State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN THE MATTER OF:	)	
	)	
Kenneth Eggleston,	)	**Case No. 101214754C**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE INSURANCE PRODUCER LICENSE

On April 26, 2011, Ross A. Kaplan, Enforcement Counsel and Counsel to the Consumer Affairs Division, submitted a Petition to the Director alleging cause for refusing to issue an insurance producer license to Kenneth Eggleston. After reviewing the Petition, the Investigative Report, and the entirety of the file, the Director issues the following findings of fact, conclusions of law, and summary order:

FINDINGS OF FACT

1. Kenneth Eggleston ("Eggleston") is an individual residing in Idaho.

2. On or about September 22, 2010, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Eggleston's electronic application for a Nonresident Individual Insurance Producer License ("Application").

3. In his Application, Eggleston listed his residential address as 571 Heyburn Ave. W, Twin Falls, ID 83301-4523. Eggleston listed his business and mailing address as C3 Connect, 851 Poleline Rd., Twin Falls, ID 83301-3037.

4. Background Question No. 2 of the Application asks: "Have you ever been named or involved as a party in any administrative proceeding regarding any professional or occupational license or registration?"

5. Eggleston answered "yes" to Question No. 2.

6. On October 30, 2009, in *In the Matter of the License of: Kenneth R. Eggleston*, Case No. BON 07-021, the Idaho State Board of Nursing revoked Eggleston's nursing license for "divert[ing] drugs without prior consent or authorization in violation of Idaho Code 54-1413(1)(g) and Board Rule (IDAPA 23.01.01) 100.08 (a nurse shall not violate the Board's laws, rules or standards of conduct and practice), and Board Rule 101.04(e) (a nurse shall not take or divert drugs without prior consent or authorization)."

(9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory[.]

12. Title 20 CSR 100-4.100, Required Response to Inquiries by the Consumer Affairs Division, provides in relevant part:

(2) Except as required under subsection (2)(B)—

(A) Upon receipt of any inquiry from the division, every person shall mail to the division an adequate response to the inquiry within twenty (20) days from the date the division mails the inquiry. An envelope's postmark shall determine the date of mailing. When the requested response is not produced by the person within twenty (20) days, this nonproduction shall be deemed a violation of this rule, unless the person can demonstrate that there is reasonable justification for that delay.

13. Idaho Code Ann. §54 -1413 (2009) provides in relevant part:

(1) Grounds for discipline. The board shall have the power to refuse to issue, renew or reinstate a license issued pursuant to this chapter, and may revoke, suspend, place on probation, reprimand, limit, restrict, condition or take other disciplinary action against the licensee as it deems proper, including assessment of the costs of investigation and discipline against the licensee, upon a determination by the board that the licensee engaged in conduct constituting any one (1) of the following grounds:

* * *

(g) Violates the provisions of this chapter or rules and standards of conduct and practice as may be adopted by the board[.]

14. Idaho Admin. Code r. 23.01.01-100.08 (3-15-02) states: "Violations of Standards of Conduct. Violations of standards of conduct and practice adopted by the Board shall mean, but need not be limited to, any violation of those standards of conduct described in Section 101 of these rules."

15. Idaho Admin. Code r. 23.01.01-101.04(c) (11-28-84) states: "Prescription Drugs. The nurse shall not obtain, possess, furnish or administer prescription drugs to any person, including self, except as directed by a person authorized by law to prescribe drugs."

16. Under Missouri law, when a letter is duly mailed by first class mail, there is a rebuttable presumption that the letter was delivered to the addressee in the due course of the mail. *Hughes v. Estes*, 793 S.W.2d 206 (Mo. App. 1990).

17. The principal purpose of §375.141 RSMo is not to punish licensees or applicants,

but to protect the public. *Ballew v. Ainsworth*, 670 S.W.2d 94, 100 (Mo. App. 1984).

18. The Director may refuse to issue an insurance producer license to Eggleston pursuant to §375.141.1(8) because, in Eggleston's capacity as a nurse, his diversion of narcotics from his patient for his own use as well as his subsequent missed and failed drug tests along with his continuing to administer controlled substances to patients in violation of the PRN are dishonest practices or demonstrate incompetence or untrustworthiness in the conduct of business.

19. The Director may refuse to issue an insurance producer license to Eggleston pursuant to §375.141.1(9) because Eggleston was denied an insurance producer's license or its equivalent by Wisconsin.

20. The Director may refuse to issue an insurance producer license to Eggleston pursuant to §375.141.1(2) because Eggleston failed to respond to a Division inquiry regarding his Idaho Board of Nursing revocation order, which is a violation of 20 CSR 100-4.100.

21. The Director has considered Eggleston's history and all of the circumstances surrounding Eggleston's application. Eggleston used drugs that were intended for his patients and then, when given a second chance, did not comply with the terms of the PRN. Additionally, Eggleston was denied an insurance producer license by Wisconsin. Finally, Eggleston failed to respond to an inquiry from the Division. Granting Eggleston a Missouri nonresident insurance producer license would not be in the interest of the public.

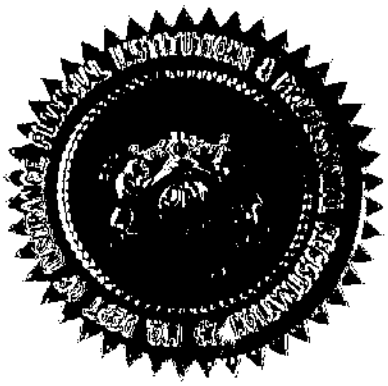
22. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the insurance producer license of Kenneth Eggleston is hereby summarily **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 29TH **DAY OF** APRIL, 2011



JOHN M. HUFF
DIRECTOR

NOTICE

TO: Applicant and any unnamed persons aggrieved by this Order:

You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri within 30 days after the mailing of this notice pursuant to §621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send your complaint by registered or certified mail, it will not be considered filed until the Administrative Hearing Commission receives it.

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of May, 2011, a copy of the foregoing Notice and Order was served upon the Applicant Kenneth Eggleston in this matter by priority mail No. 0307 3330 0000 7083 1473 at

Kenneth Eggleston
C3 Connect
851 Poleline Rd.
Twin Falls, ID 83301-3037

Kathryn Randolph