

APPEAL NO. 040608
FILED MAY 10, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 23, 2004. With respect to the single issue before him, the hearing officer determined that Dr. T was not properly appointed by the Texas Workers' Compensation Commission (Commission) to serve as the designated doctor in this case pursuant to Section 408.0041 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.5 (Rule 130.5). In its appeal, the appellant (carrier) asserts error in that determination. In his response to the carrier's appeal, the respondent (claimant) urges affirmance.

DECISION

Reversed and a new decision rendered that Dr. T was properly appointed by the Commission as the designated doctor.

The hearing officer determined that Dr. T was not properly appointed by the Commission to serve as the designated doctor under Texas Workers' Compensation Commission Appeal No. 030737-s, decided May 14, 2003, because the procedures used by the doctor treating the claimant, an orthopedic surgeon, were not within the scope of practice of Dr. T, a cosmetic plastic surgeon. The hearing officer's decision was consistent with the interpretation given to Section 408.0041 and Rule 130.5 in Appeal No. 030737-s; however, in Texas Workers' Compensation Commission Appeal No. 040633-s, decided May 7, 2004, we retreated from our decision in Appeal No. 030737-s based upon Commission Advisory No. 2004-03, where the Executive Director stated that the "phrase 'scope of practice' as it is commonly used is synonymous with a doctor's licensure." Under the advisory, because Dr. T is a medical doctor, he satisfies the requirement of having the same licensure as the doctor treating the claimant and he was, therefore, properly appointed as the designated doctor.

The hearing officer's determination that Dr. T was not properly appointed as the designated doctor is reversed and a new decision rendered that Dr. T was properly appointed to serve as the designated doctor.

The true corporate name of the insurance carrier is **VALLEY FORGE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL
DALLAS, TEXAS 75201.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Margaret L. Turner
Appeals Judge