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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 6.7. Joint Activities [795 - 795.7] (*Article 6.7 added by Stats. 1963, Ch. 2055.*)

795. It is the purpose of this article to provide a means of more adequately meeting the needs of persons who are 65 years of age or older and their spouses for insurance coverage against financial loss from accident or disease through the combined resources and experience of a number of insurers; to make possible the fullest extension of such coverage by encouraging insurers to combine their resources and experience and to exercise their collective efforts in the development and offering of policies of such insurance to all such applicants at costs lower than those generally available through individual insurers; and to regulate the joint activities herein authorized in accordance with the intent of Congress as expressed in the Act of Congress of March 9, 1945 (Public Law 15, 79th Congress), as amended.

(*Added by Stats. 1963, Ch. 2055.*)

795.1. Wherever used in this article, the following terms shall have the meanings hereinafter set forth or indicated, unless the context otherwise requires:

(a) "Association" means a voluntary unincorporated association formed for the purpose of enabling co-operative action to provide disability insurance in accordance with this article in this or any other state having legislation enabling the issuance of insurance of the type provided in this article.

(b) "Insurer" means any insurance company which is authorized to transact disability insurance in this State.

(c) "Extended health insurance" means hospital, surgical and medical expense insurance provided by a policy issued as provided by this article.

(*Added by Stats. 1963, Ch. 2055.*)

795.2. Notwithstanding any other provision of this code or any other law which may be inconsistent herewith, any insurer may join with one or more other insurers to plan, develop, underwrite, and offer and provide to any person who is 65 years of age or older and to the spouse of such person, extended health insurance against financial loss from accident or disease, or both. Such insurance may be offered, issued and administered jointly by two or more insurers by a group policy issued to a policyholder through an association formed for the purpose of offering, selling, issuing and administering such insurance. The policyholder may be an association, a trustee, or any other person. Any such policy may provide, among other things, that the benefits payable thereunder are subject to reduction if the individual insured has any other coverage providing hospital, surgical or medical benefits whether on an indemnity basis or a provision of service basis resulting in such insured being eligible for more than 100 percent of covered expenses which he is required to pay, and any insurer issuing individual policies providing extended hospital, surgical or medical benefits to persons 65 years of age and older and their spouses may also use such a policy provision. A master group policy issued to an association or to a trustee or any person appointed by an association for the purpose of providing the insurances described in this article shall be another form of group disability insurance.

Any form of policy approved by the commissioner for an association shall be offered throughout California to all persons 65 and older and their spouses, and the coverage of any person insured under such a form of policy shall not be cancelable except for nonpayment of premiums unless the coverage of all persons insured under such form of policy is also canceled.

(*Added by Stats. 1963, Ch. 2055.*)

795.25. Any association, organized in accordance with this article, may offer, issue and administer a policy, or policies, designed to specifically meet the requirements of any federal or state program for provision of health care to segments of the population over 65

years of age. In any case where such a federal or state program is designed to also meet the health care needs of segments of the population under age 65, including, but without limitation, the health care needs of families with dependent children, the blind, the disabled, and the otherwise medically indigent, insurance under such policy or policies may be made available to beneficiaries of such program under age 65. Such an association may also perform administrative services in connection with any such program under contract with the federal government, the state, any agency of either, or any other entity.

(Added by Stats. 1965, Ch. 2046.)

795.3. Notwithstanding the provisions of Section 755.5 of this code, any person licensed to transact disability insurance as an insurance agent, insurance broker, insurance solicitor or life agent may transact extended health insurance and may be paid a commission thereon in accordance with commission schedules filed with the commissioner as required by Section 795.5 of this code.

(Added by Stats. 1963, Ch. 2055.)

795.4. Any association formed for the purposes of this article may hold title to property, may enter into contracts, and may limit the liability of its members to their respective pro rata shares of the liability of such association. Any such association may sue and be sued in its associate name and for such purpose only shall be treated as a domestic corporation. Service of process against such association, made upon a managing agent, any member thereof or any agent authorized by appointment to receive service of process, shall have the same force and effect as if such service had been made upon all members of the association. Such association's books and records shall also be subject to examination under the provisions of Sections 730–738, inclusive, either separately or concurrently with examination of any of its member insurers.

(Added by Stats. 1963, Ch. 2055.)

795.5. The forms of the policies, applications, certificates or other evidence of insurance coverage, commission schedules and applicable premium rates relating thereto shall be filed with the commissioner. No such policy, contract, certificate or other evidence of insurance, application or other form shall be sold, issued or used and no endorsement shall be attached to or printed or stamped thereon unless the form thereof shall have been approved by the commissioner or 30 days shall have expired after such filing without written notice from the commissioner of disapproval thereof. The commissioner shall disapprove the forms for such insurance if he finds that they are unjust, unfair, inequitable, misleading or deceptive or that the rates are by reasonable assumptions excessive in relation to the benefits provided. In determining whether such rates by reasonable assumptions are excessive in relation to the benefits provided, the commissioner shall give due consideration to past and prospective claim experience, within and outside this State, and to fluctuations in such claim experience, to a reasonable risk charge, to contribution to surplus and contingency funds, to past and prospective expenses, both within and outside this State, and to all other relevant factors within and outside this State including any differing operating methods of the insurers joining in the issue of the policy. In exercising the powers conferred upon him by this section, the commissioner shall not be bound by any other requirement of this code with respect to standard provisions to be included in disability policies or forms.

The commissioner may, after hearing upon written notice, withdraw an approval previously given, upon such grounds as in his opinion would authorize disapproval upon original submission thereof. Any such withdrawal of approval after hearing shall be by notice in writing specifying the ground thereof and shall be effective at the expiration of such period, not less than 90 days after the giving of notice of withdrawal, as the commissioner shall in such notice prescribe.

If and when a program of hospital, surgical and medical benefits is enacted by the federal government or the State of California, the extended health insurance benefits provided by policies issued under this article shall be adjusted to avoid any duplication of benefits offered by the federal or state programs and the premium rates applicable thereto shall be adjusted to conform with the adjusted benefits.

The association shall submit an annual report to the Insurance Commissioner which shall become public information and shall provide information as to the number of persons insured, the names of the insurers participating in the association with respect to insurance offered under this article and the calendar year experience applicable to such insurance offered under this article, including premiums earned, claims paid during the calendar year, the amount of claims reserve established, administrative expenses, commissions, promotional expenses, taxes, contingency reserve, other expenses, and profit and loss for the year. The commissioner shall require the association to provide any and all information concerning the operations of the association deemed relevant by him for inclusion in the report.

(Added by Stats. 1963, Ch. 2055.)

795.6. The articles of association of any association formed in accordance with this article, all amendments and supplements thereto, a designation in writing of a resident of this State as agent for the service of process, and a list of insurers who are members of the association and all supplements thereto shall be filed with the commissioner.

The name of any association or any advertising or promotional material used in connection with extended health insurance to be sold, offered, or issued, pursuant to this article shall not be such as to mislead or deceive the public.

(Added by Stats. 1963, Ch. 2055.)

795.7. No act done, action taken or agreement made pursuant to the authority conferred by this article shall constitute a violation of or grounds for prosecution or civil proceedings under any other law of this State heretofore or hereafter enacted which does not specifically refer to insurance.

(Added by Stats. 1963, Ch. 2055.)