

No. 2025-9161

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

**Date:** 2/28/2025

**Subject Considered:**

Technology Insurance Company, Inc.  
PO Box 89404  
Cleveland, Ohio 44101-6404

Consent Order  
DWC Enforcement File Nos. 35420, 35639, & 35640

**General remarks and official action taken:**

This is a consent order with Technology Insurance Company, Inc. (Respondent). The commissioner of the Texas Department of Insurance, Division of Workers' Compensation (DWC) considers whether DWC should take disciplinary action against Respondent.

**Waiver**

Respondent acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Respondent 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. Respondent holds a certificate of authority issued by the Texas Department of Insurance to transact the business of insurance pursuant to Tex. Ins. Code §§ 801.051-801.053 and is licensed to write workers' compensation/employers' liability insurance in Texas.
2. Respondent classified as "average" tier in the 2018 and 2024 Performance Based Oversight (PBO) assessments. Respondent was classified as "poor" tier in the 2022 PBO assessment.

Failure to Timely Pay a Subsequent Quarter of Supplemental Income Benefits

File No. 35640

- 3. One [REDACTED], Respondent received a DWC Form-052, *Application for Supplemental Income Benefits* (SIBs), for the 14th quarter. The 14th quarter of SIBs began on [REDACTED].
- 4.e Respondent's payment for the first month of the 14th quarter was due by the 10th day after Respondent received the application for SIBs or the seventh day of the 14th quarter, whichever is later. In this case, the latest date was [REDACTED].
- 5.e On [REDACTED], Respondent paid \$ [REDACTED] in SIBs and interest for the first month of the 14th quarter, which was 12 days late.

Failure to Timely Pay Attorney Fees Ordered by DWC

File No. 35420

- 6.e On [REDACTED], and [REDACTED], DWC approved attorney fees of \$ [REDACTED] in connection with an attorney's representation of an injured employee. DWCe ordered Respondent to pay the attorney fees at a rate of 25% of each income benefit paid to the injured employee from the injured employee's income benefits.
- 7.e Between [REDACTED], and [REDACTED], Respondent paid benefits to the injured employee (IE) on multiple dates. However, Respondent failed to timely pay \$ [REDACTED] in attorney fees at a rate of 25% of the income benefits paid to the injured employee as follows:

	<b>Benefits Paid to IE</b>	<b>Attorney Fee Owed</b>	<b>Date Due</b>	<b>Date Paid</b>	<b>Days Late</b>
a.	\$ [REDACTED]	\$ [REDACTED]	[REDACTED]	[REDACTED]	48
b.	\$ [REDACTED]	\$ [REDACTED]	[REDACTED]	[REDACTED]	41

Inappropriate Analysis Provided to Designated Doctor Prior to an Examination.

*File No. 35639*

8. An injured employee was scheduled for a designated doctor (DD) exam on [REDACTED]  
[REDACTED]
9. On [REDACTED], Respondent submitted a letter to the DD. In addition to medical records, Respondent included in the letter sections titled "Witness Statements" and "Investigation" which included the following:
  - a. On or about [REDACTED], the [Injured Employee] was charged with possession of a controlled substance, a State Jail Felony. She completed a deferred judgment sentence for this plea on or about [REDACTED]; and
  - b. On or about [REDACTED], the [Injured Employee] was charged with aggravated assault with a deadly weapon, a 2nd degree felony. She was also charged with criminal trespass. The [Injured Employee] was pending indictment of this charge as of [REDACTED].
10. Further, the letter to the DD included many statements that were irrelevant to the injured employee's claimed medical condition, functional abilities, and return-to-work opportunities, and appeared designed to attack the injured employee's character.

**Assessment of Sanction**

1. Exceeding the analysis permitted for DD exams constitutes undue influence on a DD which is not only improper but can harm injured employees by potentially reducing their benefits. Improper analysis by an insurance carrier can also mislead DDs and may affect the impartiality of their judgement.
2. Failure to provide income benefits in a timely and cost-effective manner is harmful to injured employees and the Texas workers' compensation system.
3. Failure to timely pay attorney fees ordered by DWC hinders the division's goal of providing a fair and accessible dispute resolution process and is harmful to the Texas workers' compensation system.

4. 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 Respondent's repeated non-compliance and the ;
  - 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.
5. DWC found the following factors in Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e) to be aggravating:
- (a) the seriousness of the violation, including the Respondent's repeated non-compliance and that Respondent inappropriately attempted to influence a DD with a letter that addressed issues that were completely beyond the scope of the injured employee's medical condition, functional abilities, or return-to-work opportunities and had no purpose except to bias the DD;
  - (b) Respondent's history of administrative history with the violations and the extent of current violations;
  - (c) the penalty necessary to deter future violations by Respondent;
  - (d) the negative impact on the delivery of benefits to multiple injured employees;
  - (e) to the extent reasonable, the economic benefit resulting from the prohibited act; and

- (f) other matters that justice may require, including, but not limited to other matters that justice may require, including, a poor PBO tiering; the size of the company or practice; and evidence of heightened awareness of the legal duty to comply with the Texas Workers' Compensation Act and DWC rules.
- 6. DWC is aware of no mitigating factors pursuant to Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e).
- 7. Respondent acknowledges communicating with DWC about the relevant statute and rule violations alleged; that the facts establish that the administrative violation(s) occurred; and that 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).
- 8. Respondent 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, and 414.003.
- 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)(6)-(7), and 28 Tex. Admin. Code § 180.26(h) and (i).
- 3. Respondent 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 § 415.002(a)(20), an insurance carrier or its representative commits an administrative violation each time it fails to comply with a DWC rule.

- Pursuant to Tex. Lab. Code § 415.002(a)(22), an insurance carrier or its representative commits an administrative violation each time it fails to comply with a provision of the Texas Workers' Compensation Act.

Failure to Timely Pay a Subsequent Quarter of SIBs

*File No. 35640*

- Pursuant to Tex. Lab. Code § 408.144, SIBs are calculated quarterly and paid monthly.
- Pursuant to Tex. Lab. Code § 408.145, an insurance carrier must pay SIBs no later than the seventh day after the employee's impairment income benefit period expires and must continue to pay the benefits in a timely manner.
- Pursuant to Tex. Lab. Code § 409.023, an insurance carrier must continue to pay benefits promptly as and when benefits accrue without a final decision, order, or other action from the commissioner, except as otherwise provided.
- Pursuant to 28 Tex. Admin. Code § 130.107, an insurance carrier must make the first payment of SIBs for a subsequent quarter by the 10th day after receiving the Application for Supplemental Income Benefits or the seventh day of the quarter. An insurance carrier must make the second payment by the 37th day of the quarter and the third payment by the 67th day of the quarter.
- Respondent violated Tex. Lab. Code §§ 408.145; 409.023; 415.002(a)(20) and (22); and 28 Tex. Admin. Code § 130.107 when it failed to timely make a SIBs payment for a subsequent quarter of SIBs.

Failure to Timely Pay Attorney Fees Ordered by DWC

*File No. 35420*

- Pursuant to Tex. Lab. Code §§ 415.021(a) and 415.0035(e), an insurance carrier commits an administrative violation if it violates, fails to comply with, or refuses to comply with a DWC order.

13. Pursuant to 28 Tex. Admin. Code § 152.1(c), insurance carriers are required to pay attorney fees ordered by DWC. The insurance carrier must begin payment out of the approved income benefits by mailing a check to the attorney within seven days after receiving the order. As the insurance carrier pays income benefits, it must pay attorney fees until the fees are completely paid or income benefits cease.
14. Respondent violated Tex. Lab. Code §§ 415.002(a)(20) and (22); 415.021(a); 415.0035(e); and 28 Tex. Admin. Code § 152.1(c) by failing to timely comply with a DWC order to pay attorney fees.

Inappropriate Analysis Provided to Designated Doctor Prior to an Examination.

*File No. 35639*

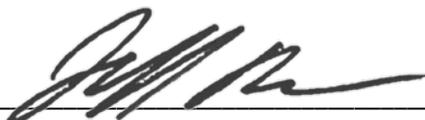
15. Pursuant to Tex. Lab. Code §§ 408.0041(c), 408.125(e) and 28 Tex. Admin. Code § 127.10(a)(2), an analysis sent by any party to a DD prior to a DD examination may only cover the injured employee's medical condition, functional abilities, and return-to-work opportunities.
16. Respondent violated Tex. Lab. Code §§ 408.0041(c), 408.125(e), 415.002(a)(20) and (22) and 28 Tex. Admin. Code § 127.10(a)(2) each time Respondent provided inappropriate analysis to the DD in advance of the DD exam.

Commissioner's Order  
Technology Insurance Company, Inc.  
DWC Enforcement File Nos. 35420, 35639, & 35640  
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**Order**

It is ordered that Technology Insurance Company, Inc. must pay an administrative penalty of \$5,500 within 30 days from the date the Commissioner signs the order.

After receiving an invoice, Technology Insurance Company, Inc. must pay the administrative penalty by electronic transfer using the State Invoice Payment Service, company check, 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 AO-9999, PO Box 12030, Austin, Texas 78711-2030.



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Jeff Nelson  
Commissioner  
TDI, Division of Workers' Compensation

Approved Form and Content:



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Tyrus Housh  
Staff Attorney, Enforcement  
Compliance and Investigations  
TDI, Division of Workers' Compensation

**Unsworn Declaration**

**STATE OF OHIO** §  
§  
**COUNTY OF CUYAHOGA** §

Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is Barry W. Moses. I hold the position of Vice President, Senior Counsel, Regulatory\_ and am the authorized representative of Technology Insurance Company, Inc. My business address is:  
800 Superior Ave., 21st Flr., Cleveland Cuyahoga, Ohio, 44114.  
(Street) (City) (County) (State) (ZIP Code)

I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the facts stated in this document are true and correct.

*Barry W. Moses*  
\_\_\_\_\_  
Declarant

Executed on January 22, , 2025.