

No. 2865

OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF WORKERS' COMPENSATION

NOV 22 2013
Date: _____

Subject Considered:

JAMES K. KAUFMAN, M.D.
3625 Camp Bowie Blvd.
Fort Worth, TX 76107-3351

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 2311

General remarks and official action taken:

The commissioner of workers' compensation considers whether disciplinary action should be taken against James K. Kaufman, M.D. (Dr. Kaufman).

WAIVER

Dr. Kaufman acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Dr. Kaufman 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. Kaufman is a health care provider that provides medical treatment and care to injured employees in the Texas workers' compensation system.
2. Dr. Kaufman holds Texas Medical License No. L0318, which was issued on August 26, 2000.
3. Dr. Kaufman was not selected to be tiered in the 2007, 2009, or 2011 Performance Based Oversight (PBO) assessments.

Medical Quality Review #12-15 HCP

4. The division, as authorized by TEX. LAB. CODE ANN. § 414.002, monitors system participants to determine compliance with the Texas Workers' Compensation Act and rules promulgated by the commissioner of workers' compensation.

5. The division's Medical Advisor (whose duties are defined at TEX. LAB. CODE ANN. § 413.0511) and Medical Quality Review Panel (MQRP), as established pursuant to TEX. LAB. CODE ANN. § 413.0512, conducted a medical quality review (MQR) of two medical cases where Dr. Kaufman provided medical treatment and care to injured employees.
6. After completing the review, the Office of the Medical Advisor determined that Dr. Kaufman administered improper, unreasonable, or medically unnecessary treatment or service in Case Nos. 3 and 4.

Case No. 3

- a. Dr. Kaufman treated Case No.3 from June 27, 2007, until May 18, 2008, for back pain.
- b. The CT myelography of July 18, 2007, showed no root compression and no pathology at L5-S1 of the patient.
- c. Dr. Kaufman performed an anterior lumbar interbody fusion (ALIF) on Case No. 3 on December 4, 2007, without documented root compression or pathology at L5-S1 of the patient.

Case No. 4

- d. Dr. Kaufman treated Case No.4 from October 17, 2007, until July 27, 2010, for neck, arm, back, and leg pain.
 - e. Dr. Kaufman performed an ALIF surgery on November 30, 2007, at L5-S1 on the patient.
 - f. Dr. Kaufman performed a three level anterior cervical discectomy and fusion (ACDF) on July 18, 2008.
 - g. Dr. Kaufman performed further surgery, extension of the fusion to C6-C7, on May 22, 2009, when the patient continued to complain of pain.
 - h. The patient had ALIF and posterolateral 360 degree instrumented fusion at L4-L5 on July 27, 2010, a two stage procedure by Dr. Kaufman, despite a lack of demonstrable benefit derived from the previous surgeries. No rationale is provided for this plan.
7. This order is entered into in the nature of compromise and settlement and to avoid the expenditure of time and the expense of administrative or judicial proceedings. Dr. Kaufman has challenged the findings of the Office of the Medical Advisor, and denies wrongdoing with regard to the treatment of the patients at issue.

CONCLUSIONS OF LAW

The commissioner of workers' compensation makes the following conclusions of law:¹

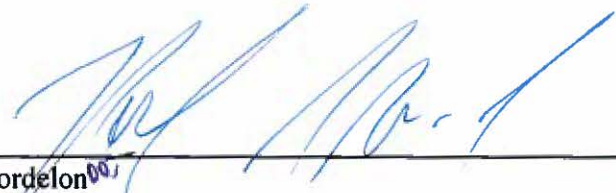
1. The commissioner of workers' compensation has jurisdiction over this matter pursuant to TEX. LAB. CODE ANN. §§ 401.021, 402.001, 402.00111, 402.00114, 402.00116, 402.00128, 408.023, 408.0231, 413.002, 413.0511, 413.0512, 414.002, 414.007, 415.003, 415.021, 415.0215, and 415.023; 28 TEX. ADMIN. CODE §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 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.
3. Pursuant to TEX. LAB. CODE ANN. §§ 408.023, 408.0231, 415.0215, and 28 TEX. ADMIN. CODE §180.26, the commissioner of workers' compensation may impose a range of sanctions against any person regulated by the division, which includes the authority to deprive a person of the right to practice before the division or of the right to receive remuneration under the Act.
4. Pursuant to TEX. LAB. CODE ANN. § 415.003(2), a health care provider commits an administrative violation if the person administers improper, unreasonable, or medically unnecessary treatment or service.
5. Dr. Kaufman violated TEX. LAB. CODE ANN. 415.003(2) when he performed surgery in Case Nos. 3 and 4 without demonstrable pathology or benefit to be derived from the surgery.

ORDER

James K. Kaufman, M.D. shall be removed from the Texas Workers' Compensation system as a health care practitioner or designated doctor. Therefore, he shall not participate in treating, examining, and/or consulting with other physicians regarding injured employees who are covered under the Texas Workers' Compensation system. Additionally, James K. Kaufman, M.D. shall not receive direct or indirect remuneration from the Texas Workers' Compensation system.

IT IS, THEREFORE, ORDERED by the commissioner of workers' compensation that James K. Kaufman, M.D. shall be removed from the Texas Workers' Compensation system as a Health Care Practitioner.

¹ All references to the Texas Labor Code and the Texas Administrative Code that relate to the findings of fact regarding violations, as set forth in this consent order, are those that were in effect between 2007 and 2010, when the violations occurred.



Rod Bordelon
Commissioner of Workers' Compensation

Approved as to Form and Content:



John Heisler
Staff Attorney, Compliance Division
Texas Department of Insurance

AFFIDAVIT


STATE OF TEXAS §
 §
COUNTY OF TARRANT §

Before me, the undersigned authority, personally appeared James K. Kaufman, M.D., who being by me duly sworn, deposed as follows:

My name is James K. Kaufman, M.D. 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.

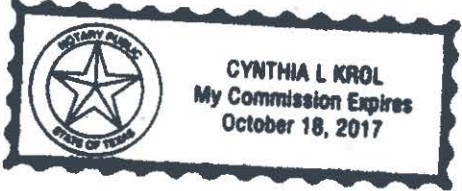
I voluntarily enter into this consent order and consent to the issuance and service of this consent order."

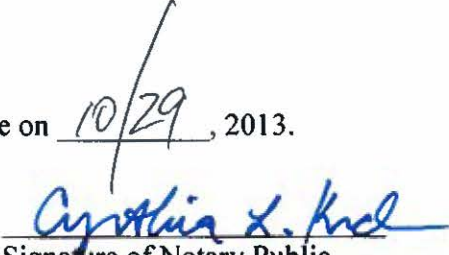


Affiant

SWORN TO AND SUBSCRIBED before me on 10/29, 2013.

(NOTARY SEAL)





Signature of Notary Public

Cynthia L. Krol
Printed Name of Notary Public