

DEC 11 2019

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

STATE OF NEBRASKA)	
DEPARTMENT OF INSURANCE,)	CONSENT ORDER
)	
PETITIONER,)	
)	
VS.)	
)	
SCOTT D. GIERHAN)	CAUSE NO. A-2197
(NAIC Producer #6895286),)	
)	
RESPONDENT.)	

In order to resolve this matter, the Nebraska Department of Insurance (“Petitioner”), by and through its attorney, Tracy A. Burns, and Scott D. Gierhan (“Respondent”) mutually stipulate and agree as follows:

JURISDICTION

1. Petitioner has jurisdiction over the subject matter and Respondent pursuant to Neb. Rev. Stat. §§ 44.101.01, and 44-4047 to 44-4067.
2. Respondent has been licensed as a resident insurance producer under the laws of Nebraska at all times material hereto.

STIPULATIONS OF FACT

1. Petitioner initiated this administrative proceeding by filing a Petition captioned State of Nebraska Department of Insurance vs. Scott D. Gierhan (NAIC National Producer #6895286), Cause Number A-2197 on November 12, 2019. A copy of the Petition was properly served upon the Respondent at his registered business and residence address by certified mail, return receipt requested, and by regular U.S. mail. Respondent acknowledges receiving proper Notice of these proceedings.

2. Respondent is alleged to have violated Neb. Rev. Stat. §§ 44-1525(11), 44-4059(1)(b), and 44-4059(1)(h), as follows:

- a. On or about February 4, 2019, the Department of Insurance received a consumer complaint regarding Respondent's activities as a contractor with MedVantage Consulting, LLC. Respondent presented informational seminars at nursing homes/senior centers regarding Genetic Cancer testing via cheek swabs. As a result, some consumers requested testing. Respondent procured samples and sent them to a lab. Medicare was billed by the lab and subsequently paid for unnecessary medical testing.
- b. On or about February 5, 2019, an inquiry was sent to Respondent by the Consumer Affairs Division of the Department of Insurance regarding his role in this genetic testing. No response was received.
- c. On or about March 4, 2019, the inquiry was sent, again. On March 18, 2019, Respondent provided responses.
- d. On or about May 22, 2019, additional inquiries were sent to Respondent. An e-mail read receipt indicated the e-mail was received on that day. Respondent did not respond.
- e. On or about June 21, 2019, Respondent was, again, sent copies of the inquiries. On or about July 11, 2019, Respondent provided responses.

3. Respondent was informed of his right to a public hearing. Respondent waives that right and enters into this Consent Order freely and voluntarily. Respondent understands and acknowledges that by waiving his right to a public hearing, Respondent also waives his right to confrontation of witnesses, production of evidence, and judicial review.

4. Respondent admits the allegation related to Neb. Rev. Stat. § 44-1525(11); failure to respond to the Department written inquiry within fifteen (15) working days.

5. Respondent neither admits nor denies the allegations related to Neb. Rev. Stat. §§ 44-4059(1)(b) and 44-4059(1)(h).

6. Respondent has been represented at all relevant times by his attorney, Timothy Sullivan, and enters into this Consent Order after consultation with said counsel.

CONCLUSIONS OF LAW

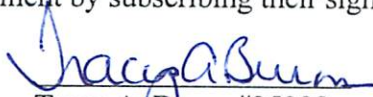
Respondent's conduct as alleged above constitutes violations of Neb. Rev. Stat. §§ 44-1525(11), 44-4059(1)(b), and 44-4059(1)(h), and Respondent is subject to disciplinary action pursuant to Neb. Rev. Stat. §44-4059.

CONSENT ORDER

It is therefore ordered by the Director of Insurance and agreed to by Respondent, Scott D. Gierhan, that:

1. Respondent agrees to pay an administrative fine of one thousand dollars (\$1,000) within sixty (60) days of the adoption of this Consent Order by the Director. If Respondent fails to pay the amount required under this consent order, within the time specified, Respondent's insurance producer license will be immediately suspended, and that said suspension shall continue indefinitely until the administrative fine is paid in full.
2. Respondent will cease and desist from all activities related to promoting and/or obtaining cheek swabs for genetic testing.

In witness of their intention to be bound by this Consent Order, each party has executed this document by subscribing their signatures below.



Tracy A. Burns #25398
Attorney for Petitioner
1135 M Street, Suite 300
Lincoln NE 68501
(402) 471-2201

Dec. 10, 2019
Date

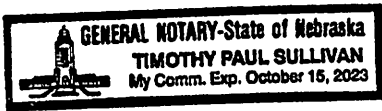
Scott D. Gierhan

Scott D. Gierhan
Respondent

12/10/19
Date

State of Nebraska)
County of LANCASTER) ss.

On this 10 day of December, 2019, Scott D. Gierhan personally appeared before me and read this Consent Order, executed the same, and acknowledged the same to be his voluntary act and deed.



[Signature]
Notary Public

[Signature]
Approved as to form and content:

Timothy Sullivan #21883
Sullivan Law
5000 Central Park Drive, Suite 204
Lincoln, NE 68504
Counsel for Respondent

12-10-2019
Date

CERTIFICATE OF ADOPTION

I hereby certify that the foregoing Consent Order is adopted as the Final Order of the Nebraska Department of Insurance in the matter of State of Nebraska Department of Insurance vs. Scott D. Gierhan (NAIC National Producer #6895286), Cause No. A-2197.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE

Bruce R. Range
Bruce R. Range
Director of Insurance

12-11-2019
Date

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Consent Order was served upon Respondent by mailing a copy to his counsel, Timothy Sullivan, Sullivan Law, 5000 Central Park Drive, Suite 204, Lincoln, NE 68504, by first class and certified mail, return receipt requested, on this 11th day of December, 2019.

Tracy A. Bunn