

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER <b>Z-</b>	REGULATORY ACTION NUMBER	EMERGENCY NUMBER <b>201-1216-02E</b>
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY Department of Developmental Services			AGENCY FILE NUMBER (if any)

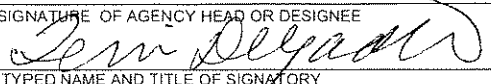
**A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)**

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

**B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)**

1a. SUBJECT OF REGULATION(S) Medicaid Integrity Vendor Requirements		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT Section 54311		
	AMEND Sections 54302, 54310, 54314, 54320, 54326, 54332, and 54370		
	REPEAL TITLE(S) 17		
3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input checked="" type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Other (Specify) _____		
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective 30th day after filing with Secretary of State	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal	
<input type="checkbox"/> Other (Specify) _____			
7. CONTACT PERSON Jeffrey Greer	TELEPHONE NUMBER (916) 654-2201	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) jeff.greer@dds.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 11/15/11
TYPED NAME AND TITLE OF SIGNATORY Terri Delgado, Director	

For use by Office of Administrative Law (OAL) only

**California Code of Regulations  
Title 17, Division 2  
Chapter 3 - Community Services  
Subchapter 2 - Vendorization  
Article 2 - Vendorization Process**

**§54302. Definitions.**

(a) Except as provided in subsection (b) below, the following definitions shall apply to the language contained in Sections 54310 through 54390 of these regulations:

(1) "Accreditation" means a formal determination and recognition by CARF that a Work Activity or Supported Employment Program is in compliance with the service delivery standards CARF has established for the program.

(2) "Activity Center" means a community-based day program that serves adults who generally have acquired most basic self-care skills, have some ability to interact with others, are able to make their needs known, and respond to instructions. Activity center programs focus on the development and maintenance of the functional skills required for self-advocacy, community integration and employment;

(3) "Adult" means a person 18 years of age or older;

(4) "Adult Day Health Care Program" means an Adult Day Health Care Program as defined in Health and Safety Code Section 1570.7(a);

(5) "Adult Day Programs" means those community-based day programs defined in (a)(1), above and (a)(6), (11), (13), (31), and (60) below;

(6) "Adult Day Services" means the broad category of nonresidential services under which adult day programs are categorized;

(7) "Adult Development Center" means a community-based day program that serves adults who are in the process of acquiring self-help skills. Individuals who attend adult development centers generally need sustained support and direction in developing the ability to interact with others, to make their needs known, and to respond to instructions. Adult development center programs focus on the development and maintenance of the functional skills required for self-advocacy, community integration, employment, and self-care;

(8) "Age Appropriate" means the consideration of the chronological age of the person in the use of activities, instructional locations, and techniques;

(9) "Applicant" means an individual, ~~or entity that desires to be a vendor;~~ partnership, group, association, corporation, nonprofit organization, institution, or entity, and the officers, directors, boards of directors, owners, managing employees or agents thereof, that apply to the regional center to become a vendor;

(10) "Authorized Agency Representative" means a person authorized to act on behalf of either the Department or the regional center, by law, by court order, or by a written statement signed by the Director of the Department or the regional center director, respectively;

(11) "Authorized Consumer Representative" means the parent or guardian of a minor, conservator of an adult, or person who is legally entitled to act on behalf of the consumer;

(12) "Behavior Management Program" means a community-based day program that serves adults with severe behavior disorders and/or dual diagnosis who, because of their behavior problems, are not eligible for or acceptable in any other community-based day program;

(13) "CARF" means The Rehabilitation Accreditation Commission, as referenced in Welfare and Institutions Code, Section 4851.

(14) "Certification" means a certification determination completed by the Department of Rehabilitation.

(15) "Child" means a person under the age of 18 years;

(16) "Community-based Day Programs" means those programs which provide services to individuals on an hourly or daily basis, but less than a 24-hour basis in the community rather than at a developmental center. Only the following types of services are community-based day

programs: activity centers, adult development centers, behavior management programs, independent living programs, infant developmental programs and social recreation programs;

(17) "Community Integration" means presence, participation and interaction in natural environments;

(18) "Congregate Living Health Facility" means a Congregate Living Health Facility as defined in Health and Safety Code Section 1250(i)(1);

(19) "Consumer" means an individual who has been determined by a regional center to meet the eligibility criteria of the Welfare and Institutions Code, Section 4512, and of Title 17, Sections 54000 , 54001 and 54010 , and for whom the regional center has accepted responsibility;

(20) "Controlling Agency" means any agency, department, or commission that by statute requires standards to be met for the issuance of a license, credential, registration, certificate or permit required for the operation or provision of service;

(21) "Days" means calendar days unless otherwise stated;

(22) "Department" means the Department of Developmental Services;

(23) "Developmental Center" means any institution referred to in the Welfare and Institutions Code, Section 4440. Developmental Center is synonymous with state hospital;

(24) "DHS" means the Department of Health Services;

(25) "DSS" means the Department of Social Services;

(26) "Direct Care Staff" means staff who personally provide direct services to consumers. Personnel who are responsible for other staff functions may be considered direct care staff only during that time when they are providing direct services to consumers or are involved in program preparation functions;

(27) "Direct Services" means hands-on training provided by the vendor in accordance with the requirements of the consumer's Individual Program Plan and the provisions of Section 56720 of these regulations;

(28) "Director" means the Director of the Department of Developmental Services;

(29) "Family Member" means an individual who: A) Has a developmentally disabled person residing with him or her; B) Is responsible for the 24-hour care and supervision of the developmentally disabled person; and C) Is not a licensed or certified resident care facility or foster family home receiving funds from any public agency or regional center for the care and supervision provided;

(30) "Functional Skills" means those skills which enable an individual to communicate, interact with others and to perform tasks which have practical utility and meaning at home, in the community or on the job;

(31) "Generic Agency" means any agency which has a legal responsibility to serve all members of the general public and which is receiving public funds for providing such services;

(32) "Generic Support(s)" means voluntary service organizations, commercial businesses, non-profit organizations, generic agencies, and similar entities in the community whose services and products are regularly available to those members of the general public needing them.

(33) "Group Practice" means more than one individual which functions as a business entity while providing services to individuals;

(34) "Habilitation Services" means community-based services purchased or provided for adults with developmental disabilities, including services provided under the Work Activity Program and the Supported Employment Program, to prepare and maintain these adults at their highest level of vocational functioning, or to prepare them for referral to Vocational Rehabilitation services;

(35) "Independent Living Program" means a community-based day program that provides to adult consumers the functional skills training necessary to secure a self-sustaining, independent living situation in the community and/or may provide the support necessary to maintain those skills. Independent living programs focus on functional skills training for adult consumers who generally have acquired basic self-help skills and who, because of their physical disabilities, do not possess basic self-help skills, but who employ and supervise aides to assist them in meeting their personal needs;

(36) "Individual Program Plan (IPP)" means a written plan that is developed by a regional center interdisciplinary (ID) team, in accordance with the provisions of the Welfare and Institutions Code, Sections 4646 and 4646.5;

- (37) "Infant Development Program" means a community-based day program defined in the Welfare and Institutions Code, Section 4693;
- (38) "In-home Respite Services" means intermittent or regularly scheduled temporary non-medical care and supervision provided in the consumer's own home and designed to do all of the following:
- (A) Assist family members in maintaining the consumer at home;
  - (B) Provide appropriate care and supervision to protect the consumer's safety in the absence of family members;
  - (C) Relieve family members from the constantly demanding responsibility of caring for a consumer; and
  - (D) Attend to the consumer's basic self-help needs and other activities of daily living, including interaction, socialization, and continuation of usual daily routines which would ordinarily be performed by the family member;
- (39) "Interdisciplinary (ID) Team" means the group of persons convened in accordance with the Welfare and Institutions Code, Section 4646, for the purpose of preparing a consumer's IPP;
- (40) "Intermediate Care Facility" means an Intermediate Care Facility as defined in Health and Safety Code Section 1250(d);
- (41) "Intermediate Care Facility/Developmentally Disabled (ICF/DD)" means a licensed residential health facility which provides care and support services to developmentally disabled consumers whose primary need is for developmental services and who have a recurring, but intermittent, need for skilled nursing services;
- (42) "Intermediate Care Facility/Developmentally Disabled-Habilitative (ICF/DD-H)" means a licensed residential health facility which has as its primary purpose the furnishing of 24-hour personal care, developmental training, habilitative, and supportive health services in a facility with 15 beds or less to residents with developmental disabilities;
- (43) "Intermediate Care Facility/Developmentally Disabled-Nursing (ICF/DD-N)" means a licensed residential health facility which has as its primary purpose the furnishing of 24-hour nursing supervision, personal care, and training in habilitative services in a facility with 4-15 beds to medically fragile developmentally disabled consumers, or to consumers who demonstrate a significant developmental delay that may lead to a developmental disability if not treated. Such consumers must have been certified by a physician as not requiring skilled nursing care;
- (44) "Long-Term Health Care Facility" means an Adult Day Health Care Program, a Congregate Living Health Facility, a Skilled Nursing Facility (SNF), an Intermediate Care Facility (ICF), an Intermediate Care Facility/Developmentally Disabled (ICF/DD), an Intermediate Care Facility/Developmentally Disabled-Habilitative (ICF/DD-H), or an Intermediate Care Facility/Developmentally Disabled-Nursing (ICF/DD-N);
- (45) "Management Organization" means a separate and distinct corporation or entity which operates two or more services;
- (46) "Mobility Training" means individually planned activities and instruction which enable adults with developmental disabilities to utilize the most normalizing independent transportation modes possible;
- (47) "Natural Environment" means places and social contexts commonly used by individuals without developmental disabilities;
- (48) "Natural Supports" means, pursuant to Welfare and Institutions Code, Section 4512(e), personal associations and relationships typically developed in the family and community that enhance or maintain the quality and security of life for people;
- (49) "Nonresidential Services" means all services provided by any vendor other than a residential facility;
- (50) "Nursing Facility" means a licensed health facility or a distinct part of a hospital which provides continuous skilled nursing and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis. It provides 24-hour inpatient care and, as a minimum, includes physician, skilled nursing, dietary and pharmaceutical services, and an activity program;
- (51) "Program Preparation Functions" means secondary activities performed by non-residential direct care staff, such as preparation of lesson plans, completion of the necessary documentation required by these regulations, preparation and clean-up of the area where the direct service is

provided to consumers, or involvement in other duties such as staff meetings and parent conferences;

(52) "Purchase of Service Funds" means those funds identified in the Budget Act for the purpose of purchasing services, provided by vendors, for consumers;

(53) "Reasonably suspected" means an objectively reasonable suspicion that a person would entertain, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect abuse.

(54) "Regional Center" means a diagnostic, counseling, and service coordination center for developmentally disabled persons and their families which is established and operated pursuant to the Welfare and Institutions Code, Sections 4620 through 4669, by a private nonprofit community agency or corporation acting as a contracting agency. As used in these regulations, any reference to the regional center shall, by reference, be applicable to those agencies or persons with which the regional center contracts to provide service coordination to consumers under the provisions of the Welfare and Institutions Code, Section 4648;

(55) "Residential Facility" means any licensed community care facility as defined in Health and Safety Code Section 1502(a)(1), (4), (5) or (6), or a licensed residential care facility for the elderly as defined in Health and Safety Code Section 1569.2;

(56) "Self-Advocacy" means the awareness, motivation and ability of an individual to represent and communicate his or her own interests, to exercise personal choice, to exert control over his or her environment, and to avoid exploitation and abuse;

(57) "Self-Care" means meeting one's physical and personal needs, such as dressing, grooming and hygiene without dependence on others or having the ability to direct others to meet those needs;

(58) "Service Catchment Area" means the geographical area within which a regional center provides services specified in its contract with the Department as required by the Welfare and Institutions Code, Section 4640;

(59) "Service Code" means a number which is assigned by the vendoring regional center to a vendor which indicates the type of authorized service to be provided;

(60) "Service Contract" means an agreement entered into between a regional center and a non-residential vendor which specifies the level of payment and units of service to be used by the vendor to charge and invoice the regional center for services provided to consumers;

(61) "Service Design" means a written description of the service delivery capabilities and orientation developed, maintained, and implemented by a SLS vendor;

(62) "Services" means assistance provided, and duties performed, by a vendor for a consumer;

(63) "Skilled Nursing Facility (SNF)" means a Skilled Nursing Facility as defined in Health and Safety Code Section 1250(c);

(64) "Social Recreation Program" means a community-based day program which provides community integration and self-advocacy training as they relate to recreation and leisure pursuits;

(65) "Special Incident Report" is the documentation prepared by vendor staff or long-term health care facility staff detailing a special incident and provided to the regional center;

(66) "Staffing Ratio" or "Staff-to-Consumer Ratio" means the numerical relation of the number of direct care staff to the number of consumers;

(67) "Statewide Vendor Panel" means the statewide listing of all vendors which contains information specified in Section 54334 of these regulations;

(68) "Subcode" means a series of a maximum of five numbers and/or letters which is assigned by the vendoring regional center to a vendor for billing purposes;

(69) "Supported Employment" means services that are provided by a job coach in order to support and maintain an individual with developmental disabilities in employment;

(70) "Supported Employment Program" means a program that meets the requirements of the term supported employment, as defined in this section, and of the terms, integrated work, supported employment placement, allowable supported employment services, group services, and individualized services as defined in Section 58801.

(71) "Supported Living Service(s) (SLS)" means those services and supports referenced in Section 54349 (a) through (e), and specified as SLS service and support components in Title 17, Section 58614, which are provided by a SLS vendor, paid for by the regional center, and support consumers' efforts to:

- (A) Live in their own homes, as defined in Title 17, Section 58601 (a)(3);
- (B) Participate in community activities to the extent appropriate to each consumer's interests and capacity; and
- (C) Realize their individualized potential to live lives that are integrated, productive, and normal;
- (72) "Unit of Service" means the increment of service provided to consumers which is used to charge and invoice the regional center for services provided. The increment of service is specified as hours, days, transportation mileage or any other increment of service agreed to by the Department, regional center and the vendor;
- (73) "User Regional Center" or "Utilizing Regional Center" means any regional center which utilizes a service within the vendoring regional center's catchment area;
- (74) "Vendor" means an applicant which has been given a vendor identification number and has completed the vendorization process, and includes those specified in Section 54310 (d) and (e);
- (75) "Vendor Application" or "Application Packet" means the form, DS 1890 ~~(12/92)~~ (7/2011), which contains and the information specified in Section 54310 (a)(1) through (10) of these regulations;
- (76) "Vendor Identification Number" means the unique number which is assigned to each vendor in order to establish a recordkeeping and tracking system for regional centers' billing purposes;
- (77) "Vendoring Regional Center" means the regional center in whose service catchment area the vendor is located;
- (78) "Vendorization" means the process used to:
- (A) Verify that an applicant meets all of the requirements and standards pursuant to Section 54320 ~~(b)~~ 54310 of these regulations prior to the provision of services to consumers; and
- (B) Assign vendor identification numbers, service codes and subcodes, for the purpose of identifying vendor expenditures;
- (79) "Voucher" means a written authorization issued by a regional center to a family member or consumer to procure the service for which the voucher was issued and which specifies the maximum reimbursement authorized by the regional center.
- (80) "Work Activity Program" includes, but is not limited to, Work Activity centers or settings that provide support to consumers engaged in paid work and have demonstrated that the program is in compliance with Department of Rehabilitation certification standards or are accredited by CARF;
- (b) The following definitions shall apply to Section 54311:
- (1) "Excluded Individuals or Entities" means either those individuals and entities that have been placed on the U.S. Department of Health and Human Services Office of Inspector General (OIG) List of Excluded Individuals/Entities and the Department of Health Care Services (DHCS) Medical Suspended and Ineligible Provider list or those individuals and entities that meet the criteria included in Section 54311(a)(6);
- (2) "Indirect Ownership Interest" means an ownership interest in an entity that has an ownership interest in the applicant or vendor entity. This term includes an ownership interest in any entity that has an indirect ownership interest in the applicant or vendor entity;
- (3) "Managing Employee" means a general manager, business manager, administrator, director, or other individual who exercises operational or managerial control over, or who directly or indirectly conducts the day-to-day operation of an institution, organization, agency or business entity;
- (4) "Ownership Interest" means the possession of equity in the capital, the stock or the profits of an applicant or vendor entity;
- (5) "Person with an Ownership or Control Interest" means a person or corporation that:
- (A) Has an ownership interest totaling 5 percent or more in an applicant or vendor entity;
- (B) Has an indirect ownership interest equal to 5 percent or more of an applicant or vendor entity;
- (C) Has a combination of direct or indirect ownership interests equal to 5 percent or more in an applicant or vendor entity;
- (D) Owns an interest of 5 percent or more in any mortgage, deed of trust, note, or other obligation secured by the applicant or vendor entity if that interest equals at least 5 percent of the value of the property or assets of the applicant or vendor entity;
- (E) Is an officer or director of an applicant or vendor entity that is organized as a corporation; or
- (F) Is a partner in an applicant or vendor entity that is organized as a partnership;

(6) "Significant Business Transaction" means any business transaction or series of transactions that, during any one fiscal year, exceed the lesser of \$25,000 and 5 percent of an applicant or vendor's total operating expenses;

(7) "Subcontractor" means an individual, agency, or organization to which an applicant or vendor entity has contracted or delegated some of its management functions or responsibilities of providing services;

(8) "Wholly Owned Supplier" means a supplier whose total ownership interest is held by an applicant or vendor entity or by a person, persons, or other entity with an ownership or control interest in an applicant or vendor entity.

Authority cited: Sections 4405, 4648(a), 4648.12(c)(1)(A), 4689.7(c) and 4866, Welfare and Institutions Code; and Section 11152, Government Code.

Reference: Sections 1250 and 1502, Health and Safety Code; Sections 240, 242, 243.4, 245, 261, 264.1, 273d, 285, 286, 288, 288a, 289, 311.2, 311.3, 311.4, 647a, 11165.1, 11165.2, 11165.3 and 11165.6, Penal Code; Sections 4504, 4512(i), 4646.5, 4648(a), 4648.12, 4689.7(c), 4691, 4693, 4791, 4851, 12305.81(a)(2), 15610.57 and 15610.63; and Article II, Chapter 5, Welfare and Institutions Code; and 42, Code of Federal Regulations, Sections 455.104, 455.105 and 455.106.

**California Code of Regulations  
Title 17, Division 2  
Chapter 3 - Community Services  
Subchapter 2 - Vendorization  
Article 2 - Vendorization Process**

**§54310. Vendor Application Requirements.**

(a) An applicant who desires to be vendored shall submit Form DS 1890 ~~(8/04)~~(7/2011) entitled Vendor Application, and the information specified in (1) through (10) below, as applicable, to the vendoring regional center. ~~Items (1) through (7) specified below must be completed by all applicants.~~

- (1) Applicant's name, including the name of any governing body or management organization;
  - (2) Applicant's Social Security Number, Federal Tax ID number, or a copy of any document accepted by the federal government which establishes identity of applicant;
  - (3) Applicant's mailing address;
  - (4) Address of service, if applicable;
  - (5) Name of family member, owner or executive director, as applicable;
  - (6) Types of service to be provided;
  - (7) Telephone number;
  - (8) Facility capacity, if applicable;
  - (9) Identification of the type of consultants, subcontractors, and community resources to be used by the vendor as part of its service.
  - (10) Copies of:
    - (A) Any license, credential, registration, certificate or permit required for the performance or operation of the service, or proof of application for such document;
    - (B) Any academic degree required for performance or operation of the service;
    - (C) Any waiver from licensure, registration, certification, credential, or permit from the responsible controlling agency;
    - (D) The proposed or existing program design as required in Sections 56712 and 56762 of these regulations, if applicable, for applicants seeking vendorization as community-based day programs;
    - (E) The proposed or existing staff qualifications and duty statements as required in Sections 56722 and 56724 of these regulations for applicants seeking vendorization as community-based day programs;
    - (F) The proposed or existing service design as required in Section 56780 of these regulations for applicants seeking vendorization as in-home respite service agencies;
    - (G) The proposed or existing program design as required in Section 58811 of these regulations for applicants seeking vendorization as habilitation service providers;
    - (H) The proposed or existing staff qualifications and duty statements as required in Sections 56790 and 56792 of these regulations for applicants seeking vendorization as in-home respite services agencies;
    - (I) The proposed service design as required in Sections 58630 and 58631 of these regulations for applicants seeking vendorization to provide supported living service;
    - (J) The signed Home and Community-Based Services Provider Agreement (6/99) with the Department of Health Services, obtainable from the regional centers as part of the vendorization packet, for those applicants whose proposed service is eligible for Medi-Cal reimbursement; and
    - (K) The proposed program design as required by Subchapter 4.1, Section 56084 for those applicants seeking vendorization as a family home agency (FHA).
- (b) The applicant shall sign and date Form DS 1890 ~~(8/04)~~(7/2011), which includes a certification that the information is true, correct and complies with Title 17, Section 54310 (a).
- (c) In addition to subsection (a), a Family Home Agency (FHA) shall specify the following information:
- (1) The name, title, business address and telephone number of each officer and member of the governing board;

- (A) The application packet shall include copies of the corporation's articles of incorporation; by-laws, which shall include provisions for control by a responsible governing board; annual statement filed with the Secretary of State; corporate charter, if applicable; and evidence certifying the corporation's nonprofit status.
- (B) The application packet shall contain a written resolution from the governing board stating that the board shall operate the FHA in full conformity with all applicable statutes and regulations.
- (2) Name, address and telephone number of the owner of the facility premises if the applicant is leasing or renting;
- (3) Disclosure of:
- (A) Any board member's or officer's prior or present service as an administrator, general partner, corporate officer or director of any health facility certified by the Department of Health Services or community care facility licensed by the Department of Social Services' Community Care Licensing Division; and
- (B) Any revocation or other action taken, or in the process of being taken, against any community care facility license or health facility certification held or previously held by the applicant or any officer or member of the governing board.
- (4) A financial statement and budget which demonstrate the applicant's ability to cover the costs of operating the FHA to provide the level of services and supports necessary to maintain consumers for whom the regional center is responsible in family homes;
- (5) A written statement that no FHA employee, Board of Directors member or officer shall be a family home provider of the FHA;
- (6) A written statement that no family home shall be approved by the FHA as a residence for a consumer who is a relative of the family home provider except when: (1) the residence is consistent with the services and supports referenced in the consumer's IPP; and (2) the relative has no legal obligation to support the consumer;
- (7) Any other information required by the regional center which is pertinent to vendorization of the FHA.
- (d) Habilitation services providers who, on July 1, 2004, are providing services to consumers shall be deemed to be an approved vendor. Each approved vendor shall submit to the vendoring regional center, and a copy to the Department, a completed Vendor Application, DS 1890 (4/03) (7/2011) and a completed Annual Habilitation Services Provider Profile, DS 1970 (4/04) by July 31, 2004.
- (e) Habilitation Services providers not deemed approved vendors pursuant to (d), and approved vendors seeking vendorization as Habilitation Services providers in a new location, shall, in addition to meeting the general requirements of this section and of Title 17, Sections 58800 through 58882, meet the following requirements as a condition of vendorization:
- (1) The applicant shall:
- (A) If currently accredited, supply a copy of its last accreditation report and indicate the date its next accreditation review is due.
- (B) If not currently accredited, supply a copy of certification by the Department of Rehabilitation and shall become accredited within 3 years of the date of their certification.
- (f) The following applicants shall be required to submit only Form DS 1890 (8/04)(7/2011) and, if applicable, a copy of any license, credential, registration, certificate, permit, or academic degree required for the performance or operation of the service, or any waiver from licensure, registration, certification, credential, or permit from the responsible controlling agency. If the proposed service is eligible for Medi-Cal reimbursement, the applicant shall also sign the Home and Community Based Services Provider Agreement (6/99), and submit the original of the signed agreement to the vendoring regional center.
- (1) Public transit authorities, dial-a-ride, rental car agencies, or taxis;
- (2) Out-of-state manufacturers or distributors who are eligible for vendorization pursuant to Section 54318 of these regulations;
- (3) Retail/wholesale stores; and
- (4) Generic agencies specified in Section 54316 (a)(2) of these regulations.
- (g) Family members or consumers who desire to be vendored in the following categories shall be required to submit to the vendoring regional center Form DS 1890 (8/04)(7/2011), and, if the vouchered family member or consumer is also the provider of the vouchered service, a copy of any license, credential, registration, certificate, permit, or academic degree required for the

performance or operation of the service, or any waiver from licensure, registration, certification, credential, or permit from the responsible controlling agency, if applicable. If a proposed service is eligible for Medi-Cal reimbursement, the applicant shall also sign the Home and Community-Based Services Provider Agreement (6/99) and submit to the vendoring regional center.

- (1) Respite service--family member;
- (2) Nursing service--family member;
- (3) Transportation--family member;
- (4) Day care--family member; and
- (5) Diaper and nutritional supplements--family member.

(h) For the purposes of subsections (a) and (b) of this section, the documentation provided to the dentist by the Department of Health Care Services (DHCS) approving the dentist's enrollment in the Denti-Cal program, including the dentist in the Provider Master File and providing the dentist with a Medi-Cal provider number, constitutes vendorization for the purposes of providing services to consumers under Dentistry - Service Code 715. The dentist's status as a Denti-Cal provider is under the oversight of DHCS.

Authority cited: Chapter 157, Statutes of 2003; Sections 4405, 4648(a), 4648.12(c)(1)(A), and 4689.1, Welfare and Institutions Code; and Section 11152, Government Code; Chapter 1095, Statutes of 1994, Section 14.

Reference: Sections 4502, 4631, 4648(a), 4648.12, 4690 and 4691, 12305.81(a)(2), Welfare and Institutions Code; and 42, Code of Federal Regulations, Sections 455.104, 455.105 and 455.106.

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**§54311. Disclosure Requirements.**

- (a) The applicant or vendor shall disclose all the information required by 42, Code of Federal Regulations (CFR), Sections 455.104, 455.105 and 455.106, and shall complete and submit to the regional center the Disclosure Statement Form DS 1891 (7/2011) which shall include, but not be limited to all of the following:
- (1) The name, address, title and percentage of ownership or control interest of each person(s) with an ownership or control interest, as defined in Section 54302(b)(5), in the applicant or vendor or in any subcontractor in which the applicant or vendor has direct or indirect ownership of 5 percent or more.
  - (2) Whether any of the persons named in subsection (a)(1), above, is related to another as spouse, parent, child or sibling.
  - (3) The name and address of any other disclosing entity as defined in 42, CFR, Section 455.101 with an ownership or control interest in the applicant or vendor. This requirement applies to the extent that the applicant or vendor can obtain this information by requesting it in writing from the disclosing entity. The applicant or vendor shall:
    - (A) Keep copies of all disclosure information submitted to the regional center at vendorization and upon request.
    - (B) Make the disclosure information available to the regional center upon request.
    - (C) Advise the regional center when there is no response to a request.
  - (4) The name and address of each person(s) with an ownership or control interest in any subcontractor with whom the applicant or vendor has had business transactions totaling more than \$25,000 during the 12-month period either immediately preceding the date of the vendor application or immediately preceding the date of the regional center request for such information.
  - (5) Any significant business transactions between the applicant or vendor and any wholly owned supplier, or between the applicant or vendor and any subcontractor, at the time of the application, or during the 5-year period ending on the date of the written request by the regional center for such information.
  - (6) The name, title and address of any person(s) who, as applicant or vendor, or who has ownership or control interest in the applicant or vendor, or is an agent, director, members of the board of directors, officer, or managing employee of the applicant or vendor, has within the previous ten years:
    - (A) Been convicted of any felony or misdemeanor involving fraud or abuse in any government program, or related to neglect or abuse of an elder or dependent adult or child, or in any connection with the interference with, or obstruction of, any investigation into health care related fraud or abuse; or
    - (B) Been found liable any civil proceeding for fraud or abuse involving any government program; or
    - (C) Entered into a settlement in lieu of conviction involving fraud or abuse in any government program.
  - (b) Each applicant or vendor shall submit a new signed and dated disclosure statement to the regional center within 30 days of any change in the information previously submitted pursuant to this section or upon a written request by the regional center for such information.
  - (c) All current vendors shall submit a signed and dated DS 1891 (7/2011) to the vendoring regional center within 120 days of the effective date of these regulations for review by regional center by June 30, 2012.
  - (d) In addition to (c) above, the vendor shall supply the information in subsection (a) above upon written request to the vendoring regional center, Department of Developmental Services, the State Medicaid Agency, Department of Health Care Services, any State survey team, the Secretary of the United States Department of Health and Human Services, or any duly authorized representatives of the above-named entities.

Authority cited: Sections 4648.12(c)(1)(A), and 14043.75, Welfare and Institutions Code; and Section 11152, Government Code.

Reference: Sections 4648.12, 12305.81(a)(2) Welfare and Institutions Code; and 42, Code of Federal Regulations, Sections 455.104, 455.105 and 455.106.

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**§54314. Ineligibility for Vendorization.**

- (a) The following applicants shall not be vendored:
- (1) Any officer or employee of the State of California;
  - (2) Any applicant in which an officer or employee of the State of California has a financial interest, as defined in the Government Code, Section 87103, except as permitted by Public Contract Code, Section 10430(g), effective January 1, 1992;
  - (3) Employees and board members of any regional center with a conflict of interest pursuant to Title 17, Sections 54500 through 54525, unless the conflict is eliminated or a waiver is obtained pursuant to Title 17, Sections 54522 through 54525;
  - (4) Any applicant in which the regional center employee or board member has a relationship which creates a conflict of interest pursuant to Title 17, Sections 54500 through 54525, unless the conflict is eliminated or a waiver is obtained pursuant to Title 17, Sections 54522 through 54525;
  - (5) Consumers, to provide services for, or to, themselves except to:
    - (A) Provide transportation services to themselves as specified in Section 54355 (g)(5); and
    - (B) Serve as their own Supported Living Service vendors as specified in Title 17, Section 58616.
  - (6) Except as specified in Section 54318 of these regulations, any applicant located outside the state;
  - (7) Any applicant, that has been determined to be an excluded individual or entity pursuant to Section 54302(b)(1).

Authority cited: Sections 4405, 4648(a), 4648.12(c)(1)(A), and 4689, Welfare and Institutions Code; and Section 11152, Government Code.

Reference: Sections 4626, 4627, 4631, 4648(a), 4648.1(d), 4648.12, and 4689(a)(1), Welfare and Institutions Code; and Section 10430(g), Public Contract Code; and 42, Code of Federal Regulations, Sections 455.104, 455.105 and 455.106.

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**§54320. Regional Center Review of Vendor Application.**

(a) The vendoring regional center shall review the vendor application identified in Sections 54310 (a) and, as applicable, (d) or (e) within 45 days after receipt from the applicant, to ensure all of the following:

(1) The vendor application is complete;

(2) The applicant has complied with provisions of Sections 54342 through 54355 of these regulations, as applicable;

(3) Any required license, credential, registration, accreditation, certificate or permit:

(A) Is current;

(B) Has been issued for the service to be vendored; and

(C) Has a current address that matches the address on the vendor application.

(4) Staffing ratios and qualifications as specified in Sections 56724 and 56770, if applicable, and Section 56756 or 56772 of these regulations are consistent with the program design as required in Sections 56712 and Section 56762 of these regulations, if applicable, for applicants seeking vendorization;

(5) The applicant has signed the Home and Community Based Services Provider Agreement (6/99), if applicable pursuant to Sections 54310 (a)(10)(l), (d) and (e).

(6) That the applicant or person(s) disclosed pursuant to Section 54311 has not been determined to be an excluded individual or entity pursuant to Section 54302(b)(1) and is not under investigation pursuant to the criteria in Section 54311(a)(6).

(b) If an applicant submits an incomplete vendor application, the regional center shall provide written notification to the applicant of the missing items within 45 days of receipt of the vendor application. The regional center shall take no further action until all required information is received, and any investigation, pursuant to (a)(6) above is resolved. At that time, the vendoring regional center shall consider the vendor application completed.

(c) No provision of this section shall preclude the regional center from completing the vendorization process, up to the point of approval for those applicants which have applied for the appropriate license, credential, registration, certificate, or permit. However, the regional center shall not approve vendorization, nor refer consumers, until the appropriate license, credential, registration, certificate or permit is received.

Authority cited: Chapter 157, Statutes of 2003; Sections 4405 and 4648(a), 4648.12(c)(1)(A), Welfare and Institutions Code; and Section 11152, Government Code.

Reference: Sections 4502, 4631, 4648(a), 4648.12, and 4691, Welfare and Institutions Code; and 42, Code of Federal Regulations, Sections 455.104, 455.105 and 455.106.

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**§54326. General Requirements for Vendors and Regional Centers.**

- (a) All vendors shall:
- (1) Be prohibited from transferring vendorization of their service to another person or entity;
  - (2) Provide access to regional center and/or Department staff, on an announced or unannounced basis, for the purposes specified in the Welfare and Institutions Code, Section 4648.1;
  - (3) Maintain records of services provided to consumers in sufficient detail to verify delivery of the units of service billed:
    - (A) Such records shall be maintained for a minimum of five years from the date of final payment for the State fiscal year in which services were rendered or until audit findings have been resolved, whichever is longer;
    - (B) Records must include for each consumer the information specified in Section 50604 (d)(3)(A), (B), (C), (D), (E) or (F), as applicable.
    - (C) Data, as specified in Section 50604 (d)(3)(A), (B), (C), (D), (E) or (F), as applicable, for the billing period shall be submitted to the regional center with the billings/invoices.
  - (4) Make available any books and records pertaining to the vendored service, including those of the management organization and disclosure information required in Section 54311, if applicable, for audit, inspection or authorized agency representatives. This shall also include only those portions of any personnel records that are necessary to ensure staff qualifications comply with the requirements contained in Section 56724, and Section 56770 or 56792 of these regulations, if applicable, in order to comply with the monitoring of program standards pursuant to the Welfare and Institutions Code, Section 4691(f);
  - (5) Utilize and be bound by Title 17, Sections 50700 through 50767, and the Welfare and Institutions Code, Section 4648.2, should the vendor elect to appeal any audit findings;
  - (6) Comply with the provisions contained in the Fair Labor Standards Act (29 U.S.C., Sections 201 through 219);
  - (7) Not discriminate in the provision of services to consumers on the basis of race, religion, age, disability, sex, or national origin of the consumer, or his/her parents, guardian, or conservator;
  - (8) Be vendored separately for each type of service provided, as specified in Sections 54342 through 54356 of these regulations unless the regional center waives separate vendorization pursuant to Section 54342 (a)(37) or 54342(a)(78)(A);
  - (9) Provide certification consistent with the Public Contract Code, Sections 10410 and 10411, that the vendor and the agents or employees of the vendor, in the performance of the contracts, are independent contractors and are not officers or employees of the State of California;
  - (10) Bill only for services which are actually provided to consumers and which have been authorized by the referring regional center. When the vendor is receiving payment for a consumer from the Department of Rehabilitation and/or the Department of Health Services for a portion of the program day, and the vendor's rate of reimbursement is based on costs reported pursuant to Section 57422 (c)(2), the vendor shall only bill the prorated share of the daily rate.
  - (11) Not bill for consumer absences for nonresidential services. The Department shall authorize payment for absences which are the direct result of situations and/or occurrences for which a State of Emergency has been declared by the Governor. If payment for absences due to a State of Emergency is authorized by the Department, the vendor shall bill only for absences in excess of the average number of absences experienced by the vendor during the 12-month period prior to the month in which the disaster occurred;
  - (12) Agree to accept the rate established, revised or adjusted by the Department as payment in full for all authorized services provided to consumers and not bill the consumer nor the consumer's family, conservator, guardian or authorized consumer representative for a

supplemental amount regardless of the cost of providing the authorized service. This shall not preclude the vendor from billing the consumer or consumer's family for services provided which were authorized by the consumer or family and which were not authorized by the regional center;

(13) Comply with all applicable staffing ratio requirements;

(14) Be prohibited from being vendored by more than one regional center for the same service at the same location; and

(15) Comply with conflict of interest requirements as determined by the criteria established by Title 17, Sections 54500 through 54525 and the Welfare and Institutions Code, Sections 4626 through 4628.

(16) Sign the Home and Community-Based Services Provider Agreement (6/99), if applicable pursuant to Section 54310 (a)(10)(I), (d) and (e). If the Home and Community-Based Services Provider Agreement (6/99) is required and has not been signed, the regional center shall:

(A) For new applicants requesting vendorization, deny vendorization pursuant to Section 54322 (c); or

(B) For existing vendors, notify in writing, the vendor and utilizing regional center(s), if any, that the signed Home and Community-Based Services Provider Agreement (6/99) is required and that payment of the vendor's rate will be suspended, the effective date of the suspension, and that payment shall remain suspended until the signed Home and Community-Based Services Provider Agreement (6/99), is received.

(1) The effective date for suspension of payment of the vendor's rate shall be 15 days from the date of the letter notifying the vendor that payment will be suspended.

(2) If the signed Home and Community-Based Services Provider Agreement (6/99), is submitted within the time specified, no further action will be taken.

(3) If the Home and Community-Based Services Provider Agreement (6/99), is submitted after the date when payment of the vendor's rate has been suspended, the vendoring regional center shall notify the vendor and utilizing regional center(s) that payment of the vendor's rate is reinstated as of the date payment was suspended.

(17) Notify the vendoring regional center of any additions or changes in the information disclosed on the DS 1891 (7/2011) and submit the information pursuant to requirements of Section 54311(c).

(18) Notify the vendoring regional center of:

(A) Any conviction for any felony or misdemeanor, within the previous ten years, involving fraud or abuse in any government program, or related to neglect or abuse of an elder or dependent adult or child, or in connection with the interference with, or obstruction of, any investigation into health care related fraud or abuse, or that has been found liable, within the previous ten years, in any civil proceeding for fraud or abuse in any government program;

(B) Any settlement in lieu of conviction involving fraud or abuse in any government program within the previous ten years; or

(C) Any loss of license, certificate or credential, or failure to maintain any valid licenses, certificates or credentials required for the performance or operation of the vendored service.

(b) The vendor shall maintain a written description of its organizational structure and operations at the vendor's business office in accordance with the following:

(1) All descriptions shall include:

(A) An identification of the legal entity serving as the governing body or board of directors;

(B) The policies of operation that are established by the governing body or board of directors; and

(C) A diagram depicting the relationships among organizational units and titles of persons responsible for those units.

(2) In addition to the information specified in (b)(1) above, if the vendor:

(A) Operates more than one service, the description shall also include:

1. The names, addresses and vendor numbers of the other services; and

2. Whether any of the services share staff or facility space.

(B) Has a management organization, the description shall also include a diagram depicting the relationships among the management organization, the vendor, and any other services under the management organization.

(c) Regional centers shall submit the information specified in subsection (a)(3)(C) above to the Department on a monthly basis, and no later than 30 days after the end of the previous month.

(d) Regional centers shall not:

(1) Use purchase of service funds to purchase services for a minor child without first taking into account, when identifying the minor child's service needs, the family's responsibility for providing similar services to a minor child without disabilities. In such instances, the regional center must provide for exceptions, based on family need or hardship.

(2) Use purchase of service funds to purchase services for those executive/management services, legal services for the benefit of the regional center, service coordination, and administrative service and support functions that are funded through the regional center operations budget. Funding of specialized clinical and diagnostic assessment services and other services for the benefit of a consumer through purchase of service funds is permissible.

(3) Charge vendors or consumers for providing representative payee services.

(4) Except as specified in Section 54324 of these regulations:

(A) Refer any consumer to an applicant until the vendor application is approved; or

(B) Reimburse a vendor for services provided before vendorization.

(e) Compliance with the standards and requirements specified in these regulations does not exempt a vendor from compliance with existing statutes and regulations or with any other applicable standards or requirements promulgated by the controlling agencies for the service provided by the vendor.

(f) Regional centers shall take routine action to ensure that vendors have no conviction as described in (a)(18)(A) above and have not been found liable as described in (a)(18)(A) above, have not entered into any settlement agreement in lieu of conviction involving fraud or abuse in any government program as described in (a)(18)(B), and are serving consumers with the valid licenses, certificates or credentials required for the performance or operation of the vendored service.

Authority cited: Chapter 157, Statutes of 2003; Section 4648.12(c)(1)(A), Welfare and Institutions Code; and Section 11152, Government Code.

Reference: Sections 4500, 4501, 4502, 4648, 4648.1, 4648.12, and 4742, Welfare and Institutions Code.; and 42, Code of Federal Regulations, Sections 455.104, 455.105 and 455.106.

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**§54332. Regional Center Files.**

- (a) The vendoring regional center shall maintain a file for each vendor which includes copies of:
- (1) The vendor application as described in Section 54310 (a) of these regulations;
  - (2) Any required certificate, credential, license, degree, permit or registration;
  - (3) Statement of current vendor status;
  - (4) The regional center approval letter;
  - (5) The program design or service design as described in Sections 56712, 56762 and 56780 of these regulations, if applicable;
  - (6) The staff qualifications and duty statements as described in Sections 56722, 56724, 56752, 56754, 56770,
  - (7) Notification of established rate and all documentation submitted pursuant to Sections 57422, 57433 through 57439, 58020, and 58033 through 58039 of these regulations, for a rate determination, if applicable;
  - (8) The signed Home and Community Based Services Provider Agreement, (6/99) if applicable.
  - (9) Agreements negotiated pursuant to Section 57300 (d) or (e), if applicable;
  - (10) Service contracts negotiated pursuant to Section 57540, if applicable;
  - (11) Agreements negotiated pursuant to Section 58140, if applicable.
- (b) ~~Regional centers may review, at least annually, shall review at least biannually or sooner upon notification by the Department of Developmental Services, Department of Health Services, or any governing licensing or certification board or entity,~~ all vendor files maintained by the regional center to determine that:
- (1) The information required for vendorization is current, completed and accurate;
  - (2) At least one consumer has been provided services by the vendor within the last 24 months;
  - (3) The service currently provided by the vendor is the same service approved for vendorization;
- and
- (4) Vendors meet the minimum program standards as specified in Sections 56710 through 56802 of these regulations, if applicable; and
  - (5) The vendor has signed the Home and Community Based Services Provider Agreement (6/99), if applicable; and
  - (6) The vendor is not in violation of the requirement stated in Section 54314(a)(7).
- (c) If, after a review of the vendor files, the vendoring regional center determines that the vendored service has not been provided to any consumer within the last 24 months, the vendoring regional center shall:
- (1) Send the vendor a written notice stating that vendorization will be terminated in 30 days unless the vendoring regional center receives notification from the vendor expressing an interest to continue as a vendor; and
  - (2) Make the changes to the statewide vendor panel required by Section 54334 (d) of these regulations if the vendor does not respond in accordance with (c)(1) above.

Authority cited: Chapter 157, Statutes of 2003; Sections 4405 and 4648(a), 4648.12(c)(1)(A), Welfare and Institutions Code; and Section 11152, Government Code. Reference: Sections 4631, 4648(a), 4648.12, 4691 and 4791, Welfare and Institutions Code; and 42, Code of Federal Regulations, Sections 455.104, 455.105 and 455.106.

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**Article 4 - Vendor Compliance and Prohibitions**

**§54370. Termination of Vendorization for Noncompliance.**

(a) The vendoring regional center shall be responsible for ensuring that vendors within its service catchment area comply with the vendorization requirements. Except as specified in section 54372 of these regulations, the regional center shall take the actions as appropriate for the violations specified in (b) and (c) below.

(b) Vendorization shall be terminated at the end of the first working day after written notification is received from the vendoring regional center if any of the following conditions exist:

(1) The vendor is serving consumers without a current license, credential, registration, accreditation, certificate, degree or permit that is required for the performance or operation of the service;

(2) Vendorization has been transferred to another person or entity;

(3) The vendor has refused to make available any books and records pertaining to the vendored service, including those of the management organization, for audit, inspection or reproduction by regional center, Department or authorized agency representative staff;

(4) The service currently provided is not the same service that was approved for vendorization;

(5) The vendor is using planned behavior modification interventions that cause pain or trauma without meeting the conditions specified in title 17, sections 50800 through 58023; or

(6) The vendor is transporting consumers using a driver who does not possess a valid driver's license appropriate for the vehicle being driven.

(7) The regional center has determined that continued utilization of the vendor threatens the health and safety of the consumer(s).

(8) The vendor knowingly and willfully makes or causes to be made a false statement or representation, including omissions, of any vendor application information specified in Section 54310 upon initial application or request for information from the regional center.

(9) The vendor or any person with an ownership or control interest in the vendor, or person who is a director, officer, or managing employee of a vendor, has been determined to be an excluded individual or entity as defined in Section 54302(b)(1).

(c) If a vendor is not in compliance with any requirement, other than those specified in (b) above, vendorization shall be terminated 30 days after written notification from the vendoring regional center.

(d) The written notification pursuant to (b) or (c) above shall:

(1) Be sent by registered return receipt requested mail with a copy to any user regional center(s); and

(2) Include all of the following:

(A) A description of the specific violation(s);

(B) A reference to the statute(s) or regulation(s) with which the vendor is not complying; and

(C) The date on which vendorization will be terminated unless action pursuant to (e) or (f) below is taken by the vendor.

(e) Termination pursuant to (b) above shall not occur if the vendor notifies the vendoring regional center, in writing, prior to the expiration of the period specified in the notice, of the vendor's intent to take either of the following actions:

(1) Correct the violation(s) and provide documentation of the correction to the vendoring regional center within 30 days from receipt of the notice; or

(2) File an appeal within 30 days from receipt of the notice in accordance with section 54380 of these regulations.

(3) If, within the 30-day period, the vendor fails to correct the violation and provide documentation pursuant to (1) above or to file an appeal pursuant to (2) above, vendorization will be terminated effective immediately.

(f) Termination pursuant to (c) above shall not occur if the vendor takes either of the following actions prior to the expiration of the period specified in the notice:

(1) Corrects the violation(s) and provides documentation of the correction to the vendoring regional center; or

(2) Files an appeal in accordance with section 54380 of these regulations.

(g) Action taken by the vendor pursuant to (e) or (f) above shall not preclude the vendoring regional center nor any user regional center from withdrawing purchase of service authorizations if necessary to protect the health, safety and welfare of the consumers.

(h) Regional Centers may place a moratorium on new referrals during the appeal process or until such violations have been corrected.

(i) No provision of this section shall be construed to supersede or replace the monitoring or corrective action plan provisions for residential facilities contained in title 17, sections 56550 through 56610.

Authority cited: Sections 4405, 4648(a), 4648.12(c)(1)(A), and 4866, Welfare and Institutions Code; and Section 11152, Government Code.

Reference: Sections 4631, 4648(a), 4648.12, and 4861(c), Welfare and Institutions Code; and 42, Code of Federal Regulations, Sections 455.104, 455.105 and 455.106.

## **APPLICANT/VENDOR DISCLOSURE STATEMENT**

### **GENERAL INSTRUCTIONS**

Every applicant or vendor must complete and submit a current Applicant/Vendor Disclosure Statement, DS 1891 (disclosure statement) as part of a complete application packet for vendorization or upon request of the vendoring regional center. The following instructions are designed to clarify certain questions on the form. Instructions are listed in order of question for easy reference. See 42 CFR 455.101 for additional definitions.

*Overall Authority: Code of Federal Regulations (CFR), Title 42, Part 455; California Code of Regulations, Title 17, Section 54311. Welfare and Institutions Code, Section 4648.12.*

#### **Important:**

- IT IS ESSENTIAL THAT ALL APPLICABLE QUESTIONS BE ANSWERED ACCURATELY AND THAT ALL INFORMATION BE CURRENT.
- Failure to disclose complete and accurate information will result in a denial of enrollment and or may be cause for termination of vendorization.
- Submitting a complete and accurate disclosure statement is required.
- Read **ALL** instructions when completing the disclosure statement.
- Type or print clearly in ink.
- If applicant or vendor must make corrections, please line through, date, and initial in ink. Do not use correction fluid.
- Answer all questions as of the current date.
- If additional space is needed, attach a sheet referencing the part and question being completed.
- Return this completed statement with the complete application package to the regional center to which you are applying.

#### **Part 1: Identifying Information**

- A. Specify name of the applicant or vendor, agency, facility or organization, vendor number and service code, business address, and telephone number of applicant or vendor submitting the vendor application.
- B. Specify in what capacity the applicant or vendor is doing business. For example: The name of the corporation under which they are doing business. This name must match the license name, if applicable.
- C. List the Medi-Cal provider number, if any, of the applicant or vendor.
- D. List the Social Security Number and/or the Federal Employer Identification Number (EIN) of the applicant or vendor, if any. Enter Vendor's nine-digit EIN assigned by the IRS in the following format: XX-XXXXXXX.
  - An EIN is used to identify the accounts of employers and certain others who have no employees.
  - For more information about an EIN, please check <http://www.irs.gov> for "Employer Identification Numbers" or "EIN". Whenever this Disclosure Statement requests an EIN about an individual or entity, it has the same meaning.
- E. Check the entity type that best describes the structure of your organization.

#### **Part 2: Ownership and Control Interests. Use the following definitions to identify the individuals you should enter in parts A, B and D of this section. See 42 CFR 455.101 for additional definitions.**

- "Indirect Ownership Interest" means an ownership interest in an entity that has an ownership interest in the applicant or vendor. This term includes an ownership interest in any entity that has an indirect ownership interest in the applicant or vendor;
- "Managing Employee" means a general manager, business manager, administrator, director, or other individual who exercises operational or managerial control over, or who directly or indirectly conducts the day-to-day operation of an institution, organization, agency or business entity;
- "Ownership Interest" means the possession of equity in the capital, the stock, or the profits of the applicant or vendor.
- "Person with an Ownership or Control Interest" means a person or corporation that:
  - A) Has an ownership interest totaling 5 percent or more in an applicant or vendor;
  - B) Has an indirect ownership interest equal to 5 percent or more of an applicant or vendor;
  - C) Has a combination of direct or indirect ownership interests equal to 5 percent or more in an applicant or vendor;

- D) Owns an interest of 5 percent or more in any mortgage, deed of trust, note, or other obligation secured by the applicant or vendor if that interest equals at least 5 percent of the value of the property or assets of the applicant or vendor;
- E) Is an officer or director of an applicant or vendor that is organized as a corporation; or
- F) Is a partner in an applicant or vendor that is organized as a partnership.

- "Significant Business Transaction" means any business transaction or series of transactions that, during any one fiscal year, exceed the lesser of \$25,000 and 5 percent of an applicant or vendor's total operating expenses.
- "Subcontractor" means an individual, agency, or organization to which an applicant or vendor has contracted or delegated some of the management functions or responsibilities of providing services.
- "Wholly Owned Supplier" means a supplier whose total ownership interest is held by an applicant or vendor or by a person, persons, or other entity with an ownership or control interest in an applicant or vendor.

**Part 3: Excluded Individuals or Entities. (See page 3, part 3. Must be disclosed if applicable.)**

"Excluded Individuals or Entities" means those individuals and entities that have been placed on either the U.S. Department of Health and Human Services Office of Inspectors' General (OIG) List of Excluded Individuals/Entities or the Department of Health Care Services (DHCS) Medi-Cal Suspended and Ineligible Provider List of persons, or individuals and entities that have been convicted of a criminal offense related to involvement in any program under Medicare, Medicaid or the Title XX services program, or those individuals and entities that meet the criteria included in Section 54311(a)(6).

**PLEASE FILL OUT**

**1. Applicant/Vendor Information**

A. Name of applicant or vendor, entity, agency, facility, or organization as reported to IRS:

Vendor Number and Service Code:

Business Address:

Telephone number (with area code):

B. DBA Name registered with California Secretary of State, if any:

C. Medi-Cal Provider Number, if any:

D. Social Security Number and/or Federal Employer Identification Number (EIN), if any:

E. Check the entity type that best describes the structure of the applicant or vendor individual, business entity, agency, facility or organization: Check **only one** box:

- Sole Proprietor (Unincorporated)**
- General Partnership**     **Limited Partnership**     **Limited Liability Partnership**
- Limited Liability Company:**    State of formation: \_\_\_\_\_
- Governmental**
- Corporation:**    Corporate number: \_\_\_\_\_    State incorporated: \_\_\_\_\_
- Nonprofit – Check One:**
  - Unincorporated Association**
  - Corporation**
  - Religious/Charitable**
  - Other (specify):** \_\_\_\_\_

**2. Ownership, indirect ownership, and managing employee interests**

A. List the name(s), title(s) and address(es) of individuals for organizations having direct or indirect ownership interests, and/or managing employees in the applicant/vendor (see instructions for definitions). Also list all members of a group practice. Attach additional pages as necessary to list all officers, owners, management and ownership individuals and entities.

Name	Title	Address

B. List those persons named in A or B above, that are related to each other as spouse, parent, child, or sibling.

Name	Relationship	Address

C. List the name, address, vendor number and service code, and Medi-Cal provider number of any other applicant or vendor in which a person with an ownership or controlling interest in the applicant or vendor also has an ownership or control interest of at least 5 percent or more. For example: Are any owners of the applicant or vendor also owners of Medicare or Medicaid facilities? (Example: sole proprietor, partnership or members of Board of Directors.)

Name	Address	Vendor Number and Service Code	Medi-Cal Provider Number

**3. Excluded Individuals or Entities ( )**

List the name, title, and address of any person or entity with an ownership or control interest, any agent, director, officer, or managing employee of the applicant or vendor who is an excluded individual or entity, as defined on page 2.

Name	Title	Address

**4. Subcontractor**

A. List the name and address of each person or entity with an ownership or control interest in any subcontractor in which the applicant or vendor has direct or indirect ownership of 5 percent or more.

Name	Title	Address	Percentage

B. List the name and address of each **subcontractor or wholly owned supplier** in which the applicant or vendor has had any significant business transactions within 5 years of the application or request.

Name	Title	Address

**APPLICANT/VENDOR SIGNATURE**

Knowingly and willfully failing to fully and accurately disclose the information requested may result in denial of a request to become vendored, or if the service provider already is vendored, a termination of its vendorization.

By signing this disclosure statement, you hereby certify and swear under penalty of perjury that (a) you have knowledge concerning the information above, and (b) the information above is true and accurate. You agree to inform the vendoring Regional Center, in writing, within 30 days of any changes or if additional information becomes available.

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**Name of Authorized Representative** **Title**

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**Signature** **Date**

**Recordkeeping and Access to Records**

Subject to the provisions of Title 17, California Code of Regulations, Section 54311 and Code of Federal Regulations, Title 42, Part 455.105, an applicant or vendored provider agrees to provide access for the review of any and all ownership disclosure information and/or documentation upon written request by the vendoring regional center, the Department of Developmental Services, the State Medicaid Agency, Department of Health Care Services, any State survey team, the Secretary of the United States Department of Health and Human Services, or any duly authorized representatives of the above named entities.

**Privacy Statement**

All information requested on the application and the disclosure statement is mandatory with the exception of the social security number for any person other than the person or entity for whom an IRS Form 1099 must be provided by the Department of Developmental Services pursuant to 26 USC 6041. This information is required by the authority of Welfare and Institutions Code, Section 4648.12 and Title 17, California Code of Regulations, Section 54311. The consequences of not supplying the mandatory information requested are denial of vendorization as a regional center vendor or termination of vendorization. Any information may also be provided to the State Controller's Office, the California Department of Justice, the Department of Consumer Affairs, other state or local agencies as appropriate, fiscal intermediaries, managed care plans, the Federal Bureau of Investigation, the Internal Revenue Service, Medicare Fiscal Intermediaries, Centers for Medicare and Medicaid Services, Office of the Inspector General, Medicaid, or licensing programs in other states.

**Title 17 California Code of Regulations, Section 54311(a)(6)  
(Criteria for Excluded Individuals or Entities to be disclosed on Page 3, Part 3)**

The name, title and address of any person(s) who, as applicant or vendor, or who has ownership or control interest in the applicant or vendor, or is an agent, director, members of the board of directors, officer, or managing employee of the applicant or vendor, has within the previous ten years:

- (A) Been convicted of any felony or misdemeanor involving fraud or abuse in any government program, or related to neglect or abuse of an elder or dependent adult or child, or in any connection with the interference with, or obstruction of, any investigation into health care related fraud or abuse; or
- (B) Been found liable any civil proceeding for fraud or abuse involving any government program; or
- (C) Entered into a settlement in lieu of conviction involving fraud or abuse in any government program.

## **FINDING OF EMERGENCY**

These regulations are being adopted on an emergency basis for the immediate preservation of the public peace, health and safety, and general welfare, within the meaning of Government Code Section 11346.1(b).

## **DESCRIPTION OF THE FACTS THAT CONSTITUTE THE EMERGENCY**

Section 4648.12 (c)(1)(A) of the Welfare and Institutions Code (WIC) (Stats 2011, C.9; SB74, § 11, eff. March 24, 2011) provides the authority for the Department of Developmental Services (Department) to promulgate emergency regulations to amend provider and vendor eligibility and disclosure criteria to meet federal participation requirements and continue federal participation funding.

## **AUTHORITY AND REFERENCE**

Authority: Sections 4405, 4648(a), 4648.12(c)(1)(A), 4689.7(c), 4689.1, 4866, 10725, 14043.75 and 14124.5, Welfare and Institutions Code; and Section 11152, Government Code; Chapter 157, Statutes of 2003; Chapter 1095, Statutes of 1994, Section 14.

Reference: Sections 1250 and 1502, Health and Safety Code; Sections 240, 242, 243.4, 245, 261, 264.1, 273d, 285, 286, 288, 288a, 289, 311.2, 311.3, 311.4, 647a, 11165.1, 11165.2, 11165.3 and 11165.6, Penal Code; Sections 4500, 4501, 4502, 4504, 4512(i), 4626, 4627, 4631, 4646.5, 4648, 4648(a), 4648.1, 4648.1(d), 4648.12(c) and 4689(a)(1), 4689.7(c), 4690, 4691, 4693, 4742, 4791, 4851, 4861(c), 12305.81(a)(2), 14043.2, 14043.26, 14043.27, 14043.36, 14125.8, 15610.57 and 15610.63; and Article II, Chapter 5, Welfare and Institutions Code; 42, Code of Federal Regulations, Sections 455.104, 455.105, and 455.106; Section 10430(g), Public Contract Code.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

In January 2011, the Centers for Medicare and Medicaid Services (CMS) issued its final report entitled "Medicaid Integrity Program, California Comprehensive Program Integrity Review." The review focused on, among other things, some of the Medicaid program integrity and oversight duties that have been delegated to the Department relative to its CMS approved Home and Community-based Services Waiver and Targeted Case Management Program, operated through the regional center system.

The CMS report includes findings of non-compliance with federal statute. The areas of non-compliance impacting the Department, regional centers, and ultimately the vendors providing federally funded consumer services are:

1) The State does not capture all required ownership, control, and relationship information from providers of Medicaid funded services prior to enrollment;

2) The State does not capture required criminal conviction information from providers of Medicaid funded services at the time they enroll or renew their applications; 3) The State does not require disclosure, on request, of "significant" business transactions from providers of Medicaid funded services.

The Department proposes to amend Sections 54302, 54310, 54314, 54320, 54326, 54332, and 54370 and add Section 54311, of Title 17 of the California Code of Regulations (CCR). Vendors shall be required to submit business ownership, control and relationship information, pursuant to federal law, and regional centers will be required to gather and review this information from current and prospective vendors. Additionally, regional centers will be required to determine that all prospective and current vendors, at a minimum, are eligible by verifying that they do not have prior criminal convictions or have been involved in civil proceedings of fraud or abuse in any government program, or of abuse or neglect of an elderly person(s), dependent adult(s), or child(ren). Furthermore, on a periodic basis, regional centers will be required to verify that vendors continue to meet all applicable vendorization requirements, including those identified above, in order for the State to comply with federal law and meet the CMS mandated HCBS Waiver assurance that only qualified providers deliver Medicaid funded services.

#### **Section 54302(a)**

Proposed changes to subsection **(9)** will amend the definition to read: "an individual, partnership, group, association, corporation, nonprofit organization, institution, or entity, and the officers, directors, boards of directors, owners, managing employees or agents thereof, that apply to the regional center to become a vendor" that must provide Federal disclosure information. Subsection **(75)** will amend the definition of "vendor application" to include "application packet" and will amend the date of form DS 1890. The proposal will also amend the subsection number in subsection **(78)** "Vendorization", so as to include disclosure requirements.

#### **Section 54302(b)**

Proposed addition of new subsection **(b)** will provide definitions for the required Federal disclosure information: excluded individuals or entities; indirect ownership interest; managing employee; ownership interest; person with an ownership or control interest; significant business transaction; subcontractor; and wholly owned supplier.

#### **Section 54310(a)**

Proposed changes will modify wording and numbering and the date on the application form DS 1890 will be revised.

#### **Section 54310(b)**

Proposed change will revise the date on the application form DS 1890.

**Section 54310(c)**

Proposed change will add the word "packet" after the word "application" to be consistent with definitions in Section 54302.

**Section 54310(d), (f) & (g)**

Proposed change will revise the date on the application form DS 1890.

**Section 54310(h)**

Proposed addition of new subsection (h) ensures those applicants under Title 17, Service Code 715, Dentistry, with documentation provided by Department of Health Care Services, approving enrollment in the Denti-Cal program, will satisfy vendorization requirements.

**Section 54311**

Proposed addition of this new section will require that all prospective applicants or vendors complete and submit a signed and dated form DS 1891 (7/2011) by July 1, 2012, which requests Federal disclosure information including: indirect ownership interest; managing employee; ownership interest; person with an ownership or control interest; significant business transactions; subcontractors; and/or suppliers and specify the required criminal convictions. The proposal contains language that would include the disclosure requirements to existing vendors, and authorizes the regional centers to ensure submission of information. Additionally, the proposed change requires vendors to provide the disclosure information upon written request to the Department, regional center, the Department of Health Care Services, any State survey team, the Secretary of the United States Department of Health and Human Services, or any other duly authorized agency representative of the above named entities.

**Section 54314(a)(7)**

Proposed addition of new subsection (7) will ensure that an applicant determined to be excluded from receiving federal funds as specified in section 54302 definition of "excluded individual or entity" will be ineligible for vendorization.

**Section 54320**

Proposed change in wording to preface the word "application" with "vendor" to be consistent with definitions in Section 54302. Proposed addition of subsection (a)(6) to require that regional centers verify that disclosed individuals or entities are not "excluded" as defined in Section 54302 and are not under investigation.

**Section 54320(b)**

Proposed change of subsection (b) will include that no further action be taken if all required information is not received and any investigation, pursuant to (a)(6) is resolved.

**Section 54326(a) & new subsection (f)**

Proposed changes to subsection (4) will add disclosure information records that vendors must make available for purposes of audit or review. Proposed addition of new subsection (17) and (18) requiring vendors to notify the vendoring

regional center of any additions or changes in the information disclosed on the DS 1891 (7/2011) and submit the information pursuant to requirements of Section 54311(c). New subsection **(f)** will require regional centers to take routine action to ensure vendor eligibility is current and valid.

**Section 54332(b)**

Proposed change of subsection **(b)** will require regional centers to review vendor files every three years or sooner as requested, for the required disclosure information, to ensure that the information is current and, with added subsection **(b)(6)**, that the vendor is not “excluded”, pursuant to Section 54314(a)(7).

**Section 54370(b)(8) and (9)**

Proposed addition of new subsections which will give the regional centers the duty and authority to terminate a vendor **(8)** who knowingly and willfully makes a false statement or representation on the vendor application form, and **(9)** has been “excluded” from receiving federal funding.

**Section 54370(d)(1)**

Proposed addition to this subsection will require that the vendoring regional center notify any user regional center in writing upon termination.

**LOCAL MANDATE AND FISCAL IMPACT DETERMINATIONS**

The Department has determined that the proposed regulatory action does not impose: 1) a mandate on local agencies or school districts, 2) significant costs or savings to any state agency, 3) costs to any local agency or school district that must be reimbursed in accordance with Government Code sections 17500 through 17630, 4) other nondiscretionary costs or savings imposed on local agencies, or 5) costs or savings in federal funding to the state.