
THIRD READING

Bill No: SB 1255
Author: Committee on Insurance , et al.
Amended: 5/18/20
Vote: 21

SENATE INSURANCE COMMITTEE: 11-0, 5/14/20
AYES: Rubio, Jones, Archuleta, Dodd, Galgiani, Glazer, Hueso, Mitchell,
Moorlach, Portantino, Roth
NO VOTE RECORDED: Bates, Borgeas

SENATE APPROPRIATIONS COMMITTEE: 7-0, 6/18/20
AYES: Portantino, Bates, Bradford, Hill, Jones, Leyva, Wieckowski

SUBJECT: Insurance

SOURCE: Author

DIGEST: This bill provides procedural flexibility to the California Department of Insurance (CDI) when holding a hearing to suspend or revoke a license for alleged misconduct against seniors; clarifies when a life insurer can restrict access to policy withdrawals; cleans up ambiguity in CDI's licensing statutes; prohibits discrimination in life insurance against HIV positive applicants; and makes other technical, nonsubstantive changes.

ANALYSIS:

Existing law:

- 1) Authorizes the Insurance Commissioner to deny an application for an agent or broker license, or revoke an existing license, if the applicant or licenseholder has engaged in specified activities.
- 2) Requires, for allegations of misconduct perpetrated against a person age 65 or over, a hearing to suspend or revoke a license, registration, or certificate of

authority, be held within 90 days after CDI receives a notice of defense, unless a continuance is granted.

- 3) Prohibits a life insurance policy issued on or after January 1, 2021, that contains long-term care benefits and permits policy loans or cash withdrawals from prohibiting or limiting a loan or withdrawal while the insured receives payment of long-term care benefits, but authorizes the policy to limit future access to policy loans based on the remaining cash value of the policy.

This bill:

- 1) Authorizes a hearing to suspend or revoke a license, registration, or certificate of authority for alleged misconduct perpetrated against a person age 65 or over to be set on the earliest available date if the Office of Administrative Hearings cannot accommodate the hearing within 90 days.
- 2) Authorizes future access to cash withdrawals to be limited to the remaining cash value of the policy.
- 3) Prohibits life and disability income insurers from denying an application based solely on HIV status, and heightens the civil and criminal penalties for negligent, willful, or malicious disclosure of HIV test results.
- 4) Makes various technical, nonsubstantive changes.

Background

Under existing law, CDI can take disciplinary action against an applicant or licensee if they are convicted of a misdemeanor listed in the Insurance Code and other laws, as specified. However, a few relevant statutes refer to these types of misdemeanors as “denounced” by the insurance laws. This term is ambiguous and implies that some misdemeanors are worse than others. This bill would remove the ambiguity attached to the word “denounced” and make the law clearer by using the word “specified”, similar to its use in other Insurance Code sections.

CIC 1738.5 was written as a tool for CDI to use to be able to bring cases involving senior victims to hearing earlier than otherwise occurs. This is due to the myriad of issues that surround a case involving senior victims including the potential death of the victims, memory issues, and availability of witnesses (who are often times themselves seniors) among other concerns. The code states that a hearing “shall” be conducted within 90 days if the case involves allegations of a senior victim. As

currently worded, a licensee accused of wrongdoing against a senior may try to seek dismissal merely because the case was not brought to hearing in 90 days.

This proposal clarifies that the 90-day timeframe is at the “request of the Department” ensuring that cases that are not requested to be heard in 90 days continue to progress through the normal administrative hearing process. This gives CDI the ability to use the expedited hearing time frame for senior cases if necessary and eliminates the potential that cases involving seniors will be dismissed if the case is not filed in 90 days.

AB 1209 (Nazarian, Chapter 625, Statutes of 2019) restricted a life insurer’s ability to limit policyholders’ access to policy loans and cash withdrawals. This proposal fixes wording inadvertently left out of Insurance Code section 10235.45(a)(1) regarding cash withdrawals which was correctly included in (a)(2) of the same section.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee, unknown cost pressures to the court to adjudicate charges brought against defendants who disclose the results of a HIV test requested by an insurer to a third party without specified authorization as proscribed by this measure. While the courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to fund additional staff and resources. The CDI does not anticipate SB 1255 to have a fiscal impact on its operations.

SUPPORT: (Verified 6/19/20)

Insurance Commissioner Ricardo Lara
Equality California

OPPOSITION: (Verified 6/19/20)

None received

ARGUMENTS IN SUPPORT: In support of SB 1255, Insurance Commissioner Ricardo Lara writes, “This bill remedies issues identified by the Department of Insurance staff to clarify and cleanup obsolete and superseded code sections.”

Equality California writes, “The Equal Insurance HIV Act will update California’s outdated and discriminatory insurance underwriting laws to clarify that life and disability income insurance providers may not refuse applications based solely on

the outcome of an HIV test. HIV can be treated and managed just as any number of other chronic conditions can be. It is time our laws reflect this reality.”

Prepared by: Brian Flemmer / INS. / (916) 651-4110

6/19/20 17:00:05

****** END ******