

STATE OF MAINE
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION
BUREAU OF INSURANCE

In re:

**LOYAL AMERICAN LIFE
INSURANCE COMPANY**

**Maine License No. LHF207
NAIC Code 65722
Docket No. INS-15-225**

**CONSENT AGREEMENT
AND ORDER**

Loyal American Life Insurance Company (“Loyal American” or “Company”), a Maine-licensed foreign life and health insurance company, the Maine Superintendent of Insurance (“the Superintendent”), and the Office of the Maine Attorney General (“Attorney General”) hereby enter into this Consent Agreement pursuant to 10 M.R.S. § 8003(5)(B) to resolve, without an adjudicatory proceeding, violations of the Insurance Code for which the Superintendent may impose discipline.

PARTIES

1. The Superintendent of Insurance is the official charged with administering and enforcing Maine’s insurance laws and regulations, and the Bureau of Insurance (“BOI”) is the administrative agency with such jurisdiction. The Superintendent has jurisdiction over this matter pursuant to 24-A M.R.S. §§ 12-A and 211.
2. Loyal American has been licensed in Maine as a foreign life and health insurance company since November 21, 1968. Loyal American’s Maine Certificate of Authority number is LHF207 and its NAIC Code is 65722. The Company maintains a principal place of business in Austin, Texas.

STATUTORY AUTHORITY

3. Under 10 M.R.S. § 8003(5)(A) and 24-A M.R.S. § 12-A, the Superintendent may issue a warning, censure, or reprimand to a licensee, may suspend, revoke or refuse to renew the license of a licensee, may impose conditions of probation on the licensee, may levy a civil penalty, or may take any combination of such actions, for violating any insurance laws, or violating any rule, regulation, subpoena, or order of the Superintendent.
4. Pursuant to 10 M.R.S. § 8003(5)(B), the Superintendent may resolve a complaint by entering into a consent agreement with a licensee and with the agreement of the Attorney General.

STATEMENT OF FACTS

5. Loyal American first sold Medicare supplement policies to Maine consumers on July 10, 2013.
6. The Medicare supplement policies are sold to Maine consumers via direct marketing and through appointed producers.
7. As of February 2015, the Company has 58 in-force policies held by Maine consumers.
8. When the Company began selling the policies in Maine, the commission schedule varied based on the age of the policyholder for underwritten business and for Open Enrollment applications.
9. When the Company began selling the policies in Maine, the Company offered Plan A, Plan F, Plan G and Plan N to consumers age 65 or older. The Company offered only Plan A to consumers under age 65 even if they were entitled to Medicare benefits due to disability.
10. Upon review of the Company's November 2014 rate filing, BOI notified the Company that its age-based commission schedule and product offerings were in violation of Maine law.
11. As of February 2015, the Company has taken steps to ensure that its commission structure for both new and in-force policies does not impermissibly vary based on age.
12. As of February 2015, the Company has taken steps to ensure that all plans offered for sale in Maine are offered to consumers who are entitled to Medicare benefits due to disability under age 65.
13. Between the time the Company started selling policies in Maine and the time the Company was alerted to the above issues, the Company received one application from a Maine consumer who was a disabled Medicare recipient under age 65. This consumer withdrew his application when he was advised the Plan was not available due to age.
14. During on-going discussions between the Maine BOI and the Company about these issues, BOI staff requested copies of all applications for policies that were denied by the Company.
15. Of the six denied applications that were supplied by the Company, four were from consumers who were seeking to replace their then-current Medicare supplement policies with a same or lesser policy from the Company. Each of the four was denied based on medical underwriting. The questions on the Company application were insufficient to determine whether the Company was obligated to issue the policy under Maine's guaranteed issuance laws.
16. The four denied applications were taken by employees of a direct marketing call center. The consumers were asked questions related to their medical history as part of the

application without gathering sufficient information to determine whether the Company was obligated to issue the policy under Maine's guaranteed issuance laws, thus prohibiting denial of the application by medical underwriting. After the applications were submitted, the Company then acted upon the medical history information to deny the applications.

17. At least two of the four denied applicants were eligible for guaranteed issuance of the policy for which they applied.
18. The Company has taken steps to see that questions about medical history are not posed to Maine consumers who are applying for a policy when issuance is guaranteed under the Maine Insurance Code. In April 2015, the Company also reached out to the consumers whose applications were denied to determine whether they were eligible for guaranteed issue and whether they wished to re-apply for the policies.

VIOLATIONS OF LAW

19. Bureau Rule 275 Section 16(D) provides that the commission or other compensation provided to a producer or other representative for the sale of a Medicare supplement policy or certificate must be the same regardless of age of the individual when issuance is guaranteed.
20. By providing a commission structure for the sale of Medicare supplement policies that varied based on the age of the policyholder when issuance was guaranteed, the Company violated Bureau Rule 275.
21. 24-A M.R.S. § 5010-A provides in part that an issuer offering coverage under a Medicare supplement policy shall offer coverage under its standardized plans to all individuals, regardless of age, who are entitled to Medicare benefits due to disability.
22. By offering only Plan A to consumers under age 65 even if they were entitled to Medicare benefits due to disability, the Company violated 24-A M.R.S. § 5010-A.
23. 24-A M.R.S. § 5002-B provides for continuity of coverage for persons who have a Medicare supplement policy and who seek coverage under a new policy with the same or lesser benefits if they have been covered under a supplemental policy with no gap in coverage greater than 90 days beginning with their open enrollment period. For persons entitled to continuity of coverage, the insurer is required to waive medical underwriting.
24. By failing to ensure that sufficient questions were asked of applicants to determine whether the Company was obligated to issue the policy under Maine's guaranteed issuance laws and by denying the application of at least two Maine consumers who were eligible for guaranteed issuance of the policy, the Company violated 24-A M.R.S. § 5002-B.

COVENANTS

25. Loyal American admits to the Statement of Facts and Violations of Law stated above and admits that its actions make it subject to disciplinary action.
26. Loyal American accepts as disciplinary action the imposition of a civil penalty in the amount of Ten Thousand Dollars (\$10,000). The Company shall remit payment of this civil penalty along with the submission of this signed agreement to the BOI. Payment shall be by check or money order made out to "Treasurer, State of Maine."
27. The Company shall take all steps necessary to comply with the Maine Insurance Code in its sale of Medicare supplement policies in Maine.
28. Nothing in this Agreement shall affect the rights or interests of any person who is not a party to this Agreement.
29. In consideration of Loyal American's execution of and compliance with the terms of this Consent Agreement, the Superintendent and Attorney General agree that no further action will be initiated against the Company by the Bureau of Insurance for the specific violations of the Insurance Code admitted to herein. However, should Loyal American violate any provision of this Consent Agreement, the Company may be subject to any available remedy for the violation. Loyal American further acknowledges and agrees that, upon execution of this Consent Agreement, each of the Covenants herein shall constitute an order of the Superintendent.
30. This Consent Agreement is enforceable pursuant to 24-A M.R.S. § 215, 10 M.R.S. § 8003(5)(B), and 14 M.R.S. § 3138.
31. This Consent Agreement is not subject to appeal. Loyal American waives any further hearings or appeals regarding the matters that are the subject of this Agreement.
32. This Consent Agreement may be modified only by a written agreement executed by all of the parties hereto. The parties each retain absolute discretion to reject any request to modify, continue, or terminate any or all of the provisions of this Consent Agreement.
33. This Consent Agreement is a public record subject to the provisions of the Maine Freedom of Access Law, 1 M.R.S. §§ 401 through 410, will be available for public inspection and copying as provided for by 1 M.R.S. § 408, and will be reported to the Regulatory Information Retrieval System database at the National Association of Insurance Commissioners.
34. By the duly-authorized signature of its representative on this Consent Agreement, Loyal American indicates that it has read the Consent Agreement, that it understands the Consent Agreement, that it has reviewed the statutory provisions set for the herein, that it has been advised of its right to consult with counsel and has had an opportunity to consult with counsel before signing the Consent Agreement, and that it enters into the Consent Agreement voluntarily and without coercion of any kind from any person.

**LOYAL AMERICAN LIFE INSURANCE
COMPANY**

Dated: July 20, 2015

By: Brenda W. Hardison
Its Authorized Representative

BRENDA W. HARDISON, Secretary
Print Name and Title

**THE OFFICE OF THE MAINE ATTORNEY
GENERAL**

Dated: July 27, 2015

By: [Signature]
Jonathan R. Bolton
Assistant Attorney General

**THE MAINE SUPERINTENDENT OF
INSURANCE**

Dated: July 29, 2015

By: [Signature]
Eric A. Cioppa
Superintendent of Insurance