

## [California Insurance Commissioner Unveils Proposed Rescission Regulations](#)

Posted on June 3, 2009 by [Robert McKennon](#)

California Insurance Commissioner Steve Poizner unveiled his proposed regulations today to, according to an [LA Times article](#) dated June 3, 2009, “combat the health insurance industry practice of dropping members with costly illnesses.” According to the article, Poizner's draft regulations would require insurers to write applications for coverage in “plain English and allow applicants a ‘not sure’ answer to questions about their preexisting medical conditions.”

According to Mr. Poizner’s news release, the new regulations will (in his words) do the following:

- Set clear and rigorous standards that insurers must meet before they issue a health insurance policy. Insurers must do their underwriting job before they issue the policy.
- Put insurers on notice that they must prove that they have met ALL of the underwriting standards before they can consider rescission.
- Put an end to lightweight sloppy underwriting if insurers want to keep the right to rescind.
- Put insurers on notice that they must be 100% sure that an individual knew the answer to a health history question and failed to provide it before considering rescinding that person.
- Require insurers to make sure that health insurance applications are accurate and complete.
- Require insurers to ask clear and unambiguous health history questions and avoid confusing applicants.
- Require agents who assist applicants with their questions to attest to the insurer regarding their assistance, at every stage of the application process.
- Encourage insurers to use Personal Health Records instead of potentially confusing health history questionnaires to underwrite applicants.
- Provide fair due process protections for consumers who are being investigated for possible rescission including early notice, opportunity to provide input to the insurers, and the chance to clarify their application. No hidden rescission investigations are allowed under the new rules and this encourages insurers to work with their insureds to resolve questions about the accuracy of their responses.
- Require insurers to share documentation used during rescission investigations with the insured under investigation.

The notice of the regulations will be officially published by the Office of Administrative Law on Friday, June 5. According to the news release, implementation of the regulations is expected by the end of 2009, following a public hearing, public comment and regulation finalization period.

The regulations would apply to individual health coverage sold by companies licensed by the Department of Insurance. A second state regulator, the Department of Managed Health Care, said more than two years ago that it would pursue rescission regulations, but has not done so. The proposed regulations can be viewed [here](#).

On a related note, the California State Assembly is expected to vote soon on a bill that would set a high bar on rescissions for people who purchase individual insurance of all types, regardless of who regulates it.