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MEMORANDUM

To: House Committee on Insurance
From: Jason Thompson, Senior Assistant Revisor of Statutes
Date: February 14, 2017
Subject: Bill Brief for SB 22 (corrected)

SB 22, as amended by Senate committee, updates statutes relating to the regulation of third party administrators. The bill amends 9 statutes and enacts 6 new sections to create the third party administrators act. The table below provides a summary of the changes. The amendments to existing statutes appear first in the table, followed by the new sections.

SECTION	LOCATION	CITATION K.S.A.	OLD PROVISION	NEW PROVISION
Sec. 7	Pg. 7, line 15	40-3801	Regulation of Administrators One definition: "Administrator"	Definitions 17 total definitions
Sec. 8	Pg. 10, line 12	40-3802	Written agreement between TPA and insurer Mandated written agreement between administrator and insurer; record keeping requirements.	Responsibilities of payor and TPA Written agreement still required; specification of administrator's duties; provision for termination of written agreement.
Sec. 9	Pg. 10, line 38	40-3804	When a TPA is utilized, payment of premiums by or on behalf of the insured are deemed to have been received by insurer. Payment of return premiums or claims by insurer to the administrator shall not be deemed payment until received by the insured or claimant.	Payment to a TPA If an insurer utilizes a TPA, the payment of return premiums or claims <i>forwarded</i> by the insurer to the administrator shall not be deemed payment until received by the insured or claimant.
Sec. 10	Pg. 11, line 6	40-3805	TPA's recordkeeping requirement for all transactions between TPA, insurers and insured – written agreement + 5 years; records maintained at principal administrative office; commissioner shall have access for examinations; trade secrets	Maintenance of information Recordkeeping location requirement removed; records maintained for 5 years only. Confidentiality provision for all documents and materials; sunset date of 7/1/22. Commissioner may share and

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			confidential; insurer retains sufficient access to records to fulfill contractual obligations to the insured.	receive documents and info in furtherance of his duties; Insurer owns the records, but must grant access to TPA to perform contractual obligations. In the event of cancellation of the agreement, the TPA may transfer all records to the new TPA, rather than retaining.
Sec. 11	Pg. 12, line 38	40-3806	A TPA may only use advertising pertaining to an insurer with advance permission.	Approval of advertising Additional provision that requires a TPA to obtain prior written approval from any current or former client whose name is used in advertising.
Sec. 12	Pg. 13, line 1	40-3807	Premiums and charges collected by TPA on behalf of insurers and return premiums received from same are held in a fiduciary capacity; funds immediately remitted to person entitled or deposited in bank account; must maintain records of all transactions from account. Claims may not be paid from account. Withdrawals from the account made only for six enumerated reasons.	Premium collection and payment of claims Premiums, charges, collateral and loss reimbursements held by TPA in fiduciary capacity in a federally or state-insured financial institution. Written agreement shall provide for periodic accounting. TPA shall keep copies of all records and furnish such records upon request of the payor. Additional cause for withdrawal from fiduciary account made – payment to other service providers as authorized. Subsection (d) added to address claims paid by TPA from funds collected on behalf of or for a payor shall be paid only as authorized by the payor, and for four enumerated reasons.
Sec. 13	Pg. 14, line 10	40-3808	Compensation of a TPA may not be contingent upon claim experience; does not prohibit compensation based on premiums or charges received or number of claims paid or processed.	Compensation to the TPA Additional provision that does not prohibit a TPA from receiving performance-based compensation for providing hospital or other auditing services; from providing managed care or related services, or for being

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				compensated for subrogation expenses.
Sec. 14	Pg. 14, line 27	40-3809	Guidelines for funds collected by TPA A TPA must identify and state separately in writing to the person paying to the TPA any charge or premium for insurance coverage the amount of such charge or premium specified by the insurer for such coverage. All claims paid by TPA shall be paid only on drafts of and authorized by such insurer.	Disclosure of fees and charges Language clarified; additional provision that requires TPA to disclose to the insurer all charges, fees and commissions arising from services it provides for the insurer.
Sec. 15	P. 15, line 3	40-3810	Certification of registration required to be a TPA in the state. Licensing procedure; fees, administrative relief.	Registration required Any person who not required to be licensed as an administrator and who directly or indirectly underwrites, collects charges or premiums or settles or adjusts claims on state-residents in connection with life, annuity or health coverage provided by a self-funded plan shall register with the commissioner annually, verifying its status.
New Sec. 1	Pg. 1, line 7			Name of act Title and citation of act
New Sec. 2	Pg. 1, line 10			Home state TPA license Home state TPA license; application procedure; information required
New Sec. 3	Pg. 3, line 37			Nonresident TPA license Nonresident TPA license; application; procedure; information required
New Sec. 4	Pg. 4, line 37			Annual report and filing fee Annual report required; contents; form
New Sec. 5	Pg. 5, line 31			Grounds for denial, suspension or revocation of license
New Sec. 6	Pg. 7, line 10			Delivery of materials