

No. **2024-8603**

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

**Date: 4/9/2024**

**Subject Considered:**

Texas Department of Insurance

v.

Anukul Dass

SOAH Docket No. 454-23-06503.C

**General Remarks and Official Action Taken:**

The subject of this order is the general lines agent license with a life, accident, health, and health maintenance organization (HMO) qualification held by Anukul Dass. This order revokes Mr. Dass' license.

**Background**

After proper notice was given, the above-styled case was heard by an administrative law judge for the State Office of Administrative Hearings. The administrative law judge made and filed a proposal for decision containing a recommendation that the Texas Department of Insurance (TDI) revoke Mr. Dass' license. A copy of the proposal for decision is attached as Exhibit A.

TDI Enforcement staff and Mr. Dass filed exceptions to the administrative law judge's proposal for decision. TDI Enforcement staff filed a reply to Mr. Dass' exceptions.

In response to the exceptions, the administrative law judge recommended revising the proposal for decision. A copy of the administrative law judge's response to the exceptions is attached as Exhibit B.

**Findings of Fact**

The findings of fact contained in Exhibit A as revised consistent with Exhibit B are adopted and incorporated by reference into this order.

COMMISSIONER'S ORDER  
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**Conclusions of Law**

The conclusions of law contained in Exhibit A as revised consistent with Exhibit B are adopted and incorporated by reference into this order.

**Order**

It is ordered that the general lines agent license with a life, accident, health, and HMO qualification held by Anukul Dass is revoked.

DocuSigned by:  
  
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Cassie Brown  
Commissioner of Insurance

Recommended and reviewed by:

DocuSigned by:  
  
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Jessica Barta, General Counsel

DocuSigned by:  
  
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Justin Beam, Chief Clerk

**BEFORE THE  
STATE OFFICE OF ADMINISTRATIVE  
HEARINGS**

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**TEXAS DEPARTMENT OF INSURANCE,  
PETITIONER**

**v.**

**ANUKUL DASS,  
RESPONDENT**

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**PROPOSAL FOR DECISION**

The staff (Staff) of the Texas Department of Insurance (Department) seeks to revoke the general lines agent license with a life, accident, health, and Health Maintenance Organization (HMO) qualification of Anukul Dass based on his criminal history, failure to disclose that history in his application, and failure to notify the Department of administrative actions taken against him by a financial regulator, insurance regulators of other states, and a United States regulator. After considering the evidence and the applicable law, the Administrative Law Judge (ALJ) recommends that the Department revoke Mr. Dass's license.

**I. NOTICE, JURISDICTION, AND PROCEDURAL HISTORY**

Notice and jurisdiction were not disputed and are addressed in the Findings of Fact and Conclusions of Law without further discussion here. The hearing was convened on the Zoom videoconferencing platform on July 19, 2023, before ALJ Meitra Farhadi of the State Office of Administrative Hearings (SOAH). Attorney Nancy Williams represented Staff. Attorney Bogden Rentea represented Mr. Dass. The hearing concluded on the same day, and the recorded closed on August 8, 2023, when Staff filed the hearing transcript and exhibits with SOAH.

**II. BACKGROUND**

Mr. Dass holds a general lines agent license with a life, accident health, and HMO qualification that was originally issued by the Department on July 24, 2002.<sup>1</sup> Mr. Dass was the Director, President, registered agent, and sole owner of A&A Pain and Wellness Center, Inc. (A&A), a domestic for-profit corporation formed on December 11, 2008, and terminated on July 9, 2021.<sup>2</sup> On November 3, 2017, Mr. Dass was indicted for a scheme in which A&A defrauded the United States Department of Labor's Workers' Compensation Program. On August 14, 2019, Mr. Dass entered into a plea agreement whereby he pleaded guilty to one count of the indictment for healthcare kickbacks, a felony offense, in exchange for a two-year

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<sup>1</sup> Staff Ex. 1 at 2.

<sup>2</sup> Staff Ex. 2.

probated sentence.<sup>3</sup> On April 15, 2021, Mr. Dass submitted a license renewal application to the Department.<sup>4</sup>

### **III. APPLICABLE LAW**

The Department considers it very important that license holders and applicants are honest, trustworthy, and reliable.<sup>5</sup> License holders are required to notify the Department on a monthly basis of, among other things, a felony conviction or an administrative action taken against the license holder by a financial or insurance regulator of this state, another state, or the United States.<sup>6</sup> The Department may discipline a license holder who has, among other things:

- engaged in fraudulent and dishonest acts and practices;
- intentionally made a material misstatement in a license application;
- obtained a license by fraud or misrepresentation; or
- been convicted of a felony.<sup>7</sup>

For applicants with criminal convictions, the Department considers the factors specified in Texas Occupations Code sections 53.022 and .023 in determining whether to grant, deny, suspend, or revoke a license or authorization.<sup>8</sup> Under its

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<sup>3</sup> Staff Ex. 5.

<sup>4</sup> Staff Ex. 1 at 13-14.

<sup>5</sup> 28 Tex. Admin. Code § 1.502(c) (This PFD cites to the version of the law that was in effect at the time the original petition was filed at SOAH in November 2022).

<sup>6</sup> Tex. Ins. Code § 4001.252(a)(1), (3).

<sup>7</sup> Tex. Ins. Code § 4005.101(b)(2), (3), (5), (8).

<sup>8</sup> 28 Tex. Admin. Code § 1.502(h).

rules, the Department may revoke a license or authorization if it finds these factors outweigh the serious nature of the criminal offense when viewed in light of the occupation being licensed.<sup>9</sup>

Texas Occupations Code section 53.022 sets forth factors the Department must consider when determining whether a criminal conviction directly relates to the duties and responsibilities of the licensed occupation, including:

1. the nature and seriousness of the crime;
2. the relationship of the crime to the purposes for requiring a license to engage in the occupation;
3. the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and
4. the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the licensed occupation; and
5. any correlation between the elements of the crime and the duties and responsibilities of the licensed occupation.<sup>10</sup>

The “directly relates” analysis must also take into account certain “guideline” crimes that the Department “considers to be of such serious nature that they are of prime importance in determining fitness for licensure.”<sup>11</sup> These crimes include, among others, “any offense for which fraud, dishonesty, or deceit is an

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<sup>9</sup> 28 Tex. Admin. Code § 1.502(g).

<sup>10</sup> Tex. Occ. Code § 53.022; *see also* 28 Tex. Admin. Code § 1.502(h)(1).

<sup>11</sup> 28 Tex. Admin. Code § 1.502(e); *see* Tex. Occ. Code § 53.025.

essential element,”<sup>12</sup> and “any felony involving moral turpitude or breach of fiduciary duty.”<sup>13</sup> The Department has determined that the crimes it considers to be of prime importance are also directly related to the occupations it licenses.<sup>14</sup>

If the Department determines that an offense directly relates to the duties and responsibilities of the licensed occupation, it must then consider the following factors prescribed by Texas Occupations Code section 53.023, which bear upon an applicant’s fitness for licensure despite criminal history, in making its ultimate licensing determination:

1. the extent and nature of the person’s past criminal activity;
2. the age of the person when the crime was committed;
3. the amount of time that has elapsed since the person’s last criminal activity;
4. the conduct and work activity of the person before and after the criminal activity;
5. evidence of the person’s rehabilitation or rehabilitative effort while incarcerated or following release;
6. other evidence of the person’s present fitness, including letters of recommendation.<sup>15</sup>

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<sup>12</sup> 28 Tex. Admin. Code § 1.502(e)(1).

<sup>13</sup> 28 Tex. Admin. Code § 1.502(e)(3).

<sup>14</sup> 28 Tex. Admin. Code § 1.502(e); *see also* Tex. Occ. Code § 53.025.

<sup>15</sup> Tex. Occ. Code § 53.023; *see also* 28 Tex. Admin. Code § 1.502(h)(2).

Each applicant has the responsibility, to the extent possible, to obtain and provide to the Department their evidence of fitness discussed above.<sup>16</sup> Additionally, an applicant must furnish proof to the Department that the applicant has: 1) maintained a record of steady employment; 2) supported the applicant's dependents, where applicable; 3) otherwise maintained a record of good conduct; and 4) paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant has been convicted.<sup>17</sup>

Additionally, to engage in the business of insurance, federal law requires that a person who has been convicted of any criminal felony involving dishonesty or breach of trust obtain the written consent of any insurance regulatory official authorized to regulate that person.<sup>18</sup>

Staff has the burden of proving its grounds for disciplinary action against Mr. Dass; while Mr. Dass has the burden to prove his fitness to be licensed despite his criminal history or fraudulent or dishonest conduct. The standard of proof is by a preponderance of the evidence.<sup>19</sup>

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<sup>16</sup> Tex. Occ. Code § 53.023(b); Tex. Admin. Code § 1.502(h)(3).

<sup>17</sup> 28 Tex. Admin. Code § 1.502(h)(2)(G).

<sup>18</sup> 18 U.S.C. § 1033(e)(2).

<sup>19</sup> 1 Tex. Admin. Code § 155.427; *Granek v. Texas St. Bd. of Med. Exam'rs*, 172 S.W.3d 761, 777 (Tex. App.—Austin 2005, no pet.).

**IV. EVIDENCE**

Staff offered 13 exhibits, which were admitted into evidence. Staff called as a witness Lewis Weldon Wright, IV, the administrative review specialist for the Department. Mr. Dass testified on his own behalf and offered 21 exhibits, which were admitted.

**A. MR. DASS'S CRIMINAL HISTORY**

The evidence regarding Mr. Dass's criminal history and his renewal application was not disputed:

On November 3, 2017, Mr. Dass was indicted, along with an employee and a business associate of A&A, for a scheme in which A&A defrauded the United States Department of Labor's Workers' Compensation Program of over \$9 million dollars between November 1, 2010, and October 1, 2017. Mr. Dass was indicted on 27 of the 29 federal felony counts listed in the indictment.<sup>20</sup> On February 16, 2018, NY Life Securities LLC (NY Life), filed an amended required securities filing (form U5) with the Financial Industry Regulatory Authority (FINRA) updating the reason for termination of Dass's employment. The amended filing indicated that Dass was initially allowed to resign from the firm on November 30, 2017, having failed to notify them of his criminal indictment, which NY Life later became aware of by reading a news article about Mr. Dass's indictment.<sup>21</sup> On January 28, 2019, FINRA

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<sup>20</sup> Staff Ex. 4.

<sup>21</sup> Staff Ex. 7 at 89.

permanently barred Mr. Dass from association with any FINRA member.<sup>22</sup> On August 14, 2019, Mr. Dass entered into a plea agreement, whereby he agreed to forfeit seized assets in the amount of \$1,355,018.53 and pleaded guilty to one count of the indictment for healthcare kickbacks, a felony offense, in exchange for a two-year probated sentence.<sup>23</sup>

On April 15, 2021, Mr. Dass submitted a license renewal application to the Department, in which he answered the following questions in the negative:

Question: Have you been convicted<sup>24</sup> of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony, which has not previously been reported to this insurance department?

Answer: “No.”

Question: If you have a felony conviction involving dishonesty or breach of trust, have you applied for written consent to engage in the business of insurance in your home state as required by 18 USC 1033?

Answer: “No.”

Question: Have you been named or involved as a party in an administrative proceeding, including a FINRA sanction or arbitration proceeding regarding any professional or occupational license or registration, which has not been previously reported to this insurance department?

Answer: “No.”<sup>25</sup>

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<sup>22</sup> Staff Exs. 8-9.

<sup>23</sup> Staff Ex. 5.

<sup>24</sup> The instructions included the following definition: “Convicted” includes, but is not limited to, having been found guilty by verdict of a judge or jury, having entered a plea of guilty or nolo contendere or no contest, or having been given probation, a suspended sentence, or a fine. Staff Ex. 1 at 13.

<sup>25</sup> Staff Ex. 1 at 13-15.

The United States District Court for the Southern District of Texas entered a judgment accepting Mr. Dass’s plea agreement on November 5, 2021, and included special conditions excluding Mr. Dass from participating as a provider in Medicare, Medicaid, and all Federal health care programs; and prohibiting him from employment or acting in a fiduciary role during the term of supervision.<sup>26</sup> On December 8, 2021, the same court granted Mr. Dass’s unopposed motion for clarification and clarified that “Defendant may not have access to client trust funds but may otherwise maintain his employment as an insurance agent.”<sup>27</sup>

**B. MR. WRIGHT’S TESTIMONY**

Mr. Wright testified that he is a fifteen-year Department employee who currently serves as the “Administrative Review Liaison” to the Department’s Enforcement division. He explained that in that role he reviews misconduct of existing license holders, as well as criminal history evaluations for new applicants for licensure.

Mr. Wright stated that Mr. Dass holds a general lines agent license, with a qualification for life, accident, health, and HMO, that was originally issued on July 24, 2002. He explained that the general duty of such an agent is to be the representative of insurance carriers during the insurance transaction. Agents offer insurance products to the public; transmit applications; deliver contracts and

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<sup>26</sup> Resp. Ex. 4.

<sup>27</sup> Resp. Ex. 5.

policies; and collect and handle the insurance carrier's premium and any refunds when required. Mr. Wright testified that this type of license holder is considered a fiduciary. As such, the Department requires such license holders to be honest, trustworthy, and reliable.

Mr. Wright explained that the Department is concerned with protecting consumers from misconduct and criminal behavior; so, at every license renewal, they ask whether the license holder has had any involvement related to a criminal offense. Additionally, the Department seeks information regarding administrative actions with other regulatory bodies, state and federal. This is so the Department can review the circumstances and decide if continued licensure is still appropriate.

In this case, the Department received a notification from Florida's Department of Insurance regarding an administrative action taken against Mr. Dass on March 16, 2022. The notice informed the Department that his Florida license had been suspended on March 14, 2018, and revoked on December 15, 2021; and that it was related to a criminal matter and felony conviction.<sup>28</sup> Mr. Wright also learned through a search he performed in a database maintained by the National Association of Insurance Commissioners, that on March 29, 2018, the State of California suspended Mr. Dass's license due to criminal proceedings against him.<sup>29</sup> Mr. Wright testified that the Department has no record of Mr. Dass ever notifying them of any of these administrative actions against him.

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<sup>28</sup> Staff Exs. 1 at 11; 11; 12.

<sup>29</sup> Staff Ex. 13.

Mr. Wright testified that Mr. Dass submitted a renewal application on April 15, 2021. In that application Mr. Dass answered all of the criminal history questions in the negative, and he also denied being involved in an administrative proceeding, including a FINRA sanction.<sup>30</sup> The renewal application also asked if the license holder has a felony conviction involving dishonesty or breach of trust and if they have applied for written consent to engage in the business of insurance as required by 18 U.S.C. § 1033—to which Mr. Dass also answered in the negative.<sup>31</sup> Mr. Wright determined that these responses were not true.

The Department issued an inquiry letter to Mr. Dass on April 21, 2022, to which he responded through his attorney on May 31, 2022.<sup>32</sup> In that response letter, Mr. Dass admitted that he had been the subject of a FINRA investigation, had not responded to FINRA’s inquiries, and had not notified the Department of the FINRA investigation against him. Mr. Dass also, at that time, admitted to having a final criminal judgment against him, and to not reporting his criminal conviction to the Department. At that time, however, Mr. Dass still denied having an administrative action taken against him by any regulatory body in any jurisdiction.<sup>33</sup>

Mr. Wright testified at length about the charges in the indictment, explaining that, although the charges are not a criminal conviction, the Department deems the

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<sup>30</sup> Staff Ex. 1 at 13-15.

<sup>31</sup> Staff Ex. 1 at 15.

<sup>32</sup> Staff Ex. 3.

<sup>33</sup> Staff Ex 3.

charges credible because they are the work product of a federal investigation. He noted that the charge that Mr. Dass did plead guilty to—accepting illegal healthcare kickbacks—is concerning to the Department due to the aspects of defrauding the government, high dollar amounts, and frequency of transactions. Mr. Wright highlighted that, as part of Mr. Dass’s plea agreement, he agreed that \$1.3 million in property was subject to forfeiture as proceeds of healthcare fraud or wire fraud, or money involved in money laundering.<sup>34</sup>

Mr. Wright stated that the Department considers Mr. Dass’s felony conviction for illegal healthcare kickbacks to be a very serious financial crime; and that fraud, dishonesty, and deceit were all elements of that offense. Under the Department’s rules, he observed, an offense for which fraud, dishonesty, or deceit is an essential element classifies that crime as one of prime importance to the Department. Mr. Wright explained that the Department’s rules provide a framework for determining if an offense is directly related to the business of insurance; and, in this case, the Department considered the factors within that framework and determined that the offense of accepting illegal kickbacks was directly related to the business of insurance. The Department next considered the resume and letters of recommendation Mr. Dass supplied, before making the determination that, due to the nature and severity of the criminal offense, a recommendation for revocation of Mr. Dass’s license was warranted. Mr. Wright stated that the Department made this determination based on all the information it

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<sup>34</sup> Staff Ex. 5 at 74.

had related to the criminal offense—not just the crime for which Mr. Dass was convicted.

Mr. Wright also testified that on May 31, 2022, the Department of Health and Human Services Office of Inspector General (OIG) notified Mr. Dass that, as a result of his felony conviction of a criminal offense related to fraud, he was excluded from participation in all Federal healthcare programs for a minimum period of five years.<sup>35</sup> Mr. Wright explained that this would affect the scope of products that Mr. Dass could offer customers; however, it is not a factor the Department considers in deciding whether to recommend revocation of a license.

Mr. Wright further noted that the Department has not received a letter of consent to engage in the business of insurance from any insurance commissioner in any jurisdiction. He explained that federal law requires anyone operating in the insurance industry who has been convicted of a felony crime of this nature to have a 18 U.S.C. § 1033 consent letter.

Staff did not present any evidence about what sanction or penalty, short of revocation, might be appropriate.

### **C. MR. DASS'S EVIDENCE**

Mr. Dass testified that he has never had any other enforcement actions taken against him by the Department and had never been disciplined or fired from any job

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<sup>35</sup> Staff Ex. 10.

prior to the indictment. With regard to the underlying criminal offense, Mr. Dass's explanation was that A&A was his sister's business. He agreed to invest money to assist her and, as a result of this investment, was also listed as an owner of A&A. Mr. Dass maintained that he did not actively participate in the day-to-day business of A&A; he had no responsibilities with A&A other than occasionally signing checks as needed; he had no office at A&A; and he did not have dealings with A&A patients. Mr. Dass pointed to the transcript from the sentencing hearing that occurred in his criminal case on November 4, 2021, in which the prosecutors agreed that the evidence did not support that Mr. Dass was involved in the "clinical side" of A&A or that he was "involved anywhere in the billing."<sup>36</sup> In pleading guilty to one count of illegal healthcare kickbacks, Mr. Dass did admit during his sentencing that he signed kickback checks that he should have realized were such.<sup>37</sup>

Mr. Dass explained that he believed he could not discuss the criminal case with anyone, and that was why he did not disclose it to the Department; however, Mr. Dass now understands that he did have an obligation to disclose the criminal charges against him to the Department. He further testified that his probation ended in December 2022.

When asked why he did not report the administrative actions taken against him in Florida and California to the Department, Mr. Dass stated that he overlooked them.

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<sup>36</sup> Staff Ex. 3; Resp. Ex. 7.

<sup>37</sup> Staff Ex. 3; Resp. Ex. 7.

With regard to FINRA, Mr. Dass explained that FINRA was investigating to determine whether violations of the federal securities laws or FINRA, NASD, or NYSE rules occurred. He did not respond to the FINRA investigation letter because, on the advice of his criminal counsel, he chose not to discuss any matters pertaining to his criminal indictment with anyone other than his attorney. As a result, FINRA suspended him from associating with any FINRA member.<sup>38</sup>

Mr. Dass testified that he has maintained steady employment since his offense. He stated that he supports his 76-year-old mother, his sister, and his 14-year-old nephew. In addition, Mr. Dass provided 13 letters of recommendation to the Department in support of his licensure. They were from a variety of people that Mr. Dass has had business interactions with, including other life insurance agents, personal friends, and clients. They universally speak highly of Mr. Dass and praise his character and trustworthiness.<sup>39</sup>

## **V. ANALYSIS**

Under Texas Insurance Code section 4005.101(b), the Department may discipline a license holder if the Department determines that they have intentionally made a material misstatement in the license application; obtained or attempted to obtain a license by fraud or misrepresentation; engaged in fraudulent or dishonest

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<sup>38</sup> See Staff Ex. 3 at 35-36 (Mr. Dass's response to Department Inquiry).

<sup>39</sup> See Resp. Exs. 9-19.

acts or practices; or been convicted of a felony.<sup>40</sup> The Department may also revoke a license if the person has been convicted of “an offense that directly relates to the duties and responsibilities of the licensed occupation.”<sup>41</sup> In determining whether to revoke a license based on a person’s criminal history, the Department will consider the factors specified in Texas Occupations Code sections 53.022 and 53.023,<sup>42</sup> as set out above. Further, the Department considers any offense for which fraud, dishonesty, or deceit is an essential element, and any felony involving moral turpitude or breach of fiduciary duty, to be “guideline” crimes that are “of prime importance” in determining fitness for licensure and that are directly related to the occupations it licenses.<sup>43</sup>

The evidence was undisputed that Mr. Dass was convicted of the felony offense of healthcare kickbacks committed on or about July 15, 2015.<sup>44</sup> The ALJ also finds that the very nature of the offense to which Mr. Dass pleaded guilty is a fraudulent and dishonest act. Turning to the allegations of intentional material misstatement in the license application, and obtaining or attempting to obtain a license by fraud or misrepresentation, the ALJ finds that the preponderance of the evidence showed that Mr. Dass knew that he was answering questions regarding his criminal history falsely on his renewal application. Whether or not he was under the impression that he should not disclose his criminal history due to legal advice, he did

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<sup>40</sup> Tex. Occ. Code § 4005.101(b)(2), (3), (5), and (8).

<sup>41</sup> Tex. Occ. Code § 53.021(a)(1).

<sup>42</sup> 28 Tex. Admin. Code § 1.502(h).

<sup>43</sup> 28 Tex. Admin. Code § 1.502(e)(1), (e)(3).

<sup>44</sup> Staff Exs. 5-6.

in fact misrepresent to the Department that he was not charged with, nor pleading guilty to, a felony at the time of his renewal application. In addition, Mr. Dass failed to notify the Department of the FINRA sanction taken against him on January 28, 2019; the suspension by the California Department of Insurance on March 29, 2018; the suspension by Florida's Department of Insurance on March 14, 2018; and the May 31, 2022 exclusion from participation in all Federal healthcare programs for a minimum period of five years by the OIG.

The question becomes whether revocation is the appropriate sanction. To decide this question, the Department's rules require the ALJ to examine the factors contained in chapter 53 of the Texas Occupations Code.<sup>45</sup> Turning to those factors, Mr. Dass has a single criminal conviction for a serious criminal offense, one which the Department has determined is of prime importance.<sup>46</sup> Mr. Dass was an adult at the time of his crime; however, eight years have passed since he committed his crime, he has worked consistently, and has supported his mother, sister, and nephew. The prosecutor in his underlying criminal case recommended probation for Mr. Dass rather than incarceration. And the judge subsequently modified the terms of the probation to clarify that while he could not have access to client funds, working as an insurance agent would not violate the terms of his probation.<sup>47</sup> Mr. Dass also provided letters or recommendation from friends, clients, and other life insurance agents. The letters acknowledge his criminal offense and still speak highly of Mr. Dass.

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<sup>45</sup> 28 Tex. Admin. Code § 1.502(h).

<sup>46</sup> 28 Tex. Admin. Code § 1.502(e)(1).

<sup>47</sup> Resp. Exs. 5, 7.

On balance, the ALJ concludes that Mr. Dass has not proven by a preponderance of the evidence that he is presently fit for licensure. While he has demonstrated a steady work history and the support of his community, his felony conviction for healthcare kickbacks is a serious crime. The Department has determined that a license might offer Mr. Dass an opportunity to engage in further criminal activity of the same type for which he was sentenced less than two years ago. In addition, Mr. Dass submitted his renewal application with false statements just under 2.5 years ago. Had it not been for the notification received from the Florida Department of Insurance leading to an investigation by Staff, it does not appear as if Mr. Dass ever would have made the required disclosures to the Department.

The ALJ finds that Staff has proven by a preponderance of the evidence that Mr. Dass engaged in fraudulent and dishonest acts and practices; intentionally made a material misstatement in a license application; attempted to obtain a license by fraud or misrepresentation; and was convicted of a felony. The ALJ further finds that the evidence Mr. Dass provided in support of his license is not sufficient to overcome the nature and seriousness of his criminal history. Accordingly, the ALJ concludes that, at this time, Mr. Dass has not shown his fitness for licensure, and his license should be revoked.<sup>48</sup>

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<sup>48</sup> In addition, under federal law, Mr. Dass is unable to engage in the business of insurance without the written consent of any insurance regulatory official authorized to regulate that person, which Mr. Dass does not presently have. *See* 18 U.S.C. § 1033(e)(2).

**VI. FINDINGS OF FACT**

1. Anukul Dass holds a general lines agent license with a life, accident health, and Health Maintenance Organization (HMO) qualification that was originally issued by the Texas Department of Insurance (Department) on July 24, 2002.
2. Mr. Dass was the Director, President, registered agent, and sole owner of A&A Pain and Wellness Center, Inc. (A&A), a domestic for-profit corporation formed on December 11, 2008, and terminated on July 9, 2021.
3. On November 3, 2017, Mr. Dass was indicted for a scheme in which A&A defrauded the United States Department of Labor's Workers' Compensation Program.
4. On March 14, 2018, the Florida Department of Insurance suspended Mr. Dass's license.
5. On March 29, 2018, the California Department of Insurance suspended Mr. Dass's license.
6. On January 28, 2019, the Financial Industry Regulatory Authority (FINRA) permanently barred Mr. Dass from association with any FINRA member.
7. On August 14, 2019, in Cause No. 4:17CR00649-001, in the United States District Court for the Southern District of Texas, Mr. Dass entered into a plea agreement whereby he agreed to forfeit seized assets in the amount of \$1,355,018.53 and pleaded guilty to one count of accepting healthcare kickbacks committed on or about July 15, 2015, a felony offense, in exchange for a two-year probated sentence.
8. On April 15, 2021, Mr. Dass submitted a license renewal application to the Department.
9. On his application, Mr. Dass answered "no" to the question whether he had "ever been convicted of a felony." The instructions defined "convicted" as including, but not limited to, having been found guilty by verdict of a judge or

jury, having entered a plea of guilty or nolo contendere or no contest, or having been given probation, a suspended sentence, or a fine.

10. On his renewal application Mr. Dass answered “no” to the question whether he had “ever been named or involved as a party in an administrative proceeding, including a FINRA sanction or arbitration proceeding regarding any professional or occupational license or registration, which has not been previously reported to this insurance department?”
11. On his renewal application Mr. Dass answered “no” to the question “if you have a felony conviction involving dishonesty or breach of trust, have you applied for written consent to engage in the business of insurance in your home state as required by 18 U.S.C. § 1033?”
12. On November 8, 2021, the United States District Court, Southern District of Texas, entered a judgement in case number 4:17CR00649-001, finding Mr. Dass guilty of aiding and abetting healthcare kickbacks, a felony offense, in violation of 42 United States Code section 1320a-7b and 18 United States Code section 2.
13. The crime of healthcare kickbacks is a serious crime that the Department considers to be of prime importance in determining licensure.
14. The crime of healthcare kickbacks is directly related to the duties and responsibilities of the licensed occupation.
15. The Department has not received a letter of consent pursuant to 18 U.S.C. § 1033 to engage in the business of insurance from any insurance commissioner in any jurisdiction.
16. Mr. Dass submitted 13 letters of recommendation in support of his continued licensure. The letters are from other life insurance agents, personal friends, and clients. They universally speak highly of Mr. Dass and praise his character and trustworthiness.
17. Mr. Dass has maintained steady employment as an independent health and life insurance agent since he was indicted in November 2017.
18. Mr. Dass has no other criminal history.

19. On November 29, 2022, Staff issued a notice of hearing with an original petition in which it sought to discipline Mr. Dass. Staff later filed an amended notice of hearing and original petition on March 7, 2023, and a revised amended petition on July 19, 2023.
20. Together, the amended notice of hearing and revised amended petition contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and either a short, plain statement of the factual matters asserted or an attachment that incorporated by reference the factual matters asserted in the complaint or petition filed with the state agency.
21. The hearing was convened on the Zoom videoconferencing platform on July 19, 2023, before Administrative Law Judge Meitra Farhadi of the State Office of Administrative Hearings (SOAH). Attorney Nancy Williams represented Staff. Attorney Bogden Rentea represented Mr. Dass. The hearing concluded on the same day, and the recording closed on August 8, 2023, when Staff filed the hearing transcript and exhibits with SOAH.

## **VII. CONCLUSIONS OF LAW**

1. The Department has jurisdiction over this matter. Tex. Ins. Code §§ 4001.002, .105, 4005.101.
2. SOAH has authority to hear this matter and issue a proposal for decision with findings of fact and conclusions of law. Tex. Gov't Code ch. 2003; Tex. Ins. Code § 4005.104.
3. Mr. Dass received timely and sufficient notice of hearing. Tex. Gov't Code ch. 2001; Tex. Ins. Code § 4005.104(b).
4. Staff has the burden to prove its grounds for disciplinary action by a preponderance of the evidence, while Mr. Dass has the burden to prove by a preponderance of the evidence that he is fit to perform the duties and discharge the responsibilities of an insurance agent despite his criminal

history. 1 Tex. Admin. Code § 155.427; *Granek v. Texas St. Bd. of Med. Exam'rs*, 172 S.W.3d 761, 777 (Tex. App.—Austin 2005, no pet.).

5. The Department may discipline a license holder if the license holder has intentionally made a material misstatement in the license application; obtained or attempted to obtain a license by fraud or misrepresentation; engaged in fraudulent or dishonest acts or practices; or been convicted of a felony. Tex. Occ. Code § 4005.101(b)(2), (3), (5), and (8).
6. The Department may suspend or revoke a license on the grounds that the person has been convicted of an offense that directly relates to the duties and responsibilities of the licensed occupation. Tex. Occ. Code § 53.021(a)(1).
7. The Department has determined that certain crimes are of such a serious nature that they are of prime importance in determining fitness for licensure. These crimes include any felony involving moral turpitude or breach of fiduciary duty, or any offense for which fraud, dishonesty, or deceit is an essential element. 28 Tex. Admin. Code § 1.502(e)(1), (3).
8. The Department may revoke Mr. Dass's license because he has been convicted of an offense that involves deceptive or fraudulent practices; is an offense for which fraud, dishonesty, or deceit is an essential element; and directly relates to the duties and responsibilities of the licensed occupation. Tex. Ins. Code § 4005.101(b)(5); Tex. Occ. Code § 53.021(a)(1); 28 Tex. Admin. Code § 1.502(f).
9. The Department will consider the factors listed in Texas Occupations Code sections 53.022 and 53.023 in determining whether to suspend or revoke a license despite a criminal offense or fraudulent or dishonest conduct and will not issue a license unless the mitigating factors outweigh the serious nature of the criminal offense or fraudulent or dishonest conduct when viewed in the light of the occupation being licensed. 28 Tex. Admin. Code § 1.502(f), (h).
10. The preponderance of the evidence shows that Mr. Dass is not currently fit to perform the duties and discharge the responsibilities of a licensed general agent. Tex. Occ. Code § 53.023.
11. A person who has been convicted of any criminal felony involving dishonesty or breach of trust must obtain the written consent of any insurance regulatory

official authorized to regulate that person to engage in the business of insurance. 18 U.S.C. § 1033(e)(2).

12. The Department should revoke Mr. Dass's general lines agent license.

**Signed October 5, 2023**



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Meitra Farhadi  
Presiding Administrative Law Judge

FILED **2024-8603**  
454-23-06503  
2/27/2024 1:54 PM  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Amy Robles, CLERK

ACCEPTED  
454-23-06503  
2/27/2024 2:02:24 pm  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Amy Robles, CLERK

# State Office of Administrative Hearings

Kristofer S. Monson  
Chief Administrative Law Judge

February 27, 2024

**Exhibit B**

Cassie Brown  
Commissioner of Insurance  
Texas Department of Insurance  
333 Guadalupe, Tower 1, 13<sup>th</sup> floor, Mail Code 113-2A  
Austin, Texas 78714

VIA EFILE TEXAS

**RE: Docket Number 454-23-06503.C; Texas Department of Insurance  
v. Anukul Dass**

Dear Commissioner Brown:

A Proposal for Decision was issued in this case on October 5, 2023. Both Staff of the Texas Department of Insurance and Anukul Dass timely filed exceptions to the Proposal for Decision. In addition, Staff filed a reply to the exceptions filed by Mr. Dass. Having reviewed the exceptions and Staff's reply, the following changes are made to the Proposal for Decision.

## Staff's Exceptions

Staff requests a modification to a portion of the applicable law section of the PFD, wherein the ALJ describes the application of Texas Occupations Code §§ 53.022 and .023 to applicants with criminal convictions.<sup>1</sup> Staff's exception is unclear to the ALJ as it appears to restate what the PFD already note—that the factors are to be considered in cases of criminal convictions, not for applicants generally or for allegations other than criminal convictions. Because the PFD already

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<sup>1</sup> See PFD at 3.

sets forth this standard, the ALJ does not recommend a modification to the PFD based on this exception.

Next, on page 8 of the PFD, under Section IV. A., wherein the ALJ states that Mr. Dass answered the following question in the negative—Staff points out that the evidence shows that he failed to answer it at all.<sup>2</sup> Staff is correct, and the ALJ recommends the following modification to correct the error on page 8 of the PFD:

**Question:** If you have a felony conviction involving dishonesty or breach of trust, have you applied for written consent to engage in the business of insurance in your home state as required by 18 USC 1033?

**Answer:** Mr. Dass failed to respond to the question.

Consequently, the ALJ also recommends the following modification to Finding of Fact No. 11:

11. On his renewal application Mr. Dass provided no response to the question “if you have a felony conviction involving dishonesty or breach of trust, have you applied for written consent to engage in the business of insurance in your home state as required by 18 U.S.C. § 1033?”

Staff next excepts to Conclusion of Law No. 8, concerned that the conviction and analysis thereof is being comingled with the separate allegations under the Insurance Code. Staff further requests additional Conclusions of Law for each of the individual allegations. Considering the analysis set forth in the PFD, the following modifications are appropriate and should be made. The amended and additional Conclusions of Law should now read:

8. Mr. Dass intentionally made material misstatements in his license renewal application, in violation of Texas Insurance Code § 4005.101(b)(2).

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<sup>2</sup> Compare PFD at 8 with Staff Ex. 1 at 14.

- 8a. Mr. Dass obtained a license by misrepresentation, in violation of Texas Insurance Code § 4005.101(b)(3).
- 8b. Mr. Dass engaged in fraudulent or dishonest acts or practices, in violation of Texas Insurance Code § 4005.101(b)(5).
- 8c. Mr. Dass’s felony conviction is grounds for discipline, including license denial. Tex. Ins. Code §4005.101(b)(8).
- 8d. Mr. Dass failed to notify the Department of his felony conviction within 30 days as required under Texas Insurance Code § 4001.252(a)(2).
- 8e. Mr. Dass failed to notify TDI of the administrative actions taken against him, by a financial regulator, by other state insurance regulators, and by the United States, within 30 days as required under Texas Insurance Code §4001.252(a)(3).

Finally, Staff correctly notes a clerical error on page 2 of the PFD, where the ALJ used the word “recorded” when in fact the word should be “record.” The sentence should read:

The hearing concluded on the same day, and the ~~recorded~~ closed on August 8, 2023, when Staff filed the hearing transcript and exhibits with SOAH.

### **Mr. Dass’s Exceptions**

Mr. Dass excepts to Findings of Fact Nos. 10, 11, 13, and 14, and conclusions of Law Nos. 8-11 as conclusory. The exceptions essentially argue that the ALJ should have weighed the record evidence differently or drawn different inferences. The PFD explains why the ALJ did not agree with Mr. Dass’s view of the evidence. The findings and conclusions Mr. Dass disputes were made only after thorough consideration of the parties’ evidence and arguments in this case, and Mr. Dass’s insistence that the evidence should be weighed differently is not persuasive.

# 2024-8603

Exceptions Letter

February 27, 2024

Page 4 of 4

Accordingly, the ALJ does not propose any changes to the PFD based upon Mr. Dass's exceptions.

The Proposal for Decision is ready for your review, and I recommend its adoption as modified above.



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Meitra Farhadi,  
Presiding Administrative Law Judge

CC: Service List