

AMENDED IN ASSEMBLY MAY 17, 2012

AMENDED IN ASSEMBLY MAY 1, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1846

Introduced by Assembly Member Gordon

February 22, 2012

An act to add Article 11.1 (commencing with Section 1399.80) to Chapter 2.2 of Division 2 of the Health and Safety Code, and to add Chapter 9.8 (commencing with Section 10961) to Part 2 of Division 2 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 1846, as amended, Gordon. Consumer operated and oriented plans.

Existing law, the federal Patient Protection and Affordable Care Act (PPACA), requires the Secretary of the United States Department of Health and Human Services to establish the Consumer Operated and Oriented Plan program for the purpose of fostering the creation of qualified nonprofit health insurance issuers to offer qualified health plans in the individual and small group markets in the states in which they are licensed to offer those plans *and makes start-up and solvency loans available for those purposes, as specified. 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 Department of Managed Health Care and makes a willful violation of that act a crime.* Existing law *also* provides for the regulation of various forms of insurance by the Insurance Commissioner and requires insurers to

obtain a certificate of authority from the commissioner in order to be admitted to transact insurance business in the state.

This bill would authorize the ~~commissioner~~ *Director of the Department of Managed Health Care* to issue a health care service plan license, and the Insurance Commissioner to issue a certificate of authority, to a consumer operated and oriented plan (CO-OP) established consistent with PPACA, as specified. The bill would specify that a CO-OP issued a *license or a certificate of authority* is subject to all other provisions of law relating to *health care service plans or insurance, respectively*, and would further specify that a CO-OP insurer and any solvency loan obtained by the CO-OP ~~from the federal Centers for Medicare and Medicaid Services pursuant to PPACA~~ are subject to certain requirements imposed on mutual insurers. The bill would authorize the *director and the commissioner* to request documentation relating to a CO-OP's solvency or start-up loan. The bill would prohibit a CO-OP from converting or selling to a for-profit or nonconsumer-operated entity after receiving a solvency loan, would ~~prohibit a CO-OP from implementing a governance structure that does not meet PPACA standards~~ *require a CO-OP to comply with specified governance standards*, and would authorize *the director to revoke a CO-OP health care service plan's license, and the commissioner to revoke a CO-OP insurer's certificate of authority*, for violating those prohibitions. The bill would authorize the ~~Department of Insurance departments~~ to enact regulations implementing these provisions and would enact other related provisions. *Because a willful violation of the bill's requirements by a health care service plan would be a crime, the bill would impose a state-mandated local program.*

Existing law creates the California Health Benefit Exchange (Exchange) to facilitate the purchase of qualified health plans by qualified individuals and qualified small employers by January 1, 2014. Existing law requires the Exchange to use a competitive process to select carriers to participate in the Exchange.

This bill would specify that a CO-OP health care service plan or insurer that enters into a contract to offer qualified health plans in the Exchange is subject to the same requirements, terms, and conditions imposed on other carriers participating in the Exchange. The bill would authorize the Exchange to impose terms, conditions, and price on a CO-OP health care service plan or insurer if an agreement cannot be reached and would also authorize the Exchange to impose contract sanctions and take any other actions authorized by federal law if a

CO-OP health care service plan or insurer fails to comply with any contractual provisions. To the extent permitted under federal law, the bill would authorize the Exchange to limit enrollment in the qualified health plans of a CO-OP health care service plan or insurer offered in the Exchange if the carrier fails to comply with Exchange contract specifications.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~The bill would also declare the intent of the Legislature in this regard.~~

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

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

1 SECTION 1. (a) It is the intent of the Legislature in enacting
2 this act to ensure all of the following:

3 (1) That all insureds in a consumer operated and oriented plan
4 (CO-OP) be afforded the numerous consumer protections available
5 to all other individuals covered by health insurance.

6 (2) That a CO-OP operated in California be subject to all state
7 requirements applicable to health insurers, including, but not
8 limited to, the requirements of certificates of authority, state
9 reserves, risk-based capital, and financial statements filings.

10 (3) That before a CO-OP may offer a qualified health plan
11 through the California Health Benefit Exchange, that CO-OP must
12 adhere to California-specific standards established by the California
13 Health Benefit Exchange.

14 (4) That a CO-OP be subject to the California Health Benefit
15 Exchange’s selective contracting requirements, including rate
16 negotiations.

17 (b) The Legislature intends and declares that a CO-OP must
18 comply with the same state and federal standards as other health
19 insurers.

20 SEC. 2. Article 11.1 (commencing with Section 1399.80) is
21 added to Chapter 2.2 of Division 2 of the Health and Safety Code,
22 to read:

1 Article 11.1. Consumer Operated and Oriented Plans

2
3 1399.80. For purposes of this article, the following definitions
4 shall apply:

5 (a) “Consumer operated and oriented plan” means a nonprofit
6 member organization or nonprofit member corporation that has
7 been established consistent with the requirements of Section 1322
8 of PPACA and Subpart F (commencing with Section 156.500) of
9 Part 156 of Subchapter B of Subtitle A of Title 45 of the Code of
10 Federal Regulations and remains in full compliance with those
11 requirements. A consumer operated and oriented plan shall also
12 be known as a “CO-OP.”

13 (b) “Exchange” means the California Health Benefit Exchange
14 established under Section 100500 of the Government Code.

15 (c) “Formation board” means the initial board of directors of
16 a CO-OP before it has begun accepting enrollment and had an
17 election by the members of the CO-OP to the board of directors.

18 (d) “Member” includes all individuals, including dependents,
19 18 years of age or older covered under health care service plan
20 contracts issued by the CO-OP health care service plan.

21 (e) “Operational board” means the board of directors elected
22 by the members of the CO-OP after it has begun accepting
23 enrollment under its health care service plan contracts.

24 (f) “PPACA” means the federal Patient Protection and
25 Affordable Care Act (Public Law 111-148), as amended by the
26 Health Care and Education Reconciliation Act of 2010 (Public
27 Law 111-152), and any rules or regulations issued thereunder.

28 (g) “Nonprofit member organization” or “nonprofit member
29 corporation” means a nonprofit public benefit corporation
30 organized under Part 2 (commencing with Section 5110) of
31 Division 2 of Title 1 of the Corporations Code, a nonprofit mutual
32 benefit corporation organized under Part 3 (commencing with
33 Section 7110) of Division 2 of Title 1 of the Corporations Code,
34 or a similar entity organized under applicable provisions of the
35 Corporations Code, or in the case of a foreign corporation, a
36 nonprofit public benefit corporation, a mutual benefit corporation,
37 or a similar entity organized under nonprofit laws in a state other
38 than California.

39 (h) “Solvency loan” means a loan provided by the federal
40 Centers for Medicare and Medicaid Services to a nonprofit member

1 organization or nonprofit member corporation seeking to become
2 licensed as a CO-OP health care service plan, to be used to assist
3 in meeting the state’s fiscal soundness and solvency requirements.

4 (i) “Start-up loan” means a loan provided by the federal Centers
5 for Medicare and Medicaid Services to a nonprofit member
6 organization or nonprofit member corporation seeking to become
7 licensed as a CO-OP health care service plan, to be used for
8 allowed expenses associated with establishing a CO-OP, as further
9 specified by PPACA.

10 1399.81. The director shall have the authority to issue a license
11 to act as a health care service plan to a CO-OP that has been
12 organized as a nonprofit member organization or nonprofit member
13 corporation under the laws of this state. The director may also
14 issue a license to act as a health care service plan to a foreign
15 CO-OP that has been organized as a nonprofit member
16 organization or nonprofit member corporation under the laws of
17 another state, provided that the entity meets the requirements
18 governing CO-OPs under PPACA and this article. A CO-OP
19 seeking or maintaining a license pursuant to this article shall be
20 subject to the same fees that are imposed on other health care
21 service plans pursuant to Article 3 (commencing with Section
22 1349).

23 1399.83. (a) A domestic or foreign CO-OP licensed as a health
24 care service plan pursuant to this article shall be subject to all of
25 the provisions of this chapter and all applicable rules and
26 regulations of the director, including, but not limited to, the general
27 provisions governing the issuance of a license in Article 3
28 (commencing with Section 1349), the operation and renewal
29 provisions in Article 6 (commencing with Section 1375), and the
30 financial responsibility requirements in Article 9 (commencing
31 with Section 1300.75) of Chapter 2 of Division 1 of Title 28 of the
32 California Code of Regulations. The provisions of this chapter
33 and the rules and regulations of the director shall be construed in
34 consideration of the fundamental nature of a CO-OP health care
35 service plan. In the event of any direct conflict between the other
36 provisions of this chapter and the provisions of this article, the
37 provisions of this article shall prevail.

38 (b) In compliance with Section 1322(c)(5) of PPACA (42 U.S.C.
39 Sec. 18042(c)(5)), and any rules or regulations issued under that
40 section, a domestic or foreign CO-OP licensed as a health care

1 *service plan shall be subject to any state laws that do not prevent*
 2 *the application of requirements under PPACA.*

3 *(c) (1) A CO-OP health care service plan that contracts with*
 4 *the Exchange to offer qualified health plans in the Exchange shall*
 5 *be subject to the same requirements, terms, and conditions as those*
 6 *imposed on other carriers participating in the Exchange pursuant*
 7 *to Title 22 (commencing with Section 100500) of the Government*
 8 *Code.*

9 *(2) If a CO-OP health care service plan is unable to reach*
 10 *agreement with the Exchange on terms, conditions, or price, the*
 11 *Exchange may impose terms, conditions, or price on the CO-OP*
 12 *health care service plan. If a CO-OP health care service plan fails*
 13 *to comply with any of the provisions of its contract with the*
 14 *Exchange, the Exchange may impose contract sanctions, including*
 15 *monetary penalties, consistent with due process requirements, and*
 16 *take any other actions permitted under federal law. To the extent*
 17 *permitted under federal law, the Exchange may limit enrollment*
 18 *in the qualified health plans offered by a CO-OP health care*
 19 *service plan through the Exchange if the plan fails to comply with*
 20 *Exchange contract specifications.*

21 *1399.84. The director may request any documentation relating*
 22 *to a CO-OP's start-up loan or solvency loan.*

23 *1399.86. (a) A CO-OP shall be subject at all times to the*
 24 *prohibitions in PPACA against converting or selling to a for-profit*
 25 *or nonconsumer-operated entity at any time after receiving a*
 26 *solvency loan.*

27 *(b) A CO-OP shall do all of the following, in addition to any*
 28 *other requirements imposed under Section 156.515 of Title 45 of*
 29 *the Code of Federal Regulations:*

30 *(1) Implement policies and procedures to foster and ensure*
 31 *member control of the organization. For purposes of this*
 32 *paragraph, a CO-OP shall meet the following requirements:*

33 *(A) The CO-OP shall have governing documents that*
 34 *incorporate governing rules that ensure that the directors of the*
 35 *operational board are elected by a majority vote of a quorum of*
 36 *the CO-OP members.*

37 *(B) All members of the CO-OP shall be eligible to vote for each*
 38 *director on the CO-OP's operational board.*

39 *(C) Each member of the CO-OP shall have one vote in the*
 40 *election of each director of the CO-OP's operational board.*

1 (D) *The first elected directors of the CO-OP's operational board*
2 *shall be elected no later than one year after the effective date on*
3 *which the CO-OP provides coverage to its first member; the entire*
4 *operational board shall be elected no later than two years after*
5 *the same date.*

6 (E) *Elections of the directors on the CO-OP's operational board*
7 *shall be contested so that the total number of candidates for vacant*
8 *positions on the operational board exceeds the number of vacant*
9 *positions, except in cases where a seat is vacated midterm due to*
10 *death, resignation, or removal.*

11 (F) *A two-thirds majority of the voting directors on the*
12 *operational board shall be members of the CO-OP.*

13 (2) *Have an operational board of directors that meets the*
14 *following requirements:*

15 (A) *Each director shall have one vote unless he or she is a*
16 *nonvoting director.*

17 (B) *Positions on the board of directors may be designated for*
18 *individuals with specialized expertise, experience, or affiliation*
19 *(for example, providers, employers, including small business*
20 *consortia, and unions); however, those positions shall not*
21 *constitute a majority of the operational board even if the*
22 *individuals in those positions are also members of the CO-OP.*

23 (C) *No representative of any federal, state, or local government,*
24 *or of any political subdivision or instrumentality thereof, and no*
25 *representative of any organization described in Section*
26 *156.510(b)(1)(i) of Title 45 of the Code of Federal Regulations*
27 *may serve on the CO-OP's formation board or operational board.*

28 (D) *Each member of the formation or operational board of a*
29 *CO-OP shall publicly disclose on the Internet Web site of the*
30 *CO-OP his or her financial interest in any health-related entity in*
31 *excess of one thousand dollars (\$1,000), including, but not limited*
32 *to, his or her ownership of stocks or bonds of a health-related*
33 *entity in excess of one thousand dollars (\$1,000).*

34 (3) *Have governing documents that incorporate ethics, conflict*
35 *of interest, and disclosure standards. These standards shall protect*
36 *against health care coverage industry involvement and*
37 *interference. In addition, these standards shall ensure that each*
38 *director acts in the sole interest of the CO-OP, its members, and*
39 *its local geographic community, as appropriate, and acts*
40 *consistently with the terms of the CO-OP's governance documents*

1 and applicable state and federal law. At a minimum, these
2 standards shall include the following:

3 (A) A mechanism to identify potential ethical or other conflicts
4 of interest.

5 (B) A duty on the CO-OP’s executive officers and directors to
6 publicly disclose all potential conflicts of interest pursuant to the
7 same standards required for state boards or commissions.

8 (C) A process to determine the extent to which a conflict exists.

9 (D) A process to address any conflict of interest.

10 (E) A process to be followed in the event a director or executive
11 officer of the CO-OP violates the standards described in this
12 paragraph.

13 (c) A violation of any of the requirements of this section shall
14 constitute grounds for revocation of the license of the CO-OP
15 health care service plan, in addition to any other grounds in this
16 chapter for revocation of the license.

17 1399.88. In addition to any applicable requirements in this
18 chapter for maintaining a license, a CO-OP is required at all times
19 to be in full compliance with the requirements of PPACA governing
20 CO-OPs. The department may request the federal government’s
21 certification that a CO-OP is in compliance with the requirements
22 of PPACA governing CO-OPs, as well as the status of the CO-OP’s
23 compliance with its obligations under any loan or loan
24 modification agreement.

25 1399.89. The department may adopt regulations implementing
26 this article pursuant to the Administrative Procedure Act (Chapter
27 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
28 Title 2 of the Government Code).

29 ~~SEC. 2.~~

30 SEC. 3. Chapter 9.8 (commencing with Section 10961) is added
31 to Part 2 of Division 2 of the Insurance Code, to read:

32

33 CHAPTER 9.8. CONSUMER OPERATED AND ORIENTED PLANS

34

35 10961. ~~(a)~~ For purposes of this chapter, the following
36 definitions shall apply:

37 (a) “Consumer operated and oriented plan” means a nonprofit
38 member organization or nonprofit member corporation that has
39 been established consistent with the requirements of Section 1322
40 of PPACA and Subpart F (commencing with Section 156.500) of

1 Part 156 of Subchapter B of Subtitle A of Title 45 of the Code of
2 Federal Regulations and remains in full compliance with those
3 requirements. A consumer operated and oriented plan shall also
4 be known as a “CO-OP.”

5 (b) *“Exchange” means the California Health Benefit Exchange*
6 *established under Section 100500 of the Government Code.*

7 (c) *“Formation board” means the initial board of directors of*
8 *a CO-OP before it has begun accepting enrollment and had an*
9 *election by the members of the CO-OP to the board of directors.*

10 (d) *“Member” includes all individuals, including dependents,*
11 *18 years of age or older covered under health insurance policies*
12 *issued by the CO-OP insurer.*

13 (e) *“Operational board” means the board of directors elected*
14 *by the members of the CO-OP after it has begun accepting*
15 *enrollment under its health insurance policies.*

16 (~~b~~)

17 (f) *“PPACA” means the federal Patient Protection and*
18 *Affordable Care Act (Public Law 111-148), as amended by the*
19 *Health Care and Education Reconciliation Act of 2010 (Public*
20 *Law 111-152), and any rules or regulations issued thereunder.*

21 (~~e~~)

22 (g) *“Nonprofit member organization” or “nonprofit member*
23 *corporation” means a nonprofit public benefit corporation*
24 *organized under Part 2 (commencing with Section 5110) of*
25 *Division 2 of Title 1 of the Corporations Code, a nonprofit mutual*
26 *benefit corporation organized under Part 3 (commencing with*
27 *Section 7110) of Division 2 of Title 1 of the Corporations Code,*
28 *or a similar entity organized under applicable provisions of the*
29 *Corporations Code, or in the case of a foreign corporation, a*
30 *nonprofit public benefit corporation, a mutual benefit corporation,*
31 *or a similar entity organized under nonprofit laws in a state other*
32 *than California.*

33 (~~d~~)

34 (h) *“Solvency loan” means a loan provided by the federal*
35 *Centers for Medicare and Medicaid Services to a nonprofit member*
36 *organization or nonprofit member corporation seeking to become*
37 *licensed as a CO-OP insurer, to be used to assist in meeting the*
38 *state’s solvency and reserve requirements.*

39 (~~e~~)

1 (i) “Start-up loan” means a loan provided by the federal Centers
2 for Medicare and Medicaid Services to a nonprofit member
3 organization or nonprofit member corporation seeking to become
4 licensed as a CO-OP insurer, to be used for allowed expenses
5 associated with establishing a CO-OP, as further specified by
6 PPACA.

7 10961.1. The commissioner shall have the authority to issue a
8 certificate of authority to a CO-OP that has been organized as a
9 nonprofit member organization or nonprofit member corporation
10 under the laws of this state. The commissioner may also issue a
11 certificate of authority to a foreign CO-OP that has been organized
12 as a nonprofit member organization or nonprofit member
13 corporation under the laws of another state, provided that the entity
14 meets the requirements governing CO-OPs under PPACA and this
15 chapter. A CO-OP seeking or maintaining a certificate of authority
16 pursuant to this chapter shall be subject to the same fees that are
17 imposed on mutual insurers.

18 10961.2. A domestic or foreign insurer admitted as a CO-OP
19 insurer shall be subject to the same “paid-in capital” or “capital
20 paid-in” requirements as are imposed on domestic and foreign
21 mutual insurers pursuant to Sections 36 and 4011.

22 10961.3. (a) A domestic or foreign ~~insurer~~ CO-OP admitted
23 as a CO-OP insurer shall be subject to all of the provisions of this
24 code and all applicable rules and regulations of the commissioner,
25 including, but not limited to, the general provisions governing
26 issuance of a certificate of authority in Article 3 (commencing
27 with Section 699) of, the examination provisions in Article 4
28 (commencing with Section 729) of, the risk-based capital
29 requirements in Article 4.1 (commencing with Section 739) of,
30 and the financial statement filing requirements in Article 10
31 (commencing with Section 900) of, Chapter 1 of Part 2 of Division
32 1. The provisions of this code and the rules and regulations of the
33 commissioner shall be construed in consideration of the
34 fundamental nature of a CO-OP insurer. In the event of any direct
35 conflict between the other provisions of this code and the
36 provisions of this chapter, the provisions of this chapter shall
37 prevail.

38 (b) *In compliance with Section 1322(c)(5) of PPACA (42 U.S.C.*
39 *Sec. 18042(c)(5)), and any rules or regulations issued under that*
40 *section, a domestic or foreign CO-OP admitted as a CO-OP*

1 *insurer shall be subject to any state laws that do not prevent the*
2 *application of requirements under PPACA.*

3 *(c) (1) A CO-OP insurer that contracts with the Exchange to*
4 *offer qualified health plans in the Exchange shall be subject to the*
5 *same requirements, terms, and conditions as those imposed on*
6 *other carriers participating in the Exchange pursuant to Title 22*
7 *(commencing with Section 100500) of the Government Code.*

8 *(2) If a CO-OP insurer is unable to reach agreement with the*
9 *Exchange on terms, conditions, or price, the Exchange may impose*
10 *terms, conditions, or price on the CO-OP insurer. If a CO-OP*
11 *insurer fails to comply with any of the provisions of its contract*
12 *with the Exchange, the Exchange may impose contract sanctions,*
13 *including monetary penalties, consistent with due process*
14 *requirements, and take any other actions permitted under federal*
15 *law. To the extent permitted under federal law, the Exchange may*
16 *limit enrollment in the qualified health plans offered by a CO-OP*
17 *insurer through the Exchange if the insurer fails to comply with*
18 *Exchange contract specifications.*

19 10961.4. (a) A solvency loan obtained by a CO-OP shall be
20 treated as a surplus note and shall be subject to the same
21 requirements as are imposed on mutual insurers pursuant to Article
22 4 (commencing with Section 4040) of Chapter 4 of Part 1 of
23 Division 2. The commissioner may request any documentation
24 relating to a CO-OP's start-up loan or solvency loan.

25 (b) A CO-OP shall be subject to the same securities permit
26 requirements as are imposed upon mutual insurers pursuant to
27 Section 4042; however, the commissioner shall have the authority
28 to waive the requirements under Section 4042 upon a determination
29 that they are not applicable following a full review of the CO-OP's
30 plan of operations and any other documents as requested by the
31 commissioner prior to the admission of the CO-OP.

32 10961.5. The provisions of Section 699.5 shall apply to any
33 insurer admitted as a CO-OP insurer; however, any loans received
34 by the CO-OP in the form of a solvency or start-up loan shall not
35 be construed as any form of subsidy, ownership, or financial control
36 of the CO-OP insurer within the meaning of Section 699.5.

37 10961.6. (a) A CO-OP shall be subject at all times to the
38 prohibitions in PPACA against converting or selling to a for-profit
39 or nonconsumer-operated entity at any time after receiving a
40 solvency loan. ~~Furthermore, a CO-OP shall not undertake any~~

1 ~~transaction that would result in the CO-OP implementing a~~
2 ~~governance structure that does not meet the standards contained~~
3 ~~in PPACA. Any violation of these prohibitions shall constitute~~
4 ~~grounds for revocation of the CO-OP insurer's certificate of~~
5 ~~authority, in addition to any other grounds in this code for~~
6 ~~revocation of the certificate.~~

7 *(b) A CO-OP shall do all of the following, in addition to any*
8 *other requirements imposed under Section 156.515 of Title 45 of*
9 *the Code of Federal Regulations:*

10 *(1) Implement policies and procedures to foster and ensure*
11 *member control of the organization. For purposes of this*
12 *paragraph, a CO-OP shall meet the following requirements:*

13 *(A) The CO-OP shall have governing documents that*
14 *incorporate governing rules that ensure that the directors of the*
15 *operational board are elected by a majority vote of a quorum of*
16 *the CO-OP members.*

17 *(B) All members of the CO-OP shall be eligible to vote for each*
18 *director on the CO-OP's operational board.*

19 *(C) Each member of the CO-OP shall have one vote in the*
20 *election of each director of the CO-OP's operational board.*

21 *(D) The first elected directors of the CO-OP's operational board*
22 *shall be elected no later than one year after the effective date on*
23 *which the CO-OP provides coverage to its first member; the entire*
24 *operational board shall be elected no later than two years after*
25 *the same date.*

26 *(E) Elections of the directors on the CO-OP's operational board*
27 *shall be contested so that the total number of candidates for vacant*
28 *positions on the operational board exceeds the number of vacant*
29 *positions, except in cases where a seat is vacated midterm due to*
30 *death, resignation, or removal.*

31 *(F) A two-thirds majority of the voting directors on the*
32 *operational board shall be members of the CO-OP.*

33 *(2) Have an operational board of directors that meets the*
34 *following requirements:*

35 *(A) Each director shall have one vote unless he or she is a*
36 *nonvoting director.*

37 *(B) Positions on the board of directors may be designated for*
38 *individuals with specialized expertise, experience, or affiliation*
39 *(for example, providers, employers, including small business*
40 *consortia, and unions); however, those positions shall not*

1 *constitute a majority of the operational board even if the*
2 *individuals in those positions are also members of the CO-OP.*

3 *(C) No representative of any federal, state, or local government,*
4 *or of any political subdivision or instrumentality thereof, and no*
5 *representative of any organization described in Section*
6 *156.510(b)(1)(i) of Title 45 of the Code of Federal Regulations*
7 *may serve on the CO-OP's formation board or operational board.*

8 *(D) Each member of the formation or operational board of a*
9 *CO-OP shall publicly disclose on the Internet Web site of the*
10 *CO-OP his or her financial interest in any health-related entity in*
11 *excess of one thousand dollars (\$1,000), including, but not limited*
12 *to, his or her ownership of stocks or bonds of a health-related*
13 *entity in excess of one thousand dollars (\$1,000).*

14 *(3) Have governing documents that incorporate ethics, conflict*
15 *of interest, and disclosure standards. These standards shall protect*
16 *against insurance industry involvement and interference. In*
17 *addition, these standards shall ensure that each director acts in*
18 *the sole interest of the CO-OP, its members, and its local*
19 *geographic community, as appropriate, and acts consistently with*
20 *the terms of the CO-OP's governance documents and applicable*
21 *state and federal law. At a minimum, these standards shall include*
22 *the following:*

23 *(A) A mechanism to identify potential ethical or other conflicts*
24 *of interest.*

25 *(B) A duty on the CO-OP's executive officers and directors to*
26 *publicly disclose all potential conflicts of interest pursuant to the*
27 *same standards required for state boards or commissions.*

28 *(C) A process to determine the extent to which a conflict exists.*

29 *(D) A process to address any conflict of interest.*

30 *(E) A process to be followed in the event a director or executive*
31 *officer of the CO-OP violates the standards described in this*
32 *paragraph.*

33 *(c) A violation of any of the requirements of this section shall*
34 *constitute grounds for revocation of the CO-OP insurer's*
35 *certificate of authority, in addition to any other grounds in this*
36 *code for revocation of the certificate.*

37 10961.7. A CO-OP insurer is insolvent if its surplus becomes
38 less than the amount of paid-in capital required of a capital stock
39 company to qualify to transact the class of disability and health
40 insurance. The conservation and liquidation provisions of Article

1 14 (commencing with Section 1010) of Chapter 1 of Part 2 of
2 Division 1 shall apply to CO-OP insurers.

3 10961.8. In addition to any applicable requirements in this
4 code for maintaining a certificate of authority, a CO-OP is required
5 at all times to be in full compliance with the requirements of
6 PPACA governing CO-OPs. The commissioner may request the
7 federal government’s certification that a CO-OP is in compliance
8 with the requirements of PPACA governing CO-OPs, as well as
9 the status of the CO-OP’s compliance with its obligations under
10 any loan or loan modification agreement.

11 10961.9. The department may adopt regulations implementing
12 this chapter pursuant to the Administrative Procedure Act (Chapter
13 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
14 Title 2 of the Government Code).

15 *SEC. 4. No reimbursement is required by this act pursuant to*
16 *Section 6 of Article XIII B of the California Constitution because*
17 *the only costs that may be incurred by a local agency or school*
18 *district will be incurred because this act creates a new crime or*
19 *infraction, eliminates a crime or infraction, or changes the penalty*
20 *for a crime or infraction, within the meaning of Section 17556 of*
21 *the Government Code, or changes the definition of a crime within*
22 *the meaning of Section 6 of Article XIII B of the California*
23 *Constitution.*