



PERMANENT ADMINISTRATIVE ORDER

DMAP 60-2019

CHAPTER 410
OREGON HEALTH AUTHORITY
HEALTH SYSTEMS DIVISION: MEDICAL ASSISTANCE PROGRAMS

FILED

12/18/2019 10:35 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: New Administrative Rules on OHA Financial Oversight of Coordinated Care Organizations (CCOs)
5255-5380

EFFECTIVE DATE: 01/01/2020

AGENCY APPROVED DATE: 12/18/2019

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RULES:

410-141-5255, 410-141-5260, 410-141-5265, 410-141-5270, 410-141-5275, 410-141-5280, 410-141-5285, 410-141-5290, 410-141-5295, 410-141-5300, 410-141-5305, 410-141-5310, 410-141-5315, 410-141-5320, 410-141-5325, 410-141-5330, 410-141-5335, 410-141-5340, 410-141-5345, 410-141-5350, 410-141-5355, 410-141-5360, 410-141-5365, 410-141-5370, 410-141-5375, 410-141-5380

ADOPT: 410-141-5255

RULE TITLE: CCO ACQUISITIONS AND MERGERS: Purpose; Definitions

NOTICE FILED DATE: 09/24/2019

RULE SUMMARY: The rules are written to implement requirements of OHA under Senate Bill 1041 from the 2019 Oregon Legislative Assembly. They are designed to improve OHA's financial oversight of Coordinated Care Organizations (CCOs).

RULE TEXT:

(1) The purpose of OAR 410-141-5255 to OAR 410-141-5285 is that of regulating the control or ownership of a CCO or of a CCO holding company system, in order to promote the public interest and the interests of CCO Members and stakeholders and to advance the Oregon Integrated and Coordinated Care Delivery System described in ORS 414.620.

(2) Unless the context otherwise requires, as used in OAR 410-141-5255 to OAR 410-141-5285:

(a) "Acquiring party" means a person that acquires or attempts to acquire control of a CCO, that enters into an agreement to merge with or otherwise acquire control of a CCO as described in OAR 410-141-5260 or that engages in an activity described in OAR 410-141-5260, or an intermediary or subsidiary corporation that holds, directly or indirectly, the assets or voting securities or assumes the liabilities of a CCO or other entity;

(b) "Acquisition" means an agreement, arrangement or activity that results in a person acquiring control of another person, directly or indirectly, including but not limited to an acquisition of voting securities, a merger, an acquisition of assets or bulk reinsurance;

(c) "Coordinated Care Organization (CCO)" means a CCO or a person that controls a CCO;

(d) "Significant portion" means, when acquired in one transaction or in a related or integrated series of transactions

within any consecutive twelve-month period, ten percent or more of:

(A) The assets of the CCO; or

(B) The CCO's in-force benefit contracts.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.615, 414.625, 414.635, 414.651

STATUTES/OTHER IMPLEMENTED: ORS 414.610 - 414.685

ADOPT: 410-141-5260

RULE TITLE: CCO ACQUISITIONS AND MERGERS: Activities Prohibited Unless Certain Provisions Satisfied

NOTICE FILED DATE: 09/24/2019

RULE SUMMARY: The rules are written to implement requirements of OHA under Senate Bill 1041 from the 2019 Oregon Legislative Assembly. They are designed to improve OHA's financial oversight of Coordinated Care Organizations (CCOs).

RULE TEXT:

(1) Unless a person first satisfies the provisions of OAR 410-141-5265 to OAR 410-141-5280, the person may not engage in any of the following activities:

(a) A person other than the person that issues voting securities of a CCO may not acquire or attempt to acquire control of the CCO. For purposes of this paragraph, a person acquires or attempts to acquire control of a CCO if, as a result of engaging in and completing any of the following actions, in the open market or otherwise, the person would directly or indirectly control the CCO, or would control the CCO by exercising a right to acquire or by conversion:

(A) Making a tender offer for or a request or invitation for tenders of any voting security of the CCO;

(B) Entering into any agreement to exchange securities for any voting security of the CCO;

(C) Acquiring or seeking to acquire any voting security of the CCO; or

(D) Otherwise engaging in any activity that constitutes a change in control of a CCO requiring pre-approval from the Authority, as described in the CCO Health Plan Services Contract with the Authority.

(b) A person may not close or finalize an agreement to merge with or otherwise acquire control of a CCO;

(c) A person may not engage or attempt to engage in any of the following activities:

(A) Acquiring, directly or indirectly, ownership of all or a significant portion of the assets of a CCO. For purposes of this subparagraph, such an acquisition includes an offer, a request or invitation for offers, an acquisition or series of acquisitions in the open market, an exchange offer or agreement, an agreement that provides an option to purchase, or a purchase of or offer to purchase securities that are convertible into voting securities;

(B) Bulk reinsurance by one CCO of all or a significant portion of the Members, or a major class of the Members, who are covered by another CCO or related or affiliated group of CCOs. The provisions of this subparagraph do not apply to ordinary or customary reinsurance, or reinsurance pursuant to a treaty or treaties approved by the Authority;

(C) Any other arrangement that brings together under common ownership, control or responsibility all or a significant portion of the assets, liabilities or Member Contracts in force of two or more persons, at least one of which is a CCO;

(2) The provisions of subsection (1) of this section do not apply to any offer, request, invitation, agreement or acquisition the Authority exempts by order as:

(a) Not having been made or entered into for the purpose and not having the effect of changing or influencing the control or ownership of a CCO; or

(b) Otherwise not comprehended within the purposes of subsection (1) of this section.

(3) A person that seeks in any manner to give up a controlling interest in a CCO shall file a confidential notice of the person's proposed divestiture with the Authority and send a copy of the notice to the CCO at least 30 days before the person ceases to own or hold a controlling interest in the CCO. The notice is confidential until the transaction that transfers control of the CCO concludes, unless the Authority determines, in the Authority's sole discretion, that keeping the notice confidential will interfere with the enforcement of this subsection.

(a) The Authority shall determine in which instances an acquisition or divestiture of control will require a person to file for and obtain approval of the transaction;

(b) This subsection does not apply if a person files a statement under OAR 410-141-5350.

(4) If an acquisition is otherwise subject to this section, the acquiring party shall file a notice with the Authority in accordance with OAR 410-141-5265. An acquiring party that does not file the notice may be subject to the penalty specified in OAR 410-141-5380.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.615, 414.625, 414.635, 414.651

STATUTES/OTHER IMPLEMENTED: ORS 414.610 - 414.685

ADOPT: 410-141-5265

RULE TITLE: CCO ACQUISITIONS AND MERGERS: Procedure For Acquiring Controlling Interest

NOTICE FILED DATE: 09/24/2019

RULE SUMMARY: The rules are written to implement requirements of OHA under Senate Bill 1041 from the 2019 Oregon Legislative Assembly. They are designed to improve OHA's financial oversight of Coordinated Care Organizations (CCOs).

RULE TEXT:

(1) An acquiring party shall:

(a) Complete and file a Form A which is described in OAR 410-141-5270 with the Authority for approval. If more than one acquiring party must file Form A under this paragraph, any or all acquiring parties that are acting in concert may jointly file a Form A.

(b) Deliver or mail to the CCO to which the activity described in OAR 410-141-5260 applies, concurrently with filing the statement under paragraph (a) of this subsection, a statement that has the information specified in this section. A statement mailed under this paragraph must be sent by certified mail, return receipt requested. If a joint statement is filed under paragraph (a) of this subsection, the joint statement must be the statement mailed or delivered under this paragraph;

(2) A person required to file Form A pursuant to OAR 410-141-5260 and this rule shall furnish the required information on Form A which is described in OAR 410-141-5270.

(3) If the person being acquired is considered to be a CCO solely because of the definition of "CCO" in OAR 410-141-5255, the name of the CCO on the cover page shall be indicated as follows: "ABC Company, a subsidiary of XYZ Holding Company."

(4) References to "the CCO" contained in Form A shall refer to both the subsidiary CCO and the person being acquired.

(5) The statement an acquiring party files with the Authority under this section must be made under oath or affirmation and must have the following information:

(a) The name and address of the CCO that is subject to the acquisition and of each acquiring party that must file the statement;

(b) Additional biographical and business information about each acquiring party that must file the statement;

(c) Names, addresses of, and other information regarding persons who will serve as or perform functions of partners, directors or officers of the CCO after the proposed activity;

(d) The source, nature and amount of the consideration used or to be used in effecting the activity, a description of any transaction in which funds were or are to be obtained for the activity and the identity of persons that provide the consideration. If a source of consideration is a loan made in the lender's ordinary course of business, the identity of the lender must remain confidential if the acquiring party filing the statement requests confidentiality;

(e) Fully audited financial information as to the earnings and financial condition of each acquiring party for the acquiring party's preceding five fiscal years, or for as long as the acquiring party and any predecessors of the acquiring party have existed, if the acquiring party and the acquiring party's predecessors have existed for a shorter period of time, and similar unaudited information as of a date not earlier than 90 days before the statement was filed;

(f) Any plan or proposals that each acquiring party that must file a statement has to liquidate the CCO, to sell the CCO's assets or to merge or consolidate the CCO with any person or to make any other material change in the CCO's business, corporate structure or management;

(g) The number of shares of any security of a type described in OAR 410-141-5260 that each acquiring party proposes to acquire, the terms of any offer, request, invitation, agreement or acquisition of any security of a type described in OAR 410-141-5260 and a statement as to the method by which the acquiring party determined the fairness of the proposal;

(h) The amount of each class of any security of a type described in OAR 410-141-5260 that each acquiring party owns beneficially or concerning which each acquiring party has a right to acquire beneficial ownership;

(i) A full description of any contracts, agreements or understandings with respect to any security of a type described in OAR 410-141-5260 in which any acquiring party is involved, including but not limited to contracts, agreements or understandings that govern a transfer of any of the securities or that relate to joint ventures, loan or option arrangements, puts or calls, loan guarantees, guarantees against loss or guarantees of profits, division of losses or profits, or giving or withholding proxies. The description must identify the persons with which each acquiring party has entered into the contract, agreement or understanding;

(j) The names of persons who have purchased any securities of a type described in OAR 410-141-5260 during the 12 months before the date on which the acquiring party files the statement under this section, together with the dates of purchase and the amount and type of consideration the persons paid or agreed to pay;

(k) A description of any recommendations to purchase any securities of a type described in OAR 410-141-5260 that an acquiring party made during the 12 months before the date on which the acquiring party files the statement under this section, or of any recommendations that another person made as a result of interviewing an acquiring party or at an acquiring party's suggestion;

(L) Copies of all tender offers, requests, exchange offers, invitations to tender or agreements to acquire securities of a type described in OAR 410-141-5260, along with any additional material used to solicit the tender offers, requests, exchange offers, invitations to tender or agreements, if any additional material was distributed;

(m) The term of any contract, agreement or understanding for soliciting securities of a type described in OAR 410-141-5260 for tender that is made with or proposed to be made with a broker-dealer, together with the fees, commissions or other compensation the broker-dealer will receive in connection with the solicitation;

(n) An agreement to submit an enterprise risk report under OAR 410-141-5330 each year during which the acquiring party controls CCO and an acknowledgment that the acquiring party and all subsidiaries in the holding company system that are within the acquiring party's control will provide, at the director's request, information the director needs to evaluate enterprise risk to the CCO;

(o) Any additional information the Authority may require.

(6) All requests or invitations for tenders or advertisements that make a tender offer or request or invite tenders of securities for control of a CCO made by or on behalf of any acquiring party required to file Form A under this section must have the information specified in subsection (2) of this rule. Copies of the materials must be filed with the Authority at least 10 days before the time the materials are first published or sent or given to security holders. Any additional materials that solicit or request the tenders after the initial solicitation or request must have the information specified in subsection (2) of this rule. Copies of the additional materials must be filed with the Authority at least 10 days prior to the time the materials are first published or sent or given to security holders.

(7) If any acquiring party required to file Form A under this section is a partnership, limited partnership, syndicate or other group, the Authority may require that the information specified in subsection (2) of this rule be given with respect to each partner of the partnership or limited partnership, each member of the syndicate or group and each person that controls the partner or member. If any partner, member or person is a corporation or if the acquiring party is a corporation, the Authority may require that the information described in subsection (2) of this rule be given with respect to the corporation and each officer and Authority of the corporation and each person that is directly or indirectly the beneficial owner of more than 10 percent of the outstanding securities of the corporation.

(8) If any material change occurs in the facts set forth in the statement filed under this section, the party that filed the statement shall file with the Authority and send to the CCO, within two business days after the party learns of the change, an amendment that sets forth the change together with copies of all documents and other material relevant to the change.

(9) If an offer, request, invitation, agreement or acquisition described in OAR 410-141-5260 is proposed to be made by means of a registration statement under the Securities Act of 1933, 15 U.S.C.A. §77a et seq., or in circumstances that require disclosing similar information under the Securities Exchange Act of 1934, 15 U.S.C.A. § 78a et seq., or under a state law that requires a similar registration or disclosure, the party or parties may use the registration statement or disclosure to provide the information the party or parties must provide in the statement required under subsection (1)

of this section.

(10) Any acquiring party may file with its completed Form A, or within 10 days after the date on which the acquiring party filed the Form A, a written request for a hearing on the acquisition. The CCO that is subject to the acquisition may file with the Authority a written request for a hearing on the acquisition. In the event the CCO that is subject to the acquisition elects to file a request for a hearing, such filing shall be made within 10 days after the acquiring party filed its completed Form A.

(11) An applicant who has filed Form A pursuant to OAR 410-141-5260 and this rule shall promptly advise the Authority of any changes in the information so furnished on Form A arising subsequent to the date upon which the information was furnished but prior to disposition of the application by the Authority.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.615, 414.625, 414.635, 414.651

STATUTES/OTHER IMPLEMENTED: ORS 414.610 - 414.685

ADOPT: 410-141-5270

RULE TITLE: CCO ACQUISITIONS AND MERGERS: Information to Be Included in Form A

NOTICE FILED DATE: 09/24/2019

RULE SUMMARY: The rules are written to implement requirements of OHA under Senate Bill 1041 from the 2019 Oregon Legislative Assembly. They are designed to improve OHA's financial oversight of Coordinated Care Organizations (CCOs).

RULE TEXT:

When Form A is required to be filed with the Authority pursuant to OAR 410-141-5265, the Form shall include the following information:

- (1) If any acquiring party required to file Form A is an individual, the individual shall identify their principal occupation and all offices and positions held during the past five years, and list any arrests, charges, and conviction of crimes other than minor traffic violations during the past 10 years,
- (2) If any acquiring party required to file Form A is not an individual, a report of the nature of its business operations during the past five years or for such lesser period as the acquiring party and any predecessors of the acquiring party have been in existence, an informative description of the business intended to be done by the acquiring party and its subsidiaries, and a list of all individuals who are or who have been selected to become directors or executive officers of the acquiring party or who perform or will perform functions appropriate to the positions. The list shall include for each individual the information required by subsection (1).
- (3) For each acquiring party required to file a Form A, the number of shares of any security that each acquiring party proposes to acquire in connection with the acquisition, the terms of any proposed offer or agreement relating to the acquisition and a statement as to the method by which the fairness of the proposal was determined.
- (4) The amount of each class of any security of the type to be acquired in connection with the acquisition that is beneficially owned or concerning which there is a right to acquire beneficial ownership by any acquiring party.
- (5) For each acquiring party required to file a Form A, a full description of any contracts, arrangements or understandings with respect to any security of the type to be acquired in connection with the acquisition in which such acquiring party is involved with, including, without limitation, those involving transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits or the giving or withholding of proxies. The description shall identify the persons with whom the contracts, arrangements or understandings have been entered.
- (6) A description of the purchase of any security of the type to be acquired in connection with the acquisition during the 12 calendar months preceding the filing of the statement, by any acquiring party required to file Form A, including the dates of purchase, names of the purchasers and consideration paid or agreed to be paid for the security.
- (7) A description of any recommendation to purchase any security of the type to be acquired in connection with the acquisition made by any acquiring party required to file Form A, or by anyone based upon interviews or at the suggestion of any acquiring party required to file Form A, during the 12 calendar months preceding the filing of the statement.
- (8) Copies of all tender offers for, requests or invitations for tenders of, exchange offers for and agreements to acquire or exchange any securities of the type to be acquired in connection with the acquisition and, if distributed, copies of additional soliciting material relating thereto.
- (9) A description of the terms of any agreement, contract or understanding made with or proposed to be made with any broker-dealer as to solicitation for tender of securities of the type to be acquired in connection with the acquisition, including the amount of any fees, commissions or other compensation to be paid to any broker-dealer in connection with the agreement, contract or understanding.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.615, 414.625, 414.635, 414.651

STATUTES/OTHER IMPLEMENTED: ORS 414.610 - 414.685

ADOPT: 410-141-5275

RULE TITLE: CCO ACQUISITIONS AND MERGERS: Hearing, Request, Notice

NOTICE FILED DATE: 09/24/2019

RULE SUMMARY: The rules are written to implement requirements of OHA under Senate Bill 1041 from the 2019 Oregon Legislative Assembly. They are designed to improve OHA's financial oversight of Coordinated Care Organizations (CCOs).

RULE TEXT:

(1) If a person has duly filed a written request for a hearing or if, within 10 days after an acquiring party has filed its completed Form A in accordance with OAR 410-141-5265, the Authority finds that holding a hearing is necessary or advisable, the Authority shall cause a hearing to be held.

(2) The Authority will determine whether a hearing is necessary or advisable within 30 days after the acquiring party has filed its completed Form A. In the event the Authority orders a hearing, the Authority shall designate the date, time, and place of the hearing, which shall be held within 30 days of the Authority's order for a hearing. In addition to any other notice required under this section, at least 20 days before the hearing the Authority shall notify the person that filed the written request and the acquiring party of the hearing. At least seven days before the hearing, one or more of the acquiring parties shall give notice of date, time, and place of the hearing to those persons the Authority designates. The acquiring party shall bear the expense of providing the notice.

(3) The hearing must be conducted in accordance with the provisions for a contested case proceeding under ORS chapter 183.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.615, 414.625, 414.635, 414.651

STATUTES/OTHER IMPLEMENTED: ORS 414.610 - 414.685

ADOPT: 410-141-5280

RULE TITLE: CCO ACQUISITIONS AND MERGERS: Determination Concerning Proposed Activity, Time For Decision, Grounds For Refusal

NOTICE FILED DATE: 09/24/2019

RULE SUMMARY: The rules are written to implement requirements of OHA under Senate Bill 1041 from the 2019 Oregon Legislative Assembly. They are designed to improve OHA's financial oversight of Coordinated Care Organizations (CCOs).

RULE TEXT:

(1) The Authority shall make a determination concerning the proposed activity described in OAR 410-141-5260 within a period that begins 60 days before the effective date of the activity. The Authority may refuse, after a public hearing, to approve a proposed activity if:

(a) The activity is contrary to law or would result in a prohibited combination of risks or classes of insurance;

(b) The activity is inequitable or unfair to the Members or shareholders of any CCO involved in, or to any other person affected by, the proposed activity. However, in connection with an acquisition of the CCO's voting securities from the CCO's shareholders, the Authority shall evaluate whether the proposed acquisition is fair to the shareholders of the CCO to be acquired only with respect to any shareholders that are unaffiliated with the acquiring party or parties and that would remain after the acquisition is completed;

(c) The activity would substantially reduce the security of and service to be rendered to Members of any CCO involved in the proposed activity or would otherwise prejudice the interests of such Members;

(d) The activity provides for a foreign or alien CCO to be an acquiring party, and the Authority further finds that the CCO cannot satisfy the requirements of this state for transacting the CCO business that would be affected by the activity;

(e) The activity or the completion of the activity would substantially diminish competition in this state or tend to create a monopoly. An activity that the Authority determines would substantially diminish competition in this state or tend to create a monopoly may be approved if within a specific period of time a party removes the basis upon which the Authority would have otherwise disapproved the activity;

(f) After the change of control or ownership, the CCO to which the activity described in OAR 410-141-5260 applies would not be able to satisfy the requirements for receiving a CCO contract to transact the line or lines of business for which the CCO is currently authorized;

(g) The financial condition of any acquiring party might jeopardize the financial stability of the CCO;

(h) The plans or proposals that the acquiring party has to liquidate the CCO, sell the CCO's assets or consolidate or merge the CCO with any person, or to make any other material change in the CCO's business or corporate structure or management, are unfair and unreasonable to the CCO's Members and not in the public interest;

(i) The competence, experience and integrity of the persons that would control the operation of the CCO are such that permitting the activity or permitting completion of the activity would not be in the interest of the CCO's Members and the public;

(j) The activity or completing the activity is likely to be hazardous or prejudicial to the insurance-buying public;

(k) The activity is subject to other material and reasonable objections.

(2) If the Authority disapproves the proposed activity, the Authority shall promptly notify, in writing, the CCO and each acquiring party involved in the proposed activity, specifying the bases, factors and reasons for the disapproval and giving the CCO and each acquiring party that filed the statement relating to the proposed activity an opportunity to amend the statement, if possible, to obviate the Authority's objections.

(3) If the Authority determines that a party that proposes to acquire control of a CCO must maintain or restore the CCO's capital to a level required under the laws and rules of this state, the Authority shall make and communicate the determination to the acquiring party not later than 60 days after the acquiring party files the statement required under OAR 410-141-5265.

(4) The acquiring party or parties that filed Form A under OAR 410-141-5265 shall file any amendment to Form A that responds to the Authority's objection and, if a hearing was held on the proposed activity, shall resubmit the amendment at a hearing held under this section unless the Authority finds that a hearing is not necessary to protect the Members, shareholders or any other person the proposed activity affects.

(5) The Authority may retain at the acquiring party's expense any actuaries, accountants and other experts not otherwise a part of the Authority's staff as the Authority may reasonably need to assist the Authority in reviewing the proposed activity.

(6) The Authority may establish the effective date of an activity to which OAR 410-141-5260 applies in the order that approves the activity.

(7) If the Authority issues a notice of approval, the acquiring party and the CCO must submit to the Authority the disclosures required by 42 C.F.R. § 455.104.

(8) Within 60 days after receiving a notice of approval or disapproval, any CCO or other party to a proposed activity, including the CCO subject to the acquisition, may appeal the Authority's final order as provided in ORS chapter 183. For purposes of the judicial review, the specifications the Authority must set forth in the Authority's written notice are the findings of fact and conclusions of law of the Authority.

(9) Not later than the 30th day after consummation of an activity described in OAR 410-141-5260, the acquiring party shall submit to the Authority a statement that the activity has been consummated. The statement must be made under the oath of the presiding officer of the board of directors of the acquiring party.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.615, 414.625, 414.635, 414.651

STATUTES/OTHER IMPLEMENTED: ORS 414.610 - 414.685

ADOPT: 410-141-5285

RULE TITLE: CCO HOLDING COMPANY REGULATION: Definitions

NOTICE FILED DATE: 09/24/2019

RULE SUMMARY: The rules are written to implement requirements of OHA under Senate Bill 1041 from the 2019 Oregon Legislative Assembly. They are designed to improve OHA's financial oversight of Coordinated Care Organizations (CCOs).

RULE TEXT:

Unless the context otherwise requires, as used in OAR 410-141-5225 to OAR 410-141-5355:

- (1) "Affiliate" means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, another person.
- (2) "CCO holding company system" means two or more affiliated persons, one or more of which is a CCO, and includes a financial holding company as described in section 103 of the federal Gramm-Leach-Bliley Act (P.L. 106-102).
- (a) "Person" means an individual, corporation, limited liability company, partnership, association, joint stock company, trust or unincorporated organization, or an entity or combination of entities similar to the entities described in this paragraph.
- (b) "Person" does not include:
 - (A) A joint venture partnership that is engaged exclusively in owning, managing, leasing or developing real or tangible personal property; or
 - (B) For the purposes of OAR 410-141-5000 through 410-141-5380, a securities broker that holds, in the usual and customary broker's function, less than 20 percent of the voting securities of a CCO or of any person that controls.
- (3) "CCO subject to registration" means a CCO that is subject to the holding company registration requirements of OAR 410-141-5290.
- (4) "Control" means possessing the direct or indirect power to manage a person or set the person's policies, whether by owning voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position or corporate office the person holds.
- (5) "Enterprise risk" means an activity, circumstance, event or series of events that involve one or more of a CCO's affiliates and that, if not remedied promptly, are likely to have an adverse material effect on the CCO's or the CCO holding company system's financial condition or liquidity, including but not limited to an activity, circumstance, event or series of events that would cause the CCO's risk-based capital to fall into company action level or cause the Authority to determine that the CCO is in hazardous financial condition.
- (6) "Executive officer" means chief executive officer, chief operating officer, chief financial officer, treasurer, secretary, controller and any other individual performing functions corresponding to those performed by the foregoing officers under whatever title.
- (7) "Form A" means the form prescribed by OAR 410-141-5270.
- (8) "Form B" means the form prescribed by OAR 410-141-5300.
- (9) "Form C" means the form prescribed by OAR 410-141-5300.
- (10) "Form D" means the form prescribed by OAR 410-141-5320.
- (11) "Form F" means the form prescribed by OAR 410-141-5330.
- (12) "Security holder" means a person that owns a security of another person, including a security denominated as common stock, preferred stock, membership, or a debt obligation and any instrument that is convertible into or that is evidence of the right to acquire the security of another person.
- (13) "Subsidiary" means an affiliate that a person controls directly or indirectly through one or more intermediaries.
- (14) "Voting security" means a security that entitles the owner or holder of the security to vote at a meeting of shareholders or members, including a security that is convertible into a voting security or that is evidence of a right to acquire a voting security.
- (15) "Ultimate controlling person" means the person who is not controlled by any other person.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.615, 414.625, 414.635, 414.651

STATUTES/OTHER IMPLEMENTED: ORS 414.610 - 414.685

ADOPT: 410-141-5290

RULE TITLE: CCO HOLDING COMPANY REGULATION: Members of Holding Company Systems; Registration Requirements

NOTICE FILED DATE: 09/24/2019

RULE SUMMARY: The rules are written to implement requirements of OHA under Senate Bill 1041 from the 2019 Oregon Legislative Assembly. They are designed to improve OHA's financial oversight of Coordinated Care Organizations (CCOs).

RULE TEXT:

- (1) Every CCO that is a member of a CCO holding company system shall register with the Authority as provided in this section.
- (2) A CCO that is subject to registration under this section shall register not later than 15 days after the date the CCO becomes subject to registration, and annually thereafter on or before April 30 for the previous calendar year, unless the Authority for good cause shown extends the time for registration, and then within such extended time.
- (3) The Authority may require or allow two or more affiliated CCOs subject to registration to file a consolidated registration statement.
- (4) The registration requirements of OAR 410-141-5290 to OAR 410-141-5380 do not apply to any CCO, information or transaction the Authority exempts by rule or order.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.615, 414.625, 414.635, 414.651

STATUTES/OTHER IMPLEMENTED: ORS 414.610 - 414.685

ADOPT: 410-141-5295

RULE TITLE: CCO HOLDING COMPANY REGULATION: Form and Contents of Registration Statement

NOTICE FILED DATE: 09/24/2019

RULE SUMMARY: The rules are written to implement requirements of OHA under Senate Bill 1041 from the 2019 Oregon Legislative Assembly. They are designed to improve OHA's financial oversight of Coordinated Care Organizations (CCOs).

RULE TEXT:

(1) Every CCO that is subject to the registration requirements of OAR 410-141-5290 shall file with the Authority a completed Form B. In the alternative, the Authority shall consider and may approve as the registration statement form for this section the form that the NAIC prescribes.

(2) Form B, or if approved by the Authority, the NAIC prescribed registration statement must list, describe, summarize or include, as appropriate:

(a) The capital structure, general financial condition, ownership and management of the CCO and any person that controls the CCO;

(b) The identity and relationship of every member of the CCO holding company system;

(c) The following agreements in force and transactions currently outstanding or that have occurred during the last calendar year between the CCO and the CCO's affiliates:

(A) Loans, other investments, or purchases, sales or exchanges of securities of the affiliates by the CCO or of the CCO by the CCO's affiliates;

(B) Purchases, sales or exchanges of assets;

(C) Transactions not in the ordinary course of business;

(D) Guarantees or undertakings for the benefit of an affiliate that result in an actual contingent exposure of the CCO's assets to liability;

(E) All management agreements, service contracts and all cost-sharing arrangements;

(F) Reinsurance agreements;

(G) Dividends and other distributions to shareholders; and

(H) Consolidated tax allocation agreements;

(I) Any pledge of the CCO's stock, including stock of any subsidiary or controlling affiliate, for a loan made to any member of the CCO holding company system.

(d) Financial statements of or within a CCO holding company system, including financial statements of affiliates, if the Authority requests the financial statements.:

(A) Financial statements that are subject to this paragraph include, but are not limited to, annual audited financial statements that the CCO or the CCO holding company system files with the United States Securities and Exchange Commission under Securities Act of 1933, 15 U.S.C.A. §77a et seq., or the Securities Exchange Act of 1934, 15 U.S.C.A. § 78a et seq;

(B) A CCO that must file financial statements under this paragraph may satisfy the requirement by providing the Authority with the parent corporation financial statements that have been filed most recently with the United States Securities and Exchange Commission.

(e) Other matters concerning transactions between registered CCOs and any affiliates as may be included from time to time in any registration forms prescribed by the Authority;

(f) Affidavits that state that:

(A) The CCO's Board is responsible for and oversees corporate governance and internal controls; and

(B) The CCO's officers or senior management have approved and implemented, and continue to maintain and monitor, corporate governance and internal control procedures;

(C) Any other information the Authority requires;

(g) Each Form B or the Authority approved NAIC prescribed registration statement filed under this section must have a

summary that outlines all items in the current Form B or Authority approved NAIC prescribed registration statement that have changed from the previously filed Form B or registration statement.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.615, 414.625, 414.635, 414.651

STATUTES/OTHER IMPLEMENTED: ORS 414.610 - 414.685

ADOPT: 410-141-5300

RULE TITLE: CCO HOLDING COMPANY REGULATION: Registration Statement Filing

NOTICE FILED DATE: 09/24/2019

RULE SUMMARY: The rules are written to implement requirements of OHA under Senate Bill 1041 from the 2019 Oregon Legislative Assembly. They are designed to improve OHA's financial oversight of Coordinated Care Organizations (CCOs).

RULE TEXT:

(1) A CCO required to file an annual registration statement pursuant to OAR 410-141-5290 shall:

(a) Furnish the required information on Form B. Form B is set forth on the website of the Authority at <https://www.oregon.gov/oha/HSD/OHP/Pages/CCO-Contract-Forms.aspx>.

(b) Include a statement that the CCO's Board oversees corporate governance and internal controls.

(2) The Authority may allow a CCO that is part of a CCO holding company system to register on behalf of an affiliated CCO that is required to register under OAR 410-141-5290 and to file all information and material required to be filed under the registration requirements of OAR 410-141-5285 to OAR 410-141-5355.

(3) A CCO required to file an annual registration statement pursuant to OAR 410-141-5350 is also required to furnish information required on Form C. Form C is set forth on the website of the Authority at <https://www.oregon.gov/oha/HSD/OHP/Pages/CCO-Contract-Forms.aspx>.

(4) The Authority may allow an authorized CCO that is part of a CCO holding company system to register on behalf of an affiliated CCO that is required to register under OAR 410-141-5290 and to file all information and material required to be filed under the registration requirements of OAR 410-141-5290 to OAR 410-141-5380.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.615, 414.625, 414.635, 414.651

STATUTES/OTHER IMPLEMENTED: ORS 414.610 - 414.685

ADOPT: 410-141-5305

RULE TITLE: CCO HOLDING COMPANY REGULATION: Information Required to Be Disclosed

NOTICE FILED DATE: 09/24/2019

RULE SUMMARY: The rules are written to implement requirements of OHA under Senate Bill 1041 from the 2019 Oregon Legislative Assembly. They are designed to improve OHA's financial oversight of Coordinated Care Organizations (CCOs).

RULE TEXT:

(1) Information that is not material for the purposes of registration under OAR 410-141-5285 to OAR 410-141-5380 need not be disclosed on the registration statement filed pursuant to OAR 410-141-5290.

(2) Unless the Authority by rule or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit, investments or guarantees involving one-half of one percent or less of a CCO's admitted assets as of the December 31 immediately preceding the date of the registration statement or amendment shall not be deemed material for purposes of registration under OAR 410-141-5290 to OAR 410-141-5380.

(3) Any person within a CCO holding company system subject to registration shall provide complete and accurate information to a CCO when such information is necessary to enable the CCO to comply with the registration requirements of OAR 410-141-5285 to OAR 410-141-5355.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.615, 414.625, 414.635, 414.651

STATUTES/OTHER IMPLEMENTED: ORS 414.610 - 414.685

ADOPT: 410-141-5310

RULE TITLE: CCO HOLDING COMPANY REGULATION: Presumption of Control; Rebuttal

NOTICE FILED DATE: 09/24/2019

RULE SUMMARY: The rules are written to implement requirements of OHA under Senate Bill 1041 from the 2019 Oregon Legislative Assembly. They are designed to improve OHA's financial oversight of Coordinated Care Organizations (CCOs).

RULE TEXT:

The Authority shall presume that a person controls another person if the person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, 10 percent or more of the voting securities of the other person. A person may rebut this presumption with a showing in the manner provided under OAR 410-141-5315 that control does not exist in fact. The Authority may determine, after giving persons that have an interest in the Authority's determination notice and opportunity to be heard and after making specific findings of fact to support the determination that control exists in fact, notwithstanding the absence of a presumption that control exists in fact.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.615, 414.625, 414.635, 414.651

STATUTES/OTHER IMPLEMENTED: ORS 414.610 - 414.685

ADOPT: 410-141-5315

RULE TITLE: CCO HOLDING COMPANY REGULATION: Disclaimer of Affiliation

NOTICE FILED DATE: 09/24/2019

RULE SUMMARY: The rules are written to implement requirements of OHA under Senate Bill 1041 from the 2019 Oregon Legislative Assembly. They are designed to improve OHA's financial oversight of Coordinated Care Organizations (CCOs).

RULE TEXT:

- (1) Any person, CCO or member of a CCO holding company system may file with the Authority a disclaimer of affiliation with any authorized CCO. The disclaimer must fully disclose all material relationships and bases for affiliation between the person, CCO or member and the CCO to which the disclaimer of affiliation applies, as well as the basis for disclaiming the affiliation.
- (2) After the person, CCO or member files a disclaimer, the person, CCO or member and the CCO to which the disclaimer applies are relieved of any duty to register or report under OAR 410-141-5290 to OAR 410-141-5380 that may arise out of the CCO's relationship with the person, CCO or member of the CCO holding company system that filed the disclaimer unless the Authority disallows the disclaimer.
- (3) A disclaimer that the person, CCO or member of the CCO holding company system files under this section is effective unless within 30 days after the Authority receives the disclaimer the Authority notifies the person, the CCO or the member of the CCO holding company system that Authority has disallowed the disclaimer.
- (4) The Authority shall grant a hearing if the person, CCO or member of a CCO holding company system that filed the disclaimer requests a hearing.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.615, 414.625, 414.635, 414.651

STATUTES/OTHER IMPLEMENTED: ORS 414.610 - 414.685

ADOPT: 410-141-5320

RULE TITLE: CCO HOLDING COMPANY REGULATION: Transactions Within Holding Company

NOTICE FILED DATE: 09/24/2019

RULE SUMMARY: The rules are written to implement requirements of OHA under Senate Bill 1041 from the 2019 Oregon Legislative Assembly. They are designed to improve OHA's financial oversight of Coordinated Care Organizations (CCOs).

RULE TEXT:

(1) A transaction within a CCO holding company system to which a CCO subject to registration is a party is subject to the following standards:

(a) The terms must be fair and reasonable.

(b) Charges or fees for services performed must be reasonable.

(c) Expenses incurred and payment received must be allocated to the CCO in conformity with customary insurance accounting practices that are consistently applied.

(d) The books, accounts and records of each party to the transaction must be maintained so as to disclose clearly and accurately the nature and details of the transaction, including accounting information that is necessary to support the reasonableness of the charges or fees to the respective parties.

(e) The combined capital and surplus of the CCO following any transaction with an affiliate or any shareholder dividend must be reasonable in relation to the CCO's outstanding liabilities and adequate to the CCO's financial needs.

(2) The Authority may prescribe from time to time required provisions that must be included in agreements with affiliates for cost-sharing services and management.

(3) A CCO and any person in the CCO's CCO holding company system may enter into a transaction described in subsection (4), including an amendment to or modification of an affiliate agreement that is subject to standards set forth in this section, only if:

(a) The CCO has notified the Authority of the CCO's intention to enter into the transaction in writing and not later than the 30th day before the transaction, or within a shorter period the Authority allows; and

(b) The Authority does not disapprove the transaction within the period.

(4) Subsection (3) applies to the following transactions:

(a) Sales, purchases, exchanges, loans or extensions of credit, guarantees or investments, if the transactions equal or exceed the lesser of three percent of the CCO's allowed assets or 25 percent of the CCO's combined capital and surplus, each as of the 31st day of December immediately preceding.

(b) Loans or extensions of credit to any person that is not an affiliate, if the CCO makes the loans or extensions of credit with the agreement or understanding that the proceeds of the transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in any affiliate of the CCO that is making the loans or extending the credit. This subparagraph applies to transactions that equal or exceed the lesser of three percent of the CCO's allowed assets or 25 percent of the CCO's combined capital and surplus, each as of the 31st day of December immediately preceding.

(c) Reinsurance agreements or modifications to reinsurance agreements, reinsurance pooling agreements and agreements in which the reinsurance premium or a change in the CCO's liabilities, the projected reinsurance premium or a projected change in the CCO's liabilities in any of the next three years equals or exceeds five percent of the CCO's combined capital and surplus, as of the 31st day of December immediately preceding, including agreements that may require as consideration the transfer of assets from a CCO to a nonaffiliate if an agreement or understanding exists between the CCO and nonaffiliate that any portion of the assets will be transferred to one or more affiliates of the CCO.

(d) All management agreements, service contracts, tax allocation agreements, guarantees and all cost-sharing arrangements.

(e) A guarantee that a CCO makes if the guarantee is not quantifiable as to amount. If the guarantee is quantifiable as to amount, the CCO is not required to notify the Authority under this section unless the guarantee exceeds the lesser of

one-half of one percent of the CCO's admitted assets or 10 percent of surplus with respect to Members as of the 31st day of December immediately preceding.

(f) Direct or indirect acquisitions or investments in a person that controls the CCO or in an affiliate of the CCO, the amount of which, together with the CCO's existing acquisitions or investments in the person or affiliate, exceeds two and one-half percent of the CCO's surplus to Members.

(g) Any other material transactions specified by the Authority from time to time as transactions that may adversely affect the interests of the CCO's Members.

(5) A notice for a transaction under subsection (3) that is an amendment to or modification of an affiliate agreement that was previously filed must include a statement of reasons for the change and an estimate of the financial impact the change would have on the CCO.

(6) A CCO shall notify the Authority informally within 30 days after a previously filed agreement has terminated, and the Authority, after receiving the notice, shall determine the type of filing the CCO must submit, if any.

(7) A CCO may not enter into one or more transactions during any 12-month period that are part of a plan or series of like transactions with persons that are within the CCO holding company system if the purpose of the separate transactions is to avoid the statutory threshold amount and thus avoid the review that would occur otherwise.

(8) In reviewing a transaction in accordance with subsection (3) of this section, the Authority shall consider whether the transaction complies with the standards set forth in subsection (1) of this section and whether the transaction may adversely affect the interests of Members.

(9) A CCO shall notify the Authority not later than the 30th day after any investment the CCO makes in any one corporation or other legal entity if the total investment the CCO holding company system makes in the corporation or other legal entity exceeds 10 percent of the corporation's voting securities or other equivalent ownership interests.

(10) This section does not authorize or permit any transaction that, in the case of a CCO that is not a member of the same CCO holding company system, would be otherwise contrary to law.

(11) A CCO required to give notice of a proposed transaction pursuant to subsection (3) shall furnish the required information on Form D. Form D is set forth on the website of the Authority at <https://www.oregon.gov/oha/HSD/OHP/Pages/CCO-Contract-Forms.aspx>.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.615, 414.625, 414.635, 414.651

STATUTES/OTHER IMPLEMENTED: ORS 414.610 - 414.685

ADOPT: 410-141-5325

RULE TITLE: CCO HOLDING COMPANY REGULATION: Director and Officer Liability; Effect of Control of CCO Subject to Registration; Board of Directors

NOTICE FILED DATE: 09/24/2019

RULE SUMMARY: The rules are written to implement requirements of OHA under Senate Bill 1041 from the 2019 Oregon Legislative Assembly. They are designed to improve OHA's financial oversight of Coordinated Care Organizations (CCOs).

RULE TEXT:

- (1) A person's control of a CCO that is subject to registration does not relieve the officers and directors of the CCO of any obligation or liability to which the officers and directors would otherwise be subject by law. The CCO must be managed so as to assure the CCO's separate operating identity.
- (2) This section does not preclude a CCO from having or sharing a common management, or from using personnel, property or services jointly or cooperatively, with another person under an arrangement that meets the standards set forth in OAR 410-141-5320.
- (3) At least one-third of a CCO's directors and at least one-third of the members of each committee of the CCO's Board must be persons who are not:
 - (a) Officers or employees of the CCO or of any entity that controls, is controlled by or is under common control with the CCO; or
 - (b) Beneficial owners of a controlling interest in the voting securities of the CCO or of an entity that controls, is controlled by or is under common control with the CCO.
- (4) A quorum for transacting business at a meeting of the CCO's Board or any committee of the CCO's Board must include at least one person with the qualifications described in paragraph (a) of this subsection.
- (5) A CCO's Board shall establish at least one committee of which the entire membership consists of persons who have the qualifications described in subsection (3) of this section. The CCO Board shall give the committee established under this subsection responsibility for:
 - (a) Recommending independent certified public accountants for the board to select;
 - (b) Reviewing the CCO's financial condition and the scope and results of any independent or internal audit;
 - (c) Nominating candidates for election to the CCO Board;
 - (d) Recommending principal officers for selection and the compensation for the principal officers; and
 - (e) Evaluating the principal officers' performance.
- (6) Subsections (3), (4) and (5) of this section do not apply to a CCO if the person that controls the CCO has a board of directors, and committees of the person's board of directors, that meet the requirements set forth in subsections (3), (4) and (5) of this section.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.615, 414.625, 414.635, 414.651

STATUTES/OTHER IMPLEMENTED: ORS 414.610 - 414.685

ADOPT: 410-141-5330

RULE TITLE: CCO HOLDING COMPANY REGULATION: Annual Enterprise Risk Report

NOTICE FILED DATE: 09/24/2019

RULE SUMMARY: The rules are written to implement requirements of OHA under Senate Bill 1041 from the 2019 Oregon Legislative Assembly. They are designed to improve OHA's financial oversight of Coordinated Care Organizations (CCOs).

RULE TEXT:

(1) Every CCO subject to registration shall file an enterprise risk report each year. The enterprise risk report must identify, to the best of the CCO's knowledge and belief, the material risks within the holding company system of which the CCO is a part that could pose enterprise risk to the CCO. The Director of the Authority shall make the determination in accordance with procedures the director adopts by rule after considering procedures set forth in a Financial Analysis Handbook that the National Association of Insurance Commissioners has adopted.

(2) A CCO required to file an enterprise risk report pursuant to this rule shall furnish the required information on Form F. Form F is set forth on the website of the Authority at <https://www.oregon.gov/oha/HSD/OHP/Pages/CCO-Contract-Forms.aspx>.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.615, 414.625, 414.635, 414.651

STATUTES/OTHER IMPLEMENTED: ORS 414.610 - 414.685

ADOPT: 410-141-5335

RULE TITLE: CCO HOLDING COMPANY REGULATION: Disclaimers and Termination of Registration

NOTICE FILED DATE: 09/24/2019

RULE SUMMARY: The rules are written to implement requirements of OHA under Senate Bill 1041 from the 2019 Oregon Legislative Assembly. They are designed to improve OHA's financial oversight of Coordinated Care Organizations (CCOs).

RULE TEXT:

- (1) The Authority shall terminate the registration of any CCO which demonstrates that it no longer is a member of a CCO holding company system.
- (2) A disclaimer of affiliation or a request for termination of registration claiming that a person does not, or will not upon the taking of some proposed action, control another person (referred to as the "subject" in this section) shall contain:
 - (a) The number of authorized, issued and outstanding voting securities of the subject;
 - (b) With respect to the person whose control is denied and all affiliates of such person, the number and percentage of shares of the subject's voting securities that are held of record or known to be beneficially owned, and the number of such shares concerning which there is a right to acquire, directly or indirectly;
 - (c) All material relationships and bases for affiliation between the subject and the person whose control is denied and all affiliates of such person; and
 - (d) A statement explaining why such person should not be considered to control the subject.
- (3) A request for termination of registration shall be considered granted unless the Authority, within thirty days after the Authority receives the request, notifies the registrant otherwise.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.615, 414.625, 414.635, 414.651

STATUTES/OTHER IMPLEMENTED: ORS 414.610 - 414.685

ADOPT: 410-141-5340

RULE TITLE: CCO HOLDING COMPANY REGULATION: Forms; General Requirements

NOTICE FILED DATE: 09/24/2019

RULE SUMMARY: The rules are written to implement requirements of OHA under Senate Bill 1041 from the 2019 Oregon Legislative Assembly. They are designed to improve OHA's financial oversight of Coordinated Care Organizations (CCOs).

RULE TEXT:

(1) Forms A, B, C, D, E and F are intended to be guides in the preparation of the statements required by OAR 410-141-5290 to OAR 410-141-5380, including but not limited to the registration provisions thereof. The forms are not intended to be blank forms that are to be filled in. The statements filed shall contain the numbers and captions of all items, but the text of the items may be omitted if the answers to the items are prepared so as to indicate clearly the scope and coverage of the items. All instructions, whether appearing under the items of the form or elsewhere, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable or the answer to any item is in the negative, an appropriate statement to that effect shall be made.

(2) One complete copy of each statement, including exhibits and all other papers and documents filed as a part of the statement, shall be filed with the Authority by electronic delivery. Each statement shall be signed and certified in the manner prescribed on the form. Unsigned copies shall be confirmed. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the statement.

(3) Statements must be prepared electronically and clearly named. Exhibits and financial statements, unless specifically prepared for the filing, may be submitted in their original size. All copies of any statement, financial statements or exhibits shall be clear, easily readable, and suitable for printing. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies. Statements shall be in the English language and monetary values shall be stated in United States currency. If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency shall be converted into United States currency.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.615, 414.625, 414.635, 414.651

STATUTES/OTHER IMPLEMENTED: ORS 414.610 - 414.685

ADOPT: 410-141-5345

RULE TITLE: CCO HOLDING COMPANY REGULATION: Forms; Incorporation by Reference, Summaries, And Omissions

NOTICE FILED DATE: 09/24/2019

RULE SUMMARY: The rules are written to implement requirements of OHA under Senate Bill 1041 from the 2019 Oregon Legislative Assembly. They are designed to improve OHA's financial oversight of Coordinated Care Organizations (CCOs).

RULE TEXT:

(1) Information required by any item of Form A, B, D, E or F may be incorporated by reference in answer or partial answer to any other item. Information contained in any financial statement, annual report, proxy statement, statement filed with a governmental authority or any other document may be incorporated by reference in answer or partial answer to any item of Form A, B, D, E or F if the document or paper is filed as an exhibit to the statement. Excerpts of documents may be attached as exhibits if the documents are extensive. Documents currently on file with the Authority that were filed within three years need not be filed as exhibits. References to information contained in exhibits or in documents already on file shall clearly identify the material and shall specifically indicate that such material is to be incorporated by reference in answer to the item. Matter shall not be incorporated by reference in any case in which the incorporation would render the statement incomplete, unclear, or confusing.

(2) If an item requires a summary or outline of the provisions of any document, only a brief statement of the pertinent provisions of the document shall be made. The summary or outline may in addition incorporate by reference particular parts of any exhibit or document currently on file with the Authority that was filed within three years and may be qualified in its entirety by such reference. If two or more documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution or other details, a copy of only one of such documents need be filed, but it shall have attached a schedule identifying the omitted documents and setting forth the material details in which such documents differ from the documents of which a copy is filed.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.615, 414.625, 414.635, 414.651

STATUTES/OTHER IMPLEMENTED: ORS 414.610 - 414.685

ADOPT: 410-141-5350

RULE TITLE: CCO HOLDING COMPANY REGULATION: Forms; Information Unknown or Unavailable and Extension of Time to Furnish

NOTICE FILED DATE: 09/24/2019

RULE SUMMARY: The rules are written to implement requirements of OHA under Senate Bill 1041 from the 2019 Oregon Legislative Assembly. They are designed to improve OHA's financial oversight of Coordinated Care Organizations (CCOs).

RULE TEXT:

- (1) Required information need be given only insofar as it is known or reasonably available to the person filing the statement. If any required information is unknown and not reasonably available to the person filing, either because obtaining it would involve unreasonable effort or expense, or because it rests peculiarly within the knowledge of another person not affiliated with the person filing, the information may be omitted. However, the person filing shall:
- (a) Give such information on the subject as the person possesses or can acquire without unreasonable effort or expense, together with the sources thereof; and
 - (b) Include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to such person for the information.
- (2) If it is impractical to furnish any required information, document, or report at the time it is required to be filed, an application may be filed with the Authority:
- (a) Identifying the information, document, or report in question;
 - (b) Stating why the filing thereof at the time required is impractical; and
 - (c) Requesting an extension of time for filing the information, document, or report to a specified date.
- (3) An application submitted under subsection (2) shall be considered granted unless the Authority, within 30 days after receipt thereof, enters an order denying the application.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.615, 414.625, 414.635, 414.651

STATUTES/OTHER IMPLEMENTED: ORS 414.610 - 414.685

ADOPT: 410-141-5355

RULE TITLE: CCO HOLDING COMPANY REGULATION: Forms; Additional Information; Amendments

NOTICE FILED DATE: 09/24/2019

RULE SUMMARY: The rules are written to implement requirements of OHA under Senate Bill 1041 from the 2019 Oregon Legislative Assembly. They are designed to improve OHA's financial oversight of Coordinated Care Organizations (CCOs).

RULE TEXT:

(1) In addition to the information expressly required to be included in Forms A, B, C, D, E and F there shall be included further material information, if any, as may be necessary to make the information contained in the form not misleading. The person filing may also file exhibits in addition to those expressly required by the statement. Such exhibits shall be marked to indicate clearly the subject matters to which they refer.

(2) A change to Form A, B, C, D, E and F shall include on the top of the cover page the phrase: "Change No. ____ to" and shall indicate the date of the change and not the date of the original filing.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.615, 414.625, 414.635, 414.651

STATUTES/OTHER IMPLEMENTED: ORS 414.610 - 414.685

ADOPT: 410-141-5360

RULE TITLE: CCO INSOLVENCY AND DISSOLUTION: Access to Funds and Transition of Members and Records

NOTICE FILED DATE: 09/24/2019

RULE SUMMARY: The rules are written to implement requirements of OHA under Senate Bill 1041 from the 2019 Oregon Legislative Assembly. They are designed to improve OHA's financial oversight of Coordinated Care Organizations (CCOs).

RULE TEXT:

(1) CCOs shall provide the Authority access to Restricted Reserve Funds if insolvency occurs.

(2) CCOs shall have written policies and procedures to ensure that if insolvency occurs, Members and related clinical records are transitioned to other CCOs or providers with minimal disruption.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.615, 414.625, 414.635, 414.651

STATUTES/OTHER IMPLEMENTED: ORS 414.610 - 414.685

ADOPT: 410-141-5365

RULE TITLE: CCO INSOLVENCY AND DISSOLUTION: Hazardous Operations

NOTICE FILED DATE: 09/24/2019

RULE SUMMARY: The rules are written to implement requirements of OHA under Senate Bill 1041 from the 2019 Oregon Legislative Assembly. They are designed to improve OHA's financial oversight of Coordinated Care Organizations (CCOs).

RULE TEXT:

(1) Without limitation or exclusion of any other authority, actions or remedies that are available to the Authority under these rules or under Applicable Law, if the Authority determines that the continued operation of a CCO is hazardous to its Members or to the public in general, the Authority may order the CCO to take one or more of the following actions:

- (a) Reduce the total amount of present and potential liability for Member services by reinsurance.
- (b) Reduce, suspend or limit the volume of business being accepted or renewed.
- (c) Reduce general expenses by methods specified by the Authority.
- (d) Increase the capital and surplus of the CCO.
- (e) Suspend or limit the declaration and payment of dividends by the CCO to its stockholders or members.
- (f) Limit or withdraw from certain investments or discontinue certain investment practices to the extent the Authority determines such action to be necessary.

(2) The Authority may issue an order under subsection (1) with or without a hearing. A CCO subject to an order issued without a hearing may file a written request for a hearing to review the order. A request for hearing shall not stay the effect of the order. The hearing shall be held within thirty days following the filing of the request. The Authority shall render its decision within thirty days following completion of the hearing and the closing of the hearing record.

(3) Without limiting the facts, conditions, circumstances or factors that the Authority may identify, evaluate or rely upon in determining whether the continued operation of a CCO could be hazardous to the CCO's Members, its creditors or the general public, and without limiting the Authority's discretion to make such determinations, the Authority may consider the following:

- (a) Adverse findings reported in financial condition examination reports, audit reports, and actuarial opinions, reports or summaries.
- (b) Whether the CCO has made adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the CCO, when considered in light of the assets held by the CCO with respect to such reserves and related actuarial items including but not limited the investment earnings on such assets, and the considerations anticipated to be received and retained under such contracts.
- (c) The ability of a CCO's reinsurers to perform and whether the CCO's reinsurance program provides sufficient protection for the CCO's capital and surplus after taking into account the CCO's cash flow and the classes of business written as well as the financial condition of the CCO's reinsurers.
- (d) Whether the CCO's operating loss in the last 12-month period or any shorter period of time is greater than 50 percent of the CCO's remaining capital and surplus in excess of the minimum required.
- (e) Whether the CCO's operating loss in the last 12-month period or any shorter period of time, excluding net capital gains, is greater than 20 percent of the CCO's remaining surplus in excess of the minimum required.
- (f) Whether any of the CCO's reinsurers or any of the CCO's other counterparty obligors, or any entity within the CCO's holding company system is insolvent, threatened with insolvency or delinquent in payment or performance of its monetary or other obligations to the CCO, which could materially and adversely affect the solvency of the CCO.
- (g) Contingent liabilities, pledges or guaranties that either individually or collectively involve a total amount that may materially and adversely affect the solvency of the CCO.
- (h) Whether any "controlling person" of a CCO is delinquent in remitting amounts due the CCO.
- (i) The age and collectability of receivables.

- (j) Whether the management of a CCO, including officers, directors or any other person who directly or indirectly controls the operation of the CCO, fails to possess and demonstrate the competence, fitness and reputation determined by the Authority to be necessary to serve the CCO in such position.
 - (k) Whether management of a CCO has failed to respond to inquiries relating to the condition of the CCO or has furnished false and misleading information concerning an inquiry.
 - (L) Whether the CCO has failed to meet financial responsibility, accountability or filing requirements.
 - (m) Whether management of a CCO has filed a false or misleading sworn financial statement or has released a false or misleading financial statement to lending institutions or to the general public, or has made a false or misleading entry, or has omitted an entry of material amount in the books of the CCO.
 - (n) Whether the CCO has grown so rapidly and to such an extent that it lacks adequate financial and administrative capacity to meet its obligations in a timely manner.
 - (o) Whether the CCO has experienced or is projected to experience in the foreseeable future cash flow or liquidity issues that could materially and adversely affect the CCO's solvency and/or prospects for continued operation.
 - (p) Whether management has established reserves that do not comply with minimum standards established by the CCO contract or regulations, accounting standards, sound actuarial principles and standards of practice.
 - (q) Whether management of the CCO has caused the CCO to maintain materially insufficient statutory loss reserves or loss adjustment expense reserves.
 - (r) In respect of transactions between or among the CCO and affiliates within the CCO's holding company system:
 - (A) Whether the CCO has accurately and timely reported those transactions;
 - (B) Whether the CCO has filed for and obtained required regulatory approvals of those transactions;
 - (C) Whether those transactions are fair and reasonable to the CCO, and are otherwise consistent with terms that would be available to the CCO in an unaffiliated arms-length transaction;
 - (D) Whether any of those transactions were for the principal benefit of an affiliate of the CCO or otherwise were not in the best interests of the CCO and its Members; and
 - (E) Whether those transactions otherwise comply with the procedural and substantive standards that apply under Applicable Law.
 - (s) Any other fact, condition or circumstance found by the Authority to be hazardous to the CCO's Members, creditors or the general public.
- (4) For the purposes of making a determination of the financial condition of a CCO under these rules or the CCO contract, the Authority may do one or more of the following:
- (a) Disregard any credit or amount receivable resulting from transactions with a reinsurer that is insolvent, impaired or otherwise subject to a delinquency proceeding.
 - (b) Make appropriate adjustments to asset values attributable to investments in or transactions with parents, subsidiaries or affiliates.
 - (c) Refuse to recognize the stated value of accounts receivable and/or amounts due from affiliates if the ability to collect receivables is speculative in view of the age of the account or the financial condition of the debtor or affiliated organization.
 - (d) Increase the CCO's liability in an amount equal to any contingent liability, pledge, or guarantee not otherwise included if there is a substantial risk that the CCO will be called upon to meet the obligation undertaken within the next twelve-month period.
- (5) In circumstances where the Authority determines, in its discretion, that the financial condition, operating history or future prospects of a CCO warrant such actions, the Authority may require that the CCO:
- (a) Promptly provide written responses to an inquiry of the Authority for a current valuation of assets or liabilities of the CCO.
 - (b) In addition to the required annual and quarterly financial statements, file interim financial statements as of a particular date or with such greater frequency as the Authority may specify.
 - (c) Promptly produce its personnel and/or records, and/or the records and personnel of its affiliates, for examination by

the Authority.

(d) Correct corporate governance practice deficiencies and adopt and utilize governance practices acceptable to the Authority.

(e) Provide a business plan to the Authority demonstrating corrective action the CCO will take to improve its financial condition or such other conditions or deficiencies as may be identified by the Authority.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.615, 414.625, 414.635, 414.651

STATUTES/OTHER IMPLEMENTED: ORS 414.610 - 414.685

ADOPT: 410-141-5370

RULE TITLE: CCO INSOLVENCY AND DISSOLUTION: Recovery From Parent Corporation Or Holding Company In The Event Of Liquidation Or Rehabilitation

NOTICE FILED DATE: 09/24/2019

RULE SUMMARY: The rules are written to implement requirements of OHA under Senate Bill 1041 from the 2019 Oregon Legislative Assembly. They are designed to improve OHA's financial oversight of Coordinated Care Organizations (CCOs).

RULE TEXT:

- (1) If an order for liquidation or rehabilitation of a CCO has been entered, the receiver appointed under the order may recover, on behalf of the CCO, from any parent corporation or holding company or person or affiliate who otherwise controlled the CCO, the amount of distributions, other than distributions of shares of the same class of stock, paid by the CCO on the CCO's capital stock, or any payment in the form of a bonus, termination settlement or extraordinary lump sum salary adjustment made by the CCO or the CCO's subsidiary to a director, officer or employee, when such a distribution or payment is made at any time during the 12 calendar months preceding the petition for liquidation, conservation or rehabilitation, as the case may be, subject to the limitations of subsections (2), (3) and (4) of this section.
- (2) A distribution to which subsection (1) of this section applies is not recoverable if the parent or affiliate shows that the distribution was lawful and reasonable when paid and that the CCO did not know and could not reasonably have known that the distribution might adversely affect the ability of the CCO to fulfill the CCO's contractual obligations.
- (3) Any person who was a parent corporation or holding company or a person who otherwise controlled the CCO or affiliate at the time a distribution to which subsection (1) of this section applies was paid is liable in an amount that is not more than the amount of distributions or payments received by the person under subsection (1) of this section. Any person who otherwise controlled the CCO at the time such distributions were declared is liable up to the amount of distributions the person would have received if the distributions had been paid immediately. If two or more persons are liable with respect to the same distributions, the persons are jointly and severally liable.
- (4) The maximum amount recoverable under this section is the amount needed in excess of all other available assets of the impaired or insolvent CCO to pay the contractual obligations of the impaired or insolvent CCO.
- (5) To the extent that any person liable under subsection (3) of this section is insolvent or otherwise fails to pay claims due from the person pursuant to subsection (3) of this section, the person's parent corporation or holding company or other person who otherwise controlled the person liable under subsection (3) of this section when the distribution was paid are jointly and severally liable for any resulting deficiency in the amount recovered from the parent corporation or holding company or person who otherwise controlled the person liable under subsection (3) of this section.
- (6) If a CCO is placed into rehabilitation or liquidation and the CCO engages in transactions within its holding company system that are subject to OAR 410-141-5320, the Authority retains jurisdiction over the CCO, any interested affiliates of the CCO and the transaction for purposes of regulation and enforcement under ORA 410-141-5320.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.615, 414.625, 414.635, 414.651

STATUTES/OTHER IMPLEMENTED: ORS 414.610 - 414.685

ADOPT: 410-141-5375

RULE TITLE: CCO INSOLVENCY AND DISSOLUTION: Voluntary Dissolution; Approval of Plan

NOTICE FILED DATE: 09/24/2019

RULE SUMMARY: The rules are written to implement requirements of OHA under Senate Bill 1041 from the 2019 Oregon Legislative Assembly. They are designed to improve OHA's financial oversight of Coordinated Care Organizations (CCOs).

RULE TEXT:

- (1) No CCO may be dissolved voluntarily until the Authority has approved a plan for liquidation of the CCO's assets and obligations.
- (2) The plan of dissolution must provide for the reinsurance and assumption of all in-force Member Contracts to which the CCO is a party.
- (3) The Authority shall require that the plan of dissolution provide adequate reserves in trust or otherwise for the satisfaction of all remaining obligations of the CCO.

STATUTORY/OTHER AUTHORITY: ORS 414.615, 414.625, 414.635, 414.651, ORS 413.042

STATUTES/OTHER IMPLEMENTED: ORS 414.610 - 414.685

ADOPT: 410-141-5380

RULE TITLE: CIVIL PENALTIES

NOTICE FILED DATE: 09/24/2019

RULE SUMMARY: The rules are written to implement requirements of OHA under Senate Bill 1041 from the 2019 Oregon Legislative Assembly. They are designed to improve OHA's financial oversight of Coordinated Care Organizations (CCOs).

RULE TEXT:

- (1) A person that violates any provision of Sections 5000 through 5380 or any final order of the Authority entered under any of Sections 5000 through 5380, shall forfeit and pay to the General Fund of the State Treasury a civil penalty in an amount determined by the Authority that shall not exceed \$10,000 for each offense.
- (2) In addition to the civil penalty specified in subsections (1), (3) and (4) of this section, a person that violates any provision of OAR 410-141-5000 to 410-141-5380 or any final order of the Authority entered under any of OAR 410-141-5000 to 410-141-5380, may be required by the Authority to forfeit and pay to the General Fund of the State Treasury a civil penalty in an amount determined by the Authority that shall not exceed the amount by which the person profited by or through or as a result of such violation, as determined by the Authority.
- (3) In addition to the penalties specified in subsection (1), (2) and (4) of this section, a director or officer of a CCO or any affiliate within a CCO's holding company system who engages in a transaction or makes an investment that has not been properly reported under, or that otherwise does not comply with, OAR 410-141-5360 to OAR 410-141-5510, who knowingly participates in or assents to the transaction or investment, or who permits another officer or an agent of the holding company system to engage in the transaction or make the investment, shall pay, in the director or officer's individual capacity, a civil penalty in an amount determined by the Authority that shall not exceed \$10,000.
- (4) In addition to the penalties specified in subsections (1), (2) and (3) of this section, a CCO or other person that fails to make a required filing or demonstrate a good faith effort to comply with a filing requirement under OAR 410-141-5350 to OAR 410-141-5285 shall pay a civil penalty in an amount determined by the Authority that does not exceed \$50,000.
- (5) Civil penalties under this section shall be imposed and enforced in accordance with ORS 183.745.
- (6) A civil penalty imposed under this section may be recovered either as provided in subsection (5) of this section or in an action brought in the name of the State of Oregon in any court of appropriate jurisdiction.
- (7) The provisions of this section are in addition to and not in lieu of, any other enforcement provisions specified in Division OAR 410 of Chapter 141 or in the CCO's contract with the Authority.

STATUTORY/OTHER AUTHORITY: ORS 413.042, 414.615, 414.625, 414.635, 414.651

STATUTES/OTHER IMPLEMENTED: ORS 414.610 - 414.685