

No. 2020-6332

Confidential Information Redacted  
Texas Labor Code §§402.083 & 402.092

**OFFICIAL ORDER**  
*of the*  
**TEXAS COMMISSIONER OF WORKERS' COMPENSATION**

Date: 04-29-2020

**Subject Considered:**

**HOUSTON METHODIST**  
P.O. Box 3133  
Houston, Texas 77253-3133

**CONSENT ORDER**  
TDI-DWC ENFORCEMENT FILE NO. 23255

**General remarks and official action taken:**

The commissioner of workers' compensation (commissioner) considers whether disciplinary action should be taken against Houston Methodist (Houston).

**WAIVER**

Houston acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Houston 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. Houston is a health care provider operating within the Texas workers' compensation system.
2. Houston was not selected to be tiered in the 2007, 2009, 2011, 2013, 2015, or 2017, Performance Based Oversight (PBO) assessments.

**IMPROPERLY PURSUING A PRIVATE CLAIM AGAINST  
AN INJURED EMPLOYEE**

3. On [REDACTED], Houston provided health care services to an injured employee in connection with a workers' compensation injury.
4. On [REDACTED], Houston provided health care services to an injured employee in connection with the workers' compensation injury.
5. On [REDACTED] Houston received payment from the injured employee's workers' compensation insurance carrier for health care services it provided to the injured employee

- on [REDACTED]. After insurance adjustments, the remaining balance was \$0 for the services provided to the injured employee on [REDACTED].
6. On [REDACTED], Houston received partial payment from the injured employee's workers' compensation insurance carrier for health care services it provided to the injured employee on [REDACTED], leaving a balance of \$ [REDACTED].
  7. Houston sent a bill on [REDACTED], to the injured employee for \$ [REDACTED], the remaining balance of the health care services it provided to the injured employee on [REDACTED].
  8. On [REDACTED], Houston provided health care services to the injured employee in connection with a workers' compensation injury.
  9. On [REDACTED], Houston received partial payment from the injured employee's workers' compensation insurance carrier for health care services it provided to the injured employee on [REDACTED], leaving a balance of \$ [REDACTED].
  10. Houston sent a bill on [REDACTED], to the injured employee for \$ [REDACTED], the remaining balance of the health care services it provided to the injured employee on [REDACTED], and [REDACTED].
  11. The Texas Department of Insurance, Division of Workers' Compensation (DWC) sent a letter on [REDACTED], informing Houston that the bill sent to the injured employee was for services related to a workers' compensation claim and that it should immediately cease billing the injured employee and instead bill the insurance carrier.
  12. On [REDACTED], Houston sent a bill to the injured employee for \$ [REDACTED], the remaining balance of the health care services it provided to the injured employee on, [REDACTED] and [REDACTED].
  13. On [REDACTED], Houston sent a bill to the injured employee for \$ [REDACTED], the remaining balance of the health care services it provided to the injured employee on [REDACTED], and [REDACTED].
  14. DWC sent a letter on [REDACTED], informing Houston that the bill sent to the injured employee was for services related to a workers' compensation claim and that it should immediately cease billing the injured employee and instead bill the insurance carrier.
  15. On [REDACTED], Houston sent a letter informing the injured employee that the balance from the [REDACTED], visit, \$ [REDACTED] would move to an outside collections agency if action was not taken within 10 days.
  16. DWC sent a letter on [REDACTED], informing Houston that the bill sent to the injured employee was for services related to a workers' compensation claim and that it should immediately cease billing the injured employee and instead bill the insurance carrier.

### ASSESSMENT OF SANCTION

17. Improperly billing an injured employee for health care services imposes an undue financial burden on the injured employee and circumvents the Texas workers' compensation system and the roles of its system participants.
18. In assessing the sanction for this case, DWC appropriately and fully considered the following factors set forth 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 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:
    - PBO 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.
19. In assessing the sanction for this case, DWC found the following factors set forth 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; the history and extent of previous administrative violations; the penalty necessary to deter future violations; and other matters that justice may require, including but not limited to, the demonstrated lack of good faith of the violator, including actions taken to rectify the consequences of the prohibited act.
20. In assessing the sanction for this case, DWC did not find any factors set forth in TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e) to be mitigating.
21. Houston acknowledges that it has communicated with DWC regarding the relevant statutes and rules violated; the facts establishing that the administrative violation occurred; and the appropriateness of the proposed sanction, including how DWC considered the factors under TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e).
22. Houston acknowledges that, in assessing the sanction, DWC considered the factors set forth in TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e).

### **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, 402.00128, 414.002, 414.003, 415.002, and 415.021.
2. The commissioner has authority to informally dispose of this matter as set forth 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, 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 commits an administrative violation if it pursues 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 treating doctor.
6. Houston violated TEX. LAB. CODE §§ 413.042 and 415.003(6), when it improperly billed an injured employee for workers' compensation health care services provided.

COMMISSIONER'S ORDER  
Houston Methodist  
TDI-DWC Enforcement File No. 23255  
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**ORDER**

Houston Methodist is ORDERED to pay an administrative penalty of \$1,500 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.



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Cassie Brown  
Commissioner of Workers' Compensation

Approved as to Form and Content:



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Tyrus Housh  
Staff Attorney, DWC Enforcement  
Texas Department of Insurance

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COMMISSIONER'S ORDER  
HOUSTON METHODIST  
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T-MAIL

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AFFIDAVIT

STATE OF Texas           §  
  §  
COUNTY OF Harris       §

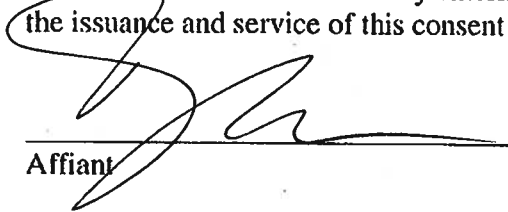
Before me, the undersigned authority, personally appeared the affiant, who being by me duly sworn, deposed as follows:

"My name is Darlene Reyes. 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 Director Rev Cycle, and am the authorized representative of Houston Methodist I am duly authorized by said organization to execute this statement.

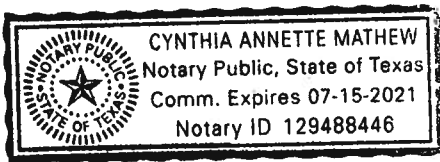
Houston Methodist waives rights provided by the Texas Labor Code and other applicable laws, and acknowledges the jurisdiction of the Texas commissioner of workers' compensation.

Houston Methodist is voluntarily entering into this consent order. Houston Methodist consents to the issuance and service of this consent order."

  
Affiant

SWORN TO AND SUBSCRIBED before me on March 20<sup>th</sup>, 2020.

(NOTARY SEAL)



Cynthia Mathew  
Signature of Notary Public

Cynthia Mathew  
Printed Name of Notary Public

My Commission Expires: 7/15/21

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