

DEPARTMENT OF INSURANCE

Commissioner: Ricardo Lara ♦ Toll-Free Consumer Hotline: (800) 927-4357 ♦ Licensing Hotline: (800) 967-9331 ♦ Internet: www.insurance.ca.gov

Insurance is the only interstate business wholly regulated by states rather than the federal government. In California, this responsibility rests with the Department of Insurance (DOI or the Department), organized in 1868 and headed (as of 1988) by an elected Insurance Commissioner. Insurance Code sections 12900 through 12938 set forth the Commissioner's powers and duties. Authorization for DOI is found in section 12906 of the 1,000-page Insurance Code; the Department's regulations are codified in Chapter 5, Title 10 of the California Code of Regulations (CCR).

The California DOI is the consumer protection agency for the nation's largest insurance marketplace and safeguards all of the state's consumers by fairly regulating the insurance industry. Such regulation includes the licensing of agents and brokers, and the admission of companies to sell insurance products in the state. Nearly 1,400 employees work at DOI to oversee more than 1,400 insurance companies and license more than 485,000 agents, brokers, adjusters, and business entities. In the ordinary course of business, DOI annually processes more than 8,000 rate applications, issues approximately 280,000 licenses (new and renewals), and performs hundreds of financial reviews and examinations of insurers doing business in California. DOI annually receives more than 170,000 consumer assistance calls, investigates more than 37,000 consumer complaints, and, as a result, recovers more than \$84 million a year for consumers. In addition, DOI annually receives and processes tens of thousands of referrals regarding suspected fraud against insurers and conducts criminal investigations resulting in thousands of arrests yearly.

In addition to its licensing function, DOI is the principal agency involved in collecting annual taxes paid by the insurance industry.

The Department collects more than 175 different fees levied against insurance producers and companies. The Department performs the following consumer protection functions:

1. it regulates insurance companies for solvency by tri-annually auditing all domestic insurance companies and by selectively participating in the auditing of other companies licensed in California but organized in another state or foreign country;
2. it reviews and approves/disapproves tens of thousands of insurance policies and related forms annually as required by statute, principally related to accident and health, workers' compensation, and group life insurance;
3. it establishes rates and rules for workers' compensation insurance;
4. it preapproves rates in certain lines of insurance under Proposition 103 and regulates compliance with the general rating law in others; and
5. it becomes the receiver of an insurance company in financial or other significant difficulties.

The Insurance Code empowers the Commissioner to hold hearings to determine whether brokers or carriers are complying with state law and ordering an insurer to stop doing business within the state. However, the Commissioner may not force an insurer to pay a claim; that power is reserved for the courts.

DOI's Consumer Services Division (CSD) is responsible for gathering and responding to consumer inquiries and complaints regarding insurance companies or producers. CSD maintains four separate bureaus: Consumer Communications Bureau; Claims Services Bureau; Health Claims Bureau; and Rating and Underwriting Services Bureau. CSD operates the Department's

toll-free complaint line. Through its bureaus, CSD responds to requests for general information; receives, investigates, and resolves individual consumer complaints against insurance companies, agents, and brokers; tracks trends in code violations; and cooperates with law enforcement to bring deterrent compliance actions. Cases which cannot be resolved by CSD are transferred to DOI's Legal Division, which is authorized to file formal charges against a licensee and take disciplinary action as appropriate, including cease and desist orders, fines, and license revocation.

The Department's Fraud Division was established in 1979 to protect the public from economic loss and distress by actively investigating and arresting those who commit insurance fraud. The Fraud Division is currently composed of four separate fraud programs: automobile; workers' compensation; property, life, and casualty; and disability and health care.

On October 14, 2022, Commissioner Lara [announced](#) statewide board appointments to advance the Department's consumer protection mission. These appointments included naming three members to the California Automobile Assigned Risk Plan (CAARP) Advisory Committee, three members to the Curriculum Board, and an additional member to the Workers' Compensation Insurance Rating Bureau (WCIRB) Governing Committee.

Newly appointed members to the CAARP Advisory Committee include Doug Heller, Director of Insurance for the Consumer Federation of America, who was reappointed to the CAARP Advisory Committee in the public member representative seat, with a term ending on November 10, 2023; Cynthia Strathmann, Executive Director for Strategic Actions for a Just Economy, reappointed to the CAARP Advisory Committee in the public member representative seat, with a term ending on November 10, 2023; and Bernardo de la Torre, owner of Law Offices of Bernardo de la Torre in La Mirada, joining the CAARP Advisory Committee in the public member representative seat with a term ending on November 10, 2023. The newly appointed

member of the Curriculum Board is Michael Lujan, Principal Consultant of Michael Lujan Consulting Group, LLC, joining in the life agent trade association representative seat, with a term ending on October 14, 2025. Finally, Lynne Davidson, President of Tito’s Tacos Mexican Restaurant, has been reappointed to the WCIRB Governing Committee in the insured employer representative seat, with a term ending on October 14, 2024.

HIGHLIGHTS

Commissioner Lara Protects Homeowner Insurance Coverage Following Wildfire Emergency Declaration

On September 22, 2022, Commissioner Ricardo Lara, issued a [press release](#) informing Californians that DOI will “protect insurance coverage for over 236,000 homeowners following wildfire emergencies in Northern and Southern California.” He plans to do this by issuing a mandatory, one-year moratorium preventing insurance companies from canceling homeowner insurance policies and non-renewals, specifically within the wildfire perimeter or in adjacent ZIP codes of the Mosquito and Fairview fires in the counties of Riverside, Placer, and El Dorado. The moratorium shields policyholders for one year from the date of Governor Newsom’s September 8, 2022, [emergency declaration](#), regardless of whether they suffered a loss. With the concern for wildfires dramatically increasing in recent months, Commissioner Lara believes protecting fire insurance coverage for at least one year is critical “to give people breathing room.”

Commissioner Lara was able to issue this moratorium as a result of [SB 872 \(Dodd\)](#) ([Chapter 261, Statutes of 2020](#)), a law he authored as California state senator in 2018 to provide temporary relief from insurance non-renewals and cancellations for those living within or adjacent to a Governor-declared wildfire. [*see* [26:1 CRLR 154](#)]

Due to the massive increase in both wildfire occurrences and subsequent number of acres burned, Commissioner Lara felt it paramount to issue this moratorium to protect the people of California. Additionally, Commissioner Lara and the rest of DOI have partnered with the California Department of Forestry and Fire Protection (Cal FIRE) and the California Governor's Office of Emergency Services (Cal OES) to help identify wildfire areas and issue further mandatory moratoriums.

This moratorium covers a myriad of ZIP codes. To see if your ZIP code is included within this moratorium and for more information, please go to the [website](#).

MAJOR PUBLICATIONS

The following reports/studies/guidelines have been conducted by or about DOI during this period:

- [*Seismic Safety Commission Assessment Informational Report Fiscal Year 2022–23*](#), California Department of Insurance, 2022 (every owner of real estate—commercial or residential—that is protected by a property insurance policy is subject to the Seismic Safety evaluation. Every year on August 1st, DOI determines the assessment for all earned real estate exposures recorded for commercial and residential properties over the preceding calendar year).
- [*Bulletin 2022-3 – Coverage Limits on Screening, Diagnosis and Treatment of Sexually Transmitted Infections*](#), Department of Insurance, June 1, 2022 (Commissioner Lara advised health insurers that arbitrarily refusing to cover necessary treatments and limiting coverage for periodic sexually transmitted infections screening to one per year is unlawful).
- [*COIN Newsletter – September 2022*](#) – Department of Insurance, September 2022 (The California Organized Investment Network (COIN) was established in 1996 by DOI to guide

insurers in making financially sound investments that yield environmental benefits throughout California and social benefits within the State’s underserved communities; newsletter provides an update on COIN investments).

RULEMAKING

The following is a status update on recent rulemaking proceedings that DOI has initiated:

- **Mitigation in Rating Plans and Wildfire Risk Models:** On October 14, 2022, DOI adopted section 2644.9, Title 10 of the CCR to require insurance companies to factor consumers’ and businesses’ wildfire mitigation actions into their pricing of residential or commercial coverage as outlined in the [Final Text of the Regulation](#). The new regulations also provide transparency to consumers about the “wildfire risk score” that insurance companies assign to properties. According to the [Initial Statement of Reasons](#), insurance companies currently charge increased premiums based on their assessment of the risk of wildfire to the property. However, they do not take into account any mitigation measures owners may have taken to reduce the risk to the property when setting the rates. Accordingly, the new regulations are designed to ensure that insurance rates and premiums are not excessive, inadequate, or unfairly discriminatory by ensuring that the assignment of wildfire risk scores or classifications and resulting rates or premiums properly consider the effect of wildfire mitigation measures. The regulatory action became effective on October 14, 2022. [[27:2 CRLR 162](#)]

- **Summary Dental Benefits and Coverage (SDBC) Disclosure Matrix:** On May 5, 2022, DOI published the Final Text of the Regulation, adopting section 2239.10, Title 10 of the CCR to establish the form, content, and delivery requirements of the SDBC Disclosure Matrix. The regulation was necessary to implement [SB 1008 \(Skinner\) \(Chapter 933, Statutes of 2018\)](#),

which added section 10603.04 to the Insurance Code, and required the Department to develop a uniform benefits and coverage disclosure matrix, and to require health insurers that issue, sell, renew, or offer a policy that covers dental services in this state to use the uniform benefits and coverage disclosure matrix and make it available to an insured or prospective insured for each policy examined or sold. [see [26:2 CRLR 176–177](#); [27:1 CRLR 204-205](#); [27:2 CRLR 163](#)]

LEGISLATION

- [SB 923 \(Wiener\)](#), as amended August 18, 2022, and as it relates to DOI, adds section 10133.12 to the Insurance Code to require all health insurers that issue, sell, renew, or offer health insurance policies to require staff to complete evidence-based cultural competency training to provide trans-inclusive health care for individuals who identify as transgender, gender non-conforming, or intersex. Governor Newsom signed SB 923 on September 29, 2022 (Chapter 822, Statutes of 2022).
- [SB 1040 \(Rubio\)](#), as amended April 4, 2022, amends sections 12928.6 and 12976 of, and adds section 12928.7 to, the Insurance Code to authorize the Insurance Commissioner to order restitution to consumers for illegal actions by unlicensed sellers of insurance. Under current law, the Commissioner can order unlicensed sellers of insurance to cease and desist and pay a fine. However, the Commissioner cannot order unlicensed sellers to pay restitution to consumers for their losses. The amendments to sections 12928.6 and 12976 add the term ‘restitution’ to the list of available penalties the Commissioner can impose for certain violations. In addition, new section 12928.7 requires the rescission or restitution order to be subject to judicial review and would authorize the Commissioner to issue an order of rescission enforceable on any person subject to the Commissioner’s jurisdiction. Commissioner Lara sponsored the law as part of an initiative to

help consumers victimized by insurance scams, including illegal robocalls purporting to sell extended automobile warranties. According to the [Federal Communications Commission](#), automobile warranty robocalls were the top unwanted call complaint in 2020, with the trend continuing into 2021. Governor Newsom signed SB 1040 on September 25, 2022 (Chapter 540, Statutes of 2022).

- [AB 2238 \(Rivas\)](#), as amended August 24, 2022, adds Part 5.5 (commencing with section 71410) to Division 34 of the Public Resources Code to establish a publicly accessible ranking system for heat waves, with clear categories based on heat intensity and health impacts that would provide early warning to communities. The bill also enables public policymakers to craft prevention strategies and risk reduction measures. Sponsored by DOI, the bill implements a recommendation from the California Climate Insurance Working Group’s [report on climate insurance](#) released in 2021. [[27:1 CRLR 203](#); [27:2 CRLR 159–61](#)] The new Public Resources Code section 71410(a)(3) directs the California Environmental Protection Agency (Cal EPA) to work in coordination with DOI and the Governor’s Office of Planning and Research (OPR) to create and implement a statewide extreme heat ranking system. Heat-wave ranking will include the projected health impact and meteorological data, such as maximum and minimum temperatures, as well as how long a heat wave is anticipated to persist. Pursuant to section 71410(d)(3) DOI will be required to study the insured and uninsured costs related to past extreme heat waves to identify “insurance gaps” of uncovered costs and promote more effective risk communication and planning. Governor Newsom signed AB 2238 on September 9, 2022 (Chapter 264, Statutes 2022).

- [SB 999 \(Cortese\)](#), as amended June 30, 2022, and as it affects DOI, this bill would have amended section 10144.52 of the Insurance Code to require the Insurance Commissioner to adopt rules mandating specific requirements for health insurers to use when making medical

necessity determinations for mental health and substance use disorder care. The bill would also have required health insurers to maintain open telephone access during California business hours for health care providers to request authorization and conduct peer-to-peer discussions regarding specific issues related to treatment. On September 25, 2022, Governor Newsom [vetoed](#) the bill, stating that while he “shared the author’s goal of ensuring that patients are able to receive the behavioral health care they need, when they need it” . . . with the implementation of [SB 855 \(Chapter 151, Statutes of 2020\)](#) currently underway, “this bill is premature and unnecessary at this time.”

- The following bills, reported in Volume 27, No. 2 (Spring 2022) died in committee or otherwise failed to be enacted in 2022: [AB 1400 \(Kalra\)](#), relating to the creation of a state-run universal single-payer health care program enrolling all residents of California; [SB 853 \(Wiener\)](#), relating to limits on prescription drug coverage; [AB 1755 \(Levine\)](#), relating to insurers issuing homeowners’ insurance policies.

LITIGATION

- *The Travelers Indemnity Co. v. Lara*, Case No. B306897 (Cal. App. 5th). On November 3, 2022, the Second Appellate Division court [affirmed](#) the superior court’s judgment denying Travelers’s petition. The court explained that the exclusive concurrent jurisdiction doctrine does not apply in this context to proceedings pending before the trial court and an administrative agency; and, in any event, it was reasonable and consistent with the primary jurisdiction doctrine for the trial court to defer to the Commissioner’s determination of the validity of the agreement at issue. Thus, the Commissioner’s decision finding agreements relating to workers’ compensation insurance policies unenforceable under Insurance Code section 11737(f),

was upheld. As a result, an insurer was not entitled to relief on the administrative mandate petition challenging the decision.

- ***Consumer Watchdog v. Lara, Case No. 20STCP00664 (Super. Ct., Los Angeles County)***. On July 5, 2022, Consumer Watchdog filed its [opening brief](#) in a California Public Records Act (CPRA) lawsuit against Insurance Commissioner Ricardo Lara and DOI. The lawsuit alleges that Lara and the Department failed to search for and produce records related to a pay-to-play scandal involving insurance companies with business pending before the agency. [see [25:2 CRLR 153](#); [25:1 CRLR 187–188](#); [27:1 CRLR 188-89](#)] Following the September 2, 2022 hearing, the court issued a tentative [ruling](#) on October 21, 2022 denying Consumer Watchdog’s request for the court to force the Department to produce additional records under the CPRA. The court’s tentative ruling held that the Department responded to the group’s request and did not have to redo the search as it wanted. The court, however, is indicating that it will call on the Department to address Consumer Watchdog’s concerns about overly broad redactions. “As noted by Petitioner, Respondents are required to ‘use the equivalent of a surgical scalpel to separate those portions of a record subject to disclosure from privileged portions.’” A final decision was still pending as of this publication’s deadline.