

BEFORE THE INSURANCE COMMISSIONER OF THE  
STATE OF OKLAHOMA

**FILED**

**MAY 15 2020**

**INSURANCE COMMISSIONER  
OKLAHOMA**

STATE OF OKLAHOMA, ex rel. GLEN  
MULREADY, Insurance Commissioner,

Petitioner,

v.

SCRIPT CARE LTD,  
a formerly licensed pharmacy benefit manager  
doing business in the State of Oklahoma,

Respondent.

Case No. 19-0528-DIS

**CONDITIONAL ADMINISTRATIVE ORDER AND NOTICE OF RIGHT TO BE  
HEARD**

COMES NOW the State of Oklahoma, ex rel. Glen Mulready, Insurance Commissioner, by and through his attorney, Kayla M. Rochelle, and alleges and states as follows:

**JURISDICTION**

1. Glen Mulready is the Insurance Commissioner of the State of Oklahoma and is charged with the duty of administering and enforcing all provisions of the Oklahoma Insurance Code, 36 O.S. §§ 101 et seq.

2. Respondent was a formerly a foreign licensed pharmacy benefit manager ("PBM") doing business in the State of Oklahoma with an address of record as 6380 Folsom Drive, Beaumont, TX 77706 under license number 44201268.

3. The Insurance Commissioner has jurisdiction over the subject matter raised in this dispute and may issue penalties pursuant to Okla. Admin. Code § 365:25-29-10.

4. If Respondent requests a hearing in writing in this matter, as provided in Okla.

Admin. Code § 365:1-7-1, the Insurance Commissioner, pursuant to 36 O.S. § 319, will appoint an independent hearing examiner who shall sit as a quasi-judicial officer and preside over the hearing. The ordinary fees and costs of such hearing examiner shall be assessed by the hearing examiner against Respondent unless Respondent is the prevailing party.

5. Pursuant to Okla. Admin. Code § 365:1-7-5, the Insurance Commissioner, upon written request reasonably made by a person affected by the hearing and at such person's expense, shall cause a full stenographic record of the proceedings to be made by a competent court reporter.

### **ALLEGATIONS OF FACT**

6. On or about November 12, 2014, the Insurance Department issued an Oklahoma PBM license to Respondent to provide pharmacy benefit management services pursuant to 59 O.S. § 358.

7. On or about November 30, 2017, Respondent's license expired due to its failure to timely submit a fully completed renewal application (*i.e.*, surety bond not attached) pursuant to Okla. Admin. Code § 365:2-29-7. Respondent made numerous good faith and diligent attempts (*e.g.*, contacting the Insurance Department on numerous occasions to apprise it of the issue and to seek its assistance) to obtain a surety bond to complete the application but was unable to obtain a timely surety bond.

8. On or about March 29, 2019, Respondent submitted its annual financial reports for 2016 and 2017, which were due no later than March 1, 2017 and March 1, 2018, respectively.

### **ALLEGED VIOLATIONS OF LAW**

9. Respondent pleads "no contest" to the allegations that it failed to renew its

license in November 2017.

10. Respondent pleads “no contest” to the allegations that it violated Okla. Admin. Code § 365:25-29-8 on two (2) occasions by failing to timely submit annual financial reports for 2016 and 2017.

11. Pursuant to Okla. Admin. Code § 365:25-29-10(a), the Insurance Commissioner “may suspend or revoke a PBM’s license or assess a civil penalty of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00) for each instance of violation, or both. The payment of the penalty may be enforced in the same manner as civil judgments may be enforced.”

12. Pursuant to Okla. Admin. Code § 365:25-29-7(c), “[i]f the PBM fails to timely apply for renewal of its license or fails to pay any applicable fees or outstanding fines by the last day of the month in which the license was originally issued, the license shall expire automatically. After expiration, the PBM license may be reinstated for up to one (1) year following the expiration date upon filing a PBM license renewal application on a form provided by the Commissioner and the payment of a reinstatement fee of One Thousand Dollars (\$1,000.00). If after the one-year date the license has not been reinstated, the licensee shall be required to apply for a license as a new PBM licensee applicant.”

### **ORDER**

**IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED** by the Insurance Commissioner, subject to the following paragraph, that the Respondent hereby shall be fined in the amount of **Two Thousand Five Hundred Dollars (\$2,500.00)**. Respondent shall pay the \$2,500.00 payment **within thirty (30) days** of the date of this Conditional Administrative Order. Said payment shall be made payable to the Oklahoma Insurance Department.

**IT IS FURTHER ORDERED** by the Insurance Commissioner that, upon receipt of the \$2,500.00 payment, Respondent may submit an application for a PBM license as a new licensee.

Respondent is further notified that it may request a hearing within **thirty (30) days of the date of mailing of this Order**. If Respondent does not request a hearing within **thirty (30) days** of the date mailing of this Order, this Conditional Administrative Order shall become a **FINAL ORDER** on the **THIRTIETH (30<sup>TH</sup>)** day following mailing of this Order.

A request for hearing shall be made in writing to Kayla M. Rochelle, Assistant General Counsel, Oklahoma Insurance Department, Legal Division, 400 NE 50<sup>th</sup> Street, Oklahoma City, Oklahoma 73105. The request for hearing must state the grounds to set aside or modify this Conditional Administrative Order. Upon such request, a hearing shall be conducted before an independent hearing examiner.

The hearing will be conducted in accordance with the Oklahoma Insurance Code, 36 O.S. §§ 101 et seq. and the Oklahoma Administrative Procedures Act, 75 O.S. §§ 250 et seq. If Respondent timely serves a request for hearing, this Conditional Order shall act as a notice of the matters to be reviewed at the hearing, and the Allegations of Fact, Alleged Violations of Law, and penalties imposed in this Conditional Order shall be considered withdrawn, pending final resolution of this matter through hearing.



WITNESS My Hand and Official Seal this 15th day of May 2020.



Glen Mulready  
Insurance Commissioner  
State of Oklahoma

s/ Kayla M. Rochelle  
Kayla M. Rochelle, OBA #34014  
Assistant General Counsel  
400 NE 50<sup>th</sup> Street  
Oklahoma City, OK 73105  
Telephone: 405-521-4036  
Facsimile: 405-522-0125  
Email: Kayla.Rochelle@oid.ok.gov

**CERTIFICATE OF MAILING**

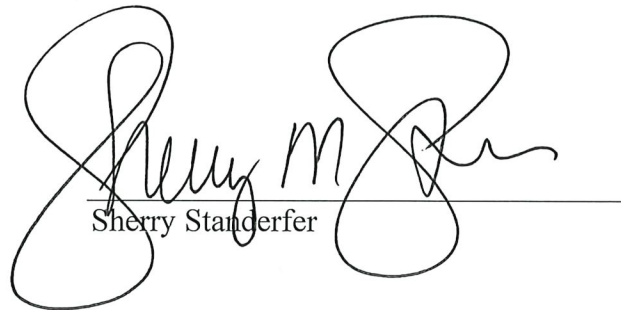
I hereby certify that a true and correct copy of the above and foregoing Conditional Administrative Order and Notice of Right to be Heard was mailed by certified mail, with postage prepaid and return receipt requested, on this 15<sup>th</sup> day of May, 2020, to:

Frank T. Messina  
Script Care, Ltd.  
6380 Folsom Drive  
Beaumont, TX 77706

***Certified Mail Number***  
***7019 1640 0001 3037 0956***

And a copy was delivered to:

Jeanette Pearce  
Licensing Division

  
Sherry Standerfer