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Ninety Years of Health Insurance Reform Efforts in California

Bill and Proposition Files

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CALIFORNIA LEGISLATURE—1953 REGULAR SESSION

ASSEMBLY BILL No. 3138

Introduced by Messrs. Collins, Elliott, Kilpatrick, and Thomas

January 17, 1953

REFERRED TO COMMITTEE ON GOVERNMENTAL EFFICIENCY AND ECONOMY

An act to create and provide for a prepaid health service system for the people of the State of California, and making an appropriation therefor.

The people of the State of California do enact as follows:

Article 1. General Purposes

SECTION 1. It is the purpose of this act to provide a system of prepaid health service for the people of the State of California to the end that the general health of the people may be improved and the misfortune and financial strain arising from the onslaught of illness or injury be avoided, by providing a fund from which medical and hospital costs may be met. Although modern medical science has made gratifying and outstanding progress thus providing facilities for greatly improving the general level of health in the community, economic conditions have tended to make medical facilities less available to many citizens by reason of the necessarily increased costs. It is the purpose of this act to make such facilities available to as many citizens of the State as possible, and at the same time to insure to those furnishing such service and facilities an adequate and sure compensation. It is the further purpose of this act to encourage the professions and organizations concerned with the furnishing of medical care and services incident thereto, to increase their facilities and to offer higher standards of performance to supply adequately the requirements of the health service system herein provided. Such encouragement is intended further to stimulate and improve the standards and facilities for medical education available within the State. The Legislature of the State of California therefore declares that

this act is essential to the health, safety and welfare of the people of this State.

SEC. 2. It is a misdemeanor for any employer to require membership in any system or organization granting any health service as a condition of employment, and any such condition in any contract of employment is void.

Article 2. Definitions

SEC. 20. The definitions in this article shall, unless the context otherwise requires, govern the meaning of the terms used in this act.

SEC. 21. "Authority" means the California Health Service Authority created by this act.

SEC. 22. "Director" means the executive director of the authority.

SEC. 23. "Department" means the Department of Employment.

SEC. 24. "United States" means the Government of the United States and each department, authority, subdivision, agency, and instrumentality thereof, corporate or otherwise.

SEC. 25. "Public agency" means this State, any county, city and county, city, municipality, district or other political subdivision thereof, whether chartered or unchartered.

SEC. 26. "Person" includes association, organization, partnership, business trust, and corporation.

SEC. 27. "Fund" means the Health Service Fund in the State Treasury.

SEC. 28. "Beneficiary" means any person who is eligible for services under this act and his dependents.

SEC. 29. "Dependent" means a legally dependent spouse and dependent children under the age of 18.

SEC. 30. "Physician" means physician as defined in Section 3209.3 of the California Labor Code.

SEC. 31. "Hospital" means an institution providing necessary and customary in-patient care of the sick and which hospital is licensed by the Department of Public Health.

SEC. 32. "Service" means the service or services set forth in Article 3 of this act.

SEC. 33. "Employing unit" has the same meaning set forth in the Unemployment Insurance Act and also includes all public agencies.

SEC. 34. "Employment" means the following:

(a) "Employment" as defined in the Unemployment Insurance Act.

(b) Service performed in the employ of a public agency.

SEC. 35. "Employer" means the following:

(a) "Employer" as defined in the Unemployment Insurance Act.

(b) A public agency for which services in employment subject to this act are performed.

SEC. 36. "Employee" means an individual performing services in employment for an employer subject to this act and includes public officials whether elected or appointed.

SEC. 37. "Wages" has the meaning set forth in the Unemployment Insurance Act.

SEC. 38. "Contribution" means the money payments to the fund required by this act.

SEC. 39. "Rules" includes regulations.

Article 3. Health Services

SEC. 50. Health services are:

(a) Basic services and

(b) Additional benefits.

SEC. 51. Basic services are the following:

(a) General practitioner services rendered by a licensed physician or surgeon licensed in this State and registered under this act, whenever such services are required by the standards of good medical practice for preventative, diagnostic, therapeutic, or other medical treatment or care. Such services may be rendered at the physician's office, in a hospital or clinic, or anywhere else within the State of California, in accordance with the standard of medical practice in the community in which the service is rendered.

(b) Consultation and specialist services in addition to those of the general practitioner.

(c) Laboratory and X-ray services.

(d) Necessary hospitalization, excluding ambulance services, for a period not to exceed 21 days in any calendar year for each separate and distinct illness or injury.

(e) Drugs, medicines and biologics, bandages, splints and other supplies prescribed by the attending physician and surgeon. Basic services shall not include drugs other than preventive biologics, except when used in course of treatment in a hospital.

(f) Such general nursing service as is afforded by the hospital in which the treatment is given, but not private or special nursing service.

(g) The following dental services: The services of a dentist for the extraction of teeth and for the treatment of acute infections of the teeth, gums, and alveolar processes and the bone adjacent thereto, or fractures of the jaws.

SEC. 52. Basic services other than dental or general practitioner services shall be furnished only upon the certificate of the general practitioner or specialist to whom the patient is referred.

SEC. 53. Basic services shall be furnished for tuberculosis and mental infirmities or disorders only up to time of diagnosis of such condition.

SEC. 54. Basic services shall be furnished for not in excess of one year for any one illness or injury.

SEC. 55. Restrictions, limitations, or modifications of basic services may be provided by rule or regulation of the authority only when such rules or regulations are adopted by a two-thirds vote of the members. Such restrictions, limitations or modifications may be made only in respect to the extent to which basic services include the first treatment by the practitioner and with respect to calls by the practitioner at the home of the patient. All other rules and regulations may be made by the authority by vote of the majority of its members.

The Governor may by written order issued within five days of the date of adoption of such rule or regulation, suspend the operation thereof for such time as he considers necessary.

SEC. 56. Additional benefits are benefits additional to the basic services as follows:

(a) When in its opinion the financial resources of the Health Service Fund warrant, the authority may by rule or regulation provide any one or more of the following: increase of hospitalization period, additional drugs, additional medical or dental services, optometrical services.

(b) In case of dental service, the authority in providing additional benefits, shall not designate the materials to be used for treatment incidental to such services.

SEC. 57. Nothing in this act shall restrict a beneficiary's right to utilize more expensive hospital accommodations on the basis of mutually satisfactory arrangements between the beneficiary and the institution for payment of the difference in rates.

SEC. 58. Services shall not be furnished under this act for an injury which is compensable under any workmen's compensation law, or employer's liability law except as provided in Article 12.

SEC. 59. Each beneficiary eligible under Section 70 shall be entitled to reimbursement for the costs of services as set forth in this article when such costs have been incurred by reason of emergency illness or injury occurring to the beneficiary while outside of the State of California, providing that the necessity for such service is recognized by the authority and provided that such reimbursement shall not exceed the average amount which would have been paid by the authority had the service been rendered in California.

Article 4. Eligibility

SEC. 70. From and after January 1, 1953, every employee and each of his dependents shall be eligible to receive basic services throughout any calendar year if the employee has during his base period as provided in the Unemployment Insurance Act received wages sufficient to render him eligible for benefits under such act.

SEC. 71. Whenever a dispute arises as to whether a person is a beneficiary, he shall be entitled to services unless or until it shall be finally determined through the appropriate appeals

procedure that he was not a beneficiary. If it is finally determined that he was not a beneficiary he shall become liable to the authority for the amount expended from the fund in his behalf, and such amounts may be recovered on behalf of the fund in the same manner as is provided for the collection of contributions under Article 6, of this act.

SEC. 72. The authority may refer to the department any question pertaining to the allowance of any services under this act when such allowance may be dependent upon a determination of the individual's eligibility.

SEC. 73. The department shall determine all questions referred to it. Such determinations shall be made in accordance with the procedure for the determination, redetermination, or the appeal of claims for benefits under the Unemployment Insurance Act and rules relating thereto.

SEC. 74. The determination of the department in respect to any question of eligibility referred to it shall be binding upon the authority.

SEC. 75. The determination by the department of any question referred to it pursuant to this article is not final, and may not be reviewed in any court until incorporated in a final decision of the authority. Any such determination shall be incorporated in a final decision of the authority within 10 days of the date of release thereof by the department.

Article 5. Elective Coverage

SEC. 80. The authority may, by contractual engagments or other undertakings, make the service set forth in this act available to any resident of this State who is not otherwise eligible, subject to conditions prescribed by rule or regulation of the authority. Such regulations shall require payment of a premium, or contributions as determined by the authority for a period of not less than 60 days before such individual shall be eligible for services.

SEC. 81. Any person who has become eligible for services under this act, but who by virtue of change in occupational or dependency status would lose eligibility, may continue as a beneficiary without interruption, by paying into the Health Service Fund within such period and at such intervals as may be required by the authority, such premiums or contributions as the authority may determine to be equitable.

SEC. 82. Any employing unit for which services that do not constitute employment as defined in this act are performed, may file with the department a written election that all such services performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment by an employer for all the purposes of this act for not less than one calendar year. Upon the written approval of such election by the department, such services shall be deemed to constitute employment subject to this act from and after the date stated in such approval. Such services shall

cease to be deemed employment subject hereto as of January 1st of any calendar year subsequent to the year of elective coverage, notwithstanding anything elsewhere contained in this act, only if on or before the thirty-first day of December of such preceding year, such employing unit has filed with the department a written notice to that effect.

The department may for good cause waive the requirements of this section for termination of an elective coverage agreement.

SEC. 83. Every employing unit which files an election to become an employer subject to this act or to cease to be an employer subject to this act, pursuant to the provisions of this article shall post and maintain printed notices of such election on his premises, as may be prescribed by regulations of the department. Individuals in the employ of any employing unit which files an election to become an employer subject to this act shall be given a reasonable opportunity to file objections thereto or be heard thereon prior to the department's approval of such election.

SEC. 84. In no case shall the department approve any such election under Section 82, unless and until it has been established to the satisfaction of the department that such employing unit is normally and continuously engaged in a regular trade, business or occupation.

Article 6. Contributions

SEC. 90. Every employer shall pay a contribution equal to one percent (1%) of all wages paid with respect to employment after January 1, 1952.

SEC. 91. Each employee shall also pay contributions equal to one percent (1%) of his wages with respect to employment after January 1, 1952.

SEC. 92. The amount of contributions payable by a public agency under this act shall automatically increase all statutory debt and liability limits otherwise applicable to any such units by the amount so payable.

SEC. 93. Employers shall furnish to each of their employees evidence of eligibility for services under this act at such time and in such form as the department or the authority by regulation prescribes.

SEC. 94. Anything in this act contained to the contrary notwithstanding, any individual who adheres to the faith or teaching of any well-recognized religious sect, denomination, or organization, and in accordance with its creed, tenets, or principles, depends for healing upon prayer in the practice of religion shall be exempt from the contributions required by this act upon filing with the department a statement, in duplicate, stating such adherence and dependence and disclaiming any benefit for himself and his dependents under this act. Any such employee so exempt and his dependents shall not be furnished any service provided by this act while such exemption is in force; and the effect of a withdrawal of such statement by such

exempt employee shall operate to make him subject from the date of such withdrawal to the provisions of this act only to the extent to which an employee upon first entering employment subject to this act, is entitled to such services and subject to the same conditions.

SEC. 95. Every employer shall, notwithstanding any provisions of law in this State to the contrary, withhold in trust the amount of his employees' contributions from their wages at the time such wages are paid, shall show such deduction on his pay roll records, shall furnish each employee with a statement in writing showing the amount which has been deducted in such form and at such times as the department may prescribe and shall transmit all such contributions to the fund in addition to his own contributions, pursuant to the regulations of the department.

SEC. 96. Subdivisions (b) and (c) of Section 44, subdivisions (b) and (c) of Section 44.2 and Sections 45 to 46.2, except subdivision (e) of Section 45, of the Unemployment Insurance Act shall be applicable in all respects to the reporting of contributions, interest and penalties attaching thereto, and the levy, assessment, reassessment, collection, and refund of all contributions by the department under this act, except that the following words in those sections of the Unemployment Insurance Act have the following meanings respectively with respect to contributions under this act:

(a) "Employment," and "employer," mean respectively that which they are defined as in this act.

(b) "Worker," means employee.

(c) "Section 44" means Section 91 of this act.

(d) "Unemployment contributions judgments" means health service contributions judgments.

(e) "Unemployment fund," "disability fund," "fund," and "clearing account" means the Health Service Fund.

SEC. 97. Any rule, regulation, or interpretation issued by the department in accordance with the provisions of this act may prescribe the extent, if any, to which it shall be applied without retroactive effect in cases where, in the absence of such a provision, it would have such retroactive effect.

SEC. 98. The amount of employer contributions, together with employee contributions, shall be pooled and available for the furnishing of service to any person entitled thereto under the provisions of this act regardless of the source of such contribution.

SEC. 99. The levy, assessment, reassessment, collection and refund of all contributions payable to the fund pursuant to this article or pursuant to Article 5, shall be the function and duty of the department, and a determination by the department with respect to any controversy arising in connection therewith shall be final, subject only to such judicial review as is provided by law. The department has power to adopt rules, not inconsistent with this act, in the furtherance of its functions and duties as herein provided.

Article 7. Health Service Fund

SEC. 100. The Health Service Fund is created in the State Treasury. The moneys and securities of the fund shall be held in trust by the State Treasurer to make available the services provided by this act.

SEC. 101. The fund shall consist of:

(a) All income received and paid into the fund in accordance with the provisions of this act.

(b) All property and securities acquired by and through the use of moneys belonging to the fund.

(c) All interest earned upon moneys belonging to the fund and deposited or invested as provided by law.

SEC. 102. The State Treasurer shall be the custodian of all moneys and securities belonging to the fund, except as otherwise provided in this act. He shall be liable on his official bond for the safekeeping thereof.

All moneys which belong to the fund and are collected or received under this act shall be delivered to the State Treasurer.

All securities belonging to the fund shall be delivered to the Treasurer and held by him until otherwise disposed of as provided in this act.

SEC. 103. Upon such delivery, such moneys and securities shall be credited by the State Treasurer to the fund. No moneys received or collected on account of the fund shall be expended or paid out without first passing into the State Treasury and being drawn therefrom as provided in this act.

SEC. 104. The State Controller shall keep special ledger accounts showing all of the assets in the State Treasury pertaining to the fund.

SEC. 105. The authority with the approval of the Board of Control shall cause all moneys in the fund which are in excess of current requirements to be invested and reinvested, from time to time, in securities authorized by law for the investment of funds of savings banks.

SEC. 106. All money in the fund is hereby continuously appropriated without regard to fiscal years for the purposes authorized by this act.

SEC. 107. Refunds payable or credits due may be paid from the fund.

SEC. 108. All of the expenses of the authority in carrying out the provisions of this act other than payments for services and all of the expenses of the department in carrying out the provisions of this act, including the pro rata overhead charges of State Government assessed against the fund, shall not exceed an amount equal to 6 percent of all moneys deposited in the fund. Of such amount, the authority may not expend more than 80 percent in carrying out the provisions of this act and the department may not expend more than 20 percent in carrying out the provisions of this act.

SEC. 109. The authority and the department each may, with the approval of the Department of Finance, withdraw from the

fund, without at the time presenting vouchers and itemized statements, a sum determined to be necessary as a cash revolving fund. The Controller shall draw his warrants in favor of the authority and the department for the amounts so withdrawn, and the Treasurer shall pay such warrants.

SEC. 110. Expenditures may be made from a revolving fund for the payment of claims for medical care and hospital services provided pursuant to this act. Reimbursement of a revolving fund for such expenditures shall be made upon presentation to the Controller of an abstract or statement of such expenditures. Such abstract shall be in such form as the Controller requires.

SEC. 111. Whenever moneys are collected, but it is not immediately certain what portion thereof constitutes contributions payable under this act and what portion constitutes contributions payable under the Unemployment Insurance Act, the department may, if it desires, pay such moneys into the Special Deposit Fund in the State Treasury as provided in Article 2 of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code, subject to recovery by the department and transfer to the proper accounts in the Unemployment Fund, the Disability Fund, and the Health Service Fund upon ascertainment by the department of the amounts allocable to each fund, respectively, out of moneys so collected.

Article 8. Claims for Services

SEC. 120. Claims for services shall be made in accordance with such regulations as the authority may prescribe.

SEC. 121. The assets of the fund shall be applicable to the payment of claims for authorized services performed in accordance with this act, and the rules and regulations of the authority, and to the payment of the salaries and other expenses necessarily incurred in the operation of the fund.

Article 9. Administration

SEC. 130. There is hereby created the California Health Service Authority. The California Health Service Authority consists of nine members.

SEC. 131. The Director of Public Health and the chief executive officer of the Department of Employment shall be ex officio members of the authority, except that the executive officer of the Department of Employment shall be a nonvoting member. The Governor shall appoint the other seven members of the authority. The Director of Public Health shall be the chairman of the authority.

SEC. 132. The term of office of the appointed members of the authority shall be four years and until their successors are appointed and qualified. Vacancies occurring during a term shall be filled by appointment for the unexpired term.

SEC. 133. The appointive members of the authority shall consist of the following:

(a) Three members who are licensed physicians, one of whom is experienced in hospital administration;

(b) Two members who shall be representative of employers;

(c) Two members who shall be representative of labor.

SEC. 134. The Governor shall make the first appointments for terms expiring, respectively, as follows:

(a) One representative of employers, one representative of labor and one physician for terms expiring on the fifteenth day of January, 1953.

(b) One representative of employers, one representative of labor, and one physician for terms expiring on the fifteenth day of January in the year 1954.

(c) One physician for term expiring on the fifteenth day of January in the year 1955.

SEC. 135. The appointive members of the authority shall each receive as compensation the sum of twenty-five dollars ($25) per day for each day or fraction thereof while in attendance at meetings of the authority and in addition shall receive their actual and necessary expenses incurred in the discharge of their duties.

SEC. 136. The members of the authority shall meet regularly once a month and at such other times as the chairman or a majority of the members thereof determine to be necessary.

SEC. 137. The number of members required to constitute a quorum of the authority and to concur on all questions except a motion to adjourn or a motion to adjourn to a stated time is five.

SEC. 138. Except as to matters over which power is given to the department, the authority has the power generally to perform all acts necessary to carry out the provisions of this act regardless of whether or not the particular power is specifically designated in this act.

SEC. 139. The authority shall have the power:

(a) To adopt, promulgate, repeal and amend rules and regulations consistent with law necessary or advisable to carry out the provisions of this act.

(b) To prescribe by rule standards of service and prescribe rates, fees or charges to be claimed and paid for all services furnished under this act, which shall constitute full payment for all such services except hospital services utilized by a beneficiary pursuant to Section 57. In prescribing such rates, fees or charges, the authority shall have regard for the necessity of furnishing proper and adequate service. Such rates, fees or charges need not be uniform throughout the State.

(c) To adopt a procedure for the establishment of and payment of claims for services furnished.

(d) To adopt a procedure for the review and settlement of disputed claims upon demand by the claimant of any claim denied in whole or in part. The authority may provide for a rehearing and for action upon such rehearing.

(e) To adopt a procedure for the hearing and determination of appeals from determinations made by the authority.

SEC. 140. The authority shall also have the power:

(a) To adopt a seal.

(b) To sue and be sued.

(c) To enter into any contracts or obligations relating to services under this act which are authorized or permitted by law.

(d) To appoint, subject to the State Civil Service Act, such assistants and other employees as are necessary for the administration of the affairs of the authority, to prescribe their duties, fix salaries, and require them to execute to the State such official bonds as may be required.

(e) To provide and operate such district offices as are deemed necessary.

(f) To establish and maintain a statistical plan for the making and maintaining of records showing the experience of the authority in the furnishing of service provided by this act.

SEC. 140.5. (a) The authority may expend not to exceed one-twentieth of the amount available to it for the limited purposes set forth in Section 108 for the purpose of assisting physicians and surgeons under this act to avail themselves of postgraduate study and refresher courses in order that a high level of medical practice may be stimulated and encouraged.

(b) In the administration of such program, the authority shall nominate 10 persons to the Governor, from whom five shall be selected and appointed by the Governor to constitute an advisory committee on postgraduate study for physicians and surgeons, three of whom shall be members of faculties of medical schools and two of whom shall be practicing physicians and surgeons.

SEC. 141. (a) The authority shall carry on continual studies of, and shall periodically report to the Governor and to the Legislature on the degree to which the operation of this act alleviates undue financial strain on the people of California, arising from the onslaught of illness or injury and the extent to which and the means by which complete medical care may be made available to the people of the State on a prepaid basis.

(b) The authority shall also carry on studies and report to the Governor and to the Legislature with respect to the adequate distribution of the facilities necessary to the proper rendition of the services provided in this act.

SEC. 142. No contract, rule, or regulation under this act shall be entered into or prescribed by the authority which in any manner impairs, restricts, or confines the free choice of any person of a physician or hospital.

SEC. 143. All proceedings of the authority and the department shall be open to the public unless a closed hearing is requested by a party to the proceedings. The hospital records and all other information furnished to the authority or the department by an employing unit, an applicant for hospital services, or a hospital, pursuant to this act except to the extent

necessary for the proper administration of this act, shall be confidential and shall not be published or be open to public inspection in any manner revealing the identity of the parties, nor admissible in evidence in any action or special proceeding, other than one arising out of the provisions of this act.

SEC. 144. Information obtained in the course of administration of this act shall not be published or open to public inspection in any manner which will reveal the identity of any beneficiary, employer or hospital except as may be necessary to acquaint a beneficiary or his duly authorized agent with his then existing or prospective right to services. Any officer or employee of the authority or the department who violates this section shall be guilty of a misdemeanor.

SEC. 145. The Governor shall appoint, upon nomination by the authority, an executive director, who shall act as secretary and executive officer of the authority and shall receive a salary of twelve thousand dollars ($12,000) per annum. The term of the executive director shall be four years and until the qualification of his successor.

SEC. 146. The authority may authorize the director of the department to carry out any of its functions under this act and may revoke such authorization in whole or in part.

Article 10. Medical Advisory Board

SEC. 150. There is hereby created a Medical Advisory Board to consist of the chairman of the Hospital Services Advisory Board and 10 members appointed by the Governor to serve at his pleasure. The chairman of the board shall be designated by the Governor.

SEC. 151. The members of the Medical Advisory Board shall be licensed physicians at least two of whom are teaching members of the faculty of a medical school.

SEC. 152. Members of the Medical Advisory Board shall receive no compensation for their services but shall receive their actual necessary expenses, including travel expenses, incurred in the performance of their duties.

SEC. 153. The Medical Advisory Board shall upon the request of the authority consult with and advise the authority and shall prepare and submit to the authority their recommendations on matters referred to them by the authority.

Article 11. Hospital Service Advisory Board

SEC. 160. There is hereby created a Hospital Service Advisory Board to consist of the chairman of the Medical Advisory Board and 10 members, appointed by the Governor to serve at his pleasure.

SEC. 161. The members shall be appointed insofar as is possible to be representative of the medical, nursing and other professions specializing in services customarily performed by a

hospital. The chairman of the board shall be designated by the Governor.

SEC. 162. Members of the Hospital Service Advisory Board shall receive no compensation for their services but shall receive their actual necessary expenses, including travel expenses, incurred in the performance of their duties.

SEC. 163. The Hospital Service Advisory Board shall upon the request of the authority consult with and advise the authority and shall prepare and submit to the authority their recommendations on matters referred to them by the authority.

Article 12. Subrogation

SEC. 170. If any service is furnished under this act to any individual having a right or claim for compensation or damages in whole or in part for or on account of any disability, injury, or illness against any other person, or having a right or claim for compensation under a workmen's compensation or employer's liability law of this State, or any other state or the Federal Government, the fund shall, to the extent of the cost of the services, be entitled to reimbursement out of any such sum or damages which the recipient of such service receives or is entitled to receive by way of compensation or through suit, settlement or judgment. The authority, on behalf of the fund, shall to that extent be subrogated to the rights or claims of the recipient of the services against such other person in cases in which the injurious act of such third person causes a disabling condition entitling the recipient to services under this act and in cases in which the workmen's compensation law or employer's liability law of this State, or of any other state or the Federal Government, grants compensation.

SEC. 171. Upon notice being given as provided herein to the person against whom the right or claim exists or is asserted, the authority has a lien upon the right or claim, and upon the sum or damages paid or received thereunder, to the extent of the amount for which the fund is entitled to reimbursement.

SEC. 172. If any individual claiming or receiving services has a right or claim described in Section 170 but unreasonably refuses or neglects to take the necessary action to enforce his right or claim within such time as the authority by regulation prescribes, the authority may, at its own expense, take such action or proceedings in the name and in behalf of the individual as it deems necessary to enforce his right or claim. Any sum recovered by the authority in such an action or proceeding, through a settlement, judgment, or otherwise, in excess of the amount to which the fund is entitled by way of reimbursement plus the reasonable expenses of the authority in connection with such action or proceeding, shall be held by the authority as trustee for the individual in whose behalf the action was undertaken. In the event that the authority undertakes an action or proceeding and fails therein, the costs and expenses thereof shall be payable out of the fund.

SEC. 173. The authority may furnish services under this act to any individual having or claiming to have rights to compensation or damages pending the settlement or determination of his right or claim. The furnishing of services to such an individual shall be without prejudice to any method of recovery provided in this act. If the authority furnishes or intends to furnish services under this act, it may give written notice to the person against whom the recipient of such services has or claims a right to compensation or damages. After the receipt of such notice and of a certified statement of the amount of the advances actually made, such person shall pay to the authority to the extent of the amount for which he is liable, less any sums which he may have actually paid to the authority or to the department prior to the receipt of such notice, the costs of the services paid by the authority. The receipt by the authority of any of such payments, to the extent thereof, constitutes a full and valid discharge of the claims of the recipient against such third person.

Article 13. Penalties

SEC. 180. The wilful making by a physician of a false statement or representation or the failure to disclose any material fact known to him to obtain any service or benefit provided under this act, for himself or any other person, constitutes unprofessional conduct within the meaning of Chapter 5 of Division 2 of the Business and Professions Code.

SEC. 181. It is a misdemeanor:

(a) Wilfully to make a false statement or representation or knowingly fail to disclose a material fact to obtain any service under the provisions of this act, whether for the maker or for any other person or for the purpose of lowering or avoiding any contribution required of the maker or any other person or to avoid becoming or remaining subject to this act;

(b) On the part of any employer or any officer or agent of an employee to make a greater deduction from the wages of an employee other than the contribution required of such employee by this act, or as expressly otherwise permitted by law;

(c) On the part of any employer or any officer or agent of an employer, wilfully and unlawfully to fail or neglect to make available required records for the inspection of the department, the authority, or its authorized representatives at any reasonable time during business hours;

(d) On the part of any employer, or any officer or agent of an employer, wilfully and unlawfully to fail or neglect to furnish to the department reports required by it when necessary for the enforcement of this act;

(e) On the part of any employer, or any officer or agent of an employer or any individual to connive or conspire to aid such individual to obtain benefits under this act to which such individual is not entitled by the wilful witholding of information; or by the wilful failure to report any relevant information;

(f) For any person to wilfully violate any provisions of this act or any rule or regulation promulgated or published by the authority or the department in accordance with this act;

(g) On the part of any officer, employee, or any other individual to disclose or make public any information obtained in the course of administration of this act other than as required to properly discharge his duties or to fulfill the purposes expressed in this act.

SEC. 182. Any employer, including any individual member of a partnership or employing unit, and any officer of a corporate employing unit having a knowledge thereof, which withholds the deductions required by this act from remuneration paid to its employees, and wilfully fails or is financially unable to pay such deductions to the Health Service Fund before the date on which the same become delinquent shall be guilty of a misdemeanor.

SEC. 183. All fines collected for violations of the provisions of this act shall be paid one-half into the State Treasury to the credit of the Health Service Fund, and one-half to the treasurer of the jurisdiction in which the misdemeanor is prosecuted, to be deposited in the same fund as fines for other misdemeanors occurring in that jurisdiction are deposited.

SEC. 184. The charging, collection, or receipt by a physician of any amount for medical services rendered to a beneficiary under this act for which a claim has been filed, constitutes unprofessional conduct within the meaning of Chapter 5 of Division 2 of the Business and Professions Code.

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CALIFORNIA LEGISLATURE, 1961 REGULAR (GENERAL) SESSION

ASSEMBLY BILL No. 605

Introduced by Messrs. Burton, O'Connell, George E. Brown, and Elliott

January 23, 1961

REFERRED TO COMMITTEE ON FINANCE AND INSURANCE

An act to add Division 7 (commencing with Section 7000) to the Unemployment Insurance Code to create and provide for a prepaid health service system for the people of the State of California, and making an appropriation therefor.

The people of the State of California do enact as follows:

1 SECTION 1. Division 7 (commencing with Section 7000) is
2 added to the Unemployment Insurance Code, to read:
3
4 DIVISION 7. PREPAID HEALTH SERVICE SYSTEM
5
6 Article 1. General Purposes
7
8 7000. It is the purpose of this division to provide a system
9 of prepaid health service for the people of the State of Cali-
10 fornia to the end that the general health of the people may
11 be improved and the misfortune and financial strain arising
12 from the onslaught of illness or injury be avoided, by pro-
13 viding a fund from which medical and hospital costs may be
14 met. Although modern medical science has made gratifying and
15 outstanding progress thus providing facilities for greatly im-
16 proving the general level of health in the community, economic
17 conditions have tended to make medical facilities less avail-
18 able to many citizens by reason of the necessarily increased
19 costs. It is the purpose of this division to make such facilities

LEGISLATIVE COUNSEL'S DIGEST

A.B. 605, as introduced, Burton (Fin. & Ins.). Prepaid health services.

Adds Div. 7 (commencing with Section 7000) U.I.C.

Creates and provides health service system for workers under Unemployment Insurance coverage and public employees; requires employer contributions of 3% of wages; defines the health services to be provided; establishes rules of eligibility; provides for the administration of the program, and for the establishment of various advisory boards; provides for subrogation as to rights and specified penalties; and permits electing out.

available to as many citizens of the State as possible, and at the same time to insure to those furnishing such service and facilities an adequate and sure compensation. It is the further purpose of this division to encourage the professions and organizations concerned with the furnishing of medical care and services incident thereto, to increase their facilities and to offer higher standards of performance to supply adequately the requirements of the health service system herein provided. Such encouragement is intended further to stimulate and improve the standards and facilities for medical education available within the State. The Legislature of the State of California therefore declares that this act is essential to the health, safety and welfare of the people of this State.

7001. It is a misdemeanor for any employer to require membership in any system or organization granting any health service as a condition of employment, and any such condition in any contract of employment is void.

Article 2. Definitions

7100. The definitions in this article shall, unless the context otherwise requires, govern the meaning of the terms used in this division.

7101. "Authority" means the California Health Service Authority created by this division.

7102. "Director" means the executive director of the authority.

7103. "Department" means the Department of Employment.

7104. "United States" means the government of the United States and each department, authority, subdivision, agency, and instrumentality thereof, corporate or otherwise.

7105. "Public agency" means this State, any county, city and county, city, municipality, district or other political subdivision thereof, whether chartered or unchartered.

7106. "Person" includes association, organization, partnership, business trust, and corporation.

7107. "Fund" means the Health Service Fund in the State Treasury.

7108. "Beneficiary" means any person who is eligible for services under this division and his dependents.

7109. "Dependent" means a legally dependent spouse and dependent children under the age of 18.

7110. "Physician" means physician as defined in Section 3209.3 of the California Labor Code.

7111. "Hospital" means an institution providing necessary and customary inpatient care of the sick and which hospital is licensed by the Department of Public Health.

7112. "Service" means the service or services set forth in Article 3 of this division.

7113. "Employing unit" has the same meaning set forth in the California Unemployment Insurance Code and also includes all public agencies.

7114. "Employment" means the following:

(a) "Employment" as defined in the California Unemployment Insurance Code.

(b) Service performed in the employ of a public agency.

7115. "Employer" means the following:

(a) "Employer" as defined in the California Unemployment Insurance Code.

(b) A public agency for which services in employment subject to this division are performed.

7116. "Employee" means an individual performing services in employment for an employer subject to this division and includes public officials whether elected or appointed.

7117. "Wages" has the meaning set forth in the California Unemployment Insurance Code.

7118. "Contribution" means the money payments to the fund required by this division.

7119. "Rules" includes regulations.

Article 3. Health Services

7200. Health services are:

(a) Basic services and

(b) Additional benefits.

7201. Basic services are the following:

(a) General practitioner services rendered by a licensed physician or surgeon licensed in this State and registered under this division, whenever such services are required by the standards of good medical practice for preventative, diagnostic, therapeutic, or other medical treatment or care. Such services may be rendered at the physician's office, in a hospital or clinic, or anywhere else within the State of California, in accordance with the standard of medical practice in the community in which the service is rendered.

(b) Consultation and specialist services in addition to those of the general practitioner.

(c) Laboratory and X-ray services.

(d) Necessary hospitalization, excluding ambulance services, for a period not to exceed 21 days in any calendar year for each separate and distinct illness or injury.

(e) Drugs, medicines and biologics, bandages, splints and other supplies prescribed by the attending physician and surgeon. Basic services shall not include drugs other than preventive biologics, except when used in course of treatment in a hospital.

(f) Such general nursing service as is afforded by the hospital in which the treatment is given, but not private or special nursing service.

(g) The following dental services: The services of a dentist for the extraction of teeth and for the treatment of acute

1 infections of the teeth, gums, and alveolar processes and the
2 bone adjacent thereto, or fractures of the jaws.
3 7202. Basic services other than dental or general practi-
4 tioner services shall be furnished only upon the certificate of
5 the general practitioner or specialist to whom the patient is
6 referred.
7 7203. Basic services shall be furnished for tuberculosis and
8 mental infirmities or disorders only up to time of diagnosis of
9 such condition.
10 7204. Basic services shall be furnished for not in excess of
11 one year for any one illness or injury.
12 7205. Restrictions, limitations, or modifications of basic
13 services may be provided by rule or regulation of the authority
14 only when such rules or regulations are adopted by a two-thirds
15 vote of the members. Such restrictions, limitations or modifi-
16 cations may be made only in respect to the extent to which
17 basic services include the first treatment by the practitioner
18 and with respect to calls by the practitioner at the home of
19 the patient. All other rules and regulations may be made by
20 the authority by vote of the majority of its members.
21 The Governor may by written order issued within five days
22 of the date of adoption of such rule or regulation, suspend the
23 the operation thereof for such time as he considers necessary.
24 7206. Additional benefits are benefits additional to the basic
25 services as follows:
26 (a) When in its opinion the financial resources of the Health
27 Service Fund warrant, the authority may by rule or regulation
28 provide any one or more of the following: increase of hospital-
29 ization period, additional drugs, additional medical or dental
30 services, optometrical services.
31 (b) In case of dental service, the authority in providing
32 additional benefits, shall not designate the materials to be used
33 for treatment incidental to such services.
34 7207. Nothing in this division shall restrict a beneficiary's
35 right to utilize more expensive hospital accommodations on the
36 basis of mutually satisfactory arrangements between the bene-
37 ficiary and the institution for payment of the difference in
38 rates.
39 7208. Services shall not be furnished under this division
40 for an injury which is compensable under any workmen's com-
41 pensation law, or employer's liability law except as provided
42 in Article 12.
43 7209. Each beneficiary eligible under Section 7300 shall be
44 entitled to reimbursement for the costs of services as set forth
45 in this article when such costs have been incurred by reason of
46 emergency illness or injury occurring to the beneficiary while
47 outside of the State of California, providing that the necessity
48 for such service is recognized by the authority and provided
49 that such reimbursement shall not exceed the average amount
50 which would have been paid by the authority had the services
51 been rendered in California.

Article 4. Eligibility

7300. From and after January 1, 1963, every employee and each of his dependents shall be eligible to receive basic services throughout any calendar year if the employee has during his base period as provided in the California Unemployment Insurance Code received wages sufficient to render him eligible for benefits under such division.

7301. Whenever a dispute arises as to whether a person is a beneficiary, he shall be entitled to services unless or until it shall be finally determined through the appropriate appeals procedure that he was not a beneficiary. If it is finally determined that he was not a beneficiary he shall become liable to the authority for the amount expended from the fund in his behalf, and such amounts may be recovered on behalf of the fund in the same manner as is provided for the collection of contributions under Article 6, of this division.

7302. The authority may refer to the department any question pertaining to the allowance of any services under this division when such allowance may be dependent upon a determination of the individual's eligibility.

7303. The department shall determine all questions referred to it. Such determinations shall be made in accordance with the procedure for the determination, redetermination, or the appeal of claims for benefits under the California Unemployment Insurance Code and rules relating thereto.

7304. The determination of the department in respect to any question of eligibility referred to it shall be binding upon the authority.

7305. The determination by the department of any question referred to it pursuant to this article is not final, and may not be reviewed in any court until incorporated in a final decision of the authority. Any such determination shall be incorporated in a final decision of the authority within 10 days of the date of release thereof by the department.

Article 5. Elective Coverage

7400. The authority may, by contractual engagements or other undertakings, make the service set forth in this division available to any resident of this State who is not otherwise eligible, subject to conditions prescribed by rule or regulation of the authority. Such regulations shall require payment of a premium, or contribution as determined by the authority for a period of not less than 60 days before such individual shall be eligible for services.

7401. Any person who has become eligible for services under this division, but who by virtue of change in occupational or dependency status would lose eligibility, may continue as a beneficiary without interruption, by paying into the

Health Service Fund within such period and at such intervals as may be required by the authority, such premiums or contributions as the authority may determine to be equitable.

7402. Any employing unit for which services that do not constitute employment as defined in this division are performed, may file with the department a written election that all such services performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment by an employer for all the purposes of this division for not less than one calendar year. Upon the written approval of such election by the department, such services shall be deemed to constitute employment subject to this division from and after the date stated in such approval. Such services shall cease to be deemed employment subject hereto as of January 1st of any calendar year subsequent to the year of elective coverage, notwithstanding anything elsewhere contained in this division, only if on or before the 31st day of December of such preceding year, such employing unit has filed with the department a written notice to that effect.

The department may for good cause waive the requirements of this section for termination of an elective coverage agreement.

7403. Every employing unit which files an election to become an employer subject to this division or to cease to be an employer subject to this division, pursuant to the provisions of this article shall post and maintain printed notices of such election on his premises, as may be prescribed by regulations of the department. Individuals in the employ of any employing unit which files an election to become an employer subject to this division shall be given a reasonable opportunity to file objections thereto or be heard thereon prior to the department's approval of such election.

7404. In no case shall the department approve any such election under Section 7402, unless and until it has been established to the satisfaction of the department that such employing unit is normally and continuously engaged in a regular trade, business or occupation.

Article 6. Contributions

7500. Every employer shall pay a contribution equal to three percent (3%) of all wages paid with respect to employment after January 1, 1961.

7501. The amount of contributions payable by a public agency under this division shall automatically increase all statutory debt and liability limits otherwise applicable to any such units by the amount so payable.

7502. Employers shall furnish to each of their employees evidence of eligibility for services under this division at such time and in such form as the department or the authority by regulation prescribes.

7503. Anything in this division contained to the contrary notwithstanding, any individual who adheres to the faith or teaching of any well-recognized religious sect, denomination, or organization, and in accordance with its creed, tenets, or principles, depends for healing upon prayer in the practice of religion shall be exempt from the contributions required by this division upon filing with the department a statement, in duplicate, stating such adherence and dependence and disclaiming any benefit for himself and his dependents under this division. Any such employee so exempt and his dependents shall not be furnished any service provided by this division while such exemption is in force; and the effect of a withdrawal of such statement by such exempt employee shall operate to make him subject from the date of such withdrawal to the provisions of this division only to the extent to which an employee upon first entering employment subject to this division, is entitled to such services and subject to the same conditions.

7504. The provisions of Part 1, Division 1, of the California Unemployment Insurance Code shall be applicable in all respect to the reporting of contributions, interest and penalties attaching thereto, and the levy, assessment, reassessment, collection, and refund of all contributions by the department under this division, except that the following words in those provisions of the California Unemployment Insurance Code have the following meanings respectively with respect to contributions under this division:

(a) "Employment" and "employer" mean respectively that which they are defined as in this division.

(b) "Worker" means employee.

(c) "Unemployment contributions judgments" means health service contributions.

(d) "Unemployment fund," "disability fund," "fund," and "clearing account" means the Health Service Fund.

7505. Any rule, regulation, or interpretation issued by the department in accordance with the provisions of this division may prescribe the extent, if any, to which it shall be applied without retroactive effect in cases where, in the absence of such a provision, it would have such retroactive effect.

7506. The amount of employer contributions shall be pooled and available for the furnishing of service to any person entitled thereto under the provisions of this division regardless of the source of such contribution.

7507. The levy, assessment, reassessment, collection and refund of all contributions payable to the fund pursuant to this article or pursuant to Article 5, shall be the function and duty of the department, and a determination by the department with respect to any controversy arising in connection therewith shall be final, subject only to such judicial review as is provided by law. The department has power to adopt rules, not inconsistent with this division, in the furtherance of its functions and duties as herein provided.

Article 7. Health Service Fund

7600. The Health Service Fund is created in the State Treasury. The moneys and securities of the fund shall be held in trust by the State Treasurer to make available the services provided by this division.

7601. The fund shall consist of:

(a) All income received and paid into the fund in accordance with the provisions of this division.

(b) All property and securities acquired by and through the use of moneys belonging to the fund.

(c) All interest earned upon moneys belonging to the fund and deposited or invested as provided by law.

7602. The State Treasurer shall be the custodian of all moneys and securities belonging to the fund, except as otherwise provided in this division. He shall be liable on his official bond for the safekeeping thereof.

All moneys which belong to the fund and are collected or received under this division shall be delivered to the State Treasurer.

All securities belonging to the fund shall be delivered to the Treasurer and held by him until otherwise disposed of as provided in this division.

7603. Upon such delivery, such moneys and securities shall be credited by the State Treasurer to the fund. No moneys received or collected on account of the fund shall be expended or paid out without first passing into the State Treasury and being drawn therefrom as provided in this division.

7604. The State Controller shall keep special ledger accounts showing all of the assets in the State Treasury pertaining to the fund.

7605. The authority with the approval of the Board of Control shall cause all moneys in the fund which are in excess of current requirements to be invested and reinvested, from time to time, in securities authorized by law for the investment of funds of savings banks.

7606. All money in the fund is hereby continuously appropriated without regard to fiscal years for the purposes authorized by this division.

7607. Refunds payable or credits due may be paid from the fund.

7608. All of the expenses of the authority in carrying out the provisions of this division other than payments for services and all of the expenses of the department in carrying out the provisions of this division, including the pro rata overhead charges of state government assessed against the fund, shall not exceed an amount equal to 6 percent of all moneys deposited in the fund. Of such amount, the authority may not expend more than 80 percent in carrying out the provisions of this division and the department may not expend more than 20 percent in carrying out the provisions of this division.

7609. The authority and the department each may, with the approval of the Department of Finance, withdraw from the fund, without at the time presenting vouchers and itemized statements, a sum determined to be necessary as a cash revolving fund. The Controller shall draw his warrants in favor of the authority and the department for the amounts so withdrawn, and the Treasurer shall pay such warrants.

7610. Expenditures may be made from a revolving fund for the payment of claims for medical care and hospital services provided pursuant to this division. Reimbursement of a revolving fund for such expenditures shall be made upon presentation to the Controller of an abstract or statement of such expenditures. Such abstract shall be in such form as the Controller requires.

Article 8. Claims for Services

7700. Claims for services shall be made in accordance with such regulations as the authority may prescribe.

7701. The assets of the fund shall be applicable to the payment of claims for authorized services performed in accordance with this division, and the rules and regulations of the authority, and to the payment of the salaries and other expenses necessarily incurred in the operation of the fund.

Article 9. Administration

7800. There is hereby created the California Health Service Authority. The California Health Service Authority consists of nine members.

7801. The Director of Public Health and the chief executive officer of the Department of Employment shall be ex officio members of the authority, except that the executive officer of the Department of Employment shall be a nonvoting member. The Governor shall appoint the other seven members of the authority. The Director of Public Health shall be the chairman of the authority.

7802. The term of office of the appointed members of the authority shall be four years and until their successors are appointed and qualified. Vacancies occurring during a term shall be filled by appointment for the unexpired term.

7803. The appointive members of the authority shall consist of the following:

(a) Three members who are licensed physicians, one of whom is experienced in hospital administration;

(b) Two members who shall be representative of employers;

(c) Two members who shall be representative of labor.

7804. The Governor shall make the first appointments for terms expiring, respectively, as follows:

(a) One representative of employers, one representative of labor and one physician for terms expiring on the 15th day of January, 1963.

(b) One representative of employers, one representative of labor, and one physician for terms expiring on the 15th day of January in the year 1964.

(c) One physician for term expiring on the 15th day of January in the year 1965.

7805. The appointive members of the authority shall each receive as compensation the sum of twenty-five dollars ($25) per day for each day or fraction thereof while in attendance at meetings of the authority and in addition shall receive their actual and necessary expenses incurred in the discharge of their duties.

7806. The members of the authority shall meet regularly once a month and at such other times as the chairman or a majority of the members thereof determine to be necessary.

7807. The number of members required to constitute a quorum of the authority and to concur on all questions except a motion to adjourn or a motion to adjourn to a stated time is five.

7808. Except as to matters over which power is given to the department, the authority has the power generally to perform all acts necessary to carry out the provisions of this division regardless of whether or not the particular power is specifically designated in this division.

7809. The authority shall have the power:

(a) To adopt, promulgate, repeal and amend rules and regulations consistent with law necessary or advisable to carry out the provisions of this division.

(b) To prescribe by rule standards of service and prescribe rates, fees or charges to be claimed and paid for all services furnished under this division, which shall constitute full payment for all such services except hospital services utilized by a beneficiary pursuant to Section 7207. In prescribing such rates, fees or charges, the authority shall have regard for the necessity of furnishing proper and adequate service. Such rates, fees or charges need not be uniform throughout the State.

(c) To adopt a procedure for the establishment of and payment of claims for services furnished.

(d) To adopt a procedure for the review and settlement of disputed claims upon demand by the claimant of any claim denied in whole or in part. The authority may provide for a rehearing and for action upon such rehearing.

(e) To adopt a procedure for the hearing and determination of appeals from determinations made by the authority.

7810. The authority shall also have the power:

(a) To adopt a seal.

(b) To sue and be sued.

(c) To enter into any contracts or obligations relating to services under this division which are authorized or permitted by law.

(d) To appoint, subject to the State Civil Service Act, such assistants and other employees as are necessary for the administration of the affairs of the authority, to prescribe their duties, fix salaries, and require them to execute to the State such official bonds as may be required.

(e) To provide and operate such district offices as are deemed necessary.

(f) To establish and maintain a statistical plan for the making and maintaining of records showing the experience of the authority in the furnishing of service provided by this division.

7811. (a) The authority may expend not to exceed one-twentieth of the amount available to it for limited purposes set forth in Section 7608 for the purpose of assisting physicians and surgeons under this division to avail themselves of postgraduate study and refresher courses in order that a high level of medical practice may be stimulated and encouraged.

(b) In the administration of such program, the authority shall nominate 10 persons to the Governor, from whom five shall be selected and appointed by the Governor to constitute an advisory committee on postgraduate study for physicians and surgeons, three of whom shall be members of faculties of medical schools and two of whom shall be practicing physicians and surgeons.

7812. (a) The authority shall carry on continual studies of, and shall periodically report to the Governor and to the Legislature on the degree to which the operation of this division alleviates undue financial strain on the people of California, arising from the onslaught of illness or injury and the extent to which and the means by which complete medical care may be made available to the people of the State on a prepaid basis.

(b) The authority shall also carry on studies and report to the Governor and to the Legislature with respect to the adequate distribution of the facilities necessary to the proper rendition of the services provided in this division.

7813. No contract, rule, or regulation under this division shall be entered into or prescribed by the authority which in any manner impairs, restricts, or confines the free choice of any person of a physician or hospital.

7814. All proceedings of the authority and the department shall be open to the public unless a closed hearing is requested by a party to the proceedings. The hospital records and all other information furnished to the authority or the department by an employing unit, an applicant for hospital services, or a hospital, pursuant to this division except to the extent necessary for the proper administration of this division, shall be confidential and shall not be published or be open to public inspection in any manner revealing the identity of the parties, nor admissible in evidence in any action or special proceeding, other than one arising out of the provisions of this division.

7815. Information obtained in the course of administration of this division shall not be published or open to public inspection in any manner which will reveal the identity of any beneficiary, employer or hospital except as may be necessary to acquaint a beneficiary or his duly authorized agent with his then existing or prospective right to services. Any officer or employee of the authority or the department who violates this section shall be guilty of a misdemeanor.

7816. The Governor shall appoint, upon nomination by the authority, an executive director, who shall act as secretary and executive officer of the authority and shall receive a salary of twenty thousand dollars ($20,000) per annum. The term of the executive director shall be four years and until the qualification of his successor.

7817. The authority may authorize the director or the department to carry out any of its functions under this division and may revoke such authorization in whole or in part.

Article 10. Medical Advisory Board

7900. There is hereby created a Medical Advisory Board to consist of the chairman of the Hospital Services Advisory Board and 10 members appointed by the Governor to serve at his pleasure. The chairman of the board shall be designated by the Governor.

7901. The members of the Medical Advisory Board shall be licensed physicians at least two of whom are teaching members of the faculty of a medical school.

7902. Members of the Medical Advisory Board shall receive no compensation for their services but shall receive their actual necessary expenses, including travel expenses, incurred in the performance of their duties.

7903. The Medical Advisory Board shall upon the request of the authority consult with and advise the authority and shall prepare and submit to the authority their recommendations on matters referred to them by the authority.

Article 11. Hospital Service Advisory Board

8000. There is hereby created a Hospital Service Advisory Board to consist of the chairman of the Medical Advisory Board and 10 members, appointed by the Governor to serve at his pleasure.

8001. The members shall be appointed insofar as is possible to be representative of the medical, nursing and other professions specializing in services customarily performed by a hospital. The chairman of the board shall be designated by the Governor.

8002. Members of the Hospital Service Advisory Board shall receive no compensation for their services but shall receive their actual necessary expenses, including travel expenses, incurred in the performance of their duties.

8003. The Hospital Service Advisory Board shall upon the request of the authority consult with and advise the authority and shall prepare and submit to the authority their recommendations on matters referred to them by the authority.

Article 12. Subrogation

8100. If any service is furnished under this division to any individual having a right or claim for compensation or damages in whole or in part for or on account of any disability, injury, or illness against any other person, or having a right or claim for compensation under a workmen's compensation or employer's liability law of this State, or any other state or the federal government, the fund shall, to the extent of the cost of the services, be entitled to reimbursement out of any such sum or damages which the recipient of such service receives or is entitled to receive by way of compensation or through suit, settlement or judgment. The authority, on behalf of the fund, shall to that extent be subrogated to the rights or claims of the recipient of the services against such other person in cases in which the injurious act of such third person causes a disabling condition entitling the recipient to services under this division and in cases in which the workmen's compensation law or employer's liability law of this State, or of any other state or the federal government, grants compensation.

8101. Upon notice being given as provided herein to the person against whom the right or claim exists or is asserted, the authority has a lien upon the right or claim, and upon the sum or damages paid or received thereunder, to the extent of the amount for which the fund is entitled to reimbursement.

8102. If any individual claiming or receiving services has a right or claim described in Section 8100 but unreasonably refuses or neglects to take the necessary action to enforce his right or claim within such time as the authority by regulation prescribes, the authority may, at its own expense, take such action or proceedings in the name and in behalf of the individual as it deems necessary to enforce his right or claim. Any sum recovered by the authority in such an action or proceeding, through a settlement, judgment, or otherwise, in excess of the amount to which the fund is entitled by way of reimbursement plus the reasonable expenses of the authority in connection with such action or proceeding, shall be held by the authority as trustee for the individual in whose behalf the action was undertaken. In the event that the authority undertakes an action or proceeding and fails therein, the costs and expenses thereof shall be payable out of the fund.

8103. The authority may furnish services under this division to any individual having or claiming to have rights

to compensation or damages pending the settlement or determination of his right or claim. The furnishing of services to such an individual shall be without prejudice to any method of recovery provided in this division. If the authority furnishes or intends to furnish services under this division, it may give written notice to the person against whom the recipient of such services has or claims a right to compensation or damages. After the receipt of such notice and of a certified statement of the amount of the advances actually made, such person shall pay to the authority to the extent of the amount for which he is liable, less any sums which he may have actually paid to the authority or to the department prior to the receipt of such notice, the costs of the services paid by the authority. The receipt by the authority of any of such payments, to the extent thereof, constitutes a full and valid discharge of the claims of the recipient against such third person.

Article 13. Penalties

8200. The willful making by a physician of a false statement or representation or the failure to disclose any material fact known to him to obtain any service or benefit provided under this division, for himself or any other person, constitutes unprofessional conduct within the meaning of Chapter 5 of Division 2 of the Business and Professions Code.

8201. It is a misdemeanor:

(a) Willfully to make a false statement or representation or knowingly fail to disclose a material fact to obtain any service under the provisions of this division, whether for the maker or for any other person or for the purpose of lowering or avoiding any contribution required of the maker or any other person or to avoid becoming or remaining subject to this division;

(b) On the part of any employer or any officer or agent of an employer, willfully and unlawfully to fail or neglect to make available required records for the inspection of the department, the authority, or its authorized representatives at any reasonable time during business hours;

(c) On the part of any employer, or any officer or agent of an employer, willfully and unlawfully to fail or neglect to furnish to the department reports required by it when necessary for the enforcement of this division;

(d) On the part of any employer, or any officer or agent of an employer or any individual to connive or conspire to aid such individual to obtain benefits under this division to which such individual is not entitled by the willful withholding of information; or by the willful failure to report any relevant information;

(e) For any person to willfully violate any provisions of this division or any rule or regulation promulgated or published by the authority or the department in accordance with this division;

(f) On the part of any officer, employee, or any other individual to disclose or make public any information obtained in the course of administration of this division other than as required to properly discharge his duties or to fulfill the purposes expressed in this division.

8202. The contributions are due and shall be paid to the department for the Health Service Fund by each employer in accordance with this division and shall not be deducted in whole or in part from the wages of individuals in his employ.

8203. All fines collected for violations of the provisions of this division shall be paid one-half into the State Treasury to the credit of the Health Service Fund, and one-half to the treasurer of the jurisdiction in which the misdemeanor is prosecuted, to be deposited in the same fund as fines for other misdemeanors occurring in that jurisdiction are deposited.

8204. The charging, collection, or receipt by a physician of any amount for medical services rendered to a beneficiary under this division for which a claim has been filed, constitutes unprofessional conduct within the meaning of Chapter 5 of Division 2 of the Business and Professions Code.

Article 14. Electing Out Provisions

8300. If on the effective date of this division the employees of a covered employer or any class or classes of such employees are entitled to receive health services under a plan or agreement which remains in effect, the employer, subject to the requirements of this section, shall be relieved of responsibility for making contributions for payments required under this division until the earliest date, determined by the authority for the purposes of this division, upon which the employer shall have the right to discontinue the provisions thereof or to discontinue his contributions towards the cost. Any such plan or agreement may be extended, with or without modification, by agreement or collective bargaining between an employer or employers or association of employers and a union, in which event the period for which the employer is relieved of such responsibility shall include such period of extension. Any other plan or agreement in existence on the effective date of this division which the employer may, by his sole act, terminate at any time, or with respect to which he is not obligated to continue for any period to make contributions, may be accepted by the authority as satisfying the obligation to make contributions under this division if such plan or agreement provides benefits at least as favorable as the health services provided by this division and does not require contributions of any employee or of any class or classes of employees. The authority may require that the employer shall enter into an agreement in writing with the authority that until he shall have filed written notice with

1 the authority of his election to terminate such plan or agree-
2 ment or to discontinue making necessary contributions to its
3 cost, he will continue to provide for the payment of benefits
4 under such plan or agreement.
5 During any period in which any plan or agreement or ex-
6 tension thereof authorized under this section, provides for
7 payments of benefits otherwise required under this division,
8 the responsibility of the employer and the benefits of em-
9 ployees shall be as provided in said plan or agreement rather
10 than as provided under this division.
11 Any such plan or agreement may be extended with or with-
12 out modification, provided the benefits under such plan or
13 agreement, as extended or modified, shall be found by the
14 authority to be at least as favorable as the benefits provided
15 by this division.

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AMENDED IN ASSEMBLY MAY 31, 1963

CALIFORNIA LEGISLATURE, 1963 REGULAR (GENERAL) SESSION

ASSEMBLY BILL No. 2644

Introduced by Mr. Song

April 24, 1963

REFERRED TO COMMITTEE ON FINANCE AND INSURANCE

An act to add Division 7 (commencing with Section 7000) to the Unemployment Insurance Code, relating to prepaid health service, and making an appropriation therefor.

The people of the State of California do enact as follows:

1 SECTION 1. Division 7 (commencing with Section 7000) is
2 added to the Unemployment Insurance Code, to read:
3
4 DIVISION 7. PREPAID HEALTH SERVICE SYSTEM
5
6 Article 1. General Purposes
7
8 7000. It is the purpose of this division to provide a system
9 of prepaid health service for the people of the State of Cali-
10 fornia to the end that the general health of the people may be
11 improved and the misfortune and financial strain arising from
12 the onslaught of illness or injury be avoided, by providing a
13 fund from which medical and hospital costs may be met. Al-
14 though modern medical science has made gratifying and out-
15 standing progress thus providing facilities for greatly improv-
16 ing the general level of health in the community, economic
17 conditions have tended to make medical facilities less available
18 to many citizens by reason of the necessarily increased costs.
19 It is the purpose of this division to make such facilities avail-
20 able to as many citizens of the State as possible, and at the
21 same time to insure to those furnishing such service and facili-
22 ties an adequate and sure compensation. It is the further pur-
23 pose of this division to encourage the professions and organiza-
24 tions concerned with the furnishing of medical care and
25 services incident thereto, to increase their facilities and to
26 offer higher standards of performance to supply adequately the
27 requirements of the health service system herein provided.

Such encouragement is intended further to stimulate and improve the standards and facilities for medical education available within the State. The Legislature of the State of California therefore declares that this act is essential to the health, safety and welfare of the people of this State.

7001. It is a misdemeanor for any employer to require membership in any system or organization granting any health service as a condition of employment, and any such condition in any contract of employment is void.

Article 2. Definitions

7100. The definitions in this article shall, unless the context otherwise requires, govern the meaning of the terms used in this division.

7101. "Authority" means the California Health Service Authority created by this division.

7102. "Director" means the executive director of the authority.

7103. "Department" means the Department of Employment.

7104. "United States" means the government of the United States and each department, authority, subdivision, agency, and instrumentality thereof, corporate or otherwise.

7105. "Public agency" means this State, any county, city and county, city, municipality, district or other political subdivision thereof, whether chartered or unchartered.

7106. "Person" includes association, organization, partnership, business trust, and corporation.

7107. "Fund" means the Health Service Fund in the State Treasury.

7108. "Beneficiary" means any person who is eligible for services under this division and his dependents.

7109. "Dependent" means a legally dependent spouse and dependent children under the age of 18.

7110. "Physician" means physician as defined in Section 3209.3 of the California Labor Code.

7111. "Hospital" means an institution providing necessary and customary inpatient care of the sick and which hospital is licensed by the Department of Public Health.

7112. "Service" means the service or services set forth in Article 3 (commencing with Section 7200) of this division.

7113. "Employing unit" has the same meaning set forth in Section 135 and also includes all public agencies.

7114. "Employment" means the following:

(a) "Employment" as defined in Articles 1 and 2 (commencing with Section 601) of Chapter 3 of Part 1 of Division 1.

(b) Service performed in the employ of a public agency.

7115. "Employer" means the following:

(a) "Employer" as defined in Article 3 (commencing with Section 675) of Chapter 3 of Part 1 of Division 1.

(b) A public agency for which services in employment subject to this division are performed.

7116. "Employee" means an individual performing services in employment for an employer subject to this division and includes public officials whether elected or appointed.

7117. "Wages" has the meaning set forth in Article 2 (commencing with Section 926) of Chapter 4 of Part 1 of Division 1.

7118. "Contribution" means the money payments to the fund required by this division.

7119. "Rules" includes regulations.

Article 3. Health Services

7200. Health services are:

(a) Basic services and

(b) Additional benefits.

7201. Basic services are the following:

(a) General practitioner services rendered by a licensed physician or surgeon licensed in this State and registered under this division, whenever such services are required by the standards of good medical practice for preventative, diagnostic, therapeutic, or other medical treatment or care. Such services may be rendered at the physician's office, in a hospital or clinic, or anywhere else within the State of California, in accordance with the standards of medical practice in the community in which the service is rendered.

(b) Consultation and specialist services in addition to those of the general practitioner.

(c) Laboratory and X-ray services.

(d) Necessary hospitalization, excluding ambulance services, for a period not to exceed 21 days in any calendar year for each separate and distinct illness or injury.

(e) Drugs, medicines and biologics, bandages, splints and other supplies prescribed by the attending physician and surgeon. Basic services shall not include drugs other than preventive biologics, except when used in course of treatment in a hospital.

(f) Such general nursing service as is afforded by the hospital in which the treatment is given, but not private or special nursing service.

(g) The following dental services: the services of a dentist for the extraction of teeth and for the treatment of acute infections of the teeth, gums, and alveolar processes and the bone adjacent thereto, or fractures of the jaws.

7202. Basic services other than dental, *podiatry,* or general practitioner services shall be furnished only upon the certificate of the general practitioner or specialist to whom the patient is referred.

7203. Basic services shall be furnished for tuberculosis and mental infirmities or disorders only up to time of diagnosis of such condition.

7204. Basic services shall be furnished for not in excess of one year for any one illness or injury.

7205. Restrictions, limitations, or modifications of basic services may be provided by rule or regulation of the authority only when such rules or regulations are adopted by a two-thirds vote of the members. Such restrictions, limitations or modifications may be made only in respect to the extent to which basic services include the first treatment by the practitioner and with respect to calls by the practitioner at the home of the patient. All other rules and regulations may be made by the authority by vote of the majority of its members.

The Governor may by written order issued within five days of the date of adoption of such rule or regulation, suspend the operation thereof for such time as he considers necessary.

7206. Additional benefits are benefits additional to the basic services as follows:

(a) When in its opinion the financial resources of the Health Service Fund warrant, the authority may by rule or regulation provide any one or more of the following: increase of hospitalization period, additional drugs, additional medical or dental services, *podiatric services*, optometrical services.

(b) In case of dental service, the authority in providing additional benefits, shall not designate the materials to be used for treatment incidental to such services.

7207. Nothing in this division shall restrict a beneficiary's right to utilize more expensive hospital accommodations on the basis of mutually satisfactory arrangements between the beneficiary and the institution for payment of the difference in rates.

7208. Services shall not be furnished under this division for an injury which is compensable under any workmen's compensation law, or employer's liability law except as provided in Article 12 (commencing with Section 8100) of this division.

7209. Each beneficiary eligible under Section 7300 shall be entitled to reimbursement for the costs of services as set forth in this article when such costs have been incurred by reason of emergency illness or injury occurring to the beneficiary while outside of the State of California, providing that the necessity for such service is recognized by the authority and provided that such reimbursement shall not exceed the average amount which would have been paid by the authority had the services been rendered in California.

Article 4. Eligibility

7300. From and after January 1, 1965, every employee and each of his dependents shall be eligible to receive basic services throughout any calendar year if the employee has during his base period as provided in Section 1275 received wages sufficient to render him eligible for benefits under such section.

7301. Whenever a dispute arises as to whether a person is a beneficiary, he shall be entitled to services unless or until it shall be finally determined through the appropriate appeals procedure that he was not a beneficiary. If it is finally determined that he was not a beneficiary he shall become liable to the authority for the amount expended from the fund in his behalf, and such amounts may be recovered on behalf of the fund in the same manner as is provided for the collection of contributions under Article 6 (commencing with Section 7500) of this division.

7302. The authority may refer to the department any question pertaining to the allowance of any services under this division when such allowance may be dependent upon a determination of the individual's eligibility.

7303. The department shall determine all questions referred to it. Such determinations shall be made in accordance with the procedure for the determination, redetermination, or the appeal of claims for benefits under Part 1 of Division 1 and rules relating thereto.

7304. The determination of the department in respect to any question of eligibility referred to it shall be binding upon the authority.

7305. The determination by the department of any question referred to it pursuant to this article is not final and may not be reviewed in any court until incorporated in a final decision of the authority. Any such determination shall be incorporated in a final decision of the authority within 10 days of the date of release thereof by the department.

Article 5. Elective Coverage

7400. The authority may, by contractual engagements or other undertakings, make the service set forth in this division available to any resident of this State who is not otherwise eligible, subject to conditions prescribed by rule or regulation of the authority. Such regulations shall require payment of a premium, or contribution as determined by the authority for a period of not less than 60 days before such individual shall be eligible for services.

7401. Any person who has become eligible for services under this division, but who by virtue of change in occupational or dependency status would lose eligibility, may continue as a beneficiary without interruption, by paying into the Health Service Fund within such period and at such

intervals as may be required by the authority, such premiums or contributions as the authority may determine to be equitable.

7402. Any employing unit for which services that do not constitute employment as defined in this division are performed, may file with the department a written election that all such services performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment by an employer for all the purposes of this division for not less than one calendar year. Upon the written approval of such election by the department, such services shall be deemed to constitute employment subject to this division from and after the date stated in such approval. Such services shall cease to be deemed employment subject hereto as of January 1st of any calendar year subsequent to the year of elective coverage, notwithstanding anything elsewhere contained in this division, only if on or before the 31st day of December of such preceding year, such employing unit has filed with the department a written notice to that effect.

The department may for good cause waive the requirements of this section for termination of an elective coverage agreement.

7403. Every employing unit which files an election to become an employer subject to this division or to cease to be an employer subject to this division, pursuant to the provisions of this article shall post and maintain printed notices of such election on his premises, as may be prescribed by regulations of the department. Individuals in the employ of any employing unit which files an election to become an employer subject to this division shall be given a reasonable opportunity to file objections thereto or be heard thereon prior to the department's approval of such election.

7404. In no case shall the department approve any such election under Section 7402, unless and until it has been established to the satisfaction of the department that such employing unit is normally and continuously engaged in a regular trade, business or occupation.

Article 6. Contributions

7500. Every employer shall pay a contribution equal to three percent (3%) of all wages paid with respect to employment after January 1, 1964.

7501. The amount of contributions payable by a public agency under this division shall automatically increase all statutory debt and liability limits otherwise applicable to any such units by the amount so payable.

7502. Employers shall furnish to each of their employees evidence of eligibility for services under this division at such time and in such form as the department or the authority by regulation prescribes.

7503. The provisions of Part 1, Division 1, shall be applicable in all respects to the reporting of contributions, interest and penalties attaching thereto, and the levy, assessment, reassessment, collection, and refund of all contributions by the department under this division, except that the following words in those provisions of this code have the following meanings respectively with respect to contributions under this division:

(a) "Employment" and "employer" mean respectively that which they are defined as in this division.

(b) "Worker" means employee.

(c) "Unemployment contributions judgments" means health service contributions.

(d) "Unemployment fund," "disability fund," "fund," and "clearing account" means the Health Service Fund.

7504. Any rule, regulation, or interpretation issued by the department in accordance with the provisions of this division may prescribe the extent, if any, to which it shall be applied without retroactive effect in cases where, in the absence of such a provision, it would have such retroactive effect.

7505. The amount of employer contributions shall be pooled and available for the furnishing of service to any person entitled thereto under the provisions of this division regardless of the source of such contribution.

7506. The levy, assessment, reassessment, collection and refund of all contributions payable to the fund pursuant to this article or pursuant to Article 5 (commencing with Section 7400) of this division, shall be the function and duty of the department, and a determination by the department with respect to any controversy arising in connection therewith shall be final, subject only to such judicial review as is provided by law. The department has power to adopt rules, not inconsistent with this division, in the furtherance of its functions and duties as herein provided.

Article 7. Health Service Fund

7600. The Health Service Fund is created in the State Treasury. The moneys and securities of the fund shall be held in trust by the State Treasurer to make available the services provided by this division.

7601. The fund shall consist of:

(a) All income received and paid into the fund in accordance with the provisions of this division.

(b) All property and securities acquired by and through the use of moneys belonging to the fund.

(c) All interest earned upon moneys belonging to the fund and deposited or invested as provided by law.

7602. The State Treasurer shall be the custodian of all moneys and securities belonging to the fund, except as other-

wise provided in this division. He shall be liable on his official bond for the safekeeping thereof.

All moneys which belong to the fund and are collected or received under this division shall be delivered to the State Treasurer.

All securities belonging to the fund shall be delivered to the Treasurer and held by him until otherwise disposed of as provided in this division.

7603. Upon such delivery, such moneys and securities shall be credited by the State Treasurer to the fund. No moneys received or collected on account of the fund shall be expended or paid out without first passing into the State Treasury and being drawn therefrom as provided in this division.

7604. The State Controller shall keep special ledger accounts showing all of the assets in the State Treasury pertaining to the fund.

7605. The authority with the approval of the Board of Control shall cause all moneys in the fund which are in excess of current requirements to be invested and reinvested, from time to time, in securities authorized by law for the investment of funds of savings banks.

7606. All money in the fund is hereby continuously appropriated without regard to fiscal years for the purposes authorized by this division.

7607. Refunds payable or credits due may be paid from the fund.

7608. All of the expenses of the authority in carrying out the provisions of this division other than payments for services and all of the expenses of the department in carrying out the provisions of this division, including the pro rata overhead charges of state government assessed against the fund, shall not exceed an amount equal to 6 percent of all moneys deposited in the fund. Of such amount, the authority may not expend more than 80 percent in carrying out the provisions of this division and the department may not expend more than 20 percent in carrying out the provisions of this division.

7609. The authority and the department each may, with the approval of the Department of Finance, withdraw from the fund, without at the time presenting vouchers and itemized statements, a sum determined to be necessary as a cash revolving fund. The Controller shall draw his warrants in favor of the authority and the department for the amounts so withdrawn, and the Treasurer shall pay such warrants.

7610. Expenditures may be made from a revolving fund for the payment of claims for medical care and hospital services provided pursuant to this division. Reimbursement of a revolving fund for such expenditures shall be made upon presentation to the Controller of an abstract or statement of such expenditures. Such abstract shall be in such form as the Controller requires.

Article 8. Claims for Services

7700. Claims for services shall be made in accordance with such regulations as the authority may prescribe.

7701. The assets of the fund shall be applicable to the payment of claims for authorized services performed in accordance with this division, and the rules and regulations of the authority, and to the payment of the salaries and other expenses necessarily incurred in the operation of the fund.

Article 9. Administration

7800. There is hereby created the California Health Service Authority. The California Health Service Authority consists of nine members.

7801. The Director of Public Health and the chief executive officer of the Department of Employment shall be ex officio members of the authority, except that the executive officer of the Department of Employment shall be a nonvoting member. The Governor shall appoint the other seven members of the authority. The Director of Public Health shall be the chairman of the authority.

7802. The term of office of the appointed members of the authority shall be four years and until their successors are appointed and qualified. Vacancies occurring during a term shall be filled by appointment for the unexpired term.

7803. The appointive members of the authority shall consist of the following:

(a) Three members who are licensed physicians, one of whom is experienced in hospital administration;

(b) Two members who shall be representative of employers;

(c) Two members who shall be representative of labor.

7804. The Governor shall make the first appointments for terms expiring, respectively, as follows:

(a) One representative of employers, one representative of labor and one physician for the terms expiring on the 15th day of January, 1966.

(b) One representative of employers, one representative of labor, and one physician for terms expiring on the 15th day of January in the year 1967.

(c) One physician for the term expiring on the 15th day of January in the year 1968.

7805. The appointive members of the authority shall each receive as compensation the sum of twenty-five dollars ($25) per day for each day or fraction thereof while in attendance at meetings of the authority and in addition shall receive their actual and necessary expenses incurred in the discharge of their duties.

7806. The members of the authority shall meet regularly once a month and at such other times as the chairman or a majority of the members thereof determine to be necessary.

7807. The number of members required to constitute a quorum of the authority and to concur on all questions except a motion to adjourn or a motion to adjourn to a stated time is five.

7808. Except as to matters over which power is given to the department, the authority has the power generally to perform all acts necessary to carry out the provisions of this division regardless of whether or not the particular power is specifically designated in this division.

7809. The authority shall have the power:

(a) To adopt, promulgate, repeal and amend rules and regulations consistent with law necessary or advisable to carry out the provisions of this division.

(b) To prescribe by rule standards of service and prescribe rates, fees or charges to be claimed and paid for all services furnished under this division, which shall constitute full payment for all such services except hospital services utilized by a beneficiary pursuant to Section 7207. In prescribing such rates, fees or charges, the authority shall have regard for the necessity of furnishing proper and adequate service. Such rates, fees or charges need not be uniform throughout the State.

(c) To adopt a procedure for the establishment of and payment of claims for services furnished.

(d) To adopt a procedure for the review and settlement of disputed claims upon demand by the claimant of any claim denied in whole or in part. The authority may provide for a rehearing and for action upon such rehearing.

(e) To adopt a procedure for the hearing and determination of appeals from determinations made by the authority.

7810. The authority shall also have the power:

(a) To adopt a seal.

(b) To sue and be sued.

(c) To enter into any contracts or obligations relating to services under this division which are authorized or permitted by law.

(d) To appoint, subject to the State Civil Service Act, such assistants and other employees as are necessary for the administration of the affairs of the authority, to prescribe their duties, fix salaries, and require them to execute to the State such official bonds as may be required.

(e) To provide and operate such district offices as are deemed necessary.

(f) To establish and maintain a statistical plan for the making and maintaining of records showing the experience of the authority in the furnishing of service provided by this division.

7811. (a) The authority may expend not to exceed one-twentieth of the amount available to it for limited purposes set forth in Section 7608 for the purpose of assisting physicians and surgeons under this division to avail themselves of postgraduate study and refresher courses in order that a high level of medical practice may be stimulated and encouraged.

(b) In the administration of such program, the authority shall nominate 10 persons to the Governor, from whom 5 shall be selected and appointed by the Governor to constitute an advisory committee on postgraduate study for physicians and surgeons, three of whom shall be members of faculties of medical schools and two of whom shall be practicing physicians and surgeons.

7812. (a) The authority shall carry on continual studies of, and shall periodically report to the Governor and to the Legislature on the degree to which the operation of this division alleviates undue financial strain on the people of California, arising from the onslaught of illness or injury and the extent to which and the means by which complete medical care may be made available to the people of the State on a prepaid basis.

(b) The authority shall also carry on studies and report to the Governor and to the Legislature with respect to the adequate distribution of the facilities necessary to the proper rendition of the services provided in this division.

7813. No contract, rule, or regulation under this division shall be entered into or prescribed by the authority which in any manner impairs, restricts, or confines the free choice of any person of a physician or hospital.

7814. All proceedings of the authority and the department shall be open to the public unless a closed hearing is requested by a party to the proceedings. The hospital records and all other information furnished to the authority or the department by an employing unit, an applicant for hospital services, or a hospital, pursuant to this division except to the extent necessary for the proper administration of this division, shall be confidential and shall not be published or be open to public inspection in any manner revealing the identity of the parties, nor admissible in evidence in any action or special proceeding, other than one arising out of the provisions of this division.

7815. Information obtained in the course of administration of this division shall not be published or open to public inspection in any manner which will reveal the identity of any beneficiary, employer or hospital except as may be necessary to acquaint a beneficiary or his duly authorized agent with his then existing or prospective right to services. Any officer or employee of the authority or the department who violates this section shall be guilty of a misdemeanor.

7816. The Governor shall appoint, upon nomination by the authority, an executive director, who shall act as secretary and executive officer of the authority and shall receive a salary of twenty thousand dollars ($20,000) per annum. The term of the executive director shall be four years and until the qualification of his successor.

7817. The authority may authorize the director or the department to carry out any of its functions under this division and may revoke such authorization in whole or in part.

Article 10. Medical Advisory Board

7900. There is hereby created a Medical Advisory Board to consist of the chairman of the Hospital Services Advisory Board and 10 members appointed by the Governor to serve at his pleasure. The chairman of the board shall be designated by the Governor.

7901. The members of the Medical Advisory Board shall be licensed physicians at least two of whom are teaching members of the faculty of a medical school.

7902. Members of the Medical Advisory Board shall receive no compensation for their services but shall receive their actual necessary expenses, including travel expenses, incurred in the performance of their duties.

7903. The Medical Advisory Board shall upon the request of the authority consult with and advise the authority and shall prepare and submit to the authority their recommendations on matters referred to them by the authority.

Article 11. Hospital Service Advisory Board

8000. There is hereby created a Hospital Service Advisory Board to consist of the chairman of the Medical Advisory Board and 10 members, appointed by the Governor to serve at his pleasure.

8001. The members shall be appointed insofar as is possible to be representatives of the medical, nursing and other professions specializing in services customarily performed by a hospital. The chairman of the board shall be designated by the Governor.

8002. Members of the Hospital Service Advisory Board shall receive no compensation for their services but shall receive their actual necessary expenses, including travel expenses, incurred in the performance of their duties.

8003. The Hospital Service Advisory Board shall upon the request of the authority consult with and advise the authority and shall prepare and submit to the authority their recommendations on matters referred to them by the authority.

Article 12. Subrogation

8100. If any service is furnished under this division to any individual having a right or claim for compensation or damages in whole or in part for or on account of any disability, injury, or illness against any other person, or having a right or claim for compensation under a workmen's compensation or employer's liability law of this State, or any other state or the federal government, the fund shall, to the extent of the cost of the services, be entitled to reimbursement out of any such sum or damages which the recipient of such service receives or is entitled to receive by way of compensation or through suit, settlement or judgment. The authority, on be-

half of the fund, shall to that extent be subrogated to the rights or claims of the recipient of the services against such other person in cases in which the injurious act of such third person causes a disabling condition entitling the recipient to services under this division and in cases in which the workmen's compensation law or employer's liability law of this State, or of any other state or the federal government, grants compensation.

8101. Upon notice being given as provided herein to the person against whom the right or claim exists or is asserted, the authority has a lien upon the right or claim, and upon the sum or damages paid or received thereunder, to the extent of the amount for which the fund is entitled to reimbursement.

8102. If any individual claiming or receiving services has a right or claim described in Section 8100 but unreasonably refuses or neglects to take the necessary action to enforce his right or claim within such time as the authority by regulation prescribes, the authority may, at its own expense, take such action or proceedings in the name and in behalf of the individual as it deems necessary to enforce his right or claim. Any sum recovered by the authority in such an action or proceeding, through a settlement, judgment, or otherwise, in excess of the amount to which the fund is entitled by way of reimbursement plus the reasonable expenses of the authority in connection with such action or proceeding, shall be held by the authority as trustee for the individual in whose behalf the action was undertaken. In the event that the authority undertakes an action or proceeding and fails therein, the costs and expenses thereof shall be payable out of the fund.

8103. The authority may furnish services under this division to any individual having or claiming to have rights to compensation or damages pending the settlement or determination of his right or claim. The furnishing of services to such an individual shall be without prejudice to any method of recovery provided in this division. If the authority furnishes or intends to furnish services under this division, it may give written notice to the person against whom the recipient of such services has or claims a right to compensation or damages. After the receipt of such notice and of a certified statement of the amount of the advances actually made, such person shall pay to the authority to the extent of the amount for which he is liable, less any sums which he may have actually paid to the authority or to the department prior to the receipt of such notice, the costs of the services paid by the authority. The receipt by the authority of any such payments, to the extent thereof, constitutes a full and valid discharge of the claims of the recipient against such third person.

Article 13. Penalties

8200. The willful making by a physician of a false statement or representation or the failure to disclose any material

fact known to him to obtain any service or benefit provided under this division, for himself or any other person, constitutes unprofessional conduct within the meaning of Chapter 5 of Division 2 of the Business and Professions Code.

8201. It is a misdemeanor:

(a) Willfully to make a false statement or representation or knowingly fail to disclose a material fact to obtain any service under the provisions of this division, whether for the maker or for any other person or for the purpose of lowering or avoiding any contribution required of the maker or any other person or to avoid becoming or remaining subject to this division;

(b) On the part of any employer or any officer or agent of an employer, willfully and unlawfully to fail or neglect to make available required records for the inspection of the department, the authority, or its authorized representatives at any reasonable time during business hours;

(c) On the part of any employer, or any officer or agent of an employer, willfully and unlawfully to fail or neglect to furnish to the department reports required by it when necessary for the enforcement of this division;

(d) On the part of any employer, or any officer or agent of an employer or any individual to connive or conspire to aid such individual to obtain benefits under this division to which such individual is not entitled by the willful withholding of information; or by the willful failure to report any relevant information;

(e) For any person to willfully violate any provisions of this division or any rule or regulation promulgated or published by the authority or the department in accordance with this division;

(f) On the part of any officer, employee, or any other individual to disclose or make public any information obtained in the course of administration of this division other than as required to properly discharge his duties or to fulfill the purposes expressed in this division.

8202. The contributions are due and shall be paid to the department for the Health Service Fund by each employer in accordance with this division and shall not be deducted in whole or in part from the wages of individuals in his employ.

8203. All fines collected for violations of the provisions of this division shall be paid one-half into the State Treasury to the credit of the Health Service Fund, and one-half to the treasurer of the jurisdiction in which the misdemeanor is prosecuted, to be deposited in the same fund as fines for other misdemeanors occurring in that jurisdiction are deposited.

8204. The charging, collection, or receipt by a physician of any amount for medical services rendered to a beneficiary under this division for which a claim has been filed, constitutes unprofessional conduct within the meaning of Chapter 5 of Division 2 of the Business and Professions Code.

Article 14. Electing Out Provisions

8300. If on the effective date of this division the employees of a covered employer or any class or classes of such employees are entitled to receive health services under a plan or agreement which remains in effect, the employer, subject to the requirements of this section, shall be relieved of responsibility for making contributions for payments required under this division until the earliest date, determined by the authority for the purposes of this division, upon which the employer shall have the right to discontinue the provisions thereof or to discontinue his contributions towards the cost. Any such plan or agreement may be extended, with or without modification, by agreement or collective bargaining between an employer or employers or association of employers and a union, in which event the period for which the employer is relieved of such responsibility shall include such period of extension. Any other plan or agreement in existence on the effective date of this division which the employer may, by his sole act, terminate at any time, or with respect to which he is not obligated to continue for any period to make contributions, may be accepted by the authority as satisfying the obligation to make contributions under this division if such plan or agreement provides benefits at least as favorable as the health services provided by this division and does not require contributions of any employee or of any class or classes of employees. The authority may require that the employer shall enter into an agreement in writing with the authority that until he shall have filed written notice with the authority of his election to terminate such plan or agreement or to discontinue making necessary contributions to its cost, he will continue to provide for the payment of benefits under such plan or agreement.

During any period in which any plan or agreement or extension thereof authorized under this section, provides for payments of benefits otherwise required under this division, the responsibility of the employer and the benefits of employees shall be as provided in said plan or agreement rather than as provided under this division.

Any such plan or agreement may be extended with or without modification, provided the benefits under such plan or agreement, as extended or modified, shall be found by the authority to be at least as favorable as the benefits provided by this division.

O