

Nebraska Department of Insurance
941 “O” Street, Suite 400
Lincoln, Nebraska 68508-3639

REQUIREMENTS AND PROCEDURE FOR OBTAINING A CERTIFICATE OF AUTHORITY TO
TRANSACT 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 - Form DOI-TPA.
2. A check in the amount of \$200.00, made payable to Nebraska Department of Insurance.
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 which 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 which 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 expected to perform on behalf of the insurer and the lines, classes or types of insurance the TPA is authorized to administer.
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 employers 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.

State of Nebraska
Department of Insurance
941 "O" Street, Suite 400
Lincoln, NE 68508-3639

APPLICATION FOR CERTIFICATE OF AUTHORITY

THIRD PARTY ADMINISTRATOR

The undersigned hereby applies for a certificate of authority to transact business as a third party administrator pursuant to Neb.Rev.Stat. §44-5801 et seq.

1. Name of Applicant: _____

2. Federal I.D. Number: _____

3. Principal Business Address: _____

Street Address

City	State	Zip Code	Telephone Number
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4. Mailing Address: _____

5. _____ / _____ / _____
State of Domicile (Month) (Date) (Year)
Date of Incorporation

6. Name of Contact Person: _____

Business Address: _____

Street Address: _____

City	State	Zip Code	Telephone Number
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7. Has applicant, or any of its officers, directors, designated employees, or controlling person, or any partnership or corporation with which they are, or were formerly associated during their connection therewith, ever:
- a.) Been discharged by or had a contract terminated for cause by an insurer or employer?
Yes ____ No ____
 - b.) Been refused an insurance agent, broker, consultant or TPA license, had an existing one suspended or revoked by the Insurance Department, or by any state or governmental agency or authority? Yes ____ No ____
 - c.) Excluding minor traffic violations, been convicted of any crime?
Yes ____ No ____
 - d.) Has the applicant or any of its officers, directors, designated employees or controlling person ever been adjudged a bankrupt or have a bankruptcy pending?
Yes ____ No ____
 - e.) Has any person in the TPA ever been convicted of mishandling or misappropriating any insurance carrier or client funds?

Yes ____ No ____
 - f.) Within the last ten years, has any insurance company or client withdrawn its claims paying authority approval of the TPA?

Yes ____ No ____
 - g.) Have any legal actions by plan sponsors or insurance companies been brought against the TPA or any of the principals during the past three (3) years?

Yes ____ No ____
 - h.) Are there any pending Insurance Department complaints, and/or were there any during the last year?

Yes ____ No ____
8. If any answers to questions a-h above are "Yes", give full details on separate sheet of paper.
9. Filing Requirements: The following must be submitted with the application for license.
- a.) 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;

- b.) The bylaws, rules, regulations, or similar documents regulating the internal affairs of the applicant.
- c.) 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.
- d.) Annual financial statements or reports for the two most recent years which prove that the applicant is solvent, and such other information the director may require.
- e.) 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.
- f.) 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 which 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.
- g.) A statement of the duties the TPA is expected to perform on behalf of the insurer and the lines, classes or types of insurance the TPA is authorized to administer. For each plan and carriers (insurance companies), include with the above description of duties, the number of plans serviced in each category.
 - Fully insured;
 - Partially self-insured;
 - Fully self-insured;
 - Multiple Employer Welfare Arrangements
 - Fully insured
 - Self-funded;
 - Taft Hartley Plans; and
 - Cafeteria (Section 125) Plans.

h.) Identify the federally insured or state-insured financial institution where you maintain your fiduciary account and include:

_____ Name

_____ Address

_____ Contact Person/Title

_____ Account Balance

i.) After reviewing the documents submitted, additional information may be required.

The director may refuse to issue a certificate of authority as a third-party administrator if the director determines that the applicant or any individual responsible for the conduct of affairs of the applicant is not competent, trustworthy, financially responsible, or of good personal and business reputation or has had an insurance license or certificate of authority or a third party administrator license or certificate of authority denied or revoked for cause by any state.

President _____ Date _____

Secretary _____ Date _____

State of _____

County of _____

Subscribed to in my presence and duly sworn this _____ day of _____, 20____.

My commission expires, _____.

Notary Public