

**STATE OF VERMONT**  
**DEPARTMENT OF FINANCIAL REGULATION**

In Re: Prest & Associates, Inc.                    )  
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  )

DOCKET NO. 13-011-I

**STIPULATION AND CONSENT ORDER**

The Insurance Division of the Vermont Department of Financial Regulation (the “Department”) and Prest & Associates, Inc. (“Prest”) hereby stipulate and agree as follows:

1. Pursuant to the authority contained in Vermont’s Title 8, including but not limited to V.S.A. §§ 11, 12, 13, 4726, 4804, 4089a and 4089b, the Commissioner of the Department is charged with administering and enforcing the insurance laws of the State of Vermont, including laws relating to the licensure of mental health review agents.

2. Prest acknowledges the jurisdiction of the Commissioner over the subject matter of the Consent Order set forth herein.

3. Prest is a Nevada corporation with a principal place of business in Wisconsin. Prest provides medical necessity and appropriateness of care review and consultation for psychiatry, addiction medicine, and behavioral healthcare to insurers and managed care organizations.

4. Prest contracted to provide reviews of mental health services to Cigna Behavioral Health, Inc. (CBH) dating back to at least 2000. The agreement between Prest and CBH included the following provision:

The Services rendered under this Agreement are advisory in nature only and are designed to assist Company in the claims resolution process. The decision whether to accept or

reject the determination of a particular medical professional lies solely with Company, and the payment, modified payment or non-payment of policy or plan benefits shall be the sole and exclusive responsibility of Company, not Supplier or the medical professionals.

Notwithstanding this provision, Prest's reviews repeatedly were used by CBH as the sole basis for coverage determinations.

5. Vermont law distinguishes “peer review” from “service review.” The definition of “service review” excludes peer review which does not “affect reimbursement for or provision of services.” 8 V.S.A. § 4089a(b)(5).

6. Under Vermont law, only a licensed “review agent” may perform “service review activities,” as defined in 8 V.S.A. §4089a. Prest is not licensed as a mental health review agent (“MHRA”) in Vermont.

7. The Department conducted an investigation of Prest's role in furnishing reviews of mental health services to CBH, some of which were then relied upon by CBH as the sole basis for its payment decisions. Prest maintains that it was unaware that CBH had relied on its peer review reports as the sole basis for payment decisions. Based on its belief that Prest’s review activities constituted “service reviews” in this context, rather than “peer reviews,” and that therefore Prest had acted as an MHRA in Vermont without a license, the Department issued a Cease and Desist Order to Prest on August 9, 2013.

8. A Merits Hearing on the Cease and Desist Order was held on July 11, 2014, resulting in a proposed decision by the hearing officer on August 22, 2014. An Oral Argument on the proposed decision was held before the Commissioner of the Department on October 16, 2014.

9. Prest asserts that it has engaged in no wrongdoing and both parties have agreed to resolve this matter administratively by entering into a stipulation and consent order on the terms

and conditions hereinafter set forth.

10. **NOW THEREFORE**, in consideration of the mutual covenants contained herein, the Department and Respondent stipulate and agree as follows:

- a. The Department agrees to dismiss the Cease and Desist Order against Prest.
- b. Prest agrees not to engage in service review in Vermont.
- c. The Department agrees that Prest will not be considered to be engaged in service review if a peer review report prepared by Prest results in the approval or denial of payment for mental health services by the party to which Prest delivered its report, so long as Prest has:
  - i. Entered into a current agreement with the entity to whom it has provided the peer review report which includes a provision substantially similar to the following:

*The services rendered under this agreement are advisory in nature only and are designed to assist [company] in the recommendations of its contracted providers. The decision whether to accept or reject the determination of a particular medical professional lies solely with [company] and its mental health review agent(s), and the payment, modified payment or non-payment of policy or plan benefits shall be the sole and exclusive responsibility of [company], and not Prest or its medical professionals.*

- ii. Included in its peer review report a statement substantially similar to the following:

*This opinion is not a determination regarding payment of benefits.*

11. Prest acknowledges and agrees that this stipulation is entered into freely and voluntarily and that, except as set forth herein, no promise was made to induce Prest to enter into it. Prest acknowledges its understanding of and agrees to all terms, conditions, and obligations

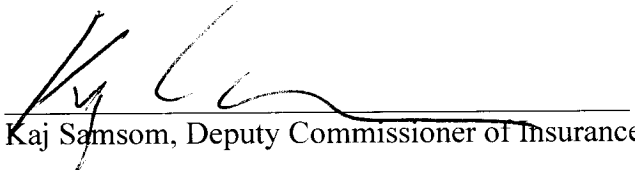
contained in the Consent Order.

12. Prest consents to the entry of this Order and agrees to be fully bound by its terms and conditions. Prest acknowledges that noncompliance with any of the terms of this Order may constitute a separate violation of the insurance laws of the State of Vermont and may subject Prest to sanctions under the provisions of Vermont's Title 8, including 8 V.S.A. § 3661. Prest further acknowledges that the Commissioner retains jurisdiction over this matter for the purpose of enforcing this order.

13. The undersigned representative of Prest affirms that he or she has taken all necessary steps to obtain the authority to bind Prest to the obligations stated herein and has the authority to bind Prest to the obligations stated herein.

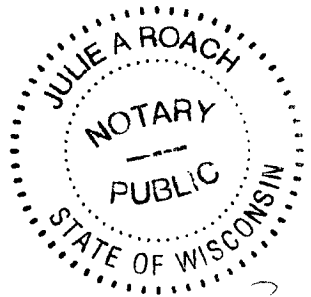
AGREED AND ACCEPTED:

Division of Insurance, Vermont Department of Financial Regulation

By:  Date: 12/17/14  
Kaj Samsom, Deputy Commissioner of Insurance

Prest & Associates, Inc.

By:  Date: 12-8-2014  
PRESIDENT





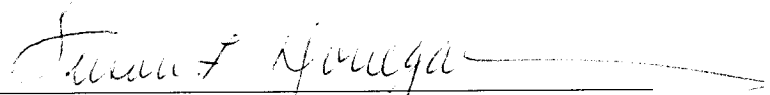
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**ORDER**

**IT IS HEREBY ORDERED:**

1. Prest & Associates, Inc. shall comply with all agreements, stipulations, and undertakings as recited above.
2. Nothing contained in this Order shall restrain the Department from responding to and addressing any complaint involving Prest & Associates, Inc. filed with the Department or shall preclude the Department from pursuing any other violation of Vermont law.

Dated at Montpelier, Vermont this 17<sup>th</sup> day of December, 2014.



Susan L. Donegan, Commissioner  
Vermont Department of Financial Regulation