



NOTICE OF AVAILABILITY OF DOCUMENTS OR INFORMATION ADDED TO THE RULEMAKING FILE

September 15, 2015

Pursuant to the Requirements of Government Code sections 11346.8(d), 11346.9(a)(1), and 11347, the Board governing the California Health Benefit Exchange is providing notice that documents and/or other information which the agency has relied upon in adopting the proposed regulations have been added to the rulemaking file and are available for public inspection and comment. The agency has previously filed these documents and made them available for public comment, but must now re-file them in a manner that complies with OAL standards. The agency did not previously post and submit a properly formatted version of the Final Text of Regulation and is now filing and posting this text in conformity with OAL standards.

The documents and information added to the rulemaking file are as follows:

Revised Statement of Reasons
Final Text of Regulations

The documents/information are available for public inspection at the Board's office located at **1601 Exposition Blvd, Sacramento, CA 95815** from September 15th to September 30th, 2015 between the hours of 8:00 a.m. and 5:00 p.m. If you have any comments regarding the documents/information, written comments must be submitted to the Board no later than 5:00 p.m. on September 30th, 2015, and addressed to:

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All written comments received by **September 30th, 2015**, which pertain to the above-listed documents/information will be reviewed and responded to by the Board's staff as part of the compilation of the rulemaking file.



INITIAL STATEMENT OF REASONS

CALIFORNIA CODE OF REGULATIONS, TITLE 10, CHAPTER 12, ARTICLE 8 ADOPT SECTION(S) 6650, 6652, 6656, 6657, 6658, 6660, 6662, 6664, 6666, 6668, 6670

The Administrative Procedure Act ("APA") requires that an Initial Statement of Reasons be available to the public upon request when a permanent rulemaking action is undertaken. The following information required by the APA pertains to this particular rulemaking action:

BACKGROUND

In March 2010, President Obama signed federal health reform legislation called the Patient Protection and Affordable Care Act (PPACA). This Act created the opportunity for each state to establish its own state-based health insurance exchange. The purpose of state health insurance exchanges is to make health insurance more affordable and easier to purchase for small businesses and individuals. Under the PPACA, states choose to operate their own exchanges or participate in a multi-state exchange. If a state elects to operate their own exchange, they are required, by January 1, 2014, to establish an American Health Benefit Exchange that makes available qualified health plans to qualified individuals and small employers.

California chose to operate its own exchange (the Exchange), known as "Covered California." The Exchange's mission is to increase the number of insured Californians, improve health care quality, lower costs, and reduce health disparities through an innovative, competitive marketplace that empowers consumers to choose their own health plan.

According to The PPACA and its implementing regulations, each Exchange must have a Navigator program. The purpose of this current regulatory action is to establish application and certification standards for Navigators contracting with the Exchange. These standards are necessary to ensure that individuals and entities certified through the Exchange have the appropriate and current knowledge, training, expertise, and education necessary to competently and effectively assist consumers in applying for and obtaining health care coverage through the Exchange.

PROBLEM STATEMENT

The PPACA requires each Exchange to establish a Navigator Program. (§ 1311(i)) The California enabling legislation requires the Exchange to establish the criteria and process for eligibility determination, enrollment, and disenrollment of enrollees and potential enrollees in the Exchange. (Gov. Code, § 100503(a)) Additionally, Government Code Section 100502(l) requires the Exchange to establish a Navigator program in conformity with the federal act. Furthermore, Government Code Section 100503(l) requires the Exchange to select and set performance standards and compensation for Navigators.

The Exchange has developed a Navigator Program in compliance with these requirements. Each Navigator, also referred to as Certified Enrollment Entity registered in the Navigator Program, will facilitate and contribute to the mission of the Exchange by assisting consumers with their applications for health care coverage through the Exchange at no cost to the consumer. Each Navigator will have a number of individuals affiliated with it, herein referred to as Certified Enrollment Counselors. Navigators and affiliated Certified Enrollment Counselors will provide outreach and education to consumers about their health care coverage options as well as conduct enrollment assistance. The Exchange will compensate each Navigator Entity for providing this assistance to consumers through grants.

ANTICIPATED BENEFITS

Anticipated benefits including nonmonetary benefits to the protection of public health and safety, worker safety, the environment, the prevention of discrimination, or the promotion of fairness or social equity, from this proposed regulatory action are:

- Making high quality health care available to all Californians;
- Providing structure for the Exchange to give predictable, clear standards to the public and to Navigators both now and prospectively;
- Establishing the procedures, application content, and criteria for certification of Navigators who receive grants from the Exchange;
- Aligning California's regulations with the federal act and complying with state law;
- Establishing a uniform process for Navigator certification;
- Providing increased access to and education about health care coverage to the public in California.

PURPOSE AND NECESSITY

The broad purpose of this proposed regulatory action is to establish the Exchange's policies and procedures for the application process and certification of Navigators.

Consumers who access health insurance coverage through the Exchange will be able to receive assistance in a variety of ways. Navigators are among those who will play a role in educating consumers about the Exchange and insurance affordability programs. Additionally, they will play a vital part in helping consumers receive eligibility determinations, compare plans, and enroll in coverage.

This regulatory action will allow a greater number of Californians to obtain information relating to their eligibility for health insurance coverage and to complete their applications with the Exchange by consulting with Navigators. These regulations will provide uniformity and consistency in the application, eligibility, and training of Navigators. As a result, consumers will benefit from more knowledgeable and competent assistors.

Pursuant to its authorities, the Exchange proposes to permanently adopt certain regulations as follows:

Section 6650: (a) This section defines numerous provisions used throughout this Article. These definitions are necessary to provide clarity to the reader and ensure all terms are used and applied in a consistent manner.

Authorized Contact: "Authorized Contact" is a term unique to the Exchange. Therefore, defining the term is necessary to ensure that the affected public understands this term as it is used in these regulations.

Certified Enrollment Counselor: Defining "Certified Enrollment Counselor" provides clarity to this Article as the term is used throughout. It lets consumers know what to expect from consumer assistance. "Certified Enrollment Counselor" is a term unique to the Exchange. This definition is necessary to ensure that those regulated by this Article, consumers, and other interested parties understand the role of Certified Enrollment Counselors and to whom these regulations apply.

Certified Enrollment Entity: This Article provides a list of types of entities and individuals eligible to become Certified Enrollment Entities, and it explains duties of Certified Enrollment Entities. Defining "Certified Enrollment Entity" provides clarity to this Article so that entities who wish to become Certified Enrollment Entities know if they are

eligible, and so that Certified Enrollment Entities and other interested parties understand the duties of Certified Enrollment Entities. “Certified Enrollment Entity” is a term unique to the Exchange.

Consumer: Defining “Consumer” is necessary to avoid confusion with a generally recognizable term and to specify the term’s basis and purpose in this Article. The Exchange requires Certified Enrollment Entities and Certified Enrollment Counselors to perform specific functions to assist individuals who may seek their help with enrolling in the Exchange. Defining consumer specifies the set of individuals to which the requirements of this Article apply.

Consumer Assistance: Defining “Consumer Assistance” provides clarity to these regulations and informs individuals and entities carrying out consumer assistance functions of their duties. Defining “Consumer Assistance” is necessary to ensure consistency with federal regulations set out in 45 C.F.R. § 155.205.

Navigator: Defining “Navigator” is necessary to ensure that the public and those regulated under this Article of the applicability of these regulations. Defining this term also serves to maintain consistency with the definition of Navigator set forth in federal regulations at 45 C.F.R. § 155.20.

Navigator Program: Defining “Navigator Program” clarifies the provisions of this article for anyone intending to become a Certified Enrollment Entity or Certified Enrollment Counselor. Defining “Navigator Program” is necessary to clarify the role of a Navigator and to maintain consistency with federal regulations.

Outreach & Education: Defining “Outreach & Education” clarifies the duties of individuals and entities registered under the Navigator Program; these individuals and entities are required under Section 6664 to conduct outreach and education to raise awareness about the Exchange. Defining “Outreach & Education” is necessary to maintain consistency with federal regulations set forth at 45 C.F.R. § 155.205(e).

Personally Identifiable Information: Defining “Personally Identifiable Information” clarifies the responsibilities of individuals and entities who carry out consumer assistance functions under this Article. This definition is necessary so that individuals and entities to which this Article applies understand the applicability of this term as it is used throughout this Article.

Primary Contact: “Primary Contact” is a term unique to the Exchange. The primary contact will be the appointed liaison with the Exchange. Defining this term is necessary to ensure that Navigator Program applicants know how to complete their application and whom to select to be the liaison with the Exchange.

Section 6652:

Subdivision (a)(1) through (17) of this Section identifies the entities and individuals eligible to apply to become a Certified Enrollment Entity in the Navigator Program. Many

of these organizations and individuals are identified as eligible at 45 C.F.R. § 155.210(c)(2). The Exchange has supplemented this list in accordance with these regulations by adding the following individuals and organizations: cities, counties, and local government agencies, community colleges and universities, faith-based organizations, licensed attorneys, school districts, tax preparers, and safety net clinics. Subdivision (a)(16)(A) through (G) lists seven types of safety net clinics that are eligible to become Certified Enrollment Entities. This is necessary to clarify and provide guidance to entities hoping to become Certified Enrollment Entities in the Navigator program that they are eligible if they fall into one of the named categories. The additional entities named above and beyond those specifically enumerated by the federal regulations are consistent with requirements of federal regulations, and are added for clarity and consistency.

Section 6652 is necessary to inform interested individuals and entities of who is eligible to apply to become a Certified Enrollment Entity, and to comply with the federal requirements for Navigator recipients in a manner consistent with 45 C.F.R. § 155.210(c)(2). The Exchange's additions to the list provided in the federal regulations is necessary to provide common examples to the public of the type of individuals and entities that would likely be eligible to become Certified Enrollment Entities due to their established relationships with the public in their respective communities.

Section 6656: (a) This subdivision outlines the process and content requirements for the application required to be submitted for consideration for the Navigator Program. Subdivisions (a)(1)-(6) specify the process that must be followed to submit an application, the criteria used to evaluate the applications, and the protest process to be followed for those who are rejected from the program. Subdivision (b) outlines the elements required to be present in the application for the Navigator program. This section is necessary to guide interested individuals through the Navigator Program's application and protest process.

Subdivision (a)(1) requires the submission of an application that includes the elements set forth in subdivision (b). This is necessary to provide the applicant with clear guidance on what information and documentation the Exchange must receive in order to determine an applicant's eligibility, to ensure that the Exchange has all the required fields completed in the application, and to allow the Exchange to create a fair, uniform standard of selection by ensuring all applicants present the same elements when applying for the Navigator Program.

Subdivision (a)(2)(A) through (C) outlines the evaluation criteria used to award grants under the Navigator Program. These criteria include cost effectiveness, ability to carry out required roles and responsibilities, and existing relationships or ability to establish relationships with target populations likely to be eligible for enrollment into a QHP. These criteria are necessary to put individuals on notice regarding how the Exchange chooses its grantees. Using cost effectiveness as a criterion to measure applicants will ensure that the Exchange utilizes its money in an efficient way in financially supporting the Navigator Program and ensuring that grantees are spending the grant money to

carry out the objectives of the Navigator Program in a responsible manner. The ability to carry out the duties outlined in Section 6664 is necessary to ensure that the applicant will be able to fulfill the roles and responsibilities required of the Navigator Program. The existence or potential existence of relationships with target populations is necessary to ensure that applicants are able to perform the duties and responsibilities of the Navigator Program so that they can fulfill the Exchange's goal of facilitating enrollment with as many uninsured consumers as possible. The enrollment of these target populations will generate revenue, allowing the Exchange to be self-sustaining, and will afford individuals access to healthcare, furthering the mission of the Exchange.

Subdivision (a)(3)(A) outlines the required elements Navigator recipients must submit to the Exchange to participate in the Navigator Program.

Subdivision (a)(3)(A)1. requires applicants to submit an executed agreement which conforms to the roles and responsibilities as set forth in Section 6664. This is necessary to ensure that recipients are knowledgeable and prepared to carry out the functions of the Navigator Program. The submission of an agreement is necessary to ensure that recipients are on notice of their required functions and are legally bound to perform those functions in conformance with these regulations. Additionally, this is necessary to provide a mechanism for payment to the Navigator Entities.

Subdivision (a)(3)(A)2. requires proof of general liability insurance of a minimum value of \$1,000,000.00 per occurrence with the Exchange to be listed as an additional insured and evidence of workers compensation coverage. This is required to protect and indemnify the Exchange from litigation exposure that may arise due to the conduct and events arising from, or involving Navigators and/or its employees. The one million dollar amount is consistent with guidance received by the Office of Risk Management, a division of the Department of General Services.

Subdivision (a)(3)(A)3. requires Navigator recipients to complete a STD. 204, Payee Data Record. This is required in order for the Exchange to provide payment to the Navigator Entity. Without this form, the Exchange is not able to pay a non-governmental entity, and the State Controller's Office will not release the funds. According to the California Department of Finance: "A Payee Data Record (STD. 204) is a form the State requires of any non-governmental entity entering into a business transaction that may lead to a payment from the State. If a payment is reportable to the Internal Revenue Service and/or the Franchise Tax Board, the State prepares an information return for the Taxpayer Identification Number (TIN) provided by the payee on the STD. 204. The TIN for an individual or a sole proprietor is his/her Social Security Number. (Internal Revenue Code § 6109(a); Revenue and Taxation Code § 18646; SAM § 8422.19 et seq.)"

Subdivision (a)(3)(B) requires Navigator grant recipients to complete the training requirements as set forth in Section 6660 prior to assisting consumers. This is necessary to comply with 45 C.F.R. § 155.210(b)(2), and to establish a standard

procedure which will ensure that individuals are knowledgeable and prepared to carry out the duties and functions of a Certified Enrollment Counselor.

Subdivision (a)(4) puts applicants on notice that the Exchange will review the application and request any missing information necessary to complete the selection. This is necessary to allow the Exchange to require additional information should an applicant's submission be incomplete or deficient in any way, instead of disqualifying the applicant outright.

Subdivision (a)(5) informs rejected applicants that they may protest their rejection in writing, provides the address of where to mail the protest, and details what should be included in the protest letter. This also informs the rejected applicant of the timeframe in which they must submit their rejection letter. This subdivision is necessary to ensure rejected applicants have an opportunity to correct or refute any information on which the Exchange may have based their decision to reject the applicant and the process to be followed to submit a protest. The requirement to have the protest submitted in writing ensures that the Exchange has a record of any and all protests submitted.

Subdivision (a)(6) specifies that the Exchange's Executive Director, or his or her designee, is tasked with making the final decision of selecting which entities receive navigator grants and determining the resolution of a rejected applicant's protest. This subdivision specifies the criteria upon which the final decision will be based. This is necessary to provide a uniform selection and protest process so that applicants are fairly and uniformly evaluated on the same criteria. The criteria outlined herein are necessary to appropriately respond to protests received and evaluate their merit.

Subdivision (a)(6)(A) requires the applicant to submit an application that includes all required information and documentation as previously set forth in subdivision (a)(1) and (a)(4). This is necessary to ensure that the Exchange has received all of the required information and documentation in which it can make an informed evaluation and determination regarding selecting an applicant and deciding a protest.

Subdivision (a)(6)(B) specifies that the applicant's ability to demonstrate it can meet the Navigator Program criteria as set forth in subdivision (a)(2) will be used in determining whether the applicant will be selected as a recipient and will be factored in when deciding a protest. This is necessary to inform applicants of the roles and responsibilities they must be able to achieve and maintain to be suited for participating in the Navigator Program and specifies the criteria that will be used to evaluate an applicant's eligibility to receive a grant and to determine a protest.

Subdivision (a)(6)(C) specifies that applicants must submit a protest that is in compliance with the elements set forth in (a)(5). This is necessary to specify and clarify the procedure a rejected applicant must follow to submit a protest.

Subdivision (a)(6)(D) provides that the Exchange will evaluate and investigate the facts and evidence as detailed in the protest letter when making a final determination on the

response to a protest. This is necessary to inform rejected applicants of the importance of submitting all relevant facts and evidence in their protest letter, as the Exchange will investigate the allegations set forth in the protest letter and gather as much information as possible to be able to make an informed final decision.

Subdivision (7) requires the Exchange to mail a notice of its final decision regarding a protest to the rejected applicant within 30 days of the Exchange initially receiving the written protest. This is necessary to provide the applicant with a timeframe of when he or she can expect to receive a final response from the Exchange. The 30 day time frame will allow the Exchange sufficient time to evaluate a protest and prepare a final decision, but is not so long as to require the applicant to wait unnecessarily.

Subdivision (b) specifies and clarifies each application element required for the Navigator Program Grant Application. This is necessary to provide the applicant with guidance on what information the Exchange must collect in order to properly determine the applicant's eligibility to become a navigator recipient with the Exchange. The information in this subdivision is necessary to adequately identify the applicant and obtain contact information and information for tax purposes.

Subdivision (b)(1)(A) requires the individual or organization's full and legal name. This is necessary to identify the applicant. The Exchange must be advised of the applicant's legal name so that agreements and correspondence will legally bind and address the proper name of the applicant.

Subdivision (b)(1)(B) requires the individual or organization's federal employer identification number. This is necessary to identify the applicant for federal tax purposes and complete the required STD. 204.

Subdivision (b)(1)(C) requires the name of the individual authorized to enter into contractual obligations for the applicant. This is necessary to inform the Exchange of who is charged with legally obligating the applicant so that legal documents and decisions can be executed with the appropriate representative of the applicant.

Subdivision (b)(1)(D) requires the physical address of the applicant's primary office. This is necessary to provide a physical location where the Exchange can contact the applicant by mail and submit hard copies to an appropriate location.

Subdivision (b)(1)(E) requires submission of the applicant's mailing address. This is necessary because the Exchange must have the best mailing address on file for which to reach the applicant while the applicant participates in the Navigator Program.

Subdivision (b)(1)(F) requires the applicant's office phone number. This is necessary because the Exchange must have the best telephone number on file for which to reach the applicant while the applicant participates in the Navigator Program.

Subdivision (b)(1)(G) requires the applicant's office fax number. This is necessary because the Exchange must have the best fax number on file with which to reach the applicant while the applicant participates in the Navigator Program.

Subdivision (b)(1)(H) requires the applicant's email address. This is necessary because the Exchange must have contact information on file to be able to communicate with the applicant. Email communication is essential to enable timely, reliable, and low-cost communications and document delivery between the applicant and the Exchange.

Subdivision (b)(1)(I) requires the applicant's website address. This information is needed to provide the Exchange with background information on the applicant, including but not limited to, service areas the applicant can reach and language assistance availability.

Subdivision (b)(2) requires the applicant's primary contact information. This is necessary to provide the Exchange with the contact information to reach the primary contact person for the individual or organization.

Subdivision (b)(2)(A) requires submission of the applicant's primary contact person. This information helps to ensure clarity, efficiency, and consistency in communication between the Exchange and the applicant's authorized primary contact representative. This is necessary to inform the Exchange who the best individual to contact is regarding the applicant's participation in the Navigator Program.

Subdivision (b)(2)(B) requires the applicant's primary contact's physical address. This is necessary to ensure the Exchange has correct contact information on file for its records and allow for Navigator Program correspondence to be mailed to the applicant's authorized primary contact representative.

Subdivision (b)(2)(C) requires documentation of the applicant's primary contact's phone number. This is necessary to ensure the Exchange has correct contact information on file for its records so that the Exchange can communicate with the applicant's authorized representative throughout the application process and if selected, communicate regarding participation in the Navigator Program.

Subdivision (b)(2)(D) requires the applicant's primary contact's fax number. This is necessary to ensure the Exchange has the best fax number on file for its records so that the Exchange can reach the applicant's authorized representative while the applicant participates in the selection process and the Navigator Program.

Subdivision (b)(2)(E) requires the applicant's primary contact's email address. This is necessary so that the Exchange can communicate and send correspondence via email to the applicant's primary contact. This form of communication will allow for efficiency and timeliness in conducting communication related to the Navigator Program.

Subdivision (b)(3) requires the applicant to identify and submit supporting

documentation of its status as an eligible Navigator/Certified Enrollment Entity as set forth in Section 6652. This is necessary to ensure applicants meet the eligibility requirements to be a Certified Enrollment Entity in a manner consistent with Section 6652 and 45 C.F.R. § 155.210(c)(2). Documentation of an applicant's status is necessary to ensure the applicant is properly licensed by the requisite issuing authority to meet the eligibility classifications as detailed in Section 6652 and 45 C.F.R. § 155.210(c)(2). This is necessary to ensure applicants have a specific relationship with the public that would facilitate the implementation of their duties and responsibilities of the Navigator Program.

Subdivision (b)(4) requires the applicant to specify any previous experience involving Navigator Program activities. This is necessary to advise the Exchange of an applicant's prior experience conducting outreach, education, and enrollment duties that may prove to be useful in participating in the Navigator Program. This information will assist the Exchange in determining whether the applicant meets the criteria set forth in subdivisions (a)(1)(B) and (a)(1)(C) in order to be selected as a grant recipient.

Subdivision (b)(5) requires that an applicant disclose any funding from other sources for similar outreach, education, or enrollment activities. This is necessary to advise the Exchange of all sources of compensation an applicant receives for duties similar to those specified in the Navigator Program in an effort to assess any conflicts of interest. Additionally, this will ensure that the Exchange does not compensate an applicant for services that the applicant is already being compensated for by another source of funding. This provision is consistent with the prohibition on Navigator conduct as set forth in Section 6666 and 45 C.F.R. § 155.210(d)(4) and (5).

Subdivision (b)(6) requires an applicant's requested funding amount. This is necessary to inform the Exchange of the amount of funding the applicant is requesting based on the applicant's predicted amount of outreach, education, and enrollment assistance. The requested funding amount is necessary so that the Exchange can evaluate an applicant's expected performance in determining if the applicant meets the recipient criteria as set forth in subdivision (a)(2) to be selected for a grant and if so, the amount of funding the Exchange should provide to the applicant.

Subdivision (b)(7) requires the applicant's subcontractor's information. This is necessary for the Exchange to maintain a record of representatives the applicant may employ to participate in the Navigator Program. The information in this subdivision is necessary to adequately identify the subcontractor and obtain their contact information and information for tax purposes.

Subdivision (b)(7)(A) requires the full and legal name of the applicant's subcontractor. This is necessary to identify the subcontractor. The Exchange must be advised of the applicant's subcontractor's legal name so that agreements and correspondence will legally bind and address the proper name of the subcontractor.

Subdivision (b)(7)(B) requires the subcontractor's federal employer identification number. This is necessary to identify the subcontractor for federal tax purposes.

Subdivision (b)(7)(C) requires the name of the individual authorized to enter into a contractual obligation for the subcontractor. This is necessary to inform the Exchange of who is charged with legally obligating the subcontractor so that legal documents and decisions can be executed with the appropriate representative.

Subdivision (b)(7)(D) requires the physical address of the subcontractor's primary office. This is necessary to provide a physical location where the Exchange can contact the subcontractor.

Subdivision (b)(7)(E) requires the subcontractor's mailing address. This is necessary because the Exchange must have the best mailing address on file for which to reach the subcontractor while the subcontractor participates in the Navigator Program.

Subdivision (b)(7)(F) requires submission of the subcontractor's office phone number. This is necessary because the Exchange must have the best telephone number on file for which to reach the subcontractor while the subcontractor participates in the Navigator Program.

Subdivision (b)(7)(G) requires the subcontractor's fax number. This is necessary because the Exchange must have the best fax number on file for which to reach the subcontractor while the subcontractor participates in the Navigator Program.

Subdivision (b)(7)(H) requires the subcontractor's email address. This is necessary because the Exchange must have contact information on file to be able to communicate with the subcontractor. Email communication is essential to be able to timely communicate and deliver documents between the subcontractor and the Exchange.

Subdivision (b)(7)(I) requires the subcontractor's website address. This is necessary for the Exchange to ensure the subcontractor is in compliance with the roles and responsibilities and conflict of interest standards of the Navigator Program as set forth in Sections 6664 and 6666. This information is also needed to provide the Exchange with background information on the contractor, including but not limited to, service areas the subcontractor can reach and language assistance availability.

Subdivision (b)(8) requires the subcontractor's primary contact information. This is necessary to provide the Exchange with more than one contact method of reaching the primary contact person for the subcontractor.

Subdivision (b)(8)(A) requires identification of the subcontractor's primary contact person. This is necessary to inform the Exchange who the best individual to contact is regarding the subcontractor's participation in the Navigator Program. This information helps to ensure clarity, efficiency, and consistency in communication between the Exchange and the subcontractor's authorized primary contact representative.

Subdivision (b)(8)(B) requires the subcontractor's primary contact's physical address. This is necessary to ensure the Exchange has correct contact information on file for its records and allow for Navigator Program correspondence to be mailed to the subcontractor's authorized primary contact representative

Subdivision (b)(8)(C) requires the subcontractor's primary contact's phone number. This is necessary to ensure the Exchange has correct contact information on file for its records so that the Exchange can communicate with the subcontractor's authorized representative throughout its participation in the Navigator Program.

Subdivision (b)(8)(D) requires the subcontractor's primary contact's fax number. This is necessary to ensure the Exchange has the best fax number on file for its records so that the Exchange can reach the subcontractor's authorized representative while it participates in the Navigator Program.

Subdivision (b)(8)(E) requires the subcontractor's primary contact's email address. This is necessary so that the Exchange can communicate and send correspondence via email to the subcontractor's primary contact. This form of communication will allow for efficiency and timeliness in conducting communication related to the Navigator Program.

Subdivision (b)(9) requires a subcontractor to submit a letter of intent to participate in the Navigator Program. This is necessary for the Exchange to have written confirmation of the subcontractor's desire to participate in the Navigator Program and engage in contracting with the Exchange. This provides the Exchange with a written record of the subcontractor's intent to carry out the required roles and responsibilities of the Navigator Program as set forth in Section 6664 and comply with the conflict of interest standards as set forth in Section 6666.

Subdivision (b)(10) requires the subcontractor to identify and submit supporting documentation of its status as an eligible Certified Enrollment Entity/Navigator as set forth in Section 6652. This is necessary to ensure subcontractors meet the eligibility requirements to be a Certified Enrollment Entity in a manner consistent with Section 6652 and 45 C.F.R. § 155.210(c)(2). Documentation of a subcontractor's status is necessary to authenticate the subcontractor is properly licensed by the requisite issuing authority to meet the eligibility classifications as detailed in Section 6652 and 45 C.F.R. § 155.210(c)(2). This is necessary to ensure subcontractors have a specified relationship with the public that would facilitate their ability to implement the roles and responsibilities of the Navigator Program.

Subdivision (b)(11) requires the applicant to provide an indication of the region or population the applicant proposes to reach and an estimated percentage by ethnicity, language, age group and federal poverty level. The expected geographic area to be served is necessary for the Exchange to evaluate the need for Navigators in particular areas and to keep a record of the number of applicants seeking to serve

a specific area. The estimated percentage of individuals to be assisted by ethnicity, language, age group, and federal poverty level is needed for the Exchange to evaluate the applicant's ability to assist target populations. This information will assist the Exchange with determining the amount of the grant money to be awarded depending on the extent of the reach of the applicant in the particular community it seeks to serve. This information will also be kept for the Exchange's records in evaluating whether recipients met their outreach, education and enrollment goals.

Subdivision (b)(12) requires an applicant to submit a cover letter with various elements as listed in (b)(12)(A) through (F). This is necessary to provide the Exchange with a concise statement describing the applicant's ability to implement the Navigator Program that will assist the Exchange in the selection process.

Subdivision (b)(12)(A) requires the cover letter to include the title of the grant application. This is necessary to provide the Exchange with information to identify the proper applicant with the grant it seeks.

Subdivision (b)(12)(B) requires the cover letter to include the submission date of the applicant's proposal. This is necessary for the Exchange to keep accurate records of when applications are submitted and to ensure that the Exchange evaluates timely applications for selection.

Subdivision (b)(12)(C) requires the cover letter to include the applicant's requested funding amount. This is necessary to inform the Exchange of the amount of funding the applicant is requesting based on the predicted amount of outreach, education, and enrollment functions the applicant expects to conduct. The requested funding amount is a necessary threshold to allow the Exchange to evaluate the applicant's expected performance in determining if the applicant meets the selection criteria as set forth in subdivision (a)(2) to be selected for a grant, and if selected, the requested funding amount will factor into the calculation of the actual grant amount to be awarded to the applicant.

Subdivision (b)(12)(D) requires the cover letter to include a summary of the applicant's proposed project, description of the populations and communities targeted, proposed approach, and likely impact. This is necessary because the Exchange must be advised of how the applicant expects to carry out the roles and responsibilities of the Navigator Program and the likely impact it expects to have on a given population. This information will help the Exchange to evaluate the reach of an applicant, determine if a grant should be awarded, and how much money should be given, depending on the expected goals and strategic implementation of outreach, education, and enrollment assistance is projected.

Subdivision (b)(12)(E) requires the cover letter to include the signature of the individual authorized to enter into contracts for the applicant. This signature is necessary to

formalize, authenticate, and legally bind the applicant by the information contained within the cover letter.

Subdivision (b)(13) requires the applicant to submit a narrative description of its qualifications. This is necessary to provide the Exchange with an applicant's background information and experience so that the Exchange can evaluate the extent to which the applicant could perform the roles and responsibilities of the Navigator Program, as set forth in Section 6664.

Subdivision (b)(14) requires the applicant to submit letter(s) of reference from organizations it has previously collaborated with. This is necessary to assess the qualities, characteristics, and capabilities of the applicant being recommended in terms of the applicant's ability to perform the tasks and functions of the Navigator Program. Without this outside input and insight, the Exchange will have only the applicant's representations to rely upon. This submission is necessary to provide the Exchange with a third party's opinion regarding the applicant's qualifications.

Subdivision (b)(15) requires the applicant to describe its staffing strategy and capacity for the lead organization and subcontractors. This is necessary to inform the Exchange of how the applicant plans to distribute staffing needs and duties amongst the entity and how subcontractors will be used, if at all. This information will help the Exchange assess budgetary needs and evaluate an entity's ability to carry out the functions of the Navigator Program. The entity's staffing strategy also provides insight into how the entity plans to distribute the grant funds while implementing the Navigator Program.

Subdivision (b)(16) requires the applicant to describe the strategy and approach it plans to implement to reach the target population. This is necessary to inform the Exchange of how the entity plans to perform the roles and responsibilities of the Navigator Program, as set forth in Section 6664. This information will assist the Exchange in evaluating whether the entity meets the criteria necessary to receive a grant, as described in subdivision (a)(2) of this section.

Subdivision (b)(17) requires the applicant to describe the geographic area and setting where the applicant will conduct Navigator activities. This is necessary to determine the applicant's reach of areas covered to allow the Exchange to identify under-resourced locations and populations. Information as to the setting of the activities will provide insight as to how the applicant plans to conduct activities and will assist the Exchange by evaluating whether the applicant meets the criteria to receive a grant, as specified in subdivision (a)(2).

Subdivision (b)(18) requires the applicant to describe its own project management and monitoring activities. This is necessary for the Exchange to evaluate the capacity of the organization to meet program goals and objectives. This is needed to ensure applicants have specific safeguards and organizational structures in place to provide high quality and efficient assistance to consumers.

Subdivision (b)(19) requires the applicant to describe its project costs. This is necessary to clarify how the applicant plans to distribute funds to implement the Navigator Program, which will help the Exchange determine if the applicant has a cost-effective strategy that meets the goals of the Navigator Program. This is also necessary as it will factor in to calculating the amount of grant funds an applicant would expect to receive in order to meet the amount of its expected project costs.

Subdivision (c) provides the requirement that a Navigator grant must be awarded to at least one non-profit community organization and to any other category listed in Section 6652. This subdivision allows for at least two entities that have established relationships within their communities, and therefore access to target populations, to be awarded a grant. This subdivision is required pursuant to 45 C.F.R. § 155.210(c)(2).

Section 6657: Subdivision (a) specifies and clarifies the requirements for an individual to become a Certified Enrollment Counselor. This is necessary to provide interested individuals and entities needed information and minimum requirements, and to guide them through the Exchange's Certified Enrollment Counselor Application process.

Subdivision (a)(1) requires the Certified Enrollment Entity (Navigator) to notify the Exchange of every individual to be affiliated with that Certified Enrollment Entity. This is necessary to ensure that an individual seeking to become a Certified Enrollment Entity is affiliated with an entity that has been certified by the Exchange and to allow the Exchange to maintain a record of such affiliation. This information is also needed for the Exchange's data collection and internal statistics that will allow the Exchange to monitor Certified Enrollment Counselor's compliance with Section 6658 and overall performance.

Subdivision (a)(2)(A)1. requires that when an individual submits an application to become a Certified Enrollment Counselor, it contains all the information, documentation and declarations as required in subdivision (b) of this Section. This is necessary to provide the individual with clear guidance on what information the Exchange must collect in order to properly determine the individual's eligibility to become a Certified Enrollment Counselor.

Subdivision (a)(2)(A)2. requires an individual to sign and date an agreement with the Exchange which complies with the Roles and Responsibilities of the Navigator Program as defined in Section 6664. This is necessary to ensure that individuals are knowledgeable and prepared to carry out the functions of a Certified Enrollment Counselor. This agreement is also necessary to ensure that individuals are on notice of their required functions and are legally bound to perform those functions in conformance with these regulations.

Subdivision (a)(2)(B) specifies and clarifies each requirement an individual must complete within 30 days of completing the written requirements of subdivision

(a)(2)(A)1.-2. This is necessary to provide the applicant with clear guidance on what time-sensitive information and documentation the Exchange must collect within 30 days of the written requirements of subdivision (a)(2)(A)1.-2. in order to properly determine the applicant's eligibility to become a Certified Enrollment Counselor. The Exchange must collect this information within 30 days to ensure that the information is current and the individual's application is not delayed unnecessarily.

Subdivision (a)(2)(B)1. requires an applicant to submit fingerprint images as outlined in Section 6658. This is necessary to provide the Exchange with information regarding the individual's criminal history so that the Exchange can make an individualized assessment of the individual's fitness eligibility to become a Certified Enrollment Counselor, as required by Government Code Section 1043 and in accordance with Section 6456 of Article 4 and Section 6658 of this Article.

Subdivision (a)(2)(B)2. requires an individual to disclose to the Exchange any and all criminal convictions and administrative actions taken against the individual under subdivision (b)(10) of this Section. This is necessary to provide the Exchange with information regarding the individual's criminal and administrative history, so that the Exchange can make an individualized assessment of the individual's fitness eligibility to become a Certified Enrollment Counselor, as required by Government Code Section 1043. Any fitness determinations will be conducted in conformity with Section 6456 of Article 4 and Section 6658 of this Article.

Subdivision (a)(2)(B)3. requires applicants to complete the required training as detailed in section 6660. This is necessary to comply with 45 C.F.R. § 155.210(b)(2), and to ensure that individuals are knowledgeable and prepared to carry out the duties and functions of a Certified Enrollment Counselor.

Subdivision (a)(2)(B)4. requires applicants to pass a certification examination as set forth in section 6660. This is necessary to comply with the regulations set forth at 45 C.F.R. § 155.215(b)(iv) that apply to Exchanges operated by HHS and will allow the Exchange to follow federal best practices as set forth therein. This also ensures that Certified Enrollment Counselors have been trained appropriately with current information and are prepared to carry out their duties and functions in the Navigator Program.

Subdivision (a)(3) requires that individuals who submit the requisite information and documentation required in subdivision (a)(2)(A), complete the required tasks of subdivision (a)(2)(B) within the appropriate timeline and have no administrative actions taken against them which are substantially related to the qualifications, functions or duties of the position sought, will be certified by the Exchange as Certified Enrollment Counselors. This is necessary to provide the applicant with clear guidance on what information, documentation, and actions the Exchange requires in order to properly determine an applicant's eligibility to become a Certified Enrollment Counselor.

Subdivision (a)(4) cross references Section 6662 as the method by which an applicant may appeal his or her denial. This is necessary to describe which applicants are eligible to appeal their initial disqualification and to allow applicants who have been initially disqualified to understand the process whereby they may appeal.

Subdivision (b) clarifies and makes specific the required information and declarations that an applicant must provide in the application to become a Certified Enrollment Counselor with the Exchange. This is necessary to provide the public with clear standards and guidelines on how to complete an application in order to be considered eligible for participation in the Navigator Program.

Subdivision (b)(1) requires the applicant's name, e-mail address, primary and secondary phone numbers and preferred method of communication. This information is necessary to identify the applicant, to provide the Exchange with more than one contact method of reaching an applicant in the case the applicant cannot be reached through the primary phone number and to inform the Exchange how best to contact the applicant on any issues surrounding the application or Navigator Program.

Subdivision (b)(2) requires an applicant's Driver's License Number or Identification Number issued by the California Department of Motor Vehicles. This is necessary to provide information to the Exchange whether the applicant is able to operate a motor vehicle in order to conduct outreach, education and enrollment responsibilities as required by the Navigator Program.

Subdivision (b)(3) requires identification of with which Certified Enrollment Entity an applicant is to be affiliated. This is necessary to ensure the applicant is affiliated with a verified Certified Enrollment Entity in the Navigator Program. This information will also assist the Exchange in collecting data and providing analytics as necessary to monitor the performance of the counselor and entity.

Subdivision (b)(4) requires the applicant to identify the primary site location address of the Certified Enrollment Entity. This is necessary to provide the Exchange with information narrowed by geographic location and Certified Enrollment Entity identity that will assist the Exchange with data analysis and record retention to monitor the implementation and effectiveness of the Navigator Program.

Subdivision (b)(5) requires the applicant to list any site(s) that he or she serves. This is necessary for the Exchange to maintain accurate records and perform data analysis of the geographic and service populations that its Navigator Program serves. This is also necessary to generate information that will provide the Exchange with insight into which geographic areas require additional Certified Enrollment Counselor assistance.

Subdivision (b)(6) requires the applicant to provide the mailing address of the primary site for the Certified Enrollment Entity. This is necessary because the Exchange must

have the best mailing address on file for which to reach the Certified Enrollment Entity directly while the individual serves as a Certified Enrollment Counselor.

Subdivision (b)(7) requires the applicant to list any languages that he or she can speak. This is necessary to ensure the applicants are able to serve target population in their preferred language. This also allows the Exchange to monitor its compliance with 45 C.F.R. § 155.205(c). This will also help the Exchange to keep records of which languages specific Certified Enrollment Entities speak and write.

Subdivision (b)(8) requires the applicant to list any languages that he or she can write. This is necessary to ensure the applicants are able to serve target population in their preferred language. This also allows the Exchange to monitor its compliance with 45 C.F.R. § 155.205(c). This will also help the Exchange to keep records of which languages specific Certified Enrollment Entities can assist consumers in.

Subdivision (b)(9) requires an applicant to disclose all criminal convictions and administrative actions taken against the applicant in the application submitted to the Exchange. This is necessary to facilitate the requirements of Section 6658. This information is needed to provide the Exchange with any potentially disqualifying information so that the Exchange can make an interim fitness eligibility determination of whether the applicant is qualified to perform the duties and responsibilities of the Navigator Program. This is also necessary to comply with Government Code Section 1043 and Article 4 section 6456.

Subdivision (b)(10)(A) requires the applicant to provide a certification that he or she has complied with the Conflict of Interest provisions as detailed in Section 6666. This is necessary to comply with federal regulations 45 C.F.R. § 155.210(b)(1), 45 C.F.R. § 155.210(c)(iv), and 45 C.F.R. § 155.215(a)(1). This is also necessary to ensure applicants understand that they must remain free of any conflicts of interest that might compromise consumers or the Exchange.

Subdivision (b)(10)(B) requires an applicant to certify that he or she is not less than 18 years of age. This is necessary to ensure the applicant is of legal age for employment and to enter into employment contracts.

Subdivision (b)(10)(C) requires the applicant to certify that the statements made on the application are true and correct to the best of his or her knowledge. This is necessary to ensure the applicant has submitted a truthful application that serves as the basis for the Exchange to evaluate an applicant's fitness eligibility to be employed as a Certified Enrollment Counselor.

Subdivision (b)(11) requires the applicant to sign and date the Certified Enrollment Counselor application. This is necessary to track the date the application as submitted to the Exchange and to also ensure that the applicant has read the application, filled it out truthfully to the best of his or her ability, and is knowingly submitting it to the

Exchange for employment as a Certified Enrollment Counselor. An applicant's signature is required in order to legally bind the applicant.

Subdivision (b)(12) requires the Authorized Contact of the Certified Enrollment Entity that the individual will be affiliated with to provide his or her name, signature, and date on the applicant's application. This is necessary to authenticate the individual's relationship with the Certified Enrollment Entity and to provide the Exchange with a contact person at the Certified Enrollment Entity that the individual will be affiliated with.

Subdivision (c) requires a Certified Enrollment Entity to notify the Exchange of every affiliated Certified Enrollment Counselor to be added or removed from the Navigator Program. This notice is necessary to inform the Exchange of which individuals are affiliated with the Certified Enrollment Entity and thereby authorized to perform their duties as a Certified Enrollment Counselor. Notice that a Certified Enrollment Counselor is no longer affiliated with a Certified Enrollment Entity is needed so that the Exchange can ensure this individual shall not provide consumer assistance unless and until he or she finds a Certified Enrollment Entity to be affiliated with. This data will also assist the Exchange with maintaining accurate records and statistics of Certified Enrollment Counselors affiliated with Certified Enrollment Entities.

Subdivision (c)(1) requires the Certified Enrollment Entity to provide its name and Certified Enrollment Entity Number when it notifies the Exchange of every individual to be removed or added as an affiliated Certified Enrollment Counselor. This is necessary to provide the Exchange with identifying information as to which Certified Enrollment Entity is either adding or removing which Certified Enrollment Counselor so that the Exchange's records can be properly updated and any action that may be needed to ensure the Certified Enrollment Counselor is acting properly is taken accordingly. Additionally, this number will allow the Exchange to link a particular entity to its enrollment numbers. It will also ensure that duplicate entities are identified and removed, so that no one entity is paid more than once for the same work.

Subdivision (c)(2) requires the Certified Enrollment Entity to provide the name and signature of its Authorized Contact when it notifies the Exchange of every individual to be added or removed as an affiliated Certified Enrollment Counselor. This is necessary to provide the Exchange with a contact individual to be able to verify the decision to add or remove a Certified Enrollment Counselor.

Subdivision (c)(3) requires the Certified Enrollment Entity to provide the name, e-mail, and primary telephone number of the individual to be removed or added as an affiliated Certified Enrollment Counselor. This is necessary to inform the Exchange of the specific individual that will be added or removed as an affiliated Certified Enrollment Counselor so that the Exchange can update its records accordingly and take any action that may be necessary to ensure that Certified Enrollment Counselors are affiliated with a Certified Enrollment Entity.

Subdivision (c)(4) requires the Certified Enrollment Entity to provide the Exchange with the effective date for the addition or removal of the Certified Enrollment Counselor. This is necessary to inform the Exchange of the timeframe of when a specific individual will be added or removed as an affiliated Certified Enrollment Counselor so that the Exchange can update its records accordingly and take any action that may be necessary to ensure that Certified Enrollment Counselors are only participating in the Navigator Program when they are affiliated with a Certified Enrollment Entity.

Subdivision (c)(5) requires a Certified Enrollment Entity to notify the Exchange whether the individual to be removed or added as an affiliated Certified Enrollment Counselor is actually certified as a Certified Enrollment Counselor. This information concerning the certification status is needed so that the Exchange can update its records and monitor that only Certified Enrollment Counselors are providing assistance to consumers and are affiliated with Certified Enrollment Entities.

Subdivision (c)(5)(A) requires a Certified Enrollment Entity to provide the Exchange with the certification number of the individual that will be added or removed as an affiliated Certified Enrollment Counselor. This is necessary so the Exchange can accurately identify the individual to be added or removed as an affiliated Certified Enrollment Counselor and to provide the Exchange with necessary information so that it can maintain accurate records of Certified Enrollment Counselors participating in the Navigator Program. This will allow the Exchange to track the Entity-Counselor relationship and the affiliated enrollment numbers and data.

Subdivision (c)(5)(B) requires a Certified Enrollment Entity to provide the Exchange with the site served by the individual that will be added or removed as an affiliated Certified Enrollment Counselor. This is necessary so the Exchange can accurately identify the geographic region and population that will be gaining or losing a Certified Enrollment Counselor and to provide the Exchange with necessary information so that it can maintain accurate records of Certified Enrollment Counselors participating in the Navigator Program.

Section 6658: This section requires the submission of fingerprinting and criminal history information from those seeking certification and participation in the Navigator program.

Subdivision (a)(1) Government Code Section 1043 requires the Exchange to implement a fingerprinting and background check process consistent with applicable federal laws and guidance. This subdivision is needed to ensure compliance with Section 6456 of Article 4 of this Chapter and Government Code Section 1043.

Subdivision (b)(1) specifies that an initial background check determination by the Exchange is an Interim Fitness Determination. This subdivision cross references Section 6456 of Article 4 of this Chapter and places individuals on notice that the Exchange will utilize the process outlined therein when reviewing an applicant's background check information. This subdivision is necessary in order to comply with the

requirements of Section 6456 of Article 4. An interim determination allows the applicant to provide additional rehabilitation information to the Exchange in order for the Exchange to conduct an individual assessment of the applicant's fitness for the position. This practice is necessary to comply with guidance issued by the federal Equal Employment Opportunity Commission (EEOC), which recommends an individualized assessment process.

Subdivision (b)(2) sets forth the process by which the Exchange will notify applicants if they have a criminal record that may lead to disqualification pursuant to Section 6456(d)-(e) of Article 4. This subdivision is necessary to inform applicants of the process to which they will be subject if their criminal record reflects a potentially disqualifying offense and provide them with a uniform method by which they may request an appeal of the determination made by the Exchange. Additionally, this subdivision is necessary in order to comply with Penal Code Section 11105(t) which requires the Exchange to provide a copy of a criminal history record to a potentially disqualified applicant. For additional clarity, this subdivision provides additional details of the appeal process. These additional details are necessary to provide applicants and those with potentially disqualifying criminal records a uniform process by which they can appeal or dispute their individual assessment.

Subdivision (c) This subdivision in its entirety specifies and clarifies the Appeal and Final Determination Process of the Exchange's criminal background check process for an applicant to become a Certified Enrollment Counselor.

Subdivision (c)(1)(A) sets forth the final determination and appeal process that the Exchange will utilize when evaluating disqualified individuals based on the results of the fingerprinting or criminal background check. This is necessary to allow applicants who have been initially disqualified to understand the process applicable to their circumstances in order to appeal. This subdivision serves to inform applicants that they may correct inaccurate or incomplete Federal and out of state disqualifying offenses. This subdivision specifies that for any appeal process under this subdivision an applicant has 60 days from the date of the notice to appeal the initial determination and the Exchange has 60 additional days from receipt of the applicant's new information to review and make a final determination. This timeline was selected to provide the applicant with sufficient time to gather necessary information for appeal, and to provide the Exchange with adequate time to review the record and consider all additional information without undue delay to the applicant.

Subdivision (c)(2)(A) details the process for those challenging the initial determination based on an inaccurate or incomplete federal or out of state disqualifying offense(s). This is necessary to provide a clear process for a potentially disqualified applicant challenging the determination on these grounds. The Exchange will allow the applicant 60 calendar days to provide the Exchange with additional information to correct or complete the criminal record. The Exchange selected 60 days as it is aligned with other state agency criminal background check appeals processes as well as the Exchange's internal processes for its other programs requiring background checks under

Government Code Section 1043, the timeline received the accord of stakeholder groups, and it allows the applicant sufficient time to gather supporting materials while not unduly delaying the business processes of the Exchange.

Subdivision (c)(3) defines the process that an applicant must follow to contest an interim determination of disqualification by the Exchange when his or her criminal record is accurate. This subdivision is needed to inform applicants that they have an opportunity to provide to the Exchange additional information or contest existing information that may influence the final determination of eligibility by the Exchange. This subdivision specifies that a potentially disqualified applicant may appeal an accurate criminal record with evidence of rehabilitation. This subdivision provides additional clarity as to the types of evidence that will be accepted, including an individual's employment history or qualifications. This subdivision also explains to the applicant that any evidence submitted must be in writing. Additionally, it includes a list of acceptable written information that provides examples of the types of written information that may show rehabilitation.

Subdivision (c)(4) notifies individuals that an interim determination may become final absent good cause, which will be determined on a case by case basis. This subdivision is needed to provide closure of the interim determination process and fairness to all applicants.

Subdivision (c)(5) specifies that an individual is disqualified upon receipt of a final determination from the Exchange and is ineligible to reapply for certification for two years. This allows an applicant sufficient time in order to develop evidence that would support a finding of rehabilitation, for example if an individual has had his or her record expunged. This subdivision also is necessary to reduce the workload on the Exchange of having to review multiple applications from the same individual after that individual receives a letter of rejection, while allowing the individual the opportunity to apply again in the future.

Subdivision (d) provides that the Exchange will pay the background check costs incurred by individuals whose duties require fingerprinting through December 31, 2015. This subdivision is necessary to inform individuals that after December 31, 2015, the Exchange will no longer finance these required background checks. The Exchange determined that it had sufficient financial resources to support the funding of these background checks through December 31, 2015, but would not beyond that date.

Section 6660: (a) This section requires that Certified Enrollment Entities complete training prior to carrying out consumer assistance functions. This section sets forth the subjects about which Certified Enrollment Entities and Certified Enrollment Counselors must be knowledgeable in order to carry out the duties required of them when performing enrollment assistance activities on behalf of the Exchange. This subdivision is necessary to ensure that Certified Enrollment Counselors have the proper training before performing any of their required duties.

Subdivision (b) specifies the elements of the training curriculum for Certified Enrollment Counselors. This subdivision is needed to ensure Certified Enrollment Counselors and Certified Enrollment Entities are prepared to assist individuals with applying for health insurance coverage through the Exchange.

Subdivision (b)(1) requires Certified Enrollment Counselors and Certified Enrollment Entities performing consumer assistance functions to complete training in QHPs and the metal levels described at 45 C.F.R. § 156.140(b). This is necessary to comply with federal regulations set forth at 45 C.F.R. § 155.205(d) and 45 C.F.R. § 155.215(b)(2)(i) and the Exchange does not have the discretion to require otherwise.

Subdivision (b)(2) requires Certified Enrollment Counselors and Certified Enrollment Entities to complete training in insurance affordability programs, including Medicaid, the Children's Health Insurance Program (CHIP), and other public programs. This subdivision is necessary to comply with federal regulations set forth at 45 C.F.R. § 155.205(d)(1), 45 C.F.R. § 155.210(b)(2)(iii) and 45 C.F.R. § 155.215(b)(2)(ii).

Subdivision (b)(3) requires Certified Enrollment Counselors and Certified Enrollment Entities to complete training in tax implications of health care enrollment decisions. This subdivision is necessary to ensure that consumers receive accurate information from assistance personnel with which to make informed health care decisions. This subdivision is necessary in order to comply with federal regulations set forth at 45 C.F.R. § 155.215(b)(2)(iii).

Subdivision (b)(4) requires Counselors and Entities performing consumer assistance functions to complete training in eligibility requirements for premium tax credits and cost-sharing reductions. This subdivision is necessary to comply with federal regulations set forth at 45 C.F.R. § 155.215(b)(2)(iv).

Subdivision (b)(5) requires Counselors and Entities performing consumer assistance functions to complete training in how to help consumers seeking additional information about specific coverage options not offered through the Exchange. This subdivision is required to conform to best practices as set forth in 45 C.F.R. § 155.215(b)(2)(v).

Subdivision (b)(6) requires Counselors and Entities performing consumer assistance functions to complete training in basic concepts about the Exchange and health insurance. This subdivision is necessary to ensure that consumers have accurate information upon which to make informed health care decisions in compliance with best practices set forth at 45 C.F.R. § 155.215(b)(2)(vi).

Subdivision (b)(7) requires Counselors and Entities performing consumer assistance functions to complete training in eligibility and enrollment rules and the appeal process. This subdivision is necessary to ensure that consumers have accurate information upon

which to make informed health care decisions and appeal determination decisions in compliance with best practices set forth at 45 C.F.R. § 155.215(b)(2)(vii).

Subdivision (b)(8) requires Counselors and Entities performing consumer assistance functions to complete training in how to provide consumers with culturally and linguistically appropriate services. This subdivision is necessary to comply with best practices set forth at 45 C.F.R. § 155.215(b)(2)(viii).

Subdivision (b)(9) requires Counselors and Entities performing consumer assistance functions to complete training in how to effectively present information to consumers with disabilities. This subdivision is necessary to ensure that all consumers have equal access to Counselors and Entities, and to comply with 45 C.F.R. § 155.215(b)(2)(ix).

Subdivision (b)(10) requires Counselors and Entities performing consumer assistance functions to complete training in the differences among health plans. This subdivision is necessary to comply with federal regulations set forth at 45 C.F.R. § 155.205(d)(1), 45 C.F.R. § 155.210(b)(2)(iii), and 45 C.F.R. § 155.215 (b)(2)(x).

Subdivision (b)(11) requires Counselors and Entities to complete training in privacy and security standards applicable under 45 C.F.R. § 155.260. This subdivision is necessary to ensure that Counselors and Entities handle consumers' personally identifiable information appropriately, and is required by 45 C.F.R. § 155.260(b).

Subdivision (b)(12) requires Counselors and Entities to complete training in how to effectively communicate with individuals with limited English proficiency, people with disabilities, people of any gender identity, people of any sexual orientation, and vulnerable, rural, and underserved populations. This subdivision is necessary to ensure that consumers have access to information so they can make informed health care decisions regardless of whether they have limited English proficiency or have disabilities, whether they are members of vulnerable, rural, or underserved populations, and regardless of gender identity or sexual orientation in compliance with federal regulations set forth at 45 C.F.R. § 155.215(b)(2)(xii).

Subdivision (b)(13) requires Counselors and Entities performing consumer assistance functions to complete training in customer service standards. This subdivision is necessary to comply with federal regulations set forth at 45 C.F.R. § 155.215(b)(2)(xiii).

Subdivision (b)(14) requires Counselors and Entities performing consumer assistance functions to complete training in outreach and education methods and strategies. This subdivision is necessary to ensure that Counselors and Entities can effectively communicate with the community so that consumers receive information about the Exchange. This subdivision is also set forth in federal regulations set forth at 45 C.F.R. § 155.215(b)(2)(xiv).

Subdivision (b)(15) requires Counselors and Entities performing consumer assistance functions to complete training in applicable administrative rules, processes and systems as they relate to Exchanges and QHPs. This subdivision is necessary to ensure that consumers have accurate information and knowledge of the Exchange upon which to make informed health care decisions in alignment with federal regulations set forth at 45 C.F.R. § 155.215(b)(2)(xv).

Subdivision (b)(16) requires Counselors and Entities performing consumer assistance functions to complete training in assisting consumers with voter registration. This subdivision is necessary to comply with the Section 6462 of Article 4 and the National Voter Registration Act of 1993 (42 U.S.C. § 1973gg).

Subdivision (c) informs individuals that computer-based or instructor-led training is provided by the Exchange. This subdivision is necessary to clarify the method by which training will be provided to Counselors and Entities.

Subdivision (d) provides that Certified Enrollment Counselors are required to pass an annual examination to maintain certification with the Exchange. This subdivision is necessary to ensure those providing consumer assistance functions remain knowledgeable of products and services offered by the Exchange. Additionally, the annual exam requirement is set forth at 45 C.F.R. § 155.215(b)(1)(iv) and this requirement will serve to align with that regulation.

Section 6662: (a) This section provides for an appeal process for an entity or individual deemed ineligible to participate in the Navigator Program by the Exchange for reasons other than a determination made as a result to fingerprinting or a background check. This subdivision is necessary to inform applicants of the process to which they will be subject when appealing any rejections that were the result of a determination other than those outlined in Section 6658.

Subdivision (b) permits an applicant 60 calendar days from the date of the notice of eligibility determination to file an appeal. This subdivision is needed to inform rejected applicants of the process available to them to appeal a decision of eligibility by the Exchange. It also provides applicants an opportunity to correct or refute any information upon which the Exchange may have based its decision to reject the applicant. This also provides an opportunity for applicants to voice their concerns regarding the eligibility process as a whole. The Exchange selected 60 days as it is aligned with the Exchange's internal processes for its other programs requiring applications, and it allows the applicant sufficient time to gather supporting materials while not unduly delaying the business processes of the Exchange and the Navigator Program.

Subdivision (c) This subdivision defines the initial phases of the appeals process used by the Exchange to determine the appellant's eligibility. This subdivision is necessary to inform the appellant of the process to which they will be subject to correct or refute any information on which the Exchange may have based their decision to reject the

applicant. This subdivision provides that an informal review by the Exchange and an informal resolution decision must be provided within 45 calendar days from the receipt of the appeal. It further specifies that the decision must be given to the appellant in writing. The Exchange selected 45 days as it allows the applicant sufficient time to gather supporting materials while not unduly delaying the business processes of the Exchange and the Navigator Program. The decision must be in writing in order to establish a record of the decision and, if proof is needed, that the decision was provided within the time frame required.

Subdivision (d) defines the second phase of the appeals process and disposition of the appeal. This subdivision is necessary to give appellants an opportunity to correct or refute any information upon which the Exchange may have based its decision to reject the applicant. This subdivision clarifies the steps to be taken after the phase one appeals process has been exhausted. If the appellant is satisfied with the outcome of the informal resolution decision, the appeal may be withdrawn. If the appellant is dissatisfied, they may escalate the appeal to phase two by notifying the Exchange in writing within 45 calendar days of the date of the decision from phase one. In the second phase, an independent unit within the Exchange that had no involvement in the original determination shall review the eligibility or qualification of the appellant de novo. The Exchange must notify the appellant in writing within 60 calendar days from the receipt of the initial appeal of its final decision. The Exchange selected 45 days to provide the applicant with sufficient time to gather necessary information for the appeal process, and 60 days as it is aligned with the Exchange's internal processes for its other programs requiring applications, the timeline received the accord of stakeholder groups, and it allows the applicant sufficient time to gather supporting materials while not unduly delaying the business processes of the Exchange and the Navigator Program. This subdivision, as a whole, allows for a fair and impartial process to review appeals submitted by applicants for or members of the Navigator program.

Section 6664: This section defines the function, roles, and responsibilities of Certified Enrollment Entities and Certified Enrollment Counselors. This section will ensure that Navigator Entities and Counselors have the requisite knowledge to carry out the functions required of them. Additionally, this section complies with and mirrors federal regulations set forth at 45 C.F.R. § 155.210.

Subdivision (a)(1) requires Certified Enrollment Entities and Certified Enrollment Counselors maintain expertise, eligibility, enrollment and program specifications and conduct public education activities to raise awareness about the Exchange. This subdivision is necessary to reflect the requirements set forth at 45 C.F.R. § 155.210(e)(1) and the Exchange does not have the discretion to require otherwise.

Subdivision (a)(2) requires Certified Enrollment Entities and Certified Enrollment Counselors provide consumer assistance in a fair and impartial manner. This subdivision is necessary to comply with 45 C.F.R. § 155.210(e)(2) and the Exchange does not have the discretion to require otherwise.

Subdivision (a)(3) requires Certified Enrollment Entities and Certified Enrollment Counselors to facilitate selection of a QHP. This subdivision is necessary to mirror 45 C.F.R. § 155.210(e)(3) and the Exchange does not have the discretion to require otherwise.

Subdivision (a)(4) is required pursuant to 45 C.F.R. § 155.210(e)(4) and the Exchange does not have the discretion to require otherwise.

Subdivision (a)(5) establishes that Certified Enrollment Entities and Certified Enrollment Counselors will comply with privacy and security standards set forth at 45 C.F.R. § 155.260. This subdivision is required pursuant to 45 C.F.R. § 155.260(b)(2) and 45 C.F.R. § 210(c)(1)(v) and the Exchange does not have the discretion to require otherwise.

Subdivision (a)(6) The purpose of this subdivision is to establish the required elements of the authorization that must be collected by each Certified Enrollment Counselor prior to assisting a consumer in accordance with federal regulations set forth at 45 C.F.R. § 155.210(e)(6). These regulations require the Exchange to develop a form and manner to which a Navigator must adhere when obtaining authorization to access a consumer's personally identifiable information. The federal regulations set forth the minimum criteria that must be included in this authorization; the Exchange has included these criteria and developed additional requirements to ensure that the consumer receives the most accurate, clear, and informative message possible. In this way, the Exchange can ensure that each consumer receives the same set of disclosures before being assisted by a Navigator. The Exchange has developed a form in which all the elements herein described have been incorporated. However, use of the form is not required. Entities and Counselors are free to develop their own forms, as long as they include the elements of subdivision (a)(6).

Subdivision (a)(6)(A) specifies that Certified Enrollment Counselors must inform each consumer that he or she is required to obtain consumer authorization prior to accessing personal and confidential information. The purpose of this subdivision is to outline what must be communicated to each consumer prior to providing assistance. This subdivision will explain to the consumer why the Counselor must outline the contents of (6)(B)-(J). This subdivision is necessary to ensure that the consumer is informed of the need for their authorization before personally identifiable information can be accessed by the Certified Enrollment Counselor.

Subdivision (a)(6)(B) requires Certified Enrollment Counselors to review with consumers the role, responsibilities and function of Certified Enrollment Counselors prior to assisting them or obtaining access to their personally identifiable information. This subdivision is required pursuant to 45 C.F.R. § 155.210(e)(6)(i) and the Exchange does not have the discretion to require otherwise.

Subdivision (a)(6)(C) establishes that Certified Enrollment Counselors must obtain oral or written authorization from each consumer to access personal and confidential information. This is necessary to document the receipt of this authorization. Some Counselors will be providing assistance with enrollment over the phone; this subdivision allows for that possibility by allowing the Counselor to obtain oral authorization accompanied by an attestation.

Subdivision (a)(6)(C)1. This subdivision addresses what must be contained in a consumer's written authorization. A Counselor must provide a written attestation signed under penalty of perjury that the following are true:

- i. The Counselor is a Certified Enrollment Counselor affiliated with a Certified Enrollment Entity;
- ii. The Counselor conveyed the information required as part of the authorization to the consumer is in a language and in a manner understood by the consumer;
- iii. The Counselor obtained written authorization from the consumer consenting to the release of his or her personally identifiable information.

This subdivision is necessary to ensure that Counselors are ascertaining that each consumer understands and agrees to the contents of the written authorization. This subdivision will ensure that the requirements of subdivision (a)(6) of this Section are meaningful and informative. Additionally, this will allow the Exchange to have a record of the Counselor's attestation, which the Exchange can use to verify that this practice is taking place in accordance with regulations. The signature of penalty of perjury is necessary to prevent fraud and ensure that the Exchange is protected from liability stemming from any attempts to falsify the information contained in the authorization.

Subdivision (a)(6)(C)2. This subdivision outlines what must accompany a consumer's oral authorization. Some Counselors will be providing assistance with enrollment over the phone, therefore obtaining a written authorization will not be feasible. This subdivision allows a Counselor to obtain oral authorization in place of written authorization as long as he or she completes a written attestation. A Counselor must provide this attestation signed under penalty of perjury that attests to the fact that:

- i. The Counselor is a Certified Enrollment Counselor affiliated with a Certified Enrollment Entity;
- ii. Information conveyed to the consumer is in a language and in a manner understood by the consumer;
- iii. The Counselor obtained oral authorization from the consumer consenting to the release of his or her personally identifiable information.

This subdivision is necessary to ensure that counselors are ascertaining that each consumer understands and agrees to the contents of the oral authorization. This subdivision will ensure that the requirements of subdivision (a)(6) of this Section are meaningful and informative. Additionally, this will allow the Exchange to have a record of the counselor's attestation, which the Exchange can use to verify that this practice is taking place in accordance with regulations. The signature of penalty of perjury is necessary to prevent fraud and ensure that the Exchange is protected from liability stemming from any attempts to falsify the information contained in the authorization.

Subdivision (a)(6)(D) requires Certified Enrollment Counselors to inform individuals that they are not permitted to choose a health care plan on behalf of the consumer. This subdivision is necessary to ensure that the consumer knows that the Certified Enrollment Counselor cannot choose a plan for them.

Subdivision (a)(6)(E) this subdivision requires Counselors to inform each consumer that he or she will provide the consumer with information regarding the health insurance options and insurance affordability programs for which he or she may be eligible. This subdivision requires each Counselor to communicate his or her role and function to each consumer. This subdivision is necessary to ensure that the consumer knows what type of information the Certified Enrollment Counselor will provide.

Subdivision (a)(6)(F) requires Certified Enrollment Counselors to advise consumers that personally identifiable information will be maintained in a private and secure manner by the Counselor and Entity in accordance with 45 C.F.R. § 155.260. This subdivision is necessary to ensure that consumers are aware of the strict privacy requirements set forth in federal regulations and the Counselor and Entity's adherence to such requirements.

Subdivision (a)(6)(G) the Counselor must inform the consumer that if the Certified Enrollment Counselor cannot assist the consumer, he or she will refer the consumer to another Certified Enrollment Counselor or the Covered California Service Center. This is necessary to ensure that the consumer understands that he or she will receive assistance in enrolling in a health plan through the Exchange.

Subdivision (a)(6)(H) requires each Counselor to inform the consumer that they will provide services at no cost. This is necessary to ensure that consumers are aware of the prohibition on charging for enrollment assistance and will not pay or offer to pay for these services.

Subdivision (a)(6)(I) requires the Counselor to inform the consumer of the need to provide accurate information in order for the Counselor to provide effective assistance. This subdivision is necessary to inform consumers of the need to provide truthful information when meeting with a Counselor. Informing the consumer of this requirement will serve to ensure that information the Exchange receives is accurate and the consumer understands the gravity of providing false information.

Subdivision (a)(6)(J) requires the Counselor to inform the consumer that he or she has the right to revoke his or her authorization at any time. This subdivision is required pursuant to federal regulations set forth at 45 C.F.R. § 155.210(e)(6)(i) and the Exchange does not have the discretion to require otherwise.

Subdivision (a)(6)(K) requires that the record of the authorization provided by the consumer be maintained by the Certified Enrollment Counselor and/or Certified Enrollment Entity for at least six years. This record retention is required pursuant to 45 C.F.R. § 155.210(g)(2), and the Exchange does not have the authority to require the record to be kept for a shorter period of time. The Exchange does not feel that requiring a longer period of time would be beneficial or necessary.

Subdivision (a)(7) requires Certified Enrollment Counselors and Certified Enrollment Entities to ensure that voter registration assistance is available to each consumer. This subdivision is required in order to comply with National Voter Registration Act (42 U.S.C. § 1973gg-5), Elections Code Sections 2400 et seq., and Section 6462 of Article 4.

Subdivision (a)(8) requires Certified Enrollment Entities to maintain a physical presence in the Exchange service area, which is defined in Article 4 as the State of California. This subdivision is required pursuant to 45 C.F.R. § 155.210(e)(7) and the Exchange does not have the discretion to require otherwise.

Subdivision (a)(9) requires Certified Enrollment Counselors and Certified Enrollment Entities to comply with federal and state law and regulations. This subdivision is necessary to ensure that Counselors and Entities are not violating the law while contracting with and representing the Exchange. This will also serve to protect the Exchange from liability should the Counselor or Entity violate the law.

Subdivision (b) requires Certified Enrollment Entities and Certified Enrollment Counselors to develop and maintain provide information in a culturally and linguistically appropriate manner to the population being served, including to those with limited English proficiency. This is necessary to comply with 45 C.F.R. § 155.205 (c)(2), 45 C.F.R. § 155.210(e)(5), and 45 C.F.R. § 155.215(c). Although it is unclear whether 45 C.F.R. § 155.215(d) directly applies to Navigator Entities that are operating in the California Exchange or to only those Exchanges operated by the federal Health and Human Services Agency, the Exchange has elected to incorporate those requirements into state regulations. The contents of 45 C.F.R. § 155.215(d) ensure that assisters are providing culturally and linguistically appropriate services, and they are as applicable and necessary in this Exchange as they are in the federal Exchange, perhaps more so given the diversity of the State of California. The Exchange considers federal regulations as “best practices” and thus mirrors those regulations whenever possible.

Subdivision (b)(1) requires Certified Enrollment Entities and Certified Enrollment Counselors to maintain general knowledge about the racial, ethnic, and cultural groups in their service area, including each group’s diverse cultural health beliefs and practices,

preferred languages, health literacy, and other needs. This subdivision expands on and specifies the requirements set forth at 45 C.F.R. § 155.210(e)(5), and also is set forth at 45 C.F.R. § 155.215(c)(1). This subdivision is necessary to ensure that each Counselor and Entity has the requisite knowledge and familiarity with the individuals in the service area and community in which they work. This subdivision will ensure that each consumer will receive assistance that is tailored to them specifically, and that Counselors and Entities will take into consideration consumers' beliefs and experiences when meeting with them.

Subdivision (b)(2) requires the collection and maintenance of demographic information about the communities in which Counselors and Entities work. This subdivision is necessary to ensure that Counselors and Entities understand and are prepared to serve the culturally and linguistically diverse population areas in which they work. This subdivision complies with federal regulations at 45 C.F.R. § 155.215(c)(2).

Subdivision (b)(3) requires that Certified Enrollment Entities and Certified Enrollment Counselors provide assistance in each consumer's preferred language. This subdivision is necessary to ensure that no consumer will go without assistance from a Counselor or Entity due to lack of English proficiency. This subdivision mirrors federal regulations set forth at 45 C.F.R. § 155.215(c)(3).

Subdivision (b)(4) requires representatives of the Exchange to inform limited English proficient consumers of their right to receive language assistance services and how to obtain them. This subdivision is needed to ensure that those with limited English proficiency are made aware how to obtain language assistance services so that they can communicate effectively with a Counselor. This subdivision reiterates federal regulations set forth at 45 C.F.R. § 155.215(c)(4).

Subdivision (b)(5) requires that Certified Enrollment Counselors and Certified Enrollment Entities receive ongoing education and training in culturally and linguistically appropriate service delivery. This subdivision reflects federal regulations set forth at 45 C.F.R. § 155.215(c)(5) and is necessary to ensure that Certified Enrollment Counselors and Certified Enrollment Entities remain competent in this regard.

Subdivision (b)(6) requires Certified Enrollment Entities to implement strategies to develop a staff that is representative of the communities in their area. This subdivision is needed pursuant to 45 C.F.R. § 155.215(c)(6) to promote an appropriate demographic cross-section among Certified Enrollment Counselors.

Subdivision (c) this subdivision requires Certified Enrollment Entities and Certified Enrollment Counselors to ensure that their assistance is available to persons with disabilities. This subdivision is needed to ensure compliance with 45 C.F.R. § 155.210(e)(5) and 45 C.F.R. § 155.215(d). Although it is unlikely that 45 C.F.R. § 155.215(d) directly applies to Navigator Entities that are operating in the California Exchange and most likely applies to only those Exchanges operated by Health and Human Services, the Exchange has elected to adopt those requirements into state

regulations. The contents of 45 C.F.R. § 155.215(d) ensure accessibility for consumers with disabilities, and they are as applicable and necessary in this Exchange as they are in the federal Exchange. The Exchange tries to mirror federal regulations as “best practices” whenever possible, even if not required.

Subdivision (c)(1) requires that Entities and Counselors ensure that consumer education materials, websites or other tools utilized for consumer assistance are accessible to people with disabilities. This requirement reflects best practices set forth in federal regulations at 45 C.F.R. § 155.215(d)(1).

Subdivision (c)(2) requires Certified Enrollment Entities and Certified Enrollment Counselors to provide auxiliary aids and services for individuals with disabilities if they are necessary to communicate during the enrollment assistance process. This requirement reflects best practices set forth in 45 C.F.R. § 155.215(d)(2).

Subdivision (c)(3) requires assistance be provided to consumers at locations accessible to consumers with disabilities. This subdivision is needed to ensure that all locations are compliant with the Americans with Disabilities Act and reflects best practices set forth in 45 C.F.R. § 155.215(d)(3).

Subdivision (c)(4) requires Entities and Counselors to ensure that that legally authorized representatives are permitted to assist consumers in making informed decisions. This subdivision is necessary to comply with 45 C.F.R. § 155.215(d)(4) and ensures that the Exchange is in compliance with 45 C.F.R. § 155.227.

Subdivision (c)(5) requires Certified Enrollment Entities and Certified Enrollment Counselors to acquire sufficient knowledge to refer people with disabilities to local, state, and federal long-term services and support programs when appropriate. This subdivision reflects best practices in federal regulations at 45 C.F.R. § 155.215 (d)(5).

Subdivision (d) requires Certified Enrollment Entities and Certified Enrollment Counselors in order to reflect the requirements set forth at 45 C.F.R. § 155.215 (b)(2)(xii). It adds “people of any gender identity” and “people of any sexual orientation” to the list set forth in federal regulations. This addition serves to prohibit Certified Enrollment Entities and Certified Enrollment Counselors from discriminating against individuals on the basis of their gender identity or sexual orientation and ensures they are trained in how to effectively work with all individuals.

Subdivision (e) requires that the Counselor or Entity completes the Certified Enrollment Counselor section of a consumer’s application. The purpose of this subdivision is to ensure that the Exchange has a record of which Counselor, if any, assisted a consumer with their application through the Exchange.

Subdivision (e)(1) requires the name and certification number of the Certified Enrollment Counselor. This subdivision is necessary so that the Exchange is able to accurately capture and report data regarding enrollment assistance and its effectiveness.

Additionally, if a consumer has a complaint about a specific enrollment Entity or Counselor who may have assisted him or her, the Exchange will be able to verify which Entity or Counselor the consumer is referring to.

Subdivision (e)(2) requires the name of the Certified Enrollment Entity and the Certified Enrollment Entity Number. These fields are required so the Exchange may maintain accurate and up-to-date records of Enrollment Counselors and Entities. This is necessary so that the Exchange can keep track of how many consumers each Entity or individual Counselor has enrolled.

Subdivision (e)(3) requires the signature and date of signature by the Certified Enrollment Counselor. This subdivision is required to ensure that the Counselor is affirmatively attesting to the fact that the information contained in their application is true and is legally binding themselves to those statements.

Subdivision (f) specifies that Certified Enrollment Counselor information may not be added to a consumer's original application at a later date. This subdivision is necessary to ensure the Counselors are not adding themselves to applications after they have been completed and signed by the individual. This prohibition will serve to avoid fraudulent reporting of consumer assistance.

Subdivision (g) requires Certified Enrollment Counselors to wear an identification badge when providing consumer assistance. This subdivision is necessary to ensure that all consumers feel that the individuals representing the Exchange are trained and certified by the Exchange. Consumers will thus feel more trusting of the individuals with whom they work, which will foster more honest and truthful communication. Additionally, the Exchange will be better able to keep track of the individuals it has certified as Counselors and identify them should there be a reported issue or problem with that particular Counselor or the Entity.

Subdivision (h) in its entirety lists a number of prohibitions for Certified Enrollment Entities and Certified Enrollment Counselors. Many, but not all of these activities are explicitly prohibited under federal regulations.

Subdivision (h)(1) requires Certified Enrollment Entities and Certified Enrollment Counselors to refrain from having a conflict of interest as set forth in Section 6666. This cross reference to Section 6666 is needed to stress the importance of the conflict of interest principles, and also to comply with 45 C.F.R. § 155.210(c)(iv).

Subdivision (h)(2) prohibits representatives of the Exchange from mailing consumer applications for the consumer. Mailing an application on behalf of a consumer would prolong the Counselor or Entity's exposure to the consumer's personal information, and is not necessary to fulfill their roles and responsibilities. This subdivision is necessary to avoid such exposure.

Subdivision (h)(3) prohibits Certified Enrollment Entities and Certified Enrollment Counselors from coaching a consumer to provide inaccurate information regarding their income, residency, or immigration status on his or her application to the Exchange. This is necessary to prevent fraudulent applications and inaccuracies that could result in a consumer choosing an incompatible plan.

Subdivision (h)(4) prohibits Certified Enrollment Entities and Certified Enrollment Counselors from recommending one plan or provider over another to a consumer. This subdivision is needed to reflect federal regulations at 45 C.F.R. § 155.210(e)(2), which require Navigators to provide information and services in a fair, accurate, and impartial manner.

Subdivision (h)(5) prohibits Certified Enrollment Entities and Certified Enrollment Counselors from accepting premium payments from consumers. This subdivision is necessary to ensure that Counselors are not accessing or receiving credit card information from consumers. Accepting payment information from consumers is not part of a Counselor's required duties, and thus would give them access to personal information that they do not need access to. This subdivision is necessary to limit the amount of personal information to which a Counselor or Entity has access to, thus reducing the risk of misuse of this highly sensitive information.

Subdivision (h)(6) prohibits Certified Enrollment Entities and Certified Enrollment Counselors from inputting premium payment information on behalf of the consumer. This subdivision is necessary to ensure that Counselors are not accessing or receiving credit card information from consumers. Accepting payment information from consumers is not part of a Counselor's required duties, and thus would give them access to personal information that they do not need access to. This subdivision is necessary to limit the amount of personal information to which a Counselor or Entity has access to, thus reducing the risk of misuse of this highly sensitive material.

Subdivision (h)(7) prohibits Certified Enrollment Entities and Certified Enrollment Counselors from paying consumer premiums or any type of consideration to or on behalf of the consumer. This subdivision is needed to ensure that Entities and Counselors are not inducing consumers to allow them to provide assistance so that they can increase their enrollment numbers, which may lead to an increase in their grant award amount. Some premium amounts may be as low as a few dollars, in which case the Counselor would have more to gain from paying the premium on behalf of the consumer, than losing that consumer as a client.

Subdivision (h)(8) prohibits Certified Enrollment Entities and Certified Enrollment Counselors from encouraging or accepting any type of remuneration from the consumer. This prohibition is required pursuant to 45 C.F.R. § 155.210(d)(5) and the Exchange does not have the authority to require otherwise.

Subdivision (h)(9) prohibits Certified Enrollment Entities and Certified Enrollment Counselors from intentionally creating multiple applications from the same household as

defined in 42-C.F.R. § 435.603(f) This regulation would ensure that Entities and Counselors are not manipulating the system in order to increase their enrollment numbers. This is necessary to ensure that the Exchange is not rewarding Entities for work that has been fraudulently created, and has accurate enrollment data from each Entity.

Subdivision (h)(10) prohibits Certified Enrollment Entities and Certified Enrollment Counselors from inviting, influencing or arranging for a consumer to separate from their employer-based group health coverage. This is necessary to ensure that Counselors are not unduly influencing consumers in violation of the requirement at 45 C.F.R. § 155.210(e)(2) to provide information and services in a fair and impartial manner. Counselors and Entities are required to present the best option for the consumer, and no other factors should influence or incentivize a consumer's decision.

Subdivision (h)(11) is a slight variation on federal regulation 45 C.F.R. § 155.210(d)(6), which prohibits the provision of gifts and promotional items to an applicant or enrollee as an inducement for enrollment. The Exchange has made this regulation more restrictive by eliminating the modifier "unless they are of nominal value," and "may exceed nominal value." This change will provide a blanket prohibition on the provision of all such gifts as an inducement for enrollment, and does not allow such gifts even if they are of nominal value. This change will make this rule easier to follow, as nominal value is not often interpreted the same way. Removing vagueness from this regulation will ensure that it is applied and understood in a consistent manner. Additionally, the Exchange has determined that this rule will ensure that Counselors and Entities are not providing financial incentives to consumers to induce them into signing up through the Exchange. This prohibition reflects the requirement to be fair and impartial when providing services to consumers, as is required in 45 C.F.R. § 155.210(e)(2).

Subdivision (h)(12) is a verbatim iteration of federal regulations set forth at 45 C.F.R. § 155.210(d)(7) and the Exchange does not have the authority to require otherwise.

Subdivision (h)(13) is a required prohibition pursuant to 45 C.F.R. § 155.210(d)(8) and the Exchange does not have the authority to require otherwise.

Subdivision (h)(14): mirrors federal regulations set forth at 45 C.F.R. § 155.210(d)(9) which require the Exchange to prohibit this activity and the Exchange does not have the discretion to require otherwise.

Subdivision (h)(14)(i) requires Counselors to report to the Exchange any subsequent arrests for which they have been released on bail or personal recognizance, criminal convictions and administrative actions to the Exchange within 30 calendar days of the date of each occurrence. This requirement is necessary to ensure that Counselors have not committed or been accused of committing any additional substantially related crimes after becoming certified with the Exchange. This addition serves to comply with Government Code Section 1043 and regulations set forth in Section 6456 of Article 4.

Section 6666: This section sets forth the conflict of interest standards for Certified Entities and Counselors pursuant to this Article. According to the preamble to regulations issued by CMS, a conflict of interest means “having a private or personal interest sufficient to influence, or appear to influence, the objective exercise of a Navigator’s official duties” (77 F.R. § 18330-18331). Federal regulations set forth at 45 C.F.R. § 155.210(b)(1) requires the Exchange to establish a set of standards designed to prevent, mitigate, or minimize any conflicts of interest that actually or may exist for individuals or Entities in the Navigator Program. This section, as a whole, exists to comply with and make specific that regulation.

Subdivision (a) expressly prohibits Certified Enrollment Entities and Certified Enrollment Counselors from concurrently possessing a license issued by the California Department of Insurance. The Exchange has determined that possessing an insurance license would constitute having a private or personal interest sufficient to influence, or appear to influence, the objective exercise of a Navigator’s official duties such that it must be prohibited entirely.

Subdivision (b) prohibits Certified Enrollment Entities and Certified Enrollment Counselors from entering into any employment or partnership that results in remuneration from any individual or entity currently licensed by the California Department of Insurance. The Exchange has determined that having any such relationship with an individual or entity possessing an insurance license would constitute having a private or personal interest sufficient to influence, or appear to influence, the objective exercise of a Navigator’s official duties such that it must be prohibited entirely.

Subdivision (c)(1) lists a number of prohibitions designed to mitigate or prevent conflicts of interests while an Entity or Counselor serves in their capacity as such.

Subdivision (c)(1)(A) requires that Certified Enrollment Entities and Certified Enrollment Counselors shall not be health insurance issuers or stop loss insurance issuers. This subdivision is required pursuant to 45 C.F.R. § 155.210(d)(1) and the Exchange does not have the discretion to require otherwise.

Subdivision (c)(1)(B) requires that Certified Enrollment Entities and Certified Enrollment Counselors shall not be subsidiaries of health insurance issuers or stop loss insurance issuers. This subdivision is necessary pursuant to 45 C.F.R. § 155.210(d)(2) and the Exchange does not have the discretion to require otherwise.

Subdivision (c)(1)(C) requires that Certified Enrollment Entities and Certified Enrollment Counselors are not affiliated with associations that include members of, or lobby on behalf of, the insurance industry. This subdivision is required by 45 C.F.R. § 155.210(d)(3) and the Exchange does not have the discretion to require otherwise.

Subdivision (c)(1)(D) requires that Certified Enrollment Entities and Certified Enrollment Counselors shall not be recipients of any direct or indirect consideration from any health

insurance issuer or stop loss insurance issuer in connection with the enrollment of any individuals or employees in a QHP or non-QHP. This subdivision is required by 45 C.F.R. § 155.210(d)(4) and the Exchange does not have the discretion to require otherwise.

Subdivision (c)(2) requires that Certified Enrollment Entities and Certified Enrollment Counselors submit a written attestation that they will not engage in any activities constituting a conflict of interest as set forth in subdivision (c)(1). These written attestations are best practices as set forth in 45 C.F.R. § 155.215(a)(1)(i).

Subdivision (c)(2)(A) requires that Certified Enrollment Entities and Certified Enrollment Counselors submit a written attestation that the entity or individual is not a health insurance issuer or issuer of stop loss insurance. This subdivision is best practices pursuant to 45 C.F.R. § 155.215(a)(1)(i)(A).

Subdivision (c)(2)(B) requires that Certified Enrollment Entities and Certified Enrollment Counselors submit a written attestation that the entity or individual is not a subsidiary of health insurance issuers or stop loss insurance issuers. This subdivision is best practices pursuant to 45 C.F.R. § 155.215(a)(1)(i)(B).

Subdivision (c)(2)(C) requires that Certified Enrollment Entities and Certified Enrollment Counselors submit a written attestation that they are not affiliated with any associations that include members of, or lobby on behalf of, the insurance industry. This subdivision is best practices pursuant to 45 C.F.R. § 155.215(a)(1)(i)(C) and the Exchange.

Subdivision (c)(2)(D) requires that Certified Enrollment Entities and Certified Enrollment Counselors submit a written attestation that they are not recipients of any direct or indirect consideration from any health insurance issuer or stop loss insurance issuer in connection with the enrollment of any individuals or employees in a QHP or non-QHP. This subdivision is best practices under 45 C.F.R. § 155.215(a)(1)(i)(D).

Subdivision (c)(3) requires that Certified Enrollment Entities and Certified Enrollment Counselors create a written plan to remain free of conflicts of interest while performing consumer assistance activities on behalf of the Exchange. This subdivision is required pursuant to 45 C.F.R. § 155.215(a)(1)(ii) and the Exchange has reflected these regulations as they are considered best practices.

Subdivision (c)(4) requires Certified Enrollment Entities and Certified Enrollment Counselors to provide information to consumers about the full range of QHP options and insurance affordability programs for which they are eligible. This subdivision is necessary to reflect the best practices set forth in 45 C.F.R. § 155.215(a)(1)(iii).

Subdivision (c)(5) requires that Certified Enrollment Entities and Certified Enrollment Counselors disclose to the Exchange and to each consumer receiving application assistance any relationships or activities that may present the potential of a conflict of

interest, but are not wholly prohibited by this Article. This subdivision is necessary to reflect the best practices of 45 C.F.R. § 155.215(a)(1)(iv).

Subdivision (c)(5)(A) requires Certified Enrollment Entities and Certified Enrollment Counselors to disclose to consumers any lines of insurance business which may exist as exempt from the prohibitions of this Section. This subdivision is necessary to reflect the best practices requirements of 45 C.F.R. § 155.215(a)(1)(iv)(A).

Subdivision (c)(5)(B) this subdivision requires Certified Enrollment Entities and Certified Enrollment Counselors to disclose any existing or former employment relationships with health insurance issuers or stop loss issuers to each consumer receiving application assistance. This subdivision is considered best practices pursuant to 45 C.F.R. § 155.215(a)(1)(iv)(B).

Subdivision (c)(5)(C) requires Certified Enrollment Entities and Certified Enrollment Counselors to disclose any existing or anticipated financial, business or contractual relationships with health insurance issuers or stop loss issuers or subsidiaries of either to a consumer prior to providing enrollment assistance. This subdivision is needed to mirror federal regulations at 45 C.F.R. § 155.215(a)(1)(iv)(C).

Section 6668: Subdivision (a) specifies that Certified Enrollment entities that are registered in the Navigator Program shall receive grants which will be individually negotiated with each Entity

Section 6670: This subdivision in its entirety sets forth the suspension, revocation, and appeals procedures for individuals applying or certified under this Article.

Subdivision (a) specifies that Certified Enrollment Entities or Certified Enrollment Counselors will be subject to suspension or revocation of certification if they fail to comply with applicable state and federal laws and regulations and the requirements of the program, and if they have a potentially disqualifying administrative or criminal record. This is necessary to comply with Government Code Section 1043, 10 C.C.R. § 6456, and 45 C.F.R. § 155.210. This subdivision also provides the Certified Enrollment Entity or Counselor with notice of conduct that may result in suspension or revocation of their certification.

Subdivision (a)(1) informs Certified Enrollment Entities and Counselors that their certification will be suspended or revoked if they fail to comply with applicable federal or state laws or regulations. This is necessary to ensure that Certified Enrollment Entities and Counselors are abiding by applicable federal and state laws and regulations when providing services pursuant to this Article. This requirement will serve to protect the Exchange from liability stemming from any violation of the law its contractors may commit. This subdivision is necessary to give the Exchange the right to terminate the certification of individuals and entities for violations of applicable law.

Subdivision (a)(2) provides that the certification of Certified Enrollment Entities and Counselors shall be suspended or revoked if they have a potentially disqualifying administrative action or criminal record which is substantially related to the qualifications, functions or duties of the specific position of the entity or individual. Individuals with criminal records or administrative actions that are determined to be disqualifying offenses following the Exchange criminal background check review process will be decertified in order to protect against misuse of consumers' personal information. This is necessary to comply with Government Code Section 1043 and Article 4, Section 6456 of this Chapter.

Subdivision (b) clarifies and makes specific the process Certified Enrollment Entities and Counselors must follow in order to appeal a certification determination made pursuant to subdivision (a). This is necessary to afford individuals and entities the opportunity to appeal the Exchange's determination and have the matter reviewed in detail. This section cross references other provisions of this Article in order to provide clarity to the public regarding which process will apply to which individual in a particular circumstance.

Subdivision (b)(1) specifies the method and applicable deadlines by which, through a cross-reference to Section 6662, an individual or entity may appeal a determination of suspension or revocation of their certification made pursuant to subdivision (a)(1). This is necessary to inform former Certified Enrollment Entities and Counselors whose certification has been suspended or revoked pursuant to subdivision (a)(2) of the process in which they must follow to appeal a determination.

Subdivision (b)(2) specifies the method and applicable deadlines, by a cross-reference to Section 6658, by which an individual or entity may appeal a determination of suspension or revocation of their certification made pursuant to subdivision (a)(2). This is necessary to inform former Certified Enrollment Entities and Counselors whose certification has been suspended or revoked pursuant to subdivision (a)(1) of the process in which they must follow to appeal a determination.

Subdivision (b)(3) clarifies that an appellant shall be disqualified from performing any functions of the Navigator Program while a final decision regarding the appeal is pending. This subdivision is necessary to protect consumers' personal health and identifying information from being misused by any entities or individuals who may have a criminal record. This will allow time for the Exchange to reexamine the facts surrounding the disqualification and make a final decision while protecting the consumers' privacy.

Subdivision (c) specifies that an individual or entity who has received a final determination of disqualification is not eligible to reapply for certification for two years. This is necessary to ensure that the Exchange is not repeating the same workload by making determinations on individuals who have already been disqualified. The Exchange established a two year time period to provide enough time for the disqualified

individual or entity to make efforts toward rehabilitation and be eligible for another opportunity to be certified, while not being overly prohibitive.

RELIED ON DOCUMENTS

None.

ECONOMIC IMPACT ASSESSMENT (EIA)

Creation of Jobs

This regulations package will create approximately 556 jobs within the State of California. The jobs created will be those of Certified Enrollment Counselors, which would not exist without this regulations package. To calculate the number of jobs to be created by this regulation, the Navigator Program conducted a poll of current Navigator entities. About ten Navigator entities responded with the number of jobs they had added in order comply with these regulations. The average number of jobs each entity had added was 8.55. The number of jobs created by each entity was then multiplied by the total number of current Navigator entities (65), totaling 556 jobs. The Exchange anticipates that this trend will continue and expects that the creation of jobs going forward will remain the same.

Creation of Businesses

This regulation package is not expected to create any new businesses within the State of California. The current Navigator entities were already in existence prior to the adoption of these regulations on an emergency basis. No new businesses are expected to form in order to receive a grant pursuant to this regulations package. Additionally, it is unlikely that the Exchange would award a grant to a newly formed entity, as one of the objectives of the program is to give funding to entities with experience and connections in their respective communities.

Expansion of Businesses

One effect of this regulations package will be the expansion of businesses currently doing business within the State of California. The Exchange estimates that approximately 65 businesses currently doing business within the State of California will expand as a result of this regulations package. Each Navigator entity will receive a grant, the amount of which is to be individually negotiated with each entity. Currently, the Exchange has 65 Navigator entities, each of which receives between 50,000 and 770,800 dollars. This grant funding allows each business to expand; mostly likely each entity will hire more staff or purchase additional resources. Although the amount of funding and number of entities may vary, the Exchange estimates that most, if not all Navigator entities will expand as a result of this rulemaking package due to the grant awards they receive.

Benefits

This regulations package has a number of benefits which are tied to the Exchange's overall mission. The goals and benefits of this regulations package are to make high quality health care available to all Californians, to provide structure for the Exchange to give predictable, clear standards to the public and to Navigators, and to allow for increased access to and education about health care coverage. This rulemaking package will allow for increased access to the Exchange's Qualified Health Plan selection through Navigator entities. Without the outreach, education, and enrollment assistance they provide, the Exchange would not be able to enroll or reach as many individuals.

DESCRIPTION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the Exchange has determined that no reasonable alternative considered or that has otherwise been identified and brought to the attention of the Exchange would be more effective in carrying out the purpose for which this action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in effectuating the purpose of the statute. This proposed action is the most effective in effectuating the purpose of the statute.

The Exchange considered requiring Navigators to obtaining training and certification in the required subject matter on their own time and at their own expense. However, the Exchange has an interest in controlling the subject matter and content of the training that its contractors receive. The Exchange has determined that the benefits of creating and administering the training and certification for Navigators outweighs the costs of doing so.

The Exchange also considered covering the costs of fingerprinting and background checks for individuals applying to become Certified Enrollment Counselors. However, the Exchange has determined that it would be too financially burdensome to commit to paying these costs past December 31, 2015.

In accordance with Government Code subdivision 11346.2(b)(5)(B), the Exchange has not identified any reasonable alternative that would lessen any adverse impact on small businesses. This proposed regulation has only positive impacts on small businesses.

SUPPORT FOR DETERMINATION OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

The Exchange has determined that the only economic impact on businesses will be a positive one. The effect of this regulations package will be the expansion of businesses currently doing business within the State of California. The Exchange estimates that

approximately 65 businesses currently doing business within the State of California will expand as a result of this regulations package. This regulations package will create approximately 556 jobs within the State of California. The jobs created are Certified Enrollment Counselors, which would not exist without this regulations package. Additionally, another effect of this regulations package will be the expansion of businesses currently doing business within the State of California. The Exchange estimates that approximately 65 businesses currently doing business within the State of California will expand as a result of this regulations package as a result of the grants the Exchange will provide.

California Code of Regulations

Title 10. Investment

Chapter 12. California Health Benefit Exchange (§ 6650 et seq.)

Article 8. Enrollment Assistance.

California Code of Regulations

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§ 6650. Definitions.

(a) For purposes of this Article, the following terms shall have the following associated meanings:

Authorized Contact: The individual appointed by the Certified Enrollment Entity to manage the agreement with the Exchange.

Certified Enrollment Counselor: An individual who is certified by the Exchange pursuant to Section 6656 to provide one-on-one Consumer Assistance. A Certified Enrollment Counselor shall be registered in the Navigator Program.

Certified Enrollment Entity: An entity or individual registered by the Exchange to provide one-on-one Consumer Assistance. A Certified Enrollment Entity shall be registered in the Navigator Program.

Consumer: A person or entity seeking information on eligibility and enrollment or seeking application assistance with a health insurance or health related product available through the Exchange. The term consumer includes, but is not limited to, an applicant, an application filer, authorized representative, employer, qualified employee, qualified employer, qualified individual, small employer, or enrollee as defined in Section 6410 of Article 2 of this Chapter.

Consumer Assistance: The programs and activities created under 45 C.F.R. § 155.205(d) to provide one-on-one assistance to consumers.

Navigator: A Certified Enrollment Counselor who is affiliated pursuant to Section 6656 with a Certified Enrollment Entity that is registered in the Navigator Program.

Navigator Program: The Program whereby Certified Enrollment Entities are awarded grants for conducting Outreach & Education and Consumer Assistance.

Outreach & Education: The programs and activities created under 45 C.F.R. § 155.205(e) to educate consumers about the Exchange and insurance affordability programs in order to encourage participation.

Personally Identifiable Information: Any information, including electronic, paper or any other media, that identifies or describes an individual, or can be used to distinguish or trace an individual's identity, including, but not limited to, his or her name, social security number, physical description, date, place of birth, mother's maiden name, home address, home telephone number, education, financial matters, medical or employment history, biometric records, and statements made by, or attributed to, the individual, that alone or when combined with other personal or identifying information can be linked or is linkable to a specific individual.

Personally Identifiable Information includes Protected Health Information (PHI), as defined in the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. section 1320d-d8).

Primary Contact: The individual appointed by the Certified Enrollment Entity to be a liaison with the Exchange.

Note: Authority cited: Sections 100502 and 100504, Government Code. Reference: Sections 100502 and 100503, Government Code; and 45 C.F.R. §§ 155.205, and 155.210.

§ 6652. Certified Enrollment Entities.

(a) The following entities and individuals are eligible to apply to become a Certified Enrollment Entity in the Navigator Program pursuant to Section 6656:

- (1) American Indian Tribes or Tribal Organizations;
- (2) Chambers of Commerce;
- (3) Cities, Counties, and Local Government Agencies;
- (4) Commercial fishing, industry organizations;
- (5) Community Colleges and Universities;
- (6) Faith-Based Organizations;
- (7) Indian Health Services Facilities;
- (8) Labor Unions;
- (9) Licensed attorneys (e.g., family law attorneys who have clients that are experiencing life transitions);
- (10) Non-Profit Community Organizations;
- (11) Ranching and farming organizations;
- (12) Resource partners of the Small Businesses Administration;
- (13) School Districts;
- (14) Tax preparers as defined in Section 22251(a)(1)(A) of the Business and Professions Code;
- (15) Trade, industry, and professional organizations;
- (16) Safety Net Clinics:
 - (A) Community Clinics as defined in Health and Safety Code Section 1204, subdivision (a)(1)(A);

- (B) Free Clinics as defined in Health and Safety Code Section 1204, subdivision (a)(1)(B);
- (C) Federally Qualified Health Centers (FQHCs) under Section 330 of the Public Health Service Act, 42 U.S.C. § 254b;
- (D) FQHC Look-Alikes designated by the U.S. Department of Health and Human Services, Health Resources and Services Administration, 42 U.S.C. §§ 1395x and 1396d;
- (E) Health care facilities directly managed and funded by the Indian Health Services under the Indian Self-Determination and Education Assistance Act of 1975, 25 U.S.C. § 450 et seq.;
- (F) 638 Contracting or Compacting Clinics funded by the Indian Health Services under the Indian Self-Determination and Education Assistance Act of 1975, 25 U.S.C. § 450 et seq.; and
- (G) Urban Indian Health Centers under Title V of the Indian Health Care Improvement Act, 25 U.S.C. § 1601, et seq.

(17) Other public or private entities or individuals who meet the requirements of this Article except for:

- (A) Entities and individuals who are licensed by the Department of Insurance;
- (B) Health insurance issuers or stop loss insurance issuers;
- (C) Except for the Safety Net Clinics listed in subdivision (b)(16) above, Licensed Health Care Clinics;
- (D) Licensed Health Care Institutions; and
- (E) Licensed Health Care Providers.

Note: Authority cited: Sections 100502 and 100504, Government Code. Reference: Sections 100502 and 100503, Government Code; and 45 C.F.R. §§ 155.205, and 155.210.

§ 6656. Navigator Program Request for Application and Selection Criteria

(a) Navigator Program applicants shall submit an application in response to a request for application in accordance with the following process:

- (1) The individual or entity shall submit an application that includes all information, documentation, and declarations required in subdivision (b) of this Section.

- (2) Grants will be awarded under the Navigator Program to successful applicants using the following evaluation criteria:
- (A) Cost effectiveness;
 - (B) Ability to carry out the duties described in Section 6664; and
 - (C) Existing relationship, or ability to establish relationships with the consumers likely to be eligible for enrollment in a Qualified Health Plan (QHP).
- (3) Individuals and Entities selected to participate in the Navigator Program shall:
- (A) Submit the following:
 - 1. An executed agreement conforming to the Roles and Responsibilities defined in Section 6664;
 - 2. Proof of general liability insurance with coverage of not less than \$1,000,000 per occurrence with the Exchange named as an additional insured, and workers compensation insurance; and
 - 3. A completed STD. 204, payee data record.
 - (B) Complete the training requirements pursuant to Section 6660.
- (4) The Exchange shall review the application and, if applicable, request missing information necessary to select a Navigator applicant.
- (5) Entities not selected to participate in the Navigator Program may submit a protest in writing to the Exchange to 1601 Exposition Blvd, Sacramento, 95815, which shall:
- (A) Be in writing, signed by an individual who is authorized to contractually bind the applicant
 - (B) Be received by the Exchange within five (5) business days of the date the rejected applicant is notified they have not been selected to participate in the Navigator Program; and
 - (C) Provide a statement of reason(s) for the protest, including facts and evidence to explain why the applicant believes the Exchange has incorrectly rejected the applicant.
- (6) Final decisions regarding the selection of entities to participate in the Navigator Program and responses to protests will be reviewed by the Exchange's Executive Director, or his or her designee, in accordance with the following criteria:
- (A) Submission of an application that includes all required information and documentation, as set forth in subdivision (a)(1) and (a)(4);
 - (B) Ability of the applicant to meet the Navigator Program criteria, as set forth in subdivision (a)(2);
 - (C) Compliance with the requirements of submitting a protest, as set forth in subdivision (a)(5); and
 - (D) Evaluation and investigation of the facts and evidence as detailed in the protest letter.
- (7) Within 30 days of the Exchange receiving the written protest from a rejected applicant, the Exchange's Executive Director, or his or her designee, shall mail the final

determination of the protest to the rejected applicant.

(b) The Navigator Program Grant Application shall contain the following information:

- (1) Individual or Organization information:
 - (A) Full and legal name;
 - (B) Federal Employer Identification Number;
 - (C) Name of person authorized to enter into contractual obligation;
 - (D) Physical address of primary office;
 - (E) Mailing address, if different;
 - (F) Office phone number;
 - (G) Fax number;
 - (H) E-mail address; and
 - (I) Website address.
- (2) Primary contact Information:
 - (A) Primary contact person;
 - (B) Physical address;
 - (C) Phone number;
 - (D) Fax number; and
 - (E) E-mail address.
- (3) Identification of applicant's status as an eligible entity type pursuant to Section 6652 and a copy of supporting documentation.
- (4) Previous experience involving the Navigator Program activities.
- (5) Funding from other sources for similar activities including any federal, state, or county grants awarded for outreach, education, or enrollment activities.
- (6) Requested funding amount.
- (7) Subcontractor('s) information:
 - (A) Full and legal name;
 - (B) Federal Employer Identification Number;
 - (C) Name of person authorized to enter into contractual obligation;
 - (D) Physical address of primary office;
 - (E) Mailing address, if different;
 - (F) Office phone number;
 - (G) Fax number;
 - (H) E-mail address; and
 - (I) Website address.
- (8) Subcontractor('s) primary contact information:
 - (A) Primary contact person;
 - (B) Physical address;
 - (C) Phone number;
 - (D) Fax number; and
 - (E) E-mail address.

- (9) Subcontractor('s) letter of intent to participate.
- (10) Identification of subcontractor('s) eligibility type pursuant to Section 6652 and a copy of supporting documentation.
- (11) Indication of region or population the applicant proposes to reach and estimated percentage by ethnicity, language, age group and federal poverty level.
- (12) Cover Letter including the following information:
 - (A) Title of the grant application;
 - (B) Submission date of the proposal;
 - (C) Requested funding amount;
 - (D) A summary of the proposed project, including a description of the populations and communities targeted by the project, proposed approach, and likely impact; and
 - (E) Signature of an individual authorized to enter into contracts on behalf of the proposer.
- (13) Narrative description of the applicant's qualifications.
- (14) Letter(s) of reference from organizations previously collaborated with.
- (15) Description of the staffing strategy and capacity for the lead organization and subcontractors.
- (16) Description of the approach and strategy for reaching the target population.
- (17) Description of setting and venue where Navigator activities will take place.
- (18) Description of project management and quality monitoring activities.
- (19) Description of project costs.

(c) At least one of the grants shall be awarded to each of the following:

- (1) A non-profit Community Organization as described in Section 6652(a)(10); and
- (2) Any one of the other categories listed in Section 6652.

Note: Authority cited: Sections 100502 and 100504, Government Code. Reference: Sections 100502 and 100503, Government Code; and 45 CFR §§ 155.205, 155.210, and 155.260.

§ 6657. Certified Enrollment Counselor Application.

(a) An individual may become a Certified Enrollment Counselor according to the following process:

- (1) The Certified Enrollment Entity shall notify the Exchange of the individual to be affiliated according to the process described in subdivision (c) of this Section.
- (2) The individual shall:
 - (A) Submit the following:

1. All information, documentation, and declarations required in subdivision (b) of this Section; and
2. An executed agreement conforming to the Roles and Responsibilities defined in Section 6664.

(B) Within 30 calendar days of completing the requirements in (a)(2)(A) of this Section:

1. Submit fingerprinting images in accordance with Section 6658;
2. Disclose to the Exchange all criminal convictions and administrative actions taken against the applicant;
3. Complete the required training established in Section 6660; and
4. Pass the required certification exam pursuant to section 6660.

(3) Individuals who complete the above requirements, pass the Certified Enrollment Counselor Fingerprinting and Criminal Record Check described in Section 6658, and have no administrative actions taken against them which are substantially related to the qualifications, functions, or duties of the specific position sought, shall be certified as Certified Enrollment Counselors by the Exchange.

(4) Applicants who have been denied for reasons other than failure to pass the Certified Enrollment Counselor Fingerprinting and Criminal Record Check may appeal the denial of their Certified Enrollment Counselor Application through the process established by Section 6662.

(b) An individual's application to become a Certified Enrollment Counselor shall contain the following information:

- (1) Name, e-mail address, primary and secondary phone number, and preferred method of communication;
- (2) Driver's License Number or Identification Number issued by the California Department of Motor Vehicles. If neither is available, the applicant may provide any other unique identifier found on an identification card issued by a federal, state, or local government agency or entity;
- (3) Identification of the Certified Enrollment Entity that the individual will affiliate with;
- (4) Affiliated Certified Enrollment Entity's primary site location address;
- (5) Site(s) served by the individual;
- (6) Mailing Address of the primary site for the Certified Enrollment Entity;
- (7) An indication of the languages that the Certified Enrollment Counselor can speak;
- (8) An indication of the languages that the Certified Enrollment Counselor can write;

(9) Disclosure of all criminal convictions and administrative actions taken against the individual;

(10) A certification by the individual that:

(A) The individual complies with Section 6666;

(B) The individual is a natural person of not less than 18 years of age; and

(C) The statements made in the application are true, correct and complete to the best of his or her knowledge and belief.

(11) For the individual applying to become a Certified Enrollment Counselor, signature, and date signed; and

(12) For the Authorized Contact from the Certified Enrollment Entity that the individual will be affiliated with, name, signature, and date signed.

(c) A Certified Enrollment Entity shall notify the Exchange of every individual to be added or removed as an affiliated Certified Enrollment Counselor. Such notification shall include:

(1) Name of the Certified Enrollment Entity and the Certified Enrollment Entity Number;

(2) Name and signature of the Authorized Contact from the Certified Enrollment Entity;

(3) Name, e-mail, and primary phone number of the individual to be added or removed;

(4) Effective date for the addition or removal of the individual; and

(5) An indication of whether the individual is certified as an Certified Enrollment Counselor, and if so, the following information:

(A) Certification number; and

(B) When adding an individual, site(s) to be served by the individual.

Note: Authority cited: Sections 100502 and 100504, Government Code. Reference: Sections 100502 and 100503, Government Code; and 45 C.F.R. §§ 155.205, 155.210, ~~155.215~~, and 155.260.

§ 6658. Certified Enrollment Counselor Fingerprinting and Criminal Record Checks.

(a) Individuals Required To Submit Fingerprinting Images.

(1) Individuals seeking certification under this Article shall submit fingerprint images and associated criminal history information pursuant to Government Code Section 1043 and Section 6456(a)-(e) of Article 4 of this Chapter.

(b) Interim Fitness Determination.

(1) Before any final determination or certification decision is made based on the criminal record, the Exchange shall comply with the requirements of Section 6456(d)-(e) of Article 4 of this Chapter.

(2) If the Exchange finds that an individual seeking certification under this Article has a potentially disqualifying criminal record under Section 6456(d)-(e) of Article 4 of this chapter, the Exchange shall promptly provide the individual with a copy of his or her criminal record pursuant to Penal Code Section 11105(t), notify the individual of the specific disqualifying offense(s) for the interim determination, and provide the individual information on how to request a written appeal, including examples of the types of additional evidence the individual may provide, to dispute the accuracy and relevancy of the criminal record.

(c) Appeal and Final Determination.

(1) Inaccurate or Incomplete Federal and Out of State Disqualifying Offenses.

(A) If the individual believes that the potentially disqualifying offense in the Federal Bureau of Investigation national criminal response identified in the notice sent pursuant to subdivision (b)(2) of this Section is inaccurate or incomplete, within 60 calendar days from the date of the notice, the individual may seek to correct or complete the response by providing information to the Exchange, including official court and law enforcement records, identifying and correcting the incomplete or inaccurate criminal history information. Upon receipt of such information, the Exchange shall reevaluate the interim fitness determination. The Exchange, within 60 calendar days, shall respond to the individual with a final determination.

(2) Inaccurate or Incomplete California Disqualifying Offenses.

(A) If the individual believes that the potentially disqualifying offense in the California Department of Justice state criminal response identified in the notice sent pursuant to subdivision (b)(2) is inaccurate or incomplete, within 60 calendar days from the date of the notice, the individual shall notify the Exchange and follow the procedures set forth in Penal Code Sections 11120-11127 to correct or complete the criminal response with the DOJ. The fitness determination shall not be final until the DOJ has acted to correct the state criminal response. Upon receipt of the corrected response, the Exchange shall reevaluate the interim fitness determination. The Exchange, within 60 calendar days, shall respond to the individual with a final determination.

(3) If the individual determines that his or her criminal record is accurate, within 60 days from the date of the notice in subdivision (b)(2) of this Section, the individual may dispute the interim determination by producing additional written evidence of rehabilitation and mitigating circumstances related to any potentially disqualifying

offense. The Exchange, within 60 calendar days, shall respond to the individual with a final determination.

(A) For purposes of reevaluating the interim determination pursuant to subdivision (c)(3) of this Section, the Exchange shall take into account any of the following:

(i) Any additional evidence of rehabilitation and mitigating circumstances provided by the individual in subdivision (c)(3) of this Section;

(ii) Information received as a result of the criminal record check;

(iii) Information received through the individual's application process for a position requiring fingerprinting in subdivision (a) of this Section--and

(iv) Information received as a result of the individual's employment history or qualifications for a position requiring fingerprinting in subdivision (a) of this Section.

(4) Absent good cause for late filing as determined by the Exchange on a case by case basis, the interim fitness determination shall become final.

(5) Following the receipt of a final determination pursuant to this Section that an individual is disqualified from certification, the individual shall not reapply for certification for two years.

(d) Costs.

(1) The Exchange shall pay the costs incurred by individuals whose duties require fingerprinting under subdivision (a) of this Section until December 31, 2015. After December 31, 2015, background check costs for individuals seeking certification under this Article shall be paid by the Certified Enrollment Entity.

Note: Authority cited: Sections 1043 and 100504, Government Code. Reference: Section 100502, Government Code; Section 11105, Penal Code; and 45 C.F.R. §§ 155.205, 155.210, 155.215, and 155.260.

§ 6660. Training Standards.

(a) All individuals or entities who apply to become a Certified Enrollment Entity shall complete training for the management of Certified Enrollment Entities prior to any affiliated Certified Enrollment Counselors carrying out any Consumer Assistance functions.

(b) To ensure that all Certified Enrollment Counselors are prepared to serve both the individual Exchange and the Small Business Health Options Program, all individuals or entities who

carry out Consumer Assistance functions shall complete training in the following subjects prior to carrying out any Consumer Assistance functions:

- (1) QHPs (including the metal levels described at 45 C.F.R. § 156.140(b)), and how they operate, including benefits covered, payment processes, rights and processes for appeals and grievances, and contacting individual plans;
- (2) The range of insurance affordability programs, including Medicaid, the Children’s Health Insurance Program, and other public programs;
- (3) The tax implications of enrollment decisions;
- (4) Eligibility requirements for premium tax credits and cost-sharing reductions, and the impacts of premium tax credits on the cost of premiums;
- (5) Contact information for appropriate federal, state, and local agencies for consumers seeking additional information about specific coverage options not offered through the Exchange;
- (6) Basic concepts about health insurance and the Exchange; the benefits of having health insurance and enrolling through an Exchange; and the individual responsibility to have health insurance;
- (7) Eligibility and enrollment rules and procedures, including how to appeal an eligibility determination;
- (8) Providing culturally and linguistically appropriate services;
- (9) Ensuring physical and other accessibility for people with a full range of disabilities;
- (10) Understanding differences among health plans;
- (11) Privacy and security requirements in 45 C.F.R. § 155.260 for handling and safeguarding consumers’ personally identifiable information;
- (12) Working effectively with individuals with limited English proficiency, people with disabilities, people of any gender identity, people of any sexual orientation, and vulnerable, rural, and underserved populations;
- (13) Customer service standards;
- (14) Outreach and education methods and strategies; and
- (15) Applicable administrative rules, processes and systems related to Exchanges and QHPs; and
- (16) Procedures for assisting consumers with voter registration in compliance with Section 6462 of Article 4.

- (c) Training shall be provided by the Exchange through instructor-led training or computer-based training.
- (d) Certified Enrollment Counselors shall pass an exam testing the subject matter in subdivision (b)(1)-(16), which shall be administered by the Exchange on an annual basis, in order to maintain certification with the Exchange.

Note: Authority cited: Section 100504, Government Code. Reference: Sections 100502 and 100503, Government Code; and 45 C.F.R. §§ 155.205, 155.210, and 155.260.

§ 6662. Appeals Process

- (a) Other than a determination made pursuant to Section 6658, Certified Enrollment Counselor Fingerprinting and Criminal Record Checks, a decision that an individual or entity is not eligible or qualified to participate or continue to participate in a program under this Article may be appealed to the Exchange in accordance with the requirements of this Section.
- (b) The Exchange shall allow an applicant to request an appeal within 60 calendar days of the date of the notice of eligibility determination.
- (c) The first phase of the Appeals Process shall include an informal review by the Exchange. The Exchange shall consider the information used to determine the appellant's eligibility as well as any additional relevant evidence presented during the course of the appeal. The Exchange shall make an informal resolution decision within 45 calendar days from the receipt of the appeal. The Exchange shall notify the appellant in writing of the decision.
- (d) If the appellant is satisfied with the outcome of the informal resolution decision, the appeal may be withdrawn. If the appeal is not withdrawn, it shall be automatically escalated to the second phase of the Appeals Process. During the second phase, an independent unit within the Exchange that had no involvement in the original eligibility or qualification determination or informal resolution decision shall review the eligibility or qualification of the appellant *de novo*. The appellant shall be allowed to present additional evidence during the second phase. The Exchange shall consider all relevant evidence presented during the course of the appeal and notify the appellant in writing of the final decision within 60 calendar days from the receipt of the appeal.

Note: Authority cited: Sections 100502 and 100504, Government Code. Reference: Sections 100502 and 100503, Government Code; and 45 C.F.R. §§ 155.205, and 155.210.

§ 6664. Roles & Responsibilities.

- (a) Certified Enrollment Entities and Certified Enrollment Counselors shall perform the following functions:

- (1) Maintain expertise in eligibility, enrollment, and program specifications; Individuals and entities registered under the Navigator Program must also conduct outreach and education to raise awareness about the Exchange;
- (2) Provide information and services in a fair, accurate and impartial manner, which includes providing information that assists consumers with submitting the eligibility application; clarifying the distinctions among health coverage options, including QHPs; and helping consumers make informed decisions during the health coverage selection process. Such information and services shall include assistance with all other insurance affordability programs (i.e., Medicaid and Children’s Health Insurance Programs);
- (3) Facilitate selection of a QHP;
- (4) Provide referrals to any applicable office of health insurance Consumer Assistance or health insurance ombudsman established under Section 2793 of the Public Health Service Act, 42 U.S.C. § 300gg-93, or any other appropriate State agency or agencies, for any enrollee with a grievance, complaint, or question regarding their health plan, coverage, or a determination under such plan or coverage;
- (5) Comply with the privacy and security requirements in 45 C.F.R. § 155.260;
- (6) Prior to receiving access to any consumer’s personally identifiable information as defined in Section 6650, the Certified Enrollment Counselor shall:
 - (A) Inform the consumer that the Certified Enrollment Counselor must obtain his or her authorization prior to accessing any personally identifiable information;
 - (B) Inform each consumer of the roles and responsibilities of the Certified Enrollment Counselor as set forth in Section 6664 (a)(1)-(5), (7);
 - (C) Obtain oral or written authorization from the consumer to access the consumer’s personally identifiable information;
 1. Written authorization shall contain a consumer’s signature and a written attestation completed by the Certified Enrollment Counselor affirming under penalty of perjury that the Certified Enrollment Counselor:
 - i. Is a Certified Enrollment Counselor affiliated with a Certified Enrollment Entity in the Navigator program as defined in Section 6650;
 - ii. Conveyed all the information required under this subdivision to the consumer in a language and manner which he or she understands; and

- iii. Obtained written authorization from the consumer consenting to the release of his or her personally identifiable information in order to fulfill the duties as described in Section 6664.
 - 2. Oral authorization shall be accompanied by a written attestation completed by the Certified Enrollment Counselor affirming under penalty of perjury that the Certified Enrollment Counselor:
 - i. Is a Certified Enrollment Counselor affiliated with a Certified Enrollment Entity in the Navigator program as defined in Section 6650;
 - ii. Conveyed all the information required under this subdivision to the consumer in a language and manner which he or she understands; and
 - iii. Obtained oral authorization from the consumer consenting to the release of his or her personally identifiable information in order to fulfill the duties as described in Section 6664.
- (D) Inform the consumer that the Certified Enrollment Counselor cannot choose a health insurance plan on the consumer's behalf;
- (E) Inform the consumer that the Certified Enrollment Counselor will provide the consumer with information regarding the health insurance options and insurance affordability programs for which he or she may be eligible;
- (F) Inform the consumer that his or her personally identifiable information will be kept private and secure in accordance with § 45 C.F.R. 155.260;
- (G) Inform the consumer that if the Certified Enrollment Counselor cannot assist the consumer, he or she will refer the consumer to another Certified Enrollment Counselor or the Covered California Call Center;
- (H) Inform the consumer that the Certified Enrollment Counselor will not charge a fee in exchange for performing the duties described in Section 6664;
- (I) Inform the consumer that the assistance is based only on the information provided by the consumer, and if the information given is inaccurate or incomplete, the Certified Enrollment Counselor may not be able to offer assistance;
- (J) Inform the consumer that the authorization set forth in Section 6664 (a)(6)(C) may be revoked at any time; and
- (K) Maintain a record of such authorization for a minimum of six (6) years.
- (7) Ensure that voter registration assistance is available in compliance with Section 6462 of Article 4;

- (8) For Certified Enrollment Entities only, maintain a physical presence in the state of California so that face-to-face assistance can be provided to applicants and enrollees; and
- (9) Comply with any applicable federal or state laws and regulations.
- (b) To ensure that information provided as part of any Consumer Assistance is culturally and linguistically appropriate to the needs of the population being served, including individuals with limited English proficiency as required by 45 C.F.R. §§ 155.205(c)(2) and 155.210(e)(5), Certified Enrollment Entities and Certified Enrollment Counselors shall:
- (1) Develop and maintain general knowledge about the racial, ethnic, and cultural groups in their service area, including each group's diverse cultural health beliefs and practices, preferred languages, health literacy, and other needs;
 - (2) Collect and maintain updated information to help understand the composition of the communities in the service area, including the primary languages spoken;
 - (3) Provide consumers with information and assistance in the consumer's preferred language, at no cost to the consumer, including the provision of oral interpretation of non-English languages and the translation of written documents in non-English languages when necessary to ensure meaningful access. Use of a consumer's family or friends as oral interpreters can satisfy the requirement to provide linguistically appropriate services only when requested by the consumer as the preferred alternative to an offer of other interpretive services;
 - (4) Provide oral and written notice to consumers with limited English proficiency informing them of their right to receive language assistance services and how to obtain them;
 - (5) Receive ongoing education and training in culturally and linguistically appropriate service delivery; and
 - (6) Implement strategies to recruit, support, and promote a staff that is representative of the demographic characteristics, including primary languages spoken, of the communities in their service area.
- (c) To ensure that Consumer Assistance is accessible to people with disabilities, Certified Enrollment Entities and Certified Enrollment Counselors shall:
- (1) Ensure that any consumer education materials, Web sites, or other tools utilized for Consumer Assistance purposes are accessible to people with disabilities, including those with sensory impairments, such as visual or hearing impairments, and those with mental illness, addiction, and physical, intellectual, and developmental disabilities;
 - (2) Provide auxiliary aids and services for individuals with disabilities, at no cost, where necessary for effective communication. Use of a consumer's family or friends as interpreters can satisfy the requirement to provide auxiliary aids and services only

- when requested by the consumer as the preferred alternative to an offer of other auxiliary aids and services;
- (3) Provide assistance to consumers in a location and in a manner that is physically and otherwise accessible to individuals with disabilities;
 - (4) Ensure that legally authorized representatives are permitted to assist an individual with a disability to make informed decisions; and
 - (5) Acquire sufficient knowledge to refer people with disabilities to local, state, and federal long-term services and support programs when appropriate.
- (d) To ensure that no consumer is discriminated against, Certified Enrollment Entities and Certified Enrollment Counselors shall provide the same level of service to all individuals regardless of age, disability, culture, sexual orientation, or gender identity and seek advice or experts when needed.
- (e) Certified Enrollment Counselors shall complete the Certified Enrollment Entity and Certified Enrollment Counselor section of a consumer's application to the Exchange, including the following:
- (1) Name and certification number of the Certified Enrollment Counselor;
 - (2) Name of the Certified Enrollment Entity and the Certified Enrollment Entity Number;
and
 - (3) Signature and date of signature by the Certified Enrollment Counselor.
- (f) If any of the information listed in subdivision (e) of this Section is not included on the consumer's original application, it may not be added at a later time.
- (g) Certified Enrollment Counselors shall wear the badge issued by the Exchange at all times when providing Consumer Assistance.
- (h) The Certified Enrollment Entity and Certified Enrollment Counselor shall never:
- (1) Have a conflict of interest as defined in Section 6666;
 - (2) Mail the paper application for the consumer;
 - (3) Coach the consumer to provide inaccurate information on the application regarding income, residency, immigration status and other eligibility rules;
 - (4) Coach or recommend one plan or provider over another;
 - (5) Accept any premium payments from the consumer;
 - (6) Input any premium payment information on behalf of the consumer;
 - (7) Pay any part of the premium or any other type of consideration to or on behalf of the consumer;
 - (8) Induce or accept any type of direct or indirect remuneration from the consumer;

- (9) Intentionally create multiple applications from the same household, as defined in 42 C.F.R. § 435.603(f);
- (10) Invite, influence, or arrange for an individual whose existing coverage through an eligible employer-sponsored plan is affordable and provides minimum value, as described in 26 USC § 36B(c)(2)(C) and in 26 C.F.R. § 1.36B-2(c)(3)(v) and (vi), to separate from employer-based group health coverage;
- (11) Provide gifts, including gift cards or cash or provide promotional items that market or promote the products or services of a third party, to any applicant or potential enrollee as an inducement for enrollment. Gifts, gift cards, or cash may be provided for the purpose of providing reimbursement for legitimate expenses incurred by a consumer in effort to receive Exchange application assistance, such as, but not limited to, travel or postage expenses;
- (12) Use Exchange funds to purchase gifts or gift cards, or promotional items that market or promote the products or services of a third party, that would be provided to any applicant or potential enrollee;
- (13) Solicit any consumer for application or enrollment assistance by going door-to-door or through other unsolicited means of direct contact, including calling a consumer to provide application or enrollment assistance without the consumer initiating the contact, unless the consumer has a pre-existing relationship with the individual Certified Enrollment Counselor or Certified Enrollment Entity and other applicable State and Federal laws are otherwise complied with. Outreach and education activities may be conducted by going door-to-door or through other unsolicited means of direct contact, including calling a consumer; or
- (14) Initiate any telephone call to a consumer using an automatic telephone dialing system or an artificial or prerecorded voice, except in cases where the individual Certified Enrollment Counselor or Certified Enrollment Entity has a relationship with the consumer and so long as other applicable State and Federal laws are otherwise complied with.
- (i) Certified Enrollment Counselors shall report to the Exchange any subsequent arrests for which they have been released on bail or personal recognizance and criminal convictions, received by the Exchange in accordance with Section 6456 (c) of Article 4, and administrative actions taken by any other agency, within 30 calendar days of the date of each occurrence.

Note: Authority cited: Sections 100502 and 100504, Government Code. Reference: Sections 1043, 100502, and 100503, Government Code; and 45 C.F.R. §§ 155.205, 155.210, 155.215, and 155.260.

§ 6666. Conflict of Interest Standards.

- (a) Certified Enrollment Entities and Certified Enrollment Counselors shall not concurrently hold a license issued by the California Department of Insurance.
- (b) Certified Enrollment Entities and Certified Enrollment Counselors shall not employ, be employed by or be in partnership with, or receive any remuneration arising out of functions performed under this Article from any individual or entity currently licensed by the California Department of Insurance.
- (c) Certified Enrollment Entities and Certified Enrollment Counselors shall:
 - (1) Not be:
 - (A) Health insurance issuers or stop loss insurance issuers;
 - (B) Subsidiaries of health insurance issuers or stop loss insurance issuers;
 - (C) Associations that include members of, or lobby on behalf of, the insurance industry; or
 - (D) Recipients of any direct or indirect consideration from any health insurance issuer or stop loss insurance issuer in connection with the enrollment of any individuals or employees in a QHP or non-QHP.
 - (2) Submit to the Exchange a written attestation that the entity or individual:
 - (A) Is not a health insurance issuer or issuer of stop loss insurance;
 - (B) Is not a subsidiary of a health insurance issuer or issuer of stop loss insurance;
 - (C) Is not an association that includes members of, or lobbies on behalf of, the insurance industry; and
 - (D) Will not receive any consideration directly or indirectly from any health insurance issuer or issuer of stop loss insurance in connection with the enrollment of any individuals or employees in a QHP or non-QHP.
 - (3) Create a written plan to remain free of conflicts of interest while carrying out Consumer Assistance functions under this Article which shall be made available upon request to the Exchange.
 - (4) Provide information to consumers about the full range of QHP options and insurance affordability programs for which they are eligible.
 - (5) Disclose to the Exchange and to each consumer who receives application assistance from the entity or individual:
 - (A) Any lines of insurance business, not covered by the restrictions on participation and prohibitions on conduct in this Section, which the entity or individual intends to sell while carrying out the Consumer Assistance functions;

- (B) Any existing employment relationships, or any former employment relationships within the last five years, with any health insurance issuers or issuers of stop loss insurance, or subsidiaries of health insurance issuers or issuers of stop loss insurance, including any existing employment relationships between a spouse or domestic partner and any health insurance issuers or issuers of stop loss insurance, or subsidiaries of health insurance issuers or issuers of stop loss insurance; and
- (C) Any existing or anticipated financial, business, or contractual relationships with one or more health insurance issuers or issuers of stop loss insurance, or subsidiaries of health insurance issuers or issuers of stop loss insurance.

Note: Authority cited: Sections 100502 and 100504, Government Code. Reference: Sections 100502 and 100503, Government Code; and 45 C.F.R. §§155.205, 155.210, and 155.215.

§ 6668. Compensation.

- (a) Certified Enrollment Entities that are registered in the Navigator Program shall receive grants which will be individually negotiated with each Entity.

Note: Authority cited: Sections 100502 and 100504, Government Code. Reference: Sections 100502 and 100503, Government Code; and 45 C.F.R. § 155.210.

§ 6670. Suspension and Revocation.

- (a) Each of the following shall be justification for the Exchange to suspend or revoke the certification of any Certified Enrollment Entity or Certified Enrollment Counselor:

- (1) Failure to comply with all applicable federal or state laws or regulations, including, but not limited to, Section 6664 or Section 6666 of this Article; and
- (2) A potentially disqualifying administrative action or criminal record which is substantially related to the qualifications, functions, or duties of the specific position of the entity or individual, under Sections 6657 and 6658.

(b) Appeals

- (1) Individuals or entities may appeal a determination made pursuant to subdivision (a)(1) of this Section through the process described in Section 6662 of this Article.
- (2) Individuals or entities may appeal a determination made pursuant to subdivision (a)(2) of this Section through the process described in Section 6658, subdivision (c).
- (3) Until a final determination or decision is made regarding an individual or entity's appeal, the appellant shall be disqualified from performing any functions under this Article.

(c) Following the receipt of a final determination pursuant to this Section that disqualifies an individual or entity from certification, the entity or individual is not eligible to reapply for certification for two years.

Note: Authority cited: Sections 100502 and 100504, Government Code. Reference: Sections 100502 and 100503, Government Code.