



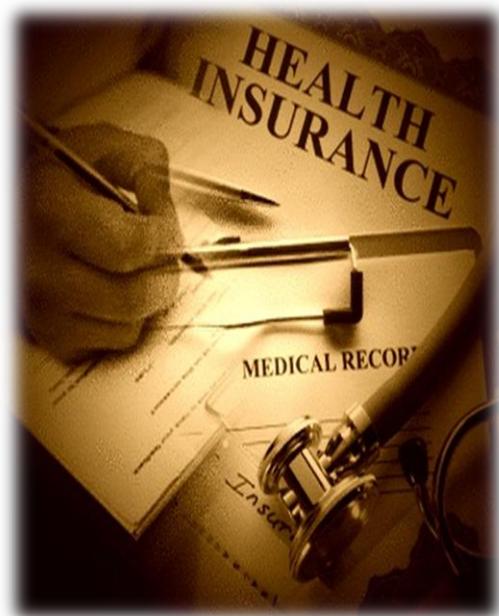
NEW REGULATIONS TAKE AIM AT POLICY RESCISSIONS

Insurance Commissioner Steve Poizner has announced new regulations that go into effect aimed at combating improper rescissions by insurance companies. These will go into effect on August 18, 2010. Poizner said in his press release of August 6, 2010: “Keeping your health insurance can literally be a matter of life and death, and I have zero tolerance for insurers who use pretexts to illegally rescind policies. These tough regulations embody my commitment to enforce the law and protect consumers who buy medically underwritten insurance coverage.”

Under current law, insurance policies can only be rescinded by a health insurer under very specific, limited circumstances.

The new regulations, according to Insurance Commissioner [press release](#), will do the following:

- Prohibit insurers from rescinding policies when they are not in compliance with specified underwriting practices regulations.
- Restrict health condition and history questions on applications to those that are necessary for medical underwriting.
- Require all questions on health insurance applications be clear, specific and understandable.
- Require use of new and improved health history questionnaires approved by the Department before an insurer can rescind.
- Allow consumers to indicate that they are unsure of or cannot remember the answer to a particular health history question.
- Require that agents attest if they help applicants with a health insurance application.
- Prohibit confusing phrasing of application questions like double-negatives and certain compound questions.
- Require that consumers be given a copy of their application to check for discrepancies.
- Require that insurers not rely solely on self-reported health history when possible.
- Prohibit insurers from conducting certain rescission-focused investigations long after becoming aware of a possible misrepresentation or omission by the applicant. Also prohibits insurers from seeking information outside the scope of such an investigation.



- Require that insurers give consumers the opportunity to respond during rescission investigations, and that insurers must listen to consumer-provided information.
- Require that insurers identify and resolve any reasonable questions arising from the application. Insurers must document their effort to resolve these issues and make those documents available to the Commissioner

The new regulations, *Article 11 Standards for Health History Questionnaires in Health Insurance Applications, Pre-Issuance Medical Underwriting and Rescission of Health Insurance Section 2274.72(b)*, requires insurers to apply a “reasonable layperson standard” which “recognizes and takes into account the level of understanding and appreciation of words and terms in a health history questionnaire by the average individual who lacks professional training and experience.” Health questionnaires will need to take into account the level of understanding of an individual who has no medical background or training. In addition, the questions asked on an application must be material to the underwriting process, and the consumer will be allowed to indicate they cannot remember, or are unsure of an answer to a particular health question.

With these new regulations, consumers should have an easier time obtaining and keeping their health insurance.



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