

January 24, 2022

22-0003

Hon. Rob Bonta
Attorney General of California
1300 I Street, 17th Floor
Sacramento, CA 95814

RECEIVED**Jan 24 2022**

Attention: Ms. Anabel Renteria, Initiative Coordinator

Re: Request for Title and Summary for Proposed Initiative Statute

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Dear Mr. Bonta:

We serve as counsel for the proponents of the enclosed statewide initiative statute. On the proponents' behalf, I am enclosing the following documents:

- Proponents' request for a circulating title and summary.
- Proponents' certifications pursuant to Elections Code § 9001.
- Proponents' certifications pursuant to Elections Code § 9608.
- The text of the proposed initiative statute.
- A check in the amount of \$2,000.00

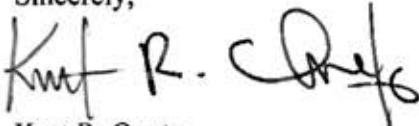
All legal inquires or correspondence relative to this initiative should be directed to:

Kurt R. Oneto
Nielsen Merksamer LLP
1415 L Street, Suite 1200
Sacramento, CA 95814
(916) 446-6752
koneto@nmgovlaw.com

All media inquiries should be directed to:

Bob Magnuson
I Street Public Affairs
bob@istreetpa.com
(949) 290-9382

Sincerely,



Kurt R. Oneto

Enclosures

January 24, 2022

VIA PERSONAL DELIVERY

Hon. Rob Bonta
Attorney General of California
1300 I Street, 17th Floor
Sacramento, CA 95814

Attention: Ms. Anabel Renteria, Initiative Coordinator

Re: Request for Title and Summary for Proposed Initiative Statute

Dear Mr. Bonta:

Pursuant to Article II, Section 10(d) of the California Constitution, I hereby submit the attached proposed Initiative Statute to your office and request preparation of a circulating title and summary of the chief points and purposes of the measure as provided by law. I am a proponent of the initiative and a registered voter in the State of California. Included with this submission are the proponent affidavits required by Sections 9001 and 9608 of the California Elections Code.

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Sincerely,

Jaclyn Galica, Proponent
Courtney McDermed, Proponent

By: 

Jaclyn Galica

Enclosure: Proposed Initiative Statute

January 24, 2022

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Sincerely,

Jaclyn Galica, Proponent
Courtney McDermed, Proponent

By:  _____
Courtney McDermed

Enclosure: Proposed Initiative Statute

Section 1. Chapter 13.5 (commencing with Section 8300) is added to Division 3 of the Business and Professions Code, to read:

CHAPTER 13.5. HEALTH CARE SERVICE PROVIDERS

8300. Title. This chapter shall be known, and may be cited as, the Equitable Access to Health Care Services Act.

8303. (a) Notwithstanding any other provision of law to the contrary, including, but not limited to, the Labor Code, the Unemployment Insurance Code, and any order, regulation, ruling, or opinion of any official or agency within the executive branch of state government, a health care contractor is an independent contractor and not an employee for all purposes with respect to his or her relationship with a health care platform ("platform"), if all of the following criteria are satisfied:

(1) The platform does not prescribe specific hours or days of the week during which the health care contractor is required to be available to accept service requests from health care facilities.

(2) The health care contractor is free to accept or reject service requests from health care facilities without being penalized in any way by the platform. This criterion does not apply if the health care contractor accepts a service request and then fails to fulfill any of its contractual obligations.

(3) The health care contractor is free to work any hours or schedules the health care contractor chooses that meet the requirements of the health care facility where services are to be provided.

(4) The platform does not restrict the health care contractor from engaging in any other lawful occupation or business, including, but not limited to, (A) accepting a service request through another platform; or (B) performing the same or similar services as an employee outside of the health care contractor's relationship with the platform.

(5) The platform does not require health care contractors to use specific supplies or equipment.

(6) The platform does not require the health care contractor to follow specific instructions governing how to perform the services. However, the platform may require that the quality of the services provided by the health care contractor meet specific standards.

(7) If there is an applicable professional licensure, permit, certification, or registration administered or recognized by the state available for the type of work being performed for the health care facility, the health care contractor shall certify to the platform that the contractor has the appropriate professional licensure, permit, certification, or registration.

(8) The terms of service or contractual agreement expressly states that the health care contractor's relationship with the platform is one of an independent contractor.

(9) The health care contractor may terminate their agreement or contract with the platform at any time with or without cause, provided, however that any service requests that have been agreed upon or booked by the health care contractor shall be completed prior to such termination.

(b) A health care contractor that meets the criteria set forth in subdivision (a) is responsible for the taxes on the health care contractor's own income derived as a result of services performed for health care facilities from service requests accepted through a platform.

8304. For purposes of this chapter, all of the following definitions apply:

(a) "Health care facility" means any health facility as defined in Section 1250 of the Health and Safety Code, or any office, or establishment licensed by the state that provides health care, mental health services, physical therapy, hospice, in-home medical care, rehabilitation services, veterinary services, dentistry services, or services related to the foregoing.

(b) "Health care contractor" means an individual or a business entity formed as a sole proprietor, partnership, limited liability company, limited liability partnership, or corporation that provides health care services.

(c) "Health care services" means the provision of care and services in the capacity of any of the following:

(1) Any occupation or profession certified, licensed, or otherwise overseen by any of the following:

(A) The Dental Board of California.

(B) The Dental Hygiene Board of California.

- (C) The California Board of Occupational Therapy.
- (D) The Board of Registered Nursing.
- (E) The Board of Vocational Nursing and Psychiatric Technicians of the State of California.
- (F) The State Department of Public Health.
- (G) The California State Board of Pharmacy.
- (H) The Veterinary Medical Board.
- (I) The Physical Therapy Board of California.
- (J) The Board of Behavioral Sciences.
- (K) The Physician Assistant Board.
- (L) The Medical Board of California.
- (M) Any other agency charged with providing licensure for the provision of health or veterinary services under California law.

(2) Any occupation or profession that provides services in support of, or related to, any of the capacities set forth in paragraph (1).

(3) Notwithstanding paragraph (1) or (2), “health care services” does not include the provision of care and services in the capacity of a physician, surgeon, dentist, podiatrist, psychologist, or veterinarian.

(d) “Health care platform” or “platform” means an organization, including, but not limited to, a corporation, limited liability company, partnership, sole proprietor, or any other entity, that does both of the following:

(1) Operates a digital website or digital application that facilitates the provision of health care services by health care contractors to individuals or entities seeking such services.

(2) Accepts service requests only through its digital website or digital application, and does not accept service requests by telephone, by facsimile, or in person at physical locations.

(e) “Service request” means a request, notice, opening, or other solicitation by a health care facility for a health care contractor to provide specified services.

Section 2. Severability.

The provisions of this Act are severable. If any portion, section, subdivision, paragraph, subparagraph, clause, sentence, phrase, word, or application of this Act is for any reason held to

be invalid by a decision of any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this Act. The People of the State of California hereby declare that they would have adopted this Act and each and every portion, section, subdivision, paragraph, subparagraph, clause, sentence, phrase, word, and application not declared invalid or unconstitutional without regard to whether any part of this Act or application thereof would be subsequently declared invalid.

Section 3. Legal Defense.

The purpose of this section is to ensure that the people's precious right of initiative cannot be improperly annulled by state politicians who refuse to defend the will of the voters. Therefore, if this Act is approved by the voters of the State of California and thereafter subjected to a legal challenge which attempts to limit the scope or application of this Act in any way, or alleges this Act violates any local, state, or federal law in whole or in part, and both the Governor and Attorney General refuse to defend this Act, then the following actions shall be taken:

(a) Notwithstanding anything to the contrary contained in Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code or any other law, the Attorney General shall appoint independent counsel to faithfully and vigorously defend this Act on behalf of the State of California.

(b) Before appointing or thereafter substituting independent counsel, the Attorney General shall exercise due diligence in determining the qualifications of independent counsel and shall obtain written affirmation from independent counsel that independent counsel will faithfully and vigorously defend this Act. The written affirmation shall be made publicly available upon request.

(c) In order to support the defense of this Act in instances where the Governor and Attorney General fail to do so despite the will of the voters, a continuous appropriation is hereby made from the General Fund to the Controller, without regard to fiscal years, in an amount necessary to cover the costs of retaining independent counsel to faithfully and vigorously defend this Act on behalf of the State of California.

Section 4. Liberal Construction.

This Act is an exercise of the initiative power of the people of the State of California pursuant to Article II and Article IV of the Constitution, and shall be liberally construed to effectuate the purposes set forth in this Act.

Section 5. Conflicting Measures.

(a) In the event that this initiative measure and another ballot measure or measures dealing, either directly or indirectly, with the worker classification of health care contractors who accept service requests through health care platforms shall appear on the same statewide election ballot, the other ballot measure or measures shall be deemed to be in conflict with this measure. In the event that this initiative measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other ballot measure or measures shall be null and void.

(b) If this initiative measure is approved by the voters but superseded in whole or in part by any other conflicting ballot measure approved by the voters at the same election, and such conflicting measure is later held invalid, this measure shall be self-executing and given full force and effect.