STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
DIVISION OF FINANCIAL REGULATION

In the Matter of: CARYLANN HENDRIX, an Individual, Respondent.	Case No. INS-24-0059 FINAL ORDER TO CEASE AND DESIST, FINAL ORDER REVOKING LICENSE, AND FINAL ORDER ASSESSING CIVIL PENALTY, ENTERED BY DEFAULT

On October 3, 2024, the Director of the Department of Consumer and Business Services for the State of Oregon ("Director"), by and through the Division of Financial Regulation ("Division"), served an Order to Cease and Desist, Proposed Order to Revoke License, and Proposed Order to Assess Civil Penalty ("Notice") on Carylann Hendrix ("Respondent").

The Notice offered Respondent an opportunity for a hearing if requested within 20 days of service of the Notice. The Notice further informed Respondent that if a hearing was not conducted because Respondent did not timely request a hearing or otherwise defaulted, then the designated portion of the Division's file and all materials submitted by Respondent in this case would automatically become part of the contested case record for the purpose of proving a prima facie case.

The Director did not receive from Respondent a request for a hearing and did not conduct a hearing.

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FINDINGS OF FACT

The Director FINDS that:

1. On December 19, 2017, Respondent was issued an Oregon non-resident

insurance producer license ("License").[1] Respondent's national producer number is 17068880.

2. At all relevant times, Respondent was employed by Velapoint LLC ("Velapoint") and sold health insurance products on its behalf.[2]

Audits and Disciplinary Problems

3. Velapoint conducts Quality Assurance Audits ("Audits") of its producers to evaluate them on product and compliance criteria.[3] It conducts two to three Audits a month on each producer.

4. Velapoint utilizes a Performance Improvement Plan ("PIP") process, whereby discipline is supposed to proceed along the following steps:

A. Verbal Warning[4]

B. Written Warning

C. Probation

D. Termination

5. Between January 2020 and March 2023, Respondent failed 34 of 151 (22.5%) of her Audits.

6. Between October 2020 and March 2023, Respondent received at least 16 verbal or written warnings.

7. The foregoing failures and warnings were for a variety of reasons, including:

A. Failing to read the Enrollment Confirmation Statement ("ECS") to applicants;[5]

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[1] Respondent voluntarily surrendered her license on February 28, 2024.
[2] Velapoint's national producer number is 8966319.
[3] Compliance criteria includes, but is not limited to, getting proper HIPAA consent, reading all application questions verbatim, determining whether the customer is eligible for a Special Enrollment Period, and discussing ACA policy options with the customer.
[4] Velapoint does not require verbal warnings to be documented with Human Resources, so those referenced in this order are those which were documented.
[5] The ECS includes a recitation of each product the consumer is purchasing, including its cost. This allows the consumer to make an informed decision as to whether to confirm the purchase.

B. Failing to disclose applicable premiums and membership fees;

C. Failing to disclose that pre-existing conditions were not covered by certain products;

D. Failing to obtain HIPAA authorizations;

E. Providing inaccurate or incomplete information regarding premium costs, deductibles, waiting periods for benefits, and benefit amounts, among other items;

F. Failing to ask mandatory health questions;

G. Coaching applicants on how to respond to mandatory health questions;

H. Failing to determine whether applicants qualified for Affordable Care Act ("ACA") policies; and

I. Failing to utilize secure pauses[6] to access sensitive consumer information.

Beat Your Best Program

8. From 2019 through the 2022, Velapoint ran a bonus program during the ACA open enrollment period.[7] This program, called "Best Your Best" ("BYB"), awarded points to individual producers for each health insurance product they sold. Products included ACA policies,[8] short-term medical ("STM") policies,[9] and supplemental insurance policies.

9. Velapoint sells a variety of STM and supplemental policies, including those offered by National General ("NG").

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[6] Secure pauses stop the recording on a recorded call to prevent sensitive information from being captured.
[7] During the open enrollment period, ACA-compliant health insurance is available to all consumers regardless of whether they had a qualifying life event.
[8] ACA policies, among other attributes, prohibit discrimination based on pre-existing conditions and/or gender, and also include essential health benefits that may be excluded from non-ACA policies.
[9] STMs are health insurance policies with limited durations, typically several months to a year. STMs are not required to offer essential health benefits covered by ACA policies, including benefits related to maternity, mental health, and pre-existing conditions.

10. Under BYB, different products had different point values. For example, ACA policies were worth .7 points. STM policies, and NG policies in particular,[10] were worth more. Supplemental policies had independent point values as well.

11. BYB points earned by producers converted into a variety of benefits, including cash bonuses, trips, gift cards, TVs, iPads, and gaming consoles. In addition, for each NG product sold producers earned an entry for weekly prize raffles.

12. Velapoint distributed written materials to its producers in connection with BYB. The materials encouraged producers to sell insurance products in particular combination with each other in order to earn more points.

13. On or around November 4, 2020, during the open enrollment period, Respondent spoke with "CB," a consumer seeking medical coverage. CB told Respondent she was "operating on a tight budget" and only wanted an ACA policy. Respondent sold CB an ACA policy and six NG supplemental policies. The sale of the ACA policy alone would have earned Respondent .7 points. The sale of this particular combination earned her 6.5 points and a $95 cash card.

14. The Audit for this call found that Respondent:

A. Failed to identify the benefits of all products;

B. Failed to read the ECS in its entirety;

C. Failed to identify all deductibles; and

D. Gave incorrect information regarding waiting periods.

15. Respondent was the second highest earner for the 2019 BYB, earning $13,408 in cash bonuses along with two TVs and a cruise. For that period, she sold 25 ACA policies and 628 STM and supplemental policies combined.

16. Respondent was the second highest earner for the 2020 BYB, earning $16,214 in cash bonuses along with a gift card and $4,000 travel bonus. For that period, she sold

[10] Velapoint and NG share the same parent company.

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42 ACA policies and 672 STM and supplemental plans combined.

Additional Sales Calls

17. On or around May 1, 2020, Respondent spoke with consumer "CH", whose husband qualified for a Special Enrollment Period that permitted him to purchase an ACA policy. CH told Respondent they had a monthly budget of $100 and only wanted an ACA policy. Respondent sold CH an ACA policy and four supplemental policies totaling $144 a month. The supplement policies also included a $35 enrollment fee.

18. The Audit for this call found that Respondent:

A. Failed to identify waiting periods;

B. Gave incorrect information regarding policy benefits;

C. Failed to read the ECS in its entirety;

D. Failed to read mandatory health questions;

E. Failed to disclose that certain products did not cover pre-existing conditions;

F. Failed to use a secure pause when taking payment information; and

G. Failed to identify all deductibles.

19. On or around February 21, 2023, Respondent spoke with "JV," a consumer seeking medical coverage. JV disclosed that he was on four psychoactive medications and needed prescription coverage. Respondent sold six supplemental policies to JV as a bundle, none of which included prescription coverage. When JV reiterated his need for prescription coverage, Respondent falsely suggested that the supplemental plans included prescription coverage and suggested he search the Internet for prescription discounts and/or seek medications from Canada.[11]

20. The Audit for this call found that Respondent:

[11] This call led to an investigation that resulted in the termination of Respondent's employment with Velapoint.

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A. Misled JV about plan benefits;

B. Gave incorrect information regarding waiting periods;

C. Failed to read the ECS in its entirety;

D. Failed to identify all benefits; and

E. Failed to disclose pertinent information regarding deductibles.

CONCLUSIONS OF LAW

The Director CONCLUDES that:

21. Respondent demonstrated incompetence and untrustworthiness in the conduct of her business, and the Director may revoke her License under ORS 744.074(1)(h), by:

A. Bundling insurance products to consumers without communicating that the purchases were separate and optional, as set forth in Paragraphs (13), (17), and (19);

B. Selling insurance products to consumers without sufficient regard for their needs and/or requests, including recommending STM and supplemental policies over ACA-compliant policies because of her personal financial incentives, as set forth in Paragraphs (8) – (13), (15) – (17), and (19); and

C. Failing to provide accurate and complete information to consumers in connection with the sale of insurance products, as set forth in Paragraphs (7) and (13) – (20).

22. Respondent used coercive and dishonest practices, and the Director may revoke her License under ORS 744.074(1)(h), by:

A. Bundling insurance products to consumers without communicating that the purchases were separate and optional, as set forth in Paragraphs (13), (17), and (19);

B. Selling insurance products to consumers without sufficient regard for their needs and/or requests, including recommending STM and supplemental

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policies over ACA-compliant policies because of her personal financial incentives, as set forth in Paragraphs (8) – (13), (15) – (17), and (19); and

C. Misrepresenting that the products sold to JV included the prescription coverage he requested, as set forth in Paragraphs (19) – (20).

23. Respondent made false statements and representations in connection with insurance applications, in violation of ORS 746.100, for the reasons set forth in Paragraphs (21) – (22).

24. Under ORS 744.074(1)(b), the Director may revoke Respondent's License for committing the foregoing violations of ORS 746.100.

25. Because the Director has reason to believe that Respondent has been engaged, is engaging, or is about to engage in violations of the Insurance Code, the Director may issue an order to Respondent to cease and desist, pursuant to ORS 731.252(1).

26. Under ORS 731.988(1), the Director may impose a civil penalty of up to $1,000 *per violation* upon any person who violates a provision of the Insurance Code.

ORDERS

Now therefore, the Director issues the following ORDERS:

27. As authorized by ORS 731.252(1), the Director hereby ORDERS Respondent to CEASE AND DESIST from violating ORS 744.074(1)(h) and/or ORS 746.100.

28. As authorized by ORS 744.074(1)(b) and (h), the Director hereby REVOKES Respondent's License for the foregoing violations of ORS 744.074(1)(h) and ORS 746.100.

29. As authorized by ORS 731.988(1), the Director hereby ORDERS that Respondent be subject to a CIVIL PENALTY of $5,000 as follows:

A. $4,000 for violating ORS 744.074(1)(h); and

B. $1,000 for violating ORS 746.100.

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30. This is a "Final Order" under ORS 183.310(6)(b). Subject to this provision, the entry of this Order does not limit further remedies that may be available to the Director under Oregon law.

SO ORDERED this 5th day of October, 2024.

ANDREW R. STOLFI, Director
Department of Consumer and Business Services

/s/ Dorothy Bean
Dorothy Bean, Chief of Enforcement
Division of Financial Regulation

NOTICE OF RIGHT TO JUDICIAL APPEAL

You are entitled to judicial review of this order in accordance with ORS 183.482. You may request judicial review by filing a petition with the Court of Appeals in Salem, Oregon, within 60 days from the date this order is served.

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