

**State of California
Office of Administrative Law**

In re:
California Health Benefit Exchange

Regulatory Action:

Title 10, California Code of Regulations

Adopt sections: 6854, 6856, 6864

Amend sections:

Repeal sections:

**NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION**

**Government Code Sections 11346.1, 11349.6,
and 100504(a)(6)**

OAL Matter Number: 2017-0913-01

OAL Matter Type: Emergency Readopt (EE)

The California Health Benefit Exchange submitted this emergency readoption action to readopt and amend sections 6854, 6856, and 6864 of title 10 of the California Code of Regulations, which pertain to the application process and roles and responsibilities for certified application counselors.

OAL approves this emergency regulatory action pursuant to sections 11346.1, 11349.6, and 100504(a)(6) of the Government Code.

This emergency regulatory action is effective on 9/21/2017 and will expire on 7/7/2020. The Certificate of Compliance for this action is due no later than 7/6/2020.

Date: September 21, 2017



Richard L. Smith
Senior Attorney

For: Debra M. Cornez
Director

Original: Peter Lee
Copy: Brian Kearns

EMERGENCY

STATE OF CALIFORNIA—OFFICE OF ADMINISTRATIVE LAW
NOTICE PUBLICATION/REGULATIONS SUBMISSION

See Instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2017-0913-01EE
For use by Office of Administrative Law (OAL) only		For use by Secretary of State only	
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY California Health Benefit Exchange			AGENCY FILE NUMBER (If any)

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

SEP 21 2017
1:46 p.m.

2017 SEP 13 P 1:45
OFFICE OF ADMINISTRATIVE LAW

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Certified Application Counselor Program		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2015-0625-02E, 2016-0518-03EE, 2016-0826-07EE	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT 6854, 6856, 6864	
		AMEND	
TITLE(S) 10		REPEAL	
3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)		<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)		<input checked="" type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> File & Print	
<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)		<input type="checkbox"/> Other (Specify)	
<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)		<input type="checkbox"/> Print Only	
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(e))		<input checked="" type="checkbox"/> Effective on filing with Secretary of State	
		<input type="checkbox"/> \$100 Changes Without Regulatory Effect	
		<input type="checkbox"/> Effective other (Specify)	
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)		<input type="checkbox"/> Fair Political Practices Commission	
<input type="checkbox"/> Other (Specify)		<input type="checkbox"/> State Fire Marshal	
7. CONTACT PERSON Brian Kearns		TELEPHONE NUMBER 916-228-8843	FAX NUMBER (Optional) E-MAIL ADDRESS (Optional) brian.kearns@covered.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 9/11/17
TYPED NAME AND TITLE OF SIGNATORY Peter V. Lee, Executive Director	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

SEP 21 2017

Office of Administrative Law

California Code of Regulations

Title 10. Investment

Chapter 12. California Health Benefit Exchange

Article 11. Certified Application Counselor Program.

§ 6854. Certified Application Entity Application.

[(a)(1)-(6): No change]

(b) A Certified Application Entity application shall contain the following information:

- (1) Full name;
- (2) Legal name;
- (3) Primary e-mail address;
- (4) Primary phone number;
- (5) Secondary phone number;
- ~~(6) Fax number;~~
- ~~(7) Whether the entity prefers to communicate via e-mail, phone, fax, or mail;~~
- ~~(6)(8) Website address;~~
- ~~(7)(9) Applicant's status as a non-profit, for profit, or governmental organization, and a copy of supporting documentation;~~
- ~~(8)(10) The type of organization and, if applicable, a copy of the license or other certification;~~
- ~~(11) The counties served;~~
- ~~(9) (12) A certification that the applicant complies with section 6866;~~
- ~~(10) (13) Whether the entity An attestation that the entity will serves families of mixed immigration status;~~
- ~~(11) (14) Whether the entity An attestation that the entity will serves individuals with disabilities and, if so, the disability(ies) served;~~
- ~~(15) The year the entity was established;~~
- ~~(12)(16) Whether applicant receives any federal or state grant funding;~~
- ~~(13)(17) For the primary site and each sub-site, the following information:~~
 - (A) Site Location Address;
 - (B) Mailing Address;

- (C) County;
- (D) Primary Contact name;
- (E) Primary e-mail address;
- (F) Primary phone number;
- (G) Secondary phone number; and
- ~~(H) Whether the entity wants to receive referrals for individuals seeking assistance at this site;~~
- ~~(H) (I) Hours providing enrollment assistance.;~~
- ~~(J) Languages spoken by staff to provide enrollment assistance under this Article;~~
- ~~(K) Written languages;~~
- ~~(L) Whether the entity offers services in sign language;~~
- ~~(M) Ethnicities served;~~
- ~~(N) Estimated number of individuals served by age; and~~
- ~~(O) Types of industries served;~~

~~(14)(18) Name, e-mail address, primary and secondary phone numbers, and the preferred method of communication for the Authorized Contact;~~

~~(15)(19) A certification by the Authorized Contact that the information presented is true and correct to the best of the signer's knowledge;~~

~~(16)(20) For each individual to be affiliated with the applicant as a Certified Application Counselor:~~

- ~~(A) All information required by section 6856 that is not already included elsewhere in the application; and~~
- ~~(B) Languages that the individual can speak; and Whether he or she is certified by the Exchange and, if applicable, the certification number.~~
- ~~(C) Languages that the individual can write.~~

Note: Authority cited: Sections 100503 and 100504, Government Code. Reference: Sections 100502 and 100503, Government Code; and 45 C.F.R. section 155.225.

§ 6856. Certified Application Counselor Application.

[(a)(1)-(4): No change]

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

(1) Name, e-mail address, and primary phone number, and preferred method of communication;

[(b)(2)-(8): No change]

(9) A certification by the individual that:

(A) The individual complies with the certified application counselor agreement required by section 6856(a)(2)(A)2. as well as all requirements as set forth in this Article, including but not limited to section 6866;

(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;:

(D) The individual will abide by all applicable privacy and security standards, including but not limited to those set forth in the agreement between the certified application entity and the Exchange required by section 6854(a)(4)(B)1.; and

(E) The individual will adhere to all applicable state and federal laws and regulations.

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

[(c)(1)-(4): No change.

~~(5) The following information regarding the Certified Application Counselor to be added or removed:~~

~~(A) Certification number; and~~

~~(5) (B) When adding an individual, s Site(s) that the individual will serve to be served by the individual.~~

Note: Authority cited: Sections 100503 and 100504, Government Code. Reference: Sections 100502 and 100503, Government Code; and 45 C.F.R. section 155.225.

§ 6864. Roles and Responsibilities

[(a)(1)-(10): No change]

(b) Prior to receiving access to any consumer's personally identifiable information as defined in section 6650 of Article 8, the Certified Application Counselor shall:

[(b)(1)-(9): No change]

(10) Inform the consumer that the authorization set forth in (b)(4)(3) of this section may be revoked at any time; and

(11) Maintain a record of such authorizations for a minimum of ~~six (6)~~ ten (10) years.

[(c)-(j): No change]

(k) Certified Application Entities and Certified Application Counselors may not:

[(k)(1)-(4): No change]

(5) 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. The value of gifts provided to applicants and potential enrollees for purposes other than as an inducement for enrollment must not exceed nominal value, either individually or in the aggregate, when provided to that individual during a single encounter. The nominal value is equal to or less than \$15. Gifts of nominal value may not include beer, wine, liquor, cigarettes, tobacco, or lottery tickets. 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;

[(k)(6)-(15) and (l): No change]

Note: Authority cited: Sections 100503 and 100504, Government Code. Reference: Sections 100502 and 100503, Government Code; and 45 C.F.R. §§ 155.205, 155.210, 155.215, ~~and~~ 155.225, and 155.260.