

# Update

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

May 2019

### Hawaii Legislature Passes New TPA Law

Hawaii is expected to adopt legislation in the coming weeks that will impose licensing and other regulatory requirements on third party administrators (TPAs). Currently, Hawaii is one of only a handful of states that do not license or regulate TPAs. Hawaii legislators passed Senate Bill 1212 out of a conference committee on April 30, 2019, and it was sent to Hawaii Governor David Ige for his signature on May 6, 2019. It is anticipated that Senate Bill 1212 will become law before the end of June.

Once it becomes law, Senate Bill 1212 will require TPAs doing business in Hawaii to be licensed and regulated. The bill is based on the Registration and Regulation of Third Party Administrators Guideline adopted by the National Association of Insurance Commissioners (NAIC).

Items of interest regarding Senate Bill 1212 include, without limitation, the following:

- The terms “Administrator” and “Third Party Administrator” are defined as “a person who collects charges or premiums from, or who adjusts or settles claims on, residents of this State in connection with self-insurance, stop-loss or life insurance coverage, accident and health or sickness insurance coverage.”
- Applicants for TPA licenses will be required to provide annual financial statements for the two most recent years that prove the applicant has positive net worth. The bill is silent regarding whether the financial statements must be audited by an independent Certified Public Accountant (CPA).

- If an administrator employs or has contracted individuals to sell, solicit or negotiate insurance business, the employees or contracted individuals must first be licensed as producers. Similarly, an administrator who intends to directly solicit insurance contracts or otherwise act as a producer must first be licensed as an insurance producer.
- In order to obtain a TPA license, TPA applicants must file a surety bond in the amount of at least \$100,000 with the Insurance Division. A surety bond must remain in force to maintain licensure as a TPA.
- Senate Bill 1212 is expected to take effect January 1, 2020.

### 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 practice, or your Polsinelli attorney.

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