

§ 1000. Conflict of Interest Code for the Department of Managed Health Care.

The Political Reform Act, Government Code Section 81000, et seq., requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation (Title 2, California Code of Regulations (CCR), section 18730), which contains the terms of a standard conflict of interest code, which can be incorporated by reference in an agency's code. After public notice and hearing it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 CCR, section 18730, and any amendments to it, duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This section 1000the attached Appendix, along with 2 CCR section 18730, designating officials and employees and establishing disclosure categories, shall constitute the Conflict of Interest Code of the Department of Managed Health Care (Department).

The Director shall file his/her statement of economic interests electronically with the Fair Political Practices Commission. All other individuals holding designated position shall file their statements with the Office of Legal Services of the Department, which will make statements available for public inspection and reproduction under Government Code Section 81008. All other statements will be retained by the Office of Legal Services of the Department.

HISTORY:

1. New chapter 1, article 1 (section 1000), section and appendix filed 12-12-2001, including editorial renumbering of former chapter 1 to chapter 2; operative 1-11-2002. Approved by Fair Political Practices Commission 10-3-2001 (Register 2001, No. 50).
2. Amendment of division heading filed 8-12-2002; operative 9-11-2002 (Register 2002, No. 33).
3. Change without regulatory effect amending chapter 1 heading, section and appendix disclosure category C(1)-(2) filed 11-21-2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 47).

4. Amendment of Appendix filed 7-21-2003; operative 8-20-2003. Approved by Fair Political Practices Commission 5-12-2003 (Register 2003, No. 30).

5. Change without regulatory effect amending first paragraph filed 2-24-2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 9).

6. Amendment of Appendix filed 2-3-2005; operative 3-5-2005. Approved by Fair Political Practices Commission 12-3-2004 (Register 2005, No. 5).

7. Repealer of section and Appendix and new section and appendices A and B filed 11-18-2015; operative 12-18-2015 pursuant to Cal. Code Regs., tit. 2, section 18750(l). Approved by Fair Political Practices Commission 10-28-2015 and submitted to OAL for filing and printing only pursuant to Cal. Code Regs., tit. 2, section 18750(k) (Register 2015, No. 47).

8. Amendment of section and Appendix A filed 4-6-2021; operative 5-6-2021 pursuant to Cal. Code Regs., tit. 2, section 18750(d). Approved by the Fair Political Practices Commission 11-12-2020 and submitted to OAL for filing and printing only pursuant to Government Code section 87311 (Register 2021, No. 15).

Appendix A

DEPARTMENT OF MANAGED HEALTH CARE	
DESIGNATED POSITIONS	ASSIGNED DISCLOSURE CAT- EGORY (IES)
OFFICE OF THE DIRECTOR	
Director , Department of Managed Health Care	1, 5
Chief Deputy Director , all levels, wherever assigned	1, 5
Deputy Directors , all levels, wherever assigned	1, 5
Division Chiefs , all levels, wherever assigned	1, 5
CEAs , all levels, wherever assigned	1, 5
Staff Services Managers , all levels	2, 3
Associate Governmental Program Analysts , all levels	3, 4
Attorneys , supervisory and non-supervisory, all levels	1
Information Officers , all levels, wherever assigned	2, 3
Medical Advisors to the Director's Office	2, 3
Research Data Specialist , all levels	2, 3
OFFICE OF ADMINISTRATIVE SERVICES	
Staff Services Managers , all levels	4
Associate Governmental Program Analysts (Procurement and Contracts unit), all levels	4
OFFICE OF ENFORCEMENT	
Assistant Chief Counsel , all levels	1, 5
Attorneys , supervisory and non-supervisory, all levels	1
Legal Analysts , all levels	2, 3
Associate Governmental Program Analysts , all levels	3, 4
Staff Services Managers , all levels	2, 3
Special Investigator , supervisory and non-supervisory, all levels	2, 3

DESIGNATED POSITIONS	ASSIGNED DISCLOSURE CAT- EGORY (IES)
HELP CENTER	
Assistant Chief Counsel , all levels	1, 5
Health Program Specialists , all levels	2, 3
Staff Services Managers , all levels	2, 3
Associate Governmental Program Analyst , all levels	3
Legal Analysts , all levels	2, 3
Nurses , all levels	2, 3
Attorneys , supervisory and non-supervisory, all levels	1
Staff Services Analysts , all levels	2, 3
Research Data Supervisor , all levels	3
Research Data Analyst , all levels	3
OFFICE OF FINANCIAL REVIEW	
Examiners , supervisory and non-supervisory, all levels	2, 3
Actuaries , supervisory and non-supervisory, all levels	2, 3
Auditors , supervisory and non-supervisory, all levels	2, 3
Staff Services Managers , all levels	2, 3
Associate Governmental Program Analyst , all levels	3
OFFICE OF LEGAL SERVICES	
Assistant Chief Counsel , all levels	1, 5
Attorneys , supervisory and non-supervisory, all levels	1
Staff Services Managers , all levels	2, 3
Legal Analysts , all levels	2, 3
Health Program Specialist , all levels	2, 3
OFFICE OF PLAN LICENSING	
Assistant Chief Counsel , all levels	1, 5
Attorneys , supervisory and non-supervisory, all levels	1
Staff Services Managers , all levels	2, 3
Health Program Specialists , all levels	2, 3
Associate Governmental Program Analysts , all levels	3
OFFICE OF PLAN MONITORING	
Assistant Chief Counsel , all levels	1, 5
Attorneys , supervisory and non-supervisory, all levels	1

DESIGNATED POSITIONS	ASSIGNED DISCLOSURE CAT- EGORY (IES)
Staff Services Managers , all levels	2, 3
Health Care Service Plan Analysts , supervisory and non-supervisory, all levels	2, 3
Health Program Specialists , all levels	2, 3
Associate Governmental Program Analysts , all levels	3
Associate Health Program Advisor , all levels	2, 3
Health Program Managers , all levels	2, 3
OFFICE OF TECHNOLOGY AND INNOVATION	
Information Technology Managers , all levels	4
Information Technology Supervisors , all levels	4
Information Technology Specialists , all levels	4

Consultants/New Positions*

* Consultants/New Positions shall disclose pursuant to the broadest disclosure category in the code (Category 1) subject to the following limitations:

The Director of the Department may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Director's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code. Nothing herein excuses any such consultant from any other provisions of this Conflict of Interest Code.

Appendix B

Disclosure Categories

Category 1

Each designated position in this category shall report:

Investments and business positions in business entities, and income (including the receipt of loans, gifts, and travel payments), from any source that are subject to the regulatory, permit or licensing authority of, or have an application for a license or permit pending before, the Department.

- * has been the subject of or participated in any legislation or rulemaking activity, any decision, order, or rule issued or enforced by the Department;
- * is exempted from the provisions of the Knox-Keene Health Care Service Plan Act of 1975, as amended by rule of the Director;
- * provides medical and health care services and supplies such as hospitals, medical groups, risk-bearing organizations (RBOs), independent practice associations (IPAs), pharmaceutical companies, retail pharmacies, surgical centers, and ambulance companies;

- * filed or has pending, a grievance, complaint, or enforcement matter with the Department for whom you made or participated in making the decision, or influenced the outcome of the decision, regarding the grievance or complaint within the past 24 months;
- * provided, serviced or installed goods, services, supplies, materials, machinery, equipment, telecommunications, information technology or consulting services utilized by the Department;

Category 2

Each “designated position” in this category shall report:

Investments and business positions in business entities, and income (including the receipt of loans, gifts, and travel payments), from any source that provides medical and health care services and supplies such as hospitals, medical groups, risk-bearing organizations (RBOs), independent practice associations (IPAs), pharmaceutical companies, retail pharmacies, surgical centers, and ambulance companies.

Category 3

Each designated position in this category shall report:

Investments and business positions in business entities, and income (including the receipt of loans, gifts, and travel payments), from any source that filed or has pending, a grievance, complaint, or enforcement matter with the employee’s division for whom you made or participated in making the decision, or influenced the outcome of the decision, regarding the grievance or complaint within the past 24 months.

Category 4

Each designated position in this category shall report:

Investments and business positions in business entities, and income (including the receipt of loans, gifts, and travel payments), from any source that has provided goods, services, supplies, materials, machinery, equipment, telecommunications, or consulting services utilized by the employee’s division.

Category 5

Each designated positions in this category shall report:

Investments and business positions in business entities, and income (including the receipt of loans, gifts, and travel payments), from sources that has interests in commercial real property, used in the delivery of healthcare services administrated by the Department:

- * has sources of income from commercial real property in which the Department has an office;
- * from any source that engages in land development, construction or the acquisition or sale of real property used in any way in the delivery or regulation of health care services administrated by the Department.

NOTE: Authority cited: Section 1344, Health and Safety Code; Section 87300, Government Code. Reference: Sections 87300-87302 and 87306, Government Code (the Political Reform Act).

ARTICLE 2

Administration

Section

- 1001. Department Internet Web Page and Web Addresses.
- 1002. Appearance and Practice Before the Department.
- 1002.4. Public Meetings and Hearings.
- 1003. Public Comment During Department Meetings.
- 1004. Verification.
- 1005. Interpretive Opinions.
- 1006. Inspection of Public Records.
- 1007. Request for Confidentiality.
- 1008. Availability of Department Forms, Publications and Notices; Fees.
- 1009. Retention of Department Records.
- 1010. Consumer Participation Program.
- 1011. Assessment for University of California Analysis of Proposed Mandate Legislation.

§ 1001. Department Internet Web Page and Web Addresses.

The Department shall maintain an internet web page containing information about the Department, its functions and activities. The internet web page may be accessed to obtain departmental forms, notices, and other publications. The internet web page shall be accessible by either of two web addresses: <http://www.dmhca.ca.gov>, or <http://www.hmohelp.ca.gov>.

NOTE: Authority cited: Section 1344, Health and Safety Code. Reference: Section 1344, Health and Safety Code.

HISTORY:

- 1. New article 2 (sections 1001-1008) and section filed 8-12-2002; operative 9-11-2002 (Register 2002, No. 33).

§ 1002. Appearance and Practice Before the Department.

A person may be represented by an attorney at law in any proceeding before the Director or Department, provided the attorney is admitted to practice before the highest court of any state or territory of the United States, or the Court of Appeals or the District Court of the United States for the District of Columbia. Alternatively, a person may appear before the Director or Department on his or her own behalf; a member of a partnership may represent the partnership; and an authorized officer of a corporation, trust or association may represent that corporation, trust or association.

NOTE: Authority cited: Sections 1344 and 1346, Health and Safety Code. Reference: Sections 1341, 1342, 1348-1349, 1370, 1386-1388 and 1390-1393, Health and Safety Code.

HISTORY:

- 1. New section filed 8-12-2002; operative 9-11-2002 (Register 2002, No. 33).

§ 1002.4. Public Meetings and Hearings.

(a) A public meeting or hearing may be held pursuant to Health and Safety Code section 1346(a)(5) at the discretion of the Director for the following types of proceedings:

- (1) Investigation or analysis of matters affecting the interests of plans, subscribers, enrollees, or the public.
- (2) Educational programs for the public, subscribers, enrollees, and licensees.
- (3) An amendment, material modification or other plan filing that proposes:
 - (A) Any change that may have a significant impact, as determined by the Director, on the ability of enrollees to access health care services; or

(B) Any change that may have a material effect, as determined by the Director, on the health care service plan (plan) or on its operations.

(b) Factors that may be considered by the Director in determining whether to hold a public meeting or hearing include:

(1) Whether the proposal has a significant impact on plans, providers, subscribers, enrollees, or Californians generally, including the nature, scope, and significance of any such impact;

(2) Whether a public meeting or hearing would help to assure identification of all relevant issues raised in the proposal, and/or ongoing monitoring of the plan, and inform their resolution;

(3) Whether a public meeting or hearing would provide additional facts or opinions relevant to a decision whether to approve the filing, including any conditions or undertakings to impose on the approval;

(4) Whether a public meeting or hearing would provide a greater depth or scope of understanding of the potential short-term and long-term results or ramifications of an approval, with or without conditions;

(5) Whether the likely costs to the Department outweigh the potential benefit; and

(6) Whether there is sufficient time to hold a meeting or hearing.

(c) Requests for Public Meeting or Hearing.

(1) Any person may request a public meeting or hearing by filing a written request with the Department.

(2) A request for public meeting or hearing shall:

(A) Be in writing addressed to the Director, in care of the Office of Legal Services, Department of Managed Health Care, 980 Ninth Street, Suite 500, Sacramento, CA 95814, or by e-mail addressed to publichearing@dmhc.ca.gov; and

(B) Clearly state that it is a request for a public meeting or hearing and state the matter upon which the public meeting or hearing is requested, including the relevant facts and/or circumstances upon which the request is made; and

(C) Identify the persons or entities on whose behalf the request is made and specify the address to which the Director's determination pursuant to subsection (c)(3) may be mailed or e-mailed.

(3) The Director will determine whether the request for a meeting or hearing warrants a public meeting or hearing.

(4) The Director will notify the person requesting a meeting or hearing of the determination within ten business days of the date the request is submitted.

NOTE: Authority cited: Sections 1342, 1344 and 1346, Health and Safety Code. Reference: Section 1346(a)(5), Health and Safety Code.

HISTORY:

1. New section filed 9-11-2006; operative 10-11-2006 (Register 2006, No. 37).

§ 1003. Public Comment During Department Meetings.

At all Department committee, panel or board meetings that are subject to the Bagley-Keene Open Meeting Act (Government Code § 11120 et seq.), members of the public will be permitted to address the committee, panel or board prior to the committee, panel or board making any decision. Public comments will be heard in the order in which speakers sign up; limited to only agenda items; and may be no longer than five minutes in length unless otherwise permitted.

NOTE: Authority cited: Sections 1344 and 1346, Health and Safety Code; and Section 11125.7, Government Code. Reference: Sections 1347, 1347.1 and 1347.15, Health and Safety Code.

HISTORY:

1. New section filed 8-12-2002; operative 9-11-2002 (Register 2002, No. 33).

§ 1004. Verification.

(a) Whenever a statute, regulation or the Director requires that a document filed with the Department be verified, the verification shall be by declaration under penalty of perjury pursuant to Code of Civil Procedure section 2015.5.

(b) “Declaration” means a certification in substantially the following form:

(1) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at _____ on _____
(Location) (Date)

(Signature)

(Typed or printed name)

NOTE: Authority cited: Sections 1344 and 1346, Health and Safety Code. Reference: Sections 2012-2015.5, Code of Civil Procedure.

HISTORY:

1. New section filed 8-12-2002; operative 9-11-2002 (Register 2002, No. 33).

§ 1005. Interpretive Opinions.

(a) The Director in his or her discretion may honor requests from interested person(s) for written interpretive opinions regarding any provision of, or regulation promulgated pursuant to, the Act.

(b) An interpretive opinion request shall satisfy each of the following conditions:

(1) The request shall be in writing addressed to the Director in care of the Office of Legal Services at the Sacramento Office of the Department or by e-mail at interpretiveopinion@dmhc.ca.gov. The request shall clearly state that it is a request for an interpretive opinion and set forth the question(s) presented, including the relevant facts and/or circumstances upon which the request is made.

(2) The persons or entities on whose behalf the request is made shall be identified and all documents relevant to the request shall be appended to the request.

(c) Each interpretive opinion is applicable only to the matter identified in the specific written request for which the interpretive opinion was prepared. The interpretive opinion may not be relied upon in connection with any other matter.

(d) Attorneys seeking interpretive opinions on behalf of clients shall include with the opinion requests their own analyses of the issues presented by the request, their views with respect to the issues presented and citations of legal authority in support of those views.

(e) The Department shall maintain an index of the person(s) on whose behalf an interpretive opinion was prepared, and the nature of the request.

(f) The Director may select interpretive opinions for publication. Published opinions will be available on the Department’s web page. The decision to publish an interpretive opinion will be made solely by the Director with regard to the public interest and the legal question(s) considered. The Director may rescind any published opinion and shall notify the party for whom the opinion was prepared of the rescission. Rescission of a published opinion shall be indicated on the Department’s website.

NOTE: Authority cited: Section 1344, Health and Safety Code. Reference: Section 1344, Health and Safety Code.

HISTORY:

1. New section filed 8-12-2002; operative 9-11-2002 (Register 2002, No. 33).
2. Amendment of subsection (a), new subsections (b)-(d), subsection relettering and amendment of newly designated subsection (f) filed 10-27-2003; operative 11-26-2003 (Register 2003, No. 44).
3. Change without regulatory effect amending subsection (b)(1) filed 5-5-2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 19).
4. Change without regulatory effect amending subsection (b)(1) filed 9-9-2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 37).

§ 1006. Inspection of Public Records.

(a) Public access to records maintained by the Department is governed by the California Public Records Act (Government Code § 6250 et. seq.). The term “public record,” as used in this section, is defined in Government Code section 6252(e). Public records are available for inspection and/or copying pursuant to the following procedures:

(1) Requests for the inspection and/or copying of public records must be sufficiently descriptive to enable Department personnel to identify, locate, and retrieve the records.

(2) Requests must be in writing and sent to the Department’s mailing address at Department of Managed Health Care, 980 9th Street, Suite 500, Sacramento, CA 95814, Attention: Office of Legal Services. A properly addressed request will ensure prompt response by the Department.

(3) Retrieval and inspection of any record shall not interfere with the ordinary business operations of the Department. Operational functions of the Department will not be suspended to permit inspection of records where the records are reasonably required by Department personnel in the performance of their duties. If the request requires reviewing numerous records, a mutually agreeable time will be established for the inspection of the records. All inspections will occur during regular business hours of the Department.

(4) Physical inspection of records is permitted in Department offices. Upon completion of the inspection, the person conducting the inspection shall relinquish possession of the records. Persons inspecting Department records shall not destroy, mutilate, deface, alter, or remove any such records from the Department. The Department reserves the right to have Departmental personnel present during the inspection of records in order to prevent the loss or destruction of records.

(b) The Department may refuse to disclose records that are exempt from disclosure under the Public Records Act. (See e.g., Gov. Code, §6254.)

(c) Requests for copies of public records will be conducted pursuant to the following procedures:

(1) The Department shall charge the person requesting copies of public records made by Department personnel at the rate of thirty cents (\$0.30) per page. Payment of the total estimated copy charge shall be required before Department personnel copy any records. The Department may waive copying costs when the total copying cost for records requested is less than ten dollars (\$10.00) per year.

(2) If the number of records requiring copying is determined to be voluminous by Department personnel, then the Department may require the person requesting the records to supply or hire his/her own copy service to photocopy the records. The cost associated with providing the copy service shall be borne entirely by the requesting person.

(3) Persons requesting copies of transcripts from Department committees, panels or boards shall be charged a flat fee of \$30.00 per transcript regardless

of page length. Tape-recorded cassette transcripts of Department committees, panels or board meetings shall be charged a flat fee of \$5.00 per proceeding.

NOTE: Authority cited: Section 6253.4, Government Code; and Section 1344, Health and Safety Code. References: Section 6250, 6253, 6254 and 6255, Government Code.

HISTORY:

1. New section filed 8-12-2002; operative 9-11-2002 (Register 2002, No. 33).

§ 1007. Request for Confidentiality.

(a) The Director will withhold from public inspection, pursuant to the applicable state and/or federal law, information received in connection with an application (including applications for interpretive opinions) or report, if in the opinion of the Director, the public inspection of such information is not necessary for the purposes of the law under which the information was filed, and the information is reasonably shown to meet either of the following:

(1) The information is proprietary or of a confidential business nature, including but not limited to trade secrets, and has been confidentially maintained by the business entity and the release of which would be damaging or prejudicial to the business concern.

(2) The information is such that the private and/or public interest is served in withholding the information.

(b) Requests for Confidential treatment. A request for confidential treatment of any information received in connection with an application or report submitted to the Department must be filed with the information submitted. The information intended to remain confidential must be filed separately from the remaining parts of the application or report and marked "Confidential Treatment Requested." The person filing the application or report and requesting confidential treatment must sign the request. The signed request must contain the following:

(1) A statement identifying the information that is the subject of the request and the application or report relating thereto.

(2) A statement specifying the provisions of subsection (a) pursuant to which the request is made.

(3) A statement of the grounds upon which the request is made, including (if applicable) a statement as to the information's confidentiality and the measures taken to protect its confidentiality, and a statement of the adverse consequences that are expected to result if the information is disclosed through the public records of the Department.

(4) A statement of the specific time for which confidential treatment of the information is necessary, and the basis for such conclusion.

(5) If appropriate, a statement of the extent to which such information has been, or will be, disclosed to present or proposed investors, or other persons appropriate under the statute pursuant to which the information is filed.

(c) Request for Confidentiality Available for Public Inspection. Requests for confidentiality will be available for public inspection. Therefore, the request for confidentiality should not contain information that is itself confidential.

(d) Granting of Request. If a request for confidential treatment is granted, the person making such request will be notified in writing, the information will be marked "confidential" and kept separate from the public file, and the application or report will be noted with the following legend: "Additional portions of this filing have been granted confidential treatment pursuant to Section 1007 of Title 28, Chapter 1, of the California Code of Regulations. They are contained in a separate confidential file."

(e) Denial of Request. Material for which confidential treatment is requested shall not be deemed filed unless the request is granted, and may be withdrawn by the applicant if the request is denied, unless (1) the Director has already taken an official action in reliance on such information prior to receiving the request for confidential treatment; or (2) the Director determines that the withdrawal of such information is otherwise contrary to the public interest. If withdrawn, such information will not be considered by the Director in connection with the application or report.

(f) Permissible Disclosure of Information Held Confidential. Information held confidential pursuant to this section may be disclosed by the Director, at any time and in the Director's sole discretion, whether on the Director's own motion or upon the request of any person, under the following circumstances:

(1) To other local, state, or federal regulatory or law-enforcement agencies, in accordance with the law;

(2) When necessary or appropriate in any proceeding or investigation pursuant to the law under which the information was filed;

(3) Upon a determination by the Director that the private and/or public interest in disclosing such information outweighs the public interest in non-disclosure; or

(4) Upon a determination by the Director that the justifications for the confidential treatment no longer exist.

(5) If the Director determines to disclose confidentially held information pursuant to subsections (f)(1) through (f)(4), and concludes that the disclosure of such information is necessary and urgent, or that it is impractical under the circumstances to give notice to the person who requested confidential treatment of the information, the information may be disclosed without notice. Otherwise, the person who requested confidential treatment of such information shall be given written and actual notice through certified mail that the release of such information is under consideration and the reasons therefor. Thereafter, the person will be given five business days to explain why the need and justification for continued confidentiality exists.

(g) Requests to Inspect Confidential Information. A request to inspect confidential information pursuant to subsections (f)(1) through (f)(4) shall be in writing, state the justification for the request, and be signed by the person making the request. A copy of the request for inspection shall be forwarded to the person who requested confidential treatment of the information in accordance with subsection (f)(5). If a request for inspection should be held confidential and not disclosed to the owner of the confidential information, the reasons therefor must be stated in such request, in accordance with subsection (b).

(h) Nothing contained herein shall be interpreted as affording any person a right to withdraw information once it has been received by the Director, except as provided in subsection (e).

NOTE: Authority cited: Sections 1344 and 1346, Health and Safety Code. References: Sections 6253, 6254 and 6255, Government Code; Section 1040, Evidence Code; and Sections 1344 and 1351, Health and Safety Code.

HISTORY:

1. New section filed 8-12-2002; operative 9-11-2002 (Register 2002, No. 33).