STATE OF CALIFORNIA–OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION

EMERGENCY

(See instructions on reverse)

STD. 400 (REV. 01-2013)

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-		2014-0624-02EE

For use by Office of Administrative Law (OAL) only

2014 JUN 24 PM 12:15

OFFICE OF ADMINISTRATIVE LAW

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY: California Health Benefit Exchange

AGENCY FILE NUMBER (If any):

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE
2. TITLE(S)
3. FIRST SECTION AFFECTED
4. REQUESTED PUBLICATION DATE
5. NOTICE TYPE: ☐ Notice re Proposed Regulatory Action ☐ Other
6. AGENCY CONTACT PERSON
7. TELEPHONE NUMBER
8. FAX NUMBER (Optional)

OAL USE ONLY — ACTION ON PROPOSED NOTICE: ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/ Withdrawn

NOTICE REGISTER NUMBER

PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S): Certified Insurance Agents

1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S): 2013-0920-04E; 2014-0321-03EE

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)

ADOPT: 6800, 6802, 6804, 6806

AMEND:

TITLE(S): 10

REPEAL:

3. TYPE OF FILING

- ☐ Regular Rulemaking (Gov. Code §11346)
- ☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)
- ☐ Emergency (Gov. Code, §11346.1(b))
- ☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.
- ☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)
- ☒ Emergency Readopt (Gov. Code, §11346.1(h))
- ☐ File & Print
- ☐ Other (Specify) _____
- ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
- ☐ Print Only

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

- ☐ Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))
- ☒ Effective on filing with Secretary of State
- ☐ §100 Changes Without Regulatory Effect
- ☐ Effective other (Specify)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

- ☐ Department of Finance (Form STD. 399) (SAM §6660)
- ☐ Fair Political Practices Commission
- ☐ State Fire Marshal
- ☐ Other (Specify)

7. CONTACT PERSON: Daniel Eliav

TELEPHONE NUMBER: 916-228-8492

FAX NUMBER (Optional):

E-MAIL ADDRESS (Optional): daniel.eliav@covered.ca.gov

8. **I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.**

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE: 6/17/14

TYPED NAME AND TITLE OF SIGNATORY: Peter V. Lee, Executive Director

For use by Office of Administrative Law (OAL) only

June 17, 2014

ADVANCE NOTICE OF RE-ADOPTION OF EMERGENCY REGULATIONS
TITLE 10. INVESTMENT
CHAPTER 12. CALIFORNIA HEALTH BENEFIT EXCHANGE
ARTICLE 10. CERTIFIED INSURANCE AGENTS

This notice is sent in accordance with Government Code Section 11346.1(a)(2), which requires that State of California agencies give advance notice at least five working days of their intent to file emergency regulations with the Office of Administrative Law (OAL). The California Health Benefit Exchange ("Exchange") intends to file a re-adoption of an Emergency Rulemaking package with the Office of Administrative Law (OAL) that allows the Exchange to establish policies and procedures for accepting applications, selecting applicants, establishing roles and responsibilities, and compensation standards for Certified Insurance Agents. As required by subdivisions (a)(2) and (b)(2) of Government Code Section 11346.1, this notice appends the following: (1) the specific language of the proposed regulation and (2) the Finding of Emergency, including specific facts demonstrating the need for immediate action, the authority and reference citations, the informative digest and policy statement overview, attached reports, and required determinations.

The Exchange plans to file the Emergency Rulemaking package with OAL at least five working days from the date of this notice. If you would like to make comments on the Finding of Emergency or the proposed regulations (also enclosed), they must be received by both the Exchange and the Office of Administrative Law within five calendar days of the Exchange's filing at OAL. Response to these comments is strictly at the Exchange's discretion.

Comments should be sent simultaneously to:

California Health Benefit Exchange
Attn: Daniel Eliav
1601 Exposition Blvd
Sacramento, CA 95815

Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814

BOARD MEMBERS Diana S. Dooley, Chair Kimberly Belshé Paul Fearer Susan Kennedy Robert Ross, MD **EXEC DIRECTOR** Peter V. Lee

Upon filing, OAL will have ten (10) calendar days within which to review and make a decision on the proposed emergency rule. If approved, OAL will file the regulations with the Secretary of State, and the emergency regulations will become effective for ninety days (90) days. Within the 90-day effective period, the Exchange will proceed with a regular rulemaking action, including a public comment period. The emergency regulations will remain in effect during the rulemaking action.

You may also view the proposed regulatory language and Finding of Emergency on the Exchange's website at the following address: https://www.coveredca.com/hbex/regulations/.

If you have any questions concerning this Advance Notice, please contact Daniel Eliav at 916-228-8492.

UPDATED FINDING OF EMERGENCY

The Director of the California Health Benefit Exchange finds that an emergency exists and that this proposed emergency regulation is necessary to address a situation that calls for immediate action to avoid serious harm to the public peace, health, safety or general welfare.

This emergency rulemaking was previously adopted by OAL on September 30, 2013, readopted on April 2, 2014, and will expire on July 1, 2014. The Exchange now seeks a readoption. There are no changes to these regulations.

The Exchange is also in the process of making this rulemaking permanent and has proceeded with diligence to comply with the requirements in Government Code § 11346.1(e), and has made substantial progress in that regard. For example, the Exchange is in the process of developing the economic cost estimate and an Initial Statement of Reasons for the permanent rulemaking. The Exchange cannot seek a permanent rulemaking at this time as it continues to gather information from the program's first months of operation. The Exchange continues to welcome stakeholder feedback on this rulemaking and we intend to allow for a full 45-day comment period for formal comments during the subsequent process for permanent adoption.

SPECIFIC FACTS SHOWING THE NEED FOR IMMEDIATE ACTION

The necessity of this regulation to be adopted immediately has been declared by the legislature in Government Code section 100504 (a)(6) which deems the Exchange with emergency rule making authority:

> Until January 1, 2016, any necessary rules and regulations may be adopted as emergency regulations in accordance with the Administrative Procedures Act. The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

AUTHORITY AND REFERENCE

Authority: Sections 100503 and 100504, Government Code.
Reference: Section 100503, Government Code; 45 CFR §§ 155.205, 155.220, and 155.260.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Documents to be incorporated by reference:

CalHEERS Terms and Conditions (Rev. September 13)

Agent Agreement (Rev. March 2014)
Brand Style Guide for Agents (Rev. August 2013)
STD.204 Payee Data Record (Rev. June 2013)

Summary of Existing Laws

Under the federal Patient and Protection and Affordable Care Act (PPACA), each state is required, by January 1, 2014, to establish an American Health Benefit Exchange that makes available qualified health plans to qualified individuals and small employers. Existing state law, the California Patient Protection and Affordable Care Act, established the California Health Benefit Exchange within state government, and specifies the powers and duties of the executive board of the Exchange.

The specific benefit anticipated from the proposed action is that it will allow the Exchange to establish policies and procedures for accepting applications, selecting applicants, establishing roles and responsibilities, and compensation standards for Certified Insurance Agents. With these regulations, consumers will be able to get assistance with enrollment into the programs administered by the Exchange.

After an evaluation of current regulations, the Exchange has determined that these proposed regulations are not inconsistent or incompatible with any existing regulations. The Exchange has determined these are the only regulations that concern the establishment of a certification process for agents by the Exchange.

MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

None.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Director of the California Health Benefit Exchange has determined that this proposed regulatory action does not impose a mandate on local agencies or school districts.

FISCAL IMPACT ESTIMATES (Attached Form 399)

This proposal does not impose costs on any local agency or school district for which reimbursement would be required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. This proposal does not impose other nondiscretionary cost or savings on local agencies.

COSTS OR SAVINGS TO STATE AGENCIES (Attached Form 399)
The proposal results in additional costs to the California Health Benefit Exchange, which is currently funded by federal grant money and will become financially self-sustaining in

2015. The proposal does not result in any costs or savings to any other state agency nor does it impact the general fund.

Text of Regulatory Language to Readopt:

Article 10, Sections 6800, 6802, 6804, and 6806,

Article 10. Certified Insurance Agents.

§ 6800. Definitions.

(a) For purposes of this article, the following terms shall have the following associated meanings:

Consumer: A person or entity seeking information on eligibility and enrollment or seeking application assistance with a health insurance or health related product available through the Exchange. The term consumer includes, but is not limited to, an applicant, an application filer, authorized representative, employer, qualified employee, qualified employer, qualified individual, small employer, or enrollee as defined in Section 6410 of Article 2 of this Chapter.

Certified Insurance Agent: An agent certified by the Exchange to transact in the individual and Small Business Health Options Program (SHOP) Exchanges.

Note: Authority cited: Sections 100503 and 100504, Government Code. Reference: Sections 100503, Government Code; and 45 C.F.R. §§ 155.205 and 155.220.

§ 6802. Eligible Individuals.

(a) All individuals who are natural persons who hold a valid license and are in good standing as a life licensee under Insurance Code Section 1626 by the California Department of Insurance to transact in accident and health insurance are eligible to apply to become a Certified Insurance Agent.

(b) The Exchange may require proof of a valid license and good standing by the California Department of Insurance as a condition of eligibility.

Note: Authority cited: Sections 100503 and 100504, Government Code. Reference: Sections 100503, Government Code; and 45 C.F.R. § 155.220.

§ 6804. Agent Certification Application.

(a) To become a Certified Insurance Agent an eligible individual pursuant to Section 6802 shall:

(1) Create an account for agents at www.CoveredCA.com, including, but not limited to, the following:

(A) Agreement to adhere to the CalHEERS Terms and Conditions (Rev. September 2013) herein incorporated by reference;

Article 10. Certified Insurance Agents.

(B) Business Legal Name, Federal Tax-ID (FEIN) and State Tax-ID (SEIN) if the individual is employed by or associated with a business. If the individual is not employed or associated with a business, provide the individual's First Name, Last Name, and Social Security Number;

(C) Identifying information for the individual including first name, last name, date of birth, Social Security Number, and Department of Insurance agent license number;

(D) Contact information including, but not limited to, address, email, phone number and preferred method of communication;

(E) A username, password, and Personal Identification Number (PIN).

(2) Apply to the Exchange at www.CoveredCA.com by providing information including, but not limited to, the following:

(A) First and last name;

(B) Insurance agent license number from the California Department of Insurance;

(C) License expiration date;

(D) Primary, business, and alternate phone number;

(E) Business name;

(F) Fax number;

(G) Federal Employment Identification Number, if any;

(H) Business address; and

(I) Correspondence address;

(3) Select a preferred method of payment as either check or direct deposit.

(A) If the individual chooses direct deposit, the individual shall provide the following information:

1. Bank Name;
2. Bank Routing Number;
3. Bank Account Number;
4. Name on account; and
5. Payment Method.

(B) If the individual chooses checks, the individual shall provide the address to which the checks will be mailed.

(b) The Exchange shall review the application and request any additional or missing information necessary to determine eligibility.

Article 10. Certified Insurance Agents.

(c) Individuals who have submitted a completed application shall be notified of available opportunities by the Exchange for the individual to complete the training requirements established pursuant to Section 6806, subdivision (a).

(d) Individuals who complete the training requirements established pursuant to Section 6806, subdivision (a), shall submit the following:

(1) Payment for:

(A) Fees required by the California Department of Insurance pursuant to Insurance Code Sections 1751.3 and 12978; and

(B) Administrative fees of ten (10) dollars and twenty-five (25) cents.

(2) An executed Agent Agreement (Rev. March 2014) establishing the agent's roles and responsibilities, herein incorporated by reference;

(3) Proof of errors and omissions liability insurance with coverage of not less than $1,000,000 per occurrence and $1,000,000 annually in the aggregate; and

(4) A completed STD.204 Payee Data Record (Rev. June 2003) herein incorporated by reference.

(e) Upon successful completion of subdivisions (a) – (d) above, the individual shall be designated as Certified Insurance Agent by the Exchange.

Note: Authority cited: Sections 100503 and 100504, Government Code. Reference: Sections 100503, Government Code; and 45 C.F.R. §§ 155.220. and 155.260.

§ 6806. Training Standards.

(a) All individuals who apply to become a Certified Insurance Agent shall complete training and receive a passing score of at least 80% in the Exam administered by the Exchange including, but not limited to, the following subjects prior to becoming certified:

(1) QHPs (including the metal levels described at 45 C.F.R. § 156.140(b)), and how they operate, including benefits covered, payment processes, rights and processes for appeals and grievances, and contacting individual plans;

(2) The range of insurance affordability programs, including Medicaid, the Children's Health Insurance Program, and other public programs;

(3) The tax implications of enrollment decisions;

(4) Eligibility requirements for premium tax credits and cost-sharing reductions, and the impacts of premium tax credits on the cost of premiums;

(5) Contact information for appropriate federal, state, and local agencies for consumers seeking additional information about specific coverage options not offered through the Exchange;

Article 10. Certified Insurance Agents.

(6) Basic concepts about health insurance and the Exchange; the benefits of having health insurance and enrolling through an Exchange; and the individual responsibility to have health insurance;

(7) Eligibility and enrollment rules and procedures, including how to appeal an eligibility determination;

(8) Providing culturally and linguistically appropriate services;

(9) Ensuring physical and other accessibility for people with a full range of disabilities;

(10) Understanding differences among health plans;

(11) Privacy and security standards applicable under 45 C.F.R. § 155.260 for handling and safeguarding consumers' personally identifiable information;

(12) Working effectively with individuals with limited English proficiency, people with a full range of disabilities, people of any gender identity, people of any sexual orientation, and vulnerable, rural, and underserved populations;

(13) Customer service standards;

(14) Outreach and education methods and strategies; and

(15) Applicable administrative rules, processes, and systems related to Exchanges and QHPs.

(b) Training shall be provided by the Exchange through instructor led training or computer based training at the discretion of the Exchange.

(c) All Certified Insurance Agents shall participate in at least four (4) hours of Continuing Education Courses offered by the Exchange during the first year and each subsequent year to maintain certification by the Exchange. A year shall be based on the date of certification.

Note: Authority cited: Sections 100503 and 100504, Government Code. Reference: Sections 100503, Government Code; and 45 C.F.R. §§ 155.220 and 155.260.

CalHEERS Terms and Conditions

Terms and Conditions for CalHEERS

Welcome to Covered California's website. Please see below for information on our Privacy Policy and our Terms and Conditions.

Covered California's Privacy Policy

The Covered California has a Privacy Policy that applies to the personal information we may collect on this site. Our Privacy Policy describes the information privacy practices for the website you are currently visiting. We maintain administrative, physical, technical, electronic and procedural safeguards to protect the confidentiality and security of the personal information we collect. In our Privacy Policy, we explain:

- The information we collect online and how we use it;
- How to access or correct your information;
- How to request an accounting of disclosures of your information;
- How to request restrictions on the use and disclosure of your information;
- Your right to receive confidential communications;
- Your right to a paper copy of our Privacy Policy;
- How to file a complaint if you believe your privacy rights have been violated;
- Our commitment to website security;
- How we use technology to better serve you;
- What third-party website links you may see and use;
- How to contact us about your privacy or security; and
- The effective date of this Privacy Policy.

Information we may collect

Non-personally-identifiable information:

While you are visiting this website, at least, the following information will be automatically tracked:

Personally-identifiable information:

When you use our Service you are authorizing the sharing of your inquiry and your personal information with other businesses who provide services that match your inquiry. The personal information we collect may include, but is not limited to:

- Name
- Address
- Email address
- Phone number
- Demographic information
- Health information
- Financial information

If you have any questions, please email us at outreach@covered.ca.gov. We will respond to your questions within 30 days.

“Cookies" and "Clear Gifs”

"Cookies" are small files that are stored by your web browser to help a particular system recognize you and the pages you visited in a website. Our website uses cookies to make your online experience more convenient. For example, we may use a cookie to store your account information between sessions and to maintain information about the quotes you've requested during your session. Additionally, we may use data from cookies for a variety of internal purposes, such as studying how users navigate our website. We do not collect any personal information from cookies. Further, no other information we collect from cookies can be linked back to your personal information. Most browsers automatically accept cookies, but if you prefer, you can set yours to refuse cookies. Even without a cookie, you can still use most of the features on our website, including obtaining quotes and applying for an insurance policy. "Clear gifs" are tiny graphics with a unique identifier, similar in function to cookies, that are used to track the online movements of website users. The main difference between the two is that clear gifs are invisible on the page and are much smaller than cookies. We do not collect any personal information from clear gifs. Further, no information we collect from clear gifs can be linked back to your personal information.We use third party web analytics services to track and analyze anonymous usage and volume statistical information from visitors to help us administer our website, analyze trends, improve our website's performance and to report website traffic. These web analytics services use cookies, clear gifs, log files and other web monitoring technologies to help track visitor behavior on our behalf. These services do not use these technologies to collect any personally identifiable information from website visitors.

Links to Other Websites

Our website contains links to other websites. Please note that when you click on one of these links you are "clicking" to another website. Covered California is not responsible for the information privacy practices or the content of such websites. We encourage you to read the privacy policies of these linked websites as their information privacy practices may differ from ours. Any Terms of Use, if any, of these third party sites may differ from Covered California Terms of Use. We also, encourage you to read the Terms of Use for any website you visit.

Changes to This Site

Information may be changed or updated on this site without notice. Covered California may also make improvements and/or changes in the products and/or programs described in this information at any time without notice.

Contacting Us

If you have any questions about CalHEERS (California Healthcare Eligibility, Enrollment and Retention System), this website, our service, or this Privacy Policy, you may contact us at:
1-888-975-1142

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The entry of your Password, Personal Identification Number (PIN), Social Security Number

(SSN), and/or other identifier serves as verification of your identity. Any instructions, choices, or requests you make on this Site will be considered your written permission to Covered California to provide information or conduct transactions on your behalf. You understand that your personal information may be shared, via secured connections only, with third parties with whom Covered California has contracted to provide benefits-related content on this website, but only to the extent necessary for the third party to perform its services to Accenture.

You are responsible for reviewing any written confirmation statements provided to you (on paper or in electronic form) regarding any instructions, choices, or requests that you make through this Site. You are also responsible for reviewing for inaccuracies all of the information transmitted to you. If there are inaccuracies, you are responsible for correcting them using the tools available to you on the Site or by contacting the Covered California to point them out.
The functionality of this Site permits you to request or provide personal information-for example, medical information, income, etc. You are solely responsible for any loss of privacy or confidentiality of this information if you move this information outside this Site or disclose your Password, Personal Identification Number (PIN), Social Security Number (SSN), or any other identifier to any other party. You agree to contact Covered California immediately if you have reason to believe that someone has gained unauthorized access to your Password, PIN, SSN, or any other identifier.

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STATE OF CALIFORNIA

STANDARD AGREEMENT

STD 213 (Rev 06/03)

	AGREEMENT NUMBER **13-A-**__ __ __ __ __
	REGISTRATION NUMBER

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME

California Health Benefit Exchange

CONTRACTOR'S NAME

2. The term of this Agreement is: From the Date Signed by the State below for one (1) year from said Date.

3. The maximum amount of this Agreement is: Undefined

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A – Scope of Work	11 Pages
Exhibit B – Budget Detail and Payment Provisions	3 Pages
Exhibit C – General Terms and Conditions	17 Pages
Exhibit D – Business Associates Agreement	16 Pages
Exhibit E – Branding Guidelines	4 Pages
Exhibit F – Schedule of Commissions	1 Pages

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR		***California Department of General Services Use Only***
CONTRACTOR'S NAME *(if other than an individual, state whether a corporation, partnership, etc.)*		
BY *(Authorized Signature)*	DATE SIGNED*(Do not type)*	
PRINTED NAME AND TITLE OF PERSON SIGNING		
ADDRESS		
STATE OF CALIFORNIA		
AGENCY NAME California Health Benefit Exchange		
BY *(Authorized Signature)*	DATE SIGNED*(Do not type)*	
PRINTED NAME AND TITLE OF PERSON SIGNING David Maxwell-Jolly. Chief Deputy Executive Director, Strategy		☒ Exempt per: **Government Code Section100505**
ADDRESS 560 J Street, Suite 290, Sacramento, CA 95814		

(Revised March2014)

EXHIBIT A
(Agent Agreement)

SCOPE OF WORK

This Agreement is made between the State of California, acting by and through the California Health Benefit Exchange, hereafter referred to as the "Exchange" and _____ an individual licensed by the California Department of Insurance to transact in health insurance and acting pursuant to the laws of the State of California, hereafter referred to as "Agent" or "Contractor" interchangeably.

Agent as it appears on license: _____
License Number/Expiration: _____ __/__/____
Federal ID number or SSN: ___-__-____
Business Phone: (___) ___-____
Business Fax: (___) ___-____
Email address: _____

A. Purpose:

The mission of the Exchange is to increase the number of insured Californians, improve health care quality, lower costs, and reduce health disparities through an innovative, competitive marketplace that empowers consumers to choose the health plan and providers that give them the best value.

The Exchange is creating a new marketplace that will assist individuals that may be eligible for Medi-Cal and will offer subsidized health care coverage in the form of premium assistance and cost sharing reductions to individuals and families with incomes between 138% - 400% of the Federal Poverty Level limits. Premium assistance and/or cost sharing reductions will only be available to consumers in California through the Exchange. Consumers will not be able to obtain premium assistance and/or cost sharing reductions through the private health insurance market. Regardless of whether a consumer is determined to be eligible for subsidies, the Exchange will provide access to coverage and premiums in an easy to access and understandable format at the same price that is available in the outside market.

The Exchange will operate a Small Business Health Options Program (SHOP) that offers small businesses and their employees, new health insurance options. The SHOP is designed specifically for employers with 50 or fewer eligible employees and offers affordable health coverage through of a variety of health insurance companies.[1] Through SHOP, both employers and their employees can choose the plans that fit their needs and their budgets.

[1] The Exchange may increase the number of employees in a small employer to 100. See Section 1304(b) of the Patient Protection and Affordable Care Act.

EXHIBIT A
(Agent Agreement)

Accordingly, the purpose of this Agreement is to secure the services of licensed agents to assist with the determining of eligibility of individuals for Medi-Cal or premium assistance and to assist in the enrollment of individuals into either the Individual Exchange or the SHOP.

The authority to enter into this Agreement arises from Government Code Section 100503, subparagraph (s), where the Exchange is directed to "Exercise all powers reasonably necessary to carry out and comply with the duties, responsibilities, and requirements of this act [California Patient Protection and Affordable Care Act] and the federal act [Patient Protection and Affordable Care Act (Public Law 111-148)]." Furthermore, under 45 Code of Federal Regulations section 155.220, the Secretary of the United States Health and Human Services has promulgated regulations allowing for the participation of Agents in the Exchange.

B. <u>Definitions:</u>

1. Agent(s): individuals who are licensed and in good standing as a life licensee under Insurance Code Section 1626 by the California Department of Insurance to transact in accident and health insurance.

2. Advance Payments of Premium Tax Credit (APTC): Payment of the tax credits authorized by 26 U.S.C. 36B and its implementing regulations, which are provided on an advance basis to an eligible individual enrolled in a QHP through an Exchange in accordance with Section 1412 of the Affordable Care Act.

3. California Health Care Eligibility, Enrollment & Retention System (CalHEERS): CalHEERS was created pursuant to Government Code Sections 100502 and 100503, as well as 42 U.S.C. 18031, to enable customers to apply for eligibility, enrollment, and reenrollment in QHPs through the Exchange as well as other Insurance Affordability Programs (IAPs) such as Medi-Cal.

4. Certified Insurance Agent: An Agent certified by the Exchange to transact in the individual and SHOP Exchanges.

5. Certified QHP: Any QHP that is selected by the Exchange and has entered into a contract with the Exchange for the provision of health insurance coverage for enrollees who purchase health insurance coverage through the Individual and/or SHOP Exchanges.

6. Children's Health Insurance Program (CHIP): The programs established under the State plan adopted in accordance with title XXI of the Social Security Act to provide health insurance for children.

7. Consumer: A person or entity seeking information on eligibility and enrollment or seeking application assistance with a health insurance or health related product

EXHIBIT A
(Agent Agreement)

available through the Exchange. The term consumer includes, but is not limited to, an applicant, an application filer, authorized representative, employer, qualified employee, qualified employer, qualified individual, small employer, or enrollee as defined in Section 6410, Title 10, California Code of Regulations.

8. Employee: An individual as defined in Section 2791 of the Public Health Service Act (42 U.S.C. 300gg-91(d)(5)).

9. Employer: A person as defined in Section 2791 of the Public Health Service Act (42 U.S.C. 300gg-91(d)(6)), except that such term includes employers with one or more employees. All persons treated as a single employer under subsection (b), (c), (m), or (o) of Section 414 of IRC (26 U.S.C. § 414) are treated as one employer.

10. Individual and SHOP Exchanges: The programs administered by the Exchange pursuant to California Government Code § 100500 et seq., 42 U.S.C. 18031(b) of the federal Patient Protection Affordable Care Act and other applicable laws to furnish and to pay for health insurance plans for Qualified Individuals and Qualified Employers.

11. Individual Market: A market as defined in Section 1304(a)(2) of the Affordable Care Act.

12. Medi-Cal: Medi-Cal is administered by the California Department of Health Care Services. This program pays for a variety of medical services for children and adults with limited income and resources.

13. Qualified employee: An individual who is employed by a qualified employer and has been offered health insurance coverage by such qualified employer through the SHOP.

14. Qualified Employer: Qualified Employer has the same meaning as that term is defined in 42 U.S.C. 18032(f)(2) and 45 CFR 155.710.

15. Qualified Health Plans (QHPs): QHP has the same meaning as that term is defined in Patient Protection and Affordable Care Act Section 1301, 42 U.S.C. 18021. If a Standalone Dental Plan is offered through the Exchange, another health plan offered through the Exchange shall not fail to be treated as a QHP solely because the plan does not offer coverage of benefits offered through the standalone plan under 42 U.S.C. 18022(b)(1)(J).

16. Qualified Individual: Qualified Individual is an individual who meets the requirements of 42 U.S.C. 18032(f)(1) and 45 CFR 155.305(a).

EXHIBIT A
(Agent Agreement)

17. Small employer: An employer as defined in Section 1357.500(k) of California Health and Safety Code and in Section 10753(q) of California Insurance Code.

C. Scope of Work:

1. Licensure. Agent shall maintain licensure and good standing under Insurance Code Section 1626 by the California Department of Insurance to transact in accident and health insurance.

2. Certification. Agent shall comply with the certification standards set forth by the Exchange in the California Code of Regulations, Article 10, section 6800 et seq. prior to assisting Consumers.

3. Due Diligence. Agent shall solicit Consumers to apply for QHPs sold through the Exchange.

4. Consumer Applications.

    a. Agent shall complete all eligibility verification and enrollment applications for Consumers online through CalHEERS or via the paper application established by the Exchange. Agent shall use this single streamlined application to determine eligibility and to collect information necessary for enrollment in a QHP, advance payments of the premium tax credit, cost-sharing reductions; and, where applicable, enrollment in Medicaid or CHIP. Agent shall not be included in any application submitted to the Exchange where Agent did not provide substantial assistance with the application either in-person or over the phone;

    b. In the case that a Consumer is or may be eligible for Medi-Cal or CHIP, Agent shall facilitate the enrollment of interested Consumers without undue delay.

    c. Agent shall ensure that each application is fully and truthfully completed by the Consumer and the completed application fully and accurately reflects and discloses the circumstances of persons included in the application.

    d. To allow for the proper processing of Agent's compensation, Agent must ensure the completion the following sections of each consumer's application to the Exchange:

        i. Name and license number of the Certified Insurance Agent; and

        ii. Agent's personal identification number for electronic applications or Agent's signature and date of signature for paper applications.

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5. Nondiscrimination. In addition to requirements of Exhibit C, section G, sub-section (2), Agent shall not discriminate against any individuals regardless of age, disability, race, ethnicity, sexual orientation, or gender identity. In order to ensure that no Consumer is discriminated against, Agent shall seek assistance or guidance from the Exchange when needed.

6. Representations. Agent shall represent the plans offered through the Exchange in accordance with the following:

    a. Fairly and accurately present to Consumers all available enrollment options and prices regardless of the Agent's appointments with any health plan;

    b. Unless specifically requested by the Consumer not to, when quoting prices, Agent shall fairly describe and display the health plans that the Consumer is eligible for;

    c. Agent agrees not to steer Consumers towards or against any of the QHPs sold by the Exchange solely on the basis of payment schedules or other consideration made to agent;

    d. Agent is not authorized to and agrees not to enter into, alter, deliver or terminate any coverage on behalf of the Exchange or any QHP, extend the time for payment of charges, or bind the Exchange or any QHP in any way;

    e. Advise every Consumer that in no event will the Consumer have any coverage unless and until the Exchange has approved the application and payment has been received; and

    f. Agent shall not make any commitments on behalf of the Exchange or any QHP that have not been specifically approved in advance in writing by the Exchange or a QHP.

7. Agent shall not provide payment or other valuable consideration to subgrantees of the Exchange, Certified Enrollment Entities or Certified Enrollment Counselors defined under Article 8, Title 10 of the California Code of Regulations, and other community-based groups for referrals and/or enrollment services.

8. Compensation. Compensation shall be made in accordance with Exhibit B. Agent is an independent contractor and shall have no claim to compensation except as provided in Exhibit B and shall not be entitled to reimbursement from the Exchange for any expenses incurred in performing this Agreement. Agent further agrees that to the extent of any indebtedness of Agent to the Exchange,

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such indebtedness may be deducted at the Exchange's option from compensation due Agent.

9. Acceptance of Payment.

    a. For the individual market:

        i. When Agent assists Consumers with an online application through CalHEERS, monies received by Agent shall be processed in accordance with Agent's agreement with the QHPs and, under no circumstances, shall be sent to the Exchange.

        ii. When Agent assists Consumers with a paper application, Agent shall not accept any payments and the Consumer shall be instructed by Agent to pay the premium statement issued by the QHP.

    b. For the SHOP, monies received by Agent from employers for or on behalf of the Exchange shall be made payable to the Exchange and received by Agent in a fiduciary capacity. Monies received by Agent for the SHOP shall not be commingled by Agent with personal funds of Agent, and shall be remitted to the Exchange by no later than five (5) business days from the day of receipt. Agent shall only receive payment from employers tendered with a completed initial enrollment application. Agent shall not receive any subsequent payments.

10. Records. Agent shall maintain complete records (i) of all transactions pertaining to applications submitted to and accepted by the Exchange, (ii) as may be required by the California Department of Insurance, or California Department of Managed Health Care or any other governmental entity, and (iii) in connection with Agent's relationship with the Exchange. Any and all records described above shall be accessible and available to representatives of the Exchange who may audit them from time to time while this Agreement is in effect or within one (1) year after termination thereof.

11. Ongoing Service. Agent shall service Employers, Employees, and individuals enrolled in QHPs when Agent is the Agent of Record. Such service will include, but not be limited to, the following:

    a. Acting as liaison between these parties and the Exchange if requested by any of these parties;

    b. Assisting these parties to take the proper action in connection with Exchange coverage when there is a change of address, or other change of status;

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c. Assisting a family member/dependent to obtain coverage when he or she is no longer entitled to coverage as a family member – e.g., when a dependent child reaches the limiting age, or upon a divorce or dissolution of marriage; and

d. Maintaining a working and current knowledge of QHPs offered through the Exchange and the ability to explain benefits and/or coverage.

12. Agent shall provide reasonable assistance to the Exchange in resolving any problems that may arise with new and existing Employers, Employees, or individuals enrolled in QHPs.

13. Agent of Record.

a. For the Individual Market, Agent of Record policies are defined by agreement between Agent and the health plans. The Exchange does not define Agent of Record policies for participating QHPs.

b. For the SHOP Exchange, Agent shall advise Employers that any Agent of Record changes must be made by providing the Exchange with a written request made by the Employer's authorized representative, which identifies the name, address, and if known, tax identification number of the new Agent of Record. Upon receipt of the Employer's request, the Exchange will notify the Employer's existing Agent of Record. The Exchange will honor the Employer's request unless the Exchange receives a written rescission signed by the Employer's authorized representative within five (5) business days. The Exchange will honor the Employer's request effective on the first day of the month following the Exchange's receipt of the request, unless another future date is specified in the written request. The new Agent will be the Employer's designated Agent of Record.

14. Training Standards

a. To ensure that all Agents are prepared to serve both the individual Exchange and SHOP, all Agents who carry out consumer assistance functions shall complete training in the following subjects prior to carrying out any consumer assistance functions:

i. QHPs (including the metal levels described at 45 C.F.R. § 156.140(b)), and how they operate, including benefits covered, payment processes, rights and processes for appeals and grievances, and contacting individual plans;

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ii. The range of insurance affordability programs, including Medicaid, the Children's Health Insurance Program, and other public programs;

iii. The tax implications of enrollment decisions;

iv. Eligibility requirements for premium tax credits and cost-sharing reductions, and the impacts of premium tax credits on the cost of premiums;

v. Contact information for appropriate federal, state, and local agencies for consumers seeking additional information about specific coverage options not offered through the Exchange;

vi. Basic concepts about health insurance and the Exchange; the benefits of having health insurance and enrolling through an Exchange; and the individual responsibility to have health insurance;

vii. Eligibility and enrollment rules and procedures, including how to appeal an eligibility determination;

viii. Providing culturally and linguistically appropriate services;

ix. Ensuring physical and other accessibility for people with a full range of disabilities;

x. Understanding differences among health plans;

xi. Privacy and security standards applicable under 45 C.F.R. § 155.260 for handling and safeguarding consumers' personally identifiable information;

xii. Working effectively with individuals with limited English proficiency, people with a full range of disabilities, people of any gender identity, people of any sexual orientation, and vulnerable, rural, and underserved populations;

xiii. Customer service standards;

xiv. Outreach and education methods and strategies;

xv. Applicable administrative rules, processes, and systems related to Exchanges and QHPs; and

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b. All Certified Insurance Agents shall participate in at least four (4) hours of Continuing Education Courses offered by the Exchange during the first year and each subsequent year to maintain certification by the Exchange. A year shall be based on the date of certification.

15. Agent shall not concurrently be certified as a Plan Based Enroller defined in Article 9, Title 10, of the California Code of Regulations.

D. <u>Exchange Rights</u>

1. Agent agrees that the Exchange reserves the right to do any of the following:

   a. Reject any and all applications submitted by Agent; and

   b. Discontinue, modify, or exercise all lawful rights in connection with any of its QHPs without liability to Agent.

E. <u>Agent Appointment</u>

1. Appointments for plans sold through the Exchange shall be made as follows:

   a. Individual Market

      i. The Exchange does not appoint Agents in the Individual Market. QHPs are responsible for maintaining a reasonable appointment process for appointing agents to sell QHPs in the Individual Market.

   b. SHOP Exchange

      i. The Exchange grants to Agent a non-exclusive, revocable appointment to enroll employers and employees in QHPs through CalHEERS for all plans sold in the SHOP. This appointment shall not limit or prohibit the Exchange from granting similar appointments to other Agents, and does not prohibit Agent from accepting appointments from any insurance companies.

F. <u>Compliance with Governing Statutes:</u>

1. The Contractor understands that all services rendered under this Agreement must comply with any applicable federal or state laws and regulations, including, but not limited to, the following:

   a. The Patient Protection and Affordable Care Act of 2010 and any accompanying regulations promulgated thereunder;

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b. California Code of Regulations, Title 10, Article 6800 et seq.

c. Sections 15438, 15439, and 100501 through 100521 of the Government Code;

d. Sections 1346.2 and 1366.6 of the Health and Safety Code; and

e. Sections 10112.3 and 10112.4 of the Insurance Code.

G. Consumer Messaging:

Agent agrees to use and be in compliance with the guidelines in Exhibit E.

H. Term

The term of this Agreement is for one year and shall be automatically renewed upon completion of Continuing Education by Agent annually.

I. Agent Services:

For any communications or questions that arise during the term of this Agreement, Agent shall contact Agent Services at:

ATTN: Covered California Agent Services
P.O. Box 7010
Newport Beach, CA 92658
(877) 453-9198
agents@covered.ca.gov

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BUDGET DETAIL AND PAYMENT PROVISIONS

A. Payment

1. For sales in the Individual Exchange

    a. QHPs are solely responsible for compensating agents for plans sold in the Individual Exchange. Compensation rates are set by QHPs and may vary depending on the terms and conditions established by agreement with Agent.

2. For sales in the SHOP

    a. The Exchange shall pay Agent a percentage of the premium paid and retained for each QHP sold by Agent through the SHOP Exchange. The percentage shall be established by the "Schedule of Commissions" in place on the effective date of coverage. The "Schedule of Commissions" in Exhibit F is applicable to Contracts entered into on and after all parties sign this Agreement. Unless all parties agree to sooner effective date, the Exchange may modify or replace its commission schedule upon thirty (30) days prior notice to Agent. Such modified or replacement schedule shall apply to all other QHPs sold by Agent effective on or after the effective date of such modification or replacement. The Exchange will provide Agent with an updated "Schedule of Commissions" whenever changes occur by posting such changes to www.coveredca.com. No formal amendment is required for changes or modifications to the "Schedules of Commissions" except that such changes shall be adopted in regulations pursuant to the Exchange's rulemaking authority and the Administrative Procedure Act. Agent understands and agrees that no commissions will be paid for Individual Conversion Plan Contracts.

    b. Commissions shall continue to be paid if and only if the Qualified Employer remains enrolled in the SHOP and Agent continues to meet the following conditions:

        i. Maintain licensure and good standing with the California Department of Insurance.

        ii. Agent maintains Certification with the Exchange per California Code of Regulations, Title 10, Article 6800 et seq. In the event that Agent's certification with the Exchange is renewed within sixty days of decertification, Agent shall be compensated retroactively and commissions reinstated.

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iii. The Exchange does not terminate Agent's contract For Cause as described in Exhibit C, Section E, subsection 1.

c. Commission Assignment Rights

i. The right to commissions under this Agreement may be assigned to another agent certified by the Exchange subject to the Exchange's prior written consent. Such consent shall not be unreasonably withheld. Written notice of the assignment shall be given to the Exchange at least thirty days prior to the effective date of the assignment. The Exchange shall pay the Assignee the commissions that would have been paid to Agent had the commission not been assigned.

ii. The Assignee will be the Employer's Agent of Record with all the other rights and obligations thereunder.

B. <u>Prompt Payment Clause:</u>

Payment shall be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

C. <u>Non-resident Tax Withholdings:</u>

Payments to all nonresidents may be subject to withholding. Non-resident payees performing services in California or receiving rent, lease, or royalty payments from property (real or personal) located in California shall have seven percent of their total payments withheld for state income taxes. No withholding is required, however, if total payments to the payee are $1,500 or less for the calendar year.

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GENERAL TERMS AND CONDITIONS

A. Approval:

This Agreement is of no force or effect until signed by both parties.

B. Indemnification:

Contractor agrees to indemnify, defend and save harmless the State, its officers, trustees, agents and employees from any and all claims, losses, costs, liabilities, damages or deficiencies, including interest, penalties and attorneys' fees, which:

1. Arise out of, are due to, are alleged to arise out of or be due to, a breach by the Contractor of any of its representations, warranties, covenants or other obligations contained in this Agreement, or

2. Are caused by or result from or are alleged to arise out of or result from, the Contractor's acts or omissions constituting bad faith, willful misfeasance, negligence or reckless disregard of its duties under this Agreement, or

3. Accrue or result, or are alleged to accrue or result, to any and all contractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement, or

4. Arise out of, are due to, or are alleged to arise out of or be due to, any claim or allegation of infringement, misappropriation or violation of any patent, copyright, trademark, trade secret, domain name or other intellectual property right comprising or involving any of the Subject Inventions, Prior Inventions or other Inventions provided in any way by Contractor and used, reproduced or otherwise exploited by the State in connection with any of the Agreement Programs or any Turnover thereof; or

5. Arise out of, are due to or are alleged to arise out of or be due to, any violation of HIPAA, the HIPAA Regulations, HITECH Act, other security or privacy laws, or any other laws, by Contractor or any contractor or agent under Contractor 's control.

If and to the extent that the Contractor has knowledge of a claim that it believes may develop into an action that would be subject to this Agreement, the Contractor shall promptly notify the Exchange of the claim by written notice to Agent Services identified in Section I of Exhibit A.

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Right to Tender or Undertake Defense. If the State is named a party in any judicial, administrative, or other proceeding arising out of or in connection with a breach of this Agreement or a matter for which the Contractor is obligated to indemnify the State under this Agreement, then the State shall have the option at any time to either (i) tender its defense to Contractor, in which case Contractor shall provide qualified attorneys, consultants, and other appropriate professionals to represent the State's interests at Contractor 's expense, or (ii) undertake its own defense, choosing the attorneys, consultants, and other appropriate professionals to represent its interests, in which case Contractor shall be responsible for and shall pay reasonable fees and expenses of such attorneys, consultants, and other appropriate professionals. If the State elects option (ii) above, the Contractor shall be afforded a reasonable opportunity to participate in the defense and attend the legal proceedings at its own expense; however, the State shall have sole control of the defense.

Right to Control Resolution. Notwithstanding that the State may have tendered its defense to the Contractor, neither party shall settle, compromise or resolve any claims, causes of action, liabilities or damages against the State without the consent of the other party, which consent shall not be unreasonably withheld. Any such resolution shall not relieve the Contractor of its obligation to indemnify the State.

C. <u>Dispute Provisions:</u>

1. The parties shall deal in good faith and attempt to resolve disputes informally. If the dispute persists, Contractor shall submit a written dispute notice to the Agent Services within 15 calendar days after the date of the action causing the dispute. The written dispute notice shall contain the following information:

    a. The decision or issue under dispute;

    b. The reason(s) Contractor believes the decision or position taken by the Exchange is in error (if applicable, reference pertinent Contract provisions);

    c. Identification of all documents and substance of all oral communication which support Contractor’s position; and

    d. The dollar amount in dispute, if applicable.

2. Within 15 calendar days after receipt of the dispute notice, Agent Services shall issue a written decision regarding the dispute. The written decision shall include the following information:

    a. A description of the dispute;

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b. A reference to pertinent Contract provisions, if applicable;

c. A statement of the factual areas of agreement or disagreement; and

d. A statement of the State's decision with supporting rationale

3. If the Contractor is not satisfied with the decision of the Exchange, the Contractor may, within 15 calendar days of the Exchange's decision, submit a written appeal to the Exchange Executive Director. The Executive Director shall then issue a final decision on the dispute within 30 days after receiving Contractor's written appeal. If the Executive Director fails to render a final decision within 30 days after receipt of Contractor's written appeal, it shall be deemed a final decision adverse to the Contractor's contentions. The Executive Director's final decision shall be conclusive and binding regarding the dispute unless Contractor commences an action in a court of competent jurisdiction to contest such decision within 30 days following the date of the final decision.

4. Pending the final resolution of any dispute arising under, related to or involving this Agreement, Contractor agrees to diligently proceed with the performance of this Agreement, in accordance with the Exchange's instructions. Contractor's failure to diligently proceed in accordance with the Exchange's instructions shall be considered a material breach of this Agreement.

D. <u>Modification</u>

The Exchange may modify this Agreement upon thirty (30) days prior written notification. Any such modification shall not affect Agent's rights in connection with business written with effective dates prior to the effective date of modification of this Agreement.

E. <u>Termination</u>

1. Termination For Cause:

   The Exchange may terminate this Agreement for cause and be relieved of any payments at any time. Upon notice from the Exchange terminating this Agreement for Cause, Contractor shall immediately discontinue all activities affected, unless the notice directs otherwise, and the Exchange may proceed with the work in any manner deemed proper by the Exchange. In such event, the Exchange shall not be liable to pay Contractor any compensation from the date of termination, and all costs to the Exchange shall be remitted to the Exchange within 30 days. The Exchange may, at its sole discretion, offer an opportunity to cure any breach prior to terminating for default. A failure to terminate this Agreement for cause shall not be a waiver of the right to do so with respect to

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any past, current or future default. Such right of termination shall be without prejudice to any other remedies available to the Exchange. The Exchange may terminate this Agreement for cause without prior written notice to Agent at any time for any of the following occurrences:

a. The death of Agent. If this Agreement is terminated because of the death of an Agent, Agent's legal heirs may elect to, within one-hundred-eighty (180) days following the death of Agent, exercise the Assignment of Commission Rights set out in Section A, sub-section c of Exhibit B;

b. Revocation, suspension or expiration of Agent license by the California Department of Insurance ;

c. Revocation, suspension or expiration of Agent's certification by the Exchange.

d. Commission of a fraudulent, illegal, deceitful or dishonest act as determined the Exchange;

e. Termination of the Agent Agreement pursuant to the Business Associate Agreement, Exhibit D, Section III;

f. Agent's failure to comply with any provision of this Agreement; or

g. Threatening or acting in an abusive manner toward the Exchange or any of its employees, agents, representatives, or Consumers.

Although termination is effective immediately, Agent may dispute the Termination for Cause decision pursuant to Section C of this Exhibit, Dispute Provisions.

2. Termination Without Cause:

This Agreement may be terminated at any time by either party upon giving thirty (30) days prior written notice thereof to the other party. The effective date of termination shall be the first day of the month following the 30-day notice period unless said notice specifies a later date. In the instance that an Agent's contract is terminated Without Cause, Agent shall continue to be compensated in accordance with this Agreement after the date of termination if Agent:

a. Maintains licensure and certification; and

b. Continues to service Consumers for whom Agent is the Agent of Record in accordance with this Agreement, unless the Agent of Record is changed as described in Exhibit A, Section C.

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F. Independent Contractor:

In the performance of this Agreement, Contractor and the agents and employees of Contractor shall act in an independent capacity and not as officers or employees or agents of the State except for purposes of Civil Code Section 1798.24.

G. Contractor Certification Clauses:

1. Compliance:

   Contractor certifies that it is in compliance and will remain in compliance with all applicable federal and state laws.

2. Nondiscrimination Clauses
   Contractor certifies that it will comply with all Federal and state statutes and regulations relating to nondiscrimination. These include, but are not limited to, the following:

   a. Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), as amended, and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 C.F.R. Part 80), to the end that, in accordance with Title VI of that Act and the Regulation, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which Federal financial assistance is provided by the Department of Health and Human Services.

   b. Title IX of the Education Amendments of 1972 (Pub. L. 92-318), as amended, and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 C.F.R. Part 86), to the end that, in accordance with Title IX and the Regulation, no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any education program or activity for which Federal financial assistance is provided by the Department of Health and Human Services.

   c. Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended, and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 C.F.R. Part 84), to the end that, in accordance with Section 504 of that Act and the Regulation, no otherwise qualified individual with a disability in the United States shall, solely by reason of her or his disability, be excluded from

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participation in, be denied the benefits of, or be subjected to discrimination under any program or activity for which Federal financial assistance is provided by the Department of Health and Human Services.

d. The Age Discrimination Act of 1975 (Pub. L. 94-135), as amended, and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 C.F.R. Part 91), to the end that, in accordance with the Act and the Regulation, no person in the United States shall, on the basis of age, be denied the benefits of, be excluded from participation in, or be subjected to discrimination under any program or activity for which Federal financial assistance is provided by the Department of Health and Human Services.

e. Americans With Disabilities Act (ADA) of 1990, as amended, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA (42 U.S.C. 12101 et seq.).

f. The Fair Employment and Housing Act (Government Code Section 12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (Title 2, California Code of Regulations, Section 11000 et seq.) require that during the performance of this Agreement, Contractor and its subcontractors, as well as their agents and employees, shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (including health impairments related to or associated with a diagnosis of cancer for which a person has been rehabilitated or cured), age (over 40), marital status, and use of family and medical care leave pursuant to state or federal law. Contractor and subcontractors, as well as their agents and employees, shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement; and

g. The requirements of any other nondiscrimination statute(s) which may apply to this Agreement.

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3. Conflict of Interest:

   Contractor acknowledges that, in governmental agreements, even the appearance of a conflict of interest is harmful to the interest of the State. Thus, Contractor agrees to refrain from any practices, activities or relationships that could reasonably be considered to be in conflict with Contractor's fully performing his/her obligations to the State under the terms of this Contract. Contractor shall inquire about and require disclosure by its Staff and subcontractors of all activities that may create an appearance of conflict. In the event that Contractor is uncertain whether the appearance of a conflict of interest may reasonably exist, Contractor shall submit to Agent Services identified in Section I of Exhibit A a full disclosure statement setting forth the relevant details of any activity which the Contractor reasonably believes may have the appearance of a conflict of interest for the State's consideration and direction. Failure to promptly submit a disclosure statement setting forth the relevant details for the State consideration and direction shall be grounds for Termination of this Contract.

4. Conflict Of Interest for Current or Former State Employees:

   Contractor acknowledges the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, Contractor shall contact the State immediately for clarification.

   a. Current State Employees:

      i. No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.

      ii. No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

   b. Former State Employees:

      i. For the two (2)-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transaction, planning, arrangements or any part of the decision-

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making process relevant to the contract while employed in any capacity by any state agency.

ii. For the twelve (12)-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the twelve (12)-month period prior to his or her leaving state service.

If Contractor violates any provisions of the above paragraphs, such action by Contractor shall render this Agreement void.
Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem.

5. Labor Code/Workers' Compensation:

   Contractor acknowledges the provisions of law which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor agrees to comply with such provisions before commencing the performance of the work of this Agreement (Labor Code Section 3700).

6. Contractor Name Change:

   Contractor acknowledges that an amendment is required to change the Contractor name as listed on this Agreement. Upon receipt of legal documentation of the name change the State shall process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

7. Air Or Water Pollution Violation:

   Contractor acknowledges that, under the State laws, Contractor shall not be:

   a. In violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district;

   b. Subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or

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c. Finally determined to be in violation or provisions of federal law relating to air or water pollution.

8. Drug-Free Workplace Requirements:

Contractor shall comply with the requirements of the Drug-Free Workplace Act of 1990 and shall provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

i. The dangers of drug abuse in the workplace;

ii. The person's or organization's policy of maintaining a drug-free workplace;

iii. Any available counseling, rehabilitation and employee assistance programs; and

iv. Penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement shall:

i. Receive a copy of the company's drug-free workplace policy statement; and

ii. Agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the State determines that any of the following has occurred: (1) Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Govt Code Section 8350 et seq.)

9. National Labor Relations Board Certification:

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Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two (2)-year period because of Contractor's failure to comply with an order of a Federal court which orders Contractor to comply with an order of the National Labor Relations Board. (PCC 10296) (Not applicable to public entities.)

10. Payee Data Record Form Std 204:

    Contractor acknowledges that this form must be completed by all Contractors that are not another state agency or other government entity.

11. Computer Software Copyrights:

    Contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this contract for the acquisition, operation or maintenance of computer software in violation of copyright laws.

12. Activities Abroad

    Contractor certifies that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

13. Covenant Against Contingent Fees

    Contractor warrants that no person or selling agency has been employed or retained to solicit/secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage, or contingent fee, except *bona fide* employees or *bona fide* established commercial or selling agencies retained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the Exchange shall have the right to annul this Agreement without liability or in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, and brokerage or contingent fee.

14. Child Support Compliance Act:

    In accordance with the Child Support Compliance Act,

    a. Contractor acknowledges the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited

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to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

b. Contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

15. Union Organizing:

By signing this Agreement, Contractor hereby acknowledges the applicability of Government Code Section 16645 through Section 16649 to this Agreement except to the extent any of those statutes are made inapplicable by the decision of the U. S. Supreme Court in Chamber of Commerce of U.S. v. Brown (2008) 554 U.S. 60.

16. Recycling Certification:

Contractor certifies in writing under penalty of perjury, if not exact, percentage of recycled content, both post-consumer waste and secondary waste as defined in the Public Contract Code, Sections 12200, in materials, goods, or supplies offered or products used in the performance of this Agreement, regardless of whether the product meets the required recycled product percentage as defined in the Public Contract Code, Section 12209. Contractor may certify that the product contains zero recycled content.

17. Resource Conservation and Recovery Act
Contractor certifies that preference shall be given to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency (EPA) at 40 CFR parts 247-254. (2 CFR 215.16)

18. Antitrust Claims:

The Contractor by signing this Agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

i. "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political

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subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

ii. "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

19. Domestic Partners:

Notwithstanding any other provision of law, no state agency may enter into any contract for the acquisition of goods or services in the amount of one hundred thousand dollars ($100,000) or more with a contractor who, in the provision of benefits, discriminates between employees with spouses and employees with domestic partners, or discriminates between employees with spouses or domestic partners of a different sex and employees with spouses or domestic partners of the same sex, or discriminates between same-sex and different-sex

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domestic partners of employees or between same-sex and different-sex spouses of employees. Contractor hereby certifies that it does not discriminate in any of the ways described in this paragraph.

H. Officials Not to Benefit

No members of or delegate of Congress or the State Legislature shall be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom. This provision shall not be construed to extend to this Agreement if made with a corporation for its general benefits.

I. Timeliness:

Time is of the essence in this Agreement.

J. Governing Law:

This Agreement shall be administered, construed, and enforced according to the laws of the State of California (without regard to any conflict of law's provisions) to the extent such laws have not been preempted by applicable federal law. Any suit brought hereunder (including any action to compel arbitration or to enforce any award or judgment rendered thereby) shall be brought in the state or federal courts sitting in Sacramento, California, the parties hereby waiving any claim or defense that such forum is not convenient or proper. Each party agrees that any such court shall have in personal jurisdiction over it and consents to service of process in any manner authorized by California law.

K. Severability:

If any provision in this Agreement is invalid or unenforceable in any jurisdiction, the other provisions herein shall remain in full force and effect in such jurisdiction and shall be liberally construed in order to effectuate the purpose and intent of this Agreement, and the invalidity or unenforceability of any provision in this Agreement in any jurisdiction shall not affect the validity or enforceability of any such provision in any other jurisdiction.

L. Priority Hiring Considerations for Recipients Of Aid

If this Contractor is in excess of $200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by this Agreement to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353. This requirement shall not interfere with or require a violation of a collective bargaining agreement, a federal affirmative action obligation for hiring disabled veterans of the Vietnam era, or nondiscrimination

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compliance laws of California and does not require the employment of unqualified recipients of aid.

M. Audit:

Contractor agrees that the Exchange and the California State Auditor's office, or their designated representatives, shall have the right to review and to copy any records and supporting documentation directly pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include the same right of the State to audit records and interview staff in any subcontract related to performance of this Agreement (GC 8546.7, PCC 10115 et seq., CCR Title 2, Section 1896).

N. Insurance Requirements

When Contractor submits a signed Agreement to the State, Contractor shall furnish to the State a certificate of insurance, stating that there is:

1. Errors and Omissions Insurance in force in an amount satisfactory to Exchange, but no less than $1,000,000 per occurrence and $1,000,000 aggregate limit of all claims filed in the policy year and from a carrier satisfactory to Exchange. Agent shall be noted on the certificate. The obtaining and maintenance of such insurance shall be a material requirement of this Agreement.

O. Intellectual Property Rights:

1. All activities defined in the Statement of Work originated or prepared by Contractor pursuant to this Agreement including papers, reports, charts, and other documentation, but not including Contractor's administrative communications and records relating to this Agreement, shall upon delivery and acceptance by the Exchange become the exclusive property of the Exchange and may be copyrighted by the Exchange.

2. All inventions, discoveries or improvements of the techniques or programs or materials developed pursuant to this Agreement shall be the property of Exchange.

3. This Agreement shall not preclude Contractor from developing materials outside this Agreement, which are competitive, irrespective of their similarity to materials which might be delivered to the Exchange pursuant to this Agreement. All

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preexisting intellectual property, copyrights, trademarks and products shall be the sole property of Contractor.

P. Confidentiality:

Contractor agrees to protect the personal information of all individuals by following applicable federal and state privacy and security requirements.

All financial, statistical, personal, technical, and other data and information related to the Exchange's operations that are not publicly available and that become available to Contractor shall be protected during or after its relationship with the Exchange by Contractor from unauthorized use and disclosure. Contractor agrees that Contractor shall not use any Confidential Information for any purpose other than carrying out the provisions of the Agreement.

Confidential Information includes, but is not limited to, all proprietary information of the Exchange including without limitation: the Deliverables; trade secrets; know-how; concepts; methods; techniques; designs; drawings; specifications; computer programs, including the State's software; support materials; information regarding the State's business operations and plans; client, customer, or supplier lists; pricing information; marketing plans or information; or other records concerning the State's finances, contracts, services, or personnel.

At the conclusion of its relationship with the Exchange, Contractor shall return any and all records or copies of records relating to the Exchange, or its business, or it's Confidential Information. Contractor shall take such steps as may be reasonably necessary to prevent disclosure of Confidential Information to others and shall not disclose Confidential Information to others without the prior written consent of the Exchange. Contractor agrees that Confidential Information disclosed to it under the terms of this Agreement may be disclosed only to its employees or agents who have a need to know such Confidential Information.

This Agreement not to disclose Confidential Information will continue to apply after termination of this Agreement, and until such time as the Confidential Information becomes public knowledge through no fault of its own. Contractor will report to the Exchange any and all unauthorized disclosures of Confidential Information. Contractor acknowledges that any publication or disclosure of Confidential Information to others may cause immediate and irreparable harm to the Exchange, and if Contractor should publish or disclose Confidential Information to others, the Exchange shall be entitled to injunctive relief or any other remedies to which it is entitled under law or equity, without posting a bond.

Q. Waiver of Breach

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The waiver by the Exchange of any breach by Contractor of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by Contractor.

R. Resolution:

A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

S. Corporate Qualifications To Do Business In California:

1. Contractor acknowledges that, when agreements are to be performed in the state by corporations, the Exchange will verify that the Contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

2. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate Contractor performing within the state not be subject to the franchise tax.

   Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. The Exchange will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

T. Evaluation of Contractor

Contractor is hereby notified that the State will evaluate the Contractor's performance for compliance with the terms of this Agreement within 60 days of the termination of the Agreement. The evaluation shall be prepared on a "Contract/Contractor Evaluation," STD Form 4. Contractor shall be notified and sent a copy of the unsatisfactory evaluation within 15 days after its completion.

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Business Associate Agreement

This Business Associate Agreement (this "Agreement") between the California Health Benefit Exchange ("Covered Entity") and Certified Insurance Agent ("Business Associate") is entered into in accordance with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as codified at 42 USCA §1320d-d8, and its implementing regulations at 45 C.F.R. Parts 160, 162 and 164 (the "HIPAA Regulations"); and the Health Information Technology for Economic and Clinical Health Act, enacted as part of the American Recovery and Reinvestment Act of 2009, and its attendant regulations and guidance (the "HITECH Act").

Purpose of the Agreement

Business Associate provides certain services on behalf of Covered Entity that require the Covered Entity to disclose certain identifiable health information to Business Associate. The parties desire to enter into this Agreement to permit Business Associate to have access to such information and comply with the business associate requirements of HIPAA, the HIPAA Regulations, and the HITECH Act, as each may be amended from time to time in accordance with the terms and conditions set forth in this Agreement. The Parties (Business Associate and Covered Entity) hereby agree as follows:

Definitions: Unless otherwise specified, in this Agreement, all capitalized terms used in this Agreement not otherwise defined have the meaning established for the purposes of Title 45 parts 160 and 164 of the United States Code of Federal Regulations, as amended from time to time, and the HITECH Act.

I. Business Associate Obligations.

1. **Applicable Law.** The terms and conditions set forth in this Agreement shall become effective on the later of the effective date of this Agreement, April 14, 2003, or any new mandatory compliance date established for HIPAA, the HIPAA Regulations and/or the HITECH Act. The parties acknowledge and agree that the HIPAA Regulations and HITECH Act may be amended and additional guidance and/or regulations may be issued after the date of the execution of this Agreement and may affect the parties' obligations under this Agreement ("Future Directives"). The parties agree to abide by such Future Directives as these Future Directives may affect the obligations of the parties. If Future Directives affect the obligations of the parties, then Covered Entity shall notify Business Associate of Future Directives in writing within thirty (30) days before Future Directives are effective. The notification of Business Associate by Covered Entity of Future Directives that affect the obligations of the parties related to the Business Associate relationship shall be considered amendments to this Agreement binding on both parties.

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2. **Permitted Uses and Disclosures.** Business Associate shall not, and shall ensure that its directors, officers, employees, contractors and agents do not, further use or disclose patient individually identifiable health information ("Protected Health Information" or "PHI") received from or created for the Covered Entity in any manner that would violate the HIPAA Regulations, HITECH Act or Future Directives. Business Associate agrees to abide by the HIPAA Regulations with respect to the use or disclosure of Protected Health Information it creates, receives from, maintains, or electronically transmits for the Covered Entity as if the Business Associate were considered a health care provider under the HIPAA Regulations. Business Associate further agrees that it will not use or disclose Protected Health Information beyond the purposes set forth in the Agreement. Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, the Covered Entity as specified in that certain Agreement between the parties, provided that such use or disclosure would not violate HIPAA, the HIPAA Regulations or the HITECH Act if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.

3. **Compliance with Business Associate Agreement and HITECH Act.** Effective February 17, 2010, Business Associate may use and disclose PHI that is created or received by Business Associate from or on behalf of Covered Entity if such use or disclosure, respectively, complies with each applicable requirement of 45 C.F.R. § 164.504(e) and the HITECH Act. The additional requirements of Subtitle D of the HITECH Act that relate to privacy and that apply to covered entities also will apply to Business Associate and are incorporated into this Agreement by reference.

4. **Use of PHI for Administrative Activities.** Notwithstanding Section I.2 above, Business Associate may use or disclose PHI for management and administrative activities of Business Associate or to comply with the legal responsibilities of Business Associate; provided, however, the disclosure or use must be required by law or Business Associate must obtain reasonable assurances from the third party that receives the Protected Health Information that they will (i) treat the Protected Health Information confidentially and will only use or further disclose the Protected Health Information in a manner consistent with the purposes that the Protected Health Information was provided by Business Associate; and (ii) promptly report any breach of the confidentiality of the Protected Health Information to Business Associate. Provided further that, Business Associate will notify Covered Entity immediately upon receipt of a request for any disclosure of PHI required by law.

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5. **Accounting**. Business Associate agrees to document disclosures of PHI and collect information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and, if required by and upon the effective date of, Section 13405(c) of the HITECH Act and related regulatory guidance.

   a) Business Associate agrees to provide to Covered Entity or an Individual upon Covered Entity's request, information collected in accordance with this Section, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and, if required by and upon the effective date of, Section 13405(c) of the HITECH Act and related regulatory guidance.

6. **Restriction.** Effective February 17, 2010, and notwithstanding 45 C.F.R. § 164.522(a)(1)(ii), Business Associate must comply with an Individual's request under 45 C.F.R. § 164.522(a)(1)(i)(A) that Business Associate restrict the disclosure of PHI of the Individual if (1) except as otherwise required by law, the disclosure is to a health plan for purposes of carrying out payment or health care operations (and is not for purposes of carrying out treatment); and (2) the PHI pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full.

7. **Fundraising.** Any written fundraising communication occurring on or after February 17, 2010 that is a health care operation shall, in a clear and conspicuous manner and consistent with guidance to be provided by the Secretary, provide an opportunity for the recipient of the communications to elect not to receive any further such communication. An election not to receive any further such communication shall be treated as a revocation of authorization under Section 45 C.F.R. § 164.508. However, no communication pursuant to this Section may be made by Business Associate without prior written authorization by Covered Entity.

8. **Sale of PHI.** Upon the effective date of Section 13405(d) of the HITECH Act , Business Associate shall not directly or indirectly receive remuneration in exchange for PHI that is created or received by Business Associate from or on behalf of Covered Entity unless: (1) pursuant to an authorization by the Individual in accordance with 45 C.F.R. §164.508 that includes a specification for whether the PHI can be further exchanged for remuneration by the entity receiving PHI of that Individual; or (2) as provided in Section 13405(d)(2) of the HITECH Act and regulations to be issued by the Secretary, upon the effective date of such regulations. However, in no instance may Business

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Associate receive remuneration pursuant to this Section without Covered Entity's written authorization.

9. **Marketing.** A communication occurring on or after February 17, 2010 by Business Associate that is described in the definition of marketing in 45 C.F.R. §164.501(1) for which Covered Entity receives or has received direct or indirect payment (excluding payment for treatment) in exchange for making such communication, shall not be considered a health care operation unless: (1) such communication describes only a drug or biologic that is currently being prescribed for the recipient of the communication and any payment received in exchange for making such a communication is reasonable in amount; or (2) the communication is made by Business Associate on behalf of the Covered Entity and the communication is otherwise consistent with this Agreement. However, no communication pursuant to this Section may be made by Business Associate without prior written authorization by Covered Entity.

10. **Safeguarding the Privacy of PHI.** Business Associate agrees that it shall utilize physical, administrative and technical safeguards to ensure that PHI is not used or disclosed in any manner inconsistent with this Agreement or the purposes for which Business Associate received PHI from or created PHI for the Covered Entity. Business Associate further agrees to implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of any PHI that Business Associate creates, receives, maintains or transmits electronically on behalf of Covered Entity under the Agreement. Upon request, Business Associate shall provide the Covered Entity with a written description of the physical, administrative and technical safeguards adopted by Business Associate to meet its obligations under this Section.

11. **Security Safeguards.** Business Associate acknowledges that, effective February 17, 2010, 45 C.F.R. §§ 164.308, 164.310, 164.312 and 164.316 will apply to Business Associate in the same manner that such sections apply to covered entities and are incorporated into this Agreement by reference. The additional requirements of the HITECH Act that relate to security and that apply to covered entities also will apply to Business Associate and are incorporated into this Agreement by reference. Business Associate agrees to implement the technical safeguards provided in guidance issued annually by the Secretary for carrying out the obligations under the Code of Federal Regulation sections cited in this Section and the security standards in Subpart C of Part 164 of Title 45 of the Code of Federal Regulations.

12. **Breach Notification**. Business Associate agrees to implement response programs and record-keeping systems to enable Business Associate to

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comply with the requirements of this Section and 13402 of the HITECH Act and the regulations implementing such provisions, currently Subpart D of Part 164 of Title 45 of the Code of Federal Regulations, when Business Associate detects or becomes aware of unauthorized access to information systems or documents that contain PHI. Business Associate agrees to mitigate any effects of the inappropriate use or disclosure of PHI by Business Associate.

a) Business Associate agrees to notify Covered Entity, by facsimile or telephone, of any breach or suspected breach of its security related to areas, locations, systems, documents or electronic systems which contain unsecured PHI, including, without limitation, any Security Incident, instance of theft, fraud, deception, malfeasance, or use, access or disclosure of PHI which is inconsistent with the terms of this Agreement (an "Incident") immediately upon having reason to suspect that an Incident may have occurred, and typically prior to beginning the process of verifying that an Incident has occurred or determining the scope of any such Incident, and regardless of the potential risk of harm posed by the Incident. Notice shall be provided to the Covered Entity's representative designated in this Agreement. Upon discovery of a breach or suspected Incident, Business Associate shall take:

i. Prompt corrective action to mitigate any risks or damages involved with the breach and to protect the operating environment; and

ii. Any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations.

b) In the event of any such Incident, Business Associate shall further provide to Covered Entity, in writing, such details concerning the Incident as Covered Entity may request, and shall cooperate with Covered Entity, its regulators and law enforcement to assist in regaining possession of such unsecured PHI and prevent its further unauthorized use, and take any necessary remedial actions as may be required by Covered Entity to prevent other or further Incidents.

c) If Covered Entity determines that it may need to notify any Individual(s) as a result of such Incident that is attributable to Business Associate's breach of its obligations under this Agreement, Business Associate shall bear all reasonable direct and indirect costs associated with such determination including, without limitation, the costs associated with providing notification to the affected Individuals, providing fraud monitoring or other services to affected Individuals and any forensic analysis required to determine the scope of the Incident.

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d) In addition, Business Associate agrees to update the notice provided to Covered Entity under Section 12(a) of this Agreement of such Incident to include, to the extent possible and as soon as possible working in cooperation with Covered Entity, the identification of each Individual whose unsecured PHI has been, or is reasonably believed by Business Associate to have been accessed, acquired, used or disclosed during the Incident and any of the following information Covered Entity is required to include in its notice to the Individual pursuant to 45 C.F.R. §164.404(c):

i. A brief description of what happened, including the date of the Incident and the date of discovery of the Incident, if known;

ii. A description of the types of unsecured PHI that were involved in the Incident (e.g. Social Security number, full name, date of birth, address, diagnosis);

iii. Any steps the Individual should take to protect themselves from potential harm resulting from the Incident;

iv. A brief description of what is being done to investigate the Incident, mitigate the harm and protect against future Incidents; and

v. Contact procedures for Individuals to ask questions or learn additional information which shall include a toll-free number, an e-mail address, Web site, or postal address (provided, Subsection v is only applicable if Covered Entity specifically requests Business Associate to establish contact procedures).

e) Such additional information must be submitted to Covered Entity immediately at the time the information becomes available to Business Associate.

f) If the cause of a breach of PHI is attributable to Business Associate or its agents, subcontractors or vendors, Business Associate is responsible for all required reporting of the breach as specified in 42 U.S.C. section 17932 and its implementing regulations, including, without limitation, notification to media outlets and to the Secretary of the Department of Health & Human Services. If a breach of unsecured PHI involves more than 500 residents of the State of California or its jurisdiction, Business Associate shall notify the Secretary of the breach immediately upon discovery of the breach. If Business Associate has reason to believe that duplicate reporting of the same breach or incident may occur because its subcontractors, agents or vendors may report the breach or incident to Covered Entity in addition to Business Associate, Business Associate shall

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notify Covered Entity, and Covered Entity and Business Associate may take appropriate action to prevent duplicate reporting.

13. **Subcontractors and Agents of Business Associate.** Business Associate agrees to enter into written contracts with any of its agents or independent contractors (collectively, "subcontractors") who receive PHI from Business Associate or create, maintain, or transmit electronically, PHI on behalf of the Covered Entity, as a subcontractor to Business Associate, and such contracts shall obligate Business Associate's subcontractors to abide by the same conditions and terms as are required of Business Associate under this Agreement. Upon request, Business Associate shall provide the Covered Entity with a copy of any written agreement or contract entered into by Business Associate and its subcontractors to meet the obligations of Business Associate under this Section.

    a) Business Associate shall, upon knowledge of a material breach by a subcontractor of the subcontractor's obligations under its contract with Business Associate, either notify such subcontractor of such breach and provide an opportunity for subcontractor to cure the breach; or, in the event subcontractor fails to cure such breach or cure is not possible, Business Associate shall immediately terminate the contract with subcontractor.

    b) To the extent that any of Business Associate's subcontractors will have access to any PHI that is created, maintained or transmitted electronically, Business Associate shall require such agents and subcontractors to agree to implement reasonable and appropriate safeguards to protect such electronic PHI.

14. **Availability of Information to Covered Entity and Individuals**. Business Associate agrees to provide access and information:

    a) Business Associate shall provide access as may be required, and in the time and manner designated by Covered Entity (upon reasonable notice and during Business Associate's normal business hours) to PHI in a Designated Record Set, to Covered Entity (or, as directed by Covered Entity), to an Individual, in accordance with 45 CFR section 164.524. Designated Record Set means the group of records maintained for Covered Entity that includes medical, dental and billing records about individuals; enrollment, payment, claims adjudication, and case or medical management systems maintained for Covered Entity health plans; or those records used to make decisions about individuals on behalf of Covered Entity. Business Associate shall respond to requests for access to records transmitted by Covered

Entity within fifteen (15) calendar days of receipt of the request by producing the records or verifying that there are none.

b) If Business Associate maintains an Electronic Health Record with PHI, and an individual requests a copy of such information in an electronic format, Business Associate shall provide such information in an electronic format to enable Covered Entity to fulfill its obligations under the HITECH Act, including but not limited to, 42 U.S.C. section 17935(e).

c) If Business Associate receives data from Covered Entity that was provided to Covered Entity by the Social Security Administration, upon request by Covered Entity, Business Associate shall provide Covered Entity with a list of all employees, contractors and agents who have access to the Social Security data, including employees, contractors and agents of its subcontractors and agents.

15. Access by Covered Entity and Secretary of Health & Human Services. Business Associate agrees to allow Covered Entity and the Secretary of the Department of Health & Human Services access to its books, records and internal practices with respect to the disclosure of PHI for the purposes of determining the Business Associate's compliance with the HIPAA Privacy Regulations. If Business Associate is the subject of an audit, compliance review, or complaint investigation by the Secretary or the Office of Civil Rights, U.S. Department of Health and Human Services, that is related to the performance of its obligations pursuant to this HIPAA Business Associate Agreement, Business Associate shall notify Covered Entity and provide Covered Entity with a copy of any PHI that Business Associate provides to the Secretary or the Office of Civil Rights concurrently with providing such PHI to the Secretary. Business Associate is responsible for any civil penalties assessed due to an audit or investigation of Business Associate, in accordance with 42 U.S.C. section 17934(c).

II. Other Obligations of Business Associate

1. Exchange Privacy and Security Rules. Business Associate agrees to comply with the privacy and security requirements applicable to Personally Identifiable Information under the Exchange Privacy and Security Rules at 45 C.F.R. Part 155.260 ("the Exchange Requirements"), promulgated pursuant to the federal Patient Protection and Affordable Care Act, (P.L. 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (P.L. 111 -152), known collectively as the Affordable Care Act. Business Associate shall implement reasonable and appropriate fair information practices that are consistent with the Exchange Privacy and

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Security Rules, as set out below. To the extent a conflict arises between the Exchange Privacy and Security Rules and any other requirements, Business Associate agrees to comply with the applicable requirements imposing the more stringent privacy and security standards.

2. **Definitions.** For purposes of this section, the following definitions shall apply: *Federal Tax Information (or "FTI")*: Federal tax returns and return information, including any tax or information return, declaration of estimated tax, claim for refund, a taxpayers' identity, the nature, source or amount of income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, over-assessments, or tax payments and other information related to a tax return, including information in certain written determinations and agreements. (26 U.S.C. § 6103(b).)

   Personally Identifiable Information (or "PII"): Any information, including electronic, paper or any other media, that identifies or describes an individual, or can be used to distinguish or trace an individual's identity, including, but not limited to, his or her name, social security number, physical description, home address, home telephone number, education, financial matters, medical or employment history, biometric records, and statements made by, or attributed to, the individual, that alone or when combined with other personal or identifying information can be linked or is linkable to a specific individual, It also includes any identifiable information collected from or about an individual for purposes of determining eligibility for enrollment in a Qualified Health Plan, determining eligibility for other insurance affordability programs, determining eligibility for exemptions from the individual responsibility provisions, or any other use of such individual's identifiable information in connection with the Exchange. PII includes Protected Health Information (PHI) and Federal Tax Information.

3. **Individual Access.** Contractor shall provide access to, and permit inspection and copying of Personally Identifiable Information maintained by Contractor upon request in either an electronic or hard copy format as specified by the individual and as required by law, within thirty (30) calendar days of such request from the individual. If the Contractor is unable to provide access within the time required by this subsection, Contractor may have no more than thirty (30) additional calendar days to provide the requested access. If Contractor denies access, in whole or in part, Contractor must provide a written denial within the time limits for providing access, which includes the basis for the denial and a statement of the individual's review rights, if applicable. In the event any individual requests access to Protected Health Information, Personally Identifiable Information or Federal Tax Information maintained by the Exchange directly from Contractor, Contractor shall within five (5) calendar days forward such request to the

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Exchange.

4. **Correction.** Contractor shall provide an individual with the right to request an amendment of inaccurate Personally Identifiable Information maintained by Contractor. Contractor shall respond to such individual within sixty (60) calendar days of such a request either by making the correction and informing the individual of such correction or notifying the individual in writing that the request was denied, which notice shall provide an explanation for the denial and explain that the individual may submit a statement of disagreement with the denial. Any request to amend Federal Tax Information shall be forwarded to the Exchange within five (5) calendar days.

5. **Openness and Transparency.** Contractor shall make available to individuals its applicable policies, procedures, and technologies that directly affect such individuals and/or their Personally Identifiable Information.

6. **Choice.** Contractor shall provide individuals with a reasonable opportunity and capability to make informed decisions about the collection, use, and disclosure of their Personally Identifiable Information. Contractor shall allow individuals to request a restriction on the uses and disclosures of their Personally Identifiable Information, and such requests shall be granted if it is reasonably possible to do so.

7. **Limitations.** Contractor represents and warrants that all Personally Identifiable Information shall be collected, used, and/or disclosed under this Agreement only to the extent necessary to accomplish a specified purpose under the terms of this Agreement or as permitted by the Exchange Requirements and never to discriminate inappropriately.

8. **Data Integrity.** Contractor shall implement policies and procedures reasonably intended to ensure that Personally Identifiable Information in its possession is complete, accurate, and current, to the extent necessary for the Contractor's intended purposes, and has not been altered or destroyed in an unauthorized manner.

9. **Safeguards.** Contractor shall have in place administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Personally Identifiable Information that it creates, receives, maintains or transmits pursuant to the Agreement and to prevent the use or disclosure of Personally Identifiable Information other than as provided for in this Agreement, or as required by law. In furtherance of compliance with such requirements, specific safeguards and procedures that Contractor shall comply with are:

EXHIBIT D
(Agent Agreement)

a. Contractor shall encrypt all Personally Identifiable Information that is in motion or at rest, including but not limited to data on portable media devices, using commercially reasonable means, consistent with applicable Federal and State laws, regulations and agency guidance, including but not limited to the U.S. Department of Health and Human Services Guidance Specifying the Technologies and Methodologies That Render Protected Health Information Unusable, Unreadable, or Indecipherable to Unauthorized Individuals for Purposes of the Breach Notification Requirements or issued by the National Institute for Standards and Technology ("NIST") concerning the protection of identifiable data such as Protected Health Information and/or Personally Identifiable Information. Data centers shall be encrypted or shall otherwise comply with industry data security best practices.

b. Contractor shall implement a contingency plan for responding to emergencies and/or disruptions to business that in any way affect the use, access, disclosure or other handling of Personally Identifiable Information.

c. Contractor shall maintain and exercise a plan to respond to internal and external security threats and violations, which shall include an incident response plan. Contractor shall respond to privacy and security incidents, including breaches, as set out in section I.12, above.

d. Contractor shall maintain technology policies and procedures that provide reasonable safeguards for the protection of Personally Identifiable Information stored, maintained or accessed on hardware and software utilized by Contractor and its subcontractors and agents.

e. Contractor shall mitigate to the extent practicable, any harmful effect that is known to Contractor of any Security Incident related to Personally Identifiable Information or of any use or disclosure of Personally Identifiable Information by Contractor or its subcontractors or agents in violation of the requirements of this Exhibit or applicable privacy and security laws and regulations and agency guidance.

f. Contractor shall destroy Personally Identifiable Information in a manner consistent with applicable State and Federal laws, regulations, and agency guidance on the destruction of Personally Identifiable Information.

g. If Contractor receives data from the Exchange that was provided by the Social Security Administration (SSA), Contractor shall comply with the substantive privacy and security requirements in the Computer Matching and Privacy Protection Act Agreement between the SSA and the California Health and Human Services Agency (CHHS) and in the

EXHIBIT D
(Agent Agreement)

Agreement between the SSA and the California Department of Health Care Services, known as the Information Exchange Agreement (IEA), which are attached as Attachment B and incorporated into this Exhibit. The specific sections of the IEA with substantive privacy and security requirements to be complied with are sections E, F, and G, and in Attachment 4 to the IEA, Electronic Information Exchange Security Requirements, Guidelines and Procedures for Federal, State and Local Agencies Exchanging Electronic Information with the SSA. Upon request, Contractor shall provide the Exchange with a list of all employees, contractors and agents who have access to the Social Security data, including employees, contractors and agents of its subcontractors and agents.

10. **Accountability.** Contractor shall monitor compliance with the fair information practices set out in this section and shall take appropriate actions to ensure adherence with them.

III. Termination of Agreement.

1. **Termination Upon Material Breach.** The Covered Entity may, in its sole discretion, terminate the Agreement, including this Agreement, upon determining that Business Associate violated a material term of this Agreement. If the Covered Entity makes such a determination, it shall inform Business Associate in writing that the Covered Entity is exercising its right to terminate this Agreement under this Section II.1 and such termination shall take effect immediately upon Business Associate receiving such notification of termination.

2. **Reasonable Steps to Cure Material Breach**. At the Covered Entity's sole option, the Covered Entity may, upon written notice to Business Associate, allow Business Associate an opportunity to take prompt and reasonable steps to cure any violation of any material term of this Agreement to the complete satisfaction of the Covered Entity within ten (10) days of the date of written notice to Business Associate. Business Associate shall submit written documentation acceptable to the Covered Entity of the steps taken by Business Associate to cure any material violation. If Business Associate fails to cure a material breach within the specified time period, then the Covered Entity shall be entitled to terminate this Agreement under Section II.1 above, if feasible, or, if it is not feasible to terminate this Agreement, to report Business Associate's material breach to the Secretary of the Department of Health and Human Services.

3. **Amendment.** Covered Entity may terminate this Agreement upon thirty (30) days written notice in the event (i) Business Associate does not promptly

EXHIBIT D
(Agent Agreement)

enter into negotiations to amend this Agreement when requested by Covered Entity pursuant to Section VI of this Agreement, or (ii) Business Associate does not enter into an amendment to this Agreement providing assurances regarding the safeguarding of PHI that Covered Entity, in its sole discretion, deems sufficient to satisfy the standards and requirements of HIPAA, the HIPAA Regulations and/or the HITECH Act.

4. **Return of PHI to Covered Entity Upon Termination.** Upon termination of the Agreement for any reason, Business Associate shall return all PHI to the Covered Entity. The Covered Entity may request in writing that Business Associate destroy all PHI upon termination of this Agreement rather that returning PHI to the Covered Entity. If the return or destruction of PHI is not feasible upon termination of the Agreement, then Business Associate shall explain in writing, directed to the Covered Entity's Chief Privacy Officer, why such return or destruction is not feasible. If such return or destruction is not feasible, then Business Associate agrees that it shall extend its obligations under this Agreement to protect the PHI and limit the use or disclosure of PHI to the purposes, which make return or destruction of PHI infeasible.

IV. **Conflicts**. The terms and conditions of this Agreement will override and control over any conflicting term or condition of other agreements between the parties. All non-conflicting terms and conditions of such agreements shall remain in full force and effect.

V. **No Third-Party Beneficiary Rights**. Nothing express or implied in this Agreement is intended or shall be interpreted to create or confer any rights, remedies, obligations or liabilities whatsoever in any third party.

VI. **Notice**. Except as otherwise provided in Section I.12(a), any notice permitted or required by this Agreement will be considered made on the date personally delivered in writing or mailed by certified mail, postage prepaid, to the other party at the address set forth in the execution portion of this Agreement.

VII. **Amendment**. The Parties agree to take such action as is necessary to implement the standards, requirements, and regulations of HIPAA, the HIPAA Regulations, the HITECH Act, and other applicable laws relating to the security or confidentiality of health information. Upon Covered Entity's request, Business Associate agrees to promptly enter into negotiations with Covered Entity concerning the terms of any amendment to the Agreement consistent with the standards, requirements and regulations of HIPAA, the HIPAA Regulations, the HITECH Act or other applicable laws.

VIII. **Relationship of the Parties**. The Parties hereto acknowledge that Business Associate shall be and have the status of independent contractor in the

EXHIBIT D
(Agent Agreement)

performance of its obligations under the terms of this Agreement as to Covered Entity. Nothing in this Agreement shall be deemed or construed to create a joint venture or partnership between Covered Entity and Business Associate.

IX. Indemnification.

1. **Indemnification by Business Associate**. Business Associate shall protect, indemnify and hold harmless the Covered Entity, its officers and employees from all claims, suits, actions, attorney's fees, costs, expenses, damages, judgments or decrees arising out of the failure by Business Associate to comply with the requirements of this Agreement, the Privacy Regulations and all Future Directives; provided however that such indemnification shall be conditioned upon the Covered Entity giving prompt notice of any claims to Business Associate after discovery thereof and cooperating fully with Business Associate concerning the defense and settlement of claims.

X. Miscellaneous.

1. **Exception to Limitations and Exclusions**. Business Associate's obligations under this Agreement and any breach by Business Associate of the obligations in this Agreement shall not be subject to any limitations on damages suffered by Covered Entity that may be specified in any agreement, invoice, statement of work or similar document setting forth the services Business Associate is providing to Covered Entity ("Contract"). No limitation or exclusion in any Contract shall limit Covered Entity's rights to recover from Business Associate damages, losses or sanctions suffered by Covered Entity to the extent of amounts recovered by, or sanctions awarded to, a third party which are caused by Business Associate's breach of the obligations in this Agreement, regardless of how such amounts or sanctions awarded to such third party are characterized.

2. **Assistance in Litigation or Administrative Proceedings**. Business Associate shall make itself and any subcontractors, employees or agents assisting Business Associate in the performance of its obligations under this Agreement, available to Covered Entity at no cost to Covered Entity to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against Covered Entity, its directors, officers or employees based upon claimed violation of HIPAA, the HIPAA regulations or other laws relating to security and privacy, which involves inactions or actions by the Business Associate, except where Business Associate or its subcontractor, employee or agent is a named adverse party.

3. **Modification**. This Agreement contains the entire understanding of the parties regarding the privacy and security obligations of Business Associate

EXHIBIT D
(Agent Agreement)

under HIPAA and will be modified only by a written document signed by each party.

4. **Waiver**. The waiver by Business Associate or Covered Entity of a breach of this Agreement will not operate as a waiver of any subsequent breach. No delay in acting with regard to any breach of this Agreement will be construed to be a waiver of the breach.

5. **Assignment**. This Agreement will not be assigned by Business Associate without prior written consent of the Covered Entity. This Agreement will be for the benefit of, and binding upon, the parties hereto and their respective successors and permitted assigns.

6. **Interpretation**. The terms and conditions in this Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, the HIPAA regulations and applicable state laws. The parties agree that any ambiguity in the terms and conditions of this Agreement shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act and the HIPAA regulations.

7. **Governing Law**. The interpretation and enforcement of this Agreement will be governed by the laws of the State of California. Exclusive venue shall be in Sacramento County, California.

8. **Headings**. The section headings contained in this Agreement are for reference purposes only and will not affect the meaning of this Agreement.

9. **Counterparts**. This Agreement may be executed in counterparts, each of which will be deemed to be an original, but all of which together will constitute one and the same.

EXHIBIT E
(Agent Agreement)

MARKETING & BRANDING GUIDELINES

All references to the Exchange, Covered California, or Covered CA refer to the California Health Benefit Exchange.

A. Trademark and Brand Usage Guidelines for Communications and Web Sites

1. Covered California's brand and trademarks, as described below ("Covered California Marks") are valuable intellectual property and important assets of the organization. The Covered California Logo, and any other logo used to identify any product or service offered by Covered California, may not be used in any manner inconsistent with this Exhibit E and the Brand Style Guide (Rev. August 2013) for Certified Insurance Agents available at www.CoveredCA.com and herein incorporated by reference without express written permission from Covered California.

2. The improper or unauthorized use of Covered California Marks or other intellectual property is a violation of Covered California's rights and is strictly prohibited. Unauthorized use or misrepresentation of Covered California, the California Health Benefit Exchange is also a violation of state law Section 100510 to the Government Code, Section 1360.5 of the Health and Safety Code, and Section 790.03 of the Insurance Code.

3. Section 100510 to the Government Code, Section 1360.5 of the Health and Safety Code, and Section 790.03 of the Insurance Code prohibits the holding oneself out as representing, constituting, or otherwise providing services on behalf of the California Health Benefit Exchange established pursuant to Section 100500 et. seq of the Government Code without a valid agreement with the California Health Benefit Exchange to engage in those activities. Any unauthorized use of the Covered California brand is outside of the scope of this agreement.

4. The Exchange reserves the right to revise the Brand Style Guide for Certified Insurance Agents, and Agent will be bound to comply with the material contained in the updated guide immediately upon receipt or other notification of the new guide.

B. Disclaimer of Intellectual Property Ownership on Web Sites

1. Use of the Covered California Marks in external communications or a web site must be accompanied by the following disclaimer of ownership, which should be placed in the materials or on the home page of each web site:

EXHIBIT E
(Agent Agreement)

a. "Covered California," "California Health Benefit Exchange", and the Covered California Logo are registered trademarks or service marks of Covered California, in the United States.

C. <u>Disclaimer of Web Site Identity</u>

1. Each web site that uses Covered California Marks must also include the following disclosure statement:

   a. This web site is owned and maintained by [Agent Name], which is solely responsible for its content. This site is not maintained by or affiliated with Covered California, and Covered California bears no responsibility for its content. The e-mail addresses and telephone numbers that appear throughout this site belong to [Agent Name], and cannot be used to contact Covered California.

   b. This statement should appear on:

      i. Agent's home pages; or

      ii. Any "Who We Are" or "About Us" pages or other pages of similar purpose or content.

D. <u>Improper Uses of Covered California's Marks</u>

1. Covered California's Marks may not be presented or used:

   a. In a manner that suggests that editorial content has been authored by, or represents the views or opinions of, Covered California or its representatives, personnel or affiliates;

   b. In a manner that is misleading, defamatory, obscene, infringing or otherwise objectionable;

   c. In connection with any material that infringes the trademark, copyright or any other rights of any third party;

   d. As part of a name of a product or service of a company or organization other than Covered California; or

   e. In a manner that infringes, derogates, dilutes, or impairs the rights of Covered California in such marks.

EXHIBIT E
(Agent Agreement)

E. Improper Uses of California Health Benefit Exchange or Covered California in Agent's Internet Domain Name

1. Agent may not use the names California Health Benefit Exchange, Exchange, Covered California, or Covered CA in the Agent's Internet domain name:

    a. In a manner that creates a likelihood of confusion that the Agent's web site is sponsored by or affiliated with Covered California; and

    b. Without the express written permission of Covered California.

F. Marketing Materials – Definition

1. The term "marketing materials" extends beyond the public's general concept of advertising materials and includes any materials developed or distributed by a Certified Insurance Agent, which are aimed at prospective or existing clients and consumers of the Individual and SHOP Exchanges. Marketing materials include, but are not limited to, anything with Covered California Marks, printed collateral material, print advertising, social and digital media material and television and radio ads.

G. Marketing Materials Subject to the Agent Marketing Guidelines

1. All marketing materials that mention, promote participation in, or reference Covered California are subject to this Exhibit E and the Brand Style Guide for Certified Insurance Agents. However, these Agent Marketing Guidelines do not apply to those marketing materials that do not promote, discuss or reference Covered California in any way.

H. General Marketing Material and Direct Mail Communications.

1. Upon request, Certified Insurance Agent shall provide Covered California with at least one (1) copy, unless otherwise specified by Covered California, of any marketing material Certified Insurance Agent intends to use, mail, or has mailed, to its clients or prospective clients, including, but not limited to, brochures, leaflets, postcards, presentations, advertisements in phone books, newsletters, health education materials, and special announcements. Covered California shall have the right to request changes to or prohibit the distribution or use of any marketing material, as determined by Covered California in its sole discretion.

EXHIBIT E
(Agent Agreement)

I. Submission Requirements & Process for Advertising Material

1. Marketing materials inconsistent with this Exhibit E and the Brand Style Guide for Certified Insurance Agents must be submitted for review and approval to Covered California at agents@covered.ca.gov Agents shall allow at least 10 (ten) business days from the date of the request for Covered California to review any materials submitted.

    a. When submitting required materials for approval, indicate the following in the subject line: Advertising Approval Request - Agent name and material type.

    b. When submitting revised material, please indicate so in the body of the email and include the original submission date of the material.

2. Do not bundle multiple materials in the same submission email. Send a separate email for each material. The only exception is translations. Translations may be sent in one email along with the corresponding English version if available.

J. Confidential Treatment of Certified Insurance Agent

1. To the extent that material sent from Certified Insurance Agent is not already in the public domain, Covered California shall treat such marketing materials as confidential information and exempt from public disclosure if such material is deemed to be or qualifies for treatment as confidential information under the Public Records Act, Government Code Sections 6250, et seq. and other applicable Federal and State laws, rules and regulations.

K. Distribution of Marketing Materials Developed by Covered California.

1. Certified Insurance Agent may distribute and reproduce marketing materials developed and made available by Covered California. Certified Insurance Agent shall be responsible for any printing costs for such material and for all costs related to the distribution of those materials, including, but not limited to, mailing and postage costs.

EXHIBIT F
(Agent Agreement)

SCHEDULE OF COMMISSIONS

The following is the Schedule of Commissions for new SHOP business effective January 1, 2014 and later.*

1st Year	6.5%
2nd Year	6.2%
3rd Year	5.9%
4th Year	5.6%
5th Year	5.3%
6+ Years	5.0%

*Note: For groups smaller than 50, when annualized premium for a particular case (group) reaches $500,001 or more in a contract year, the commission rate is dropped to 1.0% for amounts over $500,001 for that case (group) only. If and when SHOP accepts groups with more than 50 employees, the Exchange and Agent shall negotiate a percentage rate for each group that has more than 50 Employees.

Unless all parties agree to sooner effective date, the Exchange may modify or replace its commission schedule upon thirty (30) days prior notice to Agent. Such modified or replacement schedule shall apply to all other QHPs sold by Agent effective on or after the effective date of such modification or replacement. The Exchange will provide Agent with an updated "Schedule of Commissions" whenever changes occur by posting such changes to www.coveredca.com. No formal amendment is required for changes or modifications to the "Schedules of Commissions" except that such changes shall be adopted in regulations pursuant to the Exchange's rulemaking authority and the Administrative Procedure Act.

COVERED CALIFORNIA™

BRAND STYLE GUIDE

FOR CERTIFIED INSURANCE AGENTS

WELCOME TO COVERED CALIFORNIA

AUGUST 2013

WELCOME

The purpose of this document is to provide guidance on use of the Covered California™ logo by authorized partners who are developing partner-branded marketing materials. Please review this guide before developing consumer-facing, employer-facing, media and stakeholder materials. Guidelines must be followed when materials are co-branded with Covered California.

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Rev. 081513

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CERTIFIED INSURANCE AGENT LOGO

Certified Insurance Agent Logo 5

Clear Space 6

Minimum Size 7

Incorrect Usage 8

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CERTIFIED INSURANCE AGENT LOGO

The Certified Insurance Agent logo was developed to designate insurance agents who have met the requirements established by Covered California™. This logo is available to Certified Insurance Agents to use on their websites, business cards, letterhead and other communications materials.

The logo is available in three different formats: EPS, JPG and PNG. Always use the electronic artwork appropriate for your application:

PRINT
Use EPS files for print applications.

WEB
Use JPG files for online applications.

MICROSOFT WORD
Use JPG files in Microsoft Word and other word-processing applications.

POWERPOINT
Use PNG files in PowerPoint applications.

COVERED CALIFORNIA™

Certified
Insurance
Agent

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CLEAR SPACE

Please follow these logo specifications to ensure maximum visibility and legibility in all communications.

CLEAR SPACE

The minimum clear space for the logo is "X," where "X" is equal to the height of the words "Certified Insurance" in the logo.

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MINIMUM SIZE

Follow these specifications for minimum size when scaling the logo. Do not reduce any smaller than indicated by the numbers beneath the examples.

PRINT 1.25″

DIGITAL 135 PX

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INCORRECT USAGE

The logo should be used according to the specifications in this brand guide. Always use the approved artwork provided and do not alter the logo in any way. Here are some examples of incorrect usage.

TYPEFACES

Do not change the typeface of the wordmark.

COLOR

Do not change the colors of the logo.

ARRANGEMENT

Do not rearrange the position of the logo components.

WORDMARK

Do not use the wordmark by itself.

DISTORTION

Do not distort or stretch any part of the logo.

CHANGED LANGUAGE

Do not make any changes to the wordmark.

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COVERED CALIFORNIA LOGOTYPE

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COVERED CALIFORNIA LOGO

The Covered California™ logo visually represents the diverse population that will access health care coverage through the marketplace. Nested C's rotated 90 degrees clockwise embody the concept of coverage in a protective umbrella shape, while subtly referencing the brand name.

The name is set in a contemporary sans-serif typeface that communicates clearly and effectively while supporting the clean, friendly style of the iconography.

The preferred version of the Covered California logo is the vertical configuration in full color. **The full-color logo should only appear against a solid white background.**

Secondary versions of the logo, including grayscale, one-color (black) and reverse (white), should be used only in instances when color artwork and layouts are not possible, such as black-and-white newspaper print ads.

LOGO CONFIGURATIONS

VERTICAL LOGO PREFERRED VERSION

This is the preferred logo version. Use it wherever possible to ensure that the identity is communicated consistently and effectively.

HORIZONTAL LOGO SECONDARY VERSION

The horizontal logo has been designed for short, elongated formats — instances where the available space is insufficient for the vertical logo.

NOTE: In addition to the primary EPS versions of the logo, JPG and PNG versions are also available for digital use. Always select the electronic artwork appropriate for your application.

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LOGO SIZING

Follow these specifications for minimum size when scaling the logo. Do not reduce any smaller than indicated by the numbers beneath the examples.

VERTICAL (SMALL) Use at widths from 0.6" to 1"

PRINT 0.6"
(DIGITAL 60PX)

FILENAMES
CC_Vert_Sml_CMYK_Logo
CC_Vert_Sml_RGB_Logo
CC_Vert_Sml_Grayscale_Logo
CC_Vert_Sml_Black_Logo
CC_Vert_Sml_Reverse_Logo

VERTICAL (STANDARD) Use at widths greater than 1"

PRINT 1"
(DIGITAL 100PX)

FILENAMES
CC_Vert_CMYK_Logo
CC_Vert_RGB_Logo
CC_Vert_Grayscale_Logo
CC_Vert_Black_Logo
CC_Vert_Reverse_Logo

HORIZONTAL (SMALL) Use at widths from 1" to 1.5"

PRINT 1"
(DIGITAL 140PX)

FILENAMES
CC_Horz_Sml_CMYK_Logo
CC_Horz_Sml_RGB_Logo
CC_Horz_Sml_Grayscale
CC_Horz_Sml_Black_Logo
CC_Horz_Sml_Reverse_Logo

HORIZONTAL (STANDARD) Use at widths greater than 1.5"

PRINT 1.5"
(DIGITAL 210PX)

FILENAMES
CC_Horz_CMYK_Logo
CC_Horz_RGB_Logo
CC_Horz_Grayscale
CC_Horz_Black_Logo
CC_Horz_Reverse_Logo

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TRADEMARK SCALE & LEGAL LINE

The trademark symbol should always accompany the logo and be no smaller than 4pt, Helvetica Bold. To ensure this across all uses of the logo while maintaining a visual balance between the mark and the TM, there are two sizes available for use (a small and regular version) for each configuration of the logo. These may be scaled within the sizes specified.

Use of trademark legal line is required:

Covered California is a registered trademark of the state of California.

Publications and print materials must include the legal line. The footer is a recommended location for the legal line.

VERTICAL (SMALL) Use at widths from 0.6" to 1"

FILENAMES
CC_Vert_Sml_CMYK_Logo
CC_Vert_Sml_RGB_Logo
CC_Vert_Sml_Grayscale_Logo
CC_Vert_Sml_Black_Logo
CC_Vert_Sml_Reverse_Logo

VERTICAL (STANDARD) Use at widths greater than 1"

FILENAMES
CC_Vert_CMYK_Logo
CC_Vert_RGB_Logo
CC_Vert_Grayscale_Logo
CC_Vert_Black_Logo
CC_Vert_Reverse_Logo

HORIZONTAL (SMALL) Use at widths from 1" to 1.5"

FILENAMES
CC_Horz_Sml_CMYK_Logo
CC_Horz_Sml_RGB_Logo
CC_Horz_Sml_Grayscale
CC_Horz_Sml_Black_Logo
CC_Horz_Sml_Reverse_Logo

HORIZONTAL (STANDARD) Use at widths greater than 1.5"

FILENAMES
CC_Horz_CMYK_Logo
CC_Horz_RGB_Logo
CC_Horz_Grayscale
CC_Horz_Black_Logo
CC_Horz_Reverse_Logo

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VERTICAL LOGO COLOR USAGE

Each version of the Covered California logo is available in five different color formats: CMYK, RGB, grayscale, one-color (black) and reverse (white). Always use the electronic artwork appropriate for your application:

PRINT
Use EPS files for print applications.

WEB
Use JPG files for online applications.

MICROSOFT WORD
Use JPG files in Word and other word-processing applications.

POWERPOINT
Use PNG files in PowerPoint applications.

CMYK

Use this logo for all full-color print applications.

FILENAMES
CC_Vert_CMYK_Logo.eps
CC_Vert_Sml_CMYK_Logo.eps

(The CMYK version of the logo is provided in EPS format only.)

RGB

Use this logo for all digital communications.

FILENAMES
CC_Vert_RGB_Logo.eps
CC_Vert_RGB_Logo.jpg
CC_Vert_RGB_Logo.png
CC_Vert_Sml_RGB_Logo.eps
CC_Vert_Sml_RGB_Logo.jpg
CC_Vert_Sml_RGB_Logo.png

GRAYSCALE

Use this logo for all one-color print applications.

FILENAMES
CC_Vert_Grayscale_Logo.eps
CC_Vert_Grayscale_Logo.jpg
CC_Vert_Grayscale_Logo.png
CC_Vert_Sml_Grayscale_Logo.eps
CC_Vert_Sml_Grayscale_Logo.jpg
CC_Vert_Sml_Grayscale_Logo.png

ONE-COLOR (BLACK)

Use this logo for one-color print applications where the grayscale logo cannot be reproduced.

FILENAMES
CC_Vert_Black_Logo.eps
CC_Vert_Black_Logo.jpg
CC_Vert_Black_Logo.png
CC_Vert_Sml_Black_Logo.eps
CC_Vert_Sml_Black_Logo.jpg
CC_Vert_Sml_Black_Logo.png

REVERSE (WHITE)

Use this logo anytime it appears on a dark background.

FILENAMES
CC_Vert_Reverse_Logo.eps
CC_Vert_Sml_Reverse_Logo.eps

(The reverse version of the logo is provided in EPS format only.)

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HORIZONTAL LOGO COLOR USAGE

Each version of the Covered California logo is available in five different color formats: CMYK, RGB, grayscale, one-color (black) and reverse (white). Always use the electronic artwork appropriate for your application:

PRINT
Use EPS files for print applications.

WEB
Use JPG files for online applications.

MICROSOFT WORD
Use JPG files in Microsoft Word and other word-processing applications.

POWERPOINT
Use PNG files in PowerPoint applications.

CMYK

Use this logo for all full-color print applications.

FILENAMES
CC_Horz_CMYK_Logo.eps
CC_Horz_Sml_CMYK_Logo.eps

(The CMYK version of the logo is provided only in EPS format.)

RGB

Use this logo for all digital communications.

FILENAMES
CC_Horz_RGB_Logo.eps
CC_Horz_RGB_Logo.jpg
CC_Horz_RGB_Logo.png
CC_Horz_Sml_RGB_Logo.eps
CC_Horz_Sml_RGB_Logo.jpg
CC_Horz_Sml_RGB_Logo.png

GRAYSCALE

Use this logo for all one-color print applications.

FILENAMES
CC_Horz_Grayscale.eps
CC_Horz_Grayscale.jpg
CC_Horz_Grayscale.png
CC_Horz_Sml_Grayscale.eps
CC_Horz_Sml_Grayscale.jpg
CC_Horz_Sml_Grayscale.png

ONE-COLOR (BLACK)

Use this logo for one-color print applications where the grayscale logo cannot be reproduced.

FILENAMES
CC_Horz_Black_Logo.eps
CC_Horz_Black_Logo.jpg
CC_Horz_Black_Logo.png
CC_Horz_Sml_Black_Logo.eps
CC_Horz_Sml_Black_Logo.jpg
CC_Horz_Sml_Black_Logo.png

REVERSE (WHITE)

Use this logo anytime it appears on a dark background.

FILENAMES
CC_Horz_Reverse_Logo.eps
CC_Horz_Sml_Reverse_Logo.eps

(The reverse version of the logo is provided only in EPS format.)

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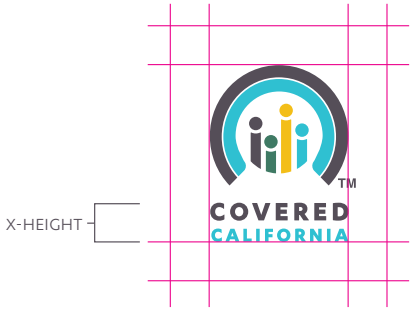
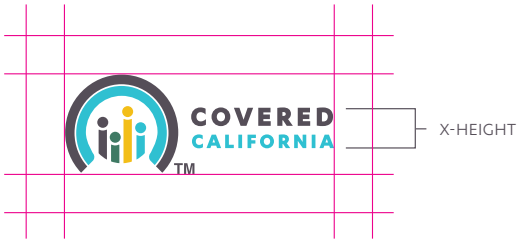
CLEAR SPACE

Please follow these logo specifications to ensure maximum visibility and legibility in all communications.

VERTICAL & HORIZONTAL (SMALL)

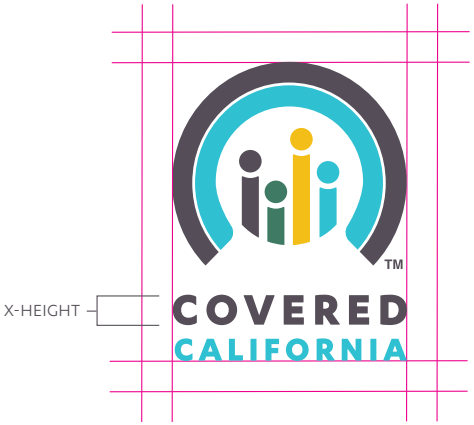
The minimum clear space for both the vertical and horizontal logos (small) is "X," where "X" is equal to the height of both lines "Covered California" in the Covered California logotype. See examples below.





VERTICAL & HORIZONTAL (STANDARD)

The minimum clear space for both the vertical and horizontal logos (standard) is "X," where "X" is equal to the height of the word "Covered" in the Covered California logotype. See examples below.



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TAG LOGO

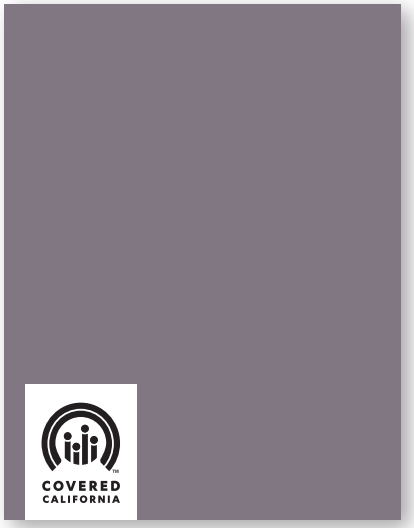
When overlaying the Covered California logo onto an image, color or busy background, using the logo with holding device lock-up is best.

When used at the top of the page, the top of the tag should be flush with the top edge of the artboard. When used at the bottom of the page, the bottom of the tag should be flush with the bottom edge of the artboard.

HOLDING DEVICE/TAG Use on top or bottom of photo or colored background

Do not change the color of the holding device.

HOLDING DEVICE Mock-up on photo or colored background



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INCORRECT USAGE

The logo should be used according to the specifications in this brand guide. Always use the approved artwork provided and do not alter the logo in any way. Here are some examples of incorrect usage.

SIZE RELATIONSHIP

Do not alter the size relationship of the logo components.

COLOR

Do not change the colors of the symbol or logotype.

ARRANGEMENT

Do not rearrange the position of the logo components.

WORDMARK

Do not use the wordmark by itself.

LOGOMARK

Do not use the logomark by itself.

ADDED WORDS

Do not add words to the logo.

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INCORRECT USAGE

The logo should be used according to the specifications in this brand guide. Always use the approved artwork provided and do not alter the logo in any way. Here are some examples of incorrect usage.

ADDED EFFECTS

Do not add a drop shadow or other effects to the logo.

TYPEFACES

Do not change the typeface of the wordmark.

DISTORTION

Do not distort or stretch any part of the logo.

INDIVIDUAL ELEMENTS

Do not deconstruct the logo elements to form new graphic lock-ups or identities.

BACKGROUND

Do not place the logo on a background that does not provide sufficient contrast.

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CO-BRANDING GUIDELINES

Partner Logo Lock-up Guidelines 20

Incorrect Logo Uses 22

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PARTNER LOGO LOCK-UP GUIDELINES

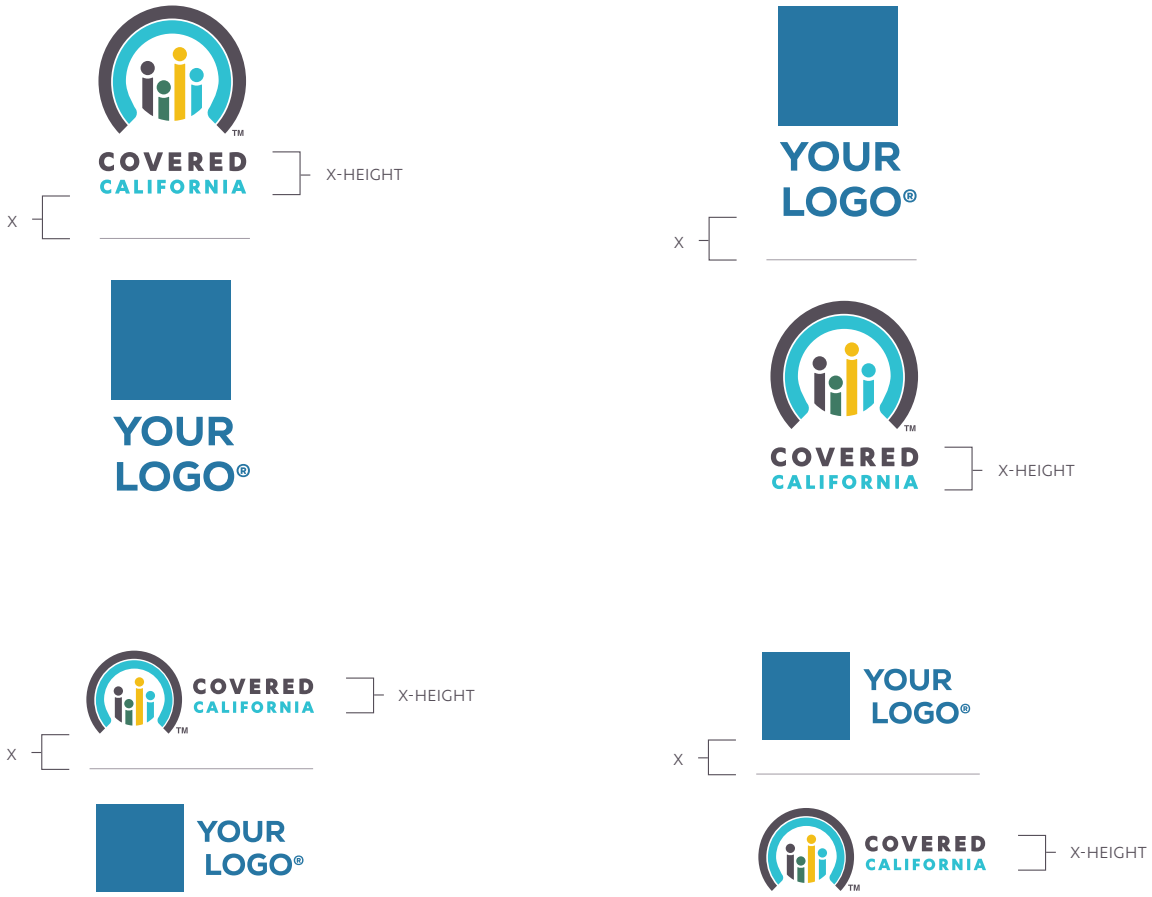
There will be times when you may want to place the Covered California™ logo next to your logo — a logo lock-up. In such instances, always separate the logos with a dividing line. When creating a lock-up using the vertical logo, space each logo so that they are one X-height apart, where "X" is equal to the height from the bottom of the logotype to the bottom of the logomark.

In instances where the horizontal logo is used, space each logo so that they are one X-height apart, where "X" is equal to the height of the logotype.

When sizing the logos, make sure that they all have equal prominence. Because partner logos may vary in shape, the logos should appear optically equal even if they are not the exact same size.

Please note that this is not the only manner in which both the Covered California logo and a partner logo may appear within the same space. But if it is desired to place the two logos in close proximity, follow the guidelines above.

LOGO LOCK-UP VERTICAL



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PARTNER LOGO LOCK-UP GUIDELINES

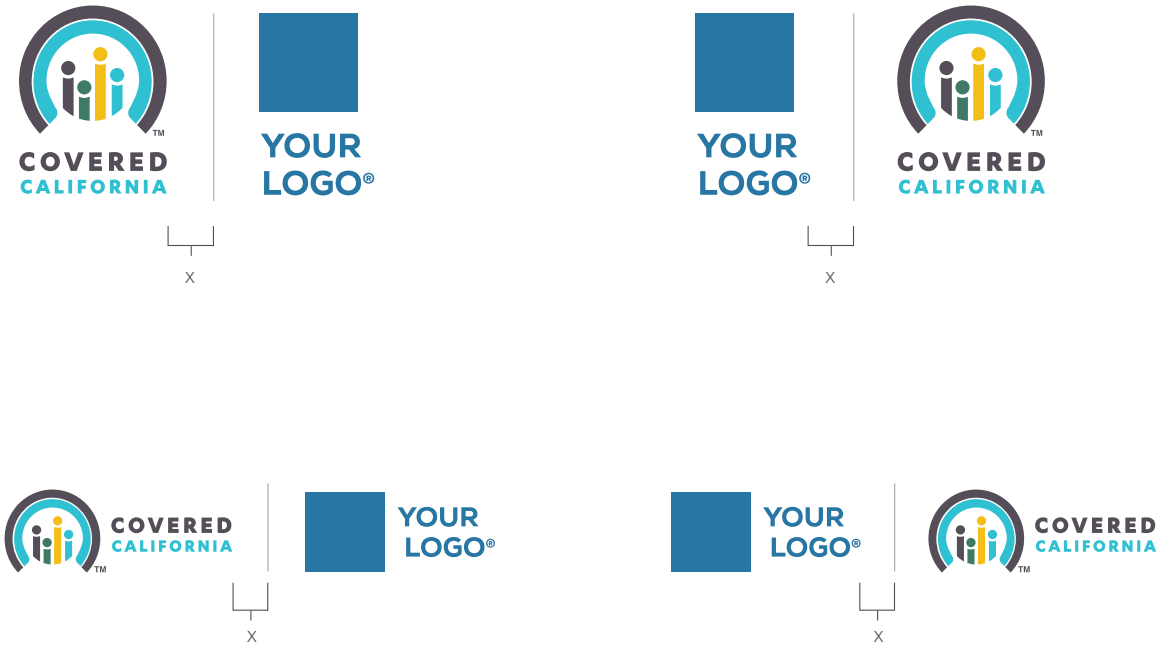
There will be times when you may want to place the Covered California™ logo next to your logo — a logo lock-up. In such instances, always separate the logos with a dividing line. When creating a lock-up using the vertical logo, space each logo so that they are one X-height apart, where "X" is equal to the height from the bottom of the logotype to the bottom of the logomark.

In instances where the horizontal logo is used, space each logo so that they are one X-height apart, where "X" is equal to the height of the logotype.

When sizing the logos, make sure that they all have equal prominence. Because partner logos may vary in shape, the logos should appear optically equal even if they are not the exact same size.

Please note that this is not the only manner in which both the Covered California logo and a partner logo may appear within the same space. But if it is desired to place the two logos in close proximity, follow the guidelines above.

LOGO LOCK-UP HORIZONTAL



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INCORRECT USAGE

The logo and logo co-branded lock-up should be used according to the specifications in this brand guide. Always use the approved artwork provided and do not alter the logo in any way. Here are some examples of incorrect usage.

SIZE RELATIONSHIP

Do not create imbalanced logo-to-logo scale.

COLOR

Do not change the colors of the symbol or logotype.

ARRANGEMENT

Do not overlap the logos; follow white space rules.

BACKGROUND

Do not set the logos on anything but a white field.

DISTORTION

Do not distort the logo or logotype.

EFFECTS

Do not add effects to the logo or logotype.

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QUESTIONS?

For any questions regarding Covered California™ or these brand guidelines, please contact **camille.travis@covered.ca.gov.**

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STATE OF CALIFORNIA-DEPARTMENT OF FINANCE

PAYEE DATA RECORD

(Required when receiving payment from the State of California in lieu of IRS W-9)

STD. 204 (Rev. 6-2003)

1

INSTRUCTIONS: Complete all information on this form. Sign, date, and return to the State agency (department/office) address shown at the bottom of this page. Prompt return of this **fully completed** form will prevent delays when processing payments. Information provided in this form will be used by State agencies to prepare Information Returns (1099). See reverse side for more information and Privacy Statement.

NOTE: Governmental entities, federal, State, and local (including school districts), are not required to submit this form.

2

PAYEE'S LEGAL BUSINESS NAME (Type or Print)

SOLE PROPRIETOR – ENTER NAME AS SHOWN ON SSN (Last, First, M.I.)

E-MAIL ADDRESS

MAILING ADDRESS

BUSINESS ADDRESS

CITY, STATE, ZIP CODE

CITY, STATE, ZIP CODE

3

PAYEE ENTITY TYPE

CHECK ONE BOX ONLY

ENTER FEDERAL EMPLOYER IDENTIFICATION NUMBER (FEIN): ___ – _____

☐ **PARTNERSHIP**

☐ **ESTATE OR TRUST**

CORPORATION:

- ☐ **MEDICAL** (e.g., dentistry, psychotherapy, chiropractic, etc.)
- ☐ **LEGAL** (e.g., attorney services)
- ☐ **EXEMPT** (nonprofit)
- ☐ **ALL OTHERS**

☐ **INDIVIDUAL OR SOLE PROPRIETOR ENTER SOCIAL SECURITY NUMBER:** ___ – __ – ____

(SSN required by authority of California Revenue and Tax Code Section 18646)

NOTE: Payment will not be processed without an accompanying taxpayer I.D. number.

4

PAYEE RESIDENCY STATUS

☐ California resident - Qualified to do business in California or maintains a permanent place of business in California.

☐ California nonresident (see reverse side) - Payments to nonresidents for services may be subject to State income tax withholding.

- ☐ No services performed in California.
- ☐ Copy of Franchise Tax Board waiver of State withholding attached.

5

I hereby certify under penalty of perjury that the information provided on this document is true and correct. Should my residency status change, I will promptly notify the State agency below.

AUTHORIZED PAYEE REPRESENTATIVE'S NAME (Type or Print)

TITLE

SIGNATURE

DATE

TELEPHONE

( )

6

Please return completed form to:

Department/Office: _____

Unit/Section: _____

Mailing Address: _____

City/State/Zip: _____

Telephone: (____) _____ **Fax:** (____) _____

E-mail Address: _____

STATE OF CALIFORNIA-DEPARTMENT OF FINANCE

PAYEE DATA RECORD

STD. 204 (Rev. 6-2003) (REVERSE)

1	**Requirement to Complete Payee Data Record, STD. 204** A completed Payee Data Record, STD. 204, is required for payments to all non-governmental entities and will be kept on file at each State agency. Since each State agency with which you do business must have a separate STD. 204 on file, it is possible for a payee to receive this form from various State agencies. Payees who do not wish to complete the STD. 204 may elect to not do business with the State. If the payee does not complete the STD. 204 and the required payee data is not otherwise provided, payment may be reduced for federal backup withholding and nonresident State income tax withholding. Amounts reported on Information Returns (1099) are in accordance with the Internal Revenue Code and the California Revenue and Taxation Code.
2	Enter the payee's legal business name. Sole proprietorships must also include the owner's full name. An individual must list his/her full name. The mailing address should be the address at which the payee chooses to receive correspondence. Do not enter payment address or lock box information here.
3	Check the box that corresponds to the payee business type. Check only one box. Corporations must check the box that identifies the type of corporation. The State of California requires that all parties entering into business transactions that may lead to payment(s) from the State provide their Taxpayer Identification Number (TIN). The TIN is required by the California Revenue and Taxation Code Section 18646 to facilitate tax compliance enforcement activities and the preparation of Form 1099 and other information returns as required by the Internal Revenue Code Section 6109(a). The TIN for individuals and sole proprietorships is the Social Security Number (SSN). Only partnerships, estates, trusts, and corporations will enter their Federal Employer Identification Number (FEIN).
4	**Are you a California resident or nonresident?** A corporation will be defined as a "resident" if it has a permanent place of business in California or is qualified through the Secretary of State to do business in California. A partnership is considered a resident partnership if it has a permanent place of business in California. An estate is a resident if the decedent was a California resident at time of death. A trust is a resident if at least one trustee is a California resident. For individuals and sole proprietors, the term "resident" includes every individual who is in California for other than a temporary or transitory purpose and any individual domiciled in California who is absent for a temporary or transitory purpose. Generally, an individual who comes to California for a purpose that will extend over a long or indefinite period will be considered a resident. However, an individual who comes to perform a particular contract of short duration will be considered a nonresident. Payments to all nonresidents may be subject to withholding. Nonresident payees performing services in California or receiving rent, lease, or royalty payments from property (real or personal) located in California will have 7% of their total payments withheld for State income taxes. However, no withholding is required if total payments to the payee are $1,500 or less for the calendar year. For information on Nonresident Withholding, contact the Franchise Tax Board at the numbers listed below: Withholding Services and Compliance Section: 1-888-792-4900 E-mail address: wscs.gen@ftb.ca.gov For hearing impaired with TDD, call: 1-800-822-6268 Website: www.ftb.ca.gov
5	Provide the name, title, signature, and telephone number of the individual completing this form. Provide the date the form was completed.
6	This section must be completed by the State agency requesting the STD. 204.
	Privacy Statement Section 7(b) of the Privacy Act of 1974 (Public Law 93-579) requires that any federal, State, or local governmental agency, which requests an individual to disclose their social security account number, shall inform that individual whether that disclosure is mandatory or voluntary, by which statutory or other authority such number is solicited, and what uses will be made of it. It is mandatory to furnish the information requested. Federal law requires that payment for which the requested information is not provided is subject to federal backup withholding and State law imposes noncompliance penalties of up to $20,000. You have the right to access records containing your personal information, such as your SSN. To exercise that right, please contact the business services unit or the accounts payable unit of the State agency(ies) with which you transact that business. All questions should be referred to the requesting State agency listed on the bottom front of this form.

STATE OF CALIFORNIA — DEPARTMENT OF FINANCE

ECONOMIC AND FISCAL IMPACT STATEMENT

(REGULATIONS AND ORDERS)

STD. 399 (REV. 12/2008)

See SAM Section 6601 - 6616 for Instructions and Code Citations

DEPARTMENT NAME	CONTACT PERSON	TELEPHONE NUMBER
California Health Benefit Exchange	Daniel Eliav	228-8492
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400		NOTICE FILE NUMBER
Certified Insurance Agents Regulations		Z

ECONOMIC IMPACT STATEMENT

A. ESTIMATED PRIVATE SECTOR COST IMPACTS (Include calculations and assumptions in the rulemaking record.)

1. Check the appropriate box(es) below to indicate whether this regulation:

- ☐ a. Impacts businesses and/or employees
- ☐ b. Impacts small businesses
- ☐ c. Impacts jobs or occupations
- ☐ d. Impacts California competitiveness
- ☐ e. Imposes reporting requirements
- ☐ f. Imposes prescriptive instead of performance
- ☐ g. Impacts individuals
- ☐ h. None of the above (Explain below. Complete the Fiscal Impact Statement as appropriate.)

h. (cont.) _____

(If any box in Items 1 a through g is checked, complete this Economic Impact Statement.)

2. Enter the total number of businesses impacted: _____ Describe the types of businesses (Include nonprofits.): _____

Enter the number or percentage of total businesses impacted that are small businesses: _____

3. Enter the number of businesses that will be created: _____ eliminated: _____

Explain: _____

4. Indicate the geographic extent of impacts: ☐ Statewide ☐ Local or regional (List areas.): _____

5. Enter the number of jobs created: _____ or eliminated: _____ Describe the types of jobs or occupations impacted: _____

6. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here?

☐ Yes ☐ No If yes, explain briefly: _____

B. ESTIMATED COSTS (Include calculations and assumptions in the rulemaking record.)

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? $ _____

a. Initial costs for a small business: $ _____ Annual ongoing costs: $ _____ Years: _____

b. Initial costs for a typical business: $ _____ Annual ongoing costs: $ _____ Years: _____

c. Initial costs for an individual: $ _____ Annual ongoing costs: $ _____ Years: _____

d. Describe other economic costs that may occur: _____

2. If multiple industries are impacted, enter the share of total costs for each industry: _____

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. (Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.): $ _____

4. Will this regulation directly impact housing costs? ☐ Yes ☐ No If yes, enter the annual dollar cost per housing unit: _____ and the number of units: _____

5. Are there comparable Federal regulations? ☐ Yes ☐ No Explain the need for State regulation given the existence or absence of Federal regulations: _____

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: $ _____

C. ESTIMATED BENEFITS (Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)

1. Briefly summarize the benefits that may result from this regulation and who will benefit: _____

2. Are the benefits the result of : ☐ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority?

Explain: _____

3. What are the total statewide benefits from this regulation over its lifetime? $ _____

D. ALTERNATIVES TO THE REGULATION (Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: _____

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation:	Benefit: $ _____	Cost: $ _____
Alternative 1:	Benefit: $ _____	Cost: $ _____
Alternative 2:	Benefit: $ _____	Cost: $ _____

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: _____

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? ☐ Yes ☐ No

Explain: _____

E. MAJOR REGULATIONS (Include calculations and assumptions in the rulemaking record.) Cal/EPA boards, offices, and departments are subject to the following additional requirements per Health and Safety Code section 57005.

1. Will the estimated costs of this regulation to California business enterprises exceed $10 million ? ☐ Yes ☐ No (If No, skip the rest of this section.)

2. Briefly describe each equally as an effective alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

   Alternative 1: _____

   Alternative 2: _____

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation:	$ _____	Cost-effectiveness ratio: $ _____
Alternative 1:	$ _____	Cost-effectiveness ratio: $ _____
Alternative 2:	$ _____	Cost-effectiveness ratio: $ _____

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT (Indicate appropriate boxes1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

☐ 1. Additional expenditures of approximately $ _____ in the current State Fiscal Year which are reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code. Funding for this reimbursement:

   ☐ a. is provided in _____, Budget Act of _____ or Chapter _____, Statutes of _____

   ☐ b. will be requested in the _____ (FISCAL YEAR) Governor's Budget for appropriation in Budget Act of _____

☐ 2. Additional expenditures of approximately $ _____ in the current State Fiscal Year which are not reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code because this regulation:

   ☐ a. implements the Federal mandate contained in _____

   ☐ b. implements the court mandate set forth by the _____

   court in the case of _____ vs. _____

   ☐ c. implements a mandate of the people of this State expressed in their approval of Proposition No. _____ at the _____ (DATE) election;

   ☐ d. is issued only in response to a specific request from the _____

   _____, which is/are the only local entity(s) affected;

   ☐ e. will be fully financed from the _____ (FEES, REVENUE, ETC.) authorized by Section

   _____ of the _____ Code;

   ☐ f. provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each such unit;

   ☐ g. creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

☐ 3. Savings of approximately $ _____ annually.

☐ 4. No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current law regulations.

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 12/2008)

☑ 5. No fiscal impact exists because this regulation does not affect any local entity or program.

☐ 6. Other.

B. FISCAL EFFECT ON STATE GOVERNMENT (Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

☐ 1 . Additional expenditures of approximately $ _____ in the current State Fiscal Year. It is anticipated that State agencies will:

☐ a. be able to absorb these additional costs within their existing budgets and resources.

☐ b. request an increase in the currently authorized budget level for the _____ fiscal year.

☐ 2. Savings of approximately $ _____ in the current State Fiscal Year.

☐ 3. No fiscal impact exists because this regulation does not affect any State agency or program.

☑ 4. Other. See Attachment A.

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS (Indicate appropriate boxes1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

☐ 1 . Additional expenditures of approximately $ _____ in the current State Fiscal Year.

☐ 2. Savings of of approximately $ _____ in the current State Fiscal Year.

☐ 3. No fiscal impact exists because this regulation does not affect any federally funded State agency or program.

☑ 4. Other. See Attachment A.

FISCAL OFFICER SIGNATURE		DATE 9-11-2013
AGENCY SECRETARY [1] APPROVAL/CONCURRENCE		DATE
DEPARTMENT OF FINANCE [2] APPROVAL/CONCURRENCE	PROGRAM BUDGET MANAGER	DATE

1. *The signature attests that the agency has completed the STD.399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or department not under an Agency Secretary must have the form signed by the highest ranking official in the organization.*

2. *Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD.399.*

COVERED CALIFORNIA
PROPOSED REGULATION
CERTIFIED INSURANCE AGENTS
STD FORM 399

ATTACHMENT A

FISCAL IMPACT STATEMENT

Section B – Fiscal Effect on State Government

4. The proposed regulation affects Covered California's (CC) Small Business Health Option Program (SHOP) unit. As Attachment B indicates, the estimated cost impact to CC is $288,000 in FY 2014-15, and $576,000 in FY 2015-16. As CC becomes self-sustaining starting January 1, 2015, CC will adjust the participation fees, if necessary, to collect sufficient revenue to offset these costs.

In addition, CC will collect a $48 fee from each certified insurance agent on behalf of the California Department of Insurance. An estimated 15,000 agents will be certified in FY 2013-14, which equates to $720,000 collected in FY 2013-14.

There is no impact on the General Fund.

Section C – Fiscal Effect on Federal Programs

4. The proposed regulation affects Covered California's SHOP unit. The regulation becomes effective immediately once the Office of Administrative Law files with the Secretary of State. As Attachment C indicates, the estimated cost impact to the federal funding (Grant) is $1.4 million in FY 2013-14 and $288,000 in FY 2014-15. There is no impact on the General Fund.

Small Business Health Options Program (SHOP) - Total Projected State Costs

Expenditure Category	FY 2013/14	FY 2014/15 *	FY 2015/16	Total
Salaries	-	255,349	510,697	766,046
Benefits	-	99,586	199,172	298,758
OE&E	-	56,253	112,506	168,759
Total	**-**	**411,188**	**822,375**	**1,233,563**

** The amount reflected for FY 2014/15 shows 6 months of projected costs (Jan 2015 - June 2015), which represents the state funding for that fiscal year. The begining of FY 2014/15 (July 2014 - Dec 2014) is supported by federal funds.*

Projected Federal Costs Associated for Certified Insurance Agents

Expenditure Category	FY 2013/14	FY 2014/15	FY 2015/16	Total
SHOP Unit's Workload @ 70% [1/]	**-**	**287,831**	**575,663**	**863,494**

[1/] Based on program staff estimates, 70% of the SHOP unit's workload will be dedicated to supporting Certified Insurance Agents.

Small Business Health Options Program (SHOP) - Total Projected Federal Costs

Expenditure Category	FY 2013/14	FY 2014/15 *	FY 2015/16	Total
Salaries	510,697	255,349	-	766,046
Benefits	199,172	99,586	-	298,758
OE&E	112,506	56,253	-	168,759
Sub-Total	**822,375**	**411,188**	**-**	**1,233,563**

** The amount reflected for FY 2014/15 shows 6 months of projected costs (July 2014 - Dec 2014), which represents the duration of federal funding. The remainder of FY 2014/15 (Jan 2015 - June 2015) will be supported by Fund 3175 - California Health Trust Fund, and not federal funds.*

Projected Federal Costs Associated for Certified Insurance Agents

Expenditure Category	FY 2013/14	FY 2014/15	FY 2015/16	Total
SHOP Unit's Workload @ 70% [1/]	575,663	287,831	-	863,494
Contractual [2/]	736,517	-	-	736,517
Total	**$ 1,312,179**	**$ 287,831**	**$ -**	**$ 1,600,011**

[1/] Based on program staff estimates, 70% of the SHOP unit's workload will be dedicated to supporting Certified Insurance Agents.

[2/] The contractual expenditures include only contracts associated with this regulation, including $475,577 for Pinnacle Claims Management, Inc. for agent screening (the Pinnacle contract amounts for ongoing and maintenance related to certified insurance agents are indicated in the SHOP Eligibility & Enrollment regulations), $208,440 for Quantum Consulting Services, Inc., and $52,500 for the Tori Group contracts.

0.*

Contractor

Pinnacle	475,576.96+
Quantum	208,440.00+
Tori grp	52,500.00+
Total	736,516.96*

CALIFORNIA HEALTH BENEFIT EXCHANGE
BOARD RESOLUTION NO. 2014-41

In the matter of the readoption of the Certified Insurance Agents Regulations.

The Board hereby resolves that, in accordance with Sections 100500(i), 100503(s),and 100504(a)(6)of the Government Code, the Executive Director or his authorized designee be authorized to finalize and submit to the Office of Administrative Law an emergency regulations package for the readoption of the Certified Insurance Agents Regulations.

* * * * * * * * * * * * *

CERTIFICATION

I, Peter V. Lee, Executive Director of the California Health Benefit Exchange, do hereby certify that the foregoing action was duly passed and adopted by the California Health Benefit Exchange Board at an official meeting thereof on May 22, 2014.

Peter V. Lee
Executive Director
California Health Benefit Exchange