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INSURANCE CODE - INS

DIVISION 2. CLASSES OF INSURANCE [1880 - 12880.8] (*Division 2 enacted by Stats. 1935, Ch. 145.*)

PART 2. LIFE AND DISABILITY INSURANCE [10110 - 11549] (*Part 2 enacted by Stats. 1935, Ch. 145.*)

CHAPTER 9. The Private Health Care Voluntary Purchasing Alliance Act [10800 - 10887] (*Chapter 9 added by Stats. 1996, Ch. 916, Sec. 1.*)

ARTICLE 5. Additional Powers of and Restrictions on Purchasing Alliances [10840 - 10845] (*Article 5 added by Stats. 1996, Ch. 916, Sec. 1.*)

10840. A purchasing alliance shall do all of the following:

- (a) Set reasonable fees, which may vary by employer or small employer size, in the purchasing alliance that will finance reasonable and necessary costs incurred in marketing, selling, servicing, and administering the purchasing alliance. Fees may not vary based upon the small employer or his or her enrollees and dependents' actual or expected health status, medical utilization, claims experience, industry, occupation, or the geographic location of participating small employers within the same service region.
- (b) Define, market, offer, and sell to small employers the health benefit plans purchased from participating carriers. The purchasing alliance may also incidentally offer optional ancillary benefit plans. The purchasing alliance may also define, market, and offer health benefit plans and ancillary benefit plans to employers.
- (c) Require as a condition of participation that all employers or small employers include all their eligible employees or a minimum percentage of eligible employees in coverage purchased through the purchasing alliance.
- (d) With respect to small employers, the purchasing alliance shall require that the application of participation requirements be uniformly applied to all small employers.
- (e) Provide premium collection services for health benefit plans and ancillary benefit plans offered through the purchasing alliance.
- (f) Establish administrative and accounting procedures for operating the purchasing alliance and for services to employers and small employers and enrollees, including billing, administration, underwriting, marketing, enrollment, sales, regulatory compliance, and ensuring carrier and member compliance with the purchasing alliance requirements.
- (g) Establish rules, conditions, and procedures for participating members. The rules, conditions, and procedures for participating small employers shall be uniformly applied.
- (h) Establish rules, conditions, and procedures for participating carriers.
- (i) Reject or allow a participating carrier to reject an employer or small employer from participation or drop or allow a participating carrier to drop a participating employer if the participating employer or any of its eligible employees fail to pay premiums, or if the participating employer fails to maintain the minimum participation and contribution requirements or if the participating employer has engaged in fraud or material misrepresentation in connection with a health benefit plan or ancillary benefit plan purchased through the purchasing alliance. If a participating employer or enrollee is dropped from coverage, the enrollee shall be entitled to continuation and conversion coverage to the extent provided for under applicable state or federal continuation laws and the state conversion law.
- (j) Contract with at least three unaffiliated participating carriers offering health benefit plans to provide benefits in all regions of the state in which each carrier is licensed to operate and together to provide health benefit plans throughout all service regions in this state to ensure that enrollees have a personal choice from among a reasonable number of competing carriers. The commissioner may, upon a showing of good cause, waive the requirement to have at least three unaffiliated participating medical carriers.
- (k) Fairly and affirmatively offer, market, and sell all the health benefit plans sponsored by the purchasing alliance that are sold or offered to small employers to all small employers, in all service regions. In addition, the alliance shall require all participating carriers to make their purchasing alliance products available in all portions of each of the alliances service regions where the carrier offers health care benefits.
- (l) Be registered to operate in all service regions in this state and throughout each service region.

(m) Develop standard enrollment procedures.

(n) Publish educational materials, plan descriptions, and comparison sheets describing participating carriers and the benefit plan designs available through the purchasing alliance for use in enrolling employers or small employers and their eligible employees. The information may include an assessment of utilization management procedures and the level of quality and cost-effective care.

(o) Establish conditions for participation of employers or small employers that conform to the requirements of this chapter and that include, but are not limited to, assurances that the employer or small employer is a bona fide employer or small employer group and provision for prepayment of premiums or other mechanisms to ensure that payment will be made for coverage. Conditions for participating small employers shall be uniformly applied to all small employers.

(p) Provide that each eligible employee may choose from any participating medical carrier as long as the participating carrier provides coverage where the employee works or lives.

(q) Receive, review, and act, as appropriate, on grievances by participating employers or enrollees.

(r) Review information and recommendations from consumers, employers, small employers, participating carriers, health care providers, and other sources. After the review, the board may issue reports or otherwise make recommendations to improve the delivery or purchase of health care.

(s) Establish administrative and accounting procedures for operating the purchasing alliance and for providing services to employers, small employers, and enrollees.

(t) Prepare an annual report on the operations of the purchasing alliance to the commissioner, which shall include an accounting of all outside revenues received by the board and internal and independent audits and any other information the commissioner may require.

(u) Establish procedures for billing and collection of premiums from employers and small employers, including any share of the premium paid by enrollees.

(v) Establish procedures for annual open enrollment periods during which an employee enrolled in a health benefit plan through the purchasing alliance may elect to enroll in any health benefit plan that is available to that size group through the purchasing alliance, and that provides health coverage where the employee lives or works and during which any enrollee may elect to enroll in any health benefit plan that is available to that size group through the purchasing alliance, and that provides health coverage where the enrollee lives or works. For purposes of this subdivision, "size group" refers to whether the employer is a small employer or any other employer covered by this chapter.

(w) Provide that in the event an employer or small employer terminates coverage purchased through the purchasing alliance, the former employer or small employer shall be ineligible to purchase a health benefit plan or ancillary benefit plan through the purchasing alliance for a period determined by the alliance, but not to exceed 12 months.

(x) Maintain a trust account or accounts in a California bank for deposit of all moneys received and collected for operation of the purchasing alliance. A purchasing alliance, its owners, operators, partners, board members, employees, and agents shall have a fiduciary duty with respect to all moneys received or owed to it to ensure payment of its obligations and a full accounting to its participating employers, health plans, and the commissioner.

(y) With respect to small employers, ensure that all carrier rates for purchasing alliance small group health benefit plans are consistent with the requirements of Sections 1357.12 and 1357.13 of the Health and Safety Code and Sections 10714 and 10715.

(z) Treat all members within an employer or small employer group equally with regard to administrative fees and benefits of participation.

(aa) Every purchasing alliance shall offer at least one health plan that compensates its providers on an other than capitated basis in every region in which the alliance operates.

(ab) Have the authority to develop or contract for the development of uniform standards for data to be provided by participating carriers and providers. The purchasing alliance may collect or contract for the collection of data necessary for evaluation of the performance of participating carriers and their provider networks by consumers, providers, employers, small employers, and the commissioner. In formulating data collection standards, the board may use standards based on, and consistent with, existing state, National Association of Insurance Commissioners, and national health care data collection initiatives, and shall take into account their feasibility and cost-effectiveness.

(ac) Not expend for administrative purposes and profits in any fiscal year an excessive amount of the aggregate premiums, fees, and other periodic payments received by the purchasing alliance for providing health benefits to employers, small employers, and their employees, through a contract with participating carriers. As used in this subdivision, "administrative costs" includes costs in connection with marketing and sales of the health benefit plans offered by the purchasing alliance.

(ad) Exercise all powers reasonably necessary to carry out the powers and responsibilities expressly granted or imposed by this chapter.

(Added by Stats. 1996, Ch. 916, Sec. 1. Effective January 1, 1997.)

10841. (a) A purchasing alliance shall comply with all requirements pertaining to the underwriting, rating and renewal practices for small employers, pursuant to subdivisions (a) and (b) of Section 1357.12 of , and subdivision (f) of Section 1357.03 of, the Health and Safety Code, and subdivisions (a) and (b) of Section 10714.

(b) A purchasing alliance shall comply with all requirements pertaining to the marketing practices for small employers who participate in the purchasing alliance, pursuant to subdivision (d) of Section 1357.03 of the Health and Safety Code and subdivisions (f) and (j) of Section 10705.

(c) A purchasing alliance shall comply with all requirements pertaining to the participation requirements for small employers who participate in the purchasing alliance, pursuant to subdivision (b) of Section 1357.03 of the Health and Safety Code and Section 10706. A carrier participating in a purchasing alliance shall be deemed to be in compliance with this requirement.

(Amended by Stats. 1999, Ch. 83, Sec. 127. Effective January 1, 2000.)

10842. A purchasing alliance may do any of the following:

(a) Contract with qualified independent third parties for any services necessary to carry out the powers and duties authorized or required by this chapter.

(b) Employ necessary staff.

(c) Sue or be sued, including taking any legal actions necessary or proper for recovering any penalties for or on behalf of the health insurance purchasing group.

(d) Allow a participating employer to choose the benefit plan design, from those offered by the purchasing alliance, to be made available to their eligible employees.

(e) Allow eligible employees to enroll in any benefit plan design offered by the purchasing alliance.

(f) Contract with licensed insurance agents or brokers to market and service coverage made available through the purchasing alliance to its members. Compensation for agents and brokers may not vary based on the small employer or his or her enrollees and dependents' actual or expected health status, industry, occupation, medical utilization, claims experience, or geographic location within the service region. This subdivision shall not apply with respect to a compensation arrangement that provides compensation to an agent or broker on the basis of percentage of premium; provided that percentage shall not vary because of the health status, industry, occupation, medical utilization, claims experience, or geographic location within the service region.

(g) Exclude a carrier or freeze enrollment in a carrier for failure to achieve established quality, access, or information reporting standards of the purchasing alliance.

(Added by Stats. 1996, Ch. 916, Sec. 1. Effective January 1, 1997.)

10843. A purchasing alliance shall not do any of the following:

(a) Purchase health care services, assume risk for the cost or provision of health services, or otherwise contract with health care providers for the provision of health care services directly to enrollees.

(b) Exclude a small employer or eligible employee or dependent of an eligible employee of a small employer from membership in the purchasing alliance who agrees to pay fees for membership and the premium for coverage through the purchasing alliance and who abides by the bylaws and rules of the purchasing alliance.

(c) Prohibit the participation of small employers, as described in subdivision (a) of Section 1357.03 of the Health and Safety Code and in subdivision (b) of Section 10705, or utilize risk adjustment practices that conflict with the small employer group health provisions described in subdivisions (a) and (b) of Section 1357.12 of the Health and Safety Code and subdivision (b) of Section 10714.

(d) Charge a fee not directly related to the operation of the purchasing alliance.

(e) As a condition of participation, require an employer or small employer, eligible employee or dependent to subscribe to nonhealth care or nonhealth insurance related products or services.

(f) Operate the purchasing alliance or market the purchasing alliance in a service region in a way that would cause the purchasing alliance to select a risk pool with health care utilization that is significantly below the average for all similar groups with similar coverage in the same region.

(g) Engage in any competitive act or practice that results in the selection of small employers and his or her enrollees and dependents based on actual or expected health status, claims experience, medical utilization, industry, occupation, or geographic location within the service region.

(h) Require or take any action inconsistent or in conflict with state laws or regulations.

(Added by Stats. 1996, Ch. 916, Sec. 1. Effective January 1, 1997.)

10844. A purchasing alliance may offer coverage pursuant to Chapter 9.5 (commencing with Section 10900).

(Added by Stats. 2000, Ch. 810, Sec. 4. Effective January 1, 2001.)

10845. (a) The commissioner shall require every purchasing alliance, as a condition precedent to receiving and holding a certificate of registration, to file and maintain in the commissioner's office a writing designating an agent for service of process. The writing shall state the name of the agent and his or her place of business in this state with sufficient particularity so that he or she can readily be found by peace officers or process servers. Appointment of the agent reasonably available for service of papers, notice, proof of loss, summons or other process during business hours shall be continuously maintained by every registered purchasing alliance subject to this article while it holds a valid and unrevoked certificate of registration.

(b) An agent designated by a purchasing alliance as provided in this article may file with the commissioner a written statement of resignation as that agent, which shall be signed and execution thereof shall be duly acknowledged by the agent. Thereupon, the authority of the agent to act in such capacity shall cease and the commissioner shall forthwith give written notice of the resignation by mail to the purchasing alliance addressed to its principal office as shown by the commissioner's records. If an agent who has been appointed by a purchasing alliance as provided by this article dies or resigns or removes his or her residence from the state, the purchasing alliance shall forthwith file with the commissioner an appointment of a new agent on a form provided by the commissioner for such purpose and pay the filing fee therefor, and the filing shall be deemed to revoke any prior designation of agent.

(c) No fee shall be charged, except as included in the application for certificate of registration fee provided in this article, for filing the initial appointment under this article by an applicant for registration. Thereafter the commissioner shall require the payment of forty-five dollars (\$45) in advance as a fee for filing appointment of agent or stipulation or both by every registered purchasing alliance.

(Added by Stats. 1996, Ch. 916, Sec. 1. Effective January 1, 1997.)