

Government of Puerto Rico
OFFICE OF THE COMMISSIONER OF INSURANCE OF PUERTO RICO
San Juan, Puerto Rico

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Secretary of State
Department of State

**RULE NO. 111 OF THE REGULATIONS OF THE
PUERTO RICO INSURANCE CODE**

“THIRD-PARTY ADMINISTRATOR LICENSING PROCESS”

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SECTION 1. - LEGAL AUTHORITY

The Office of the Commissioner of Insurance of Puerto Rico (OCI) adopts Rule Number 111, the “Third-Party Administrator License Application,” in accordance with the powers and authority conferred by Section 2.030(11) of the Insurance Code of Puerto Rico, Act No. 77, enacted on June 19, 1957, as amended, Section 4 of Act No. 169-2024, as well as the provisions of Act No. 38-2017, as amended, the “Government of Puerto Rico Uniform Administrative Procedure Act.”

SECTION 2.- PURPOSE AND SCOPE

Act No. 169 subscribed on August 26, 2024 (Act No. 169-2024), added a new subsection (gg) to Section 7.010 into the Insurance Code of Puerto Rico and added a new Chapter 54 into the Insurance Code of Puerto Rico with the purpose of standardizing the regulation of Third-Party Administrators and establish the registration and licensing requirements of such with the OCI.

In accordance with the provisions of Section 4 of Act No. 169-2024, the OCI, through this Rule, establishes the guidelines for the process of obtaining a license to act as a Third-Party Administrator in Puerto Rico, as defined in Section 54.010(k) of the Insurance Code of Puerto Rico, as well as the registration, responsibilities, and standards that will regulate contracting with insurers as provided by law.

The standards set forth in this Rule shall apply to any application for a license for an individual to act as a Third-Party Administrator in Puerto Rico, as defined in Section 54.010(k) of the Insurance Code of Puerto Rico, to serve insurers transacting life, annuity, health, or stop-loss lines, as well as for health service

organizations, that are not expressly excluded by Section 54.010(k) of the Insurance Code and Section 5 of this Rule.

SECTION 3. – STATEMENT OF NEED AND OBJECTIVE

The OCI recognizes that the lack of specific regulations on Third-Party Administrators has resulted in insufficient oversight of these entities, which puts insured parties and beneficiaries of policy contracts and the solvency of insurers at risk. In view of this, and in accordance with the responsibility of the OCI to enforce and interpret Act 169-2024, this rule provides and specifies the standards for resident and nonresident entities interested in acting as Third-Party Administrators in the insurance business in Puerto Rico to register with and be licensed by the OCI, which will oversee this economic activity. This has become more relevant given the significant increase in the use of these entities that perform certain essential activities by contracting with insurers and health services organizations in Puerto Rico. To this end, the purpose of this Rule is to establish a uniform regulatory framework for licensing Third-Party Administrators, pursuant to the requirements set forth in Act No. 169-2024, which is substantially based on the model law of the National Association of Insurance Commissioners (NAIC). This will ensure that Third-Party Administrator operations are transparent, which will benefit insured parties and beneficiaries who have health, life, annuity, or stop-loss insurance for use in Puerto Rico and improve the solvency control of the insurer or health services organization.

SECTION 4. – EXECUTIVE SUMMARY

Through Act No. 169-2024, Chapter 54, “Third-Party Administrators,” was added to the Insurance Code of Puerto Rico to establish a clear and uniform regulatory framework for the licensing of Third-Party Administrators interested in transacting business as such in the Puerto Rico insurance industry. The increased use of Third-Party Administrators in the Puerto Rico insurance industry to perform multiple administrative insurance duties has generated the need for specific health, life, annuity, and stop-loss insurance regulations. Until now, the Insurance Code lacked standards for these entities and had not required the OCI

to register and regulate them. Based on the model law of the National Association of Insurance Commissioners (NAIC), Chapter 54 of the Insurance Code seeks to improve the OCI's supervision and oversight of Third-Party Administrators by ensuring uniform and transparent practices and the registration of these entities with the OCI as regulator, which up until now was not the case. This regulation seeks to establish the necessary regulatory framework to facilitate the implementation of Act No. 169-2024 by establishing the registration process for Third-Party Administrators and the necessary requirements and procedure for licensing these entities. This ensures that the entities interested in operating in Puerto Rico as a Third-Party Administrator do so within the framework of Chapter 54 of the Insurance Code, which protects the insured parties and beneficiaries by providing effective oversight of the registered entities. This Rule does not entail additional costs for its implementation since the development of the Third-Party Administrators licensing and reporting system and their regulatory oversight is part of the OCI's existing licensing administrative framework. This Rule undoubtedly improves the oversight of Third-Party Administrators and ensures transparency within the insurance industry, which benefits both insurers and insured parties.

SECTION 5. – THIRD-PARTY ADMINISTRATOR, EXCEPTIONS

According to Section 2 of Act No. 169-2024, which adds Section 54.010(k) to the Insurance Code of Puerto Rico, a Third-Party Administrator is "... a person who directly or indirectly underwrites, collects charges, collateral, or premiums from, or adjusts or settles claims of residents of the Commonwealth of Puerto Rico, in connection with life, annuity, health or stop-loss coverage...". Pursuant to the aforementioned provision of law, a person shall not be considered a Third-Party Administrator if that person's only actions that would otherwise cause it to be considered a Third-Party Administrator are among the following:

1. A person working for a Third-Party Administrator to the extent that the person's activities are subject to the supervision and control of the Third-Party Administrator;

2. An employer administering its employee benefit plan or the employee benefit plan of an affiliated employer under common management and control;
3. The administration of a bona fide employee benefit plan established by an employer or an employee organization pursuant to the Employee Retirement Income Security Act (ERISA) of 1974;
4. A union while administering a benefit plan on behalf of its members;
5. An insurer administering insurance coverage for its policyholders, subscribers, or certificate holders, or those of an affiliated insurer under common management and control;
6. An insurer directly or indirectly underwriting, collecting charges, collateral, or premiums from, or adjusting or settling claims on behalf of a person who is not a policyholder, subscriber, or certificate holder, and who has its principal location of business in a jurisdiction in which the insurer is authorized or licensed to write that line of coverage;
7. An insurer directly or indirectly underwriting, collecting charges, collateral, or premiums, or adjusting or settling claims, provided that the insurer is authorized in the Commonwealth of Puerto Rico to write that line of coverage;
8. An insurance producer engaged in solicitation activities or related activities within the scope of the producer's license;
9. A creditor acting on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors;
10. A trust and its trustees and agents acting pursuant to such trust established in conformity with 29 U.S.C. Section 186;
11. A trust exempt from taxation under Section 501(a) of the United States Internal Revenue Code and its trustees acting pursuant to such trust, or a custodian and the custodian's agents acting pursuant to a custodian account which meets the requirements of Section 401(f) of the United States Internal Revenue Code;
12. A credit union or a financial institution that is subject to supervision or examination by federal or state banking authorities, or a mortgage lender, when

collecting or remitting premiums to licensed insurance producers or to limited lines producers or authorized Payors in connection with loan payments;

13. A credit card issuing company advancing or collecting insurance premiums or charges from its credit card holders who have authorized collection;

14. An individual adjusting or settling claims in the normal course of that individual's practice as an attorney at law and who does not collect charges or premiums in connection with insurance coverage;

15. A person licensed as a general agent or manager in the Commonwealth of Puerto Rico when acting within the scope of that license; or

16. A business entity that is affiliated with a licensed insurer while acting as a Third-Party Administrator for the direct and assumed insurance business of an affiliated insurer.

SECTION 6. - THIRD-PARTY ADMINISTRATOR LICENSE APPLICATION

6.1 - No person shall act as a Third-Party Administrator unless that person holds a license to act as a Third-Party Administrator issued by the Commissioner of Insurance of Puerto Rico pursuant to Chapter 54 of the Insurance Code of Puerto Rico and as provided by this Rule, except if a person is exempted from the licensing requirements pursuant to Section 54.110 of the Insurance Code of Puerto Rico. This prohibition shall not apply to a person while employed by, or when operating under contract to, a Third-Party Administrator that is licensed pursuant to Chapter 54, or exempted from the licensing requirements pursuant to Section 54.110 of the Insurance Code of Puerto Rico.

6.2 - A nonresident Third-Party Administrator licensed in its home state is not required to hold a nonresident Third-Party Administrator license in Puerto Rico if the Third-Party Administrator's duties in Puerto Rico are limited to the administration of group policies or plans of insurance and no more than one hundred (100) policyholders reside in Puerto Rico, pursuant to Section 54.110 of the Insurance Code of Puerto Rico.

6.3 - An individual, that is, a natural person, may not qualify for a Third-Party Administrator license under Section 54.100 of the Insurance Code of Puerto

Rico in accordance with the provisions of the penultimate paragraph of said provision of law.

6.4 - The Commissioner of Insurance may refuse to issue a license if the Commissioner determines that the Third-Party Administrator applying for a license or any individual responsible for the conduct of affairs of the Third-Party Administrator is not competent, trustworthy, financially responsible, or of good personal and business reputation, or has had an insurance or a Third-Party Administrator Certificate of Authority or license denied or revoked for cause by any jurisdiction, or if the Commissioner of Insurance determines that any of the grounds set forth in Section 54.130 of the Insurance Code of Puerto Rico exist with respect to the Third-Party Administrator. The Commissioner of Insurance shall notify the determination in writing stating the grounds for denying licensure and shall afford the opportunity for an administrative hearing as provided in Section 2.190 of the Insurance Code of Puerto Rico, except when the suspension of the license of a Third-Party Administrator or the order to cease and desist when the Third-Party Administrator does not hold a license is for the causes specified in Section 54.130(C) of the Insurance Code and Section 8.3 of Rule 111, which provides its own process.

6.5 - A duly issued license shall remain valid, unless suspended or revoked by the Commissioner of Insurance, after holding a hearing to that effect, for so long as the Third-Party Administrator continues operating in Puerto Rico and complies with the law.

SECTION 6(A) - APPLICANTS ORGANIZED UNDER THE LAWS OF PUERTO RICO OR WHOSE PRINCIPAL PLACE OF BUSINESS IS OUTSIDE PUERTO RICO

- a. A Third-Party Administrator applying for licensure may designate Puerto Rico as its home state and apply for the license to act as such in Puerto Rico using the *Uniform Application for Third-Party Administrator License* of the NAIC, which may be accessed through the OCI website <https://www.ocs.pr.gov/regulados/servicios-en-linea> and clicking in the *New License Application [Solicitar Licencias Nuevas]* icon to be directed to the

NIPR website (<https://nipr.com/>), where the applicant must create an account to access the application. The *Uniform Application* will be the only means of applying for a Third-Party Administrator license with the OCI.

- b. The Third-Party Administrator applying for licensure shall designate in the application an individual as the Third-Party Administrator's contact person for department communications from the OCI. The Third-Party Administrator applying for licensure must notify the name and contact information of this person on the *Uniform Application* to the OCI Division of Services to the Regulated.
- c. Pursuant to the provisions of Section 54.100 of the Insurance Code of Puerto Rico, the Third-Party Administrator applying for a license must include the following information and documents with the *Uniform Application* and submit it for consideration by the OCI Division of Services to the Regulated:
 - (1) 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.
 - (2) The bylaws, rules, regulations, or similar documents regulating the internal affairs of the applicant.
 - (3) NAIC Biographical Affidavit for 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, association, or limited liability company; any shareholders or member holding directly or indirectly ten percent (10%) or more of the voting stock, voting securities, or voting interest of the applicant; and any other person who exercises control or influence over the affairs of the applicant.
 - (4) Audited annual financial statements or reports for the two (2) most recent fiscal years that prove that the applicant has a positive net worth. If the applicant has been in existence for less than two (2) fiscal years, the Uniform Application shall include financial statements or reports, certified by an officer of the applicant and

prepared in accordance with GAAP, for any completed fiscal years, and for any month during the current fiscal year for which such financial statements or reports have been completed. An annual audited financial report prepared on a consolidated basis shall include a columnar consolidating or combining worksheet that shall be filed with the report and include the following: a) amounts shown on the consolidated audited financial report shall be shown on the worksheet; b) amounts for each entity shall be stated separately, and c) explanations of consolidating and eliminating entries shall be included. The applicant shall also include such other information as the Commissioner may require to review the current financial condition of the applicant.

(5) A statement describing the business plan including information on staffing levels and activities proposed in the Government of Puerto Rico and the United States. The 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; and

(6) Such other pertinent information as may be required by the Commissioner.

d. A Third-Party Administrator applying for licensure shall include with the *Uniform Application* a list of all Payors¹ and other persons utilizing the services of the Third-Party Administrator who are under contract with such and the term of the contract.

e. Any *Uniform Application* that is incomplete or has not been submitted with all required documents will be considered by the OCI as incomplete and the OCI will not begin its evaluation and processing until it is completed.

f. A Third-Party Administrator licensed or applying for licensure shall make available to the Commissioner copies of all contracts with Payors² or other persons utilizing the services of the Third-Party Administrator and shall produce its accounts, records, and files for examination. They will be

¹ Pursuant to Section 54.010(h) of the Insurance Code of Puerto Rico, "Payor" means "an insurer or an employer administering its employee benefit plan or the employee benefit plan of an affiliated employer under common management and control."

² See Footnote 1

covered by the safeguards provided for in Section 54.030 of the Insurance Code of Puerto Rico.

- g. A Third-Party Administrator licensed or applying for a license shall produce its accounts, records, and files for examination and make its officers available to give information with respect to its affairs, as often as reasonably required by the Commissioner.

SECTION 6(B) - APPLICANTS NOT ORGANIZED UNDER THE LAWS OF PUERTO RICO OR WHOSE PRINCIPAL PLACE OF BUSINESS IS OUTSIDE PUERTO RICO:

- a. In the case of a Third-Party Administrator applying for a license that is not organized under the laws of Puerto Rico nor has its principal place of business in Puerto Rico and its home state has not adopted a law substantially similar to that of Puerto Rico, such Third-Party Administrator applying for a license may designate Puerto Rico as its home state, file a *Uniform Application* with the Commissioner of Insurance of Puerto Rico as such, and meet the requirements imposed on applicants organized under the laws of Puerto Rico by following the process provided in Section 6(A) of this Rule.

SECTION 6(C) - NONRESIDENT THIRD-PARTY ADMINISTRATOR LICENSE APPLICANTS:

- a. Unless a Third-Party Administrator has obtained a license pursuant to Section 54.100 of the Insurance Code of Puerto Rico and Section 6(A) and 6(B) of this Rule, any Third-Party Administrator performing functions as such in Puerto Rico shall obtain a nonresident Third-Party Administrator license pursuant to the provisions of Section 54.110 of the Insurance Code of Puerto Rico by filing with the Commissioner the *Uniform Application* through the process provided in Section 6(A) of this Rule accompanied by a letter of certification, or in lieu thereof, a copy of the current certificate of authority or certificate of good standing of its license officially issued by the home state of the Third-Party Administrator applying for a license.

- b. The Nonresident Third-Party Administrator shall **annually** file a statement with the OCI that its home state Third-Party Administrator certificate of authority or license remains in force and has not been revoked or suspended by its home state during the preceding year unless the Commissioner is able to verify this information through an electronic database maintained by the National Association of Insurance Commissioners (NAIC). The fact that the Commissioner of Insurance makes this verification does not exempt the Nonresident Third-Party Administrator applying for a license from paying the fee provided in Section 7.010(gg) of the Insurance Code of Puerto Rico at the time of filing the application for license and renewal.
- c. A Nonresident Third-Party Administrator shall meet the same obligations as the Third-Party Administrator with respect to making available to the Commissioner contracts, accounts, records, files, and officers as provided for in Section 6(A)(f) and (g) of this Rule. The Third-Party Administrator shall also file with the *Uniform Application* a list of all Payors³ and other persons utilizing the services of the Third-Party Administrator who are under contract with such and the term of the contract, as well as the name of the contact person for communications from the OCI.
- d. Any *Uniform Application* that is incomplete or has not been submitted with all the required documents will be considered by the OCI as incomplete and the OCI will not begin its evaluation and processing until it is completed.
- e. As provided in Section 54.110 of the Insurance Code of Puerto Rico, a Nonresident Third-Party Administrator licensed in its home state is not required to hold a Third-Party Administrator license in Puerto Rico if the Third-Party Administrator's duties in Puerto Rico are limited to the

³ See Footnote 1

administration of group policies or plans of insurance and no more than one hundred (100) policyholders reside in Puerto Rico.

6.6 - Requirement to Notify the Commissioner: A Third-Party Administrator licensed or applying for licensure under Section 54.100 and Section 6(A) and 6(B) of this Rule is required to notify the Commissioner of Insurance of Puerto Rico, through the Division of Services for the Regulated, within thirty (30) days of any material change in its ownership, control, contact person for the Third-Party Administrator, or other fact or circumstance affecting its qualification to hold a license as such in Puerto Rico.

SECTION 7 - LICENSING FEE

7.1 - All Third-Party Administrator licenses shall remain in effect for one (1) year as of the date the OCI issues such license. The license shall be renewed annually. If the license is not renewed within the term granted for such purpose, the Third-Party Administrator shall be required to submit a new *Uniform Application*.

7.2 - In accordance with subsection (gg) of Section 7.010 of the Insurance Code of Puerto Rico, any entity that applies for a Third-Party Administrator license or renews its Third-Party Administrator license must issue an annual payment of two thousand five hundred dollars (\$2,500.00). Payment must be made upon filing the *Uniform Application* and the requested documents.

SECTION 8 - GROUNDS FOR DENIAL, SUSPENSION, OR REVOCATION OF LICENSE

8.1 - As provided in Section 54.130 of the Insurance Code of Puerto Rico, the Commissioner of Insurance has the power to deny, suspend, or revoke the license of a Third-Party Administrator. The Commissioner of Insurance shall notify a cease and desist order with the opportunity to appear at an administrative hearing if the Commissioner finds that the Third-Party Administrator meets one of the following conditions:

- (1) Is in an unsound financial condition;
- (2) Is using such business methods or practices that are hazardous or injurious to insured parties or the public;
- (3) Has failed to pay any judgment rendered against it within sixty (60) days after the judgment has become final and unappealable.

The OCI shall notify Payors, as defined above, and other persons with whom the Third-Party Administrator has a contract appearing in the OCI's records, a copy of the final Determination or Resolution to be issued by the Commissioner of Insurance in due course.

8.2 - The Commissioner may deny, suspend, or revoke the license of a Third-Party Administrator or may issue a cease and desist order should the Third-Party Administrator not be duly licensed if, after notice and opportunity for administrative hearing, the Commissioner of Insurance of Puerto Rico finds that the Third-Party Administrator:

- (1) Has violated any rule or order of the Commissioner or any provision of the Insurance Code of Puerto Rico;
- (2) Has refused to be examined or to produce its accounts, records, and files for examination, or if any individual responsible for the conduct of affairs of the Third-Party Administrator, including 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 ten percent (10%) or more of the voting stock, voting securities, or voting interest of the Third-Party Administrator; and any other person who exercises control or influence over 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 of Insurance of Puerto Rico;

(3) Has, without just cause, refused to pay proper claims or perform services arising under its contracts or has, without just cause, caused insured parties to accept less than the amount due them or caused insured parties to employ attorneys or bring suit against the Third-Party Administrator or a Payor which it represents to secure full payment or settlement of such claims;

(4) Is required pursuant to this Act to have a license and fails to meet its requirements, for which issuance of a license could have been refused unless the Commissioner of Insurance of Puerto Rico issued a license with knowledge of the noncompliance and had the authority to waive it;

(5) If any of the individuals responsible for the conduct of its affairs, including 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 ten percent (10%) or more of its voting stock, voting securities, or voting interest; and any other person who exercises control or influence over its affairs; has been convicted of a felony or has entered a plea of guilty or nolo contendere to a felony without regard to whether adjudication was withheld;

(6) Is under suspension or revocation in another state; or

(7) Has failed to file a timely annual report pursuant to Section 54.120, in the case of a Resident Third-Party Administrator, or a timely statement and filing fee, as applicable, pursuant to the fourth

paragraph of Section 54.110, in the case of a Nonresident Third-Party Administrator.⁴

The OCI shall notify Payors, as defined above, and other persons with whom the Third-Party Administrator has a contract appearing in the OCI's records, a copy of the final Determination or Resolution to be issued by the Commissioner of Insurance in due course.

8.3 - The Commissioner of Insurance of Puerto Rico, in his or her discretion, without advance notice, and before a hearing, may issue an order immediately suspending the license of a Third-Party Administrator, or may issue a cease and desist order should the Third-Party Administrator not have a license, 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; or
- (c) The financial condition or business practices of the Third-Party Administrator pose an imminent threat to the public health, safety, or welfare of the residents of the Government of Puerto Rico.

When the Commissioner of Insurance of Puerto Rico issues an order in accordance with Section 8.3 of this Rule, the Commissioner shall serve notice to the Third-Party Administrator of the Third-Party Administrator's right to request an administrative hearing within ten (10) days after the receipt of the notice. If an administrative hearing is requested, the

⁴ Section 54.130 of the Insurance Code of Puerto Rico provides in subsection (B)(7) that the Commissioner may deny, suspend, or revoke the license of a Third-Party Administrator or may issue a cease and desist order should the Third-Party Administrator not be licensed if, a nonresident Third-Party Administrator failed to file a "timely statement and filing fees, as applicable, in accordance with subsections D and E of Section 54.110...". However, in Section 54.110 of Act No. 169-2024, letters were not used to subdivide the subsection; therefore, the paragraph that provides for that matter is identified as the fourth paragraph of Section 54.110 of the Insurance Code of Puerto Rico.

Commissioner shall schedule a hearing within ten (10) business days after receipt of the request. If an administrative hearing is not requested and the Commissioner of Insurance of Puerto Rico orders none, the order shall remain in effect until modified or vacated by the Commissioner.

The OCI shall notify Payors, as defined above, and other persons with whom the Third-Party Administrator has a contract appearing in the OCI's records, a copy of the final Determination or Resolution to be issued by the Commissioner of Insurance in due course.

8.4 - If the Commissioner of Insurance of Puerto Rico finds that one or more grounds exist for the suspension or revocation of a license under Section 8 or for a cease and desist order, the Commissioner may, in lieu of or in addition to the suspension, revocation, or cease and desist order, impose a fine upon the Third-Party Administrator.

8.5 - As to the denial, suspension, or revocation of a third-party administrator's license because of the control an insurer or payor may exercise over such third-party administrator as provided in subsection (F) of Section 54.130 of the Insurance Code of Puerto Rico, any third-party administrator applying for a license with the OCI shall also be required to submit together with the *Uniform Application* and with each renewal, the documents indicated below:

1. The written Operational Plan, which must include the claims-handling process, emphasizing impartial decision-making by the Third-Party Administrator for the submitted claims. The plan must be sworn before a notary public-attorney by the owner, shareholder, or member, and must also include the following:
 - a. The authority and discretion the owner, shareholder, or member grants to the Third-Party Administrator as an affiliate to independently and impartially handle and decide claims;

- b. The written process whereby the affiliated Third-Party Administrator shall process and issue determinations independent of the interests of the insurer or health services organization on claims submitted to the Third-Party Administrator;
- c. A clause providing that the only intervention with the duties of the Third-Party Administrator shall be in matters authorized by Act 169-2024; and
- d. The process established for preserving the Third-Party Administrator's independent discretion in performing its duties, along with the internal chain of command established to ensure the independence and impartiality of the Third-Party Administrator's determinations on consumer and provider complaints.

SECTION 9 - RESPONSIBILITIES OF THE THIRD-PARTY ADMINISTRATOR

9.1 - All third-party administrators holding a license issued by the OCI shall have the following responsibilities:

- 1. Maintain complete records of all transactions performed on behalf of the insurer. The OCI shall have access to all records for audit purposes.
- 2. Notify the OCI of the written consent of the insurer on whose behalf the third-party administrator offers advertising services. Pursuant to the provisions of Section 54.040 of the Insurance Code of Puerto Rico, a Third-Party Administrator that advertises on behalf of its client may only use advertising that has been approved in writing by the client in advance of its use. A Third-Party Administrator that mentions any current or former client in its advertising must obtain the client's prior written consent.
- 3. Responsibilities of the Third-Party Administrator and Payor: Pursuant to Section 54.050 of the Insurance Code of Puerto Rico, a Third-Party Administrator shall act as such in accordance with the provisions of the

written agreement with the Payor. The Third-Party Administrator shall retain a copy of the agreement for the duration of the agreement and for five (5) years thereafter. In turn, the Payor has the duty to ensure its programs administered by a Third-Party Administrator are competent and comply with the provisions of Law. Therefore, the Payor shall retain responsibility for the benefits and for ensuring the fulfillment of the applicable provisions regarding premium rates, collateral, and reimbursement procedures, underwriting criteria, and claims payment procedures applicable to the coverage. The Payor shall also retain responsibility for securing reinsurance or stop-loss insurance. The Payor shall be responsible for the acts of the Third-Party Administrator and shall be responsible for providing the Third-Party Administrator's books and records to the Commissioner. The Payor shall be responsible for fulfilling the lawful obligation with respect to a policy, certificate, or claim.

4. Pursuant to Section 54.060 of the Insurance Code of Puerto Rico, the Third-Party Administrator shall be responsible, as fiduciary, for collecting premiums and paying claims and shall have the duty to maintain the funds in a financial institution insured by the federal government.
5. Compensation to the Third-Party Administrator may not be contingent upon savings resulting from the losses covered under the benefit plan. A Third-Party Administrator may receive performance-based compensation for providing hospital or other auditing services, providing managed care or related services, or being compensated for subrogation expenses.
6. The third-party administrator shall file with the Commissioner of Insurance of Puerto Rico an annual report for the preceding calendar year on or before June 30 of each year, **including an audited financial statement performed by an independent certified public accountant**, in accordance with the requirements of Section 54.120 of the Insurance Code of Puerto Rico. This date is mandatory unless the Commissioner grants an extension for good cause. The extension must be requested in writing three (3) days prior to

the date provided for filing the report. The audited financial statement shall be subscribed before a notary public-attorney by at least two (2) officers of the Third-Party Administrator. At the time of filing the annual report, the Third-Party Administrator shall pay an annual filing fee of one hundred dollars (\$100). The Commissioner shall review the annual report filed by each Third-Party Administrator and its compliance with all requirements set forth in Section 54.120 of the Insurance Code of Puerto Rico on or before September 1 of each year. Upon completion of the review, the Commissioner shall issue a certification to the Third-Party Administrator indicating that the annual report shows that the Third-Party Administrator has a positive net worth as evidenced by audited financial statements and is currently licensed, or noting any deficiencies found in that annual report and financial statements; or the Commissioner shall update any electronic database maintained by the NAIC, its affiliates, or subsidiaries, indicating that the annual report shows that the Third-Party Administrator has a positive net worth as evidenced by audited financial statements and complies with existing law, or noting any deficiencies found in the annual report. Within fifteen (15) days from the date the certification is sent to the Third-Party Administrator, the OCI shall send a copy of such certification to the insurers and payors identified by the Third-Party Administrator in its report to the e-mail address provided therein.

SECTION 10. - CONFIDENTIALITY

In accordance with the provisions of Section 54.030 of the Insurance Code, any documents, materials, or other information in the possession or control of the Commissioner that are furnished by a Third-Party Administrator, Payor, insurance producer, or an employee or agent thereof acting on behalf of the Third-Party Administrator, Payor, or insurance producer, or obtained by the Commissioner in an investigation shall be confidential by law and shall not be subject to production under any access of information law, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any

private civil action. However, the Commissioner is authorized to use such documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the Commissioner's official duties and as provided in subsection D of Section 54.030 of the Insurance Code. Neither the Commissioner nor any person who receives documents, materials, or other information while acting under the authority of the Commissioner shall be required to testify in any private civil action concerning confidential documents, materials, or information.

SECTION 11. - EXCEPTION CLAUSE

If any word, subsection, sentence, paragraph, clause, section, or portion of this Rule is found to be null and void or invalidated by a court of competent jurisdiction, the judgment or order rendered by such court shall not affect or invalidate the remaining provisions of the Rule; that is to say, the effect thereof will be limited to the word, subsection, sentence, paragraph, clause, section, or part that has been declared unconstitutional, null and void, or invalid and shall not affect or impair in any sense its application or validity in any other previous case.

SECTION 12. - EFFECT

The provisions of this Rule shall take effect thirty (30) days after their filing with the Department of State of Puerto Rico, in accordance with the provisions of Act No. 38-2017, *supra*. In accordance with Act No. 169-2024, the guidelines established in this Rule shall apply to the registration of entities interested in operating in Puerto Rico as Third-Party Administrators that are not expressly excluded from it. Any Third-Party Administrator who, as of the effective date of said law, provides services as such in Puerto Rico must file a *Uniform Application* accompanied by all the documents required to obtain a license within thirty (30) days from the effective date of this Rule.

/s/ Alexander S. Adams Vega

ALENDANDER S. ADAMS-VEGA, ESQ.
COMMISSIONER OF INSURANCE OF PUERTO RICO

Date of Approval: February 11, 2025

Date of Filing with the Department of State:

Date of Filing with the Library of the Legislature: