

No. **DWC-10-0073**

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

Date: SEP 03 2010

Subject Considered:

IHSAN SHANTI, M.D.
2726 Lighthouse Drive
Houston, Texas 77057

CONSENT ORDER
DISCIPLINARY ACTION
TDI ENFORCEMENT FILE NO. 51607

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 Dr. Ihsan Shanti, M.D. ("Dr. Shanti"). The Texas Department of Insurance, Division of Workers' Compensation Staff ("Division Staff") alleges that Dr. Shanti 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. Shanti 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, 408.023, 408.0231, 413.002, 413.044, 413.0511, 414.002, 414.003, 415.003, 415.021, and 415.023; and 28 TEX. ADMIN. CODE §§ 180.1-180.28; and TEX. GOV'T CODE ANN. §§ 2001.051-2001.178.

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WAIVER

Dr. Shanti 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. Shanti waives all of 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 – Designated and Treating Doctor

1. A "designated doctor", 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.
2. "Treating doctor", as defined by TEX. LAB. CODE ANN. § 401.011(42), means the doctor who is primarily responsible for the employee's health care for an injury.
3. Dr. Shanti was certified as a designated doctor from April 3, 2007 until April 21, 2009.

Designated and Treating Doctor's Role and Responsibilities

4. In accordance with TEX. LAB. CODE ANN. § 408.0041(a)–(b), 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 maximum medical improvement ("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.
5. TEX. LAB. CODE ANN. § 408.023(s) states that the waiver or expiration of the approved doctor list do not limit the division's ability to impose sanctions as provided by this subtitle and division rules.
6. TEX. LAB. CODE ANN. § 408.0231(c) states that rules adopted pursuant to subsection (b) of this subtitle are in addition to, and do not affect, rules adopted under Section 415.023(b). The criteria for imposing sanction on a doctor may include anything the commissioner considers relevant including a suspension or relevant

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- practice restriction of the doctor's license by the appropriate licensing authority or (7) a criminal conviction.
7. TEX. LAB. CODE ANN. § 415.003 states that a health care provider commits an administrative violation if he submits a charge for healthcare that was not provided or violates a commission rule.
 8. TEX. LAB. CODE ANN. § 415.008(a) states that a person commits an administrative violation if the person to obtain a payment of workers' compensation benefit for the benefit of the person, intentionally and knowingly makes a false or misleading statement; misrepresents or conceals a material fact; or fabricates, alters, conceals or destroys a document.
 9. TEX. LAB. CODE ANN. § 415.008(c) states that person who has obtained an excess payment in violation of this section is liable for full payment plus interest computed at the rate prescribed by Section 401.023.
 10. In accordance with 28 TEX. ADMIN. CODE § 180.22 the treating doctor is the doctor primarily responsible for the efficient management of health care for the injured employee.
 11. In accordance with 28 TEX. ADMIN. CODE § 180.26(b)(4), the Executive Director of the Division shall delete from the approved doctor list (ADL) a doctor whose license to practice in this state has been revoked, suspended, or not renewed by the appropriate licensing or certification authority. This includes but is not limited to suspensions or revocations that are stayed, deferred or probated and voluntarily relinquishment of the license to practice.
 12. This Order does not apply to emergency cases, and "emergency" shall be defined by 28 TEX. ADMIN. CODE § 133.2.

Complaint Against Shanti

13. During the January Term A.D. of 2008, the Travis County Grand Jury issued an indictment against Dr. Shanti for two counts of Securing Execution of a Document by Deception, pursuant to one scheme and continuing course of conduct which began on or about January 30, 2003, and continuing to on or about March 6, 2006, with the intent to defraud and harm Texas Mutual Insurance Company and the State Office of Risk Management. Dr. Shanti, by deception, filed Health Care Financing Administration (HCFA) 1500s, seeking payment for workers' compensation medical services which had not been rendered.
14. On September 19, 2008, Shanti entered a plea of guilty to one count of Securing Execution of a Document by Deception >= \$100,000.00 to \$200,000.00, a second degree felony.

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15. On November 26, 2008, the 331st Judicial District Court of Travis County, Judge Bob Perkins deferred a finding of guilt and placed Dr. Shanti on deferred adjudication/probation for a period of 8 years in Cause No. D-1-DC-08904030. As a condition of probation, Dr. Shanti surrendered his medical license for a period of 5 years beginning on November 10, 2008, and paid restitution in the amount of \$10,538.00.
16. On December 12, 2008, the Texas Medical Board entered an Agreed Order of Surrender, signed by Dr. Shanti on November 10, 2008, wherein Dr. Shanti agreed to a suspension of his medical license for a period of 5 years as of the effective date of the Texas Medical Board Order.
17. Dr. Shanti has paid restitution in full for any excess payments for Workers' Compensation benefits he received from the affected companies in Cause No. D-1-DC-8904030.
18. Dr. Shanti has no prior disciplinary history for this type of violation.
19. Dr. Shanti agrees to voluntarily remove himself from the Texas Workers' Compensation system, as a treating, consulting and/or referral doctor. He will not re-enter the system if his medical license is re-instated by the Texas Medical Board.
20. Dr. Shanti agrees not to receive remuneration, directly or indirectly, as a treating, consulting, designated, and/or referring doctor within the workers' compensation system.

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, 408.023, 408.0231, 413.002, 413.044, 413.0511, 414.002, 414.003, 415.003, 415.021, and 415.023; and 28 TEX. ADMIN. CODE §§ 180.1-180.28; 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. Shanti has knowingly and voluntarily waived all procedural rights to which he 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.

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4. In accordance with TEX. LAB. CODE ANN. § 402.072, only the commissioner may impose a sanction that deprives a person of the right to practice before the division or of the right to receive remuneration for a period exceeding 30 days. Dr. Shanti is eligible for sanction under this section because the Texas Medical Board and the 331st Judicial District Court of Travis County suspended Dr. Shanti's license to practice medicine for five years.
5. In accordance with TEX. LAB. CODE ANN. § 415.021, the Commissioner of Workers' Compensation may assess an administrative penalty against a person who commits an administrative violation.
6. In accordance with TEX. LAB. CODE ANN. § 408.023(s), the waiver or expiration of the approved doctor list does not limit the division's ability to impose sanctions as provided by this subtitle and division rules.
7. In accordance with TEX. LAB. CODE ANN. § 408.0231(c), rules adopted pursuant to subsection (b) of this subtitle are in addition to, and do not affect, Rules adopted under Section 412.023(b). Dr. Shanti is eligible for imposition of sanction to delete him from the designated doctor list because his license to practice medical was voluntarily relinquished and ordered suspended for five years by the Texas Medical Board, the appropriate licensing authority. In addition, Dr. Shanti pled guilty to a second degree felony of securing execution of a document by deception on September 19, 2008.
8. TEX. LAB. CODE ANN. § 415.003 states that a health care provider commits an administrative violation if he submits a charge for healthcare that was not provided or violates a commission rule. Dr. Shanti pled guilty to submitting charges for workers' compensation medical services that were not provided in Travis County District Court Cause No. D-1-DC-08904030 on September 19, 2008.
9. In accordance with TEX. LAB. CODE ANN. § 415.008(a), Dr. Shanti committed an administrative violation when he, to obtain a payment of workers' compensation benefit for his benefit, intentionally and knowingly made false or misleading statements; misrepresented or concealed a material fact; or fabricated documents from approximately January 30, 2003, until approximately March 6, 2006, by filing HCFA 1500s for injured employees to whom he did not provide workers' compensation medical services.
10. In accordance with 28 TEX. ADMIN. CODE § 180.26(b)(4), the Executive Director of the Division shall delete from the approved doctor list (ADL) a doctor whose license to practice in this state has been revoked, suspended, or not renewed by the appropriate licensing or certification authority. This includes but is not limited to suspensions or revocations that are stayed, deferred or probated and voluntarily relinquishment of the license to practice. A finding of guilt was deferred after Dr.

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Shanti pled guilty to Securing Execution of a Document by Deception, a second degree felony, which resulted in the loss of his medical license for five years.

11. In accordance with TEX. LAB. CODE ANN. § 415.023, a person who commits an administrative violation under TEX. LAB. CODE ANN. § 415.003 as a matter of practice is subject to an applicable rule adopted under subsection (b) in addition to the penalty assessed for the violation. Dr. Shanti pled guilty, pursuant to one scheme and continuing course of conduct, to 27 instances of filing HCFA 1500s seeking payment for workers' compensation medical services which had not been rendered with the intent to deceive Texas Mutual Insurance Company in order to cause them to issue payment based on falsified documents.

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

IT IS THEREFORE ORDERED that Dr. Ihsan Shanti shall comply with the terms of this Order. Specifically, Dr. Ihsan Shanti shall voluntarily withdraw from the Texas Workers' Compensation system as a treating, consulting, designated and/or referring doctor. Dr. Ihsan Shanti will not re-enter the Workers' Compensation system without first obtaining approval from the Office of the Medical Advisor, except in the case of emergency.

IT IS FURTHER ORDERED that Dr. Ihsan Shanti is prohibited from receiving remuneration, directly or indirectly, as a treating, consulting, designated, and/or referring doctor in the workers' compensation system, and that he cease from billing for such care from the date of entry of this order except in the case of emergency.

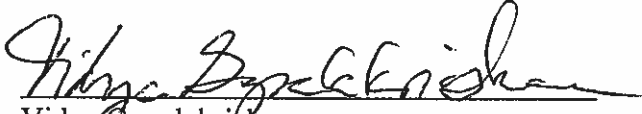
IT IS ALSO ORDERED by the Commissioner of Workers' Compensation that should Dr. Ihsan Shanti fail to comply with the terms of this Order that Dr. Ihsan Shanti will have committed an additional administrative violation and his failure to comply with the terms of this Order may subject Dr. Ihsan Shanti 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

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FOR THE STAFF:



Vidya Gopalakrishna
Staff Attorney, Enforcement Division
Texas Department of Insurance
Division of Workers' Compensation

AGREED, ACCEPTED, and EXECUTED on this 16th day of August, 2010 by:



Dr. Ihsan Shanti

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STATE OF TEXAS

COUNTY OF Harris

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BEFORE ME, Linda E Rasco, a notary public in and for the State of Texas, on this day personally appeared Ihsan Shanti MD, 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:

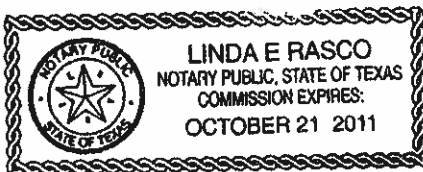
1. "My name is Dr. Ihsan Shanti. I am of sound mind, capable of making this statement, and personally acquainted with the facts stated in this Consent Order.
2. I have read the terms and conditions contained within this Consent Order, and I have knowingly and voluntarily entered into it.
3. I consent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

[Signature]
Signature

Ihsan Shanti, MD
Typed/Printed Name

Given under my hand and seal of office this 16th day of August, 2010.

(NOTARY SEAL)



[Signature]
Notary Public, State of Texas

My commissioner expires: 10/21/11