

No. 2319

OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF WORKERS' COMPENSATION

Date: FEB 28 2013

Subject Considered:

HOWARD THOMAS DOUGLAS III, M.D.
4251 FM 2181, Suite 230 512
Corinth, Texas 76210

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 56

General remarks and official action taken:

The commissioner of workers' compensation considers whether disciplinary action should be taken against Howard Thomas Douglas III, M.D.

WAIVER

Dr. Douglas acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Dr. Douglas 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. Douglas holds Texas Medical License No. F1511, which was issued on August 27, 1978.
2. Dr. Douglas is a designated doctor (DD) in the Texas workers' compensation system. Dr. Douglas was last certified to be a DD on March 17, 2011.
3. Dr. Douglas was classified as a high tier performer in 2011 Performance Based Oversight (PBO) and an average tier performer in 2007 PBO. Dr. Douglas was not tiered in 2009 PBO.
4. Pursuant to TEX. LAB. CODE ANN. § 401.011(15), a DD is a doctor appointed by mutual agreement of the parties or by the division to recommend a resolution of a dispute as to the medical condition of an injured employee.
5. Pursuant to TEX. LAB. CODE ANN. § 408.0041(a), and 28 TEX. ADMIN. CODE § 127.1(a), a DD is appointed to recommend a resolution of a dispute as to the medical condition of an injured employee and may be called upon to perform medical examinations to resolve any question about the impairment caused by the

compensable injury, the attainment of maximum medical improvement (MMI), the extent of the employee's compensable injury, whether the injured employee's disability is a direct result of the work-related injury, the ability of the employee to return to work, and other similar issues.

6. In accordance with TEX. LAB. CODE ANN. § 408.0041(b) and 28 TEX. ADMIN. CODE § 127.5(c), the DD exam shall be performed by the next available doctor on the division's list of DDs whose credentials are appropriate for the issue in question and the injured employee's medical condition as determined by commissioner rule.
7. Pursuant to 28 TEX. ADMIN. CODE § 127.10(a), the DD is authorized to receive the employee's confidential medical records to assist in the resolution of a dispute under this section.
8. On September 12, 2011, Dr. Douglas performed four DD exams he was not ordered to or authorized to perform. Dr. Douglas performed the exams in the place of Zahida Siddiqi, M.D.
 - a. Dr. Siddiqi was ordered to determine MMI and IR in two cases. Dr. Douglas certified MMI and IR in three cases.
 - b. Dr. Siddiqi was ordered to determine MMI, IR and RTW in one case. Douglas certified MMI, IR and RTW in one case.
 - c. Dr. Siddiqi was ordered to determine extent of injury in one case. Dr. Douglas determined extent of injury in one case.
9. Dr. Douglas received and reviewed the injured employee's confidential medical records without receiving a signed release from the injured employee.
10. Dr. Douglas voluntarily deferred himself from the designated doctor list as of February 15, 2013.

CONCLUSIONS OF LAW

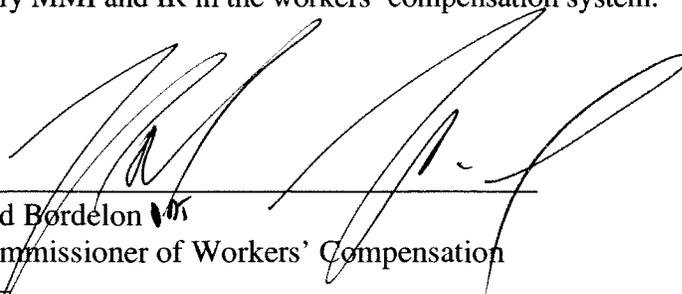
The commissioner of workers' compensation makes the following conclusions of law:

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, 415.003, 415.021, and 415.0215; 28 TEX. ADMIN. CODE §§ 127.1, 127.5, 127.10, 130.1, 180.21, and 180.26; and TEX. GOV'T CODE ANN. §§ 2001.051–2001.178.
2. The commissioner of workers' compensation has authority to informally dispose of this matter 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. In accordance with TEX. LAB. CODE ANN. § 415.021, the commissioner of workers' compensation may assess an administrative penalty against a person who commits an administrative violation.
4. In accordance with TEX. LAB. CODE ANN. § 415.0215, the commissioner of workers' compensation may impose sanctions against any person regulated by the division.
5. Pursuant to TEX. LAB. CODE ANN. § 415.003(5) & (6), a health care provider, like a DD, commits an administrative violation each time he fails to comply with a provision of this subtitle or each time he violates a commissioner's rule.
6. Dr. Douglas violated TEX. LAB. CODE ANN. § 408.0041 and 28 TEX. ADMIN. CODE §§ 127.1 and 127.5 because he performed DD exams when not appointed by the division. When Dr. Douglas performed these DD exams, he did not meet the definition of a DD pursuant to TEX. LAB. CODE ANN. § 401.011(15), because he was not appointed by mutual agreement of the parties or by the division.
7. Pursuant to 28 TEX. ADMIN. CODE § 180.21(m), the commissioner may delete or suspend Dr. Douglas from the DD list because he violated 28 TEX. ADMIN. CODE § 180.26(c)(5)(E)¹ by practicing without credentials.
8. Dr. Douglas violated 28 TEX. ADMIN. CODE § 127.5(b) by changing the examination address without good cause and the approval of the division.
9. Dr. Douglas violated 28 TEX. ADMIN. CODE § 127.10(a) because he was not the DD appointed to the case, and he received the injured employee's confidential medical records.
10. Dr. Douglas violated 28 TEX. ADMIN. CODE § 130.1(a)(2) because he was not authorized to make findings, certify MMI, or assign an impairment rating thereby rendering the DD findings invalid.

ORDER

It is ORDERED that Howard Thomas Douglas III, M.D. is removed from the division's designated doctor list. It is further ORDERED that Howard Thomas Douglas III, M.D. is deprived of the right to certify MMI and IR in the workers' compensation system.

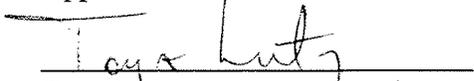


Rod Bordelon
Commissioner of Workers' Compensation

¹ This citation of 28 TEX. ADMIN. CODE § 180.26 refers to the version that was repealed and replaced effective January 9, 2011, titled "Doctor and Insurance Carrier Sanctions." 28 TEX. ADMIN. CODE § 180.21(m) cites to the older version.

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Approved as to Form and Content:



Toya Lutz
Staff Attorney, Compliance Division
Texas Department of Insurance

