

No. 2900

**OFFICIAL ORDER**  
*of the*  
**TEXAS COMMISSIONER OF WORKERS' COMPENSATION**

Date: DEC 16 2010

**Subject Considered:**

**MARK SELTZER SANDERS, M.D.**  
4126 S.W. Freeway, Suite 1730  
Houston, TX 77027

**CONSENT ORDER**  
TDI ENFORCEMENT FILE NO. 3444

**General remarks and official action taken:**

The commissioner of workers' compensation considers whether disciplinary action should be taken against Mark Seltzer Sanders, M.D. (Dr. Sanders).

**WAIVER**

Dr. Sanders acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Dr. Sanders 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. Sanders is a physician licensed by the State of Texas on August 23, 1986. He holds Texas Medical Board License No. H0002.
2. Dr. Sanders is a health care provider in the Texas workers' compensation system.
3. Dr. Sanders was not classified in the 2007, 2009, or 2011 Performance Based Oversight (PBO) assessments.

4. Dr. Sanders was initially certified in the Texas workers' compensation system as a designated doctor (DD) on November 14, 2001. Dr. Sanders' most recent DD certification was set to expire on June 12, 2013, when he voluntarily surrendered it early on June 5, 2013. Dr. Sanders has not renewed the DD certification.
5. Dr. Sanders was initially certified in the Texas workers' compensation system to assign Maximum Medical Improvement (MMI) and Impairment Ratings (IR), on August 6, 2003. Dr. Sanders most recent MMI/IR certification expired July 8, 2013. Dr. Sanders has not renewed the MMI/IR certification.
6. 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 No.12-169 HCP) of one injured employee's case in which Dr. Sanders served in a DD role.

**MQR No. 12-169 HCP**

7. In January 2010, Dr. Sanders performed a DD examination and ordered a functional capacity evaluation (FCE) to assist in determining whether the injured employee reached MMI.
8. Dr. Sanders' had a sufficient clinical picture and adequate medical records to determine the MMI for this injured employee. The FCE was not necessary to resolve the question of MMI.
9. When Dr. Sanders responded to the division's MQR No. 12-169 HCP inquiry, he included an incomplete medical records affidavit. Subsequently, the division made several attempts to obtain a corrected affidavit, but Dr. Sanders did not respond.
10. On May 2, 2012, the division issued an Order for Production of Documents to Dr. Sanders, which was confirmed delivered to his address of record on file with the division. Again, Dr. Sanders did not respond to the division's Order for Production of Documents.
11. Dr. Sanders agrees to voluntarily and permanently surrender his division DD and MMI/IR certifications, if not already surrendered or expired, and further agrees not to re-apply for these certifications.
12. This consent order, and the actions required hereby, is entered into in the nature of compromise and settlement and in order to avoid the time, trouble, and expense of resolving this dispute through administrative or judicial proceedings. Dr. Sanders neither admits nor denies the allegations contained herein.

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. §§ 401.001, 401.011, 401.021, 402.001, 402.00111, 402.00114, 402.00116, 402.00128, 415.003, 415.0035, 415.021, and 415.0215; 28 TEX. ADMIN. CODE §§ 102.9, 126.7, 180.1, and 180.26; and TEX. GOV'T CODE ANN. §§ 2001.051–2001.178.<sup>1</sup>
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. § 415.003(3), a health care provider commits an administrative violation if the person makes an unnecessary referral.
4. Pursuant to TEX. LAB. CODE ANN. § 415.003(5) and (6), a health care provider commits an administrative violation if the person: violates a commissioner rule; or fails to comply with a provision of the Texas Workers' Compensation Act.
5. Pursuant to TEX. LAB. CODE ANN. § 415.0035(e), a health care provider commits an administrative violation if that person violates the Texas Workers' Compensation Act or a rule, order, or decision of the commissioner.
6. Pursuant to TEX. LAB. CODE ANN. § 415.021(a), a person commits an administrative violation if the person violates, fails to comply with, or refuses to comply with the Texas Workers' Compensation Act, or a rule, order, or decision of the commissioner.
7. Pursuant to 28 TEX. ADMIN. CODE § 126.7(k), the DD shall perform additional testing when necessary to determine the issue in question.
8. Dr. Sanders violated TEX. LAB. CODE ANN. §§ 415.003(3), (5), and (6), 415.0035(e), and 28 TEX. ADMIN. CODE § 126.7(k), by ordering an FCE as part of a DD examination that was unnecessary to resolve the question of MMI.
9. Dr. Sanders violated TEX. LAB. CODE ANN. §§ 415.003(6), 415.0035(e), and 415.021(a), by failing or refusing to reply to a division Order for Production of Documents.

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<sup>1</sup> All references to the Texas Labor Code and the Texas Administrative Code that relate to the findings of fact regarding violations, as set forth in this consent order, are those that were in effect at the times the violations occurred.

**ORDER**


It is agreed and ORDERED that as of the effective date of this consent order, Mark Seltzer Sanders, M.D.'s certifications to act as a DD, and to assign MMI dates and IRs, are permanently surrendered.

It is further agreed and ORDERED that Mark Seltzer Sanders, M.D., is permanently removed from the DD list, and that he will not re-apply for either the DD certification or the MMI/IR certification in the Texas workers' compensation system.



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Rod Bordenon  
Commissioner of Workers' Compensation

Approved as to Form and Content:



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Joseph M. Tabaracci  
Staff Attorney, Compliance Division  
Texas Department of Insurance

AFFIDAVIT

STATE OF Texas §  
  §  
COUNTY OF Harris §

Before me, the undersigned authority, personally appeared the affiant, who being by me duly sworn, deposed as follows:

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

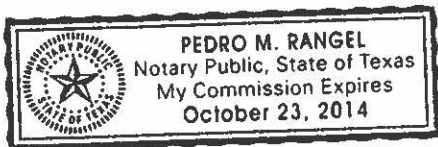
I waive rights provided by the Texas Labor Code and other applicable law and acknowledge the jurisdiction of the Texas commissioner of workers' compensation.

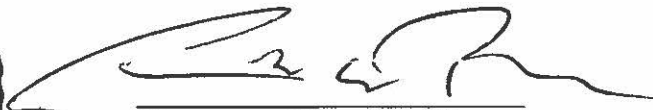
I voluntarily enter into this consent order and consent to the issuance and service of this consent order."

  
Affiant

SWORN TO AND SUBSCRIBED before me on 7 November, 2013.

(NOTARY SEAL)



  
Signature of Notary Public  
Pedro M. Rangel  
Printed Name of Notary Public