

BEFORE THE DEPARTMENT OF INSURANCE  
STATE OF NEBRASKA

MAR 02 2022

FILED

STATE OF NEBRASKA	)	FINDINGS OF FACT, CONCLUSIONS
DEPARTMENT OF INSURANCE,	)	OF LAW, RECOMMENDED ORDER AND
	)	ORDER
PETITIONER,	)	
	)	CAUSE NO. A-2278
VS.	)	
	)	
RODNEY RATHEAL,	)	
(NAIC Producer #18972408),	)	
	)	
	)	
RESPONDENT.	)	

This matter came on for hearing on February 16, 2022, before Megan VanAusdall, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The Nebraska Department of Insurance ("Department") was represented by its counsel, Michael W. Anderson. Rodney Ratheal ("Respondent") was not present and was not represented by counsel. The proceedings were recorded by Shelly Storie, a licensed Notary Public. The Department presented evidence at the hearing and the matter was taken under advisement. The hearing officer now makes the following Findings of Fact, Conclusions of Law, and Recommended Order:

FINDINGS OF FACT

1. The Department is the agency of the State of Nebraska charged with licensing insurance producers.
2. Respondent is a licensed nonresident insurance producer in the State of Nebraska whose registered mailing address with the Department is 2271 E Dinosaur Crossing Drive Apt G407, St. George, UT 84790 (See Ex. 2, Attachment 1).
3. On or about June 6, 2021, the Department was notified by the Centers for Medicare and Medicaid Services (hereafter "CMS") that Respondent had allegedly been engaging in the business of insurance by assisting enrollments for policies through the Federally-Facilitated Exchanges for the 2020 open enrollment period. It was also alleged in the same document that

Respondent had assisted with enrollment consumers located in the State of Nebraska, despite Respondent not being licensed in Nebraska at that time. (See Ex. 1, Attachment 1).

4. On July 2, 2021, Consumer Affairs Administrator Barbara Peterson contacted Respondent for his response to the allegations by CMS. Through his written responses, Respondent admitted that between November 15, 2020 and May 27, 2021, he had assisted with the enrollment of five (5) Nebraska residents, and that he had not been licensed in the State of Nebraska to do so. (See Ex. 1, Attachment 2).

5. On or about June 29, 2021, Respondent applied for and obtained a valid insurance producer license from the Department. (Exhibit 2, Attachment 1).

6. On or about October 13, 2021, the Department served a copy of the Petition and Notice of Hearing on Respondent, and on or about November 1, 2021, the Department received the Domestic Return Receipt Cards showing that Respondent received and signed for delivery of the Petition and Notice of Hearing sent to Respondent's registered address. (See Ex. 3, Attachment 1). On or about October 27, 2021, the Department served a copy of a Motion for Continuance and Order Granting Motion for Continuance to the Respondent's registered address, via certified mail. (See Ex. 3, Attachment 2). The letter and Domestic Return Receipt card were returned by USPS marked, "RETURN TO SENDER, NOT DELIVERABLE AS ADDRESSED, UNABLE TO FORWARD, SORT IN MANUAL ONLY NO AUTOMATION." (See Ex. 3 and attachments thereto). As of February 15, 2022, the letter sent via regular US mail has not been returned to the Department, not has the Department received notification that the letter was undeliverable. (*Id.*)

#### CONCLUSIONS OF LAW

1. The Department has broad jurisdiction, control, and discretion over the licensing of insurance producers in the State of Nebraska pursuant to Neb. Rev. Stat. §§ 44-101.01 and 44-4047 et seq.

2. The Department has personal jurisdiction over Respondent.

3. Pursuant to Neb. Rev. Stat. §§ 44-4059(1), the Director may, in his discretion, suspend or revoke an insurance producer's license for any one or more of the following causes:...

(b) violating any insurance law or violating any rule, regulation, subpoena, or order of the Director or of another state's insurance commissioner or director; ... (g) having admitted or been found to have committed any insurance unfair trade practice, any unfair claims settlement practice, or fraud; ... (h) using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

4. Pursuant to Neb. Rev. Stat. § 44-1524(1), it shall be an unfair trade practice in the business of insurance for any insurer "to commit any act or practice defined in section 44-1525 if the act or practice is committed flagrantly and in conscious disregard of the Unfair Insurance Trade Practices Act or any rule or regulation adopted pursuant to the act."

5. Pursuant to Neb. Rev. Stat. § 44-1525 (12), it shall be unfair trade practice in the business of insurance if any insurer "[Accepts] applications for or [writes] any policy of insurance sold, negotiated, or solicited by an insurance producer or business entity not licensed or appointed as required by the Insurance Producers Licensing Act".

6. Pursuant to Neb. Rev. Stat. § 44-4050, "A person shall not sell, solicit, or negotiate insurance in this state for any class or classes of insurance unless the person is licensed for that line of authority in accordance with the Insurance Producers Licensing Act."

7. Respondent violated Neb. Rev. Stat. §§ 44-4059(1) (b), 44-4059 (1) (g), 44-4059(1) (h), 44-1524 (1), 44-1525 (12), and 44-4050 as a result of the conduct found in paragraphs 3 through 5 in the Findings of Fact and as evidenced by the exhibits received.

#### DISCUSSION

The uncontested evidence shows that Respondent admitted to conduct that creates concern about his fitness to remain licensed as an insurance producer. Respondent admitted in an e-mail response received by the Department, that while working as an insurance agent, he enrolled

consumers into healthcare plans in states where he did not hold a valid license, a violation of both federal law and Neb. Rev. Stat. §44-1525(12). (See Exhibit 1, Attachment 2).

The evidence also shows that this was not an isolated incident; the Respondent admitted that he assisted five Nebraska consumers complete their enrollment in health plans, despite not holding a valid insurance license in Nebraska at the time.


However, in the time since Respondent committed the acts admitted to above, Respondent has obtained a nonresident insurance producer license. As of February 10, 2022, Respondent holds a valid nonresident insurance producer license in Nebraska (NPN #18972408). (See Exhibit 2, Attachment 1).

#### RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent be ordered to pay an administrative penalty in the amount of \$500 within 90 days of the adoption of this Order. Should the penalty not be paid within the specified 90 days, the Respondent's license will be suspended until such time as the fine is paid. The Nebraska Department of Insurance shall retain jurisdiction of this matter for the purpose of enabling Respondent or the Department of Insurance to make application for such further orders as may be necessary should Respondent fail to pay the aforementioned penalty.

Dated this 2<sup>nd</sup> day of March, 2022.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE

  
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Megan VanAusdall  
Hearing Officer

CERTIFICATE OF ADOPTION

I have reviewed the foregoing Findings of Fact, Conclusions of Law, and Recommended Order and hereby certify that the Recommended Order is adopted as the official and final Order of this Department in the matter of State of Nebraska, Department of Insurance vs. Rodney Ratheal (NAIC Producer #18972408), Cause No. A-2278.


Dated this 2<sup>nd</sup> day of March, 2022.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE

  
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Eric Dunning  
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Findings of Fact, Conclusions of Law, Recommended Order, and Order was served upon the Respondent by mailing a copy to Respondent's registered address, 2271 E Dinosaur Crossing Drive Apt G407, St. George, UT 84790, via certified mail, return receipt requested and via regular U.S. mail on this 2<sup>nd</sup> day of March, 2022.

  
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