

No. **2022-7396**

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

Date: 7/25/2022

Subject Considered:

Texas Pain Relief Group
P.O Box 205125
Dallas, Texas 75320-5125

Consent Order
DWC Enforcement File No. 28373

General remarks and official action taken:

This is a consent order with Texas Pain Relief Group (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 is a health care provider operating in the Texas workers' compensation system.
2. Respondent was not selected to be tiered in the 2007, 2009, 2010, 2012, 2014, 2016, 2018, or 2020 Performance Based Oversight (PBO) assessments.

Failure to Timely Comply with a DWC Order to Produce Documents

4. On [REDACTED] DWC ordered Respondent to produce a copy of the refund payment issued to the insurance carrier, or an appeal letter sent to the insurance carrier with a specific explanation of the reason the health care provider failed to remit payment.
5. Respondent was ordered to produce the documentation by [REDACTED]
6. Respondent did not produce the requested documentation.

Assessment of Sanction

1. Timely submission of information to DWC and complying with DWC orders is imperative to DWC's ability to implement and enforce the Texas Workers' Compensation Act.
2. 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 the nature, circumstances, consequences, extent, and gravity of the prohibited act;
 - 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.

3. DWC found the following factors in Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e) to be aggravating: the seriousness of the violation; the history and extent of previous administrative violations; whether the administrative violation had a negative impact on the delivery of benefits to an injured employee; and the penalty necessary to deter future violations.
4. DWC is aware of no mitigating factors pursuant to Tex. Lab. Code § 415.021(c) and 28 Tex. Admin. Code § 180.26(e).
5. 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).
6. 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 §§ 415.0035(e) and 415.021(a), a person regulated by DWC under this title commits an administrative violation if they violate the Texas Workers' Compensation Act, a DWC rule, or a commissioner's order or decision.
6. Pursuant to 28 Tex. Admin. Code § 102.9, DWC requires those, subject to the Texas Workers' Compensation Act, to provide information as necessary. DWC may follow up on a request for information by issuing an order to produce information.
7. Respondent violated Tex. Lab. Code §§ 415.0035(e) and 415.021(a) and 28 Tex. Admin. Code § 102.9 when it failed to comply with a DWC order to produce documents.

Order

It is ordered that Texas Pain Relief Group must pay an administrative penalty of \$6,000 within 30 days from the date of this order. Texas Pain Relief Group must pay the administrative penalty by 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, P.O. Box 12030, Austin, Texas 78711-2030.



Dan Paschal, J.D.
Deputy Commissioner
Policy & Customer Services
TDI, Division of Workers' Compensation

Approved Form and Content:



Daniel Garcia
Staff Attorney, Enforcement
Compliance and Investigations
TDI, Division of Workers' Compensation

Commissioner's Order
Texas Pain Relief Group
DWC Enforcement File No. 28373
Page 6 of 6

Unsworn Declaration

STATE OF Florida §
§
COUNTY OF Hillsborough §

Pursuant to the Tex. Civ. Prac. and Rem. Code § 132.001(a), (b), and (d), my name is Mary Priolo. I hold the position of VP, Finance and am the authorized representative of Texas Pain Relief Group. My business address is:

504 N Reo St, Tampa, Hillsborough FL 33609
(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.

Mary Priolo
Declarant

Executed on July 15, 2022.

Confidential Information Redacted
Texas Labor Code §§402.083 and 402.092