

Knox-Keene Act Licensing Requirements and Process

Under California Health and Safety Code section 1349, “It is unlawful for any person to engage in business as a plan in this state or to receive advance or periodic consideration in connection with a plan from or on behalf of persons in this state unless such person has first secured from the director a license, then in effect, as a plan” Accordingly, a Knox-Keene Act license (a “License”) is required to operate a health care service plan, e.g., an HMO, or an IPA that accepts global risk, i.e., accepts full risk for a patient population, including risk related to institutional services, e.g., hospital, and professional services. Applying for an obtaining a License is a time consuming and detail-oriented undertaking. The following provides an overview of the requirements for obtaining a License.

Basic Information

An application for a License must include certain basic information about the applicant, including (1) its basic organizational documents, e.g., articles of incorporation;¹ (2) its bylaws, rules and regulations or other similar documents governing the internal affairs of the applicant;² and (3) a list of the names, addresses, and official positions of the persons responsible for the conduct of the applicant’s business, including its board of directors or board of trustees, principal officers, each shareholder owning over five percent (5%) of the applicant, and any person who has loaned funds to the applicant for the operation of its business.³

Provider, Administrative, and Service Contracts Disclosure

An applicant must provide copies of *all* contracts with (1) providers of health care services; (2) members of its board of directors or board of trustees, principal officers, each shareholder owning over five percent (5%) of the applicant, and any person who has loaned funds to the applicant for the operation of its business; (3) any person or organization providing administrative functions or services on behalf of the applicant.⁴ Further, the applicant must submit the name, license number, and address of each physician employed by or contracted with the applicant.⁵

The upshot of this requirement is that the applicant must negotiate and enter into contracts with providers, etc., prior to receiving licensure. This increases the expense

¹ Cal. Hlth & Safety Code § 1351(a).

² Cal. Hlth & Safety Code § 1351(b).

³ Cal. Hlth & Safety Code § 1351(c).

⁴ Cal. Hlth & Safety Code § 1351(d).

⁵ *Id.*

of becoming licensed as it will necessitate significant legal fees and the applicant's officer's time and energy being spent drafting and negotiating these contracts.

Plan Infrastructure Information

An applicant must provide a statement describing the plan, its method of providing health care services, and its physical facilities.⁶ Further, the applicant must provide a statement including the health care delivery capabilities of the applicant, including the arrangements and methods by which care will be provided, i.e., through IPAs or through direct hiring of physicians, and the number of contracted hospital beds.⁷ An applicant must also provide a statement describing the service area of the applicant, including the locations of all providers rendering professional services on behalf of the applicant.⁸

An applicant must provide a statement describing: (1) the enrollee-subscriber grievance procedures, and such procedures must be in compliance with California Health and Safety Code section 1368;⁹ (2) the procedures and programs for internal review of the quality of health care provided by the applicant;¹⁰ and (3) the mechanism by which enrollees and subscribers will be adored an opportunity to express their view on matters relating to the policies and operation of the applicant.¹¹

An applicant must provide a copy of the (1) forms evidencing coverage and required disclosure forms that are provided to enrollees and subscribers;¹² (2) a copy the individual subscriber and group subscriber contracts the applicant will provide to its enrollees and subscribers;¹³ and (3) contract with any company engaged in marketing the plan on the applicant's behalf and a description of the marketing practices.¹⁴

An applicant must provide: (1) financial statements accompanied by a statement of certification from an independent certified public accountant;¹⁵ (2) evidence of adequate insurance coverage for claims arising form the furnishing of health care services;¹⁶ and (3) evidence of adequate coverage for workers' compensation claims.¹⁷

⁶ Cal. Hlth & Safety Code § 1351(e).

⁷ Id.

⁸ Cal. Hlth & Safety Code § 1351(k).

⁹ Cal. Hlth & Safety Code § 1351(l).

¹⁰ Cal. Hlth & Safety Code § 1351(m).

¹¹ Cal. Hlth & Safety Code § 1351(n).

¹² Cal. Hlth & Safety Code § 1351(f).

¹³ Cal. Hlth & Safety Code § 1351(g).

¹⁴ Cal. Hlth & Safety Code § 1351(i).

¹⁵ Cal. Hlth & Safety Code § 1351(h).

¹⁶ Cal. Hlth & Safety Code § 1351(o).

¹⁷ Cal. Hlth & Safety Code § 1351(r).

Again, the takeaway from these requirements is the sheer volume of work that must be completed prior to applying for licensure. One potential solution may be to operate as an IPA initially while preparing the plan infrastructure necessary to obtain a License.

Compliance Reporting

Lastly, an applicant must include information it is aware of regarding whether it, its management company, any affiliate, or any controlling person, officer, director, or other person occupying a principal management or supervisory position in the plan, management company, or affiliate has (1) a history of noncompliance with any state or federal regulations, laws, or requirements related to providing for or arranging to provide for health care services or benefits in California or any other state;¹⁸ a history of noncompliance with any state or federal regulations, laws, or requirements related to providing for or arranging to provide for health care services of benefits reimbursed by Medicaid or Medicare;¹⁹ or (3) a history of noncompliance with any state or federal regulations, laws, or requirements related to providing for or arranging to provide for health care services as a licensed health care professional.²⁰

¹⁸ Cal. Hlth & Safety Code § 1351(s)(1).

¹⁹ Cal. Hlth & Safety Code § 1351(s)(2).

²⁰ Cal. Hlth & Safety Code § 1351(s)(3).