

No. **DWC-09-0065**

OFFICIAL ORDER
of the
COMMISSIONER OF WORKERS' COMPENSATION
of the
STATE OF TEXAS
AUSTIN, TEXAS

Date: ~~DEC 18 2009~~

Subject Considered:

DR. BABALOLA O. OLUWOLE
982 N. Garden Ridge Blvd., Suite 220
Lewisville, TX 75077-2875

CONSENT ORDER
DISCIPLINARY ACTION
TDI ENFORCEMENT FILE NO. 55303

General remarks and official action taken:

On this date came on for consideration by the Commissioner of Workers' Compensation, the matter of whether disciplinary action should be taken against Dr. Babalola Oluwole, M.D. ("Dr. Oluwole"). The Texas Department of Insurance, Division of Workers' Compensation Staff ("Division Staff") alleges that Dr. Oluwole violated the Texas Labor Code and that such conduct constitutes grounds for the imposition of sanctions pursuant to TEX. LAB. CODE ANN., ch. 415.

Division Staff and Dr. Oluwole announce that they have compromised and settled all claims and agree to the entry of this Consent Order. The parties request that the Commissioner of Workers' Compensation informally dispose of this case pursuant to TEX. GOV'T CODE ANN. § 2001.056, TEX. LAB. CODE ANN. §§ 401.021 and 402.00128(b)(7), and 28 TEX. ADMIN. CODE § 180.8(h).

JURISDICTION

The Commissioner of Workers' Compensation has jurisdiction over this matter pursuant to TEX. LAB. CODE ANN. §§ 402.001, 402.00111, 402.00114, 402.00116, 402.00128, 402.072, 408.0041, 408.123, 414.002, 414.003, 415.003, 415.021, and 415.023; and 28 TEX. ADMIN. CODE §§ 126.7, 130.1, 130.3, 130.6, 180.1, 180.2, 180.3, 180.7, 180.8, 180.10, 180.11; 180.12, 180.21, 180.22, 180.23, and 180.26; and TEX. GOV'T CODE ANN. §§ 2001.051-2001.178.

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WAIVER

Dr. Oluwole acknowledges the existence of certain rights provided by the Texas Labor Code and other applicable law, including the right to receive a written notice of possible administrative violations as provided for by TEX. LAB. CODE ANN. § 415.032, the right to request a hearing as provided for by TEX. LAB. CODE ANN. § 415.034, and the right to judicial review of the decision as provided for by TEX. LAB. CODE ANN. § 415.035. Dr. Oluwole waives these rights, as well as any other procedural rights that might otherwise apply, in consideration of the entry of this Consent Order.

FINDINGS OF FACT

The Commissioner of Workers' Compensation makes the following findings of fact:

System Participant – Certifying Doctor

1. In accordance with 28 TEX. ADMIN. CODE § 130.1(a)(1), only an authorized doctor may certify Maximum Medical Improvement (“MMI”), determine whether there is permanent impairment, and assign an impairment rating.
2. In accordance with 28 TEX. ADMIN. CODE § 130.1(a)(1)(A)(i)-(iii), doctors serving in the following roles may be authorized: the treating doctors (or a doctor to whom the treating doctor has referred the employee for evaluation of maximum medical improvement and/or permanent whole body impairment in the place of the treating doctor), a designated doctor, and a required medical examination doctor selected by the carrier and approved by the commission after a designated doctor has performed a maximum medical improvement and/or permanent whole body impairment exam.
3. In accordance with 28 TEX. ADMIN. CODE § 130.1(a)(1)(B)(i)-(ii), a doctor serving in one of the roles described in subsection 28 TEX. ADMIN. CODE § 130.1(a)(1)(A), is authorized as follows: a doctor whom the commission has certified to assign impairment ratings or otherwise given specific permission by exception to, is authorized to determine whether an injured employee has permanent impairment, assign an impairment rating, and certify MMI; and a doctor whom the commission has not certified to assign impairment ratings or otherwise given specific permission by exception to is only authorized to determine whether an injured employee has permanent impairment and, in the event that the injured employee has no impairment, certify MMI.
4. In accordance with 28 TEX. ADMIN. CODE § 130.1(a)(3), a doctor who is authorized under this subsection to certify MMI, determine whether permanent impairment exists, and assign an impairment rating and who does, shall be referred to as the “certifying doctor.”

5. Dr. Oluwole is a certified doctor.
6. Dr. Oluwole was last certified to assign impairment ratings on April 9, 2009.

Certification of Maximum Medical Improvement and Evaluation of Impairment Ratings

7. In accordance with TEX. LAB. CODE ANN. § 408.123(a), after an employee has been certified by a doctor as having reached maximum medical improvement, the certifying doctor shall evaluate the condition of the employee and assign an impairment rating.
8. In accordance with TEX. LAB. CODE ANN. § 408.123(b), a certifying doctor shall issue a written report certifying that maximum medical improvement has been reached, stating the employee's impairment rating, and providing any other information required by the commissioner to the Division, the employee, and the insurance carrier.
9. In accordance with 28 TEX. ADMIN. CODE § 130.1(d)(1), certification of maximum medical improvement and assignment of an impairment rating requires submission of a Report of Medical Evaluation, also known as the DWC Form-69.
10. In accordance with 28 TEX. ADMIN. CODE § 130.1(d)(2), the DWC Form-69 must be filed with the Division, employee, employee's representative, and the insurance carrier no later than the seventh working day after the later of the date of the certifying examination or the receipt of all of the medical information required by 28 TEX. ADMIN. CODE § 130.1.
11. In accordance with 28 TEX. ADMIN. CODE § 130.1(e)(1)-(3), the certifying doctor shall maintain the original copy of the Report of Medical Evaluation and narrative as well as documentation of the date of the examination; the date any medical records necessary to make the certification of maximum medical improvement were received, and from whom the medical records were received; and the date, addressees, and means of delivery that reports required under 28 TEX. ADMIN. CODE § 130.1 were transmitted or mailed by the certifying doctor.

System Participant – Designated Doctor

12. A "designated doctor", as defined by TEX. LAB. CODE ANN. § 401.011(15), means a doctor appointed by mutual agreement of the parties or by the Division of Workers' Compensation ("Division") to recommend a resolution of a dispute as to the medical condition of an injured employee.
13. In accordance with 28 TEX. ADMIN. CODE § 180.21(b), in order to serve as a designated doctor, a doctor must be on the Designated Doctor List.

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14. In accordance with 28 TEX. ADMIN. CODE § 180.21(d)(1)-(4), to be on the DDL on or after January 1, 2007, the doctor shall at a minimum: meet the registration requirements, or the exceptions thereto, of 28 TEX. ADMIN. CODE § 180.21(c)(1) or, upon expiration or waiver of the ADL in accordance with TEX. LAB. CODE ANN. § 408.023(k), comply with all successor requirements, including but not limited to financial disclosure under TEX. LAB. CODE ANN. §413.041; have filed an application to be on the DDL, which must be renewed biennially; have successfully completed Division-approved training and examination on the assignment of impairment ratings using the currently adopted edition of the American Medical Association Guides, medical causation, extent of injury, functional restoration, return to work, and other disability management topics; and have had an active practice for at least three years during the doctor's career.
15. Dr. Oluwole is a designated doctor.
16. Dr. Oluwole was last approved to be on the Division's Designated Doctor List on April 9, 2009.

Designated Doctor's Role and Responsibilities

17. In accordance with TEX. LAB. CODE ANN. § 408.0041(a), a designated doctor may be called upon to perform medical examinations, as requested by an insurance carrier, employee, or the Division, to resolve any question about the impairment caused by the compensable injury, the attainment of MMI, the extent of the employee's compensable injury, whether the injured employee's disability is a direct result of the work-related injury, the ability of the employee to return to work, and other similar issues.
18. In accordance with 28 TEX. ADMIN. CODE § 126.7(n), a designated doctor must file a report, as required by 28 TEX. ADMIN. CODE §§ 130.1 and 130.3, when the designated doctor determines that an employee has reached MMI, when the designated doctor assigns an impairment rating, or when the designated doctor determines that the employee has not reached MMI. The report must be sent to the insurance carrier, the employee, the employee's representative, if any, the treating doctor, and the Division.
19. In accordance with 28 TEX. ADMIN. CODE § 126.7(u), the Division may contact the designated doctor if it determines that clarification is necessary to resolve an issue regarding the designated doctor's report. The designated doctor shall respond to the letter of clarification request within five days of receipt.

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Complaints Filed Against Dr. Oluwole

Failure to File the DWC Form-69 in a Timely Manner

20. Dr. Oluwole filed the DWC Form-69 with the Division on May 5, 2008, or 7 days past the required deadline.
 - a. Dr. Oluwole performed a designated doctor examination of the injured employee (J.P.) on April 17, 2008.
 - b. Dr. Oluwole had all necessary records prior to the date of the examination.
 - c. The examination was deemed complete on April 17, 2008.
 - d. Dr. Oluwole was required to file by facsimile or electronic transmittal a Report of Medical Evaluation (DWC Form-69) with the Division, the employee, and the carrier no later than seven working days after the examination.
 - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by April 28, 2008.
21. Dr. Oluwole filed the DWC Form-69 with the Division on June 6, 2008 or 43 days past the required deadline.
 - a. Dr. Oluwole performed a designated doctor examination of the injured employee (V.S.) on April 15, 2008.
 - b. Dr. Oluwole had all necessary records prior to the date of the examination.
 - c. The examination was deemed complete on April 15, 2008.
 - d. Dr. Oluwole was required to file by facsimile or electronic transmittal a Report of Medical Evaluation (DWC Form-69) with the Division, the employee, and the carrier no later than seven working days after the examination.
 - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by April 24, 2008.
22. Dr. Oluwole filed the DWC Form-69 with the Division on August 6, 2008 or 27 days past the required deadline.

- a. Dr. Oluwole performed a designated doctor examination of the injured employee (J.V.) on July 1, 2008.
 - b. Dr. Oluwole had all necessary records prior to the date of the examination.
 - c. The examination was deemed complete on July 1, 2008.
 - d. Dr. Oluwole was required to file by facsimile or electronic transmittal a Report of Medical Evaluation (DWC Form-69) with the Division, the employee, and the carrier no later than seven working days after the examination.
 - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by July 10, 2008.
23. Dr. Oluwole filed the DWC Form-69 with the Division on September 29, 2008 or 94 days past the required deadline.
- a. Dr. Oluwole performed a designated doctor examination of the injured employee (M.C.) on June 18, 2008.
 - b. Dr. Oluwole had all necessary records prior to the date of the examination.
 - c. The examination was deemed complete on June 18, 2008.
 - d. Dr. Oluwole was required to file by facsimile or electronic transmittal a Report of Medical Evaluation (DWC Form-69) with the Division, the employee, and the carrier no later than seven working days after the examination.
 - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by June 27, 2008.
24. Dr. Oluwole filed the DWC Form-69 with the Division on July 30, 2008 or 33 days past the required deadline.
- a. Dr. Oluwole performed a designated doctor examination of the injured employee (C.K.) on June 18, 2008.
 - b. Dr. Oluwole had all necessary records prior to the date of the examination.
 - c. The examination was deemed complete on June 18, 2008.

- d. Dr. Oluwole was required to file by facsimile or electronic transmittal a Report of Medical Evaluation (DWC Form-69) with the Division, the employee, and the carrier no later than seven working days after the examination.
 - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by June 27, 2008.
25. Dr. Oluwole filed the DWC Form-69 with the Division on August 6, 2008 or 26 days past the required deadline.
- a. Dr. Oluwole performed a designated doctor examination of the injured employee (L.G.) on July 1, 2008.
 - b. Dr. Oluwole had all necessary records prior to the date of the examination.
 - c. The examination was deemed complete on July 1, 2008.
 - d. Dr. Oluwole was required to file by facsimile or electronic transmittal a Report of Medical Evaluation (DWC Form-69) with the Division, the employee, and the carrier no later than seven working days after the examination.
 - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by July 11, 2008.
26. Dr. Oluwole filed the DWC Form-69 with the Division on August 4, 2008 or 41 days past the required deadline.
- a. Dr. Oluwole performed a designated doctor examination of the injured employee (R.R.) on June 13, 2008.
 - b. Dr. Oluwole had all necessary records prior to the date of the examination.
 - c. The examination was deemed complete on June 13, 2008.
 - d. Dr. Oluwole was required to file by facsimile or electronic transmittal a Report of Medical Evaluation (DWC Form-69) with the Division, the employee, and the carrier no later than seven working days after the examination.
 - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by June 24, 2008.

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27. Dr. Oluwole filed the DWC Form-69 with the Division on August 20, 2008 or 51 days past the required deadline.
 - a. Dr. Oluwole performed a designated doctor examination of the injured employee (M.G.) on June 19, 2008.
 - b. Dr. Oluwole had all necessary records prior to the date of the examination.
 - c. The examination was deemed complete on June 19, 2008.
 - d. Dr. Oluwole was required to file by facsimile or electronic transmittal a Report of Medical Evaluation (DWC Form-69) with the Division, the employee, and the carrier no later than seven working days after the examination.
 - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by June 30, 2008.

28. Dr. Oluwole filed the DWC Form-69 with the Division on September 24, 2008 or 79 days past the required deadline.
 - a. Dr. Oluwole performed a designated doctor examination of the injured employee (M.A.) on June 25, 2008.
 - b. Dr. Oluwole had all necessary records prior to the date of the examination.
 - c. The examination was deemed complete on June 25, 2008.
 - d. Dr. Oluwole was required to file by facsimile or electronic transmittal a Report of Medical Evaluation (DWC Form-69) with the Division, the employee, and the carrier no later than seven working days after the examination.
 - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by July 7, 2008.

29. Dr. Oluwole filed the DWC Form-69 with the Division on September 24, 2008 or 75 days past the required deadline.
 - a. Dr. Oluwole performed a designated doctor examination of the injured employee (J.G.) on July 1, 2008.
 - b. Dr. Oluwole had all necessary records prior to the date of the examination.
 - c. The examination was deemed complete on July 1, 2008.

- d. Dr. Oluwole was required to file by facsimile or electronic transmittal a Report of Medical Evaluation (DWC Form-69) with the Division, the employee, and the carrier no later than seven working days after the examination.
 - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by July 11, 2008.
30. Dr. Oluwole filed the DWC Form-69 with the Division on September 24, 2008 or 35 days past the required deadline.
- a. Dr. Oluwole performed a designated doctor examination of the injured employee (J.L.) on August 11, 2008.
 - b. Dr. Oluwole had all necessary records prior to the date of the examination.
 - c. The examination was deemed complete on August 11, 2008.
 - d. Dr. Oluwole was required to file by facsimile or electronic transmittal a Report of Medical Evaluation (DWC Form-69) with the Division, the employee, and the carrier no later than seven working days after the examination.
 - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by August 20, 2008.
31. Dr. Oluwole filed the DWC Form-69 with the Division on August 6, 2008 or 30 days past the required deadline.
- a. Dr. Oluwole performed a designated doctor examination of the injured employee (D.S.) on June 25, 2008.
 - b. Dr. Oluwole had all necessary records prior to the date of the examination.
 - c. The examination was deemed complete on June 25, 2008.
 - d. Dr. Oluwole was required to file by facsimile or electronic transmittal a Report of Medical Evaluation (DWC Form-69) with the Division, the employee, and the carrier no later than seven working days after the examination.
 - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by July 7, 2008.

32. Dr. Oluwole filed the DWC Form-69 with the Division on October 1, 2008 or 28 days past the required deadline.
 - a. Dr. Oluwole performed a designated doctor examination of the injured employee (V.O.) on August 22, 2008.
 - b. Dr. Oluwole had all necessary records prior to the date of the examination.
 - c. The examination was deemed complete on August 22, 2008.
 - d. Dr. Oluwole was required to file by facsimile or electronic transmittal a Report of Medical Evaluation (DWC Form-69) with the Division, the employee, and the carrier no later than seven working days after the examination.
 - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by September 3, 2008.

33. Dr. Oluwole filed the DWC Form-69 with the Division on October 1, 2008 or 28 days past the required deadline.
 - a. Dr. Oluwole performed a designated doctor examination of the injured employee (T.H.) on August 22, 2008.
 - b. Dr. Oluwole had all necessary records prior to the date of the examination.
 - c. The examination was deemed complete on August 22, 2008.
 - d. Dr. Oluwole was required to file by facsimile or electronic transmittal a Report of Medical Evaluation (DWC Form-69) with the Division, the employee, and the carrier no later than seven working days after the examination.
 - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by September 3, 2008.

34. Dr. Oluwole filed the DWC Form-69 with the Division on May 28, 2008 or 23 days past the required deadline.
 - a. Dr. Oluwole performed a designated doctor examination of the injured employee (C.G.) on April 24, 2008.
 - b. Dr. Oluwole had all necessary records prior to the date of the examination.
 - c. The examination was deemed complete on April 24, 2008.

- d. Dr. Oluwole was required to file by facsimile or electronic transmittal a Report of Medical Evaluation (DWC Form-69) with the Division, the employee, and the carrier no later than seven working days after the examination.
 - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by May 5, 2008.
35. Dr. Oluwole filed the DWC Form-69 with the Division on October 6, 2008 or 245 days past the required deadline.
- a. Dr. Oluwole performed a designated doctor examination of the injured employee (R.V.) on January 24, 2008.
 - b. Dr. Oluwole had all necessary records prior to the date of the examination.
 - c. The examination was deemed complete on January 24, 2008.
 - d. Dr. Oluwole was required to file by facsimile or electronic transmittal a Report of Medical Evaluation (DWC Form-69) with the Division, the employee, and the carrier no later than seven working days after the examination.
 - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by February 4, 2008.
36. Dr. Oluwole filed the DWC Form-69 with the Division on July 28, 2008 or 21 days past the required deadline.
- a. Dr. Oluwole performed a designated doctor examination of the injured employee (A.L.) on June 25, 2008.
 - b. Dr. Oluwole had all necessary records prior to the date of the examination.
 - c. The examination was deemed complete on June 25, 2008.
 - d. Dr. Oluwole was required to file by facsimile or electronic transmittal a Report of Medical Evaluation (DWC Form-69) with the Division, the employee, and the carrier no later than seven working days after the examination.
 - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by July 7, 2008.

37. Dr. Oluwole filed the DWC Form-69 with the Division on October 2, 2008 or 29 days past the required deadline.
- a. Dr. Oluwole performed a designated doctor examination of the injured employee (H.B.) on August 22, 2008.
 - b. Dr. Oluwole had all necessary records prior to the date of the examination.
 - c. The examination was deemed complete on August 22, 2008.
 - d. Dr. Oluwole was required to file by facsimile or electronic transmittal a Report of Medical Evaluation (DWC Form-69) with the Division, the employee, and the carrier no later than seven working days after the examination.
 - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by September 3, 2008.

Failure to File Letters of Clarification ("LOC") in a Timely Manner

38. Dr. Oluwole filed the LOC with the Division on June 4, 2008, or 2 days past the required deadline.
- a. An LOC request for injured employee, H.G., was sent to Dr. Oluwole on May 20, 2008.
 - b. The LOC request is deemed received by May 27, 2008.
 - c. Dr. Oluwole was required to file the LOC by June 2, 2008, five days after receipt.
39. Dr. Oluwole filed the LOC with the Division on July 18, 2008, or 45 days past the required deadline.
- a. An LOC request for injured employee, K.T., was sent to Dr. Oluwole on May 22, 2008.
 - b. The LOC request is deemed received by May 27, 2008.
 - c. Dr. Oluwole was required to file the LOC by June 2, 2008, five days after receipt.
40. Dr. Oluwole filed the LOC with the Division on November 15, 2008, or 46 days past the required deadline.

- a. An LOC request for injured employee, R.R., was sent via facsimile to Dr. Oluwole on September 25, 2008.
 - b. The LOC request is deemed received by September 25, 2008.
 - c. Dr. Oluwole was required to file the LOC by September 30, 2008, five days after receipt.
41. Dr. Oluwole failed to file the LOC with the Division.
- a. An LOC request for injured employee, M.S., was sent to Dr. Oluwole on October 9, 2008.
 - b. The LOC request is deemed received by October 14, 2008.
 - c. Dr. Oluwole was required to file the LOC by October 20, 2008, five days after receipt.
42. Dr. Oluwole filed the LOC with the Division on April 13, 2009, or 7 days past the required deadline.
- a. An LOC request for injured employee, L.P., was sent via facsimile to Dr. Oluwole on March 31, 2009.
 - b. The LOC request is deemed received by March 31, 2009.
 - c. Dr. Oluwole was required to file the LOC by April 6, 2009, five days after receipt.
43. Dr. Oluwole filed the LOC with the Division on May 5, 2009, or 14 days past the required deadline.
- a. An LOC request for injured employee, S.M. was sent via facsimile to Dr. Oluwole on April 16, 2009.
 - b. The LOC request is deemed received by April 16, 2009.
 - c. Dr. Oluwole was required to file the LOC by April 21, 2009, five days after receipt.

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Aggravating Factors

Harm to Injured Workers

44. Pursuant to TEX. LAB. CODE ANN. § 408.121 (a)-(b), an employee's entitlement to impairment income benefits begins on the day after the date the employee reaches MMI and the insurance carrier must begin paying impairment income benefits not later than the fifth day after receiving the doctor's report certifying MMI.
45. Pursuant to TEX. LAB. CODE ANN. § 408.122, a claimant may not recover impairment income benefits unless there is evidence of impairment based on objective clinical or laboratory findings. If the finding of impairment is made by a doctor chosen by the claimant and the finding is contested, a designated doctor or a doctor selected by the insurance carrier must be able to confirm the objective clinical or laboratory finding on which the finding of impairment is based.
46. The payments of impairment income benefits to injured employees may have been delayed as a result of Dr. Oluwole's inability to submit the DWC Form-69's and letters of clarification in a timely manner.
47. Dr. Oluwole's failure to timely file the DWC Form-69's and letters of clarification delayed the dispute resolution process.

Mitigating Factors

48. In lieu of an administrative penalty, Dr. Oluwole agrees that his name may be deleted from the Designated Doctor List and he will cease and desist from practicing before the Division as a designated doctor.
49. In lieu of an administrative penalty, Dr. Oluwole agrees that he will cease and desist from practicing before the Division as a certifying doctor, whereby he is banned from certifying MMI and assigning impairment ratings.
50. In lieu of an administrative penalty, Dr. Oluwole agrees that he will cease and desist from practicing before the Division as a system participant.

Other Considerations

51. 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 to the Division and to Dr. Oluwole of resolving this dispute through administrative or judicial proceedings.

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CONCLUSIONS OF LAW

Based upon the foregoing findings of fact, 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. §§ 402.001, 402.00111, 402.00114, 402.00116, 402.00128, 402.072, 408.0041, 408.123, 414.002, 414.003, 415.003, 415.021, and 415.023; and 28 TEX. ADMIN. CODE §§ 126.7, 130.1, 130.3, 130.6, 180.1, 180.2, 180.3, 180.7, 180.8, 180.10, 180.11; 180.12, 180.21, 180.22, 180.23, and 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 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 § 180.8(h).
3. Dr. Oluwole has knowingly and voluntarily waived all procedural rights to which he may have been entitled regarding the entry of this Order, including, but not limited to, written notice of possible administrative violations, a hearing, and judicial review.
4. In accordance with TEX. LAB. CODE ANN. § 415.021, in addition to any sanction, administrative penalty, or other remedy authorized by this subtitle, the Commissioner of Workers' Compensation may assess an administrative penalty against a person who commits an administrative violation.
5. In accordance with TEX. LAB. CODE ANN. § 415.023(a), a person who commits an administrative violation under Section 415.001, 415.002, 415.003, or 415.0035 as a matter of practice is subject to an applicable rule adopted under TEX. LAB. CODE ANN. § 415.023(b) in addition to the penalty assessed for the violation.
6. In accordance with 28 TEX. ADMIN. CODE § 180.21(m), in addition to the grounds for deletion or suspension from the ADL or for issuing other sanctions against a doctor under 28 TEX. ADMIN. CODE § 180.26, the Commissioner shall delete or suspend a doctor from the DDL, or otherwise sanction a designated doctor for noncompliance with the requirements of this section or if any of the following conduct occurs:
 - a. failure to timely respond as a pattern of practice to a request for clarification from the Division regarding an examination.
 - b. any of the factors listed in 28 TEX. ADMIN. CODE § 180.21(i) that would allow for denial of admission to the DDL;

- c. other violation of applicable statutes or rules while serving as a designated doctor.
7. In accordance with 28 TEX. ADMIN. CODE § 180.26(d)(1)-(2), the Medical Advisor may recommend a sanction against a doctor or a carrier or the deletion or suspension of a doctor from the ADL if either of the following occurs:
 - a. violation of the Statute, Rules, or a commission decision or order or agreement.
 - b. violation of other Statutes or regulations not administered by the commission but relevant to the provision of and payments for health care.
8. In accordance with TEX. LAB. CODE ANN. § 415.003(5), a health care provider, like a designated doctor, commits an administrative violation each time he or she violates a commissioner's rule.
 - a. Dr. Oluwole violated 28 TEX. ADMIN. CODE § 126.7(u), each time he failed to file the letter of clarification in a timely manner.
 - b. Dr. Oluwole violated 28 TEX. ADMIN. CODE § 130.1(d)(2), each time he failed to file the DWC Form-69 in a timely manner.
9. Dr. Oluwole failed to timely file the letter of clarification in six (6) instances.
10. Dr. Oluwole failed to timely file the DWC Form-69 with the insurance carrier in eighteen (18) instances.

Based on the Findings of Fact and Conclusions of Law above, the Commissioner of Workers' Compensation has determined that the appropriate disposition is to order the following sanctions and full compliance with the terms of this Order.

IT IS THEREFORE ORDERED that Dr. Babalola O. Oluwole be removed from the Designated Doctor List and that his name be deleted from the Designated Doctor List on or before twenty (20) days from the date of this Order.

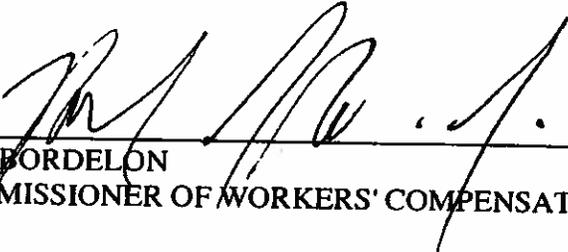
IT IS FURTHER ORDERED that Dr. Babalola O. Oluwole shall cease and desist from practicing before the Division as a designated doctor on or before twenty (20) days from the date of this Order, and that he is henceforth deprived of the right to practice before the Division as a Designated Doctor.

IT IS FURTHER ORDERED that Dr. Babalola O. Oluwole shall cease and desist from practicing before the Division as a certifying doctor on or before twenty (20) days from the date of this Order, and that he is henceforth deprived of the right to certify maximum medical improvement and/or assign impairment ratings.

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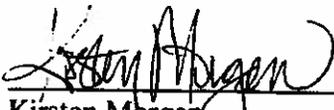
IT IS FURTHER ORDERED that Dr. Babalola O. Oluwole shall cease and desist from practicing before the Division as a system participant.

IT IS ALSO ORDERED by the Commissioner of Workers' Compensation that should Dr. Babalola O. Oluwole fail to comply with the terms of this Order that Dr. Babalola O. Oluwole will have committed an additional administrative violation and his failure to comply with the terms of this Order may subject Dr. Babalola O. Oluwole to further penalties as authorized by the Texas Labor Code, which, pursuant to TEX. LAB. CODE ANN. § 415.021(a), includes the right to impose an administrative penalty of up to \$25,000 per day per occurrence.



ROD BORDELON
COMMISSIONER OF WORKERS' COMPENSATION

FOR THE STAFF:



Kirsten Morgan
Staff Attorney, Enforcement Division
Texas Department of Insurance

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AGREED, ACCEPTED, and EXECUTED on this 7th day of Dec, 2009 by:

B. Oluwole
Signature of Dr. Babalola O. Oluwole

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DEC 09 2009

TEXAS DEPARTMENT OF INSURANCE
DIVISION OF WORKERS' COMPENSATION

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STATE OF TEXAS

COUNTY OF Collin §
§
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BEFORE ME, Kristin Wagner a notary public in and for the State of Texas, on this day personally appeared Babalola Oluwole, known to me or proven to me through Kris Davis to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, who being by me duly sworn, deposed as follows:

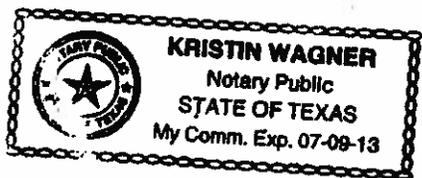
1. "My name is Dr. Babalola O. Oluwole. I am of sound mind, capable of making this statement, and personally acquainted with the facts stated in this Consent Order.
2. I have read the terms and conditions contained within this Consent Order, and I have knowingly and voluntarily entered into it.
3. I consent to the issuance and service of this Consent Order, and I am executing the same for the purposes and consideration described herein.

B. Oluwole
Signature

BABALOLA O. OLUWOLE
Typed/Printed Name

Given under my hand and seal of office this 7th day of December, 2009.

(NOTARY SEAL)



[Signature]
Notary Public, State of Texas
My commission expires: 7.09.13

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DIVISION OF WORKERS' COMPENSATION