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Section 1300.49. General Licensure Requirements

(a) Definitions

As used in this section:

(1) "Global risk" means the ~~assumption~~ ~~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 license~~ health care service plan" means a ~~license~~ person with a health care service plan license with waivers issued by the Department or its predecessor prior to January 1, 2000, ~~to a health care service provider or its affiliate~~ 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 financial risk for the provision of both professional and institutional services to the other health care service plan's subscribers or enrollees risk.

(4) "~~Person,~~" for purposes of this section, ~~shall have the same meaning as Health and Safety Code section 1345, subdivision (i).~~ "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) "~~Risk~~" means the ~~assumption of the cost for the provision of covered health care services to subscribers or enrollees.~~ "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 ~~accepts~~ assumes global risk ~~receives "advance or periodic consideration" from or on behalf of subscribers or enrollees and 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 ~~may~~ shall grant aAn

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exemption from this section ~~may be granted by the Director to any person upon review and~~ **consideration of information the Director deems relevant, including, but not limited to, the following 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 ~~28~~. 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 **currently 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 ~~that the person will be assumed and how it will be assumed. A contract for the assumption of global risk shall be submitted to the Department;~~

(C) The contract(s) for the assumption of global risk; ~~The estimated number of subscribers and enrollees for whom the person will provide health care services; and~~

(D) The estimated number of subscribers and enrollees for whom the person will provide health care services; ~~The service area(s) in which the person intends to operate.~~

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

(F) ~~Information on how the public interest or protection of the public, subscribers, enrollees or persons subject to this chapter will be impacted if the person takes on global risk. 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;

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(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.

(3) 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 license may contract only with and be granted to a person that accepts global risk from only pursuant to subdivision (b)(1) and contracts only with a full service health care service plan or a specialized health care service plan to provide or arrange health care services for that plan entity's subscribers or enrollees.~~

~~(1) A restricted licensee:~~

~~(A) May accept prepaid or periodic payments for both institutional and professional services only from a licensed health care service plan to provide or arrange health care services for that plan's subscribers or enrollees;~~

~~(B) May accept global risk; and~~

~~(C) 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 licensee health care service plan shall complete and file:~~

~~(A) An application for licensure as a health care service plan or specialized health care service plan in accordance with section 1351 of the Health and Safety Code and section rule 1300.51 of this title 28. The application for licensure shall include all exhibit types, and within each exhibit as relevant, and shall specify which the functions for which the applicant restricted health care service plan will be responsible and which functions shall be the responsibility of the remain the sole responsibility of the licensed full service health care service plan or licensed specialized health care service plan with which the restricted health care service plan contracts, and which functions will be delegated to the applicant restricted licensee.~~

~~(B) The application for licensure shall include aAll contractual agreements between the applicant restricted health care service plan and the licensed full service health care service plan, or licensed specialized health care service plan, with which the and the applicant restricted health care service plan contractslicensee.~~

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(C) A Restricted Health Care Service Plan Responsibility Statement, dated ~~March~~**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) The agreements shall include a Division of Financial Responsibility statement describing the financial obligations of both parties. 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 sections 1300.51, 1300.67.2, 1300.67.2.1, and 1300.67.2.2 of this title 28, the applicant restricted health care service plan licensee 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 delegated to the restricted licensee under the DMHC Division of Financial Responsibility Form.~~

~~(3) The restricted licensee applicant shall also complete and file a DMHC Division of Financial Responsibility Form, dated [June 1, 2017], and hereby incorporated by reference, for licensure as a restricted licensee. The DMHC Division of Financial Responsibility Form shall disclose all health care services which remain the sole responsibility of the licensed full service or licensed specialized health care service plan and which health care services will be delegated to the applicant restricted licensee.~~

(4) Restricted health care service plans licensees that were previously licensed by the Department, and, as of **the effective date of this regulation, [Date to be inserted by OAL]** may continue to engage in business as be licensed by the Department, may continue as restricted health care service plans licensees under this section.

(d) Limited license health care service plans, with exemptions and waivers that are licensed by the Department or its predecessor as of **the effective date of this regulation, [Date to be inserted by OAL]** may continue to engage in business as limited health care service plans licensees.

(e) This section shall apply only to contracts issued, amended, or renewed on or after **this regulation's effective date [Date to be inserted by OAL]**.

NOTE: Authority Cited: Sections 1344 and 1349, Health and Safety Code. Reference: Sections **1343.5**, 1345, 1349, 1351 and 1375.1, Health and Safety Code.

DMHC DIVISION OF FINANCIAL RESPONSIBILITY FORM
INSTRUCTIONS RESTRICTED HEALTH CARE SERVICE PLAN RESPONSIBILITY FORM STATEMENT
INSTRUCTIONS

The Department of Managed Health Care has developed this template to allow plans who have been granted, or are seeking, licensure as a restricted health care service plan license ("Restricted Licensee"), pursuant to section 1300.49, subdivision (c)(32)(C), of Title 28 of the California Code of Regulations, to clearly describe the division of financial responsibility with the licensed full service health care service plan or specialized health care service plan ("health plan") with which it intends to enter into a contract. This template should be utilized to illustrate whether the health plan or Restricted Licensee restricted health care service plan will be responsible for providing the network of providers necessary to deliver all basic health care services and covered services to the subscribers and enrollees who will be served by the Restricted Licensee restricted health care service plan.

Please complete all fields contained within the DMHC Division of Financial Responsibility Form Restricted Health Care Service Plan Responsibility Form Statement. For each provider type listed in the first column, identify which entity will be responsible for ensuring enrollees have access to that particular provider type. In many cases, this may mean identifying what services each entity is responsible for covering and then associating those services with the provider type that most commonly delivers those services. If both entities will be responsible for covering services that are delivered by a listed provider type, place an X in both the "Service Provided by Restricted Licensee Restricted Health Care Service Plan" and "Service Provided by the Health Plan." If a particular provider type is not necessary to deliver services covered by the health plan, please enter "N/A" in all columns for that provider's row. In addition, please include a brief explanation in the notes column indicating why the particular provider type is not necessary to deliver services covered by the health plan.

If the entities cover services that are delivered by a provider type that is not included on the "DOFR Restricted Template" tab, please add those providers to the bottom of the template under the section entitled "Other Services."

Division of Financial Responsibility Restricted Health Care Service Plan Responsibility Statement

Please review the instructions below for further information regarding how to complete each field in the DMHC Division of Financial Responsibility Form Restricted Health Care Service Plan Responsibility Statement.

Service Provided by Restricted Licensee Health Care Service Plan	Place an "X" in this box if the Restricted Licensee <u>restricted health care service plan</u> is responsible for covering services generally provided by the provider type described at the beginning of the row. If the provider type is not necessary for the delivery of covered services, please enter "N/A."
Service Provided by the Health Plan	Place an "X" in this box if the health plan is responsible for covering services generally provided by the provider type described at the beginning of the row. If the provider type is not necessary for the delivery of covered services, please enter "N/A."
Service Provided by Other Plan or Entity (list plan/entity name)	Complete this field if the provider type described at the beginning of the row is not provided by either the Restricted Licensee <u>restricted health care service plan</u> or the health plan. Enter the name of the entity or plan that is responsible for covering services generally provided by the provider type (i.e. specialized behavioral health plan). If the provider type is not necessary for the delivery of covered services, please enter "N/A."
Notes	Provide further information for each provider type as necessary.

DMHC DIVISION OF RESPONSIBILITY FORM
INSTRUCTIONS RESTRICTED HEALTH CARE SERVICE PLAN RESPONSIBILITY STATEMENT FORM INSTRUCTIONS

	<u>Service Provided by Restricted Licensee-Health Care Service Plan</u>	<u>Service Provided by Contracting Full Service or Specialized Health Plan</u>	<u>Service Provided by Other Plan or Entity (list plan/entity name)</u>	<u>Notes</u>
Primary Care Services				
Family Practice				
General Practice				
Internal Medicine				
Obstetrics/Gynecology				
Pediatrics				
Hospital Services				
General Acute Care Hospital				
Inpatient Hospice				
Inpatient Rehabilitation Facilities				
Non-Mental Health Residential Care Facilities				
Tertiary Services such as Burn Unit, Transplant Services, etc.				
Specialty Physician Services				
Allergy/Immunology				
Anesthesiology				
Cardiology				
Dermatology				
Diagnostic Radiology				
Endocrinology				
Gastroenterology				
Genetics				
Hematology				
HIV/AIDS Specialist				
Infectious Disease				
Maternal and Fetal Medicine				
Neonatology				
Nephrology				
Neurology				
Nuclear Medicine				
Obstetrics and Gynecology				
Oncology				
Ophthalmology				
Otolaryngology				
Pain Medicine				
Pathology				
Physical Medicine and Rehabilitation				
Podiatry				
Psychiatry				
Pulmonology				
Radiation Oncology				
Rheumatology				
Surgery - Cardiothoracic				
Surgery - Colon/Rectal				
Surgery - General				
Surgery - Neurological				
Surgery - Orthopedic				
Surgery - Plastic				
Surgery - Thoracic				
Surgery - Vascular				
Urology				
Mental Health Services				

**DMHC DIVISION OF RESPONSIBILITY FORM
INSTRUCTIONS RESTRICTED HEALTH CARE SERVICE PLAN RESPONSIBILITY STATEMENT FORM INSTRUCTIONS**

	<u>Service Provided by Restricted Licensee-Health Care Service Plan</u>	<u>Service Provided by Contracting Full Service or Specialized Health Plan</u>	<u>Service Provided by Other Plan or Entity (list plan/entity name)</u>	<u>Notes</u>
<u>Marriage and Family Therapist/Licensed Marriage and Family Therapist</u>				
<u>Master of Social Work/Licensed Clinical Social Worker</u>				
<u>Professional Clinical Counselor (LPCC)</u>				
<u>Psychologist - PHD-Level</u>				
<u>Qualified Autism Services Provider</u>				
<u>Substance Abuse Professional - All Levels</u>				
<u>Mental Health Facilities</u>				
<u>Psychiatric Hospital (Inpatient)</u>				
<u>Substance Abuse (Inpatient)</u>				
<u>Mental Health Residential Care Facilities</u>				
<u>Clinic/Urgent Care Services</u>				
<u>Ambulatory Surgery Center</u>				
<u>Urgent Care Center</u>				
<u>Ancillary Provider Services</u>				
<u>Acupuncture</u>				
<u>Ambulance/Transport</u>				
<u>Audiology</u>				
<u>Dialysis/Dialysis Center/Facility</u>				
<u>Dietician/Nutrition</u>				
<u>Durable Medical Equipment/Supplies</u>				
<u>Family Planning</u>				
<u>Home Health</u>				
<u>Hospice</u>				
<u>Imaging/Radiology (Outpatient)</u>				
<u>Infusion/IV Therapy</u>				
<u>Laboratory</u>				
<u>Optometry/Vision</u>				
<u>Occupational Therapy</u>				
<u>Orthotics/Prosthetics</u>				
<u>Pharmacy</u>				
<u>Physical Therapy</u>				
<u>Skilled Nursing/Long Term Care Facility</u>				
<u>Sleep Disorder Diagnosis/Treatment</u>				
<u>Speech Therapy</u>				
<u>Dental Services</u>				
<u>General Dentist</u>				
<u>Endodontics</u>				
<u>Pediatric Dentistry</u>				
<u>Periodontics</u>				
<u>Prosthodontics</u>				
<u>Surgery - Oral</u>				
<u>Vision/Optometry Services</u>				
<u>Optometry/Vision</u>				
<u>Other Services</u>				
<u>Other Provider: _____</u>				
<u>Other Provider: _____</u>				
<u>Other Provider: _____</u>				
<u>Other Provider: _____</u>				
<u>Other Provider: _____</u>				
<u>Other Provider: _____</u>				