DELAWARE DEPARTMENT OF INSURANCE

MARKET CONDUCT EXAMINATION REPORT

National Health Insurance Company

NAIC # 82538
Examination Authority # 82538-15-753

P O Box 619999
Dallas, TX 75261

As of

May 31, 2015

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Honorable Karen Weldin Stewart CIR-ML
Insurance Commissioner
State of Delaware
841 Silver Lake Boulevard
Dover, Delaware 19904

Dear Commissioner Stewart:

In compliance with the instructions contained in Certificate of Examination Authority Number 82538-15-753 and pursuant to statutory provisions including 18 Del. C. §318-322, a market conduct examination has been conducted of the affairs and practices of:

**National Health Insurance Company**

This examination was performed as of May 31, 2015. National Health Insurance Company (the "Company" or "NHIC") is a Texas domiciled life accident and health insurance company licensed in every state and jurisdiction except Florida and New York. The examination was performed at the offices of the Delaware Department of Insurance, hereinafter referred to as the "Department" or "DDOI," or other suitable locations.

The report of examination herein is respectfully submitted.

## EXECUTIVE SUMMARY

National Health Insurance Company (the "Company") incorporated in Texas on August 30, 1965 and was authorized to transact the business of life, including annuities and health. The Company was admitted into the State of Delaware on August 31, 1981. The Company's main administrative offices are located at 2200 Highway 121, Suite 100 in Bedford Texas. It should be noted that the Company is a virtual insurance company. This means there is a minimal number of staff (three full time staff) and they rely on third party entities to conduct the majority of activities. The Company indicated staff have recently moved offices to Milwaukee, Wisconsin but the address provided was for the parent company, National General Management Corporation.

This examination focused on the Company's health business in the following areas of operation: Company Operations and Management, Complaint Handling, Marketing and Sales, Producer Licensing and Underwriting and Rating.

The following exceptions were noted in the areas of operation reviewed:

**1 Exceptions – 18 Del. C.§ 2304**

- *Unfair methods of competition and unfair or deceptive acts or practices defined*

  -For willfully allowing an applicant to make false statements on an application

**10 Exceptions – 18 Del. C.§ 2304**

- *Unfair methods of competition and unfair or deceptive acts or practices defined*

  -For failure to provide the pertinent facts or insurance policy provisions relating to coverage.

**1 Exception – 18 Del. C. § 1710**

- *Assumed Names*

  -For failure of an agent to use their proper name or notify the State of Delaware of an assumed name.

**5 Exceptions 18 Del. C.§ 1715**

- *Appointments*

  -For failure to file notice of appointment within 15 days from the date the agency contract is executed or the first application is submitted.

**1 Exception– 18 Del. C. §2712**

- *•Filing, approval of forms*

-For failure to provide evidence that the Company's form in use was approved prior to usage.

**1 Exception – 18 Admin. C. §1305**

- *Rate Filing Procedures for Health Insurers and Health Service Corporations and Managed Care Organization*

- For failure to provide evidence that the Company's rates for the policy form in use were filed.

## SCOPE OF EXAMINATION

The Market Conduct Examination was conducted pursuant to the authority granted by 18 Del. C. §318-322 and covered the experience period of January 1, 2014 through May 31, 2015. The purpose of the examination was to review the Company's activities related to the health insurance, specifically marketing and sales concerns.

## METHODOLOGY

This examination was performed in accordance with Market Regulation standards established by the Department and examination procedures suggested by the NAIC. While the examiners' report on the errors found in individual files, the focus of the examination also includes general business practices of the Company.

The Company identified the universe of files for each segment of the review. Based on the universe sizes identified, all files were reviewed for this examination.

Delaware Market Conduct Examination Reports generally note only those items to which the Department, after review, takes exception. An exception is any instance of Company activity that does not comply with an insurance statute or regulation. Exceptions contained in the Report may result in imposition of penalties. Generally, practices, procedures, or files that were reviewed by Department examiners during the course of an examination may not be referred to in the Report if no improprieties were noted. However, the Examination Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was identified. This enables Company management to review these areas of concern in order to determine the potential impact upon Company operations or future compliance.

## COMPANY HISTORY

In September 2003, the Texas Department of Insurance ["TDI"] issued to the Company a "Confidential Order Creating State of Supervision and Appointment of Supervisor." This

Order expired in March 2004, at which time the TDI issued to the Company a "Confidential Order of Conservatorship and Appointment of Conservator" (the Order). The Order stated that the appointed Conservator was directed to take charge of the Company and all property, books, records, and effects thereof. The Order expired in December, 2004 and the Company was released from Conservatorship. At that time, the Company consented to be placed under an Article 1.32 Order to facilitate the completion of the Company's rehabilitation.

During this time period, the following states suspended the Company's Certificate of Authority: Alaska, Arizona, Arkansas, Colorado, Illinois, Idaho, Kansas, Kentucky, Mississippi, Missouri, Ohio, Oklahoma, Oregon, Tennessee, Virginia, Washington, West Virginia and Wyoming. The following states have restricted the Company's Certificate of Authority: California, Connecticut, Louisiana, Nebraska, New Hampshire, North Carolina, South Carolina, and Wisconsin. The Company's Certificate of Authority in Florida had expired.

In September 2008, the Department of Insurance released the Company from oversight due to its successful rehabilitation. The Company was able to reactivate the following certificates: Alaska, Arizona, Arkansas, Illinois, Idaho, Kansas, Kentucky, Mississippi, Missouri, Oklahoma, Oregon, Tennessee, Virginia, Washington, West Virginia, Wyoming, Nebraska, North Carolina, South Carolina, and Wisconsin.

In June 2010, the Company non-renewed its existing individual health block of business. This resulted in the Company being prohibited from marketing individual health plans (subject to the definitions if individual health plans set forth in HIPAA) for a period of 5 years.

In September 2012, under a stop loss agreement, the Company acquired from the Coca-Cola Bottlers' Association a health insurance administration company that administers specialty self-insurance arrangements, offering ERISA qualified self-insured plans to employers in affinity associations or trade groups and selling medical stop loss coverage to employers through captive insurers (collectively, the "TABS" companies). The captives are located in Delaware.

Further comments regarding the products offered by the Company under this stop loss agreement can be found under the caption "Marketing and Sales" below.

On November 7, 2012, the Company was acquired by Integon Indemnity Corporation, a wholly-owned subsidiary of National General Management Corp.(NGMC), which is wholly-owned by National General Holdings Corp. (NGHC).

NGMC, Vice-President of Claims, George Hall, is also the Vice-President and Chief Claims Officer of NHIC.

NGHC's Chief Financial Officer, Michael Hal Weiner is also the Chief Financial Officer

and Director of NHIC. The Chief Operating Officer, Peter A. Rendell, and the Chief Accounting Officer, Don W. Bolar for NGHC are also the Treasurer and Vice President and Chief Accounting Officer of NHIC.

During the time of acquisition, the following certificates of authority were restricted: California, Connecticut, Louisiana, New Hampshire, Ohio, and Texas. The Colorado certificate was suspended. As of December 31, 2014, the Company has been released from any restrictions on its license in Ohio, Louisiana, New Hampshire, California, and Vermont and its suspension in Colorado has been lifted.

## COMPLAINT/GRIEVANCE/APPEAL HANDLING

The Company provided a listing of all complaints, grievances or appeals filed with the Company during the examination period.

The Company provided one complaint in which the customer went on-line and answered questions on the application correctly. The customer was told by the agent to change her answers on the application, and the Company provided her an explanation as to why she had to change her answers. Customer agreed to change answers, and agreed to the policy, knowing the answers were incorrect. The Company indicated it had to be answered that way because of a glitch in their system. The customer felt deceived, and cancelled the policy effective April 8, 2015.

The complaint was submitted to the Department and the Department requested a copy of the policy and a copy of the bank statement to ensure the customer received total refund for cancellation. The policy was cancelled, and the customer received a total refund.

**1 Exceptions 18 Del. C.§ 2304 Unfair methods of competition and unfair or deceptive acts or practices defined.**

*(18) Misrepresentation in insurance applications. —*

*b. No agent, broker, solicitor, examining physician, applicant or other person shall knowingly or willfully make any false or fraudulent statement or representation in or with reference to any application for insurance or, for the purpose of obtaining any money or benefit, knowingly or willfully present or cause to be presented a false or fraudulent claim or any proof in support of such a claim for the payment of the loss upon a contract of insurance or prepare, make or subscribe a false or fraudulent account, certificate, affidavit or proof of loss or other document or writing with intent that the same may be presented or used in support of such a claim*

Recommendation: The Company should immediately instruct agents and employees not to require or direct individuals to input inaccurate information.

## MARKETING AND SALES

Under the stop loss agreement mentioned in the Company History section, the Company expanded its distribution and now also markets through traditional employee benefits, brokers and consultants, using NHIC and has ceased writing new policies through the captives. The Company utilizes healthcare companies like CIGNA and Aetna to provide the underlying network and claims processing. NHIC also offers supplemental health product lines through its distribution channels. These products are defined as excepted benefits under HIPAA.

The Company offers fixed indemnity, short term medical health plans, critical illness, specified disease, and accident plans.

NHIC products are marketed to individuals and sold through association groups as individual policies. NHIC markets its products through the following distribution channels:

1. Independent Marketing Organizations (IMOs) that have distribution channels in the marketplace;

2. An affiliated independent marketing agency, America's Health Care Plan (AHCP); and

3. An affiliated direct to consumer marketing organization, Velapoint LLC.

The Company provided all information that pertains to the issuance of the policy files. This information included all applications, the telephone verification recordings and agent call recordings, and all recorded phone calls. Policies were issued through three distinct association groups: .

- Ameritemp Short-Term Medical Insurance (AOBG) Members
- NHIC DE Members
- Unified Caring Association (UCA) DE Members

The Company reported two Delaware members for the AOBG listing, 93 Delaware members within the NHIC listing, and 18 Delaware members recorded under the UCA listing, for a total of 113 members.

All 113 recorded phone calls were selected for review. Of the 113 recorded phone calls, 10 recorded phone calls, along with 10 recorded agent phone calls revealed that the consumer was confused about supplemental coverages and thought the critical illness and accident only plans met Minimum Essential Benefit standards under the Affordable Care Act, when in fact, these coverages do not meet Minimum Essential Benefit standards.

The examiner asked the Company whether or not it had changed any of the scripts to include the reference Affordable Care Act coverage, and if so, when? Or, was the Affordable Care Act ever referenced in the phone recordings and later removed, and if so, when?

According to the Company, phone scripts vary by producer, and the Company does not review and approve them. The Company indicated they are instituting a new process to mail out a consumer awareness welcome letter to each insured, shortly after the consumer purchases coverage, the examiners were not provided a final copy of that document.. The Company also indicates that the awareness clarification will only be provided to the new consumers.

During the review of phone recordings, it was determined that ten application files' phone recordings and/or agent recordings sampled mispresented the pertinent facts or insurance policy provisions relating to coverage.

After reviewing agent and follow-up verification calls, the examiners noted the following concerns:

- None of the agents mention the name of the accident/critical illness company, National Health Insurance Company. The accident/critical illness plan is only identified through a marketing name such as Intellaplan 2500.
- None of the agents mention the life association or its benefits. The consumers first hear about the life association during the verification call. The individuals are never advised of the life association membership or associated fees.
- The agents did not explain pre-existing limitations and coverage limits for the accident/critical illness plan to consumers so when they are presented with the confirmation statements during the verification call, they are often confused. Consumers have indicated the pre-existing information is new or asked questions about pre-existing health conditions during the verification process. The consumers do not seem to fully understand they are purchasing multiple products from different companies (although several calls did include identification of the health company and the company providing dental/vision coverage). In several calls it was noted that the "verifier" seemingly diagnosed whether an individual's health concerns would qualify as "pre-existing". Obviously those decisions should be made by medical personnel and should not be part of a sales call.
- The verification calls are conducted by individuals that do not understand the products as is evident when the consumer confuses this product with ACA coverage and the company representatives do not explain this coverage is not ACA complaint. The responses provided to the consumers are sometimes misleading and it is apparent the individual is attempting to simply follow a company provided script. .
- Some consumers do not understand that affiliation with an association is not required to purchase ACA related health insurance coverage nor do they seem to

understand they are purchasing optional secondary coverage through a different company than the provider of their ACA complaint policy. .

The following violations were noted:

**10 Exceptions 18 Del. C.§ 2304 Unfair methods of competition and unfair or deceptive acts or practices defined.**

*The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:*

*(16) Unfair claim settlement practices. — No person shall commit or perform with such frequency as to indicate a general business practice any of the following:*

*a. Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;*

Recommendations:

1. The Company should immediately ensure individuals are told during the discussion with the agent that they are enrolling in a life association and participation in the association is not required to obtain ACA coverage.
2. The Company should immediately require disclosure of the Company's name during the solicitation process.
3. The Company should immediately require disclosure of pre-existing and coverage limitations during the solicitation process.
4. The Company should immediately require disclosure of the multiple premium amounts, withdrawal dates and identify the source or Company identification for each anticipated premium withdrawal.
5. The Company should immediately conduct retraining for individuals conducting verification calls. The training should include clear instructions that any questions related to coverage or product features be addressed through licensed producers.
6. The Company should immediately require a clear and concise disclosure that the supplemental coverage offerings are not qualified plans under the Affordable Care Act and do not meet minimum essential benefit requirements.

In addition, several of the phone recordings reviewed, indicated that an agent who gives the name Anna Lambert was instrumental in the solicitation of this business. It was found that "Anna Lambert" is not a licensed agent in Delaware but rather the individual in question is utilizing an alias in violation of Delaware statutes.

**1 Exception – 18 Del. C. § 1710 Assumed names.**

*An insurance producer doing business under any name other than the producer's legal name is required to notify the Insurance Commissioner prior to using the assumed name.*

Recommendation: The Company should immediately instruct all producers to use their legal name as shown on their insurance license. Producers should be reminded that the use of assumed names is prohibited without prior notification to the Insurance Commissioner.

### 5 Exceptions 18 Del. C.§ 1715 Appointments

*(b) To appoint a producer as its agent, the appointing insurer shall file, in a format approved by the Insurance Commissioner, a notice of appointment within 15 days from the date the agency contract is executed or the first insurance application is submitted. An insurer may also elect to appoint a producer to all or some insurers within the insurer's holding company system or group by the filing of a single appointment request. The group appointment provision of this section is only applicable upon implementation by this Department of an electronic appointment process.*

Five agents or producers were not appointed within 15 days from the date the agency contract was executed or the first insurance application submitted.

Recommendation: It is recommended that the Company ensure that the appointment of a producer as its agent, shall file a notice of appointment within 15 days from the date the agency contract is executed or the first insurance application is submitted.

## UNDERWRITING AND RATING

### 1 Exception– 18 Del. C. §2712 Filing, approval of forms

*(a) No basic insurance policy or annuity contract, form, or application form where written application is required and is to be made a part of the policy or contract or printed rider or endorsement form or form of renewal certificate shall be delivered or issued for delivery in this State, unless the form has been filed with the Commissioner. This provision shall not apply to surety bonds or to specially rated inland marine risks nor to policies, riders, endorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under life or health insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. With respect to group and blanket health insurance policies issued and*

> *delivered to a trust or to an association outside of this State and covering persons resident in this State, the group certificates to be delivered or issued for delivery in this State shall be filed with the Commissioner pursuant to this section provided, however, that this requirement shall not apply to an association group having received a waiver from the Commissioner upon a finding that the association group meets the qualifications set forth in § 3506 of this title. In the case of forms for use in property, marine (other than wet marine and transportation insurance), casualty, surety and title insurance coverages, the filing required by this subsection may be made by rating organizations on behalf of their members and subscribers, but this provision shall not be deemed to prohibit any such member or subscriber from filing any such forms on its own behalf.*

The Company provided coverage to two Delaware residents utilizing policy form SLIC, prior to filing the policy form with the DEDOI.

Recommendation: It is recommended that the Company ensure that its policy forms in use are approved within a jurisdiction and in compliance with 18 Del. C. §2712.

**1 Exception – 18 Admin. C. §1305**

Rate Filing Procedures for Health Insurers and Health Service Corporations and Managed Care Organizations

> *6.1 Subject to the provisions of this section, no policy form rates subject to this regulation shall be delivered or issued for delivery in this state, unless they have been filed with the Commissioner.*

The rates for the policy form in use were not filed in accordance with the Delaware regulations.

Recommendation: It is recommended that the Company ensure that its rates subject to this regulation be delivered or issued for delivery in this state be filed with the Commissioner.

## CONCLUSION

The recommendations made below identify corrective measures the Department finds necessary as a result of the Exceptions noted in the Report. Location in the Report is referenced in parenthesis.

1. The Company should immediately instruct agents and employees not to require or direct individuals to input inaccurate information, pursuant to 18 Del. C. §2304(Complaint Handling)

2. The Company should immediately ensure individuals are told during the discussion with the agent that they are enrolling in a life association and that participation in the association is not required to obtain coverage, pursuant to 18 Del. C. §2304. (Marketing and Sales)

3. The Company should immediately require disclosure of the Company's name during the solicitation process, pursuant to 18 Del. C. §2304 (Marketing and Sales)

4. The Company should immediately require disclosure of pre-existing and coverage limitations during the solicitation process, pursuant to 18 Del. C. §2304. (Marketing and Sales)

5. The Company should immediately require disclosure of the multiple premium amounts, withdrawal dates and identify the source or Company identification for each anticipated premium withdrawal pursuant to 18 Del. C. §2304. (Marketing and Sales)

6. The Company should immediately conduct retraining for individuals conducting verification calls. The training should include clear instructions that any questions related to coverage or product features be addressed through licensed producer pursuant to 18 Del. C. §2304. (Marketing and Sales)

7. The Company should immediately require a clear and concise disclosure that the supplemental coverage offerings are not qualified plans under the Affordable Care Act and do not meet minimum essential benefit requirements, pursuant to 18 Del. C. §2304. (Marketing and Sales)

8. The Company should immediately instruct all producers to use their legal name as shown on their insurance license. Producers should be reminded that the use of assumed names is prohibited without prior notification to the

Insurance Commissioner in accordance with this chapter 18 Del. C. §1710. (Marketing and Sales)

9. It is recommended that the Company ensure that the appointment of a producer as its agent, shall file a notice of appointment within 15 days from the date the agency contract is executed or the first insurance application is submitted in accordance with 18 Del. C. §1715 (b). (Marketing and Sales)

10. It is recommended that the Company ensure that its policy forms in use are approved within a jurisdiction and in compliance with 18 Del. C. §2712. (Underwriting and Rating)

11. It is recommended that the Company ensure that its rates subject to this regulation be delivered or issued for delivery in this state be filed with the Commissioner, pursuant to 18 Del. Admin. C. §1305 (6.1). (Underwriting and Rating)

The examination conducted by Shelly Schuman and Gwendolyn Douglas is respectfully submitted.

Gwendolyn J. Douglas, CIE, MCM, CFE,
CFE (Fraud)
Examiner-in-Charge
Market Conduct
Delaware Department of Insurance