WEST VIRGINIA CODE: §33-46-12

§33-46-12. Home state certificate of authority or license.

(a) Prior to conducting business in West Virginia an administrator or third-party administrator must be licensed in accordance with the requirements of this article.

(b) If West Virginia is a person's home state, then the person may apply for licensure in this state by filing a uniform application with the Insurance Commissioner. The application shall include or be accompanied by the following information and documents:

(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 the documents;

(2) The bylaws, rules, regulations or similar documents regulating the internal affairs of the applicant;

(3) National association of Insurance Commissioners' biographical affidavits 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 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 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 fiscal years, the 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 the 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;

(B) Amounts for each entity stated separately; and

(C) Explanations of consolidating and eliminating entries.

The applicant shall also include any other information required by the commissioner in order to review the current financial condition of the applicant;

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(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, recordkeeping and underwriting; and

(6) Any other pertinent information required by the commissioner.

(c) 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 using the services of the administrator.

(d) 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.

(e) 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 section seventeen of this article exists with respect to the administrator.

(f) A certificate of authority or license issued under this section shall remain valid, unless surrendered, suspended or revoked by the commissioner, for as long as the administrator continues in business in this state and remains in compliance with this article.

(g) 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.

(h) 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 moneys to the administrator in the course of the administrator's business in the lessor of the following amounts:

(1) One hundred thousand dollars; or

(2) Ten percent 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.

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