

AMENDED IN SENATE SEPTEMBER 4, 1997

AMENDED IN SENATE AUGUST 25, 1997

AMENDED IN SENATE JULY 23, 1997

AMENDED IN ASSEMBLY APRIL 14, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1483

Introduced by Assembly Member Gallegos

February 28, 1997

~~An act to amend Sections 10232.1 and 10234.93 of, to amend, renumber, and add Section 10232.8 of, and to add Section 10232.2 to, the Insurance Code, relating to health insurance. An act to amend Section 10232.1 of, and to add Sections 10232.2 and 10232.8 to, the Insurance Code, and to amend Section 22005 of the Welfare and Institutions Code, relating to health insurance, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1483, as amended, Gallegos. Insurance: long-term care.

Existing California law regulates long-term care insurance, and requires that insurance to provide certain benefits. Existing law authorizes the Insurance Commissioner to waive certain of those requirements under certain circumstances.

Existing federal law provides that long-term care insurance is entitled to certain favorable tax treatment if it meets certain requirements.

This bill would require every policy that is intended to be a qualified long-term care insurance contract as provided by federal law to be identified as such with a specified disclosure statement, *including riders to life insurance policies*, and, similarly would require every policy that is not intended to be a qualified long-term care insurance contract as provided by federal law be identified as such. It would require insurers that offer policies or certificates that are intended to be federally qualified long-term care insurance policies to also fairly and affirmatively offer and market policies that are not intended to be federally qualified long-term care contracts.

The bill would set forth eligibility criteria for policies and certificates intended to be qualified long-term care insurance contracts as provided by federal law as well as for policies and certificates that are not intended to be federally qualified. The bill would revise various definitions.

~~The bill would enact related provisions.~~

The bill would become operative only if SB 527 and SB 1052 are also enacted.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~—²/₃. 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 10232.1 of the Insurance Code is
2 amended to read:
3 10232.1. (a) Every policy that is intended to be a
4 qualified long-term care insurance contract as provided
5 by Public Law 104-191 shall be identified as such by
6 prominently displaying and printing on page one of the
7 policy form and the outline of coverage and in the
8 application the following words: “This contract for
9 long-term care insurance is intended to be a federally
10 qualified long-term care insurance contract and may
11 qualify you for federal and state tax benefits.” Every



1 policy that is not intended to be a qualified long-term care
2 insurance contract as provided by Public Law 104-191
3 shall be identified as such by prominently displaying and
4 printing on page one of the policy form and the outline
5 of coverage and in the application the following words:
6 “This contract for long-term care insurance is not
7 intended to be a federally qualified long-term care
8 insurance contract.”

9 (b) Any policy or certificate in which benefits are
10 limited to the provision of institutional care shall be called
11 a “nursing facility only” policy or certificate and the
12 words “Nursing Facility Only” shall be prominently
13 displayed on page one of the form and the outline of
14 coverage. The commissioner may approve alternative
15 wording if it is more descriptive of the benefits.

16 (c) Any policy or certificate in which benefits are
17 limited to the provision of home care services, including
18 community-based services, shall be called a “home care
19 only” policy or certificate and the words “Home Care
20 Only” shall be prominently displayed on page one of the
21 form and the outline of coverage. The commissioner may
22 approve alternative wording if it is more descriptive of
23 the benefits.

24 (d) Only those policies or certificates providing
25 benefits for both institutional care and home care may be
26 called “comprehensive long-term care” insurance.

27 SEC. 2. Section 10232.2 is added to the Insurance
28 Code, to read:

29 10232.2. (a) Every insurer that offers policies or
30 certificates that are intended to be federally qualified
31 long-term care insurance *contracts, including riders of*
32 *life insurance contracts providing long-term care*
33 *coverage*, shall fairly and affirmatively concurrently offer
34 and market long-term care insurance policies or
35 certificates that are not intended to be federally qualified,
36 as described in subdivision (a) of Section 10232.1. ~~All~~
37 ~~long-term care insurance contracts approved after the~~
38 ~~effective date of this section shall meet all of the~~
39 ~~requirements of this chapter. If a life insurer issues a rider~~
40 ~~to a life insurance policy providing long-term insurance~~

1 ~~coverage, that rider shall meet the requirements of this~~
2 ~~subdivision.~~

3 *(b) All long-term care insurance contracts, including*
4 *riders to life insurance contracts providing long-term*
5 *care coverage, approved after the effective date of this*
6 *section shall meet all of the requirements of this chapter.*

7 *(c) Until January 1, 1999, or 90 days after approval of*
8 *contracts submitted for approval pursuant to subdivision*
9 *(b), whichever comes first, insurers may continue to offer*
10 *and market previously approved long-term care*
11 *insurance contracts.*

12 *(d) Group policies issued prior to January 1, 1997, shall*
13 *be allowed to remain in force and not be required to meet*
14 *the requirements of this chapter, as amended during the*
15 *1997 portion of the 1997-98 Regular Session, unless those*
16 *policies cease to be treated as federally qualified*
17 *long-term care insurance contracts. If such a policy or*
18 *certificate issued on such a group policy ceases to be a*
19 *federally qualified long-term care insurance contract*
20 *under the grandfather rules issued by the United States*
21 *Department of the Treasury pursuant to Section*
22 *7702B(f)(2) of the Internal Revenue Code, the insurer*
23 *shall offer the policy and certificate holders the option to*
24 *convert, on a guaranteed-issue basis, to a policy or*
25 *certificate that is federally tax qualified if the insurer sells*
26 *tax-qualified policies.*

27 SEC. 3. Section 10232.8 is added to the Insurance
28 Code, to read:

29 10232.8. (a) In every long-term care policy or
30 certificate that is not intended to be a federally qualified
31 long-term care insurance contract and provides home
32 care benefits, the threshold establishing eligibility for
33 home care benefits shall be at least as permissive as a
34 provision that the insured will qualify if either one of two
35 criteria are met:

36 (1) Impairment in two out of seven activities of daily
37 living.

38 (2) Impairment of cognitive ability.

39 The policy or certificate may provide for lesser but not
40 greater eligibility criteria. The commissioner, at his or her



1 discretion, may approve other criteria or combinations of
2 criteria to be substituted, if the insurer demonstrates that
3 the interest of the insured is better served.

4 “Activities of daily living” in every policy or certificate
5 that is not intended to be a federally qualified long-term
6 care insurance contract and provides home care benefits
7 shall include eating, bathing, dressing, ambulating,
8 transferring, toileting, and continence; “impairment”
9 means that the insured needs human assistance, or needs
10 continual substantial supervision; and “impairment of
11 cognitive ability” means deterioration or loss of
12 intellectual capacity due to organic mental disease,
13 including Alzheimer’s disease or related illnesses, that
14 requires continual supervision to protect oneself or
15 others.

16 (b) In every long-term care policy approved or
17 certificate issued after the effective date of the act adding
18 this section, that is intended to be a federally qualified
19 long-term care insurance contract as described in
20 subdivision (a) of Section 10232.1, the threshold
21 establishing eligibility for home care benefits shall
22 provide that a chronically ill insured will qualify if either
23 one of two criteria are met or if a third criterion, as
24 provided by this subdivision, is met:

25 (1) Impairment in two out of six activities of daily
26 living.

27 (2) Impairment of cognitive ability.

28 Other criteria shall be used in establishing eligibility for
29 benefits if federal law or regulations allow other types of
30 disability to be used applicable to eligibility for benefits
31 under a long-term care insurance policy. If federal law or
32 regulations allow other types of disability to be used, the
33 commissioner shall promulgate emergency regulations to
34 add such other criteria as a third threshold to establish
35 eligibility for benefits. Insurers shall submit policies for
36 approval within 60 days of the effective date of the
37 regulations. With respect to policies previously approved,
38 the department is authorized to review only the changes
39 made to the policy. All new policies approved and
40 certificates issued after the effective date of the



1 regulation shall include the third criterion. No policy shall
2 be sold that does not include the third criterion after one
3 year beyond the effective date of the regulations. An
4 insured meeting this third criterion shall be eligible for
5 benefits regardless of whether the individual meets the
6 impairment requirements in paragraph (1) or (2)
7 regarding activities of daily living and cognitive ability.

8 (c) A licensed health care practitioner, independent
9 of the insurer, shall certify that the insured meets the
10 definition of “chronically ill individual” as defined under
11 Public Law 104-191. In the event a health care
12 practitioner makes a determination, pursuant to this
13 section, that an insured does not meet the definition of
14 “chronically ill individual,” the insurer shall notify the
15 insured that the insured shall be entitled to a second
16 assessment by a licensed health care practitioner, upon
17 request, who shall personally examine the insured. The
18 requirement for a second assessment shall not apply if the
19 initial assessment was performed by a practitioner who
20 otherwise meets the requirements of this section and who
21 personally examined the insured. The assessments
22 conducted pursuant to this section shall be performed
23 promptly with the certification completed as quickly as
24 possible to ensure that an insured’s benefits are not
25 delayed. The written certification shall be renewed every
26 12 months. A licensed health care practitioner shall
27 develop a written plan of care after personally examining
28 the insured. The costs to have a licensed health care
29 practitioner certify that an insured meets, or continues to
30 meet, the definition of “chronically ill individual,” or to
31 prepare written plans of care shall not count against the
32 lifetime maximum of the policy or certificate. In order to
33 be considered “independent of the insurer,” a licensed
34 health care practitioner shall not be an employee of the
35 insurer and shall not be compensated in any manner that
36 is linked to the outcome of the certification. It is the intent
37 of this section that the practitioner’s assessments be
38 unhindered by financial considerations.

39 (d) “Activities of daily living” in every policy or
40 certificate intended to be a federally qualified long-term



1 care insurance contract as provided by Public Law
2 104-191 shall include eating, bathing, dressing,
3 transferring, toileting, and continence; “impairment in
4 activities of daily living” means the insured needs
5 “substantial assistance” either in the form of “hands-on
6 assistance” or ~~standby assistance defined by federal law
7 or regulations, due to a~~ “standby assistance,” due to a loss
8 of functional capacity to perform the activity;
9 “impairment of cognitive ability” means the insured
10 ~~either has “severe cognitive impairment” or needs
11 “substantial supervision” to protect self or others from
12 threats to health and safety due to severe cognitive
13 impairment, including Alzheimer’s disease or related
14 illnesses~~ needs substantial supervision due to severe
15 cognitive impairment; “licensed health care
16 practitioner” means a physician, registered nurse,
17 licensed social worker, or other individual whom the
18 Secretary of the United States Department of the
19 Treasury may prescribe by regulation; and “plan of care”
20 means a written description of the insured’s needs and a
21 specification of the type, frequency, and providers of all
22 formal and informal long-term care services required by
23 the insured, and the cost, if any.

24 (e) Until such time as these definitions may be
25 superseded by federal law or regulation, the terms
26 “substantial assistance,” “hands-on assistance,” “standby
27 assistance,” ~~“impairment of cognitive ability,”~~ “severe
28 cognitive impairment,” and “substantial supervision”
29 shall be defined according to the safe-harbor definitions
30 contained in Internal Revenue Service Notice 97-31,
31 issued May 6, 1997.

32 (f) The definitions of “activities of daily living” to be
33 used in policies and certificates that are intended to be
34 federally qualified long-term care insurance shall be at
35 ~~least as permissive as the following:~~ *the following until the
36 time that these definitions may be superseded by federal
37 law or regulations:*

38 (1) Eating, which shall mean feeding oneself by
39 getting food in the body from a receptacle (such as a
40 plate, cup, or table) or by a feeding tube or intravenously.



1 (2) Bathing, which shall mean washing oneself by
2 sponge bath or in either a tub or shower, including the act
3 of getting into or out of a tub or shower.

4 (3) Contenance, which shall mean the ability to
5 maintain control of bowel and bladder function; or when
6 unable to maintain control of bowel or bladder function,
7 the ability to perform associated personal hygiene
8 (including caring for a catheter or colostomy bag).

9 (4) Dressing, which shall mean putting on and taking
10 off all items of clothing and any necessary braces,
11 fasteners, or artificial limbs.

12 (5) Toileting, which shall mean getting to and from
13 the toilet, getting on or off the toilet, and performing
14 associated personal hygiene.

15 (6) Transferring, which shall mean the ability to move
16 into or out of bed, a chair or wheelchair.

17 *The commissioner may approve the use of definitions*
18 *of “activities of daily living” that differ from the verbatim*
19 *definitions of this subdivision if these definitions would*
20 *result in more policy or certificate holders qualifying for*
21 *long-term care benefits than would occur by the use of*
22 *the verbatim definitions of this subdivision. In addition,*
23 *the following definitions may be used without the*
24 *approval of the commissioner: (1) the verbatim*
25 *definitions of eating, bathing, dressing, toileting,*
26 *transferring, and continence in subdivision (g); or (2) the*
27 *verbatim definitions of eating, bathing, dressing,*
28 *toileting, and continence in this subdivision and a*
29 *substitute, verbatim definition of “transferring” as*
30 *follows: “transferring,” which shall mean the ability to*
31 *move into and out of a bed, a chair, or wheelchair, or*
32 *ability to walk or move around inside or outside the home,*
33 *regardless of the use of a cane, crutches, or braces.*

34 The definitions to be used in policies and certificates for
35 impairment in activities of daily living, “impairment in
36 cognitive ability,” and any third eligibility criterion
37 adopted by regulation pursuant to subdivision (b), shall
38 be the verbatim definitions of these benefit eligibility
39 triggers allowed by federal regulations. In addition to the
40 verbatim definitions, the commissioner may approve



1 additional descriptive language to be added to the
2 definitions, if the additional language is (1) warranted
3 based on federal or state laws, federal or state regulations,
4 or other relevant federal decision, and (2) strictly limited
5 to that language which is necessary to ensure that the
6 definitions required by this section are not misleading to
7 the insured.

8 (g) The definitions of “activities of daily living” to be
9 used verbatim in policies and certificates that are not
10 intended to qualify for favorable tax treatment under
11 Public Law 104-191 ~~include~~ shall be the following:

12 (1) Eating, which shall mean reaching for, picking up,
13 and grasping a utensil and cup; getting food on a utensil,
14 and bringing food, utensil, and cup to mouth;
15 manipulating food on plate; and cleaning face and hands
16 as necessary following meals.

17 (2) Bathing, which shall mean cleaning the body using
18 a tub, shower, or sponge bath, including getting a basin
19 of water, managing faucets, getting in and out of tub or
20 shower, and reaching head and body parts for soaping,
21 rinsing, and drying.

22 (3) Dressing, which shall mean putting on, taking off,
23 fastening, and unfastening garments and undergarments
24 and special devices such as back or leg braces, corsets,
25 elastic stockings or garments, and artificial limbs or
26 splints.

27 (4) Toileting, which shall mean getting on and off a
28 toilet or commode and emptying a commode, managing
29 clothing and wiping and cleaning the body after toileting,
30 and using and emptying a bedpan and urinal.

31 (5) Transferring, which shall mean moving from one
32 sitting or lying position to another sitting or lying position;
33 for example, from bed to or from a wheelchair or sofa,
34 coming to a standing position, or repositioning to
35 promote circulation and prevent skin breakdown.

36 (6) Continence, which shall mean the ability to control
37 bowel and bladder as well as use ostomy or catheter
38 receptacles, and apply diapers and disposable barrier
39 pads.



1 (7) Ambulating, which shall mean walking or moving
2 around inside or outside the home regardless of the aid
3 use of a cane, crutches, or braces.

4 ~~SEC. 4. Section 10232.8 of the Insurance Code is~~
5 ~~amended and renumbered to read:~~

6 ~~10232.9. (a) Every long term care policy or certificate~~
7 ~~that purports to provide benefits of home care or~~
8 ~~community-based services, shall provide at least the~~
9 ~~following:~~

10 ~~(1) Home health care.~~

11 ~~(2) Adult day care.~~

12 ~~(3) Personal care.~~

13 ~~(4) Homemaker services.~~

14 ~~(5) Hospice services.~~

15 ~~(6) Respite care.~~

16 ~~(b) For purposes of this section, policy definitions of~~
17 ~~these benefits may be no more restrictive than the~~
18 ~~following:~~

19 ~~(1) "Home health care" is skilled nursing or other~~
20 ~~professional services in the residence.~~

21 ~~(2) "Adult day care" is medical or nonmedical care on~~
22 ~~a less than 24-hour basis, provided in a licensed facility~~
23 ~~outside the residence, for persons in need of personal~~
24 ~~services, supervision, protection, or assistance in~~
25 ~~sustaining daily needs, including eating, bathing,~~
26 ~~dressing, ambulating, transferring, toileting, and taking~~
27 ~~medications.~~

28 ~~(3) "Personal care" is assistance with the activities of~~
29 ~~daily living, including the instrumental activities of daily~~
30 ~~living, provided by a skilled or unskilled person under a~~
31 ~~plan of care developed by a physician or a~~
32 ~~multidisciplinary team under medical direction.~~
33 ~~"Instrumental activities of daily living" include using the~~
34 ~~telephone, managing medications, moving about outside,~~
35 ~~shopping for essentials, preparing meals, laundry, and~~
36 ~~light housekeeping.~~

37 ~~(4) "Homemaker services" is assistance with activities~~
38 ~~necessary to or consistent with the insured's ability to~~
39 ~~remain in his or her residence, that is provided by a skilled~~
40 ~~or unskilled person under a plan of care developed by a~~



1 ~~physician or a multidisciplinary team under medical~~
2 ~~direction.~~

3 ~~(5) “Hospice services” are outpatient services not paid~~
4 ~~by Medicare, that are designed to provide palliative care,~~
5 ~~alleviate the physical, emotional, social, and spiritual~~
6 ~~discomforts of an individual who is experiencing the last~~
7 ~~phases of life due to the existence of a terminal disease,~~
8 ~~and to provide supportive care to the primary caregiver~~
9 ~~and the family. Care may be provided by a skilled or~~
10 ~~unskilled person under a plan of care developed by a~~
11 ~~physician or a multidisciplinary team under medical~~
12 ~~direction.~~

13 ~~(6) “Respite care” is short term care provided in an~~
14 ~~institution, in the home, or in a community-based~~
15 ~~program, that is designed to relieve a primary caregiver~~
16 ~~in the home. This is a separate benefit with its own~~
17 ~~conditions for eligibility and maximum benefit levels.~~

18 ~~(e) Home care benefits shall not be limited or~~
19 ~~excluded by any of the following:~~

20 ~~(1) Requiring a need for care in a nursing home if~~
21 ~~home care services are not provided.~~

22 ~~(2) Requiring that skilled nursing or therapeutic~~
23 ~~services be used before or with unskilled services.~~

24 ~~(3) Requiring the existence of an acute condition.~~

25 ~~(4) Limiting benefits to services provided by~~
26 ~~Medicare-certified providers or agencies.~~

27 ~~(5) Limiting benefits to those provided by licensed or~~
28 ~~skilled personnel when other providers could provide the~~
29 ~~service, except where prior certification or licensure is~~
30 ~~required by state law.~~

31 ~~(6) Defining an eligible provider in a manner that is~~
32 ~~more restrictive than that used to license that provider by~~
33 ~~the state where the service is provided.~~

34 ~~(7) Requiring “medical necessity” or similar standard~~
35 ~~as a criteria for benefits.~~

36 ~~(d) Every comprehensive long-term care policy or~~
37 ~~certificate that provides for both institutional care and~~
38 ~~home care and that sets a daily, weekly, or monthly~~
39 ~~benefit payment maximum, shall pay a maximum benefit~~
40 ~~payment for home care that is at least 50 percent of the~~



1 ~~maximum benefit payment for institutional care, and in~~
2 ~~no event shall home care benefits be paid at a rate less~~
3 ~~than fifty dollars (\$50) per day. Insurance products~~
4 ~~approved for residents in continuing care retirement~~
5 ~~communities are exempt from this provision.~~

6 ~~Every such comprehensive long term care policy or~~
7 ~~certificate that sets a durational maximum for~~
8 ~~institutional care, limiting the length of time that benefits~~
9 ~~may be received during the life of the policy or~~
10 ~~certificate, shall allow a similar durational maximum for~~
11 ~~home care that is at least one half of the length of time~~
12 ~~allowed for institutional care.~~

13 ~~SEC. 5. Section 10234.93 of the Insurance Code is~~
14 ~~amended to read:~~

15 ~~10234.93. (a) Every insurer of long term care in~~
16 ~~California shall:~~

17 ~~(1) Establish marketing procedures to assure that any~~
18 ~~comparison of policies by its agents or other producers~~
19 ~~will be fair and accurate.~~

20 ~~(2) Establish marketing procedures to assure~~
21 ~~excessive insurance is not sold or issued.~~

22 ~~(3) Submit to the commissioner within six months of~~
23 ~~the effective date of this act, a list of all agents or other~~
24 ~~insurer representatives authorized to solicit individual~~
25 ~~consumers for the sale of long-term care insurance. These~~
26 ~~submissions shall be updated at least semiannually.~~

27 ~~(4) Provide the following continuing education and~~
28 ~~require that each agent or other insurer representative~~
29 ~~authorized to solicit individual consumers for the sale of~~
30 ~~long-term care insurance shall satisfactorily complete the~~
31 ~~following continuing education requirements which shall~~
32 ~~be part of, and not in addition to, the continuing~~
33 ~~education requirements in Section 1749.3:~~

34 ~~(A) For licensees issued a license after January 1, 1992,~~
35 ~~eight hours of education in each of the first four 12-month~~
36 ~~periods beginning from the date of original license~~
37 ~~issuance and thereafter and eight hours of education prior~~
38 ~~to each license renewal.~~



1 ~~(B) For licensees issued a license before January 1,~~
2 ~~1992, eight hours of education prior to each license~~
3 ~~renewal.~~

4 ~~Licensees shall complete the initial continuing~~
5 ~~education requirements of this section prior to being~~
6 ~~authorized to solicit individual consumers for the sale of~~
7 ~~long-term care insurance.~~

8 ~~The continuing education required by this section shall~~
9 ~~consist of topics related to long-term care services and~~
10 ~~long-term care insurance, including, but not limited to,~~
11 ~~California regulations and requirements, available~~
12 ~~long-term care services and facilities, changes or~~
13 ~~improvements in services or facilities, differences in~~
14 ~~eligibility for benefits and tax treatment between policies~~
15 ~~intended to be federally qualified and those not intended~~
16 ~~to be federally qualified, the effect of inflation in eroding~~
17 ~~the value of benefits, the importance of inflation~~
18 ~~protection, NAIC consumer suitability standards and~~
19 ~~guidelines, and alternatives to the purchase of private~~
20 ~~long-term care insurance.~~

21 ~~(5) Display prominently on page one of the policy or~~
22 ~~certificate and the outline of coverage: "Notice to buyer:~~
23 ~~This policy may not cover all of the costs associated with~~
24 ~~long-term care incurred by the buyer during the period~~
25 ~~of coverage. The buyer is advised to review carefully all~~
26 ~~policy limitations."~~

27 ~~(6) Inquire and otherwise make every reasonable~~
28 ~~effort to identify whether a prospective applicant or~~
29 ~~enrollee for long-term care insurance already has~~
30 ~~accident and sickness or long-term care insurance and the~~
31 ~~types and amounts of any such insurance.~~

32 ~~(7) Every insurer or entity marketing long-term care~~
33 ~~insurance shall establish auditable procedures for~~
34 ~~verifying compliance with this subdivision.~~

35 ~~(8) Every insurer shall provide to a prospective~~
36 ~~applicant, at the time of solicitation, written notice that~~
37 ~~the Health Insurance Counseling and Advocacy Program~~
38 ~~(HICAP) provides health insurance counseling to senior~~
39 ~~California residents free of charge. Every agent shall~~
40 ~~provide the name, address, and telephone number of the~~



1 local HICAP program and the statewide HICAP
2 telephone number, 1-800-434-0222.

3 (b) In addition to other unfair trade practices,
4 including those identified in this code, the following acts
5 and practices are prohibited:

6 (1) Twisting. Knowingly making any misleading
7 representation or incomplete or fraudulent comparison
8 of any insurance policies or insurers for the purpose of
9 inducing, or tending to induce, any person to lapse,
10 forfeit, surrender, terminate, retain, pledge, assign,
11 borrow on, or convert any insurance policy or to take out
12 a policy of insurance with another insurer.

13 (2) High pressure tactics. Employing any method of
14 marketing having the effect of or tending to induce the
15 purchase of insurance through force, fright, threat,
16 whether explicit or implied, or undue pressure to
17 purchase or recommend the purchase of insurance.

18 (3) Cold lead advertising. Making use directly or
19 indirectly of any method of marketing which fails to
20 disclose in a conspicuous manner that a purpose of the
21 method of marketing is solicitation of insurance and that
22 contact will be made by an insurance agent or insurance
23 company.

24 *SEC. 4. Section 22005 of the Welfare and Institutions*
25 *Code is amended to read:*

26 22005. The department shall only certify long-term
27 care insurance policies and health care service plan
28 contracts which cover long-term care that provide all of
29 the following:

30 (a) Individual case management by a coordinating
31 entity designated or approved by the department.

32 (b) The levels and durations of benefits which meet
33 minimum standards set by the department.

34 (c) Protection against loss of benefits due to inflation.

35 (d) A recordkeeping system including an explanation
36 of benefit report on insurance payments or benefits
37 which count toward Medi-Cal resource exclusion.

38 (e) Approval of the insurance policy by the
39 Department of Insurance as meeting the requirements of
40 Chapter 2.6 (commencing with Section 10230) of Part 2



1 of Division 2 of the Insurance Code, excepting the
2 requirements of Sections 10232.1 ~~and~~, 10232.2, 10232.25,
3 10232.8, 10232.9, and 10232.92, or approval of the health
4 care service plan contract by the Department of
5 Corporations pursuant to Chapter 2.2 (commencing with
6 Section 1340) of Division 2 of the Health and Safety Code
7 as providing substantially equivalent coverage to that
8 required by Chapter 2.6 (commencing with Section
9 10230) of Part 2 of Division 2 of the Insurance Code.

10 (f) Compliance with any other requirements imposed
11 by the department through regulations consistent with
12 the purposes of this division.

13 *SEC. 5. This act shall become operative only if SB 527*
14 *and SB 1052 are also enacted and become effective on or*
15 *before January 1, 1998.*

16 *SEC. 6. This act is an urgency statute necessary for the*
17 *immediate preservation of the public peace, health, or*
18 *safety within the meaning of Article IV of the*
19 *Constitution and shall go into immediate effect. The facts*
20 *constituting the necessity are:*

21 *In order to implement the Health Insurance Portability*
22 *and Accountability Act of 1996 (P.L. 104-191) providing*
23 *for tax deductibility of certain long-term care insurance*
24 *policies, it is necessary that this act take effect*
25 *immediately.*

