

No. 2019 5930

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

Date: APR 09 2019

**Subject Considered:**

**BRITTNY J. ALEXANDER, D.C.**  
909 Cedar Terrace  
Cedar Hill, Texas 75104

**CONSENT ORDER**  
TDI-DWC ENFORCEMENT FILE NO. 16387

**General remarks and official action taken:**

The commissioner of workers' compensation (commissioner) considers whether disciplinary action should be taken against Brittny J. Alexander, D.C. (Dr. Alexander).

**WAIVER**

Dr. Alexander acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Dr. Alexander 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 makes the following findings of fact:

1. Dr. Alexander holds Texas Doctor of Chiropractic License No. 12010, which was issued by the Texas Board of Chiropractic Examiners on February 23, 2012.
2. Dr. Alexander is a designated doctor (DD) in the Texas workers' compensation system. Dr. Alexander is certified to rate maximum medical improvement (MMI) and assign an impairment rating (IR). Dr. Alexander was first certified as a DD, to rate MMI, and to assign IRs on November 23, 2015. Dr. Alexander's certification as a DD, to rate MMI, and to assign IRs will expire on July 11, 2020. Dr. Alexander has identified Genesis Medical Management Solutions as her administrative services company and Genesis IME as her billing agent since November 11, 2015.
3. Dr. Alexander was not classified in the 2007, 2009, 2011, 2013, or 2015 Performance Based Oversight (PBO) assessments.

**MEDICAL QUALITY REVIEW NO. 18-30-DD**

4. The Texas Department of Insurance, Division of Workers' Compensation (DWC), as authorized by TEX. LAB. CODE §§ 414.002 and 408.1225(b), monitors DDs to determine

compliance with the Texas Workers' Compensation Act and rules promulgated by the commissioner.

5. Pursuant to the requirements of TEX. LAB. CODE §§ 413.0511 and 413.0512, DWC's Medical Advisor and Medical Quality Review Panel conducted an audit-based medical quality review (MQR No. 18-30-DD) of 10 cases in which Dr. Alexander conducted DD examinations of injured employees. The purpose of the audit was to evaluate the medical necessity and appropriateness of additional testing or a referral by Dr. Alexander to resolve a question at issue in each examination.

#### **SUBMITTING UNNECESSARY REFERRALS/ORDERING OR PERFORMING UNNECESSARY TESTING**

6. Dr. Alexander submitted unnecessary referrals to other health care providers and/or ordered or performed unnecessary testing of an injured employee as part of a DD examination in 100% of cases examined (10 out of 10).

#### **FAILURE TO FILE DD REPORT IN THE FORM AND MANNER REQUIRED BY DWC**

7. Dr. Alexander failed to explain in the DD report why additional testing or a referral was necessary to resolve the question at issue in 100% of cases examined (10 out of 10).
8. Dr. Alexander failed to summarize all additional testing or referrals made as part of the evaluation in 100% of cases examined (10 out of 10).

#### **SUBMISSION OF INACCURATE OR INAPPROPRIATE REPORTS DUE TO INNAPPROPRIATE OR UNREASONABLE EVALUATIONS**

9. Dr. Alexander submitted an inaccurate or inappropriate DD report due to insufficient medical history or physical examination and analysis of medical records in 100% of cases examined (10 out of 10).
10. Specifically, Dr. Alexander inappropriately or unreasonably:
  - certified the date of MMI and evaluated the injured employee's ability to return to work in two cases;
  - certified the date of MMI and assigned an IR in two cases
  - evaluated the extent of the injured employee's compensable injury in one case;
  - assigned an IR in one case;
  - certified the date of MMI, assigned an IR, and evaluated the extent of the injured employee's compensable injury in one case;
  - certified the date of MMI, assigned an IR, and evaluated the injured employee's ability to return to work in one case;
  - assigned an IR and evaluated the injured employee's ability to return to work in one case; and

- certified the date of MMI, evaluated the extent of the injured employee's compensable injury, and evaluated the injured employee's ability to return to work in one case.

### ASSESSMENT OF SANCTION

11. Submitting unnecessary referrals to other health care providers or ordering or performing unnecessary testing of an injured employee as part of a DD examination imposes extraneous medical costs on the workers' compensation system and unreasonably delays the completion of the DD's report.
12. Failure to file a DD report in the form and manner required by DWC increases the likelihood of disputes and hinders the ability of DWC and system participants to resolve disputes promptly and fairly.
13. In assessing the sanction for this case, DWC appropriately and fully considered the following factors set forth 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 demonstrated good faith of the violator, including actions taken to rectify the consequences of the prohibited act;
  - the penalty necessary to deter future violations;
  - whether the administrative violation has negative impact on the delivery of benefits to an injured employee;
  - the history of compliance with electronic data interchange requirements;
  - other matters that justice may require, including but not limited to:
    - PBO assessments;
    - the promptness and earnestness of 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; and
  - to the extent reasonable, the economic benefit resulting from the prohibited act.
14. In assessing the sanction for this case, DWC found the following factors set forth in TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e) to be aggravating: the seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the prohibited act; the penalty necessary to deter future violations; and whether the administrative violation has negative impact on the delivery of benefits to an injured employee.
15. Dr. Alexander acknowledges that DWC and Dr. Alexander have communicated regarding the relevant statutes and rules violated; the facts establishing that the administrative

violation occurred; and the appropriateness of the proposed sanction, including how DWC considered the factors under TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e).

16. Dr. Alexander acknowledges that in assessing the sanction, DWC considered the factors set forth in TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e).

### **CONCLUSIONS OF LAW**

The commissioner makes the following conclusions of law:

1. The commissioner has jurisdiction over this matter pursuant to TEX. LAB. CODE §§ 401.021, 402.001, 402.00111, 402.00114, 402.00116, 402.00128, 408.0041, 408.1225, 413.002, 413.044, 413.0511, 413.0512, 414.002, 415.021, and 415.0215; 28 TEX. ADMIN. CODE § 180.26; and TEX. GOV'T CODE §§ 2001.051 – 2001.178.
2. The commissioner has authority to informally dispose of this matter as set forth herein under TEX. GOV'T CODE § 2001.056, TEX. LAB. CODE §§ 401.021, 402.00128(b)(7), 415.034, and 28 TEX. ADMIN. CODE § 180.26(h).
3. Pursuant to TEX. LAB. CODE § 415.021, 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.
4. Pursuant to TEX. LAB. CODE § 408.0231(f)(7), the commissioner may impose sanctions against a doctor who commits an administrative violation, including mandatory participation in training classes.
5. Pursuant to TEX. LAB. CODE § 415.003(3), a health care provider commits an administrative violation if the person makes an unnecessary referral.
6. Pursuant to TEX. LAB. CODE § 415.003(5), a health care provider commits an administrative violation if the person violates a commissioner rule.
7. Pursuant to 28 TEX. ADMIN. CODE § 127.210(a)(5), the commissioner may sanction a DD for submitting unnecessary referrals to other health care providers.
8. Pursuant to 28 TEX. ADMIN. CODE § 127.210(a)(6), the commissioner may sanction a DD for ordering or performing unnecessary testing of an injured employee as part of a DD's examination.
9. Dr. Alexander violated TEX. LAB. CODE §§ 415.003(3) and (5) and 127.210(a)(5) and (6) each time she submitted unnecessary referrals to other health care providers and/or ordered or performed unnecessary testing of an injured employee as part of her DD examination.

10. Pursuant to 28 TEX. ADMIN. CODE § 127.220(a)(7), DD narrative reports must be filed in the form and manner required by DWC and at a minimum summarize any additional testing conducted or referrals made as part of the evaluation and explain why the testing or referral was necessary to resolve a question at issue in the examination.
11. Dr. Alexander violated TEX. LAB. CODE § 415.003(5) each time she filed a DD report that failed to explain why the testing or referral was necessary to resolve a question at issue in the examination.
12. Pursuant to 28 TEX. ADMIN. CODE § 127.210(a)(7), the commissioner may sanction a DD for submission of inaccurate or inappropriate reports due to insufficient medical history or physical examination and analysis of medical records.
13. Pursuant to TEX. LAB. CODE § 408.0231(c)(3), the commissioner may sanction a DD based on evidence from DWC's medical records that a DD's charges, fees, diagnoses, treatments, evaluations, or IRs are substantially different from those the commissioner finds to be fair and reasonable.
14. Dr. Alexander violated 28 TEX. ADMIN. CODE § 127.210(a)(7) and TEX. LAB. CODE §§ 408.0231(c)(3) and 415.003(5) each time she submitted an inaccurate or inappropriate DD report that inappropriately or unreasonably addressed the question or questions she was ordered to answer, including whether the injured employee had reached MMI and/or what the injured employee's IR was.

**ORDER**

It is ORDERED that, Brittney J. Alexander, D.C., shall be removed from the Texas workers' compensation system's designated doctor list, shall no longer participate, in or out of state, as a designated doctor in the Texas workers' compensation system, and shall not apply for certification as a designated doctor in the Texas workers' compensation system for two years from the date of this Order.

  
\_\_\_\_\_  
Cassie Brown *WCH*  
Commissioner of Workers' Compensation

Approved as to Form and Content:

  
\_\_\_\_\_  
Glen Imes  
Staff Attorney, DWC Enforcement  
Texas Department of Insurance

