

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
300 CAPITOL MALL, 17TH FLOOR
SACRAMENTO, CALIFORNIA 95814

INITIAL STATEMENT OF REASONS

October 16, 2009

REG-2009-00006

COMMISSIONER'S REPORT ON UNDERSERVED COMMUNITIES

INTRODUCTION

California Insurance Commissioner Steve Poizner, (hereinafter, "Commissioner") proposes the amendment of Title 10, Chapter 5, Subchapter 4.8, Article 6, Sections 2646.6, of the California Code of Regulations, regarding the Commissioner's Report on Underserved Communities. The purpose of the proposed amendment of these existing regulations is to further implement, interpret, and make specific California Insurance Code Section 1861.03 regarding the prohibition of unfair insurance practices. These amendments will establish the timing and required deadlines of the affected carriers' submission of data pursuant to the Community Service Statement regulations as well as the timing of the issuance of the Commissioner's Report on Underserved Communities.

DESCRIPTION OF THE PUBLIC PROBLEM

The voters of the State of California passed California Insurance Code (CIC) Section 1861.03, regarding the prohibition of unfair insurance practices, in 1988 as part of Proposition 103 [Reduction and Control of Insurance Rates]. Proposition 103 incorporates California Civil Code Sections 51 through 53, inclusive [Unruh Civil Rights Act, "Unruh"] and makes the anti-discrimination provisions of Unruh applicable to the business of insurance.

California Code of Regulations (CCR) Sections 2646.6¹ *et seq.* were promulgated in 1992 to implement, interpret and make specific the provisions of CIC Section 1861.03. Those regulations were subsequently substantively amended in 1995.

The data gathered pursuant to this regulation is compiled and analyzed by the Department and provides the Commissioner with foundational information that supports the annual Commissioner's Report on Underserved Communities (CRUC).

The Commissioner has determined that the regulations should be amended so that the data that is provided to, and analyzed by, the Department is as complete as possible and maintains the highest level of statistical significance.

¹ All section references hereinafter are to Title 10, CCR section 2646.6, unless otherwise stated.

In addition, the Commissioner has determined that the regulations should be amended to provide for timely and accurate analysis and reporting of the gathered data.

SPECIFIC PURPOSE AND REASONABLE NECESSITY REGULATION

The specific purpose of each amendment and the rationale for the Commissioner's determination that each proposed amendment is reasonably necessary to carry out the purpose for which it is proposed, are set forth below.

Amended Section 2646.6(a)(1)

Specific Purpose: The specific purpose of the proposed amendment to this subsection is to move the due date for CSS reporting from March 1, annually, to April 1, biennially.

Rationale for Necessity: Currently, the annual reporting requirement results in an unacceptable level of late and incomplete compliance with the regulations, which directly impacts the Commissioner's ability to timely issue the CRUC.

Amended Section 2646.6(b)(5)

Specific Purpose: The specific purpose of the amendments to this section is to clarify that agencies having agents who are conversant with languages other than English are to report the number of agents who meet the requirements of this subsection. In addition, the amendments to subsections (b)(5)(1)-(7) are formatting changes only which are intended to put the list of the languages spoken other than English which may be reported in the proper outline format.

Rationale for Necessity: After a number of years of analysis, many carriers are still unclear on how to report languages spoken other than English for agencies as opposed to agents. This amendment is intended to clarify this issue for reporting purposes.

Amended Section 2646.6(c)

Specific Purpose: The specific purpose of this amended subsection would be to conform the timing of the issuance of the CRUC to the new biennial timeline for the submission of the data.

Rationale for Necessity: This amendment is necessary ensure that the timelines for the submission of data by the carriers, the compilation and analysis of the data by the Department's Statistical Analysis Division and the issuance of the CRUC by the Commissioner are all in concert.

Section 2646.6(e)

Specific Purpose: The specific purpose of this amended subsection is to provide that fines and penalties will be assessed against insurance compliances that fail to comply with the regulation or that continually provide late and/or erroneous data to the Department.

Rationale for Necessity: This amendment is necessary to implement the provisions of CIC 1861.03 in that, since the initial implementation of these regulations, the Commissioner has determined that competing regulatory requirements and California's lack of fines and penalties associated with noncompliance have resulted in the repeated failure of approximately 38% of carriers to comply with this regulation. This continuing noncompliance, in turn, has negatively impacted the Commissioner's ability to timely issue the CRUC on an annual basis.

IDENTIFICATION OF STUDIES

There are no specific studies relied upon in the amendments to this article.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

Adoption of these regulations as proposed would not mandate the use of specific technologies or equipment.

ALTERNATIVES

The Commissioner has determined that no reasonable alternative exists to carry out the purpose for which the action is proposed.

ECONOMIC IMPACT ON SMALL BUSINESS

The Commissioner has identified no reasonable alternatives to the presently proposed amendments to the regulations, nor have any such alternatives otherwise been identified and brought to the attention of the Department, that would lessen any impact on small business.

PRE-NOTICE DISCUSSIONS

The Commissioner conducted pre-notice public discussions pursuant to Government Code Section 11346.45, on March 4, 2009.