

No. 2023-7732

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

Date: 1/13/2023

Subject Considered:

Poorvi Sandesara, D.C.
305 Northeast Loop 820, Suite 412
Hurst, Texas 76053-721

Consent Order
DWC Enforcement File No. 25750

General remarks and official action taken:

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

Waiver

Respondent acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Respondent 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. Respondent holds Texas Board of Chiropractic Examiners License No. 11982, which was issued by the Texas Board of Chiropractic Examiners on February 3, 2012.
2. Respondent was a designated doctor (DD) in the Texas workers' compensation system. Respondent was certified as a DD from March 19, 2018, to March 19, 2020. Respondent was certified to rate maximum medical improvement (MMI) and assign impairment ratings (IR) from February 20, 2018, to March 19, 2020.

3. Respondent was not selected to be tiered in the 2007, 2009, 2011, 2013, 2015, 2017, 2019, or 2021 Performance Based Oversight (PBO) assessments.

Rendering Unnecessary Health Care Services Beyond the Scope of Licensure

4. Between [REDACTED] and [REDACTED] Respondent rendered health care services twelve times to an injured employee (IE) in connection with a compensable eye injury.¹
5. Cameron Jackson, D.C. was listed as the treating doctor in the visit notes; however, Respondent signed all visit notes and provided the care on behalf of Cameron Jackson, D.C.
6. In nine out of the twelve visits, Respondent performed a Snellens visual acuity examination on the injured employee.
7. During the first 11 visits, Respondent assessed the injured employee and listed [REDACTED] as the diagnosis. At the final visit, Respondent added, [REDACTED] These diagnoses were made by unrelated medical doctors prior to the Injured Employee's first visit to Respondent.

Incorrect DWC Form-073, Work Status Report

8. For 10 visits between [REDACTED] and [REDACTED] Respondent noted in the chart, "[t]he patient will work modified duties with restriction as documented in the DWC-73 form."
9. However, in the DWC Form-073, *Work Status Report* (DWC-073) for every visit except [REDACTED] Respondent checked box 13c indicating the injury has prevented and still prevents the injured employee from returning to work.
10. On [REDACTED] Respondent checked box 13b of the DWC-073 indicating the injured employee may return to work with restrictions.

¹ Health care visits occurred on [REDACTED]
[REDACTED]
and [REDACTED]

- 11. On [REDACTED] and [REDACTED] Respondent checked box 13a of the DWC-073s indicating the injured employee may return to work without restrictions.

Incorrect Billing

- 12. For all 12 visits, Dr. Jackson is listed as the rendering provider on each CMS-1500 form submitted for the healthcare services provided to the injured employee. However, Respondent provided the health care services and signed all visit notes.

- 13. [REDACTED]

- 14. [REDACTED]

Assessment of Sanction

- 1. Failure to act within the scope of practice for a chiropractor is deceptive and harmful to injured employees, the public, and the Texas workers’ compensation system. This conduct directly interferes with the division’s goal of providing timely, appropriate, and high-quality medical care supporting restoration of the injured employee’s physical condition and earning capacity.
- 2. Failure to file a DWC-073 in the form and manner required by DWC increases the likelihood of disputes and hinders the ability of DWC and system participants to resolve disputes promptly and fairly.
- 3. Failure to accurately bill for medical services rendered increases the likelihood of disputes and hinders the ability of DWC to regulate the workers’ compensation system.
- 4. 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-report 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.
5. 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 penalty necessary to deter future violations; whether the administrative violation had a negative impact on the delivery of benefits to an injured employee; to the extent reasonable, the economic benefit resulting from the prohibited act; and other matters that justice may require, including, but not limited to evidence of heightened awareness of the legal duty to comply with the Texas Workers' Compensation Act and DWC rules.
6. 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, specifically, Respondent conducted training for support staff on the accuracy and consistency of DWC-073 forms.
7. Respondent acknowledges communicating with DWC about the relevant statute and rule violations alleged; that the facts establish that the administrative violation(s) occurred; and that 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).
8. Respondent 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 §§ 402.001, et seq., 408.0041, 408.123, 413.002, 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 § 408.022(a), a doctor may perform only those procedures that are within the scope of the practice for which the doctor is licensed.
4. Pursuant to Tex. Occ. Code § 201.002(b), A person practices chiropractic under this chapter if the person uses objective or subjective means to diagnose, analyze, examine, or evaluate the biomechanical condition of the spine and musculoskeletal system of the human body; performs nonsurgical, non-incisive procedures, including adjustment and manipulation, to improve the subluxation complex or the biomechanics of the musculoskeletal system.
5. Pursuant to 22 Tex. Admin. § Code 78.1(b), a person practices chiropractic if the person uses objective or subjective means to analyze, examine, or evaluate the biomechanical condition of the spine and musculoskeletal system of the human body; or performs nonsurgical, non-incisive procedures, including adjustment and manipulation, to improve the subluxation complex or the biomechanics of the musculoskeletal system.
6. Pursuant to Tex. Lab. Code § 408.025(a), the commissioner by rule shall adopt requirements for reports and records that are required to be filed with DWC or provided to the injured employee, the employee's attorney, or the insurance carrier by a health care provider.
7. Pursuant to Tex. Lab. Code § 408.0231(c)(3), one of the criteria for imposing sanctions on a doctor may include evidence from the medical records that the doctor's evaluations are, to a large extent, different from those the commissioner finds to be fair and reasonable.

8. Pursuant to Tex. Lab. Code § 408.0231(c)(5), health care providers must practice medicine and provide health care in an acceptable manner consistent with the public health, safety, and welfare.
9. Pursuant to Tex. Lab. Code § 415.003(5) and (6), a health care provider commits an administrative violation if the person fails to comply with a provision of the Texas Workers' Compensation Act or a DWC rule.
10. Pursuant to Tex. Lab. Code § 415.021, the commissioner may assess an administrative penalty against a person who commits an administrative violation.
11. Pursuant to 28 Tex. Admin. Code § 129.5(a)(1), the term "doctor" means either the treating doctor or a referral doctor, as defined by §180.22(c) and (e) of this title.
12. Pursuant to 28 Tex. Admin. Code § 129.5, a doctor, will be considered to have filed a complete Work Status Report if the report is filed in the form and manner prescribed by the division, signed, and contains at minimum:
 - identification of the injured employee's work status;
 - effective dates and estimated expiration dates of current work status and restrictions (an expected expiration date is not binding and may be adjusted in future Work Status Reports, as appropriate, based on the condition and progress of the injured employee);
 - identification of any applicable activity restrictions;
 - an explanation of how the injured employee's workers' compensation injury prevents the injured employee from returning to work (if the doctor believes that the injured employee is prevented from returning to work); and
 - general information that identifies key information about the claim (as prescribed on the report).
13. Pursuant to 28 Tex. Admin. Code § 133.20, the health care provider that provided the health care shall submit the bill.
14. Pursuant to 28 Tex. Admin. Code § 134.203(a)(6), notwithstanding Medicare payment policies, chiropractors may be reimbursed for services provided within the scope of their practice act.

15. Pursuant to 28 Tex. Admin. Code § 180.22(a), a health care provider as defined in subsections (c)-(e) of this section shall provide all health care reasonably required by the nature of the injury.
16. Pursuant to 28 Tex. Admin. Code § 180.22(e), the referral doctor is a doctor who examines and treats an injured employee in response to a request from the treating doctor.
17. Respondent violated Tex. Lab. Code § 415.003(5) and (6) by rendering health care services beyond the scope of chiropractic license.
18. Respondent violated Tex. Lab. Code § 415.003(5) and (6) by failing to file the DWC-073 forms in the form and manner required by DWC.
19. Respondent violated Tex. Lab. Code § 415.003(5) and (6) by failing to correctly bill for the health care services she rendered.


Order

It is ordered that Poorvi Sandesara, D.C. must pay an administrative penalty of \$8,000 within 30 days from the date of this order. Poorvi Sandesara, 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 Section, MC AO-9999, P.O. Box 12030, Austin, Texas 78711-2030.



Jeff Nelson,
Commissioner
TDI, Division of Workers' Compensation

Approved Form and Content:



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