

No. 3387

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

Date: JUL 07 2014

**Subject Considered:**

**JERRY W. MORRIS, D.O.**  
P.O. Box 96164  
Southlake, TX 76092

**CONSENT ORDER**  
TDI ENFORCEMENT FILE NOS. 143 & 6450

**General remarks and official action taken:**

The commissioner of workers' compensation considers whether disciplinary action should be taken against Jerry W. Morris, D.O. (Dr. Morris).

**WAIVER**

Dr. Morris acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Dr. Morris 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 of workers' compensation makes the following findings of fact:

1. Dr. Morris holds Texas Medical License No. E6536, which was issued on August 29, 1976.
2. Dr. Morris was originally approved on the Approved Doctor List to do designated doctor evaluations in the Texas workers' compensation system on January 1, 1993. Subsequently, when a newer certification process was started, he was initially certified as a designated doctor (DD), and initially certified to assign Maximum Medical Improvement (MMI) dates and Impairment Ratings (IR), on June 27, 2008. Dr. Morris voluntarily relinquished his DD certification on November 6, 2013. Dr. Morris' MMI/IR certification is current and remains effective until June 3, 2014.
3. Dr. Morris was not classified in any category in the 2007 and 2009 Performance Based Oversight (PBO) assessments. In the 2011 PBO assessment, Dr. Morris was tiered as "high" for DWC Form-69s, and was not classified in one other category. In the 2013 PBO assessment, Dr. Morris was tiered as "poor" for DWC Form-69s, and was not classified in three other categories that were reviewed.

**Medical Quality Review #11-43 DD**

4. The division's Medical Advisor (whose duties are defined at TEX. LAB. CODE ANN. § 413.0511) and Medical Quality Review Panel (MQRP) (as established pursuant to TEX. LAB. CODE ANN. § 413.0512) conducted a medical quality review (MQR No.11-43 DD) of eight cases in which Dr. Morris conducted DD examinations.
5. As a result of the review completed on the eight cases, three cases were found to have no problems. However, violations of the Texas Workers' Compensation Act (Act) and/or rules, involving documentation issues, were found in five of the reviewed cases, as follows:
  - a. In one case, Dr. Morris did not document the DRE category, his analysis for the DRE rating, or the specific AMA Guides to the Evaluation of Permanent Impairment, Fourth Edition, (AMA Guides) reference tables he used to determine the IR;
  - b. In four cases, Dr. Morris did not sufficiently explain his reasoning and/or justification for his conclusion as to the MMI date; and
  - c. In one case, Dr. Morris did not submit a corrected narrative report that identified objective clinical findings, because it included examination data that by virtue of a transcription error referenced an amputated limb.
6. In four additional cases where Dr. Morris acted as a DD, administrative violations of the Texas Workers' Compensation Act (Act) and/or rules were found, as follows:
  - a. In one case, Dr. Morris did not timely respond to a division Letter of Clarification (LOC); and
  - b. In three cases, Dr. Morris did not timely file DWC Form-69s following DD examinations.
7. On November 6, 2013, Dr. Morris submitted written notification to the division that he no longer wished to practice as a DD, and he voluntarily relinquished his DD certification. Dr. Morris currently has an established full-time practice in the State of Kentucky.
8. 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 of resolving this dispute through administrative or judicial proceedings. Dr. Morris neither admits nor denies the allegations contained herein.
9. Dr. Morris agrees never to re-apply for the division's DD certification.

CONCLUSIONS OF LAW

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. §§ 401.011, 401.021, 402.001, 402.00111, 402.00114, 402.00116, 402.00128, 408.0041, 408.0231, 408.1225, 408.123, 408.124, 413.002, 413.044, 413.0511, 413.0512, 414.002, 415.003, 415.0035, 415.021, 415.0215, and 415.023; 28 TEX. ADMIN. CODE §§ 127.20, 130.1, and 180.26; and TEX. GOV'T CODE ANN. §§ 2001.051–2001.178.<sup>1</sup>
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 § 180.26(h).
3. Pursuant to 28 TEX. ADMIN. CODE § 130.1(c)(3)(D)(ii), the doctor assigning the IR shall compare the results of the analysis with the impairment criteria and provide a description of how the findings relate to and compare with the criteria described in the applicable chapter of the AMA Guides.
4. Dr. Morris violated 28 TEX. ADMIN. CODE § 130.1(c)(3)(D)(ii), when he failed to document the DRE category, his analysis for the DRE rating, or the specific AMA Guides reference tables he used to determine the IR in one case.
5. Pursuant to 28 TEX. ADMIN. CODE § 130.1(d)(1)(B)(iii), the DWC Form-69 must include findings of the certifying examination, including both normal and abnormal findings related to the compensable injury, and an explanation of the analysis performed to find whether MMI was reached.
6. Dr. Morris violated 28 TEX. ADMIN. CODE § 130.1(d)(1)(B)(iii), when he failed to explain his reasoning and/or justification for his conclusion as to the MMI date in four cases.
7. Pursuant to 28 TEX. ADMIN. CODE § 130.1(c)(3)(A), the doctor assigning the IR shall identify objective clinical or laboratory findings of permanent impairment for the current compensable injury.
8. Dr. Morris violated 28 TEX. ADMIN. CODE § 130.1(c)(3)(A), when he failed to submit a correct narrative report because it identified objective clinical findings that included examination data referencing an amputated limb in one case.

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<sup>1</sup> The statutes and rules cited that relate to the facts of any alleged violations are those that were in effect at the time the alleged violations occurred. Statutes and rules cited with reference to jurisdictional and/or procedural issues are those currently in effect.

9. Pursuant to 28 TEX. ADMIN. CODE § 127.20(d), the DD shall respond, in writing, to the request for clarification (LOC) within five working days of receipt.
10. Dr. Morris violated 28 TEX. ADMIN. CODE § 127.20(d), when he failed to make a timely response to a division LOC in one case.
11. Pursuant to TEX. LAB. CODE ANN. § 415.0035(b)(1), a health care provider commits an administrative violation if that person fails or refuses to timely file required reports or records.
12. Pursuant to 28 TEX. ADMIN. CODE § 130.1(d)(2)(A), a DWC Form-69 shall be filed with the division no later than the seventh working day after the date of the DD examination.
13. Dr. Morris violated TEX. LAB. CODE ANN. § 415.0035(b)(1), and 28 TEX. ADMIN. CODE § 130.1(d)(2)(A), when he failed to timely file DWC Form-69 forms following DD examinations in three cases.
14. Pursuant to 28 TEX ADMIN. CODE § 127.200(a)(5), a DD shall notify the division in writing and in advance that the DD no longer wishes to practice as a DD prior to the expiration date of the DD's current certification, and shall expressly surrender the certification in a signed and written statement to the division.
15. Dr. Morris complied with 28 TEX ADMIN. CODE § 127.200(a)(5), when he submitted a signed and written notification to the division on November 6, 2013, in advance of his DD certification's expiration date, that he no longer wished to practice as a DD, and then voluntarily relinquished his DD as of that date.
16. Pursuant to TEX. LAB. CODE ANN. § 415.003, a health care provider commits an administrative violation if the person: (5) violates a commissioner rule; or (6) fails to comply with a provision of the Texas Workers' Compensation Act.
17. Pursuant to TEX. LAB. CODE ANN. § 415.021(a), a person commits an administrative violation if the person violates, fails to comply with, or refuses to comply with the Texas Workers' Compensation Act, or a rule, order, or decision of the commissioner. In addition to any sanction, administrative penalty, or other remedy authorized by the Texas Workers' Compensation Act, the commissioner may assess an administrative penalty against a person who commits an administrative violation. The administrative penalty shall not exceed \$25,000 per day per occurrence. Each day of noncompliance constitutes a separate violation.
18. Dr. Morris committed an administrative violation under TEX. LAB. CODE ANN. §§ 415.003(5) or (6), and 415.021(a), each time he violated, or failed or refused to comply with, a commissioner rule or a provision of the Texas Workers' Compensation Act.


ORDER

It is agreed and ORDERED that as of the effective date of this consent order, Jerry W. Morris, D.O., will never re-apply for the DD certification in the Texas workers' compensation system.

It is further agreed and ORDERED that, if Jerry W. Morris, D.O., should re-apply for the DD certification, the division will not grant the DD certification, and his re-application will constitute a violation of this consent order.

  
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Rod Bordelon *RAT*  
Commissioner of Workers' Compensation

Approved as to Form and Content:

  
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Joseph M. Tabaracci  
Staff Attorney, Compliance Division  
Texas Department of Insurance

