

**STATE OF RHODE ISLAND
DEPARTMENT OF BUSINESS REGULATION
JOHN O. PASTORE COMPLEX, BLDG 68-69
1511 PONTIAC AVENUE
CRANSTON, R.I. 02920**

IN THE MATTER OF:

Angelica Izaguirre

Respondent.

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DBR No.: 24-IN-009

DECISION

I. INTRODUCTION

The above-entitled matter came for hearing on August 8, 2024 pursuant to an Order to Show Cause Why an Order Should not Issue to Cease and Desist From Sitting for an Insurance Producer Licensing Exam and Fines Should not be Assessed, Notice of Hearing, and Appointment of Hearing Officer (“Order to Show Cause”) issued on July 10, 2024 to Angelica Izaguirre (“Respondent”) by the Department of Business Regulation (“Department”). The Respondent did not appear at hearing. Pursuant to § 2.9 of the 230-RICR-100-00-2 *Rules of Procedure for Administrative Hearing* (“Rules”), service may be made by hand-delivery or first-class mail and service is complete upon mailing when sent to the last known address of the party. In this matter, the Order to Show Cause was sent to the Respondent’s last known address by first class and certified mail.¹ Since the Respondent was adequately noticed of hearing, a hearing was held

¹ The Order to Show Cause scheduling the hearing was sent by first class and certified mail to the Respondent’s last known address on record with the Department. Department’s Exhibits One (1) and Two (2) (Order to Show Cause and United States Post Office tracking sheet showing certified mail was delivered to Respondent). The address used was from the Respondent’s application to sit for the insurance licensing examination. Department’s Exhibit Three (3). In addition, the Order to Show Cause was also sent to the Respondent’s email address that she provided on her application to sit for said examination. Department’s Exhibits One (1) and Three (3). The Order to Show Cause was sent on July 10, 2024, and on July 27, 2024 using the email address on record with the Department, the Respondent emailed the Department indicating receipt of the Order to Show Cause. Department’s Exhibit Four (4) (email chain).

before the undersigned on August 8, 2024. Additionally, § 2.21 of the Rules provides that a default judgment may be entered based on pleadings and/or evidence submitted at hearing by a non-defaulting party. The Department was represented by counsel who rested on the record.

II. JURISDICTION

The administrative hearing was held pursuant to R.I. Gen. Laws § 42-14-1 *et seq.*, R.I. Gen. Laws § 27-2.4-1 *et seq.*, R.I. Gen. Laws § 42-35-1 *et seq.*, and the Rules.

III. ISSUE

Whether the Respondent should be denied from being able to sit for the insurance licensing examination pursuant to R.I. Gen. Laws § 27-2.4-1 *et seq.*

IV. MATERIAL FACTS AND TESTIMONY

Rachel Chester, Chief, Consumer Relations and Licensing, testified on behalf of the Department. She testified that an applicant for an insurance producer license in Rhode Island must take a licensing examination. She testified that an applicant takes the licensing examination from the Department's testing vendor, PearsonVue, and will register on PearsonVue's website. She testified that PearsonVue notified the Department that while the Respondent was taking her remote insurance licensing examination, the Respondent accessed outside information. She testified that PearsonVue provided its internal report and examination video. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Redacted per RIGLS 38-2-2(4)(L)
(test administration exemption)

[REDACTED]

[REDACTED]

[REDACTED]

Redacted per RIGLS 38-2-2(4)(L)
(test administration exemption)

V. DISCUSSION

A. **Legislative Intent**

The Rhode Island Supreme Court has consistently held that it effectuates legislative intent by examining a statute in its entirety and giving words their plain and ordinary meaning. *In re Falstaff Brewing Corp.*, 637 A.2d 1047 (R.I. 1994). If a statute is clear and unambiguous, “the Court must interpret the statute literally and must give the words of the statute their plain and ordinary meanings.” *Oliveira v. Lombardi*, 794 A.2d 453, 457 (R.I. 2002) (citation omitted). The Supreme Court has also established that it will not interpret legislative enactments in a manner that renders them nugatory or that would produce an unreasonable result. See *Defenders of Animals v. DEM*, 553 A.2d 541 (R.I. 1989) (citation omitted). In cases where a statute may contain ambiguous language, the Rhode Island Supreme Court has consistently held that the legislative intent must be considered. *Providence Journal Co. v. Rodgers*, 711 A.2d 1131, 1134 (R.I. 1998).

B. **Standard of Review for an Administrative Hearing**

It is well settled that in formal or informal adjudications modeled on the Federal Administrative Procedures Act, the initial burdens of production and persuasion rest with the

moving party. 2 Richard J. Pierce, *Administrative Law Treatise* § 10.7 (2002). Unless otherwise specified, a preponderance of the evidence is generally required to prevail. *Id.* See *Lyons v. Rhode Island Pub. Employees Council 94*, 559 A.2d 130 (R.I. 1989) (preponderance standard is the “normal” standard in civil cases). This means that for each element to be proven, the fact-finder must believe that the facts asserted by the proponent are more probably true than false. *Id.* When there is no direct evidence on a particular issue, a fair preponderance of the evidence may be supported by circumstantial evidence. *Narragansett Electric Co. v. Carbone*, 898 A.2d 87 (R.I. 2006).

C. Relevant Statutes

Pursuant to R.I. Gen. Laws § 27-2.4-7,² an applicant for an insurance producer license must take and pass an examination as part of the application process. Said statute allows an outside vendor to administer the examination.

R.I. Gen. Laws § 27-2.4-14(a)(11) provides as follows:

Licenses – Denial – Nonrenewal – Suspension or revocation.
(a) The insurance commissioner may place on probation, suspend, revoke or refuse to issue or renew an insurance producer's license or may levy an administrative penalty in accordance with § 42-14-16 or any combination of actions, for any one or more of the following causes:

(11) Cheating on an examination for an insurance license.

² R.I. Gen. Laws § 27-2.4-7 provides as follows:

Application for examination. (a) A resident individual applying for an insurance producer license shall pass a written examination unless exempt pursuant to § 27-2.4-11. The examination shall test the knowledge of the individual concerning the lines of authority for which application is made, the duties and responsibilities of an insurance producer and the insurance laws and regulations of this state. Examinations required by this section shall be developed and conducted under rules and regulations prescribed by the insurance commissioner.

(b) The insurance commissioner may make arrangements, including contracting with an outside testing service, for administering examinations and collecting a nonrefundable fee.

(c) Each individual applying for an examination shall remit a nonrefundable fee as prescribed by the department pursuant to rule and regulation.

(d) An individual who fails to appear for the examination as scheduled or fails to pass the examination, shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

R.I. Gen. Laws § 42-14-16(a)(1) provides in part as follows:

Administrative penalties. (a) Whenever the director, or his or her designee, shall have cause to believe that a violation of title 27 and/or chapter 14, 14.5, 62, or 128.1 of title 42 or the regulations promulgated thereunder has occurred by a licensee, or any person or entity conducting any activities requiring licensure under title 27, the director or his or her designee may, in accordance with the requirements of the administrative procedures act, chapter 35 of this title:

(3) Order the violator to cease such actions.

V. DISCUSSION

In an email to the Department, the Respondent claimed her mother had entered the room where she, the Respondent, was taking the examination and her mother was on FaceTime, and she, the Respondent, pushed her mother's arm away. A review of the video showed that nothing like that happened on the video. Instead, another person was standing to the side of the computer screen for over half of the exam time and was accessing a cell phone, holding a cellphone up several times, showing a sticky note, etc. Department's Exhibits Four (4) (email chain) and Six (6).

Based on the pleadings, testimony, and exhibits, it was undisputed that the Respondent cheated on the licensing examination by having another person in the room accessing information on a cell phone for help with the answers and that person was there for over half of the examination. The Department requested the Respondent be barred from taking the insurance licensing examination and applying for an insurance producer license for two (2) years.

Based on the foregoing, the undersigned makes the following findings of fact:

1. Pursuant to Section 2.21 of the Rules, the Respondent is declared to be in default for failing to appear at the hearing.
2. Pursuant to Section 2.21 of the Rules, the allegations in the Order to Show Cause are found to be true.

Based on the foregoing, the undersigned makes the following conclusions of law:


Based on the foregoing, the undersigned makes the following conclusions of law:

1. The Respondent violated R.I. Gen. Laws § 27-2.4-14(a)(11) (by cheating on the insurance producer licensing examination); and

2. There are grounds to order the Respondent to cease and desist from taking an insurance producer licensing examination and applying for an insurance producer license for two (2) years pursuant to R.I. Gen. Laws § 42-14-16(a)(1) (violations of insurance laws).

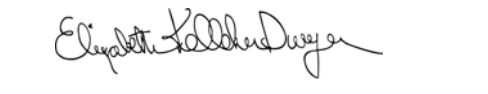
On the basis of the foregoing, the undersigned makes the following recommendation: Pursuant to R.I. Gen. Laws § 42-14-16(a)(1), the Respondent is ordered to cease and desist from sitting for the Rhode Island insurance producer licensing examination for two (2) years and is ordered to cease and desist from applying for a Rhode Island insurance producer license for two (2) years. If after two (2) years, the Respondent does take any insurance producer licensing examination and applies for such an insurance license, the Department may inquire into the circumstances of this decision prior to deciding whether or not to grant such a license.

Dated: August 26, 2024


Catherine R. Warren
Hearing Officer

I have read the Hearing Officer's recommendation in this matter and I hereby ADOPT/REJECT the findings of facts, the conclusions of law, and recommendation of the hearing officer in the above entitled Final Order.

Dated: August 26, 2024


Elizabeth Kelleher Dwyer, Esquire
Director

NOTICE OF APPELLATE RIGHTS

THIS ORDER CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO R.I. GEN. LAWS § 42-35-12. PURSUANT TO R.I. GEN. LAWS § 42-35-15, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE MAILING DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MUST BE COMPLETED BY FILING A PETITION FOR REVIEW IN SUPERIOR COURT. THE FILING OF THE COMPLAINT DOES NOT ITSELF STAY ENFORCEMENT OF THIS ORDER. THE AGENCY MAY GRANT, OR THE REVIEWING COURT MAY ORDER, A STAY UPON THE APPROPRIATE TERMS.

CERTIFICATION

I hereby certify that on this 26th day of August, 2024, that a copy of the within Decision and Notice of Appellant Rights was sent by first class mail, postage prepaid and by certified mail, return receipt requested and by electronic delivery to Ms. Angelica Izaguirre, [REDACTED], Providence, R.I. 02908 [REDACTED] and by electronic delivery to Mariel Garcia, Esquire, and Rachel Chester, Chief, Department of Business Regulation, Pastore Complex, 1511 Pontiac Avenue. Cranston, R.I.

Megan Mihara
