

## Trupanion: Recent Disclosures About Sharing Cost Savings With Veterinary Hospitals Reveal Practices That Could Violate Multiple State Laws, According to Insurance Experts and Regulators

### Company Update

Trupanion (TRUP) recently updated its website to provide information about “[Insurance Sounding Stuff](#)” and provide answers to some of the issues we have raised in our previous articles. In providing the answers to our articles, Trupanion potentially acknowledged that it is engaged in practices that violate multiple state insurance laws, according to insurance experts and regulators we interviewed. And veterinary hospital staff who accept payment from Trupanion could unknowingly be at risk of violating state insurance laws.

Trupanion frames its answers to some of the issues we have raised as offering veterinary hospitals the opportunity to share in the cost savings that Trupanion receives when Trupanion Express is used. The company admits that it has “offered hospitals two programs to encourage the installation and use Trupanion Express™.” It specifically admits that the points and rewards system, which provide—among other things—trips to [Hawaii, Seattle, and Las Vegas](#), is based on “enhanced” Trupanion Express usage.

In addition, Trupanion’s disclosure that it is paying “reasonable compensation” to Group Purchasing Organizations (GPO) for submitting invoices using Trupanion Express, could constitute an unlawful rebate in violation of state anti-rebate and kickback laws, according to insurance experts and regulators we interviewed.

When we asked the Colorado Division of Insurance about these practices, a spokesperson responded “these practices could be problematic, both in terms of using and compensating people who are unlicensed, as well as the compensation itself possibly running against anti-rebate laws.”

Trupanion provided the following emailed statement: “The Company rigorously tries to ensure all parts of its business are fully compliant. With respect to your questions about passing on cost savings, we have provided reasonable compensation to certain hospitals who invest time and effort to help provide pet owners with the best overall veterinary experience, including reimbursing hospitals directly at the time of check-out. We do not incentivize insurance enrollments.”

### In-Depth: Trupanion Sharing Cost Savings

The payment of money or sharing of cost savings is not per se illegal. However, the [Producer Licensing Model Act](#) (PLMA) and the laws in states that have adopted the tenants of the PLMA is clear: “An insurance company or insurance producer shall not pay a commission, service fee, brokerage or other valuable consideration to a person for selling, soliciting or negotiating insurance in this state if that person is required to be licensed under this Act and is not so licensed.”

A spokesperson for the Iowa Insurance Division said, “An insurer could pay or pass along costs savings to an unlicensed individual as long as [sic] they are not being compensated for selling, soliciting or negotiating insurance.” A spokesperson for the Illinois Department of Insurance agreed that the payments are not necessarily prohibited, but noted that “there are prohibitions against steering customers to a particular insurance agency or product.”

**Cost savings indirectly incentivizes veterinary hospitals to recommend Trupanion.** In a somewhat circular way, Trupanion contends that increased use of Trupanion Express reduces Trupanion’s expenses. As a result, Trupanion has created two incentives that are designed to encourage the installation and use of Trupanion Express.

Veterinary hospitals with enhanced Trupanion Express usage can earn rewards, including the trips about which we have previously written. And hospitals who use Trupanion Express, and allow Trupanion to reduce its claims processing expenses, can share in some of those savings.

So, in short, Trupanion is incentivizing vets to use Trupanion Express to participate in cost savings. Importantly, Trupanion Express can only be used to process claims for pets who are covered by Trupanion. This is an indirect system designed to create an incentive for veterinary hospital staff to recommend Trupanion to his or her pet owner clients, according to Robert H. Jerry, the Isidor Loeb Professor of Law at the University of Missouri School of Law.

As we have [previously written](#), if veterinary hospital staff are recommending Trupanion over other types of pet insurance, that practice likely constitutes the solicitation or negotiation of insurance, which requires a property and casualty license in almost every state.

**Payment to unlicensed individuals who are soliciting and negotiating insurance runs afoul of state insurance laws.** The PLMA prohibits an insurance company from paying “valuable consideration” or “a commission” to a person for selling, soliciting, or negotiating insurance if that person is not licensed.

The trip to Hawaii veterinary hospital staff earned for enhanced Trupanion Express usage would likely constitute valuable consideration, according to Peter Kochenburger, a professor at the University of Connecticut Law School and former attorney in the Iowa Department of Justice’s consumer protection division.

Trupanion states that it has offered GPOs the opportunity to receive “reasonable compensation to facilitate the prompt payment of eligible veterinary invoices.” Regulators and investigators could, depending on the nature of the compensation, determine that it is valuable consideration, and, as a result, Trupanion’s payment could be found to run afoul of state insurance laws, according to Kochenburger.

**Accepting valuable consideration or commissions puts veterinary hospital staff at risk of violating state laws.** In addition to making payments, the PLMA also provides that unlicensed individuals who are soliciting, negotiating, or selling insurance shall not accept a commission or valuable consideration. Accordingly, the people who participated in the Hawaii, Seattle, or Alaska trip could also be in violation of state insurance laws, Kochenburger said.

**State anti-rebate laws.** In addition to potentially violating state insurance laws, Jerry said that payments from Trupanion to vets could run afoul of state anti-rebate statute.

The model act for anti-rebate laws is the [Unfair Trade Practices Act](#) (UFTA), which prohibits, in pertinent part, giving “directly or indirectly, as inducement to such policy. . . any valuable consideration or inducement whatever not specified in the policy . . .” In addition, the UFTA prohibits “giving . . . or offering to give . . . anything of value whatsoever not specified in the policy.” Some states have adopted laws that mirror or contain important provisions from the UFTA.

It is not clear whether Trupanion is making the payment directly to the GPO or to the members of the GPO. Jerry was unaware of any exemption to the anti-rebate law for GPOs. And, importantly, the UFTA prohibits the indirect payment, so to the extent the payment was made to the GPO as a whole and indirectly benefited the GPO's members, it could constitute an indirect payment.

**Kickbacks or rebates could spur regulator interest.** “If Trupanion is giving someone a payment to encourage them to have their customers buy Trupanion insurance policies, a regulator is going to be interested in this, given how broad the language is in the UFTA,” Professor Jerry said.

He continued, “If Trupanion is kicking back benefits from claims processing to a vet, if I were a regulator, I would be very worried, as such a practice would clearly implicate the anti-rebate law.” There is “no question about this,” Jerry said, because “the law prohibits the payment of ‘anything of value.’”

We presented the factual scenario to the Virginia Insurance Commissioner's office. In response, a spokesperson directed us to the Virginia statute on rebates, which mirrors the UFTA: “Except as otherwise expressly provided by law, no person shall: Pay, allow or give, or offer to pay, allow or give, directly or indirectly, as inducement to any insurance or annuity contract, any rebate of premium payable on the contract, any special favor or advantage in the dividends or other benefits on the contract, any valuable consideration or inducement not specified in the contract, except in accordance with an applicable rating plan authorized for use in this Commonwealth.”

The spokesperson said that under Virginia insurance law, it does not matter if the commission or rebate is being shared with an unlicensed as opposed to a licensed producer.

Both [Iowa](#) and [Illinois](#) have similar anti-rebate laws.