

BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
)
HEALTHCARE MANAGEMENT SERVICES, LLC,)
)
Appellant,)
)
From the Decision of)
)
STATE COMPENSATION INSURANCE FUND,)
)
Respondent.)
_____)

**ORDER ADOPTING PROPOSED DECISION AND
DESIGNATION OF DECISION AS PRECEDENTIAL**

The attached proposed decision of Administrative Law Judge David R. Harrison is adopted as the Insurance Commissioner's decision in the above entitled matter. Additionally, pursuant to Government Code section 11425.60, I hereby designate this decision as precedential. This order shall be effective **May 15, 2006**.

Reconsideration of the Commissioner's decision may be had pursuant to California Code of Regulations, title 10, section 2509.72, but it is not necessary to request reconsideration prior to initiating judicial review. Any party seeking reconsideration of the Insurance Commissioner's decision should serve the request for reconsideration on Andrea L. Biren, Special Counsel at the address indicated below in sufficient time to

ensure that the Commissioner can review the request and take appropriate action before the expiration of the 30 day limit for reconsideration.

Andrea L. Biren, Special Counsel
California Department of Insurance
45 Fremont Street, 23rd Floor
San Francisco, California 94105

Judicial review of the Insurance Commissioner's decision may be had pursuant to California Code of Regulations, title 10, section 2509.76. The person authorized to accept service on behalf of the Insurance Commissioner is:

Staff Counsel Darrel Woo
California Department of Insurance
300 Capitol Mall, 17th Floor
Sacramento, California 95814

Any party seeking judicial review of the Insurance Commissioner's decision shall file the original writ of administrative mandamus with the court. Copies of the writ of administrative mandamus and the final judicial decision and order on the writ of administrative mandamus must be served on the Administrative Hearing Bureau of the California Department of Insurance.

Dated: April 13, 2006

JOHN GARAMENDI
Insurance Commissioner

By: /s/
ANDREA L. BIREN
Special Counsel

**DEPARTMENT OF INSURANCE
ADMINISTRATIVE HEARING BUREAU
45 Fremont Street, 22nd Floor
San Francisco, CA 94105
Telephone: 415-538-4102 or 415-538-4251
FAX: (415) 904-5854**

**BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA**

In the Matter of the Appeal of)
)
HEALTHCARE MANAGEMENT SERVICES, LLC,)
)
Appellant,)
) FILE AHB-WCA-05-30
)
From the Decision of)
)
STATE COMPENSATION INSURANCE FUND,)
)
)
Respondent.)
_____)

PROPOSED DECISION

Introduction

This appeal is brought pursuant to California Insurance Code section 11737(f),¹ and arises from a dispute over premium rates charged by State Compensation Insurance Fund (“SCIF”) for workers’ compensation insurance provided to Appellant under SCIF Group Policy Number 1724122-03 for the policy year January 1, 2003–January 1, 2004. The basis of the dispute is disagreement over the proper payroll classification to be

¹ Section 11737(f) provides in pertinent part: “Every insurer or rating organization shall provide within this state reasonable means whereby any person aggrieved by the application of its filings may be heard by the insurer or rating organization on written request to review the manner in which the rating system has been applied in connection with the insurance offered or afforded. . . . Any party affected by the action of the insurer or rating organization on the request may appeal, within 30 days after written notice of the action, to the commissioner”

assigned to Appellant's employees who function as administrators overseeing the operations of seven nursing homes and one elderly care facility owned by Appellant.

Appellant appeals from SCIF's decision to assign each administrator to the classification code for the facility he or she oversees (for administrators of Appellant's nursing homes, Code 8829(1) "Nursing Homes - all employees"; for administrators of Appellant's elderly care facility, Code 9070(1) "Residential Care Facilities for the Elderly - n.o.c.² - all employees"), rather than assigning all the administrators to Code 8810(1) "Clerical Office Employees - N.O.C."

Issues Statement

Under the California Code of Regulations, title 10, section 2318.6, and the Standard Classification System, Part 3, of the California Workers' Compensation Uniform Statistical Reporting Plan ("USRP"),³ is each administrator correctly assigned to the classification code of the facility the administrator oversees, or do the administrators fall within one of the "Standard Exceptions"⁴ set forth at Part 3, Section III, Rule 4 of the Plan?

Procedural History

Appellant initiated these proceedings on March 16, 2005 by filing a written appeal to the Insurance Commissioner from SCIF's February 14, 2005 decision (conveyed through the SCIF Customer Assistance Program) rejecting Appellant's claim that six facilities administrators, nine directors of nursing, and one assistant director of nursing at Appellant's convalescent home facilities should be classified under Code 8810(1) as clerical office employees.

² "N.O.C."(lower case or upper case) means "not otherwise classified."

³ The provisions of the USRP, including the Standard Classification System in Part 3, are part of the Insurance Commissioner's regulations, at title 10, California Code of Regulations, section 2318.6. The 2003 version of the Plan applies to the issues presented in this appeal because the policy at issue incepted during that year.

⁴ The "Standard Exceptions" are for "Clerical Office Employees" or "Outside Salespersons," and are discussed later in this decision.

The Workers' Compensation Insurance Rating Bureau of California ("WCIRB" or "Rating Bureau")⁵ first appeared by letter dated April 14, 2005 (Exhibit 200), and participated in the proceedings thereafter in support of the SCIF classification decision. References in this decision to "Respondents" include both SCIF and the Rating Bureau.

The appeal was initially assigned to Hearing Officer Leslie Tick, and was re-assigned on November 21, 2005 to Administrative Law Judge David R. Harrison (the "ALJ") for the Department of Insurance. A live evidentiary hearing was held in the Los Angeles hearing room of the Department on January 11, 2006.

On the day preceding the evidentiary hearing, Appellant notified the ALJ and the parties that it was withdrawing its appeal as to all employees other than those designated as "administrators," and that it was calling only one witness to testify. By joint report of the parties dated June 3, 2005, the number of administrators in issue had increased to eleven, accounting for changes in personnel during the policy term.

The parties filed written briefs prior to and after the hearing; introduced documentary evidence before and at the hearing, and elicited testimonial evidence at the hearing.

⁵ The WCIRB is a rating organization licensed by the Insurance Commissioner under Insurance Code section 11750, et seq., to assist the Commissioner in the development and administration of worker's compensation insurance classification and rating systems. The Bureau serves as the Commissioner's designated statistical agent for the purpose of gathering and compiling experience data developed under California worker's compensation and employers' liability insurance policies. (Ins. Code § 11751.5.)

The documentary evidence in this case includes all exhibits proposed in the exhibit lists pre-filed by the parties,⁶ other than those that became moot or to which objection had been filed and sustained.⁷

At the hearing, Appellant was represented by attorneys Drew E. Pomerance and Damon M. Ribakoff of Roxborough, Pomerance & Nye, LLP. Respondent SCIF was represented by Betty R. Quarles, Senior Staff Counsel for SCIF. The WCIRB was represented by attorney John N. Frye of the Law Offices of John N. Frye, and by Margaret W. Hosel, Senior Staff Attorney for the WCIRB.

Appellant presented, as its only witness, David Hyatt, and presented his testimony as being fully applicable to describe the job performance, duties, and responsibilities of each and every administrator in issue. Following Mr. Hyatt's testimony, and after cross and re-direct examination, SCIF and the WCIRB elected not to present witnesses, and they rested their cases.

Post-hearing briefs were timely filed by the parties, and the record was closed on April 3, 2006.

The Parties' Contentions

Appellant originally contended that the administrators of its facilities should be classified as clerical office employees under Classification Code 8810(1), because they spend most of their time behind closed doors in their offices doing paperwork and are not exposed to the hazards of the business they oversee. This contention was changed during the closing moments of the evidentiary hearing, because the uncontradicted testimony of Mr. Hyatt was clear that administrators spend substantial time (as much as two days a week) outside their offices engaged

⁶ Exhibits 1-1 through 1-4; 100-1 through 105-8; 200-1 through 200-6.

⁷ Exhibits 105-1 through 105-8 were excluded because objections to them had been sustained. Objections to exhibits had been filed and were ruled upon by the ALJ on December 8, 2005. On January 10, 2006, the day before the beginning of the evidentiary hearing, Appellant withdrew its claims as to all of the employees previously in issue, other than the administrators. This rendered moot Exhibits 104-3 through 104-27.

in business promotion efforts to persuade doctors and hospitals to send patients to the Appellant's facilities they oversee (Tr. 58/11-17).⁸ The new contention is, therefore, that the administrators should be classified as "outside salespersons" (Classification Code 8742(1)).

Respondents contend that the administrators are not properly classifiable as "clerical office employees," nor as "outside salespersons" within the meaning of the USRP.

FINDINGS OF FACT

Appellant operates eight nursing homes and one elderly care facility (Tr. 25/19). The nursing homes have been classified by SCIF under Classification Code 8829(1), and the elderly care facility has been classified by SCIF under Classification Code 9070(1). (Ex. 102-1 – 102.54.) Appellant does not dispute these classifications.

The administrators whose classifications are in issue, and the facilities they oversaw, are as follows:⁹

<u>Nursing Home Administrators</u>	<u>Facility (Class Code 8829(1))</u>
Robert Aguilos	Regency Oaks Care Center
Roland Santos	Regency Oaks Care Center
Vernon Aguirre	Buena Ventura Care Center
Robert Bowersox	Arden Rehabilitation and Health Care
David Bundgard	Norwood Pines Alzheimer's Center
David Culbreth	Escondido Care Center
Ric Dee	Escondido Care Center
Kenneth Goldblatt	Kennedy Care Center
Dov Goldner	Kennedy Care Center

⁸ References to the transcript of the hearing held on January 11, 2006 are "Tr." followed by the page number(s) and, where line references are used, a "/" followed by the line number(s). Thus, the reference footnoted (Tr. 58/11-17) is to page 58, lines 11-17 of the transcript. Exhibits are referred to by the numbers assigned to them in the Exhibit Lists filed by the parties.

⁹ Joint Report dated June 3, 2005. In some instances, an administrator left a facility and was replaced during the policy year. (Tr. 6/19-24.) Thus, the appeal involves the classification of eleven different administrators at eight different facilities.

Yolanda Wise

Leisure Glen Care Center

Elder Care Center Administrator

Facility (Class Code 9070(1))

Polita Barnes

Leisure Vale Retirement Hotel

Appellant's sole witness, David Hyatt, had direct experience serving as an administrator at six of Appellant's facilities. (Tr. 9.) His experience, job duties, and responsibilities as an administrator were typical and representative of all the administrators. (Tr. 8/11-17; 9/3-19; 10/8-25; 11/11-18; 17/20-25; 18/1-14.)

Each of Appellant's facilities has a single administrator. (Tr. 26-27.) The administrator has to be licensed and must pass both federal and state licensing examinations. Prior to licensing, the administrator also has to go through an internship program, requiring from 400 to 1000 hours (depending on degrees held). (Tr. 9-10.)

The administrator at each facility has basically the same day-to-day duties and the same overall job responsibilities as the administrator at each of Appellant's other facilities. (Tr. 8-11, and Tr. 17-18 *supra*.) The primary job responsibility of an administrator is to oversee all operations and the day-to-day functioning of the facility. (Tr. 11/19-23.) The administrator acts as the chief executive in charge of the facility. (Tr.55/11-22.)

Each facility is organized into various departments. The department heads report to the administrator. Departments include nursing, maintenance, laundry, business office, social activities. (Tr.12/1-15.) Day-to-day operations, for which the administrator has ultimate responsibility in managing the facility, include patient care, laundry, housekeeping services, dietary services, activity programs, social service programs, business office functions, billing and admitting, physical maintenance and cleanliness of the facility. (Tr. 29-30.)

Each administrator works in a private office with a door that, when closed, separates it from other parts of the facility. (Tr. 12-13.) Administrators spend 90 to 95% of their “in-facility”¹⁰ time within their offices. (Tr. 12/18-25.) Their in-office work includes reviewing consultant and incident reports, entertaining questions from residents,¹¹ family members and employees who come to their offices, conducting quality assurance meetings, interviewing and hiring consultants (Tr. 51-52), and producing required reports. (Tr.13/23 -14/1-6.)

The administrators conduct regular daily group staff meetings with department heads and key staff members. These meeting are generally held in the administrator’s office, or, if the office is too small, in another office or a meeting room that is separate from the patient areas within the facility. (Tr. 15/1-11.)

The administrators meet with family members “all the time,” usually in the administrator’s office, “rarely” out on the floor. (Tr. 15/20-22.) If family members request a tour of the facility, and other tour leaders are not available, the administrator will personally conduct the tour of the facilities. (Tr. 16/2-10.) This does not occur daily, and “most times” occurs less often than weekly. (Tr. 16/11-14.)

The residents are permitted to form a council to discuss issues and complaints they may have. When they invite the administrator to attend a council meeting, the administrator does so. Council meetings are held in the residents’ activity room, which is considered part of, not separate from, the nursing home facility. (Tr.20/4-22.)

The administrator goes out into the nursing facility on a regular basis when walking to and from other offices in the facility. Getting from one office to another requires walking through the facility, as the individual offices of the various supervisory personnel are not

¹⁰ “In-facility” time means time that the administrator is working within, and is not away from, the facility. This contrasts with outside promotion activities, which may consume as much as one or two days per working week. (Tr. 49.)

right next to the administrator's office nor to one another. (Tr. 20 – 21.)

The administrator also walks within the facility when going to or from his or her car, and makes a point of not going in a straight line but going in a different direction each time just to determine if the facility “looks and smells” as it should and to observe what is going on in the building. (Tr. 21/15-18.) Informal walkthroughs occur when the administrator is coming in, going home, going out to lunch with someone, or going to a meeting with a department head. (Tr. 21/19-25.)

When a problem arises with an individual resident, and the resident is physically unable to come to the administrator's or to another private office, the administrator will personally go to the resident's room. This is, however, a rare occurrence. (Tr.35/2-21.)

An administrator may go out into the facility when, for example, a safety hazard or mechanical breakdown requires attention. This occurred when a main electrical line into a main circuit panel had shorted out; similarly, when a water pipe broke at a facility. (Tr. 34.)

During the daily walk-throughs in a facility, the administrator observes social activities in the residents' activity room. When invited, the administrator attends certain of these activities. (Tr. 36/14-22.) During these walk-throughs, the administrator also “makes it a habit” to observe and note problems in housekeeping or maintenance of the residents' area, seeing what the rooms look like and whether the beds are made. (Tr.38.) If problems are perceived, the administrator will walk within the facility to the nursing station, which is separate from the public floor of the facility, and point out the problems to the responsible supervisor. (Tr.39.) During the walk-through, the administrator may ask a resident how breakfast was, and may get an opinion that varies from that of another person “two feet away.” (Tr. 40/1-3.)

¹¹ The term “residents” refers to the patients and elderly care recipients housed within each facility.

The administrator walks through and inspects the kitchens on occasion (Tr.40/9-14), reviews daily logs while doing so (Tr. 43/4-6), and makes sure by personal observation that food storage operations meet applicable standards (Tr. 43/7-25). If the administrator finds a noncompliance situation such as an unclean appearance, the administrator can and does tell the staff in the kitchen area to clean it up (Tr. 44/1-9).

The administrator inspects the pharmaceutical storage area in the facility to make sure that it is clean and orderly and complies with regulations. (Tr. 41/5-25; 42/1-7.) The pharmaceutical storage area is within the nurses' station and is not accessible to the facility's residents.

Each facility has a patient grievance procedure. In some cases, the administrator will meet with the complaining residents as a group, usually when the administrator is invited into the resident council meeting in the residents' activity room. (Tr.20/4-22.) On an individual basis, a personal meeting with the complaining resident will be held, if needed, in the administrator's office. If the resident is not able physically to leave his/her room to discuss the grievance, the administrator will "on a rare occasion" go to the resident's room to discuss it. (Tr. 47/12-24.)

In addition to their "in-facility" duties, the administrators spend substantial time, as much as two days a week, going to doctors' offices and acute care hospitals (such as UCLA or USC Medical Centers), meeting with large medical groups and individual physicians, and taking doctors to lunch, to solicit them to refer patients to Appellant's facilities. (Tr. 16/19 – 20/3; 49/5-9.)

Discussion

A. The Regulatory Scheme.

The provisions of the California Workers' Compensation Uniform Statistical Reporting Plan ("USRP" or the "Plan")¹² are part of the Insurance Commissioner's regulations, at title 10, California Code of Regulations, section 2318.6. The Plan contains an extensive listing of rating classifications for various occupations, employments, industries and businesses.

Part 3, Section I, of the Plan sets forth the objective of the classification system:

The objective of the classification system is to group employers into classifications so that each classification reflects the risk of loss common to those employers. With few exceptions, it is the business of the employer within California that is classified, not the separate employments, occupations or operations within the business. (Plan, Part 3, Section I.)

Part 3, Section III, paragraph 1, of the Plan sets forth the general classification procedure:

1. **Classification Description.** An alphabetical listing of classifications that describe most occupations, employments, industries and businesses is contained in Section VII. "Standard Classification."
 - a. Any business or operation specifically described by a classification shall be assigned to that classification.

In this appeal there is no dispute as to the appropriate classification for each of Appellant's facilities. The nursing homes are properly classified under Code 8829(1) "Nursing Homes - all employees." The elderly care facility is properly classified under Code 9070(1) "Residential Care Facilities for the Elderly – n.o.c. – all employees."

Unless an employee falls within one of the Standard Exceptions or works within an industry (such as construction) in which the Plan specifically allows for payroll to be divided

¹² Because the policy period in issue is the calendar year 2003, references to the USRP are to the version effective as of January 1, 2003.

between occupations, all employees are classified according to the classification of the overall business in which they work. (Plan, Part 3, Section I, quoted *supra*.)

Further, the USRP provides:

2. Single Enterprise. If the employer's business, conducted at one or more locations, consists of a single operation or a number of separate operations which normally prevail in the business described by a single classification, the entire exposure of the business shall be assigned to that single classification. No division of payroll shall be permitted in respect to any other operation, even though such operation may be specifically described by some other classification, unless the applicable classification phraseology or other provisions contained herein specifically provide for such division of payroll. Division of payroll for Standard Exceptions and General Exclusions shall be made pursuant to the provisions of this Plan. (Plan, Part 3, Section II, Rule 2.)

The Plan recognizes certain exceptions to the general classification and single enterprise rules. Separate classifications may be used to classify employees who fall within the Standard Exceptions of the Plan. The Standard Exceptions are “Clerical Office Employees” and “Outside Salespersons.” The sole issue on this appeal is whether Appellant’s administrators fall within either of the Standard Exception classifications.

B. The Standard Exceptions.

1. Clerical Office Employees.

a. Definition.

Part 3, Section III, Rule 4.a. of the Plan defines “Clerical Office Employees” as follows:

a. **Clerical Office Employees** are defined as those employees whose duties are confined to keeping the books, records or cash of the employer, conducting correspondence, or who are engaged wholly in general office work or office drafting, having no regular duty of any other nature in the service of the employer. The entire payroll of any employee who is engaged in operations performed by clerical office employees and also is exposed (1) to any operative hazard of the business, or (2) to any outside selling or collecting work, shall be assigned to the highest rated classification of work to which the employee is

exposed. *Supervisors*¹³ and clerks, such as time, stock or tally clerks, whose work is necessary, incidental or appurtenant to any operations of the business other than clerical office, shall not be considered clerical office employees. The clerical office employee classification shall be applied only to the payroll of persons herein described who work exclusively in areas that are separated from all other work places of the employer by buildings, floor, partitions, railings or counters and within which no work is performed other than clerical office or drafting duties as defined in this section. (Emphasis added.)

b. Analysis of Definition.

The definition consists of three criteria, all of which must be met, relating to:

- (1) what duties the employee performs; (2) what hazards the employee is exposed to; and
- (3) what activities occur within the precise physical area in which the employee's services are performed. Failure to meet only one criterion prevents classification as a clerical office employee --- the administrators in this case fail to meet all of them.

Duties performed. The definition requires that the employee's duties be "confined to keeping the books, records or cash of the employer, conducting correspondence, or ... wholly ...general office work or office drafting," and that the employee have "no regular duty of any other nature in the service of the employer." Further, if the employee is a supervisor "whose work is necessary, incidental or appurtenant to any operations of the business other than clerical office," the employee "shall *not* be considered" a clerical office employee.

The administrators in this case are the chief executives and supervisors of the entire operations of the facilities which they administer. Their work is crucial to the entire operations, including making certain that all safety and health requirements are met, that all departments perform properly, and that appropriate procedures are followed. Day-to-day operations, for which the administrator has ultimate responsibility in managing the facility,

¹³ The definition was clarified as of January 1, 2003 by adding "**Supervisors** ... whose work is necessary, incidental or appurtenant to any operations of the business other than clerical office" to those who cannot be classified as clerical office employees.

include patient care, laundry, housekeeping services, dietary services, activity programs, social service programs, business office functions, billing and admitting, physical maintenance and cleanliness of the facility. They are the ultimate supervisors of all the department heads and staff in their facilities and, cannot, therefore, be considered as clerical office employees.

Exposure to hazards. Contrary to the assertions of Appellant, the administrators are regularly out of their private offices and are exposed to the hazards of the facility. Their daily walk-throughs take them to the residents' areas, close enough to look in and see if the beds are made, intimate enough to discuss the quality of the food with a resident who may disagree with another only two feet away. They go to a resident's room when the resident cannot come to them. They go out into the main facility on a regular basis when walking to and from other offices in the facility, and are likely to make sure their routes are not straight line but allow them to review what is going on in the facility. Getting from one office to another requires walking through the facility, as the individual offices of the various supervisory personnel are not right next to the administrator's office nor to one another. The administrators conduct tours of the facility for visitors when other personnel are not available for this purpose, and may personally trouble-shoot physical problems that arise in the facility, such as water leaks or power failures. They inspect kitchen and drug-storage facilities to make sure that they are clean and orderly. They attend residents' council meetings as requested, in the residents' activities center. They receive, on a regular basis, department heads, staff personnel, residents and visitors within their offices, being exposed to health and personnel hazards that go far beyond those that would be experienced in a strictly clerical enclave. Additionally, they engage in outside selling work that, by definition, prevents them from being classified as clerical office employees.¹⁴

¹⁴ "The entire payroll of any employee who is engaged in operations performed by clerical office employees and also is exposed (1) to any operative hazard of the business, or (2) to any outside selling or collecting work, shall be assigned to the highest rated classification of work to which the employee is exposed." (Plan, Part 3, Section III, Rule 4.a.)

Work Performed Within the Administrator’s Office. The definition requires that the employee work in a separated area “within which no work is performed other than clerical office or drafting duties as defined in this section.” In fact, the administrator’s office is used for daily staff meetings, for meetings with residents and families of residents “all the time,” and for meetings with consultants. The office is therefore not used exclusively for “clerical office or drafting duties.”

For the foregoing reasons, the administrators do not qualify to be classified as clerical office employees under the Standard Exception provisions of the USRP.

2. Outside Salespersons.

a. Definition.

Part 3, Section III, Rule 4.b. of the Plan defines “Salespersons - Outside” as follows:

Salespersons – Outside (Outside Salespersons) are defined as those employees who are engaged exclusively in sales, collection, or public relations work away from the premises of the employer or who are engaged in such work for any portion of their time and devote the balance of their time to clerical office duties.

b. Analysis of Definition

The definition has two criteria: (1) the employee must be engaged “exclusively” in outside sales work away from the premises of the employer; and (2) to the extent the employee does any other work, it must be limited to clerical office duties. The administrators meet neither criterion.

“Exclusively Engaged.” The administrators are in no sense engaged “exclusively” in outside sales work. At the most, the outside sales activities are ancillary to their primary function of overseeing the operations of the facility and making sure that the product they are “selling” meets the standards of the doctors and hospitals they are soliciting for their business.

“Limited to Clerical Office Duties.” In this decision, it has already been concluded

that the work the administrators do in their facilities is not limited to clerical office duties. Since they do not devote “the balance of their time” to clerical office duties, as required by the outside salesperson definition, they fail to meet the second criterion of the definition.

For the foregoing reasons, the administrators do not qualify to be classified as outside salespersons under the Standard Exception provisions of the USRP.

DETERMINATION OF ISSUES

Each facilities administrator is correctly assigned to the classification of the facility he or she administers.¹⁵

Appellant’s facilities administrators do not qualify to be classified under a Standard Exception to the single enterprise rule, as none fall within the USRP definitions of “clerical office employees” or “outside salespersons.”

ORDER

The decision of State Compensation Insurance Fund to assign each administrator to the classification code for the facility the administrator oversees¹⁶ is affirmed.

I submit this proposed decision on the basis of the evidence before me and I recommend that it be adopted as the decision of the Insurance Commissioner of the State of California.

DATED: April 13, 2006

/s/
DAVID R. HARRISON
Administrative Law Judge
California Department of Insurance

¹⁵ Listed and identified at page 5 of this decision.

¹⁶ For administrators of Appellant’s nursing homes, Code 8829(1) “Nursing Homes - all employees.” For administrators of Appellant’s elderly care facility, Code 9070(1) “Residential Care Facilities for the Elderly – n.o.c. – all employees”).

