

No. 2020-6483

**Official Order  
of the  
Texas Commissioner of Workers' Compensation**

**Date:** 9-25-2020

**Subject Considered:**

Methodist Stone Oak Hospital  
P.O. Box 405653  
Atlanta, Georgia 30384-5653

Consent Order  
DWC Enforcement File No. 25341

**General remarks and official action taken:**

This is a consent order with Methodist Stone Oak Hospital (Methodist Stone Oak). The commissioner of the Texas Department of Insurance, Division of Workers' Compensation (DWC) considers whether DWC should take disciplinary action against Methodist Stone Oak.

**Waiver**

Methodist Stone Oak acknowledges that the Texas Labor Code and other applicable laws provide certain rights. Methodist Stone Oak waives all of these rights, and any other procedural rights that apply, in consideration of the entry of this consent order.

**Findings of Fact**

1. Methodist Stone Oak is a health care provider operating in the Texas workers' compensation system.

### Improperly Pursuing a Private Claim against an Injured Employee

2. On [REDACTED], Methodist Stone Oak provided medical services to an injured employee.
3. On [REDACTED], Methodist Stone Oak billed the injured employee's workers' compensation insurance carrier. The insurance carrier made a partial payment to Methodist Stone Oak but indicated on the Explanation of Benefits (EOB) submitted with the payment that the remainder of the bill was the patient's individual responsibility.
4. On [REDACTED], Methodist Stone Oak billed the injured employee for the remainder of the invoice. That amount was the portion that Methodist Stone Oak believed the insurance carrier indicated as the patient's responsibility.
5. There is no finding determining that the injured employee violated TEX. LAB. CODE § 408.022 in selecting a treating doctor and no final adjudication that the claim was not compensable.

### **Assessment of Sanction**

1. Improperly billing an injured employee for health care services imposes an undue financial burden on the injured employee and circumvents the Texas workers' compensation system and the roles of its system participants.
2. In assessing the sanction for this case, DWC fully considered the following factors 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 violator's demonstration of good faith, including actions it took to rectify the consequences of the prohibited act;
  - the penalty necessary to deter future violations;
  - whether the administrative violation had a negative impact on the delivery of benefits to an injured employee;
  - the history of compliance with electronic data interchange requirements;
  - to the extent reasonable, the economic benefit resulting from the prohibited act; and

- other matters that justice may require, including, but not limited to:
    - performance based oversight assessments;
    - prompt and earnest 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.
3. DWC found the following factors 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 history and extent of previous administrative violations; the penalty necessary to deter future violations; and other matters that justice may require, including evidence of heightened awareness of the legal duty to comply with the Texas Workers' Compensation Act and DWC rules.
  4. DWC found the following factors in TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e) to be mitigating: the violator's demonstration of good faith, including actions it took to rectify the consequences of the prohibited act, as Methodist Stone Oak believed it was correctly interpreting the EOB sent by the injured employee's workers' compensation insurance carrier. After speaking with DWC, Methodist Stone Oak understands the error and is instituting training for all adjusters in correctly reading EOBs submitted by insurance carriers.
  5. Methodist Stone Oak acknowledges it communicated with DWC about the relevant statutes and rules it violated; the facts establish that the administrative violation occurred; and the proposed sanction is appropriate, including the factors DWC considered under TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e).
  6. Methodist Stone Oak acknowledges that, in assessing the sanction, DWC considered the factors in TEX. LAB. CODE § 415.021(c) and 28 TEX. ADMIN. CODE § 180.26(e).

### Conclusions of Law

1. The commissioner has jurisdiction over this matter pursuant to TEX. LAB. CODE §§ 402.001, 402.00114, 402.00116, 402.00128, 414.002, 414.003, 415.002, and 415.021.
2. The commissioner has the authority to dispose of this case informally pursuant to TEX. GOV'T. CODE § 2001.056, TEX. LAB. CODE §§ 401.021 and 402.00128(b)(7), and 28 TEX. ADMIN. CODE § 180.26(h).
3. Methodist Stone Oak has knowingly and voluntarily waived all procedural rights to which it may have been entitled regarding the entry of this order, including, but not limited to, issuance and service of notice of intent to institute disciplinary action, notice of hearing, a public hearing, a proposal for decision, a rehearing by the commissioner, and judicial review.
4. Pursuant to TEX. LAB. CODE § 415.021, the commissioner may assess an administrative penalty against a person who commits an administrative violation.
5. Pursuant to TEX. LAB. CODE § 415.003(6), a health care provider commits an administrative violation if it fails to comply with a provision of the Texas Workers' Compensation Act.
6. Pursuant to TEX. LAB. CODE § 413.042, a health care provider commits an administrative violation if it pursues a private claim against a workers' compensation claimant for all or part of the cost of a health care service it provides to the injured employee unless the injury is finally adjudicated as not compensable, or the injured employee violates TEX. LAB. CODE § 408.022 relating to the selection of a doctor.
7. Methodist Stone Oak violated TEX. LAB. CODE §§ 413.042 and 415.003(6) when it improperly billed an injured employee for workers' compensation health care services it provided.

**Order**

It is ordered that Methodist Stone Oak Hospital must pay an administrative penalty of \$2,500 within 30 days from the date of this order. Methodist Stone Oak Hospital must pay the administrative penalty by cashier's check or money order and make it payable to the "State of Texas." Mail the administrative penalty to the Texas Department of Insurance, Attn: DWC Enforcement Section, MC 9999, P.O. Box 149104, Austin, Texas 78714-9104.



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Cassie Brown  
Commissioner of Workers' Compensation

Approved Form and Content:



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Amy Norman  
Staff Attorney, Enforcement  
Compliance and Investigations  
Division of Workers' Compensation

**Affidavit**

**STATE OF TEXAS** §  
§  
**COUNTY OF BEXAR** §

Before me, the undersigned authority, personally appeared Marissa Helm, who being by me duly sworn, deposed as follows:

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

I hold the office of Senior Counsel for Parallon, and am the authorized representative of Methodist Stone Oak Hospital. I am duly authorized by the organization to execute this statement.

Methodist Stone Oak Hospital has knowingly and voluntarily entered into this consent order and agrees with and consents to the issuance and service of this consent order."



\_\_\_\_\_  
Affiant

SWORN TO AND SUBSCRIBED before me on September 16, 2020.

(NOTARY SEAL)

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Printed Name of Notary Public

\_\_\_\_\_  
Commission Expiration

Confidential Information Redacted  
Texas Labor Code §§402.083 and 402.092