

§ 58-93-20. Licensing.

(a) Any commercial plan or provider-led entity may apply to the Commissioner for a license to operate as a PHP in compliance with this Article.

(b) Each license application shall be verified by an officer or authorized representative of the applicant, shall be in a form prescribed by the Commissioner, and shall be set forth or be accompanied, at a minimum, by all of the following:

- (1) A copy of the organizational documents, if any, of the applicant, such as the articles of incorporation, articles of association, partnership agreement, trust agreement, or other applicable documents, and all amendments.
- (2) A copy of the bylaws, rules and regulations, or similar documents, if any, regulating the conduct of the internal affairs of the applicant.
- (3) A list of the names, addresses, official positions, and biographical affidavits of the persons who are to be responsible for the conduct of the affairs of the applicant, including all members of the governing body, the principal officers in the case of a corporation, the partners or members in the case of a partnership or association, or the managers in the case of a limited liability company. This list shall be accompanied by a completed release of information for each of these individuals on forms acceptable to the Commissioner.
- (4) A disclosure identifying all affiliates, including a description of any management, service, or cost-sharing arrangement between an affiliate and the applicant.
- (5) The name and address of the registered agent of the applicant.
- (6) A detailed plan of operation.
- (7) The names and addresses of the applicant's qualified actuary and external auditors.
- (8) Financial statements showing the applicant's assets, liabilities, and sources of financial support. If the applicant's financial affairs are audited by independent certified public accountants, a copy of the applicant's most recent regular certified financial statement shall satisfy this requirement unless the Commissioner directs that additional or more recent financial information is required for the proper administration of this Article.
- (9) A financial feasibility study that includes (i) detailed enrollment projections, (ii) a projection of balance sheets, (iii) cash flow statements that show any capital expenditures, purchases and sales of investments, and deposits with the State, (iv) anticipated income and anticipated expense statements covering the start of operations through the period in which the applicant is anticipated to have had net income for at least one year, and (v) a statement as to the sources of working capital as well as any other sources of funding.
- (10) If not domiciled in this State, a power of attorney duly executed by the applicant appointing the Commissioner, the Commissioner's successors in office, and duly authorized deputies as the true and lawful attorney of the applicant in and for this State, upon whom all lawful process in any legal action or proceeding against the applicant on a cause of action arising in this State may be served.
- (11) A description of the procedures to be implemented to meet the protection against insolvency requirements of G.S. 58-93-70.
- (12) The plan for handling an insolvency as required by G.S. 58-93-75.
- (13) Other information as the Commissioner may require in order to make the determinations required in G.S. 58-93-25.

(c) Any person that is already a licensed health organization in this State under this Chapter shall be recognized as a PHP under this Article and shall be issued a PHP license upon the licensed health organization's demonstration to the Commissioner of its compliance with this Article. A licensed health organization shall not be required to file a PHP application, pay a PHP application fee, or provide the notice required by subsection (d) of this section as a condition of receipt of a PHP license. Unless otherwise exempted, a licensed health organization shall be subject to the remaining requirements of this Article, including deposit, minimum capital and surplus, and working capital requirements.

(d) A PHP shall file a notice describing any significant modification of the operation set out in the information required by subsection (b) of this section for approval by the Commissioner prior to the modification. If the Commissioner does not disapprove within 90 days after the filing, the modification shall be deemed to be approved. Every PHP shall file with the Commissioner all subsequent changes in the information or forms that are required by this Article to be filed with the Commissioner.

(e) The Commissioner shall regularly provide DHHS with information and documentation related to its licensing and regulation of PHPs, including licenses, examination results, penalties imposed, or other actions taken in regards to PHPs. (2018-49, s. 1(a); 2019-179, s. 9(a).)