

## RESOLUTION 01-04-04

### DIGEST

#### Group Health Insurance: Continuation Coverage for Domestic Partners

Amends Insurance Code section 10236.5 to require continuation coverage upon the dissolution of a domestic partnership.

### RESOLUTIONS COMMITTEE RECOMMENDATION

APPROVE IN PRINCIPLE

#### History:

No similar resolutions found.

#### Reasons:

This resolution amends Insurance Code section 10236.5 to require continuation coverage upon the dissolution of a domestic partnership. This resolution should be approved in principle because it would prevent insurers from discriminating against same gender couples.

Since 2002, domestic partners have been permitted to register with the Secretary of State and once so registered, have been entitled to certain benefits, including insurance-related benefits. (Fam. Code, §297 et seq.; Ins. Code, § 10121.7; Health & Saf. Code, § 1374.58.) Although domestic partners are offered the same benefits as other dependents in disability and health plans, they are not offered the same ability to continue coverage in long term care insurance plans upon the dissolution of a domestic partnership as spouses are offered upon the dissolution of a marriage. Long term care insurers can thus discriminate against domestic partners by not offering them such continuation coverage. Same gender couples that are registered as domestic partners should be offered the same protections as are provided to married heterosexuals under the Insurance Code.

This resolution is similar to A.B. No. 2208 (Kehoe) now pending in the Assembly. A.B. No. 2208 would require that health care service plans and health insurers provide coverage to the domestic partner of an employee that is equal to the coverage provided to the spouse of an employee, and would extend this requirement to all other forms of insurance regulated by the Department of Insurance.

### TEXT OF RESOLUTION

RESOLVED, that the Conference of Delegates of California Bar Associations recommends that legislation be sponsored to amend Insurance Code section 10236.5 to read as follows:

- 1 § 10236.5.
- 2 (a) Every certificate of group insurance issued or delivered in California shall
- 3 provide for continuation or conversion coverage for the certificate holder if the group

4 coverage terminates for any reason except the following reasons:

5 (1) The termination of group coverage resulted from the insured's failure to make  
6 any required payment of premium or contribution when due.

7 (2) The terminating coverage is replaced not later than 31 days after termination by  
8 new group coverage effective on the day following the termination and the replacement  
9 coverage meets both of the following criteria:

10 (A) The replacement coverage provides benefits identical to, or benefits determined  
11 by the commissioner to be substantially equivalent to or in excess of, those provided by the  
12 terminating coverage.

13 (B) The premium for the replacement coverage is calculated on the insured's age at  
14 the time of issue of the group certificate for the coverage which is being replaced. If the  
15 coverage being replaced has itself replaced previous group coverage, the premium for the  
16 newest replacement coverage is calculated on the insured's age at the time the previous  
17 group certificate was issued.

18 (b) "Continuation coverage" means the maintenance of coverage under an existing  
19 group policy when that coverage would be or has been terminated and which is subject  
20 only to continued timely payment of the premium.

21 Any insured individual whose eligibility for group coverage is based on his or her  
22 relationship to another person, shall be entitled to continuation coverage under the group  
23 policy if the qualifying relationship terminates by dissolution of marriage, dissolution of  
24 domestic partnership or death.

25 (c) "Conversion coverage" means an individual policy of long-term care insurance,  
26 issued by the insurer of the terminating group coverage, without considering insurability,  
27 containing benefits which are identical, or which have been determined by the  
28 commissioner to be at least substantially equivalent, to the group coverage which would be  
29 or has been terminated for any reason.

30 In determining whether benefits are substantially equivalent, the commissioner  
31 shall consider, if applicable, the relative advantages of managed care plans which use  
32 restricted provider networks, considering items such as service availability, benefit levels,  
33 and administrative complexity.

34 The premium for the converted policy shall be calculated on the insured's age at the  
35 time the group certificate was issued. If the terminating group coverage replaced previous  
36 group coverage, the premium for the converted policy shall be calculated on the insured's  
37 age at the time the previous group certificate was issued.

38 Before issuing conversion coverage, the insurer may require, if adequate notice is  
39 provided to certificate holders in the certificate, that:

40 (1) The individual must have been continuously insured under the group policy, or  
41 any group policy which it replaced, for at least six months immediately prior to  
42 termination in order to be entitled to conversion coverage.

43 (2) The insured must submit written application for a conversion policy within a  
44 reasonable period after termination of the group coverage, and the premium paid as  
45 directed by the insurer, in order that the conversion policy be issued effective on the day  
46 following termination of group coverage.

47 (3) The conversion policy contains a provision for a reduction of benefits if the  
48 insured has existing long-term care insurance, payable on an expense- incurred basis,  
49 which, together with the conversion policy, would result in payment of more than 100  
50 percent of incurred expenses. This provision shall not be included in the conversion policy  
51 unless the reduction in benefits is reflected in a premium decrease or refund.  
52 (4) The conversion policy contains a provision limiting the payment for a single  
53 claim, spell of illness, or benefit period occurring at the time of conversion, to the amount  
54 that would have been payable had the group coverage remained in effect.

(Proposed new language underlined; language to be deleted stricken.)

PROPONENT: Bay Area Lawyers for Individual Freedom

#### STATEMENT OF REASONS

Existing Law: Does not provide for continuation of group insurance coverage upon the termination of a domestic partnership where the domestic partnership is the relationship that permitted the insured to obtain coverage.

This Resolution: Would insert language to provide the same coverage after dissolution of a domestic partnership that is available after the dissolution of a marriage.

The Problem: Insurance companies do not always recognize same-gender relationships and often discriminate against insureds based on the fact that same gender couples in committed relationships are in domestic partnerships rather than in marriages. It is important that the Conference of Delegates be on record as supporting this resolution to afford same-gender couples the same protections as are provided to married heterosexuals under the insurance code.

#### IMPACT STATEMENT

This proposed resolution affects no other laws, statutes or rules.

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