

No. **DWC - 12 - 0017**

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

JAN 30 2012
Date: _____

Subject Considered:

CAROL JANE OAKLEY, D.C.
7822 Sandspoint
Houston, Texas 77036

CONSENT ORDER
DISCIPLINARY ACTION
SOAH DOCKET NO. 454-12-1299.C1
TDI ENFORCEMENT FILE NO. 59636

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 Carol Jane Oakley, D.C. ("Dr. Oakley"). The Texas Department of Insurance, Division of Workers' Compensation Staff ("Division Staff") alleges that Dr. Oakley violated the Texas Labor Code and that such conduct constitutes grounds for imposition of sanctions pursuant to TEX. LAB. CODE ANN. Ch. 415.

Division Staff and Dr. Oakley 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 § 180.26(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, 415.003, 415.0035, and 415.021; and 28 TEX. ADMIN. CODE § 180.26; and TEX. GOV'T CODE ANN. §§ 2001.051-2001.178.

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WAIVER

Dr. Oakley acknowledges the existence of certain rights provided 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. Oakley 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. Oakley is a chiropractor who treats injured employees in the Texas Workers' Compensation system.
2. Dr. Oakley was not ranked in 2007, 2009, or 2011 Performance Based Oversight.
3. Dr. Oakley failed to comply with a Division Order for Production of Documents.
 - a. On November 9, 2010, a Notice of Document Request was faxed to Dr. Oakley. Per the request, Dr. Oakley was to provide the records to the Division on or before November 23, 2010. Dr. Oakley did not comply with the request and never produced the records.
 - b. On March 23, 2011, an Order for Production of Documents was sent via Certified Mail. The Order was received by Dr. Oakley or her representative on March 26, 2011. The Order required Dr. Oakley provide the requested information and documentation to the Division within 10 days from receipt of the Order. Therefore, the requested information and documentation were due from Dr. Oakley on or before April 5, 2011.
 - c. Dr. Oakley provided the requested information and documentation on September 26, 2011, 174 days late.

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, 415.003, 415.0035, and 415.021; and 28 TEX. ADMIN. CODE § 180.26; and TEX. GOV'T CODE ANN. §§ 2001.051–2001.178.

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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. Dr. Oakley has knowingly and voluntarily 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. Dr. Oakley violated TEX. LAB. CODE ANN. § 415.0035(e) by violating an order or decision of the commissioner.
5. Dr. Oakley violated TEX. LAB. CODE ANN. § 415.021(a) by violating or failing to comply with an order or decision of the commissioner.

Based on the Findings of Fact and Conclusions of Law above, the Commissioner of Workers' Compensation has determined that the appropriate disposition is to order payment of an administrative penalty and full compliance with the terms of this Order.

IT IS THEREFORE ORDERED that Carol Jane Oakley, D.C. shall pay, and is hereby directed to pay, on or before six months from the date of this Order, an administrative penalty in the amount of ONE THOUSAND DOLLARS AND NO CENTS (\$1,000.00). The payment must be paid by cashier's check or money order made payable to the "State of Texas" and transmitted to the Texas Department of Insurance, Compliance Division-DWC, Division 3721, MC-9999, P.O. Box 149104, Austin, Texas 78714-9104.

IT IS FURTHER ORDERED that for one year from the execution date of this order, Carol Jane Oakley, D.C. shall not participate in the Workers' Compensation system as a health care provider. Therefore, she will not participate in treating, examining, and/or consulting with other health care providers regarding injured employees who are covered under the Workers' Compensation system for one year from the date of execution of this order.

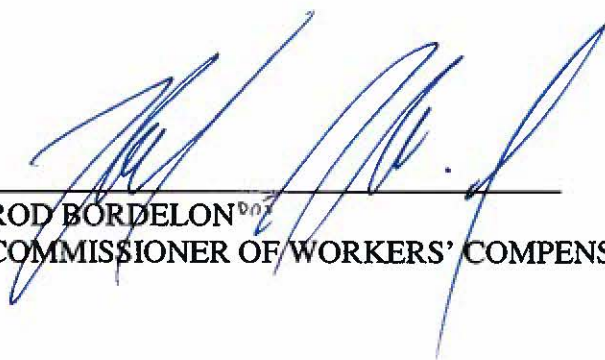
IT IS FURTHER ORDERED that for one year from the execution date of this order, Carol Jane Oakley, D.C. shall receive no direct or indirect remuneration from the Workers' Compensation system.

IT IS FURTHER ORDERED that this order does not apply to emergency cases, and "emergency" shall be defined by 28 TEX. ADMIN. CODE § 133.2.

IT IS FURTHER ORDERED that this Order applies to network and non-network healthcare.

IT IS ALSO ORDERED by the Commissioner of Workers' Compensation that if Carol Jane Oakley, D.C. fails to comply with the terms of this Order that Carol Jane Oakley, D.C. will have committed an additional administrative violation and her failure to comply with the terms of this Order may subject Carol Jane Oakley, D.C. 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 per day per occurrence.

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ROD BORDELON ^{DN}
COMMISSIONER OF WORKERS' COMPENSATION

FOR THE STAFF:



Emily Sitton
Staff Attorney, Compliance
Texas Department of Insurance

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AGREED, ACCEPTED, AND EXECUTED BY:

Carol Jane Oakley, D.C.
CAROL JANE OAKLEY, D.C.

AFFIDAVIT

STATE OF TEXAS §

COUNTY OF Harris §

Before me, the undersigned authority, personally appeared Carol Jane Oakley, D.C. who being by me duly sworn, deposed as follows:

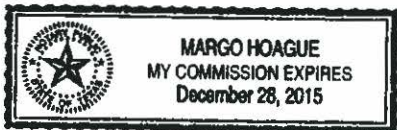
"My name is Carol Jane Oakley, D.C. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

I have knowingly and voluntarily entered into the foregoing Consent Order and agree with and consent to the issuance and service of the same by the Commissioner of Workers' Compensation of the State of Texas."

Carol Jane Oakley, D.C.
Affiant

SWORN TO AND SUBSCRIBED before me on 1-19, 2012.

(NOTARY SEAL)



Margo Hoague
Signature of Notary Public

MARGO HOAGUE
Printed Name of Notary Public