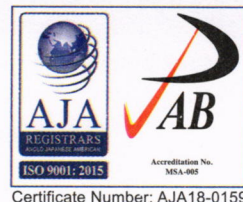




Republic of the Philippines  
Department of Finance  
**INSURANCE COMMISSION**  
1071 United Nations Avenue  
Manila



Circular Letter (CL) No. :	2019-31
Date :	25 June 2019

## CIRCULAR LETTER

**TO : ALL HEALTH MAINTENANCE ORGANIZATIONS**

**SUBJECT : Regulation and Prohibitions in Relation to the Conduct of Business of Agents of Health Maintenance Organizations (HMOs) and Providing Penalties for Violation thereof**

**WHEREAS**, Executive Order No. 192, Series of 2015 (E.O. No. 192, s. 2015) transferred the regulation and supervision of health maintenance organizations (HMOs) from the Department of Health (DOH) to the Insurance Commission (IC);

**WHEREAS**, the HMO industry is imbued with public interest and that there is a need to set guidelines on the conduct of business of HMO agents to ensure the protection of the public/ HMO clients.

**NOW THEREFORE**, pursuant to the power granted to the Insurance Commissioner to issue orders to prevent fraud and injury to the HMO plan holders and industry stakeholders under Section 4 (a) of Executive Order No. 192, s. 2015 dated 12 November 2015, the Commission hereby promulgates the regulation and prohibitions relating to the conduct of business of agents of health maintenance organizations (HMOs).

### Section 1. SCOPE

This Circular shall govern the conduct of business of agents of health maintenance organizations in the Philippines.

### Section 2. DEFINITION OF AN AGENT OF HEALTH MAINTENANCE ORGANIZATIONS (HMOs)

Any person who, for compensation, solicits or obtains a contract or agreement on behalf of any health maintenance organization or transmits for a person other than himself an application for a contract or agreement to or from an HMO or offers or assumes to act in the negotiating of such contract or agreement shall be an HMO agent within the intent of this Circular Letter and shall thereby become liable to all the duties, requirements, liabilities and penalties to which an HMO agent is subject.

### **Section 3. PROHIBITED CONDUCT AND ACTIVITIES**

For purposes of this Circular, the following conduct and activities of HMO agents are prohibited, to wit:

- (a) Conducting fraudulent or dishonest practices;
- (b) Misappropriating or converting to their own use or illegally withholding money required to be held in a fiduciary capacity;
- (c) Materially misrepresenting the terms and conditions of contracts or agreements which he seeks to sell or has sold;
- (d) Engaging in unsafe business acts or practices including but not limited to the following:
  - (i) Making, issuing, circulating, or permitting to be made, issued or circulated, any literature, illustration, circular or statement of any sort which misrepresents the terms of any HMO contract or agreement with regard to benefits or advantages promised;
  - (ii) Using any name or title of any contract or agreement misrepresenting the true nature thereof; or
  - (iii) Failing to disclose all applicable charges.
- (e) Engaging in any form of unacceptable behavior by agents including but not limited to the following:
  - (i) Conduct prejudicial to the interests of the HMO;
  - (ii) Non-disclosure of full information which could have enabled clients to make an informed choice of decision;
  - (iii) Threatening prospects, clients, members of the public, company staff and officers or agents;
  - (iv) Using abusive language or behavior towards enrolled members, the public, company staff and officers or agents;
  - (v) Maligning the HMO, fellow agents, or its own products;
  - (vi) Maligning the HMO industry, other HMO companies, their staff, agents, or products;
  - (vii) Making disparaging remarks about other HMO companies, products, or services;
  - (viii) Poaching business of another agent; or

- (ix) Using or modifying any proposal or illustration material without prior clearance.
- (f) Other analogous circumstances.

#### **Section 4. RULES OF CONDUCT AND BEHAVIOR OF HMO AGENTS**

In addition to the prohibited conduct and activities enumerated in the immediately preceding section, agents of Health Maintenance Organizations are likewise enjoined to observe proper conduct and behavior in the performance of their business including but not limited to the following:

- (a) Comply with all relevant Philippine laws, rules and regulations, such as but not limited to the issuances of the Insurance Commission, Anti-Money Laundering Act and the Terrorism Financing Prevention and Suppression Act, as well as company rules, regulations and pronouncements relevant to their business activity;
- (b) Inform their company, as well as cooperate with the company in the investigation, of any breaches of agency contract or violation of applicable law, rule and regulation, or internal company policies committed by another HMO agent;
- (c) Disclose any actual or potential conflicts of interest to the company or their client that may arise from any connection to or association with any product provider, including any material information or facts that might compromise their objectivity or independence in the carrying on of financial advisory services;
- (d) Inform their clients of the company's data privacy or confidentiality policies which ensure protection over the clients' personal information, as well as maintain the confidentiality of any information obtained from their clients in the course of the conduct of their business; and
- (e) Other analogous circumstances.

#### **Section 5. PENALTIES**

If, after proper notice and hearing in accordance with Insurance Memorandum Circular No. 1-93 or "Rules of Procedure Governing Administrative Cases before the Insurance Commission" and any amendments thereto, the Commission determines that the person charged has engaged in any of the prohibited conduct and activities set forth in Section 3 of this Circular, the Commission shall issue a written Order, Resolution or Decision



containing said findings and shall include therein an order requiring such person to cease and desist from engaging in such conduct or activity and shall, impose the following fines:

- (a) Five thousand pesos (Php 5,000.00) for the first offense;
- (b) Ten thousand pesos (Php 10,000.00) for the second offense;
- (c) Fifteen thousand pesos (Php 15,000.00) for the third offense; and
- (d) Blacklisting for the fourth and other succeeding offenses

Notwithstanding the fines herein prescribed, the Commissioner may, at his discretion, modify the application of the foregoing prescribed penalties depending upon the severity of the offense, the frequency of its commission, the gravity of the damage caused, the history of the offender, or other circumstances which warrant imposition of a lower or a more severe amount of fines and penalties than that prescribed in this Circular.

#### **Section 6. SEPARABILITY CLAUSE**

Should any provision of this Circular or any part thereof be declared invalid, the other provisions, insofar as they are separable from the invalid ones, shall remain in full force and effect.

#### **Section 7. REPEALING AND AMENDING CLAUSE**

All Orders, Rules and Regulations, Memoranda and other issuances inconsistent with or contrary to the provisions of this Circular are hereby repealed/amended accordingly.

#### **Section 8. EFFECTIVITY**

This Circular shall take effect immediately.

  
**DENNIS B. FUNA**  
Insurance Commissioner

