ASSEMBLY BILL No. 119

Introduced by Assembly Member Jones

January 15, 2009

An act to amend Section 1365.5 of the Health and Safety Code, and to add Section 10140.2 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 119, as introduced, Jones. Health care coverage: pricing.

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 that act a crime. Existing law prohibits health care service plans from charging premium, price, or charge differentials because of sex, but makes an exception for differentials based on specified statistical and actuarial data.

This bill would eliminate that exception.

Because a willful violation of this provision by a health care service plan would be a crime, this bill would impose a state-mandated local program.

Existing law provides for the regulation of life and disability insurers by the Department of Insurance. Existing law prohibits life and disability insurers from engaging in certain discriminatory practices, but specifies that premium, price, or charge differentials because of sex are not prohibited when based on specified statistical or actuarial data or sound underwriting practices.

This bill would prohibit health insurers from charging a premium, price, or charge differential because of the sex of specified individuals,

even if the premium, price, or charge differential is based on statistical and actuarial data or sound underwriting practices.

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:

SECTION 1. Section 1365.5 of the Health and Safety Code is amended to read:

1365.5. (a) No health care service plan or specialized health care service plan shall refuse to enter into any contract or shall cancel or decline to renew or reinstate any contract because of the race, color, national origin, ancestry, religion, sex, marital status, sexual orientation, or age of any contracting party, prospective contracting party, or person reasonably expected to benefit from that contract as a subscriber, enrollee, member, or otherwise.

(b) The terms of any contract shall not be modified, and the benefits or coverage of any contract shall not be subject to any limitations, exceptions, exclusions, reductions, copayments, coinsurance, deductibles, reservations, or premium, price, or charge differentials, or other modifications because of the race, color, national origin, ancestry, religion, sex, marital status, sexual orientation, or age of any contracting party, potential contracting party, or person reasonably expected to benefit from that contract as a subscriber, enrollee, member, or otherwise; except that premium, price, or charge differentials because of the ~~sex or~~ age of any individual when based on objective, valid, and up-to-date statistical and actuarial data are not prohibited. ~~Nothing in this section shall be construed to permit a health care service plan to charge different premium rates to individual enrollees within the same group solely on the basis of the enrollee's sex.~~

(c) It shall be deemed a violation of subdivision (a) for any health care service plan to utilize marital status, living arrangements, occupation, sex, beneficiary designation, ZIP Codes or other territorial classification, or any combination thereof for

the purpose of establishing sexual orientation. Nothing in this section shall be construed to alter in any manner the existing law prohibiting health care service plans from conducting tests for the presence of human immunodeficiency virus or evidence thereof.

(d) This section shall not be construed to limit the authority of the director to adopt or enforce regulations prohibiting discrimination because of sex, marital status, or sexual orientation.

(e) "Sex" as used in this section shall have the same meaning as "gender," as defined in Section 422.56 of the Penal Code.

SEC. 2. Section 10140.2 is added to the Insurance Code, to read:

10140.2. (a) Notwithstanding Section 10140, a health insurance policy issued, amended, or renewed on or after January 1, 2010, shall not be subject to premium, price, or charge differentials because of the sex of any contracting party, potential contracting party, or person reasonably expected to benefit from the policy as a policyholder, insured, or otherwise, even if that premium, price, or charge differential is based on statistical and actuarial data or sound underwriting practices.

(b) For purposes of this section, "sex" shall have the same meaning as "gender," as defined in Section 422.56 of the Penal Code.

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

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