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Title 28@ Managed Health Care

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Division 1@ The Department of Managed Health Care

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Chapter 2@ Health Care Service Plans

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Article 3@ Plan Applications and Amendments

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Section 1300.49@ General Licensure Requirements

1300.49 General Licensure Requirements

(a)

Definitions As used in this section: (1) "Global risk" means the acceptance of a prepaid or periodic charge from or on behalf of enrollees in return for the assumption of both professional and institutional risk. (2) "Institutional risk" means the assumption of the cost for the provision of hospital inpatient, hospital outpatient, or hospital ancillary services to subscribers or enrollees undertaken by a person, other than services performed pursuant to the person's own license under section 1253 of the Health and Safety Code, in return for a prepaid or periodic charge paid by or on behalf of the subscriber or enrollee. (3) "Limited health care service plan" means a person with a health care service plan license with waivers issued by the Department or its predecessor prior to January 1, 2000 for the provision of, or the arranging, payment, or reimbursement for the provision of, health care services to subscribers or enrollees of another health care service plan under a contract or other arrangement whereby the person assumes both professional and institutional risk. (4) "Prepaid or periodic charge" for the purposes of this section means any amount of compensation, either at the start or end of a predetermined period, for assuming the risk, or arranging for others to assume the risk, of delivering or arranging for the delivery of the contracted-for health care services for subscribers or enrollees that may be fixed either in amount or percentage of savings or losses in which the entity shares. (5)

"Professional risk" means the assumption of the cost for the provision of physician, ancillary, or pharmacy services undertaken by physicians or other licensed or certified providers to subscribers or enrollees in return for a prepaid or periodic charge paid by or on behalf of the subscriber or enrollee. (6) "Restricted health care service plan" means a person with a health care service plan license issued by the Department for the provision of, or the arranging, payment, or reimbursement for the provision of, health care services to subscribers or enrollees of another full service or specialized health care service plan under a contract or other arrangement whereby the person assumes both professional and institutional risk but does not directly market, solicit, or sell health care service plan contracts.

(1)

"Global risk" means the acceptance of a prepaid or periodic charge from or on behalf of enrollees in return for the assumption of both professional and institutional risk.

(2)

"Institutional risk" means the assumption of the cost for the provision of hospital inpatient, hospital outpatient, or hospital ancillary services to subscribers or enrollees undertaken by a person, other than services performed pursuant to the person's own license under section 1253 of the Health and Safety Code, in return for a prepaid or periodic charge paid by or on behalf of the subscriber or enrollee.

(3)

"Limited health care service plan" means a person with a health care service plan license with waivers issued by the Department or its predecessor prior to January 1, 2000 for the provision of, or the arranging, payment, or reimbursement for the provision of, health care services to subscribers or enrollees of another health care service plan under a contract or other arrangement whereby the person assumes both

professional and institutional risk.

(4)

"Prepaid or periodic charge" for the purposes of this section means any amount of compensation, either at the start or end of a predetermined period, for assuming the risk, or arranging for others to assume the risk, of delivering or arranging for the delivery of the contracted-for health care services for subscribers or enrollees that may be fixed either in amount or percentage of savings or losses in which the entity shares.

(5)

"Professional risk" means the assumption of the cost for the provision of physician, ancillary, or pharmacy services undertaken by physicians or other licensed or certified providers to subscribers or enrollees in return for a prepaid or periodic charge paid by or on behalf of the subscriber or enrollee.

(6)

"Restricted health care service plan" means a person with a health care service plan license issued by the Department for the provision of, or the arranging, payment, or reimbursement for the provision of, health care services to subscribers or enrollees of another full service or specialized health care service plan under a contract or other arrangement whereby the person assumes both professional and institutional risk but does not directly market, solicit, or sell health care service plan contracts.

(b)

(1) Any person who assumes global risk shall obtain a license to operate a health care service plan pursuant to section 1349 of the Health and Safety Code. (2) Pursuant to section 1343 of the Health and Safety Code, the Director shall grant an exemption from this section to any person upon review and a finding that the action is in the public interest and not detrimental to the protection of subscribers, enrollees or persons regulated under the Knox-Keene Act. A person requesting an

exemption shall submit the following information for consideration by the Director:

(A) The filing of Exhibit GG, Financial Viability, and Exhibit HH, Projected Financial Viability, of the application for licensure, pursuant to rule 1300.51 of this title. The Exhibits shall include current financial statements and projected changes that have or are expected to occur upon the assumption of global risk. A person that already files audited financial statements with the Department may request an exemption from filing Exhibit GG; (B) The total percentage of annualized income of institutional risk the person will assume and how it will be assumed; (C) The contract(s) for the assumption of global risk; (D) The estimated number of subscribers and enrollees for whom the person will provide health care services; (E) The geographic service area(s) under the global risk arrangement(s) in which the person intends to operate; and (F) Any other information the person believes is appropriate or relevant for the Director to consider when reviewing the exemption request. (G) Persons requesting an exemption shall submit the request to the following address: OPLInquiries@dmhc.ca.gov or submit a hard copy to the Department of Managed Health Care, ATTN: Office of Plan Licensing, 980 Ninth Street, 5th Floor, Sacramento, CA 95814. (3) When reviewing the information submitted under subdivision (b)(2) of this regulation, the Director shall consider the following criteria: (A) The person's portion of contracted global risk when compared to the person's overall business; (B) The portion of market share the person assumes for global risk in the geographical region compared to the market share assumed by other persons within the region, and whether disruption will occur in the marketplace if the person fails to maintain financial solvency; (C) The financial capacity to assume a portion of global risk without jeopardizing enrollee access to basic health care services in the geographical region; (D) The potential impact on the health care marketplace in the geographical region in

which the person operates, including the impact on contracted institutional and professional providers, if the person is unable to maintain financial solvency; and, (E) The issuance of an exemption will not negatively impact public interest or protection of the public, subscribers, enrollees, or persons subject to the Knox-Keene Act, if the person assumes global risk. (4) The Director shall issue the decision on the request for exemption from licensure under this section within 30 days of receipt of the request by the Department.

(1)

Any person who assumes global risk shall obtain a license to operate a health care service plan pursuant to section 1349 of the Health and Safety Code.

(2)

Pursuant to section 1343 of the Health and Safety Code, the Director shall grant an exemption from this section to any person upon review and a finding that the action is in the public interest and not detrimental to the protection of subscribers, enrollees or persons regulated under the Knox-Keene Act. A person requesting an exemption shall submit the following information for consideration by the Director: (A) The filing of Exhibit GG, Financial Viability, and Exhibit HH, Projected Financial Viability, of the application for licensure, pursuant to rule 1300.51 of this title. The Exhibits shall include current financial statements and projected changes that have or are expected to occur upon the assumption of global risk. A person that already files audited financial statements with the Department may request an exemption from filing Exhibit GG; (B) The total percentage of annualized income of institutional risk the person will assume and how it will be assumed; (C) The contract(s) for the assumption of global risk; (D) The estimated number of subscribers and enrollees for whom the person will provide health care services; (E) The geographic service area(s) under the global risk arrangement(s) in which the person intends to operate; and (F) Any other information

the person believes is appropriate or relevant for the Director to consider when reviewing the exemption request. (G) Persons requesting an exemption shall submit the request to the following address: OPLInquiries@dmhc.ca.gov or submit a hard copy to the Department of Managed Health Care, ATTN: Office of Plan Licensing, 980 Ninth Street, 5th Floor, Sacramento, CA 95814.

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The filing of Exhibit GG, Financial Viability, and Exhibit HH, Projected Financial Viability, of the application for licensure, pursuant to rule 1300.51 of this title. The Exhibits shall include current financial statements and projected changes that have or are expected to occur upon the assumption of global risk. A person that already files audited financial statements with the Department may request an exemption from filing Exhibit GG;

(B)

The total percentage of annualized income of institutional risk the person will assume and how it will be assumed;

(C)

The contract(s) for the assumption of global risk;

(D)

The estimated number of subscribers and enrollees for whom the person will provide health care services;

(E)

The geographic service area(s) under the global risk arrangement(s) in which the person intends to operate; and

(F)

Any other information the person believes is appropriate or relevant for the Director to consider when reviewing the exemption request.

(G)

Persons requesting an exemption shall submit the request to the following address:

OPLInquiries@dmhc.ca.gov or submit a hard copy to the Department of Managed Health Care, ATTN: Office of Plan Licensing, 980 Ninth Street, 5th Floor, Sacramento, CA 95814.

(3)

When reviewing the information submitted under subdivision (b)(2) of this regulation, the Director shall consider the following criteria: (A) The person's portion of contracted global risk when compared to the person's overall business; (B) The portion of market share the person assumes for global risk in the geographical region compared to the market share assumed by other persons within the region, and whether disruption will occur in the marketplace if the person fails to maintain financial solvency; (C) The financial capacity to assume a portion of global risk without jeopardizing enrollee access to basic health care services in the geographical region; (D) The potential impact on the health care marketplace in the geographical region in which the person operates, including the impact on contracted institutional and professional providers, if the person is unable to maintain financial solvency; and, (E) The issuance of an exemption will not negatively impact public interest or protection of the public, subscribers, enrollees, or persons subject to the Knox-Keene Act, if the person assumes global risk.

(A)

The person's portion of contracted global risk when compared to the person's overall business;

(B)

The portion of market share the person assumes for global risk in the geographical region compared to the market share assumed by other persons within the region, and whether disruption will occur in the marketplace if the person fails to maintain financial solvency;

(C)

The financial capacity to assume a portion of global risk without jeopardizing enrollee access to basic health care services in the geographical region;

(D)

The potential impact on the health care marketplace in the geographical region in which the person operates, including the impact on contracted institutional and professional providers, if the person is unable to maintain financial solvency; and,

(E)

The issuance of an exemption will not negatively impact public interest or protection of the public, subscribers, enrollees, or persons subject to the Knox-Keene Act, if the person assumes global risk.

(4)

The Director shall issue the decision on the request for exemption from licensure under this section within 30 days of receipt of the request by the Department.

(c)

(1) (A) A restricted health care service plan may contract with and accept global risk from only a full service health care service plan or a specialized health care service plan to provide or arrange health care services for that entity's subscribers or enrollees. (B) A restricted health care service plan may not market, solicit, or sell health care service plan contracts to individual members of the public, employers, or any other person or group. (2) An applicant seeking licensure as a restricted health care service plan shall file: (A) An application for licensure in accordance with section 1351 of the Health and Safety Code and rule 1300.51 of this title. The application for licensure shall include all exhibit types, and within each exhibit as relevant, shall specify the functions for which the applicant restricted health care service plan will be responsible and which functions shall be the responsibility of the full service health care service plan or specialized health

care service plan with which the restricted health care service plan contracts. (B) All contractual agreements between the applicant restricted health care service plan and the full service health care service plan, or specialized health care service plan, with which the applicant restricted health care service plan contracts. (C) A Restricted Health Care Service Plan Responsibility Statement, dated November, 2018, hereby incorporated by reference, describing the obligations of both the applicant restricted health care service plan and the full service health care service plan or specialized health care service plan with which the applicant restricted health care service plan contracts. The Restricted Health Care Service Plan Responsibility Statement shall disclose all requirements of the Knox-Keene Act and this title which remain the sole responsibility of the full service health care service plan or specialized health care service plan and which health care services will be the responsibility of the applicant restricted health care service plan. This statement must be signed by both the full service health care service plan or specialized health care service plan and the applicant restricted health care service plan. (3) Pursuant to the network adequacy requirements of the Knox-Keene Act and this chapter, including those requirements set forth in sections 1367, 1367.03, and 1375.9 of the Health and Safety Code, as well as rules 1300.51, 1300.67.2, 1300.67.2.1, and 1300.67.2.2 of this title, the applicant restricted health care service plan shall maintain its own contracted provider network that ensures adequate access to all health care services for which it maintains responsibility pursuant to the Restricted Health Care Service Plan Responsibility Statement. (4) Restricted health care service plans licensed by the Department as of July 1, 2019 may continue to engage in business as restricted health care service plans under this section.

(1)

(A) A restricted health care service plan may contract with and accept global risk from only a full service health care service plan or a specialized health care service plan to provide or arrange health care services for that entity's subscribers or enrollees. (B) A restricted health care service plan may not market, solicit, or sell health care service plan contracts to individual members of the public, employers, or any other person or group.

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A restricted health care service plan may contract with and accept global risk from only a full service health care service plan or a specialized health care service plan to provide or arrange health care services for that entity's subscribers or enrollees.

(B)

A restricted health care service plan may not market, solicit, or sell health care service plan contracts to individual members of the public, employers, or any other person or group.

(2)

An applicant seeking licensure as a restricted health care service plan shall file: (A) An application for licensure in accordance with section 1351 of the Health and Safety Code and rule 1300.51 of this title. The application for licensure shall include all exhibit types, and within each exhibit as relevant, shall specify the functions for which the applicant restricted health care service plan will be responsible and which functions shall be the responsibility of the full service health care service plan or specialized health care service plan with which the restricted health care service plan contracts. (B) All contractual agreements between the applicant restricted health care service plan and the full service health care service plan, or specialized health care service plan, with which the applicant restricted health care service plan contracts. (C) A Restricted Health Care Service Plan Responsibility Statement, dated November, 2018,

hereby incorporated by reference, describing the obligations of both the applicant restricted health care service plan and the full service health care service plan or specialized health care service plan with which the applicant restricted health care service plan contracts. The Restricted Health Care Service Plan Responsibility Statement shall disclose all requirements of the Knox-Keene Act and this title which remain the sole responsibility of the full service health care service plan or specialized health care service plan and which health care services will be the responsibility of the applicant restricted health care service plan. This statement must be signed by both the full service health care service plan or specialized health care service plan and the applicant restricted health care service plan.

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An application for licensure in accordance with section 1351 of the Health and Safety Code and rule 1300.51 of this title. The application for licensure shall include all exhibit types, and within each exhibit as relevant, shall specify the functions for which the applicant restricted health care service plan will be responsible and which functions shall be the responsibility of the full service health care service plan or specialized health care service plan with which the restricted health care service plan contracts.

(B)

All contractual agreements between the applicant restricted health care service plan and the full service health care service plan, or specialized health care service plan, with which the applicant restricted health care service plan contracts.

(C)

A Restricted Health Care Service Plan Responsibility Statement, dated November, 2018, hereby incorporated by reference, describing the obligations of both the applicant restricted health care service plan and the full service health care service plan or specialized health care service plan with which the applicant restricted health care service plan contracts. The

Restricted Health Care Service Plan Responsibility Statement shall disclose all requirements of the Knox-Keene Act and this title which remain the sole responsibility of the full service health care service plan or specialized health care service plan and which health care services will be the responsibility of the applicant restricted health care service plan. This statement must be signed by both the full service health care service plan or specialized health care service plan and the applicant restricted health care service plan.

(3)

Pursuant to the network adequacy requirements of the Knox-Keene Act and this chapter, including those requirements set forth in sections 1367, 1367.03, and 1375.9 of the Health and Safety Code, as well as rules 1300.51, 1300.67.2, 1300.67.2.1, and 1300.67.2.2 of this title, the applicant restricted health care service plan shall maintain its own contracted provider network that ensures adequate access to all health care services for which it maintains responsibility pursuant to the Restricted Health Care Service Plan Responsibility Statement.

(4)

Restricted health care service plans licensed by the Department as of July 1, 2019 may continue to engage in business as restricted health care service plans under this section.

(d)

Limited health care service plans licensed by the Department or its predecessor as of July 1, 2019 may continue to engage in business as limited health care service plans.

(e)

This section shall apply only to contracts issued, amended, or renewed on or after July 1, 2019.