

No. **DWC - 1 1 - 0 1 1 6**

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

Date: DEC 09 2011

Subject Considered:

ALEXANDER ORLOV, D.O.
710 Gaslight Blvd., Suite A
Lufkin, Texas 75904

**DEFAULT ORDER
DISCIPLINARY ACTION**
SOAH DOCKET NO. 454-12-2193.C1
TDI ENFORCEMENT FILE NO. 59924

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 Alexander Orlov, D.O. (Dr. Orlov). The Texas Department of Insurance, Division of Workers' Compensation (Division Staff) seeks to remove Dr. Orlov from the Texas Workers' Compensation system as a health care practitioner and to delete him from the Division's designated doctor list because he was convicted of a crime. It is further alleged that such conduct constitutes grounds for the imposition of sanctions as authorized by TEX. LAB. CODE ANN. ch. 415, TEX. LAB. CODE ANN. § 408.0231 and 28 TEX. ADMIN. CODE §180.26.

The Commissioner of Workers' Compensation has jurisdiction over this matter pursuant to TEX. LAB. CODE ANN. §§ 401.011, 402.001, 402.00111, 402.00114, 402.00116, 402.00128, 402.072, 408.0231, 408.1225, and 415.021; and 28 TEX. ADMIN. CODE §§ 180.21, 180.22, 180.23, and 180.26, and TEX. GOV'T CODE ANN. §§ 2001.051-2001.178. The Commissioner of Workers' Compensation has authority to informally dispose of this case pursuant to the provisions of 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.

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The Commissioner of Workers' Compensation, after review and due consideration, adopts the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Dr. Orlov held Texas Medical License No. J4402 which was issued on November 20, 1993. Dr. Orlov's Texas medical license was cancelled on August 30, 2011.
2. Dr. Orlov was a "health care practitioner" as defined by TEX. LAB. CODE ANN. § 401.011(21).
3. Dr. Orlov is a designated doctor in the Texas Workers' Compensation system and was last certified to assign Impairment Ratings on October 13, 2010.
4. Dr. Orlov was not assessed for Performance Based Oversight in 2007, 2009 or 2010.
5. The Division's computer records show that the last known address provided to the Division by Dr. Orlov in writing was 710 Gaslight Blvd., Suite A, Lufkin, Texas 75904.
6. On September 19, 2011, the Division sent a Notice of Violation (NOV) to Dr. Orlov pursuant to TEX. LAB. CODE ANN. § 415.032(a) and 28 TEX. ADMIN. CODE § 180.8.
7. Pursuant to 28 TEX. ADMIN. CODE § 180.8(b), the NOV included a summary of the duty the Division believed Dr. Orlov failed to fulfill, a summary of the facts that established a violation occurred, a description of the sanction the Division intended to assess, and information about the rights, obligations and procedures for Dr. Orlov to file a written answer or request a hearing.
8. The NOV alleged Dr. Orlov violated provisions of the Texas Labor Code and Texas Administrative Code by being convicted of a crime, and, pursuant to TEX. LAB. CODE ANN. § 408.0231 and 28 TEX. ADMIN. CODE § 180.26, asked that Dr. Orlov be removed from the Texas Workers' Compensation system as a health care practitioner and that he be deleted from the Division's designated doctor list.
9. The September 19, 2011 NOV was sent to Dr. Orlov at 710 Gaslight Blvd., Suite A, Lufkin, Texas 75904 by certified mail, return receipt requested.
10. Dr. Orlov received the NOV on October 11, 2011.
11. Pursuant to TEX. LAB. CODE ANN. § 415.032(b) and 28 TEX. ADMIN. CODE § 180.8(c), no later than the 20th day after the date on which notice was received,

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Dr. Orlov was required to either remit the amount of the penalty to the Division or submit to the Division a written request for a hearing.

12. The 20th day after the date the notice was received fell on October 31, 2011. Therefore, pursuant to 1 TEX. ADMIN. CODE §155.7, Dr. Orlov was to either remit the penalty to the Division or submit to the Division a written request for hearing by October 31, 2011.
13. Dr. Orlov failed to remit the penalty to the Division or submit to the Division a written request for hearing by October 31, 2011.
14. Pursuant to 28 TEX. ADMIN. CODE § 180.8(c), if the charged party fails to respond to the NOV within 20 days of receipt of the notice, the Division shall schedule a hearing at SOAH and provide notice of the hearing to the charged party in accordance with 28 TEX. ADMIN. CODE § 148.5.
15. A Notice of Hearing was sent to Dr. Orlov on November 3, 2011 at his last known mailing address by first class mail and certified mail, return receipt requested.
16. The Division sent the Notice of Hearing, in this matter to the last known address of Orlov as reflected in the Division's records and as evidenced by the attached affidavit. By such means, Orlov was afforded proper and timely notice of the hearing.
17. The Notice of Hearing informed Dr. Orlov of the allegations against him, the intended action, the right to appear and be represented by counsel, the time and place of the hearing, the statutes and rules involved, and the ability of the Division to obtain a default order against him revoking his license should he fail to file a written response.
18. The Notice of Hearing contained the warnings to Dr. Orlov that are required by 28 TEX. ADMIN. CODE § 1.88 and 1 TEX. ADMIN. CODE § 155.501.
19. Dr. Orlov failed to file a written response to the Notice of Hearing within twenty (20) days of the date the Notice of Hearing was mailed.
20. A disposition by default may be entered, pursuant to 28 TEX. ADMIN. CODE § 180.8(e):

For purposes of this section, events described in paragraphs (1) or (2) of this subsection constitute a default on the part of a charged party who receives a notice of hearing under subsection (c) of this section:

- (1) failure of the charged party to file a written response as provided by subsection (d) of this section; or

(2) failure of the charged party to appear in person or by legal representative on the day and at the time set for hearing in a contested case, regardless of whether a written response has been filed.

21. In accordance with 28 TEX. ADMIN. CODE § 180.8(f), disposition by default requires the issuance of an Order against Dr. Orlov in which the allegations against him in the Notice of Hearing are deemed admitted as true.
22. On or about June 20, 2011, in the Eastern District of Texas, Case No. 9:10CR00018-001, Dr. Orlov was convicted of one count of conspiracy to commit health care fraud in violation of 18 U.S.C. § 1349. Dr. Orlov was sentenced to a prison term of 15 months, and ordered to pay a fine in the amount of \$30,000.00 and restitution in the amount of \$309,453.58.

CONCLUSIONS OF LAW

1. The Commissioner of Workers' Compensation has jurisdiction over this matter pursuant to TEX. LAB. CODE ANN. §§ 401.011, 402.001, 402.00111, 402.00114, 402.00116, 402.00128, 402.072, 408.0231, 408.1225, and 415.021; and 28 TEX. ADMIN. CODE §§ 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.
3. The Division sent the Notice of Hearing, in this matter to the last known address of Orlov as reflected in the Division's records and as evidenced by the attached affidavit. By such means, Orlov was afforded proper and timely notice of the hearing.
4. The Division's allegations in the Notice of Hearing are deemed admitted as true pursuant to 28 TEX. ADMIN. CODE § 180.8.
5. In accordance with TEX. LAB. CODE ANN. § 408.0231 and 28 TEX. ADMIN. CODE § 180.26, the Commissioner of Workers' Compensation may impose a sanction against any person regulated by the Division if that person is convicted of a crime.
6. Dr. Orlov was convicted of a crime on June 20, 2011.
7. Based upon the Findings of Fact and Conclusions of Law stated above, a disposition by default is proper pursuant to 28 TEX. ADMIN. CODE § 180.8.

Based upon the foregoing conclusions of law, the Commissioner of Workers' Compensation is of the opinion that Alexander Orlov, D.O. shall be removed from the Texas Workers' Compensation system as a Health Care Practitioner and deleted from the Division's designated doctor list. Therefore, he shall not participate in treating, examining, and/or consulting with other physicians regarding injured employees who are covered under the Texas Workers' Compensation system. Additionally, Alexander Orlov, D.O. shall not receive direct or indirect remuneration from the Texas Workers' Compensation system.

IT IS, THEREFORE, ORDERED by the Commissioner of Workers' Compensation that Alexander Orlov, D.O. shall be removed from the Texas Workers' Compensation system as a Health Care Practitioner and deleted from the Division's designated doctor list.



ROD BORDELON
COMMISSIONER OF WORKERS' COMPENSATION

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COUNTY OF TRAVIS §

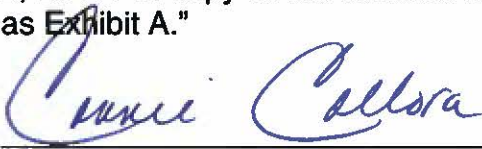
AFFIDAVIT

Before me, the undersigned authority, personally appeared Connie Collora, who, being by me duly sworn, deposed as follows:

"My name is Connie Collora and I am employed by the Texas Department of Insurance, Division of Workers' Compensation. I am of sound mind, capable of making this affidavit, and have personal knowledge of these facts which are true and correct.

I have reviewed the computer records of the Texas Department of Insurance, Division of Workers' Compensation (Division) and have confirmed that the last mailing address provided to the Division by Alexander Orlov, D.O. in writing was 710 Gaslight Blvd., Suite A, Lufkin, Texas 75904.

I have reviewed records maintained by the Division concerning Alexander Orlov, D.O. I hereby attest that the file maintained by the Enforcement Section of the Compliance Division of the Texas Department of Insurance (Enforcement) contains a Notice of Hearing dated November 3, 2011, filed with the State Office of Administrative Hearings. The Notice of Hearing was addressed to Alexander Orlov, D.O. at his last known address and mailed first class and certified, with return receipt requested, on November 2, 2011. A copy of the certified mail log maintained by Enforcement is attached hereto as Exhibit A."



Affiant

SWORN TO AND SUBSCRIBED before me on Nov 28, 2011.

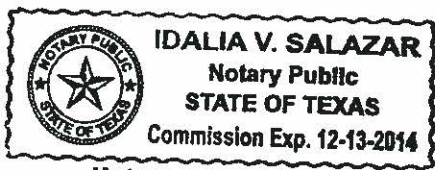
(NOTARY SEAL)



Signature of Notary Public

Idalia V. Salazar

Printed Name of Notary Public



Notary without Bond