

Publications

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Recent Regulatory Actions Against TPAs in South Dakota

The South Dakota Division of Insurance (“Division”) recently took regulatory action against a Texas-based Third Party Administrator (“TPA”) regarding its activities in South Dakota. According to the Division, the TPA allegedly was (1) doing business with unauthorized insurers in violation of SDCL §58-29D-31(7); (2) engaging in business with disapproved associations in violation of SDCL §58-18-4.1, 58-18-4.3, 58-29D-31(7), 58-33-102 and ARSD 20:06:42; and (3) paying commissions to unappointed producers in violation of SDCL §58-30-171.

The TPA represented to the Division that, regarding the allegations it engaged in business with unapproved insurers and disapproved associations in South Dakota, it relied on the false representations of others when administering products subject to the above allegations and that it has provided remuneration to South Dakotans as a result of the Division’s allegations. The TPA entered into a Consent Order with the Division and agreed to pay a monetary penalty of \$20,000.

Recently, the Division also took action against a New York-based entity (“Company”) that applied for both TPA and Pharmacy Benefit Manager (“PBM”) licenses in the state of South Dakota. The Division alleged that while the Company submitted its TPA and PBM applications to the Division in October 2023, it had been performing both TPA and PBM work in South Dakota prior to submitting these applications and obtaining proper licensure, thereby violating SDCL §58-290-21.

As a result of the above allegations, the Company entered into a Consent Order with the Division in which it agreed to pay a monetary penalty of \$15,000 pursuant to SDCL §58-29D-31 and §58-4-28.1.

For More Information on Our TPA and PBM Team

Polsinelli’s TPA and PBM teams provide TPA and PBM licensing services, TPA and PBM regulatory and compliance services, drafting and negotiating of administrative services agreements and several other TPA and PBM services. Our teams include attorneys who were former in-house counsel for TPAs and attorneys who were formerly insurance regulators. By leveraging their extensive experience representing TPAs and PBMs, our TPA and PBM teams help clients avoid the learning curve and related cost implications

Related People

- Steven L. Imber
- Jennifer L. Osborn
- Justin T. Liby

Related Capabilities

- Insurance
- Third Party Administrator (TPA) Licensing & Compliance Services

that can be experienced by working with companies or attorneys less familiar with the regulatory and compliance needs of TPAs and PBMs. To learn more about our TPA and PBM Licensing and Compliance practices or to contact a member of our TPA and PBM Licensing and Compliance services teams, please visit our [Third Party Administrators](#) page on our website.