

AMENDED IN ASSEMBLY APRIL 12, 2019

AMENDED IN ASSEMBLY APRIL 4, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

**ASSEMBLY BILL**

**No. 981**

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**Introduced by Assembly Member Daly**

February 21, 2019

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An act to amend ~~Section 791.01~~ *Sections 791.01, 791.02, 791.04, 791.06, 791.08, 791.09, and 791.13* of, and to add ~~Section 791.30~~ *Sections 791.24, 791.25, 791.30, and 791.31* to, the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 981, as amended, Daly. Insurance Information and Privacy Protection Act.

**Existing**

(1) *Existing* law generally regulates the business of insurance in the state. Existing law, the Insurance Information and Privacy Protection Act, establishes privacy standards for the collection, use, and disclosure of information gathered in connection with insurance transactions by insurance institutions, agents, or insurance-support organizations that meet specified criteria. Under existing law, those insurance institutions, agents, and insurance-support organizations are exempted from the Confidentiality of Medical Information Act and specified consumer credit reporting laws.

This bill would additionally exempt insurance institutions, agents, and support organizations to which the Insurance Information and Privacy Protection Act applies from the California Consumer Privacy Act of 2018, except as specified.

(2) *Existing law requires an insurance institution or agent to provide a notice of information practices to all applicants or policyholders in connection with insurance transactions, as specified. Existing law prohibits an insurance institution, agent, or insurance-support organization from utilizing as its disclosure authorization form, a form or statement that authorizes the disclosure of personal or privileged information unless the form or statement meets specified requirements, including, among other things, that it be written in plain language, specifies the nature of the information authorized to be disclosed, and specifies the purposes for which the information is collected.*

*This bill would require the notice of information practices to also be provided to the general public and would require the notice to include the categories of personal information to be collected and purposes for which the categories of personal information will be used. The bill would also require an insurance institution or agent to provide a clear and conspicuous notice that accurately reflects its privacy policies and practices, as specified. The bill would require the disclosure authorization form to set forth reasonable means by which an individual may exercise the right to opt out of any disclosures.*

*The bill would require an insurance institution, agent, or insurance-support organization to implement a comprehensive written information security program that includes administrative, technical, and physical safeguards for the protection of policyholder information. The bill would require the information security program to, among other things, ensure the security and confidentiality of policyholder information and protect against any anticipated threats or hazards to the security or integrity of policyholder information.*

**Existing**

(3) *Existing law, the California Consumer Privacy Act of 2018, among other things, prohibits a business from selling the personal information of consumers if the business has actual knowledge that the consumer is less than 16 years of age, unless the consumer, in the case of consumers between 13 and 16 years of age, or the consumer's parent or guardian, in the case of consumers who are less than 13 years of age, has affirmatively authorized the sale of the consumer's personal information. Under existing law, a business that willfully disregards the consumer's age is deemed to have had actual knowledge of the consumer's age.*

*This bill would enact similar provisions in the Insurance Information and Privacy Protection Act to prohibit an insurance institution, agent,*

or insurance-support organization from selling the personal information of an insured if the insurance institution, agent, or insurance-support organization has actual knowledge that the insured is less than 16 years of age, unless the insured, in the case of an insured between 13 and 16 years of age, or the insured’s parent or guardian, in the case of an insured who is less than 13 years of age, has affirmatively authorized the sale of the insured’s personal information. Under the bill, an insurance institution, agent, or insurance-support organization that willfully disregards an insured’s age would be deemed to have had actual knowledge of the insured’s age.

*(4) Existing law prohibits an insurance institution, agent, or insurance-support organization from disclosing any personal or privileged information about an individual collected or received in connection with an insurance transaction unless the disclosure is, among other things, with the written authorization of the individual, reasonably necessary to enable the person to perform a business, professional, or insurance function for the insurance institution, agent, or insurance-support organization or insured, or the disclosure is made for the purpose of conducting actuarial or research studies.*

*This bill would define “research” for purposes of those provisions to mean scientific, systematic study and observation. The bill would prohibit an insurance institution, agent, or insurance-support organization from unfairly discriminating against an applicant or policyholder because that applicant or policyholder has opted out from the disclosure of nonpublic personal information or has not granted authorization for the disclosure of nonpublic personal medical record information.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) The business of insurance requires the collection,
- 4 maintenance, and analysis of information in order to perform the
- 5 most basic insurance functions, including ratesetting, underwriting,
- 6 claims handling, fraud detection, and investigation.
- 7 (2) Insurers are obligated to protect all personal information
- 8 collected, and that obligation has been recognized in California

1 law beginning with the enactment of the Insurance Information  
2 and Privacy Protection Act (IIPPA) in 1980.

3 (3) The obligation to protect personal information was expanded  
4 in 2003 as part of an extensive set of privacy regulations adopted  
5 by the Insurance Commissioner.

6 (b) It is the intent of the Legislature to harmonize the consumer  
7 privacy protections contained in the California Consumer Privacy  
8 Act of 2018 with the requirements of conducting the business of  
9 insurance and long-established protections in the IIPPA and its  
10 implementing regulations.

11 SEC. 2. Section 791.01 of the Insurance Code is amended to  
12 read:

13 791.01. (a) The obligations imposed by this article shall apply  
14 to insurance institutions, agents, or insurance-support organizations  
15 that, on or after October 1, ~~1981~~ 1981, engage in the following  
16 activities:

17 (1) In the case of life or disability ~~insurance~~: insurance, do either  
18 of the following:

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

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

24 (2) In the case of property or casualty ~~insurance~~: insurance, do  
25 either of the following:

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

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

32 (b) The rights granted by this article shall extend ~~to~~: to both of  
33 the following:

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

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

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

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

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

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

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

15 (d) This article does not apply to a person or entity engaged in  
16 the business of title insurance as defined in Section 12340.3.

17 (e) This article does not apply to a person or entity engaged in  
18 the business of a home protection company, as defined in Section  
19 12740, that does not obtain or maintain personal information, as  
20 defined in this article, of its policyholders and applicants.

21 (f) Insurance institutions, agents, insurance-support  
22 organizations, or insurance transactions subject to this article shall  
23 be exempt from all of the following:

24 (1) Part 2.6 (commencing with Section 56) of Division 1 of the  
25 Civil Code.

26 (2) Title 1.81.5 (commencing with Section 1798.100) of Part 4  
27 of Division 3 of the Civil Code, excluding Section 1798.150. *The*  
28 *exemption provided by this paragraph does not apply to a business*  
29 *activity that is not subject to this article.*

30 (3) Sections 1785.20 and 1786.40 of the Civil Code.

31 *SEC. 3. Section 791.02 of the Insurance Code is amended to*  
32 *read:*

33 791.02. As used in this ~~act~~ article, the following terms have  
34 the following meanings:

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

38 (A) A declination of insurance coverage.

39 (B) A termination of insurance coverage.

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

4 (D) In the case of a property or casualty insurance ~~coverage:~~  
5 *coverage, either of the following:*

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

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

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

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

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

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

30 (C) The rescission of a policy.

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

34 (c) “Agent” means any person licensed pursuant to Chapter 5  
35 (commencing with Section 1621), Chapter 5A (commencing with  
36 Section 1759), Chapter 6 (commencing with Section 1760), Chapter  
37 7 (commencing with Section 1800), or Chapter 8 (commencing  
38 with Section 1831).

39 (d) “Aggregate consumer information” means information that  
40 relates to a group or category of consumers, from which individual

1 consumer identities have been removed, that is not linked or  
2 reasonably linkable to any consumer or household, including via  
3 a device. “Aggregate consumer information” does not mean one  
4 or more individual consumer records that have been deidentified.

5 ~~(d)~~

6 (e) “Applicant” means any person who seeks to contract for  
7 insurance coverage other than a person seeking group insurance  
8 that is not individually underwritten.

9 (f) “Biometric information” means an individual’s  
10 physiological, biological, or behavioral characteristics, including  
11 an individual’s deoxyribonucleic acid (DNA), that can be used  
12 singly or in combination with each other or with other identifying  
13 data, to establish individual identity. Biometric information  
14 includes, but is not limited to, imagery of the iris, retina,  
15 fingerprint, face, hand, palm, vein patterns, and voice recordings,  
16 from which an identifier template, including a faceprint, a minutiae  
17 template, or a voiceprint, can be extracted, and keystroke patterns  
18 or rhythms, gait patterns or rhythms, and sleep, health, or exercise  
19 data that contain identifying information.

20 (g) “Commissioner” means the Insurance Commissioner.

21 (h) “Confidential communications request” means a request  
22 by an insured covered under a health insurance policy that  
23 insurance communications containing medical information be  
24 communicated to the insured at a specific mail or email address  
25 or specific telephone number, as designated by the insured.

26 (i) (1) “Consumer” means a natural person who is a California  
27 resident, as defined in Section 17014 of Title 18 of the California  
28 Code of Regulations, as that section read on September 1, 2017,  
29 however identified, including by any unique identifier.

30 (2) “Consumer” does not include a natural person whose  
31 personal information has been collected by a business in the course  
32 of a person acting as a job applicant or as an employee, contractor,  
33 or agent, on behalf of the business, to the extent their personal  
34 information is used for purposes compatible with the context of  
35 the person’s activities for the business as a job applicant, employee,  
36 contractor, or agent of the business.

37 ~~(e)~~

38 (j) “Consumer report” means any written, oral, or other  
39 communication of information bearing on a natural person’s  
40 creditworthiness, credit standing, credit capacity, character, general

1 reputation, personal characteristics, or mode of living that is used  
2 or expected to be used in connection with an insurance transaction.

3 ~~(f)~~

4 (k) “Consumer reporting agency” means any person ~~who~~: *who*  
5 *does any of the following*:

6 (1) Regularly engages, in whole or in part, in the practice of  
7 assembling or preparing consumer reports for a monetary fee.

8 (2) Obtains information primarily from sources other than  
9 insurance institutions.

10 (3) Furnishes consumer reports to other persons.

11 ~~(g)~~

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

20 ~~(h)~~

21 (m) “Declination of insurance coverage” means a denial, in  
22 whole or in part, by an insurance institution or agent of requested  
23 insurance coverage.

24 (n) “Deidentified” means information that cannot reasonably  
25 identify, relate to, describe, be capable of being associated with,  
26 or be linked, directly or indirectly, to a particular consumer,  
27 provided that a business that uses deidentified information does  
28 all of the following:

29 (1) Has implemented technical safeguards that prohibit  
30 reidentification of the consumer to whom the information may  
31 pertain.

32 (2) Has implemented business processes that specifically  
33 prohibit reidentification of the information.

34 (3) Has implemented business processes to prevent inadvertent  
35 release of deidentified information.

36 (4) Makes no attempt to reidentify the information.

37 (o) “Endanger” means that the insured covered under a health  
38 insurance policy fears that the disclosure of the medical  
39 information could subject the insured covered under a health  
40 insurance policy to harassment or abuse.



1     ~~(i)~~

2     

(p) “Individual” means any natural person who is any of the  
3 following:

4     (1) In the case of property or casualty insurance, is a past,  
5 present, or proposed named insured or certificate holder.

6     (2) In the case of life or disability insurance, is a past, present,  
7 or proposed principal insured or certificate holder.

8     (3) Is a past, present, or proposed ~~policyowner~~. *policy owner*.

9     (4) Is a past or present applicant.

10    (5) Is a past or present claimant.

11    (6) Derived, derives, or is proposed to derive insurance coverage  
12 under an insurance policy or certificate subject to this act.

13    ~~(j)~~

14    

(q) “Institutional source” means any person or governmental  
15 entity that provides information about an individual to an agent,  
16 insurance institution, or insurance-support organization, other than  
17 any of the following:

18    (1) An agent.

19    (2) The individual who is the subject of the information.

20    (3) A natural person acting in a personal capacity rather than in  
21 a business or professional capacity.

22    ~~(k)~~

23    

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

31    ~~(t)~~

32    

(s) “Insurance-support organization” means:

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

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

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

6 (2) Notwithstanding paragraph (1), ~~the following persons shall~~  
7 ~~not be considered “insurance-support organizations”:~~ agents,  
8 governmental institutions, insurance institutions, medical care  
9 institutions, medical professionals, and peer review ~~committees.~~  
10 *committees are not “insurance-support organizations.”*

11 ~~(m)~~

12 (t) “Insurance transaction” means any transaction involving  
13 insurance primarily for personal, family, or household needs rather  
14 than business or professional needs that entails either of the  
15 following:

16 (1) The determination of an individual’s eligibility for an  
17 insurance coverage, benefit, or payment.

18 (2) The servicing of an insurance application, policy, contract,  
19 or certificate.

20 ~~(n)~~

21 (u) “Investigative consumer report” means a consumer report  
22 or portion thereof in which information about a natural person’s  
23 character, general reputation, personal characteristics, or mode of  
24 living is obtained through personal interviews with the person’s  
25 neighbors, friends, associates, acquaintances, or others who may  
26 have knowledge concerning those items of information.

27 ~~(o)~~

28 (v) “Medical care institution” means any facility or institution  
29 that is licensed to provide health care services to natural persons,  
30 including but not limited to, hospitals, skilled nursing facilities,  
31 home health agencies, medical clinics, rehabilitation agencies, and  
32 public health agencies.

33 (w) “Medical information” means any individually identifiable  
34 information, in electronic or physical form, in possession of or  
35 derived from a provider of health care, health insurer,  
36 pharmaceutical company, or contractor regarding a patient’s  
37 medical history, mental or physical condition, or treatment.  
38 “Individually identifiable” means that the medical information  
39 includes or contains any element of personal identifying  
40 information sufficient to allow identification of the individual,

1 *including the patient's name, address, electronic mail address,*  
2 *telephone number, or social security number, or other information*  
3 *that, alone or in combination with other publicly available*  
4 *information, reveals the individual's identity.*

5 (p)

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

12 (q)

13 (y) "Medical record information" means personal information  
14 that is both of the following:

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

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

20 (r)

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

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

30 (aa) *"Personal information" means information that identifies,*  
31 *relates to, describes, is capable of being associated with, or could*  
32 *reasonably be linked, directly or indirectly, with a particular*  
33 *consumer. Personal information may include, but is not limited*  
34 *to, the following if it identifies, relates to, describes, is capable of*  
35 *being associated with, or could be reasonably linked, directly or*  
36 *indirectly, with a particular consumer:*

37 (1) *Identifiers, including real name, alias, postal address, unique*  
38 *personal identifier, and online identifier.*

1 (2) *Internet Protocol address, email address, account name,*  
2 *social security number, driver’s license number, passport number,*  
3 *or other similar identifiers.*

4 (3) *Any categories of personal information described in*  
5 *subdivision (e) of Section 1798.80 of the Civil Code.*

6 (4) *Characteristics of protected classifications under California*  
7 *or federal law including race, religion, sexual orientation, gender*  
8 *identity, gender expression, and age.*

9 (5) *Commercial information, including records of personal*  
10 *property, products or services purchased, obtained, or considered,*  
11 *or other purchasing or consuming histories or tendencies.*

12 (6) *Biometric information.*

13 (7) *Internet or other electronic network activity information,*  
14 *including, but not limited to, browsing history, search history, and*  
15 *information regarding a consumer’s interaction with an internet*  
16 *website, application, or advertisement.*

17 (8) *Geolocation data.*

18 (9) *Audio, electronic, visual, thermal, olfactory, or similar*  
19 *information.*

20 (10) *Professional or employment-related information.*

21 (11) *Education information, as defined in the Family*  
22 *Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g; 34*  
23 *C.F.R. Part 99).*

24 (12) *Inferences drawn from any of the information identified*  
25 *above to create a profile about a consumer reflecting the*  
26 *consumer’s preferences, characteristics, psychological trends,*  
27 *preferences, predispositions, behavior, attitudes, intelligence,*  
28 *abilities, and aptitudes.*

29 (†)

30 (ab) “Policyholder” means any person who is any of the  
31 following:

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

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

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

38 (†)

1 (ac) “Pretext interview” means an interview whereby a person,  
2 in an attempt to obtain information about a natural person, performs  
3 one or more of the following acts:

- 4 (1) Pretends to be someone ~~he or she is~~ *they are* not.
- 5 (2) Pretends to represent a person ~~he or she is~~ *they are* not in  
6 fact representing.
- 7 (3) Misrepresents the true purpose of the interview.
- 8 (4) Refuses to identify ~~himself or herself~~ *themselves* upon  
9 request.

10 ~~(v)~~  
11 (ad) “Privileged information” means any individually  
12 identifiable information that ~~both~~ *is both of the following*:

- 13 (1) Relates to a claim for insurance benefits or a civil or criminal  
14 proceeding involving an individual.
- 15 (2) Is collected in connection with or in reasonable anticipation  
16 of a claim for insurance benefits or civil or criminal proceeding  
17 involving an individual. However, information otherwise meeting  
18 the requirements of this division shall nevertheless be considered  
19 “personal information” under this act if it is disclosed in violation  
20 of Section 791.13.

21 (ae) “Pseudonymize” or “pseudonymization” means the  
22 processing of personal information in a manner that renders the  
23 personal information no longer attributable to a specific consumer  
24 without the use of additional information, provided that the  
25 additional information is kept separately and is subject to technical  
26 and organizational measures to ensure that the personal  
27 information is not attributed to an identified or identifiable  
28 consumer.

29 ~~(w)~~  
30 (af) “Residual market mechanism” means the California FAIR  
31 Plan Association, Chapter 10 (commencing with Section 10101)  
32 of Part 1 of Division 2, and the assigned risk plan, Chapter 1  
33 (commencing with Section 11550) of Part 3 of Division 2.

34 (ag) “Sensitive services” means all health care services  
35 described in Sections 6924, 6925, 6926, 6927, 6928, and 6929 of  
36 the Family Code, and Sections 121020 and 124260 of the Health  
37 and Safety Code, obtained by a patient of any age at or above the  
38 minimum age specified for consenting to the service specified in  
39 the section.

40 ~~(x)~~

1 (ah) “Termination of insurance coverage” or “termination of  
 2 an insurance policy” means either a cancellation or nonrenewal of  
 3 an insurance policy, in whole or in part, for any reason other than  
 4 the failure to pay a premium as required by the policy.

5 (y)  
 6 (ai) “Unauthorized insurer” means an insurance institution that  
 7 has not been granted a certificate of authority by the director to  
 8 transact the business of insurance in this state.

9 (z) ~~“Commissioner” means the Insurance Commissioner.~~  
 10 (aa) ~~“Confidential communications request” means a request~~  
 11 ~~by an insured covered under a health insurance policy that~~  
 12 ~~insurance communications containing medical information be~~  
 13 ~~communicated to him or her at a specific mail or email address or~~  
 14 ~~specific telephone number, as designated by the insured.~~

15 (ab) ~~“Endanger” means that the insured covered under a health~~  
 16 ~~insurance policy fears that the disclosure of his or her medical~~  
 17 ~~information could subject the insured covered under a health~~  
 18 ~~insurance policy to harassment or abuse.~~

19 (ac) ~~“Sensitive services” means all health care services described~~  
 20 ~~in Sections 6924, 6925, 6926, 6927, 6928, and 6929 of the Family~~  
 21 ~~Code, and Sections 121020 and 124260 of the Health and Safety~~  
 22 ~~Code, obtained by a patient of any age at or above the minimum~~  
 23 ~~age specified for consenting to the service specified in the section.~~

24 (ad) ~~“Medical information” means any individually identifiable~~  
 25 ~~information, in electronic or physical form, in possession of or~~  
 26 ~~derived from a provider of health care, health insurer,~~  
 27 ~~pharmaceutical company, or contractor regarding a patient’s~~  
 28 ~~medical history, mental or physical condition, or treatment.~~  
 29 ~~“Individually identifiable” means that the medical information~~  
 30 ~~includes or contains any element of personal identifying~~  
 31 ~~information sufficient to allow identification of the individual,~~  
 32 ~~such as the patient’s name, address, electronic mail address,~~  
 33 ~~telephone number, or social security number, or other information~~  
 34 ~~that, alone or in combination with other publicly available~~  
 35 ~~information, reveals the individual’s identity.~~

36 *SEC. 4. Section 791.04 of the Insurance Code is amended to*  
 37 *read:*

38 791.04. (a) An insurance institution or agent shall provide a  
 39 notice of information ~~practices~~ *practices, including the categories*  
 40 *of personal information that may be collected and the purposes*

1 *for which the categories of personal information may be used, to*  
2 *all applicants or policyholders in connection with insurance*  
3 *transactions and to the general public, as provided below:*

4 (1) In the case of a written application for insurance, a notice  
5 shall be provided no later than ~~than~~ *than either of the following:*

6 (A) At the time of the delivery of the insurance policy or  
7 certificate when personal information is collected only from the  
8 applicant, an insured under the policy, or from public records, ~~or~~  
9 *records.*

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

13 (2) In the case of a policy renewal, a notice shall be provided  
14 no later than the policy renewal date or the date upon which policy  
15 renewal is confirmed, except that ~~no~~ *a notice shall not be required*  
16 *in connection with a policy renewal if either of the following*  
17 *applies:*

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

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

22 (3) In the case of a policy reinstatement or change in insurance  
23 benefits, a notice shall be provided no later than the time a request  
24 for a policy reinstatement or change in insurance benefits is  
25 received by the insurance institution, except that ~~no~~ *a notice shall*  
26 *not be required if personal information is collected only from the*  
27 *policyholder, an insured under the policy, or from public records*  
28 *or if a notice meeting the requirements of this section has been*  
29 *given within the previous 24 months.*

30 (4) (A) *An insurance institution or agent shall provide a clear*  
31 *and conspicuous notice that accurately reflects its privacy policies*  
32 *and practices as follows:*

33 (i) *To an applicant or policyholder, not later than at the time*  
34 *the insurance institution or agent establishes a customer*  
35 *relationship, except as provided in subparagraph (C).*

36 (ii) *To an applicant or policyholder before the insurance*  
37 *institution or agent discloses any nonpublic personal information*  
38 *about the applicant or policyholder to any nonaffiliated third party,*  
39 *if the insurance institution or agent makes a disclosure other than*  
40 *as authorized by subdivisions (a) to (k), inclusive, and subdivisions*

1 (m) to (s), inclusive, of Section 791.13, unless the insurance  
2 institution or agent has a customer relationship with the applicant  
3 or policyholder or a notice has been provided by an affiliated  
4 insurance institution or agent, the notice clearly identifies all  
5 insurance institutions or agents to whom the notice applies, and  
6 is accurate with respect to all the insurance institutions and agents  
7 involved.

8 (B) If an existing policyholder obtains a new insurance product  
9 or service, intended primarily for personal, family, or household  
10 purposes, the insurance institution or agent is not required to  
11 provide a new initial notice if the notice most recently provided  
12 by the insurance institution or agent is accurate with respect to  
13 the insurance institution or agent.

14 (C) An insurance institution or agent may provide the initial  
15 notice required within a reasonable time after the insurance  
16 institution or agent establishes a customer relationship under any  
17 of the following circumstances:

18 (i) If establishing the customer relationship is not at the  
19 policyholder's election, including if an insurance institution or  
20 agent licensee acquires or is assigned an individual's policy from  
21 another insurance institution, agent, or residual market mechanism  
22 and the policyholder does not have a choice about the insurance  
23 institution's or agent's acquisition or assignment.

24 (ii) If providing notice not later than at the time the insurance  
25 institution or agent establishes a customer relationship would  
26 substantially delay the individual's transaction, including if the  
27 insurance institution or agent and the individual agree by telephone  
28 to enter into a customer relationship involving prompt delivery of  
29 the insurance product or service. In that case, the individual shall  
30 be provided with oral notice of the insurance institution's or  
31 agent's privacy policies, provided that the privacy notice is mailed  
32 or sent in electronic form within 14 business days after the sale,  
33 and documentation is maintained showing that oral disclosure  
34 was provided to the individual. For an insurance institution or  
35 agent who does not disclose personal information other than as  
36 permitted by Section 791.13, an oral disclosure is not required.

37 (iii) If the relationship is initiated in person at the insurance  
38 institution's or agent's office or through other means and the  
39 individual may view the notice on an internet website or other  
40 source.



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

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

5 (2) The ~~types~~ *categories* of personal information that may be  
6 collected and the types of sources and investigative techniques  
7 that may be used to collect ~~such~~ *the* information.

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

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

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

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

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

24 (2) ~~Such information~~ *Information*, as well as other personal or  
25 privileged information subsequently collected by the insurance  
26 institution or agent may in certain circumstances be disclosed to  
27 third parties without authorization.

28 (3) A right of ~~access and correction~~ *access, correction, or*  
29 *deletion, if appropriate*, exists with respect to all personal  
30 information collected.

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

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

36 *SEC. 5. Section 791.06 of the Insurance Code is amended to*  
37 *read:*

38 791.06. (a) Notwithstanding any other ~~provision~~ *provision* of law, ~~no~~  
39 *an* insurance institution, ~~agent~~ *agent*, or insurance-support  
40 organization ~~may~~ *shall not* utilize as its disclosure authorization

- 1 form in connection with insurance transactions a form or statement  
 2 ~~which~~ *that* authorizes the disclosure of personal or privileged  
 3 information about an individual to the insurance institution, agent,  
 4 or insurance-support organization unless the form or ~~statement~~:  
 5 *statement does all of the following:*
- 6 ~~(a)~~
  - 7 (1) Is written in plain language.
  - 8 (2) *Clearly states in 16-point boldface type “IMPORTANT*  
 9 *PRIVACY CHOICES.”*
  - 10 ~~(b)~~
  - 11 (3) Is dated.
  - 12 ~~(c)~~
  - 13 (4) Specifies the types of persons authorized to disclose  
 14 information about the individual.
  - 15 ~~(d)~~
  - 16 (5) Specifies the nature of the information authorized to be  
 17 disclosed.
  - 18 ~~(e)~~
  - 19 (6) Names the insurance institution or agent and identifies by  
 20 generic reference representatives of the insurance institution to  
 21 whom the individual is authorizing information to be disclosed.
  - 22 ~~(f)~~
  - 23 (7) Specifies the purposes for which the information is collected.
  - 24 ~~(g)~~
  - 25 (8) Specifies the length of time the authorization shall remain  
 26 valid, which shall be no longer than:
  - 27 ~~(1)~~
  - 28 (A) In the case of authorizations signed for the purpose of  
 29 collecting information in connection with an application for an  
 30 insurance policy, a policy reinstatement or a request for change in  
 31 policy benefits:
  - 32 ~~(A)~~
  - 33 (i) Thirty months from the date the authorization is signed if  
 34 the application or request involves life, health or disability  
 35 insurance; or
  - 36 ~~(B)~~
  - 37 (ii) One year from the date the authorization is signed if the  
 38 application or request involves property or casualty insurance.
  - 39 ~~(2)~~

1 (B) In the case of authorizations signed for the purpose of  
2 collecting information in connection with a claim for benefits under  
3 an insurance policy:

4 (A)

5 (i) The term of coverage of the policy if the claim is for a health  
6 insurance benefit; or

7 (B)

8 (ii) The duration of the claim if the claim is not for a health  
9 insurance benefit; or

10 (C)

11 (iii) The duration of all claims processing activity performed in  
12 connection with all claims for benefits made by any person entitled  
13 to benefits under a nonprofit hospital service contract.

14 (H)

15 (9) Advises the individual or a person authorized to act on behalf  
16 of the individual that the individual or the individual's authorized  
17 representative is entitled to receive a copy of the authorization  
18 form.

19 (10) *Sets forth reasonable means by which the individual may*  
20 *exercise the right to opt out of any disclosure at any time.*

21 (11) *Specifies that an individual's direction to opt out of the*  
22 *disclosure is effective until the individual revokes that direction*  
23 *in writing or electronically, at the individual's choice.*

24 (i)

25 (b) This section ~~shall not be construed to~~ *does not* require any  
26 authorization for the receipt of personal or privileged information  
27 about an individual.

28 *SEC. 6. Section 791.08 of the Insurance Code is amended to*  
29 *read:*

30 791.08. (a) If any individual, after proper identification,  
31 submits a written request to an insurance institution, ~~agent~~ *agent*,  
32 or insurance-support organization for access to recorded personal  
33 information about the individual ~~which~~ *that* is reasonably described  
34 by the individual and reasonably locatable and retrievable by the  
35 insurance institution, ~~agent~~ *agent*, or insurance-support  
36 organization, the insurance institution, ~~agent~~ *agent*, or  
37 insurance-support organization shall within 30 business days from  
38 the date ~~such the request is received:~~ *received do all of the*  
39 *following:*

1 (1) Inform the individual of the ~~nature and substance of such~~  
2 *categories and sources of* recorded personal information in writing,  
3 by telephone or by other oral communication, whichever the  
4 insurance institution, ~~agent agent~~, or insurance-support organization  
5 ~~prefers; prefers~~.

6 (2) *Inform the individual of the business or commercial purpose*  
7 *for collecting or selling personal information.*

8 ~~(2)~~

9 (3) ~~Permit the individual to see and copy, in person, such~~  
10 ~~recorded personal information pertaining to him or her or to obtain~~  
11 a copy of ~~such the~~ recorded personal information *in a safe and*  
12 *secure electronic manner or* by mail, whichever the individual  
13 prefers, unless ~~such the~~ recorded personal information is in coded  
14 form, in which case an accurate translation in plain language shall  
15 be provided in ~~writing; writing~~.

16 ~~(3)~~

17 (4) Disclose to the individual the identity, if recorded, of those  
18 persons to whom the insurance institution, ~~agent agent~~, or  
19 insurance-support organization has disclosed ~~such the~~ personal  
20 information within two years prior to ~~such the~~ request, and if the  
21 identity is not recorded, the names of those insurance institutions,  
22 agents, insurance-support organizations or other persons to whom  
23 ~~such the~~ information is normally ~~disclosed; and disclosed~~.

24 ~~(4)~~

25 (5) Provide the individual with a summary of the procedures  
26 by which ~~he or she the individual~~ may request correction,  
27 ~~amendment amendment~~, or deletion of recorded personal  
28 information.

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

32 (c) Medical record information supplied by a medical care  
33 institution or medical professional and requested under subdivision  
34 (a), together with the identity of the medical professional or  
35 medical care institution ~~which that~~ provided ~~such the~~ information,  
36 shall be supplied either directly to the individual or to a medical  
37 professional designated by the individual and licensed to provide  
38 medical care with respect to the condition to which the information  
39 relates, whichever the individual prefers. Mental health record  
40 information shall be supplied directly to the individual, pursuant

1 to this section, only with the approval of the qualified professional  
2 person with treatment responsibility for the condition to which the  
3 information relates. If it elects to disclose the information to a  
4 medical professional designated by the individual, the insurance  
5 institution, ~~agent~~ *agent*, or insurance-support organization shall  
6 notify the individual, at the time of the disclosure, that it has  
7 provided the information to the medical professional.

8 (d) Except for personal information provided under Section  
9 791.10, an insurance institution, ~~agent~~ *agent*, or insurance-support  
10 organization may charge a reasonable fee to cover the costs  
11 incurred in providing a copy of recorded personal information to  
12 individuals.

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

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

30 (g) For purposes of this section, the term “insurance-support  
31 organization” does not include a “consumer reporting ~~agency~~”.  
32 *agency.*”

33 *SEC. 7. Section 791.09 of the Insurance Code is amended to*  
34 *read:*

35 791.09. (a) Within 30 business days from the date of receipt  
36 of a written request *or other verifiable request* from an individual  
37 to correct, amend or delete any recorded personal information  
38 about the individual within its possession, an insurance institution,  
39 ~~agent~~ *agent*, or insurance-support organization shall ~~either:~~ *do*  
40 *either of the following:*

- 1 (1) Correct, ~~amend~~ *amend*, or delete the portion of the recorded  
 2 personal information in ~~dispute~~; or *dispute*.
- 3 (2) Notify the individual ~~of~~: *of all of the following*:
- 4 (A) Its refusal to make ~~such the~~ correction, ~~amendment~~  
 5 *amendment*, or deletion.
- 6 (B) The reasons for the refusal.
- 7 (C) The individual's right to file a statement as provided in  
 8 subdivision (c).
- 9 (D) *The contact information for the Department of Insurance*  
 10 *consumer help line*.
- 11 (b) If the insurance institution, ~~agent~~ *agent*, or insurance-support  
 12 organization corrects, ~~amends~~ *amends*, or deletes recorded personal  
 13 information in accordance with paragraph (1) of subdivision (a),  
 14 the insurance institution, ~~agent~~ *agent*, or insurance-support  
 15 organization shall so notify the individual in writing and furnish  
 16 the correction, amendment or fact of deletion ~~to~~: *to all of the*  
 17 *following*:
- 18 (1) ~~Any~~ *A* person specifically designated by the individual who  
 19 may have, within the preceding two years, received ~~such the~~  
 20 recorded personal information.
- 21 (2) ~~Any~~ *An* insurance-support organization whose primary  
 22 source of personal information is insurance institutions if the  
 23 insurance-support organization has systematically received ~~such~~  
 24 *the* recorded personal information from the insurance institution  
 25 within the preceding seven ~~years~~; ~~provided, however, that the~~  
 26 *years*. *The* correction, ~~amendment~~ *amendment*, or fact of deletion  
 27 need not be furnished if the insurance-support organization no  
 28 longer maintains recorded personal information about the  
 29 individual.
- 30 (3) ~~Any~~ *An* insurance-support organization that furnished the  
 31 personal information that has been corrected, ~~amended~~ *amended*,  
 32 or deleted.
- 33 (c) ~~Whenever~~ *If* an individual disagrees with an insurance  
 34 institution's, ~~agent's~~ *agent's*, or insurance-support organization's  
 35 refusal to correct, ~~amend~~ *amend*, or delete recorded personal  
 36 information, the individual shall be permitted to file with the  
 37 insurance institution, ~~agent~~ *agent*, or insurance-support  
 38 ~~organization~~: *organization all of the following*:
- 39 (1) A concise statement setting forth what the individual thinks  
 40 is the correct, ~~relevant~~ *relevant*, or fair information.

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

5 (d) In the event an individual files either statement as described  
6 in subdivision (c), the insurance institution, ~~agent~~ *agent*, or support  
7 organization ~~shall~~ *shall do all of the following*:

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

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

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

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

29 (f) For purposes of this section, the term "insurance-support  
30 organization" does not include a "consumer reporting ~~agency~~".  
31 *agency*."

32 *SEC. 8. Section 791.13 of the Insurance Code is amended to*  
33 *read:*

34 791.13. An insurance institution, agent, or insurance-support  
35 organization shall not disclose any personal or privileged  
36 information about an individual collected or received in connection  
37 with an insurance transaction unless the disclosure ~~is~~ *is any of the*  
38 *following*:

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

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

4 (2) If the authorization is submitted by a person other than an  
 5 insurance institution, agent, or insurance-support organization, the  
 6 authorization ~~is~~: *is all of the following*:

7 (A) Dated.

8 (B) Signed by the individual.

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

11 (b) To a person other than an insurance institution, agent, or  
 12 insurance-support organization, provided the disclosure is  
 13 reasonably ~~necessary~~: *necessary for either of the following*:

14 (1) To enable the person to perform a business, ~~professional~~  
 15 *professional*, or insurance function for the disclosing insurance  
 16 institution, agent, or insurance-support organization or insured and  
 17 the person agrees not to disclose the information further without  
 18 the individual’s written authorization unless ~~the further disclosure~~:  
 19 *either of the following apply*:

20 (A) ~~Would~~ *The further disclosure would* otherwise be permitted  
 21 by this section if made by an insurance institution, agent, or  
 22 insurance-support ~~organization~~; *or organization*.

23 (B) ~~Is~~ *The further disclosure is* reasonably necessary for ~~such~~  
 24 *the* person to perform its function for the disclosing insurance  
 25 institution, agent, or insurance-support organization.

26 (2) To enable the person to provide information to the disclosing  
 27 insurance institution, ~~agent~~ *agent*, or insurance-support organization  
 28 for the purpose ~~of~~: *of either of the following*:

29 (A) Determining an individual’s eligibility for an insurance  
 30 benefit or ~~payment~~; *or payment*.

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

34 (c) To an insurance institution, agent, insurance-support  
 35 ~~organization~~ *organization*, or self-insurer, provided the information  
 36 disclosed is limited to that which is reasonably necessary under  
 37 either paragraph (1) or ~~(2)~~: *(2) to do either of the following*:

38 (1) To detect or prevent criminal activity, fraud, material  
 39 ~~misrepresentation~~ *misrepresentation*, or material nondisclosure in  
 40 connection with insurance ~~transactions~~; *or transactions*.



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

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

7 (1) Verifying insurance coverage or benefits.

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

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

13 (e) To an insurance regulatory ~~authority~~; or *authority*.

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

16 (g) Otherwise permitted or required by law.

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

19 (i) Made for the purpose of conducting actuarial ~~or research~~  
20 studies, ~~provided:~~ *provided that all of the following conditions are*  
21 *met:*

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

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

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

30 (j) *Made for the purpose of conducting research studies*  
31 *performed by nonaffiliated entities. For the purposes of this*  
32 *subdivision, "research" means scientific, systematic study and*  
33 *observation, including basic research or applied research that is*  
34 *in the public interest and that adheres to all other applicable ethics*  
35 *and privacy laws or studies conducted in the public interest in the*  
36 *area of public health. Research with personal information that*  
37 *may have been collected from a consumer in the course of the*  
38 *consumer's interactions with an insurer, agent, or*  
39 *insurance-support organization for other purposes shall be all of*  
40 *the following:*

- 1     (1) *Compatible with the business purpose for which the personal*
- 2 *information was collected.*
- 3     (2) *Subsequently pseudonymized and deidentified, or deidentified*
- 4 *and in the aggregate, such that the information cannot reasonably*
- 5 *identify, relate to, describe, be capable of being associated with,*
- 6 *or be linked, directly or indirectly, to a particular consumer.*
- 7     (3) *Made subject to technical safeguards that prohibit*
- 8 *reidentification of the consumer to whom the information may*
- 9 *pertain.*
- 10    (4) *Subject to business processes that specifically prohibit*
- 11 *reidentification of the information.*
- 12    (5) *Made subject to business processes to prevent inadvertent*
- 13 *release of deidentified information.*
- 14    (6) *Protected from any reidentification attempts.*
- 15    (7) *Used solely for research purposes that are compatible with*
- 16 *the context in which the personal information was collected.*
- 17    (8) *Subjected by the business conducting the research to*
- 18 *additional security controls with limited access to the research*
- 19 *data to only those individuals in a business as are necessary to*
- 20 *carry out the research purpose.*
- 21    ~~(j)~~
- 22    (k) *To a party or a representative of a party to a proposed or*
- 23 *consummated sale, transfer, merger or consolidation of all or part*
- 24 *of the business of the insurance institution, agent or*
- 25 *insurance-support organization, ~~provided:~~ provided that both of*
- 26 *the following conditions are met:*
- 27     (1) *Prior to the consummation of the sale, transfer, merger, or*
- 28 *consolidation only such information is disclosed as is reasonably*
- 29 *necessary to enable the recipient to make business decisions about*
- 30 *the purchase, transfer, merger, or consolidation.*
- 31     (2) *The recipient agrees not to disclose the information unless*
- 32 *the disclosure would otherwise be permitted by this section if made*
- 33 *by an insurance institution, ~~agent~~ agent, or insurance-support*
- 34 *organization.*
- 35    ~~(k)~~
- 36    (l) *To a person whose only use of the information will be in*
- 37 *connection with the marketing of a product or service, ~~provided:~~*
- 38 *provided that either of the following conditions are met:*
- 39     (1) ~~No medical-record~~ *Medical-record* *information, privileged*
- 40 *information, or personal information relating to an individual's*

1 character, personal habits, mode of living, or general reputation is  
2 *not* disclosed, and ~~no~~ any classification derived from the  
3 information is ~~disclosed~~; or *not disclosed*.

4 (2) *Both of the following conditions are met:*

5 ~~(2)~~

6 (A) The individual has been given an opportunity to indicate  
7 that ~~he or she~~ *the individual* does not want personal information  
8 disclosed for marketing purposes and has given no indication that  
9 ~~he or she~~ *the individual* does not want the information ~~disclosed~~;  
10 ~~and disclosed~~.

11 ~~(3)~~

12 (B) The person receiving ~~such~~ *the* information agrees not to use  
13 it except in connection with the marketing of a product or service.

14 ~~(t)~~

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

20 ~~(m)~~

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

23 ~~(n)~~

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

29 ~~(o)~~

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

33 ~~(p)~~

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

37 ~~(q)~~

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

1     ~~(r)~~  
 2     (s) To a lienholder, mortgagee, assignee, lessor, or other person  
 3 shown on the records of an insurance institution or agent as having  
 4 a legal or beneficial interest in a policy of insurance. The  
 5 information disclosed shall be limited to that which is reasonably  
 6 necessary to permit the person to protect ~~his or her~~ *their* interest  
 7 in the policy and shall be consistent with Article 5.5 (commencing  
 8 with Section 770).

9     ~~(s)~~  
 10    (t) To an insured or the insured’s lawyer when the information  
 11 disclosed is from an accident report, supplemental report,  
 12 investigative report or the actual report from a government agency  
 13 or is a copy of an accident report or other report which the insured  
 14 is entitled to obtain under Section 20012 of the Vehicle Code or  
 15 subdivision (f) of Section 6254 of the Government Code.

16    *SEC. 9. Section 791.24 is added to the Insurance Code, to*  
 17 *read:*

18    791.24. (a) *An insurance institution, agent, or*  
 19 *insurance-support organization shall implement a comprehensive*  
 20 *written information security program that includes administrative,*  
 21 *technical, and physical safeguards for the protection of*  
 22 *policyholder information. The administrative, technical, and*  
 23 *physical safeguards included in the information security program*  
 24 *shall be appropriate to the size and complexity of the insurance*  
 25 *institution, agent, or insurance-support organization and the nature*  
 26 *and scope of its activities.*

27    (b) *The information security program shall be designed to do*  
 28 *all of the following:*

29    (1) *Ensure the security and confidentiality of policyholder*  
 30 *information.*

31    (2) *Protect against any anticipated threats or hazards to the*  
 32 *security or integrity of policyholder information.*

33    (3) *Protect against unauthorized access to or use of information*  
 34 *that could result in substantial harm or inconvenience to any*  
 35 *policyholder.*

36    (c) *The insurance institution, agent, or insurance-support*  
 37 *organization shall do all of the following:*

38    (1) *Identify reasonably foreseeable internal and external threats*  
 39 *that could result in unauthorized disclosure, misuse, alteration,*

1 or destruction of policyholder information or policyholder  
2 information systems.

3 (2) Assess the likelihood and potential damage of the internal  
4 and external threats, taking into consideration the sensitivity of  
5 policyholder information.

6 (3) Assess the sufficiency of policies, procedures, policyholder  
7 information systems, and other safeguards in place to control risks.

8 (4) Design its information security program to control the  
9 identified risks, commensurate with the sensitivity of the  
10 information, as well as the complexity and scope of the insurance  
11 institution's, agent's, or insurance-support organization's  
12 activities.

13 (5) Train staff, as appropriate, to implement the information  
14 security program.

15 (6) Regularly test or otherwise regularly monitor the key  
16 controls, systems, and procedures of the information security  
17 program. The frequency and nature of the tests shall be determined  
18 by the insurance institution's, agent's, or insurance-support  
19 organization's risk assessment.

20 (7) Exercise appropriate due diligence in selecting service  
21 providers.

22 (8) Require its service providers, by contract, to implement  
23 appropriate measures designed to meet the objectives of this  
24 section, and, where indicated by the risk assessment, take  
25 appropriate steps to confirm that its service providers have  
26 satisfied those obligations.

27 (9) Monitor, evaluate, and adjust, as appropriate, the  
28 information security program in light of any relevant changes in  
29 technology, the sensitivity of its policyholder information, internal  
30 or external threats to information, and the insurance institution's,  
31 agent's, or insurance-support organization's own changing  
32 business arrangements, including mergers and acquisitions,  
33 outsourcing arrangements, and changes to policyholder  
34 information systems.

35 (d) The commissioner shall audit an insurance institution's,  
36 agent's, or insurance-support organization's compliance with this  
37 section in a manner and with such frequency as the commissioner  
38 deems necessary.

39 SEC. 10. Section 791.25 is added to the Insurance Code, to  
40 read:

1 791.25. A policyholder shall have the right to request and  
2 receive a copy of the policyholder's personal information from an  
3 insurance institution, agent, or insurance-support organization in  
4 a readily usable format that can be transferred to another entity.

5 ~~SEC. 3.~~

6 SEC. 11. Section 791.30 is added to the Insurance Code, to  
7 read:

8 791.30. An insurance institution, agent, or insurance-support  
9 organization shall not sell the personal information of an insured  
10 if the insurance institution, agent, or insurance-support organization  
11 has actual knowledge that the insured is less than 16 years of age,  
12 unless the insured, in the case of an insured between 13 and 16  
13 years of age, or the insured's parent or guardian, in the case of an  
14 insured who is less than 13 years of age, has affirmatively  
15 authorized the sale of the insured's personal information. An  
16 insurance institution, agent, or insurance-support organization that  
17 willfully disregards an insured's age shall be deemed to have had  
18 actual knowledge of the insured's age. This right may be referred  
19 to as the "right to opt in."

20 SEC. 12. Section 791.31 is added to the Insurance Code, to  
21 read:

22 791.31. (a) An insurance institution, agent, or  
23 insurance-support organization shall not unfairly discriminate  
24 against an applicant or policyholder because that applicant or  
25 policyholder has opted out from the disclosure of nonpublic  
26 personal information pursuant to this article.

27 (b) An insurance institution, agent, or insurance-support  
28 organization shall not unfairly discriminate against an applicant  
29 or policyholder because that applicant or policyholder has not  
30 granted authorization for the disclosure of nonpublic personal  
31 medical record information pursuant to this article.

32 (c) As used in this section, "unfairly discriminate" includes  
33 denying an applicant or policyholder a product or service because  
34 the applicant or policyholder has refused to authorize disclosure  
35 of nonpublic personal information as provided in subdivision (l)  
36 of Section 791.13.

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