



General Assembly

January Session, 2007

Amendment

LCO No. 7164

SB0121407164SD0

Offered by:
SEN. CRISCO, 17th Dist.

To: Subst. Senate Bill No. 1214 File No. 112 Cal. No. 154

"AN ACT CONCERNING POSTCLAIMS UNDERWRITING."

1 Strike everything after the enacting clause and insert the following
2 in lieu thereof:

3 "Section 1. (NEW) (*Effective October 1, 2007*) (a) No health insurer or
4 health care center that delivers, issues for delivery, amends, renews or
5 continues any policy of insurance, contract, certificate or evidence of
6 coverage providing coverage of the type specified in subdivisions (1),
7 (2), (4), (6), (10), (11) and (12) of section 38a-469 of the general statutes
8 shall rescind, cancel or limit any such policy, contract, certificate or
9 evidence of coverage, due to the insurer's or health care center's failure
10 to complete medical underwriting and resolve all reasonable medical
11 questions arising from written information submitted on, with or
12 omitted from an application before issuing the policy, contract,
13 certificate or evidence of coverage, unless the insurer or health care
14 center proves to the Insurance Commissioner that (1) such information
15 is false and was provided by the applicant or such applicant's
16 representative with knowledge of the falsity therein, or (2) such

17 information was knowingly omitted by the applicant or such
18 applicant's representative and such submission or omission materially
19 affects the risk or the hazard assumed by the health insurer or health
20 care center. The health insurer or health care center shall provide the
21 commissioner with such information on such form as the
22 commissioner shall prescribe. The commissioner shall provide the
23 applicant or such applicant's representative with an opportunity to
24 respond to information submitted. The health insurer or health care
25 center shall accept the decision of the commissioner and such decision
26 shall be binding. No health insurer or health care center that delivers,
27 issues for delivery, amends, renews or continues any policy of
28 insurance, contract, certificate or evidence of coverage providing such
29 coverage shall rescind, cancel or limit any such policy, contract,
30 certificate or evidence of coverage more than two years after the
31 effective date of the policy, contract, certificate or evidence of coverage.

32 (b) The Insurance Commissioner shall adopt regulations, in
33 accordance with chapter 54 of the general statutes, to implement the
34 provisions of this section. Such regulations shall specify the
35 requirements for the submission of written information by a health
36 insurer or health care center.

37 Sec. 2. Section 38a-19 of the general statutes is repealed and the
38 following is substituted in lieu thereof (*Effective October 1, 2007*):

39 (a) Any person or insurer aggrieved by any order or decision of the
40 commissioner made without a hearing may, not later than thirty days
41 after notice of the order to the person or insurer, make written request
42 to the commissioner for a hearing on the order or decision. The
43 commissioner shall hear such party or parties not later than thirty days
44 after receipt of such request and shall give not less than ten days'
45 written notice of the time and place of the hearing. Not later than forty-
46 five days after such hearing, the commissioner shall affirm, reverse or
47 modify his previous order or decision, specifying his reasons therefor.
48 Pending such hearing and decision on such hearing the commissioner
49 may suspend or postpone the effective date of his previous order or

50 decision.

51 (b) Nothing contained in this section or sections 38a-363 to 38a-388,
52 inclusive, shall require the observance at any hearing of formal rules of
53 pleading or evidence.

54 (c) The provisions of this section shall not apply to an order or
55 decision of the commissioner made pursuant to section 38a-478n or
56 section 1 of this act.

57 (d) Any order or decision of the commissioner shall be subject to
58 appeal therefrom in accordance with the provisions of section 4-183.

59 Sec. 3. Section 38a-476 of the general statutes is repealed and the
60 following is substituted in lieu thereof (*Effective October 1, 2007*):

61 (a) (1) For the purposes of this section, "health insurance plan"
62 means any hospital and medical expense incurred policy, hospital or
63 medical service plan contract and health care center subscriber contract
64 and does not include (A) [short-term health insurance issued on a
65 nonrenewable basis with a duration of six months or less,] accident
66 only, credit, dental, vision, Medicare supplement, long-term care or
67 disability insurance, hospital indemnity coverage, coverage issued as a
68 supplement to liability insurance, insurance arising out of a workers'
69 compensation or similar law, automobile medical payments insurance,
70 or insurance under which beneficiaries are payable without regard to
71 fault and which is statutorily required to be contained in any liability
72 insurance policy or equivalent self-insurance, or (B) policies of
73 specified disease or limited benefit health insurance, provided that the
74 carrier offering such policies files on or before March first of each year
75 a certification with the Insurance Commissioner that contains the
76 following: (i) A statement from the carrier certifying that such policies
77 are being offered and marketed as supplemental health insurance and
78 not as a substitute for hospital or medical expense insurance; (ii) a
79 summary description of each such policy including the average annual
80 premium rates, or range of premium rates in cases where premiums
81 vary by age, gender or other factors, charged for such policies in the

82 state; and (iii) in the case of a policy that is described in this
83 subparagraph and that is offered for the first time in this state on or
84 after October 1, 1993, the carrier files with the commissioner the
85 information and statement required in this subparagraph at least thirty
86 days prior to the date such policy is issued or delivered in this state.

87 (2) "Insurance arrangement" means any "multiple employer welfare
88 arrangement", as defined in Section 3 of the Employee Retirement
89 Income Security Act of 1974 (ERISA), as amended, except for any such
90 arrangement which is fully insured within the meaning of Section
91 514(b)(6) of said act, as amended.

92 (3) "Preexisting conditions provision" means a policy provision
93 which limits or excludes benefits relating to a condition based on the
94 fact that the condition was present before the effective date of
95 coverage, for which any medical advice, diagnosis, care or treatment
96 was recommended or received before such effective date. Routine
97 follow-up care to determine whether a breast cancer has reoccurred in
98 a person who has been previously determined to be breast cancer free
99 shall not be considered as medical advice, diagnosis, care or treatment
100 for purposes of this section unless evidence of breast cancer is found
101 during or as a result of such follow-up. Genetic information shall not
102 be treated as a condition in the absence of a diagnosis of the condition
103 related to such information. Pregnancy shall not be considered a
104 preexisting condition.

105 (4) "Qualifying coverage" means (A) any group health insurance
106 plan, insurance arrangement or self-insured plan, (B) Medicare or
107 Medicaid, or (C) an individual health insurance plan that provides
108 benefits which are actuarially equivalent to or exceeding the benefits
109 provided under the small employer health care plan, as defined in
110 subdivision (12) of section 38a-564, whether issued in this state or any
111 other state.

112 (5) "Applicable waiting period" means the period of time imposed
113 by the group policyholder or contractholder before an individual is

114 eligible for participating in the group policy or contract.

115 (b) (1) No group health insurance plan or insurance arrangement
116 may impose a preexisting conditions provision which excludes
117 coverage for a period beyond twelve months following the insured's
118 effective date of coverage. Any preexisting conditions provision may
119 only relate to conditions, whether physical or mental, for which
120 medical advice, diagnosis or care or treatment was recommended or
121 received during the six months immediately preceding the effective
122 date of coverage.

123 (2) No individual health insurance plan or insurance arrangement
124 may impose a preexisting conditions provision which excludes
125 coverage beyond twelve months following the insured's effective date
126 of coverage. Any preexisting conditions provision may only relate to
127 conditions, whether physical or mental, [which manifest themselves,
128 or] for which medical advice, diagnosis or care or treatment was
129 recommended or received during the twelve months immediately
130 preceding the effective date of coverage.

131 (c) All health insurance plans and insurance arrangements shall
132 provide coverage, under the terms and conditions of their policies or
133 contracts, for the preexisting conditions of any newly insured
134 individual who was previously covered for such preexisting condition
135 under the terms of the individual's preceding qualifying coverage,
136 provided the preceding coverage was continuous to a date less than
137 one hundred twenty days prior to the effective date of the new
138 coverage, exclusive of any applicable waiting period, except in the case
139 of a newly insured group member whose previous coverage was
140 terminated due to an involuntary loss of employment, the preceding
141 coverage must have been continuous to a date not more than one
142 hundred fifty days prior to the effective date of the new coverage,
143 exclusive of any applicable waiting period, provided such newly
144 insured group member or dependent applies for such succeeding
145 coverage within thirty days of the member's or dependent's initial
146 eligibility.

147 (d) With respect to a newly insured individual who was previously
148 covered under qualifying coverage, but who was not covered under
149 such qualifying coverage for a preexisting condition, as defined under
150 the new health insurance plan or arrangement, such plan or
151 arrangement shall credit the time such individual was previously
152 covered by qualifying coverage to the exclusion period of the
153 preexisting condition provision, provided the preceding coverage was
154 continuous to a date less than one hundred twenty days prior to the
155 effective date of the new coverage, exclusive of any applicable waiting
156 period under such plan, except in the case of a newly insured group
157 member whose preceding coverage was terminated due to an
158 involuntary loss of employment, the preceding coverage must have
159 been continuous to a date not more than one hundred fifty days prior
160 to the effective date of the new coverage, exclusive of any applicable
161 waiting period, provided such newly insured group member or
162 dependent applies for such succeeding coverage within thirty days of
163 the member's or dependent's initial eligibility.

164 (e) Each insurance company, fraternal benefit society, hospital
165 service corporation, medical service corporation or health care center
166 which issues in this state group health insurance subject to Section
167 2701 of the Public Health Service Act, as set forth in the Health
168 Insurance Portability and Accountability Act of 1996 (P.L. 104-191)
169 (HIPAA), as amended from time to time, shall comply with the
170 provisions of said section with respect to such group health insurance,
171 except that the longer period of days specified in subsections (c) and
172 (d) of this section shall apply to the extent excepted from preemption
173 in Section 2723(B)(2)(iii) of said Public Health Service Act.

174 (f) The provisions of this section shall apply to every health
175 insurance plan or insurance arrangement issued, renewed or
176 continued in this state on or after October 1, 1993. For purposes of this
177 section, the date a plan or arrangement is continued shall be the
178 anniversary date of the issuance of the plan or arrangement. The
179 provisions of subsection (e) of this section shall apply on and after the
180 dates specified in Sections 2747 and 2792 of the Public Health Service

181 Act as set forth in HIPAA.

182 (g) [A short-term health insurance policy issued on a nonrenewable
 183 basis for six months or less shall not be subject to this section,
 184 provided, any policy, application or sales brochure issued for such
 185 short-term insurance which imposes a preexisting conditions provision
 186 shall disclose that such preexisting conditions are not covered.] No
 187 short-term health insurance policy issued on a nonrenewable basis for
 188 six months or less may impose a preexisting condition provision that
 189 excludes coverage beyond twelve months following the insured's
 190 effective date of coverage. Any preexisting condition provision may
 191 only relate to conditions, whether physical or mental, for which
 192 medical advice, diagnosis, care or treatment was recommended or
 193 received during the twenty-four months immediately preceding the
 194 effective date of coverage. Any policy, application or sales brochure
 195 issued for such short-term insurance which imposes a preexisting
 196 conditions provision shall disclose that such preexisting conditions are
 197 not covered. For the purposes of this subsection, "nonrenewable basis"
 198 means only those policies that are issued with a lapse in coverage of
 199 more than thirty days between an earlier policy and a subsequent
 200 policy being issued by the same insurer or health care center to the
 201 same individual policyholder.

202 (h) The commissioner may adopt regulations, in accordance with
 203 the provisions of chapter 54, to enforce the provisions of HIPAA and
 204 this section concerning preexisting conditions and portability.

205 Sec. 4. Section 38a-816 of the general statutes is amended by adding
 206 subdivision (23) as follows (*Effective October 1, 2007*):

207 (NEW) (23) Any violation of section 1 of this act."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	New section
Sec. 2	<i>October 1, 2007</i>	38a-19

Sec. 3	<i>October 1, 2007</i>	38a-476
Sec. 4	<i>October 1, 2007</i>	38a-816