BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE FOR THE STATE OF TENNESSEE

TENNESSEE INSURANCE DIVISION, **Petitioner,**	)	
vs.	)	**TID No.: 16-039**
BROADSPIRE SERVICES, INC., **Respondent.**	)	

CONSENT ORDER

WHEREAS, Petitioner, the Tennessee Insurance Division ("Division"), and Respondent, Broadspire Services, Inc. ("Respondent"), hereby stipulate and agree to the entry of this Consent Order, subject to the approval of the Commissioner of the Department of Commerce and Insurance ("Commissioner") as follows:

GENERAL STIPULATIONS

1. It is expressly understood that this Consent Order is subject to the Commissioner's acceptance and has no force and effect until such acceptance is evidenced by the entry of the Commissioner.

2. This Consent Order is executed by Respondent for the purpose of avoiding further administrative action with respect to this cause. Furthermore, should this Consent Order not be accepted by the Commissioner, it is agreed that presentation to and consideration of this Consent Order by the Commissioner shall not unfairly or illegally prejudice the Commissioner from further participation or resolution of these proceedings.

3. Respondent fully understands that this Consent Order will in no way preclude additional proceedings by the Commissioner against Respondent for acts or omissions not

specifically addressed in this Consent Order or for facts and/or omissions that do not arise from the facts or transactions herein addressed.

4. Respondent fully understands that this Consent Order will in no way preclude proceedings by state government representatives, other than the Commissioner for violations of the law addressed specifically in this Consent Order, against the Respondent for violations of law under statutes, rules, or regulations of the State of Tennessee, which may arise out of the facts, acts, or omissions contained in the Findings of Fact and Conclusions of Law stated herein, or which may arise as a result of the execution of this Consent Order by the Respondent.

5. Respondent expressly waives all further procedural steps, and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of this Consent Order, the stipulations and imposition of discipline contained herein, and the consideration and entry of said Consent Order by the Commissioner.

AUTHORITY AND JURISDICTION

6. The Commissioner has jurisdiction over this matter pursuant to the Tennessee Insurance Law ("Law"), Title 56 of the Tennessee Code Annotated ("Tenn. Code Ann."), specifically, Tenn. Code Ann. §§ 56-1-101, 56-1-202, 56-6-705, and 56-6-706. The Law places on the Commissioner the responsibility of the administration of its provisions.

PARTIES

7. The Division is the lawful agent through which the Commissioner administers the Law and is authorized to bring this action for the protection of the public.

8. Respondent is a third party administrator licensed by the Commissioner to act as an administrator in the State of Tennessee. Respondent also holds a certificate by the Commissioner to provide utilization reviews in the State of Tennessee.

9. Respondent's addresses of record on file with the Division are 1391 Northwest 136th Avenue, Sunrise, Florida 33323, and 1001 Summit Blvd., 10th Floor, Atlanta, Georgia 30319.

FINDINGS OF FACT

10. Entities conducting utilization reviews in the State of Tennessee are required to file an annual written certification with the Commissioner containing the information provided in Tenn. Code Ann. §§ 56-6-704(b)(1)(A)-(D) and indicating the entity is in compliance with Tenn. Code Ann. § 56-6-705.

11. Respondent has received a license to act as an administrator in the State of Tennessee, license number 608356, thereby subjecting Respondent to regulations pursuant to the Law, specifically Tenn. Code Ann. §§ 56-1-101, *et seq*.

12. Respondent was first certified to provide utilization reviews, certification number 608577, in the State of Tennessee on or about May 28, 2009.

13. On or about November 1, 2015, Respondent's certification as a utilization review agent expired.

14. Respondent's utilization review certification remained inactive from on or about November 1, 2015, through on or about December 30, 2015, during which time Respondent completed approximately one hundred thirty-five (135) utilization reviews.

CONCLUSIONS OF LAW

15. At all times relevant hereto, Tenn. Code Ann. § 56-6-704 (2009) provides in pertinent part:

> (b)(1) A utilization review agent may not conduct utilization review in this state unless the utilization review agent has certified to the commissioner in writing that the agent is in compliance with § 56-6-705. Certification shall

be made annually on or before July 1 of each calendar year. In addition, a utilization review agent shall file the following information:

(A) The name, address, telephone number, and normal business hours of the utilization review agent;

(B) The name and telephone number of a person for the commissioner to contact;

(C) A description of the appeal procedures for utilization review determinations; and

(D) Utilization review programs for mental health and chemical dependency care shall make available to a provider submitting patient utilization review information a description of utilization review standards and procedures applicable to that provider.

16. At all times relevant hereto, Tenn. Code Ann. § 56-6-706 (1992) provides that a monetary civil penalty not to exceed ten thousand dollars ($10,000) may be imposed for utilization review violations.

17. The Findings of Fact contained herein indicate Respondent's practices of conducting utilization reviews in the State of Tennessee without the requisite certification constitutes a violation of Tenn. Code Ann. § 56-6-704(b)(1) and subjects Respondent to a monetary civil penalty of ten thousand dollars ($10,000).

ORDER

NOW THEREFORE, on the basis of the foregoing, and Respondent's waiver of the right to a hearing and appeal under the Law and the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101 *et. seq.*, and Respondent's admission of jurisdiction of the Commissioner, the Commissioner finds that Respondent, for the purpose of settling this matter, admits the Findings of Fact and Conclusions of Law set forth herein, agrees to the entry of this Order, and agrees that this Order is in the public interest, necessary for the protection of the

citizens of the State of Tennessee and consistent with the purposes fairly intended by the policy and provisions of the Law.

IT IS ORDERED, pursuant to Tenn. Code Ann. § 56-6-706 (1992) of the Law, that:

1. Respondent shall pay **CIVIL PENALTIES** in the amount of ten thousand dollars ($10,000). Payment shall be made within thirty (30) days from the date this agreement is executed by the Commissioner and payment shall be mailed to:

State of Tennessee
Department of Commerce and Insurance
Legal Division; Attn: Kathleen Dixon
Davy Crockett Tower
500 James Robertson Parkway
Nashville, Tennessee 37243

2. In addition, it is further **ORDERED** that all persons in any way assisting, aiding, or helping Respondent in any of the aforementioned violations of Tenn. Code Ann. § 56-6-704, shall **CEASE AND DESIST** from all such activities in violation of the Law.

IT IS ORDERED that this Consent Order represents the complete and final resolution of, and discharge with respect to all administrative and civil, claims, demands, actions and causes of action by the Commissioner against Respondent, Broadspire Services, Inc., for violations of Tenn. Code Ann. § 56-6-704 alleged by the Division to have occurred with respect to the transactions involving the facts contained herein.

This Consent Order is in the public interest and in the best interests of the parties, and represents a compromise and settlement of the controversy between the parties and is for settlement purposes only. By the signatures affixed below, Respondent, Broadspire Services, Inc., affirmatively states it has freely agreed to the entry of this Consent Order, that it has been advised that it may consult with legal counsel in this matter and has had the opportunity to consult with legal counsel, that it waives the right to a hearing on the matters underlying this

Consent Order and to a review of the Findings of Fact and Conclusions of Law contained herein, and that no threats or promises of any kind have been made to it by the Commissioner, the Division, or any agent or representative thereof. The parties, by signing this Consent Order, affirmatively state their agreement to be bound by the terms of this Consent Order and aver that no promises or offers relating to the circumstances described herein, other than the terms of settlement as set forth in this Consent Order, are binding upon them.

Nothing in this Consent Order should be construed to limit the authority of the Insurance Division or the Commissioner to take further action against the Respondent should such action, in the opinion of the Insurance Division or the Commissioner, be necessary.

SO ORDERED.

ENTERED this the 23 day of May, 2016.

Julie Mix McPeak

Julie Mix McPeak, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY:

Broadspire Services, Inc.
1391 NW 136th Avenue
Sunrise, Florida 33323

Michael Humphreys
Assistant Commissioner for Insurance
Department of Commerce and Insurance
500 James Robertson Pkwy
Nashville, TN 37243

Respectfully Submitted,

Kathleen Dixon, BPR # 32072
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