

FEB 04 2020

FILED

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

STATE OF NEBRASKA)	
DEPARTMENT OF INSURANCE,)	CONSENT ORDER
)	
PETITIONER,)	
)	
VS.)	
)	
CYNTHIA K. CARD)	CAUSE NO. A-2200
(NAIC National Producer #3519393),)	
)	
RESPONDENT.)	

The Nebraska Department of Insurance (“Petitioner”), by and through its attorney, Tracy A. Burns and Cynthia K. Card (“Respondent”) hereby agree to the making and entering of this Consent Order to resolve this matter in accordance with the following terms and conditions:

1. Petitioner has jurisdiction over this 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.
3. Petitioner initiated this administrative proceeding by filing a Petition captioned State of Nebraska Department of Insurance vs. Cynthia K. Card (NAIC National Producer #3519393), Cause Number A-2200 on December 3, 2019. A copy of the Petition was properly served upon the Respondent at her 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.
4. Petitioner alleged that Respondent violated Neb. Rev. Stat. §§ 44-4059(1)(b), 44-4059(1)(g) and 44-4059(1)(h), as a result of the following conduct:

- a. On or about July 10, 2000, Respondent became an active Nebraska resident producer and her license was subsequently renewed as required. Respondent's current license expires August 31, 2020.
- b. Centers for Medicare and Medicaid ("CMS") allow genetic testing for cancer. There are regulations regarding testing which state, in part, "all diagnostic tests must be ordered by the physician who is treating ... and who uses the results in management of the beneficiary's specific medical problem. Tests not ordered by the physician who is treating the beneficiary are not reasonable and necessary."
- c. Between January 1, 2019 and March 29, 2019, Respondent scheduled and attempted to schedule meetings at senior living facilities to promote the genetic testing and solicited residents to participate in the testing via cheek swabs through the organization, My DNA Cancer Testing.
- d. On or about February 13, 2019, the Consumer Affairs Division of the Department mailed Respondent a request for information regarding Respondent's role in cheek swabs of seniors for genetic testing for cancer.
- e. On or about February 20, 2019, Respondent returned written responses which were provided by her supervisor.
- f. On or about March 27, 2019, the Department promulgated a notice, "Beware of Scam in Swabbing Cheeks of Seniors for DNA Cancer Checks."
- g. On or about March 29, 2019, the Department received a complaint about Respondent and the random solicitation of the complainant to submit to a cheek swab for genetic testing. This testing was performed at a Better Bodies location in Omaha on behalf of My DNA Cancer Testing on or about March 24, 2019. Medical necessity would be determined by a non-treating telemedicine provider with no prior knowledge of the complainant.

5. Respondent was informed of her 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 her right to a public hearing, Respondent also waives her right to confrontation of witnesses, production of evidence, and judicial review.

6. On January 2, 2019, Respondent filed her Answer to the Petition denying any liability.

7. The parties agree that settlement of this matter is in their mutual interest and that entry of this Consent Order is the most appropriate means of resolving their dispute. The parties desire to conclude this case without trial or adjudication of any issues of fact or law, without this Consent Order constituting an admission by Respondent with respect to such issues.

8. This Consent Order shall be in full satisfaction of all claims between the parties alleged in Petitioner's complaint. The parties also agree to release any and all claims or actions arising out of the same transaction or occurrences referenced above and in Petitioner's complaint, provided that such claims were known to Petitioner, or were reasonably ascertainable from information in Petitioner's possession, as of the date of the filing of this Consent Order.

IT IS THEREFORE ORDERED by the Director of Insurance and agreed to by Respondent, Cynthia K. Card, that:

1. Respondent shall pay an administrative fine of one thousand dollars (\$1,000.00) within ninety (90) 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

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

February 4, 2020
Date


Cynthia K. Card
Respondent

01/30/2020
Date

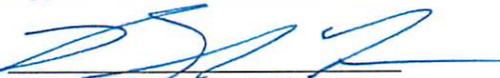
State of Nebraska)
) ss.
County of Lancaster)

On this 30th day of January, 2020, Cynthia K. Card personally appeared before me and read this Consent Order, executed the same, and acknowledged the same to be her voluntary act and deed.




Notary Public

Approved as to form and content:


Blake E. Johnson # 24158
Bruning Law Group
1201 Lincoln Mall, Suite 100
Lincoln, NE 68508
Counsel for Respondent

1/30/2020
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. Cynthia K. Card (NAIC National Producer #3519393), Cause No. A-2200.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE

Bruce R. Range

Bruce R. Range
Director of Insurance

2-4-2020

Date

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Consent Order was served upon Respondent by mailing a copy to her counsel, Blake E. Johnson, Bruning Law Group, 1201 Lincoln Mall, Suite 100, Lincoln, NE 68508, by first class and certified mail, return receipt requested, on this 4th day of February, 2020.

Shelly G. Storie