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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 6.6. Insurance Information and Privacy Protection Act [791 - 791.29] (Article 6.6 added by Stats. 1980, Ch. 1214, Sec. 1.)

791. The purpose of this article is to establish standards for the collection, use and disclosure of information gathered in connection with insurance transactions by insurance institutions, agents or insurance-support organizations; to maintain a balance between the need for information by those conducting the business of insurance and the public's need for fairness in insurance information practices, including the need to minimize intrusiveness; to establish a regulatory mechanism to enable natural persons to ascertain what information is being or has been collected about them in connection with insurance transactions and to have access to such information for the purpose of verifying or disputing its accuracy; to limit the disclosure of information collected in connection with insurance transactions; and to enable insurance applicants and policyholders to obtain the reasons for any adverse underwriting decision.

(Added by Stats. 1980, Ch. 1214, Sec. 1. Applicable October 1, 1981, as prescribed by Section 791.01.)

791.01. (a) The obligations imposed by this article shall apply to those insurance institutions, agents or insurance-support organizations which, on or after October 1, 1981:

(1) In the case of life or disability insurance:

(A) Collect, receive or maintain information in connection with insurance transactions which pertains to natural persons who are residents of this state, or

(B) Engage in insurance transactions with applicants, individuals or policyholders who are residents of this state.

(2) In the case of property or casualty insurance:

(A) Collect, receive or maintain information in connection with insurance transactions involving policies, contracts or certificates of insurance delivered, issued for delivery or renewed in this state, or

(B) Engage in insurance transactions involving policies, contracts or certificates of insurance delivered, issued for delivery or renewed in this state.

(b) The rights granted by this article shall extend to:

(1) In the case of life or disability insurance, the following persons who are residents of this state:

(A) Natural persons who are the subject of information collected, received or maintained in connection with insurance transactions.

(B) Applicants, individuals or policyholders who engage in or seek to engage in insurance transactions.

(2) In the case of property or casualty insurance, the following persons:

(A) Natural persons who are the subject of information collected, received or maintained in connection with insurance transactions involving policies, contracts or certificates of insurance delivered, issued for delivery or renewed in this state, and

(B) Applicants, individuals or policyholders who engage in or seek to engage in insurance transactions involving policies, contracts or certificates of insurance delivered, issued for delivery or renewed in this state.

(c) For purposes of this section, a person shall be considered a resident of this state if the person's last known mailing address, as shown in the records of the insurance institution, agent, or insurance-support organization, is located in this state.

(d) This article shall not apply to any person or entity engaged in the business of title insurance as defined in Section 12340.3.

(e) This article shall not apply to a person or entity engaged in the business of a home protection company, as defined in Section 12740, which does not obtain or maintain personal information, as defined in this article, of its policyholders and applicants.

(f) Insurance institutions, agents, insurance support organizations or any insurance transaction subject to this article shall be exempt from Part 2.6 (commencing with Section 56) of Division 1 of, and Sections 1785.20 and 1786.40 of, the Civil Code.

(Amended (as amended by Stats. 1981, Ch. 106) by Stats. 1981, Ch. 121, Sec. 1. Effective June 30, 1981. Note: This amendment (by Stats. 1981, Ch. 121) delayed the applicability date for Article 6.6 (commencing with Section 791) from July 1, 1981 to October 1, 1981.)

791.02. As used in this act:

(a) (1) "Adverse underwriting decision" means any of the following actions with respect to insurance transactions involving insurance coverage that is individually underwritten:

(A) A declination of insurance coverage.

(B) A termination of insurance coverage.

(C) Failure of an agent to apply for insurance coverage with a specific insurance institution that the agent represents and that is requested by an applicant.

(D) In the case of a property or casualty insurance coverage:

(i) Placement by an insurance institution or agent of a risk with a residual market mechanism, with an unauthorized insurer, or with an insurance institution that provides insurance to other than preferred or standard risks, if in fact the placement is at other than a preferred or standard rate. An adverse underwriting decision, in case of placement with an insurance institution that provides insurance to other than preferred or standard risks, shall not include placement if the applicant or insured did not specify or apply for placement as a preferred or standard risk or placement with a particular company insuring preferred or standard risks, or

(ii) The charging of a higher rate on the basis of information which differs from that which the applicant or policyholder furnished.

(E) In the case of a life, health, or disability insurance coverage, an offer to insure at higher than standard rates.

(2) Notwithstanding paragraph (1), any of the following actions shall not be considered adverse underwriting decisions but the insurance institution or agent responsible for their occurrence shall nevertheless provide the applicant or policyholder with the specific reason or reasons for their occurrence:

(A) The termination of an individual policy form on a class or statewide basis.

(B) A declination of insurance coverage solely because coverage is not available on a class or statewide basis.

(C) The rescission of a policy.

(b) "Affiliate" or "affiliated" means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with another person.

(c) "Agent" means any person licensed pursuant to Chapter 5 (commencing with Section 1621), Chapter 5A (commencing with Section 1759), Chapter 6 (commencing with Section 1760), Chapter 7 (commencing with Section 1800), or Chapter 8 (commencing with Section 1831).

(d) "Applicant" means any person who seeks to contract for insurance coverage other than a person seeking group insurance that is not individually underwritten.

(e) "Consumer report" means any written, oral, or other communication of information bearing on a natural person's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living that is used or expected to be used in connection with an insurance transaction.

(f) "Consumer reporting agency" means any person who:

- (1) Regularly engages, in whole or in part, in the practice of assembling or preparing consumer reports for a monetary fee.
- (2) Obtains information primarily from sources other than insurance institutions.
- (3) Furnishes consumer reports to other persons.

(g) "Control," including the terms "controlled by" or "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person.

(h) "Declination of insurance coverage" means a denial, in whole or in part, by an insurance institution or agent of requested insurance coverage.

(i) "Individual" means any natural person who is any of the following:

- (1) In the case of property or casualty insurance, is a past, present, or proposed named insured or certificate holder.
- (2) In the case of life or disability insurance, is a past, present, or proposed principal insured or certificate holder.
- (3) Is a past, present, or proposed policyowner.
- (4) Is a past or present applicant.
- (5) Is a past or present claimant.
- (6) Derived, derives, or is proposed to derive insurance coverage under an insurance policy or certificate subject to this act.

(j) "Institutional source" means any person or governmental entity that provides information about an individual to an agent, insurance institution, or insurance-support organization, other than any of the following:

- (1) An agent.
- (2) The individual who is the subject of the information.
- (3) A natural person acting in a personal capacity rather than in a business or professional capacity.

(k) "Insurance institution" means any corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd's insurer, fraternal benefit society, or other person engaged in the business of insurance. "Insurance institution" shall not include agents, insurance-support organizations, or health care service plans regulated pursuant to the Knox-Keene Health Care Service Plan Act, Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

(l) "Insurance-support organization" means:

(1) Any person who regularly engages, in whole or in part, in the business of assembling or collecting information about natural persons for the primary purpose of providing the information to an insurance institution or agent for insurance transactions, including either of the following:

(A) The furnishing of consumer reports or investigative consumer reports to an insurance institution or agent for use in connection with an insurance transaction.

(B) The collection of personal information from insurance institutions, agents, or other insurance-support organizations for the purpose of detecting or preventing fraud, material misrepresentation, or material nondisclosure in connection with insurance underwriting or insurance claim activity.

(2) Notwithstanding paragraph (1), the following persons shall not be considered "insurance-support organizations": agents, governmental institutions, insurance institutions, medical care institutions, medical professionals, and peer review committees.

(m) "Insurance transaction" means any transaction involving insurance primarily for personal, family, or household needs rather than business or professional needs that entails either of the following:

- (1) The determination of an individual's eligibility for an insurance coverage, benefit, or payment.
- (2) The servicing of an insurance application, policy, contract, or certificate.

(n) "Investigative consumer report" means a consumer report or portion thereof in which information about a natural person's character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with the person's neighbors, friends, associates, acquaintances, or others who may have knowledge concerning those items of information.

(o) "Medical care institution" means any facility or institution that is licensed to provide health care services to natural persons, including, but not limited to, hospitals, skilled nursing facilities, home health agencies, medical clinics, rehabilitation agencies, and public health agencies.

(p) "Medical professional" means any person licensed or certified to provide health care services to natural persons, including, but not limited to, a physician, dentist, nurse, optometrist, physical or occupational therapist, psychiatric social worker, clinical dietitian, clinical psychologist, chiropractor, pharmacist, or speech therapist.

(q) "Medical record information" means personal information that is both of the following:

(1) Relates to an individual's physical or mental condition, medical history, or medical treatment.

(2) Is obtained from a medical professional or medical care institution, from the individual, or from the individual's spouse, parent, or legal guardian.

(r) "Person" means any natural person, corporation, association, partnership, limited liability company, or other legal entity.

(s) "Personal information" means any individually identifiable information gathered in connection with an insurance transaction from which judgments can be made about an individual's character, habits, avocations, finances, occupation, general reputation, credit, health, or any other personal characteristics. "Personal information" includes an individual's name and address and "medical record information" but does not include "privileged information."

(t) "Policyholder" means any person who is any of the following:

(1) In the case of individual property or casualty insurance, is a present named insured.

(2) In the case of individual life or disability insurance, is a present policyowner.

(3) In the case of group insurance, which is individually underwritten, is a present group certificate holder.

(u) "Pretext interview" means an interview whereby a person, in an attempt to obtain information about a natural person, performs one or more of the following acts:

(1) Pretends to be someone they are not.

(2) Pretends to represent a person they are not in fact representing.

(3) Misrepresents the true purpose of the interview.

(4) Refuses to identify who they are upon request.

(v) "Privileged information" means any individually identifiable information that both:

(1) Relates to a claim for insurance benefits or a civil or criminal proceeding involving an individual.

(2) Is collected in connection with or in reasonable anticipation of a claim for insurance benefits or civil or criminal proceeding involving an individual. However, information otherwise meeting the requirements of this division shall nevertheless be considered "personal information" under this act if it is disclosed in violation of Section 791.13.

(w) "Residual market mechanism" means the California FAIR Plan Association, Chapter 10 (commencing with Section 10101) of Part 1 of Division 2, and the assigned risk plan, Chapter 1 (commencing with Section 11550) of Part 3 of Division 2.

(x) "Termination of insurance coverage" or "termination of an insurance policy" means either a cancellation or nonrenewal of an insurance policy, in whole or in part, for any reason other than the failure to pay a premium as required by the policy.

(y) "Unauthorized insurer" means an insurance institution that has not been granted a certificate of authority by the director to transact the business of insurance in this state.

(z) "Commissioner" means the Insurance Commissioner.

(aa) "Confidential communications request" means a request by an insured covered under a health insurance policy that insurance communications containing medical information be communicated to the insured at a specific mail or email address or specific telephone number, as designated by the insured.

(ab) "Protected individual" means any adult insured covered under a health insurance policy or a minor who can consent to a health care service without the consent of a parent or legal guardian, pursuant to state or federal law. "Protected individual" does not include an individual that lacks the capacity to give informed consent for health care pursuant to Section 813 of the Probate Code.

(ac) "Sensitive services" means all health care services related to mental or behavioral health, sexual and reproductive health, sexually transmitted infections, substance use disorder, gender affirming care, and intimate partner violence, and includes services described in Sections 6924, 6925, 6926, 6927, 6928, 6929, and 6930 of the Family Code, and Sections 121020 and 124260 of the

Health and Safety Code, obtained by a patient of any age at or above the minimum age specified for consenting to the service specified in the section.

(ad) "Medical information" means any individually identifiable information, in electronic or physical form, in possession of or derived from a provider of health care, health insurer, pharmaceutical company, or contractor regarding a patient's medical history, mental or physical condition, or treatment. "Individually identifiable" means that the medical information includes or contains any element of personal identifying information sufficient to allow identification of the individual, such as the patient's name, address, electronic mail address, telephone number, or social security number, or other information that, alone or in combination with other publicly available information, reveals the individual's identity.

(Amended by Stats. 2021, Ch. 190, Sec. 5. (AB 1184) Effective January 1, 2022.)

791.03. No insurance institution, agent or insurance-support organization shall use or authorize the use of pretext interviews to obtain information in connection with an insurance transaction; provided, however, that a pretext interview may be undertaken to obtain information from a person or institution that does not have a generally or statutorily recognized privileged relationship with the person to whom the information relates for the purpose of investigating a claim where there is a reasonable basis for suspecting criminal activity, fraud, material misrepresentation or material nondisclosure in connection with a claim.

(Amended by Stats. 1981, Ch. 106, Sec. 2. Effective June 29, 1981. Amending action operative June 30, 1981, pursuant to Stats. 1981, Ch. 121, Sec. 3. Section applicable October 1, 1981, pursuant to Section 791.01.)

791.04. (a) An insurance institution or agent shall provide a notice of information practices to all applicants or policyholders in connection with insurance transactions as provided below:

(1) In the case of a written application for insurance, a notice shall be provided no later than:

(A) At the time of the delivery of the insurance policy or certificate when personal information is collected only from the applicant, an insured under the policy, or from public records; or

(B) At the time the collection of personal information is initiated when personal information is collected from a source other than the applicant, an insured under the policy, or public records.

(2) In the case of a policy renewal, a notice shall be provided no later than the policy renewal date or the date upon which policy renewal is confirmed, except that no notice shall be required in connection with a policy renewal if either of the following applies:

(A) Personal information is collected only from the policyholder, an insured under the policy, or from public records.

(B) A notice meeting the requirements of this section has been given within the previous 24 months.

(3) In the case of a policy reinstatement or change in insurance benefits, a notice shall be provided no later than the time a request for a policy reinstatement or change in insurance benefits is received by the insurance institution, except that no notice shall be required if personal information is collected only from the policyholder, an insured under the policy, or from public records or if a notice meeting the requirements of this section has been given within the previous 24 months.

(b) The notice required by subdivision (a) shall be in writing and shall state all of the following:

(1) Whether personal information may be collected from persons other than the individual or individuals proposed for coverage.

(2) The types of personal information that may be collected and the types of sources and investigative techniques that may be used to collect such information.

(3) The types of disclosures identified in subdivisions (b), (c), (d), (e), (f), (i), (k), (l), and (n) of Section 791.13 and the circumstances under which the disclosures may be made without prior authorization, except that only those circumstances need be described which occur with such frequency as to indicate a general business practice.

(4) A description of the rights established under Sections 791.08 and 791.09 and the manner in which the rights may be exercised.

(5) That information obtained from a report prepared by an insurance-support organization may be retained by the insurance-support organization and disclosed to other persons.

(c) In lieu of the notice prescribed in subdivision (b), the insurance institution or agent may provide an abbreviated notice informing the applicant or policyholder of the following:

(1) Personal information may be collected from persons other than the individual or individuals proposed for coverage.

(2) Such information as well as other personal or privileged information subsequently collected by the insurance institution or agent may in certain circumstances be disclosed to third parties without authorization.

(3) A right of access and correction exists with respect to all personal information collected.

(4) The notice prescribed in subdivision (b) will be furnished to the applicant or policyholder upon request.

(d) The obligations imposed by this section upon an insurance institution or agent may be satisfied by another insurance institution or agent authorized to act on its behalf.

(Repealed and added by Stats. 1981, Ch. 106, Sec. 4. Effective June 29, 1981. Repealing and adding actions operative June 30, 1981, pursuant to Stats. 1981, Ch. 121, Sec. 3. Section applicable October 1, 1981, pursuant to Section 791.01.)

791.045. (a) (1) In addition to the notice required by Section 791.04, an insurance institution or agent shall provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices not less than annually during the continuation of the customer relationship. For purposes of this section, "annually" means at least once in any period of 12 consecutive months during which that relationship exists. An insurance institution or agent may define the period of 12 consecutive months, but shall apply it to the customer on a consistent basis.

(2) A notice required pursuant to this section shall comply with Section 2689.7 of Title 10 of the California Code of Regulations.

(b) (1) The notices required pursuant to Section 791.04 and this section may be combined into a single notice or provided as separate notices, as long as the requirements of Section 791.04 and this section are met.

(2) If the insurance institution or agent uses a separate, standard privacy notice in addition to the notices required pursuant to Section 791.04 and this section, the notices required pursuant to Section 791.04 and this section shall clearly state that any rights a consumer, claimant, or beneficiary may have as described in these are not limited by the standard privacy notice that the insurance institution or agent also uses.

(c) An insurance institution or agent shall be deemed to be in compliance with this section if all of the following conditions are met:

(1) The insurance institution or agent does not provide medical record, personal, or privileged information to a nonaffiliated third party pursuant to subdivision (k) of Section 791.13.

(2) The insurance institution or agent additionally provides, as part of an abbreviated notice provided pursuant to subdivision (c) of Section 791.04, the internet website address of the insurance institution's or agent's complete privacy notice that complies with subdivision (a) and informs the consumer of each of the following rights in a clear and conspicuous manner:

(A) The right to submit a written request to access, correct, amend, or delete the consumer's personal information and the manner in which the right may be exercised, including the contact information and the mailing address, internet website address, or both, where the consumer may submit a request.

(B) The right to receive a response within 30 business days of the consumer submitting a request to access, correct, amend, or delete their personal information.

(C) If the insurance institution refuses the consumer's request, the right to file a statement regarding what the consumer believes to be accurate and fair information and why the consumer disagrees with the insurance institution's refusal.

(3) The insurance institution's or agent's policies and practices about disclosing personal or privileged information have not changed from the previous notice provided pursuant to subdivision (a).

(d) An insurance institution or agent is not required to provide a notice pursuant to subdivision (a) to a former customer with whom it no longer has a continuing relationship.

(e) The terms used in this section have the same meaning as defined in Section 2689.4 of Title 10 of the California Code of Regulations.

(Added by Stats. 2023, Ch. 184, Sec. 1. (SB 793) Effective January 1, 2024.)

791.05. An insurance institution or agent shall clearly specify those questions designed to obtain information solely for marketing or research purposes from an individual in connection with an insurance transaction.

(Amended by Stats. 1981, Ch. 106, Sec. 5. Effective June 29, 1981. Amending action operative June 30, 1981, pursuant to Stats. 1981, Ch. 121, Sec. 3. Section applicable October 1, 1981, pursuant to Section 791.01.)

791.06. Notwithstanding any other provision of law, no insurance institution, agent or insurance-support organization may utilize as its disclosure authorization form in connection with insurance transactions a form or statement which authorizes the disclosure of personal or privileged information about an individual to the insurance institution, agent, or insurance-support organization unless the form or statement:

- (a) Is written in plain language.
- (b) Is dated.
- (c) Specifies the types of persons authorized to disclose information about the individual.
- (d) Specifies the nature of the information authorized to be disclosed.
- (e) Names the insurance institution or agent and identifies by generic reference representatives of the insurance institution to whom the individual is authorizing information to be disclosed.
- (f) Specifies the purposes for which the information is collected.
- (g) Specifies the length of time the authorization shall remain valid, which shall be no longer than:
 - (1) In the case of authorizations signed for the purpose of collecting information in connection with an application for an insurance policy, a policy reinstatement or a request for change in policy benefits:
 - (A) Thirty months from the date the authorization is signed if the application or request involves life, health or disability insurance; or
 - (B) One year from the date the authorization is signed if the application or request involves property or casualty insurance.
 - (2) In the case of authorizations signed for the purpose of collecting information in connection with a claim for benefits under an insurance policy:
 - (A) The term of coverage of the policy if the claim is for a health insurance benefit; or
 - (B) The duration of the claim if the claim is not for a health insurance benefit; or
 - (C) The duration of all claims processing activity performed in connection with all claims for benefits made by any person entitled to benefits under a nonprofit hospital service contract.
- (h) Advises the individual or a person authorized to act on behalf of the individual that the individual or the individual's authorized representative is entitled to receive a copy of the authorization form.
- (i) This section shall not be construed to require any authorization for the receipt of personal or privileged information about an individual.

(Amended by Stats. 1981, Ch. 106, Sec. 6. Effective June 29, 1981. Amending action operative June 30, 1981, pursuant to Stats. 1981, Ch. 121, Sec. 3. Section applicable October 1, 1981, pursuant to Section 791.01.)

791.07. (a) No insurance institution, agent or insurance-support organization may prepare or request an investigative consumer report about an individual in connection with an insurance transaction involving an application for insurance, a policy renewal, a policy reinstatement or a change in insurance benefits unless the insurance institution or agent informs the individual of the following:

- (1) That he or she may request to be interviewed in connection with the preparation of the investigative consumer report, and
 - (2) That upon a request pursuant to Section 791.08, he or she is entitled to receive a copy of the investigative consumer report.
- (b) If an investigative consumer report is to be prepared by an insurance institution or agent, the insurance institution or agent shall institute reasonable procedures to conduct a personal interview requested by an individual.
- (c) If an investigative consumer report is to be prepared by an insurance-support organization, the insurance institution or agent desiring such report shall inform the insurance-support organization whether a personal interview has been requested by the individual. The insurance-support organization shall institute reasonable procedures to conduct such interviews, if requested.

(Amended by Stats. 1981, Ch. 106, Sec. 7. Effective June 29, 1981. Amending action operative June 30, 1981, pursuant to Stats. 1981, Ch. 121, Sec. 3. Section applicable October 1, 1981, pursuant to Section 791.01.)

791.08. (a) If any individual, after proper identification, submits a written request to an insurance institution, agent or insurance-support organization for access to recorded personal information about the individual which is reasonably described by the individual and reasonably locatable and retrievable by the insurance institution, agent or insurance-support organization, the insurance institution, agent or insurance-support organization shall within 30 business days from the date such request is received:

- (1) Inform the individual of the nature and substance of such recorded personal information in writing, by telephone or by other oral communication, whichever the insurance institution, agent or insurance-support organization prefers;
- (2) Permit the individual to see and copy, in person, such recorded personal information pertaining to him or her or to obtain a copy of such recorded personal information by mail, whichever the individual prefers, unless such recorded personal information is in coded form, in which case an accurate translation in plain language shall be provided in writing;
- (3) Disclose to the individual the identity, if recorded, of those persons to whom the insurance institution, agent or insurance-support organization has disclosed such personal information within two years prior to such request, and if the identity is not recorded, the names of those insurance institutions, agents, insurance-support organizations or other persons to whom such information is normally disclosed; and
- (4) Provide the individual with a summary of the procedures by which he or she may request correction, amendment or deletion of recorded personal information.

(b) Any personal information provided pursuant to subdivision (a) above shall identify the source of the information if such source is an institutional source.

(c) Medical record information supplied by a medical care institution or medical professional and requested under subdivision (a), together with the identity of the medical professional or medical care institution which provided such information, shall be supplied either directly to the individual or to a medical professional designated by the individual and licensed to provide medical care with respect to the condition to which the information relates, whichever the individual prefers. Mental health record information shall be supplied directly to the individual, pursuant to this section, only with the approval of the qualified professional person with treatment responsibility for the condition to which the information relates. If it elects to disclose the information to a medical professional designated by the individual, the insurance institution, agent or insurance-support organization shall notify the individual, at the time of the disclosure, that it has provided the information to the medical professional.

(d) Except for personal information provided under Section 791.10, an insurance institution, agent or insurance-support organization may charge a reasonable fee to cover the costs incurred in providing a copy of recorded personal information to individuals.

(e) The obligations imposed by this section upon an insurance institution or agent may be satisfied by another insurance institution or agent authorized to act on its behalf. With respect to the copying and disclosure of recorded personal information pursuant to a request under subdivision (a), an insurance institution, agent or insurance-support organization may make arrangements with an insurance-support organization or a consumer reporting agency to copy and disclose recorded personal information on its behalf.

(f) The rights granted to individuals in this section shall extend to all natural persons to the extent information about them is collected and maintained by an insurance institution, agent or insurance-support organization in connection with an insurance transaction. The rights granted to all natural persons by this subdivision shall not extend to information about them that relates to and is collected in connection with or in reasonable anticipation of a claim or civil or criminal proceeding involving them.

(g) For purposes of this section, the term "insurance-support organization" does not include "consumer reporting agency".

(Amended by Stats. 1985, Ch. 1132, Sec. 1.)

791.09. (a) Within 30 business days from the date of receipt of a written request from an individual to correct, amend or delete any recorded personal information about the individual within its possession, an insurance institution, agent or insurance-support organization shall either:

- (1) Correct, amend or delete the portion of the recorded personal information in dispute; or
- (2) Notify the individual of:
 - (A) Its refusal to make such correction, amendment or deletion.
 - (B) The reasons for the refusal.
 - (C) The individual's right to file a statement as provided in subdivision (c).

(b) If the insurance institution, agent or insurance-support organization corrects, amends or deletes recorded personal information in accordance with paragraph (1) of subdivision (a), the insurance institution, agent or insurance-support organization shall so notify the individual in writing and furnish the correction, amendment or fact of deletion to:

(1) Any person specifically designated by the individual who may have, within the preceding two years, received such recorded personal information.

(2) Any insurance-support organization whose primary source of personal information is insurance institutions if the insurance-support organization has systematically received such recorded personal information from the insurance institution within the preceding seven years; provided, however, that the correction, amendment or fact of deletion need not be furnished if the insurance-support organization no longer maintains recorded personal information about the individual.

(3) Any insurance-support organization that furnished the personal information that has been corrected, amended or deleted.

(c) Whenever an individual disagrees with an insurance institution's, agent's or insurance-support organization's refusal to correct, amend or delete recorded personal information, the individual shall be permitted to file with the insurance institution, agent or insurance-support organization:

(1) A concise statement setting forth what the individual thinks is the correct, relevant or fair information.

(2) A concise statement of the reasons why the individual disagrees with the insurance institution's, agent's or insurance-support organization's refusal to correct, amend or delete recorded personal information.

(d) In the event an individual files either statement as described in subdivision (c), the insurance institution, agent or support organization shall:

(1) File the statement with the disputed personal information and provide a means by which anyone reviewing the disputed personal information will be made aware of the individual's statement and have access to it.

(2) In any subsequent disclosure by the insurance institution, agent or support organization of the recorded personal information that is the subject of disagreement, clearly identify the matter or matters in dispute and provide the individual's statement along with the recorded personal information being disclosed.

(3) Furnish the statement to the persons and in the manner specified in subdivision (b).

(e) The rights granted to individuals in this section shall extend to all natural persons to the extent information about them is collected and maintained by an insurance institution, agent or insurance-support organization in connection with an insurance transaction. The rights granted to all natural persons by this subdivision shall not extend to information about them that relates to and is collected in connection with or in reasonable anticipation of a claim or civil or criminal proceeding involving them.

(f) For purposes of this section, the term "insurance-support organization" does not include "consumer reporting agency".

(Amended by Stats. 1981, Ch. 106, Sec. 9. Effective June 29, 1981. Amending action operative June 30, 1981, pursuant to Stats. 1981, Ch. 121, Sec. 3. Section applicable October 1, 1981, pursuant to Sections 791.01 and 791.23.)

791.10. (a) In the event of an adverse underwriting decision the insurance institution or agent responsible for the decision shall:

(1) Either provide the applicant, policyholder, or individual proposed for coverage with the specific reason or reasons for the adverse underwriting decision in writing or, except as provided in subdivision (e), advise the person that upon written request he or she may receive the specific reason or reasons in writing.

(2) Provide the applicant, policyholder or individual proposed for coverage with a summary of the rights established under subdivision (b) and Sections 791.08 and 791.09.

(b) Upon receipt of a written request within 90 business days from the date of the mailing of notice or other communication of an adverse underwriting decision to an applicant, policyholder or individual proposed for coverage, the insurance institution or agent shall furnish to such person within 21 business days from the date of receipt of such written request:

(1) The specific reason or reasons for the adverse underwriting decision, in writing, if such information was not initially furnished in writing pursuant to paragraph (1) of subdivision (a).

(2) The specific items of personal and privileged information that support those reasons; provided, however:

(A) The insurance institution or agent shall not be required to furnish specific items of privileged information if it has a reasonable suspicion, based upon specific information available for review by the commissioner, that the applicant, policyholder or individual proposed for coverage has engaged in criminal activity, fraud, material misrepresentation or material nondisclosure.

(B) Specific items of medical record information supplied by a medical care institution or medical professional shall be disclosed either directly to the individual about whom the information relates or to a medical professional designated by the individual and licensed to provide medical care with respect to the condition to which the information relates, whichever the individual prefers.

Mental health record information shall be supplied directly to the individual, pursuant to this subdivision, only with the approval of the qualified professional person with treatment responsibility for the condition to which the information relates.

(3) The names and addresses of the institutional sources that supplied the specific items of information given pursuant to paragraph (2) of subdivision (b); provided, however, that the identity of any medical professional or medical care institution shall be disclosed either directly to the individual or to the designated medical professional, whichever the individual prefers.

(c) The obligations imposed by this section upon an insurance institution or agent may be satisfied by another insurance institution or agent authorized to act on its behalf.

(d) When an adverse underwriting decision results solely from an oral request or inquiry, the explanation of reasons and summary of rights required by subdivision (a) or (e) may be given orally to the extent that such information is available.

(e) Except as provided in subdivision (d), with respect to a declination, cancellation, or nonrenewal of a property insurance policy covered by Section 675 or an automobile insurance policy covered by Section 660, or an individual life, health, or disability insurance policy, the insurance institution or agent responsible for the decision shall provide the specific reason or reasons in writing at the time of the decision. The communication of medical record information for a life or health insurance policy shall be subject to the disclosure requirements of subparagraph (B) of paragraph (2) of subdivision (a). This subdivision shall become operative on July 1, 2006.

(Amended by Stats. 2005, Ch. 436, Sec. 1. Effective January 1, 2006.)

791.11. No insurance institution, agent or insurance-support organization may seek information in connection with an insurance transaction concerning:

(a) Any previous adverse underwriting decision experienced by an individual, or

(b) Any previous insurance coverage obtained by an individual through a residual market mechanism, unless such inquiry also requests the reasons for any previous adverse underwriting decision or the reasons why insurance coverage was previously obtained through a residual market mechanism.

(Added by Stats. 1980, Ch. 1214, Sec. 1. Section applicable October 1, 1981, pursuant to Section 791.01.)

791.12. No insurance institution or agent may base an adverse underwriting decision in whole or in part on the following:

(a) On the fact of a previous adverse underwriting decision or on the fact that an individual previously obtained insurance coverage through a residual market mechanism; provided, however, an insurance institution or agent may base an adverse underwriting decision on further information obtained from an insurance institution or agent responsible for a previous adverse underwriting decision. The further information, when requested, shall create a conclusive presumption that the information is necessary to perform the requesting insurer's function in connection with an insurance transaction involving the individual and, when reasonably available, shall be furnished the requesting insurer and the individual, if applicable.

(b) On personal information received from an insurance-support organization whose primary source of information is insurance institutions; provided, however, an insurance institution or agent may base an adverse underwriting decision on further personal information obtained as the result of information received from an insurance-support organization.

(c) On the fact that an individual has previously inquired and received information about the scope or nature of coverage under a residential fire or property insurance policy, if the information is received from an insurance-support organization whose primary source of information is insurance institutions and the inquiry did not result in the filing of a claim.

(d) On the fact that an accident involving a peace officer, member of the Department of the California Highway Patrol, or firefighter has been reported and the insurer retains no liability pursuant to Section 488.5 and subdivision (b) of Section 557.5.

(Amended by Stats. 2012, Ch. 823, Sec. 3. (AB 2298) Effective January 1, 2013.)

791.13. An insurance institution, agent, or insurance-support organization shall not disclose any personal or privileged information about an individual collected or received in connection with an insurance transaction unless the disclosure is:

(a) With the written authorization of the individual, and meets either of the conditions specified in paragraph (1) or (2):

(1) If the authorization is submitted by another insurance institution, agent, or insurance-support organization, the authorization meets the requirement of Section 791.06.

(2) If the authorization is submitted by a person other than an insurance institution, agent, or insurance-support organization, the authorization is:

(A) Dated.

(B) Signed by the individual.

(C) Obtained one year or less prior to the date a disclosure is sought pursuant to this section.

(b) To a person other than an insurance institution, agent, or insurance-support organization, provided the disclosure is reasonably necessary:

(1) To enable the person to perform a business, professional, or insurance function for the disclosing insurance institution, agent, or insurance-support organization or insured and the person agrees not to disclose the information further without the individual's written authorization unless the further disclosure:

(A) Would otherwise be permitted by this section if made by an insurance institution, agent, or insurance-support organization; or

(B) Is reasonably necessary for the person to perform its function for the disclosing insurance institution, agent, or insurance-support organization.

(2) To enable the person to provide information to the disclosing insurance institution, agent or insurance-support organization for the purpose of:

(A) Determining an individual's eligibility for an insurance benefit or payment; or

(B) Detecting or preventing criminal activity, fraud, material misrepresentation or material nondisclosure in connection with an insurance transaction.

(c) To an insurance institution, agent, insurance-support organization or self-insurer, provided the information disclosed is limited to that which is reasonably necessary under either paragraph (1) or (2):

(1) To detect or prevent criminal activity, fraud, material misrepresentation, or material nondisclosure in connection with insurance transactions; or

(2) For either the disclosing or receiving insurance institution, agent, or insurance-support organization to perform its function in connection with an insurance transaction involving the individual.

(d) To a medical-care institution or medical professional for the purpose of any of the following:

(1) Verifying insurance coverage or benefits.

(2) Informing an individual of a medical problem of which the individual may not be aware.

(3) Conducting operations or services audit, provided the only information disclosed is reasonably necessary to accomplish the foregoing purposes.

(e) To an insurance regulatory authority; or

(f) To a law enforcement or other governmental authority pursuant to law.

(g) Otherwise permitted or required by law.

(h) In response to a facially valid administrative or judicial order, including a search warrant or subpoena.

(i) Made for the purpose of conducting actuarial or research studies, provided:

(1) No individual may be identified in any actuarial or research report.

(2) Materials allowing the individual to be identified are returned or destroyed as soon as they are no longer needed.

(3) The actuarial or research organization agrees not to disclose the information unless the disclosure would otherwise be permitted by this section if made by an insurance institution, agent, or insurance-support organization.

(j) To a party or a representative of a party to a proposed or consummated sale, transfer, merger, or consolidation of all or part of the business of the insurance institution, agent, or insurance-support organization, provided:

(1) Prior to the consummation of the sale, transfer, merger, or consolidation the only information disclosed is reasonably necessary to enable the recipient to make business decisions about the purchase, transfer, merger, or consolidation.

(2) The recipient agrees not to disclose the information unless the disclosure would otherwise be permitted by this section if made by an insurance institution, agent, or insurance-support organization.

(k) To a person whose only use of the information will be in connection with the marketing of a product or service, provided:

(1) No medical-record information, privileged information, or personal information relating to an individual's character, personal habits, mode of living, or general reputation is disclosed, and no classification derived from the information is disclosed; or

(2) The individual has been given an opportunity to indicate that the individual does not want personal information disclosed for marketing purposes and has given no indication that the individual does not want the information disclosed; and

(3) The person receiving the information agrees not to use it except in connection with the marketing of a product or service.

(l) To an affiliate whose only use of the information will be in connection with an audit of the insurance institution or agent or the marketing of an insurance product or service, provided the affiliate agrees not to disclose the information for any other purpose or to unaffiliated persons.

(m) By a consumer reporting agency, provided the disclosure is to a person other than an insurance institution or agent.

(n) To a group policyholder for the purpose of reporting claims experience or conducting an audit of the insurance institution's or agent's operations or services, provided the information disclosed is reasonably necessary for the group policyholder to conduct the review or audit.

(o) To a professional peer review organization for the purpose of reviewing the service or conduct of a medical-care institution or medical professional.

(p) To a governmental authority for the purpose of determining the individual's eligibility for health benefits for which the governmental authority may be liable.

(q) To a certificate holder or policyholder for the purpose of providing information regarding the status of an insurance transaction.

(r) To a lienholder, mortgagee, assignee, lessor, or other person shown on the records of an insurance institution or agent as having a legal or beneficial interest in a policy of insurance. The information disclosed shall be limited to that which is reasonably necessary to permit the person to protect that person's interest in the policy and shall be consistent with Article 5.5 (commencing with Section 770).

(s) To an insured or the insured's lawyer when the information disclosed is from an accident report, supplemental report, investigative report, or the actual report from a government agency or is a copy of an accident report or other report that the insured is entitled to obtain under Section 20012 of the Vehicle Code or Article 1 (commencing with Section 7923.600) of Chapter 1 of Part 5 of Division 10 of Title 1 of the Government Code.

(Amended by Stats. 2021, Ch. 615, Sec. 297. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

791.14. (a) The commissioner shall have power to examine and investigate into the affairs of every insurance institution or agent doing business in this state to determine whether the insurance institution or agent has been or is engaged in any conduct in violation of this article.

(b) The commissioner shall have the power to examine and investigate into the affairs of every insurance-support organization acting on behalf of an insurance institution or agent which either transacts business in this state or transacts business outside this state that has an effect on a person residing in this state in order to determine whether such insurance-support organization has been or is engaged in any conduct in violation of this article.

(Added by Stats. 1980, Ch. 1214, Sec. 1. Section applicable October 1, 1981, pursuant to Section 791.01.)

791.15. (a) Whenever the commissioner has reason to believe that an insurance institution, agent or insurance-support organization has been or is engaged in conduct in this state which violates this article, or if the commissioner believes that an insurance-support organization has been or is engaged in conduct outside this state which has an effect on a person residing in this state and which violates this article, the commissioner shall issue and serve upon such insurance institution, agent or insurance-support organization a statement of charges and notice of hearing to be held at a time and place fixed in the notice. The date for such hearing shall be not less than 30 days after the date of service.

(b) At the time and place fixed for such hearing the insurance institution, agent or insurance-support organization charged shall have an opportunity to answer the charges against it and present evidence on its behalf. Upon good cause shown, the commissioner shall permit any adversely affected person to intervene, appear and be heard at such hearing by counsel or in person.

(c) At any hearing conducted pursuant to this section the commissioner may administer oaths, examine and cross-examine witnesses and receive oral and documentary evidence. The commissioner shall have the power to subpoena witnesses, compel their attendance and require the production of books, papers, records, correspondence and other documents which are relevant to

the hearing. A stenographic record of the hearing shall be made upon the request of any party or at the discretion of the commissioner. If no stenographic record is made and if judicial review is sought, the commissioner shall prepare a statement of the evidence for use on review. Hearings conducted under this section shall be governed by the same rules of evidence and procedure applicable to administrative proceedings conducted under the laws of this state.

(d) Statements of charges, notice, orders and other processes of the commissioner under this article may be served by anyone duly authorized to act on behalf of the commissioner. Service of process may be completed in the manner provided by law for service of process in civil actions or by registered mail or by a mailing service offered by a third party mailing service with tracking capability that is not more expensive than registered mail. A copy of the statement of charges, notice, order or other process shall be provided to the person or persons whose rights under this article have been allegedly violated. A verified return setting forth the manner of service, the return postcard receipt in the case of registered mail, or signed receipt documentation, shall be sufficient proof of service.

(Amended by Stats. 2006, Ch. 145, Sec. 1. Effective January 1, 2007.)

791.16. For the purpose of this article, an insurance-support organization transacting business outside this state that has an effect on a person residing in this state shall be deemed to have appointed the commissioner to accept service of process on its behalf, provided the commissioner causes a copy of the service to be mailed immediately by registered mail, or by a mailing service offered by a third party mailing service with tracking capability that is not more expensive than registered mail, to the insurance-support organization at its last known principal place of business. The return postcard receipt or signed receipt documentation for the mailing shall be sufficient proof that the same was properly mailed by the commissioner.

(Amended by Stats. 2006, Ch. 145, Sec. 2. Effective January 1, 2007.)

791.17. (a) If, after a hearing pursuant to Section 791.15, the commissioner determines that the insurance institution, agent or insurance-support organization charged has engaged in conduct or practices in violation of this article, the commissioner shall reduce his or her findings to writing and shall issue and cause to be served upon such insurance institution, agent or insurance-support organization a copy of such findings and an order requiring such insurance institution, agent or insurance-support organization to cease and desist from the conduct or practices constituting a violation of this article.

(b) If, after a hearing pursuant to Section 791.15, the commissioner determines that the insurance institution, agent or insurance-support organization charged has not engaged in conduct or practices in violation of this article, the commissioner shall prepare a written report which sets forth findings of fact and conclusions of law. Such report shall be served upon the insurance institution, agent or insurance-support organization charged and upon the person or persons, if any, whose rights under this article were allegedly violated.

(c) Until the expiration of the time allowed under Section 791.18 for filing a petition for review or until such petition is actually filed, whichever occurs first, the commissioner may modify or set aside any order or report issued under this section. After the expiration of the time allowed under Section 791.18 for filing a petition for review, if no such petition has been duly filed, the commissioner may, after notice and opportunity for hearing, alter, modify or set aside, in whole or in part, any order or report issued under this section whenever conditions of fact or law warrant such action or if the public interest so requires.

(Amended by Stats. 1981, Ch. 106, Sec. 15. Effective June 29, 1981. Amending action operative June 30, 1981, pursuant to Stats. 1981, Ch. 121, Sec. 3. Section applicable October 1, 1981, pursuant to Section 791.01.)

791.18. (a) Any person subject to an order of the commissioner under Section 779.17 or Section 791.20 or any person whose rights under this article were allegedly violated may obtain a review of any order or report of the commissioner by filing in a court of competent jurisdiction, within 30 days from the date of the service of such order or report, pursuant to Section 1094.5 of the Code of Civil Procedure. The court shall have jurisdiction to make and enter a decree modifying, affirming or reversing any order or report of the commissioner, in whole or in part.

(b) An order or report issued by the commissioner under Section 791.17 shall become final:

(1) Upon the expiration of the time allowed for the filing of a petition for review, if no such petition has been duly filed; except that the commissioner may modify or set aside an order or report to the extent provided in subdivision (c) of Section 791.17; or

(2) Upon a final decision of the court if the court directs that the order or report of the commissioner be affirmed or the petition for review dismissed.

(c) No order or report of the commissioner under this article or order of a court to enforce the same shall in any way relieve or absolve any person affected by such order or report from any liability under any law of this state.

(Added by Stats. 1980, Ch. 1214, Sec. 1. Section applicable October 1, 1981, pursuant to Section 791.01.)

791.19. Any person who violates a cease and desist order of the commissioner under Section 791.17 may, after notice and hearing and upon order of the commissioner, be subject to one or more of the following penalties, at the discretion of the commissioner:

- (a) A monetary fine of not more than ten thousand dollars (\$10,000) for each violation; or
- (b) A monetary fine of not more than fifty thousand dollars (\$50,000) if the commissioner finds that violations have occurred with such frequency as to constitute a general business practice; or
- (c) Suspension or revocation of an insurance institution's or agent's license if the insurance institution or agent knew or reasonably should have known it was in violation of this article.

(Added by Stats. 1980, Ch. 1214, Sec. 1. Section applicable October 1, 1981, pursuant to Section 791.01.)

791.20. (a) If any insurance institution, agent or insurance-support organization fails to comply with Section 791.08, 791.09 or 791.10 with respect to the rights granted under those sections, any person whose rights are violated may apply to any court of competent jurisdiction, for appropriate equitable relief.

- (b) An insurance institution, agent or insurance-support organization which discloses information in violation of Section 791.13 shall be liable for damages sustained by the individual about whom the information relates. However no individual shall be entitled to a monetary award which exceeds the actual damages sustained by the individual as a result of a violation of Section 791.13.
- (c) In any action brought pursuant to this section, the court may award the cost of the action and reasonable attorney's fees to the prevailing party.

- (d) An action under this section shall be brought within two years from the date the alleged violation is or should have been discovered.

- (e) Except as specifically provided in this section, there shall be no remedy or recovery available to individuals, in law or in equity, for occurrences constituting a violation of any provision of this act.

(Amended by Stats. 1981, Ch. 106, Sec. 16. Effective June 29, 1981. Amending action operative June 30, 1981, pursuant to Stats. 1981, Ch. 121, Sec. 3. Section applicable October 1, 1981, pursuant to Section 791.01.)

791.21. No cause of action in the nature of defamation, invasion of privacy or negligence shall arise against any person for disclosing personal or privileged information in accordance with this chapter, nor shall such a cause of action arise against any person for furnishing personal or privileged information to an insurance institution, agent or insurance-support organization; provided, however, this section shall provide no immunity for disclosing or furnishing false information with malice or willful intent to injure any person.

(Repealed and added by Stats. 1981, Ch. 106, Sec. 18. Effective June 29, 1981. Repealing and adding actions operative June 30, 1981, pursuant to Stats. 1981, Ch. 121, Sec. 3. Section applicable October 1, 1981, pursuant to Section 791.01.)

791.22. Any person who knowingly and willfully obtains information about an individual from an insurance institution, agent or insurance-support organization under false pretenses shall be fined not more than ten thousand dollars (\$10,000) or imprisoned for not more than one year, or both.

(Added by Stats. 1980, Ch. 1214, Sec. 1. Section applicable October 1, 1981, pursuant to Section 791.01.)

791.23. The rights granted under Sections 791.08, 791.09 and 791.13 shall take effect on October 1, 1981, regardless of the date of the collection or receipt of the information which is the subject of such sections. Nothing contained in subdivisions (k) and (l) of Section 791.13, or in any other provision of this article, shall in any way affect the provisions of Section 770.1.

(Amended by Stats. 1981, Ch. 106, Sec. 19. Effective June 29, 1981. Amending action operative June 30, 1981, pursuant to Stats. 1981, Ch. 121, Sec. 3. Section applicable October 1, 1981, pursuant to Section 791.01.)

791.26. Where an authorization from the individual was granted to a nonprofit hospital service plan prior to October 1, 1981, such authorization shall be deemed to be in compliance with this article.

(Amended by Stats. 1981, Ch. 106, Sec. 20. Effective June 29, 1981. Amending action operative June 30, 1981, pursuant to Stats. 1981, Ch. 121, Sec. 3. Section applicable October 1, 1981, pursuant to Section 791.01.)

791.27. (a) A disability insurer that provides coverage for hospital, medical, or surgical expenses shall not release any information to an employer that would directly or indirectly indicate to the employer that an employee is receiving or has received services from a health care provider covered by the plan unless authorized to do so by the employee. An insurer that has, pursuant to an agreement, assumed the responsibility to pay compensation pursuant to Article 3 (commencing with Section 3750) of Chapter 4 of Part 1 of Division 4 of the Labor Code, shall not be considered an employer for the purposes of this section.

(b) Nothing in this section prohibits a disability insurer from releasing relevant information described in this section for the purposes set forth in Chapter 12 (commencing with Section 1871) of Part 2 of Division 1.

(c) Nothing in this section prohibits a disability insurer from releasing relevant information described in this section for the purposes set forth in Section 10181.10.

(Amended by Stats. 2014, Ch. 577, Sec. 4. (SB 1182) Effective January 1, 2015.)

791.28. (a) An insurer under a personal lines residential property insurance policy, if it reports the claims history or loss experience of insureds under those policies to an insurance-support organization, shall provide the insured with the following additional disclosure at the time that it provides the disclosure required pursuant to paragraph (1) of subdivision (b) of Section 790.034:

"This insurer reports claim information to one or more claims information databases. The claim information is used to furnish loss history reports to insurers. If you are interested in obtaining a report from a claims information database, you may do so by contacting:

(Insert the name, toll-free telephone number, and, if applicable, Internet Web site address of each claims information database to which the insurer reports the information covered by this section)"

(b) This section shall become operative on July 1, 2006.

(Added by Stats. 2005, Ch. 433, Sec. 1. Effective January 1, 2006. Section operative July 1, 2006, by its own provisions.)

791.29. Notwithstanding any other law, and to the extent permitted by federal law, a health insurer shall take the following steps to protect the confidentiality of an insured's medical information:

(a) (1) A health insurer shall not require a protected individual to obtain the policyholder's authorization to receive sensitive services or to submit a claim for sensitive services if the protected individual has the right to consent to care.

(2) A health insurer shall recognize the right of a protected individual to exclusively exercise rights granted under this section regarding medical information related to sensitive services that the protected individual has received.

(3) A health insurer shall direct all communications regarding a protected individual's receipt of sensitive health care services directly to the protected individual receiving care as follows:

(A) If the protected individual has designated an alternative mailing address, email address, or telephone number pursuant to subdivision (b), the health insurer shall send or make all communications related to the protected individual's receipt of sensitive services to the alternative mailing address, email address, or telephone number designated.

(B) If the protected individual has not designated an alternative mailing address, email address, or telephone number pursuant to subdivision (b), the health insurer shall send or make all communications related to the protected individual's receipt of sensitive services in the name of the protected individual at the address or telephone number on file.

(C) Communications subject to this paragraph shall include the following written, verbal, or electronic communications:

(i) Bills and attempts to collect payment.

(ii) A notice of adverse benefits determinations.

(iii) An explanation of benefits notice.

(iv) A health insurer's request for additional information regarding a claim.

(v) A notice of a contested claim.

(vi) The name and address of a provider, description of services provided, and other information related to a visit.

(vii) Any written, oral, or electronic communication from a health insurer that contains protected health information.

(4) A health insurer shall not disclose medical information related to sensitive health care services provided to a protected individual to the policyholder or any insureds other than the protected individual receiving care, absent an express written authorization of the protected individual receiving care.

(b) (1) A health insurer shall permit an insured to request, and shall accommodate requests for, confidential communication in the form and format requested by the insured, if it is readily producible in the requested form and format, or at alternative locations.

(2) A health insurer may require the insured to make a request for a confidential communication described in paragraph (1) in writing or by electronic transmission.

(3) The confidential communication request shall apply to all communications that disclose medical information or provider name and address related to receipt of medical services by the individual requesting the confidential communication.

(4) The confidential communication request shall be valid until the insured submits a revocation of the request, or a new confidential communication request is submitted.

(5) For the purposes of this section, a confidential communications request shall be implemented by the health insurer within 7 calendar days of the receipt of an electronic transmission, telephonic request, or request submitted through the health insurer's internet website, or within 14 calendar days of receipt by first-class mail. The health insurer shall acknowledge receipt of the confidential communications request and advise the insured of the status of implementation of the request if an insured contacts the insurer.

(c) (1) A health insurer shall notify insureds that they may request a confidential communication pursuant to subdivision (b) and how to make the request.

(2) The information required to be provided pursuant to this subdivision shall be provided to insureds with individual or group coverage upon initial enrollment and annually thereafter upon renewal. The information shall also be provided in the following manner:

(A) In a conspicuously visible location in the evidence of coverage.

(B) On the health insurer's internet website, accessible through a hyperlink on the internet website's home page and in a manner that allows insureds, prospective insureds, and members of the public to easily locate the information.

(d) Notwithstanding subdivision (b), a provider of health care may make arrangements with the insured for the payment of benefit cost sharing and communicate that arrangement with the insurer.

(e) A health insurer shall not condition coverage on the waiver of rights provided in this section.

(f) If the commissioner determines that an insurer has violated this section, the commissioner may, after appropriate notice and opportunity for hearing in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), by order, assess a civil penalty not to exceed five thousand dollars (\$5,000) for each violation, or, if a violation was willful, a civil penalty not to exceed ten thousand dollars (\$10,000) for each violation. The commissioner shall have the discretion to determine the acts or omissions that constitute a violation of this section.

(g) This section shall become operative on July 1, 2022.

(Amended (as added by Stats. 2021, Ch. 190, Sec. 7) by Stats. 2022, Ch. 628, Sec. 7. (AB 2091) Effective September 27, 2022.)