

AMENDED IN SENATE JUNE 28, 2012

AMENDED IN SENATE JUNE 14, 2012

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 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 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 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 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 plan or insurer 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.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: 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 *and enrollees* in a consumer operated and
- 4 oriented plan (CO-OP) be afforded the numerous consumer
- 5 protections available to all other individuals covered by health
- 6 insurance *and health care service plans*.
- 7 (2) That a CO-OP operated *as a health insurer* in California be
- 8 subject to all state requirements applicable to health insurers,
- 9 including, but not limited to, the requirements of certificates of
- 10 authority, state reserves, risk-based capital, and financial statements
- 11 filings.
- 12 (3) *That a CO-OP operated as a health care service plan in*
- 13 *California be subject to all state requirements applicable to health*
- 14 *care service plans, including, but not limited to, licensure*
- 15 *requirements, operation and renewal requirements, and financial*
- 16 *responsibility requirements.*
- 17 ~~(3)~~
- 18 ~~That~~
- 19 (4) *That* before a CO-OP may offer a qualified health plan
- 20 through the California Health Benefit Exchange, that CO-OP must
- 21 adhere to California-specific standards established by the California
- 22 Health Benefit Exchange.
- 23 ~~(4)~~

1 (5) That a CO-OP be subject to the California Health Benefit
2 Exchange’s selective contracting requirements, including rate
3 negotiations.

4 (b) The Legislature intends and declares that a CO-OP must
5 comply with the same state and federal standards as other health
6 insurers *or health care service plans*.

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

10

11 Article 11.1. Consumer Operated and Oriented Plans

12

13 1399.80. For purposes of this article, the following definitions
14 shall apply:

15

16 (a) “Consumer operated and oriented plan” means a nonprofit
17 member organization or nonprofit member corporation that has
18 been established consistent with the requirements of Section 1322
19 of PPACA and Subpart F (commencing with Section 156.500) of
20 Part 156 of Subchapter B of Subtitle A of Title 45 of the Code of
21 Federal Regulations and remains in full compliance with those
22 requirements. A consumer operated and oriented plan shall also
23 be known as a “CO-OP.”

24

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

27

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

31

32 (d) “Member” includes all individuals, including dependents,
33 18 years of age or older covered under health care service plan
34 contracts issued by the CO-OP health care service plan.

35

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

39

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

41

(g) “Nonprofit member organization” or “nonprofit member
corporation” means a nonprofit public benefit corporation
organized under Part 2 (commencing with Section 5110) of

1 Division 2 of Title 1 of the Corporations Code, a nonprofit mutual
2 benefit corporation organized under Part 3 (commencing with
3 Section 7110) of Division 2 of Title 1 of the Corporations Code,
4 or a similar entity organized under applicable provisions of the
5 Corporations Code, or in the case of a foreign corporation, a
6 nonprofit public benefit corporation, a mutual benefit corporation,
7 or a similar entity organized under nonprofit laws in a state other
8 than California.

9 (h) “Solvency loan” means a loan provided by the federal
10 Centers for Medicare and Medicaid Services to a nonprofit member
11 organization or nonprofit member corporation seeking to become
12 licensed as a CO-OP health care service plan, to be used to assist
13 in meeting the state’s fiscal soundness and solvency requirements.

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

20 1399.81. The director shall have the authority to issue a license
21 to act as a health care service plan to a CO-OP that has been
22 organized as a nonprofit member organization or nonprofit member
23 corporation under the laws of this state. The director may also
24 issue a license to act as a health care service plan to a foreign
25 CO-OP that has been organized as a nonprofit member organization
26 or nonprofit member corporation under the laws of another state,
27 provided that the entity meets the requirements governing CO-OPs
28 under PPACA and this article. A CO-OP seeking or maintaining
29 a license pursuant to this article shall be subject to the same fees
30 that are imposed on other health care service plans pursuant to
31 Article 3 (commencing with Section 1349).

32 1399.83. (a) A domestic or foreign CO-OP licensed as a health
33 care service plan pursuant to this article shall be subject to all of
34 the provisions of this chapter and all applicable rules and
35 regulations of the director, including, but not limited to, the general
36 provisions governing the issuance of a license in Article 3
37 (commencing with Section 1349), the operation and renewal
38 provisions in Article 6 (commencing with Section 1375), and the
39 financial responsibility requirements in Article 9 (commencing
40 with Section 1300.75) of Chapter 2 of Division 1 of Title 28 of

1 the California Code of Regulations. The provisions of this chapter
2 and the rules and regulations of the director shall be construed in
3 consideration of the fundamental nature of a CO-OP health care
4 service plan. In the event of any direct conflict between the other
5 provisions of this chapter and the provisions of this article, the
6 provisions of this article shall prevail.

7 (b) In compliance with Section 1322(c)(5) of PPACA (42 U.S.C.
8 Sec. 18042(c)(5)), and any rules or regulations issued under that
9 section, a domestic or foreign CO-OP licensed as a health care
10 service plan shall be subject to any state laws that do not prevent
11 the application of requirements under PPACA.

12 (c) (1) A CO-OP health care service plan that contracts with
13 the Exchange to offer qualified health plans in the Exchange shall
14 be subject to the same requirements, terms, and conditions as those
15 imposed on other carriers participating in the Exchange pursuant
16 to Title 22 (commencing with Section 100500) of the Government
17 Code.

18 (2) If a CO-OP health care service plan is unable to reach
19 agreement with the Exchange on terms, conditions, or price, the
20 Exchange may impose terms, conditions, or price on the CO-OP
21 health care service plan. If a CO-OP health care service plan fails
22 to comply with any of the provisions of its contract with the
23 Exchange, the Exchange may impose contract sanctions, including
24 monetary penalties, consistent with due process requirements, and
25 take any other actions permitted under federal law. To the extent
26 permitted under federal law, the Exchange may limit enrollment
27 in the qualified health plans offered by a CO-OP health care service
28 plan through the Exchange if the plan fails to comply with
29 Exchange contract specifications.

30 1399.84. The director may request any documentation relating
31 to a CO-OP's start-up loan or solvency loan.

32 1399.86. (a) A CO-OP shall be subject at all times to the
33 prohibitions in PPACA against converting or selling to a for-profit
34 or nonconsumer-operated entity at any time after receiving a
35 solvency loan.

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

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

4 (A) The CO-OP shall have governing documents that incorporate
5 governing rules that ensure that the directors of the operational
6 board are elected by a majority vote of a quorum of the CO-OP
7 members.

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

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

12 (D) The first elected directors of the CO-OP's operational board
13 shall be elected no later than one year after the effective date on
14 which the CO-OP provides coverage to its first member; the entire
15 operational board shall be elected no later than two years after the
16 same date.

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

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

24 (2) Have an operational board of directors that meets the
25 following requirements:

26 (A) Each director shall have one vote unless he or she is a
27 nonvoting director.

28 (B) Positions on the board of directors may be designated for
29 individuals with specialized expertise, experience, or affiliation
30 (for example, providers, employers, including small business
31 consortia, and unions); however, those positions shall not constitute
32 a majority of the operational board even if the individuals in those
33 positions are also members of the CO-OP.

34 (C) (i) No representative of any federal, state, or local
35 government, or of any political subdivision or instrumentality
36 thereof, and no representative of any organization described in
37 Section 156.510(b)(1)(i) of Title 45 of the Code of Federal
38 Regulations may serve *as staff of the CO-OP* or on the CO-OP's
39 formation board or operational board.

1 (ii) No board member or staff of the CO-OP shall enter into an
2 agreement or transaction that would jeopardize member control
3 as required by Section 156.515 of Title 45 of the Code of Federal
4 Regulations. A board member or staff of the CO-OP shall only
5 enter into arm's length transactions as described in Section
6 156.510(b)(2)(ii) of Title 45 of the Code of Federal Regulations.

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

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

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

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

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

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

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

32 (c) A violation of any of the requirements of this section shall
33 constitute grounds for revocation of the license of the CO-OP
34 health care service plan, in addition to any other grounds in this
35 chapter for revocation of the license.

36 1399.88. In addition to any applicable requirements in this
37 chapter for maintaining a license, a CO-OP is required at all times
38 to be in full compliance with the requirements of PPACA
39 governing CO-OPs. The department may request the federal
40 government's certification that a CO-OP is in compliance with the

1 requirements of PPACA governing CO-OPs, as well as the status
2 of the CO-OP’s compliance with its obligations under any loan or
3 loan modification agreement.

4 1399.89. The department may adopt regulations implementing
5 this article pursuant to the Administrative Procedure Act (Chapter
6 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
7 Title 2 of the Government Code).

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

10

11 CHAPTER 9.8. CONSUMER OPERATED AND ORIENTED PLANS

12

13 10961. For purposes of this chapter, the following definitions
14 shall apply:

15 (a) “Consumer operated and oriented plan” means a nonprofit
16 member organization or nonprofit member corporation that has
17 been established consistent with the requirements of Section 1322
18 of PPACA and Subpart F (commencing with Section 156.500) of
19 Part 156 of Subchapter B of Subtitle A of Title 45 of the Code of
20 Federal Regulations and remains in full compliance with those
21 requirements. A consumer operated and oriented plan shall also
22 be known as a “CO-OP.”

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

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

28 (d) “Member” includes all individuals, including dependents,
29 18 years of age or older covered under health insurance policies
30 issued by the CO-OP insurer.

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

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

38 (g) “Nonprofit member organization” or “nonprofit member
39 corporation” means a nonprofit public benefit corporation
40 organized under Part 2 (commencing with Section 5110) of

1 Division 2 of Title 1 of the Corporations Code, a nonprofit mutual
2 benefit corporation organized under Part 3 (commencing with
3 Section 7110) of Division 2 of Title 1 of the Corporations Code,
4 or a similar entity organized under applicable provisions of the
5 Corporations Code, or in the case of a foreign corporation, a
6 nonprofit public benefit corporation, a mutual benefit corporation,
7 or a similar entity organized under nonprofit laws in a state other
8 than California.

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

14 (i) “Start-up loan” means a loan provided by the federal Centers
15 for Medicare and Medicaid Services to a nonprofit member
16 organization or nonprofit member corporation seeking to become
17 licensed as a CO-OP insurer, to be used for allowed expenses
18 associated with establishing a CO-OP, as further specified by
19 PPACA.

20 10961.1. (a) The commissioner shall have the authority to
21 issue a certificate of authority as a disability insurer to a CO-OP
22 that has been organized as a nonprofit member organization or
23 nonprofit member corporation under the laws of this state. The
24 commissioner may also issue a certificate of authority as a
25 disability insurer to a foreign CO-OP that has been organized as
26 a nonprofit member organization or nonprofit member corporation
27 under the laws of another state, provided that the entity meets the
28 requirements governing CO-OPs under PPACA and this chapter.
29 A CO-OP seeking or maintaining a certificate of authority pursuant
30 to this chapter shall be subject to the same fees that are imposed
31 on mutual insurers.

32 (b) A CO-OP admitted as a CO-OP insurer shall be subject to
33 the same premium taxes as are imposed on for-profit health insurers
34 with a certificate of authority from the commissioner.

35 10961.2. A domestic or foreign insurer admitted as a CO-OP
36 insurer shall be subject to the same “paid-in capital” or “capital
37 paid-in” requirements as are imposed on domestic and foreign
38 mutual insurers pursuant to Sections 36 and 4011.

39 10961.3. (a) A domestic or foreign CO-OP admitted as a
40 CO-OP insurer shall be subject to all of the provisions of this code

1 that are applicable to insurers issuing policies of health insurance
2 in the state and all applicable rules and regulations of the
3 commissioner, including, but not limited to, the general provisions
4 governing issuance of a certificate of authority in Article 3
5 (commencing with Section 699) of, the examination provisions in
6 Article 4 (commencing with Section 729) of, the risk-based capital
7 requirements in Article 4.1 (commencing with Section 739) of,
8 and the financial statement filing requirements in Article 10
9 (commencing with Section 900) of, Chapter 1 of Part 2 of Division
10 1. The provisions of this code and the rules and regulations of the
11 commissioner shall be construed in consideration of the
12 fundamental nature of a CO-OP insurer. In the event of any direct
13 conflict between the other provisions of this code and the
14 provisions of this chapter, the provisions of this chapter shall
15 prevail.

16 (b) In compliance with Section 1322(c)(5) of PPACA (42 U.S.C.
17 Sec. 18042(c)(5)), and any rules or regulations issued under that
18 section, a domestic or foreign CO-OP admitted as a CO-OP insurer
19 shall be subject to any state laws that do not prevent the application
20 of requirements under PPACA.

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

26 (2) If a CO-OP insurer is unable to reach agreement with the
27 Exchange on terms, conditions, or price, the Exchange may impose
28 terms, conditions, or price on the CO-OP insurer. If a CO-OP
29 insurer fails to comply with any of the provisions of its contract
30 with the Exchange, the Exchange may impose contract sanctions,
31 including monetary penalties, consistent with due process
32 requirements, and take any other actions permitted under federal
33 law. To the extent permitted under federal law, the Exchange may
34 limit enrollment in the qualified health plans offered by a CO-OP
35 insurer through the Exchange if the insurer fails to comply with
36 Exchange contract specifications.

37 10961.4. (a) A solvency loan obtained by a CO-OP shall be
38 treated as a surplus note and shall be subject to the same
39 requirements as are imposed on mutual insurers pursuant to Article
40 4 (commencing with Section 4040) of Chapter 4 of Part 1 of

1 Division 2. The commissioner may request any documentation
2 relating to a CO-OP's start-up loan or solvency loan.

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

10 10961.5. The provisions of Section 699.5 shall apply to any
11 insurer admitted as a CO-OP insurer; however, any loans received
12 by the CO-OP in the form of a solvency or start-up loan shall not
13 be construed as any form of subsidy, ownership, or financial control
14 of the CO-OP insurer within the meaning of Section 699.5.

15 10961.6. (a) A CO-OP shall be subject at all times to the
16 prohibitions in PPACA against converting or selling to a for-profit
17 or nonconsumer-operated entity at any time after receiving a
18 solvency loan.

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

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

25 (A) The CO-OP shall have governing documents that incorporate
26 governing rules that ensure that the directors of the operational
27 board are elected by a majority vote of a quorum of the CO-OP
28 members.

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

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

33 (D) The first elected directors of the CO-OP's operational board
34 shall be elected no later than one year after the effective date on
35 which the CO-OP provides coverage to its first member; the entire
36 operational board shall be elected no later than two years after the
37 same date.

38 (E) Elections of the directors on the CO-OP's operational board
39 shall be contested so that the total number of candidates for vacant
40 positions on the operational board exceeds the number of vacant

1 positions, except in cases where a seat is vacated midterm due to
2 death, resignation, or removal.

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

5 (2) Have an operational board of directors that meets the
6 following requirements:

7 (A) Each director shall have one vote unless he or she is a
8 nonvoting director.

9 (B) Positions on the board of directors may be designated for
10 individuals with specialized expertise, experience, or affiliation
11 (for example, providers, employers, including small business
12 consortia, and unions); however, those positions shall not constitute
13 a majority of the operational board even if the individuals in those
14 positions are also members of the CO-OP.

15 (C) (i) No representative of any federal, state, or local
16 government, or of any political subdivision or instrumentality
17 thereof, and no representative of any organization described in
18 Section 156.510(b)(1)(i) of Title 45 of the Code of Federal
19 Regulations may serve *as staff of the CO-OP* or on the CO-OP's
20 formation board or operational board.

21 (ii) *No board member or staff of the CO-OP shall enter into an*
22 *agreement or transaction that would jeopardize member control*
23 *as required by Section 156.515 of Title 45 of the Code of Federal*
24 *Regulations. A board member or staff of the CO-OP shall only*
25 *enter into arm's length transactions as described in Section*
26 *156.510(b)(2)(ii) of Title 45 of the Code of Federal Regulations.*

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

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

1 federal law. At a minimum, these standards shall include the
2 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 CO-OP insurer's certificate
15 of authority, in addition to any other grounds in this code for
16 revocation of the certificate.

17 10961.7. A CO-OP insurer is insolvent if its surplus becomes
18 less than the amount of paid-in capital required of a capital stock
19 company to qualify to transact the class of disability and health
20 insurance. The conservation and liquidation provisions of Article
21 14 (commencing with Section 1010) of Chapter 1 of Part 2 of
22 Division 1 shall apply to CO-OP insurers.

23 10961.8. In addition to any applicable requirements in this
24 code for maintaining a certificate of authority, a CO-OP is required
25 at all times to be in full compliance with the requirements of
26 PPACA governing CO-OPs. The commissioner may request the
27 federal government's certification that a CO-OP is in compliance
28 with the requirements of PPACA governing CO-OPs, as well as
29 the status of the CO-OP's compliance with its obligations under
30 any loan or loan modification agreement.

31 10961.9. The department may adopt regulations implementing
32 this chapter pursuant to the Administrative Procedure Act (Chapter
33 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
34 Title 2 of the Government Code).

35 SEC. 4. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 the only costs that may be incurred by a local agency or school
38 district will be incurred because this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the penalty
40 for a crime or infraction, within the meaning of Section 17556 of

- 1 the Government Code, or changes the definition of a crime within
- 2 the meaning of Section 6 of Article XIII B of the California
- 3 Constitution.

O