

No. 3593

OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF WORKERS' COMPENSATION

Date: OCT 22 2014

Subject Considered:

LESLEY NEWTON, M.D.
2656 South Loop W., Suite 200
Houston, Texas 77054-2836

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 7615

General remarks and official action taken:

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

WAIVER

Dr. Newton acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Dr. Newton 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. Newton holds Texas Medical License No. H3128, issued on December 1, 1987. Dr. Newton is a health care provider who performed designated doctor (DD) examinations in the Texas workers' compensation system. Dr. Newton was certified to rate maximum medical improvement (MMI), and issue impairment ratings (IRs). These certifications were in place during the period of time the violations occurred. Dr. Newton voluntarily surrendered her DD certification and the right to certify MMI and to assign IR in the Texas workers' compensation system on September 15, 2014.

2. Dr. Newton was not classified in the 2007, 2009, 2011, or the 2013 Performance Based Oversight assessments.
3. The DD who examines an injured employee to determine whether the injured employee has reached MMI and to assign an IR, if applicable, must file a Report of Medical Evaluation (DWC Form-69) and a narrative report with the division, and send the report to the proper parties no later than the seventh working day after the examination.
4. Dr. Newton failed to timely file DWC Form-69 with the division in five instances from September 2013 through July 2014. The DWC Form-69 reports were 13 to 27 days late in these five instances.
5. Dr. Newton had all medical records prior to the DD examination in these five instances.

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, 408.0041, 415.021, and 415.0215; 28 TEX. ADMIN. CODE §§ 127.10, 130.1 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 28 TEX. ADMIN. CODE § 180.26(a) and (b)(4) and (5), the division may impose sanctions on any system participant if that system participant has committed an administrative violation. The sanctions the division may impose include deletion or suspension from the designated doctor list and restrictions on appointments or reviews.
4. Pursuant to 28 TEX. ADMIN. CODE § 127.10(d), a DD who determines the injured employee has reached MMI or who assigns an IR, or who determines the injured employee has not reached MMI, shall complete and file a report as required by 28 TEX. ADMIN. CODE § 130.1.
5. Pursuant to 28 TEX. ADMIN. CODE § 130.1(d)(2), a Report of Medical Evaluation under this rule shall be filed with the division, injured employee, injured employee's representative, and the insurance carrier no later than the seventh working day after the date of the certifying examination.

6. Dr. Newton violated 28 TEX. ADMIN. CODE §§ 127.10(d) and 130.1(d)(2) on five occasions when she failed to timely file the proper forms and narrative report within seven working days of the date of the DD examination.
7. Pursuant to 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 of the commissioner.
8. Pursuant to TEX. LAB. CODE ANN. § 415.021(a), Dr. Newton committed an administrative violation when she violated a rule, specifically 28 TEX. ADMIN. CODE §§ 127.10(d) and 130.1(d)(2).

ORDER

Lesley Newton, M.D., agrees not to re-apply to the division's designated doctor list, or to apply to certify MMI and assign IRs in the Texas workers' compensation system for a period of two years from the date of this consent order.



W. Ryan Brannan
Commissioner of Workers' Compensation

Approved as to Form and Content:



Claudia Kirk
Staff Attorney, Compliance Division
Texas Department of Insurance

AFFIDAVIT

STATE OF TEXAS §
 §
COUNTY OF Harris §

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

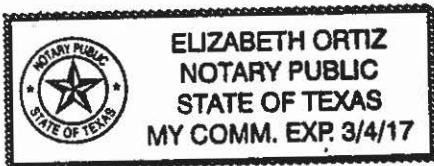
"My name is Lesley Newton, M.D. I am of sound mind, capable of making this statement, and have personal knowledge of these facts, which are true and correct.

I have knowingly and voluntarily entered into the foregoing consent order and agree with and consent to the issuance and service of the same by the commissioner of workers' compensation of the State of Texas."

Lesley Newton MD
Affiant

SWORN TO AND SUBSCRIBED before me on September 22, 2014.

(NOTARY SEAL)



[Handwritten Signature]
Signature of Notary Public

Elizabeth Ortiz
Printed Name of Notary Public