



Legal Opinion (LO) No.:	2021-03
Date:	21 January 2021

**MS. AMELIA TECSON**  
[ella.tecson0726@gmail.com](mailto:ella.tecson0726@gmail.com)

**SUBJECT: Sale of Insurance/HMO Products Abroad**

Dear **Ms. Tecson**:

This refers to your query sent through email last 29 September 2020 seeking clarification as to whether duly-licensed insurance and Health Maintenance Organizations (HMOs) may sell their insurance/HMO products abroad.

Per your email, you are a financial advisor from an insurance company authorized by the Insurance Commission to sell insurance through online channels. This notwithstanding, you have been advised by your company that you are not allowed to sell insurance outside the Philippines.

In your email, you have also mentioned that agents from IMG Kaiser Healthcare (“IMG”) are saying that they are allowed to sell their products abroad and that the product purportedly being sold is a 3-in-1 product with HMO, life insurance, and investment components.

Upon careful consideration of the present matter, the Insurance Commission clarifies that **the Certificate of Authority issued by the Commission to insurance companies and HMOs is solely for the purpose of doing business in the Philippines, and that the selling of insurance and/or HMO products abroad shall be subject to the licensing requirements, pertinent laws, and other regulatory restrictions in effect in the country where such insurance and/or HMO contract is executed.**

Article 2011 of the Civil Code provides that “[t]he contract of insurance is governed by special laws. Matters not expressly provided for in such special laws shall be regulated by this Code.” Insofar as the issuance of a policy, certificate or contract of issuance is concerned, the Insurance Code, as amended, is instructive. As provided in Section 232 thereof:

**“Section 232.** No policy, certificate or contract of insurance shall

be issued or delivered **within the Philippines** unless in the form previously approved by the Commissioner, and no application form shall be used with, and no rider, clause, warranty or endorsement shall be attached to, printed or stamped upon such policy, certificate or contract unless the form of such application, rider, clause, warranty or endorsement has been approved by the Commissioner.”

Please note that the Insurance Commission’s approval of policy forms does not constitute blanket approval as to the issuance thereof. This can be gleaned from Section 232 of the Insurance Code, as amended, which specifically provides that only policies, certificates, or contracts of insurance in the form previously approved by the Commission may be issued or delivered **only within the Philippines**. This interpretation is in consonance with the pertinent provisions of the Insurance Code, as amended, as well as of Executive Order No. 192, s. 2015, with respect to the scope of the Certificate of Authority issued by the Insurance Commission to insurance companies and HMOs.

Section 192 of Republic Act No. 10607, otherwise known as the “Insurance Code, as amended” provides, to wit:

“**Section 192.** No corporation, partnership, or association of persons **shall transact any insurance business in the Philippines** except as agent of a corporation, partnership or association authorized to do the business of insurance in the Philippines, unless possessed of the capital and assets required of an insurance corporation doing the same kind of business in the Philippines and invested in the same manner; unless the Commissioner shall have granted it a certificate to the effect that it has complied with all the provisions of this Code.

**Every entity receiving any such certificate of authority shall be subject to the insurance and other applicable laws of the Philippines and to the jurisdiction and supervision of the Commissioner.**”

Meanwhile, Executive Order No. 192, series of 2015 provides as follows:

“**Section 4. Authority of the IC over HMOs.** The IC shall have the authority to exercise the following functions over HMOs:

x x x

b. **Approve, amend, renew, decline, suspend, or revoke any license, registration, or certificate of authority issued in favor of HMOs;**

x x x

l. **Exercise such other powers as may be provided by law** as well those which may be implied from, or which are necessary or incidental to carry out the express powers granted the IC to achieve the objectives and purposes of this Order.

**Section 5. License to Operate.** All HMOs, whether investor-based, community-based or cooperative, are hereby required to comply with the regulatory requirements of procuring a License to operate from the IC. x x x

Based from the aforecited provisions of the Insurance Code, as amended, as well as EO 192, **the authority granted by the Insurance Commission to insurance companies and HMOs pertains exclusively to the authority to do business in the Philippines, subject to the applicable laws of the Philippines, as well as to the jurisdiction and supervision of the Commission.** Hence, the Certificate of Authority issued by the Insurance Commission to insurance companies and HMOs does not in any way grant insurance companies and HMOs the authority to do business abroad, notwithstanding any permission that the Commission may grant or may have granted with respect to online selling of approved products.

It must be emphasized that the validity of an insurance/HMO contract issued by an insurance company/HMO doing business in the Philippines is predicated upon the grant of authority to do business in the Philippines issued by the Insurance Commission in favor of such insurance company/HMO, the Commission's approval of the relevant insurance/HMO product and policy forms, and the compliance of such insurance company/HMO with other relevant laws, rules and regulations in effect in the Philippines. **Considering that the Certificate of Authority and product approval issued by the Commission pertains specifically to the conduct of business in the Philippines, anything issued beyond such grant of authority/approval does not have the force of law, without prejudice to any relief which may be available to the insured/member before the regular courts.**

Moreover, please note that **the sale of insurance and/or HMO products outside the Philippines shall be subject to the licensing and product approval requirements, as well as other pertinent laws, rules, and regulations in effect in the country where such insurance and/or HMO products are being sold.**

Finally, kindly note that the Commission has previously issued Circular Letter No. 2020-109 dated 26 November 2020 or the "Guidelines on Institutionalization of 'Remote Selling Initiatives' As A Permanent Mode of Selling Insurance Products". Under Item 2 thereof, the utilization of remote selling initiatives in cross-border selling is specifically prohibited. The said item likewise specifies that only persons and/or risks situated within the Philippines may be insured by life and non-life insurance companies doing business in the Philippines, to wit:

**“2. Geographical Limitation. – Insurers shall only insure persons and/or risks situated within the Philippines. Remote Selling Initiatives may not be utilized in cross-border selling. Accordingly, insurers shall adopt measures to ensure that no cross-border selling shall occur at the conduct of the sale.”**

The foregoing considered, the Commission reiterates that **the Certificate of Authority issued to insurance companies and HMOs merely allows such entities to do business in the Philippines. This is the case notwithstanding any permission granted by the Commission with respect to electronic commerce and remote selling initiatives.**

Please note that the above opinion rendered by this Commission is based solely on the particular facts disclosed in the query and relevant solely to the particular issues raised therein and shall not be used, in any manner, in the nature of a standing rule binding upon the Commission in other cases whether for similar or dissimilar circumstances.

Thank you.

Very truly yours,

  
**DENNIS B. FUNA**  
Insurance Commissioner

