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INSURANCE CODE - INS

DIVISION 2. CLASSES OF INSURANCE [1880 - 12880.8] (*Division 2 enacted by Stats. 1935, Ch. 145.*)

PART 2. LIFE AND DISABILITY INSURANCE [10110 - 11549] (*Part 2 enacted by Stats. 1935, Ch. 145.*)

CHAPTER 4. Standard Provisions in Disability Policies [10270 - 10402.1] (*Chapter 4 enacted by Stats. 1935, Ch. 145.*)

ARTICLE 6. Interpretation of Policy [10380 - 10390] (*Heading of Article 6 renumbered from Article 5 by Stats. 1941, Ch. 272.*)

10380. The falsity of any statement in the application for any policy covered by this chapter shall not bar the right to recovery under the policy unless such false statement was made with actual intent to deceive or unless it materially affected either the acceptance of the risk or the hazard assumed by the insurer.

(Amended by Stats. 1993, Ch. 1209, Sec. 9. Effective January 1, 1994.)

10381. The following shall not operate as a waiver of any of the rights of the insurer in defense of any claim arising under such disability policy:

- (a) The acknowledgment by any insurer of the receipt of notice given under any policy covered by this chapter.
- (b) The furnishing of forms for filing proofs of loss.
- (c) The acceptance of such proofs.
- (d) The investigation of any claim thereunder.

(Amended by Stats. 1951, Ch. 570.)

10381.5. The insured shall not be bound by any statement made in an application for a policy unless a copy of such application is attached to or endorsed on the policy when issued as a part thereof. If any such policy delivered or issued for delivery to any person in this State shall be reinstated or renewed, and the insured or the beneficiary or assignee of such policy shall make written request to the insurer for a copy of the application, if any, for such reinstatement or renewal, the insurer shall within 15 days after the receipt of such request at its home office or any branch office of the insurer, deliver or mail to the person making such request, a copy of such application. If such copy shall not be so delivered or mailed, the insurer shall be precluded from introducing such application as evidence in any action or proceeding based upon or involving such policy or its reinstatement or renewal.

(Added by Stats. 1951, Ch. 570.)

10382. No alteration of any written application for any disability policy shall be made by any person other than the applicant without his written consent except that insertions may be made by the insurer, for administrative purposes only, in such manner as to indicate clearly that such insertions are not to be ascribed to the applicant. The making of any other alteration without the consent of the applicant is a misdemeanor. If such alteration is made by any officer of the insurer, or by any employee of the insurer with the insurer's knowledge or consent, such alteration is deemed to be performed by the insurer issuing the policy upon such altered application.

(Amended by Stats. 1951, Ch. 570.)

10383. If any disability policy contains a provision establishing, as an age limit or otherwise, a date after which the coverage provided by the policy will not be effective, and if such date falls within a period for which premium is accepted by the insurer or if the insurer accepts a premium after such date, the coverage provided by the policy will continue in force subject to any right of cancellation until the end of the period for which premium has been accepted. In the event the age of the insured has been misstated and if, according to the correct age of the insured, the coverage provided by the policy would not have become effective, or would have ceased prior to the acceptance of such premium or premiums, then the liability of the insurer shall be limited to the refund, upon request, of all premiums paid for the period not covered by the policy.

(Added by Stats. 1951, Ch. 570.)

10384. No insurer issuing or providing any policy of disability insurance covering hospital, medical, or surgical expenses shall engage in the practice of postclaims underwriting. For purposes of this section, "postclaims underwriting" means the rescinding, canceling, or limiting of a policy or certificate due to the insurer's failure to complete medical underwriting and resolve all reasonable questions arising from written information submitted on or with an application before issuing the policy or certificate.

(Added by Stats. 1993, Ch. 1210, Sec. 8. Effective January 1, 1994.)

10384.17. (a) A health insurer shall not rescind a health insurance policy, or limit any provisions of a health insurance policy, once an insured is covered under the policy unless the insurer can demonstrate that the insured has performed an act or practice constituting fraud or made an intentional misrepresentation of material fact as prohibited by the terms of the policy.

(b) If a health insurer intends to rescind a health insurance policy pursuant to subdivision (a), the insurer shall send a notice to the policyholder or insured via regular certified mail at least 30 days prior to the effective date of the rescission explaining the reasons for the intended rescission and notifying the policyholder or insured of his or her right to appeal that decision to the commissioner pursuant to subdivision (b) of Section 10273.4.

(c) Notwithstanding subdivision (a) of Section 10273.4 or any other provision of law, after 24 months following the issuance of a health insurance policy, a health insurer shall not rescind the policy for any reason, and shall not cancel the policy, limit any of the provisions of the policy, or raise premiums on the policy due to any omissions, misrepresentations, or inaccuracies in the application form, whether willful or not. Nothing in this subdivision shall be construed to alter existing law that otherwise applies to a health insurer within the first 24 months following the issuance of a health insurance policy.

(Amended by Stats. 2010, Ch. 658, Sec. 14. (AB 2470) Effective January 1, 2011.)

10385. Compensation of a person or entity employed by, or contracted with, a disability insurer shall not be based on, or related in any way to, the number of policies or certificates for health insurance that the person or entity has caused or recommended to be rescinded, canceled, or limited, or the resulting cost savings to the insurer. A disability insurer shall not set performance goals or quotas, or provide compensation to any person or entity employed by, or contracted with, the insurer, based on the number of persons whose health insurance coverage is rescinded or any financial savings to the insurer associated with rescission of coverage.

(Added by Stats. 2008, Ch. 188, Sec. 2. Effective January 1, 2009.)

10390. A policy delivered or issued for delivery to any person in this State in violation of this chapter shall be held valid but shall be construed as provided in this chapter. When any provision in such a policy is in conflict with any provision of this chapter, the rights, duties and obligations of the insurer, the insured and the beneficiary shall be governed by this chapter.

(Amended by Stats. 1951, Ch. 570.)