

**191—58.16 (510) Grounds for denial, nonrenewal, suspension or revocation of certificate of registration.**

**58.16(1)** The commissioner may, at the commissioner's discretion and without advance notice or hearing, immediately suspend the certificate of registration of a third-party administrator if the commissioner finds that one or more of the following circumstances exist:

- a.* The third-party administrator is insolvent or impaired;
- b.* A proceeding for receivership, conservatorship, rehabilitation or other delinquency proceeding regarding the third-party administrator has been commenced in any state; or
- c.* The financial condition or business practices of the third-party administrator otherwise pose an imminent threat to the public health, safety or welfare of the residents of this state.

**58.16(2)** The commissioner shall deny, suspend, revoke, or not renew a third-party administrator's certificate of registration if the commissioner finds that the third-party administrator:

- a.* Is in unsound financial condition;
- b.* Is using such methods or practices in the conduct of its business so as to render its further transaction of business in this state hazardous or injurious to insured persons or the public; or
- c.* Has failed to pay any judgment rendered against it in this state within 60 days after the judgment has become final.

**58.16(3)** The commissioner may deny, suspend, revoke, or not renew a third-party administrator's certificate of registration if the commissioner finds that the third-party administrator:

- a.* Has violated or failed to comply with any lawful rule or order of the commissioner or any provision of the insurance laws of this state;
- b.* Has a financial condition that has deteriorated to the degree that it may adversely affect the third-party administrator's ability to operate as a third-party administrator;
- c.* Has filed an application or any necessary forms with the division that contain fraudulent information or omissions;
- d.* Has misappropriated, converted, illegally withheld, or refused to pay over upon proper demand any moneys that belong to a person otherwise entitled to the moneys and that have been entrusted to the third-party administrator in its fiduciary capacities;
- e.* Has provided insufficient explanation, as determined by the commissioner, of the circumstances surrounding evidence that an owner, principal, officer, partner, manager, director, stockholder, trustee, employee of the third-party administrator or the third-party administrator itself:
  - (1) Has had an insurance license or an application for an insurance license in any state denied, suspended, revoked, or not renewed;
  - (2) Has been the subject of an investigation, fine, penalty, order, withdrawal or informal settlement with any state insurance department;
  - (3) Has been the subject of a criminal investigation, summons, arrest, indictment or questioning;
  - (4) Has been charged, tried, convicted of, or pled guilty or no contest to any felony or misdemeanor;

*f.* Has been found by the commissioner not to be competent, trustworthy, financially responsible or of good personal and business reputation;

*g.* Has refused to be examined or to produce its accounts, records and files for examination, or that any of the following individuals responsible for the conduct of the affairs of the third-party administrator has refused to give information with respect to its affairs or has refused to perform any other legal obligation as to an examination, when required by the commissioner: 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, association or limited liability company; any shareholder or member holding directly or indirectly 10 percent or more of the voting stock, voting securities or voting interest of the third-party administrator; or any other person who exercises control or influence over the affairs of the third-party administrator;

*h.* Has, without just cause, refused to pay proper claims or perform services arising under its contracts, caused covered individuals to accept less than the amount due them, or caused covered

individuals to employ attorneys or bring suit against the third-party administrator to secure full payment or settlement of such claims;

*i.* At any time fails to meet any qualification for which issuance of the certificate of registration could have been refused had the failure then existed and been known to the commissioner;

*j.* Has, or any of the following individuals responsible for the conduct of the affairs of the third-party administrator has, been convicted of, or has entered a plea of guilty or nolo contendere to, a felony without regard to whether adjudication was withheld: 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, association or limited liability company; any shareholder or member holding directly or indirectly 10 percent or more of the voting stock, voting securities or voting interest of the third-party administrator; or any other person who exercises control or influence over the affairs of the third-party administrator;

*k.* Is under suspension or revocation in another state;

*l.* Has failed to promptly respond to one or more inquiries of the commissioner; or

*m.* Has failed to timely file its annual report.

**58.16(4)** If the commissioner finds that one or more grounds exist for the suspension or revocation of a certificate of registration issued under this chapter, the commissioner may, in addition to or in lieu of suspension or revocation, impose a monetary penalty that shall not exceed \$1,000 for each act or violation of this chapter, up to an aggregate of \$10,000, unless the person knew or reasonably should have known that the person was in violation of this chapter, in which case the penalty shall not exceed \$5,000 for each act or violation, up to an aggregate of \$50,000 in any one six-month period.

[ARC 8310B, IAB 11/18/09, effective 12/23/09]