

STATE OF NEW JERSEY  
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:

Proceedings by the Commissioner of	)	
Banking and Insurance, to fine, suspend	)	ORDER TO
and/or revoke the third party administrator	)	SHOW CAUSE
license of Progyny, Inc.	)	

THIS MATTER, having been opened by the Commissioner of Banking and Insurance (“Commissioner”), State of New Jersey, upon information that Progyny, Inc. (“Progyny”) may have violated provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Progyny is licensed as a third party administrator pursuant to N.J.S.A. 17B:27B-4; and

WHEREAS, Progyny is subject to the statutes governing third party administrators, N.J.S.A. 17B:27B-1 to -25, and to the regulations governing third party administrators, N.J.A.C. 11:23-1.1 to -4.3; and

WHEREAS, pursuant to N.J.S.A. 17B:27B-13, entities licensed as third party administrators are required to file an annual report with the Commissioner for the preceding calendar year in a form and manner prescribed by the Commissioner; and

WHEREAS, pursuant to N.J.A.C. 11:23-3.8, a third party administrator must file by June 1 of each year an annual report for the preceding calendar year consisting of an audited financial statement and unaudited information together with a \$100 filing fee. The unaudited information shall contain the complete names and addresses of all benefits payers with which the third party

administrator had a contract in effect during the preceding calendar year and the status of all contracts in effect in the previous year; and

WHEREAS, pursuant to N.J.S.A. 17B:27B-14(d), the Commissioner may suspend or revoke the license of a third party administrator who has violated any lawful rule or order of the Commissioner or any provision of State law; and

WHEREAS, pursuant to N.J.S.A. 17B:27B-24, the Commissioner may impose a civil administrative penalty in an amount not less than \$250 nor more than \$5,000 for each day that a third party administrator is in violation of N.J.S.A. 17B:27B-1 to -25; and

IT APPEARING, that Progyny was licensed as a third party administrator on July 26, 2017 and that by letter dated July 26, 2017 from the Department of Banking and Insurance ("Department"), Progyny was advised that it is required to make an annual filing due June 1 of each year and that its first annual filing will be due on June 1, 2018; and

IT FURTHER APPEARING, that by notice posted on the Department's website on January 5, 2018, third party administrators were advised of the requirement to submit the 2017 annual report by June 1, 2018 and provided with filing instructions; and

IT FURTHER APPEARING, that on June 4, 2018 Progyny requested an extension to file its annual report; and

IT FURTHER APPEARING, that on June 6, 2018 the Department granted Progyny an extension until June 22, 2018; and

IT FURTHER APPEARING, that on June 6, 2018 the Progyny advised the Department that the audited financial statement would not be available until July 2018; and

IT FURTHER APPEARING, that on June 7, 2018 the Department advised Progyny to submit the annual filing without the audited financial statement by June 22, 2018 and granted an extension to submit the audited financial statement to July 20, 2018; and

IT FURTHER APPEARING, that on July 20, 2018 Progyny stated that it was still waiting for its audited financial statement to be completed and they should be available around July 30, 2018; and

IT FURTHER APEARING, that on July 23, 2018 the Department received a letter from Progyny stating the audited financial statement should be completed by July 31, 2018; and

IT FURTHER APPEARING, that on August 8, 2018 the Department asked Progyny for an update on the status of the audited financial statement; and

IT FURTHER APPEARING, that on August 8, 2018 Progyny submitted a letter to the Department stating that the audited financial statement for Progyny, Inc. is not yet completed and that the independent auditors are still working diligently to finalize the statement with an updated completion date on or about October 31, 2018; and

IT FURTHER APPEARING, that on August 24, 2018 the Department received a letter from Progyny stating that the audited financial statement is still not ready; and

IT FURTHER APPEARING, that on August 24, 2018 the Department received a letter from Progyny's auditors stating they are currently working diligently on finalizing the audit of Company's financial statements for the year ended December 31, 2017; however, they could provide no assurances that they would finalize the audit for the year ended December 31, 2017; and

IT FURTHER APPEARING, that Progyny has failed to file its 2017 audited financial statement on or before June 1, 2018, which failure has continued to date, and that Progyny's 2017 audited financial statement is over 100 days late;

NOW THEREFORE IT IS ON this 14<sup>TH</sup> day of SEPTEMBER 2018

ORDERED, that Progyny appear and show cause why its third party administrator license should not be suspended or revoked pursuant to N.J.S.A. 17B:27B-14; and

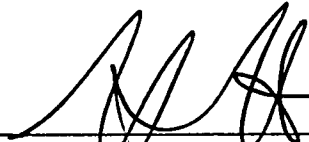
IT IS FURTHER ORDERED, that Progyny appear and show cause why the Commissioner should not assess a civil administrative penalty of not less than \$250 nor more than \$5,000 for each day that Progyny was in violation of N.J.S.A. 17B:27-13; and

IT IS PROVIDED, that Progyny has the right to request an administrative hearing, to be represented by counsel or other qualified representative, at its own expense, to take testimony, to call or cross-examine witnesses, to have subpoenas issued, and to present evidence if a hearing is requested; and

IT IS FURTHER PROVIDED, that unless a request for a hearing is received within twenty (20) days of the service of this Order to Show Cause, the right to a hearing in this matter shall be deemed to have been waived by Progyny, and the Commissioner shall dispose of this matter in accordance with law. A hearing may be requested by mailing the request to Virgil Downtin, Chief of Investigations, Department of Banking and Insurance, P. O. Box 329, Trenton, NJ 08625 or by faxing the hearing request to the department at (609) 292-5337. The request shall include:

- (a) The Respondent's name, current address and daytime telephone number;
- (b) A statement referring to each charge alleged in this Order to Show Cause and identifying any defense intended to be asserted in response to each charge. Where the defense relies on facts not contained in the Order to Show Cause, those specific facts must be stated; and

- (c) A specific admission or denial of each fact alleged in this Order to Show Cause. Where Respondent has no specific knowledge regarding a fact alleged in this Order to Show Cause, a statement to that effect must be contained in the hearing request. Allegations of this Order to Show Cause not answered in the manner set forth above shall be deemed to have been admitted; and
- (d) A statement requesting a hearing.



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Peter L. Hart  
Director, Division of Insurance