

STATE OF ARIZONA

DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS

In the Matter of:

IMPERIAL INSURANCE COMPANIES, INC.

NAIC CoCode:16348

Respondent

No. 21A-040-INS

CONSENT ORDER

The Arizona Department of Insurance and Financial Institutions (“Department”) alleges that Imperial Insurance Companies, Inc. (“Imperial” or “Respondent”) violated provisions of Arizona Revised Statutes (“A.R.S.”), Title 20. Respondent wishes to resolve this matter without the commencement of formal proceedings, and admits the following Findings of Fact are true, and consents to the entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent is an insurer domiciled in Texas. Respondent currently holds an Arizona disability insurance license, NAIC number 16348. Respondent’s address of record with the Department is 1999 Bryan Street, Suite 900, Dallas, TX 75201.

2. Under a disability insurance license, Respondent is permitted to offer disability insurance as defined in ARS § 20-253, which includes Preferred Provider Organization (“PPO”) plans. During the licensing process, the Department informed Respondent that it had to offer PPO plans in Arizona pursuant to its license. In a March 25, 2019 letter to the Department, Respondent represented that it would offer PPO Medicare Advantage plans in Arizona.

3. In researching Respondent’s current healthcare plans offered in Arizona, Department staff reviewed Imperial’s Medicare Advantage plans being offered through the [Medicare.gov](https://www.medicare.gov) website. Upon

1 further review, Department staff discovered Respondent is offering HMO Medicare Advantage plans in
2 the Arizona counties of Maricopa, Pima, Pinal, Yavapai, and Coconino.

3 4. Respondent disseminated materials asserting that it was authorized to offer HMO plans in
4 Arizona, contrary to its certificate of authority as a disability insurer.

5 5. On February 19, 2021, the Department contacted the Center for Medicare and Medicaid
6 Services (“CMS”) to confirm whether Respondent is offering HMO Medicare Advantage plans in
7 Arizona. CMS officials confirmed that Respondent is currently offering HMO Medicare Advantage
8 plans in Arizona.

9 6. The Department commenced an investigation into whether Respondent is offering HMO
10 plans in Arizona without the required certificate of authority. On March 5, 2021 and on April 5, 2021
11 the Department, through letters, requested that Respondent produce documents relating to Imperial’s
12 plans sold in Arizona.

13 7. Imperial complied with both requests and produced documents by the stated due dates.

14 8. After thorough review of all pertinent records and information, the Department’s
15 investigation concludes that Imperial is transacting business as a health care services organization
16 (HCSO, commonly referred to as an HMO) in Arizona without a certificate of authority or applicable
17 exemption.

18 **CONCLUSIONS OF LAW**

19 9. The Director has jurisdiction over this matter.

20 10. The Director has authority to conduct examinations and investigations of insurance matters
21 and to request the accounts, records, documents, files, assets and matters in the person’s possession or
22 control pursuant to A.R.S. §§ 20-142(C) and 20-157(A).

23 11. Respondent’s conduct, as alleged above, constitutes transacting insurance in this state without
24 the required authorization, in violation of A.R.S. § 20-206(A).

25 12. Respondent’s conduct, as alleged above, violates A.R.S. § 20-220(A)(1).

1 13. Respondent's conduct, as alleged above, constitutes operating a health care service
2 organization in this state without obtaining and maintaining a certificate of authority pursuant to A.R.S.
3 Title 20, Chapter 4, Article 9, in violation of A.R.S. § 20-1052(A).

4 14. Respondent's conduct, as alleged above, constitutes the transaction of insurance in this state
5 without the appropriate certificate of authority, in violation of A.R.S. § 20-401.01(A).

6 15. Respondent's conduct, as alleged above, constitutes an unfair or deceptive act or practice in
7 the business of insurance, in violation of A.R.S. § 20-442.

8 16. Respondent's conduct, as alleged above, constitutes the publishing, disseminating, and
9 circulating of deceptive or misleading information in the conduct of insurance business, in violation of
10 A.R.S. § 20-444.

11 17. Grounds exist for the Director to refuse to renew, revoke or suspend Respondent's certificate
12 of authority pursuant to A.R.S. § 20-220(A).

13 18. Grounds exist for the Director to order Respondent to cease and desist, and through the
14 attorney general, file a complaint in the superior court of Maricopa county to enjoin and restrain
15 Respondent from continuing the violation, pursuant to A.R.S. § 20-401.02(A).

16 19. Grounds exist for the Director to order Respondent to cease and desist from the proscribed
17 acts or practices, pursuant to A.R.S. § 20-456(A).

18 20. Grounds exist for the Director to impose a civil penalty of not more than one thousand dollars
19 for each act or violation, pursuant to § 20-456(B).

20 **ORDER**

21 IT IS ORDERED:

22 21. Imperial shall immediately cease and desist from enrolling any new members into any of its
23 Arizona HMO Medicare Advantage plans.

24 22. Imperial shall immediately cease and desist from disseminating, advertising, or publishing
25 any marketing and solicitation materials regarding its existing Arizona HMO Medicare Advantage plans.

1 23. Imperial shall continue fulfilling its contractual obligations and duties, including but not
2 limited to paying all eligible claims, for all members in its Arizona HMO Medicare Advantage plans.

3 24. Imperial shall communicate to all enrolled Arizona members that its Arizona HMO Medicare
4 Advantage plans under CMS contract H2793 will be discontinued effective January 1, 2022, in
5 accordance with applicable CMS written directives, regulations, or rules.

6 25. Imperial shall provide monthly reports to the Department indicating and evidencing
7 compliance with the terms and orders of this Consent Order. Such reports will include monthly member
8 enrollments and disenrollments and total enrollment, network adequacy changes resulting in failure to
9 meet standards, and other reports as may be requested by the Department.

10 26. Imperial shall comply with all CMS directives, including but not limited to those regarding
11 member notifications.

12 27. Imperial shall comply with all Arizona statutes, regulations and rules applicable to disability
13 insurers within the State.

14 28. Imperial may offer PPO products consistent with its certificate of authority as a disability
15 insurer in Arizona, if filed and approved by the Department.

16 DATED AND EFFECTIVE this 27th day May, 2021.

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Evan G. Daniels, Director
19 Arizona Department of Insurance and Financial Institutions
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1 **CONSENT TO ORDER**

2 1. Respondent has reviewed the foregoing Findings of Fact, Conclusions of Law and Order.

3 2. Respondent consents to the personal and subject matter jurisdiction of the Department in this
4 matter.

5 3. Respondent is aware of its right to an administrative hearing in this matter and hereby
6 knowingly and voluntarily waives that right.

7 4. Respondent states that no promise of any kind or nature whatsoever, except as expressly
8 contained in this Consent Order, was made to it to induce it to enter into this Consent Order and that it
9 has entered into this Consent Order knowingly and voluntarily.

10 5. Respondent acknowledges that the acceptance of this Consent Order by the Director is solely
11 to settle this matter and does not preclude the Department from instituting other proceedings as may be
12 appropriate now or in the future. Furthermore, and notwithstanding any language in this Consent Order,
13 this Consent Order does not preclude in any way any other state agency or officer or political subdivision
14 of this state from instituting proceedings, investigating claims, or taking legal action as may be
15 appropriate now or in the future relating to this matter or other matters concerning Respondent, including
16 but not limited to violations of Arizona’s Consumer Fraud Act. Respondent acknowledges that, other
17 than with respect to the Department, this Consent Order makes no representations, implied or otherwise,
18 about the views or intended actions of any other state agency or officer or political subdivision of the
19 state relating to this matter or other matters concerning Respondent.

20 7. Respondent waives all rights to seek an administrative or judicial review or otherwise to
21 challenge or contest the validity of this Consent Order and its accompanying parts before any court of
22 competent jurisdiction.

1 8. Paveljit S. Bindra represents that he is the Chief Executive Officer of Imperial Insurance
2 Companies, Inc., and as such, is authorized to enter this Consent Order on its behalf.

3 Imperial Insurance Companies, Inc.

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5 5/21/2021

6 Date

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Paveljit S. Bindra, CEO

1 **ORIGINAL** of the foregoing filed
this 28th day of May, 2021 in the office of:

2 Evan G. Daniels, Director
3 Arizona Department of Insurance and Financial Institutions
Attn: Ana Starcevic, Paralegal
4 100 North 15th Avenue, Suite 261
Phoenix, Arizona 85007
5 Ana.Starcevic@difi.az.gov

6 **COPY** of the foregoing delivered and/or emailed same date to:

7 Deian Ousounov, Regulatory Legal Affairs Officer
8 Kurt Regner, Assistant Director
Maria Alior, Assistant Director
9 Gloria Barnes-Jackson, Administrative Service Officer
Ana Starcevic, Paralegal
10 Arizona Department of Insurance and Financial Institutions
100 North 15th Avenue, Suite 261
11 Phoenix, AZ 85007

12 **COPY** of the foregoing transmitted electronically the same date to:

13 Imperial Insurance Companies, INC.
1999 Bryan Street, Suite 900
14 Dallas, TX 75201
Respondent

15 Aaron Claxton
16 Wilke Fleury LLP
400 Capitol Mall, Twenty-Second Floor
17 Sacramento, California 95814
aclaxton@wilkefleury.com
18 Attorney for Respondent

19 Francine Juarez

Francine Juarez