

No. 4216

OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF WORKERS' COMPENSATION

Date: DEC 08 2015

Subject Considered:

JOSE SOBERANIS, D.C.
612 N. Story Road, Suite 101
Irving, Texas 75061

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 9613

General remarks and official action taken:

The commissioner of workers' compensation considers whether disciplinary action should be taken against Jose Soberanis, D.C. (Dr. Soberanis).

WAIVER

Dr. Soberanis acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Dr. Soberanis 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:

1. Dr. Soberanis holds Texas Board of Chiropractic Examiners License No. 09341, issued on August 5, 2002.
2. Dr. Soberanis is a health care provider, and was certified to perform designated doctor (DD) examinations in the Texas workers' compensation system. Dr. Soberanis's DD certification expired on May 31, 2015.
3. Dr. Soberanis was certified to determine maximum medical improvement (MMI), and issue impairment ratings (IRs). Dr. Soberanis's MMI/IR certification expired on May 31, 2015.

4. Dr. Soberanis was not classified in the 2007, 2009, 2011, or 2013 Performance Based Oversight assessments.
5. Dr. Soberanis contracted with LandMark Exams to perform the administrative functions associated with his duties as a designated doctor.
6. A DD who examines an injured employee to determine whether the injured employee has reached MMI and to assign an IR, if applicable, must file a Report of Medical Evaluation (DWC Form-69) and a narrative report with the division, and send the report to the proper parties no later than the seventh working day after the examination. If the DD refers the injured employee for additional testing or another healthcare provider if the DD is not fully qualified to resolve the issue in question, the DD must file the DWC Form-69, and send copies of the report to the proper parties, no later than the 15th day after the date of the examination, unless the DD receives approval of additional time by the division to submit the report.
7. Between May 2014 and February 2015, Dr. Soberanis failed to file the DWC Form-69 and narrative report with the division in 16 instances, and failed to timely file the DWC Form-69 and narrative report with the division in 26 instances. The late filings were between approximately 8 and 78 days late.

CONCLUSIONS OF LAW

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, 408.0041, 415.021, and 415.0215; 28 TEX. ADMIN. CODE §§ 127.10, 130.1, 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 § 180.26(h).
3. In accordance with TEX. LAB. CODE ANN. § 415.021, the commissioner of workers' compensation may assess an administrative penalty against a person who commits an administrative violation. The administrative penalty shall not exceed \$25,000 per day per occurrence.
4. Pursuant to TEX. LAB. CODE ANN. § 415.0215(a), and 28 TEX. ADMIN. CODE § 180.26(a), the division may impose sanctions against any person regulated by the division under the Texas Workers' Compensation Act, and any system participant if that system participant commits an administrative violation. The sanctions the division may impose include deletion or suspension from the designated doctor list and restrictions on appointments or reviews.

5. Pursuant to 28 TEX. ADMIN. CODE § 127.10(d), a DD who determines the injured employee has reached MMI or who assigns an IR, or who determines the injured employee has not reached MMI, shall complete and file a report as required by 28 TEX. ADMIN. CODE § 130.1.
6. Pursuant to 28 TEX. ADMIN. CODE § 130.1(d)(2), a Report of Medical Evaluation under this rule shall be filed with the division, injured employee, injured employee's representative, and the insurance carrier no later than the seventh working day after the date of the certifying examination.
7. Pursuant to 28 TEX. ADMIN. CODE § 127.10(c), the designated doctor shall perform or refer the injured employee for additional testing when necessary to resolve the issue in question. If additional testing or another healthcare provider if the DD is not fully qualified to resolve the issue in question are done, the designated doctor's report must be completed within 15 working days of the designated doctor's physical examination of the injured employee unless the designated doctor receives division approval for additional time before the expiration of the 15 working days.
8. Dr. Soberanis violated 28 TEX. ADMIN. CODE §§ 127.10(d) and 130.1(d)(2) each time he failed to file or failed to timely file the DWC Form-69 and narrative report.

ORDER

Jose Soberanis, D.C. is ORDERED to pay an administrative penalty of \$10,000 within 90 days from the date of this consent 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: Compliance Division-DWC, MC 9999, P.O. Box 149104, Austin, Texas, 78714-9104.

It is FURTHER ORDERED that Jose Soberanis, D.C. is prohibited from applying for admission to the division's designated doctor list or for MMI/IR certification for a period of ten years. In the event Jose Soberanis, D.C. submits an application for admission to the division's designated doctor list or for MMI/IR certification, the application will be denied.



W. Ryan Bramman
Commissioner of Workers' Compensation

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Approved as to Form and Content:



Terra Thomas
Staff Attorney, Compliance Division
Texas Department of Insurance

AFFIDAVIT

STATE OF TEXAS §
 §
COUNTY OF Dallas §

Before me, the undersigned authority, personally appeared the affiant, Jose Soberanis, D.C., who being by me duly sworn, deposed as follows:

“My name is Jose Soberanis, D.C. I am of sound mind, capable of making this statement, and have personal knowledge of these facts, which are true and correct.

I have knowingly and voluntarily entered into the foregoing consent order and agree with and consent to the issuance and service of the same by the commissioner of workers’ compensation of the State of Texas.”

Jose Soberanis
Affiant

SWORN TO AND SUBSCRIBED before me on 11/10, 2019.

(NOTARY SEAL)

Sharon Ramirez

Signature of Notary Public

Sharon Ramirez
Printed Name of Notary Public

