
CHAPTER 1. GROUP PRACTICE FACILITIES PROGRAM

- 1-1. INTRODUCTION. Different approaches are needed to stretch the supply of medical specialists and to provide a wider range of medical services in the communities. Group practice represents one approach to the problem of delivering efficient, comprehensive medical care services to the American public. Initial capital requirements for group practice are substantial, and the funds are not now sufficiently available to stimulate the expansion and establishment of group practice. For these reasons, legislation has been enacted by the Congress authorizing a program of mortgage insurance that assures the availability of credit on reasonable terms to finance the construction of medical dental, optometric, podiatric, and osteopathic group practice facilities. *
- a. Patient and Physician alike benefit from group practice. It brings together the variety of specialized professional skills of modern medical science and makes use of paramedical aides, technical equipment and ancillary services, where appropriate. Ready access to specialists for consultation and referral is readily available, and patient medical records are conveniently centered. With paramedical and ancillary personnel handling technical and administrative activities, the energies and skills of the practitioner can be more sharply focused on professional matters. Quality of care is encouraged by the professional stimulation of group association, and professional proficiency is increased by greater freedom to participate in teaching, research and continuing education activities.
- b. Group Practice makes possible more efficient use of scarce manpower and costly health care facilities and equipment. It can be particularly beneficial to small communities and low income urban areas where adequate health facilities of a comprehensive nature may not otherwise be available. In addition, costly hospitalization can be significantly reduced where the group practice is combined with a comprehensive prepayment plan.
- c. The HUD-FHA Group Practice Facilities Mortgage Insurance Program was conceived in recognition of the potential of group practice in delivering efficient, comprehensive health services of high quality. It is intended to assure the availability of credit on reasonable terms to finance construction and equipment of medical, dental, optometric, podiatric and osteopathic group practice facilities. *

- d. Under the Law, a group practice project may be sponsored by a group or organization which will either own and operate the proposed facility as a nonprofit unit, or will create a separate nonprofit entity to own the facility. Thus, where a project is sponsored by an independent professional group, a separate nonprofit entity must be established to own the facility and to lease it back to the professional group.
 - e. The Professional Group Practicing in the Facility must be an association or other group of persons with the intention and capability of providing preventive, diagnostic and treatment services of a comprehensive nature under a coordinated practice, sharing common overhead expenses, medical and other records, together with substantial portions of the equipment and the professional, technical and administrative staffs. Payment for health services provided by a group may be on either a prepayment or a fee-for-service basis.
 - f. Inquiries Concerning HUD-FHA Insured Mortgages for financing group practice facilities may be made to the Director of the Field Office in the area where the proposed project is to be located. Advice on professional and technical matters relating to group practice plans and proposals may be obtained by writing to the Group Practice Development Division, HMOS/HEW, Parklawn Bldg, 5600 Fishers Lane, Room 13A15, Rockville, Maryland 20852.
- 1-2. PROGRAM AUTHORIZATION. Title XI of the National Housing Act authorizes the Secretary of Housing and Urban Development to insure mortgage loans financing the construction or rehabilitation of, and the purchase of equipment for, facilities for the group practice of medicine, dentistry, optometry, podiatry, or osteopathy. The Secretary has delegated to the Assistant Secretary of Housing Production and Mortgage Credit-FHA Commissioner the authority to administer the group practice facilities program. HUD-FHA receives technical guidance and assistance covering medical and health aspects of the program from the Public Health Service of the Department of Health, Education and Welfare. *
- 1-3. ELIGIBLE GROUP PRACTICES.
- a. Types of Groups. "Group practice" under this program refers to an association or group of persons with the capability and intention of making available comprehensive medical, dental, osteopathic, podiatric, or optometric care. This care shall include preventive, diagnostic and treatment services for *

(1-3) ambulatory patients, and it shall be provided or arranged by the group working together under a coordinated practice. Payment for services provided by such a group may be on a "prepayment" basis or on a "fee-for-service" basis. If an organization provides comprehensive health care under a prepayment plan, periodic predetermined payments are made to cover the costs of all or most of the services offered by the organization. Under a fee-for-service arrangement, a patient pays a fee for each service rendered by the group.

* b. Composition of Group. The basic qualifying requirements for the five fields are as follows: *

(1) Medicine. There must be five or more full time physicians. At least one physician must be in either general practice or internal medicine. The group must include physicians, or have arrangements for patient treatment by physicians, qualified in surgery and obstetrics. In isolated or sparsely populated communities, consideration may be given to groups of as few as three physicians. This program is not intended to provide support for single-specialty groups. Consideration may be given on a case-by-case basis, when the applicant, such as a group of internists, proposes to provide a broad continuum of health services rather than the limited service primarily restricted to referral cases.

(2) Dentistry. There must be three or more full time dentists with at least one of the group providing general dental care.

(3) Optometry. There must be three or more full optometrists.

* (4) Podiatry. There must be three or more full time podiatrists.

(5) Osteopathy. There must be five or more full time osteopaths. *

NOTE: If a basic group practice qualifies, it may add full or part time professionals from its own or other fields. "Full time" practitioners are those who provide professional services through the group arrangements as their principal professional activity; i.e., practitioners who devote at least three-fourths of their professional time to caring for the group's patients. Each member of a group must be fully licensed in the jurisdiction in which the group intends to practice and must be covered by malpractice insurance.

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- c. Group Coordinated Activity. The law specifically requires that the members of the group conduct their practice as a coordinated activity. Insofar as feasible, the practitioners will be required to share in the use of the technical and professional equipment and the auxiliary staff personnel. Patient records are to be centrally maintained so that they will be equally available to each member of the group. Where the practitioners are members of a partnership or other type of independent association, rather than employees of a health care organization having a distinctly separate identity from the practitioners, the agreement must provide for placing receipts for professional services in a common fund to be distributed according to some predetermined plan after the payment of the facility's operating expense.
 - d. Auxiliary Staff Requirements. The group must maintain an appropriate combination of licensed auxiliary personnel adequate to provide supporting service to the professional members. Staff members must be properly qualified and licensed, whenever state or local laws require such licensing. Provision must be made for competent management and administration of the group's business affairs.
- 1-4. ELIGIBLE MORTGAGORS AND SPONSORS. The mortgagor is the organization or entity that owns the property which is the security for the mortgage insured by HUD-FHA. The sponsor is the individual, organization or entity that initiates and promotes the development of the group practice facilities project and usually is the one that files the request with HUD-FHA for a preliminary analysis. The sponsor, if it meets HUD-FHA requirements, may qualify as the mortgagor or it may set up a separate entity for the purpose of qualifying as a mortgagor.
- a. Types of Mortgagors. Two types of mortgagors (borrowers) may qualify for HUD-FHA insured mortgage loan under the program.
 - (1) The mortgagor may be an organization which both owns and operates the facilities.
 - (2) The mortgagor may be an organization which owns the building and makes the facilities available to a professional group under a lease or contractual arrangement. In either instance, the health services may be offered under a prepayment plan or on a fee-for-service basis.

- (1-4) b. Nonprofit Requirements. The law specifically requires that no part of the net earnings of the mortgagor shall inure to the benefit of any private shareholder or individual. Therefore, under either type of arrangement described in Subparagraph a., the mortgagor, which may be a corporation, association, foundation, trust or other entity - must be organized on a nonprofit basis.

The determination of the nonprofit status of the mortgagor involves a review of its organization and an examination of its business relationship with the sponsor of the project.

- (1) Professionals who wish to develop a project for their own use as a group practice facility may sponsor the project. In such instances, it will be required that the mortgagor or owner of a group practice facility be a completely separate entity from the group conducting its practice in the facility, and that the mortgagor entity be organized and operated in such manner that none of the profit from the operation of the mortgaged property will inure to the benefit of the professionals. This requirement extends to all of the activities being conducted in the building including any collateral units (of the type described in Paragraph 2-3.b.(1)-(3) such as a pharmacy, optical supply shop or surgical supply store. Other types of sponsorship may include philanthropic or non-profit organizations interested in providing personal health services to the public or consumer organizations or cooperatives interested in providing personal health services to their members.
- (2) Where there are separate entities the owner will lease the facility to the group under such terms as may be agreed upon by the owner and the group, with such terms be prescribed, HUD-FHA will require that the lease contain a provision for annual review and adjustment (where indicated) of the rental rate. The rent must be established at a rate which is adequate to meet the operating expenses of the mortgagor and to provide a reasonable margin for contingencies. If the rental income is insufficient to meet the mortgagor's debt service and other expenses of operation of the mortgaged property, some upward rent adjustment may be required. On the other hand, if it appears that rental income is more than

- (1-4) sufficient to meet project expenses and to provide an adequate cushion against unforeseen items of expense, a reduction in rent may be required to prevent the mortgagor from accumulating excessive funds from the operation of the real estate.
- (3) In reviewing a project proposal, HUD-FHA will investigate the mortgagor's relationship with all of the parties involved in the development of the project. The existence of any identity of interest between the mortgagor and the builder of the project or any supplier of material for the construction of the project will generally render the proposal ineligible for further consideration under the program. An "identity of interest" will be considered to exist whenever the business relationship between the parties is not founded on arm's length negotiation or bargaining.
- (4) For information on Certificate of Incorporation see Appendix 13.
- c. HUD-FHA Supervision. The operation of the project by the mortgagor will be supervised by HUD-FHA through a regulatory agreement. The plan under which the project is to be managed shall be approved by HUD. Although no specific form of accounts will be required, general bookkeeping and accounting procedures will be prescribed and the records of the operations of the mortgaged property may be audited by HUD-FHA. The mortgagor will be required to deposit in a residual receipts fund any net income realized from the operation of the project. No distribution from such fund will be permitted without the prior written approval of HUD-FHA. Obligations of the mortgagor to repay moneys advanced by the sponsors for use in meeting expenses incurred in the construction or operation of the project, may be met out of the residual receipts fund, but only when HUD determines that the project has achieved a sound financial position.
- (1) The mortgagor will be expected and required to operate the project as a nonprofit group practice facility as long as the property continues to be subject to HUD-FHA insured mortgage. The mortgage shall not be prepaid in full prior to its maturity except under such terms and conditions as may be approved by HUD. In granting approval for such prepayment HUD may require assurances from the mortgagor of continued operation of the project as a nonprofit group practice facility for a specified period of time.

- (1-4) (2) The mortgagor will be required to set up a reserve for replacements fund to be held by the mortgagee. Periodic payments must be made to this fund in order to provide for the timely replacement of: (1) structural component; (2) equipment necessary for the operation of the building; and (3) professional equipment used by the group practice which was financed with mortgage proceeds. Disbursement from this fund may be made only under arrangements approved by HUD-FHA.
- (3) In addition to HUD-FHA's control of the mortgagor the group practice-lessee's operation of the mortgaged property will be supervised by HUD through a regulatory agreement. Such supervision does not imply that HUD will become involved in the medical or other professional practice to be conducted in the facility. This supervision is for the purpose of assuring that the property is properly maintained and used for conducting the group practice contemplated by law, and that payments under the lease are sufficient to enable the lessor to meet debt service requirements and other operating expenses.
- (4) The HUD-FHA regulatory agreement with the mortgagor (and also with the lessee where the property is leased to a group practice) requires that neither the use or rental of the property nor the services of the practitioners operating the group practice facility shall be denied to anyone on the basis of race, color, creed or national origin. Both the mortgagor and the lessee will be required to comply with federal, state and local laws and ordinances prohibiting discrimination.

1-5. REHABILITATION. Rehabilitation involves the conversion of existing property to a group practice facility by alteration, addition or repair of the structures, and appropriate alteration and landscaping of the grounds. Rehabilitation may also include the purchase and installation of technical or professional equipment to be used by the practitioners conducting the group practice. However, the cost of rehabilitation of the building and of grounds (together with the cost of purchasing and installing technical equipment) must represent at least twenty percent of the total mortgage amount, with at least one-half of such twenty percent applied to rehabilitation of the building and grounds.

1-6. HUD-FHA's EVALUATION AND PROCESSING OF PROPOSALS.

a. Preliminary conference. A sponsor interested in developing a group practice facility should arrange for a preliminary conference with the director of the local HUD Field Office to discuss the proposal. This conference should be held before the sponsor makes definite plans or commitments for purchasing land and buildings or for engaging professional assistance in developing the project. In preparation for the conference, the sponsor should review the requirements of the Request for Preliminary Analysis, FHA Form 2013 GP-1, and be prepared for a general discussion of the items contained in the form.

- (1) At the preliminary conference, the sponsor's concept of the proposed project will be discussed.
- (2) The Field Office Director will review with the sponsor the HUD-FHA requirements, policies and procedures under the program as outlined in this handbook.

b. Preliminary Analysis. If, after the preliminary conference, the sponsor decides to go ahead with his proposal, he should complete and submit to the local Field Office the Request for Preliminary Analysis, FHA Form 2013 GP-1, together with a fee of \$400 for such analysis.

- (1) The following information will be included on the form:
 - (a) Type, organization, administration and composition of the group practice.
 - (b) Services to be provided.
 - (c) Information regarding the community and service area.
 - (d) Sources of investment and operating capital.

- (1-6) (e) Estimated group practice income and operating expenses.

- (f) Location, approximate size, and type of construction of proposed facility.
- (2) The following items are to be submitted with the Request for Preliminary Analysis:
- (a) Location map.
 - (b) Zoning map.
 - (c) Rough Sketch of site.
 - (d) Copy of partnership or association agreement, where appropriate.
 - (e) For existing nonprofit organizations, a current balance sheet and operating statement.
 - (f) For new organizations, a pro forma balance sheet.
 - (g) Letter authorizing property inspection by HUD-FHA.
 - (h) Previous Participation Certificate, FHA Form 2530 (See Appendix 5).
- (3) Where the proposal involves a group practice prepayment plan, the sponsor is also required to complete and submit addendum A to the preliminary analysis FHA Form 2013 GP-1 (See Appendix 4) on which will be indicated the name of the plan, its service obligation to members, the projected membership, and the expected revenues to be received.

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- (1-6) (4) Following receipt of all the required forms and exhibits, HUD-FHA will review the proposal for the purpose of making a preliminary feasibility judgment. The review will include a determination of site suitability, based on a visit to the site by a representative of the HUD Field Office, and an estimate of the need for constructing a new facility or rehabilitating an existing facility to accommodate the proposed group practice. In making this estimate, consideration will be given to the availability of existing comparable facilities and those under construction in the area.
- (5) If the HUD-FHA review results in a preliminary judgment of feasibility, it will seek the advice and

recommendations of the Public Health Service. The \$400 fee, which is to cover the Public Health Service analysis, is earned and not available for refund once the case is referred to that agency.

- (6) The sponsor will be advised by letter from the Field Office Director of the results of the preliminary analysis. If the proposal appears to meet the qualifications established under this program, the letter will invite the sponsor to complete and submit through its lender (mortgagee) the Application for Mortgage Insurance, FHA Form 2013 GP-2 (See Appendices 1,6, and 7).

- c. Application. The application for Mortgage Insurance will contain more detailed information, with exhibits, concerning the proposed building, equipment and furnishings, construction costs, land ownership, etc. Preliminary working drawings and an outline of the specifications should be submitted with the application, including sufficient detail of the mechanical, plumbing and electrical installations to enable the Field Office to determine their propriety to meet requirements of the group and to estimate their cost.

If the sponsor wishes to change any information previously submitted on FHA Form 2013 GP-1, he must submit a revised copy of the form. Either the revised form or the originally submitted form will be considered a part of the formal application. A fee of \$1.50 per \$1,000 of mortgage amount requested must accompany the application.

- (1) The following attachments will be submitted with the application (unless previously submitted):

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 - (a) Legal description of property.
 - (b) Site survey.
 - (c) Photographs of improvements, on site and adjacent to the site.
 - (d) Preliminary working drawings and outline specifications.
 - (e) Letters from three lenders refusing loan on comparable terms.
 - (f) List of all equipment to be included in the

mortgage.

- (g) List of equipment not to be included in the mortgage.
 - (h) Copy of documents showing type and extent of interest in the property.
 - (i) Equal Employment Opportunity Certification, FHA Form 2010 (See Appendix 8).
- (2) The local Field Office will review the application to assure that the proposal is sound and in accord with the policies set forth in this handbook. This review will include:
- (a) Examination of the proposed site and estimate of its value for mortgage insurance purposes.
 - (b) Examination of the type of construction and equipment proposed and estimate of its cost.
 - (c) Credit analysis to determine that the sponsors have 1 the financial capacity to complete the project, 2 the funds for working capital, and 3 a source of funds to meet the expenses of organizing and operating the group practice, for such period as the Assistant Secretary-FHA Commissioner estimates as necessary, to establish a sustaining level of operation.
 - (d) Determination of the tentative maximum mortgage amount.

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- (e) A resubmission of the proposal to the Public Health Service, when considered necessary, for advice and recommendations on any part of the project that may have been changed since the filing of the request for preliminary analysis.
- (3) If the review is favorable, the Field Office will so advise the sponsor by a letter requesting the final plans and specifications.

- * d. Commitment. The HUD-FHA, upon approving the final plans and specifications, will issue a commitment to insure a loan for the construction or rehabilitation of the proposed facility.

- (1) The commitment will require the mortgagor to provide:
 - (a) Assurance of completion.
 - (b) A working capital deposit.
 - (c) Prevailing wage and cost certifications.
- (2) It will also include:
 - (a) A statement of the financial requirements to be met by the mortgagor and will specify conditions under which advances of mortgage proceeds will be made for organization and planning expenses, and
 - (b) Interim interest payments, land acquisition, site improvements.
- (3) Within thirty days from the date of commitment, a commitment fee must be paid which, when added to the application fee, will aggregate \$3.00 per \$1,000 of the amount of the loan set forth in the commitment.

1-7. INSURANCE OF ADVANCES.

- a. Initial closing. If the project involves HUD-FHA insurance of advances during construction, there will be an initial closing of the loan prior to the beginning of such construction. *

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- (1-7) (1) At the closing, the working drawings and specifications, construction contract and trade payment breakdown will be reviewed. The mortgagor will provide the HUD-FHA and the mortgagee with a survey of the site and a policy of title insurance or other title evidence satisfactory to the HUD-FHA. Assurance of completion of the facility will be provided in the form of a bond or escrow deposit if not less than 10 percent of the cost of construction. Required closing documents will be submitted to the HUD-FHA and to the mortgagee.
- (2) When all financial and other requirements called for in the commitment have been met, the HUD-FHA will initially endorse the mortgage note for insurance.

b. Construction.

- (1) Form of contract. A "cost plus" form of contract shall be used between the mortgagor and the general contractor unless it is established to the HUD-FHA's satisfaction that such form is not required to protect its interests and the interests of the mortgagor, in which case a lump sum contract, arrived at by competitive bidding or negotiation, may be used. The cost plus contract shall provide for payment of the actual cost of construction of the project, not to exceed a specified maximum price: and may provide for payment of a fixed fee to the general contractor, which will not exceed a reasonable allowance as established by the HUD-FHA in accordance with customary practice in the area.
- (2) Prevailing wages and labor standards. Prevailing wage rates and labor standards specified by the Secretary of Labor must be met under any contract, subcontract or agreement for the construction or rehabilitation of the project. When laborers or mechanics employed on the project work in excess of eight hours during any workday or in excess of forty hours during any workweek, they shall be paid for such overtime at least one and one-half times the basic rate.
- (3) Preconstruction conference. Prior to initial endorsement, a preconstruction conference will be held to discuss requirements during the construction period. *

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- (1-7) (4) Commencement of construction. Construction of the project may begin immediately after initial closing.
 - (5) Inspection. During the construction period, the HUD-FHA representative will visit the site from time to time to inspect the work being done. The commitment may provide for the payment of an inspection fee in an amount not to exceed \$5.00 per \$1,000 of the amount of the loan set forth in the commitment, which fee must be paid at the time of initial endorsement.
- c. Cost certification. When the project is completed, the mortgagor and the contractor will be required to file with the HUD-FHA their certificates covering the actual costs incurred in the construction of the project. Any subcontractor, supplier or equipment lessor having an identity of interest with the contractor will also be required to certify its costs. If the principal balance of the insured mortgage exceeds 90

percent of the certified costs, as approved by the HUD-FHA, such excess shall be applied to reduce the mortgage balance. (See FHA Form 1270, Information for Mortgagors and Independent Public Accountants). *

d. Final Closing.

- (1) When cost certification has been approved by HUD-FHA the final closing will take place. At closing, the mortgagor will provide HUD-FHA and the mortgagee with a survey showing the completed project, and a title insurance policy indicating that the insured mortgage is a valid first lien on the mortgagor's property and the mortgagor's title is free of all other liens. If the nonrealty items - removable air conditioning units, water heaters, fixtures, etc., necessary for the operation of the project are not covered by the lien of the real estate mortgage, the mortgagor will furnish the mortgagee with an appropriate chattel security instrument covering such items. The mortgagor will be required to deposit with the mortgagee sufficient funds to complete any unfinished onsite or offsite improvements.

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- (2) When all required closing documents have been submitted to the HUD-FHA and to the mortgagee, and all conditions of the commitment have been met, HUD-FHA will place on the mortgage note its final endorsement indicating the amount approved for insurance.

- (3) See appendices 9-12 for further closing information.

1-8. INSURANCE UPON COMPLETION.

- a. Under a Commitment to Insure Upon Completion, construction of the project may begin when approved by the HUD-FHA. The HUD-FHA may require, prior to approving the commencement of construction, the payment of an inspection fee in an amount not exceeding \$5.00 per \$1,000 of the amount of the loan set forth in the commitment. The loan closing takes place after completion of construction and after approval by HUD-FHA of the cost certification. For the purpose of closing: "completion" means (1) the project has been completed in accordance with the drawings and specifications, except for approved items of delayed completion to be covered by an acceptable escrow agreement, and (2) the entire project

has been accepted for occupancy by local authorities, the lender and HUD-FHA.

- b. At Closing, the mortgagor will furnish to HUD-FHA and to the mortgagee a survey showing the completed improvements, a policy of title insurance or other title evidence satisfactory to HUD-FHA, and all closing documents required by the commitment. When these and other provisions of the commitment have been complied with, the HUD-FHA will endorse the mortgage note for insurance.

1-9. INSURANCE OF SUPPLEMENTAL LOANS.

- a. Group Practice Facilities which are covered by a Mortgage Insured by HUD-FHA are eligible to have supplemental loans insured for the purpose of financing improvements or additions to such facility, including equipment to be used in the operation of the group practice facility.
- b. The Supplemental Loan shall be limited to 90% of HUD-FHA's estimated cost of the improvements, additions, and equipment, except that such amount, when added to the outstanding balance of the existing mortgage, shall not exceed the maximum mortgage amount insurable under Title XI.

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- c. The Supplemental Loan will bear Interest at a rate not exceeding that specified in the current HUD-FHA regulations, and shall have a maturity not to exceed the remaining term of the existing mortgage.

1-10. EXPERIMENTAL PROGRAM. Proposals under Title XI which contain unusual innovations in construction and design of the physical facility may be processed under Section 233 of the National Housing Act, Experimental Housing Program.