

No. **DWC-09-0061**

**OFFICIAL ORDER**  
*of the*  
**COMMISSIONER OF WORKERS' COMPENSATION**  
*of the*  
**STATE OF TEXAS**  
**AUSTIN, TEXAS**

Date: **NOV 06 2009**

**Subject Considered:**

**DR. UMA R. GULLAPALLI**  
605 E. San Antonio Street, Suite 410E  
Victoria, Texas 77901

**CONSENT ORDER**  
**DISCIPLINARY ACTION**  
TDI ENFORCEMENT FILE NOS. 54725, 54940, and 55468

**General remarks and official action taken:**

On this date came on for consideration by the Commissioner of Workers' Compensation, the matter of whether disciplinary action should be taken against Dr. Uma R. Gullapalli, M.D. ("Gullapalli"). The Texas Department of Insurance, Division of Workers' Compensation Staff ("Division Staff") alleges that Gullapalli violated the Texas Labor Code and that such conduct constitutes grounds for the imposition of sanctions pursuant to TEX. LAB. CODE ANN., ch. 415.

Division Staff and Gullapalli announce that they have compromised and settled all claims and agree to the entry of this Consent Order. The parties request that the Commissioner of Workers' Compensation informally dispose of this case pursuant to TEX. GOV'T CODE ANN. § 2001.056, TEX. LAB. CODE ANN. §§ 401.021 and 402.00128(b)(7), and 28 TEX. ADMIN. CODE § 180.8(h).

**JURISDICTION**

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, 402.072, 414.002, 414.003, 415.003, 415.0035, 415.021, and 415.023; and 28 TEX. ADMIN. CODE §§ 126.7, 130.1, 130.3, 130.6, and 180.1-180.28; and TEX. GOV'T CODE ANN. §§ 2001.051-2001.178.

# DWC - 09 - 0061 WAIVER

Gullapalli acknowledges the existence of certain rights provided by the Texas Labor Code and other applicable law, including the right to receive a written notice of possible administrative violations as provided for by TEX. LAB. CODE ANN. § 415.032, the right to request a hearing as provided for by TEX. LAB. CODE ANN. § 415.034, and the right to judicial review of the decision as provided for by TEX. LAB. CODE ANN. § 415.035. Gullapalli waives all of these rights, as well as any other procedural rights that might otherwise apply, in consideration of the entry of this Consent Order.

## FINDINGS OF FACT

The Commissioner of Workers' Compensation makes the following findings of fact:

### **System Participant – Designated Doctor**

1. A “designated doctor”, as defined by TEX. LAB. CODE ANN. § 401.011(15), means a doctor appointed by mutual agreement of the parties or by the Division of Workers' Compensation (“Division”) to recommend a resolution of a dispute as to the medical condition of an injured employee.
2. Gullapalli is a designated doctor.
3. Gullapalli was last approved to be on the Division's Designated Doctor List on January 1, 2007.

### **System Participant – Certifying Doctor**

4. In accordance with 28 TEX. ADMIN. CODE § 130.1(a)(1), only an authorized doctor may certify maximum medical improvement, determine whether there is permanent impairment, and assign an impairment rating.
5. In accordance with 28 TEX. ADMIN. CODE § 130.1(a)(1)(B)(i)(ii), only doctors to whom the commission has certified to assign impairment rating or otherwise been given an exception to, are authorized to assign an impairment rating. Doctors not certified are only authorized to determine whether an employee has reached maximum medical improvement and if a permanent impairment exists.

### **Designated Doctor's Role and Responsibilities**

6. In accordance with TEX. LAB. CODE ANN. § 408.0041(a)–(b), a designated doctor may be called upon to perform medical examinations, as requested by an insurance carrier, employee, or the Division, to resolve any question about the impairment caused by the compensable injury, the attainment of maximum medical improvement (“MMI”), the extent of the employee's compensable injury,

**DWC - 09 - 0061**

whether the injured employee's disability is a direct result of the work-related injury, the ability of the employee to return to work, and other similar issues.

7. In accordance with 28 TEX. ADMIN. CODE § 126.7(n), a designated doctor must file a report, as required by 28 TEX. ADMIN. CODE §§ 130.1 and 130.3, when the designated doctor determines that an employee has reached MMI, when the designated doctor assigns an impairment rating, or when the designated doctor determines that the employee has not reached MMI. The report must be sent to the insurance carrier, the employee, the employee's representative, if any, the treating doctor, and the Division.
8. Pursuant to 28 TEX. ADMIN. CODE § 130.1(d)(1), certification of MMI and assignment of an impairment rating requires submission of a Report of Medical Evaluation, also known as the DWC Form-69.
9. Pursuant to 28 TEX. ADMIN. CODE § 130.1(d)(2), the DWC Form-69 must be filed with the Division, employee, employee's representative, and the insurance carrier no later than the seventh working day after the later of the date of the certifying examination or the receipt of all of the medical information required by 28 TEX. ADMIN. CODE § 130.1.
10. Pursuant to 28 TEX. ADMIN. CODE § 130.1(d)(3), the DWC Form-69 must be filed with the carrier via facsimile or electronic transmission.
11. Pursuant to 28 TEX. ADMIN. CODE § 130.1(e)(1)-(3), the certifying doctor shall maintain the original copy of the Report of Medical Evaluation and narrative as well as documentation of the date of the examination; the date any medical records necessary to make the certification of maximum medical improvement were received, and from whom the medical records were received; and the date, addressees, and means of delivery that reports required under 28 TEX. ADMIN. CODE § 130.1 were transmitted or mailed by the certifying doctor.
12. Pursuant to 28 TEX. ADMIN. CODE § 126.7(u), the Division may contact the designated doctor if it determines that clarification is necessary to resolve an issue regarding the designated doctor's report. The designated doctor shall respond to the Letter of Clarification within five days of receipt.

#### **Performance Review of Gullapalli**

13. The Division, as authorized by TEX. LAB. CODE ANN. § 414.002 and 28 TEX. ADMIN. CODE § 180.3, conducts audits of system participants to determine compliance with the Texas Workers' Compensation Act ("Act") and rules promulgated by the Commissioner of Workers' Compensation ("Rules").
14. Gullapalli was audited on March 27, 2008.

# DWC - 09 - 0061

15. This audit was initiated because Gullapalli was identified in the 2007 Performance Based Oversight ("PBO") assessment as a poor performer
16. The purpose of the audit was to determine if Gullapalli was timely in filing the DWC Form-69 with the insurance carrier and the method by which the report was submitted to the insurance carrier.
17. Pursuant to 28 TEX. ADMIN. CODE § 180.12(c), the rate of compliance that a system participant is minimally expected to meet for all duties under the Act and Rules is 95%.
18. The audit evaluated Gullapalli's performance during a seven month period from June 1, 2007 through December 31, 2007.
19. Auditors determined that Gullapalli filed 124 DWC Form-69's during the period of review. Two reports failed to meet selection criteria and were dropped from the audit.
20. Of the 122 DWC Form-69's identified, none were verified to be sent to the insurance carrier in a timely manner. Gullapalli failed to timely provide the Division with proof of their submission.
21. Of the 122 DWC Form-69's identified, none were verified to be sent to the insurance carrier via facsimile or electronic transmission. Gullapalli failed to timely provide the Division with proof of their mode of submission.
22. Gullapalli's compliance rate, based on the auditor's findings, was 0.00% for both compliance categories.

## **Complaints Filed Against Gullapalli**

### Failure to File DWC Form-69 in a Timely Manner

23. Dr. Gullapalli sent the DWC Form-69 on February 29, 2008, or 316 days past the required deadline of April 19, 2007.
  - a. Dr. Gullapalli performed a designated doctor examination of the injured employee (M.V.) on April 10, 2007.
  - b. Dr. Gullapalli had all necessary records prior to the date of the examination.
  - c. The examination was deemed complete on April 10, 2007.

- d. Dr. Gullapalli was required to file by facsimile or electronic transmittal a Report of Medical Evaluation (DWC Form-69) to the Division, the employee and the carrier not later than the seventh working day after the examination.
  - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by April 19, 2007.
24. Dr. Gullapalli sent the DWC Form-69 on February 27, 2008, or 1 day past the required deadline of February 26, 2008.
- a. Dr. Gullapalli performed a designated doctor examination of the injured employee (C. G.) on February 14, 2008.
  - b. Dr. Gullapalli had all necessary records prior to the date of the examination.
  - c. The examination was deemed complete on February 14, 2008.
  - d. Dr. Gullapalli was required to file by facsimile or electronic transmittal a Report of Medical Evaluation (DWC Form-69) to the Division, the employee and the carrier not later than the seventh working day after the examination.
  - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by February 26, 2008.
25. Dr. Gullapalli sent the DWC Form-69 on March 31, 2008, or 83 days past the required deadline of January 8, 2008.
- a. Dr. Gullapalli performed a designated doctor examination of the injured employee (S.A.) on December 27, 2007.
  - b. Dr. Gullapalli had all necessary records prior to the date of the examination.
  - c. The examination was deemed complete on December 27, 2007.
  - d. Dr. Gullapalli was required to file by facsimile or electronic transmittal a Report of Medical Evaluation (DWC Form-69) to the Division, the employee and the carrier not later than the seventh working day after the examination.
  - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by January 8, 2008.

# DWC - 09 - 0061

## COMMISSIONER'S ORDER

Dr. Uma Gullapalli, CTS 54725, 54940, and 55468, September 14, 2009

Page 6 of 14

26. Dr. Gullapalli sent the DWC Form-69 on May 13, 2008, or 15 days past the required deadline of April 28, 2008.
  - a. Dr. Gullapalli performed a designated doctor examination of the injured employee (V.M.) on April 17, 2008.
  - b. Dr. Gullapalli had all necessary records prior to the date of the examination.
  - c. The examination was deemed complete on April 17, 2008.
  - d. Dr. Gullapalli was required to file by facsimile or electronic transmittal a Report of Medical Evaluation (DWC Form-69) to the Division, the employee and the carrier not later than the seventh working day after the examination.
  - e. The DWC Form-69 was required to be sent to the injured employee, the carrier and the Division by April 28, 2008.

### Failure to Respond to Letters of Clarification ("LOC") in a Timely Manner

27. Dr. Gullapalli responded to the LOC on January 31, 2008, or nine days past the January 22, 2008 deadline.
  - a. An LOC was sent by facsimile to Dr. Gullapalli on January 17, 2008.
  - b. The LOC was deemed received by Dr. Gullapalli on January 17, 2008.
  - c. Dr. Gullapalli was required to respond to the LOC by January 22, 2008, five days after receipt.
28. Dr. Gullapalli responded to the LOC on July 18, 2008, or twenty-one days past the June 30, 2008 deadline.
  - a. An LOC was mailed to Dr. Gullapalli on June 19, 2008.
  - b. The LOC was deemed received by Dr. Gullapalli on June 24, 2008.
  - c. Dr. Gullapalli was required to respond to the LOC by June 30, 2008, five days after receipt.
29. Dr. Gullapalli responded to the LOC on August 11, 2008, or seven days past the August 4, 2008 deadline.
  - a. An LOC was mailed to Dr. Gullapalli on July 23, 2008.

- b. The LOC was deemed received by Dr. Gullapalli on July 28, 2008.
  - c. Dr. Gullapalli was required to respond to the LOC by August 4, 2008, five days after receipt.
30. Dr. Gullapalli responded to the LOC on July 18, 2008, or four days past the July 14, 2008 deadline.
- a. An LOC was mailed to Dr. Gullapalli on July 3, 2008.
  - b. The LOC was deemed received by Dr. Gullapalli on July 8, 2008.
  - c. Dr. Gullapalli was required to respond to the LOC by July 14, 2008, five days after receipt.

### **Aggravating Factors**

#### Harm to Injured Workers

- 31. Pursuant to TEX. LAB. CODE ANN. § 408.121 (a)–(b), an employee's entitlement to impairment income benefits begins on the day after the date the employee reaches MMI and the insurance carrier must begin paying impairment income benefits not later than the fifth day after receiving the doctor's report certifying MMI.
- 32. Pursuant to TEX. LAB. CODE ANN. § 408.122, a claimant may not recover impairment income benefits unless there is evidence of impairment based on objective clinical or laboratory finding, which a designated doctor may determine if disputed.
- 33. The payment of impairment income benefits to injured employees was delayed as a result of Gullapalli's inability to submit the DWC Form-69 in a timely manner.

#### PBO Tier Rating

- 34. During the 2007 Performance Based Oversight assessment, Gullapalli was identified as a poor performer.

#### Complaint History

- 35. Gullapalli has been the subject of numerous complaints for over ten years.
- 36. The Division has recently received more complaints involving allegations that Gullapalli refused to schedule or perform a designated doctor examination.

# DWC - 09 - 0061

## COMMISSIONER'S ORDER

Dr. Uma Gullapalli, CTS 54725, 54940, and 55468, September 14, 2009

Page 8 of 14

### Disciplinary History

37. Gullapalli has an extensive prior disciplinary history with the Division.

### Warning Letters

38. The Division has issued eleven warning letters to Gullapalli since 1998.

- a. On March 23, 1998, Gullapalli received one warning letter for failing to file DWC Form-69s timely.
- b. On September 1, 1999, Gullapalli received one warning letter for failing to file DWC Form-69s timely.
- c. On August 12, 2005, Gullapalli received six warning letters for failing to file DWC Form-69s timely.
- d. On September 27, 2005, Gullapalli received one warning letter for failing to timely file a response to a Letter of Clarification.
- e. On October 3, 2005, Gullapalli received one warning letter for failing to timely file a response to a Letter of Clarification.
- f. April 27, 2006, Gullapalli received one warning letter for failing to timely file a response to a Letter of Clarification.

### Previous Fines Imposed by Division

39. The Division has issued multiple Notices of Violation to Gullapalli since 2000, requiring the payment of an administrative penalty.
- a. On December 20, 2000, Gullapalli paid \$50.00 in administrative penalties for failing to timely file DWC Form-69's.
  - b. On August 8, 2001, Gullapalli paid \$58.00 in administrative penalties for failing to timely file DWC Form-69's.
  - c. On February 26, 2002, Gullapalli paid \$150.00 in administrative penalties for failing to timely file DWC Form-69's.
  - d. On March 15, 2002, Gullapalli paid \$182.00 in administrative penalties for failing to timely file DWC Form-69's.



- e. On April 16, 2002, Gullapalli paid \$50.00 in administrative penalties for failing to timely file DWC Form-69's.
- f. On July 8, 2003, Gullapalli paid \$116.00 in administrative penalties for failing to timely file DWC Form-69's.
- g. On August 14, 2003, Gullapalli paid \$147.00 in administrative penalties for failing to timely file DWC Form-69's.
- h. On January 26, 2004, Gullapalli paid \$65.00 in administrative penalties for failing to timely file DWC Form-69's.
- i. On March 10, 2004, Gullapalli paid \$170.00 in administrative penalties for failing to timely file DWC Form-69's.
- j. On March 10, 2005, Gullapalli paid \$175.00 in administrative penalties for failing to timely file DWC Form-69's.
- k. On February 15, 2007, Gullapalli paid \$105.00 in administrative penalties for failing to timely file DWC Form-69's.

#### Prior Consent Orders

- 40. On March 19, 2008, the Division executed DWC-Order 08-0025, whereby Gullapalli agreed to pay an administrative penalty of \$4,000.00 for failing to timely file DWC Form-69's.

#### **Mitigating Factors**

- 41. Gullapalli agrees to voluntarily remove herself from the Designated Doctor List and agrees that her name may be deleted from the Designated Doctor List.
- 42. Gullapalli agrees to cease and desist from practicing before the Division as a designated doctor.
- 43. Gullapalli agrees to cease and desist from practicing before the Division as an authorized/certifying doctor.
- 44. Gullapalli agrees that she will not reapply for admission to the Designated Doctor List for two years. After the expiration of this period, Gullapalli may apply to be readmitted to the Designated Doctor List. Her application will be reviewed according to the procedures established in the Act and Rules and is subject to the Divisions' approval.

45. Gullapalli agrees to the suspension of her certification and the limitation on her practice as a treating doctor, whereby she is banned from certifying MMI and assigning impairment ratings for one year. After the expiration of this period, Gullapalli may apply to have this sanction lifted according to the procedures established in the Act and Rules and is subject to the Divisions' approval.
46. This agreement does not prevent Gullapalli from treating patients in the Workers' Compensation System as a treating doctor, subject to the limitations she has agreed to in this Consent Order.

### **Other Considerations**

47. This Consent Order, and the actions required hereby, is entered into in the nature of compromise and settlement and in order to avoid the time, trouble, and expense to the Division and to Gullapalli of resolving this dispute through administrative or judicial proceedings.

### **CONCLUSIONS OF LAW**

Based upon the foregoing findings of fact, 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, 402.072, 414.002, 414.003, 415.003, 415.0035, 415.021, and 415.023; and 28 TEX. ADMIN. CODE §§ 126.7, 130.1, 130.3, 130.6, and 180.1–180.28; 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 § 180.8(h).
3. Gullapalli has knowingly and voluntarily waived all procedural rights to which she may have been entitled regarding the entry of this Order, including, but not limited to, written notice of possible administrative violations, a hearing, and judicial review.
4. Division staff properly notified Gullapalli in writing of the charge, the proposed penalty, the right to consent to the proposed penalty, and the right to request a hearing, as required by TEX. LAB. CODE ANN. § 415.032(a).
5. In accordance with TEX. LAB. CODE ANN. § 415.021, the Commissioner of Workers' Compensation may assess an administrative penalty against a person who commits an administrative violation.

# DWC - 09 - 0061

## COMMISSIONER'S ORDER

Dr. Uma Gullapalli, CTS 54725, 54940, and 55468, September 14, 2009

Page 11 of 14

6. In accordance with TEX. LAB. CODE ANN. § 415.003(5), a health care provider, like a designated doctor, commits an administrative violation each time he or she violates a commissioner's rule.
  - a. Gullapalli violated 28 TEX. ADMIN. CODE § 126.7(u) each time she failed to file a response to the letter of clarification in a timely manner. Therefore, Gullapalli committed four administrative violations.
  - b. Gullapalli violated 28 TEX. ADMIN. CODE § 130.1(d)(2) each time she failed to file the DWC Form-69 in a timely manner. Therefore, Gullapalli committed 126 administrative violations.
  - c. Gullapalli violated 28 TEX. ADMIN. CODE § 130.1(d)(3)(A) each time she failed to file the DWC Form-69 with the carrier by facsimile or electronic transmission. Therefore, Gullapalli committed 122 administrative violations.
  - d. Gullapalli violated 28 TEX. ADMIN. CODE § 180.12 because her compliance rate for timely filing DWC Form-69's was well below the minimum compliance standard of 95%. Therefore, Gullapalli committed one administrative violation.
  - e. Gullapalli violated 28 TEX. ADMIN. CODE § 180.12 because her compliance rate for properly filing DWC Form-69s with the carrier via facsimile or electronic transmission was well below the minimum compliance standard of 95%. Therefore, Gullapalli committed one administrative violation.
7. In accordance with TEX. LAB. CODE ANN. § 415.021(a), 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. Therefore, Dr. Gullapalli committed 254 administrative violations.
8. Gullapalli committed a total of 508 administrative violations.
9. Gullapalli committed repeated administrative violations.

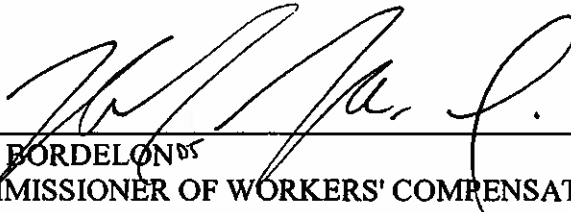
Based on the Findings of Fact and Conclusions of Law above, the Commissioner of Workers' Compensation has determined that the appropriate disposition is to order removal from the Designated Doctor List, suspension of her MMI/IR certification status, and full compliance with the terms of this Order.

**IT IS THEREFORE ORDERED** that Dr. Uma Gullapalli be removed from the Designated Doctor List and that her name be deleted from the Designated Doctor List on or before twenty (20) days from the date of this Order.

**IT IS FURTHER ORDERED** that Dr. Uma Gullapalli shall cease and desist from practicing before the Division as a designated doctor on or before twenty (20) days from the date of this Order, and that she is henceforth deprived of the right to practice before the Division as a Designated Doctor.

**IT IS FURTHER ORDERED** that Dr. Uma Gullapalli shall cease and desist from practicing before the Division as an approved/certifying doctor on or before twenty (20) days from the date of this Order, and that she is henceforth deprived of the right to certify maximum medical improvement and/or assign impairment ratings.

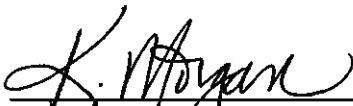
**IT IS ALSO ORDERED** by the Commissioner of Workers' Compensation that should Dr. Uma Gullapalli fail to comply with the terms of this Order that Dr. Uma Gullapalli will have committed an additional administrative violation and her failure to comply with the terms of this Order may subject Dr. Uma Gullapalli to further penalties as authorized by the Texas Labor Code, which, pursuant to TEX. LAB. CODE ANN. § 415.021(a), includes the right to impose an administrative penalty of up to \$25,000 per day per occurrence.



---

ROD BORDELON  
COMMISSIONER OF WORKERS' COMPENSATION

FOR THE STAFF:



---

Kirsten Morgan  
Staff Attorney, Enforcement Division  
Texas Department of Insurance

COMMISSIONER'S ORDER

Dr. Uma Gullapalli, CTS 54725, 54940, and 55468, September 14, 2009

Page 13 of 14

DWC - 09 - 0061

AGREED, ACCEPTED, and EXECUTED on this 23 day of September 2009 by:

Uma R. Gullapalli  
Signature of Dr. Uma R. Gullapalli md.

COMMISSIONER'S ORDER  
Dr. Uma Gullapalli, CTS 54725, 54940, and 55468, September 14, 2009  
Page 14 of 14

STATE OF TEXAS                   §  
                                                 §  
COUNTY OF VICTORIA           §

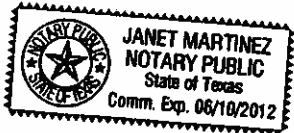
BEFORE ME, JANET MARTINEZ, a notary public in and for the State of Texas, on this day personally appeared Uma R. Gullapalli, MD, known to me or proven to me through Tx D.L. to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration therein expressed, who being by me duly sworn, deposed as follows:

1. "My name is Dr. Uma R. Gullapalli. I am of sound mind, capable of making this statement, and personally acquainted with the facts stated in this Consent Order.
2. I have read the terms and conditions contained within this Consent Order, and I have knowingly and voluntarily entered into it.
3. I consent to the issuance and service of this Consent Order, and I am executing the same for the purposes and consideration described herein."

Uma R. Gullapalli MD  
Signature  
UMA. R. GULLAPALLI  
Typed/Printed Name MD

Given under my hand and seal of office this 23 day of September, 2009.

(NOTARY SEAL)



[Signature]  
Notary Public, State of Texas  
My commission expires: 6-10-2012