

No. DWC-10-0066

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

Date: AUG 18 2010

Subject Considered:

LINDA J. ROOS, M.D.
9119 South Gessner, Suite 201
Houston, Texas 77074

CONSENT ORDER
DISCIPLINARY ACTION
TDI ENFORCEMENT FILE NO. 57978

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 Linda J. Roos, M.D. ("Dr. Roos"). The Texas Department of Insurance, Division of Workers' Compensation Staff ("Division Staff") alleges that Dr. Roos violated the Texas Labor Code and that such conduct constitutes grounds for the imposition of sanctions pursuant to TEX. LAB. CODE ANN. § 408.0231, 28 TEX. ADMIN. CODE § 180.26, and TEX. LAB. CODE ANN., ch. 415.

Division Staff and Dr. Roos 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. §§ 401.021, 402.001, 402.00111, 402.00114, 402.00116, 402.00128, 402.072, 408.0231, 413.011, 413.0511, 413.0512, 414.002, 414.003, 415.003, 415.021, and 415.023; and 28 TEX. ADMIN. CODE §§ 137.1, 137.10, 137.100, 180.8, 180.21, 180.22, 180.26, and 180.27; and TEX. GOV'T CODE ANN. §§ 2001.051–2001.178.

WAIVER

Dr. Roos acknowledges the existence of certain rights provided for 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. Roos 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:

1. Dr. Roos has been a licensed physician in the State of Texas since August 28, 1987 (License Number H2003).
2. Dr. Roos provides medical treatment and care to injured employees in the Texas workers' compensation system.
3. The Division, as authorized by TEX. LAB. CODE ANN. § 414.002 and 28 TEX. ADMIN. CODE § 180.3, monitors system participants to determine compliance with the Texas Workers' Compensation Act ("Act") and rules promulgated by the Commissioner of Workers' Compensation ("Rules").
4. The Medical Advisor, whose duties are defined at TEX. LAB. CODE ANN. § 413.0511 and Medical Quality Review Panel, as established pursuant to TEX. LAB. CODE ANN. § 413.0512, conducted a medical quality review of nine cases in which Dr. Roos provided workers' compensation services. The findings contained in Medical Quality Review #09-QR-035 largely form the evidentiary basis for this action.
5. Dr. Roos engaged in conduct relating to the delivery, evaluation, or remuneration of health care that Division Staff finds is not reasonable. This allegation is supported by the following facts, which were derived from the Medical Quality Review #09-QR-035.
 - a. In cases 1, 2, 3, 5, 6, 7, 8, and 9, the Division Staff finds Dr. Roos did not meet the standard of care and only partially met the standard of care in case 4.
 - b. In cases 1, 2, 3, 5, 6, 7, 8, and 9, the Division Staff finds Dr. Roos did not adequately document or support the plan to treat with Schedule II opioids. Additionally, the documentation did not meet the Official Disability Guidelines (ODG) criteria for opioid therapy in these eight cases.

- c. In cases 1, 2, 3, 4, 5, 6, 7, 8, and 9, the Division Staff finds that Dr. Roos' documentation with regard to work status was not consistent with the Medical Disability Advisor (MDA).
 - d. In cases 3 and 8, Dr. Roos reported that the injured employees demonstrated functional improvement; however, the Division Staff finds that there was insufficient documentation of objective/quantitative parameters of improvement.
 - e. In cases 1, 2, 4, 5, 6, 7, and 9, the Division Staff finds that Dr. Roos failed to provide sufficient evidence of functional improvement.
 - f. In cases 1, 2, 3, 4, 5, 6, 7, 8, and 9, the Division Staff finds that Dr. Roos failed to provide adequate documentation with regard to the prescribing of medication.
 - g. In cases 2 and 4, the Division Staff finds that the referrals made by Dr. Roos were not reasonable.
 - h. In cases 1, 2, 3, 5, 6, 7, 8, and 9, the Division Staff finds that Dr. Roos failed to make reasonable referrals.
6. This Order does not apply to emergency cases, and "emergency" shall be defined by 28 TEX. ADMIN. CODE § 133.2.

OTHER CONSIDERATIONS

- 7. This Consent Order, and the actions required hereby, is entered into in the nature of compromise and settlement and in order to avoid the time, trouble, and expense to the Division and to Dr. Roos of resolving this dispute through administrative or judicial proceedings.
- 8. Dr. Roos has entered into this settlement agreement to avoid the expense and time involved in litigation, but does not admit nor does she deny the allegations made by Division Staff and asserts that the existence of a violation of the Act and Rules promulgated by the Commissioner of Workers' Compensation is in dispute.

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. §§ 401.021, 402.001, 402.00111, 402.00114, 402.00116, 402.00128, 402.072, 408.0231, 413.011, 413.0511, 413.0512,

- 414.002, 414.003, 415.003, 415.021, and 415.023; and 28 TEX. ADMIN. CODE §§ 137.1, 137.10, 137.100, 180.8, 180.21, 180.22, 180.26, and 180.27; 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. Roos has waived all procedural rights to which she 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.
 4. In accordance with TEX. LAB. CODE ANN. § 415.021, in addition to any sanction, administrative penalty, or other remedy authorized by this subtitle, the Commissioner of Workers' Compensation may assess an administrative penalty against a person who commits an administrative violation.
 5. In accordance with TEX. LAB. CODE ANN. § 415.023(a), a person who commits an administrative violation under Section 415.001, 415.002, 415.003, or 415.0035 as a matter of practice is subject to an applicable rule adopted under TEX. LAB. CODE ANN. § 415.023(b) in addition to the penalty assessed for the violation.
 6. Rules adopted under TEX. LAB. CODE ANN. § 408.0231(b)(2) are in addition to, and do not affect, the rules adopted under TEX. LAB. CODE ANN. § 415.023(b). See TEX. LAB. CODE ANN. § 408.0231(c).
 7. Dr. Roos failed to comply with the provisions of TEX. LAB. CODE ANN. § 415.003(2), constituting an administrative violation.
 8. Dr. Roos failed to comply with the provisions of TEX. LAB. CODE ANN. § 415.003(4), constituting an administrative violation.
 9. Dr. Roos failed to comply with a provision of the Texas Workers' Compensation Act, Texas Labor Code, Title 5, Subtitle A ("the Act"), which in accordance with TEX. LAB. CODE ANN. § 415.003(6), is an administrative violation.
 10. Dr. Roos violated a rule of the Commissioner of Worker's Compensation, which, in accordance with TEX. LAB. CODE ANN. § 415.003(5), is an administrative violation;
 - a. Dr. Roos violated or failed to comply with 28 TEX. ADMIN. CODE § 180.22(a).
 - b. Dr. Roos violated 28 TEX. ADMIN. CODE § 180.22(b).

- c. Dr. Roos violated 28 TEX. ADMIN. CODE § 180.22(c).
11. The conduct alleged above is grounds for imposing sanctions against Dr. Roos because the Office of the Medical Advisor has recommended sanctions and the following conduct has occurred:
 - a. Dr. Roos violated statutes, which, in accordance with 28 TEX. ADMIN. CODE § 180.26(d)(1), is grounds for imposing a sanction;
 - b. Dr. Roos violated Rules, which, in accordance with 28 TEX. ADMIN. CODE § 180.26(d)(1), is grounds for imposing a sanction;
 - c. Dr. Roos engaged in conduct relating to the delivery, evaluation, or remuneration of health care that the Division finds is not reasonable, which, in accordance with 28 TEX. ADMIN. CODE § 180.26(d)(3), is grounds for imposing a sanction; and,
 - d. Dr. Roos engaged in conduct relating to the delivery, evaluation, or remuneration of health care that the Division finds does not meet the standards of health care, which, in accordance with 28 TEX. ADMIN. CODE § 180.26(d)(3), is grounds for imposing a sanction.
12. The Commissioner of Worker's Compensation may impose sanctions on a doctor for the reasons listed in TEX. LAB. CODE ANN. § 408.0231 and 28 TEX. ADMIN. CODE § 180.26, reasons which include findings that the doctor's diagnoses or treatments are substantially different from those the commissioner finds to be reasonable or for the professional failure to practice medicine or provide health care in an acceptable manner consistent with the public health, safety, and welfare.
13. Pursuant to TEX. LAB. CODE ANN. §§ 402.072, 408.0231, and 28 TEX. ADMIN. CODE § 180.26, the Commissioner of Workers' Compensation may impose a range of sanctions against any person regulated by the Division, which includes the authority to deprive a person of the right to practice before the Division, or of the right to receive remuneration under the Act, or impose mandatory preauthorization or utilization review of all or certain treatments or services administered.

Based on these findings of fact and conclusions of law, the Commissioner of Workers' Compensation approves the terms and conditions agreed to by Division Staff and Dr. Roos and has determined that the appropriate disposition of this matter is to order full compliance with this Order.

COMMISSIONER'S ORDER
Linda J. Roos, M.D., CTS No. 57978
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IT IS THEREFORE ORDERED that, effective immediately upon the entry date of this Order, Dr. Linda J. Roos shall not accept any new workers' compensation patients.

IT IS FURTHER ORDERED that, effective immediately upon the entry date of this Order, Dr. Linda J. Roos shall provide each workers' compensation patient she has been treating with a thirty (30) day notice of termination of the physician/patient relationship. Said termination notice must advise patients to obtain alternative care within thirty (30) days, at which time the physician/patient relationship will be terminated in accordance with the findings of this Order.

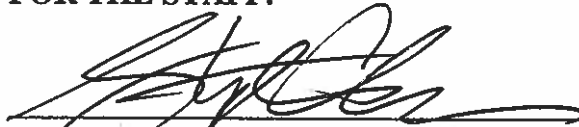
IT IS FURTHER ORDERED that, thirty (30) days from the entry date of this Order, Dr. Linda J. Roos shall cease and desist from providing or rendering health care services as a health care provider in the workers' compensation system.

IT IS ALSO ORDERED by the Commissioner of Workers' Compensation that should Dr. Linda J. Roos fail to comply with the terms of this Order, Dr. Linda J. Roos will have committed an additional administrative violation and that her failure to comply with the terms of this Order may subject Dr. Linda J. Roos 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 \$25,000.00 per day per occurrence.



ROD BORDELON
COMMISSIONER OF WORKERS' COMPENSATION

FOR THE STAFF:



Stephen Chen
Staff Attorney, Enforcement Division
Texas Department of Insurance

COMMISSIONER'S ORDER
Linda J. Roos, M.D., CTS No. 57978
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STATE OF TEXAS

COUNTY OF Harris §
Christie Guardiola §

BEFORE ME, ~~Linda J. Roos~~, a notary public in and for the State of Texas, on this day personally appeared Linda J. Roos MD, known to me or proven to me through identification 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 Linda J. Roos, M.D. 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."

Linda J. Roos

Signature

Linda J. Roos M.D.

Typed/Printed Name

Given under my hand and seal of office this 10th day of August, 2010.

(NOTARY SEAL)



Christie Guardiola
Notary Public, State of Texas
My commission expires: 9/18/14

COMMISSIONER'S ORDER
Linda J. Roos, M.D., CTS No. 57978
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AGREED, ACCEPTED, AND EXECUTED BY:

L. Roos

Signature of Linda J. Roos, M.D.

¹⁰
8-15-10

Date

Linda J Roos MD

Printed Name of Linda J. Roos, M.D.