

AMENDED IN SENATE JUNE 29, 2016

AMENDED IN SENATE MARCH 10, 2016

AMENDED IN ASSEMBLY APRIL 28, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 565

Introduced by Assembly Member Cooley

February 24, 2015

An act to amend Sections ~~10203.4, 10270.6~~, *10203.4* and 10271.1 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 565, as amended, Cooley. Group life ~~and disability~~ insurance: required provisions.

Existing law provides for the regulation of specified insurance products, including group life ~~and disability~~ insurance, by the Insurance Commissioner. Existing law provides that insurance under a group life insurance policy may be extended to insure the dependents of each insured employee under the group policy, as specified. Existing law defines a dependent for these purposes as including the employee's spouse and all children from birth until 26 years of age, or a child 26 years of age or older who is both incapable of self-sustaining employment by reason of intellectual disability or physical handicap and chiefly dependent upon the employee for support and maintenance, as specified.

This bill would clarify that ~~the group policyholder would be authorized to elect coverage for dependent children under a group life insurance~~

~~policy based on factors, including marital status, student status, residency, or support requirements, and, for dependent children over the age of majority, majority the group policyholder would be authorized to elect coverage at age variations up to the limiting age.~~

~~Existing law requires a group disability master insurance policy to include a provision that the insurer will issue to the policyholder for delivery to an individual insured under the policy an individual certificate that sets forth a statement as to the insurance protection to which he or she is entitled and to whom it is payable.~~

~~This bill would provide that instead the insurer may include in the master insurance policy a provision that the insurer will issue the certificate directly to the insured individual. This bill would make other technical, nonsubstantive changes.~~

Existing law defines a waiver of premium benefit or a waiver of monthly deduction benefit under a life insurance contract as a supplemental benefit that operates to safeguard a life insurance contract against lapse when the insured becomes totally disabled, as defined by the supplemental benefit, and continues until the end of the insured's disability or the period specified by the supplemental benefit, consistent with specified restrictions. Existing law requires, if the insured's total disability begins before the insured attains 60 years of age, the insurer to waive all premiums or monthly deductions due for the period that the insured continues to be totally disabled. Existing law requires, if the insured's total disability begins when the insured is 60 years of age or older, the insurer to waive all premiums or monthly deductions due for the period that the insured continues to be totally disabled up to 65 years of age.

This bill would require an insurer, for an insured who becomes totally disabled before attaining 60 years of age and is covered by a group life insurance policy that includes a supplemental benefit, to waive all premiums or monthly deductions due for the period of total disability up to the time the insured attains 65 years of age. The bill would also permit ~~an insurer, for~~ *insurer to collect premiums or monthly deductions from* an insured who becomes totally disabled on or after 60 years of age and is covered by a group life insurance policy that includes a supplemental benefit, ~~to collect premiums as long as the insurer offers the group policyholder the option of having the insurer waive premiums up to 65 years of age.~~ *benefit. The bill would require an insurer offering a renewal for a group life insurance policy issued prior to January 1, 2017, that contains a supplemental benefit to offer the employer a*

continuation of the in-force supplemental benefit, and would authorize the insurer to concurrently offer the group policyholder the option to change the supplemental benefit to either waive or collect premiums or monthly deductions as described above.

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

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

1 SECTION 1. Section 10203.4 of the Insurance Code is
2 amended to read:

3 10203.4. (a) Insurance under a group life insurance policy
4 issued pursuant to Sections 10202, 10202.8, 10203, 10203.1, and
5 10203.7 may be extended to insure the dependents, or any class
6 or classes thereof, of each insured employee who so elects, in
7 amounts in accordance with some plan that precludes individual
8 selection and that shall not be in excess of 100 percent of the
9 insurance on the life of the insured employee. ~~The group~~
10 ~~policyholder may elect coverage for dependent children based on~~
11 ~~factors, including marital status, student status, residency, or~~
12 ~~support requirements, and, for~~ For dependent children over the
13 age of majority, the group policyholder may elect coverage at age
14 variations up to the limiting age.

15 (b) "Dependent" includes the member's spouse or a minor child,
16 as well as a child older than the age of majority up to a maximum
17 of 26 years of age, or ~~an older child~~ *any child over the age of*
18 *majority* who is both incapable of self-sustaining employment by
19 reason of an intellectual disability or physical handicap and chiefly
20 dependent upon the employee for support and maintenance if proof
21 of the incapacity and dependency is furnished to the insurer by the
22 employee within 31 days of the child's attainment of the limiting
23 age and subsequently as may be required by the insurer, but not
24 more frequently than annually after the two-year period following
25 the child's attainment of the limiting age.

26 (c) The premiums for the insurance on the dependents may be
27 paid by the employer, the employee, or the employer and the
28 employee jointly.

29 ~~SEC. 2. Section 10270.6 of the Insurance Code is amended to~~
30 ~~read:~~

1 ~~10270.6. Every group disability master policy shall contain~~
2 ~~the following provisions:~~

3 ~~(a) A provision that the policy, the application of the~~
4 ~~policyholder, and the individual applications, if any, of the~~
5 ~~individuals insured shall constitute the entire contract between the~~
6 ~~parties, and that all statements made by the policyholder, or by the~~
7 ~~individuals insured shall, in the absence of fraud, be deemed~~
8 ~~representations and not warranties, and that no such statement shall~~
9 ~~be used in defense to a claim under the policy, unless it is contained~~
10 ~~in a written application.~~

11 ~~(b) A provision that the insurer will issue to the policyholder~~
12 ~~for delivery to the individuals insured under that policy, or a~~
13 ~~provision that the insurer will issue directly to the insured, an~~
14 ~~individual certificate setting forth a statement as to the insurance~~
15 ~~protection to which he or she is entitled and to whom payable.~~

16 ~~(c) A provision that to the group or class thereof originally~~
17 ~~insured shall be added from time to time all new employees,~~
18 ~~members or pupils of the policyholder eligible to and applying for~~
19 ~~insurance in that group or class.~~

20 ~~(d) A statement that the policy is not in lieu of and does not~~
21 ~~affect any requirement for coverage by workmen’s compensation~~
22 ~~insurance.~~

23 ~~SEC. 3.~~

24 ~~SEC. 2.~~ Section 10271.1 of the Insurance Code is amended to
25 read:

26 10271.1. (a) (1) Supplemental benefits that operate to
27 safeguard life insurance contracts against lapse are defined as a
28 waiver of premium benefit or a waiver of monthly deduction
29 benefit, as applicable, in which the insurer waives the premium or
30 monthly deduction for a life insurance contract when the insured
31 becomes totally disabled, as defined by the supplemental benefit,
32 and where the waiver continues until the end of the insured’s
33 disability, or for the period specified by the supplemental benefit,
34 consistent with paragraph (5).

35 (2) For purposes of this subdivision, total disability shall not be
36 less favorable to the insured than the following:

37 (A) During the first 24 months of total disability, the insured is
38 unable to perform with reasonable continuity the substantial and
39 material duties of his or her job due to sickness or bodily injury.

1 (B) After the first 24 months of total disability, the insured, due
2 to sickness or bodily injury, is unable to engage with reasonable
3 continuity in any other job in which he or she could reasonably be
4 expected to perform satisfactorily in light of his or her age,
5 education, training, experience, station in life, or physical and
6 mental capacity.

7 (3) The definition of total disability may also include
8 presumptive total disability, such as the insured's total and
9 permanent loss of sight of both eyes, hearing of both ears, speech,
10 the use of both hands, both feet, or one hand and one foot.

11 (4) The insurer may require total disability to continue for an
12 uninterrupted period of time specified by the supplemental benefit,
13 or the insurer may allow separate periods of disability to be
14 combined.

15 (5) The waiver of premium or monthly deduction benefit shall
16 continue for the period specified by the supplemental benefit, but
17 shall not be less favorable to the insured than the following:

18 (A) If the insured's total disability begins before the insured
19 attains 60 years of age, the insurer shall waive all premiums or
20 monthly deductions due for the period that the insured continues
21 to be totally disabled, ~~except in the case of coverage under~~ *as*
22 *follows:*

23 (i) ~~For group life insurance policies where, policies,~~ if the
24 insured's total disability begins before the insured attains 60 years
25 of age, the insurer shall waive all premiums or monthly deductions
26 due for the period of total disability up to 65 years of age. Nothing
27 in this subdivision shall preclude the insurer from extending a
28 supplemental benefit for longer periods.

29 (ii) *When a renewal is offered for a group life insurance policy*
30 *that was issued prior to January 1, 2017, and contains a*
31 *supplemental benefit described in this subparagraph, the insurer*
32 *shall offer to renew the policy with a continuation of the in-force*
33 *supplemental benefit, and may concurrently offer the group*
34 *policyholder the option to change the supplemental benefit as*
35 *described in clause (i).*

36 (B) If the insured's total disability begins after the age specified
37 in subparagraph (A), the insurer shall waive all premiums or
38 monthly deductions due for the period that the insured continues
39 to be totally disabled up to 65 years of age, ~~except in the case of~~
40 ~~coverage under~~ *as follows:*

1 (i) ~~For group life insurance policies where, subject to the insurer~~
 2 ~~offering the group policyholder the option to have the insurer waive~~
 3 ~~premiums up to 65 years of age, premiums are not required to be~~
 4 ~~waived for a disability that begins on or after the date the insured~~
 5 ~~attains 60 years of age. policies, if the insured's total disability~~
 6 ~~begins on or after the date the insured attains 60 years of age, the~~
 7 ~~insurer is not required to waive premiums or monthly deductions.~~
 8 Nothing in this subdivision shall preclude the insurer from
 9 extending a supplemental benefit for longer periods.

10 (ii) *When a renewal is offered for a group life insurance policy*
 11 *that was issued prior to January 1, 2017, and contains a*
 12 *supplemental benefit described in this subparagraph, the insurer*
 13 *shall offer to renew the policy with a continuation of the in-force*
 14 *supplemental benefit, and may concurrently offer the group*
 15 *policyholder the option to change the supplemental benefit as*
 16 *described in clause (i).*

17 (6) In addition to the permissible exclusions listed in subdivision
 18 (g) of Section 10271, the insurer may exclude a total disability
 19 occurring after the policy anniversary or supplemental contract
 20 anniversary, as applicable and as defined by the supplemental
 21 benefit, on which the insured attains a specified age of no less than
 22 65 years.

23 (b) “Special surrender benefit” is defined as a “waiver of
 24 surrender charge benefit” wherein the insurer waives the surrender
 25 charge usually charged for a withdrawal of funds from the cash
 26 value of a life insurance contract or the account value of an annuity
 27 contract if the owner, insured, or annuitant, as applicable, meets
 28 any of the following criteria:

29 (1) Develops any medical condition where the owner’s,
 30 insured’s, or annuitant’s life expectancy is expected to be less than
 31 or equal to a limited period of time that shall not be restricted to
 32 a period of less than 12 months or greater than 24 months.

33 (2) Is receiving, as prescribed by a physician, registered nurse,
 34 or licensed social worker, home care or community-based services,
 35 as defined in subdivision (a) of Section 10232.9, or is confined in
 36 a skilled nursing facility, convalescent nursing home, or extended
 37 care facility, which shall not be defined more restrictively than as
 38 in the Medicare program, or is confined in a residential care facility
 39 or residential care facility for the elderly, as defined in the Health
 40 and Safety Code. Out-of-state providers of services shall be defined

1 as comparable in licensure and staffing requirements to California
2 providers.

3 (3) Has any medical condition that would, in the absence of
4 treatment, result in death within a limited period of time, as defined
5 by the supplemental benefit, but that shall not be restricted to a
6 period of less than six months.

7 (4) Is totally disabled, as follows:

8 (A) During the first 24 months of total disability, the owner,
9 insured, or annuitant, as applicable, is unable to perform with
10 reasonable continuity the substantial and material duties of his or
11 her job due to sickness or bodily injury.

12 (B) After the first 24 months of total disability, the owner,
13 insured, or annuitant, as applicable, due to sickness or bodily injury,
14 is unable to engage with reasonable continuity in any other job in
15 which he or she could reasonably be expected to perform
16 satisfactorily in light of his or her age, education, training,
17 experience, station in life, or physical and mental capacity.

18 (C) The definition of total disability may also include
19 presumptive total disability, such as the insured's total and
20 permanent loss of sight of both eyes, hearing of both ears, speech,
21 the use of both hands, both feet, or one hand and one foot.

22 (D) The insurer may require the total disability to continue for
23 an uninterrupted period of time specified by the supplemental
24 benefit, or the insurer may allow separate periods of disability to
25 be combined.

26 (5) Has a chronic illness as defined pursuant to either
27 subparagraph (A) or (B):

28 (A) Either of the following:

29 (i) Impairment in performing two out of seven activities of daily
30 living, as set forth in subdivisions (a) and (g) of Section 10232.8,
31 meaning the insured needs human assistance, or needs continual
32 substantial supervision.

33 (ii) The insured has an impairment of cognitive ability, meaning
34 a deterioration or loss of intellectual capacity due to mental illness
35 or disease, including Alzheimer's disease or related illnesses, that
36 requires continual supervision to protect oneself or others.

37 (B) Either of the following:

38 (i) Impairment in performing two out of six activities of daily
39 living as described in subdivisions (b), (d), (e), and (f) of Section
40 10232.8 due to a loss of functional capacity to perform the activity.

- 1 (ii) Impairment of cognitive ability, meaning the insured needs
- 2 substantial supervision due to severe cognitive impairment, as
- 3 described in subdivisions (b), (d), and (e) of Section 10232.8.
- 4 (6) Has become involuntarily or voluntarily unemployed.
- 5 (c) The term “supplemental benefit” means a rider to or
- 6 provision in a life insurance policy, certificate, or annuity contract
- 7 that provides a benefit as set forth in subdivision (a) of Section
- 8 10271.