

No. **DWC-10-0009**

**OFFICIAL ORDER  
of the  
COMMISSIONER OF WORKERS' COMPENSATION  
of the  
STATE OF TEXAS  
AUSTIN, TEXAS**

Date: **FEB 22 2010**

**Subject Considered:**

**JOHN G. STEELE, M.D.**  
4100 Piedras Drive East, Suite 116  
San Antonio, Texas 78228

**CONSENT ORDER  
DISCIPLINARY ACTION**  
TDI ENFORCEMENT FILE NOS. 55334, 56418 and 56523

**General remarks and official action taken:**

On this date came on for consideration by the Commissioner of Workers' Compensation, the matter of whether disciplinary action should be taken against John G. Steele, M.D. (Dr. Steele). The Texas Department of Insurance, Division of Workers' Compensation Staff (Division Staff) alleges that Dr. Steele violated the Texas Labor Code and that such conduct constitutes grounds for the imposition of sanctions pursuant to TEX. LAB. CODE ANN., ch. 415.

Division Staff and Dr. Steele announce that they have compromised and settled all claims and agree to the entry of this Consent Order. The parties request that the Commissioner of Workers' Compensation informally dispose of this case pursuant to TEX. GOV'T CODE ANN. § 2001.056, TEX. LAB. CODE ANN. §§ 401.021 and 402.00128(b)(7), and 28 TEX. ADMIN. CODE § 180.8(h).

**JURISDICTION**

The Commissioner of Workers' Compensation has jurisdiction over this matter pursuant to TEX. LAB. CODE ANN. §§ 402.001, 402.00111, 402.00114, 402.00116, 402.00128, 402.072, 408.0041, 408.123, 414.002, 414.003, 415.003, 415.021, and 415.023; and 28 TEX. ADMIN. CODE §§ 126.7, 130.1, 130.3, 130.6, 180.1, 180.2, 180.3, 180.7, 180.8, 180.10, 180.11; 180.12, 180.21, 180.22, 180.23, and 180.26; and TEX. GOV'T CODE ANN. §§ 2001.051-2001.178.

## WAIVER

Dr. Steele acknowledges the existence of certain rights provided by the Texas Labor Code and other applicable law, including the right to receive a written notice of possible administrative violations as provided for by TEX. LAB. CODE ANN. § 415.032, the right to request a hearing as provided for by TEX. LAB. CODE ANN. § 415.034, and the right to judicial review of the decision as provided for by TEX. LAB. CODE ANN. § 415.035. Dr. Steele waives these rights, as well as any other procedural rights that might otherwise apply, in consideration of the entry of this Consent Order.

## FINDINGS OF FACT

The Commissioner of Workers' Compensation makes the following findings of fact:

### **System Participant – Certifying Doctor**

1. In accordance with 28 TEX. ADMIN. CODE § 130.1(a)(1), only an authorized doctor may certify Maximum Medical Improvement (MMI), determine whether there is permanent impairment, and assign an impairment rating.
2. In accordance with 28 TEX. ADMIN. CODE § 130.1(a)(1)(A)(i)-(iii), doctors serving in the following roles may be authorized: the treating doctors (or a doctor to whom the treating doctor has referred the employee for evaluation of maximum medical improvement and/or permanent whole body impairment in the place of the treating doctor), a designated doctor, and a required medical examination doctor selected by the carrier and approved by the commission after a designated doctor has performed a maximum medical improvement and/or permanent whole body impairment exam.
3. In accordance with 28 TEX. ADMIN. CODE § 130.1(a)(1)(B)(i)-(ii), a doctor serving in one of the roles described in subsection 28 TEX. ADMIN. CODE § 130.1 (a)(1)(A), is authorized as follows: a doctor whom the commission has certified to assign impairment ratings or otherwise given specific permission by exception to, is authorized to determine whether an injured employee has permanent impairment, assign an impairment rating, and certify MMI; and a doctor whom the commission has not certified to assign impairment ratings or otherwise given specific permission by exception to is only authorized to determine whether an injured employee has permanent impairment and, in the event that the injured employee has no impairment, certify MMI.

4. In accordance with 28 TEX. ADMIN. CODE § 130.1(a)(3), a doctor who is authorized under this subsection to certify MMI, determine whether permanent impairment exists, and assign an impairment rating and who does, shall be referred to as the "certifying doctor."
5. Dr. Steele is a certifying doctor.
6. Dr. Steele was last certified to assign impairment ratings on April 14, 2009.

### **Certification of Maximum Medical Improvement and Evaluation of Impairment Ratings**

7. In accordance with TEX. LAB. CODE ANN. § 408.123(a), after an employee has been certified by a doctor as having reached maximum medical improvement, the certifying doctor shall evaluate the condition of the employee and assign an impairment rating.
8. In accordance with TEX. LAB. CODE ANN. § 408.123(b), a certifying doctor shall issue a written report certifying that maximum medical improvement has been reached, stating the employee's impairment rating, and providing any other information required by the Commissioner to the Division, the employee, and the insurance carrier.
9. In accordance with 28 TEX. ADMIN. CODE § 130.1(d)(1), certification of maximum medical improvement and assignment of an impairment rating requires submission of a Report of Medical Evaluation, also known as the DWC Form-69.
10. In accordance with 28 TEX. ADMIN. CODE § 130.1(d)(2), the DWC Form-69 must be filed with the Division, employee, employee's representative, and the insurance carrier no later than the seventh working day after the later of the date of the certifying examination or the receipt of all of the medical information required by 28 TEX. ADMIN. CODE § 130.1.
11. In accordance with 28 TEX. ADMIN. CODE § 130.1(d)(3)(A)-(B), the Report of Medical Evaluation shall be filed with the insurance carrier by facsimile or electronic transmission; and the Report of Medical Evaluation shall be filed with the commission, the injured employee and the injured employee's representative by facsimile or electronic transmission if the doctor has been provided the recipient's facsimile number or email address; otherwise, the report shall be filed by other verifiable means.
12. In accordance with 28 TEX. ADMIN. CODE § 130.1(e)(1)-(3), the certifying doctor shall maintain the original copy of the Report of Medical Evaluation

and narrative as well as documentation of the date of the examination; the date any medical records necessary to make the certification of maximum medical improvement were received, and from whom the medical records were received; and the date, addressees, and means of delivery that reports required under 28 TEX. ADMIN. CODE § 130.1 were transmitted or mailed by the certifying doctor.

### **System Participant – Designated Doctor**

13. A “designated doctor (DD)”, as defined by TEX. LAB. CODE ANN. § 401.011(15), means a doctor appointed by mutual agreement of the parties or by the Division of Workers’ Compensation (Division) to recommend a resolution of a dispute as to the medical condition of an injured employee.
14. In accordance with 28 TEX. ADMIN. CODE § 180.21(b), in order to serve as a designated doctor, a doctor must be on the Designated Doctor List (DDL).
15. In accordance with 28 TEX. ADMIN. CODE § 180.21(d)(1)-(4), to be on the DDL on or after January 1, 2007, the doctor shall at a minimum: meet the registration requirements, or the exceptions thereto, of 28 TEX. ADMIN. CODE § 180.21(c)(1) or, upon expiration or waiver of the Approved Doctor List (ADL) in accordance with TEX. LAB. CODE ANN. § 408.023(k), comply with all successor requirements, including but not limited to financial disclosure under TEX. LAB. CODE ANN. §413.041; have filed an application to be on the DDL, which must be renewed biennially; have successfully completed Division-approved training and examination on the assignment of impairment ratings using the currently adopted edition of the American Medical Association Guides, medical causation, extent of injury, functional restoration, return to work, and other disability management topics; and have had an active practice for at least three years during the doctor’s career.
16. Dr. Steele is a designated doctor.
17. Dr. Steele was last approved to be on the Division’s Designated Doctor List on April 14, 2009.

### **Designated Doctor’s Role and Responsibilities**

18. In accordance with TEX. LAB. CODE ANN. § 408.0041(a), a designated doctor may be called upon to perform medical examinations, as requested by an insurance carrier, employee, or the Division, to resolve any question about the impairment caused by the compensable injury, the attainment of

MMI, the extent of the employee's compensable injury, whether the injured employee's disability is a direct result of the work-related injury, the ability of the employee to return to work, and other similar issues.

19. In accordance with 28 TEX. ADMIN. CODE § 126.7(n), a designated doctor must file a report, as required by 28 TEX. ADMIN. CODE §§ 130.1 and 130.3, when the designated doctor determines that an employee has reached MMI, when the designated doctor assigns an impairment rating, or when the designated doctor determines that the employee has not reached MMI. The report must be sent to the insurance carrier, the employee, the employee's representative, if any, the treating doctor, and the Division.
20. In accordance with 28 TEX. ADMIN. CODE § 126.7(q), the designated doctor shall maintain accurate records, including the employee records, analysis (including supporting information), and narratives provided by the insurance carrier and treating doctor, to reflect: the date and time of any designated doctor appointments scheduled with an employee; the circumstances regarding a cancellation, no-show or other situation where the examination did not occur as initially scheduled or rescheduled; the date of the examination; the date medical records were received from the treating doctor or any other person or organization; the date the medical evaluation report, including the narrative report described in subsection 28 TEX. ADMIN. CODE § 126.7 (n), was submitted to all parties; the name of all referral health care providers, date of appointments and reason for referral by the designated doctor; and the date the doctor contacted the Division for assistance in obtaining medical records from the insurance carrier or treating doctor.
21. In accordance with 28 TEX. ADMIN. CODE § 126.7(u)(1)-(2), the Division may contact the designated doctor if it determines that clarification is necessary to resolve an issue regarding the designated doctor's report. The Division, at its discretion, may request clarification from the designated doctor on issues the Division deems appropriate. To respond to the request for clarification, the designated doctor must be on the Division's DDL at the time the request is received by the Division. The designated doctor shall respond to the letter of clarification within five days of receipt. If in order to respond to the request for clarification, the designated doctor has to reexamine the injured employee, the doctor shall: respond to the request for clarification advising of the need for an additional examination within five days of receipt and provide copies of the response to the parties specified in subsection 28 TEX. ADMIN. CODE § 126.7 (p); and conduct the reexamination within 21 days from the request by the Division at the location of the original examination.

## **Assignment of a Designated Doctor**

22. In accordance with TEX. LAB. CODE ANN. § 408.0041(b), a medical examination requested under Subsection TEX. LAB. CODE ANN. § 408.0041 (a) shall be performed by the next available doctor on the Division's list of designated doctors whose credentials are appropriate for the issue in question and the injured employee's medical condition as determined by commissioner rule.
23. Pursuant to 28 TEX. ADMIN. CODE § 126.7(e), the Division, within 10 days after approval of a valid request, shall issue a written notice that assigns a designated doctor; requires an exam to be conducted on a date no earlier than 14 days, but no later than 21 days from the date of the written notice; and notify the designated doctor, the employee, the employee's representative, if any, and the insurance carrier that the designated doctor will be directed to examine the employee. The written notice shall indicate the designated doctor's name, license number, practice address and telephone number, and the date and time of the examination or the date range for the examination to be conducted; explain the purpose of the designated doctor examination; require the employee to submit to an examination by the designated doctor; and require the treating doctor and insurance carrier to forward all medical records.
24. Pursuant to 28 TEX. ADMIN. CODE § 126.7(f), the designated doctor's office and the employee shall contact each other if there exists a scheduling conflict for the designated doctor appointment. The designated doctor or the employee who has the scheduling conflict must make the contact at least 24 hours prior to the appointment. The 24-hour requirement will be waived in an emergency situation (such as a death in the immediate family or a medical emergency). The rescheduled examination shall be set to occur within 21 days of the originally scheduled examination. Within 24 hours of rescheduling, the designated doctor shall contact the Division's field office and the insurance carrier with the time and date of the rescheduled examination. If the examination cannot be rescheduled within 21 days, the designated doctor shall notify the Division and the Division shall select a new designated doctor.

## **Complaints Filed Against Dr. Steele**

### **Failure to File the DWC Form-69 in a Timely Manner**

25. Dr. Steele filed the DWC Form-69 with the Division 14 days past the required deadline (Injured Employee: J.G.; Carrier Number: 478CBAAR7149; DWC Claim Number: xxxx5031).

- a. Dr. Steele performed a designated doctor examination of the injured employee on May 27, 2008.
  - b. Dr. Steele had all necessary records prior to the date of the examination.
  - c. The examination was deemed complete on May 27, 2008.
  - d. Dr. Steele was required to file the DWC Form-69 with the Division, the employee and the carrier not later than the seventh working day after the examination.
  - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by June 5, 2008.
  - f. Dr. Steele filed the DWC Form-69 with the Division on June 19, 2008, or 14 days past the required deadline.
26. Dr. Steele filed the DWC Form-69 with the Division 25 days past the required deadline (Injured Employee: A.S.M.; Carrier Number: C290C3498011; DWC Claim Number: xxxx5769).
- a. Dr. Steele performed a designated doctor examination of the injured employee on April 2, 2008.
  - b. Dr. Steele had all necessary records prior to the date of the examination.
  - c. The examination was deemed complete on April 2, 2008.
  - d. Dr. Steele was required to file the DWC Form-69 with the Division, the employee and the carrier not later than the seventh working day after the examination.
  - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by April 11, 2008.
  - f. Dr. Steele filed the DWC Form-69 with the Division on May 6, 2008, or 25 days past the required deadline.
27. Dr. Steele filed the DWC Form-69 with the Division 14 days past the required deadline (Injured Employee: S.M.L.; Carrier Number: 973467028; DWC Claim Number: xxxx6558).

- a. Dr. Steele performed a designated doctor examination of the injured employee on March 17, 2008.
  - b. Dr. Steele was required to file the DWC Form-69 with the Division, the employee and the carrier not later than the seventh working day after the examination.
  - c. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by April 9, 2008.
  - d. Dr. Steele filed the DWC Form-69 with the Division on April 23, 2008 or 14 days past the required deadline.
28. Dr. Steele filed the DWC Form-69 with the Division 31 days past the required deadline (Injured Employee: L.H.; Carrier Number: 710322217; DWC Claim Number: xxxx7415).
- a. Dr. Steele performed a designated doctor examination of the injured employee on February 15, 2008.
  - b. Dr. Steele had all necessary records prior to the date of the examination.
  - c. The examination was deemed complete on February 15, 2008.
  - d. Dr. Steele was required to file the DWC Form-69 with the Division, the employee and the carrier not later than the seventh working day after the examination.
  - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by February 27, 2008.
  - f. Dr. Steele filed the DWC Form-69 with the Division on April 4, 2008, or 31 days past the required deadline.
29. Dr. Steele filed the DWC Form-69 with the Division 7 days past the required deadline (Injured Employee: D.F.; Carrier Number: 99H0000490087; DWC Claim Number: xxxx8320).
- a. Dr. Steele performed a designated doctor examination of the injured employee on April 3, 2008.
  - b. Dr. Steele referred the injured employee for additional testing. Per 28 TEX. ADMIN. CODE § 126.7(k), the need for additional testing



- extends the amount of time the DD has to file the DWC Form-69 by 10 working days.
- c. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by April 28, 2008.
  - d. Dr. Steele filed the DWC Form-69 with the Division on May 5, 2008 or 7 days past the required deadline.
30. Dr. Steele filed the DWC Form-69 with the Division 21 days past the required deadline (Injured Employee: D.C.; Carrier Number: 710305634; DWC Claim Number: xxxx4213).
- a. Dr. Steele performed a designated doctor examination of the injured employee on April 3, 2008.
  - b. Dr. Steele had all necessary records prior to the date of the examination.
  - c. The examination was deemed complete on April 3, 2008.
  - d. Dr. Steele was required to file the DWC Form-69 with the Division, the employee and the carrier not later than the seventh working day after the examination.
  - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by April 14, 2008.
  - f. Dr. Steele filed the DWC Form-69 with the Division on May 5, 2008, or 21 days past the required deadline.
31. Dr. Steele filed the DWC Form-69 with the Division 10 days past the required deadline (Injured Employee: J.P.; Carrier Number: 2230129890; DWC Claim Number: xxxx6963).
- a. Dr. Steele performed a designated doctor examination of the injured employee on March 26, 2008.
  - b. Dr. Steele referred the injured employee for additional testing. Per 28 TEX. ADMIN. CODE § 126.7(k), the need for additional testing extends the amount of time the DD has to file the DWC Form-69 by 10 working days.
  - c. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by April 18, 2008.

- d. Dr. Steele filed the DWC Form-69 with the Division on April 28, 2008 or 10 days past the required deadline.
32. Dr. Steele filed the DWC Form-69 with the Division 24 days past the required deadline (Injured Employee: K.R.; Carrier Number: 2230178376; DWC Claim Number: xxxx7018).
- a. Dr. Steele performed a designated doctor examination of the injured employee on March 26, 2008.
  - b. Dr. Steele had all necessary records prior to the date of the examination.
  - c. The examination was deemed complete on March 26, 2008.
  - d. Dr. Steele was required to file the DWC Form-69 with the Division, the employee and the carrier not later than the seventh working day after the examination.
  - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by April 4, 2008.
  - f. Dr. Steele filed the DWC Form-69 with the Division on April 28, 2008, or 24 days past the required deadline.
33. Dr. Steele filed the DWC Form-69 with the Division 2 days past the required deadline (Injured Employee: L.W.; Carrier Number: 710477894; DWC Claim Number: xxxx4299).
- a. Dr. Steele performed a designated doctor examination of the injured employee on June 27, 2008.
  - b. Dr. Steele referred the injured employee for additional testing. Per 28 TEX. ADMIN. CODE § 126.7(k), the need for additional testing extends the amount of time the DD has to file the DWC Form-69 by 10 working days.
  - c. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by July 23, 2008.
  - d. Dr. Steele filed the DWC Form-69 with the Division on July 25, 2008 or 2 days past the required deadline.

34. Dr. Steele filed the DWC Form-69 with the Division 16 days past the required deadline (Injured Employee: V.K.; Carrier Number: WC2550000; DWC Claim Number: xxxx7735).
  - a. Dr. Steele performed a designated doctor examination of the injured employee on August 15, 2008.
  - b. Dr. Steele had all necessary records prior to the date of the examination.
  - c. The examination was deemed complete on August 15, 2008.
  - d. Dr. Steele was required to file the DWC Form-69 with the Division, the employee and the carrier not later than the seventh working day after the examination.
  - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by August 26, 2008.
  - f. Dr. Steele filed the DWC Form-69 with the Division on September 11, 2008, or 16 days past the required deadline.
  
35. Dr. Steele filed the DWC Form-69 with the Division 28 days past the required deadline (Injured Employee: J.G.; Carrier Number: 99H000051324702; DWC Claim Number: xxxx0487).
  - a. Dr. Steele performed a designated doctor examination of the injured employee on October 29, 2008.
  - b. Dr. Steele had all necessary records prior to the date of the examination.
  - c. The examination was deemed complete on October 29, 2008.
  - d. Dr. Steele was required to file the DWC Form-69 with the Division, the employee and the carrier not later than the seventh working day after the examination.
  - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by November 7, 2008.
  - f. Dr. Steele filed the DWC Form-69 with the Division on December 5, 2008, or 28 days past the required deadline.

36. Dr. Steele filed the DWC Form-69 with the Division 42 days past the required deadline (Injured Employee: D.S.; Carrier Number: 2230161946; DWC Claim Number: xxxx3047).
- a. Dr. Steele performed a designated doctor examination of the injured employee on November 17, 2008.
  - b. Dr. Steele had all necessary records prior to the date of the examination.
  - c. The examination was deemed complete on November 17, 2008.
  - d. Dr. Steele was required to file the DWC Form-69 with the Division, the employee and the carrier not later than the seventh working day after the examination.
  - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by November 26, 2008.
  - f. Dr. Steele filed the DWC Form-69 with the Division on January 7, 2009, or 42 days past the required deadline.
37. Dr. Steele filed the DWC Form-69 with the Division 42 days past the required deadline (Injured Employee: A.L.; Carrier Number: YIIC57771; DWC Claim Number: xxxx8116).
- a. Dr. Steele performed a designated doctor examination of the injured employee on November 17, 2008.
  - b. Dr. Steele had all necessary records prior to the date of the examination.
  - c. The examination was deemed complete on November 17, 2008.
  - d. Dr. Steele was required to file the DWC Form-69 with the Division, the employee and the carrier not later than the seventh working day after the examination.
  - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by November 26, 2008.
  - f. Dr. Steele filed the DWC Form-69 with the Division on January 7, 2009, or 42 days past the required deadline.

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38. Dr. Steele filed the DWC Form-69 with the Division 36 days past the required deadline (Injured Employee: A.Y.; Carrier Number: 99J0000550412; DWC Claim Number: xxxx9146).
  - a. Dr. Steele performed a designated doctor examination of the injured employee on January 9, 2009.
  - b. Dr. Steele had all necessary records prior to the date of the examination.
  - c. The examination was deemed complete on January 9, 2009.
  - d. Dr. Steele was required to file the DWC Form-69 with the Division, the employee and the carrier not later than the seventh working day after the examination.
  - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by January 21, 2009.
  - f. Dr. Steele filed the DWC Form-69 with the Division on February 26, 2009, or 36 days past the required deadline.
  
39. Dr. Steele filed the DWC Form-69 with the Division 36 days past the required deadline (Injured Employee: J.L.; Carrier Number: 99J0000553384; DWC Claim Number: xxxx4057).
  - a. Dr. Steele performed a designated doctor examination of the injured employee on April 6, 2009.
  - b. Dr. Steele had all necessary records prior to the date of the examination.
  - c. The examination was deemed complete on April 6, 2009.
  - d. Dr. Steele was required to file the DWC Form-69 with the Division, the employee and the carrier not later than the seventh working day after the examination.
  - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by April 15, 2009.
  - f. Dr. Steele filed the DWC Form-69 with the Division on May 21, 2009, or 36 days past the required deadline.

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40. Dr. Steele filed the DWC Form-69 with the Division 48 days past the required deadline (Injured Employee: C.B.; Carrier Number: A86700145000010167; DWC Claim Number: xxxx5090).
  - a. Dr. Steele performed a designated doctor examination of the injured employee on March 13, 2009.
  - b. Dr. Steele had all necessary records prior to the date of the examination.
  - c. The examination was deemed complete on March 13, 2009.
  - d. Dr. Steele was required to file the DWC Form-69 with the Division, the employee and the carrier not later than the seventh working day after the examination.
  - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by March 24, 2009.
  - f. Dr. Steele filed the DWC Form-69 with the Division on May 11, 2009, or 48 days past the required deadline.
  
41. Dr. Steele filed the DWC Form-69 with the Division 38 days past the required deadline (Injured Employee: J.G.; Carrier Number: 99G0000482455; DWC Claim Number: xxxx6652).
  - a. Dr. Steele performed a designated doctor examination of the injured employee on May 29, 2009.
  - b. Dr. Steele had all necessary records prior to the date of the examination.
  - c. The examination was deemed complete on May 29, 2009.
  - d. Dr. Steele was required to file the DWC Form-69 with the Division, the employee and the carrier not later than the seventh working day after the examination.
  - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by June 9, 2009.
  - f. Dr. Steele filed the DWC Form-69 with the Division on July 17, 2009, or 38 days past the required deadline.

42. Dr. Steele filed the DWC Form-69 with the Division 24 days past the required deadline (Injured Employee: J.M.; Carrier Number: 6450190449; DWC Claim Number: xxxx1332).
  - a. Dr. Steele performed a designated doctor examination of the injured employee on June 24, 2009.
  - b. Dr. Steele had all necessary records prior to the date of the examination.
  - c. The examination was deemed complete on June 24, 2009.
  - d. Dr. Steele was required to file the DWC Form-69 with the Division, the employee and the carrier not later than the seventh working day after the examination.
  - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by July 3, 2009.
  - f. Dr. Steele filed the DWC Form-69 with the Division on July 27, 2009, or 24 days past the required deadline.

#### Failure to Timely Reschedule a Designated Doctor Exam

43. Dr. Steele rescheduled the designated doctor exam 18 days past the required deadline (Injured Employee: A.R.; Carrier Number: T120600120281; DWC Claim Number: xxxx9399).
  - a. Dr. Steele was originally scheduled to conduct a designated doctor exam on December 11, 2008.
  - b. Per 28 Tex. Admin. Code § 126.7(f), if a DD exam needs to be rescheduled, the rescheduled exam shall be set to occur with 21 days of the original exam.
  - c. The designated doctor examination was required to be rescheduled by January 2, 2009.
  - d. The designated doctor examination was rescheduled to January 20, 2009, or 18 days past the required deadline.
44. Dr. Steele rescheduled the designated doctor exam 4 days past the required deadline (Injured Employee: B.S.; Carrier Number: 4382C; DWC Claim Number: xxxx7451).

- a. Dr. Steele was originally scheduled to conduct a designated doctor exam on March 20, 2008.
  - b. Per 28 Tex. Admin. Code § 126.7(f), if a DD exam needs to be rescheduled, the rescheduled exam shall be set to occur with 21 days of the original exam.
  - c. The designated doctor examination was required to be rescheduled by April 10, 2008.
  - d. The designated doctor examination was rescheduled to April 14, 2008, or 4 days past the required deadline.
45. Dr. Steele rescheduled the designated doctor exam 2 days past the required deadline (Injured Employee: A.A.; Carrier Number: 99G0000460975; DWC Claim Number: xxxx7496).
- a. Dr. Steele was originally scheduled to conduct a designated doctor exam on April 7, 2008.
  - b. Per 28 Tex. Admin. Code § 126.7(f), if a DD exam needs to be rescheduled, the rescheduled exam shall be set to occur with 21 days of the original exam.
  - c. The designated doctor examination was required to be rescheduled by April 28, 2008.
  - d. The designated doctor examination was rescheduled to April 30, 2008, or 2 days past the required deadline.
46. Dr. Steele rescheduled the designated doctor exam 2 days past the required deadline (Injured Employee: A.A.; Carrier Number: 9450182564; DWC Claim Number: xxxx6976).
- a. Dr. Steele was originally scheduled to conduct a designated doctor exam on April 7, 2008.
  - b. Per 28 Tex. Admin. Code § 126.7(f), if a DD exam needs to be rescheduled, the rescheduled exam shall be set to occur with 21 days of the original exam.
  - c. The designated doctor examination was required to be rescheduled by April 28, 2008.



- d. The designated doctor examination was rescheduled to April 20, 2008, or 2 days past the required deadline.

### **Aggravating Factors**

#### **Harm to Injured Workers**

47. Pursuant to TEX. LAB. CODE ANN. § 408.121 (a)–(b), an employee's entitlement to impairment income benefits begins on the day after the date the employee reaches MMI and the insurance carrier must begin paying impairment income benefits not later than the fifth day after receiving the doctor's report certifying MMI.
48. Pursuant to TEX. LAB. CODE ANN. § 408.122, a claimant may not recover impairment income benefits unless there is evidence of impairment based on objective clinical or laboratory findings. If the finding of impairment is made by a doctor chosen by the claimant and the finding is contested, a designated doctor or a doctor selected by the insurance carrier must be able to confirm the objective clinical or laboratory finding on which the finding of impairment is based.
49. The payments of impairment income benefits to injured employees may have been delayed as a result of Dr. Steele's inability to submit the DWC Form-69 and letters of clarification in a timely manner.
50. Dr. Steele's failure to timely file the DWC Form-69 and letters of clarification delayed the dispute resolution process.

#### **Warning Letters**

51. On or about June 17, 2008, the Division issued a warning letter to Dr. Steele for failing to timely file a DWC Form-69.
52. On or about July 14, 2008, the Division issued a warning letter to Dr. Steele for failing to timely file a DWC Form-69.
53. On or about September 2, 2009, the Division issued a warning letter to Dr. Steele for failing to timely file a DWC Form-69.
54. On or about October 13, 2009, the Division issued a warning letter to Dr. Steele for failing to timely file a DWC Form-69.
55. On or about October 23, 2008, the Division issued a warning letter to Dr. Steele for failing to timely file a DWC Form-69.

56. On or about November 13, 2008, the Division issued two warning letters to Dr. Steele for failing to timely file a DWC Form-69.

### **Mitigating Factors**

57. Dr. Steele agrees to adopt and implement a compliance plan to prevent future administrative violations, and to provide the Division with a copy of the compliance plan.
58. Dr. Steele agrees to be suspended from the Designated Doctor List for six (6) months. During this suspension, the Division will not assign, nor shall he accept, any initial designated doctor appointments.
59. During this suspension, Dr. Steele agrees, upon request of the Division, he will accept appointments and will timely conduct re-examinations of injured workers for which he was previously assigned to as a designated doctor and will timely respond to all Division requests for letters of clarification.
60. Dr. Steele agrees that he will not modify his appointment location matrix for six (6) months without prior approval from the Office of the Medical Advisor. Therefore, for six (6) months there will be no additions or deletions of counties unless approved by the Office of the Medical Advisor.
61. Dr. Steele agrees to file the DWC Form-69 in a timely manner as required by 28 TEX. ADMIN. CODE §§ 126.7 and 130.1.
62. Dr. Steele agrees to file the letter of clarification in a timely manner as required by 28 TEX. ADMIN. CODE § 126.7.
63. Dr. Steele agrees to maintain proper records/documentation as required by 28 TEX. ADMIN. CODE §§ 126.7(q)(1)-(7) and 130.1(e)(1)-(3).

### **Other Considerations**

64. The Division recently received additional complaints against Dr. Steele for failing to timely submit required forms. The complaints, specifically CTS Nos. 56418 and 56523, have been reviewed and considered as a part of this Consent Order. In consideration of Dr. Steele's agreement to this consent order, these complaints will be closed with no further action.
65. This Consent Order, and the actions required hereby, is entered into in the nature of compromise and settlement and in order to avoid the time,

trouble, and expense to the Division and to Dr. Steele of resolving this dispute through administrative or judicial proceedings.

## CONCLUSIONS OF LAW

Based upon the foregoing findings of fact, the Commissioner of Workers' Compensation makes the following conclusions of law:

1. The Commissioner of Workers' Compensation has jurisdiction over this matter pursuant to TEX. LAB. CODE ANN. §§ 402.001, 402.00111, 402.00114, 402.00116, 402.00128, 402.072, 408.0041, 408.123, 414.002, 414.003, 415.003, 415.021, and 415.023; and 28 TEX. ADMIN. CODE §§ 126.7, 130.1, 130.3, 130.6, 180.1, 180.2, 180.3, 180.7, 180.8, 180.10, 180.11; 180.12, 180.21, 180.22, 180.23, and 180.26; and TEX. GOV'T CODE ANN. §§ 2001.051-2001.178.
2. The Commissioner of Workers' Compensation has authority to informally dispose of this matter as set forth herein under TEX. GOV'T CODE ANN. § 2001.056, TEX. LAB. CODE ANN. §§ 401.021 and 402.00128(b)(7), and 28 TEX. ADMIN. CODE § 180.8(h).
3. Dr. Steele has knowingly and voluntarily waived all procedural rights to which she may have been entitled regarding the entry of this Order, including, but not limited to, written notice of possible administrative violations, a hearing, and judicial review.
4. In accordance with TEX. LAB. CODE ANN. § 415.021, in addition to any sanction, administrative penalty, or other remedy authorized by this subtitle, the Commissioner of Workers' Compensation may assess an administrative penalty against a person who commits an administrative violation.
5. In accordance with TEX. LAB. CODE ANN. § 415.023(a), a person who commits an administrative violation under Section 415.001, 415.002, 415.003, or 415.0035 as a matter of practice is subject to an applicable rule adopted under TEX. LAB. CODE ANN. § 415.023(b) in addition to the penalty assessed for the violation.
6. In accordance with 28 TEX. ADMIN. CODE § 180.21(m), in addition to the grounds for deletion or suspension from the ADL or for issuing other sanctions against a doctor under 28 TEX. ADMIN. CODE § 180.26, the Commissioner shall delete or suspend a doctor from the DDL, or otherwise sanction a designated doctor for noncompliance with the requirements of this section or if any of the following conduct occurs:

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John G. Steele, M.D.; CTS # 55334, 56418 and 56523

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- a. failure to timely respond as a pattern of practice to a request for clarification from the Division regarding an examination.
  - b. other violation of applicable statutes or rules while serving as a designated doctor.
7. In accordance with 28 TEX. ADMIN. CODE § 180.26(d)(1), the Medical Advisor may recommend a sanction against a doctor or a carrier or the deletion or suspension of a doctor from the ADL if they violate the Statute, Rules, or a commission decision or order or agreement.
  8. In accordance with TEX. LAB. CODE ANN. § 415.003(5), a health care provider, like a designated doctor, commits an administrative violation each time he or she violates a commissioner's rule.
    - a. Dr. Steele violated 28 TEX. ADMIN. CODE § 130.1(d)(2), each time he failed to file the DWC Form-69 in a timely manner.
    - b. Dr. Steele violated 28 TEX. ADMIN. CODE § 126.7(f) each time he failed to timely reschedule a designated doctor examination.
  9. Dr. Steele failed to timely file the DWC Form-69 with the Division in eighteen (18) instances.
  10. Dr. Steele failed to timely reschedule a designated doctor exam in four (4) instances.

Based on the Findings of Fact and Conclusions of Law above, the Commissioner of Workers' Compensation has determined that the appropriate disposition is imposition of the following sanctions and full compliance with the terms of this Order.

**IT IS THEREFORE ORDERED** that thirty (30) days from the date of this Order, Dr. John G. Steele shall be suspended from the designated doctor list for a period of six (6) months. During this suspension, Dr. Steele will not be assigned, nor shall he accept, initial designated doctor appointments.

**IT IS FURTHER ORDERED** that during this six (6) month suspension, Dr. John G. Steele, upon request of the Division, shall accept appointments and timely conduct re-examinations of injured workers for which he was previously assigned to as a designated doctor and shall timely respond to all Division requests for Letters of Clarification.

**IT IS ALSO ORDERED** that Dr. John G. Steele shall pay, and is hereby directed to pay, on or before thirty (30) days from the date of this Order, an administrative

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John G. Steele, M.D.; CTS # 55334, 56418 and 56523

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penalty in the amount of TWO THOUSAND DOLLARS (\$2,000.00). Payment must be paid by cashier's check or money order made payable to the "State of Texas" and transmitted to the Texas Department of Insurance, Enforcement Division-DWC, Division 3721, MC-9999, P.O. Box 149104, Austin, Texas 78714-9104.

**IT IS ALSO ORDERED** that Dr. John G. Steele will not modify his appointment location matrix for six months without prior approval from the Office of the Medical Advisor. Therefore, for six months there will be no additions or deletions of counties unless approved by the Office of the Medical Advisor.

**IT IS ALSO ORDERED** that within thirty (30) days from the date of this Order, Dr. John G. Steele shall provide the Division with a copy of his compliance plan, which shall be directed at ensuring future compliance with the Texas Workers' Compensation Act and Rules.

**IT IS FURTHER ORDERED** that Dr. John G. Steele will file the DWC Form-69 in a timely manner as required by 28 TEX. ADMIN. CODE § 130.1(d)(2).

**IT IS FURTHER ORDERED** that Dr. John G. Steele will file the letter of clarification in a timely manner as required by 28 TEX. ADMIN. CODE § 126.7(u)

**IT IS ALSO ORDERED** by the Commissioner of Workers' Compensation that should Dr. John G. Steele fail to comply with the terms of this Order that Dr. John G. Steele will have committed an additional administrative violation and his failure to comply with the terms of this Order may subject Dr. John G. Steele to further penalties as authorized by the Texas Labor Code, which, pursuant to TEX. LAB. CODE ANN. § 415.021(a), includes the right to impose an administrative penalty of up to \$25,000 per day per occurrence.

  
\_\_\_\_\_  
ROD BORDELON  
COMMISSIONER OF WORKERS' COMPENSATION

**DWC-10-0009**

COMMISSIONER'S ORDER

John G. Steele, M.D.; CTS # 55334, 56418 and 56523

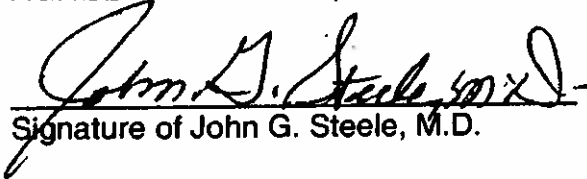
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FOR THE STAFF:



Terra Colvin Thomas  
Staff Attorney, Enforcement Division  
Texas Department of Insurance

AGREED, ACCEPTED, and EXECUTED on this <sup>4<sup>th</sup></sup> day of January, <sup>2010</sup>~~2009~~ by:



Signature of John G. Steele, M.D.

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STATE OF TEXAS §  
COUNTY OF Tarrant §

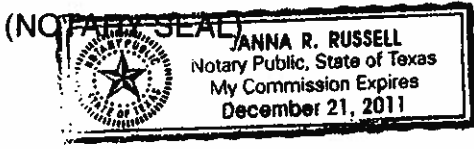
BEFORE ME, Janna R. Russell a notary public in and for the State of Texas, on this day personally appeared John G. Steele, known to me or proven to me through \_\_\_\_\_ to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, who being by me duly sworn, deposed as follows:

1. "My name is John G. Steele, M.D. I am of sound mind, capable of making this statement, and personally acquainted with the facts stated in this Consent Order.
2. I have read the terms and conditions contained within this Consent Order, and I have knowingly and voluntarily entered into it.
3. I consent to the issuance and service of this Consent Order, and I am executing the same for the purposes and consideration described herein."

John G. Steele, M.D.  
Signature

John G. Steele, M.D.  
Typed/Printed Name

Given under my hand and seal of office this 4th day of January, 2009. 2010.



Janna Russell  
Notary Public, State of Texas  
My commission expires: 12/21/2011