

No. 3386

OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF WORKERS' COMPENSATION

Date: JUL 07 2014

Subject Considered:

ABIMAEEL PEREZ, M.D.
2401 Morgan Ave., Suite 100
Corpus Christi, Texas 78405-1805

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 1477

General remarks and official action taken:

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

WAIVER

Dr. Perez acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Dr. Perez 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. Perez is a health care provider that provides medical treatment to injured employees in the Texas worker's compensation system.
2. Dr. Perez was granted a license by the Texas Medical Board on August 23, 1985. Dr. Perez holds Texas Medical License Number G8745.
3. Dr. Perez was not selected to be tiered in 2007, 2009, 2011, or 2013 Performance Based Oversight assessments.

Medical Quality Review No. 10-SC-101

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 in 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 of one case where Dr. Perez treated one injured employee.
6. Dr. Perez treated the injured employee from November 2006 through December 2009 for a cervical strain diagnosis. In June 2007, the injured employee was also referred to a physician that specialized in pain management.
7. Dr. Perez's office visits provided no meaningful treatment to improve function. The visits were mainly for medication refills, prescribed for a condition prior to this injury. Other health promoting modalities were not incorporated into the plan of care.
8. Dr. Perez did not document in his medical records that there was functional improvement over the three-year time span he was treating the injured employee.
9. Dr. Perez denies all the allegations set forth above but does not contest the entry of this order. This consent order and its requirements are entered into in the nature of compromise and settlement.

CONCLUSIONS OF LAW

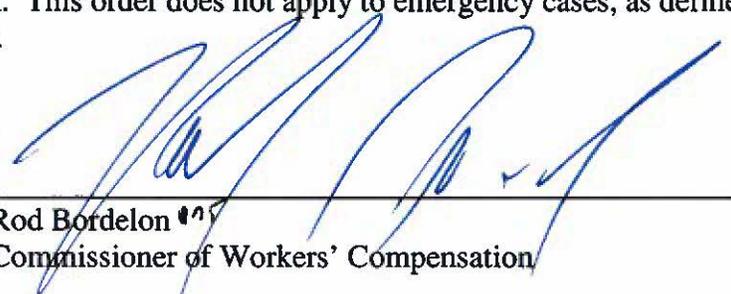
The commissioner of workers' compensation makes the following conclusions of law:

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, 408.025, 413.0511, 413.0512, 414.002, 415.021, and 415.0215; 28 TEX. ADMIN. CODE §§ 180.22 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 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 28 TEX. ADMIN. CODE § 180.22(a), health care providers shall provide reasonable and necessary health care that cures or relieves the effects naturally resulting from the compensable injury; promotes recovery; and /or enhances the ability of the employee to return to, or retain, employment.
5. Dr. Perez violated 28 TEX. ADMIN. CODE § 180.22(a) when his documentation failed to show that his treatment was providing functional improvement to enhance the ability of the injured employee to return to work or retain employment.
6. Pursuant to TEX. LAB. CODE ANN. § 408.025(c) and 28 TEX. ADMIN. CODE § 180.22(c), the treating doctor is the doctor primarily responsible for the efficient management of health care and for coordinating the health care for an injured employee's compensable injury. The treating doctor shall maintain efficient utilization of health care.
7. Dr. Perez violated TEX. LAB. CODE ANN. § 408.025(c) and 28 TEX. ADMIN. CODE § 180.22(c) when he failed to maintain the efficient utilization in that his office visits provided no meaningful treatment to improve function. The visits were mainly just for medication. Other health promoting modalities were not incorporated into the plan of care.

ORDER

It is ORDERED that from 90 days from the date of the entry of this order, Abimael Perez, M.D. will no longer accept any new Texas workers' compensation patients and will no longer participate in the Texas workers' compensation system, network, or non-network, as a health care provider. Therefore, and thereafter, he will no longer participate in treating, examining, and/or consulting with other physicians regarding injured employees who are covered under the Texas Workers' Compensation system. Additionally, Dr. Perez must not receive direct or indirect remuneration from the Texas workers' compensation system. This order does not apply to emergency cases, as defined 28 TEX. ADMIN. CODE § 133.2.



Rod Bordelon #15
Commissioner of Workers' Compensation

Approved as to Form and Content:



Claudia Kirk
Staff Attorney, Compliance Division
Texas Department of Insurance

