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SB-1245 Covered California. (2017-2018)

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Senate Bill No. 1245

CHAPTER 417

An act to amend Section 100504 of the Government Code, relating to health coverage.

[Approved by Governor September 14, 2018. Filed with Secretary of State September 14, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1245, Leyva. Covered California.

Existing federal law, the federal Patient Protection and Affordable Care Act (PPACA), enacts various health care coverage market reforms that took effect January 1, 2014. Among other things, PPACA required each state to establish an American Health Benefit Exchange to facilitate the purchase of qualified health plans by qualified individuals and qualified small employers. Existing state law establishes the California Health Benefit Exchange, also known as Covered California, within state government. Existing law specifies the powers and duties of the board to implement Covered California. Existing law generally authorizes the board to adopt any necessary rules and regulations as emergency regulations until January 1, 2017, and to adopt regulations to implement the eligibility, enrollment, and appeals processes for the individual and small business exchanges, changes to the small business exchange, and other specified provisions as emergency regulations, until January 1, 2019. Existing law authorizes the Office of Administrative Law, until January 1, 2020, to approve more than 2 readoptions of the emergency regulations adopted by the board.

This bill instead would authorize the board to adopt necessary rules and regulations by emergency regulations until January 1, 2022, with the exception of regulations implementing specified existing provisions relating to criminal background history checks for persons with access to confidential, personal, or financial information. The bill would extend the authority of the Office of Administrative Law to approve more than 2 readoptions of emergency regulations until January 1, 2027. The bill would require the board to discuss a proposed rule or regulation at a properly noticed meeting prior to the adoption of the rule or regulation, as specified. The time extensions provided for in the bill also would apply to any regulation adopted prior to January 1, 2019, as specified.

Existing law authorizes the board to standardize products offered through the California Health Benefit Exchange. Existing law requires any products standardized by the board to be discussed by the board during at least one properly noticed board meeting prior to the board meeting at which the board adopts the standardized products to be offered through the Exchange.

This bill would require the board to discuss a proposed rule or regulation standardizing those products at a properly noticed meeting prior to the adoption of the rule or regulation, as specified.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 100504 of the Government Code is amended to read:

100504. (a) The board may do the following:

(1) With respect to individual coverage made available in the Exchange, collect premiums and assist in the administration of subsidies.

(2) Enter into contracts.

(3) Sue and be sued.

(4) Receive and accept gifts, grants, or donations of moneys from any agency of the United States, any agency of the state, and any municipality, county, or other political subdivision of the state.

(5) Receive and accept gifts, grants, or donations from individuals, associations, private foundations, and corporations, in compliance with the conflict of interest provisions to be adopted by the board at a public meeting.

(6) (A) Adopt rules and regulations, as necessary. Until January 1, 2022, any necessary rules and regulations, except those implementing Section 1043, may be adopted as emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2). The adoption of emergency regulations pursuant to this section shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2, including subdivisions (e) and (h) of Section 11346.1, any emergency regulation adopted pursuant to this section shall be repealed by operation of law unless the adoption, amendment, or repeal of the regulation is promulgated by the board pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code within five years of the initial adoption of the emergency regulation. Any rule or regulation adopted pursuant to this section shall be discussed by the board during at least one properly noticed board meeting prior to the board meeting at which the board adopts the rule or regulation. Notwithstanding subdivision (h) of Section 11346.1, until January 1, 2027, the Office of Administrative Law may approve more than two readoptions of an emergency regulation adopted pursuant to this section.

(B) The amendments made to this paragraph by the act that added this subparagraph also shall apply to any regulation adopted pursuant to this section prior to January 1, 2019.

(7) Collaborate with the State Department of Health Care Services and the Managed Risk Medical Insurance Board, to the extent possible, to allow an individual the option to remain enrolled with his or her carrier and provider network in the event the individual experiences a loss of eligibility of premium tax credits and becomes eligible for the Medi-Cal program or the Healthy Families Program, or loses eligibility for the Medi-Cal program or the Healthy Families Program and becomes eligible for premium tax credits through the Exchange.

(8) Share information with relevant state departments, consistent with the confidentiality provisions in Section 1411 of the federal act, necessary for the administration of the Exchange.

(9) Require carriers participating in the Exchange to make available to the Exchange and regularly update an electronic directory of contracting health care providers so that individuals seeking coverage through the Exchange can search by health care provider name to determine which health plans in the Exchange include that health care provider in their network. The board may also require a carrier to provide regularly updated information to the Exchange as to whether a health care provider is accepting new patients for a particular health plan. The Exchange may provide an integrated and uniform consumer directory of health care providers indicating which carriers the providers contract with and whether the providers are currently accepting new patients. The Exchange may also establish methods by which health care providers may transmit relevant information directly to the Exchange, rather than through a carrier.

(10) Make available supplemental coverage for enrollees of the Exchange to the extent permitted by the federal act, provided that no General Fund money is used to pay the cost of that coverage. Any supplemental coverage offered in the Exchange shall be subject to the charge imposed under subdivision (n) of Section 100503.

(b) The Exchange shall only collect information from individuals or designees of individuals necessary to administer the Exchange and consistent with the federal act.

(c) (1) The board shall have the authority to standardize products to be offered through the Exchange. Any products standardized by the board pursuant to this subdivision shall be discussed by the board during at least one properly noticed board meeting prior to the board meeting at which the board adopts the standardized products to be offered through the Exchange.

(2) The adoption, amendment, or repeal of a regulation by the board to implement this subdivision is exempt from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division

