

AMENDED IN SENATE JUNE 23, 2009

AMENDED IN ASSEMBLY APRIL 29, 2009

AMENDED IN ASSEMBLY APRIL 16, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1521

Introduced by Assembly Member Jones

February 27, 2009

An act to add Section 1359.1 to the Health and Safety Code, and to add Section 10119.4 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 1521, as amended, Jones. 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 regulates the solicitation of health care service plan products and health insurance. Existing law prohibits a plan or insurer from entering into an agreement with an agent, broker, or solicitor that provides for or results in the compensation paid to the agent, broker, or solicitor for the sale of a health care service plan contract or health insurance policy to a small employer or an individual to be varied because of specified characteristics of the small employer or individual.

This bill would prohibit a plan or insurer from entering into an agreement with a solicitor, as specified *and including an agent or broker*, that provides for or results in the compensation paid to the

~~solicitor for the sale, or offer of, or application for, an individual health care service plan contract or individual health insurance policy to be varied because of the health status, claims experience, industry, or occupation of the individual and provide for specified compensation rates. The bill would also prohibit a plan or insurer from entering into an agreement with a solicitor that provides for or results in a different percentage of premium or compensation level paid to the solicitor if the solicitor, at the time of renewal of an individual or group contract, submits an application that results in the offer or purchase of coverage for a different health plan contract or health insurance policy with the same health plan or health insurer instead of renewal of the individual or group's existing plan contract or insurance policy. The bill also would require a plan or insurer, or solicitor person or entity representing a plan or insurer, at the time of renewal of an individual's application to change to a different individual health care service plan contract or individual health insurance policy, to notify the individual that application for a different contract or policy may result in an offer, an offer for a higher premium, or denial of coverage for that different contract or policy. The bill would prohibit an application for a different benefit design from changing the terms and conditions of the individual plan currently held by the applicant and would require a solicitor to identify the specific plans or insurers that the solicitor is offering.~~

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.

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

- 1 SECTION 1. Section 1359.1 is added to the Health and Safety
- 2 Code, to read:
- 3 1359.1. (a) A plan shall not, directly or indirectly, enter into
- 4 any contract, agreement, or arrangement with a solicitor that
- 5 provides for or results in the compensation paid to the solicitor for

1 the sale, offer, or application of *or offer of, or application for*, an
2 individual health care service plan contract to be varied because
3 of the health status, claims experience, industry, or occupation of
4 the individual. ~~This subdivision does not apply to a compensation~~
5 ~~arrangement paid to a solicitor on the basis of a percentage of~~
6 ~~premium, provided that the compensation level shall not vary~~
7 ~~because of the health status, claims experience, industry, or~~
8 ~~occupation of the individual.~~

9 (b) ~~A plan shall not, directly or indirectly, enter into any~~
10 ~~contract, agreement, or arrangement with a solicitor that provides~~
11 ~~for or results in a different percentage of premium or compensation~~
12 ~~level paid to the solicitor if, at the time of renewal of an individual~~
13 ~~or group plan contract, the solicitor submits an application that~~
14 ~~results in the offer or purchase of coverage for a different health~~
15 ~~plan contract with the same health care service plan instead of~~
16 ~~renewal of the individual or group's existing health plan contract.~~

17 (c) ~~At the time of renewal of an individual health care service~~
18 ~~plan contract, the health plan, or any solicitor representing the~~
19 ~~health plan, shall notify the individual that application for a~~
20 ~~different individual health plan contract may result in a review of~~
21 ~~the applicant's medical history that could result in an offer, an~~
22 ~~offer for higher premium, or denial of coverage entirely for the~~
23 ~~different plan being applied for. An application for a different~~
24 ~~benefit plan design shall not change the terms and conditions of~~
25 ~~the individual health plan currently held by the applicant. However,~~
26 ~~a health plan may establish solicitor payment rates that have the~~
27 ~~effect of either standardizing commissions or providing a lower~~
28 ~~solicitor compensation level for the sale or offer of, or application~~
29 ~~for, coverage of an individual with a higher risk profile than the~~
30 ~~compensation solicitors receive for an individual with a lower risk~~
31 ~~profile, provided that the commission or compensation does not~~
32 ~~directly or indirectly create an incentive based on the health status,~~
33 ~~claims experience, industry, or occupation of the individual.~~

34 (b) *At the time of renewal of an individual health plan contract*
35 *or the transfer to another individual health plan contract with the*
36 *same plan, a plan shall base compensation for the solicitor on the*
37 *health plan contract in which the individual will be enrolled after*
38 *renewal of the current contract or transfer to another contract*
39 *with the same health plan. This subdivision shall also apply to a*
40 *subsidiary or affiliate of the health plan.*

1 (c) *Unless an individual is applying for transfer to a different*
 2 *health plan contract pursuant to Section 1389.5, the health plan,*
 3 *or any solicitor representing the health plan, shall notify an*
 4 *individual applying to change individual health plan contracts*
 5 *that the application may result in a review of the applicant’s*
 6 *medical history that could result in an offer, an offer for a higher*
 7 *premium, or denial of coverage entirely for the different plan being*
 8 *applied for. The notice required pursuant to this section shall be*
 9 *provided at the time of an individual’s application to change to a*
 10 *different individual health care service plan contract.*

11 (d) The solicitor shall identify the specific health plan or health
 12 plans the solicitor is offering.

13 (e) For purposes of this section, “solicitor” shall have the same
 14 meaning as provided in subdivision (m) of Section 1345 and shall
 15 include an agent, broker, solicitor, solicitor firm, or any other entity
 16 that engages in solicitation as defined in subdivision (l) of Section
 17 1345.

18 SEC. 2. Section 10119.4 is added to the Insurance Code, to
 19 read:

20 10119.4. (a) A health insurer shall not, directly or indirectly,
 21 enter into any contract, agreement, or arrangement with an agent,
 22 broker, solicitor, or any other entity engaging in the sale, ~~offer or~~
 23 ~~offer of,~~ or application for, individual health insurance that provides
 24 for or results in the compensation paid to the agent, *broker,*
 25 *solicitor, or other entity* for the sale of a health insurance policy
 26 to be varied because of the health status, claims experience,
 27 industry, or occupation of the individual. ~~This subdivision does~~
 28 ~~not apply to a compensation arrangement that provides~~
 29 ~~compensation to an agent on the basis of a percentage of premium,~~
 30 ~~provided that the compensation level shall not vary because of the~~
 31 ~~health status, claims experience, industry, or occupation of the~~
 32 ~~individual.~~

33 ~~(b) A health insurer shall not, directly or indirectly, enter into~~
 34 ~~any contract, agreement, or arrangement with an agent, broker,~~
 35 ~~solicitor, or any other entity that provides for or results in a~~
 36 ~~different percentage of premium or compensation level paid to the~~
 37 ~~agent, broker, solicitor or other entity if, at the time of renewal of~~
 38 ~~an individual or group health insurance policy, the agent, broker,~~
 39 ~~solicitor, or other entity submits an application that results in the~~
 40 ~~offer or purchase of coverage for a different health insurance policy~~

1 with the same health insurer instead of renewal of the individual
2 or group's existing health insurance policy.

3 ~~(e) At the time of renewal of an individual health insurance~~
4 ~~policy, the health insurer, or any agent, broker, solicitor, or any~~
5 ~~other entity representing the health insurer, shall notify the~~
6 ~~individual that application for a different individual health~~
7 ~~insurance policy may result in a review of the applicant's medical~~
8 ~~history that could result in an offer, an offer for a higher premium,~~
9 ~~or denial of coverage entirely for the different plan being applied~~
10 ~~for. An application for a different benefit plan design shall not~~
11 ~~change the terms and conditions of the individual health plan~~
12 ~~contract currently held by the applicant. However, a health insurer~~
13 ~~may establish payment rates for agents, brokers, solicitors, or the~~
14 ~~other entities that have the effect of either standardizing~~
15 ~~commissions or providing a lower compensation level for the sale~~
16 ~~or offer of, or application for, coverage of an individual with a~~
17 ~~higher risk profile than the compensation the agents, brokers,~~
18 ~~solicitors, or other entities receive for an individual with a lower~~
19 ~~risk profile, provided that the commission or compensation does~~
20 ~~not directly or indirectly create an incentive based on the health~~
21 ~~status, claims experience, industry, or occupation of the individual.~~

22 *(b) At the time of renewal of an individual health insurance*
23 *policy or the transfer to another individual health insurance policy*
24 *with the same insurer, an insurer shall base compensation for the*
25 *agent, broker, solicitor, or other entity on the health insurance*
26 *policy under which the individual will be covered after renewal*
27 *of the current policy or after transfer to another policy with the*
28 *same insurer. This subdivision shall also apply to a subsidiary or*
29 *affiliate of that insurer.*

30 *(c) Unless an individual is applying for transfer to a different*
31 *health insurance policy pursuant to Section 10119.1, the health*
32 *insurer, or any agent, broker, solicitor, or other entity representing*
33 *the health insurer, shall notify an individual applying to change*
34 *to a different individual health insurance policy that the application*
35 *may result in a review of the applicant's medical history that could*
36 *result in an offer, an offer for a higher premium, or denial of*
37 *coverage entirely for the different plan being applied for. The*
38 *notice required pursuant to this section shall be provided at the*
39 *time of an individual's application to change to a different*
40 *individual health insurance policy.*

1 (d) The agent, broker, ~~or solicitor~~ *solicitor*, or other entity shall
2 identify the specific insurer or insurers the agent, broker, ~~or~~
3 ~~solicitor~~ *solicitor, or other entity* is offering.

4 SEC. 3. No reimbursement is required by this act pursuant to
5 Section 6 of Article XIII B of the California Constitution because
6 the only costs that may be incurred by a local agency or school
7 district will be incurred because this act creates a new crime or
8 infraction, eliminates a crime or infraction, or changes the penalty
9 for a crime or infraction, within the meaning of Section 17556 of
10 the Government Code, or changes the definition of a crime within
11 the meaning of Section 6 of Article XIII B of the California
12 Constitution.