

No. 2021-6685

**Official Order
of the
Texas Commissioner of Workers' Compensation**

Date: 02-23-2021

Subject Considered:

Texas Pain Relief Group
P.O. Box 205125
Dallas, Texas 75320-5125

Consent Order
DWC Enforcement File No. 25762

General remarks and official action taken:

This is a consent order with Texas Pain Relief Group (Texas Pain). The commissioner of the Texas Department of Insurance, Division of Workers' Compensation (DWC) considers whether DWC should take disciplinary action against Texas Pain.

Waiver

Texas Pain acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Texas Pain waives all of these rights, and any other procedural rights that apply, in consideration of the entry of this consent order.

Findings of Fact

1. Texas Pain is a health care provider operating in the Texas workers' compensation system.
2. Texas Pain was not selected to be tiered in the 2007, 2009, 2011, 2013, 2015, 2017, or 2019 Performance Based Oversight (PBO) assessments.

Failure to Timely Comply with a DWC Order to Produce Documents

3. On [REDACTED], DWC ordered Texas Pain to produce information, including, but not limited to:
- a date-stamped copy of the request for refund the insurance carrier sent to Texas Pain for dates of service [REDACTED], to [REDACTED], in the amount of \$313.07;
 - a copy of Texas Pain's response to the insurance carrier's request for a refund and a copy of payment summaries or check drafts of the refund, with or without interest payment, for dates of service [REDACTED], to [REDACTED]; and
 - Texas Pain's statement of position on its failure to timely respond to the insurance carrier's request for refund.
4. Texas Pain produced a copy of the requested information on [REDACTED].

Assessment of Sanction

1. Timely submitting information to DWC and complying with DWC orders is imperative to DWC's ability to implement and enforce the Texas Workers' Compensation Act.
2. In assessing the sanction for this case, DWC fully considered the following factors 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 violator's demonstration of good faith, including actions it took to rectify the consequences of the prohibited act;
 - the penalty necessary to deter future violations;
 - whether the administrative violation had a negative impact on the delivery of benefits to an injured employee;
 - the history of compliance with electronic data interchange requirements;
 - to the extent reasonable, the economic benefit resulting from the prohibited act; and
 - other matters that justice may require, including, but not limited to:
 - PBO assessments;
 - prompt and earnest 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.
3. DWC found the following factors in TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e) to be aggravating: the seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the prohibited act; and the penalty necessary to deter future violations.
 4. DWC found the following factors in TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e) to be mitigating: the history and extent of previous administrative violations and whether the administrative violation had a negative impact on the delivery of benefits to an injured employee. Respondent does not have any prior administrative violations. In addition, there was no negative impact on the delivery of benefits to an injured employee. This issue began as a refund request from an insurance carrier and was compounded by confusion from a reduction in workforce due to COVID-19.
 5. Texas Pain acknowledges it communicated with DWC about the relevant statutes and rules it violated; the facts establish that the administrative violation occurred; and the proposed sanction is appropriate, including the factors DWC considered under TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e).
 6. Texas Pain acknowledges that, in assessing the sanction, DWC considered the factors in TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e).

Conclusions of Law

1. The commissioner has jurisdiction over this matter pursuant to TEX. LAB. CODE §§ 402.001, 402.00114, 402.00116, 402.00128, 414.002, and 414.003.
2. The commissioner has the authority to dispose of this case informally pursuant to TEX. GOV'T CODE § 2001.056, TEX. LAB. CODE §§ 401.021 and 402.00128(b)(7), and 28 TEX. ADMIN. CODE § 180.26(h).

3. Texas Pain has knowingly and voluntarily waived all procedural rights to which it may have been entitled regarding the entry of this order, including, but not limited to, issuance and service of notice of intent to institute disciplinary action, notice of hearing, a public hearing, a proposal for decision, a rehearing by the commissioner, and judicial review.
4. Pursuant to TEX. LAB. CODE § 415.021, the commissioner may assess an administrative penalty against a person who commits an administrative violation.
5. Pursuant to TEX. LAB. CODE §§ 415.0035(e) and 415.021(a), a person regulated by DWC under this title commits an administrative violation if they violate the Texas Workers' Compensation Act, a DWC rule, or a commissioner's order or decision.
6. Pursuant to 28 TEX. ADMIN. CODE § 102.9, DWC requires those subject to the Texas Workers' Compensation Act to provide information as necessary. DWC may follow up on a request for information by issuing an order to produce information.
7. Texas Pain violated TEX. LAB. CODE §§ 415.0035(e) and 415.021(a) and 28 Tex. Admin. Code § 102.9 when it failed to comply with a DWC order to produce documents.

Order

It is ordered that Texas Pain Relief Group must pay an administrative penalty of \$2,500 within 30 days from the date of this order. Texas Pain Relief Group must pay the administrative penalty by company check, cashier's check or money order and make it payable to the "State of Texas." Mail the administrative penalty to the Texas Department of Insurance, Attn: DWC Enforcement Section, MC 9999, P.O. Box 149104, Austin, Texas 78714-9104.



Cassie Brown
Commissioner of Workers' Compensation

Approved Form and Content:



Amy Norman
Staff Attorney, Enforcement
Compliance and Investigations
Division of Workers' Compensation

Affidavit

STATE OF Florida §

COUNTY OF Hillsborough §
§

Before me, the undersigned authority, personally appeared Rekha Rajan-Wilson who being by me duly sworn, deposed as follows:

"My name is Rekha Rajan-Wilson. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

I hold the office of VP, Compliance and am the authorized representative of Texas Pain Relief Group. I am duly authorized by the organization to execute this statement.

Texas Pain Relief Group has knowingly and voluntarily entered into this consent order and agrees with and consents to the issuance and service of this consent order."

Rekha S. Raj-Wilson

Affiant

SWORN TO AND SUBSCRIBED before me on 12th, January, 2021.

(NOTARY SEAL)

Donna Patrice Russell

Signature of Notary Public

Donna Patrice Russell

Printed Name of Notary Public

November 19, 2023

Commission Expiration



Confidential Information Redacted
Texas Labor Code §§402.083 and 402.092