

**STATE OF MAINE
BUREAU OF INSURANCE**

**In Re:
Terry Dominic Weir
National Producer #4594118
Maine License #PRR 108847**

DOCKET NO. INS-06-212

CONSENT AGREEMENT

This document is a Consent Agreement authorized by Title 10 M.R.S.A. § 8003(5), entered into among Terry Dominic Weir, a resident of Maine; the Maine Bureau of Insurance; and the Maine Department of the Attorney General. Its purpose is to resolve, in lieu of an adjudicatory proceeding, issues implicating Title 24-A M.R.S.A. §§211, 1417, 1420-K, and 2155.

STATEMENT OF FACTS

1. The Superintendent of Insurance is the official charged with administering and enforcing Maine's insurance laws and regulations, and the Bureau of Insurance is the administrative agency with such jurisdiction.
2. Terry Dominic Weir is licensed in Maine as a resident insurance producer. His license number in Bureau of Insurance records is PRR 108847. His National Producer Registry Number is 4594118. He is currently represented by attorney Lloyd Martin of Laskoff & Associates in Lewiston, Maine.
3. On May 5, 2006, Mr. Weir enrolled consumer "C.R." into a Medicare Advantage product which included Medicare Part D prescription drug coverage.
4. Mr. Weir's enrollment of this consumer into the above coverage caused the consumer to be automatically disenrolled from the prior Part D coverage that C.R. had previously enrolled in upon the advice of another producer. Such coverage had been "stand alone" coverage. The same producer had also enrolled C.R. into a "private fee for service" ("PFFS") Medicare Advantage program which did not include a Part D prescription component.
5. Mr. Weir erroneously asserted that the prior producer's enrollment of C.R. into the PFFS Medicare Advantage program had caused C.R. to be disenrolled from the stand alone Part D coverage. Therefore, to avoid lacking prescription drug coverage, Mr. Weir asserted that C.R. needed to enroll in a program such as the Medicare Advantage Mr. Weir offered.
6. Contrary to Mr. Weir's assertions, Federal law allows insureds to enroll in private fee for service Medicare Advantage programs that do not include a Part D prescription drug component, and also enroll or remain enrolled in a stand alone Part D program. Therefore, the previous producer's actions had not caused C.R. to be unintentionally disenrolled from the stand alone Part D coverage as Mr. Weir had claimed.
7. Federal law does not, however, allow a consumer to enroll in a Medicare Advantage program which includes a Part D component, without being automatically disenrolled in any prior Part D coverage. Therefore, Mr. Weir's enrollment of C.R. in a Medicare

Advantage product with Part D prescription drug coverage caused C.R. to be disenrolled from the stand alone Part D program into which he had already enrolled at the advice of the previous producer.

8. The State of Maine Bureau of Insurance and Mr. Weir also acknowledge that:
 - a. Mr. Weir asserts that he and C.R. called a Medicare consumer information line on May 5, 2006 and that they were both erroneously told by a Medicare representative that the prior producer's enrollment of C.R. into the PFFS Medicare Advantage program had caused C.R. to be disenrolled from the stand alone Part D coverage;
 - b. Mr. Weir asserts that he was provided the same erroneous information by Medicare telephone representatives whom he called on other occasions;
 - c. Mr. Weir asserts that he did not intentionally provide erroneous information to C.R., and that Mr. Weir believed at the time that the information provided to C.R. was correct;
 - d. The Bureau of Insurance has no independent basis for independently evaluating or confirming the specific content of the above referenced conversations between Mr. Weir and Medicare consumer representatives, as all such information has been based upon Mr. Weir's statements to the Bureau; and
 - e. Mr. Weir's reliance upon information provided by Medicare representatives was misplaced and he had a professional duty to provide the correct information to C.R.

CONCLUSIONS OF LAW

9. The Maine Insurance Code provides, at 24-A M.R.S.A. §2155:

“Twisting” prohibited: No person shall make or issue, or cause to be made or issued, any written or oral statement misrepresenting or making incomplete comparisons as to the terms, conditions, or benefits contained in any policy for the purpose of inducing or attempting or tending to induce the policyholder to lapse, forfeit, borrow against, surrender, retain, exchange, modify, convert, or otherwise affect or dispose of any insurance policy.

10. At Mr. Weir's advice, C.R. disenrolled in his existing Medicare Advantage PFFS policy in order to enroll on the Medicare Advantage program which Mr. Weir offered. Contrary to Mr. Weir's assertions after he spoke with a Medicare representative, C.R. was still enrolled in his stand alone Part D coverage, but this transaction caused C.R. to be automatically disenrolled from that coverage. Mr. Weir made an incomplete comparison of the Medicare Advantage coverage which he offered, and the Medicare Advantage PFFS coverage in which C.R. had already enrolled.
11. Under 24-A M.R.S.A. §1417 and §1420-K(1)(B), after notice and opportunity for hearing, the Superintendent may place on probation, suspend, revoke or refuse to issue or renew an insurance producer's license or may levy a civil penalty in accordance with section 12-A, or take any combination of such actions, for violating any insurance laws.
12. Mr. Weir's incomplete comparison between the Medicare Advantage product into which consumer C.R. enrolled at his advice, and C.R.'s existing Medicare Advantage PFFS

product which C.R. disenrolled in, also at Mr. Weir's advice, constitutes a violation of 24-A M.R.S.A. §2155 and therefore grounds for action against Mr. Weir's license in accordance with 24-A M.R.S.A. §1420-K(1)(B).

13. Under 24-A M.R.S.A. §1417 and §1420-K(1)(H), after notice and opportunity for hearing, the Superintendent may place on probation, suspend, revoke or refuse to issue or renew an insurance producer's license or may levy a civil penalty in accordance with section 12-A, or take any combination of such actions, for using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this State or elsewhere.
14. Mr. Weir claimed to consumer C.R. that the previous producer's enrollment of C.R. into a Medicare Advantage PFFS product caused C.R. to be unintentionally disenrolled from his Medicare Part D coverage. Mr. Weir's statement was incorrect. However, Mr. Weir's enrollment of consumer C.R. into another Medicare Advantage program with a prescription drug component did cause C.R. to be disenrolled in his existing stand alone Part D coverage. Such disenrollment limited C.R.'s options for further changes under applicable Federal standards. Even if Mr. Weir did not intentionally cause this result, Mr. Weir demonstrated incompetence in the conduct of business in Maine through his lack of knowledge regarding the effects of enrolling in these various products, which constitutes grounds for action against his license in accordance with 24-A M.R.S.A. §1420-K(1)(H).

COVENANTS

15. Terry Dominic Weir, the Maine Bureau of Insurance, and the Maine Department of the Attorney General agree to the following.
16. This Consent Agreement is entered into in accordance with 10 M.R.S.A. § 8003(5)(B) and is not subject to review or appeal. This Consent Agreement is enforceable by an action in the Superior Court.
17. At the time of executing this Consent Agreement, Mr. Weir's resident Maine insurance producer license will be suspended for a period of seven calendar days, during which time he will be prohibited from performing producer activities as defined in the Maine Insurance Code. The suspension will commence on the fifth calendar day following the date this Consent Agreement is signed by the Superintendent and will end on the thirteenth calendar day following said date.
18. Within one calendar year from the date the Superintendent signs this Consent Agreement, Mr. Weir will successfully complete a course on the subject of ethics, and provide written evidence to the Superintendent of satisfactory completion. Such course must be one that is approved for at least three hours of continuing education credit, but shall be in addition to the regular continuing education requirements applicable to his license.
19. In consideration of the licensee's execution of this Consent Agreement, the State of Maine Bureau of Insurance will not pursue further action against Mr. Weir's Resident Producer License based upon the specific facts recited in this Consent Agreement.
20. Mr. Weir understands and acknowledges that this Agreement will constitute a public record within the meaning of 1 MRSA § 402, and will be available for public inspection and copying as provided for by 1 MRSA § 408, and will be reported to the NAIC "RIRS" database.

21. In consideration of the applicant's execution of and compliance with the terms of this Consent Agreement, the Superintendent of Insurance, Bureau of Insurance, and Department of the Attorney General agree to forgo pursuing further disciplinary measures or other civil or administrative sanction for the actions described in this Consent Agreement, other than those agreed to herein. However, should Mr. Weir violate this Consent Agreement by engaging in producer activities during the period of suspension, or by failing to complete the educational course required under Paragraph 18, he may be subject to any available legal remedy for the violation, including without limitation the further suspension or revocation of all licenses issued under the Maine Insurance Code.
22. Nothing in this Agreement shall affect the rights or interests of any person who is not a party to this Agreement, nor does it resolve any issues pertaining to any other facts other than those recited herein.

Terry Dominic Weir

Dated: _____, _____

Terry Dominic Weir

State of Maine, _____, ss

Subscribed and Sworn to before me

this _____ day of _____, _____.

Notary Public

(printed name)

THE MAINE SUPERINTENDENT OF INSURANCE

Dated: _____, _____

By Alessandro A. Iuppa, Superintendent

FOR THE DEPARTMENT OF THE ATTORNEY GENERAL

Dated: _____, _____

Assistant Attorney General

(printed name)