



PIFC
PERSONAL INSURANCE FEDERATION
OF CALIFORNIA



March 23, 2015

Geoffrey Margolis
Deputy Commissioner & Special Counsel
300 Capitol Mall, 17th Floor
Sacramento, CA 95814

RE: Workshop on New Regulations Regarding Use of Groups in Automobile Insurance
Rating Under Proposition 103.

Dear Mr. Margolis:

The American Insurance Association (AIA), Association of California Insurance Companies (ACIC), National Association of Mutual Insurance Companies (NAMIC), Pacific Association of Domestic Insurance Companies (PADIC) and Personal Insurance Federation of California (PIFC), hereinafter, referred to as the “Trades,” thank the California Department of Insurance (CDI) for the opportunity to comment on the proposed draft regulations to be discussed at the above-mentioned workshop on March 23, 2015.

The Trades understand that the draft regulations are intended to spur discussion at the workshop. We do, however, have concerns that millions of consumers, who risk losing their discounts and face higher auto insurance rates if these regulations are adopted are not represented in these workshops. Millions of consumers from all walks of life utilize group auto insurance discounts including nurses, teachers, firefighters, police officers, librarians, recent college graduates, small business owners, retirees, and military veterans to name a few. However, none of these consumers who would be directly impacted by these draft regulations were invited to attend the Workshop.

We strongly encourage CDI to convene additional workshops open to the many stakeholders who will be most impacted by these draft regulations. The Trades would welcome future workshops that are conducted in an open and transparent process in multiple locations, scheduled as such so that those who would be most impacted would have access to participate along with

the stakeholders invited today.

While the Trades have many concerns about how impacted parties would be effected by these regulations, we do understand that this Workshop was not established to include the voices and representation from those impacted. As such, for purposes of this workshop, the Trades provide the following comments to aid the CDI.

California Insurance Code Section 1861.12 expressly allows for the broad application of groups in that it clearly states that an insurer may issue coverage on a group plan “without restriction as to the purpose of the group, occupation or type of group.” Thus restricting the use of groups as suggested in the draft regulations directly contradicts section 1861.12, is not in furtherance of Proposition 103, and would thus be in direct conflict with the statute’s intent. As such, the proposal is not in the best interest of insurance consumers. The Trades do not see a need for regulation in this area, and in fact oppose such regulations, which will eliminate discounts for millions of consumers.

In spite of the Trades’ strong belief the regulations are unnecessary, we provide the following specific comments regarding the draft regulation language:

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

The above heading suggests that the regulations apply to auto only, however, the proposed placement of the regulations under Subchapter 4.9 would make it applicable to all rate filings. The appropriate place for such regulations is Subchapter 4.7.

Subchapter 4.9: Rules of Practice and Procedure for Rate Proceedings

Article 15: Groups

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

The industry opposes defining group. Section 1861.12 expressly allows for broad application of groups in that clearly states that an insurer may issue coverage on a group plan, “without restriction as to the purpose of the group, occupation or type of group”. Defining group as provided for in this section directly contradicts 1861.12. Introducing regulations that restrict group plans does not further Proposition 103 and would be in direct conflict with the statute’s intent. The proposed regulations are not in the best interest of consumers.

- (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;

Notwithstanding the Trades’ position on the broad application of Section 1861.12, requiring “annual” membership fees or renewals is arbitrary and should be deleted.

- (ii) No insurer has participated in its creation or development; and

“And” should be “or”.

- (b) An employer.

2663.2: Persons insured under the group plan:

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

Some types of groups have a retired member category of membership that they include in their benefits programs. Limiting this to current members might not be inclusive enough. For example, it could have disproportionately adverse impact on older insurance consumers. Membership groups should be able to determine their eligibility.

- (b) All members of the group shall be entitled to purchase insurance under the group plan. Rates will be based on the experience of the group.

CDI's current guidelines permit using company-wide data, where group-only data would not be credible; it is unclear if CDI is changing this approach. This language also bars an insurer from excluding members who do not meet underwriting criteria (i.e. driver has three driving under the influence convictions)

2663.3: Written agreement: Any insurer offering insurance under a group plan pursuant to Insurance Code section 1861.12 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.

The Trades oppose requiring the creating of a written agreement. This places an extraordinary burden on both insurers and consumers. Consumers do not benefit when administrators for the group they are a member of get to decide if the members of the group can get a group rate and with which insurers. Insurers that choose to enter into agreements with groups should be free to negotiate all elements of such agreements, including duration and form. However, an insurer should not be required to have an agreement with a group in order to offer a group rate.

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.

Insurers already file coverage and rates under section 1861.05.

- (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 written guidelines shall be open to public inspection.

The Trades oppose broadly releasing proprietary information. In the rate filing process, the CDI already has the opportunity to review guidelines to ensure compliance with the law.

- (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.

The Trades oppose broadly releasing proprietary information. Many groups may not want their proprietary information shared.

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.

The Insurance Regulations 10 CCR 2360 already address. Companies comply with 10 CCR 2360.

2663.6: Verification and renewal of group membership: An insurer that offers coverage on a group basis shall 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.

The Trades oppose requiring verification and renewal of group membership. Should a group have specific membership requirements, any membership verification should be at the option of the insurer? The draft verification requirement places unmanageable burdens on both insurers and consumers.

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.

This is unnecessary and should be deleted. Insurers already comply with Section 1861.02.

Provided each group plan is broadly averaged and with no formation of sub-groups within a group, then group filing in and of itself is inherent in its compliance with CIC 1861.02. As applied and in practice, group rate deviations are done based on a "master" class plan that has already been approved and deemed in compliance with 1861.02 and CCR 2632.5.

2663.9: Effective dates:

- (a) The provisions of this article shall become effective immediately for new filings under Section 2663.4.
- (b) 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.

Since filings are time and resource intensive, and all existing rates and coverages have already been approved by CDI, any new filing requirement should focus on group-related new information only.

The Trades greatly appreciate CDI's efforts in holding workshops for parties to provide their concerns and feedback. We look forward to continuing to work with you on this issue.