



THE STATE
of **ALASKA**
MICHAEL J. DUNLEAVY
GOVERNOR

Department of Commerce, Community,
and Economic Development

DIVISION OF INSURANCE

P.O. Box 110805
Juneau, AK 99811-0805
Main: 907.465.2515
Fax: 907.465.3422

BULLETIN 19-13

TO: ALL INSURANCE LICENSEES AND THIRD-PARTY ADMINISTRATORS

RE: LIABILITY FOR ASSISTING IN THE TRANSACTION OF UNAUTHORIZED INSURANCE

The Alaska Division of Insurance (division) reminds all insurance licensees and third-party administrators (TPAs) assisting a company engaged in the unauthorized transaction of insurance may put their licenses or registrations at risk and that they may be held responsible pursuant to Alaska Statutes AS 21.27.410(a)(13) and AS 21.33.037 (a), (c), and (d).

The division has noted new types of health insurance or insurance products are being marketed to Alaska consumers. While some of these products, including self-funded single employer health plans under ERISA and recognized health care sharing ministries are exempt from state regulation and do not need a license, certificate, or authorization from the division, other products are subject to the provisions of Title 21. Specifically, companies may claim to be a health care sharing ministry or other innovative organization without complying with the requirements of the claimed exemption. The division advises licensees and TPAs to carefully evaluate all new products and organizations. You may check [the National Association of Insurance Commissioners](#) or [Alaska Division of Insurance](#) websites to verify a company's license or certificate of authority. If you have questions about a company or product, call the division at 907-269-7900.

Insurers and consumers may review the division's bulletin B02-14 available at <https://www.commerce.alaska.gov/web/portals/11/pub/Bulletins/B02-14.pdf> for additional information regarding ERISA plans, multiple employer welfare arrangements (MEWAs), and the characteristics of unauthorized and unlicensed health insurance plans.

Under AS 21.33.037(d), a person who in any manner assists directly or indirectly in the procurement of the unauthorized insurance contract shall be liable to the insured for the full amount of a claim or loss under the terms of the contract if the unauthorized insurer fails to pay the claim or the loss.

Further, if an organization is engaged in unauthorized insurance, the division may bring an action against a licensee or TPA who assisted the organization, whether or not the licensee or TPA knew the product was unauthorized. A person violating AS 21.27.410(a)(13) and AS 21.33.037 may be subject to civil penalties under AS 21.33.065(a) of not more than \$50,000, in addition to applicable criminal penalties and other penalties. The division may also revoke or suspend a

licensee's license or TPA's registration for engaging in the unauthorized transaction of insurance under AS 21.27.410(a)(13).

Acts for which the division may bring an action against a licensee or TPA under AS 21.27.410(a)(13) and AS 21.33.037 include:

- Taking or receiving an application for the unauthorized insurance product;
- Receiving or collecting any consideration for the product, including premiums, commissions, membership fees, assessments, or dues.
- Issuing or delivering a contract for the product.
- Directly or indirectly acting as an agent for or otherwise representing or assisting in:
 - Soliciting, negotiating, procuring or effectuating the product or renewal of the product;
 - Disseminating information relating to the product's coverage or rates;
 - Forwarding an application for the product;
 - Delivering the product policy or contract;
 - Inspecting a risk;
 - Setting a rate;
 - Investigating or adjusting a claim or loss;
 - Transacting a matter after the effectuation of the product that arises out of the product; or
 - Representing or assisting the unauthorized organization in any other matter relating to the product; or
- Contracting to provide indemnification or expense reimbursement for medical expenses by direct payment, reimbursement or otherwise.

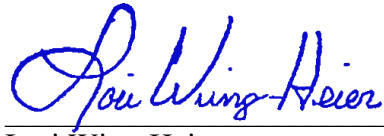
Licensees and TPAs should exercise due diligence before offering products from organizations who are not licensed by the division or who are claiming to be exempt from licensing or certification requirements. The products may have one or more of the following features:

- Commissions significantly higher than similar approved products;
- Declarations that the product is not insurance;
- Risk-Bearing, risk-shifting, or risk-pooling;
- Offers of unlimited, free, or low-cost medical services included with a flat monthly fee, such as telemedicine or preventive care;
- Offers a network of providers similar to preferred provider organizations or health maintenance organizations; or
- Products that function, look and sound like traditional health insurance.

If you believe an organization may be engaged in the unauthorized transaction of insurance, please notify the division at (907)-269-7900 or insurance@alaska.gov.

If you have questions relating to this bulletin, please contact Chris Murray at (907) 465-2545 or Chris.Murray@alaska.gov.

Dated September 17, 2019

A handwritten signature in blue ink that reads "Lori Wing-Heier". The signature is written in a cursive style with a large initial "L".

Lori Wing-Heier
Director