

No. 2021-6709

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

**Date:** 03-08-2021

**Subject Considered:**

Baylor Scott & White Health  
301 North Washington Avenue  
Dallas, Texas 75246-1754

Consent Order  
DWC Enforcement File Nos. 20789 and 24692

**General remarks and official action taken:**

This is a consent order with Baylor Scott & White Health (Baylor). The commissioner of the Texas Department of Insurance, Division of Workers' Compensation (DWC) considers whether DWC should take disciplinary action against Baylor.

**Waiver**

Baylor acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Baylor 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. Baylor is a health care provider operating in the Texas workers' compensation system.
2. Baylor was not selected to be tiered in the 2007, 2009, 2011, 2013, 2015, 2017, or 2019 Performance Based Oversight (PBO) assessments.

DWC Enforcement File No. 20789: Improperly Pursuing a Private Claim against an Injured Employee

3. On [REDACTED], Baylor provided medical services to an injured employee.
4. On [REDACTED], the workers' compensation insurance carrier for the injured employee sent a letter to Baylor to inform it of the injured employee's status as a workers' compensation claimant and direct it to cease billing the injured employee.
5. On [REDACTED], Baylor sent a bill to the injured employee for the health care services it provided on [REDACTED].
6. On [REDACTED], the workers' compensation insurance carrier for the injured employee sent a letter to Baylor to inform it of the injured employee's status as a workers' compensation claimant and direct it to cease billing the injured employee.
7. On [REDACTED], Baylor sent a bill to the injured employee for the health care services it provided on [REDACTED].
8. There is no finding determining that the injured employee violated TEX. LAB. CODE § 408.022 in selecting a treating doctor and no final adjudication that the claim was not compensable.

DWC Enforcement File No. 24692: Improperly Pursuing a Private Claim against an Injured Employee

9. On [REDACTED], Baylor provided medical services to an injured employee.
10. On [REDACTED], Baylor sent a bill to the injured employee for the health care services it provided on [REDACTED].
11. On [REDACTED], DWC sent a letter to Baylor to inform it of the injured employee's status as a workers' compensation claimant and direct it to cease billing the injured employee.

12. Between [REDACTED] and [REDACTED], Baylor referred the debt to a debt collections agency.
13. On [REDACTED], the debt collections agency sent a bill to the injured employee for the health care services Baylor provided on [REDACTED].
14. On [REDACTED], DWC sent a letter to Baylor to inform it of the injured employee's status as a workers' compensation claimant and direct it to cease billing the injured employee.
15. There is no finding determining that the injured employee violated TEX. LAB. CODE § 408.022 in selecting a treating doctor and no final adjudication that the claim was not compensable.

### **Assessment of Sanction**

1. Improperly billing an injured employee for health care services imposes an undue financial burden on the injured employee and circumvents the Texas workers' compensation system and the roles of its system participants.
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 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.
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; the history and extent of previous administrative violations; the penalty necessary to deter future violations; and other matters that justice may require, including evidence of heightened awareness of the legal duty to comply with the Texas Workers' Compensation Act and DWC rules.
  4. DWC found the following factors in TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e) to be mitigating: promptness and earnestness in responding to DWC, documentation and implementation of improved processes to prevent billing of workers' compensation claimants, and Baylor is no longer pursuing payment from the injured employee for the rendered medical services.
  5. Baylor acknowledges it communicated with DWC about the relevant statutes and rules it 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. Baylor 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, 402.00114, 402.00116, 402.00128, 414.002, 414.003, 415.002, and 415.021.
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 and 402.00128(b)(7), and 28 TEX. ADMIN. CODE § 180.26(h).
3. Baylor has knowingly and voluntarily waived all procedural rights to which it may have been entitled regarding the entry of this order, including, but not limited to, issuance and service of notice of intent to institute disciplinary action, notice of

hearing, a public hearing, a proposal for decision, a rehearing by the commissioner, and judicial review.

4. Pursuant to TEX. LAB. CODE § 415.021, the commissioner may assess an administrative penalty against a person who commits an administrative violation.
5. Pursuant to TEX. LAB. CODE § 415.003(6), a health care provider commits an administrative violation if it fails to comply with a provision of the Texas Workers' Compensation Act.
6. Pursuant to TEX. LAB. CODE § 413.042, a health care provider commits an administrative violation if it pursues a private claim against a workers' compensation claimant for all or part of the cost of a health care service it provides to the injured employee unless the injury is finally adjudicated as not compensable, or the injured employee violates TEX. LAB. CODE § 408.022 relating to the selection of a doctor.
7. Baylor violated TEX. LAB. CODE §§ 413.042 and 415.003(6) when it improperly billed an injured employee for workers' compensation health care services it provided.

Commissioner's Order  
Baylor Scott & White Health  
DWC Enforcement File Nos. 20789 and 24692  
Page 6 of 7

### Order

It is ordered that Baylor Scott & White Health must pay an administrative penalty of \$3,000 within 30 days from the date of this order. Baylor Scott & White Health must pay the administrative penalty by 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 9999, P.O. Box 149104, Austin, Texas 78714-9104.



---

Cassie Brown  
Commissioner of Workers' Compensation

Approved Form and Content:



---

Mackenzie Arthur  
Staff Attorney, Enforcement  
Compliance and Investigations  
Division of Workers' Compensation

Commissioner's Order  
Baylor Scott & White Health  
DWC Enforcement File Nos. 20789 and 24692  
Page 7 of 7

**Affidavit**

**STATE OF** \_\_\_\_\_ §

§

**COUNTY OF** \_\_\_\_\_ §

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

"My name is Beth Lienemann. I am of sound mind, capable of making this  
statement, and have personal knowledge of these facts which are true and correct.

I hold the office of Manager and am the authorized representative of  
Baylor Scott & White Health. I am duly authorized by the organization to execute this  
statement.

Baylor Scott & White Health has knowingly and voluntarily entered into this consent order  
and agrees with and consents to the issuance and service of this consent order."

Beth Lienemann I attest that this signature is valid and confirm that the order was signed on 2/2/2021  
Affiant

SWORN TO AND SUBSCRIBED before me on \_\_\_\_\_, 2021.

(NOTARY SEAL)

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Printed Name of Notary Public

\_\_\_\_\_  
Commission Expiration

Confidential Information Redacted  
Texas Labor Code §§402.083 and 402.092