

Oregon Regulatory Action a Reminder That Insurers Cannot Outsource Their Regulatory Responsibilities

The Oregon Department of Consumer and Business Services (“Oregon Department”) recently announced it had entered into an Order to Cease and Desist, Final Order Assessing Civil Penalty and Consent to Entry of Order (“Order”) with an insurer in which the insurer will pay a \$60,000 civil penalty for alleged violations of the Oregon Insurance Code.

The regulatory action against the insurer was the result of the Oregon Department’s investigation that found that beginning in June 2017, the insurer made a procedural change whereby it increased the premium rates of its customers’ Medicare supplement insurance policies on each policyholder’s next premium due date, rather than on the policy’s annual anniversary. Prior to implementing this procedural change, the insurer relied on its third party administrator to research and identify any states in which the procedural change would violate state insurance law. However, the list of such states that was provided by the third party administrator to the insurer mistakenly excluded Oregon.

As a result of the procedural change, the insurer increased the premium rates of 804 Medicare supplement policies in Oregon more than once in a 12-month period, in violation of Oregon Administrative Rules 836-052-0151(3)(b).

This regulatory action by the Oregon Department is a reminder that insurers cannot outsource their regulatory and compliance responsibilities and may be held strictly liable for alleged violations of insurance laws committed by their TPA business partners.



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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.

