

No. 3899

OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF WORKERS' COMPENSATION

Date: APR 07 2015

Subject Considered:

MURTAZA MUSSAJI, D.O.
4910 Telephone Road
Houston, TX 77087-3054

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 8454

General remarks and official action taken:

The commissioner of workers' compensation considers whether disciplinary action should be taken against Murtaza Mussaji, D.O. (Dr. Mussaji).

WAIVER

Dr. Mussaji acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Dr. Mussaji 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. Mussaji holds Texas Medical Doctor License No. M3335, issued on April 7, 2006. Dr. Mussaji is a health care provider who was certified to perform designated doctor (DD) examinations, certify maximum medical improvement (MMI), and assign impairment ratings (IR) in the Texas workers' compensation system. Dr. Mussaji's certifications expired on June 4, 2014.
2. Dr. Mussaji was not classified in the 2007, 2009, 2011, or the 2013 Performance Based Oversight assessments.

Medical Quality Review Number 14-4 MR

3. 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.
4. 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 complaint-based medical quality review (MQR), which was initiated in accordance with the approved Medical Quality Review Process, for three cases where Dr. Mussaji performed DD examinations. The DD examinations were conducted from December 2012 through August 2013.
5. Dr. Mussaji failed to meet the division's DD reporting standards for three DD examinations, in which he certified MMI, assigned IR, and/or return-to-work status.
 - a. For the first injured employee, Dr. Mussaji assigned a zero percent whole person impairment rating. Dr. Mussaji failed to document the injured employee's right knee degree of flexion and extension measurements and how those values related and compared to the criteria described in the *American Medical Associate Guides to the Evaluation of Permanent Impairment, Fourth Edition* (AMA Guides).
 - b. For the second injured employee, Dr. Mussaji assigned a zero percent whole person impairment rating. Dr. Mussaji failed to document range of motion measurements taken for the injured employee's wrist and metacarpophalangeal (MP) joints and how those values related and compared to the criteria described in the AMA Guides.
 - c. For the third injured employee, Dr. Mussaji assigned a one percent whole person impairment rating. Dr. Mussaji failed to document flexion and extension measurements taken for the injured employee's distal interphalangeal (DIP) joint, MP joint, and proximal interphalangeal (PIP) joint and how those values related and compared to the criteria described in the AMA Guides.
6. For the first injured employee, Dr. Mussaji also failed to file his DD report in the form and manner required by the division for DD examination. Dr. Mussaji failed to demonstrate he applied the division-adopted return-to-work guideline, the *Medical Disabilities Guidelines* (MDA) in determining a return-to-work question.

CONCLUSIONS OF LAW

The commissioner of workers' compensation makes the following conclusions of law¹:

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, 408.0231, 413.044, 413.0511, 413.0512, 414.002, 415.021, and 415.0215; 28 TEX. ADMIN. CODE §§ 127.5, 127.220, 130.1, 137.10, 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. Pursuant to TEX. LAB. CODE ANN. § 415.0215 and 28 TEX. ADMIN. CODE § 180.26, the sanctions the commissioner may impose include depriving 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. § 415.021(a), 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. In addition to any sanction, administrative penalty, or other remedy authorized by this subtitle, 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. Each day of noncompliance constitutes a separate violation.
5. Pursuant to 28 TEX. ADMIN. CODE § 130.1(c)(3)(D), the doctor assigning the impairment rating shall compare the results of the analysis with the impairment criteria and provide a description and explanation of specific clinical findings related to each impairment, and a description of how the findings relate to and compare with the criteria described in the applicable chapter of the AMA Guides.
6. Dr. Mussaji violated 28 TEX. ADMIN. CODE § 130.1(c)(3)(D) when he reported on three impairment rating examinations and failed to document clinical findings, specifically joint measurements. Additionally, he failed to describe how those values related to and compared with criteria described in the applicable chapter of the AMA Guides.

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 in 2012 and beyond when the violations occurred.

7. Pursuant to 28 TEX. ADMIN. CODE § 127.220(a)(3), (4), and (8), DD narrative reports must be filed in the form and manner required by the division and at minimum sufficiently explain how the designated doctor determined the answer to each question within a reasonable degree of medical probability; and demonstrate, as appropriate, application or consideration of the AMA Guides and division-adopted return-to-work guidelines (MDA).
8. Dr. Mussaji violated 28 TEX. ADMIN. CODE § 127.220(a)(3),(4), and (8) when he did not file his DD narrative report in the form and manner required by the division by failing to: document how his derived values, based on measurements taken, related and compared to the criteria described in the AMA Guides for three impairment rating assignments; use the division-adopted return-to-work guideline to determine the question on return-to-work; and include a complete narrative description of his physical examination when he omitted information on a shoulder examination and measurements for several joints examined.

ORDER

It is ORDERED that Murtaza Mussaji, D.O., will not apply for admission to the division's designated doctor list for a period of two years from the date of this consent order.



W. Ryan Brannan, J.S.
Commissioner of Workers' Compensation

Approved as to Form and Content:



Claudia Kirk
Staff Attorney, Compliance Division
Texas Department of Insurance

AFFIDAVIT

STATE OF TEXAS §
 §
COUNTY OF BRAZORIA §

Before me, the undersigned authority, personally appeared the affiant, Murtaza Mussaji, D.O., who being by me duly sworn, deposed as follows:

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

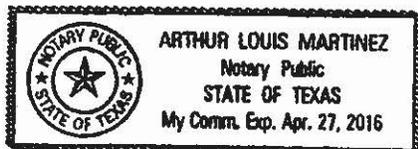
I have knowingly and voluntarily entered into the foregoing consent order and agree with and consent to the issuance and service of the same by the commissioner of workers' compensation of the State of Texas.”

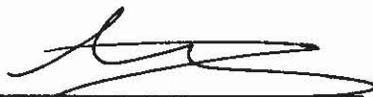


Affiant

SWORN TO AND SUBSCRIBED before me on 3-30-15, 2015.

(NOTARY SEAL)





Signature of Notary Public

Arthur L. Martinez
Printed Name of Notary Public