AB-571 Medical malpractice insurance. (2023-2024)

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Assembly Bill No. 571

CHAPTER 256

An act to add Section 11589.1 to the Insurance Code, relating to insurance.

[Approved by Governor September 27, 2023. Filed with Secretary of State September 27, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 571, Petrie-Norris. Medical malpractice insurance.

Existing law generally regulates classes of insurance, including liability insurance. Existing law defines “liability insurance” to include, among other things, insurance coverage against the legal liability of the insured, and against loss, damage, or expense incident to a claim arising out of the death or injury of any person as the result of negligence or malpractice in rendering professional services by any person who holds a certificate or license issued pursuant to the Medical Practice Act or the Osteopathic Initiative Act, or a license as a community clinic or health facility, as specified.

This bill would prohibit an insurer from refusing to issue or renew or terminating professional liability insurance for health care providers, as specified, and from imposing a surcharge or increasing the premium or deductible solely based on any prohibited bases for discrimination, including a health care provider offering or performing abortion, contraception, gender-affirming health care, or care related to those health care services that are lawful in this state but unlawful in another state.

The bill would prohibit an insurer from denying coverage for liability for damages arising from offering or performing abortion, contraception, gender-affirming health care, or care related to those health care services, if those services are within the scope of the insured’s license, the services are lawful in the state where they are offered or performed, and the policy would otherwise cover liability for damages arising from performing or rendering other professional services within the insured’s scope of license.

Vote: majority   Appropriation: no   Fiscal Committee: yes   Local Program: no

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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 11589.1 is added to the Insurance Code, to read:

11589.1. (a) (1) An insurer shall not refuse to issue or renew, nor shall terminate, professional liability insurance for a health care provider in this state, solely based on any prohibited bases for discrimination set forth in subdivision (d).

(2) With respect to policies issued in this state and that provide professional liability coverage for damages arising from services offered or performed in multiple states, if a health care provider offers or performs the services described in paragraph (1) of subdivision (d) in a state where those services are unlawful, nothing in this section shall be construed to prohibit an insurer from terminating, or refusing to issue or renew, a health care provider’s professional liability coverage in that state where the unlawful services are offered or performed.

(b) An insurer shall not increase premium, impose a surcharge or other additional compensation or cost, or institute or increase a deductible amount or other cost sharing payable by an insured, solely based on any prohibited bases for discrimination set forth in subdivision (d). Nothing in this section shall be construed to supersede, modify, or otherwise affect in any way the provisions of Article 10 (commencing with Section 1861.01) of Chapter 9 of Part 2 of Division 1 and implementing regulations, as applicable.

(c) An insurer providing professional liability insurance for health care providers in this state shall not deny coverage for liability for damages arising from offering or performing abortion, contraception, gender-affirming health care, or care related to those health care services, if those services are within the scope of the insured's license, the services are lawful in the state where they are offered or performed, and the policy would otherwise cover liability for such damages arising from performing or rendering other professional services within the insured's scope of license.

(d) For purposes of this section, "prohibited bases for discrimination" include all of the following:

(1) A health care provider offers or performs abortion, contraception, gender-affirming health care, or care related to those health care services, that are lawful in this state, including, but not limited to, those that may be unlawful in another state.

(2) Another state's laws create potential or actual liability for abortion, contraception, gender-affirming health care, or care related to those health care services offered or performed in this state.

(3) Legal or administrative action taken in another state against a health care provider concerning abortion, contraception, gender-affirming health care, or care related to those health care services, results or resulted in a judgment, conviction, or disciplinary action against the provider, if those health care services, as provided, are or would be lawful and consistent with the applicable standard of care in this state.

(e) This section applies to professional liability insurance marketed, offered, issued, amended, or renewed in this state for health care providers in this state.

(f) For purposes of this section, the following definitions shall apply:

(1) "Health care provider" means a person licensed under Division 2 (commencing with Section 500) of the Business and Professions Code to perform or render health care services in this state.

(2) "Offer or perform" means to offer, perform, provide, prescribe, dispense, furnish, or otherwise render health care items or services, as well as to aid or assist in the rendering of those items or services.

(3) "Professional liability insurance" means insurance against liability for damages caused by any act or omission of a person licensed to provide health care services in rendering professional services within this state issued by any insurer, including, but not limited to, a joint underwriting association, cooperative corporation, or reciprocal or interinsurance exchange.