

No. 2021-6828

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

Date: 05-14-2021

Subject Considered:

Mrugeshkumer K. Shah, M.D.
10400 North Central Expressway
Dallas, Texas 75231

Consent Order
DWC Enforcement File No. 21847

General remarks and official action taken:

This is a consent order with Mrugeshkumar K. Shah, M.D. (Dr. Shah). The commissioner of the Texas Department of Insurance, Division of Workers' Compensation (DWC) considers whether DWC should take disciplinary action against Dr. Shah.

Waiver

Dr. Shah acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Dr. Shah 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. Dr. Shah holds License No. L6174, which was issued by the Texas Medical Board on March 28, 2003.
2. Dr. Shah's license was suspended by the Texas Medical Board as of June 27, 2019. The Texas Medical Board found that he was convicted of felony counts related to health care kickback violations. The order remains in effect until superseded by subsequent board order.

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

Medical Quality Review 19-2-HCP

5. DWC, as authorized by TEX. LAB. CODE §§ 414.002 and 408.1225(b), monitors treating doctors to determine compliance with the Texas Workers' Compensation Act and DWC rules the commissioner promulgates.
6. Pursuant to TEX. LAB. CODE §§ 413.0511 and 413.0512, DWC's Medical Advisor and Medical Quality Review Panel conducted an audit-based medical quality review of five cases. In these cases, Dr. Shah referred injured employees for neuromuscular testing. The purpose of the audit was to evaluate the appropriateness of the health care provider's decision making and recordkeeping that supports referring injured employees for neuromuscular testing.

Making Unnecessary Referrals

7. Dr. Shah submitted unnecessary referrals to other health care providers, or performed unnecessary testing of an injured employee as part of a medical examination in 100% of the cases reviewed (five out of five cases).
8. Specifically, Dr. Shah ordered Manual Muscular Strength Tests or Range of Motion Tests that did not meet Official Disability Guidelines (ODG) recommendations and were not necessary for the care of the patient.

Failure to File Medical Records in the Form and Manner DWC Requires

9. Dr. Shah failed to document in the medical records the reasons why referral for additional neuromuscular testing was necessary to further treatment in 100% of the cases reviewed (five out of five cases).
10. Specifically, Dr. Shah' medical recordkeeping was not adequate for the history, physical exam, and how the diagnostic testing would help decide a plan of care or

treatment because Dr. Shah did not document the patients' indication for testing or reasons for referring the patients for neuromuscular testing.

Submission of Inaccurate or Deficient Reports Due to Inappropriate or Unreasonable Evaluations

11. Dr. Shah submitted inaccurate or deficient medical records because he insufficiently documented the medical history or physical examination and analysis of medical records in 100% of the cases reviewed (five out of five cases).
12. Specifically, Dr. Shah failed to provide documentation that the results were ever reviewed, and there is no documentation on use of the results. In all five cases, Dr. Shah's chart notes indicated "the patient was referred for range of motion testing today." However, Manual Muscle Strength Test reports for those dates indicate different tests were conducted. This occurred even when Dr. Shah was listed in DWC billing as the referring and rendering provider of the tests. Dr. Shah did not note or address these discrepancies.

Failure to Apply DWC Treatment Guidelines

13. Dr. Shah failed to apply the ODG when he ordered Manual Muscular Strength Tests or Range of Motion Tests in 100% of the cases evaluated. (Five out of five cases).
14. Specifically, Dr. Shah ordered Manual Muscular Strength Tests or Range of Motion Tests when the ODG does not provide any recommendations on separate Manual Muscular Strength Tests, strength testing, or Range of Motion testing. This information is generally obtained while conducting a typical physical examination in conjunction with an initial or recheck evaluation by the treating clinician. The results were not used by the attending physician or recommended by the ODG.

Assessment of Sanction

1. Failure to provide appropriate medical benefits in a timely and cost-effective manner by submitting unnecessary referrals to other health care providers and ordering unnecessary tests of an injured employee as part of a medical examination is harmful to injured employees and the Texas workers' compensation system.

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 violations, including the nature, circumstances, consequences, extent, and gravity of the prohibited act.
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 penalty necessary to deter future violations.
5. Dr. Shah acknowledges he communicated with DWC about the relevant statutes and rules he 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. Dr. Shah 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).

7. Dr. Shah neither admits nor denies the allegations and information in this consent order but does not contest the entry of this order. Any acknowledgments in this order shall not be deemed admissions. This consent order and its requirements are entered into in compromise and to avoid the costs of litigation and further expenditure of resources in this matter.

Conclusions of Law

1. The commissioner has jurisdiction over this matter pursuant to TEX. LAB. CODE §§ 401.021, 402.001, 402.00111, 402.00114, 402.00116, 402.00128, 408.0041, 408.1225, 413.002, 413.0511, 413.0512, 414.002, 415.021, and 415.0215; 28 TEX. ADMIN. CODE § 180.26; and TEX. GOV'T CODE §§ 2001.051-2001.178.
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. Dr. Shah 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, 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 § 408.0231(f)(7), the commissioner may impose sanctions against a doctor who commits an administrative violation, including mandatory participation in training classes.
6. Pursuant to TEX. LAB. CODE § 415.003(3), a health care provider commits an administrative violation if they make an unnecessary referral.
7. Pursuant to TEX. LAB. CODE § 415.003(4), a health care provider commits an administrative violation if they violate DWC's fee and treatment guidelines.
8. Pursuant to TEX. LAB. CODE § 415.003(5), a health care provider commits an administrative violation if they violate a DWC rule.

9. Pursuant to TEX. LAB. CODE § 415.003(6), a health care provider commits an administrative violation if they fail to comply with a provision of the Texas Workers' Compensation Act.
10. Pursuant to TEX. LAB. CODE § 408.0231(c)(3), one of the criteria for imposing sanctions on a doctor may include evidence from the medical records that the doctor's evaluations are, to a large extent, different from those the commissioner finds to be fair and reasonable.
11. Pursuant to TEX. LAB. CODE §§ 408.023(l) and 408.025(c) and 28 TEX. ADMIN. CODE § 180.22(c)(2), the treating doctor is responsible for efficiently applying and managing health care.
12. Pursuant to 28 TEX. ADMIN. CODE § 137.100(a), health care providers must provide treatment in accordance with the recommendations in the current edition of the ODG.
13. Dr. Shah violated TEX. LAB. CODE §§ 415.003(4), (5), and (6) and 28 TEX. ADMIN. CODE § 180.22(c)(2) each time he made unnecessary referrals for additional testing and treatment.

Order

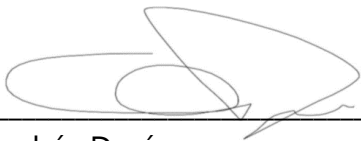
It is ordered that Mrugeshkumer K. Shah, M.D., must:

1. not participate in treating, examining, or consulting with other physicians regarding the treatment of injured employees who are covered under the Texas workers' compensation system;
2. not receive direct or indirect remuneration from the Texas workers' compensation system for any role related to the treatment of injured employees;
3. not accept any new injured employees within the Texas workers' compensation system as patients; and
4. transfer the care and treatment of any existing injured employee patients to other health care providers within 30 days from the date of this order.



Cassie Brown
Commissioner of Workers' Compensation

Approved Form and Content:



Andrés Durá
Staff Attorney, Enforcement
Compliance and Investigations
Division of Workers' Compensation

Commissioner's Order
Mrugeshkumer Shah, M.D.
DWC Enforcement File No. 21847
Page 8 of 8

Affidavit

STATE OF Texas

§

§

COUNTY OF Dallas

§

Before me, the undersigned authority, personally appeared Mrugeshkumer K. Shah, M.D., who being by me duly sworn, deposed as follows:

"My name is Mrugeshkumer K. Shah, M.D. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

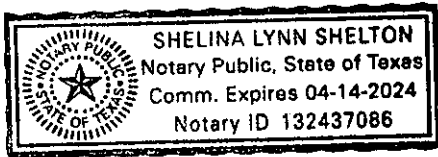
I waive rights provided by the Texas Labor Code and other applicable law and acknowledge the jurisdiction of the Texas commissioner of workers' compensation.

I knowingly and voluntarily enter into this consent order and agree with and consent to the issuance and service of this consent order."

Mrugeshkumer K. Shah Date: 3/20/21
Affiant

SWORN TO AND SUBSCRIBED before me on March 20, 2021.

(NOTARY SEAL)



Shelina L Shelton
Signature of Notary Public

Shelina L Shelton
Printed Name of Notary Public

04.14.2024
Commission Expiration