



General Assembly

Amendment

January Session, 2009

LCO No. 5718

HB0653105718HDO

Offered by:

REP. FONTANA, 87th Dist.

SEN. CRISCO, 17th Dist.

To: Subst. House Bill No. 6531

File No. 199

Cal. No. 185

"AN ACT CLARIFYING POSTCLAIMS UNDERWRITING."

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

3 "Section 1. Section 38a-477b of the general statutes is repealed and
4 the following is substituted in lieu thereof (*Effective October 1, 2009*):

5 (a) As used in this section:

6 (1) "Cancellation" or "cancel" means the unilateral termination of an
7 insurance policy, contract, evidence of coverage or certificate.

8 (2) "Limitation" or "limit" means the imposition of a restriction of
9 coverage in an insurance policy, contract, evidence of coverage or
10 certificate for an existing or preexisting medical condition.

11 (3) "Preexisting conditions provision" has the same meaning as
12 provided in section 38a-476.

13 (4) "Rescission" or "rescind" means the termination of an insurance
14 policy, contract, evidence of coverage or certificate by the insurer or
15 health care center to the date of inception on the basis of (A) such
16 insurer's or health care center's discovery of a preexisting condition
17 pursuant to an investigation conducted in accordance with subsection
18 (e) of this section, or (B) a material misstatement, omission or material
19 misrepresentation of fact on an insurance application by the insured
20 that the insurer or health care center relied upon to its detriment.

21 [(a)] (b) Unless approval is granted pursuant to subsection [(b)] (d)
22 of this section, no insurer or health care center [may] shall rescind,
23 cancel or limit any policy of insurance, contract, evidence of coverage
24 or certificate [that provides] providing coverage of the type specified
25 in subdivisions (1), (2), (4), (6), (10), (11) and (12) of section 38a-469,
26 and:

27 (1) Having a duration of one year or more, on the basis of written
28 information submitted on [,] or with or omitted from an insurance
29 application by the insured if the insurer or health care center failed to
30 complete medical underwriting and resolve all reasonable medical
31 questions related to the written information submitted on [,] or with or
32 omitted from the insurance application before issuing the policy,
33 contract, evidence of coverage or certificate; or

34 (2) Having a duration of less than one year, including short-term
35 health insurance issued on a nonrenewable basis with a duration of six
36 months or less, on the basis of written information submitted on or
37 with or omitted from an insurance application by the insured.

38 (c) No insurer or health care center [may] shall rescind, cancel or
39 limit any such policy, contract, evidence of coverage or certificate more
40 than two years after the effective date of the policy, contract, evidence
41 of coverage or certificate.

42 [(b)] (d) An insurer or health care center shall apply for approval of
43 such rescission, cancellation or limitation by submitting such written
44 information to the Insurance Commissioner on an application in such

45 form as the commissioner prescribes. Such insurer or health care center
46 shall provide a copy of the application for such approval to the insured
47 or the insured's representative. Not later than seven business days
48 after receipt of the application for such approval, the insured or the
49 insured's representative shall have an opportunity to review such
50 application and respond and submit relevant information to the
51 commissioner with respect to such application. Not later than fifteen
52 business days after the submission of information by the insured or the
53 insured's representative, the commissioner shall issue a written
54 decision on such application. The commissioner may approve such
55 rescission, cancellation or limitation if the commissioner finds that (1)
56 the written information submitted on or with the insurance application
57 was false at the time such application was made and the insured or
58 such insured's representative knew or should have known of the
59 falsity therein, and such submission materially affects the risk or the
60 hazard assumed by the insurer or health care center, or (2) the
61 information omitted from the insurance application was knowingly
62 omitted by the insured or such insured's representative, or the insured
63 or such insured's representative should have known of such omission,
64 and such omission materially affects the risk or the hazard assumed by
65 the insurer or health care center. Such decision shall be mailed to the
66 insured, the insured's representative, if any, and the insurer or health
67 care center.

68 (e) When investigating a suspected preexisting condition that was
69 not disclosed by an insured, an insurer or health care center shall limit
70 its investigation based on a submitted claim to (1) issues having a
71 direct relationship to the alleged preexisting condition that is the
72 subject of the claim, and (2) the period preceding the effective date of
73 the policy, contract, evidence of coverage or certificate permitted to be
74 limited or excluded under the preexisting conditions provision of such
75 policy, contract, evidence of coverage or certificate.

76 [(c)] (f) Notwithstanding the provisions of chapter 54, any insurer or
77 insured aggrieved by any decision by the commissioner under
78 subsection [(b)] (d) of this section may, [within] not later than thirty

79 days after notice of the commissioner's decision is mailed to such
80 insurer and insured, take an appeal therefrom to the superior court for
81 the judicial district of Hartford, which shall be accompanied by a
82 citation to the commissioner to appear before said court. Such citation
83 shall be signed by the same authority, and such appeal shall be
84 returnable at the same time and served and returned in the same
85 manner, as is required in case of a summons in a civil action. Said court
86 may grant such relief as may be equitable.

87 (g) An insurer or health care center that accepts a telephonic
88 application for individual health insurance coverage shall: (1) Provide
89 to the applicant, prior to the completion of the application process,
90 disclosure of (A) the maximum duration of such policy or contract, (B)
91 any preexisting conditions provisions and an accurate description of
92 each such provision, (C) the relevant exclusionary periods pertaining
93 to such preexisting conditions, and (D) the amount of the monthly
94 premium; (2) retain for two years after the effective date of the policy
95 or contract, in a readily retrievable format, a recording of the
96 applicant's complete telephonic application process; (3) mail the
97 applicant a letter that contains a copy of such applicant's completed
98 application, which may include confirmation of such applicant's
99 agreement to the maximum duration of such policy or contract, the
100 preexisting conditions provisions specified in such policy or contract
101 and the relevant exclusionary periods pertaining to such preexisting
102 conditions and the monthly premium specified for such policy or
103 contract. Such letter shall include a notice that such applicant shall be
104 bound by such agreement unless such applicant rescinds such
105 agreement in writing not later than ten days after receipt of such letter;
106 and (4) retain a copy of such letter and such rescission, if applicable,
107 for two years after the effective date of the policy or contract. The
108 requirements of this subsection shall not apply to telephonic
109 applications for Medicare supplement policies.

110 (h) Any insurance producer or agent who completes or assists in the
111 completion of an application for insurance and an insured who signs
112 such application shall be jointly and severally liable for any claims

113 resulting from any information knowingly omitted or misrepresented
114 by such producer or agent in such application.

115 [(d)] (i) The Insurance Commissioner may adopt regulations, in
116 accordance with chapter 54, to implement the provisions of this
117 section."

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2009	38a-477b