



FILED

OCT 27 2023

INSURANCE REGULATION

Docketed by: ke

OFFICE OF INSURANCE REGULATION

MICHAEL YAWORSKY
COMMISSIONER

IN THE MATTER OF:

CASE NO.: 313058-23-CO

PROMINENCE HEALTHFIRST OF
FLORIDA, INC.
_____ /

CONSENT ORDER

THIS CAUSE came on for consideration upon the receipt of information regarding PROMINENCE HEALTHFIRST OF FLORIDA, INC. ("PROMINENCE FLORIDA"). Following a complete review of the entire record, and upon consideration thereof, and being otherwise fully advised in the premises, the FLORIDA OFFICE OF INSURANCE REGULATION ("OFFICE") hereby finds as follows:

1. Except as set forth in Paragraph 15 herein, the OFFICE has jurisdiction over the subject matter and the parties herein.
2. PROMINENCE FLORIDA is a licensed Health Maintenance Organization ("HMO") domiciled in the state of Florida and subject to the jurisdiction and regulation of the OFFICE, pursuant to Part I of Chapter 641, Florida Statutes.
3. PROMINENCE FLORIDA and PROMINENCE HEALTHFIRST ("PROMINENCE NEVADA"), a Nevada domiciled HMO, are affiliates that are both ultimately controlled by UNIVERSAL HEALTH SERVICES, INC. ("UHS").

4. The OFFICE issued a Certificate of Authority to PROMINENCE FLORIDA on February 12, 2020.

5. Through financial statement filings, PROMINENCE FLORIDA represented to the OFFICE that it started writing Medicare Advantage business on January 1, 2021. As of the August 31, 2023, Monthly Financial Statement, PROMINENCE FLORIDA reported 2,979 Medicare Advantage members in Palm Beach County, Florida.

6. On January 20, 2023, the OFFICE requested information related to Centers for Medicare & Medicaid Services (“CMS”) Contract H5945 (“CMS Contract”).

7. PROMINENCE FLORIDA represented that it shared the CMS Contract with PROMINENCE NEVADA.

8. In May of 2023, the OFFICE determined that in 2020, CMS entered into the CMS Contract with PROMINENCE NEVADA, expanding PROMINENCE NEVADA’s service area to Palm Beach County, Florida. PROMINENCE FLORIDA is not a party to the contract.

9. Section 641.21(1), Florida Statutes, requires an entity to obtain a Certificate of Authority from the OFFICE before operating as an HMO.

10. PROMINENCE NEVADA cannot obtain a license to operate as an HMO in Florida pursuant to Section 641.2015, Florida Statutes, which requires that all HMOs formed on or after October 1, 1985, must be incorporated in the state of Florida.

11. Therefore, PROMINENCE NEVADA is in violation of Section 641.21(1), Florida Statutes.

12. PROMINENCE NEVADA agrees that upon execution of this Consent Order, it shall be subject to the following terms and conditions:

- a) PROMINENCE NEVADA shall immediately cease writing all new business in Florida.
- b) PROMINENCE NEVADA shall not market its Medicare Advantage plan in Palm Beach County, Florida, through December 31, 2024. To effectuate a hard stop on the enrollment of new members, PROMINENCE NEVADA shall disable its enrollment button for Palm Beach County, Florida, on its website, submit a request in writing to CMS to remove the plan from the Medicare Plan Finder, and provide written notice to all contracted agents and brokers that the plan is not available for enrollment in Palm Beach County, Florida, through December 31, 2024.
- c) By 12 p.m. on October 26, 2023, PROMINENCE NEVADA shall provide to the OFFICE a copy of the request to CMS to remove its Medicare Advantage plan from the Medicare Plan Finder and proposed language for its written notice to contracted agents and brokers that the plan is not available for enrollment. By 12 p.m. on October 27, 2023, PROMINENCE NEVADA shall provide proof to the OFFICE that all enrollment options for Palm Beach County, Florida, have been disabled.
- d) Beginning on the first Tuesday following the execution of this consent order, PROMINENCE FLORIDA shall file bi-weekly status reports with the OFFICE detailing its current membership.
- e) PROMINENCE NEVADA shall continue to service all existing Florida members until December 31, 2024.
- f) PROMINENCE NEVADA shall maintain an adequate network and sufficient provider contracts in Florida while servicing Florida members.

g) PROMINENCE NEVADA shall maintain full statutory compliance in the state of Nevada while servicing Florida members.

h) Within 2 days of receipt, PROMINENCE NEVADA shall share with the OFFICE all communications with CMS and agents or brokers that involve or impact Florida members.

i) While PROMINENCE NEVADA is servicing Florida members, PROMINENCE NEVADA shall self-report any issues that arise related to Florida members.

j) Beginning on the first Tuesday following the execution of this consent order, PROMINENCE NEVADA shall file bi-weekly status reports with the OFFICE detailing all outstanding issues identified with communication, compliance, or enrollment related to Florida members. For all issues identified, PROMINENCE NEVADA shall include the date in which it expects the issue to be resolved. PROMINENCE NEVADA shall include any details regarding any delays in prompt resolutions.

k) If at any time the Nevada Division of Insurance determines that PROMINENCE NEVADA is not in full compliance with Nevada laws, PROMINENCE NEVADA will be found to be in violation of this Consent Order and will be required to immediately notify the OFFICE within 2 business days of the violation.

l) If PROMINENCE NEVADA violates this Consent Order, it shall notify CMS of the violation within 2 business days to begin the process of reducing its service area in Florida.

m) If PROMINENCE NEVADA is found to be in violation of Nevada laws or this Consent Order, PROMINENCE NEVADA will have no longer than 30 days from the date

the violation is reported to the OFFICE and CMS to complete a reduction of the Florida service area.

13. PROMINENCE FLORIDA agrees that upon execution of this Consent Order, it shall be subject to the following terms and conditions:

a) PROMINENCE FLORIDA shall submit an application to CMS for Contract Year 2025 to operate in Florida. If approved, PROMINENCE shall submit a request to CMS for a Service Area Reduction, effective December 31, 2024.

b) Within 5 days of the execution of this consent order, PROMINENCE FLORIDA shall provide to the OFFICE a list of all PROMINENCE FLORIDA employees working at the Florida office. PROMINENCE FLORIDA shall provide each employee's name, title, role within the company, and whether they are a contract employee. If they are a contract employee, PROMINENCE FLORIDA shall identify the contract under which they are employed. PROMINENCE FLORIDA shall also identify all UHS and PROMINENCE NEVADA employees that are working at the Florida office.

c) Beginning on the first Tuesday following the execution of this consent order, PROMINENCE FLORIDA shall file bi-weekly status reports with the OFFICE detailing all outstanding items related to the restatement of the financial statements and efforts to have operations updated and in place prior to December 31, 2024. The bi-weekly status report shall include all outstanding items included in this consent order, as well as a detailed breakdown of any additional issues identified to date and the steps taken to address each issue. For all issues identified, PROMINENCE FLORIDA shall include the date in which it expects the issue to be

resolved. At no time shall the expected resolution date for any outstanding items be after December 31, 2024.

d) By November 10, 2023, PROMINENCE FLORIDA shall submit to the OFFICE a plan for handling Provider Contracts for Florida members for the period of October 15, 2023, through December 31, 2024.

e) PROMINENCE FLORIDA shall not pay any dividends or distribute cash or other property to stockholders without the prior approval of the OFFICE.

f) PROMINENCE FLORIDA must receive prior approval from the OFFICE to transfer any funds that are required to be moved to PROMINENCE NEVADA due to the unwinding of the Florida business.

g) PROMINENCE FLORIDA shall unwind the financial impact of reporting Florida members on its financial statements and file restated financial statements with the OFFICE. Within 5 days of the execution of this consent order, PROMINENCE FLORIDA shall provide to the OFFICE a written plan for restatement, including confirmation of when the restatement will be finalized and the reporting periods that will be impacted by the restatement.

h) PROMINENCE FLORIDA shall take necessary steps to ensure that the financial statements reflect the unwinding of the Florida business by no later than the filing of the third quarter financial statement, which is November 15, 2023. Failure to meet this deadline may result in the OFFICE being unable to sign off on the CMS State Certification Form, which is due to CMS in February 2024.

i) By December 1, 2023, PROMINENCE FLORIDA shall submit to the OFFICE a revised business plan, supporting projections, and a timeline of the CMS application process for the 2025 Contract Year.

j) PROMINENCE FLORIDA shall obtain the OFFICE's approval of its business plan and supporting projections prior to submitting its application to CMS.

k) PROMINENCE FLORIDA may only propose to operate in Palm Beach County, Florida, for Contract Year 2025.

l) Consideration to operate in additional Florida counties will be considered by the OFFICE based on the successful implementation of the 2025 business plan and compliance with this Consent Order.

m) If any CMS deadlines are missed, PROMINENCE FLORIDA shall notify the OFFICE within 2 business days.

n) PROMINENCE FLORIDA shall immediately share with the OFFICE all communications between the company and CMS regarding its application for a 2025 contract.

o) By April 1, 2024, PROMINENCE FLORIDA shall file its annual audited financial statement to the OFFICE as required by Section 641.26(1), Florida Statutes.

p) If there are any expected delays in completing the 2023 annual audit by the April 1, 2024, filing date, PROMINENCE FLORIDA shall provide to the OFFICE, within 2 days of being informed of the delay, a written statement from the external certified public accountant retained to complete the 2023 annual audit.

q) If the 2023 audited financial statement is not submitted to the OFFICE by April 1, 2024, the OFFICE will report the statutory violation to CMS.

r) By March 31, 2024, PROMINENCE FLORIDA shall submit new or amended proposed affiliated agreements to the OFFICE. All affiliated agreements submitted to the OFFICE shall meet the requirements of Part 1 of Chapter 641, Florida Statutes, Rule 690-143.047, Florida Administrative Code, and any applicable Statutory Accounting Principles.

s) Proposed affiliated agreements shall be filed as an Affiliated Transaction filing in the Regulatory Electronic Filing System (“REFS”).

t) PROMINENCE FLORIDA shall not begin to operate under the proposed affiliated agreements until approval is received from the OFFICE.

u) After approval is received, PROMINENCE FLORIDA shall obtain prior written approval from the OFFICE for any new or amended proposed affiliated agreements.

v) PROMINENCE FLORIDA shall pre-fund all projected losses to be incurred, beginning in 2025, until the company reflects statutory net profits for 12 consecutive months.

w) By September 30, 2024, PROMINENCE FLORIDA shall confirm it has adequate surplus to support its 2025 business plan and future operations by providing documentation evidencing sufficient funding has been received. “Adequate surplus” is the minimum surplus as required by Section 641.225, Florida Statutes, plus all projected losses as represented in its approved business plan and supporting projections.

x) If at any time it is determined that actual losses are greater than the projected losses initially represented by PROMINENCE FLORIDA, the company shall, within 5 business days, provide the OFFICE with updated projections and a plan for funding additional actual losses and any revised projected losses.

y) Once the OFFICE has approved PROMINENCE FLORIDA's updated projections and funding plan, PROMINENCE FLORIDA will have 10 days to provide evidence to the OFFICE that sufficient funding has been received.

z) PROMINENCE FLORIDA shall obtain prior approval from the OFFICE for any future service area expansions.

aa) PROMINENCE FLORIDA shall ensure that all assets and liabilities comply with Section 641.35, Florida Statutes, at all times.

bb) PROMINENCE FLORIDA shall ensure that all of its assets are owned by the HMO at all times, as required by Section 641.35, Florida Statutes.

cc) PROMINENCE FLORIDA shall not allow any company in the UHS holding company system ("Holding Company") to hold funds or bank accounts on its behalf.

dd) PROMINENCE FLORIDA shall not, for any reason, commingle any of its funds or bank accounts with any other company in the Holding Company.

ee) PROMINENCE FLORIDA shall not pledge or encumber any of its assets or allow any officer, director, or other company in the Holding Company to pledge or encumber any of its assets.

ff) PROMINENCE FLORIDA shall obtain prior written approval for any material deviation to its Plan of Operations ("Plan"). A "material deviation" includes, but is not limited to, an expansion into other business or service areas or exceeding the financial projections filed with the OFFICE. During the time that the OFFICE is considering a change to PROMINENCE FLORIDA's Plan, PROMINENCE FLORIDA shall notify the OFFICE of any changes to the proposed Plan within 2 business days. The update should contain a written

explanation for any changes along with supporting documentation. Supporting documentation shall include, but is not limited to, an updated Plan, updated financial projections, updated enrollment by county, and any agreements that may be impacted by the changes to the Plan. Failure to provide timely updates to the OFFICE may result in a denial of the request.

gg) PROMINENCE FLORIDA must have employees that possess sufficient, in-depth statutory accounting knowledge and experience. Within 30 days of the execution of this consent order, PROMINENCE FLORIDA shall provide the OFFICE a written plan outlining the steps and timeframe for acquiring and maintaining these employees.

hh) PROMINENCE FLORIDA shall ensure that all statutory accounting staff maintains up-to-date training on all statutory accounting topics.

ii) PROMINENCE FLORIDA shall report to the OFFICE any changes in statutory accounting staff, including offers of employment to hire new or additional staff, within 5 business days of the change.

jj) Other than making ordinary course of business investments under Chapter 641, Florida Statutes, PROMINENCE FLORIDA shall not enter into arrangements which deploy excess capital without the prior written approval of the OFFICE.

kk) Beginning with the March 31, 2025, Quarterly Financial Statement submission, and until PROMINENCE FLORIDA reports profitability for two consecutive annual reporting periods, PROMINENCE FLORIDA shall file quarterly risk-based capital ("RBC") reports with the OFFICE.

ll) Beginning with the March 31, 2025, Quarterly Financial Statement submission, and until PROMINENCE FLORIDA reports profitability for two consecutive annual

reporting periods, PROMINENCE FLORIDA shall file quarterly actuarial certifications with the OFFICE.

mm) PROMINENCE FLORIDA shall continue to submit Monthly Financial Statements until PROMINENCE FLORIDA reports profitability for two consecutive annual reporting periods.

nn) PROMINENCE FLORIDA shall maintain full compliance with the surplus requirements set forth in Section 641.225, Florida Statutes, and the RBC requirements set forth in Section 624.4085, Florida Statutes.

oo) PROMINENCE FLORIDA agrees to closely monitor its surplus position on an ongoing basis to ensure compliance.

pp) If at any time it is determined that PROMINENCE FLORIDA's surplus position will fall below the minimum statutory requirement, PROMINENCE FLORIDA shall provide notice to the OFFICE within 2 business days of the determination. The notice must include a corrective action plan that identifies the amount of capital required to maintain compliance with the statutory requirement, explains the reason(s) for the decline in surplus, outlines the action being taken to resolve all of the issues contributing to the decline in surplus, and provides the date that UHS will infuse adequate capital to ensure full compliance with Florida law.

qq) PROMINENCE FLORIDA agrees to closely monitor its RBC position on a quarterly basis to ensure compliance.

rr) If at any time it is determined that PROMINENCE FLORIDA's RBC will fall below the statutory requirement, PROMINENCE FLORIDA shall provide notice to the

OFFICE within 2 business days of the determination. The notice must include a corrective action plan that identifies the amount of capital required to maintain compliance with the statutory requirement, explains the reason(s) for the decline in RBC, outlines the action being taken to resolve all of the issues contributing to the decline in RBC, and provides the date that UHS will infuse adequate capital to ensure full compliance with Florida law.

14. UHS agrees that upon execution of this Consent Order, it shall be subject to the following terms and conditions:

a) While PROMINENCE NEVADA is responsible for Florida members, UHS shall provide adequate financial support to PROMINENCE NEVADA to ensure full statutory compliance in Nevada at all times.

b) UHS shall ensure that PROMINENCE FLORIDA maintains full compliance with the surplus requirements set forth in Section 641.225, Florida Statutes, and the RBC requirements set forth in Section 624.4085, Florida Statutes.

c) UHS agrees to closely monitor PROMINENCE FLORIDA's surplus position on an ongoing basis to ensure compliance.

d) In any case where additional capital is required for PROMINENCE FLORIDA to meet statutory surplus requirements, UHS shall infuse the necessary capital within 10 days of notice to the OFFICE. This provision will remain in effect until PROMINENCE FLORIDA reports profitability for two consecutive annual reporting periods.

e) UHS agrees to closely monitor PROMINENCE FLORIDA's RBC position on a quarterly basis to ensure compliance.

f) UHS agrees that if PROMINENCE FLORIDA requires additional capital to comply with RBC requirements, UHS will infuse the necessary capital within 10 days of notice to the OFFICE. This provision will remain in effect until PROMINENCE FLORIDA reports profitability for two consecutive annual reporting periods.

15. UHS consents to the jurisdiction of the OFFICE and joins this Consent Order solely for purposes of paragraphs 14, 19, 20, 21, 22, and 23.

16. Any prior orders, consent orders, or corrective action plans that PROMINENCE FLORIDA has entered into with the OFFICE prior to the execution of this Consent Order shall apply and remain in full force and effect for PROMINENCE FLORIDA, except where provisions of such orders, consent orders, or corrective action plans have expired; have been superseded by subsequent orders, consent orders, or corrective action plans; or are inconsistent with this Consent Order.

17. PROMINENCE FLORIDA affirms that all information, explanations, representations, statements, and documents provided to the OFFICE in connection with this Consent Order, including all attachments and supplements thereto, are true and correct and fully describe all transactions, agreements, ownership structures, understandings, and control with regard to the current and future operations of PROMINENCE FLORIDA. PROMINENCE FLORIDA further agrees and affirms that said information, explanations, representations, statements, and documents, including all attachments and supplements thereto, are material to the issuance of this Consent Order and have been relied upon by the OFFICE in its determination to enter into this Consent Order.

18. Any deadlines, reporting requirements, other provisions, or requirements set forth in this Consent Order may be altered or terminated by written approval of the OFFICE. Such approval must be requested in writing prior to any proposed deviation from the terms of this Consent Order and submitted no less than 5 business days prior to a deadline.

19. PROMINENCE FLORIDA, PROMINENCE NEVADA, and UHS affirm that all requirements set forth herein are material to the issuance of this Consent Order.

20. PROMINENCE FLORIDA, PROMINENCE NEVADA, and UHS expressly waive a hearing in this matter, the making of findings of fact and conclusions of law by the OFFICE, and all further and other proceedings herein to which they may be entitled by law or rules of the OFFICE. PROMINENCE FLORIDA, PROMINENCE NEVADA, and UHS hereby knowingly and voluntarily waives all rights to challenge or to contest this Consent Order in any forum available to them, now or in the future, including the right to any administrative proceeding, state or federal court action, or any appeal.

21. Each party to this action shall bear its own costs and fees.

22. PROMINENCE FLORIDA, PROMINENCE NEVADA, and UHS agree that, upon execution of this Consent Order, failure to adhere to one or more of the terms and conditions contained herein may result, without further proceedings, in the OFFICE suspending, revoking, or taking other administrative action as it deems appropriate upon PROMINENCE FLORIDA's Certificate of Authority in this state, in accordance with Sections 120.569(2)(n) and 120.60(6), Florida Statutes.

23. The parties agree that this Consent Order shall be deemed to be executed when the OFFICE has signed and docketed a copy of this Consent Order bearing the notarized signatures of

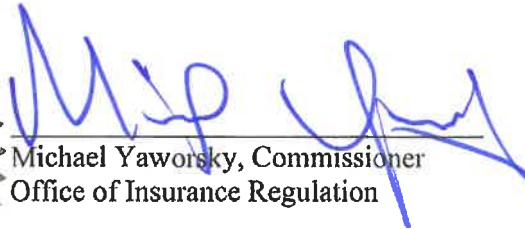
the authorized representatives of PROMINENCE FLORIDA, PROMINENCE NEVADA, and UHS.

WHEREFORE, the agreement between PROMINENCE HEALTHFIRST OF FLORIDA, INC., PROMINENCE HEALTHFIRST, UNIVERSAL HEALTH SERVICES, INC., and the FLORIDA OFFICE OF INSURANCE REGULATION, the terms and conditions of which are set forth above, is APPROVED.

FURTHER, all terms and conditions contained herein are hereby ORDERED.

DONE and ORDERED this 27th day of October, 2023.




Michael Yaworsky, Commissioner
Office of Insurance Regulation

By execution hereof, PROMINENCE HEALTHFIRST OF FLORIDA, INC., consents to entry of this Consent Order, agrees without reservation to all of the above terms and conditions, and shall be bound by all provisions herein. The undersigned represents that they have the authority to bind PROMINENCE HEALTHFIRST OF FLORIDA, INC., to the terms and conditions of this Consent Order.

PROMINENCE HEALTHFIRST OF FLORIDA, INC.

By: [Signature]

[Corporate Seal]

Print Name: Kamal Jemmoua

Title: Chief Executive Officer

Date: October 26, 2023

STATE OF Nevada

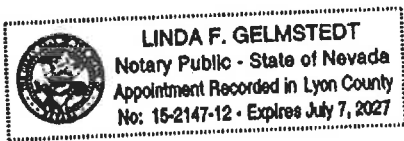
COUNTY OF Washoe

The foregoing instrument was acknowledged before me by means of physical presence or

online notarization, this 26th day of October 2023, by Kamal Jemmoua
(name of person)

as Chief Executive Officer for Prominence HealthFirst of Florida, Inc.
(type of authority: e.g., officer, trustee, attorney-in-fact) (company name)

[Signature]
(Signature of the Notary)



Linda F. Gelmstedt
(Print, Type or Stamp Commissioned Name of Notary)

Personally Known OR Produced Identification _____

Type of Identification Produced _____

My Commission Expires July 7, 2027

By execution hereof, PROMINENCE HEALTHFIRST, consents to entry of this Consent Order, agrees without reservation to all of the above terms and conditions, and shall be bound by all provisions herein. The undersigned represents that they have the authority to bind PROMINENCE HEALTHFIRST, to the terms and conditions of this Consent Order.

PROMINENCE HEALTHFIRST

By: [Signature]

[Corporate Seal]

Print Name: Kamal Jemmoua

Title: Chief Executive Officer

Date: October 26, 2023

STATE OF Nevada

COUNTY OF Washoe

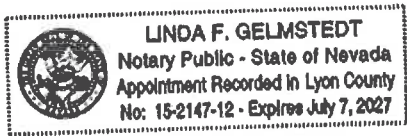
The foregoing instrument was acknowledged before me by means of physical presence or

online notarization, this 26th day of October 2023, by Kamal Jemmoua
(name of person)

as Chief Executive Officer for Prominence HealthFirst.

(type of authority: e.g., officer, trustee, attorney-in-fact)

(company name)



[Signature]
(Signature of the Notary)

Linda F. Gelmstedt
(Print, Type or Stamp Commissioned Name of Notary)

Personally Known XX OR Produced Identification _____

Type of Identification Produced _____

My Commission Expires July 7, 2027

By execution hereof, UNIVERSAL HEALTH SERVICES, INC., consents to entry of this Consent Order, agrees without reservation to all of the above terms and conditions, and shall be bound by all provisions herein. The undersigned represents that they have the authority to bind UNIVERSAL HEALTH SERVICES, INC., to the terms and conditions of this Consent Order.

UNIVERSAL HEALTH SERVICES, INC.

By: Math K.

[Corporate Seal]

Print Name: MATHEW KLEIN

Title: GENERAL COUNSEL

Date: 10.26.23

STATE OF Pennsylvania

COUNTY OF Montgomery

The foregoing instrument was acknowledged before me by means of physical presence or

online notarization, this 26th day of October 2023, by Matthew Klein

(name of person)

as General Counsel for Universal Health Services, Inc.

(type of authority: e.g., officer, trustee, attorney-in-fact)

(company name)

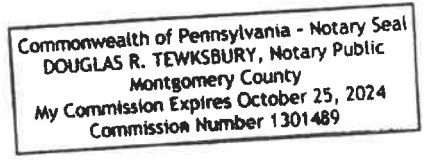
Douglas R. Tewksbury
(Signature of the Notary)

Douglas R. Tewksbury
(Print, Type or Stamp Commissioned Name of Notary)

Personally Known OR Produced Identification _____

Type of Identification Produced _____

My Commission Expires 10/25/2024



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