



The Commonwealth of Massachusetts

Office of the Commissioner of Banks

One South Station

Boston, Massachusetts 02110

JANE SWIFT
GOVERNOR

THOMAS J. CURRY
COMMISSIONER

September 13, 2001

Ms. Liivi Joe
Executive Assistant
NexClaim Technologies, Inc.
Century Executive Park
200 Corporate Place
Rocky Hill, CT 06067

Dear Ms. Joe:

This letter is in response to your correspondence of August 3, 2001 and August 21, 2001 to the Division of Banks (the "Division") relative to the necessity for NexClaim Technologies, Inc. ("NexClaim") to maintain its collection agency license in the Commonwealth.

Your correspondence states that NexClaim has been maintaining a collection agency license in the Commonwealth but would like to surrender this license inasmuch as NexClaim has only one small client in the Commonwealth for whom it does health claim subrogation cases only. According to your correspondence, these subrogation cases involve a situation where a health plan has paid medical expenses for a covered individual involved in an accident. The covered individual has sued a negligent party for causing the injuries from the accident. The health plan notifies the parties to the accident litigation that in the event that the negligent party is found liable for the medical expense, it must be repaid to the health plan. You state that NexClaim represents the health plan in monitoring the accident lawsuit to protect the health plans rights.

Chapter 93, §24 requires that entities engaged in the collection of debts for another to obtain a license from the Division as a collection agency. 209 CMR 18.03 defines a "debt" as money or its equivalent which is, or is alleged to be, more than 30 days past due and owing...under a single account as a result of a purchase, lease, or loan of goods, services, or real or personal property.

The Division has previously opined¹ on a stated set of facts that a subrogation claim wherein an insurance carrier which paid a claim proceeds against another party for collection of their payment, would not be considered a "debt". Accordingly, the opinion concluded that the collection of such claims would not trigger the collection agency licensing requirements in the Commonwealth.

¹ See enclosed Opinion 96-227 dated December 30, 1996.



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While not necessarily clear from your explanation, the Division assumes that NexClaim's activity is limited to collecting subrogation claims, on behalf of the health plan, following resolution of litigation. If that is the case, the Division would not consider such a subrogation claim to be a "debt" as contemplated by 209 CMR 18.03 and thus NexClaim would not require a collection agency license in the Commonwealth to engage in that specified activity.

The conclusions reached in this letter are based solely on the facts presented. Fact patterns which vary from those presented may result in a different position statement by the Division.

Sincerely,



Joseph A. Leonard, Jr.
Deputy Commissioner of Banks
and General Counsel

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