

STATE OF CALIFORNIA
WORKERS' COMPENSATION APPEALS BOARD

Case No. SBR 0212512

GEORGE MEDEIROS,

Applicant,

vs.

CITY OF RANCHO CUCAMONGA, and
PARSAC,

Defendants.

FINDINGS & ORDER

The above-entitled matter having been heard and regularly submitted, the Honorable David Bjelland, Workers' Compensation Referee, now finds and orders as follows:

FINDINGS OF FACT

The stipulations in the 5/21/96 Transcript of Oral Proceedings are true and are incorporated herein by reference.

2. On the basis of the unrebutted trial testimony presented by Steve Gomez Santa Ana, the court hereby finds and determines as follows:

3. Dr. Leslie Smart attempted to deceive her employer, Living Health Chiropractic (LHC), by administering Manipulation Under Anesthesia (MUA) modalities to the applicant, George Medeiros, against an express prohibition from her supervisor, Dr. Tamara Santa Ana, and by concealing the MUA procedures through misleading chart notes.

4. The limited weekend seminar education received by Dr. Smart covering MUA therapy did not qualify her to prescribe MUA procedures to the applicant in this case, particularly against the express prohibition of her supervisor.

5. The MUA procedures administered to the applicant in this case were not reasonably necessary to cure or relieve the applicant from the effects of his work injury.

6. Premises considered, the lien claims from the following lien claimants must be and are hereby disallowed: Leslie Smart, D.C.; Ambulatory Surgery Center; and Fred Garcia, M.D.

7. Lien Claimant, the Burwell Group, has been afforded a year (since July of 1995) within which to demonstrate compliance with the State of California statutes and regulations governing the ownership, registration and licensing of medical corporations operating under a fictitious business name. For reasons unknown to the WCR, the Burwell Group has declined to demonstrate compliance with Business &

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Professions Code §§ 2995 *et seq.* and 17918. Neither has the Burwell Group requested additional time within which to file and serve proof of compliance.

8. Premises considered, the lien claim from the Burwell Group must be and is hereby disallowed. *Hand Rehabilitation Center vs. WCAB (Obernier)*, 34 Cal.App.4th 1204, 40 Cal.Rptr.2d 734, 60 CCC 239 (4th Dist. 1995).

ORDER

IT IS ORDERED that the lien claims from the following Lien Claimants be disallowed, in accordance with the Findings of Fact above: Leslie Smart, D.C.; Ambulatory Surgery Center; Fred Garcia, M.D.; and the Burwell Group.

DATED: 7-16-96
Filed and Served by mail on all parties and
lien claimants on the Official Address Record.

David Bjelland
DAVID BJELLAND
WORKERS' COMPENSATION REFEREE

Date: 7-17-96 By: J. Holder

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REFEREE : David Bjelland

DATE : July 16, 1996

OPINION OF WCR ON DECISION

On the basis of the unrebutted trial testimony presented by Steve Gomez Santa Ana, the court hereby finds and determines as follows:

1. Dr. Leslie Smart attempted to deceive her employer, Living Health Chiropractic (LHC), by administering Manipulation Under Anesthesia (MUA) modalities to the applicant, George Medeiros, against an express prohibition from her supervisor, Dr. Tamara Santa Ana, and by concealing the MUA procedures through misleading chart notes.

2. The limited weekend seminar education received by Dr. Smart covering MUA therapy did not qualify her to prescribe MUA procedures to the applicant in this case, particularly against the express prohibition of her supervisor.

3. The MUA procedures administered to the applicant in this case were not reasonably necessary to cure or relieve the applicant from the effects of his work injury.

Premises considered, the lien claims from the following lien claimants are hereby disallowed: Leslie Smart, D.C.; Ambulatory Surgery Center, and Fred Garcia, M.D.

Lien Claimant, the Burwell Group, has been afforded a year (since July of 1995) within which to demonstrate compliance with the State of California statutes and regulations governing the ownership, registration and licensing of medical corporations operating under a fictitious business name. For reasons unknown to the WCR, the Burwell Group has declined to demonstrate compliance with Business & Professions Code §§ 2995 *et seq.* and 17918. Neither has the Burwell Group requested additional time within which to file and serve proof of compliance.

Premises considered, the lien claim from the Burwell Group must be and is hereby disallowed. *Hand Rehabilitation Center vs. WCAB (Obernier)*, 34 Cal.App.4th 1204, 40 Cal.Rptr.2d 734, 60 CCC 289 (4th Dist. 1995).

DATED: 7-16-96

David Bjelland
David Bjelland
Workers' Compensation Referee

Service made on all parties and lien claimants,
as listed on the Official Address record.

Date: 7-17-96 By: D. Holder