1400 Health Insurance Specific Provisions

1406 Third Party Administrators

1.0 Scope and Authority

This Regulation is adopted by the Commissioner pursuant to the authority granted by 18 **Del.C.** §§ 102, 74 **Del. Laws** Ch. 157, and promulgated in accordance with the Delaware Administrative Procedures Act, Title 29 **Del.C.** Ch. 101.

2.0 Definitions

For purposes of this Regulation:

2.1 **"Administrator"** or **"third party administrator"** or **"TPA"** means a person

2.1.1 who directly or indirectly underwrites, collects charges or premiums from, or denies, modifies, adjusts or settles claims on residents of this state in connection with health and/or pharmacy benefits coverage offered or provided by an insurer, except any of the following:

2.1.1.1 An employer, or a wholly owned direct or indirect subsidiary of an employer, on behalf of its employees or the employees of one or more subsidiaries or affiliated corporations of such employer;

2.1.1.2 A union on behalf of its members;

2.1.1.3 An insurer that is authorized to transact insurance in this state pursuant to Title 18;

2.1.1.4 An insurance producer licensed to sell health and/or pharmacy benefits coverage in this state, whose activities are limited exclusively to the sale of insurance;

2.1.1.5 A creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors;

2.1.1.6 A trust and its trustees, agents and employees acting pursuant to such trust established in conformity with 29 U.S.C. Section 186;

2.1.1.7 A trust exempt from taxation under Section 501(a) of the Internal Revenue Code, its trustees and employees acting pursuant to such trust, or a custodian and the custodian's agents or employees acting pursuant to a custodian account which meets the requirements of Section 401(f) of the Internal Revenue Code;

2.1.1.8 A credit union or a financial institution that is subject to supervision or examination by federal or state banking authorities, or a mortgage lender, to the extent they collect and remit premiums to licensed insurance producers or to limited lines producers or authorized insurers in connection with loan payments;

2.1.1.9 A credit card issuing company that advances for and collects insurance premiums or charges from its credit card holders who have authorized collection;

2.1.1.10 A person who adjusts or settles claims in the normal course of that person's practice or employment as an attorney at law and who does not collect charges or premiums in connection with health and/or pharmacy health benefits coverage;

2.1.1.11 An adjuster licensed by this state whose activities are limited to adjustment of claims;

2.1.1.12 A person licensed as a managing general agent in this state, whose activities are limited exclusively to the scope of activities conveyed under such license;

2.1.1.13 An administrator who is affiliated with an insurer and who only performs the contractual duties (between the administrator and the insurer) of an administrator for the direct and assumed insurance business of the affiliated insurer. The insurer is responsible for the acts of the administrator and is responsible for providing all of the administrator's books and records to the insurance Commissioner, upon a request from the insurance Commissioner. For purposes of this paragraph, "insurer" shall have the same meaning as set forth in section 2.8 of this regulation; or

2.1.1.14 A person, firm or entity whose business is solely limited to the payment of money, claims or bills at the direction of an insurer and who does not adjust or settle claims on residents of this state in connection with health coverage offered or provided by an insurer.

2.2 **"Affiliate or affiliated"** means an entity or person who directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, a specified entity or person.

2.3 **"Commissioner"** means the Insurance Commissioner of Delaware.

2.4 **"Control"** (including the terms "controlling," "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten percent (10%) or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by 18 **Del.C.** Chapter 50 that control does not exist in fact. The Commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

2.5 **"GAAP"** means United States generally accepted accounting principles consistently applied.

2.6 **"Home state"** means the District of Columbia and any state or territory of the United States in which an administrator is incorporated, or maintains its principal place of business. If neither the state in which the administrator is incorporated, nor the state in which it maintains its principal place of business has adopted this Regulation, or a substantially similar law governing administrators, the administrator may declare another state, in which it conducts business, to be its "home state."

2.7 **"Insurance producer"** means a person who sells, solicits or negotiates a contract of insurance as those terms are defined in this Regulation.

2.8 **"Insurer"** means a person undertaking to provide health and/or pharmacy benefits coverage or self-funded coverage under a governmental plan or church plan in this state. For the purposes of this Regulation, insurer includes an employer, a licensed insurance company, a prepaid hospital or medical care plan, a health maintenance organization, a managed care organization, a health service corporation,or a multiple employer welfare arrangements (MEWAs).

2.9 **"Negotiate"** means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.

2.10 **"Nonresident administrator"** means a person who is applying for licensure or is licensed in any state other than the administrator's home state.

2.11 **"Person"** means an individual or a business entity.

2.12 **"Sell"** means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company.

2.13 **"Solicit"** means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company.

2.14 **"Underwrites" or "underwriting"** means, but is not limited to, the acceptance of employer or individual applications for coverage of individuals in accordance with the written rules of the insurer or self-funded plan; the overall planning and coordinating of a benefits program.

2.15 **"Uniform Application"** means the current version of the NAIC Uniform Application for Third Party Administrators.

3.0 Requirement for Written Agreement

3.1 No administrator shall act as such without a written agreement between the administrator and the insurer, and the written agreement shall be retained as part of the official records of both the insurer

and the administrator for the duration of the agreement and for five (5) years thereafter. The agreement shall contain all provisions required by this regulation, except insofar as those requirements do not apply to the functions performed by the administrator.

3.2 The written agreement shall include a statement of duties that the administrator is expected to perform on behalf of the insurer and the lines, classes or types of insurance for which the administrator is to be authorized to administer. The agreement shall make provision with respect to underwriting or other standards pertaining to the business underwritten by the insurer.

3.3 The insurer or administrator may, with written notice, terminate the written agreement for cause as provided in the agreement. The insurer may suspend the underwriting authority of the administrator during the pendency of any dispute regarding the cause for termination of the written agreement. The insurer shall fulfill any lawful obligations with respect to policies affected by the written agreement, regardless of any dispute between the insurer and the administrator.

4.0 Payment to Administrator

If an insurer utilizes the services of an administrator, the payment to the administrator of any premiums or charges for insurance by or on behalf of the insured party shall be deemed to have been received by the insurer, and the payment of return premiums or claim payments forwarded by the insurer to the administrator shall not be deemed to have been paid to the insured party or claimant until the payments are received by the insured party or claimant. Nothing in this section limits any right of the insurer against the administrator resulting from the failure of the administrator to make payments to the insurer, insured parties or claimants.

5.0 Maintenance of Information

5.1 An administrator shall maintain and make available to the insurer complete books and records of all transactions performed on behalf of the insurer. The books and records shall be maintained in accordance with prudent standards of insurance record keeping and shall be maintained for a period of not less than five (5) years from the date of their creation.

5.2 The Commissioner shall have access to books and records maintained by an administrator for the purposes of examination, audit and inspection. Any documents, materials or other information in the possession or control of the Commissioner that are furnished by an administrator, insurer, insurance producer or an employee or agent thereof acting on behalf of the administrator, insurer or insurance producer, or obtained by the Commissioner in an investigation shall be confidential by law, shall not be subject to the provisions of 29 **Del.C.** Ch. 100, shall not be not 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, in which case the rules of the court having jurisdiction over the case shall govern the production and admissibility of such documents.

5.3 Neither the Commissioner nor any person who received documents, materials or other information while acting under the authority of the Commissioner shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to § 5.2.

5.4 In order to assist in the performance of his or her duties, the Commissioner:

5.4.1 May share documents, materials or other information, including the confidential and privileged documents, materials or information subject to §5.2 with other state, federal and international regulatory agencies, with the National Association of Insurance Commissioners, its affiliates or subsidiaries and with state, federal and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material or other information; and

5.4.2 May receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the National Association of Insurance Commissioners, its affiliates or subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or

information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information.

5.5 No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the Commissioner under this section or as a result of sharing as authorized in § 5.4.

5.6 Nothing in this Regulation shall prohibit the Commissioner from releasing final, adjudicated actions including for cause terminations that are open to public inspection pursuant to 29 **Del.C.** Ch. 100 to a database or other clearinghouse service maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries.

5.7 The insurer shall own the records generated by the administrator pertaining to the insurer; however, the administrator shall retain the right to continuing access to books and records to permit the administrator to fulfill all of its contractual obligations to insured parties, claimants, and the insurer.

5.8 In the event the insurer and the administrator cancel their agreement; notwithstanding the provisions of §5.1, the administrator may, by written agreement with the insurer, transfer all records to a new administrator rather than retain them for five (5) years. In such cases, the new administrator shall acknowledge, in writing, that it is responsible for retaining the records of the prior administrator as required in §5.1.

6.0 Approval of Advertising

An administrator may use only advertising pertaining to the business underwritten by an insurer that has been approved in writing by the insurer in advance of its use.

7.0 Responsibilities of the Insurer

7.1 If an insurer utilizes the services of an administrator, the insurer shall be responsible for determining the benefits, premium rates, underwriting criteria and claims payment procedures applicable to the coverage and for securing reinsurance, if any. The rules pertaining to these matters shall be provided, in writing, by the insurer to the administrator. The responsibilities of the administrator as to any of these matters shall be set forth in the written agreement between the administrator and the insurer.

7.2 It is the sole responsibility of the insurer to provide for competent administration of its programs.

7.3 In cases where an administrator administers benefits for more than one hundred certificate holders on behalf of an insurer, the insurer shall, at least semiannually, conduct a review of the operations of the administrator. At least one such review shall be an on-site audit of the operations of the administrator.

7.4 For purposes of this section, “insurer” means a licensed insurance company, prepaid hospital or medical care plan, a health maintenance organization or a multiple employer welfare arrangements (MEWAs).

8.0 Premium Collection and Payment of Claims

8.1 All insurance charges or premiums collected by an administrator on behalf of or for an insurer, and the return of premiums received from that insurer, shall be held by the administrator in a fiduciary capacity. The funds shall be immediately remitted to the person entitled to them or shall be deposited promptly in a fiduciary account established and maintained by the administrator in a federally or state insured financial institution. The written agreement between the administrator and the insurer shall provide for the administrator to periodically render an accounting to the insurer detailing all transactions performed by the administrator pertaining to the business underwritten by the insurer.

8.2 If charges or premiums deposited in a fiduciary account have been collected on behalf of or for one or more insurers, the administrator shall keep records clearly recording the deposits in and withdrawals from the account on behalf of each insurer. The administrator shall keep copies of all the records and, upon request of an insurer, shall furnish the insurer with copies of the records pertaining to the deposits and withdrawals.

8.3 The administrator shall not pay any claim by withdrawals from a fiduciary account in which premiums or charges are deposited. Withdrawals from the account shall be made as provided in the written

agreement between the administrator and the insurer. The written agreement shall address, but not be limited to, the following:

8.3.1 Remittance to an insurer entitled to remittance;

8.3.2 Deposit in an account maintained in the name of the insurer;

8.3.3 Transfer to and deposit in a claims-paying account, with claims to be paid as provided for in §8.4;

8.3.4 Payment to a group policyholder for remittance to the insurer entitled to such remittance;

8.3.5 Payment to the administrator of its commissions, fees or charges; and

8.3.6 Remittance of return premium to the person or persons entitled to such return premium.

8.4 All claims paid by the administrator from funds collected on behalf of or for an insurer shall be paid only on drafts or checks of and as authorized by the insurer.

9.0 Compensation to the Administrator

9.1 An administrator shall not enter into an agreement or understanding with an insurer in which the effect is to make the amount of the administrator's commissions, fees, or charges contingent upon savings effected in the adjustment, settlement and payment of losses covered by the insurer's obligations. This provision shall not prohibit an administrator from receiving performance-based compensation for providing hospital or other auditing services.

9.2 This section shall not prevent the compensation of an administrator from being based on premiums or charges collected or the number of claims paid or processed.

10.0 Notice to Covered Individuals; Disclosure of Charges and Fees

10.1 When the services of an administrator are utilized, the administrator shall provide a written notice approved by the insurer to covered individuals advising them of the identity of, and relationship among, the administrator, the policyholder and the insurer.

10.2 When an administrator collects funds, the reason for collection of each item shall be identified to the insured party and each item shall be shown separately from any premium. Additional charges may not be made for services to the extent the services have been paid for by the insurer.

10.3 The administrator shall disclose to the insurer all charges, fees and commissions received from all services in connection with the provision of administrative services for the insurer, including any fees or commissions paid by insurers providing reinsurance.

11.0 Delivery of Materials to Covered Individuals

Any policies, certificates, booklets, termination notices or other written communications delivered by the insurer to the administrator for delivery to insured parties or covered individuals shall be delivered by the administrator promptly after receipt of instructions from the insurer to deliver them.

12.0 Home State Certificate of Authority/License

12.1 A person shall apply to be an administrator in its home state, upon the Uniform Application and shall receive a certificate of authority or license from the Commissioner of its home state, prior to performing any function of an administrator in this state.

12.2 The Uniform Application shall include or be accompanied by the following information and documents:

12.2.1 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;

12.2.2 The bylaws, rules, regulations or similar documents regulating the internal affairs of the applicant;

12.2.3 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;The bylaws, rules, regulations or similar documents regulating the internal affairs of the applicant;

12.2.4 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 audited financial/annual 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 in order to review the current financial condition of the applicant;

12.2.5 A statement describing the business plan including information on staffing levels and activities proposed in this state and nationwide. 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

12.2.6 Such other pertinent information as may be required by the Commissioner.

12.3 An administrator licensed or applying for licensure under this section shall make available for inspection by the Commissioner copies of all contracts with insurers or other persons utilizing the services of the administrator.

12.4 An administrator licensed or applying for licensure under this section 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.

12.5 The Commissioner may refuse to issue a certificate of authority or license if the Commissioner determines that the administrator, or any individual responsible for the conduct of affairs of the administrator is not competent, trustworthy, financially responsible or of good personal and business reputation, or has had an insurance or an administrator certificate of authority or license denied or revoked for cause by any jurisdiction, or if the Commissioner determines that any of the grounds set forth in § 15 exists with respect to the administrator.

12.6 A certificate of authority or license issued under this section shall remain valid, unless surrendered, suspended or revoked by the Commissioner, for so long as the administrator continues in business in this state and remains in compliance with this Regulation.

12.7 An administrator licensed or applying for licensure under this section shall immediately notify the Commissioner of any material change in its ownership, control, or other fact or circumstance affecting its qualification for a certificate of authority or license in this state. The Commissioner shall report any such changes to the national producer database or its successor.

12.8 An administrator licensed or applying for a home state certificate of authority/license that administers or will administer governmental or church self-insured plans in its home state or any other state shall maintain a surety bond for the use and benefit of the home state Commissioner and the insurance regulatory authority of any additional state in which the administrator is authorized to conduct business and cover individuals and persons who have remitted premiums or insurance charges or other monies to the administrator in the course of the administrator's business in the greater of the following amounts:

12.8.1 $100,000; or

12.8.2 Ten percent (10%) of the aggregate total amount of self-funded coverage under church plans or governmental plans handled in the administrator's home state and all additional states in which the administrator is authorized to conduct business.

13.0 Registration Requirement

A person who directly or indirectly underwrites, collects or charges premiums from, or adjusts or settles claims on residents of this state, in connection with health and/or pharmacy benefits coverage provided by a self-funded plan other than a governmental or church plan shall register with the Commissioner annually, verifying its status as herein described.

14.0 Nonresident Administrator Certificate of Authority

14.1 Unless an administrator has obtained a home state certificate of authority or license in this state under § 12, any administrator who performs administrator duties in this state shall obtain a nonresident administrator certificate of authority or license in accordance with this section by filing with the Commissioner the Uniform Application, accompanied by a letter of certification. In lieu of requiring an administrator to file a letter of certification with the Uniform Application, the Commissioner may verify the nonresident administrator's home state certificate of authority or license status through an electronic database maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries.

14.2 An administrator shall not be eligible for a Nonresident Administrator certificate of authority or license under this section if it does not hold a certificate of authority as a resident in a home state that has adopted this Regulation or a substantially similar law governing administrators.

14.3 Except as provided in §§ 14.2 and 14.8, the Commissioner shall issue to the administrator a nonresident administrator certificate of authority or license promptly upon receipt of a complete application.

14.4 Unless notified by the Commissioner that the Commissioner is able to verify the nonresident administrator's home state certificate of authority or license status through an electronic database maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries, each nonresident administrator shall annually file a statement that its home state administrator certificate of authority or license remains in force and has not been revoked or suspended by its home state during the preceding year.

14.5 At the time of filing the statement required under §14.4 or, if the Commissioner has notified the nonresident administrator that the Commissioner is able to verify the nonresident administrator's home state certificate of authority or license status through an electronic database, on an annual date determined by the Commissioner, the nonresident administrator shall pay a filing fee as required by the Commissioner.

14.6 An administrator licensed or applying for licensure under this section 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.

14.7 A nonresident administrator is not required to hold a nonresident administrator certificate of authority or license in this state if the administrator's duties in this state are limited to the administration of a group policy or plan of insurance and no more than a total of 100 lives for all plan residents in this state.

14.8 The Commissioner may refuse to issue a nonresident administrator certificate of authority or license, or delay the issuance of a nonresident administrator certificate of authority or license, if the Commissioner determines that, due to events or information obtained subsequent to the home state's licensure of the administrator, the nonresident administrator cannot satisfy the requirements of this Regulation, or that grounds exist for the home state's revocation or suspension of the administrator's home state certificate of authority or license. In such an event, the Commissioner shall give written notice of its determination to the Commissioner of the home state, and the Commissioner may delay the issuance of a nonresident administrator certificate of authority to the nonresident administrator until such time, if at all, that the Commissioner determines that the administrator can satisfy the requirements of this Regulation and that no grounds exist for the home state's revocation or suspension of the administrator's home state certificate of authority or license.

15.0 Annual Report, Fees and Expenses

15.1 Each administrator licensed under §12 shall file an annual report for the preceding calendar year with the Commissioner on or before July 1 of each year, or within such extension of time as the Commissioner for good cause may grant. The annual report shall include an audited financial statement performed by an independent certified public accountant. The report shall be in the form and contain such matters as the Commissioner prescribes and shall be verified by at least two officers of the administrator. An audited financial/annual 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:

15.1.1 amounts shown on the consolidated audited financial report shall be shown on the worksheet;

15.1.2 amounts for each entity shall be stated separately, and

15.1.3 explanations of consolidating and eliminating entries shall be included.

15.2 The annual report shall include the complete names and addresses of all insurers with which the administrator had agreements during the preceding fiscal year.

15.3 At the time of filing its annual report, the administrator shall pay a filing fee as set by §17.

15.4 The Commissioner shall review the most recently filed annual report of each administrator on or before September 1 of each year. Upon completion of its review, the Commissioner shall either:

15.4.1 Issue a certification to the administrator that the annual report shows that the administrator has a positive net worth as evidenced by audited financial statements and is currently licensed and in good standing, or noting any deficiencies found in that annual report and financial statements; or

15.4.2 Update any electronic database maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries, indicating that the annual report shows that the administrator has a positive net worth as evidenced by audited financial statements and is in compliance with existing law, or noting any deficiencies found in the annual report.

15.5 An administrator shall be subject to assessment for all fees, costs, experts and related expenditures with respect to any examination, arbitration or enforcement action undertaken by the Commissioner pursuant to Title 18.

16.0 Grounds for Denial, Suspension or Revocation of Certificate of Authority

16.1 The certificate of authority or license of an administrator shall be denied, suspended or revoked if the Commissioner finds that the administrator:

16.1.1 Is in an unsound financial condition;

16.1.2 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

16.1.3 Has failed to pay any judgment rendered against it in this state within sixty days after the judgment has become final.

16.2 The Commissioner may deny, suspend or revoke the certificate of authority or license of an administrator if the Commissioner finds that the administrator:

16.2.1 Has violated any lawful rule or order of the Commissioner or any applicable law of this state;

16.2.2 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 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 administrator; and any other person who exercises control or influence over the affairs of the 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;

16.2.3 Has, without just cause, refused to pay clean claims or perform services arising under its contracts or has, without just cause, caused covered individuals to accept less than the amount due them or caused covered individuals to employ attorneys or bring suit against the administrator to secure full payment or settlement of such claims;

16.2.4 At any time fails to meet any qualification for which issuance of the certificate could have been refused had the failure then existed and been known to the Commissioner;

16.2.5 Or 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, or has entered a plea of guilty or nolo contendere to, a felony without regard to whether adjudication was withheld;

16.2.6 Is under suspension or revocation in another state; or

16.2.7 Has failed to timely file its annual report pursuant to §15, if a resident administrator, or its statement and filing fee, as applicable, pursuant to §§14.4 and 14.5, if a nonresident administrator.

16.3 The Commissioner may, in his or her discretion and without advance notice or hearing, immediately suspend the certificate of authority or license of an administrator if the Commissioner finds that one or more of the following circumstances exist:

16.3.1 The administrator is insolvent or impaired;

16.3.2 A proceeding for receivership, conservatorship, rehabilitation or other delinquency proceeding regarding the administrator has been commenced in any state; or

16.3.3 The financial condition or business practices of the administrator otherwise pose an imminent threat to the public health, safety or welfare of the residents of this state.

16.4 If the Commissioner finds that one or more grounds exist for the suspension or revocation of a certificate of authority issued under this part, the Commissioner may, in lieu of suspension or revocation, impose a fine upon the administrator.

17.0 Fees

17.1 The following fees shall be applicable for filings and matters arising under this Regulation:

For filing application for initial certificate of authority in Delaware or for the registration of a foreign home state certificate including all documents submitted as part of such application	$500.00
Issuance of a certificate of authority	$100.00
Reinstatement	$100.00
Amendment of certificate	$100.00
Duplicate or replacement certificate	$500.00

17.2 For any other fee, cost or charge, the provisions of 18 **Del.C.** § 701 are incorporated by reference and are applicable to matters arising under this Regulation.

17.3 The provisions of 18 **Del.C.** Ch. 3 shall be applicable to examinations required by this Regulation.

18.0 Severability

If any section or portion of a section of this Regulation or its applicability to any person or circumstance is held invalid by a court, the remainder of this Regulation or the applicability of the provision to other persons or circumstances shall not be affected.

19.0 Effective Date

This Regulation shall become effective on January 1, 2004.

7 DE Reg. 668 (11/1/03)