

No. 3890

OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF WORKERS' COMPENSATION

Date: APR 02 2015

Subject Considered:

JUDI ANN SHAW-RICE, M.D.
2656 South Loop West, Suite 200
Houston, TX 77054-2836

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 8452

General remarks and official action taken:

The commissioner of workers' compensation considers whether disciplinary action should be taken against Judi Ann Shaw-Rice, M.D. (Dr. Shaw-Rice).

WAIVER

Dr. Shaw-Rice acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Dr. Shaw-Rice 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. Shaw-Rice holds Texas Medical License No. J1134, issued on June 17, 1992. Dr. Shaw-Rice is a health care provider who performs designated doctor (DD) examinations and certifies maximum medical improvement (MMI) and assigns impairment ratings (IR) in the Texas workers' compensation system. Dr. Shaw-Rice's current DD certification was set to expire on June 29, 2015. Dr. Shaw-Rice voluntarily surrendered her DD certification on January 8, 2015. Dr. Shaw-Rice's MMI and IR certification expires on June 29, 2015.

2. Dr. Shaw-Rice was not classified in the 2007, 2009, 2011, or the 2013 Performance Based Oversight assessments.

Designated Doctor Reports

3. Dr. Shaw-Rice failed to timely complete and file nine Reports of Medical Evaluation (DWC Form-69s) and the narrative reports.
4. The report of medical evaluation shall be filed with the division, injured employee, injured employee's representative, and the insurance carrier no later than the seventh working day after the later of: (a) date of the certifying examination; (b) or the receipt of all of the medical information required by this section.
5. Dr. Shaw-Rice conducted nine DD examinations on injured employees between April 22, 2014, and September 6, 2014, to determine the issues of maximum medical improvement, impairment rating, and extent of injury.
6. Dr. Shaw-Rice received all the pertinent medical information and completed all the DD examinations.
7. Dr. Shaw-Rice filed seven of the reports over 20 days late, and two reports were not filed with the division.
8. Dr. Shaw-Rice was sent a warning letter on January 7, 2014, from the division for similar late filings.

Failure to Update Designated Doctor Application Information

9. Dr. Shaw-Rice failed to provide the division with updated information in regard to a change in her DD application for certification within 10 working days.
10. All DDs must provide the division with updated information of a change in any of the information provided to the division on the doctor's application for certification, within 10 working days. The required information includes disclosure and summary of any disciplinary actions taken against the doctor by any state licensing board.
11. Dr. Shaw-Rice entered into a Mediated Agreed Order with the Texas Medical Board on November 7, 2014. The Mediated Agreed Order imposed disciplinary actions for violation(s) of Texas Medical Practice Act and/or the Texas Medical Board Rules.
12. Dr. Shaw-Rice's deadline to update her DD application information with the division was on November 21, 2014.

13. The division has not received the updated information from Dr. Shaw-Rice.
14. On January 8, 2015, Dr. Shaw-Rice voluntarily surrendered her 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. §§ 402.001, 402.00111, 402.00114, 402.00116, 402.00128, 408.0231, 413.0511, 414.002, 415.021, and 415.0215; 28 TEX. ADMIN. CODE §§ 127.10, 127.100, 127.200, 130.1, 180.22, 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 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 TEX. LAB. CODE ANN. § 415.021(a), in addition to any other provisions in this subtitle relating to violations, a person commits an administrative violation if the person violates, fails to comply with, or refuses to comply with this subtitle or a rule, order, or decision of the commissioner. 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. The administrative penalty shall not exceed \$25,000 per day per occurrence. Each day of noncompliance constitutes a separate violation.
4. Pursuant to 28 TEX. ADMIN. CODE § 180.26(a) and (b)(4) and (5), the division may impose sanctions on any system participant if that system participant has committed an administrative violation. The sanctions the division may impose include deletion or suspension from the designated doctor list and restrictions on appointments or reviews.
5. Pursuant to 28 TEX. ADMIN. CODE § 127.10(d), a DD who determines the injured employee has reached MMI or who assigns an IR, or who determines the injured employee has not reached MMI, shall complete and file a report as required by 28 TEX. ADMIN. CODE § 130.1.
6. Pursuant to 28 TEX. ADMIN. CODE § 130.1(d)(2), a report of medical evaluation under this rule shall be filed with the division, injured employee, injured employee's representative, and the insurance carrier no later than the seventh working day after the later of: (a) date of the certifying examination; (b) or the receipt of all the medical information required by this section.

7. Dr. Shaw-Rice violated 28 TEX. ADMIN. CODE §§ 127.10(d) and 130.1(d)(2) when she filed seven of the reports over 20 days late and when two reports were not filed with the division.
8. Pursuant to 28 TEX. ADMIN. CODE §§ 127.100(b)(7) and (9)(A) and (B) and 127.200(a)(8), an attestation that all information provided in the application is accurate and complete to the best of the doctor's knowledge; and the doctor will inform the division of any changes to this information, including disciplinary actions taken against a doctor by any state licensing board, within 10 working days.
9. Dr. Shaw-Rice violated 28 TEX. ADMIN. CODE §§ 127.100(b)(7) and (9)(B) and 127.200(a)(8) when she failed to inform the division by November 21, 2014, that she entered into a Mediated Agreed Order with the Texas Medical Board on November 7, 2014, which imposed a range of disciplinary actions for violations of Texas Medical Practice Act and/or the Texas Medical Board Rules.
10. Pursuant to TEX. LAB. CODE ANN. § 415.021(a) and 28 TEX. ADMIN. CODE § 180.26, the division may sanction Dr. Shaw-Rice for committing administrative violations when she violated 28 TEX. ADMIN. CODE §§ 127.10(d), 127.100(b)(7) and (9)(B), 127.200(a)(8), and 130.1(d)(2).

ORDER

Judi Ann Shaw-Rice, M.D. is ORDERED to pay a \$4,000 administrative penalty. Payment is due within one year from the date of this Order. Payment must be paid by company check, cashier's check, or money order made payable to the "State of Texas" and mailed to the Texas Department of Insurance, Compliance Division-DWC, MC-9999, P.O. Box 149104, Austin, Texas, 78714-9104.

Judi Ann Shaw-Rice, M.D., agrees not to re-apply for the division's designated doctor certification. Dr. Shaw-Rice also agrees to surrender her MMI/IR credential(s) within 30 days from the date of this Order. In addition, Dr. Shaw-Rice will not re-apply for MMI/IR credentials. In the event Dr. Shaw-Rice does apply, the division will not grant the DD certification or MMI/IR credentials.



W. Ryan Bramman
Commissioner of Workers' Compensation

Approved as to Form and Content:



Claudia Kirk
Staff Attorney, Compliance Division
Texas Department of Insurance

