

No. **2019** **5833**

Confidential Information Redacted
Texas Labor Code §§402.083 & 402.092

OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF WORKERS' COMPENSATION

Date: **JAN 03 2019**

Subject Considered:

CHI ST. LUKE'S HEALTH
6720 Bertner Avenue
Houston, Texas 77030-2604

CONSENT ORDER
TDI-DWC ENFORCEMENT FILE NO. 14878

General remarks and official action taken:

The commissioner of workers' compensation (commissioner) considers whether disciplinary action should be taken against Chi St. Luke's Health.

WAIVER

Chi St. Luke's Health acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Chi St. Luke's Health waives all of these rights and any other applicable procedural rights in consideration of the entry of this consent order.

FINDINGS OF FACT

The commissioner makes the following findings of fact:

1. Chi St. Luke's Health is a health care provider in the Texas workers' compensation system.

IMPROPERLY BILLING AN INJURED EMPLOYEE

2. Chi St. Luke's Health provided workers' compensation medical services to the injured employee on January 26, 2016.
3. On [REDACTED] Chi St. Luke's Health sent a bill to the injured employee in the amount of \$ [REDACTED] for the workers' compensation medical services provided.

4. Chi St. Luke's Health knew that the services were covered by workers' compensation insurance because Chi St. Luke's Health sent bills to the workers' compensation insurance carrier before sending a bill to the injured employee.
5. As of the dates of the bills, there was no final adjudication that the injury was not compensable. Additionally, the injured employee did not violate TEX. LAB. CODE § 408.022 relating to the selection of a doctor.

FAILURE TO COMPLY WITH A DWC ORDER

6. On [REDACTED], the Texas Department of Insurance, Division of Workers' Compensation (DWC) ordered Chi St. Luke's Health to produce all medical billing documentation related to a certain injured employee for date of service [REDACTED]. The order was sent to Chi St. Luke's Health by certified mail.
7. Chi St. Luke's Health received the order on [REDACTED]. Therefore, Chi St. Luke's Health was required to produce the requested information by [REDACTED].
8. To date, Chi St. Luke's Health has failed to provide the information ordered to be produced.

ASSESSMENT OF PENALTY

9. Timely submission of information and documentation to DWC and compliance with DWC orders are imperative to DWC's ability to implement and enforce the Texas Workers' Compensation Act.
10. Chi St. Luke's Health acknowledges harm to the system and agrees that the penalty assessed is reasonable.
11. In assessing the penalty for this case, the commissioner of workers' compensation fully considered the factors specified in TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN CODE § 180.26(e):
 - The seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the prohibited act;
 - the history and extent of previous administrative violations;
 - the demonstrated good faith of the violator, including actions taken to rectify the consequences of the prohibited act;
 - the penalty necessary to deter future violations;
 - whether the administrative violation has a negative impact on the delivery of benefits to an injured employee;
 - the history of compliance with electronic data interchange requirements;

- other matters that justice may require, including but not limited to:
 - Performance Based Oversight assessments;
 - the promptness and earnestness of actions to prevent future violations;
 - self-report of the violation;
 - the size of the company or practice;
 - the effect of a sanction on the availability of health care; and
 - evidence of heightened awareness of the legal duty to comply with the Texas Workers' Compensation Act and DWC rules; and
 - to the extent reasonable, the economic benefit resulting from the prohibited act.
12. Chi St. Luke's Health acknowledges that in assessing the penalty, the commissioner appropriately and fully considered the relevant applicable factors set forth in TEX. LAB. CODE § 415.021(c).
13. Chi St. Luke's Health acknowledges that this consent order sufficiently communicates information about the penalty, including the relevant statutes or rules violated, the conduct giving rise to the violations, and the factors considered in determining the penalty.

CONCLUSIONS OF LAW

The commissioner makes the following conclusions of law:

1. The commissioner has jurisdiction over this matter pursuant to TEX. LAB. CODE §§ 402.001, 402.00111, 402.00114, 402.00116, and 402.00128.
2. The commissioner has authority to informally dispose of this matter as set forth herein under TEX. GOV'T CODE § 2001.056, TEX. LAB. CODE § 402.00128(b)(7), and 28 TEX. ADMIN. CODE § 180.26(h).
3. Pursuant to TEX. LAB. CODE § 415.021, in addition to any sanction, administrative penalty, or other remedy authorized by this subtitle, the commissioner may assess an administrative penalty against a person who commits an administrative violation.
4. Pursuant to TEX. LAB. CODE § 415.003(6), a health care provider commits an administrative violation if it fails to comply with a provision of the Texas Workers' Compensation Act.
5. Pursuant to TEX. LAB. CODE § 413.042, a health care provider may not pursue a private claim against a workers' compensation claimant for all or part of the cost of a health care service provided to the injured employee by the provider unless the

injury is finally adjudicated as not compensable or the employee violates TEX. LAB. CODE § 408.022 relating to the selection of a doctor.

6. Chi St. Luke's Health violated TEX. LAB. CODE § 415.003(6) by improperly billing an injured employee for workers' compensation medical services provided.
7. Pursuant to TEX. LAB. CODE § 415.021(a), a person commits an administrative violation if that person fails to comply with a DWC order.
8. Chi St. Luke's Health violated TEX. LAB. CODE §§ 415.021(a) and 415.003(6) by failing to comply with a DWC order.

ORDER

Chi St. Luke's Health is ORDERED to pay an administrative penalty of \$5,000 within 30 days from the date of this order.

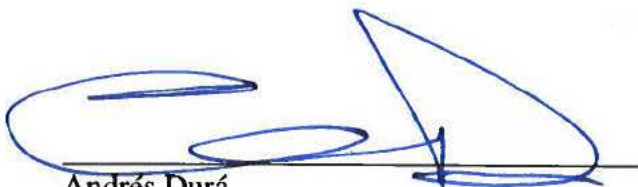
The administrative penalty must be paid by company check, cashier's check, or money order made payable to the "State of Texas." Mail the administrative penalty to the Texas Department of Insurance, Attn: DWC Enforcement, MC 9999, P.O. Box 149104, Austin, Texas, 78714-9104.



Cassie Brown
Commissioner of Workers' Compensation

53

Approved as to Form and Content:



Andrés Durá
Staff Attorney, DWC Enforcement
Texas Department of Insurance

