

NORTH CAROLINA DEPARTMENT OF INSURANCE
RALEIGH, NORTH CAROLINA

STATE OF NORTH CAROLINA)
COUNTY OF WAKE)

BEFORE THE
COMMISSIONER OF INSURANCE

IN THE MATTER OF:)

ORDER AND
FINAL AGENCY DECISION

THE LICENSURE OF)
DESIREE MANN)
(NPN #17262241))

Docket Number: 2078

Respondent.)

This matter was heard on June 1, 2022, by the undersigned Hearing Officer, as designated by the Commissioner of Insurance pursuant to N.C. Gen. Stat. § 58-2-55. The administrative hearing was held in the Albemarle Building, located at 325 North Salisbury Street, Raleigh, Wake County, North Carolina. Assistant Attorney General Rebecca E. Lem represented the North Carolina Department of Insurance, Agent Services Division (hereinafter "Petitioner" or "ASD"). Respondent Desiree Mann (hereinafter, "Respondent") did not appear.

Jeff Miller testified for the Petitioner. Petitioner introduced Exhibits 1-10 into evidence.

At the hearing, Petitioner's motion to make a technical correction to the Petition regarding Respondent's lines of authority was granted.

Due to the Respondent's failure to appear at the hearing, pursuant to 11 NCAC 01.0423(a)(1), the allegations of the Notice of Hearing and attached Petition for Administrative Hearing may be taken as true or deemed to be proved without further evidence.

Based on the allegations set forth in the Notice of Hearing in this matter, as well as documentary and testimonial evidence introduced at the hearing, the undersigned Hearing Officer hereby makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The Notice of Administrative Hearing was properly served on Petitioner pursuant to Rule 4 of the North Carolina Rules of Civil Procedure and N.C. Gen. Stat. § 58-2-69(d).

2. Respondent is a resident of Florida. At the time the Notice of Administrative Hearing and Petition were served on Respondent, which occurred by certified U.S. Postal Service mail on or about May 14, 2022, Respondent resided in Plantation, Florida, with a business address in Pompano Beach, Florida. On or about May 19, 2022, Respondent updated her address through the NAIC. As of the date of the hearing, Respondent resides in Plantation, Florida and her mailing and business addresses have been updated to Boca Raton, Florida.

3. The Department has the authority and responsibility for the enforcement of insurance laws of this State and for regulating and licensing insurance agents. Respondent holds a Non-Resident Producer License with lines of authority in Life, Accident and Health or Sickness issued by the Department, National Producer Number 17262241. Respondent's license was first issued by the Department on or about September 28, 2016.

4. Jeff Miller, a Complaint Analyst with the Agent Services Division (ASD) of the North Carolina Department of Insurance ("Department"), testified that the matter involving Respondent came to ASD's attention through a "PIC Alert" which is an automatic notification system through the NAIC ("National Association of Insurance Commissioners"). Mr. Miller looked up the information regarding the "PIC Alert" on a RIRS report, which is a report also generated by the NAIC. The RIRS report showed that on or about November 8, 2021, Respondent had her Minnesota insurance license revoked for misrepresentation of an insurance product or policy, and failure to respond.

5. Mr. Miller testified that, when this matter was assigned to him, he checked NCDOI's records and the NIPR Attachment Warehouse to see if Respondent had reported the Minnesota administrative action. Respondent had not done so.

6. Mr. Miller testified that, at the time this matter was assigned to him, Respondent still was within her window to timely report the Minnesota administrative action within thirty (30) days as required by N.C. Gen. Stat. § 58-33-32(k). On November 17, 2021, Mr. Miller sent Respondent an email informing her that she could still timely report the Minnesota administrative action if she did so by December 8, 2021. In this email, Mr. Miller requested that Respondent send him a copy of the Minnesota order and other documentation related to this administrative action by December 8, 2021. Respondent did not respond to Mr. Miller's request and

did not report the Minnesota administrative action to the Department.

7. Documentary evidence introduced at the hearing shows that Mr. Miller sent Respondent a second request for information on December 3, 2021, providing her with ten (10) days to provide the previously requested documents. Respondent did not respond to this request.

8. Mr. Miller attempted to hold two (2) informal conferences with Respondent by phone on February 2, 2022 and March 3, 2022 to discuss her failure to report the Minnesota administrative action against her license. On each occasion, Respondent was provided with at least two (2) weeks of written notice via email prior to the informal conference date. On each occasion, Mr. Miller and his supervisor, Joe Wall, made two (2) attempts approximately fifteen (15) minutes apart to reach Respondent at her phone number of record, and left her voicemails to return their call. Respondent failed to participate in these informal conferences, and she never contacted ASD at any time prior to or after the informal conference attempts by phone, email, or otherwise.

9. Mr. Miller testified that he retrieved a copy of the Minnesota administrative action, which is a "Findings of Fact, Conclusions of Law and Order", through the ordinary course of business. A review of the Minnesota order revoking Respondent's license provided further detail regarding Respondent's misconduct. Specifically, Respondent misrepresented a health care sharing ministry plan as health insurance to consumers when that plan was not in fact insurance, as was evinced by Respondent making said misrepresentations to a Minnesota DOI investigator who was posing as a consumer. Further, Respondent failed to respond to the Minnesota Department of Insurance's administrative subpoena and requests for responses, after Respondent initially agreed to talk to a Minnesota DOI investigator.

10. Mr. Miller testified that Respondent failed to timely report the Minnesota administrative action to the Department in violation of N.C. Gen. Stat. § 58-33-32(k), which is a violation of the insurance laws of this State and cause for discipline against Respondent's license pursuant to N.C. Gen. Stat. § 58-33-46(a)(2). Mr. Miller further testified that Respondent's conduct in Minnesota in misrepresenting a product as health insurance when it in fact was not insurance is further cause for disciplinary action against her license pursuant to N.C. Gen. Stat. §§ 58-33-46(a)(5) and 58-33-46(a)(8).

11. Petitioner requested that Respondent's licenses be revoked pursuant to N.C. Gen. Stat. §§ 58-33-32(k), 58-33-46(a)(2), 58-33-46(a)(5) and 58-33-46(a)(8), noting the following:

- a. Respondent has failed to provide requested responses and documentation to ASD on numerous occasions;
- b. Respondent failed to timely report the Minnesota Administrative action;
- c. Respondent failed to appear at two (2) informal conferences that were to be held by phone; and
- d. Respondent's conduct in misrepresenting a product as health insurance when it in fact was not insurance is serious misconduct that could endanger consumers.

CONCLUSIONS OF LAW

1. This matter is properly before the Commissioner, and the Commissioner has jurisdiction over the parties and the subject matter pursuant to Chapter 58 of the North Carolina General Statutes.

2. The Notice of Administrative Hearing was properly served on Petitioner pursuant to Rule 4 of the North Carolina Rules of Civil Procedure.

3. Pursuant to 11 NCAC 01.0423(a)(1), as sanction for Petitioner's failure to appear at the hearing, the allegations of the Notice of Hearing and attached Petition may be taken as true or deemed to be proved without further evidence.

4. The evidence presented at the hearing supports the allegations of the Notice of Hearing and Petition.

5. Respondent's failure to report the administrative action against her Minnesota insurance license to the Department within thirty (30) days of the effective date of that action is a violation of N.C. Gen. Stat. § 58-33-32(k). Further, Respondent failed to timely report the Minnesota action despite ASD notifying Respondent in writing before the deadline that she still could timely report this action.

6. N.C. Gen. Stat. § 58-33-46(a)(2) allows the Commissioner to suspend, revoke, or refuse to renew any license issued under this Article for violating any insurance law of this or any other state. Respondent's license is subject to suspension or revocation under N.C. Gen. Stat. § 58-33-46(a)(2) for her failure to timely report the Minnesota administrative action to the Department in violation of N.C. Gen. Stat. § 58-33-32(k).

7. Respondent's conduct that led to the Minnesota administrative action against her license, whereby she misrepresented a product as health insurance to consumers when that product was not in fact insurance, constitutes intentional misrepresentation of the terms of an actual or proposed insurance contract or application for insurance pursuant to N.C. Gen. Stat. § 58-33-46(a)(5).

8. Respondent's conduct that led to the Minnesota administrative action against her license, whereby she misrepresented a product as health insurance to consumers when that product was not in fact insurance, constitutes fraudulent, coercive, or dishonest practices, and demonstrates incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this State or elsewhere pursuant to N.C. Gen. Stat. § 58-33-46(a)(8).

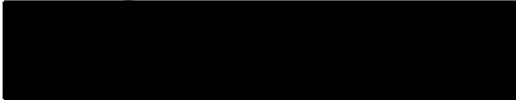
9. Respondent did not provide a response or documentation as requested by ASD on several occasions. Respondent did not appear for two (2) informal conference attempts. Respondent failed to appear for this administrative hearing. Respondent has not demonstrated an interest in retaining her North Carolina license.

Based on the foregoing Finding of Facts and Conclusions of Law, the Hearing Officer enters the following:

ORDER

It is ordered that Respondent's licenses issued by the North Carolina Department of Insurance are hereby REVOKED effective as of the date of the signing of this order.

This the 13th day of June, 2022.


Meghan Cook
Hearing Officer
N.C. Department of Insurance

APPEAL RIGHTS

This is a Final Agency Decision issued under the authority of N.C. Gen. Stat. § 150B, Article 3A.

Under the provisions of N.C. Gen. Stat. § 150B-45, any party wishing to appeal a final decision of the North Carolina Department of Insurance must file a Petition for Judicial Review in the Superior Court of the county where the person aggrieved by the administrative decision resides, or in the case of a person residing outside the State, the county where the contested case which resulted in the final decision was filed. The appealing party must file the petition within 30 days after being served with a written copy of the Order and Final Agency Decision. In conformity with 11. NCAC 01.0413 and N.C. Gen. Stat. § 1 A-1, Rule 5, this Order and Final Agency Decision was served on the parties on the date it was placed in the mail as indicated by the date on the Certificate of Service attached to this Order and Final Agency Decision. N.C. Gen. Stat. § 150B-46 describes the contents of the Petition, including explicitly stating what exceptions are taken to the decision or procedure and what relief the petitioner seeks, and requires service of the Petition by personal service or by certified mail upon all who were parties of record to the administrative proceedings. The mailing address to be used for service on the Department of Insurance is: A. John Hoomani, General Counsel, 1201 Mail Service Center, Raleigh, NC 27699-1201.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing **ORDER AND FINAL AGENCY DECISION** by mailing a copy of the same via certified U.S. Mail, return receipt requested; via first class U.S. mail to the licensee, at the addresses provided to the Commissioner pursuant to N.C. Gen. Stat. § 58-2-69(b); and via State Courier to Attorney for Petitioner, addressed as follows:

DESIREE MANN
8200 Cleary Blvd., Apt. 2010
Plantation, FL 3324-1379
(Respondent)


Certified Mail Tracking Number: 70170530000073198890

DESIREE MANN
United Enrollment Services
5301 N Federal Hwy, STE 290
Boca Raton, FL 33487-4919
(Respondent)

Certified Mail Tracking Number: 70170530000073198401

Rebecca E. Lem
Assistant Attorney General
N.C. Department of Justice
Insurance Section
9001 Mail Service Center
Raleigh, NC 27699-9001
(Attorney for Petitioner)

This the 13th day of June, 2022.


Mary Faulkner
Paralegal
N.C. Department of Insurance
1201 Mail Service Center
Raleigh, NC 27699-1201