

AMENDED IN SENATE JULY 2, 2008
AMENDED IN SENATE JUNE 18, 2008
AMENDED IN ASSEMBLY APRIL 8, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 2569

Introduced by Assembly Member De Leon

February 22, 2008

~~An act to add Sections 1389.35 and 1389.36 to the Health and Safety Code, and to add Sections 10384.5 and 10384.6~~ *An act to add Sections 1389.7 and 1389.8 to the Health and Safety Code, and to add Sections 10119.2 and 10119.3 to the Insurance Code, relating to health care coverage.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2569, as amended, De Leon. Health care coverage: rescission.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law prohibits a plan or insurer from rescinding, canceling, or limiting a health plan contract or health insurance policy due to the plan's or insurer's failure to complete medical underwriting and resolve all reasonable questions arising from written information on or with an application before issuing a contract or policy. *Existing law requires a health care service plan and individual benefit plans issued, amended, renewed, or delivered on or after January 1, 2007, to permit an individual who has been covered for at least 18 months to transfer, without medical underwriting,*

as defined, to any other individual plan contract or individual health benefit plan, as defined, that provides equal or lesser benefits, as specified.

~~This bill would, except as provided, specifically require a health care service plan or health insurer to offer to issue a new contract or policy, without medical underwriting and irrespective of health status, to family members who were covered under a contract or policy that was rescinded permit an individual, who was covered under an individual plan contract or individual health benefit plan that was rescinded, other than the individual whose information led to the rescission, to transfer, within 60 days, without medical underwriting, as defined, to any other individual plan contract or individual health benefit plan offered by that same health care services plan or health insurer that provides equal or lesser benefits, as specified. The bill would also authorize a health care service plan or health insurer to permit these individuals to remain covered under that individual plan contract or individual health benefit plan, with a specified revised premium rate. The bill would also require an agent, broker, or solicitor assisting an applicant with an application to make a specified attestation on the written application under penalty of perjury.~~

Because a willful violation of the bill’s provisions relative to health care service plans would be a crime and because the bill expands the crime of perjury, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

- 1 SECTION 1. ~~Section 1389.35 is added to the Health and Safety~~
- 2 ~~Code, to read:~~
- 3 ~~1389.35. Notwithstanding any other provision of law, to protect~~
- 4 ~~other family members against a lapse in coverage, every health~~
- 5 ~~care service plan shall offer to issue a new individual plan contract,~~
- 6 ~~without medical underwriting and irrespective of health status, to~~
- 7 ~~the persons who were covered under an individual plan contract~~

1 that was rescinded, except the person or persons whose information
2 in the application for coverage and related communications led to
3 the rescission. This coverage shall be requested within 30 days
4 after the plan contract was rescinded, and the applicable dues or
5 premiums shall be paid within the time required by the health care
6 service plan. The new plan contract shall be effective as of the
7 effective date of the rescission of the prior plan contract so that
8 there is no lapse in coverage. The health care service plan shall
9 offer to issue a plan contract that at that time is currently being
10 marketed to individuals by the health care service plan that most
11 closely resembles, in terms of benefits, the plan contract that was
12 rescinded. The health care service plan may charge for the new
13 plan contract in accordance with its then current rating practices.

14 *SECTION 1. Section 1389.7 is added to the Health and Safety*
15 *Code, to read:*

16 *1389.7. (a) Notwithstanding any other provision of law, every*
17 *health care service plan that provides coverage under an individual*
18 *plan contract shall permit an individual, who was covered under*
19 *an individual plan contract that was rescinded, to transfer, without*
20 *medical underwriting, to any other individual plan contract offered*
21 *by that same health care service plan that provides equal or lesser*
22 *benefits, as determined by the plan. A health care service plan*
23 *may also permit an individual, who was covered under an*
24 *individual plan contract that was rescinded, to remain covered*
25 *under that individual plan contract, with a revised premium rate*
26 *that reflects the number of persons remaining on the plan contract.*
27 *The plan shall provide a 30-day notice prior to a change in the*
28 *premium rate, pursuant to the notice requirements under Article*
29 *5.5 (commencing with Section 1374.20).*

30 *(b) "Without medical underwriting" means that the health care*
31 *service plan shall not decline to offer coverage to, or deny*
32 *enrollment of, the individual or impose any preexisting condition*
33 *exclusion on the individual who transfers to another individual*
34 *plan contract pursuant to this section.*

35 *(c) The plan shall establish, for the purposes of subdivision (a),*
36 *a ranking of the individual plan contracts it offers to individual*
37 *purchasers and notify these purchasers that the ranking is available*
38 *on its Internet Web site or make the ranking available upon request.*
39 *The plan shall also provide notice of any change in the premium*
40 *rate of new or revised coverage pursuant to subdivision (a).*

1 (d) The plan shall notify in writing all enrollees of the right to
2 transfer to another individual plan contract pursuant to this
3 section, at a minimum, when the plan rescinds the individual plan
4 contract. The notice shall adequately inform enrollees of the
5 transfer rights provided under this section, including information
6 on the process to obtain details about the individual plan contracts
7 available to that enrollee.

8 (e) The plan shall provide 60 days for enrollees to transfer to
9 another individual plan contract and this contract shall be effective
10 as of the effective date of the rescission of the prior plan contract
11 so that there is no lapse in coverage.

12 (f) This section shall not apply to any individual whose
13 information in the application for coverage and related
14 communications led to the rescission.

15 SEC. 2. Section ~~1389.36~~ 1389.8 is added to the Health and
16 Safety Code, to read:

17 ~~1389.36.~~

18 1389.8. (a) Notwithstanding any other provision of law, an
19 agent, broker, solicitor, solicitor firm, or representative who assists
20 an applicant in submitting an application to a health care service
21 plan has the duty to ~~answer~~ assist the applicant in providing
22 answers to health questions accurately and completely.

23 (b) An agent, broker, solicitor, solicitor firm, or representative
24 who assists an applicant in submitting an application to a health
25 care service plan shall attest on the written application under
26 penalty of perjury, to both of the following:

27 (1) That to the best of his or her knowledge, the information on
28 the application is complete and accurate.

29 (2) That he or she explained to the applicant, in
30 easy-to-understand language, the risk to the applicant of providing
31 inaccurate information and that the applicant understood the
32 explanation.

33 SEC. 3. Section ~~10384.5~~ is added to the Insurance Code, to
34 read:

35 ~~10384.5.~~ Notwithstanding any other provision of law, to protect
36 other family members against a lapse in coverage, every health
37 insurer shall offer to issue a new individual health insurance policy,
38 without medical underwriting and irrespective of health status, to
39 the persons who were covered under an individual policy that was
40 rescinded, except the person or persons whose information in the

1 application for coverage and related communications led to the
2 rescission. This coverage shall be requested within 30 days after
3 the policy was rescinded, and the applicable dues or premiums
4 shall be paid within the time required by the health insurer. The
5 new policy shall be effective as of the effective date of the
6 rescission of the prior policy so that there is no lapse in coverage.
7 The health insurer shall offer to issue a health insurance policy
8 that at that time is currently being marketed to individuals by the
9 health insurer that most closely resembles, in terms of benefits,
10 the policy that was rescinded. The health insurer may charge for
11 the new policy in accordance with its then current rating practices.

12 *SEC. 3. Section 10119.2 is added to the Insurance Code, to*
13 *read:*

14 *10119.2. (a) Notwithstanding any other provision of law, every*
15 *health insurer that provides health insurance under an individual*
16 *health benefit plan, as defined in subdivision (a) of Section*
17 *10198.6, shall permit an individual, who was covered under an*
18 *individual health benefit plan that was rescinded, to transfer,*
19 *without medical underwriting, to any other individual health benefit*
20 *plan offered by that same health insurer that provides equal or*
21 *lesser benefits, as determined by the insurer. A health insurer may*
22 *also permit an individual, who was covered under an individual*
23 *health benefit plan that was rescinded, to remain covered under*
24 *that individual health benefit plan, with a revised premium rate*
25 *that reflects the number of persons remaining on the health benefit*
26 *plan. The health insurer shall provide a 30-day notice prior to a*
27 *change in premium rate, pursuant to the notice requirements under*
28 *Article 2 (commencing with Section 10129).*

29 *(b) "Without medical underwriting" means that the health*
30 *insurer shall not decline to offer coverage to, or deny enrollment*
31 *of, the individual or impose any preexisting condition exclusion*
32 *on the individual who transfers to another individual health benefit*
33 *plan pursuant to this section.*

34 *(c) The insurer shall establish, for the purposes of subdivision*
35 *(a), a ranking of the individual health benefit plans it offers to*
36 *individual purchasers and notify these purchasers that the ranking*
37 *is available on its Internet Web site or make the ranking available*
38 *upon request. The health insurer shall also provide notice of any*
39 *change in the premium rate of new or revised coverage pursuant*
40 *to subdivision (a).*

1 (d) *The insurer shall notify in writing all insureds of the right*
 2 *to transfer to another individual health benefit plan pursuant to*
 3 *this section, at a minimum, when the insurer rescinds the individual*
 4 *health benefit plan. The notice shall adequately inform insureds*
 5 *of the transfer rights provided under this section, including*
 6 *information on the process to obtain details about the individual*
 7 *health benefit plans available to that insured.*

8 (e) *The insurer shall provide 60 days for insureds to transfer*
 9 *to another individual health benefit plan and this plan shall be*
 10 *effective as of the effective date of the rescission of the prior*
 11 *individual health benefit plan so that there is no lapse in coverage.*

12 (f) *This section shall not apply to any individual whose*
 13 *information in the application for coverage and related*
 14 *communications led to the rescission.*

15 SEC. 4. Section ~~10384.6~~ 10119.3 is added to the Insurance
 16 Code, to read:

17 ~~10384.6.~~

18 10119.3. (a) Notwithstanding any other provision of law, an
 19 agent or broker who assists an applicant in submitting an
 20 application to a health insurer has the duty to ~~answer~~ *assist the*
 21 *applicant in providing answers to health questions accurately and*
 22 *completely.*

23 (b) An agent or broker who assists an applicant in submitting
 24 an application to a health insurer shall attest on the written
 25 application under penalty of perjury, to both of the following:

26 (1) That to the best of his or her knowledge, the information on
 27 the application is complete and accurate.

28 (2) That he or she explained to the applicant, in
 29 easy-to-understand language, the risk to the applicant of providing
 30 inaccurate information and that the applicant understood the
 31 explanation.

32 SEC. 5. No reimbursement is required by this act pursuant to
 33 Section 6 of Article XIII B of the California Constitution because
 34 the only costs that may be incurred by a local agency or school
 35 district will be incurred because this act creates a new crime or
 36 infraction, eliminates a crime or infraction, or changes the penalty
 37 for a crime or infraction, within the meaning of Section 17556 of
 38 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

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