

**State of California  
Office of Administrative Law**

**In re:**  
**California Health Benefit Exchange**

**Regulatory Action:**

**Title 10, California Code of Regulations**

**Adopt sections:**

**Amend sections: 6704, 6708, 6710**

**Repeal sections:**

**NOTICE OF APPROVAL OF REGULATORY  
ACTION**

**Government Code Section 11349.3**

**OAL Matter Number: 2017-1213-07**

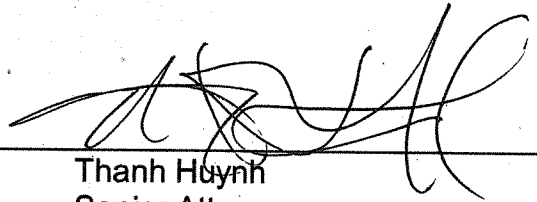
**OAL Matter Type: Regular (S)**

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In this regulatory action, the California Health Benefit Exchange ("Exchange") is amending three sections in Title 10 of the California Code of Regulations. These amendments remove from the application information that the Exchange found is no longer necessary to determine the eligibility of a Plan-Based Enroller (PBE). They also add language to preclude PBE applicants who failed the criminal and background check process from reapplying to the program for two years. In addition, the amendments clarify that PBEs could provide referrals to other Certified Enrollers or any Agents certified by the Exchange. And finally, the regulatory modifications prevent PBEs from being affiliated with other Certified Enrollers in order to protect the public from potential conflicts of interest.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 1/29/2018.

**Date: January 29, 2018**



**Thanh Huynh  
Senior Attorney**

**For: Debra M. Cornez  
Director**

**Original: Peter Lee  
Copy: Brian Kearns**

**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

**REGULAR**

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

<b>OAL FILE NUMBERS</b>	<b>NOTICE FILE NUMBER</b> Z-2017-0815-02	<b>REGULATORY ACTION NUMBER</b> 2017-1213-075	<b>EMERGENCY NUMBER</b>
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**ENDORSED - FILED**  
in the office of the Secretary of State  
of the State of California

JAN 29 2018  
1:39 pm

For use by Office of Administrative Law (OAL) only

2017 DEC 13 P 3:17  
OFFICE OF ADMINISTRATIVE LAW

NOTICE	REGULATIONS
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**AGENCY WITH RULEMAKING AUTHORITY**  
California Health Benefit Exchange

AGENCY FILE NUMBER (if any)

**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 <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	FAX NUMBER (Optional)
<b>OAL USE ONLY</b>	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 2017, 34-2	PUBLICATION DATE 8-25-17	

**B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)**

1a. SUBJECT OF REGULATION(S) Plan-Based Enrollers	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

<b>SECTION(S) AFFECTED</b> (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 6704, 6708, 6710
	AMEND 6704, 6708, 6710 per agency request 1/29/18 (TH)
	REPEAL
TITLE(S) 10	

3. TYPE OF FILING

<input checked="" 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"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify)	

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(a))	<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)
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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"/> State Fire Marshal
<input type="checkbox"/> Other (Specify)		

7. CONTACT PERSON

Brian Kearns	TELEPHONE NUMBER 916-228-8843	FAX NUMBER (Optional) 916-403-4468	E-MAIL ADDRESS (Optional) brian.kearns@covered.ca.gov
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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 1/7/17
TYPED NAME AND TITLE OF SIGNATORY Peter V. Lee, Executive Director	

For use by Office of Administrative Law (OAL) only

**ENDORSED APPROVED**

JAN 29 2018

Office of Administrative Law

California Code of Regulations

Title 10. Investment

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

Article 9. Plan-Based Enrollers

California Code of Regulations

**§ 6704. Program Application**

[(a)(1)-(7): No change]

(b) A PBEE application shall contain the following information

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

~~(7) Fax number;~~

~~(7)(8) Federal Employment Identification Number;~~

~~(8)(9) State Tax Identification Number;~~

~~(10) Identification of the counties served;~~

~~(9)(11) For the primary site and each sub-site, the following information:~~

[(b)(9)(A)-(G): No change]

~~(H) An indication of whether the entity wants to receive referrals for individuals seeking assistance at this site;~~

~~(H)(I) An indication of whether~~ Whether the entity provides in-person assistance at this site; and

~~(I)(J) Hours of operation;~~

~~(K) Spoken languages; and~~

~~(L) Written languages;~~

~~(10)(12) Name, e-mail address, primary and secondary phone number for the Authorized Contact;~~

~~(11)(13) A certification by the Authorized Contact, or his or her designee, that the PBEE has presented information in the application that is true and correct to the best of his or her knowledge; and~~

~~(12)~~(14) For each Certified PBE to be affiliated with the applicant entity, a completed application for each individual as required in subdivision (d) below must be included in the entity's application.

...

(d) An individual's application to become a PBE shall contain the following information

~~[(d)(1)-(3): No change]~~

~~(4) Identification of the PBEE with which the applicant is affiliated;~~

~~(5) Affiliated PBEE's primary site location address;~~

~~(6) Site(s) to be served by the applicant;~~

~~(7) Mailing Address of the primary site of the PBEE for which the applicant will serve;~~

~~(4) (8) Languages that the applicant can speak An indication of the languages that the applicant can speak;~~

~~(5) (9) Languages that the applicant can write An indication of the languages that the applicant can write;~~

~~(6)(10) For Issuer Application Assisters, as defined in 45 CFR § 155.20: Disclosure of all criminal convictions and administrative actions taken against the applicant, and any arrests for which the applicant is currently out on bail or his or her own recognizance,~~

~~(7)(11) A certification by the applicant that:~~

~~(A) The applicant shall comply with the PBE Program requirements of this Article and Section 6500(f) of Article 5 of this chapter;~~

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

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

~~(D) The applicant will adhere to any applicable State and federal laws and regulations;~~

~~(8)(12) The signature of the applicant applying to become a PBE and date signed;~~

~~(9)(13) The name and signature of the Authorized Contact, or that of his or her designee, and date signed;~~

~~(10)~~(14) An indication of whether the applicant is licensed in good standing as an agent with the California Department of Insurance, and if so, the applicant's license number; and

~~(11)~~(15) An indication of whether the applicant is certified by the Exchange as a Certified Insurance Agent, Certified Enrollment Counselor, Certified Application Counselor, or serves in any other enrollment function of the Exchange including Service Center Representative and County Eligibility Worker, and, if applicable, the certification number.

...

Note: Authority cited: Sections 100503 and 100504, Government Code. Reference: Section 100503, Government Code; and 45 Code of Federal Regulations, Sections 155.415, and 156.1230.

#### **§ 6708. Certified Plan-Based Enroller Fingerprinting and Criminal Record Checks**

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

(c) Appeal and Final Determination.

(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): No change]

Note: Authority cited: Sections 1043, 100503 and 100504, Government Code. Reference: Section 11105, Penal Code; Section 100503, Government Code; and 45 Code of Federal Regulations, Sections 155.415, 155.260 and 156.1230.

#### **§ 6710. Roles and Responsibilities.**

(a) A Certified Plan-Based Enrollment Entity (PBEE) and its Certified Plan-Based Enrollers (PBEs) shall perform the following functions:

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

(7) Inform all applicants of the availability of other QHP products or stand-alone dental plans offered through the Exchange through an HHS-approved universal disclaimer and display the Web link to access the Exchange Web Site on the PBEE's Web Site, and describe how to access the Exchange Web Site or the Service Center of the Exchange.

The PBE can refer an applicant to any individual or entity certified through Articles 8, 11, 12 of this chapter, or to any Agents certified by the Exchange.

[(a)(8)-(13): No change]

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

(i) Prohibited Activities for PBEEs and PBEs.

(1) All PBEEs and their Contractors and Employees that are PBEs may not:

[(i)(1)(A)-(Q): No change]

(R) Employ, be employed by, be in partnership with, or receive any remuneration arising out of the functions performed under this Article, from any individual or entity certified through Article 8 or Article 11 of this chapter or from any Agents certified by the Exchange.

Note: Authority cited: Section 100504, Government Code. Reference: Section 100503, Government Code; and 45 Code of Federal Regulations, Sections 155.205(d), 155.260, 155.415, 156.265, and 156.1230.