

## Recent Regulatory Actions Against TPAs in South Dakota

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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.

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