

ASSEMBLY BILL

No. 1449

Introduced by Assembly Member De Leon

February 27, 2009

An act to amend Section 1389.8 of the Health and Safety Code, and to amend Section 10119.3 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 1449, as introduced, De Leon. Health care coverage: solicitation.

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 also provides for the regulation of health insurers by the Department of Insurance. Existing law specifies that certain persons who assist applicants in submitting an application to a health care service plan or health insurer have a duty to assist those applicants in providing answers to health questions accurately and completely and requires those persons to make a specified attestation on the written application.

This bill would instead impose that requirement on certain persons who assist applicants in completing an application for an individual health care service plan contract or individual health insurance policy.

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

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

1 SECTION 1. Section 1389.8 of the Health and Safety Code is
 2 amended to read:

3 1389.8. (a) Notwithstanding any other provision of law, an
 4 agent, broker, solicitor, solicitor firm, or *sales* representative who
 5 assists an applicant in ~~submitting~~ *completing* an application ~~to a~~
 6 *for an individual* health care service plan *contract* has the duty to
 7 assist the applicant in providing answers to health questions
 8 accurately and completely.

9 (b) An agent, broker, solicitor, solicitor firm, or *sales*
 10 representative who assists an applicant in ~~submitting~~ *completing*
 11 an application ~~to a health care service plan~~ *for an individual health*
 12 *care service plan contract* shall attest on the written application
 13 to both of the following:

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

16 (2) That he or she explained to the applicant, in
 17 easy-to-understand language, the risk to the applicant of providing
 18 inaccurate information and that the applicant understood the
 19 explanation.

20 (c) If, in an attestation required by subdivision (b), a declarant
 21 willfully states as true any material fact he or she knows to be
 22 false, that person shall, in addition to any applicable penalties or
 23 remedies available under current law, be subject to a civil penalty
 24 of up to ten thousand dollars (\$10,000). Any public prosecutor
 25 may bring a civil action to impose that civil penalty. These
 26 penalties shall be paid to the Managed Care Fund.

27 (d) ~~An application for an individual~~ health care service plan
 28 ~~application~~ *contract* shall include a statement advising declarants
 29 of the civil penalty authorized under this section.

30 SEC. 2. Section 10119.3 of the Insurance Code is amended to
 31 read:

32 10119.3. (a) Notwithstanding any other provision of law, an
 33 agent ~~or~~, broker, *or sales representative* who assists an applicant
 34 in ~~submitting~~ *completing* an application ~~to a~~ *for an individual*
 35 health ~~insurer~~ *insurance policy* has the duty to assist the applicant
 36 in providing answers to health questions accurately and completely.

37 (b) An agent ~~or~~, broker, *or sales representative* who assists an
 38 applicant in ~~submitting~~ *completing* an application ~~to a health insurer~~

1 *for an individual health insurance policy* shall attest on the written
2 application to both of the following:

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

5 (2) That he or she explained to the applicant, in
6 easy-to-understand language, the risk to the applicant of providing
7 inaccurate information and that the applicant understood the
8 explanation.

9 (c) If, in an attestation required by subdivision (b), a declarant
10 willfully states as true any material fact he or she knows to be
11 false, that person shall, in addition to any applicable penalties or
12 remedies available under current law, be subject to a civil penalty
13 of up to ten thousand dollars (\$10,000). Any public prosecutor
14 may bring a civil action to impose that civil penalty. These
15 penalties shall be paid to the Insurance Fund.

16 (d) ~~A~~ *An application for an individual* health insurance
17 ~~application~~ *policy* shall include a statement advising declarants of
18 the civil penalty authorized under this section.