosemary Gammon of Plano, Tomás “Tommy” Gonzalez of Irving, Stephanie Simmons of Missouri City, and John Youngblood of Cameron to serve on the SORM Board or Directors.

Gammon is director of Reimbursement and Payer Strategy for Mederi Therapeutics. She is a guest lecturer at the Baylor University Louise Herrington School of Nursing Graduate Program and a board member of the Texas Association of Business. She is also a past member of the Texas Workers’ Compensation Commission Medical Advisory Committee and the Texas Board of Architectural Examiners. Ms. Gammon received a bachelor’s

(See “SORM board,” page 2)

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SORM board gains new members

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degree from Boston University and is a graduate of the Professional Academy for Healthcare Management. She is appointed for a term to expire Feb. 1, 2015. A picture for Gammon was not available at press time.

Gonzalez is city manager for the City of Irving and a Lieutenant Colonel in the U.S. Army Reserve. He is a member of the Army Officers Civil Affairs Association and the Reserve Officers of America. He is also a volunteer with the Irving YMCA. Mr. Gonzalez received a bachelor's degree from Eastern New Mexico University and a master's degree in public administration from Texas Tech University. He is also a black belt graduate of the University of Texas Lean Six Sigma Management Training program. He is appointed for a term to expire Feb. 1, 2017. A picture for Gonzalez was not available at press time.

Simmons is an attorney and owner of Simmons Legal Consultants, and a certified mediator. She is a member of the State Bar of Texas and a past member of the Houston Bar Association. She is also a court-appointed volunteer

for Child Advocates of Harris County and a Girl Scout leader for the San Jacinto Council of Girl Scouts. Ms. Simmons received a bachelor's degree from Houston Baptist University and a law degree from the Thurgood Marshall School of Law. Simmons, who is chair of the board, is appointed for a term to expire Feb. 1, 2015.

Youngblood is partner at Glaser and Youngblood, Attorneys at Law, and former director of the Texas A&M University System Risk Management and Safety Office. He is a member of the State Bar of Texas and Milam County Bar Association and a board member of the Cameron Rotary Club. He is also a board member and vice president of the Cameron Industrial Development Foundation and a board member and past president of the Yoe High School Scholarship Foundation. Mr. Youngblood received a bachelor's degree from Texas A&M University and a law degree from Baylor University School of Law. He is appointed for a term to expire Feb. 1, 2013

The new members replace Ernest Garcia, Ruben Hope Jr., Kenneth Mitchell, and Ronald Walenta.

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FOR MORE CONTACT INFORMATION, PLEASE VISIT OUR WEBSITE AT
WWW.SORM.STATE.TX.US/ABOUT_US/CONTACT_US.PHP

Behind the scenes

Meet the employees appearing in SORM's safety videos

By Gail McAtee

Have you ever wondered who those talented folks are who make the SORM safety videos? They're none other than SORM employees indulging their artistic nature.

Our job is to educate state agencies and their employees on how to make their workplace safer, and we're serious about it. But who says we can't have fun while we're working? Here's a look at some of SORM's "actors."

Muriah Celovsky – Muriah is an accounting technician in the Fund Accounting division. Before her arrival at SORM, she was involved in local theatre and broadcast journalism. She was drawn to the SORM casting call because she wanted to be part of the creativity and personality that go into our safety videos.

Sharon Crouch – Sharon is a registered nurse and a case manager in our Claims Operations division. As a child she participated in a local children's theatre. (Guess she never got it out of her blood!) She's a grandmother of three and is looking forward to retirement in a few years.

Will Dotter – Will's a media specialist in the Agency Outreach and Training section and is behind the camera as much as he is in front of it. He is co-founder of Moustache Skate Party, an annual Austin event. His feature documentary, "Just a Little Bit Crazy," premiered at the 2004 Austin Film Festival.

Mark Edson – Mark is SORM's subrogation specialist. He's been an actor and musician since his teen years and a member of the Screen Actors' Guild and the American Federation of Television and Radio Artists. Mark also did a stint as a radio disc jockey. (If you were talk-



SORM thespians: (standing, from left) Muriah Celovsky, Austin Rader, Audrea Spakes, Will Dotter, Teri Sanchez, Mark Edson, Megan Yancy, Sharon Crouch, Sam Lawrence, (sitting, from left) Jenna Ihrer, and Shelby Hyman.

Online Video Library

SORM offers many free choices in its growing library of online videos. SORM's multimedia web page provides state agencies with an easy, quick way to train employees on a variety of safety and workers' compensation topics. The videos, including the latest offering titled "Active Shooter Emergency Preparedness," are available by clicking on the "Multimedia" link on the SORM homepage, www.sorm.state.tx.us.

ing to him right now instead of reading this you'd know he's the "Godfather of Voice-overs.") In his spare time, look for him playing guitar and singing lead with the Austin country-rock band The Instigators.

Shelby Hyman – Shelby is a media specialist in the Agency Outreach and Training section. Though known for breaking hearts in front of the camera (as seen in the "Office Ergonomics: The Chair Adjustment Guide" video), she also puts it all together behind the camera as a writer, editor, and producer. Her television and film career spans 15 years, with additional credits as an actress and stunt double. She is scared of clowns.

Jenna Ihrer – Jenna is new to our agency, having only arrived last summer. Maybe it has to do with her degree in psychology, but she says being turned into a zombie in one of the safety videos changed everything for her. She's an avid home videographer and is quite proficient in staging hidden camera pranks!

Sam Lawrence – Sam is the agency's information specialist and (See "Employees," page 8)

Recent DWC rule changes

Compiled by Jennifer Dawson

It has definitely been an active year thus far for the workers' compensation industry. A number of changes to Title 28 of the Texas Administrative Code (TAC) were adopted and enacted over the past few months by the Texas Department of Insurance, Division of Workers' Compensation (DWC). The changes will have a direct impact on claims handling, from "Monitoring and Enforcement" amendments to "Emergency Pharmacy Fee Guideline" rules.

A few of the notable changes are detailed below. For complete details on current rule adoptions, proposed rules for public comment, and other rule-related information, go to www.tdi.state.tx.us.

Jennifer Dawson is the supervisor of SORM's Medical Cost Containment Unit.

Informal, Voluntary Networks

The Texas Legislature passed House Bill 473, which requires informal or voluntary networks to be dissolved by Jan. 1, 2011, or certified as a workers' compensation network no later than January 2011. This leaves employers and insurance carriers with the choice of paying for medical care according to DWC fee guidelines or becoming a member of certified networks.

Ch. 137 Disability Management

HB 7 and SB 1814 amendments to this rule set up criteria for what constitutes "appropriate licensure and/or certification" for case managers dealing with non-network claims. DWC adopted one new section to Subchapter A, General Provisions concerning "Case Manager Certification." Section 137.5 applies to all case management services as defined by Labor Code §401.011 (5-a) that are provided under Labor Code Title 5 to injured employees by an insurance carrier on or after Sept. 1, 2011. The rule prohibits claims adjusters from being used as case managers. The section does not apply to case management services subject to Insurance Code Chapter 1305 or subject to Labor Code §504.053(b)(2), or to a health care provider subject to §134.204 of this title relating to "Medical Fee Guideline for Workers' Compensation Specific Services."

Adoption: Dec. 3, 2010 Effective: Sept. 1, 2011

Ch. 134 Benefits

Guidelines for Medical Services, Charges, Payments

Pursuant to HB 7, these rules were necessary to adopt an evidence-based pharmacy closed formulary. DWC adopted five new sections to Subchapter F, Pharmaceutical Benefits concerning transition to use of the closed formulary for dates of injury prior to Sept. 1, 2011; outpatient closed formulary for dates of injury on or after Sept. 1, 2011; requirements for use of the closed formulary for claims not subject to certified networks; and requirements for use of the closed formulary for claims subject to certified networks, respectively. Amendments were made to §134.500 concerning "Definitions," 134.506 concerning "Outpatient Open Formulary for Claims" with dates of injury prior to Sept. 1, 2011, and 133.306 concerning "Interlocutory Orders for Medical Benefits" effective through Sept. 1, 2011.

§§134.510, 134.520, 134.530, 134.540, and 134.550

Adoption: Dec. 3, 2010 Effective: Sept. 1, 2011

Pursuant to HB 7 and HB 473, this rule amendment was necessary to revise reimbursement rates for pharmaceuticals. DWC adopted rule amendments to 28 TAC §134.503 regarding the pharmacy fee guideline on an emergency basis. The rule amendments may remain in effect for a maximum of 180 days, if renewed. The adopted amendments permit insurance carrier to continue to reimburse prescription drugs dispensed on or after Jan. 1, 2011, at rates either above or below the fees determined by DWC fee guidelines using written contracts between insurance carriers and pharmacies or their processing agents, if applicable.

In the absence of a negotiated or contracted rate, insurance carriers shall reimburse prescription drugs using the lesser of the fees established under DWC fee guidelines or the health care provider's billed amount. If an amount to calculate the prescription drug cannot be determined using contracts or through the fees determined by DWC fee guidelines, reimbursement shall be determined in accordance with 28 TAC §134.1. These amendments are only intended to temporarily resolve any uncertainty regarding payment and reimbursement of pharmacy and pharmaceutical services while the Legislature considers possible statutory changes to clarify the reimbursement of pharmaceutical services within the workers' compensation system. Additional rulemaking will be necessary at the conclusion of the 82nd Legislative Session to adopt a long-term pharmacy fee guideline that can conform to all applicable law.

Emergency Rule Adoption: Dec. 17, 2010

Effective: Jan. 1, 2011

impacting claims handling

Ch. 127 Designated Doctor Procedures and Requirements

Pursuant to HB 7, these rules were necessary to address revisions to designated doctor requests and procedures. DWC adopted six new sections to Subchapter A, Designated Doctor Scheduling and Examinations. These new sections primarily recodify the provisions of repealed §126.7 concerning "Designated Doctor Examinations: Requests and General Procedures." One of the most controversial provisions within these changes is the ability of a party to stop a designated doctor examination by requesting an expedited hearing. The rule specifically provides DWC with the authority to stop the disputed examination, pending the decision and order of the expedited contested case hearing. This is determined by DWC upon receipt and approval of the request for expedited proceedings.

Although DWC adopted the changes described above, there are still more changes to follow based on proposals to amend §180.21 and 180.23 relating to requirements for admission to DWC's designated doctor list, inclusion of American with Disabilities requirements and revisions to designated doctor training requirements regarding maximum medical improvement and Impairment ratings.

§§ 127.1, 127.5, 127.15, 127.20, and 127.25

Adoption: Dec. 3, 2010

Effective: Feb. 1, 2011

Ch. 180 Monitoring, Enforcement

Pursuant to HB 7, HB 34, HB 1003, HB 1006, HB 2004, and HB 4290, these rules were amended and repealed to address the regulation and duties of system participants and provide an overall description of certain enforcement procedures. DWC adopted two new sections to Subchapter B, Medical Benefit Regulation relating to "Criteria for Imposing, Recommending and Determining Sanctions," "Other Remedies," and concerning "Severability." The adopted rules are necessary to implement amendments to existing statutes and update existing rules, such as the rules that pertain to the approved doctor list that expired Sept. 1, 2007.

These new sections primarily recodify the provisions of repealed §180.6, 180.7, 180.10-180.18, 180.20, and 180.26 relating to guidelines for establishing evidence of patterns of practice, the schedule of administrative penalties for violations and the approved doctors list. Amendments were made to §§180.1-180.3, 180.5, 180.7, 180.8, 180.24, 180.25, 180.26, and 180.28 relating to "Definitions"; "Filing a Complaint"; "Compliance Audits"; "Notices of Violation"; "Notices of Hearing"; "Default Judgments"; "Health Care Provider Roles and Responsibilities"; "Financial Disclosure"; "Improper Inducements, Influence and Threats"; "Sanctions Process/Appeals/Restoration"; and "Peer Review Requirements, Reporting and Sanctions," respectively.

Adopted: Dec. 20, 2010

Effective: Jan. 9, 2011

Pharmacy Benefit Changes

By Dennis Sponer

The Texas Department of Insurance, Division of Workers' Compensation (DWC) is proposing to amend Title 28 of the Texas Administrative Code regarding medical bill reporting and have accepted comments from various companies and industry groups that are affected [insurance carriers, pharmacy benefit managers (PBMs), and billing and collection services]. The new rules would codify existing reporting requirements and prescribe new reporting requirements for information and data to be submitted to DWC, concerning workers' compensation medical charges and payments. The rules would allow DWC to maintain a statewide database of medical charges, actual payments, and treatment protocols.

In simple terms the new rules would require insurance carriers and PBMs to report to DWC, both the amount paid to

PBMs by insurers and the amount paid by PBMs to pharmacies, with the purpose of making the agency better able to make decisions about fee schedules for pharmaceutical benefits in the Texas system.

CompPharma, a consortium of PBMs, has filed a public comment objecting to the new rules on the basis there is no beneficial public policy being served by forcing PBMs to report what the PBM billed and what the pharmacy is paid, allowing the state to be privy to proprietary contractual information between two willing business entities. CompPharma cites a Congressional Budget Office study that states, "Transparency of pricing in healthcare can lead to problems of reduced competition in concentrated markets ... making it easier for those firms to observe the prices charged by their rivals."

The Insurance Council of Texas generally supports the new rules, including report-

ing what is actually paid to pharmacies, but is mindful of the need to protect proprietary PBM information from public disclosure and disclosure to competitors.

Many PBMs are opposed to the new reporting requirements, possibly because they don't want their customers to know how much they are paying the pharmacies and therefore making themselves and/or many of them "rent" their networks from another PBM and don't know themselves what the pharmacies are paid. ScripNet, on the other hand, is committed to transparency, so that payers and partners always know exactly what is paid to the pharmacy and what the PBM is making for its administrative services.

Dennis Sponer is CEO of ScripNet. SORM contracts with ScripNet to provide pharmacy benefits management services.

Overview of slip, trip, fall injuries

(Continued from page 1)

The common types of injuries attributed to slips, trips, and falls are: sprains and strains; contusions; fractures; abrasions; and lacerations. The most commonly affected body parts from slip, trip, or fall injuries are: knee, ankle, or foot; wrist or elbow; back; shoulder; hip; and head.

The frequency of slip, trip, or fall workers' compensation claims at state agencies totaled 35 percent of all claims in FY '10, at a cost of \$15.3 million. The \$15.3 million was 35 percent of the total cost of workers' compensation claims for that fiscal year. The workers' compensation claims cost per full-time equivalent (FTE) was \$79 in FY '10. See Table 1 for workers' compensation claims information involving slips, trips, and falls for FY '05-FY '10.

Generally, the main causes of slip, trip, or fall accidents in the workplace are:

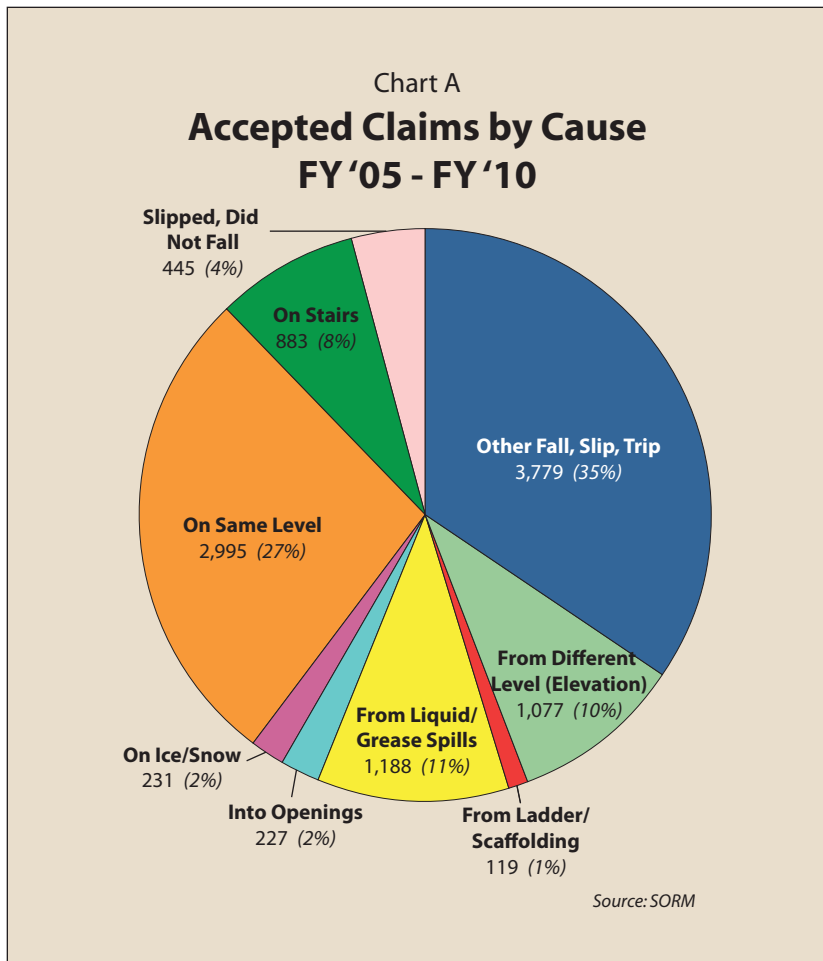
- Poor housekeeping – spilled liquids, clutter, debris, equipment blocking or protruding into aisles;
- Dangerous surface conditions – different elevations that are unmarked, slippery surfaces or finishes, protruding nails, torn carpets, curled mats, open or cracked surfaces;
- Insufficient lighting – dim or incorrect lighting in aisles and corners;
- Improper footwear – slippery soles, oversized heels, improperly fastened shoes;
- Inattention to tasks – caused by horseplay, fatigue, personal problems, etc.;
- Improper equipment – incorrect choice of type of ladder

(See "Slips," page 7)

Table 1

Slips, Trips, Falls Summary FY '05 - FY '10

	Claims	Costs	IFR	Cost Per FTE
FY '05	1,732	\$17,451,464.15	1.016%	\$102.33
FY '06	1,676	\$14,307,490.07	1.005%	\$83.01
FY '07	1,818	\$13,774,649.91	0.991%	\$78.81
FY '08	1,817	\$14,435,938.53	0.973%	\$81.06
FY '09	1,879	\$14,415,910.11	0.933%	\$77.69
FY '10	2,022	\$15,314,981.37	0.898%	\$79.44
Total	10,944	\$89,700,434.14	0.969%	\$83.72



At Your Fingertips

Slips, trips, and falls is one of the pieces of SORM's Safety Puzzle, an online tool for helping solve the sometimes puzzling issues of safety. The Safety Puzzle can be found on the "Outreach and Training" page on the SORM website, www.sorm.state.tx.us.

Slips, trips, falls costly

(Continued from page 6)

for task, poorly designed or improperly anchored scaffolding, poorly maintained elevated work platforms or lifts, stairs without handrails;

- Lack of, or improper use of personal protective equipment

– failure to wear a protective harness, failure to wear slip-resistant footwear.

Charts A and B detail the causes of slip, trip, and fall injuries by frequency (number) and severity (cost) for FY '05-FY '10.

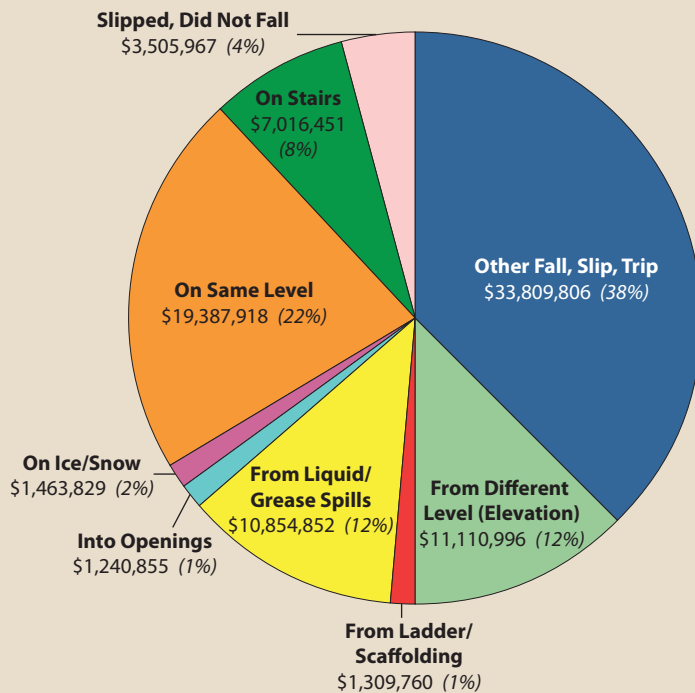
Encourage everyone at your agency or workplace to look for and correct possible slip, trip, or fall hazards. The following is a list of possible corrective actions to prevent slip, trip, and fall injuries.

- If you spill something, clean it up.
- If you drop something, pick it up.
- Ensure all aisles and walkways are clear of obstructions and debris.
- Report all slip, trip, or fall hazards to the appropriate personnel for repair, replacement, or clean-up.
- Take your time and pay attention to where you are going.
- Wear appropriate footwear.
- Barricade all hazardous or unsafe areas.
- Use the right ladder for the intended task.
- Wear harnesses and use other personal protective equipment when working on elevated surfaces.
- Ensure handrails on stairs are installed and functional; ensure guardrails and toe boards are installed and functional on all elevated surfaces.

Subsequent *Risk-Tex* articles will provide additional information and corrective actions for each main cause of slip, trip, or fall injuries.

Sam Arant is deputy director and Aaron Parker is a risk management specialist in the Risk Assessment and Loss Prevention division.

Chart B
**Total Cost by Cause
FY '05 - FY '10**



Source: SORM

Have a safety question or need some assistance developing a risk management program? Help may just be a click away. The **Risk Management for Texas State Agencies** guidelines are available on the SORM website at www.sorm.state.tx.us/RMTSA_Guidelines/volumes.php.



The four volumes are guidelines that form the direction and basis for developing and implementing a comprehensive risk management program to reduce property, liability, and workers' compensation losses in each state agency.

Employees star in safety videos

(Continued from page 3)

works on many agency documents, including *Risk-Tex*, the agency's newsletter. Before SORM, he spent many years covering various beats for several Texas newspapers. Although Sam never had the acting itch, his elementary-aged daughter seems destined for the limelight with her daily singing routines and dramatic episodes.

Austin Rader – Austin honed his acting skills in a feature length mockumentary titled “McDougal,” a western spin on Shakespeare’s “Macbeth.” He has performed live music as a lead singer for the last eight years with several different bands. His last band, Four Word Cause (now The Anytime), won the 2008 Ernie Ball National Battle of the Bands and also won a spot on the 2008 Vans Warped Tour.

Teri Sanchez – Teri has been with SORM for only a couple of years, but it didn't take long for us to discover her acting abilities. She was a school teacher for 11 years before joining SORM. Teri volunteers with Austin Film Festival and Front Steps.

Audrea Spakes – A SORM veteran, Audrea has worked in Agency Outreach and Training, Risk Assessment and Loss Prevention, and most recently in Agency Administration as our executive assistant. A Central Texas native, she has fond memories of her career as a child model.

Megan Yancy – Although the degree on her wall says anthropology, she also studied theater at Texas State University - San Marcos. Megan is an avid “Doctor Who” fan and enjoys traveling, reading and writing poetry, sketching, and painting. Guess you could call her a Renaissance woman.

Gail McAtee is director of the Agency Administration division.

What are your training needs?



Do your employees know how to
**investigate a workers'
compensation claim**

or how to

safely operate a lift truck?

SORM offers a variety of workers' compensation, risk management, and safety training courses. Some of our most popular courses are Training for Claims Coordinators, Additional Duty Safety Officer (ADSO) Orientation, Driving Safety, and Lift Truck Safety Train-the-Trainer. View our course list and training calendar online.



Find out more at www.sorm.state.tx.us