

No. 2021-6693

**Official Order
of the
Texas Commissioner of Insurance**

Date: 02/26/2021

Subject Considered:

Julianne Gunkel
[REDACTED]
Houston, Texas 77094

Default Order
SOAH Docket No. 454-21-0971
TDI Enforcement File No. 26210

General remarks and official action taken:

The subject of this default order is whether a general lines agent license with a life, accident, health, and HMO qualification should be issued to Julianne Gunkel (Respondent). Respondent did not respond to a Notice of Hearing filed by the Texas Department of Insurance. This order denies Respondent's license application.

The following findings of fact and conclusions of law are adopted:

Findings of Fact

Failure to Respond to Notice of Hearing

1. On January 11, 2021, the department filed a Notice of Hearing, attached as Exhibit A, and an Original Petition, attached as Exhibit B, with the State Office of Administrative Hearings.
2. The department's factual allegations set out in the attached Notice of Hearing and Original Petition are incorporated in this order as findings of fact.

2021-6693

Commissioner's Order

Julianne Gunkel

SOAH Docket No. 454-21-0971

Page 2 of 5

3. The department sent the Notice of Hearing and Original Petition to Respondent's last known address provided in writing to the department, [REDACTED] Houston, Texas 77094.
4. Respondent failed to file a written response to the Notice of Hearing within 20 days of the date the Notice of Hearing and Original Petition were mailed.

Conclusions of Law

1. The commissioner has jurisdiction pursuant to Texas law, including TEX. INS. CODE §§ 82.051-82.055, 4001.002, 4005.101, 4005.102, and 4054.051; TEX. OCC. CODE §§ 53.021-53.023; 28 TEX. ADMIN. CODE § 1.502; and TEX. GOV'T CODE §§ 2001.051-2001.178.
2. The commissioner has authority to dispose of this case informally pursuant to TEX. GOV'T CODE § 2001.056; TEX. INS. CODE § 82.055; and 28 TEX. ADMIN. CODE §§ 1.47, 1.88, and 1.89.
3. The department provided proper notice of the hearing pursuant to TEX. GOV'T CODE §§ 2001.051, 2001.052, and 2001.054, and 28 TEX. ADMIN. CODE §§ 1.28, 1.88, 1.89, and 19.906.
4. Based on Respondent's failure to file a written response to the Notice of Hearing, the department is entitled to disposition by default pursuant to 28 TEX. ADMIN. CODE §§ 1.88 and 1.89.
5. The department's factual and legal allegations set out in the attached Notice of Hearing and Original Petition are incorporated in this order and deemed admitted as true pursuant to 28 TEX. ADMIN. CODE § 1.89.

2021-6693

Commissioner's Order

Julianne Gunkel

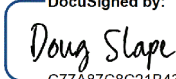
SOAH Docket No. 454-21-0971

Page 3 of 5

Order

It is ordered that Julianne Gunkel's application is denied. A copy of this order will be provided to law enforcement and/or other appropriate administrative agencies for further investigation as may be warranted.

Commissioner of Insurance

DocuSigned by:
By:  _____
C77A87C8C21B435...
Doug Slape
Chief Deputy Commissioner
TEX. GOV'T CODE § 601.002
Commissioner's Order No. 2018-5528

Prepared and reviewed by:



Amanda Atkinson Cagle, Staff Attorney
Enforcement Division

2021-6693

Commissioner's Order
Julianne Gunkel
SOAH Docket No. 454-21-0971
Page 4 of 5

Affidavit

STATE OF TEXAS §

§

COUNTY OF TRAVIS §

Before me, the undersigned authority, personally appeared David Moreno, who, being by me duly sworn, deposed as follows:

"My name is David Moreno, and I am employed by the Texas Department of Insurance. I am of sound mind, capable of making this affidavit, and have personal knowledge of these facts which are true and correct.

I have reviewed TDI's records concerning Julianne Gunkel. I have confirmed that:

- a. The last mailing address provided to the department in writing by Julianne Gunkel is [REDACTED] Houston, Texas 77094.
- b. The file maintained by the Enforcement Division contains a Notice of Hearing and Original Petition dated January 11, 2021, which were filed with the State Office of Administrative Hearings.
- c. On January 11, 2021, the Notice of Hearing and Original Petition addressed to Julianne Gunkel were emailed and mailed certified, return receipt requested, to her last known address.

A copy of the certified mail log maintained by the Enforcement Division is attached as Exhibit C."

DocuSigned by:
David Moreno
555E3AE0225D427...

Affiant

2021-6693

Commissioner's Order

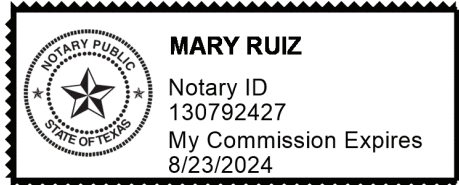
Julianne Gunkel

SOAH Docket No. 454-21-0971

Page 5 of 5

SWORN TO AND SUBSCRIBED before me by means of an interactive two-way audio and video communication on 2/8/2021. This notarial act was an online notarization.

Notary Seal



Digital Certificate

DocuSigned by:
Mary Ruiz
795DC4D59167489...
Notary Public State of Texas

2021-6693

ACCEPTED
454-21-0971
01/11/2021 1:39 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Donnie Roland, CLERK

**SOAH DOCKET NO. 454-21-0971
TDI ENFORCEMENT FILE NO. 26210**

FILED
454-21-0971
1/11/2021 9:25 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Donnie Roland, CLERK

TEXAS DEPARTMENT OF INSURANCE,

BEFORE THE STATE OFFICE

Petitioner

v.

OF

JULIANNE GUNKEL,

ADMINISTRATIVE HEARINGS

Respondent

NOTICE OF HEARING

The Texas Department of Insurance seeks to deny your license application. This Notice of Hearing and the Original Petition, which is attached and incorporated for all purposes, states the allegations against you and the relief sought by the Department.

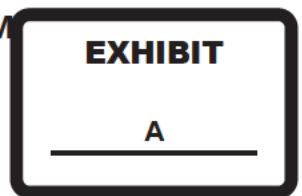
A public hearing will be held before an Administrative Law Judge on **Tuesday, March 30, 2021, at 9:00 a.m.** The hearing will take place via videoconference using a videoconference platform controlled by the State Office of Administrative Hearings, unless otherwise ordered to proceed in another manner by the Administrative Law Judge.

The hearing shall be conducted pursuant to TEX. GOV'T CODE, ch. 2001 and 1 TEX. ADMIN. CODE, ch. 155. Unless otherwise directed by the Administrative Law Judge, the hearing shall continue from day to day in the offices of the State Office of Administrative Hearings until concluded. You have the right to appear at this hearing and to be represented by an attorney.

Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the State Office of Administrative Hearings at www.soah.texas.gov, or in printed format upon request to SOAH.

YOU MUST FILE A WRITTEN RESPONSE TO THE NOTICE OF HEARING WITH THE STATE OFFICE OF ADMINISTRATIVE HEARINGS WITHIN 20 DAYS OF THE DATE THE NOTICE OF HEARING WAS MAILED. FAILURE TO FILE A WRITTEN RESPONSE BY THIS DEADLINE SHALL ENTITLE TDI TO SEEK DISPOSITION BY DEFAULT PURSUANT TO 1 TEX. ADMIN. CODE § 155.501 AND 28 TEX. ADMIN. CODE §§ 1.88 AND 1.89.

IF YOU FAIL TO FILE A WRITTEN RESPONSE, THE SCHEDULED HEARING CAN BE CANCELED AND WITHOUT FURTHER NOTICE TO YOU THE COMM



2021-6693

Notice of Hearing

Julianne Gunkel

SOAH Docket No. 454-21-0971

Page 2 of 5

INSURANCE CAN ISSUE AN ORDER IN WHICH THE ALLEGATIONS IN THE NOTICE OF HEARING ARE DEEMED ADMITTED AS TRUE AND THE RELIEF SOUGHT IN THE NOTICE OF HEARING, INCLUDING DENIAL OF YOUR LICENSE APPLICATION, IS GRANTED BY DEFAULT.

IF YOU FILE A WRITTEN RESPONSE BUT THEN FAIL TO APPEAR ON THE DAY AND TIME SET FOR HEARING, WITHOUT FURTHER NOTICE TO YOU, THE COMMISSIONER OF INSURANCE CAN ISSUE AN ORDER IN WHICH THE ALLEGATIONS IN THE NOTICE OF HEARING ARE DEEMED ADMITTED AS TRUE AND THE RELIEF SOUGHT IN THE NOTICE OF HEARING, INCLUDING DENIAL OF YOUR LICENSE APPLICATION, IS GRANTED BY DEFAULT.

In accord with 28 TEX. ADMIN. CODE § 1.90(e) and 1 TEX. ADMIN. CODE §§ 155.101 and 155.103, you should send copies of your written response to:

- (1) Docketing Division
State Office of Administrative Hearings
300 West 15th Street, Room 504
P.O. Box 13025
Austin, Texas 78711-3025
(512) 322-2061 (Fax);
- (2) Chief Clerk
Texas Department of Insurance
P.O. Box 149104, MC112-2A
Austin, Texas 78714-9104
(512) 490-1064 (Fax)
chiefclerk@tdi.texas.gov; and
- (3) Amanda Atkinson Cagle, Staff Attorney
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 490-1020 (Fax)
amanda.cagle@tdi.texas.gov

2021-6693

Notice of Hearing

Julianne Gunkel

SOAH Docket No. 454-21-0971

Page 3 of 5

Receiving Documents

The State Office of Administrative Hearings (SOAH) offers you the ability to receive service of orders and other documents issued by SOAH through email instead of by mail or fax. If you want to receive SOAH-issued documents by email, go to SOAH's website, www.soah.texas.gov, click on the "E-Services" tab, then click the hyperlink "Request Service by Email (only for use by self-represented litigants)," and follow the instructions.

NOTE: A request to receive SOAH-issued documents by email does not change the procedures you must follow to file documents with SOAH. The rules for filing documents and providing copies to all other parties in the case are described in SOAH's Procedural Rules, which are available on SOAH's website. Click the "Agency" tab, then click "Administrative Rules and Laws" to view SOAH's Procedural Rules.

Important Security Notice

ALL VISITORS TO THE WILLIAM P. CLEMENTS BUILDING WITHOUT AN AGENCY OR DPS ISSUED ID CARD MUST PROVIDE THE BUILDING SECURITY OFFICER WITH THE STATE OFFICE OF ADMINISTRATIVE HEARINGS DOCKET NUMBER AND RECEIVE A VISITOR'S PASS IN ORDER TO BE ALLOWED ACCESS TO THE HEARING ROOM. INDIVIDUALS SHOULD ALLOW ADDITIONAL TIME TO GO THROUGH THE SECURITY PROCESS.

If you have any questions, please contact me at the address or telephone number shown below.

2021-6693

Notice of Hearing

Julianne Gunkel

SOAH Docket No. 454-21-0971

Page 4 of 5

Respectfully Submitted,



Amanda Atkinson Cagle

State Bar No. 00783569

Texas Department of Insurance

Enforcement Division, MC110-1A

P.O. Box 149104

Austin, Texas 78714-9104

(512) 676-6342 (Direct)

(512) 490-1020 (Fax)

amanda.cagle@tdi.texas.gov

ATTORNEY FOR THE PETITIONER

TEXAS DEPARTMENT OF INSURANCE

Enclosure: Original Petition

cc; Leah Gillum, Deputy Commissioner, Enforcement Division, MC-110-1A
Rachel Cloyd, Litigation Director, Enforcement Division, MC-110-1A
Administrative Review, MC107-1A

2021-6693

Notice of Hearing

Julianne Gunkel

SOAH Docket No. 454-21-0971

Page 5 of 5

CERTIFICATE OF SERVICE

I, Amanda Atkinson Cagle, certify that a true and correct copy of the *Notice of Hearing and the Original Petition* were sent by certified mail return receipt requested, and by email on this 11 day of January, 2021 to:

Julianne Gunkel

[REDACTED]

Houston, Texas 77094

Via CM/RRR No: 9214 8901 9403 8329 3793 53

& Via Email: [REDACTED]



Amanda Atkinson Cagle

SOAH DOCKET NO. 454-_____
TDI ENFORCEMENT FILE NO. 26210

TEXAS DEPARTMENT OF INSURANCE,

Petitioner

v.

JULIANNE GUNKEL,

Respondent

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

ORIGINAL PETITION

The Texas Department of Insurance seeks to deny Julianne Gunkel's (Gunkel) license application. In support of this petition, the department makes the following allegations upon information and belief:

Jurisdiction

The Commissioner of Insurance has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051-82.055, 4001.002, 4005.101, 4005.102, and 4054.051, 28 TEX. ADMIN. CODE § 1.502, TEX. OCC. CODE §§ 53.021 – 53.023, and TEX. GOV'T CODE §§ 2001.051-2001.178.

Factual Allegations

License Application

1. On September 4, 2020, Gunkel applied for a general lines agent license with a life, accident, health, and HMO qualification to be issued by the department.
2. On October 16, 2020, the department proposed to deny Gunkel's application based on her criminal history. Gunkel appealed that decision and made a written request for a hearing.

Criminal History

3. On May 9, 2017, Gunkel pled guilty to the third degree felony offense of injury to the elderly in Case No. 152797301010 in the 177th District Court of Harris County, Texas.

EXHIBIT

B

2021-6693

Original Petition

Julianne Gunkel

Page 2 of 3

4. The victim was an 85 year old.
5. Gunkel was placed on deferred adjudication for five years, set to expire on May 8, 2022.
6. Gunkel was granted early release and discharged on August 4, 2020, one month before applying for an insurance license.

Legal Allegations

1. Gunkel has committed an act for which a license may be denied pursuant to TEX. INS. CODE § 4005.101(b) because she has been convicted of a felony as contemplated by TEX. INS. CODE § 4005.101(b)(8) and TEX. OCC. CODE § 53.021(a)(1), (a)(2), and (d).
2. Gunkel committed an offense that directly relates to the duties and responsibilities of the licensed occupation, as contemplated in 28 TEX. ADMIN. CODE § 1.502(d) and (f) and TEX. OCC. CODE § 53.021(a)(1).
3. Gunkel has committed an act for which a license may also be denied pursuant to TEX. OCC. CODE § 53.021(a)(2) because she has been convicted of an offense listed in Article 42A.054(10), Code of Criminal Procedure, specifically, TEX. PENAL CODE § 22.04 injury to an elderly individual.
4. Pursuant to TEX. OCC. CODE § 53.021, the commissioner may consider Gunkel to have been convicted of the offense for which she received deferred adjudication because:
 - a. Gunkel completed the period of supervision less than five years before the date she applied for the license; and
 - b. the department determined that Gunkel continues to pose a continued threat to public safety, or that employment of Gunkel in the licensed occupation will create a situation in which she has an opportunity to repeat the prohibited conduct.
5. Gunkel committed an offense of such serious nature that it is of prime importance in determining fitness for licensure or authorization, as contemplated by 28 TEX. ADMIN. CODE § 1.502(e)(4)(B), specifically TEX. PENAL CODE § 22.04.

6. Department guidelines, 28 TEX. ADMIN. CODE § 1.502(c)-(e), emphasize that TDI:
 - a. considers it very important that applicants be honest, trustworthy, and reliable;
 - b. may refuse to issue an original license if the department determines that the applicant has committed an offense that directly relates to the duties and responsibilities of the licensed occupation; and
 - c. considers any offense with the essential elements of assault to be of prime importance when determining fitness for licensure.

Relief Sought

If one or more of the above allegations is found to be true, the department asks the Administrative Law Judge to enter a Proposal for Decision recommending that the Commissioner of Insurance issue an order:

1. denying Julianne Gunkel's license application and
2. granting any other just and appropriate relief to which the department may be entitled to by law.

Respectfully Submitted,



Amanda Atkinson Cagle
State Bar No. 00783569
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 676-6342 (Direct)
(512) 490-1020 (Fax)
amanda.cagle@tdi.texas.gov

ATTORNEY FOR THE PETITIONER
TEXAS DEPARTMENT OF INSURANCE



**Shipment Confirmation
Acceptance Notice**

A. Mailer Action

Note to Mailer: The labels and volume associated to this form online, **must** match the labeled packages being presented to the USPS® employee with this form.

Shipment Date: 01/11/2021
 Shipped From:
 Name: MC 110-1A D MORENO
 Address: 333 GUADALUPE ST
 City: AUSTIN
 State: TX ZIP+4® 78701

Type of Mail	Volume
Priority Mail Express®	
Priority Mail®	0
First-Class Package Service®	
Returns	
International*	
Other	1
Total	1

*Start time for products with service guarantees will begin when mail arrives at the local Post Office™ and items receive individual processing and acceptance scans.

B. USPS Action

Note to RSS Clerk:

1. Home screen > Mailing/Shipping > More
2. Select Shipment Confirm
3. Scan or enter the barcode/label number from PS Form 5630
4. Confirm the volume count message by selecting Yes or No
5. Select Pay and End Visit to complete transaction

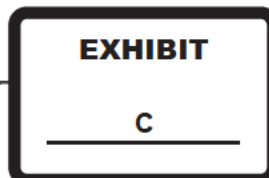
USPS EMPLOYEE: Please scan upon pickup or receipt of mail.
 Leave form with customer or in customer's mail receptacle.

USPS SCAN AT ACCEPTANCE



9275 0901 1935 6200 0026 2372 74

cagle/26210





Firm Mailing Book For Accountable Mail

Name and Address of Sender
 MC 110-1A D Moreno
 Texas Department of Insurance
 333 Guadalupe St
 Austin TX 78701

Check type of mail or service
 Adult Signature Required
 Adult Signature Restricted Delivery
 Certified Mail
 Certified Mail Restricted Delivery
 Collect on Delivery (COD)
 Insured Mail
 Priority Mail

Priority Mail Express
 Registered Mail
 Return Receipt for Merchandise
 Signature Confirmation
 Signature Confirmation Restricted Delivery

USPS Tracking/Article Number
 9214 8901 9403 8329 3793 83

Addressee (Name, Street, City, State, & ZIP Code™)
 JULIANNE GUNKEL [REDACTED] HOUSTON, TEXAS 77094

Affix Stamp Here
 (for additional copies of this receipt).
 Postmark with Date of Receipt.

Postage	(Extra Service) Fee	Handling Charge	Actual Value if Registered	Insured Value	Due Sender if COD	ASR Fee	ASRD Fee	RD Fee	RR Fee	SC Fee	SCRD Fee	SH Fee
1.20	3.55	Handling Charge - if Registered and over \$50,000 in value					Adult Signature Restricted Delivery	Restricted Delivery	Return Receipt	Signature Confirmation	Signature Confirmation Restricted Delivery	Special Handling



Postmaster, Per (Name of receiving employee)

Total Number of Pieces Listed by Sender: 1

Total Number of Pieces Received at Post Office