

BEFORE THE IOWA INSURANCE COMMISSIONER

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IN THE MATTER OF  RXADVANCE CORPORATION, d/b/a/ NIRVANAHEALTH, NPN 17936703,  Respondent.	) ) ) ) ) ) ) ) )	Division Case No. 121819  <b>ORDER AND          CONSENT TO ORDER</b>
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**NOW THEREFORE**, upon motion of the Iowa Insurance Division (“Division”) and by the consent of Respondent RXAdvance Corporation, pursuant to the provisions of Iowa Code chapters 507B—Unfair Trade Practices, 510—Managing General Agents and Third-Party Administrators, and 510B—Regulation of Pharmacy Benefits Managers, and Iowa Administrative Code chapters 191—58 and 59, the Commissioner enters the following Order and Consent to Order (“Consent Order”):

**I. PARTIES AND JURISDICTION**

1. The Commissioner of Insurance, Douglas M. Ommen, directly and through his designees, administers and enforces of Iowa Code chapters 507B, 510, and 510B, pursuant to Iowa Code § 505.8.
2. RXAdvance Corporation, d/b/a nirvanaHealth (“Respondent”), is an entity with a last known address of 136 Turnpike Road, Southborough, Massachusetts 01772.
3. Respondent has held a certificate of registration in Iowa as a third-party administrator (“TPA”) since May 10, 2016. Respondent is registered under National Producer Number 17936703.
4. Pursuant to Iowa Code § 505.28, Respondent consented to the jurisdiction of the Commissioner of Insurance by committing acts governed by chapters 507B, 510, and 510B.

5. From on or about July 1, 2023, to present, Respondent engaged in acts and practices within the state of Iowa constituting cause for probation, suspension, or revocation of Respondent's TPA certificate of registration; cease and desist orders; and civil penalties or other relief under Iowa Code chapters 505, 507B, 510, and 510B, and rules adopted pursuant to these chapters.

## II. FINDINGS OF FACT

6. Respondent applied for a certificate of registration as a TPA with the Division by submitting an application for a certificate of registration through the National Insurance Producer Registry. In applying for registration as a TPA, Respondent also registered as a pharmacy benefits manager ("PBM") with the Division pursuant to Iowa Code chapter 510B. In submitting its application, Respondent designated the Commissioner as an agent for service of process.

7. The Division issued Respondent a certificate of registration as a TPA on May 10, 2016, and assigned to Respondent National Producer Number 17936703.

8. As a TPA and PBM, Respondent was engaged in the business of insurance in Iowa pursuant to Iowa Code § 507A.3.

9. Pursuant to Iowa Administrative Code rule 191—58.11(1), a registered TPA is required to file an annual report with the Division by July 1 of each year that, among other requirements, must include audited financial statements prepared by an independent certified public accountant using generally accepted accounting principles and separately break out its accounts by each subsidiary entity.

10. Pursuant to Iowa Administrative Code rule 191—59.8(2), a registered PBM in Iowa is required to submit summaries of all complaints about it that it receives during a calendar quarter to the Division within 30 (thirty) days after the end each calendar quarter.

11. The Division emailed Respondent reminders of its quarterly and annual reporting obligations on January 6, 2023, April 4, 2023, and April 28, 2023.
12. The April 28 email reminder specifically stated that audited financial statements must be filed with the TPA annual report, and that balance sheets are unacceptable. This reminder email was sent to [licensing@rxadvance.com](mailto:licensing@rxadvance.com), and the Division received no indication that the email failed to be delivered.
13. On June 29, 2023, Respondent uploaded its TPA annual report into OPTins, but did not include the required audited financial statements. Instead, the report included four pages of consolidated balance sheets for nirvanaHealth and its subsidiaries, with no indication that Respondent had been subjected to an independent audit showing amounts for each entity stated separately as required by Iowa Administrative Code rule 191—58.11(1).
14. Later on June 29, 2023, a Division employee contacted Respondent through OPTins requesting that Respondent amend its 2023 TPA annual report to include audited financial statements for RXAdvance. The Division also emailed Respondent a notice of TPA annual report corrections informing Respondent that its annual report was deficient. The email notice requested that Respondent submit, by no later than July 31, 2023, “[a] fully audited financial statement including an opinion on the finances by the third party auditor. Balance-loss sheets are not acceptable for this filing. Please amend the filing in OPTins and upload the audited financial statements.” The email notice was sent to [licensing@rxadvance.com](mailto:licensing@rxadvance.com).
15. Respondent did not amend its 2023 TPA annual report or otherwise provide the information requested by the Division by the July 31, 2023 deadline, nor did Respondent request an extension of the filing deadline as provided in Iowa Administrative Code rule 191—58.11(3).

16. On September 15, 2023, the Division notified Respondent that its TPA registration was suspended effective immediately for failure to submit a complete annual report and required late fee by July 31, 2023.

17. Respondent subsequently failed to file its quarterly PBM complaint reports by October 31, 2023, and January 31, 2024, pursuant to Iowa Administrative Code rule 191—59.8(2). As of the date of this filing, Respondent has not filed these reports.

18. On February 21, 2024, Respondent submitted its annual PBM report pursuant to Iowa Code chapter 510C and Iowa Administrative Code rule 191—59.11.

19. On February 27, 2024, a Division employee sent an email to Respondent at [licensing@rxadvance.com](mailto:licensing@rxadvance.com) and [Krupa.Patel@nirvanahealth.com](mailto:Krupa.Patel@nirvanahealth.com) informing Respondent that it has three outstanding past-due reports: The July 2023 TPA annual report, 2023 Quarter 3 PBM complaint report, and the 2023 Quarter 4 PBM complaint report. The Division employee informed Respondent that all three reports must be filed in OPTins no later than March 15, 2024, to avoid enforcement action against Respondent. Later that day, Krupa Patel, a Compliance Analyst for Respondent, responded, acknowledged receipt of the email, and stated that “[w]e will work on getting the documents submitted by March 15, 2024.”

20. Respondent did not submit the required reports by March 15, 2024.

21. As of the date of this filing, Respondent has not submitted the required reports.

### **III. CONCLUSIONS OF LAW**

#### **COUNT I**

#### **Failure to Submit Annual TPA Report**

22. Pursuant to Iowa Administrative Code rule 191—58.11, a registered TPA in Iowa is required to submit to the Division an annual report by July 1 of each year in a form and manner prescribed by the Commissioner, and must conform to the following requirements:

- a. Be verified by at least two officers of the third-party administrator;
- b. Include audited financial statements prepared by an independent certified public accountant using generally accepted accounting principles;
- c. Be prepared on a consolidated basis; and
- d. Include a columnar consolidating or combining worksheet that shall be filed with the report and include the following:
  - (1) Amounts shown on the consolidated audited financial report shall be shown on the worksheet;
  - (2) Amounts for each entity shall be stated separately; and
  - (3) Explanations of consolidating and eliminating entries shall be included.

23. On June 29, 2023, Respondent submitted an annual TPA report to the Division that did not conform to rule 191—58.11. The report did not include audited financial statements prepared by an independent certified public accountant nor breakout amounts for each entity separately.

24. Respondent's acts and practices violated Iowa Administrative Code rule 191—58.11 subjecting Respondent to probation, suspension, or revocation of Respondent's TPA registration, the imposition of a civil penalty, an order requiring Respondent to cease and desist from engaging in such acts or practices, the imposition of costs of the investigation and prosecution of the matter, and any other corrective action the Commissioner deems necessary and appropriate pursuant to Iowa Code §§ 505.8, 507B.7, and 510.23, and Iowa Administrative Code rule 191—58.16.

## **COUNT II**

### **Failure to Submit PBM Quarterly Reports – Unfair Trade Practice**

25. Pursuant to Iowa Code chapter 510B and Iowa Administrative Code rule 191—59.8, a registered PBM in Iowa is required to maintain an internal system to record and report complaints and must submit a summary of all complaints received by the PBM to the Division,

in a form and manner prescribed by the Commissioner, within 30 days after each calendar quarter has ended.

26. Pursuant to Iowa Code section 510B.10(7), a violation of Chapter 510B constitutes an unfair or deceptive act or practice in the business of insurance under Iowa Code § 507B.4(3).

27. In 2023, Respondent was a registered PBM in Iowa. Respondent submitted quarterly complaint reports to the Division for quarters 1 and 2 of 2023 but failed to submit its quarterly complaint report for quarter 3 by October 31, 2023, and failed to submit its quarterly complaint report for quarter 4 by January 31, 2024.

28. Respondent's acts and practices violated Iowa Code section 507B.4(3) and Iowa Administrative Code rule 191—59.8 subjecting Respondent to probation, suspension, or revocation of Respondent's PBM registration, the imposition of a civil penalty, an order requiring Respondent to cease and desist from engaging in such acts or practices, the imposition of costs of the investigation and prosecution of the matter, and any other corrective action the Commissioner deems necessary and appropriate pursuant to Iowa Code §§ 505.8, 507B.7, and 510B.10, and Iowa Administrative Code rule 191—59.12.

#### **IV. ORDER**

**WHEREFORE, IT IS ORDERED** pursuant to the powers granted to the Commissioner of Insurance by Iowa Code chapters 507B, 510, and 510B:

- A. Respondent's Iowa third party administrator certificate of registration is immediately suspended. Respondent's registration shall remain suspended until Respondent submits all past-due TPA and PBM reports in a form compliant with the statutes and regulations cited herein, said reports are accepted and approved by the Division,

Respondent applies for reinstatement or reissuance of its registration, and the Commissioner enters an order reinstating or reissuing Respondent's registration;

- B. Respondent, pursuant to Iowa Code §§ 507B.7, 510.23, and 510B.10, shall immediately cease and desist from engaging in the business of insurance in this state until such time as Respondent's TPA certificate of registration and PBM registration is reinstated by the Division;
- C. Respondent shall, contemporaneously with this Consent Order, pay a civil penalty in the amount of \$5,000.00, made payable to the Iowa Insurance Division, to be credited to the Iowa Enforcement Fund, to provide funds for insurance enforcement and education pursuant to Iowa Code §§ 505.8, 507B.7, 510.23, and 510B.10, and Iowa Administrative Code rule 191—59.12.
- D. These orders may be enforced under Iowa Code chapters 507B, 510, and 510B, including but not limited to Iowa Code § 507B.7(4) and 507B.8, and additionally, by any collection remedies available to the State of Iowa Department of Revenue for unpaid penalties and other ordered monetary amounts.

**SO ORDERED** on this 8<sup>th</sup> day of October, 2024.



DOUGLAS M. OMMEN  
Iowa Insurance Commissioner

Respectfully submitted,



Joseph A. Fraioli  
Iowa Insurance Division  
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Des Moines, Iowa 50315  
(515) 654-6562  
[Joseph.fraioli@iid.iowa.gov](mailto:Joseph.fraioli@iid.iowa.gov)  
**ATTORNEY FOR THE DIVISION**

**Copy to:**

RXAdvance Corporation  
ATTN: Aruna Wickremeratne  
136 Turnpike Road  
Southborough, Massachusetts 01772  
[aruna.w@nirvanahealth.com](mailto:aruna.w@nirvanahealth.com)  
[licensing@rxadvance.com](mailto:licensing@rxadvance.com)  
**RESPONDENT**

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause, or their attorney, at their respective addresses disclosed on the pleadings on October 9, 2024.

By:  First Class Mail  Personal Service  
 Restricted certified mail, return receipt  Email  
 Certified mail, return receipt  \_\_\_\_\_

Signature: Brooke Hohn  
Brooke Hohn



## **NOTICE OF PENALTIES FOR WILLFUL VIOLATION OF THIS ORDER**

**YOU ARE NOTIFIED** that acting as a third-party administrator as defined in Iowa Code chapter 510, or pharmacy benefits manager as defined in Iowa Code chapter 510B, in violation of this Order, is a felony under Iowa Code § 507A.10, subjecting you to punishment of imprisonment, jail, fines, or any combination of custody and fines.

**YOU ARE ALSO NOTIFIED** that if you violate this Order, you may be subject to administrative and civil penalties pursuant to Iowa Code § 507B.7(4). Pursuant to Iowa Code § 505.8(13), the Commissioner may petition the district court to enforce the order as certified by the Commissioner.

## **NOTICE REGARDING REISSUANCE**

Upon entry of this Order, your certificate of registration as a third party administrator will become inactive due to suspension. While your registration is inactive, you are prohibited from conducting the business of insurance in Iowa. Your registration will not become active again until the Division makes the determination to reissue your certificate of registration by order pursuant to Iowa Administrative Code rule 191—58.3.

Reissuance of your certificate of registration is subject to the discretion of the Commissioner. Additionally, it will not be granted unless and until you have complied with the terms of this Order, made the appropriate Application for Reissuance with the Division, and paid all applicable fees. If applicable, you may also be required to apply for licensure through the National Insurance Producer Registry (NIPR) and pay all applicable fees.

## **NOTICE OF FINAL ORDER IMPACT**

A final order of revocation or a cease and desist order may adversely affect other existing business or professional licenses and may result in license revocation or disciplinary action.

A final order in an administrative action does not resolve any potential criminal or civil violations or causes of action that might arise from the same or similar conduct that is the subject of this this order. It may result in criminal law enforcement authorities, including the fraud bureau of the Iowa Insurance Division, pursuing a criminal investigation or prosecution of potential criminal law violations.



CONSENT TO ORDER AND AGREEMENT

I, Ravi Ika, authorized representative for Respondent in this matter, have read, understood, and do knowingly consent to this Order in its entirety. I understand and acknowledge I have the right to consult with an attorney on this matter if I choose to do so, and acknowledge that the Division cannot provide me an attorney nor can the Division provide me legal advice. By executing this Consent, I understand that I am waiving my rights to a hearing, to confront and cross-examine witnesses, to produce evidence, and to judicial review.

I further understand this Order is considered a final administrative action that will be reported by the Division to the National Association of Insurance Commissioners and to other regulatory agencies. I also understand this Order is a public record under Iowa Code chapter 22 and information may be shared with other regulatory authorities or governmental agencies, pursuant to Iowa Code § 505.8(8)(d). I also understand this Order will be posted to the Division's website and a notation will be made to the publicly available website record that administrative action has been taken against me.

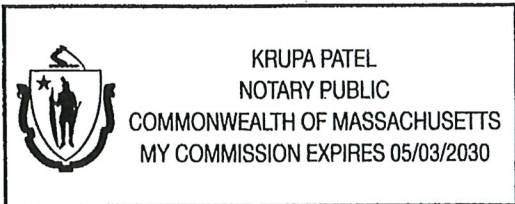
10/3/2024  
Date

[Signature]  
Authorized Representative for Respondent

President & CEO  
Title of Signatory

136 Turnpike Road Southborough, MA 01772  
Address of Signatory

Subscribed and sworn before me by Ravi Ika on this 3<sup>rd</sup> day of October, 2024.



[Signature]  
Notary Public for the State of Massachusetts