

ASSEMBLY BILL

No. 1945

Introduced by Assembly Member De La Torre

February 13, 2008

An act to amend Section 1389.3 of the Health and Safety Code, and to amend Section 10384 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 1945, as introduced, De La Torre. Health care coverage.

Existing law provides for licensing and regulation of health care service plans by the Department of Managed Health Care. Existing law provides for regulation of health insurers by the Insurance Commissioner. A willful violation of provisions governing health care service plans is a crime.

Existing law prohibits a health care service plan or health insurer from engaging in postclaims underwriting, defined to mean the rescinding, canceling, or limiting of a plan contract or policy due to the plan's or insurer's failure to complete medical underwriting and resolve all reasonable questions relative to an application for health care coverage before issuing the plan contract or policy.

This bill would additionally require a health care service plan or health insurer to seek and obtain final approval of its regulator prior to rescinding, canceling, or limiting a plan contract or policy, as applicable. The bill would also authorize each regulator, as applicable, to suspend or revoke the license or certificate of a plan or insurer in violation of this prohibition or to assess administrative penalties.

Because a willful violation of these provisions by a health care service plan 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 1389.3 of the Health and Safety Code is
2 amended to read:

3 1389.3. (a) No health care service plan shall engage in the
4 practice of postclaims underwriting. For purposes of this section,
5 “postclaims underwriting” means the rescinding, canceling, or
6 limiting of a plan contract due to the plan's failure to complete
7 medical underwriting and resolve all reasonable questions arising
8 from written information submitted on or with an application before
9 issuing the plan contract. This section shall not limit a plan's
10 remedies upon a showing of willful misrepresentation.

11 (b) (1) *Notwithstanding any other provision of law, a health
12 care service plan shall seek and receive final approval from the
13 director prior to rescinding, canceling, or limiting a plan contract
14 of a subscriber or enrollee.*

15 (2) *The director may suspend or revoke a license issued to a
16 health care service plan or assess administrative penalties if the
17 director determines that the health care service plan is in violation
18 of this subdivision.*

19 SEC. 2. Section 10384 of the Insurance Code is amended to
20 read:

21 10384. (a) No insurer issuing or providing any policy of
22 ~~disability health insurance covering hospital, medical, or surgical~~
23 ~~expenses~~ shall engage in the practice of postclaims underwriting.
24 For purposes of this section, “postclaims underwriting” means the
25 rescinding, canceling, or limiting of a policy or certificate due to
26 the insurer’s failure to complete medical underwriting and resolve

1 all reasonable questions arising from written information submitted
2 on or with an application before issuing the policy or certificate.

3 *(b) (1) Notwithstanding any other provision of law, an insurer*
4 *shall seek and receive final approval from the commissioner prior*
5 *to rescinding, canceling, or limiting a health insurance policy or*
6 *certificate of an insured.*

7 *(2) The commissioner may suspend or revoke a certificate of*
8 *authority issued to an insurer or assess administrative penalties*
9 *if the commissioner determines that the insurer is in violation of*
10 *this subdivision.*

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