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

In the Matter of:	Case No. INS-21-0009
ADAM B. DAMRILL, an Individual, Respondent.	FINAL ORDER TO CEASE AND DESIST, FINAL ORDER REVOKING LICENSE, AND FINAL ORDER ASSESSING CIVIL PENALTY, ENTERED BY DEFAULT

On May 14, 2021, 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 Adam B. Damrill ("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.

FINDINGS OF FACT

The Director FINDS that:

1. On October 9, 2012, Respondent was issued an Oregon resident insurance producer license ("License"). Respondent's national producer number is 16802443.

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2. At all relevant times, Respondent was employed by Velapoint LLC ("Velapoint") and sold health insurance products on their behalf.[1]

BP Complaint

3. On March 25, 2019, Oregon resident "BP" spoke with Respondent about buying a short-term medical policy for her husband, who would be eligible for Medicare coverage in three months. She told Respondent they wanted a high deductible plan because they didn't anticipate any medical issues, and that her husband already had dental coverage.

4. Respondent sold BP's husband a short-term policy and four supplemental plans, including a dental plan.

5. Respondent told BP the short-term policy "included" these supplemental plans and that they were "built into the package." In fact, each supplemental plan was separate from the short-term policy and came with an additional cost.[2] [3]

6. In April 2019, BP submitted a complaint to the Division regarding Respondent's sales practices.

Additional Issues with Short-Term Policies and Supplemental Plans

7. From in or around April 2019 through in or around December 2019, Respondent sold supplemental plans to at least four consumers by falsely stating that these plans were included with the short-term policies he was also selling them.

8. Respondent repeatedly told these consumers the supplemental plans were "included" with the short-term policies or that they were all "part of a package."

9. In April 2019, Respondent falsely told a consumer that their short-term policy "came with" supplemental prescription coverage.

10. In May 2019, Respondent sold a consumer a supplemental dental policy despite

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[1] Velapoint's national producer number is 8966319.

[2] The cost for the short-term plan, including the required association membership, was $175.11 a month. With the supplemental plans, the monthly cost increased to $264.50.

[3] When BP and her husband discovered the supplemental plans were separate from, and additional to, the short-term policy, they cancelled the plans for a refund.

the consumer stating they already had dental coverage. Respondent also failed to ask her questions to determine whether she qualified for a Special Enrollment Period that would allow her to enroll in an Affordable Care Act ("ACA")-compliant policy.[4]

11. In September 2019, Respondent sold a consumer a supplemental prescription plan without discussing prescription coverage with her.

12. In December 2019, during the ACA open enrollment period, Respondent sold a consumer a short-term policy without discussing ACA-compliant policies with him. Respondent told the consumer, ""This is not Obamacare insurance, it's a private insurance plan which is better for you anyway." Respondent later admitted to telling the consumer the short-term policy was better "just to make them feel good about what they were purchasing."

13. Respondent claims that Velapoint encourages their agents to sell short-term policies and supplemental plans, instead of ACA-compliant plans, during the open enrollment period through a bonus program called, "Beat Your Best." Under the program, each product is worth a different number of points. Short-term policies and supplemental plans are worth 2-3 points. Conversely, ACA-compliant plans are worth very little.

14. Respondent claims to have met his "Beat Your Best" goal for 2019, for which he was paid a $7,000 bonus.

Additional Work-Related Warnings

15. From January 2019 through February 2021, Respondent received 15 work-related warnings from Velapoint. Many of these warnings stemmed from conduct discovered through Velapoint's Quality Assurance Audits ("Audits"). Velapoint conducts two to three Audits a month on each agent. Audit staff listen to at least two recorded calls

[4] 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 plans.

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per agent and evaluate them on product and compliance criteria.[5]

16. Respondent failed 25 of 56 Audits conducted during this period.

17. Respondent's warnings include the following:

A. On January 31, 2019, he received a verbal warning for failing to obtain HIPAA consent from a 19-year old applicant before allowing her father to submit an insurance application on her behalf. In addition, he omitted several medical conditions and sections of questions from the eligibility questions. He also gave inaccurate information regarding a health plan, failed to pause the recording while the applicant's father provided credit card information, and failed to mention vision benefits associated with the applicable policy.

B. On April 3, 2019, Respondent received a written warning for "unacceptable work performance" stemming from two sales calls in which he gave inaccurate information regarding a health plan, omitted required disclaimers, and failed to obtain HIPAA consent.

C. On June 5, 2019, Respondent was placed on probation for "unacceptable work performance" stemming from two sales calls in which he failed to ask all required underwriting questions, failed to disclose all applicable co-pays, co-insurance costs and deductibles, failed to disclose a six-month waiting period for basic services, and listed the wrong beneficiary on a policy.

D. On June 6, 2019, Respondent received a verbal warning for poor attendance and excessive tardiness.

E. On August 16, 2019, Respondent received a warning for "call unprofessionalism/unacceptable work performance" for abruptly hanging up on a consumer.

[5] 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 plan options with the customer.

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F. On August 19, 2019, Respondent received a written warning for poor attendance.

G. On September 1, 2019, Respondent received a verbal warning for providing "materially inaccurate information" to a consumer.

H. In January 2020, Respondent received a verbal warning for failing a January 2020 Audit.

I. On April 8, 2020, Respondent received a verbal warning for failing both March 2020 Audits.

J. On April 15, 2020, Respondent received a written warning for "unacceptable work performance" for selling a consumer a plan for which they were not eligible due to a medically-disqualifying condition that had been disclosed.

K. On June 11, 2020, Respondent received a verbal warning for failing to refer to every policy sold as a "policy, product, or plan."

L. On June 29, 2020, Respondent received a verbal warning for failing to read the enrollment confirmation statement verbatim during a sales call.

M. On July 16, 2020, Respondent received a verbal warning for failing to provide a customer with a sufficient summary of policy benefits.

N. On August 6, 2020, Respondent was placed on probation for failing to read health eligibility questions verbatim and/or in their entirety during a sales call.

O. On January 8, 2021, Respondent received a verbal warning for failing to provide accurate premium and tax credit information during a sales call.

CONCLUSIONS OF LAW

The Director CONCLUDES that:

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

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A. Bundling insurance products to five consumers without sufficiently describing the distinctions between them;

B. Selling insurance products to five consumers without sufficient regard for their needs and/or requests, including recommending short-term policies and supplemental plans over ACA-compliant plans because of his personal financial incentives; and

C. Consistently failing to provide accurate and complete information to consumers in connection with the sale of insurance products, as set forth in Paragraph (17).

19. Respondent made false statements and representations in connection with insurance applications, in violation of ORS 746.100, by:

A. Bundling insurance products to five consumers without sufficiently describing the differences between them; and

B. Recommending short-term policies and supplemental plans over ACA-compliant plans because of his personal financial incentives.

20. 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).

21. 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:

22. As authorized by ORS 731.252(1), the Director hereby ORDERS Respondent to CEASE AND DESIST from violating any provision of the Insurance Code or the administrative rules promulgated thereunder.

23. As authorized by ORS 744.074(1)(b) and (h), the Director hereby REVOKES

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Respondent's License for the foregoing violations of ORS 744.074(1)(h).

24. As authorized by ORS 731.988(1), the Director hereby ORDERS that Respondent be subject to a CIVIL PENALTY of $11,000 as follows:

A. $10,000 for violating ORS 744.074(1)(h); and

B. $1,000 for violating ORS 746.100.

SO ORDERED this 17th day of June, 2021.

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

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

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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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