

Secretary of the State File Number

**6253**

Regulation of the

**Insurance Department**

Concerning

**Risk-Based Capital Requirements for Health Care Centers**

Regulations adopted after July 1, 2013, become effective upon posting to the Connecticut eRegulations System, or at a later date if specified within the regulation.

Posted to the Connecticut eRegulations System on **November 2, 2017**

EFFECTIVE DATE

**November 2, 2017**

Approved by the Attorney General on

**September 25, 2017**

Approved by the Legislation Regulation Review Committee on

**October 24, 2017**

Electronic copy with agency head certification statement electronically submitted to and received by the Office of the Secretary of the State on

**November 2, 2017**

**IMPORTANT NOTICE FOR CONNECTICUT STATE AGENCIES**  
This form should be used only for regulations first noticed *on and after March 23, 2015*.

## Electronic Copy Certification Statement

*(Submitted in accordance with the provisions of section 4-172 of the Connecticut General Statutes)*

Regulation of the  
**Insurance Department**  
Concerning  
**Risk-Based Capital Requirements for Health Care Centers**

Approved by the Legislative Regulation Review Committee: **October 24, 2017**

eRegulations System Tracking Number: **PR-2017-003**

**I hereby certify** that the electronic copy of the above-referenced regulation submitted herewith to the Secretary of the State is a true and accurate copy of the regulation approved in accordance with sections 4-169 and 4-170 of the *Connecticut General Statutes*.

**And I further certify** that in accordance with the approval of Legislative Regulation Review Committee, all required technical corrections, page substitutions and deletions, if any, have been incorporated into said regulation.

**In testimony whereof**, I have hereunto set my hand on **November 1, 2017**.



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Katharine L. Wade

Commissioner

Insurance Department

**State of Connecticut**  
**Regulation of**  
**Insurance Department**  
**Concerning**  
**Risk-Based Capital Requirements For Health Care Centers**

Section 1. Sections 38a-193-1 and 38a-193-2 of the Regulations of Connecticut State Agencies are amended to read as follows:

**Sec. 38a-193-1. Definitions**

As used in sections 38a-193-1 to 38a-193-13, inclusive, of the Regulations of Connecticut State Agencies:

(1) “Adjusted RBC report” means an RBC report which has been adjusted by the commissioner in accordance with section [38a-193-2(c)] 38a-193-2(d) of the Regulations of Connecticut State Agencies;

(2) “Commissioner” means the Insurance Commissioner of the State of Connecticut;

(3) “Corrective order” means an order issued by the commissioner specifying corrective actions which the commissioner has determined are required;

(4) “Domestic health care center” means a health care center domiciled in this state that is licensed to do health care center business in this state under section 38a-41 of the Connecticut General Statutes;

(5) “Foreign health care center” means a health care center that is licensed to do health care center business in this state under section 38a-41 of the Connecticut General Statutes but is not domiciled in this state;

[(4)](6) “Health care center” means a “health care center” as defined in section 38a-175 of the Connecticut General Statutes, and includes both a domestic health care center and a foreign health care center. This definition does not include an organization that is licensed as an insurance company under section 38a-41 of the Connecticut General Statutes and that is otherwise subject to the financial requirements of section 38a-72 of the Connecticut General Statutes;

[(5)](7) “NAIC” means the National Association of Insurance Commissioners;

[(6)](8) “RBC” means risk-based capital;

[(7)](9) “RBC instructions” means the RBC report including risk-based capital instructions adopted by the NAIC, as these RBC instructions may be amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC;

[(8)](10) “RBC level” means a health care center’s Company Action Level RBC, Regulatory Action Level RBC, Authorized Control Level RBC, or Mandatory Control Level RBC where:

(A) “Company Action Level RBC” means, with respect to any health care center, the product of 2.0 and its Authorized Control Level RBC;

(B) “Regulatory Action Level RBC” means the product of 1.5 and its Authorized Control Level RBC;

(C) “Authorized Control Level RBC” means the number determined under the risk-based capital formula in accordance with the RBC Instructions; and

(D) “Mandatory Control Level RBC” means the product of .70 and the Authorized Control Level RBC;

[(9)](11) “RBC plan” means a comprehensive financial plan containing the elements specified in section 38a-193-3(b) of the Regulations of Connecticut State Agencies. If the commissioner rejects the RBC plan, and it is revised by the health care center, with or without the commissioner’s recommendation, the plan shall be called the “revised RBC plan;”

[(10)](12) “RBC report” means the report required in section 38a-193-2 of the Regulations of Connecticut State Agencies; and

[(11)](13) “Total adjusted capital” means the sum of: a health care center’s statutory capital and surplus and such other items, if any, as the RBC instructions may provide.

### Sec. 38a-193-2. RBC reports

(a) Every domestic health care center shall, on or prior to each March 1 (the “filing date”), prepare and submit to the commissioner a report of its RBC levels as of the end of the calendar year just ended, in a form and containing such information as is required by the RBC instructions. In addition, a domestic health care center shall file its RBC report [with]:

(1) With the NAIC in accordance with the RBC instructions; and

(2) With the insurance commissioner of any other state in which the domestic health care center is authorized to do health care center business, if such insurance commissioner requests, in writing, that such domestic health care center submit such RBC report to such insurance commissioner, in which case the health care center shall file its RBC report not later than the later of:

(A) Fifteen (15) days after such domestic health care center received such request; or

(B) The filing date.

(b) A health care center’s RBC shall be determined in accordance with the formula set forth in the RBC instructions. The formula may be adjusted for the covariance between the risks set forth in subdivisions (1) to (4), inclusive, of this subsection. The formula shall take the following into account, determined in each case by applying the factors in the manner set forth in the RBC instructions.

(1) Asset risk;

(2) credit risk;

(3) underwriting risk; and

(4) all other business risks and such other relevant risks as are set forth in the RBC instructions.

(c) An excess of capital (i.e. net worth) over the amount produced by the risk-based capital requirements contained in sections 38a-193-1 to 38a-193-13, inclusive, of the Regulations of Connecticut State Agencies and the formulas, schedules and instructions referenced in sections 38a-193-1 to 38a-193-13, inclusive, of the Regulations of Connecticut State Agencies is desirable in the business of health insurance. Accordingly, health care centers should seek to maintain capital above the RBC levels required by sections 38a-193-1 to 38a-193-13, inclusive, of the Regulations of Connecticut State Agencies. Additional capital is used and useful in the insurance business and helps to secure a health care center against various risks inherent in, or affecting, the business of insurance and not accounted for or only partially measured by the risk-based capital requirements contained in sections 38a-193-1 to 38a-193-13, inclusive, of the Regulations of Connecticut State Agencies.

[(c)](d) If a domestic health care center [files] submits a RBC report that in the judgment of the commissioner is inaccurate, then the commissioner shall adjust the RBC report to correct the inaccuracy and shall notify the domestic health care center of the adjustment. The notice shall contain a statement of the reason for the adjustment. A RBC report as so adjusted is referred to as an “adjusted RBC report.”

Sec. 2. Section 38a-193-3 of the Regulations of Connecticut State Agencies is amended by adding

subsection (f) as follows:

**(NEW)**

(f) Every domestic health care center that submits an RBC plan or revised RBC plan to the commissioner shall file a copy of the RBC plan or revised RBC plan with the insurance commissioner of any other state in which the domestic health care center is authorized to do business if:

(1) Such other state has adopted a law or regulation that is substantially similar to section 38a-193-8(a) of the Regulations of Connecticut State Agencies; and

(2) The insurance commissioner of such other state has notified such domestic health care center of its request for the filing in writing, in which case such domestic health care center shall file a copy of the RBC plan or revised RBC plan to the insurance commissioner of such other state no later than the later of:

(A) Fifteen (15) days after the date such domestic health care center receives notice from the insurance commissioner of such other state to file a copy of its RBC plan or revised RBC plan to the insurance commissioner of such other state; or

(B) The date on which the RBC plan or revised RBC plan is submitted under subsection (c) or (d) of this section.

Sec. 3. Section 38a-193-9 of the Regulations of Connecticut State Agencies is amended to read as follows:

**Sec. 38a-193-9. Supplemental provisions; exemption**

(a) The provisions of sections 38a-193-1 to 38a-193-13, inclusive, of the Regulations of Connecticut State Agencies are supplemental to any other provisions of the laws and regulations of this state, and shall not preclude or limit any other powers or duties of the commissioner under such laws, including, but not limited to, Chapter 704c of the Connecticut General Statutes and sections 38a-8-101 to 38a-8-104, inclusive, of the Regulations of Connecticut State Agencies.

(b) The commissioner may exempt from the application of sections 38a-193-1 to 38a-193-13, inclusive, of the Regulations of Connecticut State Agencies a domestic health care center that: (1) assumes no reinsurance in excess of five percent (5%) of direct premium written; and (2) writes direct annual premiums for comprehensive medical business of \$2,000,000 or less.

Sec. 4. The Regulations of Connecticut State Agencies are amended by adding Section 38a-193-9a as follows:

**(NEW) Sec. 38a-193-9a. Foreign Health Care Centers**

(a) (1) A foreign health care center shall, upon the written request of the commissioner, submit to the commissioner an RBC report for the calendar year just ended, on or prior to the later of:

(A) The date on which the foreign health care center would be required to submit an RBC report under sections 38a-193-1 to 38a-193-13, inclusive, of the Regulations of Connecticut State Agencies if such foreign health care center were a domestic health care center; or

(B) Fifteen (15) days after the foreign health care center received such request.

(2) A foreign health care center shall, at the written request of the commissioner, promptly submit

to the commissioner a copy of any RBC plan that is filed with the insurance commissioner of any other state.

(b) In the event of a Company Action Level Event, Regulatory Action Level Event or Authorized Control Level Event with respect to a foreign health care center, as determined under the RBC statute applicable in the state of domicile of the foreign health care center (or, if no RBC statute is in force in that state, under the provisions of sections 38a-193-1 to 38a-193-13, inclusive, of the Regulations of Connecticut State Agencies), if the insurance commissioner of the state of domicile of the foreign health care center fails to require the foreign health care center to file an RBC plan in the manner specified under the laws of such domiciliary state (or, if no such law is in force in such domiciliary state, under section 38a-193-3 of the Regulations of Connecticut State Agencies), the commissioner may require the foreign health care center to submit an RBC plan to the commissioner. The commissioner may prohibit any foreign health care center that fails to submit an RBC plan to the commissioner under this subsection from engaging in health care center business in this state.

(c) In the event of a Mandatory Control Level Event with respect to any foreign health care center, if no domiciliary receiver has been appointed with respect to the foreign health care center under the rehabilitation and liquidation statute applicable in the state of domicile of the foreign health care center, the commissioner may make application to the superior court for the judicial district of Hartford as permitted under Chapter 704c of the Connecticut General Statutes with respect to the liquidation of property of foreign health care centers found in this state, and the occurrence of the Mandatory Control Level Event shall be considered adequate grounds for the application.

R-39 Rev. 02/2012

**Statement of Purpose**

To update the regulations concerning the risk-based capital requirements for both domestic and foreign health care centers. Pursuant to Public Act No. 16-213, and effective July 1, 2016, the definition of a health care center was changed to permit foreign health care centers to be licensed to operate in Connecticut. These amendments distinguish the risk-based capital requirements between domestic and foreign health care centers by adopting the applicable language of the Risk-Based Capital for Health Organizations Model Act of the National Association of Insurance Commissioners (NAIC).

Adoption of this Model Act is a requirement for NAIC accreditation.



**IMPORTANT NOTICE FOR CONNECTICUT STATE AGENCIES**

This form is to be used for proposed permanent and technical amendment regulations only and must be completed in full.

**AGENCY CERTIFICATION****Insurance Department**

Proposed Regulation Concerning

**Risk-Based Capital Requirements for Health Care Centers**

eRegulations System Tracking Number PR2017-003

**I hereby certify the following:**

(1) The above-referenced **regulation** is proposed pursuant to the following statutory authority or authorities: **CGS Section 38a-193(a)**.

*For technical amendment regulations proposed without a comment period, complete #2 below, then skip to #8.*

(2) As permitted by Section 4-168(h) of the *Connecticut General Statutes*, the agency elected to proceed without prior notice or hearing and posted the text of the proposed technical amendment regulation on eRegulations System website on \_\_\_\_\_.

*For all other non-emergency proposed regulations, complete #3 - #7 below, then complete #8)*

(3) The agency posted notice of intent with a specified comment period of not less than 30 days to the eRegulations System website on **May 8, 2017**.

(4) *(Complete one)*  No public hearing held or was required to be held. **OR**  One or more public hearings were held on: <<**select and enter dates**>>.

(5) The agency posted notice of decision to move forward with the proposed regulation to the eRegulations System website on **June 13, 2017**.

(6) *(Complete one)*  No comments were received. **OR**  Comments were received and the agency posted the statements specified in subdivisions (2) and (3) of CGS Section 4-168(e) to the eRegulations System website on <<**select and enter date**>>.

(7) The final wording of the proposed regulation was posted to the eRegulations System website on **May 8, 2017**.

(8) Subsequent to approval for legal sufficiency by the Attorney General and approval by the Legislative Regulation Review Committee, **the final regulation shall be effective**

*(Check one and complete as applicable)*

When posted to the eRegulations System website by the Secretary of the State.

**OR**  \_\_\_\_\_

*(Date must be a specific calendar date not less than 11 days after submission to the Secretary of the State)*

**SIGNED**(Head of Board, Agency or Commission,  
or duly authorized deputy)**Commissioner**  
OFFICIAL TITLE**09/20/17**  
DATE



**OFFICE OF THE ATTORNEY GENERAL  
REGULATION CERTIFICATION**

**Agency: Connecticut Insurance Department**

***REGULATION NUMBER: PR2017-003***

**This Regulation is hereby APPROVED by the Attorney General as to legal sufficiency in accordance with Connecticut General Statutes Section 4-169.**

**DATE: 9/25/2017**

**Signed:**

  
***Robert Clark, Special Counsel  
Duly Authorized***

# The Connecticut General Assembly

## Legislative Regulation Review Committee

Senator Paul Doyle  
Senate Chair



Representative Christie Carpino  
House Chair

### Official Record of Committee Action

October 24, 2017

Agency: Insurance Department  
Description: Risk-Based Capital Requirements for Health Care Centers  
LRRC Regulation Number: 2017-016A  
eRegulation Tracking Number: PR2017-003

The above-referenced regulation has been

### Approved with Technical Corrections

by the Legislative Regulation Review Committee in accordance  
with CGS Section 4-170.

Kirstin L. Breiner  
Committee Administrator



State of Connecticut  
Office of the Secretary of the State

## Confirmation of Electronic Submission

Re: Regulation of the Insurance Department concerning Risk-Based Capital Requirements for Health Care Centers  
eRegulations System Tracking Number PR2017-003  
Legislative Regulation Review Committee Docket Number 2017-016A

The above-referenced regulation was electronically submitted to the Office of the Secretary of the State in accordance with Connecticut General Statutes Section 4-172 on November 2, 2017.

Said regulation is assigned Secretary of the State File Number 6253.

The effective date of this regulation is November 2, 2017.

A handwritten signature in black ink that reads "Denise W. Merrill".

Denise W. Merrill  
Secretary of the State  
November 2, 2017

By:

/s/ Kristin M. Karr

Kristin M. Karr  
Administrative Law  
Information Systems Manager