

Kansas Regulatory Action: A Reminder That Insurers Must Maintain Oversight of Third Party Administrators

The Kansas Insurance Department (“Department”) recently took regulatory action against an insurer which allegedly violated Kansas insurance laws. Specifically, the Department initiated a Market Conduct inquiry of accident and health policies sold by the insurer to Kansas residents in 2016. The Department’s Market Conduct inquiry focused on the insurer’s business practices for oversight of third party administrators, as well as health insurance that was sold by the insurer via an association.

As a result of its Market Conduct investigation, the Department determined the insurer utilized an unlicensed TPA to provide enrollment, billing, and policy fulfillment services. The upshot is that insurers should exercise due diligence when selecting their business partners to ensure those partners hold the proper licenses to perform services for the insurer. Note that a number of states have TPA laws that expressly prohibit an insurer from doing business with an unlicensed TPA.

The Department’s investigation also found that Kansas residents had to join an association to purchase insurance because there was no method to join the association without first purchasing insurance. Therefore, the Department concluded the association was maintained only for insurance purposes in violation of K.S.A. 40-2209(f)(5). Additionally, the investigation found that Kansas insureds were not informed of the costs of association membership or actual premium amounts during verification calls.

The Department cited numerous violations of Kansas laws, including association group laws, the unfair deceptive acts or practices prohibition on misrepresentations in insurance applications, requirements to provide an outline of coverage listing premiums, and advertising requirements relating to group membership. To settle the alleged violations of law as a result of the Department’s Market Conduct investigation, the insurer recently entered a Consent Agreement and Final Order with the Department, which ordered the insurer to pay a \$30,000 monetary penalty.



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Polsinelli's 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 practice, or your Polsinelli attorney.

Third Party Administrator Licensing and Compliance Services

Polsinelli's Third Party Administrator Team has significant experience representing third party administrators (TPAs) on a national basis regarding a variety of business and compliance issues. The group includes attorneys who were formerly in-house counsel for TPAs, as well as attorneys who were formerly insurance regulators and members of the Federation of Regulatory Counsel.

Our experience in the third party administrator industry is demonstrated by these representative examples:

- National and multi-state TPA licensing projects.
- Advise clients regarding business, regulatory and compliance matters associated with mergers, acquisitions and divestures involving entities licensed as a TPA.
- Assistance with investigations, market conduct examinations and formal regulatory actions brought by state insurance departments.
- Negotiate and draft Administrative Services Agreements and subcontracts, including assistance with statutorily-mandated provisions and best practice business provisions.
- Assistance in developing a TPA Regulatory Addendum designed to comply with the statutorily-mandated provisions applicable under the TPA laws on a national basis.
- Monitor regulatory and legislative activity affecting our TPA clients and provided periodic reports regarding such activity.
- Maintaining licensure as a TPA, PBM, Adjuster, Insurance Producer, or Service Company through periodic renewal and annual report filings.
- Assistance with ancillary state filing and registration requirements such as All-Payer Claims Databases and Vaccination Assessments.

To learn more about our **Third Party Administrator (TPA) Licensing and Compliance Services** practice, or to contact a member of our Third Party Administrator (TPA) Licensing and Compliance Services team, visit our website at www.polsinelli.com/industries/third-party-administrators

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Polsinelli PC. Polsinelli LLP in California.

