

No. 4167

OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF WORKERS' COMPENSATION

Date: OCT 28 2015

Subject Considered:

PATRICK CHIDI OBASI, M.D.
815 S. Washington Ave., Ste. 303
Marshall, TX 75670-5358

CONSENT ORDER
DISCIPLINARY ACTION
TDI ENFORCEMENT FILE NO. 9432

General remarks and official action taken:

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

WAIVER

Dr. Obasi acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Dr. Obasi 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. Obasi holds a Texas Medical License No. N6542, issued on June 4, 2010.
2. Dr. Obasi is a health care provider who was certified to perform designated doctor (DD) examinations in the Texas workers' compensation system whose last certifications to assign Maximum Medical Improvement (MMI) and Impairment Ratings (IR) expired on December 12, 2014.
3. Dr. Obasi was not classified in the 2007, 2009, 2011, or the 2013 Performance Based Oversight assessments.

Medical Quality Review.(MQR) #15-5-DD

4. The division, as authorized by TEX. LAB. CODE ANN. § 414.002, monitors system participants to determine compliance with the Texas Workers' Compensation Act (Act) and rules promulgated by the commissioner of workers' compensation (Rules).
5. 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 a complaint-based medical quality review (MQR) of one case where Dr. Obasi was ordered by the division to perform three DD examinations on an injured employee.
6. In October 2012, March 2014, and May 2014, Dr. Obasi performed DD examinations on an injured employee who had been rear ended by another car, suffering compensable injuries of right knee contusion, cervical sprain contusion, low back strain, and right shoulder strain. Additionally, claimed injuries included cervical strain, lumbar sprain, left knee contusion with effusion, right knee chondromalacia of the patella, chondromalacia lateral patellar cartilage, right ankle contusion, right shoulder sprain, right hip labral tear, right hip severe arthritis changes, degeneration, and tearing of the entire superior labrum, including the anterior superior and posterior superior corners, 1 cm paralabral cyst seen at med-superior labrum.
7. A Medical Quality Review Panel reviewed the files in which Dr. Obasi performed the DD examinations. In all three examinations the Medical Quality Review Panel found Dr. Obasi's examinations were deficient in the following:
 - a. Dr. Obasi's narrative reports failed to include an explanation of the analysis he performed to find whether MMI was reached in the first and third exams;
 - b. Dr. Obasi's narrative reports did not support MMI as of the date of the exam in the first and third exams;
 - c. Dr. Obasi failed to refer to any evidence based medicine in determining extent of injury in the second exam. Dr. Obasi should have explained how the work-related event aggravated the arthritic changes in the right hip of the injured employee;
 - d. Dr. Obasi did not apply proper methodology in determining the impairment rating (IR) or return to work (RTW) in the third exam; and
 - e. Dr. Obasi referred the injured employee for a functional capacity examination (FCE) that was unnecessary in the first and third examinations of the injured employee.

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, 127.210, 127.220, 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 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. 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.
4. Pursuant to 28 TEX. ADMIN. CODE § 130.1(d)(1)(B)(iii), the DD certifying MMI, determination of permanent impairment, and assignment of an impairment rating must include in the attached narrative report findings of the certifying examination, including both normal and abnormal findings related to the compensable injury and an explanation of the analysis performed to find whether MMI was reached.
5. Dr. Obasi violated 28 TEX. ADMIN. CODE § 130.1(d)(1)(B)(iii), when:
 - a. the narrative report did not support MMI based on medical records, clinical status, physical exam, and evidence-based medicine in the first and third DD examinations.
 - b. The narrative did not provide an explanation of the analysis performed to determine whether MMI was reached in the first and third examinations.
6. Pursuant to 28 TEX. ADMIN. CODE § 127.220(3), designated doctor reports must sufficiently explain how the DD determined the answer to each question within a reasonable degree of medical probability.
7. Dr. Obasi violated 28 TEX. ADMIN. CODE § 127.220(3) when he failed to explain how the compensable injury aggravated arthritic changes in the right hip of the injured employee in the second examination.
8. Pursuant to 28 TEX. ADMIN. CODE § 127.220(a)(4), designated doctor narrative reports must demonstrate, as appropriate, application or consideration of American Medical Association Guides to the Evaluation of Permanent Impairment, division-adopted return-to-work and treatment guidelines, and other evidence-based medicine, if available.
9. Dr. Obasi violated 28 TEX. ADMIN. CODE § 127.220(a)(4) when his narrative report in the third DD exam failed to demonstrate that:

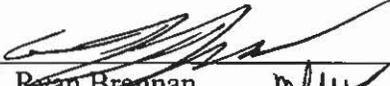
- a. he properly considered or applied the AMA Guides related to compensable arthritis (determined compensable by DD in 2nd exam), treated with hip replacement in determining IR.
 - b. he considered or applied division-adopted return to work guidelines since his return to work (RTW) date was inconsistent with the statutory requirements to use the Medical Disability Advisor (MDA), Workplace Guidelines for Disability Duration. The injured employee was already working regularly.
10. Pursuant to 28 TEX. ADMIN. CODE § 127.210(a)(6), in addition to the grounds for issuing sanctions against a doctor under § 180.26 of this title, the commissioner may revoke or suspend a designated doctor's certification as a designated doctor or otherwise sanction a designated doctor for noncompliance with requirements of this chapter or for ordering or performing unnecessary testing of an injured employee as part of a designated doctor's examination.
11. Dr. Obasi submitted a referral for an unnecessary FCE in violation of 28 TEX. ADMIN. CODE § 127.210(a)(6):
 - a. in the first examination because Dr. Obasi should have used the MDG guidelines based on the physical exam. The medical records, physical examination, and MDG were sufficient to address RTW from the date of the examination going forward.
 - b. in the third examination, the FCE was improper because the injured employee had already returned to work without restrictions.
12. Pursuant to 28 TEX. ADMIN. CODE §§ 127.10(d) and 127.220(a), if the designated doctor determines extent of injury, he must:
 - a. provide a clearly defined answer for each question to be addressed by the DD examination and only for each of those questions; and
 - b. sufficiently explain how the DD determined the answer to each question within a reasonable degree of medical probability.
13. Dr. Obasi violated 28 TEX. ADMIN. CODE §§ 127.10(d) and 127.220(a) by failing to perform a review of the medical records for purposes of determining extent of injury in the second examination. Dr. Obasi did not refer to any evidence based medicine, but stated in a conclusory manner the force from the accident is consistent with these types of hip injuries, as the right hip labral tear is related to the injury.

ORDER

It is therefore ORDERED, that as of the date of this consent order, Patrick Obasi, M.D., will not re-apply for DD certification or re-apply for MMI/IR certification in the Texas workers' compensation system for two years.

It is FURTHER ORDERED that, if Patrick Obasi, M.D. should re-apply for the DD certification within two years, the division will not grant the DD certification, and his re-application will constitute a violation of this consent order.

Dr. Obasi is also ORDERED to pay an administrative penalty of \$2,000. Payment is due on or before 30 days from the date of this Order. The payment must be paid by company check, cashier's check, or money order made payable to the "State of Texas" and mailed to the Texas Department of Insurance, Compliance Division-DWC, MC-9999, P.O. Box 149104, Austin, Texas 78714-9104.



W. Ryan Brannan
Commissioner of Workers' Compensation

Approved as to Form and Content:



John Heisler
Staff Attorney, Compliance Division
Texas Department of Insurance

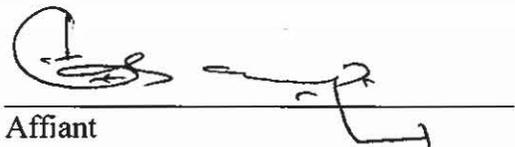
AFFIDAVIT

STATE OF TEXAS §
 §
COUNTY OF _____ §

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

“My name is Patrick Chidi Obasi, 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.”



Affiant

SWORN TO AND SUBSCRIBED before me on October 15th, 2015.

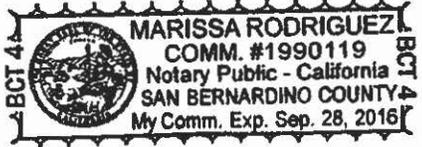
(NOTARY SEAL)

See attached
Signature of Notary Public
Marissa Rodriguez
Printed Name of Notary Public

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of San Bernardino

Subscribed and sworn to (or affirmed) before me on this 15th
day of October, 2015, by Patrick Chidi Obasi,
proved to me on the basis of satisfactory evidence to be the
person(s) who appeared before me.



(Seal)

Signature [Handwritten Signature]