

No. DWC - 12 - 0084

**OFFICIAL ORDER**  
*of the*  
**TEXAS COMMISSIONER OF WORKERS' COMPENSATION**

Date: MAY 21 2012

**Subject Considered:**

**BRIAN JAMES AUGUST, M.D.**  
2022 Murchinson Drive, Suite 104  
El Paso, Texas 79902

**CONSENT ORDER**  
TDI ENFORCEMENT FILE NO. 60708

**General remarks and official action taken:**

The Commissioner of Workers' Compensation considers whether disciplinary action should be taken against Brian James August, M.D. (Dr. August).

**WAIVER**

Dr. August acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Dr. August 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. August holds Texas medical doctor license number H9762 which was issued on December 4, 1991. Dr. August is a health care provider in the Texas workers' compensation system.
2. Dr. August was a designated doctor in the Texas workers' compensation system. Dr. August's last certification as a designated doctor expired on July 16, 2011.
3. Dr. August was not classified for Performance Based Oversight in the 2007, 2009, or 2011 assessments.

# DWC - 12 - 0084

4. Dr. August completed a certifying examination of the injured employee for maximum medical improvement (MMI), impairment rating (IR), and return to work (RTW), on April 20, 2011. Dr. August was required to file the DWC Form-69, DWC Form-73 and a narrative report with the Division, the injured employee and the insurance carrier on or before April 29, 2011.
5. Dr. August filed the narrative report on April 21, 2011. Dr. August filed the DWC Form-69 nineteen days late on May 17, 2011.
6. On October 24, 2011, the Texas Department of Insurance, Division of Workers' Compensation sent an Order to Produce the DWC Form-73 on or before November 14, 2011. Dr. August received the Order to Produce Documents via certified mail, return receipt requested, on October 26, 2011.
7. Dr. August filed the DWC Form-73 on November 18, 2011. Dr. August filed the DWC Form-73, 203 days late. Dr. August responded to the Order to Produce Documents four days late.
8. Dr. August agrees he will not re-credential and apply to be on the designated doctor list and will not certify maximum medical improvement and/or assign Impairment Ratings in the workers' compensation system for a period of one year from the date of this Order.

## CONCLUSIONS OF LAW

The Commissioner of Workers' Compensation makes the following conclusions of law:

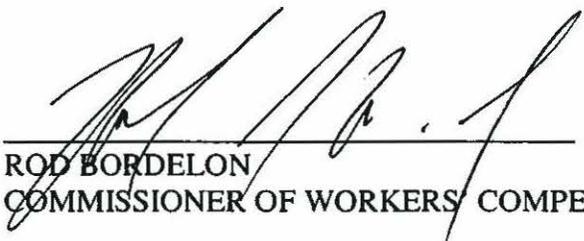
1. The Commissioner of Workers' Compensation has jurisdiction over this matter pursuant to TEX. LAB. CODE ANN. §§ 402.001, 402.00111, 402.00114, 402.00116, 402.00128, 414.002, 415.003, and 415.021; 28 TEX. ADMIN. CODE §§ 130.1 and 180.26; and TEX. GOV'T CODE ANN. §§ 2001.051-2001.178.
2. The Commissioner of Workers' Compensation has authority to informally dispose of this matter as set forth 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, in addition to any other provisions in this subtitle relating to violations, a person commits an administrative violation if the person violates, fails to comply with, or refuses to comply with this subtitle or a rule, order, or decision of the commissioner.
4. Dr. August violated TEX. LAB. CODE ANN. § 415.021 by failing to timely comply with a Commissioner Order and violating a Commissioner rule.

DWC - 12 - 0084

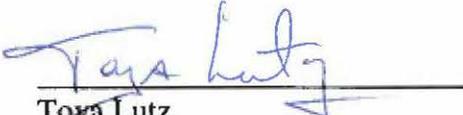
5. Dr. August violated 28 TEX. ADMIN. CODE § 130.1 by failing to file the DWC Form-69 and DWC Form-73 within seven working days from the completed examination.

ORDER

It is ORDERED that Brian August, M.D. will not re-credential and apply to be on the designated doctor list. It is ORDERED Brian August, M.D. is removed as a designated doctor and is deprived of the right to certify maximum medical improvement and/or assign Impairment Ratings in the workers' compensation system for a period of one year from the date of this Order.

  
\_\_\_\_\_  
ROD BORDELON  
COMMISSIONER OF WORKERS' COMPENSATION

FOR THE STAFF:

  
\_\_\_\_\_  
Toya Lutz  
Staff Attorney, Compliance Division  
Texas Department of Insurance  
Division of Workers' Compensation

DWC - 12 - 0084

AFFIDAVIT

STATE OF TEXAS           §  
  §  
COUNTY OF El Paso       §

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

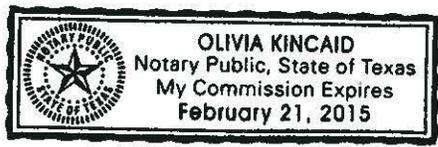
"My name is Brian James August, M.D. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

I 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."

[Signature]  
Affiant

SWORN TO AND SUBSCRIBED before me on May 8th, 2012.

(NOTARY SEAL)



[Signature]  
Signature of Notary Public  
Olivia Kincaid  
Printed Name of Notary Public

RECEIVED  
AUSTIN CENTRAL-DWC  
MAY 14 2012  
TEXAS DEPARTMENT OF INSURANCE  
DIVISION OF WORKERS' COMPENSATION