

**REGULATIONS REGARDING USE OF GROUPS IN AUTOMOBILE
INSURANCE RATING UNDER PROPOSITION 103**

Proposed Draft of 10 CCR §§ 2663.1-2663.7

Subchapter ~~4.9: Rules of Practice and Procedure for Rate Proceedings~~ 4.7

Article 15: Groups

2663.1: Definition of “group”: For purposes of Insurance Code section 1861.12, ~~the word a “group” is means:~~

~~(a) A membership organization or membership association, subject to the following:~~

~~(i) It annually charges a membership fee or requires its members to renew their membership;~~

~~No insurer has participated in its creation or development; and~~

~~(a) Comprised of persons with a shared or common association, interest, goal or purpose, without restriction as to the purpose of the group, occupation or type of group, or~~

~~(b) Persons who participate in a membership organization or association, or~~

~~(c) Employees of the same employer~~

~~(b) An employer.~~

2663.2: Persons insured under the group plan:

(a) For purposes of Insurance Code section 1861.12, persons eligible to purchase private passenger automobile insurance under a group plan shall include all current, inactive and retired members of the group. ~~the membership organization or current and retired employees of the employer.~~

~~(b)~~ All members of the group shall be entitled to purchase insurance under the group plan. Group Rates- rates will be based on the experience of the group once the experience is credible. Group rates may be based on competitive analysis or actuarial judgment until the experience is credible.-

~~(b)(c)~~ An insurer may continue to offer a group rate to an insured who is the surviving spouse or domestic partner of a member of a group if the group rate was applied while the member was eligible.

2663.3: Written agreement: Any insurer offering insurance under a group plan pursuant to Insurance Code section 1861.12 may identify membership in a group through:

~~shall have a written agreement with the group or groups. The agreement must be affirmatively renewed in writing on an annual basis by the insurer and by the group.~~

- ~~(a) A written agreement with the group or groups, which may automatically renew, or~~
- ~~(b) Use of a publically available membership list, or~~
- ~~(c) Affirmation by an insurance applicant of belonging to a group.~~

2663.4: Requirements for Filing and Written Guidelines:

- (a) Any insurer that offers insurance under a group plan pursuant to Insurance Code section 1861.12 shall file its coverage and rates under Insurance Code section 1861.05 for each group plan.
- ~~(b) Any insurer that offers coverage under a group plan shall maintain written guidelines prescribing the standards used to accept or reject applications for group insurance. The group rate based on group membership shall be made available to any eligible member of the group. ~~The written guidelines shall be open to public inspection.~~~~
- ~~(b) Nothing in this section shall be construed to abrogate an insurer's trade secret protections for underwriting guidelines, constitute any waiver of confidentiality, or alter an insurer's intellectual property rights.~~
- ~~(c) The insurer shall include a copy of the written agreement described in Section 2663.3 with any group plan filing, and the written agreement shall be open to public inspection.~~

2663.5: Lowest rate: Upon application for coverage and at each renewal, the insurer shall offer the applicant or insured the lowest rate for which the applicant or insured qualifies. ~~, regardless of whether the applicant or insured is a member of a group.~~

2663.6: Verification and renewal of group membership: An insurer that offers coverage on a group basis shall ~~not make the group rate available upon renewal to a member of a group if the insurer learns that its insured is no longer a member of that group, unless otherwise permitted under this Article. Verification by an insurer is optional and may be achieved by means determined by the insurer, including but not limited to utilizing membership lists, by self-verification by the insured, requiring evidence of membership, or other reasonable means. Insureds, who are no longer part of a group or who fail to satisfy a request for verification, may be renewed at the non-group rate if eligible. verify at least once every three years that the insured continues to be a member of the group. An insured who is no longer a member of a group under private passenger automobile coverage shall not be renewed at the group's rate.~~

2663.7: Effect of automobile rating factors: For private passenger automobile rating, an insurer is permitted to use only those factors approved by the Commissioner. Writing coverage under a group plan does not exempt the insurer from complying with Insurance Code section 1861.02 and the Commissioner’s regulations implementing Insurance Code section 1861.02.

2663.8: More than one group: An insurer may combine into a single “group” for purposes of Insurance Code section 1861.12, two or more:

~~(a) — (a) Groups with comparable experience or risk profiles or Membership organizations or membership associations qualified under Section 2663.4 provided that the groups have:~~

~~(i) Comparable experience or risk profiles; and~~

~~Similar purposes; or~~

~~(b) Employees of the same employers.~~

2663.9: Effective dates:

(a) The provisions of this article shall become effective January 1, 2019. ~~immediately for new filings under Section 2663.4.~~

~~(b) — (a) Any insurer with group rating plans existing at the time these regulations are implemented shall file a new group coverage and rating plan under Section 2663.4 no later than January 1, 2019.~~

Reference: Ins. Code §§ 1861.02, 1861.05, 1861.12. Authority: *20th Century Ins. Co. v. Garamendi* (1994) 8 Cal.4th 216.