

No. 3469

OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF WORKERS' COMPENSATION

Date: JUL 31 2014

Subject Considered:

STEPHEN EDWARD EARLE, M.D.
12315 Judson, Suite 208
San Antonio, Texas 78233

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 2423

General remarks and official action taken:

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

WAIVER

Dr. Earle acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Dr. Earle 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. Earle is a health care provider who provides medical treatment and care to injured employees in the Texas workers' compensation system. He holds Texas Medical License No. F3917, which was issued on August 19, 1979.
2. Dr. Earle was not selected to be tiered in the 2007, 2009, 2011, or 2013 Performance Based Oversight (PBO) assessments.
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 two Medical Quality Reviews (MQRs) in which eight medical cases where Dr. Earle provided medical treatment and care to injured employees.

Medical Quality Review Nos. 10-SC-142 and 113-1 HCP

5. Dr. Earle treated eight injured employees that were reviewed from February 2007 through July 2011.
6. In providing treatment to the injured employees, Dr. Earle failed to maintain efficient utilization of health care when he did not properly document instability and/or the need for procedures in each of the eight injured employees.
7. Dr. Earle provided treatment substantially different from that which the commissioner finds to be fair and reasonable when he failed to document appropriate justification for intraoperative examinations and procedures in five of the injured employees reviewed.
8. Dr. Earle denies all the allegations set forth herein but does not contest the entry of this order. This consent order and its requirements are entered into in the nature of compromise and as a settlement agreement.

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, 408.0231, 408.025, 413.002, 413.0511, 413.05115, 413.0512, 414.002, 414.007, 415.021, 415.0215, and 415.023; 28 TEX. ADMIN. CODE §§ 180.22 and 180.26; and TEX. GOV'T CODE ANN. §§ 2001.051 – 2001.178.¹
2. The commissioner of workers' compensation has authority to informally dispose of this matter 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 408.0231, and 28 TEX. ADMIN. CODE § 180.26, the commissioner of workers' compensation may impose a range of sanctions against any person regulated by the division, which includes the authority to deprive a person of the right to practice before the division or of the right to receive remuneration under the Act.

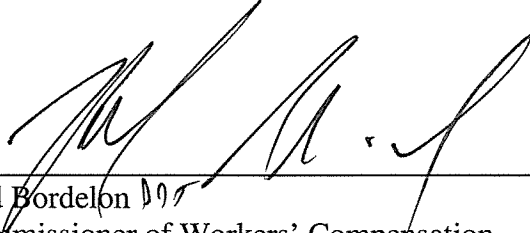
¹ All references to the Texas Labor Code (TEX. LAB. CODE ANN.) and the Texas Administrative Code (TEX. ADMIN. CODE) that relate to the findings of fact regarding violations, as set forth in this consent order, are those that were in effect at the time the violations occurred. TEX. LAB. CODE ANN. and TEX. ADMIN. CODE references related to jurisdictional and/or procedural issues cite current law.

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. The administrative penalty shall not exceed \$25,000 per day per occurrence. Each day of noncompliance constitutes a separate violation.
5. Pursuant to TEX. LAB. CODE ANN. § 408.025(c) and 28 TEX. ADMIN. CODE § 180.22(c)(2), a treating physician shall maintain efficient utilization of health care.
6. Dr. Earle failed to maintain efficient utilization of health care in violation of TEX. LAB. CODE ANN. § 408.025(c) and 28 TEX. ADMIN. CODE § 180.22(c)(2), when he failed to document instability and/or the need for procedures in each of the eight injured employees.
7. Pursuant to TEX. LAB. CODE ANN. § 408.0231(c)(3), the criteria for recommending or imposing sanctions may include anything the commissioner of workers' compensation considers relevant, including evidence from the division's medical records that the applicable doctor's diagnoses, treatments, evaluations, or impairment ratings are substantially different from those the commissioner finds to be fair and reasonable based on either a single determination or a pattern of practice.
8. Dr. Earle violated TEX. LAB. CODE ANN. § 408.0231(c)(3), and provided treatment substantially different from that which the commissioner finds to be fair and reasonable when he failed to document appropriate justification for intraoperative examinations and procedures in five of the injured employees reviewed.

ORDER

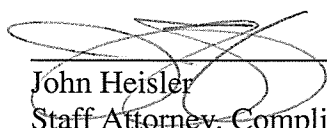
Stephen Edward Earle, M.D. shall be removed from the Texas workers' compensation system as a health care practitioner for a period of five years. Therefore, he shall not participate in treating, examining, and/or consulting with other physicians regarding injured employees who are covered under the Texas workers' compensation system for a period of five years. Additionally, Stephen Edward Earle, M.D. shall not receive direct or indirect remuneration from the Texas workers' compensation system during that time, for any services performed after the date of entry of this Order.

IT IS, THEREFORE, ORDERED by the commissioner of workers' compensation that Stephen Edward Earle, M.D. shall be removed from the Texas workers' compensation system as a Health Care Practitioner for a period of five years.



Rod Bordelon
Commissioner of Workers' Compensation

Approved as to Form and Content:



John Heisler
Staff Attorney, Compliance Division
Texas Department of Insurance

AFFIDAVIT

STATE OF Texas

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§

COUNTY OF Bexar

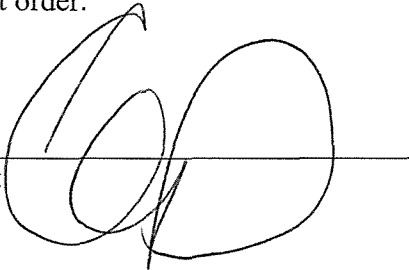
Before me, the undersigned authority, personally appeared the affiant, Stephen Edward Earle, M.D., who being by me duly sworn, deposed as follows:

“My name is Stephen Edward Earle, M.D. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

I waive rights provided by the Texas Labor Code and other applicable law and acknowledge the jurisdiction of the Texas commissioner of workers' compensation.

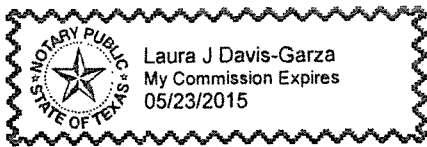
I voluntarily enter into this consent order and consent to the issuance and service of this consent order.”

Affiant



SWORN TO AND SUBSCRIBED before me on 7-30, 2014.

(NOTARY SEAL)



Laura J Davis-Garza
Signature of Notary Public

Laura J Davis-Garza
Printed Name of Notary Public