

Nebraska Third Party Administrator Licensing Requirements

REQUIREMENTS AND PROCEDURE FOR OBTAINING A CERTIFICATE OF AUTHORITY TO
TRANSACTION BUSINESS AS A THIRD PARTY ADMINISTRATOR PURSUANT TO
NEB. REV. STAT. §44-5801 TO §44-5816

WHO MUST BE LICENSED

Third party administrator is a person who directly or indirectly does any one or more of the following, for residents of this state, or residents of another state from offices in this state:

- 1) solicits or effect coverage;
- 2) underwrites;
- 3) collects charges or premiums; or
- 4) adjusts or settles claims

This Act applies to TPA's that engage in any of the above activities in connection with life insurance, sickness and accident insurance, workers' compensation insurance coverage or annuities.

TPA's that meet **all** of the following conditions will **not** have to obtain a certificate of authority but notification to our Department is required:

- 1) The principal place of business of the TPA is in another state;
- 2) The TPA is not soliciting business as a TPA in this state; and
- 3) In the case of a group policy or group contract, serviced by a TPA, the lesser of five percent or one hundred certificate holders or subscribers reside in Nebraska

FILING REQUIREMENTS FOR OBTAINING A CERTIFICATE OF AUTHORITY

- 1) Application for Certificate of Authority – online portal <https://doi.nebraska.gov/insurers/company-admissionslicensingregistration>
- 2) Payment of \$200 submitted with application via the online portal. Payment can be made by credit card or ACH transaction
- 3) All basic organizational documents of the applicant, including any articles of incorporation, articles of association, partnership agreement, trade name certificate, trust agreement, shareholder agreement, and other applicable documents and all amendments to such documents.
- 4) The bylaws, rules, regulations, or similar documents regulating the internal affairs of the applicant.

- 5) The names, addresses, official positions, professional qualifications and biographical affidavit of the individuals who are responsible for the conduct of affairs of the applicant including all members of the board of directors, board of trustees, executive committee or other governing board or committee, the principal officers in the case of a corporation or the partners or members in the case of a partnership or association, shareholders holding directly or indirectly ten percent or more of the voting securities of the applicant and any other person who exercises control or influence over the affairs of the applicant.
- 6) Annual financial statements or reports for the two most recent years that prove that the applicant is solvent, and such other information the director may require.
- 7) A statement describing the business plan including information on staffing levels and activities proposed in this state and nationwide. The business plan shall provide details setting forth the applicant's capability for providing a sufficient number of experienced and qualified personnel in the areas of claims processing, record keeping, and underwriting. The statement should include the following information:
 - a. Names and titles of the officers of the corporation
 - b. Who owns the business
 - c. Number of employees
 - d. Number of claims processed
 - e. Number of claims processors
 - f. Type of training program for processors
 - g. Marketing plans
 - h. EDP hardware and software utilized
- 8) If the applicant will be managing the solicitation of new or renewal business, proof that it employs or has contracted with an agent licensed in this state for solicitation and taking applications. Any applicant that intends to directly solicit insurance contracts or to otherwise act as an insurance agent shall provide proof that it has a license as an insurance agent in this state.
- 9) A statement of the duties the TPA is intending to perform on behalf of the insurer and the lines, classes, or types of insurance the TPA will be administering.
- 10) Identify the federally insured or state-insured financial institution where you maintain your fiduciary account.
- 11) After reviewing the documents submitted, additional information may be required.

EXEMPTIONS

The following are not considered TPA's under this Act and therefore, are not required to become licensed:

- 1) An employer on behalf of its employees or the employees or one or more subsidiaries or affiliated corporations of such employer, (not all activity exempt, see General Information section of this notice);
- 2) A union on behalf of its members (not all activity exempt, see General Information section of this notice);
- 3) An insurer which is authorized to transact the business of insurance in this state with respect to a policy issued and delivered in and pursuant to the laws of this state or another state;
- 4) An agent or broker licensed to sell life insurance, sickness and accident insurance, workers compensation insurance coverage, or annuities in this state whose activities are limited exclusively to the sale of insurance (not all activity exempt, see General Information section);
- 5) A creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtor;
- 6) A trust and its trustees, agents, and employees acting pursuant to a trust established under 29 U.S.C. 186 or a trust exempt from taxation.
- 7) A trust exempt from taxation under Section 501(a) of the Internal Revenue Code, its trustees and employees, custodian and the custodian's agents acting pursuant to a custodian account meeting the requirements of Section 401(f) of the Internal Revenue Code;
- 8) A credit union or financial institution subject to supervision by federal or state banking authorities or a mortgage lender, to the extent of collection remits premiums to licensed insurance agents or authorized insurers in connection with loan payments.
- 9) A credit card issuing company which advances for and collects premiums from credit card holders, if the company does not adjust or settle claims;
- 10) The person who adjusts or settles claims in the normal course of practice or employment as an attorney at law and who does not collect charges or premiums in connection with life insurance, sickness and accident insurance, workers compensation insurance coverage, or annuities. (Not all activity exempt, see General Information section of this notice);

- 11) A person acting solely as a TPA of one or more bona fide employee benefit plans established by an employer or employer's organization, or both, for which the insurance laws of Nebraska are preempted pursuant to the Employee Retirement Income Security Act of 1974 (ERISA). However, such person has to register with the Director annually. (Not all activity exempt, see General Information section of this notice); or
- 12) A person licensed as a managing general agent whose activities are limited exclusively to activities allowed under such license (see General Information section of this notice).

GENERAL INFORMATION

If an insurance agent, broker, or managing general agent engages in any of the activities of a TPA (such as adjusting or paying claims for the deductible portion of a partially self-insured plan for an employer) the agent or broker must obtain a certificate of authority from the Department.

If an employer or union exempt from the Act adjusts or settles claims for another employer or union, the employer or union will be considered a TPA.

Persons that engage in any of the following for a fee, must be licensed by the Department under the Insurance Consultant's Act Neb.Rev.Stat. §44-2606 et seq.; offering advice, counsel, opinion or service for insurable risks, or concerning the benefits, coverages, or provisions under any policy of insurance that could be issued on this state.

If a person acting as a TPA for one or more ERISA plans acts as a TPA for a non-ERISA qualified plan, not subject to another exemption, the person must obtain a certificate of authority.

REGISTRATION OF ERISA PLANS

See below Neb.Rev.Stat. §44-5812(7)

"(7) A person shall not be required to hold a certificate of authority as a third- party administrator in this state if the person exclusively provides services to one or more bona fide employee benefit plans each of which is established by an employer or an employee organization, or both, and for which the insurance laws of this state are preempted pursuant to the Employee Retirement Income Security Act of 1974. Such person shall register with the director annually and verify his or her status as described in this section."

A TPA requesting exemption pursuant to 44-5812(7) above must register annually with the Department of Insurance and provide the following information:

- 1) Letter on entity's letterhead signed by an officer.

- 2) Statement that entity is doing business in Nebraska and that they are a TPA solely doing business with ERISA exempt groups and are requesting exemption pursuant to Neb.Rev.Stat. §44-5812(7).
- 3) List ERISA groups administrated by the TPA and include:
 - a. Name
 - b. Address
 - c. Contact Person/Title
 - d. Telephone number
- 4) Statement that should the entity cease doing business with ERISA exempt plans they will notify the Nebraska Department of Insurance within 30 days.