

No. 2016 4661

OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF WORKERS' COMPENSATION

Date: SEP 20 2016

Subject Considered:

JEROME OLIVER CARTER, M.D.
720 Rollingbrook Street
Baytown, TX 77521

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 10371

General remarks and official action taken:

The commissioner of workers' compensation considers whether disciplinary action should be taken against Jerome Oliver Carter, M.D. (Dr. Carter).

WAIVER

Dr. Carter acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Dr. Carter 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. Carter is a health care provider who provides medical treatment and care to injured employees in the Texas workers' compensation system. He holds Texas Medical License No. L8298, which was issued on April 02, 2004.
2. Dr. Carter was classified as "average" tier in the 2007 Performance Based Oversight (PBO) assessment. Dr. Carter was classified as "high" tier in the 2011 PBO assessment. Dr. Carter was not selected to be tiered in the 2009, 2013 or 2015 PBO assessments.

Medical Quality Review #15-21 HCP

3. The division, as authorized by TEX. LAB. CODE ANN. § 414.002, monitors system participants to determine compliance with the Texas Workers' Compensation Act and rules promulgated by the commissioner of workers' compensation.

4. The division's Medical Advisor (whose duties are defined at TEX. LAB. CODE ANN. § 413.0511) and Medical Quality Review Panel (MQRP) (as established pursuant to TEX. LAB. CODE ANN. § 413.0512) conducted a medical quality review (MQR) of seven cases where Dr. Carter was the treating doctor for the injured employees.
5. Dr. Carter treated the injured employees between 2006 and 2014.
6. Dr. Carter provided improper, unreasonable, or medically unnecessary treatment or services to the injured employees as follows:
 - a. Dr. Carter failed to follow-up on psychological testing that he had ordered in the course of his treatment of injured employee No. 3.
 - b. Dr. Carter's medical records did not justify the prescription, continuation or increase of medications provided to injured employee Nos. 2, 3, 4, 5, 6, and 7.
 - c. Dr. Carter failed to document indications for performing urine toxicology testing in injured employee No. 1 or genetic testing in injured employee Nos. 2 and 3.
7. Dr. Carter failed to practice medicine or provide health care in an acceptable manner consistent with the public health, safety, and welfare as follows:
 - a. Dr. Carter failed to demonstrate adequate or legible recordkeeping in all seven injured employee cases reviewed.
 - b. Dr. Carter failed to appropriately document or address aberrant drug tests in injured employee Nos. 2, 3, 5, 6, and 7.
 - c. Dr. Carter's handwritten notes were largely illegible and did not support the treatment plan for injured employee No. 2.
 - d. Dr. Carter failed to appropriately monitor injured employee No. 7's medication regimen as it related to injured employee No. 7's symptom complex.

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. §§ 401.021, 402.001, 402.00111, 402.00114, 402.00116, 402.00128, 408.0231, 413.002, 413.05115, 413.0512, 414.002, 414.007, 415.003, and 415.021; 28 TEX. ADMIN. CODE § 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. Pursuant to TEX. LAB. CODE ANN. § 415.021, the commissioner of workers' compensation may impose a range of sanctions against any person regulated by the division, including an administrative penalty.
4. Pursuant to TEX. LAB. CODE ANN. §§ 415.0215 and 408.0231, and 28 TEX. ADMIN. CODE § 180.26, the commissioner of workers' compensation may impose a range of sanctions against any person regulated by the division.
5. Pursuant to TEX. LAB. CODE ANN. § 415.003(2), a health care provider commits an administrative violation if the person administers improper, unreasonable, or medically unnecessary treatment or services.
6. Dr. Carter provided improper, unreasonable, or medically unnecessary treatment or services to the injured employees in violation of TEX. LAB. CODE ANN. § 415.003(2) as follows:
 - a. Dr. Carter failed to follow-up on psychological testing he had ordered in the course of his treatment of injured employee No. 3.
 - b. Dr. Carter's medical records did not justify the prescription, continuation or increase of medications provided to injured employee Nos. 2, 3, 4, 5, 6, and 7.
 - c. Dr. Carter failed to document indications for performing urine toxicology testing in injured employee No. 1 or genetic testing in injured employee Nos. 2 and 3.
7. Pursuant to TEX. LAB. CODE ANN. § 408.0231(c)(5), the criteria for recommending or imposing sanctions may include anything the commissioner of workers' compensation considers relevant, including a professional failure to practice medicine or provide health care in an acceptable manner consistent with the public health, safety, and welfare.
8. Dr. Carter failed to practice medicine or provide health care in an acceptable manner consistent with the public health, safety, and welfare in violation of TEX. LAB. CODE ANN. § 408.0231(c)(5) as follows:
 - a. Dr. Carter failed to demonstrate adequate or legible recordkeeping in all seven injured employee cases reviewed.
 - b. Dr. Carter failed to appropriately document or address aberrant drug tests in injured employee Nos. 2, 3, 5, 6, and 7.
 - c. Dr. Carter's handwritten notes were largely illegible and did not support the treatment plan for injured employee No. 2.
 - d. Dr. Carter failed to appropriately monitor injured employee No. 7's medication regimen as it related to symptom complex.

ORDER

It is ORDERED that from the date of this order, Jerome Oliver Carter, M.D., shall be removed from the Texas workers' compensation system and will no longer participate in the Texas workers' compensation system, network or non-network, as a health care provider. Dr. Carter will not participate in treating, examining, and/or consulting with other physicians regarding injured employees who are covered under the Texas workers' compensation system. Additionally, Dr. Carter will not receive direct or indirect remuneration from the Texas workers' compensation system. This order does not apply to emergency cases, as defined by 28 TEX. ADMIN. CODE § 133.2.



W. Ryan Brannan *WCB*
Commissioner of Workers' Compensation

Approved as to Form and Content:



Van B. Moreland
Staff Attorney, DWC Enforcement
Texas Department of Insurance

AFFIDAVIT

STATE OF Texas

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COUNTY OF Harris

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Before me, the undersigned authority, personally appeared the affiant, Jerome Oliver Carter, M.D., who being by me duly sworn, deposed as follows:

"My name is Jerome Oliver Carter, M.D. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

I waive rights provided by the Texas Labor Code and other applicable law and acknowledge the jurisdiction of the Texas commissioner of workers' compensation.

I voluntarily enter into this consent order and consent to the issuance and service of this consent order."

Affiant

SWORN TO AND SUBSCRIBED before me on _____
2016.

Sept 8

(NOTARY SEAL)



Latricia George
Signature of Notary Public

Latricia George
Printed Name of Notary Public