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Legislation Requiring Fair Notice to Agents Signed by Governor

(Sacramento) Today, California became the first state in the nation to require health insurers and plans to give advance notice to licensed health insurance agents before they make major changes to their agent contracts.

AB 1163, authored by Assembly Member Freddie Rodriguez D-Pomona, was jointly sponsored by California Association of Health Underwriters, the Independent Insurance Agents and Brokers of California, and the National Association of Insurance and Financial Advisors of California. The law takes effect January 1, 2016.

AB 1163 will require health insurers and health maintenance organizations (HMOs) to provide their appointed agents with 45 days advance notice of certain material changes in their agency agreement. AB 1163 delays implementation of any substantive change made to an agent contract by a health insurer or health maintenance organization (HMO) until the proper notice is given to the agent. AB 1163 45 day notice does not apply to mutually agreed to changes, or changes made necessary by revisions to state or federal law.

AB 1163 was originally introduced in response to a recent action of a health insurance carrier that made material changes to their agreement with licensed health insurance agents with only 48 hours of notice before the substantive changes took effect. This action, combined with other actions that changed agent agreements since the advent of the Affordable Care Act (ACA), have made licensed agents aware of agent vulnerability to plan and carrier actions as they seek to add or shed market share.

Michael Lujan, President of the California Association of Health Underwriters said “AB 1163 levels the playing field and provides for a fair and reasonable notice to licensed agents when their contract is materially changed. Most independent insurance agents are Main Street small business owners in nearly every community in California. This change is critical in light of the ACA compressed open enrollment period each year.”

Lujan said “changes that occur to the agent agreement, like the one issued late December 23, 2014, and was effective December 26, 2014, in the middle of the ACA open enrollment period could never be fairly evaluated in the time crunch.”

At the end of each year, agents work with hundreds of thousands of Californians to help them obtain or renew health insurance. Over the same period, many employer group plan renewals occur, and this is overlaid with demands on agents needing to aid seniors and others with Medi-Care enrollments that also occur near the end of each year.

An agent or producer agreement is a written contract stipulating the arrangement between an insurance agency and the insurer or HMO it represents. Agents understand business necessity can sometimes drive a need for a material change, whether to commissions or to other obligations under the agreement. That is why special language was added to AB 1163 to ensure changes that are mutually agreed to or changes made necessary due to a change in state or federal law can occur without delay. In all other cases, under AB 1163, a change desired by the carrier can take effect as soon as proper notice is given under the terms of the bill.

The California Association of Health Underwriters, the Independent Insurance Agents and Brokers of California, and the National Association of Insurance and Financial Advisors of California represent California's licensed health insurance agents. Our licensed members provide reliable insurance advice, act as the consumer's advocate when dealing with carriers and provide a number of essential services relating to the individual and group insurance coverage and obligations post-enrollment. Our members also act as a trusted and effective marketing and distribution channel for health insurance information for all consumers and potential consumers of health care insurance coverage.

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