

THE INSURANCE COMMISSION OF THE BAHAMAS**MEDICAL/HEALTH SERVICE ORGANIZATIONS, INSURANCE BROKERS, ADJUSTERS, CONSULTANTS, AGENTS AND SUB-AGENTS CAPITALIZATION, INSURANCE AND DEPOSIT REGULATIONS, 2005**

In exercise of the powers conferred on the Insurance Commission, by section 233 of the Insurance Act, 2005, the following regulations are here made with the approval of the Minister:-

Citation. 1. These Regulations may be cited as the Medical/Health Service Organizations, Insurance Brokers, Adjusters, Consultants, Agents and Sub-Agents Capitalization, Insurance and Deposit Regulations, 2005.

Interpretation 2. (1) In these Regulations –

“company (or staff) adjuster” means an individual being a salaried employee of an insurer, agent or broker, who carries out on behalf of such insurer, agent or broker all or any of the functions described under the definition of adjuster;

"controller" means a director or a chief executive officer of a company;

“external insurance broker” means a company .incorporated in the Bahamas (not being an insurer) which negotiates directly, or through representatives or other means, contracts of insurance or of reinsurance in respect of external insurance business on behalf of more than one insurer, or for placement with insurers or re-insurers;

“independent adjuster” means an adjuster appointed by an insurer, agent, or broker to assess on behalf of the insurer, agent or broker the

settlement of a claim under an insurance contract/policy;
 "insurance manager" means a person or a company incorporated in The Bahamas (not being an insurer) that provides or holds itself out as providing insurance management services to one or more insurers licensed to write only external risks.

"medical/health service Organization includes, but is not limited to medical service plans, hospital service plans, health maintenance organizations, pre-paid limited health care service plans, dental, optometry and other similar health service plans;

"public adjuster" means an adjuster appointed by an insured or claimant to assess and agree on the settlement of a claim under an insurance contract/policy;

- (2) Under these regulations and pursuant to section 119 (1) of the Act, sub-agents will be licenced in one of two categories:

Category 1 - Sole Proprietor. An individual, producing annual commissions of \$100,000.00 or less, and is sponsored by one or two registered agents, brokers or insurers in accordance with section 123 (3) of the Act.

Category 2 - Corporate Sub-Agent.

A company producing annual

commissions in excess of
\$100,000.00.

Capital and Net Assets Value 3. Every registered medical/health service organization shall maintain at all times a minimum paid-up share capital and/or minimum net assets value of not less a sum that is determined by the Commission after due consultation.

4. Every registered insurance broker, independent and public adjuster, shall maintain at all times a minimum paid up share capital and minimum net assets value of not less than an amount equal to the maximum deductible amount of the broker's professional indemnity insurance policy or \$50,000.00, whichever is the greater.

5. Every registered insurance agent shall maintain at all times a minimum paid up share capital and net assets value of not less than \$30,000.00.

6. Every registered insurance sub-agent who is a Limited Company shall maintain at all times a minimum paid up share capital and net assets value of not less than \$5,000.00.

7. Every registered adjuster or consultant who is a limited company or partnership shall be required to maintain at all times such minimum paid up share capital or net assets value as determined by the Commission.

8. The minimum net assets value referred to in paragraphs 3 to 6 is to be determined by excluding all intangible assets and in accordance with international accounting standards.

9. The amounts in paragraphs 4 to 7 above are minimum amounts and depending on the scope of business outlined in the Business Plan, the Commission may prescribe such larger amounts as it deems necessary.

10. The Commission may permit a medical/health service organization, an insurance adjuster, broker, agent, sub-

agent or consultant doing business in The Bahamas at the date of the introduction of these Regulations to be registered despite its inability to comply with paragraphs 3 to 7, provided that the organization, adjuster, broker, agent, sub-agent or consultant presents a satisfactory plan to the Commission for increasing the capital to the amount required in not more than three years.

Professional

Indemnity

policy

11. (1) Every registered insurance broker shall maintain and continue to maintain in force, in respect of his insurance brokerage activities, and placed with a carrier acceptable to the Commission, a professional indemnity policy with a minimum limit of indemnity for any one claim and in any one insurance period of 12 months. The limit of indemnity shall be –

- (i) A sum equal to –
 - (a) the aggregate insurance brokerage/commission income relating to the average for the three years immediately preceding the date of commencement of the professional indemnity insurance cover (applicable to an insurance broker who has been in business for more than three years);
 - (b) the projected insurance brokerage/commission income for 12 months for the period of the professional indemnity insurance cover (applicable to an insurance broker who has been in business for less than three years); or
- (ii) a sum of not less than \$500,000.00, and not more than \$5,000,000.

(2) Cover in excess of the amounts prescribed in (1) and (ii) above may be required by the Commission to meet the requirements of an individual broker.

(3) The professional indemnity insurance prescribed in (1) shall extend to include the activities on behalf of the broker and sub-agents, if any.

(4) If as a result of a claim or claims the indemnity available shall fall below the amount determined in (1) above, the broker shall effect a reinstatement of cover up to not less than such minimum determined amount, of not less than \$500,000.00.

(5) In the event that such professional indemnity insurance be withdrawn or cancelled, or the said insurance be not renewed, the said broker shall immediately notify the Commission and shall forthwith cease to solicit further insurance business until such professional indemnity insurance has been reinstated or replaced.

(6) In this paragraph Insurance brokerage/commission income means income derived from advising on or arranging any contract which contains an element of insurance, irrespective of the extent of such insurance element.

**Errors and
Omission
Policy**

12. (1) Every registered insurance adjuster or consultant (sole proprietor, partnership and company), shall effect Errors and Omission Insurance Cover at a minimum level of \$500,000.00 for an individual adjuster or consultant, or \$2,000,000 for the corporate entity. However, evidence of an undertaking by an insurer to provide this cover upon registration (inclusive of evidence of the relevant deductible) must be submitted with the application.

(2) In the event that such Errors and Omission insurance be withdrawn or cancelled, or the said insurance be not renewed, the said adjuster or consultant shall immediately notify the Commission and shall forthwith cease to solicit further insurance business until such insurance has been reinstated or replaced.

Fidelity Bond

13 (1) Every registered agent who is a limited company shall maintain;

(a) fidelity insurance against losses arising from the dishonesty of employees, directors, and officers for an amount of not less than -

(i) \$20,000 for any one employee;

(ii) \$50,000 for any one officer or director;

or

(iii) \$200,000 for any one occurrence in the aggregate including collusion; or

(b) some other form of financial guarantee in a form approved by the Commission in an amount of at least \$200,000.00.

(2) In the event that such fidelity bond be withdrawn or cancelled, or not renewed, the said agent shall immediately notify the Commission and shall forthwith cease to solicit further insurance business until such fidelity bond has been reinstated or replaced

(3) The fidelity bond prescribed in (1) shall extend to include the activities on behalf of the sub-agent, if any.

14. The Commission shall determine the appropriate professional indemnity or other insurance coverage for the different types of medical/health service organizations.

15. The professional indemnity and other insurance coverage noted in paragraphs 11 to 14 must be effected by the registered entity within forty-five (45) days after being registered.

16. Every registered insurance agent shall provide evidence satisfactory to the Commission of a power of attorney, or agency agreement or guarantee between the agent and the

insurer for whom such agent acts. Such power of attorney, agency agreement or guarantee shall extend to include the activities of sub-agents, if any. In the event that such power of attorney, agency agreement or guarantee is withdrawn or such agreement is determined, the said agent shall immediately notify the Commission and shall forthwith cease to solicit further insurance business on behalf of that insurer until such power of attorney, agreement or guarantee has been reinstated.

17. A registered insurance agent may, as an alternative to meeting the requirement laid down in paragraph 15, maintain in force professional indemnity insurance in like manner and for like amount as if he had been a registered insurance broker as in paragraph 11.

8. Every company that is registered as both a broker and agent shall maintain both a professional indemnity insurance policy and a fidelity bond.

19. An agent who acts on behalf of more than one insurer is deemed for the purpose of these regulations to be acting as an insurance broker and shall be required to maintain in force professional indemnity insurance as in paragraph 11.

20. In the case of a sub-agent, if the professional indemnity insurance or fidelity bond or power of attorney, agency agreement or guarantee, as the case may be, referred to in paragraphs 11.(3), 13.(3) and paragraph 16, is for any reason withdrawn from the sub-agent, then the licence of the said sub-agent is *ipso facto* suspended until such time as such professional indemnity insurance, fidelity bond, power of attorney, agency agreement or guarantee, as the case may be, is reinstated.

21A registered medical/health service organization's, insurance broker's, adjuster's, agent's or sub-agent's certificate of registration expires on the date of the effective cancellation or

non-renewal of an insurance policy required under paragraphs 11, 12, 13 and 14 unless before the date the insurance is replaced or the organization, broker adjuster, consultant, or agent is in compliance with paragraphs 11, 12, 13 and 14.

Deposits

22. All foreign intermediaries registered in accordance with the Insurance Act, 2005, and pursuant to the requirement of section 122 of the Act, shall be required to deposit with the Commission such amount as is set out below at the times prescribed

<u>Gross Annual Commission or Fees</u> (in The Bahamas)	<u>Amount of Deposit</u>
Up to \$500,000	\$50,000
\$500,000 to \$1,000,000	\$100,000
\$1,000,000 to \$2,000,000	\$200,000
Over \$2,000,000	\$500,000

23. Such foreign intermediaries noted in paragraph 22 above will be required to provide documentary evidence to the Commission that they have minimum capital, professional indemnity insurance, and/or fidelity bond as required in paragraphs 3, 7, 11, 12 and 13.