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Date: December 6, 2002
To: ALL INTERESTED PARTIES
From: Department of Managed Health Care

The following is a brief summary of the comments and events that occurred during the Financial Solvency Standards Board (FSSB) meeting July 30, 2002.

I. Introduction: Opening remarks

Prior meeting minutes were approved and adopted by the Board members.

II. SB 260 Revised Draft Regulations

1. Department staff provided a high-level overview of the revised draft SB 260 regulations. The revised regulations address the two sections that were stricken by the trial court in *CMA v. Zingale*, (Regulations 1300.75.4.1 and 1300.75.4.4 of Title 28, California Code of Regulations) and then formally repealed by the Department.
2. The revised regulations include a number of substantive changes:
 - a. Section 1300.75.4(f) includes a definition of the term “in a manner that does not adversely affect the integrity of the contract negotiation process;”
 - b. Section 1300.75.4.2(a)(1) streamlines the quarterly reporting requirements for risk-bearing organizations that contract on a risk-basis for less than 10,000 lives; and
 - c. Section 1300.75.4.4 (b) includes a mechanism allowing risk-bearing organizations to petition the Director for confidential treatment of specific portions of the financial survey submissions upon demonstration that an adverse affect on the integrity of the contract negotiation process may result from public disclosure.
3. Public Comment:
 - A. Provider perspective: (1) Support the concept of public disclosure of appropriate information that would allow the public to be assured that their providers are in stable financial condition, but concerned about the ability to do business in California under

these proposed regulations. (2) Definition of “adversely affect contract negotiation” is too narrow. (3) Definition of “including but not limited to” is too open-ended; does not have appropriate accountability; if the intent is for more public disclosure under the confidentiality section, providers cannot agree or support the concept of an open-ended financial survey. (4) There is a concern that the deletion of the provision allowing small groups to file their financial information on reviewed rather than audited financial statements may cause a financial hardship. (5) The section authorizing a medical group to request confidential treatment for specific information should include an appeal process before the information is summarily released or alternatively withdrawn. (6) There is not sufficient criteria by which a group will understand how the Director would make a decision regarding what would be disclosed and what would not be disclosed.

The whole intent of SB 260 was to establish a mechanism for implementing a corrective action process for medical groups with financial deficiencies. The Department should promptly institute a corrective action process so that groups in financial trouble can start to pursue a collective strategy with their contracting health plans to remedy these deficiencies.

B. Plan perspective: (1) The Department should get the corrective action process back on track. (2) The health plans are generally open to the changes suggested by the providers. Plans do not expect providers to disclose information that would allow plans to calculate the capitation rates paid to them by other health plans.

C. Consumer perspective: (1) Go forward with the proposed regulations; would prefer broader public disclosure, but consumer groups could live with the current proposal. (2) With regard to the specific section on adversely impacting the contract negotiation process, that specific language does not apply to the contracts with downstream providers.

IV. Next Steps/Closing Remarks

1. The next Solvency Board meeting is November 5, 2002 (rescheduled to December 10, 2002) at the Burbank Hilton. Time of meeting to be determined.
2. Following closing remarks, the meeting was adjourned.