



OFFICE OF  
INSURANCE COMMISSIONER

**FILED**

2013 MAY 17 A 11: 22

Hearings Unit, DIC  
Patricia D. Petersen  
Chief Hearing Officer

In the Matter of

) No. 13-0134  
 )  
 )  
 ) NOTICE OF REQUEST FOR HEARING  
 ) FOR IMPOSITION OF FINES  
 )  
 )

PREFERRED CHIROPRACTIC DOCTOR,  
 INC.,

Respondent.

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**I. REQUEST FOR IMPOSITION OF FINES**

**A. BASIS**

1. By letter dated April 8, 2013, Respondent withdrew its application for a license to sell health care discount plan cards pursuant to RCW 48.155.020 in Washington State.

2. Between January 1, 2009 and January 1, 2012, Respondent acted as the agent/dealer for, represented, marketed, and/or sold at least 1,524 health care discount plan cards to Washington residents. The Respondent is not licensed as a health care discount plan organization in the State of Washington under the provisions of RCW 48.155.020(1). Unlicensed health care discount plans and unlicensed producers are subject to all of the general provisions of the Insurance Code, Chapter 48 RCW.

3. By conducting discount plan business without obtaining a license from the Commissioner to operate as a discount plan organization, Respondent violated RCW 48.155.020(1).

**B. PENALTIES AND RELIEF REQUESTED**

1. Pursuant to RCW 48.155.130, the OIC seeks to impose a fine against Respondent in the total amount of \$152,400 for violation of RCW 48.155.020.

2. RCW 48.155.130(1)(b) provides that in lieu of or in addition to suspending or revoking a discount plan organization's license under RCW 48.155.020(8), whenever the Commissioner has cause to believe that any person is violating or is about to violate any provision of this



chapter or any rules adopted under this chapter or any order of the Commissioner, the Commissioner may:

(b) After hearing or with the consent of the discount plan organization and in addition to or in lieu of the suspension, revocation, or refusal to renew any license, impose a monetary penalty of not less than one hundred dollars for each violation and not more than ten thousand dollars for each violation.

3. RCW 48.155.130(2) provides that a person that willfully operates as or aids and abets another operating as a discount plan organization in violation of RCW 48.155.020(1) commits insurance fraud and is subject to RCW 48.15.020 and 48.15.023, as if the unlicensed discount plan organization were an unauthorized insurer, and the fees, dues, charges, or other consideration collected from the members by the unlicensed discount plan organization or marketer were insurance premiums.
4. RCW 48.15.020 provides that (1) An insurer that is not authorized by the Commissioner may not solicit insurance business in this state or transact insurance business in this state, except as provided in this chapter.

(2)(a) A person may not, in this state, represent an unauthorized insurer except as provided in this chapter. This subsection does not apply to any adjuster or attorney-at-law representing an unauthorized insurer from time to time in this state in his or her professional capacity.

(b) A person, other than a duly licensed surplus line broker acting in good faith under his or her license, who makes a contract of insurance in this state, directly or indirectly, on behalf of an unauthorized insurer, without complying with the provisions of this chapter, is personally liable for the performance of such contract.

(3) Each violation of subsection (2) of this section constitutes a separate offense punishable by a fine of not more than twenty-five thousand dollars, and the Commissioner, at the Commissioner's discretion, may order replacement of policies improperly placed with an unauthorized insurer with policies issued by an authorized insurer.

5. RCW 48.15.023(5)(a)(ii) provides that if the Commissioner has cause to believe that any person has violated the provisions of RCW 48.15.020(1), the Commissioner may assess a civil penalty of not more than twenty-five thousand dollars for each violation, after providing notice and an opportunity for a hearing in accordance with chapters 34.05 and 48.04 RCW.

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## II. NOTICE OF HEARING

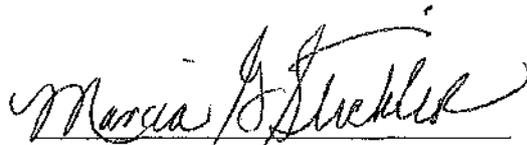
The Insurance Commissioner will convene a hearing at a date, location, and time to be determined, to consider the allegations above and the sanctions to be imposed upon Respondent pursuant to RCW 48.155.130. At the hearing, the OIC will present evidence showing that Respondent violated the Insurance Code as summarized above and that the sanctions requested above are authorized under the law. The Respondent may cross-examine OIC witnesses and present any defenses, evidence, or arguments they may have in opposition.

The Insurance Commissioner's staff will participate in this matter through its designated representative, Marcia G. Stickler, P.O. Box 40255, Olympia, Washington, 98504-0255, MarciaS@oic.wa.gov, (360) 725-7048. Pursuant to RCW 34.05.428 and WAC 10-08-083, OIC requests that the Respondent provide the Chief Hearing Officer and Ms. Stickler with written notification of the identity of any representative who will appear at conferences and hearings, including the person's name, address, e-mail address, and telephone number.

Executed at Tumwater, Washington, this 17<sup>th</sup> day of May, 2013.

MIKE KREIDLER  
Insurance Commissioner

By:

  
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Marcia G. Stickler,  
Staff Attorney - Legal Affairs

CERTIFICATE OF MAILING

The undersigned certifies under the penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned, a citizen of the United States, a resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the date given below I caused to be served the foregoing NOTICE OF REQUEST FOR HEARING FOR IMPOSITION OF FINES on the following individuals in the manner indicated:

Patricia Peterson, Chief Hearing Officer  
P O Box 40255  
Olympia, WA 98504-0255

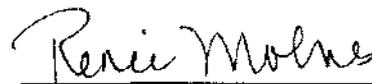
(XXX) Via Hand Delivery

**For Respondents:**

Edward I. Clabaugh, Esq.  
10217 SW Burton Drive, Suite 100  
Vashon Island, Washington 98070

(XXX) Via U.S. Regular Mail

SIGNED this 17<sup>th</sup> day of May, 2013, at Tumwater, Washington.



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Renee Molnes