

**Introduced by Senator Padilla**February 27, 2009

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

## LEGISLATIVE COUNSEL'S DIGEST

SB 525, as introduced, Padilla. Department of Managed Health Care: rulemaking.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Director of the Department of Managed Health Care. Existing law authorizes the director, by the adoption of rules or the issuance of orders, to exempt from the act any class of persons or plan contracts if the director finds the action to be in the public interest and not detrimental to the protection of subscribers, enrollees, or persons regulated under the act, as specified. Existing law also authorizes the director to waive any requirement of any rule or form in situations where that requirement is not necessary in the public interest or for the protection of the public, subscribers, enrollees, or persons or plans subject to the act.

This bill would subject the making of those exemptions and waivers to the administrative rulemaking provisions of the Administrative Procedure Act.

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 1343 of the Health and Safety Code is  
2 amended to read:

3 1343. (a) This chapter shall apply to health care service plans  
4 and specialized health care service plan contracts as defined in  
5 subdivisions (f) and (o) of Section 1345.

6 (b) The director may by the adoption of rules or the issuance of  
7 orders deemed necessary and appropriate *in accordance with*  
8 *Chapter 3.5 (commencing with Section 11340) of Part 1 of Division*  
9 *3 of Title 2 of the Government Code*, either unconditionally or  
10 upon specified terms and conditions or for specified periods,  
11 exempt from this chapter any class of persons or plan contracts if  
12 the director finds the action to be in the public interest and not  
13 detrimental to the protection of subscribers, enrollees, or persons  
14 regulated under this chapter, and that the regulation of the persons  
15 or plan contracts is not essential to the purposes of this chapter.

16 (c) The director, upon request of the Director of Health Care  
17 Services, shall exempt from this chapter any county-operated pilot  
18 program contracting with the State Department of Health Care  
19 Services pursuant to Article 7 (commencing with Section 14490)  
20 of Chapter 8 of Part 3 of Division 9 of the Welfare and Institutions  
21 Code. The director may exempt noncounty-operated pilot programs  
22 upon request of the Director of Health Care Services. Those  
23 exemptions may be subject to conditions the Director of Health  
24 Care Services deems appropriate.

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

31 (e) This chapter shall not apply to:

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

37 (2) A plan directly operated by a bona fide public or private  
38 institution of higher learning which directly provides health care

1 services only to its students, faculty, staff, administration, and their  
2 respective dependents.

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

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

7 (B) Has obtained a written license pursuant to Chapter 2  
8 (commencing with Section 1250) or Chapter 3.2 (commencing  
9 with Section 1569).

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

12 (4) The Major Risk Medical Insurance Board when engaging  
13 in activities under Chapter 8 (commencing with Section 10700)  
14 of Part 2 of Division 2 of the Insurance Code, Part 6.3  
15 (commencing with Section 12695) of Division 2 of the Insurance  
16 Code, and Part 6.5 (commencing with Section 12700) of Division  
17 2 of the Insurance Code.

18 (5) The California Small Group Reinsurance Fund.

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

21 1344. (a) The director may from time to time adopt, amend,  
22 and rescind ~~such~~ any rules, forms, and orders as are necessary to  
23 carry out the provisions of this chapter, including rules governing  
24 applications and reports, and defining any terms, whether or not  
25 used in this chapter, insofar as the definitions are not inconsistent  
26 with the provisions of this chapter. For the purpose of rules and  
27 forms, the director may classify persons and matters within the  
28 director's jurisdiction, and may prescribe different requirements  
29 for different classes. The director may, *in accordance with Chapter*  
30 *3.5 (commencing with Section 11340) of Part 1 of Division 3 of*  
31 *Title 2 of the Government Code*, waive any requirement of any  
32 rule or form in situations where in the director's discretion ~~such~~  
33 *the* requirement is not necessary in the public interest or for the  
34 protection of the public, subscribers, enrollees, or persons or plans  
35 subject to this chapter. The director may adopt rules consistent  
36 with federal regulations and statutes to regulate health care  
37 coverage supplementing Medicare.

38 (b) The director may honor requests from interested parties for  
39 interpretive opinions.

1 (c) No provision of this chapter imposing any liability applies  
2 to any act done or omitted in good faith in conformity with any  
3 rule, form, order, or written interpretive opinion of the director;  
4 ~~or any such opinion~~ of the Attorney General, notwithstanding that  
5 the rule, form, order, or written interpretive opinion may later be  
6 amended or rescinded or be determined by judicial or other  
7 authority to be invalid for any reason.

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