

No. **2022-7180**

Confidential Information Redacted  
Texas Labor Code §§402.083 and 402.092

**Official Order  
of the  
Texas Commissioner of Workers' Compensation**

**Date: 1/18/2022**

**Subject Considered:**

Amy M. Kirsch, D.C.  
P.O. Box 210366  
Bedford, Texas 76095-7336

Consent Order  
DWC Enforcement File Nos. 27759, 27760, 27761, 27762, 27763, 27764, 27765,  
27766, 27767, 27768, and 27796

**General remarks and official action taken:**

This is a consent order with Amy M. Kirsch, D.C. The commissioner of the Texas Department of Insurance, Division of Workers' Compensation (DWC) considers whether DWC should take disciplinary action against Dr. Kirsch.

**Waiver**

Dr. Kirsch acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Dr. Kirsch waives all of these rights, and any other procedural rights that apply, in consideration of the entry of this consent order.

**Findings of Fact**

1. Dr. Kirsch holds Texas Board of Chiropractic Examiners License No. 08305, which was issued on August 5, 1999.
2. Dr. Kirsch is a designated doctor (DD) in the Texas workers' compensation system. Dr. Kirsch was first certified as a DD on May 13, 2013. Dr. Kirsch was first certified to rate maximum medical improvement (MMI) and assign impairment ratings (IRs)

on May 13, 2013. Dr. Kirsch's certification as a DD to rate MMI and assign IRs expired on July 15, 2021.

3. Dr. Kirsch was not selected to be tiered in the 2007, 2009, 2011, 2013, or 2015 Performance Based Oversight (PBO) assessments. Dr. Kirsch was classified as "high" tier in the 2017 PBO assessment on DWC Form-069, *Report of Medical Evaluation* (DWC Form-069). Dr. Kirsch was classified as "average" tier in the 2019 PBO assessment on DWC Form-069.

Failure to File a DWC Form-069 following a DD Examination

File No. 27759

4. On [REDACTED] Dr. Kirsch performed a DD examination of an injured employee.
5. The examination was deemed complete on [REDACTED] Therefore Dr. Kirsch was required to file a DWC Form-069 with DWC no later than seven working days after the examination, or [REDACTED]
6. On [REDACTED] and [REDACTED] DWC sent Dr. Kirsch requests to produce the DWC Form-069 for the examination.
7. Dr. Kirsch failed to file the DWC Form-069 with DWC, and a new DD had to be appointed.

File No. 27760

8. On [REDACTED] Dr. Kirsch performed a DD examination of an injured employee.
9. The examination was deemed complete on [REDACTED] Therefore Dr. Kirsch was required to file a DWC Form-069 with DWC no later than seven working days after the examination, or [REDACTED]

10. On [REDACTED] [REDACTED] DWC sent Dr. Kirsch requests to produce the DWC Form-069 for the examination.
11. Dr. Kirsch failed to file the DWC Form-069 with DWC, and a new DD had to be appointed.

File No. 27761

12. On [REDACTED] Dr. Kirsch performed a DD examination of an injured employee.
13. The examination was deemed complete on [REDACTED] Therefore Dr. Kirsch was required to file a DWC Form-069 with DWC no later than seven working days after the examination, or [REDACTED]
14. On [REDACTED] [REDACTED] [REDACTED] DWC sent Dr. Kirsch requests to produce the DWC Form-069 for the examination.
15. Dr. Kirsch failed to file the DWC Form-069 with DWC, and a new DD had to be appointed.

File No. 27762

16. On [REDACTED] Dr. Kirsch performed a DD examination of an injured employee.
17. The examination was deemed complete on [REDACTED] Therefore Dr. Kirsch was required to file a DWC Form-069 with DWC no later than seven working days after the examination, or [REDACTED]
18. On [REDACTED] [REDACTED] [REDACTED] DWC sent Dr. Kirsch requests to produce the DWC Form-069 for the examination.

19. Dr. Kirsch failed to file the DWC Form-069 with DWC, and a new DD had to be appointed.

File No. 27763

20. On [REDACTED] Dr. Kirsch performed a DD examination of an injured employee.
21. The examination was deemed complete on [REDACTED] Therefore Dr. Kirsch was required to file a DWC Form-069 with DWC no later than seven working days after the examination, or [REDACTED]
22. On [REDACTED] and [REDACTED] DWC sent Dr. Kirsch requests to produce the DWC Form-069 for the examination.
23. Dr. Kirsch failed to file the DWC Form-069 with DWC, and a new DD had to be appointed.

File No. 27764

24. On [REDACTED] Dr. Kirsch performed a DD examination of an injured employee.
25. The examination was deemed complete on [REDACTED] Therefore Dr. Kirsch was required to file a DWC Form-069 with DWC no later than seven working days after the examination, or [REDACTED]
26. On [REDACTED] DWC sent Dr. Kirsch requests to produce the DWC Form-069 for the examination.
27. Dr. Kirsch failed to file the DWC Form-069 with DWC, and a new DD had to be appointed.

File No. 27765

28. On [REDACTED], Dr. Kirsch performed a DD examination of an injured employee.
29. The examination was deemed complete on [REDACTED]. Therefore Dr. Kirsch was required to file a DWC Form-069 with DWC no later than seven working days after the examination, or [REDACTED].
30. On [REDACTED] [REDACTED] DWC sent Dr. Kirsch requests to produce the DWC Form-069 for the examination.
31. Dr. Kirsch failed to file the DWC Form-069 with DWC, and a new DD had to be appointed.

File No. 27766

32. On [REDACTED] Dr. Kirsch performed a DD examination of an injured employee.
33. The examination was deemed complete on [REDACTED]. Therefore Dr. Kirsch was required to file a DWC Form-069 with DWC no later than seven working days after the examination, or [REDACTED].
34. [REDACTED] [REDACTED] DWC sent Dr. Kirsch requests to produce the DWC Form-069 for the examination.
35. Dr. Kirsch failed to file the DWC Form-069 with DWC, and a new DD had to be appointed.

File No. 27767

36. On [REDACTED] Dr. Kirsch performed a DD examination of an injured employee.



37. The examination was deemed complete on [REDACTED] Therefore Dr. Kirsch was required to file a DWC Form-069 with DWC no later than seven working days after the examination, or [REDACTED]
38. On [REDACTED] DWC sent Dr. Kirsch requests to produce the DWC Form-069 for the examination.
39. Dr. Kirsch failed to file the DWC Form-069 with DWC, and a new DD had to be appointed.

File No. 27768

40. On [REDACTED] Dr. Kirsch performed a DD examination of an injured employee.
41. The examination was deemed complete on [REDACTED] Therefore Dr. Kirsch was required to file a DWC Form-069 with DWC no later than seven working days after the examination, or [REDACTED]
42. On [REDACTED] DWC sent Dr. Kirsch requests to produce the DWC Form-069 for the examination.
43. Dr. Kirsch failed to file the DWC Form-069 with DWC, and a new DD had to be appointed.

File No. 27796

44. On [REDACTED] Dr. Kirsch performed a DD examination of an injured employee.
45. The examination was deemed complete on [REDACTED] Therefore Dr. Kirsch was required to file a DWC Form-069 with DWC no later than seven working days after the examination, or [REDACTED]

46. On [REDACTED] and [REDACTED] Dr. Kirsch submitted requests to DWC for additional time to complete the DWC Form-069. DWC approved the requests.
47. On [REDACTED]  
[REDACTED] DWC sent Dr. Kirsch requests to produce the DWC Form-069 for the examination.
48. Dr. Kirsch failed to file the DWC Form-069 with DWC, and a new DD had to be appointed.

### Assessment of Sanction

1. The examinations and DWC Form-069s from a DD examination have significant consequences on workers' compensation claims, the benefits of injured employees, and the Texas workers' compensation system. DWC relies on DDs to comply with the rules to provide a fair and accessible dispute resolution process.
2. In assessing the sanction for this case, DWC fully considered the following factors in TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e):
  - the seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the prohibited act;
  - the history and extent of previous administrative violations;
  - the violator's demonstration of good faith, including actions it took to rectify the consequences of the prohibited act;
  - the penalty necessary to deter future violations;
  - whether the administrative violation had a negative impact on the delivery of benefits to an injured employee;
  - the history of compliance with electronic data interchange (EDI) requirements;
  - to the extent reasonable, the economic benefit resulting from the prohibited act; and
  - other matters that justice may require, including, but not limited to:
    - PBO assessments;
    - prompt and earnest actions to prevent future violations;

- self-DWC Form-069 of the violation;
  - the size of the company or practice;
  - the effect of a sanction on the availability of health care; and
  - evidence of heightened awareness of the legal duty to comply with the Texas Workers' Compensation Act and DWC rules.
3. DWC found the following factors in TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e) to be aggravating: the seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the prohibited act; the violator's demonstration of good faith, including actions it took to rectify the consequences of the prohibited act; the penalty necessary to deter future violations; whether the administrative violation had a negative impact on the delivery of benefits to an injured employee; and the history of compliance with EDI requirements.
  4. DWC found the following factors in TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e) to be mitigating: other matters that justice may require, including, but not limited to prompt and earnest actions to prevent future violations, as the respondent has not requested to be reinstated to the DD list and had issues outside of her control during the Covid pandemic.
  5. Dr. Kirsch acknowledges she communicated with DWC about the relevant statutes and rules she violated; the facts establish that the administrative violation occurred; and the proposed sanction is appropriate, including the factors DWC considered under TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e).
  6. Dr. Kirsch acknowledges that, in assessing the sanction, DWC considered the factors in TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e).

### Conclusions of Law

1. The commissioner has jurisdiction over this matter pursuant to TEX. LAB. CODE §§ 401.021, 402.001, 402.00111, 402.00114, 402.00116, 402.00128, 408.0041, 408.1225, 413.002, 413.044, 413.0511, 413.0512, 414.002, 415.021, and 415.0215; 28 TEX. ADMIN. CODE § 180.26; and TEX. GOV'T CODE §§ 2001.051-2001.178.



2. The commissioner has the authority to dispose of this case informally pursuant to TEX. GOV'T CODE § 2001.056; TEX. LAB. CODE §§ 401.021, 402.00128(b)(6)-(7), and 415.034; and 28 TEX. ADMIN. CODE § 180.26(h) and (i).
3. Pursuant to TEX. LAB. CODE § 415.003(5) and (6), a healthcare provider commits an administrative violation if the person violates a commissioner rule or fails to comply with a provision of this subtitle.
4. Pursuant to TEX. LAB. CODE § 415.021, the commissioner may assess an administrative penalty against a person who commits an administrative violation or who violates an order or decision of the commissioner.
5. Pursuant to 28 TEX. ADMIN. CODE §§ 127.210 and 180.26, the commissioner may revoke or suspend a DD's certification as a DD or sanction a DD for not complying with DWC rules.
6. Pursuant to TEX. LAB. CODE § 415.003(5) and 28 TEX. ADMIN. CODE § 127.210(a)(15), the commissioner may sanction a DD for violating applicable statutes or rules while serving as a DD.
7. Pursuant to 28 TEX. ADMIN. CODE § 127.10(d), (e), and (f), a DD who determines MMI, IR, return-to-work, or other issues is required to file a DD DWC Form-069 with DWC within seven working days of the DD examination.
8. Dr. Kirsch violated TEX. LAB. CODE § 415.003(5) and (6) and 28 TEX. ADMIN. CODE § 127.210(a)(15) each time she failed to file a DD DWC Form-069 with DWC.

**Order**

It is ordered that Amy M. Kirsch, D.C. must pay an administrative penalty of \$11,000 within 30 days from the date of this order. Amy M. Kirsch, D.C. must pay the administrative penalty by company check, cashier's check, or money order and make it payable to the "State of Texas." Mail the administrative penalty to the Texas Department of Insurance, Attn: DWC Enforcement, MC AO-9999, P.O. Box 12030, Austin, Texas, 78711-2030.



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Dan Paschal, J.D.  
Deputy Commissioner  
Policy & Customer Services  
TDI, Division of Workers' Compensation

Approved Form and Content:



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Amy Norman  
Staff Attorney, Enforcement  
Compliance and Investigations  
Division of Workers' Compensation

**Unsworn Declaration**

STATE OF TX

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COUNTY OF Tarrant

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Pursuant to the TEX. CIV. PRAC. AND REM. CODE § 132.001(a), (b), and (d), my name is **Amy Kirsch**. I hold the position of **Chiropractor** and am the authorized representative of Amy M. Kirsch, D.C. . My business address is:

**601 Steeplechase Dr Bedford, TX 76021**  
(Street) (City) (County) (State) (ZIP Code)

I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the facts stated in this document are true and correct.

*Amy Kirsch*  
Declarant

Executed on **01/12/22**, 2022.

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