

SKILLED NURSING FACILITY WORKFORCE STANDARDS PROGRAM OPT-IN AGREEMENT

Calendar Year 2027

By signing the *Workforce Standards Program (WSP) Opt-in Form* the Facility agrees with all terms, conditions, and obligations specified in this WSP Opt-in Agreement which is incorporated into the *WSP Opt-in Form* by reference. The Facility agrees that, upon acceptance by DHCS into the WSP, this WSP Opt-in Agreement shall constitute a legal, binding, and fully enforceable contract entered between DHCS and the Facility.

1. **Parties.**

- A. The parties to this Opt-In Agreement (OIA) are the California Department of Health Care Services (DHCS) and the Facility specified on the *WSP Opt-in Form*.

2. **Purpose.**

- A. The purpose of OIA is to permit the Facility to participate in the WSP under California's Medi-Cal program.

3. **Authority.**

- A. This OIA is authorized pursuant to Welfare and Institutions Code (W&I) section 14126.033 and Supplement 6 of Attachment 4.19-D of the California Medicaid State Plan, which are herein incorporated by reference, and any other applicable federal or state laws or regulations.
- B. The Facility acknowledges that execution of the *WSP Opt-in Form* and this OIA is a standard for participation in the WSP pursuant to subparagraph B of paragraph of 17 of subdivision (c) of W&I section 14126.033 and a requirement to opt-into the WSP pursuant to Section 3(d) of Supplement 6 of Attachment 4.19-D of the California Medicaid State Plan.
- C. The Facility acknowledges DHCS' statutory, regulatory, and contractual authority to oversee and enforce the WSP.

4. **Contract Representatives.**

A. All inquiries relating to this OIA must be directed to the contract representative for each respective party. The contract representatives during the term of this OIA will be:

1. Department of Health Care Services:

Department of Health Care Services
Attention: Aditya Voleti
Chief, Provider Rates Division
P.O. Box 997413 | MS 4600
Sacramento, CA 95899-7417
Telephone: (916) 345-8717
aditya.voleti@dhcs.ca.gov

B. The Facility: The facility's authorized representative specified on the *WSP Opt-in Form*.

5. **Term.**

A. This OIA is effective for the duration rate year 2027 as specified on the *WSP Opt-in Form*, upon acceptance by DHCS of the facility into the WSP for the applicable rate year, subject to the terms of this OIA. To the extent that acceptance of the facility into the WSP occurs after the beginning of a rate year, all terms, conditions, and obligations of this OIA shall apply retroactively to the first day of each applicable rate year. All terms, conditions, and obligations of this OIA that require continued performance, compliance, or effect beyond the expiration of the OIA's term or termination of the OIA shall survive.

6. **Term Extension.**

A. The Parties may enter into an extension of this OIA for subsequent rate years via a written amendment to the OIA executed by all parties.

7. **Termination by the Facility.**

A. The Facility may terminate this OIA on a go-forward basis without cause, which will terminate its participation in the WSP, by issuing at least 30 calendar days' prior written notification to DHCS of its intent

to terminate the OIA. The Facility will remain responsible for its obligations under this OIA for all service periods prior to the termination date.

8. **Termination by DHCS.**

- A. DHCS may terminate this OIA for cause effective immediately or upon a later date noticed by DHCS, for any of the following reasons:
1. The Facility fails to comply with any of the terms of this OIA or Supplement 6 of Attachment 4.19-D of the California Medicaid State Plan.
 2. DHCS determines that the Facility does not meet the requirements for participation in the WSP Program.
 3. The Facility has not submitted a valid reimbursement claim to the Medi-Cal Program;
 4. The Facility is unable to certify that the claims are eligible for federal funds;
 5. DHCS determines that the Facility, or any employee, contractor, or subcontractor working with the Facility has violated the laws, regulations, rules or policies governing the WSP Program;
 6. Failure of contingencies set forth in Sections 19 or 20 of this OIA;
 7. Change of State or federal law as set forth in Section 21 of this OIA; or
 8. DHCS determines that the health and welfare of Medi-Cal beneficiaries or of the public is jeopardized by continuation of this OIA

DHCS will provide notice of termination in writing, which will include the effective date of and the reason(s) for the termination, as well as the Facility's appeal rights set forth in Section 10 below.

9. **Effect of Termination.**

- A. As of the date of termination, DHCS shall retroactively adjust the Facility's rate to the basic per diem rate then in-effect, calculated pursuant to Supplement 4 to Attachment 4.19-D of the California State Plan, not inclusive of any WSP rate adjustment, and apply that per diem rate for the duration of the applicable rate year, including by implementing any recoupments or erroneous payment corrections.

10. **Appeal of Termination.**

- A. The Facility may appeal a termination of this OIA by DHCS pursuant to the Dispute Resolution Requirements of section 24.

11. **Compliance with Law and Guidance.**

- A. The Facility agrees to comply with Supplement 6 of Attachment 4.19-D of the California Medicaid State Plan and all applicable provisions of state or federal statute, regulation, and guidance issued by DHCS relating to the WSP.

12. **Requirement to Bind Related Employers.**

- A. The Facility agrees to require "related employers" as defined in Supplement 6 of Attachment 4.19-D of the California Medicaid State Plan at Section 1(f) (Related Employers) to comply with all applicable terms of this OIA, Supplement 6 of Attachment 4.19-D of the California Medicaid State Plan and all applicable provisions of state or federal statute, regulation, and guidance issued by DHCS relating to the WSP, and to hold such Related Employers jointly and severally liable for repayment to DHCS and/or the Managed Care Plan(s) with which the Facility contracts of any overpayments received as a their result of non-compliance as set forth in Section 17 of this OIA.

13. **Record Retention.**

- A. The Facility must retain all records relating to its payroll, health benefits, time off/vacation/leave benefits, collective bargaining, labor management committee (if applicable), agreements and communications with Related Employers, and all records and documents necessary to disclose how the Facility discharges its obligations under this OIA, for a period of five (5) years.

14. Right to Audit and Inspect Records and Facilities.

- A. The Facility agrees that the following agencies, including but not limited to DHCS, the Centers for Medicare & Medicaid Services (CMS), the United States Department of Health and Human Services (US-DHHS), the US-DHHS Office of the Inspector General, the Comptroller General of the United States, the United States Department of Justice, the California Department of Justice (CA-DOJ), the CA-DOJ Division of Medi-Cal Fraud and Elder Abuse (DMFEA), the California Department of Managed Health Care, and all other agencies authorized under State and federal law (together, Authorized Agencies), and their duly authorized representatives or designees, will have the right to audit and inspect the records, documents, and facilities of the Facility and Related Employers relating to the WSP and this OIA, for a period beginning on the Effective Date of this OIA and extending for a period of ten (10) years beyond the expiration or termination of this OIA.

15. Facility Responsibility.

- A. The Facility is responsible for the acts or omissions of its employees, contractors, subcontractors, and Related Employers on any matter relating to the Facility's performance of this OIA, its obligations under Supplement 6 of Attachment 4.19-D of the California Medicaid State Plan, and its participation in the WSP.

16. Enhanced Per Diem Rate.

- A. Subject to the Facility's meeting of all conditions of and compliance with all applicable terms set forth in Supplement 6 of Attachment 4.19-D of the California Medicaid State Plan, this OIA, DHCS Guidance, and applicable statutes and regulations, DHCS will reimburse the Facility at the "enhanced per diem rate" as defined in Section 1(j) of Supplement 6 of Attachment 4.19-D of the California Medicaid State Plan, in accordance with Supplement 6 of Attachment 4.19-D of the California Medicaid State Plan. The Facility agrees that reimbursement at the enhanced per diem rate is consistent with efficiency, economy, and quality of care, and that the Facility will not seek additional reimbursement for participating in the WSP.

17. **Non-Compliance and Return of Overpayments.**

- A. Upon a finding by DHCS that the Facility has not complied with this OIA, Supplement 6 of Attachment 4.19-D of the California Medicaid State Plan, applicable statutes or regulations, or DHCS guidance, the Facility agrees that it will have received an “overpayment” under federal law, and agrees to promptly return the difference between the funds it received under the “enhanced per diem rate” and the funds it would have received under the “basic per diem rate” as defined in Section 1 (i) and (j) of Supplement 6 of Attachment 4.19-D of the California Medicaid State Plan for all rate years in which the Facility was found in non-compliance. Such funds shall be due within 30 calendar days’ notice of such non-compliance. The Facility may dispute a finding of non-compliance pursuant to the Dispute Resolution Requirements of Section 24.

18. **Indemnification.**

- A. As a condition of entering into this Contract, the Facility agrees to indemnify, defend, and hold harmless the State of California, DHCS and its officers, agents, and employees, from any and all claims and losses accruing or resulting from any and all claims brought by or on behalf of employees, independent contractors, subcontractors, agents, labor unions, or Related Employers, as well as any audits brought by CMS or the United States Office of Inspector General, arising out of the Facility’s performance of the OIA, its performance of any and all obligations set forth in Supplement 6 of Attachment 4.19-D of the California Medicaid State Plan, and its participation in the WSP.

19. **Waiver.**

- A. The Facility waives all claims challenging the enforceability of both:
 - 1. Supplement 6 of Attachment 4.19-D of the California Medicaid State Plan, and
Any guidance issued by DHCS pursuant to Welfare & Institutions Code Section 14126.027 notwithstanding the

California Administrative Procedure Act (Gov. Code section 11340, et seq.)

- B. Any action or inaction by DHCS or any failure of DHCS on any occasion to enforce this OIA shall not be interpreted to be a waiver by DHCS of its rights hereunder and shall not prevent DHCS from enforcing such provision or right on any future occasion. The rights and remedies of DHCS herein are cumulative and are in addition to any other rights or remedies that DHCS may have at law or in equity.

20. Budget Contingency.

- A. It is mutually agreed that if the State Budget Act of the current State Fiscal Year (SFY) and any subsequent SFYs covered under this OIA does not provide sufficient funds for the WSP, this OIA shall be of no further force and effect. In this event, the Facility will be reimbursed at the "basic per diem rate" as defined in Section 1(i) of Supplement 6 of Attachment 4.19-D of the California Medicaid State Plan for that SFY, regardless of whether the Facility meets the workforce standards set forth in Section 2.1 of Supplement 6 of Attachment 4.19-D of the California Medicaid State Plan. If funding for any SFY is reduced or deleted by the State Budget Act for purposes of the WSP, DHCS shall have the option to either cancel this OIA, with no liability occurring to the State, or offer an agreement amendment to the Facility to reflect the reduced amount.

21. Federal Financial Participation Contingency.

- A. The effectiveness of this OIA is contingent upon federal financial participation being available and any necessary federal approvals being obtained. If any of these contingencies are not met, then this OIA shall be of no further force and effect.

22. Statutory and Regulatory Changes.

- A. The Facility agrees that this OIA is subject to any future additional requirements, restrictions, limitations, or conditions enacted by statute of the State Legislature or the United States Congress, or

regulations adopted by the State or federal governments, which may affect the provisions, terms, conditions, funding, or effectiveness of this OIA in any manner.

23. Medi-Cal Provider Agreement.

- A. The obligations contained in this OIA are in addition to those obligations contained in the Medi-Cal Provider Agreement, and do not supersede, supplant, or repeal any conditions contained in the Medi-Cal Provider Agreement.

24. Dispute Resolution Requirements.

- A. The Facility must comply with and exhaust the requirements of this Section when it initiates a dispute with DHCS before bringing an action in court.

25. Resolution of Dispute by Negotiation.

- A. The Facility agrees to make best efforts to resolve all alleged disputes arising out of this OIA, Supplement 6 of Attachment 4.19-D of the California Medicaid State Plan, or the WSP by negotiation and mutual agreement at the contract representative level before submitting a notice of dispute to DHCS.
- B. Notice of Dispute. Within 30 calendar days from the date that the alleged dispute arises or otherwise becomes known to the Facility, the Facility must serve a written notice of dispute to the DHCS Contracting Representative. The Facility's failure to serve its notice of dispute within 30 calendar days from the date the alleged dispute arises or otherwise becomes known to the Facility constitutes a waiver of all issues raised in the Facility's notice of dispute. The Facility's notice of dispute must include, based on the most accurate information and substantiating documentation available to the Facility, and any of its contractors, subcontractors, and Related Employers, the following:
 - 1. That the dispute is subject to the procedures in this Section 24;
 - 2. The date, nature, and circumstances of the alleged conduct

that is subject of the dispute;

3. The names, phone numbers, email addresses, functions, and conduct of every Facility, DHCS/State official, subcontractor, or employee involved in or knowledgeable of the alleged issue(s) that is the subject of the dispute;
4. The identification of any substantiating documents and the substance of any oral communications that are relevant to the alleged conduct;
5. Copies of all substantiating documentation and any other evidence attached to its notice of dispute;
6. The factual and legal bases supporting the Facility's notice of dispute;
7. The cost impact to the Facility directly attributable to the alleged conduct, if any; and
8. The Facility's desired remedy

C. Dispute Timeframes. The DHCS Contracting Representative will have 90 calendar days to review the Facility's initial notice of dispute and available substantiating documentation and issue a decision unless there is a written agreement between DHCS and the Facility to extend that time. The DHCS Contracting Representative's decision shall be the department's final decision, unless DHCS provides for additional appeals process pursuant to Subsection D of this section.

D. DHCS Option to Provide Appeal to Office of Administrative Hearings and Appeals Through Subsequent Guidance. DHCS, at its option and in its sole discretion, may through further guidance issued pursuant to W&I Section 14126.027 provide for an additional process to appeal the Contracting Representative's Decision through DHCS' Office of Administrative Hearings and Appeals (OAHA). Such guidance will enumerate subject matters that may be appealed to OAHA and shall set forth all deadlines, procedures, and other requirements governing such appeals.

E. Disputed Funds to be Held in Escrow. To the extent DHCS issues a final determination that the Facility has received an overpayment pursuant to Section 17 of this OIA and the Facility challenges such final determination in Court, Facility agrees to hold funds amounting

to the alleged overpayment in escrow pending the resolution of all litigation concerning DHCS' final determination.

- F. The Facility's Duty to Perform. The Facility agrees to comply with all requirements and obligations under this OIA, including continuing OIA requirements that are the subject of, or related to, the Facility's Notice of Dispute until there is a final decision from the DHCS Contracting Officer, or any final decision on an appeal at OAHA or judgment in court.
- G. Waiver of Claims. The Facility waives all claims or issues if it fails to timely submit a Notice of Dispute with all substantiating documents within the timeframes listed in Subsection B or fails to comply with any guidance, if any, issued by DHCS with respect to DHCS' option to provide for an appeal at OAHA pursuant to Subsection D of this Section. The Facility's waiver includes all damages whether direct or consequential in nature.
- H. No Obligation to Pay Interest. If the Facility prevails on its notice of dispute pursuant to a DHCS Contracting Representative's Decision, an OAHA decision if OAHA appeal rights are provided through subsequent guidance under Subsection D of Section 24, or an order or decision issued by the Sacramento Superior Court, or any other state or federal court, including any state or federal court of appeal, DHCS will not be required to pay interest on any amounts found to be due or owing to the Facility arising out of the notice of dispute, appeal, and/or court action.

26. **Successors and Assigns.**

- A. The rights and obligations of the Facility shall be binding upon and benefit its successors, assigns, heirs, administrators, and transferees (Successors and Assigns), to the extent such Successors and Assigns are enrolled in the Medi-Cal program, are party to a current Medi-Cal Provider Agreement and have met and are current with all applicable licensing requirements.

27. **Governing Law.**



- A. This OIA shall be governed by and interpreted in accordance with the laws of the State of California.

28. **Venue.**

- A. The venue and forum for any action involving a dispute under this OIA will be in the Superior Court of California, County of Sacramento, which will have exclusive jurisdiction over such disputes.

29. **Complete Integration.**

- A. This OIA and the WSP Opt-in Form, including any attachments, exhibits, or documents incorporated herein by express reference, are intended to be a complete integration and there are no prior or contemporaneous different or additional agreements pertaining to the subject matter of this OIA.

30. **Amendment.**

- A. No alteration or variation of the terms or provisions of this OIA shall be valid unless made in writing and signed by the parties to this OIA, and no oral understanding or agreement not set forth in this OIA shall be binding on the parties to this OIA.

31. **Titles.**

- A. The titles of the sections of this OIA are for convenience and reference only and are not to be considered in interpreting this OIA.

32. **Severability.**

- A. If one or more of the provisions of this OIA shall be invalid, illegal, void, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired. Either party having knowledge of such a provision shall promptly inform the other of the presumed non-applicability of such provision. Should the nonapplicable provision go to the heart of this OIA, the OIA shall be terminated in a manner commensurate with the interests of both parties.

33. **Voluntary Nature of Agreement.**

- A. The Facility acknowledges and agrees that participation in the WSP is voluntary, and that the Facility is executing this OIA voluntarily and without any duress or undue influence by the DHCS or anyone else. The Facility further acknowledges and agrees that it has carefully read this OIA and has asked any questions needed to understand the terms, consequences and binding effect of this OIA and fully understand the OIA to its satisfaction. Finally, the Facility agrees that it has been provided an opportunity to seek the advice of an attorney of its choice.