

California Legislature



ASSEMBLY REPUBLICAN CAUCUS

June 4, 2013

Board Members and Executive Director
Covered California
560 J Street, Suite 290
Sacramento, CA 95814

Dear Board Members Belshe, Dooley, Fearer, Kennedy and Ross and Executive Director Lee:

We write to urge the leadership of the California Health Benefits Exchange (also known as *Covered California*) to put the public safety protection of health plan applicants first by implementing a zero tolerance policy in the hiring of Exchange employees and the certification of Individual Assistants with criminal records. Individuals, who have demonstrated poor character in the past, as exhibited by their conviction of one or more crimes, should not have access to the confidential, personal and financial information of health plan applicants.

As *Covered California* begins operations in October 2013, thousands of inadequately trained Exchange employees and Individual Assistants will, in the effort to facilitate the enrollment of potentially five and a half million persons in qualified health plans through the Exchange over the next several years, have access to the health plan applicants' confidential, personal and financial information. There is considerable danger that low- and middle-income health plan applicants will become victims of financial crimes and identity theft because Exchange employees and Individual Assistants will not have to undergo the well-developed screening, fiduciary and ethical training and examination process that is currently required of health insurance agents and brokers in California. It was wrong and bad public policy that the federal Affordable Care Act mandated second-class treatment for uninsured people seeking health care coverage. But *Covered California* does have sufficient discretion under federal and state law to protect health plan applicants against potential financial crimes and identity theft.

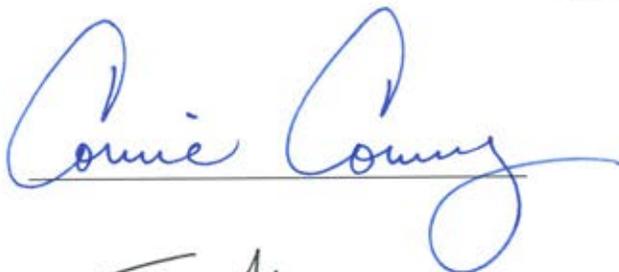
As you know, on May 21, 2013, the Exchange adopted regulations to provide guidance related to those that could be hired as Exchange employees or be certified as Individual Assistants if they have a criminal record. The regulations provide that when considering the criminal background information received, the Exchange shall take into consideration the nature of the job held or sought, the age, nature and gravity of the offense and any evidence of rehabilitation including evidence provided by the individual, including but not limited to participation in treatment programs.

Unfortunately, these regulations fall short compared to what is required of insurance agents and brokers. Training and education is not incorporated as a part of the certification process of Assisters, there is no requirement that applicants disclose all criminal convictions and administrative actions on the Assister application, and no provided process to investigate complaints against Assisters. It is imperative that the same administrative and criminal remedies that currently apply to agents and brokers for wrongdoing are also applied to Assisters.

In other words, the success or failure in protecting low- and middle income health plan applicants from financial crimes and identity theft will be solely determined by whether the leadership of *Covered California* puts the public safety interests of health plan applicants first or puts the remunerative interests of Exchange employees and Individual Assisters first. If the Exchange decides that they will deny most or all people with criminal records from becoming Exchange employees that facilitate health plan enrollment, have access to information technology systems, or Individual Assisters there will be fewer financial crimes and identity theft crimes committed against health plan applicants. If, on the other hand, the Exchange chooses a more liberal approach and allows people with criminal records to be hired as Exchange employees, have access to information technology systems or become certified as Individual Assisters, then more financial crime and identity theft crime will be committed against health plan applicants. This important responsibility falls upon you.

We strongly urge the leadership of *Covered California* to implement the May 21, 2013 regulations and add further consumer protections in such a way that clearly puts the public safety interests of health plan applicants first by implementing a zero tolerance policy in the hiring of Exchange employees or the certification of Individual Assisters with criminal records. The closer the Exchange implements the well-developed process that the Department of Insurance uses for screening applicants for agent and brokers licenses, the better.

Sincerely,





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