

**STATE OF VERMONT
DEPARTMENT OF FINANCIAL REGULATION**

IN RE:)
COMPANION LIFE INSURANCE COMPANY) **DOCKET NO. 19-040-I**
NAIC # 77828)

STIPULATION AND CONSENT ORDER

This Stipulation and Consent Order is entered this 21 day of November, 2019 by and between the Vermont Department of Financial Regulation (the “Department”) and Companion Life Insurance Company, Inc. (the “Company”).

WHEREAS, the Commissioner of the Department (the “Commissioner”) is responsible for administering and enforcing the insurance laws of the State of Vermont, including 8 V.S.A. §§ 11, 12, 15, chapters 101, 107 and 129; and

WHEREAS, the Department ordered a market conduct examination of the Company, issuing the initial certificate of examination on August 31, 2016 and a revised certification of examination on August 21, 2017 to review student health insurance plans issued by the Company for academic years 2014-2015 and 2015-2016; and

WHEREAS, based on the examination, the Department asserts that the Company has violated certain insurance laws as set forth below; and

WHEREAS, the Company and the Department wish to resolve this matter without further administrative proceedings or litigation; and

WHEREAS, the Company has agreed to make certain payments to the Department subject to the terms and conditions of this Order, and to take certain other corrective actions; and

WHEREAS, the Company elects to waive any right to a hearing and appeal under the Vermont Administrative Procedure Act, Title 3, Chapter 25 of the Vermont Statutes Annotated, the rules, regulations, and orders of the Commissioner, and any right to judicial review by any court with respect to this Consent Order (the “Order”).

NOW THEREFORE, the Commissioner makes findings and conclusions as follows:

FINDINGS OF FACT

1. The Company is a foreign insurer with its principal place of business at 7909 Parklane Road, Suite 200, Columbia, South Carolina 29223-5666.
2. The Company is subject to the jurisdiction of the Commissioner pursuant to Title 8, Chapter 101 and Title 18, Chapter 221.
3. The Company consents to the entry of this Order.
4. At all times relevant, the Company operated as a licensed insurer in the State of Vermont.
5. The Company underwrote certain insurance products in Vermont for which some activities relating to the products, including but not limited to marketing, sales, administration, claims handling, and claims adjudication, were carried out by third parties, e.g. third-party administrators and pharmacy benefit managers (“Business Partners”).
6. While the Company documented its oversight of certain activities for some of its Business Partners, it was unable to demonstrate its oversight or controls of all Business Partners was adequate at all times.

STUDENT HEALTH INSURANCE PLANS

7. The Company offered student health insurance plans (“SHIP”) in Vermont from 2011-2017. The examination focused on plans issued during academic years 2014-

2015 and 2015-2016 (the “Exam Period”). All findings are limited to the Exam Period.

8. The Company’s rates and forms were not approved by the Department for the Exam Period, which the Company alleges was due to an error on the part of certain employees. When the Company learned of the unapproved rates and forms, it worked diligently with the Department to receive approval for the SHIP forms on June 9, 2016 and for the SHIP rates on June 29, 2016 for the 2016-2017 academic year.

9. The Company’s plans were sold to Burlington College, College of St. Joseph, Landmark College, Sterling College, Middlebury College, Norwich University, Champlain College, New England Culinary Institute, St. Michaels College, and Green Mountain College (the “Schools”).

10. The Business Partners in the Vermont SHIP market included Gallagher Koster (Arthur J. Gallagher & Co.); Cross Insurance; Consolidated Health Plans; Commercial Travelers Mutual Insurance Company; HealthSmart; Express Scripts Administrators, LLC; OptumRx, Inc. (formerly Catamaran); and Restat.

11. Gallagher Koster, Cross Insurance, and Consolidated Health Plans (collectively “Agents”) marketed, bundled, and sold the plans to the Schools. The bundling often included travel insurance and non-insurance products (which are not underwritten by or affiliated with the Company).

12. The bundled plan cost was included as a single line item on enrolled students’ tuition bills. The Company was not able to provide cost breakdowns of the bundled plans.

13. Students could opt out of the SHIP by providing proof of coverage under another health plan. After the waiver period ended, students could not opt out nor could they get a refund of the premium; however, those students remained covered under the insurance policy. Students who enrolled in the SHIP were not allowed to opt out of the products bundled with it.

14. The Company's SHIPs did not comply with certain provisions of applicable state or federal law.

15. The Company, through its Business Partners, issued brochures to insureds that omitted certain coverage provisions.

CONCLUSIONS OF LAW

16. As discussed in Section 8 above, the Company failed to file rates and forms, and used unapproved rates and forms, in violation of 8 V.S.A. § 4062.

17. The Company made representations in its policies, its brochures, and its flyers regarding its services or insurance policies in a manner that may have misled its policyholders, in violation of 8 V.S.A. § 4724 (13).

18. The Company represents it received only one non-regulatory complaint during the Exam Period, but failed to submit annual complaint reports to the Department, in violation of DFR Regulation I-1976-01. The Company failed to demonstrate that it maintained adequate complaint-handling procedures, in violation of 8 V.S.A. § 4724 (10).

19. The Company's medical claims records were not produced in a manner that would allow the Department to reconstruct certain claims from inception to completion, in violation of 8 V.S.A. § 3568.

20. For one of its pharmacy benefit managers, the Company's pharmacy claims records were not produced in a manner that would allow the Department to reconstruct the claims activity, in violation of 8 V.S.A. § 3568.

21. The Company failed to provide certain mandated benefits, in violation of Title 8, chapter 107.

22. The Company failed to adhere to certain federal provisions, in violation of 8 V.S.A. § 4062c.

23. The Company failed to confirm that one of its pharmacy benefit managers conducting business on its behalf was appropriately registered, in violation of 18 V.S.A. § 9408 and Department Regulation H-2008-04.

24. The Company failed to adequately supervise the actions of its agents¹, in violation of 18 V.S.A. § 9472, and Department Regulation H-2009-03.

STIPULATIONS

General Provisions

25. The Company hereby admits to the jurisdiction of the Commissioner over the subject matter of this proceeding and knowingly and voluntarily waives its right to a hearing before the Commissioner or his designee and all other procedures otherwise available under Vermont law, the rules of the Department, the provisions of Title 3, Chapter 25, or any right it may have to judicial review of this matter.

26. The Company acknowledges that this Order constitutes a valid order duly rendered by the Commissioner and agrees to be bound by it.

27. The Company acknowledges its understanding of all terms, conditions, and obligations contained in the Order and further acknowledges that should it fail to comply with any provision of the Order, the Commissioner may impose additional sanctions and seek appropriate relief subject to the Company's right to a hearing pursuant to Vermont insurance laws.

28. Nothing in this Order shall be construed as limiting the Commissioner's authority

¹ In addition to specific statutory provisions establishing that an insurer is responsible for its third-party administrators and pharmacy benefit managers, Vermont insurance companies are subject to the common law principles of agency and as such are responsible for the actions of their agents. *Brueckner v. Norwich University*, 169 VT 118 (1999).

to investigate the Company for matters not resolved by this Order or for matters unrelated to this Order.

29. Nothing herein shall be construed as limiting any private action a person may have.

30. The Company consents to the entry of this Order and acknowledges its consent is given freely and voluntarily and that no promise has been made to induce it to consent except as otherwise stated herein.

31. The Company acknowledges it has been represented by counsel in this matter and voluntarily waives its right to an administrative hearing on this matter and to judicial review of this matter.

32. The Company further acknowledges the Commissioner retains jurisdiction over this matter for purposes of enforcing this Order and that violations of material provisions of this Order may be considered willful and as such be subject to increased penalties.

33. This Order shall be governed by and construed under the laws of the State of Vermont.

34. This Order is entered into solely for the purpose of resolving this matter and is not intended to be used for any other purpose.

Corrective Action Plan

35. Based on the Department's findings of deficiencies in the Market Conduct examination, the Company agrees to a corrective action plan that addresses the following functions:

- a. Supervision of Business Partners:
 - i. Enhance the Company's supervisory capability.
 - ii. Strengthen contracts with Business Partners.
 - iii. Clarify responsibilities of all parties.

- iv. Perform regular audits of Business Partners.
- v. Develop a written plan with Business Partners to cure any deficiencies identified in audits and monitor progress to ensure deficiencies are cured.

b. Compliance:

- i. Enhance compliance capability and create a culture of compliance.
- ii. Establish necessary policies and procedures to ensure the Company and its Business Partners comply with state and federal laws and regulations.
- iii. Ensure compliance issues are communicated internally to all relevant departments and to executive management and externally to Business Partners and, when appropriate, to regulators.
- iv. Prioritize training and professional development.

c. Specific Areas of Concern:

i. Data Collection

- 1. Identify critical data.
- 2. Ensure the Company has access to data managed by Business Partners.
- 3. Develop a record retention policy that specifies the format of records retained and addresses the need to preserve records during an examination.

ii. Complaint Process:

- 1. Create and implement a complaint process to ensure uniform complaint handling by all Business Partners.
- 2. Establish a complaint line for insureds to call with questions

or complaints.

3. Have policies and procedures in place to require that all complaints and inquiries are reported to the Company.

Supervision of Business Partners

36. The Company represents that it has taken the following steps to enhance supervision of its Business Partners. This includes:
 - a. The Company created the Business & Risk (B&R) Department to oversee Business Partners and to enforce its compliance program with these partners. The B&R Department is charged with monitoring partner operations to ensure all business functions performed on behalf of the Company are acceptable and compliant. The B&R Department includes five senior (fifth to be hired) and three junior full-time employees. The Company will add resources as necessary to ensure proper oversight of Business Partner relationships.
 - b. The B&R Department reports to executive management on Business Partner matters, including audit and compliance issues.
 - c. The Chief Risk Officer meets quarterly with all Accident and Health Directors to examine and review relationship issues with Business Partners.
 - d. Audits will be conducted at regular intervals and potential issues identified will be documented and monitored until resolved.
 - e. The Company implemented a New Business Committee including senior members of key departments within the Company. The New Business Committee is responsible for scrutinizing each new business opportunity. The Company will only pursue a new opportunity if approved by the Committee. All Committee meeting minutes are documented and include final decisions.

- f. The Company implemented new partner program onboarding and implementation meetings to outline the responsibilities and expectations of all parties at the onset of a new program. If a business partner has a previous relationship with the Company, the meeting will focus on compliance matters.
37. The Company agrees to provide the following:
- a. The Company shall submit copies of all Business Partner audits to the Department for a period of three years.
 - b. The Company shall report to the Department the issues identified in each Business Partner audit and provide a narrative describing the Company's plan to address each issue. Each report shall also address the status of any previously reported issues which remain unresolved.
 - c. The Company shall provide a copy of its supervisory procedures for oversight of its Business Partners to the Department.

Compliance Program

38. The Company represents that it has enhanced its internal compliance function by establishing a new Compliance Team, now staffed by six full-time employees. The Compliance Team is improving the corporate compliance culture to ensure that state regulatory compliance is a Company priority. Toward this goal, the Compliance Team is building a "teamwork focus" through open and continuous communication both within the department and throughout the Company. The Compliance Team meets weekly to discuss issues and share information.

39. The Company represents that the following steps have been taken to enhance compliance:

- a. The Company implemented a new advertising review policy to ensure

the Company approves all advertising materials relating to its products.

- b. The Company created complaint procedures and now requires all Business Partners to adopt these procedures to ensure consistency in complaint handling among all Business Partners.
- c. The Compliance Team meets monthly with executive management to provide details on regulatory issues, agent inquiries, and any complaints. The meeting is also a forum to discuss methods and opportunities for reducing complaints and improving customer service.
- d. The Compliance Team and the B&R Department meet monthly to review regulatory developments and discuss areas for continued compliance improvement with internal business practices and external oversight of Business Partners.
- e. The Company encourages staff participation in conferences so that members stay current with industry developments.
- f. The Company purchased a legislative update service to stay informed of legislative changes.
- g. The Compliance Team completed fraud training provided by First Consulting & Administration.
- h. The Company requires all employees to participate in corporate compliance training annually.
- i. The Company developed a Market Conduct Compliance handbook to clarify requirements, expectations, and best practices for its Business Partners. The Company will visit and audit Business Partners, particularly with respect to the proper administration and issuance of policies and certificates.

- j. A Compliance Team member participates in a monthly conference call held by the Company's corporate parent to provide ongoing information regarding healthcare reform and compliance matters in the insurance industry. In conjunction with the conference calls, documents and web links are provided for distribution to staff.

40. The Company agrees to take the following additional actions to address compliance deficiencies:

- a. The Company shall require Compliance Team members to receive compliance training annually or as needed to reflect regulatory changes applicable to Vermont insurance lines and/or for new members added to the Compliance Team.
- b. The Company shall track and document training and professional development activities of Compliance Team members.
- c. The Company shall verify that it has an Anti-Fraud plan in place as required by 8 V.S.A. § 4750.

41. The Company shall notify the Department of changes to senior management or senior compliance personnel.

Specific Areas of Concern: Data Management and Complaint Handling

42. The Company shall take the following steps to protect and ensure data integrity and completeness:

- a. Ensure Business Partner contracts state that data belongs to the Company; that Business Partners must produce data upon request by the Company or by a regulator; that Business Partners must maintain data in a format that shows clearly the inception, handling, and disposition of the claim to allow the

examiner to reconstruct the claim and determine compliance. Department Regulation I-99-01.

43. The complaint process shall be consistent regardless of the Business Partner. As a consumer protection measure, insureds are entitled to a fair and consistent complaint handling process.


44. The Company acknowledges that failure to comply with the Corrective Action Plan, including those actions in the plan implemented by the Company voluntarily, is a violation of this Order.

Conditions for Reentry to Student Health Insurance Plan ("SHIP") Market


45. While the Company is not currently operating in the Vermont SHIP market, should it plan to reenter the Vermont SHIP market, the Company must seek prior approval from the Department and establish a re-entry plan satisfactory to the Department that addresses the issues and violations identified in the examination.

ACCEPTED AND AGREED UPON:

Insurance Division of the Vermont Department of Financial Regulation

By:  _____ Date: 11-22-19
Kevin Gaffney, Deputy Commissioner of Insurance
Vermont Department of Financial Regulation

Companion Life Insurance Company

By:  _____ Date: November 21, 2019
John Wilbur, President
Companion Life Insurance Company

CONSENT ORDER

NOW, THEREFORE, based on Companion's Stipulation and on the Findings of Fact and Conclusions of Law, the Commissioner issues the following Order:

1. If the Company fails or neglects to comply with any of the terms or conditions set forth in this Stipulation and Consent Order, the Department may, upon written notice to the Company, institute any legal or administrative proceedings it deems appropriate to enforce same and to seek such other appropriate sanctions, and the Company shall consent to the entry of judgment for any unpaid balance.

2. The Company shall pay an administrative penalty in the amount of \$950,000.00 to the Department within thirty (30) days of the execution of this Stipulation and Consent Order.

3. After a comprehensive review of claims data, the Company and the Department agreed that, in order to resolve this examination expeditiously, the Company will reimburse certain insureds related to certain claims payments in the amount of \$481,000. The Department will not require further review, however, should the Company, through its restitution process, become aware of additional amounts owed to insureds, the Company shall pay these amounts. The Company shall make all restitution to insureds through a process pre-approved by the Department. All communication(s) related to restitution must be approved by the Department. Any restitution amounts not delivered to the insureds shall escheat to the State of Vermont pursuant to the provisions of 27 V.S.A. § 1241, *et seq.*

4. In addition to the restitution identified and paid by the Company pursuant to paragraph 3 of this Order, the Company will make restitution to any insured who was enrolled in a student health insurance plan offered by the Schools and who presents a valid claim for restitution which was not included in this Order.

5. The Company shall contribute \$150,000 to the Vermont Financial Services

Education and Victim Restitution Fund.

6. The Company shall contribute \$225,000 to Vermont Legal Aid – Office of the Health Care Advocate.

7. The Company shall comply with all Vermont laws, Regulations, Orders, and Bulletins.

8. The Company has implemented or shall implement the corrective actions (“Corrective Action Plan” or “CAP”) described in paragraphs 35 to 44. The Company shall provide quarterly updates to the Department on the CAP until August 31, 2021 to include an assessment of the effectiveness of the measures taken to date and any additional unplanned measures taken.

9. The Company shall obtain the Department’s prior written approval to make any changes to the CAP.

10. Should the Company reenter the SHIP market, the Company must seek prior approval from the Department and establish a re-entry plan satisfactory to the Department that addresses the issues and violations identified in the examination.

11. All expenses incurred by the Department in reviewing CAP compliance or SHIP provisions will be billed back to the Company.

Entered at Montpelier, Vermont this 22nd day of November 2019.



Michael S. Pieciak, Commissioner
Vermont Department of Financial Regulation