

No. **2019 6069**

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

Date: **SEP 03 2019**

**Subject Considered:**

**WILSON A. COCHRANE, P.A.**  
11501 FM 1714  
Canyon, Texas 79015-6401

**CONSENT ORDER**  
TDI-DWC ENFORCEMENT FILE NO. 17419

**General remarks and official action taken:**

The commissioner of workers' compensation (commissioner) considers whether disciplinary action should be taken against Wilson A. Cochrane, P.A. (Mr. Cochrane).

**WAIVER**

Mr. Cochrane acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Mr. Cochrane 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 makes the following findings of fact:

1. Mr. Cochrane was granted a license by the Texas Medical Board on May 21, 2004. Mr. Cochrane holds Texas Physician Assistant License number PA04045.
2. Mr. Cochrane was not classified in the 2007, 2009, 2011, 2013, 2015, or 2017 Performance Based Oversight (PBO) assessments.

**MEDICAL QUALITY REVIEW NO. 18-38-HCP**

3. The Texas Department of Insurance, Division of Workers' Compensation (DWC), as authorized by TEX. LAB. CODE §§ 414.002 and 408.1225(b), monitors system participants to determine compliance with the Texas Workers' Compensation Act and rules promulgated by the commissioner.
4. Pursuant to the requirements of TEX. LAB. CODE §§ 413.0511 and 413.0512, DWC's Medical Advisor and Medical Quality Review Panel conducted an audit-based medical quality review (MQR No. 18-38-HCP) of 12 cases in which Mr. Cochrane ordered magnetic resonance imaging (MRI) of the lumbar spine. Three cases did not meet the selection criteria and were dropped from the audit. The purpose of the audit was to evaluate

the application of the *Official Disability Guidelines—Treatment in Workers' Comp* (ODG guidelines) by Mr. Cochran to determine the medical necessity and appropriateness of ordering an MRI before at least one month of conservative therapy.

#### **MAKING AN UNNECESSARY REFERRAL**

5. Mr. Cochran ordered an MRI of the lumbar spine that was not reasonable or necessary in 100% of cases evaluated (9 out of 9).
6. Additionally, Mr. Cochran failed to document the rationale or justification for ordering an MRI of the lumbar spine before at least one month of conservative therapy in 100% of cases evaluated (9 out of 9).

#### **FAILURE TO APPLY DWC TREATMENT GUIDELINES**

7. Mr. Cochran failed to apply the ODG guidelines when he ordered an MRI of the lumbar spine in 100% of cases evaluated (9 out of 9).
8. Specifically, Mr. Cochran ordered an MRI of the lumbar spine without first providing at least one month of conservative therapy to the injured employees, as recommended in the ODG guidelines; and Mr. Cochran did not provide a basis for a reasonable deviation or exception to the ODG guidelines when ordering an MRI of the lumbar spine in 100% of cases evaluated (9 out of 9).

#### **MR. COCHRAN'S TREATMENTS AND EVALUATIONS WERE SUBSTANTIALLY DIFFERENT FROM WHAT THE COMMISSIONER FINDS TO BE FAIR AND REASONABLE**

9. Mr. Cochran's treatment and evaluations were substantially different from what the commissioner finds to be fair and reasonable in 100% of cases examined (9 out of 9).
10. Specifically, Mr. Cochran failed to document the rationale or justification for ordering an MRI of the lumbar spine before at least one month of conservative therapy in 100% of cases examined (9 out of 9).

#### **ASSESSMENT OF SANCTION**

11. Ordering or performing testing of an injured employee without applying the ODG guidelines imposes possibly unnecessary testing and extraneous medical costs on the Texas workers' compensation system.
12. In assessing the sanction for this case, DWC appropriately and fully considered the following factors set forth 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 demonstrated good faith of the violator, including actions taken to rectify the consequences of the prohibited act;
  - the penalty necessary to deter future violations;
  - whether the administrative violation has negative impact on the delivery of benefits to an injured employee;
  - the history of compliance with electronic data interchange requirements;
  - other matters that justice may require, including but not limited to:
    - PBO assessments;
    - the promptness and earnestness of 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; and
  - to the extent reasonable, the economic benefit resulting from the prohibited act.
13. In assessing the sanction for this case, no mitigating factors were found but DWC found the following factors set forth 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; whether the administrative violation has negative impact on the delivery of benefits to an injured employee; and other matters that justice may require, including the penalty necessary to deter future violations.
14. Mr. Cochrane acknowledges that DWC and Mr. Cochrane have communicated regarding the relevant statutes and rules violated; the facts establishing that the administrative violation occurred; and the appropriateness of the proposed sanction, including how DWC considered the factors under TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e).
15. Mr. Cochrane acknowledges that, in assessing the sanction, DWC considered the factors set forth in TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e).

### CONCLUSIONS OF LAW

The commissioner makes the following conclusions of law:

1. The commissioner has jurisdiction over this matter pursuant to TEX. LAB. CODE §§ 402.001, 402.00111, 402.00114, 402.00116, 402.00128, 413.002, 413.0511, 413.0512, and 414.002.

2. The commissioner has authority to informally dispose of this matter as set forth under TEX. GOV'T CODE § 2001.056; TEX. LAB. CODE §§ 401.021, 402.00128(b)(7), and 415.034; and 28 TEX. ADMIN. CODE § 180.26(h).
3. Pursuant to TEX. LAB. CODE § 415.021, in addition to any sanction, administrative penalty, or other remedy authorized by this subtitle, the commissioner may assess an administrative penalty against a person who commits an administrative violation.
4. Pursuant to TEX. LAB. CODE § 408.0231(f)(7), the commissioner may impose sanctions against a doctor who commits an administrative violation, including mandatory participation in training classes.
5. 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 substantially different from those the commissioner finds to be fair and reasonable.
6. Pursuant to TEX. LAB. CODE § 415.003(3), a health care provider commits an administrative violation if the person makes an unnecessary referral.
7. Mr. Cochrane violated TEX. LAB. CODE §§ 408.0231(c)(3) and 415.003(3) each time he ordered an MRI of the lumbar spine that was not reasonable or necessary.
8. Pursuant to TEX. LAB. CODE § 415.003(4), a health care provider commits an administrative violation if the person violates DWC's fee and treatment guidelines.
9. Pursuant to TEX. LAB. CODE § 415.003(5), a health care provider commits an administrative violation if the person violates a commissioner rule.
10. Pursuant to 28 TEX. ADMIN. CODE § 137.100(a), health care providers shall provide treatment in accordance with the current edition of the ODG guidelines.
11. Mr. Cochrane violated TEX. LAB. CODE §§ 415.003(4) and (5) when he failed to apply the ODG guidelines and when he failed to provide a basis for a reasonable deviation or exception to the ODG guidelines when ordering an MRI of the lumbar spine before at least one month of conservative therapy.
12. Pursuant to TEX. LAB. CODE § 415.003(6), a health care provider commits an administrative violation if the person fails to comply with a provision of the Texas Workers' Compensation Act.
13. Pursuant to TEX. LAB. CODE §§ 408.023(l) and 408.025(c) and 28 TEX. ADMIN. CODE § 180.22(c)(2), the treating doctor is responsible for the efficient utilization and management of health care.

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**ORDER**

Wilson A. Cochrane, P.A. is ORDERED:

1. To pay an administrative penalty of \$3,000 within 30 days from the date of this Order;
2. It is ORDERED that, Wilson Cochrane, P.A., is removed from the Texas workers' compensation system and shall no longer participate, in or out of state, in the Texas workers' compensation system.

The administrative penalty must be paid by company check, cashier's check, or money order made payable to the "State of Texas." Mr. Cochrane must mail the administrative penalty to the Texas Department of Insurance, Attn: DWC Enforcement, MC 9999, P.O. Box 149104, Austin, Texas, 78714-9104.

*Cassie Brown*

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Cassie Brown *NCM*  
Commissioner of Workers' Compensation

Approved as to Form and Content:

*A Norman*

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Amy Norman  
Staff Attorney, DWC Enforcement  
Compliance & Investigations  
Division of Workers' Compensation  
Texas Department of Insurance

**AFFIDAVIT**

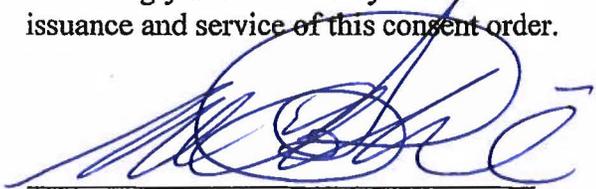
STATE OF Texas           §  
  §  
COUNTY OF Randall   §

Before me, the undersigned authority, personally appeared the affiant, Wilson A. Cochrane, P.A., who being by me duly sworn, deposed as follows:

“My name is Wilson A. Cochrane, P.A. 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 knowingly and voluntarily enter into this consent order and agree with and consent to the issuance and service of this consent order.



Affiant

SWORN TO AND SUBSCRIBED before me on June 12<sup>th</sup>, 2019.

(NOTARY SEAL)

  
Signature of Notary Public

Chelsey Pierce  
Printed Name of Notary Public

01/15/2021  
Commission Expiration Date

