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**BEFORE THE DIRECTOR OF THE DEPARTMENT OF FINANCE  
OF THE STATE OF IDAHO**

STATE OF IDAHO, DEPARTMENT OF	)	
FINANCE, CONSUMER FINANCE	)	
BUREAU,	)	Docket No. 2010-9-15
	)	
Complainant,	)	<b>CONSENT ORDER</b>
	)	
vs.	)	
	)	
NATIONAL PATIENT ACCOUNT	)	
SERVICES, INC.,	)	
	)	
Respondent.	)	
	)	

The Director of the State of Idaho, Department of Finance (Director) has conducted a review of the business activity in Idaho of NATIONAL PATIENT ACCOUNT SERVICES, INC. (the Respondent), and has determined that the Respondent has engaged in activities falling within the requirements of the Idaho Collection Agency Act, Idaho Code § 26-2221 *et seq.* (the Act), while failing to hold the license to engage in such activities as required by the Act. The Director and the Respondent have agreed to resolve this matter through this Consent Order rather than through a formal administrative proceeding or civil action. The Director deems it appropriate and in the public interest that this Consent Order be entered into. The Respondent

knowingly and voluntarily consents to the entry of this Consent Order, having received the advice of counsel.

### **RESPONDENT**

1. The Respondent was incorporated in the state of Texas on June 28, 1996, and represents that it engages in the business of account servicing of non-delinquent hospital patient accounts on behalf of hospitals affiliated with its affiliated company, HCA, and also on behalf of hospitals that are not affiliated with HCA. The Respondent represents that its principal business is providing the business office function for servicing non-delinquent hospital patient accounts. The Respondent has never held a license issued by the State of Idaho, Department of Finance Consumer Finance Bureau (Department) under the Act to authorize it to engage in such business in Idaho.

### **FACTS**

2. On or about June 2, 2010, the Department received a consumer complaint concerning the Respondent's servicing of patient account activities in Idaho, which led to an investigation of such business activities in Idaho and the conclusion by the Department that the Respondent had engaged, and was continuing to engage, in such activity in Idaho without the license required by the Act authorizing it to do so.

3. On or about June 23, 2010, the Department requested that the Respondent provide it with a report setting forth all unlicensed servicing of patient account activity it had engaged in in Idaho, to inform the Department of the duration and extent of such activity. The Respondent initially refused to provide such information to the Department, asserting that such information was protected from disclosure by the confidentiality requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and possibly other federal law. Research

was conducted by the Department's counsel concerning the requirements of HIPAA and other federal law, and at least one telephone conference was held among Department counsel and attorneys for the Respondent to discuss the requirements of such federal law and its applicability to the information sought by the Department. Subsequent to such telephone conference, the Department clarified and narrowed its request for information from the Respondent. The Respondent then provided information pursuant to the Department's request. Such information was provided upon the Department's representation that: (i) it is a law enforcement agency charged with administering and enforcing the Act; (ii) the Department will hold the information provided by the Respondent as confidential, pursuant to the "law enforcement exemption" found in a federal regulation related to HIPAA, located at 45 CFR Section 164.512(f); (iii) the information was specific and limited in scope to the extent reasonably practicable; and (iv) de-identified information could not be reasonably used. Because the Respondent maintained records containing the information requested by the Department that spanned only the past eighteen (18) months, it only provided information concerning its business activity in Idaho from May 1, 2009 through October 11, 2010. Such information was submitted to the Department on October 14, 2010.

4. On August 18, 2010, while the Department and the Respondent's representatives were in discussions concerning the ramifications of HIPAA and other federal laws as they related to the information sought by the Department regarding the duration and extent of the Respondent's unlicensed account servicing activities in Idaho, the Respondent submitted an application to the Department seeking a license under the Act for NPAS, Inc., an affiliate of HCA, to service non-delinquent hospital patient accounts in Idaho. As of the date of this

Consent Order, the Respondent has cured all the deficiencies associated with the license application for NPAS, Inc.

5. From a review of the information provided to the Department by the Respondent on October 14, 2010, a Department examiner/investigator concluded that during the time period between May 1, 2009 and October 11, 2010, the Respondent made at least 127,437 actual or attempted contacts to at least 51,645 Idaho residents concerning servicing non-delinquent hospital patient accounts on behalf of others. The Department has reason to believe that the Respondent's account servicing activities in Idaho have continued through the date of this Consent Order, while a license under the Act authorizing it to do so is not yet in place.

6. The Respondent has recently informed the Department that it intends for NPAS, Inc. to engage in servicing non-delinquent patient accounts for non-affiliate hospitals, and that it has established and, pursuant to the requirements of the Act and of the Department, will license a new subsidiary of HCA, to provide such services for hospitals that are affiliates of HCA.

### **FINDINGS OF VIOLATIONS**

#### *ENGAGING IN UNLICENSED COLLECTION AGENCY ACTIVITY IN IDAHO*

7. The allegations set forth in paragraphs 1 through 6 above are fully incorporated herein by this reference.

8. Idaho Code § 26-2223 provides as follows, in pertinent part:

**26-2223. Collection agency, debt counselor, credit counselor, or credit repair organization -- License required.** No person shall without complying with the terms of this act and obtaining a license from the director:

- (1) Operate as a collection agency ... in this state.
- (2) Engage, either directly or indirectly, in this state in the business of collecting or receiving payment for others of any account, bill, claim or other indebtedness.

9. "Collection agency" is defined in Idaho Code § 26-2222(4) as a person who engages in any of the activities enumerated in Idaho Code § 26-2223(2) through (6).

10. "Collection activities" is defined in Idaho Code § 26-2222(3) as any of the activities enumerated in Idaho Code § 26-2223(2) through (6).

11. The Department has determined that the hospital patient account services provided by the Respondent to hospitals that are affiliated with its affiliate company, HCA, and also to hospitals that are not affiliated with HCA, as referenced above, constitute operating as a collection agency in Idaho, pursuant to Idaho Code § 26-2223(1). Further, such services constitute engaging in the business of collecting or receiving payment for others of any account, bill, claim or other indebtedness, pursuant to Idaho Code § 26-2223(2), and engaging in "collection activities," as that term is defined in Idaho Code § 26-2222(3). Because the Respondent failed to maintain a license under the Act authorizing it to engage in such acts in Idaho, such acts constitute violations of Idaho Code § 26-2223(1) and -(2). Each act of receiving payment for others and collecting in Idaho without the license required by the Act constitutes a separate violation of the Act, subject to all penalties and sanctions provided for in the Act.

#### **REMEDIES**

12. The Department and the Respondent have agreed to the entry of this Consent order to resolve all matters at issue in this action without trial or adjudication of any issue of law or fact herein, and without the Respondent admitting the truth of, or liability for, any of the matters alleged herein.

13. The Respondent agrees to pay to the Department the sum of one hundred thousand dollars (\$100,000) as an administrative penalty in settlement of the violations contained

herein, and an additional amount of ten thousand dollars (\$10,000) constituting investigative expenses and attorney fees incurred by the Department in pursuing this matter, for a total payment to the Department of one hundred ten thousand dollars (\$110,000). The Respondent agrees to pay such sum to the Department by no later than January 10, 2011.

14. When the Respondent has executed this Consent Order, has timely complied with the requirements of paragraph 13 above, and has provided a complete license application to the Department, the Department agrees to consider the Respondent's license application submitted for NPAS, Inc., and further agrees that this Consent Order and the acts underlying the same will not be used as the basis for denial of such license application.

15. The Respondent agrees to comply with all provisions of the Idaho Collection Agency Act and rules promulgated thereunder at all times in the future with regard to its business activities falling under the Act.

16. The Department agrees not to seek further penalties or fees for the violations identified in this Consent Order, other than as set forth in the Remedies section of this Consent Order, as long as the Respondent fully and timely complies with all terms of this Consent Order.

17. The Respondent acknowledges and understands that this Consent Order is an administrative action that must be disclosed to the Department on future licensing and renewal forms. The disclosure requirements of other states may also require disclosure of the same.

DATED this 19<sup>th</sup> day January, 2011.

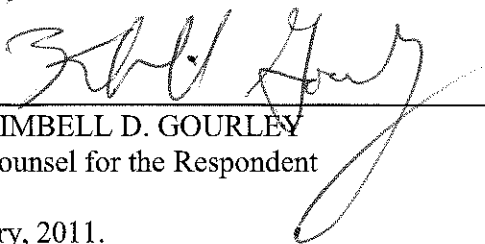
NATIONAL PATIENT ACCOUNT SERVICES, INC.

By: 

Vice President  
Title

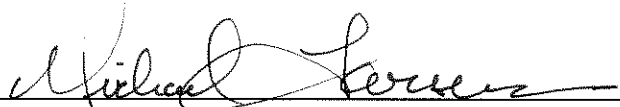
APPROVED AS TO FORM AND SUBSTANCE:

DATED this 20th day of January, 2011.

  
KIMBELL D. GOURLEY  
Counsel for the Respondent

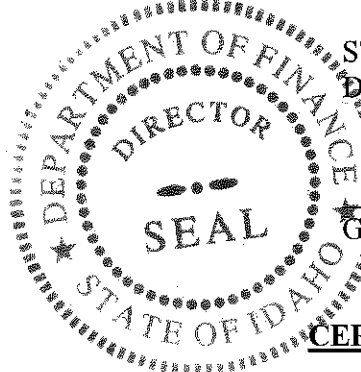
DATED this 20th day of January, 2011.

STATE OF IDAHO  
DEPARTMENT OF FINANCE

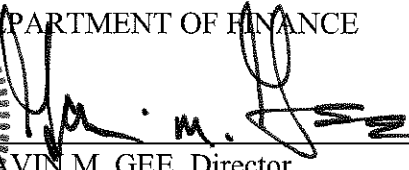
  
MICHAEL LARSEN  
Consumer Finance Bureau Chief

IT IS SO ORDERED.

DATED this 20th day of January, 2011.



STATE OF IDAHO  
DEPARTMENT OF FINANCE

  
GAVIN M. GEE, Director

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 21 day of January, 2011, I caused a true and correct copy of the foregoing fully-executed CONSENT ORDER to be served on the following by the designated means:

Kimbell D. Gourley, Esq.  
TROUT JONES FUHRMAN GOURLEY, P.A.  
P.O. Box 1097  
Boise, Idaho 83701

- U.S. mail, postage prepaid
- certified mail
- facsimile
- e-mail

  
Paralegal