

No. **2649**

OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF WORKERS' COMPENSATION

Date: **JUL 17 2013**

Subject Considered:

AARON BATES, M.D.
3432 Mainard Branch Court
Fleming Island, FL 32003

CONSENT ORDER
DISCIPLINARY ACTION
TDI ENFORCEMENT FILE NO. 496

General remarks and official action taken:

The Commissioner of Workers' Compensation considers whether disciplinary action should be taken against Aaron Bates, M.D. (Dr. Bates). The parties agree to enter this Consent Order to avoid further litigation of the matters reflected herein.

WAIVER

Dr. Bates acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Dr. Bates 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 in the absence of a hearing on these matters:

1. Dr. Bates is a health care provider that provides medical treatment and care to injured employees in the Texas workers' compensation system. He holds Texas Medical License No. L1265, which was issued on February 2, 2001.
2. Dr. Bates was not selected to be tiered in either the 2007, 2009, or 2011 Performance Based Oversight (PBO) assessment.

Medical Quality Review #10-SC-044

3. The Division, as authorized by TEX. LAB. CODE ANN. § 414.002, monitors system participants to determine compliance with the Texas Workers' Compensation Act (Act) and rules promulgated by the Commissioner of Workers' Compensation (Rules).

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 a designated doctor examination (DD exam) performed by Dr. Bates on March 27, 2009. Dr. Bates was asked by the division to resolve questions related to maximum medical improvement (MMI) and impairment rating (IR) of the injured employee.
5. After completing the review of Dr. Bates' DD exam, the Office of the Medical Advisor determined that Dr. Bates failed to appropriately evaluate the injured employee assigned to him as follows:
 - a. Dr. Bates examined the injured employee on March 27, 2009, to determine MMI and IR;
 - b. Dr. Bates provided only a brief history of the injury and did not include any details as to the original complaints and physical findings;
 - c. Dr. Bates assigned a 25% IR without providing an explanation of how he arrived at this figure; and,
 - d. Dr. Bates, in his first letter of clarification, modified his initial IR from 25% to 5% without explaining the reasons for his modification.
6. This 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. Bates has challenged the finding of the Office of the Medical Advisor, and denies any wrongdoing with regard to the DD exam at issue.
7. Since the time of the DD exam at issue, Dr. Bates has relocated to another state and has no plans to return to Texas.

CONCLUSIONS OF LAW

The Commissioner of Workers' Compensation makes the following conclusions of law in the absence of a hearing on these matters:

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, 413.0511, 413.0512, 414.002, 415.003, 415.021, and 415.0215; 28 TEX. ADMIN. CODE §§ 130.1, 180.21, and 180.26¹; and TEX. GOV'T CODE ANN. §§ 2001.051 – 2001.178.

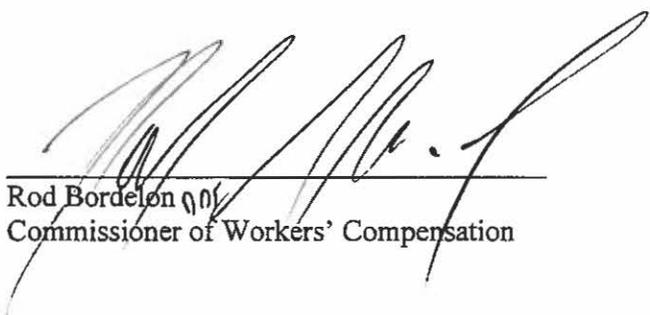
¹ Unless otherwise noted, throughout this Consent Order this citation refers to the version of 28 TEX. ADMIN. CODE § 180.26 that became effective January 9, 2011.

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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.
3. Pursuant to TEX. LAB. CODE ANN. § 415.0215 and 28 TEX. ADMIN. CODE §§ 180.21 and 180.26², the Commissioner of Workers' Compensation may impose a range of sanctions against any person regulated by the Division, including designated doctors.
4. The Commissioner accepts the findings of the Office of the Medical Advisor and concludes, without hearing further evidence, that Dr. Bates violated TEX. ADMIN. CODE § 130.1(c)(3)(D)(ii) by failing to provide a description of how his objective clinical or laboratory findings of permanent impairment for the current compensable injury relate to and compare with the criteria described in the applicable chapter of the AMA Guides.

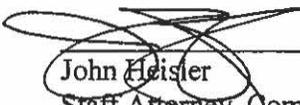
ORDER

The parties stipulate and it is ORDERED that Aaron Bates, M.D. will permanently cease participating or practicing within the Texas workers' compensation system, if he has not already done so, from the date of this Consent Order, and will not seek or receive remuneration from the Texas workers' compensation system, or seek to resume participation in the Texas workers' compensation system.



Rod Bordelon (R)
Commissioner of Workers' Compensation

FOR THE STAFF:



John Heister
Staff Attorney, Compliance Division
Texas Department of Insurance

² This citation refers to the version of 28 TEX. ADMIN. CODE § 180.26 that was in effect at the time the violations at issue took place. For reference, that version of 28 TEX. ADMIN. CODE § 180.26 was repealed, effective January 9, 2011.

