

No. **2017 5295**

OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF WORKERS' COMPENSATION

Date: NOV 29 2017

Subject Considered:

CLINTON C. BATTLE, M.D.
817 Baker Street
Fort Worth, TX 76104-7208

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 11925

General remarks and official action taken:

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

WAIVER

Dr. Battle acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Dr. Battle 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. Battle was granted Medical License Number F1368 by the Texas Medical Board on August 27, 1978.
2. Dr. Battle was classified as "high" tier in the 2007 Performance Based Oversight (PBO) assessment. Dr. Battle was not classified in the 2009, 2011, 2013, or 2015 PBO assessments.

MEDICAL QUALITY REVIEW NUMBER 16-39 HCP

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 in TEX. LAB. CODE ANN. § 413.0511, and Medical Quality Review (MQR) Panel, as established pursuant to TEX. LAB. CODE ANN. § 413.0512, conducted a medical quality review (MQR # 16-39 HCP) of five cases where Dr. Battle treated injured employees as a treating doctor.

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5. In all reviewed cases, Dr. Battle prescribed compound medications on pre-printed forms provided by Texas Injured Workers Pharmacy. Pursuant to the requirements set forth in TEX. LAB. CODE ANN. § 413.041 and 28 TEX. ADMIN. CODE § 180.24, Dr. Battle maintains that he has no financial interest or compensation arrangements with Texas Injured Workers Pharmacy.

**IMPROPER, UNREASONABLE, OR MEDICALLY UNNECESSARY
TREATMENT OR SERVICES**

6. Pursuant to TEX. LAB. CODE ANN. § 415.003(2), a health care provider commits an administrative violation if the person administers improper, unreasonable, or medically unnecessary treatment or services.
7. Pursuant to 28 TEX. ADMIN. CODE § 134.502, a doctor providing care to an injured employee shall prescribe for the employee medically necessary prescription medications and over-the-counter medication alternatives as clinically appropriate and applicable in accordance with applicable state law and as provided by the Texas Administrative Code.
8. Dr. Battle prescribed compounded medications that were not reasonable and/or medically necessary on each of the five injured employees reviewed.
9. Dr. Battle failed to document the rationale or justification for the use of multiple classes of agents contained in the compounded medications, including how the compounded medications affected current oral medications prescribed to each injured employee and/or the appropriateness of prescribing compounded medications containing muscle relaxers, like baclofen, and anticonvulsant medication, like gabapentin.
10. Dr. Battle failed to explain the rationale for why or how various ingredients or classes were compounded, or how they would alleviate each injured employee's symptoms.
11. The medical records did not contain any information, discussion, or rationale for the use of compounded medications, and did not contain any explanation for the multiple classes of agents utilized. Further, the dates of the prescriptions of the compounded medications do not coincide with the dates of any office visits.
12. Dr. Battle failed to document the use or efficacy of the compounded medications in improving each injured employee's symptoms.

FAILURE TO FOLLOW THE DIVISION'S FEE AND TREATMENT GUIDELINES

13. Pursuant to TEX. LAB. CODE ANN. § 415.003(4), a health care provider commits an administrative violation if the person violates the division's fee and treatment guidelines.
14. Pursuant to 28 TEX. ADMIN. CODE § 137.100(a), Health care providers shall provide treatment in accordance with the current edition of the *Official Disability Guidelines* (ODG).

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15. Dr. Battle failed to follow the division's treatment guidelines in prescribing compounded medications in each of the five cases reviewed.
16. Dr. Battle failed to document the use or efficacy of the compounded medications in improving for each of the injured employee's symptoms.

DR. BATTLE'S TREATMENTS AND EVALUATIONS WERE SUBSTANTIALLY DIFFERENT FROM WHAT THE COMMISSIONER FINDS TO BE FAIR AND REASONABLE

17. Pursuant to TEX. LAB. CODE ANN. § 408.0231(c)(3), one of the criteria for imposing sanctions on a doctor may include evidence from the medical records that the doctor's evaluations are substantially different from those the commissioner finds to be fair and reasonable.
18. Pursuant to TEX. LAB. CODE ANN. §§ 408.023(l) and 408.025(c) and 28 TEX. ADMIN. CODE § 180.22(c)(2) the treating doctor is responsible for the efficient utilization and management of health care.
19. In all cases reviewed, the medical records contain no information or discussion regarding the oral medications the injured employee was previously prescribed and why the decision was made to add compounded medications. Further, Dr. Battle prescribed each of the injured employees the exact same compounded medication, showing a lack of individualization for each of his patients' needs.
20. In all cases reviewed, Dr. Battle failed to document or explain the rationale or reasonable justification for providing prescriptions of compounded medications comprised of the same therapeutic classes of agents and failed to monitor potential toxicity.

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. §§ 401.021, 402.001, 402.00111, 402.00114, 402.00116, 402.00128, 408.023, 408.0231, 408.025, 413.002, 413.018, 413.041, 413.0511, 413.0512, 414.002, 415.003, 415.021, and 415.0215; 28 TEX. ADMIN. CODE §§ 134.502, 137.100, 180.22, 180.24, 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 commissioner may impose sanctions against a doctor who commits an administrative violation, including mandatory participation in training classes.

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4. Pursuant to TEX. LAB. CODE ANN. § 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.
5. Pursuant to TEX. LAB. CODE ANN. § 413.018(b), the division shall review the medical treatment provided in a claim that exceeds the guidelines and may take action to ensure that necessary and reasonable care is provided.
6. Dr. Battle violated TEX. LAB. CODE ANN. § 415.003(2) and 28 TEX. ADMIN. CODE § 134.502, each time he prescribed compound medications that were improper, unreasonable, or medically unnecessary.
7. Dr. Battle violated TEX. LAB. CODE ANN. § 415.003(4) and 28 TEX. ADMIN. CODE § 137.100(a), when he failed to follow the Official Disability Guidelines in prescribing compound medications.
8. Dr. Battle violated TEX. LAB. CODE ANN. § 408.0231(c)(3) by failing to document the medical necessity or appropriate medical rationale for prescribing the compounded medications.
9. Dr. Battle violated TEX. LAB. CODE ANN. §§ 408.023(l) and 408.025(c) and 28 TEX. ADMIN. CODE § 180.22(c)(2) when he failed to discuss in the medical records the oral medications the injured employee was previously prescribed and why the decision was made to add compounded medications.

ORDER

It is ORDERED that 30 days from the date of this consent order, Clinton C. Battle, M.D. agrees to no longer practice before the division. After 30 days, Clinton C. Battle, M.D. will not participate in treating, examining, and/or consulting with other physicians regarding injured employees who are covered under the Texas workers' compensation system. Additionally, Clinton C. Battle, M.D. will not receive direct or indirect remuneration from the Texas workers' compensation system.



W. Ryan Brannan
Commissioner of Workers' Compensation

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Approved as to Form and Content:



Terra Thomas
Staff Attorney, DWC Enforcement
Texas Department of Insurance

