

# Update

## Third Party Administrator (TPA) Licensing and Compliance Developments

### Oregon Regulatory Actions a Reminder that Insurers are Responsible for Providing Competent Administration of Their Insurance Programs

The Oregon Department of Consumer and Business Services (“Oregon Department”) recently announced regulatory actions against four insurers for alleged violations of the Oregon Insurance Code. The regulatory actions resulted in Consent Orders with the Oregon Department pursuant to which one insurer was assessed a \$30,000 penalty, another insurer was assessed a \$50,000 penalty and the two remaining insurers were jointly and severally assessed a \$75,000 penalty. A portion of each of these penalties was suspended pending the satisfaction of certain conditions by each insurer.

According to the Oregon Department, all of the regulatory actions were the result of investigations which found, in part, that the insurers failed to provide, or failed to timely provide, to certain Oregon consumers annual reports for their annuity contracts and/or life insurance policies in 2015, 2016 and 2017. The Consent Orders indicate that the same unaffiliated TPA had been administering the life insurance products and annuity contracts for all four insurers during the relevant time period. The Consent Orders further indicate that, although the insurers had contracted with the TPA to provide the required annual reports, the insurers were still responsible because the obligation to provide the annual reports was on the insurers and insurers are responsible for providing competent

administration of their insurance programs pursuant to ORS 744.740 (2).

These regulatory actions taken by the Oregon Department are another reminder that insurers cannot outsource their regulatory responsibilities to a third party and may be held strictly liable for alleged violations of insurance laws committed by their TPA business partners.

### 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.

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