

BEFORE ALLAN L. MCVEY, INSURANCE COMMISSIONER  
OF THE STATE OF WEST VIRGINIA

*In the Matter of:*

**CADENCE RX, INC.**

Administrative Proceeding No. 23-IC-156374

CONSENT ORDER

In lieu of proceeding with an administrative hearing in this matter, the parties hereto have reached a resolution of the matter regarding Cadence Rx, Inc. (“Cadence Rx”) doing business in West Virginia as a Pharmacy Benefit Manager (“PBM”) without a license. Cadence Rx understands and agrees that by agreeing to the entry of this Consent Order it waives all rights to an administrative hearing and to judicial review of this matter. Further, Cadence Rx understands and agrees that by agreeing to the entry of this Consent Order it also agrees to the administrative action as is reflected in the Consent Order. Finally, the Insurance Commissioner for the State of West Virginia (“Commissioner”) believes the entry of this Consent Order is appropriate and in the public interest.

JURISDICTION

Cadence Rx is a PBM currently doing business in the State of West Virginia and the Commissioner/West Virginia Offices of the Insurance Commissioner (“WVOIC”) has jurisdiction over the subject matter of this action and over Cadence Rx pursuant to W.Va. Code §33-51-1, *et seq.*

W.Va. Code § 33-51-8(a) (2022) states, in part, “A person or organization may not establish or operate as a pharmacy benefits manager in the state of West Virginia without first obtaining a license from the Insurance Commissioner pursuant to this section....”

In addition, W.Va. Code R. § 114-99-8.3 states:

With respect to any person or entity operating in this state as a PBM without a license, the Commissioner may do one or both of the following: ...

8.3.2. After notice and hearing in accordance with W. Va. Code §33-2-13, assess restitution in an amount sufficient to reimburse any person adversely affected by the operation of the unlicensed PBM and, in addition to or in lieu of restitution, impose a fine in a sum not to exceed \$20,000 for each unauthorized act....

#### EFFECT ON THIRD PARTIES

This Consent Order does not vest standing in any third party with respect to the terms hereof, nor create for any person, other than the Commissioner, a right to enforce its terms.

#### ALLEGED FACTS

The Commissioner received information that Cadence Rx was operating in West Virginia without the necessary PBM license in violation of W.Va. Code § 33-51-1, *et seq.* Cadence Rx acknowledges that it has been operating in West Virginia as a PBM without the required PBM license since January, 2023. Cadence Rx filed its application for a PBM license on or about March 2, 2023 so that it can be properly licensed in West Virginia.

#### AGREED ACTION

By agreeing to and executing this Consent Order, Cadence Rx agrees to and requests the entry of this Consent Order. Cadence Rx acknowledges that the Commissioner could prevail at a hearing against Cadence Rx resulting in a civil penalty not to exceed Twenty Thousand Dollars (\$20,000.00) for each unauthorized act it performed while it did not have a PBM license. The facts, as stated above, demonstrate numerous violations of West Virginia law. Cadence Rx will obtain its West Virginia PBM license as soon as possible.

To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation in this matter, Cadence Rx consents and agrees to the imposition of and payment to the Commissioner of an administrative fine in the amount of Twenty-Two Thousand Dollars (\$22,000.00), to be paid within 30 days of the entry of this Order. Failure of Cadence Rx to apply for and obtain its PBM license in West Virginia could result in additional fines in the future.

#### FINAL DISPOSITION

This Consent Order constitutes the final disposition and entire agreement between the parties relating to the matter herein, except for any enforcement actions with respect to the failure to pay the administrative fine under this Consent Order as may be necessary, of Administrative Proceeding No. 23-IC-156374.

#### MISCELLANEOUS PROVISIONS

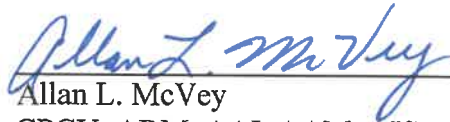
Jurisdiction of this matter is retained by the Commissioner for enforcement of this Consent Order. Any party hereto may apply to the Commissioner for such further orders and directions as may be necessary or appropriate with respect to the construction and enforcement of this Consent Order. The remedies in this Consent Order are cumulative and in addition to any other remedies the Commissioner may have at law or equity. Subject to Cadence Rx's full payment of the agreed upon administrative fine, the Commissioner releases Cadence Rx from any further enforcement actions against Cadence Rx based on the facts as described in this Order. However, nothing herein shall be construed to prevent the Commissioner from taking any action for conduct not addressed in this Consent Order.

Cadence Rx understands that this Consent Order will be reported to the database maintained by the National Association of Insurance Commissioners (NAIC) and otherwise be made public in accordance with law.

ORDER

Inasmuch as the Commissioner finds and concludes, based upon the foregoing, that Cadence Rx violated W.Va. Code § 33-51-8(a) and W.Va. Code R. § 114-99-8.3, it is **ORDERED** that a civil penalty in the amount of Twenty-Two Thousand Dollars (\$22,000.00) be, and the same is, hereby, assessed against Cadence Rx, and that such civil penalty shall be paid within 30 days of the entry of this Consent Order.

ENTERED on this 12<sup>th</sup> day of October 2023.



Allan L. McVey  
CPCU, ARM, AAI, AAM, AIS  
Insurance Commissioner

Prepared by:



Jeffrey C. Black (WVSB #8188)  
Attorney Supervisor, Regulatory Compliance  
Legal Division  
West Virginia Offices of the Insurance Commissioner  
Post Office Box 50540  
Charleston, West Virginia 25305-0540

Reviewed and agreed to by:  
CADENCE RX, INC. :

By: Scott Brener

Print Name

Title: General Counsel

Signature:



Date: 10/9/23