

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

In the Matter of:

Case No. INS-21-0006

AMGUARD INSURANCE
COMPANY,

FINAL ORDER TO CEASE AND
DESIST, ORDER ASSESSING CIVIL
PENALTIES, AND CONSENT TO
ENTRY OF ORDER

Respondent.

The Division of Financial Regulation (the “Division”), acting on behalf of the Director of the Department of Consumer and Business Services for the State of Oregon (the “Director”), conducted an investigation of Amguard Insurance Company (“Respondent”). The Division determined that Respondent violated provisions of Oregon Revised Statutes (“ORS”) chapters 731, 732, 733, 734, 735, 737, 742, 743, 743A, 744, 746, 748 and 750 (“Insurance Code”) and the Oregon Administrative Rules (“OAR”) promulgated under those laws.

Respondent submits to the Director’s jurisdiction and agrees to waive its rights to notice and an administrative hearing under ORS 183.415 and wishes to resolve this matter by consenting to entry of this Consent Order.

Now, therefore, as evidenced by the authorized signature(s) subscribed herein, the Director issues the following Findings of Fact, Conclusions of Law, and Final Orders.

FINDINGS OF FACT

The Director FINDS that:

1. On November 3, 2003, Respondent became licensed in Oregon as a Property and Casualty insurer. Respondent’s National Association of Insurance Commissioners Company Code Number is 42390.
2. Between January 1, 2017 and July 31, 2020, Respondent wrote 633 insurance

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1 policies for 1,832 private passenger motor vehicles, which were not used as a public or
2 livery conveyance and which were not used for wholesale or retail delivery, without
3 providing personal injury protection (“PIP”). During that same time period, Respondent
4 renewed 217 such policies.

5 3. Also between January 1, 2017 and July 31, 2020, Respondent denied four (4)
6 claims of PIP coverage submitted by policyholders of private passenger motor vehicles that
7 were not used as a public or livery conveyance or for wholesale or retail delivery.
8 Respondent has since reconsidered those claims. Respondent represented to the Division
9 that it has or will provide PIP coverage on those claims where appropriate. Specifically,
10 Respondent represented to the Division that two of those claims have been covered, one
11 was not covered due to a lack of a claim being presented, and one remains open and will
12 be covered.

13 4. All affected motor vehicle policies pertained to commercial vehicles, which
14 caused Respondent to mistakenly believe the vehicles were not private passenger motor
15 vehicles under the Insurance Code.

16 5. Respondent represented to the Division that it has performed an internal review
17 of its current policies in effect in Oregon and also how it will update its internal procedures
18 for writing policies in Oregon going forward.

19 6. In particular, for its currently in-force policies, Respondent represented to the
20 Division that it will endorse all policies for PIP coverages for private passenger motor
21 vehicles not used as a public or livery conveyance and not used for wholesale or retail
22 delivery at no cost to the insured. Respondent has or will send those same current
23 policyholders a notice explaining this correction and the requirements and eligibility of
24 Oregon PIP coverage.

25 7. Respondent further represented to the Division that it modified its internal
26 procedures to ensure that it provides PIP coverage on all of its Oregon policies for private

1 passenger motor vehicles that are not used as a public or livery conveyance or for wholesale
2 or retail delivery.

3 **CONCLUSIONS OF LAW**

4 The Director CONCLUDES that:

5 8. Under ORS 742.520(1), every motor vehicle liability policy issued for delivery
6 in this state that covers any private passenger motor vehicle shall provide personal injury
7 protection benefits to the person insured thereunder, members of that person’s family
8 residing in the same household, children not related to the insured by blood, marriage or
9 adoption who are residing in the same household as the insured and being reared as the
10 insured’s own, passengers occupying the insured motor vehicle and pedestrians struck by
11 the insured motor vehicle.

12 9. Under ORS 742.518(8), “Private passenger motor vehicle” means a four-wheel
13 passenger or station wagon type motor vehicle not used as a public or livery conveyance,
14 and includes any other four-wheel motor vehicle of the utility, pickup body, sedan delivery
15 or panel truck type not used for wholesale or retail delivery other than farming, a self-
16 propelled mobile home and a farm truck.

17 10. By failing to provide PIP benefits on 633 policies covering 1,832 private
18 passenger motor vehicles that were not used as public or livery conveyance or for
19 wholesale or retail delivery, and further by renewing 217 such policies, between January
20 1, 2017 and July 30, 2020, Respondent violated ORS 742.520(1) at least 850 times.

21 11. Under ORS 731.988(1), a person that violates any provision of the Insurance
22 Code, any lawful rule or final order of the Director, or any judgment that a court makes in
23 response to the director’s application, shall forfeit and pay to the General Fund of the State
24 Treasury a civil penalty in an amount determined by the Director that does not exceed
25 \$10,000 for each offense. Each violation is a separate offense.

26 12. Under ORS 731.252(1), whenever the Director has reason to believe that any

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1 person has been engaged or is engaging or is about to engage in any violation of the
2 Insurance Code, the Director may issue an order, directed to such person, to discontinue or
3 desist from such violation or threatened violation.

4 13. Because the Director has reason to believe that Respondent has violated the
5 Insurance Code, including ORS 742.520(1), the Director may issue an order directed to
6 Respondent to discontinue or desist from that violation under ORS 731.252(1).

7 **ORDERS**

8 The Director ISSUES the following ORDERS:

9 *Order to Cease and Desist*

10 14. Pursuant to the authority of ORS 731.252(1), the Director hereby ORDERS
11 Respondent to CEASE AND DESIST from violating ORS 742.520(1).

12 *Order Assessing Civil Penalties*

13 15. Pursuant to the authority of ORS 731.988(1), the Director hereby ORDERS
14 the assessment of twenty thousand dollars (\$20,000) of CIVIL PENALTIES against
15 Respondent for violations of ORS 742.520(1).

16 16. Respondent shall submit simultaneously with this executed Consent Order
17 payment for the foregoing twenty thousand dollars (\$20,000) of civil penalties.

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FINAL ORDER

17. This Order is a “Final Order” under ORS 183.310(6)(b). Subject to that provision, entry of this Order in no way limits or prevents further remedies, sanctions, or actions which may be available to the Director under Oregon law to enforce this Order, for violations of this Order, for conduct or actions of Respondent that are not covered by this Order, or against any party not covered by this Order.

IT IS SO ORDERED.

Dated this 12th day of March, 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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CONSENT TO ENTRY OF ORDER

I, Matthew O'Connor, state that I hold the title of Secretary and I am an authorized representative of Respondent AmGUARD Insurance Company (“AmGUARD”) with the authority to sign this Consent Order on behalf of AmGUARD. I have read the Order and I fully understand the contents hereof. I have been advised of the right to a hearing and of the right to be represented by counsel in this matter. AmGUARD voluntarily consents to the entry of this Order without any force or duress, expressly waiving any right to a hearing in this matter, as well as any rights to administrative or judicial review of this order. AMGUARD understands that this is a “Final Order” under ORS 183.310(6)(b). AmGUARD understands that the Director reserves the right to take further action to enforce this Order or to take appropriate action upon discovery that AmGUARD has committed other violations of the Insurance Code. AmGUARD will fully comply with the terms and conditions stated herein.

AmGUARD understands that this Order is a public document.

Signature: /s/ Matthew O'Connor

Title: Secretary

State of Pennsylvania

County of Luzerne

Signed or attested before me on this 9th day of March, 2021

by Matthew O'Connor.

/s/ Sharon R. Derhammer

Notary Public

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