

AMENDED IN SENATE AUGUST 18, 2010
AMENDED IN SENATE SEPTEMBER 4, 2009
AMENDED IN SENATE SEPTEMBER 1, 2009
AMENDED IN SENATE AUGUST 18, 2009
AMENDED IN SENATE JUNE 30, 2009
AMENDED IN ASSEMBLY JUNE 2, 2009
AMENDED IN ASSEMBLY APRIL 22, 2009
CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 786

Introduced by Assembly Member Jones
(Principal coauthor: Senator Steinberg)

February 26, 2009

~~An act to add Article 12 (commencing with Section 1399.819) to Chapter 2.2 of Division 2 of the Health and Safety Code, and to add Chapter 9.7 (commencing with Section 10903) to Part 2 of Division 2 of the Insurance Code, relating to health care coverage. An act to add Section 790.16 to the Insurance Code, relating to insurance.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 786, as amended, Jones. ~~Individual health care coverage: coverage choice categories. Insurance: retained-asset accounts.~~

Existing law prohibits any person from engaging in any trade practice determined to be an unfair method of competition or an unfair or deceptive act or trade practice in the business of insurance.

This bill would provide that it is an unfair and deceptive act or practice in the business of insurance if an insurer uses a retained-asset account, as defined, and does not take certain actions. The bill would specify the penalty for this unfair and deceptive act or practice.

~~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 establishes the Office of Patient Advocate within the department to represent the interests of plan enrollees. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law requires health care service plans and health insurers that offer contracts or policies to individuals to comply with specified requirements.~~

~~This bill would require individual health care service plan contracts and individual health insurance policies issued, amended, or renewed on or after January 1, 2011, to contain a maximum limit on out-of-pocket costs for covered benefits provided by in-network providers and for covered emergency services, as specified. The bill would require, by July 1, 2012, the Department of Managed Health Care and the Department of Insurance to jointly, by regulation, develop standard definitions and terminology for benefits and cost-sharing provisions applicable to individual contracts and policies, as specified, and to develop a system to categorize those contracts and policies into coverage choice categories that meet specified requirements. The bill would require plans and insurers to submit certain information to the departments by a specified date and would require the Director of the Department of Managed Health Care and the Insurance Commissioner to categorize the contracts and policies into the appropriate coverage choice category by a specified date. The bill would require the Office of Patient Advocate to develop and maintain on its Internet Web site a uniform benefits matrix of those contracts and policies arranged by coverage choice category along with other specified information. The bill would require health care service plans, health insurers, solicitors, solicitor firms, brokers, and agents to make prospective enrollees or insureds aware of the availability and contents of the benefits matrix when marketing or selling a contract or policy in the individual market.~~

~~Because a willful violation of the bill's requirements relative to health care service plans would be a crime, 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-no*.

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

1 *SECTION 1. The Legislature finds and declares all of the*
2 *following:*

3 *(a) It is the practice of a number of insurers to place money*
4 *owed to beneficiaries, specifically benefits from policies of dead*
5 *soldiers and veterans, into retained-asset accounts (RAA) or*
6 *“checkbook” accounts without the knowledge or consent of the*
7 *beneficiary.*

8 *(b) By using RAAs, insurers are able to keep the difference*
9 *between the interest rates they pay out and the income from*
10 *investing these funds thereby depriving the beneficiary of the*
11 *investment value of his or her money.*

12 *(c) Assets held in RAAs are not insured by the Federal Deposit*
13 *Insurance Corporation due to the fact that RAAs are not in a*
14 *traditional depository institution, which could expose a beneficiary*
15 *to the possibility of loss if the insurer holding the beneficiary’s*
16 *assets becomes insolvent or is conserved.*

17 *SEC. 2. Section 790.16 is added to the Insurance Code, to*
18 *read:*

19 790.16. *(a) It is an unfair and deceptive act or practice in the*
20 *business of insurance if an insurer that uses a retained-asset*
21 *account does not do all of the following:*

22 *(1) Obtain written prior approval from the beneficiary or the*
23 *claimant.*

24 *(2) Disclose that the beneficiary or claimant is not obligated to*
25 *accept the retained-asset account, and that the beneficiary may*
26 *receive the proceed in full from the insurer.*

27 *(3) Disclose that the retained-asset account is not insured by*
28 *the Federal Deposit Insurance Corporation due to the fact that*
29 *the insurer is not a traditional depository institution, which could*

1 *expose the beneficiary or claimant to the possibility of loss if the*
2 *insurer holding the assets becomes insolvent or is conserved.*

3 *(4) Pay all interest received by the insurer, less reasonable*
4 *administrative fees, if any, to the beneficiary or claimant.*

5 *(b) For the purposes of this section, “retained-asset account”*
6 *means an account set up by an insurer in favor of a beneficiary*
7 *or claimant with the benefits or claim funds owed to the beneficiary*
8 *or claimant.*

9 *(c) (1) Any person who engages in any unfair and deceptive*
10 *act or practice as defined in this section is liable to the state for*
11 *a civil penalty to be fixed by the commissioner, not to exceed five*
12 *thousand dollars (\$5,000) for each act, or, if the act or practice*
13 *was willful, a civil penalty not to exceed ten thousand dollars*
14 *(\$10,000) for each act.*

15 *(2) The penalty imposed by this section shall be imposed by and*
16 *determined by the commissioner in the same manner as provided*
17 *by Section 790.05, and may be appealed as provided therein.*

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**All matter omitted in this version of the bill
appears in the bill as amended in the
Senate, September 4, 2009. (JR11)**