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INSURANCE CODE - INS

DIVISION 1. GENERAL RULES GOVERNING INSURANCE [100 - 1879.8] (Division 1 enacted by Stats. 1935, Ch. 145.)

PART 2. THE BUSINESS OF INSURANCE [680 - 1879.8] (Part 2 enacted by Stats. 1935, Ch. 145.)

CHAPTER 1. General Regulations [680 - 1113] (Chapter 1 enacted by Stats. 1935, Ch. 145.)

ARTICLE 5. Unlawful Referrals [750 - 754] (Article 5 added by Stats. 1989, Ch. 372, Sec. 1.)

750. (a) Except as provided in Section 750.5, any person acting individually or through his or her employees or agents, who engages in the practice of processing, presenting, or negotiating claims, including claims under policies of insurance, and who offers, delivers, receives, or accepts any rebate, refund, commission, or other consideration, whether in the form of money or otherwise, as compensation or inducement to or from any person for the referral or procurement of clients, cases, patients, or customers, is guilty of a crime.

(b) A violation of subdivision (a) is punishable upon a first conviction by imprisonment in a county jail for not more than one year, or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or by a fine not exceeding fifty thousand dollars (\$50,000), or by both that imprisonment and fine. A second or subsequent conviction is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code or by that imprisonment and a fine of fifty thousand dollars (\$50,000).

(c) Nothing in this section shall prohibit a licensed collection or lien agency from receiving a commission on the collection of delinquent debts nor prohibits the agency from paying its employees a commission for obtaining clients seeking collection on delinquent debts.

(d) Nothing in this section is intended to limit, restrict, or in any way apply to, the rebating of commissions by insurance agents or brokers, as authorized by Proposition 103, enacted by the people at the November 8, 1988, general election.

(Amended by Stats. 2011, Ch. 15, Sec. 206. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68.)

750.4. Section 750 of the Insurance Code, Sections 3215 and 3219 of the Labor Code, and Section 549 of the Penal Code shall not apply to any person, corporation, partnership, association, or firm, that is operating under both of the following circumstances:

(a) On behalf of an insurer or self-insured person, company, association, or group.

(b) Pursuant to, and within the scope of, a certificate of consent issued pursuant to Section 3702.1 of the Labor Code or pursuant to, and within the scope of, a license issued pursuant to Article 3 (commencing with Section 14020) of Chapter 1 of Division 5.

(Amended by Stats. 2006, Ch. 538, Sec. 452. Effective January 1, 2007.)

750.5. Nothing in Section 750 of the Insurance Code, Section 549 of the Penal Code, or Section 3215 of the Labor Code shall be construed to prevent an attorney or law firm from the following:

(a) Dividing fees for legal services with a lawyer under circumstances expressly permitted by Rule 2-200 of the Rules of Professional Conduct of the State Bar.

(b) Offering or giving an incidental nonmonetary gift or gratuity to a person who has made a recommendation resulting in the employment of the attorney or law firm, provided that the gift or gratuity was not offered in consideration of any promise, agreement, or understanding that the gift or gratuity would be forthcoming or that referrals would be made or encouraged in the future.

(c) Offering or giving a bonus to an employee who has made a referral or recommendation resulting in the employment of the attorney or law firm, provided that the bonus was not offered in consideration of any promise, agreement, or understanding that the bonus would be forthcoming or that referrals or recommendations would be made or encouraged in the future.

(Amended by Stats. 1993, Ch. 120, Sec. 2.7. Effective July 16, 1993.)

753. (a) It is unlawful for any insurance agent or broker, or any insurance solicitor employed thereby, to receive any financial benefit from an automobile repair facility or any other form of direct or indirect consideration from any person for referring insureds to that person or that person's designee for vehicle repairs covered under the automobile comprehensive coverage, property damage coverage, or automobile collision coverage, of an insurance policy issued through the insurance agent or broker or by an insurer represented by the insurance agent.

(b) Subdivision (a) applies with respect to commercial and noncommercial policies of automobile insurance.

(c) For purposes of this section, "financial benefit" means the receiving of any commission or gratuity, discount on repair costs, free repairs, or employment by a repair facility.

(Added by Stats. 1989, Ch. 372, Sec. 1. Effective September 12, 1989.)

754. (a) It is unlawful for any person to solicit, receive, offer, or pay any referral fee for the referral of an individual for the furnishing of services or goods for which the person knows or should have known whole or partial reimbursement is or may be made, directly or indirectly, by any insurer. As used in this section, a referral fee is a fee paid by a person furnishing goods or services to another in return for the referral of an individual to that person for the furnishing of services or goods. It includes any referral fee, kickback, bribe, or rebate, whether made directly or indirectly, overtly or covertly, or in cash or in kind. This subdivision does not apply to any of the following:

(1) Discounts or similar reductions in prices.

(2) Referral fees between attorneys if legal services are provided pursuant to a contingency fee arrangement if any referral fee is consistent with the Rules of Professional Conduct of the State Bar of California.

(b) This section applies to all forms of insurance covering a motor vehicle, including commercial and personal lines, and comprehensive coverage, property damage coverage, collision coverage, and liability coverage.

(c) A violation of this section is a misdemeanor punishable by a fine not to exceed one thousand dollars (\$1,000) for each violation. Proceedings to enforce this section may be brought by any district attorney or other prosecuting attorney.

(Added by Stats. 1990, Ch. 255, Sec. 1.)