

## [Defining "What is a Group?" Under Proposition 103](#)

Posted on November 16, 2010 by [Barger & Wolen LLP](#)

Notice of California Department of Insurance Workshop

By [Robert W. Hogeboom](#)

On Monday, November 11, 2010, the [California Department of Insurance](#) (CDI) issued a [Notice of Workshop Regarding Affinity Groups Under California Insurance Code Section 1861.12](#).

The Workshop, scheduled for Friday, December 3, 2010, in San Francisco, deals with group rating programs and the likely need for regulations defining the term “group” for eligibility under [Section 1861.12](#), “which is a part of Proposition 103 and authorizes insurers to issue property and casualty ‘insurance coverage on a group plan.’”

Section 1861.12 does not define the term “group” and does not specify the conditions as to when insurance may be issued on a group plan.

[Barger & Wolen](#) notes that the issue as to “what is a group?” is of major importance to insurers that have submitted group rating plans. It is likely that the CDI will issue regulations with respect to the usage of those plans, and those regulations will likely continue the present policy of ensuring that all of the coverage offered by group members be available and offered to all insureds.

The notice sets forth 13 areas that the CDI will address at the workshop and invites written comments to be submitted prior to the close of business on December 3, 2010:

- What is the most appropriate definition for the word “group” as used in Section 1861.12?
- Should insurers be allowed to issue insurance on a group plan for groups such as those based on shared characteristics or status, even if the group has no membership requirements?
- Should groups have to exist for a particular purpose other than the purpose of purchasing insurance?
- Should insurers be permitted to form groups solely for the purpose of allowing consumers to purchase insurance at a group rate?
- To what extent if any, do the auto rating factors found in Section 1861.02(a)(4) and California Code of Regulations 2632.5 impact what groups may be allowable under Section 1861.12?
- How should group membership be determined? Should there be eligibility requirements for “membership” in a group, such as payment of dues or voluntarily joining the group?

- Should an insurer ever be required to confirm group membership of an applicant who claims to be a member of a group? What should be required and under what circumstances?
- Should an insurer be required to have a formal agreement with a group before issuing insurance for the group on a group plan?
- Should an insurer that offers group rates be required to notify/offer every insured/applicant of every group rate available? How often – at every renewal?
- Should an insurer be required to discontinue a group rate for an individual when the insured leaves the group or otherwise becomes ineligible for the group rate? What should the insurer have to do to confirm that the insured receiving the group rate remains eligible from one policy period to the next?
- What should be required to establish an initial rate for a new group that has no experience data to support a rate differential?
- What should be required to demonstrate that the group rate is justified as experience for the group develops?
- Should there be a mandatory re-filing period when an insurer makes a new group filing with no experience data?

Written comment should be submitted by e-mail to the Group Regulations Inbox at [Comments.2010-00018@insurance.ca.gov](mailto:Comments.2010-00018@insurance.ca.gov) before the close of business on Friday, December 3, 2010.

**TIME AND PLACE OF WORKSHOP**

Friday, December 3, 2010

10:00 a.m.

California Department of Insurance

45 Fremont Street, 22nd Floor Hearing Room

San Francisco, CA 94105

For more information, contact Robert Hogeboom at [rhogeboom@bargerwolen.com](mailto:rhogeboom@bargerwolen.com) or 213.614.7304.