

STATE OF CALIFORNIA
WORKERS' COMPENSATION APPEALS BOARD

Handwritten: 1-2-00
2-5-00
06/07/00
CLD

Case No. LBO 296320

BARBARA WARNER,

Applicants

vs.

ALHAMBRA SCHOOL DISTRICT;
JT2 INTEGRATED RESOURCES,

Defendants.

Order Granting
Defendants' Request for
Change of Physician

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JESSIE LOUIE

Notice of Intention to Submit having been issued herein and no good cause to the contrary having shown in writing within the time allowed, and

GOOD CAUSE APPEARING,

IT IS HEREBY ORDERED that the applicant's Petition for Reconsideration of the Opinion and Decision Granting Petition for Change of Physician be denied.

IT IS FURTHER ORDERED that the defendants' Petition for Order requiring the employee to select an employer-designated physician be granted for the reason stated in the Opinion on Decision.

Handwritten Signature: Jessie Louie

JESSIE LOUIE
Workers' Compensation
Administrative Law Judge

Dated: May 18 2000 at Long Beach, California
Served by mail on the parties listed
on the Official Address Record.
By: Luzmar P. ...

State of California
DIVISION OF WORKERS' COMPENSATION

Case No. LBO 296320

BARBARA WARNER

vs.

ALHAMBRA SCHOOL
DISTRICT;
JT2 INTEGRATED
RESOURCES,

Workers' Compensation
Administrative Law Judge:
Date:

JESSIE LOUIE
May 18, 2000

OPINION ON DECISION

Defendant's Petition for an Order Requiring an Employee to Select an Employer Designated Physician:

The applicant had an admitted injury on 1/30/98 to both knees, both hands, shoulders, and back; and a denied injury as to her lupus condition.

Applicant treated with defense doctor, Dr. Tomas Saucedo, who performed the right and left knee surgeries during the period of 3/10/98 to 8/98.

Approximately 10/98, the applicant's attorney sent a change of physician letter to defendants, who acknowledged Edward G. Stokes as primary treating physician, and provided applicant's attorney and Dr. Stokes with notice that the initial medical report was due within five and periodic reports every 45 days. Additionally, the defendants provided Dr. Stokes with a copy of BR 9785.

Eventually the defendants objected to Dr. Stokes as the primary treating physician and petitioned for the employee to select an employer physician on 8/26/99.

Defendants alleged that:

1. BR 9785 (e) (4):

Defendant objected to the 6/10/99 five-page report of Dr. John A. Donahue which requested an authorization for arthroscopy of the left

knee. Defense objections were first that the report was addressed to the applicant's attorney and not the primary physician, Dr. Stokes; and second, the primary doctor, Dr. Stokes did not write a report, requesting authorization for the surgery

2. BR 9785 (f) (2):

Defendant alleged that as the primary physician, Dr. Stokes needed to request an authorization for surgery after reviewing and commenting on the 6/10/99 medical report of Dr. Donahue. On 7/6/99, Dr. Stokes filled in a one-page form, and merely wrote in a request for authorization for left knee surgery with no other comments or discussion. Also, the defendants objected to Dr. Stokes' failing to promptly report any significant change, i.e. applicant's left knee surgery, to the defendants.

Dr. Stokes eventually submitted a 9/13/99 medical report addressing the applicant's need for surgery.

On 10/28/98, the Administrative Director Richard P. Gannon granted the defendants' petition for change of physician.

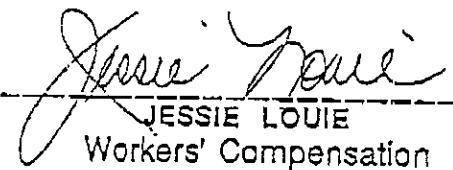
On 11/31/99, the applicant's attorney filed a Petition for Reconsideration of the Opinion on Decision granting the defendants' petition for change of physician. Applicant's attorney alleged that there was substantial compliance with BR 9785 and the defendant's petition for a change of physician should not be granted because of a mere technicalities and Dr. Stokes had complied with BR 9785 by his 9/13/99 report.

Defendant's filed an alleged that Dr. Stokes' 9/13/99 medical report is after the fact and cannot be used to cure a defect already present. Thus, the defense' petition for change of physician should be granted.

Defendants had complied by providing Dr. Stokes with the BR 9785 notice as to his medical reporting duties regarding the applicant's medical treatment. Dr. Stokes did not satisfy this requirement in his 7/6/99 report because there was no discussion of why the surgery was necessary other than the statement that there was loose bodies in the left knee and that the applicant had already had a surgery on 3/10/98 performed by Dr. Saucedo.

Furthermore, the 7/6/99 report did not report any significant changes in the applicant's medical condition give a medical basis for Dr. Donahue's surgical consultation re: arthroscopy of the left knee.

The applicant's attorney's petition for reconsideration is hereby denied and the defendants' request for change of physician is hereby granted for the reasons stated above.



JESSIE LOUIE
Workers' Compensation
Administrative Law Judge

JL/id