

Third Party Administrator Update - TPA Licensing and Compliance

Third Party Administrator Licensing and Compliance Services: Multistate Regulatory Action a Significant Reminder that Insurers Must Only Conduct Business with Licensed TPAs

A Regulatory Settlement Agreement was recently entered into by forty-one (41) states and an insurer as a result of a multistate targeted market conduct examination ("Multistate Examination") of the insurer. The Multistate Examination focused on the insurer's short-term medical, limited medical and fixed indemnity business and was spearheaded by the Delaware Insurance Department and the District of Columbia, Department of Insurance, Securities and Banking (DISB), the "Managing Lead States" and the Wisconsin Insurance Department, the Kansas Insurance Department and the South Dakota Division of Insurance, the "Lead States." In addition to the Managing Lead States and the Lead States, thirty-six (36) other states also participated in the Multistate Examination.

The Multistate Examination resulted in a regulatory settlement agreement ("Settlement Agreement") in which the insurer was required to make a \$1,216,500 payment, divided among the forty-one (41) jurisdictions participating in the Multistate Examination. In addition to the \$1,216,500 payment, the Settlement Agreement also required the insurer to comply with the following business practices and reforms:

- That all TPAs doing business with it are duly licensed in all required jurisdictions.
- That it would undertake commercial best efforts only to do business with

TPAs that maintain all required TPA licenses in good standing, and at all times relevant to the Company's business practices in accordance with the applicable TPA licensing jurisdiction's insurance laws.

- That it would submit for review to the Delaware Director all new TPA agreements or contracts for approval prior to execution of the agreements.
- That it will ensure that it obtains necessary regulatory approvals for all plans of its Limited Medical Business in accordance with each state's insurance laws.

Additionally, should the insurer fail to materially comply with any part of the Settlement Agreement, an additional charge of \$1,000,000 could be assessed against the insurer.

While there were multiple issues involved in this multistate regulatory action, this significant penalty and action by forty-one (41) state insurance departments is a cautionary and costly reminder that insurers should only conduct business with TPAs that are properly licensed in all required jurisdictions.

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More Information on Our TPA Team

Polsinelli's TPA team provides TPA licensing services, TPA regulatory and compliance services, drafting and negotiating of administrative services agreements and a number of other TPA services. Our TPA team includes attorneys who were former in-house counsel for TPAs, as well as attorneys who were formerly insurance regulators. By leveraging its extensive experience representing TPAs, our TPA team helps clients avoid the learning curve and related cost implications that can be experienced by working with companies or attorneys less familiar with the regulatory and compliance needs of TPAs. For questions regarding this information, please contact one of the authors, a member of [Polsinelli's Third Party Administrators](#) team or your Polsinelli attorney.