

No. 2017- 5274

**OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF INSURANCE**

Date: NOV 06 2017

Subject Considered:

ORTHONET OF THE SOUTH, INC.
1311 Mamaroneck Ave, STE 240
White Plains, NY 10605

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 14037

General remarks and official action taken:

This order is in consideration of whether disciplinary action should be taken against OrthoNet of the South, Inc. (OrthoNet).

WAIVER

OrthoNet acknowledges that the Texas Insurance Code and other applicable laws provide certain rights. OrthoNet waives all of these rights and any other applicable procedural rights in consideration of the entry of this consent order.

Pursuant to TEX. INS. CODE § 82.055(b), OrthoNet agrees to this consent order with the express reservation that it does not admit to a violation of any provision of the Insurance Code or rule or regulation of the department and maintains the existence of any violation is in dispute.

FINDINGS OF FACT

1. TDI certified OrthoNet as a health utilization review agent, certification no. 1988397, on March 18, 2015. OrthoNet's certification is current and expires on March 18, 2019.
2. On February 27, 2017, OrthoNet filed an update application to their URA certification. The renewal requires the submission of template letters and an attestation that the URA is currently using the approved templates. The URA update was accepted on March 31, 2017.

Adverse Determination Templates

3. In 2017, OrthoNet submitted a renewal application, including the submission of template letters. The initial adverse determination template letters provided by OrthoNet in 2017 were not the templates that were previously approved during the 2015 update.
4. In April 2017, MCQA selected OrthoNet for a utilization review audit of adverse determination letters currently in use. MCQA randomly selected three utilization review case files and requested OrthoNet to provide all of the issued initial adverse determination letters in those cases.
5. Review of the three files revealed that OrthoNet was not, in those cases, consistently using their most current adverse determination templates; templates previously approved by TDI.
6. OrthoNet has represented to TDI that their most current adverse determination templates are now being used consistently and the issue has been resolved by OrthoNet.

CONCLUSIONS OF LAW

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 31.002, 82.051-82.055, 84.021-84.022, and 4201.303; 28 TEX. ADMIN. CODE § 19.1709; and TEX. GOV'T CODE §§ 2001.051-2001.178.
2. The commissioner has authority to informally dispose of this matter as set forth under TEX. GOV'T CODE § 2001.056, TEX. INS. CODE §§ 82.055 and 36.104, and 28 TEX. ADMIN. CODE § 1.47.
3. OrthoNet violated TEX. INS. CODE § 4201.303 and 28 TEX. ADMIN. CODE § 19.1709 by using adverse determination templates that did not contain the approved notice and description elements.

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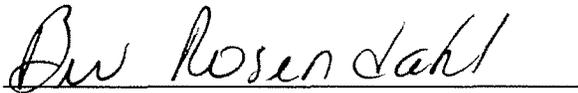
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The commissioner orders OrthoNet of the South, Inc. to pay an administrative penalty of \$10,000 within 30 days from the date of this order. The administrative penalty must be paid by company check, cashier's check, or money order made payable to the "State of Texas." Mail the administrative penalty to the Texas Department of Insurance, Attn: Enforcement Section, Legal and Enforcement Division 60851, MC 9999, P.O. Box 149104, Austin, Texas, 78714-9104.



Kent C. Sullivan
Commissioner of Insurance

Approved as to Form and Content:



Bev Rosendahl, Staff Attorney
Enforcement Section
Texas Department of Insurance

