

AMENDED IN ASSEMBLY MAY 23, 2008

AMENDED IN ASSEMBLY APRIL 10, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 2910

Introduced by Assembly Member Huffman

February 22, 2008

An act to ~~amend Sections 1343 and 1344 of~~ *add Section 1344.5 to* the Health and Safety Code, relating to health care service plans.

LEGISLATIVE COUNSEL'S DIGEST

AB 2910, as amended, Huffman. Health care service plans.

~~Existing law, the Administrative Procedure Act, establishes basic minimum procedural requirements for the adoption, amendment, or repeal, of administrative regulations.~~

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation of health care service plans by the Department of Managed Health Care. Existing law authorizes the director of the department to adopt, amend, and rescind rules, forms, and orders as are necessary to carry out the provisions of the act. Existing law authorizes the director to waive any requirement of those rules or forms in specified situations. ~~Existing law also, and~~ authorizes the director to adopt rules or issue orders *in the public interest* exempting certain persons or plan contracts from the provisions of the act. *Existing law also authorizes the director, upon request of the Director of Health Care Services, to exempt from the act any county-operated pilot program contracting with the Department of Health Care Services, as specified. Existing law requires a health care service plan contract to provide subscribers and enrollees all basic health care services, as specified,*

but authorizes the director to, for good cause, by rule or order, exempt a plan contract or any class of plan contract from that requirement.

This bill would require ~~that the waiver of a~~ the Director of the Department of Managed Health Care, in taking any action to waive the requirement of a rule or form, ~~and the adoption of rules or issuance of orders exempting~~ to exempt persons from the act in the public interest, ~~be made in accordance with the Administrative Procedure Act or to exempt plan contracts from the requirement to provide subscribers and enrollees with basic health care services, to meet specified notice, consultation, and public discussion requirements.~~ The bill would also require the director, after granting any of the above waivers or exemptions, or, in exempting from the act, a county-operated pilot program contracting with the State Department of Health Care Services, to notify the appropriate policy and fiscal committees of the Legislature and to post certain information on the Department of Managed Health Care’s Web site.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1344.5 is added to the Health and Safety
- 2 Code, to read:
- 3 1344.5. (a) *In taking action to exempt any class of persons or*
- 4 *plan contracts from this chapter pursuant to subdivision (b) of*
- 5 *Section 1343, to waive a requirement of a rule or form pursuant*
- 6 *to subdivision (a) of Section 1344, or to exempt a plan contract*
- 7 *or any class of plan contracts from the requirement to provide all*
- 8 *of the basic health care services pursuant to subdivision (i) of*
- 9 *Section 1367, the director shall do all of the following:*
- 10 (1) *Mail or e-mail to every person who has filed a request for*
- 11 *notice of regulatory action with the department that a waiver or*
- 12 *exemption has been requested.*
- 13 (2) *Provide in plain English, using a coherent and easily*
- 14 *readable style, the rationale for the proposed exemption or waiver*
- 15 *and its practical effect on health care service plan enrollees and*
- 16 *subscribers if the waiver or exemption is granted.*
- 17 (3) *Notify and consult with interested parties, including the*
- 18 *appropriate policy committees in the Legislature and*
- 19 *representatives of purchasers and patient advocacy organizations,*

1 *regarding requests for waivers or exemptions at least 45 days*
2 *prior to taking action on a waiver or exemption request.*

3 *(4) To increase public participation, involve parties who would*
4 *be affected by the proposed waiver or exemption in public*
5 *discussions regarding the waiver or exemption request.*

6 *(5) Post on its Web site information related to the request for*
7 *a waiver or exemption in order to assist the public to gain access*
8 *to the proposed waiver or exemption.*

9 *(b) The director, after granting a waiver or exemption pursuant*
10 *to subdivision (b) or (c) of Section 1343, subdivision (a) of Section*
11 *1344, or subdivision (i) of Section 1367, shall notify the*
12 *appropriate policy and fiscal committees of the Legislature and*
13 *prepare and post on the department's Web site the order granting*
14 *the waiver or exemption, the reasons for granting the waiver or*
15 *exemption, including, in the case of an exemption under subdivision*
16 *(b) of Section 1343, the findings required by that subdivision, and*
17 *what recourse an enrollee or subscriber of a plan has when a*
18 *waiver or exemption is granted.*

19 ~~SECTION 1. Section 1343 of the Health and Safety Code is~~
20 ~~amended to read:~~

21 ~~1343. (a) This chapter shall apply to health care service plans~~
22 ~~and specialized health care service plan contracts as defined in~~
23 ~~subdivisions (f) and (g) of Section 1345.~~

24 ~~(b) The director may by the adoption of rules or the issuance of~~
25 ~~orders deemed necessary and appropriate in accordance with~~
26 ~~Chapter 3.5 (commencing with Section 11340) of Part 1 of Division~~
27 ~~3 of Title 2 of the Government Code, either unconditionally or~~
28 ~~upon specified terms and conditions or for specified periods,~~
29 ~~exempt from this chapter any class of persons or plan contracts if~~
30 ~~the director finds the action to be in the public interest and not~~
31 ~~detrimental to the protection of subscribers, enrollees, or persons~~
32 ~~regulated under this chapter, and that the regulation of the persons~~
33 ~~or plan contracts is not essential to the purposes of this chapter.~~

34 ~~(c) The director, upon request of the Director of Health Care~~
35 ~~Services, shall exempt from this chapter a county-operated pilot~~
36 ~~program contracting with the State Department of Health Care~~
37 ~~Services pursuant to Article 7 (commencing with Section 14490)~~
38 ~~of Chapter 8 of Part 3 of Division 9 of the Welfare and Institutions~~
39 ~~Code. The director may exempt noncounty-operated pilot programs~~
40 ~~upon request of the Director of Health Care Services. Those~~

1 exemptions may be subject to conditions the Director of Health
2 Care Services deems appropriate.

3 (d) Upon the request of the Director of Mental Health, the
4 director may exempt from this chapter any mental health plan
5 contractor or any capitated rate contract under Part 2.5
6 (commencing with Section 5775) of Division 5 of the Welfare and
7 Institutions Code. Those exemptions may be subject to conditions
8 the Director of Mental Health deems appropriate.

9 (e) This chapter shall not apply to:

10 (1) A person organized and operating pursuant to a certificate
11 issued by the Insurance Commissioner unless the entity is directly
12 providing the health care service through those entity-owned or
13 contracting health facilities and providers, in which case this
14 chapter shall apply to the insurer's plan and to the insurer.

15 (2) A plan directly operated by a bona fide public or private
16 institution of higher learning which directly provides health care
17 services only to its students, faculty, staff, administration, and their
18 respective dependents.

19 (3) A person who does all of the following:

20 (A) Promises to provide care for life or for more than one year
21 in return for a transfer of consideration from, or on behalf of, a
22 person 60 years of age or older.

23 (B) Has obtained a written license pursuant to Chapter 2
24 (commencing with Section 1250) or Chapter 3.2 (commencing
25 with Section 1569).

26 (C) Has obtained a certificate of authority from the State
27 Department of Social Services.

28 (4) The Major Risk Medical Insurance Board when engaging
29 in activities under Chapter 8 (commencing with Section 10700)
30 of Part 2 of Division 2 of the Insurance Code, Part 6.3
31 (commencing with Section 12695) of Division 2 of the Insurance
32 Code, and Part 6.5 (commencing with Section 12700) of Division
33 2 of the Insurance Code.

34 (5) The California Small Group Reinsurance Fund.

35 SEC. 2. Section 1344 of the Health and Safety Code is amended
36 to read:

37 1344. (a) The director may from time to time adopt, amend,
38 and rescind such rules, forms, and orders as are necessary to carry
39 out the provisions of this chapter, including rules governing
40 applications and reports, and defining any terms, whether or not

1 used in this chapter, insofar as the definitions are not inconsistent
2 with the provisions of this chapter. For the purpose of rules and
3 forms, the director may classify persons and matters within the
4 director's jurisdiction, and may prescribe different requirements
5 for different classes. The director may, in accordance with Chapter
6 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
7 Title 2 of the Government Code, waive a requirement of a rule or
8 form in situations where in the director's discretion the requirement
9 is not necessary in the public interest or for the protection of the
10 public, subscribers, enrollees, or persons or plans subject to this
11 chapter. The director may adopt rules consistent with federal
12 regulations and statutes to regulate health care coverage
13 supplementing Medicare.

14 (b) The director may honor requests from interested parties for
15 interpretive opinions.

16 (c) No provision of this chapter imposing any liability applies
17 to an act done or omitted in good faith in conformity with a rule,
18 form, order, or written interpretive opinion of the director, or a
19 written interpretive opinion of the Attorney General,
20 notwithstanding that the rule, form, order, or written interpretive
21 opinion may later be amended or rescinded or be determined by
22 judicial or other authority to be invalid for any reason.