

(s) Denying coverage to unwed mothers and/or their dependents;

(t) Refusing to continue coverage on a spouse or ex-spouse while continuing coverage on the other spouse or ex-spouse following separation or dissolution of a married couple previously covered under a family or household contract.

#### § 2560.4. Remedy for Past Discriminations.

Any person who, prior to the effective date of this Article, has been denied insurance coverage on the basis of sex, marital status or sexual orientation may submit to the Commissioner, within one year following the effective date of this Article, a complaint setting forth the details of such denial to the best of such person's knowledge and belief. The Commissioner shall investigate the facts set forth in such complaint and shall take such action as he deems appropriate.

#### § 2560.5. Severability Provision.

If any provision of this Article or the application thereof to any person or circumstance is for any reason held invalid, the remainder of this Article and the application of such provision to any other persons or circumstances shall not be affected thereby.

#### § 2560.6. Effective Date.

This Article shall be effective on January 1, 1976. Provisions which are contained in group contracts in force on the effective date of this Article and which are not in compliance with this Article may continue in effect until no later than the renewal anniversaries of such contracts next following the effective date of this Article.

## Article 15.1. Gender Nondiscrimination in Health Insurance

#### § 2561.1. Definitions.

The following terms have the following meanings as used in this article.

(a) "Actual gender identity" means a person's internal sense of being: (1) male, (2) female, (3) a gender different from the gender assigned to the person at birth, (4) a transgender person, or (5) neither male nor female.

(b) "Perceived gender identity" means an observer's impression of another's internal sense of being: (1) male, (2) female, (3) a gender different from the gender assigned at birth, (4) a transgender person, or (5) neither male nor female. The term also includes an observer's impression that another is: (1) male, (2) female, (3) a gender different from the gender assigned at birth, (4) a transgender person, or (5) neither male nor female.

(c) A "transgender person" is a person (1) who has, or has been diagnosed with, gender identity disorder or gender dysphoria; (2) who has received health care services, including counseling, related to gender transition; (3) who adopts the dress, appearance, or behavior of the opposite sex; or (4) who otherwise identifies himself or herself as a gender different from the gender assigned to that person at birth.

(d) "Gender transition" means the process of changing one's outward appearance, including physical sex characteristics, to accord with his or her actual gender identity.

NOTE: Authority cited: Sections 10140 and 10140.2, Insurance Code; *CalFarm Ins. Co. v. Deukmejian*, 48 Cal.3d 805 (1989); *20th Century Ins. Co. v. Garamendi*, 8 Cal. 4th 216 (1994). Reference: Sections 10140 and 10140.2, Insurance Code.

#### HISTORY

1. New article 15.1 (sections 2561.1–2561.2) and section filed 8–3–2012; operative 9–2–2012 (Register 2012, No. 31).

#### § 2561.2. Discrimination on the Basis of Actual or Perceived Gender Identity.

(a) An admitted insurer shall not, in connection with health insurance as defined in subdivision (b) of Insurance Code section 106, discriminate on the basis of an insured's or prospective insured's actual or perceived gender identity, or on the basis that the insured or prospective insured is

a transgender person. The discrimination prohibited by this Section 2561.2 includes any of the following:

(1) Denying, cancelling, limiting or refusing to issue or renew an insurance policy on the basis of an insured's or prospective insured's actual or perceived gender identity, or for the reason that the insured or prospective insured is a transgender person;

(2) Demanding or requiring a payment or premium that is based in whole or in part on an insured's or prospective insured's actual or perceived gender identity, or for the reason that the insured or prospective insured is a transgender person;

(3) Designating an insured's or prospective insured's actual or perceived gender identity, or the fact that an insured or prospective insured is a transgender person, as a preexisting condition for which coverage will be denied or limited; or

(4) Denying or limiting coverage, or denying a claim, for services including but not limited to the following, due to an insured's actual or perceived gender identity or for the reason that the insured is a transgender person:

(A) Health care services related to gender transition if coverage is available for those services under the policy when the services are not related to gender transition, including but not limited to hormone therapy, hysterectomy, mastectomy, and vocal training; or

(B) Any health care services that are ordinarily or exclusively available to individuals of one sex when the denial or limitation is due only to the fact that the insured is enrolled as belonging to the other sex or has undergone, or is in the process of undergoing, gender transition.

(b) This Section 2561.2 shall have no bearing on the question of whether or not a particular health care service is medically necessary in any individual case.

NOTE: Authority cited: Sections 10140 and 10140.2, Insurance Code; *CalFarm Ins. Co. v. Deukmejian*, 48 Cal.3d 805 (1989); *20th Century Ins. Co. v. Garamendi*, 8 Cal. 4th 216 (1994). Reference: Sections 10140 and 10140.2, Insurance Code.

#### HISTORY

1. New section filed 8–3–2012; operative 9–2–2012 (Register 2012, No. 31).

## Article 16. Home Protection Companies

#### § 2570. Authority.

This Article is promulgated pursuant to the authority granted to the Commissioner under the provisions of Part 7, Division 2 of the Insurance Code.

NOTE: Authority cited: Section 2570, California Insurance Code. Reference: Sections 771.1, 831.1, 881.1, 882.5, 988, 1215.13 1/2, 1634, 1635, Part 7 commencing with Section 12740 of Division 2, Insurance Code.

#### HISTORY

1. New Article 16 (Sections 2570–2570.09, not consecutive) filed 3–8–79; effective thirtieth day thereafter (Register 79, No. 10).

2. New Article 16 (Sections 2570–2570.09, not consecutive) refiled 3–16–79 as an emergency; effective upon filing (Register 79, No. 10).

#### § 2570.01. Purpose.

The purpose of this Article is to implement the provisions of Part 7 (commencing with Section 12740) to Division 2 of the Insurance Code, relating to home protection companies. This law was added to the Insurance Code effective September 26, 1978, as an urgency statute to give the Commissioner regulatory authority over home protection companies conducting a home protection business in this State.

NOTE: Authority cited: Section 2570, California Insurance Code. Reference: Sections 771.1, 831.1, 881.1, 882.5, 988, 1215.13 1/2, 1634, 1635, Part 7 commencing with Section 12740 of Division 2, Insurance Code.

#### § 2570.02. Definitions.

(a) "Unearned home protection contract fees" as used in Section 2570.06(g)(2) (B)7 and the reserves contemplated in Section 985 of the Insurance Code as required by Section 12751 of the Insurance Code means that a home protection company must make provision for reinsurance of the outstanding risk on policies which provide that premiums are fully earned at inception and on policies which for any other reason do not provide for a return premium to the insured on cancellation prior to expiration.